

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

)
)
)
)
)
)
)
)
)

Electronically Filed
Aug 19 2013 12:32 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

V.

)
)
)
)

)

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Counsel for Respondent

INDEX
BENNETT GRIMES
Case No. 62835

	<u>PAGE NO.</u>
Amended Criminal Complaint filed 08/25/11	004-006
Amended Information filed 09/21/11	014-016
Court Exhibit #1 dated 10/10/12	1050
Court Exhibit #2-3 dated 10/11/12	1051
Court Exhibit #4 dated 10/11/12	1052
Court Exhibit #5 dated 10/12/12	1053
Court Exhibit #6 dated 10/12/12	1054
Court Exhibit #7 dated 10/12/12	1055-1061
Court Exhibit #8 dated 10/12/12	1062
Court Exhibit #9 dated 10/12/12	1063
Court Exhibit #10 dated 10/12/12	1064
Court Exhibit #11 dated 10/12/12	1065
Court Exhibit #12 dated 10/12/12	1066
Court Exhibit #13-14 dated 10/15/12	1067
Criminal Complaint filed 07/26/11.....	001-003
Defendant's Exhibit A dated 10/11/12	1082
Defendant's Exhibit B dated 10/11/12	1083
Defendant's Exhibit C dated 10/11/12	1084
Defendant's Exhibit D dated 10/12/12	1085
Defendants Motion To Dismiss For Failure To Gather Evidence Filed 06/05/12.....	131-136
Defendants Notice Of Witnesses filed 10/02/12	164-165
Defendants Motion In Limine To Preclude Introduction Of Temporary Protective Order At Trial filed 10/02/12.....	168-172
District Court Minutes through 02/12/13	230-264
Ex Parte Motion For Release Of Medical Records Filed 02/09/12	086-087

1	Information filed 09/14/11	009-011
2	Instructions To The Jury filed 10/15/12	176-210
3	Judgment Of Conviction filed 02/21/13	224-225
4	Justice Court Minutes through 08/25/11	007-008
5	List of Court's Exhibits 10/10/12 through 10/15/12	1049
6	List of Defendant's Exhibits 10/11/12 through 10/12/12	1081
7	Motion For Discovery filed 05/25/12	105-120
8	Motion For New Trial filed 10/22/12	213-216
9	Motion To Continue Trial Date filed 02/27/12	100-102
10	Motion To Continue Trial Date filed 06/12/12	137-139
11	Notice of Exhibits: Trial by Jury-10/10/12 through 10/15/12 filed 10/16/12	1048
12	Notice Of Appeal filed 03/18/13	226-229
13	Notice Of Change Of Hearing filed 09/14/11	012-013
14	Notice Of Expert Witnesses filed 01/31/12	078-085
15	Notice Of Intent To Seek Punishment As A Habitual Criminal Filed 10/23/12	221-223
16	Notice Of Witnesses filed 01/31/12	075-077
17	Order filed 10/14/11	061-062
18	Order Releasing Medical Records filed 02/09/12	088-089
19	Petition For Writ Of Habeas Corpus filed 10/12/11	056-060
20	Proposed Defendant's Exhibit E	1086
21	Return To Writ Of Habeas Corpus filed 10/26/11	068-074
22	Second Amended Information filed 10/25/11	065-067
23	Second Supplemental Notice Of Expert Witnesses Filed 05/29/12	103-104
24	State's Exhibit #17 dated 10/12/12	1068
25	State's Exhibit #19 dated 10/11/12	1069
26	State's Exhibit #31 dated 10/11/12	1070
27		
28		

1	State's Exhibit #32 dated 10/11/12.....	1071
2	State's Exhibit #33 dated 10/11/12.....	1072
3	State's Exhibit #34 dated 10/12/12.....	1073
4	State's Exhibit #35 dated 10/12/12.....	1074
5	State's Exhibit #36 dated 10/12/12.....	1075
6	State's Exhibit #37 dated 10/12/12.....	1076
7	State's Exhibit #38 dated 10/12/12.....	1077
8	State's Exhibit #68 dated 10/12/12.....	1078
9	State's Exhibit #79 (CD)	1087
10	State's Exhibit #80 (CD)	1088
11	State's Exhibit #81 dated 10/12/12.....	1079-1080
12	States Opposition To Defendants Motion For A New Trial Filed 11/05/12.....	217-220
13	States Opposition To Defendants Motion To Dismiss For Failure To Gather Evidence filed 07/18/12.....	140-145
14	States Response To Defendants Motion For Discovery Filed 06/05/12.....	121-130
15	Supplemental Notice Of Expert Witnesses Filed 02/22/12.....	090-099
16	Supplemental Notice Of Expert Witnesses Filed 09/19/12.....	146-154
17	Supplemental Notice Of Expert Witnesses Filed 09/19/12.....	155-163
18	Supplemental Notice Of Witnesses Filed 10/04/12.....	166-167
19	Third Amended Information filed 10/10/12	173-175
20	Verdict filed 10/15/12.....	211-212
21	Writ of Habeas Corpus filed 10/14/11.....	063-064
22	///	
23	///	
24	///	
25		
26		
27		
28		

TRANSCRIPTS

Jury Trial- Day 1
Date of Trial: 10/10/12 326-550

Jury Trial- Day 2
Date of Trial: 10/11/12 551-762

Jury Trial- Day 3
Date of Trial: 10/12/12 763-968

Jury Trial- Day 4
Date of Trial: 10/15/12 969-1010

Transcript of Proceedings,
Recorders Transcript of Hearing RE: Arraignment
Date of Hrg: 09/20/11 265-270

Transcript of Proceedings,
Recorders Transcript RE Calendar Call
Date of Hrg: 10/02/12 323-325

Transcript of Proceedings,
Recorders Transcript RE: Defendants Motion For New Trial
Date of Hrg: 11/06/12 1011-1012

Transcript of Proceedings,
Recorders Transcript RE: Defendants Motion To Continue Trial Date
Date of Hrg: 03/20/12 274-276

Transcript of Proceedings,
Recorders Transcript RE: Defendants Motion To Dismiss For Failure To Gather Evidence
Date of Hrg: 07/19/12 292-293

Transcript of Proceedings,
Recorders Transcript RE: Defendants Motion To Dismiss For Failure To Gather Evidence
Date of Hrg: 07/31/12 294-296

Transcript of Proceedings,
Recorders Transcript RE: Defendants Motion To Dismiss For Failure To Gather Evidence
Date of Hrg: 08/14/12 297-307

Transcript of Proceedings,
Recorders Transcript RE: Defendants Petition For Writ Of Habeas Corpus
Date of Hrg: 11/03/11 271-273

Transcript of Proceedings,
Recorders Transcript RE: Status Check: The Defendants Motion To Dismiss For Failure To
Gather Evidence
Date of Hrg: 08/23/12 308-312

///

1	Transcript of Proceedings, Reporters Transcript of Preliminary Hrg	
2	Date of Hrg: 08/25/11.....	017-055
3	Transcript of Proceedings, Rough Draft Recorders Transcript of Calendar Call	
4	Date of Hrg: 06/12/12.....	285-291
5	Transcript of Proceedings, Rough Draft Recorders Transcript of Defendants Motion For Discovery	
6	Date of Hrg: 06/07/12.....	277-284
7	Transcript of Proceedings, Rough Draft Recorders Transcript of Defendants Motion To Dismiss For Failure To Gather	
8	Evidence	
9	Date of Hrg: 09/13/12.....	313-322
10	Transcript of Proceedings, Rough Draft Recorders Transcript of Sentencing	
11	Date of Hrg: 12/18/12.....	1013-1021
12	Transcript of Proceedings, Sentencing	
13	Date of Hrg: 02/07/13.....	1022-1033
14	Transcript of Proceedings, Sentencing	
15	Date of Hrg: 02/12/13.....	1034-1047

16
17
18
19
20
21
22
23
24
25
26
27
28

1 Q Is it -- is it safe to say that you were at some
2 point standing between them?

3 A Yes.

4 Q Okay.

5 MR. BURNS: Court's indulgence.

6 BY MR. BURNS:

7 Q Now when this is going on, why are you standing
8 between them?

9 A I was going to stand -- I stood there because I
10 didn't want him to hurt her. You know, just in case, you
11 know.

12 Q Okay. And is it safe to say the first time --
13 you were -- the first time you see this knife, is that when
14 he's stabbing her?

15 A Yes.

16 Q Okay.

17 MR. BURNS: Your Honor, I'll pass the witness.

18 THE COURT: Any recross?

19 MS. HOJJAT: Briefly, Your Honor.

20 RECROSS-EXAMINATION

21 BY MS. HOJJAT:

22 Q Ma'am, you've testified that you turned around
23 because you heard your daughter say, "Mom, he's stabbing me."

24 A Yes.

25 Q Right? That's what caused you to turn around?

1 A Yes.

2 Q Ma'am, I'm indicating an area of State's Exhibit
3 19 that's closer to the top left corner. There's a white rag
4 here and there's a stain in the carpet.

5 A Right.

6 Q That stain is blood.

7 A Right.

8 Q That blood is from the stabbing.

9 A Yes.

10 Q That's the location that the stabbing occurred.

11 A No. The location? You talking about before --

12 I mean after it all --

13 THE COURT: She said, where's the location --

14 A Okay. The --

15 THE COURT: -- of the stabbing.

16 A -- location is like right in here.

17 BY MS. HOJJAT:

18 Q Okay.

19 A Okay.

20 Q In the entryway, right here.

21 A Right.

22 Q And you testified on redirect that you did know
23 the knife had just been washed and was sitting to dry in that
24 area.

25 A I said like my daughter washed the dishes.

1 Q Uh-huh.

2 A So it's in the dry rack. Can I point to where

3 the dry rack was?

4 Q Absolutely.

5 A Okay.

6 Q Let me move in.

7 A Like you see behind this -- like right behind

8 this? I'm sorry. Right behind where this is knocked over?

9 Q Uh-huh.

10 A It was right there.

11 Q Okay.

12 A Right there.

13 Q But you testified you did know where the drying

14 rack was.

15 A Oh, I'm sorry.

16 Q Oh, no worries.

17 A I do know where -- I do know where.

18 Q You do know where the drying rack is. Now if

19 you can clear out the screen again, please? I want to talk to

20 you a little bit about this blue bag. You saw Bennett and

21 Aneka on the ground in the general area in front of the

22 doorway.

23 A Right.

24 Q And you ran to them.

25 A Yes.

1 Q You didn't trip over this blue bag when you ran
2 over there.

3 A No.

4 Q After all of this happened, there were a lot of
5 people in that apartment, weren't there?

6 A Yes.

7 Q There were EMTs.

8 A Yes.

9 Q There were police officers.

10 A Uh-huh.

11 Q More than four police officers?

12 A Yes.

13 Q More than six police officers?

14 A I don't really remember, but it was -- I would
15 say three.

16 Q Three, at least --

17 A In the apartment.

18 Q -- at least three or four police officers, okay.
19 There were crime scene analysts.

20 A Yes.

21 Q There were people taking photographs.

22 A Yes.

23 Q There were people dusting for DNA.

24 A Yes.

25 Q There were a lot of --

1 THE COURT: Do you know that people were -- I don't
2 know that they -- I don't know that they dust for DNA. That's
3 probably not --

4 BY MS. HOJJAT:

5 Q There were people -- there were people
6 collecting evidence in the apartment.

7 A Yes.

8 Q There was a lot of people collecting evidence in
9 that apartment. Fair to say there was a lot of people walking
10 around that apartment?

11 A After -- are you talking about after, right?

12 Q After.

13 A After, yes.

14 Q After there were a lot of people walking around
15 that apartment. Okay. And you said the cop was right behind
16 you also running to Bennett and Aneka on the ground?

17 A Uh-huh, yes.

18 Q And you didn't see him trip over that blue bag
19 either?

20 A No.

21 MS. HOJJAT: No further questions, Your Honor.

22 THE COURT: Mrs. Newman -- okay, we have a question.
23 If you will just wait and I can review the question. Just
24 don't step down yet. Okay. Let me mark this Court's Exhibit
25 Number 4. Thank you.

1 (Off-record bench conference.)
2 THE COURT: There being no objection, I'm going to
3 ask what's been marked as Court's Exhibit Number 4, the second
4 question. Mrs. Newman, do you know if Bennett closed and
5 locked the front door after he pushed his way in?
6 THE WITNESS: No, I don't.
7 THE COURT: You don't know?
8 THE WITNESS: Close -- closed the --
9 THE COURT: That's okay. You don't know?
10 THE WITNESS: No.
11 THE COURT: Okay. Any follow-up from the State?
12 MR. BURNS: You don't know whether he locked the
13 door. Do you know that -- whether or not anyone could leave
14 while he was standing there?
15 THE WITNESS: No, couldn't leave.
16 MR. BURNS: Thank you.
17 MS. HOJJAT: But you did walk to the patio?
18 THE WITNESS: Pardon me?
19 MS. HOJJAT: You did walk to the patio?
20 THE WITNESS: To the patio door, yes.
21 MS. HOJJAT: Okay. No further questions, Your Honor.
22 THE COURT: Mrs. Newman, thank you very much for your
23 testimony here today. You may step down.
24 THE WITNESS: Okay.
25 THE COURT: And you are excused. At this time we are

1 going to conclude for the evening. During this recess you're
2 admonished not to talk or converse amongst yourselves or with
3 anyone else on any subject connected to this trial or read,
4 watch or listen to any report of or commentary of the trial or
5 any person connected with this trial by any medium of
6 information including, without limitation, newspapers,
7 television, the Internet, radio or form or express any opinion
8 on any subject connected with this trial until the case is
9 finally submitted to you.

10 We will start tomorrow morning at 8:30. So again,
11 you just come up to the 14th floor and Officer Serrano will be
12 here to greet you. Thank you very much and we'll see you in
13 the morning.

14 (Jury recessed at 4:58 p.m.)

15 THE COURT: Okay. The record will reflect that the
16 jury has left for the day.

17 Can I have the lineup for your witnesses tomorrow?

18 MS. BOTELHO: Yes, Your Honor. Tomorrow we have two
19 crime scene analysts, Tracy Brownlee and also Louise Renhart.
20 We will also have Julie Marschner and also Melanie Robison.

21 THE COURT: Okay. And that's -- so one, two, three,
22 four more witnesses?

23 MS. BOTELHO: Yes, Your Honor. But relatively, from
24 the State's point of view, relatively brief.

25 THE COURT: Okay. So how many witnesses do you have?

UNCERTIFIED ROUGH DRAFT

1 MR. HILLMAN: At this point in time we don't
2 anticipate calling any.

3 THE COURT: Okay. Have you talked to Mr. Grimes
4 about whether he's going to testify or not?

5 MR. HILLMAN: Right. And I will -- I will talk to
6 him some more in the morning.

7 THE COURT: Okay.

8 MR. HILLMAN: If you want to canvass him in the
9 morning.

10 THE COURT: Okay.

11 MR. HILLMAN: Because he has some other questions
12 about how the trial's proceeding.

13 THE COURT: Okay.

14 MR. HILLMAN: So I'll try and come over here a little
15 bit early and hope they'll have him here early.

16 THE COURT: Can I have the defendant here at 8:15?

17 THE OFFICER: Yes, ma'am.

18 THE COURT: Okay.

19 MS. BOTELHO: And, Your Honor, before the --

20 THE COURT: So I'll make sure the courtroom's open.

21 We can be here at 8:15 and you can have the courtroom --

22 MR. HILLMAN: Great.

23 THE COURT: -- to converse with your client in
24 private.

25 MR. HILLMAN: That'll be great.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: We won't be here.

2 MS. BOTELHO: Right. And, Your Honor, we talked
3 during the break about a possible -- just a short Hernandez
4 Hearing regarding the TPO. It's kind of an admission at least
5 as to the fact that there was a TPO and in fact, not sure if
6 the Court's inclined to do that in an overabundance of caution
7 since it is somewhat of a concession.

8 THE COURT: Okay. Are you asking for a Hernandez
9 Hearing?

10 MS. HOJJAT: We're not, the State is.

11 THE COURT: Okay. Well, generally the defense asks
12 for it because that means you want the State to leave and you
13 want to make representations to the Court outside the presence
14 of the State regarding the strategic reasons for doing so.

15 MR. HILLMAN: I -- I think we can just make it a
16 record right here --

17 THE COURT: Okay.

18 MR. HILLMAN: -- in that Mr. Grimes and I talked last
19 week. We talked before that about certain stipulations
20 regarding certain witnesses, including the person that
21 gathered the DNA. We didn't feel it was necessary to bring
22 that person in to testify about going over and getting DNA
23 from Mr. Grimes. The State's agreed that we can present the
24 fact that they did get a search warrant to get the DNA, but we
25 don't need to bring that person in.

1 And also with respect to the TPO, that is something
2 that's easily proven by the State and we didn't want to slow
3 the trial down and it's really nothing that we could defend
4 anyway. There was a TPO in effect, he's seen it, he was
5 served, we have a copy of it. There -- we didn't see any
6 practical reason -- or practicable way to keep it from being
7 admitted. So rather than slow the trial down we agreed to
8 stipulate to -- to those things.

9 MS. BOTELHO: We just wanted a record, Your Honor.

10 THE COURT: All right. And that's your
11 understanding, Mr. Grimes?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Okay.

14 MS. BOTELHO: Thank you very much.

15 THE COURT: Thank you.

16 (Court recessed for the evening at 5:02 p.m.)
17
18
19
20
21
22
23
24
25

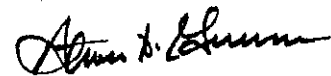
ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

A handwritten signature in cursive script, reading "Kimberly Lawson", is written over a horizontal line.

KIMBERLY LAWSON
TRANSCRIBER

UNCERTIFIED ROUGH DRAFT



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C276163-1
)	DEPT NO. XII
VS.)	
)	
BENNETT GRIMES,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

JURY TRIAL - DAY 3

FRIDAY, OCTOBER 12, 2012

APPEARANCES:

For the State:

AGNES M. BOTELHO, ESQ.
Deputy District Attorney
PATRICK J. BURNS, ESQ.
Deputy District Attorney

For the Defendant:

RALPH HILLMAN, ESQ.
Deputy Public Defender
NADIA HOJJAT, Esq.
Deputy Public Defender

RECORDED BY KERRY ESPARZA, COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

UNCERTIFIED ROUGH DRAFT

I N D E X

WITNESSES FOR THE STATE:

LOUISE RENHARD

Direct Examination By Mr. Burns	4
Cross-Examination By Ms. Hojjat	60
Redirect Examination By Mr. Burns	72
Recross Examination By Ms. Hojjat	78

TRACY BROWNLEE

Direct Examination By Ms. Botelho	95
-----------------------------------	----

MICHELLE TAVAREZ

Direct Examination By Ms. Botelho	107
Cross-Examination By Mr. Hillman	113

JULIE MARSCHNER

Direct Examination By Mr. Burns	117
Cross-Examination By Ms. Hojjat	138
Redirect Examination By Mr. Burns	144
Recross Examination By Ms. Hojjat	144
Further Redirect Examination By Mr. Burns	148

MELANIE ROBISON

Direct Examination By Ms. Botelho	151
Cross-Examination By Mr. Hillman	160

UNCERTIFIED ROUGH DRAFT

EXHIBITS

STATE'S EXHIBITS ADMITTED:

PAGE

13 and 14	10
27 and 28	17
30	18
20-22	20
34 and 35	22
36-38	32
8 and 9	34
77	75
74	99
59-62	100
63-69	102

DEFENDANT'S EXHIBITS ADMITTED:

PAGE

D	70
---	----

UNCERTIFIED ROUGH DRAFT

1 LAS VEGAS, NEVADA, FRIDAY, OCTOBER 12, 2012, 8:37 A.M.

2 * * * * *

3 THE COURT: Do the parties stipulate -- you can have
4 a seat. Thank you. Do the parties stipulate to the presence
5 of the jury panel?

6 MS. BOTELHO: Yes, Your Honor.

7 MR. HILLMAN: Yes, Judge.

8 THE COURT: Okay. The State can call their next
9 witness.

10 MR. BURNS: Your Honor, the State calls Louise
11 Renhard.

12 LOUISE RENHARD, STATE'S WITNESS, SWORN

13 THE CLERK: Please be seated and state your name and
14 spell it for the record.

15 THE WITNESS: Louise Renhard, L-o-u-i-s-e,
16 R-e-n-h-a-r-d.

17 MR. BURNS: Your Honor, may I proceed?

18 THE COURT: Of course.

19 DIRECT EXAMINATION

20 BY MR. BURNS:

21 Q Ms. Renhard, how are you currently employed?

22 A I'm a senior crime scene analyst with the Las
23 Vegas Metropolitan Police Department.

24 Q And how long have you been doing that?

25 A Just over 16 years.

UNCERTIFIED ROUGH DRAFT

1 Q And is there some special -- what kind of
2 educational and professional training background do you have?

3 A Educational, I have an associates degree in
4 police administration. Training, when we're hired we go
5 through a technical academy specifically for crime scene
6 analysts. It's nothing like the police academy, it's
7 technical for that job; photography, evidence collection,
8 fingerprint processing, chemical fingerprint processing,
9 impounding of evidence. After the academy we do 10 to 12
10 weeks of field training where we ride with a senior CSA and
11 then we start out doing notes in photography. And through
12 that period we slowly pick up our skills until at the end of
13 that period we're doing all the skills necessary to do
14 property crimes.

15 At the end of two years we have a practical
16 eight-hour test and they test our skills. And at that point
17 we start doing minor persons crimes; robberies, battery,
18 different types of persons crimes. At the end of two years as
19 a two, we do competitive testing for senior, which is a
20 combination of practical oral board and written test.

21 During the entire time and after we make senior, we
22 continue to go to classes and training that involve our
23 specific area of evidence collection, photography, fingerprint
24 processing, crime scene reconstruction, shooting
25 reconstruction and such. And I've done all that and also have

UNCERTIFIED ROUGH DRAFT

1 completed the applied science -- it's the American Institute
2 of Applied Science, Forensic Science course, which is --

3 Q Is that a professional association?

4 A No. That -- that's the International
5 Association of Identifications of Professional Association
6 that -- that I'm a member of as well as the state division of
7 that association. The other one is a correspondence course
8 that's required of every junior level CSA.

9 Q Ms. Renhard, in -- have you testified in the
10 Eighth Judicial District before as an expert? Have you
11 testified in a number of cases before?

12 A Yes.

13 Q Okay. And have you -- can you estimate the
14 number of crime scenes that you've processed, just to the best
15 of your knowledge? Is it in -- is it in the thousands?

16 A It's in the thousands.

17 Q Okay. And have you processed scenes where
18 there's an investigation related to violence?

19 A Yes.

20 Q And have you taken any specific courses in the
21 preservation and collection of blood evidence?

22 A Yes.

23 Q And have you had the occasion to photograph
24 participants in violent crimes, things like -- such as that?

25 A I have.

UNCERTIFIED ROUGH DRAFT

1 Q Okay. Now, what -- when you respond to a crime
2 scene, what are some of your -- what are the most typical and
3 most, four or five most typical duties you have when you
4 respond to a crime scene?

5 A When we respond to the crime scene we get with
6 the detective or the officers on duty that are at the scene
7 and we find out what happened. From there we will take notes
8 of the scene, we'll do a walk through, take notes of the
9 scene, do photography of the scene, collect any evidence and
10 preserve any evidence. And if -- if it's called for, we'll do
11 latent print processing.

12 Q And are there protocols in place for the first
13 responding officers to ensure that when you get there the
14 scene hasn't been disturbed?

15 A Yes.

16 Q When the scene is turned over to you for
17 processing, are you in control of that scene?

18 A Yes. It's -- it's officially my scene per
19 department policies.

20 Q And if someone comes in to that scene and they
21 start disturbing things or you're in fear that they're going
22 to disturb something, what do you do?

23 A I would normally -- normally I would, you know,
24 ask them to leave. If that doesn't work I would ask one of
25 the officers to assist in escorting them out.

UNCERTIFIED ROUGH DRAFT

1 Q And in your training and experience, does that
2 happen very often?

3 A No.

4 Q Okay. Now when you're collecting evidence, is
5 there a procedure in place for you to -- to preserve it, seal
6 it and send it somewhere?

7 A Yes. When -- when I recover the evidence, we
8 would place it in packaging that's consistent with the type of
9 evidence that it is and there's policies that determine what
10 type of evidence goes in what type of packaging. I would
11 place a label on the package, a seal on the package. The
12 label would have my P number, the seal. I would write my
13 initials and P number and the date and then I would take it to
14 the evidence drop at the lab, log it in and then -- and then
15 drop it. It's a chute, or depending on the weight of it,
16 there's a cage that my supervisor can come open the cage and
17 place it in there and then he would also sign that he did
18 that.

19 Q Now, you mention this P number. Is that a
20 personnel number?

21 A Yes.

22 Q And what is your P number?

23 A 5-2-2-3.

24 Q So that number will appear on packages of
25 evidence that you've collected and sealed?

UNCERTIFIED ROUGH DRAFT

1 A Correct.

2 Q And when they go to that place, you drop them in
3 the chute. Is that a secure location?

4 A That is. The evidence vault has access to that
5 location and they're the ones that would pick up any evidence
6 from the bottom of the chute or the cage.

7 Q And if say a forensic scientist was requested to
8 process something, is that where they would -- would someone
9 go to get that for the forensic scientist?

10 A Correct. And then they have to sign for it
11 there to indicate that they picked it up. And when it went
12 back after they're done, they would put their seal on the
13 evidence and log it in and there's just a paper trail
14 constantly. So every time it comes out somebody signs for it,
15 every time it goes back in it's signed for.

16 Q Now, Ms. Renhard, I want to direct your
17 attention to July 22nd, 2011. Were you directed to
18 participate to process a crime scene located at 9325 West
19 Desert Inn Road, Apartment Number 173?

20 A Yes.

21 Q And when you were there, did you -- what types
22 of processing did you engage in?

23 A I took some notes on the scene, I talked to the
24 officers. I believe I talked to two different officers at the
25 scene. I did photography, collected evidence.

UNCERTIFIED ROUGH DRAFT

1 MR. BURNS: Your Honor, may I approach the witness?

2 THE COURT: You may.

3 BY MR. BURNS:

4 Q Ms. Renhard, I'm showing you what have been
5 marked as State's proposed Exhibits 13 and 14. Can you look
6 at those and tell me what -- what those are?

7 A These are photographs of the walkway exiting the
8 apartment.

9 Q Okay. Well, did you take those photographs?

10 A Yes.

11 Q And these exhibits fairly and accurately reflect
12 the photographs that you took?

13 A Yes.

14 MR. BURNS: Your Honor, at this time I move for the
15 admission of State's proposed Exhibits 13 and 14?

16 THE COURT: Any objection?

17 MR. HILLMAN: No, ma'am.

18 THE COURT: They're admitted.

19 (State's Exhibit 13 and 14 admitted.)

20 MR. BURNS: Your Honor, may I publish those exhibits?

21 THE COURT: You may.

22 BY MR. BURNS:

23 Q Ms. Renhard, I'm showing you State's -- what's
24 been admitted as State's 13. What's that?

25 A That's a walkway exiting the apartment. The

1 apartment, being up towards the top center up here, and then
2 the walkway coming out from the apartment.

3 Q And there's -- is there some apparent blood
4 there?

5 A Correct, these little spots along here.

6 Q And did you end up swabbing those spots of
7 blood?

8 A Not all of them. I swabbed spots of blood up
9 here right outside the door.

10 Q Showing you what's been admitted as State's 14.
11 What's that?

12 A That -- those are the spots outside the door and
13 it was one of those that I took a swab from.

14 Q Can I ask you one question? In your training
15 and experience what you know about blood and injuries, does
16 blood automatically come out of wound? Say, for instance, a
17 non --

18 MS. HOJJAT: Objection --

19 Q -- a non-arterial --

20 MS. HOJJAT: -- Your Honor, this witness has not been
21 certified as an expert in injuries and what causes bleeding
22 and things like that. That's more appropriate for a medical
23 expert.

24 THE COURT: All right. So I think the objection's
25 foundation. Let me hear the whole question first and then

1 I'll -- if you still have your objection, I'll -- I'll rule on
2 it. Go ahead, Mr. Burns. I need to hear the whole thing.

3 MR. BURNS: Okay. Thank you.

4 BY MR. BURNS:

5 Q When -- when someone -- in your training and
6 experience in collecting evidence and photographing wounds and
7 what you've studied about blood and the preservation and
8 collection of blood evidence, when someone's stabbed, does the
9 blood come instantly out all over the place?

10 A Not necessarily.

11 THE COURT: Any objection?

12 MS. HOJJAT: Foundation, Your Honor.

13 THE COURT: Okay. Overruled. You may continue.

14 BY MR. BURNS:

15 Q I'm sorry. Your answer was?

16 A Not necessarily.

17 Q Okay.

18 MR. BURNS: Your Honor, may I have continuing
19 permission to publish those Exhibits --

20 THE COURT: Sure.

21 MR. BURNS: -- that have been admitted?

22 THE COURT: Sure. Okay. Well, you need to say
23 because yesterday everybody kept trying to publish exhibits
24 that weren't --

25 MR. BURNS: I have -- I have a list now and that

1 mistake will not be repeated today.

2 THE COURT: Okay, all right. Thank you.

3 BY MR. BURNS:

4 Q Okay. Ms. Renhard, I'm showing you what has
5 been admitted as State's 15. Did you take that picture?

6 A Yes.

7 Q Okay. And what does that depict?

8 A That's the front door of apartment 173.

9 Q Okay. Now, showing you what's been admitted as
10 State's 16.

11 A That's upside down.

12 Q Thank you. Okay. What is that?

13 A That's the leading edge of that same door.

14 Q And did you notice something about that door?

15 A There was a crack down the -- the leading edge
16 of the door.

17 Q Now, did you -- at some point you entered the
18 apartment?

19 A Yes.

20 Q And did you take kind of general pictures of the
21 area?

22 A Yes.

23 MR. BURNS: Your Honor, may I approach the witness?

24 THE COURT: You may.

25 BY MR. BURNS:

UNCERTIFIED ROUGH DRAFT

1 Q Ms. Renhard, I'm showing you what have been
2 marked as State's proposed Exhibits 17 and 18. Did you take
3 the pictures in those exhibits?

4 A Yes.

5 Q And are those exhibits fair and accurate
6 depictions of the photographs that you took?

7 A Yes.

8 Q Okay.

9 MR. BURNS: Your Honor, at this time I'd move for the
10 admission of State's proposed Exhibits 17 and 18?

11 MR. HILLMAN: No objection.

12 THE COURT: They're admitted.

13 BY MR. BURNS:

14 Q Showing you, Ms. Renhard, Number 17. What's
15 that a picture of?

16 A That's a picture of from one angle in the living
17 room. It's facing the kitchen, so you're looking at the
18 buffet counter there of the kitchen. And then on your left
19 side over here, this is where the front door was that came in.
20 And then the kitchen being back in here.

21 Q Okay. Showing you what has been admitted as
22 State's Exhibit 18. What does that photograph depict?

23 A That's -- that's basically the opposite diagonal
24 corner from the one I was at before. So here's the -- that
25 aquarium that you saw in the other one. I probably was

1 standing about in this corner over here and took a picture
2 this way. This is I'm standing off closer to the front door
3 shooting diagonally across that same living room. So this is
4 the back of that couch that you could see the front of in the
5 other one.

6 Q Thank you. Showing you what's been marked as --
7 what's been admitted as State's Exhibit 19. What does that
8 photograph depict?

9 A Okay. This is another angle. This is along
10 behind the couch between the couch and the kitchen buffet
11 counter looking towards the front door up here at the top.

12 Q Showing you what's been admitted as State's 26.
13 Did you take that picture?

14 A I did.

15 Q Okay. And which part is that?

16 A And that's basically a wider view of the same
17 one we just looked at. The front door a little bit more over
18 to your right over there and then the opposite corner of the
19 living room visible, the couch and the edge of the buffet
20 counter there.

21 Q And is that the scene as -- is that what the
22 scene looked like when you came there?

23 A Yes.

24 Q And were there officers there securing the
25 premises?

1 A When I got there there was nobody in the
2 apartment. The apartment had been cleared and the officers
3 that were securing the premises were on the exterior of the
4 apartment.

5 Q So no one was inside the apartment?

6 A No.

7 Q At the time you were there. About what time did
8 you respond, do you -- do you recall?

9 A 7:35.

10 Q Okay, 7:30 --

11 A Or 7:36 --

12 Q Okay.

13 A -- in the evening.

14 Q All right. And it's safe to say on some crime
15 scenes you get there faster than others?

16 A Oh, yes.

17 Q And did you get there relatively quickly on this
18 one?

19 A I have no idea.

20 Q Okay. Compared to other ones?

21 A I --

22 Q Okay. If you have no idea that's fine.

23 A Yeah. I don't know how far I was coming from --

24 Q All right.

25 A -- to get there.

UNCERTIFIED ROUGH DRAFT

1 Q Ms. Renhard, I'm showing you what have been
2 marked as State's proposed Exhibits 27 and 28. Did you take
3 those pictures?

4 A I did.

5 Q And are those fair and accurate printouts of the
6 pictures you took?

7 A Yes.

8 MR. BURNS: Your Honor, at this point I'd move for
9 the admission of State's proposed Exhibits 27 and 28.

10 MR. HILLMAN: No objection.

11 THE COURT: They're admitted.

12 (State's Exhibit 27 and 28 admitted.)

13 BY MR. BURNS:

14 Q Showing you what's been admitted as State's 27.
15 What does that picture depict?

16 A This is another picture in the -- in the living
17 room. At this point I'm taking more intermediate shots of the
18 area that's predominantly the scene area. And it shows, the
19 front door would have been out here on the far right. This is
20 looking towards the back of a chaise lounge and the back of
21 that couch that we saw previously.

22 Q Okay. Thank you. And did you detect some
23 apparent blood on the chaise?

24 A Yes, I did.

25 Q Okay. Showing you what's been admitted as

UNCERTIFIED ROUGH DRAFT

1 State's 28. Did you take that picture?

2 A I did.

3 Q And what does it depict?

4 A That depicts the apparent blood that was on the
5 carpet, sort of behind the chaise lounge just past the
6 entryway coming in from the front door.

7 Q How do you describe that blood pattern?

8 A I describe that blood pattern as some passive
9 drip patterns and some pooling.

10 Q Okay.

11 MR. BURNS: Your Honor, may I approach the witness?

12 THE COURT: You may.

13 BY MR. BURNS:

14 Q Ms. Renhard, I'm showing you what's been marked
15 as State's proposed Exhibit 30. Did you take that picture?

16 A I did.

17 Q And what's that a picture of?

18 A That's a picture of a knife that was behind the
19 chaise lounge that had apparent blood on it.

20 MR. BURNS: Your Honor, at this time I'd move for the
21 admission of State's proposed Exhibit 30.

22 MR. HILLMAN: No objection.

23 THE COURT: It's admitted.

24 (State's Exhibit 30 admitted.)

25 BY MR. BURNS:

UNCERTIFIED ROUGH DRAFT

1 Q And is that -- is that where the knife was
2 found?

3 A Yes.

4 Q Okay. And is that a fair and accurate depiction
5 of that knife?

6 A Yes.

7 Q When you found it?

8 A When I found it my scale wasn't there, but I put
9 the scale there for the purposes of the -- of this photograph.

10 Q Okay. You put that scale down there to do what?

11 A To give anybody looking at it an idea of the
12 size.

13 Q And what does -- what does the picture reflect
14 the size of that blade being?

15 A As far as the blade -- the picture looks like
16 it's probably about a five -- five-inch blade.

17 Q Thank you. Now, the -- the pool of blood that I
18 showed you in that exhibit, I believe it was Exhibit 28, did
19 you in fact swab that?

20 A I swabbed the area next to it where -- where it
21 was more of a drip pattern.

22 Q Okay. And did you impound that swab?

23 A I did.

24 Q And you sealed it, put your P number on it?

25 A I did, definitely.

UNCERTIFIED ROUGH DRAFT

1 Q Ms. Renhard, I'm going to show you what have
2 been marked as State proposed Exhibits 20, 21 and 22. Let's
3 take a look at those. Tell me, did you take those pictures?

4 A Yes, yes.

5 Q And these Exhibits are fair and accurate
6 reproductions of those pictures?

7 A Yes.

8 MR. BURNS: Your Honor, at this time I would move for
9 the admission of State's proposed Exhibits 20 through 22.

10 MR. HILLMAN: No objection.

11 THE COURT: They're admitted.

12 (State's Exhibit 20-22 admitted.)

13 BY MR. BURNS:

14 Q Ms. Renhard, showing you State's 20. What does
15 that picture depict?

16 A That's the entryway of the residence or the
17 apartment, the floor, the entryway floor of the apartment.

18 Q Okay. I'll remove that and I'll show you what's
19 been admitted as State's 21. What does that picture depict?

20 A That's -- the previous picture was looking from
21 the apartment out; this is looking from the front door looking
22 in. So you see that same entryway and you see a closet there
23 on the right. The blood pattern we had been looking at
24 previously up here at the top and then this is the entryway
25 along the bottom here.

UNCERTIFIED ROUGH DRAFT

1 Q And State's 22, what does that depict?

2 A Okay. That's a zoomed out version of what you
3 just saw looking, once again, from the door into the apartment
4 with this little entryway tile here, closet on the -- on the
5 right, and then looking back towards the buffet counter up
6 here on your left and the couch -- whoops, ooh. What did I
7 do? The couch over here on the -- on the right back here.

8 Q Now, approximately -- do you know specifically
9 how many areas you swabbed? Areas of blood in the apartment
10 that you swabbed?

11 A In the apartment?

12 Q Yes.

13 A Two.

14 Q Okay. And how many separate swabs did you take?

15 A Four.

16 Q And you impounded those all into a package?

17 A Yes.

18 Q Okay. And do you recall what that impound
19 package was labeled?

20 A I'd have to look at my impound real quick.

21 Q Okay.

22 A I think it was four.

23 Q Okay.

24 A But I'm not positive.

25 Q That's fine. I want to show you some additional

UNCERTIFIED ROUGH DRAFT

1 exhibits. Now, you impounded the knife, correct?

2 A Correct.

3 Q And you took numerous photographs of it,
4 correct?

5 A Correct.

6 Q Ms. Renhard, I'm going to approach you with
7 State's -- State's proposed Exhibits 34 and 35. Did you take
8 those pictures?

9 A I did.

10 Q And are those fair and accurate reproductions of
11 the pictures you took?

12 A Yes.

13 Q Showing you --

14 MR. BURNS: Your Honor, at this time I'd move for the
15 admission of State's proposed Exhibits 34 and 35.

16 MR. HILLMAN: No objection.

17 THE COURT: They're admitted.

18 (State's Exhibit 34 and 35 admitted.)

19 BY MR. BURNS:

20 Q Ms. Renhard, I'm showing you number 34. What
21 does this picture depict?

22 A That's the blade of the knife that was seen in
23 this -- in the scene pictures that was lying on the carpet
24 that I had the scale next to it previously. It also is
25 depicting -- it doesn't show well here, but it's also

1 depicting -- that's better. This little reddish hue here,
2 apparent blood on the -- on the knife in this -- this area
3 down here and you can see some up here. You also see that in
4 the apparent blood there's also these lines around in here.
5 And those -- those lines are fingerprint patterns.

6 Q And is that -- so you notice the fingerprint,
7 partial bloody fingerprint there?

8 A Yes.

9 Q Okay. And do you -- do you notice -- in this
10 picture do you see any other fingerprints besides that one?

11 A In this picture, no.

12 Q Okay. And do you see something farther down the
13 blade towards the hilt?

14 A Yes, there's more apparent blood.

15 Q Showing you what's been admitted as State's 35.
16 And let me know -- is that -- here, I'll zoom out first.

17 A Actually, that's okay.

18 Q Is that fine?

19 A Yeah.

20 Q Okay. Did you take this picture?

21 A I did.

22 Q And that's a picture of the knife?

23 A Yes. The knife blade near the -- near the --
24 the handle.

25 Q Okay. So near the handle. And what do -- what

UNCERTIFIED ROUGH DRAFT

1 do you note about the knife in this picture?

2 A This is the same as the other one. There's --
3 there's some apparent blood in different points on here but
4 you -- and you can also see some ridge detail of fingerprints
5 along through here and then down through here.

6 Q Now, and -- and that's a different section of
7 the knife then was State's Exhibit 34, correct?

8 A Correct.

9 Q Now, you notice ridge detail. Can you explain
10 to the ladies and gentlemen of the jury what ridge detail is?

11 A If you take a look at the -- the palms of your
12 hands and your fingers and the bottoms of your feet, we have
13 what's called ridge detail and they're the little lines that
14 make up our fingerprints and that's basically what it is. All
15 the little lines that go in different directions and all their
16 -- there's furrows and then ridges. And that's what the
17 fingerprint detail when -- when I speak about that, I'm
18 talking about seeing the furrows and ridges. The voids can --
19 are often the -- the furrows and the lines are often the
20 ridges. Sometimes, depending if it's in substance, it can be
21 just the opposite.

22 Q Okay. Now, did you -- did you do everything?
23 Did you follow all the protocols to preserve those
24 fingerprints?

25 A Yes.

UNCERTIFIED ROUGH DRAFT

1 Q Okay. And you impounded the knife while it had
2 those fingerprints on it?

3 A Yes.

4 Q Okay. Now, in your -- in your training and
5 experience, is it uncommon to find the own fingerprints on a
6 piece of property from the property's owner?

7 A It's totally common. We expect to find that.

8 Q Now, a bloody fingerprint -- okay, well, let's
9 back up. Fingerprints -- is there something that's required
10 for the ridge to be left? Is there some kind of material or
11 substance that's required for someone to leave a quality
12 fingerprint?

13 A Oh, required? Fingerprints are -- generally
14 fingerprints are moisture. The highest percentage of the
15 debris on a fingerprint is moisture. There's also oils,
16 there's also amino acids and other things can be left behind.
17 The only thing really required to leave a fingerprint is that
18 somebody touched it.

19 Q Okay. Now, you -- okay. So the -- the -- the
20 knife that you impounded and it's -- it's preserved and it's
21 stored in something?

22 A Yes.

23 Q Okay. And --

24 MR. BURNS: Your Honor --

25 THE COURT: You want the --

1 MR. BURNS: If I could, Your Honor.
2 THE COURT: Is it sealed?
3 MR. BURNS: It is, Your Honor.
4 THE COURT: Okay. Are you going to unseal it?
5 MR. BURNS: I'm going to have the --
6 THE COURT: Oh, okay.
7 MR. BURNS: -- CSA unseal it.
8 THE COURT: Are you guys okay with that? Do you want
9 to watch it be unsealed? what -- how do you want to handle
10 it?
11 MR. HILLMAN: We can -- we can walk up to it and
12 watch.
13 THE COURT: Okay, perfect.
14 MS. HOJJAT: Thank you.
15 BY MR. BURNS:
16 Q And for the record, I'm approaching now with
17 what's been marked as State's proposed Exhibit 81. And here's
18 some rubber gloves and a pair of scissors. Ms. Renhard,
19 would you --
20 THE COURT: Now, could you just, Mr. Hillman, so the
21 jury can see?
22 MR. HILLMAN: Yes, sorry, Judge.
23 THE COURT: That's okay.
24 MR. HILLMAN: I just wanted to look at the seals.
25 BY MR. BURNS:

1 Q And along those lines, are --

2 THE COURT: Are you okay? Do you want to take -- all
3 right. All right.

4 BY MR. BURNS:

5 Q Can you tell who was the last person to seal
6 that box? Or at least their number?

7 A It looks like the last person to seal the box
8 was somebody at the forensic lab with the initials of P number
9 J8806M.

10 Q Okay. Are you familiar with forensic scientist
11 Julie Marschner?

12 A I've met her.

13 Q Okay. Now, Ms. Renhard, can you go ahead and
14 unseal State's proposed Exhibit 81 and withdraw its contents?
15 Take your time, this box is kind of well secured.

16 A Now do you want me to undo the seals that are
17 there or would you like me to create a flap?

18 THE COURT: Just open it up.

19 A The contents are strapped on -- into the box.

20 BY MR. BURNS:

21 Q Okay. I'd like you to --

22 A I can probably just lift that up.

23 Q That's -- that's fine if you want to keep it
24 like that. Ms. Renhard, could you -- do you mind stepping
25 down out of the witness stand? And can you approach the

1 jurors and give them a good look at that exhibit?

2 THE COURT: Mr. Burns, do you want to mark the
3 contents?

4 MR. BURNS: I'm sorry --

5 THE COURT: I mean, how's it not falling out?

6 MR. BURNS: It's --

7 THE COURT: Is it glued in?

8 MR. BURNS: It's in there, it's latched in there.

9 THE COURT: Oh, okay.

10 MR. BURNS: By some plastic. And, Your Honor, I
11 would move for its admission at this point.

12 THE COURT: Any objection to 81?

13 MR. HILLMAN: Not as long as it's clear that -- I'm
14 sorry -- that 81 is box and contents --

15 THE COURT: Right --

16 MR. HILLMAN: -- which is the knife strapped to the
17 box.

18 THE COURT: Okay. So 81 will include the box and its
19 contents. We're not going to mark it separately since it
20 appears to be -- can I just see how it's in there? It's not
21 going to come out. That's fine. I'm okay with that.

22 BY MR. BURNS:

23 Q And you can just close that at this point. Ms.
24 Renhard --

25 THE COURT: Are you going to use it anymore, Mr.

1 Burns?

2 MR. BURNS: I -- I don't plan to at this point.

3 THE COURT: Okay. Can I have 81? Thank you.

4 MR. BURNS: Thank you, Your Honor.

5 THE COURT: Uh-huh.

6 BY MR. BURNS:

7 Q Now, Ms. Renhard, can we back to 34 and 35? Did
8 you -- do you -- in this situation where you see a partial
9 bloody fingerprint like that, do you take like a lift of it?

10 A With -- with something like this, what we would
11 do was -- would photograph it. It often won't lift well
12 because of the properties of the blood adhering to the -- to
13 the knife. So we normally photograph it as is.

14 Q And do you have some concern in terms of other
15 types of forensic analysis that might take place on that
16 knife?

17 MS. HOJJAT: Objection, vague.

18 THE COURT: Maybe you could be a little more
19 specific.

20 MR. BURNS: Okay.

21 BY MR. BURNS:

22 Q Are you trying to preserve that knife for more
23 than just fingerprint analysis?

24 A Correct.

25 Q And what is one of those types of analysis that

1 you're trying to preserve it for?

2 A Potential DNA analysis.

3 Q And are there concerns about contamination,
4 things like that?

5 A There are concerns. We do use personal
6 protective equipment and clean surfaces when we work -- use --
7 impound and work on anything like this.

8 Q Now, Ms. Renhard, in terms of fingerprints, are
9 some fingerprints -- fingerprint impressions that are
10 collected, are some of them more useful than others?

11 A Yes.

12 Q And how -- how do they differ in their uses for
13 quality?

14 A The basic -- this is a -- a really good example.
15 It's definitely fingerprint impression here, but there's very
16 little. There's insufficient number of detail --

17 MR. HILLMAN: Objection. Foundation as to this
18 witness's qualification to make that judgment.

19 THE COURT: I think she's going beyond your question
20 as well.

21 MR. BURNS: Okay. That's fine, Your Honor.

22 THE WITNESS: Oh, I'm sorry.

23 THE COURT: Objection sustained. Whose witness is
24 this?

25 MR. HILLMAN: I'm sorry.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: That's okay. I just wanted to know for
2 sure.

3 MR. HILLMAN: Ms. Hojjat's.

4 THE COURT: Okay. Thank you, Mr. Hillman. You know
5 I don't like to be double-teamed.

6 MR. HILLMAN: I know, Judge. I apologize.

7 BY MR. BURNS:

8 Q Okay. Ms. Renhard, I'm going to show you what
9 has been admitted as State's 33. Do you recognize that
10 picture?

11 A Yes.

12 Q And what is that?

13 A That's another photograph of the knife where
14 it's -- I'm looking directly down on the -- from the edge of
15 the blade down.

16 Q And is -- is the blade facing up towards the
17 camera?

18 A Yes.

19 Q And do you notice something -- is there
20 something notable about the condition of the blade?

21 A The blade is bent.

22 Q Ms. Renhard, I'm going to approach with -- with
23 what have been marked as State's proposed Exhibits 36, 37 and
24 38. Can you please take a look at those and let me know if
25 those are photographs that you took?

UNCERTIFIED ROUGH DRAFT

1 A They are.

2 Q And Ms. Renhard, are these exhibits fair and
3 accurate reproductions of the photographs you took?

4 A Yes.

5 MR. BURNS: Your Honor, at this time I would move for
6 the admission of State's proposed Exhibits 36 through 38.

7 MR. HILLMAN: No objection.

8 THE COURT: They're admitted.

9 (State's Exhibit 36-38 admitted.)

10 BY MR. BURNS:

11 Q Now, Ms. Renhard, do you recall during the --
12 during your processing of the scene observing a blue cooler?

13 A Yes.

14 Q Showing you what's been marked as 36, State's
15 36. Did you in fact take photographs of that cooler?

16 A I did.

17 Q Okay. And what does 36 depict?

18 A This is a pocket on the exterior of the cooler
19 that's been opened showing some of the contents of it.

20 Q Okay. And did it have kind of an exterior
21 pocket on it?

22 A Correct.

23 Q Okay. So it wasn't perfectly cylindrical?

24 A No.

25 Q Now, showing you what's been marked as State's

UNCERTIFIED ROUGH DRAFT

1 37. What does that depict?

2 A That's the inside and contents of the -- the
3 actual insulated portion of the cooler.

4 Q I'm sorry. That Exhibit was actually admitted
5 previously. Do you recall -- did you -- did you take the
6 things inside the cooler out?

7 A I did.

8 Q Okay. And do you recall recovering any
9 paperwork?

10 A There was one piece of paper that I recall.

11 Q Showing you what's been admitted as State's 38.
12 What does that depict?

13 A That is that -- the piece of paper that I
14 recall.

15 Q And what is the title on that piece of paper?

16 A New Associate Schedule.

17 Q And is there a person's name on that paper?

18 A Yes.

19 Q What's the name?

20 A Bennett G. Grimes.

21 Q Is there also a date on that piece of paper?

22 A Yes, 7/18/2011.

23 Q And at the bottom is there a company identified
24 on the paper?

25 A Walmart.

UNCERTIFIED ROUGH DRAFT

1 Q Thank you. Ms. Renhard, I'm going to show you
2 what have been marked as State's proposed Exhibits 8 and 9.
3 Did you take those photographs?

4 A I did.

5 Q And those exhibits are fair and accurate
6 reproductions of the photographs you took?

7 A Yes.

8 MR. BURNS: Your Honor, at this time I'd move for the
9 admission of State's proposed Exhibits 8 and 9.

10 MR. HILLMAN: No objection.

11 THE COURT: They're admitted.

12 (State's Exhibit 8 and 9 admitted.)

13 BY MR. BURNS:

14 Q Showing you State's admitted Exhibit Number 8.
15 Do you recognize what that photograph is?

16 A That's the parking lot adjacent to the apartment
17 building. And you can see police vehicles out there in the
18 parking lot and some shoes and socks down here near this right
19 front tire of this patrol vehicle.

20 Q Showing you what's been marked as -- it's been
21 admitted as State's Number 9. What does that exhibit depict?

22 A This is a close-up of the area with the shoes
23 and socks and some blood splatter.

24 Q And did you -- did you swab that blood?

25 A I did.

UNCERTIFIED ROUGH DRAFT

1 Q And did you impound the shoes and socks there?

2 A I did.

3 MR. BURNS: Your Honor, may I approach the witness?

4 THE COURT: You may.

5 BY MR. BURNS:

6 Q Showing you what has been marked as State's
7 proposed Exhibit 77. If you could just look through that and
8 let me know if you recognize any of the property in there?

9 A I recognize the property on the first two pages.

10 Q Okay. Thank you. And the property on the first
11 two pages, is that all stuff that you impounded?

12 A Yes.

13 Q Okay. Now, have you -- have you had the
14 occasion to photograph a lot of people with knife wounds?

15 A Yes.

16 Q Okay. And in fact have you photographed
17 self-inflicted knife wounds before?

18 A Yes.

19 Q Okay. And have you taken some courses and
20 training in the way to look at wounds?

21 A Yes.

22 Q Okay. And the ways to photograph them?

23 A Yes.

24 Q And have you ever encountered in your 16 years
25 as a crime scene analyst self-inflicted knife wounds to the

UNCERTIFIED ROUGH DRAFT

1 knife wielder's hand?

2 A Yes.

3 Q Okay. And so you know what that looks like?

4 A Yes.

5 Q Okay. Showing you what's been admitted as
6 State's Number 73. Now what -- how would you describe that
7 wound?

8 MS. HOJJAT: Judge, I'm going to object.

9 THE COURT: What's the objection?

10 MS. HOJJAT: This is -- she has not been certified as
11 an expert in this field. And I anticipate he's going to start
12 asking her speculative questions about these wounds.

13 MR. BURNS: And, Your Honor, I think I've laid the
14 foundation that she has responded, in her experience she has
15 the expertise to identify particular types of self-inflicted
16 wounds.

17 MS. HOJJAT: Your Honor, she's a crime scene analyst.
18 That's very different then somebody who -- a doctor or
19 somebody who can look at a crime scene and reconstruct what's
20 happened at the crime scene. There are two different other
21 areas of expertise and she testified she's taken classes on
22 how to photograph injuries, but that's very different than
23 determining how those injuries came about.

24 THE COURT: Overruled. You can proceed.

25 BY MR. BURNS:

1 Q Now, Ms. Renhard, how would you describe in your
2 experience of photographing, seeing self-inflicted wounds, how
3 would you describe that wound to the right index finger on
4 that hand?

5 A I would describe it as a -- an incised wound.

6 Q Okay. And do those types of wounds sometimes
7 happen when a knife slips in a person's hand?

8 A Yes.

9 Q And was -- is that photograph consistent with
10 that happening?

11 A Yes, it is.

12 Q Now, in your experience photographing wounds and
13 studying wounds and knowing what to identify and how to
14 photograph certain wounds, are you familiar with the nature of
15 defensive wounds?

16 A Yes, I am.

17 Q Showing you what's been admitted as State's 43.

18 MS. HOJJAT: Your Honor, I'm going to object again to
19 foundation.

20 MR. BURNS: And, Your Honor, I can lay some more
21 foundation if you'd like.

22 THE COURT: Okay, go ahead. Let me hear it.

23 BY MR. BURNS:

24 Q Have you -- have you studied anything in
25 relation to the infliction of wounds, the physics of wounds

UNCERTIFIED ROUGH DRAFT

1 occurring and the different types of wounds, what they should
2 look like?

3 A I have. I've had a number of different courses.

4 Q Can you talk about that a little bit?

5 A I've had courses in practical homicide
6 investigation, domestic violence investigation, child abuse
7 investigation, reconstruction of shooting scenes,
8 reconstruction of crime scenes, blood stain pattern analysis,
9 as well as -- and almost all of those cases -- all of those
10 types of courses get into the -- the types of wounds, how
11 they're inflicted and what kinds of objects might inflict
12 them.

13 Q And do you have to know something a little bit
14 about, you know, the physics of how this happens?

15 A Yes. You have to -- one of the things you --
16 you're trying to determine is, you know, whether an injury
17 could be done on purpose, somebody purposely cutting
18 themselves. Whether it could be accidental or whether it
19 could -- could have been, you know, defensive in nature.

20 Q And when you are processing a crime scene, is
21 one of your duties to represent the wound as -- as accurately
22 and realistically as possible?

23 A Yes.

24 Q Okay. And so someone for later purposes of
25 analysis can look at it and --

UNCERTIFIED ROUGH DRAFT

1 A Correct.

2 Q -- can study it? Okay. Now, at this point, I
3 want to turn your attention to what's been admitted as State's
4 4 -- Exhibit 43. Do you notice anything in particular based
5 on the placement, the nature of the -- of the line or any
6 other factors of this cut that indicate something to you?

7 MS. HOJJAT: Your Honor, we're going to object again
8 to foundation. At this point, this is insufficient
9 foundation. We haven't heard about the nature -- the length
10 of these courses, how much --

11 THE COURT: If you want to take the witness on voir
12 dire I'm happy to let you do that.

13 MS. HOJJAT: Yes, Your Honor.

14 THE COURT: Okay. VOIR DIRE

15 BY MS. HOJJAT:

16 Q Ma'am, you said you took --

17 THE COURT: She's just going to take you voir dire
18 regarding your qualifications in this area. Okay? So --

19 A I have --

20 THE COURT: No, wait a minute. Just go ahead and
21 answer her question.

22 A Oh, I have a list of classes.

23 THE COURT: No, no, just go ahead and answer her
24 questions.

25 BY MS. HOJJAT:

UNCERTIFIED ROUGH DRAFT

1 Q The courses that you just mentioned you took,
2 how long ago did you take them?

3 A I've taken the -- the courses I've taken, I've
4 taken over the course of my entire career. With the most
5 recent courses being within the last year.

6 Q Within the last year. And how long would --
7 what was the duration of each course?

8 A Some courses are one-week long, some courses are
9 day-long courses, some courses are a matter of just hours.

10 Q So fair to say the longest course would have
11 been about a week?

12 A Yes.

13 Q Okay. And you are not a doctor.

14 A I am not.

15 Q You have not gone to --

16 THE COURT: You need to say a medical doctor --

17 BY MS. HOJJAT:

18 Q You are not a medical doctor.

19 A I am not.

20 Q You have not gone to medical school.

21 A I have not.

22 Q You are not qualified to treat injuries like
23 this.

24 A Treat, no.

25 Q You are not an accident reconstruction

1 specialist.

2 A I am not an accident reconstruction specialist.

3 Q You are not certified to give expert opinions on
4 how injuries have come about.

5 A Certified, no.

6 MS. HOJJAT: Your Honor, at this time --

7 THE COURT: What did you mean by that? I mean, is
8 she certified by some type of organization or -- I'm just not
9 sure I understand that or by a court of law.

10 BY MS. HOJJAT:

11 Q You have received no certification from anybody
12 to give expert opinions as to how injuries come about.

13 A No.

14 MR. BURNS: Your Honor, at this point I think the
15 standard is pursuant to Hallmark versus Eldridge.

16 THE COURT: Uh-huh, yeah. Anything else?

17 MS. HOJJAT: Court's indulgence. No, Your Honor.

18 THE COURT: Any further objection?

19 MS. HOJJAT: Yes, Your Honor.

20 THE COURT: Okay. Same, foundation?

21 MS. HOJJAT: There's a little bit further if Your
22 Honor would prefer for us to approach for me to make an offer
23 of proof.

24 THE COURT: If you want to, come on.

25 (Bench conference transcribed as follows.)

UNCERTIFIED ROUGH DRAFT

1 THE COURT: All four lawyers are present.

2 MS. HOJJAT: Your Honor, this is Nadia Hojjat.

3 THE COURT: I think she knows your voice by now.

4 MS. HOJJAT: Your Honor, the State provided us with
5 an expert notice on this witness and the expert notice that we
6 received is that she would testify --

7 THE COURT: Have you seen it?

8 MS. HOJJAT: Absolutely.

9 THE COURT: I was going to look it up.

10 MS. HOJJAT: We did not receive any notice that she
11 would be testifying as to the nature of these injuries or how
12 they came about. Additionally, they provided us a
13 supplemental expert notice in which they said somebody else
14 was going to be testifying to these things. Now I'm at a loss
15 as to whether they're planning on having her, basically
16 putting two people on the stand to testify to the exact same
17 thing.

18 THE COURT: Who's the other person?

19 MS. HOJJAT: Ms. Olson, I believe it is. It's the
20 first page of that notice. And so at this point, I mean,
21 they've told us that there's another person testifying to this
22 information and we prepared cross-examination of the coroner.
23 Now they're having this person here. I mean, I can only
24 assume this is bolstering if the coroner's going to come
25 testify to the identical information.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Dr. Olson is a she.

2 MS. HOJJAT: Oh, I'm sorry.

3 THE COURT: It's not your fault. That's a good
4 objection.

5 MR. BURNS: Your Honor, here's the thing. They've
6 been noticed that this type of evidence is going to come in.
7 They've had the opportunity to voir dire this witness. So I
8 don't know if they were planning on asking some specific
9 impeachment of the coroner, calling the coroner. So I don't
10 know what prejudice there is to them. They've already been
11 put on notice that this type of evidence is coming in.

12 THE COURT: Yeah, but they prepare for certain
13 witnesses and they prepare their cross-examination. And this
14 witness, I'm not so sure it's like a foundation thing. I
15 mean, it doesn't taken an Einstein to conclude that if the
16 knife slips your finger can get cut. Doesn't take an Einstein
17 to conclude if the evidence has come in. If you put your left
18 arm up and someone's holding a knife at you, your arm's going
19 to get cut. I'm not quite sure we need an expert to tell us
20 that.

21 MR. BURNS: We'd be arguing that whether or not there
22 was an expert testimony.

23 THE COURT: I mean, the issue is that you put them on
24 notice that Dr. Olson was going to come in from the coroner's
25 office.

UNCERTIFIED ROUGH DRAFT

1 MR. BURNS: What's the proffer as to unique
2 impeachment?

3 MS. HOJJAT: And, Your Honor, the prejudice here is
4 if I had known that Ms. Renhard was going to testify on this
5 information, I would have done research into her background.
6 I would have had my investigator go look up exactly what
7 courses she's taken, exactly when the dates she took them,
8 exactly how long each course was so that I could --

9 THE COURT: Did you get a copy of her CV like the
10 other --

11 MS. HOJJAT: No, Your Honor, that's all we received.

12 THE COURT: Don't they give you a copy of the CV?

13 MS. HOJJAT: We had no expectation she would be
14 testifying, not for crime scene analyst. We had no
15 expectation she would start proffering testimony as to how
16 these injuries were caused.

17 THE COURT: -- copy of her CV.

18 MR. BURNS: We did provide a CV.

19 THE COURT: Okay. That's what I asked and you said
20 no.

21 MS. HOJJAT: That's all we received as to the crime
22 scene analyst. We received copies of the CV for the coroner,
23 which is what we're concerned about because this is
24 [indiscernible] giving medical testimony.

25 (End of bench conference.)

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Oh, okay. Does the jury need a break?
2 I'm sorry. Okay. At this time we'll take a recess. During
3 this recess you're admonished not to talk or converse amongst
4 yourselves or with anyone else on any subject connected with
5 this trial or read, watch or listen to any report of or
6 commentary on the trial or any person connected with this
7 trial by any medium of information including, without
8 limitation, newspapers, television, the Internet or radio or
9 form or express any opinion on any subject connected with this
10 trial until the case is finally submitted to you.

11 We'll take at least a 15-minute break. Thank you
12 very much. We'll see you in a minute.

13 (Jury recessed at 9:30 a.m.)

14 (Outside the presence of the jury.)

15 THE COURT: Okay. The record will reflect this
16 hearing is taking place outside the presence of the jury
17 panel. Okay. And the -- is it okay, do you want the witness
18 to step down?

19 MS. HOJJAT: If she could step down and step outside,
20 Your Honor.

21 THE COURT: Okay. Do you just mind stepping down and
22 waiting outside? See, you know what? You should take a break
23 anyways. We'll start probably around 9:45. You can leave
24 your stuff here and no one will touch it. Okay.

25 The record will reflect now that the witness has

UNCERTIFIED ROUGH DRAFT

1 stepped outside of the courtroom. And the objection now seems
2 to be that the defense doesn't appear as though they've been
3 put on proper notice because the State proffered -- or noticed
4 the defense that Dr. Olson from the Medical Examiner's Office
5 was going to come and offer this testimony. Apparently, she's
6 not going to come anymore and the State is seeking to get this
7 information in through the CSA.

8 And I have a -- I have a notice of expert witnesses
9 and the issue came up as whether the State had provided the
10 defense with her CV. I mean she's a -- this crime scene
11 analyst is well known to me. I'm just wondering, is this
12 crime scene analyst well known to you all?

13 MS. HOJJAT: Your Honor -- as Your Honor's aware, I'm
14 a little bit new to this jurisdiction so she's not well known.

15 THE COURT: You are? I didn't know that.

16 MS. HOJJAT: I'm new in this jurisdiction so she's
17 not well known to me. I'm not sure if she's well known to Mr.
18 Hillman.

19 THE COURT: She is. Everyone's well known to him.

20 MR. HILLMAN: I don't think I've ever had her in a
21 case, though.

22 THE COURT: You're kidding me.

23 MR. HILLMAN: No.

24 THE COURT: Really?

25 MR. HILLMAN: If -- if I did it was --

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Okay, I'm sorry. I just figured Mr.
2 Hillman knows everybody.

3 MR. HILLMAN: If -- if I did it was a long time ago.
4 I don't recall, though.

5 THE COURT: Okay.

6 MS. HOJJAT: And, Your Honor to be clear, we are not
7 challenging her certification as a crime scene analyst and
8 that's why frankly when we didn't receive her CV for crime
9 scene -- when we were put on notice that she'd be testifying
10 as a crime scene analyst to preservation of evidence,
11 photographs that were taken, swabs that were taken, we had no
12 problems. We anticipated making no objections to her as an
13 expert and it didn't really concern us.

14 We received a separate expert witness notice that
15 another individual, Dr. Olson, would be testify -- either Dr.
16 Olson or Dr. Holtroff [phonetic] would be testifying as to how
17 these injuries came about, the nature, or whether they were
18 defensive or offensive and we prepared a cross-examination for
19 that doctor. And as Your Honor's aware, when cross-examining
20 individuals on things like this, their education, their
21 background, how much training and experience they have, is
22 certainly an area that an attorney is going to look into very
23 thoroughly to prepare it's cross-examination. We are caught
24 --

25 THE COURT: I agree.

UNCERTIFIED ROUGH DRAFT

1 MS. HOJJAT: -- completely off guard to have her up
2 here now when we haven't even received a CV and certainly when
3 we had no anticipation of her testifying to this information
4 because the expert witness notice did not mention that she'd
5 be testifying to this information.

6 THE COURT: I have a copy of her expert witness
7 notification. It does not appear as though she -- the defense
8 was put on notice that this particular witness would be
9 testifying to these issues. Go ahead, Mr. Burns.

10 MR. BURNS: Your Honor, the notice indicates that she
11 would be testifying as an expert in the area of
12 identification, preservation of evidence.

13 THE COURT: Uh-huh.

14 MR. BURNS: They were obviously -- it doesn't say
15 specifically as to, you know, interpretation of wound evidence
16 and things like that. But they have been put on notice that
17 that type of evidence was coming. Ms. Renhard has been, as
18 we've established, practicing for 16 years. They are clearly
19 going to be familiar with her from prior cases. Additional --

20 THE COURT: Well, that -- and that's -- that's what I
21 thought. But then I have Mr. Hillman tell me he's never had
22 this CSA and I have an attorney that's new to the
23 jurisdiction. And that's -- that was my initial --

24 MR. BURNS: That's true, Your Honor.

25 THE COURT: -- instinct because I've seen this CSA in

UNCERTIFIED ROUGH DRAFT

1 the courthouse multiple times.

2 MR. BURNS: And that's fine, Your Honor. Assuming --
3 you know, and I -- I accept all of that. But she's
4 nevertheless -- they've had the opportunity to take her on
5 voir dire. Obviously, happened in front of the jury but it's
6 still the same thing. They've been able to get an assessment
7 of her qualifications, her experience. I elicited an
8 extensive foundation. She testified that she's familiar with
9 -- she's taken courses in wound identification. I asked her
10 if she's familiar with the physics of these types of things
11 and -- there's clearly a foundation laid under Hallmark versus
12 Eldridge.

13 They've been put on notice that this type of evidence
14 was coming. So I guess the prejudice that they would have to
15 show at this point to have this notice issue be fatal is that
16 there's some kind of -- there's some kind of key impeachment
17 they were expecting for the noticed witness, you know, or
18 there's -- there's something that on voir dire they
19 discovered, you know, that they could have prepared more.

20 THE COURT: I don't think it's a foundation issue
21 anymore. I think that the State's laid a proper foundation
22 and I didn't really understand why I kept getting the
23 objection, so I started to think maybe the notice was off.
24 And then I got that objection. I think the notice objection
25 is probably a better objection. I mean, I don't know that her

1 qualifications have been impeached or -- she's clearly
2 qualified to render these opinions. It's just a notice issue.

3 So, I mean, the State -- did you have some sort of
4 special -- you know what? Didn't the doctor from UMC testify
5 to this? I know we've had testimony. The doctor from UMC
6 testified these were defensive wounds.

7 MS. BOTELHO: Said they're defensive wounds, yes,
8 Your Honor. Or --

9 THE COURT: She did. I -- the doctor from UMC did.
10 Nobody objected then.

11 MS. HOJJAT: Your Honor, and again, it comes down to
12 the qualifications. We don't have a CV for this individual,
13 this crime scene analyst. We weren't anticipating making an
14 objection to her testifying as a crime scene analyst. We
15 fully stipulate to her qualifications to testify in the areas
16 of preserving a crime scene, photographing a crime scene,
17 documenting --

18 THE COURT: Uh-huh.

19 MS. HOJJAT: -- a crime scene. But now all I know is
20 that she's taken a couple of classes, the longest of which was
21 one-week long. That's very different from medical school,
22 Your Honor. When a doctor gets up there, a medical doctor
23 gets up there and says I'm going to testify to the nature of
24 these wounds, we're more likely to agree with that. But I
25 don't have a CV --

1 THE COURT: I think I believe that the doctor already
2 testified that these wounds on the arm were defensive in
3 nature. But again, I know I said this at the bench, you do
4 not need an expert witness to say -- I mean, if you agree with
5 the state of the evidence that's come in thus far and with the
6 -- Ms. Newman, Aneka Newman, on what she testified happened,
7 then it doesn't take an expert to say if someone's wielding a
8 knife at you and you throw your left arm up in front, that
9 your arm's going to get sliced up. That is not rocket
10 science, that is common sense. And you don't need an expert
11 to tell you that.

12 MS. HOJJAT: And, Your Honor, the distinction here is
13 this witness seems to be testifying that looking at these
14 wounds I can tell that's the situation that happened here.
15 That's very different from, yes, if somebody throws their hand
16 up and there's a knife coming at it, you're going to get
17 sliced up. It's looking at these wounds and saying, I can
18 tell how these wounds happened. She's not qualified. I don't
19 even have a CV in order to properly be able to impeach her and
20 go after her. I don't know where she took those classes. I
21 don't know if that school was certified. I don't know
22 anything about her education history because I don't have a CV
23 and I wasn't put on any notice that she was going to be
24 testifying to these things.

25 MR. HILLMAN: And, Judge, if I could add something

UNCERTIFIED ROUGH DRAFT

1 too. I've defended 15 or 18 murder trials --

2 THE COURT: Uh-huh.

3 MR. HILLMAN: -- numerous violent crimes and I've
4 never had a CSA come in and testify as to whether or not
5 wounds were defensive or not.

6 THE COURT: Because when you have a homicide case the
7 coroner comes in.

8 MR. HILLMAN: Or a doctor.

9 MS. HOJJAT: And in this case a coroner was noticed.

10 THE COURT: A coroner comes in every time. You don't
11 bring in somebody extra. I've done a lot of murder cases,
12 they've not brought in -- it's always the coroner, don't you
13 think? Generally, because they're the ones that inspect the
14 body.

15 MR. HILLMAN: Right. It's --

16 THE COURT: They're the ones that have the most
17 experience and they actually look at the body. But here's the
18 thing, the doctor from UMC testified to it. So what's the
19 State's response? I think the objection's well taken. The
20 defense wasn't put on notice and you have an attorney who's
21 not familiar with the CSA and didn't have the -- this -- I
22 looked up this notice, the Curriculum Vitae was not attached.

23 MR. BURNS: And, Your Honor, that's my understanding
24 as well to this point.

25 THE COURT: Wasn't attached.

1 MR. BURNS: Right. And I believe she may have her CV
2 with her today. You know, I think it's purely a notice issue
3 and I think the --

4 THE COURT: It's a notice issue.

5 MR. BURNS: -- the only -- the only thing that they
6 really have to hang their hat on is that they've somehow been
7 disadvantaged for their cross-examination because they did not
8 have a CV. They were already aware that this type of evidence
9 was coming in, you know, not just from lay people, but that
10 one expert would be testifying to it. So they --
11 cross-examination has not commenced. If they want to talk to
12 the witness further, if they -- if she does in fact have her
13 resume with her today they could examine that.

14 I'm not really sure what the prejudice is at this
15 point, particularly because they've had the opportunity to
16 voir dire, they've had -- they'll have the opportunity if they
17 want before the cross-examination to speak to her more. This
18 type of evidence is already coming in through other witnesses,
19 lay and expert. It's just not an issue -- I mean, I
20 understand the notice may be imperfect, but it's notice. It's
21 still notice and they knew this kind of evidence was coming.

22 THE COURT: Well, the notice doesn't even say -- I
23 have to read this notice as extraordinarily broad to --

24 MR. BURNS: Well, here's --

25 THE COURT: -- indicate -- I mean, look at the notice

UNCERTIFIED ROUGH DRAFT

1 and just for purposes of argument, look at the notice you did
2 for Dr. Olson. She's expected to testify regarding the
3 classification of wounds as offensive or defensive and that's
4 clear and unequivocal. And look at the notice of the CSA. I
5 mean, I think it's well taken that they think she's going to
6 testify about photographing, documenting, collecting and
7 that's it.

8 MR. BURNS: Your Honor makes a good point. We're
9 only asking this witness if it's consistent in terms of
10 preserving and identifying evidence. I was able to elicit
11 from her that one of the things that she does study and one of
12 her responsibilities is to take pictures that would portray
13 particular characteristics of wounds. And so based on looking
14 at the physics or the line of a wound, she'll take a
15 particular type of photograph if, you know, she has an
16 instinct that -- or she believes it's consistent with some
17 kind of defensive wound or something. I don't -- I don't
18 think that wholly cures the notice issue but, I mean, there's
19 just really no prejudice.

20 THE COURT: Well, I don't know if there's any
21 prejudice because I don't know -- I mean, the defense can't
22 really make a -- a full proffer because they don't know what
23 the prejudice would be. So at this time I'm going to sustain
24 the objection. And I believe the testimony has already come
25 in through the medical doctor from UMC who actually treated

1 and observed the victim when she came to the hospital. So we
2 have a -- let's take like five minutes and then we'll bring
3 the jury back in.

4 MR. BURNS: Your Honor, one more thing.

5 THE COURT: Okay.

6 MR. BURNS: The objection has been sustained so I
7 think at this point it would probably be appropriate -- I
8 don't know what the defense's view is, to instruct the jury to
9 disregard Ms. Renhard's opinions about exhibits -- the exhibit
10 of the defendant's hand and then the exhibit of the victim's
11 arm. The things I was referring to as -- or asking her
12 opinion that she testified about as a knife slippage on the
13 hand of the exhibits.

14 THE COURT: Well, again, I'm going to say, I didn't
15 think that was expert testimony. I mean, I think -- I do not
16 think that was expert testimony.

17 MR. BURNS: All right.

18 THE COURT: I said if someone -- all you have to do
19 is be in a kitchen and cut vegetables or do anything. Anyone
20 that has common experiences knows that the knife can slip and
21 cut your finger. I would be surprised if anyone's -- that's
22 not happened to someone. I would be more surprised if that
23 had not happened.

24 MR. HILLMAN: I think we're good where we're at as
25 long as we don't go any farther.

1 THE COURT: You haven't been in a kitchen cooking if
2 that hasn't happened to you.

3 MS. HOJJAT: I think perhaps maybe just an
4 instruction to disregard any testimony she gave as to her
5 opinion of how these particular wounds were caused because
6 she's not -- there's a difference between could this happen
7 this way and I think this wound happened this way and I think
8 that's the area --

9 MR. BURNS: She testified to consistency is what --

10 THE COURT: Okay. So you want me to instruct the
11 jury to disregard her testimony that she gave regarding --

12 MS. HOJJAT: Her opinion of how any injuries in this
13 case may have been caused.

14 THE COURT: How many wounds --

15 MR. BURNS: And I think that -- I mean, I don't -- I
16 think that might be a little bit broad. I don't know if the
17 defense is concerned that the CSA's imprimatur is on that type
18 of evidence now, that her qualifications have been attached to
19 it. So --

20 THE COURT: Well, what do -- what do you want me to
21 instruct the jury? I mean, you have to protect the record.

22 MR. BURNS: Well, you've sustained the objection.

23 THE COURT: So I have to clearly tell them to
24 disregard the last question and any -- I don't know if she
25 gave an answer?

1 MS. HOJJAT: I can't remember.

2 THE COURT: I remember, I think we stopped her before
3 she did. How about I follow your notice and say we --
4 regarding the classification of these wounds as offensive or
5 defensive?

6 MR. BURNS: And, Your Honor, we're not --

7 MS. HOJJAT: That would be perfect, Your Honor.

8 MR. BURNS: -- it is -- it is something that a lay
9 person could testify to or that we could just argue to the
10 jury. The objection was foundation, it was not necessarily as
11 to expertise. There was foundation under Hallmark versus
12 Eldridge for expertise, I believe, it's really --

13 THE COURT: I think so too.

14 MR. BURNS: -- the notice issue so --

15 THE COURT: It is.

16 MR. BURNS: -- maybe I'm a little premature in
17 agreeing to any kind of limiting instruction. So I'd ask that
18 not be given.

19 THE COURT: Okay.

20 MS. HOJJAT: I would ask for the instruction Your
21 Honor just said that -- precisely what was on the notice that
22 we received for Dr. Olson.

23 THE COURT: Okay, here's what I can do. I sustained
24 your objection. I don't -- did she give an answer?

25 MS. HOJJAT: I can't recall.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: I don't think that she did. So I can
2 tell the jury to disregard the last question and any response
3 that was given by the witness.

4 MR. BURNS: The one about the defensive wounds?

5 THE COURT: Uh-huh.

6 MS. HOJJAT: Yes.

7 MR. BURNS: Thank you, Your Honor.

8 THE COURT: And then the State can just carry on and
9 they have to go right out of this area.

10 MS. BOTELHO: Perfect.

11 MS. HOJJAT: Thank you, Your Honor.

12 THE COURT: Okay.

13 (Court recessed at 9:45 a.m. until 10:08 a.m.)

14 (Outside the presence of the jury.)

15 THE COURT: You guys are ready? We can wait for Mr.
16 Burns.

17 MS. HOJJAT: Yes, Your Honor.

18 MR. HILLMAN: Where's Patrick?

19 MS. BOTELHO: With our witness. I'll get them both.

20 THE COURT: Did everyone get to have a break?

21 MS. HOJJAT: Yes.

22 THE COURT: And Mr. Grimes, you had a break?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay.

25 MS. HOJJAT: Thank you, Your Honor.

UNCERTIFIED ROUGH DRAFT

1 MS. BOTELHO: Do you want her back on the stand, Your
2 Honor?

3 THE COURT: Sure.

4 MS. BOTELHO: Just bring her back up?

5 THE COURT: Sure.

6 MS. BOTELHO: Just go ahead and take the same seat.

7 THE WITNESS: Okay.

8 (Jury reconvened at 10:09 a.m.)

9 THE COURT: Do the parties stipulate to the presence
10 of the jury panel?

11 MS. BOTELHO: Yes, Your Honor.

12 MR. HILLMAN: Yes, Judge.

13 THE COURT: Okay. Ladies and gentlemen, I have
14 sustained the objection made by the defense before we took a
15 break. So I ask you to disregard the last question and any
16 testimony that was given in response to that question. You
17 may continue.

18 MR. BURNS: Thank you, Your Honor.

19 CONTINUED DIRECT EXAMINATION

20 BY MR. BURNS:

21 Q Ms. Renhard, I want to go back to this -- the
22 blue cooler. Do you remember that? I've shown you -- do you
23 recall you examined it pretty closely?

24 A I don't recall examining it pretty closely.
25 Just --

UNCERTIFIED ROUGH DRAFT

1 Q Let me ask you this. Do -- do you think that
2 you examined it close enough that you would have noted any
3 apparent blood on it?

4 A Yes.

5 Q Okay. And did you -- after all the exhibits
6 we've shown, all the different angles you looked at the
7 cooler, did you ever see any blood on that blue cooler?

8 A I did not.

9 Q Now in your experience, have you had the
10 occasion to lift fingerprints from a knife blade?

11 A Yes.

12 Q Okay. And have you done that a number occasions
13 throughout your 16 years?

14 A Yes.

15 Q Okay. And for this -- for this knife, would you
16 have lifted fingerprints?

17 A No.

18 Q Okay.

19 MR. BURNS: Court's indulgence. Your Honor, I'll
20 pass the witness.

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION

23 BY MS. HOJJAT:

24 Q Good morning -- good -- sorry. Good morning.

25 How are you doing today?

 UNCERTIFIED ROUGH DRAFT

1 A Tired.

2 THE COURT: Sorry.

3 BY MS. HOJJAT:

4 Q Well, I'll try to finish up quickly, let you go
5 home and sleep. Ms. Renhard, what is a phenyl -- and I'm
6 pronouncing this wrong, phenolphthalein presumptive test for
7 blood?

8 A Phenolphthalein presumptive test for blood is
9 just that. It's a presumptive test for blood. It's a test
10 done to not confirm, but to possibly identify a substance as
11 being blood. It's not a confirmatory test, but it just -- if
12 you see a substance, you think it's blood, you can use a
13 chemical, a phenolphthalein to test that substance to see if
14 the -- it's possibly blood. It's very sensitive and fairly --
15 and accurate for blood.

16 Q So basically, it's -- if there's an area that
17 might have blood, might not have blood, this test can tell
18 you. It's sensitive to blood, it will tell you, yes, that's
19 blood?

20 A Yes.

21 Q Now -- sorry, I want to find the correct
22 exhibit.

23 MS. HOJJAT: Do you guys have the knife? Oh, thank
24 you. Thank you very much.

25 BY MS. HOJJAT:

UNCERTIFIED ROUGH DRAFT

1 Q I'm showing you what's been admitted as State's
2 Exhibit 34. You said that those are fingerprints, correct?

3 A Those are ridge detail of the -- either fingers
4 or palm.

5 Q Okay. But no fingerprints were lifted from this
6 knife blade?

7 A No.

8 Q And that was because there was also blood there.

9 A There was also blood there and lifting --
10 lifting it would not have been the appropriate way to handle
11 it.

12 Q Okay. Now, you said that you took swabs of
13 blood from the concrete area outside the apartment.

14 A Yes.

15 Q You took swabs of blood from the living room
16 carpet east of the front door.

17 A Yes.

18 Q You took swabs from the tile in the entryway.

19 A Yes.

20 Q And you took swabs from the asphalt next to the
21 police vehicles.

22 A Yes.

23 Q But you did not take a swab of the blood on the
24 knife.

25 A I collected the original surface in this case.

UNCERTIFIED ROUGH DRAFT

1 Q Okay. You did not swab this area.

2 A No.

3 Q Okay. And had you swabbed it, this fingerprint
4 pattern might have been damaged, correct?

5 A That's correct.

6 Q And it would require a swab to remove that blood
7 from that area.

8 A Yes.

9 Q So is it fair to say that had you swabbed the
10 knife blade, you could not then go back afterward and try to
11 remove that fingerprint if you were inclined to remove the
12 fingerprint?

13 A Normally, in the instance when there's blood
14 like that, we would attempt to swab --

15 Q Uh-huh.

16 A -- in an adjacent area to the ridge detail.

17 Q Okay.

18 A And that's what I would have done. I never
19 would -- I would never try -- I shouldn't say never. I would
20 -- very unlikely that I would ever try a lift, a print that
21 appeared to be bloody.

22 Q Okay.

23 A Photographing would be the correct way to
24 document that print, not lift.

25 Q Okay. And maybe I wasn't very clear with my

1 question. My question was, taking a swab could have damaged
2 the ridges that you were seeing on that knife.

3 A Yes. If I did it directly on the ridges, yes.

4 Q Okay. So whereas right now you can see the
5 ridges of the fingerprints.

6 A Correct.

7 Q Had you swabbed that, those ridges would no
8 longer be there.

9 A I would -- I -- I would say that most likely
10 they would have been -- I would have lost that detail.

11 Q Okay. And then it would have been impossible to
12 take a fingerprint even if you wanted to.

13 A Probably.

14 Q Showing you what's been marked as State's
15 Exhibit 30.

16 MS. HOJJAT: Permission to publish, Your Honor?

17 THE COURT: You may.

18 BY MS. HOJJAT:

19 Q Let me zoom in. Now, there's blood area on the
20 knife blade, correct?

21 A Correct.

22 Q But no visible blood on the knife handle.

23 A Correct.

24 Q But you didn't do a fingerprint -- you didn't
25 take any fingerprints from the knife handle.

UNCERTIFIED ROUGH DRAFT

1 A I did not attempt any fingerprint processing on
2 the -- the knife because it was going to be going to the
3 forensic lab and they -- they would do any processing and
4 collection of DNA.

5 Q Okay. So it was going to the forensic lab to be
6 swabbed.

7 A And possibly fingerprint processed. I wasn't
8 sure, I just booked the original item as it was.

9 Q Okay. So to the best of your knowledge, you
10 don't know of anybody removing fingerprints from this knife
11 handle?

12 A I don't.

13 Q But you do know that it was sent to the DNA lab
14 for processing.

15 A It was sent to the forensic lab. If it was just
16 DNA, I don't know.

17 Q Okay. So it was sent to the forensic lab
18 without having anything removed from -- without having any
19 fingerprints removed from the knife handle.

20 A I, yeah -- well, let's put it this way. It went
21 into the evidence vault without me doing any of that.

22 Q Fair enough. Now, I want to talk to you for a
23 minute about State's Exhibit 19.

24 MS. HOJJAT: Permission to publish?

25 THE COURT: Uh-huh.

1 BY MS. HOJJAT:

2 Q You said you took this photograph?

3 A Yes.

4 Q When you took this photograph there were no
5 police officers inside the apartment.

6 A Correct.

7 Q When you took this photograph there was no EMT
8 personnel inside the apartment.

9 A Correct.

10 Q When you took this photograph there were no
11 medical personnel inside the apartment.

12 A That's correct.

13 Q There was nobody inside the apartment except you
14 and whoever you would work with to process the scene.

15 A I was alone.

16 Q Okay. So all of those people had already left
17 the scene.

18 A Correct.

19 Q When you arrived, all those people had already
20 left the scene.

21 A The police officers were still there, but not
22 inside the apartment.

23 Q Okay. So you did not observe what the police
24 officers might have done inside of that apartment.

25 A I did not.

UNCERTIFIED ROUGH DRAFT

1 Q You did not observe what the EMTs might have
2 done inside of the apartment.

3 A I did not.

4 Q You did not observe what anybody who was inside
5 of that apartment prior to your arrival might have done.

6 A I did not.

7 Q And you talked about preserving a scene. It's
8 you and -- I'm sorry, do you work with a team? Is it multiple
9 people who go or is it just you?

10 A In the -- in this case it was just me.

11 Q Just you, all right. So it's your job to
12 preserve the scene.

13 A Correct.

14 Q It's your job to photograph it as you find it.

15 A Correct.

16 Q But as we discussed, you don't know what's being
17 done with the scene prior to your arrival.

18 A That's correct.

19 Q And you would hope that it's being preserved.

20 A That's correct.

21 Q But you can't assure this jury that it was
22 preserved.

23 A No. All I can assure them is that this is the
24 condition it was in when I got there.

25 Q When you got there. And when you arrived at the

UNCERTIFIED ROUGH DRAFT

1 scene you didn't touch the knife without gloves.

2 A That's correct.

3 Q And you would hope that none of the officers
4 touched the knife without gloves.

5 A That's correct.

6 Q But, again, you don't know if the officers
7 preserved this scene.

8 A Per policy, they would have had to notify me if
9 they had.

10 Q Right.

11 A But nobody did. But then as you say, I don't
12 know, because I wasn't there.

13 Q Right. Again, you can't assure this jury that
14 none of the officers touched that knife.

15 A That's correct.

16 Q Actually, I wanted to talk to you about the
17 contents of the blue backpack. I can't find the photograph
18 right now. There it is.

19 MS. HOJJAT: Permission to publish State's Exhibit
20 38?

21 THE COURT: You may.

22 BY MS. HOJJAT:

23 Q You said you found this inside of the blue
24 backpack. Zooming in to the top, would you read that top line
25 for me, please?

UNCERTIFIED ROUGH DRAFT

1 A New Associate Schedule.

2 Q And going to the bottom, corporation was?

3 A WalMart Stores.

4 Q And the date was?

5 A 7/18/2011.

6 Q So that would be four days prior to the date

7 that you responded to the scene.

8 A Correct.

9 MS. HOJJAT: Court's indulgence, Your Honor.

10 MR. HILLMAN: Judge, can I approach and get the easel

11 out, please?

12 THE COURT: Of course.

13 MR. HILLMAN: Thank you.

14 MS. HOJJAT: Your Honor, permission to approach with

15 what's been previously marked as Defense Exhibit --

16 THE COURT: We up to D?

17 MS. HOJJAT: I think it's E maybe?

18 THE COURT: E?

19 MS. HOJJAT: I -- I might have gotten the wrong one,

20 sorry.

21 THE COURT: I think we're up to D as in --

22 MR. HILLMAN: It is D.

23 MS. HOJJAT: Yes, D.

24 THE COURT: Sure. D. I think defense is going to

25 ask you step down in front of the jury in front of their

UNCERTIFIED ROUGH DRAFT

1 exhibit. She can step down. Do you want her to step down?

2 MS. HOJJAT: Yes, please, Your Honor.

3 THE COURT: Okay.

4 MS. HOJJAT:

5 Q I'm showing you what's been marked for
6 identification purposes as Defense Exhibit D. This is a floor
7 plan of the apartment that you responded to on July 22nd,
8 2011. This is a fair and accurate depiction of the floor
9 plan?

10 A Yes, that looks correct to me.

11 MS. HOJJAT: Your Honor, at this time we would move
12 to admit Defense Exhibit D into evidence.

13 THE COURT: Any objection?

14 MR. BURNS: No, Your Honor.

15 THE COURT: It's admitted.

16 (Defendant's Exhibit D admitted.)

17 MS. HOJJAT: Permission to publish, Your Honor?

18 THE COURT: You may.

19 BY MS. HOJJAT:

20 Q Now -- I'm sorry. You collected blood swabs
21 from multiple places.

22 A Correct.

23 Q And you collected blood swabs from everywhere
24 that you saw blood, correct?

25 A Correct.

UNCERTIFIED ROUGH DRAFT

1 Q Can you please mark on this diagram where you
2 collected blood swabs from?

3 A This is the -- that dotted line. This side of
4 the dotted line's going to indicate the tile entryway and so I
5 collected blood from approximately here. And then this area
6 here is where there was some pooling and some drops of blood.
7 I collected some blood there. Out here, outside the door and
8 then out -- this went this direction and out there was the
9 parking lot where the shoes were and I collected blood there.
10 And other than that there was the original surface collected
11 as far as the knife, the shoes, the socks.

12 Q Okay, now -- I'm sorry, we ran out of different
13 colored markers. Can I have you put your initials on the
14 bottom of this one just so we can keep it straight. Thank you
15 very much. Now, you did not collect any blood in the area
16 next to the counter here.

17 A I did not.

18 Q You did not collect any blood further down
19 towards the living room area next to the counter.

20 A No.

21 Q You did not collect any blood in the distance
22 between the counter and the entryway.

23 A That's correct.

24 Q In front of the laundry room here on the --
25 closer to the counter edge, there was no blood that you found?

UNCERTIFIED ROUGH DRAFT

1 A There was none that I noted.

2 Q Okay, thank you. You can be seated. And now,
3 ma'am, you did say that you are able to latent print
4 processing, correct?

5 A Yes.

6 Q Okay. You just didn't do any on the knife in
7 this case.

8 A I did not.

9 Q Okay. And you were testifying about
10 fingerprints earlier and you were testing about -- testifying
11 about oil secretions.

12 A Correct.

13 Q And I believe you said the only thing required
14 to leave a fingerprint is that somebody touched it; is that
15 correct?

16 A Well, that's the one thing that is absolutely
17 required, is that the item be touched.

18 Q Thank you.

19 MS. HOJJAT: I'll pass the witness, Your Honor.

20 THE COURT: Any redirect?

21 MR. BURNS: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. BURNS:

24 Q Ms. Renhard, safe to say that some surfaces are
25 better at retaining fingerprint impressions than others?

UNCERTIFIED ROUGH DRAFT

1 A Correct.

2 Q Now, how would you describe the texture of the
3 knife handle?

4 A The knife handle was one of those slightly
5 rough, you know, plastic like composite blade or handle.

6 Q And in your training and experience, is that one
7 of the better surfaces for retaining -- for fingerprint
8 impressions being left?

9 A Actually, it's one of the worst.

10 Q That would be one of the worst. Did -- when you
11 observed it, did you see anything -- you saw what you -- what
12 you know are partial blood -- bloody fingerprints on the
13 blade. Do you see anything similar on the handle?

14 A I did not.

15 Q Now, the -- the bloody fingerprint on the knife
16 blade, could that fingerprint have been left based on blood
17 being on the finger and then touching the knife?

18 A It could have.

19 Q And could it also have been caused by blood
20 being on the knife and then the knife being touched?

21 A Yes, it could have.

22 MR. BURNS: Court's indulgence.

23 BY MR. BURNS:

24 Q Ms. Renhard, I'm going to show you -- let me
25 just -- I'm going to show you what's been admitted as State's

1 Exhibit 77.

2 THE CLERK: Did you say 77?

3 MR. BURNS: Yes, I did.

4 THE CLERK: Okay, I don't have --

5 MR. BURNS: Oh, I'm sorry. It has not been admitted
6 yet.

7 THE COURT: Okay.

8 BY MR. BURNS:

9 Q Okay. It -- when I showed you State's Exhibit
10 77, do you recognize some pictures on it? Let me show you
11 that exhibit first so you know what I'm talking about.

12 MR. BURNS: Your Honor, may I approach the witness?

13 THE COURT: You may.

14 BY MR. BURNS:

15 Q Do you recall being shown that exhibit?

16 A Yes.

17 Q Okay. And there's four pictures on there that
18 you recognize?

19 A There's four items that have been photographed
20 that I recognize the items.

21 Q And you recognize those items because you
22 impounded them?

23 A Yes.

24 Q And are they in substantially the same condition
25 in those pictures as they were when you impounded them?

UNCERTIFIED ROUGH DRAFT

1 A Yes.

2 Q Okay.

3 A Well, this -- this one somebody's made -- looks
4 like -- I'm not sure if this is a mark on the photograph or a
5 mark on the actual blade there.

6 Q Does it appear that someone's done some kind of
7 -- they made some notations --

8 A Right.

9 Q -- and diagrams on it?

10 A And the same here. It looks like there's labels
11 that are -- I'm not sure if it's -- this actually looks like
12 they're labels on the item that I didn't put on there.

13 Q Okay. And there are four pages to this exhibit?

14 A Yes.

15 MR. BURNS: Your Honor, at this time I'd like to have
16 admitted or publish for the jury the first two pages of this
17 exhibit.

18 THE COURT: Any objection?

19 MR. HILLMAN: We expect that the State's going to be
20 able to tie up any foundation problems with this, so at this
21 time we have no objection.

22 MR. BURNS: Thank you, Mr. Hillman.

23 THE COURT: Okay. Exhibit 77 is admitted into
24 evidence and you may publish.

25 (State's Exhibit 77 admitted.)

1 BY MR. BURNS:

2 Q Okay. Ms. Renhard, I'm showing you what's been
3 marked as -- what's been admitted as 77. Do -- have you ever
4 seen this kind of diagram, these kind of notations and stuff?

5 A I have.

6 Q And what does it indicate to you?

7 A It indicates that after I impounded the knife
8 somebody took it out with the initials of -- it looks like JM
9 and made some notations directly on the blade.

10 Q Now, that area that's -- has an arrow pointing
11 to it, it has been enclosed in a pen mark and it has JM --
12 JM2AP2 attached to it.

13 A Right.

14 Q Is that the area where the bloody fingerprint
15 was on the knife?

16 A No.

17 Q It's an entirely different area on the knife?

18 A Correct.

19 Q Indeed, the bloody fingerprint towards the
20 knife, isn't it in fact on the other side of the knife?

21 A I don't recall.

22 Q Okay. If I can show you State's -- what's been
23 admitted as State's 34. I'll just zoom out some more. Sorry
24 about that. Is that your -- refresh your recollection as to

25 --

1 A Yes.

2 Q -- which side --

3 A Yes.

4 Q -- it was on?

5 A Yes, it is on the opposite side.

6 Q Okay. Now, Ms. Renhard, if you could be so
7 kind, just let me move this. If you could be so kind as to
8 just to step down.

9 MR. BURNS: Can I borrow your marker?

10 MR. HILLMAN: Sure. Do you want to use a different
11 color to differentiate your marks?

12 BY MR. BURNS:

13 Q Ms. Renhard, please indicate where the blue
14 cooler was.

15 A I think it was -- I think it was in this
16 vicinity right here.

17 Q You may resume your seat at the witness stand.

18 MR. HILLMAN: Can the record reflect a blue mark was
19 made on the Exhibit, Judge?

20 MR. BURNS: And, Your Honor, for the record that's
21 Exhibit D of the defense.

22 THE COURT: Okay, thank you.

23 MR. BURNS: Your Honor, I will pass the witness.

24 THE COURT: Any recross?

25 MS. HOJJAT: Briefly, Your Honor.

UNCERTIFIED ROUGH DRAFT

RECROSS-EXAMINATION

BY MS. HOJJAT:

Q I'm sorry, ma'am. Bear with me while I find the right pictures.

MR. HILLMAN: Judge, can I move the easel?

THE COURT: You may.

MS. HOJJAT: Oh, thank you.

MR. HILLMAN: Thank you.

BY MS. HOJJAT:

Q So, Ms. Renhard, you testified that this fingerprint was not lifted in order to preserve the ability to collect the DNA of that blood, correct?

A Correct. Well, it wouldn't have been lifted anyways, it would have been photographed.

Q Okay.

A It wasn't enhanced or -- it wasn't enhanced. It would not be a fingerprint that would have been lifted. This is an as-if as-is photograph.

Q Okay. To the best of your knowledge this fingerprint was not enhanced.

A I did not enhance it.

Q To the best of your knowledge this fingerprint was never sent for any sort of fingerprint comparison.

A I don't know if it was or not.

Q Okay. You don't know that it was?

UNCERTIFIED ROUGH DRAFT

1 A I don't that it was.

2 Q Okay. You testified on redirect --

3 MR. BURNS: I'm sorry, Your Honor. I'm sorry to
4 interrupt you, Ms. Hojjat. May we approach?

5 THE COURT: Sure.

6 (Bench conference transcribed as follows.)

7 MR. BURNS: Your Honor, here's the thing. With this
8 line of questioning, the analysis, if they're going to -- this
9 is going to be an issue, I think they've sort of opened the
10 door to this already that there was not a fingerprint
11 analysis. They're really inviting a response that their brief
12 is here in the courtroom, that it's been available to them,
13 that they could have conducted their own independent analysis
14 consistent with the U.S. Supreme Court's Griffin decision
15 [indiscernible] decision that there would not be a calling on
16 the defendant's failure to testify..

17 MS. HOJJAT: And it's not a failure to testify, Your
18 Honor. It's burden shifting. We have no obligation to
19 present evidence in the case. They have an obligation, it's
20 their burden beyond a reasonable doubt to present the
21 evidence.

22 THE COURT: But they don't have any requirement to
23 present certain kind of evidence. And apparently, you're
24 going to harp on this jury that there was some sort of
25 fingerprint there and they didn't lift it and identify it. Is

1 that right?

2 MS. HOJJAT: Your Honor, they don't have --

3 THE COURT: Sounds like it to me.

4 MS. HOJJAT: Your Honor, the distinction here is they
5 don't have a burden to present a certain type of evidence.
6 But we certainly have the ability and it goes to the burden to
7 say that they failed to meet their burden because they failed
8 to take certain steps. And that [indiscernible]

9 THE COURT: I think they can argue that they -- I
10 think they can get into the fact that the print wasn't -- I
11 don't know. I mean, she's testified it couldn't be lifted,
12 that that would always be inappropriate --

13 MS. HOJJAT: And that's fine --

14 THE COURT: -- but that it could have magnified. I
15 don't even know if she's even testified that it could have
16 actually been identified.

17 MS. HOJJAT: And that's fine. If they want to
18 recross on that, that's certainly appropriate. But to start
19 commenting that we have a burden to do any sort of
20 presentation of evidence or to analyze anything is burden
21 shifting and they can't do that.

22 THE COURT: I'm not going to let them do that. Don't
23 panic.

24 MR. BURNS: Well, I mean, if they're going to open
25 that door I think we're entitled to at least -- that it's

1 available. I have a wealth of persuasive jury experience on
2 this [indiscernible] defense talks about failure to conduct
3 particular types of forensic analysis, DNA, fingerprint in
4 particular, that they invite that [indiscernible] response and
5 it's a fair response. It's not [indiscernible] because they
6 don't need to open that door.

7 MS. BOTELHO: And there was a motion to dismiss for
8 failure to gather [indiscernible].

9 MS. HOJJAT: Your Honor, during the time that we did
10 the motion to dismiss, Your Honor said I'm not granting this
11 motion to dismiss, but you can argue it to the jury. I'm now
12 attempting to argue it to the jury and they're attempting to
13 [indiscernible]. I've opened the door to them saying that I
14 have a burden.

15 THE COURT: I also said many times I would happily
16 discharge this evidence to the defense so they can test it if
17 need be, like in every other case. And the defense declined
18 that offer.

19 MS. HOJJAT: Because it's our position that we don't
20 have the complication to present evidence to the jury. It's
21 their obligation. And in fact, at this point it's been --
22 Your Honor, case law's going to be presented. I'm going to
23 ask for a recess so that I can do research to present contrary
24 case law.

25 THE COURT: What are you actually asking me to do?

1 MR. BURNS: I'm just asking you to caution them if
2 they're going to go down this line of questioning they might
3 be opening the door to [indiscernible]. We reserve the right
4 to --

5 THE COURT: To an argument or questioning?

6 MR. BURNS: To [indiscernible] it out with argument.

7 MS. BOTELHO: We just don't want false impression
8 that we failed to [indiscernible] include case law
9 [indiscernible] to present [indiscernible].

10 THE COURT: The evidence is available to both sides.
11 Am I missing something?

12 MS. HOJJAT: The point is, Judge, our agreement is
13 the evidence is available to both sides, but only one side has
14 the burden of proving things beyond a reasonable doubt.

15 THE COURT: We all agree on that.

16 MS. HOJJAT: And for us to be banned from commenting
17 on [indiscernible] for the burden --

18 MR. BURNS: But they can't create this false idea
19 that it was only available to us. That's unfair --

20 MS. HOJJAT: We're not saying it was only available
21 to them, but we are saying it was available to them and they
22 chose not to [indiscernible].

23 THE COURT: Okay. I think [indiscernible] where the
24 State's going now. You're worried that the defense is
25 representing in front of the jury that the evidence was only

1 available to the State, that it was only available to you and
2 you were derelict in your duties in not doing this.

3 MR. BURNS: We were handcuffed from doing -- from
4 finding out --

5 THE COURT: I got it. Okay. I don't think you've
6 done that yet.

7 MS. HOJJAT: We will not say that we did not have
8 access to that. We will not imply that.

9 THE COURT: Okay. In every single case there's
10 always -- sometimes it's the only thing the defense can argue
11 that they -- I don't know if I've had a case where the defense
12 hasn't argued the State should have done something that they
13 didn't do. And then the State argues we don't have to do
14 every single test known to mankind.

15 MS. HOJJAT: We have no problem with them arguing --

16 THE COURT: I mean --

17 MR. BURNS: State of the law is not this as Ms.
18 Hojjat's describing it.

19 THE COURT: It is not.

20 MR. BURNS: Most courts find that with the defense
21 comments, makes this kind of [indiscernible] particular type
22 of testing being done, that invites a response from the State
23 as to whether or not they had an opportunity to do so.

24 THE COURT: The state of the record is, not only did
25 they have an opportunity to do so, I signed an order releasing

1 the evidence to them and allowing them to do it.

2 MS. BOTELHO: But the jury doesn't --

3 THE COURT: I know. Usually don't tell the jury
4 that. And also, in all fairness, I have never invited that.
5 I'll sign an order [indiscernible] chain of custody and the
6 defense stood up and said no, we don't want to do it. That
7 was really bizarre to me. But you have your own tactical
8 strategy. You know the case better than me. I mean, that's
9 me making that from afar. I don't know what your strategy is.
10 You know your case better than me so I assume you have a
11 logical reason for doing that. Usually, everybody wants to
12 test everything, but that's okay. I like that you didn't want
13 to test everything.

14 MS. HOJJAT: Sorry, Judge, just to clarify what I can
15 and cannot say and ask. We will, the defense will not be
16 making any sort of suggestion that we didn't have access
17 [indiscernible]. However, we believe that we are allowed to
18 argue they didn't test the knife. And the response they're
19 allowed to make at that point we don't have an obligation to
20 test every single thing. But I don't believe they're allowed
21 to say they should have tested it themselves. Because I do
22 believe at that point we enter the realm of burden shifting.

23 MR. BURNS: It's a double standard and they're not
24 entitled to affirmatively create this double standard in this
25 insinuation to the jury. That being, they're insinuating that

1 they didn't have the opportunity. The only answer to
2 determining those prints were there was the State testing.

3 THE COURT: There didn't appear to be an objection.
4 It sounds like the State is putting you on notice that they
5 intend to go down this road. You're on notice. Do whatever
6 you think you have to do to defend your client.

7 MS. HOJJAT: I'm asking the Court at this point for
8 guidance on what -- if we make the argument of they should
9 have tested the knife [indiscernible] access to the knife
10 [indiscernible] whether Your Honor is going to allow them to
11 then turn around and say well, they had access, they should
12 have tested it. I'm asking for guidance in terms of what Your
13 Honor's -- because I don't want to open that door if Your
14 Honor's going to allow that in. But that was a line of -- I
15 do believe that I'm entitled to point out --

16 THE COURT: In this case the record is very, very
17 clear that not only was it available to you, I repeatedly told
18 you that you had it and you had the all ability to test
19 [indiscernible] experts.

20 MS. HOJJAT: Your Honor, the record is clear on that.
21 However, it's our position that we don't have the burden to
22 test.

23 THE COURT: I'll be happy to give you a copy of what
24 was just presented to me by the State and you can review it.
25 I'll have someone copy it. I think the State's just telling

1 you what they intend to do.

2 MS. HOJJAT: Okay. Can I inquire at this point, can
3 we -- the door has not been opened, correct? They cannot turn
4 around and make that response at this point.

5 MR. BURNS: It was opened in opening statement, but
6 --

7 THE COURT: It was opened in opening statement. It
8 was opened like a year ago. His fingerprint wasn't tested. I
9 don't even --

10 MS. HOJJAT: -- turn around and say we had access to
11 the knife and we could have tested the knife. I do believe
12 it's improper burden shifting. I'm wondering if they're
13 planning [indiscernible], based on the questioning that we've
14 done at this point.

15 THE COURT: All right.

16 MS. HOJJAT: So I'll stop questioning at this point
17 if Your Honor will say that if we don't ask anymore questions
18 they're not allowed to make that argument.

19 THE COURT: I'm not going to make any [indiscernible]
20 right now, there's nothing pending in front of me.

21 MR. BURNS: Just make our choice, you know, what we
22 think is good for [indiscernible] --

23 THE COURT: Okay. And then the defense needs to do
24 what they think is appropriate. You've got, I mean, Mr.
25 Hillman has got like ten times the experience of all of us put

1 together. That was meant with all due respect.

2 MR. HILLMAN: Thank you.

3 MS. HOJJAT: Yes, Your Honor. What I'm trying to
4 inquire from the Court at this point, because I can stop this
5 line of questioning right now, if the door has not been opened
6 ---

7 THE COURT: I'm not going to tell you how to present
8 your case because clearly, you had a strategy in doing what
9 you did. When I told you you could test it and you didn't
10 test it, okay, you had a strategy. So I don't know what that
11 is and I'm not going to ask you what it is. But I'm not going
12 to interfere with the defense's strategy and the road you
13 chose to go down and the tactics you chose to defend your
14 client. You need to do what you think is right for your
15 client. I'll give you a copy of this.

16 MR. HILLMAN: I think Patrick just said that
17 [indiscernible] position.

18 THE COURT: His position is he wants to
19 [indiscernible] the door already. He thinks that you
20 [indiscernible] you've put an impression in front of the jury
21 panel that the State was the only one who had access and no
22 one had the ability to test this knife and you didn't have the
23 ability to do it and somehow they were derelict in their
24 duties.

25 MS. HOJJAT: I guess then we'd ask the Court for a

1 ruling on that issue now then so that I can determine how to
2 go forward with cross-examination.

3 THE COURT: What do you want me to rule on?

4 MS. HOJJAT: Whether or not Your Honor is going to
5 allow them to make that argument.

6 THE COURT: I don't know [indiscernible] going to
7 choose. They have a duty to suggest and to protect the
8 record. They've got to decide what they're going to do. So I
9 don't know. I'm not going to prevent them from doing
10 something they haven't even told me they're going to do yet.
11 So both of you continue to do what you think is best. I'll
12 give you a copy of this because it's been presented to me at
13 this point.

14 MS. HOJJAT: Thank you.

15 THE COURT: And we can go from there. I'll give this
16 back to you. I'll make two copies and give it back to you.
17 Thanks.

18 (End of bench conference.)

19 THE COURT: Okay, you may continue.

20 BY MS. HOJJAT:

21 Q I'm sorry, I lost my place. Give me one moment.

22 MS. HOJJAT: Court's indulgence, Your Honor.

23 BY MS. HOJJAT:

24 Q And just going back to your testimony on
25 redirect, you said that a wooden knife handle would be one of

1 the worst things to collect fingerprints off of.

2 A I'm sorry?

3 MR. BURNS: I'm sorry. I'm not sure if that reflects
4 her testimony.

5 THE COURT: Maybe you just ask her, I think she wants
6 to get back to the handle of the knife; is that fair?

7 MS. HOJJAT: Yes.

8 THE COURT: Okay.

9 BY MS. HOJJAT:

10 Q Let's go back to the knife handle.

11 A Okay.

12 Q You were asked I believe on redirect, whether
13 different substances have different levels of basically
14 absorbing fingerprints or having fingerprints left on them.

15 A Correct.

16 Q Correct. And you were asked specifically about
17 the knife handle at one point.

18 A Correct.

19 Q And you said that the knife handle would not
20 hold fingerprints very well.

21 A This particular type of composite material is,
22 in my experience, is not very good.

23 Q Okay. You said it was one of the worst.

24 A Yes.

25 Q Okay. What about carpet?

1 A Oh, no. I'm sorry, carpet is --

2 THE COURT: For what? For what?

3 A For fingerprints?

4 BY MS. HOJJAT:

5 Q For purposes of collecting fingerprints.

6 A For the most part, cloth is not a good surface
7 to collect a regular fingerprint.

8 Q Okay.

9 A Any kind of textured surface, cloth surface, for
10 collecting some cloth surfaces, for collecting, you know,
11 fingerprint that has a substance on it like blood or chocolate
12 or something like that, some very smooth tight-knit surfaces
13 can retain those. However, carpet, especially like this type
14 of carpet, is -- I've never heard of it actually ever being
15 done.

16 Q Okay. So fair to say carpet would be the worst?

17 A Yeah.

18 Q Fair to say cloth would be very bad as well.

19 A Cloth would be poor.

20 Q Cloth would be worse than say this knife handle?

21 A Depends on the cloth.

22 Q Okay.

23 A As far as like regular fingerprints, there --
24 without a substance on it, they're probably very similar.

25 Q Okay. Can't collect fingerprints off of human

1 skin, can you?

2 A Yes, you can.

3 Q You can?

4 A In certain conditions it has been done.

5 Q Okay. Would you call it a good surface for
6 collecting fingerprints off of?

7 A It's not that the surface is poor, but it does
8 tend to absorb it, if that makes sense. I mean, your skin is
9 -- it's actually a porous material and it tends to absorb it
10 and they -- and oftentimes it can -- we can -- well, in men
11 especially, if they have hairy arms, that inhibits it. In the
12 soft part of the arm they tend to absorb if it's not done
13 almost immediately. It has been done on corpses. It doesn't
14 happen often, but it has been done.

15 Q Okay. So you talked about absorption. Can
16 regular surfaces absorb fingerprints?

17 A Yes.

18 Q They can?

19 A Yes.

20 Q So over time fingerprints -- basically, if
21 there's a fingerprint here today, the more time passes the
22 less likely that fingerprint is still there?

23 A Depending on what, you know, depending on the
24 situation. Fingerprints can be -- are indefinite time
25 periods.

1 Q Uh-huh.

2 A But there are things that -- that -- that can
3 ruin them.

4 Q Okay.

5 A A fingerprint here today, somebody else -- they
6 would smear and -- and it would be gone.

7 Q Okay.

8 A So it can be easily removed. They're mainly
9 made up of moisture, sweat --

10 Q Uh-huh.

11 A -- and that dries.

12 Q Okay.

13 A And so they could, you know, fade that way.
14 There are different chemicals and -- and means in which to
15 enhance or develop different components of a fingerprint. Say
16 the oils or sweats, the amino acids. So there's different
17 chemicals that can be used to -- and possibly bring up
18 fingerprints that aren't visible other than your standard
19 black powder that you see on TV.

20 Q Okay. So going back to -- you mentioned
21 evaporation. You said that it's -- fingerprints are moisture.

22 A Yes.

23 Q And so over time they evaporate.

24 A Yes.

25 Q So, again, if I put my finger here and a

1 fingerprint is left, as time goes by this fingerprint is
2 slowly drying up.

3 A Yes.

4 Q It's slowly evaporating.

5 A Correct.

6 Q The more time passes, the less likely that
7 fingerprint is still going to be there.

8 A Less likely the moisture in the fingerprint is
9 going to still be there. However, if you've, you know,
10 touched your hair and have some oil on it --

11 Q Okay.

12 A -- the oil doesn't dry as quickly. Amino acids
13 in your sweat --

14 Q Uh-huh.

15 A -- might still be there. Salts in your sweat --

16 Q Uh-huh.

17 A -- might still be there.

18 Q Right.

19 A And so using chemical enhancement, those might
20 be able to bring out a fingerprint.

21 Q But it's less likely than if we were to test
22 right now, that spot today --

23 A Yeah. Right now I could take some powder and
24 probably bring it right up.

25 Q Okay.

1 A But later on that would become more and more
2 difficult.

3 Q So five months from now it would be more
4 difficult today?

5 A Yes.

6 Q And a year from now would be more difficult than
7 five months from now.

8 A Especially since we assume this place is cleaned
9 constantly.

10 Q Right.

11 A I mean there's no dust, not like my house.

12 MS. HOJJAT: I'll pass the witness, Your Honor.

13 THE COURT: Anything else from this witness?

14 MR. BURNS: No, Your Honor.

15 THE COURT: Thank you very much for your testimony
16 here today. You may step down and you're excused from your
17 subpoena. State can call their next witness.

18 MS. BOTEHO: Your Honor, the State calls Tracy
19 Brownlee.

20 TRACY BROWNLEE, STATE'S WITNESS, SWORN

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

23 THE WITNESS: Tracy Brownlee, T-r-a-c-y,
24 B-r-o-w-n-l-e-e.

25 THE CLERK: Thank you.

UNCERTIFIED ROUGH DRAFT

1 MS. BOTELHO: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. BOTELHO:

4 Q Ms. Brownlee, how are you employed?

5 A I am a senior crime scene analyst with the Las
6 Vegas Metropolitan Police Department.

7 Q And how long have you been so employed?

8 A About five and a half years.

9 Q Could you just please give the jury a brief
10 background information regarding your training, experience,
11 education that would make you qualified to be a senior crime
12 scene analyst with Metro?

13 A I graduated with a bachelor's in criminal
14 justice with forensic science at Eastern Washington
15 University. I was then employed with the Cowlitz County
16 Coroner's Office where I was a Deputy Coroner. From there I
17 was hired on with LVMPD where I went through their training
18 academy, field training and then all of the various classes,
19 crime scene classes, that are offered through the department.

20 Q Thank you. Is one of your duties as a crime
21 scene analyst to photograph pieces of evidence from certain
22 crime scenes?

23 A Yes, it is.

24 Q And does it also involve photographing subjects
25 that were either part of a crime scene or at least part of a

UNCERTIFIED ROUGH DRAFT

1 case?

2 A Yes.

3 Q Okay. And would documenting injuries and
4 evidence present on individuals include -- be included in your
5 job description as well?

6 A Yes.

7 Q As well as photographing evidence that may be
8 left on clothing and things like that?

9 A Yes.

10 Q Okay. At some point were you -- well,
11 apparently you were involved and employed with Metro on July
12 22nd, 2011 as a crime scene analyst; is that right?

13 A Yes.

14 Q And, Ms. Brownlee, did you respond to UMC at
15 approximately -- the University Medical Center at
16 approximately 8:19 p.m. regarding an investigation concerning
17 Bennett and Aneka Grimes?

18 A Yes, I did.

19 Q Okay. And when you arrived at UMC, did you make
20 contact with Aneka Grimes and photograph her injuries?

21 A Yes, I did.

22 MS. BOTELHO: Permission to approach, Your Honor.
23 Some of these have already been admitted as State's exhibits,
24 however, some have not. I would like to just approach the
25 witness with State's Exhibits 39 through 58.

1 THE COURT: You may.

2 MS. BOTELHO: Thank you.

3 BY MS. BOTELHO:

4 Q Ms. Brownlee, can you just please take a look at
5 these exhibits and look up at me when you're finished.

6 A Okay.

7 Q Thank you. Do you recognize these photographs?

8 A Yes, I do.

9 Q Are these the photographs of Aneka Grimes and
10 her injuries that were present on her body on July 22nd, 2011
11 when you made contact with her at the University Medical
12 Center?

13 A Yes.

14 Q Jury's already seen some of this, they'll have
15 it later so we're not going to go through those.

16 MS. BOTELHO: Permission to approach with what's
17 already been admitted as State's Exhibits 70 through 73 and
18 74, which has not been admitted.

19 THE COURT: You may.

20 MS. BOTELHO: Thank you.

21 THE CLERK: I don't show 72 either.

22 THE COURT: 72 or 74 have not been admitted.

23 MS. BOTELHO: 72 and 74?

24 MR. HILLMAN: Correct.

25 MS. BOTELHO: Okay. Well, I'm sorry, Your Honor.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: That's okay.

2 MS. BOTELHO: I don't have 72 with me. The State's
3 withdrawing 72.

4 THE COURT: Okay. So 70, 71, 73 and 74?

5 MS. BOTELHO: Correct. Thank you.

6 BY MS. BOTELHO:

7 Q Ms. Brownlee, could you please take a look at
8 these exhibits? Look up at me when you're done.

9 A Okay.

10 Q Thank you. Do you recognize these photographs?

11 A Yes, I do.

12 Q Do you recognize them to be photos of a subject
13 known to you at that time as Bennett Grimes?

14 A Yes.

15 Q Okay. Do the photographs fairly and accurately
16 depict Mr. Grimes and the injuries -- or the injury that you
17 photographed on his body on July 22nd, 2011 at the University
18 Medical Center?

19 A Yes, they do.

20 MS. BOTELHO: Your Honor, permission to admit State's
21 Exhibit 72.

22 MR. HILLMAN: No objection.

23 THE COURT: You just withdrew 72.

24 MS. BOTELHO: I'm sorry, 74.

25 MR. HILLMAN: No objection.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Any objection to 74?

2 MR. HILLMAN: No objection.

3 THE COURT: It's admitted.

4 (State's Exhibit 74 admitted.)

5 MS. BOTELHO: Thank you.

6 BY MS. BOTELHO:

7 Q Pursuant to this investigation concerning Aneka
8 and Bennett Grimes, Ms. Brownlee, did you also photograph
9 items of clothing from both Bennett Grimes and Aneka Grimes?

10 A Yes, I did.

11 Q Thank you.

12 MS. BOTELHO: Permission to approach with what has
13 not been admitted into evidence yet, Your Honor, State's
14 Exhibit's 59, 60, 61 and 62.

15 BY MS. BOTELHO:

16 Q Ms. Brownlee, do you recognize these
17 photographs?

18 A Yes, I do.

19 Q What do you recognize them to be?

20 A Clothing that I had taken from Bennett Grimes.

21 Q Does this fairly and accurately show the
22 condition and also the state of Mr. Grimes' clothing when you
23 photographed them on July 22nd, 2011?

24 A Yes.

25 MS. BOTELHO: Permission --- or excuse me, Your Honor.

UNCERTIFIED ROUGH DRAFT

1 I move to admit State's Exhibit's 59 through 62.

2 MR. HILLMAN: No objection.

3 THE COURT: They're admitted.

4 (State's Exhibit 59-62 admitted.)

5 MS. BOTELHO: Thank you. Permission to publish?

6 THE COURT: You may.

7 BY MS. BOTELHO:

8 Q State's Exhibit number 59. Ms. Brownlee, what
9 is this?

10 A It's a pair of pants.

11 Q Okay. And were these the pair of pants you had
12 taken from Mr. Bennett Grimes?

13 A Yes, they are.

14 Q And I note that you have some rulers kind of
15 throughout. What is the purpose of having these rulers?

16 A For documentation purposes if anybody needs to
17 do further -- further analysis on the pants.

18 Q Okay. And, of course, the photograph is pretty
19 apparent there's blood -- apparent blood on this particular
20 piece of clothing; is that right?

21 A Yes.

22 Q And you photographed that. State's Exhibit
23 Number 60. Is this just the back portion of the same pair of
24 pants?

25 A Yes, it is.

1 Q Also to document any and all types of evidence
2 that may be on this particular piece of clothing?

3 A Yes.

4 Q State's Exhibit 61, what is this?

5 A That is a shirt that was taken from Bennett
6 Grimes.

7 Q And that was on July 22nd, 2011?

8 A Yes, it was.

9 Q Okay. State's Exhibit 62. Is this the same
10 shirt taken from Bennett Grimes but the backside?

11 A Yes, it is

12 Q And it fairly shows the -- the condition of his
13 shirt at that time?

14 A Yes.

15 MS. BOTELHO: Permission to approach with what has
16 not been admitted yet, Your Honor, State's Exhibits 63 through
17 69.

18 THE COURT: You may.

19 MS. BOTELHO: Thank you.

20 BY MS. BOTELHO:

21 Q Ms. Brownlee, could you please take a look at
22 these exhibits and look up at me when you're done?

23 A Okay.

24 Q Thank you. Do you recognize what's shown in
25 these photos?

1 A Yes, I do.

2 Q What do you recognize them to be?

3 A Those are the clothing I took from Aneka Grimes
4 patient belonging bags at UMC.

5 Q Okay. Do they fairly and accurately show the
6 condition of the clothing you took from Aneka on that
7 particular night?

8 A Yes, they do.

9 MS. BOTELHO: Permission to admit State's Exhibits 63
10 to 69, Your Honor.

11 MR. HILLMAN: No objection.

12 THE COURT: Admitted.

13 (State's Exhibit 63-69 admitted.)

14 MS. BOTELHO: Permission to publish?

15 THE COURT: You may.

16 MS. BOTELHO: Thank you.

17 BY MS. BOTELHO:

18 Q State's Exhibit Number 63. Ms. Brownlee, what
19 is this a picture of?

20 A Is the jumper and underwear of Aneka Grimes.

21 Q When you received this particular item of
22 clothing, do you see the -- it looks as though it was cut
23 right here?

24 A Yes.

25 Q Was it in that condition when you received it?

UNCERTIFIED ROUGH DRAFT

1 A Yes.

2 Q Is that common --

3 A Yes, it is.

4 Q -- okay. And why is that?

5 A It's medical intervention.

6 Q Thank you. State's Exhibit Number 64. Is this

7 the backside of that same shirt that was taken from Aneka

8 Grimes that night?

9 A Yes, it is.

10 Q State's Exhibit Number 65, oops. Okay. Is this

11 the same shirt that we've been talking about?

12 A Yes, it is.

13 Q Now, I notice that there are three, it looks

14 like sticky notes with -- pink sticky notes with arrows on

15 them. What does that signify?

16 A Yes. Those are any defects I find in the

17 clothing.

18 Q And what do you mean by defects?

19 A Any -- basically when there's medical

20 intervention and then there's other items that can happen to

21 clothing that is not natural, it doesn't come with the

22 clothing, it's not medical intervention. So that's basically

23 what I'm documenting are defects that should not have been in

24 the clothing.

25 Q Defects like holes or things like that?

UNCERTIFIED ROUGH DRAFT

1 A Yes, uh-huh.

2 Q Okay. I'll get a better picture. Some of these
3 defects were kind of located in areas where there were blood;
4 is that right?

5 A Yes.

6 Q And did you actually have to, you know, really,
7 really inspect the item to find that defect?

8 A Yes. For all -- any sort of clothing you kind
9 of feel around, use your hands, eyes, to locate.

10 Q Okay. And these were the areas that you found
11 the defects?

12 A Yes, there were.

13 Q State's Exhibit Number 66. Is this the right
14 sleeve or shoulder area of that same shirt?

15 A Yes, it is.

16 Q And you noted a defect right there as well?

17 A Yes.

18 Q Thank you. But it's kind of a bloody area?

19 A Yes.

20 Q State's Exhibit Number 67. Is this a photograph
21 of that same sleeve area?

22 A Yes, it's just a close-up.

23 Q Okay. I'm going to kind of zoom in because we
24 noted earlier there was a bloody area right here. But can you
25 see the defect that you were pointing to in this particular

UNCERTIFIED ROUGH DRAFT

1 exhibit?

2 A Yes, I can.

3 Q Okay. State's Exhibit Number 68. These
4 close-ups of I believe the same ones that were pointed out in
5 State's Exhibit Number 65; is that right?

6 A Yes, it is.

7 Q So you have the two stickies here and then you
8 have the two corresponding sticky notes there; is that right?

9 A Yes.

10 Q And upon zooming in, are you able to see the
11 defects now on the screen?

12 A Yes.

13 Q Thank you. And in case I didn't point it out
14 for the record, that was State's Exhibit 68.

15 Ms. Brownlee, did you also take any sort of swabs on
16 that particular night?

17 A Yes, I did.

18 Q And were the swabs for apparent blood?

19 A Yes, they were.

20 Q And where were the swabs taken from?

21 A From the hands and foot of Bennett Grimes.

22 Q Okay. And is it fair to say there were three --
23 or excuse me, six different swabs taken total?

24 A Yes, two from each area.

25 Q Okay. One area being the right hand of Bennett

UNCERTIFIED ROUGH DRAFT

1 Grimes?

2 A Yes.

3 Q Another area being the left hand of Bennett

4 Grimes?

5 A Yes.

6 Q And the third area being the left foot of

7 Bennett Grimes?

8 A Yes.

9 Q Thank you.

10 MS. BOTELHO: Court's indulgence. I have no further
11 questions, Your Honor.

12 THE COURT: Any cross-examination?

13 MR. HILLMAN: No questions, Judge.

14 THE COURT: Thank you very much for your testimony
15 here today. You may step down, you're excused from your
16 subpoena.

17 THE WITNESS: Thank you.

18 THE COURT: You may call your next witness.

19 MS. BOTELHO: Your Honor, the State recalls Detective
20 Michelle Tavaréz.

21 MICHELLE TAVAREZ, STATE'S WITNESS, SWORN

22 THE CLERK: Please be seated. And state your name
23 and spell it for the record.

24 THE WITNESS: My name is Michelle Tavaréz,

25 M-i-c-h-e-l-l-e, T-a-v-a-r-e-z.

1 MS. BOTELHO: May I, Your Honor?

2 THE COURT: You may.

3 DIRECT EXAMINATION

4 BY MS. BOTELHO:

5 Q Officer Tavaréz, you testified yesterday as
6 right -- is that right?

7 A Yes, ma'am.

8 Q Okay. And you're just being recalled by the
9 State right now. All right. Officer Tavaréz, do you recall
10 when you responded to 9325 West Desert Inn, Apartment Number
11 173, seeing a blue bag located between a couch and also the
12 bar area of that apartment?

13 A That day I don't specifically remember the bag
14 being there, but it's in the photos and I recall it from the
15 pictures that I've seen since the case has happened.

16 Q Okay. So that -- looking at the photos
17 refreshed your memory --

18 A Yes, ma'am.

19 Q -- is that right? Okay. I'm going to show you,
20 with the Court's permission, State's Exhibit Number 26,

21 MS. BOTELHO: It's already admitted according to my
22 records, Your Honor. May I publish?

23 THE COURT: You may.

24 MS. BOTELHO: Thank you.

25 BY MS. BOTELHO:

1 Q Is that the cooler right there or the blue bag
2 that had -- that you now remember?

3 A Yes, ma'am.

4 Q Okay. When -- your testimony yesterday was that
5 you also came into this apartment through the balcony; is that
6 right?

7 A Correct.

8 Q And you stated that at least that particular
9 day, July 22nd, 2011, you don't remember that particular blue
10 bag?

11 A That's correct.

12 Q So you don't remember you making contact with
13 it, kicking it, moving this particular bag?

14 A Correct. I would remember if I had moved the
15 bag.

16 Q Okay. And you don't remember where it was at
17 that time and whether you made any kind of contact with it?

18 A That's correct. I -- I know I would remember if
19 I specifically made contact with the bag.

20 Q Okay. When you entered the apartment, though,
21 and your testimony yesterday was that the defendant and
22 Officers Gallup and Hoffman were kind of towards the front of
23 this door.

24 A Yes, ma'am.

25 Q Do you remember whether or not there was a

1 cooler in that area?

2 A There was no cooler or anything near the
3 officers or the defendant when I came in. After I had come in
4 I know that if I had seen them move it, I would have
5 remembered them moving it or trying to get it out of their
6 way.

7 Q And by the time you came into the particular
8 scene, what you recalled seeing was Officers Gallup and also
9 Hoffman having the defendant down on the ground; is that
10 right?

11 A Yes, ma'am. Upon initial entry they were all
12 kind of leaned up against the door. As I was in there, they
13 then kind of moved and worked their way towards the ground and
14 they were on top of the defendant.

15 Q Okay. So it's still a very fluid scene?

16 A Yes.

17 Q And they were still trying to apprehend the --
18 or actually take him into custody?

19 A Yes, ma'am.

20 Q Thank you. Now after the defendant's taken into
21 custody, you've already checked on Aneka who is now in the
22 care of her mother, as you testified earlier, yesterday, what
23 is it that happens to a scene like this, Officer, once you've
24 completely cleared it?

25 A Because it was so volatile and unfolding in

1 front of our eyes, we knew that the crime that had occurred
2 was going to be, you know, a bigger crime, it's not your
3 simple battery. So with a scene like this, we want to make
4 sure that we don't allow anybody back in it. Anybody that --
5 the only people that are allowed in it are those that have to
6 be in it, which would be ID techs from Metro, officers if they
7 have to come in and paramedics in this case.

8 Q Okay. You mentioned ID techs.

9 A Correct.

10 Q Are those crime scene analysts?

11 A Yes, ma'am. We -- sometimes we'll refer to them
12 as ID, their -- their actual name is crime scene analyst.

13 Q Okay. So let me back up. The defendant,
14 Bennett Grimes, was taken out into the parking lot area; is
15 that right?

16 A That's correct.

17 Q He was secured there?

18 A That's correct.

19 Q To the best of your recollection, Aneka was left
20 in the care of her mother?

21 A Yes, ma'am.

22 Q At some point did paramedics arrive? The
23 paramedics that you and other officers had called.

24 A Yes, ma'am. I went back into the apartment and
25 I stayed with the victim and her mother until paramedics got

UNCERTIFIED ROUGH DRAFT

1 there. So it was only the three of us in the apartment until
2 paramedics showed back up. Then they came in and took Aneka
3 out and then I escorted her mother out of the apartment
4 myself.

5 Q And when paramedics came in, did they come in
6 through the front door or any other doors?

7 A They came in through the front door.

8 Q Okay. Because the only other door is the
9 balcony door; is that right?

10 A Correct.

11 Q Okay. Were there firefighters as well that came
12 in or that may have assisted?

13 A Typically -- typically, they both respond. And
14 I'm not sure -- I don't remember who responded to the scene
15 first, but usually firefighters and paramedics come both at
16 the same time.

17 Q And usually, are firefighters also coming in
18 through the front entrance the same way that paramedics would?

19 A Yes, ma'am.

20 Q Okay. With regard to -- let me show you State's
21 Exhibit 27.

22 MS. BOTELHO: And I believe this is already admitted.
23 May I inquire of your clerk, Your Honor?

24 THE CLERK: Twenty-seven, yes.

25 MS. BOTELHO: Okay. May I publish?

1 THE COURT: You may.

2 MS. BOTELHO: Thank you.

3 BY MS. BOTELHO:

4 Q In this particular photo, Detective, I'm sorry I
5 called you Officer earlier.

6 A That's okay.

7 Q You see how there's a hairpiece here and there's
8 also a knife there?

9 A Yes, ma'am.

10 Q Do you recall those items being there?

11 A Yes, ma'am.

12 Q As a patrol officer for I believe you said six
13 years and now as a Detective, how -- what are -- are you
14 allowed to touch items of evidence --

15 A We are not --

16 Q -- left at the scene?

17 A -- no, ma'am. We are not supposed to touch any
18 items of -- of evidence unless it's an officer safety issue
19 where we have to secure it. For example, a loose firearm that
20 we can't put somebody next to stand by. If we have a body to
21 stand next to the firearm, we'll -- we'll post an officer
22 there rather than pick the firearm up. But we obviously can't
23 just leave a firearm unattended.

24 Q Okay. Now in this particular instance you just
25 told the jury that the defendant was taken out, you stayed

UNCERTIFIED ROUGH DRAFT

1 with Aneka and her mother, paramedics came, they took her out.
2 Was the apartment then sealed awaiting a crime scene analyst?

3 A Yeah. We don't actually put a seal on it --

4 Q Uh-huh.

5 A -- but the door was closed and then I sat with
6 my sergeant and Aneka's mother on the stairs, which you can't
7 see in this, but the stairs that lead up to the neighbor's
8 apartments. We sat right there until the crime scene analyst
9 arrived.

10 Q So to the best of your knowledge and to -- to
11 the degree that you can be certain, no one else entered the
12 apartment after Aneka and her mother and paramedics and
13 yourself left the apartment?

14 A That's correct.

15 Q Okay. And --

16 MS. BOTELHO: Court's indulgence. I have no further
17 questions, Your Honor.

18 THE COURT: Cross-examination?

19 MR. HILLMAN: Few questions, Judge. Thank you.

20 CROSS-EXAMINATION

21 BY MR. HILLMAN:

22 Q Good morning.

23 A Good morning, sir.

24 Q I believe it was your testimony that you didn't
25 remember the blue bag until you saw the photos later on; is

1 that correct?

2 A That is correct.

3 Q So you don't remember stepping over it when you
4 ran into the apartment?

5 A That's correct.

6 Q And actually, when you came into the apartment
7 there was a struggle over by that front door; is that correct?

8 A That is correct.

9 Q And it involved Mr. and Mrs. Grimes; is that
10 correct?

11 A No, that's not correct, sir. By the time I
12 entered the apartment the victim was already on the floor with
13 her mother.

14 Q Okay.

15 A So, no, it was the officers and Mr. Grimes.

16 Q So if there was any struggle between Mr. and
17 Mrs. Grimes, that had ended before you entered the apartment?

18 A Correct.

19 Q Okay. I'm sorry, I didn't mean to
20 mischaracterize your testimony.

21 A That's okay.

22 Q Mr. and Mrs. Grimes were there, Mrs. Newman was
23 there; is that correct?

24 A Yes, sir.

25 Q And the two officers were also in there; is that

1 correct?

2 A Yes, sir.

3 Q And they were all pretty much in that entry
4 area?

5 A Yes, sir.

6 Q Now, when the paramedics arrived, was Aneka
7 Grimes still in the apartment?

8 A Yes, sir.

9 Q And did the paramedics bring a gurney in, do you
10 recall?

11 A I don't recall if they did, but I don't think
12 they would have been able to get the gurney through the door.
13 They typically, at apartment complexes, will leave the gurney
14 outside the door.

15 Q Okay. And carry the patient out?

16 A Typically, yes, because the gurney is so bulky
17 and -- and we were right next to that front door. She was
18 laying across the door having to block it.

19 Q Okay. And they were probably in a hurry to get
20 her treatment.

21 A Yes, sir.

22 Q And it's also your testimony that the knife was
23 not touched; is that correct?

24 A That's correct, sir.

25 Q And none of the men touched the knife --

UNCERTIFIED ROUGH DRAFT

1 A To my --

2 Q -- the male officers?

3 A -- to my recollection I do not recall an officer
4 touching the knife.

5 Q Okay. My last question is, if you remember, do
6 you remember how long you waited for the crime scene analyst
7 to show up?

8 A I don't know how long it took, sir, I'm sorry.

9 Q Okay.

10 MR. HILLMAN: Thank you, Judge. No further
11 questions.

12 THE COURT: Any redirect?

13 MS. BOTELHO: No, Your Honor. Thank you very much.

14 THE COURT: Detective, thank you very much for your
15 testimony and coming back today. You may step down, you are
16 excused.

17 THE WITNESS: Thank you.

18 THE COURT: You can call your next witness.

19 MR. BURNS: Your Honor, the State calls Julie
20 Marschner.

21 JULIE MARSCHNER, STATE'S WITNESS, SWORN

22 THE CLERK: Please be seated and state your name and
23 spell it for the record.

24 THE WITNESS: My name is Julie Marschner. First name
25 J-u-l-i-e, last name M-a-r-s-c-h-n-e-r.

UNCERTIFIED ROUGH DRAFT

1 MR. BURNS: Your Honor, may I proceed?

2 THE COURT: You may.

3 DIRECT EXAMINATION

4 BY MR. BURNS:

5 Q Good afternoon, Ms. Marschner.

6 A Hi.

7 Q How are you currently employed?

8 A I'm a forensic scientist with the Las Vegas
9 Metropolitan Police Department Forensic Laboratory and I'm
10 assigned to the biology and DNA detail.

11 Q How long have you been doing that?

12 A Over seven years.

13 Q Okay. And have you always been in the
14 biological DNA unit?

15 A Yes.

16 Q Okay. And what kind of formal training do you
17 have regarding DNA analysis?

18 A I have a bachelor's degree in biological
19 sciences from Cal Poly in San Luis Obispo, California. And a
20 master's degree in forensic science from Virginia Commonwealth
21 University in Richmond, Virginia.

22 During my graduate program, all of my laboratory
23 training, including an internship, was done at the Virginia
24 Department of Forensic Science, which is a state crime lab in
25 Richmond, Virginia. After finishing graduate school I was

UNCERTIFIED ROUGH DRAFT

1 hired on with Metro's forensic lab where I underwent over six
2 months of additional training where I observed other analysts'
3 work cases, worked practice cases of my own before being
4 signed off to work cases on my own.

5 Q And have you tested forensic evidence in a
6 variety of different cases?

7 A Yes, I have.

8 Q Okay. And in a variety of different types of
9 objects?

10 A Yes.

11 Q Okay. Now, are you familiar with -- have you
12 testified in the Eighth Judicial District Court as a DNA
13 expert before?

14 A Yes, I have.

15 Q Okay. About how many times have you done that?

16 A Over 40 times.

17 Q Can you give us a brief description of what DNA
18 is and how it's tested?

19 A DNA, it's an acronym. It stands for
20 deoxyribonucleic acid and it's the genetic material that's
21 found in the cells of all living organisms. Now in humans,
22 our DNA is organized into chromosomes and most of our cells
23 have 46 chromosomes or 23 pairs, because we inherit half from
24 our mom and half from our dad. And it's the unique
25 combination of these two that make us different from one

1 another. Now between everyone in this room, over 99 percent
2 of our DNA is the same because we all need the same basic
3 genetic information to give us eyes to see, ears to hear, 10
4 fingers, 10 toes. It's less than .1 percent that we look at in
5 forensic DNA analysis to be able to tell two individuals from
6 one another. And the only time we can't do that is when
7 they're identical siblings because identical siblings have
8 identical DNA.

9 Q Now is -- DNA is sometimes deposited in -- on
10 surfaces?

11 A Yes.

12 Q Okay. And -- in -- in your work, your job is to
13 analyze that, to take DNA that's been found somewhere and to
14 analyze it?

15 A Yes. I examine evidence that's been collected
16 from crime scenes and attempt to generate -- or attempt to
17 locate areas that might have DNA. It could be something
18 obvious, like a bloodstain or a knife -- on a knife or maybe a
19 semen stain on a bed sheet. But it could also be where
20 someone maybe just handled an item in their hand. And so I'm
21 going to be looking for areas on the object that may have skin
22 cells that transferred from the person's hand. And so I'm
23 just going to take a swabbing of that area. And so then I can
24 generate a DNA profile from that and compare it to a DNA
25 profile from a known individual to see if they match up or

1 not.

2 Q Ms. Marschner, are some sources of DNA from the
3 body better for analysis than others?

4 A Yes. Blood, semen, saliva, any type of body
5 fluid is going to be a good source of DNA. It's when you're
6 talking about touch DNA and you're just looking for a few
7 cells that have come off of the person's hand is when
8 sometimes you aren't going to be able to generate a DNA
9 profile.

10 Q And what happens when DNA from blood and DNA
11 from touch intermix?

12 A So when you have touch DNA mixed with a body
13 fluid that is a good source of DNA, oftentimes you're only
14 going to detect that body fluid DNA because there's going to
15 be so much more of it when it's mixed in with the touch DNA
16 that you aren't going to be able to detect the touch DNA.

17 Q And Ms. Marschner, can the surface of an object
18 touched affect its -- its -- how it's constituted, texture and
19 everything, can that affect whether or not DNA is deposited?

20 A Yes. The rougher a surface is the more likely
21 there's going to be friction that's going to remove more cells
22 from the skin. And so you're probably going to have more
23 cells deposited on there than a smooth object that could
24 easily be wiped off or maybe not create any friction with the
25 skin.

1 Q Ms. Marschner, within the LVMPD forensic
2 laboratory, are there different -- you're in the biological
3 DNA unit. There are other units that perform different types
4 of analysis, correct?

5 A Yes. There's latent prints, firearms,
6 toxicology and controlled substances.

7 Q And among the range of different analytical
8 techniques, is DNA one of the more precise?

9 A We -- we're able to apply statistics to ours
10 whereas other details maybe are only doing a visual
11 comparison.

12 Q Okay. And a visual comparison, what are some of
13 those disciplines?

14 A That would be latent prints and firearms.

15 Q Now, I want to draw your attention to a specific
16 case, Ms. Marschner. Were you asked to conduct a DNA analysis
17 in the case of State of Nevada versus Bennett Grimes?

18 A Yes.

19 Q And do you recall who requested you to conduct
20 that analysis?

21 A I received a request from Detective Brewer.

22 Q Okay. And did you -- after you got that
23 request, did you receive some packages of evidence?

24 A Yes. Based on the items that are requested on
25 the request, I call up those items of evidence from our

1 evidence vault and then they're transferred over to the
2 forensic lab for me to examine.

3 Q And when you get -- and how many packages did
4 you receive in this case?

5 A There was a total of eight packages.

6 Q And on each package are they sealed?

7 A Yes, with evidence tape.

8 Q And is there a person's -- is -- is there some
9 way of identifying the person who sealed it?

10 A Yes. Whenever you seal a package or -- or you
11 make a package, you have to sign with your signature, initials
12 and your personnel number.

13 Q And did you -- I'm going to ask you about
14 something, this concept, what is a buccal swab?

15 A A buccal swab is what we use as a known source
16 of DNA from someone. It's just like a cotton tip swab that
17 the officer is going to swab on the inside of someone's cheek
18 and it's just a less invasive way of getting a known DNA
19 sample then having to do a blood draw.

20 Q Ms. Marschner, why -- why do they do the buccal
21 swab?

22 A It's just so that we can get a reference DNA
23 profile from a known individual to be -- be able to compare
24 that DNA profile to items of evidence.

25 Q And in this case did you receive any buccal

1 swabs?

2 A Yes. I had buccal swabs from Bennett Grimes and
3 Aneka Grimes.

4 Q And when you get those buccal swabs, do you do
5 what's called develop a -- do you develop a profile for them?

6 A Yes.

7 Q Okay. And what's -- just in general terms,
8 what's a profile?

9 A So a DNA profile, it's 15 basically pairs of
10 numbers and it's a pair of numbers because half of them are
11 inherited from the mother and half are inherited from the
12 father. And there's 15 because we're looking at 15 different
13 locations in that part of the DNA where we're able to
14 distinguish one person from another.

15 Q And in this case, did you -- after you developed
16 the profiles from the buccal swabs, did you develop profiles
17 from the evidence in these, the remaining six packages?

18 A Yes.

19 Q Okay. And I'll ask you about those
20 specifically. But as part of your analysis, are you able to
21 determine whether or not blood is present?

22 A Yes. We can do a chemical testing to determine
23 if blood is present on an item.

24 Q Okay. Now, did you have a -- did you receive a
25 package that was sealed -- that was impounded under number

1 5223-2?

2 A Yes.

3 Q And what was in that -- and did you put your own
4 label on that package?

5 A Yes. So whenever I receive a package, I
6 designate it with my initials and then the number -- a number
7 and that number is the number in order of the packages that I
8 look at. So this was the first package that I looked at, so I
9 called it JM-1. JM being my initials and one being the first
10 package that I looked at for this case.

11 MR. BURNS: Your Honor, may I approach the witness?

12 THE COURT: You may.

13 BY MR. BURNS:

14 Q Ms. Marschner, I'm going to show you what's been
15 admitted as State's Exhibit 77.

16 A Okay.

17 Q Do you recognize -- if you want to look through
18 that and tell me if you recognize what it is?

19 A Yes. These are pictures of a pair of shoes and
20 a pair of socks that were in that first package I looked at.

21 Q And the other pages?

22 A These are other items that I looked at for this
23 case.

24 Q Okay. And is that -- I see that there's some
25 writing and numbers, some labeling and some arrows --

1 A Yes.

2 Q -- were you responsible for making that?

3 A Yes. These are copies of pictures or pages that
4 I have in my case file to document the items that I looked at
5 and I provided them to you.

6 Q Okay. Thank you.

7 MR. BURNS: Your Honor, permission to publish State's
8 77?

9 THE COURT: You may.

10 BY MR. BURNS:

11 Q Now, Ms. Marschner, let's talk about that first
12 package. The item JM1-A, which one is that?

13 A That's the pair of shoes that are pictured in
14 the top picture.

15 Q Okay. And when you -- when you have something
16 you search for blood first?

17 A Yes.

18 Q And do you do that because it's a rich source of
19 DNA?

20 A Yes.

21 Q And when you see some blood, what do you do with
22 it?

23 A So first, I'm going to test the stain for the
24 possible presence of blood doing a chemical test. And then if
25 that's positive, then I'll swab the stain and take that swab

UNCERTIFIED ROUGH DRAFT

1 on for further DNA analysis.

2 Q Ms. Marschner, on JMI-A, this pair of shoes,
3 they appear to be tennis shoes. Did you locate some blood on
4 there?

5 A Yes. I located a stain that was on the back
6 right heel of one of the shoes.

7 Q And this green arrow, does that point directly
8 to where you located the stain?

9 A Yes.

10 Q Okay. So you swabbed that -- did you develop a
11 DNA profile from that blood there?

12 A Yes, I did.

13 Q And what was -- what was your result?

14 A The DNA profile was consistent with the DNA
15 profile of Bennett Grimes.

16 Q So let me just write -- and to what degree of
17 certainty were you certain that that was his -- his DNA?

18 A For this particular sample -- so when I'm making
19 a comparison between a known DNA profile on a known piece of
20 evidence, I can sometimes calculate a statistic as to how
21 strong that match is. Now, for items where I detected the own
22 person's blood on their own item of clothing, I didn't
23 calculate a statistic, so I didn't do that for this particular
24 sample.

25 Q Okay. So let's go to what's been marked on your

1 report as JM1-B. Now, did you -- did you locate some blood on
2 that object?

3 A Yes. I located a stain on the front shin area
4 of one of the tubes of the athletic socks.

5 Q And then you did a comparative analysis to the
6 buccal swabs?

7 A Yes.

8 Q And what was your result?

9 A The DNA profile again was consistent with
10 Bennett Grimes.

11 Q So this blood on the sock consistent with
12 Bennett Grimes?

13 A Yes.

14 Q Did you also receive a laboratory package
15 labeled -- an impound package labeled 5223-3?

16 A Yes.

17 Q And what was in that package?

18 A This was a kitchen knife that had a black
19 handle.

20 Q Did you locate some blood on the knife?

21 A Yes. In the bottom picture you can see an arrow
22 pointing to -- close to the tip of the blade on the left side
23 of the knife that I identified a bloodstain.

24 Q Did you leave some marks there --

25 A Yes, I --

1 Q -- with a pen?

2 A -- I circled the stain on the knife and then
3 after I got a positive test for blood I swabbed that stain.

4 Q Okay. You swabbed that stain. With the
5 exception of that area, that stain that you swabbed, did you
6 swab any other areas of the blade?

7 A Not on the blade, no.

8 Q Okay. So you didn't apply any kind of -- any
9 kind of physical force or substance to the rest of the blade?

10 A No, only the area that's circled there.

11 Q Okay. Just this small bloodstain?

12 A Yes.

13 Q Okay. And did you develop a DNA profile from
14 that blood?

15 A Yes, I did.

16 Q And what was your result?

17 A The DNA profile was consistent with Aneka Grimes
18 and I did calculate a statistic for this matching of the stain
19 and Aneka Grimes. The estimated frequency of that DNA profile
20 on the blade of the knife is rarer than one in 700 and
21 billion. And the number is actually much larger than that,
22 but at our laboratory we cut it off at that number. And the
23 way we came up with that number is that the world's population
24 is approximately seven billion, so we took 100 times the
25 world's population. So I'm saying that I would only expect to

1 see that DNA profile from one -- one person in hundred times
2 the world's population, assuming that they don't have an
3 identical sibling.

4 Q Okay. So I can safely write the initials Aneka
5 Grimes here?

6 A Yes.

7 Q Now, you -- did you -- did you end up swabbing
8 any other area of this knife?

9 A Yes. I also swabbed the handle of the knife.

10 Q And were you able to develop a profile -- well,
11 first of all, let me ask you. Did you locate any blood on the
12 knife?

13 A There was staining on the handle of the knife.
14 And so when I swabbed the handle where I'm trying to figure
15 out who may have been holding the knife, I was trying to avoid
16 those obvious stains. However, after swabbing the handle, I
17 tested the swab itself and it was positive for blood. So even
18 though I tried to avoid blood, obviously, I picked up some on
19 that swab. So the DNA profile that I got was a mixture and
20 the major DNA profile was consistent with Aneka Grimes. And I
21 calculated a statistic again, the estimated frequency of that
22 major DNA profile, again, is rarer than one in 700 billion.

23 Q And when you say a mixture, what else does that
24 mean?

25 A It means that there's DNA from more than one

1 individual. So on something like a bloodstain where you're
2 only getting DNA from one person, you're only going to see a
3 -- a pair of numbers at the 15 different locations. When you
4 have a mixture you're going to see more than two numbers
5 because there's more numbers being attributed by additional
6 contributors. So in that mixture I can tell that most of the
7 DNA is from Aneka Grimes, but there's also minor contributors
8 present in that sample.

9 Q But as to those minor contributors, were you
10 able to exclude the defendant as being one of the minor
11 contributors?

12 A Yes, I was.

13 Q Okay. So you know that that's not -- he's not
14 one of the contributors to that mix?

15 A He was excluded, yes.

16 Q Now, is it based on your training and
17 experience, is it possible to touch something and leave no
18 DNA?

19 A You could leave DNA, but it might not be enough
20 for us to be able to detect it with the type of analysis that
21 we do in the laboratory.

22 Q Ms. Marschner, did you receive a package, an
23 impound package labeled 5223-4?

24 A Yes.

25 Q And what was in that package?

UNCERTIFIED ROUGH DRAFT

1 A These were swabs of blood that were collected
2 from in and around the residence.

3 Q How many swabs were in there?

4 A Four.

5 Q And did you give them each their individual
6 designation?

7 A Yes.

8 Q Okay. And do you go A, B, C, D?

9 A Yes.

10 Q Okay. And as to the A swab, what did you --
11 what did you determine?

12 A So this is a swab that was collected outside the
13 front door on the concrete. I identified blood on this swab
14 and the DNA profile was consistent with Aneka Grimes. And
15 again, the estimated frequency of that DNA profile is rarer
16 than one in 700 billion.

17 Q And the swabs aren't part of your photographic
18 part of your report --

19 A No, no, I don't --

20 Q -- correct?

21 A -- photograph swabs.

22 Q Okay. Thank you. Now, as to the B swab, can
23 you describe where that was from and what your result was?

24 A So this was labeled as being from the living
25 room carpet from a drip pattern that was on it. I identified

UNCERTIFIED ROUGH DRAFT

1 blood on the swab and then the DNA profile again was
2 consistent with Aneka Grimes and the estimated frequency of
3 the profile is rarer than one in 700 billion.

4 Q And as to the C swab?

5 A This was a swab that was collected from the
6 entry tile floor. Again, I identified blood and again it was
7 consistent with Aneka Grimes and an estimated frequency was
8 rarer than one in 700 billion.

9 Q Okay. And the D swab?

10 A This was a swab that was collected on the
11 asphalt near the shoes and the socks. I identified blood on
12 this swab and this DNA profile was consistent with Bennett
13 Grimes and the estimated frequency of this profile was rarer
14 than one in 700 billion.

15 Q Ms. Marschner, did you receive an impound
16 package labeled 9975-1?

17 A Yes, I did.

18 Q And did -- what did that contain?

19 A This was a pair of tan cargo pants and then also
20 a white tank top.

21 Q Putting what's been admitted as State's Exhibit
22 77 back on the overhead, do you recognize what's depicted?

23 A Yeah. So the upper part of this picture shows
24 the pair of tan cargo pants that I examined.

25 Q And I see two arrows. Are those different areas

1 that you tested?

2 A Yes.

3 Q Okay. And did you swab those areas?

4 A Yes, I did.

5 Q Okay. And did you -- as before, did you give
6 them their individual designations?

7 A Yes. I called the one on the lower front bottom
8 part of the leg JM-4A1. And then the one that's on the upper
9 left thigh next to the pocket is JM-4A2.

10 Q Ms. Marschner, as to JM-4A1, the stain to the
11 lower part of the left pant leg, what were your findings?

12 A So I tested it for blood and it was positive.
13 And then the DNA profile I got was a partial DNA profile,
14 meaning that I didn't have complete results at all 15
15 locations that I tested at but still it -- being able to
16 compare it, it was consistent with Bennett Grimes.

17 Q And as to JM-4A2, the stain to the upper thigh
18 area of the left cargo pant leg?

19 A So I tested this for blood. Again, it was
20 positive. This DNA profile was consistent with Aneka Grimes
21 and an estimated frequency of this DNA profile was rarer than
22 one in 700 billion.

23 Q So as to JM-4A1 I can write on this consistent
24 with Bennett Grimes?

25 A Yes.

UNCERTIFIED ROUGH DRAFT

1 Q And as to JM-4A2 I can write A -- Aneka Grimes?

2 A Yes.

3 Q Now, let's talk about the white tank top. Did
4 you -- just describe your findings there.

5 A So I tested a stain that was on the lower back
6 area. It tested positive for blood and this DNA profile was
7 consistent with Bennett Grimes.

8 Q Now --

9 MR. HILLMAN: Did we want to mark that spot since
10 we've marked everything else?

11 MR. BURNS: I'm sorry. Did I -- didn't I mark that?

12 MR. HILLMAN: I don't believe so.

13 MR. BURNS: On the tank top I believe I marked it.

14 MR. HILLMAN: Oh, I'm sorry, I didn't see that. I
15 apologize, Mr. Burns.

16 MR. BURNS: No problem.

17 THE COURT: It's okay.

18 BY MR. BURNS:

19 Q Now, Ms. Marschner, did you receive an impound
20 package labeled 9975-2?

21 A Yes.

22 Q And what was in that package?

23 A These were swabs that were collected from hands
24 and one of the feet of Bennett Grimes.

25 Q And again, did you designate them with

1 alphabetical --

2 A Yes, A, B, C.

3 Q And as to the A swab, what were your findings?

4 A This was a -- a pair of swabs that was collected
5 from the right hand of Bennett Grimes. I tested it for blood
6 and it was positive. And the DNA profile was consistent with
7 Bennett Grimes and there was indication of additional DNA
8 there, but I couldn't make any conclusions as to who it
9 belonged to.

10 Q So you couldn't conclude whether or not Aneka
11 Grimes --

12 A No.

13 Q Now, as to the B swab, what were your findings?

14 A These were swabs that were collected from the
15 left hand of Bennett Grimes. Again, same as the right, they
16 tested positive for blood and the DNA profile was consistent
17 with Bennett Grimes. There was indication of additional DNA,
18 but I couldn't determine who it belonged to.

19 Q And as to the C swab?

20 A These were swabs that were collected from the
21 left foot of Bennett Grimes. Tested it for blood and it was
22 positive and the DNA profile was consistent with Bennett
23 Grimes.

24 Q Did you also receive an impound package labeled
25 9975-3?

1 A Yes.

2 Q And how many items were in that package?

3 A There was a sleeveless jumper, a pair of
4 underwear and then there was also a plastic bag and a paper
5 receipt.

6 Q Ms. Marschner, did you conduct an analysis on
7 every piece of -- every item in that package?

8 A No, I only tested the sleeveless jumper.

9 Q And on the jumper did you test multiple areas?

10 A I tested two different stains.

11 Q Okay. And were you able to determine the nature
12 of those stains?

13 A Yes. For both stains -- the first one being on
14 the front right shoulder strap and then the second one was on
15 the front center chest area. Both of these stains tested
16 positive for blood and then the DNA profiles were both
17 consistent with Aneka Grimes.

18 Q Ms. Marschner, during your analysis, did you
19 follow all of the forensic laboratory's protocols and controls
20 for a laboratory practice?

21 A Yes, I did.

22 Q And what's the reason that you follow those
23 protocols and controls?

24 A We have SOPs in place. It's a standard set
25 forth by the FBI that we have to have procedures that we abide

1 by and they follow guidelines that are set forth by the FBI
2 and other agencies that oversee forensic laboratories just to
3 maintain a quality program so that our results are reliable.

4 Q And your work, is it reviewed by somebody other
5 than yourself?

6 A Yes. After I complete all of my analysis and
7 write up a report, it's reviewed by two different people in my
8 laboratory. The first one is a technical review and this is
9 done by another qualified DNA analyst. They're going to look
10 at all of my notes in my report, make sure that I followed all
11 of those procedures and they're also going to look at any
12 electronic data that I generated during my analysis. After
13 they've completed their review, then an administrative review
14 is done. This is done by another member of the DNA laboratory
15 and they're going to focus more on my report just to make sure
16 that everything that I did within my case file is reflected in
17 the report.

18 Q Ms. Marschner, is it required for those two
19 reviewers to agree on the results of your report --

20 A Yes.

21 Q -- in order for you to issue that report?

22 A Yes.

23 Q Okay. They have to be agreed on every result,
24 correct?

25 A Yes.

1 Q Okay. During the process of swabbing the knife
2 in this case, do you recall ever running over or obliterating
3 or somehow messing up any fingerprints?

4 A So on the blade, I only swabbed that small area
5 on the blade. And then the handle appeared to be textured
6 enough that it didn't seem to me like it would be suitable for
7 processing latent prints. And so that's why I swabbed the
8 entire handle except trying to avoid those bloodstains.

9 Q And is it sometimes possible -- that's fine.

10 MR. BURNS: Your Honor, I'll pass the witness.

11 THE COURT: Any cross-examination?

12 CROSS-EXAMINATION

13 BY MS. HOJJAT:

14 Q Good morning, Ms. Marschner.

15 A Hi.

16 Q How are you doing?

17 A Good.

18 Q Am I pronouncing your last name right? Is that
19 Marschner?

20 A Yes.

21 Q Okay, great, thanks. Just correct me if I'm
22 saying it wrong. Now, obviously, you did a lot of analysis in
23 this case. There were many different packages that were sent
24 to you --

25 A Yes.

UNCERTIFIED ROUGH DRAFT

1 Q -- and you were testing a lot of stuff. So I
2 just kind of want to clarify with you a couple of things.

3 MS. HOJJAT: Permission to publish State's Exhibit
4 77, Your Honor?

5 THE COURT: You may.

6 MS. HOJJAT: Thank you.

7 BY MS. HOJJAT:

8 Q Showing you JM-4B1. That is Bennett Grimes
9 shirt.

10 A Yes, I believe so.

11 Q And that is a bloodstain on that shirt.

12 A Yes.

13 Q And that bloodstain, your testing found that
14 that was Bennett Grimes' blood.

15 A Yes.

16 Q Showing you the part of the exhibit that's
17 labeled JM-4A1. That's also a bloodstain.

18 A Yes, it is.

19 Q And that bloodstain was consistent with Bennett
20 Grimes' blood.

21 A Yes, it was.

22 Q It was not consistent with Aneka Grimes' blood.

23 A No, not that particular stain.

24 Q Showing you what's been labeled JM-1A1. They're
25 the back of some shoes, correct?

UNCERTIFIED ROUGH DRAFT

1 A Yes.

2 Q You found blood on the back of those shoes.

3 A Yes.

4 Q And that blood was Bennett Grimes' blood.

5 A Yes, it was.

6 Q Showing you what's been labeled JM-1B1.

7 A Okay.

8 Q That is a sock.

9 A Yes.

10 Q You found blood on that sock.

11 A Yes.

12 Q And that blood is Bennett Grimes' blood.

13 A Yes.

14 Q Now I want to talk to you a little bit about

15 what you described as touch DNA and fluid DNA.

16 A Okay.

17 Q So touch DNA is if I touch that spot, my DNA

18 could be left there.

19 A It could be, but I wouldn't necessarily be able

20 to detect it.

21 Q Okay. And you said that there are different

22 elements that go into whether you would be able -- whether I

23 left enough DNA there for you to detect it, correct?

24 A Correct.

25 Q These things include the texture of the object.

UNCERTIFIED ROUGH DRAFT

1 A Yes.

2 Q The rougher the object the more likely my DNA
3 got left there.

4 A Yes.

5 Q They include the friction that I had with this
6 object --

7 A Yes.

8 Q -- correct? So if I'm running my hand back and
9 forth on this object, it's more likely that my DNA's going to
10 be left here --

11 A Yes.

12 Q -- correct? Now, the DA asked you about the
13 texture of the knife handle that you took a look at.

14 A Uh-huh, yes.

15 Q You said that knife handle had a rougher
16 texture.

17 A It was textured enough that I didn't think that
18 they would be able to get latent prints from it, but I
19 wouldn't say it was necessarily really rough.

20 Q Okay. But it was a textured knife.

21 A Yes.

22 Q You wouldn't describe it as smooth as the knife
23 blade.

24 A No.

25 Q Okay. And you said that you did a swabbing of

1 that knife handle.

2 A Yes.

3 Q You tried to avoid the apparent blood on the
4 knife handle.

5 A Yes.

6 Q You were trying to pick up skin cells.

7 A Yes.

8 Q You were trying to determine who had held this
9 knife.

10 A Yes.

11 Q You did not find any of Bennett Grimes' skin
12 cells on that knife handle.

13 A He was excluded as a contributor to the mixture
14 that I obtained from my swabbing of that handle.

15 Q Okay. So the answer to my question is, yes, you
16 did not find any of Bennett Grimes' skin cells, you did not
17 find any on that handle.

18 A None that I could make a conclusion about, no.

19 Q Okay. You actually found a mixture of DNA on
20 that knife handle, didn't you?

21 A Yes.

22 Q So it wasn't just Aneka Grimes' DNA.

23 A No.

24 Q There was another male's DNA on that knife
25 handle.

UNCERTIFIED ROUGH DRAFT

1 A Yes.

2 Q So you were talking about touch DNA and fluid
3 DNA and how fluid DNA can possibly overshadow touch DNA.

4 A Yes.

5 Q But you found two DNAs on this knife handle.

6 A Yeah. I can't say what kind of DNA is from that
7 other individual.

8 Q Okay. You didn't find anybody else's blood
9 anywhere else on this knife, did you?

10 A I only found Aneka Grimes on the blade of the
11 knife.

12 Q Okay. And the second DNA that you found on that
13 knife handle was male.

14 A Yes.

15 Q I'm just curious, were you sent buccal swabs
16 from any of the officers in this case?

17 A No, I wasn't.

18 Q So you weren't able to compare the DNA of the
19 minor contributor to that knife handle with any of the
20 officers' DNA?

21 A No.

22 MS. HOJJAT: I'll pass the witness, Your Honor.

23 THE COURT: Any redirect?

24 MR. BURNS: Briefly, Your Honor.

25 REDIRECT EXAMINATION

UNCERTIFIED ROUGH DRAFT

1 BY MR. BURNS:

2 Q I want to clarify something real quick. On the
3 -- so I don't -- I don't know if the correct exhibit was being
4 shown to you, but we did establish during direct that this was
5 Bennett Grimes' blood on the back of that shoe --

6 A Yes.

7 Q -- correct?

8 A Yes.

9 Q Okay. And -- and as to -- as to the knife
10 handle, did -- did you find Aneka Grimes' DNA there?

11 A Yeah. She was the major contributor to the DNA
12 mixture I got from the handle.

13 Q Okay. And is it your testimony that touch DNA
14 can be overwhelmed by blood?

15 A Yes.

16 Q Okay. And there was -- safe to say there was a
17 lot of blood on that knife?

18 A On the handle there was, yes. And then the
19 stains on the blade.

20 MR. BURNS: Nothing further, Your Honor.

21 THE COURT: Any recross?

22 MS. HOJJAT: Briefly, Your Honor.

23 RECROSS-EXAMINATION

24 BY MS. HOJJAT:

25 Q Ms. Marschner, how much DNA material actually

1 needs to be on an object for you to be able to detect it?

2 A I mean, it's kind of hard to describe. It
3 doesn't have to be a lot because we can get touch DNA when
4 someone has had limited contact with an item. And then we can
5 also get DNA profiles from very small drops of blood.

6 Q Okay. Very small amounts of DNA you can pick
7 up, correct?

8 A Yes.

9 Q Okay. So there doesn't need to be a whole lot
10 of DNA on an object for you to be able to pick it up?

11 A No.

12 Q Okay. And going back to touch DNA versus fluid
13 DNA -- well, let's do this. Going back to touch DNA versus
14 fluid DNA, you just know that you picked up Aneka Grimes' DNA
15 on that knife handle.

16 A Yes.

17 Q You don't know whether it was a mixture of touch
18 DNA and fluid DNA.

19 A I know that there is at least blood DNA on there
20 because I had positive tests for blood.

21 Q Okay. But you can't say that her touch DNA
22 wasn't also on there.

23 A No, I can't.

24 Q Okay. But you can say that somebody else's DNA
25 was on there.

1 A Yes.

2 Q Another male's DNA.

3 A Yes.

4 Q Another male who is not Bennett Grimes.

5 A Correct.

6 Q And you also cannot tell this jury that based on
7 your DNA findings, Bennett Grimes ever touched this knife.

8 A I can only say that his DNA isn't in the mixture
9 I obtained. Whether he touched it long before then --

10 Q Okay.

11 A -- and it's being overwhelmed by the blood
12 that's there, I can't determine.

13 Q Okay. But based on your findings, you cannot
14 say that he ever touched that knife. That's not a statement
15 you can make.

16 A I'm saying that I didn't detect his DNA. So
17 whether he ever touched it and I'm not detecting it --

18 Q Okay.

19 A -- I can't say that.

20 Q Well, if I were to touch this surface here and
21 you were to detect my DNA there and there weren't blood
22 fluids, then you could say that you had found my touch DNA on
23 this surface, correct?

24 A Yes.

25 Q But you did not find any touch DNA from Bennett

1 Grimes on that knife.

2 A Correct.

3 Q So you cannot say that Bennett Grimes touched
4 that knife handle.

5 THE COURT: She's answered that like four times now.

6 BY MS. HOJJAT:

7 Q Okay. And then just one final question. You
8 said that you took swabs from the knife?

9 A The knife handle and then the stain that was on
10 the blade.

11 Q Okay. Can you describe the swabbing process for
12 the jury?

13 A So I'm just going to moisten the tip of a cotton
14 tip swab and then for the stain I'm just going to focus on
15 that particular -- particular stain. For the handle I'm going
16 to swab the surface of the handle, but I'm going to try to
17 avoid the areas that look like they have obvious blood on
18 them.

19 Q But other than the areas that have obvious blood
20 on them, you did try to swab the entire handle of the knife.

21 A Yes.

22 Q Actually, I'll leave it at that.

23 MS. HOJJAT: I'll pass the witness, Your Honor.

24 THE COURT: Anything else from this witness?

25 MR. BURNS: One question, Your Honor.

UNCERTIFIED ROUGH DRAFT

1 THE COURT: Okay.

2 FURTHER REDIRECT EXAMINATION

3 BY MR. BURNS:

4 Q Ms. Marschner, based on your training as a
5 scientist, what's a more conclusive way of determining if
6 someone actually held an object, testing that object later to
7 see if there's DNA on it or actually observing them holding
8 that object?

9 A I mean, as far as the testing goes, it's going
10 to depend on the history of the item. How many people held it
11 before, how many people held it after, what other body fluids
12 that could be on there. I can't say anything about eyewitness
13 testimony.

14 Q Okay, thank you.

15 MS. HOJJAT: No further questions, Your Honor.

16 THE COURT: Thank you very much. Okay, we have one
17 question if you'll just hang on for just one moment. Jury
18 question will be marked as Court's Exhibit next in line,
19 Number 5.

20 (Bench conference transcribed as follows.)

21 THE COURT: She can't even answer this. There's no
22 foundation, she wasn't at the scene.

23 MR. BURNS: [indiscernible] foundation
24 [indiscernible] already answered that question.

25 THE COURT: [indiscernible] want every single thing

UNCERTIFIED ROUGH DRAFT

1 answered [indiscernible]. We all agree we're not going to ask
2 it, right?

3 MR. BURNS: Right, not ask it.

4 THE COURT: Any objection?

5 MR. BURNS: Well, she's an expert on the way that DNA
6 is deposited on surfaces. If someone's hand was held to that
7 white tee shirt by a handcuff when the hand is bleeding, would
8 that be a situation where DNA would be deposited.

9 THE COURT: Do we agree that that is nothing -- maybe
10 that's what the juror's thinking [indiscernible]

11 MR. BURNS: Let's not mention the handcuff. Just say
12 if someone's hand was bleeding [indiscernible]

13 THE COURT: [indiscernible]

14 (End of bench conference.)

15 THE COURT: At this time the Court is not going to
16 ask that question. Is there anything else? Okay. At this
17 time we are going to -- thank you very much. Thank you.

18 MS. BOTELHO: Your Honor, can we approach very
19 quickly on the scheduling?

20 THE COURT: We're going to take a recess.

21 MS. BOTELHO: Okay.

22 (Bench conference transcribed as follows.)

23 THE COURT: Who's your witness?

24 MS. BOTELHO: The EMT. [indiscernible]

25 THE COURT: You guys tell me five minutes and then

1 the witness is on the stand for five hours.

2 MS. HOJJAT: Yeah, that's the thing. I was going to
3 say we don't have cross, but I don't know what she's going to
4 say so we might have a cross.

5 MR. HILLMAN: You're the boss.

6 THE COURT: I will be happy to go and take a bathroom
7 break and come back. What do you want to do?

8 MS. HOJJAT: We have no preference, Your Honor.
9 Whatever the Court --

10 MR. HILLMAN: I think if we have any cross it won't
11 be very long.

12 THE COURT: Okay. We're going to have to take a
13 break. Okay?

14 (End of bench conference.)

15 THE COURT: All right. At this time we're going to
16 take a short recess. During this recess you're admonished not
17 to talk or converse amongst yourselves or with anyone else on
18 any subject connected with this trial, read, watch, or listen
19 to any report of or commentary on the trial or any person
20 connected to this trial by any medium of information
21 including, without limitation, newspapers, television, the
22 Internet or radio or form or express any opinion on any
23 subject connected with this trial until the case is finally
24 submitted to you.

25 We'll start again in about ten minutes. We have one

1 more witness from the State. Thank you. I'm sorry, I was
2 talking too fast, ten minutes. Clearly, I want to get out of
3 here. Ten minutes. Thank you.

4 (Court recessed at 12:00 p.m. until 12:11 p.m.)

5 THE COURT: Do the parties stipulate to the presence
6 of the jury panel?

7 MR. HILLMAN: Yes, Your Honor.

8 MR. BURNS: Yes, Your Honor.

9 THE COURT: Okay. State can call their next witness.

10 MS. BOTELHO: The State calls Melanie Robison.

11 MELANIE ROBISON, STATE'S WITNESS, SWORN

12 THE CLERK: Please be seated and state your name and
13 spell it for the record.

14 THE WITNESS: My name is Melanie Robison,
15 M-e-l-a-n-i-e, R-o-b-i-s-o-n.

16 MS. BOTELHO: May I?

17 THE COURT: You may.

18 MS. BOTELHO: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. BOTELHO:

21 Q Hello, Ms. Robison.

22 A Hi.

23 Q How are you employed, ma'am?

24 A I am a paramedic with the American Medical
25 Response and I'm an EMS instructor.

UNCERTIFIED ROUGH DRAFT

1 Q Okay. And how long have you worked for American
2 Medical Response?

3 A I've been there for 16 years.

4 Q And what do you do there?

5 A I run 9-1-1 calls, interfacility transports and
6 then I also work as a preceptor. So I train incoming
7 employees and as an instructor, I teach, I've taught over at
8 the college and I teach in the paramedic program over at NCTI
9 and various continuing education classes.

10 Q Okay. But initially, you said you're a
11 paramedic; is that right?

12 A Yes.

13 Q So you're kind of medical personnel that travels
14 to emergency scenes or --

15 A Yes.

16 Q -- to at least transport certain individuals to
17 the hospital; is that right?

18 A Yes.

19 Q Okay. Were you working in that capacity on July
20 22nd, 2011?

21 A I was.

22 Q Okay. Don't pull out any reports yet.

23 A Okay.

24 Q If you forget, just let me know if you don't
25 know and you can look at your reports or anything else that

UNCERTIFIED ROUGH DRAFT

1 may refresh your memory. Okay?

2 A Okay.

3 Q So July 22nd, 2011. Do you recall at
4 approximately 7:20 p.m. being dispatched to an area 9325 West
5 Desert Inn Road?

6 A I'm going to be honest. I don't remember the
7 call, but I pulled the chart and yes, I wrote a chart and I
8 did respond there. So yes.

9 Q Let's talk about this chart. Obviously, as a
10 paramedic you respond to numerous or several locations and
11 scenes per day.

12 A Yes.

13 Q On any given day.

14 A Yes.

15 Q Okay. For that very reason, when you respond to
16 a scene and when you treat an individual, is there a certain
17 type of recording system that can be pulled up later in cases
18 like this or any other case for that matter?

19 A Absolutely. We write charts on patients that we
20 transport and our nontransports, calls that we get cancelled
21 off of. So we do charting on both.

22 Q Okay. And when are these charts composed or put
23 together?

24 A We can start them during a transport if we have
25 time and then we complete them at the hospital, all depends.

UNCERTIFIED ROUGH DRAFT

1 Q Okay.

2 A But they're completed within, usually within 30
3 minutes of dropping a patient off.

4 Q Okay. And who completes these charts?

5 A The primary patient caregiver.

6 Q Okay. In this particular case, you indicated
7 that you pulled records; is that correct?

8 A Yes.

9 Q Is that after you were contacted by the Clark
10 County District Attorney's Office?

11 A Yes. After I received the subpoena, I went over
12 to our clinical manager and I had him pull up the chart and he
13 printed it off for me.

14 Q Okay. And upon looking at this report, does
15 that refresh your memory, at least to responding to the scene,
16 when and where and details like that?

17 A Yeah, vaguely, yeah. I'm going off of my chart
18 here because -- and again, I'm being honest here. I run so
19 many calls that they don't always come back very, very
20 clearly.

21 Q Okay.

22 A But I have the document and it does -- yeah.

23 Q Okay. So you were dispatched to 9325 West
24 Desert Inn Road --

25 A Uh-huh.

1 Q -- at approximately --

2 THE COURT: Is that a yes?

3 A Yes.

4 MS. BOTELHO: Thank you, Your Honor.

5 BY MS. BOTELHO:

6 Q And do you recall arriving on scene at 7:27
7 p.m.?

8 A Can I refer to my chart?

9 THE COURT: Do you have any personal knowledge of
10 this incident at all?

11 THE WITNESS: You know, I've been racking my brain
12 since I got the subpoena and maybe some vague recollections.
13 But mostly, I'm going off of my charting.

14 MS. BOTELHO: A chart that was put together by her,
15 Your Honor, at the time of the incident. And I can go --

16 THE COURT: I understand. But did you call her here
17 to read her chart?

18 MS. BOTELHO: No, Your Honor. She can certainly -- I
19 would ask the Court to allow her to refresh her memory of that
20 incident using her chart.

21 THE COURT: On every question?

22 MS. BOTELHO: What's that, Your Honor?

23 THE COURT: On every question?

24 MS. BOTELHO: We're almost getting to the --

25 THE COURT: Okay.

1 MS. BOTELHO: -- meat of it, Your Honor.

2 THE COURT: Do you have your report with you?

3 THE WITNESS: I do.

4 THE COURT: Would that help refresh your
5 recollection?

6 THE WITNESS: Yeah. I never memorize times, so I
7 have to look at my chart. When you're referring to what time
8 I arrived and what time I transported and everything, that's
9 something I would have to refer to.

10 THE COURT: Okay.

11 BY MS. BOTELHO:

12 Q What time did you arrive on scene? Can you
13 please --

14 MR. HILLMAN: Judge, before you get there, may I look
15 at her chart to see if it's the same thing I have been
16 provided with?

17 THE COURT: Sure can. Both sides can look at her
18 chart. You've seen her chart, I assume?

19 MS. BOTELHO: I have.

20 THE WITNESS: I might have the extra pages with the
21 times on it.

22 MR. HILLMAN: This is a little different than what --

23 THE WITNESS: Yeah. The first two pages are just
24 dispatching times.

25 MR. HILLMAN: The first two pages are different, but

1 they're just -- no objection.

2 THE COURT: You can go ahead and look at your chart
3 and you can answer the District Attorney's question.

4 A Your question was?

5 BY MS. BOTELHO:

6 Q What time did you arrive on scene?

7 A It looks like I arrived at 7:27.

8 Q Okay. Did a person by the name of Bennett
9 Grimes present to you?

10 A Yes. Metro had the patient in custody.

11 Q Listen to my question. Okay?

12 A I'm sorry.

13 Q That's okay. So Bennett Grimes presented to you
14 at that time?

15 A Yes.

16 Q Or someone you later identified at Bennett
17 Grimes; is that right?

18 A Yes.

19 Q Okay. And he presented to you with some type of
20 injury; is that right?

21 A Yes.

22 Q Okay. Do you recall what type of injury he
23 presented to you with?

24 A Again, he had a laceration to his right hand on
25 one of his finger.

UNCERTIFIED ROUGH DRAFT

1 Q Okay. And is it fair to say that you were
2 charged with giving him initial care prior to him arriving at
3 the hospital?

4 A Yes, I was.

5 Q And you were transporting him to the hospital at
6 that time.

7 A Yes, I was.

8 Q Is it part of your duty as a paramedic to also
9 kind of get a history of the complaint or the injury that the
10 person comes to you with?

11 A Absolutely. That's normal practice. Any
12 patient that we transport we get a medical history and then a
13 past history and then a current history, like what did they
14 call us for that time, how did it happen and that type of
15 thing.

16 Q Okay. And you're clearly getting this for the
17 purpose of diagnosis or treatment; is that correct?

18 A Yes. It can change your treatment depending on
19 what happened and how it happened.

20 Q Okay. And is one of the things that you note
21 when a client or when a person presents to you, the mechanism
22 of injury? Do you know what that is?

23 A Yes.

24 Q Okay. When you complete these charts, is it
25 fair to say that there's like drop-down menus and you're able

1 to select certain circumstances that are relevant for a
2 particular person presenting to you?

3 A Yes.

4 Q So I'll re-ask the previous question. Are one
5 of the things that you try to determine, a mechanism of
6 injury?

7 A Yes.

8 Q Okay. And in this particular case with the
9 person Bennett Grimes that presented to you, what type of
10 mechanism of injury did you note?

11 A This was a new system. This was one of my first
12 -- we were changing from paper charts to electronic charts.
13 One of the things that I noticed is when you select a
14 laceration or a stabbing, it gave the question, it gave the
15 options of how that happened. And I did inquire with the
16 patient how did this happen.

17 Q And?

18 A And at that time he indicated that he cut
19 himself.

20 Q Okay. And so, based on his statement that he
21 cut himself, what did you note the mechanism of injury to be?

22 A Is it okay if I refer to my chart?

23 THE COURT: You may.

24 A I want to read it to you.

25 BY MS. BOTELHO:

UNCERTIFIED ROUGH DRAFT

1 Q That's okay if that will refresh your memory.

2 A I did select in the drop-down menu an
3 intentional self-inflicted stabbing. And then in the comment
4 section where I can -- not yet?

5 Q No. That's basically all that I was asking.

6 A Okay.

7 Q So the mechanism of injury is intentional
8 self-stabbing after he related to you that he cut himself?

9 A Yes.

10 MS. BOTELHO: I have no further questions.

11 THE COURT: Any cross-examination?

12 MR. HILLMAN: Just a few questions, Judge.

13 CROSS-EXAMINATION

14 BY MR. HILLMAN:

15 Q Good afternoon.

16 A Hi.

17 Q You arrive on the scene with the intent to
18 provide medical treatment; is that correct?

19 A Yes, I do.

20 Q And when you provide medical treatment, you try
21 to get the best information that you can about what the
22 problem is?

23 A Yes, I do.

24 Q And did you -- and you also talk to people other
25 than the patient to see what happened?

UNCERTIFIED ROUGH DRAFT

1 A Yes.

2 Q If they're available.

3 A If they're available.

4 Q And when you arrived there were police officers
5 present; is that correct?

6 A There were.

7 Q Do you recall if you spoke with them?

8 A Yes.

9 THE COURT: Did you speak with them?

10 THE WITNESS: Yes, I did.

11 BY MR. HILLMAN:

12 Q I'm looking at page one of three -- I only have
13 two pages, of a Clark AMR Nevada pre-hospital care report. I
14 think that's deeper into your -- than page one and two; is
15 that correct?

16 A That's correct.

17 Q And you, under narrative, top line states that
18 he had an obvious laceration to the right ring finger; is that
19 correct?

20 A That's correct.

21 Q That's what you put down on this report at that
22 time; is that correct?

23 A As part of my report, yes.

24 MR. HILLMAN: No further questions.

25 THE COURT: Any redirect?

UNCERTIFIED ROUGH DRAFT

1 MS. BOTELHO: Not at this time, Your Honor. Thank
2 you.

3 THE COURT: Thank you very much for your testimony
4 here today and thank you for your patience in being here. You
5 may step down and you're excused from your subpoena.

6 THE WITNESS: Thank you.

7 THE COURT: Thank you. Now, we're going to break for
8 lunch. During this recess you're admonished not to talk or
9 converse amongst yourselves or with anyone else on any subject
10 connected with this trial or read, watch or listen to any
11 report of or commentary on the trial or any person connected
12 with this trial by any medium of information including,
13 without limitation, newspapers, television, the Internet or
14 radio, or form or express any opinion on any subject connected
15 with this trial until the case is finally submitted to you.

16 We will start again at 2:00 p.m. Thank you very much
17 and you're excused for lunch.

18 (Jury recessed at 12:23 p.m.)

19 THE COURT: So 1:15 for us. Okay. Thank you.

20 (Court recessed at 12:24 p.m. until 2:55 p.m.)

21 (Outside the presence of the jury.)

22 THE COURT: May the record reflect that this hearing
23 is taking place outside the presence of the jury panel. Mr.
24 Grimes is present with his attorney, Mr. Hillman. Mr. Burns
25 is present on behalf of the State of Nevada.

UNCERTIFIED ROUGH DRAFT

1 Mr. Grimes, you understand that you have heard all of
2 the evidence that will be presented against you by the State
3 of Nevada? Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: The State -- have you -- did you rest
6 your case? I can't remember.

7 MR. BURNS: Your Honor, we did not rest, but that's
8 our intention.

9 THE COURT: All right. That's what I believed. The
10 State has indicated to me that they have presented all of
11 their evidence and that when the jury comes back in, I'm just
12 going to look at the State and say do you have any other
13 evidence and they're going to say they rest their case.

14 So you've heard all of the evidence that will be
15 presented against you. Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. And you understand that under the
18 Constitution of the United States and the Constitution of the
19 State of Nevada you cannot be compelled to testify in this
20 case. Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Okay. You may, at your own request, give
23 up this right and take the witness stand and testify. If you
24 do, you'll be subject to cross-examination by the Deputy
25 District Attorney and anything that you may say, be it on

UNCERTIFIED ROUGH DRAFT

1 direct or cross-examination, will be the subject of fair
2 comment when the Deputy District Attorney states to the jury
3 in his or her final argument. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. If you choose not to testify, the
6 Court will not permit the Deputy District Attorney to make any
7 comments to the jury because you have not testified. Do you
8 understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: In other words, you know, they can't
11 testify on your right to remain silent. Do you understand
12 that?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Okay. If you elect not to testify, I
15 will instruct the jury, but only if your attorneys
16 specifically request that I instruct the jury as follows. The
17 law does not require -- I'm sorry. The law does not compel a
18 defendant in a criminal case to take the stand and testify and
19 no presumption may be raised and no inference of any kind may
20 be drawn from the failure of the defendant to testify. Do you
21 understand that?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: Okay. And the attorneys have presented
24 an instruction of that kind to the Court, but I will only give
25 it if you don't testify and if your attorneys request that I

1 gave it. Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. Do you have any questions so far?

4 THE DEFENDANT: No.

5 THE COURT: And you're further advised that if you
6 take the stand and testify and you have a felony conviction
7 and more than ten years has not elapsed from the date that
8 you've been convicted or discharged from prison, parole or
9 probation, whichever is later, and your attorneys have not
10 sought to preclude that from coming before the jury, I will
11 allow the District Attorney in the presence of the jury to ask
12 you the following questions. Have you been convicted of a
13 felony? What was it? When did it happen? However, I will
14 not allow them to go into any details. Do you understand
15 that?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: Okay. Your attorneys have not sought to
18 preclude any prior felonies from coming in. And it's my
19 understanding that you do have prior -- does he have two prior
20 felonies within the ten years?

21 MS. HOJJAT: He's had the JOCs.

22 THE COURT: Okay. Well, the State will present
23 whatever evidence they have, but you know what you have. From
24 what I understand, the State believes that you have two prior
25 felony convictions out of the State of California. I haven't

UNCERTIFIED ROUGH DRAFT

1 seen them yet. But I can also tell you that your attorneys
2 have not objected or filed a motion to prevent them from
3 coming in, which generally means they know that they're within
4 that ten-year period. But obviously, your attorneys will have
5 an opportunity to review that.

6 So if you take the stand and testify, I'd allow the
7 District Attorney to ask if you've been convicted of a felony.
8 You'd have to answer truthfully. You can answer however you
9 want, but you'd be subject to that type of questioning.
10 They'd be able to ask what was the felony and when did it
11 happen. However, they cannot ask you any details unless you
12 open up that door. Do you understand that?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Okay. And it's my understanding that Mr.
15 Hillman came in here when we were doing jury instructions and
16 you had an opportunity to discuss with him whether you should
17 take the stand or exercise your right to remain silent. Is
18 that correct?

19 THE DEFENDANT: Yes.

20 THE COURT: And you've had an opportunity to discuss
21 with him whether you should do that or not; is that correct?

22 THE DEFENDANT: Yes.

23 THE COURT: And has he answered all of your
24 questions?

25 MR. HILLMAN: There's one thing that we've talked

1 about before that I didn't talk to him about toady. If I
2 could have just a minute?

3 THE COURT: You bet. When were those felony
4 convictions?

5 MS. BOTELHO: One was from 2000. The other was from
6 2004, Your Honor. The one from 2000, however, he was given I
7 believe three years probation. And actually, sentenced --
8 three years probation, so that would take us into 2013. So
9 within ten years of the actual expiration of probation.

10 THE COURT: When did he expire from probation in
11 2001?

12 MS. BOTELHO: I'd have to look.

13 THE COURT: Sounds like it's within the ten years,
14 but I just want to make sure. Because what if he got released
15 from probation early? Can't just add the three years, right?

16 MS. BOTELHO: He was revoked in May 21, 2002.

17 THE COURT: Okay. So when was he released from
18 prison? May of 2002. Okay. We're beyond the ten years right
19 now.

20 MS. BOTELHO: And I'm sorry. He had a revocation
21 proceeding on May 21, 2002. His probation was reinstated,
22 probation was extended to expire on June 20, 2004.

23 THE COURT: Okay. When did it expire?

24 MS. BOTELHO: 2007.

25 THE COURT: So it's within the ten years.

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2
3 BENNETT GRIMES)

No. 62835

4 Appellant,)

5 vs.)

6 THE STATE OF NEVADA,)

7 Respondent.)

8
9 **APPELLANT'S APPENDIX – VOLUME IV– PAGES 751-929**

10 PHILIP J. KOHN
11 Clark County Public Defender
12 309 South Third Street
13 Las Vegas, Nevada 89155-2610

STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

14 Attorney for Appellant

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

15
16 **CERTIFICATE OF SERVICE**

17 I hereby certify that this document was filed electronically with the Nevada
18 Supreme Court on the 19th day of Aug, 2013. Electronic Service of the
19 foregoing document shall be made in accordance with the Master Service List as follows:

20 CATHERINE CORTEZ MASTO
21 STEVEN S. OWENS

DAVID WESTBROOK
HOWARD S. BROOKS

22 I further certify that I served a copy of this document by mailing a true and
23 correct copy thereof, postage pre-paid, addressed to:

24 BENNETT GRIMES
25 NDOC No. 1098810
26 c/o HIGH DESERT STATE PRISON
27 P. O. BOX 650
28 INDIAN SPRINGS, NV 89070

BY 

Employee, Clark County Public Defender's Office