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AFFIRMATION

PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the
proceeding

State v. Chappell,
filed in District Court Case No. C-131341,

✓

Does not contain the social security number of any
person.

Contains the social security number of a person as
required by:

(A) NAC 656.350

-or-

(B) For the administration of a public program or for
an application for a federal or state grant.

Sharon Howard

Sharon Howard, CCR #745

3/15/07

Date

1 CASE NO. C131341
2 DEPT. NO. 111

3 STATE OF NEVADA
4 CLARK COUNTY, NEVADA

5 CHARLES J. SHOOTER
6 CLERK OF THE COURT

7 BY

8 *Carol Green*

9 DEPUTY

10 2:13 p.m.

11 -oOo-

12 THE COURT: All right. We'll be back

13 in the record on C131341, State of Nevada versus

14 James Chappell. Let the record reflect the

15 presence of Mr. Chappell with his attorneys, the

16 State's attorneys. We're in front of the jury.

17 We'll continue on with the State's

18 case in chief. Mr. Owens, you may call your next

19 witness.

20 MR. OWENS: Your Honor, the State is

21 going to call William Duffy.

22 **WILLIAM DUFFY.**

23 having been first duly sworn to testify to the

24 truth, the whole truth and nothing but the truth,

25 was examined and testified as follows:

THE CLERK: Please be seated. State

and spell your name for the record.

THE WITNESS: William Duffy,

D-U-F-F-Y,

///

///

///

STATE OF NEVADA,

Plaintiff,

vs.

JAMES K. CHAPPELL

Defendant.

CASE NO. C131341

AFTERNOON
SESSION

ORIGINAL

BEFORE THE HON. DOUGLAS M. HERNDON, DISTRICT JUDGE

FRIDAY, MARCH 16, 2007

2:13 p.m.

APPEARANCES:

For the State:

CHRIS J. OWENS, Esq.
Chief Deputy District
Attorney
YAN WECKERLY, Esq.
Deputy District Attorney

For the Defendant:

DAVID M. SCHIECK, Esq.
CLARK W. PATYCK, Esq.
Special Public Defender

Reported by: CHERYL GARDNER, RMR-RMR
CCR NO. 130

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I N D E X

STATE'S WITNESSES

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JAMES VACARRO

Direct Examination by Ms. Weckerly

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DIRECT EXAMINATION

BY MR. OWENS:

Q. You retired from the Department of
Parole and Probation.

A. That's correct.

Q. And parole and probation is referred
to often as P and P?

A. Yes.

Q. How long did you work for the
department of parole appear probation?

A. 20 years and four months.

Q. What do you do now?

A. I'm a professor of criminal justice.

Q. And where do you teach?

A. UNLV and ITT Technical Institute.

Q. You had an opportunity to testify in
this matter before.

A. Yes.

Q. In a previous proceeding.

A. That's correct.

Q. About ten years ago.

A. Yes.

Q. Have you had an opportunity to review

your reports and also your testimony from the prior
time you testified?

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<p>1 CASE NO. C131341 2 DEPT. NO. 111</p> <p>3 STATE OF NEVADA 4 CLARK COUNTY, NEVADA</p> <p>5 STATE OF NEVADA,) 6 Plaintiff,) 7 vs.) CASE NO. C131341 8 JAMES H. CHAPPELL) 9 Defendant.) AFTERNOON) SESSION</p> <p>10 11 12 13 14</p> <p>15 BEFORE THE HON. DOUGLAS W. HERNDON, DISTRICT JUDGE</p> <p>16 FRIDAY, MARCH 16, 2007</p> <p>17 2:13 p.m.</p> <p>18 APPEARANCES:</p> <p>19 For the State: CHAS J. OWENS, Esq. 20 Chief Deputy District 21 Attorney 22 EAM HECKERLY, Esq. 23 Deputy District Attorney</p> <p>24 For the Defendant: DAVID M. SCHIECK, Esq. 25 CLARK W. PATRICK, Esq. Special Public Defender</p> <p>Reported by: CHERYL GARDNER, RMR-RPR CCR NO. 230</p>	<p>1 2:13 p.m. 2 -oOo-</p> <p>3 THE COURT: All right. We'll be back 4 in the record on C131341, State of Nevada versus 5 James Chappell. Let the record reflect the 6 presence of Mr. Chappell with his attorneys, the 7 State's attorneys. We're in front of the jury. 8 We'll continue on with the State's 9 case in chief. Mr. Owens, you may call your next 10 witness. 11 MR. OWENS: Your Honor, the State is 12 going to call William Duffy. 13 14 WILLIAM DUFFY, 15 having been first duly sworn to testify to the 16 truth, the whole truth and nothing but the truth, 17 was examined and testified as follows: 18 19 THE CLERK: Please be seated. State 20 and spell your name for the record. 21 THE WITNESS: William Duffy, 22 D-U-F-F-Y. 23 /// 24 /// 25 ///</p>

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<p>1 INDEX</p> <p>2 STATE'S WITNESSES PAGE</p> <p>3 WILLIAM DUFFY</p> <p>4 Direct Examination by Mr. Owens 4</p> <p>5 Cross-Examination by Mr. Schieck 29</p> <p>6 JAMES VACHARO</p> <p>7 Direct Examination by Mr. Heckerly 31</p> <p>8 Cross-Examination by Mr. Schieck 88</p> <p>9 Redirect Examination by Mr. Heckerly 115</p> <p>10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 LAS VEGAS, CLARK COUNTY, FRIDAY, MARCH 16, 2007</p>	<p>1 DIRECT EXAMINATION</p> <p>2 BY MR. OWENS:</p> <p>3 Q. You retired from the Department of 4 Parole and Probation. 5 A. That's correct. 6 Q. And parole and probation is referred 7 to often as P and P? 8 A. Yes. 9 Q. How long did you work for the 10 department of parole appear probation? 11 A. 20 years and four months. 12 Q. What do you do now? 13 A. I'm a professor of criminal justice. 14 Q. And where do you teach? 15 A. UNLV and ITT Technical Institute. 16 Q. You had an opportunity to testify in 17 this matter before. 18 A. Yes. 19 Q. In a previous proceeding. 20 A. That's correct. 21 Q. About ten years ago. 22 A. Yes. 23 Q. Have you had an opportunity to review 24 your reports and also your testimony from the prior 25 time you testified?</p>

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1 A. I'm sorry. What was the question?
2 Q. Have you had an opportunity to review
3 your testimony and your notes from the prior time
4 you testified?
5 A. Yes.
6 Q. I'd like you to refer you back to the
7 31st of August 1995 when you came into contact with
8 the defendant in this case, Mr. James Chappell. Do
9 you remember that?
10 A. Yes, I do.
11 Q. And the defendant's seated to my right
12 here in the blue shirt?
13 A. He's changed a little bit but the
14 features, yes.
15 Q. And the circumstances in which you
16 encountered Mr. Chappell on the 31st of August of
17 1995 were kind of unusual for you at the time.
18 A. Yes, it was.
19 Q. Tell us about that.
20 A. Well, at the time I was a unit manager
21 and he was being supervised by an officer that was
22 down the line from me, and there was a phone
23 message given to me at about 9:00 a.m. indicating
24 that Mr. Chappell was in custody and had to be
25 released.

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1 And when I investigated to find out
2 who the officer was to give it to him, I discovered
3 that he was working swingshift and was not
4 available at that time so I called the jail and,
5 city jail and they told me that he had finished
6 serving some time for a misdemeanor and was going
7 to be released, and I asked if they could hold him
8 until the officer came in and they said no. He had
9 to be released immediately. We had to pick him up
10 or he would be released to the street so I assigned
11 two officers to pick him up.
12 Q. Usually when you're dealing with
13 somebody who is on probation in custody they're
14 usually in the county facility and you have some
15 control with your decision making with regard to
16 the situation.
17 A. That's correct.
18 Q. But on this occasion you had the city
19 telling you if you didn't come get him, they were
20 going to release him basically.
21 A. That's correct.
22 Q. Now, what was the interest of the
23 Department of Parole and Probation in Mr. Chappell
24 at that time?
25 A. He was on probation for a gross

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1 misdemeanor possession of burglary tools, and he
2 was being supervised by our agency.
3 Q. And when you say that he was on
4 probation, could you just take a minute and
5 describe for the jury what probation is and how
6 that operates.
7 A. Well, he had been convicted of the
8 charges in District Court and the judge imposed a
9 sentence, suspended it, and released him to our
10 agency to supervise him under conditions in the
11 community.
12 Q. And the judge's idea of probation is
13 if a person successfully completes the rules and
14 requirements of the probation, then they don't have
15 to actually do the sentence?
16 A. That's correct.
17 Q. And you get probation mostly for
18 felonies or for gross misdemeanors?
19 A. That's correct. That's the only type
20 of cases that our agency handles.
21 Q. And if somebody doesn't do well on
22 probation, they can be revoked and then that
23 sentence kicks in and then they go up to prison or
24 jail in the case of gross misdemeanors.
25 A. Yes. If they commit new charges or

Page 8

1 commit technical violations of their probation,
2 they can be revoked.
3 Q. And sent to prison.
4 A. Correct.
5 Q. If they're successful, then they can
6 get a discharge from probation and then they don't
7 have to serve the time.
8 A. That's correct.
9 Q. And the whole thing about probation,
10 it's geared at giving the individual a chance to
11 reform and to do better.
12 A. Yes, that's true.
13 Q. Can you take a minute and talk about
14 the apparatus that you have at parole and probation
15 that's directed towards that goal of trying to help
16 individuals.
17 A. Each offender is assigned to a
18 supervising officer that maintains the case file.
19 They develop objectives, assign various tasks for
20 the individual to complete, programing and do home
21 visits with the individual to see their living
22 environment and make recommendations for getting
23 jobs and those sorts of things.
24 Q. And to try to get them into a drug
25 treatment program sometimes?

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1 A. That often times is a very big
2 objective, yes.
3 MR. OWENS: Can we approach, Your
4 Honor.
5 THE COURT: Yes.
6 MR. OWENS:
7 Q. I'd like to show you what's been
8 marked just a few moments ago during the recess as
9 State's proposed Exhibit No. 130 and have you take
10 a look at that. It's a series of three documents,
11 a judgment of conviction, a modified judgment and
12 then the minutes from that case.
13 Are those the court documents that
14 were apart of the case you were supervising
15 Mr. Chappell on?
16 A. Yes. They are from the case.
17 MR. OWENS: All right. Your Honor,
18 this is a certified copy. I'd ask for the
19 admission of proposed Exhibit No. 130 at this time.
20 THE COURT: Any objection?
21 MR. SCHIECK: No objection, Your
22 Honor.
23 THE COURT: All right. Exhibit 130
24 will be admitted. Thank you.
25 MR. OWENS: I'm going to go ahead and

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1 put this on the screen hopefully to your right
2 there.
3 Q. This first document was the judgment
4 of conviction. This is when the defendant had been
5 found guilty of the gross misdemeanor you talked
6 about.
7 A. Yes.
8 Q. And in this it tells what his sentence
9 is going to be that includes probation with a
10 number of conditions.
11 A. That's correct.
12 Q. And the conditions included he would
13 have to be subject to a search by your department
14 of his person or property.
15 A. Yes.
16 Q. Is that a fairly typical provision?
17 A. Yes, it's fairly standard.
18 Q. And the Court wanted him to enter and
19 complete a substance abuse counseling program?
20 A. Yes.
21 Q. And that was in your discretion.
22 A. Yes.
23 Q. And then they wanted him to complete
24 an adult GED program.
25 A. Correct.

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1 Q. Participate in a vocational program.
2 A. Yes.
3 Q. What does that mean?
4 A. Vocational programing would be where
5 the individual is referred out for training for a
6 job.
7 Q. And then there was a requirement that
8 the defendant was to remain employed during the
9 time of his probation.
10 A. Yes.
11 Q. Are there things that you do to assist
12 somebody in getting a job and maintaining a job?
13 A. Yes. Thesis are the typical things
14 that he would do regardless of whether they would
15 be special conditions or not.
16 Q. Try to keep them employed?
17 A. These are usually pretty much standard
18 conditions that are just renumarated (sic) by
19 judge.
20 Q. Does the department do something to
21 help them maintain employment or to get employment?
22 A. Yes. We have a number of different
23 programs and avenues to try to achieve these goals.
24 Q. The particular order granting
25 probation to the defendant was signed on May 3,

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1 1995.
2 A. Yes.
3 Q. Okay. And the second document is an
4 amended judgment of conviction.
5 A. Yes.
6 Q. And this was something that occurs
7 sometimes when there's been an adjustment to his
8 probation.
9 A. Yes, that's correct.
10 Q. And in this particular case that
11 involved a change or an additional condition
12 because the defendant had been in violation of his
13 probation.
14 A. Yes. This ordered an inpatient
15 substance abuse program.
16 Q. Okay. So at some point after May
17 there was some kind of a problem with the defendant
18 complying with his probation. He went before a
19 judge.
20 A. Yes.
21 Q. And the judge had the option of
22 revoking his probation, putting him in jail.
23 A. That's correct.
24 Q. Or allowing him to continue on
25 probation but maybe adding another condition.

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Page 15

1 A. Yes. Reinstated with clarification
2 additional conditions.
3 Q. Basically he was given another
4 chance.
5 A. That's true.
6 Q. And then the third document that's a
7 part of this one package I think are the court
8 minutes, and what are the court minutes? I mean
9 not specifically, but what are these kind of
10 things?
11 A. These are just brief explanations of
12 what happened in court.
13 Q. They're made by the court clerk like
14 the clerk that we have here today.
15 A. Yes, that's correct.
16 Q. So each date that this case was in
17 front of the judge there's a notion as to what
18 happened.
19 A. That's true.
20 Q. And then we go over here to
21 August 1st, we have entry showing it was on for
22 revocation of probation.
23 A. Yes.
24 Q. And then the decision by the Court
25 that would allow him to stay on probation as long

1 31st of August?
2 A. I had never supervised him and had
3 never reviewed his file so I had no knowledge of
4 his case pretty much at all.
5 Q. Okay. So what happened?
6 A. Well, I attempted to locate his
7 supervising officer with our record system and it
8 showed an Officer Arvy (phonetic) and he was
9 working swing so I went to try to find his sergeant
10 supervisor so I could assign the case to that
11 individual and they were not available either so I
12 had to pretty much deal with the situation myself.
13 I went and I called Mr. Arvy, Officer
14 Arvy at home and he explained to me that he had
15 just received the case subsequent to the
16 reinstatement and was not really up on the case and
17 didn't have a lot of information for me. So as a
18 result I did a little research on it while the
19 officers were going to pick him up at the jail and
20 I ran a printout of his scope from Metro that
21 showed the regular conviction he was on probation
22 for and the additional charge that he was serving a
23 misdemeanor term for and I obtained a copy of the
24 reinstatement that you had shown on the viewer
25 where he had appeared in court and was ordered to

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1 as he was going to an inpatient drug program.
2 A. That's correct.
3 Q. And it stipulated certain things like
4 he was supposed as to be released only to your
5 department, the department of parole and probation,
6 to be taken to the program.
7 A. That's true.
8 Q. Now, when you got this telephone call,
9 it was coming from the city.
10 A. That's correct.
11 Q. Now, how did it happen that the city
12 had him in custody rather than the court that had
13 set up this probationary grant?
14 A. Well, he had a new conviction for a
15 misdemeanor while he was on probation. It was the
16 foundation, part of the foundation for the attempt
17 to have him revoked and when he was reinstated, it
18 was required that he go to the city jail to serve
19 that term for that misdemeanor conviction.
20 Q. So he has separate city charges that
21 he had to serve out as well?
22 A. Yes, that's correct, before he could
23 be released.
24 Q. So how much of this were you aware of
25 at the time that you got that telephone call on the

1 enter a program.
2 I tried to locate his case file but it
3 was not in the supervising officer's office. About
4 this time it was around 10:00 o'clock a.m. Adams
5 and Winchell brought Mr. Chappell to my office and
6 I spent close to an hour discussing his case with
7 him and he indicated to me that he had been
8 interviewed by EOB program while he was in jail but
9 wasn't real certain as to what the status of that
10 was and so --
11 Q. Can I just pause you there for one
12 second. What is EOB?
13 A. I can't remember what the acronym
14 stands for at this point. I think it was equal
15 opportunity bureau something of that nature but
16 it's an inpatient house located on Washington.
17 It's an inpatient program where individuals with
18 substance abuse problems live 24 hours a day and
19 get counseling and treatment, and that would be an
20 appropriate program under the circumstances.
21 Q. Under the court order?
22 A. That's true.
23 Q. So what happened?
24 A. So I called the EOB program and talked
25 to a counselor that had interviewed him. I can't

1 recall her name at this time but I asked what, you
2 know, the status of him coming into the program was
3 and he was out of custody and they confirmed the
4 fact that they had interviewed him in jail but did
5 not feel he was appropriate at the time he was
6 interviewed for admission to the program because of
7 his attitude.

8 They didn't explain a lot more than
9 just there was an attitude problem, and I did ask
10 them if he could be re-interviewed. They indicated
11 that they were willing to do so.

12 Q. So after the judge the given him this
13 second chance at probation and ordered him as a
14 condition of that second chance to go to an
15 inpatient program, the defendant during the
16 interview impressed them he had an attitude about
17 it?

18 A. That's correct.

19 Q. And they didn't want him at that time?

20 A. They wouldn't accept him.

21 Q. So then what happened?

22 A. Well, I discussed the situation with
23 Mr. Chappell and he indicated that he didn't
24 understand what the problem was and I told him
25 basically that they had denied him from the program

1 unavailable, I asked him if he knew someone that
2 could give him a ride and he said that he had a
3 friend he could call and I had him come sit next to
4 my desk where the phone was located and I handed
5 him the receiver and he gave me some numbers and I
6 used the outgoing protocol, dialed the number. He
7 talked, left a message.

8 It sounded like he was leaving a
9 message on an answering machine, then he told me
10 that he didn't have a ride so some more time
11 passed, small talk about going into the program,
12 and then he asked if he could walk over to the
13 program to see if they could interview him and
14 that's what we wound up doing.

15 I did tell him that regardless of the
16 outcome of the interview at EOB, that he would have
17 to be back at the office at 1:00 o'clock so that
18 his officer could arrange an appointment with
19 Salvation Army to take the case up, to work with
20 him on it and so he left the office at that point
21 in time and it was about 11:00 a.m.

22 Q. 11:00 o'clock in the morning that he
23 left?

24 A. That's correct.

25 Q. How long would it take him to go over

1 and, you know, what had changed since that point in
2 time that would make him acceptable, and he
3 indicated that since he had spent some additional
4 time in jail that now he was very motivated to go
5 into their program and I explained to him that his
6 supervising officer would be in at 1:00 o'clock and
7 at that time he could transport him over to
8 possibly be re-interviewed, and I also suggested to
9 him that the Salvation Army drug treatment program
10 would be a good, a second option and that that
11 would be arranged.

12 He, you know, started to talking to me
13 about the fact that he would really like the
14 opportunity to go over and talk to the people at
15 BOB. I tried calling them back to see if he could
16 walk in and I didn't get an answer on the phone.
17 When they're in session, they don't answer the
18 phone which I assume they probably were having, you
19 know, a counseling sessions, and he wanted to go to
20 the, to go over to the program himself and I was
21 concerned about him walking there although it's
22 only a few blocks.

23 I thought it would be better if he had
24 transportation. I had no one that I could assign
25 other than his officer to take him. Since he was

1 to that Salvation Army or the EOB location?

2 A. 15 minutes.

3 Q. In the meantime were you trying to get
4 him an appointment at the Salvation Army?

5 A. Well, his -- Officer Arvy came in
6 about 12:30 and he came to my office and I
7 explained to him what was going on and that
8 Mr. Chappell was due back at 1:00 o'clock and that
9 I needed for him to call Salvation Army and set up
10 an appointment and he explained to me at that
11 point -- Mr. Arvy explained to me he had already
12 set up an appointment and would handle the
13 situation when he returned.

14 Q. Did James Chappell seem sincere in his
15 conversations with you about wanting to turnover
16 anew leave and get into a program?

17 A. Yes. He was very convincing.

18 Q. What do you mean by that?

19 A. He said that since he had been in jail
20 that that had sent him a message that, you know, he
21 needed to change his life and get help.

22 Q. At what point did you realize that
23 there had been a problem?

24 A. Late that evening about 10:00 p.m. I
25 received a phone call from two of our officers that

1 were in the field that had been called by Metro to
2 a home where an individual had been murdered and
3 they were asking if I had any information about
4 where Mr. Chappell might be.

5 Q. Did you check with BOB to see if he
6 had ever gone there?

7 A. The next day I checked with his
8 officer who said that, Officer Arvy indicated that
9 he had never returned at 1:00 p.m. or at any time
10 during the preceding day and I call BOB and was
11 told that he never showed up there either.

12 Q. Now, are you saying Arvy was his
13 probation officer at the time?

14 A. That's correct.

15 Q. But just a short time before that it
16 had been a different officer, Charmaine Smith.

17 A. That's correct.

18 Q. And the file had been transferred.

19 A. I wasn't aware of any of this during
20 the day that I saw him but in the next few days I
21 discovered the fact that Mr. Arvy had just recently
22 received the case and that Ms. Smith had supervised
23 him for some time.

24 Q. At the time that you were talking to
25 the defendant, you knew that there was some DV

1 that's all I have.

2 (Whereupon Mr. Owens
3 concluded his direct
4 examination at 2:36 p.m.)

5 THE COURT: Mr. Schieck or
6 Mr. Patrick.

7 MR. SCHIECK: Thank you, Your Honor.

8

9 CROSS-EXAMINATION

10 BY MR. SCHIECK:

11 Q. Mr. Duffy, you indicated that back on
12 August 31, 1995, you were the unit manager.

13 A. That's correct.

14 Q. Okay. And what duties does unit
15 manager entail?

16 A. I had -- sergeant level personnel that
17 were the direct supervisors of 24 officers that
18 provided supervision services for probationers.

19 Q. So you were sort of intermediate
20 management for lack of a better term or you were
21 top management?

22 A. Middle management.

23 Q. And Charmaine Smith would have been a
24 subordinate position to you?

25 A. She would have been a line officer

1 thing in his background but you didn't know about
2 news of a weapon or knife or anything like that.

3 A. That is correct.

4 Q. You didn't know about the conversation
5 that he had had with Charmaine Smith?

6 A. That's correct.

7 Q. And you didn't have access to his file
8 during that time.

9 A. No, I did not have access to his file.

10 Q. Do you feel that the defendant had
11 conned you?

12 A. Pretty much so.

13 Q. In what way?

14 A. Due to the fact that he didn't, was
15 not forthcoming with any information about the
16 circumstances of why he was in jail and things of
17 that nature.

18 Q. And he had convinced you that he was
19 really sincere in wanting to go into this program
20 and help himself?

21 A. That's true. He didn't say anything
22 to me that would indicate that he had any kind of
23 problems going on other than the fact that he just
24 needed to go into a drug program.

25 MR. OWENS: All right. Thank you,

1 under a sergeant.

2 Q. As would have been Mr. Arvy?

3 A. That's correct.

4 Q. Okay. And who was their sergeant?

5 A. I don't recall.

6 Q. You indicated that when you couldn't
7 locate Mr. Arvy, you had spoken to his sergeant; is
8 that correct?

9 A. No. His sergeant was not working that
10 day.

11 Q. So Mr. Arvy was off. The sergeant
12 wasn't working, and you had received a call that
13 Mr. Chappell was being released?

14 A. It just got passed up the chain of
15 command till somebody was there.

16 Q. How were you able to determine that
17 Mr. Arvy was the assigned line officer?

18 A. At the time our record keeping system
19 wasn't automated. We had file cards in a file
20 cabinet and the supervising officer was indicated
21 by a number written in pencil on the bottom of the
22 card.

23 Q. So each person that's being supervised
24 had like a 3 by 5 card or something similar?

25 A. That's correct.

Page 25

1 Q. For instance, Mr. Chappell's name
2 would have been on that card and then written in
3 pencil on that card would be who is the current
4 supervising officer?
5 A. That's correct.
6 Q. Do you cross off the name beforehand
7 so I'd know who the previous officer was?
8 A. No. It was written in pencil so it
9 could be revised and a new number written. That's
10 why I had no idea who had supervised him probably
11 previously.
12 Q. And in addition to the file card with
13 the pencilled in number of the supervising officer,
14 there's a file that's maintained by the department,
15 correct?
16 A. That's correct.
17 Q. On each person that's being
18 supervised?
19 A. Yes.
20 Q. Where are those files normally kept?
21 A. At the time they were maintained in a
22 file cabinet in the supervising officer's office.
23 Q. Which would have been Mr. Arvy's
24 office in this instance?
25 A. Yes.

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1 Q. And that's where you went to look for
2 the file?
3 A. Yes, sir.
4 Q. And could not locate it?
5 A. That's correct.
6 Q. Would that file indicate who the
7 previous supervising officer had been?
8 A. Yes.
9 Q. Did you ultimately ever locate that
10 file?
11 A. I saw it later that day. Mr. Arvy had
12 it.
13 Q. He had it at home or did you determine
14 where it was at?
15 A. I was unable to determine why it
16 wasn't in his office.
17 Q. You were actually able to reach him by
18 phone at his home before he came in that day,
19 correct?
20 A. That's correct. I called him at home
21 at about 9:30.
22 Q. Did he at that time indicate that he
23 had the file?
24 A. I asked him where it was at and he
25 said it should be in my office.

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1 Q. Did he indicate that Charmaine Smith
2 had the file previously and he just had the file
3 assigned to him?
4 A. No, he did not.
5 Q. At that time he say anything about he
6 had already called the Salvation Army and made an
7 appointment for Mr. Chappell?
8 A. No.
9 Q. Was it an impression that it was
10 something between you talking to him about 9:30 at
11 his home and coming into your office at 12:30?
12 A. He had to have done it at sometime.
13 Q. When it comes up that someone goes
14 back to court and get an amended judgment of
15 conviction where they modify the terms of
16 probation, is it often times a negotiated situation
17 when you go into court on those cases?
18 A. Well, of course, between the defense
19 attorney and the department.
20 Q. Is the District Attorney's office
21 involved in those negotiations typically or is it
22 the department and the defense attorney?
23 A. They're involved.
24 Q. And in this instance the agreement
25 that Mr. Chappell's probation be modified to

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1 include the inpatient program, that was a
2 negotiated situation?
3 A. Not by the department. Our stance was
4 that he should be revoked.
5 Q. Whose stance was it that he should go
6 to inpatient?
7 A. Oh, I wasn't there so I don't know.
8 I'm assuming that it was something suggested by
9 defense counsel.
10 Q. Now, this appears to be the minute
11 order for the minutes of the court proceedings on
12 August 1, 1995.
13 MR. OWENS: That's State's exhibit --
14 what is that?
15 THE COURT: 130.
16 MR. OWENS: Thank you.
17 MR. SCHIECK: Yes, it is.
18 Q. Do you recognize the court minutes?
19 A. Yes.
20 Q. That would indicate in the body of the
21 minutes that Charmaine Smith of parole and
22 probation was present.
23 A. That's correct.
24 Q. Would it be fair to assume if she was
25 present, she would have had input into these

1 negotiations?
 2 A. She would have the opportunity, yes.
 3 Q. That's standard procedure if the
 4 officer's present for the revocation or the
 5 negotiation to amend that the officer's there and
 6 matters are discussed with the officer.
 7 A. Yes.
 8 Q. You indicated that you had obtained a
 9 printout on Mr. Chappell after you received a
 10 call from the city jail that he was going to be
 11 released from their custody. Do you recall what
 12 the exact charge was that he was being held in
 13 custody by the city jail was?
 14 A. Domestic violence.
 15 Q. But you didn't have any other
 16 information besides that?
 17 A. It just has one line with a lot of a
 18 previous violations, the date, conviction, the
 19 charge.
 20 MR. SCHIECK: Thank you. That's all I
 21 have, Your Honor.
 22 (Whereupon Mr. Schieck
 23 concluded his cross-examination
 24 at 2:43 p.m.)
 25 THE COURT: Mr. Owens.

1 DIRECT EXAMINATION
 2 BY MS. WECKERLY:
 3 Q. How are you employed?
 4 A. I'm with the Las Vegas Metropolitan
 5 Police Department.
 6 Q. How long have you worked for Metro?
 7 A. About 29 and a half years.
 8 Q. And were you working for Metro on
 9 August the 31st of 1995?
 10 A. Yes.
 11 Q. Where were you assigned?
 12 A. I was a homicide detective at that
 13 time like I am now.
 14 Q. At that time how long had you worked
 15 in homicide?
 16 A. Let's see. I think I went to homicide
 17 in December of '93 so a year and change at that
 18 point.
 19 Q. Were you asked to respond to a
 20 homicide at 839 North Lamb?
 21 A. Yes, I was.
 22 Q. And can you describe the major cross
 23 streets or generally where that is.
 24 A. 839 North Lamb is a, still there,
 25 mobile home park at that time it was called the

1 MR. OWENS: Nothing further, Your
 2 Honor.
 3 THE COURT: Thank you. No questions
 4 from the jury. Mr. Duffy, I appreciate your time.
 5 You may be excused.
 6 (Whereupon William Duffy
 7 was excused from the
 8 witness stand at 2:43 p.m.)
 9 THE COURT: State may call their next
 10 witness.
 11 MS. WECKERLY: Thank you, Your Honor.
 12 The State calls Detective Vaccaro.
 13
 14 JAMES VACCARO,
 15 having been first duly sworn to testify to the
 16 truth, the whole truth and nothing but the truth,
 17 was examined and testified as follows:
 18
 19 THE CLERK: Please be seated state
 20 appeared spell your name for the record.
 21 THE WITNESS: My name is James
 22 Vaccaro, V-A-C-C-A-R-O.
 23 ///
 24 ///
 25 ///

1 Ballerina Mobile Home Park and the cross streets
 2 would be Lamb Boulevard north of Bonanza but south
 3 of Owens on the west side of the street.
 4 Q. And did you respond alone or with a
 5 partner?
 6 A. I responded by myself but then a
 7 partner that I was working with, a guy by the name
 8 of Phil Ramos who is now retired, he came along too
 9 so we worked it both together.
 10 Q. And when both detectives respond to a
 11 scene, how is the work divided at the scene?
 12 A. We have always worked this way. We
 13 split up the work with one of our detectives
 14 basically what we call working the scene with the
 15 crime scene investigators and the other detective
 16 will interview persons that have information about
 17 what happened so he'll do interviews and I'll do
 18 the scene and examine the scene.
 19 Q. And you have the scene on this one?
 20 A. Yes.
 21 Q. You mentioned the major cross streets
 22 for the Ballerina Mobile Home Park. Can you
 23 describe the park generally. Like is it large and
 24 how far back the trailer and space 125 sits from
 25 the entrance?

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1 A. Yes. It's a big park. It's a half a
2 mile from Lamb back to space No. 125 so it's a
3 pretty good sized trailer park and I don't know.
4 Well, this space was space 125 so if that's
5 indicative of the number of trailers, there were
6 more than that.

7 Q. Having shown defense counsel what's
8 been marked as State's proposed Exhibits 99 through
9 128, I'd ask you to look through those photographs
10 and two maps and tell me if you recognize what's
11 depicted in all of those.

12 A. Would you like me to do it one at a
13 time.

14 Q. No. If you could just look through
15 all of them first.

16 A. Okay.

17 Q. Thanks.

18 A. Okay. The maps depict, one is an
19 aerial view of the mobile home park.

20 Q. For the record that's 127.

21 A. Right. The other is actually a
22 photocopy of a map that depicts the downtown Las
23 Vegas area. That's 128.

24 Q. Okay. And then the photographs that
25 you have which is 99 through 126, are those an

1 were at and what I found when I arrived at the
2 scene as to begin my investigation.

3 First I should probably show you this
4 overview. This is just an aerial view of the areas
5 that we worked in 839 North Lamb, the Ballerina
6 Mobile Home Park, then another area was 507 North
7 Lamb which was the Vera Johnson projects. That
8 became involved a little bit later on.

9 We got involved with that the next
10 day, and also the Lucky's supermarket. The next
11 day we were over at the Lucky's supermarket for the
12 apprehension of the subject in this case. This map
13 I wanted to show you because it shows where parole
14 and probation is located down by Veterans Memorial
15 Drive and Casino Center. It's there right when you
16 get off the freeway. It's not there currently but
17 that's where it was at the time in 1995 and then
18 the Vera Johnson which we would learn during the
19 investigation that Mr. Chappell would go to the
20 parole and probation office to the Vera Johnson
21 projects over there at 507 North Lamb so it was
22 important for us to understand how far away that
23 was appeared how he got there.

24 We learned that it was three and a
25 half miles away and that he supposedly walked there

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1 accurate depiction of the scene and then that last
2 one appears to be taken --

3 A. Yes, and also includes the vehicle
4 that was included in this investigation.

5 MS. WECKERLY: Okay. The State moves
6 to admission 99 through 128.

7 THE COURT: Any objection?

8 MR. SCHIECK: No objection, Your
9 Honor.

10 THE COURT: All right. Exhibits 99
11 through 128 will be admitted. Thank you.

12 MS. WECKERLY:

13 Q. And, Detective, you reviewed other,
14 additional scene photographs as well as the ones I
15 just showed you.

16 A. Yes.

17 Q. During your or for your preparation
18 for your testimony this morning or actually this
19 afternoon, did you prepare sort of an overview of
20 the crime scene?

21 A. Yes, I did.

22 Q. If I could get you to step off the
23 witness stand.

24 A. I prepared some slides to try to
25 familiarize you folks with the location of where we

1 from the parole and probation office. Next of
2 importance to us was the location of the Ballerina
3 Mobile Home Park, space No. 125, and that was
4 important for us to know that from the Vera Johnson
5 project north on Lamb was one-half mile and back
6 from the street back to the trailer was another
7 half mile so that was an additional mile of travel
8 time but we learned during the investigation that
9 he drove a bicycle so it probably was a shorter
10 period of time.

11 Then also I wanted to see BOB was
12 located on Comstock at that time and I don't know
13 with whether or not there was an office in the
14 Washington and D area but I believe it was on
15 Comstock at that time in the 2000 block of Comstock
16 which is actually kind of close to Owens Avenue.

17 Q. Can I interrupt you just one second.
18 Where BOB is versus the Vera Johnson apartment
19 complex, those appear to be opposite directions
20 from the department office.

21 A. Oh, sure. I mean at this point here
22 at parole and probation Vera Johnson's to the east
23 and the BOB was underneath I-15 over here over onto
24 West Las Vegas and then north up to Owens Avenue so
25 it was just the opposite direction.

1 Q. Thank you.

2 A. So as detectives we were interested in
3 how much time someone would have because we knew
4 what time he left the parole and probation office.

5 MR. SCHIECK: Your Honor, I'm going to
6 object to the narrative presentation. Could we
7 have questions and answers, please.

8 THE COURT: Follow up with some
9 questions.

10 MS. WECKERLY: Sure.

11 Q. Detective Vaccaro, did you at some
12 point read a statement of James Chappell in your
13 investigation or in your preparations for today's
14 testimony?

15 A. Yes, I did.

16 Q. And in that did he indicate and also
17 in conjunction with parole and probation officers
18 the time he left the parole and probation office?

19 A. Yes.

20 Q. And what time was that?

21 A. We believe based on what we learned
22 approximately 10:45 or almost 11:00 o'clock in the
23 morning it could have even been Mr. Chappell left
24 the parole and probation officers on Bonanza and
25 Veterans Memorial Drive.

1 Q. According to his statement, where did
2 he go from parole and probation? Where is the next
3 location he went?

4 A. We learned that he went to the Vera
5 Johnson project building 507 where he met some
6 friends.

7 Q. Accords to Mr. Chappell, where did he
8 go after the Vera Johnson complex?

9 A. After spending 20 minutes with some
10 friends there in the complex, he took a bicycle and
11 drove over to the space 125 at the Ballerina Mobile
12 Home Park.

13 Q. And obviously that was on a bicycle?

14 A. That was on a bicycle an additional
15 mile.

16 Q. And from there what did he say he did?

17 A. There I learned that he supposedly
18 entered the mobile home through the window that
19 faced the street on the bedroom, master bedroom
20 which we'll see here in a moment and that he
21 entered the mobile home and that would in our
22 opinion as investigators put him there about 12:30,
23 12:35, 12:45, in that area based on the time, this
24 time line.

25 Q. And according to the defendant what

1 did he say happened as he went or climbed through
2 this window at the mobile home?

3 A. He told -- well, I learned that he
4 said that he was greeted by Deborah Panos, his
5 girlfriend when he was going through the window.

6 Q. Okay. And according to the defendant
7 what happened with Deborah Panos at that point?

8 A. Well, I don't know for sure what
9 happened inside there but the statements that I've
10 come to learn about indicate that he had some
11 conversation with her for a period of time. They
12 sat and talked and then they had started to have
13 sex and then for whatever reason he decided to stop
14 having vaginal sex with her and then she performed
15 oral sex on him in the bedroom and then after that
16 happened there was some kind of a fight between the
17 two of them that ended up with her being beaten and
18 stabbed to death.

19 Q. Okay. And independent of what the
20 defendant says happened, was there a witness who
21 actually saw the defendant leaving the mobile home
22 park at a particular time?

23 A. Yes. That would be a witness that was
24 interviewed by my partner Phil Ramos and we learned
25 that this was Lisa Duran who would see Mr. Chappell

1 leave the mobile home right around 1330 hours or
2 1:30 in the afternoon so that was good because that
3 gave us the back end of our window, our time
4 window.

5 Q. Okay. So that was relevant that the
6 time period that he left would have been 1:30 in
7 terms of the investigation.

8 A. Right. So total time inside the
9 mobile home based on that theory would have been
10 about 40 minutes for Mr. Chappell to be inside
11 there, thereabouts.

12 Q. Okay. And obviously it's after 1:30
13 that Lisa Duran sometime after that she contacted a
14 patrol officer and eventually homicide was
15 contacted?

16 A. That's right.

17 Q. And then I assume that's when you and
18 your partner arrive on the scene?

19 A. Right. Apparently there's some
20 contact made by Lisa to a patrol officer that's
21 writing a ticket to somebody out at Bonanza and
22 Lamb and then that patrol officer goes back to the
23 mobile home -- it was an officer named Lee.

24 There was another officer with him but
25 I can't remember his name. Officer Lee goes

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1 through the window that he find was ajar. He makes
2 entry inside the mobile home, find Deborah Panos
3 inside dead on the floor in the livingroom.

4 Because we were the up team, Detective
5 Ramos and I -- the up team means the next murder
6 that happens in Clark County it was our turn, so we
7 responded out the mobile home park.

8 Q. Okay. Can you go to the next slide.
9 When you responded to the mobile home park, did you
10 walk around the exterior of the residence?

11 A. Yes, I did.

12 Q. Okay. And what was your purpose in
13 doing that?

14 A. Just what I do for a living which is
15 to go there and observe first and as the
16 investigator of the crime scene what you can see
17 here a little bit is the crime scene tape along the
18 side of the building and actually there was crime
19 scene tape on the other side of the mobile home
20 here too so I would want to familiarize myself with
21 the exterior of the location because although her
22 body is inside, there might be something important
23 to me outside in the investigation. So I would
24 observe the front, the side, the rear, and these
25 pictures depict how it looked when I arrived.

1 trailer with the two windows and obviously one
2 window was damaged, was it your assessment after
3 reviewing the mobile home externally that that was
4 the likely point of entry?

5 A. Yes. As a matter of fact we, when we
6 look at the front of the mobile home, well, first
7 let me show you an interior diagram that was
8 created by the crime scene analyst that was there
9 working with us that day. Again, this is north to
10 the rear of the trailer.

11 That window that we saw in that first
12 picture is down here in the front or the south
13 side. It allows you entrance into the bedroom
14 which is the master bedroom, and then this would be
15 an area of focus for us. So would the livingroom
16 area because this is where we located Deborah
17 Panos's body on the floor.

18 Q. When we're looking at the crime scene
19 diagram that's displayed right now, can you show
20 the jury where the front door of the trailer would
21 be and the carport area.

22 A. Okay. In the diagram the front door
23 is here. That's the one with the porch off to the
24 side and then the carport would be right here where
25 the north arrow is and this is the little door that

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1 Q. And that's the picture we're looking
2 at.

3 A. This is the front door.

4 MR. SCHIECK: Your Honor, I can't see
5 when he points his pointer.

6 THE COURT: You can stand closer. You
7 can also draw on these screens if you wanted to as
8 well. Your pleasure.

9 THE WITNESS: If it's okay, I'll stay
10 right in here. Is that good enough, Mr. Schieck?

11 MR. SCHIECK: Yes, it is. Could I
12 move the podium. I guess that would probably make
13 it a little easier.

14 MS. WECKERLY:

15 Q. So what are we looking at in that
16 slide?

17 A. Well, the mobile home is situated on a
18 north south on the north side of the street. This
19 facing right here is south, west side porch area,
20 and the front door right here to the mobile home
21 and then this slide here depicts the opposite side,
22 east side, and that's the carport area, another
23 small door that allows entry into the residence
24 into a washer dryer room and then a kitchen.

25 Q. Okay. And the front part of the

1 allowed you in from the carport area.

2 Q. Okay. And you said that the primary
3 rooms that you were focused on, one was the
4 bedroom.

5 A. Right, the master bedroom here and
6 although we -- my responsibility for the scene is
7 to -- the entire trailer, the outside and
8 everything, but I learned after being there
9 approximately an hour that I could focus more on
10 this bedroom and the livingroom area.

11 Q. Okay. Describe what was of note in
12 the investigation in terms of the bedroom.

13 A. Well, with regard to the bedroom, back
14 to the front of the trailer, when you look here,
15 the close up of the window shows that the screen is
16 inside and the window is out here leaning against
17 the front of the mobile home.

18 I learned from Officer Lee what when
19 he found this window, it was in place and it was
20 all the way in a closed position except for about a
21 quarter of an inch so he pushed the window up the
22 rest of the way and climbed inside.

23 So that was important to me because
24 the screen was already inside the residence and the
25 fact that he went through that window was of

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1 concern to me too because I believe that was the
2 point of entry and now we have a police officer go
3 through that window too not knowing that was the
4 point of entry. He was just trying to facilitate
5 getting inside the mobile home to check the welfare
6 of the occupant.

7 Q. That screen that we see that's inside
8 the bedroom. Where is it in relation to like other
9 pieces of furniture?

10 A. You can see here that its wedged down
11 between the window sill and the back of this table
12 or small end table if you will which is kind of
13 pushed up against this desk and so that screen that
14 you see right there is the one you saw from the
15 outside and because it was inside, that was
16 important to me because it meant someone had to
17 bring that inside the residence.

18 Q. Okay.

19 A. I have an insert here of the screen
20 later back at the forensic lab where we conducted,
21 well, not me personally but we asked to have
22 fingerprint analysis done on numerous locations
23 inside the residence and the screen was one of
24 them.

25 Q. Besides the bedroom being the point of

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1 entry and seeing the screen kind of wedged in
2 there, in between the bed and that nightstand, was
3 there anything else significant in the bedroom in
4 terms of the investigation?

5 A. Yes. As you turned about face from
6 taking this photograph here like this, you can see
7 the bed here is unmade. The next slide depicts the
8 condition of the bedroom and here's the bed again
9 without the sheets on it so you know that, now I've
10 got my back taking this photograph which I didn't
11 take but I'm saying I had the criminalistics
12 working the case with me take this photograph and
13 you can see the condition of the bedroom here with
14 these letters that are strewn about on the floor
15 and clothing, clothing about the top of the
16 dressers, dresser drawers open and this long phone
17 cord.

18 Q. What was your assessment of the
19 condition of that bedroom?

20 A. It appeared to me that that was the
21 scene of either a ransacking or burglary. At first
22 my thoughts were someone had come inside there, was
23 looking for something.

24 Q. Okay. And did you ever examine the
25 letters that we see kind of spread across the

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1 floor?

2 A. Yeah. We did some close up
3 photography while they were in place and the
4 letters appear to be letters from James Chappell to
5 Deborah Panos while he was incarcerated.

6 Q. So you would have examined those when
7 you were at the scene obviously and those would
8 have been collected as evidence?

9 A. Yes.

10 Q. Okay. And anything else of
11 significance in the bedroom or was your focus more
12 in the livingroom?

13 A. Well, if you remember from the diagram
14 there was a bathroom right off of the master
15 bedroom and inside the master bath there was some
16 blood in there on the toilet seat and also on the
17 edge of the sink so now I have the ransacking and I
18 have blood and I haven't even entered the
19 livingroom it's just in the bedroom area.

20 Q. When you saw the blood in the master
21 bathroom area, what did that indicate to you?

22 A. I now know of course that I'm there
23 because Officer Lee's told us that he's found
24 somebody beaten and stabbed inside of this
25 residence. I now know the bathroom is involved and

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1 the bedroom was involved so I'm thinking someone
2 was cleaning up because of the blood in the
3 bathroom.

4 Q. And obviously cleaning up after the
5 homicide?

6 A. Right. It's a bloody scene, and
7 there's blood in the bathroom so in my opinion
8 someone has been cleaning up.

9 Q. Then was your focus the livingroom
10 area?

11 A. Yes. So after leaving the master
12 bedroom part of the diagram, now you see some
13 additions to the diagram here and they are, of
14 course, the victim Deborah Panos has been pencilled
15 in to the diagram here.

16 The letters that you saw on the floor
17 inside of the master bedroom were in this location
18 here. There was a torn letter that you'll see in a
19 bit that was around her body and also there's a
20 knife that's on the ground right here on the floor
21 on the carpet a few feet from her head and of
22 course the location of her body right there.

23 Q. Okay. And that, you didn't prepare
24 this diagram but obviously you know it's consistent
25 with it?

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1 A. Yes. I mean I know that to be
2 actually a slide that was created from the actual
3 crime scene diagram from 1995.

4 Q. Okay. Now, when you were
5 investigating the scene, what were your
6 observations about the livingroom area where the
7 victim was?

8 A. Well, first when I walked into the
9 livingroom I tried to absorb what's going on inside
10 the room and I noticed that there were boxes inside
11 the center of the room that had some things inside
12 them so I was trying to figure out whether somebody
13 was moving in or moving out or what was happening
14 inside that mobile home, and the configuration of
15 the furniture is always important to me and then,
16 of course, the condition and the appearance of the
17 victim on the floor was just right there in front
18 of me so I started to absorb all that while I'm in
19 the room.

20 Q. Does this depict where the knife you
21 spoke of was located?

22 A. Yes. The knife was right here a few
23 feet from her head that would be to the north her
24 body is with the head to the north and the feet to
25 the south. This is the door on the west side which

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1 is the actual front door that has the bigger patio
2 on it.

3 Q. And everything in this photograph is
4 obviously as it appeared when you initially
5 entered?

6 A. Right. What we do is come inside,
7 take all photographs first before we do any
8 evidence collecting or getting close to the body at
9 all because we don't want to walk on anything or
10 disturb anything so we'll just come in and take a
11 path and order some photographs to give us overall
12 that way if we change anything, we can see how it
13 was when we first got there.

14 Q. And now we're looking at a closer view
15 of the victim at the scene?

16 A. Yes. This is an important photograph
17 that I asked to be taken because at this location
18 here we have blood on the door. We also have blood
19 here in a circle pattern or not a circle pattern
20 but right here. It seemed to be a pattern to me
21 and the fact that her positioning and the blood on
22 the side of the chair, this is a black comb not a
23 knife. The knife is further up here above her
24 head.

25 There's a sock here on the floor then

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1 there's a piece of torn letter, a handwritten
2 letter like the ones that were in the bedroom up
3 here right by her neck on the other side of her
4 neck. And we will see that in another photograph
5 but of importance to me here was this stain because
6 she had a stab to the abdomen and also just above
7 the pubic arch and the fact that it gave me the
8 impression that her body was rolled over and face
9 down in that position in depositing that stain
10 transfer there.

11 Q. And you also mentioned that there was
12 blood on the chair that's next to her?

13 A. Yes. She's heavily blood dead here.
14 I thought because of the condition of her nose that
15 it was aspirated but I knew she had both carotic
16 arteries cut. The blood would have shot up on the
17 chair at that location which also told me that she
18 died there. She wasn't placed there, and also that
19 her body was moved because of the way her shirt was
20 up in the back that she was pulled down which made
21 the shirt go up.

22 Q. Okay. And you mentioned also there
23 was a little bit of blood on the lower part of the
24 front door.

25 A. Right, right over in here.

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1 Q. Okay.

2 A. That to me in my experience would be
3 considered cast off or what we would call medium
4 velocity spray. There's high velocity that would
5 come from a gunshot wound, and medium would come
6 from cast off. Cast off would be the instrument
7 that's being used is going to have blood on it and
8 then when you withdraw for another strike, it's
9 going to cast off blood to other locations in the
10 room.

11 Q. When you initially observed Deborah
12 Panos, obviously she can be seen to have wounds
13 that were caused by a knife but at the scene did
14 you see any evidence of other injuries to her body?

15 A. Yes, I did.

16 Q. Can you describe for the members of
17 the jury what you could see at the scene in terms
18 of those kind of injuries?

19 A. She had in my experience what are
20 defensive wounds. She had on her forearms heavy
21 contusions or bruises that had developed prior to
22 death so I knew that after death bruises aren't
23 going to develop because bloods not going to flow
24 to the damaged area so when I saw bruising on her
25 hands and arms, I know that and also on the side of

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1 her face and her ear was very damaged from a blow,
 2 I know that those things would react only while she
 3 was alive and so those defensive wound or mark
 4 guesses on her body are what I saw.
 5 Q. Okay. And what are we looking at or
 6 can you orient us just a little bit? Is this the
 7 other side of the livingroom?
 8 A. Yes. If I were the photographer in
 9 this photograph, Deborah Panos is on the floor
 10 behind me and this is the telephone that became a
 11 part of our investigation because of our knowledge
 12 that there were phone calls made by Deborah Panos
 13 while James Chappell was inside the mobile home and
 14 so that's why we took photographs of the telephone
 15 and then a close up of the telephone which was in
 16 operating condition.
 17 Q. But it was off the hook?
 18 A. It was off the hook and obviously on
 19 the floor either dropped or thrown there.
 20 Q. And that would be consistent or
 21 indicative of a struggle as well, the phone being
 22 off the hook?
 23 A. Yeah. It went along with what
 24 appeared to have happened in the bedroom and
 25 livingroom. There was either a fight or struggle,

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1 a burglary, or some kind of crime committed in
 2 those rooms. Behind this box is another chair, and
 3 there were some more blood deposit on that. That's
 4 pretty far away from her body which I also
 5 considered as cast off.
 6 Q. And this photograph kind of orient
 7 where the victim's body was in relation to the
 8 knife.
 9 A. Yes. Just another angle and a
 10 photograph of Deborah Panos's body and again the
 11 knife is here a few feet from her head and then a
 12 close up of the knife. Of course when we look at
 13 the knife we see a heavy deposit of blood with a
 14 swipe here which cleaned the blood off which would
 15 probably be the tracks of the tool with clothing
 16 on.
 17 That would clean the knife off on the
 18 way out. Also the handle of the knife is very
 19 bloody and there's some fibers that are mixed in
 20 with the blood and dried into the blood there on
 21 the knife blade. The knife is not especially large
 22 based on the photograph. It's about seven inches
 23 long, similar to a kitchen type knife. It's got a
 24 slight serrated edge on it. I know the crime scene
 25 analyst had a measurement on it. I believe it was

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1 seven and a half inches. This knife from our
 2 opinion was from inside the residence.
 3 Q. What's the next slide? What are we
 4 looking at next?
 5 A. This is a photograph not taken by us.
 6 This is a photograph that I found on the counter in
 7 the kitchen, and it showed this vehicle in front of
 8 the mobile home and it was of importance to me
 9 because I knew that Deborah Panos had a car but it
 10 wasn't at the residence and so based on what I
 11 learned from Lisa Duran -- she told me she saw
 12 James Chappell driving away in the car.
 13 So with her being dead on the floor in
 14 her mobile home we've got a robbery also we're
 15 investigating so I want to get a description on the
 16 car I hand wrote on this which ended up being
 17 wrong. It's a Toyota Corolla but it's a 1985. I
 18 took that from the residence because of the
 19 appearance of the car. I wanted to get that to
 20 other officers.
 21 Q. This photograph was found on a counter
 22 top in the are residence?
 23 A. A little kitchen counter by the stove.
 24 Q. That's what you used to kind of
 25 describe the vehicle for other officers to be

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1 looking for?
 2 A. Yes.
 3 Q. Did the vehicle have license plates do
 4 you know?
 5 A. No, it didn't.
 6 Q. So you would have needed --
 7 A. I know the car didn't have plates on
 8 it at that time. Obviously you can't see from the
 9 photograph that it doesn't have plates on it.
 10 Q. Okay. What's the next slide?
 11 A. Okay. So an autopsy was performed on
 12 Deborah Panos's remains on September the 1st, 1995,
 13 and I was in attendance with Dr. Green and other
 14 forensic assistants that work in the coroner's
 15 office but I did attend the autopsy.
 16 Q. And is that normal? I mean do the
 17 homicide detectives always attend autopsies of --
 18 under investigation?
 19 A. Yes. I can only think of in the 400
 20 to 500 death scenes that I've investigated that I
 21 haven't attended an autopsy. The autopsies are
 22 attended by us regularly.
 23 Here she is as she was received inside
 24 the Clark County' coroners office. The blue is her
 25 body bag and it's been opened up inside the

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1 offices, and this placard has been created for her
2 identification.

3 Q And you mentioned that you and other
4 detectives attend them, crime scene analysts also
5 are present at the autopsy?

6 A Yes. We just have homicide
7 represented there and also crime scene
8 investigators are there for the preservation of
9 evidence that's collected from the body.

10 Q And you did in fact attend the autopsy
11 of Deborah Panos?

12 A Yes.

13 Q And what type of evidence is typically
14 collected off of a victim's body at autopsy?

15 A Well, you can imagine that that could
16 be either a real short list or a real long list
17 depending upon how the person died. In the case of
18 a female 99 percent of the time if I have a female
19 victim I'm going to do a sexual assault kit right
20 off the bat and all of the clothing is going to be
21 gathered as evidence here so she's received here as
22 we found her inside the mobile home with the
23 clothing on so the clothing is going to be kept
24 because the clothing on her body was penetrated by
25 the weapon so we want to align all those holes with

1 morning?

2 A Yeah. Almost always the next
3 morning. There's sort of a rule at the coroner's
4 office and if a body is recovered after 6:00 a.m.
5 in the morning, the autopsy will be performed the
6 following day. It was the 1st of September. It
7 doesn't make any difference what day of the year it
8 is.

9 Q You were at the scene on August the
10 31st and I assume you were there for several hours
11 investigating the scene while your partner did
12 interviews?

13 A Yes. The investigation at a mobile
14 home like that we started at about 12:30 or so in
15 the afternoon and we were there until dark and in
16 August that meant we were there until 8:00 or 9:00
17 o'clock at night.

18 Q Okay. And based on the scene and the
19 interviews that Detective Ramos conducted, what was
20 your assessment on the next day in terms of a
21 possible suspect for this homicide?

22 A Based on the totality of everything we
23 learned over that time that we spent at the mobile
24 home and then of course seeing her body at the
25 autopsy, we were focused on James Chappell right

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1 the wounds on the body.

2 Also a sexual assault because there's
3 only one opportunity to find out if that evidence
4 exists. After she leaves the coroner's office,
5 there will be a funeral and the evidence will go
6 away.

7 Q And a sexual assault kit would consist
8 of vaginal swabs?

9 A Yes. Every surface, pulled head hair,
10 pubic hair, because of those things because they
11 all could be related to the crime scene or an
12 extension of a crime scene such as a vehicle in
13 this case. If any of those things are present, we
14 need those and we need them at autopsy because we
15 only have that one opportunity.

16 Q And that was done in this case?

17 A That was done.

18 Q And you observed that being done?

19 A Yes.

20 Q After you attended the autopsy which I
21 assume because of the date on the slide was the day
22 after you had been to the scene investigating the
23 murder --

24 A That's right.

25 Q Okay. So the autopsy was the next

1 off the bat because of the things we learned from
2 Lisa Duran.

3 Q And so obviously information had been
4 conveyed that Deborah Panos had an ex-boyfriend and
5 it was a relationship that was not going well to
6 put it mildly.

7 A Right. We knew there was discord in
8 their relationship. We learned that from his
9 friend. We knew about his appearance in court the
10 previous day. We knew about his release to parole
11 and probation. We started putting things like that
12 together and we knew we had a 40-minute window. He
13 was seen by Lisa Duran leaving with a bicycle
14 hanging out of the back of her car. That was easy.

15 Q When you have a suspect that you're
16 looking for, is that information given to all Metro
17 officers to sort of be on the lookout for that
18 person?

19 A Sure, it is. Part of your purpose is
20 to create a BOLO or be on the lookout or all points
21 like you hear on TV. It's our responsibility as
22 homicide detectives and we put that out to the
23 police officers.

24 So how does it get to everybody?

25 Every shift has a briefing and before the briefing

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1 the information about the vehicle, the suspect, all
2 of that is put out so each uniform cop has that
3 information as he starts his shift.

4 Q. Okay. And so you went to the autopsy
5 the next day on September the 1st and what happened
6 next in terms of the investigation?

7 A. The autopsy's usually two or three
8 hours long depending upon how many wounds you're
9 going to examine and in case of most females the
10 swabs that are put into the orifices have to stay
11 inside for a little period of time so there's an
12 absorption of the swabs so you're there while the
13 swab is collecting whatever is inside those
14 orifices.

15 Then the body is cleaned, then you
16 start examining the wounds, then after the wounds
17 are examined, after the blood is removed, then the
18 doctor starts documenting the locations, the type
19 of wounds, so it could be three or four hours that
20 you're there and I know we started around 8:30 or
21 9:00 in the morning so somewhere around noon we get
22 a telephone call from dispatch that my dispatcher
23 wanted to talk as to me because there's a patrol
24 officer that has information about this case.

25 Q. You can flip to the next one. So from

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1 the autopsy you get this call notifying you about
2 something that's relevant to the investigation and
3 what was that?

4 A. Right. So the coroner's office is
5 down here at Shadow and Pinto Lane over by
6 University Medical Center so we're down there at
7 the coroner's office and we get the call from a
8 patrol officer that's at the Lucky's supermarket
9 over here at Bonanza and Lamb which is look how
10 close to 507 North Lamb and 839 North Lamb, the
11 Ballerina Mobile Home Park, he's got a guy inside
12 the Lucky's store that was detained by employees
13 there.

14 He's a black male that's identified
15 himself as Ivory Marill (phonetic), but the patrol
16 officer is a little concerned. Remember, he
17 learned from briefing about the homicide and so
18 this person that's detained is in possession of
19 four Social Security cards and the Social Security
20 cards bear the names of Deborah Panos, James Panos,
21 Anthony Panos, and Chantel Panos so the officer's
22 like, why do you have these four cards, and that's
23 why he called us because he recognized the Panos
24 name as the victim from the murder.

25 Q. And those other three names, were

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1 those Deborah Panos's children?

2 A. Her kids, yeah, children.

3 Q. So did you go to the supermarket?

4 A. I went there and so did Phil Ramos and
5 we went into the room where the guy was being
6 detained, Mr. Chappell right there.

7 Q. You just indicated someone in the
8 courtroom.

9 A. Sure. He's got a blue shirt on next
10 to Mr. Schieck. That's James Chappell.

11 MS. WECKERLY: May the record reflect
12 the witness has identified the defendant.

13 THE COURT: The record will so
14 reflect.

15 MS. WECKERLY:

16 Q. Just approximately what time was it
17 that you got to the Lucky's supermarket?

18 A. I have a log but I think it was 1:00
19 o'clock, somewhere in that area, 1:00 in the
20 afternoon.

21 Q. What did you do once you got there?

22 A. Of course we came in and identified
23 ourselves to store people and they took us back to
24 where Mr. Chappell was located and we, of course,
25 wanted to have a conversation with him about what

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1 was going on with regard to the mobile home park
2 but he didn't choose --

3 Q. Okay. Let me ask you another
4 question. When you -- when you encountered
5 Mr. Chappell at the Lucky's supermarket, did you --
6 were you able to observe him physically?

7 A. Yes, I was. As a matter of fact, you
8 know, we were concerned about the clothing that he
9 had because it was less than or maybe right around
10 24-hour period later so we were kind of hoping that
11 the clothing would match what Lisa Duran told us
12 about.

13 Here he is, a photograph that's taken
14 up against the block wall inside the back room of
15 the lucky store and that's where he was detained by
16 the patrol officer and while we're doing our
17 investigation and looking at him, I come across
18 this on his right palm and this is important to me
19 because I've seen this before.

20 These cuts are indicative of someone
21 that's had a knife in their hand in a knife attack
22 because when the bloody knife gets slippery, your
23 hand slides down and you end up cutting yourself so
24 we had these photographed with a measure and then a
25 close up of it and so then we could document the

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1 fact that he had that injury on there because the
2 more time that would go by the injury would go
3 away.

4 Q. So that would be indicative of someone
5 who's participated in a stabbing?

6 A. Yes.

7 Q. And so that was documented at the
8 Lucky's?

9 A. Yes.

10 Q. Did you get information about a
11 possible location of the vehicle at some point?

12 A. Yes.

13 Q. And was that, did you get information,
14 well, actually why don't you describe the keys.

15 A. Okay. The Lucky paper here there was
16 like a little cart there where the things that were
17 removed from Mr. Chappell were placed on this cart
18 and so we were still in the lucky store and I
19 noticed this key which I thought was a Toyota key
20 and a residence key right here and so I thought
21 those were the keys to the vehicle so I was
22 concerned that the vehicle was nearby or in the
23 parking lot and it wasn't. I later found it across
24 the street at the Vera Johnson projects.

25 Q. When you went to the Vera Johnson

1 the neighborhood there already.

2 Q. So at some point they gave you
3 information about where the car was?

4 A. Once you go through the complex,
5 you're familiar with it right away so it was easy
6 to find it once we got pointed in the right
7 direction.

8 Q. Did you ask a crime scene analyst to
9 respond and collect the car, collect evidence from
10 the car and tow it back?

11 A. Right. Because the vehicle left our
12 murder scene. It's a -- of my scene from the
13 mobile home so I've got to -- it just like I would
14 the mobile home so I had the sealed, towed up on
15 the flat bed truck and taken to the crime lab where
16 extensive forensic work would be done in the extent
17 of looking for blood inside outside.

18 We knew it was the Panos car and that
19 it was used often by Deborah Panos. We also knew
20 that James Chappell was inside the vehicle. No
21 surprise to us if we would have found fingerprints
22 because it was their car but blood would have been
23 important to us so there was a lot of work we did
24 on that car back at the crime lab.

25 Q. So that car was impounded for further

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1 apartment complex, I assume that's the slide we're
2 looking at now and that's where the vehicle was
3 located.

4 A. Yes. If you were to go to the right
5 down this sidewalk, that way, you would go toward
6 the lock he store so this is the west side of Lamb
7 back behind building No. 507 and the vehicle's
8 parked up on the grass right by the doors to the
9 apartments not in the parking lot area so it's kind
10 have been hidden up in here on the grass area. I
11 mean that's not the parking area there. It's the
12 grass.

13 Q. So it's sort of at the back of the
14 complex not in the parking area?

15 A. It's in the back of the complex not in
16 the parking lot on the grass.

17 Q. And did you speak to two ladies at the
18 Vera Johnson complex?

19 A. Yes.

20 Q. And were they assisting you in the
21 location of the vehicle?

22 A. Yeah. When I came there of course
23 they realized the police were in the parking lot
24 back there and I started looking around and they
25 pointed it out to me because things were buzzing in

1 testing?

2 A. Yes.

3 Q. If I can get you to resume your seat,
4 Judge, can we flip it over to the
5 document. Thank you.

6 Court's indulgence for just one
7 minute.

8 Now, you mentioned that you got a
9 picture of the car off the counter in sort of the
10 kitchen area.

11 A. That's right.

12 Q. I'm putting on the overhead
13 Exhibit 35. Were there also on that counter area
14 pictures of Deborah Panos's children?

15 A. Yes. That's a sideways picture of the
16 kids in a little grouping of the three children,
17 yes.

18 Q. But that would have been in the same
19 area where you got the picture of the car?

20 A. Yeah, that's the counter top in the
21 kitchen.

22 Q. And you mentioned on the chair next to
23 where Deborah Panos was laying that there was,
24 there was blood on the side of the chair and also
25 on the top part of the chair?

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1 A. Yes.
 2 Q. Showing you what's been admitted as
 3 States 120 -- I don't know if the color is going to
 4 show up that well, but can you indicate for the
 5 jury where the blood is.
 6 A. Sure. As things would have it, a
 7 similar colored chair but the blood is clearly
 8 depicted with these drops, heavy drops of blood
 9 that have direction to them and the side of the
 10 chair has way more blood on it but there is some
 11 here on the arm as well.
 12 Q. Okay. I'm now showing you State's
 13 24. You said the side of the chair had more blood
 14 on it. Can you explain for the members of the jury
 15 what you mean by that.
 16 A. Okay. There's heavy blood deposit on
 17 the side of the chair right here and with the
 18 condition of the blood on the side of her face and
 19 also on the side of the chair, and the damage to
 20 her neck from the knife wound, she clearly had an
 21 artery that was spurting and blood was squirting up
 22 on the chair right there while she was laying
 23 there.
 24 Q. Now, in addition to the letters that
 25 you mentioned that were in the bedroom area, master

1 that blood would have been transferred onto the
 2 person that was attacking her?
 3 A. Yeah, there's no doubt.
 4 Q. Showing you State's 114, does that
 5 sort of assist you in why you reached that
 6 conclusion?
 7 A. Sure. Because just like on the fabric
 8 on the side of the couch or the chair I mean and
 9 just like on the clothing here. These are droplets
 10 here but there's clearly smearing here so it's two
 11 different surfaces coming together that would
 12 create that and I could look at it and determine
 13 that it contacted with other clothing or other
 14 person and that's a transfer right there, a blood
 15 transfer.
 16 Q. So the person who was attacking here
 17 would likely of gotten blood on himself?
 18 A. Absolutely.
 19 Q. Now, showing you State's 16, what are
 20 we looking at in that photograph?
 21 A. Here in the photograph this is a pull
 22 back of the bedroom bathroom, the bathroom inside
 23 the master bedroom area and we would later do some
 24 forensic work. This is just an overall. On the
 25 edge right here I think if we zoomed in we could

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1 bedroom area, was there also a letter found in the
 2 livingroom area?
 3 A. Yes.
 4 Q. And can you -- in this picture I
 5 realize that we probably can't see the paper but
 6 just as to orient the jury, can you explain where
 7 the other letter was?
 8 A. Yes. Here's Deborah Panos's dark hair
 9 in the void between the top of her shoulder and the
 10 side of her neck and right down there is where we
 11 found a large piece of crumpled up paper with lines
 12 on it like looseleaf paper we used to call it.
 13 There's a piece of that there, and there's another
 14 piece of the letter in other part of the livingroom
 15 as well.
 16 Q. So that letter was ripped but pieces
 17 of it were in the livingroom?
 18 A. Yes.
 19 Q. Showing you State's 30, does that
 20 appear to depict one of the pieces of that letter?
 21 A. Yes. This small piece right here is
 22 another fragment of that letter.
 23 Q. Now, when you observed Deborah Panos
 24 see body at the scene, did it indicate to you or
 25 did you believe based on what you were observing

1 see a tiny bit of blood on the edge of the sink
 2 right there.
 3 Q. Showing you 17.
 4 A. I think that's the zoom.
 5 Q. That's the zoom.
 6 A. There's a tiny bit of blood there that
 7 we could collect that as a sample of blood in the
 8 bathroom.
 9 Q. This is 18.
 10 A. Again, the master bathroom and here on
 11 the seat the toilet seat is a smear or transfer of
 12 blood and that also was blood that we collected
 13 clearly deposited if a transfer, in a smear.
 14 Q. Now, when we were looking at the
 15 photographs of the livingroom, there were some
 16 plastic chairs that you mentioned that had blood on
 17 them as well that were a couple feet away from the
 18 victim. Do you recall that?
 19 A. Yes.
 20 Q. Showing you State's 119. Does that
 21 depict the blood that you were talking about that
 22 you observed at that location?
 23 A. Right. And these dots right here,
 24 here, and here are blood droplets, blood spatter
 25 but cast off, not transfer like I talked about a

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1 smear. This would come from being in the air and
2 then falling 'cause it just stays in a cycle like
3 that and it would-- even on a close-up would have
4 on -- to it but those were on that chair and that
5 was sort of to the east of where the knife was
6 located, where that Sesame Street box was located.

7 Q. Showing you 33, does that show that
8 chair that we were just looking at?

9 A. Yeah, it's not the chair with the box
10 on it. It's this one back here and there's blood
11 that I just showed you in those droplets on that
12 chair and of course that's the relationship to
13 where Deborah's located over here.

14 Q. Now you mentioned that you were
15 primarily focused on the livingroom and the master
16 bedroom obviously and the master bathroom. You
17 looked around the other rooms inside the home as
18 well?

19 A. Yes. Yes, I did.

20 Q. And generally what was the condition
21 of those rooms?

22 A. They were kind of nondescript in
23 comparison to those two rooms, the master bedroom
24 and the livingroom. The kitchen counter was a
25 little cluttered and one of the bedrooms had the

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1 bed made in it but another bedroom had a bed stood
2 up box spring, mattress leaned up against the wall
3 like somebody was moving out, and so I think
4 there's some photographs that will depict it.

5 Q. Yes. This is 110. That depicts one
6 of the beds sort of packed up.

7 A. Right. I mean mattresses, container
8 with some things in it, books and the mattress
9 leaned up against the wall, some other things back
10 in here too. I don't know what those are. Maybe a
11 platform for the bed.

12 Q. Showing you State's 111, is that
13 another room inside the residence?

14 A. Yes. I recognize that because of this
15 archway here. That is the opening from the hallway
16 into the actually like the den which is the
17 northeast corner of the residence and you can see
18 there's things packed and just a single couch
19 here. Nothing on the walls, curtains, pretty
20 sparse in there.

21 Q. Okay. And 113 would be sort of
22 another view of that same room?

23 A. Yes.

24 Q. I think at the beginning of your
25 testimony you were talking about your external

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1 observations of the residence. I'm showing you
2 State's 102 and that's the back door to the
3 residence, correct?

4 A. Right. East side of the mobile home
5 but the back door where, you know, you made
6 entrance into the washer/dryer room and then you
7 were right in the kitchen.

8 Q. Okay. And was there anything of
9 evidentiary value collected from that part of the
10 trailer, that side of the trailer?

11 A. The only thing over this side was back
12 in here on the grass is a piece of paper that I
13 located and it was a document that I've seen before
14 from the courts and it indicated the name James
15 Chappell on it and that there was a court
16 appearance date for August the 30th of 1995.

17 Q. And showing you State's 104, does that
18 depict where that piece of paper was?

19 A. That's it right there and there's a
20 little red cone next to it or orange cone next to
21 it which is what we do with all our evidence but
22 that's that form I was just describing.

23 Q. And that was obviously collected?

24 A. That was collected as evidence, right.

25 Q. Now, moving to the other side of the

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1 trailer where the front door was, this is in
2 State's 99, we talked about the letter that was
3 sort of underneath where the victim was next to,
4 between herself and the chair. Were there other
5 pieces of that letter found anywhere else in the
6 crime scene?

7 A. Yes, there were. Just outside the
8 front door here that cone right there is depicting
9 a small white sandal shoe that had its match
10 inside the house and there was also right at the
11 threshold there a small fragment of that same
12 letter that was up by her head, right next to her
13 body.

14 Q. And now showing you State's 2, can you
15 tell us what's depicted in that photograph.

16 A. Yes. It's even kind of hard to see
17 because this is the fragment of the letter. That
18 is a marker like a little sticky paper saying what
19 number item it is so this is the fragment right
20 here though of the letter.

21 Q. Okay. And this is State's 3. It's
22 probably hard to see that one as well but would
23 that be another little piece?

24 A. Right. It's a little blurry there by
25 the cones depicting that piece right there, that's

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1 the threshold there and that's the door over here
2 and the carpet of the landing out here.

3 Q. Okay. You mentioned that you called
4 crime scene analysts to the scene. Was the
5 residence processed for latent fingerprints?

6 A. Yes.

7 Q. And did you direct them or did you
8 have conversations about where the best place to
9 look for the fingerprints would be or where you
10 wanted them to concentrate?

11 A. Yes, I did.

12 Q. Where was that?

13 A. As I said, most of our focus was that
14 master bedroom and the bathroom and also the
15 livingroom area. We would expect to have the
16 fingerprints of Deborah Panos, James Chappell, in
17 those locations but to be -- to do this right you
18 have to direct these people to fingerprint certain
19 items like that screen that you saw, the knife.

20 If it -- pending upon the condition of
21 the knife, and in this case the knife was very
22 bloody but it was my responsibility to direct the
23 crime scene investigators to certain areas for
24 fingerprint processing.

25 Q. And here we are ten years later or

1 then it's opened by the crime scene investigator

2 that's present with us at autopsy.

3 Inside are small envelopes that
4 contain certain swabs and as they're deposited into
5 those envelopes or tubes and then they are sealed,
6 biohazard marked, and then sent to the lab for
7 analysis.

8 Q. And 87?

9 A. 87 is a police department serology
10 standard kit, and a serology standard kit was
11 completed by myself at the jail pursuant to a court
12 order for a whole blood draw and also forensic
13 evidence collection from Mr. Chappell in the forms
14 of hair like I can talked about earlier, combed
15 hair, pulled hair, swabs of the mouth and/or blood
16 that's drawn.

17 Q. So the sex assault case, 67, that was
18 the evidence that was collected at autopsy, the
19 vaginal swabs and that sort of thing from the
20 victim's body?

21 A. That's right.

22 Q. Do you know whether or not evidence
23 was attempted to be collected from the fingernails?

24 A. Yes.

25 Q. That was collected as well?

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1 more, do you know what the results were of the
2 fingerprint examination?

3 A. No fingerprints were identified from
4 inside the residence. Surfaces sometimes yield a
5 fingerprint and sometimes don't so in this
6 particular case we didn't identify any
7 fingerprints.

8 Q. And the car once you recovered that,
9 was that processed for latent fingerprints?

10 A. Yes.

11 Q. And what were the results of that?

12 A. Same results.

13 Q. Even though you know people had been
14 in the car, there weren't any?

15 A. Exactly. So many conditions affect
16 whether or not you recover fingerprints so we
17 didn't in this case.

18 Q. Sir, I'm showing you what's been
19 admitted as State's 67 and 87 starting with 67 do
20 you recognize that what is?

21 A. Sure.

22 Q. What is that?

23 A. At autopsy the sexual assault evidence
24 collection kit comes in a box like this. That's
25 sealed so that everything inside is sterile and

1 A. Yes, it was.

2 Q. And then 87 I think you said was blood
3 and other samples from the defendant in order to do
4 a comparison?

5 A. That's right.

6 Q. You know at this point that evidence
7 was submitted for DNA analysis?

8 A. Yes.

9 Q. And would that have been with regard
10 to evidence collected at autopsy as well as the
11 knife?

12 A. Yes.

13 Q. In terms of the vaginal swabs that
14 were collected from the victim Deborah Panos, do
15 you know whether or not any foreign DNA was found
16 in the vaginal swabs collected at autopsy?

17 A. I do know that the results were that
18 the DNA of James Chappell was found in the form of
19 semen inside the vagina of Deborah Panos.

20 Q. Then the fact that it's in the form of
21 semen would indicate that he ejaculated into her
22 body?

23 A. Yes.

24 Q. The knife that we saw on the
25 livingroom floor that had the blood, I assume that

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1 was also submitted for DNA testing?
 2 A. Yes.
 3 Q. What were the result of that?
 4 A. The result of the knife were the blade
 5 the forward of the handle and the hilt of the knife
 6 was primarily the blood of Deborah Panos. On the
 7 handle however as I suspected from the injury was a
 8 combination of James Chappell's and Deborah Panos's
 9 blood because of the injuries during the attack.
 10 Q. Was there any blood collected from
 11 Deborah Panos's vehicle?
 12 A. There was a small droplet of blood
 13 that was located I believe was near the trunk
 14 inside the trunk of the vehicle. It was examined
 15 and determined to be by DNA primarily that of
 16 Mr. Chappell.
 17 Q. To your knowledge was any DNA evidence
 18 recovered from the fingernails of Deborah Panos?
 19 A. Eight my understanding there was no
 20 DNA recovered from there.
 21 Q. Okay. Showing you State's 68. Do you
 22 recognize what that item of evidence is?
 23 A. Sure. This is the knife that was
 24 found on the floor near Deborah's head.
 25 Q. And can you remove that from the

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1 evidence bag, please.
 2 A. Sure.
 3 Q. Can you just hold what you have up so
 4 the members of the jury can see it.
 5 A. Sure.
 6 Q. The handle on that item of evidence
 7 appears discolored. Could that have been processed
 8 for fingerprint as well?
 9 A. Right. We have a substance that's
 10 called ninhydrin or leuco crystal violet or
 11 chemicals that are used to determine if it's human
 12 blood, and the knife is also bent and it's listed
 13 as 8 1/2 inches overall length.
 14 Q. And that was the knife from the
 15 livingroom that has Deborah Panos's blood on it?
 16 A. That's right. It still has blood on
 17 it here on the blade. This would be the grip that
 18 you would have in order to create injury on the
 19 pinkie like on James Chappell's pinkie from the
 20 knife slipping down.
 21 Q. Okay. If you could put that back in
 22 the bag.
 23 Now, you mentioned or we talked about
 24 letters that you saw in the master bedroom area.
 25 A. Right.

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1 Q. Showing you State's Exhibit 75, does
 2 that appear to be some miscellaneous papers that
 3 were impounded from the scene?
 4 A. Yes. These are from the bedroom.
 5 Q. Okay. Could you open that up.
 6 A. There are four bags that contain
 7 several items of paperwork. Some have receipts and
 8 other documents that have the names of both Deborah
 9 Panos and I think also James Chappell on them but
 10 primarily the letters that we saw on the floor in
 11 the bedroom.
 12 Q. You were primarily concerned with the
 13 letters?
 14 A. Right.
 15 Q. And --
 16 A. I haven't seen these for a while.
 17 MS. WECKERLY: I don't know, Your
 18 Honor, if you want me labeling them again for the
 19 record individually. There's four different
 20 packets so I don't know if you want you want me to
 21 label them A through D.
 22 THE COURT: Sure.
 23 MS. WECKERLY: I'll just -- the first
 24 one I'll just say is A just so we don't have to
 25 waste time.

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1 Q. Detective, I'm going to refer you to
 2 this first packet of paperwork that we'll refer to
 3 as 75-A. Does that appear to be a letter to
 4 Deborah from James Chappell?
 5 A. Yes.
 6 Q. And can you read the first couple
 7 lines of that letter, please.
 8 A. Okay. Hello, Deborah Ann, how you
 9 be? So what's up, sluf? So you have a pager now,
 10 huh? You are going lower and lower. Hope you're
 11 happy and doing fine. I'm not. I'm still worried
 12 to death about my life, future, my children, and
 13 mostly my well-being. Life is a bitch. I have a
 14 long road ahead of myself and have to walk it
 15 alone. What's down there waiting for me? Is there
 16 any human down there waiting for me? So did you go
 17 see Boys to Men? I'll bet you did. Hope you
 18 enjoyed it.
 19 Q. And this is a several page letter.
 20 Would that be correct?
 21 A. Yes.
 22 Q. And what does it say on the back of
 23 the second page?
 24 A. It says there's a heart drawn and it
 25 says are you easy, Debbie, with a question mark.

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1 Q. And the next page? And this would be
2 just for the record. The back of the fifth page of
3 the letter. What does it say on that page?
4 A. There's another heart drawn and it
5 says are you easy, Debbie, with two question
6 marks. And then it says how many have sweet talked
7 you, used lines on you, how many have lied to you,
8 how many have dropped your panties, how many had
9 you? Is your reputation good now? You're such an
10 easy fool. You will get tired of just getting
11 fucked.
12 Q. Okay. And there's six pages to the
13 letter, correct?
14 A. Yes.
15 MS. WECKERLY: For the record, we'll
16 put 75-A back in it is plastic bag.
17 MR. SCHIECK: For the record, was that
18 the only letter in 75-A?
19 MS. WECKERLY: It appears to be.
20 There's some other paperwork in addition but it
21 appears to be the only letter.
22 Q. And now I'm showing you what we'll
23 call 75-B and for the record we're on page 7 of
24 that letter.
25 A. Right.

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1 Q. Can you read the first couple lines of
2 that.
3 A. Okay. This is page 7. Hello sweetie,
4 found some more paper. It's Sunday, July 30,
5 1995. Been here 35 days. Where are you? And then
6 several question marks. You must be terrified to
7 visit me, huh? You know I'll put you on the
8 witness stand. Hold on let me say that again.
9 I'll put you on the witness stand, huh, and you
10 can't face it or me, huh. One day soon I'll be at
11 the front door and what in God's name will you do
12 then, question mark.
13 MS. WECKERLY: For the record, we'll
14 put 75-B back in the plastic.
15 THE COURT: Is that B as in boy?
16 MS. WECKERLY: Yes. Your Honor, I
17 guess we can label the next two C and D but I'm not
18 going to label those.
19 THE COURT: Is that the only letter
20 that was in 75-B as in boy?
21 MS. WECKERLY: It appears so.
22 THE COURT: All right. Thank you.
23 THE COURT: Do you know about how much
24 longer you have?
25 MS. WECKERLY: Just like one minute.

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1 Q. And just so we're clear these were the
2 letters found in the master bedroom?
3 A. Yes. Those are from the master
4 bedroom.
5 MS. WECKERLY: Thank you, Your Honor.
6 I'll pass the witness.
7 THE COURT: All right. We'll take a
8 short recess before you get into cross. During
9 this recess, it is your duty not to converse among
10 yourselves or with anyone else on any subject
11 connected with the trial or to read, watch or
12 listen to any report of or commentary on the trial
13 by any person connected with the trial or by any
14 medium of information, including, without
15 limitation, newspaper, television, radio, and the
16 internet, and you are not to form or express an
17 opinion on any subject connected with this case
18 until it is finally submitted to you, under
19 instructions by me.
20 We'll be in recess for ten minutes,
21 folks. Thank you.
22 (Whereupon a recess was
23 taken at 3:53 p.m. and
24 the proceedings resumed
25 at 4:13 p.m.)

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1 THE COURT: All right. We'll be back
2 on the record in C131341, State of Nevada versus
3 James Chappell. The record will reflect the
4 presence of Mr. Chappell in court with his
5 attorneys, State's attorneys present, in the
6 presence of our jury.
7 We'll continue on with the testimony
8 of Detective Vacarro. Detective, I'll remind you
9 that you're still under oath, sir.
10 THE WITNESS: I understand.
11 THE COURT: Thank you. Mr. Schieck.
12 MR. SCHIECK: Good afternoon,
13 Detective Vacarro.
14 THE WITNESS: Hi, Mr. Schieck.
15 MR. SCHIECK: May I approach the
16 witness, Your Honor.
17 THE COURT: Yes.
18
19 CROSS-EXAMINATION
20 BY MR. SCHIECK:
21 Q. You were shown these various packages
22 out of State's Exhibit 75, we've got 75-A and 75-B
23 which I believe are the two that you took letters
24 out of and read portions of, correct?
25 A. Yes.

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1 Q. Just so we're on the same page. And
2 you were able to identify the letter from
3 Mr. Chappell because he signed his name on it or
4 did you recognize his handwriting or how did you
5 recognize it was from Chappell?

6 A. I believe it was from Mr. Chappell
7 based on the letters and the fact that I'd seen so
8 many of them and the handwriting, yes.

9 Q. So there were more than just these two
10 letters that were there at the trailer?

11 A. Yes.

12 Q. Okay. And you had started reading the
13 one 75-A that start with hello, Deborah Ann,
14 correct?

15 A. Yes.

16 Q. And actually there's a notation at the
17 top that says fifth letter?

18 A. Yes.

19 Q. And that's at the top of page 1?

20 A. Yes.

21 Q. And before the salutation of hello,
22 Deborah Ann, it says -- well, I'll put it on the
23 display. It says I heart you with an arrow drawn
24 through the heart.

25 A. Right, yeah, it does.

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1 Q. Always and forever?

2 A. Yes, it does.

3 Q. Exclamation point three times?

4 A. Yes.

5 Q. And a star?

6 A. Yes.

7 Q. And there are other such sentiments
8 expressed in this letter; is that correct?

9 A. Yes.

10 Q. It tends to go from being very
11 derogatory at one point to very much I love you in
12 other portions of the letter?

13 A. That's true.

14 Q. So you see mood swings even within the
15 course of this letter.

16 A. Yes.

17 Q. And he's asking her for various
18 things. In fact, at one point he asks could you
19 send me up at the top a soup digest and some
20 magazine with Bobby Brown in it, please?

21 A. It does say that.

22 Q. And he talks about watching the Young
23 and the Restless.

24 A. Yes.

25 Q. And so there's a lot of different

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1 things in this letter other than basically accusing
2 her of being unfaithful?

3 A. Yes, there are.

4 Q. Okay. For instance on one page you
5 refer to are you easy, Debbie, with the question
6 marks. On the very next page it says I miss you.

7 A. Yes.

8 Q. So it kind of goes back and forth in
9 this letter between I miss you to you're seeing
10 other men to send me some magazines and I miss the
11 Young and the Restless soap opera?

12 A. Yes, it does.

13 Q. You've seen letters written from
14 individuals in jail or incarcerated on other
15 occasions, haven't you?

16 A. Yes.

17 Q. It's not unusual to see changes in
18 mood between the beginning and the end of the
19 letter if you know?

20 A. I mean I can't particularize but I
21 have seen that before.

22 Q. And you referred to the one out of
23 75-B, correct?

24 A. Yes.

25 Q. Okay. And, again, that appears to be

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1 written in pencil and there's at least 10, 11
2 pages?

3 A. There's several pages.

4 Q. In fact there's one numbered all the
5 way up to 12.

6 A. Uh-huh.

7 Q. And one that ends sort of a half page
8 with his visiting schedule and his address at the
9 detention center.

10 A. Yes.

11 Q. I miss, you honey, things like that on
12 there.

13 A. Yes.

14 Q. And on the back of that I miss you. I
15 miss you. I love you. Please help.

16 A. Yes, it does.

17 Q. And that's sort of the same tone in
18 this letter that goes back and forth and I believe
19 this is the one from July 30th, Sunday July 30th?

20 A. Right.

21 Q. So at that point in time he's still
22 sending her letters saying he loves her and misses
23 her.

24 A. Yes.

25 Q. And how many letters like this would

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1 you say were on the floor there in the bedroom?
 2 A. I don't remember the exact amount. I
 3 know there were probably somewhere between four and
 4 ten.
 5 Q. And did you impound all of them or
 6 just some of them?
 7 A. I believe everything that we attribute
 8 to correspondence from James Chappell to Deborah
 9 Panos we impounded.
 10 Q. Were they all in this 75-A or were
 11 there some that weren't brought to court, do you
 12 know?
 13 A. I think they're all there.
 14 Q. Now, the letter that was torn up that
 15 was found portions of it were found near Deborah's
 16 body, correct?
 17 A. Yes.
 18 Q. And there was a couple pieces outside
 19 even the trailer, correct?
 20 A. Yes.
 21 Q. One right by the threshold of the
 22 door?
 23 A. Yes.
 24 Q. And then one a little further out; is
 25 that correct?

1 A. Yes.
 2 Q. Did you ever determine who that letter
 3 was from?
 4 A. No.
 5 Q. Was there a signature line or anything
 6 that you were ever able to find or determine who
 7 had sent her that letter?
 8 A. As I recall there was a first name
 9 signature on it. That's all I remember.
 10 Q. You don't recall the name?
 11 A. Something with a D I want to say. I
 12 could look at the letter. I could look at a copy
 13 of the letter.
 14 Q. Do you have a copy of it?
 15 A. I might have one, yeah. I think it
 16 was Devon but I don't know for sure that was it.
 17 Q. For the record you have what's known
 18 as your home side notebook; is that correct?
 19 A. Yes.
 20 Q. And that contains all of the
 21 information on the case that you've accumulated or
 22 most of it?
 23 A. It's kind of fragmented a little bit
 24 because of the time but yes, it's primarily all
 25 here. Yes, I think I'm right. It's torn through

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1 A. No. Behind her feet to the south of
 2 her feet on the floor?
 3 A. There was.
 4 Q. There was one piece outside the door?
 5 A. Right.
 6 Q. Now, did you compare the handwriting
 7 on that letter to the handwriting on the letters
 8 from Mr. Chappell?
 9 A. I didn't -- I don't know if I had it
 10 done, forensically done. I looked at it and I
 11 thought that it was different.
 12 Q. Different handwriting?
 13 A. Yes.
 14 Q. You didn't attribute that letter that
 15 was torn up to having been a letter from James
 16 Chappell?
 17 A. That's right.
 18 Q. Did you read any portions of that
 19 letter?
 20 A. Yes.
 21 Q. Did that appear to be a letter of, a
 22 friendly letter from someone?
 23 A. Yes, it did.
 24 Q. Did it talk about various things in
 25 that letter addressed to Deborah Panos?

1 the D on the letter, D of Devon and so one of the
 2 pieces of the letters had the word Devon but the D
 3 is torn so I believe it was someone named Devon
 4 that wrote the letter and it is a different
 5 handwriting.
 6 Q. And is it addressed to Deborah Panos?
 7 A. Dear Debbie.
 8 Q. So there's a dear Debbie letter from
 9 someone that we believe is named Devon?
 10 A. Yes.
 11 Q. Or something close to Devon. During
 12 the course of your investigation, did you interview
 13 Lisa Duran?
 14 A. Phil Ramos did.
 15 Q. Are you familiar with the interview
 16 with Ms. Duran?
 17 A. Yes.
 18 Q. She's the lady that saw the vehicle
 19 leaving the mobile home park on August 31st?
 20 A. That's right.
 21 Q. And did you learn that she at one
 22 point in time had actually stayed in that trailer?
 23 A. Yeah. It was a little confusing for
 24 me, but my understanding was she stayed there for a
 25 short period of time and then she changed her mind

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1 and was moving back out.

2 Q. Were you aware that she had made
3 arrangements for that day to meet Debbie at the
4 trailer home to pick up some things because she was
5 going out of town?

6 A. Yes.

7 Q. And that she gained entry back into
8 the trailer after the crime scene analysts were
9 finished or at least to a point where they could
10 let her back in to get some of her stuff?

11 A. You know, I might have been, you know,
12 outside the residence at that point. I don't
13 recall her going back in there. It may have been
14 after we released it.

15 Q. Were you aware that she has stated
16 that the inside of the trailer really wasn't,
17 didn't appear much different from it had been when
18 she was staying there except for the letters on the
19 floor?

20 A. I don't know that.

21 Q. There were other places within the
22 trailer that there were clothes piled up on floors
23 or on top of dressers, correct?

24 A. Right, in the master.

25 Q. Okay. And in other locations else's?

1 the other bedrooms?

2 A. I'd say I don't think it's in the
3 master.

4 Q. And there appears some laundry in a
5 basket and some items of laundry sort of on the
6 floor there?

7 A. Yes.

8 Q. And a bag of diapers.

9 A. Yup.

10 Q. And in fact one of those drawers is
11 partially opened?

12 A. Yes.

13 Q. Or not closed all the way. And just
14 so I'm fair, this is, would be the family room; is
15 that correct?

16 A. Right. That's the family room.

17 Q. And the family room was fairly empty.
18 There was nothing in there.

19 A. Yes, sir.

20 Q. Okay. We've already seen the
21 photograph of some, a bed laid up against the
22 wall.

23 A. Right. I think that's that northwest
24 bedroom.

25 Q. Is that the same one you think that --

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1 A. I think some of the same was in the
2 livingroom but I don't remember the two northwest
3 bedrooms were pretty Spartan (sic). They were
4 pretty, you know, a bed and then the bed leaned up
5 against the wall and then of course we saw the
6 condition of the den, as I called it, in the
7 northeast corner. It seemed like all the living
8 was going on at the south end of the trailer.

9 Q. Let me show you what's been admitted
10 had as State's 109. Are you able to identify which
11 room that portion of the room depicts?

12 A. That may be that bedroom that's on
13 basically the west sides beneath the corner
14 bedroom. I can't tell for sure from that picture
15 but that maybe that other bedroom.

16 Q. One of the back, I'm calling it back
17 bedrooms?

18 A. Back bedrooms, yes.

19 Q. Bedrooms furthest from the front room?

20 A. Sure. There might be another
21 photograph that would orient me but I can't tell
22 for sure from that one.

23 Q. But to your recollection as I'm
24 showing you that one right now, that doesn't appear
25 to be in the master bedroom as opposed to one of

1 A. No.

2 Q. It's the other bedroom?

3 A. Yes.

4 THE COURT: You guys knew where each
5 one was going. Explain to the jury.

6 THE WITNESS: Not the northwest
7 bedroom but the next one below -- sorry -- on the
8 west side.

9 MR. SCHIECK:

10 Q. So the white dresser was the other
11 small bedroom?

12 A. Yes.

13 MR. SCHIECK: Is that better, Judge?

14 THE COURT: Thank you.

15 MR. SCHIECK:

16 Q. Now, when you did your walk around the
17 house when you were at the trailer when you first
18 got there, you said that's your job is to go around
19 and see what's there and look for potential
20 evidence in the case?

21 A. That's right.

22 Q. The first thing you did was make a
23 complete loop around the trailer?

24 A. That's one of the first things, sure.

25 Q. Did you notice that there were a

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1 number of empty beer cans that were located outside
2 of the trailer?

3 A. I saw a garbage can that -- we have a
4 photograph of a garbage can that has a couple of
5 Keystone light or Keystone beer cans in it. It was
6 alongside the trailer I think on the carport side,
7 the east side.

8 Q. Okay. Anyplace else that you recall
9 noticing beer cans outside the trailer?

10 A. Not that I recall.

11 Q. I'll show you State's Exhibit 100.

12 And which portion of the trailer do we have here?

13 A. This is the north side, the back.

14 Yes, sir.

15 Q. Okay. And there appears to be a red
16 cone in that photograph.

17 A. Yes, sir.

18 Q. Do you recall that that was marking
19 the location of an empty beer can?

20 A. Sure. Now I do now that you showed me
21 the photo.

22 Q. I'm not trying to trick you.

23 A. I know you're not. I mean I have the
24 impound from the crime scene investigators here.

25 Q. That's fine. I'll show you another

1 that had lived at point in time within the mobile
2 home with Deborah Panos?

3 A. You know, I just remembered Lisa. I
4 don't remember other persons living there.

5 Q. Or staying there for periods of time
6 with her?

7 A. I don't recall that.

8 Q. What about a Clair McGuire?

9 A. I don't recall that either.

10 Q. A lady out of Tucson.

11 A. I believe I read something, you know,
12 during the course of time. Now it's been some time
13 and the name is familiar to me, but I don't
14 remember her role as to whether or not she stayed
15 there.

16 Q. Okay. So other than Lisa Duran, you
17 don't recall anyone else in the course of your
18 investigation that was staying in that trailer with
19 Deborah Panos?

20 A. I seem to recall that there was a
21 friend from the Tucson area that stayed there and
22 if that's this Clair you're talking about-- but I
23 thought that was more like a visit. I didn't think
24 that was like someone staying in town.

25 Q. Did you interview a Mike Pollard

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1 one. This is State's Exhibit 101. Is that the
2 same window we've been talking about at the front?

3 A. Right. This is the south side of it,
4 and you know that window. That's the window from
5 the front of the mobile home that he entered.

6 There was a cactus right there and we put that cone
7 down to depict those cans that were there, yes.

8 Q. So in addition to the cans that were
9 in the garbage can that you recall, there were at
10 least a couple of other cans outside the mobile
11 home.

12 A. Yeah. I think in that last picture
13 one of those cans is a soda can, though. I can't
14 tell for sure.

15 Q. I'll zoom in. It appears at least one
16 is a soda can. That's as far as it goes.

17 A. Well, okay. There's probably a
18 descriptor in here. There's two cans there.

19 Q. We can agree they're empty cans?

20 A. Sure.

21 Q. And during the course of your
22 investigation did you interview an individual by
23 the name of Michelle Mancho?

24 A. No.

25 Q. Were you aware an of other individuals

1 during the course of your --

2 A. No, I did not.

3 Q. Did Detective Ramos?

4 A. Yes.

5 Q. So you were aware of the existence of
6 Mike Pollard?

7 A. I know the name. I don't know if I'd
8 know him if I walked in here right now.

9 Q. Were you aware of Debbie being in a
10 dating relationship for a couple of months prior to
11 August 31, 1995? Did that come up in your
12 investigation?

13 A. I don't know about that.

14 Q. None of these witnesses told you about
15 that?

16 A. No. It's not information that I have.

17 Q. Or had during the course of your
18 investigation?

19 A. That's right.

20 Q. Now, you talked about the latent
21 fingerprint processing within the mobile home. Did
22 you direct where the latent prints were to be
23 collected or is that something that crime scene
24 analysts determine on their own?

25 A. I would say that I think what I said

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1 is it's my responsibility. We kind of work
2 together when we're inside these places and I may
3 have an opinion about a particular item but they
4 pretty much know what to do while they're inside of
5 a crime scene as well and so some of the processing
6 may have been done at my direction. Otherwise may
7 have been just because that's what they do.

8 Q. With respect to the areas that you
9 directed that prints be attempted to be listed,
10 what areas were those?

11 A. Well, of course, as I said, my focus
12 was the screen. I was concerned about the window
13 up until I found out that the window had been
14 removed from the police officer and then the
15 bathroom area but I wasn't too concerned about that
16 because I knew that James Chappell was in that
17 bathroom at one time.

18 He lived in that residence and I also
19 knew that Deborah Panos would be in there so it
20 wouldn't be a surprise to me to find their prints
21 in there but we did some processing for prints how
22 far they were unfortunately negative for other
23 persons.

24 Q. Were you aware that James Chappell had
25 been in custody for approximately 60 days prior to

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1 August 31, 1995?

2 A. I knew that.

3 Q. So he wouldn't have been in that
4 mobile home for that period of time for about
5 60 days.

6 A. Right, but that wouldn't affect his
7 fingerprints being there.

8 Q. At least from 60 days before
9 fingerprints being there?

10 A. Right. They don't have a shelf life,
11 though. I mean depending upon conditions a print
12 could be in the same someplace for a year.

13 Q. Correct, but a surface such as a
14 bathroom counter that is likely sometime during a
15 60-day period to be wiped down or otherwise become
16 wet, those prints would likely be destroyed during
17 a 60-day period?

18 A. I guess we could speculate about that.

19 Q. Okay. Where else in the mobile home
20 did you direct the prints be lifted, any of the
21 other bedrooms?

22 A. I'm pretty sure that there was a
23 fingerprint processing done in those two west
24 bedrooms that I talked about earlier and I don't
25 know without looking at this report now other areas

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1 that they hit. As I said, my concern was the
2 screen frame and the master bedroom area, that
3 counter top, but I knew that Officer Lee had
4 crawled over the top of that little end table there
5 and I don't think he was glossed at the time that
6 he went in there and also that master bath.

7 Q. Now, were there actually prints
8 recovered that just weren't matched to any
9 individual or were there absolutely no latents
10 recovered?

11 A. I don't know the answer to that
12 without looking. There may have been some lifted
13 prints, but I know that there were no matches made.

14 Q. And would you have been the person
15 involved in the investigation that would request
16 which people are compared to any prints that may
17 have been found?

18 A. Yes.

19 Q. Do you recall doing that in this case?

20 A. Yes.

21 Q. Do you recall who you requested to be?

22 A. I know that we would have requested
23 obviously Deborah Panos and James Chappell.

24 Q. Anyone else that comes to mind?

25 A. I can't recall right now, but it would

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1 make sense to include Lisa Duran in that though.

2 Q. And you talked about finding the
3 photograph of the car on the countertop in the
4 kitchen.

5 A. Yes.

6 Q. The kitchen breakfast bar type area?

7 A. That's that little area, right.

8 Q. There is a number of items on there,
9 correct?

10 A. Yes.

11 Q. Other than being a little cluttered,
12 they don't appear to be disturbed. Is that fair to
13 say?

14 A. It's hard to remember back that long.
15 The countertop, though, is this area right here is
16 where the photograph of the car was and the kids'
17 picture that you saw earlier too.

18 Q. The back laundry room area where there
19 was the watch ear and the dryer as you come in off
20 of the carport?

21 A. Yes.

22 Q. That was pretty cluttered with various
23 items of clothes apparently or bedding waiting to
24 be washed. Is that a fair statement?

25 A. Actually there was a mattress that I

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1 think is like a toddler's mattress because it had,
2 was small and it had a plastic covering on it I
3 imagine for accidents or whatever, but it was a
4 small mattress and the whole mattress was standing
5 upright inside that small washer/dryer room and it
6 made it difficult to kind of pass through that door
7 out to the carport area but the door would still
8 open enough to pass through.

9 Q. When the door opened, did it kind of
10 hit up against the mattress?

11 A. Yes.

12 Q. You couldn't open the door all the
13 way?

14 A. Right, because the door would go up
15 against the washer/dryer and the mattress was kind
16 of in the way right there.

17 Q. Were there items of clothing that
18 appeared to be ready to be washed or coming out of
19 the wash room there?

20 A. I think there was clothing there. I
21 don't remember whether they were on the way in or
22 out.

23 MR. SCHIECK: Can we have this marked
24 as defense next.

25 Q. I'm going to show you what's been

1 also processed for latent print.

2 A. Yes.

3 Q. And, again, do you recall if there was
4 no -- were no latent print covered or just no
5 latent prints that matched Mr. Chappell or
6 Ms. Panos?

7 A. My recollection on the car there were
8 no latent prints recovered.

9 Q. It was like none at all?

10 A. No. I mean sometimes they're smudged
11 and you think there's a print there but it's not.
12 Those are not considered prints.

13 Q. I'm going to show you what's been
14 marked as State's Exhibit 60 and you've identified
15 that as the car.

16 A. Yes, I have.

17 Q. Okay. And that's how it appeared when
18 you found the car on the 31st or the 1st?

19 A. 1st.

20 Q. There appears to be some water leaking
21 from something that's there next to the car?

22 A. Yes.

23 Q. Do you know where that water was
24 coming from?

25 A. No, I don't.

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1 marked as Defendant's E and ask if you recognize
2 what's depicted in E.

3 A. Yes, I do.

4 Q. And what is that?

5 A. This is a photograph looking from the
6 kitchen towards the washer/dryer room where the
7 items I described were and I also see the mattress
8 with the plastic covering on it and clothing on the
9 floor. It looks like a pillow and a blanket, a
10 bottle, a blue bottle on top of the washing machine
11 like maybe, I don't know what it is.

12 MR. SCHIECK: Okay. I move for the
13 admission of E, Your Honor.

14 MS. WECKERLY: No objection.

15 THE COURT: E will be admitted.

16 MR. SCHIECK:

17 Q. So this is looking from the kitchen
18 into the laundry room area?

19 A. Right. If you were in the carport and
20 you wanted to come in the house, the door's behind
21 this wall here.

22 Q. And that's the mattress that the door
23 would hit when you try to come in that way?

24 A. That's right.

25 Q. You indicated that the automobile was

1 Q. Certainly enough water that you could
2 step in it or take a rag and get a rag wet in that
3 water?

4 A. Oh, I don't remember that. I mean
5 it's a stain. I can see that. I don't remember
6 how much water there was.

7 Q. But there appears to be water in the
8 photograph?

9 A. Yes.

10 Q. You talked about the collection of the
11 evidence kit at the autopsy.

12 A. Yes.

13 Q. And that's referred to sort of in the
14 vernacular as a sexual assault kit, correct?

15 A. It says it on the box too.

16 Q. And that's what the kit is called.

17 Just because that's what you're collecting is
18 evidence that you're looking for that may indicate
19 sexual assault.

20 A. Yes.

21 Q. It can be called an evidence
22 collection kit just as well.

23 A. It could be but it's not.

24 Q. At one time we used to call it a rape
25 kit then it became a sexual assault kit.

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1 A. It might have been called a rape kit.
 2 I don't remember that far back. I know it's called
 3 a sexual assault kit.
 4 Q. I thought we were going to make it
 5 without an old joke.
 6 A. Sorry.
 7 Q. Now, you talked about the various
 8 times on your time line.
 9 A. Yes, sir.
 10 Q. How long you estimated it would get
 11 from a certain location to another and it appeared
 12 that one of the first ones was a three-and-a-half
 13 mile walk and you put down about ten minutes for
 14 that.
 15 A. No, actually I put a lot longer than
 16 that. A three-and-a-half-mile walk, I just kind of
 17 went by a slow pace would take about 20 minutes a
 18 mile. A pretty brisk pace would take about 15
 19 minutes a mile so we were just trying to create a
 20 time line for our purposes of our investigation.
 21 Q. Would it be fair to say that
 22 everything you had on that time line is just sort
 23 of your best estimate of how long something would
 24 take to do.
 25 A. The durations, yes.

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1 Q. For instance how long it takes to put
 2 a bicycle into a trunk.
 3 A. Sure.
 4 Q. Some of us it takes a long time to put
 5 a bicycle in a trunk.
 6 A. Right.
 7 Q. So those are all, for lack of a better
 8 term, just guesstimates that you made based on
 9 times, some times that you did know and filling in
 10 times in between.
 11 A. I would say it was based on real life
 12 experiences how long it would take me to complete
 13 those tasks and try to find some time there that
 14 would allow us to understand what happened better.
 15 Q. But there are a lot of variables that
 16 go into that time line?
 17 A. Yes, there are.
 18 Q. For instance, we know that
 19 Mr. Chappell had just been released from the city
 20 jail to parole and probation.
 21 A. Yes.
 22 Q. We don't know what he was wearing when
 23 he was released shoe-wise. It could have been
 24 sandals.
 25 A. Right.

1 MR. SCHIECK: Court's indulgence,
 2 please. Thank you. That's all I have. Thank you,
 3 Detective.
 4 (Whereupon Mr. Schieck
 5 concluded his cross-examination
 6 at 4:43 p.m.)
 7 THE COURT: Ms. Weckerly.
 8 MS. WECKERLY: Thank you, Judge.
 9
 10 REDIRECT EXAMINATION
 11 BY MS. WECKERLY:
 12 Q. The laundry room area where the
 13 child's mattress, that's the back porch door that
 14 is in that area?
 15 A. Right. That's the door on the east
 16 side of the trailer that takes you out to the
 17 carport area, not the one where the sandal and the
 18 piece of the letter were.
 19 Q. And that was passable. You could walk
 20 through there?
 21 A. Sure you could.
 22 Q. The photo that Mr. Schieck showed you
 23 of the car when it was parked at the Vera Johnson
 24 complex --
 25 A. Yes.

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1 Q. -- that was taken the next day,
 2 correct? Because that's when you found the car?
 3 A. Yeah, the photograph was taken as soon
 4 as the crime scene analyst showed up and I asked
 5 him to take overall shots before we called for the
 6 tow truck so that's where it was.
 7 Q. Okay. On September 1st?
 8 A. September 1st. That would be about
 9 1:30 in the afternoon.
 10 MS. WECKERLY: Thank you. Nothing
 11 else, Your Honor. Thanks.
 12 (Whereupon Ms. Weckerly
 13 concluded her redirect
 14 examination at 4:44 p.m.)
 15 MR. SCHIECK: Nothing further, Your
 16 Honor.
 17 THE COURT: Hold on one second
 18 Detective, Leslie. Counsel approach, please.
 19 (Whereupon, counsel approached
 20 the bench, and after a
 21 discussion outside the hearing
 22 of the court reporter, the
 23 following proceedings took
 24 place:)
 25 THE COURT: All right. Let me ask you

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1 a couple of questions if I could please, Detective
2 Vacarro. To the extent you know, was there any DNA
3 found in Ms. Panos's mouth to prove the oral sex?

4 THE WITNESS: No. I do not believe
5 that there was any DNA found there.

6 THE COURT: Thank you. Was there any
7 blood that was found in the bedroom? I'm assuming
8 master bedroom in the question. Okay. I get a nod
9 from the juror. Any blood found in the master
10 bedroom?

11 THE WITNESS: No, not in the bedroom.
12 The master bath.

13 THE COURT: Thank you. And do you
14 know which stab wounds were inflicted first and
15 which ones caused her death?

16 THE WITNESS: No.

17 THE COURT: Okay. Thank you.

18 Ms. Weckerly, any questions based upon mine?

19 MS. WECKERLY: No, Your Honor. Thank
20 you.

21 THE COURT: Mr. Schieck.

22 MR. SCHIECK: No, Your Honor.

23 THE COURT: All right. Detective
24 Vacarro, I appreciate your time. You can step
25 down.

1 television, radio, and the internet, and you are
2 not to form or express an opinion on any subject
3 connected with this case until it is finally
4 submitted to you, under instructions by me.

5 See you Monday at 9:00 a.m.

6 (Whereupon, the jury
7 retired from the courtroom
8 at 4:47 p.m. and the following
9 proceedings took place outside
10 their presence:)

11 THE COURT: Anybody have anything
12 outside the presence?

13 MR. SCHIECK: I can inform the Court
14 I've looked at the State's jury instructions. I
15 think I'm only going to have probably one or two to
16 add to theirs. It pretty much mirrors the ones
17 I've got.

18 There is one that they have that talks
19 about during the first phase of the penalty hearing
20 you only make one part of the decision because we
21 didn't bifurcate this we need to change that and
22 I'm just going to suggest one that says you can't
23 use certain evidence for aggravators but other than
24 that I think we're pretty close.

25 (Whereupon a juror entered

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1 (Whereupon James Vacarro
2 was excused from the
3 witness stand at 4:46 p.m.)

4 THE COURT: All right. Ladies and
5 gentlemen of the jury, that will conclude our
6 testimony for the week. I'm going to release you
7 for the weekend. I'll bring you back at 9:00
8 o'clock on Monday morning. It's my hope we'll
9 finish up Monday. I'm not sure about that
10 especially in terms of argument but we're going to
11 endeavor as best we can to get to that far so at
12 the very least I would hope we can get all the
13 witnesses done Monday.

14 To the extent it's possible, if you
15 could kind of prepare and we can go a little later
16 on Monday. I won't keep you too late especially
17 since you'll be here since 9:00 but maybe be
18 prepared to stay past 5:00 o'clock.

19 During this recess, it is your duty
20 not to converse among yourselves or with anyone
21 else on any subject connected with the trial or to
22 read, watch or listen to any report of or
23 commentary on the trial by any person connected
24 with the trial or by any medium of information,
25 including, without limitation, newspaper,

1 the courtroom and remarks took
2 place off the record.)

3 MR. SCHIECK: I think we're real
4 close. There won't be a big problem on jury
5 instructions.

6 THE COURT: Okay. To the extent you
7 get them worked out, if you fax or e-mail them over
8 so the State can read them as well as the
9 department, we'll look at them Monday as well.
10 Okay. Thank you, folks, see you Monday morning.

11 (Whereupon the proceedings
12 adjourned at 4:49 p.m.)
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1 REPORTER'S CERTIFICATE

2 STATE OF NEVADA }
3 } ss
4 COUNTY OF CLARK)

5
6 I, Cheryl Gardner, RMR-RPR, CCR 230,
7 do hereby certify that I took down in Stenotype all
8 of the proceedings had in the before-entitled
9 matter at the time and place indicated and that
10 thereafter said shorthand notes were transcribed
11 into typewriting by me and that the foregoing
12 transcript constitutes a full, true and accurate
13 record of the proceedings had.

14 IN WITNESS WHEREOF, I have hereunto
15 set my hand and affixed my official seal of office
16 in the County of Clark, State of Nevada, this
17 18th day of March,
18 2007.

19
20
21
22 *Cheryl Gardner*
23 CHERYL GARDNER, RMR-RPR, CCR 230
24
25

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1 AFFIRMATION
2 Pursuant to NRS 298B.030

3
4 The undersigned does hereby affirm that the
5 preceding transcript filed in District Court Case
6 No. C131341 does not contain the social security
7 number of any person.
8
9
10
11
12

13
14 Dated this 18th day of March,
15 2007.

16
17 *Cheryl Gardner*
18 Cheryl Gardner, CCR 230, RPR, RMR
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CHERYL GARDNER, CCR 230, RPR, RMR

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TRAN
CASE NO. C-131341
DEPT. NO. 3

ORIGINAL

FILED IN OPEN COURT

March 19 20*07*

CLERK OF THE COURT

BY *Carol Green*
DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

STATE OF NEVADA,

Plaintiff,

vs.

JAMES M. CHAPPELL,

Defendant.

REPORTER'S TRANSCRIPT
OF
PENALTY HEARING

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

MORNING SESSION

DATED: FRIDAY, MARCH 16, 2007

REPORTED BY: Sharon Howard, C.C.R. #745

246

1 APPEARANCES:

2 For the State: CHRISTOPHER OWENS, ESQ.

3 PAM WECKERLY, ESQ.

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5
6 For the Defendant: DAVID M. SCHIECK, ESQ.

7 CLARK W. PATRICK, ESQ.

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1 LAS VEGAS, NEVADA; FRIDAY, MARCH 16, 2007

2 9:00 A.M.

3 P R O C E E D I N G S

4 * * * * *

5
6 THE COURT: We're back on the record in
7 C-131341, State of Nevada versus James Chappell.

8 The record will reflect the presence of
9 Mr. Chappell, with his attorneys, the State's attorneys,
10 in the presence of the jury.

11 We're going to continue on with the
12 State's case in chief.

13 The State may call their next witness.

14 MR. OWENS: The State calls Tanya Hobson,
15 your Honor.

16 THE CLERK: You do solemnly swear the
17 testimony you are about to give in this action shall be
18 the truth, the whole truth, and nothing but the truth, so
19 help you God.

20 THE WITNESS: Yes.

21 THE CLERK: Please be seated. State and
22 spell your name for the record.

23 THE WITNESS: My name is Tanya Hobson,
24 T-A-N-Y-A, H-O-B-S-O-N.

25 DIRECT EXAMINATION

1 BY MR. OWENS:

2 Q. How are you currently employed?

3 A. I am a social worker and program manager for
4 Catholic Charities.

5 Q. How long have you worked there?

6 A. 2-and-a-half years.

7 Q. Back in 1995 where were you working?

8 A. Safe Nest, a temporary shelter for domestic
9 violence.

10 Q. Safe Nest?

11 A. Correct.

12 Q. When you say a temporary shelter for
13 domestic violence, what does that mean?

14 A. Basically, it's a safe house for abused
15 woman to come and stay while basically hiding from their
16 abusers.

17 Q. Was there some series of initials that were
18 used to describe where you work, or who you worked with
19 TADV or something?

20 A. Temporary Assistance for Domestic Violence.
21 It's an acronym.

22 Q. It's an acronym?

23 A. Correct.

24 Q. Was that an acronym for what you did?

25 A. Yes.

1 Q. You weren't working for any governmental
2 agency?

3 A. No.

4 Q. But you were working with or in conjunction
5 with a governmental agency and insisting with protective
6 orders?

7 A. Correct.

8 Q. Can you take a moment and describe for us
9 the process that you were using, why don't we start by
10 explaining what a protective order is?

11 A. A protective order is when a victim of
12 domestic violence calls our hot line at the time and would
13 like a protective order because the abuser has violated
14 her or him in any type of way that infringes upon their
15 physical body.

16 Q. So if you have some sort of report on that,
17 how would that usually come into you?

18 A. Through our hot line. We have a crises hot
19 line and the victim would call up.

20 Q. And after the victim would call you up, then
21 you would do certain things?

22 A. Correct. We would take their statement, and
23 after the statement was taken we would talk to them and
24 tell them exactly what would be taking place with the
25 protective order that they're requesting. And after that

1 we would send it off to the judge.

2 Q. So your contacts with these victims is
3 usually over the phone?

4 A. Correct.

5 Q. But sometimes they come into your place
6 there?

7 A. Correct.

8 Q. And you would fill out actually an
9 application that was then sent to the court?

10 A. Correct.

11 Q. How would the victims find out about you to
12 be able to know that they should call or come in?

13 A. We have a crises hot line. We have like a
14 lot of little Posties all over the place. You find out at
15 the hospital, jails, schools, bathrooms.

16 Q. So if a victim was injured to a point where
17 they're taken to a hospital, there's a good probability
18 that somebody would hand them your number to call?

19 A. Correct.

20 Q. And we're talking about victims of domestic
21 violence?

22 A. Correct.

23 Q. What was the criteria you would use to
24 determine if you had enough to apply for a protective
25 order?

1 A. Well, we took their statement. And we would
2 take it in detail so we would have enough to describe what
3 happened for the incident. So it was detailed information
4 that the victim would give us in reference to what took
5 place.

6 Q. What would you then do with that
7 information?

8 A. After we spoke -- after I would talk with
9 her, fill it out, then we would Fax it over to a judge
10 that would be on call during that night. We had to wake
11 him up in order to do the protective order, so -- then it
12 was faxed. He knew it was on the way.

13 Q. So you fax the protective order application
14 to the judge?

15 A. Correct.

16 Q. What happens next in the process?

17 A. The judge then signs it. And he will send
18 us back a copy with the court date on it.

19 Q. What does that mean, with a court date?

20 A. The court date, meaning that the person
21 filing the protective order had a court date that they
22 would have to come and appear.

23 Q. It's usually just a couple of days away?

24 A. Right.

25 Q. And in order for them to extend that

1 protective order, they need to be present in court?

2 A. Correct.

3 Q. In the meantime, the order gets served on
4 the perpetrator?

5 A. Correct.

6 Q. And he is supposed to be there too?

7 A. Correct.

8 Q. And they have a short period to protect his
9 rights so he can have some say in the matter before the
10 order is extended?

11 A. Correct.

12 Q. Would you typically go to those court
13 proceedings?

14 A. Myself, no.

15 Q. Would you have somebody that would show
16 up?

17 A. Not unless we were subpoenaed.

18 Q. Otherwise, you would tell the victim when
19 they needed to be in court?

20 A. Right. They would have to call us, and we'd
21 have to call back -- have them call back to get their
22 court date.

23 Q. Who would take care of notifying the
24 defendant?

25 A. Usually it would be -- it could have been

1 any one of the staff members that would have the
2 protective order, and we tell them to call back. Our
3 staff member would call back -- we're really -- we really
4 stress that if one staff member didn't do it, the next
5 would. So we make sure the person would know, but we'd
6 also tell them to call back to get the court date.

7 Q. So you wanted to make sure something
8 happened on that?

9 A. Correct.

10 Q. Now -- so, we're talking about two
11 documents, the application and then the order?

12 A. Okay.

13 MR. OWENS: For the record the document I'm
14 referring to, Exhibits that were marked in the prior
15 proceeding No. 81 and 82.

16 THE COURT: All right.

17 MR. OWENS: For the record I'll place
18 Exhibit No. 81 on the screen to your left there. Can you
19 see that.

20 Let's zoom in a little bit.

21 BY MR. OWENS:

22 Q. Tell us what we're looking at here, sort of
23 describe what this is.

24 A. That is a document that I filled out for the
25 defendant -- for Debra.

1 Q. For Debra -- you have this Panof?

2 A. Correct.

3 Q. You don't know if it was Panos? You put an
4 "F" there?

5 A. I put it there.

6 Q. If we scoot up a little bit there, what was
7 the date of the incident?

8 A. 1/9/95.

9 Q. January 9th, 1995?

10 A. Correct.

11 Q. What kinds of information is on this first
12 sheet?

13 A. Her address, phone number, business number,
14 the defendant, his date of birth, his address as well.
15 Who he was to her, in this case it was a boyfriend.

16 Q. Okay. And you showed an address of 839
17 North Lamb, number 125, for Debra Panos?

18 A. Correct.

19 Q. Then there's some information down her that
20 says what happened. Can you read that?

21 A. "Plaintiff and defendant were at home, the
22 plaintiff was sleeping on the sofa when the defendant
23 asked her to get up and --

24 Q. This is your writing, right?

25 A. I know. I don't have my glasses on.

1 Q. I'll zoom in a little bit here. It's kind of
2 hard.

3 A. -- "asked her to get up."

4 Q. Let me bring it over to you.

5 A. Thank you.

6 Q. There you go.

7 A. Okay. "The plaintiff was sleeping on the
8 sofa when the defendant asked her to get up. The
9 plaintiff didn't hear him. The defendant hit the
10 plaintiff in the face. The plaintiff then ran into the
11 room. The defendant called all the -- called the
12 ambulance and the defendant -- the plaintiff went to the
13 hospital. The defendant was taken to jail."

14 Q. Okay. And the fact that he was in jail made
15 serving him with notice of this a lot easier then trying
16 to track him down?

17 A. Yes.

18 Q. And the next page on there, what kind of
19 information is on that page?

20 A. It gives -- let's see. We're he is at, the
21 Detention Center, to make sure he is there, the phone
22 number, the fax number, the children and who would get --
23 basically the custody of the children at the time, which
24 would be the mother.

25 Q. So this order provides not only for the

1 protection of the person that was battered, but also
2 protects the children, if there's any children involved?

3 A. Correct.

4 Q. And in this case we had three children?

5 A. Yes.

6 Q. What were the names that were listed
7 there?

8 A. Chantelle, Anthony, and James.

9 Q. Then the next page.

10 A. It just shows that the above children to
11 reside with the plaintiff for at least 6 months.

12 Q. Talks about her place of employment?

13 A. Talks about her place of employment. It was
14 G.E. Ordered defendant not to sell, destroy, or damage
15 property. Then it gives the date, the plaintiff's name,
16 my name, my signature, and the address which was a P.O.
17 Box.

18 Q. This was shortly after the first of the
19 year. Did you get the year wrong on it?

20 A. 1994, 1995.

21 Q. You meant to put 1995 as the date of the
22 incident?

23 A. Correct.

24 Q. On the back of it there you just have some
25 additional emergency protective order information. That's

1 about where you are going to send the documents and the
2 location to people?

3 A. Correct.

4 Q. Let me take that back from you now. This is
5 the application form. So this is what you faxed to the
6 judge?

7 A. Yes.

8 Q. And then the judge reviewed this and then
9 what happened?

10 A. After the judge reviews it he then sets a
11 court date and he faxes over the client's court date.

12 Q. That would be the temporary protective order
13 issued by fax?

14 A. Correct.

15 Q. We're going to look at that, Exhibit No. 82
16 now. This is a document connected with this application
17 we were just looking at, right?

18 A. Yes.

19 Q. And it gives notice to the Detention
20 Center?

21 A. Yes.

22 Q. And talks about the application and it sets
23 a hearing date out?

24 A. Yes.

25 Q. And orders the defendant to refrain from

1 threatening, physically injury or harassing the victim,
2 and to stay away from the plaintiff's residence?

3 A. Correct.

4 Q. And stay away from the plaintiff's children
5 during the term of the order; is that correct?

6 A. Correct.

7 Q. On the last page there's a hearing set up
8 there for January 11st. So this would have been just a
9 couple days later?

10 A. Correct.

11 Q. So the order went into affect once it was
12 signed?

13 A. Yes.

14 Q. And then there would have been a hearing
15 date. Do you know what happened at the hearing date?

16 A. The client didn't show up.

17 Q. The client didn't show up?

18 A. Correct.

19 Q. And what happens when -- and you say the
20 client, this is the victim?

21 A. Victim.

22 Q. Is it unusual for the victim not to show up
23 for that date?

24 A. It's more than typical.

25 Q. Why is that?

1 A. Because they have a -- some of the victims
2 have a change of heart, feel that they might have talked
3 with the abuser and he told them that he wasn't going to
4 do anything anymore, that, you know, I love you, and we
5 can work this out, and give me another chance type
6 situation. Usually the victims fall for that.

7 Q. For whatever reason in this case Debbie
8 Panos didn't show up for the court hearing, so what
9 happened?

10 A. The protective order becomes void.

11 Q. If she had shown up at the hearing how long
12 can this order last?

13 A. It could have been extended. I believe
14 that's up to the judge how long it can be extended.

15 Q. But typically thirty days, or up to ninety
16 days in some situations?

17 A. Some cases.

18 Q. Does that sounds about right?

19 A. Sounds about right.

20 Q. It depends on the circumstances?

21 A. Correct.

22 Q. But in this case, there wasn't any time
23 because nobody showed up?

24 A. Nobody showed up.

25 MR. OWENS: That's all I have.

1 THE COURT: Thank you. Mr. Schieck or Mr.
2 Patrick.

3 CROSS-EXAMINATION

4 BY MR. PATRICK:

5 Q. Good morning.

6 A. Hi.

7 Q. Did you ever meet Ms. Panos?

8 A. No, I didn't.

9 Q. You only talked to her on the phone?

10 A. Only on the phone.

11 Q. How many times?

12 A. Once.

13 Q. She never called back?

14 A. I work the graveyard shift so she may have
15 called during the evening.

16 Q. You never talked to her again?

17 A. I never talked to her again.

18 Q. Did she ever come into the Safe Nest where
19 you worked?

20 A. Not that I recall.

21 Q. Now the order that you filled out, like you
22 said, that was in your handwriting?

23 A. Correct.

24 Q. And the full name of that document is an
25 application for a temporary protective order, correct?

1 A. Correct.

2 Q. And temporary means it's only good until
3 that court hearing?

4 A. Correct.

5 Q. Now, after somebody calls and you fill out
6 that application, do you do any investigation into those
7 allegations?

8 A. No. Just what they tell me.

9 Q. Do you try and contact the person that they
10 want the order against and ask for their side of the
11 story?

12 A. No, sir.

13 Q. Do you have any idea if the police would do
14 that?

15 A. I have no idea on that.

16 Q. So basically this can be filled out by one
17 party making whatever allegations over the phone?

18 A. Correct.

19 Q. Now, I believe Mr. Owens mentioned there was
20 a hearing set up two days later on January 11?

21 A. Yes.

22 Q. And Ms. Panos didn't show up for that
23 hearing?

24 A. No, she didn't.

25 Q. Therefore, the temporary protective order

1 was vacated?

2 A. Correct.

3 Q. And there was no further action taken?

4 A. Not that I know of.

5 MR. PATRICK: That's all I have.

6 THE COURT: Mr. Owens?

7 MR. OWENS: Nothing further.

8 THE COURT: No questions. Thank you very
9 much. You may step down. You are excused.

10 THE WITNESS: Thank you.

11 THE COURT: State may call their next
12 witness.

13 MR. OWENS: We're going to take one out of
14 order.

15 THE COURT: We're taking a witness out of
16 order, ladies and gentlemen. We'll call somebody on the
17 defense case in chief.

18 MR. PATRICK: We would call Dr. Lewis
19 Etcoff.

20 THE CLERK: You do solemnly swear the
21 testimony you are about to give in this action shall be
22 the truth, the whole truth, and nothing but the truth, so
23 help you God.

24 THE WITNESS: I do.

25 THE CLERK: State and spell your name for

1 the record.

2 THE WITNESS: Lewis Marvin Etcoff,
3 E-T-C-O-F-F.

4 DIRECT EXAMINATION

5 BY MR. PATRICK:

6 Q. Good morning, Dr. Etcoff.

7 A. Good morning.

8 Q. Sir, how are you currently employed?

9 A. I am self-employed in private practice as a
10 licensed psychologist in Las Vegas.

11 Q. How long have you been doing that?

12 A. Since 1984.

13 Q. Could you give us a little idea about your
14 educational background?

15 A. Yes.

16 I received bachelors and masters degrees from
17 Brandise University in Massachusetts in 1973 and 1975, and
18 my doctoral degree in clinical psychology from the
19 University of Toledo in Toledo, Ohio in 1983.

20 Thereafter, I was in the United States Air Force
21 where I was trained in my internship as a clinical
22 psychologist at Wright Paterson Air Force Base from 1983
23 to --'82 to '83.

24 And therefore was stationed here at Nellis Air
25 Force Base, which is how I came to Las Vegas. I was

1 honorably discharged from the Air Force in '85, and have
2 been here in private practice ever since -- and
3 licensed.

4 Q. Can you give us an idea of what your
5 professional experience is?

6 A. Probably until about 1988 or so, I did a
7 typical practice that any psychologist just out of school
8 would do, some psychotherapy, some testing, personality
9 testing, IQ testing, diagnostics.

10 I -- for awhile I was the chief psychologist at
11 Montavista Hospital in about 1990 or so, and saw patients
12 at Charter and Montavista.

13 At about that time I limited my practice just to
14 assessments, meaning evaluations of adults and children
15 and have -- haven't done any type of therapy ever since.

16 So my practice since about 1990, has strictly been
17 in the area of psychological and neuropsychological
18 evaluations in children, adolescents, and adults. Most of
19 my practice has been clinical, meaning that someone would
20 come to me with their child or themselves and say I've got
21 these problems, what's wrong with me, do I need medicine,
22 do you need therapy, how do you get better, and/or their
23 children are having problems at school, they're
24 inattentive or have communications problems or motor
25 problems, or memory difficulties, or learning

1 disabilities.

2 And my expertise is in neuropsychology, which is
3 how the brain processes information, and I try to figure
4 out why all of these people have problems. To that end, I
5 see one person a day, Monday through Thursday, and spend
6 most of the day with them, hours, and try to figure out
7 what's wrong with them.

8 In the past I did a bunch of evaluations
9 in this area for the public defender's office, which is
10 probably why I'm here today. And I also did several
11 hundred child custody evaluations. I no longer do
12 criminal or child custody evaluations, but still do
13 personal injury evaluations, wherein someone is claiming
14 emotional injuries, or cognitive injuries, or brain
15 injuries as a result of an accident, and I evaluate them
16 to see where they have, in fact, been injured and their
17 injuries are a result of the accident or have other
18 causes.

19 Q. Are you a member of any professional
20 associations?

21 A. Yes. I'm a member of the American
22 Psychological Association, and their divisions of forensic
23 psychology and clinical neuropsychology.

24 I'm a member of the Nevada State Psychological
25 Association, where I have been past president and various

1 other offices.

2 I am an adjunct professor of psychology at UNLV
3 over the past. And I have been training their Ph.D
4 students for the past 8 years. They spend nine months to
5 a year in my office, one or two of them at a time, and I
6 teach them how to do what I do, so when they go off to
7 their internships they're already pretty good at
8 assessments.

9 And I'm a member of the National Academy of
10 Neuropsychology and was recently elected a fellow in the
11 National Academy of Neuropsychology.

12 Q. You practice both as a psychologist and a
13 neuropsychologist?

14 A. Yes.

15 Q. What's the difference?

16 A. Most people who get their Ph.Ds are called
17 doctor of psychology, or EDD, or doctor of education and
18 become psychologists, and they are usually either clinical
19 or counseling psychologists. They work with people who
20 are mentally ill or people who are not so mentally ill,
21 that need counseling.

22 My training, after my doctorate, before -- before
23 and after my doctorate, was in how the brain influences
24 behavior. And so I've taken a lot of extra course work in
25 how the brain -- how brain damage can change someone's

1 functioning, so I see people with strokes and brain tumors
2 and head injuries and concussions and so forth.

3 So neuropsychology is a subset of clinical
4 psychology where we're actually taking a look at brain
5 dysfunction affects a human being.

6 Q. Have you done any work for the court system
7 here in Clark County?

8 A. Yes.

9 Q. Could you explain that for us?

10 A. I think, as I previously mentioned, I was
11 doing a lot of custody evaluations in the mid 90s. I was
12 doing a lot of criminal forensic evaluations for the
13 special public defender's office, and the public
14 defender's office, and the Nevada appellate
15 post-conviction project -- if I'm saying that
16 correctly -- were I would be part of a team of
17 professionals trying to evaluate individuals who have
18 either been convicted of murder or are on trial for murder
19 to see what they were like, and what they were all about
20 to help the jury decide, if they were found guilty, what
21 their penalty should be, or what, you know, whether they
22 should have the death penalty or be in prison without a
23 chance of parole and such. Just explain to the jury what
24 a person is like as a human being.

25 Q. Have you ever done any consulting work for

1 the Clark County School District?

2 A. Yes. They had me train two psychologists
3 about 15 years ago. And on occasion I get a case referred
4 directly from the school district, especially if they are
5 getting sued, and they want an expert to kind of determine
6 whether they're on the hook for something they shouldn't
7 have done or whether they're not.

8 But I don't have any direct relationship with them.
9 And I hardly ever get direct referrals from their legal
10 department. Most of the kids I see are just kids who come
11 to me from pediatrician referrals or school teachers or
12 principals.

13 Q. Now, during any of this with the school
14 district or some of your other practice, have you had the
15 opportunity to observe and evaluate dysfunctional
16 families?

17 A. Yes.

18 Q. Have you had the opportunity to evaluate
19 people with learning disabilities?

20 A. That's probably one of the -- maybe the
21 major thing I do. I see them several times a week.

22 Q. So when you worked for the school district
23 or the family court system, basically those entities would
24 ask you to provide an unbiased assessment of an individual
25 or family situation?

1 A. Yes, exactly.

2 Q. And I think as you just mentioned you had
3 quite a bit of experience dealing with people who have
4 been charged with serious crimes?

5 A. Yes.

6 Q. Have you been qualified as an expert in
7 courts in Las Vegas previously?

8 A. Yes, federal and district.

9 Q. Could you give us an idea of approximately
10 how many times you've testified?

11 A. It would be a guesstimate of 30 or 40 times
12 altogether. That's a guesstimate.

13 Q. And all those times as an expert in
14 psychology or neuropsychology?

15 A. Yes. That's over 20 years.

16 Q. Now approximately ten years ago now I guess
17 it's been, you were asked to perform an evaluation on
18 James?

19 A. Correct.

20 Q. Did you have an opportunity to perform that
21 evaluation?

22 A. I did.

23 Q. Do you remember where the evaluation took
24 place?

25 A. It was at my office, which was then in Las

1 Vegas on Decatur Boulevard.

2 Q. Do you remember about how long the
3 evaluation lasted and if any tests or interviews were
4 given?

5 A. It was probably, at least a half a day. I
6 don't remember specifically from that long ago, but by
7 looking at the report that I generated, I interviewed
8 Mr. Chappell for two hours. He filled out an objective
9 personality test in my office, which was scored and
10 interpreted. And we also -- either someone on my staff at
11 the time, or I administered an intelligence IQ test and an
12 academic achievement test battery, because he had
13 records -- it's important to know someone's intellectual
14 function in cases such as this, and also to know whether
15 they had learning disabilities that might affect how they
16 perceive reality or what they feel about themselves.

17 I also, at the time, had reviewed records
18 from the Las Vegas Metropolitan Police Department and
19 volunteer statements of a Lisa -- Lisa Duran and letters
20 from Debra Panos. And I also reviewed Mr. Chappell's
21 Lansing, Michigan school records and special-ed records.

22 Q. Did you have an opportunity to interview
23 anybody else besides Mr. Chappell or the documents you
24 looked at?

25 A. No.

1 Q. Is that a common procedure for you to
2 interview several people when you're just evaluating
3 Mr. Chappell?

4 A. You want to, as a psychologist, you want if
5 someone's mother, or brother, or sister, or wife, or
6 someone who knows them well is around and you really want
7 to get an outside opinion or a collateral opinion of what
8 their functioning had been like. I do that all the time
9 with people in civil cases. I want to know what the
10 spouse thinks has been the cause of the accident, so to
11 speak.

12 And undoubtedly asked, then Deputy Public Defender
13 Brooks if anyone in his family was available or could they
14 be brought to Las Vegas so that I could interview them,
15 but that wasn't possible. So the only person I was able
16 to interview at the time was Mr. Chappell.

17 Q. Were you able to get an accurate evaluation
18 just by talking with Mr. Chappell?

19 A. As accurate as you can get. I believe -- I
20 thought he was credible in what he told me.

21 MR. OWENS: I'll object to his opinions on
22 credibility.

23 THE COURT: I'll sustain the objection and
24 strike that statement.

25 THE WITNESS: He appeared honest when he

1 spoke.

2 MR. OWENS: Same objection.

3 THE COURT: I will sustained the objection
4 and strike that statement.

5 THE WITNESS: I don't know how to answer
6 the question.

7 BY MR. PATRICK:

8 Q. You mentioned you had copies of school
9 records from Michigan?

10 A. Yes.

11 Q. And letters that were -- had been written to
12 Debbie?

13 A. I did at the time.

14 Q. Now have you had an opportunity to interview
15 James or talk to James since that time?

16 A. No.

17 Q. Now, as a result of the documents you had
18 and talking to James, were you able to produce a detailed
19 forensic neuropsychological evaluation?

20 A. Yes.

21 Q. And did you a report as a result of that?

22 A. I did.

23 Q. And have you had a chance to review that
24 report recently?

25 A. Yes.

1 Q. Do you have a copy of that with you today?

2 A. I do.

3 Q. And as we're going through this, would it
4 help you to refer to that report to refresh your memory?

5 A. Yes.

6 Q. So you'll be referring to that report as we
7 go through today?

8 A. Yes.

9 Q. Now, when you evaluated James back in '95,
10 or '96, were you aware that he'd been charged with
11 murder?

12 A. Yes.

13 Q. Who he was accused of killing was his
14 girlfriend Debra Panos?

15 A. I knew that. Yes.

16 Q. You were aware that James was in custody?

17 A. Yes.

18 Q. And were you aware that James had a history
19 of domestic violence regarding Ms. Panos?

20 A. Yes.

21 Q. Did you discuss this with James?

22 A. A little. I didn't ask him, given my
23 report, every instance that it had ever occurred, but I
24 knew there had been several. And we spoke briefly about
25 one or two of the incidents, as I recall.

1 Q. Okay. Did you talk to James about an
2 instance where Debbie's nose was broken?

3 A. I believe so, yes.

4 Q. Did you talk to him about an event where he
5 had pinned Debbie down on a bed?

6 A. That also is something I recall.

7 Q. But you didn't go into minute detail of
8 every time that he would slap her or hit her?

9 A. No, I didn't.

10 Q. But you were aware that there were several
11 instances?

12 A. I believe so, yes.

13 Q. Was James forthcoming when he would talk to
14 about these instances of domestic violence?

15 A. Yes.

16 Q. Did he answer all -- any and all of the
17 questions you had regarding the domestic violence?

18 A. Yes.

19 Q. And this was all information you used when
20 you did your report?

21 A. Correct.

22 Q. And did you and James discuss that he and
23 Debbie had three children together?

24 A. We did discuss that.

25 Q. Did you have an opportunity to discuss James

1 and his childhood?

2 A. Yes.

3 Q. And at the time that you interviewed James
4 he was the primary source of the information about his
5 childhood?

6 A. Yes. But we also had the Michigan school
7 records in which there were lots of information that
8 substantiated or explained further what he had told me.

9 Q. What did you learn about James' father?

10 A. To the best of my recollection and having
11 read this over this morning, James' father was sort of
12 never in his life. I think he saw him a couple of times
13 throughout the years. He just didn't have any involvement
14 in James' life. I think his father had some criminal
15 record and a lot of other behavioral and substance related
16 problems, but that James, for all intents and purposes,
17 didn't have a dad.

18 Q. Do you remember when James told you when the
19 first time was he saw his father?

20 A. I believe he was ten, is my best
21 recollection. If I'm wrong, just tell me what page and
22 I'll go there.

23 Q. That's fine doctor.

24 A. Ten.

25 Q. Did James relate to a story about his father

1 asking him to help him with criminal endeavors?

2 A. Yes. I think on one occasion his father had
3 asked him to rob a bank, which he decided he didn't -- was
4 crazy and he had no intent on doing, and didn't, from what
5 he told me.

6 Q. Did you talk to James about his mother?

7 A. Yes. His mother -- he didn't really have
8 much of a recollection of her, because she died in a motor
9 vehicle accident, to my best recollection, when he was
10 about 2-and-a-half years old.

11 Q. Were you able to determine, if, at that
12 time, James had a close relationship with his mother?

13 A. I believe -- you know, he probably -- no, I
14 imagine he did. But I don't recall at this time whether,
15 in fact, he did or -- and there was no obvious information
16 available at that time when I saw him that would tell me
17 one way or another.

18 Q. Did he discuss with you how her death had
19 affected him?

20 A. It affected him a lot, because he had to go
21 live with his siblings and live with his grandmother, who
22 turned out to be, I guess, a physically abusive woman,
23 more so perhaps to his older siblings than to him, but
24 there was a lot of physical abuse in the household.

25 It sounds as if his grandmother had been somewhat

1 neglectful. And certainly looking at school records, he
2 was a psychological -- psychologically disturbed kid from
3 early on, who had real difficulty forming attachments
4 because he didn't have a dad, his mother died when he was
5 2-and-a-half, and his grandmother wasn't the greatest.
6 Although you have to give her credit for taking the kids
7 in.

8 Q. Were you able to come to an opinion as to
9 how adequate his grandmother was as a parent figure?

10 A. She didn't sound very adequate from the
11 information I had, but, again, I wasn't there. I can't
12 tell you how good a parent she was.

13 Q. Did you talk about James' siblings?

14 A. If we talked about the siblings, it was just
15 in passing. I don't recall anything in depth about the
16 siblings that we spoke about.

17 Q. In reviewing the school records from
18 Lansing, were you able to determine whether James had been
19 placed in special education classes?

20 A. Yes, he had. And he was in special-ed
21 classes very early on. In grade two, 1977, 1978 a social
22 worker at Sexton High School had provided a history of the
23 first couple of years of James' life, which I reprinted in
24 the report.

25 And it reiterates when his mom died he and his

1 siblings spent much of the time at the grandmother's
2 house. And the social worker had noted that the mother
3 frequently visited the kids at grandmothers, and she was
4 especially close to James. And her death was a very
5 difficult adjustment for the kids, in particular, James.

6 And that he had no real contact with his dad, who
7 was frequently in jail for drugs and other violations.

8 And at school, at that time, in grade two, he was
9 moody, had trouble fitting in with other kids. He was
10 easily distracted. He was late getting his work in. He
11 needed to listen better. He wasn't applying himself. He
12 was way behind in math, in particular, and disruptive in
13 class and was assigned -- he was also wetting himself and
14 sucking his fingers, which is indicative of a serious
15 anxiety and possibly an attachment disorder. Kids in
16 second grade tend not to do that. They out-grow those
17 types of behaviors.

18 So he was not doing well, in any fashion,
19 in school early on and needed a lot of extra services as a
20 result.

21 Q. Now, if I could direct your attention to
22 page 6, of your record. Looks like 1, 2 -- the third full
23 paragraph down. James was evaluated in 4th grade by a
24 social worker also?

25 A. Yes.

1 Q. And she looks like she was talking about his
2 problems adjusting in school socially and academically?

3 A. Yes.

4 Q. Can you explain that?

5 A. She had said that he was in the 4th grade
6 functioning at about second grade level. And he wasn't
7 playing with kids. He was just socially in a bad way. He
8 did build a relationship with a new teacher, which was
9 positive. But then she suddenly left, and the social
10 worker said he regressed to his old behaviors of not talk
11 to anyone.

12 So he was really in need of a strong compassionate
13 adult figure to replace his parents, who he didn't have,
14 and when he did find one in a teacher she left and he was
15 back to just being sort of silent.

16 He was isolated. They isolated him to get his work
17 done because he wasn't getting his work done. He had
18 trouble adjusting to school socially and academically.
19 She wrote, quote, "I feel he has a great deal of
20 difficulty forming meaningful relationships, and I
21 recommend he be placed in a smaller classroom situation
22 and should receive individual therapy outside of the
23 school setting."

24 As a result he was classified as severely learning
25 disabled and placed in SLD -- severely learning

1 disabled -- classroom in 1980, '81, where he still had
2 problems.

3 Q. Now in any of the records that you were able
4 to review or talking to James did you come to a conclusion
5 whether or not he was ever given that special
6 psychological care at that age?

7 A. Special psychological care?

8 Q. That therapy.

9 A. I didn't see any records that he was given
10 therapy. There was nothing there that I recall right now
11 that he was given therapy.

12 Q. If you could turn to page 7. It looks like
13 James was actually seen by a school psychologist when he
14 was in high school. Could you explain what you learned
15 about the evaluation that that psychologist did.

16 A. The school psychologist saw him when he was
17 16 years 9 months old. He is now in an emotionally
18 handicapped classroom. This psychologist wrote, quote,
19 "the extensive interview revealed a youngster who seems to
20 feel he has little hope of succeeding in life, especially
21 as it relates to academic achievement. He did not appear
22 to have any coping skills to deal with problems he
23 encounters and tries to endure whatever comes his way by
24 first pointing action" -- I have know clue what that
25 meant."

1 "He tends to withdraw and avoid when he encounters
2 problems and often takes what appears to him be the easy
3 way out."

4 "He hadn't made progress in the past several years,
5 and they essentially -- the school psychologist said -- he
6 has low self-concept, distrusts others, poor coping
7 skills, low self-image, problem with coping skills,
8 trouble completing assignments, and past problems of
9 attendance -- problems with attendance and low
10 motivation."

11 At that time he had a GPA -- grade point average of
12 0.65. And was ranked 584 out of 607 students. So
13 essentially he was failing.

14 Q. Now, after reviewing these records from the
15 social worker and a psychiatrist and talking in your
16 evaluation of James, does all of this fit in?

17 A. Yes. It's consistent with my test results,
18 which it should be. If he was like this and that was
19 accurate, then if I tested him when he's an adult all of
20 this should be still obvious.

21 Q. Now, did you talk to James about his
22 substance abuse -- drug use?

23 A. Yes.

24 Q. And do you remember about -- at about what
25 age James became involved with drugs?

1 A. Thirteen or fourteen he began using
2 marijuana -- or thereabouts. And up to 4 joints a day.
3 Then at 18, he was introduced to rock cocaine, and he
4 really started using a lot of cocaine rather regularly and
5 became ~~dependant on cocaine as a youngster~~.

6 Q. Now on page 7 of your report under the
7 heading -- that first paragraph, substance abuse history,
8 did James ever tell you about whether or not he would do
9 drugs at home.

10 A. Yes, he did. Because there was no
11 supervision and he could do it.

12 Q. And then I think as you just testified a
13 minute ago that James became hooked on crack cocaine?

14 A. Yes.

15 Q. Could you -- is there a significance
16 attached to James' drug use and specifically being
17 addicted to crack?

18 A. Well, crack cocaine is a very dangerous
19 substance. If you use it regularly there is a real good
20 likelihood you'll get psychotic and have paranoid
21 delusions and be really frazzled and up and have trouble
22 sleeping. It's a really psychologically destructive drug,
23 which makes you out of control of your behaviors and your
24 thoughts and can make you actually think that things are
25 real when, in fact, they're not. You can become psychotic

1 using it.

2 Q. I believe earlier you mentioned you or your
3 staff administered some tests while James was at your
4 place?

5 A. Correct.

6 Q. Now do you remember did you personally
7 administer the tests?

8 A. I don't remember. It's very possible at
9 that time, since I had been training people who were
10 getting advanced degrees that someone -- I was training
11 someone at that time, and they were helping me and doing
12 some of that. So that's very possible.

13 Q. Is that common for you to have associates
14 administer these tests?

15 A. That is how -- yes. I have been doing that
16 for 21 -- 15 to 21 years. Definitely.

17 Q. Was James given an IQ test?

18 A. He was.

19 Q. Can you describe that and what it's intended
20 to show?

21 A. An IQ test is a person-to-person test in
22 which you sit across the desk from someone and you measure
23 their intellectual abilities.

24 Back then the test that was the most well-known,
25 well-used was called the Wexler & Jones Intelligence Scale

1 Revised, which has since been updated and renormed and
2 standardized on a more modern population of people. Back
3 then that was the appropriate IQ test.

4 And the IQ test was then divided into two different
5 areas; verbal area, testing verbal language functioning,
6 and performance area, which was measuring things like
7 visual thinking and visual motor abilities. Putting
8 together jigsaw puzzles and putting block designs together
9 to make a pattern.

10 The IQ test comes out with a verbal IQ, a
11 performance IQ, and a full-scale IQ.

12 Q. Can you give us the results, please.

13 A. James performed in the borderline range at
14 the sixth percentile on his verbal IQ, with a verbal IQ
15 score of 77. An average verbal IQ, literally at the
16 population is one hundred. So if you have an IQ of one
17 hundred, you are at the 50 percentile comparing you to
18 everyone else in your age cohort in the United States.

19 Being at an IQ of 77, his verbal/intellectual
20 abilities were lower then 94 out of a hundred people his
21 age.

22 His performance IQ was 91, just within the
23 average in the twenty-seventh percentile. Which means he
24 thinks better in visual images and can do puzzles a lot
25 better than he can think in words.

1 And finally when you put the two IQ scores
2 together you have a full-scale IQ, which is the broadest
3 measure of intellectual abilities, he was an IQ of 80,
4 which is at the ninth percentile. Just in the low/average
5 range. Meaning that his overall intellectual abilities
6 were lower than ninety-one out of hundred people his age.

7 And his academic skills were low average
8 in reading. Spelling, they were okay, given his life and
9 all the troubles he had academically. But his math skills
10 were terrible and measured in the first percentile. Worse
11 than 99 out of a hundred people his age at a grade for
12 equivalent.

13 So we can say he was learning disabled in
14 math. And I also diagnosed him as having a mixed
15 receptive expressive language disorder, which means he
16 don't understand word concepts, or doesn't have the
17 ability to think very well in words or express himself in
18 words, as was evident on the verbal sub-test in the IQ
19 test.

20 Where his vocabulary was measured at the
21 fifth percentile, his practical reasoning skills were
22 measured at the fifth percentile.

23 His basic fund of information, what he
24 learned in life, was measured in the second percentile.

25 Arithmetic at the ninth percentile.

1 Abstract thinking at the twenty-fifth
2 percentile.

3 So really, he thinks simplistically, and
4 people that think simplistically have a hard time problem
5 solving, especially in stressful situations.

6 Q. Would it be fair to say that people in the
7 population with a low verbal IQ, such as this, would be
8 over-represented in our prison population?

9 A. They are for sure.

10 Q. Could you explain?

11 A. Well, it makes common sense. Not only is it
12 a fact that if you gave IQ tests to the entire prison
13 population in the United States there would be lots of
14 people with really bad verbal IQs and probably really bad
15 IQ scores period.

16 But the verbal IQ -- you know we think in words.
17 We problem solve, we figure out what we do in certain
18 situations, how to adapt to things by talking to ourselves
19 or thinking in words. If you're word facility is bad and
20 you can't think of how to -- what to do in a situation
21 you're likelihood of doing the right thing or doing the
22 best thing or adapting to situations that are challenging
23 sinks.

24 And so it isn't uncommon for lots of people that
25 end up in prison to be really lousy problem solvers and

1 when they're faced with something that they have to make a
2 really smart decision about, they don't do such a good job
3 doing it with those decisions. And if they also come from
4 a terrible background, you put a couple of those variables
5 together and that means they're over-represented in the
6 prison population.

7 Q. Now would you say that the fact that James
8 has this language deficit, does that have an affect on his
9 ability to think things through rather than just act out,
10 especially in a stressful situation?

11 A. That's what I'm saying.

12 Q. Did you administer then I believe you said
13 an academic achievement test?

14 A. Yes.

15 Q. Can you explain that to us a little bit?

16 A. Well, the reading test is I would give you a
17 list of words from very easy to nobody on the face of the
18 earth has ever seen the word before and it's unlikely that
19 you can -- synecdoche, is one of them. I don't even know
20 what it is and I've been giving that test for years.

21 So you just listen to a person read increasingly
22 complex words until they fail a certain number in a row,
23 and that score, that raw score, is then put into a
24 formula, because we've just tested several thousand adults
25 and we know that you're reading at the twelfth percentile

1 at a 6th grade level if you've gotten to this point.

2 The spelling test is, I would just say, spell cat,
3 the cat crossed the street, cat, then the words would get
4 increasingly difficult to words that no one in this room
5 would ever spell correctly, unless that's what you do for
6 a living. So that's how the spelling test goes.

7 The arithmetic test is a page where there is mixed
8 addition, subtraction, simple/complex division,
9 percentages, a little algebra, a little geometry and the
10 person has ten minutes to complete as many of those
11 arithmetic problems as possible and the number correctly
12 completed is a raw score, which converts to a standard
13 score, which converts to a grading and age equivalency so
14 you can tell where they stand.

15 Q. It sounds like James can read and write
16 better than he can verbalize or communicate?

17 A. Yes.

18 Q. How does that tie in with everything that
19 we've been talking about his performance IQ?

20 A. Let me correct myself. Read and spell,
21 writing is altogether more complex than spelling. But
22 reading is not necessarily correlated very much to IQ.
23 You can have a low IQ and be a good reader, because
24 reading is all about phonics and phonics is how the left
25 temporal lobe of the brain processes sounds.

1 So if you are able to figure out in your brain that
2 the sound "a" and the sound "i" are different, as they
3 are, you'll be a good reader.

4 But if I say "a" and "i" and you can't tell the
5 difference, you may be dyslexic or you'll be a less fluent
6 reader.

7 So reading has nothing to do with intelligence.
8 You can be very smart and be a terrible reader, or you can
9 be very not so smart and be a normal reader.

10 So reading and language, although there is a
11 correlation that people bad in language are sometimes bad
12 in reading, and people bad in reading are sometimes bad in
13 language, there's not a close correlation between the two.
14 You can be one or the other also.

15 Q. Now I think we touched upon this before, but
16 you were aware at the time you evaluated James that he was
17 in custody?

18 A. Yes.

19 Q. That he had been in custody for quite
20 awhile?

21 A. Months or -- yes.

22 Q. Did you know whether or not James had been
23 through what we call preliminary hearing?

24 A. I believe he was. He had been through a
25 preliminary hearing.

1 Q. And that he had been arraigned on the
2 charges?

3 A. Yes.

4 Q. And were you aware that the State actually
5 already filed a notice to seek the death penalty at that
6 time?

7 A. I believe -- I'm not sure I knew that at the
8 time, but I did know he was being charged with murder with
9 a deadly weapon, so -- now I know that that would be
10 sufficient for the State to ask for the death penalty.

11 Q. So would it be safe to say that James
12 probably had a very good idea of the charges and the
13 seriousness of what he was facing?

14 A. Yes.

15 Q. Now when a person is facing serious charges
16 going to court they want to try and make themselves look
17 as good as possible, would you agree with that?

18 A. To the court, they do. I'm sure to some
19 degree if they're sent to a doctor they do, but you would
20 be surprised how most of the people who have been sent to
21 me aren't necessarily trying to make a good impression on
22 me they're just trying to get some help and they're being
23 themselves when they see me.

24 Sometimes they're making a bad impression and they
25 don't know they're making a bad impression and their

1 behavior in my office is ruining their chances for me to
2 help them, but they have clue. And other times they're
3 behaving the way they are and they're helping themselves
4 because I can see more about their personality
5 characteristics and know that they're not evil people, for
6 example.

7 Q. Would you think that -- would you say that
8 people facing these serious charges when they tell their
9 story they want their version to be as positive as
10 possible?

11 A. Sure.

12 Q. Would that take a certain amount of
13 sophistication?

14 A. The more sophisticated you are, the better
15 you can do that, for sure. I mean, definitely. It does
16 take some sophistication to put your best foot forward in
17 front of whatever setting you're needing to look good in
18 front of.

19 Q. Now from what you determined about James'
20 low verbal IQ and mental capacity, do you think, in your
21 professional opinion, does he have the capacity to have
22 that type of sophistication?

23 A. I don't think so. He certainly wasn't
24 sophisticated when I spoke with him. He's not the type of
25 guy who could con the jury, or con the police. He's

1 just -- he's just who he is. And good and bad, I don't
2 think he would be that sophisticated.

3 Could he lie, sure. You don't have to be that
4 sophisticated to lie. But to concoct a story that made
5 everyone think a certain way, less likely for him.

6 Q. Now did you perform any personality tests?

7 A. Yes.

8 Q. Which test did you perform?

9 A. The Milan Clinical Multi-Axial Inventory 2,
10 MCMI 2.

11 Q. What is that test intended to measure or
12 do?

13 A. It measures two, kind of, different areas.
14 It gives a person -- it's a self-report inventory.

15 So it was like, I think then 150 statements that
16 you would take by yourself, read the statement, and answer
17 true or mostly true, or false or mostly false -- either
18 true or false.

19 They might say I sleep well. And you'd say last
20 two weeks, true. Or I'm usually unhappy, false, true.
21 And you would do this a 150 times. And the test was
22 normed on thousands of individuals, some of whom had major
23 depressions or anxiety disorders, or acting-out problems,
24 or impulse problems, or all these different personality
25 disorders. And you would compare your results from that

1 questionnaire or that test to the normative group on whom
2 that test was built and developed.

3 Q. Now this test, does it have a built in
4 mechanism to determine whether or not the person is being
5 truthful when they take it?

6 A. It has what's called validity scales or
7 validity indicators. That people can be inclined to
8 present themselves really well, I really don't have any
9 problems, and other times, depending on the situation, if
10 they really want help they'll come in and just complain
11 about anything and everything to such a degree that it's
12 not humanly possible that they have that many problems.
13 That kind of cry for help or over-exaggeration is another
14 way these validity scales pick that stuff out.

15 And then there are people who just kind of tell it
16 like it is, and the validity scales shows that they are
17 not defensive and they are not exaggerating.

18 Q. Now when James took this test, the validity
19 scale, was it valid?

20 A. Yes.

21 Q. So it would be your opinion that James was
22 being truthful when he took the test?

23 A. Yes. And we gave it to him on a tape
24 recorder, because his reading wasn't that great and his
25 language skills weren't that great, so I wanted to make

1 sure that he could hear a good human voice reading the
2 questions to him, and the validity scales did show that he
3 was able to take the test and answer validly.

4 Q. Now, back in '95, '96 when you gave James
5 this test, at that time was the test generally accepted as
6 a valid method in your field?

7 A. Yes.

8 Q. Did you -- directing your attention to page
9 10, of your report -- were there any significant findings
10 as a result of James being given that test?

11 A. Yes.

12 Q. Could you explain those to us?

13 A. Well, the test is divided into symptoms of
14 major psychiatric disturbances, such as major depressive
15 disorder symptoms, lesser depressive disorder symptoms,
16 bad anxiety symptoms, mania, bipolar disorder symptoms,
17 abuse symptoms, all of these kind of major acute
18 psychiatric problem scales.

19 And then there are a larger number of personality
20 disorder scales which measure how you perceive reality and
21 react to things in an inflexible kind of way.

22 So there are all these different personality
23 disorders -- that we'll probably not go into because it's
24 a little too long -- but there are scales that measure
25 abnormal personality characteristics and scales measuring

1 big depression, big substance abuse problems. Things like
2 that.

3 Q. Did the test show anything about James
4 needing to be dependant upon someone?

5 A. Yes. The test results indicated that he
6 felt worthless, inadequate, guilt-ridden, sensitive to
7 humiliation, which is, if you now think of what his school
8 remarks were like even in 2nd grade or 4th grade, it's
9 sort of the same thing now that he's grown up.

10 Low self-esteem, doesn't trust people, because he
11 never had anyone to trust. Dependant, people become
12 dependant when they don't feel competent, and they tend to
13 latch onto other people who will take care of them because
14 they don't have sufficient self-confidence not to become
15 dependant.

16 So he was dependant. He was mistrustful. He was
17 apprehensive. He was easily humiliated, shy, worthless,
18 guilt-ridden, not a happy person.

19 Q. Did you ever come to an opinion if James had
20 this attachment or dependency toward a particular
21 person?

22 A. Well, it seemed pretty clear when I spoke to
23 him about his relationship with Ms. Panos that he was very
24 dependant on her and was -- this was the one person who
25 had been in his life for ten years, even with the problems

1 that they had, they had children together, he depended on
2 her, and, yeah, he was extremely dependant on her. She
3 was the major figure of support in his life.

4 Q. Okay doctor now if we could turn to page 11
5 of your report, you stated that James would feel
6 persecuted, humiliated, and disparaged by others due to
7 his low self-image and this feeling of being weak and
8 ineffectual, will you explain that.

9 A. If you at base inside of yourself feel
10 terrible about yourself, you feel like a fraud, then
11 you're almost on the look out for other people seeing you
12 that way, so that you're sort of programmed, since you
13 don't have faith in yourself, you're sort of unconsciously
14 thinking to yourself, everyone else is going to see this,
15 they're going to see me as bad as I see me. And so you're
16 always on the look out, and if someone, you know,
17 criticizes you or doesn't say hello or yells at you
18 whether are young or old, it sort of cuts to the core
19 because inside of you you feel bad and rotten and that
20 just is a reinforcements of everything you thought was go
21 to happen when people got to know you. So it's a terrible
22 kind of way to be, because not only do you dislike
23 yourself but you are expecting the rest of the world to
24 dislike you, and you're looking for them to dislike you
25 and you're ready to pounce on them if they show any type

1 of destain or disrespect.

2 Q. And then a little farther down you mention
3 that James had become so self-absorbed that his day dreams
4 would blur fantasy and reality. Could you explain that
5 for us.

6 A. Yes. If you have a kind of low IQ and
7 really low verbal skills so you're not thinking well in
8 words, you've never been successful at anything, you're
9 dependant upon a woman who starts withdrawing from you and
10 that woman has three children who may be somewhat --
11 obviously these are kids you love -- and you're using
12 cocaine, you've got so many forces coming together that
13 it's a kind of bad mix. You're not going to be thinking
14 correctly. You're going to be anxious.

15 Q. Then I believe also a little farther down
16 you were talking about James wanting to avoid emotional
17 experiences and that was shown by the constant drug use,
18 and that it would help suppress any events in his life
19 that would evoke disturbing memories?

20 A. As a rule of thumb people drink, or take
21 drugs, or work 92 hours a week, or go down and hit the
22 slot machines as often as they can as an anesthetic to
23 life, which is really hard. I mean, nobody has it easy in
24 life. I don't care how successful you look, or whether
25 you're on the cover of a magazines, there are times when

1 you just want to escape, and the worse your life is the
2 more you'll find a way to escape.

3 Q. Now did the results of these tests that
4 you gave James, were they consistent with your interview
5 with him?

6 A. Yes.

7 Q. And I think we touched upon, but James
8 discussed his drug use with you?

9 A. Yes.

10 Q. And he discussed his relationship with
11 Debbie?

12 A. Yes.

13 Q. How did he describe their relationship?

14 A. He loved her, he thought. And I guess she
15 loved him at a time, but they were having problems. He
16 admitted that there had been abuse on his part in the
17 relationship in the past.

18 He began having a real problem with her when she
19 withdrew from him when he was jailed on a burglary charge
20 here in Las Vegas, and he started -- given the way he
21 is -- concocting fantasies of her doing all sorts of
22 things that would make you really upset if you were -- you
23 thought you loved someone or you depended on someone.

24 So he was concocting fantasies of her seeing other
25 men, sleeping around, taking advantage of him, and he

1 worked himself up into a frenzy. And then when he left
2 jail he found her and there were some friends of hers
3 living there, and they had men coming over, and one thing
4 led to another and he worked himself up into a very
5 irrational frenzy and figured -- truthful or not, whether
6 she was seeing other guys or not -- she was slipping away,
7 she had cheated on him, she had left him, he couldn't take
8 it. This is like his mother left him, the only other
9 person in his life who he could depend on, she is now
10 slipping away, and he just lost it.

11 Q. In your opinion would James be the type of
12 person to try and please Debbie?

13 A. I'm sure at times he would want to be very
14 pleasing, and at other times he might not want to be very
15 pleasing. He would kind of waffle back and forth. He
16 could probably be a son of a gun, and on other times be
17 sweeter than sweet, depending upon his needs at that
18 moment.

19 Q. Was he dependant on her?

20 A. The way he described it and the way the
21 personality test described him, that would be something
22 that I think is accurate.

23 Q. Now, you were talking about when he was in
24 jail and he would start to have these thoughts, the fact
25 that he was in jail he would not be able to have any

1 access to his drugs, would that make those
2 thoughts -- what would that do to those thoughts?

3 A. It would be harder to escape those thoughts
4 because there is no anesthesia. You're stuck in a quiet
5 place and you've got your mind, and unless you've got a TV
6 blaring all the time or you're just talking with the guys
7 you're going -- your mind is going to go to those things
8 that bug you. And that's probably -- he had a lot of time
9 on his hands to think.

10 Q. So it would be more painful?

11 A. More painful being alone with himself.

12 Q. Did James show emotion when he was talking
13 to you about Debra?

14 A. Yes. What was impressive to me after having
15 seen dozens of people that have been killing or have
16 murdered is that he just broke down crying he was just a
17 wreck in my office. He was remorseful. He wished he
18 could take it back. He was a wreck. And it wasn't as
19 if -- there was some people who murder, there's nothing,
20 there's just no feeling. You can say -- I'll say to
21 myself as I'm sitting with them, this guy should never
22 leave prison. This guy is dangerous.

23 With James, he didn't give me that impression. I
24 can't tell for sure. Obviously, I'm not a mind reader.
25 But he was -- he just broke down and cried. He was very

1 angry at himself for doing what he did. Angry at her for
2 leading him to do what he did. But he was just very
3 emotional.

4 Q. In your opinion were these emotions
5 sincere?

6 A. They looked sincere to me, yes.

7 Q. You testified previously at James last
8 trial?

9 A. Yes.

10 Q. And I believe you had a statement about, if
11 he could turn back the clock and undo this he would?

12 A. Yes.

13 Q. Could you explain that for us.

14 A. Well, here's the person who was the one
15 person in his life he loved -- at least in his way of
16 loving to the best of his ability -- and what does he do,
17 he kills her. And it was so self-destructive and so other
18 destructive that if he could only have not done that -- I
19 mean, he realizes that what he did was the absolute worst
20 thing he could have done for her, for the children, for
21 him, and he showed remorse in my office, I think.

22 Q. Did he talk to you about how Debbie's death
23 as affected him?

24 A. I think he was -- I think he did. As I sit
25 here I can't remember exactly what he said. But he was

1 very sad by this whole thing. I mean, as would anybody
2 be, if this happened to them.

3 Q. Did you and James talk about the events in
4 the relationship a few months prior to Debbie's death?

5 A. Yes.

6 Q. Could you explain that to us.

7 A. Meaning that when he --

8 Q. What the events were that kind of led up to
9 this -- up to Debbie's death?

10 A. Gosh, okay, let me see. This is not
11 something I memorized today so let me see if you can
12 reconstruct it.

13 To my -- I think what occurred, that the first time
14 he was jailed for burglary she visited him and gave him
15 money and was there for him and that was nice.

16 Then he went back in jail a couple of months
17 later -- and I'm hoping this is correct in -- he left jail
18 in May of '95. He then -- that's when those two female
19 friends came to the apartment. And then he was back in
20 jail again in June -- or in June -- I'm sorry. In June --
21 he was jailed in June, but I believe that Debbie and the
22 children left for a couple of weeks, left him. And that
23 made him very anxious and nervous and out of sorts. Then
24 when he went back in jail she didn't visit him and that
25 made him even more nervous and anxious. Then he

1 eventually got out of jail for that shoplifting charge and
2 the murder took place on the 31st of August, a couple of
3 months later.

4 Then, of course he told me about that day,
5 but you probably -- everyone knows what that's like.

6 Q. In fact, if we could look at the bottom of
7 page 9 of your report, the last paragraph. James told you
8 about the day that he killed Debbie. Could you talk to us
9 about that and maybe explain the significance of what he
10 told you?

11 A. Well, this is -- I mean, just even having to
12 talk like this in front of the jury is not easy. The easy
13 thing is he -- the easy stuff is he said, that morning or
14 that day he had had a couple of beers with the guys, took
15 a bike over to the home where he climbed -- or in the
16 apartment, whatever it was -- he climbed into the bedroom
17 window because he didn't have a key to the front door.

18 He said that Debbie met him and helped him through
19 the window, but asked why he hadn't knocked. He said they
20 began to have sex. And then he said, quote, "when I
21 entered her her vagina is all loose, it wasn't right."

22 "I instantly got up. The smell on her wasn't
23 good."

24 "I said -- excuse me -- "you've been fuck'n, huh."

25 "And she says, no, I was crying and pacing -- no, "she

1 says, no."

2 "Then she said, I was crying and pacing."

3 "She performed oral sex on me."

4 "Then I found men's boxers on the bedroom floor."

5 "She says, it must be Claire, Lisa's friends."

6 "I'm really pissed."

7 "My minds spin'n."

8 "We're walking out the door."

9 "I get in the car."

10 "I see two boxes with cheep beer cans. I ask who's
11 been drink'n. She says Lisa and Claire."

12 The car is trashy. Beer cans on the floor. It's
13 pissing me off. The lights broke. The ceiling upholstery
14 is ripped. She's blaming the kids. The gear shift was
15 broke. The air-conditioning was broke. All my tapes were
16 gone.

17 Then I found a letter in the car to her from some
18 guy, and he's talking about, quote, "I love the way you
19 did this to me," close quote.

20 And this feeling came inside me, and she sees me
21 reading the note and all I could picture was my lady in
22 bed with someone else.

23 I grabbed her. Took her in the house. And she's
24 on the floor at the front door.

25 And that's when he started -- and the way I read it

1 was how it came out of him.

2 Then he started crying uncontrollably as he
3 recollected murdering his girlfriend and told me, "she
4 just laid on the floor and covered her face."

5 "I still to this day don't remember everything I
6 did to her."

7 "It happened so quick that I panicked and left."
8 And he was just crying.

9 Q. Did you draw any significance from the way
10 he told you the story?

11 A. It seemed representative of his -- of what
12 occurred. I think he really went bananas, in lay-persons
13 terms, and just, you know, had all of these thoughts,
14 terrible thoughts rushing through his head. The car is a
15 wreck. He sees a note, everything. He's worked up and
16 all of these things are happening to him, and they are
17 happening rapidly and he just snapped. And he snapped as
18 bad as you can snap.

19 Q. Now, when James is describing all of this to
20 you he tells you that he doesn't remember the actual act
21 of killing her. Is that consistent with what you know
22 about James, or is it common in the population to have no
23 memory of a very traumatic event?

24 A. Well, one of my main areas of study is
25 memory functioning and what people really remember and

1 what they don't. And, I mean, I know from clinical
2 experience and the research literature it's consistent
3 that if something rotten and terrible happens to you, it's
4 burned into your brain, like a branding iron.

5 So everybody in the jury, if I asked you to
6 remember some really terrible things that happened to you
7 or really great exceptional things, you'd not only
8 remember it, you'd know the smells and sounds and
9 everything associated with it.

10 If you did something terrible, you'd still remember
11 a bunch of it, but, naturally, you would want to repress
12 and get rid of it because it's so embarrassing and
13 humiliating, and so unlike how you perceive yourself, that
14 if you did something terrible, like kill somebody, you
15 would do everything in your power thereafter to as soon as
16 that thought or image came into your mind, to get rid of
17 it and to go somewhere else, to the point where you would
18 hopeful start losing those memories of what you did a
19 little more each time over time.

20 But you'd never forget. It would still be there
21 and it could be brought back out, given good questioning
22 and the right type of situation.

23 Q. Now this act of forgetting, is that a
24 conscious decision that we make or is that something that
25 our brain does as a defense mechanism by itself?

1 A. Both. I mean, your brain will do that sort
2 of -- that's what it does to protect you. And you will
3 probably be talking to yourself saying to yourself in
4 words, I got to forget this, I can't -- I don't like it, I
5 got to forget this. So both a conscious and unconscious
6 process occurs.

7 Q. As far as the conscious process, would -- is
8 there any correlation with the ease of that and a person's
9 intelligence?

10 A. The smarter you are, the more you can think
11 about finding a way to get rid of it. But the problem with
12 being smart is it's harder to fool yourself, so it's like
13 smarter people suffer more. It's a contra -- it doesn't
14 seem to be -- it seems counterintuitive, but I can explain
15 it in this way. I see lots of kids who have lots of
16 problems, and the ones with high IQs realize they have
17 problems at a much younger age and become angry,
18 oppositional, depressed, and anxious because they see they
19 are different than they should be. They're not fulfilling
20 their teachers desires or their parents, so they notice
21 it.

22 The kids who have 80 IQs, they're not unhappy,
23 because they don't realize they should be doing better in
24 school and things like that. So they're doing lousy, but
25 they don't feel lousy.

1 It's one of the things I'll say to parents, on the
2 bright side, yes, your child has a 75 IQ, but the child
3 isn't depressed, isn't anxious, loves you, you get along
4 with them, and they're not suffering. So, look at the
5 bright side.

6 So sometimes it's not good being really smart,
7 because you suffer a great deal more because you think
8 more. So it's sort of better in situations like this to
9 be as dull as possible.

10 Q. Doctor, do you say that we all have the
11 ability to make choices?

12 A. Of course.

13 Q. And would you call that possibly our free
14 will?

15 A. Yes.

16 Q. Does everyone in this room have the same
17 level of free will?

18 A. No.

19 Q. Could you explain why not?

20 A. Well, that's complicated. Everybody has
21 free will, but if you are not so bright you have less free
22 will because you have fewer adaptive skills. If you have
23 a personality disorder where everything you perceive is
24 distorted, then you have fewer opportunities to step
25 outside the way you distorted view life and you sort of do

1 the same thing every time.

2 When someone looks at you a certain way, you get
3 mad, then you feel angry. Then if you have had a drink
4 you pick a fight. So there are -- if you have friends,
5 you have -- if -- the more comfortable and more normal
6 your life has been, the more adaptive and better off you
7 are at making tough decisions as they come along.

8 The duller you are intellectually the fewer normal
9 experiences you've had with your life the more you're
10 addicted to dangerous drugs, et cetera, et cetera, you
11 just go through all of these variables the more likely it
12 is that you cannot -- that you are free will is much more
13 limited.

14 So you can make a decision, but the decisions are
15 fewer and they're not nearly as smart.

16 Q. So someone with a low IQ or a low verbal IQ,
17 that would effect their ability and free will?

18 A. Yes.

19 Q. Somebody from a difficult childhood, no
20 parent figures, would that effect their free will?

21 A. It would make it harder for them to have the
22 options available to someone who's lived a more normal
23 childhood existence.

24 Q. Someone with constant drug use, would that
25 effect their free will?

1 A. Yes.

2 Q. And somebody that would be diagnosed with
3 personality disorders, would that effect their free
4 will?

5 A. By definition they're inflexible. They have
6 very little flexibility in certain situations. It would
7 definitely effect their free will.

8 Q. In your opinion does James suffer from all
9 of those?

10 A. Yes.

11 Q. Finally, doctor, after your evaluation with
12 James, in your opinion do you think James is truly
13 remorseful for Debbie's death?

14 A. Well, I can't tell you what he's like now
15 since I haven't seen him in 11 years or so, but back then
16 when you saw him he was definitely remorseful. I mean,
17 he knew he did wrong. He was crying his eyes out. He
18 knew he screwed up her life, his kids lives, and his own
19 life irreparably. How he is today, I have no clue.

20 MR. PATRICK: Thank you, doctor. That's
21 all I have for right now, your Honor.

22 THE COURT: Let's take a short recess
23 before we get into cross.

24 JURY ADMONITION

25 During the recess, ladies and gentlemen,

1 you are admonished not to converse among yourselves or
2 with anyone else, including, without limitation, the
3 lawyers, parties and witnesses, on any subject connected
4 with this trial, or any other case referred to during it,
5 or read, watch, or listen to any report of or commentary
6 on the trial, or any person connected with this trial, or
7 any such other case by any medium of information
8 including, without limitation, newspapers, television,
9 internet or radio.

10 You are further admonished not to form or
11 express any opinion on any subject connected with this
12 trial until the case is finally submitted to you.

13 We'll be in recess for about ten minutes.

14 Thank you.

15 Anything outside the presence -- no.

16 MR. OWENS: No, judge.

17 THE COURT: We'll be in recess.

18 (Brief recess taken.)

19 THE COURT: Back on the record in
20 C-131341, State of Nevada versus James Chappell.

21 The record will reflect the presence of
22 Mr. Chappell with his attorneys, the State's attorneys.
23 We're in the presence of our jury.

24 We'll continue on with Dr. Etcoff's
25 testimony.

TRAN
CASE NO. C-131341
DEPT. NO. 3

FILED IN OPEN COURT

MAR 15 2007 20

ORIGINAL

Carol Donahoe

CLERK OF DISTRICT COURT
DEPUTY

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

STATE OF NEVADA,

Plaintiff,

vs.

JAMES M. CHAPPELL,

Defendant.

REPORTER'S TRANSCRIPT
OF
PENALTY HEARING

BEFORE THE HONORABLE DOUGLAS HERNDON
DISTRICT COURT JUDGE

MORNING SESSION

DATED: THURSDAY, MARCH 15, 2007

REPORTED BY: Sharon Howard, C.C.R. #745

877

1 APPEARANCES:

2 For the State: CHRISTOPHER OWENS, ESQ.

3 PAM Weckerly, ESQ.

4

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6 For the Defendant: DAVID M. SCHIECK, ESQ.

7 CLARK W. PATRICK, ESQ.

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I N D E X
O F
W I T N E S S E S

NAME: PAUL OSUCH PAGE

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NAME: DINA FREEMAN-RICHARDSON PAGE

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NAME: WILLIAM DANTON, M.D. PAGE

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* * * * *

1 LAS VEGAS, NEVADA; THURSDAY, MARCH 15, 2007

2 P R O C E E D I N G S

3 * * * * *

4
5 THE COURT: Anything outside the presence?

6 MR. OWENS: No, your Honor.

7 MR. SCHIECK: No, your Honor.

8 THE COURT: On the record in C-131341,
9 State of Nevada versus James Chappell. The record will
10 reflect the presence of Mr. Chappell with his attorneys,
11 and the State's attorneys, outside the presence of the
12 jury.

13 Last night I read back through at some
14 statutes pulled out of the case you talked about,
15 Mr. Schieck, Sherman vs. State, 114 Nevada 998, as well as
16 a couple other cases -- Milton, 111 Nevada 900; Zane
17 Floyd, 118 Nevada 156; Kaczmarek 120 Nevada 314 -- just
18 looking at cases that dealt with penalty hearing issues
19 and things of that nature.

20 I think that the normal statute that deals
21 with sentencing hearings, normal sentencing hearing, it
22 talks about family members giving victim impact testimony
23 or relatives, also provides for the fact the court is not
24 restricted from considering other reliable, relevant
25 evidence.

1 So I think that that can be interpreted
2 as, hey, you can consider whatever relevant evidence you
3 think is necessary to make an appropriate sentencing
4 determination and that might include victim impact
5 evidence outside the family.

6 But more importantly, the statute that
7 governs first degree murder cases in penalty hearings,
8 175.522 specifically supercedes 176.015.

9 And as the Sherman case kind of outlines,
10 it's up to the court to decide what's admissible at a
11 penalty hearing in terms of aggravating and mitigating
12 evidence as to the offence, the defendant, or the victim.
13 All three of those things are specifically delineated.

14 Just from a general proposition, this is
15 something that's really peculiar to Las Vegas. You have a
16 lot of folks that live here and they don't have other
17 family that lives here, so to the extent their death has
18 an impact on this community, it's really through the close
19 friends they have and co-workers, or in the way Mr. Owens
20 referred yesterday, maybe it's teachers, coaches, and
21 things of that nature that can provide some victim impact
22 testimony as well.

23 So I think it's appropriate to have the
24 testimony that's been provided so far. And to the extent
25 there are other folks that have similar things, I would

4 MR. SCHIECK: That's, of course, subject
5 to us continuing to object, if we feel it's
6 inappropriate.

7 THE COURT: Understood.

8 MR. SCHIECK: And if the Court felt they
9 were going too far, the court would stop them.

10 THE COURT: Absolutely. As I said
11 yesterday, to the extent we get to something overly
12 cumulative in this presentation, I'll cut it off.

13 MR. SCHIECK: Thank you, your Honor.

14 THE COURT: Back on the record in
15 C-131341, State of Nevada versus James Chappell.

16 The record will reflect the presence of
17 Mr. Chappell and his attorneys, the State's attorneys.
18 We're in the presence of our jury. We're going to
19 continue on with the State's case in chief.

20 The State may call its next witness.

21 MS. WECKERLY: Thank you, Judge.

22 The State calls Officer Osuch.

23 THE CLERK: You do solemnly swear the
24 testimony you are about to give in this action shall be
25 the truth, the whole truth, and nothing but the truth so

1 allow that testimony as well.

2 All right. Let's go ahead and get the

3 jury in.

1 help you God.

2 THE WITNESS: I do.

3 THE CLERK: Be seated. State and spell
4 your name for the record.

5 THE WITNESS: First name is Paul, Osuch,
6 O-S-U-C-H.

7 DIRECT EXAMINATION

8 BY MS. WECKERLY:

9 Q. How are you employed, sir?

10 A. With the Las Vegas Metropolitan Police
11 Department.

12 Q. Are you a detective?

13 A. Yes, I am.

14 Q. How were you employed back in September of
15 1995?

16 A. At that time I was assigned to property
17 crimes detail with the Metropolitan Police Department,
18 detective bureau.

19 Q. On that date were you dispatched to a
20 location on Bonanza Road?

21 A. Prior to my transfer?

22 Q. Yes.

23 A. Yes. I worked uniform before that. I was a
24 uniformed patrol officer for the northeast area. I was
25 dispatched to a Lucky store located at Lamb and Bonanza.

1 Q. Okay. And do you recall the nature of the
2 call or why you were dispatched to that location?

3 A. It was a shoplifting call.

4 Q. You said it was at a Lucky store?

5 A. Yes, ma'am.

6 Q. When you got there had the store security
7 officers already had someone in custody?

8 A. Yes, they did.

9 Q. And do you recall what you first did when
10 you met up with the security officers and the suspect they
11 had in custody?

12 A. Usually on a shoplifting call it's nothing
13 really to get excited about. You just find out what you
14 have, what they took, and hopefully -- if they ascertain
15 any kind of identification at all. A lot of times you
16 hope they do most of the work for you, make your job a
17 little more easier. And they just advised they had one in
18 custody for shoplifting and had some items outside the
19 security office that he shoplifted.

20 Q. And what were those items that were
21 shoplifted, if you recall, generally?

22 A. I believe candy, bubble gum. I believe a
23 bottle of liquor. I couldn't recall which kind. That's
24 what stands out.

25 Q. Okay. And did the store security officers

1 advise you, or did you ask the person who was in custody
2 what their name was?

3 A. During when we were writing out the
4 citation, I was in the same room with the shoplifter, and
5 I asked him if he had any ID, which he stated he didn't.
6 Then I asked, could you give me your name, date of birth,
7 and soch (sic), so I can at least start my citation and do
8 a records check.

9 At that time, before they had cell phones, I had to
10 call in on a land-line through our records department.

11 He gave me the name Marnell or Morrell.

12 Q. Ivory Morrell?

13 A. Yes, ma'am. With the date of birth and his
14 soch (sic). I ran his records and found no history of him
15 whatsoever in the system with that name and date of
16 birth.

17 Q. When you were responding, this was September
18 1st of 1995?

19 A. Yes, ma'am.

20 Q. Prior to your coming on duty that day or
21 right when you came on duty that day had you been briefed
22 about a homicide which had occurred at the Ballerina
23 Mobile Home Park?

24 A. Yes, we had. I was assigned to a day shift
25 unit under Sergeant Bill Yates. Our shift started at 6:45

1 a.m. -- in the morning. And the night before a situation
2 -- homicide happened at the mobile home park up in our
3 area of command, pretty much my patrol district. He gave
4 us a brief general description of the vehicle we were
5 looking for and the suspect information.

6 Q. Were you also given the victim's name,
7 Debra Panos?

8 A. Not at that time. No, I wasn't.

9 Q. So you arrived at the Lucky store. You're
10 given this name Ivory Morrell, and you try to establish
11 whether or not there's any history associated with that
12 name, correct?

13 A. Yes, ma'am.

14 Q. What happened after you did that?

15 A. I continued to try to ask what his name was.
16 There was no way I could find anything about this guy in
17 the nationwide system, local system. Usually, if you have
18 a shoplifter once, they -- it's usually not the first time
19 they've done it.

20 I just went fishing, just went looking. There was
21 a paraphernalia also that wasn't -- it wasn't in his
22 custody, but it was with the items on that tray outside
23 the office.

24 Not knowing that I could identify this guy at the
25 scene, I was going to continue to issue him a citation for

1 the shoplifting, but the paraphernalia charge -- there was
2 a glass tube, which people use to ingest crack cocaine,
3 any kind of stuff that they can inhale -- I was going to
4 take him to the city jail, book him on that charge, and
5 this way at least we can get a fingerprint check.

6 It wasn't done as quickly back then as it is now,
7 but at least try to get identification on him.

8 Q. Because -- did he have any identification on
9 him?

10 A. No.

11 Q. Just gave you a name?

12 A. Yes.

13 Q. At the time, I think you mentioned that
14 normally on a petty larceny, someone is issued a citation.
15 Can you explain that for the jury?

16 A. They -- it's a misdemeanor citation, pretty
17 much what you get in a traffic ticket. You go there.
18 It's a misdemeanor crime. It's my discretion whether to
19 arrest or to issue a citation. On a petit larceny, he was
20 an adult, which means it's actually a citizen's arrest, so
21 I just -- I write out the information, fill out the
22 citation, list the items that was taken issue him a court
23 date.

24 We had a guideline back then, usually it was a
25 month down the line that he was issued a court date. I

1 have him sign a citation, not admitting guilt, only a
2 promise to appear on that date and time for his court
3 appearance.

4 Q. So a shoplifter typically isn't taken into
5 custody. They're just given a citation to appear in
6 court?

7 A. The majority of the time, yes, ma'am.

8 Q. But as you were responding on this
9 particular incident, because you had questions about
10 identification and that sort of thing, your decision was
11 to try to arrest on the paraphernalia?

12 A. Yes, ma'am.

13 Q. What happened in terms of what you did next.
14 Did you speak with the suspect?

15 A. I was trying to just get his name, but he
16 was pretty adamant it was who he said he was. Of course,
17 the interview --

18 THE REPORTER: (Requests the witness speak
19 more slowly.)

20 MR. OWENS: Your Honor, could we have the
21 court's indulgence. The equipment wasn't hooked up and we
22 are going to need it in a moment.

23 THE COURT: Could you help with that.

24 THE LAW CLERK: Absolutely.

25 BY MS. WECKERLY:

1 Q. Sir, I believe you were explaining that you
2 had a verbal interaction with the suspect?

3 A. Being that we are in a room about the size
4 of, maybe, the stand up here and where the young lady in
5 front of me is, maybe a little bigger, you kind of start
6 interacting with people. And just for the information I
7 had before, I had a black male fitting the description
8 with me, I just through it out there. I said, any idea,
9 you know, maybe tell me what happened up the street at the
10 Ballerina Mobile Home Park.

11 Q. So he fit the description of the homicide
12 suspect?

13 A. Generally, yes, ma'am.

14 Q. So you just sort of --

15 A. Threw it out there. Nothing ventured
16 nothing gained. At that time his demeanor started -- he
17 got nervous. He got a little bit antsy in the seat. He
18 was getting very fidgety. I should note at this time he
19 was in handcuffs, because he was going to go to city jail
20 on the paraphernalia charge.

21 He just, instead of being laid back like he was in
22 the beginning, he now got very, very nervous.

23 Q. So prior to your mentioning the Ballerina
24 Mobile Home Park he seemed relaxed not nervous?

25 A. Very relax.

1 Q. The demeanor changed after you mentioned
2 that location?

3 A. Yes, ma'am.

4 Q. What happened after that?

5 A. I still -- I advised him I was going to take
6 him to jail on the paraphernalia charge. It would be my
7 arrest. I was still going to issue a citation for the
8 petit larceny. That was already completed. And he asked
9 me if I could give him a break, I said, no breaks. I
10 really didn't know who I had in front of me.

11 Q. When he was asking you to give him a
12 break --

13 A. Not to go to jail.

14 Q. Okay.

15 A. I still didn't know who I had in front of
16 me. There was no way that I could identify this guy. And
17 I figured going to the city jail, that's where the
18 jurisdiction would have been within the city, I was going
19 to take him to jail.

20 Q. Okay. Was there ever a point when you moved
21 to a different part of the room to confer with one of the
22 security officers?

23 A. To finish up my crime report, I had to step
24 out. They had a little tray table on wheels that they had
25 their stuff on. I went out there. I had to list the

1 items, list the price. Anything under \$250.00 is a
2 misdemeanor, so I have to put that on the citation.

3 While I was outside I noticed, not a struggle, but
4 a little disturbance going on on the inside. There was a
5 young lady -- I can't remember her name -- security
6 officer kind of in front of the gentleman that we had in
7 the office. And I went in and she was going, he was just
8 fidgeting around, and she went down and she picked up
9 something underneath his chair. I said what was that.

10 Well, I thought maybe he was trying to discard
11 dope, narcotics. That's usually what would happen if I
12 turn my back, they try to get rid of whatever.

13 In this case it wasn't dope or narcotics, it was
14 four cards and they happened to be social security
15 cards.

16 Q. When you looked at those social security
17 cards, did that connect to anything for you?

18 A. That's very strange that somebody would have
19 social security cards on them, not of his own identity.
20 Identity theft wasn't quite the issue then as it is now.
21 I just sat there and went, better make a phone call.

22 My Sergeant Bill Yates, who briefed us earlier that
23 day, had more information then I had at the beginning of
24 our shift. I called him and said do you happen, by
25 chance, to have the name of the victim, and he mentioned

1 it was Panos.

2 I said, well, I have four social security cards
3 with the last name Panos on them with individual first
4 names.

5 Q. I take it he didn't have a social security
6 card with the name Ivory Morrell on it?

7 A. No.

8 Q. These were all four different names. All
9 Panos. So you called your sergeant to ask the victim's
10 name on the homicide?

11 A. Yes, ma'am.

12 Q. What were you told?

13 A. That Panos was, indeed, the victim of a
14 homicide. I said I think I have a little more than a
15 shoplifting now. My next notification was to our homicide
16 detail.

17 Q. Did the homicide detectives respond to the
18 Lucky store?

19 A. Yes, they did.

20 Q. At that point were they in charge of the
21 suspect?

22 A. Our protocol is at that point we have a
23 ranking detective on scene, it's his case. So I just lay
24 back in the background, if they needed someone to protect
25 the crime scene, that would be me. I wanted to make sure

1 nobody enters the crime scene that didn't need to be
2 there, that would be me. It wasn't actually a crime
3 scene, but we did have the suspect there so we treated it
4 as such.

5 Q. Do you recognize the man that was detained
6 that day in the courtroom today?

7 A. Yes, ma'am. At the defendant's table.

8 Q. Is he on the side --

9 A. Black male wearing a sweater, shirt, tie,
10 and glasses.

11 MS. WECKERLY: May the record reflect the
12 witness has identified the Defendant.

13 THE COURT: The record will so reflect.

14 MS. WECKERLY: Thank you.

15 BY MS. WECKERLY:

16 Q. Sir, I'm showing you State Exhibit 55. Do
17 you recognize those items?

18 A. Yes, ma'am.

19 Q. They're associated with the incident you
20 were just speaking about?

21 A. Yes, ma'am.

22 Q. Can you describe for the members of the jury
23 what's depicted in the photograph?

24 A. All right. Well, a set of car keys.
25 Obviously to a vehicle.

1 THE COURT: Can you move the photo a
2 little to the left.

3 THE WITNESS: Thank you.

4 A couple of cylindrical tubes. That was
5 going to be my paraphernalia charge. Looks like a pill.
6 Couldn't tell you what it was. Maybe another tube or
7 something. If it's hollow, then he can ingest drugs. A
8 lighter.

9 Part of a -- I'm going to assume it's a
10 coat hanger, which would be like -- used as a pipe cleaner
11 to clean out the tube that they were going to ingest their
12 narcotic. And a top copy of a social security card.

13 Q. I'm showing you State's Exhibit 49. Is that
14 how the defendant appeared on the date he was taken into
15 custody on shoplifting?

16 A. Yes, ma'am.

17 MS. WECKERLY: I'll pass the witness, your
18 Honor.

19 THE COURT: Mr. Schieck or Mr. Patrick.

20 MR. SCHIECK: Thank you, your Honor.

21 CROSS-EXAMINATION

22 BY MR. SCHIECK:

23 Q. Is it Officer Osuch?

24 A. Yes, sir.

25 Q. Officer Osuch, let me show you again what

1 has been marked a State's Exhibit 55. There is a black
2 item. It's kind of cut off in the photograph. Was that
3 associated with this arrest, or is that just --

4 A. I couldn't tell you, sir. I don't know what
5 that might be.

6 Q. So we can disregard that as anything you
7 recall being involved with this situation?

8 A. They had it out there for a reason, but I
9 couldn't tell you what it is.

10 Q. And if I might, you referred to one cylinder
11 that would be this -- this is the first one?

12 A. That looks more hollow. The darker color
13 one, if it's hollow, that would be used also. But from
14 this photo you can't tell.

15 Q. And the pill we see in the photograph, you
16 don't recall whether that was aspirin or --

17 A. I couldn't tell you what it was, no.

18 Q. He wasn't booked on -- or you weren't
19 consider booking him on possession of any narcotics?

20 A. No, sir.

21 Q. So is it fair to say that it probably wasn't
22 a controlled substance or you would have included that in
23 the charges?

24 A. It probably could have been. Let's say it
25 is for argument sake. But for one pill, I wouldn't waste

1 the court's time or my time booking in one item for one
2 pill.

3 Q. And these items were already out when you
4 got there?

5 A. No, sir.

6 Q. You don't know what pockets they came out
7 of?

8 A. No, sir.

9 Q. You said at one point you looked back while
10 you were filling out your report and you noticed kind of a
11 skirmish going on in the room where the defendant was
12 at?

13 A. Yes, sir.

14 Q. Did you associate that later or was that
15 associated later with anything to do with the social
16 security cards?

17 A. Yes, sir.

18 Q. These items weren't laid out previous to
19 that incident?

20 A. Well, obviously the social security card
21 wasn't, sir, no.

22 Q. Okay. And did you pat-down the individual
23 looking for weapons or anything of that nature?

24 A. Upon arrival, yes, sir, I did.

25 Q. You didn't find any weapons?

1 A. No, sir, I didn't.

2 Q. Other than the fact that the individual was
3 not giving you a correct name, he wasn't struggling or
4 uncooperative with you?

5 A. No, sir, not at all.

6 Q. And back -- we talk like it's a hundred
7 years ago -- but back then, it's 1995, did you have the
8 ability to -- from your location -- check his records or
9 look at his scope or determine when he'd been released
10 from custody or anything of that nature?

11 A. No, sir. If I had a computer operating that
12 day, I had it in the car. But I'm not going to go out to
13 the car to do -- and leave him alone. Once I get there,
14 he's in my custody.

15 Q. And you didn't have any information, at
16 least at that point, that would have allowed you to access
17 your computer and find out anything anyway?

18 A. No, sir.

19 Q. Of the items that were there, to your
20 knowledge, those were all the items the defendant had on
21 him at the time of the shoplift?

22 A. Yes, sir.

23 Q. There was no money found?

24 A. No, sir. Not that I recall. If there
25 wasn't anything in impound, he had none.

1 Q. Back in 1995 when you were called down on a
2 shoplifting incident like -- similar to this one, did you
3 have the discretion at that time to consider charging the
4 individual with burglary if you felt he entered with the
5 intent to commit a crime? Did you ever charge burglaries
6 as opposed to petty larceny?

7 A. Only if the price of the items shoplifted
8 exceeded the grand larceny limit, which is \$250.00.

9 Q. As you sit here today, you don't recall what
10 items were included in the items that were trying to be
11 shoplifted?

12 A. I couldn't give you a verbatim list, no,
13 sir.

14 Q. You recall there was at least one bottle of
15 liquor?

16 A. I remember liquor, candy, gum. Something
17 sweet.

18 Q. When I say a bottle of liquor, I'm referring
19 to a harder liquor as opposed to a bottle of beer?

20 A. Yes, sir.

21 Q. Do you recall the size of the bottle?

22 A. A liter.

23 Q. A pretty good size bottle of liquor?

24 A. Something that could be hidden in pants.
25 Yes, sir.

1 MR. SCHIECK: That's all I have.

2 THE COURT: MS. WECKERLY.

3 MS. WECKERLY: No, thank you.

4 THE COURT: No questions from the jurors.
5 Detective Osuch, I appreciate your time.

6 THE WITNESS: Thank you, your Honor.

7 THE COURT: The State may call it's next
8 witness.

9 MS. WECKERLY: We're going to call Dina
10 Freeman.

11 THE COURT: Thank you.

12 THE CLERK: You do solemnly swear the
13 testimony you are about to give in this action shall be
14 the truth, the whole truth, and nothing but the truth, so
15 help you God.

16 THE WITNESS: I do.

17 THE CLERK: Be seated. State and spell
18 your name for the record.

19 THE WITNESS: My first name is Dina,
20 D-I-N-A. My last name is Richardson,
21 R-I-C-H-A-R-D-S-O-N.

22 DIRECT EXAMINATION

23 BY MR. OWENS:

24 Q. You were formerly Freeman?

25 A. Yes.

1 Q. You are employed at the police department in
2 Tucson, Arizona?

3 A. Yes, sir.

4 Q. How long have you worked there?

5 A. 23-and-a-half years.

6 Q. 23-and-a-half years?

7 A. Yes.

8 Q. What kind of job are you doing for the
9 police department in Tucson?

10 A. Currently I am their training supervisor.

11 Q. What areas of the department are you trained
12 in?

13 A. I'm a trained 911 call taker and
14 dispatcher.

15 Q. 911 call taker and dispatcher, is that
16 pretty much what you've done throughout your career with
17 the police department?

18 A. Yes.

19 Q. What's the difference between a 911 operator
20 and a dispatcher in your department there?

21 A. Our 911 call takers take 911 calls from
22 citizens. And our dispatchers talk only to police
23 officers.

24 Q. That was how you met the victim in this
25 case, Debbie Panos?

1 A. Yes.

2 Q. How long did you know her back around 1995,
3 how long had you known her?

4 A. Around 5 or 6 years.

5 Q. What was her job in the police department?

6 A. She was one of our 911 call takers.

7 Q. So you had been working there for some
8 period of time before she started working there?

9 A. Yes.

10 Q. Did you develop a relationship with her?

11 A. Yes, I did.

12 Q. And what was the reason she moved to Tucson
13 there?

14 A. The reason she moved to Tucson.

15 Q. Yes.

16 A. She told me that her step father add
17 emphysema really bad and so her step father and her mom
18 moved to Arizona and she wanted to move to Arizona to be
19 with her mom.

20 Q. Where was she from?

21 A. Lansing, Michigan.

22 Q. What was her living situation at the time
23 you met her?

24 A. At the time I met her she lived in an
25 apartment.

1 Q. Did she have children?

2 A. Yes. She had two at the time I met her.
3 Then she had a daughter during the time I knew her.

4 Q. If you could, would you describe for us the
5 relationship that you had and developed with Debbie over
6 the time you knew her?

7 A. Initially it started out as a working
8 relationship. And as time progressed we became pretty
9 good friends.

10 Q. What would you do together?

11 A. We'd go to dinner, to movies. She'd come to
12 my house. We'd just hang out, shop. We even took a
13 vacation together once.

14 Q. How often would you see her?

15 A. Well, I saw her every day at work. But
16 there was a time -- prior to her moving to Vegas, she was
17 at my house every day.

18 Q. How was it that you found out about her
19 murder?

20 A. The department -- the Tucson Police
21 Department sent an officer out to my house to contact me
22 and told me that she had been murdered. And to be aware
23 if I hear any noises or anything, because they had not
24 located the suspect. And there was a possibility that he
25 could be on his way to Tucson looking for me or her

1 mother.

2 Q. You or Debbie's mother?

3 A. Yes.

4 Q. So the police were concerned about your
5 safety?

6 A. Yes.

7 Q. Was it a short time after that you heard he
8 had been apprehended or caught in Las Vegas?

9 A. Yes.

10 Q. How did you know the defendant, Mr.
11 Chappell?

12 A. I met him through Debbie.

13 Q. Did you meet him early on in your
14 relationship with Debbie?

15 A. Yes. He would be sitting in the parking lot
16 at our job to pick her up quite a bit. That's when she
17 introduced me to him. I saw him at the kids' birthday
18 parties.

19 Q. Did you spend time with him?

20 A. Not directly, no, other than at the birthday
21 parties.

22 Q. So the time you were with Debbie, it was
23 just Debbie?

24 A. Yes.

25 Q. What can you tell us about the defendant and

1 his lifestyle at the time?

2 A. Um, like I said, I didn't know him
3 personally directly. I knew he called my house a lot. I
4 was aware that he didn't work, because of the times he
5 would call my house throughout the day, if Debbie was
6 there. And I just knew what she told me.

7 Q. What was that?

8 A. I also knew more than that, because I worked
9 at the police department so I knew what occurred when he
10 was detained by police officers.

11 Q. You would hear about it?

12 A. Yes.

13 Q. We'll come back to that in just a minute.
14 You mentioned that he would call your house looking for
15 Debbie?

16 A. Yes.

17 Q. What was your assessment of that
18 relationship, based upon what you saw?

19 A. My perception of it was he pretty much ran
20 the relationship.

21 Q. He seemed to be a controlling individual?

22 A. Yes.

23 Q. What do you base that on?

24 A. I base that on pretty much what he wanted
25 her to do is what she did. What he wanted her to buy is

1 what she bought.

2 Q. And you said you didn't know him to work or
3 have a job?

4 A. Not that I was aware of.

5 Q. She worked at the police department. Did
6 she have any other jobs?

7 A. I remember her working at a Sears. I don't
8 know if it was a call center or something to that
9 affect.

10 Q. You know how long she worked there?

11 A. I truly don't remember.

12 Q. Was that at the same time she was working
13 for the police department?

14 A. Yes.

15 Q. You mentioned you took a trip with her one
16 time?

17 A. Yes.

18 Q. Where did you go?

19 A. We went to San Diego.

20 Q. Who went on the trip?

21 A. It was myself, my daughter, Debbie, and
22 another person that we worked with by the name of Rosemary
23 Pecheco, and another person named Angela Jackson.

24 Q. How long were you down there in San Diego?

25 A. It was three or four days. I can't remember

1 exactly.

2 Q. You made some purchases?

3 A. Yes we did. Debbie bought a lot of T-shirts
4 for herself, her children, and also for James.

5 Q. What happened with the T-shirts?

6 A. When she got back home after she got home
7 from work she told me that he had sold them all.

8 Q. When was it you became aware of the physical
9 injuries that Debbie received? How did you find out about
10 that?

11 A. Well, they where on her face so when she
12 would come to work, or on her arms, or on her neck.

13 Q. How long had you known her before you
14 started noticing those things?

15 A. It was immediately after she started work.
16 It was talk around the office, so to speak.

17 Q. Did she try to cover up the injuries?

18 A. She did, with make-up.

19 Q. Where would they appear?

20 A. Usually on her face, her neck, or her
21 arms.

22 Q. When you say her arms, what part do you
23 mean?

24 A. Anywhere from here, to there. From the top
25 of her arm to the bottom, below her elbow.

1 Q. What was the frequency in which you would
2 see these bruisers and injuries?

3 A. Wow, often. Several times a month.

4 Q. Was it awhile before you were able to find
5 out the facts behind how she was getting hurt like that?

6 A. Yes. It was probably about three or four
7 months after I met her, when her and I started to talk.

8 Q. What did you find out?

9 A. She told me that she was being assaulted by
10 her boyfriend.

11 Q. That is Mr. Chappell?

12 A. Yes.

13 Q. What did she tell you about that?

14 A. She told me that usually he would be high on
15 drugs or wanting to be high on drugs, and if she didn't
16 give him money or keys to her car, that they would end up
17 in an argue and he would assault her.

18 Q. Did you have some conversations with her
19 about what she could do, did you try to give her advise?
20 How did that -- those conversations progress?

21 A. Um, I didn't give her advise per se. I
22 would tell her only what I wouldn't tolerate. And I
23 suggested that she contact our department psychologist,
24 who I know she did go to counseling.

25 Q. Did you notice any change in her based upon

1 the department counselor that she saw?

2 A. Not really.

3 Q. I would like to ask you about several
4 specific instances and telephone calls that you had
5 received or other situations you were aware of. There was
6 one incident in '94 where she called you from a store?

7 A. Yes.

8 Q. Tell us what that was about?

9 A. She called my house about 2:00 in the
10 morning, crying. Told me that she was at the grocery
11 store at 22nd and Country Club. She asked me if I could
12 come get her. I told her, no, because I couldn't leave my
13 daughter alone at home.

14 I asked her what she was doing there, and she told
15 me that James had driven her out there so that she could
16 cash this check and the store refused to cash the check
17 and that he had left her.

18 So she was stranded there. I asked her where her
19 kids were. She told me they were home alone. I told her
20 she needed to go back in that store, explain to that
21 manager what was going on, and be honest with him. Tell
22 him the truth. And she did that.

23 The manager then cashed her check. She called me
24 back and told me that she would take a cab to my house to
25 drop her money off. She got to my house around 3:00. She

1 dropped off her money and told me she was going home to
2 her kids and she would talk to me later. And she did.

3 She told me that she needed to leave her money with
4 me because if she went home with the money he would beat
5 her up, and she needed to go to bed because she had to go
6 to work in the morning.

7 Q. You remember the first phone call that you
8 received from her that was during a fight?

9 A. No. I received a lot of them, so I couldn't
10 tell you when the first one was.

11 Q. There is a particular one sometime in 1994,
12 maybe the first half of the year, where you could hear the
13 defendant's voice in the background?

14 A. Yes.

15 Q. He was making some kind of threat, do you
16 remember that?

17 A. Yes, I do.

18 Q. What was that -- what happened there?

19 A. Um, he had just gotten back from Michigan.
20 He had been there for a couple of months at that time.
21 From what Debbie told me was that her older son had
22 mentioned to him about some guy that she went out on a
23 date with, and I could hear the defendant in the
24 background calling her names. He was calling her bitches,
25 sluts, whores and everything. And he told her that he

1 didn't care what she did, but she could not fuck around in
2 front of his children or he would kill her.

3 Q. Is a what he said that he would kill her?

4 A. Yes. He said he would kill her ass, is what
5 he said, actually.

6 Q. About August of 1994, there was a phone call
7 where you also heard some demands or threats?

8 A. Yes. She called me from Vegas.

9 Q. Before the Vegas phone call. There was a
10 phone call in August of '94, that would have been a couple
11 of months before she went to Las Vegas?

12 A. Yes. She was still in Tucson.

13 Q. What did you hear there?

14 A. She told me he wanted some money or he
15 wanted to take the car. She was trying to talk to me on
16 the phone. I could hear him in the background. He told
17 her that he wanted the car or he wanted some money or he
18 was go to do an O.J. Simpson on her ass.

19 Q. What kind of tone was he using? What did he
20 sound like through the phone?

21 A. He sounded angry to me. His voice was
22 elevated.

23 Q. Who was he talking to?

24 A. He was talking to Debbie.

25 Q. Then you mentioned a minute ago that she did

1 make a move to Las Vegas?

2 A. Yes, she did.

3 Q. How did that come about?

4 A. She told me that she was going to move here
5 and she wanted to have a new start. She felt like if she
6 brought him here with her that he wouldn't know anyone,
7 therefore, he would get off the drugs and they would live
8 happily ever after.

9 Q. So your sense of it was she was trying to
10 help him out?

11 A. Yes, she was.

12 Q. After she came to Las Vegas you had a
13 telephone call around Thanksgiving time?

14 A. Yes, I did.

15 Q. What happened during that phone call?

16 A. She called me and told me that she had made
17 a Thanksgiving dinner. They were arguing, and he wanted
18 her car keys. And I heard him say give me the car keys
19 Debbie, or I'm going to do an O.J. Simpson on your ass.

20 Q. So it was the same thing you had heard
21 essentially before?

22 A. Yes.

23 Q. Did you hear other voices in the
24 background?

25 A. I heard the children in the background.

1 Q. What happened with these phone calls that
2 you received? How long were you on the phone and how did
3 they end?

4 A. Usually, it would end, I'd say Debbie, just
5 give him the keys, then you don't have to worry about it.
6 And usually she would. And there -- shortly thereafter,
7 we'd get off the phone. She did have her children there,
8 so usually our conversations lasted an hour or two.

9 Q. You were trying to be a friend to her?

10 A. Yes.

11 Q. Trying the help her make decisions that
12 would protect her?

13 A. Yes.

14 Q. You talked to her about going to
15 counseling?

16 A. Yes.

17 Q. You also offered to have her come stay in
18 your home?

19 A. Yes.

20 Q. What happened there?

21 A. She would come often. As I said, she would
22 come to my house ever day. She'd spend the night. She
23 would get up, she would go home, and then she'd go to work
24 the next day. Sometimes she wouldn't spend the night.
25 And other times she would.

1 Q. You said that there were things you would
2 hear around the police department because you both worked
3 there, and you were aware of James and his activities.
4 Tell us about that.

5 A. Well, they would do traffic stops. And
6 there was a time or two where I was the dispatcher. They
7 would run his name. There was a time or two that I
8 remember he had a warrant where he was arrested. And it
9 was usually in what is considered a high drug activity
10 area. And he would be in Debbie's car.

11 Q. When you came down to testify we asked you
12 to bring a packet of information from the police
13 department -- Tucson Police Department, with you?

14 A. Yes.

15 Q. These were certified documents of the
16 arrests and criminal history of the defendant down in
17 Tucson?

18 A. Yes. It was sealed. I didn't open it.

19 Q. That's your understanding of what that
20 was?

21 A. Yes, that's my understanding of that.

22 Q. This included some incidents that you are
23 aware of that you are talking about?

24 A. Yes.

25 Q. And that included domestic violence as well

1 as narcotics?

2 A. Yes, I would think so.

3 Q. Had you encouraged Debbie to contact the
4 police during these incidents?

5 A. Yes, I did.

6 Q. What was the result?

7 A. Sometimes she would, other times she
8 wouldn't.

9 Q. So besides the packet you brought down,
10 there were a lot of other instances that she didn't call
11 the police?

12 A. Yes.

13 Q. So there wouldn't have ben a record for
14 those?

15 A. No.

16 Q. What was the impact of her death on yourself
17 and the other people at work with you there at the police
18 department?

19 MR. SCHIECK: Your Honor, I have an
20 objection to relevance. Especially her testifying to the
21 impact on other persons.

22 MR. OWENS: I'm referring to other friends
23 and people she had --

24 THE COURT: Let's confine it to Ms.
25 Freeman -- or Ms. Richardson, excuse me.

1 MR. OWENS: All right.

2 THE WITNESS: It was devastating for me.
3 I had day-to-day contact with her. We were friends. I
4 mean, you know, I loved her, so it had a big impact. I
5 talked with our department psychologist about it. It was
6 devastating. It was devastating for my daughter. She
7 kept this postcard all of these years that Debbie sent to
8 her. It was an impact.

9 BY MR. OWENS:

10 Q. Does she still have the postcard?

11 A. She still has it today.

12 Q. Is there something that the department did
13 to assist you?

14 A. Yes. The department assisted me. I also
15 went to -- I went to a session alone and I attended a
16 session with my work group. And we called it a debriefing
17 where people got together and we got to talk about our
18 feelings. I was a part of that.

19 Q. How many people attended that?

20 A. About 40.

21 Q. People that were affected by the death?

22 A. Yes.

23 Q. What else?

24 A. We have a portrait that's hanging in our
25 building in our briefing room that's in her honor.

1 Q. Was she well-liked down there?

2 A. She was.

3 Q. What kind of person was she?

4 A. Debbie was a very giving, kind person. She
5 would give you the shirt off her back, if she could.

6 MR. OWENS: That's all I have.

7 THE COURT: Mr. Schieck or Mr. Patrick.

8 CROSS-EXAMINATION

9 BY MR. PATRICK:

10 Q. Ms. Richardson --

11 A. Yes.

12 Q. -- good morning. Back ten years ago you
13 testified in the previous trial?

14 A. Yes.

15 Q. Prior to that you'd given a recorded
16 statement to the police?

17 A. Las Vegas police, yes, I did.

18 Q. Did you have a chance to review that
19 statement or the testimony that you gave?

20 A. Yes, I did.

21 Q. Now it sounds like you have worked for the
22 Tucson Police Department for a very long time?

23 A. Yes, I have.

24 Q. The whole time you've worked with them it'
25 been either as a dispatcher or 911?

1 A. Yes.

2 Q. So during the course of your employment
3 you've heard people calling in with complaints about
4 domestic violence?

5 A. Yes, I have.

6 Q. And you're aware how dangerous domestic
7 violence incidences can be?

8 A. Yes.

9 Q. And that sometimes people can be killed in
10 domestic violence incidents?

11 A. Yes.

12 Q. So you would never underestimate a domestic
13 violence call as a 911 operator or dispatcher?

14 A. No.

15 Q. Now, you testified that Debbie made several
16 calls to you regarding actions that James was doing that
17 could be classified as domestic violence?

18 A. Yes.

19 Q. But after any of those calls, did you ever
20 call the police?

21 A. No, I did not.

22 Q. Did you ever talk to James on the
23 telephone?

24 A. No, not directly, except for when he called
25 my house and I would give her the phone.

1 Q. But he would leave messages on your phone at
2 home?

3 A. Yes.

4 Q. And some of the messages would include
5 things like, I love you Debbie, please come home?

6 A. Yes.

7 Q. You mentioned that you saw James in person
8 at some birthday parties?

9 A. Yes.

10 Q. That was with his and Debbie's children?

11 A. Yes.

12 Q. Any parties involving your daughter?

13 A. Yes. He did attend a party that involved my
14 daughter.

15 Q. And did -- you and Debbie obviously talked
16 about James' drug problem?

17 A. Yes, we did.

18 Q. And I believe you told Las Vegas Police
19 Department it seemed like James was more violent when he
20 was on drugs?

21 A. That is what she told me, yes.

22 Q. And you testified that you don't remember if
23 James ever worked in Tucson?

24 A. Yes. I don't.

25 Q. But it is possible that he had jobs in

1 Tucson?

2 A. Yes, it's possible.

3 Q. And Debbie's parents, they lived in Tucson
4 also?

5 A. Yes.

6 Q. Did you meet them?

7 A. Yes.

8 Q. Did you ever talk to them about James?

9 A. I talked to Debbie's mother about him.

10 Q. What was Debbie's mother feelings towards
11 James?

12 A. I don't know. She never really showed any
13 feelings towards James one way or the other. Her concern
14 in our conversation was Debbie.

15 Q. Now, you testified that at one point James
16 had moved back to Tucson -- or moved back the Michigan?

17 A. Yes.

18 Q. Then he came back?

19 A. Yes.

20 Q. Are you aware of the circumstances regarding
21 James coming back to Tucson?

22 A. No, I'm not.

23 Q. Debbie never talked to you about those?

24 A. No.

25 Q. So you wouldn't know that Debbie paid for

1 James to move back to Tucson from Lansing?

2 A. I didn't know that.

3 Q. Or that Debbie never told you that she
4 bought concert tickets to induce James to move back?

5 A. No, she didn't.

6 Q. Were you aware that when James was in
7 Michigan, Debbie flew back and visited him?

8 A. No, I do not.

9 Q. That in fact during that visit she got
10 pregnant with one of their children?

11 A. No, I did not know that.

12 Q. When you went to San Diego on that trip, did
13 you take -- did you all take your children with you?

14 A. The only person that took their children was
15 me.

16 Q. Debbie didn't bring her three kids?

17 A. Debbie did not bring her children.

18 Q. Did she have two or three at that time?

19 A. She had two, I believe -- maybe three. She
20 might have had three. And the other lady also had four.
21 None of them brought their children. I only had one
22 daughter that was older than their children that was more
23 suitable to travel with us.

24 Q. Do you know where Debbie and James' kids
25 were during that trip?

1 A. With James.

2 MR. SCHIECK: Court's indulgence. That's
3 all I have.

4 THE COURT: Anything further, Mr. Owens.

5 MR. OWENS: No, your Honor.

6 THE COURT: Ms. Richardson, thank you for
7 your testimony. You may step down.

8 MR. OWENS: Plaintiff may call their next
9 witness.

10 MS. WECKERLY: May we approach?

11 THE COURT: Sure.

12 (Discussion held at the bench.)

13 THE COURT: Ms. Richardson, grab a seat
14 real quick.

15 Quick question: To your knowledge did
16 Debbie ever call 911?

17 I'm assuming you are talking about Tucson,
18 correct?

19 IMPANELED JUROR: Yes.

20 THE COURT: Did Debbie ever call 911 in
21 Tucson during their arguments with James.

22 THE WITNESS: Yes.

23 THE COURT: Mr. Owens, any questions based
24 upon mine.

25 MR. OWENS: No. There's another jury

1 question.

2 Grab that for me. Mr. Patrick do you have
3 nay questions based upon mine?

4 MR. PATRICK: No, your Honor.

5 THE COURT: Thank you.

6 Counsel approach.

7 (Discussion held at the bench.)

8 THE COURT: One more question. Did Debbie
9 mention to you how often James was high and if he did
10 drugs around her or the children?

11 THE WITNESS: Yes, she did.

12 THE COURT: What did she say in that
13 regard.

14 THE WITNESS: She told me that he came
15 home high and was arguing with her, and the kids were
16 there. And that's what occurred on some of the phone
17 calls we had.

18 THE COURT: Mr. Owens, anything.

19 MR. OWENS: There's one more.

20 THE COURT: When it's time, I need them
21 all at once. You can't keep asking based on what somebody
22 else asks.

23 Counsel approach, please.

24 THE COURT: Any questions based on those?

25 MR. OWENS: No, your Honor.

1 THE COURT: Mr. Patrick.

2 MR. PATRICK: No, your Honor.

3 THE COURT: Thank you.

4 Counsel approach.

5 (Discussion held at the bench.)

6 THE COURT: When Debbie would come and
7 stay at your home do you know where her children were?

8 THE WITNESS: They were with James.

9 THE COURT: Okay. Mr. Owens anything.

10 MR. OWENS: No.

11 THE COURT: Mr. Patrick.

12 MR. PATRICK: No.

13 THE COURT: Thank you very much. You are
14 excused, ma'am.

15 Ladies and gentlemen, we'll take a recess
16 before we get to the next witness.

17 JURY ADMONITION

18 During the recess, ladies and gentlemen,
19 you are admonished not to converse among yourselves or
20 with anyone else, including, without limitation, the
21 lawyers, parties and witnesses, on any subject connected
22 with this trial, or any other case referred to during it,
23 or read, watch, or listen to any report of or commentary
24 on the trial, or any person connected with this trial, or
25 any such other case by any medium of information

1 including, without limitation, newspapers, television,
2 internet or radio.

3 You are further admonished not to form or
4 express any opinion on any subject connected with this
5 trial until the case is finally submitted to you.

6 We'll be in recess for a few minutes.

7 Thank you.

8 (Brief recess taken.)

9 THE COURT: Back on the record in
10 A-131341, State of Nevada versus James Chappell.

11 The record will reflect the presence of
12 Mr. Chappell with his attorneys, the State's attorneys, in
13 the presence of our jury.

14 Ladies and gentlemen, we're going to call
15 a witness out of order in the defense case in chief.

16 Mr. Schieck.

17 MR. PATRICK: Thank you, your Honor. We
18 call Dr. William Danton.

19 THE CLERK: You do solemnly swear the
20 testimony you are about to give in this action shall be
21 the truth, the whole truth, and nothing but the truth so
22 help you God.

23 THE WITNESS: I do.

24 THE CLERK: Be seated. State and spell
25 your name for the record.

1 THE WITNESS: William Danton,

2 D-A-N-T-O-N.

3 DIRECT EXAMINATION

4 BY MR. PATRICK:

5 Q. Good morning, Dr. Danton.

6 A. Good morning.

7 Q. Could you explain to us how you're currently
8 employed?

9 A. Yes. I'm in private practice in clinical
10 psychology. I also teach for the University of Nevada
11 School of Medicine in Reno.

12 Q. How long have you been doing this?

13 A. Since 1975 I have been teaching at the
14 University. I was a chief of health at the Mental Health
15 Hospital -- VA Hospital in Reno. I retired four years
16 ago.

17 Q. Could you give us an idea of your
18 educational background?

19 A. Yes. Undergraduate degrees from California
20 State University at Northridge, graduate degree in
21 clinical psychology from University of Houston, Houston,
22 Texas.

23 Q. You mentioned that you were in charge of the
24 program at the VA Hospital?

25 A. Correct.

1 Q. Could you kind of give us a little more
2 information on your professional experience?

3 A. Sure. Well, specific to this case, back in
4 the 80s, I got involved in VA's problem with violent
5 patients and developed a program and establish a
6 behavioral emergency committee for dealing with
7 individuals that -- patients that were problematic in the
8 hospital setting.

9 Started teaching at the medical school, medical
10 students on how to deal with those kinds of issues.

11 Produced some media for the VA, regional education
12 videos on violence and suicide. And I've done an anger
13 management group at the VA. I did an anger management
14 group at the VA for fifteen years, primarily domestic
15 violence referrals from the courts.

16 And in my private practice now, I continue to work
17 with children's protective services. I do parental
18 fitness evaluations, and many of those are domestic
19 violence cases.

20 Q. Are you a member of any professional
21 organizations?

22 A. I'm a member of the American Psychological
23 Association. Also I'm board certified from the American
24 Board of Professional Psychology.

25 Q. And have you been published in any journals

1 or written any books?

2 A. Yes.

3 Q. Explain a few of those, briefly.

4 A. Most of my research is in the area of
5 comparing medication treatment of anxiety, depression with
6 psychotherapies. And I've done a number of lectures
7 however in the area of violent patient, issues of anxiety,
8 stress control that sort of thing.

9 Q. And you're licensed in Nevada?

10 A. Nevada and California.

11 Q. And California. And I believe you also
12 mentioned that you were a professor at UNR?

13 A. Yes.

14 Q. Is that in the school of psychology or the
15 School of medicine?

16 A. School of medicine.

17 Q. What kind of subjects do you teach?

18 A. Violence is my main lecture. I also lecture
19 on hypnosis -- medical hypnosis.

20 Q. And right. Now your practice is in clinical
21 psychology?

22 A. Correct.

23 Q. Could you kind of explain a little about
24 what that entails?

25 A. Sure. Private practice, clinical

1 psychology, most of the people that we see are for anxiety
2 and depression, also issues of domestic violence, both
3 victims and perpetrators. That's been most of my
4 practice.

5 Q. Have you had the opportunity to observe and
6 evaluate individuals with learning disabilities?

7 A. To a limited degree. I'm not a
8 neuropsychologist. I didn't do a lot of that work, but I
9 do evaluate.

10 Q. But you have with individuals regarding
11 domestic violence?

12 A. I have.

13 Q. And you've had -- have you had a chance to
14 evaluate individuals that have been charged with serious
15 crimes?

16 A. Yes.

17 Q. Now have you been previously qualified as an
18 expert in a court of law in Nevada?

19 A. Yes.

20 Q. Do you know which courts?

21 A. Washoe County.

22 Q. Do you have an estimate as to maybe how many
23 times?

24 A. Probably say maybe ten to fifteen times.
25 Some of those are custody cases, child custody cases.

1 Q. Now, Dr. Danton, we -- I asked you to come
2 and testify today. And I provided you some materials
3 before you came down last night?

4 A. Yes.

5 Q. What materials were available for you to
6 review for this case?

7 A. It was a review of facts of the case, and a
8 report by Dr. Etcough (ph) a neuropsychologist.

9 Q. And did you have the opportunity to talk
10 with James?

11 ~~A.~~ I did.

12 Q. When was that?

13 A. Last night. I talked to him for about 2
14 hours.

15 Q. Did you talk to him at all about the report
16 that you had from Dr. Etcough (ph)?

17 A. Tendentially. I didn't directly address
18 that.

19 Q. Dr. Danton, let's start by, if you could
20 explain to the jury what the circle of domestic violence
21 is and how that works?

22 A. Although there's a fair amount of dispute
23 about that, that's a bit of the loaded question. But,
24 typically as it's understood there is an escalation to
25 violence as coercive power, trying to control a situation,

1 or have power, that's usually followed by a period of
2 apology and remorse, and where the parties reconcile, and
3 then the abuse starts over again with whatever dynamic is
4 feeding that.

5 Q. In a typical domestic violence relationship,
6 which party would be controlling the finances or the money
7 in the relationship?

8 A. Well, that is one of questions that we teach
9 medical students in primary care to ask, is who controls
10 the finances. And that's a fairly critical question that
11 identifies an abusive relationship.

12 Q. Who typically controls that? ✓

13 A. Typically the abuser in the relationship.

14 Q. Now we talked this morning about the
15 motorcycle syndrome. Could you explain that to the jury.

16 A. Sure. This is actually a concept that was
17 proposed by an analyst some years ago, but it has a lot of
18 explanatory power I think for what happens in some
19 relationships.

20 The -- what he wrote about was that -- and this is
21 particularly prevalent in young girls. They may have a
22 cold or distant relationship with their fathers, if their
23 fathers aren't emotionally available. And they want love
24 and attention, but they get to a point where they just
25 give up trying to get that and say, to heck with it, I'm

1 not going to try.

2 And the issue then the denial results in an
3 unconscious need being established where there is a need
4 for love and approval, but it's not consciously
5 recognized.

6 So the result of that and why it is called the
7 motorcycle syndrome, is that they made seek out cold,
8 distant men, paradoxically, because it is a need to need
9 it, not a need to have it.

10 So what happens then in that sort of relationship
11 is young girls may hang out with motorcycle gangs, for
12 example, where they're treated very, very poorly, but
13 they're compelled to keep trying to convert these guys or
14 make them into nice guys and make them love them.

15 The part of this that makes it a syndrome is if one
16 of those men ever should convert and say, gosh, she really
17 is a nice woman and I really love her and I want to be
18 with her, she may become the rejector at that point.

19 Because it's not a need for love and affection,
20 it's a need to need it. So that sometimes explains these
21 cycles in relationships that don't seem to make any sense
22 to the rest of us, where somebody says that they really
23 want love and affection, but when they get it, they go the
24 other direction.

25 Q. And is any of this -- did you see any of

1 this in -- from talking to James in his relationship with
2 Debbie?

3 A. Well, it is James' contention that their
4 relationship started that way, that he wasn't particularly
5 interested and had to be kind of coaxed into it. But then
6 he became extremely dependant on her as the relationship
7 progressed.

8 Q. Okay. Now how would drugs or drug use fit
9 into all of this?

10 A. Well, to make sense of that you have to go
11 back to his personality characteristics. In Dr. Etcough
12 diagnosed him at a borderline personality. These are
13 individuals who have great instability in relationships.
14 They're extremely sensitive to abandonment. Often have
15 abandonment in their early histories. So that is a big
16 issue for them.

17 And sometimes you see in with that kind of pain
18 people medicate with drugs intentionally or
19 unintentionally, but they feel more comfortable when
20 they're high or drunk or whatever.

21 So am I getting back to the original question.

22 Q. You're doing fine. Would -- and in general
23 cases or James case, would drugs maybe be used to control
24 emotions?

25 A. Yes.

1 Q. Could you explain, maybe in James -- well
2 you know about James, how that would work?

3 A. Just the threat of abandonment or loss could
4 be so intense for him -- as to other emotions as well, not
5 necessarily just that one-- that he would be prone to
6 using drugs to zone out.

7 Q. Would these emotions, would they be more
8 acute if he was sober?

9 A. Yes.

10 Q. So this is maybe an escape mechanism?

11 A. Yes. A poor coping skill.

12 Q. And we talked a little about, I think you
13 had five -- a list of five reasons why an abused person
14 would go back into abusive relationship or stay in a
15 abusive relationship. Explain those to us.

16 A. I think I was talking about why sex may have
17 occurred with those reasons, but, you know, the most
18 frequent reason that I hear from people -- and we're all
19 curious about why people stay in these relationship, and
20 probably everyone in the courtroom has at least an
21 acquaintance that stayed in a relationship that wasn't
22 good for them.

23 Why do people do that. And the most frequent
24 reason that they give me is because I love him or her.
25 And I don't know what that means always. Sometimes I

1 think it truly is sort of love the abuser, hate the abuse
2 kind of thing. So that's one reason why people give that
3 they stay in these relationships.

4 I think it's deeper dynamics though. I try to
5 describe that with the motorcycle syndrome. I never did
6 examine Debbie Panos, so I don't know if that was the
7 nature from her perspective. I just have what James told
8 me.

9 Do you want me to go into the reasons?

10 Q. Yes, please.

11 A. All right. These are questions I ask myself
12 about why she might be willing to have sex with him under
13 these circumstances, and the ones I came up with -- number
14 one was, reconciliation or forgiveness, which is what I
15 just described where somebody feels that they are in love
16 with somebody and that they really want the relationship
17 to work and they haven't given up on it yet.

18 That doesn't fit terribly well in this case for me,
19 but it was one hypothesis.

20 The second one was guilty. That she had
21 had relationships with other men and felt guilty about
22 that and wanted to somehow apologize for that to him.

23 The third was appeasement. That she felt
24 threatened by his presence and wanted to appease him to
25 decrease the threat of the situation, and therefore, went

1 ahead with offering sex.

2 The fourth was learned helplessness.
3 That's a psychological concept some people think explains
4 human depression. These experiments go back to a man
5 named Selicman, who put dogs in -- shut them in boxes and
6 shocked them. It's a pretty cruel thing to do, but the
7 experiment showed that after awhile the dog would stop
8 trying to escape from the chamber. And even if you open
9 the door to allow the dog to escape, it wouldn't try
10 anymore. And he thought that that was a model for
11 depression.

12 So a possibility is that there was learned
13 helplessness that she simply didn't feel like, what's the
14 difference, what can I do, other than this.

15 The only issue about that is if there were
16 affairs with other men, that doesn't fit well with that
17 hypothesis.

18 Of course the other hypothesis is forced.
19 He forced her to have sex.

20 Q. After talking with James, I think you
21 touched on this, but in your professional opinion what is
22 the most likely of those choices?

23 A. Given the information I have, I think guilt
24 appeasement makes the most sense.

25 Q. In Dr. Etcough's report it mentions that he

1 gave James an IQ test?

2 A. Yes.

3 Q. And can you -- I know you didn't give the
4 test, but from Dr. Etcough's report, what opinions do you
5 get from those ~~IQ tests~~?

6 A. He tested at 80, I think, which is a very
7 low end of the low normal range of intelligence. A couple
8 of standard deviations down. So that suggests that his
9 ability to reason and perhaps verbal skills ability to
10 verbally reason with another person or not very good.

11 Q. Would this characterize James as somebody
12 who would be willing to sit down and talk things over?

13 A. He would probably get frustrated trying to
14 do that.

15 Q. And from talking to James and knowing that
16 he had this, how does this kind of fit in with the sexual
17 relationship between James and Debbie?

18 A. Well, according to James that was typically
19 how they reconciled after they had spats -- fights.

20 Q. Would be to make up by having sex?

21 A. They had a good physical relationship, but a
22 very poor communication relationship.

23 Q. Does that fit in with what you know about
24 James?

25 A. Yes.

1 Q. What can you tell us about James? You
2 touched on this a little bit, can you expand about James'
3 fear of abandonment?

4 A. ~~He lost~~ his mother I think when he was two.
5 Didn't have a father figure. His grandmother, although
6 she was there for them, had lots of kids to take care of
7 and was into corporal punishment. So he didn't have any
8 male role models in the household.

9 So all of that kind of stacks the cards. An early
10 loss like that, it has to do with the establishment of
11 trust versus mistrust. That in very young children, you
12 know, as they're bonding to their mother, that normally
13 happens at 18 months to 2 years, and things can go wrong
14 with that where the mother is not there anymore all of a
15 sudden. And the result of that is abandonment anxiety,
16 which is a reoccurrence of the same kind of anxiety you
17 see in children that age that go into overwhelming fits of
18 rage or overwhelming fits of despair.

19 Anyway, theoretically what happens in borderline
20 personality is that there's a problem with that bond at an
21 early age, trust never gets established, and the person
22 becomes very dependant on external anchors to feel okay.
23 The anchor outside has to sooth them because they're not
24 capable of soothing themselves on the inside. They don't
25 have that ability.

1 Q. All of this, would that make James more of a
2 dependant personality type, do you think?

3 A. In this case, yes.

4 Q. Did -- now if, as you said, after talking to
5 James you kind of came to the conclusion that James and
6 Debbie had more of a physical then a verbal relationship,
7 is that correct to characterize it that way?

8 A. That's his contention, yes.

9 Q. And that sex would be used as a way to maybe
10 placate James or make things better, or could you kind of
11 explain what you learned about that from James?

12 A. Just what you said, that he would -- they
13 would use sex as a way of soothing things.

14 Q. Would it be your opinion that Debbie could
15 use sex to calm James down if he was angry?

16 A. Yes.

17 Q. Would it be your opinion that she would do
18 that voluntarily?

19 A. Well, that depends on what you mean by
20 voluntarily. But if what you mean by that is if there was
21 no immediate coercive threat, meaning he wasn't saying do
22 this or this is going to happen, and we draw the line on
23 somebody responding to an implied threat, I worry about
24 this guy getting upset with me, so I'm going to have sex
25 with him, then I would say that it would be voluntary.

1 Q. And this would probably work better than
2 trying to sit down and rationally discuss it or talk it
3 out?

4 A. Yes.

5 MR. PATRICK: Court's indulgence.

6 THE COURT: Okay.

7 MR. PATRICK: That's all I have. Thank
8 you, doctor.

9 THE COURT: Ms. Weckerly.

10 MS. WECKERLY: Thank you.

11 CROSS-EXAMINATION

12 BY MS. WECKERLY:

13 Q. You mentioned the items that you reviewed in
14 preparation for your testimony?

15 A. Yes.

16 Q. I believe you said you reviewed a summary of
17 facts of the case?

18 A. Yes.

19 Q. Who was that prepared by?

20 A. That was prepared by the opposing attorneys,
21 defendant's attorney.

22 Q. Was that a -- something that they had
23 written themselves or was that police reports and that
24 sort of thing?

25 A. It was their summary of facts.

1 Q. Have you read any police reports in this
2 case?

3 A. No.

4 Q. Any witness statements?

5 A. I have not.

6 Q. And the other thing you -- did you read the
7 autopsy report?

8 A. No.

9 Q. Have you reviewed the autopsy photos?

10 A. No.

11 Q. Have you reviewed any of the prior incident
12 domestic violence reports?

13 A. No.

14 Q. And the other thing I think you said you
15 reviewed was Dr. Etcough's report?

16 A. Correct.

17 Q. And I believe he, in his report, indicates
18 that he interviewed the defendant?

19 A. Yes.

20 Q. You mentioned that you met with the
21 Defendant and that was the last -- last night that you met
22 with him?

23 A. Yes.

24 Q. That was for about 2 hours?

25 A. Correct.

1 Q. Have you ever met with him prior to that?

2 A. Never.

3 Q. Had you interviewed him by phone prior to
4 that?

5 A. No.

6 Q. So your only meeting with him, as you sit
7 here now, was the 2 hour meeting last night?

8 A. That's correct.

9 Q. You mentioned that there's sort of a cycle
10 of domestic violence generally speaking?

11 A. Yes.

12 Q. And that starts with someone being abusive
13 or coercive or trying to control another person?

14 A. Well, it's a cycle of violence. Where it
15 starts is debatable, but you could start anywhere on that
16 circle.

17 Q. Would you agree that until there's an act of
18 violence --

19 A. It would require that.

20 Q. So it starts with someone being abusive to
21 another person?

22 A. Correct.

23 Q. Perhaps there is a period where they are not
24 abusive, and the abuse starts up again?

25 A. Yes.

1 Q. In your preparation for your testimony, you
2 talked about domestic violence in general. Did you review
3 any of the witness statements that describe the history of
4 the relationship between the defendant and Debra Panos?

5 A. No.

6 Q. Did you review any reports at all that
7 discussed prior incidence of domestic violence and how
8 they occurred over a certain time period?

9 A. No. Just what he described to me.

10 Q. What the Defendant told you?

11 A. Correct.

12 Q. And you didn't review anything else to see
13 if what he was telling you was accurate?

14 A. I haven't had time to do that. I saw him
15 last night at 10:00 o'clock.

16 Q. So it's possible you received information
17 that may more or may not be accurate?

18 A. Yes.

19 Q. You mentioned that some young women have the
20 motorcycle syndrome?

21 A. Yes.

22 Q. I guess this is a way -- or sort of what
23 they do is hook up with men that are mean to them?

24 A. Yes, or distant. More to the point distant
25 or cold. Not emotionally there for them.

1 Q. And the reason -- or the basis for that is
2 they have some sort tenuous connection to their father?

3 A. Typically they have a poor emotional bond
4 with their father early on. Not just women, by the way,
5 there are men.

6 Q. You mentioned that it's Mr. Chappell's
7 contention that Debra Panos was like this?

8 A. No. It's his contention that early in the
9 relationship he was more distant, and that he then came to
10 want to be with her more, that he became more dependant on
11 her, that that role reversed over time.

12 Q. Is he the one with the syndrome, or is she
13 the one with the syndrome?

14 A. He is the one with the borderline
15 personality. So it's sort of a perfect storm. Because he
16 is going to be sensitive to abandonment, so when she is
17 moving away from him he's going to panic about that and
18 want to pull her back in. But when he does that and
19 becomes dependant, she'll want to push him away. If
20 indeed that's the case with her.

21 Q. That was sort of my question. Did you ever
22 interview her family members to find out what her
23 childhood was like?

24 A. No.

25 Q. Did you interview her friends to find out

1 what her other relationships were like?

2 A. I have not.

3 Q. Did you ever review any of her school
4 records, try to get psychological reports, or even sort of
5 first-hand acts from friends about how she viewed
6 things?

7 A. No. And that's why I'm saying I'm not
8 making a diagnosis of her here, because I haven't
9 interviewed her. It's just a hypothesis.

10 Q. You said in a typical domestic violence
11 relationship typically it's the abuser who controls the
12 finances?

13 A. Typically.

14 Q. Would you agree with me that there is a
15 difference between being the wage earner and controlling
16 where the money is spent?

17 A. Yes.

18 Q. And it's possible to force money out of
19 someone who's actually earning it?

20 A. Yes.

21 Q. So then you're the one in control, even
22 though you're out making money?

23 A. What I'm talking about is in many domestic
24 violence relationships it is pathonumonic for the person
25 who is the abuser, since their issue is one of control, to

1 try to control everything, including what happens to all
2 the money in the relationship. I don't have any opinion
3 about whether she did that or not. Again I didn't
4 interview her.

5 Q. Would returning items of furniture or
6 selling property that belonged to either Debra Panos or
7 her children in order to get money for himself be a way of
8 controlling money in that relationship?

9 A. It would -- I suppose it would depend on the
10 intent. If it was to buy drugs, no. If it way to control
11 her and what she did and what she could do, yes.

12 Q. It's a means of controlling the situation,
13 isn't it?

14 A. I'm not clear.

15 Q. It's a means of Mr. Chappell deciding how
16 things are going to be played out in that relationship, a
17 way of him controlling Debra Panos because she didn't have
18 control over her own money?

19 A. If there was a method to that, where, you
20 know, she would bring home money put it in a bank account
21 and he would take money, or consistently sell property
22 just to control the relationship, I would agree with that.
23 But if the primary intent was to buy drugs, that might be
24 a different intent.

25 Q. You mentioned that controlled substances are

1 a means for people to feel better and sort of medicate
2 themselves into a sense of calm or something of that
3 nature?

4 A. Yes.

5 Q. That would be true for people who are
6 outside of domestic violence relationships, would it
7 not?

8 A. Yes.

9 Q. A lot of people use drugs and they're not
10 abusive?

11 A. True.

12 Q. So that's not necessarily a unique diagnosis
13 in this situation?

14 A. No.

15 Q. You talked to Mr. Patrick about the ways
16 that sex could occur, consensually, in this situation?

17 A. Well, the ways that it might have occurred
18 in this situation.

19 Q. And that the first one you mentioned is
20 because the victim loves the abuser?

21 A. Yes.

22 Q. And that would assume that the victim wasn't
23 over the relationship. I assume some domestic violence
24 victims decide to leave relationships and don't want to be
25 involved with the person anymore?

1 A. I tell patients love isn't necessarily a
2 good reason to be in a relationship, or to be married.
3 Because it can be based on all the wrong reasons. So she
4 could still -- or anybody could still love somebody and
5 decide not to be in the relationship anymore.

6 Q. And that person could also decide that they
7 don't want to have sex with that person?

8 A. Yes.

9 Q. You also said that another possible reason
10 is for guilt or unfaith -- guilt because they felt they
11 have been unfaithful to the person?

12 A. Yes.

13 Q. And than you said it's a way to appease or
14 decrease a threat?

15 A. Yes, I did.

16 Q. Those seem like to same thing to me. Can
17 you explain the difference?

18 A. Guilty, a feeling of having done something
19 that wronged this person and wanting to make that up to
20 them. Appeasement, in terms of wanting to decrease the
21 fighting or the threat value of the situation. So I see
22 them as different motives.

23 Q. And in your estimation you think that this
24 situation, based on what you heard from the Defendant, not
25 reading the police report, not talking to her friends, and

1 not reviewing the autopsy photos or anything else, falls
2 into one of these two categories?

3 A. That made the most sense.

4 Q. Did the defendant give you or speak to you
5 about what happened on any of the prior incidence of
6 domestic violence?

7 A. Yes.

8 Q. What did he explain happened during the time
9 that he broke Debbie Panos' nose?

10 A. I believe that was the incident where he
11 threw a cup at her.

12 Q. What did he say he did?

13 A. He said that he walked out of the kitchen,
14 they were arguing, that he threw a cup at her and turned
15 around and walked back into the kitchen.

16 Q. What did he say the argument was about?

17 A. I don't remember.

18 Q. Did you ask him at all what it was about and
19 you don't remember, or did he not offer an explanation?

20 A. More a matter of having a limited amount of
21 time and wanting to -- I wanted to ask him about previous
22 incidents of domestic violence just to get the nature of
23 what those were.

24 Q. So they had an argument and he threw a cup
25 at her and somehow her nose got broken?

1 A. It was broken. But I think there was a
2 laceration he described also. He said he then called
3 911.

4 Q. He said he called 911?

5 A. Yes.

6 Q. And did he say where he was when 911 came to
7 assist Debra Panos?

8 A. Again, I didn't go into that in great
9 detail.

10 Q. Did he say that she was lying out on a
11 gurney while he sat inside watching television?

12 A. No.

13 Q. So I guess that issue, or that one incident
14 wasn't resolved with sex, it was resolved because the
15 police came, right?

16 A. Well, it sounds like it was resolved because
17 she was taken to the hospital.

18 Q. Right. Right. It wasn't deescalated by
19 some sort of sexual encounter?

20 A. Right.

21 Q. How about the incident, did he describe an
22 incident where he had choked Debra Panos enough to leave
23 finger marks on her neck?

24 A. I believe he did mention that.

25 Q. And what did he say was the issue on that

1 occasion?

2 A. I don't recall.

3 Q. Did he mention whether or not the police
4 responded on that occasion?

5 A. I -- all I remember is that there were like
6 four incidents of domestic violence. He described in some
7 detail the cup incident, and this other incident, and a
8 couple of incidence in Tucson where he lost control.

9 Q. Did he mention and incident where he threw
10 her on a bed, got on top of her and held a knife to her
11 neck?

12 A. I believe he did.

13 Q. What did he say that was about?

14 A. He didn't.

15 Q. Would that have been important in your
16 analysis of the dynamics of the relationship?

17 A. Well, if I had time to get into that it
18 might be important, but as it was I was just trying to get
19 a summary of the domestic violence incidents that
20 occurred.

21 Q. Did he say how that incident resolved
22 itself?

23 A. No.

24 Q. Do you know whether or not the police
25 responded to the trailer on that occasion to assist

1 Debbie?

2 A. I don't.

3 Q. Would it surprise you that they did respond.
4 They were called by a friend of hers and the officers
5 responded?

6 A. No.

7 Q. So that's another instance where she didn't
8 use sex to deescalate a situation or appease him, instead
9 she wanted the police called?

10 A. She called the police?

11 Q. She asked a friends to call the police, and
12 they responded. So that would be different than I'm going
13 to have sex and make everything okay, would it not?

14 A. Right.

15 Q. Okay. You mentioned that there were some
16 results of IQ testing that you read about in Dr. Etcough's
17 report?

18 A. Yes.

19 Q. You didn't perform any independent testing
20 of your own, did you?

21 A. No.

22 Q. Those are based on his findings alone?

23 A. Yes.

24 Q. Nothing new has been done?

25 A. No.

1 Q. Did he describe to you what occurred on the
2 day that he stabbed Debra Panos to death?

3 A. Yes.

4 Q. What did he say happened?

5 A. May I refer to my notes?

6 Q. Sure.

7 A. I'd asked questions about what happened on
8 that day, and he said that there had been some kind of mix
9 up with probation. That he was supposed to have been
10 remanded, I guess, to substance abuse treatment program,
11 and instead was released on his on recognizance.

12 Q. Did he tell you about that mix up, what it
13 was exactly?

14 A. That is all, what I just said.

15 Q. He just said it was a mix up. He didn't say
16 that he promised to report somewhere by 1:00 o'clock and
17 he didn't?

18 A. No.

19 Q. No. He didn't say that. Okay. What
20 happened next, according to him?

21 A. That he went to a friend's house after he
22 left the jail. The friends had been incarcerated and
23 wasn't there. He drank two large beers. That he called
24 the house and she wasn't there.

25 Q. Did he say he called the house from the

1 friend's house or somewhere else?

2 A. He did not say.

3 Q. Okay.

4 A. That he called the house and thought she
5 wasn't there. That he went over there, and he didn't have
6 a key and was used to getting into the trailer through a
7 broken window.

8 Q. When he said he got in through a broken
9 window, did he explain why that was the case?

10 A. He said he didn't have a key, and he didn't
11 believe she was there.

12 Q. Did he say she didn't want him to have a
13 key, and she didn't want to let him in the house?

14 A. He did not.

15 Q. Okay. Did he say that was a normal way or
16 just the way he was allowed to come in the house?

17 A. That's what was described to me.

18 Q. That was just sort of -- she didn't want him
19 to have a key, but somehow, in her mind, it was fine if
20 he'd keep coming in through the window?

21 A. I don't know.

22 Q. What happened -- what did he say happened
23 next?

24 A. That he climbed through the window and she
25 was there, that she met him there.

1 Q. What was her reaction, according to the
2 Defendant when she saw him climbing through the window?

3 A. She helped him in through the window and
4 according to him she was not wide-eyed with surprise or
5 anything.

6 Q. She seemed happy to see him, did he say
7 that?

8 A. He didn't say happy.

9 Q. Not wide-eyed, not surprised, not scared?

10 A. That's all he told me was she was not like
11 frightened or wide-eyed to have him coming through the
12 window.

13 Q. You didn't review the testimony of someone
14 by the name of Mike Pollard, did you?

15 A. No.

16 Q. Would it surprise you that shortly before
17 Debbie Panos arrived home she was shaking and in a ball on
18 this person's couch at the prospect of the Defendant being
19 out of custody or upon learning he was out of custody?

20 A. Would that --

21 Q. Would that surprise you that that's been
22 described as what occurred in this case, that once she
23 learned he was out of custody she was extremely fearful
24 and shaking?

25 A. Well, I hadn't heard that before.

1 Q. That's quite a bit different, wouldn't you
2 agree, then just acknowledging that he's climbed through a
3 window?

4 A. Yes.

5 Q. What did he say happen next?

6 A. That he came in and began to argue with her
7 about her seeing other men.

8 Q. And what did he say? How did he argue with
9 her?

10 A. That he asked about these male acquaintances
11 and that she was -- his description was, she was elusive
12 with me, that she wouldn't be pinned down about whether or
13 not there was anything going on. She sort of denied there
14 was any physical relationship going on with the other
15 men.

16 Q. So she answered him, but not with conveying
17 information?

18 A. Which in his mind made him more agitated
19 because he strongly suspected something was going on and
20 wasn't hearing that.

21 Q. What room did he say this was occurring
22 in?

23 A. He didn't.

24 Q. What did he say happened next?

25 A. That she started talking about the children,

1 that she came over and put her arm around him and started
2 talking about let's do this, and let's do that, that we
3 need --

4 Q. When you say let's do this and let's do
5 that, what are you talking about?

6 A. Well, like get the kids and --

7 Q. So she was suggesting to him -- according to
8 the Defendant -- let's both leave here together and go get
9 those kids?

10 A. The picture I got was she was trying to say,
11 look, this is going to be all right. Let's talk about
12 this, let's talk about that.

13 Q. That's what he told you?

14 A. Yes. That she put her arm around him and
15 according to him initiated sex, that she started kissing
16 him and she initiated the contact.

17 Q. And somehow, although he was concerned that
18 she was seeing other people and that she had been vague
19 about whether she was seeing other people, he responded to
20 this, her initiation of sex?

21 A. Well, again, this hinges on the idea that
22 this was an MO in this relationship, that this is how this
23 worked.

24 Q. And that's based on what the Defendant told
25 you?

1 A. Based on what the Defendant said.

2 Q. Go ahead.

3 A. So at any rate -- let's see, so -- yeah,
4 exactly. He said that the relationship had been
5 repeatedly healed by physical attraction. They weren't
6 good communicators.

7 Q. Did he give an example of any time that
8 occurred ever, that the relationship was healed by sex
9 rather than the police being called or her running to a
10 friend's house?

11 A. My sense was that that was ongoing in this
12 relationship.

13 Q. So he never gave a specific instance ever in
14 the whole two hours of this was a fight --

15 A. We weren't talking about this specifically
16 for the whole two hours. But in the time I asked him
17 that, he didn't give me an example.

18 Q. That's sort of the critical issue?

19 A. It became a critical issue, yeah.

20 Q. So I think we left off where he's telling
21 you that she is initiated sex with him?

22 A. He goes on to describe that she suggested
23 his favorite sexual position, that he became suspicious
24 that she had had sex earlier.

25 Q. Why was he suspicious?

1 A. In the report it says, because of the
2 condition of her vagina and the smell.

3 Q. So he said that he perceived a difference
4 based on senses?

5 A. Based on his senses. So he stops having sex
6 with her, and she offers fellatio, which she then
7 completes.

8 Q. Can I stop you there. If he's so upset and
9 so prone to be upset about her being unfaithful, why
10 wasn't there an outburst or some discussion or something
11 right when he discovered that there was physical evidence
12 of her being unfaithful?

13 A. I think there was in the sense that he
14 stopped having vaginal intercourse with her.

15 Q. And you said they started having oral sex?

16 A. Again, if it goes back, it hinges on this
17 idea that this is how she chronically appeased him in
18 these situations where he would get upset.

19 Q. Did he mention whether or not during or
20 right after he discovered or thought he discovered that he
21 felt different to him during sex that he had his hands on
22 her throat?

23 A. Did he say that to me?

24 Q. Yes.

25 A. No.

1 Q. He didn't talk about that. Did he talk
2 about ever doing that during this encounter?

3 A. During this encounter, no.

4 Q. Never talked about having his hands on her
5 throat holding her down on the couch?

6 A. No.

7 Q. Keep going.

8 A. All right. So he went to the bathroom to
9 clean up, and she was on the phone calling the day care
10 center at that point.

11 Q. Did he say why she was calling the day care
12 center?

13 A. To arrange to pick up the children.

14 Q. Did he say whether or not she was asking the
15 day care worker for help?

16 A. He didn't.

17 Q. Didn't talk about that, her whispering,
18 please, help me.

19 A. No. They -- he was still upset and arguing,
20 and I guess Debbie asked the person at day care to call
21 her back. And when she called back it's my understanding
22 that the scene was calm, that there wasn't active arguing,
23 or she didn't hear arguing at that point.

24 Q. And according to the Defendant were things
25 calm then?

1 A. He was still upset.

2 Q. So was he calm, or not calm? What does that
3 mean?

4 A. I guess that means he's not calm.

5 Q. How was me not calm. Is he yelling at her?
6 Is he throwing things at her? Is he hurting her?

7 A. I don't know the answer to that.

8 Q. Did you ask him about that? If he's still
9 upset did you ask him how was it that you were displaying
10 to Debbie Panos you were upset about her potentially being
11 with someone else?

12 A. I asked him to describe for me what
13 happened. This was his description of what happened.

14 Q. And he didn't give you any details about how
15 he might have been upset or how he was displaying his
16 dissatisfaction with her?

17 A. Other than to say that he continued to be
18 upset with her, no.

19 Q. Then what did he say after he -- I think you
20 said he had oral -- she asked him if she could give him
21 oral sex, but then he's still upset afterwards when she is
22 calling the day care.

23 What happened next?

24 A. Then what he told me was that they left to
25 go pick up the kids, and when they got in the car he

1 noticed that things were askew. The car had been messed
2 up. There were beer cans in the car. And there was -- he
3 didn't tell me this, this was in the report that I
4 received. What he told me was he found a sexually
5 explicit letter.

6 Q. What did he say happened with the letter?

7 A. He went into a range.

8 Q. So he said he read the letter, then what
9 happened?

10 A. He recalls dragging her back into the house,
11 throwing her down inside the front door.

12 Q. When he was dragging her back in the house,
13 how did he get her out of the car?

14 A. I don't know.

15 Q. Did you ask him?

16 A. No.

17 Q. So somehow he told you he dragged her back
18 in the house. Did they go in the front door or the side
19 door?

20 A. I believe it was the front door at the time.
21 I didn't know there was a side door.

22 Q. There's two doors into the house. One is
23 sort of the back door or porch area. One is the front
24 door to the trailer. And he didn't say?

25 A. No.

1 Q. Did you ask him?

2 A. No.

3 Q. What did he say happened after he was back
4 in the house?

5 A. That he through her down on the floor.
6 That he blacked-out, he doesn't remember what happened
7 after that. And when he nicked him or cut himself that
8 somehow brought him back to the scene, and than he
9 remembers looking down and seeing her in a pool of
10 blood.

11 Q. Let me get this straight. He remembers
12 leaving P&P, under a mix up. And he remembers going to a
13 friend's house he went to. And he remembers drinking a
14 beer there. And then he remembers going -- that he made a
15 phone call to see Debbie. You remembered that. Then he
16 remembers going through a window into the trailer where
17 Debbie was. And that she discovered him and was not upset
18 to see him.

19 A. Yes.

20 Q. And that they had some discussion and then
21 there was a sexual encounter, he remembered all of that.

22 A. Yes.

23 Q. He remembered that she asked if she could
24 give him oral sex?

25 A. Yes.

1 Q. And then he remembers that there was two
2 calls to the day care, or one call out to the day care and
3 one returned call. He remembered that.

4 A. Correct.

5 Q. And he remembered that the two mutually
6 decided that they were going to leave and go to day care.
7 He remembered that.

8 A. Yes.

9 Q. And he remembered getting in the car?

10 A. Yes.

11 Q. And he remembered he saw a note that upset
12 him?

13 A. Yes.

14 Q. And he remembered that he got Debra Panos
15 back inside the house?

16 A. Yes.

17 Q. But he doesn't remember how he killed her?

18 A. Yes.

19 Q. That was his statement to you?

20 A. Yes.

21 Q. But then he remembers right after she's
22 laying there dead. Did he mention to you how many times
23 he stabbed her?

24 A. No.

25 Q. Did he mention to you where he got the knife

1 that he used to stab her with?

2 A. No.

3 Q. Did he mention to you that he cleaned
4 himself up in a bathroom inside the trailer after he
5 stabbed her. Did he remember that?

6 A. I believe he did say something about
7 cleaning himself up later at this -- when he was taking
8 the bicycle back. He made a statement about, as he was
9 describing this, that I remembered I had to take the
10 bicycle back because they would be pissed.

11 Q. So he remembered that detail too?

12 A. Yes. Which seems odd.

13 Q. Yes, I agree with you there.

14 A. Yeah.

15 Q. Did he mention to you how Debra got a really
16 large contusion or bruise or her ear?

17 A. No.

18 Q. Did he mention to you how she got an
19 abrasion on her chin?

20 A. No.

21 Q. Did he mention to you how she got bruises
22 all up and down her arms?

23 A. No.

24 Q. How about the bruise on her leg?

25 A. No.

1 Q. How the stab wounds hit her groin area?

2 A. No.

3 Q. How about a stab wound to her on her
4 stomach?

5 A. He didn't mention any of those things.

6 Q. And just his statement, I don't remember any
7 of that?

8 A. Yes.

9 Q. So that's the part where he blacks out?

10 A. I had another murder case where I was an
11 expert where that same thing happened, so it does
12 happen.

13 Q. That's a common thing?

14 A. Not common, but it happens. Certainly it
15 happens with war veterans as well, they black out.

16 Q. You mentioned that he said what he did
17 after, or he wakes up or come out of the blackness and
18 notices that Debra Panos is in front of him and she's been
19 injured. Did he mention whether or not he got on the
20 phone to call for assistance for her?

21 A. No.

22 Q. That had to be pretty shocking to see her in
23 that condition, right, this person he supposedly cared
24 about?

25 A. Yes.

1 Q. Did he mention whether he ran for help, a
2 next door trailer at all and tried to give her any kind of
3 assistance?

4 A. I believe he said he didn't.

5 Q. Because she was obviously injured and he
6 didn't know how it happened, right?

7 A. Well, I think he knew he had done it. He
8 was on top of her and there was blood all over him.

9 Q. What did he say he did after that?

10 A. He said that he went to ride the bicycle and
11 it had a flat tire, and so he couldn't take it back. And
12 I believe he put the bicycle in the trunk of -- I believe
13 it's her car, and then drove back over to take the bicycle
14 to his friend's house.

15 Q. Did he say where he got the car keys from?

16 A. No.

17 Q. So he leaves in her car. He can remember
18 that?

19 A. Yes.

20 Q. Where did he go?

21 A. Back to take the bicycle back to the people
22 he had taken it from.

23 Q. Then what did he do?

24 A. He was in a panic. He saw that there was
25 blood on the steering wheel. There was blood in the car.

1 He couldn't believe --

2 Q. He said there was blood inside the car?

3 A. I believe he did.

4 Q. On the steering wheel and where else?

5 A. Just around the inside of the car.

6 Q. A lot of blood?

7 A. He said there was quite a bit of blood.

8 Q. Okay.

9 A. And that he was surprised when the friends
10 came out when he was going to give them the bicycle that
11 they didn't notice that. That he found a rag and got
12 moisture from the ground and wiped off the bicycle and
13 returned it to them.

14 Q. He got moisture from the ground?

15 A. A pool of water that was nearby.

16 Q. Like an actual swimming pool?

17 A. I'm sure it's probably a puddle of water
18 from the driveway or what have you.

19 Q. Then what did he do?

20 A. Wiped off the bicycle. He said that he --
21 let me refresh his memory here. He was sobbing.

22 Q. Did he mention that he rented her car out to
23 people at the apartment complex to make a little money for
24 himself that night?

25 A. He did mention that he went to the apartment

1 complex where he knew there to be an abandoned apartment
2 and that he got some drugs and alcohol. He didn't say how
3 he accomplished that. And that he sat there and cried
4 most of the night, realizing what happened.

5 Q. Not before he negotiated the rental of her
6 car?

7 A. Well, again, that may have been the behavior
8 on his part to acquire drugs to stop all of this.

9 Q. And the actually shoplifted a couple of
10 items that night and went door to door selling them and
11 negotiated about the price, not withstanding all this
12 grief he had?

13 A. Yes.

14 MS. WECKERLY: Court's indulgence,
15 please.

16 THE COURT: Okay.

17 MS. WECKERLY: Nothing further.

18 THE COURT: Mr. Patrick.

19 REDIRECT EXAMINATION

20 BY MR. PATRICK:

21 Q. Doctor, you did ask James about his previous
22 history of domestic violence with Debbie?

23 A. I did.

24 Q. He was -- was he very forthcoming as to
25 these events?

1 A. Yes.

2 Q. Do you have any reason to believe that he
3 would not be telling you any specific events of domestic
4 violence?

5 A. In fact he volunteered an event from his
6 youth during that questioning.

7 Q. Now, as -- you didn't have a very long talk
8 with James. You didn't have a chance to perform any
9 tests. The test performed by Dr. Etcough, they would be
10 more of what we call a neuropsych?

11 A. Correct.

12 Q. That is not what you do anyway?

13 A. Correct.

14 Q. Reviewing Dr. Etcough's report before you
15 talked to James, was what he told you last night
16 consistent with what Dr. Etcough mentioned he told him?

17 A. Yes.

18 Q. Did you find any inconsistencies between the
19 two?

20 A. Just in a couple of items which were
21 probably just inadvertent omissions. Like why he was in
22 jail for example. One report says something to the affect
23 he was there for shoplifting, and another report says he
24 was there for domestic violence. And apparently he was
25 there for both. So that sort of thing. But other than

1 that, I didn't find anything.

2 Q. So you asked James about what you thought
3 were perceived inconsistencies?

4 A. Yes.

5 Q. And he was forthcoming and explaining them
6 to you?

7 A. He was.

8 Q. Now the day of the stabbing, it sounds like
9 James -- the first thing he did when he got out of custody
10 was go find drugs or alcohol or whatever?

11 A. Yes.

12 MS. WECKERLY: Objection. The witness said
13 he went to go have a beer.

14 MR. PATRICK: Well, alcohol is a drug.

15 THE COURT: Well, there's a distinction
16 between drugs and alcohol.

17 BY MR. PATRICK:

18 Q. He went to get a couple large beers?

19 A. Yes.

20 Q. That fits in his whole drug-dependant
21 personality?

22 A. Yes.

23 Q. It would be, as you testified that's what he
24 does to alleviate pain?

25 A. Yes.

1 Q. Then I believe Ms. Weckerly asked you about
2 any specific instances where Debbie would use sex to
3 placate James instead of being involved in a domestic
4 violence incident?

5 A. Yes.

6 Q. And you were aware they had three kids?

7 A. Yes.

8 Q. So it was very possible that those three
9 times sex was used instead of domestic violence?

10 MS. WECKERLY: Objection. Calls for
11 speculation.

12 MR. PATRICK: It calls for an opinion,
13 your Honor.

14 THE COURT: I'll sustain the objection.
15 It does call for speculation.

16 BY MR. PATRICK:

17 Q. Were you aware if Debbie was ever pregnant
18 besides those three times?

19 A. According to James, she was pregnant six
20 times.

21 Q. Now also Ms. Weckerly went into great pains
22 about every minute little detail of what happened the day
23 James got out of custody. Was it your intent -- you --
24 we'd already told you that James had been convicted of the
25 murder, correct?

1 A. Correct.

2 Q. So we weren't asking anything about the
3 actual murder because that's not what we're here for
4 today.

5 MS. WECKERLY: Objection, leading.

6 THE COURT: Well, I'm going to overrule
7 the objection. You can answer the question.

8 THE WITNESS: No, I was told to basically
9 look at the nature of their relationship and form an
10 opinion about that based on the information I was given
11 and my interview with James.

12 BY MR. PATRICK:

13 Q. So was it important to you to know every
14 minute detail of what happened at that point in time?

15 A. I believe that it had been stipulated that
16 he had killed her.

17 Q. So you weren't asking James for every minute
18 details of the killing?

19 A. Correct.

20 Q. Now, the story that James gave you about
21 when he came in through the window, and there was some
22 discussion, some sex, more discussion, more sex. That
23 really fits into our whole domestic violence circle about
24 the appeasement and the fact that Debbie and James would
25 use sex instead of talking to solve problems?

1 MS. WECKERLY: Objection, leading.

2 THE COURT: I'll sustained the objection
3 at this point.

4 MR. PATRICK: You may answer.

5 THE COURT: No.

6 THE WITNESS: No I may not.

7 MR. PATRICK: My fault.

8 BY MR. PATRICK:

9 Q. You testified that James had a low IQ?

10 A. Yes.

11 Q. And because of that they had a physical
12 relationship?

13 A. Well, they didn't have a relationship based
14 on good verbal communication, so it was more physical,
15 yes.

16 Q. And would -- what -- how James described the
17 actions between the two of them when he came in the
18 window, does that make sense to you?

19 MS. WECKERLY: Objection, vague.

20 MR. PATRICK: All right.

21 THE COURT: Rephrase that.

22 BY MR. PATRICK:

23 Q. As you explained the relationship of using
24 sex instead of words to solve their differences, did what
25 James describe to you that happened when he came in

1 through that window, is that consistent with your --

2 A. It's consistent with the rest of the data I
3 have, yes.

4 Q. Now, you were starting to answer a question
5 about people blacking out and a lot of work that you have
6 done with the veterans?

7 A. Yes.

8 Q. Would you like to finish that and tell us
9 about that other case, your work with veterans?

10 MS. WECKERLY: Objection, relevance.

11 THE COURT: I'll sustain the objection as
12 to bringing in the issue of another case. I don't know
13 exactly what you are going into with regard to veterans.
14 You can ask another question.

15 BY MR. PATRICK:

16 Q. Could you describe the condition of the fact
17 that James blacked-out and doesn't remember everything
18 that happened that day?

19 A. How would that make sense psychologically
20 speaking?

21 Q. Yes.

22 A. Disassociation, which is common in traumatic
23 instances such as war, other kinds of trauma. Without
24 going into details about another case, there -- I was
25 involved in one where a person had no memory of the

1 crime.

2 MS. WECKERLY: Your Honor, I'd object at
3 this point in time.

4 THE COURT: I don't want you to go into
5 describing other cases about things. Describe what
6 applies to Mr. Chappell and what your opinion is.

7 THE WITNESS: All right.

8 So I'm familiar with disassociation
9 working with a number of people who have been through
10 traumatic situations, war, and so forth, where sometimes
11 they don't remember. In fact, that is one of the
12 diagnostic criteria for post traumatic stress is that they
13 may have memories of events that happened.

14 BY MR. PATRICK:

15 Q. Is that necessarily a conscious decision or
16 not conscious decision?

17 A. There is a difference between suppression
18 and repression.

19 Suppression is where someone says I don't want to
20 think about that, so I'm not going to think about it.
21 I'll put it out of my mind.

22 Repression is thought to be an unconscious
23 mechanism that happens to a person. They don't
24 intentionally forget it it just isn't there because they
25 can't stand having the idea in their mind.

1 Q. What do you know about James in your
2 opinion, which would describe him?

3 A. It would be more likely that it would be
4 repression on his part.

5 Q. Then after the killing of Debbie, James went
6 and found drugs?

7 A. Correct.

8 Q. Now, going back to using drugs as a way to
9 escape the pain and reality, is that -- do you find that
10 consistent with James' personality?

11 A. Yes.

12 Q. Is it -- would you say that he would do
13 whatever it would take to find money to buy drugs?

14 A. I don't know how far he would go, but the
15 records suggest that he would go pretty far.

16 Q. And that's not surprising to you?

17 A. No.

18 MR. PATRICK: That's all, your Honor.

19 THE COURT: Ms. Weckerly.

20 MS. WECKERLY: Thank you, your Honor.

21 RECROSS-EXAMINATION

22 BY MS. WECKERLY:

23 Q. You read Dr. Etcough's report?

24 A. Yes.

25 Q. You agreed with his findings and his

1 analysis?

2 A. Yes.

3 Q. Are you aware that he has also testified in
4 this case about this sort of timing of memory loss or
5 suppressing the exact time of the murder is an easy way
6 out for people to explain their actions?

7 A. It certainly could be.

8 Q. And it could indicate that the person is not
9 being entirely candid?

10 A. Yes.

11 Q. And it could also indicate that they're
12 selectively remembering things for their own benefit?

13 A. Yes.

14 Q. And that could be occurring in this case, as
15 well?

16 A. Yes.

17 Q. In your conversations with the Defendant?

18 A. Yes.

19 MS. WECKERLY: Thank you.

20 THE COURT: Mr. Patrick, anything
21 further.

22 MR. PATRICK: No, your Honor.

23 THE COURT: Thank you.

24 Hold on, sir. All right. Grab those,
25 please, sir.

1 Counsel approach.

2 (Discussion held at the bench.)

3 THE COURT: First off, in your opinion do
4 you think that Mr. Chappell blacked-out?

5 If you have enough information to answer
6 take question.

7 THE WITNESS: I would be more on the side
8 that they did, because I don't believe that he's
9 sophisticated enough to have constructed the rest of the
10 story that he told me about that time, about -- there was
11 a consistency to what he said that fits with that.

12 Although I have to, in all honesty, I
13 don't have enough data to conclusively say he blacked-out.
14 There is testing that could be done that might establish
15 that, but I haven't done it.

16 THE COURT: Secondly, in this style of
17 relationship is it possible that sex would be used to heal
18 the relationship after the police were called on domestic
19 violence?

20 THE WITNESS: Absolutely. That is a
21 pretty frequent occurrence.

22 THE COURT: Thirdly, did Mr. Chappell
23 mention whether or not Debbie was alive or dead after the
24 black-out?

25 THE WITNESS: He -- his words were, she

1 was -- I knew he was very, very badly injured. That
2 sounded like denial to me.

3 THE COURT: All right. Mr. Patrick, do
4 you have any questions based on mine?

5 MR. PATRICK: No, your Honor.

6 THE COURT: Ms. Weckerly.

7 MS. WECKERLY: Just one.

8 BY MS. WECKERLY:

9 Q. You're aware that Dr. Etcough testified that
10 is was his opinion that the Defendant did remember what he
11 did?

12 A. No.

13 Q. He was asked --

14 MR. SCHIECK: Objection, your Honor. This
15 is outside the facts of evidence of this point. Dr.
16 Etcough will be here.

17 MS. WECKERLY: Well, he was asked if he
18 reviewed that.

19 THE COURT: Overruled. Answer the
20 question.

21 BY MS. WECKERLY:

22 Q. He was asked in a prior proceeding by the
23 prosecutor, "but you're also aware of the opinion that to
24 some extent he probably did remember what he did?

25 And the answer on page 66 from Dr. Etcough's

1 testimony was, yes.

2 A. Yes.

3 Q. So he did say that?

4 A. In his opinion, yes.

5 MS. WECKERLY: Thank you.

6 BY MR. PATRICK:

7 Q. There was nothing there that specifically
8 said he remembered what -- that he didn't black-out, just
9 that he may have not remembered -- what -- he
10 remembered -- James did tell you he remembered a great
11 deal about that day, correct?

12 A. Yes.

13 Q. So what -- that question doesn't necessarily
14 relate to what we're talking about those black-outs?

15 A. Sorry.

16 THE COURT: Which question are you
17 referring to?

18 BY MR. PATRICK:

19 Q. Ms. Weckerly was making the point that what
20 Dr. Etcough said was that James didn't black-out, but you
21 don't know -- we need to read the rest of the testimony
22 for you to make --

23 A. To my knowledge no tests were done that
24 might specifically speak to that question. So he was
25 expressing an opinion not necessarily based on testing

1 results. This kind of trauma is horrible under any
2 circumstances. When a perpetrator might realize what
3 they've done, I don't imagine anyone would want to
4 remember having committed that act.

5 So the question is is this person intentionally
6 putting this out of his mind, I just don't want to
7 remember this, or is this just something that makes it all
8 go away. Does the person go into a dissociative state
9 during the actually killing, and then come back to their
10 senses again.

11 Again, that doesn't take away responsibility for
12 the death, but it may mean that they're not able to report
13 the events that occurred during the actual stabbing and so
14 forth.

15 Q. As a licensed psychologist, is your opinion
16 exact same of every other licensed psychologist that you
17 know?

18 A. No.

19 MR. PATRICK: Thank you. That's all I
20 have.

21 MS. WECKERLY: Nothing else.

22 THE COURT: Doctor, I appreciate your
23 time. You're excused.

24 THE WITNESS: Thank you.

25 THE COURT: We'll go ahead and take a

1 lunch recess.

2 JURY ADMONITION

3 During the recess, ladies and gentlemen,
4 you are admonished not to converse among yourselves or
5 with anyone else, including, without limitation, the
6 lawyers, parties and witnesses, on any subject connected
7 with this trial, or any other case referred to during it,
8 or read, watch, or listen to any report of or commentary
9 on the trial, or any person connected with this trial, or
10 any such other case by any medium of information
11 including, without limitation, newspapers, television,
12 internet or radio.

13 You are further admonished not to form or
14 express any opinion on any subject connected with this
15 trial until the case is finally submitted to you.

16 We'll be in recess. Be back at 2:15 and
17 we'll get started.

18 Thank you.

19

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CERTIFICATE
OF
CERTIFIED COURT REPORTER

* * * * *

I, the undersigned certified court reporter in and for the
State of Nevada, do hereby certify:

That the foregoing proceedings were taken before me at the
time and place therein set forth; that the testimony and
all objections made at the time of the proceedings were
recorded stenographically by me and were thereafter
transcribed under my direction; that the foregoing is a
true record of the testimony and of all objections made at
the time of the proceedings.



Sharon Howard
C.C.R. #745

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IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

JAMES CHAPPELL,

S.C. CASE NO. 61967

Appellant,

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Clerk of Supreme Court

vs.

THE STATE OF NEVADA,

Respondent.

APPEAL FROM DENIAL OF PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION) AND SENTENCE OF DEATH
EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JUDGE CAROLYN ELLSWORTH, PRESIDING

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APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME XIV  
~~~~~

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IN THE SUPREME COURT OF NEVADA

JAMES CHAPPELL,

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Appellant,

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THE STATE OF NEVADA

Respondent.

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on this 18th day of November, 2013. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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