

1 MS. HERBERT: So were -- the police called him or the credit card
2 companies?

3 PROSPECTIVE JUROR #061: The credit card companies called him first and
4 then, I mean, it was on his phone, you know, when we got out. We saw the car was
5 broken -- the window.

6 MS. HERBERT: Okay.

7 PROSPECTIVE JUROR #061: Passenger side.

8 MS. HERBERT: Do you know if that's gone to court or charges filed or
9 anything?

10 PROSPECTIVE JUROR #061: No. He -- it wasn't a big deal to him so he
11 really didn't press charges or nothing.

12 MS. HERBERT: Okay. So anything about your experience living with
13 someone who's been a victim --

14 PROSPECTIVE JUROR # 061: No.

15 MS. HERBERT: Okay. Thank you.

16 Let's go to Mr. Grunwald. Did we strike him?

17 PROSPECTIVE JUROR #074: No.

18 MS. HERBERT: Oh, I'm sorry. Sorry about that, sir. It gets a little confusing
19 'cause people come in and out.

20 You said your car was stolen but it didn't happen in Las Vegas. Is that
21 right?

22 PROSPECTIVE JUROR #074: Yes.

23 MS. HERBERT: Okay. Where was that at?

24 PROSPECTIVE JUROR #074: Portland, Oregon.

25 MS. HERBERT: How long ago?

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1 PROSPECTIVE JUROR #074: Just before I moved out here 16 years ago,
2 about 16 and a half, 17 years ago.

3 MS. HERBERT: Anything about -- did you call the police in that case?

4 PROSPECTIVE JUROR #074: Yes.

5 MS. HERBERT: Okay. Was anyone ever apprehended?

6 PROSPECTIVE JUROR #074: No.

7 MS. HERBERT: Anything about that that's going to kind of weigh on you in
8 this case since it also involves a vehicle?

9 PROSPECTIVE JUROR #074: I just wasn't impressed with the work the
10 police did.

11 MS. HERBERT: Yeah. Is that anything you're going to hold against the Las
12 Vegas police since it's a different agency?

13 PROSPECTIVE JUROR #074: Different agency, but.

14 MS. HERBERT: Yeah.

15 PROSPECTIVE JUROR #074: I've had interactions with car broken into,
16 wallet stolen, same kind of thing. Just wasn't --

17 MS. HERBERT: And that was here; right?

18 PROSPECTIVE JUROR #074: Yes, this was here.

19 MS. HERBERT: Okay.

20 PROSPECTIVE JUROR #074: Just wasn't impressed with the service, you
21 know, call back, check back.

22 MS. HERBERT: Okay. Fair enough.

23 PROSPECTIVE JUROR #074: You know, follow-up.

24 MS. HERBERT: You didn't recognize any officers' names.

25 PROSPECTIVE JUROR #074: No.

1 MS. HERBERT: Is that right? Okay.

2 Are you going to be able to separate that experience from the officers
3 who testify in this case and not hold it against them that you're dissatisfied?

4 PROSPECTIVE JUROR #074: I should be able to. I would assume so.

5 MS. HERBERT: If you were the State or the Defense, would you want
6 someone as yourself on the jury? Do you think you can be fair and impartial?

7 PROSPECTIVE JUROR #074: Probably not just because the experiences
8 that I've had.

9 MS. HERBERT: I appreciate your honesty on that.

10 Judge, can we approach?

11 [Bench conference begins]

12 THE COURT: State?

13 MS. HERBERT: I'm going to call -- yeah, a motion for cause for.

14 THE COURT: As to --

15 MS. HERBERT: Mr. Grunwald.

16 THE COURT: Mr. Grunwald, 74. Traverse?

17 MR. GARDNER: [Indiscernible].

18 THE COURT: All right.

19 [Bench conference ends]

20 THE COURT: Mr. Grunwald, based upon the conference at the bench and
21 stipulation of parties, I'm going to thank and excuse you and send you back to jury
22 services, third floor, on to a different case. Civil, criminal, frankly, based upon the
23 status of question it doesn't matter.

24 Let's call another name to fill Seat Number 23.

25 THE COURT CLERK: That would be Paul Taylor, Badge Number 95.

1 THE COURT: Anything in your life you think either side might want to know?

2 PROSPECTIVE JUROR #095: No.

3 THE COURT: All right. Thank you very much.

4 State, you have the panel.

5 MS. HERBERT: Thank you, Judge.

6 Mr. Taylor, you said your son was 35?

7 PROSPECTIVE JUROR #095: Yes.

8 MS. HERBERT: What does he do?

9 PROSPECTIVE JUROR #095: Right now he works for a lawyer.

10 MS. HERBERT: Okay.

11 PROSPECTIVE JUROR #095: He helps with financial planning for people
12 that have had financial difficulties, but he used to be an actor.

13 MS. HERBERT: Okay. So he -- he's not an attorney. He just --

14 PROSPECTIVE JUROR #095: No.

15 MS. HERBERT: -- works for an attorney and helps with planning?

16 PROSPECTIVE JUROR #095: He's not a lawyer.

17 MS. HERBERT: Okay. And then you said July 8th is when you had -- your
18 home was burglarized?

19 PROSPECTIVE JUROR #095: Yes.

20 MS. HERBERT: Okay. That was pretty recent.

21 PROSPECTIVE JUROR #095: Yes. I'm just getting over it.

22 MS. HERBERT: Yeah; I mean, it's like pretty -- it's a scary experience. So
23 did you end up calling the police?

24 PROSPECTIVE JUROR #095: I did.

25 MS. HERBERT: Okay. And how did you feel that you were treated and how

1 that was handled?

2 PROSPECTIVE JUROR #095: I thought I was treated fairly. They came right
3 away and filled out the police report which was helpful because I needed to get new
4 bank accounts, new credit cards and all that. I showed that. They did their job.

5 MS. HERBERT: Okay. Do you know has anyone been apprehended in that?

6 PROSPECTIVE JUROR #095: No.

7 MS. HERBERT: No?

8 PROSPECTIVE JUROR #095: No, it was two teenage boys. I was actually
9 home at the time --

10 MS. HERBERT: Oh, okay.

11 PROSPECTIVE JUROR #095: -- in the back swimming and I saw them in my
12 house and I started chasing them but I figured if they came into my house, they
13 were probably armed so I didn't chase them down the street.

14 MS. HERBERT: So initially you were going to go after them and then --

15 PROSPECTIVE JUROR #095: I sure was.

16 MS. HERBERT: -- thought about it. Yeah.

17 PROSPECTIVE JUROR #095: Yes.

18 MS. HERBERT: Especially if you're home. Is there anything about that, just
19 having been, you know, a fairly recent victim of a pretty scary event that is going to
20 affect your ability to be fair and impartial?

21 PROSPECTIVE JUROR #095: Not at all.

22 MS. HERBERT: Okay. Thank you very much.

23 Let's go to Mr. Bethea and I think you're back row; yes, Seat Number 6.
24 You were also a victim of a home invasion. Is that right?

25 PROSPECTIVE JUROR #088: Yes.

1 MS. HERBERT: Okay. When was that?

2 PROSPECTIVE JUROR #088: It was about three or four years ago.

3 MS. HERBERT: Was that in Las Vegas?

4 PROSPECTIVE JUROR #088: Yes, it was.

5 MS. HERBERT: Were you home at the time?

6 PROSPECTIVE JUROR #088: I was not at home at the time based on the
7 incidents. Actually, what I think occurred is I was pulling into my garage 'cause it
8 was around lunch time and I was coming in the front door and they were -- I mean, I
9 was coming in the driveway and they were coming out the other, the front entrance.

10 MS. HERBERT: Okay. Did you call the police in that case?

11 PROSPECTIVE JUROR #088: Yes, I did.

12 MS. HERBERT: How did you feel that you were treated by the police?

13 PROSPECTIVE JUROR #088: I don't feel one way or the other. Basically, it
14 was an incident where they asked me to come in and do a report.

15 MS. HERBERT: Okay. So did you end up going down to the station?

16 PROSPECTIVE JUROR #088: Yes.

17 MS. HERBERT: Okay. Did anything -- anyone ever apprehended in that
18 case?

19 PROSPECTIVE JUROR #088: No.

20 MS. HERBERT: Okay. Do you have any feelings positively or negatively
21 about that experience that's going to affect your ability in this case to be fair and
22 impartial?

23 PROSPECTIVE JUROR #088: Not at all.

24 MS. HERBERT: Okay. You -- did someone -- somebody else -- did you have
25 more than one home invasion or did you have a relative that was a victim of a home

1 invasion?

2 PROSPECTIVE JUROR #088: No; I had home invasion and my wife's car
3 was broken into and her purse was stolen.

4 MS. HERBERT: Oh, I -- you know -- was it a hotel invasion? Is that what you
5 had said?

6 PROSPECTIVE JUROR #088: Yeah; I had a hotel invasion also.

7 MS. HERBERT: And was that also in Las Vegas?

8 PROSPECTIVE JUROR #088: That was in California.

9 MS. HERBERT: Oh, in California. Okay.

10 And then your -- when was your wife's car broken into?

11 PROSPECTIVE JUROR #088: That was several years ago.

12 MS. HERBERT: Anything about how you were treated by the police or the
13 justice system in general that would affect your ability in this case?

14 PROSPECTIVE JUROR #088: No; in that incident they caught the individual
15 and we ended up actually getting some checks of restitution. So I guess that --

16 MS. HERBERT: Okay. Great.

17 PROSPECTIVE JUROR #088: -- was a positive turn out.

18 MS. HERBERT: Better than no one caught at all.

19 PROSPECTIVE JUROR #088: Yeah, exactly.

20 MS. HERBERT: And then you were in the military as a medic.

21 PROSPECTIVE JUROR #088: Correct.

22 MS. HERBERT: How long were you a medic for?

23 PROSPECTIVE JUROR #088: I was in the military 22 years.

24 MS. HERBERT: And you're a very busy guy 'cause you also work security at
25 the Hard Rock.

1 PROSPECTIVE JUROR #088: That is correct.

2 MS. HERBERT: And how long have you done that for?

3 PROSPECTIVE JUROR #088: Thirteen years.

4 MS. HERBERT: And then how long have you worked at UNLV?

5 PROSPECTIVE JUROR #088: Seven years now.

6 MS. HERBERT: And how old are your kids?

7 PROSPECTIVE JUROR #088: My daughter is 20 and my son is 11.

8 MS. HERBERT: What does your 20-year-old do? Does she go to school or
9 work?

10 PROSPECTIVE JUROR #088: She's in school right now.

11 MS. HERBERT: And then you'd also mentioned that you were accused of an
12 assault. Was that in Las Vegas or somewhere else?

13 PROSPECTIVE JUROR #088: That was in Las Vegas.

14 MS. HERBERT: Did that ever go to court or?

15 PROSPECTIVE JUROR #088: No, it was dismissed. It was a ridiculous
16 charge in the first place.

17 MS. HERBERT: Okay. Fair enough.

18 Is there anything about, you know, getting charged with some thing that
19 was silly or ridiculous that's going to affect your ability in this case?

20 PROSPECTIVE JUROR #088: No; we have all a job to do. They were just
21 doing their job.

22 MS. HERBERT: Okay. Thank you very much.

23 Go to Ms. Lukas. Good afternoon. You had mentioned that your father
24 was sentenced to prison.

25 PROSPECTIVE JUROR #019: Yes.

1 MS. HERBERT: Okay. And did that happen when you were younger, adult?

2 PROSPECTIVE JUROR #019: He went in prison when I was four years old.

3 MS. HERBERT: Oh my gosh, okay. And, you know, is there anything about
4 that experience 'cause growing up basically with somebody in the system, is that
5 going to affect your ability in this case?

6 PROSPECTIVE JUROR #019: I wouldn't think so.

7 MS. HERBERT: Okay. And like I spoke with somebody else about
8 punishment, are you going to be able to set aside that the Judge is going to tell you
9 you can't consider punishment? You just look at the facts.

10 PROSPECTIVE JUROR #019: Yes.

11 MS. HERBERT: Thank you very much.

12 Ms. Lamastus? Good afternoon.

13 PROSPECTIVE JUROR #068: It's Lamastus.

14 MS. HERBERT: Lamastus? I'm sorry. Like the Judge, I'm terrible with
15 people's names.

16 You had said that you have some grandchildren that have kind of have
17 committed some crimes in the past.

18 PROSPECTIVE JUROR #068: No, that was not me.

19 MS. HERBERT: That was not you. I'm sorry.

20 PROSPECTIVE JUROR #068: My daughter's 18. She has no kids.

21 MS. HERBERT: One second. Let me just look. You're right.

22 Is your 18-year-old in school or working?

23 PROSPECTIVE JUROR #068: She's working.

24 MS. HERBERT: Okay. I apologize about that.

25 PROSPECTIVE JUROR #068: That's okay.

1 MS. HERBERT: It was actually -- it's Peterson. I'm sorry. You don't look old
2 enough to have a bunch of grandkids.

3 PROSPECTIVE JUROR #067: Tell those kids that.

4 MS. HERBERT: Okay. So you're the -- you have some grandchildren that
5 have gotten into a little bit of trouble.

6 PROSPECTIVE JUROR #067: Yeah; my oldest grandson.

7 MS. HERBERT: Okay. Is there -- you know, is it -- was it more petty stuff or
8 serious stuff.

9 PROSPECTIVE JUROR #067: Serious.

10 MS. HERBERT: Okay. If you don't mind, I know it's kind of intrusive --

11 PROSPECTIVE JUROR #067: Well, he's --

12 MS. HERBERT: -- generally what it was?

13 PROSPECTIVE JUROR #067: Stole cars. He stole property from people and
14 he was in jail; not long enough 'cause he still had a drug problem when he got out
15 and he overdosed.

16 MS. HERBERT: Oh my gosh. Is he -- did he -- is he still alive?

17 PROSPECTIVE JUROR #067: No; he's dead.

18 MS. HERBERT: I'm really sorry about that. Is there anything about -- I mean,
19 that's obviously like an extremely emotional and traffic situation -- about the fact that
20 -- because you said you don't think he stayed in long enough, about the way he was
21 treated that impacts your ability to look at this case or the justice system in general?

22 PROSPECTIVE JUROR #067: No; I just wished he'd have stayed longer and
23 maybe got over the drug habit, but they didn't give him very much time for it. I think
24 if they did, he would have maybe got through the drug stuff. I don't know.

25 MS. HERBERT: Do you need a tissue? Okay. I'm sorry. I don't want to -- I

1 mean to make you emotional. We're just trying, you know --

2 PROSPECTIVE JUROR #067: Yeah.

3 MS. HERBERT: -- picking people who, you know, can be fair and impartial
4 and you've also been on a -- you've been lucky 'cause you've been picked four
5 times to be on a jury. Isn't that right?

6 PROSPECTIVE JUROR #067: Four or five times.

7 MS. HERBERT: Had it all been in Nevada?

8 PROSPECTIVE JUROR #067: California.

9 MS. HERBERT: Have you ever been on a jury in Nevada or --

10 PROSPECTIVE JUROR #067: No.

11 MS. HERBERT: -- has it all been California?

12 Thank you very much.

13 Mr. Nunez, you had mentioned real briefly that your dad was accused
14 of a crime. When was that? Oh can you get -- I'm sorry. Can you pass the mic?

15 PROSPECTIVE JUROR #071: It's about a year ago.

16 MS. HERBERT: A year ago? Did he ever have to go to court or were
17 charges filed?

18 PROSPECTIVE JUROR #071: Yeah; charges was filed.

19 MS. HERBERT: Were you involved at all in that case?

20 PROSPECTIVE JUROR #071: Not, no ma'am.

21 MS. HERBERT: Did you know much about what was going on?

22 PROSPECTIVE JUROR #071: Yes, ma'am.

23 MS. HERBERT: Is there anything about that experience that would affect
24 your ability in this case to be fair and impartial?

25 PROSPECTIVE JUROR #071: Not really, no.

1 MS. HERBERT: Was it anything involving vehicles or --
2 PROSPECTIVE JUROR #071: Uh-huh.
3 MS. HERBERT: Okay. Are you -- did you ever go to court and watch any of
4 the proceedings?
5 PROSPECTIVE JUROR #071: Yes, ma'am.
6 MS. HERBERT: You did. Okay. And so you can separate that from this
7 case.
8 PROSPECTIVE JUROR #071: Yes, ma'am.
9 MS. HERBERT: Okay. Thank you very much.
10 Can I speak to Mr. Wood, please? He's in the back behind you.
11 You are -- basically own a personal investigation firm. Is that correct?
12 PROSPECTIVE JUROR #087: Yes.
13 MS. HERBERT: Okay. Have you ever done or been hired by criminal
14 defense attorneys to do investigations for defense?
15 PROSPECTIVE JUROR #087: In Florida, yes.
16 MS. HERBERT: Okay. But not here?
17 PROSPECTIVE JUROR #087: Not here.
18 MS. HERBERT: Have you ever had to testify in court based upon your role
19 as an investigator?
20 PROSPECTIVE JUROR #087: Against -- yes, I have, but --
21 MS. HERBERT: Okay. Well, either --
22 PROSPECTIVE JUROR #087: Yes.
23 MS. HERBERT: -- way, you know. So you have taken the witness stand
24 yourself.
25 PROSPECTIVE JUROR #087: We work for both sides.

1 MS. HERBERT: Okay. Good to know. So you've actually gone through the
2 experience of being on the witness stand and --

3 PROSPECTIVE JUROR #087: Yes.

4 MS. HERBERT: -- getting asked questions.

5 PROSPECTIVE JUROR #087: Multiple times.

6 MS. HERBERT: Okay. By both the person you're working for and the person
7 you're not working for.

8 PROSPECTIVE JUROR #087: For the State and for the Plaintiff.

9 MS. HERBERT: Okay. And then you also mentioned you had military
10 experience?

11 PROSPECTIVE JUROR #087: Yes.

12 MS. HERBERT: Okay. How long were you in the military?

13 PROSPECTIVE JUROR #087: Eleven years.

14 MS. HERBERT: And what branch?

15 PROSPECTIVE JUROR #087: Army.

16 MS. HERBERT: Is there anything about your work in personal investigation
17 or testifying in a case that's going to affect your ability to be fair and impartial to both
18 sides?

19 PROSPECTIVE JUROR #087: No.

20 MS. HERBERT: No? Thank you.

21 Mr. Yukes?

22 PROSPECTIVE JUROR #060: Yes.

23 MS. HERBERT: I'm sorry. Then I'm like all over the place with the
24 microphone. I apologize.

25 You had mentioned that you're talking narcotics for your tooth or pain

1 killers?

2 PROSPECTIVE JUROR #060: That's correct.

3 MS. HERBERT: What's the pain killer you're on?

4 PROSPECTIVE JUROR #060: I think it's called hydrocodone.

5 MS. HERBERT: Okay. Have you noticed any difference when you've taken
6 the hydrocodone versus when -- before you had your tooth extraction, when you
7 didn't in just your ability to perceive what's going on?

8 PROSPECTIVE JUROR #060: It's -- life's more relaxed.

9 MS. HERBERT: Yeah? Okay. Fair enough. Do you still feel like you're able
10 to follow everything that's going on this morning so far?

11 PROSPECTIVE JUROR #060: I drift.

12 MS. HERBERT: Okay. That's fair.

13 If you were either the State or the Defense, would you want someone
14 like yourself on the jury who's kind of drifting in and out as to what's going on?

15 PROSPECTIVE JUROR #060: That's your call. I don't know what to say
16 about that.

17 MS. HERBERT: Okay. Well, you know, 'cause the Defendant has a right to
18 have a fair trial and both sides want to have people that are going to be able to pay
19 attention. So we want to make sure that the people who are here are going to give
20 the case as much as attention as both sides deserve. And if you're on a pain killer,
21 it's not as though it's your fault, we're not saying you don't want to, just physically do
22 you think you're capable of --

23 PROSPECTIVE JUROR #060: The timing's bad.

24 MS. HERBERT: Yeah -- yes, it is. Do you think you're capable of paying
25 attention to witness testimony and all that stuff for a couple hours at a time?

1 PROSPECTIVE JUROR #060: You're not getting me at my prime.
2 MS. HERBERT: Okay. And then same thing goes for Mr. Swinburne.

3 PROSPECTIVE JUROR #089: Close.

4 MS. HERBERT: Sorry.

5 PROSPECTIVE JUROR #089: Swinburne.

6 MS. HERBERT: Swinburne. It's kind of the same line of questions for you.
7 How long have you been taking the pain medication for your hip?

8 PROSPECTIVE JUROR #089: Actually, I've been on two pain medications
9 starting about two and a half years ago and muscle relaxers for probably about 12
10 years from constructions accidents. I function pretty well but I do know that I do
11 forget things sometimes like yesterday. I might not remember something. I'll talk to
12 my wife and she'll say: Don't you remember? And I'll say no. I don't. It could have
13 been the medication.

14 MS. HERBERT: Okay.

15 PROSPECTIVE JUROR #089: So that would be the honest truth.

16 MS. HERBERT: No, I appreciate that. I mean, the same thing with, you
17 know, Mr. Yukes. It's obviously not your --

18 PROSPECTIVE JUROR #089: I can understand and remember.

19 MS. HERBERT: We don't want --

20 PROSPECTIVE JUROR #089: Sure.

21 MS. HERBERT: Right. To --

22 PROSPECTIVE JUROR #089: I just may not remember from yesterday
23 everything exactly.

24 MS. HERBERT: Okay. More so than, would you say, than before you were
25 taking the medication?

1 PROSPECTIVE JUROR #089: Absolutely, I'm not as sharp.

2 MS. HERBERT: But it also sounds like you've been functioning for a really
3 long time taking --

4 PROSPECTIVE JUROR #089: I have.

5 MS. HERBERT: -- these medicines.

6 PROSPECTIVE JUROR #089: I've been doing okay. I'm able to work and be
7 responsible, but --

8 MS. HERBERT: If this trial were to go two or three days, do you think that
9 would affect your ability to be fair and impartial if you might not necessarily
10 remember everything that happens day to day?

11 PROSPECTIVE JUROR #089: I think there's a possibility I might forget
12 something but I could certainly show up and do it.

13 MS. HERBERT: Okay. Fair enough.

14 I had ask the -- Ms. Sweeney the question about CSI. Does anyone
15 feel like they would need a lot of scientific evidence regardless of the other types of
16 evidence presented in order to find a person guilty beyond a reasonable doubt?

17 PROSPECTIVE JUROR #012: I love CSI. You know, I just --

18 MS. HERBERT: I'm sorry. Can you pass the microphone in the back to --

19 PROSPECTIVE JUROR #012: No, I said --

20 MS. HERBERT: Ms. Ruggles.

21 PROSPECTIVE JUROR #012: I do like CSI. The scientist and you know --

22 MS. HERBERT: That's -- you know, I like that show too.

23 PROSPECTIVE JUROR #012: Vegas.

24 MS. HERBERT: And everyone's embarrassed to admit that they like the
25 show or they watch it, but it's okay. Its not a bad thing.

1 PROSPECTIVE JUROR #012: But that won't effect -- I mean.

2 MS. HERBERT: Okay. But so you understand it's TV and, you know --

3 PROSPECTIVE JUROR #012: Right.

4 MS. HERBERT: That's now how it goes, obviously, as you see this morning.

5 Actually, I wanted to ask you a question, Mr. Ruggles; right?

6 PROSPECTIVE JUROR #012: Uh-huh.

7 MS. HERBERT: Yes. Did your ex-husband or deceased husband was an
8 officer, a police officer?

9 PROSPECTIVE JUROR #012: Uh-huh.

10 MS. HERBERT: But he was also a district attorney and a public defender?

11 PROSPECTIVE JUROR #012: He was the investigator for the DA --

12 MS. HERBERT: okay.

13 PROSPECTIVE JUROR #012: -- in the 60's and then he worked for the
14 Federal Public Defenders in the 80's and 90's.

15 MS. HERBERT: Okay. So was he an officer, a cop, first?

16 PROSPECTIVE JUROR #012: Right.

17 MS. HERBERT: A police officer first then investigator and then -- okay. I
18 wanted to clear that up.

19 Is there anything about his job experience having worked on pretty
20 much both sides of criminal law that has any impact on your ability to be fair and
21 impartial?

22 PROSPECTIVE JUROR #012: I don't think so.

23 MS. HERBERT: Okay. Thank you.

24 Has anyone ever been in a car accident where they've had to call the
25 police? There's lots of hands on that question. So instead of asking everybody, is

1 there anybody that has strong opinions either one way or the other as to how they
2 were treated by the police or whether they were satisfied with how the whole
3 incident went down?

4 In the back. It's Ms. Lukas.

5 PROSPECTIVE JUROR #019: I'm actually in the middle of a lawsuit right
6 now for a scratch over a trailer hitch. A lady's trying to sue me for \$25,000.

7 MS. HERBERT: Okay. Oh my gosh.

8 PROSPECTIVE JUROR #019: Yeah.

9 MS. HERBERT: A trailer hitch; okay. So did you -- it was an accident where
10 she believes you were at fault? Is that --

11 PROSPECTIVE JUROR #019: I was at fault. I was having break problems
12 but the only damage to her vehicle was a scratch on her trailer hitch and now I have
13 to go to trial over it.

14 MS. HERBERT: And that's a civil matter obviously?

15 PROSPECTIVE JUROR #019: Yes.

16 MS. HERBERT: Were the police called out in that case?

17 PROSPECTIVE JUROR #019: Yes. Police department, fire department,
18 ambulance also.

19 MS. HERBERT: For the scratch?

20 PROSPECTIVE JUROR #019: Yes.

21 MS. HERBERT: All right. Anything about the way the officers were or that
22 experience that's going to affect your ability to look at this case? 'Cause we have an
23 evading charge, so it's fair to say there's going to be some testimony about
24 accidents.

25 PROSPECTIVE JUROR #019: I dispute about how far this is going, of

1 course.

2 MS. HERBERT: Right.

3 PROSPECTIVE JUROR #019: I mean, it was a scratch on her trailer hitch
4 and she's suing me for \$25,000.

5 MS. HERBERT: But is that going to -- are you going to be able to separate
6 that from any testimony involving accidents in this case?

7 PROSPECTIVE JUROR #019: I should be able to.

8 MS. HERBERT: Okay. Thank you for your honesty.

9 Is there anyone else that had kind of a weird experience like that.

10 PROSPECTIVE JUROR #012: Five years ago, I kind of touched my car on
11 the back on a SUV and it just barely -- it didn't scratch at all my bumper and she
12 ended up with concussion and the -- my insurance had to pay her for damages that -
13 - the policeman came and said, ma'am, I'm sorry. I see no damage to your car. I
14 see no damage to her car but you hit. I was behind. She didn't move on time so I
15 kind of thought she moved and she didn't. So but that was just handled like that and
16 it just --

17 THE COURT: It's Juror Number 12, Ms. Ruggles, Chair 4.

18 MS. HERBERT: Yes. Thank you, Judge.

19 So is there -- that seems like a lot of people have issues with the
20 person, the other civilian, that they had an accident with. Is there anything about
21 that that's going to, you know, how the police handled it or anything that's going to
22 affect your ability to be fair and impartial?

23 PROSPECTIVE JUROR #012: [Unresponsive.]

24 MS. HERBERT: Anyone else have any issues with accidents?

25 Are there anybody -- anyone on the jury that owns pets? There's a lot

1 of hands to that question. Does anyone have any strong feelings about dogs or any
2 other pets being used in law enforcement work? Seeing no hands, thank you.

3 Court's indulgence.

4 Judge, we'll pass the panel.

5 THE COURT: State passes panel for cause. Defense, you may inquire.

6 MR. GARDNER: Thank you.

7 Mr. Osti. I hope I got it right, the name right. Osti? Juror Number 7.

8 PROSPECTIVE JUROR #007: Yes, that's correct.

9 MR. GARDNER: Recently you described having a pretty horrible car collision
10 into your house and being upset by that. From the Defense point of view, we just to
11 be sure that you're not like holding some morale grudge against people who are
12 accused of crimes so that you might tend to favor law enforcement or favor the
13 State.

14 PROSPECTIVE JUROR #007: I don't believe that I favor either or.

15 MR. GARDNER: Okay. So that experience didn't warp you enough that you
16 want to get revenge on somebody and you take it out here then, I hope.

17 PROSPECTIVE JUROR #007: Not at all.

18 MR. GARDNER: Okay, good. Thank you.

19 Ms. Burgess. You've got a husband who's a police officer in Henderson
20 and lots of friends who are police officers. In a trial like this where there's so many
21 police officers that might be witnesses, you said you thought you could be fair but
22 from the Defense point of view, you know, we worry that you might have to go home
23 and try to explain to your husband and his buddies that you said not guilty and when
24 police officers were testifying against the person. You feel like that'd be a morale
25 problem for you? That you could go home and --

1 MR. GARDNER: -- in a case like this?

2 PROSPECTIVE JUROR #010: No.

3 MR. GARDNER: Thank you.

4 If the State thought they had trouble with the order -- Mr. Guenther, can
5 I skip to you.

6 We've talked about people, Mr. Guenther, in -- Badge Number 82;
7 correct?

8 PROSPECTIVE JUROR #082: Yes, sir.

9 MR. GARDNER: You know I worry about people who were married to police,
10 or worked around police but you're -- are you -- you're actually -- are you a peace
11 officer?

12 PROSPECTIVE JUROR #082: No, I'm a civilian employee.

13 MR. GARDNER: A civilian employee.

14 PROSPECTIVE JUROR #082: Yes.

15 MR. GARDNER: But you work constantly, I assume, with police officers.

16 PROSPECTIVE JUROR #082: We have a limited contact with our sworn side
17 of our business but we do have some contact with them, yes.

18 MR. GARDNER: I'd just like to explore that a little more with you. Is it -- if you
19 have some officers testify and you go back to work and say, ghee, I voted not guilty
20 in a jury. Are you going to get some heat at work? Are you going to feel --

21 PROSPECTIVE JUROR #082: I wouldn't tell them first of all. It' would be
22 none of their business and no, I wouldn't -- I don't believe I would. I don't know any
23 of these -- the officers whose names were listed, I don't know any of them. It was
24 just the civilians that were mentioned that I have worked with some of the crime
25 scene people that were mentioned in there.

1 MR. GARDNER: Just to the panel as a whole, you know the State talked to
2 everyone about it seems like every single person here has either been the victim of
3 some kind of automobile offense or had some traffic offense. Again, just -- I know
4 you've been asked several ways, but I feel compelled to ask it again. Is there one
5 that feels that, boy, I had my car stolen or I had this car -- and this involves a car
6 case, that they would feel some indication as a juror, some pressure to vote guilty
7 because of something like that that's happened in your past? Is there anyone there
8 that feels that way that would be worried they couldn't be fair as a juror because of
9 that? I see no hands.

10 Your Honor, I pass the jury for cause then.

11 THE COURT: All right. Both sides having passed the jury panel for cause,
12 we're going to move seamlessly and quietly into the peremptory challenge phase.
13 Again, jury selection's bifurcated. The second phase of that bifurcation is
14 peremptory challenge.

15 In this department, peremptory challenges are executed quietly. I've
16 handed a piece of paper to my bailiff. He's going to move between the parties. A
17 peremptory challenge I think recognizes a simple truth. Each side has had a very
18 limited opportunity to ask questions of you individually and listen to the questions
19 that I, as the Judge, asked you, build insight, get answers to those questions. So
20 built into the process is some flexibility and it's recognized by way of a peremptory
21 challenge.

22 By rule, by law, each side has a limited number of peremptory
23 challenges. The rules say that they -- for these limited decisions, don't have to state
24 a rule, or a reason for it. They simply, again, in a limited sense look -- talk among
25 themselves, look at you. You're going to see them look up and probably make some

1 decisions, write those decisions on a piece of paper. The rules are that it goes back
2 and forth. But, again, it's all done silently. So rather than waste that time, as they
3 do their work, I like to -- I would like to take the time to explain to you what you can
4 anticipate happening if you find yourself on this jury after those decisions are
5 entered. 'Cause they're going to fill out that piece of paper, they're going to bring it
6 up to me, I'm going to go to my chart, make -- note those decisions, announce those
7 decisions so we'll have those folks who have been challenged by peremptory, stand-
8 up and move to the back. Those of you who remain, are the jury. I'll move you
9 around, keeping you in order and then send the rest on their -- rest of the panel on
10 their way.

11 Now, I explained to you your function, your unique and important
12 function as a finder of fact. You decide the facts of the case from the witness stand,
13 the evidence admitted; no other source, no other independent source. I also
14 explained to you very briefly my unique important role. One of my responsibilities to
15 you is to make sure that you can do your job. That you can hear and see everything
16 as it happens, as the witness is testifying, evidence is received, if any. So if you
17 cannot see or hear what's happening, raise your hand. Be proactive. Make sure I
18 know so I can move people around. I have some limited ability to move you around
19 in the jury box. I have -- I can make the witness talk -- move up to the microphone.
20 I have a lot of arrows in my quiver so to speak and make sure that you can do what
21 you need to do and see what you need to see. But I need you to raise your hand
22 and tell me that that's a difficulty you're having.

23 I want you comfortable. I've already told you about the water, soda,
24 coffee. Again, as long as it's not disruptive of the process and you would like to
25 have your coffee or soda there, bring it with you. Try not to spill it, obviously, on

1 fellow jurors or on the carpet. That's fine.

2 If you suffer from diabetes, which is the most common ailment I see and
3 you need to eat and you're on insulin or you're on medication and you need to eat
4 on a routine basis, again, as long as it's not disruptive of the process, bring it with
5 you as you need and take advantage of it as you require.

6 Now, I run about 90 minutes to two hours in terms of testimony. I find
7 that's about as long as people can sit in those chairs and focus and pay attention.
8 So you can anticipate about 90 minutes. Again, I look for a natural spot in the
9 process to break, whether it's a completion of a witness or at some spot based upon
10 my work and my -- doing this everyday, so that the flow is not interrupted. If you
11 have a sudden, unanticipated need for a break, you're not chained to those chairs.
12 Just raise your hands above your head and give me this, like you're breaking a stick.
13 That's: Judge I need a break. And I look at that, I see that nonverbal
14 communication with me and I do what I need to do to maintain the record and I'll
15 give you the opportunity you need to take a break, take care of your personal
16 business. So if you find yourself in that situation, suddenly ill, don't hesitate to
17 indicate to me in that fashion.

18 Now, jury trials are not a popularity contest. But you use the same
19 elevators, hallways as the parties do, lawyers do, witnesses come and go in this
20 building. And so I have to give you some -- another admonition. Basically, I've
21 admonished the parties, everybody involved in this case, that they're not to have any
22 type of contact, communication, with you; verbal, nonverbal, it doesn't matter.
23 They're not allowed to talk to you. They're not allowed to -- even as you walk out in
24 the afternoon or in the morning when they're coming in, they're not allowed to say
25 good morning, good afternoon, thank you for your service. Frankly, I tell them

1 they're not even supposed to look at you. The rules are, and they know, they're not
2 even supposed to look at you. They're supposed to pass you in the hallway like
3 you're not even there. If that happens and -- if that happens to you, I don't want you
4 to be offended. I don't want you to say: Well, that lawyer's a jerk. I don't like that
5 lawyer because they're not being polite to me. Again, they're under my orders for
6 those reasons not to have that contact with you.

7 You're allowed to talk and you do have an ability to communicate with
8 me in a formal sense. You cannot -- you've seen it in the movie,, it drives me crazy
9 when I do. You can't have a meeting with me in my office. You can't, say jump up
10 all secret and head off to my office and talk to my staff and have a communication.
11 You can't talk to the attorneys, obviously, for the reasons I've stated. No talk, no
12 communication with them. Your point of contact if you have questions or concerns
13 and you need to get information to me is the Bailiff. He's been trained and his task
14 is to, if you have a question, you can go to him and orally say, Dan -- you can call
15 him Dan, you can call him Reichert, you can call it Marshal, you can call him Bailiff,
16 frankly, you can call him anything you want because one of his functions in this
17 process is to be your -- kind of your -- the receiver. He takes the information
18 whether you give it to him orally or by way of a note. Understand, he doesn't
19 translate it, he doesn't interpret it. He brings that information to me and says Juror
20 Number 5 said X. I then reach out to the parties, as the rules require, and say to the
21 attorneys: Juror Number 5 communicated to the Bailiff X. And whatever that
22 situation is, I inform the parties and they on the record with me in that effort, answer
23 the questions or address the concerns or issues that might come up. And you never
24 know what they might be but you've got to respect that formality. So if you find
25 yourself in that situation, you need to communicate, you feel compelled to

1 communicate with the Court, you do it through the Bailiff either written or orally.

2 Now, each one of you has a phone in your pocket or your purse or in
3 your backpack, whatever you're carrying. That device gives you tremendous power
4 and it can be misused in circumstances of this type and has in the past, not in this
5 building, thank goodness, but in others. Say you're in the middle of this case you're
6 listening to evidence and you hear a word that you don't really understand and
7 nobody's satisfied you in defining it for you or hear about a particular location and
8 you really want more. You're anxious and hungry for more information. You cannot
9 pull up your phone. So it's a location you want to know about, an intersection. You
10 can't pull up your phone on a break and Google or go to Google Maps. Now,
11 frankly, I think it's great too. I have a phone. I like Google Maps. I like to go and
12 take that satellite shot, if you've ever done that, and go from space all the way into a
13 particular location. Most of you probably haven't done it. If you have -- have it done
14 after you're done here in this case, I would encourage you. It's kind of interesting.
15 It's a great power. But it cannot be used as a source of independent information for
16 you in this case. You have to rely on the parties and the witnesses to provide that
17 information to you. So if you find yourself interested and thinking, well, I could
18 answer this question so fast. No one would know. Let me just zoom in on whatever
19 it is, say location. I'm admonishing you. You cannot do that. We have to control
20 how that information gets to you so everybody understands what information you
21 have in order to make sure that the decision is a just and appropriate one based
22 upon the evidence.

23 Now, if you all followed the direction on the back of the jury summons
24 and you parked in the city parking lot down by Fremont Street, two things are
25 probably going -- I've got to be concerned out. You're probably angry because you

1 had to walk five blocks and it's 80 degrees and you're going to walk out at five
2 o'clock tonight and it's going to be 110 degrees and you're going to be hot, you're
3 going to be hired. It's going to be long strange day and you're not going to be happy
4 about that. So, if you're picked as a juror here, tomorrow morning and before you
5 leave, the Bailiff is going to give you a map to a lot that's parked -- that'll permit you
6 to park directly across the street and walk across the street as opposed to five
7 blocks. It's only for those who are sworn as a member of the jury. But your
8 situation, we respect as does court administration. We understand the difficulties
9 with parking and so we try to make it better if you're a sworn member of the panel.

10 Now, I start work tomorrow. I think we're going to probably start -- I
11 usually do a ten o'clock start. I start my work at eight o'clock in the morning but I do
12 law and motion work unrelated completely to the case in trial and then I start the trial
13 nine o'clock -- ten o'clock.

14 [Colloquy between the Court and the Court Clerk]

15 THE COURT: Then it's going to be a nine o'clock start unless I have a
16 difficult. Because I respect the fact that if you're a member of this jury, you're giving
17 up your schedule, you're sacrificing time. So I like to try to treat you with respect
18 and use your time efficiently. So it'll be a nine o'clock jury call tomorrow.

19 Again, I work about 90 minutes, two hours and I look for a place close
20 to that to take a break. In the afternoon, about the same; 90 minutes, it usually puts
21 us about three o'clock, 3:15. I look for a 15 minute break in the afternoon so you
22 can stretch your lefts and clear your head and then work till about five o'clock.
23 There's a lot of budget issues so we tend not to do much past five. Frankly, we're
24 pretty much precluded from running significant overtime. So you can anticipate for
25 today at least and tomorrow and if we push into Wednesday to some degree, that

1 that would be the schedule that you can anticipate. And you can take care of your
2 personal business in those breaks as you sit fit.

3 You're also going to be permitted and I'm informing you, you may take
4 notes in the case. Dan will hand you a notebook with a pen, pencil to take notes.
5 You don't have to take notes if you don't want to. You will have no transcript to draw
6 to -- excuse me for just a moment.

7 [Colloquy between the Court and the Marshal]

8 THE COURT: You'll have no transcript to refer to when the case is submitted
9 to you for deliberation. Your memory of the testimony, the notes that you take, the
10 exhibits and the law that I give you at the appropriate time are what you must base
11 your decision on.

12 Looks like we've got decisions made on peremptory challenges. Let me
13 make some notes here and announce those decisions.

14 [Pause in proceedings]

15 THE COURT: All right. If I read your name, your badge number and seat,
16 please stand and remain standing at your chair. And I mean no disrespect if I just
17 use your last name for purposes of brevity. Badge 9, Burgess, Chair 2; Ruggles,
18 Badge 12, Chair 4; Lukas, Badge 19, Chair 5; Bethea, Badge 88, Chair 6; Guenther,
19 82, Chair 9; Gallegos, 38, Chair 10; Cox, 45, Chair 11; Wood, 87, Chair 16;
20 Peterson, 67, Chair 19 and Castro, 79, Chair 24. If I've just read your name and/or
21 badge number, please pick up all your personal items and go stand over at the
22 Bailiff's station, please.

23 All right. Of those who remain, ladies and gentlemen, I need to
24 maintain the order but I'm going to move you around and into the jury box. Mr. Osti,
25 stay where you are in Chair 1. Ms. Cazimero, you can -- you're going to move one

1 over into Chair 2, ma'am. Ms. Tester, you're down into Chair 3 all the way down at
2 the end. Ms. Arreoloa, you're Chair 4 all the way down. Follow her please. Mr.
3 Swinburne, you're up and in the box, in the back, Chair 5, sir. Ms. Hudgens, follow
4 along into Chair 6, directly behind you. Mr. Velasco, you're in Chair 7 and that's in
5 the back, final seat in the back there, sir. Either one is -- what you're comfortable
6 with. And now we go to Mr. Callihan. You're in Chair 8. You're all the way to the
7 end, sir. Mr. Yukes, you're in Chair 9 in the box, directly behind you. Mr. Spear,
8 follow along, sir. Ms. Lamastus. Sorry.

9 PROSPECTIVE JUROR #068: That's okay. Lamastus.

10 THE COURT: You're in the box into Chair 11. Mr. Nunez, you're in the box in
11 Chair 12, directly behind you, sir. Ms. Sweeney, you're in the box in Chair 13 and
12 Mr. Taylor, you're in the box in Chair 14.

13 Ladies and gentlemen, both State and Defense, is this the jury you
14 picked? State?

15 MS. HERBERT: Yes, Judge.

16 THE COURT: And Defense?

17 MR. O'BRIEN: Yes, it is, Judge.

18 THE COURT: All right. Ladies and gentlemen, both standing and seated
19 behind the bar. That's you folks. I want to thank you for your time, your attention,
20 your patience here in Department 18. Your service here is complete. I'm sending
21 you back to the third floor, jury services. They may have additional work for you
22 tomorrow but I want to thank you for your patience, your time here. You are
23 excused.

24 We're going to mark as jury panel selection seating chart and the
25 peremptory challenges as executed by the parties as Court's Exhibits next in order.

1 [Outside the presence of the excused jurors]

2 THE COURT: Record will reflect that the balance of the panel has exited the
3 courtroom. Ladies and gentlemen, you are the jury selected to hear this case
4 having all challenges for cause and peremptory challenges addressed. Dan is
5 handing you now the red badge. That, again, will replace the white badge that you
6 received from jury services. That badge offers a couple of things to you that you
7 should be aware.

8 One, that as you move through the process downstairs through the
9 security gate, you can go to the attorney or the shortest line that's there. You show
10 that badge and the marshals should respect the fact that you are a sworn member
11 of this jury and you don't get to avoid security protocols but you get to move to the
12 front of the line so to speak. So keep that out.

13 Keep it on you when you're in the building too because it identifies you
14 as a sworn member of a jury and as you're moving up and down, people are
15 probably going to treat you a little different. They might step away from you or if
16 they're lawyers, everybody's in a bunch of suits, they may quiet down when you're
17 around. Basically, to show you deference to give you the time and room you need
18 to move efficiently up here to the 11th floor and do your job.

19 It also improves your parking situation as I've explained to you earlier
20 this morning -- or earlier this afternoon and Dan will hand you the maps on how to
21 take advantage of that. Now, Dan, you're going to hand out the notebooks, please,
22 and the pencils.

23 As he does that, ladies and gentlemen, I need you to all please stand
24 again now because we're going to swear you as a member of this jury.

25 THE COURT CLERK: Raise your right hand.

1 [The Court Clerk swears in the jury panel]

2 THE COURT: You may answer.

3 THE JURY PANEL: I do.

4 THE COURT: All right. Please be seated, ladies and gentlemen. The
5 notebooks are coming your way. As you receive the notebooks, you're going to note
6 that there's a number on the exterior of that notebook. Each one is unique to your
7 number and you should have the ones and keep that notebook as you move through
8 the process. That's private confidential information. The Bailiff is instructed to keep
9 that information private. He keeps them away from everybody else and only you get
10 to look at those notes. So tomorrow you'll be receiving that same booklet and you'll
11 have it through the balance of the process.

12 The next admonition I need to read to you and make sure you
13 understand is that: You are admonished that no juror may declare to any fellow
14 juror any fact relating to this case of his or her own knowledge. And if any juror
15 discovers during the trial or after the jury has retired that he or she or any other juror
16 has personal knowledge of any fact in controversy in this case, you must disclose
17 that situation to myself in the absence of the other jurors.

18 What this means is that if you realize that during the course of the trial,
19 that you have personal knowledge about the case, you're under a continuing
20 responsibility and continuing obligation to disclose that. Now, I also think this
21 admonition recognizes in a common-sense way that you know very little about this
22 case and that's by design. You have gotten into the evidence. So say a witness
23 takes the stand, you've been read a number of names but you didn't recognize the
24 name. You didn't put the name to the face. Maybe it's somebody that you a -- you
25 know, kind of a limited contact to. One of those, you know, situations where you see

1 a lot of people in your day, you just didn't put a face with the name. It doesn't -- if
2 you don't -- if you didn't recognize that but now you do, the witness is on the stand,
3 you go: oh my goodness. That's the guy who cuts my hair or the lady who cuts my
4 hair or I work next to that person in a cubicle and I didn't realize that that's who that
5 was. Failing to recognize that association doesn't mean that you've done anything
6 wrong. Failing to disclose that at jury selection a few minutes ago doesn't mean
7 you've done anything wrong. It only becomes a problem if you fail to disclose that
8 later on. So once you realize it, you're under a continuing responsibility to write out
9 a note in that pad that you just got say: I know this witness. Or as we're taking a
10 break, go to the -- go to Dan and say: Dan, I knew witness Number 4 and he brings
11 that information to me and as I described to you earlier, we talk about it among the
12 parties, among -- with me and we make decisions on whether or not any action or
13 further inquiry needs to happen.

14 But you're under that continuing responsibility. That's the most
15 important thing for you to recognize now. And that's true if you suddenly become
16 aware that you may know something about the facts of the case that you haven't
17 already talked about. Now, we've stayed away from that but if you realize that you
18 have personal knowledge of any fact in controversy in the case, you've got to
19 disclose that to myself in the absence of the other jurors.

20 All right. Now, we've already talked about doing no factual or legal
21 investigation. As I recall in my direction to you, I told you about technology and my
22 concerns about how that's been abused in other situations. It's also true that you
23 can't physically go to a location. So don't -- if there's a location like an intersection,
24 a building, some structure that's the focus of this case that becomes relevant,, you
25 can't on our evening break or evening recess go over to that location, stand at the

1 intersection and say, okay, there's the stop sign, there's the tree, there's the light.
2 Look at the cars. None of that. In fact, if there's a location that's described and it's a
3 location you recognize as one that you travel through to get to your home or get to
4 the courthouse, you anticipate that you might have to go through that intersection,
5 I'd ask you to change your travel just so you don't have that independent reference,
6 concurrent reference, in a physical sense though; no independent factual or legal
7 investigation, use of technology. And for the same reasons as stated, this is -- this
8 witness stand in front of you is your source of information and no other.

9 Now, this is a criminal case commenced by the state of Nevada, which
10 sometimes I might refer to the State, against Mr. Watters. This case is based upon
11 an Information which the Clerk will now read to the ladies and gentlemen of the jury
12 and state the plea of the Defendant to that Information.

13 [The Court Clerk reads the Information to the Jury]

14 THE COURT: Now, ladies and gentlemen, this is case is based upon the
15 Information which has just been read to you by the Clerk. You should distinctly
16 understand that the Information is simply a charge and not any evidence in any
17 sense of the evidence of the allegation it contains. The Defendant has pled not
18 guilty to the charge; therefore, the burden is on the State to prove each essential
19 element of the charge beyond a reasonable doubt.

20 Now, as the Defendant sits here now he is not guilty. The purpose of
21 this trial is to determine whether the State will meet its burden and it is the primary
22 responsibility of the jurors to find and determine the facts. Under our system of
23 criminal procedure, you are the sole judges of those facts. You determine the facts
24 from the testimony that you hear and other evidence including exhibits introduced
25 into court. And, frankly, it is up to you to determine what inference may be properly

1 drawn from the evidence.

2 Now, at times you may hear the word objection. Attorneys have a
3 responsibility as we move through the case and sometimes they may object. If they
4 do and I sustain the objection, order that you disregard certain testimony or exhibits,
5 you must do that. You may not consider any evidence to which an objection was
6 sustained. You may not consider anything you've seen or heard outside the
7 courtroom. You must not be influenced by any degree of feelings of personal
8 feelings and sympathy or prejudiced against the Defendant. Both sides are entitled
9 to the same fair and impartial consideration.

10 Now, taking into consideration the weight and value of the testimony of
11 any witness, you may consider the appearance, the attitude, behavior of the
12 witness, the interest of a witness in the outcome of the case, if any, the inclination of
13 the witness to speak truthfully or not, the probability or improbability of the witness'
14 statements and, frankly, all facts and circumstances in evidence. You may give the
15 testimony of any witness just such weight and value as you believe the testimony of
16 the witness is entitled to receive.

17 Now, there are two types of evidence. There's direct evidence and
18 circumstantial evidence. Direct evidence -- there's a variety of examples. One of
19 them is a witness who takes the stand and testifies that they heard, saw, smelled,
20 touched something. Circumstantial evidence is different.

21 Circumstantial evidence is proof of different facts, independent facts
22 that prove a third independent fact. Let me give you an example that I think kind of
23 illustrates in a very simple sense. Say, when you walked in this courtroom, this
24 windowless courtroom, on the 11th floor a few minutes ago, you looked out the
25 windows here and you saw it was beginning to cloud up. We're kind of in monsoon

1 season. It's clouding up. You look out and you go, hmm, it's clouding up. Say you
2 walk out in another half hour or 45 minutes at our normal break time and you look
3 out the same windows only it's change. Outside now it appears that there's
4 moisture on the exterior of the windows. You look out -- you study out further. It
5 looks like the pavements wet from your perception or your perspective up here;
6 maybe some umbrellas out with people walking down below. You could conclude,
7 based upon those two separate observations that it's rained in the time that was in
8 this windowless room. You wouldn't have been able to see it. Again, it's
9 windowless, no functional ability to observe that but based upon the circumstantial
10 evidence, you could reasonably conclude that.

11 Again, you are the judges of the facts. You decide either direct or
12 circumstantial, what weight to give either. The law makes no distinction between the
13 two.

14 Now, as we inch closer to the actual presentation of evidence, this is
15 how it works. In a few minutes each side is going to have an opportunity to do
16 what's known as an opening statement. It's important for you, ladies and
17 gentlemen, to understand that the words of the lawyers, either in opening statement
18 through the case or closing argument at the end, the words of the lawyers
19 themselves are not evidence. The words and the words of the lawyers offer context
20 while the questions are being asked to the answers to the witnesses give. In
21 opening statements, sometimes it's referred to as like the index to a book or a
22 roadmap and everybody has a different way of kind of explaining it. What it is --
23 what's important for you to understand from -- at this point is that it's not evidence.
24 It's just the attorneys' ability or opportunity to try to get in front of the evidence to
25 explain to you in a narrative, in a discussion or a statement to you, frankly, a

1 narrative, on where they believe the testimony and the witnesses are going to take
2 you when the witnesses take the stand and testify.

3 After opening is complete, then we move into case in chief. The
4 government, the State, they have the burden. Sole burden is with the State to prove
5 each element of the crime beyond a reasonable doubt. They go first. They call
6 witnesses and the witnesses are examined in a fashion that's fairly consistent with
7 what you see in drama. The attorney that calls asks questions and then the other
8 side, the opposing side, has an opportunity to ask questions as well and elicit
9 testimony and information that they believe is relevant to their side.

10 Each witness examination is handled the same. However, after the
11 witness' testimony is complete, both direct and cross, redirect, recross as we move
12 through that process, but before the witness is discharged, the Supreme Court has
13 set up a procedure by which you, ladies and gentlemen, may ask witnesses a
14 question. But there's some direction that I need to give you. I can't let you just ask
15 a question, verbally, orally. We've got -- same rules apply whether it's a question
16 coming from you, ladies and gentlemen, or one of the attorneys. The way we need
17 to control that is by having you write out the question on a clean piece of paper from
18 your notebook. Tear it off, hand it to the Bailiff. He brings it up. We -- I bring the
19 lawyers up. If it fits all the rules, I'd read the question to the witness. The witness
20 will answer the question and then I'll give you an opportunity to ask any follow-up
21 question you might think are relevant.

22 It's important to remember or let me tell you, it's got to be a factual
23 question. It cannot be a procedural question. And, again, the rules are the rules
24 whether -- whoever's asking the question. It doesn't matter. I apply those rules the
25 same. So if the question is asked by you, and it fits those rules and it can be asked,

1 we follow that process; give you a chance to ask the question in writing and move
2 through it.

3 All right. If that happens, and it commonly does, you can't -- and I
4 admonish you not to give that question and more importantly the answer to that
5 question any greater weight simply because it's one you thought of and not thought
6 of by the lawyers. It's got to be balanced with all the other information that's been --
7 and questions and answered asked by whoever asked them.

8 There are times when a question posed by a juror, for whatever reason,
9 cannot be asked. The rules -- again, rules are rules. I look at it. It's either not -- it's
10 either legal, procedural, or it's not quite on point. The parties are -- their input is -- I
11 take their input but if the decision is that I can't asked the question, I simply mark the
12 question. Give it to Ms. Mayfield and move forward in the process. I don't explain to
13 you why. I don't help you -- and usually what happens is I read the question and if
14 we could change it, because you're not lawyers, you're not trained in law.
15 Sometimes if we tweaked it, everybody can kind of see where you're going with the
16 question, but it can't be asked as its written, I can't help you change it. I can't
17 engage with you and say, well, if we change if to then and -- or try to change the
18 tense or clean it up a little bit, it might be appropriate. I don't have that discussion
19 with you. I simply mark it and move forward in the process. If we find -- or if you
20 find yourself in that situation, you've gone to the trouble to write out the question and
21 it's not asked, don't get angry with anybody thinking they're trying to hide something
22 from you. It's not the intent of the parties or anybody to hide that information from
23 you. But, again, rules are rules. We apply the law and make that decision.

24 After that effort's done and everybody's had their chance to ask
25 questions of the witness, I discharge the witness. Next witness is called and we

1 move forward in the process.

2 I said earlier, and I'll say it again, the process of jury trials and taking of
3 testimony sometimes can be slow, painfully slow; sometimes it can move along
4 pretty rapidly. It all depends on -- each case is unique. If you are one who likes to
5 takes notes, you can if you wish. You don't have to if you don't want to. You know
6 your own minds. You know the best way for you to collect and maintain information
7 as you move through the process. Again, you won't have a transcript to draw to.
8 You must look at the notes and your memory of the evidence when you retire to the
9 jury deliberation to deliberate the case.

10 Each witness is handled the same. After the State has presented their
11 case, you're going to hear one of them probably stand up and say the State rests.
12 Remember that this is a criminal case. There's no burden on the Defense to do
13 anything at all but they have an opportunity. After that's done and evidence is
14 complete, you're going to hear me say to you, that completes the evidence portion of
15 the trial. After the evidence is done, then we move into the instruction phase of trial.

16 I prepare written forms of instruction. I reduce them to writing, typed
17 and numbered for you. I give you a stack of those instructions on eight and a half by
18 eleven pieces of paper and you have the law in your hands. At that point what I do
19 -- because the law is of such importance, I don't talk to you about it. We don't have
20 a discussion about it. I literally read from the first instruction to the last instruction
21 from the rules that you have in your hand. We don't collect them back up then
22 because we move from instruction, after I've read the law, into argument, closing
23 argument. State goes first; Defense has their opportunity to do closing as well and
24 then State has final word in what's known as rebuttal.

25 After that effort's done, you've got the facts that you've heard and the

1 evidence that you've taken from the witnesses. You've got the law that I've given
2 you and had an opportunity to have everybody argue in front of you about where the
3 direction you should go based upon those two important -- those tools. Then I have
4 the officer -- I swear the officer or Ms. Mayfield swears the officer. He takes charge
5 of you. He moves you back into the jury deliberation room. They take all the
6 evidence back there. He closes the door and then you deliberate as a panel and
7 make the important decisions that you must make in the case. In short, in about five
8 minutes that's what you can anticipate happening procedurally over the next few
9 days.

10 I remind you if you can't hear something or see something, raise your
11 hand. Be proactive. In fact, and I didn't say it and I'll say it now, the one problem
12 I've had when jurors are interested in asking questions is that you've got to raise
13 your hand. Because what I'm going to do is I'm going to say is there anything else
14 for this witness? And I'm going to look at the lawyers first because they've called
15 the witnesses and are examining the witnesses. But then I'm going to look at you.
16 And before the witness leaves, if you want to ask a question, when I say: May this
17 witness be excused or something to that affect, if you want to ask a question, get
18 your hand up right away. I'll give you time, whatever time you need, to think about
19 the question and write out the question. I'm not pressuring you in terms of time. I
20 just need to know you're interested in that question being asked. And so write out
21 your question and then we ask the witness the question. I cannot call a witness
22 back once they're out those doors.

23 Say we're on to witness two and you want to call -- and now you realize
24 you think you want to ask witness one a question. I can't call witness one back.
25 Once they get out those doors, for all intents and purposes, they're gone from the

1 process. They've offered their information and we're moving forward in the
2 evidence, not backwards. So for you again -- be proactive. Get your hand up if you
3 have a question you want to ask, make sure you say so or indicate verbally -- not
4 verbally, by raising your hand.

5 Obviously, you can't talk to each other. You can't say what do you
6 think? Should I ask a question of that witness or what do you think? You can't
7 reach out to one another either. You've got to keep all this information personal,
8 close to the vest so to speak, as you hear it and your impressions of it as well. The
9 time to talk about your impressions of the evidence and the testimony is when you
10 go back into the jury deliberation room and begin that important process. So don't
11 talk to each other back the case; don't talk to anyone else about the case.

12 When you take your break this afternoon and you reach out to your
13 loved ones or your family and say now I'm on the jury. At lunch I was just in
14 selection. Now I'm still on the jury and I'm hearing this case. You can tell them
15 again, it's a criminal case that you've been selected to be a member of the jury but
16 you can't tell them about the case. You can't tell them about the information and
17 evidence and ask them what they think. Even if it's a person's opinion you value.
18 Again, keep that information private, personal until the appropriate time to deliberate
19 the case with your fellow jurors.

20 If you go out those doors and somebody attempts to contact you. They
21 say, oh, are you on a jury? What do you think? You want to -- and they want to talk
22 to you about the case. That's inappropriate too. Nobody should be reaching out to
23 you and trying to discuss outside the four corners of this room what your service is
24 about. If that happens, pull from that contact immediately. Report it to the Bailiff
25 and I'll deal with it. Nobody should be talking to you or trying to talk to you about the

1 case.

2 Now, this is an open and public courtroom. These doors are open for a
3 reason and people come and go all the time. So -- and there's -- there are
4 professionals; newspaper, TV, radio. People that are assigned to this building, they
5 walk around trying to find out what's happening, what's going to trial, what's not
6 going to trial, all that. That's what they get paid to do. If you find yourself in a
7 situation where this case is reported in an independent media, you're not allowed to
8 use that independent media or source for any information, for facts. So you've got
9 to disregard that. If it's your common practice, you like to pull up the RJ in the
10 morning; you like to read the little blurbs that are in the V section. Should you find
11 yourself -- find this case reported, you're not allowed to consider that information
12 and you must disregard it. And that goes for any source of media information.

13 We've already talked about that you can't visit the scene or do any
14 independent factual or legal investigation. I don't need to talk about that again. It
15 seems to make sense. Again, for the same reasons as I've stated throughout, this
16 witness stand and the witnesses who testify from it and the evidence that's received
17 in this effort must be your source of information and evidence and no other.

18 All right. With those directions then, I'll tell you what. Let's take our
19 afternoon recess, 15-minute recess, right now. And then we'll move forward with
20 opening statements.

21 Remember, ladies and gentlemen, it is your duty not to converse
22 among yourselves or with anyone else on any subject connected with this trial.
23 Further, you may not read, watch or listen to any report of or commentary on this
24 trial by any medium of information including newspaper, television or radio, Internet.
25 You may not form or express any opinion on any subject connected with this case

1 until it's finally submitted to you.

2 Officer Reichert's going to take charge of you. Based upon where he's
3 standing, I think he's going to show you where the jury deliberation room is. Let you
4 stretch your legs and we'll move forward to opening statements here in 15 minutes,
5 ladies and gentlemen. Officer Reichert, take charge of this jury please.

6 [OUTSIDE THE PRESENCE OF THE JURY]

7 THE COURT: Record should reflect we're outside the presence of the jury
8 panel. Any additional record need be made as a consequence of selection earlier?
9 State?

10 MS. HERBERT: No, Your Honor.

11 MS. WONG: No, Judge.

12 THE COURT: Defense? Anything?

13 MR. O'BRIEN: Nothing, Judge.

14 THE COURT: All right. Let's do ten.

15 MR. O'BRIEN: Judge, if I can just ask one etiquette question.

16 THE COURT: Sure.

17 MR. O'BRIEN: It's not really -- it doesn't really need to be on the record.

18 THE COURT: Sure.

19 MR. O'BRIEN: Do we have permission to move around the well of the
20 courtroom?

21 THE COURT: Absolutely. You have permission to move -- use the courtroom
22 as you see necessary throughout the case. The only thing I'd ask is if it's a heated
23 cross or something, stay back from the witness unless I give you permission to
24 approach. But other than that, use the courtroom, both sides. All right?

25 MR. O'BRIEN: Okay. And just to be very specific, is it okay -- is it acceptable

1 to move the podium?

2 THE COURT: Yes. If you can't see, you can move the podium.

3 MR. O'BRIEN: Richard, I promise to move it in a way that does not disrupt
4 the microphone.

5 THE COURT: Well, if you, Dick will make that --

6 [Colloquy between the Court Recorder and Counsel]

7 THE COURT: All right. Anything else?

8 MR. O'BRIEN: Thanks, Judge.

9 THE COURT: All right. See you in a few minutes.

10 [Afternoon recess taken at 2:50 p.m.]

11 [Trial resumed at 2:59 p.m.]

12 [OUTSIDE THE PRESENCE OF THE JURY]

13 THE COURT: This is C272483, State of Nevada, Plaintiff, versus Frankie
14 Watters. The record should reflect the presence of representatives of the State and
15 Defense, outside the presence of the prospective panel.

16 When I stepped down for break, evidently, victim witness -- your victim
17 witness called my chambers and asked whether or not the case -- a jury had been
18 picked and something about a witness in a taxi and said -- my staff said jury
19 selected, there's going to be evidence. I'm putting that on the record 'cause I'm not --
20 - I'm not comfortable with -- they should be reaching out to you.

21 MS. HERBERT: Right.

22 THE COURT: Not to the Court. Okay? I don't know who it was. I don't know
23 who -- anymore than I just said, but I'm making a record of it. Okay?

24 MS. HERBERT: Judge, we'll let them know not to call chambers. I don't -- I'm
25 surprised that they did that --

1 THE COURT: I know.

2 MS. HERBERT: -- to be honest.

3 THE COURT: Defense, do you have anything on that? I don't even know
4 who it was.

5 MR. GARDNER: No.

6 MR. O'BRIEN: Nothing, Your Honor.

7 MR. GARDNER: No.

8 THE COURT: All right.

9 [Pause in proceedings]

10 THE COURT: When do you think you want to settle up in instructions?
11 Tomorrow at lunch? Does that seem -- does that work?

12 MS. HERBERT: Sure.

13 THE COURT: You read a long list of police officers, so.

14 MS. HERBERT: It's scarier than it sounds.

15 THE COURT: I was going to say, it sounded like a week trial.

16 MS. HERBERT: No.

17 MS. WONG: No.

18 Judge, are we starting tomorrow at nine o'clock?

19 THE COURT: Yes.

20 [Pause in proceedings]

21 THE COURT: Okay? Jury coming in.

22 [IN THE PRESENCE OF THE JURY]

23 THE MARSHAL: Jury's present, please.

24 Panel's present, Your Honor.

25 THE COURT: Thank you. This is C272483, State of Nevada, Plaintiff, versus

1 Frankie Watters. Record should reflect the presence of representatives of the State
2 and Defense and all members of the jury panel do appear to be present. Will parties
3 stipulate to the presence of the entire jury panel? State?

4 MS. WONG: Yes, Your Honor.

5 THE COURT: And Defense?

6 MR. O'BRIEN: Yes, Your Honor.

7 THE COURT: The record should reflect we are at opening statements. State,
8 you have the floor.

9 MS. HERBERT: Thank you, Judge.

10 **OPENING STATEMENT FOR THE STATE**

11 **BY MS. HERBERT:**

12 Good afternoon once again, ladies and gentlemen. This is a case
13 about doing whatever it takes to get away from the police when you've committed a
14 series of crimes.

15 It starts on March 17th of 2011. Heather Reed went to work at Boulder
16 Station. She parked her vehicle in the parking lot. When she came back from work,
17 her vehicle was missing. So she calls the police. They look around the parking
18 garage to see if she's misplaced it somewhere and she realizes it's been stolen.

19 On March 18th of 2011, so the very next day, Jayme Pointer is at a four-
20 way stop sign on Nellis and Sun Valley. Right there on the map. While she's
21 stopped at the four-way stop sign, she's rear-ended by a Chrysler Sebring with
22 license plate Nevada 3267GE. This is the same car that Heather Reed had
23 reported stolen the day before. The evidence will show that the Defendant was
24 driving that car when he hits Jayme Pointer in the back of her trailer. She has a
25 motorcycle trailer on the back of her car so it actually hits the trailer.

1 She gets out to go talk to the Defendant to get his information, to figure
2 out if there's any damage 'cause the trailer actually belongs to her friend. So she
3 wants to make sure, even though there's no visible damage that everything is okay.
4 At this point, he's reluctant to give her any information. Tells her something along
5 the lines of: Call the police if you want. She gets on the phone to call the cops and
6 at that point, the Defendant takes the Sebring, drives up onto the sidewalk, causing
7 all four hubcaps to pop off of the vehicle, almost strikes some children on the
8 sidewalk, cuts back into the street, loses control of the vehicle for a second and
9 speeds off.

10 At the same time, Sergeant Baker and Officer Rowe are at the
11 intersection of Tropicana and Boulder Highway. They're finishing up an unrelated
12 call in that area where they receive information regarding the Chrysler Sebring in the
13 area that's driving recklessly. Sergeant Baker's at the intersection and notices a
14 Chrysler Sebring with a Hispanic male adult with no hair driving the car. Officer
15 Rowe also sees a similar thing. When she's at the intersection, the Defendant's
16 driving the Sebring. He's about to turn and then fishtails, changes direction,
17 because Officer Baker is the first vehicle about to turn as well. Officer Rowe flips
18 around, starts to follow the Defendant; however, he's going at such a high rate of
19 speed down Tropicana heading towards Stephanie that it was unsafe to pursue at
20 that time because it was right around the time when school got out and there were
21 children in the area.

22 So at this point, we have Officer Baker -- or Sergeant Baker and Officer
23 Rowe see the Defendant in that vehicle. He takes off down the street and they lose
24 him. At the same time, right around, Officer Mass is dispatched to the accident that
25 Jayme Pointer was in at Sun Valley and Nellis. While he's on route to that accident,

1 he receives information that the Sebring is spotted at the Eastside Cannery. So
2 when he gets to the Cannery, he's there with Officer Bleak. They look and they find
3 a Sebring but there's nobody inside of it. Two cars down there's a suspect matching
4 the description of the driver of the Sebring in a Honda. Officer Maas makes eye
5 contact with that individual. It's the Defendant. He's bent down in the Honda doing
6 something and then they pull their guns. Tell him to get out of the car. At that point,
7 he backs up and speeds off from the Eastside Cannery turning onto Boulder
8 Highway. Officer Maas and Officer Bleak get in their vehicles -- back into their
9 vehicles and try to pursue him.

10 Meanwhile at the Eastside Cannery, Canine Officer Harper is also in
11 that parking lot looking for this -- for the Defendant in the Sebring. He then receives
12 the information that now the Defendant is in this Honda vehicle. He sees him speed
13 off from the Cannery, go onto Boulder Highway. So he's following right behind. He
14 has his lights and sirens on. Once he gets to Boulder Highway, the Defendant goes
15 in between the median, which is a rock graveled landscaping area, drives through
16 that, goes into the oncoming traffic, dodging cars and proceeds to the Wal-Mart.
17 You see there's a star on the Wal-Mart. That's because when he's on the wrong
18 side of the road driving, he hits a vehicle at the Wal-Mart that's trying to exit.

19 The -- Officer Harper is staying on the correct side of the road. He's --
20 at that point, he turned off his lights and sirens because he's trying to deter any
21 more reckless behavior by the Defendant driving the Honda. He sees debris fly
22 everywhere from this accident at the Wal-Mart. The Defendant keeps on driving and
23 he proceeds to the intersection of Nellis and Boulder Highway.

24 At that intersection he blows through the stop sign, spins out. The
25 officer's attempts to -- Harper and a couple other officers attempt to take their cars

1 and pin him in to prevent him from going anywhere. He manages to wiggle out of
2 that and then he keeps going down to Flamingo. Once he gets to Flamingo, he
3 turns, loses control of the car at Flamingo. At this point, Officer Harper is still in
4 pursuit and Officer Maas and a couple other officers are in the area also trying to get
5 to the Defendant to get him to stop driving in such a reckless manner. He turns onto
6 Flamingo and proceeds to the underpass of Flamingo and 95. Officer Maas catches
7 up with him around the first arrow on Flamingo; he's following, Officer Harper's
8 following.

9 And then at this point at Flamingo, Officer Pro who was at Pecos and
10 Flamingo getting gas also proceeds to the area of Flamingo and 95. All of them are
11 there and the Defendant is driving -- he's going in one direction, turns around, goes
12 into oncoming traffic, turns around again. The officers will describe it's something as
13 like he was going in circles under the highway.

14 And then at some point he gets on to the onramp, goes onto the 95
15 South and heads towards Tropicana. Officer Harper is still in pursuit in visual of
16 him. Meanwhile, some of the other officers fall back a little bit because the air unit
17 has visual. They don't want to cause more of an issue having all these patrol cars
18 on the highway with lights and sirens.

19 Everyone catches up again to him -- with him on Tropicana and the 95
20 when he gets off. At this point, the Defendant gets off and does a similar thing that
21 he was doing at Flamingo and 95. He's going in one direction, doing a U-turn,
22 coming on oncoming traffic. At some point he does into the dirt area. You can see
23 the dirt area right over here that's under construction. There's dirt and rocks being
24 kicked up everywhere and during that confusion, he collides with yet another vehicle
25 under -- near the Tropicana, 95 exit.

1 He then finally goes down Tropicana. He actually runs the red light at
2 the 95 North off ramp at Tropicana, runs that light, heads down to Mountain Vista
3 and Tropicana, runs that light and then eventually collides with David Granger,
4 who's driving a Mayco Autos [sic] Part truck. When he collides with David Granger,
5 he actually goes over the median again and is driving now into oncoming traffic.

6 Officer Harper at this point follows him into the oncoming traffic. So
7 he's got a couple patrol cars following him, hits that vehicle, keeps going and then
8 he ends up turning left onto Nellis, runs the initial four-way stop which is where the
9 accident with Jayme Pointer happened when -- where this all started, runs that stop
10 sign and then he turns onto Harmon and turns -- he turns onto Harmon and at that
11 point he actually hits Officer Pro's patrol vehicle.

12 Officer Harper and Officer Pro are trying to pin him in. At that point, he
13 backs into Officer Pro's vehicle. Officer Pro then uses his vehicle, pushes him up
14 against the curb. The Defendant at this point jumps out of the passenger side of the
15 car into the Wal-Mart.

16 When he's in the Wal-Mart other officers, Officer Rowe, Officer Harper
17 and Sergeant Baker go into the Wal-Mart to look for him. They locate him in an
18 aisle. He has his hands in his pockets. They tell him to get down on the ground.
19 He's not listening to them. And Officer Harper, who's actually a canine officer, ends
20 up releasing his dog Rocco [phonetic] and Rocco ends up taking the Defendant
21 down and he goes into custody.

22 The owner of the Honda, while he's at the Eastside Cannery, is eating
23 at the buffet and he has basically no idea that his car had just been stolen from the
24 parking lot, that his car has gotten into several different accidents, until he comes
25 back out of the Cannery and they take him to the accident site where he can see his

1 vehicle.

2 So in this case we have the charges of possession of stolen vehicle,
3 grand larceny auto and evading of -- basically, evading a police officer, also called
4 failure to stop on the signal of a police officer. As you listen to each of these
5 witnesses and this story gets pieced together, we're going to ask that you listen to
6 everybody carefully. And you'll notice this case is a case about getting away at all
7 costs. That the Defendant ends up totaling two different vehicles in order to do this.
8 The two cars didn't belong to him. He didn't have permission to drive either of them
9 and he endangered the public by driving in such a reckless manner causing several
10 accidents.

11 So after hearing the evidence in the case, we're going to ask you to find
12 the Defendant guilty on possession of stolen vehicle, guilty on grand larceny auto,
13 and guilty on failure to stop on a police officer's signal.

14 Thank you.

15 THE COURT: Defense, you have the floor.

16 **OPENING STATEMENT FOR THE DEFENSE**

17 **BY MR. O'BRIEN:**

18 Ladies and gentlemen, I'm going to ask you to do something
19 deceptively simply. It's something that's the Judge has asked you to do earlier
20 today. It's something that the District Attorneys asked you to do earlier today as
21 well. Keep an open mind until you've gotten to the end of all the evidence in this
22 trial.

23 Trials are peculiar contests. If the Judge, from his analogy earlier, is
24 the referee in charge of the law in this courtroom, then I guess that makes you the
25 scorekeepers determining between these two parties who scores points, which

1 points matter, which ones are valid. And as scorekeepers, one of the things your
2 probably want to ask first is what are the rules? And actually I should say -- I don't
3 mean to compare this to a game because it's much more serious than a game. We
4 are in a criminal trial. Mr. Watters' life is at stake. But when I talk about the idea
5 that you don't know the rules yet, in a trial the Judge is the only person who can
6 instruct you on the law and he'll do that at the end of the trial. Maybe seem a little
7 bit backwards because you might like to know the elements of these charges up
8 front to see whether the evidence fits it or not. That's the way that a trial goes along.
9 So I'm going to ask that you keep your mind open till the Judge has had a chance to
10 instruct you on those elements and you've heard all the evidence.

11 Now, I said that's deceptively simple and here's why. Our minds don't
12 really work that way. Our minds are constantly making judgments as we go along.
13 So when everyone in this room has asked you to keep an open mind, that's a very
14 active task. It's a discipline task; waiting till the end to see if the State has met their
15 burden. And at the end the Judge will instruct you that the State has the burden of
16 proving every element of the charges they've levied against Mr. Watters beyond a
17 reasonable doubt. But, ladies and gentlemen, at this point that's all I'm asking. Just
18 keep an open mind until the end of the evidence, until the Judge has instructed you
19 on the rules.

20 Thank you.

21 THE COURT: State, call your first witness.

22 MS. WONG: State calls Heather Reed.

23 HEATHER REED

24 [having been as a witness and being first duly sworn, testified as follows:]

25 THE COURT CLERK: Thank you, ma'am. Please be seated. State and spell

1 your name for the record.

2 THE WITNESS: Heather Jean Reed. Spell my last name or?

3 THE COURT CLERK: Spell the last name, please.

4 THE WITNESS: R-E-E-D.

5 THE COURT CLERK: Thank you.

6 THE COURT: Counsel, as soon as you're set up and ready to go, you have
7 the witness.

8 MS. WONG: I'm sorry.

9 THE COURT: As soon as you're set up, ready to go, you have the witness.

10 MS. WONG: Thank you, Judge.

11 THE COURT: Counsel.

12 MS. WONG: Thank you, Judge.

13 **DIRECT EXAMINATION**

14 BY MS. WONG:

15 Q Good afternoon, Heather. Which state do you currently live in?

16 A Hawaii.

17 Q Okay. And where did you reside back on March 17th of 2011?

18 A Las Vegas.

19 Q Okay. And did you come back to Las Vegas for these proceedings
20 today?

21 A Yes.

22 Q Now, where were you -- were employed back in March of 2011?

23 A Yes.

24 Q Where were you employed?

25 A The Regal Entertainment Theater at Boulder Station.

1 Q And what did you do there?
2 A General manager.
3 Q Now, directing your attention to March 17th, 2011 did you go in to work
4 that day?
5 A Yes.
6 Q Okay. And how did you get to work?
7 A I drove.
8 Q In what type of vehicle?
9 A The Chrysler Sebring.
10 Q Is that a 2006 Chrysler Sebring?
11 A Yes.
12 Q Is that a convertible?
13 A Yes.
14 Q And was that -- the license plate on it, was it Nevada 326TGF?
15 A Correct.
16 Q All right. What color was your vehicle?
17 A Silver with a black top.
18 Q Okay. Now, when you arrived for work, where did you park your
19 vehicle?
20 A The lower level of the parking garage.
21 Q Would that be the public parking garage?
22 A Yes.
23 Q Okay. Do employees have their own specialized parking garages?
24 A Not the theater employees, we just park with everyone else.
25 Q And you indicated your parked on the first floor?

1 A Yes.

2 Q Do you generally park on the first floor?

3 A Yeah.

4 Q Okay. Now, approximately what time did you arrive in the garage?

5 A I believe it was like 2:00 or 2:30 in the afternoon.

6 Q So after parking your vehicle, do you recall whether you locked the

7 doors to your car?

8 A Yes.

9 Q And do you lock them with an alarm or do you do it manually?

10 A With a alarm thing.

11 Q And were the windows rolled up all the way up after your parked your

12 car?

13 A Yes.

14 Q And after locking your vehicle, did you take your keys with you?

15 A Yes.

16 Q Now, what hours were you scheduled to work that day at the Boulder

17 Station Theater?

18 A I believed I work 2:30 to 11:30.

19 Q I'm sorry. Say that again.

20 A 2:30 to 11:30.

21 Q Okay. And what time did you actually leave work that day?

22 A 11:30.

23 Q Now, after you left work, did you immediately go to the parking garage

24 to return to your vehicle?

25 A Yes.

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1 Q And did you discover anything when you got to the parking garage?

2 A It was not there.

3 Q Okay. So what did you do when you discovered your vehicle was
4 missing?

5 A Well, I looked around. I usually park in the same area but I looked
6 around just in case for some reason I parked somewhere else that day. And I went
7 up to the second level and then when I couldn't find it, I went and got my manager to
8 come out with to look at it -- to see if she could see it for some reason. I don't know
9 why I couldn't be able to but she knew what the car looked like.

10 When we couldn't find it, we went to the casino security and they took
11 me around to look for the car.

12 Q Okay. And did you ultimately find your vehicle?

13 A No.

14 Q Okay. So what did you do when you realized your vehicle really was
15 missing and you hadn't just misplaced it?

16 A We -- I called the cops.

17 Q And other than the officers, did you call anybody else?

18 A My husband.

19 Q Okay. Why did you call your husband?

20 A 'Cause he would have to come pick me up

21 Q So you were stranded at the theater now.

22 A Yes.

23 Q Okay. Now, how many keys are -- how many sets of keys are there to
24 that vehicle?

25 A We had two sets.

1 Q And who was in possession of those vehicles -- of those keys when the
2 vehicle went missing?

3 A I had one and then the other one was at the house.

4 Q Okay. And did you ever see those -- that set of keys at the house?

5 A Yes.

6 Q So you know for a fact that your second set of keys was at the house.

7 A Yes.

8 Q Okay. Now, other than -- does your husband have permission to drive
9 your vehicle?

10 A Yes.

11 Q Now, other than your husband, does anybody have permission to drive,
12 or take or possess your vehicle?

13 A No.

14 Q And you indicated that you did call the police?

15 A Uh-hum.

16 Q Did you make a report?

17 A Yes.

18 Q Okay. And do you know whether or not the vehicle was ever
19 recovered?

20 A About -- I think it was about 24 hours later or so I got a call from the
21 police saying that it was recovered.

22 Q And did you recover your vehicle?

23 A No. I -- my insurance company picked it up from the -- where they
24 towed it from -- to and took it to the body shop.

25 Q And was the body shop ever able to repair your vehicle?

1 A No; it was totaled.

2 Q Did you actually go down to the body shop to view the condition of the
3 vehicle?

4 A Once they decided it was totaled, I went down and picked up all my
5 personal items from the car.

6 Q Now, what was the condition of the vehicle when you saw it at the body
7 shop?

8 A The outside had a little bit of damage, wheels were dented and
9 hubcaps were off. Inside the steering column and the turn signal had been torn off
10 and then you can tell that the ignition had been damaged. You wouldn't be able to
11 get a key into it.

12 Q What do you mean by that?

13 A The -- like the -- like where you would go to put the key in, that whole
14 area looked like they had jammed a screw driver in it or something. I don't know but
15 it was pretty damaged.

16 Q Were there scratches?

17 A Yeah; it was scratched and pretty damaged.

18 Q All right. Now, you indicated the steering column cover, was that just
19 gone?

20 A It was on the passenger side seat when I got to the car.

21 Q All right. Now, when you parked your car at the Boulder Station parking
22 garage on March 17th, what condition was your vehicle in?

23 A It had everything attached to it and it was drivable.

24 Q So for the most part everything was somewhat in perfect condition?

25 A Uh-huh.

1 MS. WONG: May I approach the witness, Your Honor?

2 THE COURT: Yes. Have you shown the pictures --

3 MS. WONG: I have.

4 THE COURT: -- to opposing counsel?

5 MS. WONG: I have.

6 THE COURT: All right.

7 MR. GARDNER: We've seen them, Your Honor.

8 BY MS. WONG:

9 Q I'm showing you what's been marked as State's Proposed Exhibits 2, 3
10 4 and 5. Could you take a look at these and let me know whether you recognize
11 this?

12 A Yeah; that's my car.

13 Q And is that a fair and accurate depiction of your vehicle?

14 A Uh-hum.

15 MS. WONG: State moves for the admission of State's Proposed Exhibits 2
16 through 5 into evidence.

17 THE COURT: Any objection 2 through 7 [sic]?

18 MR. GARDNER: No objection, Your Honor.

19 THE COURT: Hearing no objection, those documents will be received -- or
20 those photographs will be received.

21 **[STATE'S EXHIBITS 2 THROUGH 5 ADMITTED]**

22 MS. WONG: Thank you, Judge. Permission to publish?

23 THE COURT: Yes.

24 BY MS. WONG:

25 Q Now, Heather, I'm showing you State's Exhibit 2. What are we looking

1 at here?

2 A That's my Chrysler Sebring.

3 Q And showing you State's Exhibit 3. Again, what is that?

4 A My car again.

5 Q Now, when you last saw your vehicle back on March 17th, 2011, was
6 there liquid running out of it?

7 A No.

8 Q And were there rims attached to these wheels?

9 A Yes.

10 Q Is there anything else in this picture that looks -- is there anything in this
11 picture that is now there that wasn't there when you last saw it on March 17th, 2011?

12 A Yeah; all the scratches that are on that side weren't there.

13 Q The --

14 A Yeah; right there.

15 Q For the record you're talking about the scratches --

16 A Uh-hum.

17 Q -- on the right door panel here?

18 A Yeah.

19 Q Showing you State's Exhibit 4. Again, is that the front of your vehicle?

20 A Yes.

21 Q And again you indicated there is no liquid -- there was no liquid running
22 out of your car.

23 A No.

24 Q Okay. And showing you State's Exhibit 5. Is this your license plate?

25 A Yes, it is.

1 Q Now, did you have insurance on the vehicle?

2 A Yes.

3 Q Did the insurance pay out anything for the loss of your vehicle?

4 A The State Farm Insurance paid about 8,000 and then we had gap
5 insurance that paid the remaining 2,000.

6 Q And what is gap insurance?

7 A We take it out when you buy the car and it's pays whatever the
8 difference in what your insurance company will pay versus what the car -- what you
9 owe on the car.

10 Q And when did you purchase this vehicle?

11 A 2007, November.

12 Q Did your purchase the car used?

13 A Yes.

14 Q Okay. Now much did you purchase the vehicle for back in 2007?

15 A It was about 19,700.

16 Q Now did you bought -- pay for it in cash or was it a loan?

17 A No; it was a loan.

18 Q And by the time that your vehicle was totaled, how much was remaining
19 on your loan.

20 A A little more than 10,000.

21 Q And is that what the insurance companies paid out?

22 A Yeah.

23 Q How many miles did you have on your vehicle when it was totaled?

24 A 45,400.

25 Q Okay. Now, Heather, do you know the Defendant and I'm talking about

1 the gentleman to my furthest left here. Do you know this individual?

2 A No.

3 Q Okay. Did you give him permission to drive or possess your vehicle on
4 March 18th, 2011?

5 A No.

6 MS. WONG: Pass the witness.

7 THE COURT: Cross-examination.

8 MR. GARDNER: We don't have questions for this witness, Your Honor.

9 THE COURT: Anything else for this witness?

10 Please step down.

11 Call your next witness.

12 MS. HERBERT: Sergeant Baker.

13 THE MARSHAL: Remain standing, raise your right hand, please.

14 **TABITHA BAKER**

15 [having been called as a witness and being first duly sworn, testified as follows:]

16 THE COURT CLERK: Ma'am, please be seated. State and spell your name
17 for the record.

18 THE WITNESS: Tabitha Baker, T-A-B-I-T-H-A, Baker, B-A-K-E-R.

19 THE COURT: Counsel, your witness.

20 MS. HERBERT: Thank you, Judge.

21 **DIRECT EXAMINATION**

22 BY MS. HERBERT:

23 Q Where are you employed?

24 A Las Vegas Metropolitan Police Department.

25 Q And how long have you been employed there?

1 A Eleven and a half years.

2 Q Do you have any other law enforcement experience?

3 A Yes, I do.

4 Q And what is that?

5 A I have a year of State of Nevada Parole and Probation and I have one

6 year with White Pine County Sherriff's Department.

7 Q And where's that located at?

8 A White Pine County Sherriff's Department is in Ely, Nevada.

9 Q Okay. And on March 18th of 2011 were you working that day?

10 A Yes, I was.

11 Q And what shift were you working?

12 A Day shift.

13 Q And what are the hours of a day shift?

14 A 6:30 to 4:30.

15 Q At approximately 3:15 were you assigned to a call regarding a stolen

16 Chrysler Sebring?

17 A Yes, I was.

18 Q Okay. Was that bearing license plate Nevada 3267GF?

19 A Yes, ma'am.

20 Q Okay. At some point did you actually see that vehicle.

21 A Yes, ma'am. I did.

22 Q And where was that at?

23 A It was at the intersection of Tropicana and Boulder Highway.

24 Q Okay. Were you -- what were you doing right before you saw that

25 vehicle?

1 A I had just finished a call at the corner of Tropicana and Boulder
2 Highway at 5600 Boulder Highway. The call was dispatched and I left Sportsman,
3 which is that located, and was parked at a red light facing eastbound on Tropicana.

4 MS. HERBERT: Okay. Permission to approach, Judge?

5 THE COURT: Yes. Have you shown --

6 MS. HERBERT: I did.

7 BY MS. HERBERT:

8 Q I'm going to show you what's been marked as State's Proposed Exhibit
9 1. Please look at that and tell me if you recognize it.

10 A Yes, I do.

11 Q And what is that?

12 A This is the area where I work, where I was at.

13 Q Okay. And is that a fair and accurate depiction of a map of the area
14 where you work?

15 A Yes, it is.

16 MS. HERBERT: Permission to admit -- State's going to move to admit State's
17 Proposed Exhibit 1 into evidence.

18 THE COURT: One is offered. Any objection?

19 MR. O'BRIEN: No objection, Your Honor.

20 THE COURT: It's received without objection.

21 **[STATE'S EXHIBIT 1 ADMITTED]**

22 MS. HERBERT: Permission to publish?

23 THE COURT: Yes.

24 BY MS. HERBERT:

25 Q Okay. Do you see that on your screen?

1 A Yes, I do.

2 Q Okay. If you touch your screen, it'll make marks.

3 A Okay.

4 Q So you can please just put an X or a circle at the intersection where you

5 saw the Sebring?

6 A It went a little -- on the roadway, of course. It went down too low.

7 Q Okay. And that's the intersection of you said Tropicana and Boulder

8 Highway?

9 A Yes.

10 Q Okay. And which direction were you going to travel?

11 A I was facing east.

12 Q East okay. And where was the Sebring located in that intersection?

13 A It was traveling from the north traveling southbound on Boulder

14 Highway.

15 Q And were there any cars in front of you at the intersection?

16 A No; I was the first car at the light.

17 Q Were you in a marked or unmarked patrol car?

18 A I was marked.

19 Q And after you noticed the Sebring, what did you do next?

20 A I got on the radio, advised dispatch that I just the vehicle.

21 Q What did you see the vehicle do after you advised the radio?

22 A The vehicle was traveling south on Boulder Highway. It appeared that it

23 was going to make a right turn to travel west on Tropicana. It appeared that the

24 vehicle saw my vehicle and made a furtive movement to -- instead of going

25 westbound of travel, eastbound instead. So at a high rate of speed went eastbound

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1 instead of going westbound.

2 Q Okay. And so once that happens, what do you do next?

3 A I advise dispatch I saw the vehicle, that it was traveling westbound on
4 Tropicana, which like I said, then he corrected and went eastbound. I tried to
5 update it on the radio. I couldn't because we have a new radio system that has to
6 have a delay. Another black and white unit saw me so I was pointing saying: No,
7 eastbound. So he could give out the traffic 'cause I still couldn't get access on the
8 radio.

9 Q Okay. Did you have a -- was it a newer radio system at that time?

10 A Yes, ma'am, it is.

11 Q Okay. Were you guys having some problems with that system?

12 A Yes, ma'am. It has to have a time to rekey. So it has a delay so you
13 can't get on and transmit and immediately transmit again. You have to give it a
14 second to reset.

15 Q Okay. Who was the other officer that you had seen and were pointing?

16 A Officer Matt Rowe.

17 Q Okay. How far away were you from him so that he could see you
18 pointing?

19 A Right next to each other. He was facing west. I was facing the east
20 and I was pointing like this. So then he gave out the traffic that the vehicle was
21 going east not west.

22 Q Okay. And which road were guys on ?

23 A Tropicana.

24 Q Tropicana. Okay.

25 And once you saw the Defendant, you said he started going east on

1 Tropicana?

2 A Yes, ma'am.

3 Q Okay. Once you saw him turn east, what did you do next after --

4 A I proceeded across the intersection and when I got to Jimmy Durante,
5 Stephanie area, the vehicle was already gone. There was a crossing guard
6 because Whitney Elementary is located at the intersection. I asked the cross guard
7 if she saw a vehicle at a high rate of speed going through that intersection and she
8 no.

9 MR. O'BRIEN: Objection, Your Honor. Hearsay.

10 THE COURT: Sustained.

11 THE WITNESS: Okay.

12 BY MS. HERBERT:

13 Q Can you -- on the map can you mark where Whitney Elementary would
14 be?

15 A It would be over here a little bit where the white section's at. So it's kind
16 of off the map just a pinch.

17 Q Okay. So it'd be for the record, just right off the map.

18 A Yes.

19 Q Okay. And is Stephanie marked on the map?

20 A Yes, it is.

21 Q Can you please just point to the intersection of Stephanie and
22 Tropicana?

23 A Is that showing? Sorry.

24 Q Okay. Yes. Is it fair to say that you never saw the vehicle again after
25 Stephanie?

1 A Yes, that's correct.

2 Q Based upon the fact that school was getting out at the time, what was
3 your decision in how to pursue for this call?

4 A I updated on the radio that I lost visual of the vehicle. I did not activate
5 any type of emergency equipment 'cause I didn't know where the vehicle went. So I
6 remained in that area to watch the vehicle to come back through because the kids
7 were already in the crosswalks out walking and like I said, it's an elementary school.

8 Q Okay. At some point -- so while this call's going on, is it fair to say that
9 you're receiving information from dispatch and on the radio?

10 A Yes.

11 Q Okay. Based upon the information that you're receiving from the radio,
12 did you learn that the person in the Sebring was -- at some point went to a different
13 vehicle?

14 A Yes.

15 Q Okay. What kind of vehicle was that?

16 MR. O'BRIEN: Objection, Your Honor. Calls for hearsay.

17 MS. HERBERT: Judge, it's for state of mind as to why she's going to do what
18 she's going to do.

19 MR. O'BRIEN: Your Honor, the information's coming over the radio. It's the
20 entire basis for how she would know this information.

21 THE COURT: Sustained.

22 Rephrase.

23 BY MS. HERBERT:

24 Q Based upon the information you received on the radio, did your focus
25 turn to a different vehicle?

1 A Yes, it did.

2 Q And what vehicle was that?

3 A I believe it was a Honda but there again, I never joined --

4 Q Okay.

5 A -- any of the actions after that point.

6 Q Fair enough. Did you ever respond to the Wal-Mart on Harmon Circle
7 and Harmon?

8 A Yes, I did.

9 Q Okay. And what made you go to the Wal-Mart?

10 A The person that was driving that vehicle had jumped a wall and was
11 going into the Wal-Mart.

12 Q Okay.

13 A So it was a foot pursuit at that point.

14 Q So after you see the vehicle on Trop and Boulder Highway to
15 Stephanie, is it fair to say your next involvement in the call was to go to the Wal-
16 Mart?

17 A Eventually it was. What I did was as the officers were in a pursuit; I did
18 what's called a bubble tactic where I follow on adjacent streets but not code or
19 anything. I just follow to wait and see if the vehicle's going to come off another
20 street so that we can give updates so. That's all I did.

21 Q Okay. So just describe where you went after --

22 A Okay.

23 Q -- you lost the vehicle.

24 A Okay. I proceeded up Stephanie to Jimmy Durante. Jimmy Durante
25 winds around, comes through here and then Flamingo, and then I came across

1 Flamingo to Boulder Highway, crossed Nellis. I continued up and to Mountain Vista.
2 At this point the vehicle is broadcasted to be on the 95 so I travelled south. Oops,
3 sorry. It's not really letting me do it right on the street. But anyway, I'm traveling
4 south on Mountain Vista and then I get to Harmon. As I'm in this area right here, we
5 see that the vehicle gets into an auto accident right here behind the Wal-Mart.

6 So I proceed to here and then that's when the call out a foot pursuit that
7 he jumps a back wall. So I come around the front of the Wal-Mart and that's where I
8 go into the back of the Wal-Mart --

9 Q Okay.

10 A -- and go on foot pursuit.

11 Q Okay. Once you get into the Wal-Mart, what do you see?

12 A As soon as I get into the Wal-Mart, there's a bunch of clerks and store
13 room people. I'm asking what direction the officer, Officer Coleman went because
14 that's who I was trying to assist. They point me into a direction. I start running up
15 the aisles, clearing the aisles trying to see and then I find Officer Coleman, Canine
16 Officer Jeff Harper, Officer Matt Rowe, with the subject in the aisle.

17 Q Okay. What's your role in the Wal-Mart at this point in the
18 investigation?

19 A They already were giving commands so I was trying to back off the
20 looky lous, I guess you could call it. It's Wal-Mart. It's a very busy Wal-Mart so we
21 had all kinds of people still shopping. There were people still selecting items off the
22 shelf and the canine dog and the officer and everybody are trying to give commands
23 to back up. So I was just trying to keep everybody away from the situation.

24 Q Did you ever get a good look at the suspect when you were in the Wal-
25 Mart or were you more focused on the crowds?

1 A No, I was -- right.

2 MS. HERBERT: Court's indulgence.

3 BY MS. HERBERT:

4 Q When you saw the vehicle at Tropicana and Boulder Highway --

5 A Uh-huh.

6 Q -- were you able to see generally what the person driving the Sebring
7 looked like?

8 A Yes, ma'am.

9 Q What was -- what could you generally see?

10 A A Hispanic male with shaved heard wearing a gray T-shirt.

11 Q How far away were you from that vehicle?

12 A It pulled right up in front of me. I mean we were very close.

13 MS. HERBERT: Court's indulgence.

14 Pass the witness.

15 THE COURT: Cross-examination.

16 MR. O'BRIEN: Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 BY MR. O'BRIEN:

19 Q Officer Baker, I know you testified to when you heard the call for the
20 Chrysler Sebring. I'm sorry; I didn't hear your answer. What time was that?

21 A I don't know. I have to refer to my report for the exact time.

22 Q Okay.

23 A It was later in the shift, after 1500.

24 Q And you started that shift at 6:30?

25 A Yes, sir.

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1 Q Okay. And you first encountered the Chrysler Sebring on Boulder
2 Highway?

3 A Yes, sir. Boulder Highway and Tropicana.

4 Q And he -- and the car was traveling south on Boulder Highway?

5 A Yes, sir.

6 Q And that -- those lanes on Boulder Highway are three lanes?

7 A Yes, sir. I believe three south, three north.

8 Q Okay. And what's the -- do you know the speed limit there?

9 A I believe it's 45.

10 Q And the Sebring turned. So you were facing east on Tropicana.

11 A Yes, sir.

12 Q And the Sebring is facing south on Boulder Highway.

13 A Traveling south on Boulder Highway, yes, sir.

14 Q Traveling south on Boulder Highway. Okay. And was the Sebring
15 speeding?

16 A It seemed to be at a high rate of speed.

17 Q Okay. And did you have chance to clock the driver?

18 A No; I stopped.

19 Q Okay. And then you attempted to pursue the driver once he made the
20 turn. Is that correct?

21 A I traveled across the intersection to see where he went but I never
22 activated red lights or sirens.

23 Q Okay. And what kind of patrol vehicle were you driving?

24 A A black and white, Crown Vic.

25 Q A Crown Vic, okay. And when the Sebring made the turn, you were

1 stopped at the stop light?

2 A Yes.

3 Q Okay. And he had -- the Sebring originally turned east on Tropicana.

4 Is that correct?

5 A It attempted to go west first and then made this furtive movement to

6 where it ended up going east. So that's why my initial radio traffic was he's traveling

7 westbound, but he didn't go west. He ended up turning. Like, it's like a jagged

8 movement like this and ended up going eastbound.

9 Q So the Sebring was in the right hand lane?

10 A No.

11 Q Attempting to go west? Which lane was it when it --

12 A No, he was towards the center, towards the fast lane. I don't know if he

13 was in the first lane or the second. He came so fast. Like I said, I was at the light.

14 Here comes the vehicle. It appears that he wants to go westbound. I give the

15 update and then he -- I don't know if he sees me and that's why he turns and goes

16 eastbound but he makes a furtive movement and ends up proceeding eastbound

17 instead of west.

18 Q Okay. And at the time that the Sebring was making the turns, you were

19 listening to radio calls?

20 A Yes.

21 Q Watching for traffic?

22 A Yes.

23 Q And so you saw the driver through your windshield.

24 A Yes.

25 Q And over the hood of the Crown Vic.

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1 A Yes.

2 Q And at least one lane in to Boulder Highway?

3 A Yes.

4 Q It's about, would you say 30 to 40 feet away?

5 A I'm not good with distance --

6 Q Okay.

7 A -- to be honest.

8 Q But at least one lane away from you.

9 A At least one lane, yes.

10 MR. O'BRIEN: Okay. And -- court's indulgence.

11 No further questions, Your Honor.

12 THE COURT: Redirect.

13 MS. HERBERT: Nothing further.

14 THE COURT: Anything else for this witness?

15 Please step down.

16 THE WITNESS: Thank you, sir.

17 THE COURT: Call your next witness.

18 MS. HERBERT: Officer Rowe.

19 THE MARSHAL: Remain standing, raise your right hand and face the Clerk.

20 **MATTHEW ROWE**

21 [having been called as a witness and being first duly sworn, testified as follows:]

22 THE COURT CLERK: Thank you, sir. Please be seated. State and spell

23 your name for the record.

24 THE WITNESS: Officer Matthew Rowe, first name Mary, M-A-T-T-H-E-W;

25 last name, R-O-W-E.

1 THE COURT: Counsel, your witness.

2 MS. HERBERT: Thank you. Judge.

3 DIRECT EXAMINATION

4 BY MS. HERBERT:

5 Q Where are you employed?

6 A With the Las Vegas Metropolitan Police Department, ma'am.

7 Q And how long have you been so employed?

8 A Approximately three years.

9 Q Were you working on March 18th of 2011?

10 A I was.

11 Q And what shift were you working?

12 A I was working days.

13 Q What time is the day shift?

14 A 6:30 in the morning to 4:30 in the afternoon.

15 Q And at approximately 3:15 were you assigned to a call regarding a
16 Chrysler Sebring?

17 A I was.

18 Q And did you actually see that vehicle yourself?

19 A Eventually.

20 Q At some point

21 A At some point; yes, ma'am.

22 Q Okay. What -- where was that at?

23 A When I saw that vehicle it was I believe at the Cannery. I think it was
24 finally stopped around that point.

25 Q Okay. Were you -- before you were assigned to the call regarding the

1 Chrysler Sebring, do you remember what you were doing the call prior to that, where
2 you were at?

3 A I was at 5600 Boulder Highway, also known as Sportsman's Manor.

4 Q Okay. I'm going to show you what's been admitted as State's Proposed
5 Exhibit 1.

6 MS. HERBERT: Judge, can I -- permission to approach?

7 THE COURT: Yes.

8 BY MS. HERBERT:

9 Q Do you recognize this?

10 A Yes, ma'am.

11 Q I'm going to put that on the Elmo. Okay. He does have a screen. Can
12 you mark on the map where the address that you just said that you were at prior to
13 the call?

14 A Right there.

15 Q Okay. And who else was with you on that call?

16 A At that time Officer Baker, soon to be Sergeant Baker.

17 Q Okay. And what did you do right after that call?

18 A After that we were assigned to call reference Nevada Highway Patrol
19 had gotten a call stating that a female --

20 Q Well, let me stop you for a second.

21 A I'm sorry.

22 Q Don't tell me what Nevada Highway Nevada Patrol said.

23 A Okay. I'm sorry.

24 Q Just what -- were you looking for anything after you received
25 information?

1 A Oh, I'm sorry. We were looking for a stolen vehicle that the owner I
2 believe was following.

3 Q Okay. Did you -- do you know what type of vehicle that was?

4 A It was a Sebring.

5 Q Okay. Did you actually see that -- see the Sebring that came over the
6 radio at any point?

7 A Not at that time; no, ma'am.

8 Q Okay. When -- did you ever see the Sebring?

9 A Eventually I saw it at the end of the day.

10 MS. HERBERT: Okay. Court's indulgence for a second.

11 BY MS. HERBERT:

12 Q After the call where you just marked the address, were you on patrol
13 with Sergeant Baker?

14 A Yes.

15 Q Okay. Did both of you pursue any vehicle right after the call?

16 A We were given the description of the vehicle. She pulled out first. I
17 was still in the apartment complex. She radioed to me because she was sitting at
18 the stop light at the corner of Trop and Boulder that the vehicle had gone eastbound.
19 At which point I proceeded to go after it. She got stopped at the light. I was looking
20 for the vehicle. I made a U-turn right there and we ended up kind of facing each
21 other. She pointed the other direction, meaning -- I'm sorry. I was -- she radioed it
22 was going westbound. The vehicle was actually going eastbound because it missed
23 its turn or whatever. I made a U-turn. She pointed the other way. I radioed that it
24 was going eastbound.

25 Q Okay. What kind of vehicle was that?

1 A It was a Sebring.

2 Q And when you said she, and where you're saying --

3 A I'm sorry.

4 Q -- that's Officer Baker.

5 A Officer -- Sergeant Baker.

6 Q Okay. She was an officer at that time?

7 A Yeah; you'll have to forgive me it was very recent that she got
8 promoted.

9 Q Yeah; no problem. So she was an officer at that time.

10 A Yes.

11 Q Now she's a sergeant.

12 A Yes, ma'am.

13 Q But it's Officer Baker and Sergeant Baker are the same person.

14 A Yes, ma'am.

15 Q Is that fair? Okay.

16 Where did you follow the Sebring to?

17 A I proceeded to make another U-turn and attempt to locate it. It -- at that
18 point we had lost it but we were talking to numerous people that said it went north
19 on Stephanie --

20 MR. O'BRIEN: Objection, hearsay.

21 THE COURT: Sustained.

22 MS. HERBERT: Judge, I'm sorry.

23 BY MS. HERBERT:

24 Q When you saw the Sebring -- so you did a bunch of U-turns to --

25 A Yes.

1 Q -- follow a Sebring. Is that correct?
2 A Yes, ma'am.
3 Q Okay. Where did you go when you initially went to follow the Sebring?
4 A I went back eastbound on Tropicana looking for it.
5 Q Okay. Where did you see -- where did Officer -- you see Officer Baker
6 point to for you to follow?
7 A To go eastbound on Tropicana.
8 Q Okay. So you headed eastbound on Tropicana and then what did you
9 do?
10 A We began to look for the vehicle.
11 Q Okay. And at any point did you -- you said you saw the vehicle again at
12 the Cannery?
13 A I saw eventually. It was a number of -- I think it was like two hours later.
14 I had to run something over there and I saw it there and came back. It was brief.
15 Q Okay. After you lose the vehicle on Tropicana, what's the next thing
16 that you did?
17 A We all began to look for the vehicle. We're getting multiple reports of
18 sightings of a vehicle out of control being driven erratically. We attempt to locate it.
19 Another officer picks it up I think at --
20 Q Okay. Can I stop you for a second?
21 A Yes.
22 Q What did -- what specifically did you do --
23 A I just --
24 Q -- based upon the information that you had received on locations of the
25 vehicle? Like, exactly draw on the map where you went.

1 A I went up here and started to go up this way.

2 Q Okay.

3 A And then another officer picked up the vehicle I think here. I believe
4 that was either -- I'm sorry, here. Right here. And then we got a radio that it was
5 going through Wal-Mart. It was a separate vehicle. I think here they changed
6 'cause the vehicle ended up going over here. I went up here. I'm sorry.

7 Q Okay. Can I --

8 A Yeah.

9 Q Let me go back. So what -- the first street that you drew on, what's the
10 name of that street?

11 A This is Stephanie. Eventually it turns into Jimmy Durante.

12 Q Okay. What direction are you traveling?

13 A I am traveling northbound on Stephanie and then for a brief time west,
14 and then northbound on Jimmy Durante again.

15 Q Okay.

16 A I came across here. I'm sorry. Across here.

17 Q And what road are you drawing on right now?

18 A I'm on Flamingo.

19 Q Going which direction?

20 A I'm going westbound.

21 Q Okay.

22 A Here. And approximately right here is where I pick up a second vehicle.

23 Q Okay. So while you're traveling in that direction, are you constantly
24 receiving radio updates --

25 A Yes.

1 Q -- on what's going on regarding the initial call regarding the Sebring?

2 A Yes.

3 Q Based upon the information you receive on the radio, were you at some
4 point looking for a different vehicle that wasn't the Sebring?

5 A Yes.

6 Q And what kind of car was that?

7 A Can I look at my report to refresh my memory on color?

8 Q Sure. If looking at the report, would that help you refresh your
9 recollection?

10 A Yes, ma'am.

11 MS. HERBERT: Okay. Permission to approach

12 THE COURT: Yes.

13 BY MS. HERBERT:

14 Q Please look at your report and then once you're ready, let me know.

15 A It was a green --

16 Q Wait, hold on, hold on.

17 A Okay.

18 Q Okay. Can I -- are you done looking?

19 A Yep. Yes, ma'am.

20 Q Did that -- looking at the report, did that help refresh your recollection?

21 A Yes, ma'am.

22 Q Okay. And this was written close in time of the event of what had
23 occurred on March 18th.

24 A Yes, ma'am.

25 Q Okay. And based upon having your recollection refreshed, do you

1 remember what kind of, the second vehicle you're looking for, what kind of vehicle
2 that was?

3 A It was a green Honda four door.

4 Q Okay. And did you end up personally seeing that green Honda four
5 door?

6 A Yes, ma'am.

7 Q And where was that?

8 A At the onramps right here at 95 and Flamingo. It made a number of U-
9 turns.

10 Q Okay. And did you see other -- any other officers there at the time?

11 A I remember several officers being there. The only one that I really
12 remember specifically was the canine officer and that was Officer Harper.

13 Q Okay. And what specifically did you see the Honda doing in that area?

14 A It made a number of U-turns. It jumped the median at least three times
15 that I observed and then it made a right turn onto the onramp. It crossed the line
16 from the northbound to the southbound and it kind of brushed the wall as it made the
17 turn there and that's when I actually ended up behind the vehicle.

18 Q Okay. Were you ever able to get close enough to the vehicle where
19 you could get a description of the driver?

20 A No, ma'am.

21 Q Okay. Once you were behind the vehicle, what did you do next?

22 A I proceeded to follow it on the southbound onramp. On the other side
23 as we were about to make the move onto 95, the air unit advised that they had
24 arrived and would take over the pursuit at which point my sergeant told all the
25 officers to back off. So I stopped with my lights and sirens, shut down code three

1 driving, backed off the vehicle and allowed the air unit to follow.

2 Q Okay. At this point are -- is it fair to say that you're receiving
3 information from the air unit?

4 A Yes, ma'am.

5 Q And based upon that information, where do you go next?

6 A I continue, because I'm already on the 95 southbound, behind the
7 vehicle quit a distance. So I come to Tropicana, which is right here.

8 Q Can you actually see the vehicle even though you're behind it?

9 A I could see the vehicle until it was out of my visual range. I would say
10 that by the time that it got to the onramp. I think it went over the edge of the onramp
11 and that's where I lost it. It went out of my visual horizon.

12 Q And how fast were you traveling on the highway between Flamingo and
13 Tropicana?

14 A At first I started it out, I would say, approximately 90 to 100 miles an
15 hour, but as soon as I made the turn and I shut down my code three driving, I
16 dropped down to normal highway speed, which is 65 miles an hour.

17 Q Okay. And then you testified that you end up losing sight of the Honda
18 vehicle.

19 A Yes, ma'am.

20 Q Okay. So is it fair to say that vehicle was exceeding what you were
21 traveling at, 65 miles per hour?

22 A Yes, ma'am, by some distance.

23 Q Okay. Do you see the vehicle again at Tropicana and the 95?

24 A No, ma'am.

25 Q Okay. When's the -- what's the next thing you do when you're on the 95

1 and get off at Trop?

2 A I head down Tropicana till I come to Mountain Vista. I'm still receiving
3 information. I hear the vehicle going northbound on Mountain Vista. I head
4 northbound. Once I hit, I think, Mountain Vista and Harmon, I hear over the radio
5 that the vehicle has crashed and then from that point, it get's kind of garbled as what
6 the vehicle's doing, but I head eastbound on Harmon. When I get to Harmon and
7 Nellis, I hear that the driver has bailed, meaning he has --

8 MR. O'BRIEN: Objection, hearsay.

9 THE COURT: Sustained.

10 BY MS. HERBERT:

11 Q Okay. Based upon information that you've received from dispatch,
12 when you're on Harmon, where do you go?

13 A I go to the front of Wal-Mart.

14 Q Okay. And what do you do once you get to Wal-Mart?

15 A Once I get to Wal-Mart, due to the fact that I heard over the radio that --

16 MR. O'BRIEN: Objection, hearsay.

17 THE COURT: Sustained.

18 BY MS. HERBERT:

19 Q Okay. Once you get into the -- don't tell me what you did --

20 A Okay.

21 Q -- because of what you heard over the radio.

22 A I exit the vehicle --

23 Q Okay.

24 A -- and enter the west door of Wal-Mart and proceed along the first aisle
25 as soon as you enter.

1 Q Okay. And once you got into the Wal-Mart and went down the aisle, did
2 you see anything unusual?

3 A As I entered the Wal-Mart, I -- people were pointing. I visually saw
4 them pointing at the direction towards the back and I proceed along that way and
5 then a male approaches me matching the description of the very first subject that we
6 had from the Sebring. I see that subject. That subject and me lock eyes. He goes
7 -- takes my right, it would be his left 'cause he's coming out of the back and goes
8 down an aisle. At which point I hear Officer Harper's dog next to me barking and
9 that's why I know that Officer Harper's there.

10 I give commands for the subject to take his hands out of his pockets
11 and which point he refuses to or doesn't acknowledge me. I draw my weapon, I
12 point it at him. I start giving verbal commands for the subject to get on the ground.
13 He doesn't. He refuses to take his hands out of his pocket. I hear Officer Harper
14 and I say to Officer Harper: He's yours; meaning, you're going to be on nonlethal
15 form. I will take lethal. I hear other officers around me. I believe Officer Coleman
16 also gave commands.

17 Q Okay.

18 A And I hear Sergeant Baker in the background telling people to back up.

19 Q Okay. So based upon the information you received when you go to the
20 Wal-Mart, were you looking for a suspect in particular?

21 A Yes.

22 Q And is that the person that you saw in the aisle that you said you locked
23 eyes with?

24 A Yes, ma'am.

25 Q Okay. Do you see that person in court -- in the courtroom today?

1 A Yes, ma'am.

2 Q Can you please point to that person and tell me something he or she's
3 wearing?

4 A Blue shirt.

5 MS. HERBERT: May the record reflect identification of the Defendant?

6 THE COURT: Which side of the table?

7 THE WITNESS: Right side.

8 THE COURT: It will reflect identification.

9 MS. HERBERT: Thank you, Judge.

10 BY MS. HERBERT:

11 Q When you're in the Wal-Mart and you lock eyes with the Defendant,
12 how close are to him?

13 A It started out approximately 20 feet. It ended up being less than
14 probably seven feet.

15 Q And after -- well, at some point, is the Defendant taken into custody?

16 A Yes, ma'am.

17 Q And who does that?

18 A It's a combination of Officer Harper, myself and Officer Coleman.

19 Q Okay. Once he's taken into custody, what's your role?

20 A We, meaning me and Officer Coleman, stand him up and walk him
21 outside to the front of my patrol car.

22 Q Okay. At any point do you perform a search on the Defendant?

23 A Yes, ma'am.

24 Q Okay. What, if any -- well, do you locate any car keys on the
25 Defendant?

1 A No, ma'am.

2 Q Is there anything else that you noticed in the Wal-Mart that was of
3 significance to this case?

4 A I performed a walk through of the Wal-Mart to the rear looking at all the
5 different places that he had come and I had gone. So had come from the back the
6 of Wal-Mart because he had exited those doors. I walked back that way and on the
7 ground next to another officer that had already found it, was a sweatshirt.

8 Q Okay. And when you said where he had come, are you referring to the
9 Defendant?

10 A I am. Yes, ma'am.

11 Q Okay. I just want to make sure the record's clear.

12 A Yes, ma'am.

13 Q And what did the sweatshirt look like?

14 A It was darker colors. It was kind of dark back there. I believe it was
15 black and blue or a mixture of those two colors.

16 Q Okay. And was this item of significance because of information that
17 you had received over the radio?

18 A Yes, ma'am.

19 MS. HERBERT: I'm going to show you what's been marked as State's 6, 7,
20 and 8. Permission to approach?

21 THE COURT: Yes.

22 BY MS. HERBERT:

23 Q If you would look at State's Proposed 6, 7 and 8 and tell me if you
24 recognize them?

25 A Yes, ma'am. That's the sweatshirt that was in the receiving area of

1 Wal-Mart.

2 Q Okay. And you personally saw this sweatshirt on the ground?

3 A Yes, ma'am.

4 Q And are these three pictures fair and accurate depictions of the
5 sweatshirt that you saw in Wal-Mart?

6 A Yes, ma'am.

7 MS. HERBERT: Permission to -- State's going to move to admit Proposed
8 Exhibit 6.

9 THE COURT: Six is offered at this --

10 MS. HERBERT: Seven. I'm sorry, six, seven and eight.

11 THE COURT: Six, seven and eight are offered. Any objection

12 MR. O'BRIEN: No, Judge.

13 THE COURT: Six, seven, eight will be received without objection.

14 [STATE'S EXHIBITS 6, 7, and 8 ADMITTED]

15 MS. HERBERT: Thank you, Judge. Permission to publish?

16 THE COURT: Yes.

17 BY MS. HERBERT:

18 Q For the record this is State's Exhibit 8. What is that a picture of?

19 A Sweatshirt in the receiving area of Wal-Mart, ma'am.

20 Q Can you -- for -- it's a little light on the screen. So can you do me a
21 favor and just circle the location of the sweatshirt?

22 A [Illustrates.]

23 Q And for the record this is State's Number 7. What is this picture of?

24 A The sweatshirt in the receiving area of Wal-Mart.

25 Q Okay. Is it fair to say it's just a closer up picture?

1 A Yes, ma'am.

2 Q And then State's Exhibit 6. Is that just a closer up picture of the
3 sweatshirt?

4 A Yes, ma'am.

5 MS. HERBERT: Okay. I'm also going to show you State's Proposed Exhibit
6 24. Permission to approach the witness?

7 THE COURT: Yes.

8 BY MS. HERBERT:

9 Q Tell me if you recognize State's 24. Just tell me if you recognize it.

10 A Yes, ma'am.

11 Q Is that picture a picture of the Defendant as he appeared on March 18th,
12 2011?

13 A Yes, ma'am.

14 Q Is that a fair and accurate picture of how he looked that day?

15 A Yes, ma'am.

16 MS. HERBERT: Permission or -- State's going to move to admit State's
17 Exhibit 24.

18 THE COURT: Twenty-four's offered. Any objection?

19 MR. O'BRIEN: No, Your Honor.

20 THE COURT: Twenty-four's received.

21 **[STATE'S EXHIBIT 24 ADMITTED]**

22 MS. HERBERT: Permission to publish?

23 THE COURT: Yes.

24 BY MS. HERBERT:

25 Q Okay. And this is State's 24 and that is the picture of how the

1 Defendant appeared on March 28th -- or 18th. Is that correct?

2 A Yes, ma'am.

3 MS. HERBERT: Court's indulgence.

4 Pass the witness.

5 THE COURT: Cross-examination.

6 MR. O'BRIEN: Court's indulgence, Your Honor.

7 **CROSS-EXAMINATION**

8 BY MR. O'BRIEN:

9 Q Officer Rowe, how long have you been with Las Vegas Metro?

10 A Approximately three years.

11 Q Three years, okay. And do you generally patrol the east side of Vegas?

12 Do you have a region that you patrol?

13 A Yes, sir.

14 Q Is it the east side of Vegas?

15 A Yes, sir; it's the southeast side.

16 Q Southeast side of Vegas.

17 A Yes, sir.

18 Q Okay. Does that have a high Latino population?

19 A Yes, sir.

20 Q Okay. And have you seen Latin males in the neighborhood with shaved

21 heads before?

22 A Yes, sir.

23 Q Now, just to ask you a little bit about when you were pursuing the

24 Honda. The Honda -- you said the Honda was driving out of control.

25 A Yes, sir.

1 Q Was driving erratically?

2 A Yes, sir.

3 Q At a high rate of speed?

4 A For the brief time that I saw it leave, yes, sir.

5 Q Okay. And driving as if it was trying to get away from the police.

6 A Yes, sir.

7 Q Okay. And just one last question for you officer. Showing you State's

8 Exhibit 7. The blue sweatshirt -- this is the blue sweatshirt found in the Wal-Mart?

9 A Yes, sir.

10 Q And you didn't find it in this position; did you?

11 A I believe the first picture, where it's pulled back, it was more of a
12 crumpled, I believe the -- CSIs actually laid it out to get a better picture.

13 Q Okay. But this picture, the sweatshirt's been positioned for the camera.

14 A Yes, sir. I believe so.

15 MR. O'BRIEN: Thank you. No further questions, Your Honor.

16 THE COURT: Redirect.

17 MS. HERBERT: Nothing further.

18 THE COURT: Anything else for this witness?

19 Please step down.

20 Call your next witness.

21 MS. HERBERT: Officer Maas.

22 THE MARSHAL: Remain standing, raise your right hand and face the Clerk.

23 **S. MAAS**

24 THE COURT CLERK: Thank you, sir. Please be seated. State and spell
25 your name for the record.

1 THE WITNESS: Officer S. Maas, last named is spelled phonetically Mary,
2 Adam, Adam, Sam.

3 THE COURT: Counsel, your witness.

4 DIRECT EXAMINATION

5 BY MS. HERBERT:

6 Q Where are you employed?

7 A Las Vegas Metropolitan Police Department.

8 Q And how long have you been so employed there?

9 A Three years.

10 Q Do you have any other law enforcement experience?

11 A Negative.

12 Q Is that a no?

13 A That's no.

14 Q On March 18th of 2011 were you working?

15 A Yes.

16 Q Okay. What shift were you working?

17 A Day shift.

18 Q What hours are those?

19 A 0630 hours to 1630 hours.

20 Q At approximately a little after 3 three o'clock were you assigned to a call
21 relating to a Chrysler Sebring bearing Nevada 326TGF?

22 A Yes.

23 Q Okay. Where did you go or where were you initially going to go?

24 A My initial call was to an accident on Sun Valley and Nellis.

25 Q While you were on you way to Sun Valley and Nellis, did you receive

1 information that changed where you went next?

2 A Yes.

3 Q Okay. And where did you -- based upon that information, where did
4 you go next?

5 A Officer Bleak -- Blake spotted the Sebring that was involved in an
6 accident in the Cannery parking lot.

7 Q Okay. So where did you go?

8 A And I went to the Cannery, the north parking lot of the Cannery.

9 Q Where's the Cannery? Is the Eastside Cannery we're talking about?

10 A Eastside Cannery, yes.

11 Q Where's that located?

12 A That's on the corner of Harmon and Boulder Highway.

13 Q And is that in Clark County, Nevada?

14 A Yes.

15 Q Once you got to the Eastside Cannery, what did you do?

16 A When I -- the radio traffic was that he found the car on the north side of
17 the Cannery parking lot and it's a pretty good size parking lot. So when I came in, I
18 saw the Chrysler Sebring in a parking spot.

19 Q In the parking lot of the Eastside Cannery?

20 A Yes.

21 Q Okay. And did you see anybody inside the Chrysler Sebring?

22 A No. No one was in the car at that time.

23 Q Based upon the fact that you didn't see anyone in the Chrysler Sebring,
24 what did you do next?

25 A I started looking around for the person that matched the description that

1 Officer Baker put out and -- of the person that was driving the Sebring.

2 Q Okay. Did you see anyone that matched that description in the parking
3 lot?

4 A Yes, I did.

5 Q And where was that person?

6 A That person was in a Honda bent over to the side, inside the driver's
7 seat of a Honda.

8 Q Okay. And do you see that person in court today that was in the
9 Honda?

10 A Yes, I do.

11 Q Can you please point to that person and describe something he's
12 wearing.

13 A He's wearing a blue shirt with a yellow tie.

14 Q And what side of the table is he sitting at?

15 A He's at the very end of the table.

16 MS. HERBERT: Will the record reflect the identification of the Defendant?

17 THE COURT: It will.

18 MS. HERBERT: Thank you, Judge.

19 BY MS. HERBERT:

20 Q How close was the Honda to the Sebring?

21 A It was only I think two spots or three spots to the south of the Sebring.

22 Q Okay. And was there any other officers there with you at the scene?

23 A Yes, Officer Bleak was approximately one car south of the green
24 Honda.

25 Q Once you see the Defendant in the Honda, what do you do next?

1 A I pull around and I'm towards the north side of the Honda and at which
2 time I exit the vehicle and I tell Officer Bleak that the subject's inside the green
3 Honda, which is only feet from him.

4 Q Okay. And you're in a marked patrol car?

5 A Yes.

6 Q Okay. Is Officer Bleak also in a marked patrol car?

7 A Yes.

8 Q Once you both exit the vehicles, what's the next thing that you do?

9 A We give verbal commands at which time no one -- there's no response
10 and the vehicle starts backing up.

11 Q What are the verbal commands that you give?

12 A We tell him get out of the car, you know, let us see you hands at which
13 time none of those verbal commands were --

14 Q Okay.

15 A -- obeyed.

16 Q Do you -- are you at gunpoint or not at gunpoint at this point?

17 A At that time, yes, we're at gunpoint.

18 Q Okay. And after giving the commands, what do you see the Defendant
19 in the Honda do?

20 A We see the reverse lights turn on on the vehicle and it comes back in a
21 very fast manner and backs up and heads north. Driver put's it in drive and starts to
22 travel northbound right past me.

23 MS. HERBERT: Okay. Court's indulgence really quick.

24 I'm going to play for you what's already been admitted by stipulation,
25 State's 25.

1 Permission to publish to the jury, Judge?

2 THE COURT: Yes. Twenty-five is offered counsel indicates by stipulation. Is
3 that an accurate statement of the stipulation?

4 MR. O'BRIEN: That's correct, Judge.

5 THE COURT: So 25 is received by stipulation.

6 **[STATE'S EXHIBIT 25 ADMITTED]**

7 MS. HERBERT: I'm going to use -- pull it up on the laptop. So if you could
8 switch over, that'd be great.

9 [Pause in proceedings]

10 MS. HERBERT: Sorry about that. The laptop powered itself down.

11 [Pause in proceedings]

12 BY MS. HERBERT:

13 Q So this is State's admitted, do you just -- do you recognize what that
14 scene is?

15 A Yes; that's the north parking lot of the Cannery.

16 Q Let us know when you see the Sebring in the --

17 A It's in the frame right now and it's headed northbound. It's silver in color
18 with black convertible top.

19 Q Do you see it in this view, the Sebring?

20 A Yes. It's going to be -- it's stopped right now and it's backing up and it's
21 going to park right now in front of that planter.

22 Q Does this Sebring match the description of the Sebring that you were
23 initially looking for?

24 A Yes.

25 **[Exhibit 25 continues to be played into the record]**

1 Q And do you see in the video right now where the Sebring --
2 A The vehicle is moving southbound in the parking lot.
3 Q Is it fair to say that's the vehicle that just drove by?
4 A Yes.
5 Q And is the Sebring that just parked into the parking spot, the bottom
6 left?
7 A Yes.
8 Q Based upon where you were when you were at the scene, where would
9 the Honda be in this picture?
10 A It is a couple spaces south of that car. Where that white bar is.
11 Q Okay. Is it fair to say it's parked underneath that bar?
12 A Yes, facing the same way as the silver Sebring is.
13 Q Okay. Thanks.
14 Do you see your vehicle in the screen at this point?
15 A Yes, that's my patrol car right there north of -- that's me exiting the
16 vehicle.
17 Q And what just happened for the record there?
18 A I just got out of my car. I explained to Officer Bleak that the subject's in
19 the green car and that's the car backing up and driving right past me at a high rate of
20 speed.
21 Q Okay. And for the record, there's two police cars following the Honda
22 as last seen in the video.
23 A The first car was Officer Bleak and the second SUV is Canine Officer
24 Harper.
25 Q So once you -- once you see the Defendant pull out with the Honda and

1 go around you, what's the next thing that you do?

2 A I get back in my vehicle, turn on my lights and sirens and head out the
3 parking lot and go westbound on Harmon.

4 Q Did you have visual of the Honda at this point or are you relying on
5 radio transmissions?

6 A I still have visual on the Honda.

7 Q Okay. Where did you see the Honda go next?

8 A I see the Honda go northbound on Boulder Highway at which time the
9 Honda goes through the median where there's rocks and boulders.

10 Q Okay. What kind of -- what separates the north and southbound lanes
11 on Boulder Highway?

12 A Probably 30 feet of vegetation and rocks.

13 MS. HERBERT: Okay. I'm going to show you what's been marked as State's
14 Proposed Exhibit 23. Permission to approach?

15 THE COURT: Yes. Have you shown it to Defense counsel?

16 [Ms. Herbert proposed exhibit to Defense counsel]

17 BY MS. HERBERT:

18 Q Do you recognize this?

19 A Yes.

20 Q And how do you recognize that?

21 A That's an aerial map of the area of Harmon and Boulder.

22 Q Okay. I'd like you to take the red marker and place an X on the map
23 where you initially saw the Defendant in the Honda.

24 A [Illustrates.]

25 Q Can you make that a little bit bigger.

1 A [Illustrates].
2 Q Okay. And with the black marker, please draw on the map where you
3 went after leaving the Cannery.
4 A Where I went?
5 Q Yes. So you --
6 A I exit the parking lot and head to Boulder --
7 Q Okay.
8 A -- and Harmon.
9 Q So you testified that you saw the Defendant on Boulder crossing over
10 the median and then where do you go next?
11 A The Defendant crosses over the median and goes into to the Wal-Mart
12 parking lot and I head westbound on Harmon to Harmon and Nellis.
13 Q Okay. So do you see the Defendant go into the Wal-Mart parking lot?
14 A Just the very front part of the parking lot on the --
15 Q Okay.
16 A -- east side of the Wal-Mart parking lot.
17 Q After you see that -- can you please mark on the map where you go?
18 A I travel westbound to Nellis and Harmon and then I go northbound on
19 Nellis.
20 Q Okay. Are you following the Defendant at this point or are you going on
21 a location based upon what you're hearing on the radio?
22 A I'm going in the direction that he's going into.
23 Q Okay.
24 A I'm bubbling.
25 Q What does bubbling mean?

1 A Not -- we don't have ten cars that pursue the vehicle. We go where
2 other vehicles will go, where we think the vehicle might be heading next.

3 Q Okay. So based upon the fact that you're in a role where you're
4 bubbling the vehicle, where do you go?

5 A I hear the radio transmission that he's headed towards Boulder
6 Highway and Flamingo, which I take a side street called Sheppard.

7 Q Okay. Can you mark on that map where that is?

8 And once you take the side street on Sheppard, what's the next place
9 that you go to?

10 A Sheppard meets up with Flamingo and I go to Flamingo and I start
11 traveling westbound on Flamingo.

12 Q At any point do you see the Defendant in the Honda again?

13 A I see the Defendant in the Honda again right at Mountain Vista just on
14 Flamingo west of Mountain Vista.

15 Q Can you mark on the map with the red marker with an X where you saw
16 the Defendant next?

17 A [Illustrates.]

18 Q And once you see the Defendant again, are there any other patrol cars
19 or officers in the area?

20 A Yes, there are.

21 Q Are you aware of who those individuals were?

22 A All I know is I know that the canine officer was there because he's in an
23 SUV.

24 Q Okay. And when you see the Defendant on Flamingo, what's -- what do
25 you do next?

1 A He's traveling at a high rate of speed and the sergeant has okayed the
2 -- to pursue. So we are pursuing the vehicle.

3 Q And where are you pursuing the vehicle to?

4 A Westbound on Flamingo.

5 Q Okay. So it's you -- who was involved in the pursuit?

6 A I know Canine Officer Harper and there were other patrol cars.

7 Q Okay. Do you see anything unusual once you get to the area of
8 Flamingo and 95?

9 A Flamingo and 95 the vehicle starts to make erratic circles in the middle
10 of the road going up on the median and off the median and keeps on going around
11 in a circle.

12 Q Okay. Once you see the -- observe the Defendant doing that, do you
13 observe where he goes after the erratic movements under the 95 and Flamingo?

14 A After that I literally stop and -- traveling westbound and the vehicle and
15 Defendant travel on the sidewalk to my right and he goes around me over the
16 median and then he goes on to southbound on the southbound onramp to the 95 to
17 head south.

18 Q While the Defendant is going in circles and changing direction, what are
19 all the officers doing that you saw that they were doing?

20 A The initially just stop and leave their lights on to warn the public just to
21 hopefully they'll stop.

22 Q And what point on -- well, at what point does the official pursuit begin?

23 A The sergeant -- the initial pursuit was right out of the Cannery.

24 Q Okay. Where -- when did you -- is that when you turned your lights and
25 sirens on?

1 A Yes.

2 Q Okay. At some point did you turn your lights and sirens off?

3 A When I was -- if I'm not in the initial pursuit, I'll turn them off 'cause I'm
4 not actively pursuing.

5 Q So when you were doing your bubble technique, were you -- or when
6 you were part of the bubble technique, were your lights on or off?

7 A They were off.

8 Q And at some point do your lights come back on again?

9 A Yes, when I get onto Flamingo.

10 Q Okay. And is it lights and sirens or just --

11 A Lights and sirens.

12 Q Okay. And that was the same thing when you were at the Cannery,
13 both lights and sirens?

14 A Yes.

15 Q Okay. And so you said you observed the Defendant go onto the 95. Is
16 that right, from Flamingo?

17 A Yes.

18 Q Okay. What do you once that happens?

19 A At that time the air unit gets involved and they take over the pursuit and
20 we actually shut down.

21 Q When you say you shut down, what do you mean?

22 A We turn off our lights and sirens.

23 Q And are you receiving information from the air unit at this time?

24 A Yes.

25 Q Okay. Based upon that information, what direction do you head in?

1 A Since I'm already on the onramp, I head southbound on the 95
2 Freeway.

3 Q With the black marker, can you mark that -- your path and where you
4 went from Flamingo to Tropicana?

5 A [Illustrates.]

6 Q Okay. Do you get off the highway at Tropicana?

7 A Yes, I do.

8 Q Are there any other officers with you at that point?

9 A Yes.

10 Q Do you know who those officers were?

11 A I know one was Officer Harper because of the SUV and then other
12 patrol cars.

13 Q Okay. So once you get off at the Tropicana and 95, do see the Honda
14 with the Defendant in it?

15 A Yes.

16 Q And do you notice anything or what do you observe?

17 A He's driving erratic. He's driving on the off ramp. He's driving through
18 the rocks kicking up lots of debris and dirt.

19 Q Do -- what are doing when all this is happening?

20 A I stop. Hopefully, he doesn't hit me.

21 Q Okay.

22 A I have my lights and sirens on to warn the public to stop.

23 Q At what point do you turn your lights and sirens back on again?

24 A The vehicle starts to head eastbound on Tropicana and I turn my lights
25 on at that time.

1 Q Okay. I'm kind of confused here a second. So you're on the highway
2 and you turn your lights off. Is that right?

3 A Yes.

4 Q Okay. So then when you get off the highway, you saw the Defendant in
5 the dirt and on the median.

6 A Driving erratically; that's when I turned on my lights, back on --

7 Q Okay.

8 A -- to warn the public --

9 Q Okay.

10 A -- to stop.

11 Q Okay. And then where do you observe the Defendant going next?

12 A Eastbound on Tropicana.

13 Q And do you follow?

14 A Yes.

15 Q And are -- there are -- fair to say there's other officers also following --

16 A Yes.

17 Q -- the Defendant. Okay.

18 And what do you observe the Defendant doing as he's going eastbound
19 on Tropicana?

20 A He runs the red light at -- for the off ramp going northbound. He runs
21 that red light.

22 Q Can you circle with the red pen where that light is that you the serve the
23 Defendant run the red light?

24 A [Illustrates.]

25 Q And do you see anything else on Tropicana?

1 A He keeps on driving at a high rate of speed eastbound and he runs the
2 red light again at Mountain Vista and Tropicana.

3 Q Can you please circle that light with the red marker as well?

4 A [Illustrates.]

5 Q What's the speed limit on Tropicana?

6 A Forty-five miles per hour.

7 Q And how fast were you going when you're in pursuit of him?

8 A Probably right around 60 miles per hour.

9 Q Based upon your experience as an officer and the rate of speed you
10 were traveling, can you estimate how fast he was going?

11 A A minimum of ten miles per hour faster than me because he was pulling
12 away from me.

13 Q Okay. So you would guess at a minimum 70 miles per hour?

14 A Yes.

15 Q After he runs through the red light at Mountain Vista and Tropicana,
16 what's the next thing that you observe if anything?

17 A There's a red light at Nellis and there's traffic backed up. He goes over
18 the center median and runs head on into a vehicle.

19 Q Okay. And how far away are you from the Defendant when he hits the
20 vehicle on Tropicana?

21 A Approximately 300 yards.

22 Q And when he crosses the median to go -- the Defendant, to go over into
23 the oncoming traffic, what do you do?

24 A My lights and sirens are on to warn the public.

25 Q Do you stay in the correct lane or do you also go over to the oncoming

1 traffic lane?

2 A I stay over to the very point where once all the traffic's cleared, I go over
3 the median and follow.

4 Q Were there -- did you observe any other officers following the
5 Defendant on -- in the incorrect lane?

6 A Officer Harper.

7 Q Okay. Once you observe the Defendant strike a vehicle on Tropicana
8 in the incorrect lane, what do you see the Defendant do next?

9 A He speeds off on a high rate of speed and starts to head northbound --

10 Q Can you --

11 A -- on Nellis.

12 Q Okay. Can you put on -- the X on the map where the accident
13 happened on Tropicana when he cross the median and then also with the black
14 marker, the path that you took following him?

15 A [Illustrates.]

16 Q Do you remember what type of vehicle or general description of the
17 vehicle that was hit on Tropicana right before Nellis?

18 A A dark colored truck.

19 Q Once you go over the median to follow the Defendant, where do you
20 observe him going next?

21 A He travels northbound on Nellis.

22 Q And at this point, are you still in pursuit of him?

23 A Yes.

24 Q Okay. How fast are you going?

25 A There was pretty heavy traffic right there 'cause it's only two lanes

1 coming both ways, approximately 45 miles per hour.

2 Q Were you able to keep up with the Defendant in the Honda or was he --
3 were you losing him?

4 A We were losing him.

5 Q And then once he turns onto Nellis, what do you observe the Defendant
6 do?

7 A He runs the stop sign at Sun Valley and Nellis.

8 Q Can you place a circle where that occurred? And then also with the
9 black pen, trace the path that you took following the Defendant?

10 A [Illustrates.]

11 Q With the traffic conditions -- how busy were those roads in that area at
12 that time?

13 A At that time, they're roughly pretty busy.

14 Q So is it fair to say there were a lot of cars on the roads?

15 A Yes.

16 Q Once he runs the stop sign at Sun Valley and Nellis, what's the next
17 thing you see the Defendant do?

18 A He keeps on traveling and he makes a right hand turn onto Harmon.

19 Q And do you follow him onto Harmon?

20 A Yes.

21 Q Okay. When you see him turn onto Harmon, what do you see next?

22 A He goes into the oncoming traffic lanes, crosses over all those lanes
23 and strikes a light pole.

24 Q Once he strikes the light pole, what do you do next?

25 A The vehicle actually turns around and is actually facing the proper way

1 in the traffic lanes at which time I go to the rear of the vehicle and stop.

2 Q So you go to the rear of the Defendant's vehicle?

3 A Yes.

4 Q Okay. And you said so -- just so we're clear. He goes onto Harmon
5 and turns and he's turning into the oncoming traffic lane. Is that correct?

6 A Since he's at such a high rate of speed, his momentum takes him all the
7 way into the oncoming traffic lanes.

8 Q Okay. When you're following him on Nellis, how fast are you going?

9 A I was probably only going 45 miles per hour.

10 Q Based upon your experience as a patrol officer, do you have any idea
11 of how fast he was going?

12 A He was pulling away from us going approximately 60 miles per hour.

13 Q And then you mentioned that he crashes into a light pole and then his
14 car is facing the proper direction.

15 A Yes, he's traveling, his car's facing eastbound and when the car hits the
16 pole, it pushes it around and now the car is facing westbound --

17 Q Okay. So is it --

18 A -- due to the accident.

19 Q Is it fair to say that it kind of spun out a little bit?

20 A Yes.

21 Q Okay. And then you just testified you went to the rear of the Defedant's
22 vehicle?

23 A Yes.

24 Q Okay. What did you see any of the other officer's do?

25 A Officer Harper went parked his car towards the front of it and Officer

1 Pro went to the side of the vehicle.

2 Q Did you see the Defendant's car after it hit the pole and it spun around,
3 did you see the Defendant do anything else?

4 A He actually -- I don't know if it was momentum or not, but it actually
5 moved forward, the vehicle.

6 Q The vehicle. And then did you notice anything else?

7 A Officer Pro pushed the car into the curb to immobilize the vehicle.

8 Q And you observed that yourself?

9 A Yes.

10 Q Okay. How far -- did you see the Defendant do anything once the car
11 was pushed into the curb?

12 A He jumped out the passenger window and jumped the wall.

13 Q And what was your role at that point of the investigation?

14 A Containment.

15 Q What does that mean?

16 A To contain the subject in the general area so we can apprehend.

17 Q Okay. So where'd you go?

18 A I drove to the east side of Wal-Mart.

19 Q Did you ever come into contact with the Defendant at the Wal-Mart?

20 A No.

21 Q Okay. Did you ever go inside the Wal-Mart?

22 A No.

23 Q Okay. So you were basically in the parking lot --

24 A Yes.

25 Q -- making sure everything was safe. Okay.

1 And then on the map can you put an X where you saw the --Officer Pro
2 pen the Defendant's car?

3 A [Illustrates.]

4 MS. HERBERT: And also with the black, trace your path from where we left
5 off.

6 Permission to approach?

7 THE COURT: Yes.

8 BY MS. HERBERT:

9 Q Is there any part of the your -- of where you went that's not marked on
10 the map at this point?

11 A Just the -- where I finished on the east side of the -- Wal-Mart.

12 Q Okay. Do you want to put a mark there?

13 A [Illustrates.]

14 Q Is that map a fair and accurate depiction of the path that you had
15 traveled and the circles the incidents you personally observed the Defendant
16 involved in?

17 A Yes.

18 MS. HERBERT: Judge, I'd like to move to admit State's Exhibit 23.

19 THE COURT: Twenty-three's offered. Any objection?

20 MR. GARDNER: Could we see it, Your Honor, before it's admitted?

21 THE COURT: Yes. Absolutely.

22 MR. GARDNER: Thank you.

23 No objection then, Your Honor.

24 THE COURT: Twenty-three's received without objection.

25 **[STATE'S EXHIBIT 23 ADMITTED]**

1 MS. HERBERT: Permission to publish?

2 THE COURT: Yes.

3 BY MS. HERBERT:

4 Q For the record, the -- this is the map that we just went through that you
5 marked. Is that correct?

6 A Yes.

7 Q Okay. And the black marks are where you traveled in your patrol car.
8 Is that correct?

9 A Yes.

10 Q And the circles and Xs are the different incidences we just talked about
11 you observed the Defendant doing?

12 A Yes.

13 Q So the X that is right where it says Eastside Cannery parking lot, that's
14 where you first observed the Defendant. Is that right?

15 A Yes.

16 Q And then you came out on to Boulder Highway. Is that right?

17 A Yes.

18 Q And there's an X right here at the Wal-Mart?

19 A That was the ending -- where I ended up at the very end.

20 Q Okay. Once you come out onto Boulder Highway -- well, actually, could
21 you just trace on the screen right there. Oh, you can go -- you can put -- you can
22 touch the screen.

23 A Touch this?

24 Q Yeah. It's a little confusing right there because it's a big square.

25 A Right there.

1 Q Okay. And then where did you go after you went onto Boulder -- across
2 Boulder Highway?

3 A I crossed Boulder Highway here.

4 Q Okay. And then you turned onto Harmon and went then up to
5 Sheppard and Flamingo. Is that right.

6 A Yeah; I went -- it would be right here and then off this way.

7 Q Okay. And is that the part where we talked about where you were
8 going to bubble -- you're doing the bubbling?

9 A Yes.

10 Q Okay. And then when you're on -- you turned on Flamingo and there's
11 an X on Flamingo?

12 A Yes; that's where I see the vehicle again.

13 Q And then the black line goes from Flamingo and then it goes onto the
14 onramp on the 95 and then off on Tropicana. Is that correct?

15 A Yes.

16 Q And that's the path that you went on.

17 A Yes.

18 Q And then this circle on the exit ramp of Tropicana and the 95 -- what's
19 the circle represent?

20 A He ran the red light there.

21 Q Okay. And there's another circle at Tropicana and Mount Vista. What's
22 that circle?

23 A He ran the red light there.

24 Q Okay. And then there's also an X on Tropicana right before Nellis.

25 A That's where he crossed over the median and went head on into a dark

1 colored truck.

2 Q Okay. And then is it fair to say you traveled -- you went left on Nellis
3 and there's a circle at Sun Valley and Nellis. What does that represent?

4 A Him running the stop sign.

5 Q Okay. And then you traveled up and took a right onto Harmon following
6 the Defendant. Is that right?

7 A Yes.

8 Q And there's a black line representing that and there's another X.

9 A Yes.

10 Q What's that X?

11 A That's the termination of the pursuit where the vehicle stopped and was
12 disabled.

13 Q Okay. And he was disabled because just testified about he hit the light
14 pole and then Officer Pro pinned the car. Is that fair to say?

15 A Yes, because of that accident.

16 Q And then the X right by the Wal-Mart that's where you ended up.

17 A Yes.

18 MS. HERBERT: Court's indulgence.

19 Judge, we'll pass the witness.

20 THE COURT: Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. O'BRIEN:

23 Q Officer Maas, you first saw the driver of the Honda in the Eastside
24 Cannery parking lot. Is that correct?

25 A Yes; I did.

1 Q Inside the Honda?
2 A Yes.
3 Q And he was wearing a blue hooded sweatshirt?
4 A Dark colored.
5 Q Dark colored sweatshirt. And the hood was up?
6 A No.
7 Q Okay. So the hood was not up and the drawstrings were not pulled
8 tight.
9 A No.
10 Q Okay. So your testimony is that his face was unobscured?
11 A Yes.
12 Q Okay. And the -- when you said that he matched the description that
13 you received over the radio?
14 A Yes.
15 Q Okay. And that description was a shaved head.
16 A Yes.
17 Q Latin male.
18 A Yes.
19 Q Wearing a gray shirt?
20 A Dark colored shirt.
21 Q Dark colored shirt?
22 A I don't know if it was -- I it as a dark colored shirt.
23 Q Okay. And that's the description that you heard over the radio --
24 A Yes.
25 Q -- was a dark colored shirt. Okay.

1 And just going back to when you were following the Honda, you said
2 that he was running red lights and make erratic movements?

3 A Yes.

4 Q And the driver was driving at a fast speed.

5 A Yes.

6 Q So he was doing whatever he could to get away from you.

7 A Yes.

8 MR. O'BRIEN: Okay. And actually, Your Honor, I have no further questions.

9 THE COURT: Redirect.

10 MS. HERBERT: Nothing further, Judge.

11 THE COURT: Anything else for this witness?

12 Please step down.

13 Call your next witness.

14 MS. HERBERT: Judge, at this point, because of the time we have -- we don't
15 have another witness scheduled because it's almost five o'clock.

16 THE COURT: All right. It seems that we've concluded what we can do this
17 afternoon, ladies and gentlemen. We'll take our evening recess at this time.

18 Remember, it is your duty not to converse among yourselves or with
19 anyone else on any subject connected with this trial. Further, you may not read,
20 watch to any report of or commentary on this trial by any medium of information
21 including without limitation newspaper, television or radio or Internet. You may not
22 form or express any opinion on any subject connected with this case till it's finally
23 submitted to you.

24 Now, Officer Reichert's about to hand you that map that I've talked
25 about a couple times about the parking garage. I encourage you to take advantage

1 of it. It's kind of hidden so it's difficult to find but it's well worth your efforts.]

2 We'll do a jury call for tomorrow morning 9:00 a.m. Ladies and
3 gentlemen, follow Officer Reichert.

4 [OUTSIDE THE PRESENCE OF THE JURY]

5 THE COURT: All right. The record should reflect we're outside the presence
6 of the jury. Any additional record need to be made as a consequence of State's
7 case in chief this afternoon. State?

8 MS. HERBERT: Nothing, Judge.

9 THE COURT: And Defense?

10 MR. O'BRIEN: Nothing.

11 THE COURT: See you tomorrow morning at 9:00 a.m. We'll settle up
12 instructions tomorrow at noon. Does that make sense to everybody based upon
13 where you are in your case and gentlemen, kind of where you've got a sense of
14 where we're at. Fair?

15 MR. O'BRIEN: Yes, Your Honor.

16 MS. HERBERT: And yeah, Judge, I think we'll be done tomorrow.

17 THE COURT: We'll settle up at noon.


18 Thank you everybody. Have a good evening.

19 MS. HERBERT: Thank you, you too.

20 [Evening recess taken at 4:47 p.m.]

21 * * * * *

22 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of appellate Procedure, I
23 acknowledge that this is a rough draft transcript, expeditiously prepared, not
24 proofread, corrected or certified to be an accurate transcript.

25 
Cheryl Carpenter,
Court Recorder/Transcriber

ROUGH DRAFT TRANSCRIPT
Vol. 1 Page 246

FRANKIE ALAN WATTERS,) No. 59703
)
)
 Appellant,)
)
 vs.)
)
)
 THE STATE OF NEVADA,)
)
)
 Respondent.)

Counsel for Respondent

Employee, Clark County Public Defender's Office

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 FRANKIE ALAN WATTERS,)
)

No. 59703

4 Appellant,)

Electronically Filed
Feb 17 2012 04:13 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

5 v.)

6 THE STATE OF NEVADA,)

7 Respondent.)

8
9 **APPELLANT'S APPENDIX VOLUME II- PAGES 103-347**

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RTRAN

DISTRICT COURT

CLERK COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C272483-1

DEPT. XVIII

VS.

C-11-272483-1
TRANS
Transcript of Proceedings
1719589

FRANKIE ALAN WATTERS,

Defendant.



BEFORE THE HONORABLE DAVID BARKER, DISTRICT COURT JUDGE

MONDAY, AUGUST 8, 2011

**ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS
JURY TRIAL
DAY 1, VOLUME 1**

APPEARANCES:

For the Plaintiff:

HETTY O. WONG, ESQ.
JENNIFER HERBERT, ESQ.
Deputy District Attorneys

For the Defendant:

ROBERT MICHAEL GARDNER, ESQ.
ROBERT E. O'BRIEN, ESQ.
Deputy Public Defenders

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DEC 14 2011

RECORDED BY: RICHARD KANGAS, COURT RECORDER
CLERK OF THE COURT

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1 MONDAY, AUGUST 8, 2011 AT 9:58 A.M.

2
3 [OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY]

4 THE COURT: All right. This is C272483, State of Nevada, Plaintiff, versus
5 Frankie Watters -- Alan Watters. Record should reflect the presence of Mr. Watters
6 in custody with counsel, representative of the State.

7 This is time set to begin jury selection and I believe you are Mr. O'Brien
8 based upon the notes?

9 MR. O'BRIEN: Yes, Judge.

10 THE COURT: Welcome Mr. O'Brien.

11 MR. O'BRIEN: Thank you.

12 THE COURT: Ms. Herbert --

13 MS. HERBERT: Yes.

14 THE COURT: -- on behalf of the State. Ms. Wong, second chair. Is that
15 true? Mr. Gardner, second chair on behalf of Defense.

16 MR. GARDNER: Correct, Your Honor.

17 MS. HERBERT: Judge, Ms. Wong is actually technically first chair.

18 THE COURT: Ms. Wong is first chair. All right. Welcome all.

19 The -- we use, although we don't tell the jury what we call it, I call it
20 Arizona method or modified Arizona method for jury selection. My Clerk will hand to
21 you, if she hasn't already, a copy of the seating chart. We're going to have two
22 alternates based upon -- it was reported three to four days to try. Is that right?

23 MS. WONG: Two to three.

24 MR. GARDNER: Two I believe we --

25 MR. O'BRIEN: We think two days.

ROUGH DRAFT TRANSCRIPT
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1 THE COURT: Two days, okay. That makes more sense based on the nature
2 of the allegation, but I don't know what the proof is. So two days to try. We'll still
3 have two alternates just because that's how Dan has set it up.

4 You're going to have 24 faces here in a few minutes. I'll do the initial
5 inquire of the panel and give each side an equal opportunity. You can split the
6 panel as you wish by row, by individual. It's up to you; both sides and you don't
7 have to be consistent. State wants to do it one way; Defense wants to do it another
8 way, as long as you remain within the four corners of EDCR 7.70. Don't talk about
9 your general -- stay general in their ability to be fair, both sides. Don't get into your
10 theory of your case. Don't use unfair hypotheticals. I'll let you go anywhere you
11 want as long you're moving forward in that decision process.

12 You alternate chairs will be 13 and 14. I give you that seating chart so
13 you understand that Chair Number 1 is my -- back row, my right. You're obviously
14 opposite that. And obviously, again, three rows of eight. As we move -- I take
15 challenge for cause contemporaneously. Don't waste time. If you think you're going
16 to do a challenge for cause and you have sufficient grounds in the record and make
17 your -- I'll let you build your record. You can do a sidebar, you can come up and
18 state your basis and I'll listen to the other side and make decisions on the challenge
19 for cause or traverse or whatever we need to do. I've just seen a lot of attorneys,
20 they just -- they already have in their mind based on their answer to a question that
21 they don't want -- they want to do a challenge but they just feel like they have to
22 keep -- compelled to keep asking questions. Again, just do it when you feel like it's
23 most appropriate, so 13 and 14.

24 Your cause will be chair for chair and challenge for cause, five
25 peremptories based upon the nature of the allegation seems correct. You can use

1 the fifth alternate -- or the fifth challenge for cause at any point because, understand
2 when you get to preempts, you haven't seen it, you strike -- you'll do it in writing,
3 right? And as you pass the piece of paper back and forth or Dan, my Bailiff, hands it
4 back and forth. You should -- my advice would be for both sides to go back on your
5 seating chart and physically strike out that individual and then count back 14 chairs,
6 'cause everybody shifts. Make sense? I know, Mike, you've done this 100 times;
7 although, we all do it a little different.

8 MR. GARDNER: Not that way too many times but it's a good way.

9 THE COURT: It's a little different but you're staring at all the faces. Ms.
10 Wong, does that make sense to you?

11 MS. WONG: Sure. Okay. It's okay.

12 THE COURT: So that -- you just told me no. That doesn't make sense to
13 you.

14 MS. HERBERT: So basically we're going to qualify more than the number of
15 people that we need so when we strike, we'll just count back and we'll figure out --

16 THE COURT: You're going to qualify the maximum number of individuals that
17 could be involved when you get to preempts. So because you -- each has five; five
18 plus five, ten. You're having 14 sit so that's why you're staring at 24 faces.

19 MS. HERBERT: Okay.

20 THE COURT: And as you go through your preempts, you obviously make
21 those decisions and whatever the top -- or the first 14 people, however that shakes
22 out, are going to be your panel.

23 MS. HERBERT: Okay.

24 THE COURT: That's why -- again, that's why I encourage you to use that
25 seating chart as you make those decisions. Understand that if you waive a preempt

1 challenge, I strike -- the last called is the first to go. So if somebody is -- if
2 somebody waives a preempt, and there's somebody seated in Chair 24, I strike
3 Number 24 --

4 MS. HERBERT: Okay.

5 THE COURT: -- 23, 22, respectively. The last in, the first out when we get to
6 preempts. Does that make sense?

7 MS. HERBERT: That makes sense.

8 THE COURT: If you waive a preempt early in the process, it doesn't mean
9 you're waiving them all. So, again, if you decide to waive two and then you change
10 your mind based upon what the other -- opposition does, you can continue to enter
11 peremptory challenges. You're not waiving them all.

12 If you have any questions as we move through the process, don't
13 hesitate to ask. I will ask, after I announce all the peremptory challenges, I keep
14 everybody in order, obviously, and move them around and you're staring at your 14,
15 is if this is the panel you picked because I've had situations where I read a seven as
16 a nine or I just see the number -- and Dan will stand over you and go: Is that a
17 seven? Just so the handwriting is clear. Don't do it by seat number. Do it by badge
18 number. I'll ask if that's the jury you picked. If it is, affirm it. If it's not, tell me where
19 I'm wrong. We'll come up. Whatever you've written on this peremptory sheet is
20 what stands. So if you think Juror Number 4, who you want to challenge, is Badge
21 74 and you write 74 and it turns out Badge 74 is actually in Chair 5 that error is on
22 you. Whatever's written here is what controls. Okay?

23 MS. WONG: Yes.

24 THE COURT: Any -- take all the time you need 'cause I talk to the jury about
25 what they can anticipate and I use the time so however long it takes you, it takes

1 you. Again, make sense?

2 MS. WONG: Yes.

3 THE COURT: Anybody have anything outside presence that we need to talk
4 about?

5 MR. GARDNER: Two motions, Your Honor. One that we talked about orally
6 with the DA, if I could file it. There's a motion in limine that we make [indiscernible]
7 charged and not discussed use of alcohol, drugs or possibility of gang affiliation.
8 The DA said they're not inclined to do that is my understanding so we just want to
9 make sure that doesn't come out.

10 MS. WONG: And that is correct, Judge.

11 THE COURT: As to both alcohol and gang affiliation?

12 MS. WONG: Correct, yes.

13 THE COURT: So based upon that fact and hearing no opposition to the
14 Defendant's in limine filed this morning in open court, those requests are granted,
15 Mr. Gardner.

16 MR. GARDNER: We had early on filed a motion for discovery, Your Honor,
17 and it's our belief the State's given us everything as far as we know. But we never
18 had an actual ruling on it, so just a motion for any *Brady* material, any reports or --

19 THE COURT: Okay. So where did you come from? Eight.

20 MR. GARDNER: Eight originally, Your Honor, but he wasn't there so we've
21 gone a couple weeks through --

22 THE COURT: So you've made a written motion for discovery under 174.235
23 and the Judge never ruled on it?

24 MR. GARDNER: Correct.

25 THE COURT: Well --

1 MR. GARDNER: It was filed July 13th originally scheduled for the 27th when
2 we hit overflow and then it got bumped a week so no one's ever addressed it.

3 THE COURT: All right. Well, everybody -- State any objection? They're
4 saying they just want to reserve -- if they find out that you've not given them
5 something *Brady* material? Everybody -- what's nice about discovery is you have
6 requirements under 174.235 that are outlined by statute. They have reciprocal
7 responsibilities also. Everybody follows the law. So we'll note for the minutes that
8 Mr. Gardner's made a contemporaneous motion or continuing motion for discovery.
9 State do you have any insight? Do you have any objections to meeting your
10 statutory requirements?

11 MS. WONG: No, Your Honor.

12 THE COURT: All right. So we're going to grant that motion that includes
13 *Brady* in its general sense. Anything else outside presence before we get the panel
14 in?

15 MR. GARDNER: No, Your Honor.

16 THE COURT: State, on your side, you're ready to go?

17 MS. WONG: We are.

18 THE COURT: All right. Has everybody looked at the Information? Whatever
19 Ms. Mayfield has stricken in black is not going to be read. If you'd both approach
20 just you make sure that we're -- all looking at the right document and that -- do you
21 want to strike. You struck the statute. You want to strike the statute for the PSB?

22 THE COURT CLERK: Oh yeah, I missed it.

23 MS. HERBERT: We're making sure that the Information's correct?

24 THE COURT: That we're all using the same document.

25 Good to go?

1 THE COURT CLERK: Counsel O'Brien, can I have your full name and bar?

2 MR. O'BRIEN: Sure. I apologize for not doing it earlier.

3 THE COURT CLERK: That's okay.

4 MR. O'BRIEN: Robert O'Brien, bar number 10944.

5 THE COURT CLERK: 944. Thank you.

6 THE COURT: And PowerPoints, are you going to use PowerPoints?

7 MS. HERBERT: Yes in opening and closing. I actually have the opening to
8 mark as a Court's exhibit.

9 THE COURT: Good.

10 MS. HERBERT: Defense looked at it.

11 THE COURT: Good, excellent. So you can mark that as a Court's exhibit,
12 first in order.

13 Mr. Gardner, you've reviewed that. I don't go into it substantively but do
14 request that if it's going to be used, each side has an opportunity to make sure that
15 there's any contemporaneous objection.

16 [Colloquy between Counsel]

17 THE COURT: What, the part that says guilty? Well, that's what they're going
18 to be asking for, so I think that's fair comment. Okay.

19 MS. HERBERT: Judge, may I get this marked as a Court's exhibit?

20 THE COURT: All right. We'll mark that as next in order.

21 MR. GARDNER: You're not serious about offering that last picture are you?
22 I'm going to object to that right up front then.

23 THE COURT: What is it?

24 MR. GARDNER: That's just ridiculous.

25 MS. HERBERT: A booking photo.

1 MS. WONG: Are you objecting to the photo or the guilty?

2 THE COURT: It's common.

3 MR. GARDNER: You're kidding me. I've never seen this, Your Honor.

4 THE COURT: Oh, no. I see it all the time. What they -- is that just a
5 photograph of him.

6 MS. HERBERT: It's his booking photograph that we're going to admit then
7 the guilty just pops up.

8 THE COURT: You object?

9 MR. GARDNER: I certainly do. That -- you seriously let that in all the time?

10 THE COURT: Well, that's what they're asking. They're asking based upon
11 the evidence to find Defendant guilty and I've seen the Defense do it on the other
12 side where they pop -- they have it pop up. The evidence not guilty is the right
13 decision.

14 MR. GARDNER: Well, that --

15 THE COURT: That's different?

16 All right. With the objection noted by Mr. Gardner, I'll allow -- let me see
17 the rest of it.

18 MS. HERBERT: Thank you.

19 THE COURT: You know, Mike? It's just like saying we want you to find him
20 guilty.

21 MR. GARDNER: Well, I don't want them to even say that. I mean --

22 THE COURT: All right. I understand.

23 MR. GARDNER: I think -- I -- we're on the record now; aren't we?

24 THE COURT: Absolutely.

25 MR. GARDNER: So then, I'd submit that having a computer present that is

1 much different than an oral request and I think that showing on there is prejudicial
2 and that's --

3 THE COURT: Okay.

4 MR. GARDNER: I don't think the Defense should be allowed or the State to
5 put those things there.

6 THE COURT: And State, you want to state your position?

7 MS. HERBERT: Judge, I've used that picture in opening in several other
8 cases in this -- in different courtrooms. It -- we're basically asking the jury to find the
9 Defendant guilty. It's a booking photo that we are going to admit into evidence. So
10 we have a good faith basis that it's going to come into evidence and just showing
11 them what we are going to ask them to do.

12 THE COURT: Well, you're -- I don't want a reference to the booking photo.

13 MS. HERBERT: Right. I mean we won't say booking photo, but --

14 THE COURT: 'Cause it makes statement to his custody status and that would
15 be objectionable.

16 MS. HERBERT: Right, right.

17 THE COURT: But under *United States versus Dennits* [phonetic] from 1976
18 this type of PowerPoint has been approved. It's also in the Ninth Circuit under
19 *Showitts* [phonetic], *State versus Showitts*, which is a Arizona decision, at 205
20 Arizona 16, 2003. PowerPoint presentations are permitted during opening
21 statements as long as they are consistent with and satisfy, proffer that it represents
22 the evidence that the jury can anticipate seeing. So I'm going to allow it.

23 MS. HERBERT: And, Judge, just to make that clear, obviously, we're not
24 going to have the witnesses say this is a booking photo. It's going to be what the
25 Defendant looked like at the time of the arrest.

1 THE COURT: All right. Again, I don't know your case. Just don't refer to his
2 custody status.

3 MS. HERBERT: Right.

4 THE COURT: All right.

5 Okay. Anything else?

6 MR. GARDNER: We have one more matter I believe, Your Honor.

7 THE COURT: All right.

8 MR. O'BRIEN: Court's indulgence, Your Honor.

9 THE COURT: Uh-hum.

10 MR. O'BRIEN: Judge, can I -- may I approach with a --

11 THE COURT: Sure.

12 MR. O'BRIEN: Thank you. This is a copy of the transcript from the
13 preliminary hearing.

14 THE COURT: Okay.

15 MR. O'BRIEN: Your Honor, Mr. Watters would like to request at this point that
16 he be granted a preliminary hearing. Your Honor, there's been some switch in
17 counsel within our office on this case and Mr. Watters has represented to us that he
18 did not intend to waive his preliminary hearing unconditionally.

19 And that if you look at the record, Judge, it's a short one. There does
20 appear to be at least some confusion in the record. Mr. -- at one point the Court
21 refers to conditionally unconditionally waiving due to some of the confusion there.
22 Ms. Raye then states: We just want to reserve the right if something happens. And
23 further states: We may want to waive anyway. Suggesting that Ms. Raye is
24 indicating that there might be a conditional waiver at that point if she was -- had the
25 option of waiving again in the future.

1 And so, Your Honor, we'd argue that -- or we'd argue that in the future if
2 she's arguing the might waive the preliminary hearing at some time depending on
3 what happens with the deal that Ms. Wong left open, she be stating -- the inference
4 is that she's not waiving at it, not waiving the preliminary hearing in any way other
5 than conditionally at this time.

6 And then in addition to that, Your Honor, just in conversations with Mr.
7 Watters, he has represented to me that he did not want to waive his preliminary
8 hearing unconditionally and he did not believe that he did so at the time.

9 THE COURT: Okay. So this is an oral motion to remand for preliminary
10 hearing?

11 MR. O'BRIEN: Yes, Your Honor.

12 THE COURT: State's position.

13 MS. WONG: And, Your Honor, I think the record speaks for itself. Ms. Raye
14 indicated on several occasions that this was an unconditional waiver. Ms. Raye only
15 put on the record that in the event that I leave the office and the next deputy who
16 takes the case revokes the offer, that they then reserve the right to go back to
17 Justice Court to have a preliminary hearing.

18 Well, that issue really is moot because, one, I didn't revoke the offer.
19 I'm still here with the office and, two, the Defendant never took the deal that was left
20 open for him. So this was an unconditional waiver and there's no reason to remand
21 this back to Justice Court, Your Honor.

22 THE COURT: All right. I appreciate counsel handing me a copy of the
23 transcript of waiver and in review of pages 1 -- or page 2 and 3 of that document I
24 see that on the record the Defendant was informed that he went to unconditional
25 waive his right to a preliminary hearing, that the officer will remain open as follows:

1 Mr. Watters will be pleading guilty to grand larceny auto, category B, one to ten
2 years, evading officers, B, one to six, right to argue including consecutive time. So
3 the deal -- the negotiation is stated on the record. Ms. Watters affirms his
4 understanding of the negotiation, that he's spoken with counsel regarding the
5 consequences of unconditionally waiving his right to a preliminary hearing. He
6 affirms that he has. That happens on page 3, also continuing onto page 4. Looks
7 like the basis -- yeah. If I can put one thing on the record we are unconditionally
8 waiving our right to a preliminary hearing with the State's word that they're going to
9 leave this offer open. And the offer was open?

10 MS. WONG: Yes.

11 THE COURT: Is the offer still open?

12 MS. WONG: No.

13 THE COURT: Okay. Was it open at arraignment?

14 MS. WONG: It was. Basically, after the unconditional waiver, the offer was
15 left open for approximately another four to six weeks. At that time Defendant
16 rejected the offer.

17 THE COURT: Okay. Is that true?

18 MR. GARDNER: It's my understanding he rejected an offer.

19 THE COURT: Your motion to remand to Justice Court's denied based upon
20 the state of that record.

21 Counsel, anything else?

22 MR. O'BRIEN: I think that's it, Your Honor.

23 THE COURT: All right. So everybody just relax. As soon as Dan gets up
24 here with the panel, we'll get to work.

25 [Pause in proceedings]

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1 [IN THE PRESENCE OF THE PROSPECTIVE JURY]

2 THE MARSHAL: Panel is present, Your Honor.

3 THE COURT: Thank you. This is C272483, State of Nevada, Plaintiff, versus
4 Frankie Alan Watters. Record should reflect the presence of representatives of the
5 State of Nevada and Defense and all members of the jury panel do appear --
6 prospective panel do appear to be present.

7 Will parties stipulate to the presence of what appears to be the entire
8 panel?

9 MS. WONG: Yes, Judge.

10 MS. HERBERT: Yes, Your Honor.

11 MR. O'BRIEN: Yes, Your Honor.

12 THE COURT: All right. Again, good morning, ladies and gentlemen. My
13 name is David Barker. I'm the presiding Judge here in Department 18. Welcome to
14 you all. You should understand that you've been summoned to participate in jury
15 selection in a criminal case. Before we get into that criminal jury selection, I'd like to
16 do some introductions, make sure you have some understanding through my words
17 of what's going to -- what you can anticipate happening so you can kind of follow
18 along in the process and have some comfort there.

19 To my far right is Richard Kangas. Mr. Kangas here, the gentlemen at
20 the end there, is my Court Recorder. It's his job to maintain an electronic record of
21 everything that happens here in court including jury selection. Now, we use a
22 handheld microphone and some other equipment in that effort and I have Mr.
23 Kangas explain what that means so you can understand. Mr. Kangas, you have the
24 floor.

25 THE COURT RECORDER: Good morning. This courtroom, like most

1 courtrooms in this building, uses an electronic method to keep a record both audio
2 and video. We have two cameras up here that are pointed towards counsel table.
3 They're what's called voice-activated cameras so when counsel's speaking at this
4 table, the camera will focus in on that table. We also have two more cameras up
5 here that focus towards this podium and towards the witness box. And then one
6 more up there that focuses on the Judge at the bench.

7 By design, however, there is no video coverage of what's called the jury
8 box over there and there's also very limited audio microphone coverage. This
9 microphone here that's pointed inward would cover maybe the first two ladies and
10 the one end, the two gentlemen. The one in the middle is directed outwards. It's for
11 attorneys when they're arguing in front of you.

12 When we get into the jury selection process itself, called voir dire, the
13 Judge first and then the attorneys are going to be asking you individual questions
14 from time to time. When that happens, we're going to ask that you wait until we can
15 pass you this handheld microphone so we can get you on the record. And then
16 we're going to want you to identify yourselves by the last three digits of your badge
17 number and/or your name so we'll know who's speaking on the record. Because for
18 the most part, we won't be able to pick you up. People over here will be picked up in
19 maybe the background from the Defense table but really not enough to help us.

20 Couple words of caution about this handheld microphone. As opposed
21 to the regular microphones that have a three to four foot range, this handheld is
22 battery operated. It only has about a six-inch range effectively. And it needs to be
23 pointed basically right at your mouth, you know, to pick you up well. It doesn't work
24 too well down here in your lap or up here. You notice the difference right away.

25 Also this process is not going to work very well if you're not hearing

1 what's going on. So please, don't be bashful about raising your hand and saying,
2 hey, I'm not hearing you. What's going on? I have a few -- I think two or three,
3 headsets for people that are slightly hearing impaired that will give you better than
4 live sound I call it. And so don't be bashful about asking for that.

5 And once last point about this. The battery in here, I know I've used it
6 for at least one trial last week, so if it's passed to you and you happen to see this
7 green light go to amber or red, please let me know so I can change the battery.

8 Thanks.

9 THE COURT: Now, you're going to see Mr. Kangas most probably, and I
10 have him introduce himself to you know what his function is. You're going to see
11 him most probably move around the courtroom during jury selection; maybe during
12 the trial if you remain on this jury -- in this jury trial, adjusting microphones. He's
13 watching his equipment. He's making sure that everything that he needs to do -- his
14 responsibilities are taken care of. It's not his intent, nor would I permit him to,
15 intrude in the process. So if you see him get up, move around, it's not his intent to
16 get in the way. It's just to make sure that everything that's happening is
17 appropriately recorded.

18 I also ask that you turn off all your phones. Those phones are very
19 close -- those frequencies that those phones operate on, don't go to standby or
20 silent mode, the same frequencies are close, again, to what Mr. Kangas's equipment
21 operates at in this wireless function and we get feedback. And, frankly, we'll hear it
22 I'm sure at some point in the process 'cause we generally do.

23 Now, to my immediate right is Roshonda Mayfield. Ms. Mayfield is my
24 Court Clerk. It's her job to maintain the official record of the trial. She marks
25 exhibits. She swears witnesses. In fact, in a few minutes, ladies and gentlemen,

1 she's going to swear you. And she generally helps keep us pointed in the right
2 direction, moving forward in the trial process.

3 You've met already Officer Reichert, Dan Reichert. He is the Marshal
4 or Bailiff assigned here to Department 18. He's your point of contact. If at some
5 point during the process you have questions or concerns and you need to get
6 information to me, and need answers back from me, there's a certain formality that
7 must be respected and I'll explain how that works and his role in that at the
8 appropriate time.

9 Now, on behalf of the State, would you please introduce yourself, make
10 a brief statement of the nature of the case and state the names of witnesses you
11 that anticipate calling.

12 MS. WONG: Thank you, Judge.

13 Good morning, ladies and gentlemen. My name is Deputy District
14 Attorney Hetty Wong and to my left here is the Deputy District Attorney Jenny
15 Herbert and we are here to present to you the case of State of Nevada versus
16 Frankie Watters.

17 The Defendant in this case is charged with three counts: Count 1,
18 possession of stolen vehicle; Count 2, grand larceny auto; and Count 3, stop
19 required on signal of police officer, which is just a fancier way of saying evading.

20 Now, the State has alleged that on March 18th, 2011 the Defendant was
21 found in possession of a stolen 2006 Chrysler Sebring belonging to Heather Reed.
22 Thereafter, the Defendant then stole a 2000 Honda Civic belonging to Yosvany
23 Otano and while driving the 2000 Honda Civic, the Defendant refused to bring his
24 vehicle to a stop for Officer Jeff Harper.

25 Now, what I'm going to do in a few seconds is read to you the names --

1 a list of names of potential witnesses that the State may call at trial. Now, I have to
2 worn you the list is quite lengthy; however, I assure you that the State does not
3 intend to call each and every single one of these witnesses. Oftentimes, two or more
4 witnesses can testify to the same thing and we certainly don't want to overburden
5 you with duplicative testimony because we do value your time here and we do
6 appreciate you coming down here today.

7 Now, as I'm reading off these names, if you think you know any of these
8 people or you think you may recognize any of these names, please make a mental
9 note of it because we will ask you about it later. Okay? Officer Ramin Amely,
10 Sergeant Tabitha Baker, Officer Jeff Bangle, Officer Jeffery Bengel, Officer Peter
11 Bicsanszky, Officer Russell Black, Officer Curtis Bleak, Tracy Brownlee, Doug
12 Castro, Officer Solomon Coleman, Officer Elizabeth Collingwood, Officer Derek
13 Colling, Benjamin Delmar, Custodian of Records for the Clark County Detention
14 Center, Custodian of Records for the Eastside Cannery Surveillance, Custodian of
15 Records for the Las Vegas Metropolitan Police Department, Custodian of Records
16 for Wal-Mart Surveillance, Benjamin Delmar, Officer Stewart Emry, Officer David
17 Fulton, Officer Rodolfo Gil, Officer Rich Gorgart, David Granger, Officer Juan
18 Guzman, Officer Stephen Hammack, Officer Jason Hanshew, Officer Jeff Harper,
19 Officer Henry Hoffman, John Jordan. Officer Alireza Kabiri, Officer Paul Kunz,
20 Officer Sean Lethbridge, Officer Steven Maas, Officer Kara Mahon, Officer Joseph
21 Maviglia, Officer Daniel Newberry, Yosvany Otano, Officer Jame Peacock, Officer
22 Michael Perkins, Officer Kenneth Pilette, Jaime Poynor, Officer Rolando Pro, Officer
23 Corie Rapp, Officer William Redfairn, Heather Reed, Officer Frankie Roman, Officer
24 Kenneth Romane, Officer Patrick Rooney, Officer David Rosas, Officer Matthew
25 Rowe, Officer Richard Rundell, Officer Brian Santarossa, Officer Richard Scavone,

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1 Officer Gibron Smith, Officer Theod Snodgrass, William Speas, Officer Robert
2 Steinbach. Brenda Vandering, Officer Or Villanueva, Officer Mark Viskoc and Officer
3 James Weiskopf.

4 Thank you.

5 THE COURT: All right. And on behalf of the Defendant, will you please
6 introduce yourself and your client and identify any anticipated witnesses.

7 MR. O'BRIEN: Thank you, Your Honor.

8 Good morning, ladies and gentlemen. My name is Robert O'Brien, the
9 other counsel here with me is Mike Gardner and our client is Frankie Watters.

10 Thank you.

11 THE COURT: All right. Ladies and gentlemen, I'm going to now have the
12 Clerk, Ms. Mayfield, call the role of the prospective panel. I just need to make sure
13 that all have been summoned by the Jury Commissioner are present, prepared to
14 proceed. So as you hear your name called, please respond in the affirmative,
15 present, here, whatever you're comfortable with.

16 Ms. Mayfield.

17 [The Court Clerk calls roll of prospective jury panel]

18 THE COURT: All right. Raise your hand if your name was not called and you
19 came up with the jury panel, 'cause you got in the wrong line and you went off with
20 the wrong group. I see no hands so we don't need to send anybody back to jury
21 services.

22 All right. Ladies and gentlemen, the process of jury selection is done
23 under oath. I need you to all please stand as a panel, raise your right hand to be
24 sworn by the Clerk.

25 [The Court Clerk swears in the prospective jury panel]

1 THE COURT: Thank you. Please be seated.

2 Now, as we commence jury selection, you need to understand what the
3 process is and I think it's probably self-evident. You're about to be asked some
4 questions by myself and the attorneys for each side on your ability to sit as a fair,
5 impartial juror. Now, some of these questions sometimes might seem somewhat
6 personal. It's not intended by me or any of the lawyers involved to intrude into your
7 personal lives to any degree greater than to what's necessary in order to determine
8 whether you can fit in that important capacity as a fair and impartial juror. So don't
9 take it personally if the questions take us somewhere that you're uncomfortable with.
10 Certainly, tell us so they can understand that and respond with respect and
11 accordingly.

12 I'm about to read you an admonition. An admonition is a law, direction,
13 rule that I -- and you're going to hear about three or four of them depending on how
14 this proceeds. But it's important for you to understand them and I'll explain it after
15 I've read it to you.

16 It's important for you to understand the significance to full, complete and
17 honest answers to all the questions that you're about to be asked. Please, try not to
18 hide or withhold anything which might indicate a bias or prejudice of any sort.
19 Should you fail to answer questions truthfully or hide or withhold anything touching
20 upon your qualifications, that fact may tend to contaminate any decision or verdict in
21 the case and subject you to further inquiry by me. So again, that's an admonition.
22 Basically, what it's saying in shorthand is just offer what information you believe is
23 relevant to your unique life, history or background. If -- and I also like to say if
24 there's a question that's asked and you have a piece of information that you're
25 thinking might be relevant, might not be relevant, but you're not sure, I ask you to

1 just to err on the side of caution. Raise your hand; offer that information to the
2 parties so they can consider it in balance with all the other information, questions
3 and answers to questions that are asked.

4 As I indicated, I'll go first. I'll ask some very basic questions of you and
5 move through the process I hope with some efficiency and then give each side an
6 equal opportunity. At some point you may hear words: objection or one side
7 objecting to what's being asked. I'll deal with those objections. Understand it's the
8 responsibility of the attorneys to object if they feel they need to do so. Don't hold
9 that against either side as a consequence of whatever decision I might make.

10 Now, this is known as the challenge for cause portion of jury selection.
11 So you might also hear the lawyers say: challenge for cause. If you hear those
12 words and they're associated with an answer that you've just given, don't take that
13 personally. Don't get made at somebody simply because they said: Oh, challenge
14 for cause to me. They must not like me or they must not like my answer.
15 Understand that's just the way a record is maintained. It's not a personal attack on
16 you so don't take it as such. They have a job to do; a record to build. So if you hear
17 challenge for cause and I have to make decisions, don't get angry or upset with
18 either side if that happens.

19 That said and with those basic directions, let's begin. Raise your hand
20 if you've been convicted of a felony offense; convicted of a felony offense. Uniform
21 negative response.

22 Raise your hand if you are not a citizen of the United States; not a
23 citizen of the United States. Uniform negative response.

24 Raise your hand if you have such sympathy, prejudice, bias relating to
25 age, religion, race, gender, national origin that you feel that might affect your ability

1 to be an open-minded, fair and impartial juror. Okay. I do see some hands. Now,
2 Mr. Kangas is going to hand that microphone to you. And it's very common we have
3 multiple hands go up, depending on the question. Put your hands up again so we
4 can see where you're at. The way I like to keep organized in this process is to go by
5 row. I also ask you to treat that microphone like you would -- if you've ever been to
6 a ballgame where you're getting peanuts and you're peanuts down the row, you're
7 handing money off and everybody's kind of helping out moving forward in the
8 process. That's exactly what I want you to do with that microphone. Hand it to one
9 of the edges. One of my staff or one of the lawyers will pick it up. If you happen to
10 be one of the jurors that's just by circumstance is sitting on the edge and that
11 microphone's at you, and it needs to go from the back to the front or vice versa,
12 don't hesitate to stand up, hand it off. You're also going to see Reichert there wipe it
13 down every once in a while with a wipe because I don't -- we've got multiple hands
14 touching, multiple people talking and I want to make sure that nobody catches the
15 flu or any bugs that might be floating around. So we try to take care of that.

16 With those directions, I need everybody when you're about to talk,
17 identify yourself. You each have a badge. That white badge has a -- the last three
18 digits on that badge is what we're going to use to identify you by your badge number
19 or your last name. We need to do it every time you talk. I'm going to help you
20 maintain the record. I know you're all new to this so I'll make it very smooth I hope.

21 With that said, I believe you are Ms. Willis and your badge number is
22 25. Is that true?

23 PROSPECTIVE JUROR #025: Yes, Your Honor.

24 THE COURT: Your concern, ma'am?

25 PROSPECTIVE JUROR #025: My concern is to be a judge goes against my

1 religion. The Bible says judge not that ye be not judged. And if I was not physically
2 there to see this person do the act, I cannot be a judge in that situation.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR #025: Also I feel that the system, the justice system,
5 is somewhat biased and prejudiced seeing that most minorities have been convicted
6 of the crimes. And also I feel that there's a faultiness in the evidence that the
7 present seeing that the justice system has sent innocent prison to prison --

8 THE COURT: Okay.

9 PROSPECTIVE JUROR #025: -- for what they have not done.

10 THE COURT: All right. All of those -- let's start from the beginning. I heard
11 you just state to me three separate concerns that you have. The first one is your
12 belief system precludes you from sitting in judgment -- sitting as a determiner of fact,
13 a finder of fact. Are you telling me that that would preclude you from sitting, if you
14 were asked, to review the information, evidence, witnesses, listen to the evidence,
15 listen to the testimony? It would preclude you from making a decision whether the
16 State's met its burden or not.

17 PROSPECTIVE JUROR #025: Yes; it would preclude me.

18 THE COURT: Okay. State, you wish to inquire?

19 MS. HERBERT: No, Judge.

20 THE COURT: And Defense?

21 MR. O'BRIEN: No, Your Honor.

22 THE COURT: All right. I want to thank you, Ms. Willis. I have people come
23 with that concern all the time and it's legitimate. What I do is I send you back to the
24 third floor jury services and I send those jurors with that belief system out on civil
25 cases where it's about money. It's not about -- it's just about money. It's not about

1 anything else. Okay. So I -- it sounds like your time and attentions and energies
2 might be better served in that direction. All right?

3 PROSPECTIVE JUROR #025: Okay.

4 THE COURT: So if you could hand that microphone just to one of the folks
5 sitting next to you and head back to the third floor jury services. They'll probably
6 send you out on that civil panel this afternoon.

7 And we're going to call another name to fill Seat Number 6.

8 THE COURT CLERK: Ernesto Saleme, Badge Number 080.

9 THE COURT: Mr. Saleme, stand up, sir. Saleme?

10 PROSPECTIVE JUROR #080: Yes.

11 THE COURT: Welcome to Chair Number 6. Come on up.

12 And you folks in the back, you're probably saying why are we sitting
13 back here and the other folks are sitting up there? What makes them so special?
14 It's nothing. It's just the name on the list and the order that they come. So now you
15 are in seat number six. And I did see another hand in response to this third question
16 that I asked. And you should be Mr. Ward, Badge 037. Is that true, sir?

17 PROSPECTIVE JUROR #037: Yes, that's correct.

18 THE COURT: And your concern?

19 PROSPECTIVE JUROR #037: In this certain -- in this particular case, I know
20 people that had their vehicles stolen and I guess the race, you would say, was
21 similar to his. And I would just -- I'm just saying that under my circumstances, I
22 wouldn't be able to judge him; you know, correctly, so.

23 THE COURT: Okay. We'll get into that in a very specific sense at this -- at
24 some later point. But you believe based upon your unique life experience and
25 situations that you've had in combination with the nature of the allegation, remember

1 it's simply an allegation at this point, and your perception of Mr. Watters race, that
2 that might affect your ability to be fair and impartial?

3 PROSPECTIVE JUROR #037: Yes, that's correct.

4 THE COURT: So both sides don't start off even?

5 PROSPECTIVE JUROR #037: What's that?

6 THE COURT: As we sit here now, do both -- it's important -- I talk about the
7 scales of justice and everybody starts off even. Can you do that?

8 PROSPECTIVE JUROR #037: Well, yeah, no. I would say that it's not even
9 on my part, so.

10 THE COURT: Right. State?

11 MS. HERBERT: Nothing, Judge.

12 THE COURT: And Defense?

13 MR. O'BRIEN: None, Your Honor.

14 THE COURT: All right. Based upon that, Mr. Ward, let's send you back to
15 jury services and you're probably headed towards a civil case too. I'm sure there's a
16 couple of med -- three week med mals that are headed out the door. Appreciate
17 your candor here. We'll call another name to fill Seat Number 9.

18 THE COURT CLERK: Edward Guenther, Badge Number 082.

19 THE COURT: Mr. Guenther, if you could come forward, please.

20 All right. Any other hands on the third question that I always ask
21 regarding age, race, religion, gender, national origin? Raise your hand.

22 All right. Next question. Look around the room. Do you -- and this is
23 I'm sure going to get a hand here.

24 MS. HERBERT: I thought I saw a hand.

25 MR. O'BRIEN: Sorry, Judge. I believe we saw a hand from Juror #52? No.

1 THE COURT: Is there a hand, Mr. Vaughn?

2 PROSPECTIVE JUROR #052: No, sir. I'm good.

3 THE COURT: Oh, good. All right. No hands.

4 Now, raise -- look around the room. Raise your hand if you recognize
5 any of the people in this room; the lawyers, my staff, myself, each other, jurors raise
6 your hand. I just was waiting for it. Let's get the microphone down to Mr. Guenther,
7 Badge 82.

8 PROSPECTIVE JUROR #082: Yes, Your Honor. Obviously, I recognize you
9 and the prosecution team and I've been in your court many times in that chair.

10 THE COURT: Okay. Mr. Guenther, the question I'm sure you -- you're going
11 to understand the question. As a consequence of your role and your duties and
12 what you do, can you be fair and impartial in this case?

13 PROSPECTIVE JUROR #082: I believe I can, Your Honor.

14 THE COURT: Okay. Is this a LVMPD submission or LVMPD allegation?

15 MS. WONG: Yes.

16 THE COURT: And you are a civilian employee of that organization?

17 PROSPECTIVE JUROR #082: Yes, Your Honor. And I also recognize
18 several of the names on the list as civilian crime scene response individuals that
19 were called on the list.

20 THE COURT: As a consequence of being an employee with Metro, would
21 you feel like you would have to justify any decision that you would make to the
22 leadership of that organization, either way?

23 PROSPECTIVE JUROR #082: No.

24 THE COURT: All right. Appreciate that fact. Let's see where we go.

25 Anyone else? Look around the room. Anybody recognize anyone

1 else? I do see a hand here.

2 PROSPECTIVE JUROR #046: Would you like me to stand?

3 THE COURT: Actually, what I want is everybody to be comfortable. If you're
4 comfortable seated, then that's fine with me. You don't -- you show me all the
5 respect you need to by just being here Mr. Wirth. Your badge number should be 46.

6 PROSPECTIVE JUROR #046: Correct.

7 THE COURT: And who do you know, sir?

8 PROSPECTIVE JUROR #046: I know you and your staff.

9 THE COURT: Okay. Anything about -- and you do civil work?

10 PROSPECTIVE JUROR #046: Yes.

11 THE COURT: You want to tell the parties who you work for?

12 PROSPECTIVE JUROR #046: I work for a personal injury law firm, Mainor
13 Wirth. I don't know of any of the attorneys, just you and your staff.

14 THE COURT: Anything about the nature of your work, familiarity with me, the
15 staff, that might affect your ability to be fair and impartial if you're asked to be a
16 member of this jury?

17 PROSPECTIVE JUROR #046: Of course not.

18 THE COURT: All right. Anyone else? Raise your hand.

19 Now, we've asked -- okay. Ms. Gallegos-Stephens, Badge 38. Yes,
20 ma'am.

21 PROSPECTIVE JUROR #038: I don't recognize anyone in the room but I am
22 -- work for the Clark County Treasurer's Office and I review the evidence vault items
23 that are released and I have a contact with the evidence vault employees with Metro
24 and Henderson Police Department.

25 THE COURT: All right. Anything about the nature of those responsibilities

1 that might affect your ability to be a fair and impartial juror to both sides?

2 PROSPECTIVE JUROR #038: No, sir.

3 THE COURT: All right. Anybody else? Raise your hand.

4 Now, we're going to talk about the people who aren't in the room but
5 whose names were listed by the parties at the time they made their introductions to
6 you. Does anybody recognize, if you haven't already previously disclosed, as I
7 believe Mr. Guenther did, anybody recognize any of the names of witnesses, raise
8 your hand. Uniform negative response.

9 THE COURT: All right. Now, this question always gets a few hands so I
10 always like to preface it with a little -- some words of explanation. I know that every
11 one of you has a life and responsibilities that you'd like to get back to that you
12 recognize, and I hope you recognize there's a cherished constitutional right to an
13 open and public trial and a trial by jury. In order to respect and protect that right, I
14 have to intrude. I have to bring people from the community to sacrifice their time
15 and, basically, give of themselves to sit in this important role.

16 And I know, again, you all have that in the back of your mind, going: I
17 respect that right. It's an important right. But I really want to get paid. Some of you
18 are probably going to tell me in a moment that you work for tips, you work in a
19 gaming industry and if you don't work, you don't get paid and you want to make your
20 bills. You want to pay your bills. You want to make your mortgage payment, like we
21 all do. And I respect that. So the tools I use to balance your concerns against the
22 right that I've spoken about at the beginning of this question, are this: That unless --
23 if the commitment to the process, based upon what the parties have told me, is less
24 than one week, one business week, that's five trial days, absent something
25 extraordinary, I do not excuse just for work. Now, I listen with an open mind and I

1 would think both sides would do the same to your concerns or questions but if it's
2 commitment of less than a week, again, absent something extraordinary, I don't
3 simply just let you go for that reason.

4 It's been represented to me by the parties that this trial should take two
5 days, today and tomorrow. Just to be on the safe side, think, in terms of maybe
6 through Wednesday, because nobody rushes, there's no rush to decision in the
7 process but they've said two days. Knowing that's the commitment to the process,
8 and balance with your concerns, does that create such an undue burden on any of
9 you that you believe that you'd be so focused on what your personal responsibilities
10 are that you couldn't fairly listen to the evidence, the testimony of witnesses and
11 come to a fair decision? Raise your hand.

12 All right. Let's start with -- I don't know where are mic is. Where's our
13 mic? If we could hand to Ms. Burgess, Badge Number 9, in that back. Oh, we'll go
14 either way. Up here, sir. Mr. Burts, Badge 73. Yes, sir,

15 PROSPECTIVE JUROR #073: I was unemployed for four months and I just
16 started working. I was supposed to start today but I was excused to come here.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR #073: So my focus and my mind will be on being at
19 work and not concentrating on the case.

20 THE COURT: Okay. So you talked to your employer and said thanks for
21 offering me an opportunity but now I have a jury summons I have to do.

22 PROSPECTIVE JUROR #073: Pretty much; yes, sir.

23 THE COURT: Did you talk to the Jury Commissioner about that?

24 PROSPECTIVE JUROR #073: No, sir.

25 THE COURT: You didn't?

1 PROSPECTIVE JUROR #073: No.

2 THE COURT: All right. Let's see where we go, MR. Burts.

3 PROSPECTIVE JUROR #073: Okay.

4 THE COURT: I just want a fair consideration, everybody paying attention.

5 PROSPECTIVE JUROR #073: Okay.

6 THE COURT: And we'll -- I'm sure there'll be further questions from the
7 parties.

8 PROSPECTIVE JUROR #073: No problem.

9 THE COURT: Can you hand that microphone directly over your shoulder?
10 We're heading back to Chair Number 2, Badge Number 9. Yes, ma'am.

11 PROSPECTIVE JUROR #009: Okay. I have to children and I don't work over
12 the summers. I'm a teacher.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR #009: And so I have my kids at home with me. So I
15 had to pay a lady to watch my two kids for today and if I was continuing, the next
16 few days and it's quite expensive.

17 THE COURT: Sure. I appreciate that fact. Let's see where we go. And this
18 woman -- if you remain on this panel, can this woman help you out? I know it's
19 expensive but we pay you \$40.00 I think; \$15.00 for today and --

20 PROSPECTIVE JUROR #009: Yeah, no it's not cutting it.

21 THE COURT: I understand.

22 PROSPECTIVE JUROR #009: I wish.

23 THE COURT: Let's see where we go. All right?

24 PROSPECTIVE JUROR #009: Okay. Thanks.

25 THE COURT: Anyone else?

1 Mr. Wirth; yes, sir.

2 PROSPECTIVE JUROR #046: My only concern would be if it went into
3 Wednesday. I'm one of two partners and if there were any -- I'd just like an
4 opportunity to maybe check my calendar, see if there's any deposition's that I can't
5 move, anything like that.

6 THE COURT: Let's see where we go. All right.

7 Anyone else? Raise your hand.

8 Yes, Mr. Newmiller. Yes, sir.

9 PROSPECTIVE JUROR #050: Badge 050.

10 THE COURT: Yes.

11 PROSPECTIVE JUROR # 050: My mother has terminal cancer. I'm her
12 shuttle to and from the doctor's appointments two to four times a week, depending
13 on the week. This week we have two; one this afternoon.

14 THE COURT: I'm almost -- you may -- we make some decisions by lunch.
15 I'm not sure about that. Anybody that can help you with that? I don't want your
16 mother's health to be at risk or her.

17 PROSPECTIVE JUROR #050: I have someone lined up today if that is
18 necessary.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR #050: I was hoping that it wouldn't be.

21 THE COURT: Sure. Let's see where we go.

22 PROSPECTIVE JUROR #050: Okay.

23 THE COURT: Appreciate that.

24 Anyone else? Middle row? Yes, ma'am. Ms. -- Badge 55, Chair 16,
25 Ms. Keller.

1 PROSPECTIVE JUROR #055: Yes, correct.

2 THE COURT: Yes.

3 PROSPECTIVE JUROR #055: I have a -- I'm a single mother. I'm
4 unemployed. I have three small children at home, not a lot of help. My mother is
5 going to have chemo again on Friday. I take care of her and I take care of my 87-
6 year-old grandmother who can't see or drive.

7 THE COURT: Okay. And all of them are helping you with the kids at this
8 point to the extent they're capable of doing so?

9 PROSPECTIVE JUROR #055: My mom's helping today but once she has
10 chemo, she won't be able to help --

11 THE COURT: And that's Friday?

12 PROSPECTIVE JUROR #055: -- a whole lot. She goes in Friday morning.
13 She's very tired though from the past chemos so it's just difficult with her and then
14 having to get my grandmother to all her appointments that she needs to be and I
15 have to drive her to the store and get her medicine and on top of that, I'm not
16 making the money. I wouldn't be able to pay anyone to watch my children and I
17 have a 14-year-old that is not reliable and she's doing some -- behavioral issues at
18 the moment.

19 THE COURT: All right. And all of them are a concern to you.

20 PROSPECTIVE JUROR #055: Yeah.

21 THE COURT: All right. Let's see where we go.

22 PROSPECTIVE JUROR #055: Okay.

23 THE COURT: I'm sure the parties will have follow-up questions as a
24 consequence of the things that are said here.

25 All right. Anyone else? Let's go to the back row. I think saw some

1 hands. Mr. Saleme, Badge 80. Yes, sir.

2 PROSPECTIVE JUROR #080: I manage a restaurant in Lake Las Vegas and
3 I'm the sole manager there. So it's a matter of having support staff that doesn't exist
4 in order to be able to open the restaurant properly.

5 THE COURT: Okay. I appreciate it. Let's see where we go.

6 Anyone else? Raise your hand. top -- you're the top 24. Again, you're
7 the back 24. Anybody in the back, hands? All right.

8 Now, did I miss somebody?

9 MS. WONG: Judge, I believe -- yes, there's somebody that --

10 THE COURT: Ms. Hudgens, Badge Number 49. Yes, ma'am.

11 PROSPECTIVE JUROR #049: My reasons don't touch the others that I've
12 heard.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR #049: But I do have some personal plans to be out
15 of town.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR #049: And I'm fine if Wednesday is it.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR #049: Just wanted you to know.

20 THE COURT: It sounds like -- I'm building Wednesday in. They tell me two
21 days and, you know, the process of a jury trial -- it's -- I try to keep it very formal. I
22 try to keep on schedule, on track. But we build -- I build it a little flexible just so you
23 can be comfortable. It sounds like we're well within that though. All right?

24 PROSPECTIVE JUROR #049: Okay.

25 THE COURT: Anybody else?

1 All right. Now, based upon the proffer of witnesses read to you, it is
2 apparent that certain law enforcement will be called in this case. So it's important to
3 ask whether you have -- either yourself, a spouse or close relative ever engaged in
4 law enforcement work that hasn't been previously disclosed. Raise your hand.

5 All right. If you have hand that microphone -- let's start with the back
6 row.

7 PROSPECTIVE JUROR #012: I'm a widow of Jack D. Ruggles. He used to
8 be a sergeant at the Metro.

9 THE COURT: Okay. You are Badge Number 19, Ms. Lucas. Is that true?

10 PROSPECTIVE JUROR #012: No. Ruggles.

11 THE COURT: Ruggles, I'm sorry.

12 PROSPECTIVE JUROR #012: 012.

13 THE COURT: And you're deceased spouse was a Metro employee?

14 PROSPECTIVE JUROR #012: Uh-hum.

15 THE COURT: Anything about that --

16 PROSPECTIVE JUROR #012: And federal public defender's office and DA
17 also.

18 THE COURT: Okay. Anything about the nature of their previous work that
19 might affect your ability to be fair and impartial here?

20 PROSPECTIVE JUROR #012: I don't think so.

21 THE COURT: Thank you very much.

22 And Juror Number 9. Yes, ma'am.

23 PROSPECTIVE JUROR #009: My husband is a police officer for the
24 Henderson Police Department.

25 THE COURT: Anything about the nature of his work that might affect your

1 ability to be fair and impartial?

2 PROSPECTIVE JUROR #009: No.

3 THE COURT: Thank you very much.

4 Middle row now or anybody in the back row who just thought of it. Let's
5 move the microphone forward then to Chair Number 13, Badge 49, Ms. Hudgens.

6 PROSPECTIVE JUROR #049: I have multiple relatives who are on the police
7 force in Henderson, Las Vegas, Highway Patrol, North Las Vegas.

8 THE COURT: All right. So you have relatives around.

9 PROSPECTIVE JUROR #049: Not my husband or son, you know, but I do;
10 nephews, brother-in-laws, that sort of thing.

11 THE COURT: Okay. I would bet you probably understand the context of the
12 question as I ask it now. Anything about the nature of their work --

13 PROSPECTIVE JUROR #049: No.

14 THE COURT: -- that might affect you being fair here?

15 PROSPECTIVE JUROR #049: No.

16 THE COURT: All right. Thank you very much.

17 Anybody else middle row? Let's move the microphone to the front row
18 then. Anybody front row of top 24. Anybody in the back; law enforcement question.
19 Hand that microphone to the edges, please. Counsel, Ms. Wong, if you could grab
20 that mic and move it to the back, please.

21 Danny, why don't you wipe that. Give it chance --

22 Raise your hand again so the Bailiff can get you the microphone. Yes,
23 sir. Your badge number?

24 PROSPECTIVE JUROR #104: Badge number 104.

25 THE COURT: Yes, sir.

1 PROSPECTIVE JUROR #104: Name Russ Petersen. Just for the record I'm
2 a member, board member, of Crime Stoppers of Nevada.

3 THE COURT: Okay. And is that -- so that's your connection with law
4 enforcement.

5 PROSPECTIVE JUROR #104: That is.

6 THE COURT: As a board member of that organization, would that have a
7 tendency to affect your ability to be fair and impartial to both sides?

8 PROSPECTIVE JUROR #104: I don't think so.

9 THE COURT: Thank you, sir.

10 Anyone else? Law enforcement question, behind the bar. Raise your
11 hand. All right. Seeing no hands.

12 Now, the next question I have is at the appropriate time, I instruct the
13 jury on the law as it applies to the case. It's one of my duties. And it's your duty as
14 a juror to follow the law as it applies to the case. Would any of you have a problem
15 following the law if you have a -- if you find yourself in personal disagreement with
16 the law? Let me put it in kind of a factual context for you.

17 In the state of Nevada it's -- it remains a criminal offense to possess
18 marijuana. It is a criminal offense under certain circumstances, under certain facts
19 to possess marijuana. Having a personal belief that marijuana should be illegal
20 would not preclude someone from sitting on a jury involving an allegation of that
21 type as long as they could pledge to me that they could follow the law even though
22 they have a personal disagreement with the law.

23 Now, I'm not telling you what the law is in the case because we're not at
24 that point in the process yet. I just want to be assured that you can follow the law
25 even if you find yourself in personal disagreement. Raise your hand if you think you

1 have that concern. Uniform negative response.

2 Now, as a corollary or follow up to that question, it's important for you
3 ladies and gentlemen to understand that a jury trial in real life, this is not TV, this is
4 not drama obviously. This is real life. A jury sits as a collective finder of fact. You
5 decide the facts of the case from the witnesses that testify here, the evidence that
6 you receive and from no other source. My job as a judge is very different. My job is
7 -- I take an oath to be a neutral and detached arbiter. I act -- and I keep my sports
8 analogy going in that I kind of act like a referee or an umpire. I remain neutral. My
9 job is to decide what information and evidence the jury hears but to remain neutral
10 and have no interest in the outcome of the case.

11 Understanding that's your role as a collective finder of fact, and we
12 already had one young lady touch on kind of this area, do any of you feel like you
13 could not serve in that important capacity as a finder of fact, to decide the facts of
14 the case, come to the appropriate decision based upon the evidence? Raise your
15 hand. Uniform negative response.

16 Now, under our system of criminal justice an Information has been filed
17 in this case. And it's important to understand that an Information or charge is merely
18 an accusation and is not any evidence of guilt. The Defendant under our system of
19 criminal procedure, is presumed innocent until the contrary is proved beyond a
20 reasonable doubt. The burden of proof is with the State of Nevada to prove every
21 element to that level.

22 Does anybody, as you sit here now, believe simply because an
23 accusation has been filed that the Defendant must have done something wrong?
24 Raise your hand. Uniform negative response.

25 All right. Let's get the microphone up to Chair Number 1. Mr. -- is it

1 Osti?

2 PROSPECTIVE JUROR #007: Osti.

3 THE COURT: Osti. Mr. Osti, you find yourself by circumstance, again, in
4 Chair Number 1. So I'm going to have some questions of you, sir, and then we're
5 going to go right down the top of the panel. This is for the top 24 only.

6 Sir, how long have you been here in Nevada?

7 PROSPECTIVE JUROR #007: Eleven years.

8 THE COURT: And what do you do for a living?

9 PROSPECTIVE JUROR #007: I work for the Health Department as an
10 analyst.

11 THE COURT: Okay. Are you a scientist or are you a administrator? Tell me
12 in a broad sense what you do.

13 PROSPECTIVE JUROR #007: I'm a grant administrator.

14 THE COURT: All right.

15 PROSPECTIVE JUROR #007: Take care of grant activities, running grants
16 and then making sure that we're compliant with those grants.

17 THE COURT: Okay. Are you married, single, partnership, any children?

18 PROSPECTIVE JUROR #007: I'm married, no children.

19 THE COURT: And what does your spouse do?

20 PROSPECTIVE JUROR #007: She's a social worker.

21 THE COURT: Okay. Have you ever served on a jury before?

22 PROSPECTIVE JUROR #007: I have not.

23 THE COURT: Have you ever had a close family member, friend, engaged in
24 -- or been the victim of or accused of a crime?

25 PROSPECTIVE JUROR #007: Yes.

1 THE COURT: Tell me about that.

2 PROSPECTIVE JUROR #007: In May 2nd we had someone drive their car
3 through our house.

4 THE COURT: Okay. And is -- May 2nd. Is that action -- is still moving
5 through the system?

6 PROSPECTIVE JUROR #007: It is.

7 THE COURT: Anything about that situation, frustrations with what law
8 enforcement did or did not do or any part of that calculus that might in fact impact
9 your ability to be fair and impartial in this case?

10 PROSPECTIVE JUROR #007: I do not believe so.

11 THE COURT: All right. Would you have a tendency to give more or less
12 credence or weight to the testimony of a witness simply because they're employed
13 as a police officer?

14 PROSPECTIVE JUROR #007: I would not.

15 THE COURT: And can you listen patiently to the evidence and wait in forming
16 your opinions on the evidence until you've heard all of it, I've instructed you on the
17 law, you've listen to the counsel argue where that evidence and law should take you
18 and come to a -- deliberate the case with your fellow jurors and come to a fair
19 result?

20 PROSPECTIVE JUROR #007: I believe I can.

21 THE COURT: Anything about your life that you think either side might want to
22 know that, again, might impact your ability to be fair and impartial? This is kind of
23 my last question. It's a general one. Anything like that?

24 PROSPECTIVE JUROR #007: Not that I'm aware of.

25 THE COURT: Thank you, sir.

1 If you could hand that microphone to Ms. Burgess? And you can
2 remain seated, standing, whatever you're comfortable with. And these are the same
3 questions for you.

4 How long have you been here in Nevada?

5 PROSPECTIVE JUROR #009: Nine years.

6 THE COURT: What do you live for a living?

7 PROSPECTIVE JUROR #009: I'm a first grade teacher.

8 THE COURT: And you're on summer break now. You have a couple kids
9 home.

10 PROSPECTIVE JUROR #009: Correct.

11 THE COURT: First grade teacher?

12 PROSPECTIVE JUROR #009: Yes.

13 THE COURT: All right. Married, single?

14 PROSPECTIVE JUROR #009: Married.

15 THE COURT: And what does your spouse do?

16 PROSPECTIVE JUROR #009: He's a police officer.

17 THE COURT: Okay. Yes, you told us that.

18 PROSPECTIVE JUROR #009: Yes.

19 THE COURT: North Las Vegas PD?

20 PROSPECTIVE JUROR #009: No, Henderson.

21 THE COURT: Henderson PD. I apologize. All right.

22 And ever served as a juror before?

23 PROSPECTIVE JUROR #009: No; I have not.

24 THE COURT: Ever had a close family member or friend either -- or yourself
25 accused of or a victim of a crime?

1 PROSPECTIVE JUROR #009: No.

2 THE COURT: All right. And this is the law enforcement question specifically
3 to you. Would you have a tendency to give more or less credence or weight to the
4 testimony of a witness simply because they're employed as a police officer?

5 PROSPECTIVE JUROR #009: No.

6 THE COURT: You understand that there's good and bad in all professions --

7 PROSPECTIVE JUROR #009: Right.

8 THE COURT: -- all areas of life and that each witness should be treated,
9 whether they're a police or not or whatever they do, it's the same, you judge their
10 credibility and with the same tools that I'll give you. Can you do that?

11 PROSPECTIVE JUROR #009: Yes.

12 THE COURT: Can you also wait patiently, listen to the evidence and come to
13 a fair decision after deliberating the case with your fellow jurors?

14 PROSPECTIVE JUROR #009: Yes; I could.

15 THE COURT: Anything about your life experience you think either side might
16 want to know?

17 PROSPECTIVE JUROR #009: No.

18 THE COURT: All right. Thank you very much.

19 Is it -- young lady sitting next to you. Is it Cazimero?

20 PROSPECTIVE JUROR #010: Cazimero.

21 THE COURT RECORDER: Let me check the mic first, ma'am.

22 THE COURT: It looks like we may have gone --

23 THE COURT RECORDER: It's not working very well.

24 PROSPECTIVE JUROR #010: It's not on.

25 THE COURT RECORDER: Oh, somebody turned it off. Who was that?

1 THE COURT: And that's what Mr. Kangas does. He jumps up. His machine
2 isn't bouncing. The signals aren't bouncing like they're supposed to.

3 All right. Now, I don't want to mispronounce your name. I mean no
4 disrespect to you. Cazimero?

5 PROSPECTIVE JUROR #010: No; it's Cazimero

6 THE COURT: Cazimero.

7 PROSPECTIVE JUROR #010: Yeah.

8 THE COURT: Ms. Cazimero, Badge Number 10. How long have you been
9 here in Nevada?

10 PROSPECTIVE JUROR #010: About 15 years.

11 THE COURT: What do you do for a living?

12 PROSPECTIVE JUROR #010: I volunteer for the Las Vegas Metropolitan
13 Police Department.

14 THE COURT: And do you -- when you volunteer for that organization, do you
15 work at a specific location and what do you do for them or does it vary?

16 PROSPECTIVE JUROR #010: Human Resource Department.

17 THE COURT: Okay. Anything about that work, that volunteer work that might
18 concern either side about your ability to be fair and impartial?

19 PROSPECTIVE JUROR #010: No.

20 THE COURT: All right. How about you're -- are you married, single,
21 partnership, any children?

22 PROSPECTIVE JUROR #010: Married, children. They're all grown up in
23 Hawaii. I'm from Hawaii.

24 THE COURT: Okay. And what does your spouse do?

25 PROSPECTIVE JUROR #010: He's a manager for a tire company here in

1 Las Vegas, Nevada.

2 THE COURT: Okay. Ever served as a juror before?

3 PROSPECTIVE JUROR #010: In Hawaii but they never needed to use me.

4 THE COURT: Okay. So how far did you get in the process? Did you get this
5 far? Did you stay in the jury room? Did you -- how far did you get?

6 PROSPECTIVE JUROR #010: Well, it was just the attorneys debating and
7 then they just picked us and said you can go home.

8 THE COURT: So you never actually heard evidence?

9 PROSPECTIVE JUROR #010: No.

10 THE COURT: You never heard the judge yell at anybody or instruct anything
11 or do any instruction or do anything like that?

12 PROSPECTIVE JUROR #010: No.

13 THE COURT: Anything about that situation involving your service to your
14 community in Hawaii that might affect your ability to be fair and impartial?
15 Frustrated with it? Anything that might concern either side here today?

16 PROSPECTIVE JUROR #010: No.

17 THE COURT: How about close family member, friends, yourself either the
18 victim of or accused of a crime? Anything like that?

19 PROSPECTIVE JUROR #010: My nephew long time ago but it happened in
20 Hawaii so I don't really know what happened in that case.

21 THE COURT: Okay. And we come right back around to the same area,
22 anything about the situation -- that situation with your family that might affect your
23 ability to be fair and impartial?

24 PROSPECTIVE JUROR #010: No.

25 THE COURT: All right. What about having a tendency to give more or less

1 credence or weight -- and we've already touched upon it, the fact that police officers
2 may be called. Do you feel like you might have to justify any decision you make in
3 this case to the people that you work with or volunteer for?

4 PROSPECTIVE JUROR #010: No; they just keep me in the back room to do
5 work.

6 THE COURT: Okay. So you don't feel like you would have to justify a
7 decision. You can be fair to both sides.

8 PROSPECTIVE JUROR #010: Yes.

9 THE COURT: All right. Can you also listen patiently? I don't want you to --
10 are you the type of person, first witness that testifies, that's the direction you're going
11 to go and you're going to close your mind to the rest or the last word that's spoken
12 by the lawyers, that's the direction you're going to go because you're just so anxious
13 to get through the process? Can you keep an open mind through all of it?

14 PROSPECTIVE JUROR #010: Yes, I can.

15 THE COURT: Come to a fair decision based upon the evidence and the law.

16 PROSPECTIVE JUROR #010: Yes, I can.

17 THE COURT: What about any reason you can think of in your life that might
18 affect your ability to be fair and impartial?

19 PROSPECTIVE JUROR #010: If this goes to next month, I'll be going to
20 Hawaii. That's all.

21 THE COURT: It won't go that far. Any other concerns?

22 PROSPECTIVE JUROR #010: No, that's all.

23 THE COURT: And, frankly, that's exactly why I ask that question 'cause
24 there's -- I bet you half of you or more have something in the back of your mind
25 going: Boy, I just -- it's important, but. And I always like to have chance to talk

1 about what that but means. Okay?

2 PROSPECTIVE JUROR #010: That's fine.

3 THE COURT: All right. Thank you.

4 Could you hand that microphone to Ms. Ruggles?

5 PROSPECTIVE JUROR #012: Thank you.

6 THE COURT: Ms. Ruggles, you've told us you're a widow. Is that true?

7 PROSPECTIVE JUROR #012: Yes.

8 THE COURT: How long have you been here in Nevada?

9 PROSPECTIVE JUROR #012: Twenty-nine years.

10 THE COURT: And what do you do for a living?

11 PROSPECTIVE JUROR #012: I teach high school.

12 THE COURT: Okay. And what do you teach in high school?

13 PROSPECTIVE JUROR #012: I teach Spanish as a second language.

14 THE COURT: All right. In CCSD?

15 PROSPECTIVE JUROR #012: Yes.

16 THE COURT: All right. And you're husband is deceased.

17 PROSPECTIVE JUROR #012: Uh-huh. I have a boyfriend.

18 THE COURT: Okay. What does your boyfriend do?

19 PROSPECTIVE JUROR #012: He's a teacher; math.

20 THE COURT: Okay. Any children?

21 PROSPECTIVE JUROR #012: I have one boy, 23; dental school.

22 THE COURT: All right. Ever served as a juror before?

23 PROSPECTIVE JUROR #012: I was called once about 15 years ago but I

24 was dismissed. I didn't even get to this stage.

25 THE COURT: Okay. How about close family members, friends, yourself

1 victim of or accused of a crime?

2 PROSPECTIVE JUROR #012: No.

3 THE COURT: Nothing like that?

4 How about having a tendency to give more or less credence or weight
5 to the testimony of a witness simply because they're a police officer?

6 PROSPECTIVE JUROR #012: I'm sorry. More what?

7 THE COURT: Believe a -- if somebody gets up on the stand and they're a
8 policeman or a policewoman, police officer, would you have a tendency to believe
9 them more simply because they're a police officer or disbelieve them? 'Cause we
10 have people, frankly, on both sides of that equation.

11 PROSPECTIVE JUROR #012: Not really.

12 THE COURT: Anything like that in your mind?

13 PROSPECTIVE JUROR #012: No; it's an individual.

14 THE COURT: Okay. Fair enough.

15 How about keeping an open mind as we hear the evidence and coming
16 to a fair result. Can you do that?

17 PROSPECTIVE JUROR #012: I can try.

18 THE COURT: Anything about your life -- and I appreciate that. Anything
19 about your life you think either side might want to know? Again, bearing on your
20 ability to be fair and impartial here, something that might affect that that I just haven't
21 asked about?

22 PROSPECTIVE JUROR #012: No.

23 THE COURT: All right. Thank you very much.

24 Could you hand the microphone to Ms. Lukas?

25 PROSPECTIVE JUROR #119: Yes.

1 THE COURT: How long have you been here in Nevada?
2 PROSPECTIVE JUROR # 119: Twenty-two years.
3 THE COURT: What do you do for a living?
4 PROSPECTIVE JUROR #119: I work at Jo Ann's Craft Stores in retail.
5 THE COURT: Okay. Married, single, partnership, children?
6 PROSPECTIVE JUROR #119: I have a boyfriend I've lived with for six years.
7 THE COURT: All right. And what does he do?
8 PROSPECTIVE JUROR #119: He's in construction.
9 THE COURT: All right. Any children?
10 PROSPECTIVE JUROR #119: No.
11 THE COURT: Ever served on a jury before?
12 PROSPECTIVE JUROR #119: I was called but I was dismissed.
13 THE COURT: So you never deliberated.
14 PROSPECTIVE JUROR # 119: No.
15 THE COURT: Ever had a close family member, friend, yourself the victim of
16 or accused of a crime?
17 PROSPECTIVE JUROR #119: My father served 25 years in prison.
18 THE COURT: Okay. Anything about the difficulties involving your father that
19 might affect your ability to be fair and impartial here?
20 PROSPECTIVE JUROR #119: I don't believe policemen are always right.
21 THE COURT: Okay. And that's fair. Life experience is a tool that you bring
22 to this process. All I need to know is as we start off here, everybody starts off even.
23 Listen to the evidence and come to a fair decision for both sides. Can you do that?
24 PROSPECTIVE JUROR #119: Okay.
25 THE COURT: Okay is kind of neutral.

1 PROSPECTIVE JUROR #119: Yes, I can.

2 THE COURT: I usually go for a yes or a no.

3 PROSPECTIVE JUROR #119: Yes; I can.

4 THE COURT: Okay. What about waiting and forming your opinion? Listen to
5 all the evidence, come -- again, come to a fair decision. You can do that?

6 PROSPECTIVE JUROR #119: Yes.

7 THE COURT: Anything in your life that you think -- besides the situation and
8 frustrations you've talked about in a general sense about your father that might
9 affect your ability to be fair? Anything at all?

10 PROSPECTIVE JUROR #119: No.

11 THE COURT: All right. Hand that mic -- if you would please, hand that
12 microphone to Mr. Saleme.

13 Mr. Saleme, you're a manager of a restaurant.

14 PROSPECTIVE JUROR #080: Yes,

15 THE COURT: And you are, it sounds like, a sole proprietor. If you're not
16 there, the doors don't open.

17 PROSPECTIVE JUROR #080: Pretty much.

18 THE COURT: Fair enough? Married, single, partnership, any kids?

19 PROSPECTIVE JUROR #080: Single.

20 THE COURT: Any kids out of any relationships?

21 PROSPECTIVE JUROR #080: No.

22 THE COURT: All right. Any prior juror service?

23 PROSPECTIVE JUROR #080: No.

24 THE COURT: Any situation involving yourself, close family member or friend
25 accused of or the victim of a crime?

1 PROSPECTIVE JUROR #080: Two separate incidences, a long time ago
2 though. The most recent one was in '99.

3 THE COURT: Okay. In a broad sense, you accused of a crime, victim of a
4 crime?

5 PROSPECTIVE JUROR #080: Victim.

6 THE COURT: Victim of a crime. Anything about that situation that might offer
7 either side concern?

8 PROSPECTIVE JUROR #080: I can't imagine it, no.

9 THE COURT: Okay. Fair enough. How about the police officer question?
10 Tendency to give more or less credence or weight to the testimony of a witness
11 simply because they work as a police officer? Anything like that a concern?

12 PROSPECTIVE JUROR #080: No.

13 THE COURT: What about keeping an open mind, can you do that?

14 PROSPECTIVE JUROR #080: I'm pretty good about that.

15 THE COURT: All right. Fair.

16 Anything in your life that you think either side might want to know about
17 you that might impact your ability to be fair?

18 PROSPECTIVE JUROR #080: No.

19 THE COURT: All right. Thank you very much.

20 Is it Test?

21 PROSPECTIVE JUROR #029: It's first name Lauryn, last name Tester.

22 THE COURT: Okay. And I'm terrible with names and so I try my best. How
23 long have you been here in Nevada?

24 PROSPECTIVE JUROR #029: Fifteen years.

25 THE COURT: What do you do for a living?

1 PROSPECTIVE JUROR #029: I attend UNLV and work at the Palazzo front
2 desk.

3 THE COURT: Okay. What's your course of study? What do you want to do?

4 PROSPECTIVE JUROR #029: Hospitality.

5 THE COURT: So you're working on that degree and working in that business
6 right now sounds like.

7 PROSPECTIVE JUROR #029: Yes.

8 THE COURT: Married, single, partnership and kids?

9 PROSPECTIVE JUROR #029: No.

10 THE COURT: Any prior juror service?

11 PROSPECTIVE JUROR #029: No.

12 THE COURT: Any situations involving where either a close family member,
13 yourself, a friend been accused of or the victim of a crime?

14 PROSPECTIVE JUROR #029: No, sir.

15 THE COURT: What about having a tendency to give more or less credence
16 or weight to the testimony of a witness simply because they're a police officer?

17 PROSPECTIVE JUROR #029: No, sir.

18 THE COURT: No? How about guilt or innocence, wait in forming your
19 opinion on these decisions that you must make? Can you do that?

20 PROSPECTIVE JUROR #029: Yes.

21 THE COURT: And deliberate the case fairly with fellow jurors, talk about it,
22 and make -- come to a fair decision. Can you do that?

23 PROSPECTIVE JUROR #029: Yes.

24 THE COURT: All right. And finally, anything in your life? Sounds like you've
25 only been here a short time.

1 PROSPECTIVE JUROR # 029: I'm 19. I don't know if that would -- I'm young
2 but that's my only concern.

3 THE COURT: I know of a lot of very capable 19-year-olds. Anything in your
4 life that you think either side might want to know you?

5 PROSPECTIVE JUROR #029: No, sir.

6 THE COURT: All right. Very good.

7 Is it Arreola?

8 PROSPECTIVE JUROR #037: Yes, sir.

9 THE COURT: Ma'am, how long have you been here in Nevada?

10 PROSPECTIVE JUROR #037: Eighteen years.

11 THE COURT: And what do you do for a living?

12 PROSPECTIVE JUROR #037: I work for a mortgage company processing
13 loans.

14 THE COURT: All right. Married, single, partnership, children?

15 PROSPECTIVE JUROR #037: Married; I do have children.

16 THE COURT: And what does your spouse do?

17 PROSPECTIVE JUROR #037: He works for a construction company.

18 THE COURT: All right. Ever served as a juror before?

19 PROSPECTIVE JUROR #037: No.

20 THE COURT: Ever had a close family member, friend, yourself either
21 accused of or the victim of a crime?

22 PROSPECTIVE JUROR #037: I was a victim of a crime back in like '99.

23 THE COURT: Okay. Here in Nevada?

24 PROSPECTIVE JUROR #037: Yes.

25 THE COURT: Anything about that situation that might offer either side

1 concern?

2 PROSPECTIVE JUROR #037: No.

3 THE COURT: Frustrated with what they did, the police did or didn't do?

4 Other side might take it out on --

5 PROSPECTIVE JUROR #037: Not at all.

6 THE COURT: -- somebody who's not -- was not involved in that?

7 PROSPECTIVE JUROR #037: No.

8 THE COURT: Nothing like that?

9 PROSPECTIVE JUROR #037: No.

10 THE COURT: All right. How about tendency to give more or less credence or
11 weight to the testimony of a witness simply because they're employed as a
12 policeman, a police officer?

13 PROSPECTIVE JUROR #037: No.

14 THE COURT: All right. What about keeping an open mind, listening
15 patiently? Can you do that?

16 PROSPECTIVE JUROR #037: Yes, I can.

17 THE COURT: Coming to a fair decision based upon that evidence? Can you
18 do that?

19 PROSPECTIVE JUROR #037: Yes, I can.

20 THE COURT: Anything in your life you think either side might want to know
21 that might offer insight on your ability to be fair here?

22 PROSPECTIVE JUROR #037: No, sir.

23 THE COURT: Thank you very much.

24 Mr. Guenther, Chair Number 9, Badge 82.

25 How long have you been with Metro?

1 PROSPECTIVE JUROR #082: Thirteen years.

2 THE COURT: And what is your current duty?

3 PROSPECTIVE JUROR #082: I'm -- I work in the forensic laboratory at -- for
4 Metro.

5 THE COURT: Okay. And you're -- I know that you've been here as a witness
6 before.

7 PROSPECTIVE JUROR #082: Yes.

8 THE COURT: Why don't you tell all sides so they -- if they don't know what
9 you have testified about.

10 PROSPECTIVE JUROR #082: Oh, my area of expertise is latent fingerprints.

11 THE COURT: All right. Married, single, partnership, any kids?

12 PROSPECTIVE JUROR #082: Yes, married. My wife is retired and I have
13 one adult son.

14 THE COURT: And that you're -- what did your wife retire from?

15 PROSPECTIVE JUROR #082: She also worked in the forensic laboratory in
16 the DNA unit --

17 THE COURT: Okay.

18 PROSPECTIVE JUROR #082: -- for Metro.

19 THE COURT: And ever served on a -- as a juror before?

20 PROSPECTIVE JUROR #082: No.

21 THE COURT: How about ever had a close family member, friend, yourself
22 either the victim of or accused of a crime?

23 PROSPECTIVE JUROR #082: No.

24 THE COURT: Can you -- would have a tendency to give more or less
25 credence or weight to the testimony of a witness simply because they're employed

1 as a police officer?

2 PROSPECTIVE JUROR #082: No.

3 THE COURT: Again, would you have to feel like you would have to justify any
4 decision you would make in this case to anybody in the organization, in Metro?

5 PROSPECTIVE JUROR #082: No.

6 THE COURT: All right. Can you wait in forming your opinion if you're asked
7 to be a member of this jury till you've heard all the evidence and you've deliberated it
8 constructively with fellow jurors in coming to a fair result?

9 PROSPECTIVE JUROR #082: Yes, I can.

10 THE COURT: Anything in your life you think either side might want to know
11 about you?

12 PROSPECTIVE JUROR #082: No, sir.

13 THE COURT: Thank you very much. If you could hand that microphone to
14 Ms. Gallegos-Stephens.

15 How long have you been here in Nevada?

16 PROSPECTIVE JUROR #038: Forty-four years.

17 THE COURT: What do you do for a living?

18 PROSPECTIVE JUROR #038: Deputy Treasurer and I also have a small
19 business on the side, photographer.

20 THE COURT: Photographer, professional photographer. All right. Married,
21 single, partnership, kids?

22 PROSPECTIVE JUROR #038: Married.

23 THE COURT: And your spouse, what do they do?

24 PROSPECTIVE JUROR #038: My spouse is a used car manager.

25 THE COURT: All right. Ever served as a juror before?

1 PROSPECTIVE JUROR #038: No, sir.

2 THE COURT: Close family member or friend, yourself, either accused of or
3 the victim of a crime? Anything like that?

4 PROSPECTIVE JUROR #038: I've had just the wheels of my vehicle stolen
5 out of my driveway and at some period of time, various vehicles on our street were
6 broken into. As far as accused of, most of it is domestic in our household as a child.

7 THE COURT: All right. Anything about the difficulties on both sides of that
8 question that you've just outlined, that might offer either side some concern about
9 your ability to be fair?

10 PROSPECTIVE JUROR #038: No, sir.

11 THE COURT: All right. Would you have a tendency to give more or less
12 credence or weight to the testimony of a witness simply because they're employed
13 as a police officer?

14 PROSPECTIVE JUROR #038: No.

15 THE COURT: How about keeping an open mind; listening to the evidence
16 and coming to a fair result. Can you do that?

17 PROSPECTIVE JUROR #038: Yes.

18 THE COURT: How about any reason you can think that you couldn't be fair
19 that might offer either side some concern?

20 PROSPECTIVE JUROR #038: No, sir.

21 THE COURT: Thank you very much.

22 Ms. Cox, how long have you been here in Nevada?

23 PROSPECTIVE JUROR #045: Eighteen years.

24 THE COURT: What do you do for a living?

25 PROSPECTIVE JUROR #045: I'm a high school counselor.

1 THE COURT: Okay. CCSD?
2 PROSPECTIVE JUROR #045: Yes.
3 THE COURT: And married, single, partnership, any kids?
4 PROSPECTIVE JUROR #045: I'm married and I have a three-year-old little
5 boy.
6 THE COURT: And what does your spouse do?
7 PROSPECTIVE JUROR #045: Currently, he's going back to school.
8 THE COURT: What's the direction that he wishes to go in his study?
9 PROSPECTIVE JUROR #045: He's going to go into physical therapy.
10 THE COURT: All right. Ever served as a juror before?
11 PROSPECTIVE JUROR #045: No, I got called but just sat in the room all
12 day.
13 THE COURT: Okay. How about close family member, friends, yourself either
14 accused of or the victim of a crime? Anything like that?
15 PROSPECTIVE JUROR #045: My sister was mugged about six months ago.
16 THE COURT: Here in Nevada?
17 PROSPECTIVE JUROR #045: Yes.
18 THE COURT: Anything about the nature of that situation that might cause
19 either side some concern about you?
20 PROSPECTIVE JUROR #045: No.
21 THE COURT: Would you have a tendency to give more or less credence or
22 weight to the testimony of a witness simply because they're a police officer?
23 PROSPECTIVE JUROR #045: No.
24 THE COURT: Any -- can you wait, listen to the evidence patiently and come
25 to a fair decision based upon the evidence?

1 PROSPECTIVE JUROR #045: Yes.

2 THE COURT: Anything about your life that you think either side might want to
3 know that would offer them some insight on you?

4 PROSPECTIVE JUROR #045: No.

5 THE COURT: Okay. Thank you very much.

6 Mr. Wirth, how long have you been here in Nevada?

7 PROSPECTIVE JUROR #046: About five years.

8 THE COURT: And you are partner in the firm that you've already identified.

9 PROSPECTIVE JUROR #046: Correct.

10 THE COURT: Married, single, partnership, any kids?

11 PROSPECTIVE JUROR #046: Married, three kids.

12 THE COURT: And what's your spouse do?

13 PROSPECTIVE JUROR #046: Stay at home mom.

14 THE COURT: Okay. Now, the work that you do in your firm, you told us in a
15 broad sense. It's, I understand it, you said all civil?

16 PROSPECTIVE JUROR #046: Correct.

17 THE COURT: Any involvement in the civil actions involving anything that
18 might touch on the law enforcement side of criminal, bleed over into like a criminal
19 proceeding or criminal defense type work?

20 PROSPECTIVE JUROR #046: No. not that I can think of.

21 THE COURT: All right. Ever served as a juror before?

22 PROSPECTIVE JUROR #046: No.

23 THE COURT: How many trial -- jury trials have you done or participated in
24 would you estimate?

25 PROSPECTIVE JUROR #046: About five, one -- the first one in front of you.

1 THE COURT: Okay. Close family, friends either accused of or the victim of a
2 crime?

3 PROSPECTIVE JUROR #046: No.

4 THE COURT: How about having a tendency to give more or less credence or
5 weight to the testimony of a witness simply because they're a police officer?

6 PROSPECTIVE JUROR #046: Because of my profession, I'm aware that
7 people tend to give them more credibility because of the uniform so I kind of swing
8 the other way and definitely want to look at them as just another individual.

9 THE COURT: So you -- everybody --

10 PROSPECTIVE JUROR #046: Have no problem.

11 THE COURT: They come up here, you look at them and you judge them
12 based upon what they say, not what they wear.

13 PROSPECTIVE JUROR #046: Right.

14 THE COURT: How about waiting patiently? I know the process of a jury trial
15 is a very formal process. You appreciate that fact. You've got to keep an open mind
16 through that process until it's appropriate to talk about what the conclusions must be
17 as a consequence of the evidence. Can you do that?

18 PROSPECTIVE JUROR #046: Yep.

19 THE COURT: All right. Anything -- would you want a man of your mindset or
20 would you be concerned doing the jobs that these two different teams have to do?
21 Anything about you that might offer either concern?

22 PROSPECTIVE JUROR #046: No.

23 THE COURT: All right. Thank you very much.

24 Ms. Hudgens, you've told us about your family. How about you? How
25 long have you been here in Nevada?

1 PROSPECTIVE JUROR #049: Fifty-seven years.

2 THE COURT: And what do you do for a living?

3 PROSPECTIVE JUROR #049: I work for United Health Care. I'm operations
4 manager in the in-patient case management arena.

5 THE COURT: Okay. Married, single, partnership, children?

6 PROSPECTIVE JUROR #049: I'm married. My husband's retired 40 years at
7 the Las Vegas Valley Water District.

8 THE COURT: All right. Ever served as a juror before?

9 PROSPECTIVE JUROR #049: Yes, I have. I've been summoned many
10 times because I've been here since dirt and I have served on I think maybe four
11 juries.

12 THE COURT: Okay. Civil, criminal or a combination of both?

13 PROSPECTIVE JUROR #049: I think if there's four, three were criminal and
14 one was civil.

15 THE COURT: Do you appreciate that there are different rules and burdens
16 between civil and criminal and I'll explain that to you --

17 PROSPECTIVE JUROR #049: Yes.

18 THE COURT: -- at the -- when I instruct you on the law. Can you follow that
19 instruction?

20 PROSPECTIVE JUROR #049: Yes.

21 THE COURT: Understand there's an important difference. Without telling us
22 the verdicts in any of those cases that you participate on in the past, I don't want to
23 know what the decisions were, only if a decision was reached in all of them.

24 PROSPECTIVE JUROR #049: Yes.

25 THE COURT: Were you the foreperson of any of those jurors -- juries?

1 PROSPECTIVE JUROR #049: No.

2 THE COURT: Anything about those experiences that might affect your ability
3 to be fair and impartial here?

4 PROSPECTIVE JUROR #049: No.

5 THE COURT: How about close family member, friend, yourself either
6 accused of or the victim of a crime?

7 PROSPECTIVE JUROR #049: Many years ago we had a home invasion and
8 in the last five years we had a -- our car broken into.

9 THE COURT: Anything about that that might offer either side some concern
10 about you?

11 PROSPECTIVE JUROR #049: No.

12 THE COURT: How about having a tendency to give more or less credence or
13 weight to the testimony of a witness simply because they work as a police officer?
14 Anything like that that might offer them concern?

15 PROSPECTIVE JUROR #049: No.

16 THE COURT: How about keeping an open mind? You know the process is a
17 formal one. Can you do it again?

18 PROSPECTIVE JUROR #049: Yes.

19 THE COURT: Final question. Anything that they might want to know about
20 you that I haven't touched on in the 30 seconds that we've had to talk? Anything?

21 PROSPECTIVE JUROR #049: No.

22 THE COURT: Thank you very much.

23 Mr. Newmiller, how long have you been here in Nevada?

24 PROSPECTIVE JUROR #050: Fifty-two years.

25 THE COURT: And what do you do for a living, sir?

1 PROSPECTIVE JUROR #050: I work in construction, preconstruction
2 services specifically.

3 THE COURT: All right. Married, single, partnership, any kids?

4 PROSPECTIVE JUROR #050: Married, two children; one 30, and one 20.

5 THE COURT: And what does your spouse do?

6 PROSPECTIVE JUROR #050: She works in banking.

7 THE COURT: Okay. How about ever serving as a juror before? Have you
8 done that?

9 PROSPECTIVE JUROR #050: I have not.

10 THE COURT: How about being -- close family member, friends, yourself
11 accused of or the victim of a crime? Anything like that?

12 PROSPECTIVE JUROR #050: About a year and a half ago, our -- he was 19
13 at the time. Our son was robbed at a gas station.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR #050: And that didn't go to trial.

16 THE COURT: Okay. Anything about that situation that might infect your
17 ability to be fair here?

18 PROSPECTIVE JUROR #050: I don't think so.

19 THE COURT: Okay. It's something difficult that happened, it's independent
20 and you can keep it independent?

21 PROSPECTIVE JUROR #050: [Inaudible].

22 THE COURT: All right. How about having a tendency or give more or less
23 credence or weight to the testimony of a witness simply because they're a police
24 officer?

25 PROSPECTIVE JUROR #050: No.

1 THE COURT: Is that a no I can't or a no I will? I wasn't sure.

2 PROSPECTIVE JUROR #050: It doesn't matter. Like this gentleman said. It
3 doesn't matter what you're dressed, it's what you present.

4 THE COURT: Fair enough. How about keeping an open mind, patiently
5 listening and coming to a fair result? Can you do that?

6 PROSPECTIVE JUROR #050: I can.

7 THE COURT: All right. Anything in your life you think either side might want
8 to know about you?

9 PROSPECTIVE JUROR #050: No.

10 THE COURT: Can't think of anything. Thank you.

11 Mr. Vaughn, how long have you been here in Nevada, sir?

12 PROSPECTIVE JUROR #052: Six years.

13 THE COURT: What do you for a living?

14 PROSPECTIVE JUROR #052: I own a small business.

15 THE COURT: What kind of work?

16 PROSPECTIVE JUROR #052: We sell a medical foot product.

17 THE COURT: Okay. Married, single, partnership any kids?

18 PROSPECTIVE JUROR #052: Partner and engaged.

19 THE COURT: And what does your significant other do?

20 PROSPECTIVE JUROR #052: She's my partner.

21 THE COURT: In the business that --

22 PROSPECTIVE JUROR #052: In the business.

23 THE COURT: -- you've identified?

24 PROSPECTIVE JUROR #052: Yes, sir.

25 THE COURT: All right. How about serving as a juror before? Ever done

1 that?

2 PROSPECTIVE JUROR #052: No, sir.

3 THE COURT: How about close family member, friends, yourself victim of or
4 accused of a crime? Anything like that?

5 PROSPECTIVE JUROR #052: Several times.

6 THE COURT: Tell me about that.

7 PROSPECTIVE JUROR #052: A year and a half ago we were burglarized.
8 They got a large sum of cash. Two weeks ago my truck was stolen in Austin, Texas
9 with a lot of equipment and that kind of stuff in it. About a year before that I had
10 another van stolen in San Antonio, Texas. So several instances like that.

11 THE COURT: Sounds like Texas has been a busy place for that.

12 PROSPECTIVE JUROR #052: Well, it's not just there. We had the car
13 broken into twice here.

14 THE COURT: Oh, it was here. Okay. Anything about those difficulties that
15 might affect your ability to be fair and impartial to both sides here?

16 PROSPECTIVE JUROR #052: I think so.

17 THE COURT: How so? Tell me why.

18 PROSPECTIVE JUROR #052: The truck was -- the recent was recovered
19 recently and it was a Mexican gang that was stealing trucks taking them back to
20 Mexico. That's part of it. I have a very short tolerance for thieves.

21 THE COURT: Okay. And I'm sure everybody does, but you're just telling me
22 that that might somehow bleed over to listening to this case?

23 PROSPECTIVE JUROR #052: It could, sir. Yes, sir.

24 THE COURT: All right. Let's see where we go on that. I appreciate your
25 candor. Would you have any tendency to give more or less credence or weight to

1 the testimony of a witness simply because they're a police officer?

2 PROSPECTIVE JUROR #052: Probably less because of the response I've
3 had different times I've been stolen from.

4 THE COURT: So you've got -- you've had frustrations with what authorities
5 did not do in your situation --

6 PROSPECTIVE JUROR #052: Yes, sir.

7 THE COURT: -- that you're concerned about.

8 PROSPECTIVE JUROR #052: Yes, sir.

9 THE COURT: Fair enough. Okay.

10 How about through all this process and everybody's up here and you
11 find yourself staring back at me and you're one of the folks in this jury, can you listen
12 patiently to the evidence and come to a fair result save all the concerns that you've
13 already expressed or is that a no?

14 PROSPECTIVE JUROR #052: I would try. I cannot say I can do it.

15 THE COURT: Okay. Let's see where we go. I appreciate that candor.

16 Anything else in your life that might affect your ability to be fair and
17 impartial that either side might want to know about?

18 PROSPECTIVE JUROR #052: No, sir.

19 THE COURT: All right. Thank you. Hand the microphone to Ms. Keller.

20 How long have you been lived here in Nevada?

21 PROSPECTIVE JUROR #055: Born and raised, 34 years.

22 THE COURT: What do you -- you told us already. Oh, you're unemployed. I
23 apologize.

24 PROSPECTIVE JUROR #055: Unemployed.

25 THE COURT: What kind of work do you do when you're working in your field?

1 PROSPECTIVE JUROR #055: I've done various things. I've done clothing
2 retail. I've done advertising. I was a traffic coordinator for a advertising agency. I
3 went back to school and was a student and then I got pregnant and then that my
4 three-year-old is what -- I haven't furthered my education.

5 THE COURT: And it sounds like now you have your plate full even though
6 you're not working with your family responsibilities.

7 PROSPECTIVE JUROR #055: Yes.

8 THE COURT: Is that a fair statement?

9 PROSPECTIVE JUROR #055: Yes.

10 THE COURT: All right. You talk about a spouse in a general sense. Are you
11 still married?

12 PROSPECTIVE JUROR #055: No; I'm divorced.

13 THE COURT: Okay. Any -- fair enough.

14 How about serving as a juror before? Ever done that?

15 PROSPECTIVE JUROR #055: Never deliberated.

16 THE COURT: Okay. Did you actually hear -- take -- hear evidence and get
17 sworn and --

18 PROSPECTIVE JUROR #055: No, no.

19 THE COURT: So you got to -- you were in selection but you never got --

20 PROSPECTIVE JUROR #055: This, this was as far as we got.

21 THE COURT: Okay. How about close family members, friends, yourself
22 either accused of or the victim of a crime? Anything like that?

23 PROSPECTIVE JUROR #055: Victim.

24 THE COURT: Okay. About how long ago?

25 PROSPECTIVE JUROR #055: I've had -- a few years ago I had my car

1 burglarized. Six years ago I had a car stolen and totaled because he was evading
2 police.

3 THE COURT: Okay. Is that something that's going to affect your ability to be
4 fair and impartial here or do you think you can set that aside and understand as
5 difficult that might have made your life or -- that it's an independent situation.

6 PROSPECTIVE JUROR #055: I believe I could set that aside.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR #055: I was a victim of domestic violence in May.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR #055: Receiving a hairline skull fracture and
11 concussion. My only concern with that is I have some short term memory loss as of
12 yet --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR #055: -- which may affect me hearing.

15 THE COURT: All right. I want to make sure you have all the tools necessary
16 to --

17 PROSPECTIVE JUROR #055: Right.

18 THE COURT: -- listen and follow. Are you --

19 PROSPECTIVE JUROR #055: Normally I would say, yes, I could. Right now
20 I'm not sure that I could.

21 THE COURT: Okay. Is that case on -- have charges been filed in that
22 situation?

23 PROSPECTIVE JUROR #055: No.

24 THE COURT: Are you under care for a doctor saying you have a fracture in
25 your skull?

1 PROSPECTIVE JUROR #055: I have the hospital records with me but I don't
2 have the current MRI results --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR #055: -- as of a week ago.

5 THE COURT: They just basically say you have a fracture.

6 PROSPECTIVE JUROR #055: Uh-hum.

7 THE COURT: And you're trying the best you can to deal with the short term
8 memory loss?

9 PROSPECTIVE JUROR #055: Yes.

10 THE COURT: Is this something you can feel coming on like a migraine or
11 something that just all of a sudden you wake up and you realize, I don't know where
12 the time went?

13 PROSPECTIVE JUROR #055: Yeah. I just --

14 THE COURT: What the second?

15 PROSPECTIVE JUROR #055: There's times I'll just kind of like, oh, I -- or
16 what was just said or what was I just talking about or what day is it, sometimes. It
17 just kind of --

18 THE COURT: And you brought the medical records with you?

19 PROSPECTIVE JUROR #055: I have the hospital -- when I was
20 administered. I was taken by ambulance.

21 THE COURT: And this was in May?

22 PROSPECTIVE JUROR #055: Uh-huh. And I actually had jury duty that day
23 and I didn't arrive because I was on my way to the hospital.

24 THE COURT: Okay. State, wish to inquire?

25 MS. HERBERT: Not at this time, Judge.

1 THE COURT: Do you want to look at the medical records?
2 MS. HERBERT: You know, I'll -- I don't have any questions at this time, no.
3 THE COURT: Defense?
4 MR. GARDNER: No, Your Honor.
5 THE COURT: Ms. Keller, we're not going to -- I wouldn't look at your MRI
6 results either. If you have that record -- that information with you, obviously, you
7 were in front of it enough to bring it. Based on the agreement of the parties, I'm
8 going to thank and excuse you. Send you back to jury services for further
9 proceedings. All right?
10 PROSPECTIVE JUROR #055: Okay. Thank you.
11 THE COURT: If you could hand that microphone to the gentleman, Mr.
12 Vaughn, next to you. We're going to call another name to fill the Seat #16.
13 THE COURT CLERK: Michael Wood.
14 THE COURT: Michael Wood, if you could come forward, sir.
15 THE COURT CLERK: Badge 087.
16 THE COURT: Welcome to Chair 16, sir.
17 Mr. Wood, how long have you been here in Nevada?
18 PROSPECTIVE JUROR #087: I've been here for 21 years.
19 THE COURT: What do you do for a living?
20 PROSPECTIVE JUROR #087: I own a detective and security agency.
21 THE COURT: So you're -- you have a license, a PI license?
22 PROSPECTIVE JUROR #087: Yes.
23 THE COURT: And what's the name of the agency?
24 PROSPECTIVE JUROR #087: American Detective and Security.
25 THE COURT: Did you ever work for any independent counsel or the

1 government on contract? Anything like that?

2 PROSPECTIVE JUROR #087: We've worked for State, County, attorneys.
3 You name it.

4 THE COURT: Okay. And you've been in the business how long?

5 PROSPECTIVE JUROR #087: I've been in the business about 20 years now.

6 THE COURT: Okay. Any thing about that work, associations, anything that
7 might offer either side some concern about you being fair and impartial to them?

8 PROSPECTIVE JUROR #087: No.

9 THE COURT: Okay. How about married, single, partnership, any kids?

10 PROSPECTIVE JUROR #087: I'm married with six kids.

11 THE COURT: And what does your spouse do?

12 PROSPECTIVE JUROR #087: She works for the government.

13 THE COURT: In what capacity?

14 PROSPECTIVE JUROR #087: Social security administration.

15 THE COURT: All right. How about serving as a juror before, ever done that?

16 PROSPECTIVE JUROR #087: Have I? Yes, I have.

17 THE COURT: Civil or criminal?

18 PROSPECTIVE JUROR #087: Both and then also in military.

19 THE COURT: So in the military you served on court's marshal?

20 PROSPECTIVE JUROR #087: Yes.

21 THE COURT: And you've served as a juror in both civil and criminal cases?

22 PROSPECTIVE JUROR #087: Yes, I have.

23 THE COURT: Without telling us the verdicts in any of those actions, were
24 they juries which you were a part of able to reach verdicts in those cases?

25 PROSPECTIVE JUROR #087: Yes, we did.

1 THE COURT: Were you ever the foreperson --

2 PROSPECTIVE JUROR #087: No, no.

3 THE COURT: -- in any of those jurors -- juries?

4 PROSPECTIVE JUROR #087: No.

5 THE COURT: Anything about those experiences that might offer or affect
6 your ability to be fair and impartial here? Frustrated that you're call back again after
7 all --

8 PROSPECTIVE JUROR #087: No.

9 THE COURT: -- giving to the community so many times?

10 PROSPECTIVE JUROR #087: It is time consuming but no.

11 THE COURT: Okay. All right. How about having a close family member,
12 friend, yourself either the victim or accused of a crime?

13 PROSPECTIVE JUROR #087: No.

14 THE COURT: How about tendency to give more or less credence or weight
15 to the testimony of a witness simply because they're a police officer? Anything like
16 that?

17 PROSPECTIVE JUROR #087: No.

18 THE COURT: How about keeping an open mind? Can you do that?

19 PROSPECTIVE JUROR #087: Absolutely.

20 THE COURT: Listen patiently and come to a fair result?

21 PROSPECTIVE JUROR #087: Yeah.

22 THE COURT: Anything in your life you think either side might want to know
23 about you?

24 PROSPECTIVE JUROR #087: No; that pretty much covered it.

25 THE COURT: All right. Thank you.

1 Let's get the microphone up here to Chair 17, Badge 60. Is it Yukes?

2 PROSPECTIVE JUROR #060: Yes.

3 THE COURT: Mr. Yukes, how long have you been here in Nevada.

4 PROSPECTIVE JUROR #060: Approximately 40 years.

5 THE COURT: What do you do for a living, sir?

6 PROSPECTIVE JUROR #060: I operate a natural resources company.

7 THE COURT: Okay. Tell me what that -- what your company does?

8 PROSPECTIVE JUROR #060: Oil and gas production.

9 THE COURT: Okay. Married, single, partnership, any children?

10 PROSPECTIVE JUROR #060: I have a young lady who is new to Nevada
11 and she does not work.

12 THE COURT: Okay. Any prior jury service?

13 PROSPECTIVE JUROR #060: No.

14 THE COURT: Any situations involving yourself, family members, friends,
15 victim of a crime, accused of a crime, something like that?

16 PROSPECTIVE JUROR #060: No.

17 THE COURT: How about tendency to give more or less credence or weight
18 to the testimony of a witness simply because they're a police officer? Anything like
19 that?

20 PROSPECTIVE JUROR #060: No.

21 THE COURT: How about keeping an open mind, listening patiently, coming
22 to a fair result. Can you do that?

23 PROSPECTIVE JUROR #060: Yes.

24 THE COURT: And anything in your life that you think either side might want
25 to know?

1 PROSPECTIVE JUROR #060: A few days ago I had a tooth extracted. I am
2 under medication, both --

3 THE COURT: Okay. Is it -- what kind of medicine?

4 PROSPECTIVE JUROR #060: Antibiotic and pain.

5 THE COURT: Okay. Anything about the fact that you're under that
6 medication now that might offer -- affect your ability to listen to the evidence?

7 PROSPECTIVE JUROR #060: It makes this experience more pleasant.

8 THE COURT: Up against a tooth extraction. Well, that's not a bad thing. I
9 just want to make sure you're going to be able to listen that you're not going to -- the
10 medication doesn't put you to sleep and that you come to a fair decision. Can you
11 do that?

12 PROSPECTIVE JUROR #060: It does make me drowsy.

13 THE COURT: All right. If you feel you're -- that's affecting you, can you raise
14 your hand and tell me if you find yourself on this jury or if I see you nodding off, I'm
15 going to go: Sir, sir. And then we'll have to make -- we'll have to adjust. Make
16 sense?

17 PROSPECTIVE JUROR #060: Adjust.

18 THE COURT: Fair enough. Thank you very much. Could you hand the
19 microphone to Mr. Spear?

20 Mr. Spear, how long have you been here in Nevada?

21 PROSPECTIVE JUROR #061: Six years.

22 THE COURT: What do you do for a living?

23 PROSPECTIVE JUROR #061: Run the race and sports book at Green Valley
24 Ranch.

25 THE COURT: Okay. Are you married, single, partnership, any kids?

1 PROSPECTIVE JUROR #061: A girlfriend of five years. She's a cocktail
2 server at the Wynn.

3 THE COURT: Okay. Prior jury service, any?

4 PROSPECTIVE JUROR #061: None.

5 THE COURT: Situations involving yourself, family members, friends where
6 you've either been accused of or the victim of a crime. Anything like that?

7 PROSPECTIVE JUROR #061: In college ten years ago I had my car stolen in
8 Santa Barbara. Got a call from San Francisco police there saying they had it. My
9 roommate out here, his car's been broken into twice since we've been out here.
10 That's -- I mean that's about it.

11 THE COURT: Anything about that --

12 PROSPECTIVE JUROR #061: No,

13 THE COURT: -- that makes you angry, frustrated that might affect your ability
14 to be fair here?

15 PROSPECTIVE JUROR #061: No.

16 THE COURT: How about waiting -- or tendency to give more or less
17 credence or weight to the testimony of a witness simply because they're a police
18 officer?

19 PROSPECTIVE JUROR #061: No.

20 THE COURT: Upset with the fact that whoever did that to you in Santa
21 Barbara made it all the way up to San Francisco before --

22 PROSPECTIVE JUROR #061: No.

23 THE COURT: -- they found your car?

24 PROSPECTIVE JUROR #061: No.

25 THE COURT: All right. What about keeping an open mind, listening to the

1 evidence, coming to a fair result. Can you do that?

2 PROSPECTIVE JUROR #061: Yes.

3 THE COURT: How about any reasons that you can't be fair --

4 PROSPECTIVE JUROR #061: No.

5 THE COURT: -- that either side might want to know.

6 Thank you.

7 Ms. Peterson, how long have you been here in Nevada?

8 PROSPECTIVE JUROR #067: I've lived here 16 years.

9 THE COURT: What do you do for a living?

10 PROSPECTIVE JUROR #067: I'm a hairdresser.

11 THE COURT: Married, single, partnership, any kids?

12 PROSPECTIVE JUROR #067: Married.

13 THE COURT: What does your spouse do?

14 PROSPECTIVE JUROR #067: He's a disabled brick layer.

15 THE COURT: Okay. Ever served on a jury before?

16 PROSPECTIVE JUROR #067: Yeah; four or five times.

17 THE COURT: Any -- civil or criminal?

18 PROSPECTIVE JUROR #067: Criminal.

19 THE COURT: All of them criminal or some of them civil?

20 PROSPECTIVE JUROR #067: Well, DUIs are criminal; right?

21 THE COURT: Yes, usually.

22 PROSPECTIVE JUROR #067: Yeah.

23 THE COURT: Anything about -- without telling us the verdicts in all of those
24 cases that you've served on before, were the juries in those situations able to reach
25 verdicts?

1 PROSPECTIVE JUROR #067: Yes.

2 THE COURT: Were you the foreperson of any of those juries?

3 PROSPECTIVE JUROR #067: No.

4 THE COURT: Anything about that experience that might affect your ability to
5 be fair impartial here --

6 PROSPECTIVE JUROR #067: No.

7 THE COURT: -- for the same reasons I've stated. You can listen to the
8 evidence and be fair in your decision?

9 PROSPECTIVE JUROR #067: Yes.

10 THE COURT: Have a tendency -- would you have a tendency to give more or
11 less credence or weight to the testimony of a witness simply because they're a
12 police officer?

13 PROSPECTIVE JUROR #067: No.

14 THE COURT: And coming back, victim of, accused of a crime in your life,
15 people in your life, anything like that that might offer concern?

16 PROSPECTIVE JUROR #067: You mean do I have relatives that were?

17 THE COURT: Yourself or relatives or friends, people who are in your world.

18 PROSPECTIVE JUROR #067: Oh, relatives.

19 THE COURT: Tell me about that.

20 PROSPECTIVE JUROR #067: I have a grandson that committed quite a few
21 crimes and I got a nephew in prison. He --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR #067: -- committed quite a few.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR #067: Got another nephew that's probably going to

1 be going to prison.

2 THE COURT: Okay. With those difficulties with your family, can you be fair
3 to both sides?

4 PROSPECTIVE JUROR #067: Yes.

5 THE COURT: Okay. And keep an open mind, listen to the evidence. Can
6 you do that?

7 PROSPECTIVE JUROR #067: Yes

8 THE COURT: It sounds like you've done it before so you're no stranger to
9 that process. Give everybody your time, your attention and come to a fair result,
10 yes?

11 PROSPECTIVE JUROR #067: Yes.

12 THE COURT: Okay. Anything else you think that might affect your ability you
13 want to talk about -- ability to be fair.

14 PROSPECTIVE JUROR #067: No.

15 THE COURT: Okay. If you could hand that microphone to -- is it -- help me.

16 PROSPECTIVE JUROR #068: Lamastus.

17 THE COURT: Lamastus, thank you. How long have you been here in
18 Nevada?

19 PROSPECTIVE JUROR #068: Since '83. I've lost track of how many years
20 that is.

21 THE COURT: Okay. And what do you do for a living?

22 PROSPECTIVE JUROR #068: I'm a data entry specialist for the state of
23 Nevada.

24 THE COURT: Okay. What division?

25 PROSPECTIVE JUROR #068: Health.

1 THE COURT: Health, okay. Married, single, partnership, any kids?

2 PROSPECTIVE JUROR #068: I live with my finance. He's a pharmacy
3 technician and I have 18-year-old daughter.

4 THE COURT: All right. Ever served on a jury before?

5 PROSPECTIVE JUROR #068: Never.

6 THE COURT: Ever had a close family member, friend, yourself victim of or
7 accused of a crime?

8 PROSPECTIVE JUROR #068: No.

9 THE COURT: How about more or less credence or weight to the testimony of
10 a witness simply cause they're a police officer?

11 PROSPECTIVE JUROR #068: No.

12 THE COURT: You're going to judge them the same as you would every other
13 witness?

14 PROSPECTIVE JUROR #068: He's just another person.

15 THE COURT: Very good.

16 How about keeping an open mind and listening to the evidence. Can
17 you do that?

18 PROSPECTIVE JUROR #068: Absolutely.

19 THE COURT: And coming to a fair result. Anything in your life that you think
20 either side might want to know?

21 PROSPECTIVE JUROR #068: Pretty boring life.

22 THE COURT: All right. Thank you very much.

23 Mr. Nunez, how long have you been here in Nevada, sir.

24 PROSPECTIVE JUROR #071: Seven years.

25 THE COURT: And what do you do for a living?

1 PROSPECTIVE JUROR #071: Commercial driver, RC Willey.

2 THE COURT: Okay. Married, single, partnership, any kids?

3 PROSPECTIVE JUROR #071: Partnership, kids.

4 THE COURT: What does your partner do?

5 PROSPECTIVE JUROR #071: Phlebotomist.

6 THE COURT: Okay. Ever served on a jury before?

7 PROSPECTIVE JUROR #071: No, sir.

8 THE COURT: Ever had a close family member, friend, yourself either
9 accused of or the victim of a crime?

10 PROSPECTIVE JUROR #071: Accused of a crime.

11 THE COURT: Your family member, yourself?

12 PROSPECTIVE JUROR #071: A family --

13 THE COURT: Family member?

14 PROSPECTIVE JUROR #071: Yes.

15 THE COURT: How close a family member?

16 PROSPECTIVE JUROR #071: Dad.

17 THE COURT: Your dad?

18 PROSPECTIVE JUROR #071: Uh-hum.

19 THE COURT: Anything about your father's difficulty, situations that might
20 affect your ability to be fair here?

21 PROSPECTIVE JUROR #071: No.

22 THE COURT: Okay. How about -- would you have tendency to give more or
23 less credence or weight to the testimony of witness simply because they're a police
24 officer?

25 PROSPECTIVE JUROR #071: No, sir.

1 THE COURT: Can you wait in forming your opinions on the case until you've
2 heard all the evidence and come to a fair result after deliberating the case with your

3 --

4 PROSPECTIVE JUROR #071: Yes.

5 THE COURT: -- fellow jurors.

6 PROSPECTIVE JUROR #071: Uh-hum.

7 THE COURT: All right. Anything in your life you think either side might want
8 to know about you?

9 PROSPECTIVE JUROR #071: No, sir.

10 THE COURT: All right. Thank you very much.

11 Mr. Burts, how long have you been here in Nevada, sir?

12 PROSPECTIVE JUROR #073: Thirteen years.

13 THE COURT: And what do you do for a living?

14 PROSPECTIVE JUROR #073: Well, I'm suppose to training today for --

15 THE COURT: That's right.

16 PROSPECTIVE JUROR #073: [Indiscernible] transportations.

17 THE COURT: In what?

18 PROSPECTIVE JUROR #073: [Indiscernible] transportation for city bus
19 service.

20 THE COURT: Okay. Married, single, partnership, any kids?

21 PROSPECTIVE JUROR #073: Partnership.

22 THE COURT: And your partner, what do they do?

23 PROSPECTIVE JUROR #073: He's a manager for Polo Ralph Lauren.

24 THE COURT: Okay. Prior jury service, any?

25 PROSPECTIVE JUROR #073: No.

1 THE COURT: Close family member, a friend, yourself accused of or the
2 victim of a crime?

3 PROSPECTIVE JUROR #073: Sister, domestic violence.

4 THE COURT: Anything about that situation that might impact your ability to
5 be fair here?

6 PROSPECTIVE JUROR #073: No.

7 THE COURT: What about having a tendency to give more or less credence
8 or weight to the testimony of a witness simply because they're a police officer?

9 PROSPECTIVE JUROR #073: No.

10 THE COURT: Keep an open mind as you listen to the evidence, come to a
11 fair result --

12 PROSPECTIVE JUROR #073: Absolutely.

13 THE COURT: -- after talking it through and deliberating with fellow jurors if
14 you're asked to do so. Can you do that?

15 PROSPECTIVE JUROR #073: Yes.

16 THE COURT: Anything in your life you think either side might want to know?

17 PROSPECTIVE JUROR #073: No.

18 THE COURT: All right. Thank you.

19 Mr. Grunwald?

20 PROSPECTIVE JUROR #074: Yes.

21 THE COURT: How long have you been here in Nevada, sir?

22 PROSPECTIVE JUROR #074: Sixteen years.

23 THE COURT: And what do you do for a living?

24 PROSPECTIVE JUROR #074: Teach eighth grade science.

25 THE COURT: Eighth grade science, CCSD?

1 PROSPECTIVE JUROR #074: Yes.
2 THE COURT: Married, single, partnership, any kids?
3 PROSPECTIVE JUROR #074: Married with two kids.
4 THE COURT: Any prior jury service?
5 PROSPECTIVE JUROR #074: No.
6 THE COURT: And I didn't ask. What's your spouse do?
7 PROSPECTIVE JUROR #074: Teacher as well.
8 THE COURT: All right. No prior jury service is that right?
9 PROSPECTIVE JUROR #074: Yes.
10 THE COURT: Prior situations where there's been either a victim of a crime,
11 accused of a crime, family member, yourself, anything like that?
12 PROSPECTIVE JUROR #074: I've had my car stolen previously before I
13 moved to Nevada and several times broken into while living here. And one of my
14 co-worker's sons was shot and killed outside of his school.
15 THE COURT: Okay. Anything about those difficulties that might affect your
16 ability to be fair and impartial here?
17 PROSPECTIVE JUROR #074: Frustration with the car being stolen; lack of
18 action by the police in the city I lived in.
19 THE COURT: Understood, Can you set that aside though? Give each side a
20 fair consideration and deliberate the evidence if you're asked to do so?
21 PROSPECTIVE JUROR #074: Yeah; I think so.
22 THE COURT: All right. Anything in your life you want to talk about that you
23 think might impact your ability to be fair here?
24 PROSPECTIVE JUROR #074: No.
25 THE COURT: All right. Thank you very much.

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Is it Castro-Penalosa?

PROSPECTIVE JUROR #079: It's just Castro.

THE COURT: Just Castro?

PROSPECTIVE JUROR #079: Uh-hum.

THE COURT: Mr. Castro, how long have you been here in Nevada?

PROSPECTIVE JUROR #079: Fourteen years.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #079: I'm a fulltime student at UNLV.

THE COURT: What's your course of study?

PROSPECTIVE JUROR #079: Bio-chemistry.

THE COURT: And what do you want to do, be a doctor?

PROSPECTIVE JUROR #079: Well, I haven't gotten there yet.

THE COURT: Okay. But is that kind of your five-year plan?

PROSPECTIVE JUROR #079: Yeah, probably grad school or something.

THE COURT: All right. Married, single, partnership any kids?

PROSPECTIVE JUROR #079: Single, no kids.

THE COURT: Any prior jury service?

PROSPECTIVE JUROR #079: No.

THE COURT: Close family members or friends or yourself either accused of
or the victim of a crime? Anything like that?

PROSPECTIVE JUROR #079: I was accused of a crime.

THE COURT: What kind of crime?

PROSPECTIVE JUROR #079: Drinking at Lake Mead.

THE COURT: Okay. About how long ago?

PROSPECTIVE JUROR #079: Two months ago.

1 THE COURT: So you were under 21 two months ago?

2 PROSPECTIVE JUROR #079: Huh?

3 THE COURT: You were -- it was an age thing that they -- you were --

4 PROSPECTIVE JUROR #079: No, no. It was just a probable cause
5 endangerment.

6 THE COURT: Oh, like operating a boat or something?

7 PROSPECTIVE JUROR #079: No, it was just endangerment from how drunk
8 I was.

9 THE COURT: Okay. All right. Anything --

10 PROSPECTIVE JUROR #079: Quote, unquote.

11 THE COURT: Is that ongoing now? Somebody's --

12 PROSPECTIVE JUROR #079: No, everything was dismissed and everything.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR #079: 'Cause there was no evidence.

15 THE COURT: Anything about that situation that might give either side some
16 concern about you being fair here?

17 PROSPECTIVE JUROR #079: No.

18 THE COURT: Fair enough. Have a tendency to give more or less credence
19 or weight to the testimony of a witness simply because they're a police officer?
20 Anything like that?

21 PROSPECTIVE JUROR #079: No.

22 THE COURT: How about keeping an open mind, being patient,
23 understanding the process takes time. Can you do that?

24 PROSPECTIVE JUROR #079: Yes, I can.

25 THE COURT: Come to a fair decision based upon the evidence. Can you do

1 that?

2 PROSPECTIVE JUROR #079: Yes.

3 THE COURT: Anything in your life in a general sense you think either side
4 might want to know?

5 PROSPECTIVE JUROR #079: No, that's about it.

6 THE COURT: All right. Hold on to that microphone if you will please.

7 We'll pass the panel now to the State. State you may inquire.

8 MS. HERBERT: Thank you, Judge.

9 Good morning, almost afternoon. My name is Jennifer Herbert again,
10 one of the attorneys for the State. I have a couple questions that I want to follow up
11 with some of you based upon your answers.

12 Let's start with Mr. Osti. So you had mentioned that you were -- you
13 were a victim 'cause a car -- oh, I'm sorry. I'll wait for the mic.

14 PROSPECTIVE JUROR #007: Yes.

15 MS. HERBERT: You had mentioned that a car had driven through your
16 house?

17 PROSPECTIVE JUROR #007: That's correct.

18 MS. HERBERT: Okay. How long ago was that?

19 PROSPECTIVE JUROR #007: On May 2nd.

20 MS. HERBERT: Okay. And did you call the police when that happened?

21 PROSPECTIVE JUROR #007: Yes.

22 MS. HERBERT: And then you said it's still in the system. Is that right?

23 PROSPECTIVE JUROR #007: That is correct, yes.

24 MS. HERBERT: Okay. Have you had to go to court at all for that?

25 PROSPECTIVE JUROR #007: Not at this point, no.

1 MS. HERBERT: Okay. How did you feel about the police response and how
2 they handled the case?

3 PROSPECTIVE JUROR #007: It was not the best response.

4 MS. HERBERT: Okay. How so?

5 PROSPECTIVE JUROR #007: The police officer was rather aloof.

6 MS. HERBERT: Okay.

7 PROSPECTIVE JUROR #007: He did his job but we asked for a field sobriety
8 test at the time and he did not do that.

9 MS. HERBERT: Okay. So is it fair to say you weren't exactly satisfied of how
10 that was handled?

11 PROSPECTIVE JUROR #007: Yes.

12 MS. HERBERT: So the driver was still in the vehicle when it -- when he drove
13 through your house and you called the cops?

14 PROSPECTIVE JUROR #007: She was still in the house, yes --

15 MS. HERBERT: Okay.

16 PROSPECTIVE JUROR #007: -- when the police arrived.

17 MS. HERBERT: Is there anything about your somewhat negative experience
18 with the police in that case that you're going to hold against either the State or the
19 Defense in this case?

20 PROSPECTIVE JUROR #007: I don't believe so.

21 MS. HERBERT: So you can separate that that was a different incident from
22 this incident?

23 PROSPECTIVE JUROR #007: That's correct.

24 MS. HERBERT: Okay. Was that Metro or Henderson or do you know?

25 PROSPECTIVE JUROR #007: That was Metro.

1 MS. HERBERT: Metro, okay. And you didn't recognize any of the names on
2 the witness list?

3 PROSPECTIVE JUROR #007: I did not.

4 MS. HERBERT: 'Cause there was quite a number of police officers, so we
5 just wanted to make sure.

6 Okay. Ms. Burgess, has anyone in your family ever been a victim of a
7 crime? I think we skipped this question with you.

8 PROSPECTIVE JUROR #009: Yeah; actually I know. My car was stolen.

9 MS. HERBERT: Okay. When was that?

10 PROSPECTIVE JUROR #009: A few years ago at that Fashion Show Mall.

11 MS. HERBERT: Oh, okay. Was that -- that was a few years ago?

12 PROSPECTIVE JUROR #009: Yeah.

13 MS. HERBERT: And did you call the police for that?

14 PROSPECTIVE JUROR #009: We did.

15 MS. HERBERT: Okay. And what was your feeling on how the police handled
16 that situation?

17 PROSPECTIVE JUROR #009: They handled it. They were -- you know, they
18 handled they the matter in a respected way.

19 MS. HERBERT: Did that ever --

20 PROSPECTIVE JUROR #009: I was more upset at the mall security. They
21 were making jokes about it. That --

22 MS. HERBERT: Oh really.

23 PROSPECTIVE JUROR #009: Yeah.

24 MS. HERBERT: That's kind of unfortunate. Did they -- did you ever have to
25 go to court --

1 PROSPECTIVE JUROR #009: No.

2 MS. HERBERT: -- on that case? Did they ever find the person who stole the
3 car?

4 PROSPECTIVE JUROR #009: They did not but they did find my car at 2:00
5 a.m. the same day or --

6 MS. HERBERT: Okay.

7 PROSPECTIVE JUROR #009: -- the following day but 2:00 a.m.

8 MS. HERBERT: Were you generally satisfied, not satisfied with how that was
9 handled?

10 PROSPECTIVE JUROR #009: Yeah; I was satisfied.

11 MS. HERBERT: Anyone that you know that's a family member, close friend
12 that's been accused of a crime?

13 PROSPECTIVE JUROR #009: No.

14 MS. HERBERT: Okay. And then also your husband is a Henderson police
15 officer?

16 PROSPECTIVE JUROR #009: Yes.

17 MS. HERBERT: Okay. Do you have a lot of exposure to police officers just
18 socially and because of his job?

19 PROSPECTIVE JUROR #009: Of course, yeah.

20 MS. HERBERT: And then is there anything about your friendships and
21 knowing a lot of police officers that's going to affect this case?

22 PROSPECTIVE JUROR #009: I mean, my husband's a police officer so I just
23 -- I might be -- I hold them up to maybe a little bit higher level.

24 MS. HERBERT: Could you explain a little bit more what you mean by that?

25 PROSPECTIVE JUROR #009: I don't know how to explain it. Just that I

1 respect them and their uniform and would take their word, you know, because they
2 work hard and I see what they have to go through to become a police officer. So I
3 respect them that way.

4 MS. HERBERT: Fair enough. Do you -- I think the Judge might have asked
5 you this but do you kind of agree that there's some people that -- there's professions
6 where there's good and bad people in every profession.

7 PROSPECTIVE JUROR #009: Right.

8 MS. HERBERT: And do you think police officers are different than that?

9 PROSPECTIVE JUROR #009: There could be some bad apples out there.

10 MS. HERBERT: So would you be able to look at each officer as they take the
11 stand and judge their credibility and what they're saying --

12 PROSPECTIVE JUROR #009: Right, yeah.

13 MS. HERBERT: -- and be fair to both sides?

14 PROSPECTIVE JUROR #009: Uh-hum.

15 MS. HERBERT: Okay. Is it Mr. Saleme?

16 PROSPECTIVE JUROR #080: Yes.

17 MS. HERBERT: Okay. You have -- you're the sole manager of the restaurant
18 in Lake Las Vegas?

19 PROSPECTIVE JUROR #080: Correct.

20 MS. HERBERT: Okay. So there -- who's in charge right there while you're
21 not there?

22 PROSPECTIVE JUROR #080: It's not open.

23 MS. HERBERT: Oh, it's closed because you're -- okay. So if -- do you work
24 every single day?

25 PROSPECTIVE JUROR #080: No, normally Mondays is my one day off.

1 MS. HERBERT: Okay. So you work every day but the day that you're off on
2 Monday?

3 PROSPECTIVE JUROR #080: Yes.

4 MS. HERBERT: And then is it closed every Monday or --

5 PROSPECTIVE JUROR #080: No, we do a limited service on Monday
6 evenings.

7 MS. HERBERT: Okay. So if you were to sit on this jury, would the restaurant
8 end up being open or closed for the next two or three days?

9 PROSPECTIVE JUROR #080: It would probably be open but limited service.

10 MS. HERBERT: Would it be fair to say -- would your attention be more on
11 your business and possibly losing money or would it be more on the case if you
12 were to be chosen?

13 PROSPECTIVE JUROR #080: I'd be concerned about that. As a small
14 business we run on a -- to say it's a shoestring is probably generous.

15 MS. HERBERT: Would you be able to pay attention to the case if you were
16 chosen and try to --

17 PROSPECTIVE JUROR #080: I think so.

18 MS. HERBERT: -- keep that in the back of your head?

19 PROSPECTIVE JUROR #080: I think so.

20 MS. HERBERT: If you were the State or the Defense, would you want
21 someone like yourself on the jury based upon your work situation?

22 PROSPECTIVE JUROR #080: I don't know. I'm not in your place.

23 MS. HERBERT: Well, I'm saying if you were, you know, if you were on trial
24 because you -- it sounds like you're going to be a little bit focused on, obviously,
25 your business 'cause that's your livelihood.

1 PROSPECTIVE JUROR #080: I'm going to be concerned about it, sure.

2 MS. HERBERT: So it's okay for -- you'll -- but you can still put that aside and
3 listen to all the evidence and be fair to both sides?

4 PROSPECTIVE JUROR #080: I think so. Yeah; I can't absolutely say until
5 I'm actually in the situation.

6 MS. HERBERT: Okay. And you also mentioned you were a victim of a crime.
7 Is that right?

8 PROSPECTIVE JUROR #080: Uh-hum, correct.

9 MS. HERBERT: And what was that again?

10 PROSPECTIVE JUROR #080: Well, there's been several instances. In '99
11 was a home invasion, in '85 I had my motorcycle stolen. I've had over the years
12 numerous break-ins into various cars.

13 MS. HERBERT: Have these all happened in Nevada or have they been in
14 other states?

15 PROSPECTIVE JUROR #080: No, they've all been in California, Los
16 Angeles.

17 MS. HERBERT: Okay. So have you had any problems in Nevada?

18 PROSPECTIVE JUROR #080: No.

19 MS. HERBERT: Okay. How were you generally satisfied, unsatisfied with the
20 police response in those situations?

21 PROSPECTIVE JUROR #080: Satisfied in some and not so in others. Like
22 the stolen motorcycle, although they -- it took them three weeks to tell me that they
23 had gotten the bike back, that it was in the impound when they had actually taken
24 possession of it two blocks away from my house probably not more than ten minutes
25 after the guy took it.

1 MS. HERBERT: Oh wow, okay, so. Is it -- and you also know like this is,
2 obviously, is a Las Vegas case and not California.

3 PROSPECTIVE JUROR #080: Yeah.

4 MS. HERBERT: And so you can separate your --

5 PROSPECTIVE JUROR #080: Well, in that case it didn't make any difference
6 'cause he totaled the bike so either way whether they told me immediately or later --

7 MS. HERBERT: Right.

8 PROSPECTIVE JUROR #080: -- would have made no difference.

9 MS. HERBERT: Okay. Thank you for your time.

10 Ms. Arreola or I'm sorry. How do you pronounce it?

11 PROSPECTIVE JUROR #036: Arreola.

12 MS. HERBERT: Okay. So you were a victim in 1999 and what was that of
13 again?

14 PROSPECTIVE JUROR #036: My car was stolen.

15 MS. HERBERT: Okay. And that was in Nevada, right?

16 PROSPECTIVE JUROR #036: Yes.

17 MS. HERBERT: Okay. Was your car ever recovered?

18 PROSPECTIVE JUROR #036: It was totaled. Two of the kids died.

19 MS. HERBERT: Oh my gosh, okay. And when your -- when you noticed your
20 car stolen, did you call the police?

21 PROSPECTIVE JUROR #036: I didn't even know actually 'cause it happened
22 overnight. Pretty much my husband got home and said the car is gone and
23 immediately, probably within like 30 minutes or so, someone came and let us know
24 the situation, so. It wasn't like we called the cops. They pretty much came to us.

25 MS. HERBERT: Right. Okay. How was your experience with the police in

1 that situation?

2 PROSPECTIVE JUROR #036: I'd say it was good. I mean, it happened so
3 quickly that --

4 MS. HERBERT: Yeah; you're probably caught off -- caught a little bit off
5 guard on that.

6 PROSPECTIVE JUROR #036: Yeah, definitely.

7 MS. HERBERT: Did you have to go to court or anything with that?

8 PROSPECTIVE JUROR #036: No.

9 MS. HERBERT: No, okay. And are you -- would you say you were generally
10 satisfied or unsatisfied with the results of that?

11 PROSPECTIVE JUROR #036: I mean it was a tragic thing, you know.

12 MS. HERBERT: Yeah.

13 PROSPECTIVE JUROR #036: And it was sad that it happened but I can't
14 complain about it. I mean they did they their job, you know.

15 MS. HERBERT: Okay. Thank you very much.

16 Ms. Gallegos-Stephens. Sorry. I'm -- my order might be kind of back
17 and forth. So if you guys have to pass the mic a lot, I apologize. Do you have it?
18 Oh, okay.

19 And you also are -- were a victim of vehicle theft. Is that right?

20 PROSPECTIVE JUROR #038: Yes.

21 MS. HERBERT: Okay. Was it your car stolen or broken into?

22 PROSPECTIVE JUROR #038: The wheels were stolen off my vehicle.

23 MS. HERBERT: Okay. How many years --

24 PROSPECTIVE JUROR #038: It also had --

25 MS. HERBERT: Was that in Nevada or somewhere else?

1 PROSPECTIVE JUROR #038: Nevada.
2 MS. HERBERT: Okay. And how many years ago was that?
3 PROSPECTIVE JUROR #038: Five.
4 MS. HERBERT: So was it all -- the entire wheel or just the rims?
5 PROSPECTIVE JUROR #038: All four wheels.
6 MS. HERBERT: All four wheels. Oh wow, okay. Did you call the police?
7 PROSPECTIVE JUROR #038: Yes.
8 MS. HERBERT: And how were you -- were you satisfied, unsatisfied with
9 how they handled this -- the case?
10 PROSPECTIVE JUROR #038: I'm unsatisfied. I had to buy new wheels.
11 MS. HERBERT: Well, was anyone ever caught or apprehended in that?
12 PROSPECTIVE JUROR #038: No.
13 MS. HERBERT: Okay. Do you feel like the police did a -- tried to help you
14 the way they could or could they have done more?
15 PROSPECTIVE JUROR #038: I feel very little was done.
16 MS. HERBERT: Okay. Fair enough.
17 PROSPECTIVE JUROR #038: Basically, dismissed.
18 MS. HERBERT: Okay. And, obviously, you didn't go to court since they
19 never apprehended the person.
20 PROSPECTIVE JUROR #038: No.
21 MS. HERBERT: Is there anything about that situation and being frustrated
22 with how it was handled that you're going to hold either against the State or the
23 Defense in this case?
24 PROSPECTIVE JUROR #038: No.
25 MS. HERBERT: You can set that aside and look at these officers and access

1 their credibility.

2 PROSPECTIVE JUROR #038: Yeah.

3 MS. HERBERT: Okay. Also you had mentioned there was some domestic
4 violence issues in your house growing up.

5 PROSPECTIVE JUROR #038: Uh-hum.

6 MS. HERBERT: Did you ever have to go to court and testify on any of those?

7 PROSPECTIVE JUROR #038: No.

8 MS. HERBERT: And then was it involving your parents or were you also
9 involved in it as well?

10 PROSPECTIVE JUROR #038: You're always involved.

11 MS. HERBERT: Well, I mean as a victim or a defendant?

12 PROSPECTIVE JUROR #038: As a victim, you're always involved.

13 MS. HERBERT: Okay. Thank you.

14 Ms. Cox, you had mentioned your sister had been -- was mugged six
15 months ago.

16 PROSPECTIVE JUROR #045: Yes.

17 MS. HERBERT: Okay. And that was here in Las Vegas.

18 PROSPECTIVE JUROR #045: Yes.

19 MS. HERBERT: Is that something -- did they ever apprehend the person who
20 did that?

21 PROSPECTIVE JUROR #045: No.

22 MS. HERBERT: So are -- were -- do you know a lot about that case?

23 PROSPECTIVE JUROR #045: A little. I know she hasn't gone to court on
24 that specific case yet.

25 MS. HERBERT: Do you have any sense and your family's feelings about how

1 that case was handled by the police?

2 PROSPECTIVE JUROR #045: I know she's not real happy but she's not
3 happy about a lot of things, so.

4 MS. HERBERT: Okay. Oh, fair enough.

5 Anything about that incident that you're going to -- affect your ability to
6 be fair and impartial in this case?

7 PROSPECTIVE JUROR #045: No. I did forget to mention earlier though. I
8 forgot my sister's -- my other sister's in jail. So I don't know if that makes -- it doesn't
9 make a difference to me. It won't affect my ability to judge but I didn't know if
10 anyone -- if you 'd need to know that or now.

11 MS. HERBERT: Okay. No, I appreciate that. What -- is there anything about
12 how she was treated that --

13 PROSPECTIVE JUROR #045: No; she has drug problems though. She has
14 mental issues. It's an often place for her to be. It's probably better for her to be
15 there.

16 MS. HERBERT: Oh, I'm sorry about that. Okay. Thank you. And I
17 appreciate you supplementing your previous responses.

18 Ms. Hudgens, you were -- you mentioned you were a victim of a home
19 invasion a couple years ago?

20 PROSPECTIVE JUROR #049: No, many years ago.

21 MS. HERBERT: Many years ago. Oops, sorry. Forgot that part.

22 Was that in Nevada -- well, that was in Nevada 'cause you've been here
23 for a very long time. Isn't that right?

24 PROSPECTIVE JUROR #049: That's right.

25 MS. HERBERT: Okay. And then you also had something stolen from your

1 car or was your car stolen?

2 PROSPECTIVE JUROR #049: No, the car was broken into.

3 MS. HERBERT: Okay.

4 PROSPECTIVE JUROR #049: And items and credit cards that shouldn't
5 have been left in the car and we won't talk about who left them there, were stolen.

6 MS. HERBERT: Either of those situations, how did you feel about the police
7 response?

8 PROSPECTIVE JUROR #049: It was fine because in both cases it was -- I
9 was just going and making a police report. We didn't call and have them come to
10 the house.

11 MS. HERBERT: So you went down to the station.

12 PROSPECTIVE JUROR #049: Yes, yes.

13 MS. HERBERT: Anything about those cases that would affect your ability in
14 this case to be fair and impartial?

15 PROSPECTIVE JUROR #049: No.

16 MS. HERBERT: Okay. Wait a second.

17 And you work at United Health Care but I missed exactly what you
18 do.

19 PROSPECTIVE JUROR #049: I'm operations manager in the department
20 does inpatient case management.

21 MS. HERBERT: Okay. Thank you.

22 Let's go to Mr. Wirth who's sitting right next to you. You have three
23 children. Is that right?

24 PROSPECTIVE JUROR #046: Correct.

25 MS. HERBERT: What are the ages of your kids?

1 PROSPECTIVE JUROR #046: Eight, five and three.

2 MS. HERBERT: And did you say your civil practice focuses on personal
3 injury?

4 PROSPECTIVE JUROR #046: Yes.

5 MS. HERBERT: Okay. Do you ever do any other kind of law?

6 PROSPECTIVE JUROR #046: No.

7 MS. HERBERT: So in the personal injury law have you ever had occasion to
8 interview police officers?

9 PROSPECTIVE JUROR #046: I have, yeah. A couple weeks ago I had one
10 on the stand.

11 MS. HERBERT: Okay. So you've questioned police officers on the stand
12 before?

13 PROSPECTIVE JUROR #046: Yes.

14 MS. HERBERT: Is there anything about that experience that you think is
15 going to cause you to look at the case and not be fair and impartial to either the
16 State or the Defense?

17 PROSPECTIVE JUROR #046: No; like I said, I just know that sometimes we
18 have a tendency to put a little bit more weight on an officer's testimony because they
19 are an officer and I know that you just got to find out the facts.

20 MS. HERBERT: Right. Fair enough. And since you have experience
21 litigating trials, you're not going to hold it either against the State or the Defense if
22 you think either one of us does a horrible job or an awesome job. It's not going to
23 affect your opinion?

24 PROSPECTIVE JUROR #046: No, I might laugh but I'm not going to --

25 MS. HERBERT: Yeah. Fair enough. Thank you.

1 Mr. Newmiller, you had mentioned that your son was the victim of a
2 robbery.

3 PROSPECTIVE JUROR #050: That's correct.

4 MS. HERBERT: Okay. How long ago was that?

5 PROSPECTIVE JUROR #050: It was about a year and a half ago.

6 MS. HERBERT: And that was in Las Vegas?

7 PROSPECTIVE JUROR #050: In Las Vegas.

8 MS. HERBERT: And then you also mentioned the case went to trial?

9 PROSPECTIVE JUROR #050: It did.

10 MS. HERBERT: Did you testify at trial?

11 PROSPECTIVE JUROR #050: My son did.

12 MS. HERBERT: Okay. Your son did. Did you sit and watch the entire trial?

13 PROSPECTIVE JUROR #050: I did.

14 MS. HERBERT: Okay. Let's go back to -- anything about the police response
15 to that that you have any strong opinions, positive or negative?

16 PROSPECTIVE JUROR #050: Actually, the police did an excellent job. My
17 son followed the two guys that took his money and when he confronted them, when
18 they finally stopped, they were going to pull a gun and he called the police and the
19 police were there immediately and apprehended them, so.

20 MS. HERBERT: Okay. And your son was okay; nothing serious?

21 PROSPECTIVE JUROR #050: No.

22 MS. HERBERT: At least physically happened to him.

23 PROSPECTIVE JUROR #050: No.

24 MS. HERBERT: And what about the trial and that experience? Is there
25 anything about that that you're feeling strong way one [sic] or the other?

1 PROSPECTIVE JUROR #050: I was somewhat frustrated. Both the plaintiffs
2 were guilty or one pleaded guilty and later the second one pleaded guilty and it was
3 probation and community service so just a slap on the wrist. And those guys were
4 having fun. They thought it was all a good experience for them. They were
5 laughing in the courtroom and stuff, so.

6 MS. HERBERT: That's -- yeah, that's unfortunate. Do you think that that
7 experience -- well, one of the things the Judge is going to tell you in the instructions
8 is you can't consider possible ranges of punishment. Are you -- because you have
9 personal experience with a trial and with your son, do you think you're going to be
10 able to set aside feelings of punishment and be able to look at this trial and look at
11 the facts and access them fairly for the State and the Defense?

12 PROSPECTIVE JUROR #050: I can look at it fairly as far as the judgment.
13 As to what the punishment is, that's not my decision so.

14 MS. HERBERT: And you're comfortable with that?

15 PROSPECTIVE JUROR # 050: Yes.

16 MS. HERBERT: That that's going to be the Court's decision.

17 PROSPECTIVE JUROR #050: Right.

18 MS. HERBERT: Okay. Fair enough. Thank you for your answers. Oh, you
19 also -- I'm sorry. You also have -- you mentioned at the very beginning that you take
20 care of your mom and she's got a lot of doctors' appointments.

21 PROSPECTIVE JUROR #050: My mom has terminal cancer which is
22 unfortunate. She -- since February we've been going up against that. Renal failure,
23 everything that goes along with all of that is what's happening right now with our
24 family.

25 MS. HERBERT: That has to be extremely stressful obviously. And so you

1 mentioned that she has a doctor's appointment this afternoon.

2 PROSPECTIVE JUROR #050: Right; it's with the renal doctor.

3 MS. HERBERT: Okay. And then she has two to four appointments a week?

4 PROSPECTIVE JUROR #050: Right.

5 MS. HERBERT: So for this week, what are -- do you know what they are?

6 PROSPECTIVE JUROR #050: She has one -- well, she had it scheduled
7 Wednesday but it's been changed to this morning or to this afternoon --

8 MS. HERBERT: Okay.

9 PROSPECTIVE JUROR #050: -- because of some test results. She has a
10 bad infection so he called her in early.

11 MS. HERBERT: Is there any other appointments this week that you know
12 about?

13 PROSPECTIVE JUROR #050: That's the two that I know about.

14 MS. HERBERT: Okay.

15 PROSPECTIVE JUROR #050: It's a day to day thing. So I can tell you that --
16 in some weeks it's every day, sometimes it's the scheduled appointments.

17 MS. HERBERT: Okay. So sometimes you just get a call and --

18 PROSPECTIVE JUROR #050: Right.

19 MS. HERBERT: -- they say you need to bring her in. So it sounds like,
20 unfortunately, she's in kind of a bad situation where she needs to see the doctor
21 quite often at the last minute?

22 PROSPECTIVE JUROR #050: Unfortunately, that's correct.

23 MS. HERBERT: Are you going to be able to -- if you're picked for this jury, be
24 able to sit here and be able to pay attention know that there's all this stuff going on
25 at home with your mom being in such poor health?

1 PROSPECTIVE JUROR #050: I can pay attention and I can do what needs
2 to be done but I'd prefer not to.

3 MS. HERBERT: Is it fair to say that would -- that's going to be weighing
4 heavily on your mind?

5 PROSPECTIVE JUROR #050: It is.

6 MS. HERBERT: Okay. And you have somebody that's right today that's
7 helping out?

8 PROSPECTIVE JUROR #050: There's a lady that's sitting my mom today.

9 MS. HERBERT: Okay. If you were to be picked on this jury, would you be
10 able to find help for Tuesday and possibly Wednesday?

11 PROSPECTIVE JUROR #050: I can, yes.

12 MS. HERBERT: But you prefer not to, is that --

13 PROSPECTIVE JUROR #050: That's pretty --

14 MS. HERBERT: No, I understand.

15 PROSPECTIVE JUROR #050: You know, I can keep saying that but that's --

16 MS. HERBERT: I know, yeah, I understand. It's a really tough situation.

17 Okay. Thank you for your answers.

18 PROSPECTIVE JUROR #050: You're welcome.

19 MS. HERBERT: Mr. Vaughn?

20 PROSPECTIVE JUROR #052: Yes, ma'am.

21 MS. HERBERT: It looks like -- it sounds like you've had some bad
22 experiences in Texas with some vehicles.

23 PROSPECTIVE JUROR #052: Texas, Nevada and California.

24 MS. HERBERT: And California? Okay.

25 You -- so you had your truck stolen in Texas two weeks ago. Is that

1 what you said?

2 PROSPECTIVE JUROR #052: Actually, it's about a week and a half.

3 MS. HERBERT: Okay. Is that -- 'cause you have your own business;
4 correct?

5 PROSPECTIVE JUROR #052: Yes, ma'am.

6 MS. HERBERT: Is -- are those work trucks or personal trucks?

7 PROSPECTIVE JUROR #052: Both. That particular one was -- I use it for
8 work but it's my personal vehicle.

9 MS. HERBERT: Do you also live in Texas and live here or?

10 PROSPECTIVE JUROR #052: No. I also live in Mississippi but my primary
11 residence is here.

12 MS. HERBERT: Okay. So you're kind of all over the country.

13 PROSPECTIVE JUROR #052: Yes, ma'am.

14 MS. HERBERT: Okay. And then a week before -- or a year before that, that's
15 when you had a van also stolen in Texas. Is that right?

16 PROSPECTIVE JUROR #052: Yes, ma'am, and then about six months
17 before that a home burglary. A significant amount of cash was taken.

18 MS. HERBERT: Was that in Texas or Nevada?

19 PROSPECTIVE JUROR #052: No; that was here in Las Vegas.

20 MS. HERBERT: Okay. I'm going to just skip -- you know, in Texas,
21 obviously, that's a different police department and we're dealing with the Las Vegas
22 Police Department. So let's talk about the home burglary. When did that happen?

23 PROSPECTIVE JUROR #052: January the 25th of last year.

24 MS. HERBERT: Last year, okay. Did you call the police in that case?

25 PROSPECTIVE JUROR #052: Yes, ma'am.

1 MS. HERBERT: And how did you feel about their response?

2 PROSPECTIVE JUROR #052: [Chuckles.]

3 MS. HERBERT: You can be honest.

4 PROSPECTIVE JUROR #052: I wasn't happy at all.

5 MS. HERBERT: Okay.

6 PROSPECTIVE JUROR #052: As a matter of fact --

7 MS. HERBERT: What --

8 PROSPECTIVE JUROR #052: As a matter of fact I ended up writing the chief
9 of police for Las Vegas a nasty gram about what happened.

10 MS. HERBERT: Okay. What specifically, you know, was your issue with the
11 police, how they handled it?

12 PROSPECTIVE JUROR #052: Well, they showed up about 40 minutes later.
13 My finance was the one that found the burglary. She got there right after it
14 happened evidently. My son-in-law had time to drive all the way across Las Vegas
15 and then come back before they responded. They came in, spent about 15 minutes,
16 said we'll have a report in about two weeks. If that had been a casino where the
17 same amount of money was stolen, I'd had to give tickets to get them to get them in
18 orderly.

19 MS. HERBERT: Yeah.

20 PROSPECTIVE JUROR #052: I'd had to hand out tickets or numbers.

21 MS. HERBERT: So you were generally upset about their response?

22 PROSPECTIVE JUROR #052: Yes, ma'am.

23 MS. HERBERT: That's a long time, okay.

24 Has that case gone to court at all or do you know if any charges were
25 filed?

1 PROSPECTIVE JUROR #050: No charges, nothing. They never found any --
2 they didn't do anything to find anybody.

3 MS. HERBERT: Okay. And, again, we read that big long list of witnesses.
4 Did you recognize any of those names?

5 PROSPECTIVE JUROR #050: No, ma'am.

6 MS. HERBERT: Okay. Based upon your frustration, you know, with that
7 situation, do you think you're going to be able to set aside your experiences with
8 Metro in that case and look at this case fairly for both sides?

9 PROSPECTIVE JUROR #050: I can say I can try it but honestly I don't think
10 so.

11 MS. HERBERT: Okay. So that's going to pretty much overwhelm your ability
12 to look at these officers fairly.

13 PROSPECTIVE JUROR #050: Yes, ma'am. I mean, when -- yeah; I do have
14 a problem with some of the things that the police do.

15 MS. HERBERT: Okay. Can we approach?

16 THE COURT: Yes.

17 [Bench conference begins]

18 THE COURT: Wait for counsel.

19 MS. HERBERT: I'm going to make a motion for cause for him.

20 THE COURT: Any objection? Want to traverse?

21 MR. GARDNER: [Indiscernible] problems.

22 THE COURT: Okay. All right. Hang on for just a second, what?

23 MR. GARDNER: All of them had problems. You really want to [indiscernible]
24 of all of them. I mean, just 'cause --

25 THE COURT: No, he's the one -- he's the one who says he can't be fair. If

1 you want to traverse him, you can. We're going to actually have to take a break
2 here and go to the bathroom.

3 MR. GARDNER: Okay.

4 THE COURT: Fair?

5 MR. GARDNER: That's fine.

6 [Bench conference ends]

7 THE COURT: All right. At this point, ladies and gentlemen, based upon --
8 that's called a side-bar. Basically, it's more efficient for me to discuss with the
9 parties some -- the issues that come up. It's not intended to hide anything
10 necessarily from you. What we're going to do, based upon that side-bar, is take our
11 luncheon recess.

12 Before we do that and before I let anybody go out of this room, I have
13 some directions I need to give you. First I'm going to read you another admonition.
14 It's the second one. This admonition is as follows: It is your duty not to converse
15 among yourselves or with anyone else on any subject connected with this trial.
16 Further, you may not read, watch or listen to any report of or commentary on this
17 trial by any medium of information including, without limitation, newspaper,
18 television, radio or Internet. And you may not form or express any opinion on any
19 subject connected with this case until it's finally submitted to you.

20 Now, I have to by the rules read that to you every time before you walk
21 out the doors. I'm going to read it much more quickly after I've explained it to you
22 once because I'm assuming that you're listening and you can understand it and what
23 it means, because it's important as they all, frankly, are.

24 You know very little about this case as a consequence of where we are
25 in it. Even with the minimum amount of information you have, you're not permitted

1 to discuss your impressions or insights among yourselves. So you can go to lunch.
2 We're going to take an hour and 15 minutes for lunch and I'll tell you how that works
3 in a moment. But in terms of when you're outside those doors and not listen in here,
4 you can go to lunch with each other if you'd like or step outside and talk with each
5 other. You don't have to ignore each other. You can get to know each other in a
6 general sense, understand about what where you come from, your circumstances,
7 your concerns, your thoughts. You just can't discuss among yourselves any of the
8 facts of this case.

9 You also cannot reach out to somebody in your world, in your lives and
10 talk about the case. You have to keep your impressions of everything from the
11 beginning to the end private until the appropriate time when you deliberate the case
12 with fellow jurors. So don't reach out, call your spouse, your significant other and
13 say you know -- talk about the case. You're allowed to call them and say you're in
14 the middle of jury selection. It's a criminal case. But right at this point that's the
15 extent of the conversation you're allowed to have.

16 You're not allowed to do any independent legal research, factual
17 research. I'll talk to you a little bit more about that. You're not allowed to read any
18 news stories, or television or radio. This is an open and public courtroom. People
19 come and go from these courtrooms all the time. If we find ourselves in a
20 circumstance where this case is reported in that independent medium, you can't go
21 to it and draw -- read it and draw your information from it. You've got to -- again, this
22 is your source. The evidence comes from this witness stand and no other.

23 With those admonitions, look -- I need you to look to your left, look to
24 your right. Know where you're seated. The process of jury selection's going to
25 continue after lunch. But until everybody's in their seats, I can't continue the

1 process. So if you're a person who's challenged in terms of time, understand it's a
2 few minutes after twelve, it's seven minutes after twelve. I'm going to call us all back
3 and continue this effort really at 1:15. So that's not quite an hour and fifteen
4 minutes; about an hour and seven minutes. You are on the 11th floor, B department,
5 Bravo department. Department 18's my assignment. So when you come back, the
6 Bailiff is going to want -- Dan is going to want you to stage right outside those doors.
7 Don't come in the doors until he brings you in as a group.

8 You can go anywhere you want. There's a restaurant -- a little --
9 Capriotti's on the first floor. If you go out those doors, out the same north doors you
10 came in this morning, there's a Quizno's just down the street. There's also a café
11 directly across the street. There's a Starbucks if you want coffee. All your choice. If
12 you want soda, coffee, water; it's something that you feel comfortable with having.
13 It's normally in your routine to have it sitting next to you and you want to bring it back
14 with you as we continue this effort this afternoon, feel free to do so. Just try not to
15 be -- be respectful of fellow jurors, don't spill it on the carpet, that type of thing. But
16 bring it with you if you'd like to do so.

17 Now, with the admonition I've read and the direction, we'll see you at
18 1:15 right outside the doors. Ladies and gentlemen, head out each side of the jury
19 box as you see fit and out the doors you came in. We're in recess.

20 [OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY]

21 THE COURT: The record should reflect we're outside the presence of the
22 jury. Right now on the floor is a challenge for cause as to Mr. Vaughn. Side-bar I
23 wasn't sure whether Mr. O'Brien, Mr. Gardner you wish to traverse on that or just
24 submit it based upon where the record is now. Where are you gentlemen on that?

25 MR. GARDNER: We don't -- we'll let him go, Your Honor.

1 THE COURT: All right. So when Mr. Gardner -- Mr. Vaughn comes back,
2 that'll be a short stay for him and then we'll call next in order.

3 State, you have the balance of the panel. Normally, I ask if there are
4 any stipulations to the top 24 before I pass the panel. I didn't here. That's my
5 mistake. Is there any -- are there any stipulations or you want to put your heads
6 together and maybe talk now and if there are any stipulations, I can move them out.
7 If not, then we just keep moving forward. Anything like that you think?

8 MR. GARDNER: I'm not --

9 MS. HERBERT: We should probably talk and see where we are.

10 MR. GARDNER: I don't -- you mean do we agree -- are we agreeing that we
11 should kick someone else off?

12 THE COURT: Exactly, based upon the answers to the questions I posed.
13 Sometimes I see that, sometimes I don't. If you don't stipulate, obviously I don't do
14 anything.

15 MR. GARDNER: No. I don't think we have any right now but we'd like to talk.

16 MS. HERBERT: We'll talk about it.

17 THE COURT: All right. Talk among yourselves. If there's a stipulation, so be
18 it.

19 State, any additional record need be made as a consequence of
20 selection so far?

21 MS. WONG: No, Your Honor.

22 MS. HERBERT: Nothing, Judge. Thank you.

23 THE COURT: And Defense?

24 MR. O'BRIEN: None, Your Honor.

25 THE COURT: All right. See you at 1:15.

1 [Colloquy between Counsel]

2 MR. GARDNER: Your Honor, the guy whose mom has got to go to the
3 cancer treatments, I think we'd all let him go.

4 THE COURT: Mr. Newmiller?

5 MR. GARDNER: Correct.

6 MS. HERBERT: Yeah.

7 MS. WONG: Yes.

8 THE COURT: So just keep me on track here. Mr. Vaughn and Mr. Newmiller
9 are headed out the door shortly after they get back. If there's anybody else like that
10 of a similar situation, I'll follow your direction. All right?

11 MR. GARDNER: Okay.

12 MR. O'BRIEN: Thank you, Judge.

13 THE COURT: We'll see you in an hour.

14 [Lunch recess taken at 12:10 p.m.]

15 [Trial resumed at 1:19 p.m.]

16 [OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY]

17 THE COURT: Hang on Mike, let me get us on.

18 MR. GARDNER: Okay.

19 THE COURT: C272483, State of Nevada versus Frankie Watters. The
20 record should reflect the presence of representatives of the State and Defense,
21 outside the presence of the prospective panel.

22 At this time continued jury selection. The parties have stipulated to
23 dismiss with cause Newmiller and Vaughn, 50 and 52, respectively. Mr. Gardner?

24 MR. GARDNER: Your Honor, the -- there was the gentleman who seemed to
25 have the time constraints over his restaurant. I think he's Badge Number 80.

1 THE COURT: Saleme?

2 MS. HERBERT: Yes.

3 THE COURT: So there's a stipulation as to that gentleman?

4 MS. HERBERT: Yes.

5 THE COURT: Badge 80.

6 MR. GARDNER: And the young man who just started a new job. We both
7 felt sorry for him, Number 73.

8 THE COURT: Mr. Burts in Chair 22?

9 MR. GARDNER: Correct.

10 MS. HERBERT: Yes.

11 THE COURT: Okay. And we'll just take them as they come on the list then.
12 I'll replace six first. I'll just go down the list on those four as the seats and move
13 each in. Is everybody agreed on that?

14 MR. GARDNER: That's fine.

15 MS. HERBERT: Yes.

16 THE COURT: All right. And State do you agree that there will be stipulation
17 so I'll just thank and excuse those jurors?

18 MS. HERBERT: That's correct.

19 THE COURT: All right. Bring them in, Danny.

20 [Colloquy between the Court and Counsel]

21 THE MARSHAL: Out of the first line, I'm missing Seat 12, Joseph Wirth. I
22 think is the attorney. He's still not here so I can't bring them in.

23 THE COURT: Okay. We're going to wait a few minutes. Everybody be
24 comfortable.

25 [Pause in proceedings]

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1 MS. WONG: He should know better.
2 THE COURT: All should know better.
3 MR. O'BRIEN: Your Honor, we think Mr. Wirth has clearly offended the Court
4 by being late so we're going to stipulate to strike him.
5 MR. GARDNER: That's right.
6 MS. HERBERT: I agree. I will stipulate.
7 THE COURT: Are you guys serious?
8 MS. HERBERT: Yeah.
9 MR. O'BRIEN: We are serious about stipulating to strike.
10 MR. GARDNER: We're just kidding about the reason.
11 THE COURT: So you are stipulating?
12 MR. O'BRIEN: Yes, Your Honor.
13 MS. HERBERT: Yes.
14 THE COURT: It's your jury, folks, so.
15 MS. HERBERT: I'm fine with that.
16 MR. GARDNER: Yeah; we're both scared of him.
17 THE COURT: Okay. If you're stipulating, we'll put him on the strike list.
18 MR. GARDNER: Thank you, Judge.
19 MR. O'BRIEN: Thank you, Judge.
20 [Colloquy between Court and the Court Clerk]
21 THE COURT: I have six, 12, 14 and 15; right?
22 MR. O'BRIEN: And Seat 22 as well, Your Honor.
23 THE COURT: Mr. Burts.
24 MR. O'BRIEN: That's our first --
25 THE COURT: Seat 22.

1 MR. O'BRIEN: Yes.

2 THE COURT: Is that true, State?

3 MS. HERBERT: Yes, Your Honor.

4 MS. WONG: Yes.

5 MR. O'BRIEN: State's tired of us arguing it's a poor economy. They're going
6 to try to keep Mr. Burts employed.

7 THE COURT: If you're stipulating, it's your jury.

8 Are we ready to go Danny?

9 THE MARSHAL: No. I just got handed a note.

10 THE COURT: Everybody approach, please.

11 THE MARSHAL: By -- looks like 92.

12 THE COURT: Ed Guenther?

13 THE MARSHAL: No. 92.

14 THE COURT: 92.

15 THE MARSHAL: He should be back in the back.

16 THE COURT: Your Honor, I would like to be excused because I did not
17 notice the tattoos on the Defendant until we were dismissed for lunch. I associate
18 neck tattoos and tattoos on the back of your hands as gang activity. Therefore, I
19 cannot be or judge fairly toward the Defendant. I would like to be excused. I would
20 be interested in serving as a juror in a civil case. Want me to keep going? I do not
21 want to influence the other jurors --

22 MR. O'BRIEN: I think we're okay, Judge.

23 THE COURT: This is why --

24 MS. HERBERT: We want to keep him.

25 MS. WONG: We'd love to have him.

1 MR. GARDNER: Is that a person in the back?

2 MS. HERBERT: They're way -- they're sitting in the audience somewhere?

3 THE COURT: Yes, 92.

4 MS. HERBERT: That's fine.

5 THE COURT: So by stipulation we'll strike him from the jury roll.

6 MS. HERBERT: Yeah.

7 MR. O'BRIEN: Thank you, Judge.

8 THE COURT: All right.

9 MS. HERBERT: Please put him on a three-month civil case.

10 THE COURT: What is that?

11 MS. HERBERT: Please put him on a three-month civil case.

12 THE COURT: I'm sending him back for a civil, yeah. A civil med mal.

13 They're picking endo case jurors right now so it could be four months.

14 MS. HERBERT: Oh yeah.

15 THE COURT CLERK: You want that as Court's?

16 THE COURT: Yes. Let's mark that as Court's exhibit in support of and as a
17 consequence of the record made striking Juror Number 92 from the jury roll.

18 THE MARSHAL: Ready?

19 THE COURT: Ready when you are, Dan.

20 [IN THE PRESENCE OF THE PROSPECTIVE JURY]

21 THE MARSHAL: Jury's present, please.

22 Present, Your Honor.

23 THE COURT: Thank you. This is C272483, State of Nevada, Plaintiff, versus
24 Frankie Watters. Record should reflect the presence of representatives of the State
25 and Defense and all members of the panel appear to be present. Will parties

1 stipulate to the presence of the entire prospective panel? State?

2 MS. HERBERT: Yes, Judge.

3 MS. WONG: Yes.

4 THE COURT: And Defense?

5 MR. GARDNER: Yes, Your Honor.

6 THE COURT: All right. Ladies and gentlemen, record should reflect we
7 remain in jury selection, challenge for cause. State has the panel. Also, as a
8 consequence of discussions at lunch break, the following individuals are going to be
9 thanked and excused. Excused with the thanks of the Court: Mr. Saleme, Badge
10 Number 80, sir. I'm going to thank you and excuse you. Mr. -- based upon the
11 answers to your questions, Mr., Newmiller, Badge 50. I'm going to thank and
12 excuse you. Mr. Vaughn, also, Badge 52, I'm going to thank and excuse you. Mr.
13 Burts, Badge Number 73, I'm going to thank and excuse you.

14 Gentlemen, you all need to head back to jury services, third floor.
15 They're probably going to have more work for you this afternoon or bring you back
16 tomorrow. But I want to thank you. You're excused from our process today. And
17 Juror Number 92, by stipulation, Mr. Bowden, you're -- I'm going to thank you and
18 excuse you. Have you back to the jury services on the third floor. All right? And
19 we'll strike Mr. Bowden. Since he hasn't been called, the top 24 -- we'll strike him
20 from the jury roll.

21 The first step in this process is to call another name to fill Seat
22 Number 6.

23 MR. GARDNER: Your Honor, I think he was one of the stipulations.

24 THE COURT: Oh, I apologize. Mr. Wirth also, as well by stipulation, Badge
25 46. Thank you and you are excused.

1 Now, let's call another name to fill Seat Number 6.

2 THE COURT CLERK: First name will be Lorenzo, Bethea, Badge Number
3 088.

4 THE COURT: Mr. Bethea, please come forward, sir. You're now in Seat
5 Number 6. That's the top row.

6 Let's call another name.

7 THE COURT CLERK: Peter Swinburne, Badge Number 089.

8 THE COURT: Swinburne, welcome to Chair Number 12 that's next in order.
9 That's the second row, sir.

10 Call another name to fill Seat Number 14, please.

11 THE COURT CLERK: Ryan Velasco, Badge Number 90.

12 THE COURT: Mr. Velasco, come forward, sir.

13 Call another name to fill Seat Number 15.

14 THE COURT CLERK: Brad Callihan, Badge Number 93.

15 THE COURT: Mr. Callihan, come forward, sir.

16 Could I get the microphone up to Mr. Bethea in Chair Number 6,
17 please?

18 THE MARSHAL: There's one more.

19 THE COURT: Oh, I'm sorry. You're right. Mr. -- we're going to call another
20 name to fill Seat 22 and we'll hand the microphone to Chair 6, please.

21 THE COURT CLERK: Sabrina Sweeney, Badge Number 94.

22 THE COURT: Ms. Sweeney, come up. Welcome to Chair 22.

23 Right over your shoulder, sir, to -- let's do it by row. Mr. Bethea, how
24 close is that in the pronunciation?

25 PROSPECTIVE JUROR #088: Very good, sir.

1 THE COURT: And what do you -- how long have you been here in Las
2 Vegas, Nevada?

3 PROSPECTIVE JUROR #088: Fourteen years.

4 THE COURT: What do you do for a living?

5 PROSPECTIVE JUROR #088: Retired Air Force currently working at the
6 UNLV School of Dental Medicine as the clinical operations manager.

7 THE COURT: All right. What was your -- when you were with the Air Force
8 prior to your retirement, what was your MOS or what were your duties?

9 PROSPECTIVE JUROR #088: I was a medic.

10 THE COURT: All right. And now that you've retired from service, you're
11 working at UNLV in the capacity -- sounds like kind of an administrative role in that
12 school. Is that right?

13 PROSPECTIVE JUROR #088: Correct.

14 THE COURT: Married, single, partnership, any kids?

15 PROSPECTIVE JUROR #088: Married, two children.

16 THE COURT: And what does your spouse do?

17 PROSPECTIVE JUROR #088: My spouse is a dental hygienist.

18 THE COURT: Ever served as a juror before?

19 PROSPECTIVE JUROR #088: In the military on a court marshal.

20 THE COURT: So what was the highest rank you achieved in the Air Force?

21 PROSPECTIVE JUROR #088: Master Sergeant, E7.

22 THE COURT: So and you sat as a juror in court's marshal proceedings?

23 PROSPECTIVE JUROR #088: No; I went through this process, through the
24 question and answer process.

25 THE COURT: Okay. Fair enough.

1 Any close family member, friend, yourself, either accused of or victim of
2 a crime?

3 PROSPECTIVE JUROR #088: I've been accused of a crime, simple assault
4 that I -- I've been the victim of a home invasion. I've been the victim of a hotel
5 invasion. My wife had some items broken into her car and credit cards and her
6 purse stolen out of the car.

7 THE COURT: Was the accusation against you by civil authority or while you
8 were in the military?

9 PROSPECTIVE JUROR #088: It was by civil authority.

10 THE COURT: Okay. And all the other ones were they as a civilian or while
11 you were --

12 PROSPECTIVE JUROR #088: They were as a civilian.

13 THE COURT: Anything about the nature of those contacts or situations that
14 might affect your ability to be fair and impartial here?

15 PROSPECTIVE JUROR #088: No, sir.

16 THE COURT: Would you have a tendency to give more or less credence or
17 weight to the testimony of a witness simply because they're employed as police
18 officer?

19 PROSPECTIVE JUROR #088: No, sir.

20 THE COURT: Can you wait, patiently listen to the evidence and come to a
21 fair result based upon the evidence?

22 PROSPECTIVE JUROR #088: Yes, sir.

23 THE COURT: Any reason you can think of that you couldn't -- that either side
24 might be concerned about your ability to be fair in this case?

25 PROSPECTIVE JUROR #088: No; the only other thing that I want to mention

1 is part-time I've also worked as a security officer for 13 years down at the Hard Rock
2 Hotel and Casino. So needless to say, I've had a lot of interaction with police
3 officers and having to fill out reports about incidents that may have occurred at that
4 property.

5 THE COURT: Anything about the nature of that work that might -- again,
6 same question, same direction that it might affect your ability to be fair and
7 impartial?

8 PROSPECTIVE JUROR #088: No, sir.

9 THE COURT: All right. Thank you. If you could hand that microphone, let's
10 go to Seat Number 12, Juror 89, Mr. Swinburne.

11 Mr. Swinburne, how long have you been here in Nevada?

12 PROSPECTIVE JUROR #089: Twenty-one years, Your Honor.

13 THE COURT: And what do you do for a living?

14 PROSPECTIVE JUROR #089: Oh, I'm currently handicapped but I do
15 manage some rental properties I own through my trust. I'm also a realtor doing
16 some deals occasionally. I work part time right now.

17 THE COURT: All right. Married, single, partnership any kids?

18 PROSPECTIVE JUROR #089: Married, two kids that came with the
19 marriage.

20 THE COURT: Any -- and what does your spouse do?

21 PROSPECTIVE JUROR #089: She is a dental office manager.

22 THE COURT: Okay. Any prior jury service?

23 PROSPECTIVE JUROR #089: No, I was sent a letter once but I had the flu. I
24 was excused for sickness.

25 THE COURT: Okay. Ever had a close family member, friend or yourself

1 victim of a crime, accused of a crime?

2 PROSPECTIVE JUROR #089: I was guilty of misdemeanors if that matters.

3 THE COURT: It's all kind of -- and it's broadly stated on purpose. Just
4 anything in your life -- so you say misdemeanors, like what?

5 PROSPECTIVE JUROR #089: Well, I did have two DUIs a long time ago and
6 I was guilty and I paid my dues for it. It was about 20 years ago.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR #089: So --

9 THE COURT: All right. Is there anything about that situation that might
10 impact your ability to be fair and impartial? Upset with what the system --

11 PROSPECTIVE JUROR #089: No.

12 THE COURT: -- the authorities did?

13 PROSPECTIVE JUROR #089: Not at all.

14 THE COURT: Or your involvement in that?

15 PROSPECTIVE JUROR #089: No, absolutely not.

16 THE COURT: All right. Have a tendency to give more or less credence or
17 weight to the testimony of a witness simply because they're a police officer?
18 Anything like that?

19 PROSPECTIVE JUROR #089: No, not a bit.

20 THE COURT: Okay. Keep an open mind as you hear the evidence? Make a
21 fair decision based upon the evidence, not based upon sympathy, prejudice,
22 anything else. Can you do that?

23 PROSPECTIVE JUROR #089: I can. I'm also under two medications
24 because I'm waiting for hip surgery after my other hip surgery three months ago.
25 They might affect my judgment; one's a pain pill, one's a muscle relaxer.

1 THE COURT: Ooh.

2 PROSPECTIVE JUROR #089: So I can't guarantee every minute that I'll be
3 completely alert because I do need to take this medication for pain while I wait for
4 my hip replacement.

5 THE COURT: Okay. So you're on these meds.

6 PROSPECTIVE JUROR #089: I'm waiting, in the next two years. I had my
7 first surgery to get my hip ready and it hasn't healed. It's a ten-month process to
8 heal.

9 THE COURT: Okay. So this is the disability that you were --

10 PROSPECTIVE JUROR #089: Yeah; this is my partial handicap.

11 THE COURT: -- referring to?

12 PROSPECTIVE JUROR #089: I can't walk much, stand for very long and I'm
13 on medication.

14 THE COURT: And it comes down to your ability to follow the evidence.
15 Trials, as you're going to see if you're in this jury, can be a very dynamic process. It
16 can move along rather rapidly; it also can move along rather slowly. Nobody kind of
17 knows until you get there.

18 PROSPECTIVE JUROR #089: I'm just trying to be honest, sir.

19 THE COURT: I appreciate that. Is your mind -- are you concerned as you sit
20 here now, whether or not you might find yourself not able to pay attention as a
21 consequence of a combination of these two meds?

22 PROSPECTIVE JUROR #089: It could happen at some moment.

23 THE COURT: You seem very aware right now. You're engaging well with
24 me.

25 PROSPECTIVE JUROR #089: Yes.

1 THE COURT: Is there any way that I can be assured that if you feel this --
2 and this is probably a silly question, but if it's coming on, you could raise your hand
3 'cause I've had folks with --

4 PROSPECTIVE JUROR #089: Yes, I could do that. No problem.

5 THE COURT: And is that common for you? I mean, you say, oh, I'm
6 suddenly getting a little tired or a little wheezy and I can -- you can --

7 PROSPECTIVE JUROR #089: Sure I can do my best.

8 THE COURT: -- raise your hand and I'll have you stand up, stretch it out, try
9 to get everything flowing and that works for everybody, frankly.

10 PROSPECTIVE JUROR #089: Sure.

11 THE COURT: All right.

12 PROSPECTIVE JUROR #089: Not a problem.

13 THE COURT: Okay. Good. Thank you. If you could hand that microphone
14 to Mr. Velasco, Chair Number 14, Badge 90.

15 Sir, how long have you been here in Nevada?

16 PROSPECTIVE JUROR #090: Four years.

17 THE COURT: And what do you for a living?

18 PROSPECTIVE JUROR #090: I'm a graphic designer.

19 THE COURT: Okay. Do you work at like a -- for a company designing
20 graphics as an artist or?

21 PROSPECTIVE JUROR #090: Yeah; I work at Angel Management Group.

22 THE COURT: Angel Management Group, all right.

23 PROSPECTIVE JUROR #090: Yeah.

24 THE COURT: Are you married, single, partnership, any kids?

25 PROSPECTIVE JUROR #090: Partnership, girlfriend of ten years.

1 THE COURT: And what does she do?

2 PROSPECTIVE JUROR #090: She's a substitute teacher.

3 THE COURT: Okay. For CCSD?

4 PROSPECTIVE JUROR #090: Yes.

5 THE COURT: All right. And ever served as a juror before?

6 PROSPECTIVE JUROR #090: No.

7 THE COURT: Ever had close family member, friend, yourself victim of or
8 accused of a crime?

9 PROSPECTIVE JUROR #090: I've had -- couple I've been victimized but it's
10 like out of state, like in California, but this was years ago, as far as like a hit and run
11 accident and getting hit by a car, yeah, kind of deal. But nothing, you know, not too
12 evasive.

13 THE COURT: Anything about those situations that you bring with you that
14 might affect your ability to be fair and impartial here?

15 PROSPECTIVE JUROR #090: No, sir.

16 THE COURT: All right. Police officers, have a tendency to give more or less
17 credence or weight to the testimony of one simply because of their work?

18 PROSPECTIVE JUROR #090: No, sir.

19 THE COURT: What about keeping an open mind? Follow the evidence?

20 PROSPECTIVE JUROR #090: Yes, sir.

21 THE COURT: Come to a fair result? Can you do that?

22 PROSPECTIVE JUROR #090: Yes.

23 THE COURT: Anything in your life that you think either side might want to
24 know?

25 PROSPECTIVE JUROR #090: No.

1 THE COURT: All right. Thank you.

2 Let's move on to Mr. Callihan. Mr. Callihan, how long have you been
3 here in Nevada?

4 PROSPECTIVE JUROR #093: About 17 years.

5 THE COURT: And what do you do for a living?

6 PROSPECTIVE JUROR #093: I'm a registered professional engineer.

7 THE COURT: All right. Married, single, partnership, kids?

8 PROSPECTIVE JUROR #093: Married, two kids.

9 THE COURT: What's your spouse do?

10 PROSPECTIVE JUROR #093: She's stay at home, previously was a first
11 grade teacher.

12 THE COURT: All right. Prior jury service, any?

13 PROSPECTIVE JUROR #093: No.

14 THE COURT: How about close family member or friends victim of, accused
15 of a crime, that situation?

16 PROSPECTIVE JUROR #093: I have a friend accused of a crime, past family
17 members previously.

18 THE COURT: That -- the one you had mentioned the friend. Is that
19 something that's on-going now?

20 PROSPECTIVE JUROR #093: It is on-going. It's in the state of Colorado
21 though.

22 THE COURT: Okay. How involved are you in that process, if at all?

23 PROSPECTIVE JUROR #093: Not at all.

24 THE COURT: All right. Anything about that either side should be concerned
25 about?

1 PROSPECTIVE JUROR #093: No.

2 THE COURT: How about keeping an open mind -- or strike that.

3 Police officer's testimony, can you judge them the same as you would
4 any other witness?

5 PROSPECTIVE JUROR #093: Yes.

6 THE COURT: Keep an open mind if you're asked to be on this jury and make
7 a fair decision based upon that evidence. Can you do that?

8 PROSPECTIVE JUROR #093: Yes, sir.

9 THE COURT: Anything in your life you think either side might want to know in
10 that general sense?

11 PROSPECTIVE JUROR #093: No.

12 THE COURT: All right. Thank you very much. Hand that forward to Ms.
13 Sweeney.

14 Ms. Sweeney, how long have you been here in Nevada?

15 PROSPECTIVE JUROR #094: About 22 years.

16 THE COURT: And what do you do?

17 PROSPECTIVE JUROR #094: I'm a branch manager at a bank.

18 THE COURT: All right. Married, single, partnership, kids?

19 PROSPECTIVE JUROR #094: Married, no kids.

20 THE COURT: What does your spouse do?

21 PROSPECTIVE JUROR #094: He's a realtor.

22 THE COURT: Ever served as a juror before?

23 PROSPECTIVE JUROR #094: No.

24 THE COURT: Ever had close family members, a friend, yourself either the
25 victim of or accused of a crime?

1 PROSPECTIVE JUROR #094: No.

2 THE COURT: How about police officers, going to judge them any differently
3 than you would any other witness?

4 PROSPECTIVE JUROR #094: No.

5 THE COURT: Can you keep an open mind through the process, listen
6 patiently and come to a fair result with your fellow jurors?

7 PROSPECTIVE JUROR #094: Absolutely, yes.

8 THE COURT: And anything you can think of that might affect your ability to
9 be fair just in a general sense?

10 PROSPECTIVE JUROR #094: No.

11 THE COURT: All right. Thank you very much.

12 All right. With bringing those additional jurors up to the balance of the
13 panel, I'm going to hand the whole panel back to the State. Ms. Herbert, you have
14 the panel.

15 MS. HERBERT: Thank you, Judge.

16 Good afternoon everyone. Ms. Sweeney you have the microphone
17 right now? I missed what you just said that your job was.

18 PROSPECTIVE JUROR #094: Branch manager at a bank.

19 MS. HERBERT: Okay.

20 PROSPECTIVE JUROR #094: Yeah.

21 MS. HERBERT: I think the acoustics at this table -- it's -- everything sounds
22 mumbled. So it's kind of confusing.

23 And you're married with no kids.

24 PROSPECTIVE JUROR #094: Correct.

25 MS. HERBERT: Do you watch CSI or any of those type shows?

1 PROSPECTIVE JUROR #094: Not so often. I don't really watch TV too
2 much.

3 MS. HERBERT: Okay. No one ever seems to watch TV.

4 You understand that if you have seen those shows that that's not real
5 life and I'm sure everyone's painfully aware that this is not TV and it's not quite as
6 exciting.

7 PROSPECTIVE JUROR #094: Correct, yes.

8 MS. HERBERT: And is there a case where you would need a lot of scientific
9 evidence even if there were other types of evidence presented in order to convict
10 somebody or find someone guilty?

11 PROSPECTIVE JUROR #094: No.

12 MS. HERBERT: You would consider all different kinds of evidence equally?

13 PROSPECTIVE JUROR #094: Correct, yes.

14 MS. HERBERT: Thank you.

15 Let's go to Mr. Spears.

16 PROSPECTIVE JUROR #061: Spear.

17 MS. HERBERT: Spear, sorry. Spear -- one.

18 You had mentioned that your car was stolen in Santa Barbara and
19 recovered in San Francisco; right?

20 PROSPECTIVE JUROR #061: Right.

21 MS. HERBERT: And how long ago was that?

22 PROSPECTIVE JUROR #061: It was 2000.

23 MS. HERBERT: So 11 years ago.

24 PROSPECTIVE JUROR #061: Right.

25 MS. HERBERT: And then also that your roommate's car has been broken

1 into.

2 PROSPECTIVE JUROR #061: Twice out here. I've been here six years now.
3 The first time was the first month we lived here we got broken into and Galleria Mall
4 in Henderson --

5 MS. HERBERT: Okay.

6 PROSPECTIVE JUROR #061: -- by Sunset Station. Just a stereo got stolen,
7 12:30 in the daytime.

8 MS. HERBERT: Okay. Were you with him when that happened?

9 PROSPECTIVE JUROR #061: No.

10 MS. HERBERT: Okay. Did you know if your roommate called the police or?

11 PROSPECTIVE JUROR #061: Yeah; he did.

12 MS. HERBERT: Okay. And then did he ever express any opinions strongly
13 negatively or positively?

14 PROSPECTIVE JUROR #061: Nothing ever happened, nobody ever got
15 caught. I mean it was -- they knew what they doing, so.

16 MS. HERBERT: And then the other time, was that also by the mall?

17 PROSPECTIVE JUROR #061: It was his new -- he had a Cadillac. It was at
18 Sunset Park. He was playing softball. They just busted the window, took his wallet.
19 It shouldn't have been in there anyway, but.

20 MS. HERBERT: Were you there at that time?

21 PROSPECTIVE JUROR #061: I was there, yes.

22 MS. HERBERT: Okay. Did you guys call the police for that incident?

23 PROSPECTIVE JUROR #061: He did, yes. Matter of fact, well, before we
24 even called the police, they were calling him because the people had already used
25 the cards, you know, at the mall and stuff, so.