

STATE V GARDNER CASE BOOK Q&A

Q1. On Pg 49, Lines 47-49, Barnes claims to have helped untie the two guards, but every other affidavit and statement in the casebook claims that Barnes arrived after the guards were untied.

A1. This is a drafting error. Barnes' report will be updated to reflect that Barnes arrived after the guards were cut loose from their restraints.

Q2. Banerjee twice gets the time of their breaks wrong -- by 15 minutes each time.

A2. This is a drafting error. Banerjee took their break at 10:30 pm, and Banerjee exited and entered the museum at the times listed in Exhibit 1. Banerjee's affidavit will be updated to correct this information in line 73, and Barnes Exhibit A will be updated to correct this information in line 8.

Q3. Izzy Gardner claims in his/her testimony that he/she was caught stealing from Target in November of 2019. But also claims that the reason he/she was fired from the Walters was because he/she concealed this from the museum. This would make sense, except he/she also claims he/she was fired in November of 2019. Gardner also says that the reason he/she stole from Target was because he/she was desperate for cash -- but later says that without his/her job at the Walters (which, by this timeline, he/she had at the time of the Target robbery) he/she would be desperate. Also, is the 2019 is supposed to be 2018 or 2017.

A3. The timeline of Gardner's arrest, guilty plea, and firing will be clarified in an update to confirm that Gardner's arrest and guilty plea occurred in the beginning of November and the firing from the Walters occurred later in November when the museum learned of Gardner's conviction. The remainder of the issues in this question are addressed fully in the packet and were not drafting errors.

Q4. Exhibit 6 lists the receipt for the uniform with a date of October 2020. But if the crimes were committed in January of 2020, why does a receipt from 10 months later matter? Should it be 2019?

A4. This is a drafting error. Exhibit 6 will be updated to reflect a date of October 29, 2019.

Q5. Detective Barnes is noted to be retained by the Prosecution and serve as party representative for the State. Does that mean that I can't submit Barnes as an expert witness? Also, is prosecution only allowed to submit Dr. Matthews as the expert witness or can I also voir dire Detective Barnes?

A5. Nothing in the packet rules restricts which witnesses may or may not be submitted as expert witnesses. If you believe you can lay the proper foundation to admit Detective Barnes as an expert witness, you are not prohibited from attempting to do so.

Q6. It is stated that Detective Barnes and Izzy Gardner are constructively to remain in trial for the entire duration, Does that mean that they are always present and have their cameras on during the virtual trial period?

A6. Yes, it means that Barnes and Gardner are always present and teams may assume that Barnes and Gardner were constructively present for the entirety of the trial. No, it does not mean they have their cameras on throughout the trial. Barnes and Gardner should keep their cameras off except for when they are testifying.

Q7. On page 25 of the case, there is an "Editor's Note" about robbery. We had understood the charges to be theft and assault, and we were not sure why the note about robbery was included. Are we supposed to ignore the note or are we also responsible for proving some count with robbery?

A7. You can ignore this note; it is a remnant of when we were considering robbery as a possible charge. It will be deleted in a future case update.

Q8. Dr. Kenya Abara's affidavit states that Dr. Matthews (around lines 203) believes Izzy's phone connected to tower 16x at 1:38 AM and 1:50 AM. However, Exhibit 9 states that at 1:38 am and 1:50 am, Izzy's phone connected to 16y. Is this a typo error?

A8. This is a drafting error that will be corrected in a future update. Tower 16X covers the Walters Art Museum as seen in Exhibits 11 and 12. The references to Tower 16Y in Dr. Matthews' supplemental report will be corrected to refer to Tower 16X, as will the reference to 16Y in line 101 of Dr. Abara's report. Exhibit 9 will be corrected to indicate that Gardner's phone connected to Tower 16X. 16X is the tower that covers the Walters Art Museum and is the tower that Gardner connected to at 1:38 AM and 1:50 AM. 16Y is the tower and antenna that covers the range shown in Exhibit 12c, and Izzy Gardner did not connect to tower 16Y on the night in question.

Q9. The second page of Exhibit 9 says that it's the data from January 5, 2020, 12:00 PM to January 2, 2020, 9:00 AM. I think the PM is a typo since the crime occurred at 1:30 a.m. and the times listed in the chart all show AM.

A9. This is a typo. The revised case packet will change the information on the second page of Exhibit 9 from "January 5, 2020, 12:00 PM" to "January 5, 2020, 12:00 AM (midnight)."

Q10. In Dr. Matthews' report, line 44, page 61, Dr. Matthews says the only information he reviewed was "Exhibit 2, the zoomed-in map of downtown Chesapeake City." Exhibit 2 is the appraisal, so I think this is just a typo and should have been Exhibit 3, which is the map.

A10. This is a typo. Line 44 of Dr. Matthews' report will be updated to reflect the map of Chesapeake City is Exhibit 3.

Q11. In Dr. Matthews' report, line 114, page 62, it says, "You can see that 4:09 connection reflected in Matthews Exhibit 11a." There are no cell towers shown on Exhibit 11a. I believe the writer meant 11c.

A11. Line 114 of Dr. Matthews' report will be updated to read "You can see that 4:09 PM connection reflected in Matthews Exhibit 11c."

Q12. On page 62, line 117, it says that the "phone pings off cell tower 71Z in the orientation shown in Matthews Exhibit 11c. Exhibit 11c shows the orientation of antenna 46Y, not 71Z. I believe the writer meant Exhibit 11d for that one.

A12. The reference to Matthews Exhibit 11c in line 117 of Dr. Matthews' report will be updated to refer to Matthews Exhibit 11d. The same reference in line 120 of Dr. Matthews' report will either be updated to Matthews Exhibit 11d or deleted as redundant.

Q13. In Dr. Matthew's report, lines 132-134, it says, "This cellular tower and antenna include the apartment building where Izzy Gardner lives, and can be seen in Matthews Exhibit 11a." There are no cellular towers or antennas shown on Exhibit 11a.

A13. Lines 133-34 of Dr. Matthews' report will be updated to read "... and can be seen in Matthews Exhibit 11c."

Q14. In Exhibit 6 it says October 29, 2020, on the receipt. However, on the affidavit provided by the Detective for the State, it says October 29, 2019.

A14. See Answer to Question No. 4.

Q15. The signatures of Armani and Izzy are different from the affidavit and the Chesapeake sign-in sheet (exhibit 4).

A15. All signatures in the packet are authentic and witnesses must acknowledge as such. This is addressed in Special Instruction No. 7.

Q16. Indictments pp. 36-37 say “3 paintings” stolen; one was a vase.

A16. The indictment will be updated to reflect that three items were stolen.

Q17. Is Monday January 6th or January 7th? Barnes affidavit p. 52-53 refers to Monday as both, and Tuesday as January 8th. Also did Izzy deposit the \$7800 on January 6th or January 7th? Bank record (ex. 7) says 6th but that would be a Sunday (if Monday is the 7th and Tuesday the 8th). Izzy affidavit says deposit was on the 7th.

A17. The packet is intended to reflect real dates, which means that Monday is January 6, 2020. The Barnes report will be updated on line 206 to state “Monday, January 6” and on line 227 to state “Tuesday, January 7.” Izzy Gardner’s affidavit will be updated on line 146 to read “January 6th.”

Q18. Matthews affidavit p. 61 city map is Exhibit 3 not Exhibit 2.

A18. See Answer to Question 10.

Q19. Inconsistencies in use of 16X and 16Y cell tower - Exhibit 9 (cell phone data) shows Izzy’s phone in 16Y at time of theft; Matthews report p. 63 and exhibits 11f & 12c show phone in 16X at time of theft (even though they say they’re relying on Exhibit 9); Matthews report p. 65 says phone in 16Y at the time; Abara report p. 76 says phone in 16Y.

A19. See Answer to Question 8.

Q20. Is there a hearsay exception for unavailable declarant? Don’t see it in Rules pp. 16-17.

A20. We will be adding Rule 804 and the 804(b) unavailable witness hearsay exceptions to the case revision.

Q21. FBI Art Crime Team Report (Ex. 8) p. 94 says Source 1 & Source 2 unaware the other is cooperating with FBI, but then Source 1 comments on Source 2’s information.

A21. The intended inference is that the investigator asked Source 1 about the information they received from Source 2. The packet will be updated to clarify this and establish clearly that the investigator asked Source 1 about the information they received from Source 2 without revealing to Source 1 where that information came from.

Q22. Casey affidavit p. 45 says “Springtime” was being cut from the frame, but his statement to detective (Barnes Exhibit B) says it was “Madonna” - mistake or intentional?

A22. The packet speaks for itself on this question.

Q23. “The next morning on Wednesday, January 9, 2020, Chesapeake City Police Officers arrested Gardner as Gardner walked to work” from Barnes line 262-63 - should this be January 8 because that is a Wednesday? Also, in Barnes’ affidavit in different parts it said Izzy Gardner made the deposit on Monday and different parts say Gardner made the deposit Tuesday.

A23. See Answer to Question 17. The dates will be corrected, and line 262 will read “Wednesday, January 8.” All references to the deposit in Barnes’ report will be corrected to reference “Monday,

January 6” as the date of Izzy Gardner’s bank deposit. The references to Tuesday, January 8 in lines 227 and 236 of Barnes’ report will be corrected to read “Tuesday, January 7.”

Q24. In exhibit 7, the bank balance starts at \$712.64. After spending \$16.14 on 7/11, the balance goes down to \$296.50. Is the opening balance supposed to be \$312.64?

A24. Yes, this is a drafting error. Exhibit 7 will be corrected to reflect an opening balance of \$312.64.

Q25. In exhibit 8, the 4th paragraph of Forensic Evidence review talks about “27 swabs to test for potential DNA profiles.” It goes on to say “These swaps”. There are many other places throughout the case where swaps is said instead of swabs. Should we assume these are all meant to be swabs (see also line 167 of Barnes affidavit)?

A25. Yes, these are drafting errors/typos. References to “swaps” will be corrected to “swabs.”

Q26. Lines 274-276 of Barnes’ affidavit say Matthews’ report confirms that Izzy did not leave when Izzy said Izzy left. However, Matthews says Izzy left at 1:50 and Izzy says Izzy left around 1:50.

A26. Detective Barnes’ report will be edited to accurately reflect the conclusions in Dr. Matthews’ report.

Q27. Barnes’ affidavit isn’t super clear about when he joined the Criminal Investigation Division. line 15-16 makes it sound like he joined in 2009, but line 25 and 35 say he joined in 2012. If he joined in 2012, there’s a gap in his resume from 2009-2012.

A27. Detective Barnes joined the Criminal Investigation Division in 2009. Lines 25 and 35 of Barnes’ report will be updated to change 2012 to 2009.

Q28. Can the State call two expert witnesses or can we only technically qualify one witness as an expert?

A28. Nothing in the rules prohibits the State (or the Defense) from attempting to qualify more than one witness as an expert if they choose to do so.

Q29. On page 27 of the casebook (35 of the pdf) the information regarding second degree assault, particularly subsection C, appears to have a typo. When outlining the charge for Battery it appears to erroneously use the word assault in describing the crime.

A29. This is not a mistake. The references to assault or attempted assault refer to three different methods to prove assault, two of which are titled battery or attempted battery. That language is taken directly from the Maryland Criminal Pattern Jury Instructions.

Q30. Barnes Exhibit A (line 52-54) and Barnes Exhibit B (line 53-54) seem to say that Sidney Ross found Jamie and Casey, cut them loose, and then called the police. However, lines 100-107 of Barnes affidavit say that Sidney found Jamie, cut him/her loose, called 911, and then found Casey. Which version of events is correct?

A30. See Answer to Question 1.

Q31. Line 122- Says Izzy was in the cell tower of the Engineers Club/Art Museum at 4:26 and remained static there. This matches Izzy’s statement where they say they arrived to work around 4:30 and is shown apparently in an exhibit with the employee sign-in. However, in Matthews “conclusions” number 3, they say Izzy was not on that same cell tower with the Engineer’s Club/Art Museum until 5:06 pm, there is nothing explaining, in the conclusions, where Izzy was from 4:22-5:06 either. So, the question is, is Matthews purposefully wrong in their description of events and this is a catch for defense? Is 5:06 the correct time and the other times are typos? Or are there mistakes in Matthews affidavit?

A31. Line 177 of Dr. Matthews' report will be edited to reflect that Izzy Gardner was connected to a tower that covers the Engineers Club and the Walters Art Museum.

Q32. Are the affidavits to be treated as prior statements "given under penalty of perjury at a...other proceeding..." even though there is no indication as such?

A32. No. Affidavits are not given at another proceeding and do not fit this definition from Rule 801(d)(1)(A).

Q33. The stipulations indicate that certain exhibits are pre-admitted into evidence. Legally this means that every fact in those exhibits are in evidence. However, under the procedures for virtual competitions in item iv(b) it says "No facts or information can be considered by the judge or jury until they are placed in evidence through a witness' testimony." These statements are inconsistent. Can you please clarify whether the documents are in fact pre-admitted and if so what that means for mock trial purposes.

A33. The procedures for virtual competitions are meant to guide competitors and teams as they prepare but they do not control evidentiary issues in trial. The stipulation related to exhibits being pre-admitted controls and the documents are pre-admitted as stated in that stipulation.

Q34. Did Jamie and Izzy spend Thanksgiving 2018 or 2019 together? In one place it suggests 2018 and in another 2019.

A34. Banerjee and Gardner spent Thanksgiving together in 2019. I believe the packet is sufficiently clear on this point.

Q35. On exhibit 5 Drew Shepherd is listed as working a shift as a security guard from 1-9pm on January 4. There is no indication that she left the building on the report in Exhibit 1. Is that a deliberate omission?

A35. Exhibit 1 will be updated to reflect Drew Shepherd's exit from the Walters Art Museum around 9 PM on the evening of January 4, 2020.