

1 A I work the day shift starting at six in the
2 morning until about four in the afternoon. We take all calls,
3 cases that come in from patrol related to sexual assault, all
4 sexually related cases, and phone calls from patrol units that
5 just have questions.

6 Q So essentially, patrol goes out to a scene,
7 checks it out and then if there's something there it's
8 referred back to the sex assault detectives?

9 A Yes, ma'am.

10 Q Do you actually respond to the calls?

11 A Depending on what the call is, but yes. If they
12 -- if they ask us to come out to help them, yes, but just
13 depends on what the case is.

14 Q And then if you get called to a scene, what do
15 you do at the scene?

16 A Once at the scene you talk to everybody
17 involved, lock down the area, collect evidence, call in crime
18 scene analysts.

19 Q Would the detective be basically the supervisor
20 of the scene if you will? Delegating responsibilities as well
21 as conducting interviews on your own?

22 A Yes, ma'am.

23 Q Specifically, do you have any experience and
24 training in conducting interviews -- let's say suspect
25 interviews?

1 A Yes, ma'am. I've been to multiple classes on
2 interviews.

3 Q Approximately how many potential suspects have
4 you interviewed?

5 A I would say hundreds.

6 Q And that's over the course of 14 years?

7 A Twelve years here, yeah.

8 Q Okay. Specifically on December 31st, 2012, were
9 you on duty morning hours?

10 A Yes, ma'am.

11 Q Where were you?

12 A I was stationed at headquarters. That day I
13 remember it was a busy day and I believe we got called out a
14 little bit earlier than the start of our shift.

15 Q What time was your shift?

16 A Shift started at six, but we go on call at 3:00
17 so --

18 Q A.m.?

19 A Yes, ma'am. And that day I remember we had
20 approximately six sexual assaults or four assaults waiting for
21 us before 6:00.

22 Q Waiting for you where?

23 A At UMC Hospital.

24 Q We meaning?

25 A Meaning my squad. We have a -- I have a squad

1 that I work on, there's four detectives and one sergeant.

2 Q And who -- who -- who was on that particular
3 day?

4 A Myself, Detective Christiansen, Detective
5 Williams and Detective Beza and my sergeant Shawn Comiskey.

6 Q Do you work in teams or in pairs?

7 A It just depends. Everyday there's -- we call it
8 a bucket person. If you're in the bucket that day you get all
9 the new cases, all the calls that come in from patrol or any
10 phone calls that come in, so you take turn. But whoever's up
11 that day is the person that gets all the cases.

12 Q Who was in the bucket that day?

13 A Detective Christiansen.

14 Q So basically you -- when you say we, the two of
15 you get called out to UMC?

16 A Yes. We had multiple cases that day, so it's
17 kind of a triage type thing. Her and I were at the hospital
18 doing all the interviews with different victims while our
19 partners were at different crime scenes.

20 Q Did you get -- or at what point did you get word
21 about -- did you get a call from one that a sexual assault
22 that allegedly occurred at Circus Circus here in Clark County,
23 Nevada?

24 A I would say it was approximately around 9:00.

25 Q A.m.?

1 A A.m.

2 Q And you are where at the time you get the call?

3 A I believe we're at UMC.

4 Q Okay. And is there something in particular
5 about UMC that all the victims are there or a bunch of victims
6 are there or?

7 A That's where they go to get their sexual assault
8 exams, the SANE exam. Children go to a different hospital to
9 get theirs, but adults go to UMC for theirs.

10 Q So essentially anywhere in the Clark County area
11 if there's an alleged sexual assault victim that needs an
12 examination they would be referred to UMC?

13 A Yes, ma'am.

14 Q Whereas the children to Sunrise?

15 A Yes, ma'am.

16 Q So it's about 9:00, you're at UMC on a
17 non-related call when the call comes in?

18 A A different sexual assault. We find out that
19 there was one, another one that came in so we started on that.

20 Q Okay. And by starting what did you do?

21 A First thing we do is interview the victim.

22 Q And was that done -- the two of you, you and
23 Detective Christiansen together?

24 A Yes, ma'am.

25 Q And then as a result of that -- was that a

1 recorded interview?

2 A Yes, ma'am. It's -- it's a digitally recorded
3 interview.

4 Q Did you make contact with anyone other than the
5 victim at the hospital there?

6 A I don't believe so.

7 Q After that interview was conducted, what did you
8 do?

9 A Went back to LVMPD headquarters and started
10 doing interviews.

11 Q In particular, which -- what -- who did you
12 interview?

13 A I interviewed the suspect in the case and a
14 witness in the case.

15 Q And what was the -- do you see the suspect here
16 in Court?

17 A Yes, ma'am. He's sitting at the defense table
18 in the middle, suit, tie, hand on his face.

19 MS. HOLTHUS: Let the record reflect the
20 identification of the defendant.

21 THE COURT: It will.

22 BY MS. HOLTHUS:

23 Q And who was the other individual that you
24 interviewed?

25 A I believe his name was Mohammed Jafaari. I

1 might have the pronunciation wrong on the last name.

2 Q At the time of the interview what are you
3 wearing?

4 A Khaki pants, polo shirt, just a ID badge that's
5 hanging from my -- from my neck. No -- no gun or nothing like
6 that.

7 Q And what was your understanding of what had gone
8 on at Circus Circus? What information did you have?

9 A The information that we had from the victim was
10 that he had been taken into a hotel room by the suspect and
11 sexually assaulted him in the bathroom.

12 Q And the victim, the victim's name was?

13 A AJ Dang.

14 Q Where is it that the defendant is interviewed in
15 particular? You said headquarters. What does headquarters
16 look like?

17 A Headquarters, building A. On the lower floor
18 there's a special section that is set up with approximately 12
19 different interview rooms. They're all --

20 Q The headquarters is basically just a large
21 office building?

22 A Headquarters is three large buildings at the
23 corner of MLK and Alton.

24 Q Okay. So the defendant is interviewed. When
25 would you make initial contact?

1 A Yes. He -- he was brought to the headquarters
2 and put in a room separately.

3 Q And you met him there?

4 A And I met him there, yes.

5 Q Are those rooms audio/video recorded?

6 A Yes.

7 Q And is that running all the time regardless --
8 from the time that you put the suspect in the room?

9 A Yes. We turn it on and start the recording.

10 Q As soon as they're in there?

11 A Yes.

12 Q So there's no conversation between you and in
13 this case the particular suspect that's not presented on the
14 audio/video?

15 A In this case, no.

16 Q There may be other cases that they're chatting
17 in the hallway or something else is going on?

18 A Correct.

19 Q But essentially, your initial contact with the
20 defendant occurred in that interview room that was already
21 under recording?

22 A Yes.

23 Q And by that point the defendant was already in
24 custody; is that right?

25 A Yes, ma'am.

1 Q And did you give him his Miranda warnings?

2 A Yes, I did.

3 Q Was that from memory or a card?

4 A A card.

5 Q And that's evidenced on the video; is that
6 correct?

7 A Yes.

8 Q Did you at any point request an interpreter?

9 A No, I did not.

10 Q Why not?

11 A Because he understood me. I felt he could speak
12 English.

13 MS. HOLTHUS: I'm going to have this marked next but
14 it's going to remain a Court's Exhibit rather than -- it's
15 demonstrative only.

16 THE COURT: Yes. Any objection to that? Well, it
17 will be made a Court exhibit because it will be shown to the
18 jury.

19 MR. CHAIREZ: What is it, Your Honor?

20 THE COURT: It's -- looks like the transcription.

21 MR. CHAIREZ: No objection.

22 THE COURT: Okay. It will be a Court exhibit.

23 MS. HOLTHUS: And then I'm going to request then to
24 publish the recording as well as hand out the other copies of
25 the transcript.

1 THE COURT: Any objections?

2 MR. CHAIREZ: That's fine. No objection, Your Honor.

3 THE COURT: That's fine.

4 MS. HOLTHUS: The recording is coming in by way of
5 stipulation as Exhibit 180 for the record.

6 THE COURT: All right.

7 MS. HOLTHUS: With the Court's permission, there are
8 some down times where, for example, the defendant's at a
9 table. If there's no objection, we'll fast forward through
10 some of those?

11 THE COURT: Mr. Chairez, is that acceptable to you?

12 MR. CHAIREZ: It's -- it's fine, Your Honor.

13 THE COURT: All right.

14 MS. HOLTHUS: You can still keep track of how long
15 the time is passing. And I believe for everyone's
16 information, the transcription is taken off the audio
17 recording, so it begins later than those actual words.
18 There's more video than audio.

19 BY MS. HOLTHUS:

20 Q Is that the defendant with his head on the table
21 there?

22 A Yes, ma'am.

23 MR. CHAIREZ: Your Honor, can -- can I ask a
24 question? There are a few spots here where I'm going to say
25 that the transcription was bad. Would you rather have me wait

1 when I do the cross-examination to like point that out or --
2 because I just wanted to go through and move quickly but I
3 don't want to give up my right --

4 THE COURT: Would you prefer --

5 MR. CHAIREZ: -- to challenge it later on.

6 THE COURT: I think it would be easier if you do it
7 on cross-examination. Can you put that on hold for one
8 second? Counsel, come here, please.

9 (Bench conference transcribed as follows.)

10 THE COURT: [inaudible]

11 MS. HOLTHUS: Huh?

12 THE COURT: Does -- is [inaudible]

13 MS. HOLTHUS: Oh, I don't know, is he? I don't see
14 [inaudible].

15 MR. CHAIREZ: [inaudible], three hours, it's a three
16 hour --

17 THE COURT: It is and you think it's over but it's
18 not.

19 MS. HOLTHUS: Oh, I thought it was over.

20 MS. BLUTH: But there's only two hours and 30 minutes
21 on that CD so --

22 MR. CHAIREZ: [inaudible] 30 minutes. I don't know,
23 we'll see.

24 MS. BLUTH: Okay. Can we just --

25 MR. CHAIREZ: [inaudible]

1 MS. BLUTH: Well, we can't fix it in the middle if
2 it's playing.

3 MR. CHAIREZ: [inaudible] they leave --

4 THE COURT: It ends, they leave --

5 MR. CHAIREZ: -- and then they come back and they
6 [inaudible]

7 THE COURT: The problem is, okay, [inaudible],
8 because [inaudible] ask for a lawyer and then [inaudible]
9 after that.

10 MR. CHAIREZ: I think it's [inaudible]

11 THE COURT: But how close after that?

12 MR. CHAIREZ: Ten minutes.

13 MS. BLUTH: But what if --

14 THE COURT: [inaudible]

15 MS. HOLTHUS: What if -- what if we cut it -- we cut
16 it from today right after the [inaudible]?

17 THE COURT: But you have to keep it on through it
18 because you've got to -- that very last part is what
19 [inaudible] decision.

20 MS. HOLTHUS: Okay. Right.

21 THE COURT: That's where he had asked for a lawyer.

22 MS. HOLTHUS: Asked for a lawyer so we said he knew
23 he had a right to a lawyer.

24 THE COURT: Yeah. And then Mr. Chairez I know is
25 going to bring up that whole [inaudible], just turn it off

1 before the naked part.

2 MS. BLUTH: But I don't know where the naked part is
3 so what -- I'm the one in charge [inaudible].

4 MR. CHAIREZ: [inaudible]

5 MS. BLUTH: No, not all the way through.

6 MR. CHAIREZ: [inaudible] we'll -- you'll know --

7 THE COURT: You'll see that there's a gap so like a
8 guy comes in to change the handcuffs, he asked for a lawyer,
9 guy goes out --

10 MR. CHAIREZ: [inaudible]

11 THE COURT: -- so I would cut it off probably after
12 that. Don't you think, Mr. Chairez?

13 MR. CHAIREZ: Yeah.

14 MS. BLUTH: Okay. So someone just tell me --

15 THE COURT: I don't think anything really
16 substantively -- I don't think anything [inaudible] happens
17 after that.

18 MS. HOLTHUS: Just out of curiosity, why is he naked?

19 THE COURT: What?

20 MS. HOLTHUS: Why is he naked?

21 MS. BLUTH: Because that's when they do the
22 [inaudible]

23 MS. HOLTHUS: Oh, that's all recorded on -- I didn't
24 realize that.

25 THE COURT: Yeah, we didn't know that until it just

1 happened to stay on it. There you go.

2 MS. BLUTH: The one thing, Mr. Chairez, that you were
3 saying is it's the State's position, even through
4 cross-examination, when you [inaudible] question, did you
5 think he said this but that the best evidence is the tape
6 itself so --

7 MR. CHAIREZ: Yeah, but that's [inaudible] of the
8 tape.

9 MS. BLUTH: In regards to whether or not --

10 MS. HOLTHUS: Yeah. Definitely don't want him
11 interrupting the tape but, no, that's all cross-examination.

12 THE COURT: [inaudible] and just mark it with maybe a
13 [inaudible] section. Okay.

14 (End of bench conference)

15 THE COURT: All right. If you want to play the
16 video.

17 MS. BLUTH: Yes, Your Honor.

18 (Audio/Video played)

19 MR. CHAIREZ: Can we stop the tape just for a second,
20 Your Honor?

21 THE COURT: Yes.

22 MR. CHAIREZ: Okay. I mean just -- this is one of
23 the concerns that I have is -- and I don't want it to get too
24 far, but I thought when -- words are missing from the
25 transcription of what's being said on the tape. So I want the

1 jury to understand the tape is more important than the
2 transcription.

3 MS. HOLTHUS: And I -- that's what I was explaining
4 is that --

5 MR. CHAIREZ: Yeah.

6 MS. HOLTHUS: -- they take transcriptions off a
7 recording that will be -- that's turned on when the detective
8 enters the room once they begin the -- the process, but that
9 the room is fully being recorded. So we give you the full DVD
10 but the transcription actually only comes from the actual tape
11 recording.

12 THE COURT: So they're saying is --

13 MR. CHAIREZ: Well, actually I don't -- I mean I
14 think there's a mistake because I think Detective Pool asked
15 him, do you understand English and he goes yes, but not too
16 much. Yet, I don't see that on my transcript and yet --

17 MS. HOLTHUS: It's not transcribed.

18 MR. CHAIREZ: Pardon?

19 MS. HOLTHUS: That's pre-transcription.

20 MR. CHAIREZ: No, that was just said 30 seconds ago
21 or 45 seconds ago so --

22 THE COURT: Well, let's -- ladies and gentlemen of
23 the jury, what they're saying basically is this, is the best
24 evidence is going to be what you hear, see and perceive. All
25 right? The -- the transcription that you've been provided,

1 that is just to aide you in watching this. But it's very
2 important that you don't focus on the transcription, that you
3 actually listen and watch it. Okay? Anything else, Mr.
4 Chairez?

5 MR. CHAIREZ: That's the only concern I had, Your
6 Honor.

7 THE COURT: Okay. And I think the jury is aware of
8 that now, so let's turn it back on.

9 MS. HOLTHUS: And let me just -- let me just --

10 THE COURT: Yes.

11 MS. HOLTHUS: -- briefly have him explain it.

12 BY MS. HOLTHUS:

13 Q Explain what I'm saying. Do you know what I'm
14 saying?

15 A There's a audio and as you can see video
16 recording from the room. But as you can see on the table,
17 there is a -- to my right on the table, the shiny object, is a
18 digital recorder and that gets turned on for us to do our
19 digital recordings of the -- or audio recordings of the
20 interview and we use that -- come up to my computer, download
21 it, and turn that in for transcription after -- after we get
22 the interview started. So technically haven't started the
23 interview yet. It's normally when we turn the recorder on.

24 Q But this is the -- the DVD or the video is the
25 full recording?

1 A The complete, full recording --
2 Q Full content.
3 A -- of me being in there.
4 Q Okay.
5 (Audio/video played)
6 MS. HOLTHUS: Any objection if we fast forward a
7 little bit here?
8 THE COURT: Mr. Chairez?
9 MR. CHAIREZ: That's fine, Your Honor.
10 THE COURT: All right. Ladies and gentlemen of the
11 jury, can you see down in the corner that the time stamp?
12 Yes? No, no, keep going.
13 MS. BLUTH: Can we approach, Judge?
14 THE COURT: Yeah.
15 (Bench conference transcribed as follows)
16 MS. BLUTH: I felt like you gave it [inaudible]
17 THE COURT: No, no. This is when he comes in and
18 he's going to change handcuffs [inaudible].
19 MS. BLUTH: Oh, okay.
20 THE COURT: [inaudible]
21 MR. CHAIREZ: [inaudible]
22 THE COURT: Okay.
23 MR. CHAIREZ: [inaudible]
24 THE COURT: [inaudible]
25 MR. CHAIREZ: [inaudible] When they start picking

1 the pictures, we should --

2 MS. BLUTH: I just -- I --

3 THE COURT: Just be ready to hit stop.

4 MS. BLUTH: Okay. I thought [inaudible]

5 (End of bench conference)

6 BY MS. HOLTHUS:

7 Q What we're looking at is who's entered the room
8 now?

9 A That's my supervisor, Sergeant Comiskey.

10 Q For what purpose?

11 A I believe he's going to be getting processed,
12 he's changing out the handcuff.

13 Q Okay.

14 (Audio/video played)

15 MS. HOLTHUS: Can we approach?

16 (Bench conference transcribed as follows)

17 MS. HOLTHUS: I just want to be clear, you have no
18 objection to any of it including the fact that he wanted the
19 lawyer at this point and what not, correct?

20 MR. CHAIREZ: [inaudible] objections taken
21 [inaudible]. That's the only objection.

22 MS. HOLTHUS: But I just want to make that on the
23 record. What I want to suggest we do is I just make a
24 blanket, you know, remainder of this is them coming in to take
25 the [inaudible] involving whatnot --

1 MR. CHAIREZ: Okay.

2 MS. HOLTHUS: -- and we won't watch anymore here and
3 then the jury can watch it back in the room once we edit it to
4 cut off the [inaudible].

5 MS. BLUTH: And then we just need to make a record, a
6 more clear record, that that was a conscious decision --

7 MS. HOLTHUS: Because we wouldn't put that in
8 normally.

9 MS. BLUTH: -- conscious decision, strategic decision
10 to put on the record that he was invoking his right to counsel
11 and you were okay with that being [inaudible]. I just want to
12 make sure we want [inaudible] on a recess if that's okay.

13 MS. HOLTHUS: I mean that's something we never do.

14 MS. BLUTH: And we're not going to [inaudible]

15 MS. HOLTHUS: Well, that's what I'm just saying. I
16 want to make that record but I want to cut it here because I
17 know the only part he wanted to stop was before he gets naked
18 and I don't know where that is. So in abundance of caution
19 I'm going to stop it here. I'll have it later if they want to
20 watch [inaudible] taken and whatnot. We don't -- but we don't
21 need to watch that right now.

22 MS. BLUTH: [inaudible] watch this whole thing back
23 there, that's their choice and that's on there.

24 MS. HOLTHUS: Well, we're going to -- we're going to
25 get them a new copy, we're going to cut off the naked part.

1 We'll just have to [inaudible].

2 MS. BLUTH: Okay, so we're going to take --

3 MS. HOLTHUS: We're going to substitute it, yeah.

4 MS. BLUTH: We need to make a record --

5 THE COURT: [inaudible]

6 MS. HOLTHUS: I want to stop it right now.

7 MR. CHAIREZ: It's okay with me.

8 THE COURT: We're at a stopping point?

9 MR. CHAIREZ: I'm -- I'm fine.

10 THE COURT: Okay.

11 MS. BLUTH: Okay.

12 THE COURT: All right. Thanks.

13 (End of bench conference)

14 BY MS. HOLTHUS:

15 Q Now essentially, the remainder of this is where
16 you were saying he goes on and gets processed and CSA comes in
17 and photographs him and takes the various buccal swabs inside
18 his cheeks and swabbed his fingers and whatnot?

19 A Yes, ma'am.

20 Q Actually, even the penile swabs, correct?

21 A Correct.

22 MS. HOLTHUS: And Judge, I'm going to -- I'm going to
23 stop it at this point. The jury will have it if they want to
24 have [indiscernible] evidence later.

25 BY MS. HOLTHUS:

1 Q Basically, as part of your training, do you
2 learn different interviewing techniques?

3 A Yes, ma'am.

4 Q And what types of techniques are included?

5 A Agreeing with the subject, telling him ruse,
6 ruses or using a ruse --

7 Q For example?

8 A For example, saying things that aren't true to
9 -- to gain trust and get him to elicit more information to me.

10 Q And it's basically a search for truth; is that
11 correct?

12 A Yes.

13 Q To eliminate wrongful -- wrongfully accused or
14 to establish a confession if that's the case, correct?

15 A Yes.

16 Q Then you are, to a degree, allowed to use ruses
17 or lies, if you will?

18 A Yes.

19 Q The idea being as long as the lie or the ruse
20 isn't one that would result in a false confession, for
21 example?

22 A Correct.

23 Q You couldn't say I'm taking your children out to
24 the desert to kill them unless you say you did this crime?

25 A Correct.

1 Q Because that's kind of coercious -- coercive and
2 really wouldn't have any meaning in terms of a confession,
3 correct?

4 A Correct.

5 Q So in this particular interview, did you use
6 some of these technique?

7 A Yes.

8 Q Agreeing with -- minimization?

9 A Minimization, yes.

10 Q Is that a technique? That the behavior isn't as
11 bad as -- as it may seem so that they feel more comfortable?

12 A Correct.

13 Q For example, you told him -- you talked about
14 finding a whole bunch of money on this kid and you know
15 there's these groups of kids that are going around stealing
16 from people. Was that true?

17 A No.

18 Q Was that a ruse?

19 A Yes.

20 Q Something you made up?

21 A Yes.

22 Q Heard him mention something about money and then
23 just kind of played into that?

24 A Correct.

25 Q Okay. The prostitution, all a ruse?

1 A Correct.

2 Q You said to him that I -- you know the kid was
3 stealing from people. Is that a ruse?

4 A Yes, ma'am.

5 Q Not true at all?

6 A Not true at all.

7 Q A trick roll. A trick roll is what?

8 A Well, prostitutes will take people back to their
9 rooms and steal from them.

10 Q Before or after sex?

11 A Correct.

12 Q You said something about him having a lot of --
13 of -- a lot to drink, you knew he had a lot to drink. Did you
14 necessarily believe that?

15 A No.

16 Q Are you essentially kind of throwing him excuses
17 and helping minimize his behavior?

18 A Yes.

19 Q The defendant several times told you there was
20 no force used?

21 A Yes.

22 Q And that if you looked at the security camera it
23 would actually show the boy walking behind him?

24 A Yes.

25 Q And did you actually confirm that? There was no

1 force visible in the video camera.

2 A Correct.

3 Q And the boy was actually walking with him?

4 A Yes.

5 Q What time did this interview begin?

6 A It was approximately ten -- 10:45 I think.

7 Q It went how long?

8 A Approximately -- I'm not sure exactly how long
9 it went. It was about an hour and a half.

10 Q Prior to that statement, the victim had never
11 told you that he had sex with the defendant for money?

12 A Prior to what statement?

13 Q Prior to interviewing the defendant.

14 A No.

15 Q He never said that he had sex with the defendant
16 but he refused to pay?

17 A No.

18 Q That was again just ruses and minimization
19 techniques?

20 A Yes, ma'am.

21 MS. HOLTHUS: I'll pass the witness.

22 THE COURT: Cross?

23 CROSS-EXAMINATION

24 BY MR. CHAIREZ:

25 Q Detective Pool, is it possible that maybe the

1 interview, because if you look at the timeline it actually
2 started at 12:45 and not 10:45. Or let's just say 1:00 in the
3 afternoon.

4 A It could have. I might have the interviews
5 mixed up with the --

6 Q All right. The boy at 10:45 and the defendant
7 at -- at 12:45?

8 A Yes, sir. I believe -- actually, I believe
9 that's true.

10 Q Okay. And when you spoke with the boy, the boy
11 was not honest with you; is that correct?

12 A That's correct.

13 Q The boy never mentioned to you that he went to
14 the room voluntarily in order to try to get marijuana off of
15 the defendant or the guy -- other guys in the room, correct?

16 A Correct, sir.

17 Q All right. And you spoke with the boy at 10:45,
18 which would have been after 9:15 or 9:30 when he reported it
19 to Circus Circus security, correct?

20 A Yes, sir.

21 Q All right. And so a couple days ago the boy
22 mentioned or the prosecutors mentioned the boy was honest from
23 the beginning and mentioned that he had gone to the room to
24 buy marijuana and that's what he told Circus Circus, but two
25 hours later he didn't tell you that, did he?

1 A He did not tell me that.

2 Q Did any of the Circus Circus officers tell you
3 he had gone to the room voluntarily in order to buy marijuana?

4 A I didn't speak to the Circus Circus officer,
5 sir.

6 Q Okay. So you spoke with AJ Dang --

7 A Yes, sir.

8 Q -- and you spoke with the defendant.

9 A Yes, sir.

10 Q And you also spoke with Mohammed Jafaari.

11 A Yes, sir.

12 Q Okay. And I'll confess, no pun intended, but
13 I'm a little concerned about your use of the word ruse,
14 r-u-s-e. Okay? And is this something that they train you to
15 do in the police department to say when we interview subjects
16 it's okay to be dishonest with them?

17 A It is -- through some training that you learn
18 how to use different techniques. And a lot of it is -- I
19 would say most of my -- my techniques have been developed
20 myself through just doing several interviews, but using ruses
21 is perfectly normal.

22 Q Okay. So you don't feel like, for lack of a
23 better metaphor, that maybe you have egg on your face because
24 the young boy used a ruse on you and he was dishonest to get
25 you to believe certain things?

1 A Not a bit.

2 Q Okay. So you think it's perfectly acceptable
3 that we base our evidence procedures -- well, strike that.

4 When you use the word evidence, did the defendant
5 understand what you were saying?

6 A I believe so.

7 Q Do you recall using that word?

8 A Yes, sir.

9 Q Okay. And you think he said, he didn't -- he
10 quickly understood what evidence was?

11 A I believe so, yes, sir.

12 Q Okay. And you've told me before that you don't
13 believe Mr. Alotaibi had any problem understanding or
14 communicating with you in English, correct?

15 A Correct.

16 Q All right. And you told me before that yes, he
17 had some alcohol but you didn't think that he had too much
18 alcohol that it wasn't wise for you to go forward with his
19 interrogation, correct?

20 A Correct.

21 Q All right. And I see that you worked in the
22 traffic division for almost ten years; is that correct?

23 A I've never been in the traffic section, sir.

24 Q Okay. Prior to being with the sexual assault
25 unit, what unit were you with?

1 A I started my career out in patrol for the first
2 five years and then I went to the --

3 Q Accident --

4 A -- property crimes.

5 Q Okay.

6 A Which is burglary and grand larceny theft and
7 that kind of stuff.

8 Q Okay. But you were never with the accident
9 reconstruction or?

10 A I've taken accident reports a few times in
11 patrol, but I was never in traffic per se, motors.

12 Q Okay. All right. Well, but in the time that
13 you were a patrol officer, you stopped numerous people for
14 maybe driving under the influence?

15 A Yes, sir.

16 Q Okay. And so you learned how to do the
17 horizontal gaze nystagmus test?

18 A Yes. It's taught in the academy.

19 Q And you learned all the other field sobriety
20 tests that they give you, the counting the fingers, the walk
21 and turn, et cetera, et cetera?

22 A Yes, sir.

23 Q Okay. And -- and you've arrested people for
24 driving under the influence, haven't you?

25 A Yes, sir.

1 Q Okay. And so you're pretty experienced in
2 recognizing people that are at least intoxicated enough not to
3 be driving a car versus talking to people that are not
4 intoxicated -- or are intoxicated, that maybe we shouldn't --
5 we should wait to question them? Would you say you have that
6 sophistication in terms of recognizing how drunk somebody may
7 be?

8 A To where they can't drive a car, yes.

9 Q Okay. And do you think maybe there's a
10 different standard between not allowing somebody to drive a
11 car and not talking to somebody when we're dealing with
12 something as serious as we're dealing with here?

13 A Yes. If he was falling over and couldn't stand
14 up, I would say I would not interview him.

15 Q Okay. And you also told me before that when you
16 listened to Mr. Alotaibi -- well, you said -- it sounded -- I
17 can tell you're pretty drunk or you've had a lot of alcohol.
18 Did you say that?

19 A Yes, sir.

20 Q Okay. And -- and he also told you that he'd
21 been up all night, that he'd driven from L.A., came here,
22 arrived at one or two in the morning and had not gone to sleep
23 yet, correct?

24 A Yes, sir.

25 Q Okay. And despite those factors in his physical

1 condition, you didn't want to wait a couple hours in order to
2 talk to him, correct?

3 A That's correct.

4 Q And -- and you even interviewed his friend,
5 Mohammed, for the hour or hour and a half after you spoke with
6 Mr. Alotaibi, correct?

7 A No. That -- that interview was very short.

8 Q Okay. We'll say 30 minutes?

9 A I don't even think it was 30 minutes.

10 Q Okay. But you -- you spoke to Mr. Jafaari
11 afterwards, correct?

12 A Yes, sir.

13 Q Okay. Now, was Mr. Jafaari intoxicated or not?

14 A I'm not sure if he was or not, sir.

15 Q Okay. But in the hour and a half that you spoke
16 to Mr. Alotaibi, you never thought, well, maybe he's -- he's
17 too drunk, I should -- I should wait a little bit?

18 A Absolutely not.

19 Q Okay. And so you've never heard Mr. Alotaibi
20 speak when he hasn't had alcohol in him has he -- have you?

21 A No. The first time I spoke to him was that day.

22 Q And -- so when you mentioned to Mr. Alotaibi --
23 or let me just ask you. It was Mr. Alotaibi who first told
24 you if the hotel has surveillance cameras it will show the boy
25 went with me voluntarily, correct?

1 A Yes, I believe so.

2 Q Okay. But when -- when you questioned the boy,
3 the boy told you he dragged him down the hall, he grabbed him
4 by the clothes and he forced him into the room, correct?

5 A Yes, sir.

6 Q So in terms of that, who was being more honest
7 with you, Mr. Alotaibi or AJ Dang?

8 A Alotaibi.

9 Q Okay. And the boy never mentioned to you that
10 he wanted to go to the room because he was trying to get
11 marijuana off of my client or the other gentlemen, correct?

12 A Correct.

13 Q And I don't recall it because the interview was
14 long, but did Mr. Alotaibi mention anything about the boy
15 coming to the room wanting weed?

16 A I believe he mentioned weed, yes.

17 Q Okay. And so it seemed to me repeatedly that
18 Mr. Alotaibi said the boy wanted money or the boy wanted weed,
19 correct?

20 A Yes, sir.

21 Q And so ten months after all of this happened, we
22 know it -- now know Mr. Alotaibi was telling the truth and the
23 victim was not being honest with law enforcement, correct?

24 A About certain aspects, but not the entire case,
25 no.

1 Q Well, but we -- can we basically say 80 percent
2 of the boy's story has been thrown out the door because he
3 wasn't honest with you --

4 MS. HOLTHUS: I'm going to object to this --

5 MR. CHAIREZ: Let me rephrase it.

6 BY MR. CHAIREZ:

7 Q Can we basically say a large portion of the
8 boy's story was not true because he's changed that story from
9 January -- December the 31st to this week?

10 A I didn't hear the boy's testimony, sir.

11 Q Okay. Well, would you like me to summarize it
12 for you?

13 A If you want to ask me a question about it.

14 MS. HOLTHUS: I'm going to object to that. His
15 opinion in speculation in terms of how much of it was
16 different. He can ask about specifically what was different,
17 but the summary is more of a jury issue.

18 MR. CHAIREZ: Okay.

19 THE COURT: I agree.

20 MR. CHAIREZ: I'll break it down question by
21 question, point by point.

22 THE COURT: All right. Don't ask him to speculate
23 but you can ask regarding inconsistencies.

24 BY MR. CHAIREZ:

25 Q So the boy when he spoke with you and Detective

1 Christiansen, didn't say he went down to the parking lot and
2 had a couple hits of marijuana, correct?

3 A No, sir.

4 Q Okay. And the boy didn't tell you that at 9:04
5 a.m. he received a cell phone call and it was his mother that
6 was calling and he wouldn't tell his mother that he had just
7 been sexually assaulted.

8 A No, sir.

9 Q And the boy told you that he didn't go to
10 security right away because he had to stop because he had a
11 breakfast appointment with a girl named Mary; is that correct?

12 A Yes, sir.

13 Q And later on we found out he told you -- or told
14 the -- did he tell you or was it Detective Christiansen that
15 was not true, he didn't have breakfast with Mary?

16 A I kind of got lost in that one, if you can
17 rephrase it?

18 Q Okay. It was a compound question so it's my
19 fault, Detective. Okay. And do you recall hearing him
20 mentioning I'm going to go have -- I -- I didn't report the --
21 I didn't report the crime because I was supposed to go have
22 breakfast with Mary?

23 A Yes, sir.

24 Q And did that strike that to -- did that seem to
25 you unusual that he would stop and -- and think it was more

1 important to have breakfast with Mary than to go report it to
2 security that he had been raped?

3 A Yes, sir.

4 Q Okay. And if the boy had been honest with you,
5 maybe you and Detective Christiansen might have taken a
6 different angle or aspect in asking follow- up questions of
7 the boy and asking follow-up questions of Mr. Alotaibi,
8 correct?

9 A There would have been several different
10 questions asked.

11 Q I mean, your job as an investigator or as a
12 detective is only as good as the information that's given to
13 you, correct?

14 A Correct.

15 Q And do you recall when you asked the question
16 about the lotion, do you remember whether or not Mr. Alotaibi
17 or the boy mentioned what color the lotion bottle was?

18 A I don't recall the color, sir.

19 Q Did they -- did the boy say whether or not the
20 lotion was from the hotel?

21 A I believe he said it was from the bathroom area
22 sink.

23 Q Okay. And I'll confess, Your Honor -- I mean,
24 excuse me, Detective Pool. I myself don't even remember
25 whether they mentioned it was shampoo or lotion that was used

1 when the -- when the boy first mentioned it to you and
2 Detective Christiansen. Do you remember?

3 A No, sir. I believe it was lotion.

4 Q Okay. And how many times do you think the
5 defendant told you I'm fucked up, I'm drunk --

6 MS. HOLTHUS: Objection, the transcript speaks for
7 itself.

8 MR. CHAIREZ: Okay. Well, I'm just asking his
9 estimate.

10 MS. HOLTHUS: And that's improper. Estimates and
11 speculation are improper questioning.

12 THE COURT: Sustained.

13 BY MR. CHAIREZ:

14 Q Okay. Would you say that he told you he was too
15 drunk more than once?

16 A Yes, sir.

17 Q Okay. And would you say it was a common theme
18 in what he was saying during the time that you had him?

19 A He said it multiple times.

20 Q Okay. And did he also mention that I don't
21 remember everything that happened because I was too drunk?

22 A He did say that.

23 Q And he at no time ever mentioned that to the
24 degree that any sex may have happened, he forced himself on
25 the boy.

1 A No, sir.

2 Q Whether we're talking about his mouth or whether
3 we're talking about his rectum, correct?

4 A Correct.

5 Q And would you say that repeatedly you might have
6 told him as part of your ruse, it's okay if the boy wanted it,
7 it's okay if he wanted money. And even when all of that was
8 said, he never mentioned that force was used.

9 A Correct.

10 Q Now with respect to the incident in Saudi
11 Arabia, and I can't remember exactly what the question or the
12 issue was, but something about maybe he kissed a girl in Saudi
13 Arabia and he was arrested or -- or did we lose all of that in
14 translation?

15 A I believe you lost all that in translation.

16 Q Okay. And did he tell you that he was married
17 or did you -- did we transcribe it as if he was married?

18 A I believe he was -- I believe he stated he was
19 married.

20 Q Okay. But is it possible that no, he's not
21 married, maybe he just has a fiancé?

22 A It very well could be.

23 Q And he may not know what the difference between
24 the word wife and fiancé is?

25 A I'm not sure what he knows.

1 Q Okay. And when you asked him about medical
2 evidence, did he -- did he understand what that word was?

3 A I have no idea.

4 Q Okay. I'll -- I'll strike that. It wasn't
5 medical evidence, it was medical exam. But do you remember
6 the question, you asking him saying the boy had a medical
7 exam, I was present and he didn't know what a medical exam
8 was?

9 A I -- I believe I told him that he had a medical
10 exam.

11 Q Okay.

12 A I didn't think -- I didn't say I was present for
13 it.

14 Q Okay. And you don't recall that he didn't know
15 what the term medical exam meant?

16 A I don't know if he knew the term or not.

17 Q Okay. Well, do you want me to show you the
18 transcript or read the transcript to you or would you
19 basically say it speaks for itself?

20 A Oh, I'll say it speaks for itself --

21 Q Okay.

22 A -- I just don't recall.

23 Q All right. And Detective Pool, I'll be very
24 honest with you, I feel sorry for you because you have many,
25 many cases and I myself am confused on what may have happened

1 here so --

2 MS. HOLTHUS: I'm going to object to the -- I don't
3 know, is it testimony or narration or small talk, but there's
4 no question.

5 MR. CHAIREZ: All right. Well, okay.

6 THE COURT: Objection sustained. Just ask the
7 question.

8 MR. CHAIREZ: Is the -- is the statement already in
9 evidence?

10 THE COURT: That one? The one the jury's seen?

11 MR. CHAIREZ: Yes.

12 THE COURT: That was only going to be a court exhibit
13 for demonstrative purposes.

14 MR. CHAIREZ: Okay. All right.

15 THE COURT: We discussed it at the break.

16 MR. CHAIREZ: Well, I don't want to play the tape,
17 but if it's okay, can I read three or four lines of --

18 THE COURT: I mean, it is in evidence and that is a
19 court exhibit.

20 MS. HOLTHUS: The tape itself is in evidence and will
21 go back.

22 MR. CHAIREZ: Right.

23 THE COURT: The tape is in evidence. The other one
24 is a court exhibit, not a State exhibit, though.

25 MR. CHAIREZ: Right.

1 THE COURT: Is that what you're asking me?

2 MR. CHAIREZ: I just want to read to the Detective
3 and get him to agree with me that --

4 THE COURT: That's fine.

5 MR. CHAIREZ: -- Mr. Alotaibi didn't know what a
6 medical exam was.

7 THE COURT: Yeah. And the jury has the, still has
8 the transcriptions.

9 BY MR. CHAIREZ:

10 Q So I'm looking at page 3040, Detective Pool.

11 Question, "What if he has a medical exam? Do you
12 know what that is?"

13 Answer, "What?"

14 Question, "A medical exam?"

15 Answer, "What is a medical exam?"

16 Question, "Where they go in by a doctor and a nurse,
17 they look and see -- they look for evidence. Yeah.

18 Unintelligible for evidence, yeah."

19 Answer, "I don't care." So medical exam, would you
20 say that's a pretty simple term to understand if somebody's
21 fluent in the English language?

22 MS. HOLTHUS: Objection, calls for speculation. He
23 -- he's not -- it's just not an appropriate question.

24 THE COURT: Sustained. I think it calls for
25 speculation.

1 MR. CHAIREZ: Well, they presented evidence, Your
2 Honor, that Mr. Alotaibi is --

3 THE COURT: Maybe ask it a different way --

4 MR. CHAIREZ: Okay.

5 THE COURT: -- so it doesn't call for speculation.

6 BY MR. CHAIREZ:

7 Q Okay. Do you know what a medical exam is?

8 A I've seen hundreds.

9 Q Okay. Did it surprise you when he answered that
10 he didn't know what a medical exam was?

11 A No.

12 Q It didn't surprise you?

13 A No, sir.

14 Q Okay. And -- and why did you have Detective
15 Christiansen leave the room?

16 A I felt he'd be more comfortable talking to me.

17 Q Okay. Because you're a man and she was a woman?

18 A Yes, sir.

19 Q Okay. Was there anything said by Detective
20 Christiansen to you that I don't think he likes women or he's
21 from the Arab culture and I think maybe there's something
22 that's causing discomfort for him?

23 A No. It was my idea to have her leave, not hers.

24 Q Okay. All right. And do you recall how long
25 into the interview it was that she left?

1 A I would say it was a good portion, maybe --
2 maybe an hour.

3 Q Okay. And I don't recall, but I -- I think --
4 did you mention anything about calling his military superiors
5 if he wasn't honest with you?

6 A I don't believe I said that.

7 Q Okay. Did you -- so you basically, you said I'm
8 going to give you one more chance and that's kind of like all
9 of this started happening towards the end, correct?

10 A Yes, sir.

11 Q And so in the interview when you talked to him,
12 he never admitted that there was force used, correct?

13 A No, sir.

14 Q All right. And when he mentioned about his
15 penis, I believe it was his penis being touched by the boy, he
16 said it was just for a second or two, correct?

17 A The touching, yes.

18 Q Okay. And -- and would you say it was
19 conclusive that he said -- I mean, was his penis -- did it go
20 inside the boy or did it not go inside the boy or did he say
21 maybe?

22 A Are you referring to his anus or his mouth, sir?

23 Q His anus.

24 A Yes. He said yes, I believe it was for -- I
25 think he said for a second or two.

1 Q Okay. And if, in fact, Mr. Alotaibi's penis
2 would have gone inside the boy's anus, we would expect to find
3 scientific evidence, correct?

4 A Not necessarily.

5 Q Well, we would expect to find something. You
6 say there was a medical exam. The medical exam might reveal
7 something, correct?

8 A Are you referring to DNA or tears or?

9 Q Tears.

10 A Okay.

11 Q Okay.

12 A There sometimes are and sometimes are not.

13 Q Okay. And what about DNA, would we expect to
14 find DNA if --

15 A In my experience, sometimes DNA is left but not
16 always. So I can't say for 100 percent of the time DNA is
17 always left because it's been times before where it has not
18 been left. So it's not something that happens 100 percent of
19 the time.

20 Q Okay. So basically, you're aware that -- well,
21 right after this interview they take swabs from Mr. Alotaibi's
22 mouth in order to compare his DNA, correct?

23 A Yes, sir.

24 Q And you're aware that they take skin swabs off
25 of his hand and skin swabs off of his penis, correct?

1 A Yes, sir.

2 Q Okay. And the same was done to AJ, the victim
3 in this case, correct?

4 A Yes, sir.

5 Q All right. And we gathered evidence or you
6 gathered evidence at the hotel room to look for DNA, correct?

7 A I wasn't there, but it was processed.

8 Q Okay. And it was written up in Detective
9 Christiansen's report, correct?

10 A Yes, sir.

11 Q All right. And a full DNA exam was run on all
12 of that, Mr. Alotaibi, AJ and the items found at the hotel
13 room?

14 MS. HOLTHUS: Judge, I've got to -- I want to object
15 at this point. This is not the appropriate witness, it's
16 beyond his personal knowledge. We have a DNA expert that will
17 be presented and at that time these questions will be
18 appropriate but --

19 MR. CHAIREZ: We're just -- we're just leading in,
20 Your Honor. It's foundational to the next witness and then
21 for the witness that I'm going to have but --

22 THE COURT: I mean, I'll let him respond if he knows.

23 MR. CHAIREZ: Yeah.

24 MS. HOLTHUS: Well, it's all based on hearsay. He's
25 having him talk about things well beyond his expertise.

1 THE COURT: I don't think he's asking him -- he's
2 asking him if he's aware of certain things that happened and
3 that really could be responded with a yes or no.

4 BY MR. CHAIREZ:

5 Q Yes or no, Detective.

6 A Yes or no to what question? I'm sorry.

7 Q I already forgot the question, so it's a senior
8 moment on my part. I guess the question is, you believe that
9 DNA evidence was gathered in this case, correct?

10 A The collection of possible DNA evidence was
11 attempted to be collected.

12 Q Okay. And -- and one final question. At the
13 hospital were you present when they drew AJ's blood?

14 A No, sir.

15 Q Were you present when they drew Mr. Alotaibi's
16 blood?

17 A No, sir.

18 Q Okay. Do you know whether or not they drew Mr.
19 Alotaibi's blood?

20 A I don't recall.

21 Q Okay. Do you know who would know?

22 A I guess I would have to ask where -- where the
23 blood was drawn at.

24 Q I thought it might have been here, but I -- like
25 I say, I don't remember.

1 A No, sir. The -- when the CAs, the CSIs come to
2 process them, their blood is not drawn in that -- in that
3 room.

4 Q Okay.

5 A Their blood would be drawn at the jail and I'd
6 have to -- I'd have to see the paperwork to show whether or
7 not it was done.

8 Q But you didn't draw it, you didn't observe it?

9 A I didn't -- I know I didn't draw it. I don't
10 know if I observed it or not.

11 Q Okay. And lastly, did Mr. Alotaibi mention
12 something to you about being out drinking at a strip club?

13 A Yes, sir.

14 Q And did he mention to you being out with some
15 Mexican girl that confirmed that yes, he was out there, he was
16 drinking, he was at a strip club?

17 A Yes, sir.

18 Q And did -- did he tell you that he thought he
19 spent \$120 on drinks that night from -- the night before all
20 of this happened?

21 A Yes, sir.

22 MR. CHAIREZ: That's it, Your Honor.

23 THE COURT: Redirect?

24 REDIRECT EXAMINATION

25 BY MS. HOLTHUS:

1 Q Well, you said that you -- that you recognize or
2 you believe that there's a difference between being legally
3 intoxicated to drive a car versus someone who would be
4 appropriate to be interviewed.

5 A Yes.

6 Q What's -- what's the difference?

7 A If somebody was -- well, obviously can't drive
8 if it's -- your blood alcohol is I think .08 for driving a car.
9 To be interviewed I guess it would depend whether the person's
10 able to understand what's being asked of him --

11 Q Okay. And give answers.

12 A -- and being able to speak.

13 Q And isn't it true in your training in particular
14 when you're interviewing a suspect that it's the speed is of
15 the essence?

16 A Yes, ma'am.

17 Q The sooner you get to the suspect, the better
18 chance you have of getting the truth?

19 A Yes, ma'am.

20 Q And conversely, the longer you wait?

21 A Correct.

22 Q So you could be highly unlikely to allow the
23 defendant to say go to the detention center, take a nap, have
24 some lunch and come back the next day?

25 A Correct.

1 Q He did seem tired?

2 A Correct.

3 Q He seemed like he'd been up for several hours?

4 A Yes.

5 Q But in spite of that he was able to answer your

6 questions articulately?

7 A Correct.

8 Q When there was a communication issue he pointed

9 that out and you responded and answered appropriately?

10 A Yes.

11 Q He did initially -- a large portion of the

12 interview denied actually --

13 A Correct.

14 Q -- even knowing the kid although early on he

15 acknowledged that there was -- I think he's called him the

16 Japanese kid that came up and wanted money?

17 A Japanese -- I thought he said Asian kid quite a

18 few times.

19 Q I think the first time.

20 MS. HOLTHUS: Court's indulgence.

21 BY MS. HOLTHUS:

22 Q Page 16, the first mention in the bottom.

23 "There's a f'ing Japanese guy tried to ask me about some money

24 and then he tried to get me inside the room." And that was

25 only 16 pages in, right?

1 A Okay. Yes.

2 Q And then thereafter, he continued to deny,
3 continued to deny and then he moved on to I was drunk, I don't
4 remember.

5 A Yes.

6 Q In spite of that he didn't remember, but then he
7 remembered, oh, yes, he did come in the bathroom?

8 A Yes.

9 Q And he didn't remember, but oh, yeah, he did ask
10 him for money?

11 A Correct.

12 Q He didn't remember, but oh, yeah, he did want
13 weed?

14 A Yes.

15 Q He didn't remember, but yeah, his clothes were
16 off?

17 A Correct.

18 Q The victim's. He didn't remember -- and his
19 pants were pulled down as well?

20 A Correct.

21 Q He didn't remember but the kid non -- was not
22 forced to suck his dick?

23 A Correct.

24 Q He didn't remember but, yeah, the penis was in
25 his anus for only a second or two?

1 A Correct.

2 Q He didn't remember anything, but he remembered
3 that he was with the kid walking around for 20 minutes or so?

4 A Yes.

5 Q That he was with him on the elevator?

6 A Yes.

7 Q That the video would show that the -- that the
8 kid wasn't going along forcefully, that he wasn't dragging him
9 or pulling him, but that he was walking with him?

10 A Correct.

11 Q So at the end of the day there really weren't
12 any parts during the night that he didn't remember, were
13 there?

14 A I --

15 MR. CHAIREZ: Speculation, Your Honor.

16 MS. HOLTHUS: I'll rephrase it.

17 MR. CHAIREZ: No --

18 THE COURT: Rephrase it. Actually, I couldn't hear
19 whether you said did or didn't.

20 MS. HOLTHUS: I'll rephrase it.

21 BY MS. HOLTHUS:

22 Q His statement takes him from his arrival in
23 Vegas to between one and two in the morning?

24 A Yes.

25 Q Then he talks about meeting at a -- a bar that

1 was closing, that they drank there till it closed, a club?

2 A Correct.

3 Q And then he talks about going back to a car and
4 there was an issue with a spare key and he described what was
5 going on with that?

6 A Yes.

7 Q And then ending up back at Circus Circus?

8 A Correct.

9 Q And then he describes to you what's going on at
10 Circus Circus, where they are, what they're doing, what
11 they're drinking, who's there?

12 A Correct.

13 Q And then running into the -- the Japanese, later
14 Asian boy, who wanted money and drugs?

15 A Correct.

16 Q To then being in the room when security came to
17 take him down and come to you?

18 A Correct.

19 Q And then we know that from the time that
20 security knocked on that door, he was in security's custody
21 until the time that you spoke with him?

22 A Correct.

23 Q And are you aware of any marijuana or alcohol
24 being served to him from that point on? Obviously not, right?

25 A No.

1 Q So he hadn't been drinking or smoking during
2 that time period?

3 A Not from the time that security knocked on his
4 door.

5 Q You did, in fact, interview one of the other
6 occupants from the room; is that correct?

7 A Yes.

8 Q And that was Mohammed Jafaari?

9 A Yes.

10 Q There were four other occupants that night. Do
11 you know if they were interviewed on that particular day?

12 A No, they weren't.

13 Q Was there a time thereafter that any of those
14 subjects were interviewed?

15 A There was one that was interviewed approximately
16 two weeks ago I'd say but --

17 Q And do you -- do you know who that was?

18 A No, ma'am.

19 Q If I gave you the name would you know it?

20 A No, I would not. I didn't do the interview so I
21 -- I would have no idea.

22 Q And with respect to the other -- other three
23 individuals, are you aware of, were they ever formally
24 interviewed and recorded?

25 A No, they were out of country.

1 Q All right. Mr. Chairez talked to you about
2 cases that you've seen where -- do you get DNA. Would you --
3 is DNA -- isn't it true that DNA is not only -- not the norm,
4 but it's the exception, you rarely get DNA in sex cases?

5 MR. CHAIREZ: Your Honor --

6 THE COURT: Yes, sir?

7 MR. CHAIREZ: -- I'm going to object. I don't think
8 that he's qualified to answer this question. They have the
9 DNA expert coming tomorrow, she can ask her.

10 MS. HOLTHUS: Well, that was my point when he was
11 asking the questions. But since you allowed it I was simply
12 going to respond based upon his experience.

13 THE COURT: You can ask the question based on his
14 experience.

15 A In my experience we don't always get DNA.

16 BY MS. HOLTHUS:

17 Q Particularly if there's no ejaculation?

18 A Correct.

19 MS. HOLTHUS: Nothing else, thanks.

20 THE COURT: Mr. Chairez?

21 RE CROSS-EXAMINATION

22 BY MR. CHAIREZ:

23 Q But somebody found a condom with a liquid inside
24 of it, correct?

25 A I'm not sure, sir, I wasn't at the hotel.

1 Q All right.

2 THE COURT: Anything else?

3 MS. HOLTHUS: No, thank you.

4 THE COURT: Anything else, Mr. Chairez?

5 MR. CHAIREZ: No, Your Honor.

6 THE COURT: Thank you, Detective, you're free to go,
7 sir.

8 All right, ladies and gentlemen, we're going to have
9 to call it a day. So we'll see you back tomorrow at 9:30.
10 There may actually be two witnesses tomorrow, but still
11 anticipate that it will be a short day. Until we see you
12 tomorrow, you're admonished not to converse amongst yourselves
13 or with anyone on any subject connected with the trial or to
14 read, watch or listen to any report of or commentary on the
15 trial by any medium of information including, without
16 limitation, television, newspaper, radio, Internet. Do not
17 form or express an opinion on this case until it is submitted
18 to you. See you tomorrow.

19 MR. CHAIREZ: Nine-thirty tomorrow, correct?

20 THE COURT: Kenny, I need one interpreter to stay.

21 (Jury recessed at 4:51 p.m.)

22 THE COURT: Okay, the jury's out of the room. The
23 reason -- there's two things that we need to address. Number
24 one, everyone --

25 MR. CHAIREZ: Interpreter --

1 THE COURT: Oh, I just need for you to translate for
2 him, sir. So there's two things that we need to discuss now
3 that the jury's out of the room.

4 MS. HOLTHUS: I'd like to -- one of the things I
5 was --

6 THE COURT: Was the video.

7 MS. HOLTHUS: Correct. The video, we need to redact
8 the ending of the defendant's request. We're going to take
9 out any naked --

10 THE COURT: Pictures.

11 MS. HOLTHUS: -- pictures or parts of it. I don't
12 think it's -- we don't need it and so we have no objection to
13 that being taken out. And additionally, this -- the tape is
14 allowed to run specifically up to and through the defendant
15 requesting a lawyer and that was, again, defense had no
16 request for any redactions out of it. That was part and
17 parcel is my understanding of his argument and ultimately
18 explaining it to the jury or I'm not sure where it comes in.
19 But that was not done by the State independent of the defense,
20 that was at their request.

21 MR. CHAIREZ: What was her point, Your Honor? That
22 we didn't --

23 THE COURT: I think she's just waiting for you to --

24 MS. HOLTHUS: You didn't ask to keep that out. You
25 didn't want it out, you wanted it in.

1 MR. CHAIREZ: No, we don't -- we don't any of it out.

2 THE COURT: You wanted to show as much of the
3 videotape -- well, you wanted to show the entirety of the
4 videotape with the exception of the portions where --

5 MR. CHAIREZ: His body is photographed.

6 THE COURT: Correct. Which we did keep out.

7 MR. CHAIREZ: Right.

8 THE COURT: And you don't have any objection to them
9 -- at the very tail end, if memory serves, he shows his
10 genitalia for photographs and --

11 MR. CHAIREZ: Right.

12 THE COURT: -- frankly, I don't see that the jury
13 would need to see that.

14 MR. CHAIREZ: They don't need to see that.

15 THE COURT: You agree with that and the State agrees
16 with that.

17 MR. CHAIREZ: Right.

18 MS. HOLTHUS: Yeah, that's fine.

19 THE COURT: All right. And the other issue we need
20 to address, is do you want to do it now or do you want to do
21 it tomorrow as far as the admonishment of his right to testify
22 or not testify?

23 MR. CHAIREZ: Why don't we do it tomorrow because
24 we'll have more free time then, Your Honor.

25 (Court recessed for the evening at 4:54 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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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

STATE OF NEVADA,)	CASE NO. C287173-1
)	DEPT NO. XXIII
Plaintiff,)	
vs.)	
)	
MAZEN ALOTAIBI,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	
<hr/>		

BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE

JURY TRIAL - DAY 6

THURSDAY, OCTOBER 17, 2013

APPEARANCES:

FOR THE STATE: MARY KAY HOLTHUS, ESQ.
Chief Deputy District Attorney
JACQUELINE M. BLUTH, ESQ.
Deputy District Attorney

FOR THE DEFENDANT: DON P. CHAIREZ, ESQ.

Also Present: Nabiha Al-Abed, Interpreter

RECORDED BY MARIA GARIBAY, COURT RECORDER
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AA000497

I N D E X

WITNESSES FOR THE STATE:

RASHED ALSHEHRI

Direct Examination By Ms. Holthus 22

Cross-Examination By Mr. Chairez 53

Redirect Examination By Ms. Holthus 73

Recross Examination By Mr. Chairez 80

JULIE MARSCHNER

Direct Examination By Ms. Bluth 84

Cross-Examination By Mr. Chairez 120

Redirect Examination By Ms. Bluth 126

E X H I B I T S

STATE'S EXHIBITS ADMITTED:

PAGE

174 Buccal Swab Kit 89

175 Sexual Assault Kit 92

173 Penile Swabs 93

176 Items of Clothing 94

151 DNA Report 96

182 Graphs 100

1 LAS VEGAS, NEVADA, THURSDAY, OCTOBER 17, 2013, 9:44 A.M.

2 * * * * *

3 (Outside the presence of the jury.)

4 THE COURT: Is Ms. Holthus coming?

5 MS. HOLTHUS: I just wanted to -- I'm calling Rashed,
6 Rashed Alshehri now. He -- my plan was to kind of start with
7 them all leaving from San Antonio going to California and
8 coming to Vegas. Implicit in that or explicit in that, I
9 guess you could say -- well, I don't know if you could say it,
10 his testimony would be that it was the defendant who procured
11 the marijuana in California.

12 Now I believe Mr. Chairez's position is it's medical
13 marijuana. I don't necessarily agree with that. I wasn't
14 going to get into it, but in light of Mr. Chairez's opening, I
15 think he's going down that road anyway. He specifically said
16 you'll hear how they went to California and they got the
17 medical marijuana and then they came back here.

18 There will also be testimony, I anticipate, of the
19 defendant smoking marijuana. I believe that's something that
20 strategically they want in anyway because part of their
21 defense is that he was too drunk, high or whatever to know
22 what was going on. There's also going to be testimony that he
23 was drinking and driving. So I don't know that those are bad
24 acts. I think they're part and parcel. I don't know how they
25 -- they certainly can't open the door to him drinking and

1 being high without us being able to offer evidence that he was
2 drinking and being high. I just want to, in an abundance of
3 caution, have Mr. Chairez acknowledge on the record that
4 that's part of his defense, so he agrees it's coming in. Like
5 I said, that's my understanding from his opening.

6 MR. CHAIREZ: Well, it's very simple, Your Honor. We
7 are not going to deny Mr. Alotaibi was in possession of
8 marijuana. We believe Rashed is going to lie and say Mazen
9 only smoked marijuana, when the truth was Rashed was smoking
10 marijuana too, but he didn't say that. So that's not in
11 statement and he wants to make himself look innocent and pure.
12 So if they want to open the door, we want to be able to ask
13 that.

14 Secondly, our position is not that Mr. Alotaibi was
15 high on marijuana. Our position is that Mr. Alotaibi was
16 intoxicated, that he at least had seven double shots of
17 Hennessy from 2:00 to 7:00. The bottom line is, now the State
18 wants to have it both ways. They have all these police
19 officers come in, these security officers come in. He was not
20 intoxicated. He speaks perfectly English, et cetera, et
21 cetera. Yesterday we pointed out some very basic words. He
22 doesn't know what a medical exam is. He doesn't know what a
23 prostitute is.

24 So in terms of oh, we want to be able to show that he
25 was high and he was using marijuana just doesn't seem fair.

IN THE IN THE SUPREME COURT OF THE STATE OF NEVADA

MAZEN ALOTAIBI.

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

CASE NO. 67380

District Court Case No. C-13-287173-1
DEPT. XXIII

Electronically Filed
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Clerk of Supreme Court

APPELLANT'S APPENDIX

VOLUME II OF V

BATES NOS. AA000251 – AA000500

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APPELLANT'S APPENDIX

INDEX

DOCUMENT	DATE	VOL.	BATES NOS.
Information	02/04/13	I	AA000001- AA000005
Amended Information	10/14/13	I	AA000006- AA000009
Second Amended Information	10/18/13	I	AA000010- AA000013
Transcript of Proceedings Partial Jury Trial - Day 2	10/11/13	I	AA000014- AA000073
Transcript of Proceedings Jury Trial - Day 3	10/14/13	I	AA000074- AA000221
Transcript of Proceedings Jury Trial – Day 4	10/15/13	I	AA000222- AA000250
Transcript of Proceedings Jury Trial – Day 4	10/15/13	II	AA000251- AA000396
Transcript of Proceedings Jury Trial – Day 5	10/16/13	II	AA000397- AA000496
Transcript of Proceedings Jury Trial – Day 6	10/17/13	II	AA000497- AA000500
Transcript of Proceedings Jury Trial – Day 6	10/17/13	III	AA000501- AA000632
Transcript of Proceedings Jury Trial – Day 7	10/21/13	III	AA000633- AA000750
Transcript of Proceedings Jury Trial – Day 7	10/21/13	IV	AA000751- AA000830
Transcript of Proceedings Jury Trial – Day 8	10/22/13	IV	AA000831- AA00091
Transcript of Proceedings Jury Trial – Day 9	10/23/13	IV	AA000902- AA000913
Instructions to the Jury	10/23/13	IV	AA000914- AA000951
Verdict	10/23/13	IV	AA000952- AA000955

Transcript of Proceedings: Defendant's Motion for New Trial and/or for an Evidentiary Hearing	11/07/14	IV	AA000956-AA000997
Findings of Fact, Conclusions of Law and Order and Decision (Motion for New Trial)	11/18/14	V	AA000998-AA001012
Transcript of Proceedings: Sentencing	01/28/15	V	AA001013-AA001025
Judgment of Conviction	02/05/15	V	AA001026-AA001028
Defendant's Notice of Appeal	02/05/15	V	AA001029-AA001031

1 MS. HOLTHUS: Previous to that, when Mr. Sweetin and
2 I had met with AJ, and Mr. Chairez knows this, he recanted, if
3 you will, or changed his story about being dragged into the
4 room very soon, very soon. That was almost immediate that he
5 acknowledged. And Mr. Chairez's position was that's because
6 he saw it on the video, but no.

7 MR. CHAIREZ: Well, I don't know when she says AJ
8 recanted his story. The first I heard of it was like, I can
9 even look at my cellphone to see what day Mr. Sweetin called
10 me, but it just seems like it was two or three weeks ago. So
11 that's the first that I heard --

12 MS. HOLTHUS: Well, we're thinking a month ago, but
13 that could be.

14 MR. CHAIREZ: Okay. Recanted his story. So --

15 MS. BLUTH: But you were aware of that, I guess, is
16 what we're trying to acknowledge.

17 MR. CHAIREZ: Yes. No, no. Mr. Sweetin called, Mary
18 Kay was present and -- and yes, they disclosed that AJ is
19 going to admit he was going to the room to smoke marijuana
20 with Mr. Alotaibi, so that he was not dragged and all that
21 other kind of stuff. So I never saw a written statement and
22 they didn't have a written statement, but they told me that
23 that's what AJ -- AJ's new position was, so.

24 THE COURT: Okay. Is there anything else before I
25 bring the jury back in? Is there anything else that you

1 believe or you're claiming that the State did not timely
2 provide you as far as discovery?

3 MR. CHAIREZ: Well, no. I mean, I'm saying they
4 didn't timely provide me anything because AJ didn't timely
5 tell them. So if she -- if Ms. Holthus and Ms. Bluth just
6 heard about it on Wednesday and they tell me on Thursday, I
7 think that that's okay. I'm just saying I don't want to be
8 held to, oh, why didn't you do this and that prior to trial
9 and all those other things. It's hard to do that after you've
10 already selected a jury, so.

11 MS. HOLTHUS: And I think the record has been made,
12 to the extent that he needs to do something, he's free to do
13 that. I think we even discussed filing something over the
14 weekend. The Court has said he can do a Petrocelli hearing or
15 whatever he needs in the middle of trial anytime he wants to,
16 just to raise it and ask for it.

17 THE COURT: Yes. That's correct. We can always do
18 it before the jury comes in. All right. Is there anything
19 else we need to address? I'm going to run and get water real
20 quick and use the restroom, and then I'll be back within a few
21 seconds. Is there anything else we --

22 MS. HOLTHUS: So we do have the clear parameters. At
23 this point he's not going into anything.

24 MR. CHAIREZ: I'm not going to go into AJ being a bad
25 kid. I'm not going to go into AJ being kicked out of school

1 because of marijuana. I'm not going to go into AJ using
2 marijuana prior to all of this, so.

3 THE COURT: All right. I'll be right back.

4 (Court recessed at 1:50 p.m. until 1:52 p.m.)

5 (Outside the presence of the jury.)

6 THE COURT: Mr. Alotaibi, just real quick. If
7 sometime during the course of the trial either the interpreter
8 is not interpreting, you can't hear because of the equipment,
9 please let me know. Okay. Unless you let me know, I'm going
10 to assume that you're understanding everything, okay? Yes?
11 Can you say it?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. Thank you, Mr. Alotaibi.

14 All right. We're going to bring the jury in now.

15 (Pause in proceedings)

16 THE COURT: Actually, you're right. We do need to --
17 we got a new interpreter. Let's swear -- Mr. Interpreter in
18 the red, could you please stand up to be sworn in.

19 (Interpreter sworn by the clerk.)

20 THE COURT: All right. And Mr. other interpreter,
21 I'm sorry, I don't remember your name --

22 THE INTERPRETER: I did that last time.

23 THE COURT: Yeah. I was going to say, remember
24 you're still under oath at this time.

25 THE INTERPRETER: Okay.

1 THE COURT: Thank you. All right. The jury, please.

2 MS. HOLTHUS: Is it my understanding that the
3 cameras -- the next two witnesses are Mom and Grandma. You
4 guys aren't filming her?

5 (Negative response.)

6 MS. HOLTHUS: Okay.

7 MR. CHAIREZ: What's the date today?

8 MS. HOLTHUS: Thank you.

9 (Pause in proceeding.)

10 (Jurors reconvene at 1:55 p.m.)

11 THE COURT: Welcome back, ladies and gentlemen of the
12 jury. Okay. Would the State like to present its next
13 witness?

14 MS. HOLTHUS: Tina Dang, please.

15 THANH NGUYEN, STATE'S WITNESS, SWORN

16 THE CLERK: State and spell your first and last name
17 for the record, please.

18 THE WITNESS: My name is Thanh Nguyen. First name
19 spelled T-h-a-n-h. Last name, N-g-u-y-e-n.

20 THE COURT: Whenever you're ready.

21 DIRECT EXAMINATION

22 BY MS. HOLTHUS:

23 Q Thanh, do you have children? How many?

24 A Three.

25 Q Names and ages?

1 A AJ is the oldest. He's now 14. And Taylor
2 [phonetic] is 11, that's the girl. And then I just had a
3 baby, Jaden [phonetic], who is six months.

4 Q And AJ's birthday?

5 A It's 9/25/99.

6 Q And his last name is?

7 A Dang, D-a-n-g.

8 Q You live in?

9 A Sacramento.

10 Q You've flown in for purposes of this trial with
11 your son and mother?

12 A Yes.

13 Q And you basically know what we're here about,
14 right?

15 A Yes.

16 Q Around New Year's of last year, did there come a
17 time when AJ came to Las Vegas?

18 A Yes.

19 Q When was that?

20 A He came December 30, with my mom.

21 Q Is that 2012?

22 A Yes.

23 Q And your mom's name is?

24 A Mai Le.

25 Q Do you live with your mom?

1 A No, I don't.

2 Q What was the purpose of the trip?

3 A AJ was living with his dad, and my mom had

4 picked him up for New Year's vacation and took him to Vegas.

5 Q Just the two of them?

6 A I believe so.

7 Q Does your mom come to Vegas frequently?

8 A Yes.

9 Q She play the slots and stuff?

10 A Yeah.

11 Q Does she have a favorite casino?

12 A No. No.

13 Q For New Year's, she was coming for how long?

14 A I wasn't sure. Maybe for a few days, because I

15 know she had to book the hotel for a few days for just the New

16 Year's.

17 Q So December 30 through New Year's Day, January

18 1?

19 A 1st or 2nd, somewhere, but no longer than the

20 2nd, I don't think.

21 Q And so did she have your permission to bring AJ

22 to Las Vegas?

23 A Yes, she did.

24 Q And did you stay in touch with them while they

25 were here?

1 A Yes.

2 Q They shared a room and whatnot?

3 A Yes.

4 Q Did AJ have a cellphone?

5 A Yes, he did.

6 Q Did you stay in contact with him on the

7 cellphone?

8 A Yes.

9 Q Did he also have music on his cellphone?

10 A Yes, he does.

11 Q Would he listen to music on it?

12 A Yes.

13 Q Do you know what kinds of music?

14 A He listened to everything. He likes everything.

15 Q And would he do that with a headphone, or just

16 holding it?

17 A Sometimes he has headphones, sometimes he

18 doesn't. He'll play loud music on his phone.

19 Q Just walking around with it up to his ear?

20 A Mm-hmm.

21 Q Is that yes?

22 A Yes.

23 Q Did you talk to him on December 30, check in

24 that they had arrived and whatnot?

25 A December 30, yes, that night I did.

1 Q Did you speak to him on the 31st?

2 A Yes, I did.

3 Q Tell me the circumstances. About what time was
4 that?

5 A If I remember correctly, it was around early,
6 between 7:30, 8:30 in the morning, because I had to get my
7 blood test done when I was pregnant, and I had to sat [sic]
8 and wait for my blood to be -- the results.

9 Q This was that like a sugar test, diabetes test?

10 A Yes.

11 Q And how pregnant were you at the time? Well,
12 the baby's six months, right?

13 A He's six months. I was -- had him -- I was
14 about eight, yeah.

15 Q In there?

16 A Yeah.

17 Q All right. So you went to the doctors
18 [inaudible] where you go, and you drink the thing and then sit
19 and wait?

20 A Yes. I had to drink the sugar drink and then
21 sat there and wait for three blood tests done.

22 Q So during the course of that, that's when you
23 put in a call to AJ?

24 A Yes. I called him in the morning to see how he
25 was doing.

1 Q And you don't recall exactly what time it was?

2 A I don't know. It's between 7:30, 8:30 in the
3 morning. I don't remember exactly.

4 Q And tell me just about the conversation.

5 A Well, I just called him in the morning to see
6 what he was doing, and he told me he was going to go eat
7 breakfast with his friends. And I asked him, well --

8 Q [Inaudible.]

9 A I'm sorry?

10 Q How did he sound when he answered the phone?

11 A When he -- at first he sounded fine, and then he
12 was rushing me to talk to get me off the phone. And I go, Did
13 Grandma know that you're going with your friends to eat, and
14 he said, Yes, I already told Grandma. And he was like, Okay,
15 well, I got to go, I'm going to go eat with my friends, and
16 then we just hung up.

17 Q So how long was the phone call would you say?

18 A Maybe like five minutes.

19 Q Was it -- was he unusually rushed? Was there
20 anything unusual about it?

21 A It just seemed like he was in a rush to go see
22 his friends. It wasn't anything that I was concerned with.

23 Q And what happened after that?

24 A I sat there. I was still waiting for the
25 diabetes thing, and then about 30 minutes later, somewhere

1 around there my mom called me and said AJ had gotten into some
2 trouble, and that's when the hotel security got on the phone
3 and told me what happened.

4 Q And essentially they told you?

5 A They told me that AJ came running to him and
6 told him that he was raped.

7 Q What did you do as a result of that?

8 A After that I was -- I said, Let me talk to my
9 mom, and then my mom's like, Yeah, that's what they are
10 saying. And then they're -- they were on their way to the
11 hospital to see if he was -- if he had been raped.

12 Q That's what your mom told you?

13 A Yes.

14 Q What did you do then?

15 A I got off the phone and I went home -- and I
16 told them I couldn't finish my blood testing, and I went home
17 and I sat until my mom called me to tell me if it was true
18 that AJ was raped. And once they confirmed it, I got in the
19 car and came to Vegas.

20 Q By confirm it, you mean you got results of the
21 medical testing?

22 A The -- the medical -- yeah, the medical tests
23 from the hospital.

24 Q Did you at any point during that talk directly
25 to AJ?

1 A I did, but he didn't really want to talk to me
2 at that time.

3 Q So you got in your car about how long after that
4 initial phone call?

5 A In the morning -- I left around maybe 2:00 or
6 3:00 in the afternoon.

7 Q And you arrived in Vegas about what time?

8 A About an hour -- I'd say an hour before
9 midnight.

10 Q So an eight-hour drive; is that what it is?

11 A Yeah.

12 Q Okay. So AJ was already back at the hospital, I
13 assume, by then -- or not hospital, hotel?

14 A Yes.

15 Q And did you have an opportunity to talk to him
16 about what happened?

17 A I tried to, but he wasn't really talking to me
18 about the whole thing. He just told me that it happened, that
19 the guy grabbed him, took him in and then that's what
20 happened.

21 Q Grabbed him, took him in and -- is that what he
22 said, "Then that's what happened," or did he tell you more
23 detail than that?

24 A He didn't tell -- he didn't go into details with
25 me. He just told me they grabbed -- that he went into the

1 bathroom and the guy raped him and that was it. He didn't go
2 into details of how it happened or anything.

3 Q And you have brought AJ back to Las Vegas
4 pursuant to this case a couple of times now; is that correct?

5 A Yes.

6 Q And specifically to testify in this trial; is
7 that right?

8 A Yes.

9 Q And can you tell me how he feels or what's his
10 demeanor about testifying at the trial?

11 A He's -- he's not happy about it. He's -- he's
12 upset that he has to. But other than that, he's hanging in
13 there.

14 Q Is he scared?

15 A Yes, he is.

16 Q He's aware of all the potential media involved
17 and everything else?

18 A Yes.

19 Q Is he embarrassed?

20 A Yes, he is.

21 Q Did you -- do you know either of these gentlemen
22 at the table next to me?

23 A No, I don't.

24 Q Did either of them have any permission to have
25 your son with them anywhere in December of 2012?

1 A No.

2 MS. HOLTHUS: Pass the witness.

3 THE COURT: Cross.

4 MS. HOLTHUS: And for the record, I was indicating
5 defense counsel and the defendant.

6 THE COURT: All right. Mr. Chairez, sir.

7 CROSS-EXAMINATION

8 BY MR. CHAIREZ:

9 Q How long have you lived in Sacramento, Ms.
10 Nguyen? Do you want Dang or Nguyen?

11 A Nguyen.

12 Q Nguyen. All right.

13 A I lived in Sacramento since 2009. About 2009,
14 yes.

15 Q And have you only lived at one house, or have
16 you lived at several houses there in Sacramento?

17 A I've lived at two different houses.

18 Q Okay. And is one on Burdett Way and the other
19 one on Rockhurst?

20 A Yes.

21 Q And when did you move to the --

22 MS. HOLTHUS: Oh, objection. Her address would be
23 relevant why?

24 THE COURT: Are we moving on now?

25 MR. CHAIREZ: Well, on how -- I'm not asking what her

1 address was. I want to ask how long she's lived at her
2 current house.

3 MS. HOLTHUS: I thought I heard an address coming in.

4 MR. CHAIREZ: No.

5 THE COURT: You can use it to show any
6 inconsistencies, as we previously discussed.

7 MR. CHAIREZ: No. I am just wondering on the morning
8 when they went to the hospital they gave one address --

9 THE COURT: I'll allow it for that limited purpose.

10 MR. CHAIREZ: Yeah. That's -- okay.

11 THE COURT: The objection's overruled for that
12 limited purpose.

13 BY MR. CHAIREZ:

14 Q Is the Burdett Way address the address where you
15 lived at on let's say December 31, 2012?

16 A Yes.

17 Q And when did you move to the Rockhurst address?

18 A In February.

19 Q And that's where you currently live, correct?

20 A Yes.

21 Q Now, and on the morning of this incident, you
22 say you spoke with AJ for about four or five minutes?

23 A Yes.

24 Q And he seemed like he was in a hurry?

25 A Yes.

1 Q And he said he was going to meet some friends
2 for breakfast?

3 A Yes.

4 Q And would you say that AJ is afraid of you?

5 A Yes.

6 Q Because you're a strict mother?

7 A Yes.

8 Q And did AJ tell you that he had gone to the
9 defendant's room or the room where the defendant was because
10 he was trying to buy marijuana?

11 A No.

12 Q And he hasn't -- he hasn't told you even up to
13 now?

14 A No.

15 Q Now, is it possible, Ms. Dang or Ms. Nguyen,
16 that instead of calling AJ at 7:30 or 7:40, you actually
17 called him at 9:04?

18 A At what?

19 Q That you actually called him at 9:04, not at
20 7:30 or 7:40?

21 A Okay.

22 Q Is that possible?

23 A No. It's around 7:00--something in the morning,
24 because that's my appointment time.

25 Q Okay. Now, did you tell me you were a strict

1 mother?

2 A Yes.

3 Q Do you know for instance, do you allow AJ to
4 have a Facebook account?

5 A Yes.

6 Q Okay. And does he have a Facebook account?

7 A Yes.

8 Q And you help monitor it with adult controls, et
9 cetera, et cetera, correct?

10 A Yes.

11 Q And is that Facebook account up now?

12 A I believe so.

13 MS. HOLTHUS: I'm going to object to the relevance.

14 THE COURT: Offer of proof?

15 MS. HOLTHUS: If we're going to do that --

16 MR. CHAIREZ: I'm just -- I've already established my
17 point, Your Honor.

18 THE COURT: Okay. Next question, please.

19 BY MR. CHAIREZ:

20 Q And Ms. Nguyen, have you hired a lawyer for AJ,
21 not a criminal lawyer, but a civil lawyer to bring a lawsuit
22 based upon this incident?

23 A Yes.

24 Q And that lawyer is what, Mr. Ellison [phonetic]
25 there in Sacramento?

1 A Yes.

2 Q And --

3 MR. CHAIREZ: All right. Nothing further, Your
4 Honor.

5 THE COURT: All right. Redirect.

6 REDIRECT EXAMINATION

7 BY MS. HOLTHUS:

8 Q Ms. Nguyen, did you give a statement to a
9 Detective Christensen?

10 A Yes.

11 Q That was recorded?

12 A Yes.

13 Q Do you recall telling her that you had woke up
14 early to get your blood work done because I'm pregnant, and
15 the process was about two hours or so, and then I got my blood
16 sugars drawn, I was waiting for a little bit, I sat around
17 anywhere between 8:30 and 9:00 o'clock, I called AJ to see
18 what he was doing in the morning, checking up on him?

19 A Yes, I did.

20 Q So if you had said -- and that statement would
21 have been given back January 8th of 2013. Do you think your
22 time was more accurate then than it would be now?

23 A It was then, because I didn't remember it was in
24 the morning. My appointment was like around 7:30-ish. I
25 didn't get in until about 8:00, and I remembered after the

1 blood work was drawn I sat down. So the time frame is about
2 that time.

3 Q So you believe you called AJ between 8:30 and
4 9:00 o'clock?

5 A Yes.

6 MS. HOLTHUS: Thank you.

7 THE COURT: Mr. Chairez.

8 MR. CHAIREZ: Hold on.

9 (Pause in proceedings)

10 RECROSS-EXAMINATION

11 BY MR. CHAIREZ:

12 Q Ms. Nguyen, I'm looking at a T-Mobile cellphone
13 record with two numbers being referenced. (626)328-5628, I
14 believe that was AJ's phone number, correct?

15 A Okay. Yes.

16 Q And I see another one. (714)326-9380, was that
17 your phone number back then?

18 A Yes.

19 Q Okay. And all I'm showing, and I don't know --
20 I'm just trying to do this to help refresh your recollection,
21 but I see an incoming phone call at 9:04 from (714)326-9380,
22 on December 31, 2012. So is it possible that maybe the phone
23 call came at 9:04 --

24 A No.

25 Q It's not?

1 A No. Because I think I called him again
2 afterwards too, but that was after I found out what had
3 happened.

4 Q And the (714)274-3466, is that your mother's
5 phone number?

6 A Yes.

7 Q Okay. And I show that that was being made at
8 9:23 a.m. But all right. I mean, it's not that it's that
9 important. I just wanted to show you what the phone records
10 indicated.

11 A Okay.

12 MR. CHAIREZ: All right. Nothing further.

13 THE COURT: All right. Is she free to go?

14 MS. HOLTHUS: As far as we're concerned, yes.

15 THE COURT: All right. Thank you, ma'am, for your
16 time. You're free to go. Thank you.

17 The next witness by the State.

18 MS. HOLTHUS: Judge, I'm going to call Mai Le, with
19 the understanding that we believe she can go without an
20 interpreter. She's indicated that she might prefer one, but
21 there's not one available today. So I think if we speak
22 slowly she'll be okay, but just warning you.

23 THE COURT: Okay. So if she doesn't understand,
24 we'll just have to call her on another day once we get an
25 interpreter. Any problems with that, Mr. Chairez?

1 MR. CHAIREZ: We'll work with her, Your Honor.

2 THE COURT: All right. Thank you.

3 MAI LE, STATE'S WITNESS, SWORN

4 THE COURT: Ma'am, you have a very soft voice. You
5 need to speak up. Okay. Right in front of you there's going
6 to be a microphone. See it's on top of the books. Make sure
7 you speak into it. Please give me your first and last name
8 and spell them. You can make yourself comfortable. Your
9 first and last name, ma'am.

10 THE WITNESS: My first name Mai, M-a-i.

11 THE COURT: A little bit louder.

12 THE WITNESS: And my --

13 THE COURT: A little bit louder, please.

14 THE WITNESS: My first name is Mai, M-a-i. And my
15 last name Le, L-e.

16 THE COURT: Okay. It's been expressed to me that
17 your first language is Vietnamese, correct?

18 THE WITNESS: Yes.

19 THE COURT: Okay. I know that you do understand and
20 speak some English. The question is going to be in English
21 right now because we don't have an interpreter. If at any
22 point you feel like you don't understand, you need to let us
23 know. And if that happens, we can just call you to testify
24 another time when we can bring in a Vietnamese interpreter.

25 THE WITNESS: Yes.

1 THE COURT: Yes?

2 THE WITNESS: Yes.

3 THE COURT: Okay. As long as you're answering the
4 questions though, I'm going to assume that you understand
5 them. So do you understand what I'm saying?

6 THE WITNESS: Yes.

7 THE COURT: Okay. So it's on you to make sure you
8 tell me if you don't understand at some point.

9 THE WITNESS: Yes.

10 THE COURT: All right. Ms. Holthus.

11 DIRECT EXAMINATION

12 BY MS. HOLTHUS:

13 Q Ms. Le, you've lived in the States for how long?

14 A Thirty-first year.

15 Q And do you work?

16 A Yes.

17 Q Where do you work?

18 A I worked at McDonald before when I got here --

19 Q At where?

20 A -- in the United States. McDonald.

21 Q McDonald's?

22 A Yes.

23 Q Okay.

24 A But I live in Little Saigon. I work the
25 restaurant, a Vietnamese restaurant. That's why, you know, I

1 don't speak English well, but I understand some.

2 Q So you've been here and you've worked in some

3 English-speaking establishments, but I assume the restaurant

4 you work in is Vietnamese-speaking; is that right?

5 A Yes.

6 Q Your family does speak English?

7 A Well, [unintelligible] speak English.

8 Q And you speak to them?

9 A I talk to them Vietnamese.

10 Q Okay. So they speak both?

11 A Yes.

12 Q You have -- you are AJ's grandmother; is that

13 right?

14 A Yes.

15 Q You have other grandchildren?

16 A Excuse me?

17 Q Do you have other grandchildren?

18 A Yes.

19 Q How many?

20 A I have three.

21 Q How old is AJ?

22 A AJ now is 14.

23 Q Are you and he close? Are you close?

24 A Pardon me? Pardon me?

25 Q Does he spend time with you, AJ?

1 A Yes.

2 Q In December of last year, New Year's Eve time,
3 did you come to Las Vegas?

4 A Yes.

5 Q And you two live in California?

6 A Yes.

7 Q What were you coming to Las Vegas for?

8 A I try for the new year. I take AJ with me.

9 Q And you were bringing him just to bring him?

10 A Yeah, I bring him with me.

11 Q Where were you staying?

12 A Circus Circus.

13 Q Well, what day did you get here?

14 A I get there the day before, like December 30.

15 Q Do you know about what time you got there?

16 A I think 2:00, 3:00 o'clock.

17 Q Would that be in the afternoon?

18 A Yes.

19 Q When you got to the casino, what did you do?
20 Did you check in?

21 A I check in.

22 Q And then what?

23 A And I stayed there with AJ and I walk around
24 with him in the casino. And he hang around there, then I tell
25 him to stay in the casino, don't go out. Then he stayed

1 there.

2 Q You told him to stay where?

3 A In the Circus Circus.

4 Q In the Circus Circus Hotel?

5 A Yes.

6 Q Did you leave him in the casino? Where did you

7 leave him?

8 A Pardon me?

9 Q Where -- you said you told him to stay. Did you

10 guys --

11 A Yeah. But he see his friend and then he go with

12 his friend.

13 Q Do you know his friend's name?

14 A No.

15 Q Was it a girl or a boy?

16 A A girl.

17 Q Did you meet her?

18 A Yes.

19 Q And so did you know that he was going off with

20 his friend?

21 A Excuse me?

22 Q Did you know he was going off with that friend?

23 A Yes.

24 Q And he had permission to do that?

25 A Yes.

1 Q So where did you go while he went off with his
2 friend?

3 A And he say he go with his -- with her mom, the
4 girl, his friend, with her mom, and she take them go around --
5 I don't know, to play.

6 Q Where did you go?

7 A I stayed in the Circus Circus.

8 Q But where in the Circus Circus were you?

9 A In the casino.

10 Q Were you playing?

11 A Yeah.

12 Q Do you play slots?

13 A Yeah.

14 Q How about did you meet up with AJ for dinner?

15 A Yeah. I already took him dinner.

16 Q You took him to dinner before he met his friend?

17 A Yes.

18 Q When you -- when he left to go with his friend,
19 did you give him money?

20 A After that he asked me to give him money, he got
21 to play in there, and then I give him 20. But I tell him I
22 give him 10, give me \$10 back. Then he say okay. After that,
23 you know, like in that night he didn't give me, but in the
24 morning he asked me he go to eat breakfast with his friend, he
25 had \$10, would he keep it. I say okay, I'll give him 10, that

1 \$10.

2 Q So what time did he get in that night?

3 A Pardon me?

4 Q You said he went out with his friend. What time

5 did he get home? Did he get home before or after you?

6 A He -- after me. I got in the room before him.

7 Q Do you know what time it was when he got in the

8 room?

9 A I think it was about 11:00, 10:00 or 11:00.

10 Q At night?

11 A Around there, yeah.

12 Q And then you said in the morning he asked about

13 going to have friend with his -- or go to have breakfast with

14 his friend?

15 A Yes.

16 Q And did he still have the money?

17 A Yes.

18 Q Did you say okay?

19 A Yes.

20 Q So you gave him permission to go have breakfast

21 with his friend?

22 A Yes.

23 Q What's the next, next you hear?

24 A Excuse?

25 Q What do you hear from next? When do you see AJ

1 again?

2 A Then, you know, after that I go down to play,
3 but he called me. He in the security room and then I run
4 there.

5 Q And what did you do when you got there?

6 A When I got there I don't know nothing. I just
7 called his mom and his mom talked to them.

8 Q Did AJ have permission to be with anybody other
9 than his little friends?

10 A Can you say it again?

11 Q Did you tell AJ it was okay to go with anybody,
12 or just his friends?

13 A Just his friend.

14 Q So then what did you do then? You're down in
15 security, you talk to security.

16 A Yeah. I come to the security, you know, then
17 they talk to me. But I so nervous and I just cried and I
18 called his mum.

19 Q And then where did you go from there?

20 A After that they take me to the hospital with AJ.

21 Q Was AJ -- did he go to the hospital with you, or
22 is he already at the hospital?

23 A Excuse me?

24 Q Was AJ in security when you got there?

25 A Yeah.

1 Q So did the two of you went to the hospital?
2 A Yes.
3 Q And then he was examined there?
4 A Yes.
5 Q Then you called his mother?
6 A I called his mother when I was in the security
7 room.
8 Q And eventually his mom came?
9 A And after that his mom still [unintelligible]
10 call in the hospital to talk to the doctor.
11 Q Did you ever talk with AJ about what happened to
12 him?
13 A I just ask him some, but he didn't say. And
14 then, you know, I afraid to ask him because he didn't want to
15 say anything.
16 Q Do you know anybody sitting over here
17 [indicating]? These two gentlemen at the table, do you know
18 either of these guys?
19 A Him [indicating].
20 Q Do you know them?
21 A I don't remember.
22 Q Did you give these men permission to be with
23 your grandson, either one?
24 A I don't know.
25 Q I can't hear you.

1 A I don't know. I don't --

2 THE COURT: Do you not understand the question, or
3 you don't know?

4 THE WITNESS: Understand, but I don't remember I meet
5 him or not.

6 THE COURT: Okay.

7 MS. HOLTHUS: It's -- I'll rephrase it.

8 BY MS. HOLTHUS:

9 Q As far as you were concerned that morning, AJ
10 was going with his friend, right?

11 A Yes.

12 Q The friend that you met the day before?

13 A Yes.

14 Q You didn't say it was okay for him to go with
15 any grown --

16 A No. Because I see that the girl, that's what he
17 asked me to go do. That's where I said okay.

18 Q Thank you.

19 MS. HOLTHUS: Pass the witness.

20 THE COURT: Mr. Chairez.

21 CROSS-EXAMINATION

22 BY MR. CHAIREZ:

23 Q Ms. Le, you've lived in the United States for 31
24 or 32 years?

25 A Yes.

1 Q And most of that time you lived in Southern
2 California?

3 A Yes.

4 Q Garden Grove or Little Saigon; is that correct?

5 A Yes, and in Anaheim.

6 Q Anaheim. All right. And there's a lot of
7 Vietnamese people that live in that area, correct?

8 A Yes.

9 Q And how many children do you have?

10 A I have three.

11 Q Three. And Tina is the oldest, the youngest,
12 the middle child?

13 A She the older.

14 Q And when your children were younger, you
15 encouraged them to speak English in the home, correct?

16 A Yes. I speak English to them, but I want them
17 to understand Vietnamese. I talk Vietnamese to them.

18 Q And so Tina just testified. It sounded like she
19 spoke very, very good English. So that's based upon what you
20 wanted for her, correct?

21 A Pardon me?

22 Q I mean, you wanted Tina and your other children
23 to learn English and Vietnamese, correct?

24 A Yes.

25 Q All right. With respect to gambling on New

1 Year's Eve, when you arrived December 30, was that a Sunday or
2 a Monday? Do you remember?

3 A I don't -- I think Monday.

4 Q Okay. And when you arrived, did you take AJ out
5 to see the Venetian or any of the other hotels?

6 A Not yet. I just got to Circus Circus.

7 Q Just Circus Circus?

8 A Yeah.

9 Q Okay. And what time did you guys arrive from
10 California here in Las Vegas?

11 A I arrive -- I get in the Circus Circus about
12 2:00 o'clock.

13 Q Okay. And did they let you check in early, or
14 did they hold you to the 3:00 o'clock check-in time?

15 A No. I check in early.

16 Q And did you say you and AJ went to eat, or that
17 you just gave him \$10 so he could go eat?

18 A No. That I gave him after.

19 Q You gave him money. All right. And then you
20 went to the casinos to play the slots or to gamble?

21 A Yes.

22 Q All right. And you let AJ go with his friend,
23 Mary; is that correct?

24 A Yes.

25 Q And do you recall what time you came home to

1 your room after gambling that night?

2 A Yes.

3 Q What time was that?

4 A I came home -- I came to the room about 9:00,
5 9:00 o'clock, you know, [unintelligible].

6 Q And did you call AJ to see where he was?

7 A Yes. I called him but he didn't answer me.

8 Q He didn't answer you. Okay. And what time do
9 you think approximately he came back from -- to the room to
10 check in for the night?

11 A He come up by 11:00, because I still awake to
12 wait -- waiting for him.

13 Q Okay. And who woke up first on the morning of
14 the 31st, you or AJ?

15 A Pardon me?

16 Q Who woke up first, you or AJ?

17 A AJ wake up first.

18 Q He woke up first. And did he wake you up and
19 ask you for more money?

20 A No, he didn't ask me more money, because he
21 asked me go to eat breakfast. I asked him where the \$10 I
22 give you last night.

23 Q Okay.

24 A You still have \$10. He said he keep it. I
25 said, Okay, you take \$10, go eat.

1 Q So did you give him an extra \$10?

2 A No. Nothing than the \$10 he keep from the
3 night.

4 Q He kept the \$10 from the night before?

5 A Yes.

6 MR. CHAIREZ: All right. No further questions.

7 THE COURT: Any redirect?

8 MS. HOLTHUS: No. Thank you.

9 THE COURT: Ma'am, thank you for your time. You're
10 free to go. Thank you.

11 THE WITNESS: Okay. Thank you.

12 THE COURT: The next witness, please.

13 MS. HOLTHUS: Judge, I need to recall Tina Nguyen for
14 a question.

15 THE COURT: All right.

16 THANH NGUYEN, STATE'S WITNESS, RESUMES THE STAND

17 THE COURT: Ma'am, you were previously placed under
18 oath. You are still under oath at this time. Thank you.

19 MS. HOLTHUS: And I apologize. There were a couple
20 of questions I had wanted to ask you as follow-up.

21 FURTHER REDIRECT EXAMINATION

22 BY MS. HOLTHUS:

23 Q You indicated on cross that you had retained
24 counsel in this case?

25 A Counseling for AJ?

1 Q Where you put him in counseling?

2 A Yes.

3 Q Have you -- but also that you've retained an
4 attorney?

5 A Yes.

6 Q And I think you even gave us the name of that
7 attorney.

8 A Yes.

9 Q What was the purpose in talking to a lawyer?

10 A Because I've never had anything like this
11 before, and I wasn't getting the full, you know, of what's
12 going on and I was just worried. So I asked somebody for
13 advice and help, and they were just telling me what was going
14 to happen and what, you know, what I should do.

15 Q So this was for the purposes of going through
16 the criminal process?

17 A Not for the -- well, for the whole thing,
18 because I just didn't understand what I was supposed to do
19 because I've never had anything like this or anything -- deal
20 with anything in general going to court.

21 Q So it was because you were coming to court here
22 on this?

23 A Yes.

24 MS. HOLTHUS: That's all. Thank you.

25 THE COURT: Mr. Chairez, anything else on that note?

1 FURTHER RECROSS-EXAMINATION

2 BY MR. CHAIREZ:

3 Q This lawyer in Sacramento that you hired, did
4 you pay him money so he could give you advice?

5 A No, I didn't.

6 Q Did he say he'd represent you and say anything
7 about taking something out of the winnings?

8 A No, he didn't.

9 Q Okay. So he's working for free as far as you
10 know?

11 A Yes.

12 Q All right. And he has no intention to sue
13 anybody, my client or the hotel?

14 A He -- well, I don't know, because he said that
15 if I, you know, if once the criminal case is over, then we can
16 do a civil suit. So I'm assuming it's towards the defendant.

17 Q Okay. And so but he didn't -- he didn't tell
18 you how he was going to charge you or what he was going to
19 charge you once you filed a civil suit, correct?

20 A He -- we signed a contract, yes, we did.

21 Q Okay. And was it -- did he call it a contingent
22 fee contract, like saying he would take 35 percent or 25
23 percent, or 40 percent? Do you remember what numbers?

24 A I don't remember exactly what number, because it
25 was a while back. I have the contract at home.

1 Q Okay.

2 MR. CHAIREZ: All right. Nothing further.

3 THE COURT: All right. Anything else for the State?

4 MS. HOLTHUS: No, thank you.

5 THE COURT: Is she free to go?

6 MS. HOLTHUS: [No audible response.]

7 THE COURT: Thank you, ma'am, for your time. You're
8 free to go.

9 Next witness, please.

10 MS. HOLTHUS: Gertrude Pina.

11 GERTRUDE PINA, STATE'S WITNESS, SWORN

12 THE CLERK: State and spell your first and last name
13 for the record, please.

14 THE WITNESS: Gertrude Pina.

15 THE CLERK: Can you spell that for me, please, ma'am.

16 THE WITNESS: G-e-r-t-r-u-d-e, and P like Paul, I, N
17 like Nancy, A.

18 THE COURT: Whenever you're ready.

19 DIRECT EXAMINATION

20 BY MS. HOLTHUS:

21 Q Ms. Pina, what do you do?

22 A I'm the manager of hotel operations for Circus
23 Circus.

24 Q And as part of that, your duties, do they
25 include custodian of record duties?

1 A Yes. Correct.

2 Q Are you familiar with the records kept in the

3 ordinary course of business at Circus Circus?

4 A Yes.

5 Q And particularly those that are kept in the

6 ordinary course of business and relied on in generally

7 conducting the business?

8 A Yes.

9 Q And have you reviewed some records in this case

10 pursuant to our request?

11 A Yes.

12 Q Showing you what we've had marked as State's

13 Proposed 168 --

14 THE COURT: Did you show Mr. Chairez?

15 MS. HOLTHUS: Yeah, I showed him earlier.

16 MR. CHAIREZ: Yeah. No objection, Your Honor.

17 THE COURT: Okay.

18 MS. HOLTHUS: Okay. I'll just move them all in.

19 MR. CHAIREZ: Yeah, that's fine.

20 MS. HOLTHUS: 168, 169 and 170.

21 MR. CHAIREZ: Move them all in.

22 THE COURT: All right. Admitted.

23 (State's Exhibit 168, 169, 170 admitted.)

24 MS. HOLTHUS: Permission to publish?

25 THE COURT: Yes.

1 BY MS. HOLTHUS:
2 Q Can you see this on your thing?
3 A Yes.
4 Q Is it big enough?
5 A That's good. That's better.
6 MR. CHAIREZ: Ours is not on, Your Honor.
7 THE COURT: Yours isn't?
8 MR. CHAIREZ: All right.
9 MS. HOLTHUS: Good?
10 MR. CHAIREZ: It's good.
11 BY MS. HOLTHUS:
12 Q Showing you what's now State's Exhibit 168.
13 What is that?
14 A That is reservation screen.
15 Q For -- you've looked at these records before,
16 right?
17 A Correct.
18 Q A couple times?
19 A Yes.
20 Q And so this indicates a reservation for who?
21 A Mr. Alshahrani.
22 Q This name?
23 A Correct.
24 Q First name of Saeed, and then Alshahrani?
25 A Yes, ma'am.

1 Q Indicating a reservations check-in when and...

2 A It was checked in. That's a copy of a check-in
3 reservation, because you have the I on the status.

4 Q And checked in when?

5 A December 28, 2012.

6 Q At what time?

7 A At --

8 Q Is that right here?

9 A No. It's where it says check-in. It's December
10 29, at 1:22 a.m.

11 Q That's check-in?

12 A Correct.

13 Q What is December 28?

14 A It was -- they modified. They made a key or
15 they did something to the reservation.

16 Q So the official check-in was --

17 A Was December 29, at 1:22 a.m.

18 Q Okay. And can you tell me how long the
19 reservation was for?

20 A It was arrival the 28th, and departure January
21 1st of 2013.

22 Q And are you aware, did this party actually check
23 out on January 1?

24 A That's the -- the room was penned out before. I
25 don't know the date.

1 Q Before the reservation expired. And what does
2 penned out mean?

3 A Security pens it out and nobody can go in except
4 security.

5 Q What room was Saeed Alshahrani checked into on
6 December 29, at 1:22?

7 A Room 631.

8 Q And what am I looking at?

9 A That's a registration card.

10 Q Indicating what?

11 A It has his check-in date, his check-out date,
12 the number of people, and his address.

13 Q How many people?

14 A Two.

15 Q And this page?

16 A That's for notes for us. It says in there that
17 the clerk checked his Air Force ID.

18 Q When checking in?

19 A Checking in.

20 Q Are you able to tell what kind of Air Force ID
21 that was?

22 A No, I can't.

23 Q I'm showing you State's 169, and what is that?

24 A That's a registration card for Mai Le, or Lee
25 [phonetic].

1 Q Indicating Mai Le arrived when?
2 A December 30, 2012, and departure date was
3 originally January 2, 2013.
4 Q And are you able to tell the room?
5 A It's Room 9829.
6 Q Can you see that one?
7 A Yes. That was for Aurelio [phonetic]
8 Candelario.
9 Q And what room was that?
10 A 625.
11 Q Do you know, were there two rooms attached to
12 that reservation?
13 A Yeah. That's 627. They had two under the same
14 name.
15 Q And were they checked in under the same name?
16 A Correct. Aurelio.
17 Q And the length of that stay was?
18 A December 29 arrival, and departure January --
19 December 31, I'm sorry.
20 Q Christmas -- or New Year's Eve?
21 A New Year's Eve, correct.
22 Q For both rooms?
23 A Well, for that one. I presume both. Yes, they
24 both -- yes.
25 Q They were both registered to Aurelio Candelario?

1 A Yes.

2 Q [Inaudible.]

3 A Correct.

4 MS. HOLTHUS: Thank you. I'll pass the witness.

5 THE COURT: Cross.

6 CROSS-EXAMINATION

7 BY MR. CHAIREZ:

8 Q Just two questions. With respect to the room of
9 Mr. Candelario, if he would have switched to another room,
10 would you still would have checked him out as December the
11 30th or 31st?

12 A I'm sorry. Can you --

13 Q Well, if they would have -- if they would have
14 wanted another room and they would have wanted to stay a
15 couple extra days, would this record have just transferred
16 over, or would they have to do a new reservation and a new
17 check-in?

18 A No. It would transfer over.

19 Q It would transfer over.

20 MR. CHAIREZ: All right. Nothing further.

21 THE COURT: Anything else?

22 MS. HOLTHUS: No. Thank you.

23 THE COURT: Thank you, ma'am, for your time. You're
24 free to go.

25 Next witness.

1 THE WITNESS: Thank you.

2 MS. BLUTH: Thank you, Your Honor. The State calls
3 Dennis Duran.

4 DENNIS DURAN, STATE'S WITNESS, SWORN

5 THE CLERK: State and spell your first and last name
6 for the record, please.

7 THE WITNESS: Dennis Duran, D-e-n-n-i-s, D-u-r-a-n.

8 THE COURT: Whenever you're ready.

9 MS. BLUTH: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. BLUTH:

12 Q Good afternoon, Mr. Duran. How are you
13 employed?

14 A Circus Circus Hotel & Casino, security officer.

15 Q Thank you. And how long have you been employed
16 with the Circus Circus as a security officer?

17 A Thirty years.

18 Q Thirty years?

19 A Yes, ma'am.

20 Q What are your job duties as a security officer
21 with Circus Circus?

22 A To control and keep people safe, guests,
23 tourists.

24 Q Okay. And --

25 A That's just a basic --

1 Q Sure. And in those job duties, do you often
2 police the casino floors?

3 A I police casino floors, also hotel rooms,
4 floors, stairwells.

5 Q I'd like to speak to you specifically about
6 December 31st of 2012. Were you working in that capacity at
7 the Circus Circus on that day?

8 A Yes, I was.

9 Q And did you receive orders to respond to Room
10 631?

11 A Yes. I was dispatched.

12 Q And when you were dispatched, what type of
13 information did you get?

14 A The only information was that they needed me as
15 backup. I didn't --

16 Q And where --

17 A I didn't know what was possibly happening.

18 Q And where -- when you say you were dispatched,
19 the person who calls you and let's you know where you're
20 going, who is that?

21 A That was our dispatch officers.

22 Q And so when you get to Room 631, what was going
23 on upon your arrival?

24 A At the time was other fellow officers were there
25 in the hallway.

1 Q Besides other security officers that you know
2 and recognize from working at Circus Circus, was there anyone
3 else outside the room at that point?

4 A No.

5 Q So upon your arrival, are you briefed on what's
6 going on, or what happens next?

7 A I was only briefed on actually what was going to
8 go -- what was going to happen --

9 Q And what was going to happen?

10 A -- is we were going to wait for certain guests
11 that were in the room to come out.

12 Q So basically you received orders or
13 communications from the other security officers that you were
14 to stay in the hallway until other -- until the room occupants
15 came out?

16 A Yes.

17 Q And did room occupants come out of Room 631?

18 A Yes, they did.

19 Q Can you explain to me what happened as they came
20 out?

21 A What I saw was the first male, there was only
22 one, came out, and two officers, my supervisor and another
23 officer, which I believe was a bike unit at the time, detained
24 him in the hallway right outside the door.

25 Q And after that individual was detained outside

1 of the hallway, what happened next?

2 A We were told by our supervisor to go in and
3 secure it, secure the rest of the room. But at the time we
4 didn't know how many were in the room at the time. And I was
5 told to detain the one that -- one guest was laying down on
6 the bed on the -- it would be the west bed. It was a twin --
7 twin beds -- queen beds, two beds.

8 And I asked him to get up. He did with no problem.
9 We walked over by the window with the west wall, and I patted
10 him down to make sure everything was safe for him and me and
11 everybody else in the room, no weapons.

12 Q Okay.

13 A And I did ask him if he had any weapons, knives,
14 needles, things like that before I patted him down.

15 Q Okay. So I just want to break this down. You
16 and the other security officers make the decision to enter the
17 room?

18 A We were told to go in the room.

19 Q And there were multiple occupants inside of the
20 room?

21 A Yes, there were.

22 Q And the individual that you spoke with or that
23 you detained, was he able to understand what you were saying
24 to him?

25 A Yes, he did.

1 Q And did he do what you told him to do?
2 A Yes, he did.
3 Q Did he have any problems talking with you?
4 A No, he didn't.
5 Q And once you detained him, did you then walk him
6 out of the room?
7 A We walked him out of the room.
8 Q Did he have any problems walking?
9 A No.
10 Q Did you have a chance to observe the other
11 occupants within the room?
12 A No, I didn't. I was just with mine.
13 Q And once you detained yours and move outside of
14 the room --
15 A Yes.
16 Q -- did you have then opportunity to observe some
17 of the other occupants in the room?
18 A Yes.
19 Q And did you recognize whether or not any of
20 those individuals had problem speaking?
21 A No. No.
22 Q They did not have problems speaking?
23 A No.
24 Q Did they have problems understanding commands
25 that were being --

1 A No, they didn't have any problems with that.
2 Q Did they have any problems walking?
3 A No.
4 Q Did you believe any of those individuals to be
5 drunk or inebriated?
6 A No.
7 Q You said that you have -- you've been a security
8 officer for 30 years.
9 A Yes, ma'am.
10 Q I would imagine in those 30 years you've gone to
11 many a hotel rooms where people are sloppy drunk.
12 A Oh, yes, I have.
13 Q And those individuals have problems speaking?
14 A Oh, yes, I have.
15 Q They have problems walking?
16 A Yes.
17 Q They have problems understanding?
18 A Yes.
19 Q Was that the case in any of the -- with any of
20 the occupants in Room 631?
21 A No.
22 Q After everyone in the room is detained, are they
23 then taken to a different location?
24 A No. We walked down the hallway to the elevators
25 to our security office holding room.

1 Q And you take the elevators --

2 A Down.

3 Q -- down to security?

4 A Yes, ma'am.

5 Q Were you in the same elevator as a security
6 officer by the name of Haros?

7 A I don't remember.

8 Q Did you recognize any of the occupants to have
9 any problems walking to the elevator?

10 A No, I didn't.

11 Q Did you observe any problems in the elevator
12 with anyone being able to stand up?

13 A No.

14 Q Did you observe any problems with walking from
15 the elevator down to security holding?

16 A No.

17 Q Thank you, Mr. Duran.

18 MS. BLUTH: I'll pass the witness.

19 THE COURT: Cross.

20 CROSS-EXAMINATION

21 BY MR. CHAIREZ:

22 Q Mr. Duran, when you went inside the room, did
23 you look around to see what was inside the room?

24 A No.

25 Q Okay. So you didn't see one bottle of whiskey

1 or two bottles of whiskey in there?

2 A No, I didn't.

3 Q Okay. And basically do you recognize my client
4 as one of the individuals that came out of the room?

5 A No, I don't.

6 Q Okay. But there was four or five Arabic looking
7 guys?

8 A I couldn't -- I don't -- there could have been
9 four or five. My focus was on my one on the bed that I was
10 told to detain.

11 Q All right. So you didn't smell an odor of
12 alcohol on the individual that you were with?

13 A No, I didn't.

14 Q All right. And in your opinion he didn't have
15 slurred speech?

16 A No, he didn't.

17 Q And in your opinion he didn't walk with an
18 unsteady gait?

19 A No, he didn't.

20 Q But it wasn't my client?

21 A No.

22 MR. CHAIREZ: Okay. Nothing further.

23 THE COURT: All right. Anything else?

24 REDIRECT EXAMINATION

25

1 BY MS. BLUTH:

2 Q But you -- like you stated, you did observe all
3 the occupants from the room?

4 A The ones that I -- were walking down the
5 hallway.

6 Q So the ones that were taken from the room --

7 A Yes.

8 Q -- you did -- you were able to observe them?

9 A Yes.

10 Q And so all your answers are still in line with
11 you didn't recognize to be anyone drunk?

12 A No.

13 Q Or excuse me. Didn't recognize anyone to be
14 drunk?

15 A No, or intoxicated, no.

16 MS. BLUTH: Thank you.

17 THE COURT: All right. Is he free to go?

18 MS. BLUTH: By the State, Your Honor.

19 MR. CHAIREZ: Thank you.

20 THE COURT: All right. Thank you, sir.

21 Next witness.

22 MS. BLUTH: The State calls Daniel Goodwin.

23 DANIEL GOODWIN, STATE'S WITNESS, SWORN

24 THE CLERK: State and spell your first and last name
25 for the record, please.

1 THE WITNESS: Daniel Goodwin, D-a-n-i-e-l,
2 G-o-o-d-w-i-n.

3 THE COURT: Whenever you're ready.

4 DIRECT EXAMINATION

5 BY MS. BLUTH:

6 Q Good afternoon, Mr. Goodwin. How are you
7 employed?

8 A Circus Circus Hotel.

9 Q What position do you hold within the Circus
10 Circus?

11 A A security supervisor.

12 Q And how long have you been employed in that
13 position at Circus Circus?

14 A That position, I've been with security since
15 '03, but supervisor since -- for three years now.

16 Q And what does a supervisor of security do?

17 A Run the shift, put the officers out on the
18 floor, respond to calls. The same thing as our manager does,
19 just not on that level.

20 Q So basically you -- you supervise or are in
21 charge of a certain shift; would that be correct, of the
22 security officers?

23 A Yes.

24 Q I'd like to turn your attention specifically to
25 December 31st of 2012. Were you working on that day?

1 A Yes, I was.

2 Q And at some point did you become aware that a
3 child had been sexually assaulted on the premises?

4 A Yes.

5 Q How did you become aware of that?

6 A I was with the assistant manager, Jeff
7 Jefferson, and when he got the call from Eric, the officer, he
8 told me about it and I went to the office with him.

9 Q So when you refer to Eric, are you referring to
10 Eric Laskin?

11 A Eric Laskin, yeah.

12 Q So Eric Laskin calls Mr. Jefferson?

13 A Yes.

14 Q And you're with Mr. Jefferson during that phone
15 call?

16 A Yes.

17 Q So after Mr. Laskin calls Mr. Jefferson, where
18 do you go?

19 A We go to the main security office where we take
20 all -- any incidents we have, we take everything there.

21 Q So you and Mr. Jefferson respond to the security
22 office?

23 A Yes.

24 Q And once there, do you make contact with the
25 child and Mr. Laskin?

1 A I didn't speak directly to him, but yes, he was
2 in there. Jefferson was the one talking to him.

3 Q And when the child was speaking to Mr.
4 Jefferson, were you present for a portion of that
5 conversation?

6 A Yes.

7 Q And during that conversation, did the child
8 state -- or what did the child state of what you heard?

9 A He said he'd been sexually assaulted and he gave
10 us the room number, 631, and then he gave us the description
11 of the person who did it to him.

12 Q Did he state whether or not he had gone to the
13 room willingly?

14 A Yes, he did.

15 Q He stated that he did go to the room willingly?

16 A Yes. He went in there willingly.

17 Q Now that you have the room number as being
18 identified as Room 631, what do you do with that information?

19 A I take another security officer, Eugene Brown,
20 we go up to 631, just stand by to wait for Metro to come up.
21 As we're standing in the hallway we notice there is more than
22 two voices in there, so I called for backup.

23 Q So is it normal policy for you to wait for Metro
24 to arrive?

25 A Something like that, yes.

1 Q So you're going up there with the idea of kind
2 of holding out outside the room and making sure no one leaves;
3 would that be correct?

4 A Correct.

5 Q And when you get up there initially it's just
6 you and Mr. Brown?

7 A Yes.

8 Q And then you hear several voices coming from the
9 hotel room?

10 A Yes.

11 Q So you make the decision to order more backup?

12 A Yes.

13 Q And so do other individuals respond?

14 A Yes, they do.

15 Q At any point in time do any individuals leave
16 the room?

17 A Yes. When the rest of the officers got there,
18 two individuals exited the room. We pulled them off to the
19 side. We put them on the wall. We patted them down for
20 weapons. At that point I told officer -- Security Officer
21 Haros to make contact with the room and go inside, so they
22 wouldn't -- when we made contact they would not answer the
23 door.

24 Q When -- so you were giving directions to
25 Security Officer Haros?

1 A Yes.

2 Q And when you say for him to make contact, how
3 did he attempt to make contact with the rest of the occupants
4 in the room?

5 A To knock on the door first.

6 Q And when Security Officer Haros knocked on the
7 door, did anyone respond?

8 A No.

9 Q When you are working security in your position,
10 are you in plain clothes or are you in uniform --

11 A I'm in plain clothes like I'm dressed now.

12 Q And the security officers who are not in a
13 managerial or a supervisory position, what do they wear?

14 A A uniform. A blue uniform. And then our bike
15 officers wear yellow with black.

16 Q So it would be clear to someone that this
17 individual would be security?

18 A Yes.

19 Q And Officer Haros was in that type of uniform?

20 A Yes.

21 Q So after Mr. Haros knocked on the door and no
22 one would answer, what did -- what happened next?

23 A I told him to go ahead and make entry, and at
24 that time they opened -- he used his room key to open the
25 door.

1 Q And do you go into the room?

2 A No. I stayed outside with Officer Brown, with
3 the other two suspects we had.

4 Q The individuals that you made contact with
5 outside, so those -- I believe you said there were two; is
6 that correct?

7 A Two, yes.

8 Q You stayed out with them while the other
9 security officers went inside?

10 A Yes.

11 Q Did those two individuals that were outside, did
12 they seem drunk to you?

13 A No.

14 Q Were they having any problems standing?

15 A No.

16 Q Any problems walking?

17 A No.

18 Q Any problems talking?

19 A No.

20 Q Any problems understanding any of the commands
21 that you were giving them?

22 A No.

23 Q After other security officers went into that
24 room, did they begin to bring occupants out?

25 A Yes.

1 Q And were you outside when those other
2 individuals were coming out of the hotel room?

3 A Yes, I was. I was between the suspect and
4 the -- the guys we had outside and the door.

5 Q You were, I'm sorry? Say that again.

6 A In the hallway between the two guys we had
7 outside and then the door from the room they were in.

8 Q And were you able to observe the other occupants
9 coming out of the room?

10 A Yes.

11 Q Did you observe any of those people to have
12 problems walking?

13 A No.

14 Q Have any problems speaking?

15 A No.

16 Q Have any problems understanding any commands
17 that were being given to them?

18 A No.

19 Q You said that -- earlier there's a security
20 holding room, correct?

21 A Correct.

22 Q And where is that located?

23 A In the -- our main casino area downstairs, first
24 floor.

25 Q Were the individuals that were taken from Room

1 631, were they taken via elevator downstairs?

2 A Yes, they were.

3 Q How many elevators did it take to get the group
4 downstairs?

5 A We took two separate elevators.

6 Q And which elevator were you in?

7 A In the second elevator that went down with
8 Officer Brown.

9 Q So were you in the same elevator as Officer
10 Haros, or a different elevator?

11 A A different elevator.

12 Q When you were in the elevator with Officer Brown
13 and it's -- is it the two occupants that originally came out?

14 A Yes.

15 Q Did you recognize them to have any issues in the
16 elevator with --

17 A No.

18 Q -- either standing or walking?

19 A No. It was quiet. Nobody spoke to anybody.

20 Q When you leave the area of 631, is that room
21 then secured by another security officer?

22 A Yes.

23 Q And which officer was that?

24 A That was Adrian Zeigler.

25 Q And what I mean by secured, did Officer Zeigler

1 physically stand outside Room 631 and make sure that no one
2 was able to enter?

3 A Yes. He used his -- we have a black key that
4 locks the door so only security can get in, and he stood
5 outside.

6 Q When the occupants were taken down into the
7 holding area, was the main suspect held in a separate room or
8 a separate area from the other occupant?

9 A Yes, he was.

10 Q And when I say suspect, was that the individual
11 in the red shirt with the gold crown?

12 A Yes, it was.

13 Q And that was the description that the child had
14 given of the individual who had assaulted him?

15 A Yes.

16 Q When there is a crime committed or you're having
17 issues with individuals within the casino, is it your -- is it
18 your protocol to take pictures of those individuals and get
19 them -- take down their personal information?

20 A Yes.

21 Q And what is the point of that?

22 A So we can -- when we trespass [unintelligible],
23 we have the information so if they come back, we'll call Metro
24 out to cite them for trespassing. And it also helps the rest
25 of the MGM properties. They're trespassed from all of them.

1 So they have the same information we have.

2 Q So if an individual comes on property, gets in
3 trouble with you guys and they're trespassed, you take a
4 picture of them; is that yes?

5 A Yes.

6 Q And then you document their personal
7 information?

8 A Yes.

9 Q Is that then implemented into a computer system?

10 A Yes.

11 Q And are those kept as part of your records in
12 the ordinary course of your business?

13 A Yes.

14 Q And are those shared with all the other MGM
15 properties?

16 A Yes, it is.

17 MS. BLUTH: The Court's indulgence, Your Honor.

18 BY MS. BLUTH:

19 Q I am approaching you with what's been marked for
20 purposes of identification as State's Proposed Exhibit 1, as
21 well as State's Proposed Exhibits 150 through 154. Do you
22 recognize these exhibits?

23 A Yes.

24 Q Okay. And are these the type of documents that
25 I was discussing with you earlier?

1 A Yes, it is.

2 Q And are these the individuals that were taken
3 from Room 631?

4 A Yes, they are.

5 Q And were there pictures taken and was their
6 personal information documented within your security system?

7 A Yes, it was.

8 Q And are these fair and accurate depictions of
9 the copies that were provided by your office?

10 A Yes.

11 MS. BLUTH: Your Honor, at this time I'd move into
12 evidence State's Proposed 1, as well as State's Proposed 150
13 through 154.

14 MR. CHAIREZ: No objection.

15 THE COURT: All right. Admitted.

16 (State's Exhibit 1 and 150 through 154 admitted.)

17 THE COURT: Permission to publish granted.

18 MS. BLUTH: Thank you.

19 BY MS. BLUTH:

20 Q Showing you State's -- what's now in evidence as
21 State's 1, and I'm going to zoom in. And what's now the
22 State's Exhibit 1, the name here is Mohammed Jafaari, and then
23 information is taken such as his date of birth, his age,
24 height, hair color, eye color, his race and his place of
25 birth; would that be correct?

1 A Yes.

2 Q Showing you now State's Proposed Exhibit 150,
3 name, Mazen Mozen [phonetic] Alotaibi, again, same types of
4 identifiers, date of birth, age, height, hair color, eye
5 color; is that correct?

6 A Correct.

7 Q And you would agree with me that in this picture
8 the individual is wearing a red shirt with a gold crown on it?

9 A Yes.

10 Q 151, Adel Hassan [phonetic] Alharbi. And again,
11 just those same identifiers?

12 A Yes.

13 Q And is this the normal -- I mean, probably since
14 given, but is it the normal policy and procedure to get this
15 type of personal information when someone is being trespassed?

16 A Yes.

17 Q Is that also part of the procedure?

18 A Yes.

19 Q Showing you State's -- what's in evidence as
20 State's 152, Saeed Jurban [phonetic] Alshahrani, the same
21 identifying information was given and placed into the system?

22 A Yes.

23 Q State's 153, Emad Saeed Alshehri, same
24 identifying information implemented into the system?

25 A Yes.

1 Q As well as the picture.

2 And lastly, State's 154, Rashad Hassan and I
3 apologize if that last name is Riyadh [phonetic], same again,
4 identifying information?

5 A Yes.

6 Q And that would be six individuals in total?

7 A Yes.

8 Q Thank you, Mr. Goodwin.

9 MS. BLUTH: I'll pass the witness, Your Honor.

10 THE COURT: Cross.

11 CROSS-EXAMINATION

12 BY MR. CHAIREZ:

13 Q Mr. Goodwin, when you -- when you made the
14 decision to trespass these individuals, you knew that only one
15 person had been accused of sexually assaulting the young boy,
16 correct?

17 A Yes.

18 Q Yet you decided to trespass all of them?

19 A That's a normal procedure we have.

20 Q So if you're hanging out with people that do
21 something wrong, everybody gets punished?

22 A At the discretion of the manager on duty.

23 Q And so this Rashed -- the last individual
24 mentioned, he was trespassed, correct?

25 A Yes.

1 Q And we don't know whether he did anything wrong
2 or not?

3 A No.

4 Q And when you found Rashed, he had no weapons on
5 him, did he?

6 A No.

7 Q And he had -- didn't act violent?

8 A No.

9 Q Didn't fight with any of the security officers?

10 A No.

11 Q Okay. And with respect to the other three or
12 four individuals, nobody got in any fights with any security
13 officers?

14 A Everybody was cooperative.

15 Q Everybody was cooperative. Okay. And did you
16 observe all -- was it four or five individuals we're talking
17 about here?

18 A It was six total.

19 Q Six total individuals. As far as you could
20 tell, nobody was drunk?

21 A As far as I could, no.

22 Q And as far as you could tell -- well, I guess my
23 question is, what is your definition of drunk?

24 A If I smell alcohol, there's trouble speaking,
25 slurring words, stumbling.

1 Q So somebody you wouldn't let get in a car and
2 drive away, correct?

3 A Correct.

4 Q And in the 10 or 12 years that you worked as a
5 security officer, you mentioned you saw some people unable to
6 control themselves because they were so drunk, correct?

7 A Yes.

8 Q And but that to you did not seem to be the
9 situation this morning with these individuals, correct?

10 A Correct.

11 Q And do you recall whether it was approximately
12 9:30 when you guys went to secure the room?

13 A It was approximately 9:30.

14 Q So that would have been about 20 minutes after
15 the boy first reported this incident to you, correct?

16 A Correct.

17 Q And did you say you were the one that confronted
18 the two individuals that were leaving to go to a restaurant or
19 something?

20 A They came out the room and all the security
21 officers in the hallway, we stopped them, yes.

22 Q So they didn't tell you they were going to get
23 breakfast or going to eat?

24 A They didn't speak to us.

25 Q And my client was not one of those two, correct?

1 A No.

2 Q And when you went inside the room, you didn't
3 see people packing things up, looking like they're getting
4 ready to take off, correct?

5 A I never entered the room.

6 Q Okay. All right. And when you say you
7 identified these individuals, not that it's important, but the
8 three individuals in the middle, right after Mr. Alotaibi and
9 Mr. Jafaari, and not including Rashed, so the one that you
10 identified as Emad, Saeed and Adel, how was it that you
11 identified them?

12 A Me personally didn't identify them. When we
13 brought them downstairs, Metro police were there and they did
14 the identify.

15 Q All right. Did they take their Air Force
16 identification or passport or anything or --

17 A I was not in the office at the time.

18 Q Okay. So you don't know whether these are the
19 correct names or not?

20 A No.

21 MR. CHAIREZ: All right. Nothing further.

22 THE COURT: All right. Redirect.

23 MS. BLUTH: Nothing, Your Honor.

24 THE COURT: Thank you, sir, for your time. You're
25 free to go.

1 I'm going to give the jury a brief ten-minute break,
2 let them stretch, use the restroom. All right. Ladies and
3 gentlemen of the jury, can you come back actually a little bit
4 more than that, at about 20 after.

5 Ladies and gentlemen of the jury, you're admonished
6 not to converse amongst yourselves or with anyone on any
7 subject connected with the trial, to read, watch or listen to
8 any report of or commentary on the trial by any medium of
9 information, including without limitation television,
10 newspaper, radio, Internet. Do not form or express an opinion
11 on this case until it's submitted to you. See you very soon.

12 (Jurors recessed at 3:05 p.m.)

13 THE COURT: Okay. The jury's out of the room.
14 Anything we need to address before you go on break?

15 MS. BLUTH: Not on behalf of the State, Your Honor.

16 THE COURT: Okay. Thanks.

17 (Court recessed at 3:06 p.m. until 3:36 p.m.)

18 (Outside the presence of the jury.)

19 THE COURT: Are we ready to go back on the record,
20 and are we ready to bring the jury in? Mr. Alotaibi, I don't
21 know if he's -- hold on, Jason. He's talking to Mr. Chairez.
22 Are you ready?

23 MR. CHAIREZ: Pardon?

24 THE COURT: Do you need a little more time to talk to
25 your client, or are you ready to start?

1 MR. CHAIREZ: We're ready.

2 THE COURT: Okay. Wonderful. Thank you.

3 (Jurors reconvene at 3:37 p.m.)

4 THE COURT: Welcome back, ladies and gentlemen of the
5 jury. By the State, please call your next witness.

6 MS. HOLTHUS: Jose Haros.

7 JOSE HAROS, STATE'S WITNESS, SWORN

8 THE CLERK: State and spell your first and last name
9 for the record, please.

10 THE WITNESS: Jose Haros, J-o-s-e. Last name,
11 H-a-r-o-s.

12 THE COURT: Whenever you're ready.

13 DIRECT EXAMINATION

14 BY MS. HOLTHUS:

15 Q Mr. Haros, what do you do?

16 A I'm a security officer at Circus Circus.

17 Q And how long have you been with Circus Circus?

18 A This time three years, last time 4 1/2 years.

19 Q What's your background in security?

20 A I've been doing it since I'm -- was 18. I'm 38
21 now.

22 Q So 20 years in security?

23 A Just about.

24 Q Yes?

25 A Yes.

1 Q Different -- different kinds of properties?

2 What kinds of --

3 A I've done downtown security at casinos. I've
4 done regular security in projects, stores, just about you name
5 it, I've been there.

6 Q Have any other jobs?

7 A I also work as a correctional officer. I'm a
8 senior correctional officer at Nevada Department of
9 Corrections in High Desert State Prison out in Indian Springs.

10 Q What are your duties out there?

11 A I oversee about 168 inmates and I have two
12 officers under me.

13 Q And your duties over at Circus Circus include
14 what?

15 A Just watch the property and make sure nobody's
16 getting too rowdy, kick out drunks, stuff like that.

17 Q Has that pretty much been what you've done with
18 security at least with Circus Circus both go-arounds?

19 A Yeah.

20 Q Do you have training in the area of, as you call
21 it, kicking out drunks, observing drunks?

22 A Yeah. They give us yearly training, and before
23 that we used to have a lot more training when it was a
24 different company. It used to be Mandalay Bay Resorts. Now
25 it's MGM. But yeah, we get trained.

1 Q Okay. And are you assigned to any particular, I
2 don't know whether you call them detail or...

3 A I do different things. I do like bike officers
4 when they need me outside on the property, and then I do
5 inside casino in the blues that I got on today.

6 Q So if you're working inside, that's what you
7 wear is the -- it looks like basically a uniform?

8 A Yes.

9 Q Directing your attention to December 31, 2012,
10 were you on duty?

11 A Yes, I was.

12 Q What were you assigned?

13 A Bike officer from 8:00 to 4:00.

14 Q 8:00 in the morning?

15 A 8:00 in the morning until 4:00.

16 Q So does that mean bikes are all outdoor?

17 A Yes.

18 Q Just on property?

19 A Yes.

20 Q Parking lots?

21 A Parking lots, garages, that's it. Going around
22 the building checking the exterior of the doors, making sure
23 nobody's breaking into the cars while people are gambling.

24 Q Did you -- did you get a call that morning --
25 you know why we're here, right?

1 A Yeah. My supervisor two, two, Daniel Goodwin
2 called, said he needed backup to the sixth floor of the main
3 tower for a lot of people in a room.

4 Q So did you go to the lot of people in the room,
5 room?

6 A Yes, I did.

7 Q Now, just what room number?

8 A I believed that it was 621, but I saw it was
9 631.

10 Q So what did you -- what did you find when you
11 got to 631?

12 A There was a lot of officers standing outside in
13 the hallways being really quiet, and they were waiting for
14 Metro to show up so that --

15 Q So when you say officers out there, you're
16 talking about security officers?

17 A Security officers, yes.

18 Q What's a lot, like give or take?

19 A Maybe --

20 Q Two, four, six, eight, ten?

21 A Six maybe.

22 Q Okay. So are they all in uniform or...

23 A There was -- I believe all of them had blues. I
24 think there was maybe another bike officer there too.

25 Q So the ones that you saw had blues, that same

1 uniform that you have on?

2 A Same as me, yes.

3 Q So what did you do?

4 A We were waiting for Metro to show up and two
5 individuals came out of the room. We went ahead and detained
6 them. They were kind of surprised and they were asking why
7 and making some noise.

8 Q By detaining them, is that a quiet process?

9 A Well, we were trying to be quiet, but, you know,
10 when they'd come out of a room they're wondering why we're out
11 there and they're wondering why we're, you know, patting them
12 down real quick. But I was told there was a felony committed,
13 so that's why we were making sure they had no weapons.

14 Q And when you detain them, are you cuffing them,
15 handcuffing?

16 A Yes.

17 Q Do you put them up against the wall?

18 A Yeah. Real quick you spin them around, pat them
19 down, check for guns or knives not going in their pockets,
20 just, you know, patting down.

21 Q And then you'd handcuff them?

22 A Yes.

23 Q And put them to the side?

24 A Pass them over and other officers watch them.

25 Q And what noise was being created by this?

1 A They were asking why, what's going on, kind of
2 being loud about it. So we figured that the people inside the
3 room must have heard us.

4 Q Let me stop you. Before the people came out of
5 the room, did you have a chance to stand out by the room?

6 A Yeah. We were standing out there maybe three,
7 four minutes when I got there. The other officers had been
8 there for awhile, I guess.

9 Q Do you know about what time that was?

10 A I believe maybe around 9:30.

11 Q While -- could you hear any noise from in the
12 room?

13 A Yeah. There was a lot of noise. I would say
14 like they were having a little party.

15 Q Voices?

16 A Voices, yes.

17 Q Party voices?

18 A Just a lot of noise. More than one.

19 Q More than one. Could you tell if it was men or
20 women?

21 A No.

22 Q Could you tell what they were saying?

23 A No.

24 Q Just the noise of voices?

25 A Yeah. Just responding to a room, a lot of

1 noises in the room.

2 Q And that was your -- that's what you understood
3 the room to be. Okay. So you're out there four or five
4 minutes and then the two guys come out, you detain them, it
5 gets loud. Then what happens?

6 A Then Officer Goodwin says, We're going to have
7 to go in now, so we started knocking on the door really --
8 well, I started knocking on the door.

9 Q Who knocks?

10 A I did.

11 Q Okay. Did you have to knock more than one time?

12 A Yes, several times.

13 Q Did you identify yourself?

14 A Several times.

15 Q Can you show us how -- about how loud you would
16 have knocked and how you would have identified yourself?

17 A Can I do it here?

18 Q Sure.

19 A [Indicating.] Security. Casino security, open
20 up. [Indicating.] Security. [Indicating.] Security. Then
21 someone came to the door, yelled something and like, you know,
22 what's going on or who is it, and we just kept saying
23 security. By that time the other officer opened the door and
24 we went in.

25 Q So at no time did anybody inside open the door?

1 A No.

2 Q And you had your blues on, so if anybody were

3 looking out the peephole --

4 A No.

5 Q -- they would have seen your badge like we see

6 there?

7 A I had my real bright yellow shirt on, bike

8 officer.

9 Q Oh, that's right. And it says -- it's clearly

10 marked as --

11 A It says security and security in the back.

12 Q So nobody's opening the door. About how long

13 would you say from your initial knock until the time that you

14 decide to go in?

15 A About as long as I did right now.

16 Q All right. And could you hear any noises within

17 the room during that?

18 A Somebody came to the door, but, you know, they

19 didn't open the door.

20 Q Then what did you do?

21 A The other officer put his key card in the door,

22 we opened the door. I went in first yelling to everybody let

23 me see your hands, let me see your hands. And there was four

24 individuals inside. One guy on the bed covered himself in the

25 sheets [indicating] and --

1 Q Like hiding?

2 A Yeah. Like a child would do if, you know, you
3 were playing or something. The guy that covered himself in
4 the sheets was in --

5 Q Was he in the bed closest to the door or
6 furthest from the door?

7 A Closest to the door.

8 Q And you said there were four individuals, one in
9 the bed --

10 A One in the bed covering himself in the sheets.
11 Another guy in the other bed, he was crashed out sleeping.
12 The subject here [indicating], Mr. Alotaibi, I believe, was in
13 front of the guy that was sleeping next to the desk.

14 Q Would that be the far corner of the room?

15 A The far corner of the room.

16 Q And you were pointing to somebody in the
17 courtroom. Do you see somebody you believe to be somebody
18 from the room that you referred to as Mr. Alotaibi, do you see
19 him here in the courtroom?

20 A Yes. He's right there [indicating].

21 MS. HOLTHUS: Will the record reflect the indication
22 of the defendant?

23 THE COURT: It will.

24 BY MS. HOLTHUS:

25 Q So he was at the furthest distance, and what was

1 he doing?

2 A He was standing.

3 Q Was he doing anything? Was he saying anything?

4 A At the time when I came in, I was worried about
5 weapons, you know, somebody pull a gun on you when you go
6 inside. So I just kept yelling, Let me see your hands, let me
7 see your hands. And I kept scanning the room for weapons or
8 seeing if they had anything in their hands.

9 And Mr. Alotaibi there kept digging in his pockets,
10 so I told him, Get your hands out your pockets. And when I
11 approached him I pushed his hands up and kind of held them
12 like this [indicating] and patted him down.

13 Q [Unintelligible], patted him down?

14 A Yeah. Yes.

15 Q You held his hands above his head?

16 A Yes.

17 Q And the fourth subject was where?

18 A He was in front of the guy that covered himself.
19 So basically, one guy in the bed covered himself with the
20 sheet was wide awake. The other guy was standing in front of
21 him by the TV. The other guy that was crashed out sleeping
22 was in the other bed, and Mr. Alotaibi was in front of him by
23 the desk.

24 Q Okay. So when you say the one guy, Alotaibi
25 was -- defendant was in the back corner like at the foot of

1 the guy that was sleeping?

2 A Farthest right corner.

3 Q Off the foot of that bed though?

4 A Yes. Maybe about 4 feet.

5 Q The guy that wasn't Alotaibi, the other guy that
6 was awake, where was he? You said he was in front of the guy
7 that hid?

8 A He was in same --

9 Q The foot of the bed or side of the bed?

10 A The first bed at the end of the bed close to the
11 TV.

12 Q Okay. And so what did you do then?

13 A When I first went in, the first guy covered
14 himself. The guy in front of him was looking at me. Right
15 away I put his hands up in the air, patted him down, passed
16 him to the other officer. He started searching him. Pulled
17 the sheet off of the guy that was covering himself, and
18 another officer took care of him.

19 And the other guy that was crashed out hadn't moved
20 at all, so I left him alone. He wasn't covered up or nothing.
21 He was just crashed out. And I went straight for Mr. Alotaibi
22 that had his hands in his pockets.

23 Q And then what did you do?

24 A I told him to keep his hands up in the air and
25 pulled -- moved his hands up, put them behind his back here,

1 held them and patted him down real quick for guns or knives,
2 and then went to arrest him.

3 Q What observations did you make of him as you
4 were doing this, if any?

5 A Well, he didn't -- he didn't follow the first
6 order when I told him let me see your hands. He dug in his
7 pockets.

8 Q Did you ever determine what he was digging for?

9 A No.

10 Q Then what, what other observations? Did you
11 notice did he smell like anything?

12 A No. I didn't smell nothing at the time.

13 Q Did you form any opinion -- based on your
14 experience and training with dealing with drunks, did you form
15 any opinion regarding his intoxication?

16 A He wasn't smashed beyond, you know, how some
17 people get. He was still somewhat following directions. He
18 wasn't slurring his words. He followed directions when I told
19 him walk this way and told him be quiet.

20 Q What about his gait or the way he walked?

21 A Oh, he was walking fine.

22 Q And no, any indication to you that he didn't
23 know where he was or what was going on?

24 A No.

25 Q Did you actually speak to him? Did he speak to

1 you?

2 A Other than telling him to keep his hands out of
3 his pockets and did he have ID when we were in the elevator,
4 that was about it.

5 Q Okay. Before you go, did you observe the other
6 individuals that had been in the room as well?

7 A Yes.

8 Q Did anybody seem to be extremely intoxicated?

9 A No. They were all following directions. I
10 don't think they were intoxicated to the fullest as, you know,
11 you would believe someone would get really drunk, drunk, I
12 don't think so.

13 Q What was your impression then of what was going
14 on there?

15 A I think they'd been up all night and they had
16 drank a little, but I don't think that they were so far gone
17 they didn't know where they were at or who we were.

18 Q And why do you say that they had been up all
19 night?

20 A Because it was 9:30 in the morning and it sounds
21 like a party going on.

22 Q So because basically of the hour and it appears
23 that they're still partying, you figure they've been partying
24 all night?

25 A [No audible response.]

1 Q Yes?

2 A Yes.

3 Q Okay. So now, do you -- where do you go from
4 there?

5 A From there it came over the radio to bring
6 everybody downstairs for Metro. Metro had arrived.

7 Q So as part of your job, do you do any of the
8 looking around the room to see what's there, or is that --
9 you're just focusing on the people?

10 A I'm just worried about them pulling a gun on me.
11 That's my main focus right there.

12 Q So you're told to bring them down to security?

13 A Bring them down to security. We lined them up
14 and went to the elevator and --

15 Q And who has -- or do you have all of them, or
16 have you broken them down? Was that a total of six, right?

17 A Yeah, six.

18 Q And where do we -- how does that get divided up?

19 A All I know is I took the lead with Mr. Alotaibi
20 there, and after I placed the handcuffs on him, I held on
21 to --

22 Q Didn't you have information that he was your
23 primary suspect?

24 A They told me that -- they told me that a felony
25 had been committed, that's all I knew.

1 Q So you had no idea which one of the six
2 individuals was the focus, or did you?

3 A No. Not at the time, no.

4 Q So you strictly by happenstance took custody of
5 Mr. Alotaibi?

6 A Yes, because he had his hands in his pockets.

7 Q What was he -- do you recall what he was
8 wearing?

9 A I think a red shirt.

10 Q So what did you do then?

11 A We lined them up, walked them to the elevator,
12 put them in the elevator. When I put him in the elevator, I
13 took control of the elevator, which means I told each subject
14 that was in mechanical restraints to stand against the far
15 wall of the elevator in a row and --

16 Q And at that point they're all handcuffed behind
17 their backs?

18 A Yes. Yes.

19 Q And when you're walking down the hallway, is
20 anybody tripping, stumbling, falling?

21 A No. No.

22 Q If they had been extremely inebriated, would you
23 be careful cuffing them like that?

24 A Well, I was taking the lead with the first guy,
25 but, you know, as I was walking him, I did not notice nobody

1 else falling. I mean --

2 Q And he was fine, your guy was fine?

3 A Yeah. I do a couple scans back and forth to
4 make sure the other officers are okay. But I didn't see none
5 of that, no.

6 Q Okay. So you get on the elevator. Do all the
7 officers get on, or just you, or...

8 A I know the elevator was full, but there was a
9 lot of us, so I don't know.

10 Q So do you know if all six subjects get on?

11 A No, I don't recall.

12 Q You just know your guy, the defendant --

13 A I know we filled up the whole back wall there,
14 so I don't know.

15 Q With guys from the room?

16 A Yes. Everybody that was arrested.

17 Q So you take control of the elevator. What
18 happens then?

19 A I tell everybody to face the wall.

20 Q Did they all turn and face the wall?

21 A Yes, they all followed directions clearly.

22 Mr. Alotaibi I was holding on to there. He turns around to
23 the other buddies of his and he says something in his
24 language. I don't know what it was, but it was like he's
25 giving a command or something. And I --

1 Q It sounded -- the tone of it was command-like?

2 A Yes.

3 Q You didn't understand the actual words he was
4 using?

5 A No.

6 Q Was it -- can you -- obviously you don't have
7 any words, but can you kind of give me the tone or the way in
8 which he was talking?

9 A I'll try my best, but I don't know what he was
10 saying.

11 Q Right.

12 A But it was -- I was holding on to him and he
13 turned to his buddies and he said [unintelligible], something
14 like that. And I said, Hey, no talking. And he's like, Okay,
15 okay.

16 Q Did he say okay, okay?

17 A [Unintelligible.]

18 Q Did he say okay, okay in English?

19 A Yeah. He nodded his head like yeah, okay, okay.

20 Q Okay.

21 A And then he turns around and says it again, so I
22 tell him again be quiet.

23 Q The same commanding tone?

24 A The same thing whatever it was. I don't know
25 what it was.

1 Q Did the -- were the -- did the other individuals
2 respond to him at all?

3 A They just kept quiet.

4 Q Did he appear to be in command, or not in
5 command, but --

6 A Yeah. I would say he was their leader, I guess.
7 I don't know. The alpha male of the group, I guess.

8 Q And nobody -- none of them argued with him?

9 A No. They didn't say nothing. They followed
10 directions. They kept facing forward.

11 Q And then what? After that second --

12 A After that --

13 Q -- time, did he finally --

14 A -- second time, yeah, he started being quiet
15 after that. We walked them out of the elevator, paraded them
16 down in a single file line down to the security office. When
17 we got to the security office, my supervisor patted him down
18 again and then they, I believe it was Metro, took him into the
19 holding room, and they just told me to stand by with the other
20 guys.

21 So in the processing room, I told the other guys to
22 sit down, put their feet out and cross them, and I just
23 watched them. And they tried to talk too and I just told them
24 to be -- I kept telling them to be quiet.

25 Q Did you ever speak -- were you speaking to them

1 in English?

2 A Yes.

3 Q And were they all following your English orders?

4 A Yes. They understood.

5 Q Except when they decided to not follow them?

6 A Yes. But it seemed to me that they knew exactly
7 what I was saying.

8 Q And essentially you held them there until Metro
9 came; is that pretty much --

10 A Yes. Metro, I believe, was already there.

11 Q And the entire time the defendant, Mr. Alotaibi,
12 he was kept separate from the other individuals; is that
13 right?

14 A Yes. Yes.

15 Q I'm going to show you what's been marked as
16 State's Proposed 155 through 167. And just flip through them
17 and tell me if they appear to accurately represent what they
18 appear to. Keep them kind of in order, just --

19 A This is the outside of the room. We're --

20 Q Just flip through them and tell me if they all
21 look accurate, and then we'll talk about what's in them.

22 MS. HOLTHUS: And for the record, these photographs
23 were not taken the day of the incident. These were subsequent
24 to show the layout of the rooms. And then these others,
25 Room 627 down the hallway, to show the distance between the

1 two.

2 THE WITNESS: Yeah. These are Circus Circus hotel
3 rooms.

4 BY MS. HOLTHUS:

5 Q Does it appear to be Room 631?

6 A This one does, yes.

7 Q Do they all fairly and accurately depict the
8 Room 631 --

9 A Yes.

10 Q -- and then the outside of these, 627?

11 A Yeah, that's the room layout.

12 MS. HOLTHUS: Move to admit.

13 MR. CHAIREZ: No objection.

14 THE COURT: Okay. Admitted.

15 (State's Exhibit 155 through 167 admitted.)

16 THE COURT: You can publish.

17 MS. HOLTHUS: May I publish, permission?

18 THE COURT: Yes.

19 BY MS. HOLTHUS:

20 Q Okay. There's just a wall placard, right?

21 A Yes, right outside the room.

22 Q That's kind of a backup. That's that wall
23 placard that we talked about.

24 A Yeah, coming in.

25 Q So this is being take -- this is right through

1 the door, right?

2 A Yes.

3 Q So you can see in here the two beds?

4 A Yes.

5 Q Off to the right would be the bathroom?

6 A Yes.

7 Q And there's kind of a closet entryway there?

8 A Yeah, where the safe is at, yes.

9 Q That was 156. 157, that's kind of a shot across

10 the -- around the corner to the bathroom, right?

11 A Yes, the front of the safe.

12 Q And the safe would be here?

13 A Yes.

14 Q 158, there's the safe. This is the bathroom

15 door?

16 A Yes.

17 Q Here's another kind of view of the setup?

18 A Yes.

19 Q Was this kind of a little closet anteroom

20 separating the bathroom from the actual guest room?

21 A Yes, there is.

22 Q And just for perspective now, here's the safe

23 and [unintelligible]?

24 A Yeah. That first bed is where the guy covered

25 himself with the sheet.

1 Q This one?

2 A Yes. And the other bed's where the other guy

3 was crashed out.

4 Q Okay. Here's just a slightly different angle.

5 A That would be where if Alotaibi was taking the

6 picture, that's where -- what it would look like where he's

7 standing at.

8 Q Where he was standing?

9 A Yes.

10 Q Same thing here?

11 A Yes.

12 Q And so it would be his angle to the door would

13 be here to here?

14 A Yes.

15 Q And this was just kind of outward?

16 A Yes.

17 Q Looking here's your bathroom, here's your

18 hallway door?

19 A Yeah. That's across the room, across.

20 Q And same here. This is from the other side of

21 the room, just kind of showing into the bathroom. Isn't it

22 about here --

23 A Yes, where --

24 Q That's Officer Garner, right?

25 A Yeah. Where Investigator Garner's at, a little

1 bit more in front of the mirror would be the other guy.

2 Q Right there?

3 A Yeah.

4 Q Again, here this just shows you the tub and the
5 layout of the toilet, right?

6 A Yes.

7 Q And lastly, placard for Room 627 down the
8 hallway?

9 A Okay.

10 Q If this is 627, is that about the approximate
11 distance between 627 and 631 down the hall?

12 A Yeah. But these are only about halfway, because
13 this room is a mirror of this one, but it's the opposite. So
14 in other words, if you were to go into this room over here, to
15 your left would be the bathroom.

16 Q Got you.

17 MS. HOLTHUS: Pass the witness. Thank you.

18 THE COURT: Cross.

19 (Pause in proceeding.)

20 CROSS-EXAMINATION

21 BY MR. CHAIREZ:

22 Q Officer Haros.

23 A Yes, sir.

24 Q When you had these four or five individuals with
25 you, nobody was found with weapons, correct?

1 A No.

2 Q There were no knives?

3 A No.

4 Q There were no guns?

5 A No.

6 Q Anything that could be classified as a weapon?

7 A No.

8 Q And when you took the individuals and detained
9 them, nobody tried to escape, did they?

10 A No.

11 Q And other than my client saying something in
12 Arabic to the other guys, they essentially were cooperative,
13 correct?

14 A Yes. Yes.

15 Q You don't know what my client was saying to the
16 other guys, because it was all in Arabic, correct?

17 A Correct.

18 Q So he could have just said, hey, calm down,
19 relax, everything is going to be okay; is that possible?

20 A Could be.

21 Q Or he could have said, keep your mouth shut?

22 A Yes.

23 Q But as far as you could tell, it didn't seem
24 like my client had been drunk or under the influence of
25 alcohol, correct?

1 A Yes.

2 Q Now, when you searched the room, did you look
3 and see whether or not there were any bottles of liquor?

4 A I never searched the room.

5 Q Okay. Did you see whether or not there were any
6 bottles of liquor?

7 A I believe there was hard liquor, but that's just
8 from a quick scan?

9 Q All right. Would you consider whiskey hard
10 liquor?

11 A Yeah.

12 Q Okay. So and did you see whether or not there
13 was any marijuana in the room?

14 A No.

15 Q And this individual that was covering himself
16 with the sheet, did he have any clothes on?

17 A Yes, I believe he did.

18 Q Okay. So he was covering himself even though he
19 was fully clothed?

20 A Yes.

21 Q And you don't remember the name of that
22 particular individual?

23 A I didn't detain him, no.

24 Q And with my client, he was standing in the
25 corner, correct?

1 A Yes.

2 Q And you said his hands were in his pocket?

3 A Yes.

4 Q Both hands were in each pocket?

5 A No. He had his hands out. When I said
6 everybody let me see your hands, he went to put his hands in
7 his pockets.

8 Q He went to put his hands into the pocket?

9 A Yes.

10 Q So is it possible -- okay. Tell me again how
11 you said it; let me see everybody's hands?

12 A Let me see your hands, and I had my hand on my
13 weapon, and I'm telling everybody, let me see your hands, let
14 me see your hands.

15 Q All right. And rather than stick his hands up,
16 he stuck his hands in the pocket?

17 A Yes.

18 Q So is it possible that maybe he just
19 misunderstood --

20 MS. HOLTHUS: Objection. Calls for speculation.

21 THE COURT: Sustained.

22 BY MR. CHAIREZ:

23 Q And afterwards, did you ask him again and did he
24 take his hands out of the pocket?

25 A Yes.

1 Q And did you search his pockets to see what was
2 inside of them?

3 A I patted his pockets down.

4 Q So you didn't see whether he had a wallet in his
5 pocket?

6 A No.

7 Q You didn't see whether he had any money in his
8 pocket?

9 A My concern was a knife or a gun.

10 Q All right. And you didn't find either?

11 A No.

12 Q Now, you stated, and of course you were
13 speculating and I didn't object, but it sounded like people
14 were partying in that room?

15 A Yes.

16 Q Okay. And this is New Year's Eve, correct?

17 A Yes.

18 Q And isn't one of the functions of the City of
19 Las Vegas to encourage people to come here for New Year's
20 because we put on a better party than anybody else?

21 A Yes.

22 Q So did that seem unusual that people might be
23 partying on New Year's Eve?

24 A Only because it was 9:30 in the morning.

25 Q Okay.

1 A Usually you wait until the nighttime to party.
2 Q Well, do some people start partying two or three
3 days beforehand?
4 A I would say yes.
5 Q And the more they party, the more they spend,
6 correct?
7 A Yes.
8 Q And that's good for the business of Las Vegas?
9 A Yes, it is.
10 Q All right. And some of these people drink
11 alcohol when they party, correct?
12 A Yes.
13 Q So the main thing that we're concerned about is
14 the safety of all of the citizens, making sure nobody gets
15 hurt?
16 A Yes, and our children too.
17 Q Okay. So and other than the fact that my guy
18 may have given some kind of command in Arabic, it didn't seem
19 like there was anything unusual about the way they were
20 behaving, correct?
21 A No. They followed all directions.
22 Q And as far as you could tell based upon your
23 many years in law enforcement and security work, you didn't
24 believe he was under the influence of alcohol, correct?
25 A No. I believe he might have been up all night,

1 he might have had a couple beers or something, but he didn't
2 appear smashed.

3 Q Okay. And but you don't know how much he
4 actually had drank, correct?

5 A No, I do not.

6 Q And you don't know if he drank beer or hard
7 liquor?

8 A No, I do not.

9 MR. CHAIREZ: Nothing further, Your Honor.

10 THE COURT: Redirect.

11 MS. HOLTHUS: Nothing. Thank you.

12 THE COURT: Does the State have more witnesses?

13 MS. BLUTH: Yes, Your Honor.

14 THE COURT: Okay. Next one, please.

15 MS. BLUTH: The State calls Robert Williams.

16 ROBERT WILLIAMS, STATE'S WITNESS, SWORN

17 THE CLERK: State and spell your first and last name
18 for the record, please.

19 THE WITNESS: Detective Robert Williams, R-o-b-e-r-t,
20 W-i-l-l-i-a-m-s.

21 MS. BLUTH: May I proceed, Your Honor?

22 THE COURT: Yes.

23 DIRECT EXAMINATION

24 BY MS. BLUTH:

25 Q Good afternoon, sir. How are you employed?

1 A Las Vegas Metropolitan Police Department.

2 Q And how long have you been with the department?

3 A Fourteen and a half years.

4 Q In December of 2012, what section were you
5 assigned to?

6 A The sexual assault detail.

7 Q And you are a detective. And what -- within the
8 sexual assault detail, what are the common duties of a sexual
9 assault detective?

10 A We perform -- basically what happens is when
11 there's a crime that's been reported, after patrol goes out
12 and they believe the crime did take place, they give us a
13 call. We go out and we start a preliminary investigation to
14 where we gather evidence. We do the interviews of the victim,
15 suspects, witnesses, anybody.

16 Q And how many members or how many detectives are
17 on a given squad within the detail?

18 A On my squad alone there's a total of four
19 detectives.

20 Q So when a call comes in and a sexual assault has
21 been committed, how is it assigned? Who investigates that
22 crime?

23 A During our regular work hours we have what we
24 call -- it's called a bucket list which our sergeant puts out.
25 You have a primary officer and you have a secondary officer, a

1 detective. So whoever's the primary actually will take the
2 case, and the secondary's job is to do whatever the primary
3 requests.

4 Q I'd like to turn your attention now specifically
5 to December 31st of 2012. Does a call come in to the sexual
6 assault detail in reference to a sexual assault on a juvenile?

7 A Yes, it did.

8 Q And at that point in time who was in the bucket?
9 Who was primary?

10 A Detective Christensen.

11 Q And does Detective Christensen work with --
12 commonly work with another individual?

13 A Yes, she does. Usually Detective Pool.

14 Q And then so on that day she was what we call
15 primary?

16 A Yes, she was.

17 Q So she was assigned this case?

18 A Yes.

19 Q And does that make you and your partner
20 secondary?

21 A At that day Sergeant Comiskey had me be
22 secondary.

23 Q So what were the rules of Detective Christensen
24 in regards to getting the investigation going? Where did she
25 respond first?

1 A She responded to UMC.

2 Q Who was at UMC?

3 A The victim.

4 Q And as secondary, what were your duties?

5 A I was told by Detective Christensen to go to the
6 scene, which was Circus Circus.

7 Q And did you go to the scene?

8 A Yes, I did.

9 Q And when you went to the scene, did you have any
10 other officers with you?

11 A Yes. Detective Beza.

12 Q And on the way to Circus Circus, are you given
13 any details about, you know, what's going to be at the scene,
14 what are you responding to?

15 A We were told that there was a sexual assault of
16 a 13-year-old that occurred into a room, and that all parties
17 involved were in the security office.

18 Q When you respond to Circus Circus, do you and
19 Detective Beza go to the security holding room?

20 A Yes, we do.

21 Q And what's going on there at that time when you
22 arrive?

23 A When we arrive, patrol officers were already
24 there for Metro and also security officers. We entered the
25 security room. Right off to the left there was another room

1 where the defendant was sitting inside the room, and other
2 individuals that were occupants out of that room were sitting
3 outside in front of -- in the other security spot.

4 Q Do you make contact with the individuals that
5 are the occupants from that room?

6 A Yes.

7 Q And I believe you just said they're in a
8 different room than where the defendant's being held?

9 A Yes.

10 Q And you do make contact with them?

11 A Yes, we do.

12 Q And are they able to answer any questions you
13 pose towards them?

14 A Yes, there was. It was just brief questions of
15 name, date of birth, where do they live.

16 Q And were you -- were they able to answer those
17 questions?

18 A Yes, they were.

19 Q Were they able to speak with you? Were they
20 having any problems communicating?

21 A No, they did not.

22 Q Were they having -- were they sitting or
23 standing?

24 A They were all sitting.

25 Q Were they having any trouble sitting upward?

1 A No, they were not.

2 Q Did any of them appear to be inebriated or
3 intoxicated to you at that point?

4 A No.

5 Q And you stated that you got their personal
6 information; would that be --

7 A Yes.

8 Q -- is that correct?

9 A It would be correct.

10 Q And what type of information is it that you got
11 from them?

12 A ID.

13 Q What type of identifiers? I apologize.

14 A Sorry. Oh, usually name, date of birth, Social
15 Security number if they have one, where do they live.

16 (Pause in proceeding.)

17 MS. BLUTH: May I approach the witness, Your Honor?

18 THE COURT: You may.

19 BY MS. BLUTH:

20 Q Showing you what's been marked for purposes of
21 identification is State's Proposed Exhibit 171 and State's
22 Proposed Exhibit 172. Do you recognize what's being depicted
23 in these papers?

24 A Yes. That is my handwriting.

25 Q And what is this, for the ladies and gentlemen

1 of the jury?

2 A These are basically their name, date of birth,
3 their physical description, their addresses and birthplaces.

4 Q And that is your handwriting?

5 A Yes, it is.

6 Q And these were the identifiers you took on
7 December 31st of 2012, when you responded to the Circus
8 Circus?

9 A Yes, it was.

10 Q And are these a fair and accurate copy of the
11 information you took down on that date?

12 A Yes, it is.

13 MS. BLUTH: Your Honor, I'd move to admit this into
14 evidence at this time.

15 MR. CHAIREZ: I have no objection, but can I see it
16 again quickly, Your Honor?

17 THE COURT: You may.

18 (Pause in proceeding.)

19 MS. BLUTH: May I approach and publish at this time?

20 THE COURT: Anything else, Mr. Chairez?

21 MR. CHAIREZ: No objection, Your Honor.

22 THE COURT: All right. Yes, you may. And yes, it's
23 admitted.

24 (State's Exhibit 171 and 172 admitted.)

25

1 BY MS. BLUTH:

2 Q So showing you State's -- what's now in evidence
3 as State's 171 -- before I get to any questions on this paper,
4 is it normal when you respond to a scene of a crime that you
5 take down personal information from all those that are
6 involved in that crime, or witnesses?

7 A Yes, it is.

8 Q And then are those kept in the personal record
9 in the case file?

10 A Yes, they are.

11 Q Is that part of the ordinary scope and course of
12 your business as a detective?

13 A Yes, it is.

14 Q And so the first individual is identified as
15 Mazen Alotaibi; is that correct?

16 A Yes.

17 Q And you're given -- or you gave -- or you placed
18 down on the paper date of birth, as well as the description,
19 his height and weight, as well as an address?

20 A Yes.

21 Q And then down below there's two other
22 individuals, Mohammed Jafaari, same type of identifying
23 information?

24 A Yes.

25 Q And Emad Alshehri, same type of identifying

1 information?

2 A Yes.

3 Q And all of these individuals were able to give
4 you this information?

5 A Yes, after I verified it, because I believe they
6 did have a type of identification with them. And what common
7 practice for us is, I'll actually look at the ID to compare it
8 with them and also ask the questions.

9 Q And so they were able to provide you with ID?

10 A Yes.

11 Q And they were able to understand the questions
12 you posed and answer them?

13 A Yes.

14 Q And on this document, the first individual is
15 Adel Hassan Alharbi, same type of personal identifying
16 information, date of birth, birthplace, height, weight?

17 A Yes.

18 Q Second, Saeed Jubran Alshahrani, same type of
19 identifying information?

20 A Yes.

21 Q And Rashed Alshehri?

22 A Yes.

23 Q The first individual on the paper, Mazen
24 Alotaibi, those were the first questions that I asked you, he
25 was being held, like you said, in a different room?

1 A Yes, he was.

2 Q And you made contact with him?

3 A Yes, I did.

4 Q Do you see him here in the courtroom today?

5 A Yes.

6 Q Can you please point to him and describe an
7 article of clothing?

8 A Sitting to the [indicating] -- it would be to
9 his right of the defense attorney. He's currently wearing a
10 black suit, maroon tie. He's a Middle-Eastern male, black
11 hair, sideburns, appears to look -- he has a little goatee
12 underneath.

13 Q All right. Thank you.

14 MS. BLUTH: Your Honor, may the record reflect that
15 the witness had identified the defendant?

16 THE COURT: It will.

17 MS. BLUTH: Thank you.

18 BY MS. BLUTH:

19 Q And so when you were speaking with the
20 defendant, was he able to provide identification to you?

21 A Yes, he was.

22 Q Was he able to understand your questions?

23 A Yes, he was.

24 Q Was he able to answer your questions?

25 A Yes, he was.

1 Q Did he have any difficulties with any of that?

2 A No, he did not.

3 Q After you make contact with all of the occupants
4 that were brought down into the secured security holding area,
5 what's your next step at the Circus Circus?

6 A Our next stop, it was decided by our sergeant to
7 bring everybody down to the headquarters building, to where
8 interviews would be conducted.

9 Q Was there ever a search warrant conducted at the
10 Circus Circus?

11 A Yes, there was.

12 Q And that was done in Room 631?

13 A Yes, it was.

14 Q And whose decision was that?

15 A The decision was we needed to gather evidence
16 out of the room, so it was the lead detective's decision to
17 obtain the search warrant.

18 Q Which would be Detective Christensen?

19 A Yes, it would be.

20 Q And did you make contact with her in regards to
21 some of the details that were surrounding the case at that
22 time?

23 A Yes, I did.

24 Q Had she briefly spoken to the victim at the
25 hospital?

1 A I believe she just conducted her preliminary
2 investigation with the victim, just enough to provide me so I
3 could obtain a search warrant.

4 Q And then did she provide you, like you said,
5 those limited details in order for you to apply for the search
6 warrant?

7 A Yes, she did.

8 Q And did you do so?

9 A Yes, I did.

10 Q And did you then execute a search warrant on
11 Room 631 at the Circus Circus?

12 A Yes, I did.

13 Q Did you know what items you were looking at --
14 for specifically, and did you know what room within the room
15 you would be looking at?

16 A It was told -- it was related to me by -- in the
17 bathroom, and we were looking for towels, lotions, used
18 condoms.

19 Q And as part of the search warrant process, do
20 you also apply to get what's called a buccal swab for the
21 defendant?

22 A Yes, we do.

23 Q And can you explain to the ladies and gentlemen
24 of the jury what a buccal swab is?

25 A Yes. Basically a buccal swab is it's two Q-Tips

1 are in a package for us. They're long Q-Tips. We put one
2 Q-Tip on either the left side or the right side of your mouth.
3 We basically rub it around to try and get cells off of your
4 skin area, which is then for DNA, where it will be analyzed.

5 Q And was that done in this case?

6 A Yes, it was.

7 Q And is that often done in sexual assault cases?

8 A Yes, it is.

9 Q And is the purpose of that for later any ability
10 to conduct DNA testing?

11 A Yes, it is.

12 Q When you got up to Room 631, was there a
13 security guard on duty securing that area?

14 A Yes, there was.

15 Q And at any point in time was a crime scene
16 analyst called to respond to document the inside of the room?

17 A Yes. We called her.

18 Q When you get to Room 631, what's the first thing
19 that is done?

20 A The first thing that's done is when we get there
21 we have CSI with us -- criminalistics, excuse me. Sorry.
22 What they do is they take photographs before we enter the
23 room. At that time, after the photographs are taken, CSI
24 enters the room and takes photographs to make sure we can
25 document the way it looked when we went into the room prior to

1 searching.

2 Q And was that done in this case?

3 A Yes, it was.

4 Q After the crime scene analyst went in and
5 documented with photography the state of the room, what's the
6 next step?

7 A The next step was after CSI did that we started
8 looking in the area to search. We started looking in the
9 restroom for any of the towels or anything that was -- was
10 told to me by Detective Christensen.

11 Q And did you find any, I'll call them items of
12 interest within the bathroom?

13 A Yes, there was.

14 Q What was that?

15 A There was towels, there was lotion, and I
16 believe shampoo, and I believe there was a used condom that
17 CSI had located in a trash can.

18 Q Once items like that are found, what process do
19 you guys go through collecting the evidence, impounding it, et
20 cetera?

21 A As a detective we do not touch any of the items.
22 We have criminalistics retrieve the items for us.

23 Q Were there any narcotics found inside the room?

24 A Yes, there was. We located a small bottle of --
25 it looked like it was a prescription bottle of marijuana on a

1 dresser.

2 Q And was it collected into evidence?

3 A No, it was not.

4 Q And why not?

5 A Reason being is I had limited information prior
6 to going in that -- and also you have a misdemeanor crime, and
7 it wasn't going to -- we were concentrating more on the sexual
8 assault of a 13-year-old.

9 Q When you say you had limited information, what
10 information if any did you have revolving around some
11 marijuana?

12 A Basically that the victim just observed people
13 smoking marijuana in a room.

14 Q Smoking marijuana within the room?

15 A Yes.

16 Q When you have a -- I think you said you had a
17 violent sexual assault, that was the investigation that you
18 were working on at that point?

19 A That's what we were working on, yes.

20 Q And so were you more concerned with the details
21 revolving around that assault at that time?

22 A Yes, I was.

23 Q Furthermore, was the marijuana documented in
24 your report?

25 A Yes. The marijuana was documented by CSI. She

1 took photographs of the marijuana and documented where the
2 location was.

3 Q We spoke a little bit earlier about the buccal
4 swab, and at -- I don't remember if I asked you or not. Were
5 penile swabs taken as well?

6 A Yes. Penile swabs, yes.

7 Q And those were taken at what location?

8 A At the headquarters building of Metro.

9 Q So --

10 MR. CHAIREZ: Your Honor, I'm going to object.
11 Speculation. He has no knowledge of this. He wasn't present,
12 unless they lay that foundation.

13 THE COURT: Lay a foundation, please.

14 BY MS. BLUTH:

15 Q Were you present when the swabs were taken?

16 A I was present right outside the room, yes.

17 Q Okay. So after this search is conducted, then
18 you stated that the decision is made to move everyone down to
19 headquarters?

20 A Yes.

21 Q And that is Mr. Alotaibi as well as the other
22 room occupants?

23 A Excuse me. After the search warrant? Sorry.
24 Excuse me. What is the question? Sorry.

25 Q So after the search warrant was conducted, the

1 next decision was to move everyone down to headquarters?

2 A The search warrant was conducted after everybody
3 moved down to the headquarters building.

4 Q Okay. So everyone is moved to headquarters, and
5 then --

6 A Then we conducted the search warrant.

7 Q I apologize. Thank you. But I do want to talk
8 about headquarters. At some point everyone, the defendant,
9 including the other -- and the other occupants moved to
10 headquarters?

11 A Yes, they did.

12 Q And were they transferred by patrol vehicles?

13 A Yes. They were transported by patrol.

14 Q And at headquarters, that is when the buccal
15 swab as well as the penile swabs were taken from the
16 defendant?

17 A Yes.

18 Q And who was it that physically did that?

19 A The buccal swab was actually conducted by the
20 CSI. And the penile swab was actually conducted, Detective
21 Beza actually assisted in taking the penile swab.

22 Q With the crime scene analyst?

23 A Yes, with the crime scene analyst.

24 MS. BLUTH: I'll pass the witness.

25 CROSS-EXAMINATION

1 BY MR. CHAIREZ:

2 Q Just a couple questions, Detective. The last
3 name is Williams?

4 A Yes, it is.

5 Q All right. Detective Williams, do you recall at
6 what time you obtained the search warrant to go in and search
7 the room?

8 A It would be most likely on my search warrant. I
9 don't recall what time.

10 Q Did you say it was an hour or two after you
11 first arrived at Circus Circus?

12 A Most likely it was an hour or two after.

13 Q And do you remember whether or not it was a
14 telephonic search warrant, or somebody went down to talk to
15 the judge?

16 A It was a telephonic search warrant.

17 Q And is that common practice and procedure
18 nowadays, or was there a special circumstance for that to
19 happen that way?

20 A I believe that day was a weekend. I believe it
21 was a Sunday, the 31st. I don't recall. But usually if we're
22 on scene and we need to get a search warrant right then and
23 there, we do conduct a telephonic search warrant for the
24 judge.

25 Q All right. And the information that you had

1 been given was given to you by Detective Christensen?

2 A Yes.

3 Q And so based upon the information given to you
4 by Detective Christensen, you look for wash cloths, you look
5 for towels, you look for lotions and all that other kind of
6 stuff, correct?

7 A Yes, I do.

8 Q All right. And you say the CSI crime scene
9 people came and actually took possession of all of that?

10 A Yes, they did.

11 Q All right. And did you yourself see the medical
12 marijuana that was in the room?

13 A Yes, I saw the marijuana.

14 Q And you didn't grab it?

15 A No, I did not.

16 Q Because essentially it was just, as far as you
17 could understand, no more than misdemeanor behavior here in
18 the State of Nevada, correct?

19 A Yes. And also, it appeared to be medical
20 marijuana.

21 Q So at the time, just looking at the marijuana,
22 it didn't seem like there was anything wrong with having it?

23 A At that time, no. That's why we just documented
24 it with photographs.

25 Q And you don't know what happened to that

1 marijuana?

2 A Don't know what happened to it. No, I do not,
3 sir.

4 Q We don't know if Circus Circus security got it
5 or somebody else from Metro, it just disappeared, correct?

6 A That I do not know.

7 Q And we know that my client or his friends, none
8 of them took it, correct?

9 A I can't answer for them. I don't know.

10 Q Well, you say you took them into custody and
11 took them down to headquarters, correct?

12 A Yes. When we left the room, sir, the room was
13 secured and a copy of the search warrant and the return was
14 left in that room and photographed. When we left that room,
15 the room was secured and the marijuana stayed right where it
16 was at.

17 Q And did anybody from Circus Circus tell you that
18 they had trespassed these individuals, so theoretically they
19 couldn't even go back to the room?

20 A They didn't tell me that they trespassed them at
21 that time.

22 Q In the information you received from Detective
23 Christensen, did she tell you what the story of the boy was as
24 to how he got into the room?

25 A It was just a preliminary investigation I

1 believe she conducted. She said that he was walking on the
2 floor when he was approached by the defendant, and the
3 defendant asked him for sex for \$200.

4 Q All right. Okay. Did she say whether or not
5 the defendant forcibly took him down to the room?

6 A She said that he was walking by the room, at
7 that time he was pushed into the room.

8 Q All right. But she didn't tell you that the boy
9 had gone to the room voluntarily to get marijuana, correct?

10 A At that point she didn't tell me because I don't
11 know if she conducted a full interview at that time, sir.

12 Q And the interview that Detective Christensen
13 conducted was approximately 10:30 or 10:45?

14 A That I do not know, sir.

15 Q But it was before you got the search warrant?

16 A The original preliminary investigation, to me,
17 that was related to me was prior to me getting the search
18 warrant. As far as her doing a full-blown -- doing a
19 full-blown interview with the victim, I couldn't tell you what
20 time because I wasn't present at the hospital.

21 Q But she would have done her interview after the
22 boy had already reported everything to Circus Circus security,
23 correct?

24 A Yes.

25 MR. CHAIREZ: All right. Nothing further.

1 THE COURT: Redirect.

2 MS. BLUTH: Nothing, Your Honor.

3 THE COURT: Thank you, sir, for your time. You're
4 free to go.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: Is there anymore witnesses for the day?

7 MS. BLUTH: Yes, Judge.

8 THE COURT: All right. Next witness, please.

9 MS. BLUTH: The State calls Kristen Tucker. Can we
10 approach, Your Honor?

11 THE COURT: You may.

12 (Bench conference transcribed as follows.)

13 MR. CHAIREZ: We're only going to object to one
14 picture. It's basically the picture of Mazen, pants pulled
15 down, penis and everything, et cetera, et cetera. So for --

16 THE COURT: [Inaudible.]

17 MR. CHAIREZ: Pardon? Here. It's Number 92. I
18 mean, it's essentially more for religious reasons than
19 anything else, Your Honor. Yeah. Okay.

20 THE COURT: All right.

21 MS. HOLTHUS: Are -- can we see his underwear in
22 another picture?

23 MR. CHAIREZ: Yeah. There's lots of pictures of the
24 underwear. Everything else we have no objection to.

25 MS. BLUTH: The reason why it's important is because

1 the victim says he doesn't have hair on his chest, but he has
2 hair on his penis, but I don't know [inaudible].

3 THE COURT: So it's just that one photograph?

4 MS. BLUTH: Yes.

5 MR. CHAIREZ: Just the one photograph.

6 THE COURT: [Inaudible.]

7 MS. HOLTHUS: [Inaudible] AJ describes hair on his
8 chest, but not -- I mean, hair on his penis, but not his
9 chest.

10 MS. BLUTH: That's why it was documented.

11 MR. CHAIREZ: Well, I think most men have hair on
12 their penis, Your Honor.

13 MS. BLUTH: Not if you get waxed.

14 MR. CHAIREZ: Waxed? Oh, okay. I guess I'm showing
15 my age.

16 THE COURT: [Inaudible.]

17 MR. CHAIREZ: We'll stipulate he has hair on his
18 penis.

19 MS. BLUTH: [Inaudible.] I will talk to the crime
20 scene analyst, what she did, if it was documented.

21 MR. CHAIREZ: Yeah. That's fine.

22 MS. BLUTH: But I don't [inaudible].

23 THE COURT: [Inaudible] by way of testifying
24 [inaudible].

25 MR. CHAIREZ: Objectionable.

1 THE COURT: Objectionable [inaudible].

2 MS. HOLTHUS: Very squeamish in a sex assault trial.

3 THE COURT: Well, I just didn't expect it to be right
4 there.

5 MR. CHAIREZ: Yeah.

6 MS. BLUTH: [Inaudible.]

7 THE COURT: So this one, I think, is just too
8 prejudicial, especially since we can bring out [inaudible]
9 there's no objection to.

10 MR. CHAIREZ: Right. No objection.

11 THE COURT: All right.

12 MR. CHAIREZ: Okay.

13 (End bench conference.)

14 THE COURT: And we can make a fuller record at the
15 break.

16 KRISTEN TUCKER, STATE'S WITNESS, SWORN

17 THE CLERK: State and spell your first and last name
18 for the record, please.

19 THE WITNESS: Kristen Tucker, K-r-i-s-t-e-n,
20 T-u-c-k-e-r.

21 THE COURT: Whenever you're ready.

22 MS. BLUTH: Thank you.

23 DIRECT EXAMINATION

24 BY MS. BLUTH:

25 Q Good afternoon, Ms. Tucker. How are you

1 employed?

2 A I work for -- I'm a crime scene analyst with the
3 Las Vegas Metropolitan Police Department.

4 Q And can you explain to the ladies and gentlemen
5 of the jury the training and the education that you went
6 through in order to obtain that employment?

7 A Yes. I have a degree in forensic technology
8 from Grossmont College in San Diego. I completed a two-year
9 internship as a forensic specialist with the Chula Vista
10 Police Department crime lab in San Diego County, and I have
11 over a thousand hours of training in crime scene investigation
12 related topics.

13 Q And what are the job duties of a crime scene
14 analyst within the metropolitan police department?

15 A As a crime scene analyst, I am responsible for
16 documenting crime scenes through note taking, photography,
17 location, evidence collection, preservation of evidence,
18 latent print processing, writing reports and ultimately
19 testifying in court.

20 Q I'd like to turn your attention to December 31st
21 of 2012. On that day were you called to the Circus Circus to
22 document Room 631, in reference to an investigation on a
23 sexual assault on a minor?

24 A Yes.

25 Q When you arrived or actually on your way to

1 Circus Circus, were you briefed on any of the details, or how
2 did you know what you were responding to?

3 A Well, I was dispatched to the call that there
4 was a sexual assault at Circus Circus, so I went in route on
5 that call.

6 Q And upon arrival, who did you make contact with?

7 A I met with Detectives Beza and Williams.

8 Q And was that Detective Williams that just left
9 the courtroom?

10 A Yes.

11 Q When you make contact with Detective Williams
12 and Detective Beza, are you briefed more on the situation?

13 A Yes. They gave me an idea of what I'm there
14 for. We were conducting a search warrant. They gave me
15 victim information.

16 Q And did the three of you then together go up to
17 Room 631?

18 A Yes. I met them at the room, outside the room.

19 Q With the information that you were given, did
20 you know where in the room you would be focusing or what types
21 of things you would be focusing for?

22 A Yes. After talking to them about the search
23 warrant, we were going to be focusing on the bathroom area.

24 Q In responding to Room 631, what was the first
25 thing that you did?

1 A After getting my info from the detectives, I
2 went in and photographed the hotel room, including the
3 bathroom as it was when I arrived.

4 Q And is it important when you're responding to a
5 scene, for you as the crime scene analyst, to be the first
6 individual to have access to that scene?

7 A Yes.

8 Q And why is that important?

9 A Because I go in and I photograph to show its
10 condition as it is at the time that we're arriving, before
11 detectives or patrol has gone into the room.

12 Q So basically you preserve the area so those of
13 us later, when we're looking at the photographs, no one is
14 able to hamper or get in there and mess things up in one way
15 or the other --

16 A Right.

17 Q -- would that be correct?

18 And did you do that in this case?

19 A Yes.

20 Q And you went in first without anyone else?

21 A Yes.

22 Q And you documented the room with photography?

23 A Yes.

24 Q And after you did that, what was the next step?

25 A The detectives came in and we began our search.

1 Q And you said that there were some specific items
2 that you were looking for. What did you find?

3 A In the bathroom there were towels, multiple
4 towels and wash cloths on the bathroom counter and on the
5 floor. There was also an open shampoo bottle in there on the
6 counter.

7 Q Was there any condoms found?

8 A Yes. A used condom was found wrapped in tissue
9 in the trash can in the bathroom.

10 Q When you go into the bathroom and you discover
11 these items, do you conduct any testing on any of those items?

12 A Yes.

13 Q And what type of testing did you conduct?

14 A I brought in an alternate light source, which in
15 this case I used a blue light. That is a tool that aids us in
16 looking for trace evidence. In this case I used the blue
17 light to look for bodily fluids. There was an area on one of
18 the towels that fluoresced with the light, and then also an
19 area on one of the wash cloths that also fluoresced with the
20 light.

21 I then tested those unknown stains. I tested them
22 for semen, which they came back negative. There was another
23 stain on one of the towels that I tested for blood, which also
24 came back negative.

25 Q So basically you have this light, and when you

1 shine it on certain objects like a towel, if it fluoresces,
2 that you then test that area where it fluoresces?

3 A Yes.

4 Q And when you did that, you tested it for semen
5 and it came back negative?

6 A Yes.

7 Q And another towel you tested for blood and it
8 came back negative?

9 A That's correct.

10 Q Did you do any fingerprinting or processing
11 within the bathroom?

12 A Yes. On the shampoo bottle, that was processed
13 for latent prints which also came back negative.

14 MR. CHAIREZ: Your Honor.

15 THE COURT: Yes, sir.

16 MR. CHAIREZ: Are we referring to the green shampoo
17 bottle or the white hotel shampoo bottle?

18 THE COURT: A little more clarification, please,
19 Counsel.

20 MS. BLUTH: Sure. And in a second I'm going to go
21 through all of the photographs.

22 BY MS. BLUTH:

23 Q But the shampoo bottle that you processed for
24 prints, do you remember the color of that at this point?

25 A It was the -- it was white or clear.

1 Q Now, like I said, in a second I'm going to go
2 through the photographs in the room. But I want to ask you
3 also, did you respond to the Las Vegas Metropolitan Police
4 Department headquarters?

5 A Yes, I did.

6 Q And what was the purpose in responding to
7 headquarters?

8 A I responded there to photograph the subject that
9 they had in custody and recover evidence.

10 Q Do you see that subject in the courtroom today?

11 A Yes.

12 Q Can you please point to him and describe an
13 article of clothing that he's wearing.

14 A He's sitting at that desk [indicating] with a
15 maroon tie on.

16 MS. BLUTH: Your Honor, may the record reflect that
17 the witness has identified the defendant, or would you like --

18 THE COURT: It will.

19 BY MS. BLUTH:

20 Q So you said it was to document the suspect and
21 collect any evidence?

22 A Correct. That's correct.

23 Q And so how do you document the subject?

24 A I take overall photographs to show his condition
25 and the clothes that he's wearing.

1 Q And when you were taking pictures of him, did
2 you communicate with him on what you were doing?

3 A Yes. I would let him know that I'm taking
4 photographs, which way to turn.

5 Q Did it appear as though he understood what you
6 were saying?

7 A Yes.

8 Q Did -- was he able to speak with you? Was he
9 able to communicate back?

10 A Yes.

11 Q Did he appear to have any problems understanding
12 what you were saying?

13 A No.

14 Q Did he appear to have any problems standing
15 upright?

16 A No.

17 Q So you documented him with photography?

18 A Mm-hmm.

19 Q And did you collect any evidence?

20 A Yes, I did.

21 Q And what evidence is that, that you collected?

22 A I recovered his shirt and boxers. I also
23 recovered buccal swabs, which are -- we take swabs and scrape
24 the inside of the cheeks for DNA. I recovered swabs from
25 right and left hands, and then I recovered swabs from his

1 penis.

2 Q Did you also document the defendant as well as
3 his body parts with photography?

4 A Yes.

5 Q In regards to the buccal swabs and penile swabs,
6 once you took those samples, what do you do with them?

7 A The buccal swabs are placed into a small box
8 that go into a larger envelope that is sealed, and that is
9 impounded as evidence. And then the penile swabs are -- the
10 swabs are placed into our DNA envelopes, again placed into a
11 larger envelope and impounded as evidence.

12 Q And when you say that they are sealed, so
13 they're in an envelope, which the envelope is closed, correct?

14 A Yes.

15 Q Sealed shut?

16 A The outer envelope is sealed.

17 Q And on the outside of the envelope, is it
18 documented what case that you had responded to?

19 A Yes.

20 Q And each call that you go out to, so you went
21 out to a sexual assault, is that call given a specific number?

22 A Yes. That's correct.

23 Q And we refer to that as an event number?

24 A Correct.

25 Q And the event number tells you the date; is that

1 correct?

2 A Yes.

3 Q And then has a specific number showing you
4 basically what case on that date you were dealing with?

5 A Right.

6 Q And is that information then placed on the
7 envelope?

8 A Yes.

9 Q And you then impound that into evidence at the
10 evidence vault?

11 A We impound them at the crime lab. We have a
12 secure evidence room, and then evidence vault personnel come
13 and pick it up from there.

14 Q And therefore everyone using or who wants to
15 come in and get that envelope, if there has to do with there
16 are any subsequent testing that has to be done, they'll know
17 what case you were referring to by looking at the event
18 number?

19 A Right.

20 Q And all that was done in this case?

21 A Yes.

22 Q I'd like to go through some of the --

23 MS. BLUTH: And pursuant to stipulation by the
24 parties, State's Proposed 36 through 112, with the exception
25 of 92, is coming into evidence.

1 THE COURT: All right. That's fine. Permission to
2 publish.

3 BY MS. BLUTH:

4 Q Showing you State's 36. This is just a placard
5 for Room -- the lighting is kind of bad -- 631?

6 A Yeah.

7 Q Can you see 631? Can you see it? I can
8 approach.

9 A Yes, it does.

10 Q Okay. And that was right outside the hotel
11 room?

12 A Correct.

13 Q And can you give us a brief just layout of the
14 room as you opened the door and walk in?

15 A Yes. So when you walk into the hotel room, to
16 the right is a closet, and through the closet is the actual
17 bathroom. Then when you go into the main room area, there is
18 beds on the left side on the wall, a stand between the beds,
19 and then on the right side is a dresser and then a desk.

20 Q So in State's 37, this would be the entry to the
21 room; would that be correct?

22 A Correct.

23 Q And then if you walk through you see the beds,
24 the beginning of one of the beds?

25 A Yes.

1 Q State's 38, so where would the bathroom and that
2 little closet be in reference to this picture?

3 A This is another view from the entryway, and to
4 the right is the entrance into the closet bathroom area. It
5 would be right to the right.

6 Q And if you could document it on the television
7 in front of you, on the monitor. Can you actually mark
8 where -- so right as you enter the door, if you turn right,
9 that would be the bathroom area?

10 A Yes.

11 Q Showing you State's 39, is this the area we were
12 just discussing if you turned right?

13 A Yes.

14 Q And so this would be the -- if you turn right,
15 this would be the bathroom and in the middle of the picture,
16 would that be the little closet space area?

17 A Right.

18 Q Showing you State's 40, what's being depicted in
19 that photograph?

20 A This is a view looking again from the entryway
21 through the closet into the bathroom.

22 Q Showing you State's 45, which area is this?

23 A This is in the closet.

24 Q Right outside the bathroom?

25 A Correct.

1 Q There appears to be multiple pairs of shoes?
2 A Yes.
3 Q State's 46.
4 A This is a view of the sink and counter in the
5 bathroom.
6 Q Did the bathroom appear to be in somewhat of a
7 disarray?
8 A You could say that, yes.
9 Q And the towels that you referred to and did
10 testing on, can you see those in this paper?
11 A Yes.
12 Q I'm sorry, in this picture?
13 A There are towels on top of the counter, and
14 then -- and wash cloths, and towels and wash cloths on the
15 floor as well.
16 Q And those are the towels that you did the
17 processing on?
18 A Correct.
19 Q Showing you State's 47, just a close-up of the
20 towels near the toilet?
21 A Right. Another view of the floor there.
22 Q State's 48, same area?
23 A Yes.
24 Q State's 55 --
25 A This is --

1 Q -- what's being depicted in this photograph?

2 A This is a close-up of the countertop next to the
3 towels.

4 Q And at that point in time, you said that you had
5 received information about, you know, looking for a
6 possible -- I'm sorry. Did you say lotion bottle or --

7 A It was a bottle with some kind of substance. I
8 don't recall if it was particular to lotion or shampoo.

9 Q But you knew you were looking for something like
10 that, a bottle that would have some type of substance in it --

11 A Right.

12 Q -- that may have been used during sexual
13 assault?

14 A Right.

15 Q You didn't know what color or how big or small
16 it was?

17 A No.

18 Q You didn't have that type of information?

19 A No, I didn't.

20 Q Showing you State's 57.

21 A This is a close-up of the open shampoo bottle on
22 the counter.

23 Q And earlier you testified that you had
24 conducting some fingerprinting on one of the bottles. Would
25 this be the bottle that you conducted the printing on?

1 A Yes.

2 Q And that came back with negative results?

3 A That's correct.

4 Q Showing you State's 49.

5 A This is just a view of the bathtub shower.

6 Q Showing you State's 50. So when you went in and

7 documented everything, it was as we see here in these

8 photographs, correct?

9 A That's correct.

10 Q So the toilet paper was unwound like that and

11 kind of all over the floor?

12 A Yes.

13 Q State's 51, is this just a close-up of the

14 toilet paper?

15 A And towels.

16 Q And towels. State's 52, what's being depicted

17 in this photograph?

18 A It's another view of the countertop showing the

19 towels and what else is on the counter.

20 Q State's 54.

21 A This is a view of the trash can that was on the

22 floor in the bathroom.

23 Q Just a different view in State's 78?

24 A Yes.

25 Q Would that be correct, the same bottle in the

1 bathroom?

2 A Yes. Same trash can.

3 Q But I want to be clear that it's the trash can
4 in the bathroom.

5 A Correct.

6 Q Showing State's 79.

7 A This was the tissue that was in the trash can.
8 This is it taken out.

9 Q And State's 80.

10 A And then now showing the tissue opened revealing
11 a used condom in it.

12 Q State's 59, what's being depicted in this
13 photograph?

14 A This is a view of the main room area.

15 Q And this white piece of paper we see on top of
16 the bed, what is that?

17 A That's one of the search warrant documents.

18 Q And when you say it's one of the search warrant
19 documents, is it part of policy that you leave that there?

20 A Yes.

21 Q And what is it?

22 A That one, I'm not sure unless I see a close-up
23 of the actual name.

24 MS. BLUTH: May I approach, Your Honor?

25 THE COURT: You may.

1 BY MS. BLUTH:

2 Q Showing you State's 59.

3 A I think that's the affidavit. I have -- I have
4 other photos with actual like close-ups of the paper, yeah.

5 Q What type of paper do you guys leave behind when
6 you conduct a search warrant?

7 A We always leave a search warrant return, which
8 basically states what items we remove from the room.

9 Q Was that done in this case?

10 A Yes.

11 Q Showing you State's 60.

12 A It's another view of the main room area.

13 Q So as you walk in, you know, you bypass the
14 bathroom, you walk in straight, you hit these beds; would that
15 be correct?

16 A That's correct.

17 Q And then this wall with this TV would be on my
18 right?

19 A Yes.

20 Q As well as this small desk behind where someone
21 [inaudible]?

22 A Yes.

23 Q State's 68, what is this area?

24 A This is a view of the area between the two beds.

25 Q State's 69.

1 A And then this is the nightstand that's located
2 between both beds.

3 Q State's 72.

4 A This is another view of the main room area
5 towards the back right corner, where the desk is.

6 Q State's 73, is that just a close-up of what was
7 on that desk you were just referring to?

8 A Yes.

9 Q State's 76, appear to be some condoms on the
10 desk?

11 A Correct.

12 Q In the blue Trojan packages?

13 A Correct.

14 Q State's 77, what area is this?

15 A That is on the floor by one of the beds.

16 Q And what is that under the bed?

17 A It looks like a piece --

18 Q Is that an American flag or a towel?

19 A Or a piece of clothing.

20 Q State's 81, is this the TV area?

21 A Right. On top of the dresser.

22 Q Let me get you a close-up of State's 82. What
23 is the purple container that we see?

24 A It was a purple tube containing a green leafy
25 substance.

1 Q I'm going to show you a close-up of that.

2 That's the same purple container?

3 A Correct.

4 Q And inside was like you said, a green leafy
5 substance?

6 A Correct.

7 Q It appears that the label states "Medical
8 cannabis"; is that correct?

9 A That's correct.

10 Q And there's an RX, which commonly stands for
11 prescription?

12 A Right.

13 Q And it says, "Strain," and then in writing it
14 says, "Mr. Nice Guy." Can you see that?

15 A Yes.

16 Q And you've documented several photographs, and
17 84, of the purple bottle?

18 A Correct.

19 Q 85, same thing, purple bottle. 86, close-up of
20 the label that was on the can?

21 A Right.

22 Q You then discussed that you went to
23 headquarters, I'm showing you State's 88, and documented the
24 defendant while at headquarters?

25 A Correct.

1 Q Took a close-up of the face, State's 89?
2 A Yes.
3 Q State's 90, would be the defendant's hands?
4 A Correct.
5 Q 91 would be the inside of his palms?
6 A Correct.
7 Q State's 93, appears to be the defendant's left
8 wrist?
9 A And left arm, yes.
10 Q Left wrist and left arm. State's 95.
11 A It was another view of his left arm.
12 Q Did you document -- well, let me ask you, let me
13 move to State's 96. What was being documented in this
14 photograph?
15 A They -- it was told to me that there were
16 injuries on his arms, and this is depicting what looked like a
17 scratch on his upper left arm.
18 Q And State's 97, this appears to be his lower
19 left wrist?
20 A Correct. And again, looks like a scratch.
21 Q I should have asked you. When we see a ruler in
22 the pictures, what is the [inaudible] of that?
23 A It's scaling the injury to show the size.
24 Q Scaling so that you have a reference of size?
25 A Yes.

1 Q Showing you State's 102.
2 A This is just a view of his chest and stomach.
3 Q Showing State's 103.
4 A And this was the shirt that the subject was
5 wearing.
6 Q And what was the point in having him take it
7 off?
8 A At the time, the information I -- I was given
9 was that the victim had stated there was a red shirt with this
10 design on the front. So I recovered that as evidence.
11 Q And that was impounded into evidence?
12 A Yes.
13 Q State's 106.
14 A And this is a pair of boxers.
15 Q And whose boxers are these?
16 A The subject's.
17 Q Showing you State's 110, what's being documented
18 in this photograph?
19 A There was a tear in the boxers.
20 Q And again, using the ruler to show the size of
21 the tear?
22 A Yes, it is. Correct.
23 Q And State's 111, is that the same tear?
24 A Yes.
25 Q And were the boxers impounded into evidence as

1 well?

2 A Yes.

3 Q And were all of those things impounded the way
4 we previously discussed, as in packaging, sealed, with the
5 correct event number corresponding to this case?

6 A Correct.

7 Q And those are then lodged in a vault?

8 A Yes.

9 Q Or within a criminal lab?

10 A Right.

11 THE COURT: Ms. Bluth, we're going to have to start
12 wrapping it up for the day.

13 MS. BLUTH: Okay. With that, I would pass the
14 witness. I'm sorry, Mr. Chairez.

15 MR. CHAIREZ: Can I think for a second, Your Honor?

16 THE COURT: You may.

17 (Pause in proceeding.)

18 MR. CHAIREZ: I'll keep it to less than two minutes.
19 Okay.

20 CROSS-EXAMINATION

21 BY MR. CHAIREZ:

22 Q When you went into Room 631, the gathering of
23 evidence that you did was pretty comprehensive, correct?

24 A Correct.

25 Q You gathered every piece of possible evidence

1 that you thought might help us lead to what really happened?

2 A Correct.

3 Q And so that included picking up all the shampoo
4 bottles, any plastic bottle, anything that was found inside of
5 the bathroom, correct?

6 A Well, I recovered one shampoo bottle.

7 Q Okay. Now, was that the green shampoo bottle in
8 the trash can, or the white clear one that was on top of the
9 counter?

10 A It was the white clear one on top of the
11 counter.

12 Q And so what happened to the green shampoo
13 bottle?

14 A At the time, the information I was given, I did
15 not know that that was involved.

16 Q Okay.

17 A And as far as the white shampoo bottle on the
18 counter, it was opened and shampoo was coming out of it, which
19 was on the counter.

20 Q So who was the person that gave you the
21 information about which shampoo bottle to get?

22 A Well, talking to the detectives, going over the
23 search warrant, we knew we were looking for some kind of
24 bottle, and with that white shampoo bottle being open on the
25 counter, not in the shower, with shampoo coming out of it, to

1 me that was the one that I was going to recover.

2 MR. CHAIREZ: Okay. All right. Nothing else, Your
3 Honor.

4 THE COURT: Are you finished?

5 MR. CHAIREZ: Yeah. It's 5:00 o'clock.

6 THE COURT: Well, Ms. Bluth.

7 MS. BLUTH: I just have one or two questions.

8 REDIRECT EXAMINATION

9 BY MS. BLUTH:

10 Q In State's 73, the green leafy substance that
11 you discussed before, was that consistent with marijuana?

12 A Yes.

13 Q Would it be consistent with marijuana?

14 A It would be.

15 Q And then was there also some of the same leafy
16 substance found on the desk?

17 A That is brown. That's a brown leafy substance.

18 Q Okay. So it was a brown leafy substance that
19 was different than the green leafy substance that you found in
20 the purple bottle?

21 A Yes.

22 Q And then in regards to Mr. Chairez's questions
23 involving the white shampoo lotion bottle versus the green, it
24 wasn't until later that you had information that it was
25 actually the green bottle, not the white bottle?

1 A Correct.

2 Q But that was -- that green bottle was still
3 documented in evidence?

4 A Yes. It's shown in the photos in the trash can.

5 Q And that's in the bathroom trash can?

6 A Correct.

7 THE COURT: Is that it?

8 MS. BLUTH: [Inaudible.]

9 MR. CHAIREZ: I just have one follow-up question.

10 THE COURT: All right.

11 RECROSS-EXAMINATION

12 BY MR. CHAIREZ:

13 Q In the photograph where you're looking at the
14 green leafy substance, did you see a bottle of whiskey in the
15 corner?

16 A Can I see the photo again?

17 Q I don't know how to do the blow-up, but do you
18 see it in the left-hand corner?

19 A The Crown Royal bottle?

20 Q Right.

21 A Okay.

22 Q Okay. Can you tell whether or not it's full or
23 empty?

24 A It appears to be empty.

25 MR. CHAIREZ: All right. Nothing further.

1 THE COURT: All right. Is she free to go?

2 MS. BLUTH: Yes, Your Honor.

3 THE COURT: Ma'am, thank you for your time. You're
4 free to go.

5 THE WITNESS: Thank you.

6 THE COURT: And ladies and gentlemen of the jury,
7 it's also a day for you. So we'll see you back, tomorrow is
8 Wednesday, at 1:00 o'clock.

9 Until we see you tomorrow, you're admonished not to
10 converse amongst yourselves or with anyone on any subject
11 connected with the trial, or to read, watch or listen to any
12 report of or commentary on the trial by any medium of
13 information, including without limitation television,
14 newspaper, radio or Internet. Do not form or express an
15 opinion on this case until it's submitted to you.

16 See you tomorrow at 1:00. Thank you.

17 (Jurors recessed at 5:01 p.m.)

18 THE COURT: Have a good night.

19 (Court recessed for the evening at 5:02 p.m.)
20
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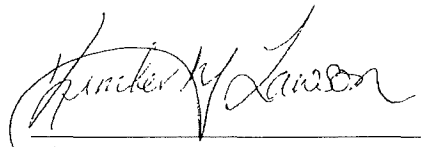
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

STATE OF NEVADA,)	CASE NO. C287173-1
)	DEPT NO. XXIII
Plaintiff,)	
vs.)	
)	
MAZEN ALOTAIBI,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	

BEFORE THE HONORABLE STEFANY MILEY, DISTRICT COURT JUDGE

JURY TRIAL - DAY 5

WEDNESDAY, OCTOBER 16, 2013

APPEARANCES:

FOR THE STATE: MARY KAY HOLTHUS, ESQ.
Chief Deputy District Attorney
JACQUELINE M. BLUTH, ESQ.
Deputy District Attorney

FOR THE DEFENDANT: DON P. CHAIREZ, ESQ.

Also Present: Saad Musa, Interpreter
Mohammad A. Taha, Interpreter

RECORDED BY MARIA GARIBAY, COURT RECORDER
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I N D E X

WITNESSES FOR THE STATE:

LAURA MACKENZIE

Direct Examination By Ms. Holthus	9
Cross-Examination By Mr. Chairez	26
Redirect Examination By Ms. Holthus	34
Recross Examination By Mr. Chairez	38

KEITH POOL

Direct Examination By Ms. Holthus	45
Cross-Examination By Mr. Chairez	68
Redirect Examination By Ms. Holthus	89
Recross Examination By Mr. Chairez	96

E X H I B I T S

STATE'S EXHIBITS ADMITTED:

	PAGE
177 English School Records	15
178 Packet of Information to Students	35
179 Monday Morning Briefing	36

1 LAS VEGAS, NEVADA, WEDNESDAY, OCTOBER 16, 2013, 1:18 P.M.

2 * * * * *

3 (Outside the presence of the jury)

4 THE COURT: Okay. Let's go on the record, Maria. So
5 we have the two interpreters here. Gentlemen, you are still
6 under oath today. Is there anything we need to address before
7 we bring the jury in?

8 MR. CHAIREZ: What's that?

9 MS. BLUTH: Do either of you guys need to address
10 anything before the Judge?

11 MR. CHAIREZ: No, no.

12 MS. HOLTHUS: No. We were just -- we were just
13 talking scheduling. It's my understanding now that if we get
14 through the three witnesses today that we anticipate getting
15 through, that we will only have one for tomorrow and --

16 MR. CHAIREZ: You're going to have one for tomorrow
17 or I'm going to have one for tomorrow?

18 MS. HOLTHUS: I'm going to have one for tomorrow.

19 MR. CHAIREZ: Okay.

20 MS. HOLTHUS: Are you having any?

21 MR. CHAIREZ: For tomorrow, no, unless we want the
22 defendant to testify tomorrow. But right now I'm planning to
23 put on three witnesses for -- for Monday, Your Honor.

24 THE COURT: Okay. So hold on. Tomorrow's Thursday,
25 we have a full day tomorrow. Is your client -- I mean has --

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1 is he leaning toward testifying?

2 MR. CHAIREZ: Well, he wants to testify but when he
3 -- when he's gone to law school like I have and that kind of
4 thing, then I'll let him make all those decisions. But I
5 would say, yes, he's leaning towards testifying.

6 THE COURT: Okay. Well we -- at some point at the
7 end of today then it would be appropriate to do the
8 admonishment --

9 MR. CHAIREZ: Okay.

10 THE COURT: -- so he can think about it over the
11 course of the night. But I'm trying to figure out for
12 scheduling then. So we're going to have like one witness
13 tomorrow and then be finished?

14 MS. HOLTHUS: Well, we'll have the --

15 MR. CHAIREZ: They have one more too --

16 MS. HOLTHUS: -- on Monday.

17 MR. CHAIREZ: -- on Monday.

18 THE COURT: And then so we'd have -- I mean maybe a
19 few hours at most tomorrow and then nothing on Friday?

20 MS. BLUTH: Unless -- we've -- we were under the
21 impression that Mr. Chairez's witnesses were going to be here
22 this week.

23 THE COURT: It won't be?

24 MR. CHAIREZ: Well, we told them to be ready towards
25 the end of the week or early next week. So my witnesses are

1 coming in from out of state. So I'm flying one from San
2 Antonio on Saturday. The other will drive up from Riverside,
3 that's the DNA expert who has gone through and analyzed
4 everything that was given to him last week. So, I mean, if --
5 if push came to shove maybe I could force him to come on
6 Friday, but I want -- also wanted to have time to be together
7 with him to go over his testimony.

8 THE COURT: No, I think you definitely need time to
9 spend with him.

10 MR. CHAIREZ: Right.

11 THE COURT: So what would that mean? We'd send it
12 out to the jury Wednesday because you'll need a day for your
13 case in chief.

14 MS. BLUTH: I think that we'll be able to close
15 Tuesday first thing, right?

16 MR. CHAIREZ: Absolutely. I mean, I think depending
17 on how long Jeri Dermanlian testifies, I think I can get all
18 my witnesses on Monday afternoon as well and get them out of
19 here.

20 THE COURT: All right.

21 MS. HOLTHUS: And just one -- I don't know in terms
22 of the defendant's plan to testify or not testify, but we are
23 not forcing him to go in an order he doesn't want to go
24 because of the other witnesses to fill tomorrow up. If
25 strategically Mr. Chairez chooses to present him last or give

1 him more time to consider it, I don't want the record to say
2 that he's having to testify sooner than he wanted to or to
3 make a decision sooner then he wanted to.

4 THE COURT: That's all true. And the Court would
5 abide by whatever order you wanted to present your case in.

6 MR. CHAIREZ: My preference would be to put him on
7 last, Your Honor.

8 THE COURT: Okay.

9 MR. CHAIREZ: But, you know, I've taken issue with
10 him. I don't think he understands 75 percent of everything
11 that's going on, even though I was stunned to hear him say
12 that. I understand we'll have his records from his English
13 classes from the Air Force here, I think that's important.
14 And so at any rate, if he testifies, we do want him to testify
15 in English so the jury can compare how he comes across on the
16 tape versus how he comes across in the courtroom as --

17 MS. BLUTH: Hey, guys you should be interpreting.

18 MR. CHAIREZ: Yeah, okay. So my preference is to put
19 him on last but --

20 THE COURT: You can put him on last if you want
21 because the decision may change as the evidence comes out.

22 MR. CHAIREZ: Right. And I don't need to put him on.
23 But that's -- right now, that's what I'm planning to do, Your
24 Honor.

25 THE COURT: Okay. So let's get through --

1 MR. CHAIREZ: And -- and I would also have this
2 weekend to prep him, and I hate to use that word, but prepare
3 him I should say.

4 THE COURT: That's fine, that's fine. So the jury
5 just will have a short day tomorrow.

6 MR. CHAIREZ: Okay.

7 THE COURT: So what we'll do is we'll do the State's
8 witnesses today. Then when they leave we'll do the
9 admonishment of the defendant about his right to testify or
10 not to testify. The only other thing I was going to ask is, I
11 know that Mr. Chairez hasn't completed his case, can we at
12 least start on the jury instructions?

13 MR. CHAIREZ: We can do that Thursday.

14 THE COURT: Because, I mean, the vast majority of
15 them are probably going to be standard instructions.

16 MS. HOLTHUS: We can start Thursday right after
17 Rashed or --

18 MR. CHAIREZ: Yeah, we can do that Thursday
19 afternoon.

20 THE COURT: And that way we'd only have to do just a
21 handful of whatever there -- there may be after the case is --

22 MR. CHAIREZ: No. We can finish -- we can finish the
23 jury instructions tomorrow, Your Honor.

24 THE COURT: Okay. So we'll plan on that tomorrow
25 morning.

1 MR. CHAIREZ: Okay.

2 MS. HOLTHUS: So would we be starting -- what time
3 are we starting tomorrow if we're only going with one witness?

4 THE COURT: Nine-thirty. Okay?

5 MR. CHAIREZ: Okay. I'm ready.

6 THE COURT: Then let's bring the jury in.

7 (Pause in proceedings)

8 (Jury reconvened at 1:24 p.m.)

9 THE COURT: All right. Welcome back, ladies and
10 gentlemen of the jury. It looks like we have everyone here.
11 I want to go over a few just kind of housekeeping matters for
12 all of you. I don't know if Jason's told you, but the
13 scheduling of a trial is a little -- is more of an art than a
14 science, which means not only do the attorneys in this case
15 kind of have to work around the Court's other cases, we also
16 have to work around the schedules of many other individuals
17 who are called to testify in this case.

18 So what it appears right now is tomorrow's going to
19 be a short day. We're going to start at 9:30 in the morning.
20 It's anticipated there will be probably around one witness and
21 that we will wrap up pretty early tomorrow. There will be no
22 trial on Friday. You'll come back here on Monday at 1:00. It
23 is anticipated, and I say anticipated because it's kind of
24 again an art, not a science, that we will do closings and send
25 this out to all of you to deliberate probably sometime later

1 in the day on Tuesday.

2 And that would be with a 1:00 start time on Tuesday.
3 I don't know if some of you are trying to go into the office
4 in the morning and get stuff done, but that's where we stand
5 right now. All right?

6 With all that being said, the State was presenting
7 its case and will call its next witness.

8 MS. HOLTHUS: Laura MacKenzie.

9 LAURA MACKENZIE, STATE'S WITNESS, SWORN

10 THE CLERK: Please be seated. State and spell your
11 first and last name for the record, please.

12 THE WITNESS: Laura, L-a-u-r-a, MacKenzie, M-a-c
13 capital K-e-n-z-i-e.

14 THE COURT: Whenever you're ready.

15 DIRECT EXAMINATION

16 BY MS. HOLTHUS:

17 Q Ms. MacKenzie, what do you do?

18 A I'm the chief of instruction at the Defense
19 Language Institute English Language Center where our students
20 come to learn English. We have 230 instructors and then
21 supervisory personnel.

22 Q Let me -- let me just break it down just a
23 little bit.

24 A Yes.

25 Q You flew in from where?

1 A From San Antonio, Texas. I work at Lackland Air
2 Force Base at the Defense Language Institute.

3 Q And I think you were kind of starting to tell us
4 what the Defense Language Institute is.

5 A Correct. We --

6 Q Let me -- before we get there. What's your
7 education and experience?

8 A I have a master's in English with a
9 concentration in English as a second language, English as a
10 foreign language.

11 Q And how -- how long have you been with -- this
12 is a military agency?

13 A This is -- yes. The Defense Language Institute,
14 we have -- our students come on invitational travel orders
15 from up to 110 different countries. They're there to learn
16 English, most of whom go on to follow on training. Others
17 might go back to their home country.

18 Q Does it include also United States citizens?

19 A We do have a program for U.S. Army students who
20 are going to basic training. They have not yet gone to basic
21 military training. They're primarily from Puerto Rico, but
22 they're in the States legally. Maybe from Asia, Africa, they
23 have volunteered to go into the U.S. Army and they come to
24 learn English before they go to basic military training.

25 Q So essentially, is that a small proportion?

1 A That's a smaller portion of our student
2 population, yes.

3 Q All right. And so the bigger -- the bigger part
4 is what? A hundred and ten countries?

5 A Right. We have -- we graduate approximately
6 3,500 students and of those, it varies from year to year, but
7 the U.S. portion would be about 500.

8 Q You of -- of those, got ya.

9 A Of those, of that 3,500.

10 Q And so if you could explain to me, now you said
11 this is -- is this Army, Navy, what's the --

12 A Okay. Students come to study English whether or
13 not they're in their country's Army, Navy, Air Force, Marine
14 Corps. This is where they learn English before they go to
15 follow on training, to learn to be a pilot, to go to medical
16 training in the U.S., to go to maintenance training,
17 electronics, wherever they're going for follow on training.

18 Q Which is actually the how to do your job
19 training part?

20 A That's correct. And so we train them to a high
21 enough level of English so that they can then go to this
22 technical training.

23 Q And the technical training is all done in
24 English?

25 A The technical training is all done in English.

1 Q And how do -- and which branch of the military
2 are you run by or?

3 A Okay. We are a Department of Defense Agency.

4 Q Okay.

5 A Under the operational control of the U.S. Air
6 Force because we are physically located on an Air Force Base.

7 Q Lackland?

8 A Lackland, yes.

9 Q Okay. And are there other -- other branches
10 involved?

11 A We have students and we have some of our
12 military leadership. The commandant is a colonel in the U.S.
13 Air Force. And the deputy commandant is a lieutenant colonel
14 in the Army. We also have naval personnel who are at
15 Lackland.

16 Q So it includes all the branches?

17 A Yes.

18 Q Essentially. How -- how is it that it -- how --
19 how does this work? How does somebody get to you? Where do
20 you get them from?

21 A Right. Again, it is a military to military by
22 invitation only. So the students represented are from allied
23 countries and come for training. Some are -- they need to
24 start at -- their English is at a lower level and we get them
25 to the level that's required by follow on training. Follow on

1 -- if I might just say, follow on training sets the
2 requirement. They determine what score students will be
3 successful operating in this English only environment.

4 Q And by score you mean basically what level of
5 English do they need to attend this particular training?

6 A Right. We have what we call the ECL, the
7 English Comprehension Level test, it's a proficiency test. So
8 we have books that our students study every week or every two
9 weeks. They advance in the books, but those are achievement
10 tests. They take a book quiz at the end of the book and
11 that's an achievement test. So they know what words and the
12 grammar, what will be on the test. The ECL is the
13 comprehension test. It's a proficiency test, so it covers a
14 wider range of words and topics and that's the score the
15 students need to proceed to follow on training.

16 Q And if you -- well, you said it was invite only.
17 How do you get invited? I mean --

18 A Okay. Our military, the Department of Defense,
19 will -- we, again, have this available to countries with whom
20 we are allies. So if a country has purchased, for example,
21 some aircraft --

22 Q And you've researched this case in particular,
23 you've looked up the records of Mazen Alotaibi; is that
24 correct?

25 A That's correct.

1 Q And you brought some of those records you have
2 in there with you?

3 A Yes, that's correct.

4 Q And so you were saying, for example --

5 A Right. Saudi Arabia purchased the F-15 aircraft
6 from the United States and this was a 29.4 billion dollar
7 sale. So in order to train aircraft mechanics and pilots,
8 they would need to come to DLI for English before they go to
9 follow on training.

10 Q So is it pursuant to that purchase their
11 military personnel are invited here to train them to use the
12 product we sold them essentially?

13 A Right. And -- and it depends on the country
14 whether they pay for the English language training. But DLI
15 is really renowned in the world for our success rate for
16 English language training because we also include military
17 terminology and comprehension as to what to expect at follow
18 on training.

19 Q And so in this particular case -- I'm showing
20 you a packet of documents that have been marked as 177 for
21 identification.

22 A Okay.

23 Q Do you recognize those?

24 A I do.

25 Q And just flip through them briefly and tell me

1 what you recognize them to be.

2 A Okay. It shows the record of Sergeant Alotaibi
3 as when he started, what his scores were when he began, each
4 of the books he studied and how long he was in English
5 language training. He took general English to achieve a score
6 of 81.

7 Q Okay. Let me just back you up just a little
8 bit.

9 A Sure.

10 Q Are these records kept in the ordinary course of
11 business?

12 A Yes.

13 Q Are they regularly relied on and you're familiar
14 with them as the -- what's your title?

15 A Chief of Instruction, yes.

16 MS. HOLTHUS: I move to admit State's Proposed 177.

17 MR. CHAIREZ: No objection, Your Honor.

18 THE COURT: Admitted. You may publish.

19 (State's Exhibit 177 admitted.)

20 BY MS. HOLTHUS:

21 Q Ma'am, they're going to appear up here so maybe
22 you can kind of tell me what we're looking at. And you said
23 this is Sergeant Mazen Alotaibi. And I believe you said he
24 was a Saudi --

25 A Sergeant.

1 Q Sergeant?

2 A Correct.

3 Q Is this on or not on?

4 MS. BLUTH: It's on. I think it's just zoomed in too

5 much.

6 MS. HOLTHUS: Okay. Thank you.

7 BY MS. HOLTHUS:

8 Q Can you see that?

9 A Yes.

10 Q Okay. And just kind of just tell me what do we

11 have here?

12 A Okay. This shows his -- the date that he took

13 the --

14 Q Is it easier to point it out up there, do you

15 think?

16 A I'm going to move over just a touch and then I

17 can see it. Sorry.

18 Q Okay.

19 A Okay. It shows what his score was when he first

20 entered English Language Training.

21 Q And that would be?

22 A That was -- well first -- the first score is his

23 in country score of 41. The first week he was in training he

24 then scored a 66.

25 Q What is this, this 41?

1 A That 41 was in country.

2 Q What does that mean?

3 A He had to show what his comprehension level test

4 was in country before he came for training so they would know

5 how many weeks to program him. That's a fairly low score.

6 Q So that was -- that's -- that would be he would

7 take that in his own country?

8 A In his -- in Saudi Arabia at the U.S. Embassy.

9 It is a controlled test; U.S. personnel administer it.

10 Q Got ya. But it indicates some English?

11 A Correct.

12 Q So that these are the various scores?

13 A That's correct.

14 Q Obviously by date. And so his final score

15 was --

16 A On August 7th it was an 81.

17 Q And this is August --

18 A Of '12, yes.

19 Q -- 2012?

20 A 2012.

21 Q So how long was he with your program?

22 A He was with us for one full year in English

23 Language Training. You're in class for six hours a day, from

24 7:30 in the morning until 2:30 in the afternoon. You're

25 expected to do homework, approximately two hours per day, and

1 that's our weekly schedule.

2 Q And that would be from April --

3 A Actually from --

4 Q -- when did he get there?

5 A -- October. October 11 -- 16 October -- or 18
6 October 11 until -- he was in general English until 7 August.
7 But if you -- there's another sheet that he then attended
8 specialized training for an additional nine weeks.

9 Q And where is that?

10 A That's on the next page I believe.

11 Q The next page it also --

12 A That's his book quiz scores.

13 Q So what are those again now that we're looking
14 at them?

15 A Okay. His -- you were just looking at the
16 comprehension level scores. Again, this is a proficiency
17 test, it indicates his level of proficiency, not on studying a
18 particular list of words, but overall comprehension in reading
19 and listening.

20 Q And overall how were his scores?

21 A Actually, he did very well. He was in the 70s
22 for a while, which was -- it showed that he had somewhat
23 plateaued or he needed to have some additional training. But
24 even at a 70 to a 75, that is a good score. Many follow on
25 trainings will accept students with that score.

1 Q And that's your goal, to get a score high enough
2 to be proficient in English enough to go to your next level --

3 A Correct.

4 Q -- actually the training that you're really here
5 for?

6 A Correct.

7 Q Now what do these specialized English scores at
8 the bottom mean?

9 A If I might just refer to the book quiz scores
10 above that, that's in the --

11 Q Sure.

12 A -- general English portion of it before we get
13 to specialized.

14 Q Sure.

15 A Those are the achievement tests. So that showed
16 he studied a book for one week or two weeks and then he took a
17 test and he actually did very well. A 70 is passing. And as
18 you'll be able to see that he received higher grades than
19 that, 92, 98, 80. He did fail one book.

20 Q The book 28?

21 A Book 28, but then we offered it -- we -- we call
22 it recycling. We recycled him back so that he didn't miss
23 that information and then he scored an 80.

24 Q Okay. Now can we move on to specialized
25 English?

1 A Once he achieved that score, then again he was
2 in training for six class periods a day. Friday's actually
3 one period less. We allow them to leave before lunch, so it's
4 five hours. And, again, he did well. The one book quiz he
5 took the Listening Strategies and scored a 96. He took the
6 Reading Strategies and scored an 87. Those are --

7 Q And what -- what are those?

8 A Those are more to ensure that they -- it's more
9 academic than specialized. Even though it's in Specialized
10 English, again, we want to ensure that our students have all
11 the really good skills to go to follow on training.

12 Q And then does that -- would that include on some
13 level an IQ of -- [indiscernible] say that they don't have
14 learning disabilities or that they're at least of average or
15 above average intelligence?

16 A If a student were to have IQ or some difficulty,
17 it would have been, you know, it would have -- it would have
18 showed up much earlier in the General English Training because
19 learning English as a foreign language is difficult at best.

20 Q Did you -- is it particularly difficult when
21 you're talking about Arabic to English?

22 A That is why we -- we understand that it takes
23 speakers of certain languages longer to obtain a score because
24 the alphabet is different. So the Arabic alphabet is
25 different from the Roman alphabet. So a year in training to

1 go from a 41 to an 81 is really -- it does indicate a good
2 ability to learn the language. We've had students who don't
3 achieve that and then go home.

4 Q And if they don't achieve that --

5 A That's correct.

6 Q -- that's what happens, they go home?

7 A Yeah.

8 Q And do you find typically countries send their
9 best and brightest, if you will?

10 A For a score of 80, that is a much more difficult
11 score than a score of 70 to 75. And, yes, many of the
12 maintenance personnel, enlisted personnel, only need a 70.
13 Those who are selected to achieve the 80 are the best,
14 especially in learning English.

15 Q And then the next page, that looks like just the
16 attendance issue? Is there anything notable about the
17 attendance?

18 A Not really. There are -- this is again for a
19 full year. There was some illness, there were some embassy
20 calls, there's a code for it I believe on the next page to
21 show you what it was for.

22 Q Nothing remarkable?

23 A There's -- there's nothing remarkable.

24 Q This next page, this is just a different way
25 of --

1 A It's just a different way of looking at it.
2 Again, to show the level of books he studied. He went in
3 sequence from book nine all the way through book 33.

4 Q He came in beyond books [indiscernible].

5 A Correct. We place students in class based on
6 their individual proficiency and that English comprehension
7 level score is what we use to determine book placement.

8 Q And then here I believe is what you were saying,
9 that initially Mr. Alotaibi achieved score of 70 to 75. And
10 this essentially tells you what that means, correct?

11 A Correct. And that is -- it comes directly from
12 the book that every security cooperation officer, a U.S.
13 military officer in country will use to program students
14 and/or the international military personnel. It's also online
15 at our website, DLIELC.edu. So we have a website. So it does
16 list what a person at that level can do.

17 Q Okay. And you took those out based upon the
18 scores that Mr. Alotaibi achieved essentially by the time he
19 graduated a score of 81; is that correct?

20 A That's correct. And --

21 Q And so this details essentially with a score of
22 81, what abilities would he have?

23 A Yeah. And the reason you're looking at 70 to 75
24 is the student with an 80 can do what a 70 to 75 does plus
25 what an 80 does.

1 Q And so that's -- this is --
2 A Yes.
3 Q -- additional --
4 A Information that --
5 Q -- proficiency that Mr. Alotaibi --
6 A Yes.
7 Q -- would have over --
8 A Just what's listed for an 80 but --
9 Q So by the time he gets to the 81, what -- what
10 is he trained and able to do in addition to the other stuff?
11 A As you can see on the side, it gives some
12 examples that a student with that level of proficiency can go
13 into undergraduate pilot training and they would be in an
14 aircraft with a U.S. military person. They could go to
15 professional military education courses, such as those at the
16 National Defense University, at the war colleges, whether it's
17 the Army War College, the Command in General Staff College.
18 They can interact on a daily basis in group discussions, in
19 understanding and comprehending what is taking place in those
20 types of settings.
21 Q And -- and I guess of more concern to me is, it
22 indicates that they can function in an English only academic
23 or highly technical environment?
24 A That's correct.
25 Q Exhibit listening comprehension and greater

1 facility with speech as demonstrated in situational dialogs,
2 various types of role texts and role playing activities?

3 A That's correct.

4 Q We have a summary of an oral paragraph, which is
5 three minutes in length and accurately write a paraphrase of
6 an oral paragraph one minute in length?

7 A Correct.

8 Q And again, this is all proficiency in the
9 English language, correct?

10 A Correct.

11 Q Read authentic military and semi-technical text
12 of 350 words in length in a variety of formats, such as
13 essays, reports and briefings?

14 A Correct.

15 Q Accurately transcribes in dictation.

16 A Correct.

17 Q Take notes in class.

18 A Correct.

19 Q Write an original cohesive paragraph up to 150
20 words in length in military format as well in the following
21 styles; descriptive, narrative, and expository, or controlled
22 use of the language but errors are still common?

23 A Of course. Errors are still -- I mean spelling
24 is difficult, grammar is difficult.

25 Q Comprehensive --

1 A But comprehensible, absolutely.

2 Q That just indicates that his highest score was
3 an 81?

4 A Correct.

5 Q And that he achieved that in August and I think
6 you said he went on?

7 A To nine more weeks of specialized training
8 before he left --

9 Q English specialized training?

10 A In English, yes, in English. And this is not to
11 teach the person to be a mechanic or to be a medical
12 technician or to be a pilot, but to familiarize them with the
13 phraseology and terminology that they will encounter at their
14 follow on training.

15 Q This last page, SES Modules, what is that?

16 A That's just a repetition of all of the
17 specialized modules. His specialized modules were listed, the
18 ones he actually took. He took aircraft maintenance, he took
19 electronics and he took the reading comprehension strategies
20 and listening comprehension, those nine special books that he
21 took in Specialized English.

22 Q And I believe you indicated that he did go on to
23 follow on training?

24 A He did.

25 Q And when did he begin that?

1 A He graduated with us in October of 2012 and then
2 he went directly to follow on training. I do -- don't have
3 any information after that, but he was successfully doing
4 that. That is why he was still in the United States at that
5 time.

6 Q Okay. If he wasn't being successful in his
7 follow on training --

8 A He'd go home.

9 Q -- he would have gone home?

10 A Correct.

11 MS. HOLTHUS: I'll pass the witness. Thank you.

12 CROSS-EXAMINATION

13 BY MR. CHAIREZ:

14 Q Is it Officer MacKenzie or Ms. MacKenzie or?

15 A It's Mrs. MacKenzie. Thank you.

16 Q Mrs. MacKenzie. All right. How many defense
17 language institutes do we have here in the United States?

18 A We have one.

19 Q One.

20 A Teaching English. We have another where U.S.
21 military personnel go to learn a foreign language and that is
22 in Monterey.

23 Q All right. And that's near where Fort Ord used
24 to be?

25 A I don't know.

1 Q Okay. All right.

2 A Sorry.

3 Q So the Defense Language Institute where you work
4 is for foreign students wanting to learn English --

5 A That's correct.

6 Q -- and that's where my client -- did he start at
7 Lackland Air Force Base or did he start at Keesler Air Force
8 Base?

9 A He started at Lackland Air Force Base to learn
10 English.

11 Q All right. And essentially, when he first came
12 there, his constant -- his comprehension and ability to speak
13 English, in your opinion, was probably pretty low, correct?

14 A We would base that -- we base our books, we have
15 levels, we have five levels. Books one through 30, in
16 addition level six, is for those who need to go on to higher
17 levels. He took books nine through 33, so he started in level
18 two, which is a -- a basic level. He had some English before
19 he came.

20 Q All right. And at what level did he finish?

21 A He finished at an 80ECL, which according to
22 follow on training, and they're the ones who set the
23 requirements, has a comprehension level equivalent to someone
24 who can function in an academic and technical environment
25 without any problem in English.

1 Q All right. So the progress that you mention
2 that he made from when he started to when he was graduated in
3 October 2012, would you say it was pretty good?

4 A Yes, it was.

5 Q All right. And either -- but there was one test
6 that you mentioned that he didn't do very well on. In fact,
7 you had him recycle that particular test?

8 A And we only do that when he had enough time and
9 we do want to ensure that all of our students do graduate with
10 the requisite skills.

11 Q All right. So either Mr. Alotaibi was a really
12 smart guy or either Mr. Alotaibi worked very hard, correct, to
13 make the progress that he did?

14 A He worked hard and he had some ability to learn
15 another language.

16 Q Now Arabic, and pardon me for my ignorance, but
17 in their alphabet, is it like Hebrew where they read from the
18 right to the left or do they -- are they like the Romanized
19 language, which reads from the left to the right?

20 A They read from the right to the left.

21 Q So they follow the same pattern that Hebrew
22 does, correct?

23 A I don't know Hebrew, but I would assume so, yes.

24 Q And so considering that it's the non-Romanized
25 letters and considering they read from right to left, that's

1 an additional hurdle that people like my client -- or all the
2 Arabs go through when they want to learn English, correct?

3 A And that is correct. And that's why they take
4 the test monthly to ensure that their reading ability is
5 proficient enough to go forward.

6 Q Okay. Now when you talk about this generalized
7 English class that you teach people, there's -- is there
8 anything there on American history?

9 A Not specifically. We have -- the texts are very
10 interactive, so we ensure that our students are able to speak
11 and comprehend. That's why we mention dialogs. So we might
12 include something about historical figures, not only an
13 American historical figure, but also others. And we like our
14 students to do oral presentations about perhaps someone in
15 their own country who is a famous figure.

16 Q All right. Now is there anything in these
17 classes that they study on the American legal system?

18 A We do include some information. The word lawyer
19 is in book 21 --

20 Q All right.

21 A -- attorney. We don't drill down --

22 Q Wait. Is the word lawyer in book 21 or is the
23 word attorney in book 21?

24 A The word lawyer is and the definition given is
25 attorney.

1 Q Okay. All right. Are any of the Amendments to
2 the Constitution given in the books that they study?

3 A We actually do include some as extra readings.
4 We don't test our students on the law in the United States,
5 but because they're living in the United States we do want to
6 ensure that they understand. And I did bring a copy of the
7 Monday morning briefing. We go over some of our rules and
8 regulations because they're living here.

9 Q All right. And so just a couple other questions
10 on the legal system. Do you know whether or not in these
11 booklets there's mention about the word rights?

12 A Yes, we have the word rights.

13 Q Okay. And what is -- what's the definition or
14 explanation we give to that?

15 A It's a privilege, a right is a privilege.

16 Q Okay. And is there anything in there about
17 let's say Miranda or Miranda versus Arizona?

18 A We don't -- that is not covered in our
19 materials. But I do want to add that we have country liaison
20 officers who work with us at the Defense Language Institute
21 and we want to ensure that any questions that our students
22 have are answered and these are their countrymen. And from
23 Saudi Arabia we have anywhere between five and ten country
24 liaison officers.

25 Q All right. So -- and what is it that the

1 officers advise the Saudi soldiers who happen to be studying
2 here?

3 A That I don't have knowledge absolutely
4 positively, but if we go back to that attendance chart --

5 Q Okay.

6 A -- that we covered previously, there was a code
7 and it says legal. And the sergeant was absent from class in
8 February of 2012 and it was coded legal. So I don't know what
9 was covered, but he was out from class for some legal issue.

10 Q Mr. Alotaibi was?

11 A Yes, sir.

12 Q Okay. Now in these booklets on rights, I mean,
13 is there at least as far as the Americans are concerned, do we
14 tell them if they ever get in trouble to either call their --
15 the Saudi consulate or to call somebody at the Air Force base
16 or?

17 A They are given that type of emergency
18 information and we do cover -- we want them to understand that
19 our culture is different from the -- all the different
20 countries represented and we know that women's rights in the
21 United States are different from those in Saudi Arabia. We do
22 cover sexual harassment every Monday in the briefing to
23 indicate it's inappropriate and unacceptable.

24 Q All right. Now, with respect to sexual
25 harassment, is it -- is there anything on those records that

1 would indicate whether or not my client --

2 A No.

3 Q -- ever had any disciplinary problems?

4 A There's nothing about sexual harassment that I'm
5 aware of. Again, I don't know what the legal absence was for.

6 Q Is there anything in the records of my client to
7 where he showed disrespect to any of his teachers or any of
8 the officers there at Lackland Air Force Base?

9 A No.

10 Q Is there anything in those records to show that
11 my client ever was a disciplinary problem with respect to the
12 use of alcohol?

13 A Not in his records, no.

14 Q Okay. So there's no disciplinary marks at all
15 inside of his record?

16 A No.

17 Q Okay. And when did he complete his classes
18 prior to December 31st, 2012?

19 A He left Lackland Air Force Base to go to follow
20 on training on the 26th of October 2012.

21 Q All right. And you say that was for like a
22 nine-week training course?

23 A No. He was at Lackland for one year.

24 Q Right.

25 A From October of 2011 learning English only until

1 October of 2012.

2 Q All right.

3 A His last nine weeks were specifically to give
4 him some of the words that he would have at follow on
5 training. It was still English training.

6 Q All right. But the -- the follow on training
7 would have been more specialized and more technical with
8 respect to aircraft maintenance or the parts of the airplane,
9 et cetera, et cetera, correct?

10 A Yes, uh-huh.

11 Q And do you know at Keesler when their Christmas
12 break would begin?

13 A I don't have that information.

14 Q Okay. Also, in the English language part, do we
15 teach them proper English or do they learn slang terms?

16 A We teach them proper English. We do introduce
17 idiomatic expressions and two-word verbs such as, you know,
18 when you're ordering a meal in a restaurant, you know, carry
19 out and various terms like that, but it is proper English.

20 Q Do you know if the word prostitute is included
21 in any of those words?

22 A We do not have that in our materials.

23 Q Okay. What about the word trick roll?

24 A No.

25 Q And you look surprised. Do you yourself know

1 what a trick roll is?

2 A Actually, no.

3 Q Okay. All right.

4 A I can guess, but --

5 Q Okay. And lastly, would you say that Mr.

6 Alotaibi was intelligent enough and able to comprehend English
7 enough that if he did not know a certain word, he would try to
8 figure out what was being said by the context of what was
9 being said?

10 A We do give our students those types of
11 strategies and to ask questions so they understand to ask a
12 question if they don't understand. That question formation is
13 vital in learning another language.

14 Q All right. Nothing further, Mrs. MacKenzie.

15 A Thank you.

16 Q All right.

17 THE COURT: Redirect?

18 MS. HOLTHUS: Just a couple.

19 REDIRECT EXAMINATION

20 BY MS. HOLTHUS:

21 Q Can I get this marked? It's just a packet.

22 Mrs. MacKenzie, I'm showing what's marked as State's Proposed
23 178 for identification. Do you recognize that?

24 A This is information that's given to our students
25 when they first begin training.

1 Q And to all the students?

2 A They -- this briefing is discussed with them,
3 yes.

4 MS. HOLTHUS: Move for admission of 178.

5 MR. CHAIREZ: No objection.

6 THE COURT: Admitted.

7 (State's Exhibit Packet of Information to Students admitted.)

8 BY MS. HOLTHUS:

9 Q And what about 179 for identification, what is
10 that?

11 A Every morning in -- because we have new students
12 starting in class every week, based on their proficiency
13 levels I mentioned, so someone may be having a new group of
14 instructors -- or a new group of students in his or her class,
15 we have a Monday morning briefing that covers classroom rules,
16 parking rules. And this is the Monday morning briefing that
17 every instructor gives every Monday.

18 Q So at some point in his one year, Mr. Alotaibi
19 would have received that, if not every week for a year?

20 A He should have received it every week. If it
21 was forgotten one week I can't attest for that but --

22 MS. HOLTHUS: Move for that, admission of that as
23 well.

24 MR. CHAIREZ: No objection.

25 THE COURT: Admitted.

1 (State's Exhibit 179 admitted.)

2 BY MS. HOLTHUS:

3 Q And just -- I just want -- a couple of things.
4 With respect to the Monday morning briefing, 179, there's a
5 whole bunch of things, rules and what not. But this is where
6 you said sexual harassment's inappropriate, told every Monday?

7 A Yes.

8 Q And in particular, always speak English?

9 A That's in -- in the classroom. We know that
10 students are more comfortable and -- outside of class, but in
11 the classroom it's mandatory that they have English only.

12 Q Five to six hours a day for almost a year?

13 A Yes. And part of that is, we are not required
14 when we cannot possibly speak all of the languages of all of
15 the students. We try to have the students in class -- if we
16 have enough students from -- to mix groups based on the book
17 they're studying, we might put a student who speaks Japanese
18 in with Arabic speakers, Spanish speakers so that they do rely
19 on English as the form of communication, absolutely, in the
20 classroom.

21 Q And again, this -- the legal orientation, 178,
22 this actually does go through in a more detailed view it talks
23 about specific areas including driving in the U.S., sexual
24 harassment and prostitution?

25 A That's correct. The country liaison officers

1 would have copies of that briefing. We as the instructors and
2 supervisors, we don't go over that with the students. But the
3 country liaison officers and -- would have that information.

4 Q And again, the sexual harassment discussion and
5 an explanation of --

6 A Correct.

7 Q -- soliciting prostitution, don't do it?

8 A Correct.

9 Q Let me just reclarify. Mr. Alotaibi did -- he's
10 -- he did the English training until the last nine weeks, was
11 still English training but Specialized Technical English
12 basically?

13 A Correct.

14 Q And he was out of that in October and then he
15 went on to follow on. And where did he go to follow on
16 training?

17 A He went to Keesler Air Force Base for aircraft
18 maintenance. I don't know the specific training --

19 Q Okay.

20 A -- he was there for.

21 Q Do you know where that is?

22 A Where is it?

23 MR. CHAIREZ: Mississippi.

24 A Mississippi. Thank you. No, I didn't.

25 MS. HOLTHUS: That's all. Thank you.

1 THE COURT: Anything else, Mr. Chairez?

2 MR. CHAIREZ: Two questions.

3 RECROSS-EXAMINATION

4 BY MR. CHAIREZ:

5 Q Mrs. MacKenzie, this manual about sexual
6 harassment, prostitution, et cetera, et cetera, is this also
7 given to all the American personnel that are in the military
8 armed forces?

9 A I can't speak to that because I'm not in the
10 military.

11 Q All right. Okay. Nothing further.

12 THE COURT: Is she free to go?

13 MR. CHAIREZ: She's free to go.

14 MS. HOLTHUS: She is, thank you.

15 THE COURT: Thank you, ma'am, for your time.

16 MS. HOLTHUS: Can we approach before the next
17 witness?

18 THE COURT: You may.

19 (Bench conference transcribed as follows.)

20 MS. HOLTHUS: The next witness is the detective with
21 the recording and I'm still waiting for the redaction of it.
22 I've got the -- the things here I can start him but I also --
23 my understanding from Mr. Chairez is he's not requesting any
24 redactions from any -- any particular parts and I just want to
25 make -- him to make the record that for strategic purposes --

1 because there's some things that we probably would have -- the
2 defendants as he got in trouble once before for kissing a lady
3 in public in Saudi but he was not guilty and some stuff like
4 that.

5 MR. CHAIREZ: We think some of those [inaudible].
6 Because they like have an expression [inaudible]. We just
7 think that's [inaudible].

8 THE COURT: Well, are you asking that they redact it
9 out?

10 MR. CHAIREZ: Oh, they can keep it in. I just want
11 to make a point that [inaudible], let the jury [inaudible]
12 they -- they can listen and see [inaudible].

13 THE COURT: Okay.

14 MS. BLUTH: How long's that tape again?

15 MS. HOLTHUS: Hour and a half.

16 THE COURT: I want a quick break to use the restroom
17 then.

18 MS. HOLTHUS: Sure.

19 (End of bench conference.)

20 THE COURT: All right, ladies and gentlemen of the
21 jury. We're going to give you a -- just a quick break to use
22 the restroom. The next witness is going to be a little --
23 little bit, it's going to be fairly long. So I want you to
24 stretch, get comfortable before coming back here. Yes, sir?

25 JUROR NO. 007: Judge, can you give us those -- those

1 time slots again?

2 THE COURT: The way the trial's going so far,
3 probably we'll come in, I would bet we're done before midday
4 tomorrow because it looks like we'll probably have around one
5 witness tomorrow morning. So after that you guys would be
6 free. You should be -- do you think that's fair to say that
7 they'll be free by -- before lunch?

8 MS. BLUTH: I would think so, yes.

9 MR. CHAIREZ: I think so, Your Honor.

10 THE COURT: All right. So again, remembering it's an
11 art, not a science, but probably just half day tomorrow
12 morning only. No trial on Friday, back on Monday at one, back
13 on Tuesday at one.

14 JUROR NO. 007: Tomorrow's 9:30, ma'am?

15 THE COURT: Nine-thirty, sir.

16 JUROR NO. 003: And we'll be doing deliberations on
17 Tuesday?

18 THE COURT: We are hopeful.

19 JUROR NO. 003: Still possibly Wednesday?

20 THE COURT: Possibly. I mean, our hope is that we'll
21 do closing arguments on Tuesday. After they do closings then
22 it goes to the jury and it's really up to the jury at that
23 point and how long it takes. Okay? That all depends on you
24 guys.

25 Ladies and gentlemen of the jury, come back in ten

1 minutes. You're admonished not to converse amongst yourselves
2 or with anyone on any subject connected with the trial, read,
3 watch, or listen to any report of or commentary on the trial
4 by any medium of information including, without limitation,
5 television, newspaper, radio, Internet. Do not form or
6 express an opinion on this case. All right, see you shortly.

7 (Jury recessed at 2:08 p.m.)

8 THE COURT: Okay, let's go. You know, actually
9 before we go off the record, Maria, I just -- what was being
10 said at the -- the jury's out. What was being said at the
11 bench, I want to make sure we have a good recording of it. My
12 understanding is a detective is being called next by the
13 State. There is a videotape --

14 MS. HOLTHUS: That's correct, Judge. We had -- I
15 understand Mr. Sweetin [phonetic] and Mr. Chairez have
16 discussed it before. There are potential things that the
17 State was ambivalent, if the defense had wanted it out we
18 would have acquiesced. My understanding is that they've
19 requested that everything come in as-is. We've taken out two
20 lines from page 32 that essentially asks are you aware of the
21 sentence here and it says something to the effect you can get
22 -- you can go to prison for a very long time, 40 to 50 years.
23 We've taken those two lines out.

24 It's our position that sentencing is not an issue for
25 the jury and they -- that there was no need to be in it and it

1 shouldn't be in there or considered by the jury, besides which
2 it's an inaccurate statement of the law. So my understanding
3 is there is no objection by them to -- to take that out.

4 There were a couple of other areas where we said, you
5 know, there's an indication the defendant may have been in
6 trouble before in Saudi for kissing a woman in public. I
7 don't know that it even rises to a level of other bad act
8 because it's -- it's not a bad act here, but it does talk
9 about him maybe being arrested and going through something and
10 being found not guilty. We --

11 THE COURT: I don't think you even need it, do you?

12 MS. HOLTHUS: We don't need it but they didn't want
13 it out so we left everything in because you know --

14 MR. CHAIREZ: The bottom line is we want it in, Your
15 Honor, because it shows how inaccurate the translation is.
16 You know, he was not arrested in Saudi Arabia. If he was
17 arrested in Saudi Arabia he would have not been allowed in the
18 United States. So there are numerous instances in there where
19 we believe the transcriber either got it wrong or Detective
20 Pool got it wrong and so --

21 THE COURT: Okay.

22 MR. CHAIREZ: -- that's why -- we don't care. If
23 they want to redact stuff they can, but I would rather leave
24 as much in to show that it's not a perfect translation from
25 Arabic or what Mr. Alotaibi speaking. That's the only reason

1 I want it.

2 THE COURT: Okay.

3 MR. CHAIREZ: Okay, so --

4 THE COURT: I agree with the State on the sentencing
5 since that's within the discretion of the Court.

6 MR. CHAIREZ: That's fine, Your Honor.

7 THE COURT: On the other -- the only person I really
8 see that would object to that information would be you or your
9 client and since you're not objecting --

10 MR. CHAIREZ: We're not objecting.

11 THE COURT: Okay. Anything else?

12 MS. HOLTHUS: That's all I have.

13 THE COURT: Okay.

14 MS. HOLTHUS: I'm going to give Mr. Chairez a
15 transcript.

16 MR. CHAIREZ: A chance to what?

17 MS. HOLTHUS: I'm going to give you one of these in
18 case you want to look at it.

19 MR. CHAIREZ: Oh, okay.

20 MS. HOLTHUS: This is the redacted and we're still
21 waiting for the redacted --

22 MS. BLUTH: No, I have it. I just --

23 MS. HOLTHUS: Oh, we're not waiting for it anymore.

24 (Court recessed from 2:11 p.m. until 2:30 p.m.)

25 (Outside the presence of the jury)

1 MS. HOLTHUS: The only record I wanted to make is we
2 have marked, and I believe Mr. Chairez is stipulating to the
3 DVD of the statement. Obviously, he's stipulating subject to
4 the prior motion to suppress that he filed and based upon the
5 Court's ruling.

6 THE COURT: Oh, okay.

7 MR. CHAIREZ: That's correct, Your Honor.

8 THE COURT: Are they on their way up with that?
9 Soon?

10 MR. CHAIREZ: Tomorrow at 9:30, huh?

11 THE COURT: Tomorrow at 9:30. I guess just wait. I
12 mean, it was difficult for everyone here last time for
13 interpreting.

14 MR. CHAIREZ: Wait a second, Your Honor. I've got to
15 get the baseball scores before we start.

16 (Pause in proceedings)

17 (Jury reconvened at 2:37 p.m.)

18 THE COURT: Okay. Ladies and gentlemen, welcome
19 back. Thank you. Sorry, there was a little bit of a delay in
20 your break but we had a little bit of problems with the
21 equipment the interpreters were using. All right? So the
22 interpreter will be sitting next to -- next to Mr. Alotaibi
23 until we can get new equipment. So again, sorry for the
24 delay.

25 Ms. Holthus, are you ready to call your next witness?

1 MS. HOLTHUS: Detective Pool.

2 KEITH POOL, STATE'S WITNESS, SWORN

3 THE CLERK: Please be seated. State and spell your
4 first and last name for the record, please.

5 THE WITNESS: Detective Keith Pool, K-e-i-t-h,
6 P-o-o-l.

7 THE COURT: Whenever you're ready.

8 DIRECT EXAMINATION

9 BY MS. HOLTHUS:

10 Q How are you employed?

11 A I'm a detective with Las Vegas Metropolitan
12 Police Department.

13 Q A particular section?

14 A Sexual assault.

15 Q Can you give me your law enforcement experience
16 and training?

17 A I started as a police officer with Las Vegas in
18 2001. I was in patrol for five years. Began being a
19 detective in the property crime section for five years and the
20 last two years I've been in sexual assault.

21 Q And prior to law enforcement?

22 A I was a corrections officer for the State of
23 Michigan for 13 years.

24 Q Tell me about your duties as an SA -- sex
25 assault detective.