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1 murder?
 2 A. Yeah.
 3 Q. Has anybody from the attorney general's office
 4 been out to interview you?
 5 A. No.
 6 MR. CAMIEL: That's all I have. Thank you.
 7 CROSS-EXAMINATION
 8 BY MR. WELLENSTEIN:
 9 Q. Ms. Lockman, I'm Mike Wellenstein from the
 10 attorney general's office. I just have a few questions
 11 for you.
 12 A. Okay.
 13 Q. You said you talked to Judy, that the
 14 conversation occurred in 2004?
 15 A. I believe so.
 16 Q. Okay. You had met with people from Centurion
 17 Ministries before that, hadn't you?
 18 A. That's right.
 19 Q. And they discussed their theory of their case,
 20 told you about their suspects?
 21 A. I'm not, I'm not quite understanding what --
 22 Q. Did they tell you -- before you talked to
 23 Judy, they had told you about who they thought had killed
 24 Kim Nees?
 25 A. I don't think at that time, no.

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1 Q. But you had close contact with them?
 2 A. Yes, I did.
 3 Q. For about five years?
 4 A. Yes.
 5 Q. Okay. You know, I see you submitted a letter
 6 to Governor Schweitzer that was attached to the clemency
 7 application of Barry Beach. And you're familiar with --
 8 you've seen -- do you want to look at that letter?
 9 A. Sure.
 10 Q. Okay. In that letter on the last paragraph,
 11 you state (quoted as read):
 12 "I strongly urge you to read thoroughly the
 13 reports on the lengthy and detailed investigation by
 14 Centurion Ministries."
 15 Was one of those reports a report on Calvin Lester?
 16 A. Not that I recall.
 17 Q. Not that you recall. But you had, but you
 18 had --
 19 A. This is just sort of -- I guess when I wrote
 20 this, it was in general.
 21 Q. It was in general?
 22 A. Yeah.
 23 Q. All right. But you -- but had you read any of
 24 the reports from Centurion Ministries? You hadn't, had
 25 you?

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1 A. No, just -- not that -- no, I have never read
 2 any of their reports. I've had conversations with them.
 3 Q. So when you were telling the governor to read
 4 them, you hadn't read anything?
 5 A. No, but I knew they had them.
 6 Q. But they told you about them? Would they --
 7 A. No, I --
 8 Q. -- have told you about the investigation?
 9 A. -- was just by myself figuring they would have
 10 them.
 11 MR. WELLENSTEIN: Thank you.
 12 MR. CAMIEL: I have nothing else.
 13 CHAIRWOMAN O'CONNOR: You may be excused.
 14 Thank you for appearing.
 15 You may call your next witness.
 16 MARIA DECKER, WITNESS, SWORN
 17 CHAIRWOMAN O'CONNOR: You may proceed.
 18 DIRECT EXAMINATION
 19 BY MR. CAMIEL:
 20 Q. Ma'am, can you tell us your name and -- your
 21 full name and spell your last name for us?
 22 A. My name is Marie Decker. The last name is
 23 spelled D-E-C-K-E-R.
 24 Q. And where do you live?
 25 A. Billings, Montana.

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1 Q. And are you related in any way to a Dana Kirn?
 2 A. Yes, he's my -- excuse me, he's my
 3 half-brother.
 4 Q. And he's now deceased?
 5 A. He is deceased.
 6 Q. And when did he pass?
 7 A. He was killed April 5, 2003.
 8 Q. And was that a homicide?
 9 A. Yes, it was.
 10 Q. Now, was your brother, Dana, married to Maude
 11 Grayhawk Kirn?
 12 A. Yes, he was.
 13 Q. At the time that your brother was killed, that
 14 Dana was killed, was he in the process of divorcing Maude?
 15 A. Yes, he was. He was killed Saturday morning;
 16 his divorce would have been final Monday, the following
 17 Monday.
 18 Q. To your knowledge, was there a hearing
 19 scheduled for that following Monday in court?
 20 A. Yes, there was.
 21 Q. Did there come a point in time where Dana was
 22 separating from Maude and he came to live with you?
 23 A. Yes, there was a time. On June 6, 2002, he
 24 showed up at my house approximately 10:15 p.m. On that
 25 day, he said that he was leaving her.

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1 Q. And did he end up staying with you for a
2 period of time?

3 A. Yes, he did.

4 Q. Now, because Maude was married to your
5 brother, you knew her as well?

6 A. Yes, I knew who she was.

7 Q. What was your relationship with her?

8 A. We had none.

9 Q. Okay. When you say you had none, was that
10 because of any kind of an incident, or could you describe
11 that?

12 A. We had no, no involvement with her because it
13 was her choice to stay away from our family, just had no
14 contact.

15 Q. When your brother, Dana, came to stay with you
16 in June of 2002, that was in Billings?

17 A. Yes, it was.

18 Q. At that time, did he indicate to you whether
19 his wife, Maude, had any involvement with the Kim Nees
20 murder?

21 A. When he first got there, no, he did not tell
22 me anything. This was over a period of four months that
23 he relayed information to me.

24 Q. What did he tell you?

25 A. He told me that -- on different occasions that

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1 Maude had come to him and told him that she had lured Kim
2 Nees down there, down to the park with -- down to the
3 bridge with Ed Van Dover.

4 Q. Did he describe anything else that he said
5 that Maude had told him?

6 A. Just that she was brutally assaulted, you
7 know, that they had beat her.

8 Q. Did Dana indicate who else was involved in the
9 beating of Kim Nees, who else Maude said was involved?

10 A. Yes, he did.

11 Q. Who did he say Maude mentioned as being
12 involved?

13 A. Sissy Atkinson, Rhea Red Dog, Joanne Jackson,
14 herself. Ed Van Dover (was supposedly in back of the
15 pickup while the beating was going on.) ★ Ed

16 Q. When Dana told you this, did you -- how did
17 you react?

18 A. Well, my initial reaction was just total
19 shock. I just didn't want to hear it because it was
20 just -- I knew of the incident in Poplar, but as not
21 living there, I never really was too informed, let's put
22 it that way.

23 Q. Okay. Did Dana indicate any intention to do
24 anything with the information that he says he had received
25 from Maude?

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1 A. Yes, he did. He was killed on April 5th, and
2 the week before, he had called me and said that he would
3 be coming back to Billings and would be going to the
4 authorities.

5 Q. And did he say what he was going to the
6 authorities for?

7 A. About the information that he had about the
8 Kim Nees murder.

9 Q. Now, Dana was, was murdered. (Who was it that
10 was convicted of murdering him?) Tracy

11 A. Maude's boyfriend.

12 Q. What's his name?

13 A. Tracy McGowan.

14 Q. After your brother, Dana, was killed, what did
15 you do?

16 A. I had contacted Centurion Ministries to let
17 them know that Dana had been killed and that, you know,
18 that he was, he was going to talk to them and the police
19 about the information.

20 Q. He said that -- he said to you that he was
21 going to do that before he was killed?

22 A. Hm-hmm.

23 Q. And did you end up coming forward and giving a
24 statement to Centurion Ministries?

25 A. Yes, I did.

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1 Q. Why did you decide to do that?

2 A. Because the information I had. I really
3 thought that it would help, whether it was helping to my
4 brother's death or to get information towards Kim's
5 murder, who committed it. But I felt it was my duty to
6 come forward with the information.

7 Q. Now, did you think that Dana's death had
8 something to do with his having told you he was going to
9 come forward?

10 A. Yes, I did.

11 Q. And did that concern you?

12 A. Yes.

13 Q. Is that one of the reasons why you came
14 forward?

15 A. Yes.

16 Q. Did Dana tell -- to your knowledge, did he
17 tell any other family members that he was going to come
18 forward with the information he received from Maude?

19 A. Yes. He told his --

20 MS. PLUBELL: Your Honor --

21 THE WITNESS: -- his father --

22 MS. PLUBELL: Excuse me.

23 Madame Chairperson, I'm going to object to
24 this. This is already hearsay of a dead man, but now
25 we're going to get into something --

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1 CHAIRWOMAN O'CONNOR: But you conceded to
2 hearsay this morning. You said we're going to hear it, so
3 we're going to hear it.

4 MS. PLUBELL: No, that isn't what I conceded.
5 With all due respect, I conceded to her testifying to what
6 Dana said, not to what other people said.

7 CHAIRWOMAN O'CONNOR: We're going to hear it.
8 I think we're too far gone now. I mean whether we should
9 have gone there or not, I think we went there this
10 morning. We're going to hear it, and we're going to sort
11 it out, and we're going to take it for what we take it.

12 We are aware that we're in third- and
13 fourth-hand hearsay, and that's a problem. And some of
14 these people could have been brought forward, and that's a
15 problem.

16 But proceed.

17 Q. (By Mr. Camiel) Ms. Decker, to your
18 knowledge, did Dana tell any other family members what he
19 told you about Maude confessing to him about having been
20 involved in Kim Nees's murder?

21 CHAIRWOMAN O'CONNOR: Excuse me, ask that
22 question again. I mean if, on the other hand, you're in
23 such deep hearsay, we can't even understand what you're
24 saying, I think you've really gone too far, Counsel.

25 Q. (By Mr. Camiel) Were other family members

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1 told by Dana what he told you about what Maude said?

2 A. Yes.

3 Q. Which family members are you aware of —

4 A. He told his father.

5 Q. And who's that?

6 A. Albert Kirn.

7 Q. Is Albert Kirn still alive?

8 A. No, he's deceased.

9 Q. And when did he pass?

10 A. Six months after Dana was murdered, he got in
11 a plane crash.

12 Q. He got in a plane crash coming back from the
13 trial —

14 A. Right.

15 Q. — where Tracy McGrady (sic) was convicted of
16 murdering Dana?

17 A. Tracy McGowan.

18 Q. McGowan, I'm sorry.

19 What other family members were told?

20 A. I would have no idea about that.

21 Q. Did you talk to Mr. Kirn about what Dana had
22 told him?

23 A. Yes. Before he was killed in a plane crash,
24 yes, I did.

25 Q. When Dana told you the information, did you

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1 give him any advice? Did you give him any advice as to
2 whether he should come forward with it or not?

3 A. Well, I told him he should go to the
4 authorities, but he was apprehensive of what the
5 repercussions would be.

6 Q. Did he tell you that?

7 A. Yes.

8 MR. CAMIEL: Thank you.

9 CHAIRWOMAN O'CONNOR: Proceed.

10 CROSS-EXAMINATION

11 BY MS. PLUBELL:

12 Q. May I call you "Maria", or what would —

13 A. "Maria" will be fine.

14 Q. We've never met before, have we?

15 A. No.

16 Q. My name is Tammy Plubell, and I'm from the
17 attorney general's office.

18 And I'd like to get some dates straight.

19 A. Okay.

20 Q. The first — what is the first time that Dana
21 told you anything about these things that Maude had told
22 him?

23 A. I can't pinpoint a date on that.

24 Q. Not the specific, but do you know the year?

25 Do you know —

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1 A. Well, yeah, because he showed up at my house
2 on June 6 for -- 2002, which was my daughter's graduation
3 day. He was -- after that date throughout a four-month
4 period.

5 Q. So that's when it started?

6 A. Right, right.

7 Q. Okay. And are you aware that your brother
8 physically abused Maude?

9 A. To my knowledge, I never -- (pause.)

10 Q. Are you aware that on June 3rd of 2002, there
11 was a permanent order, restraining order issued through
12 Tribal Court against your brother for him to stay away
13 from Maude Kirn?

14 A. No, I wasn't.

15 Q. You don't particularly care for Maude, do you?
16 I mean you didn't care for her back in 2002.

17 A. I have no dealings with the lady, none
18 whatsoever.

19 Q. Is that -- okay. And just so I get it
20 straight, the people that he claimed Maude named were
21 Sissy, Rhea Red Dog —

22 A. Rhea Red Dog.

23 Q. — and Ed Van Dover?

24 A. Hm-hmm.

25 Q. And that's it?

1 A. Joanne Jackson.

2 **Q. And Joanne Jackson?**

3 A. (Nodding head affirmatively.)

4 **Q. If Maude had gotten a restraining order**

5 **against your brother on June 3rd of 2002, he probably**

6 **wasn't very happy about that, was he?**

7 A. I wouldn't have no idea. I was not around

8 Dana. He showed up at my house; other than that, I had no

9 contact with him.

10 **Q. All right.**

11 MS. PLUBELL: Other than the fact that we do

12 have a certified copy of the restraining order --

13 CHAIRWOMAN O'CONNOR: You can make it part of

14 the record.

15 MS. PLUBELL: -- I have no further questions.

16 CHAIRWOMAN O'CONNOR: Okay. Do you have any

17 more questions?

18 MR. CAMIEL: No.

19 CHAIRWOMAN O'CONNOR: You may be excused.

20 Thank you for your testimony.