

IN THE SUPREME COURT FOR THE STATE OF NEVADA

DEANGELO R. CARROLL,  
Appellant,  
v.

THE STATE OF NEVADA,  
Respondent.

No. 64757

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Appeal

From the Eighth Judicial District Court  
Clark County  
The Honorable Valerie Adair, District Judge

APPELLANT'S APPENDIX  
(Volume 7)

MARIO D. VALENCIA  
Nevada Bar No. 6154  
1055 Whitney Ranch Dr., Ste. 220  
Henderson, NV 89014  
(702) 940-2222  
*Counsel for Deangelo R. Carroll*

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**ORIGINAL**

DISTRICT COURT  
CLARK COUNTY, NEVADA

FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

MAY 20 2010

BY, Denise Husted  
DENISE HUSTED, DEPUTY

THE STATE OF NEVADA,

Plaintiff,

vs.

DEANGELO RESHAWN CARROLL

Defendant.

CASE NO: C212667

DEPT NO: XXI

**Transcript of  
Proceedings**

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 3**

WEDNESDAY, MAY, 19, 2010

**Part 2**

**APPEARANCES:**

FOR THE STATE:

MARC DiGIACOMO, ESQ.  
Chief Deputy District Attorney  
GIANCARLO PESCI, ESQ.  
Chief Deputy District Attorney

FOR THE DEFENDANT:

DANIEL M. BUNIN, ESQ.  
THOMAS A. ERICSSON, ESQ

RECORDED BY JANIE OLSEN, COURT RECORDER

TRANSCRIBED BY: KARReporting and Transcription Services

KARR REPORTING, INC.

**Volume 7 - 1383**

1 Q Detective, how are you employed?  
2 A With the Las Vegas Metropolitan Police  
3 Department.  
4 Q How long have you been so employed?  
5 A 22 years.  
6 Q What's your current assignment?  
7 A Homicide.  
8 Q I'm going to direct your attention back to  
9 May 19th of 2005. What was your assignment?  
10 A Homicide.  
11 Q Did you respond out to North Shore Road in  
12 reference to a homicide?  
13 A Yes, I did.  
14 Q Now, when homicide is found in the valley by,  
15 you know, someone calling in, a patrol officer showing up,  
16 whatever, can you describe what happens once the patrol  
17 officer gets to the scene and verifies that there is, in fact,  
18 a dead body?  
19 A They will call other detectives out to the  
20 scene. At the time it was called general assignment  
21 detectives. General assignment detectives come out. They  
22 kind of sort through the scene a little bit and isolate  
23 witnesses, that kind of thing, and then they will make the  
24 appropriate calls to homicide through the chain of command and  
25 request homicide to come out.



1 Q Eventually do you respond?  
2 A I do.  
3 Q And do you respond by yourself or is there  
4 other people from your squad -- from your squad that respond?  
5 A No, there was myself, Detective Mike McGrath,  
6 Detective Jimmy Vaccaro, and Detective Theresa Kyger.  
7 Q And did you have a sergeant on the scene?  
8 A No, we did not have a sergeant on the scene.  
9 We had an acting sergeant which was -- Detective Vaccaro was  
10 the senior detective.  
11 Q So Detective Vaccaro, for purposes of this  
12 investigation, was the acting sergeant, and is there somebody  
13 who is assigned as kind of the lead investigator or case  
14 agent?  
15 A Detective McGrath.  
16 Q When you get to the scene, describe what  
17 happens as to the responsibilities of the various detectives  
18 that are present.  
19 A Detective Kyger and myself were responsible for  
20 interviewing witnesses, and Detective McGrath was responsible  
21 for working the crime scene with the crime scene analyst.  
22 Q Now, I think the jury's already heard some  
23 testimony there weren't a lot of witnesses standing right  
24 there near where the body was.  
25 A No.

1           Q     Okay. After conducting the investigation with  
2 those two individuals, can you tell me what responsibility you  
3 had?

4           A     My responsibility was interviewing witnesses.

5           Q     At some point does Detective McGrath inform you  
6 of something that related to Timothy Hadland's cell phone?

7           A     Yes.

8           Q     Okay. Based upon that information, did you do  
9 anything?

10          A     Yes. Detective McGrath informed me that the  
11 last call -- do you want me to get into the phone call, sir?  
12 Is that what you're asking?

13          Q     Detective McGrath can testify exactly what he  
14 told you --

15          A     Okay.

16          Q     -- but based upon what he told you, what did  
17 you do?

18          A     After that, I went back to our offices and we  
19 started doing some research on to -- as the identity of the  
20 person making the phone call.

21          Q     How do you go about doing that kind of research  
22 as a detective?

23          A     Well, we had some other clues at the scene. We  
24 just began running names. We had some assistance with a  
25 connection that we have through the -- I believe the criminal

1 apprehension team, and we had a cell phone number ran.

2 Q And once you had the cell phone number ran, did  
3 you get a name?

4 A Yes. Well, we got a name two different ways,  
5 but we got a name of Anabel Espindola through the cell phone  
6 and we also got a name by work cards of Deangelo Carroll.

7 Q I think maybe I skipped a part. At some point  
8 while this is going on, did you learn about a woman named  
9 Paijit Karlson?

10 A Yes, I did.

11 Q How'd you learn about her?

12 A We were actually contacted by -- there's two  
13 ways we were. We were contacted by Lake Mead park rangers,  
14 but we were also able to -- one of the detectives at the scene  
15 contact some family members who informed us that the victim  
16 and Paijit were camping out at the lake.

17 Q Okay. And then did you respond along with  
18 another detective and have a conversation with Paijit?

19 A Yes. Detective Kyger and myself went out the  
20 following morning, so that would be the morning of the 20th,  
21 and spoke with Paijit regarding her activities the night  
22 before.

23 Q Based upon your conversations with Paijit, was  
24 there any other person that you'd like to -- well, I guess as  
25 well as the cell phone that Detective McGrath had talked

1 about, was there a particular person that you wanted to speak  
2 to?

3 A Yes, Deangelo Carroll.

4 Q Okay. At the time did you know Mr. Carroll's  
5 last name initially?

6 A I don't believe so, no. It was just Deangelo.

7 Q So after you get the cell phone number coming  
8 back to an Anabel Espindola, how do you confirm who  
9 Ms. Espindola is?

10 A Well, we -- we ran Ms. Espindola through the  
11 SCOPE system, which is the police record's identification  
12 system, and we were able to verify that she indeed had a work  
13 card at the Palomino Club.

14 Q When you found that out, did you also have some

1 Q Do you use your department cell phone to make a  
2 phone call to the number provided to you for Mr. H?

3 A Yes, I did.

4 Q And did somebody on the other line answer?

5 A Yes.

6 Q Did they identify themselves as Mr. Hidalgo?

7 A Yes.

8 Q Did you make a request of that individual?

9 A Yes. I asked -- I told him that we were  
10 conducting an investigation regarding one of his employees,  
11 and I asked if he could meet with me so we might access some  
12 records.

13 Q And did he, in fact, meet with you?

14 A Yes, he met with myself and Detective Kyger at  
15 the Palomino Club.

16 Q Now, if the homicide occurred sometime before  
17 midnight on May 19th of 2005, what day are we on now?

18 A We are on May 20th, Saturday morning, 2005.

19 Q May 20th, though?

20 A Yes.

21 Q Okay. You don't have a calendar in front of  
22 you. If I told you May 19th was a Thursday --

23 A Thursday, yeah, I'm sorry. Friday.

24 Q Thank you.

25 A Yes.

1           Q     So Friday can you tell us approximately what  
2 time -- do you recall -- was it daylight out, at least?

3           A     It was daylight out, at least. I believe it  
4 was -- I believe it was closer to 3:00 in the afternoon, right  
5 in there.

6           Q     Was the Palomino Club open at the time you met  
7 Mr. H?

8           A     No.

9           Q     And I'm sorry, did you say where you met him  
10 at?

11          A     I did, but we met him at the Palomino Club.

12          Q     Can you describe for the ladies and gentlemen  
13 of the jury the conversation you had with Mr. H?

14          A     Once again, I introduced myself. I told him  
15 that we were conducting an investigation regarding a current  
16 employee and an ex-employee under his employ and asked him if  
17 we could get some records regarding Deangelo Carroll, meaning  
18 an address or a telephone number to contact him by.

19          Q     What was his response?

20          A     His response was that he did have an employee  
21 by the name of Deangelo Carroll but that he didn't have access  
22 to those records and he wouldn't be able to access those for  
23 me at that time.

24          Q     And did he -- you discussed how it is you've  
25 been able to come in contact with Mr. Carroll after that



1 point?

2 A I'm sorry? Ask that again.

3 Q I'm sorry. That was a terrible question.

4 So he tells you, Look, I don't have -- I have a  
5 Deangelo Carroll but I have no way of giving you contact  
6 information for him. Was there a plan of action discussed --

7 A Yes.

8 Q -- with Mr. H. from there?

9 A He told me that he had a general manager that  
10 worked the Palomino Club named Arial and asked me if I could  
11 come back there at about 7:00 p.m. that evening, so that would  
12 be the evening of the 20th, and contact Arial and Arial would  
13 be able to access those -- that information for me.

14 Q Other than the limited contact you had with  
15 Mr. H where you tell him you're looking for a former employee  
16 and a current employee, do you recall providing him any other  
17 specifics as to the nature of your investigation?

18 A No.

19 Q Okay. Did you even tell him you're from  
20 homicide?

21 A I believe I did. I believe I was wearing a  
22 homicide shirt at the time.

23 Q Do you, in fact, go back to the Palomino Club  
24 that night?

25 A Yes.

1           Q     And do you go alone or is there other members  
2 of your team to go with you?

3           A     No, Detective McGrath went with me also.

4           Q     Was there surveillance in the Palomino Club as  
5 this was occurring?

6           A     Yes. When Detective McGrath and myself went  
7 inside. Detective Vaccaro and Detective Kyger were in his --  
8 he was driving a white Ford Expedition at the time -- were  
9 outside watching the outside of the club while we were inside.

10          Q     When you initially enter the club, who do you  
11 come into contact with?

12          A     I come into contact with Mr. H. Mr. H lets me  
13 know that Arial's in the club and summons her. She comes and  
14 meets with us and we go back into a back -- you know, kind of  
15 a quiet employee area where we're able to talk.

16          Q     And Detective McGrath is with you at that  
17 point?

18          A     Yes.

19          Q     At some point do you leave Detective McGrath?

20          A     Yes. I receive a phone call on my cell phone  
21 from Detective Vaccaro who alerts me that he believes a person  
22 matching Deangelo Carroll's description is walking in the  
23 club. Right at that time I walk out into the hallway. Mr. H  
24 is there and he says that this is Deangelo, and Deangelo walks  
25 up and introduces himself to me.



1           Q     When Deangelo introduces himself to you --  
2 well, first of all, do you see Deangelo Carroll here in court?

3           A     I do.

4           Q     Can you point to him and describe something  
5 he's wearing?

6           A     He's seated to the table to my left wearing a  
7 blue shirt and a tie.

8           Q     Once you come --

9           MR. DIGIACOMO: May the record reflect the  
10 identification of the defendant, Judge.

11          THE COURT: It will.

12 BY MR. DIGIACOMO:

13          Q     Once you come into contact with Mr. Carroll and  
14 he shakes your hand, can you describe for us the conversation  
15 you have with Mr. Carroll?

16          A     Yeah. I let him know that we're doing an  
17 investigation regarding a friend of his or a person that was  
18 employed there by the name of TJ and I let him know that, you  
19 know, his phone was one of the last calls to TJ and that I'd  
20 like to speak to him regarding his relationship and their  
21 conversation that they had on the phone.

22          Q     And what's Mr. Carroll's reaction?

23          A     He is more than willing to speak with us.

24          Q     Okay. Do you ask him anything else? Do you  
25 make any other requests to Mr. Carroll?

1           A     I ask him to accompany me down to our office so  
2 we could talk in private and kind of get out of the element  
3 that we were in at the Palomino Club.

4           Q     What is Mr. Carroll's response?

5           A     He says that he would come with us and he drove  
6 down there with myself.

7           Q     When you say he drove with you, did he drive in  
8 the same vehicle as you?

9           A     Yes, he drove in the same vehicle.

10          Q     Can you tell the ladies and gentlemen where he  
11 was in the vehicle?

12          A     I'm the driver. He's seated in the right front  
13 passenger seat and Detective McGrath is seated behind.

14          Q     Is there any physical restraints upon  
15 Mr. Carroll at this time whatsoever?

16          A     None.

17          Q     Now, as a homicide detective when you're going  
18 to interview somebody about a potential homicide, do you make  
19 any sort of conversation in the ride from the Palomino back to  
20 the homicide office?

21          A     Well, I know that we're going to do an  
22 interview. I'm speaking with him about general things. I'm  
23 letting him kind of know, you know, where we're going, you  
24 know, that we're going to sit and talk. During that ride,  
25 he's kind of feeling me out a little bit. He's asking me

1 questions regarding what this is about and what I'm going to  
2 ask him.

3 Q Is there any really substantive conversation  
4 you have about what happened down at the lake or the cell  
5 phone or anything like that?

6 A No. I don't want him to know anything that I'm  
7 about to talk about. I don't want him to prepare. I just  
8 want to talk to him when I get to the office.

9 Q Now, back in 2005, was the homicide office in a  
10 different place than it is today?

11 A Yes. It was -- I'm not going to remember the  
12 numbers, but it's at Oke and -- or I'm sorry -- it's at  
13 Charleston and Rainbow.

14 Q And then when you enter the office, describe  
15 kind of what the interview rooms look like, those kind of  
16 things.

17 A Yeah. Our offices were located in an office  
18 complex. They're not marked outside as a police department by  
19 any means. You would walk in. There's a small waiting room,  
20 very small because it was a small office. You go through a  
21 small gate just, you know, about knee high and take an  
22 immediate left and there's two interview rooms that we have  
23 there, and we went into one of the interview rooms.

24 Q Now, once you go into one of the interview  
25 rooms -- well, let me ask you this: Did you take a statement

1 from Mr. Carroll?

2 A Yes.

3 Q Okay. Now, is that statement memorialized in  
4 any manner?

5 A Yes.

6 Q Can you describe that for the ladies and  
7 gentlemen?

8 A I did an audio so I had a small digital hand  
9 held recorder and I also had partners of mine, I think mainly  
10 Detective Vaccaro, who is setting up and running a video  
11 recording of the encounter also.

12 Q So the audio, is that something that  
13 Mr. Carroll can see and know that you have a little tape  
14 recorder?

15 A Yes.

16 Q Okay. Is the video supposed to be  
17 surreptitious? I know you're in a police station, but I  
18 mean --

19 A Yes.

20 Q -- you don't necessarily tell them they're  
21 being videoed?

22 A Yes.

23 Q Okay. Let's talk about the system that was  
24 used to videotape. Today we do digital. Back then what did  
25 you do?

1           A     Back then we had, you know, a couple of VCRs  
2 and they were located in a back room. It was hard wired and  
3 it was just kind of -- you had to kind of sit there and if one  
4 tape, you know, ran out, you had to pull that tape real quick,  
5 insert another tape and hit the record button. So it was,  
6 more or less, in today's standards, kind of a primitive system  
7 but...

8           Q     Back then though did the interview detective --  
9 I'm sorry, Defendant Carroll last more than one tape?

10          A     Yes.

11          Q     Okay. So was there a period of time between  
12 tape one and tape two that's captured solely on your audio?

13          A     Yes.

14          Q     Okay. Has that videotape since -- the two  
15 videotapes since been digitized?

16          A     Yes.

17          Q     And did there -- also a small segment from your  
18 audio tape, was that also placed on a disk so that you could  
19 hear the entire video from beginning to end?

20          A     Yes.

21          Q     Now, while the interview's going on, are there  
22 times when you're not taking a formal statement and your audio  
23 tape's turned off?

24          A     Yes.

25          Q     Okay. So the video captures everything that

1 happens in the room, but the audiotape only captures certain  
2 conversations?

3 A Yes.

4 Q Did you bring that with you today?

5 A The disk?

6 Q Yes.

7 A Yes.

8 Q May I?

9 A Yes, sir.

10 Q While the clerk marks this -- I'll come back to  
11 this in just a moment. At the conclusion of the interview of  
12 Mr. Carroll, what happens to Mr. Carroll?

13 A Mr. Carroll is transported -- he takes us by  
14 two locations first, but he's transported to his home.

15 Q Okay. The first location that he takes you to,  
16 were you present when he took you there?

17 A I was following.

18 Q Okay.

19 A I wasn't in the car with him, but I was behind.

20 Q When you got there, did you do anything?

21 A Yes.

22 Q What did you do?

23 A I recovered two tires, two tires that were in a  
24 dumpster.

25 Q What were the conditions of the tires?



1           A     You know, they had ample tread, but they had  
2 slices in the side.

3           Q     What about the second location?

4           A     The second location was a different dumpster  
5 that we responded to and same scenario. I recovered two tires  
6 out of that dumpster that were in the same condition.

7           Q     As you were recovering tires, did Detective  
8 McGrath and another detective take Deangelo Carroll home?

9           A     Yes.

10          Q     After he gets taken home, do Detective McGrath  
11 and detective -- another detective return with any particular  
12 individual?

13          A     Yes, they return with Rontae Zone.

14          Q     Once again, is Rontae Zone interviewed?

15          A     Yes.

16          Q     And does he agree to voluntarily speak to you?

17          A     Yes.

18          Q     Is this once again on videotape?

19          A     Yes.

20          Q     And do you also have an audio recording  
21 running?

22          A     I believe so, yes.

23          Q     Detective, I know it's in your book, but let me  
24 show you this one. I'm going to show you what's been marked  
25 as State's Proposed Exhibit No. 157.

1 A Okay.

2 Q Does that appear to be the transcript of the  
3 audio recording of the interview of Rontae Zone?

4 A Yes.

5 Q Okay. Does it appear to be a true, fair and  
6 accurate copy of that transcript?

7 A Yes.

8 MR. DiGIACOMO: Move to admit 157A.

9 THE COURT: Any objection?

10 MR. ERICSSON: I'm sorry, Your Honor. We were  
11 talking about another issue. I'm sorry. What's the question?

12 THE COURT: 157, it's the transcript of the  
13 interview of Rontae Zone.

14 MR. BUNIN: Rontae's statement we would object to.  
15 I don't know --

16 THE COURT: Yeah, I don't --

17 MR. DiGIACOMO: It's a prior consistent statement.  
18 If I bought his testimony and told him what to say, this is  
19 before he --

20 THE COURT: Well, a --

21 MR. DiGIACOMO: -- talked to us.

22 THE COURT: No, no, no.

23 MR. DiGIACOMO: Absolutely.

24 THE COURT: We're going -- no. Mr. DiGiacomo, if  
25 there are prior -- specific prior consistent statements, we



1 can get into those, but we're not going to introduce the whole  
2 transcript. So to the extent that something is a prior  
3 consistent statement that was challenged today during  
4 Mr. Zone's testimony, you can cover that with Detective  
5 Wildemann, but I don't know what all is in that statement, so  
6 only those areas would be relevant and certainly can go into  
7 those areas with the detective.

8 MR. BUNIN: And, Your Honor, as part of the  
9 argument, too, Mr. Zone said on the stand that he was -- he  
10 used the word lied during this conversation, so I'm not  
11 sure --

12 THE COURT: I don't believe --

13 MR. DiGIACOMO: Then it's a prior inconsistent  
14 statement.

15 THE COURT: -- that's true.

16 MR. DiGIACOMO: Either way, it's admissible.

17 MR. BUNIN: But he did testify to that.

18 THE COURT: Mr. DiGiacomo --

19 It is, but only to the extent that it either  
20 corroborates or dis corroborates something that was stated  
21 today. So you have to go -- I don't know if you -- we are  
22 going to be taking an evening recess. If you need to go  
23 through that more specifically or you know what points  
24 directly that you want to refer Detective Wildemann too --

25 MR. DiGIACOMO: I think I'll be fine.

1 THE COURT: Okay. That's fine. I'm just saying the  
2 whole statement isn't coming in because there may be a lot of  
3 things that don't pertain to what was testified to.

4 BY MR. DIGIACOMO:

5 Q Detective, during the initial conversation or  
6 when the recording starts, do you tell Rontae what it is you  
7 want to talk to him about?

8 A Yes.

9 Q And what is it that you want to talk to him  
10 about?

11 A I want to talk to him about the evening before  
12 and the events which occurred.

13 Q Okay. Do you ask him about a particular  
14 individual?

15 A Yes.

16 Q And who do you ask him about?

17 A I ask him does he have a friend named Deangelo.

18 Q And does he answer the question?

19 A He says yes.

20 Q Does he tell you where Deangelo works?

21 A Yes.

22 Q You ask him about whether or not he does work  
23 with him?

24 A Yes.

25 Q And what does he tell you?

1 A He does.

2 Q Does he tell you what he does?

3 MR. ERICSSON: Your Honor, we would object to this  
4 line of questioning.

5 THE COURT: Yeah, I mean --

6 MR. ERICSSON: This is not --

7 THE COURT: -- I don't think that the statements  
8 that you're going over right now were challenged as recent  
9 fabrications.

10 And, Mr. Pesci, this is Mr. DiGiacomo's witness.  
11 He's more than capable of doing this.

12 But I don't think these statements we're going over  
13 right now were challenged as recent fabrications.

14 MR. DiGIACOMO: I specifically asked about his  
15 promoting that day, and this is exactly where this is going.

16 THE COURT: Okay. The promoting that day was  
17 discussed, but --

18 MR. DiGIACOMO: Correct.

19 THE COURT: -- the other things, that he knew  
20 Deangelo Carroll and whatnot, Rontae Zone testified yes he  
21 knew Deangelo Carroll, he was staying at his house, so those  
22 are not --

23 MR. DiGIACOMO: That was pure foundation. It's just  
24 to know whether or not he even mentioned him. I mean, the way  
25 I thought it was, it's just a complete lie.

1 THE COURT: All right. Well, why don't you say did  
2 he discuss whether or not they were promoting that day at the  
3 time of his statement to Detective Wildemann.

4 MR. DiGIACOMO: Okay.

5 BY MR. DIGIACOMO:

6 Q Okay. Let me ask you this -- I guess you could  
7 ask it that way. Did he discuss with you his activities with  
8 promoting with Deangelo Carroll?

9 A Yes, he did.

10 Q Okay. Did he indicate to you whether or not he  
11 did that by himself, promoting with Deangelo Carroll, or did  
12 he tell you there was somebody else with him?

13 A He told me there was somebody else with him.

14 Q And did he tell you what his name was?

15 A He said his name was Jay Jay.

16 Q Okay.

17 MR. BUNIN: We would object to that. That's not the  
18 prior statement. The only thing he questioned was did he  
19 promote that day or didn't he.

20 THE COURT: Well, all right. I was going to  
21 clarify.

22 Detective, when you say promoting, are you talking  
23 about in general he promoted with Jay Jay? I think the  
24 question was whether he promoted the particular day or the day  
25 before if the incident occurred, you know, the following day

1 or in the early morning hours, the day leading up to that.  
2 Did he tell you whether or not he or he and Jay Jay were out  
3 promoting that day?

4 THE WITNESS: He told me specifically that he and  
5 Jay Jay were promoting the day of the 19th.

6 THE COURT: Okay. Thank you.

7 THE WITNESS: You're welcome.

8 BY MR. DIGIACOMO:

9 Q During the conversation --

10 MR. DiGIACOMO: Page 5, Counsel.

11 BY MR. DiGIACOMO:

12 Q -- when you asked him to tell you what  
13 happened, did he describe for you the murder of Timothy  
14 Hadland?

15 A Yes.

16 Q Okay. Did he tell you that Timothy got shot?

17 A Yes.

18 MR. BUNIN: Well, Judge, that wasn't in dispute  
19 either. I'm not sure how this would come in, I mean, under  
20 the same objection.

21 MR. DiGIACOMO: The implication was that somehow he  
22 didn't tell the police his story of what happened that night,  
23 and --

24 THE COURT: Well --

25 MR. DiGIACOMO: -- the implication was that we

1 provided him the story, but he's telling the exact same story  
2 as Mr. Carroll, so it should all come in.

3 THE COURT: Mr. DiGiacomo, first of all, I'm not  
4 sure that that was the implication. Second of all, again, you  
5 have to limit it to specific things that either are  
6 inconsistent in that statement with what Mr. Zone testified to  
7 here today or are consistent with what Mr. Zone testified to  
8 here today, and the defense has tried to indicate were recent  
9 fabrications or were fabrications made subsequent to the time  
10 of their statement -- of his statement to the detectives. So  
11 those are the two areas you can -- Mr. DiGiacomo --

12 MR. DiGIACOMO: I understand that --

13 THE COURT: -- those are the two areas you can get  
14 into.

15 MR. DiGIACOMO: -- but I think the implication --

16 THE COURT: Well, Mr. DiGiacomo, those are the two  
17 areas you can get into.

18 MR. DiGIACOMO: What I'm asking you, Judge, is maybe  
19 you can tell me, but the implication was that he lied about  
20 everything --

21 THE COURT: Mr. DiGiacomo --

22 MR. ERICSSON: Your Honor, may we approach?

23 THE COURT: -- first of all, I've already said I  
24 don't think that that was the implication.

25 Approach.



1 (Off-record bench conference)

2 BY MR. DIGIACOMO:

3 Q Detective, I'll do this a little bit  
4 differently. During the course of the statement, did he tell  
5 you that Kenneth Counts was the shooter?

6 A Yes.

7 Q Did he describe for you the way that he kind of  
8 creaped around the vehicle and shot TJ?

9 A Yes.

10 Q Did he describe to you that TJ was talking to  
11 Deangelo at the time he got shot?

12 A Yes.

13 Q Let me back up. Did he describe for you a  
14 conversation where he and Jay Jay were present with Deangelo  
15 Carroll?

16 A Yes.

17 Q Did he describe for you that during that  
18 conversation Mr. Carroll said Mr. H wanted somebody dealt  
19 with?

20 A Yes.

21 Q Did you clarify with him what dealt with meant?

22 A Yes.

23 Q And what did he tell you dealt with meant?

24 MR. BUNIN: And I object. I mean, it was  
25 speculation when he was on the stand. He couldn't even

1 testify then, and now it's hearsay and speculation.

2 MR. DiGIACOMO: He said, I said told him to say  
3 kill. If it's in his --

4 THE COURT: Okay. Well, then ask it in a more  
5 focused way. Did he, you know --

6 BY MR. DIGIACOMO:

7 Q Did he clarify that Deangelo was asking him to  
8 kill somebody?

9 A Yes.

10 MR. BUNIN: I object because that was never said. I  
11 mean, the implication is --

12 THE COURT: Right. That's --

13 MR. BUNIN: -- that Deangelo actually said that.

14 THE COURT: That's overruled.

15 Did he use the term -- I think the question -- I  
16 think the proper question --

17 THE WITNESS: Okay.

18 THE COURT: -- is did he use the word kill in his  
19 statement to you with -- with reference to what the intent  
20 was, not what ultimately happened.

21 THE WITNESS: Yes.

22 THE COURT: Okay.

23 MR. BUNIN: I'm sorry. I don't want to object to  
24 your question, but I don't understand it, Your Honor. When  
25 you say when he used the word kill, you mean did Rontae use



1 that word?

2 THE COURT: I meant Rontae.

3 MR. BUNIN: Okay. Not Deangelo?

4 THE COURT: No. I meant did Rontae --

5 MR. BUNIN: Okay. Okay.

6 THE COURT: -- because that was -- the  
7 cross-examination was that the State had used that word, so  
8 that's the important word.

9 MR. BUNIN: Okay.

10 BY MR. DIGIACOMO:

11 Q Did you -- so we're clear, you've already  
12 talked to Deangelo at this point, correct?

13 A Yes.

14 Q Okay. Did you clarify with Rontae whether or  
15 not the subject of beating ever came up?

16 A Yes.

17 Q What was his response?

18 A No.

19 Q Did you discuss with Rontae who had what guns?

20 A Yes.

21 Q Did he describe for you the gun that Kenneth  
22 Counts had?

23 A Yes.

24 Q And I'm sorry, he didn't use Kenneth Counts.  
25 He used KC, correct?

1           A     Yes.

2           Q     Okay. And what kind of gun did he say Kenneth  
3 Counts had?

4           A     He said he had --

5           MR. BUNIN: I object again. We're just trying to  
6 get his entire statement out here.

7           THE COURT: Well, overruled.

8           MR. BUNIN: This was testified to already in a  
9 consistent way, so, I mean, I don't know why we're getting  
10 back into this.

11          THE COURT: Well, he can answer that question.

12          MR. BUNIN: My other objection would be that this is  
13 vouching. It's almost like they're bolstering by saying if he  
14 said it to the detective it must be something that's true.

15          THE COURT: Well, overruled. I mean, I think that  
16 that's what the exception to the hearsay rule pertains to  
17 so...

18 BY MR. DIGIACOMO:

19          Q     Did he tell you what kind of gun KC had?

20          A     Yes.

21          Q     And what was that?

22          A     He said it was a 357 revolver.

23          Q     Okay. Did he tell you that Jay Jay had a gun?

24          A     Yes.

25          Q     And what kind of gun did he say Jay Jay had?

1 A .22 caliber revolver.

2 Q Did he -- I think that probably covers most of  
3 it. After the conversation with Rontae, was he released?

4 A Yes.

5 Q And after he was released, what'd you guys do?

6 A After Rontae was released?

7 Q Yeah. Well, let me ask you this: How long  
8 have you been awake at that point?

9 A Hours and hours and hours.

10 Q So after you were done with your interview with  
11 Rontae, what happened?

12 A I think we called it a night finally, or the  
13 next couple of days we called it a night, yes.

14 Q When you returned back to the office, did you  
15 have an opportunity to come into contact with somebody else?

16 A Yes. I would say I returned back to the office  
17 about 3:00 p.m. that same day, 3:00 p.m. in the afternoon. As  
18 I pulled up into our office complex, Deangelo Carroll and a  
19 young man later identified as Jayson Taoipu were seated  
20 outside our door waiting for me.

21 Q At some point after your contact with Deangelo  
22 Carroll and Mr. Taoipu, were you part of an effort to attempt  
23 to contact and/or execute a search warrant related to Kenneth  
24 Counts?

25 A Yes.

1           Q     Describe that for the ladies and gentlemen of  
2 jury. What happened?

3           A     Well, we actually did an arrest warrant and a  
4 search warrant for Kenneth Counts at Kenneth Counts' home off  
5 of E Street. I believe the numbers were 1676. So the nature  
6 of the crime, the violence of the crime, we had SWAT execute  
7 the search warrant for us.

8           Q     And SWAT, probably most people of this jury  
9 knows, but what is SWAT?

10          A     I'm sorry. They're just a highly trained  
11 tactical unit that's really -- their job is -- well, a big  
12 part of their job is to serve high-risk warrants, which is  
13 what we considered this.

14          Q     During the course of the execution of the  
15 search warrant by SWAT, do you receive a phone call?

16          A     Yes, I do.

17          Q     Who do you receive that phone call from?

18          A     I receive a phone call from Deangelo Carroll on  
19 my cell phone.

20          Q     And does Deangelo Carroll -- first of all, do  
21 you recognize his voice?

22          A     Yes.

23          Q     And when you're having this conversation with  
24 Deangelo Carroll, does he tell you where he's at?

25          A     Yes.

1 Q Where does he say he is?

2 A He tells me that he's at his mother's house  
3 which is kind of just to the east and just to the south of  
4 Kenneth Counts' home, but, I mean, literally right across the  
5 street.

6 Q And what is it that Mr. Carroll tells you?

7 A He says that we missed him, meaning we missed  
8 Kenneth Counts, and that Kenneth had run across the street to  
9 a house. And I asked him to describe the house to me. He  
10 said it was the house with the light on, the front porch light  
11 on, and I described it a little bit further to him. He  
12 verified I was looking at the right house.

13 Q And what happens then at that point?

14 A At that point we surround that house so nobody  
15 can exit or enter and Detective Vaccaro applies for a  
16 telephonic search warrant from a judge to -- for us to enter  
17 that house.

18 Q And after you get the warrant, does SWAT have  
19 to enter that house?

20 A Yes. SWAT eventually enters the house, yes.

21 Q Describe the scene as SWAT's entering.

22 A Well, we got most of the residents -- well, all  
23 of the residents of the house had come out. They weren't  
24 being very cooperative. SWAT does a very tactical entry into  
25 the house where they break windows and use distracts, which

1 are loud -- they call them flash bangs -- to try to gain entry  
2 into the house as safely as they can, and they do make entry  
3 into the house.

4           It's a systematic search that they have to do. They  
5 don't come out right away. They're in the house for quite a  
6 while. You can hear them yelling, you know, Police, search  
7 warrant, Kenneth, come out, all that kind of language, and  
8 then eventually they come walking out with Kenneth Counts.

9           Q     Describe Mr. Counts' condition as he comes  
10 walking out.

11          A     Mr. Counts is sweating profusely. He's covered  
12 by fiberglass insulation because he was removed from the  
13 attic. He was hiding under the insulation.

14          Q     And did he have any evidence of any sort of low  
15 lethal force having to be used on him?

16          A     Yes. He -- when they were able to drop him out  
17 of the attic, he was not compliant. A taser was used on him  
18 and he had evidence of a taser lead -- that you would call it  
19 a taser lead hanging from his body.

20          Q     And then what happened to Mr. Counts?

21          A     Mr. Counts is -- handcuffs are transferred. I  
22 put handcuffs on Mr. Counts and Mr. Counts is taken to the  
23 homicide offices by Detective Vaccaro and myself.

24          Q     Eventually is Mr. Counts arrested for the  
25 murder of Timothy Hadland?



1           A     Absolutely.

2           Q     After the arrest of Mr. Counts for the murder  
3 of Timothy Hadland, do you have some conversations by cell  
4 phone with Deangelo Carroll?

5           A     Yes.

6           Q     Describe that for the ladies and gentlemen of  
7 the jury.

8           A     Mr. Carroll calls me. He alerts me or informs  
9 me -- excuse me, that Little Lou had called him, meaning Luis  
10 Hidalgo, III, who is the son of Mr. H.

11           MR. BUNIN: We do have an objection here just to  
12 preserve it. I mean, I know it's previous stuff, but we  
13 object to any statements Mr. Carroll made to the officer. I  
14 know we previously argued it. I just want to make sure we  
15 preserve it right now before it would come in or any of his  
16 statement comes in.

17           THE COURT: All right. That's overruled right now.

18           MR. BUNIN: Thank you.

19           MR. DIGIACOMO: Okay.

20           THE COURT: Go ahead.

21           And so finish answering the question.

22           THE WITNESS: Okay. He informed me that Little Lou  
23 had asked him to come down to the shop and he didn't know what  
24 to do.

25           BY MR. DIGIACOMO:

1           Q     And during the course of your conversation,  
2 does he tell you what he's going to do?

3           A     Yeah. He says he's going to go down to the  
4 shop.

5           Q     After he goes down to the shop, does he call  
6 you up?

7           A     Yes.

8           Q     And what does he tell you?

9           A     He tells me that he met with Little Lou and  
10 Anabel, Ms. Anabel, who's another employee at the Palomino and  
11 the shop that he went to, which was actually Simone's Autobody  
12 Shop on Bermuda. He says he had a meeting with them there  
13 where they discussed what had happened, that notes were  
14 written. It was very cryptic, that after the notes were  
15 written and read, the notes were burned and stories were  
16 exchanged regarding what to say to police.

17          Q     Based on this conversation and various  
18 conversations you had with Mr. Carroll, was there anything  
19 decided upon in this course of action to investigate anybody  
20 else who may have been involved in this homicide?

21          A     Yes.

22          Q     What was that?

23          A     We took his information further and we  
24 investigated Mr. H, Little Lou, Mr. H's son, and Anabel  
25 Espindola. A method that we used was Deangelo Carroll



1 being -- an interceptive device being placed on his body which  
2 would record conversations and he being sent in to work with  
3 these people.

4 Q And then was -- on May 23rd, 2005, was he sent  
5 in with a recording device?

6 A Yes, he was.

7 Q And when he came out -- or he eventually comes  
8 out?

9 A Yes.

10 Q And then was the recording device recovered?

11 A Yes.

12 Q I'll get into the recording with other  
13 detectives, but the next day, did you have contact with  
14 Deangelo Carroll on May 24, 2005?

15 A Yes.

16 Q And what was your purpose in recontacting  
17 Mr. Carroll on May 24th?

18 A For him to go back into a meeting with Mr. H  
19 and Anabel Espindola.

20 Q Okay. At the time you recontact him, at that  
21 point, did you have any information or had you -- I guess had  
22 you been informed of what was on the recordings?

23 A Yes.

24 Q Okay. And was Mr. H captured on the first  
25 recording?

1 A No.

2 Q Did Mr. Carroll go in a second time?

3 A Yes.

4 Q When he came out, did he have the recording and  
5 provided it over?

6 A Yes.

7 Q Now, were you part of the team that talks to  
8 Mr. Carroll after he comes out each time or was that other  
9 detectives?

10 A That's other detectives.

11 Q At some point in time after the second  
12 conversation, were search warrants executed or drafted for  
13 Simone's Autoplaza and the Palomino Club?

14 A Yes.

15 Q Let's start first with Simone's Autoplaza. Can  
16 you describe for us where in the valley Simone's Autoplaza is?

17 A It is on Bermuda which is -- actually, it's  
18 just south of the airport. If you're looking at one of the  
19 airport runways and you go south on Bermuda, which will be a  
20 street right there, approximately three blocks, it's right  
21 there. So it's in between Sunset and 215.

22 THE COURT: You know, Mr. DiGiacomo, before we get  
23 into the outcome of the warrant, maybe this is a natural time  
24 to take a break.

25 MR. DiGIACOMO: Yeah, at any point is fine.

1 THE COURT: Okay. You know what, ladies and  
2 gentlemen, let's go ahead and take our evening recess.

3 Obviously, Detective, you have to come back  
4 tomorrow.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: We are, as I told you this morning, I  
7 did move my calendar so we are going to be able to start at  
8 9:00 a.m. tomorrow.

9 And once again I must remind you that during the  
10 evening recess you're not to discuss the case or any subject  
11 matter relating to the case with each other or anyone else.  
12 You're not to read, watch, or listen to any reports of or  
13 commentaries on any subject connected with the trial. Please  
14 don't do any independent research on the case and don't visit  
15 any of the locations at issue.

16 Also, please do not form or express an opinion on  
17 the trial until you begin deliberating with one another.

18 If you all would please, once again, leave your  
19 notepads in your chairs and follow Officer Johnson through the  
20 double doors, we'll see you all back here at 9:00 o'clock  
21 tomorrow.

22 And obviously, Detective, don't talk about your  
23 testimony.

24 (Court recessed at 5:50 p.m until the following day,  
25 Thursday, May 20, 2010, at 9:00 a.m.)

-oOo-

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

  
KIMBERLY LAWSON  
TRANSCRIBER

**ORIGINAL**

DISTRICT COURT  
CLARK COUNTY, NEVADA

FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

MAY 21 2010

BY, Denise Husted  
DENISE HUSTED, DEPUTY

THE STATE OF NEVADA,	)	
	)	
Plaintiff,	)	CASE NO: C212667
	)	DEPT NO: XXI
vs.	)	
	)	
DEANGELO RESHAWN CARROLL	)	Transcript of
	)	Proceedings
Defendant.	)	
	)	

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 4**

THURSDAY, MAY, 20, 2010

**APPEARANCES:**

FOR THE STATE:

MARC DiGIACOMO, ESQ.  
Chief Deputy District Attorney  
GIANCARLO PESCI, ESQ.  
Chief Deputy District Attorney

FOR THE DEFENDANT:

DANIEL M. BUNIN, ESQ.  
THOMAS A. ERICSSON, ESQ

RECORDED BY JANIE OLSEN, COURT RECORDER

TRANSCRIBED BY: KARReporting and Transcription Services

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**Volume 7 - 1421**

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1 LAS VEGAS, NEVADA, THURSDAY, MAY 20, 2010, 9:11 A.M.

2 (Court was called to order.)

3 (In the presence of the jury.)

4 THE COURT: All right. Court is now back in  
5 session. The record will reflect the presence of the State,  
6 through the deputy district attorneys, the defendant and his  
7 counsel, the officers of the Court and the members of the  
8 jury.

9 And, Detective Wildemann, you are still under oath.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: All right.

12 MR. DiGIACOMO: Thank you, Judge.

13 DIRECT EXAMINATION

14 BY MR. DiGIACOMO:

15 Q Detective, yesterday we discussed the  
16 videotaped statement of Mr. Carroll as well as a small portion  
17 of the audio tape; is that correct?

18 A Yes.

19 Q And showing you what's now been marked as  
20 State's Proposed Exhibit No. 243, is that disk a true, fair  
21 and accurate copy of the videotape and that small section of  
22 tape with the exception of those small items that were  
23 redacted pursuant to the agreement of the parties?

24 A Yes.

25 MR. DiGIACOMO: Move to admit 243.

KARR REPORTING, INC.



1 THE COURT: Any objection? Submit it?

2 MR. BUNIN: This is the statement of Deangelo?

3 MR. DiGIACOMO: Yes.

4 MR. BUNIN: Yeah, submit it.

5 THE COURT: All right.

6 (State's Exhibit 243 admitted.)

7 BY MR. DiGIACOMO:

8 Q Additionally, Detective, I've had marked here  
9 State's Proposed Exhibit No. 246. Does that appear to be a  
10 transcript of at least the video portion of the statement that  
11 is on this disk?

12 A Yes, it is.

13 Q Okay. And in addition to the actual words, is  
14 there time stamps on the left-hand side of that transcript?

15 A Yes, sir, there's hours, minutes and seconds.

16 Q And should those time stamps match up to  
17 essentially where in the -- or where in the video certain  
18 things are said?

19 A Yes.

20 Q And it does appear to be a true, fair and  
21 accurate copy of the transcript?

22 A Yes.

23 MR. DiGIACOMO: Move to admit 246.

24 THE COURT: Submit it.

25 MR. BUNIN: Well, I never saw that version of it.

1 THE COURT: Of the transcript --

2 MR. BUNIN: -- until about two minutes ago and, of  
3 course, I've never gone through it to make sure it's matched  
4 up with the statement I have. So given that --

5 MR. DiGIACOMO: Judge, I've previously provided them  
6 the actual statement. After the statement was fully synced, I  
7 printed it. I've had it marked.

8 THE COURT: Okay. Here's what we'll do. We'll  
9 provisionally admit it. Obviously, Mr. Bunin, before the  
10 exhibits go to the jury, you'll have an opportunity to review  
11 it and if there's a page missing or something of that nature,  
12 we'll correct it at that time.

13 MR. BUNIN: Thank you.

14 MR. DiGIACOMO: Thank you, Judge.

15 (State's Exhibit 246 admitted.)

16 MR. DiGIACOMO: Judge, may I publish?

17 THE COURT: Sure. The tape, right?

18 MR. DiGIACOMO: The video, yes.

19 THE COURT: Right. That's what I meant.

20 MR. DiGIACOMO: Okay.

21 BY MR. DiGIACOMO:

22 Q Detective, let me back up so the jury  
23 understands what they're watching. You've already previously  
24 described kind of the interview room. Can you tell the ladies  
25 and gentlemen of the jury who's in the interview?

1           A     The first segment of the interview, it's  
2 myself, Deangelo Carroll and one of my partners at the time,  
3 Michael McGrath.

4           Q     And you said segments of the interview. Are  
5 there times when you leave the interview room for a short  
6 period of time and then you come back in the interview room?

7           A     Yes.

8           Q     At some point do you enter the interview room  
9 with somebody other than Detective McGrath?

10          A     Yes. Detective Vaccaro goes in with me at the  
11 end portion.

12          Q     Now, during the course of your interview of  
13 the -- of Mr. Carroll, are there certain techniques that you  
14 utilize as a homicide detective when interviewing a particular  
15 person?

16          A     Yes.

17          Q     Can you describe that for the ladies and  
18 gentlemen of the jury?

19          A     There's several techniques. One of the  
20 techniques I use is to gradually give information to get  
21 information. Another technique in this case was just to have  
22 a low key about myself and to try to elicit as much  
23 information as I could without doing it in a threatening  
24 manner, any style like that. But the technique mainly used in  
25 this interview is to slowly divulge information that I already

1 know to him to elicit more and more facts.

2 Q Okay. Detective, I'm going to play for the  
3 ladies and gentlemen of the jury the first portion. And  
4 you've watched this video, correct?

5 A Correct.

6 Q Before you turn on your little recorder in the  
7 beginning portion of this video -- we've kind of talked about  
8 it the other day -- is there any really substantive  
9 conversation with Mr. Carroll?

10 A No.

11 Q Okay.

12 (State's Exhibit No. 243 played.)

13 BY MR. DiGIACOMO:

14 Q Detective, why do you leave the room?

15 A Well, I want --

16 MR. BUNIN: Judge, I'm going to object. I thought  
17 this was all going to come in at once and then there was going  
18 to be questioning. You know, we weren't going to start and  
19 stop. I thought it was all going to come in at once. There's  
20 a lot more to this.

21 THE COURT: I think -- he's going to play the rest  
22 of the tape. I think he's --

23 MR. DiGIACOMO: We're going to play -- I also  
24 thought maybe -- I'm sorry. Maybe we should give the jury a  
25 moment to use the rest room or something.

1 THE COURT: Does anyone need a break? Okay. Great.  
2 Thank you, Mr. DiGiacomo.

3 That sounded facetious and I just wanted to make it  
4 clear, I wasn't being facetious with Mr. DiGiacomo.

5 Ladies and gentlemen, we'll go ahead and just take a  
6 quick ten-minute break before we resume the testimony.

7 Once again, you're reminded of the admonition not to  
8 talk about the case or do anything related to the case. If  
9 you'd all please put your notepads in your chairs and exit  
10 through the double doors. We'll see you back here at 10:10.

11 (Court recessed at 10:03 a.m. until 10:11 a.m.)

12 (Outside the presence of the jury.)

13 MR. ERICSSON: Your Honor, I didn't hear.

14 THE COURT: He objected to Mr. DiGiacomo questioning  
15 Detective Wildemann in the middle of the statement.

16 And I'm assuming, Mr. DiGiacomo, you're going to  
17 play the whole statement?

18 MR. DiGIACOMO: I am. I'm not going to play the  
19 part that Deangelo sits in the room --

20 THE COURT: Right.

21 MR. DiGIACOMO: -- by himself, but the times the  
22 detectives --

23 THE COURT: And I'm also assuming --

24 MR. DiGIACOMO: -- are inside the room, I am.

25 THE COURT: -- that you're going to ask Detective



1 Wildemann what happens, you know, when you leave the room,  
2 what's the point of that, what's your strategy, whatever, and  
3 then whatever he says, then you're going to go back to the  
4 tape. Is that basically what you're going to do?

5 MR. DiGIACOMO: That was what I was planning.

6 THE COURT: Sounds okay to me.

7 How much longer is this tape, long?

8 MR. DiGIACOMO: It's two hours and 34 minutes total,  
9 but there are about half an hour that Mr. Carroll's alone  
10 inside the room, so maybe it's two hours.

11 THE COURT: Okay. So we've done an hour.

12 MR. DiGIACOMO: And we're 45 minutes in. Yeah, when  
13 he goes back in, I think it's about 55 minutes.

14 THE COURT: And, Mr. Bunin, in regards to your  
15 objection, I had just said I think it's okay if all  
16 Mr. DiGiacomo's going to do is ask Detective Wildemann, why  
17 did you leave the room, you know, was that part of your  
18 strategy, whatever and then play the rest of the tape  
19 following that --

20 MR. BUNIN: Okay.

21 THE COURT: -- and not get into anything other than  
22 the -- the whole point of the break and how that's part of  
23 their strategy or whatever he's going to testify to.

24 MR. DiGIACOMO: I'm going to ask him what his  
25 strategy's going in -- but, yeah --

1 THE COURT: Right. Right.

2 MR. DiGIACOMO: The whole tape's going to get  
3 played. If I ask a few questions in between --

4 THE COURT: No, no. I mean, that's a natural -- in  
5 my view, that's a natural way to conduct your direct  
6 examination.

7 Is Jeff out in the hallway?

8 MR. ERICSSON: Yes.

9 THE COURT: Is everybody ready?

10 MR. BUNIN: Yes.

11 THE COURT: All right.

12 (Jury reconvened at 10:14 a.m.)

13 THE COURT: All right. Court is now back in  
14 session. And, Mr. DiGiacomo, you may resume your direct  
15 examination of Detective Wildemann.

16 MR. DiGIACOMO: Thank you.

17 BY MR. DiGIACOMO:

18 Q Detective, I think I asked essentially why is  
19 it that you and Detective McGrath get up and walk out of the  
20 room.

21 A Well, at that point we kind of want to converse  
22 with each other, you know, away from the -- Deangelo. We want  
23 to talk about what's been said, what you believe, what I  
24 believe, what's our best approach to go back in and talk.  
25 Also, it's good sometimes to give them, meaning Deangelo, at



1 this point, some time to sit and think about what has happened  
2 and let his mind kind of go a little bit crazy.

3 Q And do you do that? I mean, do you stay out of  
4 the room for a period of time and have a discussion with  
5 Detective McGrath and the other detectives?

6 A Yes, absolutely.

7 Q And during that time period, and you've seen  
8 the tape, Mr. Carroll's just sitting alone in the room?

9 A Correct.

10 Q There comes a point in time when you come back  
11 in. I'm going to play that for you, but do you remember  
12 approximately how long you were gone for or do you recall?

13 A I'm sorry, I really don't. I would say 15, 20  
14 minutes, but I'm not sure on that.

15 MR. DiGIACOMO: I'm just going to keep playing. I'm  
16 going to skip to when you guys come back in the room.

17 A Okay.

18 (State's 243 continues)

19 BY MR. DiGIACOMO:

20 Q Much like the last time, it's a similar reason  
21 why you and Detective McGrath leave the room?

22 A Yes.

23 Q Okay. Now, when you return to the room, do you  
24 return with Detective McGrath?

25 A No, I return with Detective Vaccaro.

1           Q     Why did you change partners or why did you  
2 change interviewers during the course of this interview?

3           A     Well, after -- during this break, we went back  
4 and the four of us, Detective Kyger was there also, were  
5 talking about what we had just learned. Jimmy Vaccaro is my  
6 senior partner. He was a bit more skeptical. I think Jimmy  
7 wanted to go in there and take another approach, another  
8 tactic and talk to Deangelo himself. So he asked if he could  
9 come in there and I said yes and him and I went in.

10          Q     Up until this point now, we're an hour and 23  
11 minutes into the statement or so, you've had -- you've  
12 maintained a certain demeanor and character with Mr. Carroll,  
13 correct?

14          A     Yes.

15          Q     Now, is the jury going to see that change?

16          A     They'll see a change through Detective Vaccaro.

17          Q     Okay. And what is Detective Vaccaro's demeanor  
18 like?

19          A     He's a little more brass, a little more  
20 confrontational with Mr. Carroll.

21          Q     And why the change in tactics?

22          A     Because he wants to use a more threatening  
23 manner to try to get more of the truth out of Mr. Carroll.  
24 Like I said, at that point Detective Vaccaro was more  
25 skeptical of this last story and he wanted to try his own

1 approach to try to talk to Mr. Carroll.

2 Q Up until this point as you're taking the  
3 information from Mr. Carroll, have you or Detective McGrath  
4 implied to him at all that he's in trouble?

5 A Have we implied to him that he's in trouble?

6 Q Mr. Carroll's in trouble.

7 A No.

8 Q Okay. Is that going to change?

9 A Yes.

10 Q All right. Now, just so the jury knows while  
11 we're in the middle of this, it's in this last section that  
12 the tape cuts out and then cuts back in, correct?

13 A Yes.

14 Q And then you're going -- there's a small, short  
15 40-second period where they're going to hear the audio only?

16 A Right.

17 (State's 243 continues)

18 BY MR. DiGIACOMO:

19 Q You can kind of hear it there. That's where  
20 the tape cuts out?

21 A Yes.

22 Q Okay. This is the short section that's off,  
23 that's on your recorder.

24 (State's 243 continues)

25 BY MR. DiGIACOMO:

1           Q     Then, Detective, I'm going to switch back now  
2 to -- someone finally got the second videotape put back into  
3 the machine?

4           A     Yes.

5                     (State's 243 continues)

6 BY MR. DiGIACOMO:

7           Q     And, Detective, that's the end of the videotape  
8 portion, correct?

9           A     Yes.

10          Q     There was some discussion early on when  
11 Detective Vaccaro enters the room about a box.

12          A     Yes.

13          Q     Do you know what was going on there?

14          A     Those are gunshot residue kits that we can do.  
15 They're actually like a field test that we're able to do on a  
16 person if we think they might have fired a handgun recently.  
17 And when I say recently, I mean within the last three hours or  
18 so.

19          Q     Okay. So -- well, first let me ask you: Did  
20 you ever do a gunshot residue test on Mr. Carroll?

21          A     No.

22          Q     Why not?

23          A     The time had elapsed. It was far later and he  
24 had washed his hands.

25          Q     So then why'd you bring the box in?

1           A     I think that was something Jimmy wanted to do.  
2     It was also a tactic that we use sometimes just to see if  
3     somebody might change their story about if they shot a gun or  
4     not. Sometimes they look at that, they know the test is  
5     coming, they better tell the truth.

6           Q     Now, do you recall sort of at the end there you  
7     were kind of confronting Mr. Carroll about what exactly "take  
8     care of" or that term meant as to what the meaning of the  
9     order was.

10          A     Yes.

11          Q     Do you remember that discussion with  
12     Mr. Carroll?

13          A     Yes.

14          Q     Do you also recall earlier in the statement  
15     that he told you, Go talk to Rontae and I'll tell Rontae to  
16     tell us exact -- tell you the truth, right?

17          A     Yes.

18          Q     And then after talking to Mr. Carroll, you have  
19     Mr. Zone come down and you do an interview with him?

20          A     Yes.

21          Q     Okay. I want you to turn to the bottom of  
22     page 7 to the top of page 8.

23                 MR. DiGIACOMO: Counsel, 157 of Mr. Zone's  
24     statement.

25                 THE WITNESS: Okay.

1 BY MR. DiGIACOMO:

2 Q On the bottom of page 7 --

3 MR. BUNIN: I'm sorry. What -- I'm sorry, what page  
4 again? I lost you.

5 MR. DiGIACOMO: Bottom of page 7 and into page 8.

6 MR. BUNIN: Okay.

7 BY MR. DiGIACOMO:

8 Q On the bottom of page 7, are you asking him  
9 what the term "dealt with" meant?

10 A Yes.

11 Q Okay. Top of page 8, does he answer?

12 A Yes.

13 Q What's his answer?

14 MR. BUNIN: Objection. I mean, even Rontae wasn't  
15 allowed to answer that. It was a speculation.

16 MR. DiGIACOMO: No, they specifically went into this  
17 on cross-examination, Judge.

18 THE COURT: I'll see you up here.

19 (Off-record bench conference)

20 THE COURT: If anyone has any more questions, give  
21 them to Jeff, and then we're going to go ahead and take our  
22 lunch break right now. We'll be in break for an hour until  
23 12:40 on the lunch break. And then during the break, I let  
24 the lawyers look at the questions, so if anybody has any other  
25 questions, just hand them to Jeff on your way out. Of course,



1 you're still free to ask other questions after the break if  
2 you think of something else.

3           So once again, everyone's reminded of the  
4 admonishment not to discuss the case. Don't read, watch,  
5 listen to any reports of or any commentaries on any subject  
6 matter relating to the case. Don't do any independent  
7 research on any subject relating to the trial. Don't visit  
8 any of the locations at issue. And please don't form or  
9 express an opinion on the case until you begin deliberating  
10 with one another.

11           Notepads in your chairs and follow Officer Wooten  
12 through the double doors. We'll see you all back here at  
13 12:40.

14                       (Jury recessed at 11:43 a.m.)

15           THE COURT: While we find that part, I'm going to  
16 take just a two-minute break. If anyone needs a two-minute  
17 break, they can take one as well.

18                       (Court recessed at 11:43 a.m. until 11:48 a.m.)

19                       (Outside the presence of the jury.)

20           THE COURT: We've taken a break to look over what  
21 was elicited on cross-examination by Mr. Bunin of Rontae  
22 yesterday to see whether or not there was a question relating  
23 to him using the term kill for the first time after speaking  
24 with the prosecutors.

25           And can I see a copy of the dailies from yesterday,



1 so I can follow along.

2 MR. DiGIACOMO: Judge, bottom of 173, line 17 is  
3 where the line of questioning begins because you just can't go  
4 with one question and answer. There's a series of questions  
5 that he asks that eventually gets him to what he says at the  
6 end.

7 THE COURT: And basically to make it clear for the  
8 record, the State wants to use 7 and 8 of Rontae Zone's  
9 statement to the detective as a prior consistent statement to  
10 show that he didn't come up with that idea --

11 MR. DiGIACOMO: Correct. That's not the only  
12 place --

13 THE COURT: -- after talking with prosecutors, so  
14 that's the whole issue whether or not that idea was elicited  
15 on cross -- I'm making this for the appellate record,  
16 obviously -- elicited on cross-examination or wasn't elicited  
17 on cross-examination.

18 If it was, State's entitled to introduce that as a  
19 prior consistent statement to suggest or indicate that Rontae  
20 Zone's testimony didn't change as a result of talking with  
21 prosecutors. If that's not how it came out, then Mr. Bunin is  
22 obviously correct and it goes to just speculation that I  
23 deemed inadmissible, can't backdoor it through Detective  
24 Wildemann. So that's the issue we're going to look at right  
25 now.

1           What line should I start with on page 173?

2           MR. DiGIACOMO: Line 17 where he begins the theme,  
3   which is, Now, prior to the interview with police, you and  
4   Deangelo concoct some story about what the truth should be,  
5   correct?

6           MR. BUNIN: Then you would go to 176, line 9, I  
7   think.

8           THE COURT: Okay.

9           MR. DiGIACOMO: You just want to read all the way  
10   through 76 -- 176?

11          THE COURT: I'm almost done.

12          Okay.

13          MR. BUNIN: This has already been dealt with and now  
14   they're asking him to exactly -- we've already ruled  
15   against -- speculate as to what the -- the word "dealt with"  
16   meant. He already answered all of these questions.

17          THE COURT: It looks like he says: Did anyone tell  
18   you to say the word killed instead of dealt with?

19          Correct.

20          Who?

21          Prosecutors.

22          Told you to say the word kill instead of dealt with?

23          They didn't tell me to use anything. They asked me  
24   what's the other phrase of being dealt with.

25          MR. DiGIACOMO: Right.

1 THE COURT: But Deangelo never at any point used the  
2 word kill, correct?

3 No. No, he didn't.

4 Or murder?

5 No.

6 He used "dealt with"?

7 Yes.

8 All right.

9 MR. DiGIACOMO: Sure. The implication of that is  
10 that we were telling him how to use the term. Now, just  
11 because he tried to clarify it later on, it's not relevant to  
12 say he used the term murder, and later on he says Mr. --  
13 Mr. -- I think Mr. Pesci has his page. Mr. Bunin asked him,  
14 You don't know what the plan is? Well, later in his  
15 statement, he goes, I knew Jay Jay was talking about  
16 shooting --

17 THE COURT: Okay. What page is that on?

18 MR. PESCI: Pages 193 and 194. It talks about  
19 cross-examination of the plan.

20 MR. DiGIACOMO: Yeah, 193 and 194 is  
21 cross-examination of the plan.

22 MR. BUNIN: Where are you in 192, what line?

23 THE COURT: What line?

24 MR. DiGIACOMO: I've got to get there. Apparently  
25 he cut out of there, but --

1 THE COURT: I think it's really 194.  
2 MR. BUNIN: I don't see on 194 where we're on the --  
3 THE COURT: I don't either, but --  
4 You have no idea if any plan was made, correct?  
5 You have no idea if KC followed any plan, correct?  
6 MR. BUNIN: Oh, okay. Correct.  
7 THE COURT: You don't know if Deangelo said this is  
8 supposed to be a beating, but KC didn't follow the plan. You  
9 have no idea, correct?  
10 MR. BUNIN: Correct.  
11 MR. DiGIACOMO: Page 14 of his voluntary statement:  
12 So it was your understanding what was going to happen to TJ.  
13 He was going to get shot.  
14 Page --  
15 THE COURT: Yeah, but page 194 and 195, they're  
16 talking about what was transpired between --  
17 MR. DiGIACOMO: He just said what the plan was. He  
18 doesn't say --  
19 THE COURT: No, no. If you read it in context: You  
20 have no idea what was discussed in the house.  
21 Correct.  
22 You have no idea if any plan was made.  
23 Correct.  
24 You have no idea if KC followed any plan.  
25 Correct.

1           You have -- don't know if Deangelo said this is  
2 supposed to be a beating, but KC didn't follow the plan. You  
3 have no idea.

4           Correct.

5           Now, you said KC came out and you were also -- blah,  
6 blah, blah.

7           So, I mean, to me it's clear they're talking about  
8 what happened in the house, that he doesn't know what happened  
9 in the house because -- unless he says something inconsistent  
10 to the detective, yes, I know what happened in the house  
11 because KC got in the car with -- and said, Let's go get this  
12 done, let's go -- you know, I brought my gun, or something to  
13 that effect.

14           MR. DiGIACOMO: Sure. But the implication of 173  
15 through 176 is we told him to say something. Now, just  
16 because -- just because the witness clarified it -- that's why  
17 it's a prior consistent statement. It's not a prior  
18 inconsistent statement. That's why it's admissible. It's a  
19 prior consistent statement. Before the time the prosecutors  
20 talk to him, he made a statement which was consistent with his  
21 testimony. That's the definition of a prior consistent  
22 statement.

23           THE COURT: Well, except, Mr. DiGiacomo, if you look  
24 at the totality -- if you look at everything, he's not saying  
25 the prior -- that you guys got him to fabricate that it was

1 going to be a murder. He gets him to -- is trying to get him  
2 to say you got him to fabricate that Deangelo said we -- Mr. H  
3 wants TJ killed. But he's consistent throughout that no,  
4 he --

5 MR. DiGIACOMO: Well, there's a fine distinction in  
6 front of the jury when they stood up yesterday and said we've  
7 been putting words in the witness' mouth. That's a really  
8 fine distinction. If --

9 THE COURT: I mean, Mr. DiGiacomo --

10 MR. DiGIACOMO: I'll ask the question like this:  
11 Did Rontae Zone explain to you what he believed was going to  
12 happen when he got into the car, because that even --

13 MR. BUNIN: That's speculation.

14 MR. DiGIACOMO: -- his state of mind -- no, wait a  
15 second. Rontae's state of mind in this car, particularly when  
16 they're going to ask for accessory instruction -- I'm positive  
17 they'll ask for accessory instructions -- his state of mind is  
18 relevant because that establishes whether or not he's  
19 accessory or not. So his understanding of what was going on  
20 as he's going up there is admissible.

21 THE COURT: All right. That's fine. You can ask it  
22 that way. Did Rontae say what his state of mind was when they  
23 were driving out to the lake. Ask it that way.

24 MR. DiGIACOMO: Sure.

25 THE COURT: That's totally fine.



1 MR. BUNIN: What's the relevance of Rontae's state  
2 of mind towards whether or not Deangelo is guilty?

3 THE COURT: Okay. So you don't want to have an  
4 accessory instruction as to Rontae?

5 MR. BUNIN: Yeah.

6 THE COURT: I mean, if you waive that, then --

7 MR. DiGIACOMO: If you don't want the accessory  
8 instruction, I'm fine with that.

9 THE COURT: -- it's not relevant.

10 MR. BUNIN: But the thing is I don't know why -- I  
11 still don't understand what Rontae's state of mind --

12 THE COURT: I think we had one in the Counts' trial,  
13 didn't we?

14 MR. DiGIACOMO: We had one in Counts. We've had one  
15 in the Hidalgo trial.

16 THE COURT: Yeah, but in Hidalgo there were other  
17 people. Also there were in Counts.

18 MR. BUNIN: How is Rontae's state of mind, his  
19 personal state of mind, relevant to the guilt or innocence of  
20 Deangelo?

21 MR. DiGIACOMO: Because it's relevant to the --

22 MR. PESCI: If you're asking me --

23 MR. DiGIACOMO: -- whether he's an accessory or not.

24 MR. PESCI: -- yes --

25 MR. BUNIN: No. Deangelo knows whether he's



1 accessory -- Rontae doesn't know anything. You're asking  
2 what -- his opinion of what was happening, his opinion.

3 MR. DiGIACOMO: No.

4 MR. BUNIN: Not based on anything Deangelo told him.

5 MR. DiGIACOMO: Absolutely not.

6 MR. BUNIN: That's exactly what you're asking.

7 That's exactly why --

8 MR. DiGIACOMO: What Rontae knew when he got in the  
9 car is relevant to Rontae's state of mind, which is relevant.  
10 If you want to waive an accessory instruction --

11 MR. BUNIN: He says what he knew.

12 MR. DiGIACOMO: If you want to say, I'm not getting  
13 an accessory instruction, I'm not going to tell this jury that  
14 Rontae Zone is involved, you'll stipulate he's not involved, I  
15 won't ask the question.

16 MR. BUNIN: Yeah, interesting how you're turning  
17 this, but I don't need to --

18 MR. PESCI: So that's a no?

19 MR. DiGIACOMO: Yeah, that's a no. Do you want the  
20 instruction?

21 MR. PESCI: Kind of like yesterday with Rontae?

22 THE COURT: What?

23 MR. BUNIN: Are you guys done so I can -- you guys  
24 done?

25 MR. PESCI: Yes or no?

1 THE COURT: Mr. Pesci, I'm going to say it again --

2 MR. BUNIN: Are you asking me a yes or no question?

3 MR. PESCI: Yes.

4 THE COURT: I'm going to say it again,

5 Mr. DiGiacomo, as you know, is more than competent to argue  
6 this. You don't need to somehow think -- and I know you don't  
7 think this -- but somehow feel compelled to bolster whatever  
8 Mr. DiGiacomo is doing, and then it just becomes a free for  
9 all. You know, not that your arguments aren't good, but with  
10 everybody arguing at once, it's a free for all, it's chaos,  
11 and it makes it very difficult for Janie to prepare the  
12 transcript.

13 Now, Mr. DiGiacomo, I think you agree, is more than  
14 competent to argue this stuff without you jumping up and  
15 adding stuff. And I'd say the same thing to Mr. DiGiacomo if  
16 he were jumping up adding things when you're in the middle of  
17 argument. This is Mr. DiGiacomo's witness and as you well  
18 know it's appropriate for Mr. DiGiacomo to make the arguments,  
19 not for everybody to jump up and interrupt each other every  
20 time you think of a thought.

21 Now, I don't mean to -- you know, to sound harsh,  
22 but we're getting into just chaos and free for all and  
23 everybody's running around and I think we need to, you know,  
24 at least have a minimum, even though the jury's not here, of  
25 decorum.

1 MR. PESCI: Mr. Ericsson and I will stand quiet  
2 then.

3 THE COURT: Well, Mr. Ericsson's been standing  
4 quietly. Don't drag Mr. Ericsson down into your level,  
5 Mr. Pesci.

6 MR. PESCI: I'm trying to get near his quietness,  
7 Judge. That's why I came over here.

8 THE COURT: All right. No, I'm just saying, you  
9 know, it's -- I understand the compunction to do it, but it  
10 just makes chaos, and like I said, it makes for a very  
11 difficult time for the transcribers to do our transcript when  
12 everybody's talking at once and interrupting one another.

13 MR. BUNIN: So -- fine. Keeping my train of  
14 thought, what we're now down to is, I asked him a bunch of  
15 times what was said, and he said only the words dealt with.  
16 And he tried to explain why he changed it, but he never said  
17 anything dealt with, never said murder, never said killed.

18 The question to ask is about what Rontae's state of  
19 mind was on the drive up. And they want to be able -- Rontae  
20 to be able to say, I thought it was going to be a killing,  
21 without attributing it to Deangelo in any way. In other  
22 words, my belief is it was going to be a killing. And I guess  
23 my question, if that's what's going to happen, is how is it  
24 relevant to Deangelo's guilt or innocence.

25 THE COURT: Mr. DiGiacomo.

1           MR. DiGIACOMO: Well, two things. One, I think as a  
2 starting matter, because the Court hasn't actually ruled on  
3 this part, I mean, they asked Rontae, We told you to say kill,  
4 and he said, Well, no, they just told me to use what the other  
5 term for it is. The implication being is that we tried to  
6 talk him out of it --

7           And you're shaking your head no.

8           But, I mean, they're accusing us of being unethical  
9 in front of the jury and you're preventing us from saying, We  
10 didn't do anything wrong.

11          THE COURT: If you read it --

12          MR. BUNIN: I did not do that.

13          THE COURT: -- though, that's not what the  
14 transcript says, Mr. DiGiacomo. Well, I'm sorry. I disagree.  
15 What the transcript says is, You said TJ said to kill him, and  
16 then --

17          MR. DiGIACOMO: Deangelo said to kill him.

18          THE COURT: Right. I'm sorry. Deangelo. I  
19 misspoke.

20          MR. DiGIACOMO: And the first time you used that is  
21 when? When the prosecutors told me to do it. And then they  
22 said --

23          MR. BUNIN: I asked, Did anybody ask you to say it  
24 different that time, and he said, Correct. I was surprised he  
25 was going to say that. And I said, Who. I didn't say, Did

1 the prosecutors do it. I said who. He said --

2 MR. DiGIACOMO: He said the prosecutors.

3 MR. BUNIN: -- the prosecutors. No, I repeated it  
4 because I didn't think he'd stay with that story once he  
5 realized what he said, and he didn't. But he clarifies it and  
6 says, They didn't tell me to use anything, nor did I think  
7 they did. They didn't tell me to use anything. They asked --

8 THE COURT: What page is that again?

9 MR. BUNIN: Top of page 176.

10 MR. DiGIACOMO: 176.

11 MR. BUNIN: They didn't tell me to use anything.  
12 They asked me what the other -- other phrase of being dealt  
13 with. And that's exactly where I was trying to get him to go,  
14 make it absolutely clear Deangelo never used any words except  
15 dealt with. He, on his own, changed it to kill at the prelim  
16 because he's protecting himself and that's the argument I'm  
17 going to make to the jury.

18 MR. DiGIACOMO: Right.

19 MR. BUNIN: Deangelo never at any point used the  
20 word kill.

21 No, he didn't.

22 Or murder?

23 No, he didn't.

24 Or dealt with -- he only used dealt with?

25 Yes.



1           So when he first says the prosecutors did and I  
2 asked him again, I let him fix it, and he makes it -- I make  
3 it clear, I think, to the jury that he changed it on his own  
4 because this is the type of guy he is. And he even later said  
5 to me, I'll say anything to get out of a murder charge. He  
6 says that on the stand. I mean, that's the whole context of  
7 my entire cross-examination. It is not to disparage the  
8 prosecution. I didn't lead by using the word prosecution. I  
9 didn't think he would say that. That was not my goal.

10           My goal was to make it clear that this guy -- I  
11 don't like that he's ever said in the past the word kill or  
12 murder because Deangelo's never said that word. So I want to  
13 make it clear that's not what he said. You didn't allow him  
14 to get into that speculation while he's on the stand but the  
15 [inaudible] to the police officer, and that's what I'm trying  
16 to -- that's what they're trying to do.

17           MR. DiGIACOMO: With all due respect to the Court,  
18 that's why I started at 173. The entire cross was, Hey,  
19 you're going to get accused of murder if you don't say what  
20 these guys want. I mean, you can read a question here and a  
21 question here and go, hmm, that's not what was said. But for  
22 Mr. Bunin to assert that he didn't give the implication that  
23 this guy changed his testimony because we wanted him to is  
24 ridiculous, and the fact that he actually says -- everything  
25 that he says on the stand he said in that voluntary statement.

1 The whole thing should have come in, but I understand the  
2 Court's ruling. I --

3 THE COURT: Mr. DiGiacomo --

4 MR. DiGIACOMO: I understand the Court's ruling, but  
5 this particular point, their exact point, which is going to be  
6 their exact thing that they get in front of the jury, which is  
7 nobody really knew what this was, even Rontae Zone, until the  
8 prosecutors told them what it was, that's what the entire  
9 cross-examination was. And we have the right to say it wasn't  
10 us. The first time the cops asked him, what the heck does  
11 dealt with mean, and then later on, and it's on page 32, this  
12 is what he says.

13 Detective: Okay. And that would have been because  
14 the understanding was that TJ was going to get killed. It  
15 wasn't a robbery. He was going to get killed.

16 Yes, sir.

17 Okay. So there was no beating involved?

18 No, sir.

19 No beat down involved? This guy was going to get  
20 killed?

21 Yes, sir.

22 MR. BUNIN: Where's the foundation? Where does that  
23 come from other than out of Rontae's head with no other  
24 foundation? He makes it clear Deangelo never said that.

25 MR. DiGIACOMO: Well, no, Rontae --



1 MR. BUNIN: His state of mind has nothing to do with  
2 Deangelo's guilt or innocence.

3 MR. DiGIACOMO: What Rontae says is that dealt with  
4 is a term of art. The Court -- is a street term --

5 THE COURT: Well, you didn't try to -- you didn't  
6 try --

7 MR. DiGIACOMO: -- a term of art.

8 THE COURT: -- to lay a foundation as to that. This  
9 is common parlance in their neighborhood that "dealt with" --  
10 so we can't get it in now. I mean, you could have tried to do  
11 that, but --

12 MR. DiGIACOMO: I'm not saying that, Judge, but what  
13 I'm saying --

14 THE COURT: -- you didn't, that that among their --  
15 their circle everybody knows what that means.

16 MR. DiGIACOMO: But what I'm saying, and the Court  
17 will agree with me unless you're going to not allow him to  
18 have accessory instructions, which I think would be reversible  
19 error, that the state of mind of Rontae Zone is highly  
20 relevant to that instruction. Right. If he is -- if he has  
21 no knowledge about what's going to happen out there, he can't  
22 be an accessory. What he is thinking and what he thinks is  
23 going on in that van is highly relevant to the accessory  
24 instructions. How his state of mind as a potential  
25 coconspirator is not relevant in this trial -- are they saying

1 none of the other people in the van state of mind is relevant?  
2 Of course, it is. Everybody's state of mind inside that van  
3 is relevant, every one of them.

4 MR. BUNIN: I care about Deangelo's state of mind  
5 for this case. That's what I care about, and I don't  
6 understand his relevance towards that and that's what we're  
7 trying to argue here.

8 We've now shifted to this. I'm trying to help  
9 Mr. Bunin if we put these instructions in. That's not why  
10 he's trying to bring this in. He's trying to bring it in  
11 because he didn't get it in when Rontae was on the stand. My  
12 objection was sustained then and it's the same argument now.  
13 It's got nothing to do with whether or not we get those  
14 instructions later.

15 THE COURT: He uses -- why don't you do it this way?  
16 Say some -- or not. You know, you --

17 MR. BUNIN: It should have been done with Rontae.

18 THE COURT: Well, they didn't get to do it with  
19 Rontae.

20 MR. BUNIN: Well, if they can lay a proper  
21 foundation, but it's too late.

22 THE COURT: Well, because it's not coming in. I  
23 mean, I'm trying to do this in a way that doesn't say, what  
24 does dealt with mean, because that's really your objection.  
25 So they can get it in as a prior consistent statement to show

1 that they didn't tell him to use the word kill, that that was  
2 discussed.

3 And you could do it in a couple of ways. Now, when  
4 you were talking -- Now, Detective, when you were talking to  
5 Rontae, you know, did he offer the word murder or kill, that  
6 that's what, you know, was happening here as opposed to  
7 before -- you know, or something like that. It's a little bit  
8 more innocuous. It doesn't go to what Deangelo said or didn't  
9 say.

10 And then you can clean it up and say, at no time did  
11 he say Deangelo said that TJ was going to get killed, did he.  
12 At no time did Rontae say that Deangelo said that they were  
13 going to murder anybody.

14 MR. BUNIN: So --

15 THE COURT: At no time did Counts say that in the  
16 car that they were going to kill anybody.

17 MR. BUNIN: So your ruling is that they're coming in  
18 as a prior consistent statement to show the prosecutors didn't  
19 tell them what to say?

20 THE COURT: Well, because that's a prior consistent  
21 statement.

22 MR. BUNIN: He says, They told me what to say, and  
23 then he says, They didn't really tell me what to say.

24 THE COURT: Right.

25 MR. BUNIN: Those are the back ones -- 137 -- is it

1 173? I'm sorry, I lost my --  
2 THE COURT: It's 175.  
3 MR. BUNIN: 175.  
4 THE COURT: And were you told at some point to say  
5 the words killed? Did anyone ever tell you to say the word  
6 killed instead of dealt with?  
7 Correct.  
8 Who?  
9 Prosecutors.  
10 Then you follow up, Told you to use the word kill  
11 instead of dealt with?  
12 They didn't tell me to use anything. They asked me  
13 what the other phrase of being dealt with.  
14 But Deangelo never at any point used the word kill?  
15 No. No, he didn't --  
16 MR. BUNIN: I don't think it's a prior consistent  
17 statement about prosecutors not telling him what to say. He  
18 hasn't yet spoken to prosecutors --  
19 MR. DiGIACOMO: But that's the point.  
20 THE COURT: That's the point.  
21 MR. DiGIACOMO: That's the --  
22 MR. BUNIN: No, it's not.  
23 MR. DiGIACOMO: -- recent fabrication. That's the  
24 event that causes the recent fabrication.  
25 MR. BUNIN: For that purpose -- are you saying it

1 comes in as a prior consistent statement that prosecutors  
2 didn't tell him what to say?

3 THE COURT: No, it comes in as a prior consistent  
4 statement that he at that point in time is talking that this  
5 is going to be a murder, it's going to be a killing.

6 MR. BUNIN: But what he's saying is speculation. I  
7 mean, we agree on that part. That's his opinion on it because  
8 he never says anything else.

9 MR. DiGIACOMO: That's not the test for  
10 admissibility. The test is whether or not he said something  
11 different after the reason for him to lie. And you've made it  
12 abundantly clear that we were the reason, which is now  
13 something to make him lie. So anything he said which was  
14 consistent with what he testified to is -- now establishes  
15 that the motivation to lie didn't change his testimony.  
16 That's the analysis.

17 MR. BUNIN: I think the record's abundantly clear  
18 that your -- what you said is wrong. I didn't make him say  
19 the prosecutor's out of line. In fact, when he said that --  
20 in other words, I was surprised. I followed up and let him  
21 fix it. And then he did fix it and then I moved right on to  
22 where I was really trying to go. What I was trying to do --

23 THE COURT: But it's unfair to say Mr. Bunin  
24 suggested you guys said it because that wasn't what Mr. Bunin  
25 said.



1 MR. BUNIN: I didn't. I didn't --  
2 THE COURT: He didn't say that.  
3 MR. DiGIACOMO: What he said is --  
4 THE COURT: He didn't say that. He said, Did anyone  
5 say the word killed instead of dealt with?  
6 Correct.  
7 Who?  
8 I mean, he doesn't say --  
9 MR. DiGIACOMO: Well, who would he be talking about?  
10 THE COURT: Well, it could have been cops. It could  
11 have been --  
12 MR. BUNIN: Jay Jay, Deangelo, detectives. It could  
13 have been anybody.  
14 THE COURT: I mean, that's a natural question.  
15 Mr. Bunin's going to follow up with who.  
16 MR. DiGIACOMO: That's why I asked --  
17 THE COURT: That's doesn't mean he's casting  
18 aspersions on you because he said who.  
19 MR. DiGIACOMO: I mean, I'll respect the Court's  
20 ruling --  
21 MR. BUNIN: I didn't expect him to say prosecutors.  
22 I --  
23 THE COURT RECORDER: One at a time. Thank you.  
24 MR. DiGIACOMO: I will respect the Court's ruling  
25 and ask the detective, During your conversation with you, did

1 Rontae use the word murder --

2 THE COURT: Or killed.

3 MR. DiGIACOMO: Did he say killed, did he say shot,  
4 those types of things.

5 THE COURT: Yeah. And then that's it and it doesn't  
6 say what Deangelo's state of mind was or didn't say Deangelo's  
7 state of mind. And then you can say on cross, well, he  
8 consistently said that Deangelo said dealt with, didn't he.  
9 And he can say yes and then we're done.

10 MR. BUNIN: Correct. And then am I opening a new  
11 door because I have an entire cross --

12 THE COURT: No, I just said you're not. If you say,  
13 okay, looking at Rontae's statement, when he said what  
14 Deangelo said, did Deangelo use the terms dealt with, and  
15 that's Rontae -- you know, never said Deangelo used the word  
16 murder or used the word kill; is that correct?

17 Yes.

18 So there I think it's clear on the record that the  
19 prosecutors didn't tell Rontae what to say and it's clear on  
20 the record that he never said previously that Deangelo said, I  
21 want TJ whacked, I want him killed, I want him dealt with. So  
22 we've covered both things that way. That's the fairest way  
23 for both sides. I know how to do it. Nobody's happy, but...

24 MR. BUNIN: That usually means a good ruling.

25 THE COURT: Well, I saw that on television. Or it



1 just means a really bad ruling, but --

2 MR. BUNIN: It's one or the other.

3 THE COURT: All right. I have one, two, three,  
4 four, five sheets up here. If you would all -- I once had a  
5 trial -- the reason I now count is because I once had a  
6 trial -- I won't say who the parties were or the defendant or  
7 the lawyers, but at the break a jury question was taken.

8 (Court recessed at 12:11 p.m. until 12:51 p.m.)

9 (In the presence of the jury.)

10 THE COURT: All right. Court is now back in  
11 session. The record will reflect the presence of the State,  
12 the defendant and his counsel, the officers of the Court and  
13 the members of the jury.

14 And, Mr. DiGiacomo, you may resume your direct  
15 examination.

16 MR. DiGIACOMO: Thank you.

17 BY MR. DiGIACOMO:

18 Q Detective, I think when we left off we were  
19 talking about Rontae's interview.

20 A Yes.

21 Q Okay. During your interview with Rontae Zone,  
22 did he use the term murder?

23 A Yes.

24 Q Okay. Did he use the term or phrase, TJ get  
25 shot?

1           A     Yes.

2           Q     And during the course of your interview, did

3     you clarify --

4           THE COURT:   On page 32, Counsel.

5     BY THE COURT:

6           Q     -- not a robbery, that phrase?

7           A     Yes.

8           Q     And you clarified it wasn't a beating?

9           A     Yes.

10          Q     Now, Detective --

11          MR. BUNIN:   I object -- I object to that.  I'm

12     sorry.  I don't know that's what we talked about.  I'm not

13     sure -- can we approach?

14          THE COURT:   Yeah.

15                     (Off-record bench conference)

16     BY MR. DiGIACOMO:

17          Q     Detective, you already talked about that on

18     May 24th, the second -- after the second wire recording, there

19     were search warrants executed for both Simone's and the

20     Palomino, correct?

21          A     Yes.

22          Q     Now, were you present during the execution of

23     the search warrants at Simone's Autobody?

24          A     Yes.

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

1 State's Proposed Exhibits 97 through 133 and ask you to  
2 briefly flip through those.

3 A Okay. Okay.

4 Q Now, obviously you're the detective so you're  
5 not the person taking the photographs, correct?

6 A Correct.

7 Q There were crime scene analysts there as well?

8 A Yes.

9 Q Are those true, fair and accurate depictions of  
10 the condition of Simone's at the time of the execution of the  
11 search warrant?

12 A Yes.

13 Q Now, Detective, as they're looking at the  
14 photographs there, I'm going to show you a couple of things.  
15 I'm going to show you what's been marked as State's Proposed  
16 Exhibit No. 229. Is that a color photocopy of an item that  
17 was collected during the search warrant at Simone's?

18 A Yes, it is.

19 Q 240, is that also a photocopy of an item that  
20 was collected at Simone's?

21 A Yes, it is.

22 Q And then 201B, and with the exception of the  
23 note on here by Penny Wisner, the judicial executive assistant  
24 to Judge Adair, does that appear to be an envelope as well as  
25 photocopies of items that was taken during the search warrant

1 at Simone's?

2 A Yes.

3 Q Okay. At the time that 201B was taken, were  
4 those actual real documents and then later they were  
5 substituted by photocopies at the request of an attorney and  
6 the agreement of the Court?

7 A Yes.

8 MR. DiGIACOMO: Judge, I move to admit 229, 240 and  
9 201B.

10 THE COURT: Submit it?

11 MR. BUNIN: Yes.

12 THE COURT: All right. Those will all be admitted.  
13 (State's Exhibits 229, 240, and 201B admitted.)

14 MR. DiGIACOMO: Judge, I move to admit 97 to 133.

15 MR. BUNIN: And I have a problem with two. Can I  
16 approach on it?

17 (Off-record bench conference)

18 THE COURT: 108 is withdrawn. Any objection to 106?

19 MR. BUNIN: That it's not relevant whatsoever to the  
20 actual issue in this case.

21 THE COURT: All right. Those will all be admitted.

22 MR. DiGIACOMO: 97 to 133.

23 THE CLERK: 97 to 133 are in?

24 THE COURT: Except for 108.

25 THE CLERK: Except 108.

1 (State's Exhibits 97 to 107 and 109 to 133  
2 admitted.)

3 MR. DiGIACOMO: Can I publish, Judge?

4 THE COURT: Yes, go ahead.

5 BY MR. DiGIACOMO:

6 Q In a second I'm going to put -- not every one  
7 of these obviously up there, but what I'd like to do is put up  
8 some of the photographs and have you describe what we're  
9 looking at.

10 A Okay.

11 Q Is your screen on?

12 A Yes, sir.

13 Q What about 91?

14 A That's outside of Simone's auto plaza which is  
15 the autobody shop that Mr. Hidalgo owned.

16 Q And to the right there of the photograph, I  
17 guess it's to my right right now, I guess it's going to be  
18 your right too, on the right side of the photograph, around  
19 that corner, what's over there? Is that the entrance to  
20 Simone's or can you tell from that photo?

21 A You know what, I can't tell from my photo. Is  
22 it all the way over?

23 Q Let me put up 98 and see.

24 A Yeah. Yeah, I'm sorry, that's better. That's  
25 the main entrance.

1 Q 99?

2 A That's the main waiting area with a couple of  
3 offices there for the owner and assistant.

4 Q Okay. If you were to walk through the front  
5 door, you know -- not an employee, but a customer, let's say,  
6 walked into the front door, is this area immediately  
7 accessible to the public?

8 A Yes. The front door is just to the right out  
9 of the photo.

10 Q Okay. And then 100?

11 A Is just a little bit more to the left now  
12 showing a waiting area with TVs and magazines and things like  
13 that.

14 Q And then -- I'm going to back out two of these.  
15 If you go to -- I'm sorry, 99 here, there appears to be  
16 office -- something and an office; is that --

17 A That's correct.

18 Q Okay. Did you identify, in the course of your  
19 investigation, the office on the left?

20 A Yes.

21 Q Whose is that?

22 A Anabel Espindola's.

23 Q Did you determine the office of the person on  
24 the right?

25 A Yes. Luis Hidalgo, Jr.

1 Q And then what was the thing that was in the  
2 middle?

3 A That was like a storage closet area mostly for  
4 storage.

5 Q As you enter 102, do you know what we're  
6 looking at here?

7 A Yes, we're looking at the floor underneath  
8 Anabel Espindola's work area there in her office and we're  
9 looking at a brown briefcase or satchel.

10 Q And then 103, is that just merely a closeup?

11 A Yes, sir.

12 Q And 105, what are we looking at?

13 A We're looking at a stack of paychecks from the  
14 Palomino Club and the one that's the main focus of this photo  
15 is a paycheck to the order -- to the -- to Deangelo Carroll.

16 Q Did you eventually recover that?

17 A Yes.

18 Q Showing you -- I've previously shown you 240.  
19 Is that a photocopy of that particular check?

20 A That's a photocopy of what was inside that  
21 envelope, yes.

22 MR. DiGIACOMO: Move to admit 240.

23 MR. BUNIN: Submit it.

24 THE COURT: All right. That will be admitted.

25 (State's Exhibit 240 admitted.)



1 BY MR. DiGIACOMO:

2 Q After you're in kind of the public area, can  
3 you describe to the ladies and gentlemen how you get to kind  
4 of the more private area of Simone's?

5 A Well, kind of as you walk in, there's a big  
6 area with the couches and the TV's kind of straight ahead.  
7 You've got those offices off to your right. Off to your left  
8 is a doorway with access to more of a -- as you said, a  
9 private area, which was used as a bedroom and another just  
10 living area for Little Lou or Luis Hidalgo, III.

11 Q Before you actually get to the bedroom, is  
12 there some sort of entertainment section?

13 A Yeah, there's a game room -- I mentioned  
14 there's a game room prior to making it all the way back to the  
15 bedroom.

16 Q 106, what are we looking at?

17 A We're looking at a billiard table that's set up  
18 in that game room with a bullet proof vest lying on top of it.

19 Q Now, there's three kind of stools against the  
20 wall. Is there an item of evidentiary value that's found on  
21 those -- one of those three stools?

22 A Yes, on the far left stool.

23 Q 107?

24 A That's just more of a close-up, a magazine, and  
25 then some pieces of paper on top of it.

1 Q And 109, is that the note?  
2 A That's the note, yes, sir.  
3 Q I'm going to show you State's Exhibit No. --  
4 proposed Exhibit No. 229, the photocopy. Is that the  
5 photocopy of the original note?  
6 A Yes, it is.  
7 MR. DiGIACOMO: Move to admit 229.  
8 THE COURT: Submit it?  
9 MR. BUNIN: Submit it.  
10 THE COURT: All right. 29 is -- I'm sorry, 229?  
11 MR. DiGIACOMO: 229.  
12 THE COURT: That's admitted.  
13 (State's Exhibit 229 admitted.)  
14 BY MR. DiGIACOMO:  
15 Q Detective, can you read for the ladies and  
16 gentlemen of the jury what it says on the note.  
17 A It says, Maybe we are being under surveil.  
18 Keep your mouth shut, two exclamation points.  
19 Q And then 111, what is it?  
20 A This is just back down towards the bedroom  
21 areas.  
22 Q And then 112, Room 6, why was Room 6 important?  
23 A That was where we determined that Little Lou or  
24 Luis Hidalgo, III was sleeping.  
25 Q No. 14?

1           A     That's looking into Room 6 now. You've got a  
2 small bathroom area on your left and then the bedroom as you  
3 progress into the room.

4           Q     And then 115 is --

5           A     Just another look at the bedroom. It's in  
6 pretty good disarray, but that's where Little Lou was -- or  
7 slept.

8           Q     117?

9           A     Little Lou's desk with, you know, a lot of  
10 documents, personal documents that are on there.

11          Q     Documents that identify being Little Lou, III's  
12 room?

13          A     Yes.

14          Q     119?

15          A     That's a big stack of applications for -- I  
16 believe they're savings bonds, blank applications.

17          Q     And then 120, is there some item of evidentiary  
18 value in 120? Bottle of liquor.

19          A     Oh, okay. I'm sorry. Yeah, there's a box  
20 there containing a large bottle of liquor.

21          Q     Was there other liquor located -- oh, here we  
22 go, 124.

23          A     Yes. There's, you know, a couple of bottles  
24 throughout the room.

25          Q     And then 126?

1           A     Those are the -- a loose leaf binder that's  
2 containing the savings bonds and then another envelope that  
3 was full of savings bonds.

4           Q     And those are the original savings bonds which  
5 are now copied as 201B?

6           A     Yes.

7           MR. DiGIACOMO: Move to admit 201B.

8           MR. BUNIN: Submit it.

9           THE COURT: All right. 201B's admitted.

10                (State's Exhibit 201B admitted.)

11 BY MR. DiGIACOMO:

12           Q     You also mentioned that there was a bathroom,  
13 129. Is that an interior shot of the bathroom?

14           A     Yes.

15           Q     And then were there certain, what you call,  
16 items collected out of the bathroom, 130?

17           A     Yeah. I mean, there was ashes that were  
18 around. You could see some on the countertop and around the  
19 toilet that were of interest to us.

20           Q     And why were they of interest to you?

21           A     Because it substantiated what Deangelo Carroll  
22 told us about them writing notes to each other and then  
23 burning the notes.

24           Q     At some point during the 24th into the 25th are  
25 Little Lou and Anabel Espindola arrested?

1 A Yes.

2 Q And you've seen them before?

3 A Yes.

4 Q You've also seen Mr. H before? You've already

5 testified you've seen Mr. H?

6 A Yes.

7 Q 198, do you recognize him?

8 A Deangelo Carroll.

9 Q State's Proposed 199?

10 A Jayson Taoipu.

11 Q State's Proposed 234?

12 A Luis Hidalgo Jr., Mr. H.

13 Q 235?

14 A Anabel Espindola.

15 Q 236?

16 A Luis Hidalgo, III, Little Lou.

17 Q 237?

18 A Kenneth Counts.

19 MR. DiGIACOMO: Move to admit 198, 199, 234, 235,

20 236 and 237.

21 MR. BUNIN: Submit it.

22 THE COURT: All right. Those will all be admitted.

23 (State's Exhibits 198, 199, 234, 235, 236, and 237

24 admitted.)

25 BY MR. DiGIACOMO:

1           Q     Now, Detective, you probably don't know this  
2 off the top of your head, so if you need to refresh your  
3 memory from anything that you have up there, let me know. Can  
4 you tell us the approximate age of the players? I'm going to  
5 go one by one through the various players. I'm imagining  
6 you're going to need to get your book out.

7           A     I'm going to need to get the book out.

8           Q     That's what I thought. Go ahead.

9           A     I've actually got a couple. I might have to  
10 dive into the other one also. I believe that Jayson Taoipu  
11 was the youngest. Would you like me to start with him?

12          Q     Sure. Jayson Taoipu, was he -- to your  
13 knowledge, was he a minor?

14          A     Yes.

15          Q     Okay. What's his date of birth?

16          A     7/26/1988.

17          Q     So that made him --

18          A     17, I believe.

19          Q     Would that make him 16, if it's 7/26, you're  
20 talking May?

21          A     Yeah, 16.

22          Q     Okay. And then, I guess, Rontae Zone?

23          A     Rontae Zone's date of birth is 5/30/1986, so he  
24 was just about to become --

25          Q     He just became 19?

1           A     Just became -- well, no, about to become 19,  
2 right, 5/30.

3           Q     Yeah, just -- 18, just about to become 19?

4           A     Right.

5           Q     Okay.

6           A     Go to Deangelo Carroll, 1/28/1981, so he was  
7 24.

8           Q     Mr. Counts.

9           A     6/29/1975, he was 30.

10          Q     Mr. H, I don't know if you need to tell us  
11 definitely, but he's in his 50s or 60s. He's an older man?

12          A     I thought him to be in his 60s, yeah, at the  
13 time.

14          Q     Okay. And Ms. Espindola, can you tell us how  
15 old she was?

16          A     Yes. 4/15/1972, so she was 23.

17          Q     So she'll be 33?

18          A     33, excuse me.

19          Q     And then lastly Little Lou.

20          A     Okay. 8/15/81, so -- what would that be?

21          Q     23 going on 24?

22          A     Yeah.

23               MR. DiGIACOMO: Thank you very much. Judge, I pass  
24 the witness.

25               THE COURT: All right. Thank you.



1 Cross, Mr. Bunin.

2 MR. BUNIN: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. BUNIN:

5 Q Good afternoon.

6 A Good afternoon. Let me just get this out of my  
7 way, if you don't mind.

8 Q Sure. So you're a detective obviously with  
9 Metro, correct?

10 A Yes.

11 Q And part of your job as a detective is to  
12 investigate crime, right?

13 A Yes.

14 Q And you do that with other detectives when a  
15 particular crime is assigned to you?

16 A Yes.

17 Q And you're a homicide detective now so you only  
18 work on homicides?

19 A Yes.

20 Q All right. In the course of an investigation,  
21 your ultimate goal is to determine the truth of what happened?

22 A Yes.

23 Q And sometimes that's a hard thing to do?

24 A Yes.

25 Q Now -- and, I mean, there really isn't no other

1 goal. You want to find out truthfully what occurred. You  
2 don't focus on anything. You just want to gather everything  
3 together and determine what truth is as best as you can  
4 determine it?

5 A Yes.

6 Q Okay. Now, you also -- in fact, the goal is to  
7 make sure, to the best of your ability, you charge everybody  
8 with the right crimes. I mean, that is the goal, isn't it?

9 A My goal is to, of course, conduct a thorough  
10 investigation and --

11 Q I'm sorry to cut you off there. And I  
12 appreciate what your saying -- I'm trying to ask you just yes  
13 or no questions to make it easy, and if I ask one you can't  
14 answer, tell me you can't answer it and I'll fix the question,  
15 okay. So what I'm saying is --

16 MR. DiGIACOMO: Well, hold on. I object, Judge. If  
17 the answer -- if he can give an answer to yes, no, that's  
18 fine. But if he can't, then I think he was trying to answer  
19 it.

20 THE COURT: Well, then he can say, I can't answer in  
21 a yes or no or not entirely or --

22 MR. DiGIACOMO: Can he finish the answer that he was  
23 going to give?

24 MR. BUNIN: He wasn't answering my question. That's  
25 why I cut it off.

1 THE COURT: Well, Mr. DiGiacomo, as you know, you  
2 can come back around on redirect.

3 MR. BUNIN: Thank you, Your Honor.

4 THE WITNESS: Can you ask me --

5 BY MR. BUNIN:

6 Q Obviously you want to do a thorough  
7 investigation?

8 A Yes.

9 Q And hopefully by the end of your investigation  
10 you've got truthful information?

11 A Yes.

12 Q And hopefully that information is accurate to  
13 the point where if you charge somebody with the crime you  
14 should be charging them with that crime, correct?

15 A Yes.

16 Q In some crimes where there could be multiple  
17 defendants, sometimes some people should be charged with one  
18 thing and other people should be charged with other things.  
19 Would you say that's a fair statement?

20 A Yes.

21 Q Now, obviously -- I know it's really obvious,  
22 but you're not a witness to any of the events that occurred in  
23 this case, in Deangelo Carroll's case, right?

24 A I'm not a witness to the actual event?

25 Q The actual event.

1 A Oh, no.

2 Q I mean, after the fact when you talk to people,  
3 I guess -- I don't mean to that extent. I mean, you're not a  
4 witness to any of the actual events as they occurred?

5 A No.

6 Q Okay. So you have to gather evidence based on  
7 whatever resources could be available to you?

8 A Yes.

9 Q Now, one resource that sometimes is available  
10 in an investigation would be to talk to witnesses.

11 A Yes.

12 Q It's not always available to you, but that's  
13 one -- that's a very important one, if you can talk to  
14 witnesses?

15 A Yes.

16 Q And in this case obviously there was a witness  
17 available to you?

18 A Yes.

19 Q Now, when you talk to a witness, just  
20 generally, you have to use your judgment, your training, your  
21 experience, that sort of thing to try and determine what you  
22 may have heard and if it's truthful or if it's not truthful,  
23 correct?

24 A Correct.

25 Q Or if parts are truthful and parts aren't

1 truthful?

2 A Correct.

3 Q In fact, on the video we watched of you while  
4 you were interrogating Deangelo Carroll, I think you testified  
5 during one of the breaks of the video when Mr. DiGiacomo  
6 questioned you that you and Detective McGrath went outside to  
7 talk about which parts you believed and which parts you didn't  
8 believe, correct?

9 A Correct.

10 Q So that's a very important thing and you have  
11 to try to make your judgment call?

12 A Yes.

13 Q All right. Now, aside from the statement,  
14 there's other types of evidence in a case beside witness  
15 statements, right?

16 A Yes.

17 Q And it would be great when you're trying to  
18 determine the truthfulness of a statement if you can find  
19 corroborating evidence. Wouldn't that be something that you'd  
20 look for?

21 A Correct.

22 Q Okay. And again, because it's hard to tell  
23 specifically just on a statement alone if a person's truthful,  
24 if you have otherwise corroborating evidence, that's something  
25 you want to go find?

1           A     Yes.

2           Q     All right. Now, some witnesses when you  
3 interview them tell inconsistent stories? That's probably  
4 happened to you many times?

5           A     Yes.

6           Q     And you have to determine, like I said, the  
7 truthful parts and the parts that aren't truthful, to the best  
8 of your ability?

9           A     To the best of my ability, yes.

10          Q     And again, you do that by -- I think I've gone  
11 over this -- you try to go find corroborative evidence to see  
12 which parts you might be right about, which parts you might be  
13 wrong about, correct?

14          A     Yes.

15          Q     All right. Now, I'm going to get back to that  
16 in a few minutes. Let's talk about some other things.  
17 Specifically, in this case, when you went to the Palomino  
18 Club, you were already aware of a person named Deangelo  
19 Carroll, correct?

20          A     Yes.

21          Q     Because -- I mean, in advance, this was  
22 somebody you wanted to speak to?

23          A     Let me cut you off. Just so I'm clear what  
24 you're asking me, you're talking about the very first time  
25 that I went to the Palomino Club?



1           Q     I was unclear. When you first went to the  
2 Palomino Club after going out to the scene where the body was,  
3 you already were aware of a person named Deangelo Carroll?

4           A     Yes.

5           Q     And that was the person that you wanted to talk  
6 to?

7           A     Yes.

8           Q     There was some evidence out at the scene that  
9 made you want to speak to Deangelo Carroll?

10          A     Yes.

11          Q     Okay. Now, when you got to the Palomino Club,  
12 at some point Deangelo Carroll was there?

13          A     The second time.

14          Q     The second time. What would the date have  
15 been?

16          A     The date would have been 5/20/2005.

17          Q     Okay. So on 5/20 you're at the club for the  
18 second time and Deangelo Carroll walks in?

19          A     Yes.

20          Q     And you testified that he volunteered to speak  
21 to you?

22          A     Yes.

23          Q     Okay. And this was at the Palomino Club where  
24 he volunteered?

25          A     Initially, yes.

1           Q     Okay. And then -- I guess, you know, there's a  
2 lot of possibilities from that. You could have chosen to  
3 speak to him at the Palomino Club, had you wanted to?

4           A     Yes.

5           Q     And, in fact, you have the capability of  
6 recording the conversation in places other than at the  
7 homicide office, correct?

8           A     Yes.

9           Q     And you could have questioned Deangelo at the  
10 Palomino Club and done an audio recording?

11          A     Yes.

12          Q     Did you have the capability of doing video back  
13 then at the Palomino Club? Had you wanted to do a video  
14 recording too back then, could you have done it at the  
15 Palomino Club?

16          A     No.

17          Q     Okay. I didn't think so. Back then it would  
18 have been audio.

19                You, in fact, often, I would guess in many of your  
20 cases, you take audio recorded statements of people somewhere  
21 outside of the homicide office, correct?

22          A     Yes.

23          Q     I mean, literally in parking lots, in people's  
24 homes, places like that, you take audio recordings?

25          A     Yes.

1           Q     Okay. You also mentioned, I think, during the  
2 direct examination that Deangelo lived like a couple of  
3 minutes tops from the Palomino, right?

4           A     Yes.

5           Q     And you could have gone over there if you  
6 wanted to take a statement too?

7           A     I could have. I wouldn't have, but I could  
8 have.

9           Q     You could have, but you wouldn't have.  
10                And had you chosen to, even though I know you  
11 wouldn't have, you also could have done an audio recording  
12 there had you gone to Deangelo's house to take the statement?

13          A     Yes.

14          Q     Okay. Now, Deangelo, on May 20th when you saw  
15 him at the Palomino Club, drove himself to the Palomino Club?

16          A     On May 20th, yes.

17          Q     Okay. Now, instead of questioning Deangelo at  
18 the club or at his home or wherever else, you wanted to  
19 question him at the homicide office?

20          A     Yes.

21          Q     And you would agree that that's, you know, a  
22 more intimidating place to question a witness?

23          A     Yes.

24          Q     It's probably a less comfortable environment  
25 than the other places that I mentioned for a witness to be

1 questioned?

2 A I guess it would depend on the witness.

3 Q Right. Well, at times, then, I'm sure you've  
4 seen witnesses that are probably less comfortable there than  
5 they would have been at their home or at their work?

6 A Yes.

7 Q Okay. Also you had Deangelo ride with you and  
8 another detective; is that correct?

9 A Yes.

10 Q You had them ride with you in your official  
11 vehicle?

12 A Yes.

13 Q Yes. So in the car was just Deangelo and two  
14 detectives?

15 A Yes.

16 Q So he couldn't drive his own -- or he didn't  
17 drive his own vehicle to the homicide office. He went with  
18 you in your official vehicle?

19 A Yeah, he didn't have his own vehicle. He was  
20 in a Palomino vehicle, so --

21 Q Okay. But he could have driven another vehicle  
22 had he wanted to?

23 A I don't know if they're going to authorize him  
24 to take a vehicle like that or -- I have no idea. I just  
25 offered to drive him and --

1 Q Bottom line is he went with you and the other  
2 detective in the official vehicle?

3 A Yes. Yes.

4 Q Okay. And then you drove to the police  
5 station?

6 A Yeah.

7 Q Specifically to the homicide office?

8 A Yes.

9 Q And, you know, at this office there's a lot of  
10 other police officers?

11 A No.

12 Q A couple of other police officers or just --

13 A Just the ones that I had mentioned.

14 Q Oh, that's it?

15 A This is long after hours.

16 Q Okay. Oh, normally this would be a place where  
17 other people are there, but because it was late night, nobody  
18 else was around?

19 A Exactly.

20 Q All right. Was there anybody else in the  
21 building at all?

22 A No.

23 Q All right.

24 A No.

25 Q Now, you went through the front doors to get

1 into the building?

2 A Mm-hmm.

3 Q Yes?

4 A Yes.

5 Q Just for the record, you know.

6 A Sorry.

7 Q How many sets of doors did you go through  
8 before you ended up in the interrogation room?

9 A Well, I haven't been in that office in years.  
10 Just the one set in the front doors and then very similar to  
11 this back -- a little knee-high kind of divider and then into  
12 the room itself.

13 Q Okay. And then the interrogation room, we saw  
14 it on the video, but it's a pretty small room?

15 A It's a small room, yes.

16 Q And then there was one door only in the -- you  
17 can use to get in and out of the room, right?

18 A Yes.

19 Q And there's a table in the room?

20 A Yes.

21 Q And you had Deangelo sit at the table?

22 A Yes.

23 Q And Deangelo was sitting at the table with his  
24 back to the wall and front towards the door?

25 A No, his front was actually towards me. The



1 door was off to his left, I believe.

2 Q Well, I think when I saw the video, Deangelo,  
3 in order to get out, would get up, walk straight forward and  
4 go a little bit left and you would be going right out the  
5 door.

6 A Okay.

7 Q Okay. So Deangelo's at the table and then  
8 between Deangelo and the door is the table?

9 A Yes.

10 Q You?

11 A Yes.

12 Q And Detective McGrath?

13 A Yes.

14 Q Okay. Again, this is a very intimidating  
15 situation for a person to be questioned under the  
16 circumstances we just described?

17 A It would depend on that person, I would think.

18 Q Well, in your experience, this is an  
19 intimidating situation in many situations?

20 A It can be, yes.

21 Q And that's why you wanted -- that's why you  
22 wanted to question Deangelo there?

23 A No, I didn't want to question Deangelo at his  
24 place of employment --

25 Q It's a yes or a no. And if the answer's no, I

1 can live with it.

2 A No.

3 Q Okay. In that situation -- well, I guess maybe  
4 we've gone over this, but it depends on the person, but  
5 reasonable people might feel pretty intimidated in that  
6 situation?

7 A Yes.

8 Q Might feel like that they can't leave even if  
9 they want to?

10 A Once again, sir, I have no idea. I made it  
11 clear to Deangelo that --

12 Q My question is a reasonable person might --

13 A -- he's not under arrest.

14 Q -- feel in this situation, even if you made it  
15 clear --

16 A I can't answer that.

17 Q -- to him that he might not really truly be  
18 able to leave in this situation?

19 MR. DiGIACOMO: Objection; speculation.

20 THE COURT: Yeah, sustained. And he already said he  
21 can't answer it.

22 MR. BUNIN: All right.

23 BY MR. BUNIN:

24 Q And your testimony would be had Deangelo said,  
25 Forget this, I'm not saying anything, I'm going to get up and

1 go home, you guys would have said, Sure, Deangelo, and you  
2 would have let him go?

3 A Probably at that point, yes.

4 Q But you're not sure?

5 A I'm not sure at this second, no.

6 Q Okay. Now, maybe I have this wrong. Deangelo  
7 didn't know he was being videotaped; is that a true statement?

8 A I didn't tell him he was being videotaped, no.

9 Q Okay. To your knowledge, nobody told Deangelo  
10 he was being videotaped?

11 A To my knowledge.

12 Q All right. You did tell him that he was being  
13 audio recorded?

14 A It was right there in the -- yes.

15 Q I think I remember seeing that. I'm pretty  
16 sure you did. Okay.

17 Now, when you first started speaking to Deangelo,  
18 you didn't Mirandize him?

19 A No.

20 Q And by Mirandize, I mean reading him his  
21 rights.

22 A I know what it means, yes. No.

23 THE COURT: I think he meant that, for the benefit  
24 of --

25 MR. BUNIN: I think I'm really talking to them --

1 THE COURT: -- the jurors.

2 BY MR. BUNIN:

3 Q -- because they know -- I'm very confident they  
4 know a heck of a lot more than I know. So I'm just -- I'm  
5 really speaking for the jury.

6 A I did not. I'm sorry.

7 Q Okay. So part of what I mean by Mirandize is  
8 you didn't tell him that the statements you were about to make  
9 could be used against him down the road? You didn't tell him  
10 that when you started talking to him?

11 A No.

12 Q And part of what I mean is you didn't let him  
13 know that he had a right to have an attorney with him before  
14 any questions could be asked? You didn't let him know he  
15 could have an attorney there if he wanted to, right?

16 A No, not at the beginning, no.

17 Q Okay. And part of the reason you didn't  
18 Mirandize him is because you were concerned if you did he  
19 wouldn't talk to you?

20 A I didn't Mirandize him because he wasn't in  
21 custody.

22 Q It's a yes or a no. That's your, you know --

23 A So ask it again, please, then.

24 Q Part of the reason you didn't Mirandize him is  
25 because you were concerned, at least part of the reason, that

1 if you did he wouldn't speak to you?

2 A I had no idea. I would say no.

3 Q So -- well, had you Mirandized him -- maybe  
4 what you just said was right. Had you Mirandized him, you  
5 have no idea if he would have spoken to you, right?

6 A Right.

7 Q And had you Mirandized him, even if he had  
8 spoken to you, you're not sure what would have been said?  
9 There's just no way to know, correct?

10 A Correct.

11 Q All right. You did Mirandize him late in the  
12 interrogation?

13 A Yes.

14 Q But he wasn't Mirandized until certainly you  
15 believed Deangelo by then had made some incriminating  
16 statements?

17 A Correct.

18 Q And then after you Mirandized him, Deangelo did  
19 still continue to speak with you?

20 A Yes.

21 Q Although -- well, by then -- I guess you -- you  
22 can't get into Deangelo's head, can you?

23 A No.

24 Q You don't know why Deangelo kept talking to you  
25 after he was Mirandized?

1 A No.

2 Q You don't know why he talked to you before he  
3 was Mirandized?

4 A No.

5 Q I mean, you don't know -- well, I guess only  
6 Deangelo knows what Deangelo's thinking, right?

7 A Correct.

8 Q Now, at that point it's possible he felt that  
9 he needed to clarify the statements he made before?

10 MR. DiGIACOMO: Objection. Speculation, Judge.

11 THE COURT: That's sustained. He just said he  
12 doesn't...

13 BY MR. BUNIN:

14 Q When you read Miranda to him, you didn't make  
15 it clear whether or not the statements he said before he was  
16 Mirandized could ever be used against him? You never talked  
17 about that with Deangelo, did you?

18 A No.

19 Q So Deangelo may have felt the need to clarify  
20 those statements; is that correct?

21 MR. DiGIACOMO: Objection. Speculation.

22 MR. BUNIN: I'll try to lay a little better  
23 foundation for it.

24 THE COURT: Well, I think -- I think you made the  
25 point he doesn't know what Deangelo may or may not have --



1 MR. BUNIN: All right.

2 THE COURT: -- felt or thought.

3 BY MR. BUNIN:

4 Q Now, during the course of this two and a half  
5 hour or so interrogation, Deangelo, I think we could all  
6 agree, made many inconsistent statements?

7 A Yes.

8 Q And there's a lot of reasons, you know, why a  
9 person might make inconsistent statements, in your experience,  
10 right?

11 A Yes.

12 Q In fact, I guess throughout the course of this  
13 investigation you've talked to other people who have made  
14 inconsistent statements?

15 A Yes.

16 Q You might make inconsistent statements because  
17 you're nervous? That's possible?

18 A Possible, yes.

19 Q Or at least part of the reason why. Maybe  
20 because you're scared?

21 MR. DiGIACOMO: Objection, Judge. It's all  
22 speculation --

23 MR. BUNIN: It's not.

24 MR. DiGIACOMO: -- why any person would do anything.

25 THE COURT: Overruled. He can say in his



1 experience.

2 MR. BUNIN: That's what I mean. Thank you, Your  
3 Honor.

4 BY MR. BUNIN:

5 Q Maybe because you're scared, correct?

6 A Correct.

7 Q Maybe because a person's intimidated?

8 A Correct.

9 Q Maybe because a person's confused?

10 A Correct.

11 Q Maybe they're trying to say what you want them  
12 to say so they'll get taken home? That's a possible reason  
13 too to try to get a story right? I mean, it's possible?

14 MR. DiGIACOMO: Objection. It's speculation, Judge.

15 THE COURT: Yeah.

16 MR. BUNIN: Not in this case, Judge, because  
17 specifically that's kind of what occurred on the video.

18 THE COURT: Well, I think some of that's argument  
19 anyway, Mr. Bunin.

20 MR. BUNIN: All right.

21 BY MR. BUNIN:

22 Q Well, and, of course, you know, nobody  
23 denies -- people make inconsistent statements because maybe  
24 they're guilty of something too, right?

25 A Yes.

1 Q And what they're guilty of becomes the  
2 question, right?

3 A Yes.

4 Q Now -- I mean, some of the detectives in the  
5 room, maybe even you at some point or another, certainly said  
6 things to Deangelo that might make him feel nervous?

7 A I don't think I said anything that made him  
8 feel nervous until probably Detective Vaccaro came in.

9 Q That's about when I was thinking too.

10 A Until then, it was a pretty -- pretty  
11 straightforward interview.

12 Q I think that there were three different  
13 detectives in the room, total, right?

14 A Yes.

15 Q It's fair to say you all have pretty different  
16 styles?

17 A Yes.

18 Q And between you -- I mean, certainly some of  
19 you used tactics that were more intimidating than others?

20 A Yes.

21 Q That would probably be Vaccaro, Detective  
22 Vaccaro?

23 A Yes.

24 Q And his tactic was intended to be intimidating?

25 A Yes.

1 Q And it was intended to make the person nervous?

2 A It was intended to get the truth.

3 Q It was defended to make the person nervous?

4 A Who knows if that person would be nervous or  
5 not, sir.

6 Q Well, when you -- okay. That's fair. But when  
7 you intend to intimidate somebody, part of that is intending  
8 to scare them a bit?

9 A Yes.

10 Q Now, another reason you might get inconsistent  
11 statements might just be the person you're talking to. It has  
12 something to do with their education level or their  
13 intelligence level. It's possible?

14 A I don't know. That's stretching it, it seems  
15 to me.

16 Q Okay.

17 A But a possibility.

18 Q I don't expect you to agree with me all the  
19 time here.

20 Certainly -- well, you have a significant  
21 educational background, right, to do what you're doing?  
22 You're a very well-trained person?

23 A Yes.

24 Q You have a lot of experience questioning  
25 witnesses throughout your career?

1 A Yes.

2 Q You're also experienced in interrogation  
3 techniques?

4 A Yes.

5 Q You even discussed some of those techniques on  
6 direct examination, right?

7 A Yes.

8 Q And you're trained specifically in different  
9 types of interrogation techniques?

10 A Yes.

11 Q And you used your experience and your training  
12 to determine what techniques to use in what situations, right?

13 A Right.

14 Q Okay. Now, you agree -- you agree at times  
15 people have confessed to crimes that they didn't actually  
16 commit?

17 MR. DiGIACOMO: Objection.

18 MR. BUNIN: This is an experienced person with many  
19 witnesses, and I can ask him if this is something that is  
20 possible to even occur.

21 MR. DiGIACOMO: Well, objection. Relevance.

22 THE COURT: Speculation.

23 MR. BUNIN: It's not. It's based on his training  
24 and experience and his own -- his own experiences, Your Honor.  
25 It's not just a lay witness. This is a homicide detective.

1 THE COURT: I'll see everybody up here.

2 (Off-record bench conference)

3 MR. BUNIN: I'm sorry. Court's indulgence.

4 THE COURT: That's fine.

5 BY MR. BUNIN:

6 Q Like we talked about earlier, let's talk about  
7 some corroborating evidence then.

8 A Okay.

9 Q And we talked about how ideally you don't want  
10 to rely on a confession or a statement given to you alone.  
11 You want to go out and see if there's other evidence to back  
12 that statement?

13 A Correct.

14 Q Okay. Now, like we clearly said, you heard  
15 different versions of the story from Deangelo when you spoke  
16 to Deangelo for that two and a half hours?

17 A Yes.

18 Q That's a fair statement. And, you know, very  
19 early on when you're talking to him -- you know, he admits  
20 that he told a lie and says, Let's start again, right?

21 A Yes.

22 Q And Deangelo says, Look, it's what they told me  
23 to say and that's why I told you this lie. That's what he  
24 tells you, correct?

25 A I don't know what you're talking -- like where

1 we're at in the -- I think he says what -- I think he says,  
2 Let's start over, on more than one occasion, first of all.  
3 And secondly, I'm not sure exactly what you're -- you know,  
4 where you're at in the statement because I think he says --

5 Q At one point --

6 A -- it more than one time, sir.

7 Q At one point, does Deangelo say, I lied and I  
8 tried to tell you the story that they told me to tell you,  
9 basically?

10 A I don't know that that -- something very  
11 similar to that, I guess.

12 Q Okay.

13 A I'll just answer it that way.

14 Q Good enough. And I didn't write it word for  
15 word. It's on, I think, page 118 of mine if we want to go  
16 through it, but I think you could agree with me essentially  
17 things along those lines; is that correct?

18 A Right.

19 Q Okay. Now, Deangelo also said to you, and this  
20 is -- specifically says it -- the first time he says, Let's  
21 start over, he says, How do I know I'm going to be protected  
22 if I say anything. That's something that Deangelo says,  
23 right?

24 A Yes.

25 Q And he says, I'm scared for my life, correct?



1 A I think he does, yes.

2 Q And at the time he said that, he seemed kind of  
3 scared and agitated. Wouldn't that be a fair statement?

4 A Yes.

5 Q And like we talked about, that's possible to  
6 explain, I guess, why you start getting different versions of  
7 the story, somebody may be in fear, correct?

8 A Correct.

9 Q Now, he starts over again and he says, Look,  
10 I'm scared of KC. That's something that basically Deangelo  
11 tells you around this point in the interrogation, right?

12 A Yes.

13 Q And he says KC lives right by his mom, right?

14 A Yes.

15 Q His mom, at the time, lived right across the  
16 street from KC; is that right?

17 A Sort -- yeah.

18 Q Like catercorn --

19 A Yeah.

20 Q Okay. Very close.

21 And Deangelo told you he was scared for his family?

22 A Yes.

23 Q And he said that, in fact, after the shooting  
24 KC even threatened to shoot Jay Jay in the car; isn't that --

25 A Yes.

1 Q And if these things that Deangelo said are  
2 true, well, he certainly may have reason to be scared?

3 A Yes.

4 Q Okay. In fact, Deangelo told you at one point  
5 KC was so agitated he pointed the gun at everybody in the car,  
6 didn't he?

7 A Yes.

8 Q Okay. Now, again, when we were talking about  
9 corroborating evidence during the interrogation of Deangelo --

10 MR. BUNIN: I'm sorry. Court's indulgence.

11 BY MR. BUNIN:

12 Q Okay. During the interrogation he asked even  
13 if he could call -- he wanted to call Rontae and Jay Jay and  
14 tell them to tell you everything, right?

15 A I'm not sure if he said he wanted to or if he  
16 just said, You can call. I'm not sure. But he does make a  
17 reference regarding calling Rontae and Jay Jay.

18 Q And says, Tell them everything?

19 A Yes.

20 Q Okay. And, you know, actually before you ever  
21 spoke to Rontae, Deangelo yelled out, Tell the truth or we're  
22 all going to jail. Do you remember that?

23 A I didn't pick -- or I didn't drop him off or  
24 pick Rontae up so --

25 Q My fault. You were --

1           A     -- I don't know that.

2           Q     That would be a different detective?

3           A     Yes.

4           Q     Now, again, even after Deangelo restarts and  
5 says, Let's start over, can we agree he still told different  
6 versions of the story?

7           A     Yes.

8           Q     And again, you don't know what's in Deangelo's  
9 mind so you don't know why he did that?

10          A     No.

11          Q     I mean, you know what Deangelo's saying, but  
12 you don't know the truth at this point?

13          A     Well, which point are you talking about, sir?  
14 I'm sorry, but --

15          Q     All right.

16          A     -- it's kind of vague because it's a big long  
17 statement.

18          Q     Let's go into some of the different versions.  
19 You know, there's a version that Deangelo clearly says that  
20 the prosecutors talk about in their opening statement and they  
21 showed part of it to the jury and it clearly is Deangelo  
22 saying that he knew H wanted TJ killed. Deangelo said that  
23 during this tape, didn't he?

24          A     Yes.

25          Q     Okay. And he said that he didn't want to do it

1 and he went and got somebody else basically. That's what  
2 Deangelo said?

3 A Yes.

4 Q Okay. And then there was another break.

5 Detective Vaccaro comes in. Deangelo's rights are read and  
6 you continue with the interrogation, right?

7 A Correct.

8 Q That's not long after Deangelo talks about H  
9 saying he wanted TJ killed?

10 A Correct.

11 Q All right. And then -- now, afterwards,  
12 Deangelo -- I mean, Detective Vaccaro comes in. He starts  
13 using his tactics, correct, to talk to Deangelo?

14 A Ask it again. I'm sorry.

15 Q And I think I barely got that sentence out.  
16 Detective Vaccaro comes in and he starts using his own  
17 tactics --

18 A Yes.

19 Q -- to continue to question Deangelo?

20 A Yes.

21 Q Which are a little more aggressive?

22 A Yes.

23 Q And then Deangelo, at that point, starts making  
24 a lot of statements about what occurred that night, right?

25 A Yes.

1 Q And I'm going to go through some of the things  
2 he says at this point specifically not long after Detective  
3 Vaccaro comes in and not long after his rights are read, okay?

4 A Okay.

5 Q He says that he never told KC H wanted Jay Jay  
6 killed, just hurt. Deangelo says that, right?

7 A You know what, would you mind if you just gave  
8 me a copy of the statement that I can -- that way I can look  
9 at it and have a better answer for you.

10 Q Let me see. I want to make sure you get it  
11 right too. I'm sorry. I thought I found the right page. Let  
12 me just go on to another question and I'll come back to this.  
13 I think I'm on the wrong -- I have two different versions of  
14 this, one that I had a long time ago and one that I got right  
15 when the trial started, and the pages are different, so I want  
16 to make sure I've got all these straight.

17 Let's see if you remember this; and, otherwise, we  
18 can go back, but we just watched the video less than an hour  
19 ago. He told you -- Deangelo told you at least once, probably  
20 several times at this point, they never meant for TJ to get  
21 killed?

22 A Yes.

23 Q Okay. And then Deangelo told you that he  
24 doesn't know how to fight --

25 A Yes.

1 Q -- Deangelo himself?

2 And he told you that KC was supposed to do  
3 everything?

4 A Yes.

5 Q And he told you, But KC shot instead. Those  
6 are the words Deangelo used?

7 A Yes.

8 Q You know, basically he said KC kind of went off  
9 on his own and shot him when he wasn't supposed to do that?

10 A Yes.

11 Q And then Deangelo said he never saw a gun that  
12 night until TJ was shot?

13 A Yes.

14 Q Now, you guys talked to him about, you know,  
15 this guy carries a gun, but Deangelo pretty clearly says  
16 several times he never saw a gun until after -- until right at  
17 the time TJ was shot?

18 A Yes.

19 Q Okay. And, in fact, other witnesses you spoke  
20 to agree with that statement, corroborate that, that they  
21 never saw a gun until the actual shooting? You don't  
22 remember?

23 A I don't want to say anything out of line, but I  
24 don't -- I believe that a witness did say he saw a gun.

25 Q Okay. You don't think -- Deangelo said he



1 didn't think KC was going to shoot TJ, right?

2 A At one time he says that, yes.

3 Q Right. And specifically where I'm talking  
4 about is after Detective Vaccaro comes in and then there's  
5 a -- you Mirandize him and then you start going into a lot  
6 more detail and it's at this point I'm saying Deangelo says  
7 that. I know you just pointed out that he said something out  
8 earlier. I just made that clear too. I'm not trying to deny  
9 that. But I'm saying this is where I'm at in the conversation  
10 now.

11 A Okay.

12 Q And in this part of the conversation he said  
13 that he didn't think KC was going to shoot Deangelo, right?

14 A Right.

15 Q I mean shoot TJ.

16 A Oh, I'm sorry. Yeah, right.

17 Q And then there was no conversation in the car  
18 about KC having a gun on the way up. He tells you that right  
19 in this section too? Deangelo says that?

20 A I believe so, yes.

21 Q And Deangelo told you that he never told KC  
22 what H said about a killing. He also says that in this  
23 section?

24 A Yes.

25 Q And he never told KC to kill. He says that in

1 this section, Deangelo?

2 A Yes.

3 Q And that all he said was H needed something  
4 handled, right?

5 A Yes.

6 Q And then again he actually repeats, and I think  
7 he says this several times, that he never meant for TJ to get  
8 killed in this section. That's what Deangelo says?

9 A That's different times, yes.

10 Q Okay. And then he says he tried to help KC --  
11 I mean, sorry. He says he tried to help TJ after it happened,  
12 but KC kind of yelled and threatened and said, Get out of  
13 here. That's what Deangelo tells you?

14 A Yes.

15 Q And other people also told you KC yelled right  
16 afterwards, Get out -- we've got to get out of here?

17 A Yes.

18 Q And then Deangelo said he was in shock and  
19 drove out of the area a different way than he came, right?

20 A Yes.

21 Q And Deangelo told you that he had already  
22 previously told Anabel that KC just flipped out and shot him,  
23 right?

24 A Yes.

25 Q And, in fact, later, which we haven't talked

1 about at all yet, when Deangelo wears a wire on behalf of the  
2 police and speaks to Anabel and Little Lou, the same statement  
3 is made, right, that -- that Deangelo says, I already told you  
4 he just flipped out and shot him? Do you recall that?

5 A On the wire?

6 Q Yeah.

7 A I don't, sir.

8 Q Are you familiar with the wire?

9 A I haven't listened to those in years.

10 Q Okay. I presume a different detective's going  
11 to come in and we're going to talk about them.

12 A I presume.

13 Q But again, he repeats late in the interrogation  
14 that you guys did of Deangelo that he only got KC to beat up  
15 TJ, only -- it was never supposed to be a killing. He  
16 state -- he continues to say that late in the interrogation?

17 A Late in the interrogation, yes.

18 Q All right. Now, again, you have inconsistent  
19 versions of the story and you want to corroborate one if you  
20 can do that, right?

21 A Yes.

22 Q Right. And you actually say to him, You know,  
23 Deangelo, how are we going to prove this -- or it might be  
24 Detective Vaccaro that says it.

25 A It's Detective Vaccaro, I believe.

1           Q     How are we going to prove this? You know, how  
2 are we going to -- I mean, you just want to get to the truth  
3 at this point, right, so how are we going to get to it?

4           A     And the first thing he says is, Test my hands. I  
5 didn't do any shooting, right?

6           A     I don't recall that, but --

7           Q     Well, he said, You can do a test to prove I  
8 never fired a gun that night. Deangelo says that?

9           A     Does he? Okay. I don't recall. I know he  
10 says, You can give me any test you want, I think is what he  
11 says at one point.

12          Q     On direct examination you were talking about a  
13 box that's brought in the room that does a test for gunshot  
14 residue --

15          A     Mm-hmm, yes.

16          Q     -- yes?

17          A     And the reason Detective Vaccaro brought that in the  
18 room was to kind of bluff Deangelo; isn't that right?

19          A     I'm going to assume that's what Detective  
20 Vaccaro meant to do. It wasn't a tactic that we talked about.  
21 It's a tactic that I've used.

22          Q     And Detective Vaccaro appeared to have used it  
23 in this particular interrogation?

24          A     I believe so.

25          Q     And it was to see if a person would really

1 allow a gunshot residue test, right? I mean, because at this  
2 point you weren't going to give him one because it was  
3 probably too late to really get any really sample?

4 A Right.

5 Q And despite the fact that it was in the room,  
6 Deangelo offered, Do a gunshot residue test, I didn't shoot  
7 anybody, right?

8 A Correct.

9 Q Okay. And then he says that he'll also prove  
10 it by wearing a wire and that will corroborate his story?

11 A Yes.

12 Q And then, not long after, Deangelo works with  
13 detectives, wears a wire and tries to corroborate his story?

14 A Are you asking me?

15 Q Yes.

16 A Yes.

17 Q I'm sorry.

18 A That's okay.

19 Q On May 23rd and May 24th of 2005 Deangelo wears  
20 a wire and speaks to Anabel and Little Lou?

21 A Yes.

22 Q And were you among the people that worked with  
23 Deangelo on doing this?

24 A Yes.

25 Q And Deangelo helped you to gather more evidence

1 and charge other people with crimes?

2 A Deangelo assisted, yes.

3 Q In fact, without the assistance, you may not  
4 have gotten to charge certain people with certain crimes?

5 A Well, I can't say that. I don't know that I  
6 believe that.

7 Q Okay. Well, you certainly used this assistance  
8 as part of the prosecution?

9 A Yes.

10 Q And if you don't recall the tapes, I'm not  
11 going to get into them with you. I'll just wait until they  
12 come in, assuming they do.

13 But do you recall that on these tapes many of the  
14 things that we just talked about, Deangelo's statements where  
15 it was just supposed to be a beating and KC went off on his  
16 own, are corroborated by Anabel?

17 A I don't know of that specifically. Like I  
18 said, I haven't listened to those in years, years.

19 Q Do you recall Anabel saying that, You were just  
20 supposed to beat him up, nobody was supposed to shoot him?

21 A Yes, I believe I recall that, Anabel saying  
22 that.

23 Q On the tapes?

24 A I believe so, but --

25 Q And that would have been a situation where



1 Anabel did not know she was being taped, right?

2 A Yes.

3 Q And Deangelo was taping her for the police?

4 A Yes.

5 Q So she was making statements not knowing they  
6 were being recorded, right?

7 A Yes.

8 Q And one of those statements was it was supposed  
9 to be a beating, not a shooting, right?

10 A That is one statement in those tapes, I  
11 believe, yes.

12 Q And that statement is something that certainly  
13 would corroborate a version of KC went off on his own and did  
14 a shooting, it was never supposed to be a killing, KC just did  
15 it? That could corroborate that?

16 A It could possibly.

17 Q Okay.

18 MR. BUNIN: I'm sorry, Your Honor. If I could have  
19 one moment.

20 I have no other questions.

21 THE COURT: Let me ask these couple of jurors'  
22 questions that are up here.

23 A juror wants to know, did Mr. Carroll ever show you  
24 the baseball bats or trash bags.

25 THE WITNESS: No.

1 THE COURT: Okay.

2 THE WITNESS: No.

3 THE COURT: And then kind of the follow up is,  
4 didn't any of your searches -- or throughout the course of  
5 this investigation, did you ever find a baseball bat or trash  
6 bags.

7 THE WITNESS: No.

8 THE COURT: All right. And then another juror wants  
9 to know, why didn't the police or you do a residue test  
10 earlier prior to when you interviewed Deangelo when you first  
11 found out that he may be involved.

12 THE WITNESS: Even when we first contacted Deangelo,  
13 it was still, oh, nine, ten hours after. The test would be  
14 ineffective. He had ample opportunities to wash his hands.  
15 He could have showered. Not only that, but the test really is  
16 only good for a specific amount of time after that weapon or a  
17 weapon is fired. So it really would have been ineffective.

18 THE COURT: All right. Mr. Bunin, any followup on  
19 those last juror questions?

20 MR. BUNIN: No, Your Honor.

21 THE COURT: All right. Mr. DiGiacomo.

22 MR. DiGIACOMO: Thank you, Judge.

23 REDIRECT EXAMINATION

24 BY MR. DiGIACOMO:

25 Q I've got a couple of things I want to follow up

1 on, and I'm going to start at the back, because Mr. Bunin  
2 asked you a couple of questions about Mr. Carroll -- remember  
3 the question he asked you, Mr. Carroll helped you with the  
4 investigation, and your response was, Assisted, correct?

5 A Correct.

6 Q Much like the rest of the -- kind of the  
7 cross-examination is related to his statement, you have no  
8 idea what Mr. Carroll's motivation was --

9 A No.

10 Q -- in doing those particular activities?

11 A No.

12 Q Mr. Bunin talked about Mr. Carroll telling you  
13 during the course of the statement, Well, I only thought it  
14 was a beating. Do you remember that?

15 A Yes.

16 Q Okay. Do you remember at the end of the  
17 statement you -- after the recorder's turned off but the while  
18 the video's still running, you go back and you start asking  
19 certain questions of him because his story has changed after  
20 Detective Vaccaro came into the room?

21 A Yes.

22 Q And you used the term minimization and you've  
23 used it actually during the course of the interview. Can you  
24 describe to the ladies and gentlemen of the jury what  
25 minimization is.

1           A     Oftentimes during interviews or interrogations  
2 when people are guilty of a crime, they will -- it's kind of  
3 hard to go around the word -- but they'll minimize their  
4 actual involvement, so they will leave parts out or downplay  
5 certain aspects of their statement or what they're telling me  
6 to lessen their responsibility or their guilt.

7           Q     And during the time that you're now coming back  
8 after he's done the minimization and you say to him -- you  
9 minimize it and you kind of talk to him a little bit about  
10 exactly what he said to Kenneth Counts, do you remember that?

11          A     Yes.

12          Q     Okay. And do you recall at the end of the  
13 interview where he says, I just told KC to take care of him?

14          A     Yes.

15          Q     And he didn't give him any other instructions,  
16 according to Mr. Carroll?

17          A     Yes.

18          Q     There was a lot of questions about, you know,  
19 why someone might change their story, and Mr. Bunin  
20 acknowledges, well, he just might be guilty, right?

21          A     Yes.

22          Q     Do you remember those kind of questions?

23                 And he touched upon education or intelligence level  
24 and he asked you those questions. Do you remember that?

25          A     Yes.

1           Q     Okay. I think you testified to this before,  
2 but you've come into contact with a lot of people in your 20  
3 some odd years in law enforcement?

4           A     Yes.

5           Q     And in that 20 some odd years, have you come  
6 across people that have had cognitive disabilities?

7           A     Yes.

8           Q     Okay. And how is it, in your training and  
9 experience, that you're able to identify when somebody has a  
10 cognitive disability?

11          A     Well, you can figure it out just through the  
12 course of your interview with that person, if they're able to  
13 articulate, if they're able to comprehend your question, if  
14 they're able to comprehend the whole subject of the  
15 conversation.

16          Q     During your interview with Mr. Carroll, did you  
17 formulate an idea as to, you know, whether or not he had any  
18 cognitive disabilities?

19          A     I did not believe --

20          MR. BUNIN: Object. The question would be form an  
21 idea, which is why I didn't object until he started answering,  
22 but he's not qualified to answer whether or not a person may  
23 have cognitive disabilities.

24          THE COURT: Right. Okay.

25          MR. DiGIACOMO: I'll rephrase.

1 THE COURT: It's sustained. He can't testify as an  
2 expert on cognition. He can just say if he observed anything.

3 MR. DiGIACOMO: That's why I'm going to rephrase.

4 THE COURT: Okay.

5 BY MR. DiGIACOMO:

6 Q Let me rephrase. Did you identify or did you  
7 see any indications of -- or can you describe if you saw any  
8 indications of any cognitive disabilities?

9 MR. BUNIN: Well, I object as to what indications of  
10 those are and if he's an expert in knowing what those  
11 indications would be. There are experts that testify about  
12 these types of things. He's not going to be qualified as one.

13 THE COURT: All right. He can -- obviously, again,  
14 he's not an expert. He can't give expert testimony. We're  
15 all clear on that. He can say whether he saw anything that  
16 gave him concern as to a possible cognitive difficulty,  
17 recognizing he's not aware of the ambit of manifestations of  
18 cognitive disorders.

19 MR. BUNIN: Thank you.

20 THE COURT: So you can say if you saw something that  
21 indicated something to you.

22 THE WITNESS: Not at all.

23 BY MR. DiGIACOMO:

24 Q And during the course of your interview, did  
25 you, in fact, see things of -- well, can you describe to the



1 jury what things caused you to make an assessment of  
2 Mr. Carroll's intelligence level? What did he do during the  
3 interview that was intelligent to you?

4 A Well, the fact that he changed his stories to  
5 me indicated that he realized his situation and he went from  
6 story one to two to three in an effort to deceive me and get  
7 away with the crime that he was being investigated for.

8 Q And then story four is Mr. H ordered a hit, I  
9 told KC, and he committed the hit for us?

10 A Yes.

11 Q Okay. What -- at what point, in version five,  
12 we'll call it, after Vaccaro comes in the room -- and there  
13 was some questions about that. After Vaccaro comes in the  
14 room and even after Detective Vaccaro's talking to him, he's  
15 still with KC, I didn't want this on my conscience, KC doesn't  
16 care, he'd pop a, N word's noodle -- or he says that during  
17 Detective Vaccaro's conversation, correct?

18 A Correct.

19 Q Do you recall at what point Mr. Carroll  
20 suddenly changed to, It was a beating? Do you recall what  
21 Detective Vaccaro did at that point that -- in talking to you?

22 A Mirandized.

23 MR. DiGIACOMO: Thank you. Oh, I forgot about this.

24 BY MR. DiGIACOMO:

25 Q At the end of this interview, at the end of the

1 time period that the tape's shut off, you do let Mr. Carroll  
2 go home?

3 A Yes.

4 MR. DiGIACOMO: Nothing further.

5 THE COURT: Did we have any juror questions? No?

6 All right. I thought we had one.

7 Recross.

8 MR. BUNIN: Thank you.

9 RE CROSS-EXAMINATION

10 BY MR. BUNIN:

11 Q You did let Mr. Carroll go home that day,  
12 right?

13 A That -- yeah, the evening, yes.

14 Q But he was arrested within a very short amount  
15 of time, days?

16 A Yes.

17 Q And charged?

18 A Yes.

19 Q After he wore a wire on May 23rd and May 24th,  
20 he was arrested shortly after that?

21 A Yes.

22 Q And, of course, you know, you told him during  
23 the interview that he was going to go home, but you never told  
24 him that he was going to be arrested in three or four days,  
25 right?

1           A     No.

2           Q     And part of the reason you made that statement  
3 to him was to get him to continue talking to you?

4           A     Well, I didn't make the statement to him, first  
5 of all, but Detective McGrath made the statement and I  
6 believed Detective McGrath to be sincere when he made that  
7 statement.

8           Q     Detective McGrath said, You're going to go home  
9 if you tell us the truth, right?

10          A     I don't think he phrased it just that way, but,  
11 yes, it's essentially -- I'm not sure of his exact phrase in  
12 this situation, but --

13          Q     I'm not trying to mislead you. That's  
14 essentially what he was saying to him, right?

15          A     Yes.

16          Q     What he never told him was, But you very well  
17 could be arrested in three or four more days?

18          A     No.

19          Q     And had he told him he was going to be arrested  
20 at some point, well, the concern would be that Deangelo  
21 wouldn't say anything else?

22          A     I don't know that. It could be a concern.

23          Q     Now, you -- Mr. DiGiacomo just said to you at  
24 the very end of the tape -- let me back that up. He was just  
25 talking about a version of the story where he talked about KC

1 doing the hit for us, right? That was Mr. DiGiacomo just at  
2 the end talking about KC doing a hit, right?

3 A Yes.

4 Q And he ended it with, Right after he was  
5 Mirandized, the story basically changed, right?

6 A Yes.

7 Q What occurred at that time was Miranda was  
8 read, that's one of the things. Also another detective comes  
9 in the room, Detective Vaccaro, right?

10 A Right.

11 Q And Detective Vaccaro starts questioning  
12 Deangelo, right?

13 A Yes.

14 Q Detective Vaccaro, in your opinion, is a very  
15 experienced investigator just like you are?

16 A Yes.

17 Q He's a very good detective?

18 A Yes.

19 Q He's very experienced in interrogations?

20 A Yes.

21 Q And he used tactics that he thought would be  
22 good tactics for Deangelo at that point?

23 A Yes.

24 Q And the goal with these long two and a half  
25 hour, sometimes much longer interrogation -- this one was

1 about two and a half hours; is that right?

2 A Roughly, yes.

3 Q The goal is to use tactics and experience to  
4 manipulate a person into eventually getting the truth to you,  
5 right?

6 A The goal is to get the truth.

7 Q That's right.

8 A If we have to use tactics to do that, yes.

9 Q And the goal is to eventually get the truth?

10 A Yes.

11 Q And then once Detective Vaccaro came in and  
12 used his tactics, I went through a litany of things that  
13 Deangelo said at that point, correct?

14 A Yes.

15 Q And pretty much all those related to Deangelo  
16 making it clear he never wanted TJ to get killed, right?

17 A Yes.

18 Q That KC went off and did this basically on his  
19 own, right?

20 A Yes.

21 MR. BUNIN: Okay. I don't have any other questions.

22 THE COURT: All right. Any other jurors questions?  
23 We do have a juror question.

24 And, Mr. DiGiacomo, do you have any reredirect while  
25 we do that? I'll see counsel up here, then.

1 (Off-record bench conference)

2 THE COURT: All right. Basically we have two juror  
3 questions and they're the same.

4 THE WITNESS: Okay.

5 THE COURT: A juror wants -- well, they're  
6 essentially the same. Could there be residue on Deangelo's  
7 shirt if he used the gun.

8 THE WITNESS: There could be, but once again, it's  
9 time sensitive.

10 THE COURT: Okay. And then this dovetails into the  
11 next juror question, which is, why didn't you take his shirt  
12 to test after Deangelo informed you that he hadn't washed it  
13 and it was the same shirt he had on at the time of the  
14 shooting.

15 THE WITNESS: It's time sensitive. It's a test --  
16 you know, I'm not a scientist, but it's a test where basically  
17 the results will fade over time and that time is usually about  
18 three hours.

19 THE COURT: All right. Follow up to those juror  
20 questions?

21 MR. DiGIACOMO: No, Judge.

22 THE COURT: Mr. Bunin, follow up to those juror  
23 questions?

24 MR. BUNIN: I may. Can I have one moment?

25 THE COURT: Okay.



1 MR. BUNIN: No, Your Honor, but thank you.

2 THE COURT: Nothing else.

3 All right. Detective, please don't discuss your  
4 testimony with any other witnesses in this matter and you are  
5 excused at this time.

6 THE WITNESS: Yes, ma'am, thank you.

7 THE COURT: Ladies and gentlemen, why don't we go  
8 ahead and take a recess before we move into the State's next  
9 witnesses. Ten minutes, is that sufficient for everybody?  
10 All right. We'll go ahead and take a ten-minute recess.

11 Once again you're reminded not to discuss the case  
12 or do anything relating to the case. Notepads in your chairs.

13 (Court recessed at 2:01 p.m. until 2:11 p.m.)

14 (In the presence of the jury.)

15 THE COURT: All right. Court is now back in session  
16 and the State may call its next witness.

17 MR. DiGIACOMO: Dr. Gary Telgenhoff.

18 THE COURT: All right.

19 Doctor, just come on up here, please, to the witness  
20 stand and remain standing.

21 GARY TELGENHOFF, STATE'S WITNESS, SWORN

22 THE CLERK: Please be seated and state and spell  
23 your name.

24 THE WITNESS: My name is Dr. Gary Telgenhoff, and my  
25 first name is G-a-r-y, last name is T-e-l-g-e-n-h-o-f-f.

1 THE COURT: All right.

2 THE CLERK: I didn't get the last part, h-o --

3 THE COURT: Can you respell your last name.

4 THE WITNESS: T-e-l-g-e-n-h-o-f-f.

5 THE CLERK: Thank you.

6 THE COURT: Mr. DiGiacomo.

7 MR. DiGIACOMO: Thank you.

8 DIRECT EXAMINATION

9 BY MR. DiGIACOMO:

10 Q Good afternoon, Doctor.

11 A Afternoon.

12 Q How are you employed?

13 A By the Clark County Coroner's office.

14 Q In what capacity?

15 A I'm a forensic pathologist there.

16 Q In order to be a forensic pathologist, do you  
17 have to have certain education, training and experience?

18 A Yes.

19 Q Can you describe that for the ladies and  
20 gentlemen of the jury.

21 A You have to have four years of undergraduate  
22 college, which I do. I got that at Spring Arbor College in  
23 Michigan. I got a major in biology, minor in chemistry. And  
24 then I got a master's degree in biology and physiology at  
25 Eastern Michigan University. I spent three years doing that.

1 I went to medical school for four years at --

2 MR. BUNIN: I'm sorry, Your Honor. Can we approach  
3 briefly?

4 THE COURT: Sure.

5 (Off-record bench conference)

6 BY MR. DiGIACOMO:

7 Q I apologize, Doctor. I don't remember exactly  
8 where you were in your qualifications. Can you -- I think  
9 maybe you were at medical school. Can you explain that to the  
10 ladies and gentlemen of the jury, go from there.

11 A Yes. I went to four years of medical school at  
12 Michigan State in East Lansing, Michigan, and a year of  
13 internship at East Lansing at various hospitals where I took  
14 care of patients. And I went to the Cleveland clinic, and  
15 again, my pathology residency, which is another four years. I  
16 also went to the medical college of Ohio in Toledo. And then  
17 I completed one last year in forensic pathology at the Dayton  
18 crime lab in Ohio.

19 Q Can you tell the ladies and gentlemen of the  
20 jury what is pathology and then what is forensic pathology.

21 A Pathology is the study of disease. Human  
22 pathology, of course, is all diseases known to man, and that's  
23 anything infectious or tumors or anything like that. And most  
24 pathologists in the hospital, they're the ones that get the  
25 tumors and the Pap smears and they actually make the diagnosis

1 of what it is.

2 I had to go through all of that and I'm qualified in  
3 that, but forensic pathology is the study of unnatural death  
4 which is another training in itself.

5 Q How long have you been a forensic pathologist  
6 now?

7 A 12 years.

8 Q How long have you worked for the Clark County  
9 Coroner's office?

10 A 12 years.

11 Q Have you conducted autopsies as part of your  
12 job, your experience and training?

13 A Yes.

14 Q How many autopsies have you conducted?

15 A Over 5,000.

16 Q Can you describe for the ladies and gentlemen  
17 of the jury what an autopsy is.

18 A An autopsy is basically the same examination  
19 performed by -- most pathologists will do them basically the  
20 same way. First of all, you collect some information on the  
21 case. You've been assigned a case and you want to know what  
22 kind of case it might be. If it's going to be a gunshot wound  
23 or a traffic death, that's the kind of information you gather,  
24 just general information.

25 After that, then you see the body and you comment on

1 its external features, if there's clothing or not, if there's  
2 any disease processes or not, identifying marks like tattoos,  
3 you know, general features outside of the body.

4 Then with our assistants, we make incisions in the  
5 body and look at the inside of the body and then we actually  
6 remove the organs, even the brain, and those are studied  
7 separately in detail.

8 And while we're doing that, we also collect fluids  
9 and tissues for further study if we need to do that. For  
10 example, we might take some blood and eye fluid or urine or  
11 whatever for testing for alcohol or drugs, poisons.

12 When we get all this information back, then we come  
13 up with a cause of death and manner of death which is my  
14 primary duty.

15 Q On May 20th of 2005, did you conduct an autopsy  
16 on an individual who was identified to you as Timothy J.  
17 Hadland?

18 A Yes.

19 Q And did you conduct the autopsy in the standard  
20 manner and method in which autopsies are conducted?

21 A Yes.

22 Q Okay. Now, when an autopsy is conducted, is it  
23 documented in both -- by photography as well as some sort of  
24 document?

25 A Yes. But at the coroner's office in Clark



1 County, that has been an evolutionary process. So back in  
2 '05 or -- I believe it was '05, not as many photographs were  
3 taken at that time as we do now, but still some were taken.

4 Q And then are there also law enforcement  
5 personnel that can be present during at least portions of the  
6 autopsy?

7 A Routinely we have homicide detectives join us  
8 when it's their case. They may want to get some preliminary  
9 information from what we're doing or we may get information  
10 from them that may help during the autopsy.

11 Q There might be a crime scene analyst there for  
12 collection of physical evidence and take their own  
13 photographs?

14 A Yes.

15 MR. DiGIACOMO: May I approach?

16 THE COURT: Yes.

17 BY MR. DiGIACOMO:

18 Q Showing you what's been marked as State's  
19 Proposed Exhibits 1 through 4, I'm going to ask you if you  
20 recognize those photographs.

21 A I recognize the photographs, primarily the  
22 identifying tags in the photographs, which is our case number.  
23 I also recognize the wounds as I had described them. I also  
24 reviewed the photographs at the office and they are consistent  
25 with these.



1           Q     Okay. So let me clarify that for the ladies  
2 and gentlemen of the grand jury [sic]. You do lots of  
3 autopsies, right?

4           A     Yes.

5           Q     Okay. So there's a unique number associated  
6 with that autopsy and associated with your report of that  
7 autopsy?

8           A     Correct.

9           Q     And then therefore you can take the number  
10 that's on this little gray tab on the photograph, compare it  
11 to your autopsy report and know that the two of them match up  
12 and particularly since the description on the autopsy matches  
13 the pictures that you see?

14          A     That's correct.

15          MR. DiGIACOMO: Move to admit 1 through 4, Judge.

16          MR. BUNIN: Submit it.

17          THE COURT: Submit it. All right. Those will all  
18 be admitted.

19               (State's Exhibits 1 through 4 admitted.)

20 BY MR. DiGIACOMO:

21          Q     Doctor, in your external examination of  
22 Mr. Hadland, can you describe for the ladies and gentlemen any  
23 evidence of recent injury that you found to the body of -- or  
24 to the person of Mr. Hadland.

25          A     Yes. The most notable injury were two gunshot

1 wounds to the head.

2 Q Okay. And were those the only two substantial  
3 injuries that contributed to the death of Mr. Hadland?

4 A Yes.

5 Q I'm going to put up here State's Exhibit No. 1  
6 and ask you if you can -- and if you touch that screen,  
7 Doctor, it will actually make a mark for you -- are there  
8 evidence of two gunshot wounds of entry on that -- on State's  
9 Exhibit No. 1?

10 A Yes, there are.

11 Q Can you circle for the ladies and gentlemen  
12 where one and two are.

13 A I don't know which ones I've labeled as one or  
14 two. I usually do A and B. But --

15 Q Okay.

16 A -- there's a wound here. That would be on the  
17 left cheek, facial cheek. And then there's one right ahead of  
18 the left ear. It's harder to see, but there's two entrance  
19 wounds of the head and face there.

20 Q Let's talk about that -- we'll get back to it  
21 in a minute. I said one and two, you said A and B. When you  
22 look at a body and you see gunshot wounds, are you able to  
23 order the sequencing of the bullets as they hit the face or  
24 hit the body in any manner like it actually happened, or do  
25 you just randomly pick them out one -- or A, B, C, D, E, F?

1           A     I randomly label them. Only rarely, in very  
2 rare events, can you actually tell what sequence bullets have  
3 struck the body.

4           Q     Okay. And let me -- I want to start with what  
5 is actually your gunshot wound B. Do you see gunshot wound B  
6 on this particular photograph?

7           A     To get the labels correct, I need to look at  
8 the report to refresh my memory.

9           MR. DiGIACOMO: Can he refresh his recollection?

10          THE COURT: That's fine.

11          THE WITNESS: And what was the question again?

12          THE COURT: Which one is B, I think.

13 BY MR. DiGIACOMO:

14          Q     Which one is B? I want to start with B, so if  
15 you can identify which one of the gunshot wounds is B.

16          A     Wound B is the more obvious wound here on the  
17 cheek of the face.

18          Q     And I'm going to put a closeup of that as --  
19 well, I guess there's two of them. They're both -- State's  
20 Exhibit 3, can you see on State's Exhibit No. 3 kind of a  
21 closeup of that, in the upper corner, of wound B?

22          A     Yes.

23          Q     Okay. How is it that you know that's a wound  
24 of entrance?

25          A     There are a few ways that you can do that. In

1 general, when a bullet strikes skin from a handgun now or even  
2 a rifle, the skin is -- if you imagine the bullet hitting in  
3 slow motion, the bullet bends the skin inward as it's going  
4 through, and when it does that, the edges of the skin get  
5 rubbed raw. It's a scrape. We call it a marginal scrape or a  
6 marginal abrasion. That can be seen as a ring around the  
7 actual hole. And we have that here.

8 Q Okay. During the course of your internal  
9 examination, do you kind of determine where the path of that  
10 bullet was from the entry on the left side of the face as to  
11 where it might have went inside the head?

12 A Yes.

13 Q Can you describe that for the ladies and  
14 gentlemen of the jury.

15 A It went through the skin here obviously and  
16 through the left side of the face where all the bony  
17 structures are and it skirted the bottom of the skull, the  
18 very -- it was inside the skull, but it went along the bottom  
19 of the skull and went right through the brain stem which is  
20 the area which is responsible for your consciousness, your  
21 self-awareness, your respiratory ability to breathe, your  
22 heart rate, basically essence of life. It was recovered from  
23 the right side in the brain.

24 Q And once you recover a projectile like that,  
25 what do you do with the projectile?

1           A     I hand it directly to the crime scene analyst.

2           Q     Was it then impounded to the Las Vegas

3 Metropolitan Police Department?

4           A     Yes.

5           Q     Okay. Now, you -- I think you've probably  
6 answered this, but a wound that passes through the brain stem,  
7 you said it's an immediately fatal wound?

8           A     Yes.

9           Q     And someone would immediately lose  
10 consciousness and drop right where they're at?

11          A     Exactly.

12          Q     Now, when you're looking at a wound -- and  
13 let's just start with B here -- when you're looking at a  
14 wound, are there times at a wound of entrance that you can  
15 make some sort of identification of maybe what the distance  
16 was from the gun to the skin or the surface of the body when  
17 the firearm was fired?

18          A     Yes. Oftentimes that can be determined how far  
19 away a weapon is, but it's just a general description.

20          Q     How is it that you would go about doing that if  
21 you could?

22          A     To do that, we have to understand what happens  
23 when bullets come out of guns, and basically there's an  
24 explosion from the powder charge. The -- a little bit of  
25 flame comes out the front of the gun and then a bullet comes



1 out and then soot from the burnt powder comes out. And after  
2 that, unburnt powder comes out.

3 Now, the unburnt powder is expected. Not everything  
4 gets burned. It's an inefficient system. If the gun is right  
5 against the skin, we'll have the ring, as we do here, but  
6 there should be a soot ring either on the skin or inside the  
7 tissue, and that was not present here.

8 As you move out from the skin level by fractions of  
9 an inch, these unburned gunpowder particles, they strike the  
10 skin and scratch it and it's called stippling. Some people  
11 call it powder burns. That's incorrect. It's actually a  
12 scratching of the skin by unburned particles. That can happen  
13 with a gun that's removed out to about 2 feet from the skin in  
14 handguns.

15 So 2 feet or under, you'd typically get scratching  
16 of the skin from this powder or stippling. Contact, you would  
17 get soot. Anything beyond the 2 feet, you'll just get a hole  
18 with the ring. And the hole with the ring is all we have  
19 here.

20 Q Okay. So in this case you have no evidence of  
21 either contact or close range firing of the weapon?

22 A That's correct.

23 Q And so do you have an opinion as to whether or  
24 not the firearm would have been somewhere 2 feet or farther  
25 away from the head?



1           A     Yes, that's correct.

2           Q     Okay. Let's talk about gunshot wound No. A --  
3 or I guess it's lettered A. Once again -- this one is State's  
4 Exhibit No. 4. This one isn't nearly the -- can you see on 3  
5 just -- we'll put this on there. Maybe --

6           A     You can see it on this particular photograph.

7           Q     Can you circle 3 and then I'm going to put the  
8 closeup of 3 up there for you.

9           A     Again, it's just ahead of the ear.

10          Q     And then if we lay this on top, which is  
11 State's Exhibit No. 4, can you describe to the ladies and  
12 gentlemen of the jury how you know that one's an entrance  
13 wound?

14          A     This is a little more difficult because it's  
15 irregular because of the surfaces that it struck. There still  
16 is a raw abrasion going around. This is -- this round part is  
17 actually the hole where the bullet goes in. I circled the  
18 wound. There is a little -- if you look at the very edge,  
19 there's this pink -- it's hard to see in the photograph, but  
20 this is pink scrape which indicates that this is an entry  
21 wound.

22                 And wounds like this that hit loose skin, your ears  
23 quite loose, the skin there, it will make secondary tears in  
24 the skin and give you an elongated look to it. That's not  
25 unexpected.

1           Another reason I know that this is an entrance is  
2 because it has an exit. So I've identified the exit on the  
3 top of the head so it must be an entrance.

4           Q     Okay. Let me show you State's Exhibit No. 2.  
5 Is this -- State's Exhibit 2, this is the partial exit wound?

6           A     Yes. And the photograph doesn't really help us  
7 much. I don't -- I can't even see the features here very well  
8 on the photograph.

9           Q     Nonetheless, you trace from the entrance wound  
10 of the ear to kind of the top of the head?

11          A     Yes.

12          Q     Okay. And I guess I should ask this, if I  
13 didn't ask you. Gunshot B goes in the left cheek, skirts  
14 underneath the brain stem and where does it wind up on the  
15 head?

16          A     It's in the right side of the brain and  
17 recovered. It's towards the back.

18          Q     Towards the back a little bit?

19          A     Yeah.

20          Q     And did you describe its path, whether or not  
21 it's up or down?

22          A     It was upward, slightly upward.

23          Q     That one's slightly upward. What about the  
24 gunshot wound to the ear? Can you describe it's angle as it  
25 relates to the body, up versus down?

1           A     Yes. It's front to back, but slightly. So, in  
2 other words, if you're looking at the person, it's basically  
3 straight across with a little bit going towards the back, if  
4 you will.

5           The other component is quite sharply upward.  
6 That -- well, I'll leave it at that.

7           Q     Okay. So the bullet enters the ear and the  
8 wound is kind of on top of the head because it's sharply  
9 upward?

10          A     Yes.

11          Q     Okay. And then the other one only has a  
12 slightly upward --

13          A     Correct.

14          Q     Slightly upward?

15          A     Correct.

16          Q     Now, during the course of your autopsy, do you  
17 also send out certain fluids to make -- I forgot this  
18 question, too. On gunshot wound No. A of the ear, any  
19 evidence of close range firing?

20          A     No.

21          Q     Okay. So for both A and B, your opinion would  
22 be the firearm was more than 2 feet or somewhere at least  
23 2 feet or more from the body?

24          A     Yes.

25          Q     During the course of your autopsy, do you

1 collect fluids and other types of items to do any sort of  
2 chemical analysis or look for any sort of drugs or other  
3 alcohol in the system?

4 A Yes.

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

6 A Yes, we did.

7 Q Did you get a report back from Quest  
8 Diagnostics or whoever the company was that did the tests  
9 informing you of whether or not there was any alcohol and/or  
10 controlled substances in the person of Mr. Hadland?

11 A Yes. Yes, we did. And at that time the  
12 laboratories changed names and management a number of times  
13 now in town, but back then it was Quest Diagnostics, as I  
14 recall.

15 And in the blood, there was .07 grams percent of  
16 alcohol present. So by today's driving standards, that would  
17 be just under the legal drunk level for driving.

18 Q What about any evidence of street drugs or  
19 commonly abused over the counter drugs?

20 A Well, there were some cannabinoids detected.  
21 The presence of street drugs, not really, but there's this  
22 breakdown product of marijuana present.

23 Q When you say breakdown product, what do you  
24 mean?

25 A Well, that means that this person was exposed

1 to marijuana within the last month. It doesn't mean they were  
2 high. In fact, the parent compound is not there, so it  
3 wouldn't indicate a person is high on marijuana at this  
4 particular time.

5 Q So he had some residual evidence of -- that he  
6 came into contact with marijuana at some previous time, but he  
7 wasn't actively under the influence of marijuana at the time  
8 he was killed?

9 A That's correct.

10 Q Doctor, do you have an opinion as to the cause  
11 of death of Mr. Hadland?

12 A Yes.

13 Q And what is that?

14 A Multiple gunshot wounds of head.

15 Q And do you have an opinion as to the manner of  
16 death?

17 A Yes.

18 Q And what is that?

19 A Homicide.

20 MR. DiGIACOMO: I have nothing further, Judge.  
21 Thank you.

22 THE COURT: All right. Thank you.

23 Cross.

24 CROSS-EXAMINATION

25 BY MR. BUNIN:

1 Q Good afternoon, Doctor.

2 A Afternoon.

3 Q Just very briefly, I have a few questions for  
4 you only, okay?

5 You talked about evidence that Mr. Hadland was  
6 exposed to marijuana at some point. Based on the evidence you  
7 found, at some point he likely used marijuana; is that  
8 correct?

9 A That's most likely correct, yes.

10 Q And even though you say he likely was not under  
11 the influence at that time, he could have used it relatively  
12 recently, as recently as even earlier that day?

13 A It would have to be substantially earlier, yes.

14 Q Okay. Or the day before, that's possible,  
15 based on --

16 A Yes, that's possible. Yes.

17 Q All right. Now, just so I understand, you said  
18 there was .07 level of alcohol in his blood, and I don't  
19 understand how this works very well, but would that have been  
20 from the time the blood was drawn -- the blood sample was  
21 taken?

22 A Yes.

23 Q So that's not necessarily the amount that was  
24 in his blood at the time he died?

25 A Yes, it is.



1 Q Oh, that's the exact amount right there?

2 A It's the same thing.

3 Q It wouldn't have changed. Over time it  
4 wouldn't have gone down?

5 A No, absolutely not. If anything, with time,  
6 alcohol goes up.

7 Q Okay. Well, then eventually it comes down,  
8 right? I mean, there's a process there. When you drink, it  
9 goes up, and then it comes back down?

10 A Well, let me explain.

11 Q You don't need to go into the detail of all of  
12 it. Your best opinion, bottom line, is he was about at a .07  
13 when he died?

14 A Yes.

15 Q Okay. That would normally indicate more than  
16 one -- just one shot of liquor?

17 A Yes.

18 Q Okay.

19 MR. BUNIN: I don't have any other questions.

20 THE COURT: Any redirect and any juror questions?

21 MR. DiGIACOMO: I'm just going to clarify that last  
22 point.

23 REDIRECT EXAMINATION

24 BY MR. DiGIACOMO:

25 Q When you die, you stop metabolizing the alcohol

1 in your blood, correct?

2 A Yes.

3 Q Okay. And as your body decomps, your alcohol  
4 level in your blood may go up, correct?

5 A Correct.

6 Q Okay. But it's not going to usually go down  
7 after death?

8 A That's correct.

9 MR. DiGIACOMO: Nothing further, Judge.

10 THE COURT: Any juror questions now?

11 Anything else, Mr. Bunin, on recross?

12 MR. BUNIN: No, Your Honor.

13 THE COURT: All right. Doctor, thank you for your  
14 testimony. You are excused at this time.

15 State, call your next witness.

16 MR. DiGIACOMO: Gary McWhorter. Judge, he's in a  
17 wheelchair.

18 THE COURT: Right. I remember.

19 Yeah, Jeff, you need to -- we put --

20 We'll just be at ease for a moment, and then when my  
21 clerk gets the exhibits, she'll be administering the oath to  
22 you.

23 THE CLERK: Sir.

24 THE COURT: Sir, would you just face this lady right  
25 here and just raise your right hand, if you can.

1 GARY MCWHORTER, STATE'S WITNESS, SWORN

2 THE CLERK: Will you please state and spell your  
3 name.

4 THE WITNESS: Gary, G-a-r-y, McWhorter,  
5 M-c-W-h-o-r-t-e-r.

6 THE CLERK: Thank you.

7 THE COURT: Okay. Thank you.

8 Mr. DiGiacomo, you may proceed.

9 MR. DiGIACOMO: Thank you, Judge. I'm just going to  
10 put the top of this down.

11 THE COURT: Thank you. Do you want to just shut it  
12 off.

13 DIRECT EXAMINATION

14 BY MR. DiGIACOMO:

15 Q Good afternoon, Mr. McWhorter.

16 A Good afternoon, sir.

17 Q I'm going to direct your attention back to May  
18 of 2005. What did you do for a living back then?

19 A I was a taxi driver.

20 Q And as a taxi driver, were there times that you  
21 would go to the Palomino Club?

22 A Yes.

23 Q Was there some sort of way for you as a taxi  
24 driver to make money from bringing fares to the Palomino Club?

25 A Yes, sir.

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1           Q     Can you explain to the ladies and gentlemen of  
2 the jury how that would work?

3           A     They would pay us for each individual that we  
4 dropped off.

5           Q     Would -- would the amount of money that you  
6 receive be dependent on whether or not the person you dropped  
7 off had a VIP card or didn't have a VIP card?

8           A     No. I've never had -- I've never had a fare  
9 that had a VIP card.

10          Q     Okay. And how much would you get, if you can  
11 recall back in 2005, how much money would you get for each  
12 fare that you dropped off there?

13          A     I -- when I first started driving they paid us  
14 \$3 a head, and it went up to, I think, like 30 or \$40 a head.  
15 I'm really not sure what it was at the time.

16          Q     At the time. Okay. And that's been an ongoing  
17 thing here in Vegas that various clubs get in kind of bidding  
18 wars over the cab drivers?

19          A     Yes, sir.

20          Q     Okay. Now, when you dropped off a fair in  
21 front, did you automatically get paid right there at the  
22 front, or did you have to go somewhere? Do you recall?

23          A     When we dropped off, there was a gentleman  
24 outside that would count the -- the people that exited the  
25 cab. And he would give us a slip to take the cashier to

1 receive our money.

2 Q And was the cashier out front where the person  
3 writing the -- the receipt, or did you have to drive around  
4 kind of the side to get to where the cashier was?

5 A We went and parked the cab in the back and then  
6 walked into -- well, see, when they changed owners, we got  
7 paid in the back door, but we used to get paid at the front  
8 door.

9 Q Okay.

10 A So --

11 Q So what -- in the time of 2005, can you recall  
12 whether or not you were get -- when you said changed owners,  
13 did you know who the owner was?

14 A I think it was a professor. I mean, a surgeon  
15 or something. I'm not sure.

16 Q A doctor. So we're talking before 2005 when it  
17 changed owners. By 2005 you had to go around back to get  
18 paid?

19 A After it changed owners we went around back.

20 Q Right. So I want to direct your attention now  
21 to May 19, 2005. Were you at the Palomino Club into the early  
22 morning hours, now May 20, 2005? Do you recall?

23 A Yes.

24 Q Okay. And did you have contact with an  
25 individual that eventually you talked to the police about?

1 A Yes.

2 Q Okay. Can you describe what this person looked  
3 like at all?

4 A He was a male black, I would say -- it's been  
5 so long. I'm sorry. I would say probably in his late 20s.

6 Q So it was an adult?

7 A Yes.

8 Q Okay. He was male, he was black, and he was in  
9 his late 20s generally?

10 A May 20th, I would say yeah.

11 Q Okay. Now, when this -- when this individual  
12 first contacted you, did he have a request of you, did you  
13 have a conversation with him?

14 A He asked me to transport him somewhere  
15 relatively close when he got out of a -- out of a van. And I  
16 told him that it was against company policy for us to  
17 transport you if you get out of another vehicle, so he had to  
18 have his friend transport him, that we couldn't do it.

19 Q Okay.

20 A Then he walked away and came back and offered  
21 me \$30 to transport him.

22 Q Okay. And when you offered you \$30 -- when he  
23 offered you \$30 to transport him, did you agree?

24 A I said, well, come here, and he had a \$100  
25 bill. I said, well, I don't have change. You'll have to go



1 in the club and get change, and he did. And he came out and  
2 got in the cab and gave me \$30, and I wrote down his address  
3 and destination, and I took him there.

4 Q Now, as a cab driver, when you have a fare, do  
5 you keep kind of like a trip sheet of fares you've taken to  
6 various places?

7 A Right.

8 Q I'm going to show you something, sir, that  
9 we've seen a couple times before, but it's State's Proposed  
10 Exhibit No. 170.

11 A Yeah, that's my writing. That's my  
12 [inaudible].

13 Q Does that appear to be your trip sheet from the  
14 -- your shift on May 19th into -- to May 20th?

15 A Correct.

16 Q And I want you to flip there to the second  
17 page. Does that appear to be all your writing? Does it  
18 appear to be a true and accurate copy of your trip sheet?

19 A It is. Yes, sir.

20 Q Okay.

21 MR. DiGIACOMO: Move to admit 170.

22 THE COURT: Submitted?

23 MR. ERICSSON: Yes, Your Honor.

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

25 (State's Exhibit 170 admitted.)

1 BY MR. DiGIACOMO:

2 Q Now, at the top there, your last two fares,  
3 there is one that says -- well, what does the top line say?

4 A Palomino to 513 Wyatt.

5 Q And is there another number on top of 513?

6 A 508.

7 Q And is there also a time that this occurred at?

8 A 12:31 when I dropped him off.

9 Q And what time did you pick him up?

10 A 12:26.

11 Q So it's about a five minute drive?

12 A Right.

13 Q Okay. You were at the Palomino. It's 12:26 in  
14 the morning, at night, basically.

15 A Graveyard.

16 Q Shortly after midnight.

17 A Yes.

18 Q And you -- why did you write both 508 and 513  
19 Wyatt?

20 A Because he gave me 513, I believe. I'd have to  
21 look at the sheet. But the one that I corrected was the  
22 address where he went behind the property. He went around the  
23 rear of the house.

24 Q Okay. Well, when somebody wants to get in a  
25 cab and go somewhere, does he have to have an actual address

1 for you to transport them to?

2 A Yes.

3 Q All right. Did you have this discussion with  
4 this black male adult that wanted a ride?

5 A Correct.

6 Q And does he eventually provide you with 513  
7 Wyatt as the address he wants to go to?

8 A Yes.

9 Q When you get there, describe to the ladies and  
10 gentlemen what happens.

11 A He jumped out and he went to -- behind the  
12 house, which is 50 -- 508.

13 Q So when you got to the 513 address, you saw  
14 this individual get out and actually walk behind 508 Wyatt?

15 A Correct.

16 Q And because of that you noted down on your trip  
17 sheet something different?

18 A Yeah, it was across the street from the one he  
19 gave me.

20 Q Thank you very much, sir.

21 MR. DiGIACOMO: I pass the witness, Judge.

22 THE COURT: All right. Thank you.

23 Cross, Mr. --

24 MR. ERICSSON: Your Honor, we have no questions of  
25 this witness. Thank you.

1 THE COURT: Any juror questions?

2 All right, sir. Thank --

3 Oh, we do?

4 THE MARSHAL: Do you have a question?

5 JUROR NO. 14: Do I write it down or --

6 THE COURT: Yeah, you need to write it down.

7 JUROR: I have one too.

8 THE COURT: Okay. There are a couple juror  
9 questions, so we'll just be at ease. And I'll see the lawyers  
10 up here at the bench.

11 (Off-record bench conference)

12 THE COURT: All right, sir. We've got a couple of  
13 juror questions up here. Do you recall if you had any other  
14 trips either to or from the Palomino Club that night?

15 THE WITNESS: That night?

16 THE COURT: Right. That night. Oh, it's on your  
17 sheet.

18 THE WITNESS: There was none.

19 THE COURT: Okay. So that was the only one.

20 THE WITNESS: Correct.

21 THE COURT: All right. And then another juror wants  
22 to know, 513 was the initial address given, and then 508 was  
23 written down. What did the passenger do after he got out of  
24 the cab?

25 THE WITNESS: He went to the rear of 508, to the rear

1 of the house.

2 THE COURT: Okay. Could you see what he did at that  
3 point?

4 THE WITNESS: No, ma'am.

5 THE COURT: All right. Any follow up on those juror  
6 questions?

7 MR. ERICSSON: No, Your Honor.

8 THE COURT: I was -- I was confused here. Any follow  
9 up by either side on the juror questions?

10 MR. DiGIACOMO: No, Judge.

11 THE COURT: All right. And no other juror questions?

12 All right, sir. Thank you for your testimony.

13 Please don't talk about your testimony with anyone else who  
14 may be a witness in this case, and you are excused at this  
15 time.

16 THE WITNESS: Thank you, ma'am.

17 THE COURT: And, State, call your next witness.

18 MR. PESCI: The State calls Fred Boyd.

19 THE COURT: Fred Boyd.

20 Mr. Boyd, come on up here please, sir, to the witness  
21 stand and our court clerk will administer the oath to you.

22 FRED BOYD, STATE'S WITNESS, SWORN

23 THE CLERK: Thank you. Please be seated. And  
24 please state and spell your name.

25 THE WITNESS: My name is Fred Boyd; F-R-E-D B-O-Y-D.

1 THE CLERK: Thank you.

2 THE COURT: All right. Thank you.

3 Mr. Pesci.

4 MR. PESCI: Thank you.

5 DIRECT EXAMINATION

6 BY MR. PESCI:

7 Q Sir, what do you do for a living?

8 A My job title is forensic scientist. My  
9 specialty is latent print examination. I work for the Las  
10 Vegas Metropolitan Police Department assigned to the forensic  
11 crime laboratory.

12 Q How long have you been doing that job?

13 A In July will be 14 years here in Las Vegas.

14 Q Prior to working here at Metro, did you work in  
15 this capacity in other jurisdictions?

16 A Yes, sir, I did.

17 Q All told, how long have you been a fingerprint  
18 examiner?

19 A I've been associated with the discipline a  
20 little over 40 years. A little over 30 years full time duties  
21 as a latent print examiner.

22 Q And have you testified numerous times in his  
23 jurisdiction and others in this area?

24 A Yes, sir, I have.

25 MR. PESCI: Judge, I think for this hearing we have a



1 stipulation from the defense as far as his qualifications  
2 for --

3 THE COURT: To give --

4 MR. PESCI: -- this testimony.

5 THE COURT: -- opinion testimony. That's fine.

6 Is that true?

7 MR. ERICSSON: That's correct, Your Honor.

8 THE COURT: All right.

9 BY MR. PESCI:

10 Q Sir, I want to talk to you quickly about just  
11 the general concept of fingerprints, and I want to ask you how  
12 it is that a fingerprint can come about being on a particular  
13 surface.

14 A A fingerprint can become on a particular  
15 surface by touching the surface and leaving a mark that is  
16 made by the oils, perspiration that you have on the fingers.  
17 It could also be made by other factors such as maybe  
18 contaminants that might be on the surface itself. But  
19 generally when you touch a surface you have sweat on your  
20 hands and you're leaving that sweat on the surface, and it  
21 will reproduce the ridge structure that you have on the skin,  
22 and that is the fingerprint.

23 Q When you talk about ridge, is that when we look  
24 at our fingers kind of the circles or loops that we see in our  
25 fingertips?

1           A     Yes, sir.

2           Q     Are fingerprints unique to individuals?

3           A     Yes, they are.

4           Q     Tell us about that.

5           A     Fingerprints are formed during the first --  
6     third to fourth prenatal month before birth, and they remain  
7     constant to a person throughout life until decomposition after  
8     death. The formations of the finger patterns and the minute  
9     individual characteristics that you have in the actual finger,  
10    they remain constant throughout life. They don't change.

11                The only time that they will change is -- is if they  
12    have some permanent disability that might injure the second  
13    layer of the skin. You have two layers of skin, the dermis  
14    and the upper dermis. If the bottom layer of skin is damaged,  
15    then you will have a permanent scar. But generally, those  
16    characteristics, the ridge patterns, they will remain the same  
17    throughout life. And to date, no one has been found to have  
18    had the same fingerprints.

19           Q     So are fingerprints unique to an individual?

20           A     Yes, they are.

21           Q     All right. Now, when you are examining, you  
22    talked about ridge detail. Do you, in fact, look at ridge  
23    detail in order to try to make what you commonly refer to as  
24    an identification?

25           A     Yes, sir.

1 Q And what is an identification?

2 A Identification is a term that is used when we  
3 look at a set of known fingerprints of an individual. These  
4 are prints that we know who actually made these, such as if  
5 you would go down and get a fingerprint card taken for a  
6 security clearance or so forth. We know that it is from you.

7 Then we would compare the ridge structures and that  
8 fingerprint card on those fingers to the particular questioned  
9 or unknown fingerprint pattern here. And when we find a  
10 sufficient number of individual ridge characteristics, or what  
11 we call now level two detail in the questioned print and in  
12 the known print, then we have an identification. And this is  
13 based on the experience and the training of the examiner.

14 Q And let me ask you this, when you're trying to  
15 make an analysis to do an identification, you have known print  
16 cards; correct? Normally?

17 A Yes, we do.

18 Q And then you have -- you talked about a print  
19 card, didn't you, just a minute ago?

20 A Yes.

21 Q And that falls into the questioned document;  
22 would that be fair to say?

23 A The --

24 Q The thing you're trying to identify?

25 A The -- yes, the question would be the known

1 print -- the unknown print that we're trying --

2 Q The unknown print.

3 A -- to identify.

4 Q If you have my known prints and you come and  
5 analyze right here in this area of the bar, could you  
6 potentially find my fingerprints here?

7 A Yes, I could.

8 Q All right. And then you talked about a latent  
9 print card. Are those the items that are brought to you that  
10 are normally recovered from a crime scene analyst out in the  
11 field?

12 A Yes, that is one way. Yes.

13 Q And is it safe to say you don't normally go out  
14 to a scene?

15 A No.

16 Q You call up the evidence; is that the  
17 terminology that you use?

18 A Generally, yes. We will call the evidence up  
19 to the crime lab. Sometimes we will process the evidence  
20 ourselves at the lab. And then the crime scene personnel,  
21 they will also take the evidence from the crime scene back to  
22 their lab and they will process it and they will send us  
23 latent print cards to compare.

24 Q Okay. So you can get latent print cards that  
25 will come from the field via the crime scene analysts, and you

1 yourself can actually develop latent prints by looking at the  
2 physical evidence yourself?

3 A Yes, sir.

4 Q All right. Now, on this particular case I want  
5 to show you State's Proposed 175 through 180 and ask you if  
6 you recognize 175 to 180. And just if you recognize them.

7 A Yes, sir, I do.

8 Q And are these the known print cards that you  
9 actually utilized in this particular case?

10 A Yes, they are.

11 Q All right.

12 MR. PESCI: I move for the admission of State's 175  
13 through 180.

14 THE COURT: Submitted?

15 MR. ERICSSON: Yes, Your Honor.

16 THE COURT: All right.

17 MR. PESCI: Why don't you --

18 THE COURT: That'll all be admitted.

19 (State's Exhibit 175 through 180 admitted.)

20 MR. PESCI: Sorry.

21 THE COURT: Sorry.

22 BY MR. PESCI:

23 Q Keep those there for a second. I just want to  
24 ask you this. 175, were those the known prints of a Deangelo  
25 Carroll?

1           A       Yes, sir.

2           Q       And 176, was that the known prints of a Kenneth

3 Counts?

4           A       Yes, sir.

5           Q       177, was that the known prints of an Antonio

6 William?

7           A       Yes, sir.

8           Q       178, was that the known prints of Rontae Zone?

9           A       Yes, sir.

10          Q       And 179, was that the known prints of Mark

11 Quaid?

12          A       You said 179? Oh, I'm sorry. It was

13 underneath the -- yes, it is.

14          Q       And then finally 180, were those the known

15 prints of Timothy Hadland?

16          A       Yes, sir.

17          Q       Okay. Now, you talked about how in this

18 particular case you called up the evidence; is that accurate?

19          A       Yes, sir.

20          Q       And was it under a particular event number?

21          A       Yes, sir.

22          Q       Is that the event number unique to this case?

23          A       Yes, sir.

24          Q       Okay. And do you see that -- these known

25 prints here?



1 A Yes, I do.

2 Q Okay. That's fine.

3 A Now, did you, in fact, use these to make your  
4 comparison to some of the questioned prints that were brought  
5 to you via the crime scene analysts and the ones you developed  
6 from evidence yourself?

7 A Yes, sir, I did.

8 Q Okay. Showing you what's been previously  
9 admitted, I believe, 145, 146, and 156. Do you recognize  
10 those in 145, 146, and 156?

11 A Yes, I do.

12 Q All right. Let's go over 145 first. What do  
13 you -- did you examine that particular photocopy, or did you  
14 examine the actual print card?

15 A The actual print card.

16 Q Okay. And these are copies of those print  
17 cards?

18 A Yes, they are.

19 Q Starting with 145, did you look at that  
20 particular print card?

21 A Yes, sir, I did.

22 Q And where did that come from? As far as what  
23 you can tell from looking at the card itself, what information  
24 tells you where it came from?

25 A The label on the card indicates from the

1 interior side passenger side door window of a 1995 Chevrolet  
2 Astro van with a Nevada license 3-6-3-N line in Nora, K like  
3 in Kara, and S like in Sam.

4 Q Okay. So as you analyze the particular latent  
5 print card, are you able to, based on the writing on it, tell  
6 where it came from?

7 A Yes, sir.

8 Q And then you try to make a comparison from that  
9 particular latent print to the known prints that you have?

10 A Yes, sir, I do.

11 Q And sometimes are you not able to?

12 A That is correct.

13 Q Sometimes are you able to?

14 A Yes, I can.

15 Q Does it depend on how much detail is there?

16 A Yes.

17 Q Okay. And are there various things that can  
18 affect how much detail is in a latent print?

19 A Yes, sir.

20 Q I guess I should say are there things that can  
21 affect the recovery of a print?

22 A Yes.

23 Q What are some of those things that could affect  
24 that or make it more difficult?

25 A The main thing would be how much detail is

1 actually there on the thing. The recovery, you can have a  
2 smudge print with no ridge detail there at all. That print  
3 may not be recovered. There may be a print there that might  
4 have one little bitty ridge. The experience of the person  
5 lifting that print may know that that one little bitty ridge,  
6 there's not enough there that we could do something with.  
7 There may be a print, again, that is smudged, there may be a  
8 lot of area there, and -- but it may be obscured by some  
9 reason. That may not be recovered.

10 The majority of the prints, though, that we find with  
11 our crime scene analysts at Metro is that if it has any ridge  
12 detail at all, they will recover it and they will let us, as  
13 the latent print examiners, evaluate that print to determine  
14 whether or not that print is of value for identification or of  
15 value for comparison purposes.

16 Q That's perfect. I was going there next. Do  
17 you receive many latent prints that are not of sufficient  
18 value to make comparison?

19 A Yes.

20 Q And do you receive some that you can make --

21 A Yes.

22 Q -- comparisons? Showing you State's 172, 173,  
23 and 174. Do you recognize those?

24 A Yes, I do.

25 Q Okay. And did you utilize these in the

1 analysis that you performed in this particular case?

2 A Yes, sir, I did.

3 Q Now, distinguish from the ones that we just

4 looked at, are these the actual print cards as opposed to a

5 photocopy?

6 A Yes, they are.

7 Q Okay. And in this particular case on these

8 cards does it have the same event number?

9 A Yes, it does.

10 Q Does that help you to recognize this as being

11 tied to this case?

12 A Yes.

13 Q Does it indicate that it was recovered by a

14 crime scene analyst?

15 A Yes, it does.

16 Q So these -- these are ones that were done by

17 crime scene analysts?

18 A Yes.

19 Q And did you actually work on or mark up these

20 particular items?

21 A Yes, I did.

22 Q In fact, are there some initials and numbers

23 that are associated with these particular cards?

24 A Yes, there is.

25 Q And are you the one that put those there?

1           A       Yes.

2           Q       And when I say those, I should be more  
3 specific. There's an FB7 on 172, an FB6 on 173, and an FB1 on  
4 174; is that correct?

5           A       Yes, it is.

6           Q       All right.

7           MR. PESCI: State moves for the admission of 172,  
8 173, and 174.

9           THE COURT: Submitted?

10          MR. ERICSSON: Yes, Your Honor.

11          THE COURT: All right. Those will all be admitted.

12                (State's Exhibit 172 through 174 admitted.)

13 BY MR. PESCI:

14          Q       And can you tell us --

15          MR. PESCI: Thank you, Judge.

16          Q       Can you tell us what the FB1, FB6, and FB7  
17 means?

18          A       Yes. The FB, Fred Boyd. That's me. When I  
19 obtain fingerprint lift cards in a case, I do my inventory and  
20 I mark the lift cards and I give them FB1, FB2, FB3, and then  
21 so forth. I usually try to put these in an order of the  
22 items. If you have a lot from a car, then they might be in  
23 the same order, if they have a house, in the same order. But  
24 that is what we have here, the -- the sequence of my marking  
25 on the fingerprint cards that will correspond with what I have

1 in my notes.

2 Q I'm looking at 194, that's the one I'm grabbing  
3 now, Mr. Boyd. And I'll just put it up here. Did you, in  
4 addition to those FB initials, did you make some other marks  
5 on this particular latent print card?

6 A Yes.

7 Q Specifically there's some circles or partial  
8 circles. Are those from you?

9 A Yes.

10 Q All right. Why was that put there?

11 A When we evaluate a latent print on a card, we  
12 try to orientate it. And the little circle, or the little  
13 arch will be the top of the impression as we see it.

14 Q And when you get this particular card, that has  
15 been recovered from a particular piece of evidence at the  
16 scene; is that correct?

17 A Yes.

18 Q Okay. And showing you State's Exhibit 171, do  
19 you recognize this?

20 A Yes, I do.

21 Q Okay. Did you utilize that in your analysis?

22 A Yes.

23 Q Okay. And when I say that, I mean as far as  
24 being able to look at the item from which the lift cards came  
25 and then analyze the lift cards themselves to look for those



1 -- that ridge detail.

2 A At certain phases of the examination, yes.

3 Q Okay. And did -- did you -- did it help you in  
4 your examination in this case?

5 A Yes, it did.

6 Q And, in fact, were you able to ascertain where  
7 some of these prints were based on the writing from the crime  
8 scene analysts and looking at the photographs?

9 A Yes.

10 MR. PESCI: Move for the admission of 171, Your  
11 Honor.

12 THE COURT: Submitted?

13 MR. ERICSSON: Yes, Your Honor.

14 THE CLERK: 171?

15 THE COURT: All right. That's admitted.

16 (State's Exhibit 171 admitted.)

17 MR. PESCI: Thank you.

18 BY MR. PESCI:

19 Q And, sir, did you, in fact, make some  
20 identifications in this case?

21 A Yes, I did.

22 Q All right. Before we go through who and where,  
23 I want to ask you if you utilized any sort of diagram to help  
24 illustrate to the jury the process that you go through in  
25 order to make an identification.

1 A Yes, I did.

2 Q All right. Showing you --

3 MR. PESCI: Let me show really fast.

4 Q Showing you State's Proposed Exhibit 147 and  
5 181. Do you recognize those two items?

6 A Yes, I do.

7 Q All right. Let's start with 147. What is  
8 that?

9 A 147 is a photograph of a \$100 bill.

10 Q And was this one of the pieces of evidence that  
11 you called up from the investigation in this particular case  
12 that you looked at to make a comparison?

13 A Yes, sir.

14 Q All right. And what is -- well, is that a fair  
15 and accurate depiction of this diagram or chart that you  
16 created?

17 A Yes, it is.

18 MR. PESCI: I move for the admission of 147.

19 THE COURT: Submitted on 147, the chart?

20 MR. ERICSSON: Yes, Your Honor.

21 THE COURT: All right. That's admitted.

22 (State's Exhibit 147 admitted.)

23 BY MR. PESCI:

24 Q And looking at 181, what is that?

25 A 181 is also a photograph. It's a chart that I

1 prepared which has, in a smaller scale, the \$100 bill on  
2 Exhibit 147. And it has indicated a latent print that I  
3 found.

4 Q Is this -- let me stop you. I apologize. Is  
5 this 181 the same, referring to the same bill as in 147?

6 A Yes, it is.

7 Q Okay.

8 MR. PESCI: Move for the admission of 181, Judge.

9 MR. ERICSSON: Submit it, Your Honor.

10 THE COURT: All right. 181 is admitted.

11 (State's Exhibit 181 admitted.)

12 BY MR. PESCI:

13 Q All right. And is this in essence to try to  
14 help show how you go about getting a print?

15 A Yes.

16 Q Is that why you made this? Looking at State's  
17 147 first. Is this a color photograph of the \$100 bill that  
18 you looked at?

19 A Yes.

20 Q Okay. And going, then, to 181, is this the  
21 same \$100 bill and then you just put on this different chart  
22 the front and the back side and then the area from which you  
23 recovered prints?

24 A Yes, it is.

25 Q All right. So looking at 181, were you able to

1 recover a print of value to compare?

2 A Yes, I was.

3 Q All right. What area of the \$100 bill did you  
4 find that?

5 A It was on the back of the \$100 bill.

6 Q And as I'm looking at 181, is there a square  
7 here on the back side on the left hand portion?

8 A Yes, there is.

9 Q And then did you create a blow up off to the  
10 right?

11 A Yes, I did.

12 Q And I'm going to focus in for just a second.  
13 Is there some sort of ridge detail that you can see on that  
14 dollar bill, \$100 bill?

15 A Yes, there is.

16 Q All right. Is that what you focused your  
17 attention on?

18 A Yes, it is.

19 Q Okay. And moving down, I think you have an  
20 arrow that it comes down and heads over to the bottom of this  
21 diagram; is that correct?

22 A Yes, sir.

23 Q All right. And have you in essence moved or  
24 taken a photograph of the back of the \$100 bill and shown it  
25 next to the known print?

1 A Yes, sir.

2 Q Okay. So on the left hand side, is that the  
3 known print of the individual?

4 A Yes, it is.

5 Q And is the right hand side your questioned doc  
6 -- not document, but your -- your latent print that you're  
7 trying to make a comparison?

8 A Yes, it is.

9 Q All right. And who was the known print that  
10 you had in 181?

11 A The known prints that I looked at in this case  
12 and that I, in fact, did identification of this print was a  
13 Deangelo Carroll, ID 1678381, and this was a left thumb print.

14 Q All right. And looking at the right hand side,  
15 it looks like you have some small dots; is that correct?

16 A Yes.

17 Q And do you then compare them to the dots on the  
18 corresponding known print?

19 A Yes.

20 Q Were you able to make an identification?

21 A Yes.

22 Q So you identified Deangelo Carroll as having  
23 his fingerprint on that \$100 bill?

24 A Yes, sir.

25 Q Did you, in fact, also look at some physical

1 evidence yourself?

2 A Yes, I did.

3 Q And, again, does this go back to evidence  
4 that's been called up under this event number?

5 A Yeah, okay.

6 Q I'm sorry. Did you call up evidence under this  
7 event number besides just print cards?

8 A Yes, I did.

9 Q Okay. Do you, looking at State's Proposed  
10 Exhibit 203, do you recognize that?

11 A I recognize it; however, I did not call this  
12 up.

13 Q Okay. Did you work on this, the item that's  
14 inside of it?

15 A Not -- I worked on fingerprint lifts that were  
16 submitted to me that were taken by crime scene that they took  
17 off item.

18 Q Okay. So somebody else lifted this particular  
19 -- these prints from this particular item?

20 A Yes.

21 Q All right. You didn't personally perform the  
22 process of pulling it; is that correct?

23 A That is correct.

24 Q But you, in fact, performed the analysis of the  
25 prints that were on there?



1           A       That is correct.

2           Q       And do you recognize this from having testified  
3 regarding this in a prior proceeding?

4           A       Yes, I do.

5           Q       Okay.

6           MR. PESCI: And, Judge, we move for the admission of  
7 State's 203 and its contents 203A.

8           THE COURT: Submitted?

9           MR. ERICSSON: Your Honor, if I can just --

10          THE COURT: Show that to Mr. Ericsson, please.

11          MR. ERICSSON: Your Honor, we would submit it.

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

13               (State's Exhibit 204 and 203A admitted.)

14          MR. PESCI: Thank you.

15 BY MR. PESCI:

16          Q       Now, sir, even though you're not the one that  
17 lifted it, you were able to make comparisons from the prints  
18 that were provided to you; is that correct?

19          A       That is correct.

20          Q       All right. Now, did you generate a report in  
21 this case summarizing the analysis that you made and the  
22 identifications you were able to make?

23          A       Yes, I did.

24          Q       And then was that, again, utilizing the known  
25 prints that you had and comparing to all the prints that you

1 looked at recovered from the evidence in this case?

2 A Yes, sir.

3 Q All right. And focusing on that report, do you  
4 have it with you?

5 A Yes.

6 Q Specifically, were you able to make an  
7 identification to Mr. Carroll from a latent print submitted by  
8 Louise Renhard, crime scene analyst Renhard, from a Palomino  
9 VIP card found in the family room of a home on E Street that  
10 was -- evidence was recovered from?

11 A Yes, sir.

12 Q Okay. And who were you able to identify that  
13 to?

14 A The Palomino card?

15 A Yeah, it would be item 29. Now, that item  
16 number is the number associated with the crime scene analyst  
17 number; is that correct?

18 A Yes, it is.

19 Q All right. So item 29, who were you able to  
20 match the print from a VIP card to?

21 A Just bear with me one moment please.

22 Q No problem.

23 A I identified a print on a VIP card. There were  
24 two cards that had -- there were two VIP cards that had prints  
25 and they were identified to two different people.

1 Q All right. And if I could, to focus originally  
2 or to begin with on the item 29, Louise Renhard's item 29,  
3 that VIP card, who was that identified to?

4 A Well, there were two item -- item 29 was a  
5 package, and inside that package there were numerous VIP  
6 cards. I subcategorized those like 29-1, 2, 3, 4, like that.

7 Q Were you able to identify one of those to  
8 Deangelo Carroll?

9 A Yes, I was.

10 Q And I think you testified just a minute ago  
11 that you were able to identify Deangelo Carroll to a \$100  
12 bill?

13 A Yes.

14 Q And was that also located -- I'm sorry. That  
15 was a \$100 bill and you had a specific serial number attached  
16 to it; is that correct?

17 A Yes.

18 Q All right. Did you also in your analysis make  
19 an identification or make any identifications to Kenneth  
20 Counts?

21 A Yes, I did.

22 Q And were you able to make an identification of  
23 Kenneth Counts to another Palomino card recovered from that  
24 same 1677 E Street address?

25 A Yes, I was.

1           Q       Continuing on with further evidence, did you  
2 make an identification of Kenneth Counts also to a business  
3 card recovered from the same area that was titled The Scooter  
4 Guy?

5           A       Yes, I was.

6           Q       And were you able to make some identifications  
7 based on prints that were brought to you or developed by crime  
8 scene analyst Grammas?

9           A       Yes.

10          Q       Specifically, did you make identifications to  
11 an individual named Antonio William from the 1995 Chevrolet  
12 Astro van?

13          A       Yes, I was.

14          Q       And was that from the interior passenger door  
15 window of that van?

16          A       Yes, it was.

17          Q       Did you make an identification of Rontae Zone  
18 from latent print cards recovered by crime scene analysts  
19 Smith and Grammas from the 1995 Chevy Astro van?

20          A       Yes, I was.

21          Q       And was one of them from the interior passenger  
22 door window and the interior rear left central window of that  
23 van?

24          A       Yes, I was.

25          Q       Okay. Were you able to make an identification

1 of a Mark Quaid from prints also recovered from that Astro  
2 van?

3 A Yes, I was.

4 Q Okay. And were you able to make an  
5 identification of Timothy Hadland from prints recovered from  
6 crime scene analysts Smith and Grammas from the Kia Sportage?

7 A Yes, I was.

8 MR. PESCI: Court's indulgence.

9 THE COURT: Uh-huh.

10 MR. PESCI: Pass the witness.

11 THE COURT: All right. Thank you.

12 Cross.

13 MR. ERICSSON: Court's indulgence.

14 CROSS-EXAMINATION

15 BY MR. ERICSSON:

16 Q Good afternoon, sir.

17 A Sure.

18 Q I just have a few questions for you. As far as  
19 being able to tell the time period which a fingerprint is  
20 place on an object, you're not able to do that; are you?

21 A No, sir, I am not.

22 Q So specifically talking about these VIP cards  
23 that you were able to evaluate some fingerprints that were  
24 apparently taken from those cards, you -- you personally have  
25 no idea when those fingerprints would've been placed on those

1 VIP cards; correct?

2 A No, sir, I don't.

3 Q Same thing in regards to the bottle of alcohol  
4 that you were shown, you wouldn't have any idea when those  
5 fingerprints were placed on that --

6 A No, sir.

7 Q -- bottle? And lastly, the \$100 bill that you  
8 were asked questions about, you wouldn't have any idea when a  
9 fingerprint was put on that \$100 bill?

10 A No, sir, I don't.

11 Q Thank you very much.

12 THE COURT: Any juror questions? All right. Jeff is  
13 going to go get the juror questions.

14 And while we do that, did you have any redirect, Mr.  
15 Pesci?

16 MR. PESCI: No, Your Honor.

17 THE COURT: All right. Counsel, please approach.

18 (Off-record bench conference)

19 THE COURT: I have some juror questions here for  
20 you. Okay. Directly your attention to the \$100 bill, okay --  
21 and if you need to refresh your memory or look at something  
22 just tell me -- do you know what that item number was?

23 THE WITNESS: On the \$100 bill?

24 THE COURT: Right.

25 THE WITNESS: The one that was identified?



1 THE COURT: Right. The one that was identified.

2 THE WITNESS: It was item 30, it was my package four,  
3 package 19 -- item 36. And I believe, if I may look further,  
4 I believe 36 had additional.

5 THE COURT: And just so the jurors know, on some of  
6 the questions that aren't asked or haven't been asked, they  
7 may be for another witness, so I hold those up here.

8 THE WITNESS: Item -- the -- the \$100 bill that was  
9 identified was -- was from item 36, and I sub-classified that  
10 as 36-4.

11 THE COURT: Okay. Now, obviously you're not the  
12 person who found that, but do your records indicate where that  
13 would've been recovered from?

14 THE WITNESS: No.

15 THE COURT: Okay. Okay. Now, how do you know what  
16 finger or hand, meaning right, left, which finger it is, that  
17 prints are from. How are you able to say it's the ring finger  
18 on the left hand or the pointer finger on the right?

19 THE WITNESS: Well, we have a fingerprint card that  
20 has ten fingers on it. Sometimes we don't know, and when we  
21 don't know, then you start by examining the various levels of  
22 detail on the fingerprint card.

23 If I may add, on the \$100 bill, this print was what  
24 we refer to as a double loop whorl. And on the known prints  
25 that we looked at, we went right to the double looped whorl,

1 and it was rather a large print, and so we kind of went right  
2 to the thumb areas. And this was the left thumb that we  
3 found. So the way that we go right to that is by the pattern  
4 type, process of elimination. If you have a whorl, you're  
5 going to -- you're going to eliminate all the arches and all  
6 the loops. You're going to go right to the whorls.

7 And it's just a matter of experience. Sometimes you  
8 can tell by the finger itself, maybe the certain ridge flow  
9 whether it might be a right hand, a left hand. Sometimes you  
10 can't. Sometimes it's a very tedious job by searching every  
11 bit of friction skin on the fingerprint card itself to try to  
12 find those individual characteristics.

13 But the most part is the level one detail, which is  
14 the pattern type and the basic ridge flow that we go to to  
15 kind of get -- to kind of get us to the right ballpark or to  
16 the right finger that might be responsible for making that  
17 particular print.

18 THE COURT: So would it be fair to say, then, the  
19 print on my thumb would be different from the print on, say,  
20 my ring finger?

21 THE WITNESS: For the most part, due to the size and  
22 maybe the position, yes.

23 THE COURT: Okay. On the two VIP cards that you  
24 identified prints matching to Deangelo and KC, can you tell  
25 whether or not those were the VIP cards that were find --

1 found, excuse me, at the crime -- crime scene?

2 THE WITNESS: The -- I believe that they were, yes.

3 THE COURT: Okay. And how long can prints last on a  
4 particular item?

5 THE WITNESS: A print can last forever if it is  
6 preserved properly. However, if I touch this and there was a  
7 print on top of the surface, how long would that stay there?  
8 It would depend on, providing that this print was a normal  
9 print with perspiration, it's going to evaporate in time. It  
10 may last two or three weeks, a month.

11 If I would process this right now, I would probably  
12 come up with a nice, beautiful, fresh, black and white print.  
13 If I would process this area a month from now, you may get  
14 some detail if there was a print there at one time. You might  
15 get one or two ridges, but it's not going to be as clear and  
16 beautiful that we like to see a print. That's ideal when you  
17 have a nice fresh print and it's nice and black and it really  
18 stands out, but we don't always get that.

19 It's a very difficult questions how long prints last.  
20 On paper products where your perspiration will absorb down  
21 inside the surface, a print will last for a long time if it's  
22 preserved properly. You can go back on hydrogen prints,  
23 chemically processed prints and get prints maybe 50 to 100  
24 years old if that document is preserved properly. So there's  
25 a lot of factors that interplay with how long a print will

1 last.

2 THE COURT: All right. Thank you.

3 Mr. Ericsson, any follow up based on those last juror  
4 questions?

5 MR. ERICSSON: Just briefly.

6 THE COURT: Okay.

7 BY MR. ERICSSON:

8 Q Sir, on the -- the question about where the VIP  
9 cards were found in the investigation, you seemed to hesitate  
10 a little bit. Do you know various locations that VIP were  
11 gathered in this investigation?

12 A Well, we -- there were -- crime scene -- the  
13 crime scene analysts made fingerprint lifts, processed the  
14 cards and made fingerprint lifts, and those were submitted to  
15 us that we looked at.

16 During the course of the investigation we had to call  
17 up those particular cards to match up the individual  
18 fingerprint lift card with the actual Palomino card. She  
19 labeled everything item 29. And so to sub -- to -- to make a  
20 subcategory where I could say that it was 29-2 or 29-3, I had  
21 to -- we had -- we did have to call up the cards and marry up  
22 the latent prints with the cards, and we did this by the --  
23 the striation of the tape that was put on the cards.

24 The one photograph that I was shown here that had  
25 them all, you will see some numbers that were written down

1 there. Those were my numbers that I put on that particular  
2 sheet based on that day that we had to marry up the latent  
3 prints with actually what card it went to.

4 Q And, sir, you're aware that there were VIP  
5 cards found at the scene where the deceased was found;  
6 correct?

7 A I don't know.

8 Q Okay. And then you're not aware that there  
9 were some VIP cards that were found in a van?

10 A There may have been some mention. I have to  
11 look if I have to do that. I was only concerned with item 29.

12 MR. ERICSSON: Court's --

13 THE COURT: Do you --

14 MR. ERICSSON: -- indulgence.

15 THE COURT: -- need a moment?

16 MR. ERICSSON: Yeah, I'm getting --

17 THE COURT: Okay. And then I have a couple more  
18 juror questions to ask.

19 BY MR. ERICSSON:

20 Q Sir, just -- just to be clear, as far as  
21 locations of where any of the items from which the  
22 fingerprints were taken, you weren't involved in going out to  
23 the scene and finding these items; is that right?

24 A No, sir.

25 Q You simply processed things that were brought



1 to your location where you work?

2 A Well, I -- when you say process, I -- it was  
3 the lift cards that -- that were looked at that had the  
4 description, the address, and the item number.

5 Q Thank you very much.

6 THE COURT: Okay. I have a couple questions before  
7 the State follows up. Is there any way you can tell how old  
8 or how fresh the prints were on the VIP cards?

9 THE WITNESS: No, ma'am.

10 THE COURT: All right. And did you make a comparison  
11 of any of these items, any of the evidence, any of the lift  
12 cards with Angela -- I'm sorry.

13 I'll see counsel up here.

14 (Off-record bench conference)

15 THE COURT: And then another juror question. You  
16 indicated that you were in able to make a positive comparison  
17 with an individual named Mark Quaid. Do you have any  
18 knowledge, personal knowledge of who that is?

19 THE WITNESS: No, I don't.

20 THE COURT: All right. Thank you.

21 Mr. Pesci, redirect as well as follow up.

22 REDIRECT EXAMINATION

23 BY MR. PESCI:

24 Q Follow up on the Mark Quaid. Did Mark Quaid's  
25 name come out of initially what you were given to look for, or



1 was that via the AFIS system? Do you recall where the name  
2 Mark Quaid from?

3 A I believe Mark Quaid came out as a result of  
4 talking to the DA's office.

5 Q Okay. So you had a name to run. That name is  
6 one that you were given and you looked at that?

7 A I believe so, that's where it came from.

8 Q Okay.

9 A If I may, I'm looking at communication log.  
10 Yes.

11 Q All right.

12 A This is --

13 Q And let me ask you --

14 A -- where it came from.

15 Q -- I just mentioned AFIS. Is that a computer  
16 database in which known prints are placed and you can make  
17 comparisons to those?

18 A Yes.

19 Q All right. And was that utilized in this  
20 particular case?

21 A Yes, it was.

22 Q Did you come up with anybody from the AFIS  
23 system?

24 A Yes, we did.

25 Q Who was that?

1           A       Antonio William.

2           Q       Okay. So that's the name of a person you  
3 didn't know to look for or compare against originally, but  
4 when you put it in that system, it came to you?

5           A       Yes, it did.

6           Q       All right. Now, going back to the questions  
7 about the VIP cards, and I think a juror asked a question  
8 about the VIP cards from the crime scene. Just so it's really  
9 clear, the identification that you made on VIP cards to  
10 Deangelo Carroll and Kenneth Counts, from looking at your  
11 records, didn't those come from what was recovered by crime  
12 scene analyst Renhard from the 1677 E Street location?

13          A       Yes, sir.

14          Q       All right. So your identifications are from  
15 cards from that home, not from cards out at the scene on North  
16 Shore Road where the victim was located?

17          A       That's correct.

18          MR. PESCI: Pass the witness.

19          THE COURT: All right. Anything else, Mr. Ericsson?

20          MR. ERICSSON: No, Your Honor. Thank you.

21          THE COURT: Other juror questions?

22          All right, Mr. Boyd. Thank you for your testimony.

23          You are excused at this time.

24          Is that all the State has for us today?

25          MR. DiGIACOMO: We do, Judge.

1 THE COURT: All right. Ladies and gentlemen, you'll  
2 be getting an early -- an early afternoon today. We'll be  
3 finishing up with the testimony tomorrow, and we will begin  
4 tomorrow at 9:30.

5 And once again you're reminded that during this  
6 evening recess you're not to discuss the case or anything  
7 relating to the case with each other or with anyone else. Do  
8 not read, watch, or listen to any reports of or commentaries  
9 on any subject matter relating to the trial. Don't do any  
10 independent research on any subject matter connected with the  
11 case. Don't visit any of the locations at issue. And please  
12 do not form or express an opinion on the trial until you begin  
13 deliberating with one another.

14 Once again, tomorrow we'll be able to start right on  
15 time at 9:30. And just leave your notepads in your chairs and  
16 follow Jeff through the double doors.

17 (Jury recessed at 3:34 p.m.)

18 THE COURT: Can we do jury instructions now?

19 MR. DiGIACOMO: Like right now?


20 MR. BUNIN: I'm not ready to.

21 MR. DiGIACOMO: I mean, I can give them Counts's, but  
22 that's all I have. I mean, I haven't had a chance. I can go  
23 back --

24 (Court recessed at 3:35 p.m. until the following  
25 day, Friday, May 21, 2010, at 9:30 a.m.)

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ATTEST: I hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.

  
KIMBERLY LAWSON  
TRANSCRIBER