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MATTHEW WASHINGTON
Case No. 65998

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Alvin D. Larson
CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	:	CASE NO. C-294695-1
	:	DEPT. NO. I
Plaintiff,	:	
vs.	:	
MATTHEW WASHINGTON,	:	TRANSCRIPT OF
	:	PROCEEDINGS
Defendant.	:	
.....	:	

BEFORE THE HONORABLE KENNETH CORY, DISTRICT COURT JUDGE

JURY TRIAL - DAY 5

FRIDAY, APRIL 11, 2014

APPEARANCES:

FOR THE STATE:	DANIELLE K. PIEPER, ESQ. BARBARA F. SCHIFALACQUA <i>Chief Deputy District Attorneys</i>
FOR THE DEFENDANT:	DAVID J. OTTO, ESQ. ROBERTA OHLINGER-JOHNSON, ESQ.

COURT RECORDER:

BEVERLY SIGURNIK
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Englewood, CO 80110
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript produced by transcription service.

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1 LAS VEGAS, NEVADA, FRIDAY, APRIL 11, 2014, 9:47 A.M.

2 (Outside the presence of the jury)

3 MS. PIEPER: Good morning, Your Honor. Danielle
4 Pieper and Barbara Schifalacqua on behalf of the State. This
5 morning, the State is intending to file an Amended Criminal
6 Complaint --

7 MS. SCHIFALACQUA: Information.

8 MS. PIEPER: Sorry, Amended -- Second Amended
9 Information.

10 THE COURT: Okay.

11 MS. PIEPER: What happened is, as we were listening
12 to the clerk read out, we realized that we should have put an
13 "or" where there was an "of," so we changed that
14 grammatically.

15 THE COURT: Um-hum.

16 MS. PIEPER: In regard to count 7, we realized when
17 the bind-over was done, the victim should have been LaRoy
18 Thomas, and it was Marque Hill, so we changed that.

19 THE COURT: Okay.

20 MS. PIEPER: We also -- one of the victims testified
21 -- Ashely Scott testified at prelim, and at that point, I
22 added a substantial bodily harm to her battery with use of a
23 deadly weapon.

24 THE COURT: Um-hum.

25 MS. PIEPER: LaRoy Thomas did not testify at the

1 preliminary hearing, but we got that charge bound over on a
2 battery with deadly weapon. Essentially, when the two victims
3 came in today, we probably should have charged substantial
4 bodily harm for both, but to keep it consistent, we are
5 removing, which would be to the benefit of the defendant, the
6 substantial bodily harm to Ashely Scott's count. So, both of
7 those counts --

8 THE COURT: Any objection to that?

9 MR. OTTO: No, it is in my client's interest.

10 MS. PIEPER: So, both of those counts will read
11 "battery with use of a deadly weapon."

12 THE COURT: All right.

13 MS. PIEPER: And I don't know the numbers, but
14 that's it, right?

15 MS. SCHIFALACQUA: As well as count 18 is not listed
16 because we will do another amended for the possession of
17 firearm by ex-felon. Regardless of the results, obviously
18 we'll do the second portion of the trial, but it was listed as
19 1 through 18. We changed that grammatically to say 1 through
20 17.

21 MS. PIEPER: 17.

22 THE COURT: Oh, now, you know what? You've just
23 informed me of something that I wasn't aware of. So, what
24 you're saying is, after we take a verdict, regardless of what
25 the verdict is --

1 MS. SCHIFALACQUA: We do the possession of firearm
2 by ex-felon.

3 MS. PIEPER: Well --

4 MS. SCHIFALACQUA: Correct.

5 MS. PIEPER: Here's what happened. Depending on
6 what the verdict is, if it is a first degree murder, we will
7 move through with the penalty phase.

8 THE COURT: Uh-huh.

9 MS. PIEPER: Let's say the -- if the jury convicts
10 the defendant of second degree murder with use of a deadly
11 weapon on all the other charges, at that point, they will not
12 do sentencing. You will do the sentencing.

13 MS. SCHIFALACQUA: So we'll go --

14 THE COURT: Right.

15 MS. SCHIFALACQUA: -- to the ex-felon.

16 MS. PIEPER: Not at that point, but then at that
17 point, we will start the ex-felon in possession of a firearm
18 with this jury.

19 THE COURT: Okay.

20 MS. PIEPER: So, they will then hear essentially --

21 THE COURT: Sort of like the stop you make when you
22 drop your laundry off.

23 MS. PIEPER: Correct.

24 THE COURT: In by 9:00, out by 5:00.

25 MS. PIEPER: Correct..

1 MS. SCHIFALACQUA: And if they do a penalty phase,
2 then, thereafter, we'll do the possession of firearm by
3 ex-felon portion of the trial.

4 MR. OTTO: My only objection is this was never
5 explained to the jury.

6 MS. SCHIFALACQUA: Right. They can't know about it
7 because --

8 MR. OTTO: I know.

9 MS. SCHIFALACQUA: -- they can't know he is --

10 MR. OTTO: You're right.

11 THE COURT: Yeah.

12 MS. SCHIFALACQUA: Which is why we qualify them for
13 the two-and-a-half weeks, Judge. It's every time, we stand up
14 and I say, jury, what you didn't know was there was a second
15 portion to the trial.

16 THE COURT: Yeah, yeah.

17 MS. SCHIFALACQUA: We have also alleged, da, da, da,
18 da, da.

19 MS. PIEPER: And --

20 MS. SCHIFALACQUA: All of the evidence that's been
21 before you is still the evidence.

22 MS. PIEPER: Right.

23 MS. SCHIFALACQUA: We have some additional evidence
24 to present to you, which would be certified judgments of
25 conviction.

1 MS. PIEPER: Right.

2 MS. SCHIFALACQUA: And any other witnesses that we
3 deem necessary for the possession portion of this --

4 MS. PIEPER: It's like --

5 MS. SCHIFALACQUA: -- you know, case.

6 MS. PIEPER: It's like half-a-day. Ex-felon in
7 possession of a firearm's like half-a-day trial.

8 MS. SCHIFALACQUA: Right.

9 THE COURT: Kind of like the --

10 MS. PIEPER: We just basically admit his --

11 THE COURT: -- punitive damage portion of a civil
12 trial.

13 MR. OTTO: Yes.

14 MS. PIEPER: Yes.

15 MR. OTTO: I also want to explain to the Court that
16 I did get my answer, as we had discussed in chambers, about
17 notice of appeal.

18 THE COURT: Yes.

19 MR. OTTO: According to Nevada Rule of -- I have
20 asked -- I've researched the matter. According to Nevada Rule
21 of Appellate Procedure 3, if the defendant in a murder case or
22 any life case is convicted and sentenced to life, I am allowed
23 to withdraw at that point and not do the appeal.

24 THE COURT: Okay.

25 MR. OTTO: If it's a term of years, I am not allowed

1 to withdraw, and must do the appeal.

2 THE COURT: You know, I wasn't aware of that.

3 MR. OTTO: Apparently, very few people are.

4 THE COURT: Yeah.

5 MS. PIEPER: Judge, obviously --

6 MS. SCHIFALACQUA: Yeah, we --

7 MS. PIEPER: -- the State takes a little bit
8 different view of that, based on my experience in other types
9 of cases, but that's an issue obviously --

10 MS. SCHIFALACQUA: We're not even --

11 MS. PIEPER: -- for later.

12 THE COURT: We'll deal with that at another point.

13 MS. PIEPER: Right.

14 THE COURT: Okay. At any rate -- at any rate, it
15 would not be until the sentencing, correct?

16 MR. OTTO: Right, but --

17 THE COURT: Yeah.

18 MR. OTTO: Right, but --

19 THE COURT: Okay.

20 MR. OTTO: -- this jury may do this sentencing in a
21 short while, is the only reason I brought it up.

22 THE COURT: All right, but let's assume the jury
23 does sentence. They're only going to sentence as to the --

24 MS. PIEPER: First degree murder.

25 THE COURT: -- first degree murder.

1 MS. PIEPER: That's it.

2 THE COURT: And if they do also convict on the other
3 counts, then there would be a later sentencing, I assume --

4 MS. SCHIFALACQUA: Correct.

5 MS. PIEPER: Correct.

6 THE COURT: -- that I would do.

7 MR. OTTO: Yes.

8 MS. PIEPER: Correct.

9 THE COURT: So, there will be some time, is the --

10 MR. OTTO: Okay.

11 THE COURT: -- only point.

12 MS. PIEPER: The other thing, Your Honor, is, just
13 for the record, the State this morning did send your law
14 clerk, as well as Mr. Otto, copies of proposed jury
15 instructions.

16 THE COURT: We received them.

17 MS. PIEPER: And we have cites on them at this
18 point.

19 THE COURT: Very good. Are we ready for our jury?

20 MS. SCHIFALACQUA: Yes, Your Honor.

21 MR. OTTO: I just need the clerk's e-mail address.

22 THE COURT: Law clerk's?

23 MR. OTTO: Yes.

24 (Pause in the proceedings)

25 MR. OTTO: I'll send you my draft of jury

1 instructions.

2 THE COURT: Very good.

3 THE MARSHAL: All rise for the jury, please.

4 (Jury reconvened at 9:53 a.m.)

5 THE MARSHAL: The jury is in, Your Honor.

6 THE COURT: All right. Will counsel stipulate to
7 the presence of the jury?

8 MS. PIEPER: Yes, Your Honor.

9 MR. OTTO: Yes, Your Honor.

10 MS. OHLINGER-JOHNSON: Yes, Your Honor.

11 THE COURT: All right. Ladies and gentlemen, thank
12 you for returning. We apologize for the delay. We think
13 we've finally resolved the technical difficulties with the
14 screen that we've had to this point. Presumably, you will see
15 how that is fixed and how it operates as we proceed now.

16 Did anyone have any problem with anyone approaching
17 them or trying to inquire into your official duties? All
18 right. As I've said before, if you do, just simply let the
19 bailiff know, and we'll take care of it.

20 All right. State may call your next witness.

21 MS. PIEPER: State calls Brenda Vaandering.

22 THE MARSHAL: Take the stand, ma'am. Please remain
23 standing. Hold on just a minute. Our clerk will swear you
24 in. Please raise your right hand.

25 BRENDA VAANDERING, STATE'S WITNESS, SWORN

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

3 THE WITNESS: Brenda Vaandering. B-r-e-n-d-a,
4 V-a-a-n-d-e-r-i-n-g.

5 THE COURT: You may proceed.

6 MS. PIEPER: Thank you.

7 DIRECT EXAMINATION

8 BY MS. PIEPER:

9 Q How are you employed?

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

12 Q And how long have you worked with Metro?

13 A Approximately five-and-a-half years.

14 Q And you said you are a senior crime scene analyst.
15 Can you tell us some of your training and experience in order
16 to be a crime scene analyst?

17 A I have a bachelor's degree in forensic chemistry.
18 Once I was hired with Metro, I completed their ten-week crime
19 scene analyst academy, which was ten weeks of classroom
20 training. And that was followed by a 12-week field training
21 program, where I was in the field being trained by a senior
22 crime scene analyst. And since that time, I have completed
23 over 600 hours of additional training.

24 Q I want to draw your attention to November 5th, 2013.
25 Were you working on that day?

1 A Yes.

2 Q And did you respond to 2655 Sherwood Avenue here in
3 Las Vegas, Clark County, Nevada?

4 A Yes, I did.

5 Q And approximately what time did you arrive?

6 A It was 5:38 in the morning.

7 Q Once you arrive on scene, what is it -- what's the
8 first thing that you do?

9 A Typically, when we first arrive on scene, we'll
10 confer with the detectives or officers that are on scene and
11 get an overview of the scene, get a walk-through of the scene,
12 and kind of an idea of what happened.

13 Q When you arrive, is it -- do you get called out
14 there, or is that your normal sort of business hours? How
15 does that work?

16 A We are requested by either patrol or detectives.
17 And our unit runs 24 hours a day, so I work graveyard, which
18 is 10:00 P.M. to 8:00 A.M.

19 Q So, you are working those hours, and let's say you
20 may be in the office. If a homicide happens, then patrol may
21 call you out or homicide detectives may call you out to a
22 particular scene?

23 A That's correct.

24 Q And when you say, our department runs 24 hours, do
25 you mean crime scene analysts with the Las Vegas Metropolitan

1 Police Department?

2 A That's correct.

3 Q Okay. So, there will always be crime scene analysts
4 on duty?

5 A Yes.

6 Q When you arrive at 2655 Sherwood Avenue, who else
7 goes with you?

8 A In a case of a scene where it's a homicide, a crime
9 scene analyst supervisor will be there, as well as normally
10 two -- well, one at least. There will be at least two crime
11 scene analysts, if not three at the scene.

12 Q Okay. And who makes the decision as to whether you
13 go or somebody else goes that's part of your squad, or does
14 the whole squad just sort of roll out?

15 A The supervisor assigns people to go out.

16 Q In regard to November 5th, 2013, there was also a
17 second crime scene area; is that correct?

18 A That's correct.

19 Q Eastern and Ogden. Did the people that responded to
20 Eastern and Ogden -- were they also sort of part of your squad
21 that you work with?

22 A They're also crime scene analysts. They were from
23 the day shift squad, however.

24 Q Okay. You arrive on scene, and the first thing you
25 do is speak to patrol officers and detectives, correct?

1 A That's correct.

2 Q And then what's the next thing that happens?

3 A We'll typically get a walk-through of the area of
4 the crime scene. We'll take photographs; notes. On big
5 scenes, different tasks are assigned to different crime scene
6 analysts. Typically, somebody will take notes, photographs,
7 and write the report, and somebody will collect evidence and
8 do a diagram. And if there's a third crime scene analyst
9 there, they normally do the diagram.

10 Q In regard to this case, when you arrived, do you
11 remember if it was still dark, or it was light out?

12 A I believe it was still dark out.

13 Q Okay. You arrive, and would you designate this --
14 or did your supervisor designate this as a big crime scene
15 where responsibilities were split up?

16 A Yes.

17 Q And who did what on the scene?

18 A Crime Scene Analyst Christina Thomas (phonetic) took
19 notes, photographs, and wrote the report, I did the evidence
20 for the scene, and Crime Scene Analyst Ebony McGhee did the
21 diagram.

22 Q In regard to the scene, what's the first thing that
23 you guys did? Were you able to go straight into the
24 apartment, or did you have to wait at all for a search
25 warrant?

1 A We had to wait for the search warrant for the
2 apartment, but there was an exterior scene as well that we
3 were able to go into without a search warrant.

4 Q In regard to the exterior scene, did you kind of
5 walk in and were there photographs being taken?

6 A Yes. Photographs are typically the first thing that
7 happens once we walk in. We let the person taking the
8 photographs go into the scene, take their photographs, and
9 then we continue to process it after that.

10 Q Now, we've heard testimony from patrol officers who
11 say that when they see evidence, they sort of mark it with
12 orange cones. When you guys arrive on scene, do you keep the
13 orange cones there, or do you do something else?

14 A Typically, for our initial photographs, their orange
15 cones, anything that they place into the scene will be in our
16 original photographs. From there, we typically use number
17 placards to identify items of evidence, and the larger cones
18 are removed.

19 Q Okay. In regard to the scene, you said you guys had
20 to wait for a search warrant. So when you start outside, do
21 you see a number of cartridge casings?

22 A Yes.

23 Q And while there's pictures being taken outside, what
24 are you doing in regard to these cartridge casings?

25 A While the photographs are being taken, I mean, I'm

1 taking notes to where the cartridge cases are. But once
2 photographs are taken, then we mark -- we do a thorough search
3 of the crime scene to see if we find anymore that weren't
4 marked by patrol, and then they're numbered and
5 re-photographed.

6 Q In regard to this case, can you tell us how many
7 types of cartridge casings there were on the scene?

8 A There was two different caliber of cartridge cases.

9 Q Okay, and what were they?

10 A They were .40 caliber and 9 millimeter.

11 Q Okay. And in regard to the .40 caliber, how many
12 cartridge casings were collected in this case?

13 A I believe seven. If I can refer to my report?

14 Q Sure.

15 MS. PIEPER: Can I approach the witness, Your Honor?

16 THE COURT: You may.

17 (Pause in the proceedings)

18 MS. PIEPER: Counsel, it's the one that has been
19 previously provided to you, is the report she's referring to.

20 (Pause in the proceedings)

21 THE WITNESS: There were seven.

22 MS. PIEPER: Okay.

23 BY MS. PIEPER:

24 Q And in regard to the 9 millimeter, how many 9
25 millimeter cartridge casings were there?

1 A I believe there were six.

2 Q Okay. Now, you said that you also designated that
3 with yellow placards, is that correct?

4 A That's correct.

5 Q In regard to the crime scene, besides somebody
6 taking pictures, are there also sort of measurements being
7 done?

8 A That's correct.

9 Q Okay, and who does the measurements in this case?

10 A The crime scene analyst that is sketching the scene,
11 doing the diagram. At the scene, a rough sketch is done on
12 graph paper, and then that is put into a computer generated
13 program.

14 Q But part of that, you guys are all working in
15 concert, is that correct?

16 A That's correct. If somebody's -- I mean, there's
17 help being done with the measurements because it takes two
18 people normally to do measurements.

19 MS. PIEPER: Your Honor, may I approach the witness?

20 THE COURT: You may.

21 BY MS. PIEPER:

22 Q Showing you what's been marked as State's proposed
23 Exhibit number 136 and 137, have you seen these before?

24 A Yes.

25 Q And do you recognize these as the sketches that were

1 done on November 5th -- of the apartment, inside and outside,
2 on November 5th, 2013?

3 A That's correct.

4 MS. PIEPER: Your Honor, State moves for the
5 admission of 136 and 137.

6 MR. OTTO: No objection.

7 THE COURT: 136 and 137 will be admitted.

8 (State's Exhibits 136 and 137 are admitted)

9 MS. PIEPER: Permission to publish, Your Honor?

10 THE COURT: You may.

11 MS. PIEPER: Showing you what's been admitted as
12 State's 137.

13 THE MARSHAL: Can everyone see? Ma'am?

14 UNKNOWN JUROR: Yeah, move it over.

15 THE MARSHAL: Yes, ma'am.

16 MS. PIEPER: Do you want me to pull it more up?

17 MS. SCHIFALACQUA: Yeah.

18 UNKNOWN JUROR: No, we're good. I can see. Thank
19 you though.

20 BY MS. PIEPER:

21 Q Showing you what's been admitted as State's 137.

22 Earlier, we talked about sort of shell casings, and you said
23 there were seven .40 caliber and six 9 millimeter, is that
24 correct?

25 A That's correct.

1 Q In regard to this crime scene diagram, there are
2 numbers 1 through 13, correct?

3 A That's correct.

4 Q And it goes 1, 2, 3, 4, 5, and all over the place.
5 You don't -- you're not saying that these were the numbers of
6 shots and the order of shots that were done that morning, were
7 you?

8 A No.

9 Q Okay.

10 A This is just how we mark the evidence.

11 Q Okay, so this is just something that Metro does.
12 It's not trying to say this is the order of shots, this is the
13 way it was shot. This is sort of where things happened -- or
14 this is sort of -- it's just marking evidence, is that
15 correct?

16 A That's correct.

17 Q Okay. In regard to this scene, it says "RP1." What
18 is that?

19 A That's the reference point.

20 Q Okay.

21 A So, that is where the measurements are taken for
22 each item.

23 Q Okay. And then, somebody actually puts together a
24 diagram from the measurements, is that correct?

25 A That's correct.

1 Q Okay.

2 MS. PIEPER: Court's indulgence.

3 THE COURT: Um-hum.

4 (Pause in the proceedings)

5 THE COURT: While you're doing that, may I see
6 counsel for a minute, please?

7 MS. PIEPER: Sure.

8 (Off-record bench conference)

9 THE COURT: Thank you, counsel. You may proceed.

10 MS. PIEPER: Court's indulgence.

11 THE COURT: Uh-huh.

12 (Pause in the proceedings)

13 MS. PIEPER: I apologize.

14 BY MS. PIEPER:

15 Q So, getting back to 137. This is sort of where the
16 casings were found, is that correct?

17 A That's correct.

18 Q Not the bullets?

19 A Correct.

20 Q Just a little bit of some -- you know something
21 about a firearm, correct?

22 A That's correct.

23 Q When somebody shoots a gun, a bullet goes out the
24 muzzle area, is that correct?

25 A That's correct.

1 Q And then a casing gets ejected out?

2 A That's correct.

3 Q Okay. So, these are left over from what has been
4 done from the shooting that early morning, is that correct?

5 A That's correct.

6 Q Okay.

7 (Pause in the proceedings)

8 MS. PIEPER: Your Honor, may I approach the witness?

9 THE COURT: Um-hum. You may.

10 BY MS. PIEPER:

11 Q Showing you State's proposed Exhibit 141 to 156, can
12 you look at those and tell me if you recognize them?

13 A Yes, I do.

14 Q And are those pictures as -- do those fairly and
15 accurately depict the scene on November 5th, 2013?

16 A Yes, they do.

17 MS. PIEPER: Your Honor, State moves for the
18 admission of 141 through 156.

19 MR. OTTO: No objection.

20 THE COURT: 141 to 156 will be admitted.

21 (State's Exhibits 141 through 156 are admitted)

22 BY MS. PIEPER:

23 Q Showing you what's been marked as State's proposed
24 Exhibits number 157 through 175, can you look at those and
25 tell me if you recognize them?

1 A Yes, I do.

2 Q Do they fairly and accurately depict apartment
3 number 18 at 2655 Sherwood Avenue on November 5th, 2013?

4 A Yes, they do.

5 MS. PIEPER: Your Honor, State moves for the
6 admission of 157 through 175.

7 MR. OTTO: No objection, Your Honor.

8 THE COURT: 157 to 175 will be admitted.

9 (State's Exhibits 157 through 175 are admitted)

10 BY MS. PIEPER:

11 Q I'm going to ask that you take a look at these
12 pictures, State's proposed Exhibits number 176 to 183. Do you
13 recognize them?

14 A Yes.

15 Q Do they fairly and accurately depict the inside of
16 the apartment number 18 at 2655 Sherwood on November 5th,
17 2013?

18 A Yes, they do.

19 MS. PIEPER: Your Honor, State moves for the
20 admission of 156 to 183.

21 MR. OTTO: No objection, Your Honor.

22 THE COURT: I'm sorry, did you say 166? 176?

23 MS. PIEPER: 176 to 183.

24

25 THE COURT: All right. 176 to 183 are admitted.

1 (State's Exhibits 176 through 183 admitted)

2 BY MS. PIEPER:

3 Q I'm going to ask you to look at this set of
4 pictures. This is State's proposed Exhibit number 184 to 187.
5 Do you recognize those?

6 A Yes.

7 Q Do those fairly and accurately depict apartment
8 number 18 at 2655 Sherwood on November 5th, 2013?

9 A Yes, they do.

10 MS. PIEPER: Your Honor, State moves for the
11 admittance of 184 through 187.

12 MR. OTTO: No objection, Your Honor.

13 THE COURT: Without objection, 184 to 187 will be
14 admitted.

15 (State's Exhibits 184 through 187 are admitted)

16 MS. PIEPER: Thank you. Your Honor, permission to
17 publish the photos?

18 THE COURT: You may.

19 BY MS. PIEPER:

20 Q Showing you what's been admitted as State's 141, can
21 you explain to the members of the jury what they are looking
22 at here?

23 A This is kind of an overview from the staircase of
24 the location of the cartridge cases in the courtyard.

25 Q If I am the person taking the photograph, where am I

1 standing as I'm taking this photograph?

2 A She is on the stairs directly to the west of
3 apartment 18.

4 Q So, let me ask you this. Is -- if I'm standing at
5 the top of the stairs, is apartment 18 underneath me?

6 A Yes.

7 Q Showing you what's been admitted as State's -- I'm
8 trying to figure out this number. 142. Do you recognize
9 that?

10 A Yes. That is another overview of the location of
11 the cartridge cases --

12 Q Okay.

13 A -- in the courtyard.

14 Q And in regard to this photograph, where is the
15 photographer standing?

16 A She is on the staircase opposite apartment 18.

17 Q Okay. So, sort of to the top left portion of this
18 photograph, there is a window, correct?

19 A Correct.

20 Q And you can see a bunch of red little -- or actually
21 pink little arrows and markings on the window, is that
22 correct?

23 A That's correct.

24 Q So, the person would be standing across, looking
25 down on the staircase, looking down into the courtyard area,

1 is that correct?

2 A That's correct.

3 Q We can see some of these little placards. It says
4 1, 2, 3, 4, 5, and all that. That is what was in the crime
5 scene diagram that I showed earlier, is that correct?

6 A That's correct.

7 Q Okay. And in regard to these photographs, showing
8 you State's 143 -- sorry, I'm trying to get the whole picture.
9 In regard to State's 143, you -- someone actually goes around
10 and physically takes pictures of each placard, is that
11 correct?

12 A That's correct.

13 Q State's 145, that would be more pictures of the
14 different placards, is that correct?

15 A That's correct.

16 Q After that is done, showing you what's been admitted
17 as State's 145, what are we seeing in this picture?

18 A This is a close-up of the cartridge case marked item
19 number 1.

20 Q Okay. And you've looked at these pictures, is that
21 correct?

22 A That's correct.

23 Q And I could show each one of these, and each one of
24 these would have the placard with the actual casing headstamp,
25 is that correct?

1 A That's correct.

2 Q A close-up shot?

3 MS. PIEPER: Court's indulgence.

4 THE COURT: Um-hum.

5 BY MS. PIEPER:

6 Q Once you guys are done outside -- you said you were
7 waiting for a search warrant. Once you guys are done outside,
8 is the search warrant by that time obtained?

9 A Yes.

10 Q Okay. And once you get the search warrant, what
11 happens once you go inside apartment number 18?

12 A The first thing that's done is photographs are taken
13 showing the condition of the apartment as it is when we
14 arrive, or when we have access to it.

15 Q Okay. Once photographs are taken inside, then what
16 happens next?

17 A Then there's a search done for evidence, and
18 evidence is marked, and any sort of processing that needs to
19 happen on that scene will happen.

20 Q Okay. One of the things that we saw in some of
21 these photographs were there were like pink little arrows like
22 on the window. How does that happen? How does that get on
23 the building?

24 A Those are documenting any bullet holes or bullet
25 strikes in -- in the pictures you've seen so far is in the

1 exterior of apartment 18, on the exterior west wall.

2 Q So, does somebody for the Las Vegas Metropolitan
3 Police Department sort of put up little numbers and pink
4 things? And how do you mark them, is it A through Z? 1
5 through --

6 A Trajectories are typically marked using letters, so
7 we'll start with A and we'll go through the alphabet that way,
8 marking each one with a different letter.

9 Q Okay. I showed you a --

10 MS. PIEPER: Your Honor, permission to publish more
11 photographs that I got admitted.

12 THE COURT: You may.

13 BY MS. PIEPER:

14 Q So, let's back up because I rushed a little bit
15 ahead. Let's -- we're back outside. Showing you what's been
16 admitted as State's 157, what is that a photograph of?

17 A That is the exterior west wall of the apartment, and
18 the apartment entry door to apartment 18.

19 Q When we see these pink little -- sort of evidence
20 little markers, do we go left to right, right to left? How do
21 the ABCs -- you know, when you're at a crime scene and you're
22 sort of standing in the -- how does that work?

23 A We lettered these from left to right.

24 Q Okay.

25 A So, starting in the entry door, moving towards the

1 window.

2 Q Okay. And we're going to see some of these a little
3 bit closer. Some of them have letters, and then they have
4 numbers on them. What does that designate?

5 A The letter is the trajectory. The number is -- we
6 always start with 1, so the first hole is -- the first bullet
7 hole is going to be marked 1. Each sequential bullet hole
8 that lines up with that trajectory is marked A2, A3, however
9 far we can track that bullet.

10 Q Showing you what's been admitted as State's 158.
11 This is sort of more over to the right, is that correct? Now
12 we're moving from the door over to sort of the walkway area?

13 A Correct, which this window is located to the south
14 of the entry door.

15 Q Okay. And showing you what's been admitted as
16 State's 159, that's sort of a close-up of part of what we just
17 showed in 158, is that correct?

18 A That's correct.

19 Q Showing you what's been admitted as State's 160.
20 Earlier, you had described -- or I had asked you questions
21 about letters and numbers, and you said this is A1, is that
22 correct?

23 A That's correct.

24 Q Okay. And for each bullet hole, it's always going
25 to be A1, and then the next one will be B1, and so forth and

1 so on, is that correct?

2 A That's correct.

3 Q So, I could go through and show you what's been
4 admitted as State's 161, and we're going to go through the
5 alphabet. Do you know how far into the alphabet we got in
6 regard to the outside first set of bullet holes?

7 A It was A through M.

8 Q A through what?

9 A M.

10 Q Okay.

11 MS. PIEPER: Your Honor, since the jury is going to
12 see these, I'm not going to put every single letter up.

13 THE COURT: Very good.

14 MR. OTTO: No objection.

15 THE COURT: We'll probably all appreciate that.

16 BY MS. PIEPER:

17 Q Once you guys are outside, and you sort of document
18 what goes on outside, then what happens next?

19 A So, then we go inside and document the inside as
20 well with photographs. Photographs are always the first thing
21 taken so we can show what the scene looked like before we
22 start searching for evidence and moving items.

23 Q Okay. Showing you what's been admitted as State's
24 176, what is that?

25 (Pause in the proceedings)

1 BY MS. PIEPER:

2 Q And this is a photograph of what?

3 A That's a photograph of the interior west wall of the
4 living room.

5 Q Okay. So, we see more sets of these pink arrows.
6 Earlier, you described that we would have A1, let's say, where
7 the outside of the door is. On the inside of the door, what
8 would that lettering be, if there's a hole on the outside and
9 then now we have a corresponding hole on the inside?

10 A That would be labeled A2.

11 Q Okay. And then does Metro try to follow the
12 trajectory of these bullets, and let's say it hits another
13 wall, would that then be A3?

14 A That's correct.

15 Q And on the other side of the wall, would that then
16 be A4?

17 A Yes.

18 Q Okay. Showing you what's been admitted as State's
19 177, what do we see in this photograph?

20 A This is the east wall of the living room, the east
21 wall of the kitchen, as well as the hallway that leads back
22 into the bedrooms.

23 Q And these are more -- these are more holes in the
24 wall that have come from the front outside into the home, is
25 that correct?

1 A That's correct.

2 Q State's 178. What is that a photograph of?

3 A That is the love seat that was located on the east
4 wall of the living room.

5 Q In regard to these pictures, we see some placards
6 that have -- that are yellow that say 16 and 17 on them. What
7 is that?

8 A Those are locations of where evidence will be
9 recovered.

10 Q Okay. So, there may be a bullet or bullet
11 fragments?

12 A That's correct.

13 Q Okay. Showing you State's 179, what is that a
14 photograph of?

15 A That is going to be the west wall of the living
16 room, showing more locations of where bullet holes entered the
17 living room.

18 Q Okay. State's 180. There's something a little bit
19 different in this photograph. Can you explain to us what is
20 different about this photograph than the other photographs
21 that we have seen?

22 A So, in this photograph, we're using trajectory rods
23 to help us track each trajectory of the bullet. And in this
24 case, we used it a little different than we typically do,
25 because the entry was in the window and then hit the curtain,

1 which can be moveable.

2 We used the east wall of the living room, which is
3 also the west wall of the bedroom, where we have, you know, a
4 good area that we can track that. And then we put lasers on
5 the trajectory rod, and that tracks back towards that curtain,
6 and we can line up the holes that way.

7 Q Okay. Showing you State's 181, is that a close-up
8 shot of what you were just -- the trajectory rods that you
9 were describing?

10 A Yes.

11 Q You can actually write on that screen.

12 A Okay.

13 Q You said that there's a -- it's working today. You
14 said that there's sort of a laser. Where is the laser?

15 A The laser is connected right here to the end of the
16 trajectory rod.

17 Q Okay. So, you just turn it on, and then it would
18 point -- in this case, it would point towards the front widow,
19 curtain area?

20 A That's correct.

21 Q Okay. Showing you State's 182, this is obviously
22 another bedroom -- or this is a bedroom. Which wall is this
23 that we're looking at?

24 A This is in the south bedroom, and this is the west
25 wall of the south bedroom.

1 Q Okay. So, just so we can sort of orient the jury,
2 we showed pictures of the outside.

3 A Right.

4 Q Then inside the living room, the wall closest to the
5 -- where the window was.

6 A Right.

7 Q Then the back wall where sort of the smaller love
8 seat was. Is this picture, 182, on the other side of that
9 wall?

10 A Yes, it's on the other side of the east living room
11 wall where the love seat was.

12 Q So, the trajectories that we had seen, if I -- which
13 I wouldn't do, if I were to poke my finger through these
14 holes, it would actually -- the trajectories are on the other
15 side of that --

16 A That's correct.

17 Q -- of these holes?

18 A Yes.

19 Q Showing you State's 183. What is that a photograph
20 of?

21 A That is showing a defect on the exterior east wall
22 of the apartment.

23 Q Okay. So, let me ask you this just to orientate the
24 jury. When you arrived, did you arrive on Sherwood Avenue?

25 A Yes.

1 Q Showing you what's been admitted as State's 14, do
2 you recognize that?

3 A Yes.

4 Q Okay. When you arrived, did you arrive on Sherwood
5 Street?

6 A Yes.

7 Q Okay. The defect that we're talking about in
8 State's 183, can you mark for the members of the jury where
9 that is on this map?

10 A Can you zoom --

11 Q Sure.

12 A -- out, I guess?

13 Q I can try.

14 A No, can -- the other way --

15 Q Oh.

16 A -- so I can see the north arrow.

17 Q I'm sorry. Sorry.

18 A You're okay.

19 Q Does that help?

20 A Yes. So, it's going to be there on the building.

21 Q Okay. So, what you're actually telling me is that
22 bullet defect went from the window inside the courtyard, all
23 the way through the living room, all the way through the
24 bedroom, all the way through the bedroom closet, and then all
25 the way to the outside street?

1 A It didn't go through that exterior wall, but it --

2 Q But it ended at that last wall when you first come
3 into --

4 A That's correct.

5 Q -- 2655 Sherwood, is that correct?

6 A That's correct.

7 Q Now, you collected the evidence in this case, is
8 that correct, or at least at the Sherwood apartment?

9 A Yes.

10 (Pause in the proceedings)

11 MS. PIEPER: Okay. Your Honor, may I approach the
12 witness?

13 THE COURT: You may.

14 BY MS. PIEPER:

15 Q Showing you what's been marked as State's proposed
16 Exhibits numbered 78, 79, 80, 84, and 90, do you recognize
17 these?

18 A This one isn't mine.

19 MS. PIEPER: Okay, we will withdraw 84. Not with
20 this witness.

21 THE WITNESS: Yes, I recognize these.

22 BY MS. PIEPER:

23 Q Okay, and how do you recognize all of these?

24 A I recognize them by my initials and P number, as
25 well as my signature on each of the packages.

1 Q Okay, here's what we're going to do. In regard to
2 -- let's take State's 78. It's in an envelope, is that
3 correct?

4 A That's correct.

5 Q On top of the envelope is a tag that says, "Las
6 Vegas Metropolitan Police Department evidence," is that
7 correct?

8 A That's correct.

9 Q On this form, there is an event number, is that
10 correct?

11 A That's correct.

12 Q And what is an event number?

13 A An event number is a specific number generated each
14 day, and each event after that gets a consecutive number. So,
15 the first two numbers in the event number is the year, the
16 second two is the month, the third two is the day, and the
17 last four are numbers generated by each call. So, it could be
18 0001 to 4,000, however many calls there are that day.

19 Q In regard to the event number in this case, what is
20 the event number?

21 A It is 131105 --

22 Q So, that's November 5th, 2013?

23 A That's correct.

24 Q And then what's the last four?

25 A Dash 0479.

1 Q Meaning this is the 479th event that the Las Vegas
2 Metropolitan Police Department has responded to by 5:30 in the
3 morning, is that correct?

4 A That's correct.

5 Q Okay. So, besides having the event number on there,
6 there is also on this tag a location, is that correct?

7 A That's correct.

8 Q And what is the location?

9 A It is 2655 Sherwood Street, apartment 18.

10 Q Okay. Also on this evidence tag, it talks about an
11 item number, and then impounded, sort of item description, is
12 that correct?

13 A That's correct.

14 Q Who fills out the information as to the item number,
15 as well as the description?

16 A I do.

17 Q Okay. And you type that out?

18 A Yes.

19 Q Okay. And in regard to State's proposed Exhibit
20 number 78, there's actually 1 through 6 items in this -- in
21 this envelope, is that correct?

22 A That's correct.

23 Q And in regard to the descriptions, can you tell the
24 members of the jury what the description is?

25 A Do you want me to read each one?

1 Q Sure.

2 A Okay. Number 1 is one cartridge case bearing the
3 headstamp "R-P 40 S&W." 2 is one cartridge case bearing the
4 headstamp "Federal 40 S&W." Number 3 is one cartridge case
5 bearing the headstamp "R-P 40 S&W." Number 4 is one cartridge
6 case bearing the headstamp "Federal 40 S&W." Number 5 is one
7 cartridge case bearing the headstamp "Federal 40 S&W." And
8 number 6 is one cartridge case bearing the headstamp "R-P 40
9 S&W."

10 Q Now, when we looked at the diagram earlier and you
11 had a series of numbers 1 through 6, does that match -- and
12 actually, outside, it was 1 through 13, but let's say we take
13 1 through 6. Do those item numbers on the diagram match the
14 item numbers that are in State's proposed Exhibit number 78?

15 A Yes, they do.

16 Q Okay. And also on this, you said that there was
17 your P number, as well as your signature. What is a P number?

18 A A P number is a personnel number given to every
19 employee of the Metropolitan Police Department.

20 Q Okay. We also see that there's some red evidence
21 tape on there. Do you see that?

22 A Yes.

23 Q And who puts that on there?

24 A That is the evidence tape that I seal the package
25 with.

1 Q Okay. And on the bottom, we see some blue tape.
2 What's the blue tape?

3 A The blue tape is the evidence tape that our
4 laboratory uses.

5 Q The forensic lab?

6 A That's correct.

7 Q Okay. And each of these four envelopes have similar
8 type markings, but you recognized your signature on all of
9 them, is that correct?

10 A That's correct.

11 Q You also recognize that you put the item numbers for
12 all of these, as well as the description, is that correct?

13 A That's correct.

14 MS. PIEPER: Your Honor, State moves for the
15 admission of 78, 79, 80, and 90.

16 MR. OTTO: No objection, Your Honor.

17 THE COURT: 78, 79, 80 and 90 will be admitted.

18 (State's Exhibits 78, 79, 80 and 90 are admitted)

19 BY MS. PIEPER:

20 Q Let's take 78 again. If I were to open this --
21 which I'm not going to because putting it back is going to be
22 difficult.

23 A Okay.

24 Q If I were to open this, what would I expect to find?

25 A You would find six plastic vials containing -- each

1 containing one cartridge case.

2 Q Okay. In regard to the vials, are they sort of just
3 the little round plastic clear ones?

4 A Yeah. They're --

5 Q With the white lids?

6 A Correct.

7 Q And so you kind of put one cartridge case in each,
8 correct?

9 A That's correct.

10 Q We don't put one big one -- one big one and six
11 cartridge cases in it, is that correct?

12 A That's correct.

13 Q Okay. In regard to State's 78 and 79, are these --
14 1 through 6 is in 78, and 79 has 7 through 13, is that
15 correct?

16 A That's correct.

17 Q And these are all the cartridge casings that were
18 collected outside, is that correct?

19 A That's correct.

20 Q And the item numbers on these cartridge casings
21 match State's Exhibit number --

22 (Pause in the proceedings)

23 MS. PIEPER: State's Exhibit number 130 -- oh. I
24 just had it. It has the diagram on it.

25 THE COURT: 137.

1 MS. PIEPER: Is that what it is?

2 BY MS. PIEPER:

3 Q 137 that shows, outside, there's some palm trees,
4 and there's a series of numbers, is that correct?

5 A That's correct.

6 Q Okay. You also talked about inside that there was
7 some evidence that you --

8 MS. PIEPER: Thank you, Ms. Schifalacqua.

9 MS. SCHIFALACQUA: No problem.

10 MS. PIEPER: And thank you, Your Honor. State's
11 137. And this is all going to go back to the jury.

12 BY MS. PIEPER:

13 Q So, the things that are in 79 and 80 match the
14 things that are in State's 137, is that correct?

15 A That's correct. No.

16 Q Those are the casings?

17 A No, these weren't the casings. Those are the
18 casings.

19 Q I'm sorry. Match what's in 79 and 80?

20 THE COURT: Is that -- 78 and 79 was what she --
21 what you have there?

22 MS. PIEPER: Yes.

23 BY MS. PIEPER:

24 Q 78 and 79 match what is on 137, is that correct?

25 A That's correct.

1 Q The item --

2 A Numbers 1 through 13.

3 Q The item numbers in here match the numbers that we
4 see in the legend marked 1 through 13, is that correct?

5 A That's correct.

6 Q You also testified that, inside, there was some
7 evidence that was collected, correct?

8 A That's correct.

9 Q And in regard to the evidence that was collected,
10 what was collected inside?

11 A There was several bullets, as well as bullet
12 fragments collected from inside the apartment.

13 Q Okay. And that is what is in State's 80 and 90, is
14 that correct?

15 A That's correct.

16 Q Okay. There are also -- there are item numbers 14
17 through 31 that are marked on both of these evidence bags. In
18 regard to State's Exhibit number 80, it's item number 14
19 through 21, and in regard to State's 90, it's 27 to 31, is
20 that correct?

21 A That's correct.

22 Q And those match what has been admitted in State's
23 136, is that correct?

24 A That's correct.

25 Q So, there is a legend in regard to State's 136, and

1 there's numbers 14 to 34, is that correct?

2 A That's correct.

3 Q And 33 and 34 are apparent blood, can you see that
4 on there?

5 A That's correct.

6 Q Is that correct?

7 A Yes.

8 Q And so apparent blood is not going to be obviously
9 in the same envelope as the bullets, is that correct?

10 A That's correct.

11 Q In regard to State's 136, you physically went around
12 and impounded each of these pieces of evidence, is that
13 correct?

14 A That's correct.

15 Q Okay. And are you doing it by yourself, or is
16 somebody else helping you?

17 A Typically I would collect it myself, but there are
18 other crime scene analysts on the scene.

19 Q And at the point that you're collecting all of this
20 evidence, is sort of everything already been done in that
21 apartment, and that is one of the last things that you guys
22 are doing is collecting the evidence, or is it one of the
23 first things that you guys are doing?

24 A It's typically towards the end.

25 Q Okay. So, we saw some photographs where there were

1 trajectory rods. Have the rods been done, if you can
2 remember, before or after the evidence is collected?

3 A That was done before the evidence was collected.

4 Q Okay. In regard to -- and I'm going to want to go
5 over briefly where these things are, even though we can
6 physically see them in the apartment. In regard to item
7 number 14 -- do you have your report out?

8 A Yes.

9 Q In regard to item number 14, what is that and where
10 was that recovered?

11 A It is a copper jacket fragment, and it was recovered
12 from under the sofa on the west wall of the living room.

13 Q Okay. Now, you are describing that some things are
14 found under the sofas and in different places. Is there
15 something that you guys can do besides using your naked eye to
16 find these items, or is it basically --

17 A Typically in an apartment, we would just use our
18 eyes. If we're outside and we need to look for fragments, we
19 would use a metal detector.

20 Q Okay. In regard -- and when you say it's a copper
21 jacket bullet fragment, what does that mean?

22 A Some bullets have -- are made of a -- have a copper
23 jacket over a lead core, and so this would be just the
24 fragment of the copper jacket. There is no lead in this
25 fragment.

1 Q In regard to item number 15, that is also a copper
2 jacket bullet fragment, is that correct?

3 A That's correct.

4 Q And where was that found?

5 A That was on the floor in the northeast corner of the
6 living room, and it was under some items originally.

7 Q Okay. In regard to the clothing that was found --
8 because you said this was found under some clothing. There's
9 obviously pictures that are taken of the clothing first, and
10 then is it that then you lift it up and you see that?

11 A That's correct.

12 Q Okay. 16 is a bullet, correct?

13 A That's correct.

14 Q And it was found -- where was it found?

15 A It was found between the seat cushions of the love
16 seat located on the east wall of the living room.

17 Q Okay. So, it's actually in the seat cushions, is
18 that correct?

19 A That's correct.

20 Q Okay. What is -- 17 and 18 are both bullet
21 fragments, is that correct?

22 A That's correct.

23 Q Where's 17 found?

24 A 17 was between the seatback cushions of the love
25 seat.

1 Q And what about 18?

2 A 18 was on the floor, just right there to the south
3 of the love seat.

4 Q 19 and 20 are bullet fragments, is that correct?

5 A That's correct.

6 Q And where are they found?

7 A 19 was on top of a DVD case that was on the floor in
8 front of the TV stand, which is this square here on the
9 diagram.

10 Q Okay.

11 A And 20 was just on the floor to the east of the
12 television stand.

13 Q Okay. 21 is a bullet, correct?

14 A That's correct.

15 Q And where is that found?

16 A That was on the floor in the hallway.

17 Q Okay. Where is 27 -- what is 27?

18 A 27 is a bullet as well.

19 Q Okay, and where is that found?

20 A That was located under the decedent.

21 Q Okay. In regard to these crime scene diagrams as
22 well as the decedent, is he there while you guys are still
23 processing the scene in this case?

24 A Yes.

25 Q Okay. So, is it -- like you had described that

1 evidence is collected towards the end. Obviously, at some
2 point, does the coroner's office come and remove his body?

3 A Yes, they do.

4 Q Okay. Once he removes his body, is that when you
5 saw the bullet under his body?

6 A Yes.

7 Q 28, 29, 30 and 31, they're all bullets, correct?

8 A That's correct.

9 Q And where is 28 found?

10 A 28 was inside the exterior closet door.

11 Q Okay. And 29?

12 A 29, 30 and 31 were all in the east wall of the
13 closet.

14 Q Okay. When you say they are all found in the closet
15 like doors or walls, do you guys recover those, or do you just
16 leave them in the apartment?

17 A In major cases such as homicides, they are recovered
18 from inside the wall.

19 Q And how do you get it from out of the wall?

20 A The wall's -- normally with a crowbar, the wall's
21 taken apart, and they're collected from the interior of the
22 wall.

23 Q Okay. And you guys collect this evidence, and then,
24 as you said, there was blue tape that this evidence is then
25 sent to the forensic lab, is that correct?

1 A That's correct.

2 Q Okay. I'm going to show you a series of other
3 photographs. Earlier, you had described how when you arrive
4 on scene, you guys see sort of the bullet holes.

5 A That's correct.

6 Q And then you sort of, as I call it, follow the path
7 of the bullet, and so I sort of want to show that to the
8 members of the jury. Showing you what's been admitted as
9 State's 159. And I can show you up close, but I'm going to
10 represent to you that this is G1.

11 A Okay.

12 Q And I can zoom-in if you want me to. Do you see
13 that?

14 A Yes.

15 Q You earlier described -- and I guess I can actually
16 go closer in State's 167 where it says, G1. Do you see that?

17 A Yes.

18 Q You guys then, through either using the lasers or
19 physically having to follow through, looked through to find
20 where G2 is, is that correct?

21 A That's correct.

22 Q And in regard to State's 184, I'm going to represent
23 to you that this is inside of the window.

24 A That's correct.

25 Q And this is G2.

1 A Okay.

2 Q So, you in essence followed that bullet by going
3 front of the window to the back curtain area, correct?

4 A That's correct.

5 Q Okay. And in regard to G3, can you explain to the
6 members of the jury where that is?

7 A That is in the southmost seat back of the love seat.

8 Q And in regard to 186, which is G4, where is that?

9 A That is the west wall of the south bedroom.

10 Q Okay. So, now it has gone from outside of the house
11 to inside of the window, through the love seat, and now you're
12 tracking the bullet on the other side of the bedroom, is that
13 correct?

14 A That's correct.

15 Q And in regard to State's 187 where it says G5, where
16 is that located?

17 A That is in the exterior closet door.

18 Q So, it has gone from outside, through the window,
19 through the living room and the love seat, through that wall
20 that's in that bedroom, into the closet in the back of that
21 bedroom, is that correct?

22 A That's correct.

23 MS. PIEPER: Court's indulgence.

24 THE COURT: Um-hum.

25 BY MS. PIEPER:

1 Q You would agree with me that there are hundreds of
2 pictures taken in this case, correct?

3 A Yes.

4 Q And for each of the bullets A through M, you tried
5 to follow this track, is that correct?

6 A That's correct.

7 Q And I could --

8 MS. PIEPER: I won't, Judge.

9 BY MS. PIEPER:

10 Q I could go through A through M and all of the
11 tracks, correct?

12 A Yes.

13 Q This is an example of one?

14 A Yes.

15 Q But in essence, Metro followed or tried to follow
16 each of the tracks of these bullets, is that correct?

17 A That's correct.

18 MS. PIEPER: Nothing further. Pass the witness.

19 THE COURT: All right. Cross-examination.

20 MR. OTTO: Yes, Your Honor. Thank you.

21 CROSS-EXAMINATION

22 BY MR. OTTO:

23 Q Good morning, Ms. Vaandering.

24 A Good morning.

25 Q Did I get that?

1 A Yes.

2 Q With a "V"?

3 A Yes.

4 Q My name is David Otto. I represent Mr. Washington
5 in this case. I'm showing you what's been marked and admitted
6 as State's Exhibit 136, and call your attention to the north
7 arrow.

8 A Yes.

9 Q And the bullets were traveling in this photo -- or
10 in this diagram left to right, is that correct?

11 A Yes.

12 MS. PIEPER: Well, Judge, I'm going to object. I
13 don't think there was any testimony that she saw the bullets
14 actually --

15 MR. OTTO: I'm sorry. Let me rephrase, please.

16 THE COURT: All right.

17 BY MR. OTTO:

18 Q Based on your analysis of the scene, can you
19 determine and have you determined which direction, east or
20 west, the bullets were traveling?

21 A Yes.

22 Q And which direction were they traveling?

23 A They were traveling from west to east.

24 Q From west to east. And in this photo, west is on
25 the left -- diagram. Left is on the west side?

1 A That's correct.

2 Q And right is on the east side?

3 A That's correct.

4 Q Looking to the south would be an outside wall, is
5 that correct?

6 A That's correct.

7 Q And did you find any abnormalities or bullet holes
8 indicating -- bullet holes or abnormalities indicating bullet
9 holes traveling south to north through that alley wall?

10 A There were -- on the exterior?

11 Q On the exterior.

12 A No. So, all the bullets came through either the
13 window or some other spot on the west side wall, and then
14 traveled through the apartment?

15 A That's correct.

16 Q Is that correct? The curtains of the window shown
17 here on the west side of this diagram were closed, is that
18 correct?

19 A That's correct.

20 Q And when you arrived, you couldn't see from outside
21 to inside the apartment, is that correct?

22 A That's correct.

23 Q And you couldn't see from inside to outside the
24 apartment, is that correct?

25 A That's correct.

1 Q Based on your training and experience, would you be
2 able to testify as to whoever was shooting from outside could
3 see inside the apartment?

4 A No.

5 Q Did the curtain affect the trajectory of these
6 projectiles, the bullets? If you know.

7 A I would say, no. It's a very thin material that's
8 not going to affect where the bullets travel.

9 Q Calling your attention to State's Exhibit 14, marked
10 and admitted, you described finding an abnormality on the
11 exterior wall of this front building here at 2655 Sherwood
12 Street?

13 A That's correct.

14 Q Do you know -- did you ever go inside that apartment
15 and examine the interior walls?

16 A Yes. That was apartment 18.

17 Q This is apartment 18?

18 A That's correct.

19 Q So, the one bullet traveled to the exterior wall of
20 apartment 18 and went outside?

21 A No. There was a defect in the stucco on the
22 outside. The bullet did not go through, but it hit the
23 interior wall and it made a defect in the exterior stucco.

24 Q And you found that bullet inside the apartment?

25 A Yes, it was covered from inside that east wall of

1 the closet in the south bedroom.

2 Q Calling your attention to State's Exhibit admitted
3 159. And that is a picture of the window to apartment 18
4 facing east, correct?

5 A The window's on the west side of the apartment.

6 Q The window is on the west side, but the photographer
7 is facing east?

8 A Oh. Yes, correct.

9 Q And is that a glass or plexiglass window?

10 A I believe it to be glass. I -- no examination was
11 done to determine.

12 Q Wouldn't glass break, in your experience, when --

13 A Tempered glass typically shatters, but windowpanes
14 typically don't. It just -- it depends on -- this is a very
15 thick pane as well, which --

16 Q I see.

17 A -- helps it not to shatter.

18 Q Is the level or altitude, if you will, of the
19 outside concrete patio facing the window of apartment 18
20 higher, or lower, or at the same level as the interior floor
21 of the apartment?

22 A From what I recall, it's close to the same level.

23 Q Showing you Exhibit number 174, and that you have
24 described as this window where the bullet holes penetrated and
25 the curtain on the interior, correct?

1 A That's correct.

2 Q And I'm pointing to this bottom pink arrow. You see
3 my finger there?

4 A Yes.

5 Q That's -- that projectile came through the back of
6 the couch against the window, and were you able to determine
7 where it lodged elsewhere in the apartment using your
8 trajectory rods or any other method?

9 A If you can zoom in, I believe that's trajectory J,
10 and we could only track it from the exterior window through
11 the seatback of the sofa.

12 Q And you didn't find it elsewhere, if that's J, is
13 that correct? Let's see if it is. I don't know if it will be
14 clear enough --

15 A Yeah, I don't know if it's --

16 Q -- by the time I get there.

17 A -- clear that close. If I can refer to my report, I
18 can tell you which one.

19 Q Please do.

20 A This is the report written by Christina Thomas, the
21 CSA that took the photos. Is --

22 Q That's fine.

23 A Okay. Yes, that's trajectory path J.

24 Q And you weren't able to recover -- determine where
25 that projectile wound up?

1 here through the building, apartment number 18, through the
2 walls, through the bedroom, and actually made a defect on the
3 outside wall when you -- and this is Sherwood where you
4 arrived, is that correct?

5 A That's correct.

6 Q So, essentially, the bullet went through the entire
7 apartment number 18, and basically to the back wall?

8 A That's correct.

9 Q Showing you what's been admitted as State's 136.
10 You were asked some questions in regard to the direction of
11 travel of the bullets, do you remember that?

12 A Yes.

13 Q And it was sort of east to west?

14 A That's correct.

15 Q There was no -- sorry, west to east, is that
16 correct?

17 A Yes.

18 Q No east to west? In other words, nobody inside the
19 apartment is shooting out, correct?

20 A No.

21 Q You were asked some questions about plexiglass
22 versus glass. Do you remember those questions?

23 A Yes.

24 Q Okay. In regard to plexiglass versus glass, does it
25 matter because the bullets went through, correct?

1 A Correct.

2 Q Showing you what's been admitted as State's 174.
3 You were asked questions in regard to this bullet being on the
4 bottom. Do you remember those questions?

5 A Yes.

6 Q I think you said that they were J?

7 A Yes, trajectory J.

8 Q And you were asked by the defense attorney, did you
9 ever find where the casing or the bullet went, do you remember
10 that?

11 A Yes.

12 Q If there had been a body sitting on that couch and
13 the bullet traveled through the body and maybe was in the body
14 or was found underneath the body, would that explain why you
15 couldn't find where the bullet was?

16 A Yes.

17 MS. PIEPER: Nothing further, Your Honor.

18 THE COURT: Thank you. Recross?

19 MR. OTTO: Just a few.

20 THE COURT: Um-hum.

21 RE-CROSS-EXAMINATION

22 BY MR. OTTO:

23 Q Based on your examination and analysis of the scene,
24 were you able to determine what bullet caused the fatal
25 injuries?

1 A No.

2 Q Or the -- did you collect -- you --

3 MS. PIEPER: Judge, I'm going to object if he's
4 going to continue down this line of questioning. This is a
5 crime scene analyst as opposed to the medical examiner, who
6 would probably know what would cause the fatal injury.

7 MR. OTTO: I'm asking if she knows.

8 THE COURT: On that basis, you may ask.

9 BY MR. OTTO:

10 Q Do -- what was your answer? I'm sorry.

11 A No.

12 Q Do -- when you collect projectiles from the walls
13 and other areas inside an apartment in this case, did -- were
14 they -- were they impounded and swabbed for DNA evidence?

15 A They were just impounded. No swabs were taken.

16 Q There was no DNA swabs?

17 A No.

18 Q Are you aware that some of these bullets passed
19 through the people who were shot inside the apartment?

20 A Typically, if there's visible blood on a bullet,
21 that would be swabbed and removed from the bullet, and then
22 the bullet would actually be washed to preserve any markings
23 on that bullet that could link it back to the firearm.

24 Q That wasn't done in this case?

25 A No. No blood was observed on any of the bullets.

1 MR. OTTO: I have nothing further. Thank you.

2 THE COURT: All right, thank you. You may step
3 down. May this witness be excused?

4 MS. PIEPER: She may, Your Honor.

5 THE COURT: And from the defense?

6 MR. OTTO: No objection, Your Honor.

7 THE COURT: Thank you, ma'am. You're excused.

8 (Pause in the proceedings)

9 THE COURT: Okay, you may call your next witness.

10 MS. PIEPER: State calls Shayla Joseph.

11 THE MARSHAL: Ms. Joseph, if you would take the
12 stand, please. Please remain standing and raise your right
13 hand. Prepare to be sworn by the clerk.

14 SHAYLA JOSEPH, STATE'S WITNESS, SWORN

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

17 THE WITNESS: Shayla Joseph. S-h-a-y-l-a. Joseph,
18 J-o-s-e-p-h.

19 MS. PIEPER: Your Honor, may I proceed?

20 THE COURT: You may.

21 DIRECT EXAMINATION

22 BY MS. PIEPER:

23 Q How are you employed?

24 A I'm a crime scene analyst supervisor with the Las
25 Vegas Metropolitan Police Department.

1 Q And how long have you worked -- and how long have
2 you worked with Metro?

3 A I've been employed with the police department for
4 about ten years now.

5 Q And what division do you work with in the Las Vegas
6 Metropolitan Police Department?

7 A I'm in the crime scene investigations section. It's
8 part of the Criminalistics Bureau.

9 Q Okay. And what type of training and experience do
10 you need to have in order to be a crime scene analyst?

11 A To be a crime scene analyst with the department,
12 initially you need to have a bachelor's degree or at least an
13 associate's degree, sorry, in science or in the criminal
14 justice field. We go through an academy, and then we have
15 extensive on the job training, a field training academy. I
16 have over 1,700 hours worth of training, a bachelor's degree
17 in biology from the University of Nevada, Reno.

18 Q And on November 6th, 2013, were you working on that
19 day?

20 A Yes, ma'am.

21 Q Did you go to the Clark County Medical -- or the
22 Clark County Coroner's Office?

23 A Yes, ma'am.

24 Q And approximately what time did you arrive there?

25 A I arrived there approximately 7:00 A.M.

1 Q Okay, and why were you there?

2 A I was there to document an autopsy.

3 Q And was that of Nathan Rawls?

4 A Yes, ma'am.

5 Q In regard to this case, you took photographs of the
6 decedent, is that correct?

7 A Yes, ma'am.

8 Q And as part of your responsibilities, you also
9 collected the clothes, is that correct?

10 A Yes, ma'am.

11 Q And you took photos of the victim in two stages, is
12 that correct?

13 A Yes, ma'am.

14 Q Where he -- how he appears where there's blood, and
15 then later, they clean the body off and you take pictures
16 where he's cleaned and then uncleaned, is that correct?

17 A Yes, ma'am.

18 Q You also collected a buccal swab in that -- in this
19 case, is that correct?

20 A Yes, ma'am.

21 MS. PIEPER: Your Honor, may I approach the witness?

22 THE COURT: You may.

23 BY MS. PIEPER:

24 Q Showing you what's been marked as State's proposed
25 Exhibit number 84, do you recognize that?

1 A Yes, ma'am.

2 Q And what is that?

3 A This is going to be an item of evidence that I
4 impounded. It's one bullet.

5 Q Okay, and was that collected from the body of Nathan
6 Rawls?

7 A I collected this from the hands of Dr. Simms.

8 Q Okay.

9 A You physically don't go in there and collect
10 evidence --

11 A No, ma'am.

12 Q -- is that correct?

13 A I don't.

14 Q But that's from the autopsy from Nathan Rawls, is
15 that correct?

16 A Yes, ma'am.

17 Q And how do you recognize that?

18 A There's a variety of ways I recognize it. I filled
19 out the label on here. It has my initials and P number. It
20 has my signature. It's in my handwriting. And when you look
21 at the main seal on the package, you're going to see that it
22 has, again, my initials and my P number, and the date that I
23 sealed the bag.

24 Q In regard to this case, although you went to the
25 autopsy on November 6th, 2013, the event number still matches

1 the investigation event number, is that correct?

2 A Yes, ma'am. This is a follow up from that.

3 Q Okay. We also see some blue seals on the bottom.

4 What's the blue seals from?

5 A The blue seals indicate that the package has been
6 reopened for examination. For example, our forensic scientist
7 will do further examination on the evidence after we've
8 impounded it.

9 MS. PIEPER: Your Honor, State moves for the
10 admission of 84.

11 MR. OTTO: No objection.

12 THE COURT: 84 will be admitted.

13 (State's Exhibit 84 is admitted)

14 MS. PIEPER: No further questions of this witness.

15 THE COURT: Cross-examination?

16 MR. OTTO: None, Your Honor.

17 THE COURT: Thank you. You may step down. May this
18 witness be excused?

19 MS. PIEPER: She may.

20 MR. OTTO: Yes, Your Honor.

21 THE WITNESS: Thank you.

22 THE COURT: Thank you. State may call your next
23 witness.

24 MS. SCHIFALACQUA: Your Honor, the State calls
25 Michael Cromwell.

1 THE MARSHAL: Mr. Cromwell, sir, please take the
2 stand. Remain standing and raise your right hand.

3 MICHAEL CROMWELL, STATE'S WITNESS, SWORN

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

6 THE WITNESS: Michael Cromwell. M-i-c-h-a-e-l,
7 C-r-o-m-w-e-l-l.

8 MS. SCHIFALACQUA: May I, Your Honor?

9 THE COURT: You may.

10 MS. SCHIFALACQUA: Thank you.

11 DIRECT EXAMINATION

12 BY MS. SCHIFALACQUA:

13 Q Can you let the members of our jury know how it is
14 you are currently employed?

15 A Currently, I'm employed as a crime scene analyst 2
16 with the Henderson Police Department.

17 Q And prior to being a crime scene analyst with
18 Henderson's police department, did you work as a crime scene
19 analyst anywhere else?

20 A I did. I was a senior crime scene analyst with the
21 Las Vegas Metropolitan Police Department.

22 Q How long were you a crime scene analyst with Metro?

23 A Almost six years.

24 Q Okay. And when is it that you transferred over to
25 Henderson?

1 A February of this year.

2 Q Okay. So, back in November of 2013, were you still
3 working as a crime scene analyst with the Las Vegas
4 Metropolitan Police Department?

5 A Yes, ma'am, I was.

6 Q And describe for the members of our jury please your
7 education and background with regard to being a crime scene
8 analyst.

9 A I obtained my bachelor of science degree from the
10 University of Central Florida in chemistry and forensic
11 science. Following that, I participated in a one-year
12 internship with the Baltimore County Police Department in
13 their forensic services section.

14 After that, I was hired on with the Las Vegas
15 Metropolitan Police Department, where I underwent a 400-hour
16 crime scene analyst academy, a 12-week field training and
17 evaluation program where we're paired up with senior crime
18 scene analysts for on the job training. And since then, I've
19 had hundreds of hours in additional training and workshops
20 relevant to forensic science and crime scene processing.

21 Q Have you had occasion in your years as a crime scene
22 analyst to go out to a number of -- a variety of crime scenes?

23 A Yes, ma'am.

24 Q Describe for the members of our jury, please, Mr.
25 Cromwell what it is your duties are when you're called out to

1 a scene --

2 A Well --

3 Q -- generally.

4 A Generally speaking, we're requested by an officer or
5 a detective to respond to a scene of a crime or an incident.
6 When we arrive on scene, we will make contact with the
7 requesting officer. We will do a walk-through of the scene,
8 followed by we'll take notes -- we'll document that scene
9 through notes, photography, and if necessary, a diagram.

10 If necessary, we'll process the scene for latent
11 prints using various techniques, and we will identify,
12 collect, and preserve any and all evidence. This is all
13 completed with -- at the very end of this process is to write
14 reports and such.

15 Q Okay. And then are you ultimately, either if you
16 are on scene yourself or with another person, responsible for
17 impounding that evidence?

18 A Yes, ma'am.

19 Q Is that evidence always impounded under the
20 initiating event number? We've heard about event numbers. Is
21 it always impounded under that initiating event number so that
22 all the evidence can be linked to one event number?

23 A Yes.

24 Q Okay. I want to turn your attention to November 5th
25 of 2013. Were you working on that day?

1 A I was.

2 Q And were you -- what shift did you normally work?

3 A I worked day shift, which was 6:00 A.M. to 4:00 P.M.

4 Q Okay. And at approximately 7:00 in the morning, did
5 you get called out to a particular area?

6 A I did.

7 Q And where was that?

8 A It was the intersection of Eastern and Ogden.

9 Q Okay. Showing you --

10 MS. SCHIFALACQUA: Permission to republish photos,

11 Your Honor?

12 THE COURT: You may.

13 BY MS. SCHIFALACQUA:

14 Q Showing you what's been previously admitted into
15 evidence as State's 18, is this the intersection you went to,
16 Eastern -- 18 and 19 -- and Ogden?

17 A Yes, ma'am.

18 Q Okay. And when you arrived on scene, what is --
19 describe for the members of our jury what was the scene like?
20 What did you arrive to?

21 A I had information before I arrived on scene that
22 they had conducted a traffic stop. So, when I arrived on
23 scene, there was a silver Dodge Magnum parked along the
24 northbound lanes of Eastern on the north side of the
25 intersection.

1 Q And -- oh. I was going to say, and showing you
2 State's 20, is that -- let me see if I can -- a picture of the
3 vehicle as you saw it when you first arrived?

4 A Yes.

5 Q Okay. Thereafter, did you make contact with any
6 persons on scene?

7 A I did. There were several patrol officers on scene,
8 as well as a homicide detective, Bob Rogers.

9 Q Okay. Did you get briefed or talk with Detective
10 Rogers about what it is that would have been needed from you?

11 A Yes, I did.

12 Q Okay. What do you do first after talking with
13 Detective Rogers?

14 A We will document the scene using notes and
15 photography to show how the scene was when we arrived.

16 Q And with regard to that, are you taking kind of
17 overall photographs of the vehicle, for example?

18 A Yes.

19 Q Okay. So, showing you State's 21, are we looking at
20 a close-up of the vehicle?

21 A Yeah, this is from the front end of the vehicle.

22 Q And did it have a license plate --

23 A It did.

24 Q -- on the front?

25 A On the front, I don't believe so.

1 Q Okay. And showing you State's 23, what are we
2 looking at there?

3 A This is a picture of the side of the vehicle -- the
4 driver side of the vehicle.

5 Q And showing you -- what's significant about that?

6 A When I arrived on scene, both the driver door and
7 the driver's side rear passenger door were open, and all the
8 windows were open in the vehicle.

9 Q Showing you State's 24, is that the rear of the
10 vehicle with the license plate?

11 A Yes, ma'am.

12 Q And then showing you State's 25, what are we looking
13 at here?

14 A This is the right side of the vehicle, the passenger
15 side.

16 Q And were the doors open?

17 A They were closed, although the windows were open.

18 Q Thereafter, did you wait until Detective Rogers had
19 secured a search warrant for that vehicle before you ever made
20 entry into the vehicle?

21 A We did.

22 Q Were there a number of photographs however that you
23 were able to take while standing outside of the vehicle?

24 A Yes, ma'am.

25 Q Is it fair to say you can use a zoom lense and -- of

1 at least the open areas in order to take photographs from the
2 outside?

3 A Yes.

4 Q Did you do so in this case?

5 A We did.

6 Q Okay. What did you do after you took photographs
7 from the outside?

8 A In this particular case, we did -- again, we did
9 photographs from the outside to show the condition of the
10 vehicle, as we just saw. Between that time and the time we
11 secured a search warrant to actually enter the vehicle, we
12 photographed two subjects located at the scene.

13 Q Okay. And do you see one of those persons here
14 today in court?

15 A I do.

16 Q Can you please point to that person and identify
17 something that that person is wearing here today?

18 A The male in red.

19 Q And can you describe an article of clothing that
20 he's wearing today?

21 A A red shirt.

22 MS. SCHIFALACQUA: And Your Honor, let the record
23 reflect that the witness has identified the defendant, Matthew
24 Washington.

25 THE COURT: The record will so reflect.

1 BY MS. SCHIFALACQUA:

2 Q So, you took photographs for identity purposes of
3 Matthew Washington, is that correct?

4 A For identification and for general appearance.

5 Q Okay. And did you do so for the other person that
6 was also on scene?

7 A Yes, ma'am, I did.

8 Q Showing you what's been previously admitted as
9 State's 37, are we looking at a picture of Mr. Washington
10 there?

11 A Yes, sir.

12 Q And State's 38, is that a photograph of his face?

13 A Yes, ma'am.

14 Q Showing you State's 39, is that the other person on
15 scene for identification that you took photographs of?

16 A Yes.

17 Q Do you recall his name?

18 A I have it in my report, if I can refer back.

19 Q Would looking at your report help refresh your
20 recollection?

21 A It will.

22 Q Could you do so, and when you're done, look up at
23 me, please.

24 MS. SCHIFALACQUA: I'm sorry, I was conversing with
25 my co-counsel there. Thank you.

1 BY MS. SCHIFALACQUA:

2 Q Did looking at your report help refresh your
3 recollection as to the name?

4 A It did. Yes.

5 Q And what was the name?

6 A It was Martell Moten.

7 Q Okay. And with regard to State's 40 that's been
8 previously admitted, is that a close-up of Mr. Moten's face?

9 A Yes, ma'am.

10 Q I want to ask you a question. Going back to State's
11 39, what is Mr. Moten wearing in this photograph?

12 A A white sleeveless shirt and blue jeans.

13 Q Do you have a recollection of how the weather was on
14 November 5th of 2013 when you went out at the crime scene at
15 approximately 7:00 A.M.?

16 A In the morning, it was cold.

17 Q Okay. Showing you what's been admitted as State's
18 41, what are we looking at here?

19 A This is the back of Moten's head, and the image is
20 to show red fibers that were observed in the -- in his
21 hairline.

22 Q And did you later on collect some clothing items
23 that were red from the vehicle?

24 A We did.

25 Q Okay. And did that include a sweatshirt type

1 article of clothing?

2 A Yes.

3 Q And the inside of that sweatshirt, did it have those
4 types of fibers?

5 A It was that soft, fleece-like fiber.

6 Q Okay. And would that indicate why you would have
7 taken photographs of the same on Mr. Moten's head?

8 A Yes.

9 Q Okay.

10 MS. SCHIFALACQUA: Court's brief indulgence.

11 THE COURT: Um-hum.

12 BY MS. SCHIFALACQUA:

13 Q After taking photographs with regard to the persons
14 on scene, were you present when Detective Rogers had gotten
15 the search warrant for the vehicle?

16 A When he got notification that a search warrant was
17 obtained, we were present.

18 Q Okay. What did you do after that? Describe that
19 for the members of our jury, please.

20 A As soon as we're notified that the search warrant
21 has been obtained, we'll note that time in our notes. At that
22 point, again, we'll photo document that vehicle, specifically
23 the interior, with photographs to document its contents as
24 well as its condition.

25 In this particular case, a firearm was observed

1 under the front passenger seat of the vehicle. That was
2 documented, removed from the vehicle at the scene, and then a
3 cursory search of the rest of the vehicle was conducted to see
4 if anything else was in plain sight or readily available for
5 us.

6 Q Was it your intent at that time to do a full search
7 of the vehicle --

8 A No.

9 Q -- there on the street?

10 A No, it was not.

11 Q Okay. What was going to happen? When you said
12 cursory search, what do you mean by that?

13 A It's just a brief search of the vehicle. The
14 firearm that was under the front passenger seat was readily
15 visible, so we wanted to remove that from the vehicle
16 immediately to protect any and all evidence and so that it
17 didn't move.

18 A cursory search is just a general search. You're
19 not -- you're not -- you're looking in the main areas, in the
20 glove compartment, in the center console, underneath the
21 seats. It's just a real fast search before we get that
22 vehicle sealed and towed to the lab where we can do a more
23 thorough search at a later time.

24 Q Are you looking -- for example, you indicated that
25 you would have removed the firearm. Would you make that

1 weapon that's a deadly weapon kind of safe before you would
2 move the car?

3 A Yes, ma'am.

4 Q Okay. So, when you do that cursory search, are you
5 searching for other things like firearms, and weapons and
6 such?

7 A Yes.

8 Q With regard to -- you indicated to the members of
9 our jury that that firearm was readily visible. I want to ask
10 you, could you see that -- prior to getting -- obtaining the
11 search warrant and making entry, could you see that firearm?

12 A Yes, we could.

13 Q Okay. I'm going to show you what's been previously
14 admitted -- oh, actually, I think two are not.

15 MS. SCHIFALACQUA: Court's indulgence. Showing Mr.
16 Otto what's been marked as State's 30 and 31. If I may
17 approach, Judge.

18 THE COURT: You may.

19 MS. SCHIFALACQUA: Okay.

20 BY MS. SCHIFALACQUA:

21 Q Mr. Cromwell, I'm showing you what's been marked as
22 State's proposed Exhibits 30 and 31. Do you recognize those?

23 A Yes, ma'am.

24 Q Are those photographs that you took of the back seat
25 of that silver Dodge Magnum on November 5th, 2013?

1 A Yes, and it's looking through the driver side rear
2 passenger door.

3 Q Okay. Do those fairly and accurately depict the
4 photographs that you took on that day?

5 A They do.

6 MS. SCHIFALACQUA: I'd move for admission of State's
7 30 and 31 at this time, Your Honor.

8 MR. OTTO: No objection.

9 THE COURT: 30 and 31 will be admitted.

10 (State's Exhibits 30 and 31 are admitted)

11 MS. SCHIFALACQUA: Permission to publish, Your
12 Honor?

13 THE COURT: You may.

14 MS. SCHIFALACQUA: Thank you.

15 BY MS. SCHIFALACQUA:

16 Q So, with regard to 30, Mr. Cromwell, describe what
17 we're looking at here.

18 A Again, this is a general photograph to document the
19 contents of the rear passenger compartment of the vehicle as
20 looking through the driver side rear passenger door.

21 MS. SCHIFALACQUA: And for the record, I need to
22 make a correction. What we're actually viewing is 31, Your
23 Honor. I'm going to now show 30.

24 THE COURT: Okay.

25 BY MS. SCHIFALACQUA:

1 Q And is that another view of what you just described?

2 A Yes, ma'am.

3 Q Showing you what's been admitted as 32, is that a
4 closer up view of underneath the, excuse me, passenger seat in
5 the back?

6 A Yes, this is the rear side of the front passenger
7 seat.

8 Q Okay. And showing you 33, is that another
9 photograph even closer of that area?

10 A Yes, ma'am.

11 Q Had you made entry into the vehicle at this time
12 when taking these photographs?

13 A No. These were all taken through the open door
14 prior to when a search warrant was --

15 Q Is it fair to say that -- you indicated that you
16 could see a firearm, or a butt of a firearm. Where was that
17 positioned that you saw with your own eyes?

18 A That is going to be under that front passenger seat.

19 Q Okay. Is it fair to say that the photograph doesn't
20 pick this up very well in the -- in these that we've presented
21 right here?

22 A Not in the resolution, no.

23 Q Okay. In person, could you readily identify the
24 butt of a firearm in this vehicle?

25 A Yes.

1 Q Thereafter, a search warrant is obtained, and you've
2 indicated that, correct?

3 A Yes.

4 Q I think it was 07:43 hours.

5 A And then, showing you what's been admitted as
6 State's 34, are we looking at that same area but from the
7 other side?

8 A Yes, ma'am.

9 Q And showing you State's 35, can you now more readily
10 see the -- what you described as the firearm?

11 A Could I see the actual -- without looking on the TV?

12 Q Absolutely.

13 MS. SCHIFALACQUA: If I may approach?

14 THE COURT: You may.

15 THE WITNESS: Yes.

16 BY MS. SCHIFALACQUA:

17 Q And while I'm up here in person, showing you 36, can
18 you see that firearm?

19 A Yes, ma'am.

20 Q Or the butt of the firearm?

21 A Yes.

22 Q And for purposes of our jury, let me put this -- and
23 this is State's 36. Can you see that portion of that firearm?

24 A Yes, ma'am.

25 Q Is there anything underneath it that you can

1 describe for the members of our jury?

2 A Well, there's a box -- a box of -- an electronic
3 scale on top of it, and then what appears to be a blue plastic
4 underneath.

5 Q When you -- prior to the tow truck coming to --

6 MR. OTTO: Your Honor, if I might interrupt, I
7 wonder if we could take a quick break.

8 THE COURT: All right. Perhaps the ladies and
9 gentlemen of the jury would like to do that. We'll take our
10 morning break of ten minutes.

11 While you're on this morning break, please recall
12 the Court's constant admonition not to talk or converse among
13 yourselves, or with anyone else on any subject or person
14 connected with this trial. Do not form or express any opinion
15 on any subject connected with this trial until the case is
16 finally submitted to you.

17 Ten-minute recess.

18 THE MARSHAL: All rise. This court is in recess.
19 Ladies and gentlemen of the jury, please.

20 (Court recessed at 11:22 A.M. until 11:37 P.M.)

21 (Outside the presence of the jury)

22 MS. PIEPER: Judge, here's what we -- we have Mike
23 Cromwell, and then Erin Taylor, she's going to be doing the
24 guns. Then we have three really quick witnesses that we would
25 like to finish. We want to go a little bit into the lunch

1 hour. We've told our other witnesses, we have three witnesses
2 this afternoon, to come at 1:30. 1:30, 2:00, and 2:30. So,
3 we are asking of this court to go a little bit into the lunch
4 break so that, that way, we can at least finish these people,
5 get them going, and then --

6 THE COURT: I like that -- I like that part. Do
7 that part again.

8 MS. PIEPER: So -- and we've spoken to Mr. Otto
9 about it. I don't think he has any issue with it.

10 THE COURT: Okay.

11 MR. OTTO: Not now.

12 MS. SCHIFALACQUA: Also, by stipulation, Judge, we
13 have --

14 MS. PIEPER: 138 and 139.

15 MS. SCHIFALACQUA: Yes, State's proposed 138 and 139
16 to be admitted into evidence. For the record, they are the
17 buccal swabs for both Mr. Washington, as well as Mr. Moten.

18 THE COURT: Are we planning on giving those to the
19 jury? Because they haven't been opened.

20 MS. SCHIFALACQUA: No, we're not going to --

21 MS. PIEPER: Open them.

22 MS. SCHIFALACQUA: -- open them. We just want them
23 admitted because we will have a DNA expert testifying.

24 THE COURT: Okay.

25 MR. OTTO: And I'll stipulate to their admission, as

1 the DNA --

2 THE COURT: Okay.

3 MR. OTTO: -- excludes Mr. Washington.

4 THE COURT: Uh-huh.

5 MS. SCHIFALACQUA: As well as -- do we have --

6 THE COURT: I imagine you would then.

7 MS. SCHIFALACQUA: -- buccals for our victim?

8 MS. PIEPER: Yeah, we have buccals for the victim.

9 Do you want to stipulate to that, too; 76, 77, and 92.

10 (Pause in the proceedings)

11 THE COURT: Also, just a reminder that 133 is not

12 in.

13 MS. SCHIFALACQUA: Correct. We have [inaudible].

14 MR. OTTO: Oh, yeah.

15 THE COURT: All right.

16 MR. OTTO: We should go through 133 maybe now so we

17 don't forget it.

18 MS. PIEPER: Judge, by stipulation of the parties,

19 76, 77, and 92 will also be admitted, and those are the buccal

20 swabs, which the State's not intending to open them.

21 THE COURT: And 92?

22 MS. PIEPER: Will be admitted.

23 MS. SCHIFALACQUA: Correct.

24 THE COURT: Okay. Correct statement, Mr. Otto?

25 MR. OTTO: That is a correct stipulation to the

1 admission of those items.

2 THE COURT: Very good. They'll be admitted.

3 (State's Exhibits 76, 77, and 92 are admitted)

4 THE COURT: Any other housekeeping?

5 MS. PIEPER: Oh, 133. I don't know if Mr. Otto
6 wants to stipulate to that.

7 MR. OTTO: Yeah, let's look at what 133 is.

8 MS. PIEPER: It's right there. It's the boots.

9 MS. SCHIFALACQUA: It's her favorite boots.

10 MS. PIEPER: 133.

11 MR. OTTO: I will stipulate --

12 MS. PIEPER: And 134.

13 MR. OTTO: Okay, what are we talking about? 133 or
14 134?

15 MS. PIEPER: They're the -- looks like they're the
16 same thing.

17 THE COURT: Is 134 already in?

18 MR. OTTO: Do you have a 134?

19 MS. PIEPER: And 135. But --

20 MR. OTTO: All right, let's get them all together.

21 MS. PIEPER: 133, 134, and 135. Those are the -- I
22 thought 134 was admitted. That's the Smurf sock.

23 MS. SCHIFALACQUA: Yeah, the boot and the sock were
24 admitted. She testified to them. Ashely said, those are my
25 favorite boots, and then the Smurf sock.

1 MR. OTTO: The record does show that Ashely Scott
2 testified that the photos shown were her favorite boots.

3 THE COURT: Um-hum.

4 MR. OTTO: And she also testified to her Smurf
5 socks.

6 THE COURT: Um-hum.

7 MR. OTTO: I have 133, which is her favorite boots.
8 I don't know the number of her Smurf socks.

9 MS. PIEPER: Her Smurf socks are 135.

10 MS. SCHIFALACQUA: No.

11 MS. PIEPER: They're not?

12 MS. SCHIFALACQUA: But I have them here. 132 is her
13 Smurf sock, which has been admitted, and 134 is the other
14 picture of the same boot.

15 MS. PIEPER: Okay.

16 MR. OTTO: I will stipulate to the admission of 133
17 and 134, which are the dual sides of her favorite socks -- I
18 mean, her favorite boots.

19 THE COURT: Okay.

20 MR. OTTO: And 135 -- I do not know what 135 is, and
21 I don't recall anybody testifying to that.

22 THE COURT: I don't have --

23 THE CLERK: 135 is --

24 MS. PIEPER: LaRoy's sock.

25 THE CLERK: -- the white socks.

1 MR. OTTO: Yes, but I --

2 THE CLERK: That one I don't think [inaudible].

3 MR. OTTO: Nobody testified --

4 THE COURT: No.

5 MR. OTTO: -- to the --

6 THE COURT RECORDER: If we all talk at once,
7 nobody's on the mic. Nobody's on the --

8 MR. OTTO: There was no testimony as to the
9 authenticity of the sock, so I can't stipulate to its
10 admission.

11 THE COURT: Okay.

12 MR. OTTO: That's 135.

13 THE COURT: When you say -- that's 135, yeah. Okay.
14 But 133 and 134 are in then? You stipulate to those?

15 MR. OTTO: I do, Your Honor.

16 THE COURT: All right. They'll be admitted, 133 and
17 134.

18 (State's Exhibits 133 and 134 are admitted)

19 THE COURT: Any other housekeeping before we bring
20 our jury?

21 MS. SCHIFALACQUA: We're ready to go. I'm ready for
22 Mr. Cromwell.

23 THE COURT: All right, let's bring our jury. I'll
24 tell them we're going to work a little into the lunch hour.

25 (Pause in the proceedings)

1 THE MARSHAL: All rise for the presence of the jury.

2 (Jury reconvened at 11:42 a.m.)

3 THE MARSHAL: The jury is in, Your Honor.

4 THE COURT: Counsel, stipulate to the presence of
5 the jury?

6 MS. PIEPER: Yes, Your Honor.

7 MR. OTTO: Yes, Your Honor.

8 MS. OHLINGER-JOHNSON: Yes, Your Honor.

9 THE COURT: All right, you may proceed. Oh. Ladies
10 and gentlemen, we are going to try and work a little bit into
11 the lunch hour. You'll still get a one-hour recess. Does
12 anyone have any problems -- any dietary problems, or any
13 problem with pushing in the lunch hour? We're hopeful that by
14 12:30 or so, we could take a break. Is that all right with
15 everyone? Okay, you may proceed.

16 MS. SCHIFALACQUA: Thank you, Your Honor.

17 BY MS. SCHIFALACQUA:

18 Q Mr. Cromwell, we were talking about what you could
19 observe with the naked eye versus what is not as well, I
20 guess, depicted on the photograph, and that included a butt of
21 a firearm, is that right?

22 A Yes, ma'am.

23 Q Did you --

24 MS. SCHIFALACQUA: Having shown Mr. Otto what had
25 been marked as State's proposed Exhibits 28 through 29, if I

1 may approach, Your Honor?

2 THE COURT: You may.

3 MS. SCHIFALACQUA: Thank you.

4 BY MS. SCHIFALACQUA:

5 Q I'm showing you what's been marked as State's
6 proposed Exhibits 26 through 29. If you could go ahead and
7 look at those, Mr. Cromwell. And do you recognize those?

8 A I do.

9 Q Do those include some of the photographs that you
10 took of the vehicle, the silver Dodge Magnum, on November 5th
11 of 2013?

12 A Yes, ma'am.

13 Q Do they fairly and accurately depict those?

14 A They do.

15 MS. SCHIFALACQUA: I'd move for the admission then,
16 Your Honor, of State's proposed 26 through 29.

17 MR. OTTO: No objection.

18 THE COURT: 26 through 29 will be admitted.

19 (State's Exhibits 26 through 29 are admitted)

20 MS. SCHIFALACQUA: Thank you. Permission to
21 publish, Judge?

22 THE COURT: You may.

23 BY MS. SCHIFALACQUA:

24 Q So, showing you 26, what are we looking at here?

25 A This is the interior side of the front driver door.

1 Q Okay. And 27?

2 A This is the front driver seat and front passenger
3 seat as viewed from the open front driver door.

4 Q And 28?

5 A Again, the same view, looking more into the front
6 portion of that area.

7 Q When you -- before the -- well, let me back up.
8 Were you working alone or with someone, another crime scene
9 analyst, on this scene, Mr. Cromwell?

10 A I was working alongside Crime Scene Analyst Taylor.

11 Q Okay. And is she outside, prepared to testify?

12 A Yes, she is.

13 Q Okay. With regard to that firearm, did you impound
14 the firearm that was in that back seat, or did she?

15 A She impounded that.

16 Q Okay. Do you recall, even though she did the
17 impounding of that firearm, the type of firearm that was
18 recovered from the back seat of this silver Dodge Magnum?

19 A Yes, ma'am, I do.

20 Q And what kind of firearm was it?

21 A It was a Smith and Wesson, model 669.

22 Q Okay. And what caliber?

23 A A 9 millimeter.

24 Q When you indicated that the vehicle was in
25 transport, where was it transported to?

1 A The LVMPD criminalistics garage.

2 Q And before you transport a car, what do you do to it
3 if you're going to later process it?

4 A We seal that vehicle, so we'll close up the doors
5 and the windows as best as we can, and we will place orange
6 seals preventing anybody from tampering or opening the vehicle
7 without authority.

8 Q And thereafter, when you go to process it after it's
9 moved to the lab, are you able to see that the seals, for
10 example, are still intact?

11 A Yes, ma'am.

12 Q And then do you break those seals to make entry and
13 do further processing?

14 A Yes, ma'am.

15 Q If the seals are not intact, what would that
16 signify?

17 A That, A, someone's been in there or has tampered
18 with it, or that seal had fallen off for some reason.

19 Q Okay. Showing you what's been admitted as State's
20 42, are these examples of the seals that you were referencing
21 this vehicle?

22 A Yes, ma'am.

23 Q Okay. And showing you State's 43, what are we
24 looking at there?

25 A This is the driver's side of the vehicle with the

1 intact seals.

2 Q Describe for the members of the jury what happens
3 after you go to the vehicle being transported, and you go to
4 do further processing. What do you do?

5 A Again, once the vehicle is transported, it's placed
6 into our secure garage, at which point more photos will be
7 taken to document the condition of the vehicle once it's
8 arrived. In many cases, including this one, one of us will
9 follow the vehicle to show it's route and to make sure nothing
10 happens to it on the way.

11 Q Did you follow the vehicle?

12 A I followed the vehicle --

13 Q Okay.

14 A -- in this particular case. Again, once it's back
15 in the garage and secured, we will begin a more thorough
16 processing of that vehicle. In this particular case,
17 additional photos would be taken, latent print processing will
18 be conducted on that vehicle, and a search for additional
19 evidence will be conducted within that vehicle.

20 MS. SCHIFALACQUA: Having previously shown Mr. Otto
21 what's been also provided in discovery as State's proposed
22 Exhibits 47 through 61, may I approach the witness, Your
23 Honor?

24 THE COURT: You may.

25 MS. SCHIFALACQUA: Thank you.

1 BY MS. SCHIFALACQUA:

2 Q Mr. Cromwell, I'm going to show you what's been
3 marked as State's proposed Exhibits -- and I never remember --
4 47 through 61. If you could go ahead and look at those. Do
5 you recognize what are depicted in those photographs?

6 A I do.

7 Q And what is it?

8 A Certain areas of the car, and to document the
9 contents within the car, and various items pulled from the
10 vehicle to document their presence inside that vehicle.

11 Q And did they also photograph some of the latent
12 print analyses that you were referring to previously?

13 A Yes, ma'am.

14 Q Do these fairly and accurately depict what you've
15 just described?

16 A Yes.

17 MS. SCHIFALACQUA: I'd move for admission of State's
18 proposed Exhibits 47 through 61.

19 MR. OTTO: No objection.

20 (State's Exhibits 47 through 61 are admitted)

21 MS. SCHIFALACQUA: May I -- permission to publish,
22 Your Honor?

23 THE COURT: You may.

24 BY MS. SCHIFALACQUA:

25 Q With regard to -- and in fact, let me step back.

1 Describe for the members of our jury, in this case, what items
2 of evidence were you looking for with regard to the
3 processing?

4 A At the time we processed, we were looking for any
5 and all firearms evidence within the vehicle, as well as any
6 identifiable clothing items.

7 When we're looking for different types of clothing
8 or different -- other types of items inside the vehicle, we
9 are relying on information we're getting from the homicide
10 detective that we're with as far as the importance of them.
11 They understand a lot more of the story than we do when
12 processing a vehicle. They know the scene, they know the
13 interviews and such, so a lot of times, we'll take stuff at
14 their request as well.

15 Q Okay. And was Detective Rogers there kind of with
16 you every step of the way, even though you're physically doing
17 the processing?

18 A Yes.

19 Q Okay. With regard to the processing of this silver
20 Dodge Magnum back at that lab, did you find any additional
21 firearms initially?

22 A Initially, we did not.

23 Q Okay. With regard to the inside of that vehicle,
24 I'm showing you what's been admitted as State's 47. What are
25 we looking at here?

1 A This is the trunk area of the vehicle as seen from
2 the back seat, as we pulled down the back seats. There was a
3 large speaker box in there which prevented us from seeing that
4 area with an open trunk.

5 Q And I'm not going to go through all of these. The
6 jurors will have them. But there were items of -- clothing
7 items, et cetera that you documented, is that right?

8 A Yeah, and these were just to document the contents
9 of the vehicle.

10 Q Okay. And we're looking at, for the record, State's
11 54. You talked about photographing the back of Mr. Moten's
12 head with regard to some red fibers. Do you remember that?

13 A Yes.

14 Q Showing you State's 56, is that one of the items?

15 A That we pulled from the vehicle. It was a red
16 Chicago Bulls jacket.

17 Q Okay. And there were other items of clothing as
18 well?

19 A Yes.

20 Q And in fact, with regard to those items of clothing,
21 did you impound what was in the vehicle?

22 A Erin Taylor would have been the one who impounded
23 those items.

24 Q And in fact Erin Taylor did. Thank you, Mr.
25 Cromwell. You were present when Erin Taylor impounded those

1 items?

2 A Yes, ma'am.

3 Q Okay. I want to talk to you about latent print
4 processing. Because obviously this isn't a TV show, can you
5 describe for the members of our jury what it is as a crime
6 scene analyst you do when you are processing a vehicle for
7 prints?

8 A Okay. There's several different items that can be
9 processed for prints, and each one of those items can have a
10 different type of process. Typically speaking, in field
11 processing, and this includes processing a vehicle, we're
12 going to do a visual examination to see if we see any visible
13 prints, any smudges just with the naked eye, prior to applying
14 any powders or chemicals.

15 At that time, we're also analyzing each type of
16 surface. There's certain types of surfaces that are more
17 conducive for latent print processing. Shiny surfaces, smooth
18 surfaces, hard surfaces, that's what we're looking for. Those
19 are ideal.

20 So, in this particular case, the entire outside of
21 the vehicle was processed for latent prints. All the doors,
22 the hood, the roof above the doors, anywhere kind of you can
23 assume someone could and would touch. In addition to that,
24 areas of the interior. The inside of the windows, door
25 handles, the seatbelt buckle, anything -- again, any type of

1 smooth, shiny surface that is conducive for latent prints will
2 be processed for prints.

3 Q And what do you mean or what do you do when we say
4 "process for prints"? Describe that for our jurors, please.

5 A When we process for prints, one of the methods used
6 is powder processing. For that, you can use either a black
7 powder, which is kind of a carbon based powder you apply with
8 a brush, just like you see on TV. It's the brush that you see
9 the crime scene analysts twirl around over the top.

10 And then here's also a magnetic powder that we can
11 use as well. And that's an iron -- or I think an iron powder
12 that is magnetic in nature and sticks to a magnetic wand, and
13 that's how we apply it. Again, both of them used are applied
14 directly to the surface, and they adhere to any of the
15 moisture, oils, and residues left behind in a fingerprint.

16 Q And in this case, with regard to the silver Dodge
17 Magnum, did you process the outside of the vehicle using the
18 powder techniques that you just described?

19 A We did.

20 Q What type of powder did you use?

21 A I don't recall. It was probably a combination of
22 magnetic and black powder.

23 Q Okay. And showing you what's been admitted as
24 State's 50, here, can we see some of the powder that you
25 described?

1 A Yes.

2 Q What do you do after you observe for example -- and
3 here -- I don't know if you can see it. If you observe
4 something, how is it that that evidence that's on this car
5 gets impounded, if you will, or transferred?

6 A A lot of times when we process, there's going to be
7 a lot of smudges, and a lot -- the powder will adhere to a lot
8 of areas. Using our training and experience, we will
9 determine the suitability for recovery. Once we determine
10 that that latent print is suitable for recovery, we will use a
11 clear tape, almost like Scotch tape. You place that over the
12 print. You can see it in this photo. Can I mark on the
13 screen?

14 Q Absolutely.

15 A Right here, that's what we call a tape lift. It's
16 just a piece of clear plastic tape placed over that developed
17 area. And then we will remove that, place it onto a white
18 backing card, and place all the information from the case on
19 that card.

20 Q And then is that impounded into evidence under the
21 event number that we talked about earlier?

22 A Yes. And it's not submitted to our evidence vault
23 like other pieces of evidence are. They're submitted directly
24 to our latent print detail.

25 Q Okay. With regard to the processing then in this

1 case, showing you what's been admitted as State's 51, is that
2 another -- a more clear example at least photographically of
3 the process that you just described?

4 A Yes.

5 Q Can you show the members of the jury the tape that's
6 depicted in this photograph?

7 A The tape's going to be right here in the center.
8 And then, many times we're going to mark this tape, as you can
9 see on the little tail, an identifier. If there's a lot of
10 lifts that we recover, we'll put an identifier, 1, 2, 3, 4,
11 and then also an arrow to show the orientation of that tape.

12 Q Okay. With regard to the vehicle, what are we
13 looking at -- which area of the vehicle are we looking at?

14 A This looks to be the roof area above one of the
15 doors.

16 Q And do you remember which area of the vehicle you
17 processed, and which area the vehicle Erin Taylor processed?

18 A I processed the exterior driver's side portion.
19 Erin processed the exterior passenger side of the vehicle, and
20 we both processed areas of the interior.

21 Q Okay. So, showing you 52, is that just the back of
22 the vehicle?

23 A Yes, ma'am.

24 Q And you can -- it's not showing here, but you can
25 see some of the processing, is that right?

1 A Yeah, you can see a couple of the lifts.

2 Q Okay. After you have processed the vehicle -- well,
3 you and Ms. Taylor have processed the vehicle, and she has
4 impounded the firearm that was recovered, as well as some of
5 the other items of physical evidence, what do you do on
6 November 5th of 2013?

7 A What do -- oh. We call for a tow. Detective Rogers
8 stayed back at the lab with a tow, and myself and Erin went to
9 lunch.

10 Q Okay. When you were just about to sit down for that
11 lunch, did you get a call from Detective Rogers?

12 A We did.

13 Q Without telling me what was said, because I don't
14 want you cursing, did you have to go back to the vehicle?

15 A We did.

16 Q Okay. In all seriousness, when you go back to the
17 vehicle, describe for the members of the jury what it is you
18 observe.

19 A When -- can I explain what he said when he called
20 us?

21 Q Right. Absolutely.

22 A When we got a call -- my supervisor got a call from
23 Detective Rogers, indicating that another firearm had been
24 found inside the vehicle. It was found based on information
25 that detectives had received during interviews. When I

1 responded back to the vehicle, the panel underneath the
2 steering column had been pulled down, and a firearm was
3 observed in a metal bracket for the steering column itself.

4 Q When you returned back to the vehicle, was Detective
5 Rogers with the vehicle?

6 A Yes, he was.

7 Q Where did you return to?

8 A Back to the criminalistics garage.

9 Q Okay. So, is it fair to say that the vehicle never
10 got on that tow truck to go back?

11 A I don't believe the tow even ever arrived.

12 Q Okay. And when you arrived, did you then take
13 further photographs showing where the firearm was located?

14 A Yes.

15 Q The second -- let me make it clear, the second
16 firearm was located?

17 A Yes.

18 Q And showing you what's been admitted as State's 62,
19 can you describe what we're looking at here?

20 A This is an image looking through the front driver
21 door. You can see the panel underneath the steering column is
22 pulled down, and the inside portion of that steering column is
23 observable.

24 Q Okay. Prior to -- well, that's a badly worded
25 question. When you searched the car the first time, was the

1 steering column ever pulled down?

2 A No, and no signs of tampering were observed either.

3 Q When you say that, if you see signs of tampering
4 when you're conducting a search of a vehicle like this, do you
5 then further remove panels, et cetera?

6 A We do. A lot of times when we're doing searches of
7 a vehicle, it's hard to look in every single spot of that
8 vehicle, so you rely on, does something look disturbed? You
9 know, and in this particular case, I remember seeing areas of
10 ripped up carpet, you know, just a cut in the carpet where we
11 look under that to see if there's any evidence hidden within
12 there. In this particular case, we did not observe at the
13 time any disturbance to the steering column.

14 Q I'm showing you what's been admitted as State's 63.
15 Is that a closer view of the plastic panel underneath the
16 steering column?

17 A Yes.

18 Q And then, showing you what's been admitted as
19 State's 65, what is significant that's depicted in State's 65.

20 A You see at the bottom, it's the open portion of the
21 -- or the pulled down portion of the plastic paneling. In the
22 middle in this empty area right here is going to be a -- the
23 metal bracket of the steering column itself. Resting within
24 there, at a difficult location to even reach, was a firearm.
25 It was a Glock 22.

1 Q Okay, and do you know the caliber of that firearm?

2 A That was a .40 caliber.

3 Q Okay. Did you or Ms. Taylor recover that firearm?

4 A I believe Ms. Taylor pulled that out of there.

5 MS. SCHIFALACQUA: Court's indulgence. I'd pass the
6 witness, Judge.

7 THE COURT: Cross-examination.

8 MR. OTTO: Yes, Your Honor. Thank you.

9 (Pause in the proceedings)

10 CROSS-EXAMINATION

11 BY MR. OTTO:

12 Q Good morning, Mr. Cromwell.

13 A Good morning. How are you?

14 Q I'm well, thank you. And you?

15 A Good, thanks.

16 Q You discussed at the beginning of your testimony a
17 search of the vehicle?

18 A Yes.

19 Q A cursory search?

20 A Yes.

21 Q And that was done after you received a search
22 warrant, is that correct?

23 A Yeah, that's correct.

24 Q You could see inside the vehicle after you arrived?

25 A Yes.

1 Q And you could see a handgun in the back seat after
2 you arrived?

3 A The grip of a handgun underneath the front passenger
4 seat.

5 Q But that was without even searching? That was in
6 plain view?

7 A That's plain view, yes.

8 Q You were shown photographs, and the jury was as
9 well, of the inside of the car and the contents. Those are
10 Exhibits 47 through 61.

11 A Yes.

12 Q Do you remember seeing those? And one of those
13 items was a red Bulls -- Chicago Bulls jacket?

14 A Yes.

15 Q And did that have a fleece interior?

16 A I don't recall the interior of that one.

17 Q Did you find a red hoodie?

18 A We had a red sweatshirt as well. I forget if that
19 had a hood on it or not.

20 Q And that would have had to go over Martell Moten's
21 head to take it off without cutting it?

22 A I would have to see a picture. I don't recall.

23 Q There -- you do remember seeing a picture of -- and
24 describing red lint in the hairline of Martell Moten, correct?

25 A Yes.

1 Q Mr. Washington -- we saw a picture of Mr. Washington
2 standing against a wall on the scene with the car. He was
3 wearing a dark sweatshirt, is that correct?

4 A I don't recall what he was wearing. If you could
5 pull the photo up for me.

6 Q Um-hum. Showing you what's been marked and admitted
7 as Exhibit -- I'm sorry. I just looked at it, too. 37. And
8 that is what Mr. Washington was wearing that day on scene?

9 A That's what he was wearing when I took a photo of
10 him, yes.

11 Q Showing you what's marked and admitted as State's
12 Exhibit 57, do you recognize that?

13 A Yes. This was the other red sweatshirt that was in
14 the vehicle.

15 Q And it is a fleece sweatshirt?

16 A The outside I believe was just a typical sweatshirt
17 material. The inside was that soft fleece-like material.

18 Q Could you tell us, what is a latent fingerprint?

19 A A latent fingerprint is -- latent means you can't
20 see it, it's not visible to the naked eye, it needs further
21 developing before it can be obtained or viewed. So, a latent
22 fingerprint is a fingerprint that you cannot see with the
23 naked eye, and again, to repeat myself, that requires further
24 developing to impound or see.

25 Q And you developed that by using the powders and so

1 on, and --

2 A That's correct.

3 Q -- as you described? Did you take fingerprints from
4 the firearms, or did you powder or seek fingerprints from the
5 firearms in this case?

6 A Ms. Taylor was the one -- she processed those for
7 prints. She can probably add better testimony to that, but
8 she used chemical processing on the firearms.

9 Q What is a chemical processing?

10 A There's -- I don't know exactly which process she
11 used. Again, there's different ways of processing for prints.
12 Some are the powders that you see, and those are traditional
13 and field methods to do it. Depending on what component of
14 the fingerprint you're looking for and based on the surface,
15 there are additional chemical processes that you can do.

16 These include enhancing that print with super glue
17 fuming, and that super glue adheres to moistures and oils in
18 that print. And then you further develop that by dye
19 staining, which will either add color -- usually, it's a
20 florescent dye stain where you need to use an alternate light
21 source to view it.

22 And then, depending on your substrate -- if it's
23 paper, you would use one chemical technique. If it's plastic
24 or -- you would use another one. If it's a porous item, you
25 would use a different chemical. Essentially, the items that

1 are in question dictate the types of processes that you use.

2 Q Do you know if any fingerprints belonging to Mr.
3 Washington were found on either of those firearms?

4 A If I --

5 MS. PIEPER: Objection, Your Honor. This is outside
6 I think this witness's scope of testimony.

7 MR. OTTO: He --

8 THE COURT: Mr. Otto?

9 MS. PIEPER: He's a crime scene analyst as opposed
10 to an expert in fingerprints, who will be testifying.

11 BY MR. OTTO:

12 Q Do you know?

13 THE COURT: I suppose you can ask, do you know.

14 BY MR. OTTO:

15 Q If any fingerprints belonging to Mr. Washington were
16 found on the firearms?

17 A I don't --

18 Q Just answer if you know or not.

19 A I don't know.

20 Q Did you process the -- showing you -- showing you
21 State's Exhibit 62 here that's been admitted, and you've
22 discussed this in your testimony, did you process this panel
23 underneath the steering column for fingerprints?

24 A I don't recall. I know we didn't get fingerprints
25 on it.

1 Q All right. So, you found no fingerprints on that
2 underpanel of the steering column?

3 A That's correct.

4 MR. OTTO: One moment, if I could, Your Honor.

5 THE COURT: Um-hum.

6 BY MR. OTTO:

7 Q Did you swab the firearms for DNA?

8 A Ms. Taylor would have swabbed those prior to
9 impounding.

10 Q And did you -- are you familiar with the term "touch
11 DNA"?

12 A Yes.

13 Q And what is touch DNA?

14 A Touch DNA is essentially chance DNA deposits that
15 are deposited on an item just through touch. They're
16 epithelial cells from your fingers, from your skin.
17 Essentially, if you touch something, you may or may not leave
18 DNA on that.

19 Q And do you know if the firearms were processed for
20 that touch DNA?

21 A Ms. Taylor did swab them for DNA, and then impounded
22 the swabs as evidence.

23 Q Do you know if the under panel, as I showed you in
24 Exhibit 62, was processed for touch DNA?

25 A We did not do any DNA inside the vehicle, Erin --

1 Ms. Taylor and I. I believe a CSA went out to the vehicle at
2 a later date and swabbed certain areas for prints, and -- or
3 for DNA, and I'm not sure if that was one of them or not.

4 Q Do you know if Mr. Washington's DNA was found on
5 either that -- any -- either handgun or the under panel of the
6 steering column?

7 A I don't have that information.

8 Q Did you swab any items in the car for gunshot
9 residue?

10 A We did not, no.

11 Q Did you swab either Mr. Moten or Mr. Washington for
12 gunshot residue?

13 A We did not.

14 MR. OTTO: I have nothing further at this time.

15 THE COURT: Redirect.

16 MS. SCHIFALACQUA: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. SCHIFALACQUA:

19 Q Mr. Cromwell, I want to make it clear for the
20 members of our jury, do you process any of the latent
21 fingerprints or any of the prints that you lift whatsoever?
22 Do you make the analysis?

23 A Do we do the analysis? No, we don't.

24 Q Okay. Are you trained to do fingerprint analysis,
25 taking a latent print and a known print, and seeing whether or

1 not you make an identification whatsoever?

2 A No.

3 Q Okay. So, with regard to whether or not any prints
4 were able to be identified whatsoever, do you have any
5 information about that at all?

6 A I don't. That comes after me.

7 Q Okay. With regard to DNA, are you familiar, and do
8 you do DNA comparisons?

9 A No.

10 Q Okay. And I understand that you kind of described
11 what touch DNA was. Is that in your role as a crime scene
12 analyst to do what's called swabbing?

13 A Yes.

14 Q Okay. With regard to whether or not an
15 identification can be made with regard to DNA, have you ever
16 in your career made an identification with regard to a known
17 DNA and a sample from a swab?

18 A I haven't, no.

19 Q Okay.

20 MS. SCHIFALACQUA: Court's indulgence. Nothing
21 further.

22 THE COURT: Okay. Redirect -- I mean, recross?

23 MR. OTTO: No recross, Your Honor.

24 THE COURT: Thank you. You may step down. May this
25 witness be excused?

1 MS. PIEPER: Yes, Your Honor.

2 MR. OTTO: Yes, Your Honor.

3 THE WITNESS: Thank you.

4 THE COURT: You're excused. State?

5 MS. PIEPER: State calls Erin Taylor.

6 THE MARSHAL: Ms. Taylor, please take the stand and
7 remain standing. Raise your right hand. Prepare to be sworn
8 in, please.

9 ERIN TAYLOR, STATE'S WITNESS, SWORN

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

12 THE WITNESS: Erin Taylor. E-r-i-n, T-a-y-l-o-r.

13 THE COURT: You may proceed.

14 MS. PIEPER: Thank you, Your Honor.

15 DIRECT EXAMINATION.

16 BY MS. PIEPER:

17 Q How are you employed?

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

20 Q And how long have you worked for Metro?

21 A Seven-and-a-half years.

22 Q And can you give us some of your training and
23 experience in order to be a crime scene analyst?

24 A Yes. I have a bachelor of science in forensic
25 science from Baylor University, with a minor in criminal

1 justice. And then, through Metro's program, I completed the
2 crime scene analyst academy. I did a field training program.
3 I also completed several hundred hours in various disciplines
4 of crime scene work since I've hired on with Metro.

5 Q Drawing your attention to November 5th, 2013, were
6 you working on that day?

7 A Yes, I was.

8 Q And did you arrive at the location of Eastern and
9 Ogden?

10 A Yes.

11 Q And did you arrive with somebody else?

12 A Yes, with Crime Scene Analyst Michael Cromwell.

13 Q Did you see him just walk out of the courtroom?

14 A Yes.

15 Q Okay. Approximately what time did you guys arrive?

16 A It was around 7:00 in the morning. 7:10, I believe.

17 Q And once you got to the scene, can you describe for
18 the members of the jury what you saw?

19 A Yes. There was a car parked along the curb with the
20 driver and rear passenger side doors open, and then the
21 passenger side front and rear were closed and all the windows
22 were down. There were a few patrol officers on scene, and a
23 homicide detective, Bob Rogers, was there.

24 Q Once you and CSA Cromwell get there, what do you
25 guys do next?

1 A We made contact with the homicide detective on
2 scene, and he told us that the vehicle was of concern for the
3 case he was working. And so we took the information from the
4 vehicle, make, model, license plate, the number, wrote those
5 things down.

6 My duties at the scene were going to be evidence,
7 and Cromwell's were the report and the photos. So, he took
8 photographs of the vehicle all from the exterior and from the
9 open doors on that driver's side. We were waiting for a
10 search warrant at that point.

11 Q Once the search warrant arrived, what happened next?

12 A Once the search warrant arrived, we were able to
13 open the doors on the passenger side and CSA Cromwell
14 photographed the interior of the vehicle. And there was a gun
15 underneath the front passenger seat that we were then able to
16 remove from the vehicle and download and make safe.

17 MS. PIEPER: Court's indulgence.

18 THE COURT: Um-hum.

19 BY MS. PIEPER:

20 Q Once you see -- you get the search warrant and
21 you're able to get the gun, what do you do when you go in to
22 get the gun?

23 A The first thing we do when we grab the gun, we pull
24 it out, and usually we lay it on like a brown paper bag, a
25 neutral background. So, once Cromwell photographed it in

1 place, then we remove it. We photograph the condition of it,
2 both sides of it.

3 Then we go ahead and empty it. If there's a
4 magazine, and in this case, there was, we take the magazine
5 out. If there's a cartridge in the chamber, which there was
6 in this one, we take that out, then photograph it again to
7 show the contents that were inside the gun, and then I recover
8 it and put it in a bag to impound it.

9 Q Can you tell us what the make and model of that gun
10 was?

11 A Yes. That one was a Smith and Wesson Model 669. It
12 was a 9 millimeter.

13 Q Do you know what the serial number was?

14 A I have it written down in my report, if you would --
15 if I can look.

16 Q Would looking at your report refresh your
17 recollection?

18 A Yes.

19 Q Can you look at your report, please?

20 A Sure. The serial number on that was TBB2817.

21 Q And when you got the gun, can you describe for us
22 was the hammer cocked or not, was the safety engaged, anything
23 in regard to that?

24 A No. The slide was forward. I don't think there was
25 safety on it --

1 Q Okay.

2 A -- or a visible safety on it. Then there was one
3 round in the chamber. There was a magazine in the magazine
4 well with eight cartridges in the magazine.

5 Q Okay. Once the gun was made -- quote, unquote,
6 "made safe" --

7 A Yes.

8 Q -- was the car then sealed and towed?

9 A We did a cursory search just to make sure there
10 weren't any other visible firearms out under the seats, things
11 like that. And then after that, we closed the doors of the
12 vehicle, put seals on them so then, that way, a tow truck
13 comes and tows that vehicle to our crime lab where we can
14 further process it.

15 Q And then what happened next?

16 A And then I believe CSA Cromwell followed the tow
17 truck to the garage at our lab. And then it was myself, CSA
18 Cromwell, Detective Bob Rogers, and our CSA Supervisor Terry
19 Martin (phonetic), he was in and out for the processing of the
20 vehicle.

21 But once we get there, CSA Cromwell photographs the
22 car again to show the seals are still intact, that the vehicle
23 is the same way that we left it at the intersection location.
24 And then, once he did that, we processed -- latent print
25 processed the exterior, and then we did a search of the inside

1 afterwards.

2 Q In regard to the latent print processing, did you do
3 the entire car, or just part of the car?

4 A Together, CSA Cromwell and I did the whole car. My
5 portion was the passenger side and the rear.

6 Q Okay. And we've already heard from Cromwell sort of
7 the black powder.

8 A Yes.

9 Q Did you do a similar type usage of the black powder
10 in order to lift latent fingerprints?

11 A Yes.

12 Q Okay. Once that was done, what happened next?

13 A After the latent print processing was conducted, we
14 entered the vehicle and did a search of the vehicle. And I
15 believe in this case, we pulled out everything from the
16 vehicle, like different items like clothing and such, and laid
17 them out, and CSA Cromwell photographed them, and Detective
18 Bob Rogers determined which items he wanted me to impound as
19 evidence.

20 Q In regard to the photographing of the clothes that
21 were inside the silver Dodge Magnum, were they first
22 photographed like in the condition that we would find them,
23 and later you guys pulled everything out and then laid
24 everything out?

25 A Yes, exactly. So, CSA Cromwell would have

1 photographed overall interior views of everything in place,
2 and then we would have pulled it out -- like laid it out so
3 you could see actually what it was. You know, if it was a
4 shirt that was crumpled up, we would lay it out so you can
5 tell what the shirt looked like.

6 Q What did you guys do next?

7 A After the search of the vehicle?

8 Q Yes.

9 A Then we were -- when we were finished with the car?

10 Q Yes.

11 A I'm sorry, I don't know what --

12 Q Yes.

13 A Okay. Then we left the scene -- or the lab.

14 Q Essentially, you do latent fingerprints, you take
15 photographs of the clothes inside, you then pull the clothes
16 out, you lay them out and you take photographs of that. Did
17 you do anything else in regard to the car at that time?

18 A At that -- no. I just impounded the -- I believe it
19 was a jacket and a sweatshirt that Detective Rogers wanted
20 impounded.

21 Q Okay. And then did you and CSA Cromwell go to
22 lunch?

23 A Yes.

24 Q Did you then get called back to the garage?

25 A Yes, we did.

1 Q And was that because a second gun was located in the
2 vehicle?

3 A Yes, that's correct.

4 Q Okay. When you got back to the garage, who was
5 there?

6 A Detective Rogers was there with the vehicle.

7 Q Okay. And when you went up to talk to Detective
8 Rogers, was -- did the car look like it was in a different
9 type of condition?

10 A No, it was still in the same spot in the same
11 condition. The driver's door was open, and the -- there was a
12 plastic panel under the steering wheel area that was pulled
13 down.

14 Q Okay. And what did you do next in regard to the
15 panel?

16 A After that, CSA Cromwell re-photographed that area
17 with the panel down. You could see a firearm in the -- it was
18 like a metal bracket that was inside the plastic portion, but
19 under the steering wheel.

20 So, we photographed that in place and then I removed
21 the gun from that area. And then we did the same thing like
22 we did with the first gun where we photographed both sides of
23 it, the condition of it. And then I removed the magazine,
24 removed the cartridge from the chamber, and he photographed
25 these things.

1 Q And in regard to this gun, can you tell us the make
2 and model of the gun?

3 A This was a Glock Model 22, .40 caliber.

4 Q And do you know the serial number?

5 A I do not.

6 Q If you -- did you do a report in this case?

7 A Yes. It's on my report, if I can look at it.

8 Q Would looking at your report refresh your
9 recollection?

10 A Yes.

11 Q Okay.

12 A The serial number was KNV368.

13 Q Okay. Was there something -- or was there something
14 on this .40 caliber that would help with shooting?

15 A Oh. There was an attached green laser mounted on
16 this firearm.

17 Q Okay. Do you know how many -- was there a magazine?

18 A Yes. There was a magazine inside the magazine well
19 with one cartridge inside the magazine, and there was one
20 cartridge in the chamber --

21 Q Okay.

22 A -- of the firearm.

23 Q And did you impound both guns?

24 A Yes, I did.

25 (Pause in the proceedings)

1 MS. PIEPER: Your Honor, may I approach the witness?

2 THE COURT: You may.

3 MS. PIEPER: Let's do these two first.

4 BY MS. PIEPER:

5 Q Showing you what's been marked as State's proposed
6 Exhibit number 73 and --

7 THE COURT RECORDER: Ms. Pieper, can you keep your
8 voice up while you're --

9 MS. PIEPER: Sure. No one's ever said that to me
10 before.

11 BY MS. PIEPER:

12 Q Showing you what's been marked as State's proposed
13 Exhibit number 72 and 73, I'm going to have you look at both
14 of these.

15 A Okay.

16 Q Do you recognize the Las Vegas Metropolitan Police
17 Department impound log?

18 A Yes.

19 Q In regard to State's 72, let's take that first.

20 A Okay.

21 Q Do you -- what do you recognize on the impound log?

22 A On this impound -- or on this package, you can see
23 the label, and it has the date, the time, the event number,
24 the type of crime, the location, my P number, initials, my
25 signature, and then a description of the items inside. Oh,

1 sorry.

2 Q Okay. And in regard to 73, do you see the same type
3 of seals, as well as your initials?

4 A Yes.

5 Q Okay. We also see some red evidence tape. In
6 regard to the red evidence tape on the back, are your initials
7 on that with your P number as well?

8 A Yes, they are. When I seal an item of evidence, I
9 run -- oops, I'm sorry, run a piece of red tape across. And
10 then I put my P number, initials and the date across the tape
11 and the bag so that way we know that the seals are still
12 intact.

13 Q Okay. In regard to the two packages, 72 and 73, we
14 also see some blue seals on the bottom. Do you know what the
15 blue seals are from?

16 A Yes. The blue seals are from the forensic lab. So,
17 if there's any further testing or anything from the lab for
18 these items, they open the package in a different spot so they
19 don't break the seal that I've made, and they use blue tape to
20 reseal the package once they're done with the item.

21 MS. PIEPER: Your Honor, State moves for the
22 admission of 72 and 73.

23 MR. OTTO: No objection, Your Honor.

24 THE COURT: 72 and 73 will be admitted.

25 (State's Exhibits 72 and 73 are admitted)

1 MS. PIEPER: Permission to publish?

2 THE COURT: You may.

3 THE MARSHAL: Once you remove the weapons, place
4 them over to me, and I want to make sure they're clear --

5 THE WITNESS: Okay.

6 THE MARSHAL: -- they're safe.

7 BY MS. PIEPER:

8 Q Which one are you opening up?

9 A 72.

10 Q Okay. Okay, so you pulled out a bag, is that
11 correct?

12 A Yes. Yes.

13 Q And for the record, we'll call that 72A. And if you
14 go into 72A, what is in there?

15 A It is empty. Someone from the lab has opened it and
16 put their initials on here.

17 Q Okay. Do you know what would have been in 72A?

18 A Yes. Item number 1 would have been the firearm.

19 Q Okay. Let's just put that over there.

20 A Okay, can I --

21 Q Sure.

22 A -- pull it out?

23 Q 72A you said would have been the firearm, is that
24 correct?

25 A Yes.

1 Q Okay. And currently now, the marshal in the
2 department is looking at that firearm, is that correct?

3 A Yes.

4 Q Okay. What --

5 THE MARSHAL: The weapon's clear, Your Honor.

6 THE COURT: Thank you.

7 BY MS. PIEPER:

8 Q What firearm is that?

9 A This is the Smith and Wesson Model 669.

10 Q And that's the 9 millimeter?

11 A Yes.

12 Q And the 9 millimeter when you packaged it was in
13 72A, this bag, is that correct?

14 A Yes, correct.

15 (Pause in the proceedings)

16 BY MS. PIEPER:

17 Q If you go back into 72, what else is in that bag?

18 A It's an envelope, and this is containing the
19 magazine and the cartridges that I removed from the firearm.

20 Q Okay. And in regard to let's say envelope 72B,
21 we're going to call it, there are -- there's a blue seal on
22 that, is that correct?

23 A Yes, there is.

24 Q And there also is some writing in regard to the
25 forensic lab --

1 A Yes.

2 Q -- that they went and did some testing, is that
3 correct?

4 A Correct.

5 Q Okay, thank you. Can you put that all back in?

6 A Oh, okay.

7 MR. OTTO: I wonder if we could mark the A and B,
8 72A and B.

9 MS. PIEPER: I was going to give it back to her.

10 MR. OTTO: We should mark and admit.

11 MS. PIEPER: Correct. I'll move for the admission
12 of 72A and 72B.

13 MR. OTTO: No objection.

14 THE COURT: No objection.

15 (State's Exhibits 72A and 72B are admitted)

16 THE COURT: The clerk will mark those separately
17 after -- at the conclusion of this.

18 MS. PIEPER: And we'll just put it here.

19 THE WITNESS: Okay.

20 MS. PIEPER: And now you're going to -- Your Honor,
21 permission to publish 73?

22 THE COURT: You may.

23 BY MS. PIEPER:

24 Q Inside of 73, there is another bag, is that correct?

25 A Correct.

1 Q And for lack of a better term, we'll call that 73A.
2 Inside 73A -- do you know what is inside of 73A?

3 A Yes. This should -- this would be a Glock 22 .40
4 caliber firearm.

5 Q Okay.

6 MS. PIEPER: Your Honor, State moves for the
7 admission of 73A.

8 THE COURT: Any objection to 73A?

9 MR. OTTO: Have you -- can I voir dire this witness,
10 Your Honor?

11 THE COURT: You may.

12 MR. OTTO: Well, have you marked --

13 MS. PIEPER: 73A was inside of 73 -- it's the actual
14 firearm that she booked into the evidence.

15 MR. OTTO: I heard her testimony, Ms. Pieper.

16 VOIR DIRE EXAMINATION

17 BY MR. OTTO:

18 Q Do you know what's in that bag?

19 A Yes.

20 Q When you sealed 73, we're now calling --

21 A Yes.

22 Q -- you put that firearm in that bag, is that
23 correct?

24 A Correct.

25 MR. OTTO: I have no objection.

1 MS. PIEPER: Thank you. Can you open -- permission
2 to publish?

3 THE COURT: You may.

4 THE MARSHAL: The weapon's secure, Your Honor.

5 THE COURT: Thank you.

6 BY MS. PIEPER:

7 Q And in regard to this firearm, this is the firearm
8 that was actually in the steering column under where the
9 driver would sit, is that correct?

10 A Correct.

11 Q Okay. Inside of bag 73, what else is inside the
12 sack?

13 A There's an envelope containing the magazine and
14 cartridges removed from the firearm.

15 MS. PIEPER: And Your Honor, I'm going to ask that
16 that second envelope be marked 73B.

17 THE COURT: Okay.

18 MS. PIEPER: State moves for the admission of 73A
19 and B.

20 MR. OTTO: Would you like me to voir dire, Your
21 Honor, just the same way?

22 THE COURT: It's up to you.

23 MR. OTTO: I'm asking if I may.

24 THE COURT: You may.

25 VOIR DIRE EXAMINATION

1 BY MR. OTTO:

2 Q When you packed bag 73, now marked, did you pack
3 envelope proposed Exhibit 73B, which you've testified as the
4 magazine, into that bag at the same time?

5 A Yes.

6 MR. OTTO: No objection.

7 MS. PIEPER: Thank you.

8 THE COURT: 73A and B will be admitted.

9 (State's Exhibits 73A and 73B are admitted)

10 THE WITNESS: Do you want them back in here?

11 THE MARSHAL: Yes, please. Thank you. Counsel, do
12 we need these further?

13 MS. PIEPER: No. Thank you.

14 (Pause in the proceedings)

15 BY MS. PIEPER:

16 Q Showing you what's been marked as State's proposed
17 Exhibits number 44 and 46, do you recognize those?

18 A Yes, I do.

19 Q And what are those photographs of?

20 A These are photographs of the Smith and Wesson
21 firearm that was recovered from under the front passenger seat
22 of the vehicle.

23 Q And that's a 9 millimeter, correct?

24 A Yes.

25 MS. PIEPER: Your Honor --

1 BY MS. PIEPER:

2 Q And you took those -- or Mike Cromwell took those on
3 November 5th, 2013, is that correct?

4 A Yes, that's correct.

5 MS. PIEPER: Your Honor, State moves for the
6 admission of 44 through 46.

7 MR. OTTO: No objection, Your Honor.

8 THE COURT: 44 through 46 will be admitted.

9 (State's Exhibits 44 through 46 are admitted)

10 BY MS. PIEPER:

11 Q Showing you what's been marked as State's proposed
12 Exhibits number 66 through 69, can you take a look at those
13 and tell me if you recognize those?

14 A Yes, I do.

15 Q And are those photographs of the gun, as well as
16 some latent print processing that you did on November 5th,
17 2013?

18 A Yes.

19 MS. PIEPER: Your Honor, State moves for the
20 admission of 60 -- 66 through 69.

21 MR. OTTO: No objection, Your Honor.

22 THE COURT: 66 through 69 will be admitted.

23 (State's Exhibits 66 through 69 are admitted)

24 MS. PIEPER: Okay.

25 BY MS. PIEPER:

1 Q Showing you what's been marked as State's proposed
2 Exhibit number 75, do you recognize that?

3 A Yes, I do.

4 Q And what is that?

5 A This is a package containing samples of possible
6 DNA. These are swabs that I took from both of the firearms
7 and the magazines.

8 Q And is your initials on that, as well as your P
9 number?

10 A Yes. On the front is my initials, P number, and my
11 signature. And then on the back over the seal is my initials,
12 and P number, and the date.

13 MS. PIEPER: Your Honor, State moves for the
14 admission of 75.

15 MR. OTTO: No objection, Your Honor.

16 THE COURT: 75 will be admitted.

17 (State's Exhibit 75 is admitted)

18 MS. PIEPER: Showing you what's been marked as
19 State's proposed Exhibit number 74. Looking at that big
20 bag --

21 THE COURT RECORDER: Excuse me. When that's
22 rattling, I can't hear you at all, Ms. Pieper.

23 BY MS. PIEPER:

24 Q Showing you what's been marked as State's proposed
25 Exhibit number 74, do you recognize that?

1 A Yes, I do.

2 Q And how do you recognize it?

3 A This again has my label on it with my initial and P
4 numbers, my signature. And then on the back, across the seal
5 I have my initials, and P number, and the date.

6 Q And that's a huge bag, correct?

7 A Yes.

8 Q And if you were to open that bag, what would you
9 expect to find in there?

10 A There's a Chicago Bulls jacket and a red sweatshirt.
11 MS. PIEPER: Your Honor, State moves for the
12 admission of 74.

13 MR. OTTO: No objection, Your Honor.

14 THE COURT: 74 will be admitted.

15 (State's Exhibit 74 is admitted)

16 (Pause in the proceedings)

17 MS. PIEPER: Permission to publish?

18 THE COURT: You may.

19 BY MS. PIEPER:

20 Q In regard to the 9 millimeter, showing you what's
21 been admitted as State's 45. And that was the gun found under
22 the front passenger seat, is that correct?

23 A That's correct, yes.

24 Q And showing you what's been admitted as State's 67.
25 What is that a picture of?

1 A That's the firearm that was recovered from the
2 bracket under the steering wheel.

3 Q Showing you what's been admitted as State's 68, what
4 is that a photograph of?

5 A That's a photograph after we have latent print
6 processed the vehicle. And you can see on some areas such as
7 here -- oops, I didn't know it was going to be an arrow,
8 sorry. And here, there's pieces of latent print tape.

9 And so, once a fingerprint is developed with powder,
10 we put a piece of tape over it, photograph it to show where on
11 the vehicle that latent print was, and then we remove the tape
12 and put it on a white card so that we can turn it into our
13 latent print examiners and they can do the identification on
14 them.

15 Q Do you -- did you process the guns for prints in
16 this case?

17 A Yes, I did.

18 Q Okay. Do you do that before or after the DNA swabs?

19 A After.

20 Q Okay. And in regard to gunshot residue, did you
21 have any information that the gun was fired inside of that
22 vehicle?

23 A No, I didn't know anything about that.

24 Q Thank you.

25 MS. PIEPER: No further questions.

1 THE COURT: Cross-examination.

2 MR. OTTO: Thank you, Your Honor. A few.

3 CROSS-EXAMINATION

4 BY MR. OTTO:

5 Q Good morning, Ms. Taylor.

6 A Good morning.

7 Q I'm David Otto. I represent Mr. Washington in this
8 case. Do you remember blue latex, or also called nitrile
9 gloves --

10 A Yes.

11 Q -- being found in the car?

12 A Yes.

13 Q Did you process those for DNA?

14 A No, I did not. At the time those were found, per
15 Detective Rogers, who was the homicide detective working the
16 search warrant with us, he did not want those impounded, so I
17 did not impound those.

18 Q Do you know if they were ever impounded?

19 A I believe later they were. I don't know if it was
20 that day or a later date. I think that day later, a different
21 crime scene analyst did.

22 Q Do you know if they were ever swabbed for DNA?

23 A I don't know.

24 Q You've testified that you swabbed the guns for DNA,
25 correct?

1 A Correct.

2 Q Do you know if any DNA was found on those guns?

3 A I don't know.

4 Q Did you ever swab either Mr. Washington or Mr.
5 Moten's hands for gunshot residue?

6 A No, I did not.

7 Q Do you know if those nitrile gloves -- latex gloves
8 were swabbed for gunshot residue?

9 A I don't know.

10 Q Did -- you also tested both firearms for
11 fingerprints, correct?

12 A Yes, I proceed both of them.

13 Q And could you describe the process you used to check
14 those firearms for fingerprints?

15 A Yes. Both the firearms and the magazines were
16 placed into a super glue tank. We do a cyanoacrylate ester
17 fuming, so that's just a big word for super glue, pretty much.
18 So, the fumes will adhere -- if there are prints on there,
19 adhere to the prints to the firearm, so then that way -- and
20 the magazines, so that then I'm going to do a chemical
21 processing on it.

22 So, I used in this case Rhodamine 6G, is one of the
23 chemicals that we have to do this. And so after the super
24 glue fuming is done, then I squirt the liquid, the R6G, on the
25 firearms and the magazines, and then I take them into our

1 digital room where we have a TracER Laser. And using the
2 TracER Laser, we're able to view the firearm and if -- the
3 chemicals react to that laser, and then it will show if there
4 are prints on there.

5 Q Do you know if any fingerprints were found on the
6 firearms?

7 A No. There were no latent prints on the firearms or
8 the magazines for both of those firearms.

9 Q And there are smooth surfaces on the magazine and
10 the firearm, which will sometimes show fingerprints?

11 A Correct.

12 MR. OTTO: I have nothing further, Your Honor.

13 THE COURT: Thank you. Redirect?

14 MS. PIEPER: No, Your Honor.

15 THE COURT: Thank you. You may step down. May this
16 witness be excused?

17 THE WITNESS: Thank you.

18 MS. PIEPER: Yes.

19 MR. OTTO: Yes, Your Honor.

20 MS. PIEPER: Two quick.

21 THE COURT: We can call it there.

22 MS. PIEPER: Two quick, Judge. Super quick.

23 THE COURT: Two quick.

24 MS. SCHIFALACQUA: Three.

25 MS. PIEPER: Three.

1 MS. SCHIFALACQUA: Sorry, three.

2 MS. PIEPER: Oh, three. Promise, super quick.

3 (Pause in the proceedings)

4 THE COURT: All right. Ladies and gentlemen, is
5 everybody all right? Can you make it through -- if anybody's
6 uncomfortable, if you need a break or anything, we can do
7 that. We will wait a little bit more then to take our lunch.
8 Call your next witness.

9 MS. SCHIFALACQUA: Your Honor, Shandra Lynch is what
10 -- who the State is calling.

11 THE MARSHAL: Shandra Lynch?

12 MS. SCHIFALACQUA: Correct.

13 (Pause in the proceedings)

14 THE MARSHAL: Ms. Lynch, if you would, please take
15 the stand. Remain standing. Raise your right hand. Prepare
16 to be sworn in.

17 SHANDRA LYNCH, STATE'S WITNESS, SWORN

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

20 THE WITNESS: Shandra Lynch. S-h-a-n-d-r-a,
21 L-y-n-c-h.

22 MS. SCHIFALACQUA: May I?

23 THE COURT: You may proceed. Um-hum.

24 DIRECT EXAMINATION

25 BY MS. SCHIFALACQUA:

1 Q Ms. Lynch, can you let the members of our jury know
2 how it is you're employed?

3 A I'm a senior crime scene analyst with Las Vegas
4 Metropolitan Police Department.

5 Q How long have you been with Metro?

6 A Six years.

7 Q And were you working in November 2013 in that
8 capacity?

9 A Yes, I was.

10 Q Did -- what shift did you normally work?

11 A On day shift.

12 Q Okay. And I want to draw your attention to actually
13 November 13th of 2013. Do you remember that day?

14 A I do.

15 Q Okay. Were you called out to do some follow up work
16 with regard to an event that occurred on November 5th of 2013?

17 A Yes, I was.

18 Q And did you have occasion to go to Sunrise Hospital?

19 A I did.

20 Q At Sunrise Hospital, did you meet with a security
21 officer, Figurella (phonetic)?

22 A I did.

23 Q And when you met with Security Officer Figurella,
24 what if any items of evidence did you obtain from him?

25 A I obtained an envelope containing a specimen cup

1 with a bullet in it.

2 Q Okay.

3 A And some --

4 Q And --

5 A -- chain of custody.

6 Q I'm sorry.

7 A I'm sorry. And some chain of custody documentation.

8 Q Okay. And thereafter, did you impound that bullet
9 that you got from Security Officer Figurella?

10 A Yes, I did.

11 Q Did you impound it under event number 131105-0479?

12 A That's correct, yes.

13 MS. SCHIFALACQUA: If I may approach the witness,
14 Judge, which -- with, excuse me, State's proposed Exhibit 81
15 that has been shown to Mr. Otto?

16 THE COURT: You may.

17 BY MS. SCHIFALACQUA:

18 Q Ms. Lynch, I'm going to show you what's been marked
19 as State's proposed Exhibit -- I don't know how I forget it so
20 quicky, 81. Do you recognize that?

21 A Yes.

22 Q And what is it?

23 A It's the envelope that I referred to a minute ago
24 with the plastic bag, and specimen cup, and the bullet.

25 Q Okay. And is this the package that you impounded

1 that bullet number?

2 A It is.

3 Q And do you see your personnel number?

4 A I do.

5 Q As well as your signature?

6 A Yes.

7 Q As well as the event number?

8 A Yes.

9 Q On the back, there is evidence tape. Did you put
10 that on there?

11 A Yes.

12 Q Did you also date that?

13 A I did.

14 Q And put your initials?

15 A Yes, I did.

16 Q With regard to the opening below, are you familiar
17 with the blue tape?

18 A Yes.

19 Q And what does that signify to you?

20 A That it was opened by someone else in our forensic
21 lab.

22 Q Okay. So, there might have been further testing
23 with regard to this impounded bullet, is that fair to say?

24 A Yes.

25 Q Is this is the same or substantially the same

1 condition as it was when you impounded it?

2 A Apart from the blue seal, yes.

3 MS. SCHIFALACQUA: I'd move for admission of State's
4 81 at this time.

5 MR. OTTO: No objection.

6 THE COURT: 81 will be admitted.

7 (State's Exhibit 81 is admitted)

8 MS. SCHIFALACQUA: Okay. And with regard to -- so
9 it's clear -- oh. Actually, permission to publish, Judge?

10 THE COURT: I'm sorry?

11 MS. SCHIFALACQUA: Permission to publish?

12 THE COURT: You may.

13 MS. SCHIFALACQUA: Okay.

14 BY MS. SCHIFALACQUA:

15 Q With regard to -- we keep referring to kind of
16 evidence tags. Is this -- you see on the screen now, just for
17 the jurors' purposes, is that what you're referring to?

18 A Yes.

19 Q Okay. And is that your signature right here?

20 A It is.

21 Q And when you talk about your personnel number, is
22 that right there?

23 A That is.

24 Q Okay. And then, thereafter, when we're talking
25 about other persons that may have opened it, do they also put

1 their identifying information on that?

2 A They do.

3 Q Okay. And then so the jurors can see, with regard
4 to your initial seals, does that bear your personnel number as
5 well?

6 A Yes, my initials and personnel number.

7 Q Okay. And this indicates that it is a blue lid, and
8 it has a patient sticker of Ashely Scott, is that right?

9 A Ashley Scott.

10 Q It's pronounced Ashely, yes?

11 A Okay. Sorry, I thought it was Ashley.

12 Q Is that the patient's -- your understanding of the
13 patient's name that the bullet came from?

14 A Yes.

15 Q Okay.

16 MS. SCHIFALACQUA: No further questions, Judge.

17 THE COURT: Cross-examination?

18 MR. OTTO: No further questions, Your Honor.

19 THE COURT: Thank you, ma'am. You may step down.

20 And may this witness be excused?

21 MS. SCHIFALACQUA: Yes, Your Honor.

22 THE COURT: Thank you. You're excused. You may
23 call your next witness.

24 MS. SCHIFALACQUA: Let's call -- court's indulgence.
25 Moretta McIntyre.

1 THE MARSHAL: Ms. McIntyre, just step up on the
2 stand. Please remain standing for a second.

3 THE CLERK: Please raise your right hand.

4 MORETTA MCINTYRE, STATE'S WITNESS, SWORN

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

7 THE WITNESS: Moretta McIntyre. M-o-r-e-t-t-a,
8 M-c-I-n-t-y-r-e.

9 MS. PIEPER: May I proceed.

10 THE COURT: You may proceed.

11 DIRECT EXAMINATION

12 BY MS. PIEPER:

13 Q How are you employed?

14 A I am currently employed as a senior crime scene
15 analyst with Las Vegas Metropolitan Police Department.

16 Q And how long have you worked for Metro?

17 A Approximately six years.

18 Q And what is your training and experience in order to
19 be a crime scene analyst?

20 A I have an associate's degree in forensic technology
21 from -- excuse me, from Grossmont College. I have completed a
22 ten-week crime scene academy course. I've also done 12 weeks
23 of field training. And in the six years, I continued to take
24 and complete courses in various forensic aspects.

25 Q I want to draw your attention to November 14th,

1 2013. Were you working on that day?

2 A Yes, I was.

3 (Pause in the proceedings)

4 BY MS. PIEPER:

5 Q And were you called to do some follow up on a
6 homicide under event number 131105-0479?

7 A Yes.

8 Q And at approximately 11:20, did you go to a tow
9 yard?

10 A I did.

11 Q And when you went to the tow yard, were the seals
12 intact?

13 A There was --

14 Q Oh, I'm sorry. Let me back up. That was a badly
15 worded question. You went to a 2005 silver Dodge Magnum, is
16 that correct?

17 A That is correct.

18 Q And when you went to the silver Dodge Magnum, were
19 there seals along the vehicle?

20 A That is correct.

21 Q And were the seals intact?

22 A There was one seal that was broken, and one seal
23 that was intact.

24 Q Okay. When you went to the vehicle, what did you
25 do?

1 A I made contact with the homicide detective that was
2 on scene, and then I took some photographs of the vehicle as
3 it appeared when I arrived. And then, after we took
4 photographs showing both the seal -- intact seal and the
5 broken seal, we broke the intact seal and took photographs of
6 the inside of the vehicle.

7 Q Okay. And once you went inside of the vehicle, what
8 did you do next?

9 A Took more photographs inside.

10 Q Okay. And after you took photographs, what else did
11 you do?

12 A Then we swabbed certain areas of the vehicle and
13 certain items inside the vehicle for possible DNA.

14 MS. PIEPER: Your Honor, may I approach the witness?

15 THE COURT: You may.

16 BY MS. PIEPER:

17 Q Showing you what's been marked as State's proposed
18 Exhibit number 82, do you recognize this?

19 A Yes, I do.

20 Q And how do you recognize that?

21 A My initials and P number are across the evidence
22 seal, and my signature and P number are on the label on the
23 front of the package.

24 Q Okay. And if I were to open this, there would be 12
25 items, is that correct?

1 A That is correct.

2 Q And what would the 12 items be?

3 A The package is containing swabs of possible DNA, and
4 apparent hair.

5 Q Okay. And that's what you got inside of the
6 vehicle, correct?

7 A That is correct.

8 MS. PIEPER: Your Honor, State moves for the
9 admission of 82.

10 MR. OTTO: No objection.

11 THE COURT: 82 will be admitted.

12 (State's Exhibit 82 is admitted)

13 BY MS. PIEPER:

14 Q Do you have your report with you?

15 A I do.

16 Q In regard to the swabs that you took, can you tell
17 the members of the jury where you swabbed?

18 A May I refer to my report?

19 Q Sure. Well, let me ask you, did you do a report in
20 this case?

21 A Yes, I did.

22 Q Would looking at the report refresh your
23 recollection?

24 A Yes, it will.

25 Q Okay.

1 A You are asking in regards to the areas?

2 Q Yes.

3 A Okay. There's swabs of possible DNA from the center
4 console, the right front visor, the glovebox handle, the
5 interior right front door handle, the armrest on the interior
6 panel of the right front door, the dashboard under the
7 steering wheel, a baseball cap on the left front floorboard,
8 three baseball caps on the right front seat, and a hairbrush
9 that was between the center console and the right front seat.

10 Q Thank you.

11 MS. PIEPER: Pass the witness.

12 THE COURT: Cross-examination?

13 CROSS-EXAMINATION

14 BY MR. OTTO:

15 Q You swabbed the area under the steering column.
16 That's a big panel under the dash, is that correct?

17 A Correct.

18 Q And you don't know the results of those swabs, is
19 that correct?

20 A That is correct. I do not know.

21 MR. OTTO: Nothing else at this time.

22 MS. PIEPER: Nothing further, Your Honor.

23 THE COURT: Thank you. You may step down. And may
24 this witness be excused?

25 MS. SCHIFALACQUA: Yes, Judge.

1 MR. OTTO: Yes, Your Honor.

2 THE WITNESS: Thanks.

3 THE COURT: You're excused. Thank you.

4 MS. SCHIFALACQUA: And the State would call Jessie
5 Sams.

6 THE MARSHAL: Ma'am, if you would just take the
7 stand, please. Remain standing. Raise your right hand.
8 Prepare to be sworn, please.

9 JESSIE SAMS, STATE'S WITNESS, SWORN

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

12 THE WITNESS: It's Jessie Sams. J-e-s-s-i-e,
13 S-a-m-s.

14 THE CLERK: Thank you.

15 THE COURT: You may proceed.

16 MS. SCHIFALACQUA: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. SCHIFALACQUA:

19 Q Ms. Sams, can you let our members of our jury know
20 how you're employed?

21 A I am a senior crime scene analyst with Las Vegas
22 Metropolitan Police Department.

23 Q And how long have you been a crime scene analyst
24 with Metro?

25 A Almost 20 years.

1 Q Okay. Directing your attention to November 5th of
2 2013, were you working in that capacity on that day?

3 A Yes, I was.

4 Q And what shift do you normally work?

5 A I work swing shift. It's 2:00 P.M. to midnight.

6 Q Okay. Were you working swing shift on November 5th
7 of 2013?

8 A Yes, I was.

9 Q And did you have occasion to get called to Sunrise
10 Hospital?

11 A Yes.

12 Q And were you in fact called out to collect some
13 evidence from Sunrise Hospital?

14 A Yes, I was.

15 Q Was that under event number 131105-0479?

16 A Yes.

17 Q Did you make contact with a security officer,
18 Salvatore Martin?

19 A Yes, I did.

20 Q And describe for the members of our jury please what
21 you obtained from Mr. Martin.

22 A I obtained a bullet that was in a plastic vial in a
23 plastic bag, and a chain of custody list.

24 Q Okay. And did you ultimately -- were you ultimately
25 responsible for impounding that bullet into evidence?

1 A Yes, I was.

2 MS. SCHIFALACQUA: And having shown Mr. Otto what's
3 been marked as State's proposed Exhibit 85, if I may approach
4 the witness, Your Honor?

5 THE COURT: You may.

6 BY MS. SCHIFALACQUA:

7 Q Ms. Sams, I'm showing you what's been marked as
8 State's proposed Exhibit 85. Do you recognize that?

9 A Yes, I do.

10 Q And what is it?

11 A This is the package that I impounded after I
12 recovered the bullet, and packaging, and chain of custody from
13 Lieutenant Martin.

14 Q Okay. And is -- do you recognize your signature on
15 that packaging?

16 A I do. My signature and P number, and my initials
17 and P number, and the date that I actually impounded it.

18 Q And is that in the same or substantially the same
19 condition as it was when you impounded it into evidence under
20 this event number?

21 A Essentially the same.

22 Q What's different about it?

23 A These are labels from the evidence vault, and this
24 is from our forensic lab.

25 Q Okay. So, with regard to the other entry, as under

1 the forensic lab, is there a personnel number and a signature
2 with regard to making entry into the evidence that you
3 impounded?

4 A Yes, there is.

5 Q And so, aside from that, is it in the same or
6 substantially the same condition as it was when you impounded
7 it?

8 A Yes, it is.

9 MS. SCHIFALACQUA: I'd move for admission of State's
10 proposed 85 at this time.

11 MR. OTTO: No objection, Your Honor.

12 THE COURT: 85 will be admitted.

13 (State's Exhibit 85 is admitted)

14 MS. SCHIFALACQUA: And permission to publish, Judge?

15 THE COURT: You may.

16 MS. SCHIFALACQUA: Okay.

17 BY MS. SCHIFALACQUA:

18 Q So, when you're talking about this chain of custody,
19 this had a bullet coming from a name of a victim of LaRoy
20 Thomas, is that correct?

21 A Correct.

22 Q And let me show it. Can you see that there on -- it
23 looks like the bottom portion?

24 A Yes.

25 Q Okay. And when we were talking about the evidence

1 vault -- excuse me, not the evidence vault, the forensic lab
2 making entry, when I referred to a signature, is that being
3 shown to the members of our jury right now?

4 A Yes.

5 Q Okay.

6 MS. SCHIFALACQUA: I'd pass the witness, Judge.

7 THE COURT: Cross-examination?

8 MR. OTTO: No questions, Your Honor.

9 THE COURT: Thank you. You may step down. May this
10 witness be excused?

11 MS. PIEPER: She may.

12 MS. SCHIFALACQUA: Yes, Judge.

13 MR. OTTO: Yes, Your Honor.

14 THE COURT: All right. Now, we -- I take it the
15 State can pause to take a breath?

16 MS. SCHIFALACQUA: Correct.

17 MS. PIEPER: Yes, Your Honor.

18 THE COURT: Okay, good.

19 Ladies and gentlemen, we will take an hour recess
20 for lunch. It's about ten to 1:00 now. Let's make it 2:00
21 o'clock, a little over an hour, so you can find somewhere
22 around to eat.

23 While you're on this noon recess -- and if you'll
24 ask -- if anyone needs to know, if you'll ask the bailiff on
25 your way out, maybe he can point you in the direction of some

1 local eateries that you can eat lunch at.

2 While you're on this lunch recess, please do not
3 talk or converse among yourselves or with anyone else on any
4 subject or person connected with this trial. Don't read,
5 watch, listen to, or -- read, watch, listen to any news
6 account or commentary on this trial, or on anyone connected
7 with the trial. Please do not form or express any opinion on
8 any subject connected with the trial until the case is finally
9 submitted to you.

10 We'll be in recess until 2:00 P.M.

11 THE MARSHAL: All rise. This court is in recess,
12 ladies and gentlemen of the jury.

13 THE COURT RECORDER: Off the record, Your Honor?

14 THE COURT: Yes.

15 (Court recessed at 12:56 P.M. until 2:14 P.M.)

16 (Outside the presence of the jury)

17 THE COURT: Please be seated. Are we ready to roll?

18 (Pause in the proceedings)

19 THE COURT: You ready for the jury?

20 MS. PIEPER: We are.

21 MS. SCHIFALACQUA: Yes, Your Honor.

22 THE COURT: Okay.

23 MS. SCHIFALACQUA: Judge, we have three more
24 witnesses for today.

25 THE COURT: Okay.

1 MS. SCHIFALACQUA: And then we have an expert and
2 another witness on Monday.

3 (Pause in the proceedings)

4 THE MARSHAL: All rise for the presence of the jury,
5 please.

6 (Jury reconvened at 2:17 p.m.)

7 THE COURT: Will counsel stipulate to the presence
8 of the jury? Whoops, wait a minute. There we are. No.

9 MS. SCHIFALACQUA: Yes, Your Honor.

10 MS. PIEPER: Oh, yes.

11 THE COURT: Okay.

12 MR. OTTO: Yes, Your Honor.

13 (Pause in the proceedings)

14 THE COURT: All right. State may call your next
15 witness.

16 MS. PIEPER: State calls Detective Dean Raetz.

17 THE MARSHAL: Detective, sir, if you would just take
18 the stand. Please remain standing. Raise your right hand.
19 Face our clerk, she's going to swear you in.

20 DETECTIVE DEAN RAETZ, STATE'S WITNESS, SWORN

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

23 THE WITNESS: Dean Raetz, R-a-e-t-z.

24 MS. PIEPER: May I proceed?

25 THE COURT: You may.

DIRECT EXAMINATION

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BY MS. PIEPER:

Q How are you employed?

A I'm a detective with the Las Vegas Metropolitan Police Department.

Q And how long have you worked with Metro?

A 22-and-a-half years.

Q And what is your current assignment?

A I am currently assigned to the homicide unit, where I've been for the last seven.

Q Thank you. I want to draw your attention to November 5th, 2013. Were you working on that day?

A Yes.

Q And in regard to this homicide, were you called out, or were you in the office?

A Called out from home.

Q When you get called out, is it just yourself, or do other members of your squad also get called out?

A No, there's several people, or multiple people from the squad that respond on call-outs.

Q In regard -- and in regard to this case, you are the lead detective, is that correct?

A Yes.

Q Can you explain to the members of the jury what a lead detective is?

1 A The way our squads are set up and the way we respond
2 to investigate cases is there are six persons on a squad, run
3 by a sergeant. Two -- the six people are divided further down
4 into three two-person teams, so we work with a partner on each
5 case that we get, and then the partners alternate who takes
6 the lead on a case as they come in.

7 Q As the lead detective, what are you in charge of?

8 A I'm in charge of the scene and putting the case file
9 together.

10 Q Okay. There are other detectives that go out to
11 different scenes, is that correct?

12 A Correct.

13 Q In regard to this case, who went to the Eastern and
14 Ogden location?

15 A Detective Bob Rogers, or Robert Rogers.

16 Q And in regard to the information that Detective
17 Rogers learns, does he communicate with -- communicate that
18 information to you throughout the day?

19 A Yes, directly with me and via our sergeant, our
20 supervisor.

21 Q Besides Detective Rogers going to the Eastern and
22 Ogden location, did any other detectives go to different
23 locations?

24 A Detective McCarthy went to the hospital to contact
25 the two injured victims that were transported prior to our

1 arrival on the scene.

2 Q And did Detective Gillis do anything?

3 A Detective Gillis and Detective Bunting responded to
4 the scene with myself and Sergeant Darr. Detective Gillis and
5 Bunting contacted witnesses.

6 Q Just to make this clear, you're not a crime scene
7 analyst, correct?

8 A No.

9 Q So, when you say that you're on the scene, what is
10 it that you're doing on the scene?

11 A We have the ultimate responsibility to ensure that
12 the scene is being examined thoroughly. The crime scene
13 analysts document, photograph, and gather evidence. They do
14 that under our direction, so to speak.

15 They do enough of these scenes that they know --
16 they know what they're doing. But the ultimate responsibility
17 of the investigation rests on the lead investigator, so it's
18 the lead investigator's responsibility to make sure that
19 everything is being documented.

20 Q And on November 5th, 2013, do you remember what time
21 you responded to the 2655 Sherwood Avenue address?

22 A I went en route at approximately 5:30 -- 5:29, 5:30,
23 and I arrived at 5:50.

24 Q Once you get there, what's the first thing that you
25 do?

1 A Well, we wait for -- since we're all responding from
2 different parts of the Valley, we wait for everybody who's
3 coming to the scene to get there. And then we have a briefing
4 from the officers, or in some cases, detectives that arrived
5 before us, to learn what they have learned up to that point.

6 Q Essentially, you get a briefing of what they have
7 gathered information from, is that correct?

8 A Correct.

9 Q Once you get that information, then are
10 responsibilities sort of split up?

11 A Yes. Then we take over the scene and the
12 investigation at that point, we being homicide.

13 Q And then Detective Rogers would be sent out to like
14 Eastern and Ogden, other people would be sent out to the
15 hospital, is that correct?

16 A Correct.

17 Q Once you got to the scene, can you describe for the
18 members of the jury what you saw?

19 A Initially, when you get to the scene, we don't enter
20 until we have our briefing. So, when we initially got there,
21 it's an apartment complex that's only accessible from the
22 street through one alley or gateway, and it was blocked off by
23 crime scene tape and an officer.

24 Q In regard -- and then what happens next?

25 A After we have our briefing and take control of the

1 scene, then we enter.

2 Q Okay. At this point when you first arrive, do you
3 just sort of see what's going on, but like you said, do not
4 enter the premises?

5 A Correct.

6 Q How is it that you enter the premises?

7 A At this particular scene, there was an outdoor
8 portion, plus an indoor portion. Before we can enter an
9 indoor portion, most of the times, we require the procuring or
10 obtaining of a search warrant from a Judge.

11 Q Once a search warrant was obtained in regard to
12 apartment number 18, is that when you went into apartment
13 number 18?

14 A Yes.

15 Q Besides the search warrant happening at apartment
16 number 18, was a search warrant also obtained in regard to
17 something else in this case?

18 A Yes. The search warrant was for the apartment
19 number 18 at 2655 Sherwood, and a Dodge -- a silver Dodge
20 Magnum.

21 Q And that's at the Eastern and Ogden location,
22 correct?

23 A Yes.

24 Q Once the search warrant is obtained and you go
25 inside, can you explain to the members of the jury what

1 happens when you go inside of apartment number 18?

2 A Well, before we went in, obviously, we were going to
3 -- you have to walk up and you walk into the courtyard, and
4 that's the first part of the crime scene was in the courtyard
5 outside of the apartment.

6 When we walk in, the first thing that's noticeable
7 is cartridge cases scattered throughout the courtyard area,
8 plus a pair of socks that were wadded up in front of a
9 stairwell that leads to the second story of the apartment, and
10 blood drippings on the stairs, on the socks, and from the
11 doorway to the stairs -- the doorway from apartment 18 and the
12 stairs.

13 Plus, when you look -- when you -- you have to come
14 in the courtyard from the east to the west, and then, once you
15 get into the courtyard, you have to turn around and look back
16 east to see the front of apartment 18. And in the front of
17 apartment 18, you can see 13 separate bullet impacts or
18 strikes to the front of the apartment.

19 Q In regard to apartment number 18, showing you what's
20 been admitted as State's 8. You described how you sort of
21 walked in.

22 A Yes.

23 Q And can you show us the walkway area in which you
24 walked in?

25 A We came in from the walkway area here on the --

1 alongside of the building. Behind the building is a wall, and
2 a planter, and a sidewalk, and then Sherwood Street itself.

3 Q Okay. And once you walk in, can you see the casings
4 as you walk in?

5 A Yes. By that time, the sun was up and it was pretty
6 well-lit. I mean, it's early morning hours, so there are
7 shadows, but it's pretty well-lit, and you could see cartridge
8 cases out in the courtyard itself on the concrete.

9 Q In regard to the front window area of apartment
10 number 18, do you know how many shots went through that window
11 area?

12 A Through the window itself there were ten.

13 Q Okay. And where were the other three shots?

14 A There was one here in the -- that didn't work
15 correctly. But just to the right of the bottom of the number
16 8, there's a hole there, and then there's a hole right above
17 that dot, and alongside the left side of the fire extinguisher
18 box.

19 Q Okay. And when you walked up to the apartment, were
20 those immediately apparent?

21 A Yes.

22 Q What happened next?

23 A Once the search warrant's obtained -- well, prior to
24 going in, since this is an outdoor scene in a public area, it
25 does not require a search warrant to process that. So, the

1 evidence that's outside, it was documented with photographs
2 and placards, and listed in the order that it was going to be
3 collected. Then, once the search warrant is obtained by
4 Sergeant Darr, we make entry into the apartment itself.

5 Q You go into the apartment, and can you explain to
6 the members of the jury what you see?

7 A When you open the apartment door, which opens from
8 right to left there, it opens into the southern portion of the
9 kitchen. To the right is the living room area of the
10 apartment. It's one great room with the kitchen on the north
11 and the living room on the south.

12 Q And what is it you do in regard to this scene? Do
13 you just kind of walk around and just take a look?

14 A Initially, the crime scene analyst that's taking the
15 photographs enters first so they can take pictures of the way
16 the apartment is upon our entry without anything being
17 inadvertently kicked or moved by accident, so it's documented
18 exactly the way it is when we walk in.

19 Q You then walk into the living room, and you see a
20 body on the ground, is that correct?

21 A Correct. Directly in front of the window there is a
22 couch, and there's a body laying right in front of the couch
23 on the floor.

24 Q Showing you what's been admitted as State's 110, do
25 you recognize that?

1 A Yes, that's the interior of the living room of
2 apartment 18.

3 Q Was there anything else that you did in regard to
4 this living room area?

5 A What do you mean?

6 Q You -- that was a badly worded question. You walk
7 in, you see the body. Do you just take note of sort of the
8 evidence that's in there and things to that nature?

9 A Yes. We look around without disturbing anything to
10 get a visual idea of what evidence that we are going to find
11 in there.

12 Q Do you know whether the TV was on or off?

13 A I had thought that it was on, but in this picture,
14 it is off, and this picture should have been taken immediately
15 upon entry.

16 Q Okay. But do you remember turning off the
17 television?

18 A No.

19 Q Okay. What do you do next?

20 A Once we -- once I see what is in there, then we come
21 back out and discuss with the other detectives what we've
22 seen, and then interviews are being done with the witnesses.

23 Q Okay. Then what happens next?

24 A We spend several hours documenting the scene.

25 Q And you're sort of out there with the crime scene

1 analysts, watching what they're doing. Are you assisting them
2 at all?

3 A We as a rule --

4 Q Not physically.

5 A Yeah, not physically. We are -- it's my
6 responsibility to make sure that everything's being documented
7 correctly, so I am seeing -- I'm watching what they're doing,
8 and if there's something that I think needs to be done in
9 addition to what they're doing, I will instruct them to do so.

10 Q Okay. While you're at the crime scene, there of
11 course is another crime scene at Eastern and Ogden, is that
12 correct?

13 A There is a vehicle stop, correct.

14 Q Are you getting information as to what is going on
15 at the Eastern and Ogden crime scene?

16 A Yes.

17 Q And at some point, did you learn that there was a
18 firearm located inside of that vehicle?

19 A Yes. I believe we were told that at the initial
20 briefing when we first arrived that there was a firearm
21 visible from the outside.

22 Q Okay. Do -- that was another badly worded question.
23 After the search warrant is obtained in regard to the Dodge
24 Magnum, do you learn what type of weapon that is in the Dodge
25 Magnum?

1 A Yes.

2 Q What did you learn that it was?

3 A It was a 9 millimeter semiautomatic Smith and
4 Wesson.

5 Q Okay. Did you then learn that the car was then
6 towed to Metro's crime lab?

7 A Yes, it was.

8 Q Okay. And you knew that Detective Rogers was there,
9 correct?

10 A Yes.

11 Q And you knew that he was having that car processed?

12 A Correct.

13 Q Okay.

14 A Under the authority of the search warrant.

15 Q At the crime scene, is there anything else that you
16 did once it was documented, pictures were taken, and evidence
17 was collected? Is there anything else you do at the -- at the
18 2655 Sherwood?

19 A Once everything is documented and collected, we do a
20 walk-through to ensure that, number one, nobody has left any
21 police equipment behind, and number two, that everything has
22 been gathered up that we deem as evidentiary.

23 Q Okay.

24 A Then the apartment is secured, locked out, or turned
25 back over to a --

1 Q Owners?

2 A Yeah.

3 Q Okay.

4 A The renter or leaser.

5 Q On November 6th, 2013, did you attend the autopsy of
6 Nathan Rawls?

7 A Yes, I did.

8 Q And why is it that you attended the autopsy?

9 A The two investigators that are charged with handling
10 the case always -- we try to both go, but always -- one is
11 always there to document what evidence is gathered at the
12 autopsy as well, because the body becomes another crime scene.

13 Q Let me back up just for a second. While you were
14 either on this crime scene or either back at the office, did
15 you learn information that there had been a second gun located
16 inside of the silver Dodge Magnum?

17 A Yes, I did.

18 Q And at the time that you learned that information,
19 where was the silver Dodge Magnum?

20 A It was at the crime scene criminalistics garage
21 where we do the searches in a controlled area.

22 Q And did you learn what caliber weapon that was?

23 A Yes, it was a .40 caliber Glock.

24 Q Okay. In regard to the silver Dodge Magnum, as the
25 lead detective, did you do some investigation as to who was

1 the registered owner?

2 A Yes. We have to confirm who owns the vehicle,
3 because we know eventually somebody's going to come looking
4 for it and want that vehicle back.

5 Q And who was the registered owner of that vehicle?

6 A I learned that it was the girlfriend of --

7 Q Matthew Washington?

8 A Matthew Washington, yeah. I'm sorry.

9 Q It's okay.

10 A And her name is Kwame Jackson (phonetic).

11 Q Did you say Kwame Jackson?

12 A Yes.

13 Q And you have access to certain databases, is that
14 correct, in regard to DMV registration and things like that?

15 A Yes.

16 Q Okay. Did you also learn that there had been
17 consents done in regard to DNA to the victims in this case?

18 A Yes. In a scene where there's going to be
19 biological evidence, we need to determine which biological
20 matter belongs to which person, so we try to get -- we get DNA
21 samples from the victims. In this case, there were blood
22 trails, as I previously mentioned, outside as well as inside,
23 and we needed to see who that blood belonged to.

24 MS. PIEPER: Court's indulgence.

25 THE COURT: Um-hum.

1 BY MS. PIEPER:

2 Q Let me back up just a second. In -- on November
3 6th, 2013 when the autopsy was done of Nathan Rawls, you're
4 physically in the room, is that correct?

5 A Yes.

6 Q With Dr. Simms?

7 A Yes.

8 Q Are you also there with the crime scene analyst,
9 Shayla Joseph?

10 A Yes. The autopsy is in two portions. There's --
11 when the body is removed from the scene, it's placed in a
12 sealed bag in a sterile environment. And then, because it's
13 also considered part of a crime scene, it's transported sealed
14 to the office.

15 And then, the first portion of the autopsy is always
16 a physical examination and gathering of evidence from the body
17 itself. So, the body is taken out of the sealed bag and
18 processed and photographed as the condition that it's in when
19 it's removed from the bag.

20 Q And did you see Shayla Joseph do a DNA buccal swab
21 of Nathan Rawls?

22 A Yes.

23 MS. PIEPER: Your Honor, may I approach the witness?

24 THE COURT: You may.

25 BY MS. PIEPER:

1 Q Showing you what's been marked as State's proposed
2 Exhibit number 135, do you recognize that?

3 A I recognize the sock with the bullet defect in it
4 and blood.

5 Q Okay. Well, let me back up and ask you this. You
6 were on the scene at 5:00 o'clock in the morning, is that
7 correct?

8 A Yes.

9 Q You earlier testified that, leading up to the
10 stairs, there was some blood. Do you remember that testimony?

11 A Yes.

12 Q You also testified that there was a bloody sock that
13 was on that scene.

14 A There were two.

15 Q Two?

16 A Yes.

17 Q Did you learn that the bloody sock had been worn by
18 LaRoy Thomas?

19 A Yes.

20 Q And did you learn that LaRoy Thomas had a bullet
21 hole in his leg?

22 A He actually had a bullet in his left ankle.

23 Q Okay. But it caused a hole through some of his
24 sock, as well as I think through his shoe, is that correct?

25 A Correct, correct.

1 Q Showing you what's marked as State's proposed
2 Exhibit number 135, would that be documenting that bullet
3 hole?

4 A I don't know which -- without looking at a series of
5 photographs, I don't know which sock this would be, but yes, I
6 would believe so. They were white ankle like socks -- or
7 socks -- short ankle socks like this --

8 Q Okay.

9 A -- that were out there.

10 Q All right. [Inaudible]. Showing you what's been
11 marked as State's proposed Exhibit number 188, do you
12 recognize that?

13 A Yes. This is a DMV printout, reference a 2005
14 Dodge. The registered owner is Kwame Jackson.

15 MS. PIEPER: Your Honor, the State moves for the
16 admission of 188.

17 MR. OTTO: No objection.

18 THE COURT: 188 will be admitted.

19 (State's Exhibit 188 is admitted)

20 BY MS. PIEPER:

21 Q Showing you what's been marked as State's proposed
22 Exhibit number 83, do you recognize that?

23 A This is a buccal swab kit, which is the way we get
24 DNA from individuals. And this particular one is -- has the
25 name of Nathan Rawls on it.

1 Q Okay. And that was done on November 6th, 2013, is
2 that correct?

3 A Correct.

4 Q And you said that you witnessed Shayla Joseph
5 actually physically do the buccal swab --

6 A Yes, I did.

7 Q -- is that correct?

8 MS. PIEPER: Your Honor, State moves for the
9 admission of 83.

10 MR. OTTO: No objection.

11 THE COURT: 83 will be admitted.

12 (State's Exhibit 83 is admitted)

13 BY MS. PIEPER:

14 Q You also testified that you learned that the victims
15 in the case had done DNA consent forms. Showing you what's
16 marked as State's proposed Exhibit number 138, 139, and 140,
17 are these the DNA consent forms from the three -- sorry,
18 victims?

19 A Yes, they are.

20 MS. PIEPER: Your Honor, State moves for the
21 admission of 138, 139, and 140.

22 THE WITNESS: If I may, the photo -- no?

23 MS. PIEPER: 138, 139, and 140.

24 MR. OTTO: No objection.

25 MS. PIEPER: Sorry. I'm just trying to --

1 THE COURT: 138 to 140 will be admitted.

2 (State's Exhibits 138, 139, and 140 are admitted)

3 MS. PIEPER: -- make sure the record's clean.

4 THE WITNESS: That's all right. Returning to the
5 photograph of the sock that you showed me, I do know that
6 there were two socks on the scene. They were white, this
7 type, and I do know that one of them had a bullet hole in it.

8 MS. PIEPER: Thank you. Your Honor --

9 THE WITNESS: Okay.

10 MS. PIEPER: -- State moves for the admission of
11 135.

12 MR. OTTO: No objection.

13 THE COURT: 135 will be admitted.

14 (State's Exhibit 135 is admitted)

15 BY MS. PIEPER:

16 Q Detective Raetz, what is a buccal swab?

17 A A buccal swab is -- there are two different types.
18 A buccal swab is indicating the cell -- the dead cell material
19 from the inside of your cheek, and the name "buccal" -- or the
20 word "buccal" is referring to that portion of your cheek.

21 And the old style we used to use -- and I'm not sure
22 which one that is -- the old style had a straight plastic
23 stick with a little foam rubber -- it looked like one row of a
24 toothbrush that you would actually scrape in there. The new
25 style are nothing more than large cotton swabs that you're

1 actually rubbing inside the cheek to gather the cells for DNA.

2 MS. PIEPER: Thank you. Nothing further.

3 THE COURT: Cross-examination?

4 MR. OTTO: No questions, Your Honor.

5 THE COURT: Thank you. You may step down. May this
6 witness be excused?

7 MS. PIEPER: Yes.

8 MR. OTTO: Yes, Your Honor.

9 THE COURT: Thank you. You're excused. State may
10 call your next witness.

11 MS. SCHIFALACQUA: State calls David Johnson.

12 (Pause in the proceedings)

13 THE MARSHAL: Mr. Johnson, sir, if you'd just take
14 the stand. Remain standing. Raise your right hand, sir,
15 please.

16 DAVID JOHNSON, STATE'S WITNESS, SWORN

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

19 THE WITNESS: My name is David Johnson. D-a-v-i-d,
20 J-o-h-n-s-o-n.

21 MS. SCHIFALACQUA: May I?

22 THE COURT: You may proceed.

23 MS. SCHIFALACQUA: Thank you.

24 DIRECT EXAMINATION

25 BY MS. SCHIFALACQUA:

1 Q Mr. Johnson, can you please let the members of our
2 jury know how it is you are employed?

3 A I'm a Forensic Scientist II working at the Las Vegas
4 Metropolitan Police Department forensic laboratory. I'm
5 currently assigned to the latent print detail, so I work as a
6 latent print examiner for the forensic lab.

7 Q Can you please describe for our jury your
8 educational background?

9 A Yes. I have a bachelor's degree in biology from the
10 University of California, Riverside. Upon being hired at
11 Metro, I went through an extensive 18 month-long training
12 program where I went through various training exercises and
13 testing in order to learn how to compare and develop latent
14 prints. That culminated with a test that allowed me to
15 perform casework.

16 In addition to that, I've gone to week-long classes
17 and conferences, and done continuing education since then to
18 keep up on current trends and current matters in the area of
19 fingerprints.

20 Q Now, Mr. Johnson, with regard to what a latent print
21 analyst does, can you describe for the members of our jury
22 just kind of generally what are some of your duties in your
23 job?

24 A Yeah. Well, if we could start off with what a
25 latent is. I mean, if you look at -- if you look at your

1 hands, they're covered with these lines, and when you touch
2 something, you can leave behind an impression of that, and
3 that's generally what's called a latent print.

4 So, it's our job as fingerprint examiners or as
5 latent print examiners to compare latent prints that were
6 either recovered from a crime scene, or that we're able to
7 actually develop off of items of evidence ourselves, and
8 compare those to known prints.

9 So, if a latent print is one that's left by chance
10 on an object that you might touch throughout the day, a known
11 print would be a controlled recording. That's either going to
12 be done using ink or an electronic means. So we know who you
13 are, we're going to take a set of your fingerprints so that we
14 have something to compare to the unknowns from a crime scene.

15 Q And with regard to your duties, do you get a number
16 of different types of what we would refer to as cases
17 submitted to you for analysis from latent prints to what would
18 be analyzed against a known print?

19 A Yes.

20 Q Okay. And I want to go back a little bit. You
21 indicated that you have ongoing kind of training. Do you have
22 a certification process to go through before you can be an
23 analyst?

24 A We have a competency test before you're allowed to
25 do casework. In addition to that, I have a certification

1 through the International Association for Identification,
2 which is our professional body for latent print examiners, and
3 I'm certified through them.

4 Q And do you do ongoing proficiency exams in fact
5 throughout your job?

6 A Yes. Every year, we're required to take a
7 proficiency test, and that is actually designed and
8 administered through a company called CTS, or Collaborative
9 Testing Service. So, it's something that's outside of Metro
10 that they provide the tests for us every year.

11 Q And have you testified previously in the Eighth
12 Judicial District?

13 A Yes, I have.

14 Q Okay. Let's kind of turn our attention -- and you
15 started to develop this for the members of our jury, but I
16 want to talk about prints in general. Are prints unique to
17 each person?

18 A Yes. When we're talking about the friction ridge
19 skin itself, it's definitely unique to the individual.

20 Q And you talked a little bit about -- or you
21 explained to our jurors what a latent print is and what a
22 known print is. How does -- how do you develop a latent
23 print? And you indicated that it could be something that was
24 submitted to you from a crime scene, but you also talked about
25 for example if an item itself was sent to the lab. How would

1 you determine whether or not prints could be lifted from that
2 item?

3 A There's a variety of different methods. There -- if
4 -- depending on what type of surface we're talking about, you
5 can use different chemicals or different processes to try and
6 develop prints. Most typically, the method used at crime
7 scenes is they're going to use a powder -- or a black powder
8 to dust for prints, and then recover those with tape, and then
9 put those on a lift card and submit those to the laboratory.

10 For items of evidence that are submitted to the
11 forensic lab, we can use super glue fuming. So, we'll heat up
12 super glue. The super glue will actually adhere to the latent
13 print residue, turning the latent print white, and then we can
14 use various dye stains to help make that latent print more
15 visible. And generally, we'll photograph those latent prints
16 that we recover in the laboratory.

17 Q Are -- Mr. Johnson, are some surfaces easier to get
18 prints from than others?

19 A Definitely.

20 Q Can you describe that for our jurors?

21 A So, an ideal surface would be something that's
22 smooth, large enough to hold a print, and clean. So, like
23 clean, smooth glass is going to be your ideal surface to
24 recover prints from.

25 Different factors can contribute to whether or not

1 you leave a latent print on a surface. If something is small,
2 say like a pen or a paperclip, and you touch that, you might
3 not leave enough ridges or information there to be able to do
4 a comparison on. If the surface is textured or dirty, that's
5 going to interfere with that residue that you leave behind and
6 make it more difficult to recover latent prints from.

7 Q Could also the condition of someone's skin make it
8 easier or more difficult to recover a latent print? For
9 example, if I had a bottle of lotion, lotioned up my hands and
10 put them here, pressed them down, versus me just doing this,
11 would one be more suitable to recover a print?

12 A Definitely. If -- just like with a stamp. So, if
13 you take a stamp and try and leave an impression with a stamp,
14 if you don't put any ink on it, you're not going to leave
15 behind an impression of the stamp. It's the same thing with
16 fingerprints. If you don't have any residue on your hand, and
17 you leave behind -- you'll have nothing to leave behind, so
18 you won't leave behind a latent print.

19 If you do have residue on your hands, you can leave
20 behind a nice latent print. Of course then, on the flip side,
21 and if you have too much residue on your hands, then it's just
22 -- it just leaves behind a smear, and then we can't work with
23 that either.

24 Q And can fingerprints be destroyed or removed from an
25 object?

1 A Definitely. So, latent print residue is mostly
2 water. There's a few other things in there. There's some oil
3 and some different components to it, but it's definitely very
4 fragile and can evaporate and break down over time.

5 So, definitely depending on how that item was
6 handled, the environmental factors, was it out in the rain or
7 out in the sun definitely contributes to whether or not a
8 latent print sticks around on an item. Also, was that
9 objected cleaned at any point in time? Because if you clean
10 and rub off that residue, you're not going to have latent
11 prints on there.

12 Q Could also be a fact whether or not something -- a
13 latent print can be lifted and be suitable for comparison, if
14 you will, for example if that object was touched by a number
15 of different people?

16 A Yes. If you leave behind a latent print, and then
17 somebody comes behind you and touches over that, and then
18 somebody comes behind that person and touches over that, and
19 you end up with lots of overlay and lots of different pieces
20 and parts, we're not necessarily going to be able to tell
21 which part of which latent print goes together, so generally
22 those will not be of value for comparison.

23 Q So, as well as -- and I think you started to
24 describe this -- if something's out in the sun or the rain --
25 so things like heat can destroy a print, or at least have an

1 effect on a latent print?

2 A Yes, it can.

3 Q Let me ask you and turn your attention specifically
4 to this case. Were you requested to process latent prints
5 that were impounded under event number 131105-0479?

6 A Yes. I was asked to examine a pair of blue latex
7 gloves and try and find latent prints on the gloves, as well
8 as compare lift cards that had been submitted to the
9 laboratory.

10 Q Okay, and I want to start with just the blue latex
11 gloves. The blue latex gloves that were impounded under this
12 particular event number, those were -- you got actually the
13 physical gloves before you -- in order to see if you could
14 develop latent prints that were suitable for analysis, is that
15 correct?

16 A That's correct.

17 Q And describe the process that you took with regard
18 to these blue latex gloves impounded under the event number
19 that I listed.

20 A First, I received the latex gloves from the evidence
21 vault. I then took an inventory of the contents of the
22 package. Upon evaluating the evidence, it's a nonporous
23 object, so I processed it using super glue. I wasn't able to
24 see any ridge detail with the super glue processing, so I then
25 went and used a dye stain to try and enhance any prints that

1 might be there, but I was not able to develop any latent
2 prints on the gloves.

3 Q And so it's clear to the members of our jury, do you
4 do this with just your eyes, or are you using other
5 techniques? Do you use a microscope? What types of things do
6 you use?

7 A We'll typically use either magnifiers -- at this
8 recovery point, typically, it's with our own eyes. We might
9 use a magnifier to try and get a better look at a print.
10 We'll also use a laser to try and see that dye stain to see --
11 because it will actually cause the super glue to glow, so
12 we'll use the laser to try and make that glow and see if we
13 can find them. But at this point, no, we're just -- we're
14 typically using our eyes and our -- and --

15 Q For the starting point?

16 A Yes.

17 Q Absolutely. And Mr. Johnson, with regard to those
18 blue latex gloves, did you come to a conclusion with regard to
19 being able to determine if there were latent prints on those
20 gloves that you could identify?

21 A I did not recover any latent prints from those
22 gloves.

23 Q Okay. You also indicated that a number of lift
24 cards were submitted, or it was requested of you to do an
25 analysis with regard to a number of lift cards in this case,

1 do you remember that?

2 A Yes, I did.

3 Q And did that total actually 26 lift cards?

4 A If I could refer to my report?

5 Q Absolutely. Do you have it before you, sir?

6 A I do.

7 Q Okay.

8 A Yes, there were 26 lift cards in total.

9 Q Okay. And those lift cards were impounded into
10 evidence under various crime scene analysts, including Mike
11 Cromwell, as well as Erin Taylor, with regard to a vehicle, is
12 that right?

13 A Yes, I believe so.

14 Q Okay. I want to draw your attention to -- and I'm
15 not going to walk through all of these, but there were 26
16 cards. Did you do an analysis on all of the lifts that were
17 submitted to you?

18 A Yes, I did.

19 Q Okay. And is it fair to say that some of them, like
20 the gloves, did not have -- it wasn't suitable to have latent
21 prints recovered?

22 A Yes. Some of them did not have any latent prints
23 that I could compare on them.

24 Q Okay. And some of them had some identifications
25 that you were able to make, is that right?

1 A Yes.

2 Q Okay. So, I want to direct your attention to the
3 first card that was lifted from the exterior side surface of
4 the front driver door. Were you -- did you do an analysis
5 with regard to that first card?

6 A Yes, I did.

7 Q And can you describe -- sorry.

8 A That's all right.

9 Q I jumped in front of you a little bit I think. Can
10 you describe the process for the members of our jury, please?

11 A Yes. So, I'll examine the lift card. I'll see if
12 there are any latent prints on the lift card. Sometimes there
13 can be none, sometimes there can be one, or two, or three on
14 there. And then, any latent prints on the card that are of
15 value for comparison, I'll mark those using different markings
16 that are pretty standard. And then I will start off with a
17 visual exam, trying to find information in the latent prints,
18 data in there that I can use to compare to known prints.

19 Q And in this case, did you have known prints for the
20 person of the name of Matthew Washington that were submitted
21 to you?

22 A Yes, I did.

23 Q And is that one of the persons that you did a
24 comparison to with regard to these 26 lift cards?

25 A Yes, it was.

1 Q So, with regard to the first card, were you able to
2 make any types of identification with regard to that first
3 card?

4 A Yes. There was one latent print on that first card,
5 and I identified that latent print to the left middle finger
6 of Matthew Washington.

7 Q And I want to move to, if you have your report, Mr.
8 Johnson, card 8, designated as Q8, which was a lift card from
9 the exterior side surface of the rear driver side door window.
10 Were you able to do an analysis with regard to that latent
11 print?

12 A Yes, I was.

13 Q And did you have a known print again for Matthew
14 Washington?

15 A Yes, I did.

16 Q And were you able to make an identification?

17 A Yes.

18 Q Can -- yeah.

19 A There was one latent print on that card, and that
20 was identified to the left palm of Matthew Washington.

21 Q I want to direct your attention to 17 -- lift card
22 17, Q17, which was a lift card from the exterior rear window
23 of the trunk door. Again, did you do an analysis with regard
24 to that latent print?

25 A Yes, I did.

1 Q And did you have occasion to do the analysis to the
2 known print of Matthew Washington?

3 A Yes, I did.

4 Q And what if any conclusions were you able to draw
5 with that particular card?

6 A There was one latent print on that card as well, and
7 I identified that to the right palm of Matthew Washington.

8 Q And so our jurors -- we kind of specifically talked
9 about prints. When I refer to prints, does that include your
10 palms?

11 A Yes. You have fingerprints on the tips of your
12 fingers, on the middle part of your fingers, your palms. Even
13 your feet have friction ridge detail that's all useable to
14 identify someone with.

15 Q And there were a number of lift cards throughout
16 your analysis.

17 MS. SCHIFALACQUA: Did some -- and for purposes of
18 the jury, if we could turn to, counsel, Q6.

19 BY MS. SCHIFALACQUA:

20 Q Did you -- that was a lift card, for example, from
21 the exterior side surface of the rear driver side door window.
22 What happened with that analysis?

23 A So, with that one, there were no suitable latent
24 prints on that card. So, by that, there was just -- there may
25 have been pieces and parts, and little small fragments of

1 latent prints, but there was nothing on there that I could
2 reach a reliable conclusion with.

3 Q And let's talk about, Mr. Johnson, Q2, for another
4 example. That was one lift card from the exterior surface of
5 the front driver side door. And in this particular latent,
6 were you actually able to do an exclusion of Matthew
7 Washington?

8 A Yes.

9 Q Describe that for the members of the jury.

10 A So, if as part of the comparison I'm not able to
11 find any similarities between a latent print and a set of
12 known prints, and I'm sure that I have all of the known prints
13 that I need, I can actually reach the conclusion of exclusion,
14 which means that that latent print was not made by that
15 individual.

16 Q So, there were a number of prints that -- throughout
17 the 26 that you had before you. Some had exclusions. The
18 three that we talked about were the identifications you were
19 able to make with regard to Matthew Washington's known prints,
20 is that fair to say?

21 A Yes, it is.

22 Q I have a question for you about -- going back to
23 some difficult surfaces for latent prints. A bullet that's
24 cycled through a firearm, in your opinion, is that a surface
25 or an item that is conducive to be able to recover latent

1 prints?

2 A Are you talking about the bullet, or the cartridge
3 case that --

4 Q A bullet that is expelled and cycled through, shot,
5 if you will, from a firearm.

6 A The bullet itself, I would classify that as a very
7 porous surface to recover latent prints from for a number of
8 factors, number one being that the actual bullet part -- the
9 actual projectile, not very much of that is sticking out or
10 exposed. A lot of it is actually covered up by the cartridge
11 case, so they would have to leave a latent print on that small
12 surface.

13 Secondly, it's -- generally, it's metal. Sometimes
14 it's the brass, and that doesn't tend to pick up latent prints
15 very well. In addition to that, it's -- when it's cycled
16 through the gun, there's a great deal of heat, and pressure,
17 and movement, that even if the latent print manages to survive
18 through all of that, then the bullet passes through something
19 where the residue, again, might be wiped off or damaged.

20 Q And then let's talk about -- when you referred to
21 the combustion or heat from a firearm, the cartridge cases as
22 well, are those conducive to leave latent prints after being
23 cycled through a firearm?

24 A No, they are not very conducive. We actually did an
25 in-house study looking at our recovery rate from ammunition in

1 general, and the recovery rate was very, very low, like less
2 than .1 percent, so we actually discontinued the processing of
3 ammunition entirely. And that's not just ammunition that's
4 been fired, but also unfired ammunition.

5 I think the one piece of ammunition we were actually
6 able to recover latent prints from was an unfired shotgun
7 shell. And if you think of a shotgun shell versus say a .22,
8 they're much different in size. Much more likely to leave a
9 latent print on something the size of a shotgun shell than say
10 something the size of a .22 cartridge.

11 Q So, as the crime lab exists in forensic analysis for
12 latent prints, we don't even process, you know, either full
13 cartridges or expended cartridges, cartridge casings because
14 the rate of getting actually any evidence whatsoever is so
15 small that we don't do it anymore?

16 A Correct.

17 Q Okay.

18 A We will do it upon special request by either the
19 DA's office or an investigator, but as a normal course, just
20 because the recovery rate is so small, we don't do it.

21 MS. SCHIFALACQUA: Court's indulgence.

22 THE COURT: Um-hum.

23 MS. SCHIFALACQUA: I'd pass the witness, Judge.

24 THE COURT: Cross-examination?

25 MR. OTTO: Just a few, Your Honor.

CROSS-EXAMINATION

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BY MR. OTTO:

Q Good afternoon, Mr. Johnson. My name is David Otto. I represent Matthew Washington in this case. Just to review a bit, you found no prints on the blue latex gloves found in the car, is that correct?

A Correct, I did not find any identifiable latent prints on the gloves.

Q You did find Mr. Washington's print on the driver side door?

A Yes, sir.

Q And on the rear driver's door window, you found his palm print, is that correct?

A That is correct.

Q On the trunk door, you found Mr. Washington's right palm print, is that correct?

A Yes.

Q And it didn't indicate any wiping or attempt to clean up the car in that way?

A I wouldn't be able to say.

Q Well, if he had wiped down the car, would the prints had been there --

A It's --

Q -- with a cloth or a paper towel?

A It's possible. I did recover prints from that car,

1 so that particular -- the particular prints that I did
2 identify and did compare were not removed from the car.

3 Q Did you see any evidence in the collection of these
4 -- of the print cards, or -- that -- are you familiar with how
5 the prints were collected off the car? How they were --

6 A No, I just received the latent prints. I was not
7 present at the collection of the latent prints, I only
8 received the lift cards in a package.

9 Q Um-hum. Did you receive any lift cards from the
10 inside of the car?

11 A If I could refer to my report?

12 Q Would that refresh your recollection?

13 A It would.

14 Q Please read the report, and when you're done
15 reading, look up at me and we'll answer the question.

16 A Yes, I did receive several lift cards from the
17 inside of the car.

18 Q And did those prints come back matching Matthew
19 Washington?

20 A No, they did not.

21 Q Did they come back matching any other individual?

22 A Again, let me refer to the report. No. One of the
23 lift cards from the interior rear passenger window I believe
24 was a tip of the finger. So, if you -- it's from the top
25 portion, the tip of the finger. That's not normally contained

1 with a normal set of exemplars that we get, so my conclusion
2 for that was incomplete. I can't tell one way or the other if
3 the individuals that I did compare, it belonged to, or -- and
4 I can't exclude them either.

5 Q You got no lift cards from, as you've described, any
6 shell casings? You don't --

7 A No.

8 Q -- collect them anymore?

9 A No, I did not receive any lift cards from shell
10 casings.

11 MR. OTTO: Thank you very much. I have nothing
12 further.

13 THE COURT: Redirect?

14 MS. SCHIFALACQUA: Nothing from the State, Judge.
15 Thank you.

16 THE COURT: Thank you. You may step down. May this
17 witness be excused?

18 MS. SCHIFALACQUA: Yes, Your Honor.

19 MR. OTTO: Yes, Your Honor.

20 THE COURT: Thank you, sir. You're excused. State
21 may call your next witness.

22 MS. PIEPER: State calls Beata Vida.

23 THE MARSHAL: Go ahead and just step up on the
24 stand. Remain standing. Raise your right hand. Face our
25 clerk, please.

1 BEATA VIDA, STATE'S WITNESS, SWORN

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

4 THE WITNESS: Yes. My name is Beata Vida, and it's
5 spelled B-e-a-t-a, V-i-d-a.

6 THE CLERK: Thank you.

7 MS. PIEPER: May I proceed?

8 THE COURT: You may proceed.

9 DIRECT EXAMINATION

10 BY MS. PIEPER:

11 Q How are you employed?

12 A I am employed by the Las Vegas Metropolitan Police
13 Department as a Forensic Scientist II in their biology/DNA
14 section.

15 Q How long have you worked for Metro?

16 A I started at Metro in June of 2005.

17 Q And what are your primary duties and
18 responsibilities?

19 A As an analyst, I examine various items of evidence
20 that comes into the laboratory for biological materials. Most
21 often, I look for blood, semen and saliva, and if I identify a
22 stain as such, I perform DNA analysis on it to either include
23 or exclude specific individuals.

24 Q Can you tell the members of the jury your education,
25 training, and experience in order to be or qualify as a crime

1 -- as a DNA analyst?

2 A Yes. I have a bachelor's of arts degree in biology
3 and a minor in chemistry from Minnesota State University,
4 Moorhead. And later on, I also received my associate's in
5 science degree in crime scene technology from Brevard
6 Community College.

7 In addition to my formal education, I also have on
8 the job training, most of which took place at my previous
9 employer, which was the Florida Department of Law Enforcement
10 in Orlando, where I also worked as a DNA analyst for over
11 three years.

12 When I started there, I went through a documented
13 and formal training program that lasted a little over a year.
14 During that time, I had to do a lot of background reading on
15 biology, serology. I also did practical tests, and I had to
16 partake in a number of oral and written exams.

17 In addition to that, when I was finished, I also
18 worked with a supervised -- supervised casework with another
19 analyst that was more experienced, and that was about four
20 months. When I started at Metro, again, I went through a
21 similar training program, but it was a little shorter.

22 Q Is Metro's lab accredited, and by whom?

23 A Yes. Metro has been accredited since 2003, and it's
24 accredited by ASCLD/LAB, which is American Society of Crime
25 Laboratory Directors/Lab Accreditation Board.

1 Q Is your work reviewed by anyone else before leaving
2 the lab?

3 A Yes. After I'm finished with my work and the report
4 is written up, it's reviewed technically and administratively
5 by two additional qualified analysts. One person looks at the
6 content and makes sure that my interpretations and results are
7 correct, and the other analyst goes through the file and makes
8 sure that it's spelled correct, and that it's complete, and I
9 didn't make any administrative mistakes.

10 Q Do you have any -- do you have ongoing training and
11 do you continue your education?

12 A Yes. We are actually required to have a minimum of
13 eight hours of training every year outside the laboratory, and
14 that's mostly in the form of conferences or meetings that we
15 attend. And we are also required to read a lot of articles
16 that are related to our field, journal and scientific
17 articles.

18 Q What is DNA?

19 A DNA stands for deoxyribonucleic acid, and it's the
20 blueprint or set of instructions that codes for everything in
21 the body. DNA is found in cells, and its purpose is to pass
22 down genetic information from one generation to the next.
23 It's passed down from both mom and dad. Half of it comes from
24 mom, half of it from dad. It's determined in conception and
25 stays the same through a person's lifetime.

1 And whatever kind of DNA you have in your body, same
2 throughout. So, whatever type of DNA you have in your hair,
3 it's the same in your blood, in saliva, in your skin cells.
4 And everybody has their own unique DNA, except identical
5 twins.

6 Q Identical twins have the same DNA?

7 A Yes.

8 Q What is a DNA profile?

9 A A DNA profile -- what we consider a DNA profile is
10 basically the genetic makeup of an individual at 15 different
11 locations that we look at on the DNA molecule, and it's
12 basically a string of numbers.

13 Q What are standards, standard buccal swabs?

14 A Yes. So, we can get usually two types of evidence,
15 questioned type of evidence and known types of evidence.
16 Questions are things that we don't know where they originated,
17 and known's are from actual people. So, when I get a DNA
18 standard, it's usually a buccal swab, which means a swab from
19 the interior cheek, and there is a person's name attached to
20 it. So, we use that to compare it to unknown stains.

21 Q Would that be known versus unknown --

22 A Yes.

23 Q -- standards? Okay. What is the difference between
24 a single source and a mixed sample?

25 A A single source sample means it comes from one

1 individual, and a mixture is a DNA profile from multiple
2 individuals. So, a single blood drop on an item would
3 probably contain a DNA profile from a single person, but if we
4 swab anything that is touched by multiple people, I would
5 expect to get a mixture DNA profile.

6 Q Can you explain major and minor profiles?

7 A Yes. In some cases, in cases of mixtures, some
8 people contribute more DNA to a sample than other people. And
9 in these cases, I'm able to separate out one person from the
10 other person, so a major DNA profile is from the person that
11 contributed more DNA. So, just because a sample contains a
12 mixture, it doesn't mean that it's useless information.
13 Sometimes just by looking at the results, I'm able to separate
14 two people out, and sometimes I'm not.

15 Q Could you briefly explain to the jury how DNA
16 examinations are performed?

17 A Yes. So, basically, there's two parts to it. The
18 first part is to identify a stain. As I mentioned before,
19 when an item of evidence comes in, and depending on the type
20 of case, I would look for blood, semen and saliva, most
21 commonly. We also look for skin cells on some items to
22 determine if a person handled a specific item, or if it's
23 clothing, who wore it. And then the second part is the actual
24 DNA analysis part.

25 Q In regard to this case, you actually examined some

1 blue latex gloves, is that correct?

2 A Yes.

3 Q And when you got the latex gloves, were there swabs
4 that had already been submitted, or did you submit the swab --

5 A No.

6 Q -- or did you do the swabs?

7 A The actual gloves were submitted to me, and I
8 swabbed the gloves.

9 MS. PIEPER: Your Honor, may I approach the witness?

10 THE COURT: You may.

11 BY MS. PIEPER:

12 Q Showing you what's been marked as State's proposed
13 Exhibits number 190 to 192, can you look at those and tell me
14 if you recognize them?

15 A Yes, I do.

16 Q Okay, and where do you recognize them from?

17 A From the case. It actually has the event number,
18 the date I examined it, and my initials.

19 MS. PIEPER: Your Honor, State moves for the
20 admission of 190 to 192.

21 MR. OTTO: No objection.

22 THE COURT: 190 to 192 will be admitted.

23 (State's Exhibits 190, 191, and 192 are admitted)

24 BY MS. PIEPER:

25 Q Would using these help to assist in explaining to

1 the jury what you did?

2 A Yes.

3 Q Okay. Showing you what's been admitted as State's
4 190. And these are the latex gloves, is that correct?

5 A Yes.

6 Q So, when you get a request either from the detective
7 on the case or the district attorney's office, what do you
8 physically do?

9 A Again, it depends on the case. They usually -- I
10 don't have any prior knowledge of the case or what they're
11 looking for, so they have to give me a little background
12 information so I know what they want me to look for. So, in
13 this case, this was submitted, and so I knew they wanted to
14 know who handled the gloves. So, what I did is I opened the
15 package and I swabbed each one inside and outside.

16 Q Okay. Just -- let's back up for a second. You
17 physically don't go out to any crime scenes, is that correct?

18 A Correct.

19 Q The crime scene analysts do everything, and you stay
20 in the lab?

21 A Yes.

22 Q And when, let's see, the district attorney's office
23 or the detectives want pieces of evidence compared, you
24 actually get known samples, is that correct?

25 A In some cases, yes.

1 Q And in this case, did you get known samples of
2 several individuals?

3 A Yes, I did.

4 Q And who were those known samples?

5 A May I look at my report?

6 Q Yes.

7 A So, in this case, I actually got a number of buccal
8 swabs or known standards. And would you just like me to list
9 the names?

10 Q Yes.

11 A So, I received buccal swabs from Nathan Rawls,
12 Marque Hill, Ashely Scott, LaRoy Thomas, Matthew Washington,
13 and Martell Moten.

14 Q And those essentially are your known standards, is
15 that correct?

16 A Yes.

17 Q And earlier, you had testified that you get known
18 standards, and then you compare them to other pieces of
19 evidence, is that correct?

20 A Yes.

21 Q So, in regard to this case, you actually did the
22 swabbing of the gloves, is that correct?

23 A Correct.

24 Q Although some of the pieces of evidence that you've
25 compared are things that had already been swabbed by other

1 crime scene analysts on the scene?

2 A Yes.

3 Q Okay. In regard to the swabbing of the gloves, you
4 said that you actually did the swabbing inside and the
5 outside, is that correct?

6 A Yes.

7 Q In regard to these pieces of evidence, do you take
8 the gloves separately, or do you do them together?

9 A I generally do them separately.

10 Q Okay. And showing you what's been admitted as
11 State's 192. And I'm going to try and zoom in just a little.

12 (Pause in the proceedings)

13 BY MS. PIEPER:

14 Q When you separate out these gloves, do you actually
15 -- the item -- well, let me back up. The item number is
16 something that's actually been marked by the crime scene
17 analyst, is that correct?

18 A No. The item number is actually determined by the
19 laboratory when it comes into our evidence system.

20 Q Okay. Okay. So, you get the evidence number, which
21 -- or the item number, which is 56. Do you then sort of break
22 down the numbers in order to do your analysis?

23 A Yes.

24 Q And can you explain to the members of the jury how
25 you do that?

1 A So, this item came in as 56, I think both gloves
2 did. So, what I had to do is name one glove 56.1, and the
3 other glove 56.2. And then when I took the swabbings of the
4 inside and outside, I had to break it down further to 56.1.1,
5 and 56.1.2.

6 Q Okay. So, 56.1 is going to just be one of the
7 gloves?

8 A Yes.

9 Q Okay. 56 --

10 A .2.

11 Q -- .1.1 is going to let's say be like the inside
12 swabbing of the glove?

13 A Yes.

14 Q And then 56.1.2 is going to be the outside of the
15 swabbing of that same glove?

16 A Yes.

17 Q Okay. In regard to this case, you did that with
18 both gloves, is that correct?

19 A Yes.

20 Q Showing you what's been admitted as State's 191, do
21 you recognize that?

22 A Yes.

23 Q And can you see your numbers on here?

24 A Yes.

25 Q Okay, and what glove is this?

1 A This was the other glove, so 56.2.

2 Q Do you physically put on the gloves and try to
3 determine whether it's right or left?

4 A No, absolutely not.

5 Q Okay. Do you -- if the glove comes to you in this
6 condition, do you try to determine which is the right way or
7 the wrong way that the glove should be worn?

8 A No. Sometimes, in some cases, it's pretty obvious.
9 In this case, it was all crumpled up and it had some kind of a
10 dark staining on it, so I wasn't able to make any
11 determinations as to left or right.

12 Q And in regard to whether it's inside or outside, or
13 when you say it's the inside or the outside, is it something
14 that, as the glove comes to you like that, you just swab
15 whatever you deem to be the outside, and then you sort of use
16 tweezers maybe, and then go inside with a swab?

17 A Yes.

18 Q Okay. In regard to these gloves, on 56.1.1, which
19 is the inside swabbing, were you able to get a result?

20 A Yes.

21 Q Okay, and what was the result?

22 A For the inside swabbing, I got what we call a
23 complex mixture profile.

24 Q And can you sort of explain what you mean by a
25 complex mixture profile?

1 A Yes. So, a mixture profile, as I've described
2 before, is a DNA profile for multiple people. A complex one
3 is one of those where I can't make any other conclusions
4 because there is so much information that I can tell that
5 there's a lot of people in there. It might be two, or three,
6 or four people's DNA on that item, and so we can't make any
7 other determinations on there other than it's complex, and we
8 make no conclusions on it.

9 Q Okay. In regard to 56.1.2, that was the outside
10 swabbing. Were you able to reach a result?

11 A Yes.

12 Q And what was that?

13 A I obtained an inconclusive mixture profile.

14 Q Okay.

15 A So --

16 Q What's the difference between inconclusive versus
17 mixture -- or complex? Sorry.

18 A In this case, inconclusive means, again, it was
19 inconclusive, I couldn't make any determinations. However,
20 the reason wasn't because there were too many contributors, it
21 was because I didn't get enough information from the actual
22 swabbing.

23 Q When you say enough information, do you mean enough
24 cells or DNA information is not left on that item?

25 A Yes.

1 Q And why might an item not have enough information on
2 it?

3 A There is a lot of reasons why we don't get DNA
4 profiles, or get limited amount of information from an item.
5 One reason could be DNA degrades if it's not stored properly.
6 If it's exposed to sunlight, heat, or humidity, it will break
7 down the DNA and make it hard for us to actually get a useful
8 profile.

9 If an item is wiped off, there probably won't be DNA
10 on there. If a person uses gloves to touch something -- or
11 gloves are used to touch the item. If the item is wiped. I
12 mean, there is a lot of reasons. It also depends on the type
13 of surface we're swabbing. Rough surfaces are easier to get
14 DNA off of than smooth ones.

15 Q You talked about a complex mixture. Let's say we
16 have the handles to the door of the courtroom, and they swab
17 them for DNA. Would you expect to get a match to a known
18 sample?

19 A Probably not. I would expect it to be a complex
20 mixture because so many people have handled it.

21 Q In regard to the second glove that you looked at,
22 the one that's on the screen as we see it now, 56.2.1, the
23 inside swabbing, were you able to get a result in regard to
24 that?

25 A From the inside, again, I got a complex mixture

1 profile, so basically, it was inconclusive. But from the
2 outside, I did get a mixture profile that I was able to
3 resolve out, so find a major and minor contributor to it.

4 Q Okay. And in regard to the major and minor
5 contributors, were you able to determine who was the major
6 contributor?

7 A Yes.

8 Q And who was that?

9 A The major DNA profile was consistent with Martell
10 Moten. And each time we have a match to an unknown and a
11 known item, we perform statistical calculations to show how
12 common or rare that DNA profile is, and I did that in this
13 case.

14 Q And what is that number?

15 A The estimated frequency of the major DNA profile
16 among unrelated individuals in the general population is one
17 in 700 billion, so we're assuming identity.

18 Q Okay. And that's based off of the world's
19 population, and then you times it by several hundred, is that
20 correct?

21 A By a hundred -- yes.

22 Q Okay. In regard to the right sock in this case, you
23 did test a right sock, is that correct?

24 A Yes.

25 Q And in regard to when you test items -- and this

1 would be item 62. Did you also sort of, like how you did with
2 this, have different types of swabbing, where you have 62.1.1?
3 That's a stain near the ankle area. Did you sort of cut parts
4 of the sock and then designate them with your own numbers?

5 A Yes.

6 Q In regard to 62.1.1, did -- the stain near the ankle
7 area, did you reach a result in regard to that?

8 A Yes. So, in cases that actually contain red-brown
9 staining, we test to see if it may be blood. And in this
10 case, the chemical test came up as positive, so we say that
11 it's positive presumptive for blood. And then I took a
12 cutting of that stain, and my results were -- the stain was
13 consistent with LaRoy Thomas.

14 Q Okay.

15 A And again, the statistics were one in 700 billion,
16 so identity was assumed.

17 Q Okay. In regard to that same right sock, did you
18 take a cutting from another area?

19 A Yes.

20 Q And that would be 62.1.2, is that correct?

21 A Yes.

22 Q And where was that stain near?

23 A Where was the stain?

24 Q Yeah.

25 A It was near the toe on the bottom. And again, my

1 results showed that it was consistent with LaRoy Thomas with
2 the same statistics, one in 700 billion.

3 Q And in regard to a left sock, you also did a left
4 sock, is that correct?

5 A Yes.

6 Q You -- that's still designated as item 62, is that
7 correct?

8 A The left sock? Yes.

9 Q And you though designated it with your own numbers,
10 and had it designated as 62.2.1, is that correct?

11 A Yes.

12 Q And where was that stain near?

13 A That was -- there was a hole in the sock, and so it
14 was above the hole by the ankle.

15 Q And did you do DNA analysis in regard to that?

16 A Yes.

17 Q And what was the result?

18 A Again, it was consistent with LaRoy Thomas, and the
19 estimated frequency was one in 700 billion.

20 Q Okay, so identity is assumed?

21 A Yes.

22 Q In regard to item number 38, which is a red
23 sweatshirt, did you do the swabbing, or was the swabbing given
24 to you by the crime scene analyst?

25 A I did the swabbing.

1 Q Okay. And in regard to that, did you do DNA
2 analysis?

3 A Yes. I looked for red-brown stains on this item. I
4 found some, but when I tested it, it came back as negative for
5 the possible presence of blood. So, in that case, I was
6 looking for the wear of the item, so I swabbed the cuffs, the
7 neck area, anywhere where it might be in close contact with
8 the body.

9 Q And did you obtain a result in regard to that?

10 A Yes.

11 Q And what was that result?

12 A It was a complex mixture profile. So, again, I
13 couldn't make conclusions because there were too many
14 contributors.

15 Q Okay. In regard to some hats that were found in the
16 vehicle, item number 50, did you do some DNA -- or did you --
17 did you do the swabbing, or did somebody else do the swabbing?

18 A I did not do the swabbing. Actually, all the hats
19 arrived as swabs.

20 Q Okay. In regard to that hat, was -- did you do some
21 DNA testing in regard to that?

22 A Which one? There were a number of them.

23 Q I'm sorry, item number 50.

24 A Yes.

25 Q And that was the brim of the hat, correct?

1 A Yes.

2 Q And did you reach a result as to that?

3 A Yes. I did obtain a mixture again, but with at
4 least three individuals in there. I could tell there was a
5 male, and I was able to pull out a major DNA profile and it
6 belonged to Martell Moten.

7 Q Okay. Moving on to items 39 and 40. Those were the
8 9 millimeter Smith and Wesson guns -- Smith and Wesson guns,
9 is that correct?

10 A Yes.

11 Q And the swabbings had already been done, is that
12 correct?

13 A Correct.

14 Q In regard to item 39, the handgun, did you do some
15 DNA analysis?

16 A Yes.

17 Q And were you able to reach a result?

18 A Yes.

19 Q And what was that?

20 A It was an inconclusive mixture profile.

21 Q Okay. In regard to item number 30, that was the
22 swabbing of the magazine, is that correct?

23 A 40?

24 Q Sorry, item number 40.

25 A Yes, that was the magazine.

1 Q Okay. And did you reach a result in regard to that?

2 A Yes.

3 Q And what was that?

4 A It was an inconclusive profile. So, it's just like
5 a mixture, except it looked like from a single source, or a
6 single person, but it still didn't have enough information to
7 make any determinations.

8 Q In regard to guns, are they conducive to getting
9 DNA, a firearm?

10 A Yes. It's -- it's not -- it's usually easy to get
11 DNA from a gun. However, the problem is most guns are handled
12 by a number of people. So, in a lot of cases, we either get a
13 complex mixture where too many people have handled it and I
14 can't tell anything, or there is not enough information on it.
15 So, it can go both ways.

16 Q In regard to item number 41, that's the .40 caliber
17 Glock, is that correct?

18 A Yes.

19 Q And that swab was already done prior to you getting
20 it, correct?

21 A Yes.

22 Q Did you do some DNA analysis?

23 A Yes.

24 Q And did you get a result?

25 A Yes.

1 Q And what was the result?

2 A It was a complex mixture profile.

3 Q Okay. In regard to item number 42, that's a swab of
4 the magazine from the .40 caliber, is that correct?

5 A Yes.

6 Q And did you do some DNA analysis?

7 A Yes.

8 Q And what was the result?

9 A The results were inconclusive mixture profile.

10 Q Showing you what's been admitted as State's 189.
11 This is something that you actually prepared, is that correct?

12 A Yes.

13 Q Okay. I probably shouldn't do this, but I think
14 it's easier. This is item 41 and this is item 42, which is
15 what we just talked about, is that correct?

16 A I can't really --

17 Q Oh.

18 A -- see it. Sorry.

19 Q Here, I'll walk it up to you.

20 A Yes.

21 Q Item 41 is on the left, and that's the Glock, and
22 item 42 is on the right, the two swabs. Is that correct?

23 A Yes.

24 Q Okay. Now, is there something significant --

25 MS. SCHIFALACQUA: Ms. Pieper.

1 THE COURT: Excuse me. Counsel, are you on Exhibit
2 189?

3 MS. PIEPER: Yes.

4 THE COURT: Okay.

5 THE CLERK: That's not admitted.

6 THE COURT: We don't show that as being admitted.

7 THE CLERK: You moved for 188.

8 MS. PIEPER: I can go back up and ask her if she --

9 MR. OTTO: I would authenticate it, yeah.

10 THE COURT: Okay.

11 THE CLERK: And Ms. Pieper, when you did 190, was it
12 190, 191, 192?

13 MS. PIEPER: It was --

14 MS. SCHIFALACQUA: Correct, 190 through 192.

15 THE CLERK: It was through 192?

16 MS. SCHIFALACQUA: Correct.

17 THE COURT: That's what I have, too.

18 BY MS. PIEPER:

19 Q Showing you what's been previously marked as State's
20 189, do you recognize that?

21 A Yes.

22 Q And how do you recognize that?

23 A Because I put it together and it has my initials on
24 the top.

25 Q Okay.

1 MS. PIEPER: State moves for the admission of 189.

2 MR. OTTO: No objection.

3 THE COURT: 189 will be admitted.

4 (State's Exhibit 189 is admitted)

5 MS. PIEPER: Okay. Let's go back, now that we have
6 properly admitted that into evidence.

7 BY MS. PIEPER:

8 Q In regard to -- you had talked about in regard to --
9 item 41 was the swab from the .40 caliber, the handgun. It
10 was a complex mixture?

11 A Yes.

12 Q And earlier, you had explained to the jury that a
13 complex mixture is sort of many DNA profiles?

14 A Yes.

15 Q You also just testified that in regard to item 42,
16 that was the swab from the magazine area?

17 A Yes.

18 Q And you had also explained that the result of that
19 was inconclusive?

20 A Yes.

21 Q In using this, is this showing the difference
22 between complex and inconclusive?

23 A Yes. So basically, once the DNA analysis is done,
24 these are the string of numbers of the DNA profile I was
25 explaining. The colored boxes on the side are the 15

1 locations on the molecule that we look at. And then, as you
2 can see, amelogenin, that tells me the gender of the
3 individual. So, in the first one, I could tell there was a
4 male there because males are XY and females are XX.

5 So, let's see. And then, up here is the item
6 number, and then the swab of like what item it was. And as
7 you can see, there is a lot more information on item 41 than
8 42. All the stars means that there was some information, but
9 it was unusable according to our criteria. And "NR" means no
10 results, so I didn't even obtain any kind of DNA information
11 at those locations.

12 Q And in regard to item 42 that you testified that was
13 inconclusive, is there just no information hardly?

14 A Yes. And even if there was information, it was
15 below what we consider reliable, and so we don't even put it
16 on the charts. It's not suitable for comparison at that
17 point.

18 Q Okay. And is that because there just isn't enough
19 information on the swab itself?

20 A Yes.

21 Q Or could that also be there's not enough DNA
22 information left on the magazine of the gun in this case?

23 A I'm sorry, I don't see the difference.

24 Q Okay. When they swabbed the gun, you're not there.
25 You don't know if they swab back and forth, and up and down on

1 the entire magazine, is that correct?

2 A Right. That's correct.

3 Q So, it could be the swab, or it could be that
4 somebody literally did not get a magazine and rub it all over
5 their body so DNA would then be --

6 MR. OTTO: Objection, calls for speculation.

7 MS. PIEPER: Let me rephrase the question.

8 THE COURT: Sustained.

9 BY MS. PIEPER:

10 Q You do DNA analysis, correct?

11 A Yes.

12 Q So, let's say I get this pen and I rub it up and
13 down, and all over my body.

14 A Yes.

15 Q It then gets swabbed, and you then do an analysis of
16 my known profile, as well as the swab. Would you expect to
17 get my DNA off of the pen?

18 A Yes.

19 Q Okay. If let's say there's a magazine of a gun, and
20 somebody grabs the magazine and rubs it all over their body,
21 it is then used in a crime, and let's say it's then swabbed,
22 could you get DNA off of the magazine? Or would you expect to
23 find DNA off of the magazine off of the person that rubbed it
24 on their body?

25 A It depends. I didn't do the swabbing, so I don't

1 know what kind of swabbing they did. Usually, we know what to
2 swab for and what to do, so we do it really hard. So, whether
3 there was not enough DNA on the magazine or the swabbing
4 wasn't done enough, I can't answer that.

5 Q Okay. In regard to -- going back to your report,
6 item number 60, that was taken from the southeast bedroom, is
7 that correct?

8 A Yes.

9 Q And did you do DNA analysis in regard to that?

10 A Yes. So, when I pulled out the swab, I could tell
11 that there was red-brown staining on there, so I did the
12 chemical test I described earlier. And then I took a cutting
13 from it, and then took it on. And according to the test, it
14 was positive for the possible presence of blood.

15 Q And did you do an analysis in regard to that?

16 A Yes.

17 Q And what was the result?

18 A I obtained a full male profile.

19 Q And that was of whom?

20 A It was consistent with LaRoy Thomas, and the stats
21 were, again, one in 700 billion and identity was assumed.

22 Q Okay. In regard to item number 61, that is also a
23 swab from apartment number 18, is that correct?

24 A It was -- the description I got was carpet in the
25 northeast bedroom.

1 Q Okay. And did you do DNA analysis in regard to
2 that?

3 A Yes. Again, it had the red-brown staining. I
4 tested it for the possible presence of blood and it was
5 positive, and then I took it through DNA analysis. And in
6 this case, I obtained a possible mixture profile, which means
7 that it was mostly -- I was able to see a major profile, but
8 there was some minor indication of another contributor, but
9 the major matched Ashely Scott.

10 Q Okay. Do you do DNA testing on bullets?

11 A We no longer do that, no, unless it's a special
12 circumstance and it's the only evidence in the case.

13 Q Okay, and why is that?

14 A Because we haven't had a lot of luck on actually
15 getting DNA off of bullets because they are too -- the surface
16 area is too small, and there's just not enough places to leave
17 DNA. And also, once it's fired, the heat usually destroys the
18 DNA.

19 Q Okay, and what about on a cartridge case?

20 A No.

21 Q And is that the same reason?

22 A Yes. Unless there is blood, in which case, we
23 would.

24 Q If there is blood, then you would do it, but if
25 there is no blood, then you don't do bullets or cartridge

1 casings?

2 A Unless it's a special circumstance, yes.

3 MS. PIEPER: Okay, thank you. No further questions.

4 THE COURT: Cross-examination?

5 CROSS-EXAMINATION

6 BY MR. OTTO:

7 Q Ms. Pieper gave a hypothetical of rubbing a gun on
8 your body and so on. You are able to recover DNA from
9 firearms, is that correct?

10 A In some cases, yes. Not all of them.

11 Q And that doesn't generally come from people rubbing
12 them all over their body, is that correct?

13 A I would assume not.

14 Q It comes from people touching them with their hands,
15 is that correct?

16 A In most circumstances, I would assume that's
17 correct.

18 Q Did you find any DNA from Matthew Washington on
19 either of these handguns?

20 A I wasn't able to make any conclusions on any of the
21 firearms, so no.

22 Q You found no -- no identifiable DNA on either of
23 these handguns, is that correct?

24 A Correct.

25 Q Do you know if the inside of the car was swabbed for

1 DNA?

2 A There were some various swabs from the car that I
3 tested.

4 Q And did you find Matthew Washington's DNA anywhere
5 inside the car?

6 A No.

7 Q So, you didn't find any on a panel underneath the
8 steering column?

9 A Do you have an item number for that? I don't -- I
10 had quite a few swabs from the car.

11 Q I don't have an item number for you. If your report
12 shows a description of a panel under the steering column --

13 A A center console?

14 Q No.

15 MS. PIEPER: Judge, I think there was testimony and
16 I think Mr. Otto asked, and there was no swabbing done of that
17 area. So, I'm sure Ms. Vida is --

18 MR. OTTO: I'll accept that as the testimony then.

19 MS. PIEPER: -- probably not going to find it.

20 THE COURT: All right.

21 MR. OTTO: I have no further questions.

22 THE COURT: Okay. Redirect?

23 MS. PIEPER: No, Your Honor.

24 THE COURT: Thank you. You may step down. May this
25 witness be excused?

1 MS. PIEPER: She may.

2 THE WITNESS: Thank you.

3 THE COURT: All right. We are going to take a ten
4 -- you're excused ma'am, thank you.

5 THE WITNESS: Thank you.

6 THE COURT: We're going to take a ten-minute recess,
7 ladies and gentlemen. While you're on this recess, please
8 recall the Court's admonition not to talk or converse among
9 yourselves or with anyone else on any subject or person
10 connected with the trial. Do not form or express any opinion
11 on any subject connected with the trial until this case is
12 finally submitted to you.

13 Ten-minute recess.

14 THE MARSHAL: All rise, ladies and gentlemen,
15 please.

16 (Court recessed at 3:33 P.M. until 3:51 P.M.)

17 (Outside the presence of the jury)

18 THE COURT: Okay.

19 THE COURT RECORDER: Do you want to speak on the
20 record?

21 MS. SCHIFALACQUA: Yes.

22 THE COURT: I would like to.

23 THE COURT RECORDER: Now we are.

24 THE COURT: All right. I'm advised by the bailiff
25 that Juror number 12 that's in seat 12 -- is that Mr.

1 Eslinger?

2 MS. PIEPER: Yes.

3 MS. SCHIFALACQUA: Correct.

4 THE COURT: Is that the correct one?

5 MS. SCHIFALACQUA: Yes, it is. And Judge, prior
6 to --

7 THE COURT: Oh, you've already -- did you already --
8 you're already aware of this?

9 MS. SCHIFALACQUA: Right. What I was going to do is
10 make the record of, prior to -- I only know that it's Mr.
11 Eslinger, because David Johnson, the latent print expert, is
12 actually waiting outside. As he walked out, he signaled to
13 me. I went out there. He indicated that he thought he
14 recognized the juror in the red shirt. And I said, well, how
15 do you know him? He knew him via another friend.

16 So, he didn't know his name. He didn't have, for
17 example, his like cell phone. I kind of asked those follow up
18 questions. But he's been at social events whereby it seems
19 that Mr. Eslinger could have been at social events. So, he
20 knows the juror's friend.

21 I don't think there's going to be any issue, but I
22 did have Mr. Johnson wait so that if there were any questions
23 that we could -- needed to ask of him, we could. And then,
24 thereafter, it's -- the juror got the bailiff's attention, and
25 I figure we can come in and just see if there's anything

1 obviously that would be an issue with.

2 THE COURT: Well, was it the --

3 MS. SCHIFALACQUA: Right, we can canvass him.

4 THE COURT: -- juror who talked to you then?

5 MS. SCHIFALACQUA: No, no, no, the juror did not
6 talk to me.

7 THE COURT: No, no, I mean my bailiff.

8 THE MARSHAL: Oh, me, Your Honor?

9 THE COURT: Yeah.

10 THE MARSHAL: Actually, no. The juror actually --

11 THE CORRECTIONS OFFICER: He talked to me, Your
12 Honor.

13 THE MARSHAL: -- brought it up to the C.O.

14 THE COURT: Okay.

15 THE CORRECTIONS OFFICER: He knocked on the door,
16 and he said that he sort of recognized the guy.

17 THE COURT: Okay.

18 THE CORRECTIONS OFFICER: He said he didn't really
19 know him --

20 THE COURT: Yeah.

21 THE CORRECTIONS OFFICER: -- but sort of recognized
22 him. I said, well, they'll call you in.

23 THE COURT: Okay, thank you.

24 MS. SCHIFALACQUA: So, I don't know if you want
25 David Johnson to come in first, bless you, or do we just need

1 to do the jury, bless you -- the juror?

2 (Pause in the proceedings)

3 THE COURT: What's your pleasure, folks? Do you
4 want to call the witness back in, or is it enough to make a
5 record with the juror?

6 MR. OTTO: I think it's enough to make a record with
7 the juror, since he did mention it to the C.O.

8 MS. SCHIFALACQUA: Sure. I agree.

9 THE COURT: That's really what the question is --

10 MS. SCHIFALACQUA: Yes.

11 MR. OTTO: Yeah.

12 THE COURT: -- is what the juror --

13 MS. SCHIFALACQUA: Yeah.

14 THE COURT: All right.

15 MR. OTTO: And I suppose we'll just say, does that
16 affect his ability to render a fair verdict in the case, or?

17 THE COURT: Okay.

18 MS. PIEPER: Yes.

19 MS. SCHIFALACQUA: Correct.

20 THE COURT: We'll find out. Let's bring him in.

21 (In the presence of Juror No. 12)

22 THE COURT: Come in, Mr. Eslinger. Just have a
23 seat, if you would, in front of one of those mics there that's
24 on the railing. That's fine, thank you.

25 JUROR NO. 12: Do you want me to sit down?

1 THE COURT: That's fine, if you'd like. Yeah.

2 JUROR NO. 12: Okay.

3 THE COURT: Thank you for notifying the bailiff.
4 This sometimes happens where somebody recognizes a face. Do I
5 understand that you think you may know or may be acquainted
6 with the last witness that was here?

7 JUROR NO. 12: Not the last one, the one before.
8 David -- David Johnson.

9 THE COURT: I'm sorry, it was Mr. Johnson. Yeah.

10 MS. SCHIFALACQUA: Correct.

11 THE COURT: Okay. Do you -- so, do you know his
12 name? Did you know his name? Do you know him by name, or
13 just by face, or --

14 JUROR NO. 12: I knew the first name. The face was
15 familiar, but he has like a beard or something going on now.
16 I'm just familiar with his face and his name.

17 THE COURT: All right. Is it in a social basis, in
18 a business basis? Have you actually met him? I should ask
19 that first.

20 JUROR NO. 12: Yes, I have actually met him.

21 THE COURT: You have met him. Okay.

22 JUROR NO. 12: He is a friend of a friend.

23 THE COURT: Okay.

24 JUROR NO. 12: So, I kind of know him that way. I
25 don't hang out with him and --

1 THE COURT: Okay.

2 JUROR NO. 12: -- we don't do things together. I
3 just know -- I just know of him.

4 THE COURT: Okay. Do you know -- about how many
5 times would you say you've actually seen him and perhaps
6 talked with him?

7 JUROR NO. 12: And talked with him?

8 THE COURT: Uh-huh. Or have you ever actually
9 talked to him?

10 JUROR NO. 12: Yes, from -- yeah. Less than --

11 THE COURT: How many --

12 JUROR NO. 12: Less than --

13 THE COURT: How many times would you say?

14 JUROR NO. 12: Less than ten, maybe.

15 THE COURT: Less than ten. And how long -- over
16 what period, would you say?

17 JUROR NO. 12: The last eight or nine years, maybe.

18 THE COURT: Okay.

19 JUROR NO. 12: Eight years.

20 THE COURT: Okay. So, you think you may have met
21 him the first time eight years ago?

22 JUROR NO. 12: Maybe something like that, yeah.

23 THE COURT: Okay.

24 JUROR NO. 12: Seven or eight.

25 THE COURT: And this is through a mutual friend?

1 JUROR NO. 12: Correct.

2 THE COURT: Okay. So, the question of course -- you
3 can imagine the question on our mind. Is there anything about
4 that fact that would cause you to be biased or prejudiced
5 against either side or in favor of either side in this
6 lawsuit?

7 JUROR NO. 12: Not at all, no.

8 THE COURT: If you know Mr. Johnson was testifying
9 for the State, would you feel inclined because of your prior
10 acquaintanceship with him, to therefore be in favor of the
11 State's position --

12 JUROR NO. 12: Not at all.

13 THE COURT: -- in the case? Do you think you would
14 be able to isolate out this acquaintanceship --

15 JUROR NO. 12: Yes.

16 THE COURT: -- with him, and render a verdict based
17 strictly on the evidence that you have heard here?

18 JUROR NO. 12: Yes.

19 THE COURT: All right. And the instructions that
20 the Court will give you, of course?

21 JUROR NO. 12: Yes.

22 THE COURT: All right. All right. Counsel, any
23 questions?

24 MS. SCHIFALACQUA: Not by the State, Judge. I think
25 you well covered it.

1 THE COURT: Okay.

2 MR. OTTO: No questions, Your Honor.

3 THE COURT: Mr. Otto?

4 Thank you very much for bringing that up to us, Mr.
5 Eslinger. If you want to go back out, and we'll just have you
6 probably get in line and come back in in a minute.

7 JUROR NO. 12: Okay.

8 THE COURT: Okay? Thank you.

9 JUROR NO. 12: They're going to ask me questions
10 now. I'll tell them I don't know nothing.

11 MS. SCHIFALACQUA: Right.

12 (Outside the presence of Juror No. 12)

13 THE COURT: Okay. Counsel, thoughts?

14 MS. SCHIFALACQUA: Judge, quite frankly, you know,
15 it seemed that he knew him through a friend. I don't see that
16 there's any cause to have him removed from the jury. He says
17 that he can be fair and impartial. And it was a latent print
18 examiner to an outside of a vehicle, to which, frankly, the
19 defendant was found driving. So, I mean, we don't see any
20 issue of keeping him on the panel.

21 THE COURT: Okay. Mr. Otto?

22 MR. OTTO: I have no issue keeping him on the jury,
23 Your Honor.

24 THE COURT: All right. Occasionally, even though
25 there's no -- you know, everyone's pretty comfortable that no

1 real bias is shown, but we have -- we're getting down close to
2 the end of the trial, and we have enough alternates we go
3 ahead, and out of an abundance of caution, let one go.

4 But, you know, we -- this -- we've already lost one
5 juror. We're only at the end of the first week. It would not
6 -- I don't see any reason to excuse him, unless either side
7 really thinks that there is some bias involved here.

8 MS. PIEPER: No, Your Honor.

9 MS. SCHIFALACQUA: No.

10 MS. PIEPER: Not by the State.

11 THE COURT: All right.

12 MR. OTTO: No, Your Honor, not by the defense.

13 THE COURT: Okay.

14 MS. PIEPER: Judge, briefly, pursuant to
15 stipulation, State's proposed Exhibit 91 will be admitted.

16 THE COURT: Exhibit 91. Correct statement?

17 MR. OTTO: Yes, Your Honor, that is correct.

18 THE COURT: All right. 91 will be admitted.

19 (State's Exhibit 91 is admitted)

20 MS. PIEPER: We also have no further witnesses for
21 today.

22 THE COURT: No further witnesses?

23 MS. PIEPER: No, we have two left --

24 MS. SCHIFALACQUA: For today.

25 THE COURT: Oh.

1 MS. PIEPER: Two or three left for Monday, and then
2 the State will probably rest at that point.

3 THE COURT: Okay.

4 MR. OTTO: In the morning, or --

5 MS. PIEPER: No, in the afternoon.

6 MR. OTTO: In the -- oh, yeah, we're going
7 afternoon.

8 MS. SCHIFALACQUA: We're in the afternoon.

9 THE COURT: Yeah, that's right. It will be
10 afternoon. So, we expect by the end of Monday to have the
11 State rest, and we'll then turn to the defense?

12 MS. SCHIFALACQUA: Correct, Your Honor.

13 THE COURT: Why don't we do this then. If we're not
14 going to have anymore witnesses, I'm going to send the jury
15 away. I'm supposed to give a piece of admonishment to a
16 defendant in every criminal trial. This probably might be a
17 time for me to take care of that, as soon as we get rid of our
18 jury.

19 MS. SCHIFALACQUA: Sure.

20 THE MARSHAL: Yes, sir.

21 THE COURT: But we'll stay in session once we send
22 the jury out --

23 MR. OTTO: I see. Um-hum.

24 THE COURT: -- and we'll just --

25 THE MARSHAL: I'll send them, Your Honor?

1 THE COURT: Please, uh-huh. Bring them in, yeah.
2 (Pause in the proceedings)
3 MS. SCHIFALACQUA: Ready?
4 THE MARSHAL: I'm ready. Your Honor?
5 MS. SCHIFALACQUA: Okay, we're ready.
6 THE COURT: Yes, we're ready.
7 (Pause in the proceedings)
8 THE MARSHAL: All rise for the jury.
9 (Jury reconvened at 4:05 p.m.)
10 (Pause in the proceedings)
11 THE MARSHAL: I'm missing one juror, Your Honor.
12 THE COURT: Two.
13 THE COURT RECORDER: Two.
14 THE COURT: Mr. Johns.
15 THE MARSHAL: Oh, yes.
16 THE COURT: And Mr. Eslinger.
17 UNKNOWN MALE SPEAKER: They were in a different
18 elevator, obviously.
19 THE MARSHAL: Obviously. They hit the elevator,
20 Your Honor.
21 THE COURT: Uh-huh.
22 MS. PIEPER: Oh, we have to go get them.
23 MS. SCHIFALACQUA: They have to go get them, Judge,
24 I mean.
25 (Pause in the proceedings)

1 THE MARSHAL: Your Honor, do you want me to have
2 Joan call their cell phones and get them back up here?

3 THE COURT: Counsel?

4 MS. PIEPER: Judge, can we approach?

5 THE COURT: Yeah, we better.

6 MS. SCHIFALACQUA: Can we approach?

7 THE COURT: I've got to give them an admonishment.
8 Yeah, we better.

9 (Pause in the proceedings)

10 THE MARSHAL: Mr. Eslinger and Mr. Johns are on
11 their way back, Your Honor. They're in the parking garage.

12 (Pause in the proceedings)

13 THE COURT: Are we on the record?

14 THE COURT RECORDER: Hum?

15 THE COURT: Are we on the record?

16 THE MARSHAL: He said about five minutes, Your
17 Honor.

18 THE COURT RECORDER: Do you want to be off?

19 THE COURT: We might as well. Let's go off the
20 record.

21 (Off the record at 4:09 P.M. until 4:14 P.M.)

22 (In the presence of the jury)

23 THE COURT: Here staring at each other, I'm tempted
24 to get into conversations.

25 THE COURT RECORDER: It's on.

1 THE COURT: All right. Ladies and gentlemen, as you
2 know, we're waiting for two jurors to join us. I will ask you
3 to exit the courtroom and wait out in the hall until they get
4 here. While you are on this short break -- hang on.

5 Thank you, for rejoining us, Mr. Eslinger. What
6 about Mr. Johns?

7 THE MARSHAL: He's right behind me, Your Honor.

8 THE COURT: All right.

9 THE MARSHAL: He's coming up the elevator now. Mr.
10 Eslinger told me he's coming up the elevator right now.

11 THE COURT: Okay. All right, I guess we'll wait.
12 We missed you.

13 JUROR NO. 12: I thought they dismissed us.

14 THE COURT: Nope.

15 (Pause in the proceedings)

16 THE COURT: All right, let's go on the record.
17 Thank you for rejoining us, Mr. Johns. I don't know, maybe we
18 had a miscommunication. Did you folks think that you'd been
19 excused for the day, or no? No. Okay.

20 Well, it may seem odd to you, but I've pulled you
21 back in here so that I can excuse you all for the weekend.
22 The reason that I do however is I will never excuse you out of
23 here without giving you admonitions. And when it's not only
24 overnight, but it's a weekend as well, it's very important
25 that I give you all of the admonitions that I can think of

1 that you might conceivably need to be reminded of. Even
2 though we deal with these every day, you folks don't, and so
3 it might be easy for some of these things to slip your mind.

4 Hopefully, you will all recall the Court's general
5 admonition that we don't want jurors speaking to anyone about
6 anything or anyone that has to do with this trial outside of
7 the courtroom. And we want the jury's verdict in this case to
8 rest strictly and solely upon the sworn testimony and the
9 other exhibits introduced into evidence here.

10 For that reason, I will remind you again to please
11 do not visit any of the places that are made mention of during
12 this trial. Please do not go home, and even in a dull moment
13 get on the Internet and start Googling something out of idle
14 curiosity about any of the testimony that you've heard.

15 Now, we've heard a number of people testify that
16 have scientific backgrounds. And believe it or not, we have
17 had juries that had to be sent home and a trial started all
18 over again because somebody went home, and based upon some
19 testimony they heard, they decided they would conduct a little
20 personal experiment, scientific experiment, and then came back
21 and reported it all to the rest of the jury in their idle
22 moments.

23 That's the sort of thing that will cost you to have
24 wasted your time, cost us to have to start over again, and as
25 taxpayers, will cost you more money of course. So, these

1 admonitions are simply a way of reminding you to please
2 safeguard the trust that we as a society put in our juries.
3 It is an honor and it is a duty.

4 While you're on this overnight and weekend recess,
5 please do not talk or converse among yourselves or with anyone
6 else on any subject connected with the trial, or any person
7 connected with the trial. This includes, as I've already
8 said, members of your family, your friends, or total
9 strangers.

10 And if anyone should try to strike up a conversation
11 with you about this case or about anyone connected with the
12 case, please do not even talk to them. Simply come back when
13 you come back Monday and report it to our bailiff, and we'll
14 take it from there.

15 Do not read, watch, or listen to any report of or
16 commentary on the trial, or on anyone connected with the
17 trial, by any medium of information whatsoever, including
18 newspapers, television, the internet, or radio. Please don't
19 form or express any opinion on any subject connected with the
20 trial until the case is finally submitted to you.

21 You will recall the Court's admonition about waiting
22 -- about waiting and not rushing to judgment. Wait until
23 you've heard all of the evidence. Wait until you've heard the
24 arguments of counsel. Wait until you've heard the
25 instructions of the Court on the law, and then and only then

1 is it time for you to deliberate together and arrive upon your
2 verdict. The faithful performance of these duties is very
3 vital to the administration of justice.

4 We want to thank you once again. It has been a long
5 week in some respects. We know that we have some more time
6 ahead. We anticipate that we are on track -- we think that we
7 are on track. Otherwise, I wouldn't be sending you home a
8 little bit early today.

9 Scheduling for next week. As I've indicated before,
10 Monday and Tuesday, it will only be in the afternoons at 1:00.
11 However, next Wednesday, because I don't have a morning
12 calendar, we think that we can go all day Wednesday, 9:00 to
13 5:00, all day Thursday, 9:00 to 5:00. We will not meet next
14 Friday, Good Friday. Counsel, anything else before we --

15 MS. SCHIFALACQUA: Not by the State.

16 MS. PIEPER: No, Your Honor.

17 MR. OTTO: No, Your Honor.

18 THE COURT: All right. Thank you, ladies and
19 gentlemen. The jury will be excused until 1:00 o'clock Monday
20 afternoon. Court will remain in session.

21 THE MARSHAL: All rise, ladies and gentlemen of the
22 jury, please. Folks, please leave your notepads and pens on
23 your chairs.

24 (Jury recessed at 4:22 p.m.)

25 THE COURT: All right. The record will reflect the

1 absence of the jury.

2 Mr. Washington, there is a couple of things I need
3 to advise you of, which I'm taking a moment to do now. If you
4 wish, you can be seated. And these have to do with the
5 possibility that you may decide to take the witness stand and
6 testify in your defense, and the law requires that I give you
7 these admonitions, to anyone in a criminal trial before they
8 make that determination.

9 Under the Constitution of the United States and
10 under the Constitution of the State of Nevada, you cannot be
11 compelled to testify in this case. Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You may at your own request give up this
14 right and take the witness stand and testify. If you do, you
15 will be subject to cross-examination by the deputy district
16 attorney, and anything that you may say, be it on direct
17 examination or cross-examination, will be the subject of fair
18 comment when the deputy district attorney speaks to the jury
19 in her final argument. Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: If you choose not to testify, the Court
22 will not permit the deputy district attorney to make any
23 comments to the jury because you have not testified. Do you
24 understand?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. If you elect not to testify, the
2 Court will instruct the jury, but only if your attorney
3 specifically requests the instruction, as follows. The law
4 does not compel a defendant in a criminal case to take the
5 stand and testify, and no presumption may be raised and no
6 inference of any kind may be drawn from the failure of a
7 defendant to testify.

8 Do you have any questions about any of these rights
9 as I've explained them to you?

10 THE DEFENDANT: No, sir.

11 THE COURT: Okay. You're further advised that if
12 you have a felony conviction, and if more than ten years has
13 not elapsed from the date that you were convicted or
14 discharged from prison, parole or probation, whichever date is
15 later, and if the defense has not sought to preclude that from
16 coming before the jury, and if you elect to take the stand and
17 testify, then the deputy district attorney, in the presence of
18 the jury will be permitted to ask you the following: one, have
19 you been convicted of a felony, two, what was the felony, and
20 three, when did it happen. However, no details may be gone
21 into. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Counsel, unless there's
24 anything else, I think we're good to go until 1:00 o'clock on
25 Monday. Does State anticipate -- did you say three?

1 MS. SCHIFALACQUA: Two to three witnesses, Judge.

2 THE COURT: Two to three witnesses? All right. And
3 the State anticipates resting sometime Monday afternoon?

4 MS. SCHIFALACQUA: Correct.

5 MS. PIEPER: That's correct.

6 THE COURT: All right. So, the defense should be
7 prepared to go forward either Monday afternoon or Tuesday
8 afternoon.

9 MR. OTTO: Thank you, Your Honor.

10 THE COURT: And I will plan to meet with counsel
11 Monday after we send the jury home to settle instructions.
12 Okay?

13 MS. SCHIFALACQUA: And I believe Mr. Otto's going to
14 e-mail us and the Court his proposed by the weekend so that we
15 have it, so that Monday, we can be prepared to go over all of
16 them. You already have ours, and Mr. Otto has ours as well.

17 THE COURT: Okay. We're on the record? Okay.

18 MR. OTTO: Do you want to be on or off?

19 THE COURT: No, we'll just save that. If there's
20 nothing else, then we'll see you 1:00 o'clock Monday. We're
21 off the record.

22 MR. OTTO: Thank you, Your Honor.

23 MS. SCHIFALACQUA: Thank you. Thank the staff for
24 this week.

25 MR. OTTO: Thank you, thank you.

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(Court recessed at 4:25 p.m., until Monday,
April 14, 2014, at 1:20 p.m.)

* * * * *

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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Englewood, CO 80110
(303) 798-0890

Julie Lord

JULIE LORD, TRANSCRIBER

9-19-14

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