

1 chain of custody. But does it appear that that item has ever
2 been opened by anybody since the time that you impounded it?

3 A No, it doesn't.

4 Q So that is essentially, with the exception of the
5 signature, exactly how it went into the vault after you
6 processed the vehicle?

7 A Correct.

8 MR. DiGIACOMO: Move to admit 246.

9 MR. PIKE: No opposition.

10 THE COURT: It'll be admitted.

11 (States Exhibit 246 admitted)

12 BY MR. DiGIACOMO:

13 Q We're not going to open that one. I'm going to show
14 you what's been marked as State's Proposed Exhibit Number 241
15 and ask you do you recognize that.

16 A Yes, I do.

17 Q And what is it?

18 A These are the contents of the wallet that was found
19 in the center console of the vehicle.

20 Q And once again is it affixed with a label that you
21 created to identify all the information that's contained
22 therein?

23 A Yes, it is.

24 Q And is this one in substantially the same or similar
25 condition as when you impounded it?

1 A Other than the signatures on the chain of custody,
2 the tape along the top, and the staples through the side, yes.

3 Q Okay. Well, let's talk about that. Obviously, the
4 signature is anybody else from Metro who's taken that item out
5 of -- I'm sorry, from Henderson --

6 A From Henderson.

7 Q -- who's taken that item out of evidence?

8 A That's right.

9 Q And you indicated that there's a seal on there
10 that's not yours.

11 A That --

12 Q And, for the record, you pointed to the top of the
13 exhibit. That seal has someone else's P number written across
14 the seal so we can identify who the person is that opened it;
15 is that correct?

16 A Yes.

17 Q And then you noticed that there's staples along the
18 edge. Were you present here in court at a previous proceeding
19 back in 2010 where I think you cut that -- either you or I cut
20 that open?

21 A Yes.

22 Q Okay. So, with the exception of that seal and the
23 staples added by the clerk, you would expect to find those
24 items in there that you impounded --

25 A Correct.

1 Q -- from the car?

2 MR. DiGIACOMO: Move to admit 241, Judge.

3 MR. PIKE: No objection, Your Honor.

4 THE COURT: It'll be admitted.

5 (State's Exhibit 241 admitted)

6 BY MR. DiGIACOMO:

7 Q And I'm going to pop the staples here and pull --

8 THE CLERK: Here. Here's the puller.

9 BY MR. DiGIACOMO:

10 Q I just don't remember how many things in here --
11 looks like we put them all in plastic bags, so that's good.
12 Looks like we are A through G. And if you could just briefly
13 flip through those just to make sure that I've got them right,
14 but -- if you can tell me that those, A through G, are all the
15 contents that you had packaged in this particular package.

16 A May I see the label. Yes, they are.

17 MR. DiGIACOMO: Move to admit 241A through G.

18 MR. PIKE: No objection.

19 THE CLERK: And 241?

20 MR. DiGIACOMO: And 241.

21 THE COURT: It'll be admitted.

22 (State's Exhibit 241 and 241-A through G admitted)

23 BY MR. DiGIACOMO:

24 Q I'm going to go through a couple of these. I think
25 the jury's already seen a photograph of 113A, which is -- I'm

1 not going to pull them out of the bag, at least not all of
2 them out of the bag. But that's the driver's license;
3 correct?

4 A The identification card, yes.

5 Q And then 113B, that's the Room 29 at the Oasis Motel
6 gift receipt -- or receipt for the motel room?

7 A That's correct.

8 Q And then 113G, so you know what I'm taking out here.
9 Can you tell the ladies and gentlemen of the jury what 113G
10 is.

11 A It's a release of medical assistance from MedicWest
12 Ambulance.

13 Q Okay. And it's for an individual who -- I don't
14 know if this is going to show up here. You've seen a copy of
15 this; is that correct?

16 A Yes, I have.

17 Q It's for an individual by the name of Jason McCarty?

18 A Correct.

19 Q Indicating that on May 18, 2006, at 4:10, that he
20 released MedicWest from having to transport?

21 A Correct.

22 Q State's Exhibit Number 240 -- or proposed exhibit,
23 do you recognize that?

24 A Yes, I do.

25 Q What is it?

1 A This is a U-Haul self storage rental agreement and
2 the locker's receipt that I impounded.

3 Q Is that in substantially the same or similar
4 condition as when you impounded it?

5 A Yes, along with one extra signature.

6 Q And that's from Detective Collins?

7 A Yes, it is.

8 Q All right. And if you were to open that, what would
9 you expect to find, that U-Haul receipt in the name of Jason
10 McCarty?

11 A Yes.

12 MR. DiGIACOMO: Move to admit 240.

13 MR. PIKE: No objection, Your Honor.

14 THE COURT: All right. That'll be admitted.

15 (State's Exhibit 240 admitted)

16 BY MR. DiGIACOMO:

17 Q And State's Proposed Exhibit Number 239, do you
18 recognize that?

19 A Yes, I do.

20 Q What is it?

21 A This is a Boost Mobile cellular phone and a car
22 charger that were located in the vehicle.

23 Q Okay. And is that in substantially the same or
24 similar condition as when you impounded it?

25 A Yes, with extra signatures and then a couple extra

1 seals on the top.

2 Q Okay. So it looks like that it's been opened on a
3 previous occasion. But based on procedure, you'd expect to
4 find the phone that you took out of that vehicle inside there?

5 A Correct. Along with the car charger.

6 MR. DiGIACOMO: Move to admit 239 and contents.

7 MR. PIKE: No objection, Your Honor.

8 THE COURT: That'll be admitted as well.

9 (State's Exhibit 239 admitted)

10 BY MR. DiGIACOMO:

11 Q You had indicated previously that you did tape
12 lifts, as well, out of the vehicle. And I'm not going to have
13 you open the actual tape lifts, but I'm going to ask you,
14 State's Proposed Exhibit Number 248, do you recognize that?

15 A Yes, it is. This is the envelope that would contain
16 those tape lifts.

17 Q And those are all the tape lifts that I referenced
18 earlier from the vehicle --

19 A Yes.

20 Q -- and what their item number of --

21 A Yes, from --

22 Q -- package number is?

23 A Yes, from the six different locations in the
24 vehicle.

25 Q And that's in substantially the same or similar

1 condition, except for the additional seals from further
2 testing that was conducted on it?

3 A Correct.

4 MR. DiGIACOMO: Move to admit 248, Judge.

5 MR. PIKE: No objection.

6 THE COURT: That'll be admitted.

7 (State's Exhibit 248 admitted)

8 BY MR. DiGIACOMO:

9 Q Finally, you indicated that you processed the
10 vehicle for fingerprints and got 35 latent print lifts; is
11 that correct?

12 A Yes.

13 Q Showing you what's been marked for purposes of
14 identification is State's Proposed Exhibit Number 247.
15 Obviously, it was already opened at the prior trial. But with
16 the exception of that, what would you expect to find in there?

17 A The 35 latent lift cards.

18 Q Okay. And it's be opened by blue tape, indicating
19 that there was further processing conducted or testing --

20 A Analysis, yes.

21 Q -- analysis done? If you -- well, you expect that
22 the 35 latent lift cards in there are your lift cards?

23 A Yes.

24 MR. DiGIACOMO: Move to admit 247.

25 MR. PIKE: No objection, Your Honor.

1 THE COURT: That will be admitted.

2 (State's Exhibit 247 admitted)

3 MR. DiGIACOMO: Judge, this one doesn't have -- this
4 one has tape. Let me see if I can just break the tape.

5 BY MR. DiGIACOMO:

6 Q And it looks like all 35 cards are marked as one.
7 So State's Proposed Exhibit 247-A, those appear to be your
8 latent cards?

9 A Yes, it does.

10 MR. DiGIACOMO: Move to admit 247-A.

11 MR. PIKE: No objections.

12 THE COURT: That'll be admitted

13 (State's Exhibit 247-A admitted)

14 BY MR. DiGIACOMO:

15 Q Now, I'm going to put one of these on the overhead
16 here. Maybe I will start with this really big one, because it
17 might show up better. But I'm going to start with the back of
18 the card and ask you to describe what information did you put
19 on the back of this card.

20 A We put the date, the type of crime that we were
21 investigating, the case number, the victim or victims, the
22 location where I was when it was recovered, the location on
23 whatever I was processing it was recovered from, as well as my
24 signature and personnel number. Also, you can see there's a
25 Number 2, which means this is Lift Number 2, which would

1 correspond to the Post-it note that's placed on the vehicle.
2 And there's a diagram of whatever we're lifting it from to
3 show approximately where it was.

4 Q And so this is your kind of a rough description of
5 the vehicle?

6 A Yes.

7 Q All right. That's -- and that's the X where -- and
8 what's the arrow mean?

9 A The arrow is for orientation so that we can -- we
10 know which direction we can place the latent lift if we need
11 to. There's a corresponding arrow on the tape that was
12 actually lifted from the vehicle.

13 Q So on the flip side there's going to be an arrow
14 that corresponds with that arrow?

15 A Correct.

16 Q And then you did, for purposes of this one, the
17 exterior of the driver's side of the car body -- well, you
18 need to read this, actually.

19 A North of. I believe it was north of.

20 Q Why don't you read the description for us.

21 A "The exterior of the driver's side of the car body
22 near the front on the Oldsmobile Alero, Nevada 181SWV."

23 Q Now, you talked about on the front side of this.
24 There's some writing of yours; is that correct?

25 A Yes.

1 Q And there may be some writing of somebody else?

2 A It's possible.

3 Q All right. Let's start with -- well, it's upside
4 down. I'm going to back all the way out. What writing on
5 this particular card is yours?

6 A The initials and personnel number along the top edge
7 of the tape and the date along the bottom edge of the tape.

8 Q Okay. So the 6/1/06 is the date you did the lift?

9 A Correct.

10 Q And what about this arrow? Is that the arrow that
11 corresponds?

12 A That's the arrow that would correspond to the
13 diagram.

14 Q And then your PF1267?

15 A That's my initials and personnel number.

16 Q Okay. And so the handwriting here that's got a
17 little line that says, "Number 9 Herb at 11221," that's not
18 your writing?

19 A Correct.

20 Q Do you have any idea who would have written that on
21 a latent?

22 A That's probably one of our latent print examiners.

23 Q And I'm not going to go through all 35 of these.
24 And I'm going to go through one other one. And I'm going to
25 start on the back here, Latent Lift Number 19. Can you just

1 tell the ladies and gentlemen of the jury where on the vehicle
2 this was located,

3 A That's the exterior of the passenger's-side door
4 window.

5 Q And it says, "left of L18." What does that mean?

6 A That just relates it to the location of another
7 latent that was also lifted.

8 Q And we flip this over. There's -- once again,
9 that's not your writing down there that indicates R palm
10 Malone at 11221. That's somebody else's writing?

11 A Correct.

12 Q Now, in addition to those items that we've kind of
13 talked about before, did you also collect a small black hair
14 tie, Package 13, Item 24, from the pocket behind the front
15 passenger's-side seat?

16 A Yes, I did.

17 Q And did you also collect some paperwork that had
18 some dirt footwear impressions on it, as well?

19 A Yes.

20 Q And you had impounded those as Package 12, Item 23?

21 A Correct.

22 Q Did you impound or did you collect or identify the
23 DMV registration for this particular vehicle?

24 A Yes, I did.

25 Q And who was that?

1 A That was to a Donald Herb.

2 Q Other than the DMV registration for the vehicle in
3 the name of Donald Herb, was there any other item from your
4 impound list or from the photographs I guess that you saw that
5 had the name Donald Herb on it?

6 A I don't believe so, no.

7 Q Other than processing this particular vehicle on
8 June 1st of 2006, did you respond to a desert scene on one
9 occasion, as well?

10 A Two scenes in one day, yes.

11 Q Two scenes in one day. And what was the purpose of
12 you responding to those scenes?

13 A Detectives were doing searches, and they had located
14 some clothes.

15 Q Okay. Did you -- and where is -- generally where
16 was the scene that you responded to?

17 A Near the south end of Old Vegas Trail and the south
18 end of Paradise Hills Drive.

19 Q So how far away from the murder scene, if you know,
20 do you think you were?

21 A I'm not sure exactly where the murder scene was. I
22 wasn't at that scene.

23 Q Okay. Can you tell me from an aerial kind of
24 generally -- I'm going to find my aerial here. I'm going to
25 show you State's Exhibit Number 2. Can you show me where --

1 first of all, do you even see the location on State's Exhibit
2 Number 2 where the clothes were?

3 A I can't tell from this photograph. Do you have
4 anything with street names? I'm not sure exactly where we are
5 down here just because of all the desert area.

6 Q Okay. But it -- was it somewhere near the corner of
7 two streets?

8 A One of them was at the south end of Paradise Hills
9 Drive, and one was at the south end of Old Vegas Trail. It
10 was just in desert area there.

11 Q So both of them were just off the paved roadway?

12 A Correct.

13 Q Okay. If -- I -- that's close enough for me. When
14 you collected those particular clothes did you look at those
15 clothes to see if there was any evidence of blood or anything
16 else?

17 A Yes, I did.

18 Q And was there any evidence of any blood or other
19 items on the clothing?

20 A No, there wasn't.

21 Q Additionally, while you were out at those two desert
22 locations just off a paved roadway did you do any other
23 testing of rocks or anything else?

24 A There was one rock that was on top of one of the
25 shirts. We tested it with phenolphthalein.

1 Q And when you tested it with phenolphthalein what was
2 the result?

3 A It was negative.

4 Q Any other scenes that you responded to or collected
5 any other --

6 A I had processed one other car.

7 Q Okay. And that would be the white Honda?

8 A A gray Nissan Sentra.

9 Q Gray Nissan Sentra. Okay. Where was that vehicle
10 processed?

11 A That was also in the garage, our Criminalistics
12 garage.

13 MR. DiGIACOMO: Thank you very much.

14 Pass the witness, Judge.

15 THE COURT: Cross.

16 MR. PIKE: Thank you.

17 CROSS-EXAMINATION

18 BY MR. PIKE:

19 Q Good afternoon, sir.

20 A Good afternoon.

21 Q Maybe you could go through and identify for me every
22 item of evidence that you impounded in this case. Do you have
23 an impound report that you prepared?

24 A Yes, I do.

25 Q And would that contain everything that you impounded

1 in this case?

2 A Yes, it would.

3 Q Okay. Would you -- is that available to you?

4 A Yes.

5 Q Would you review that and go through and indicate
6 for the jury every item that you impounded.

7 MR. DiGIACOMO: I apologize. Counsel, would you
8 have him identify where he impounded them?

9 MR. PIKE: Absolutely. Absolutely.

10 BY MR. PIKE:

11 Q I know you went to a couple of different places, so
12 I think in your impound report it says where you located them.
13 If you could indicate --

14 A Yes.

15 Q -- what you impounded and where you impounded it
16 from.

17 A Okay. Do you want me to read the exact
18 descriptions, or just generally what it was?

19 Q Generally what it is, and then if there's any more
20 identifiers that you feel that you need, then we'll -- you can
21 bring those in.

22 A Okay. I collected a white T-shirt from the south
23 end of Paradise Hills.

24 Q Okay. Now --

25 A Or actually it was Old Vegas Trail. Sorry.

1 Q All right. Let me see the report that you're going
2 off of.

3 MR. PIKE: May I approach the witness, Your Honor?

4 THE COURT: Yes.

5 BY MR. PIKE:

6 Q All right. Now I'm on the same page with you.
7 Okay. Thank you.

8 Okay. You had a white T-shirt?

9 A Yes.

10 Q And where was that located at?

11 A That was the south end of Old Vegas Trail.

12 Q This is the area that you just specifically
13 described with Mr. DiGiacomo?

14 A Correct.

15 Q All right. And the next item?

16 A A green tank top. And that was also at Old Vegas
17 Trail.

18 Q Now, let me ask you. The Kurt Lynn signature
19 T-shirt --

20 A Yes.

21 Q -- is that the one that you -- was under the rock?

22 A Yes.

23 Q Is that a male or a female shirt?

24 A I can't tell just by looking at a T-shirt.

25 Q All right. Then the third item?

1 A The third one is another white T-shirt. And that
2 was off of Paradise Hills.

3 Q And that you identified as the Scene 2?

4 A Correct.

5 Q What is the difference between Scene 1 and Scene 2?

6 A Scene 1 was off of Old Vegas Trail, and Scene 2 was
7 off of Paradise Hills Drive.

8 Q Were these nearby each other? How far away were
9 they?

10 A They were relatively closely, I believe, yes.

11 Q Within 20 feet?

12 A No.

13 Q A bit further than that?

14 A (No audible response)

15 Q Is that a yes?

16 A Yes.

17 Q Okay. I don't mean to be rude. Just making a
18 record.

19 All right. So at Scene 2 you've got the white Hanes
20 T-shirt. And what is the next thing?

21 A A red skirt.

22 Q And what size was that?

23 A 8P.

24 Q Where was that? And that was located also at
25 Scene 2?

1 A Yes, it was.

2 Q Next item?

3 A A gray sweatshirt.

4 Q And that was located at Scene 2?

5 A Yes.

6 Q Next item.

7 A A blue jacket.

8 Q Is that a male or a female jacket?

9 A I couldn't tell just by looking at it.

10 Q The area at Scene 2?

11 A Yes.

12 Q Okay. Instead of having me ask you on each one, I

13 think the State's comfortable if you just go ahead and read

14 through it, and I'll interrupt you to ask any follow up.

15 A Okay. The rest of them -- or the next group were

16 all from the green Alero that we just discussed.

17 Q Okay. Let me -- the green Alero. You took

18 photographs of the Alero. And this is State's Exhibit 69.

19 And does that appear to be in the condition the car was in

20 when you performed the examination?

21 A Yes.

22 Q You didn't go through and clean the car off or do

23 anything else before you began your processing --

24 A No.

25 Q -- when it was brought in? I note that it's on

1 rollers, these red rollers. So it -- the car is not driven
2 in?

3 A No, it's not.

4 Q It's towed there?

5 A Yes.

6 Q So the next -- the fingerprints that you've
7 described and that you lift are the next items on your impound
8 report?

9 A That's correct.

10 Q Okay. And that includes the 13 lifted tapes of
11 unknown debris?

12 A No.

13 Q Okay. I'm sorry.

14 A There are 35 latent lift cards.

15 Q Right. That's Item Number 7.

16 A Correct.

17 Q The next items?

18 A The next six items are the tape lifts. Do you want
19 me to go through the locations where I recovered those?

20 Q Already gone through that. Thank you.

21 A Okay.

22 Q That takes you through to the swabs at the steering
23 wheel.

24 A Correct.

25 Q You do a swab of the steering wheel for possible DNA

1 because there is -- somebody may put their hands on it and
2 they may shed some epithelial cells?

3 A Correct.

4 Q What is a epithelial cell?

5 A It's part of the skin that can contain DNA.

6 Q And the pressure that someone puts on the steering
7 wheel may cause that to come off or slough off the skin?

8 A Correct.

9 Q Similarly, if someone takes off a T-shirt or takes
10 off a shirt and they pull it over their head, that may also
11 take epithelial cells and possibly hair follicles off it?

12 A Correct.

13 Q So you look for that, and you look for that in the
14 evidence that you examined?

15 A Correct.

16 Q Also, there is -- if there is blood evidence that is
17 involved, there may be a transfer of DNA. And let me give you
18 an example, and tell me if I'm correct. If I come into
19 contact with blood, however I may come into contact with it,
20 of somebody else and I don't wash it off of my hands or don't
21 wash it off well enough and I grab that steering wheel or
22 something like that, I could transfer somebody else's DNA or
23 somebody could [inaudible] onto that area?

24 A It's possible.

25 Q And so you don't know -- you haven't been involved

1 in investigation, you're just looking for any possible areas
2 or any possible evidence that you think may produce usable
3 evidence?

4 A Correct.

5 Q So you want to be thorough in processing both the
6 scene and the car?

7 A Yes.

8 Q Going into that, you do the swab for the DNA, and
9 the same thing on the driver's-side door and the step at the
10 driver's-side door?

11 A Yes.

12 Q Okay. Let's see. And then after -- how many swabs
13 do you take out of the car?

14 A Seven.

15 Q The next item you process is the wallet and the
16 contents?

17 A After all the swabs, yes.

18 Q You have the U-haul self storage rental agreement?

19 A Correct.

20 Q Do you remember the name of the individual that had
21 signed that rental agreement?

22 A I believe it was Jason McCarty. That's the typed
23 customer name, at least.

24 Q Do you recall the address that was on that?

25 A Possibly 5600 -- I don't remember the exact street.

1 Q Okay. That's been booked into evidence?

2 A Yes.

3 Q You did note that on the driver's license that he
4 actually gave an address on Bruce Street, 221 South Bruce?

5 A Yeah. On the identification card, yes.

6 Q So there was a different address, and you noted that
7 was a different address on that self storage receipt?

8 A Correct. Well, I was giving you the address of the
9 U-Haul. I thought that's you wanted.

10 Q Oh. Of the U-Haul. You didn't -- you didn't -- you
11 don't remember the address that Mr. McCarty gave?

12 A No.

13 Q All right. And then going through that, then after
14 is done you collect a number of different items of
15 miscellaneous school paperwork.

16 A Correct.

17 Q Where was that specifically located within the car?

18 A On the rear passenger's floorboard.

19 Q Was the car pretty cluttered?

20 A Somewhat, yes.

21 Q Besides paperwork, what else was inside of the car
22 while you were processing it?

23 A There were some clothes, there were some bottles,
24 and miscellaneous items like that.

25 Q Okay. What kind of bottles?

1 A There were some water bottles. Those were in the
2 trunk, I believe.

3 Q Were they full, or empty?

4 A I believe they were empty.

5 Q Okay. And that would be shown in State's
6 Exhibit 76, evidence like that?

7 A Correct.

8 Q And contained in -- if someone was to drink out of
9 one those bottles, they would put their mouths on it, and that
10 may be a source of DNA; correct?

11 A It's possible.

12 Q Similarly, a straw. If someone was to drink out of
13 a straw, then they would put it over their mouth, and it would
14 provide that information?

15 A Correct.

16 Q And I think this is State's Exhibit 81. That is the
17 locker address, 5600 Boulder Highway?

18 A Correct.

19 Q Okay. That is the address --

20 A Right. Correct. Sorry.

21 Q So you remembered it correctly.

22 Now, going back through the items that were
23 contained within the vehicle, you got some clothing. Did you
24 -- did you itemize the items of clothing, including the makes
25 and sizes?

1 A No, not the ones in the vehicle.

2 Q How about -- not the ones in the vehicle? Did you
3 do -- impound any of those in the trunk?

4 A No.

5 Q Okay. There was -- the car contained other items.
6 What else did you impound from inside the car?

7 A I collected the hair tie, two prepaid phone cards, a
8 cellular phone, receipt, a pack of cigarettes, a --

9 Q Let me -- let me interrupt you there. There was --
10 the pack of cigarettes that you impounded, it was an open
11 pack; correct?

12 A Open pack, yes.

13 Q While you were impounding the car did you look to
14 determine whether or not the ash tray had been used in the
15 car?

16 A I believe we would have, yes.

17 Q You believe you would have, or do you remember doing
18 it?

19 A I don't remember specifically.

20 Q Do you remember -- it does not appear that you
21 impounded any cigarette butts.

22 A No.

23 Q Okay. Cigarette butts are also a good source of
24 DNA?

25 A They can be, yes.

1 Q Do you remember photographing or -- let me -- me ask
2 this -- the question differently. Did you photograph or did
3 you -- where was the ash tray located in the car?

4 A I believe it would have been near the dashboard
5 area. Did you open it?

6 A I probably would have. I don't remember offhand.

7 Q Do don't remember whether you opened it?

8 A I don't remember specifically, no.

9 Q You don't remember specifically whether or not there
10 were cigarette butts in there?

11 A No.

12 Q Going on past there, then you indicated that you
13 impounded two Boost mobile phones. Were those --

14 A I -- go on.

15 Q Not phones. I'm sorry. Thanks for catching me.
16 Two Boost mobile phone cards?

17 A Yes.

18 Q Are those like credit cards?

19 A I believe so.

20 Q Were they plastic?

21 A Yes.

22 Q Plastic is a lot like -- well, the shiny part of the
23 photographs that have been introduced. It's a good source of
24 fingerprints if somebody touches it?

25 A It could be.

1 Q Did you take those Boost mobile cards and did you
2 process them for fingerprints?

3 A No.

4 Q Okay. You also indicated that you impounded a Boost
5 mobile cell phone. Where was the cell phone located at?

6 A It was in the center console next to the gearshift.

7 Q And actually it also had a car charger that was
8 with it?

9 A Correct.

10 Q Was it plugged in, was it --

11 A Yes.

12 Q -- charging?

13 A The phone was hooked to the charger, and the charger
14 was plugged into the cigarette lighter of the vehicle.

15 Q Did you fingerprint the phone?

16 A No.

17 Q Did you turn on the phone, or was the phone on?

18 A I don't recall.

19 Q Do you recall checking to see the telephone number
20 of that phone?

21 A No. That's not analysis that I would do.

22 Q You impound the phone. So you just take the phone.
23 And what do you put the phone in?

24 A It would go in an envelope in this case.

25 Q Are there any precautions that you've been trained

1 to take when you impound a cell phone?

2 A In terms of?

3 Q Do you just take it and say, okay, it's in sight,
4 it's off or it's on, we don't know, and you just put it into
5 an evidence bag and seal the evidence bag, and then you turn
6 it over to -- put it in the evidence vault, and it waits there
7 for forensic testing?

8 A Correct.

9 MR. PIKE: May I approach the witness, Your Honor?

10 THE COURT: Yes.

11 BY MR. PIKE:

12 Q I'm showing you the envelope that has the phone and
13 the charger that you impounded. And it shows that you did the
14 impounding?

15 A Yes.

16 Q And it's got the identification on it. And then
17 subsequently it's removed. Who is it removed by from -- you
18 put it in the evidence vault. It's subsequently removed from
19 the evidence vault, and it's placed in the chain of custody.
20 How many times has it been removed?

21 A It appears twice.

22 Q And do you recognize the signatures of the
23 individuals that removed it?

24 A I can read the second one. I can't read the first
25 one.

1 Q Okay. Who is the second one?

2 A It's Detective Collins.

3 Q Okay. Thank you very much.

4 To your knowledge, does the Henderson Crime Lab have
5 any lead-lined or any metal-lined envelopes for the securing
6 of cell phones when they're impounded into evidence?

7 A I don't believe so.

8 Q Do you have any training to indicate that that is a
9 better manner in which to secure and store a cell phone that's
10 impounded into evidence?

11 A No.

12 Q Have you had any training on the proper way to
13 impound cell phones?

14 A We turn them off, and then we impound them.

15 Q Okay. And that's all you do?

16 A Yes.

17 Q Well, and you seal it.

18 A Of course.

19 Q Okay. All right. And you've got that. And then
20 the next items that you have are -- can you continue on,
21 please.

22 A After the cellular phone there's a piece of red
23 tape, which was over the -- a broken taillight.

24 Q Okay.

25 A And then the next items are from the other vehicle

1 that I processed.

2 MR. PIKE: Okay. Can I have the Court's indulgence
3 for just a second?

4 THE COURT: Yes.

5 (Pause in the proceedings)

6 BY MR. PIKE:

7 Q Thanks. I didn't know if they were going to call
8 you back or not.

9 So at that point in time you impound -- let's see.
10 You have 34 items of impound -- or no, 33 items that you
11 impound from the Alero?

12 A No. It would be 27, because the first six were from
13 the two desert scenes.

14 Q Oh. That's right. Okay. Thank you. Thanks for
15 correcting me.

16 The next vehicle that you examined is a different
17 kind of a car. What car is that?

18 A It's a Nissan Sentra.

19 Q What year and make of a Nissan is that?

20 A That's a 1987 Nissan.

21 Q And what color is it?

22 A Gray.

23 Q You start processing that. You take photographs of
24 that, also?

25 A Yes.

1 Q Okay. Tell me the items that you recovered from
2 that vehicle.

3 A I recovered 25 latent lift cards, four tape lifts, a
4 swab from the steering wheel, and swabs from in the trunk, and
5 another Boost Mobile prepaid phone card.

6 Q And again, on the prepaid phone card, is that
7 similar -- a credit-card-type material?

8 A Correct.

9 Q And that wasn't processed for fingerprints?

10 A No.

11 Q All right. And is that all that you recover from
12 that vehicle?

13 A Yes, it is.

14 Q Okay. So that's -- that's your fourth scene that
15 you've gone to, and that's what you've collected.

16 Now, you go to another scene. And when I say
17 "scene," it may mean just going to your impound portion -- or
18 your car processing area at the Henderson Police Department to
19 take items out of vehicles.

20 So now where else do you go to gather evidence?

21 A That's all I go to.

22 Q Those are the -- that is the sum of all of the items
23 that you recovered?

24 A Yes, it is.

25 Q When you're out looking at the area for the rocks to

1 determine whether or not there's blood in Area 1 how do you
2 process that area, just visually?

3 A Yes.

4 Q What other tools could you use to determine whether
5 or not there is blood or other DNA evidence?

6 A It's possible to use an alternate light source.

7 Q And what type of an alternate light source do you
8 have?

9 A We have several different types. One's a poly
10 light, and then we have other ones, too.

11 Q Do you use those during the daytime, as well as the
12 nighttime?

13 A It's more difficult during the daytime, because you
14 need to have a dark area.

15 Q You only went to that area once and collected the
16 items, and that was during the daytime?

17 A Correct.

18 Q You could have gone back at night with that
19 alternate light source and walked the area and made a
20 determination as to whether -- and that may have been a more
21 thorough examination; correct?

22 A We could have. But we searched it visually and
23 didn't feel that it was necessary.

24 Q Okay. You did use alternate light sources on the
25 vehicles that you examined?

1 A Yes.

2 Q And what was the frequency of those?

3 A Blue. It is 450 nanometers.

4 Q And that was just one alternate light source that
5 you used?

6 A Yes.

7 Q And in -- and in neither of the two cars did you
8 find any blood or DNA evidence?

9 A Correct.

10 Q Going -- let's see. You didn't attempt to start
11 either of the two cars to see if they operating or not?

12 A No.

13 Q They had been towed in and then rolled into your
14 processing area on dollies?

15 A Correct.

16 Q In reference to that, in taking photographs of the
17 tires did you do any other measurements besides measuring the
18 width of the tires?

19 A We did a track width measurement.

20 Q In fact, the track width measurement is the distance
21 between the two wheels?

22 A It's the outside of the tire to the outside of the
23 tire.

24 Q And you didn't do actually any comparisons, you just
25 lifted and then turned it over to someone else to compare?

1 A That's correct.

2 Q All right. Was there any other items that you were
3 requested to process?

4 A No.

5 Q Did you ever take all of the items out of the trunk
6 of the Alero and just take a photograph of them laid out for
7 -- to preserve any evidentiary issues?

8 A No. We took them out and examined them visually,
9 but we didn't take photographs of each one individually.

10 Q Did you take the items out from the backseat of the
11 car and line them up and take photographs of all of them?

12 A Not individually. Just the ones that I collected.

13 Q And similarly, that was the same process that you
14 used in -- with the Nissan; correct?

15 A Correct.

16 Q When you were looking through -- you were looking
17 through these vehicles for evidence of DNA, identity, blood,
18 was there anything else that you were looking for?

19 A Any items that we would think were evidentiary value
20 at that time.

21 Q And obviously you've been out to a site that was
22 just off the road in a desert area.

23 A Correct.

24 Q So rocks, dirt, debris may have been an important
25 piece of evidence?

1 A Yes.

2 Q There was not any rocks or rock debris impounded
3 from the trunk of the Alero, was there?

4 A No, there weren't.

5 MR. PIKE: I have no further questions.

6 THE COURT: Any redirect?

7 MR. DiGIACOMO: Very briefly.

8 REDIRECT EXAMINATION

9 BY MR. DiGIACOMO:

10 Q As a crime scene analyst you work kind of with the
11 detectives. You're not fully aware of what the nature of the
12 investigation -- or maybe you know the nature of it, but you
13 don't know the specifics of the investigation, correct?

14 A Correct.

15 Q As a crime scene analyst, or during the course of
16 the investigation is it a policy to collect more items of
17 evidence than you think might, or might not be necessary?

18 A We collect what we believe could be connected.

19 Q Okay. And there has to be some discrimination, I'm
20 assuming, otherwise you're going to have --

21 A Correct.

22 Q -- a whole lot of stuff --

23 A Yes, you'd be --

24 Q -- junk?

25 A -- overrun with everything.

1 Q Okay. And if I got this right -- well, let me ask
2 you this. Did you identify in your reports the GPS locations
3 of where you got the -- you picked up these clothes at the end
4 of these roads?

5 A Yes, I did.

6 Q Okay. And so if later on somebody wanted to make a
7 determination of exactly where those clothes were found?

8 A Correct.

9 Q Is -- in your experience as a crime scene analyst,
10 is there a lot of discarded clothing laying in deserts, all
11 over the Valley?

12 A Yes, there are.

13 Q Okay. And as far as you're concerned, the clothes
14 that you collected, you saw no evidence of blood on them?

15 A No. All I saw was evidence of fading possibly from
16 being out in the sun.

17 Q For a period of time?

18 A Correct.

19 Q And the rock that you tested, no evidence of blood
20 on that?

21 A Correct.

22 Q And when you went through the vehicle, did you think
23 you did a sufficient search with your alternate light services
24 to make a determination as to whether or not there was blood
25 in those vehicles?

1 A Yes.

2 Q You mentioned the Nissan Stanza. You processed that
3 the day after you processed the green Alero, correct?

4 A Yes.

5 Q And as you sit here today, do you have any idea
6 whose car that is?

7 A No, I don't.

8 Q Okay. You collected it, you noted it, and you wrote
9 a report in case anyone later on thought that the Nissan
10 Stanza might be important?

11 A Correct.

12 MR. DiGIACOMO: Thank you very much. Pass the
13 witness.

14 THE COURT: Any recross?

15 RECROSS-EXAMINATION

16 BY MR. PIKE:

17 Q Did you find any other identification other than the
18 driver's license of Jason McCarty?

19 A It's an identification card, but there was also a
20 social security card.

21 Q And that would be State's No. 79.

22 A Yes.

23 Q When -- and when I say, did you find any other
24 identification, did you find identification in anyone else's
25 name?

1 A No, I didn't.

2 Q Nothing on the papers that were in the back, nothing
3 that were in the papers that were in the trunk?

4 A No, just -- just the car registration.

5 Q And that was Donald Herb?

6 A Yes.

7 Q So the only two names, the only two documents, the
8 only two names that became associated with this car that you
9 found were Donald Herb and Jason McCarty?

10 A Correct.

11 Q All right. Thank you very much.

12 MR. PIKE: Nothing further.

13 THE COURT: Anything further by the State?

14 MR. DiGIACOMO: No, Judge.

15 THE COURT: All right. Any questions by our jurors?

16 THE MARSHAL: A couple.

17 THE COURT: We do have a question or two. Counsel,
18 approach.

19 (Bench conference)

20 MR. DiGIACOMO: [Inaudible] I guess he could answer
21 that, if that's a proper question to ask.

22 THE COURT: [Inaudible] ask him. Tomorrow what'd
23 you guys say as far as the afternoon? You guys thought you
24 would end earlier tomorrow. What time?

25 MR. DiGIACOMO: [Inaudible].

1 MR. PIKE: We can [inaudible].

2 THE COURT: I don't want to short change you.

3 MR. DiGIACOMO: No, you're not short changing
4 [inaudible]. If we start at 10:00 and let them eat a late
5 lunch we might be able to do both witnesses and be gone by,
6 let's say, 1:00.

7 THE COURT: Okay. All right.

8 MR. PIKE: [Inaudible].

9 (End of bench conference)

10 THE COURT: Okay. Mr. Farrell, we have a question
11 from one of our jurors.

12 "Were there any hair strands left in the car in the
13 back seat -- in the back seat?"

14 THE WITNESS: Left as in when? After I had done my
15 tape lifts?

16 THE COURT: I only can read the question to you,
17 sir.

18 "Were there any hair strands left in the car, back
19 seat?"

20 THE WITNESS: None that I could see visually. After
21 I did my tape lifts, those would've collected any hairs and
22 fibers that were there.

23 THE COURT: Okay. Any follow-up by the State?

24 MR. DiGIACOMO: Just briefly.

25 FURTHER REDIRECT EXAMINATION

1 BY MR. DiGIACOMO:

2 Q You do the tape lift and if there is any hairs or
3 fibers they'd be on the tape lift, correct?

4 A Correct.

5 Q Later on somebody else analyzes what that debris is
6 and makes some sort of determination if there can be testing
7 done --

8 A Yes.

9 Q -- on that?

10 A Yes. We lift them and just package them.

11 Q Okay. So you didn't specifically -- or do you know
12 whether or not any hairs were or were not on those tape lifts?

13 A I don't know specifically on -- on the tape lifts.

14 Q That would be for some other witness at a later
15 point?

16 A Correct.

17 Q Thank you very much.

18 THE COURT: Anything further, Mr. Pike?

19 FURTHER RE-CROSS-EXAMINATION

20 BY MR. PIKE:

21 Q And that's -- that is part of your training. You
22 would -- if you saw anything that looked like a -- a hair bow,
23 or a ribbon for hair that may have been used on hair like that
24 one rubber thing that you indicated, that may have come into
25 some DNA or hair evidence, so that would be an item that you

1 would want to preserve for processing?

2 A Correct.

3 Q And that's -- and that's part of your training to go
4 through and take up as many items of tape with debris that may
5 have hair, may have DNA evidence, or may have trace evidence,
6 I guess is a better word?

7 A Depending on the case, yes.

8 Q And so -- and this is a homicide case, so you
9 would've been more careful and you would've taken as much as
10 you could?

11 A Correct.

12 Q And it -- as far as processing the evidence or
13 impounding it, it would've taken -- it would not have taken up
14 any additional warehousing space had you just simply laid the
15 items out and taken a photograph and then put them back in,
16 preserved the photograph?

17 A No.

18 Q Okay.

19 THE COURT: Anything further by the State?

20 MR. DiGIACOMO: No, Judge.

21 THE COURT: Any further questions by the jurors? No
22 further questions. Thank you, sir, for your testimony. You
23 are excused.

24 Next witness for the State?

25 MR. DiGIACOMO: Joy Smith -- or Self.

1 THE WITNESS: Do you want this?

2 THE COURT: You can just leave that up there. I'll
3 come grab it.

4 THE MARSHAL: Please raise your right hand and face
5 the Clerk.

6 JOY SELF, STATE'S WITNESS, SWORN

7 THE MARSHAL: Slide up to the microphone. Will you
8 state and spell your name for the record?

9 THE WITNESS: Joy Self, J-O-Y, S-E-L-F.

10 DIRECT EXAMINATION

11 BY MR. DiGIACOMO:

12 Q Ma'am, how are you employed?

13 A I'm a Crime Scene Analyst with the City of Henderson
14 Police Department.

15 Q And how long -- well let me ask you this. How long
16 have you been a Crime Scene Analyst?

17 A I've been a Crime Scene Analyst with the City of
18 Henderson for five and a half years, and I have previous
19 experience in California, for a total of about 15 and a half
20 years.

21 Q I'm going to direct your attention to May 20th, or
22 thereafter. Did you become involved in the several scenes
23 and/or autopsies that are related to this particular case?

24 A Yes, I did.

25 Q Initially, did you go to the autopsy -- well let me

1 ask you this. Did you ever go out to the scene itself?

2 A Yes, I did.

3 Q While you were at the scene, was there a request
4 made related to a van?

5 A Yes.

6 Q How far was -- would you say this van was from the
7 actual scene itself?

8 A I would estimate three quarters to a mile away.

9 Q And at the time that you and the detectives are out
10 at the scene, why is it that you're going to process this, or
11 that you're going to do anything with this particular van?

12 A Oftentimes when we respond to a crime scene,
13 especially when it's in a more remote area, such as a desert
14 area, you're not really sure what's involved and what's going
15 on. It's a very fluid, dynamic situation.

16 Officers had observed this van parked some distance
17 away and it appeared to be abandoned. So at that point in
18 time it was kind of like, it could be involved, it could not
19 be involved, let's go ahead and address it and make sure just
20 in case it turns out to be involved.

21 Q So you -- when you went to this particular van you
22 had no specific information that it was involved?

23 A Correct.

24 Q And ultimately, after all of the investigation --
25 and that's up for someone else to decide, but it may or may

1 not be involved?

2 A Correct.

3 Q When you go there, considering there is no
4 information to assert that it's involved, do you have the
5 ability to actually enter the van?

6 A No, I don't.

7 Q Okay. Is there a -- obviously there's no probable
8 cause, so I'm guessing there was no search warrant for the
9 van?

10 A Correct.

11 Q Okay. So what is it that you do?

12 A What I did with the van is, I photographed the
13 exterior of the van. A couple of the doors were open so I
14 took -- I stood outside of the van took photos showing the
15 interior of what I could see from the outside.

16 On the ground outside of the van there was some
17 cigarette butts, some burnt matchsticks, just a couple other
18 things like that. So I did document the location of those
19 items and collected those items, because they -- they fell
20 outside of the van, out of the purview of the van.

21 Q And if it ever became that this van somehow became
22 relevant to the investigation, you collected those so they
23 could be submitted if there needed to be some sort of testing?

24 A Yes, I did.

25 Q Did you also go to the autopsy of Victoria McGee?

1 A I did.

2 Q And when you went to the autopsy of Victoria McGee,
3 did you take exemplars from her?

4 A I did.

5 Q And what does that mean you did?

6 A I took known standards from Victoria McGee,
7 including palm print exemplars of her -- the friction
8 [indiscernible] skins on her palms for identification
9 purposes. And then a sexual assault kit was taken, which
10 includes standards of hair, fingernail scrapings, anal swabs,
11 vaginal swabs and buccal swabs from the interior of your
12 mouth.

13 Q Did you also collect a black elastic hair tie
14 removed from the right wrists of Ms. McGee?

15 A Yes, I did.

16 Q Was there any currency that you collected?

17 A I believe out at the van site there was like a penny
18 that --

19 Q Okay.

20 A -- I collected from there. I mean, it wasn't any
21 significant amount.

22 Q I'm looking at your impound report here. It looks
23 like from 501 Nevada State Drive, which is where that van was,
24 your Item No. 7, there was a penny that was collected as well;
25 is that correct?

1 A If I can refer to my report for the exact item
2 number. Yes. Yes, that was on the ground outside of the van.

3 Q And then you would've impounded, let's say, the sex
4 -- well all these items, but you would've impounded all of
5 those for future testing as well?

6 A Yes.

7 Q Did you also respond to the South Cove Apartments,
8 1525 Fremont Street, in order to conduct any sort of
9 processing of any unit?

10 A I did.

11 Q And what unit was that?

12 A It was apartment number 217, 2-1-7.

13 MR. DiGIACOMO: And I think that most the
14 photographs of 217 have been previously admitted, but may I
15 approach as to one?

16 THE COURT: Yes.

17 BY MR. DiGIACOMO:

18 Q Showing you what has been marked as State's proposed
19 Exhibit No. 46. Do you recognize that photograph?

20 A I do.

21 Q And does that appear to be a photograph of the
22 exterior of Apartment 217, the sliding glass door?

23 A Yes, it does.

24 MR. DiGIACOMO: Move to admit 246 [sic].

25 MR. PIKE: No objection, Your Honor.

1 THE COURT: It will be admitted.

2 (State's Exhibit 46 admitted)

3 BY MR. DiGIACOMO:

4 Q Now, inside 246 --

5 THE CLERK: 46.

6 MR. DiGIACOMO: Oh, sorry, 46.

7 BY MR. DiGIACOMO:

8 Q Okay. Inside 217, was there a cell phone located?

9 A Yes, there was.

10 Q That particular cell phone, did you impound it, or
11 did something else happen with that particular cell phone?

12 A I did not impound it. I turned it over to Detective
13 Collins.

14 Q Before you turned it over to Detective Collins, did
15 you photograph it to show not only what it -- where it was
16 located, but as well as the -- what it essentially said on the
17 -- the screen name of the particular phone?

18 A Yes, I did.

19 Q Showing you State's proposed Exhibit No. -- well,
20 let's do 150 -- 149. Is that the phone located on top of the
21 refrigerator?

22 A Yes, it is.

23 Q And 150 would be the screen with a little bit of a
24 flash on it?

25 A Yes.

1 Q And then 151, would be the screen without the flash?

2 A Correct.

3 Q And essentially, it says, "Island Girl," and it
4 says, "Christina," and the dates 5/22/2006?

5 A Yes.

6 Q At 5:22 p.m. Was it May 22nd that you were at
7 Apartment 217?

8 A Yes, it was.

9 Q Any other items that you impounded from inside 217?

10 A Yes.

11 Q Can you tell the ladies and gentlemen of the jury
12 what else you impounded?

13 A May I refer to my report?

14 Q Sure.

15 A Within the apartment we collected a small folding
16 Leatherman type utility knife. It's very common. A pair of
17 scissors. A silver colored metal rod that was approximately
18 10 inches long. A comforter with a blue triangular pattern.
19 Tape -- oh, excuse me, that's not from the apartment. And a
20 small notebook with a phone number and a receipt dated
21 5/20/2006.

22 Q Okay. Did you conduct any search with the -- any
23 sort of alternate light search or visual search of the
24 apartment for blood?

25 A I conducted a visual search. We did not use an

1 alternate light source.

2 Q Why not?

3 A It didn't appear to warrant it. The apartment
4 seemed to be in a lived in condition, but no excessive
5 cleaning, no excessive dirt areas, that type of thing.

6 Q Had there been a major blood letting event inside
7 that apartment, do you think that you would be able to see --
8 well, let me ask you this. Have you ever been in apartments
9 with a major blood letting event before?

10 A Yes, I have.

11 Q And based upon your training and experience, was
12 there any indication to you that there was a major blood
13 letting event inside 217?

14 A No, there was not.

15 Q In addition to those items that you collected out of
16 217, did you also -- were you also requested to process a
17 white Honda vehicle?

18 A Yes, I was.

19 Q Describe for the ladies and gentlemen -- they heard
20 from Patrick -- Mr. Farrell, who was up here earlier. Can you
21 describe generally what your process is in processing a
22 vehicle?

23 A Well, when we process a vehicle we'll photograph the
24 exterior of the vehicle first, photograph any seals if there
25 are seals on the doors. And then we'll break the seals into

1 the vehicle, photograph the vehicle prior to any searching or
2 processing.

3 Upon that time, kind of depending what the search
4 warrant is allowing us to look for, we'll search for physical
5 evidence. That include tape lifts, DNA swabs, physical
6 evidence, depending on the crime, of course, you know,
7 weapons, whatever is available.

8 And then usually we'll do a fingerprint -- search
9 for latent fingerprints on a vehicle.

10 Q And did you do that in this particular case?

11 A Yes, I did.

12 Q We'll start with the photographs. And apparently, I
13 have a bunch of photographs in my hand. I guess one of them
14 is admitted already.

15 I'm going to show you 152, and I think 154 through
16 168. So, basically, 152 to 168, with the exception of 153
17 that was previously admitted.

18 Do those appear to be photographs that you took
19 during the processing of this vehicle?

20 A Yes.

21 MR. DiGIACOMO: Move to admit 152 to 168, minus 153.

22 MR. PIKE: Those are all the Honda vehicle?

23 MR. DiGIACOMO: They're all the Honda, yes.

24 MR. PIKE: No objection, Your Honor.

25 THE COURT: All right. They will be admitted.

1 (State's Exhibits 152 through 168, excluding 153)

2 BY MR. DiGIACOMO:

3 Q Let me start with, was there valid license plates on
4 this particular vehicle?

5 A No, there were not.

6 Q Showing you State's Exhibit No. 168, what is this?

7 A This was a State of Nevada, Department of Motor
8 Vehicles special drive-away permit that was in the windshield,
9 front windshield of the vehicle, issued to the subject of
10 Donald J. Herb.

11 Q And it appears that it was validated on May 25th of
12 2006, from the DMV? If you look over here on the right hand
13 side, does that say validated --

14 A Oh, the validation -- yes.

15 Q -- May 25th?

16 A Yes.

17 Q I'm going to go through just a couple other
18 photographs. State's Exhibit No. 152, the damage that was on
19 the vehicle, was that already there when you first saw the
20 vehicle?

21 A Yes, it was.

22 Q And then when you processed the vehicle for
23 fingerprints, how did you process the vehicle?

24 A Used a black or bichromatic latent fingerprint
25 powder.

1 Q And did you collect a number of fingerprints off the
2 vehicle after using it, the powder?

3 A I did.

4 Q And did you eventually lift, basically, 22 latent
5 fingerprints?

6 A Yes, I did.

7 Q And when you do that, do you mark the vehicle in
8 some way so we know where each one of those prints came from?

9 A Yes. In this instance, I just used a little small
10 sticky pink post-it notes, and I just numbered them
11 consecutively 1 through 22, no particular meaning to the
12 numbers. They're just an order to keep track of recordkeeping
13 purposes only.

14 Q And showing you State's Exhibit No. 158, and Mr.
15 Farrell also described this for the ladies and gentlemen of
16 the jury, essentially, is that the picture with the -- or one
17 of the pictures with the post-it notes identifying the various
18 latents that were taken off the vehicle?

19 A Yes.

20 Q Did you open the trunk of this vehicle?

21 A I did.

22 Q And did you photograph the contents?

23 A I did.

24 Q 167. And does that appear to be the contents of the
25 trunk of the vehicle?

1 A Yes.

2 Q Did you wind up searching the vehicle for any
3 physical evidence that may be relevant to the investigation?

4 A I did.

5 Q And since Mr. Pike went through each piece, I might
6 as well just do it on direct. So, did you take tape lifts
7 from all four seats in the driver's side door rail?

8 A Yes, I did.

9 Q And that was package 14, item 14?

10 A Yes, it was.

11 Q Did you take -- did you impound that actual special
12 drive-away permit in the name of Donald Herb?

13 A Yes, I did.

14 Q Did you take a proof of insurance card in the name
15 of Juan J. Contreras [phonetic]?

16 A I did.

17 Q And was that from out -- inside the glove box of the
18 Honda?

19 A Yes, it was.

20 Q And that was package 16, item 16?

21 A Yes.

22 Q Unopened junk mail, envelope addressed to Jason
23 McCarty. Was that from the driver's side, passenger seat of
24 the Honda?

25 A The rear driver and passenger -- yes.

1 Q Okay. And the rear drive --
2 A Rear driver's passenger seat.
3 Q Okay. The rear driver's side passenger seat of the
4 Honda?
5 A Correct.
6 Q And that is package 17, item 17?
7 A Yes.
8 Q A scrap piece of paper with "Hector 431-0517"
9 written on it?
10 A Correct.
11 Q That's from underneath the front driver's side seat
12 of the Honda?
13 A Yes.
14 Q There was a Tracfone prepaid phone card, 120 units
15 airtime with a PIN number that was on it?
16 A Yes.
17 Q And that's from the center console area next to the
18 front passenger seat?
19 A Correct.
20 Q A Tracfone prepaid phone card with 100 minutes, with
21 an account number, and Walgreen's receipt for the same date,
22 dated May 26 -- 22nd sorry, of 2006?
23 A Yes.
24 Q And that's package 20, item 20?
25 A Yes.

1 Q And that's from the front driver's side door pocket?

2 A Correct.

3 Q There was a DNA swab from the steering wheel. And
4 what was the purpose in taking that?

5 A The purpose of that was just to try to identify if
6 it became an issue as to who has been driving that vehicle.

7 Q So, taking a swab from the steering wheel is one of
8 the ways to identify somebody, much like fingerprints is a way
9 of identifying --

10 A Correct.

11 Q -- somebody from touching a particular item?

12 A Correct.

13 Q There was controls and swabs of an unknown reddish
14 colored stain, which is from the interior -- interior panel
15 adjacent to the rear driver's side passenger seat of the
16 Honda?

17 A Yes.

18 Q Is that the only unknown reddish colored stain that
19 was located in the vehicle?

20 A Correct.

21 Q And is that package 22, item 22?

22 A Yes, it was.

23 Q And then did you also -- I think you've testified to
24 this -- collected 22 latent prints?

25 A Yes.

1 Q And in the back of the vehicle -- in the trunk of
2 the vehicle was there a aluminum tee ball bat that's 25 inches
3 long, package 24, item 24?

4 A Yes.

5 Q And did there appear to be any reddish stains on
6 that?

7 A No, there were not.

8 Q So basically it's a clean baseball bat?

9 A Yes.

10 Q Showing you some marked as State's proposed Exhibit
11 No. 237. And have you previously testified to this particular
12 item before?

13 A I have.

14 Q And is that -- I know it's open, so there's no way
15 to really tell. But you expect to find your 22 latent prints
16 in there?

17 A Yes, I would.

18 MR. DiGIACOMO: Move to admit 237 and contents.

19 MR. PIKE: No objection, Your Honor.

20 THE COURT: It will be admitted.

21 (State's Exhibit 237 is admitted)

22 THE WITNESS: Taped.

23 BY MR. DiGIACOMO:

24 Q No, I think there's a staple to the bag that's in
25 here.

1 A Here's --

2 Q There it is. Showing you what's soon to be marked
3 as 237-A, do those appear to be the latent cards, the 22
4 latent cards that you collected out of the vehicle?

5 A Yes.

6 Q And you're not the person who's going to tell us
7 who's on these cards, there's somebody else who does that
8 [inaudible]?

9 A Correct.

10 MR. DiGIACOMO: I guess I should move to admit
11 237-A.

12 THE CLERK: And 237.

13 MR. DiGIACOMO: 237 and 237-A.

14 THE COURT: All right. Mr. Pike?

15 MR. PIKE: No objection.

16 THE COURT: All right. They are admitted.

17 (State's Exhibits 237 and 237-A are admitted)

18 MR. DiGIACOMO: We'll pass the witness. Thank you,
19 Judge.

20 THE COURT: All right. Mr. Pike?

21 MR. PIKE: Thank you.

22 CROSS-EXAMINATION

23 BY MR. PIKE:

24 Q Good afternoon.

25 A Good afternoon.

1 Q And is it okay if I call you CSA Self?

2 A Um-hum.

3 Q Does that work?

4 A Yes, please.

5 Q Okay. Thank you. You went in and you processed the
6 trunk and noticed that there was a -- it looks like an oil
7 container, or do you know what that is? Is it oil? Is it
8 water, or was it --

9 A Are you referring to the black container?

10 Q The black -- the black container.

11 A I believe it was an oil container, motor oil.

12 Q And additionally, there was some clothing in the
13 back. Do you recall whether or not that was male or female
14 clothing?

15 A I do not.

16 Q Did you ever take the clothing out of the trunk, lay
17 it out, take a photograph and then put it back in the trunk?

18 A I did not.

19 Q Was this a hatchback that opened up and then it went
20 back into the back area, or was it a separate trunk?

21 A It was a hatchback.

22 Q Okay. So this is looking all the way back through
23 into the driver's side -- or to the back of the driver's car?

24 A Um --

25 Q The driver's seat? How about that; will that work?

1 A This would be like the -- the back seat, not the
2 driver's front seats, but the -- the back seats.

3 Q Okay.

4 A Is that --

5 Q And did -- were there back seats that were there?

6 A Yes.

7 Q Was there card -- or was there debris, paper, or
8 anything in the back seat?

9 A I don't believe there were. I don't recall without
10 looking at photos.

11 Q Okay. Let me see if I can find it real quick.

12 MR. PIKE: May I approach the witness, Your Honor?

13 THE COURT: Yes.

14 BY MR. PIKE:

15 Q Would you look through the photographs and see if
16 there is anything that refreshes your recollection as to
17 whether or not there was debris in the back seat area, or in
18 the passenger seat area?

19 A Not that's shown in these particular photos, no.

20 Q Okay. I didn't see any that were [inaudible] but if
21 something reminded you --

22 A Yeah, no. Not in those photos.

23 Q While you're processing a vehicle you're looking for
24 anything that may give you some possible usable evidence in
25 the future?

1 A Correct.

2 Q You're looking for any hair, any DNA, any
3 fingerprints. And because this was a homicide you were
4 processing this pretty -- in -- well, thoroughly? That's
5 better.

6 A Yes.

7 Q So as part of that, too, you wanted to take a number
8 of photographs showing the condition of the car. And here
9 you're looking at fingerprints and the items that were taken.

10 Now, on -- if you could circle number nine. It's
11 that one -- that location. When you're orienting a
12 fingerprint for later interpretation, you want to say, well,
13 this person, when they touched the card, they were reaching up
14 onto the -- the hood like that? Or they had their hand like
15 this? Did -- how did you go an preserve the orientation of
16 the fingerprints? How did you do that in preserving this
17 evidence?

18 A The orientation would be on the actual latent print
19 card itself. When the tape is placed over the -- the print,
20 and then I'll lift -- lift the tape and place it onto a -- a
21 card, fingerprint card to preserve it. And at that time on
22 the card I'll mark an arrow pointing to the direction -- if
23 it's on a wall or something like that, an up direction.

24 On a vehicle such as this, I'll usually orient it
25 towards -- I'll draw a diagram and say like a -- say like this

1 is the hood of the car, and I'll make a diagram saying, this
2 is the windshield, this is the bumper, and I'll put an arrow
3 pointing usually to like the windshield, so it's oriented in
4 that direction.

5 Q And in processing a card for fingerprints you've --
6 you found generally that there are areas within the car, or on
7 the car, or inside of the car that are more prone to be
8 contacted by people and more prone to have fingerprints?

9 A Yes.

10 Q And that's why you look to the hood. People lift it
11 up to put in oil, check the engine and do that, or they lean
12 against the car?

13 A Actually, we just process the entire exterior of the
14 car, so.

15 Q Okay. Do you go through -- you're processing the
16 areas, you process up on the hood -- or excuse me, up on the
17 roof of the car?

18 A Yes.

19 Q And you take a photograph -- let's see, I think you
20 took one from the top down on this. Here we go. So you want
21 to show that you processed all areas of the car and show that
22 there was not any damage to the car other than was apparent to
23 you when the car was brought in?

24 A Correct.

25 Q Okay. When I look up at you, if I'm right, just

1 say, "correct." That'll work.

2 And then --

3 A I wasn't sure if there was something else coming
4 there.

5 Q Compound questions. I'll try not to. And coming in
6 here, it looks like this is a photograph of the car before you
7 started processing it for prints. You want a picture of the
8 car, show, okay, here it is, now I'm going to start processing
9 and here we go from there.

10 A Yes.

11 Q And you have some of these tapes on it to indicate
12 it's in a sealed condition?

13 A Yes.

14 Q And that's in case there was evidence that was
15 located under the hood you would -- you could confirm that,
16 well, when it came into me that hood was closed and then I
17 broke those seals, opened it, and looked inside for any
18 evidence?

19 A Yes.

20 Q All right. And that's kind of like putting the --
21 the lines around a crime scene. It's -- you want to preserve
22 the integrity of the evidence?

23 A Yes.

24 Q On this case, did you open up the hood and make any
25 examinations under the hood, or around the engine

1 compartments?

2 A A cursory examination didn't get in there with tools
3 or anything and tinker around, but yeah.

4 Q Okay. And you just -- and this is the photograph
5 that you took of the car before you started processing it.
6 And then once you started processing it, was when we start
7 getting the fingerprints and the -- well, that's not really a
8 good picture, but that shows that you're starting to process
9 for the fingerprints with the black powder?

10 A Yes.

11 Q And on the inside, again, you're looking at
12 processing areas when people are -- are going to drive away
13 they will oft times put their hand on the rear view mirror and
14 on the steering column?

15 A Yes.

16 Q And it's a good source for DNA, and for
17 fingerprints?

18 A Yes.

19 Q It looks like you used a lot of black powder.

20 A Yes.

21 Q In going through this, other than the State's 168,
22 which shows the name of Donald Herb, did you find any other
23 documentation that indicated that there was -- that had
24 anybody else's name on it?

25 A Yes.

1 Q What did you find?

2 A There was a proof of insurance card with a different
3 name on there.

4 Q And what was the name on that?

5 A Juan J. Contreras.

6 Q And what's the address of Mr. Contreras?

7 A I do not know.

8 Q That was also impounded into evidence?

9 A Yes, it was.

10 Q After you finished processing the vehicle that was
11 involved in this case then it was towed back away?

12 A Yes.

13 Q So you didn't drive it, you didn't start it, you
14 didn't know whether it ran or not?

15 A Correct.

16 Q This is State's 137 that was sitting up here. You
17 didn't go out to the Oasis Hotel, did you?

18 A I did not.

19 MR. PIKE: [Inaudible] Mr. DiGiacomo if that's
20 [inaudible].

21 BY MR. PIKE:

22 Q The next process, you're going on Fremont Street.
23 You go over there and you enter into Apartment No. 217. And
24 I'm showing you State's Exhibit No. 146. Do you recognize
25 that as the contents of that apartment?

1 A Yes, I do.

2 Q And your -- your assignment there, was it to just
3 photograph the items, or was it to actually process the scene,
4 take fingerprints, seek DNA, what was your -- what was your
5 duties when you went into that apartment?

6 A I went in with the search warrant under the guise of
7 processing this crime scene. Processing can encompass
8 numerous things, looking for evidence. It can include DNA,
9 can include prints, can include physical evidence. So
10 numerous items fall under the purview of processing.

11 Q All right. And your duty wasn't just to take
12 photographs, it was to process and take photographs?

13 A Yes.

14 Q And you found a phone?

15 A I did.

16 Q When you found that phone, was it plugged into a
17 charger?

18 A I don't recall.

19 Q When you found that phone was it on?

20 A Excuse me?

21 Q When you found that phone was it on?

22 A Yes.

23 Q So the battery was still charged. And I'm showing
24 you what has been admitted into evidence as Exhibit No. 150.
25 The phone was made of metal or plastic?

1 A I don't recall.

2 Q The phone had a screen on the top of it; is that
3 correct?

4 A Yes.

5 Q That's a clear screen, smooth plastic?

6 A Yes.

7 Q Smooth plastic is a good source for fingerprints?

8 A It can be.

9 Q Did you fingerprint this phone?

10 A I did not.

11 Q When you looked at it and saw that it had "Island
12 Girl" and that it had 5/22, and that -- and also the date, it
13 also has on the right hand side -- can you see that?

14 A Yeah, it's kind of blown out with the flash.

15 Q Okay. But you were able to indicate on that. Does
16 that indicate to you whether or not the battery was fully
17 charged, or partially charged?

18 A Uh --

19 Q If you know.

20 A I don't know. I'm not familiar with that phone, so.

21 Q Okay. You are familiar with processing cell phones
22 and collecting them and booking them into evidence?

23 A Yes.

24 Q And when you have a cell phone and you're going to
25 book it into evidence, do you take any precautions?

1 A When I book a cell phone, yes.

2 Q What do you do?

3 A I will take the battery out of the cell phone.

4 Q And that's all?

5 A Yes.

6 Q Turn it off and take it out?

7 A I take the battery out.

8 Q Okay. While you have this phone in your possession

9 and you're processing the cell phone, I assume you probably

10 have a cell phone that you use daily?

11 A Yes.

12 Q You've probably had a lot of different kinds of cell

13 phones over the last five or six years?

14 A Yes.

15 Q When you look at this cell phone, and showing you up

16 in the upper left hand corner of the screen, there is

17 something that appears to be an envelope. What does -- what

18 meaning does that have to you, if any?

19 A In general, an envelope means there's a message

20 waiting, either a voice or a text.

21 Q And did you process this phone for any text

22 messages?

23 A I personally did not, no.

24 Q And that's something you could've done had you been

25 directed to?

1 A It --

2 Q You could've pulled up the texts and taken a
3 photograph of each text to preserve that?

4 A It's not something that I would normally do. That
5 will usually get turned over to our forensics unit.

6 Q Okay. And you haven't been trained in that portion
7 of it?

8 A Correct.

9 Q But that is something that you know is available
10 that you can do?

11 A On a cell phone in general, yes.

12 Q All right. And you take a precaution for taking the
13 battery out of the phone, because if you don't do that, what
14 happens?

15 A The battery can discharge. Some telephones are
16 sophisticated enough that they can have remote deleting
17 functions.

18 Q And if the battery ebbs down, then if you try to
19 power it up after a prolonged period of time, actually, when
20 it syncs in with the provider it can delete information?

21 A It's possible.

22 Q Also as part of a -- your training as a CSA, you
23 know that you can collect SIM cards, or hard drives off of
24 cell phones that may contain forensic evidence?

25 A Yes.

1 Q Even if the phone -- cell phone has been crashed, or
2 beaten, or is broken?

3 A I'm aware that some recovery can be attempted, yes.

4 Q And so if this was a broken phone, you still
5 would've recovered it at that point in time?

6 A Yes, I still would've collected it, yes.

7 Q Right. And "Island Girl" meant nothing to you at
8 that time?

9 A No, it did not.

10 Q Were there any other cell phones located in that
11 apartment?

12 A Not that I recall.

13 Q While you were in that apartment processing that
14 apartment, Mr. DiGiacomo asked you about evidence of any blood
15 letting.

16 A Yes.

17 Q Now, that's an area that you have training in,
18 because part of your job as a CSA is to look for blood
19 evidence?

20 A Correct.

21 Q So part of your training includes information on
22 whether -- on the significance of a small amount of blood, or
23 a large amount of blood?

24 A Yes.

25 Q In fact, you're instructed in reference to the

1 amount of blood that may be in the body; it's 8 percent of our
2 weight?

3 A I don't know the exact number.

4 Q Okay. Have you been -- so for a blood letting
5 event, you don't know that at -- well I just told you 8
6 percent. You don't know that?

7 A Not off the top of my head, no, I --

8 Q Okay.

9 A -- refer to reference materials.

10 Q Sounds familiar, but it might not --

11 A Yeah, exact number, yeah.

12 Q You don't have any reason to disbelieve me?

13 A No.

14 Q Okay. Good. And were there any other scenes that
15 you -- well then you did go over to the Coroner's Office,
16 correct?

17 A Yes, I did.

18 Q And was there -- in the apartment -- well, excuse
19 me. I'll go back to the Honda.

20 When you are collecting items like that -- that bat,
21 that bat was a round cylindrical object?

22 A Yes.

23 Q When someone holds that bat, or a round metrical
24 cylindrical object, they can transfer fingerprints and they
25 can transfer palm prints onto that?

1 A Yes, they could.

2 Q And to your knowledge, palm prints are as
3 identifiable as fingerprints?

4 A Correct.

5 Q So if there are any palm prints, or any ridge prints
6 that could possibly be associated with a hand, that is
7 something that you would want to process and preserve?

8 A Yes.

9 Q And in a metal handle -- or excuse me, a metal shaft
10 that is smooth would be a good source for that?

11 A It could be.

12 Q And as a forensic -- or as a Crime Scene Analyst you
13 have gone and met with people and had them grab a glass or a
14 rod or an item to -- in order to get palm prints so that you
15 can compare them against lifted prints?

16 A That's generally not the accepted method of getting
17 exemplar prints, no.

18 Q Okay. So have you ever taken specific palm prints
19 in order to match -- from an individual to match to palm
20 prints at a scene?

21 A Yes.

22 Q So that's -- would be a better way to explain it?

23 A Correct.

24 Q Thanks.

25 MR. PIKE: Court's indulgence.

1 Thank you very much, CSA Self. I don't have any
2 further questions.

3 THE COURT: All right. Thank you. Any redirect?

4 MR. DiGIACOMO: Briefly.

5 REDIRECT EXAMINATION

6 BY MR. DiGIACOMO:

7 Q Mr. Pike was asking about, you know, you can
8 fingerprint a round cylindrical object to see if somebody held
9 it --

10 A Correct.

11 Q -- right? I guess it's only relevant if it matters
12 if somebody held it, right?

13 A It's relevant if somebody held it. Also, if you
14 hold an object it does not automatically mean that you're
15 going to leave fingerprints.

16 Q Okay. Had, let's say, the bat you used -- or the
17 small tee ball bat that was taken out of the back of the car,
18 was there any evidence of any blood on it?

19 A It did not appear to have blood on it, no.

20 Q Any indication that it was used as a weapon to harm
21 anybody?

22 A No.

23 Q So who held that bat may not be relevant to
24 anything?

25 A Correct.

1 Q Likewise, the round cylindrical pole, or whatever it
2 was that you pulled out 217, I'm assuming you collected it
3 because it might be relevant, correct?

4 A It might be. And again, when you're at a scene,
5 you're not real sure what's going to turn out to be relevant,
6 so.

7 Q Any indication that there was blood on it?

8 A No.

9 Q Any indication it was ever used as a weapon against
10 somebody else?

11 A No.

12 Q So it may not be relevant whoever held it?

13 A Correct.

14 MR. DiGIACOMO: Nothing further.

15 THE COURT: Anything further, Mr. Pike?

16 RE CROSS-EXAMINATION

17 BY MR. PIKE:

18 Q You've indicated that there was a -- a reddish --
19 excuse me -- controlled swabs of an unknown reddish colored
20 stain on the interior panel adjacent to the rear driver's side
21 passenger seat.

22 MR. DiGIACOMO: I apologize, Judge, but that's
23 beyond the scope of cross-examination. I talked about a bat
24 and a pole.

25 THE COURT: I'm going to sustain the objection.

1 MR. PIKE: Okay. Can we maintain this witness's
2 subpoena and I'll recall her then during the defense's case?

3 THE COURT: Mr. DiGiacomo, Mr. Pike, could you
4 approach, please?

5 (Bench conference)

6 THE COURT: Your objection is correct. Did you want
7 to let her answer the question?

8 MR. DiGIACOMO: Well, but I didn't know what he was
9 asking her.

10 MR. PIKE: I'm just going to ask her if she tested
11 it to see whose blood [inaudible].

12 MR. DiGIACOMO: Oh, no, I don't -- I won't object to
13 that.

14 THE COURT: All right.

15 (End of bench conference)

16 THE COURT: Mr. Pike, you had some follow-up
17 questions?

18 MR. DiGIACOMO: That's fine. I don't have an
19 objection to that, Judge.

20 BY MR. PIKE:

21 Q We won't call you back. We'll get you done today.

22 It's -- all right. We've got -- you found a reddish
23 colored stain in the back of the Honda. Did you test that to
24 determine whether or not it was blood?

25 A I did not.

1 Q And the only other question that I have is that you
2 actually did find a piece of mail that had the name of Jason
3 McCarty on it, and I think Mr. DiGiacomo asked you about that.

4 A Yes, he did.

5 Q All right.

6 MR. PIKE: Thank you. I have no further questions.

7 MR. DiGIACOMO: I have no redirect.

8 THE COURT: Any questions by any of the jurors? We
9 do have a question by one of the jurors. Counsel, approach.

10 (Bench conference)

11 THE COURT: Gentlemen.

12 MR. DiGIACOMO: [Inaudible] he grabbed the right
13 one.

14 MR. LALLI: [Inaudible] marked out?

15 MR. CANO: He said [inaudible].

16 MR. PIKE: [Inaudible] asked that, yeah.

17 MR. DiGIACOMO: Did [inaudible].

18 THE COURT: And, I'm sorry, did [inaudible]? Is
19 that -- I'll ask her if that's x'd out, or.

20 MR. PIKE: Yeah, [inaudible].

21 (End of bench conference)

22 MR. DiGIACOMO: Judge, could we put up 151 for the
23 witness so --

24 THE COURT: Okay.

25 MR. DiGIACOMO: I'm assuming this was what the juror

1 is talking about.

2 THE COURT: We have a note from Juror No. 14. There
3 appears to be two paragraphs.

4 The first paragraph has a line through it. Is --

5 JUROR NO. 14: Yeah, he took care of that, so.

6 THE COURT: Okay. All right.

7 All right. Ms. Self, the question from a juror is
8 as follows.

9 "Did you check into the drops next to the cell phone
10 in Apartment 217 of the South Cove?"

11 THE WITNESS: I'm sorry, did you check into the --

12 THE COURT: Did you check into the drops next to the
13 cell phone in the Apartment 217 of the South Cove?"

14 THE WITNESS: Are you referring to these here?

15 JUROR NO. 14: Yes.

16 THE WITNESS: Okay. No, I did not.

17 THE COURT: Did you determine if that was blood?

18 THE WITNESS: It didn't appear to have looked like
19 blood actually live, when you were looking at it. So, no.

20 THE COURT: All right. Any follow-up by the State?

21 MR. DiGIACOMO: I just want ask.

22 FURTHER REDIRECT EXAMINATION

23 BY MR. DiGIACOMO:

24 Q I just want to ask, 151, is that a photograph of
25 that phone on top of the refrigerator, or has that now been

1 moved down to the counter so you can photograph it?

2 A I believe it actually has been moved down to the
3 counter, because it was on top of the refrigerator and I
4 couldn't get up there, so we moved it down and took --
5 photographed it from there. So I think it's on the counter.

6 Q Okay. So those were spots that were on the kitchen
7 counter that weren't actually associated with this phone where
8 you located it?

9 A Correct. And they appeared to be like a coffee type
10 stain.

11 MR. DiGIACOMO: Nothing else, Judge.

12 THE COURT: Mr. Pike?

13 MR. PIKE: Nothing, Your Honor.

14 THE COURT: Any additional questions by any of the
15 jurors? Thank you, Ms. Self, for your testimony, you are
16 excused.

17 Ladies and gentlemen, we're going to take about a 15
18 minute break or so. At this -- during the recess, it is your
19 duty not to converse among yourselves or with anyone else on
20 any subject connected with this case, or to read, watch, or
21 listen to any report of or commentary on the trial, by any
22 person connected with the trial, or by any medium of
23 information, including without limitation, newspapers,
24 television, radio or the Internet. You're not to form or
25 express an opinion on any subject connected with this case

1 until the case is finally submitted to you.

2 We'll see you after your break.

3 (Court recessed at 3:26 p.m. until 3:41 p.m.)

4 (In the presence of the jury)

5 THE MARSHAL: Please remain seated and come to
6 order. Department 17 of the Eighth Judicial District is again
7 in session. The Honorable Judge Michael Villani presiding.
8 Let's make sure our cell phones are turned off, please.

9 THE COURT: Ladies and gentlemen, I gave you the
10 schedule for -- we gave you the schedule yesterday for today
11 and Wednesday. I think I told you on Wednesday, we'll start
12 at 9:30. We're going to start at 10:00 tomorrow morning.
13 10:00 o'clock Wednesday.

14 State, your next witness, please.

15 MR. LALLI: Your Honor, the State would recall Jennie
16 Ayers.

17 THE COURT: All right.

18 THE MARSHAL: And Ms. Ayers, if you will remain
19 standing, please raise your right hand and face the clerk.

20 JENNIE AYERS, STATE'S WITNESS, SWORN

21 THE MARSHAL: Just have a seat, ma'am. If you would
22 slide up. Again, state and spell your name for the record.

23 THE WITNESS: Jennie Ayers J-e-n-n-i-e, A-y-e-r-s.

24 THE COURT: Go ahead, counsel.

25 MR. LALLI: Thank you, Your Honor.

DIRECT EXAMINATION

1
2 BY MR. LALLI:

3 Q Ms. Ayers, you were introduced to our jury last
4 week; is that correct?

5 A Yes, I was.

6 Q And since that time, we've had some additional
7 evidence presented to them. And so I wanted to talk to you
8 about some other things that you did with respect to this
9 case, all right?

10 A Okay.

11 Q I'd like to direct your attention to June 5th of
12 2006. Did you respond to Highway 93 in Boulder City, just
13 past the Hacienda Hotel?

14 A Yes, I did.

15 Q Why did you respond to that location?

16 A I responded to that area to meet with Detectives
17 regarding some evidence that had been seen in that area.

18 MR. LALLI: May I approach the witness, Your Honor?

19 THE COURT: Yes.

20 BY MR. LALLI:

21 Q Some of these have been admitted. But I'd like you
22 to look at State's proposed 271 -- I'm sorry, 109, 188, and
23 189. There are some additional photos in there, but if you
24 would look at those.

25 Are those fair and accurate photographs of the

1 location you responded to?

2 A Yes, they are.

3 Q I'd also like you to look at State's proposed 172 to
4 178. Are those also fair and accurate depictions of the crime
5 scene you responded to?

6 A Yes, they are.

7 MR. LALLI: Your Honor, I would move for the
8 admission of State's proposed Exhibits 109, 188, 189, and 172
9 through 178.

10 MR. PIKE: No objection, Your Honor.

11 THE COURT: All right. They will all be admitted.
12 (State's Exhibits 109, 188, 189, 172 through 178 are admitted)

13 BY MR. LALLI:

14 Q Now, Ms. Ayers, I'm going to show you what we marked
15 as State's Exhibit 109. Can you explain what this is?

16 A This is an aerial map of the area between the
17 Hacienda Hotel and the area where I collected evidence. It
18 has a legend, which shows several of the items of evidence
19 that I collected from that area.

20 Q You just spoke about a legend. I'm going to zoom in
21 here. Is this the legend you're referring to?

22 A It is.

23 Q And what are some of the items that are listed
24 there?

25 A The first item listed is, "Knife." The second item

1 is, "Gold club head." Third item is, "Golf club shaft."
2 Fourth item is, "Lake Mead info sign." And the fifth item is,
3 "Hacienda sign."

4 Q Are there some numbers under each of those items?

5 A Yes, there are.

6 Q Numbers and letters, I guess, to be more accurate?

7 A Yes.

8 Q Correct? What are those?

9 A Those are the GPS readings that I took from the
10 areas where the items were collected, as well as from the two
11 items that I used as landmarks in the area.

12 Q The Lake Mead sign and the Hacienda sign being those
13 landmarks?

14 A That's correct.

15 Q Now, I'm going to scooch down to the other end of
16 this photograph. And there is another insert that you've
17 labeled -- or has been labeled, "detail area." What is that?

18 A This is showing the area of town as a large area
19 with a black square around the area that's depicted in this
20 photo.

21 Q I'm just going to call it blue stuff. There's some
22 blue stuff there. What is that?

23 A I believe that's water.

24 Q Lake Mead?

25 A Yes.

1 Q Let me go over to the left portion of this exhibit.
2 What are we looking at there?

3 A There's a large black area, which is the parking lot
4 at the Hacienda. There's a green plus symbol as to the
5 location of the Hacienda sign.

6 Q Now, if I move over to -- kind of following the
7 road, does it appear that the road widens where you've labeled
8 things such as "golf club head," "Lake Mead info sign," things
9 of that nature?

10 A Yes. It was wider on what was essentially the north
11 to northwest side of the road. It was like there was an area
12 for you to pull off to the side of the road. There wasn't any
13 scenic overlook or anything like that, but the road was wider
14 on that side.

15 Q What is State's Exhibit 170?

16 A This is on that widened side of the north side of
17 Highway 93. This is looking essentially westbound toward the
18 sign that says, "Lake Mead information."

19 Q Can you describe 179 for the jury; what are we
20 looking at here?

21 A This is looking from the north side of the road,
22 across the roadway to the south side, to the area of a
23 guardrail, and the desert area beyond.

24 Q What's beyond it? What's beyond the guardrail? Is
25 that --

1 A There's a sloping embankment and a large area of
2 just desert.

3 Q I'm going to show you State's Exhibit 188. Does
4 that show that area down there?

5 A It does. This is from the eastern end of that
6 guardrail that was depicted in the last photo. This is
7 looking down into the area on the south side of the highway.

8 Q Can you describe the terrain?

9 A It's dirt and rocks of varying sizes.

10 Q What color predominates the rocks?

11 A There is brown and a significant amount of red in
12 the rock.

13 Q Did you locate any items of evidence down in this
14 area?

15 A When I responded on June 5th, I collected three
16 items from this side of the road, on the south side of the
17 road.

18 Q And I'm going to show you State's Exhibit 189. What
19 is that?

20 A This is a photograph that is taken after I've walked
21 into that area. And you can see towards the top of the photo,
22 the guardrail that's on the south side of the road. I believe
23 you can also see the Lake Mead information sign. And at
24 approximately the center of the photo is the shaft of a golf
25 club.

1 Q Can you circle that for us? Have you done so?

2 A Yes.

3 Q And is State's Exhibit 190 a close-up of that?

4 A Yes, it is.

5 Q You indicated that you impounded that item?

6 A Yes, I did.

7 Q On that same day, did you impound any other item of
8 evidence?

9 A Yes, I did.

10 Q Let's talk about things that might have been
11 impounded from this area. What else did you impound?

12 A From the south side of the road, on that same day, I
13 impounded two rocks.

14 Q Do you remember approximately where they were
15 located?

16 A They were near the area of the golf club shaft. I
17 believe one was a little bit further northwest, and one was a
18 little bit further southeast of where the golf club was -- the
19 golf club shaft was. So, the golf club shaft would have
20 essentially been between the two areas where the rocks were.

21 Q So, if we go back to State's Exhibit No. 189, it's
22 down in this area that you impounded those?

23 A There was one impounded from -- if I can draw on
24 here?

25 Q Of course.

1 A There was one impounded that would have been more
2 where I put the green X. And there was one that was impounded
3 where I placed the second green X. I don't recall the exact
4 location of each of those.

5 Q So, as we're looking at this exhibit, you've
6 essentially placed two X's. One -- both of these are to the
7 right of where the golf club shaft is. One's below the shaft,
8 and one's above the shaft?

9 A That's correct.

10 Q Let's talk about the other side of the road. Can
11 you explain to the jury what we're seeing on 172?

12 A This is looking up from the roadway, up on the north
13 side of the roadway. There was an area of fencing that was
14 like livestock wire fencing, the big squares of wire fencing,
15 that ran east -- well, east and west along that area.

16 Q Are we kind of seeing -- it's a little challenging
17 to see. But are we kind of seeing some of that fencing in
18 this exhibit?

19 A Yes. There's a pole in approximately the center of
20 this view that's one of the supports for that fencing.

21 Q Now, if we zoom way in, I'm not sure if we're going
22 to be able to see it here. A little difficult to see there.
23 Let's transition to State's Exhibit 173.

24 A This is a closer photo of that same fencing.

25 Q Toward the top of the fence, is there an object

1 there?

2 A There's a white object that was attached to the
3 fence.

4 Q And if we go to State's Exhibit 174, we see the
5 object up top. And describe for the jury what we're seeing at
6 the bottom of that photograph.

7 A At the bottom of the fence pole, to the right hand
8 side, there is a golf club head that's in amongst the rocks.

9 Q Is State's Exhibit 175 a close-up of that?

10 A Yes, it is.

11 Q And would State's Exhibit 176 even be closer still?

12 A Yes, it is.

13 Q Did you impound that item?

14 A I did.

15 Q Let's talk about the golf club head. When you
16 impounded that item, did you further process that back at your
17 office?

18 A I did a presumptive test for blood on the golf club
19 head before I impounded it into evidence.

20 Q What is that? What is a presumptive test for blood?

21 A It's a way to test something that if you're not sure
22 if it's blood, to determine if it is blood. The presumptive
23 test I used, phenolphthalein, is not specific to human blood.
24 But it is specific to blood. So, I could do a test to confirm
25 whether any substances that I saw on the golf club had -- were

1 in fact blood.

2 MR. LALLI: May I approach the witness, Your Honor?

3 THE COURT: Yes.

4 BY MR. LALLI:

5 Q I'm going to show you State's proposed Exhibits 192
6 and 193. Is that a photograph -- are those photographs of the
7 golf club head back at your office?

8 A Yes. I took those photos back at our lab.

9 Q Fair and accurate depictions of the golf club head?

10 A Yes, they are.

11 MR. LALLI: Your Honor, move for the admission of
12 State's proposed 192 and 193.

13 MR. PIKE: No objection.

14 THE COURT: They will be admitted.

15 (State's Exhibits 192 and 193 are admitted)

16 BY MR. LALLI:

17 Q Ms. Ayers, can you explain for our jury how this
18 presumptive phenolphthalein test works? What do you do?

19 A It's a three color -- a three solution test that
20 yields a color result and the presence of blood. So what I do
21 is I take a swab, and I moisten it with a drop of water. I
22 take that swab, and I touch it against an area that I think
23 could be blood.

24 I then take the three solutions that come in the
25 kit, and put a drop, one at a time, from each of the

1 solutions. In the presence of blood, there will be a color
2 change that will be a bright pink color that indicates a
3 positive presumptive test for blood.

4 Q And I may have asked you, was your presumptive test
5 positive?

6 A Yes, it was presumptive positive on the golf club
7 head.

8 MR. LALLI: May I approach the witness, Your Honor?

9 THE COURT: Yes.

10 BY MR. LALLI:

11 Q Ms. Ayers, is State's proposed Exhibit 194 a
12 photograph of the golf club shaft that you impounded, taken
13 back at the lab?

14 A Yes, it is.

15 MR. LALLI: Your Honor, move for the admission of
16 State's proposed 194.

17 MR. PIKE: No objection, Your Honor.

18 THE COURT: 194 will be admitted.

19 (State's Exhibit 194 is admitted)

20 BY MR. LALLI:

21 Q Is 194 the golf club shaft that you impounded?

22 A Yes, it is.

23 Q Did you perform any presumptive tests for blood on
24 the shaft?

25 A I did not.

1 Q Can you explain why not?

2 A It would have been one of two reasons. Either I
3 didn't see anything that appeared to be blood, or the sample
4 was small enough that I was concerned that if I tested it, I
5 would use too much of the sample, and it wouldn't be able to
6 be tested for DNA.

7 Q So, do you actually do the DNA testing?

8 A No, I don't.

9 Q Somebody else does that?

10 A Yes.

11 Q And if you, using these presumptive tests, consume
12 all of the blood, if there is any, then there's none left for
13 DNA testing?

14 A Correct. It's better for me to leave the sample
15 intact if it's too small of a sample. It's not so much of an
16 issue as to whether or not it is or is not blood. It's better
17 to leave it so that DNA testing can be performed.

18 Q You talked about two rocks that you impounded from
19 areas fairly close to the shaft. Were those tested
20 presumptively for blood?

21 A Yes, they were.

22 Q Explain to the jury the results of that testing.

23 A Both of those rocks tested negative for the presence
24 of blood.

25 Q When you were out at this location on June 5th, were

1 you out there with other detectives?

2 A Yes, I was.

3 Q Do you know if there were any non-police officer
4 folks out there?

5 A I don't. I know that there was a detective car that
6 had people in it. I didn't speak to anybody in that car.
7 Detective Ridings was the one who met me when I arrived on
8 scene. And in the course of my work out there, he spoke to
9 somebody in a car. And I believe it was one of our
10 detectives, but I didn't speak with anybody in that car.

11 Q I want to direct your attention to June 6th of 2006,
12 so the very next day. Did you return to that location?

13 A Yes, I did.

14 Q Why?

15 A To collect additional evidence that had been
16 discovered in that area.

17 MR. LALLI: Your Honor, may I approach the witness?

18 THE COURT: Yes.

19 BY MR. LALLI:

20 Q Ms. Ayers, I'm going to show you what we've marked
21 as State's proposed 181 through 187. Could you have a look at
22 those, please? Are those fair and accurate depictions of the
23 scene as you observed it back on June 6th of 2006?

24 A Yes.

25 MR. LALLI: Your Honor, I'd move for the admission

1 of State's proposed 181 through 187.

2 MR. PIKE: No objection, Your Honor.

3 THE COURT: They will be admitted.

4 (State's Exhibits 181 through 187 admitted)

5 MR. PIKE: We have reviewed also the processing
6 photographs, and we have no objection to those being admitted
7 either.

8 THE COURT: And what are those numbers, Mr. Lalli?

9 MR. LALLI: Your Honor, those are 195 through 200.
10 I would move for the admission of those.

11 THE COURT: Those will be admitted as well.

12 (State's Exhibits 195 through 200 are admitted)

13 MR. LALLI: Thank you, Mr. Pike.

14 BY MR. LALLI:

15 Q Ms. Ayers, I'm going to go through some of these
16 photos with you. What's depicted in State's Exhibit 181?

17 A This is again on the north side of Highway 93,
18 looking towards the Lake Mead information sign.

19 Q What are we seeing in State's Exhibit 182?

20 A This is from the north side of the road, looking
21 northward to an area of a gate that is along that same fence
22 line that was depicted in the other photos.

23 Q Just to the bottom of this photo, there appears to
24 be some asphalt in the bottom right hand corner. What is
25 that?

1 A That is the wide area on the north side of Highway
2 93.

3 Q Is that actually the side of the road?

4 A Yes.

5 Q So, if we zoomed in, you talked about some sort of a
6 gate. Have we zoomed into the gate area?

7 A Yes. It's approximately in the center.

8 Q What are we seeing in State's Exhibit 183?

9 A This is a closer view of that area where the gate is
10 along that fence line.

11 Q And in kind of the foreground of that photograph,
12 does there appear to be a rock on top of some sort of a bag?

13 A Yes.

14 Q What is that?

15 A It's a rock on top of a white plastic bag.

16 Q What's -- we get what we ask, right? What's the
17 significance of that?

18 A It was --

19 Q And I'm going to show you State's Exhibit 184, just
20 as kind of a close-up.

21 A Okay. It was placed there by detectives so that
22 they could easily re-find the object once they had walked away
23 from it after I had returned to the scene.

24 Q What are we seeing in 185?

25 A This is immediately north of the rock that's on top

1 of the paper bag. You can see a portion of a handle, and a
2 portion of a blade of a knife.

3 Q And what about 186?

4 A This is after the rocks have been removed from the
5 top of it, and you can see the entirety of the knife.

6 Q This particular knife, you had talked about
7 presumptive tests for blood. Did you perform a presumptive
8 test for blood on the knife?

9 A I did after I returned to the lab.

10 Q What was the result?

11 A It was positive for blood.

12 Q Did you also impound the knife?

13 A I did.

14 Q I'd like to talk to you about some physical
15 evidence. Did you bring gloves?

16 A Yes.

17 THE CLERK: I think it's in the bag, Mr. Lalli.

18 MR. LALLI: I'm sorry?

19 THE CLERK: I think it's already bagged up inside.

20 MR. LALLI: Okay. That would make sense. May I
21 approach the witness?

22 THE COURT: Yes.

23 BY MR. LALLI:

24 Q Ms. Ayers, I'm going to show you what we've marked
25 as State's proposed -- I believe that's 238 for identification

1 purposes. Do you recognize this?

2 A Yes, I do.

3 Q What is it?

4 A This is the package that contains the golf club
5 head.

6 Q Does it appear to be in substantially the same
7 condition it was in when you impounded it?

8 A There are additions made to it. It has been opened
9 and resealed with tape along the bottom. There's a notation
10 in handwriting next to my label. There is court exhibit
11 numbers, and there is staples along one side.

12 Q All right. If you could just open that up along --

13 MR. LALLI: Do we have a staple remover, Madam
14 Clerk?

15 BY MR. LALLI:

16 Q Do you want it?

17 A Thank you.

18 (Pause in the proceedings)

19 BY MR. LALLI:

20 Q I might have an easier one.

21 A This works.

22 Q That one's okay?

23 A Um-hum.

24 Q Thank you. Is this better?

25 A I've got it.

1 Q All right.

2 A Thank you.

3 Q Describe what you're removing from the bag.

4 A This is the golf club head that I recovered from the
5 base of the fence line on the north side of Highway 93 in
6 Boulder City.

7 Q If you could just hold that up and show the jury.

8 A Says, "Knight" on it. And it has -- along the
9 bottom of it, it says, "DMT, dual metal technology."

10 MR. LALLI: Your Honor, I'd ask that that be marked
11 as State's Exhibit 238-A.

12 MR. PIKE: No objection.

13 THE COURT: It will be admitted.

14 (State's Exhibit 238-A is admitted)

15 BY MR. LALLI:

16 Q Ms. Ayers, I'm going to show you what we've marked
17 as State's proposed Exhibit 249 for identification purposes.
18 Do you recognize this item?

19 A Yes, I do.

20 Q What is it?

21 A This is the gold club shaft that I recovered from
22 the south side of the highway in Boulder City.

23 Q Is it in the same, or substantially the same
24 condition as when you impounded it, save and except for the
25 court markings or the -- those sorts of things?

1 A Yes, except for the court markings and additional
2 evidence tape from it having been opened.

3 Q All right.

4 MR. LALLI: Your Honor, I'd move for the admission
5 of State's proposed 249 and contents.

6 MR. PIKE: No objection, Your Honor.

7 THE COURT: All right. They will be admitted.

8 (State's Exhibit 249 is admitted)

9 MR. LALLI: All right.

10 BY MR. LALLI:

11 Q If you could open that up for us. And is the item
12 inside of it in a plastic container?

13 A It sounded like it is. Yes, it is.

14 MR. LALLI: And Your Honor, for the record, she's
15 removed a plastic bag containing an item of evidence. I would
16 ask that that be marked as State's proposed 249-A. I would
17 move for the admission of that object as well.

18 MR. PIKE: No objection, Your Honor.

19 THE COURT: That will be admitted.

20 (State's Exhibit 249-A is admitted)

21 BY MR. LALLI:

22 Q Can you describe what you've removed from 249?

23 A This is the golf club shaft that I recovered in
24 Boulder City on the south side of Highway 93.

25 Q If you could just hold that up and show it to the

1 jury. All right. Thank you.

2 A Um-hum. Do you want me to put it back in there?

3 Q If you could, please. Thank you.

4 Ms. Ayers, I'm going to show you what we've marked
5 as State's proposed 250 for identification purposes. Do you
6 recognize that?

7 A Yes, I do.

8 Q What is it?

9 A This is the knife that I collected from the area of
10 the gate on the north side of Highway 93 in Boulder City.

11 Q And it's actually a tube that contains the knife?

12 A Yes.

13 Q Is it in the same, or substantially the same
14 condition as it was in when you impounded it?

15 A Yes, with the additions as mentioned previously,
16 with the additional tape and the court markings.

17 MR. LALLI: Your Honor, I would move for the
18 admission of State's proposed Exhibit 250 and contents.

19 MR. PIKE: No objection, Your Honor.

20 THE COURT: It will be admitted.

21 (State's Exhibit 250 is admitted)

22 BY MR. LALLI:

23 Q If you could remove the contents from the tube. All
24 right. You've removed two items?

25 A Yes, I have.

1 MR. LALLI: For the record, one of those is
2 contained in a plastic bag. I would ask that that be marked
3 as State's proposed Exhibit 250-A.

4 BY MR. LALLI:

5 Q And then there's another item; is that correct?

6 A Yes.

7 Q Do you recognize that?

8 A I do.

9 Q What is it?

10 A This is hair that I removed from the blade of the
11 knife so that it wouldn't be lost in being tossed about in the
12 packaging. I removed it, and placed it into this plastic
13 vial.

14 MR. LALLI: Your Honor, I'd ask that that vial be
15 marked as State's proposed Exhibit 250-B.

16 MR. PIKE: No objection.

17 MR. LALLI: And I would move for the admission of
18 both 250-A and B.

19 MR. PIKE: No objection.

20 MR. LALLI: Now, with --

21 THE COURT: Both will be admitted.

22 (State's Exhibits 250-A and B are admitted)

23 BY MR. LALLI:

24 Q Now, with respect to the knife, if you could just
25 hold that up and show it to the jury. Thank you. If you

1 could put all that stuff back.

2 MR. PIKE: Actually, why don't you -- can you leave
3 it out?

4 MR. LALLI: Do you want to leave it out?

5 MR. PIKE: Yeah.

6 BY MR. LALLI:

7 Q If you could just leave it out. I think Mr. Pike
8 might have some questions.

9 A Okay.

10 MR. LALLI: Is it okay if it just stays up there?

11 MR. PIKE: Yeah, that's fine.

12 MR. LALLI: All right.

13 BY MR. LALLI:

14 Q So, if you want to -- is that okay there?

15 A Yeah, that's fine.

16 MR. PIKE: Thank you.

17 MR. LALLI: Your Honor, that concludes direct
18 examination.

19 THE COURT: All right. Any cross?

20 CROSS-EXAMINATION

21 BY MR. PIKE:

22 Q Good afternoon.

23 A Hello again.

24 Q Good to see you. Before we get into your testimony
25 today, we had a previous discussion a little bit about blood

1 evidence?

2 A Yes.

3 Q Okay. I have brought to court a demonstrative aid.

4 MR. PIKE: And I've shown this to counsel, and they
5 have no objection to using it for just purposes of the
6 question.

7 THE COURT: All right.

8 MR. PIKE: And I've taken a photograph of it, and
9 I'll submit it for a court's exhibit at a later time.

10 MR. LALLI: That's correct, Your Honor. We don't
11 oppose Mr. Pike using that as a demonstrative.

12 MR. PIKE: Okay.

13 THE COURT: Mr. Pike, do you need the stand there in
14 the corner?

15 MR. PIKE: Yeah, that would be great. I can get
16 that.

17 THE COURT: The Marshal will get it, please.

18 MR. PIKE: Oh. Thank you.

19 BY MR. PIKE:

20 Q Are you comfortable going old school?

21 A Sure.

22 Q Okay.

23 A I can do that.

24 (Pause in the proceedings)

25 BY MR. PIKE:

1 Q Let's put this -- can you see that?

2 A I can.

3 Q I think it should be -- everybody from the jury
4 should be able to see it now.

5 You and I have talked a little bit about what blood
6 does when -- like any other fluid, it has certain properties?

7 A It does, yes.

8 Q And you've studied those properties, and you go
9 through and you look at blood evidence. And you will often
10 use that to interpret what may have happened?

11 A Yes.

12 Q It's facts that give you a basis for a theory, and
13 then additional investigation, if that's necessary?

14 A Well, with regard to blood stains, it can give us
15 more information than just a theory. It can also give us
16 theories as well.

17 Q Right. Okay. And the human body is about 8 percent
18 blood?

19 A Okay.

20 Q Do you agree with that, you know that? Or are you
21 just accepting that I'm saying it's true?

22 A I would agree.

23 Q Okay. You've studied it. And so for about a
24 150-pound woman, that would be about 15 pints?

25 A Okay.

1 Q Okay. Now, when blood drops, if it drops at a 90
2 degree angle, it will form a round pool, or a round drop, or a
3 round mark?

4 A It would depend on what the surface is that it's
5 falling onto as to what the shape of the edges are.

6 Q And how high it dropped?

7 A That would be another factor, yes.

8 Q Because that would affect the force with which it
9 hit the area. And we have -- on the demonstrative aid that I
10 have brought today -- and this is about 20 years-old, so
11 [inaudible]. There is a --

12 MR. LALLI: Your Honor -- I'm sorry, Mr. Pike. Your
13 Honor, may I just go to that end of the courtroom --

14 THE COURT: Sure.

15 MR. LALLI: -- just so I can see Mr. Pike using the
16 exhibit? Thank you.

17 BY MR. PIKE:

18 Q Can you see it all right, or should I move it?

19 A Yes, I can.

20 Q Okay. It shows a 90 degree drop, with kind of a
21 round circle, and then another 90 degree drop that has more of
22 an irradiating blood coming out from that. And what would
23 account for the difference between those two types of 90
24 degree drop marks?

25 A The one on the top that has a smoother edge to it

1 would be from hitting against a surface that was smoother.
2 So, like glass, or like a smooth vinyl floor that didn't have
3 a lot of texture to it.

4 Whereas the one on the bottom would be on a rougher
5 surface. So, maybe a vinyl floor that did have more texture
6 to it. Something that like, if you were to do a test, if you
7 did it on sandpaper versus smooth paper, you would see these
8 two differences.

9 So, it's a rougher surface that would create the
10 difference on the edges between those two drops.

11 Q And you could get a similar result on this 90 degree
12 drop if there was a smooth drop, and you were to slap it down,
13 and maybe have it splash out an irradiating area on the flat
14 surface? Possible, or not?

15 A Not the way you've described it. What do you mean
16 by splash out?

17 Q I meant if -- if I have a drop of viscous liquid
18 like blood right here on your counter top, and I have a round
19 -- like the end of this cup. And I go down on top of it like
20 that, would the splash radiate out?

21 A It would depend on a number of factors. I would
22 have to do tests on it to be able to tell you how it would
23 react.

24 Q Okay. And that's some of your job as a CSA, is to
25 test to determine what type of liquid it is, how it would have

1 reacted, and whether or not it's consistent with your theory?

2 A That's correct.

3 Q Blood also is a viscous liquid. It's a little --
4 it's thicker than water?

5 A Blood is thicker than water, yes.

6 Q Okay. And so when blood is seeping out of the body,
7 or you're bleeding, blood has peculiar properties in that it
8 will flow down and stick to a surface?

9 A I don't know that I would call it peculiar
10 properties.

11 Q Okay.

12 A It's very similar to water in the way that it
13 reacts, and -- as far as physics goes. But yes, it will flow
14 downward in the direction of gravity.

15 Q And similar, you look at a blood evidence. And many
16 times, you can determine whether or not it was either a cloth
17 swipe, a hair swipe, or a hand swipe?

18 A I don't love your display here. I think it's a
19 little bit misleading, and some of the terminology is
20 incorrect. There are unique features that you can see in
21 certain types of transfer patterns that may lead you to be
22 able to make a determination.

23 For example, if hair was bloodied and it moved
24 across a surface, there are often very small lines that are
25 created from the individual strands of hair that are soaked

1 with blood. And that's something that's particularly unique
2 that you see with hair that you don't see with a lot of other
3 objects.

4 The hand swipe that's indicated there, unless that
5 had ridge detail, I wouldn't necessarily call that from a
6 hand, unless it was the actual shape of a hand or had ridge
7 detail in it, I wouldn't think it would be appropriate to call
8 that a hand swipe.

9 And again, the one that's labeled as "cloth swipe,"
10 unless there's something in there -- for example, if you had
11 the imprint of a pocket, like from the back of somebody's
12 pants, and maybe you could see like a circle where the metal
13 studs would be on the corner of the pocket, and you could see
14 sort of the V-shaped outline with the square top, I would feel
15 comfortable calling that a transfer made from fabric.

16 But just a smooth motion like that I don't think you
17 could necessarily say was from cloth. It would depend on what
18 the individual features are in that transfer stain.

19 Q Okay. But there are peculiarities that would help
20 you assist possibly in coming up -- or creating a theory
21 about, this may have been a hand, this may have been hair,
22 this may -- and you will look at the other circumstances in
23 them, then you'll form an opinion?

24 A Yes. There are characteristics that could lead us
25 to a definitive conclusion. And there may be a lack of

1 characteristics that maybe we can't make a conclusion.

2 Q And there are times when you have high velocity
3 blood in evidence, which may sometimes occur when there is a
4 gun that's involved, if there's like a suicide or something
5 like that, a close contact with the blood, would this spray so
6 it's very fine?

7 A The term "high velocity" isn't used anymore because
8 it can be confusing and misleading. Both -- well, actually,
9 all three, low, medium and high velocity, those terms aren't
10 used. And what is used is "impact spatter," which is the one
11 I described the other day when I used the example of my hand,
12 and talked about a force hitting against it. Previously, the
13 term "high velocity" was often used in regards to stains that
14 were seen as a result of gunshot wounds.

15 Q Okay. And did the impact spatter that you were
16 talking about before, was -- and as we've seen on -- I believe
17 the body of Charlotte, was much more likely that contained in
18 the lower portion of this?

19 A It would be more similar to that, yes.

20 Q Okay. Now, going back to today's testimony, would
21 you please give me -- state for me all of the areas that you
22 went to to collect evidence, and the list of the evidence that
23 you collected at each of those locations.

24 A Throughout the entire time, from the time of the
25 original scene where the bodies were discovered?

1 Q Yes.

2 A All the locations I responded to, or just the ones
3 where I collected evidence?

4 A Just the ones you collected evidence.

5 Q Okay.

6 A Okay.

7 Q Okay, I know you took a lot of photographs. And
8 just tell me where you went to, when you collected evidence,
9 and what you collected.

10 A Okay. I responded to the autopsy of Charlotte
11 Fountain [phonetic], and collected evidence from her body at
12 that time, and that was on May 21st. That was the day after
13 the bodies were found. I was --

14 Q What did you collect there?

15 A I collected palm prints from her. I collected the
16 sexual assault kit, which included buckle swabs, oral swabs,
17 vaginal swabs, rectal swabs, and fingernail clippings. I
18 collected hand bags that had been over her hands to protect --
19 excuse me, protect any evidence. I collected a sheet that had
20 been wrapped around her body, and I collected the necklace
21 that was on her neck. Those were the items that I collected
22 at her autopsy.

23 Q Great. And the next location?

24 A The next location would have been when I responded
25 to Boulder City on June 5th. And on June 5th, I collected the

1 golf club head, the golf club shaft, two rocks, and a pair of
2 jeans.

3 Q Now, the golf club shaft -- where was the jeans --
4 where were the jeans located at?

5 A The pair of jeans were just off the wide edge on the
6 north side of the roadway. It was next to an area with a
7 drainage pipe. Excuse me.

8 Q And approximately how far was that in relationship
9 to the golf club head or the golf club shaft?

10 A From the golf club head, I would say it was at least
11 100 feet. And it was at the base of the hill, right next to
12 the road, whereas the golf club head was up further on the
13 side of the incline. The golf club shaft was across the
14 roadway, and down an incline, several hundred feet away from
15 the jeans that I collected.

16 Q And when you were preparing State's Exhibit 109, I
17 don't show that you marked where the jeans were located.

18 A I didn't actually create this map. I provided the
19 information that was used to make this map. But the --

20 Q Okay. So, you didn't prepare this?

21 A I didn't --

22 Q Okay.

23 A I didn't make this printout, no.

24 Q All right. But and then you went back the next day
25 on June 6th?

1 A Yes. On June 6th, I responded to Boulder City area.
2 And I collected the knife, and I collected a black t-shirt.

3 Q Where was the black T-shirt located at?

4 A The black t-shirt was on the south side of the
5 roadway, right next to the guardrail that was along the south
6 side, just off of the roadway.

7 Q And we -- I think we indicated before that, it had
8 the marks "GHS" (phonetic) on it?

9 A Yes, it did.

10 Q You reviewed the reports from that, and you
11 impounded that?

12 A Yes, I did.

13 Q You were -- your participation in the investigation
14 oftentimes ends just with the collection of the evidence? You
15 don't do any additional processing unless you're requested to
16 do it?

17 A It depends on the type of evidence, and depends on
18 the case. We used to do a great amount of fingerprint
19 processing on our own evidence. We don't do that currently.
20 And there wasn't a need for a lot of that in this case.
21 Because of the blood evidence, we were concerned with using
22 chemicals that would degrade the DNA and make is useless for
23 any DNA testing.

24 Q Okay. So, the answer to my question was?

25 A It depends.

1 Q Okay. I didn't ask on what, I just asked what it
2 depends. Okay. If somebody asks you to do it, you do it.
3 But did you do it on your own?

4 A Yes.

5 Q Did you do an investigation about -- well, let's
6 take this for example, the pants that you found. Were they
7 men's or women's pants?

8 A The size indication would be that they were men's
9 pants.

10 Q What was the brand name?

11 A I don't recall.

12 Q Does Axist sound familiar?

13 A Yes. Thank you.

14 Q A-x-i-s?

15 A A-x-i-s-t, correct.

16 Q And did you -- did you make a determination as to
17 what store in the Las Vegas area sells those pants?

18 A No, I did not.

19 Q Okay. It wouldn't surprise you to learn that
20 they're sold at Kohl's?

21 A I wouldn't have any idea.

22 Q In going -- let's see. You have the knife?

23 A Yes.

24 Q Is that fair?

25 MR. PIKE: May I approach the witness, Your Honor?

1 THE COURT: Yes.

2 MR. PIKE: Thank you very much.

3 BY MR. PIKE:

4 Q You see on the exhibit that there is a piece of
5 paper that says, "Chain of custody?"

6 A Yes. It's the bottom portion of my label.

7 Q Can you describe for the jury what the chain of
8 custody means?

9 A Each time an item is checked out from the vault, the
10 person who checks it out signs -- excuse me, signs the chain
11 of custody so that there's a record as to who, and on what
12 date those items were checked out.

13 Q And these items are contained in a round tube. Do
14 you know -- or can you tell from looking at that whether or
15 not that knife was ever sent for DNA testing?

16 A It was checked out by Detective Collins, and --

17 Q On what date?

18 A On 10/31 of '06, 12/26 of '06, and 10/12 of 2010.
19 On any of those occasions, it could have been sent for testing
20 by Detective Collins.

21 Q And if the knife was tested, then the bag -- the
22 plastic bag, would that indicate whether or not it was tested
23 or not?

24 A I believe the plastic bag was used for court display
25 purposes. When I packaged it, I packaged it in brown paper.

1 I did not package it in a plastic bag.

2 Q Okay. And that's not uncommon, because when you're
3 handling evidence, it has biological properties, you want to
4 secure it so that it can be exhibited, and you don't have to
5 worry about any contamination? That's not uncommon?

6 A For the courts to do this? Yes, that's correct.

7 Q When the knife was originally located by you, you
8 wanted to take a photograph of the knife to preserve exactly
9 how it was situated, right?

10 A That's correct.

11 Q And this is State's Exhibit 184. You look -- and
12 looking at that. And there's a close-up on 185; is that
13 correct?

14 A Yes.

15 Q Now, it appears that the knife is actually covered
16 by rocks, at least a couple of different rocks?

17 A Yes.

18 Q Based upon the manner in which the knife was
19 situated, are you able to form an opinion as to whether or not
20 somebody was actually trying to cover that up with rocks, as
21 opposed to just throwing it out?

22 A It appears to have been intentionally covered.
23 Whether by placing or kicking, I don't know. But covered with
24 rocks, yes.

25 Q In fact, there is dirt on this right up near the

1 handle that appears to have settled on it?

2 A Yes, there is dirt on the top of the knife.

3 Q The shaft on the other hand was photographed in --
4 just on the ground like that?

5 A Yes, it had nothing covering it.

6 Q You indicated that the rocks were dark, they were
7 many times black, or brown and red. Did that indicate to you
8 that there may have been iron as a component part of that
9 area, during that area?

10 A Certainly could be, yes.

11 Q Would that affect your ability to determine whether
12 or not there was blood evidence around that area, or would
13 have interfered with any luminol, or any alternate light
14 source?

15 A Depending on the type of test done, it could, yes.

16 Q And in fact, you found that from -- because of the
17 nature of the rocks while you were looking there, items that
18 you thought may have been blood was not?

19 A Correct. Items that had colorations similar to
20 blood, when tested, did not have blood.

21 Q When you were processing the shaft --

22 MR. PIKE: Thank you very much. May I approach the
23 witness?

24 THE COURT: Yes.

25 BY MR. PIKE:

1 Q Okay, we can put those away now. And while I put
2 this away, you took a blood -- a presumptive blood test from
3 the blade portion of the knife?

4 A Yes.

5 Q Did you process the handle for any fingerprints?

6 A No, I did not.

7 Q And why did you not?

8 A Two reasons. One, because the chemicals used for
9 fingerprint analysis can degrade the DNA and make it unuseable
10 for DNA testing. Second, the handle of the knife is the --
11 although the portion used by somebody grasping it, because
12 it's wooden, it is less of a good surface for prints.

13 Q Did -- so, you wanted to preserve the knife, and not
14 put any powder, or any other substance to draw up any possible
15 fingerprints because you wanted to preserve it for DNA
16 evidence?

17 A That's correct.

18 Q And at the time that this was occurring, the
19 Henderson Police Department was not doing its own DNA testing?

20 A Correct, it still doesn't.

21 Q You send it out to a lab in Texas called Bexar
22 (phonetic), right?

23 A Yes.

24 Q Or you didn't send it out, a detective did?

25 A Correct.

1 Q Did you have the ability, do you not, to indicate, I
2 want to process this portion for fingerprints at a later time,
3 please do not disrupt or affect this area in any way?

4 A You can certainly make that request.

5 Q Now, showing you -- again, we'll go to State's
6 Exhibit 249. And this is --

7 MR. PIKE: May I approach the witness, Your Honor?

8 THE COURT: Yes.

9 MR. PIKE: I'm sorry.

10 BY MR. PIKE:

11 Q This is the shaft that was involved -- or that you
12 impounded?

13 A Yes.

14 Q And you were able to -- it has a brand name on it?

15 A Yes.

16 Q Do you remember what that is?

17 A Knight.

18 Q Is it spelled with a K?

19 A Yes.

20 Q Okay. Like on the round table?

21 A Yes.

22 Q And it is not a graphite shaft, but it's a metal
23 shaft?

24 A Correct.

25 Q And were you able to associate that shaft with the

1 golf club head? In other words, did you ever compare the end
2 of the shaft to the end of the shaft portion that you located
3 at that same area?

4 A No, I did not. That would be something that would
5 be sent for analysis by a tool mark examiner.

6 MR. PIKE: May I approach the witness, Your Honor?

7 THE COURT: Yes.

8 MR. PIKE: Okay.

9 BY MR. PIKE:

10 Q This is 238. I'm just going to go ahead and pull it
11 out. Does the shaft appear to be made of the same material as
12 that contained in the end of the golf club?

13 A They appear to be similar, yes.

14 Q Now, when you were processing the shaft, did you see
15 anything that you believed to be blood on that?

16 A I don't recall if I saw anything. I know that I
17 didn't test anything on it.

18 Q Did you test it for fingerprints?

19 A I was present when a portion of the examination was
20 done for fingerprints on the shaft. It was done using an
21 alternate light source so that it would preserve any DNA
22 evidence.

23 Q And during that process, you did observe that there
24 were some ridges on -- located on this?

25 A There was a small amount of ridge detail that was

1 photographed in different areas on the shaft of the golf club.

2 Q Okay. And they were preserved just in the
3 photograph?

4 A Yes.

5 Q Or did you participate later with an attempt to
6 extract those ridge details at a later time?

7 A I did not participate in any additional efforts. At
8 the time that they were visualized with the alternate light
9 source, they were photographed and preserved in that manner.

10 Q Okay.

11 MR. PIKE: I have no further questions. Thank you,
12 Your Honor.

13 THE COURT: Any redirect?

14 MR. LALLI: Just very briefly.

15 REDIRECT EXAMINATION

16 BY MR. LALLI:

17 Q Ms. Ayers, the jeans that you impounded on June 5th,
18 did they appear -- or let me ask you this. Did you test those
19 for the presence of blood?

20 A Yes, I did.

21 Q And what were the results?

22 A The results were negative?

23 Q No blood on the jeans?

24 A There was an area of a dark stain at the bottom of
25 the zipper, kind of in the crotch area of the jeans. And that

1 was the area that I tested, and that was negative.

2 Q All right. The shirt that you impounded on June
3 6th, did you examine that for the presence of blood?

4 A There was not any area that appeared to me to be
5 blood that needed to be tested. So, no testing was done.

6 Q Was there anything to suggest on either of those
7 items of evidence that they were related to this case?

8 A Other than their proximity to other items of
9 evidence, no.

10 Q Great.

11 MR. LALLI: Nothing else, Your Honor.

12 THE COURT: Any recross?

13 MR. PIKE: No, Your Honor.

14 THE COURT: Any question by any of the jurors?

15 THE MARSHAL: One question.

16 THE COURT: Yes, we do have a question. Counsel,
17 approach.

18 (Bench conference)

19 THE COURT: I'm sorry. When again do you guys think
20 we will adjourn tomorrow afternoon?

21 MR. CANO: I thought we said like 10:00 to 1:00,
22 somewhere around there.

23 THE COURT: So, we'd work through the lunch hour?

24 MR. DiGIACOMO: Yeah. Well, I would suggest to them
25 that they --

1 MR. CANO: Then just let them go.

2 MR. DiGIACOMO: -- might have a snack before they
3 come. I don't know how long -- how long [inaudible] expert.
4 I'm not going to be long, [inaudible] the detective. And then
5 the fingerprints, I'm not going to be long. So, as long as
6 Randy's not long, two hours at the most, an hour each witness.
7 [Inaudible] we take a break -- about a five minute break or a
8 ten minute break in between those two witnesses. They come
9 in. When they're done, they can go.

10 THE COURT: So, you think --

11 MR. DiGIACOMO: 10:00 to 1:00 maybe.

12 MR. CANO: Yeah.

13 THE COURT: Okay. All right.

14 (Bench conference ended)

15 THE COURT: All right. Ms. Ayers, we had a question
16 from one of our jurors.

17 "Was the blood further tested to determine if it was
18 human or animal?"

19 THE WITNESS: I don't know the answer to that.

20 THE COURT: Any follow up by the State to this
21 question?

22 MR. LALLI: Yes.

23 FURTHER REDIRECT EXAMINATION

24 BY MR. LALLI:

25 Q Ms. Ayers, the presumptive tests that you do use,

1 does that detect for human blood?

2 A The phenolphthalein test does not. Since that time,
3 our lab has gotten another type of test that can distinguish
4 between human and animal. But the phenolphthalein test does
5 not.

6 Q And phenolphthalein is what was being used by the
7 Henderson Police Department back in 2006, correct?

8 A That's correct, yes.

9 Q When an item of evidence is sent to a DNA lab, does
10 that DNA analyst have the ability to ascertain whether blood
11 is in fact human blood?

12 A Yes, they do.

13 Q All right. Thank you.

14 MR. LALLI: Nothing else, Your Honor.

15 THE COURT: All right.

16 MR. PIKE: Nothing, Your Honor.

17 THE COURT: Any additional questions from any of our
18 jurors? No questions. Thank you, Ms. Ayers, for your
19 testimony.

20 THE WITNESS: Thank you.

21 THE COURT: You are excused. Next witness for the
22 State? Or do you have any --

23 MR. LALLI: Your Honor, that concludes the --

24 THE COURT: Okay.

25 MR. LALLI: -- witnesses we have lined up for today.

1 THE COURT: All right. Ladies and gentlemen, we're
2 going to come back at 10:00, as I had previously mentioned.
3 Due to the nature of the witnesses' testimony and the
4 scheduling of them tomorrow, the attorneys believe if we start
5 at 10:00, we could probably go straight through, if you're
6 able to, perhaps complete at 12:30 tomorrow, or 1:00 o'clock.
7 We will take a break in between.

8 So, if you're able to, bring -- you know, you can
9 have a snack. We'll take a longer break. If anyone needs to
10 have other breaks, or a drink, or snacks, we will accommodate
11 you. But we're going to just try to get everything done in
12 about a two and a half hour period tomorrow, and again,
13 because of scheduling issues, we would adjourn for the rest of
14 the day.

15 So, instead of keeping you here longer, we thought
16 this might be better for your schedule. So, again, we'll see
17 you tomorrow at 10:00. Have a late breakfast, bring a snack
18 if you need to. And we will give you an opportunity if you
19 need to go downstairs and grab something to eat when we take a
20 break. Okay?

21 So, during this evening recess, it is your duty not
22 to converse among yourselves, or with anyone else on any
23 subject connected with this case. Or to read, watch or listen
24 to any report of or commentary on the trial by any person
25 connected with the trial, or by any medium of information,

1 including without limitation, newspaper, television, radio, or
2 the Internet. You are not to form or express an opinion on
3 any subject connected with this case until this matter is
4 submitted to you.

5 Have a safe drive home. We'll see you at 10:00.

6 (Jury recessed at 4:44 p.m.)

7 (Outside the presence of the jury)

8 THE COURT: All right. Has everyone had an
9 opportunity to look at the proposed jury instructions from the
10 other side?

11 MR. LALLI: I have, Your Honor.

12 MR. PIKE: I haven't, Your Honor. If you --

13 THE COURT: Have not, or have?

14 MR. PIKE: I have not.

15 THE COURT: Okay.

16 MR. PIKE: I'll do that tonight if you want to
17 address that, and maybe spend some time tomorrow afternoon.

18 THE COURT: We'll see how it goes tomorrow. As far
19 as Thursday, what does our schedule look like for Thursday?

20 MR. DiGIACOMO: I mean, just [inaudible] a full day.
21 If we call -- it may just be down to Jerry Collins.

22 [Inaudible] a full day of Jerry [inaudible] all the cell phone
23 records. I could do a full day on [inaudible].

24 THE COURT: Okay. And then on Friday, what's the
25 estimate?

1 MR. PIKE: Finish up Collins, and another -- Alex
2 Vexar (phonetic), the DNA --

3 MR. DiGIACOMO: The DNA expert from Bexar County.
4 So, depending on where we are Thursday night, if we're close
5 on Jerry, then we would probably rest sometime on Friday. If
6 not then, you know, we'll just keep going with Jerry and see
7 how far we get.

8 MR. LALLI: Your Honor, assuming we get through all
9 of the witnesses, and it's looking like it could be Thursday
10 -- or I'm sorry, Friday, perhaps Monday. And even if we were
11 to conclude Detective Collins on Friday, it would be my
12 druthers to stop, and to make the decision to rest on Monday,
13 to announce that on Monday, as opposed to announcing it on
14 Friday, just to make sure all of our exhibits are in, and just
15 to make sure we haven't overlooked anything.

16 THE COURT: I'm just trying to schedule --

17 MR. LALLI: If that's agreeable to the Court.

18 THE COURT: Okay. No, that's fine. I'm just trying
19 to schedule a time to decide on the jury instructions. That's
20 what I'm looking at as far as --

21 MR. PIKE: As soon as they -- if they rest on
22 Monday, I anticipate that we could probably take some time to
23 settle up the -- almost all of the jury instructions. There's
24 maybe just one or two that would be left at the conclusion of
25 the defendant's case. And so, we can do that Monday if we

1 take a long lunch. And when we -- and I think we can settle
2 it by then.

3 THE COURT: Okay. And if the State does rest on
4 Friday, perhaps Monday, counsel, I'm sure you'll talk to him
5 about his right to testify. And I will give him the Carter
6 instruction as we get closer.

7 MR. PIKE: Thank you very much.

8 THE COURT: All right?

9 MR. CANO: Thank you, Your Honor.

10 THE COURT: Everybody have a good evening.

11 MR. LALLI: Thank you, Your Honor.

12 (Court recessed at 4:47 p.m., until the following day,
13 Wednesday, January 25, 2012, at 10:00 a.m.)

14 * * * * *

15

16

17

18

19

20

21

22

23

24

INDEXWITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<u>STATE'S WITNESSES:</u>				
Sydney Woo	2	7	17	20
James Hannah	23	26	32	
Robert Griffin	33	53	69	71
Patrick Farrell	73	100	120, 125	122, 125
Joy Self	127	142	157, 161	158
Jennie Ayers	164	184	202, 204	

* * * * *

(Exhibits on following page)

EXHIBITS

DESCRIPTION:ADMITTEDSTATE'S EXHIBITS:

Exhibit 46	132
Exhibits 68 through 106.	75
Exhibits 109, 188, 189, 172 through 178	165
Exhibit 139	4
Exhibits 152 through 168, excluding 153	136
Exhibits 181 through 187	176
Exhibits 192 and 193	172
Exhibit 194	173
Exhibits 195 through 200	176
Exhibit 226	47
Exhibit 237	141
Exhibits 237 and 237-A	142
Exhibit 238-A	180
Exhibit 239	92
Exhibit 240	91
Exhibit 241	89
Exhibits 241 and 241-A through G	89
Exhibit 242	7
Exhibits 242-A through F	6
Exhibits 243 and 243-A through D	26
Exhibit 244	43
Exhibit 245	36
Exhibit 246	87
Exhibit 247	94
Exhibit 247-A	94
Exhibit 248	93
Exhibit 249	181
Exhibit 249-A	181
Exhibit 250	182
Exhibit 250-A and B	183

DEFENSE EXHIBITS:

Exhibits A, B and C	10
-------------------------------	----

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

Verbatim Digital Reporting, LLC
Englewood, CO 80110
(303) 798-0890



JULIE LORD, TRANSCRIBER

1-25-12
DATE

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

DOMONIC MALONE,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. 61006

Electronically Filed
Jan 14 2013 04:18 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

APPELLANT'S APPENDIX

VOLUME 13

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Michael Villani, District Court Judge
District Court No. C224572

David M. Schieck
Special Public Defender
JoNell Thomas
Deputy Special Public Defender
330 S. Third Street, 8th Floor
Las Vegas, NV 89155

Attorneys for Appellant

Steven Wolfson
District Attorney
200 Lewis Ave., 3rd Floor
Las Vegas NV 89155

Catherine Cortez-Masto
Nevada Attorney General
100 N. Carson Street
Carson City, NV 89701

Attorneys for Respondent

I N D E X

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
1	AMENDED INFORMATION (8/30/06)	046-053
18	COURT EXHIBITS ADMITTED AT TRIAL (UNFILED)	3652-3695
19	CRIMINAL COURT MINUTES (UNFILED)	3780-3927
7	DOCUMENTS PER COURT ORDER (6/22/11)	1312-1347
7	EX PARTE COMMUNICATIONS (DEFENDANT MEMORANDUM TO COURT) (PRO PER) (6/29/11)	1348-1353
5	EX PARTE MOTION FOR EXPENSES FOR PRIVATE INVESTIGATORS (PRO PER) (2/1/10)	977-978
1	INFORMATION (8/2/06)	001-008
17	INSTRUCTIONS TO THE JURY (1/31/12)	3431-3492
1	JOINDER WITH CO-DEFENDANT JASON McCARTY'S MOTION TO SEVER (10/25/06)	116-117
6	JUDGMENT OF CONVICTION (JURY TRIAL) (McCARTY) (4/6/11)	1287-1291
18	JUDGMENT OF CONVICTION (JURY TRIAL) (MALONE) (5/8/12)	3772-3776
7	JURY LIST (1/13/12)	1487
14	MALONE'S OBJECTIONS TO THE STATE'S PROPOSED TRIAL PHASE JURY INSTRUCTIONS (1/26/12)	2971-2984

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
7	MOTION FOR COMPLETE ROUGH DRAFT TRANSCRIPT OF (CASE NO. C224572-1) (PRO PER) (6/29/11)	1365-1452
2	MOTION FOR DISCOVERY OF INSTITUTIONAL RECORDS AND FILES NECESSARY TO A FAIR TRIAL (5/24/07)	292-299
7	MOTION FOR DISCOVERY OF PROSECUTION RECORDS FILES AND INFORMATION NECESSARY TO A FAIR TRIAL (PRO PER) (6/29/11)	1354-1364
6	MOTION FOR (FULL TRANSCRIPTION) DISCOVERY OF PROSECUTION RECORDS, FILES AND INFORMATION NECESSARY TO A FAIR TRIAL (PRO PER) (1/8/11)	1276-1277
5	MOTION FOR JUDICIAL DETERMINATION OF STANDBY COUNSELS OBLIGATIONS PURSUANT TO HOLLAWAY V. STATE (5/2/10)	990-997
6	MOTION FOR PARALEGAL; FINANCIAL ASSISTANCE; MEDICAL; PRIVATE INVESTIGATORS(S) (PRO PER) (7/8/10)	1110-1113
6	MOTION FOR PARALEGAL - (REHEARING) (PRO PER) (8/9/10)	1149-1152
5	MOTION FOR TRIAL (SPEEDY) AND OR IN THE ALTERNATIVE MOTION TO WITHDRAW COUNSEL (PRO PER) (12/3/09)	876-878
2	MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT (5/24/07)	265-287
2	MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE" (5/24/07)	259-261

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
4	MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF HEARSAY STATEMENTS MADE BY CO-DEFENDANT MCCARTY AND OTHERS THAT REFERENCE DEFENDANT MALONE AT THE TIME OF TRIAL (8/20/09)	641-660
5	MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF HEARSAY STATEMENTS MADE BY CO-DEFENDANT MCCARTY AND OTHERS THAT REFERENCE DEFENDANT MALONE AT THE TIME OF TRIAL (3/25/10)	1021-1041
2	MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION (5/24/07)	288-291
3	MOTION TO DISMISS COUNSEL (PRO PER) (1/7/09)	607-608
3	MOTION TO DISMISS FOR FAILURE TO PRESERVE EVIDENCE, OR, IN THE ALTERNATIVE, MOTION FOR CORRECTIVE INSTRUCTION (1/31/08)	572-577
5	MOTION TO DISMISS FOR PROSECUTORIAL MISCONDUCT GROUNDS BRADY VIOLATION OR IN THE ALTERNATIVE THE JURY TO BE INSTRUCTED ON MALONE'S EXACT WHEREABOUTS DURING THE TIME OF THE MURDER(S) (PRO PER) (11/1/10)	1240-1257
6	MOTION TO DISMISS STAND-BY COUNSEL (PRO PER) (1/8/11)	1278
2	MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE (5/24/07)	262-264

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
5	MOTION TO PRESERVE AND PRODUCE EVIDENCE INCLUDING POTENTIALLY EXCULPATORY EVIDENCE (PRO PER) (2/1/10)	957-976
18	MOTION TO RECUSE THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE (2/6/12)	3698-3702
3	MOTION TO RECUSE THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE OR IN THE ALTERNATIVE MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY CO-DEFENDANT HERB AT THE TIME OF TRIAL (1/12/09)	609-616
1	MOTION TO SEVER (McCARTY) (10/9/06)	054-071
1	MOTION TO SEVER (MALONE) (10/25/06)	092-115
5	MOTION TO SUPPRESS STATEMENTS OF CORRENA PHILLIPS OR IN THE ALTERNATIVE MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY STATE WITNESSES "PHILLIPS" AT THE TIME OF TRIAL (PRO PER) (8/2/10)	1140-1148
4	MOTION TO SUPPRESS STATEMENTS OF DEFENDANT, OR IN THE ALTERNATIVE, MOTION IN LIMINE (9/18/09)	696-703
2	MOTION TO SUPPRESS STATEMENTS OF DONALD HERB, OR IN THE ALTERNATIVE MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY CO-DEFENDANT HERB AT THE TIME OF TRIAL (5/25/07)	300-317
4	MOTION TO WAIVE TRIAL BY JURY ON ALL COUNTS ALLEGING THE NAMED VICTIM MELISSA ESTORES (10/1/09)	755-763
18	NOTICE OF APPEAL (6/5/12)	3777-3779

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
4	NOTICE OF DEFENDANT'S WITNESSES (10/6/09)	775-783
4	NOTICE OF EXPERT WITNESSES (9/21/09)	704-744
7	NOTICE OF EXPERT WITNESSES (11/16/11)	1469-1470
1	NOTICE OF INTENT TO SEEK DEATH PENALTY (8/30/06)	017-045
4	NOTICE OF WITNESSES (10/02/09)	765-771
5	OPPOSITION TO DEFENDANT MALONE'S MOTION FOR RECONSIDERATION OF WRIT OF HABEAS CORPUS (4/9/10)	1045-1093
3	OPPOSITION TO DEFENDANT MALONE'S MOTION TO DISMISS FOR FAILURE TO PRESERVE EVIDENCE, OR IN THE ALTERNATIVE, MOTION FOR CORRECTIVE INSTRUCTION (2/25/08)	578-592
2	OPPOSITION TO DEFENDANT MALONE'S MOTION TO SUPPRESS STATEMENTS OF DONALD HERB, OR IN THE ALTERNATIVE MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF THE STATEMENT MADE BY THE CO-DEFENDANT HERB AT THE TIME OF TRIAL (6/14/07)	337-351
2	OPPOSITION TO DEFENDANT'S MOTION TO FEDERALIZE ALL MOTIONS, REQUESTS AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE (6/6/07)	320-323
3	OPPOSITION TO DEFENDANT'S MOTION TO RECUSE THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE, OR IN THE ALTERNATIVE, MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF STATEMENTS MADE BY CO-DEFENDANT HERB AT THE TIME OF TRIAL (1/28/09)	622-625

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
2	ORDER (DENYING PETITION FOR WRIT OF HABEAS CORPUS) (1/18/07)	257-258
2	ORDER (COURT RULINGS ON MOTIONS) (7/24/07)	410-414
3	ORDER DENYING DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO PRESERVE EVIDENCE, OR IN THE ALTERNATIVE, MOTION FOR CORRECTIVE INSTRUCTION (3/27/08)	599-600
4	ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS STATEMENTS OF DEFENDANT (10/22/09)	874-875
5	ORDER GRANTING DEFENDANT'S MOTION (2/26/10)	988-989
5	ORDER GRANTING DEFENDANT'S MOTION FOR ACCESS TO LAW LIBRARY (PRO PER) (9/27/10)	1201-1202
18	ORDER GRANTING DEFENDANT'S MOTION TO PRECLUDE EVIDENCE OF OTHER BAD ACTS EVIDENCE ENTITLED MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT (2/3/12)	3696-3697
1	PETITION FOR WRIT OF HABEAS CORPUS (11/6/06)	118-152
16	POINTS AND AUTHORITIES IN OPPOSITION TO THE INTRODUCTION OF THE NON-TESTIFYING CO-DEFENDANT'S RECORDED TELEPHONE CALL (1/27/12)	3173-3200
16	POINTS AND AUTHORITIES IN REPLY TO DEFENDANT'S OPPOSITION TO THE INTRODUCTION OF THE NON-TESTIFYING CO-DEFENDANT'S RECORDED TELEPHONE CALL (1/27/12)	3201-3206
5	RENEWED MOTION TO SEVER (McCARTY) (3/18/10)	929-956
4	REPLY TO OPPOSITION TO MOTION (8/27/09)	683-689

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
3	REPLY TO STATE'S OPPOSITION (1/30/09)	626-630
1	REPORTER'S TRANSCRIPT OF HEARING AUGUST 16, 2006 (5/7/08)	009-016
2	REPORTER'S TRANSCRIPT OF HEARING NOVEMBER 21, 2006 (6/6/08)	218-237
2	REPORTER'S TRANSCRIPT OF HEARING NOVEMBER 30, 2006 (6/6/08)	238-241
2	REPORTER'S TRANSCRIPT OF HEARING DECEMBER 12, 2006 (6/6/08)	242-256
2	REPORTER'S TRANSCRIPT OF HEARING JUNE 22, 2007 (6/6/08)	352-409
3	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 11, 2007 (6/6/08)	415-419
3	REPORTER'S TRANSCRIPT OF HEARING NOVEMBER 29, 2007 (6/6/08)	420-571
3	REPORTER'S TRANSCRIPT OF HEARING MARCH 13, 2008 (6/6/08)	593-598
3	REPORTER'S TRANSCRIPT OF HEARING JUNE 24, 2008 (7/2/08)	601-606
3	REPORTER'S TRANSCRIPT OF HEARING JANUARY 20, 2009 (2/17/09)	617-621
3	REPORTER'S TRANSCRIPT OF HEARING FEBRUARY 5, 2009 (2/17/09)	631-640
4	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 1, 2009 (9/9/09)	690-695

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
4	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 29, 2009 (3/5/10)	744-754
4	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 6, 2009 (3/5/10)	784-797
4	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 8, 2009 (3/5/10)	847-862
4	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 12, 2009 (3/5/10)	865-873
5	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 27, 2009 (3/5/10)	879-886
5	REPORTER'S TRANSCRIPT OF HEARING DECEMBER 15, 2009 (3/5/10)	887-892
5	REPORTER'S TRANSCRIPT OF HEARING JANUARY 8, 2010 (3/5/10)	893-928
5	REPORTER'S TRANSCRIPT OF HEARING FEBRUARY 16, 2010 (3/5/10)	979-987
5	REPORTER'S TRANSCRIPT OF HEARING MARCH 18, 2010 (4/12/10)	998-1005
5	REPORTER'S TRANSCRIPT OF HEARING MARCH 25, 2010 (4/12/10)	1006-1020
5	REPORTER'S TRANSCRIPT OF HEARING APRIL 13, 2010 (4/14/10)	1094-1104
5	REPORTER'S TRANSCRIPT OF HEARING APRIL 29, 2010 (5/18/10)	1105-1109
5	REPORTER'S TRANSCRIPT OF HEARING JULY 20, 2010 (9/22/10)	1124-1128

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
5	REPORTER'S TRANSCRIPT OF HEARING JULY 27, 2010 (9/22/10)	1129-1139
5	REPORTER'S TRANSCRIPT OF HEARING AUGUST 12, 2010 (9/22/10)	1153-1164
5	REPORTER'S TRANSCRIPT OF HEARING AUGUST 26, 2010 (9/22/10)	1170-1172
5	REPORTER'S TRANSCRIPT OF HEARING AUGUST 31, 2010 (9/22/10)	1173-1183
5	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 14, 2010 (9/22/10)	1186-1194
5	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 21, 2010 (9/22/10)	1195-1200
5	REPORTER'S TRANSCRIPT OF HEARING SEPTEMBER 30, 2010 (10/8/10)	1203-1213
5	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 5, 2010 (10/8/10)	1214-1237
5	REPORTER'S TRANSCRIPT OF HEARING OCTOBER 26, 2010 (1/12/11)	1258-1268
5	REPORTER'S TRANSCRIPT OF HEARING NOVEMBER 9, 2010 (1/12/11)	1269-1275
6	REPORTER'S TRANSCRIPT OF HEARING JANUARY 25, 2011 (2/28/11)	1279-1286
6	REPORTER'S TRANSCRIPT OF HEARING JUNE 9, 2011 (7/25/11)	1292-1297
6	REPORTER'S TRANSCRIPT OF HEARING JUNE 21, 2011 (7/25/11)	1298-1311

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
7	REPORTER'S TRANSCRIPT OF HEARING JULY 19, 2011 (7/25/11)	1453-1459
7	REPORTER'S TRANSCRIPT OF HEARING AUGUST 9, 2011 (9/21/11)	1460-1468
7	REPORTER'S TRANSCRIPT OF HEARING DECEMBER 15, 2011 (12/30/11)	1473-1480
7	REPORTER'S TRANSCRIPT OF HEARING JANUARY 3, 2012 (1/9/12)	1481-1486
8	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 17, 2012 (1/18/12)	1488-1732
9	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 18, 2012 (1/19/12)	1734-2013
10	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 19, 2012 (1/20/12)	2014-2273
11	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 20, 2012 (1/23/12)	2274-2485
12	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 23, 2012 (1/24/12)	2486-2684
13	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 24, 2012 (1/25/12)	2685-2896
14	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 25, 2012 (1/26/12)	2897-2970
15	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 26, 2012 (1/27/12)	2985-3172
16	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 27, 2012 (1/30/12)	3207-3397

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
17	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 30, 2012 (1/31/12)	3406-3430
17	REPORTER'S TRANSCRIPT OF JURY TRIAL JANUARY 31, 2012 (2/1/12)	3493-3630
18	REPORTER'S TRANSCRIPT OF JURY TRIAL FEBRUARY 1, 2012 (2/2/12)	3631-3645
18	REPORTER'S TRANSCRIPT OF PENALTY PHASE FEBRUARY 10, 2012 (2/15/12)	3703-3717
18	REPORTER'S TRANSCRIPT OF HEARING APRIL 10, 2012 (5/24/12)	3743-3747
18	REPORTER'S TRANSCRIPT OF HEARING APRIL 12, 2012 (5/24/12)	3748-3750
18	REPORTER'S TRANSCRIPT OF HEARING APRIL 24, 2012 (5/24/12)	3751-3771
5	RESPONSE TO STATE'S OPPOSITION TO DEFENDANT'S MOTION TO SUPPRESS STATEMENTS (8/19/10)	1165-1169
1	RETURN TO WRIT OF HABEAS CORPUS (11/22/06)	178-217
4	RECEIPT OF COPY (RAMAAN HALL'S "LYRICS AND ADDITIONAL DISCOVERY) (10/8/09)	800-846
18	SPECIAL VERDICT (2/10/12)	3718-3742
4	STATE OPPOSITION TO DEFENDANT MALONE'S MOTION IN LIMINE TO PROHIBIT INTRODUCTION OF HEARSAY STATEMENTS MADE BE CO-DEFENDANT MALONE AT THE TIME OF TRIAL (8/26/09)	661-682
1	STATE'S OPPOSITION TO DEFENDANT MALONE'S MOTION TO SEVER (11/13/06)	153-177

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
1	STATE'S OPPOSITION TO DEFENDANT MCCARTY'S MOTION TO SEVER (10/23/06)	072-091
2	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR DISCOVERY OF INSTITUTIONAL RECORDS AND FILES NECESSARY TO A FAIR TRIAL (6/6/07)	330-333
2	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR DISCOVERY OF PROSECUTION RECORDS, FILES AND INFORMATION NECESSARY TO A FAIR TRIAL (6/6/07)	324-326
2	STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO BAR IMPROPER PROSECUTORIAL ARGUMENT (6/6/07)	327-329
2	STATE'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE" (6/6/07)	318-319
2	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION (6/6/07)	334-336
4	STATE'S RESPONSE TO DEFENDANT'S MOTION TO WAIVE TRIAL BY JURY ON ALL COUNTS ALLEGING THE NAMED VICTIM MELISSA ESTORES (10/5/09)	772-774
5	STATE'S OPPOSITION TO MCCARTY'S RENEWED MOTION TO SEVER (4/9/10)	1042-1044
4	SUPPLEMENTAL NOTICE OF WITNESSES (10/7/09)	798-799
4	SUPPLEMENTAL NOTICE OF WITNESSES (10/9/09)	863-864
5	SUPPLEMENTAL NOTICE OF WITNESSES (9/10/10)	1184-1185

<u>Volume</u>	<u>Document Name/File Date</u>	<u>Page No.</u>
5	SUPPLEMENTAL NOTICE OF WITNESSES (10/7/10)	1238-1239
7	SUPPLEMENTAL NOTICE OF WITNESSES (11/30/11)	1471-1472
17	THIRD AMENDED INFORMATION (1/30/12)	3398-3405
18	VERDICT (2/1/12)	3646-3651

COPY

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

JAN 25 2012

BY _____
CAROL DONAHOO, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-224572
	.	
Plaintiff,	.	DEPT. NO. XVII
	.	
vs.	.	
	.	TRANSCRIPT OF
DOMONIC RONALDO MALONE,	.	PROCEEDINGS
	.	
Defendant.	.	
.....	.	

BEFORE THE HONORABLE MICHAEL VILLANI, DISTRICT COURT JUDGE

JURY TRIAL - DAY 10

TUESDAY, JANUARY 24, 2012

APPEARANCES:

FOR THE PLAINTIFF: MARC DIGIACOMO, ESQ.
 CHRISTOPHER LALLI, ESQ.
 Chief Deputy District Attorneys

FOR THE DEFENDANT: RANDALL H. PIKE, ESQ.
 CHARLES A. CANO, ESQ.
 Assistant Special Public
 Defenders

COURT RECORDER:

MICHELLE RAMSEY
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Englewood, CO 80110

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, TUESDAY, JANUARY 24, 2012, 10:35 A.M.

2 (Court was called to order)

3 (In the presence of the jury)

4 THE COURT: Good morning, ladies and gentlemen.

5 Let's resume our case here. And State, please call your next
6 witness.

7 MR. DiGIACOMO: State calls Sydney Woo.

8 THE MARSHAL: Sir, if you will remain standing.

9 Please sir, raise your right hand and face the clerk.

10 SYDNEY WOO, STATE'S WITNESS, SWORN

11 THE MARSHAL: Have a seat, sir. Please slide up to
12 the microphone.

13 THE WITNESS: Thank you.

14 THE MARSHAL: And if you would, please state and
15 spell your name for the record.

16 THE WITNESS: Sydney Woo. S-Y-D-N-E-Y. Last name,
17 W-O-O.

18 THE COURT: Go ahead, counsel.

19 MR. DiGIACOMO: Thank you, Judge.

20 DIRECT EXAMINATION

21 BY MR. DiGIACOMO:

22 Q Sir, I'm going to direct your attention back to May
23 of 2006. How were you employed?

24 A I was managing the Sportsman's Manor.

25 Q The Royal Sportsman's Manor on --

1 A The bar and -- yeah.

2 Q -- Boulder and Trop.?

3 A Yes.

4 Q And I guess, maybe 18 months ago now, but at some
5 point in the past, have you testified in another proceeding in
6 this particular case?

7 A Yes, I have.

8 Q On May 24th of 2006, were you contacted by the
9 Henderson Police Department to provide videotapes of
10 surveillance that was maintained by the Royal Sportsman's back
11 in 2006?

12 A Yes, I was.

13 Q And did you provide them the videotapes from May
14 18th through May 24th of 2006?

15 A I provided them the videotapes. I don't remember
16 the exact dates that were provided.

17 Q If you previously testified back in October of 2006
18 that those were the dates, does that sound about right to you?

19 A Yes.

20 Q The first thing I'm going to show you for just
21 purposes of the record here is State's proposed Exhibit No.
22 139. Does that appear to be a photograph of the front of the
23 Royal Sportsman's Manor?

24 A Yes, it does.

25 MR. DiGIACOMO: Move to admit 139.

1 MR. PIKE: No objection, Your Honor.

2 THE COURT: It will be admitted.

3 (State's Exhibit 139 is admitted)

4 BY MR. DiGIACOMO:

5 Q Next, I'm going to show you what you've previously
6 identified before as State's proposed Exhibit 265, is what the
7 outside was.

8 MR. DiGIACOMO: I'm sorry. Carol, am I using the
9 right number for this?

10 THE CLERK: No. You didn't give those to me yet.

11 MR. DiGIACOMO: May I approach the clerk for just --

12 THE COURT: Yes.

13 MR. DiGIACOMO: -- a moment, Judge?

14 (Pause in the proceedings)

15 MR. DiGIACOMO: All right.

16 BY MR. DiGIACOMO:

17 Q Now that we've got the record straight, for purposes
18 of this trial, it's State's proposed Exhibit number 242, which
19 you've previously identified in the previous trial as 265.
20 And I'm going to basically pull out the contents of this bag.

21 I'm showing you what's been -- what's going to be
22 marked as 242-A through F. Do those appear to be the
23 videotapes that you provided to the Henderson Police
24 Department back in 2006?

25 A Yes, they do.

1 Q And what do the numbers 18 through 23 on each of
2 these tapes indicate?

3 A They represent the date.

4 Q Okay. So --

5 A It is rotated on a monthly basis.

6 Q Okay. Explain that to the ladies and gentlemen of
7 the jury.

8 A There's --

9 Q How does it work?

10 A There's a number for each day -- or each date of the
11 month. So, we basically rotate through the tapes as they go
12 from 1 to 30, 1 to 31, and it just goes back around. So, we
13 maintain sequence, you know, in that manner.

14 Q And so, does that mean basically you have video for
15 the property for 30 days?

16 A That's correct.

17 Q Or 31, depending on what the month is?

18 A That's correct.

19 Q And then so every 18th, whether it's January 18th,
20 February, March, April, May; every 18th, it's -- the 18th day
21 is going to be on that particular video?

22 A Yes.

23 Q Do you recall the type of video system that they had
24 at the Royal Sportsman's Manor?

25 A It was a multiplexing system. I don't remember

1 exactly how many channels, and --

2 Q But there's a number of images. So, if I were to
3 pop this let's say in a VHS tape, it would just kind of flash
4 various pictures of various locations?

5 A That's correct.

6 Q Okay. And are these -- or were these copies, or
7 were they the originals, do you recall, of those videotapes?

8 A I believe those are the originals. I don't recall
9 anything about copies.

10 Q Okay. If they're not the originals and they're
11 copies, would they have been true, fair, and accurate copies?
12 I mean, would you have dubbed them?

13 A I don't ever recall copying any tapes.

14 Q So, these should be the originals?

15 A Yes.

16 MR. DiGIACOMO: Move to admit 242 A through F.

17 MR. PIKE: No objection, Your Honor.

18 THE COURT: Those exhibits will be admitted.

19 (State's Exhibits 242 A through F are admitted)

20 MR. DiGIACOMO: And just for the record, Judge, so
21 we have a package that can go back there with them, I'll move
22 to admit 242 as well.

23 THE COURT: Any objection?

24 MR. PIKE: No objection, Your Honor.

25 THE COURT: All right. That will be admitted.

1 (State's Exhibit 242 is admitted)

2 MR. DiGIACOMO: I'd pass the witness, Judge.

3 THE COURT: Recross?

4 MR. PIKE: Yes, Your Honor, very briefly.

5 CROSS-EXAMINATION

6 BY MR. PIKE:

7 Q Good morning, Mr. Woo.

8 A Good morning.

9 (Pause in the proceedings)

10 MR. PIKE: Just waiting for a moment to have defense
11 exhibits marked.

12 BY MR. PIKE:

13 Q While that's being done, let me ask you a few
14 questions about the Sportsman's Manor. How long were you the
15 manager there?

16 A My tenure there was approximately four years.

17 Q From what to --

18 A It was May -- or March of 2002 to, I believe,
19 September of 2006.

20 Q And during that period of time, the Royal
21 Sportsman's Manor consisted of apartments that were dailies,
22 weeklies, and monthlies?

23 A Typically, like an extended stay property. It
24 became -- it could be a residential property as well.

25 Q Okay. Define an extended stay.

1 A They could stay, you know, up to 30 days as a
2 transient occupant. And then at 30 days, they technically
3 became a resident of the facility.

4 Q And the area frequently had police called to it?

5 A There were -- as a matter of fact, there is a
6 program in place there that the police would come in and check
7 up on the property on their own frequently during the day.
8 So, when they were present, I wasn't always sure if they were
9 called in, or they just came in.

10 Q While you were a manager there, did the police
11 actually maintain an apartment or presence on the property?

12 A No, never.

13 Q Approximately, how many times would they come and
14 patrol the area?

15 A I couldn't give you a exact amount, you know, a
16 number of times during the day. Like I said, there was an
17 identification program in place by Metro that anybody that
18 rented a unit there, some documents were obtained that were
19 provided to Metro for them to run checks on.

20 So, they -- they actually came on property
21 frequently just to do that, to do ID checks. So, I can't tell
22 you how many times they would patrol, you know.

23 Q And an ID check would be -- if somebody checked in,
24 Metro had access to all the names of the individuals that
25 rented rooms?

1 A It was a program that we participated in with Metro.
2 And it was posted very clearly for the -- and advised to the
3 people that was going to happen.

4 Q So, when somebody came into the office to rent a
5 room, that would be a sign that --

6 A Yes.

7 Q -- was right there when they --

8 A Yes.

9 Q -- came in and did that? Okay. And that was in
10 part because there was -- it was an area that, based upon the
11 extended stay clientele, there was a lot of drug activity?

12 A I don't know how to quantify a lot. I mean, there
13 was activity there. I'll definitely admit to that.

14 Q There was drug activity, and you did what you could
15 to curtail it?

16 A Yes.

17 Q And one of the things that you did was to make sure
18 that there were surveillance cameras, and those cameras were
19 working?

20 A Yes.

21 Q All right.

22 MR. PIKE: May I approach the witness, Your Honor?

23 THE COURT: Yes.

24 MR. PIKE: I've previously showed counsel defense
25 proposed Exhibits A, B, and C.

1 BY MR. PIKE:

2 Q And sir, I'd ask you to look at these -- or this --
3 number one, the diagram, and tell me if you recognize that.

4 A I do. I recognize the facility. I don't recognize
5 that exact document. They may have updated it since I was
6 there. But that is the layout of the property.

7 Q Okay. And I'm going to also show you Exhibits A and
8 B, which appear to be photographs. Do you recognize what
9 those photographs depict?

10 A Yes.

11 Q All right. I'll go back, and we'll do it on the
12 ELMO [inaudible]. And do they truly and accurately reflect --
13 or depict areas of the Sportsman's Manor?

14 A Yes.

15 MR. PIKE: Your Honor, I'd move for the admission of
16 defendant's Exhibit A, B, and C.

17 MR. DiGIACOMO: I have no objection, Judge.

18 THE COURT: A, B, and C will be admitted.

19 (Defense Exhibits A, B, and C are admitted)

20 MR. PIKE: Thank you.

21 (Pause in the proceedings)

22 BY MR. PIKE:

23 Q That is a -- kind of a schematic of the Sportsman's
24 Royal Manor. Can you circle on the screen, just touch the
25 screen and circle where the bar area is located? And that's

1 right next to the 24-hour mini-mart and Shell Station is
2 there?

3 A That's correct.

4 Q Could you go through -- if you're familiar with,
5 could you go through and mark an X, or make a mark where you
6 remember all of the cameras were at?

7 A I'll do the best I can.

8 Q Yeah. Just to the best of your recollection.

9 A It's not hitting exactly. But there was one on the
10 corner of the building. There were multiple cameras coming in
11 the entrance. And then there were various cameras inside the
12 bar that I can't pinpoint the exact locations, but.

13 Q Were there any security cameras back towards the
14 residential buildings?

15 A I don't believe so. I believe the only other
16 cameras that were in the use were in the office area. And
17 there may have been an exterior shot in the office area. But
18 as far as where the residential structures were, I don't
19 recall any cameras being there.

20 Q Do you remember the number of cameras?

21 A No, I don't remember the exact number.

22 Q If I would suggest to you 16, would that be -- would
23 that refresh your recollection?

24 A That would be very possible, because the multiplexer
25 we used was a 16-channel multiplexer. And if we used every

1 channel, that would be 16.

2 Q Okay, thank you. Showing you what has been admitted
3 as defense Exhibit number -- or letter B. Let me zoom in on
4 this. The top photo in that, can you tell me what that is, or
5 what that depicts?

6 A That is an area at Sportsman's Royal Manor that is
7 behind the bar and restaurant facility.

8 Q Okay. And defendant's proposed -- or defendant's
9 Exhibit A, does that help you more easily identify --

10 A It's --

11 Q -- where that area is?

12 A Yes. It's a broader picture of the same area. That
13 structure on the left with the red top is the bar.

14 Q So, back behind the bar area you've got covered
15 parking; is that what that structure is?

16 A Yes.

17 Q And then in between the bar and the pool area, there
18 is the open walkways in defense Exhibit B?

19 A That's correct.

20 Q And there are apartments back behind there?

21 A Yes.

22 Q Does this depict a walkway towards the pool from the
23 bar area?

24 A I'm assuming that's the same area, the same pool,
25 because of the surroundings of the pool. There is another

1 pool at that facility that's on the corner of Tropicana and
2 Boulder Highway that's very visible. And this seems more
3 secluded. So, between the two pools, I would conclude that
4 this pool is the same pool we were looking at.

5 Q And you have that bode fence, or the rod iron fence
6 that comes out from that area?

7 A Yes.

8 Q In both of these photographs, it shows that there
9 are outdoor lights. Do you see those, the bowl lights?

10 A Yes.

11 Q And it also shows that there is lights behind on the
12 buildings.

13 A Yes.

14 Q Do you see that? Was part of your responsibilities
15 maintaining, making sure that maintenance kept those lights
16 functioning?

17 A The building structure lights were maintained by an
18 outside company. And it was on a maintenance contract. And
19 we did breezeway lights that were maintained internally.

20 Q The videos, or the tapes that you produced were from
21 the 18th to the 24th. Does that mean that you were requested
22 to provide those on the 24th, and you had not yet recycled
23 them? Why did you only go back to the 18th?

24 A I provided what was asked of me.

25 Q Okay. And do you recall what day you were asked to

1 give them to the police?

2 A No, I do not.

3 Q So, if it was on the 24th -- if you gave them on the
4 24th, you would have had a tape available back prior to that
5 time, or was it just cut off at the 18th?

6 A Again, I just provided what they asked me for. I
7 had it, and I gave it to them.

8 Q Okay. Did they -- do you remember who requested
9 that?

10 A To the best of my recollection, they were law
11 enforcement officers from Henderson Police Department.

12 Q The Sportsman is located at the corner of Tropicana
13 and Boulder Highway. Is that in Las Vegas, Pittman,
14 Henderson? Which area is it, do you know which city it's in?
15 Which county?

16 A I know it's in the county. I'm assuming it's in an
17 unincorporated portion. I believe the city ends right around
18 Sahara, so.

19 Q Were you -- was there a policy in place at the
20 Sportsman's during this period of time where security would
21 routinely review the videotapes to see if there were any
22 specific times of problems, or areas of problems, or
23 individuals that were causing problems, in order to amp up the
24 security?

25 A The security was not primarily an outside type of

1 patrol. And they would rely more on the video to verify
2 something that they had encountered outside. They didn't
3 surveil the property from inside. They did it from outside.

4 Q And those videotapes were maintained on premises at
5 the Royal Sportsman's?

6 A That's correct.

7 Q So, if the police were ever called in -- let's say
8 there's a disturbance at the Shell Station. Was the Shell
9 Station part of the Royal Manor?

10 A Yes.

11 Q So, if there was a disturbance that was called in in
12 reference to that, the police could then immediately go to the
13 office and review the videotape?

14 A They -- actually, the location of the video
15 equipment for the bar and the convenience store were in one
16 location. And then there was another -- the office was quite
17 a ways away, but on the other side of the property. They're
18 all individual companies residing on the same property. So,
19 they had their own entity handling the surveillance stuff for
20 the bar and the convenience store.

21 Q And you trained your bartenders, employees, and
22 security people or maintenance people that these videotapes
23 were available -- or the video surveillance was available in
24 the event that law enforcement needed to review that?

25 A I didn't go into detail about -- to the employees

1 about what video capabilities existed. The security officers
2 knew. But I didn't show the -- because -- to the bartenders,
3 because some of the surveillance may have been for internal
4 security as well, so.

5 Q You wanted to make sure nobody was stealing from the
6 till, or giving improper drinks, or not charging, or doing
7 things like that?

8 A Not just that. It was for their own protection as
9 well. But you know, they -- the cameras were visible. We
10 didn't have any covert cameras. But I didn't want to
11 demonstrate to the employees what I could see.

12 Q Okay. All right. I think we can understand that.

13 MR. PIKE: Court's indulgence.

14 BY MR. PIKE:

15 Q The video system -- the surveillance system that you
16 had provided not only the camera that was being used, but also
17 the time the film was being shot or being -- the video was
18 being taken?

19 A I believe it was date and time stamped, yes.

20 Q Okay. Do you know whether that was calibrated? Or
21 did you have anything at all to do with that?

22 A It was maintained of rotations. And the -- making
23 sure the tapes were handled properly were done by security. I
24 did keep an eye on it. I can't tell you if I did on any
25 particular day. But that was maintained daily by security.

1 Q And in your capacity as a manager, although you
2 oversaw that area or were responsible for it, that wasn't
3 something that you personally did or viewed to make sure that
4 it was accurately reflected at the time on the video, from the
5 time that it was shot?

6 A That's correct. I didn't personally do it every
7 day.

8 Q Thank you very much.

9 MR. PIKE: I have no further questions.

10 THE COURT: Any redirect by the State?

11 MR. DiGIACOMO: Briefly.

12 REDIRECT EXAMINATION

13 BY MR. DiGIACOMO:

14 Q Sir, I just wanted to make sure that I'm clear, I
15 guess so the jury's clear exactly what we're looking at here.
16 So, I'm going to put defense Exhibit C -- and this is the --
17 Boulder Highway in the parking lot, this is the bar area and
18 mini-mart/gas station type area, correct?

19 A That's correct.

20 Q And then there's various photographs that were shown
21 here to you. I'm going to start with defense Exhibit A.
22 There's A -- on the top of A, I don't think this was shown.
23 Do you have any idea where this was taken?

24 A I recognize that to be on the Sportsman's property.
25 But the exact locations, because of the fact that the

1 buildings look alike, it would be very difficult for me to
2 pinpoint. I can't really see what's in the background that
3 clearly, so.

4 Q Okay. So, this is basically one of the rooms out
5 there, and this is kind of the walkway, and then there's
6 stairs to go up to some of the other rooms?

7 A Right. There was three stories on each building, so
8 there were stairwells on either end that would take you
9 upstairs.

10 Q Okay. And then in the background here, you can kind
11 of see -- I don't know if you can see it, I can bring it up
12 there. This is a Shell sign. So, the Shell sign would have
13 been up here on defense Exhibit number C?

14 A That's correct. And based on that perspective, I
15 would be pretty confident to say it's either building U or
16 building T.

17 Q Okay. So, it's one of these two buildings up here,
18 that front walkway?

19 A Yes.

20 Q Okay. Now, let me go up to Exhibit number A. This
21 is a view you said of the pool and the side of the bar. And I
22 guess my question is, is that this parking lot over here
23 viewing into that area?

24 A Yes. That covered structure that you can see in
25 that picture is about where that letter T is.

1 Q Okay. So, that's -- about where the T is, there's a
2 walkway here, and the building's up here, and the pool's back
3 here?

4 A That's correct.

5 Q Now, this building, it shows it kind of flat across
6 the back there. Is it actually completely flat, or is that
7 just for purposes of the diagram?

8 A That's just for purposes of the diagram.

9 Q Okay. And then State's Exhibit number B -- or I'm
10 sorry, defense Exhibit number B, that's just a closer-up shot
11 of A?

12 A That's correct.

13 Q Okay. So, that's just what it looks like backed out
14 -- or closer in?

15 A Yes.

16 Q So, there's a building that runs along here, there's
17 trees that run along here. And then obviously, part of that
18 building sticks out. And is there something that you go up
19 this walkway to?

20 A That area has access to a small storage facility,
21 and then that's where you get access to the roof. The
22 building in the forefront of that picture is the bar. And as
23 you go back and you see the structure jutting out a little bit
24 is more the convenience store.

25 Q But this area, if you go down here and you come back

1 in here, this is kind of a secluded area with no other access?

2 A That's correct. That's not an exit.

3 Q And then, moving up here. You said that this
4 appears to be that bar, and there appears to be a bode fence.
5 Can you tell me where on this diagram that walkway is?

6 A It looks to me -- can I draw it on here?

7 Q Sure, go ahead.

8 A It looks to me like it's right around here.

9 Q Okay. And so if we're taking this photograph here,
10 once again, there's an area in between where it says 24-hour
11 Shell mini-mart and Sportsman's. There's an area back here
12 that has no access points, and is secluded from kind of all
13 those views.

14 A Correct.

15 MR. DiGIACOMO: Nothing further, Judge.

16 THE COURT: Any redirect [sic]?

17 MR. PIKE: Yes, Judge.

18 RE CROSS-EXAMINATION

19 BY MR. PIKE:

20 Q Going and taking this location as being the bar,
21 walking down that walkway, going -- and that's defendant's
22 Exhibit A. On the B, walking back, there actually is a door
23 coming out of the bar from that area, isn't there?

24 A I'm trying to remember. I only recall a front door
25 to the bar. There is a connecting piece between the bar and

1 the convenience store where the kitchen was. And I believe
2 the rear exit was more in the kitchen than the bar.

3 Q Okay. So, the kitchen area -- because not only was
4 it a bar, but they also served food?

5 A Yes.

6 Q But there was access coming out of that building
7 from there?

8 A It's the door that you see further down.

9 Q And that would be -- can you mark that, rather than
10 have me --

11 A I believe that rear access is right here.

12 Q Door coming out from there. And then also looking
13 over to the right of this -- of defense Exhibit B, you see
14 that there are apartments over in that area?

15 A Yes.

16 Q And that's similarly a three-story building?

17 A Yes.

18 Q Looking out over the pool area and that area?

19 A That's correct.

20 Q All right. In fact, if you -- if I can draw your
21 attention to that box right there, does that appear to be an
22 air conditioner?

23 A Yes.

24 Q Each of the units have their own air conditioner
25 [inaudible]?

1 A Their independent, yes.

2 Q That's a window looking out over that area also?

3 A Correct.

4 MR. PIKE: I have no further questions.

5 THE COURT: Anything further by State?

6 MR. DiGIACOMO: No, Your Honor.

7 THE COURT: Any questions by any of the jurors? No
8 questions. Thank you, sir, for your testimony.

9 THE WITNESS: Thank you.

10 THE COURT: You are excused.

11 Next witness for the State?

12 MR. DiGIACOMO: James Hannah.

13 MR. PIKE: Mr. Woo can be excused from the subpoena.

14 THE COURT: Yes.

15 MR. PIKE: We won't recall him.

16 THE COURT: You're excused from your subpoena, sir.
17 Thank you.

18 THE WITNESS: Thank you.

19 THE MARSHAL: Mr. Hannah, if you will remain
20 standing. Please sir, raise your right hand, facing the
21 clerk.

22 JAMES HANNAH, STATE'S WITNESS, SWORN

23 THE MARSHAL: Please have a seat, sir. Slide up to
24 the microphone. If you would, please state and spell your
25 name for the record.

1 THE WITNESS: My name is James Kayliff [phonetic]
2 Hannah, H-A-N-N-A-H.

3 THE COURT: Go ahead, counsel.

4 MR. DiGIACOMO: Thank you, Judge.

5 DIRECT EXAMINATION

6 BY MR. DiGIACOMO:

7 Q Sir, back in May of 2006, how were you employed?

8 A I was director of corporate security for Herbst's
9 Gaming and Terrible Herbst's Oil Company.

10 Q And without going through all of your job duties,
11 were you responsible for the security of various AM/PM's run
12 by Terrible Herbst convenience stores throughout the Valley?

13 A Yes, sir, I was.

14 Q On June 1st of 2006, were you contacted by
15 representatives of the Henderson Police Department -- well,
16 let me back up. Have you previously testified in this case?

17 A Yes, I did.

18 Q And back in October of 2010, I believe, or October,
19 November of 2010, does that sound about right?

20 A Yes. I believe so, yes.

21 Q And did you have an opportunity to review that
22 transcript prior to your testimony today?

23 A Yes, I did.

24 Q Have you previously testified that on June 1st of
25 2010, you were contacted by the Henderson Police Department to

1 provide videotapes from an AM/PM Terrible's convenience store
2 that's at the location of Charleston and Nellis Boulevard?

3 A I believe so. I think you got the year wrong.

4 Q I'm sorry.

5 A 2006, I think.

6 Q Sorry.

7 A Yes.

8 Q Yes. You testified in June 1st of -- you testified
9 in 2010 that on June 1st of 2006, that you provided these
10 videotapes; is that correct?

11 A Yes, sir. Yes, sir.

12 Q And the store at Nellis and Charleston, what type of
13 videotape system or surveillance system did it have?

14 A At that time, we had tape player systems that were
15 captured by a vidaplex (phonetic) system. The way those
16 systems worked in those days is we would give a 31-day tape
17 library system to the store manager. Each tape was marked 1
18 through 31, indicating each day that was there.

19 The manager would have the change the tapes out each
20 day, and just recirculate those. But it worked on a time
21 lapse VCR, which through a vidaplex system would capture all
22 of the cameras through time lapse. So, it's called a
23 multiplex system.

24 Q And do you recall testifying -- or did you testify
25 in 2010, that at that time, that that store, 6:00 a.m. in the

1 morning is when the tapes would be changed?

2 A Roughly between 6:00 and 6:30 in the morning, they
3 would be changed.

4 Q And so if we were looking for a time, let's say 1:00
5 o'clock in the morning on the 18th, you'd look at tape number
6 17?

7 A Yes, you would.

8 MR. DiGIACOMO: May I approach, Judge?

9 THE COURT: Yes.

10 BY MR. DiGIACOMO:

11 Q Sir, I'm showing you what's been marked for purposes
12 of identification in this trial as State's proposed Exhibit
13 No. 243, which was shown to you in the last trial as 266. And
14 I'm going to pull out the contents of 266. I'm going to show
15 you what's going to be marked as State's proposed Exhibits 243
16 A through D, and ask you a couple of questions.

17 Did you testify last time that the morning of that
18 last trial, you actually viewed at least tape number 17 on
19 this particular --

20 A Yes, I did.

21 Q And is there a mark on there as well that you
22 recognize?

23 A Yes. There's a -- looks like an initial underneath
24 the 17.

25 Q And whose is that, do you know?

1 A No, I don't.

2 Q Okay. But do these appear to be the four
3 videotapes, 243 A through D, that you provided to the
4 Henderson Police Department?

5 A Yes, it is.

6 Q And they're marked 16, 17, 18, and 19, and those are
7 for the days in question?

8 A Yes.

9 Q And number 17 would run from 6:00 a.m. on the
10 morning of the 17th until 6:00 a.m. on the morning of the
11 18th, generally?

12 A Yes, sir. Yes.

13 MR. DiGIACOMO: Move to admit 243, and its contents,
14 A through D.

15 MR. PIKE: No objection, Your Honor.

16 THE COURT: All right. They will be admitted.

17 (State's Exhibits 243, and 243-A through D are admitted)

18 MR. DiGIACOMO: I'd pass the witness, Judge.

19 THE COURT: Any cross?

20 MR. PIKE: Yes. Thank you.

21 CROSS-EXAMINATION

22 BY MR. PIKE:

23 Q Good morning, Mr. Hannah.

24 A Good morning, sir.

25 Q Now, you indicated that during that time, that you

1 were employed as the head of security? Or what was your
2 specific position and job title at that that time?

3 A I was director of corporate security for Terrible
4 Herbst and Herbst Gaming entities. My unit conducted all the
5 internal investigations and background investigations. I was
6 also responsible for procurement of all of their security
7 hardware. And I basically enforced policy and procedure in
8 the company when it was related to security functions.

9 Q So, as part of that -- your job duties that you had
10 at that time, you helped select the multiplex system that was
11 used in this -- for this -- and this basically is a gas
12 station area?

13 A It's a gas station, lube center, and car wash
14 combination location. That's at Lamb and Charleston, this
15 particular location. The convenience store at that location
16 only multiplexed the cameras in that store, so they wouldn't
17 have multiplexed the car wash or the lube center.

18 Q And in going through and making a -- you had also
19 helped with the security and picking out where the cameras
20 should be, where they should be set up to utilize or get the
21 most out of each camera that you could, out of each camera
22 that was available?

23 A In most cases, yes, I had a say-so on that.

24 Q Okay. Do you remember how many cameras were
25 available at that location?

1 A Not exactly. It would have been no more than 16.
2 That was the max capacity.

3 Q And you, as part of your security, would it be safe
4 to say that you'd want to have a camera on each and every
5 separate door, entrance to that mini-mart area?

6 A Yes. We would have a camera generally focused at
7 the front door, sometimes back doors. But there's usually
8 only one front door entrance on those older stores such as
9 that one.

10 Q But if there was a back door, you would have put a
11 camera there?

12 A In most cases, yes.

13 Q You also have a camera that is behind the cash
14 register so that you can videotape the people that are coming
15 up to a cash register?

16 A The ones behind the registers were generally focused
17 on internal theft. So, the idea was to focus on the point of
18 sale transactions being conducted by the store clerks. In
19 some cases, it might catch the person sitting there or
20 standing there. I'm not sure until I look at, you know, the
21 pictures of it. But it was really there for internal theft,
22 so.

23 Q Okay. But you also had cameras on the door. And at
24 that time, did you have actual measuring tapes at the door so
25 you could tell how tall somebody was when they were coming in

1 and out?

2 A Yes, sir. Um-hum.

3 Q So, your security was designed not only to prevent
4 internal theft, but to provide security for your employees so
5 that people could see the cameras, that they knew they were
6 being videotaped?

7 A That's correct, yes.

8 Q Presence of the video cameras would help people
9 think twice --

10 A Yes.

11 Q -- about coming in and doing anything wrong at
12 that --

13 A That is true.

14 Q -- at that location? And you indicated that the
15 Henderson Police came and requested those items from you; is
16 that correct?

17 A Yes.

18 Q This was not located in Henderson -- this store was
19 not located in Henderson, was it?

20 A No. It's located in Las Vegas.

21 Q But you wanted to cooperate with law enforcement, so
22 you gave it to them? You didn't require a warrant or a
23 release, or anything else. You just said, okay, it's part of
24 your investigation, here you go?

25 A Yes, sir. That's true.

1 Q Did you turn it over to a detective, or did you turn
2 it over to a CSA, or a technician?

3 A I think in this particular case, I was contacted by
4 Henderson Police. And I instructed the store manager at the
5 location to cooperate with them. I don't think I physically
6 drove over there and pulled them and gave them to them. If I
7 did, I don't remember, but I don't think I did.

8 Q And you gave the store manager authority to release
9 the days that they -- day or days that they requested?

10 A Yes, that's what I would normally do.

11 Q And you -- before -- and you didn't review it before
12 you turned it over to the police?

13 A I'm sorry, your question again?

14 Q I'm sorry.

15 A That's okay. Based upon your testimony then, you
16 just told the manager to release it. So, you didn't actually
17 go down, review the days -- the videos, and then authorize the
18 manager to --

19 A I don't remember doing that. No, sir.

20 Q Okay. And also, there are time indicators; is that
21 correct? The clock that is on the videos?

22 A Yes. There's a data stamp on the video playback
23 that indicates the date and time. And it just keeps going by
24 seconds as the tape -- as playback.

25 Q And those are things that sometimes go askew or a

1 kilter. And so occasionally, you have to go in there and you
2 have to calibrate the time on those; is that correct?

3 A Yes, sir. That's true.

4 Q Okay. And do you have in your records the last time
5 that that machine was calibrated prior to the time that this
6 was done?

7 A No, sir, I don't. No.

8 MR. PIKE: Court's indulgence.

9 BY MR. PIKE:

10 Q And specifically in reference to the time that's
11 involved here, you couldn't tell us how long prior to this
12 time it had been calibrated?

13 A The only thing I can tell you for sure is in those
14 days, the multiplexers would not automatically adjust for
15 daylight savings. So, each time the -- you know, the clock
16 jumped forward or backwards about one hour, somebody would
17 have to go there and, you know, manually change that time and
18 date.

19 Q And let's see. And at the other trial, not this
20 trial, you testified that you couldn't tell us for sure that
21 you calibrated the time on the video in the store on Nellis
22 and Charleston in the year 2006 at all, or in 2005?

23 A Yes, sir. That's true.

24 Q All right. Thank you very much for coming today,
25 Mr. Hannah. Appreciate it.

1 MR. PIKE: No further questions.

2 THE COURT: All right. Thank you. Anything further
3 from the State?

4 MR. DiGIACOMO: Just the -- just a couple questions.

5 REDIRECT EXAMINATION

6 BY MR. DiGIACOMO:

7 Q Back then, you had 122 different stores, correct?

8 A Yes, sir.

9 Q And I heard you said on cross, Charleston and Lamb,
10 and then we've been saying Charleston and Nellis.

11 A I errored. It was Charleston and Nellis. Sorry.

12 Q Okay. And when you came to the last trial and you
13 were shown the videotape, you were able to confirm by looking
14 at that videotape that in fact that is the store --

15 A Yes, sir.

16 Q -- at Charleston and Nellis, and that's not a
17 question?

18 A Yes, sir, that's true.

19 Q And you indicated that the clock had been calibrated
20 at least at daylight savings times, or the other one? I can't
21 remember which one falls back, jumps forward.

22 A I got you. Yes, that's true. They have to be
23 manually set each -- so that would be twice a year.

24 Q Okay. So, if it's generally March or April,
25 somewhere around there, that that would have happened, and

1 then also it would have happened in October. So at least at
2 those point, it would have been manually set by somebody,
3 maybe not personally you?

4 A Yes, sir.

5 Q Thank you very much.

6 THE COURT: Anything further, Mr. Pike?

7 MR. PIKE: Nothing further, Your Honor.

8 THE WITNESS: Thank you.

9 THE COURT: Any questions by any of the jurors? No
10 questions. Thank you, sir, for your testimony.

11 THE WITNESS: Thank you, Judge.

12 THE COURT: You are excused.

13 Next witness for the State?

14 MR. DiGIACOMO: Detective Robert Griffin.

15 THE MARSHAL: Detective Griffin, if you will remain
16 standing. Please sir, raise your right hand and face the
17 clerk.

18 ROBERT GRIFFIN, STATE'S WITNESS, SWORN

19 THE MARSHAL: If you would, have a seat, sir. Slide
20 up to the microphone. Thank you. Will you please state and
21 spell your name for the record?

22 THE WITNESS: My name is Robert Griffin. And it's
23 spelled R-O-B-E-R-T. Griffin is G-R-I-F-F-I-N.

24 THE COURT: Go ahead, counsel.

25 DIRECT EXAMINATION

1 BY MR. DiGIACOMO:

2 Q Detective, how are you employed?

3 A I am a detective for th City of Henderson's police
4 department.

5 Q And how long have you been with the City of
6 Henderson?

7 A I've been with them about eight and a half years
8 now.

9 Q And how long have you been a detective?

10 A Almost five.

11 Q I'm going to direct your attention back to -- I
12 think the first time you had any interaction is maybe about
13 2009 in this particular case. Did you -- well, do you have
14 any specialized training and experience down in Henderson as
15 it relates to videotapes?

16 A That's correct.

17 Q Why don't you explain that to the ladies and
18 gentlemen of the jury?

19 A Okay. In our department, we have an Avid system.
20 It is a forensic tool that we use to retrieve video from a
21 crime scene or from a convenience store, and anything that
22 could be videotaped. We could take any type of video and
23 enhance it. Or if it's a multiplexed video, we're able to
24 demultiplex it so that it's visible to the naked eye.

25 If you try to watch a multiplex video on a normal

1 VCR, you wouldn't be able to see it, because it's just
2 flashing screen, after screen, after screen, after screen.
3 And it's -- you can't make sense of it unless you demultiplex
4 it. So, I was sent to a school to learn how to do that. And
5 I am the only detective for Henderson Police Department able
6 to run the machine.

7 Q Based upon that, in 2009, were you requested either
8 by the lead detective or my office to review some videotape
9 that was collected from an AM/PM at Charleston and Nellis here
10 in Clark County, Las Vegas, Nevada?

11 A Yes, I was.

12 MR. DiGIACOMO: And may I approach, Judge?

13 THE COURT: Yes.

14 BY MR. DiGIACOMO:

15 Q Eventually, did you demultiplex that particular
16 video, and drop it to a file?

17 A I did.

18 Q And have you testified previously in this case?

19 A Yes, I have.

20 Q I'm showing you what you testified --

21 MR. PIKE: Your Honor, it wasn't in this case, it
22 was in another case.

23 BY MR. DiGIACOMO:

24 Q Did you previously testify in the case of State of
25 Nevada vs. Jason McCarty?

1 A I did, yes.

2 Q Okay. And showing you what was marked in that case
3 as State's proposed Exhibit 270, but is marked for purposes of
4 this hearing as State's proposed Exhibit 245, does this appear
5 to be a copy of that particular video that you were able to
6 download from the AM/PM?

7 A Yes. I recognize my handwriting.

8 MR. DiGIACOMO: Move to admit 245, Judge.

9 MR. PIKE: No objection, Your Honor.

10 THE COURT: All right. 245 will be admitted.

11 (State's Exhibit 245 is admitted)

12 BY MR. DiGIACOMO:

13 Q Let's talk about 245. When you were -- put the
14 videotape in to the Avid system -- well, what exactly were you
15 asked to do?

16 A I was given a time frame to try to locate a specific
17 individual that was arriving. And they gave me some -- a
18 window of approximately when they may show up. I was given a
19 photo of an individual and a vehicle description as of a type
20 of vehicle that may show up, and to look through the video
21 painstakingly for hours to see if you could find that
22 individual and that car showing up.

23 Q And the car you were asked for, was it just a white
24 car? Was there a more specific description, do you recall?

25 A A white car, possibly a Honda. And it was going to

1 be pulling up to the gas station, probably to the pumps.

2 Q And the picture you were provided, was that of an
3 individual identified to you as Donny Herb?

4 A Yes.

5 Q And did you go through videotape number 17
6 essentially, and locate Mr. Herb at some point in time and the
7 white vehicle?

8 A Yes, I did.

9 Q And did you download that then to State's Exhibit
10 No. 245?

11 A I did, yes.

12 Q Now, when you put that particular videotape, or
13 those videotape in the Avid system, did the copy of the
14 videotape actually record the time stamp on the video?

15 A It does. The video, if played through the
16 proprietary machine or a multiplexer, will just -- will show
17 you the time and date stamp on it. If you play it in a normal
18 VCR, you won't see that information, because it doesn't have
19 the decoder ability to display the time and date.

20 Q And is that information that you're able to read
21 through the Avid system? Does that have a specific name on
22 the videotape?

23 A It does. It's called Metadata. And it appears --
24 if you play it in a normal VCR, you'll see -- the Metadata
25 across the top of the screen looks like a bar code or -- to

1 you and I, it means nothing. But the decoder can read it, and
2 it knows what time and what date that video was taken.

3 Q The Metadata on this particular case, did it tell
4 you the approximate time of the video that is on State's
5 Exhibit No. 245?

6 A I would prefer to look at my supplemental, but I
7 believe it was 1:40 approximately in the morning.

8 Q Okay. Do you have a document that would help you
9 refresh your recollection to make sure that's the right time?

10 A I do, yes.

11 Q Okay, go ahead.

12 A I apologize, I'm getting old. Yes, it was 1:40 in
13 the morning.

14 Q On what date?

15 A On the May 18th, 2006.

16 Q Okay.

17 MR. DiGIACOMO: And I apologize. Madam Clerk, I
18 guess I should have -- may I grab those videos back from you?

19 THE CLERK: Yes.

20 MR. DiGIACOMO: Yes.

21 THE CLERK: [Inaudible].

22 MR. DiGIACOMO: [Inaudible].

23 BY MR. DiGIACOMO:

24 Q I'm showing you what's been admitted as -- it
25 doesn't say in on here, but it's I believe 242-B. Do you

1 recognize that initial on that videotape?

2 A I do.

3 Q And whose initial is that?

4 A It's mine.

5 Q Okay. So you pulled that 1:40 a.m. off -- off this
6 number 17 tape?

7 A That's correct.

8 THE CLERK: It's 243.

9 MR. DiGIACOMO: 243. I apologize.

10 MR. DiGIACOMO: Judge, may I publish 245 [sic] for
11 the jury?

12 THE COURT: Yes.

13 MR. DiGIACOMO: And I have an agreement from counsel
14 because it runs better from the computer than it does off the
15 disk --

16 THE COURT: Okay.

17 MR. DiGIACOMO: -- too.

18 BY MR. DiGIACOMO:

19 Q And let me ask you a question so that if the ladies
20 and gentlemen want to use their computer that they have during
21 -- did you suggest to me that running the disk as opposed to
22 copying it to the desktop, it's easier to view from the
23 desktop?

24 A That's correct. When you're running a video,
25 especially a file of this size, it's better to copy it to a

1 hard disk because it will run smoother, than if you try to
2 play it off of a CD, just because the CD is slower than the
3 processor can read it. So it's better if you have it on the
4 hard drive.

5 Q And then no matter what it comes up on the computer
6 is there a particular program that you can use it and then
7 you're able to stop and then forward by frame?

8 A The Avid system allows us to create a video in Quick
9 Time format because that is the -- the best resolution that
10 you can get from a demultiplex video. So we use Quick Time.

11 Q So if the jury wants to look at it, they should copy
12 it to a desktop and run it -- open with Quick Time?

13 A That's correct.

14 Q Okay, now I'm just guessing that when you pop number
15 17 up, camera number 7 doesn't pop out on the Avid system.
16 Are there certain title pages that are throughout these
17 exhibits?

18 A Yeah, you'll see [inaudible] those, and that's just
19 something I put in there, just so we would know which camera
20 it came from in case we were trying to explain to someone what
21 camera it was from. So I put a title page in there for
22 several of these.

23 Q And so then we're looking at another camera angle;
24 is that correct?

25 A That's correct.

1 Q Does that appear to be the white car you were
2 looking for?

3 A Yes, that's the one I was looking for.

4 Q And then does that appear to be the individual who
5 was identified to you with a picture as Donny Herb that you
6 were looking for?

7 A Yes, sir.

8 Q And you ran another angle off another camera as
9 well; is that fair?

10 A Correct. Most businesses have multiple cameras,
11 multiple views. So whenever I work a case I try to get as
12 many that are pertinent to the case.

13 Q And then you talked about this before, but this kind
14 of bar code you see up here, that's the metadata where your
15 machine was able to tell you what the actual date and time was
16 on the video?

17 A Correct. If you were to play this same video
18 through the multiplexer it would read that bar code and
19 display a date and time. When we're digitizing or importing
20 this information into the Avid system, we have to play it on a
21 regular VCR, and that's why you see just a bar code there.

22 Q Now, in addition, back on -- in October of 2010, did
23 I make a request of you to look at a variety of videotapes
24 from the Royal Sportsman Manor?

25 A Yes, you did.

1 Q And did you and I sit down and go through a whole
2 bunch of these videotapes?

3 A Yes, we did.

4 Q And eventually did -- well, was an individual by the
5 name of Leonard Black, and Red, and Demarco, identified for
6 you, and did you drop some of those videos -- or some of those
7 items down to video for us?

8 A Yes, I did.

9 Q And did you make a large compilation for us?

10 A I did.

11 Q And I think this one's 242.

12 MR. DiGIACOMO: Is that correct, Madam Clerk?

13 THE CLERK: Yes.

14 MR. DiGIACOMO: Okay.

15 BY MR. DiGIACOMO:

16 Q I'm going to show you what's been marked as State's
17 proposed Exhibits 242-A through F and ask you if these are the
18 videotapes that you kind of went through.

19 A Yes, those are the one.

20 Q And eventually did you make a compilation of events
21 that happened, well, between 3:15 maybe, and 4:15 in the
22 morning?

23 A Yes.

24 Q On May 18th of 2006.

25 A Yeah, that's correct.

1 Q Showing you what's been marked for purposes of this
2 trial as State's proposed Exhibit 244, but I think you
3 identified in the prior trial as 269, does that appear to be
4 the compilation on a disk?

5 A Yes, that's the one.

6 MR. DiGIACOMO: Move to admit 244.

7 MR. PIKE: No objection, Your Honor.

8 THE COURT: All right. It will be admitted

9 (State's Exhibit 244 is admitted)

10 MR. DiGIACOMO: Judge, may I publish as well?

11 THE COURT: Yes.

12 MR. DiGIACOMO: And once again, we're going to do it
13 from the desktop.

14 THE COURT: All right.

15 (State's Exhibit 244, video, playing)

16 BY MR. DiGIACOMO:

17 Q Were those the three individuals that were
18 identified to you that you were asked to capture and then kind
19 of follow throughout the night inside the bar?

20 A That's correct.

21 Q And then for brevity's sake, I'm guessing this is
22 self explanatory, but you jump forward 30 minutes?

23 A Correct. There was no activity at the door so no
24 sense of putting it in the video.

25 Q At some point was this woman identified to you as

1 Nicolin Broderway?

2 A Yes.

3 Q I'm guessing that meanwhile outside in the parking
4 lot, it's somewhat self explanatory, but then that was the
5 camera angle through the front door of -- from the bar through
6 the front door, is that correct, that we just watched?

7 A Correct.

8 Q And now we're going to watch a sequence that's
9 outside the bar. And I'm going to have to try and stop this
10 and catch the frame, but then we can always go back.

11 A Yes.

12 Q Let me back this up. If you use the arrow keys you
13 can move it frame by frame?

14 A Correct.

15 Q Okay. I'm going to back it up just a little bit.

16 MR. DiGIACOMO: For the record, we're at 4:12:46.
17 There appears to be various people outside the front of the
18 bar.

19 THE WITNESS: That's correct.

20 BY MR. DiGIACOMO:

21 Q Yeah. And -- I guess I can't do this with my -- my
22 finger so it won't mark the screen, but maybe you can mark the
23 screen generally where the front door of that bar is.

24 A The front -- you'll see the main entrance is right
25 here. And this is the entryway to walk into the bar. And

1 then the sidewalk goes along the front of the -- the business.

2 Q And this frame at 4:13 even appears to be down there
3 in front of that light color car, I can't tell what color it
4 is, but that light color car there appears to be two
5 individuals that begin running and the rear individual appears
6 to be Leonard Black after he exits that front door?

7 A It appears to be, yes.

8 Q And I'm just going to run it forward. And from this
9 point forward, whatever happens, happens off camera?

10 A Correct.

11 Q And there was a search of the various cameras and
12 couldn't find anymore activity where you could actually get a
13 camera view; is that correct?

14 A That's correct. They have numerous cameras, but
15 only one that faced the parking lot.

16 Q Now, you said you've been a police officer -- oh let
17 me let this finish running out.

18 I'm going to stop it here. It's about 4:16 on the
19 videotape, at least, on May 18th of 2006.

20 You said you've been a police officer for a number
21 of years now; is that correct?

22 A That's correct.

23 Q At the Henderson Police Department, do you utilize
24 something that's known as an event number?

25 A We do, yes.

1 Q And what does that mean?

2 A Well, an event number is -- is a way that we would
3 track a particular police incident or a call for service.

4 Q And are those at Henderson created in sequential
5 numbers?

6 A They are, yes.

7 Q And in Henderson is it by year?

8 A Correct.

9 Q And so your first event of the year is -- if it was
10 2012, is 12 dash and then 0001, or whatever it is?

11 A It's typically a five digit number following the
12 year.

13 Q And you could rotate all the way up to 12, 15,000 --

14 A Correct.

15 Q -- in a given year?

16 A Yes.

17 Q Well, the Las Vegas Metropolitan Police Department
18 are you aware they use a slightly different number system, but
19 the same general idea?

20 A Yes, they use a different system but the same idea.

21 Q And at the Henderson Police Department when your
22 number is generated it also generates a time stamp as to the
23 Henderson clock as to what time that eventual event was
24 generated?

25 A Correct.

1 Q And Metro should utilize a similar system as well?

2 A I believe they do.

3 MR. DiGIACOMO: Judge, I have in my hand what's been
4 marked as State's proposed Exhibit 226, which is a certified
5 copy of a -- I think what we call a CAD, but a communication
6 center event search. It has been stipulated to its
7 admissibility -- so we do not have to call the custodian -- by
8 Mr. Pike, and I would offer it at this time.

9 MR. PIKE: That is correct, Your Honor.

10 THE COURT: All right. It will be admitted.

11 (State's Exhibit No. 226 is admitted)

12 MR. DiGIACOMO: Madam Clerk, can you put me on the
13 overhead?

14 BY MR. DiGIACOMO:

15 Q I'm going to back out and show you State's Exhibit
16 226. And I don't -- I guess I've never asked you this. Have
17 you ever seen the Henderson -- I mean, a Metro CAD before?

18 A First time.

19 Q Okay, good. Then you're just reading things just
20 like the jury is.

21 I'm going to zoom in here and show you that it's an
22 LVMPD communication event center event search. And it shows
23 LLV060518 dash -- well 000437, but do that appear to be the
24 437th event on May 18th of 2006?

25 A That's correct.

1 Q And it shows the location is the Sportsman's Manor,
2 5600 Boulder Highway, correct?

3 A Correct.

4 Q It indicates that the initiation of this event
5 occurred at 4:00 a.m. and the close of it, according to their
6 clock, was at 4:24 a.m., correct?

7 A That's correct.

8 MR. PIKE: Your Honor, and it's been stipulated into
9 admission. He's never seen it, doesn't know what it is. It
10 speaks for itself. And I think that Mr. DiGiacomo has used
11 him to identify the time, where the call goes, and the rest of
12 that. But really Mr. DiGiacomo is testifying and he's just
13 agreeing. It speaks --

14 MR. DiGIACOMO: I could have him --

15 MR. PIKE: -- for itself.

16 MR. DiGIACOMO: I apologize, but I could have him
17 read the entire exhibit into evidence. This is for the jury's
18 edification. I would've had the custodian of records do the
19 exact same thing, which is just identify certain information
20 for the jury. And there's nothing improper about that since
21 it's an admitted exhibit.

22 MR. PIKE: It's -- but again he does -- we've
23 stipulated to it. It's a certified copy. If this officer is
24 reading in something that he has no personal knowledge of, has
25 never seen before, and he can't publish it to the jury. We

1 can publish it to the jury, and they can read it if they have
2 questions they think this witness can answer.

3 But it speaks for itself. It says the event time,
4 when it starts, what the call was and when it ended.

5 MR. DiGIACOMO: I'll be happy to read the entire --

6 THE COURT: Mr. DiGiacomo?

7 MR. DiGIACOMO: -- thing to the jury.

8 THE COURT: I'm sorry?

9 MR. PIKE: Well, I --

10 MR. DiGIACOMO: I mean, if he wants me to I will
11 read it into the record. But, you know, there's -- it's an
12 exhibit. Any witness who can read, can read that exhibit to
13 the jury. There's no other foundational requirement now that
14 it's admitted.

15 MR. PIKE: Right. But Mr. DiGiacomo can't be a
16 witness in the case.

17 MR. DiGIACOMO: And that's why Detective Griffin is
18 being forced to read.

19 MR. PIKE: And we've stipulated to its admission.
20 If there is something that is unusual that he thinks it needs
21 to be clarified for the jury we can do that. But to just go
22 in and read it in, I think it would be improper. And I'm not
23 trying to be objurgate about the whole thing, but it's just --
24 I don't think it's proper.

25 THE COURT: And this is a Metro --

1 MR. PIKE: This is a Metro record.

2 THE COURT: -- Metro -- is there a Metro officer?
3 Because there's certain abbreviations here and I don't know if
4 Detective Griffin is familiar with the Metro abbreviations.

5 MR. DiGIACOMO: We'll find out when I get to him.
6 If he says that he's not. But it's a Henderson case. I
7 thought this -- the whole point of the stipulation was not to
8 force the custodian of records to come in here to say --

9 MR. PIKE: That's --

10 MR. DiGIACOMO: -- this is, in fact, what it is.

11 THE COURT: Would counsel approach?

12 MR. PIKE: That's true. That's true.

13 (Bench conference)

14 MR. DiGIACOMO: Is there something in there you
15 don't like, or --

16 MR. PIKE: No.

17 MR. DiGIACOMO: -- you just don't like the fact that
18 I'm putting this in?

19 MR. PIKE: The [inaudible] that you're reading it.
20 If it -- you know, it really comes down to [inaudible] subject
21 is down. And he can say that's what those things mean, this
22 is the meaning, this is the end time.

23 THE COURT: Um-hum.

24 MR. PIKE: But there's so much -- I just, you know,
25 let's just stick to the [inaudible].

1 MR. DiGIACOMO: Well, I'm just -- I'm just going
2 through the -- but the only thing I'm going to get into is,
3 just for the record, what it says in those various things and
4 I'm going to ask him as a detective do, you know -- you know,
5 [inaudible] which is --

6 THE COURT: You want him -- you want the detective
7 to read? I mean, you can have Mr. DiGiacomo like point --

8 MR. PIKE: [Inaudible] if --

9 MR. DiGIACOMO: [Inaudible].

10 MR. PIKE: I know. And he was trying to make a
11 stipulation --

12 MR. DiGIACOMO: Yeah.

13 MR. PIKE: -- [inaudible] so.

14 MR. DiGIACOMO: It's your last witness if you want,
15 so.

16 MR. PIKE: If [inaudible] to him saying that he's
17 down, they respond, they -- they go [inaudible] nobody wants
18 to give a report, then that's fine. If he's just going to do
19 that, then he can just [inaudible] that and that's good.

20 MR. DiGIACOMO: Okay.

21 THE COURT: Okay.

22 MR. DiGIACOMO: Thank you, Judge.

23 (End of bench conference)

24 MR. PIKE: Thank you, Your Honor. Pursuant to our
25 conversation at the Bench, I think we've stipulated to the

1 extent of the examination at this time.

2 MR. DiGIACOMO: Correct.

3 BY MR. DiGIACOMO:

4 Q So it shows that at 4:00 o'clock in the morning the
5 subject is down north end by bar and requests medical,
6 correct?

7 A Correct.

8 Q Do you know what a 416 is?

9 A 416 is a 400 code that means a fight.

10 Q A fight?

11 A A fight, yes.

12 Q So that's kind of police lingo?

13 A Yeah, correct.

14 Q And then it shows that at 4:19, MedicWest responded
15 and provided something for head. Do you know what CE is
16 for --

17 A I'm not familiar with CE.

18 Q Okay. And then 4:24 is, subject beat up by three
19 unknown males. Refused. Report taken. Should provide no
20 further info.

21 A Correct.

22 Q Correct?

23 A Correct.

24 MR. DiGIACOMO: We'll pass the witness, Judge.

25 THE COURT: All right. Mr. Pike?

CROSS-EXAMINATION

1
2 BY MR. PIKE:

3 Q Good morning.

4 A Good morning.

5 Q Let me go through a couple of things here.

6 MR. PIKE: Madam Clerk, could I have the envelope
7 for the -- both of the videotapes?

8 May I approach the witness, Your Honor?

9 THE COURT: Yes.

10 BY MR. PIKE:

11 Q Do you recognize what has been admitted into
12 evidence which is State's Exhibit 243, and 242?

13 A Yes, sir.

14 Q And what are these things?

15 A Those are packaging that we would normally use to
16 book in evidence.

17 Q Okay. And you book an item into evidence so that
18 it's preserved, so that you can tell whether or not anybody
19 has looked at it?

20 A That's correct. And it also has a chain of custody
21 on there.

22 Q And if anybody wants to look at a piece of evidence,
23 or process it, or do anything to examine that piece of
24 evidence, they pull it out, they open it, and then they seal
25 it. And I think -- or if I can describe this for the record

1 that this has a number of different color of tapes on it
2 indicating the different times that it's been opened?

3 A Correct.

4 Q So this -- and if we're looking at Exhibit 242 --
5 let me see if I can flatten this down now -- would show the
6 date that it was impounded?

7 A Correct.

8 Q And what date was it impounded?

9 A It shows 5/20 of 2006.

10 Q That's located in the upper left hand corner of the
11 front of that. Would that be a fair statement?

12 A Yes, sir.

13 Q Well, going down, then we show on the chain of
14 custody the next time that this was ever looked at was on --
15 well, let me see, I'm sorry. I'm trying to hold it flat and
16 move everything. Was not until November of 2007. Is that
17 correct?

18 A That's correct.

19 Q So for that period of time, for about a year and a
20 half nobody looked at this, nobody processed it, nobody did
21 anything with it and it just sat in this bag?

22 A I'm a little confused, because I look at a date
23 below it and it seems to be an earlier date.

24 Q Okay, well --

25 A 5/6 of '07.

1 Q -- that would be strange that somebody didn't put
2 the -- the first day that it was opened on the top line.

3 A Yeah. So, I mean, I guess if I had to answer my
4 question, I would say there is an earlier date on there. But
5 I -- it wasn't mine, or my handwriting, so I can't testify to
6 that.

7 Q All right. About a year later then --

8 A Yeah.

9 Q -- apparently somebody pulled it out, it looks like
10 Collins. But he's not trained on breaking down the video, is
11 he?

12 A No, sir.

13 Q And similarly, State's Exhibit 243, this also
14 appears to be -- it has a different label on it, but -- and
15 that's typed in -- on 5/20/06?

16 A Correct.

17 Q And we can identify it to this incident, because of
18 the "DR" number, which Mr. DiGiacomo described?

19 A Yeah, he called it an event number, but it's the
20 same thing, yes.

21 Q Okay. What's the difference between -- what does
22 "DR" mean?

23 A That's a very good question. No one's ever asked me
24 that before. We call it a "DR" just because that's what they
25 call it, and I don't know what it stands for to be honest with

1 you. Something report, perhaps.

2 Q Okay. I hit something. I don't know what I hit.
3 There we go.

4 And again, you can also identify it because they
5 also put the location and the individuals that are involved
6 and suspects at that time?

7 A Correct.

8 Q And going down to this one, which was impounded,
9 State's Exhibit 243, which was also impounded on 5/20/06, it
10 appears that again, this was not reviewed until 5/16/07?

11 A Correct.

12 Q And it was pulled out a number of different times
13 based upon the chain of custody throughout 2007, 2009. And
14 where did you check it out?

15 A I don't -- can I see the entire label? I can't -- I
16 can only see it --

17 Q Actually, well, why don't you --

18 A -- I can see part of it.

19 Q -- let me bring it right to you.

20 A Okay.

21 Q Okay? Thank you. That would probably be easier
22 instead of me trying to hold it down.

23 A Okay. All right. On the chain of custody it has me
24 checking it out on October 9th of 2009.

25 Q And so that was -- you checked it out in 2009, and

1 then you didn't go through and review it until 2010; is that
2 my understanding?

3 A Well, the video was looked at several times. And
4 checking it out and then reviewing it are two separate
5 instances. In other words, if I can educate the jury, once I
6 get the video, I can pull it out. And what we -- do we -- we
7 call digitizing, basically I am recording what's on the VHS
8 onto a hard drive, so then I can access it anytime I want.

9 So once I've digitized the video, I then put the
10 tapes back into evidence. And then I have a digital copy on
11 my forensic machine that I could look at anytime I need to.

12 Q So you could -- you could've just done that once and
13 pulled it out, put it on your -- your drive and it never
14 would've needed to be checked out by anybody again.

15 A Correct.

16 Q Okay.

17 A Most other officers don't have --

18 Q And you're --

19 A -- the training that I have though, so they don't --
20 they're not aware of that.

21 Q Okay. So you don't have any internal education as
22 far as how to handle these videotapes, or how to properly view
23 them, or to properly -- I'm getting into a compound question.
24 Pardon me.

25 You're the only one at the Henderson Police

1 Department that has the training in order to break these
2 videos down?

3 A Correct.

4 Q And so anytime that there is work to be done on --
5 on a video like this, it should be given to you, so that you
6 can download it on your computer, and then you can do whatever
7 the lead detective or the District Attorney asks you to do?

8 A Correct.

9 Q And sometimes you even get requests that come from
10 defense counsel through the DA and then you'll do that?

11 A Correct.

12 Q Okay. In this case you were then asked to break
13 down specific areas?

14 A Yes, sir.

15 Q And you were -- and the areas that you had to break
16 down, you could only break those down based upon the videos
17 that were given to you; isn't that correct?

18 A That's correct.

19 Q You didn't do anything on this case until 2009?

20 A That's correct.

21 Q When did you receive your training on how to break
22 down the videos?

23 A 2008.

24 Q When did you start with the Henderson Police
25 Department?

1 A In 2003.

2 Q Okay. Between 2005, and the time that you did this
3 training, there was nobody at the Henderson Police Department
4 that had the training necessary to do this?

5 A There were previous detectives who knew how to use
6 the Avid system and -- but they don't do it any longer. And
7 some of them no longer work for the PD.

8 Q And that's police department, not public defenders?

9 A Correct, yes.

10 Q Now, breaking -- breaking that down, so there -- the
11 capacity -- or there was somebody that was -- had the capacity
12 to do that in 2005 and 2006?

13 A Yes, sir.

14 Q And because of the nature of the breaking down of
15 the videos and the fact that it skips, I guess, about two
16 seconds and three seconds at different times, it's better for
17 you, doing your investigation, to have a target date, or a
18 target individual that you're looking for?

19 A That's correct.

20 Q Because to look through all the videos that were
21 over at the Sportsman's Manor, you had to spend hours?

22 A That's true.

23 Q And you spent time -- and in order to do that you
24 had to familiarize yourself with the cameras and where the
25 cameras were located and what they were showing?

1 A That's correct.

2 Q According to the testimony that we've had there were
3 16 available camera locations on that system --

4 A That's --

5 Q -- is that correct?

6 A That's correct.

7 Q I'm going to show you what's been admitted as
8 Defense Exhibit No. -- let me zoom this out.

9 Did you ever go to the Sportsman's Manor so that you
10 could familiarize yourself with the locations of the cameras
11 and what you were looking at?

12 A I've been there numerous times. It's a hot spot for
13 police activity, unfortunately. So I've been there a few
14 times, so I'm somewhat familiar with it. But as far as
15 walking through and looking at cameras, I didn't do that.

16 Q But you know that there was a camera that was
17 looking out -- and I'm kind of pointing to where this "T" is
18 at. Do you see where that's at?

19 A I see it.

20 MR. DiGIACOMO: Well, that assumes --

21 THE WITNESS: I'm not familiar with the diagram --

22 MR. DiGIACOMO: -- facts not in evidence.

23 THE WITNESS: -- but.

24 THE COURT: Well, there's numerous "T's."

25 MR. PIKE: Okay. I'm --

1 THE COURT: Which -- are you talking about building
2 T, or?

3 MR. PIKE: -- sorry. I had a point. Okay.

4 BY MR. PIKE:

5 Q There was a video camera. One of the cameras that
6 you were looking at, or that you put onto your compilation
7 looked out over towards the door, the entry to the Sportsman
8 pub and video poker area.

9 A That's correct.

10 Q And I think -- and correct me if I'm wrong -- but I
11 thought that it looked out over from that area, over towards
12 the gas pumps and the -- the video --

13 MR. DiGIACOMO: Objection, assumes a fact not in
14 evidence.

15 BY MR. PIKE:

16 Q What direction -- where -- from --

17 THE COURT: There you go.

18 BY MR. PIKE:

19 Q From your vantage point, where do you believe that
20 camera was located?

21 A I believe it was on the exterior of the building and
22 it was facing, like from that "T" that you -- like I guess
23 from in this --

24 Q Can you must mark it?

25 A In this area --

1 Q Touch the screen.

2 A -- well not there, but a little --

3 Q Around --

4 A -- it's missing -- representing where I'm touching,
5 but in that area facing in that direction.

6 Q Okay.

7 A Somewhere off the corner of the building probably.

8 Q And it was a lighted area so that the camera was
9 able to pick it up in the early morning hours?

10 A Correct.

11 Q Were you able to identify based upon your
12 observation of all the different location -- or excuse me, all
13 the different videos, where the cameras were located at the
14 Sportsman's Royal Manor?

15 A There were -- there were 16 different cameras. And
16 I --

17 Q Okay.

18 A -- I believe the 15 other were internal, inside the
19 -- inside the building.

20 Q So there was only one exterior camera?

21 A I believe there -- I don't want to give you false
22 information. I remember --

23 Q If you can't remember --

24 A -- specifically --

25 Q -- just say, "I can't remember."

1 A I don't remember. I thought there may have been
2 another one on the back door but I don't recall for sure.

3 Q And you weren't assigned to this case so you didn't
4 go -- you were never asked to go in and collect any of the
5 videos that you reviewed. You just were chosen to go in and
6 process them?

7 A That's correct.

8 Q As part of your training do you also do any computer
9 analysis of cell phones?

10 A No, sir.

11 Q You do strictly video?

12 A Strictly video.

13 Q And the videos that you're given they -- you
14 indicated that they had some time stamps on them; is that
15 correct?

16 A That's correct.

17 Q You didn't have any advance notice of whether or not
18 those were properly calibrated so you can't assume any
19 responsibility for the accuracy of the times on those
20 locations?

21 A No, I cannot.

22 Q You can generally try and compare them with
23 something else that may coordinate with that, such as the
24 police report, but you don't know whether or not that was an
25 accurate time stamp or not?

1 A That's correct.

2 Q In going through the surveillance at the -- at that
3 location, the tape you had only began at what time on the
4 18th?

5 A Well, typically the stores, or the businesses
6 require a -- have a 24 hour loop. So it was a 24 hour tape.
7 And depending on when they change it, I didn't examine the
8 entire tape. I picked a window of five and a half hours and I
9 looked at that window from midnight on the 17th until 5:30 in
10 the morning on the 18th.

11 Q Did that -- the videotapes that you have at that
12 time, did you have any that went back to the 16th? Or how far
13 early to that time did those tapes go?

14 A Well, there were several tapes. So there were days
15 prior, I suppose.

16 Q You weren't asked to look for an individual by the
17 -- you were asked to look for Leonard Black?

18 A Excuse me.

19 Q Okay. Go ahead and get some water right there.

20 A I choked.

21 Q Go ahead. Take your time.

22 A I was asked to look for a young lady identified to
23 me only as "Red" in the beginning. I did not know her real
24 name. I was given a description of her. And some gentleman
25 that may be entering the business with her and a clothing

1 description. But I didn't know anyone's names or who they
2 were. I was just looking for individuals at a certain -- and
3 how they looked and what they were wearing.

4 Q And so you were looking for a female with two
5 African Americans?

6 A Correct.

7 Q And that was the information that was provided to
8 you, that's what you were looking for?

9 A Yes, sir.

10 Q You weren't looking for Domonic Malone?

11 A No.

12 Q You weren't looking for Donald Herb?

13 A No.

14 Q Not in that video. Did you process the AM/PM video?

15 A Yes, sir, I did.

16 Q And in that video were you given a name of a person
17 you were looking for?

18 A Yes, sir.

19 Q And that was Donald Herb?

20 A Correct. I was given a photo and his name.

21 Q Were you ever given a videoplex of a 76 Station or
22 any other gas station in this case?

23 A No, sir.

24 Q So you were never asked to look for Mr. Herb at
25 another location purchasing items, or to look for Mr. McCarty

1 in another location?

2 A No, sir.

3 Q You've indicated that you have had kind of, I guess,
4 the unpleasant experience of going over to the Sportsman's a
5 number of different times?

6 A Yes, sir.

7 Q Is there a coordinated effort with the Henderson
8 Police Department and the Las Vegas Metropolitan Police
9 Department to have an enhanced police involvement at that
10 location?

11 A I guess the short answer would be, no. We go there
12 when we're called to go there, or when an incident occurs.

13 Q There isn't any cross agreement that you're aware of
14 where Henderson police can go in and just kind of cruise the
15 parking lot to make sure that things are safe?

16 A Well, it's outside our jurisdiction, so typically we
17 don't do that.

18 Q How far out does the -- how close to this area does
19 the Henderson jurisdiction go? Is Henderson incorporated
20 Pittman?

21 A It is. It is. It's -- the border's jagged, so it's
22 kind of hard to -- to tell you. But basically from Boulder
23 and Russell and beyond, it's Las Vegas, and prior to that it
24 -- or south of that it's Henderson.

25 Q And this is at Tropicana, so Russell is not that far

1 away?

2 A Not far away, correct.

3 Q As part of your -- and right now you are a
4 detective, right?

5 A Correct.

6 Q And you have specific training as a detective, you
7 can -- you have been trained in investigation techniques?

8 A Yes, sir.

9 Q And what's your area of -- I guess your speciality,
10 or your area of expertise is breaking down these videos?

11 A It's an area of expertise that I have. It's not the
12 only job that I do. I have many other tasks that I do.

13 Q Are you assigned to a specific department?

14 A I am. Yes, sir.

15 Q Which department is that?

16 A I'm in the repeat offender unit.

17 Q So as part of the repeat offender unit, you are
18 familiar with reaching out to other jurisdictions such as
19 Henderson, Boulder City and North Las Vegas, to get reports
20 from other police agencies?

21 A That's correct.

22 Q And you can -- do you have access to an LRMS system?

23 A I do.

24 Q And what is that?

25 A RMS's are records management system that we use to

1 keep all our reports for any particular case. Now, I have
2 access to Henderson, but I don't have access to Metro's RMS.

3 THE COURT: Excuse me, Mr. Pike. I do not want to
4 rush you on your cross, but we do need to break for lunch at
5 this time. All right? I mean, do you have a few more
6 questions?

7 MR. PIKE: I've got just --

8 THE COURT: Again, I don't want to rush you. I want
9 you to be thorough. But --

10 MR. PIKE: I appreciate that, Your Honor. And I've
11 just got one or two more questions.

12 THE COURT: Okay.

13 BY MR. PIKE:

14 Q And so you can -- and similar to that report, you
15 can request reports from any other jurisdiction and from a
16 fellow detective?

17 A Yes.

18 Q And because you were not specifically assigned to or
19 associated with this investigation you looked for the times
20 and the individuals that were given to you, or identified to
21 you by other detectives?

22 A That's correct.

23 Q All right. Thank you much, detective.

24 MR. PIKE: I have no further questions.

25 MR. DiGIACOMO: Judge, may I just ask one or two

1 questions?

2 THE COURT: All right.

3 MR. DiGIACOMO: I'll be real quick.

4 THE COURT: Okay. No, if you need more time, I
5 don't want to rush you.

6 MR. DiGIACOMO: No, I'm really going to be that
7 quick.

8 THE COURT: Okay.

9 REDIRECT EXAMINATION

10 BY MR. DiGIACOMO:

11 Q Detective, showing you Defense Exhibit No. C, if I
12 represent to you that there's been prior testimony that this
13 is the bar area here, is it your belief that the camera is on
14 that corner facing out towards the front entrance at the bar?

15 A That's correct.

16 Q The only other thing is --

17 MR. DiGIACOMO: Where did our evidence bags go?
18 These are 242, or 240 --

19 BY MR. DiGIACOMO:

20 Q There will be other people that testify to this, but
21 I just want to make sure that we're clear. I think there
22 might have been a representation -- well, maybe we should've
23 gone with the other one because it's easier to read.

24 But May 20th, 2006, charge, homicide. That's the
25 date of the event that created DR06-11513, correct?

1 A Correct.

2 Q Okay. Particularly, since what's impounded in here
3 is stuff that wasn't even created until May 23rd of 2006,
4 correct?

5 A Correct.

6 Q And then the individual dates on here, when they're
7 signed in, there's a variety of different dates when they're
8 signed in and out of evidence, correct?

9 A Correct.

10 Q Is it unusual in an investigation, particularly
11 where there's multiple defendants, to pull items of evidence
12 out, like the videotapes, copy them so that they have a copy,
13 and the State has a copy, the defense -- the other defendants
14 have copies, as well?

15 A It's quite normal.

16 Q And while you're the only guy at Henderson who can
17 use the Avid system and create nice pretty videos for the
18 ladies and gentlemen of the jury, there's nothing that
19 prevents somebody painstakingly sitting with a VCR and going
20 frame by frame and looking at each frame on the videotape,
21 correct?

22 A They can view it that way, yes.

23 Q And so merely because you didn't make the pretty
24 little videos until 2009 and 2010, doesn't mean that they
25 weren't looked at for the previous five years?

1 A That's correct.

2 MR. DiGIACOMO: I have nothing further.

3 THE COURT: Anything further, Mr. Pike? I can -- do
4 we need to come back after the lunch break?

5 MR. PIKE: No, I have one question.

6 THE COURT: Okay.

7 MR. PIKE: Thanks.

8 RECROSS-EXAMINATION

9 BY MR. PIKE:

10 Q And the videos didn't have the breaks saying,
11 "Meanwhile, out in the parking lot," that was something you
12 added?

13 A That's correct.

14 Q So you could give some context to that, correct?

15 A I'm not understanding your question.

16 Q You just prepared that for purposes of testifying in
17 this case so it would context to the jury?

18 A Yes, sir.

19 Q All right.

20 MR. PIKE: Thank you.

21 THE COURT: Any questions by any of the jurors? We
22 do have a question. Counsel, approach.

23 (Pause in the proceedings)

24 (Bench conference)

25 THE COURT: Is this -- they're just asking him to

1 enhance it better. He can't see very good.

2 MR. PIKE: That's fine.

3 MR. DiGIACOMO: You can ask him that.

4 THE COURT: All right.

5 (End of bench conference)

6 THE COURT: All right. Detective, we have a
7 question from one of our jurors.

8 "It's hard to see the individuals on the tape. Is
9 there any way to enhance the video?"

10 THE WITNESS: The short answer is, yes. There's
11 certain filters that we can apply to try and clean it up,
12 specifically, if we're looking for facial features and stuff
13 like that. But it depends on the quality of the image,
14 because as you know, if you were to take a photo and zoom in
15 sometimes it'll pixilate and turn to mush.

16 So depending on the -- the actual quality of the
17 image we can, in some cases, enhance the video if they're
18 static and they're not moving. If they're moving it really
19 complicates things.

20 THE COURT: Anything further by the State?

21 MR. DiGIACOMO: No.

22 THE COURT: Defense?

23 MR. PIKE: No, Your Honor.

24 THE COURT: Any further questions by the jurors?

25 No other questions. Ladies and gentlemen, we're

1 going to come back at 1:30.

2 During this lunch recess, it is your duty not to
3 talk or converse amongst yourselves or with anyone else on any
4 subject connected with this case, or to read, watch, or listen
5 to any report of or commentary on the trial, by any person
6 connected with the trial, or by any medium of information,
7 including without limitation, newspapers, television, radio or
8 the Internet. You're not to form or express an opinion on any
9 subject connected with this case until this matter is
10 submitted to you.

11 We'll see you back at 1:30.

12 (Court recessed at 12:08 p.m. until 1:41 p.m.)

13 (In the presence of the jury)

14 THE COURT: All right. State, please call your next
15 witness.

16 MR. DiGIACOMO: Patrick Farrell.

17 PATRICK FARRELL, STATE'S WITNESS, SWORN

18 THE MARSHAL: If you would have a seat, please.

19 Slide up to the microphone. If you would, please, state and
20 spell your name for the record.

21 THE WITNESS: My name is Patrick Farrell,
22 F-A-R-R-E-L-L.

23 THE COURT: Go ahead, Counsel.

24 MR. DiGIACOMO: Thank you.

25 DIRECT EXAMINATION

1 BY MR. DIGIACOMO:

2 Q Sir, how are you employed?

3 A I am a Crime Scene Analyst II with the Henderson
4 Police Department.

5 Q I kind of heard what a Crime Scene Analyst II is,
6 but can you just generally describe what your job
7 responsibilities are.

8 A We investigate and document crime scenes, collect
9 and process physical evidence and prepare written reports.

10 Q Now, how long have you been a crime scene analyst
11 for Henderson?

12 A Since November of 2004.

13 Q In 2006, and specifically in June of 2006, were you
14 assigned the processing of a green Oldsmobile Alero at the
15 Henderson impound lot?

16 A Yes. It was actually at our station in our
17 Criminalistics garage, not the impound lot.

18 Q Okay. So you actually took it down -- or it was
19 brought down to the Criminalistics garage itself?

20 A Correct.

21 Q And how long did it take you to process this
22 particular vehicle?

23 A I was with it for almost eight hours.

24 Q And generally describe what you do when you process
25 a vehicle.

1 A We photograph it, we'll search it for any potential
2 evidence, and then, depending on the circumstances, we can
3 process it for fingerprints, collect trace evidence, collect
4 swabs.

5 Q You indicated that you photographed it. And during
6 the course of -- do you do first an overall photograph of the
7 vehicle, and then eventually as you go through the processing
8 do you also photograph to --

9 A Yes.

10 Q -- document some of the processing?

11 A Yes, we do.

12 MR. DiGIACOMO: May I approach, Judge.

13 THE COURT: Yes.

14 BY MR. DiGIACOMO:

15 Q I'm showing you what's been marked as -- for
16 purposes of identification is State's Proposed Exhibits 68
17 through 106 and ask you do you recognize those.

18 A Yes. These are the photographs that I took of the
19 vehicle.

20 MR. DiGIACOMO: Move to admit 68 through 106.

21 MR. PIKE: Are they all of the same vehicle?

22 MR. DiGIACOMO: Yes.

23 MR. PIKE: No objection.

24 THE COURT: All right. They'll be admitted.

25 (State's Exhibits 68 through 106 admitted)

1 BY MR. DiGIACOMO:

2 Q And I'm not going to go through all 68 of these, but
3 maybe I'll put one or two up while we talk about kind of what
4 you did.

5 A Okay.

6 Q For purposes of identification anyways 68, that's
7 the -- whoa, really close up -- showing you State's Exhibit
8 68, that's the green Oldsmobile Alero that you processed?

9 A Correct.

10 Q When you photographed it did you also open the trunk
11 to see what was inside the trunk?

12 A Yes, we did.

13 Q Showing you State's Exhibit Number 75, were all
14 those items in the trunk when you found them?

15 A Yes, they were.

16 Q Did you go through all those items?

17 A Yes.

18 Q And did you find anything that appeared to be of
19 evidentiary value?

20 A No.

21 Q Inside the vehicle did you find a wallet?

22 A Yes, I did, in the center.

23 Q And did that wallet have certain identification and
24 other information in it?

25 A Yes, it did.

1 Q State's Exhibit Number 78. Was the identification
2 of Jason McCarty in that wallet, as well as the other items
3 that have his name on it?

4 A Yes.

5 Q In addition to the items -- other items that had his
6 name on it, inside there --

7 MR. DiGIACOMO: State's Exhibit 80, Counsel.

8 BY MR. DiGIACOMO:

9 Q -- was there a room receipt for Room Number 29 at
10 the Oasis Motel that looks like for 5/16 to 5/17?

11 A Yes, there was.

12 Q And that was -- where was that located?

13 A That was folded in the wallet.

14 Q So it was folded up inside that wallet?

15 A Correct.

16 Q Did you also take photographs of the tires of this
17 vehicle?

18 A Yes.

19 Q And why did you take photographs of the tires of the
20 vehicle?

21 A For a potential comparison at a later time.

22 Q State's Exhibit Number 84, there's a ruler included
23 in that photograph. Why is the ruler included?

24 A In this case the ruler's there for the track width.
25 There are also other photographs that we take with a smaller

1 scale for comparison purposes.

2 Q Okay. And you photographed these you said for a
3 later comparison so that if there is something found at some
4 scene that may be relevant, a comparison --

5 A Correct.

6 Q -- can be conducted?

7 Now, in addition to kind of some of the physical
8 items that you took out of the vehicle, and I guess maybe
9 we'll go through some of those later, do you do any forensic
10 processing of the vehicle, either testing substances, tape
11 lifts or anything like that?

12 A Yes. We -- I did fingerprinting. I tested several
13 areas that we located in the vehicle. And we collected swabs
14 and tape lifts.

15 Q So let's talk about the areas that you processed.
16 Describe for the ladies and gentlemen of the jury what a tape
17 lift is.

18 A A tape lift in this case, when we were doing it
19 then, was basically strips of tape. And we would rub it on
20 the -- or put it down on the seats and/or the floorboards, and
21 it would collect any potential trace evidence in that
22 location.

23 Q So whatever loose debris it was would be pulled up
24 with the tape hopefully?

25 A Correct.

1 Q So let's go through kind of the tape lifts. Did you
2 take a tape lift from the driver's-side -- I guess the front
3 driver's-side seat of the vehicle --

4 A Yes, I did.

5 Q -- of this vehicle? And that was your Package 8,
6 Item 8?

7 A Yes.

8 Q Did you take a tape lift of unknown debris from the
9 front passenger's-side seat?

10 A Yes, I did.

11 Q And is that Package 8 out of 9?

12 A Yes, it is.

13 Q Did you take a tape lift of unknown debris from the
14 rear driver's-side seat?

15 A Yes.

16 Q And is that Package 8, Item 9 -- I'm sorry, Item 10?

17 A Yes, it is.

18 Q And did you take a tape lift of unknown debris from
19 the rear passenger's-side of seat, Package 8, Item 11?

20 A Yes.

21 Q And did you take a tape lift of unknown debris from
22 the rear driver's-side floorboard, Package 8, Item 12?

23 A Yes.

24 Q And finally, I think, did you take a tape lift from
25 the rear passenger's-side floorboard, which is your Package 8,

1 Item 13?

2 A Yes.

3 Q And ultimately you collect these items so that in
4 case there needs to be any further testing or trace evidence
5 testing, that could be done by somebody other than you?

6 A Correct.

7 Q And I'm assuming therefore you can't testify to what
8 the results are of any of that further testing?

9 A No.

10 Q Did you also test any substances that -- a reddish-
11 brown substance that may have appeared to have been blood in
12 the vehicle?

13 A Yes. There were two areas that I visually saw that
14 were reddish-brown in color.

15 Q Okay. And can you describe for the ladies and
16 gentlemen of the jury generally where they were in the
17 vehicle.

18 A One of them was on the step into the driver's-side
19 door as you're getting into the vehicle, and one of them was
20 just above the rear passenger's-side armrest.

21 Q Now, once you collect a substance or take a swab of
22 the substance, did you do anything to confirm whether or not
23 -- or any presumptive test to determine whether or not
24 something may or may not be blood?

25 A We do a phenolphthalein test, which is a presumptive

1 test for the presence of blood.

2 Q And so if you do the test and it's positive, that
3 means it may be blood and therefore it should be submitted for
4 further --

5 A Correct.

6 Q -- testing or something like that?

7 A Right.

8 Q Or it may be submitted, I guess. Did you -- you
9 said you tested two areas of reddish substance inside the
10 vehicle. Did you phenolphthalein test both of those areas?

11 A Yes, I did.

12 Q And what were the results of those tests?

13 A They were both negative.

14 Q Other than those two reddish-brown areas that you
15 tested, were there any other reddish-brown areas that you
16 either didn't test for some reason that you saw?

17 A No.

18 Q Based upon your examination, was there any evidence
19 of blood inside the vehicle?

20 A No, there wasn't.

21 Q And you also said that you took swabs of other
22 areas. What did you swab other areas for?

23 A We swabbed the steering wheel, and I swabbed the
24 rear armrest from both the driver's and passenger's side.
25 It's a way that you can determine if somebody has touched that

1 area.

2 Q Okay. And so you took swabs to see if potentially
3 somebody at some point in time touched an area?

4 A Right.

5 Q Is there any way to determine when that person had
6 touched that particular area?

7 A No.

8 Q And you also indicated that you processed for
9 fingerprints; is that correct?

10 A Yes.

11 Q And what was the purpose in doing that?

12 A It's to see who's been in contact with the vehicle.

13 Q Okay. So, much like the swabs you did for DNA
14 testing potentially, fingerprints can tell you the exact same
15 thing, who may or may not have touched this vehicle?

16 A Correct.

17 Q Now, when you -- generally -- and we'll have a
18 fingerprint expert up there to testify, but from a collection
19 point of view, is there any way to date when a fingerprint was
20 left on a particular vehicle?

21 A No.

22 Q Are fingerprints -- do fingerprints, in your
23 experience, remain very long on vehicles in the summer in Las
24 Vegas?

25 A Not necessarily, no.

1 Q And why not?

2 A Exposure to the sun can dry out the acids and the
3 moisture of the water that makes up the fingerprints.

4 Q So how is it that you went about trying to identify
5 fingerprints on this vehicle?

6 A We used -- I used black powder, which reacts with
7 the moisture and the acids in the fingerprints. And then
8 after we locate some, we mark them, we photograph them, and
9 then we place tape over them, photograph them again, and lift
10 them.

11 Q Now, when you identify ridge detail or what might be
12 a fingerprint, are you someone who has the ability to also
13 examine them to determine if there's sufficient information to
14 do a comparison, or how do you utilize -- or how do you make
15 the determination as to whether or not to lift those items?

16 A Just based on our training and experience we know
17 generally what can be compared, what can't be compared, and
18 that's how we'll decide what to lift and what not to lift.

19 Q Okay. And then after you collect it, it's submitted
20 to a different expert who can actually review and determine,
21 one, in there enough there to compare, and, two, if there's
22 somebody to compare --

23 A That's right.

24 Q -- to what the results are?

25 A Correct.

1 Q Now, when you -- in this case did you take 35
2 different latent print cards?

3 A Yes, I did.

4 Q And when you do 35 different latent print cards is
5 there some photograph that can identify generally where on the
6 vehicle a particular print was taken?

7 A Yes. There would actually be two of them. One of
8 them would be the card marked with whatever we were using to
9 mark them, in this case it's Post-it notes, and then there
10 would also be a photograph of the actual tape on the vehicle.

11 Q And I'm going to go through -- obviously, you've
12 looked at these. This is not every photograph you took that
13 day, is it?

14 A Right.

15 Q Okay. But I -- looking at State's Exhibit Number
16 89, was that photograph taken before or after the actual tape
17 lift itself was placed on the vehicle?

18 A This is before the actual tape is placed on.

19 Q And in this particular photograph at least the one
20 that's easy to read is --

21 A That's Number 1.

22 Q -- Number 1, there?

23 A Yes.

24 Q And then you did that for the rest of the vehicle.
25 So State's Exhibit Number 90, you can see all the -- the jury

1 probably can't read it off that screen, but essentially, if
2 you look up close on these photographs, you can see the
3 numbers?

4 A Yes.

5 Q All right. And you did that for all 35 lifts?

6 A Correct.

7 Q And in addition to searching the vehicle, we kind of
8 talked about some of the things you've impounded, did you --
9 well, let me ask you this. How -- what do you do -- when you
10 say you impounded something, what does that mean you did?

11 A We place it in either an envelope or a bag or a box,
12 depending what it is and what would be the easiest way to seal
13 it. And then we place seals and a label on that envelope to
14 secure it.

15 MR. DiGIACOMO: May I approach, Judge?

16 THE COURT: Yes.

17 BY MR. DiGIACOMO:

18 Q I'm showing you a variety, some of which we may
19 open -- I don't think any of which have blood. Do you want
20 finger --

21 A I have gloves.

22 Q Do you have gloves?

23 A Yeah.

24 Q And how about a scissors? Should we --

25 MR. DiGIACOMO: Do we have any scissors?

1 THE COURT: Carol, do we have some scissors?

2 THE CLERK: They're stapled shut.

3 MR. DiGIACOMO: Oh. They're all -- every one of
4 them is stapled? I guess the ones we're going to open up,
5 yeah.

6 THE CLERK: If they haven't been opened before, you
7 need to cut them, but if they have, they're stapled shut.

8 BY MR. DiGIACOMO:

9 Q Let me go through kind of some of the items that you
10 decided to impound from the vehicle, and if we open one then
11 you can put the gloves on, okay?

12 Showing you what's been marked as State's Proposed
13 Exhibit Number 246, do you recognize that?

14 A Yes. This is two Boost Mobile prepaid phone cards
15 that I impounded from the vehicle.

16 Q And how is it that you are able to determine that
17 without ever looking inside of it?

18 A It has my label on it with my personnel number, my
19 item number, and the seals on the back have my initials and
20 the date that I sealed them.

21 Q And so is that in substantially the same or similar
22 condition as when you impounded it?

23 A Yes, it is, except for one additional signature on
24 the chain of custody.

25 Q Okay. So there is an additional signature on the