

1 agents as state peace officers. (*Id.*) He explained that the Border Patrol obtains  
2 cross-certifications for its agents with many sheriff's departments across the State of Arizona  
3 so agents can work cases with state and county law enforcement. (*Id.*) He testified that the  
4 Border Patrol does not seek cross-certifications in order to enforce state law *per se.* (*Id.*) He  
5 explained that counties offered the Border Patrol "ticket books" to cite for violations of the  
6 Arizona Revised Statutes, but the Border Patrol declined the offer. (*Id.*) Mr. Hermansen  
7 testified that the cross-certification furthers the mission of the Border Patrol because agents  
8 can work with state law enforcement generally as well as on task forces. (*Id.* at 29.) But he  
9 emphasized that the Border Patrol's primary mission is "to defend the homeland." (*Id.*)

10 Mr. Hermansen was personally involved with the process of obtaining  
11 cross-certification of Border Patrol agents. (*Id.*) Specifically, he would request the  
12 cross-certification of agents assigned to task forces from sheriff's departments. (*Id.*) He  
13 explained that his superiors restricted the cross-certification requests to agents "assigned to  
14 task forces or agents in critical positions at stations that wanted to work and interact with  
15 state, local agencies at the time." (*Id.* at 30.) In terms of the cross-certification process, he  
16 testified that he would complete a memorandum requesting cross-certification of certain  
17 agents and submit it to the sheriff's department. (*Id.*) As part of that process, he would  
18 ensure that the agents requested for cross-certification are federal peace officers that are in  
19 good standing with the Border Patrol. (*Id.* at 31.) The sheriff would review the request and  
20 then decide whether to authorize the cross-certification. (*Id.* at 30.)

21 Mr. Hermansen testified that shortly before his retirement, he submitted a memo dated  
22 March 1, 2017 to Sheriff Napier requesting cross-certification of sixty Border Patrol agents.  
23 (*Id.* at 32-33; Def. Ex. 53.) That request for cross-certification included Agent Christopher  
24 Bullock. (*Id.* at 33.) In a letter dated March 10, 2017, Sheriff Napier granted the request for  
25 the cross-certification of these sixty Border Patrol agents pursuant to A.R.S. 13-3875. (*Id.*  
26 at 34-35; Def. Ex. 53.) The cross-certification was effective for one year. (Def. Ex. 53.)<sup>2</sup>

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28 <sup>2</sup> Mr. Hermansen testified that he did not request cross-certification for himself in the  
March 1, 2017 letter, but he was cross-certified in Pima County, Pinal County, and Maricopa

1 passenger kept demanding to know why they were pulled over. (*Id.* at 51.) Agent Bullock  
2 asked the defendant to exit the vehicle, and they went to the back of the vehicle. (*Id.* at 51.)  
3 Agent Bullock advised Mr. Hermansen that there was a weapon in the vehicle. (*Id.* at 52.)  
4 The defendant provided his consent for agents to search the vehicle. (*Id.*) Mr. Hermansen  
5 searched the vehicle and found a firearm underneath the back seat where the child was  
6 seated. (*Id.*) The firearm was a revolver which was loaded with ammunition. (*Id.* at 53.)  
7 The defendant told officers he had prior convictions and that he had drugs on him and in the  
8 vehicle. (*Id.* at 53-54.) Agents found what they believed was heroin hidden in the defendant's  
9 underwear and in the vehicle. Agents could not immediately determine if the defendant was  
10 a convicted felon, although he admitted as much, so they told him that he would have to  
11 come to the station so they could run a records check. (*Id.* at 54.)

12 In response to the prosecutor's question about why the vehicle was stopped, Mr.  
13 Hermansen testified that a stop was performed because of "the notoriety of the area, the  
14 manner and travel of the vehicle, the furtive movements of the subject, and the record checks  
15 coming back to it being a rental vehicle, which is very common in narcotics and alien  
16 smuggling events." (*Id.* at 60.) He further testified that it is common for alien and drug  
17 smuggling subjects to disobey traffic laws. (*Id.* at 61.)

18 On cross-examination, Mr. Hermansen agreed that 8 CFR § 287.5 denotes the Border  
19 Patrol's authority, which includes the authority to investigate and make immigration arrests,  
20 as well as execute immigration warrants. (*Id.* at 63.) Mr. Hermansen conceded that this  
21 code provision does not give Border Patrol agents authority to stop someone for a traffic  
22 violation. (*Id.* at 63-64.) He also agreed that Border Patrol agents normally do not stop  
23 individuals for traffic violations, and this stop did not occur on federal land. (*Id.* at 64.)

24 With respect the cross-certification as an Arizona peace officer, Mr. Hermansen  
25 agreed that he did not have a citation pad or a radar gun because that is not his job. (*Id.*)  
26 And he had no intention of writing the defendant a ticket for speeding, blowing through a  
27 stop sign, or making a U-turn. (*Id.*) In fact, Mr. Hermansen has never cited someone for a  
28 traffic infraction while working as a Border Patrol agent. (*Id.* at 65.)