



# **2011**

## **Wyoming High School**

### **Mock Trial**

## **State vs. Sublette**

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## **Notes**

The 2011 Wyoming High School Mock Trial problem is based on a case in Teton County Circuit Court in 2010, *State vs. Westmoreland*. Most of the facts in *State vs. Sublette* are taken from that case, and testimony of witnesses is the basis for affidavits written for the 2011 WHSMT problem. Many of the exhibits are taken directly from the Teton County case.

WHSMT thanks Teton County Attorney Steven Weichman for making case materials and the trial recording available for the writing of *State vs. Sublette*. We also thank Judge Roberta Coates, Don Morris and others who helped edit various drafts of the mock trial problem.

The 2011 WHSMT competition will be Nov. 19 in the courtrooms of the Laramie County Governmental Complex in Cheyenne, thanks to the efforts and generosity of Judge Tom Campbell, Laramie County Attorney Mark Voss, the Laramie County Sheriff's Department and the Laramie County Commission. A PDF of this case, along with rules of evidence and of the competition, are available on the Web site for the Wyoming Partnership for Civic Education. American Heritage Center at University of Wyoming.

WHSMT is supported by funding from the Wyoming State Bar. WHSMT has placed in each county library a copy of "May it Please the Court," printed material and a DVD developed by the Georgia State Bar to help teacher and attorney coaches organize high school teams and prepare them for competition.

For information about WHSMT and the 2011 competition, email questions to [wyoingsmst@gmail.com](mailto:wyoingsmst@gmail.com). Or call Marguerite Herman at 307-638-1468.

Marguerite Herman, co-coordinator  
WHSMT

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL DISTRICT
CARTER COUNTY, WYOMING

THE STATE OF WYOMING, ) Circuit Court
Plaintiff, ) Case No. CT-2010-2000
vs. )
KELLY SUBLETTE, )
Defendant. )

INFORMATION

COMES NOW, Stephanie Whiteman, County Attorney for the County of Carter, and in the name and by the authority of the State of Wyoming, informs the Court and gives the Court to understand that:

Count I: Taking Trophy Game Animal Without License

- 1. On or about the 18th day of September 2010;
2. In the County of Carter and the State of Wyoming;
3. KELLY SUBLETTE,
4. Did knowingly take any antlered elk, antlered deer, antlered moose, horned antelope, bighorn sheep, mountain goat, mountain lion, grizzly bear or black bear without the proper license or during a closed season except as otherwise permitted by this act, to wit: did knowingly take a grizzly bear without a proper license, in violation of W.S. §23-3-102 (a) and against the peace and dignity of the State of Wyoming; the same being a Misdemeanor.

Penalties: One year and/or \$5,000 - \$10,000 Fine

Stephanie Whiteman

Stephanie Whiteman

Carter County Attorney

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL DISTRICT**

**CARTER COUNTY, WYOMING**

<b>THE STATE OF WYOMING,</b>	)	<b>Circuit Court</b>
	)	<b>Case No. CT-2010-2000</b>
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>KELLY SUBLETTE,</b>	)	
<b>Defendant</b>	)	

**STIPULATIONS**

**The following matters are hereby stipulated and agreed:**

All documents, signatures and exhibits, including pre-markings, included in the case materials are authentic and accurate in all respects. No objections to the authenticity of the documents or exhibits will be entertained. The parties may dispute the legal or factual conclusions to be drawn from these items and may make other objections permitted by the Rules of the Competition and the Rules of Evidence.

Jurisdiction, venue and chain of custody of the evidence are proper and may not be challenged. All statements of witnesses and all evidence and exhibits were constitutionally obtained and may not be challenged on that basis.

The 2011 Bear Hunting Seasons pamphlet found at <http://gf.state.wy.us/admin/regulations/pdf/Ch3-brochure.pdf> is identical in all material respects to the brochure used in the 2010 hunting season and may be used for all purposes at trial with this understanding.

**The exhibits that may be used in the case will be identified and numbered as follows:**

- Exhibit 1: Game and Fish Incident Report
- Exhibit 2: Diagram of Bear Kill Scene
- Exhibit 3: Wyoming Game and Fish Bear Identification Guide
- Exhibit 4: Simulated Bear Encounter and Use of Bear Spray to Deter Attack
- Exhibit 5: Letter of Charles Coulter to Stephanie Whiteman

- Exhibit 6: Incident Report, Case No. 08-2225
- Exhibit 7: Grand Teton National Park News Release, dated June 15, 2008
- Exhibit 8: Grand Teton National Park Bear Sighting and Incident Report
- Exhibit 9: GTNP – Summary of Reports of GB159 Bear Jams
- Exhibit 10: Letter from Margaret Finlay, Wildlife Genetics to Michael Hudson, dated October 21, 2010
- Exhibit 11: Wyoming Resident License issued to Kelly Sublette
- Exhibit 12: 2011 Black Bear Hunting Seasons brochure
- Exhibit 13: “Efficacy of Bear Deterrent Spray in Alaska” article

***Stephanie Whiteman***

**Stephanie Whiteman**  
**County Attorney**  
**County of Carter, State of Wyoming**  
**Carter, WY**

***John Marco***

**John Marco**  
**Marco Law Office**  
**Attorney for Defendant**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL DISTRICT

CARTER COUNTY, WYOMING

THE STATE OF WYOMING,	)	Circuit Court
	)	Case No. CT-2010-2000
Plaintiff,	)	
	)	
vs.	)	
	)	
KELLY SUBLETTE,	)	
Defendant.	)	

VERDICT FORM

We, the jury empaneled herein, find the defendant, KELLY SUBLETTE, (choose one of the following):

GUILTY of the crime of Taking Trophy Game Animal  
Without License

NOT GUILTY of the crime of Taking Trophy Game  
Animal Without License

Dated this            day of            , 2011.

\_\_\_\_\_  
Foreperson

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL DISTRICT

CARTER COUNTY, WYOMING

THE STATE OF WYOMING,	)	Circuit Court
	)	Case No. CT-2010-2000
Plaintiff,	)	
	)	
vs.	)	
	)	
KELLY SUBLETTE,	)	
Defendant.	)	

JURY INSTRUCTIONS

1. GENERAL INSTRUCTION BEFORE JURY DELIBERATION

The attitude and conduct of jurors at the outset of deliberations are very important. It is not good for a juror, upon entering the jury room, to make an emphatic expression of his or her opinion in the case or to announce a determination to vote for a certain verdict. You should reach a verdict only after careful and thoughtful deliberation and you should listen to and consult with each other and discuss freely and fairly the evidence and the conclusions to be drawn from the evidence and in a sincere effort to arrive at a just verdict.

In the course of your deliberation do not hesitate to reassess your own views. This does not mean any juror is required to yield an honest conviction after consultation and deliberation. Remember that you are not advocates but jurors. The final test of the quality of your service will be your verdict and not the opinions you may hold during deliberations. Remember that you will make a definite contribution to the administration of justice if you arrive at a just and proper verdict in this. To that end the court reminds you in your deliberation in the jury room there can be no triumph other than ascertaining and declaring the truth.

The jury is the sole judge of the credibility of the witnesses and the weight given their testimony. You should take into consideration the demeanor of each witness upon the witness stand, the witness' apparent intelligence or lack of intelligence, the witnesses' means of knowledge of the facts testified to, the interest, if any, which the witness may have in the outcome of this trail and the prejudice or motives or feelings of revenge, if any, which have been shown by the evidence. In so doing you may take into consideration all the facts and circumstances in the case and give to each such weight as in the light of your experience and knowledge of human affairs it is entitled. If you believe from any evidence in this case that any witness swore falsely to any material fact in this case then you are at liberty to disregard any part of the testimony of that witness only insofar as that testimony has been corroborated by other and credible evidence and facts and circumstances proved during the trial.

In deciding any of the questions before you in this case you should be guided solely by the evidence. You should not indulge in conjecture or speculation unsupported by the evidence. However, you may consider the evidence presented to you and the reasonable inferences and conclusions that may be drawn from the evidence in the light of your knowledge, observation and experience in affairs of life.

If in these instructions any rule, direction or idea is stated in different ways, no emphasis thereon is intended and none must be inferred by you. For that reason you are not to single out any certain sentence or any individual point or instruction and ignore the others. But you are to consider all the instructions as a whole and are to regard each in the light of all the others. The order in which the instructions are given has no significance as to their relative importance.

## 2. BURDEN ON STATE

Self defense is an issue in this case. The defendant claims that this killing of the grizzly bear was justifiable under the circumstances. The law on self-defense is given to you in the next jury instruction. The burden is on the State to prove the defendant did not act in self-defense. Unless the state proves beyond a reasonable doubt the defendant did not act in self-defense you shall find the defendant not guilty of the crime of Taking a Trophy Game Animal Without a License.

## 3. SELF DEFENSE

The law of self-defense is founded upon necessity. To justify the taking of life in self-defense it must appear the defendant had reasonable grounds to believe and actually did believe that he was in imminent danger of death or serious bodily injury and that the use of deadly force was necessary to avoid such peril and that no other reasonable means of avoiding it was open to him. "Deadly force" means force which is likely to cause death or serious bodily harm.

It is for the jury to determine if the defendant reasonably perceived an imminent danger of death or serious body injury under the circumstances and whether the defendant defended himself in a reasonable manner. The law in the State of Wyoming requires that before resorting to deadly force a defendant has the duty to pursue reasonable alternatives under the circumstances. Thus the jury must evaluate the totality of the circumstances and evaluate all of the defendant's options in protecting himself from the perceived threat of harm.

## 4. TYPES OF EVIDENCE

There are two types of evidence from which you may find the truth as to facts of this case: direct and circumstantial evidence. Direct evidence is the testimony of one who asserts actual knowledge of the facts, such as an eye-witness. Circumstantial evidence is proof of a chain of facts and circumstances indicating whether the defendant is guilty or not guilty. The law makes no distinction between the weight to be given to either direct or circumstantial evidence, nor is a greater degree of certainty required to be given to direct evidence. You should weigh all evidence in the case. After weighing all the evidence, if you are not convinced the defendant is guilty beyond a reasonable doubt, you must find the defendant not guilty.

## 5. EXPERT TESTIMONY

A person is qualified to testify as an expert if that person has special knowledge, skill, experience, training or education sufficient to qualify as an expert on the subject to which the testimony relates.



Duly qualified experts may give their opinions on questions in controversy at a trial. To assist you in deciding such questions, you may consider the opinion with the reasons given for it, if any, by the expert who gives the opinion. You may also consider the qualifications and credibility of the expert.

You are not bound to accept an expert opinion as conclusive but should give to it the weight to which you find it to be entitled. You may disregard any such opinion if you find it to be unreasonable.

#### 6. NONEXPERT WITNESSES

In determining the weight to be given to an opinions expressed by of a witness who did not testify as an expert, you should consider the credibility of the witness, the extent of the witness' opportunity to perceive the matters upon which the opinion is based and the reasons, if any, given for it. You are not required to accept such an opinion but should give it the weight to which you think it is entitled.

#### 7. DEFENDANT NEED NOT PRESENT EVIDENCE

The law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence on the question of guilt or innocence. The burden is always on the state to prove the defendant's guilt beyond a reasonable doubt as to each element of the offense.

#### 8. DO NOT CONSIDER POSSIBLE PUNISHMENT

You are instructed that in arriving at a verdict in this case the question of possible punishment of the defendant is of no concern to the jury and should not in any sense enter into or influence your deliberations.

#### 9. SELECTION OF PRESIDING JUROR; RETURN OF VERDICT

When you retire to the jury room, you first will select one of your numbers to act as Presiding Juror, who will preside over your deliberations and who will sign the verdict to which you agree.

Your verdict must be unanimously agreed to by each and every one of you.

When you have selected a Presiding Juror, you will proceed to discuss the case and to ballot upon your verdict. When you have reached a unanimous verdict [as to each of the issues presented to you], your Presiding Juror should so indicate on the verdict form, sign the form, and return it to the Court.

A juror should not, prior to some jury deliberation, announce an intention to decide one way or the other and refuse to discuss the evidence or participate in deliberation. It is the duty of each juror to participate in your deliberations and to listen to other jurors. It is not proper for a juror to announce an intention to decide one way or the other without first listening to and considering the views of the other jurors.

1 Affidavit of Cody Berger

2

3 My name is Cody Berger. I am the chief bear biologist for the Wyoming Game and Fish Department. I have  
4 been supervisor of the Game and Fish bear management program for 12 years. I have been with the bear  
5 management program for 19 years and been an employee of Game and Fish for 30 years. I have a bachelor's  
6 degree from Montana State University in wildlife biology.

7

8 Game and Fish handles all kinds of human-grizzly and human-black bear conflicts. We investigate these  
9 on a daily basis in northwestern Wyoming. As a bear biologist, I have investigated thousands of cases – a  
10 conservative number would be 2,000 or more cases involving both species. We also investigate bear killings.  
11 Sometimes Game and Fish recaptures and relocates bears. They might just find themselves in the wrong  
12 place – in someone's yard as the sun comes up. Sometimes they damage property or kill livestock. We  
13 capture hundreds of bears, two-thirds of them grizzlies. We might trap them in a box or culvert trap or use a  
14 foot snare that tethers a bear's front foot to a tree using a 15-foot-long piece of quarter-inch cable. This is a  
15 very humane method. We might use a dart rifle to sedate bears and then drive them in a pickup to a wildland  
16 setting and let them go free.

17

18 After years in this job, I know typical grizzly bear behavior very well. When an unmated grizzly bear inter-  
19 acts with humans, 99 percent of the time, they flee. There are many human-bear encounters in the Yellow-  
20 stone Ecosystem every year. There are lots of bears in lots of settings – private land, forest, parks. People  
21 constantly encounter these animals. Most of the time these bears flee.

22

23 I would describe grizzly bear reactions to human encounters as a continuum – a series of reactions that  
21 escalates according to how stressed the bear is. Usually these bears run away. The continuum starts with  
22 retreat behavior, as soon as the bear detects that you are human. The next level of behavior is indifference.  
23 They just don't care. They might be feeding on carcass or just loafing. The bear just lifts his head and looks  
24 at you, but he doesn't really care. The next level is curiosity, where the bear might raise up on his hind legs,  
25 trying to check you out. He might move round, trying to "wind" you, or he might occasionally approach un-  
26 til he sees what you are – followed by retreat. His ears are up. That is curiosity. The next reaction would be-

1 gin stress behaviors. Bears that are stressed show it. They pant, the way dogs do when they are stressed. The  
2 bear might yawn and start licking with excessive salivation. With more pronounced stress, the bear would  
3 begin swabbing the ground with one or both front feet, swinging his head back and forth, maybe vocalizing  
4 or huffing or even growling.

5  
6 The next thing on the continuum is a bluff charge. Bears are famous for bluff behavior, taking a little run at  
7 something and then backing up. They are saying, "You're too close. Give me some more room. I'm warning  
8 you, give me more room." Again, they'll do that two or three times, usually followed by retreat. There are  
9 definite clues of a bluff charge. The bear is stiff legged, almost bounding. His ears are up. He's not coming  
10 super fast.

11  
12 Then comes aggression, a flat out charge where they intend to make contact. That is very rare. It happens  
13 less than 1 percent of the time. Injuries by grizzly bears in Yellowstone are rare, relative to the number of  
14 encounters. At that point, the ears are laid back, like dogs do. It is a very overt expression of aggression. That  
15 doesn't occur with bears until they're ready to mean business. There was the case of a man who was injured  
16 when he suddenly encountered a female grizzly bear with three cubs, 8 feet away. It was very, very close  
17 with a mother bear, one of the most dangerous situations.

18  
19 Human-bear encounters happen every day in Yellowstone and Teton parks during the peak of the summer.

20  
21 There's no hard and fast rule about the distance that makes a grizzly uncomfortable. The personal space for  
22 a bear is highly variable. A mother bear might need 50 yards and a sub-adult male bear 35 yards. The Forest  
23 Service says to stay 100 yards away, because almost everyone should be safe there and not cause a bear to  
21 feel stressed. Personal space on a bear is highly variable.

22  
23 Of course, the bear could change his mind and go from bluff charge to the real thing – put down his head and  
24 mean business. Just before they fight, they drop their heads and their ears are down. If I had to look for a uni-  
25 versal factor that signals this is the real thing, the bear turns its head down. I've seen this in captured polar  
26 bears, black bears, grizzly bears. That's your warning, dropping the head opposite the direction of the charge

1 and then throwing its head in the direction of the charge. He loses eye contact momentarily and then comes.  
2 That says, "Get ready." That means business.  
3  
4 I have trapped more than 500 bears, two-thirds of them grizzlies. I have never had to kill any in self-defense.  
5  
6 I've heard that Mr. Sublette claims he had to shoot Bear 300 in self defense. But in my expert opinion, I  
7 don't believe he was in danger. The bear was not showing overt signs of aggressive behavior. He was far  
8 enough from the bear to react in other ways. If people reacted like that in every 40-yard encounter with a  
9 grizzly bear in the Yellowstone Ecosystem, the landscape would be littered with dead grizzlies. In 99 percent  
10 of these situations, the bear does not charge. Of course, nobody can say with complete certainty what this  
11 bear might have done.  
12  
13 What reasonable alternatives did Mr. Sublette have? To start with, he could have been prepared better before  
14 he went into bear country, to learn about bear behaviors and human encounters. Game and Fish provides  
15 many resources for learning about bear behavior – public service announcements, hunting safety classes,  
16 publications, trail head signs. There's a lot of information out there. He also could have prepared himself  
17 with non-lethal defenses, like bear spray or flames. Then once he was in the field, he knew the moose carcass  
18 was there. He could have avoided the carcass. He could have made noise before approaching the carcass or  
19 waited for his partner or viewed the area of the carcass for sign of bears before coming that close. He could  
20 have taken a different route, to avoid the carcass entirely.  
21  
22 Then, once he stepped out into the clearing and saw the bear, he could have drawn a bead on the bear – but  
23 the bear in his gun sight -- and not fired. From a standstill, it would have taken the bear maybe more 3 sec-  
24 onds to cover the 40 yards. A bullet moves 800 times faster than a bear. He had time to get the bear in his  
25 sights and back out. That would have been a wise move. He could have dropped his pack and left it there  
26 with the deer head and cape. He could have spoken to the bear alerting him that he was a human. He could  
have retreated down the trail he came up. There were options before firing.  
I would say Bear 300 was showing behavior somewhere between indifference and curiosity. I think the bear

1 was going to walk around the carcass and take another bite out of it. She was comfortable around humans.  
2 She might not have cared a bit. I don't think her movements toward him or quartering around the carcass indi-  
3 cated aggression. It didn't indicate anything, except maybe curiosity.  
4  
5 I don't expect Mr. Sublette to know this was Bear 300. But he didn't have to know. These are alternatives  
6 every hunter should have well versed in his mind and use all through the hunting season.  
7  
8 There's been some dispute in this case about bear spray – how useful it is, whether it really works and wheth-  
9 er it would work in this situation. Mr. Sublette wouldn't have used it because the bear wasn't attacking. If  
10 the bear had attacked, it could have been effective. Research by Thomas Smith at Brigham Young University  
11 indicates bear spray is effective in 92 percent of cases of human-bear encounters. Bear spray wouldn't have  
12 helped that tourist who surprised a bear at 8 yards in tall brush. But this was 40 yards in complete view. And I  
13 don't think there was an indication this bear was acting aggressively.  
14  
15 I have investigated 20 cases of justified bear killings, and not one was at 40 yards.  
16  
17 I know something about bear behavior around carcasses, because part of my job is to investigate livestock  
18 killings, so ranchers can be compensated. We go in and check the carcass to verify it actually was killed by  
19 a bear, not just scavenged by a bear. While we are investigating the carcass, we are very aware that a bear or  
20 bears may be in the area and may be returning to the site. So we take precautions. We carry fire arms and bear  
21 spray, and we use a lookout – a ranch worker or Game and Fish officer. It's a common practice for outfitters  
22 to have someone watch for bears while you have your head down looking at a carcass. It also makes sure the  
23 bear knows humans are present. I do carry a 12-gauge shotgun with me when I check out a livestock carcass.  
24  
25 In this situation, when a grizzly bear does return to the area of the carcass and it sees us, it typically moves  
26 away. A few remain indifferent and still want to feed, so we do something more overt to scare them off. I have  
seen a few exhibit stress behaviors for a short period of time. I have never been charged by a bear guarding a  
carcass. And this is something I want to clarify. We read about grizzlies attacking while they are guarding a  
carcass. It's my personal experience from hundreds of these situations that this is a close encounter issue, be-

1 ing surprised at close range, not an issue of guarding a carcass. I have never seen a bear aggressively guard a  
2 carcass. You rarely see bears aggressively protect food sources. You just don't see it. I know that's what a lot  
3 of people say, but I haven't seen it.

4  
5 The fact is there are grizzly bears throughout the Yellowstone Ecosystem, and humans encounter bears all  
6 the time. The lesson to learn from this case is not to take any situation for granted. Don't let your guard  
7 down. Anything can happen at any time, the same as a kayaker or mountain climber is prepared each time  
8 he goes out. Think out these scenarios ahead of time. When you are out hunting and carrying a gun, maybe  
9 your highest expectation is to kill. Think about different ways to react.

10  
11 I cannot say with 100 percent certainty that Bear 300 would not have charged in this case. Anything can hap-  
12 pen at any time. Nothing is 100 percent. But in 99 percent of cases like this, bears don't attack.

13  
14 Mr. Sublette should have prepared himself for a potential encounter with an aggressive bear and then been  
15 ready to react accordingly, rather than overreact. If all hunters had his reactions, there would be a lot more  
16 dead bears in the Yellowstone Ecosystem. If it's a bona fide situation where a hunter has to defend himself,  
17 where there's a surprise encounter and he's dangerously close, Game and Fish endorse the idea of shooting  
18 the bear. But in my opinion, this was not the case here.

19  
20 Some assessments of the situation give Mr. Sublette 3 seconds to judge whether Bear 300 was ready to  
21 charge. But by any measure of grizzly bear aggression, Bear 300 was not charging. The bear's behavior  
22 could have changed, but it didn't. I think the way the bear was behaving, Mr. Sublette had all day.

23

21

22

23

24

25

26

Cody Berger

Cody Berger

Feb. 5, 2011

## Affidavit of Reggie Smith

1 My name is Reggie Smith. I have been an employee of the Wyoming Game and Fish Department for 31  
2 years. I am assigned as the game warden for Carter County and have been so for 20 years. I am offering in-  
3 formation based on my investigation of the shooting of a subadult grizzly bear on Sept. 18, 2010.  
4

5 I met the defendant, Kelly Sublette, on Sept. 18, 2010, when he reported the killing of a Grizzly Bear in the  
6 Barrow Ditch drainage in Bridger -Teton National Forest. I was about an hour away from the location. I re-  
7 ceived a call from the Carter County Sheriff's Office dispatch about 3 p.m. and met Mr. Sublette on the Bar-  
8 row Ditch Road at 4 p.m. He got into my truck, and I conducted an initial interview as we drove to his camp.  
9

10 Mr. Sublette related to me the story about coming down a path, packing out a deer head and cape and seeing  
11 the bear. He said the bear jumped up, and he shot it. He believed it was a grizzly bear. Mr. Sublette provided a  
12 written statement. We met another subject in camp, his hunting friend, who submitted a written statement, as  
13 well. I advised him we needed to visit the scene and reenact the shooting.  
14

15 We located the place where he was standing when he shot and found two spent brass casings there. A moose  
16 carcass was present 40 yards away, as Mr. Sublette described it. This bear was a 2-year-old female fitted with  
17 a radio collar and tag from the Wyoming Game and Fish Department. The bear was collared for study pur-  
18 poses. Game and Fish is a member of the Interagency Grizzly Bear Committee.  
19

20 I believe Mr. Sublette was truthful in what he told me about the shooting He said he shot twice, and both  
21 rounds were there. Mr. Sublette shot once. The bear fell, thrashing around behind the moose carcass, on the  
22 side opposite of Mr. Sublette. He shot again, and the bear fell dead 4 feet from the moose carcass. The bear  
23 had been feeding on the carcass, which was a good find for a bear preparing to hibernate. From his statement  
21 and conversation with me, I determined Mr. Sublette was aware of the presence of the moose carcass.  
22

23 Mr. Sublette related that he and a friend had shot a mule deer and were packing it down hill about 8:30 a.m.  
24 Mrs. Sublette headed out first, with the deer head and cape on his backpack. He took several steps outside the

**Smith Affidavit**

1 woods on the trail. He did not immediately see the bear. The meadow had tall grass, about 3-4 feet tall. This  
2 probably concealed the bear while it was on the moose. The bear stood up. Mr. Sublette said he proceeded to  
3 try to back a away. The bear dropped on all fours and made a movement toward him. One shot hit it on the  
4 right front shoulder, exiting out the left side. She was trying to come around the moose carcass. He put her  
5 down with a second shot. At that point, he ran back to camp.

6

7 At first Mr. Sublette said he thought the bear took several steps toward him. But at the scene, I determined  
8 she hadn't moved very far, just one step. The grizzly bear was on the opposite side of the carcass when it was  
9 shot. Mr. Sublette's explanation of the first shot was consistent with the bear coming around the carcass. It  
10 was quartering and coming around the carcass when it was shot.

11

12 An animal is "quartering" when it is heading at an angle, turned slightly, not direct face on or broadside. Mr.  
13 Sublette shot the bear's right front quarter. I determined the bear was still behind and coming around the car-  
14 cass when it was shot the first time. He said the bear was thrashing around. It was not attacking at this point.  
15 The second shot entered the bear's opposite side and killed the bear.

16 Mr. Sublette had a .44 caliber pistol with him, in addition to his rifle. He didn't say anything about making  
17 noise when he saw the bear. He did not have bear spray or flare with him. To my knowledge he did not drop  
18 his pack with the deer head. He did not fire warning shots.

19 Mr. Sublette said he knew the carcass was there. He hadn't seen any indication of bear activity on the carcass  
20 that morning. The quickest way off the hill was that trail, past the meadow, back to camp. He said he did not  
21 make noise coming into the meadow.

22

23 Currently there is no license for taking a grizzly bear. At this time, the black bear season was open. Killing a  
21 black bear with a license is not a criminal event. A black bear license is good for the whole state, but hunters  
22 are required to check with Game and Fish to make sure the quota hasn't been met for his area and the area is  
23 open.

24

25 Mr. Sublette reported that he saw the bear advancing when he shot. He said he feared for his life, and I believe  
26 him. He was still upset, visibly shaken, during my investigation. He expressed remorse for shooting the griz-



1 zly bear. He said he sincerely believed he was acting in self-defense. I have no reason to doubt that.

2

3 Mr. Sublette said the bear showed no sign of retreat, and nothing stood between them to slow down a charge  
4 except a downed aspen tree. I'm not sure how long it would have taken this bear to run the 40 yards, starting  
5 from a flat-footed position. He is correct that there is no requirement to carry bear spray or other deterrent.  
6 Warning shots are a valid technique to deter a bear attack, depending on the circumstances. Every instance is  
7 different.

8

9 We did not do an autopsy of the bear. We determined by genetic testing it was Bear 300.

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12

Reggie Smith

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Reggie Smith

14

October 1, 2010

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## Affidavit of Alex Kinsky

1 My name is Alex Kinsky. I am providing information in the case of State vs. Sublette to give information  
2 about bears and bear behavior in the Yellowstone Ecosystem and provide some specific information about  
3 Bear 300, the bear who was killed on Sept. 18, 2010, in Bridger-Teton National Forest.

4

5 I have a bachelor's degree in wildlife biology from Colorado State University in Fort Collins, Colorado,  
6 and a master's degree from the University of Wyoming specializing in large mammals in the Yellowstone  
7 area. I am on the faculty of the Bridger-Teton Science School, and I have worked with the Wyoming Game  
8 and Fish Department to gather data on the black bear and grizzly bear population of the Yellowstone Eco-  
9 system. I cannot address the details of this case, but I know something about Bear 300.

10

11 The recovery of the grizzly bear in the Yellowstone Ecosystem is one of the greatest success stories of  
12 species recovery. In 1983, the Interagency Grizzly Bear Committee was formed to help ensure recovery  
13 of grizzly bear populations and their habitat in the lower 48 states through coordination of policy, plan-  
14 ning, management and research involving several federal and state agencies. The IGBC consists of repre-  
15 sentatives from the U.S. Forest Service, the National Park Service, the U.S. Fish and Wildlife Service, the  
16 Bureau of Land Management, the U.S. Geological Survey and representatives of the state wildlife agencies  
17 of Idaho, Montana, Washington and Wyoming. The Canadian Wildlife Service is also represented.

18

19 When the grizzly bear was granted protection under the federal Endangered Species Act (ESA) in 1975, bi-  
20 ologists estimated that as few as 600 to 800 grizzlies survived in the lower 48 states and that the population  
21 was declining. Today, biologists estimate that number may have doubled and grizzly bears are believed to  
22 be increasing their numbers in most recovery ecosystems. The population in the Yellowstone Ecosystem  
23 has already achieved recovery and been removed from listing under the ESA. Their population is estimated  
21 at 600 today, and grizzlies have returned to portions of their historic range that have not seen a living griz-  
22 zly in generations. As a result, incidents of bear-human conflicts have increased.

23

24 All the grizzlies in the lower 48 states overlap with human habitat, and that certainly is the case with griz-  
25

26

***Kinski Affidavit***

1 zlies in the Yellowstone Ecosystem, especially now with the population increases. You could say they all  
2 are habituated to humans, to some extent. Bear 300, the one shot by Mr. Sublette, was practically raised in a  
3 zoo. She, her mother and her two litter mates were seen frequently by the road in Grand Teton National Park.  
4 That grizzly bear family was responsible for several “bear jams,” which is the National Park Service term for  
5 traffic jams caused by motorists stopping to view bears. The NPS recorded several “jams” involving Bear 300  
6 and her family in 2008 and 2009. She grew up with a gallery of tourists and photographers watching her from  
7 the side of the road. Bear 300 was habituated to humans.

8

9 Bear 300 was a yearling and was with her mother during an attack on an individual in 2009 at Jackson Lake  
10 Lodge, inside Grand Teton National Park. The sow and three cubs had been feeding on a fresh elk carcass in  
11 the area. The GTNP report on the incident quotes witnesses who indicate the individual surprised the mother  
12 at about 10 feet, and she mauled him.

13

14 It’s sometimes difficult to tell the difference between grizzly bears and black bears. It’s best to rely on more  
15 than one characteristic to decide which bear you’re looking at, because of the variations you find in each kind.

16

17 Color is not a reliable way to differentiate between the two. Grizzly bears, which are members of the brown  
18 bear family, usually are medium to dark brown, but they can vary from blond to black in color. The long  
19 guard hairs often have a lighter tip, giving the bears their “grizzled” appearance. Black bears also vary in  
20 color, ranging from black to brown to cinnamon rust and blond. In the Western United States, black bears  
21 commonly appear cinnamon colored. Many black bears have a light patch on the chest. The snout usually is  
22 light colored.

23

24 Size also is a poor way to identify grizzly and black bears, because they vary greatly. Male grizzlies average  
25 500 pounds. Females average about 350 pounds. Large bears may weigh 800 pounds. Black bears average  
26 110 pounds to 300 pounds. Large males can weigh 400 pounds and may be larger than female grizzlies.

24

25 Grizzly bears stand about 3-4 feet at the shoulder when they are on all fours, and they might stand upright  
26 at 6-7 feet high. Black bears are slightly smaller at the shoulder, 2-3 feet, and they rise to about 5 feet when

**Kinski Affidavit**

1 standing erect.

2

3 There are three reliable characteristics used in bear identification: facial profile, ear shape and presence or  
4 absence of a shoulder hump.

5 Faces are different. Grizzly bears have a dished-in profile, with a clear depression between the eyes and the  
6 end of the nose. Also, grizzlies have short, rounded ears. Black bears have straight noses, and their ears are  
7 larger and more pointed. When you look directly at a black bear, its ears look tall and narrowly spaced, com-  
8 pared to the width of its head.

9 The grizzly bear has a shoulder hump, which is most obvious in profile. This is the large muscle necessary for  
10 digging roots, tubers and ground squirrels. Black bears don't have the shoulder hump.

11

12 You might be able to tell the difference from the claws. The claws of a grizzly are long, 2-4 inches, often  
13 clearly visible in the tracks and also may be visible from a distance. Black bear claws are shorter, about 1.5  
14 inches.

15

16 Prints also can give clues. Grizzly tracks have a minimal arc in the toes. The long claws are visible in the  
17 tracks, and the toes touch each other. Black bears have a large toe arc, and the shorter claws often do not leave  
18 a visible impression in the tracks. The toe prints are spaced out.

19

20 If you think you have mastered the differences, you can take a "bear exam" on the Game and Fish Web site  
21 and test yourself. <http://gf.state.wy.us/bearexam/>.

22

23 Grizzlies have one of the lowest reproductive rates of all mammals in North America. Grizzly bears don't  
21 reach sexual maturity until at least 5 years of age. They mate in the summer. The female delays embryo  
22 implantation until hibernation. Successful gestation relies on sufficient nutrients and caloric intake. A female  
23 usually produces two cubs in a litter and cares for them for 2 years. Once the young leave, the female may not  
24 produce another litter for 3 or more years, depending on environmental conditions.

25

26 Plants make up 80-90 percent of a grizzly bear's diet, most of that from berries and some from insects and

**Kinski Affidavit**

1 nuts. In preparation for winter hibernation, bears enter a period of hyperphagia, when their search for food,  
2 especially food high in calories, goes into high gear.

3

4 When grizzlies attack humans, they use the same orientation as when they attack other bears. They go for the  
5 head. When bears fight, they lock jaws and bite each other on the head and ears.

6

7 In almost all ages and sex classes of grizzly bears, when they encounter a human their first reaction is to flee.

8 When they determine that you are a human, they leave. Adult males will become aggressive and attack when

9 they feel they are backed into a corner. Adult females will attack when they feel they or their cubs are threat-

10 ened, because they are surprised at close range or when you get in between them and their cubs. The general

11 rule is to stay 100 yards from a bear.

12

13 A common method of deterring a bear attack is pepper spray. It contains the ingredient Capsaisan, related to

14 Capsaisinoids. The active ingredient should be between 1 percent and 2 percent. Bear pepper spray causes

15 bears to experience eye irritation, choking, coughing, nausea, reduced breathing and inflammation of the

16 skin. That distracts a bear from its charge.

17

18 A good pepper spray will have a safety clip on the trigger to prevent accidental discharge. You should carry

19 the spray canister in a hip or chest strap holster for quick and easy access. The spray is effective when the

20 aerosol mist is directly inhaled or sprayed into the bear's face. When you spray a charging bear, you might

21 not have time to aim. Try to spray early enough so the bear runs into a wide pepper spray cloud about 30-40

22 feet away.

23

21 I have also been involved with research on the efficacy of bear spray to deter an attack, and I am familiar

22 with the research done by Thomas Smith, a bear biologist and associate professor in the Wildlife Sciences

23 Program at Brigham Young University. A study headed up by Smith in 2008 analyzed 20 years of bear spray

24 incidents in Alaska, from 1985 to 2006. The study is published in the April 2008 issue of the Journal of Wild-

25 life Management. Tom is much respected among bear biologists, naturalists and educators. He found that

26 bear pepper spray effectively halted aggressive bear behavior in 92 percent of the cases, when the bear was

*Kinski Affidavit*

1 attacking or just rummaging for food. There were 175 individuals involved in the 71 incidents studied. Only  
2 three of them were injured by bears. None required hospitalization.

3  
4 Smith's previous research found that guns were effective about 67 percent of the time. He said shooting ac-  
5 curately in the short seconds of a grizzly charge is very difficult, and his data showed it took more than one  
6 bullet to stop a bear. At that time, guns were prohibited in national parks.

7  
8 Smith's study contradicted some of the common misconceptions about bear spray. For instance, some people  
9 believe bear spray doesn't work when it's windy. Smith's analysis showed that wind was reported to have  
10 interfered with spray accuracy in five of the 71 incidents studied, although the spray reached the bear in all  
11 cases. He found the spray streams out of the canister at an average 70 miles an hour. Smith noted that sur-  
12 prise encounters tend to occur in wooded areas where vegetation blocks wind, not out in open, windy places.

13  
14 Of the 71 incidents documented in the study, 10 times the users reported minor irritation. Two reported near  
15 incapacitation. He found no reports of spray malfunction.

16  
17 I know there is some argument among outdoorsmen about whether a gun is a better defense against a charg-  
18 ing bear than the pepper spray. One thing I can say is a bullet that only wounds a bear produces a dangerous  
19 situation. The spray requires less precise aim, and it is non-lethal.

20  
21 The U.S. Fish and Wildlife Service has issued a fact sheet on the debate about "Bear Spray vs. Bullets." It  
22 says that an investigation of human-bear encounters since 1992 shows that persons encountering grizzlies  
23 and defending themselves with firearms suffer injury about 50 percent of the time. During the same period,  
21 persons defending themselves with pepper spray escaped injury most of the time and those who were injured  
22 experienced shorter duration attacks and less severe injuries.

23  
24 **Alex Kinsky**

25 Alex Kinsky

26 January 15, 2011

## Affidavit of Kelly Sublette

1 My name is Kelly Sublette. I am 40 years old and have been living in Carter, Wyoming, for 15 years. I have a  
2 construction and landscaping business, and I consider myself to be a good citizen of my community and state.  
3 My fellow businessmen and customers are some of my best friends.

4  
5 I have always enjoyed the outdoors. That's why I got into the landscaping business, and that's why I live in  
6 Carter County. I took up hunting five years ago at the urging of my friends. I hunt elk and deer, and this past  
7 year I got a license to hunt black bear. I'm a meat hunter. I'm not one of those people who just want a trophy.  
8 I use every bit of the animal I can. I don't waste any meat.

9  
10 I am very careful to obey all the rules for safe hunting and to follow hunting etiquette. I've never had a hunt-  
11 ing accident. The friends I hunt with and I follow all the rules about bear etiquette. We keep a clean campsite  
12 – keeping food and the cooking area separate from our tents. We make sure bears can't get at our food.

13  
14 I want to state that on September 18, 2010, I had no intent to pursue, hunt, harm or shoot a grizzly bear. I had  
15 no intent to go out and kill a black bear that day, either. I know I had a black bear license in my pocket, but  
16 I was hunting deer that day. If I had been hunting black bear that day, I would have checked with Game and  
17 Fish first thing in the morning to see if my area's quota had been reached -- like the regulations require. But I  
18 didn't do that.

19  
20 I had been planning this hunting trip all summer long with my friends Tony Romano and Chris Granger. We  
21 scouted out this particular area of the Barrow Creek drainage for deer for three days. We were looking for  
22 a good place to shoot deer, but we were keeping an eye out for signs of bear activity. We set up camp. I got  
23 up early the next morning about 5:30 a.m. and started breakfast on our camp stove. Tony and I left camp at  
21 about 6:30 a.m., and Chris stayed behind, and we headed south toward a wooded area. We took a trail we had  
22 used earlier when we were scouting for deer. Along the trail was a meadow where another hunter had killed  
23 a moose. The hunter had taken the hind quarters and front quarters and the head and had left the rest of the  
24 carcass there. We looked again that morning and didn't see any sign of bear activity around the carcass. I was  
25 carrying two firearms: a .44 Magnum pistol and a .270 rifle with a scope.

*Sublette Affidavit*

1 Tony and I got to the ridge at about 7:30 a.m., and he got his deer about 8:00 a.m. – one clean shot. We got  
2 right to work field dressing the deer. That included gutting the deer, skinning it, cutting the high quarters and  
3 front quarters. I offered to pack out the head and cape – the hide on the shoulders and down to the chest – out  
4 on my backpack. I got pretty bloody during the process. My whole pack weighed about 40 pounds.  
5  
6 I headed back down the trail to camp. When I reached the clearing, all of a sudden, I noticed a bear at the  
7 moose carcass. It was 40 yards away. I backed up a few steps. Then the bear noticed me. I freaked out. The  
8 bear never took its eyes off me. I remember it stood up and sniffed the air. Then it dropped down to all fours  
9 and took three or four steps towards me. Its ears were up, and it was watching me all the time. It never turned  
10 and seemed to be moving toward me with purpose. As it came round the carcass toward me, it kept facing me.  
11 My back was up against a dense stand of trees. I reacted instinctively. I determined it was provoked, because  
12 I intruded on its food. And there I was, covered with deer blood and carrying the head and cape. I know you  
13 can't outrun a bear. I've been told that a charging bear could cover 40 yards in just 2 or 3 seconds.  
14  
15 I didn't know if it was a grizzly or a black bear. I didn't know if it was collared or had been habituated to  
16 humans. I was not aware that it had witnessed its mother attacking humans. But it wouldn't have made any  
17 difference. I was afraid the bear was getting ready to charge, and I knew I had to act quickly to defend myself.  
18 I stayed quiet and tried to make my movements as small as possible. I pulled the cover off my scope, raised  
19 the rifle and shot. What I saw was a bear getting ready to charge, and I knew I had to act quickly to defend  
20 myself. I think it was 10 seconds from the time I saw the bear to the time I pulled the trigger.  
21  
22 The first shot wounded the bear, and I shot a second time to kill it. I shot a second time because I have heard  
23 that a wounded bear is dangerous and can still charge and maul someone. If it was wounded too badly to  
21 charge, I wanted to end its suffering.  
22  
23 I took a few minutes to tie the deer head and cape up in a tree and ran back to camp. I told Chris what had  
24 happened and we took his pickup truck up to where I shot the bear. Chris looked at the bear and told me it  
25 was a grizzly. I know you're supposed to report grizzly killings, but we couldn't get a cell phone signal there.  
26



1 So we went ahead and packed out the rest of Tony's deer back to camp. We then drove to the Bridger-Teton  
2 Science School area that had cell service and reported the killing to the Carter County Sheriff's Office. They  
3 called the Game and Fish warden, who met me up where the bear was killed.

4  
5 I have read the Game and Fish report made out by Reggie Smith, and it's accurate. He did a good job of de-  
6 scribing what happened.

7  
8 I feel real bad about this, and I've been criticized by a lot of people who all have an opinion about what I  
9 should have done – I should have used a warning shot or used bear spray. But not even the experts agree that  
10 warning shots work. Sometimes they just antagonize the bear more. I didn't have any bear spray with me, it's  
11 true. But I wouldn't have had time to pull it out of my pack, and spray isn't any good at 40 yards. There's no  
12 requirement to carry bear spray – not by law or any rule or regulation in the national forests or national parks.

13  
14 People say I should have backed up into the trees, dropped my pack and gone back to the deer kill area. But  
15 in that instant, I thought I had just 2 or 3 seconds to take action to save my life and that action was to shoot  
16 the bear with the rifle that was in my hands.

17  
18 Every instinct was telling me to shoot, or I'm going to die. And that's what I did. I couldn't wait until the bear  
19 actually charged. I reported it as soon as I could. I feel awful about killing the grizzly, but it was self-defense.  
20 You can ask my friends.

21  
22 Kelly Sublette

23 Kelly Sublette

24 October 8, 2010  
25  
26

## Affidavit of Tracy Ferris

1 My name is Tracy Ferris. I'm 60 years old and live off the coast of Washington State. I am originally from  
2 Idaho but have spent most of my adult life in Montana, Alaska and Wyoming. I have a bachelor's degree in  
3 journalism from Boise State University. I have written three books about bear behavior that are well respected  
4 among outdoorsmen and bear experts with PhDs: *Be Smart in Bear Country*, *The Basic Guide to Avoiding*  
5 *Encounters with Bears* and *A Guide to Mammals in the Alaska Back Country*. What I know about bears you  
6 don't learn in a classroom. I've been told my books are the best guides out there to understand bears. I write  
7 from working for 10 years in Glacier National Park in Montana, being the winter caretaker of the Lake Lodge  
8 in Yellowstone National Park for six years and from extensive travel in the Alaska wilderness.

9  
10 I was featured in a program on the Discovery Channel about bear attacks, and I've had articles published in  
11 several outdoors and hunting magazines. I led about 15 backcountry wildlife backpacking trips in Alaska.  
12  
13 I grew up hunting deer and have learned what I know about bears from living among them and observing  
14 them. I have never hunted bear. I remember my first close-up encounter with a grizzly bear back in 1975. I  
15 was in Yellowstone watching a herd of buffalo, when I saw a grizzly about 100 yards away. I had read that  
16 they had poor vision. But I took a look at that grizzly through my binoculars, and I saw the bear looking back  
17 right at me. I decided I wasn't going to trust anything I had heard about grizzlies, but I would rely on my own  
18 observations. I have observed hundreds of bears over the years – maybe 500. I am very aware of bear safety.  
19 The most dangerous situation is getting between a sow and her cubs. Black bears are more aggressive than  
20 grizzlies, I have found. I also have observed what a grizzly mauling can do. One of my best friends nearly lost  
21 his jaw to a grizzly.

22  
23 I heard about this grizzly shooting and Kelly Sublette and contacted him to learn more about the case. I think  
21 people have been quick to condemn him and come up with a lot of hindsight judgments without really under-  
22 standing the threat he was facing and how few options he had. You need all the facts, and I hope I can help  
23 people understand what Mr. Sublette was experiencing that day when he shot that grizzly.

24  
25 First, everyone is going to react differently to a grizzly bear depending on the distance and their experience

1 and training. It's dangerous to surprise a bear, grizzly or black bear, and if you get too close you have trouble.  
2 The national parks that have grizzlies say never get within 100 yards of a grizzly, and that's a good general  
3 rule. At some point within that distance, a grizzly can feel stressed and threatened, and that can trigger its  
4 "fight or flee" response. That's when bears can react aggressively. Keep in mind that Mr. Sublette surprised  
5 this bear at 40 yards. He just got a huge rush of adrenaline. You want to run, but everything you hear says  
6 never run away from a bear, which can trigger the instinct to charge and attack. Then what Mr. Sublette did  
7 was see the bear stand up. It was trying to get more sensory information, to get a better look and smell. They  
8 make a "huffing" sound when they do this, exhaling moist air so they can get more information. This can be  
9 very intimidating.

10  
11 Then there's the significance of the moose carcass. Any carcass ramps up the danger. At this time of year,  
12 bears are trying to consume as many calories as possible to last the winter. A carcass can represent thousands  
13 of calories, and the importance of protecting this food source could influence a bear's decision whether to  
14 fight or flee.

15  
16 This phenomenon is called "hyperphagia," when bears' search for food goes into overdrive. They are taking  
17 in calories to survive the winter, and food is all they think about. It definitely increases the danger. A bear on a  
18 carcass puts you into a dangerous situation. You just can't predict how they'll react if you interrupt their feed-  
19 ing. One researcher has compared it to a stick of dynamite that might explode at any moment.

20  
21 When Mr. Sublette came out into the clearing and saw a bear on a moose carcass, he had every reason to  
22 believe he was in danger. Bears can run 35 miles an hour, and it would have taken this bear just 2 or 3 seconds  
23 to close the 40 yards to where Mr. Sublette was standing. It doesn't take much time for a bear to accelerate to  
21 a full run. It's like a shot from a cannon. They go from nothing to an all-out-run in a heartbeat, and they may  
22 give little or no warning. I've seen brown bears in Alaska charge with their ears up or down.

23  
24 At 40 yards, you can forget looking for subtle signs. Mr. Sublette saw this bear facing him and advancing.  
25 Those are signals of dominance. If you see those things, you know you are in trouble. Mr. Sublette says this  
26 bear was looking right at him. That's more than curiosity. He would be crazy to assume the bear would turn

1 away at this point, Mrs. Sublette's life was on the line. That's all there is to it.

2

3 Now, I want to answer some of the criticism that's been laid on Mr. Sublette. He could have tried to back  
4 away slowly. That's usually a good way to defuse the situation, by increasing the distance between you and  
5 the bear. But Mrs. Sublette didn't have an open space to back into, and he was wearing a heavy pack. Some  
6 say he should have dropped his pack. He had a sternum strap and waist strap. He didn't want to look away  
7 from the bear and take the time. Plus, he would have had to take his rifle off the bear. He also was worried  
8 about the deer head and if that would attract the bear. He couldn't turn and run, because that definitely trig-  
9 gers the bear's instinct to attack.

10

11 The only reasonable thing for him was to feel scared. There are no guidelines on whether to shoot or hold  
12 fire. The federal agencies don't give any real good advice. Most bear literature says it's very difficult to  
13 deliver a killing shot when a bear is a full charge. The bear keeps coming and does serious injury. Would he  
14 have been wiser to wait to see if the bear went into a full-scale charge? I don't think so.

15

16 I have seen a case when a hunter and guide had weapons ready when a bear charged. They thought the bear  
17 was only bluffing and wanted to give the bear every chance to turn away. The guide waited until the bear was  
18 inches from him. He shot and missed, and both men were injured. Never assume a charging bear is bluffing.

19

20 This bear was about 225 pounds and very powerful. When bears attack, they go for the head, neck and shoul-  
21 ders, whether they are attacking humans or other bears. They have claws as long as my index finger. They  
22 deliver severe injuries to humans. The typical bear mauling lasts less than a minute. Once the human is down  
23 and stops moving, the threat is over and the bear usually moves on.

21

22 Habituation is when a bear is accustomed to being close to people. Some grizzlies in Teton and Yellowstone  
23 National Parks are habituated, but there's no way to know which ones are. They have very large ranges, and  
24 you can't assume that just because some bears in this habitat are habituated that they all are. You also don't  
25 know if a bear that has seen its mother maul a human might have learned that behavior. Like mother, like  
26 daughter.

*Ferris Affidavit*

1 Also, from Mr. Sublette’s viewpoint, he didn’t know this was Bear 300, habituated to humans. Yes, subadult  
2 females are considered low in the pecking order of grizzly bears and accustomed to being subordinate to other  
3 bears. But he didn’t know this, and he interpreted her behavior as expressing dominance.

4  
5 He was being quiet on the trail because he was still in the attitude of a hunter. He knew the carcass was there,  
6 but he hadn’t seen bear activity there before, so he was surprised. Maybe he should have looked, but there’s a  
7 good chance he wouldn’t have seen the bear until he got into the clearing anyway.

8  
9 I have never killed a bear in self-defense, because I behave reasonably around grizzlies. Also, everyone has  
10 their own comfort zone. I probably wouldn’t have shot at 40 yards, but I have a great deal of experience with  
11 bear behavior. Not many people have the knowledge that I do. You’re going to react out of fear.

12  
13 Now, I know the officials at Grand Teton National Park have made an example of this killing to teach people  
14 how important it is to carry bear spray – that it’s more effective protection for hunters than their guns. That  
15 just ticks me off. I’ve read the research on bear spray, and the conclusions about the effectiveness of bear  
16 spray are based on few actual cases involving hunters. Bear spray is a good option when you are in camp  
17 or when you are field dressing game. You can keep a 9-ounce can close at hand. But it’s not good when it’s  
18 windy. And it’s not practical when you are carrying a rifle in your right hand and all you have time for is to  
19 raise the rifle and get the bear in your sights. Are you going to let go with one hand to reach around for the can  
20 of spray? I don’t think so. Also, bear spray wouldn’t have done any good at 40 yards.

21  
22 No federal or state agencies in Wyoming, Montana or Alaska require people to carry bear spray. I’ve read the  
23 research on using bear spray or bear flames to stop an attack. It doesn’t convince me that spray flat out works.

21

22

23

24

25

26

Tracy Ferris

Tracy Ferris

February 22, 2011

## Affidavit of Chris Granger

1 My name is Chris Granger. I'm 38 years old and have lived in Carter all my life. I am a general contractor and  
2 am an avid outdoorsman. I hunt, hike, fish, camp. I consider myself extremely fortunate to live in one of the  
3 most beautiful places in the world, and I particularly look forward to hunting season every year.

4

5 Kelly Sublette has lived in Carter several years, but I got to know him about 10 years ago when we did some  
6 construction jobs together. He poured the concrete for me. We have worked together on several landscaping  
7 jobs. He is a great friend and a great member of our business community. He is always volunteering to help  
8 out people. Last Christmas when we got a lot of snow, he went out and plowed the driveways of his regular  
9 clients and then spent the night plowing for everyone who needed it. And he wouldn't take any money. He has  
10 a reputation among Carter businesses for always paying his bills and always living up to his contracts. He is  
11 respected as a man of integrity in business, and he is always volunteering for the community. He contributed  
12 materials, his equipment and his labor to build a new park and playground in Carter. That's the kind of guy he  
13 is.

14

15 Five years ago I introduced Kelly to hunting. He fished and hiked and camped but had never been hunting. I  
16 was getting ready for a deer hunting trip and invited him to come along with me and our friend, Tony Roma-  
17 no. We hunted in the Pinedale area that season. He learned how to scout areas for deer, how to deliver a kill-  
18 ing shot and how to field dress a deer. He really enjoyed himself and made plans right then to go out the next  
19 season. Which he did. He got his own license and bought a rifle. He was used to handling guns and owned  
20 a side arm. I helped him select a .270 rifle with a scope, and he practiced for months before the deer season  
21 opened and got pretty good. That was in 2006. He got a mule deer right away and killed it with his first shot.

22

23 Kelly became a real hunting enthusiast. I think part of the reason was that he was so busy with his business  
21 during the summer. You know, our construction season is pretty short in Carter County. He looked forward to  
22 getting out of town for a few days. He also liked putting meat in his freezer for the year.

23

24 Tony and I have gone out hunting with Kelly every year since, and Kelly has always used the best practices

25

1 for hunting and for camping in bear country. He never wastes any meat. His campsites are clean. He is careful  
2 to cook away from the tents and to store food where bears can't get to them. I wouldn't call him an expert on  
3 bear behavior, by any means, but he reads the information put out by the National Park Service and U.S. For-  
4 est Service and Wyoming Game and Fish about how to behave in bear country.

5  
6 We looked forward to the 2010 season. We got our deer licenses and planned our hunting trip. We planned to  
7 set up camp in the Barrow Creek area of Bridger-Teton National Forest and spend 3 days scouting the area for  
8 deer. This year, Kelly also got a black bear license. He had been reading about bear hunting for a couple of  
9 years, and he wanted to try to get one that year. He was very excited about it.

10  
11 This year, Tony and I went up early. Kelly had to stay in town and finish a job, so he came up a couple of days  
12 later. We went out scouting the area on September 14, the opening of deer season. We looked for signs of bear  
13 – scat, scratching on trees, logs turned up. We didn't see any. We did notice the moose carcass in this 3-acre  
14 meadow, but we didn't see any signs of bear activity. We picked out a ridge that had signs of deer activity. On  
15 September 18, Kelly and Tony got up early and went out to the deer ridge. I stayed in camp that morning. I  
16 woke up when I heard gunshots at about 8:45 a.m. I looked at my phone and saw a text message that Tony got  
17 his deer and I should get the frame pack ready to take up the ridge to pack out the meat.

18  
19 While I was getting that ready, Kelly came into camp in a big hurry. I said, "What happened to you?" He  
20 was completely white, and his eyes were this big around. He said he shot a bear. He didn't have Tony's deer,  
21 and then he started telling me about what happened. He told me about coming down the trail near the moose  
22 carcass and coming into a meadow. He said the bear was on the carcass. The bear turned and was coming at  
23 him, and that's why he had to shoot. At that point I grabbed my rifle and got the pack frame, my pack and got  
21 into the truck to drive up the trail to the clearing. I saw the color and shape of the bear and confirmed it was a  
22 grizzly. I saw the radio collar, too.

23  
24 Kelly was not himself. He was frazzled, breathing heavily. We went up to Tony and loaded up the deer meat.  
25 He retrieved the deer head and cape Kelly had strung up a tree. We packed out everything to camp and con-  
26 tacted authorities. We phoned the Carter County Sheriff's dispatcher at about 2 p.m. We were told that Reggie

1 Smith, a Game and Fish warden, was going to show up.

2

3 I am convinced Kelly acted in self-defense. He wouldn't have shot otherwise. I just don't think he would do  
4 that. I don't believe he would be out shooting animals unnecessarily. I have never known him to be reckless.  
5 He always is very cautious. He was shaken up for a while. It took him four or five hours to calm down.

6

7 A lot of people in Carter County are talking about this and blaming Kelly. Hindsight is easy. Kelly didn't  
8 know this bear had grown up around people and was habituated to them. He didn't know she was a young  
9 bear. He didn't know any of this bear's history. He just saw a bear coming toward him, locking its eyes on  
10 him, with just 40 yards between them. He believed his life depended on shooting this bear. And he shot. You  
11 can't blame him for that.

12

13

**Chris Granger**

14

Chris Granger

15

November 10, 2010

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# Exhibits

# Game and Fish Incident Report

Case # 150/55

Case Date: 09/18/2010

Create Date: 9/22/2010

Creator: Reggie Smith

Case officer: Reggie Smith

On 09-18-2010 Officer Smith received a call from dispatch advising that a subject SUBLETTE had killed a grizzly bear in self-defense. The call came through the Carter County Sheriff's Office, Carter County, Wyoming, to dispatch to Officer Smith, who received the call at 1500 hours. Officer Smith, Officer Granger and biologist D. Meyers responded to the Barrow Creek drainage to meet with the reporting party.

Subject Sublette was deer hunting with two (2) other subjects in the Barrow Creek drainage, Carter County, Wyoming. Subject possessed a 2010 deer license and black bear license. Subject was packing a deer head and cape on a backpack on his back when the incident occurred, a deer killed by one of the other members of the party, approximately a ¼ mile above the site of the incident.

Subject Sublette advised that the party was aware of a moose carcass from a hunter harvest in an open meadow along the trail but had not observed any bear activity on the carcass that morning. The carcass was a boned out moose, with rib case, neck meat, some leg meat still on the carcass and the gut pile was also in the area immediate to the moose. The carcass was in 3 acre grass dominated meadow surrounded by aspen, willow and lodge pole pine. The grass in the meadow was approximately 3-4 feet high in the area where the moose carcass lay making the moose nearly invisible when one approached the meadow. Birds had been feeding on the carcass but no birds were observed during the investigation. The meadow itself had a spring and small open water wetland heavily used by wildlife. When the subjects began their hunt that morning they had passed the carcass, not seeing any bear activity and the carcass had not been covered.

A party member killed the deer approximately 0830 and subject Sublette began packing around 1030 hours. The incident occurred about 1100 hours. The subject advised that he was walking back to camp with the deer head and cape, down the same trail that he had come up that morning. When he broke out into the upper end of the meadow, he said he did not see anything in the area of the carcass. He had taken several more steps and a "bear" (grizzly bear) stood up from the area of the carcass. The grizzly had discovered the moose carcass and had cached the carcass while the subjects were hunting deer. The carcass was buried under a grass debris mat making the carcass nearly invisible. The bear dropped to all fours and moved several steps towards the subject approaching the hunter at a distance of approximately 40 yards. The hunter advised that the bear's ears were

## Game and Fish Incident Report, page 2

up at the time. Subject Sublette was armed with a scoped 270 rifle and a .44 caliber pistol. Subject did not have bear spray. Subject advised that knowing he was covered in blood from helping gut and process the deer feared that the bear would attack him if it closed the distance. Subject Sublette shot the bear with a 270 rifle at approximately 40 yards as the bear dropped to all fours and faced him. The bear was shot first through the front chest immediate to the front right shoulder and the bullet exiting out the gut region immediately in front of the back leg on the left side of the bear, consistent with a front shot at the bear. Subject advised that he could clearly see the bear through his scope and had aimed for the head hitting the bear in the front right shoulder. Subject advised that he did not kill the bear. The bear was whirling around with the first shot so he shot a second time hitting the animal in the mid body area on the left side of the bear. That shot killed the bear. Subject advised that he took off running back to camp which was downhill approximately a ¼ mile.

Arriving at camp he got the third hunting member and headed back up to the hunter who had killed the deer. He walked over to the bear and determined that it was dead and it was a grizzly bear. Subject advised that he could not get out with his cell phone. The members gathered up the rest of the deer and came to town to call the incident in to authorities. He called all the numbers that show on his 2010 bear regulations, thinking he could talk to somebody, and finally reached the Carter County Sheriff's office who relayed the message to Officer Smith. Office Smith made arrangements to meet him at 1600 hours to investigate the incident.

Subject Sublette provided a written statement regarding the incident, produced a 2010 unused deer license and black bear license. Subject Sublette accompanied the group back up to the scene and re-enacted the incident. Two (2) 270 brass were collected in close proximity to one another immediate to the trail approximately 40 yards from where the bear lay. The bear was a young female grizzly bear with a radio collar and yellow ear tag 150, radio frequency labeled on the radio was frequency 162.731 number 499130C. The animal was collared in Grand Teton National Park.

The bear lay 5 feet from the carcass, opposite the side from where the hunter came out of the woods and where the hunter first observed the bear. Both pieces of 270 brass lay approximately a foot apart near the trail where the moose carcass would be first visible. It appeared that the animal was shot when it dropped to all fours and faced the hunter.

The bear was 3 years old and weighed about 225 pounds.

We turned all the information over to the Carter County Attorney's office.

Subject is Kelly Sublette.

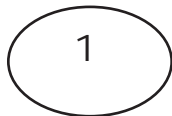
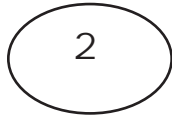

DOB 6-20-1970 Height: 5' 7" Weight: 145 pounds Hair: Brown Eyes: Brown

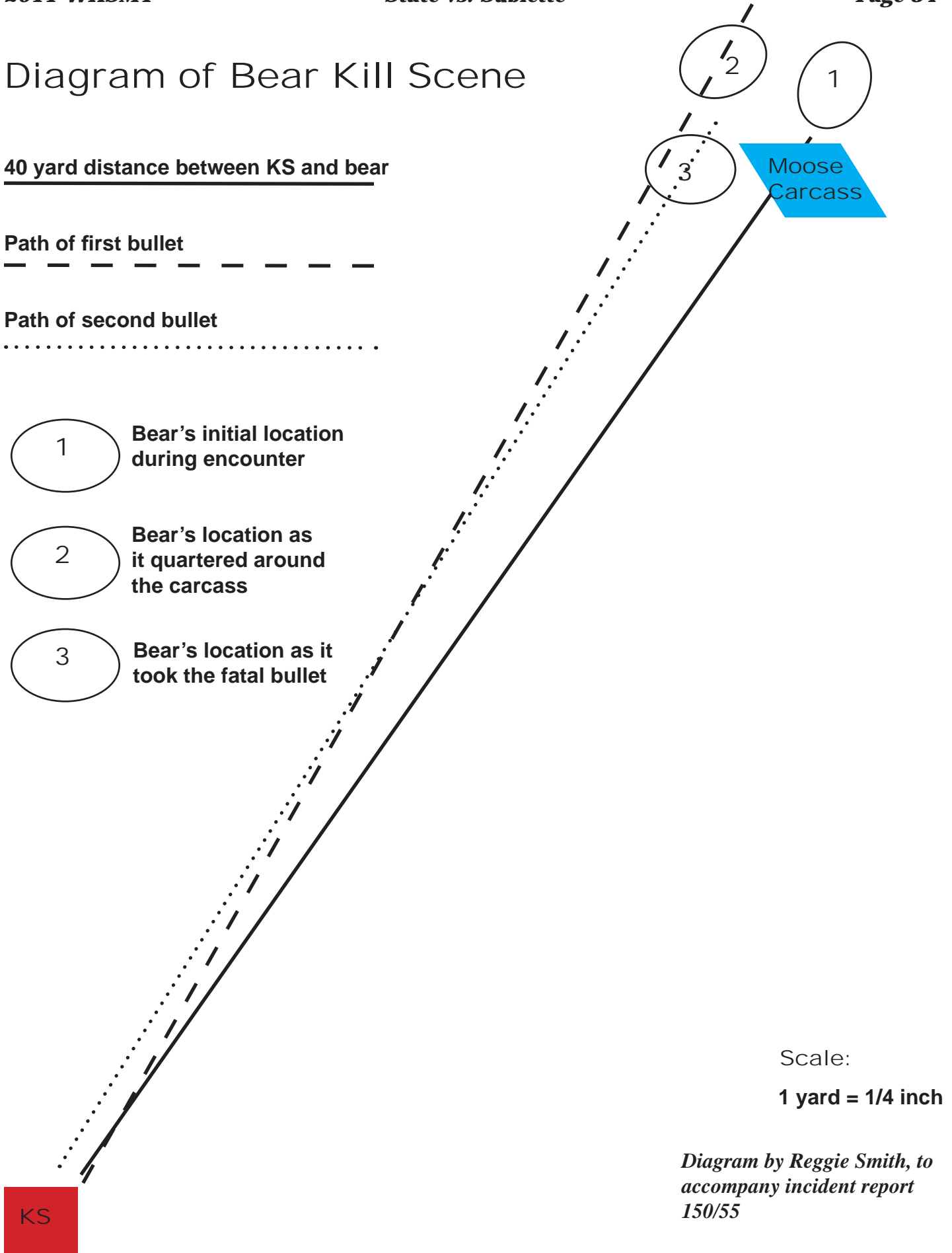
# Diagram of Bear Kill Scene

40 yard distance between KS and bear

Path of first bullet

Path of second bullet

-  Bear's initial location during encounter
-  Bear's location as it quartered around the carcass
-  Bear's location as it took the fatal bullet



Scale:

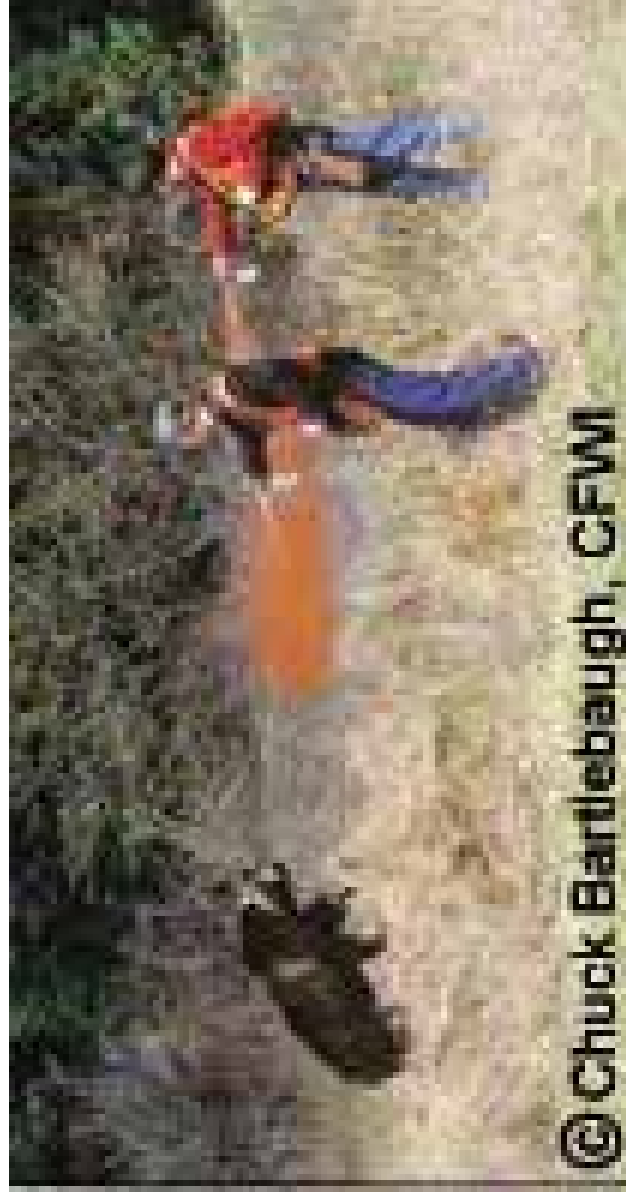
1 yard = 1/4 inch

*Diagram by Reggie Smith, to accompany incident report 150/55*

# Wyoming Game and Fish Bear Identification Guide



# Simulated Bear Encounter and Use of Bear Spray to Deter Attack



*(Graphic composed by Alex Kinsky, used by outdoor education class at Bridger-Teton Science School)*

# United States Department of the Interior



NATIONAL PARK SERVICE  
GRAND TETON NATIONAL PARK  
PO BOX 170  
MOOSE, WY 83012



Ms. Stephanie Whiteman  
Office of the Carter County Prosecuting Attorney  
PO Box 250  
Carter, WY 80001

Dear Ms. Smith:

This correspondence is in reply to your November 15, 2010, letter requesting information about grizzly bear 300.

Attached are copies of the following documents that represent the capture, conflict and observational data Grand Teton National Park has for grizzly bear 300.

1. Case incident report for an encounter between grizzly bear 159 (300's mother) and a hiker near Jackson Lake Lodge on June 15, 2008. Grizzly bear 300 was with her mother as a 1-year-old cub and two siblings when this incident occurred.
2. Grand Teton National Park news release about the June 15, 2008, attack.
3. Report for a May 2009 incident involving bears assumed to be grizzly bear 159 and cubs that occurred outside the park on private land in the Barrow Creek drainage.
4. Summary reports of bear jams during 2008 and 2009 that involve grizzly bear 159 and her three cubs.
5. Lab report confirming grizzly bear 300's relationship to grizzly bear 159.

Sincerely,

Charles Colter  
Superintendent

# INCIDENT REPORT

## GRAND TETON LODGE COMPANY

Case No. 08-2225

Nature of Incident: Bear Attack

Location of Incident: Grand Teton Lodge Company 1/8 mile from corral

Person Reporting: Brown

Phone: 307-555-5432

Date of Incident: 6-15-2008

Time of Incident: 6 a.m.

National Park Service notified  yes  no

Alcohol or Drugs involved  yes  no

At 0600 hours I received a call by radio from Witness #1 there was a bear attack near the corral. I called the NPS via 911. I told Witness #1 to put blankets on the victim and keep him as warm and comfortable as possible if the bear was gone. She advised the bear was still in the area with her cubs. I told her to get the victim out of the area back to the corral. At 0610 I met the victim and Witness #1 on the horse trail near the corral.

The victim was given first aid at the corral by the head wrangler.

A NPS medic and two rangers arrived at 0620. They took over first aid and transported the victim to St. John's Hospital at 0635.

At 0630 I directed the wrangler to block off as much area behind the lodge as he could to keep guests out of the woods.

### ADDITIONAL INFORMATION:

When I arrived on the horse trail at 0610 I observed the victim being transported to the corral by the cook with the help of Witness #1 and Witness #2. Between us and the victim was a vehicle with the head wrangler and Witness #3. We all responded to the corral which was about 500 feet away. The victim walked to the corral on his own power. At the rear door of the corral, the victim was unable to walk further. He collapsed onto the walkway in front of the door. He was being held up at the time and was gently set down on the ground by Witness #4, Witness #5 and Witness #3. Witnesses #4 & 5 initiated first aid. I gave them our first aid bag and placed two blankets on the victim. I noticed numerous puncture wounds on the victim. The victim remained conscious and when I asked him what happened he stated the following: He was out on the horse trail and just down the hill from the lodge he noticed an elk running back and forth, acting strangely. He was wondering why when a bear came at him from the bushes. He tried to get away but was unsuccessful. The bear grabbed him and shoot him. The bear let him go momentarily and the victim attempted to "play dead." This tactic failed and the bear again attacked him. Soon afterwards, Witnesses 1 & 2 arrived and rescued him. He got into their vehicle and was transported to the corral.

### SUMMARY OF WITNESS STATEMENTS:

Two lodge employees were driving down Yellowstone Highway by the corral. I saw bear 159 and her 3 cubs on their hind legs. Then they ran away all together. I saw a man run down the hill towards a man lying on the ground. He picked up his head and we noticed blood coming from his nose. The man stood up. We asked if he needed help. He got in our car. I called security. Meanwhile, a lodge employee showed up in the cook's truck. He covered the victim with a blanket and laid him down in the tuck bed and drove to the corral. The bear was off the road and just watching us. The victim had been bitten several times to the right posterior chest/trunk and had been bitten on both right and left buttocks. We transported the victim back to the barn.



# Grand Teton National Park

## News Release

### FOR IMMEDIATE RELEASE

JUNE 15, 2008

#### Visitor Injured by Grizzly Bear in Grand Teton National Park

Andrew Vance, a 50-year-old resident of Riverton, Wyoming, was injured by a grizzly bear at about 6 a.m. on June 15, while walking on the Wagon Road just below the corral at Jackson Lake Lodge in Grand Teton National Park. Vance surprised grizzly bear #159 and her three cubs, who were feeding on a freshly-killed elk carcass. The attack likely resulted from a defensive response by a bear, while protecting its food source. At this time, no adverse action will be taken against the bear involved in this incident.

Vance took an early morning walk at about 5:30 a.m. and was returning to his room at the lodge when the incident occurred. He reported watching an elk off to his right and noticing the sow and her cubs approaching to his left within 10 feet of him. Vance yelled, but one of the bears continued toward him. He yelled again and then jumped off the trail and laid on his stomach in a submissive posture. At this point, the bear inflicted puncture wounds and lacerations to Vance before it was frightened off by the shouting of a Lodge Company wrangler, who was nearby at the time. The wrangler administered emergency medical assistance to Vance until park rangers arrived on the scene. A park ambulance then transported Vance to St. John's Medical Center in Teton for treatment of his injuries.

Park officials have posted closures for the Wagon Road and trails in the Willow Flats area behind Jackson Lake Lodge.

The sow grizzly 159 and her three yearling cubs have been utilizing habitat in and around the Willow Flats area since emerging from hibernation this spring. This bear family has frequently been visible along park roadsides between Colter Bay and the Oxbow Bend turnout of the Snake River, one mile east of Jackson Lake Junction. Several other bears, both grizzly and black, are also utilizing habitat in this location.

The last time a grizzly injured a person in Grand Teton National Park was in October 2001, when a hunter from Minnesota surprised a bear on "Schoolhouse Hill" north of Moran Junction. That same year, a local resident was injured by a grizzly bear in March while backcountry skiing in the Upper Berry Creek area of the park. A previous grizzly-related injury in Grand Teton happened in August of 1994, when a jogger from Utah was attacked on the Emma Matilda Lake Trail.

Park officials remind visitors that encounter with bears, both grizzly and black, are a distinct possibility in Grand Teton. Black and grizzly bears both range throughout the park and have been observed in many locations, including back-country and front-country areas. Visitors are advised to ensure their own safety as well as that of bears by being "bear aware" and taking precautions, including:

- be alert for signs of bears and bear activity
- avoid surprising bears or other wildlife by making noise while hiking
- carry pepper spray and have it easily accessible
- never approach a bear for any reason
- do not run from bears and do not drop your pack if a bear charges.

-NPS-

[www.nps.gov/grte](http://www.nps.gov/grte)

# GRAND TETON NATIONAL PARK BEAR SIGHTING & INCIDENT REPORT

**Observer's Name:** Unknown

**Phone number :** \_\_\_\_\_

**Observation:** Date 4-21-09 Time 20:00 hrs

**Location:** First ranch past Bridger-Teton Science School along Barrow Creek just outside GTNP boundary

Total Number of Bears Observed: 4

Species: Grizzly

Bear Notice People: Yes

Bear's reaction to people: Ran away

Type of incident: Sighting, Food reward, Property damage

Report filled out by: Karen Porter

Activity: Most likely 159 and cubs, based on size. Confirmed grizzly family group based on tracks. Caretaker of ranch looked outside window and saw a grizzly family (mom + 3 large cubs) eating out of their bird feeder. A bear then went + ripped up snowmobile seat. Caretaker fired some rifle shots into the air + the bears ran off southbound. The bears also got into a compost pile at the ranch. In addition there were several other bear attractants left unsecured on the property that the bears did **NOT** get into. (Such as an ice-chest full of meat!!!)

**For Park use:**

Was the species of bear verified? Yes

Was Dispatch notified Yes

Was Resource Management notified? Yes

Was there a CI number assigned? Yes If yes, what number? CI# 09-0111

# GTNP - Summary of Reports of GB159 Bear Jams

## 2008

Incidence #	Date	Location	Wildlife	Details
08-499	5/19/08	Pilgrim Creek	Griz Bear	Grizz Bear & company
08-503	6/10/08	89 Willow Flats	Griz Bear	Bear jam 159 and cubs
08-513	6/12/08	HWY 89 Elk Ranch	Griz Bear	159 + 3
08-529	6/23/08	CB Dump Road	Griz Bear	159 and cubs
08-533	6/30/08	Jackson Lake Jct.	Griz Bear	159 and cub jam
08-544	7/14/08	Wormhole	Griz Bear	Bear Jam 159 and cubs
08-549	7/17/08	Lozier Hill	Griz Bear	159 + 3 animal jam
08-560	7/28/08	N Jackson Lake Ldge	Griz Bear	159 and company jam
08-564	7/30/08	Hwy 89 S of Jackson Lake Junction	Griz Bear	#159
08-579	8/10/08	Lozier Hill	Griz Bear	159 and cubs
08-585	8/16/08	N Jackson Lake Ldge	Griz Bear	159 and cubs jam
08-597	8/19/08	89 @ Lozier	Griz Bear	159 and cubs
08-625	8/30/08	Hwy 89 Wormhole	Griz Bear	159 and 3 bear cubs
08-699	9/5/08	Pilgrim Creek	Griz Bear	Bear jam 159 and cubs

## 2009

Incidence#	Date	Location	Wildlife	Details
09-186	4/14/09	Hwy 89 Oxbow	Grizzly	159 + 3 created bear jam
09-187	4/14/09	Hwy 89 Buffalo Fork Bridge	Grizzly	159 + 3 created bar jam
09-199	4/26/09	Hwy 89 South of Moose Junction	Bear	159 + 3 on W. side of Blacktail Butte much of the day
09-202	4/26/09	Butte	Bear	159 + 3 making their rounds
09-204	4/30/09	Jackson Lake Jct	Bear	159 + 3 out for 2 hours
09-205	4/30/09	East of Oxbow	Bear	159 + 3 - Visitors too close to bears
09-206	5/1/09	Hwy 89 Pacific Creek Road	Bear	159 + 3 - Animal jam - out 30 minutes
09-208	5/2/09	Oxbow Bend	Bear	159 + 3 - Animal jam - out 30 minutes
09-209	5/2/09	Oxbow Bend	Bear	159 + 3 - 1.5 hours on scene
09-210	5/2/09	Oxbow Bend	Bear	159 + 3 - Animal jam - out 2 hours
09-214	5/3/09	Oxbow Bend	Bear	159 + 3 - Animal jam - out 30 minutes
09-215	5/3/09	Oxbow Bend	Bear	159 + 3 - Animal jam - out 30 minutes
09-216	5/3/09	Oxbow Bend	Bear	159 + 3 Jam - Partial Road Blockage Out 3.5 hours
09-219	5/5/09	Oxbow Bend	Bear	159 + 3 - Out 45 minutes
09-222	5/5/09	Jackson Lake Dam	Bear	159 + 3 - Out 30 minutes
09-226	5/6/09	Oxbow Bend/Jll Jct	Bear	159 + 3 - Jam - Out 3 hours 45 minutes
09-228	5/7/09	Oxbow Bend	Bear	159 + 3 - Out 30 minutes
09-229	5/7/09	Oxbow Bend	Bear	159 + 3 Jam - Out 45 minutes
09-230	5/7/09	Oxbow Bend	Bear	159 + 3 Jam - Out 30 minutes
09-248	5/12/09	Signal Mt Area	Bear	159 + 3 Jam - Out 2 hours
09-251	5/12/09	Willow Flats	Bear	159 + 3 - Out 1 hour 30 minutes
09-252	5/12/09	Willow Flats	Bear	159 + 3 - Out 1 hour 20 minutes
09-259	5/15/09	N of Pilgrim Ck	Bear	159 + 3
09-264	5/15/09	Hwy 89 Jll Jct	Bear	159 + 3 - Out 2 hours 30 minutes



# WILDLIFE GENETICS INC.

555 CENTRAL AVENUE

SEATTLE, WA 98115

WWW.WILDLIFEGENETICSINC.COM

Oct. 21, 2010

Michael Hudson  
US Geological Survey – Northern Rocky Mountain Science Center  
PO Box 172780  
Bozeman, MT 59717

Re: Mortality Bear

Dear Mr. Hudson:

I have enclosed genetic results for the blood sample (100704) that we received from you on Oct. 9, 2010. The relationship to GB159 is supported by parentage analysis based on 19 microsatellite markers.

In the interest of a quick turnaround time, we extracted blood from both of the Q-tips you provided, expecting that this data replication would confirm any weak data points right away. This samples are marked in the Yellowstone database with an 'a' and 'b' notation following the sample identifier (100704). We used a small (2mm diameter) scraping of the blood and Q-tip, from which DNA was extracted using QUIAGEN DNeasy tissue kits according to QIAGEN's protocol.

The samples were first analyzed at the 9 nuclear microsatellite markers used for individual identification in the Greater Yellowstone Ecosystem. The resulting 9-locus genotype, which was confirmed by the duplicate analysis, did not match to any existing genotype in the database. We therefore analyzed another 10 markers from the standard set of 20 in your dataset. The resulting 19-locus genotype shared an allele at every marker with GB159, consistent with a parent-offspring relationship. The usual caveat to parentage analysis applies, which is that sibling pairs are also reasonably likely to share alleles at all markers.

This sample has been added to the growing GYE database, and will be part of the next results file you receive.

Yours truly,

Margaret Finlay, PhD  
President

**2010 WYOMING RESIDENT**

Transaction ID: 0825762087290002538112

**SPORTSMAN ID: 08372653 2010 YTD Donations**  
**Kelly Sublette Access Yes: \$50.00**  
**PO Box 500 Search & Rescue \$35.00**  
**Teton, WY 80001**

**GENDER: M HEIGHT: 5-7 WEIGHT: 145**  
**DOB: 6-20-1970 HAIR: BROWN EYES: BROWN**

**RESIDENCY VERIFICATION: WY DL 8640293**  
**YEARS RESIDENCY: 17**

**RESIDENT BLACK BEAR**

**LICENSE # 4-1-2010 1:45:30 PM \$45.00**

IT IS THE HUNTER'S RESPONSIBILITY TO CONFIRM THAT THE HUNT AREA INTENDED TO HUNT BE OPEN. THE STATUS OF HUNT AREA CLOSURES IS AVAILABLE BY CALLING 1-800-264-1280 WITHIN WYOMING 24 HOURS A DAY. REGULATIONS ARE AVAILABLE BEGINNING MARCH 15 AT LICENSE SELLING AGENTS. [HTTP://GF.STATE.WY.US](http://gf.state.wy.us) AND WYOMING GAME AND FISH DEPARTMENT OFFICES.

**Lifetime Conservation Stamp**

**LICENSE # 55144 5/5/2008**

- ORIGINAL - THIS LICENSE CANNOT BE TRANSFERRED, CANCELED OR ANY FEE REFUNDED AFTER THIS ISSUANCE.
- ALWAYS CARRY THIS LICENSE WITH YOU.
- IT IS UNLAWFUL TO ENTER UPON PRIVATE LAND TO HUNT, TRAP OR FISH WITHOUT FIRST SECURING PERMISSION.
- THIS LICENSE EXPIRES DECEMBER 31 OF THE YEAR ISSUED.

(Please do not detach) ID08372653 0825762087290002538112 KELLY SUBLETTE

**2010 WYOMING RESIDENT**

Under penalty of prosecution, I swear that the information given by me above and below my signature is true and correct. I swear, under penalty of prosecution, that I am a Wyoming resident as defined in W.S. 23-1-102 (a) (ix) (xv) and 23-1-107 and have domiciled in Wyoming for not less than one (1) year and have not claimed residency elsewhere for any purpose during the one year immediately preceding the purchase of this license.

KELLY SUBLETTE 4-1-2010

SUBLETTE, KELLY 4-1-2010

AGENT NAME: 80001 - WYOMING GAME AND FISH REGIONAL OFFICE  
 AGENT LOCATION: TETON, WY

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1	<b>2010 WYOMING RESIDENT</b>										31
2	<b>CARCASS COUPON LICENSE # 11116165445</b>										30
3	<b>RESIDENT BLACK BEAR</b>										29
4	DETACH FROM LICENSE, DATE BY CUTTING OUT ENTIRE DAY AND MONTH OF KILL. SIGN AND ATTACH TO CARCASS IN VISIBILE MANNER BEFORE LEAVING SITE OF KILL. DURING TRANSPORTATION OF THE CARCASS, THE COUPON MAY BE REMOVED TO PREVENT ITS LOSS. IF THE COUPON IS REMOVED FOR TRANSPORTATION, IT MUST BE IN THE POSSESSION OF THE PERSON ACCOMPANYING THE HIDE.										28
5											27
6											26
7											25
8	KELLY SUBLETTE										25
9	DO NOT SIGN OR DETACH BEFORE YOU KILL THE ANIMAL										23
											22
10	11	12	13	14	15	16	17	18	19	20	21

Accompanying exhibit is the Wyoming Game and Fish Department brochure "2011 Black Bear Hunting Seasons."

Download from Game and Fish Web site:  
<http://gf.state.wy.us/admin/regulations/pdf/Ch3-brochure.pdf>