

The Amos/Wiese Project

By Floyd W. Marsh, Jr.

Edited by Connie Marsh

FOREWORD

The following is an analysis of Gerald Matthew Wiese's changes in material testimony between his 2014 Proffer interviews, and the 2017 Trial in which he became the State's primary witness against Floyd Marsh. All changes will prove to be A) in favor of the Prosecution, and B) material, in that - had the jury been made aware of them - they would have influenced the Trial's outcome.

This document will show clear examples of the:

- Self-serving motivations of the deal-making witness, Gerald Wiese
- Unscrupulous ways of Prosecutor, Russell Amos
- Inadequacies of the court-appointed Defender, Brian Schmonsees

We ask no one take our word for anything, but rather to independently verify and research as much as able.

THE PLAYERS

Floyd William Marsh, Jr.	Innocent. Falsely convicted of robbery, August 2017
Gerald Matthew Wiese, Jr.	Robber & primary witness against Floyd at Trial, August 2017
Arnold Vladimir Kachlik	Homeowner theft victim of October 2011 robbery
Connie Loop Marsh	Wife of Floyd Marsh; in a relationship w/ him since 2004; In a relationship w/ Arnold Kachlik 1988-2001
Erik Elisha Kachlik	Son born to Arnold Kachlik & Connie Loop, 1996
Zdena Trnkova	In a relationship w/ Arnold Kachlik since 2008-ish
Silvergate Construction	CCB # 151701 w/ payroll employees 2005-2008; for all <i>practical</i> purposes, shut down October 2008 when Floyd closed CCFCU business checking account and moved to Creswell.
Russell "Rusty" Amos	Clackamas County Deputy District Attorney; State Prosecutor
Named Law Enforcement:	Clackamas County Sheriff's Office or Inter-Agency Task Force employees

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EXHIBITS LOG

- A Trial Transcript, pp 559-625 - Wiese (Direct)*
 - B Wiese's 5/22/2014 Drug Proffer Interview #1, 16 pages*
 - C Wiese's 5/29/2014 Drug Proffer Interview #2, 43 pages*
 - D Wiese's Signed Cooperation Agreement
 - E Wiese's 9/5/2014 Robbery Proffer Interview, 50 pages*
 - F Photos of the chair that Wiese did not compassionately move, but that Zdena broke to escape the closet
 - G Home Depot receipt (for a grinder w/ cutting wheels) for 3:56 p.m. 10/01/2011 - the day of the robbery, at a time when Wiese claimed to be elsewhere and the safe to have been cut open with a different grinder hours earlier.
- * **Locate on enclosed thumb-drive**

Available Upon Request

- Entire Trial Transcript via PDF
- Entire Discovery including:
 - * Wiese's drug interview upon arrest in February 2014
 - * Other useful gems
 - * Massive amounts of meaningless dross
- Additional public records mentioned in this project that Defense failed to acquire
- Additional private receipts & records Defense failed to utilize

THE DRUGS

[EXHIBIT A]

Trial Transcript Page 560, Lines 13-18

Prosecutor Amos (questioning Wiese):

Q: Is it fair to say those are not user amounts?

A: No

Q: And you were going to deal those drugs?

A: Yes

Q. And make some money?

A. Yes

Compare to...

Discovery Page 520

Deputy S. Atkerson, reporting:

(Wiese) ...denied any knowledge of the contents of the cooler.

Discovery Page 531

Detective T. Wieland, reporting:

Gerald Wiese told me he knew Floyd Marsh Jr., the renter of the storage unit, had recently gotten arrested for narcotics related charges.* Gerald Wiese said he decided to remove the cooler full of narcotics to take them somewhere to dispose of them so Floyd Marsh Jr. wouldn't get in more trouble.

(Unlikely Wiese would use this terminology to describe Floyd's Chicago arrest for marijuana)*

Discovery Page 287, Proffer Page 8/43

Wiese (referencing the narcotics in the cooler):

I, I was, I was shocked with the amount cause I'd never seen that amount. And I didn't know. It just shocked me that that amount 'cause I mean he's never had that before.

Investigative Note "A"

If Wiese's in-court acknowledgement was truthful, then he contradicted his Proffers and thus violated the following terms of his May 22, 2014 and October 1, 2014 Cooperation Agreements:

Section 1. Information: Agrees to provide truthful and complete information, with no material misstatements ... (Discovery Page 539)

Section 4. Collateral Use: If Defendant should testify materially contrary to the substance of the cooperation ... (Discovery Page 539)

Section 7, Part (b). Breach of Cooperation: Has given false incomplete, or misleading information ... (Discovery Page 539)

If Wiese's in-court acknowledgement was NOT truthful, then it should not have been the basis for the wrongful conviction of an innocent man.

Investigative Note "B"

Wiese's [Trial](#) testimony (Trial Transcript Pages 559-564) refutes his two known drug interviews, [Proffers](#), [\[EXHIBITS B & C\]](#) plus his earlier statements made to police (Discovery Pages 520-532). Thus, he violated the terms of his Cooperation Agreement [\[EXHIBIT D\]](#) to which Amos was a party and thus fully aware.

Investigative Note "C"

Amos knew Wiese violated several terms of his Cooperation Agreement. Such violations are tantamount to multiple counts of unsworn perjury, known to be intentional falsities on material issues. Yet Amos:

- Failed to disclose to Defense how and when he possessed this knowledge;

- Published a copy of Wiese's Cooperation Agreement **[Exhibit D]** to the jury without notifying the court or jury of Wiese's violations of select provisions of said Cooperation Agreement.
- By failing to notify the court of his witness's violations, Amos directly misled all concerned. This resulted in a miscarriage of justice.

Trial Transcript Page 559, Lines 15-24

Prosecutor Amos (questioning Wiese):

Q: How much drugs were you caught with?

A: It was like two pounds of heroin and about six pounds of meth.

Q: Okay, was there cocaine as well?

A: Yeah, I think about eight or ten ounces.

Q. Now for folks who aren't familiar with quantities of drugs, is that a significant amount of drugs?

A: Yes.

Compare to...

Discovery Page 528

Deputy S. Atkerson, reporting:

I asked Wiese if there was anything illegal in the vehicle and he said, "*Honestly, I don't know.*" Wiese said, "Floyd had a cooler in there."

I asked Wiese what was in the cooler and he said he didn't know.

I asked if he cared if I took a look in the cooler and Wiese said, "Go ahead. I just grabbed what was in the storage unit."

Wiese said he got into Unit 20 at the Public Storage. He denied any knowledge of the contents of the cooler.

and...

Discovery Page 531

Detective T. Weiland, reporting:

Gerald Wiese told me he knew Floyd Marsh Jr., the renter of the storage unit, had recently gotten arrested for narcotics related charges. Gerald Wiese said he decided to remove the cooler full of narcotics to take them somewhere to dispose of them so Floyd Marsh Jr. wouldn't get in more trouble.

Investigative Note "D"

Upon arrest, Wiese initially told investigators he was only breaking into the storage unit to get his tools. Incidentally, Wiese didn't own any. A few days later, a search warrant would find no tools in the unit. If Wiese and York did not have knowledge of the cooler full of narcotics, why did they commit an early morning burglary to retrieve it?

The Public Storage security video and gate access logs, subpoenaed by Det. Weiland, show only Wiese and unknown others accessing Unit F-20. They prove that Floyd did not access Unit F-20 after renting the unit. Though this video was specifically requested by Defense counsel, Amos withheld it from Trial under the excuse there was too much about the case for him to keep track of. Had the video been provided as requested, it would have proven that Wiese lied about the drugs - something Amos had known for months, or possibly years - prior to Trial, and he deceptively concealed it.

At Trial, Wiese accurately described the contents of the cooler full of narcotics with which he was arrested, displaying intimate and specific knowledge, and he admitted the drugs were his. [Trial Transcript Page 560] Amos had to know well before Trial that Wiese lied in his Proffers about the drugs.

Floyd waited in jail nearly four years so that lawyers could prepare for his Trial. Why did Amos notify Floyd's Defense that Wiese intended to significantly alter his earlier Proffered testimony - only on *the (first) day of Trial*? The answer

appears to be to have gained an unfair advantage by deliberately wasting many months of Floyd's scarcely allotted Public Defense resources in the wrong direction.

Investigative Note "E"

Wiese's in-court testimony refuted his previous Drug Proffers in which he originally had denied major portions of his drug trafficking, all the while blaming Floyd Marsh.

At what point, if ever, prior to Floyd's August 2017 Trial, was Wiese re-interviewed regarding his actual drug trafficking activities, and how was this information memorialized? Re-arrested in October 2017, Wiese told Sgt. Kevin Hogan in Multnomah County, Oregon that he never has and never will give up his *true* drug sources. Therefore, Wiese did not "come clean" about the drugs at Floyd's Trial, as Amos falsely there paraded.

Upon learning Wiese violated several terms of his Cooperation Agreement, what, if any, action was taken by Amos or any member of the CCDA office?

By withholding information from the court regarding the perjurious habits of his main witness, Amos misled the court. He failed in his duty of public trust. He was not transparent about Wiese's numerous acts of perjury about which he knew. Let us look at just some of the ways in which Amos likely even orchestrated Wiese's Trial testimony.

Trial Transcript Page 563, Lines 10-18

Q: After you were indicted on February 24, 2014, you were facing some serious charges with a lot of prison?

A: Correct.

Q: And afterwards you went to the police to offer some information to them; is that correct? And there were two what they call "Proffers" -- we have heard that word -- with the task force. We have heard about your drug dealing, correct?

A: Correct.

Investigative Note "F"

Amos boldly introduced the jury to the Proffers in which Wiese blamed Floyd for the drugs, yet he did not reveal that Wiese had lied in them and that the story the jury was about to hear from Wiese on the stand, looked nothing like those earlier Proffers.

As late as his September 5th, 2014 Robbery Proffer [EXHIBIT E] Wiese held to his accusations that the drugs belonged to Floyd. This argument alone is enough that the tainted Robbery Proffer should never have been relied upon to bring Floyd to Trial!

When did Wiese admit the drugs were his? Was it in a court setting? When and where? Why was Floyd's Defense not notified? There are no reports indicating when or under what circumstances Wiese admitted his true drug trafficking activities. To this day, answers are withheld.

Trial Transcript Page 564, Lines 18-25 & Page 565, Lines 1-6

Q: But there was an agreement between you and the State, meaning my office and law enforcement?

A: Correct.

Q: They call it a Cooperation Agreement?

A: Correct.

Q: So I'm handing you what has essentially looks like a letter dated October 15, 2014. Do you recognize that?

A: Yes.

Q: And what is that?

A: That's a letter saying that I'm going to cooperate and testify on my dealings.

Q: Testify truthfully about what was going on?

A: Yes.

Investigative Note "G"

At this stage, Amos is fully aware of Wiese's multiple counts of unsworn perjury and false statements on material issues. Amos knew Wiese had violated his signed Cooperation Agreements. Yet Amos made no mention of the violations or State perjury laws. Instead, Amos went to great lengths to mislead the jury by driving home the "truthfulness" to them of his drug-dealing, deal-making witness.

Compare to...

Discovery Page 287, Drug Proffer #2 Page 8/43

WIESE: In that and it was the same thing with um, it's like when uh, you know when I got that product out of, the locker. I, I was, I was shocked with the amount cause I'd never seen that amount. And I didn't know.

SGT: Do you know where he got that?

WIESE: I'm a, I'm assuming I mean if I took a guess I don't know for sure so anything I have is a guess but the guess would be probably through Ray. Through a contact Ray had or something?

Discovery Page 288, Drug Proffer #2 Page 9/43

DET: Do you know how that got put in there?
(Referencing the cooler full of narcotics)

WIESE: How?

DET: In the storage locker?

WIESE: Huh, uh (No). A, it's a, you know like I said when I, when I got in there um, it was there but it wasn't there before. Normally, there would be just you know uh, uh, you know uh, he'd keep a, a sack or something with a, a couple ounces or whatever that he'd want me to go.

WIESE: And so I did go in there, that, that's why I was going in there that night

was to get that. And in there was, a cooler.

Investigative Note "H"

What happened to the "tools" story he told upon arrest?

Trial Transcript Page 638, Lines 2-3

Q: You don't weight lift?

A: No.

Investigative Note "I"

Refer to CCITF February 2014 Search Warrant activities under **Case #14-70086**. This concerns Wiese's apartment.

One bedroom was dedicated to weightlifting equipment, and dealer amounts of injectable steroids were seized - some of which were found in a shoe box. Of note, a shoe box was likewise found in the cooler full of narcotics with which Weise had just been arrested on February 18, 2014. Coincidence? Or early proof that Wiese lied about the ownership of the drugs and law enforcement should have noticed!

Discovery Page 293, Drug Proffer #2 14/43

(Referencing contact with Dep. K. Moss on the day the storage unit was rented, and the "gang" box was dropped off)

SGT: Did he (Marsh) have anything a, any reason to be nervous at that time? I mean did you guys have anything?

WIESE: No, no we didn't have anything with it.

Investigative Note "J"

Dep. K. Moss indeed had contact with Floyd and Wiese on the very evening Floyd rented Unit F-20 at Public Storage on SE Mcloughlin Blvd. in Milwaukie, Oregon. Wiese told investigators in Proffer that there was "no reason to be

nervous.” He admitted the unit was empty on the day it was rented. So how and when did the cooler of drugs arrive? Marsh never returned to Public Storage Unit F-20 after dropping off the admittedly empty “job (a.k.a. ‘gang’) box” with Wiese. Evidence to prove this:

1. Public Storage security video
2. Gate access log
3. Floyd’s travel receipts
4. Floyd’s cellular phone records

All the above were seized in search warrants and withheld from Trial. Due to such hard evidence in their own possession, it had to be clear early on to investigators that Wiese's drug Proffer statements regarding Floyd’s participation in Wiese's drug trafficking enterprise could not have been true. Did they share this information with Chicago investigators? Apparently not.

By Trial, and long before, Amos had extensive evidence and direct personal knowledge that Wiese had a history of lying to police investigators, plus committing numerous counts of unsworn perjury during various Proffer statements. However, Amos did not disclose this knowledge to the Defense prior to Trial, nor to the court or jury at any time during Trial.

Trial Transcript Page 566, Lines 9-25 & Page 567, Lines 1-4

Q: Then there was a third one (Proffer); is that right?

A: I don't remember the third one.

Q: September 5th, 2014, with a very tall detective.

A: Oh, that's correct.

Q: And in that one you asked about something different?

A: Correct.

Q. And in that one what did you talk about?

A. I talked about another crime that involved a home burglary.

Q. And was that the one that occurred October 1st, 2011?

A. Yes

Q. Mr. Wiese, did you commit that home invasion robbery?

A. I was a part in that.

Q. Okay, so you were a part of a commission of those crimes on that day?

A. Correct.

Q. Who else was with you?

A. Floyd Marsh

Investigative Note "K"

Amos brings Wiese's Drug Proffers to the jury's attention, despite being fully aware Wiese had violated their various terms, specifically to parts: 1) Information 2) Collateral Use 3) Testimony and 7) Breach of Cooperation. There are no documents indicating Amos oversaw an indictment against Gerald Wiese for these violations.

Amos went to lengths to explain to the jury Wiese's "uncertain drug sentencing," but Amos failed to mention he had arranged for Wiese to have full immunity for all known crimes to that date. In fact, although Wiese admitted to a *series* of stolen-silver sales, unlike Floyd (who was soon to be convicted for *one* explainable silver sale), Wiese was exempted from repaying the victims. Did anyone consult the victims about this?

Why did Amos give Wiese such *carte blanche* immunity from every known crime? And why did he withhold both his actions and reasons for doing so, from the court?

Although named by Wiese in his first two drug Proffers, the fact that Floyd was never indicted on drug-related crimes suggests that the State knew early on that Wiese lied. How early? How long did they conceal this before the robbery Trial? **Why would they believe Wiese's third Proffer when they knew his first two Proffers - and major portions of his third - to be false?** Why would CCDA continue to allow their Deputy Amos to use a known perjurer as his primary witness against Floyd, unless their goals were unscrupulous?

THE GET-AWAY VAN

Trial Transcript Page 591, Lines 17-25

Q: When did you actually borrow your friend's van in relation to when this happened?

A: **It was the day of. I went in the morning**, picked up the van, and brought it over to Floyd.

Q: What time in the morning was it that you arrived to meet Floyd?

A: I think it was around 7:30 or 8:00.

Q: Where exactly did you meet him?

A: In Julie Marsh's residence.

Compare to...

Discovery Page 355, Robbery Proffer Page 12/50

LEE: Did you borrow it the same day this crime occurred or was it sometime before?

WIESE: Um, I - I borrowed it that - ah - the - the night after - **the night before**.

Compare to...

Discovery Page 356, Robbery Proffer Page 13/50

WIESE: Um, trying to think of where - met - Floyd - **I just had the van at - at my place**. And then, um, Floyd, oh -

LEE: I don't know where your place is.

← *[Shame on you, Lee]*

WIESE: Um, on Mcloughlin.

LEE: Okay.

WIESE: My apartment on - on Mcloughlin. Um, and then I - I met Floyd, an that morning at, ah, ah, ah, his ex-wife, ah, Julie's house.

Investigative Note "L"

In Proffer, Wiese stated he got the van the night before the robbery. At Trial, he picked it up "the morning of." So, which is it? And why was this material change not brought to the attention of the jury?

THE TIMELINES

Discovery Page 359, Proffer Page 18/50

LEE: Okay, what time of the day was this?

WIESE: Ah, about eight - eight in the morning.

Compare to...

Discovery Page 012

Deputy M. Griffith, reporting:

Crime Occurred 10/01/11 10:30 a.m. to 10/01/11 11:25 a.m. Saturday

Investigative Note "M"

The time to drive from Julie Marsh's house in Oregon City to the Kachlik residence in Wilsonville, is less than 30 minutes. Hence, if Wiese had left from Julie Marsh's residence on the morning of the robbery, he would have arrived at the Kachliks' house about 8:30 a.m. in his estimation. Instead, he arrives at 10:30 a.m. More likely to have occurred: Wiese and Sheldon (the owner of the get-away van who also matches the victim's description of her assailant) left from Vancouver, WA to arrive at the crime scene about 10:30 a.m.

THE DISGUISES

Trial Transcript Page 593, Lines 5-8

Q: Do you recall what else he was wearing, Mr. Marsh?

A: Sunglasses. We had gloves. Bandana put around the face.

Compare to...

Discovery Page 369, Proffer Page 26/50

UNKNOWN PERSON: Any other, ah, disguise or anything else?

WIESE: Hm-mm (no)

Discovery Page 012

Deputy M. Griffith, reporting:

(Face Sheet) Section 1 - Forced Choice 17. *Wore mask, not checked.*

Discovery Page 013

Deputy M. Griffith, reporting:

Suspect Description, increasing forced choices
No mention of bandana covering suspect face.

Discovery Page 030

Detective D. Kraus, reporting:

Dep. Griffith said Ms. Trnkova said that it was a white man about six feet tall with brown hair in his 20's or early 30's wearing construction type clothing including a hard hat, safety vest and gloves.

No mention of a bandana covering the suspect's face.

Discovery Page 049

Detective E. Lee, reporting:

She described the man as being in his 20's to early 30's. She said he was tall, over 6 feet. She said he was big, but not fat. He had dark hair. She didn't think he had a beard but (pantomimed either long sideburns down his jaw line or facial growth).

She looked at his face but wasn't sure if she could identify him if she saw a picture of him again.

Investigative Note "N"

Once again, there is no information of a bandana covering the suspect's face. And while Floyd may fit the ethnicity and general build of Zdena's attacker, at age 54 at the time of the robbery, Floyd certainly could not have been mistaken for a 20 or early 30 -something.

Why does it matter? Why would Amos need the jury to suddenly believe disguises were used when neither Wiese's original Proffers, nor any original reports mentioned them? Because at the time of the robbery, the victim and Floyd had already known one another for many years! They were co-parents of our minor son, Erik Kachlik, and had seen one another several times both before and after the robbery. Amos had to know he could not convince any jury that Zdena would not recognize Floyd at close range. He had to change Wiese's testimony.

ROBBERY EXPECTATIONS

Trial Transcript Page 591, Lines 2-5

A: That was the initial expectation, unless he found -- if it was a safe or something that needed to be taken out, if he needed a hand getting it out, that he would call me in.

Trial Transcript Page 593, Lines 9-21

Q: So it sounds like you guys collect all that stuff. Do you collect any other tools or anything else to assist you with what you are about to do?

A: No, we didn't really take any tools or anything there, because the thought was that it wasn't -- it wasn't a safe. It was just supposed to be a hidden compartment and there was -- he said that there was supposed to be other stuff like in vases or cans. There would be bricks of money that were just hidden around the house. So it wasn't really -- he didn't think there would have to be tools and stuff needed. It was to find the money, get it in, and go. That's why initially it was thought that I wouldn't have to go in to do anything.

Compare to...

Discovery Page 350, Robbery Proffer 7/50

WIESE: Arnold called it the hidey-hole. And Connie called it the hidey-hole. But it was supposedly where they had the safe in the floor, so. But (inaudible) --

Investigative Note "O"

In several places, Wiese talks about a hidey hole, yet he was apparently at least aware of the possibility that a safe existed within the Kachlik residence, for he procured a van in case one had to be transported, and Wiese testifies to being ready to be called in to help remove one if necessary. However, the perpetrators were not so sure a safe existed, as to bring their own tools. Wiese complained about having to use cheap "homeowner" tools.

ARRIVING AT THE SCENE

Trial Transcript Page 595, Lines 15-20

A: / pulled in coming in here to where the cell tower is and then back by the garage.

Q: So *you* pulled in. Did you like back up to the garage backwards?

A: Yeah. So that way I could look out forward over where the entrance to the driveway was coming in.

Compare to...

Discovery Page 360, Robbery Proffer Page 17/50

LEE: Where - where'd you park?

WIESE: It's, ah - when you, um, pull into the driveway it goes up. And there's kind of a loop around. And there's, ah, garage doors here.

LEE: Mm-hmm (yes).

WIESE: And there's kind of like an island or something. So / pulled along the island here.

Discovery Page 364, Robbery Proffer 21/50
(Referencing the safe removal)

LEE: Why through the garage?

WIESE: Cause that's where the - the van was. *He* backed the, um - and / had - / had had the van - / spun it around and backed it up. When *he* had the safe out, / went and got the van and turned it around so the back was by the garage.

Investigative Note "P"

(Let the reader be aware, the "island" is not by the garage. And pay attention to pronouns.)

In his **Proffer**, Wiese first describes parking by the "island" next to the cell

tower, which would make some sense if he and his accomplice were disguised as cell tower workers. But a few minutes later, Wiese forgets he told investigators they were parked over there, and instead says the van was suddenly at the garage. So now he must come up with an explanation that, after Floyd got the safe out, Wiese backed the van from the island to the garage to receive the safe. But first, Wiese stumbles over his explanation by claiming Floyd backed the van up.

All this is scrapped at [Trial](#), however. Suddenly, no one moved the van at all because Wiese, in his foresight, parked it by the garage to begin with. Why the change? **Often, the material changes in Wiese's testimony omit pieces or simplify what went on** - perhaps in an attempt not to get tripped up. In this instance, as we will see, Wiese's testimony had him and Floyd doing too many other things to cleanly fit a van shift into the mix, especially when Wiese was trying to keep a story straight that did not occur with the person whom he was claiming!

THE ATTACK

Trial Transcript Page 597, Lines 3-6

Q: So Mr. Marsh walks over to the front door. You can't see anything. Can you hear anything from where you are in the van?

A: No

Compare to...

Discovery Page 361, Robbery Proffer Page 18/50

WIESE: ...(Floyd) you know, yelled, you know, get on the floor. She went - you know, got on the floor.

Investigative Note "Q"

How does Wiese know this? He claimed to be in the van while it occurred,

where he could neither see nor hear what happened inside the front door.

THE SEARCH

Trial Transcript Page 599, Lines 13-23

A: We were here when he told me to start looking. I came into this sitting area first, went through here, then I went up through the den and into the kitchen looking. So I was looking in that area.

Q: Okay, which direction of the house did Mr. Marsh go to?

A: He went back over towards these bedrooms because supposedly he had an idea where he thought it might be. So he was going to going to go look for those areas. That's why he told me to look for what is supposed to be in a vase or flowerpot or something.

Compare to...

Discovery Page 361, Robbery Proffer 18/50

WIESE: ... [allegedly mimicking Floyd] I'm gonna to find that safe. And he goes, I'm gonna go look for it. And, ah, so I was - I was just standing there waiting. And, um, she - she started, you know, kind 'a banging against the door trying to get out. And I - I was telling her just - we're g - we're, I -- we're leaving soon, just calm down - (inaudible) calm down. You know, (inaudible) there and kind 'a panic (inaudible).

WIESE: Yeah. He was running - first, he started around the kitchen. And then a couple rooms that he - he thought it might be in.

{Note to self - look for old police report of Arnold claiming Floyd "pushed" his way into Arnold's residence in "2002" (was actually 2003) and (to Arnold's angst) Floyd saw the safe being installed in Arnold's bar area. This happened! So... why would

Floyd run around looking for a safe since both Floyd and the victim agree he had long known where one was?}

Investigative Note "R"

In his Proffer, Wiese claims he at first stood by the entryway closet comforting the victim, while Floyd ran around to the right, then the left side of the residence. But at Trial, Wiese claimed *he* was the one who first went around the right side of the residence, while Floyd went directly left, and no one remained in the entryway.

If any conversation took place in the home's entryway as Wiese originally claimed to investigators, Zdena was positioned to overhear it, but she does not report one. This would seem to explain why Wiese's testimony was altered on this material issue at Trial.

THE GOLD COIN

Trial Transcript Page 600, Lines 10-11

Q: So you went in there looking for stuff?

A: Yes.

Trial Transcript Page 602, Lines 8-9

Q: Did you find anything in that den room?

A: No.

Compare to...

**Discovery Page 361, Robbery Proffer 18/50
& Discovery Page 362, Robbery Proffer 19/50**

LEE: Did you guys ransack anything or go through drawers, take items out, either you or him?

WIESE: Um, no. I - I - I - I didn't. Um, a - a - I - I don't he - he didn't ransack looking for stuff.

Compare to...

Discovery Page 384, Robbery Proffer 41/50

WIESE: There was, um - in the - in the safe there was only the silver. But he found, um - there was a bar area. And there was a - like a little, ah, *box* that was open that had a couple coins in it. So it was like four or five silver coins and *a gold coin*.

LEE: Do you know where those ended up?

Gerald Wiese: Hm-mm (no).

Investigative Note "S"

Originally, Wiese states that coins were found in the bar area, but he didn't know what happened to them; whereas at Trial, he says nothing was found there.

Discovery Page 449

Detective D. Krause, reporting (regarding Arnold's statement):

We spoke about the case and challenges involving contacting his son, Eric (Erik). Mr. Kachlik told me that he thought that Eric (Erik) would be hurt knowing that his gold coin had been stolen. When asked for an explanation of this Mr. Kachlik told me that Eric (Erik) had saved up to buy a gold coin that cost about \$400. He said that the coin had been hidden in *a coffee can* under the bar.

Investigative Note "T"

Wiese mentioned no coffee can. His **Proffer** said coins were found in a box.

Erik did not save up to buy his one gold coin. Rather, it was a gift from

Arnold to our son Erik on Erik's first birthday. I was there and saved the card it came in. Erik testified truthfully at Trial that he got the gold coin on his first birthday. This proves two things. One, that Arnold was willing to lie about safe contents. Two, that Arnold did not want anyone verifying anything with Erik, who would unknowingly contradict his father's confusing misrepresentations.

With the theft victim a wild card when it came to what was taken, no wonder the Prosecutor decided Wiese should contradict his Proffer by skipping discovery of the gold coin.

THE SECOND ATTACK

Trial Transcript Page 603, Lines 8-16

- Q: Now, before we talk about you going with him down the hallway, when you were searching the other part of the house, the right side, could you hear anything that was going on near the closet?
- A: I could hear her screaming, "Let me out. Let me out. I can't breathe. I'm scared." A couple of times I was there by the closet, and I was telling her to relax; that we are going to be leaving soon. "Just relax. It will be okay."

Compare to...

Discovery Page 050

Detective E. Lee, reporting (Trnkova's interview):

Ms. Trnkova said she thought the knock on the door came about 10:30. She thought the entire episode took about 45 minutes to an hour. During this time, she was having a hard time breathing in the closet and was also worried about what would happen if her son Vlastik was to come while the men were there. She said she didn't think she heard a second voice - she only heard one person speaking and thought it was the same person the whole time. Nonetheless, she believed that there were two people. Ms. Trnkova indicated she was afraid.

Trial Transcript G. Wiese, Page 626 Lines

Q: At no point did you every observe *Ms. Zdenka* outside the closet?

A: No

Compare to...

Discovery Page 365, Robbery Proffer 22/50

WIESE: Th - There was one time that it - it's - um, it wasn't open, but where Floyd originally had the chair, it was - it was down enough that the door could open a little but to where she could - she had her hand out, was trying to get out. And Floyd yelled at her to get back in the closet, closed it, and pushed the chair back up.

Investigative Note "U"

Floyd seems to be everywhere at once - barking orders, running right then left (or not), chopping in the back bedroom, chasing tools in the garage, and maybe even moving the van outside if you believe Wiese's stumbling. So how could Floyd be watching the closet in the entryway too? What happened to Wiese claiming to be the primary one watching the closet? Surely, Wiese watched the closet. And he attacked Zdena again for complaining too loudly about her inability to breathe.

Discovery Page 367, Robbery Proffer 24/50

UNKNOWN PERSON: Okay, um, did you see *the woman* that was in the closet? did you lay eyes on her?

WIESE: Um, only when, um, ah, she had her, ah like hands and shoulder out. And I was at a little bit of an angle that I could see a little bit of her, like not a lot. So I mean if - If I was -

Discovery Page 368, Robbery Proffer 25/50

UNKNOWN PERSON: (inaudible)

WIESE: - to describe her, I - I couldn't describe her. And -

UNKNOWN PERSON: Was - Was she able to see you?

WIESE: No, not - not at the angle of that. I mean just like I said, I mean I could see just part of the top of her head and a shoulder. She's just trying to like, get out of it.

UNKNOWN PERSON: Were her hands in zip ties at that point in time?

WIESE: No. Somehow she got out 'a the zip tie. *They weren't tight.***

*(** How would he know unless he put them on her?!)*

Investigator Note "V"

Zdena only heard one voice, that of her attacker. Wiese admits to speaking with Zdena. Therefore he is the one who (*according to her*): attacked her with a stun gun, put zip ties on her wrists, pushed her into the entryway closet, blocked the closet door with a chair - only to later remove said chair, reopen the closet door to scold her and use the stun gun on her a second time, before firmly replacing the chair so that she was required to break the chair in order to eventually escape.

Zdena told me that because she made too much noise in the closet, her attacker reopened the closet door to stun-gun her again, saying, **“Now see what you made me do.”** She is upset she was not allowed to say this at Trial. Amos repeatedly touted Wiese’s “compassion” toward Zdena during the crime, to the jury. Discovering this later, Zdena called the Trial, “not fair.” Disgusted, she and Arnold refused to attend Floyd’s sentencing.

THE WEAPONS

Trial Transcript Page 604, Lines 10-18

Q: Did you have anything with you like any sort of a weapon?

A: No.

Q: Did you know if Mr. Marsh had any sort of weapon?

A: No.

Q: Did you think that he had one?

A: The original - - when he was talking about this, he wasn't to have any weapons there or anything.

Compare to...

Discovery Page 357, Robbery Proffer Page 14/50

LEE: Was he (Floyd) armed?

WIESE: I didn't - I didn't see him carrying a gun. But Floyd's always armed. I think he always carries a gun on him. But he never - he never showed me a gun saying I'm armed. He had a, um, ah, taser.

LEE: Was it, ah, an actual taser or - it's not - are you talking -

WIESE: Stun Gun. It - it's - yeah. It doesn't - d - doesn't shoot the probes. It just has an arc on it.

LEE: Did he explain what that was for?

WIESE: Just in case anybody was in the house.

Investigative Note "W"

Three years **prior to Trial**, Wiese told investigators that Floyd is always **presumed armed**, and he admitted that **a stun gun** was to be brought along on the robbery **with the intention to be used** if anyone was home, as Zdena was. **Proffer** further claims Wiese never actually saw the stun gun used; however, he was able to describe it in impressive detail.

In contrast, Wiese testified [at Trial no one was supposed to be armed](#). This change in testimony was likely manufactured to make Wiese more palatable to the jury than someone willing to participate in the assault of a small 68-year old woman with broken English.

Discovery Page 049

Detective E. Lee, reporting (Trnkova's Interview):

She described a small handheld device which "made electricity" and "sparks".

WHO REMOVED THE SAFE - AND HOW?

Trial Transcript Page 606;607, Lines 9-25;1-3

Wiese (Referencing the stolen master bedroom safe)

Q: What happens next?

A: You are trying to push and pull the safe, but it is bolted down. He said, "Just try to see if you can ram it. I'm going to the garage and see if there is a tool or something that we can break the bolt with."

Q: Can you describe the safe that we're talking about?

A: The safe is approximately like two, two and a half feet wide by two, two and a half feet wide by maybe three feet tall.

Q: Okay. So what do you do after he tells you kind of what he wants you to do? What do you do?

A: Trying to muscle against the safe and see if -- to see how strong it is bolted in. If it was -- sometimes they are not bolted in very strongly. Working with construction, they could have used a small bolt, not a big washer. It might have popped right loose. *

(Here, Wiese sounds like he is describing the Caribe burglary in which he was also a named suspect.)*

Q: So what happens when you grab it and start shaking it?

A: Nothing. It didn't do anything.

Trial Transcript Page 608, Lines 6-14

Q: What are you doing?

A: Standing -- I went back to the corner of the room so I could watch where the closet was. So I was watching him chopping and where the closet was. Then basically he got tired. So he handed it to me -- "Hey you can take over." So I chopped on another portion of it, and we got a couple of bolts loose/broken away. Then at that point him and I pushing it back and forth, we were able to break it free from the other two.

Compare to...

Discovery Pages 362-363, Robbery Proffer 19-20/50

LEE: How -ah, how long do you think it took - Did you help chop away on the floor or were you just standing there watching him?

WIESE: No, I - I was standing there, ah, watching. He was - he was trying to - to knock it loose. But once it came loose, then he pushed it over on a - tried to pick it up. But it - it was too heavy. I mean him and me, we - couldn't lift li-lift it. So, basically, he put the blanket down, pushed on the blanket, and drug it away.

Discovery Page 366, Robbery Proffer 23/50

WIESE: So that - that's why it just, um - and then Floyd was extremely tired from chopping and hacking away and - and ramming into the safe, trying to use his body weight to, you know, bust it loose off the floor. So he - I mean he was exhausted. He was - he was sweating head to toe.

Trial Transcript Pages 608, Lines 24-25 and Page 609, Lines 1-2

Q: So what did you guys do?

A: I grabbed one of the blankets off the bed and we rolled the safe onto the

blanket, and we pulled it out like a sled.

Compare to...

Discovery Page 361, Robbery Proffer 18/50

WIESE: And, um - but it was- he tried to get it, ah, pulled, but it was too heavy, so *he* put it on a blanket and basically sled (sic) and drug it to the van...

Discovery Page 362, Robbery Proffer 19/50

WIESE: ...the only thing that he took apart was a - there was a, um - at the foot of the bed there was a - like a big chest. And there was some blankets in it. And he took the blanket out to slide the safe on.

Investigative Note "X"

In **Proffer**, Wiese claimed he did not participate in the safe's removal. He merely watched Floyd exhaust himself trying to remove it alone until it finally broke free. Together they could not lift it. Finally, *Floyd* took apart a big *chest* at the foot of the bed with blankets in it. *Floyd* took one blanket out, alone put the safe on it and alone slid the safe out to the van.

But at Trial - while Wiese was mainly on the lookout to ensure Trnkova did not escape the closet - Wiese says he muscled the safe when instructed to do so, but was unsuccessful apparently until tools were located with which to chop at it. Finally, *Wiese* grabbed a blanket off the *bed*, together they rolled the safe onto it, and together they slid it down the hallway.

This lengthy series of material changes in testimony appears crafted in anticipation of Defense's argument that Floyd was in no physical condition to carry out the single-handed feat of removing a heavy, well-bolted-down safe that two strong men together could not lift. (Let us not forget the jury saw Floyd attend Trial in a wheelchair every day for two weeks.)

COMPASSIONATE WIESE VS. "THE CHAIR"

Trial Transcript Pages 610, Lines 10-25 and Page 611, Lines 1-2

Q: What happens after you get this safe in the van?

A: I ran back into the house to make it look like - - he was going, "Where are you going"? I said, "I have got to grab something". I ran back into the house to make it look like I was going to close the garage door, but I ran over to the closet and kicked the chair away from it.

Q: Why did you do that?

A: Because I didn't want *her* stuck in the closet.

(In Proffer, Wiese calls the victim, "some really weird name," and is nowhere documented attempting to give her one. Even the judge mocks Zdena's name in court.)

Q: So you kicked the chair away and you run back towards the garage?

A: Yeah. I ran back to the garage, and I got in the van. Floyd was driving out of there. So he was already getting - - even though the initial plan was I was driving there and driving back, everything basically changed. So because I ran back from the house, he got in the van, and then I jumped in the passenger side, and we took off.

Compare to...

Discovery Page 361, Robbery Proffer 18/50

WIESE: ... And, um, before - before we left, um, I went and kicked the, ah, chair loose off the door so she could get out. **[EXHIBIT F]**

Discovery Page 364, Robbery Proffer 21/50

LEE: And you said on the way out, then, you kicked the chair, um, like off - off the door or something?

WIESE: Mm-hmm (yes).

LEE: Was - Was

WIESE: I didn't kick it all the way off the door. What I did is I - I moved it enough that it slid down from the handle so that if *they* did move the door it would fall away.

Discovery Page 370, Robbery Proffer 27/50

KRAUS: - - Did you guys close the garage doors or did ya leave 'em open?

WIESE: Um, Fl - Floyd was, ah, closing up the van. And that's when I went - ran back in to kick the chair loose. And I - I honestly can't remember. I - it - it would have been me, if I closed it. And I cannot remember if I - if I hit the...

KRAUS: That's fine.

WIESE: - ...button or not on it.

WIESE: I went out the garage.

KRAUS: Okay, and, um, where did you - did you drive or did Floyd?

Gerald Wiese: **I did.**

Discovery Page 015

Deputy M. Griffith, reporting:

As I entered the house, I observed a chair lying on its side next a closet on the north side of the hallway. The chair appeared to have been damaged at the top of the back rest.

Discovery Page 016

Deputy M. Griffith, reporting (Trnkova's Interview):

Once she was sure they were gone, she exited the closet forcing the door open and called 911.

Discovery Page 048

Detective E. Lee, reporting:

In the hallway leading to the entry area I saw an overturned broken chair.

Trial Transcript Page 320 Zdena Trnkova (Testimony)

A: After they left, I get out.

Q: Explain to us how you got out of the closet.

A: When my hands were out, so I could use both hands, I tried to get out - - I don't know how long - - probably because I'm not a very strong woman. And I broke the chair, the part holding the back that was under doorknob. So I finally broke it, and I get out.

Investigative Note "Y"

In both **Proffer** and **Trial**, Wiese claims to have kicked the chair away to allow Zdena to escape, but to anyone who has ever seen that chair - as I did in person - no one kicked it out of the way. **[EXHIBIT F]** Despite the hard evidence, Amos described this "one last act of compassion" by Wiese, to the jury - *at last three times*. His obvious intent was to endear the jury to his star witness. Zdena was disgusted to afterward learn of Amos's statements to the jury. As a small, frail senior citizen, it took her much effort to destroy that \$1,100 chair to escape the closet.

And did you catch that at **Trial**, Floyd drove from the crime scene, but earlier in **Proffer**, Wiese had driven? No one ever challenged him on this and other material changes in testimony.

THE GRINDER

Trial Transcript Page 612, Lines 20-25

Q: And what did you do after that?

A: Went inside the shop, and he said that he had bought a grinder in case the safe -- to be able to get into it with some kind of special blade.

Q: Okay. Then what happened?

A: He started cutting into the top of the safe.

Compare to...

Discovery Page 371, Robbery Proffer 29/50

WIESE: Um, Floyd had some, ah, ah - it's like a - a - a big, ah, grinder that he wanted to - to cut through the safe. So he went ahead --

Investigative Note "Z"

If Wiese's **Trial** testimony were true, and Floyd had procured a grinder prior to the robbery with which to open a stolen safe, then a few questions come to mind.

#1 Why buy a grinder (for the robbery ahead of time) when you don't yet know a safe exists? Remember, Wiese had said they were expecting bricks of cash stuffed in vases, flowerpots and "hidey-holes." (Incidentally, neither Arnold nor I ever used such a term.)

#2 Why would Floyd buy a grinder (for the robbery ahead of time) when he already owned three of them for his construction activities?

#3 Regardless of whether Floyd already owned grinders (**Trial**) or specifically procured one for the robbery ahead of time (**Proffer**), then why was one purchased at 3:56 p.m. on the day of the robbery? **[EXHIBIT G]**

ROBBERY TIMELINE

Discovery Page 378, Robbery Proffer 35/50

(Referring to working on the addition at the Johnsons' residence on Rhinearson Rd. in Gladstone)

WIESE: Ah, Mr. Johnson.

LEE: Okay. Um, and then did you guys just go about your normal day at that point doing - doing that work?

WIESE: Yeah.

LEE: How much longer were you guys there?

WIESE: At - at the job working?

LEE: Yeah. Did you put in a full - a full day?

WIESE: Yeah, till, um, ah, 5 - 5 or 6:00.

KRAUS: What time do you think you showed up at the job?

WIESE: Probably around eleven. So we were - it was around eight or a little after eight, I think, that we were at Arnold's house. And then we were there for about a half an hour, is 8:30, nine, ten.

WIESE: And then, um, **we were at Julie's for an hour and a half.** But it would have been, I think, around 10 or 10:30 we sh- showed up there.

LEE: Okay. Do you remember if anybody was there when you guys showed up there?

WIESE: Um, Tim's wife, Vera, ah, was not there when we first got there, but she was there - she showed up a - around - probably around noon.

Trial Transcript page 615, Lines 17-22

Q: So you left Julie Marsh's house and went to work on this house?

A: Yes.

Q: And what did you do for the rest of the day?

A: Just working on that project at the Johnson residence and then went home.

Investigative Note "AA"

The crime ended about 11:25 a.m. when Zdena called 911. It takes 20-25 minutes to drive to from Kachliks' in Wilsonville to Julie's house in Oregon City. Wiese claims they spent 60-90 minutes opening the safe there. By then, it is easily 1:30 p.m. His **Proffers** say they then drove north beyond the Gladstone jobsite to Wiese's Milwaukie apartment to drop off the van. There are eight signal lights and three stop signs on that route. Then, they need to double-back through even more lights and stop signs to obtain Floyd's work trailer at Oregon City Hilltop's Les Schwab. **There is a receipt for that.** Then they go back north to the jobsite in Gladstone. By this time, they would have passed the jobsite twice and it would be pushing late afternoon, so there is no way Wiese could have gone to the jobsite that day, as he falsely testified in **Trial**.

Floyd's job records show times, dates, tasks and photos relevant to the Rhinearson project. Specifically, Floyd recalls having a discussion with Vera Johnson (homeowner) on the day of the robbery, wherein she was unhappy with Wiese for not being on her jobsite as he promised, and for not answering his phone when she tried numerous times to call him. Floyd kept job notes pertaining to the client's dissatisfaction. All his job records for Saturday, October 1, 2011 referencing Tim and Vera Johnson's addition project, were seized by the Clackamas County Inter Agency Task Force (CCITF) and withheld from his Defense Team to this day.

To recap... at **Trial**, Wiese **eliminated Proffer statements** about dropping off the van in Milwaukie and then doubling back several miles through town to pick up the tool trailer in Oregon City. This material change in testimony appears orchestrated to fit robbery-day events into a timeline that supports Wiese nonchalantly "showing up" in Gladstone after the morning robbery to put in a "full" day of work. Why lie? Clearly, Wiese was doing things that day that neither he nor Amos wanted the jury to know, as they would contradict Floyd's involvement!

But wait - there's more! Prosecution provided a copy of a seized Home Depot receipt for a grinder and cutting wheels purchased at 3:36 p.m. on the day of the robbery, 10/01/11. **[EXHIBIT G]** Why would Prosecution offer this into evidence if they had not concluded this was the grinder used to open Arnold's safe? We agree, and so, it renders the following impossible:

- Wiese's timeline of being on the job by noon
- Wiese's order of events. Wiese claims in his testimony that Floyd already had a big grinder at Julie Marsh's shop with which to cut open the safe; and according to both Proffer and Trial testimony, the safe was cut open *prior* to going to work that day. As the grinder was not purchased until approximately 4:00 p.m., then how could it have opened the safe immediately following the robbery as Weise claimed? And how could Wiese work all day on the job if he obtained the grinder with which to open the safe about 4 p.m.?

Fact: Wiese was NOT with Floyd that day!

FOUNDATION OR NOT!

&

WHERE WAS WIESE?

Trial Transcript Page 618, Lines 8-25

Q: Okay. Before we talk about you going there, you guys have cleaned out the safe. What did you guys actually do with the safe?

A: We were - - the part that - - we were parking on the job. **We had the foundation poured** for the addition we were going to put on. It is all open, it is just a concrete foundation. So he had his backhoe or excavator there. One morning ***I was there at the job waiting for him***, and he shows up in the truck, got out, got in the excavator, and dug out a hole in the center. It wasn't normally digging a hole. He was digging a big hole.

Q: How big was the hole?

A: Eight feet deep.

Q: What happened after he dug this hole?

A: He backed the truck up to it, and goes, "Come over here and give me a hand," and he had the safe in the back of his truck.

Compare to...

Discovery Pages 388-389, Robbery Proffer 45-46/50

UNKNOWN PERSON: Um, what about the safe, where's the safe today?

WIESE: The safe is, um, ah - Floyd dug down and put it about eight feet down in the ground underneath that addition.

LEE: So you put it un- did he put under the crawlspace then, or underneath the forms?

WIESE: Um, oh, it's, ah - - I'm trying to think. The crawlspace is back on the back side of the addition we put on, it would be more towards the front. So before any of the building went on and, um, **before, um, getting the fo-**
building the forms, it's - he - we were grating it out and leveling the
thing to - you know, to be able to build the forms on. And so that's
when he dug it out and buried it and then, um packed it down. And then there's all the gravel that's over it. And that's packed down in a - a - there's a wire mesh under it. But it's not like concrete.

KRAUS: And is - is this -

WIESE: - a foot and a half or two feet -

KRAUS: - addition then built over the top of it?

WIESE: Yeah.

UNKNOWN PERSON: Um, I have to wind down here, so I have a couple questions I really want to ask. Um, in terms of anything remaining at Julie's

house, ah, any remnants of this robbery, can you think of anything that would be remaining there? You got the safe out of there. Did you help him move the safe out a' there?

WIESE: He had - ah, we - we put it in, um, ah, the truck when - when, um - when he took the - he took the - later after work or whatever, he took the stuff out of the safe. But the safe was still at Julie's for, ah - for a few days, till we were ready to dig out that house, um to put that addition on. And so at this point, **you know, I - I'd go up, meet him at Julie's all the time. And so I - I went up there. We put the safe in the - in his truck. And then we drove to the job. And then that's when he dug the - the hole out with the excavator and --**

Investigative Note "BB"

At Trial, Wiese claimed he was on the jobsite when Floyd showed up out of the blue one morning with the safe, announcing they were going to bury it inside an already-poured foundation. **But at Proffer, he drove to Julie's and met Floyd there to help load it. Remember, it took two people to lift it. Wiese then rode with Floyd to the jobsite, where they buried it.**

Discovery Pages 390-391, Robbery Proffer 47-48/50

WIESE: It - it's - it's probably at least - at least six feet down. Like I said it's a - he was - he had the excavator on the site of the deal. And he just dug straight down and then put the safe in and buried it.

UNKNOWN PERSON: When you took the safe from Julie's, how many days after the robbery did that occur when you took it from her place to bury it?

Discovery Page 391, Robbery Proffer 48/50

WIESE: I don't know the exact days, but it - it - it would have been three - three to five days.

Discovery Page 379, Robbery Proffer 36/50

WIESE: Yeah. No. Noth - there wouldn't be anything specific about it. It was just normal day going out there. We just had started working on the project, so the excavation and stuff was done. We were **ready to start building the, ah, forms for the foundation** and - and that. So it's - I mean we had already been there, you know, working for a - a week or two. And -

Investigative Note "CC"

Wiese's Robbery **Proffer** describes various conflicting stages of construction during which he claims the safe was buried on the Tim Johnson job site. Among them:

- 1) The safe was buried during the leveling and grading stage, and the foundation forms were not even built yet.
- 2) Not only were the forms built, they were filled with concrete.

Wiese further muddles the matter by introducing yet more foundation stages such as wire mesh, gravel and compacting.

At Trial, Wiese testified that the foundation was poured prior to digging a hole and burying the safe in the middle of the project. **And, according to his Proffer, the safe was buried 3-5 days after the robbery**, which places this event between October 4th & 6th, 2011.

This is impossible because it conflicts with hard evidence that was not made available at Trial. See below.

Clackamas County Inspection History Record #B0255611 shows Inspector Donald Countryman **approved the foundation (for pouring)** on October 24, 2011 (with the conditions to place SSTB 16 hold down bolts per manufacturer's specifications at ABP's as shown on plan as discussed., R106.4).

The next related inspection was done by Inspector James Wilson on Nov. 2, 2011, for the post and beam (floor support system). This would have occurred

after the foundation was poured.

Therefore, it is impossible to conclude anything other than that the foundation was poured between October 24th and November 2nd, 2011. If Wiese did not lie concerning the timing of the safe burial being a few days after the robbery, then both his **Proffer** and **Trial** statements as to the foundation already being poured, are totally false. It is a shame that in all those years Floyd sat in jail waiting for a fair trial, no one would bother to obtain these and so many other easily available public records.

Regardless, burying the safe after the foundation was poured would be difficult for a variety of reasons. Among them:

- Excavators dig in a wide arc. It is doubtful that stick or boom could reach far enough inside a stem wall perimeter from without, to dig an 8' deep hole. And, as most people know, excavators don't fly.
- In addition to practical limitations, creating such a hole would be impossible to cover up without leaving evidence of disruption to the compacted substrate. Such a dig would mix native soil with the aggregate, and the area could not afterward be packed down. In short, it would no longer pass inspection as it did later that month.
- That aside, how could anyone roll the safe into a hole if the foundation were already poured? They could not. They would have to lift the safe over disturbed earth plus an 18" wall. Gerry has already described that - due to the weight of the Kachlik safe - this is basically impossible for two men.

Wiese testified in both **Proffer** and **Trial** that the foundation was already poured when the safe went under it. This is impossible. What's the point? If the safe is buried *where* Wiese says it is, then it did not go in *when* he says it did. (It certainly did not go in *with whom* he said it did!)

Trial Transcript Page 619 Lines 7-17

Q: So what happens after he shows you the safe?

A: He said, "We are going to put it in the hole and bury it. Once the addition is

built on it, it will never be found. It is gone."

Q: And what did you guys do?

A: We threw the safe in the hole.

Q: How did you bury it?

A: You just pushed all the dirt back over it again. **Eventually it had a mesh and a layer of rocks for a foundation.** Then we put the post and beams of the building.

Compare to...

Trial Transcript Page 618, Lines 8-25 detailed above.

Investigative Note "DD"

Wiese was unable to keep his story straight even for a few minutes! On [Trial Transcript, Page 618](#), he testifies the foundation was already poured, which we've described is next to impossible. On [Trial Transcript, Page 619](#), he now describes a much *earlier* rough excavation stage, prior even to rocks and mesh. (Even if latter were true, a dig would not go undetected, and would need to be addressed or it would lead to settling, foundation cracks and/or failure.)

SELLING THE STOLEN SILVER

Trial Transcript Page 620, Lines 9-18

Q: Okay. So what happened when you guys got to the coin shop?

A: We went in and exchanged the coins.

Q: Do you remember how many coins you exchanged?

A: I went in and exchanged like two of the containers - - two or three of the containers.

Q: Do you remember how much money you guys got in exchange for those

coins?

A: It was like, I think, \$750 for the little container.

Compare to...

Discovery Pages 380-381, Robbery Proffer 37-38/50

WIESE: Yeah. And it - it's right off of um, ah, SR500 and Fourth Plain. When you - when you're coming on SR500 heading, um - would be heading north, right by - at Fourth Plain you go left. And then it's maybe a - a block or two behind, ah, - and there's a Walgreens in the parking lot. And I just - I just can't think of the name of the - the place.

LEE: It's okay. So did you go in there alone then or did he drive you and go in with you?

WIESE: Him and I went up there, but, um - but, ah, I just went in and asked about that I had some silver coins that I wanted to sell. And they looked up the - the daily amount for it. And -

LEE: Like the -

WIESE: - basically -

LEE: - the spot price?

WIESE: Huh? Ye- yeah, that's what it's called, the -

LEE: Okay.

WIESE: - spot price.

LEE: And, ah, so how much did you get?

WIESE: Ah, it was, ah, \$2,000.

LEE: \$2,000 exactly?

WIESE: Mm-hmm (yes).

LEE: How did they pay you?

WIESE: Ah, cash.

LEE: Did you take 'em in, in one of those boxes or how did - how did you carry the coins?

WIESE: No. Um, I ju- I put 'e in a - a baggie. Um, Floyd said that he - he wasn't sure but thought that in those containers, it could have been specific to Arnold's buy when he bought them.

Investigative Note "EE"

Between Proffer and Trial, Wiese changed his testimony pertaining to his silver sale as to 1) who went in the first coin store, 2) how much money was received for the coins there, and 3) what containers the coins were in.

Trial Transcript Page 622, Lines 1-4

Q: And how many places did you go to in that area?

A: In Olympia we went to, I believe, two, but they didn't handle the larger amounts, so we didn't do anything there.

Investigative Note "FF"

An educated person would know that smaller transactions -like the one Wiese described *avoiding* - are a rather desirable opportunity for money-launderers to avoid Bank Secrecy Act detection, which mandates reporting transactions over certain dollar amounts. Hence, if this instance occurred as Wiese claimed it did, then it cannot have involved Floyd Marsh, who has extensive years of anti-money laundering training. *(Compare this to CCSO Det. Eric Lee, who testified in 2017 that he had received only 24 hours of Money Laundering training, ever, in his career. Break that down by year. This would explain some of his numerous mistakes.)*

Discovery Page 383, Robbery Proffer 40/50

WIESE: And, um, so I - you know, I - I went and, ah - went in there and did that, traded that in. It was - it was, ah, 3,000 - a little over \$3,000.

Compare to...

Transcript Page 622, Lines 11-12 & 20-25

A: They gave him a check that was, I believe, \$10,000 or \$11,000.

Q: You mentioned that you received a check. Did he ever tell you what he did with the check?

A: He said **he signed it over to Julie** to put it into her account - - I think his accounts with the business and personal where it would get taken. So he used Julie's account and told her it was a down payment on a job that we were going to be starting.

Trial Transcript Page 623, Lines 2-4

Q: Did you ever get any of that money, that \$10,000 or \$11,000?

A: No.

Compare to...

Discovery Page 383, Robbery Proffer 40/50

UNKNOWN PERSON: So they cut him a check in his name?

WIESE: They cut him a check. I believe, um, **it was not in Floyd's name**. I - ah, 'cause Floyd didn't have a - a bank account that he could put it in either. So it was - he put it in a - **he had the check made out to Julie**. And, um, Julie has a account at, ah, Chase Bank for Floyd to use, um, for, you know, little money here and there that he has a debit card to --to use with, even though he's not a signer on the account or anything. It's, ah - 'cause basically the - the account was set up for him to use.

Trial Transcript Page 623, Lines 5-11

Q: Did he exchange any other coins?

A: None that I know. I mean, he may have. Maybe not. He had -- his bills, the problems he had, he never said what he did with any of the rest.

Q: Did you ever receive any additional money or anything else?

A: No, not out of that.

STOLEN SILVER - WHAT REALLY HAPPENED

Investigative Note "GG"

The following is Floyd's version of what happened surrounding the ONE silver transaction linked to him. As you'll see, there were several witnesses available. None were contacted.

In October 2011, Floyd arranged through Wiese to buy 250 silver coins from a woman named "Olympia," a long-term, close personal friend of Wiese. Floyd met her only a few times and does not recall her last name. The story Floyd was given was that she needed to sell them, but "could not take a check" due to funds being "seized" by her ex-husband. (Why she was unwilling to break down the transactions to smaller cash amounts on her own is unknown.) *Recall that at this time, neither Floyd nor myself (Connie) had been informed of the robbery. We did not learn of it until December 2011. If we had known in October, then Wiese having anything to do shortly thereafter with silver coins would have aroused our suspicions instantaneously.* Floyd and I did not then know then Wiese was the one who robbed our Camrin home, but we already knew he stole prolifically from Floyd's company, Silvergate Construction.

Before agreeing to spend a day to drive all that way north, spend \$150 in gas and forego \$250 in construction earnings, Floyd had checked the spot price for silver online. It was at \$35 and change. (250 coins X \$35.536 = \$8,884) This is

the amount for which Floyd expected he could immediately *sell* the coins. And this is indeed the spot price listed on the receipt.

Floyd drove to Tacoma and met Wiese and Olympia at an Arby's that is located in the same parking lot as the Tacoma Mall coin shop. Floyd paid \$32 each for 250 coins, or \$8,000 in cash that he had borrowed to do this. See math below.

250 coins @ \$35.536 (spot price)	\$8,884
250 coins @ \$32.00 (purchase price)	- <u>8,000</u>
Gross Profit	\$884
Less Expenses:	- <u>400</u>
NET PROFIT	\$484

Floyd reasoned this was like making two days' wages in one. Wouldn't you? He used his manual receipt book, filled out a purchase receipt, had Olympia fill in her information and sign the receipt, and he gave her a copy. He then left Wiese and Olympia, as they had traveled separately.

Wiese claimed in **Proffer** that Floyd was trying to avoid being identified in relation to selling the silver coins and was reluctant to be seen on video inside the coin shop. Yet, on this day in late October 2011, Floyd walked into the Tacoma Mall Blvd. Coin & Stamp Inc. and gave them his legal name, DOB, ODL#, address, phone number and his signature. See Receipt #74629, **[EXHIBIT H]**, which clearly states there are 250 coins. The price is difficult to make out, but it could be \$35.54. (The \$35 portion is clear enough, but the cents are illegible to a certain degree.) The referenced Chk. No. appears to be 20367. However, it is difficult to read and the original check facsimile does not appear to be part of the file. The referenced Chk. No. on the Sterling Savings Bank Cashier's Check is redacted, rendering it difficult to definitively link the two. The date on both the Cashier's Check and the Coin Shop receipt is illegible. (See Discovery Pages 159-161.)

All of this being what it is, there is an apparent discrepancy in the price Floyd was paid for the coins.

250 Coins @ \$35.536	= \$8,884	What he should have received
250 Coins @ \$39.536	= <u>\$9,884</u>	What he did receive
	\$1,000	Discrepancy

- What is the source of the error?
- Did the Coin Shop notice the error and make any attempt to correct it?
- What did Floyd do about it?

Floyd noticed the error - which was in his favor - right away, and he pointed it out to the male "salesperson" at the time of the transaction. The male (unknown identity) typed the numbers into a countertop calculator, verifying the amount to be \$9,884. Thinking he himself might be wrong, Floyd said okay to the sale. A woman (unknown identity) in a nearby office made out a business check to Floyd *in his name*.

Aware of Chase Bank's policy of putting holds on out-of-state checks, Floyd drove to a branch of Sterling Bank- from which the check was drawn - and he did two things there. First, he spoke with a female bank teller and asked her to check the amount. By reviewing Floyd's receipt, she confirmed the \$1,000 math mistake. Next, Floyd asked her to contact the coin shop. He advised the teller that he was willing to drive back to the coin shop for a new check in a lesser accurate amount. The bank teller contacted the coin shop and reported being told the check was for the correct amount.

The teller, confused, contacted her supervisor, and advised her of the situation. Finally, the bank staff decided the check and receipt amount was okay because it has been confirmed by the coin shop staff.

Please note the obvious: *If Floyd were a crook, why would he go out of his way to try to correct a \$1,000 error in his favor?*

Note too that Floyd displayed no behavior consistent with attempting to hide this transaction. For example, he is likely on video inside the bank also. Next, Floyd asked to cash the check - something he would not do if he was trying to avoid cash reporting laws in which he was well versed. The teller explained to him that the branch did not keep that amount of cash on hand. They would have to order cash on a transport, and this would take a few days. He was offered to open a savings account with Sterling Bank.

Needing the funds soon for construction projects (as well as to pay back the

person who loaned the money to him), he asked the teller to contact Chase Bank and see if there was a way to avoid a hold on the funds. The teller did as she was requested, and when she returned, she advised exchanging the coin shop business check for a cashier's check, to which Floyd agreed.

When he returned to his office in Oregon, Floyd made copies of the check, purchase receipt, and sales receipt; and he wrote journal records in his financial papers. These items, as well as other business records, were seized during a search warrant at Julie Marsh's house, by members of the Clackamas County Inter Agency Task Force who have refused to turn over trace records or allow access, despite a Freedom of Information request.

Of interest is that Wiese, in his Robbery Proffer - with all these discussions surrounding the amount of the check, doesn't mention it. He also thought the check was in Julie's name, but it wasn't. It was made out to Floyd Marsh. Neither does Wiese's Proffer mention going with Floyd to Sterling Bank to cash or exchange the check. Even later at Trial, Wiese does not mention Sterling Bank at all.

It seems clear, as demonstrated by Wiese's general mistakes as to the facts, and his overall lack of knowledge, that he was not travelling with Floyd that day as he claimed.

Let the reader note that between Proffer and Trial, Wiese's testimony improved to match the Prosecutor's known facts as to whom the check was made out. Therefore, this is another likely instance where Amos altered Wiese's testimony to align with reality.

WIESE STOLE FROM FLOYD

Trial Transcript Page 624, Lines 2-11

- Q: And just so it is clear, why were you dealing drugs, Mr. Wiese? It may sound obvious but explain that to us.
- A: Well, I had -- you know, as far as options with me, I had my bills I had to pay. It was quick money and I was trying to use money -- to make some money to re-put into getting the construction going again. If it would have

been enough, I wanted to help Floyd out with ending his problems. So that was the whole purpose of that was the idea of making money -- fast money.

Investigative Note "HH"

In reviewing all known interviews with Wiese (as included in Discovery), there is not one example of Wiese giving Floyd any money, nor any evidence of Wiese investing any money into Silvergate Construction in any form. In fact, when faced with hard evidence, Wiese claimed the opposite.

Discovery Pages 548-549

Lt. Scott Anderson, reporting:

When discussing what evidence might be at his house, Wiese told me he had a large amount of cash and some firearms Marsh had *given* him. He described the firearms Marsh gave him was an LCP, a Mosine and a Ruger 10-22 all given as gifts.

Items Wiese described in his possession as a result of Floyd's generosity, were actually items Wiese stole from Floyd!

During the first week of February 2014, Floyd inadvertently discovered Wiese had possession of many of Floyd's tools and two *known* firearms - when Floyd let Wiese's cat out of a bedroom used for storage at Wiese's apartment.

Floyd confronted Wiese and took possession of his two firearms:

- 1) Taurus .38 special revolver
- 2) A double-barreled 12-gauge shotgun that Wiese admitted to having cut off the stock and shortened the barrel considerably

Wiese also agreed to return Floyd's construction tools discovered in his possession. Floyd rented a suitable storage unit near Wiese's apartment for him to take the tools to, so that they would be out of reach of Wiese's drug-addict roommates.

Floyd gave Wiese both keys - and both gate code access cards - to the storage unit, so that Wiese and York could return his tools, which they didn't.

Floyd agreed to store Wiese's job box in the storage unit and assisted him to move it from his living room to the storage unit. This job box was empty and unlocked when taken to the storage unit, which was the same day the unit was rented. When leaving the storage unit, Floyd and Wiese were contacted by Dep. K. Moss.

Reference CCITF Reports 14-70084 & 14-70086

Both files are incomplete, and several pages are copied so lightly as to render them all or partially illegible. However, see below as to the best we can do with unreadable Discovery.

The following Property in Custody report lists items that law enforcement seized from Wiese, associated with **Case #14-70086**:

- **Both** Public Storage gate code cards were found in Wiese's possession.
- **Item #7 or #8** - Refers to a Ruger LCP .380 ACP pistol.
- **Item #7 or #8** If this Ruger is chambered in .22, semi-automatic, and stainless steel, then this pistol was registered to Floyd and ***stolen during a 2013 burglary*** at 342 Camrin Loop, Creswell, OR that was reported to law enforcement. The serial number on the Property in Custody report is illegible.
- **Item #9 - *Likely stolen in 2013 burglary at Floyd's Creswell residence***
- **Item #20** - Ruger 10-22, serial number 241-90236, originally purchased by retired CCSO Detective Gerry Hellman (503) 266-6856, then sold to Floyd. ***Stolen from Floyd during reported 2013 burglary.***
- **Item #22** - Smith and Wesson AR Style .223/5.56 mm rifle serial number SR26960, ***Registered to Floyd Marsh.***

When was this last gun taken? It may have been purchased after Wiese's June 2013 and July 2013 Creswell burglaries, so it now seems likely Floyd's firearms were stolen over a period of time, and/or that Wiese raided the house in Creswell as soon as he learned of Floyd's Feb. 14th, 2014 arrest in Chicago for marijuana.

After all, Wiese raided Floyd's tool trailer at a job near Forest Grove as soon as he learned of Floyd's arrest. Its door was wrenched from its hinges; its contents stripped by the time I retrieved it, emptied, in late February. Before Floyd's arrest, Wiese was the only one who knew where that trailer was and what it contained.

Photographs and related reports associated with CCITF **Case #14-70086** specifically document the search warrant at the Wiese/York residence located at **15705 SE Mcloughlin Blvd. Unit #F, Milwaukie, OR 97267**. These are reasonably expected to document - in addition to the numerous firearms stolen by Wiese - many \$1,000's of stolen construction related tools belonging to Floyd and/or his company, Silvergate Construction.

There are other firearms seized by CCITF that belong to Floyd, but due to illegible Discovery paperwork they cannot be identified at this time.

Floyd communicated from within the Clackamas County Jail in 2016 to detectives, letting them know items seized from Wiese's apartment belonged to him. They did not respond, and Amos had the audacity to ask the jury, "Why didn't Wiese steal from Floyd?"

NOTE TO SELF: Lane County S.O. Police Reports will list items stolen in 2013 from our residence that will match serial #s of items found in Wiese's apartment.

WHY HIDE SHELDON?

Discovery Page 634, Lines 9-12

Wiese (speaking of himself and Floyd working on the Johnson job located on Rhinearson Rd in Gladstone, Oregon - where the safe is allegedly buried):

WIESE: ...it was me and him working on it. So we were setting the trusts, lifting up the walls, putting the walls together, pouring the concrete, mixing the concrete...

Investigative Note "II"

Floyd advises none of this is true. Rather, he advises that Wiese did all these activities with Sheldon Hasbrouch at that job. Together, Wiese and Sheldon framed and lifted the walls at the Tim Johnson addition. Floyd was not on the premises when that occurred.

This mid-phase of construction resulted in a framing inspection failure, by Inspector James Wilson on 11/29/2011. The Comments Section of the framing inspection reads: "Cannot verify nailing of built up header. Reframe windows per plan and retrofit hold downs per plan or submit alternate lateral design to county for approval. R106.4 Retrofit hold downs require special inspection. Re-nail exterior where overdriven use hot dipped galvanized at sill plate."

Although this job was done for Wiese's friends, the Johnsons - and originally Floyd was to be hired only for the initial excavation phase - Tim Johnson, flustered over Wiese's framing inspection failure, contacted Floyd for help with corrections.

Upon inspection, Floyd noted the following. The trusses were set, but when the walls were raised, Wiese did not match top plate height between the addition and the existing dwelling - an obvious mistake, causing the roofline of the addition to be out of alignment by several inches from the existing roofline. In addition, Wiese (or Sheldon Hasbrouch) used *grinder* wheels to cut through required Simpson fasteners.

[*Grinder Notes:* This was likely the same grinder Wiese purchased on 10/01/11 @ 3:56 p.m. - the day of the robbery. This same grinder and cutting wheels were used on the Tim Johnson addition to cut re-bar for the foundation. Possibly, there may be photos of this grinder associated with a search warrant at the Wiese/York residence in February 2014. Such photos of CCITF **Case Number 14-70086** may also show other items associated with the Kachlik/Trnkova residential robbery (i.e. safety vest, hard hat, gloves and zip ties).]

Floyd, upon completing his inspection as to the cause of the framing inspection failure, contacted Designer Architect Scott Benthin @ (503) 632-2862. Mr. Benthin agreed to assist with technical aspects of the required corrections. Also, a separate engineering firm was contracted: Carlson Testing, Inc., and their involvement was documented in the seized and withheld Johnson job files.

Mr. Benthin may have more notes as to what was not built to plan and by whom.

When corrections were approved, Floyd oversaw and participated. He recommended taking all the walls down and reframing due to the mismatched top plate elevation, but Wiese refused to take such drastic corrective measures. The framing inspection later passed "w/conditions" on 12/27/2011 by Inspector Donald Countryman.

For all his help at this job with excavation, problem-solving and roofing, did Wiese pay Floyd as agreed? Not a dime. Whereas, when Wiese was *our* Silvergate Construction employee from 2005-08, we paid him \$25 per hour plus. ADP records prove this is true.

For reasons perhaps having to do with the October 1st, 2011 robbery, neither Wiese nor homeowner Tim Johnson ever admitted to investigators that Sheldon Hasbrouch worked on the Johnson addition. Floyd specifically recalls working on the roof with him, and photos at different phases of construction may well show Sheldon Hasbrouch working on this job throughout, as Wiese's helper.

Why lie about Sheldon? Well... he owned the white, 1992 Aerostar Cargo Van used in the robbery. He also fit Zdena's initial description of the robber - 20 something, etc. And he was physically fit enough to participate in the safe removal. Did his prints get checked against the famous unidentified print at the crime scene? Nope.

TRUSTWORTHY WIESE

Trial Transcript Page 624, Lines 22-25; Page 625 Lines 1-14

Q: Now, Mr. Wiese, I just have to ask you this question. Obviously, you are under a Cooperation Agreement. You have a lot on the line to be here today. Some people might think that for that reason you are being dishonest. What do you think about that?

A: Are you asking if I'm being dishonest?

Q: What do you think about that?

A: No. I'm telling the truth. It was a situation - - everything I did was to help my friend, and basically - - I put my future on the line for it. That's how good a friend *he* was. In the long run, it did not work out. It all backfired and fell apart, and I lost everything. I lost *everything I owned - - my clothes* -- everything over this situation.

When it came down to it and sitting in jail, when *they* were wanting me to give information on this, I didn't want to lose anymore, so I made a better deal. I figured I paid enough.

Investigative Note "JJ"

A better deal than what, Wiese? Unbelievable drug Proffers? And... law enforcement came to Wiese? How did this come about?

From his very first police contact on Feb. 18, 2014, Wiese exerted considerable effort to avoid any consequences associated with his drug trafficking activities. He attempted to shift the focus onto Floyd who had recently been falsely arrested in Chicago. Although Floyd was exonerated and released in 2016, that does not change the fact that in 2014, Wiese was taking maximum advantage of the consensus that Floyd would likely never see Oregon again.

Since Wiese was given full immunity - and thus would not be held accountable for any crime to which he confessed at Trial - why would he bother to lie?

*** IF WIESE DID NOT LIE, THERE WOULD BE NO CASE AGAINST FLOYD. ***

Because the CCSO and the CCDA were only interested in “a case against Floyd,” (see Proffer), any testimony that excluded Floyd’s involvement would not be rewarded. If Wiese wanted immunity, he needed to lie.

The jury never knew of Wiese’s contradictions in testimony, nor of his lies in **Proffer** and **Trial**. They remain unaware of the existence of, and the intentional withholding of, hard evidence that proves Floyd had nothing to do with Wiese’s robbery. No wonder the jury members were confused, no wonder they were split 10-2, and no wonder they convicted on only half the charges.

Although this document lists several specific ways in which Wiese (in the Public Defender’s words) was “obviously coached,” they represent only a tiny fraction of the problems with this case. Maps, diagrams, house plans, photos, charts, supplementary reports - or even interviews - are available upon request.

UNTRUSTWORTHY AMOS

Fact Review:

- Because Amos was a part of Wiese’s Proffer process, Amos had to be aware of the numerous discrepancies between Wiese’s Proffered testimony verses Wiese’s Trial testimony. If not, then he should have been.
- Amos failed to notify the court as to how or when he knew of material changes in Wiese’s testimony, or that there were any.
- Since all of Wiese’s testimonial discrepancies leaned to Amos’ favor at Trial, it is arguable that Amos orchestrated all of them. Mathematically speaking, it is simply too big a coincidence for them all to be so convenient for his Prosecution.
- Because Wiese arguably doesn’t have the IQ to come up with such “improvements” in Trial testimony over Proffer, Amos is the likely source.

- Not only did Amos *not* reveal to the court that he knew Wiese would at Trial contradict much of his Proffer content, Amos even audaciously introduced these Proffers as evidence of Wiese's truthfulness.
- Amos told Floyd's Defense that Wiese had "come clean" about the drugs - only on the first day of Floyd's Trial so the Defense had no time to prepare.
- Amos told Floyd's Defense that Wiese had "come clean" about the drugs even though Wiese shortly thereafter admitted he never had and never will give up his true source.
- Unbeknownst to the court and jury, Wiese not only lied about the drugs in his two 2014 *drug* Proffers, but he also lied about the drugs in his 2014 *robbery* Proffer. Not even Amos disputes this! So, if Amos knew Wiese cannot be believed in two Proffers and much of a third - and had great habitual propensity for blaming Floyd for his own crimes to avoid consequences - then why did Amos use Wiese in court at all?
- Why didn't Det. E. Lee do an investigation? He testified in court he basically took Wiese's word for everything. He threatened me not to tell the truth, twice. And he would not accept evidence that was exculpatory in nature.
- Why wasn't the assault victim allowed at any time to see Wiese? Not by photo, nor in line-up, not at Grand Jury, not in Trial. Neither was she allowed to hear his voice on audio. Why? Because she could have identified him as her attacker! There's even a photo of Wiese wearing exactly what he said Floyd did on the day of the robbery!
- Why was so much exculpatory evidence withheld from Defense and Trial?
- Because Wiese cannot keep a story straight from one sentence to another, much less than with three years between versions, neither version being physically possible, why did this case ever go to Trial?

The answers to the above are clear but tragic. Clackamas County Sheriff Craig Roberts and CCDDA Russell Amos so concerned themselves with **winning at all costs** for personal political gain, that Amos appears to have

withheld evidence and blatantly **suborned perjury** by **tampering with his witness** as evidenced by the preceding examples of altered testimony.

CORRECTIVE MEASURES

- Amos should be reprimanded and relieved of his position for the State.
- Amos owes an apology to the Kachlik family for his deception that led to Zdena's attacker being wrongfully freed, leading her never to feel safe in her home to this day.
- Amos owes an apology to the Marsh family for his deception that led an innocent man being wrongfully convicted.
- Floyd is innocent and should be freed immediately.
- Amos should personally pay reparations to both families.
- Wiese is guilty, dangerous, empowered by law enforcement, and should rather be imprisoned.
- Wiese should be made to pay reparations for the silver he stole from Arnold Kachlik, Zdena Trnkova, and Erik Kachlik, from which Amos categorically exempted him.

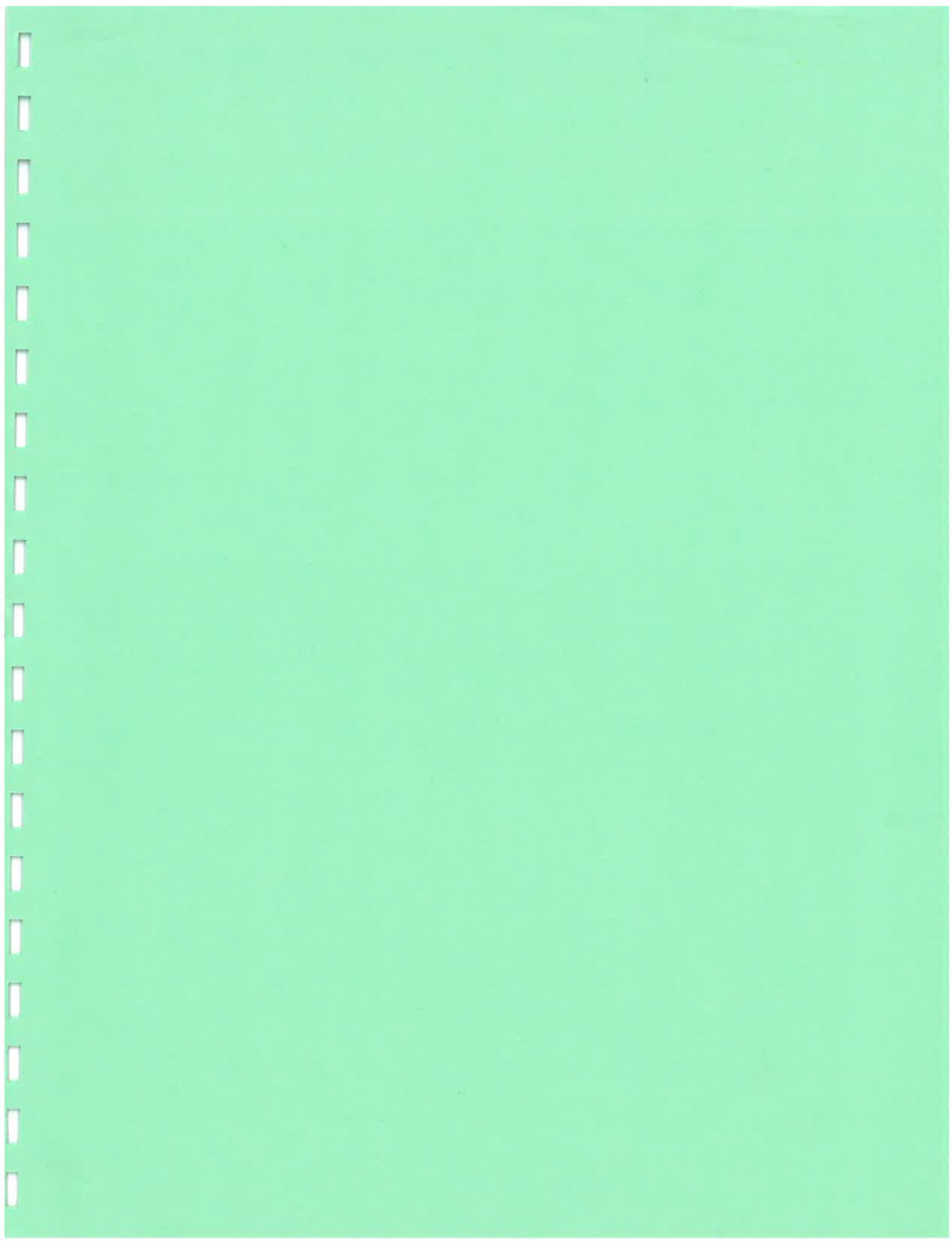
Wiese could not stay out of trouble for even a few weeks after Floyd's Trial. He's been in and out of arrests, jail and prisons ever since, but he never seems to get more than a wrist slap. Why? In contrast, Floyd was convicted of ONE (explainable) silver sale (linked to Wiese), and he will see nine years for it. With only 2.5 years to go, due to Floyd's health, this appears to be a death sentence.

Amos mocked the law he swore to uphold. He conspired with Wiese for mutual gain. Amos's willful actions clearly demonstrate he cares nothing for truth, public safety or trust, nor any of the individuals involved. He deceived judge, jury, Defense, and victims. His corruption resulted in the conviction of an innocent man

and the release into the community of a guilty one. Why? Amos thought only of his own career. That is why the above list should be considered an extremely reasonable start with which to begin to undo the harm that Amos caused so many when he took selfish advantage of the faith and power the People entrusted in him.

STATEMENT OF COOPERATION

I propose a new Cooperation Agreement.
Floyd and I stand ready to cooperate to the fullest extent possible,
with any person or entity willing to spearhead the implementation
of true justice in this case.





John S. Foote, District Attorney for Clackamas County
Clackamas County Courthouse, 807 Main Street Room 7, Oregon City, Oregon 97045
503 655-8431, FAX 503 650-8943, www.co.clackamas.or.us/da/

October 1, 2014

Jim Bernstein
Attorney at Law
219 7th Street
Oregon City, OR 97045

Re: *State of Oregon v. Gerald Matthew Wiese, CR 14-0348*

Dear Mr. Bernstein:

The Clackamas County District Attorney's Office (CCDA) and the above named defendant hereby enter in the following Cooperation Agreement in connection with the disposition of certain criminal charges against the defendant pursuant to a Plea Agreement, filed in this case, which is incorporated herein by this reference as an essential part of this agreement. The parties agree that the CCDA may offer this Cooperation Agreement as a letter at the sentencing hearing, and that the CCDA will retain custody of the letter following the hearing.

- 1. Information:** Defendant agrees to provide truthful and complete information, with no material misstatements or omissions of fact, relating directly or indirectly to any criminal activity. Defendant will neither attempt to protect any person or entity who has been involved in criminal activity, nor falsely implicate any person or entity in criminal activity. Defendant agrees to cooperate with any efforts and requests by the CCDA to verify that information provided is truthful and complete. Defendant agrees that any interview may be electronically recorded or otherwise documented.
- 2. No Disclosure of Cooperation:** Defendant agrees not to reveal this cooperation or any information about this agreement or any related investigation or prosecution to anyone, without the prior consent of the CCDA.
- 3. No Direct Use of Statements:** Except as outlined herein, the CCDA agrees that statements made by your client after signing this agreement may not be used in the CCDA's case-in-chief against your client should a trial be held for any charges pending or later filed in the course of this investigation.
- 4. Collateral Use:** If defendant should testify materially contrary to the substance of the cooperation, or otherwise presents in any legal proceeding a position materially inconsistent with the cooperation, any information or evidence obtained through that cooperation may be used against defendant in any fashion, including as the basis for a prosecution for offenses involving perjury, false swearing or other related criminal charges for providing false information.
- 5. Derivative Use:** The CCDA may make any derivative use of, and may pursue investigative leads suggested by, any statements or information provided by your client under this agreement. This provision eliminates the requirement of a hearing pursuant to *Kastigar v. United States*, 406

U.S. 441, 460 (1972), wherein the CCDA would otherwise have to prove that the evidence it sought to introduce against your client was derived from "a legitimate source wholly independent" of statements or information from the client.

6. **Sentencing Information:** Defendant understands that the CCDA may provide information given under this agreement to the sentencing judge.
7. **Testimony:** Defendant agrees to testify under oath truthfully and completely in any federal or state grand jury, trial, hearing, or any other proceeding to which defendant may be called as a witness including but not limited to the *State of Oregon v. Floyd William Marsh*, CR 14-1585, in which Mr. Marsh is indicted for Robbery I, Robbery II x 2, Kidnapping II, Unlawful Use of a Stun Gun, Burglary I, Aggravated Theft I and Money Laundering for criminal activity between 10/1/11 - 11/1/11.
8. **Breach of Cooperation:** It is expressly understood and agreed by the parties that the determination for whether these cooperation terms have been breached rests exclusively with the CCDA, so long as that determination is made in good faith and not arbitrarily. Should the CCDA determine that the defendant, after the date of this agreement: (a) has committed any further crime or has violated any condition of release or supervision imposed by the Court (whether or not charged); (b) has given false, incomplete, or misleading information; or (c) has otherwise breached any condition of this agreement, the CCDA will have the right, in its sole discretion, to void this agreement in whole or in part. Furthermore, defendant agrees that substantial compliance of this agreement is not acceptable and will be considered a breach of the cooperation agreement.
9. **Consequences of Breach:** The parties further agree that should the CCDA determine that the defendant breached this agreement: (a) defendant may not withdraw any guilty plea; (b) the CCDA is free to make any sentencing recommendation and is not bound by this agreement or the Plea Agreement; and (c) defendant may be prosecuted for any crime committed by defendant, whether or not such crime was the subject of this agreement. Furthermore, the defendant waives any challenges involving a claim of Double Jeopardy, Speedy Trial or the Statute of Limitations and may be prosecuted in United States District Court by the United States Attorney's Office if Defendant violates the terms of this agreement.
10. **Memorialization of Agreement:** No promises, agreements or conditions other than those set forth in this agreement and the plea agreement will be effective unless memorialized in writing and signed by all of the parties listed below or confirmed on the record before the Court.
11. **Duration of Agreement:** Defendant stipulates that the cooperation agreement shall remain in effect throughout the duration of any and all criminal cases that arise through the course of defendant's cooperation with the state. This will include defendant's full participation throughout the course of the criminal investigation and prosecution of all cases in which defendant cooperates with the state. In order to enforce this agreement, the defendant waives any future challenges to his rights to a speedy trial, the statute of limitations and his rights against double jeopardy.

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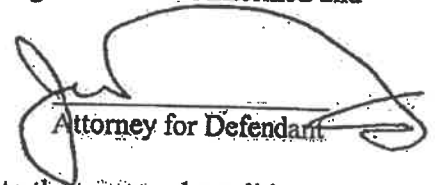
I have carefully reviewed every part of this agreement with my attorney. I understand and voluntarily agree to its terms.

10/1/14
Date


Defendant

I represent the defendant as legal counsel. I have carefully reviewed every part of this agreement with defendant. To my knowledge, defendant's decision to make this agreement is an informed and voluntarily one.

10/1/14
Date

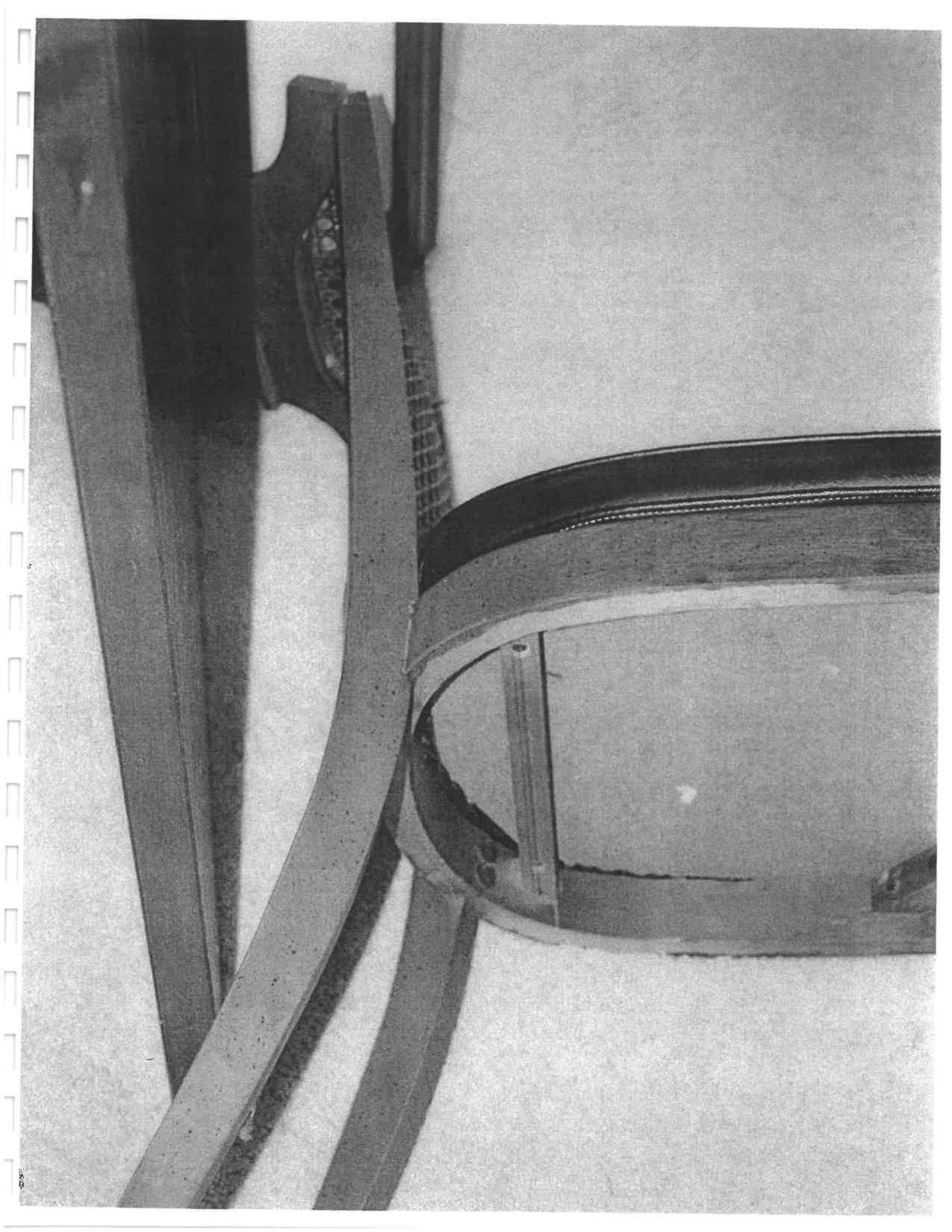

Attorney for Defendant

I represent the CCDA as a Deputy District Attorney. I agree to the terms and conditions as outlined in the agreement.

10/1/14
Date


Deputy District Attorney







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4017 00008 54570 10/01/11 03:56 PM
CASHIER JACQUELYN - JLF6473

076607890016 CHARGERBLD <A>

2@4 27

942359

RGD 7IN GRDR <A>

8.54
139.00

SUBTOTAL

SALES TAX

TOTAL

STORE CREDIT

0.00

147.54
0.00
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49.58

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CARD BALANCE

CASH

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DATE 2 Oct 11	TRG. NO.
SHIP TO	

TO
 MARSH, JR. F. LIND W
 601 KAUA MAHE
 SPECIAL DELIVERY
 1-703-701-8512

QTY. ORDERED	QTY. RECEIVED	DESCRIPTION	PRICE	AMOUNT
	250	ACE	35.00	9584.00

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- 1. Please send _____ copies of your invoice.
- 2. Please show this Purchase Order Number on all packages and invoices.
- 3. Notify us immediately if you are unable to ship as specified.

[Signature]
 Authorized

