

IN THE SUPREME COURT OF THE STATE OF NEVADA

RALPH ALEXANDER,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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Docket No. 70214

APPELLANT'S APPENDIX – VOLUME 5 OF 7

Appellant Ralph Alexander, by and through the undersigned counsel,
submits this appendix to his Fast Track Statement.

DATED this 11th of October, 2016.

/s/ John Parris

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CERTIFICATE OF SERVICE

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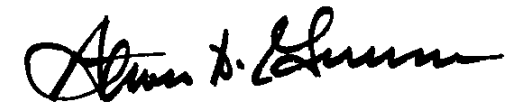
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AFFIRMATION

Pursuant to NRS 239B.030, this document contains no social security numbers.

/s/ John Parris
John P. Parris, Esq.

10-11-16
Date



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-308719-1
	.	CASE NO. C-308719-2
Plaintiff,	.	
	.	DEPT. NO. XII
vs.	.	
	.	TRANSCRIPT OF
RALPH ALEXANDER, a/k/a	.	PROCEEDINGS
RALPH LEONE ALEXANDER,	.	
and JAMES EARL PARKER,	.	
	.	
Defendants.	.	
.	

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

**ROUGH DRAFT TRANSCRIPT OF
JURY TRIAL - DAY 3**

THURSDAY, DECEMBER 3, 2015

FOR THE STATE:	GIANCARLO PESCI, ESQ.
	SARAH J. KILLER, ESQ.
	<i>Deputy District Attorneys</i>

FOR DEFENDANT ALEXANDER:	JOHN P. PARRIS, ESQ.
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FOR DEFENDANT PARKER:	MICHAEL W. SANFT, ESQ.
-----------------------	------------------------

ALSO PRESENT:

Ricardo Pico
Spanish Interpreter

COURT RECORDER:

KRISTINE CORNELIUS
District Court

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INDEXWITNESSES

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****Testimony with Spanish interpreter***EXHIBITS

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ROUGH DRAFT TRANSCRIPT

1 LAS VEGAS, NEVADA, THURSDAY, DECEMBER 3, 2015, 11:26 A.M.

2 (Outside the presence of the jurors)

3 THE MARSHAL: All rise. The Eighth Judicial
4 District Court, Department 12 is now in session, the
5 Honorable Michelle Leavitt presiding. Come to order and be
6 seated, please.

7 THE COURT: Good morning.

8 MR. SANFT: Good morning, Your Honor.

9 MR. PARRIS: Good morning, Your Honor.

10 THE COURT: The hearing is taking place outside the
11 presence of the jury panel. Mr. Sanft, go ahead.

12 MR. SANFT: Thank you, Your Honor. We've had an
13 opportunity to speak with our clients about a potential
14 negotiation. I think we need to put it on the record at this
15 particular point. It's --

16 THE COURT: You think you need to put it on the
17 record?

18 MR. SANFT: Well, there was a negotiation, but the
19 offer's been declined by my client -- or actually, by both
20 clients.

21 THE COURT: And you think you need to put it on the
22 record?

23 MR. SANFT: Well, I think we just need to make sure
24 that the Court is aware, and that there is a record that
25 there was a negotiation, there was an offer, and that both

ROUGH DRAFT TRANSCRIPT

1 clients at this particular point are declining that offer.

2 THE COURT: Okay. Is that true, Mr. Alexander?

3 DEFENDANT ALEXANDER: Yes, ma'am.

4 DEFENDANT PARKER: Yes, ma'am.

5 THE COURT: Is that true, Mr. Parker?

6 DEFENDANT PARKER: Yes, ma'am.

7 THE COURT: Okay, you don't want to take the offer
8 that's been offered by the State?

9 DEFENDANT PARKER: No, ma'am.

10 THE COURT: And you want to proceed?

11 DEFENDANT PARKER: Yes, ma'am.

12 DEFENDANT ALEXANDER: Yes, ma'am.

13 THE COURT: Okay.

14 MR. PESCI: Judge, for clarity purposes, defense
15 counsel approached me this morning and said, is there a
16 possibility of negotiating this? We talked back and forth.
17 The State tried to contact the detective. We made an offer
18 after the defense's request of a conspiracy to commit
19 robbery, two counts of robbery with use of a deadly weapon,
20 for a stipulated grand total of 12 to 30 years, and it's my
21 understanding that that's been --

22 THE COURT: A stipulated 12 to 30?

23 MR. PESCI: Yes.

24 MR. SANFT: Yes.

25 MR. PARRIS: Aggregate, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 MR. PESCI: Aggregate.

2 THE COURT: Aggregate?

3 MR. PARRIS: Yes, Your Honor.

4 THE COURT: And they're rejecting it?

5 MR. SANFT: Yes, Your Honor.

6 THE COURT: Okay.

7 MR. PESCI: And they've rejected it. So, we're
8 prepared; we'll go forward.

9 THE COURT: Okay. And again, I just want to make
10 sure, Mr. Alexander, you don't want to accept that?

11 DEFENDANT ALEXANDER: No, ma'am.

12 THE COURT: Mr. Parker?

13 DEFENDANT PARKER: No, ma'am.

14 THE COURT: Okay. All right. So, I'm assuming,
15 Mr. Pesci, that offer's now going to be revoked?

16 MR. PESCI: Yeah, and we're not going to do this
17 anymore. We're just going to finish.

18 THE COURT: Okay, so --

19 MR. PARRIS: And Your Honor, we do appreciate the
20 extra time --

21 THE COURT: The deal's not going to get any
22 sweeter, is what they just said.

23 MR. PESCI: And that's not at defense counsel. I'm
24 sorry, that's not intended that way at all, we're just --
25 we'll finish.

ROUGH DRAFT TRANSCRIPT

1 MR. PARRIS: No, and we appreciate the extra time
2 this morning. We knew a juror was running late, but we did
3 want to see. We were -- we believed we were relatively close
4 to resolving the case and sparing the jurors another two or
5 three days of trial, as well as the other time, effort, and
6 energy associated with it.

7 THE COURT: You know I'll always give you time to
8 talk. If you're saying you're going to negotiate, I'll
9 always give you time.

10 MR. SANFT: Thank you, Your Honor.

11 MR. PARRIS: Thank you, Your Honor. Appreciate it.

12 THE COURT: And I think we do have that juror here,
13 so --

14 THE MARSHAL: Yes, ma'am.

15 THE COURT: -- we have a full panel. Let's bring
16 them in.

17 (Pause in the proceedings)

18 THE MARSHAL: All rise for the entering jury.

19 (Within the presence of the jurors)

20 THE MARSHAL: Thank you. Please be seated.

21 THE COURT: Does the State stipulate to the
22 presence of the jury panel?

23 MR. PESCI: Yes, Your Honor.

24 THE COURT: Mr. Sanft?

25 MR. SANFT: Yes, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 THE COURT: Mr. Parris?

2 MR. PARRIS: Yes, Your Honor.

3 THE COURT: State may call their next witness.

4 MR. PESCI: State calls Crime Scene Analyst
5 Stephanie Thi.

6 THE MARSHAL: If you will please step up in the
7 witness stand. Remain standing, raise your right hand, and
8 face the clerk.

9 STEPHANIE THI, STATE'S WITNESS, SWORN

10 THE CLERK: Thank you. Please be seated. Could
11 you please state your name and spell it for the record?

12 THE WITNESS: My name is Stephanie Thi.
13 S-t-e-p-h-a-n-i-e, T-h-i.

14 THE CLERK: Thank you.

15 THE COURT: You may proceed.

16 MR. PESCI: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. PESCI:

19 Q Ma'am, what do you do for a living?

20 A I'm a crime scene analyst with the Las Vegas
21 Metropolitan Police Department.

22 Q How long have you been in that position?

23 A For five years.

24 Q Do you have any training and experience that brings
25 you to that position?

ROUGH DRAFT TRANSCRIPT

1 A I do.

2 Q And could you explain that to the jury, please?

3 A I have a Bachelor of Science in Biology, and I also
4 have a Master of Science in Forensic Sciences. I completed
5 the crime scene academy, as well as the field training
6 program.

7 Q And you said you've been with Metro five years?

8 A Yes, that's correct.

9 Q Is there a continuing training that goes on after
10 you start with Metro?

11 A Yes, there is.

12 Q And have you been a part of that continuing
13 training?

14 A I have.

15 Q Were you assigned to a particular incident that
16 occurred back on June the 26th of 2015, and that you
17 responded to 4430 East Charleston here in Las Vegas, Nevada?

18 A I did.

19 Q Specifically, the LV Nails Spa?

20 A Yes.

21 Q Were you the only crime scene analyst there?

22 A I was.

23 Q And when you got to that scene, what did you do
24 with that scene to document it?

25 A I first made contact with officers and detectives

ROUGH DRAFT TRANSCRIPT

1 on scene. I took notes of what I observed. I documented the
2 scene with photographs, and I did fingerprint processing.

3 Q All right.

4 MR. PESCI: Speaking of photographs, can I approach
5 the witness, Your Honor?

6 THE COURT: You may.

7 BY MR. PESCI:

8 Q Showing you State's Proposed Exhibits 21 through
9 29, except 23 and 24 are already admitted, could you review
10 those and let me know when you're done? Starting with
11 State's Proposed Exhibit 21, what do you recognize that to
12 be?

13 A That is an aerial view of 4430 East Charleston
14 Boulevard.

15 Q That's the scene that you responded to?

16 A Yes, that's correct.

17 Q Are you familiar with it, having responded there
18 and living here in Las Vegas?

19 A Yes.

20 Q Is that a fair and accurate aerial depiction of the
21 area?

22 A Yes, it is.

23 MR. PESCI: Move for the admission of State's 21,
24 Your Honor.

25 MR. SANFT: No objection, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 MR. PARRIS: No objection.

2 THE COURT: It's admitted.

3 (State's Exhibit 21 is admitted)

4 MR. PESCI: Thank you.

5 BY MR. PESCI:

6 Q And to go with those that are not admitted yet,
7 looking at State's 22, do you recognize that?

8 A I do.

9 Q And then, picking back up with 25 and going to 29,
10 do you recognize those?

11 A I do.

12 Q How do you recognize them, or what do you recognize
13 them to be?

14 A Those are photographs I took of the nail salon.

15 Q And are those fair and accurate depictions of the
16 scene as you documented it?

17 A Yes, they are.

18 MR. PESCI: I'd move for the admission, Your Honor,
19 of State's 25 through 29, and in fact, 26 is already in.

20 MR. SANFT: No objection, Your Honor.

21 MR. PARRIS: No objection.

22 THE COURT: They're admitted.

23 (State's Exhibits 25, 27, 28, and 29 are admitted)

24 MR. PESCI: May I publish?

25 THE COURT: You may publish.

ROUGH DRAFT TRANSCRIPT

1 MR. PESCI: Thank you.

2 BY MR. PESCI:

3 Q What is the purpose of taking the photographs when
4 you go to a scene?

5 A The photographs are to visually document the scene
6 as it appears on my arrival.

7 Q Do you take some photographs at the beginning to
8 kind of orient the location?

9 A I do.

10 Q Looking at State's 22, is that one of those
11 orienting photos?

12 A Yes, it is.

13 Q And then, State's 23, does that show the entrance
14 to the location?

15 A Yes, it does.

16 Q There seems to be some yellow tape in front of the
17 scene. What is that?

18 A That is the police tape that was placed prior to my
19 arrival.

20 Q Is that to maintain the scene to keep it in that
21 condition before you get there so that when you are working
22 it, it hasn't been touched?

23 A That's correct.

24 Q Looking at State's 24, did you take photographs
25 inside of the location?

ROUGH DRAFT TRANSCRIPT

1 A I did.

2 Q Now, you talked about how one of the things that
3 you do for documenting a scene beyond photographs is
4 fingerprinting?

5 A Yes.

6 Q What is the process that you go through in trying
7 to recover fingerprints?

8 A The process of recovering a fingerprint begins with
9 speaking with victims or officers and detectives to determine
10 which areas have been handled by suspects or possible
11 suspects. I then examine those areas to see if anything is
12 visible without any fingerprint powder. Surfaces that are
13 conducive to fingerprinting are then processed with different
14 types of fingerprint powders. Any visible prints after the
15 powdering is then lifted with fingerprint tape.

16 Q Okay. So, let's back up just a little bit. You
17 talked about speaking with witnesses or police officers to
18 try to figure out where people might have -- or the suspects
19 might have touched things. Do you often look at video
20 surveillance to show you where individuals might have touched
21 things?

22 A We do if the video is available at that time.

23 Q In this particular case that you worked, was there
24 video from inside of the nail salon?

25 A I don't believe so, but I don't recall for certain.

ROUGH DRAFT TRANSCRIPT

1 Q But even if there wasn't video, you gathered
2 information from witnesses, either from them or through the
3 officers as to areas that the suspects might have touched?

4 A That's correct.

5 Q And based on that, you then tried to recover prints
6 from those locations?

7 A Yes.

8 Q You talked about how certain surfaces are better
9 than others?

10 A Yes.

11 Q Could you explain that to the jury, please?

12 A For instance, glass, and metal, and shiny plastic
13 surfaces are much better surfaces for recovering
14 fingerprints, as opposed to items like untreated wood, or
15 fabric, or leather.

16 Q Okay. Speaking of glass, looking at State's 27,
17 did you in fact go to the glass area of the front door to try
18 to see if you could lift anything from that area?

19 A I did, yes.

20 Q And we've been talking about lifts. What is a
21 lift? How do you do that? What's the anatomy of a lift card?

22 A A lift card is comprised of the fingerprint tape,
23 which is visible in that photograph. After the pieces of --

24 Q Could you actually, on the screen, just circle the
25 lift tape that you're referring to?

ROUGH DRAFT TRANSCRIPT

1 A That's one of the lift tapes, and you can see that
2 there are several on that door.

3 Q And then how do you try to get the print off of the
4 surface via the tape?

5 A The tape is just -- it's like normal tape. The
6 powders then stick to the tape; the tape is then placed on a
7 white card for contrast.

8 Q And the powders, is that something that you use to
9 try to see the print or to discover the print?

10 A Yes, that's correct.

11 Q Did you do that in this particular case?

12 A I did.

13 Q Were you able to recover some latent prints?

14 A I did.

15 Q What is a latent print versus a patent print?

16 A Latent means it is not readily visible to the naked
17 eye without some sort of enhancement, when compared to a
18 patent print, which is visible, such as a fingerprint in
19 paint or blood.

20 Q In this particular case, we were dealing with
21 latent prints; is that correct?

22 A Yes, that's correct.

23 Q All right. Now, you talked about a card if I
24 understood correctly, correct?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q That was a little redundant, sorry. Page --
2 State's 28, what are we looking at?

3 A Those are the latent print cards that are then
4 submitted into evidence.

5 Q Now, can we see the tape kind of hanging over the
6 edge of one of those cards?

7 A Yes.

8 Q And if we zoom-in -- let's take this one here, for
9 example. Maybe that's not the best, but the powder sticks to
10 the ridges that are left on the surface because of oils; is
11 that correct?

12 A Yes. The powder sticks to the residue in the
13 fingerprints, which are mostly comprised of oils and sweat.

14 Q And then, with the lift tape, you put it onto the
15 card, and then what happens to the card?

16 A The cards are then labeled with identifying
17 information, including the event number, the scene location,
18 the date, and the recovered location.

19 Q Speaking of that -- the labeling, looking at
20 State's 29, is that what we see here?

21 A That is labeling that I do on scene. It's a
22 diagram representing where they are recovered from.

23 Q Is that the backside of the cards that we just saw
24 a moment ago?

25 A Yes, it is.

ROUGH DRAFT TRANSCRIPT

1 Q And then do you impound those cards, and then the
2 envelope that you put those in do you label with what you
3 just talked about; the location, the event number, things of
4 that nature?

5 A I do, and each individual card also gets its own
6 label before they're impounded.

7 Q Now, are you the person that actually examines
8 those print cards?

9 A No, I am not.

10 Q Okay. That's -- impounded, meaning put into the
11 Metropolitan Police Department's vault so that a different
12 individual with Metro can retrieve those and try to make
13 comparisons?

14 A Yes, that's correct.

15 MR. PESCI: Court's indulgence. Pass the witness.

16 THE COURT: Any cross, Mr. Sanft?

17 CROSS-EXAMINATION

18 BY MR. SANFT:

19 Q Ms. Thi, you're not the person though that analyzes
20 those prints after you lift them from a scene; is that
21 correct?

22 A That's correct.

23 Q That's given to somebody else for their
24 responsibilities?

25 A Yes, we have latent print examiners.

ROUGH DRAFT TRANSCRIPT

1 Q All right. One of the exhibits that you were shown
2 a picture of is State's Exhibit number 27. Did you take
3 pictures of every location to which you lifted prints from?

4 A I did, yes.

5 Q All right. And with regard to lifting prints, once
6 again, you don't know the value of those prints, you're just
7 lifting in certain locations, and then capturing those
8 prints, and then taking it to somebody else for analysis; is
9 that correct?

10 A That's correct.

11 Q All right. We have one picture here, and it looks
12 like at the bottom of this picture, and I'm showing you --
13 looks like it's the crossbar of the door, was this area as
14 well lifted for prints?

15 A No. There's no tape on there, so there were no
16 prints recovered.

17 Q Okay. It looks like there's some type of blue
18 substance on the top of that bar. Do you see what I'm
19 talking about --

20 A Yes.

21 Q -- with my pen? Is that the -- is that the dust
22 that you used to hopefully gather a print?

23 A Yes, that is the fingerprint powder.

24 Q Okay. So, how do you know when to lift a print
25 from an area that you've dusted versus an area that you don't

ROUGH DRAFT TRANSCRIPT

1 -- that you -- well, let me back up here. How do you know
2 how to use tape on an area that you've dusted versus one that
3 you've -- that doesn't make any sense either, does it? I
4 think we all understand, right? All right, so let me make
5 sure we're clear here for the record. How do you know when
6 to put tape on an area to which you've dusted?

7 A The -- once the fingerprint powder is applied, that
8 makes the ridge details visible. I will then examine the
9 areas that I've processed for any visible details, and we
10 have gone through training to determine what is of value for
11 recovery, and those are the ones that are then recovered.

12 Q Okay, thank you. Did you ever have an opportunity
13 to dust the cashier area where the cash register was, or the
14 table around that area?

15 A I did, yes.

16 Q Okay. And once again, the reasons why you selected
17 these areas was based upon your interview of both victims,
18 people that were present, as well as police officers that
19 were present as well?

20 A Yes.

21 Q Okay. And do you do your own determination --
22 independent determination as to where you believe
23 fingerprints could be based upon your training and experience
24 sometimes?

25 A Yes. In those situations, it would depend on the

ROUGH DRAFT TRANSCRIPT

1 circumstances of the scene. Areas with obvious disturbance
2 would be easier to determine for fingerprint -- fingerprint
3 processing.

4 MR. SANFT: I have no further questions. Thank
5 you.

6 THE COURT: Mr. Parris?

7 MR. PARRIS: Sure.

8 CROSS-EXAMINATION

9 BY MR. PARRIS:

10 Q Ms. Thi, obviously, in the photograph that we have
11 before the jury, there are numerous -- on the glass itself,
12 we see numerous smudges, is more or less what I would call
13 them. Were those fingerprints deemed to be not suitable to
14 be attempted to be recovered?

15 A Yes. Anything that is not suitable for recovery is
16 not lifted.

17 Q And then you had indicated that you dusted for
18 fingerprints on the cashier area, or the front desk area,
19 correct?

20 A Yes.

21 Q And there were no prints -- you determined that
22 there were no prints that were appropriate to be lifted and
23 placed on cards, correct?

24 A That's correct.

25 Q Other than the front door and the desk area, where

ROUGH DRAFT TRANSCRIPT

1 if at all else throughout the store did you dust for prints?

2 A There was one of the salon chairs with a small
3 table adjacent to it. That area was also fingerprint
4 processed.

5 Q And similarly, there was no -- there were no prints
6 that were appropriate to be attempted to be lifted?

7 A That's correct.

8 Q Okay. Just those three areas?

9 A Yes.

10 MR. PARRIS: Nothing further. Thank you.

11 THE COURT: Any redirect?

12 MR. PESCI: Yes.

13 REDIRECT EXAMINATION

14 BY MR. PESCI:

15 Q When you are trying to find a latent print, and at
16 the picture that you're looking at right now, which is
17 State's 27, is that an area that can be referred to as kind
18 of a high-volume area for fingerprints to appear?

19 A Yes, it is.

20 Q It's a store that's open for business; it's a door
21 that everybody that walks out can utilize and put their hands
22 on?

23 A Yes, and it was the only public entrance door to
24 the business.

25 Q So anybody coming in or out has to go through that

ROUGH DRAFT TRANSCRIPT

1 door?

2 A Yes.

3 Q Does it make it more difficult to recover a print
4 when there have been many, many people that touch the same
5 area?

6 A The recovery isn't necessarily affected by it, but
7 there may be more prints that are not of investigatory value.

8 Q And that's where I was going. Can it be that if
9 you've got a print on top of a print, latent prints, that is,
10 that it will impede the ability to be able to utilize that
11 print?

12 A Yes. Overlapping prints will cloud the clarity of
13 the individual prints.

14 Q Plus, if someone touches a surface and just brushes
15 it slightly, there's not necessarily a sufficient amount of
16 ridge detail to make a comparison?

17 A That's correct.

18 Q Okay. So, you could look at this door and not see
19 what you think is sufficient ridge detail, and thus, you
20 don't try to lift from every inch of the door?

21 A That's correct.

22 MR. PESCI: Okay, thank you.

23 THE COURT: Mr. Sanft, any recross?

24 RECROSS-EXAMINATION

25 BY MR. SANFT:

ROUGH DRAFT TRANSCRIPT

1 Q Ms. Thi, how many times have you lifted prints --
2 or how many times have you gone to a crime scene to lift
3 prints during the scope of your employment?

4 A Over the course of five years, I wouldn't be able
5 to begin to guess, but I mean, we respond to fingerprint
6 calls upwards of -- for me, possibly up to four times a day,
7 so over the course of five years.

8 Q All right. And I'm assuming that you've done
9 fingerprint lifts before of places like this where it's a
10 high-traffic area situation where there's a door that's the
11 only door leading into a business, for instance?

12 A Yes.

13 Q Have you ever lifted a print before that had
14 investigatory value off of this type of scenario?

15 A I have, yes.

16 Q Okay. So, it is possible, of course, that you
17 could have gotten the print of investigatory value from a
18 door like this in a situation where it is a high-volume type
19 of traffic area?

20 A Yes.

21 MR. SANFT: Okay, no further questions.

22 THE COURT: Mr. Parris?

23 MR. PARRIS: No, Your Honor, no follow up. Thank
24 you.

25 THE COURT: Okay, thank you very much for your

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1 testimony here today. You may step down. You're excused
2 from your subpoena. The State can call their next witness.

3 MS. KILLER: The State calls Heather Gouldthorpe.

4 MR. PARRIS: Your Honor, before this witness, can
5 we approach briefly?

6 THE COURT: Of course.

7 MR. PARRIS: Thank you.

8 (Bench conference)

9 THE COURT: Who is she?

10 MS. KILLER: Oh, she's our fingerprint analyst.

11 THE COURT: Oh, okay.

12 MS. KILLER: There is a -- there's essentially two
13 events that she did comparison analysis on. There were also
14 two events where the administrative AFIS was run. One of
15 those reports is technically assigned and was approved by
16 another fingerprint analyst --

17 THE COURT: Okay.

18 MS. KILLER: -- but it was negative, so the defense
19 wants that information to come in. The other --

20 THE COURT: Yeah, I knew that was going to come in.

21 MS. KILLER: -- fingerprint analyst was
22 unavailable. Just because of the confrontation issue, we
23 wanted to make a record that, for a strategy point, defense
24 is requesting that we ask her about this one.

25 THE COURT: Right, and I thought this is what we

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1 talked about before we started, right?

2 MR. PARRIS: We discussed it very briefly, but we
3 just wanted to make sure that it was clearly placed on the
4 record this was the incident we were referring to though.

5 THE COURT: Okay. So, how do you want to put it on
6 the record? How do you want to -- how do you want the jury
7 to know what your stipulation is?

8 MR. PARRIS: No --

9 THE COURT: Or are you going to just ask the
10 witness?

11 MR. PARRIS: No, the State is going to ask --

12 THE COURT: Okay.

13 MR. PARRIS: -- in their direct, but we wanted to
14 explain why there was no -- the State wanted some protection
15 as there was no confrontation issues.

16 MR. PESCI: For a Crawford violation --

17 MS. KILLER: Violation.

18 MR. PESCI: -- argued by some other appellate --

19 MR. PARRIS: Yes.

20 MR. PESCI: -- attorney potentially.

21 MS. KILLER: Later.

22 THE COURT: So, you're waiving --

23 MR. SANFT: That's correct.

24 MR. PARRIS: That's correct.

25 THE COURT: Okay.

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1 MR. PARRIS: So --

2 MR. PESCI: Thank you, Judge.

3 MR. PARRIS: Thank you.

4 THE COURT: And that's a strategic decision,
5 correct?

6 MR. SANFT: That is correct.

7 MR. PARRIS: Yes, Your Honor.

8 MR. SANFT: Just for our defense.

9 THE COURT: And you've discussed it with your
10 clients, correct?

11 MR. PARRIS: That's correct.

12 THE COURT: Okay.

13 MR. PESCI: Thank you very much, Judge.

14 THE COURT: Thank you.

15 MS. KILLER: Thank you.

16 (End of bench conference)

17 THE COURT: Sorry.

18 THE WITNESS: That's okay.

19 THE COURT: If you'll stand and raise your right
20 hand so you can be sworn by the clerk.

21 HEATHER GOULDTHORPE, STATE'S WITNESS, SWORN

22 THE CLERK: Thank you. Please be seated. Could
23 you please state your name and spell it for the record?

24 THE WITNESS: Yes. My name's Heather Gouldthorpe.
25 Heather, H-e-a-t-h-e-r. Gouldthorpe, G-o-u-l-d-t-h-o-r-p-e.

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1 THE CLERK: Thank you.

2 THE COURT: You may proceed.

3 DIRECT EXAMINATION

4 BY MS. KILLER:

5 Q Good morning, Ms. Gouldthorpe. How are you
6 currently employed?

7 A I'm a forensic scientist in the latent print unit
8 of Las Vegas Metropolitan Police Department Forensic
9 Laboratory.

10 Q And how long have you been working with the
11 forensic lab?

12 A I started out at the forensic lab in June of 2007
13 as a forensic laboratory technologist. There, I gained my
14 basic knowledge of fingerprint identification comparison. I
15 began entering prints into this AFIS unit, which is our
16 Automatic Fingerprint Identification System. I searched the
17 database, and I also processed evidence to recover latent
18 prints off of. I did that for about three-and-a-half years
19 before I promoted to forensic scientist training.

20 During the trainee program, I was there for a year,
21 where I learned how to do more complex comparisons, how to
22 issue reports, and how to make determinations of conclusions,
23 and how to testify in court. And then I became a forensic
24 scientist, which I've been a forensic scientist for
25 approximately three-and-a-half years now.

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1 Q And prior to your training and experience with
2 Metro, did you have any degrees in a related field?

3 A Yes. I have my bachelor's degree in sociology, and
4 then my master's degree in forensic science.

5 Q And do you have any certifications that relate to
6 fingerprint comparison?

7 A Yes. I was certified as a latent print examiner
8 through the IAI, which is our International Association for
9 Forensic -- sorry, International Association of
10 Identification.

11 Q And let me back up and just ask you a couple things
12 that you'd mentioned in your training so the ladies and
13 gentlemen of the jury can kind of follow along with us. You
14 said you processed evidence to recover prints when you were a
15 technologist. This I assume isn't on scene; it's items that
16 are brought into the lab?

17 A That is correct.

18 Q And then, you'd mentioned AFIS, but I'm going to
19 have you explain that a little bit later. We're going to go
20 through the background of fingerprints generally first. As a
21 latent print examiner, can you kind of give us an overview of
22 your duties?

23 A Yes. We actually have twofold duties. We can
24 process evidence to recover latent prints from. We also are
25 asked to compare -- people that are requested, we compare

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1 their known prints to the latent prints that are recovered.

2 Q Let's start out with the basics. What is a
3 fingerprint?

4 A What a latent print is --

5 Q Or --

6 A -- is if you look at the skin on your hands -- the
7 palm of your hands and the soles of your feet, you'll notice
8 that skin is different from the rest of your skin. It's more
9 textured, and this is called friction ridge skin. Residues
10 such as oils, sweat, blood, paint, whatever, coats these
11 ridges, and when you touch a surface, you have the potential
12 to leave behind an impression of that friction ridge skin.
13 Typically, it's not seen visually, but you have to have
14 either powder or chemical processing to be able to visualize
15 that.

16 Q And you had said latent print. There's kind of
17 different types of fingerprints, right?

18 A That is correct.

19 Q So, a latent print would be the kind that are
20 visible after processing?

21 A Correct.

22 Q Okay, and then is it a patent print that's visible
23 to -- just looking at it, visible to the naked eye?

24 A Yes.

25 Q Okay. And then, a -- when we get to comparison, a

ROUGH DRAFT TRANSCRIPT

1 known print would be one that you're provided from some sort
2 of database to compare, correct?

3 A That is correct.

4 Q Okay. Do -- and you had said that we're kind of
5 born with the ridge detail. It's individualized for each
6 person, correct?

7 A Correct.

8 Q No two people have the same fingerprint?

9 A Not that has been found to date.

10 Q Can you explain just briefly the process of
11 recovering latent prints?

12 A There's different methods to recover latent prints.
13 Crime scene analysts that typically go to the scenes, they do
14 powder processing. At the laboratory, we typically don't do
15 the powder processing, but we do chemical processing to
16 visualize latent prints.

17 Q And is this the super glue that we hear about?

18 A On some items, yes. On nonporous items.

19 Q In this case though, there wasn't any chemical
20 processing, correct?

21 A That is correct.

22 Q How do you determine -- or how do latent print
23 examiners in general determine what is suitable for
24 comparison?

25 A We look at both the latent and the known to

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1 determine suitability. You can have knowns that aren't
2 suitable for comparison also, but what we're looking for is
3 enough quality, and quantity, and specificity of information
4 in that latent print to determine that we can make a reliable
5 conclusion. And we have guidelines in our latent print unit
6 to -- that's in our technical manual that help us determine
7 what is deemed suitable for comparison.

8 Q Do you have to make that determination on each
9 individual print?

10 A Yes, we do.

11 Q It's not something where there can be a set
12 criteria that if you have five lines of a print, you can
13 suddenly always make a comparison, right?

14 A Correct.

15 Q Do people leave fingerprints every time they touch
16 a surface?

17 A No.

18 Q Can you explain the factors that affect whether a
19 print is left behind or not?

20 A Sure. There's several factors that go into whether
21 or not you can potentially leave behind a latent print. The
22 condition of your skin; are you dry typically or is it -- are
23 you sweaty. How much residue and what type of residue is on
24 your skin. What type of surface you're touching; is it flat,
25 is it smooth, or is it rough and textured.

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1 And then how you touched that print. If you just
2 touch something, if you're just holding it general everyday
3 way you hold a cup, you might develop latent prints, but if
4 you're touching something and you're moving your hand at the
5 same time, then it will be a little bit more distorted and we
6 won't be able to typically compare those kind of prints.
7 Then, also environmental factors; is it raining outside, is
8 it left in the desert in the middle of the summer, is it
9 snowing. Environmental factors also play into that, too.

10 Q When you said movement, so if I reach out and just
11 place my finger straight down on this and lift it straight
12 back up on the water cooler here, which appears to have the
13 metal outside, fairly good chance I might leave a print you
14 can recover if I have the appropriate oil and dust on my
15 hand?

16 A Correct, yes.

17 Q What if I drag it along here? A lot smaller of a
18 chance of recovering a print?

19 A Yes.

20 Q Okay. Do -- this might seem like a silly question,
21 but having something on my fingers, or having a temporary cut
22 through one of my fingers where the fingerprints are, that
23 would also affect it, I assume?

24 A That also is a comparable trait. If you have a
25 scar, sometimes they're permanent, sometimes they're not.

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1 Depending on when that occurs, that can also be used as
2 something that we can compare.

3 Q If I have gloves on though, you're probably not
4 getting any prints, I'd assume, correct?

5 A Correct.

6 Q If I have a Band-Aid over my finger, it's obviously
7 going to cover up the part that would leave the print?

8 A Yeah, if you're talking about a particular part,
9 but yeah.

10 Q Around --

11 A Yeah.

12 Q -- where my fingerprint would be. You had
13 mentioned AFIS earlier. Can you -- I know you said it, but
14 Automatic Fingerprint --

15 A Automated Fingerprint Identification System.

16 Q And is that sort of a database of fingerprints?

17 A Yes, it is.

18 Q And when you have prints come into the lab, does
19 the lab have a procedure for scanning those in through AFIS
20 to check for matches?

21 A Yes, we do.

22 Q Can you explain that process to us?

23 A Yes. When we get packets into the laboratory, they
24 come in from crime scene analysts, PSRs, cadets, officers.
25 When they're submitted to the lab, we store them at the lab

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1 under controlled storage, and we automatically look at
2 certain crime types.

3 So, we look at sexual assaults, homicides,
4 robberies, burglaries, and we automatically do a screening of
5 those prints to see whether or not they are suitable for our
6 administrative AFIS program, which our administrative AFIS
7 program is we're looking -- there are limited exams on the
8 latent prints, but we're looking for the best prints in the
9 case to generate leads for the detectives.

10 Q And when you say limited, there's someone who goes
11 through and screens, and picks out kind of the best of the
12 best prints to put through the administrative AFIS screening?

13 A Yes.

14 Q In addition to the administrative process, are
15 prints also put into AFIS by the individual reviewers?

16 A By the individual reviewers?

17 Q Or by like yourself when you're assigned a case?

18 A Yes. If we're doing casework and we get somebody
19 requested to compare, if we exclude that person and we
20 determine that the prints are of enough value to run through
21 the database, we can, as casework analysts, go ahead and put
22 those prints through, even though they don't meet our
23 administrative AFIS criteria, but they still meet AFIS
24 criteria as far as entry goes.

25 Q And when you say AFIS criteria, AFIS is kind of

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1 like a computer program that compares prints?

2 A Yes. We're looking for -- it's based on algorithm,
3 so you basically take the minutia, and we plot the minutia
4 that are there. And what minutia is, it's when you look at
5 the ridges, they do something. They typically either stop,
6 or they merge and divide to a different ridge path, and we
7 plot those. And what we're looking for is basically a
8 circular cluster so that the computer has the best chances of
9 searching against the known database.

10 Q So, when you say minutia, and you said the ridges
11 stop or turn, are we looking for like a unique pattern, or I
12 guess, for lack of a better term, if we're looking at a
13 picture of a fingerprint, kind of like a unique portion of
14 that fingerprint? I mean, something that's different from
15 the rest of the print; it's not just the consistent pattern?

16 A Correct. The only time we have -- like, there's --
17 the ridges always do something. They're not horizontal or
18 vertical, typically. If you're talking about fingerprints,
19 that's typically what people associate with pattern types.
20 We have -- fingerprints have arches, loops, and whirls, and -
21 - but even though that's only on the distal portion right
22 here, but your other friction ridge skin, your palms and your
23 -- just -- or your phalanges here, they all have ridges that
24 flow in a certain manner, not always creating a pattern, but
25 they all have a type of flow to them.

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1 Q So, a minutia is just kind of a point that you can
2 pick out in the print that differs from the rest of the
3 print; something you can identify --

4 A Correct.

5 Q -- and compare?

6 A Correct.

7 Q Now, we had said that AFIS is a database. It's
8 kind of a computer program that can compare certain minutia
9 when you find them. Does it work like we see on CSI where
10 you just type it in, and 30 seconds later, it pops up with
11 the exact person who left that fingerprint?

12 A No, it doesn't. What happens is it returns a
13 candidate list, and we individually go through each candidate
14 -- each candidate on that list and determine -- we do a
15 comparison on screen. At that point, we're doing a potential
16 comparison. So, if we get something that's a potential hit,
17 then we have to pull that -- there's a number associated with
18 that. We pull that -- the exemplars for those numbers, and
19 then we do a side by side comparison.

20 Q So, it's kind of a starting point?

21 A Yes.

22 Q Once you're assigned a case to compare as a
23 fingerprint analyst, if there's a request from the officer,
24 or the prosecutor or someone, do you go pull the fingerprints
25 that are submitted using the event number? Is that how

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1 they're identified?

2 A No, it's using an ID number.

3 Q I mean, so like when you got a request for this
4 case, you got a request on two of the event numbers, correct?

5 A Correct.

6 Q Sorry, that's what I was trying to ask you.

7 A Yes.

8 Q And the first one was 150626-3511?

9 A Yes.

10 Q And just briefly, what that means is it happened in
11 2015 on June 26th, correct?

12 A Correct.

13 Q And then the last four numbers are just
14 chronological throughout the day as the calls come in?

15 A That is correct.

16 Q In reference to the event from June 26th, those
17 prints were submitted by --

18 MS. KILLER: Court's indulgence.

19 BY MS. KILLER:

20 Q By Crime Scene Analyst Stephanie Thi, correct?

21 A Correct.

22 Q And she testified earlier about lift cards. Is
23 that where you get the latent prints for comparison?

24 A Yes, they are.

25 Q Before you did your comparison, was there an

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1 administrative AFIS -- not comparison, but I guess was it put
2 in the administrative AFIS?

3 A Yes, they were.

4 Q And did that search return any results?

5 A No, they were negative.

6 Q When you did your actual comparison and took those
7 lift cards, there were five cards, correct?

8 A Yes.

9 Q And on each of those cards, there's multiple
10 fingerprints?

11 A On some --

12 Q Or on some of them?

13 A Yeah, on some of them, there were multiple latent
14 prints.

15 Q So, I'm going to try to use the identifiers on your
16 report so that we can follow along here. The cards are
17 numbered Q1 through 5, correct?

18 A Correct.

19 Q And then, within those cards, if there's multiple
20 prints, you use letters a, b, c, d, and so on?

21 A That is correct, yes.

22 Q Okay. Let's start with Card Q(1). That card was
23 lifted from the interior of the west-facing public entrance
24 door?

25 A Correct.

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1 Q And then, on that card, there were five prints
2 suitable for comparison?

3 A Yes, correct.

4 Q And suitable for -- can you just give us a brief
5 explanation of what suitable for comparison means?

6 A There's enough quality and quantity of information
7 in the latent print, so I look at the ridge paths, how the
8 ridges flow, what the ridges do; do they stop, do they merge,
9 or the bifurcations, the minutia points that I referred to
10 earlier. And then, if I have enough of that information,
11 then I can carry on to comparison.

12 Q So, it's similar to the AFIS analysis, but when
13 you're doing the physical comparison, you don't need as many
14 specific minutia or points?

15 A Correct.

16 Q And that's because you're physically looking at the
17 latent print and a known print, rather than just trying to
18 put it in for a computer to use a map --

19 A Yes.

20 Q -- to figure it out?

21 A Yes, that's correct.

22 Q So, the first print, which would have been 1Qa --
23 or Q(1)(a), I'm sorry, did you compare that latent print to
24 known prints for Ralph Alexander, James Parker, and a Maria
25 Villanueva (phonetic)?

ROUGH DRAFT TRANSCRIPT

1 A I did.

2 Q Okay. And were you able to find a match or exclude
3 those people?

4 A I excluded those people.

5 Q Okay. Was that print also run through AFIS by you
6 rather than the administrative AFIS?

7 A Yes, it was.

8 Q And were there any results there?

9 A I got negative results on that.

10 Q Q(1)(b), the second print, that print had been
11 searched through administrative AFIS, correct?

12 A No, only -- I believe only Q(1)(a) was through
13 administrative AFIS. Q(1)(b) was searched through AFIS as
14 casework, and I had positive results which I subsequently
15 identified to Maria Villanueva.

16 Q Okay. So, that's where her name would have come
17 from, and then you used her known prints from that result to
18 compare on the other prints?

19 A Correct.

20 Q On print Q(1)(c), did you again do the comparison
21 of the latent prints and the known prints to the three
22 individuals, Ralph Alexander, James Parker, and Maria
23 Villanueva?

24 A I did.

25 Q Were they excluded from that print?

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1 A Yes, they were.

2 Q Q(1)(d), same result?

3 A Yes.

4 Q And that was also searched through AFIS with no
5 match?

6 A Correct.

7 Q Q(1)(e) I believe is a -- it looks like it's a
8 print from a palm rather than a fingertip?

9 A Yes, it was, and I had palm -- or palm exemplars
10 for Alexander and Parker; however, I did not have a complete
11 recording of the palm exemplars, so I went incomplete with no
12 detail in agreement, meaning I have palm exemplars, but I
13 need more additional palm exemplars to complete my
14 comparison. And then, for Maria Villanueva, I had no palm
15 exemplars whatsoever, so I could not compare her at all for
16 palms.

17 Q So, when you say no detail found in agreement, the
18 portions of the palm that you were able to compare did not
19 match?

20 A That is correct.

21 Q But you were unable to compare the whole palm?

22 A Correct.

23 Q And those were also run in AFIS; negative results
24 again?

25 A Correct.

ROUGH DRAFT TRANSCRIPT

1 Q On Lift Card (2)Q taken from the same place, there
2 was just one suitable print, correct?

3 A Correct.

4 Q And were you -- what was your result there?

5 A Can I refer to --

6 Q Oh.

7 A -- my report?

8 Q Sure.

9 A Thank you.

10 MS. KILLER: Your Honor, may I approach?

11 THE COURT: You may.

12 THE WITNESS: Okay.

13 MS. KILLER: For the record, returning to the
14 counsel table with the report.

15 BY MS. KILLER:

16 Q On Q(2), one print, so Q(2)(a), what were your
17 results?

18 A I excluded all three people that I compared.

19 Q And negative on the AFIS search?

20 A And negative on -- yes.

21 Q On Q(3), no suitable latent prints were recovered,
22 correct?

23 A That is correct.

24 Q So, the CSI submitted, as we looked at earlier, the
25 prints with the tape, but none of them were of the quality

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1 that you could compare them?

2 A That is correct.

3 Q Q(4), there was one suitable print, so it would be
4 Q(4)(a), and the three people we've been discussing were
5 excluded from that print?

6 A That is correct.

7 Q And Q(5), likewise, one suitable print. It looks
8 like it's -- again, it's a palm?

9 A It is a palm, and I was able to exclude Parker and
10 Alexander, but I could not compare Maria Villanueva because I
11 had no palm exemplars for her.

12 Q Now, let's talk about another event number. You
13 also received a request on event number 150630-0586, correct?

14 A Correct.

15 Q And that would be June 30th of 2015?

16 A Yes.

17 Q And those were submitted by CSA Kaitlin King,
18 correct?

19 A Correct.

20 Q Was -- was there an administrative AFIS run on that
21 event number?

22 A Yes, there was.

23 Q And that was actually completed by -- or checked by
24 another latent print analyst, correct?

25 A That is correct. The administrative AFIS procedure

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1 on that packet was done by somebody else.

2 Q But you did the comparison on the casework or the
3 request part?

4 A Yes, I did.

5 Q Okay. And the administrative AFIS result on that
6 was a negative on the first search, correct?

7 A Correct.

8 Q And then, when you did your comparison, you
9 received four latent print cards from CSA King?

10 A That is correct, yes.

11 Q And those are, again, tracked under that event
12 number, which is how you know they're the same ones?

13 A Yes.

14 Q Okay. Looking at Q(1), there were three suitable
15 prints for comparison?

16 A Yes, there was.

17 Q And those were taken from the interior side of the
18 southmost east-facing entry/exit door?

19 A Yes, it was.

20 Q Okay. So, basically, the entry/exit to the Rainbow
21 Market? To the location --

22 A Yes.

23 Q -- where they were lifted? Okay. And on print A,
24 were you able to -- oh, you know what, let me ask this first
25 so I don't confuse everybody. Did you also receive

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1 elimination prints for a Ronald Main --

2 A I did. They were located inside the latent print
3 packet that the crime scene analyst turned in to the
4 laboratory.

5 Q Okay. And elimination prints are essentially
6 prints that are submitted for people who were either victims,
7 or witnesses, or are known to be at that scene on a regular
8 basis?

9 A That is correct, yes.

10 Q It helps you kind of narrow down so you're not
11 searching for the whole world on a print if it's someone
12 that's going to be repeatedly there?

13 A Correct.

14 Q On Q(1)(a), were you able to exclude Ralph
15 Alexander, James Parker, and Ronald Main?

16 A I was, yes.

17 Q The same result on Q(1)(b), correct?

18 A Correct.

19 Q And then, Q(1)(c), another palm print?

20 A Yes, it was another palm print.

21 Q And were you able to exclude Ralph Alexander and
22 James Parker?

23 A Yes, I was.

24 Q And then, with Mr. Main, you didn't have comparison
25 exemplars, correct?

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1 A Right, I didn't have palm prints for him.

2 Q As to Q(2) lifted from the cash tray on the
3 customer service counter, were there any suitable prints for
4 comparison?

5 A No, there was not.

6 Q And the same for Q(3) and Q(4) as well, which were
7 also from the cash tray?

8 A That is correct, yes.

9 MS. KILLER: No further questions from the State.

10 THE COURT: Mr. Sanft, cross-examination?

11 MR. SANFT: Yes, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. SANFT:

14 Q I'm sorry, ma'am, what's your name again?

15 A Heather Gouldthorpe.

16 Q Gouldthorpe?

17 A Gouldthorpe, yes.

18 Q Okay. Ms. Gouldthorpe, I have just a few
19 questions. We've been talking, and just for clarification
20 for the jury, two separate instances -- incidents that you
21 analyzed prints from; is that correct?

22 A That is correct, yes.

23 Q All right. Two different days?

24 A Yeah, two different cases. Two different days,
25 yeah.

ROUGH DRAFT TRANSCRIPT

1 Q All right. Have you ever been asked to compare
2 like, say, tread marks or tread patterns on shoes?

3 A No, I have not.

4 Q That's somebody else's job?

5 A Correct.

6 Q All right. And with regards to fingerprints, do
7 you know where those fingerprints that you've analyzed were
8 lifted from? Like what surfaces they were lifted from?

9 A They're -- on the lift card themselves, the --
10 whoever turns in the lift card, whether it be a crime scene
11 analyst, an officer, a cadet, or PSR, they write on the lift
12 cards where it came from.

13 Q Okay.

14 A So, that's the information I have to go on.

15 Q As part of your training in becoming a fingerprint
16 analysis -- analysis -- analyst, thank you, do you -- are you
17 taught as to how fingerprints are lifted at a crime scene,
18 for instance, by the crime scene analyst?

19 A Yes.

20 Q Okay. And are you also taught, for instance, the
21 value of certain locations, for instance, of where you should
22 be lifting for prints and locating prints?

23 A Yeah, to a degree. That's more the crime scene
24 side of things, but we know kind of how they operate, so it
25 helps us do our job as well.

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1 Q Okay. And we've talked a little bit about the
2 location of these prints. How about high-traffic areas? Do
3 you understand what I mean by that?

4 A Yeah, like public access doors?

5 Q Correct.

6 A Yeah.

7 Q Have you ever compared a print in which there was
8 obviously a lot of prints in a high-traffic area, like an
9 access door?

10 A Yes.

11 Q Have you ever been able to identify prints of value
12 or prints of interest to you lifted from an area like that?

13 A Occasionally, yes.

14 Q Okay. There's been some discussion about high
15 traffic, meaning someone comes up, pushes on a glass area of
16 a door, for instance, and then another person comes along and
17 pushes up against that same area, and over, and over, and
18 over again. Can you -- are you still able to get prints of
19 value sometimes based upon that kind of high-traffic area?

20 A What you're referring to would be like if you're
21 touching the same area of the door like repeatedly --

22 Q Right.

23 A -- then we'd get overlay of prints. So, you'd see
24 one latent print impression on top of another, on top of
25 another. Those we would determine probably aren't suitable.

ROUGH DRAFT TRANSCRIPT

1 But if you're talking about a door, typically, the way people
2 touch objects are going to be a little bit different from the
3 person in front of them, or the person preceding them or
4 behind them. So, you know, in that instance, we are able to
5 identify or exclude people from a public access door.

6 Q And I appreciate that, because that was actually
7 going to be my next question. That is, on access doors, for
8 instance, there's not just one particular area typically
9 where someone -- where multiple people are pushing up on the
10 exact same area; is that correct?

11 A That's correct.

12 Q Okay. And then finally, your -- you've testified a
13 little bit as to the manual for the guidelines in which you
14 determine what's a valuable print and what's not a valuable
15 print?

16 A Yes.

17 Q Do you have that -- those guidelines here with you?

18 A I do not.

19 Q And with regards to those guidelines, is that an
20 administrative thing within your department?

21 A Yeah, it's solely for our unit in our department.

22 Q Okay. What's the reason for the guidelines?

23 A Just so that we have a way to explain things as of
24 now. Like in court, I can get here and tell you. So, our
25 guidelines for the fingerprint portion, we would need

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1 typically about eight minutia points.

2 Plus, we would need to determine one or more of the
3 following, which is a distal orientation, meaning whether --
4 which way is up. Is there a focal point, which is basically
5 a core, or a delta, or some other feature on that print that
6 we can say, you know, is going to be there. And then whether
7 or not we have robust and distinct target group, which means
8 we have a couple minutia points that we can cluster together
9 that we can say, this is a good starting point, we're going
10 to start our comparison here, and then work our way through
11 the whole rest of the print.

12 And then, the rest of the guidelines, I can go
13 through them if you wish, but they're different for each area
14 individually --

15 Q That's fine.

16 A -- in the finger.

17 Q Let me ask you this. With regard to the purpose of
18 those guidelines, is that to help you kind of whittle down --
19 or whittle down the number of prints you have to take a look
20 at?

21 A That is correct, yes.

22 Q Okay, so it's a matter of -- would it help to say
23 it helps you with your resources, because I'm assuming you
24 have limited resources?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q Limited manpower?

2 A Yes.

3 Q And so you're looking at, based upon an
4 administrative decision, a more narrow focus in terms of the
5 type of prints you're looking at?

6 A Correct, and it gives us some consistency as a
7 unit, because not only do we compare the prints, but then
8 it's also verified by other members of the unit, so they
9 essentially do the same work to make sure you come to the
10 same conclusion as they do.

11 Q Based upon the guidelines that your --

12 A Based upon the guidelines, yes.

13 Q -- office has set?

14 A Right.

15 MR. SANFT: No further questions, Your Honor.

16 THE COURT: Mr. Parris?

17 MR. PARRIS: Yes, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. PARRIS:

20 Q Ms. Gouldthorpe, getting back to the manual that
21 you use, is that the same manual for everyone who has your
22 level of expertise, not only in the Las Vegas Metropolitan
23 Police Department, but in police departments across the
24 country?

25 A No. Our technical manual is specific only to our

ROUGH DRAFT TRANSCRIPT

1 unit -- our detail at the Las Vegas Metropolitan Police
2 Department.

3 Q Okay. Have you ever served in any other -- excuse
4 me, worked for any other police departments other than Metro?

5 A As a fingerprint examiner, no.

6 Q Yes, ma'am.

7 A No.

8 Q Okay. In your subsequent training, have you been
9 able to come in contact with other individuals who perform
10 your job functions for other law enforcement agencies across
11 the country?

12 A Yes, I do.

13 Q And I would assume that there is a significant
14 amount of consistency regarding how all law enforcement
15 agencies, generally speaking, will process and handle
16 fingerprints, and perform their analyses, correct?

17 A Correct.

18 Q And you had referenced that you had some sort of
19 certification from the IAI, correct?

20 A Correct.

21 Q And I forget what that acronym stood for, but
22 that's -- is that a national or international group?

23 A It's international. It's the leading professional
24 organization for latent print examiners in the world.

25 Q Okay. Now, regarding AFIS itself, I know we had

ROUGH DRAFT TRANSCRIPT

1 talked about AFIS, but just to flesh that out, is it true
2 that -- or isn't it true that AFIS is a -- well, at least a
3 national database, correct?

4 A You're talking about different databases. We have
5 a local database that is specifically here to Clark County,
6 and then we also have the international, which is -- it's run
7 by the FBI, and that's called IAFIS, which is the -- it's a
8 countrywide AFIS system.

9 Q So, the database that you -- when you referenced
10 the AFIS analyses that were performed on these fingerprints,
11 all of those were from the local Clark County database; is
12 that correct?

13 A Actually, we search both.

14 Q Okay.

15 A Yeah.

16 Q So, you did both the local and the FBI's
17 international one, correct?

18 A Yeah, it's -- it's just to this country only
19 though.

20 Q Okay.

21 A But yeah.

22 Q Okay. Now, so, regarding prints that are placed
23 into the international database, do examiners like yourself
24 follow the same specific criteria as to how they go about
25 marking the specific whirls or other minutia regarding a

ROUGH DRAFT TRANSCRIPT

1 fingerprint that they find?

2 A Yes.

3 Q Okay. So, there is a good amount of consistency
4 when it comes to the prints that are added into that either
5 local or national AFIS databases?

6 A Yes.

7 Q Okay. Now, in this particular instance, you were
8 given -- well, let me back up. Regarding those databases,
9 the local and international, experts like yourself can upload
10 fingerprints that they came into contact with at any point in
11 time, correct?

12 A Correct.

13 Q Okay. And is there a link between the AFIS
14 database and the booking area of like the Clark County
15 Detention Center, for example, when a person gets booked in
16 and they do the fingerprint -- you know, they roll their
17 fingers like we see on TV? Is there a link between those
18 two?

19 A Locally, yes.

20 Q Okay. So, on the local AFIS database, anytime
21 someone is booked into the Clark County Detention Center,
22 their fingerprints are captured, correct --

23 A Yes.

24 Q -- to your knowledge?

25 A Yes. To my knowledge, yes.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. And then, to your knowledge, those
2 fingerprints are then uploaded into the at least local
3 database, correct?

4 A Yes, correct.

5 Q Okay. Now, AFIS also -- in addition to having
6 people who are just booked into county, AFIS does have
7 fingerprints from other governmental entities uploaded into
8 it, correct?

9 A Correct. My fingerprints, because I work for
10 Metro, are in the system also.

11 Q Okay. Regarding Metro, are other governmental --
12 to your knowledge, do you know if other governmental agencies
13 upload their fingerprints similar to Metro into that AFIS
14 database?

15 A To the local one, yes, determined based on job
16 classification, but the IAFIS, the FBI-run one, I believe
17 some military records are also kept in there, but I don't
18 know the specifics on that, but I do believe military records
19 are also in there.

20 Q Okay. Regarding the local database, can you give
21 an approximation as to how many discrete fingerprints are in
22 that database?

23 A I believe the last count was over a million
24 fingerprint --

25 Q And that's just for --

ROUGH DRAFT TRANSCRIPT

1 A -- records.

2 Q -- the Clark County one?

3 A That's just -- yeah, that's just for Clark County.

4 Q Any idea how many are in the International AFIS?

5 A No. If you're just talking Clark County, multiple
6 that by 50 states, and you got a lot.

7 Q A lot? Okay. Now, in this particular case,
8 regarding the cards that you were given from the June 26th
9 and June 30th incidents, you ran those prints that you were
10 able to pull up -- or that you were able to identify as
11 appropriate against everyone in the local and international
12 AFIS database, correct?

13 A Right -- well, international's kind of not the
14 appropriate word.

15 Q I keep saying international because --

16 A Yeah.

17 Q -- it's IAFIS, and that's --

18 A IAFIS, yeah, and it's the national --

19 Q Okay.

20 A -- national database.

21 Q I apologize.

22 A That's okay. But yes, I did.

23 Q Okay, but you were also specifically requested to
24 check against fingerprints you had been given regarding Mr.
25 Parker and Mr. Alexander, correct?

ROUGH DRAFT TRANSCRIPT

1 A Correct, and those -- I would have compared the
2 specific prints that we were requested to compare first
3 before entering them into the AFIS database.

4 Q I'm sorry. So, when you first got the prints on
5 the various cards, you -- when you were given -- when it was
6 suggested to you by whomever, compare against person X or
7 person Y, you do those people first, the known individuals,
8 correct?

9 A That is correct, because if it does belong to them,
10 then it -- I would identify that person. Then I would no
11 longer have to put it into the database because I would know
12 that this print belongs to this person.

13 Q So, it would be easier to make a one on one
14 comparison versus one on a million, you know, needle in the
15 haystack search, correct?

16 A Correct, yes.

17 Q Okay. So, after the prints that you were given
18 regarding Mr. Parker, we'll start there, for example, came
19 back negative, you then went to Mr. Alexander, or vice versa,
20 and then you went needle in a haystack, so to speak, correct?

21 A Correct.

22 Q Okay, and that came back negative on all fronts as
23 best as the prints would allow you to examine, correct?

24 A Except for the one that was identified to Maria
25 Villanueva.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. And regarding Maria Villanueva, you were not
2 given that as one to check against originally, correct?.

3 A Correct.

4 Q Was that the local AFIS or the national AFIS that
5 came up with that hit?

6 A The local AFIS.

7 Q Okay.

8 MR. PARRIS: Your Honor, I have nothing further.
9 Thank you.

10 THE COURT: Any redirect?

11 MS. KILLER: Just very briefly. Just a few points
12 of clarification for myself and the jury.

13 REDIRECT EXAMINATION

14 BY MS. KILLER:

15 Q You said when two prints kind of crossover, you
16 call that an overlay print?

17 A Yes.

18 Q Okay. And that happens if two of us touch the same
19 area or a portion of the same area?

20 A Correct, or if I -- like, for instance, if I touch
21 this mug right here, and I lift up, and I touch it again, and
22 I touch it again, and I touch it again, that would be an
23 overlay.

24 Q An overlay? Okay. And I presume sometimes you're
25 able to separate those out, but for the most part, it makes

ROUGH DRAFT TRANSCRIPT

1 it more difficult than just one fingerprint?

2 A That's correct.

3 Q The defense had asked you about high-traffic areas
4 or access doors, and if you can sometimes get prints of
5 suitable quality off of those. I believe you'd said yes?

6 A Yes.

7 Q And in fact, on the Q(1) -- the Q(1) card on the
8 event from the 30th, and all of the cards on the event from
9 the 26th, those were from entry doors, correct?

10 A Correct.

11 Q You mentioned checking for the orientation.

12 A Um-hum.

13 Q Sorry, technology problem. And you said which way
14 is up. Obviously, when we touch a surface, we don't always
15 touch it with our fingers pointing out to make it easy for
16 you all?

17 A No. Sometimes it's sideways, sometimes it's
18 upside-down. We have to know through our training and
19 experience how to orient that print.

20 Q And that's to ensure that your comparisons are
21 accurate?

22 A Correct.

23 Q Because portions of my fingerprint could look like
24 portions of Mr. Pesci's, but if you have enough minutia and
25 enough of the print, you're able to -- that's a suitable

ROUGH DRAFT TRANSCRIPT

1 print that you can make the comparison on and be sure whose
2 is whose?

3 A Correct.

4 Q We talked about the standards that you use in the
5 lab, but the lab itself is subject to accreditation, correct?

6 A Yes. We are a fully accredited laboratory through
7 the ASCLD Laboratory, ISO 17025, which ASCLD Lab is the
8 American Society of Crime Lab Directors Laboratory
9 Accreditation Board, and then ISO is the International
10 Organization of Standards.

11 Q And there's national and international standards
12 for your lab to qualify for that?

13 A Correct.

14 Q And then you had mentioned that somebody goes back
15 through and kind of double-checks to confirm the conclusion.
16 Is that called a technical reviewer?

17 A Yes.

18 Q When Mr. Parris had asked you kind of the order
19 that you did the comparison in versus the AFIS, on both of
20 these events, the administrative AFIS search was run before
21 your comparisons?

22 A That is correct.

23 Q And that's the one we talked about earlier where
24 the packets come in after the crime, and they're processed
25 administratively before you even get the request?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q One last question. You can't determine the age of
3 a fingerprint, correct, or how long it's been on a surface?

4 A Correct.

5 Q So, just because prints are recovered doesn't mean
6 they were the last person to touch the door?

7 A No, it does not mean that.

8 Q They could have been from a customer a year ago or
9 someone who walked in that morning?

10 A Yes.

11 MS. KILLER: Okay, thank you. No further
12 questions. THE COURT: Mr. Sanft?

13 MR. SANFT: No further questions, Your Honor.
14 Thank you.

15 THE COURT: Mr. Parris?

16 MR. PARRIS: No, Your Honor. Thank you.

17 THE COURT: Thank you very much for your testimony
18 here today. You may step down. You're excused from your
19 subpoena.

20 THE WITNESS: Thank you.

21 THE COURT: And the State may call their next
22 witness.

23 MS. KILLER: The State calls Alma Gutierrez.

24 THE MARSHAL: And if you'll please step up in the
25 witness stand.

ROUGH DRAFT TRANSCRIPT

1 MS. KILLER: Your Honor, may I approach the clerk?

2 THE MARSHAL: Remain standing, raise your right
3 hand, and --

4 THE COURT: You may.

5 THE MARSHAL: -- face the clerk, please.

6 ALMA GUTIERREZ, STATE'S WITNESS, SWORN

7 THE CLERK: Thank you. Please be seated. Could
8 you please state your name and spell it for the record?

9 THE WITNESS: Alma Gutierrez. A-l-m-a,
10 G-u-t-i-e-r-r-e-z.

11 THE CLERK: Thank you.

12 DIRECT EXAMINATION

13 BY MS. KILLER:

14 Q Do you mind if I call you Alma?

15 A That's fine.

16 Q Alma, where do you work?

17 A Rainbow Market.

18 Q And is that at 5075 East Washington Avenue here in
19 Las Vegas, Clark County, Nevada?

20 A Yes.

21 Q Were you working there on June 30th of 2015?

22 A Yes.

23 Q In the early morning hours, about 4:30 in the
24 morning?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 MS. KILLER: Your Honor, may I approach?

2 THE COURT: Sure. Oh, you want to approach the
3 witness?

4 MS. KILLER: Oh, yes.

5 THE COURT: Sure, go ahead.

6 BY MS. KILLER:

7 Q I'm going to show you State's Proposed Exhibits 31
8 to 41. Yes, 31 to 41. If you could just take a look at
9 these without making a comment yet, and then I'm going to ask
10 you a question about them.

11 A Okay.

12 Q [Inaudible] without dropping them. And I lost one.
13 Sorry, everyone. Now, there's a map, and then the rest are
14 photographs. Do you recognize where the map is and what the
15 photographs are of?

16 A Yes.

17 Q And how do you recognize those?

18 A That's where I work -- convenience store where I
19 work.

20 Q The Rainbow Market where you work?

21 A Yes.

22 Q And do all of these fairly and accurately depict
23 the location and what Rainbow Market looked like on June 30th
24 of 2015?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 MS. KILLER: Your Honor, the State moves to admit
2 State's Proposed 31 through 41.

3 MR. SANFT: No objection, Your Honor.

4 MR. PARRIS: No objection.

5 THE COURT: They're admitted.

6 (State's Exhibits 31 through 41 are admitted)

7 BY MS. KILLER:

8 Q Showing you State's Exhibit 31, it looks like --
9 that will clear up a little. Looks like your store is
10 located at the corner of Nellis and Washington?

11 A Yes.

12 Q And that's in the northeast area of town?

13 A Yes.

14 Q And showing you 32, is that your store?

15 A It's the front entrance.

16 Q Showing you State's 36, is that the cashier or the
17 clerk counter?

18 A Yes.

19 Q Is that where you were working on the morning of
20 June 30th at 4:30 in the morning?

21 A Yes.

22 Q When you were working that morning, June 30th at
23 4:30 A.M., what occurred that causes you to be here today?

24 A Two men came into the store and robbed the store.

25 Q And does your store have video surveillance?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q And are you aware that some of that surveillance
3 was provided to the Las Vegas Metropolitan Police Department?

4 A Yes.

5 Q And prior to coming to court, did you get a chance
6 to watch a portion of that surveillance?

7 A Yes.

8 MS. KILLER: Your Honor, pursuant to stipulation,
9 the State moves to admit State's Proposed 30, which is the
10 video surveillance from the Rainbow Market on June 30th.

11 MR. SANFT: That's fine, Your Honor.

12 MR. PARRIS: Yes, Your Honor, we do so stipulate.

13 THE COURT: It's admitted, and you may publish.

14 (State's Exhibit 30 is admitted)

15 MS. KILLER: Thank you, Your Honor. Alma, we're
16 going to -- if you can switch over to the computer when you
17 have a chance. Mr. Pesci's going to help me out here and
18 play the videos for you.

19 BY MS. KILLER:

20 Q Do you see yourself there at the start of the video
21 in the frame?

22 A Yes.

23 Q And is that you in the red shirt in the lower left
24 corner?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q And that gentleman there, is that the security
2 guard that was working at your store, Ronald Main, I believe?

3 A Yes.

4 Q We see the timestamp here as the customers come in.
5 It's about 4:25, 4:26 in the -- in the early morning,
6 correct?

7 A Yes.

8 Q Now we see two men entering. Does this video
9 fairly and accurately depict what occurred that morning?

10 A Yes.

11 Q I'm going to play one more clip for you. Those
12 were the two customers we saw come in at the start of the
13 last clip, correct?

14 A Yes.

15 Q Is that you that we see on the bottom edge of the
16 video?

17 A Yes.

18 Q Opening the cash register?

19 A Yes, that's me.

20 MS. KILLER: Okay, if we can back that one up and
21 start it again.

22 BY MS. KILLER:

23 Q When you said the store was robbed, you -- how many
24 men came in?

25 A Two.

ROUGH DRAFT TRANSCRIPT

1 Q Two? And how many firearms did you see?

2 A One.

3 Q And I'm going to let the video get -- there we go.
4 The -- is that the gentleman -- or is that -- the customers
5 we see going off the screen, I assume they went towards the
6 back of the store?

7 A Yes.

8 Q Okay. The man with the -- the man we see there, is
9 he the one you saw with the gun?

10 A Yes.

11 Q Okay. And can you describe him for us?

12 A He's a male.

13 Q Okay.

14 A I believe him to be Hispanic.

15 Q Go ahead. To you, he looked Hispanic when he came
16 in?

17 A He seemed Hispanic, yes.

18 Q And did he have something covering his face?

19 A A bandana covering the lower half of his face.

20 Q And he was the one that was holding the gun?

21 A Yes.

22 Q Did he stay right next to you, or did he go over to
23 Mr. Main?

24 A He approached me first, approached the counter
25 first, told me to give him everything we had, and then he

ROUGH DRAFT TRANSCRIPT

1 went to the security officer.

2 Q I'm sorry, [inaudible]. He told you what?

3 A To give him everything I had, and then he went off
4 to the security officer.

5 Q Okay. And once he walked off, did the second
6 individual approach the counter?

7 A Yes.

8 Q Okay, and what did that individual have on, clothes
9 or face covering?

10 A He had a skull hoodie, and --

11 Q And due to that, you were unable to see his face as
12 well?

13 A That's right.

14 Q Okay. When the second suspect was at the counter,
15 what did you see him do? Or when he came up to the counter,
16 did you open the drawer for him?

17 A Yes.

18 Q Okay.

19 A I opened the drawer, he leaned over, got the cash,
20 took the money, pulled out the drawer, got some coins.

21 Q And after he grabbed that, did the --

22 MS. KILLER: Court's indulgence.

23 BY MS. KILLER:

24 Q Do you know how much or about how much money was
25 taken from your store?

ROUGH DRAFT TRANSCRIPT

1 A About \$100.

2 Q About \$100? After the second man, the one with the
3 skull mask, got the \$100, did he and the first man wearing
4 the bandana, holding the gun leave the store?

5 A He took the money, asked if I could access the
6 safe, and then the guy with the -- the first one with the gun
7 told him that I wasn't able to, and then they left.

8 Q That you were not able to?

9 A Yes.

10 Q And so you did not give them any money out of the
11 safe?

12 A No.

13 Q They just got the money out of the register?

14 A That's right.

15 Q Okay. And then did they leave together?

16 A Yes.

17 Q I'm just going to go back to the video of the front
18 door for a second. Sorry, we just have to get past that
19 first part. Those two people we see depicted there, are
20 those the same two that you described as pointing the gun at
21 you and robbing the store for the money from the cash drawer?

22 A Yes.

23 MS. KILLER: No further questions.

24 THE COURT: Mr. Sanft, any cross?

25 MR. SANFT: Yes, Your Honor.

ROUGH DRAFT TRANSCRIPT

1 CROSS-EXAMINATION

2 BY MR. SANFT:

3 Q Ms. Gutierrez, this particular shift was 4:00
4 o'clock in the morning?

5 A Yes.

6 Q What time did you start your shift?

7 A It's graveyard shift. I start from 9:00 P.M. to
8 5:00 A.M.

9 Q Have you worked that shift before?

10 A Yes.

11 THE COURT: Did you -- you said 9:00 P.M. to 5:00
12 P.M.?

13 THE WITNESS: I'm --

14 THE COURT: What did you say? Did you say 9:00
15 P.M. to 5:00 A.M.?

16 THE WITNESS: 9:00 P.M. to 5:00 A.M.

17 THE COURT: Okay, I just wanted to make sure we got
18 that right.

19 BY MR. SANFT:

20 Q With that particular shift -- how often have you
21 worked that shift before this incident occurred?

22 A It's my regular shift. As long as I've been with
23 the company.

24 Q Okay. Can you describe for the jury the kind of
25 volume of people that come in during that time period,

ROUGH DRAFT TRANSCRIPT

1 especially say around -- between the hours of 2:00 o'clock in
2 the morning to 5:00 o'clock in the morning?

3 A It's slow. I want to say roughly about 20 people.

4 Q Okay. And with regard to that shift as well, are
5 you expected to do cleaning?

6 A Yes.

7 Q Meaning the floors? You'd mop the floors, I'm
8 assuming?

9 A Yes, I have to mop the floors.

10 Q And would that be something that, typically, a
11 person that's on that particular shift would be required to
12 do more of the cleaning because there's less traffic?

13 A Yes.

14 Q Okay. How about wiping down counters?

15 A Yes, I wipe down counters.

16 Q There was video of an individual that was leaning
17 forward; he had a hand on the counter. Did you wipe that
18 counter prior to him touching that counter?

19 A Yes.

20 Q Okay. And as far as you can recall, when you wiped
21 down that counter before he touched the counter, how many
22 other people touched that counter in between the time that
23 you wiped the counter down?

24 A I honestly can't say. I don't remember.

25 Q All right, but it would be fair to say, of course,

ROUGH DRAFT TRANSCRIPT

1 not high-traffic, not something --

2 A No, not at all.

3 Q Not something in the early morning rush hour
4 traffic --

5 A No.

6 Q -- or in the noontime, or --

7 A It's very slow.

8 Q Now, when you were at the area there, there was
9 some video of you in the very beginning. You were wearing a
10 shirt -- a red shirt?

11 A Yes.

12 Q Okay. When the two individuals came in, where did
13 you go?

14 A I was behind the counter.

15 Q Oh, I see. So, you were behind the counter, and
16 that's when the -- one of the individuals who was touching
17 that counter was telling you to open up the safe?

18 A Yes.

19 Q Did you ever move from that area?

20 A No, I stayed there until the police arrived.

21 Q All right. And when the police finally arrived,
22 were you the one that was -- well, I'm sure you spoke to
23 police at some point?

24 A Yes.

25 Q And you gave them -- you let them know what

ROUGH DRAFT TRANSCRIPT

1 happened?

2 A Yes.

3 Q Did you help them look at the video surveillance?

4 A No.

5 Q Who did that?

6 A The manager of the store.

7 Q Okay. And as far as you know, were you able to
8 observe them looking at video or surveillance of any sort?

9 A I was off into the corner. I wasn't in the office
10 area.

11 MR. SANFT: Okay. No further questions, Your
12 Honor. Thank you.

13 THE COURT: Mr. Parris?

14 MR. PARRIS: Yes, ma'am.

15 CROSS-EXAMINATION

16 BY MR. PARRIS:

17 Q Ms. Gutierrez, on the night in question, you -- do
18 you recall speaking to various officers that arrived on
19 scene?

20 A Yes.

21 Q And approximately how quickly did the officers
22 arrive after this incident had occurred?

23 A Maybe less than six -- ten minutes.

24 Q I'm sorry, between six and ten minutes?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. And do you recall that same morning, it
2 would be, that you wrote out a -- approximately a one-page
3 statement for the authorities?

4 A Yes.

5 Q Okay. And in that statement, you wrote that out
6 within an hour or so, would you say, of when the incident
7 occurred?

8 A Probably.

9 Q Probably?

10 A Yeah.

11 Q Okay. And at the time that you wrote that, the
12 events were still relatively fresh in your mind --

13 A Yes.

14 Q -- is that fair to say? Now, earlier, you had --
15 well, did you have an opportunity to review that statement
16 prior to testifying today?

17 A Yes.

18 Q Okay. And you would agree that your testimony
19 today is consistent with that which is contained in that
20 statement, correct?

21 A Yes.

22 Q Your memory today has not significantly changed
23 since you wrote down that statement detailing what happened
24 that morning, correct?

25 A I'm sorry, can you repeat the question?

ROUGH DRAFT TRANSCRIPT

1 Q Well, your memory as you sit here today isn't
2 different of what happened on the morning in question; it's
3 not significantly different from what you outlined in that
4 statement, correct?

5 A [Inaudible].

6 Q I'm sorry?

7 A Yes, it is.

8 Q Okay. What differences -- what things would you
9 like to add to that statement as you sit here today that you
10 now remember?

11 A Oh, add? No, just I thought the money had been
12 pulled out after the drawer had been pulled out of the drawer
13 -- my register, but as I saw in the video, that's not how it
14 occurred. The money had been pulled out first --

15 Q Okay.

16 A -- and then the drawer.

17 Q Okay. So, in your recollection, you remember the -
18 - I'm sorry, the drawer -- the money being pulled out before
19 the drawer was pulled out?

20 A The drawer being pulled out first, and then the
21 money.

22 Q Okay, but on the -- once you had an opportunity to
23 review the video, it was the reverse --

24 A Yes.

25 Q -- correct? Other than that change, was your

ROUGH DRAFT TRANSCRIPT

1 statement that you wrote that morning consistent with what
2 you said today regarding --

3 A Yes.

4 Q -- regarding the two men, regarding the Hispanic
5 man with the gun, regarding the black man who came and -- I
6 think Mr. Sanft had referenced he put his hand on the
7 counter, and actually took the money?

8 A Yes.

9 Q That's all consistent, correct?

10 A Yes.

11 Q Thank you. Oh, and nothing was taken from you
12 personally, correct?

13 A No.

14 MR. PARRIS: Thank you. I have no further
15 questions.

16 THE COURT: Any redirect?

17 MS. KILLER: No, Your Honor.

18 THE COURT: Thank you very much for your testimony
19 here today.

20 THE WITNESS: Thank you.

21 THE COURT: You may step down. You are excused
22 from your subpoena. Thank you for being here, and you may
23 call your next witness.

24 MS. KILLER: The State calls Keshawn Richardson.

25 THE MARSHAL: I'm sorry?

ROUGH DRAFT TRANSCRIPT

1 MS. KILLER: Keshawn Richardson. And for the
2 record, I'm returning 31 to 41 to your clerk.

3 THE COURT: Thank you.

4 THE MARSHAL: And if you'll please step up into the
5 witness stand, remain standing, raise your right hand, and
6 face the clerk.

7 KESHAUN RICHARDSON, STATE'S WITNESS, SWORN

8 THE CLERK: Thank you. Please be seated. Could
9 you please state your name and spell it for the record?

10 THE WITNESS: Keshawn, K-e-s-h-a-u-n. Last name is
11 Richardson, R-i-c-h-a-r-d-s-o-n.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MS. KILLER:

15 Q Keshawn, on July 9th of 2015, were you working at
16 the Family Dollar --

17 A Yeah.

18 Q -- at 4365 East Lake Mead here in Las Vegas, Clark
19 County, Nevada?

20 A Yes.

21 Q And is that kind of the corner of Lamb and Lake
22 Mead?

23 A Yes.

24 Q And at about 8:30 on the morning of July 9th, did
25 something occur that causes you to be here today?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 Q What was that?

3 A I was working at Family Dollar, and on my first
4 day, there was a robbery.

5 Q It was your first day of work there?

6 A Yes.

7 MS. KILLER: Your Honor, if I could approach the
8 witness briefly?

9 THE COURT: You may.

10 BY MS. KILLER:

11 Q Showing you what's been marked as State's Proposed
12 49 through 61, I'm going to show these to you --

13 A Yeah.

14 Q -- briefly, and just don't comment on them yet. We
15 have a group question at the end. Do you recognize what's
16 depicted in those photographs?

17 A Yes, I do.

18 Q And how do you recognize it?

19 A That's the front of my store.

20 Q And are the remaining photographs the inside of
21 your store?

22 A Correct.

23 Q And do State's Proposed 49 through 61 fairly and
24 accurately depict your store as it appeared on July 9th of
25 2015?

ROUGH DRAFT TRANSCRIPT

1 A Yes.

2 MS. KILLER: The State moves to admit 49 through
3 61.

4 THE COURT: Any objection?

5 MR. SANFT: No, Your Honor.

6 MR. PARRIS: No objection, Your Honor.

7 THE COURT: They're admitted.

8 (State's Exhibits 49 through 61 are admitted)

9 BY MS. KILLER:

10 Q Showing you State's Exhibit 49 --

11 MS. KILLER: Oh, yeah, sorry. Thank you.

12 BY MS. KILLER:

13 Q Is that the Family Dollar Store we're talking
14 about?

15 A Yes.

16 Q And then, still on 49, in the middle here, is that
17 -- those doors we see, is that the entrance and exit to the
18 store?

19 A Correct.

20 Q Okay. And showing you Exhibit -- State's Exhibit
21 51, are those the same doors we see here on the right side of
22 the photograph?

23 A Yes.

24 Q But this is taken from the inside?

25 A Correct.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. And this counter we see over here on the
2 left, is that the cashier area of your store?

3 A Yes.

4 Q Okay.

5 MS. KILLER: Can we switch back to video? Thanks.

6 BY MS. KILLER:

7 Q Your store has surveillance video, correct?

8 A Correct.

9 Q And are you aware that surveillance video from the
10 robbery was provided to the police?

11 A Yes.

12 Q And did you have an opportunity to review portions
13 of that video before you testified today?

14 A I've seen pictures of the video.

15 Q Okay, still shots from the video?

16 A Yes.

17 Q Okay.

18 MS. KILLER: Your Honor, the State moves to admit
19 by prior stipulation the video from this incident. It's
20 State's Proposed Exhibit 42.

21 MR. SANFT: That is correct, Your Honor.

22 MR. PARRIS: Yes, Your Honor.

23 THE COURT: Okay, it's admitted, and you may
24 publish.

25 (State's Exhibit 42 is admitted)

ROUGH DRAFT TRANSCRIPT

1 BY MS. KILLER:

2 Q Keshawn, if you can look at the screen there. That
3 went pretty quick. We're going to back it up from the start
4 and have you kind of narrate us through what happened. If
5 you need any tissue, they're in front of the monitor.

6 A Um-hum.

7 Q Is that you we see on the left side?

8 A Yes.

9 Q Okay. And then the -- we see a man who approached
10 you?

11 A Correct.

12 Q And fair to say he -- the first person to approach
13 you is wearing a blue hat; a white kind of plaid or striped
14 various ways shirt?

15 A Yes.

16 Q Okay. And was that man holding a gun?

17 A Yes.

18 Q The second man that we see in the photograph, was
19 he also part of the robbery?

20 A Yes, he was.

21 Q And what was he wearing?

22 A A skull mask, black sweater, blue jeans, white
23 sneakers.

24 Q What had you been doing just before this video
25 started when we saw them approach you?

ROUGH DRAFT TRANSCRIPT

1 A I was opening a box, and I seen another customer,
2 and she signaled me that she was ready to check out, so I
3 went to turn to go check her out.

4 Q Did you see the men who robbed you when they
5 initially came in the store?

6 A No, I did not.

7 Q So, when they kind of charged at you here, this was
8 your first interaction with them?

9 A Correct.

10 Q The first individual, the one with the gun in the
11 blue hat and white plaid shirt that we can see in this video,
12 did he have anything covering his face?

13 A Say it again.

14 Q Did he have anything covering his face?

15 A Yes, he had a blue bandana.

16 Q Did he say anything to you?

17 A Besides -- can I say that word?

18 Q Yes.

19 A Oh, okay. He -- okay.

20 Q In court, we ask that you say it as it was said to
21 you, and the ladies and gentlemen of the jury will excuse any
22 profanity.

23 A Okay. He said, shut up, bitch, get down; open the
24 register, it's a robbery.

25 Q And the second gentleman that came in and charged

ROUGH DRAFT TRANSCRIPT

1 you with him, were you able to see if he had a gun?

2 A No, he didn't have a gun.

3 Q The gun that you saw was in the hand of the first
4 individual?

5 A Correct, with the --

6 Q But they were --

7 A -- plaid shirt.

8 Q I'm sorry. But they approached you together?

9 A Yes.

10 Q Okay. And at this point, we see that you're kind
11 of pushed to the ground, and the second individual goes past
12 you?

13 A Correct.

14 Q Did you see where he went?

15 A He jumped over the counter.

16 Q Okay.

17 A Which is the first register.

18 Q And the first individual, we'll say the bandana and
19 the white plaid shirt --

20 A Okay.

21 Q -- for identification purposes. He walked you --
22 it looked like he walked you up to the register?

23 A Correct.

24 Q We're going to play the video from another view
25 now. Is that the customer that you were trying to help check

ROUGH DRAFT TRANSCRIPT

1 out?

2 A Yes, ma'am.

3 Q And the individual that we just saw jump the
4 counter there, is that the second person involved in the
5 robbery, the one with the skull mask?

6 A Yes.

7 Q Okay. At this point, we see you at the register.
8 What were you trying to do?

9 A He told me to open the register, and I couldn't get
10 the register to open.

11 Q And does he still have the gun to you?

12 A Yeah, he has it to the back of my head right here.

13 Q Can you describe for us what the fun felt like and
14 looked like?

15 A It was cold, it's heavy, metal, round. I can feel
16 the pressure of the gun, and it was just like right here.

17 Q And just because she's going to have to type
18 everything we say, they're not going to have a video of this
19 later, when you said right here, you gestured to the back of
20 your neck?

21 A Right.

22 Q Did the commands to open the register and give you
23 the money continue?

24 A Yes.

25 Q This was your first day there, right?

ROUGH DRAFT TRANSCRIPT

1 A Correct.

2 Q Were you able to get the register open?

3 A No, I wasn't.

4 Q Was there another employee in the store with you?

5 A Yes, there was.

6 Q Who was that?

7 A That was Chad.

8 Q Does -- is -- Chad Williams, is that --

9 A Yes.

10 Q -- accurate?

11 A Yes.

12 Q And at the time when the robbery started, where was
13 Chad?

14 A Chad was sitting at the kiosk, which is directly --
15 if you walk in, it's on your lefthand side.

16 Q Okay. So, in this video, we see you behind the
17 register, he'd be directly across from you --

18 A Correct.

19 Q -- in front of you, and the entry doors would be to
20 our right?

21 A Correct.

22 Q Okay. And did he have anything in his hands, or
23 was he doing anything at this time?

24 A He was on the phone. He did throw the phone in the
25 kiosk; just kind of let it go.

ROUGH DRAFT TRANSCRIPT

1 Q I think we saw you kind of reach over for something
2 in the video there. What were you trying to do with that?

3 A Chad told me to scan something, so the first thing
4 I grabbed was a pack of lighters, which was on my right hand
5 side, and I was trying to scan it so the register can open.

6 Q Were you ever able during the course of the robbery
7 to get the register open?

8 A No.

9 Q So, the two individuals that came in did not get
10 any money from the register?

11 A That is correct.

12 Q Okay. I'm going to back it up just a bit, and then
13 hit play again. Is the customer that you were trying to help
14 check out there in the bottom right corner?

15 A Yes.

16 Q Okay. And this is you still trying to open the
17 register while the skull mask -- the person with the skull
18 mask puts his backpack out on the counter, open?

19 A Yes.

20 Q And we kind of saw everybody look out towards the
21 front there. At some point during the robbery, were you able
22 to look up and outside?

23 A Yes.

24 Q And what did you see?

25 A I seen a black SUV, a gentleman standing out of it

ROUGH DRAFT TRANSCRIPT

1 -- outside of the car. He had a badge that was wrapped
2 around his neck. He was an unmarked car.

3 Q So, a plain clothes police officer?

4 A Correct.

5 Q Okay. And we kind of saw it in the video, but did
6 the people robbing the store also look outside at a similar
7 time?

8 A Yes.

9 Q And after they looked outside, do they kind of back
10 off from you and go running out of the screen here?

11 A Correct.

12 Q Did you see where they went?

13 A They went to the back. They didn't go through --
14 because we have different alarms, they went through the alarm
15 that goes off where we know that someone -- it was the side
16 back of the store. It wasn't the receiving door; it was the
17 side door.

18 Q Okay. I think I have a picture I can show you to
19 probably explain it a little better. Showing you State's
20 Exhibit 60 --

21 MS. KILLER: I apologize, Kris, if we can switch
22 one more time.

23 BY MS. KILLER:

24 Q Are those the two back doors to your store?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q Okay. And you said they went out the side back
2 door. Can -- if you touch your screen, you can draw on it.
3 Can you circle -- and you were able to tell that they went
4 out that door from the --

5 A The alarm.

6 Q -- sound of the alarm?

7 A Yes.

8 Q And I know you were probably focused on trying to
9 get the register open, but did you see anything get taken
10 from the customer?

11 A Yes, her purse.

12 Q And did you see where they put that purse?

13 A In the backpack that the gentleman with the skull
14 mask was holding.

15 Q Okay. Was the man with the skull mask the person
16 that physically grabbed the purse from the customer?

17 A Correct.

18 Q And was the gun pointed at her directly?
19 Obviously, the gun was out and visible, but it was pointed
20 directly at her at some point during this?

21 A Yes. She was praying, and he told her to shut up,
22 and then -- yeah.

23 Q And that was the man with the blue hat and the
24 white plaid shirt?

25 A That is correct.

ROUGH DRAFT TRANSCRIPT

1 Q The bandana? When the two men robbing the store
2 looked outside and presumably saw what you saw, did they make
3 any comments?

4 A Yes. The one with the skull mask had said, there's
5 the cops; it's the cops.

6 Q And that's -- shortly after that, they took off and
7 ran out the back of your store?

8 A Yes.

9 MS. KILLER: Court's indulgence.

10 BY MS. KILLER:

11 Q After the defendants had left the store, did the
12 police respond?

13 A Yes.

14 Q And once the police arrived, did -- without telling
15 us what you said, did you speak with them and tell them what
16 had occurred?

17 A Yes.

18 Q After that, were you taken to view two individuals
19 that they had apprehended?

20 A Correct.

21 Q And when you did this, were you read some
22 instructions before you were shown these people?

23 A Yes.

24 Q And when you were shown the people, were they in
25 the same location, or were they in separate locations?

ROUGH DRAFT TRANSCRIPT

1 A They were in separate locations.

2 Q Okay, but you were shown two individuals total?

3 A That is correct.

4 Q Did you recognize those individuals as the same
5 people who had just held a gun to you and tried to rob the
6 store?

7 A Yes.

8 Q And what features or clothing did you specifically
9 notice on them?

10 A For the gentleman that was in the skull mask, he
11 had -- when he jumped over the counter, he had tried to fix
12 his mask coming back to us, and I seen the back of his head,
13 and then his tennis shoes. And when they went to go show me
14 two different people, he had the same tennis shoes on, the
15 same jeans, and the hump on the back of his head.

16 Q Okay, kind of like --

17 A A cup.

18 Q oh, a cup? So like an indentation?

19 A Correct.

20 Q Okay. And you had been able to see that because
21 when he jumped, the mask lifted up in the back?

22 A Correct.

23 Q Okay. And you said his tennis shoes.

24 MS. KILLER: Oh, well, that's over here. Your
25 Honor, if I may approach the clerk?

ROUGH DRAFT TRANSCRIPT

1 THE COURT: You may.

2 BY MS. KILLER:

3 Q Would you recognize a photograph of those tennis
4 shoes if you were shown it?

5 A Yes.

6 MS. KILLER: Your Honor, if I may approach the
7 witness?

8 THE COURT: You may.

9 BY MS. KILLER:

10 Q Showing you State's Proposed Exhibit 65, do you
11 recognize what's in that photograph?

12 A Yes.

13 Q Okay. And how do you recognize it?

14 A The Nike symbol.

15 Q Okay. Are these the same tennis shoes you saw?

16 A Yes.

17 Q And does this photograph fairly and accurately
18 depict how those shoes looked on July 9th?

19 A Yes.

20 MS. KILLER: State moves to admit State's Proposed
21 65.

22 MR. SANFT: No objection.

23 MR. PARRIS: No objection.

24 THE COURT: It's admitted.

25 (State's Exhibit 65 is admitted)

ROUGH DRAFT TRANSCRIPT

1 MS. KILLER: May I publish?

2 THE COURT: You may.

3 BY MS. KILLER:

4 Q Keshawn, let me just ask you while the jury's
5 viewing the photograph, is that a photograph of the same
6 tennis shoes you saw on one of the men when they were robbing
7 the store, and then again when he was apprehended by police
8 and you did your show-up identification?

9 A Yes.

10 Q Okay. And I believe you said, but I just want to
11 make sure we're clear, these were worn by the individual in
12 the skull mask?

13 A Correct.

14 Q When you saw him, did he have the same black shirt
15 that we saw in the video?

16 A Yes.

17 Q And were you also shown the individual who had been
18 wearing the blue baseball cap and the plaid shirt during the
19 time of the robbery?

20 A Yes.

21 Q Okay, and did you recognize him as well?

22 A Yes.

23 Q He did not have those items on by the time you were
24 at the show-up, correct?

25 A That is correct.

ROUGH DRAFT TRANSCRIPT

1 Q Okay.

2 MS. KILLER: No further questions at this time.

3 THE COURT: Mr. Sanft, any cross?

4 MR. SANFT: Yes, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. SANFT:

7 Q Ms. Richardson, what time of day was this when this
8 occurred?

9 A 8:30 in the morning.

10 Q All right. And what time does the store typically
11 open?

12 A We open at 8:00.

13 Q 8:00 o'clock?

14 A Um-hum.

15 Q How many people were in the store at that
16 particular point around 8:30 on this particular morning?

17 A There was a woman, another woman, a baby, and my
18 store manager, and me.

19 Q And out of all the employees for the store, there
20 was only two employees that were working at that time?

21 A Yes, that's correct.

22 Q Yourself and Chad?

23 A Yes.

24 Q Now, when these two individuals came in, you were
25 already sort of in the area of the cash -- of the register;

ROUGH DRAFT TRANSCRIPT

1 is that right?

2 A Yes, I was on the side of it.

3 Q All right. And so, when these two individuals
4 approached you, immediately grabbed a hold of you?

5 A Um-hum.

6 Q Is that a yes?

7 A Yes, that's a yes.

8 Q Okay, and forced you to go behind the counter?

9 A That is correct.

10 Q All right. Fair to say that they called you names
11 as they were leading you behind?

12 A Yes.

13 Q Called you, what, bitch?

14 A A bitch, um-hum.

15 Q All right, and then were relatively rough with you
16 as you were being led behind?

17 A Correct.

18 Q Okay. They didn't give you any type of pass, or
19 treat you anything but rough; is that correct?

20 A That is correct.

21 Q Okay. Now, your testimony was that the person with
22 the skull mask had at some point had his mask fall off of his
23 head?

24 A It didn't fall off. When he jumped over, he
25 adjusted it --

ROUGH DRAFT TRANSCRIPT

1 Q I see.

2 A -- to bring it back down.

3 Q I see.

4 A And when he did that, you can see the back of his
5 head.

6 Q Okay, because he's pulling on the mask this way --

7 A Um-hum.

8 Q -- and the back of the mask is actually lifting up?

9 A Correct.

10 Q All right. So, it was the type of mask that was
11 completely covering his entire head?

12 A That is correct.

13 Q It wasn't like the type of mask that's just
14 covering the front part of his face?

15 A Um-hum, that's correct.

16 Q Okay. And it's not the type of mask, for instance,
17 where you could see very distinctly hair on the back of his
18 head, correct?

19 A Yes, that's correct.

20 Q All right. Now, you had said as well that the two
21 individuals that were there -- that were there in the front
22 of the store, how long were they there in the front of the
23 store doing the robbery? Do you recall how fast it was, or
24 how quick it was?

25 A Are you saying in front of the store, meaning

ROUGH DRAFT TRANSCRIPT

1 inside the store, or are you saying in front of the store
2 outside the store?

3 Q And I apologize for that. Let me just make sure
4 we're clear. At the time that you are in interaction with
5 these two individuals --

6 A Correct.

7 Q -- from the time they first approached you to the
8 time they ran out of the store, do you know how long that
9 was?

10 A I would say seven -- seven minutes. Seven, ten
11 minutes.

12 Q And that's from the time that they grabbed a hold
13 of you to the time that they turned around and ran out the
14 back of the store?

15 A Yes.

16 MR. SANFT: I have no further questions. Thank
17 you.

THE COURT: Mr. Parris?

18 MR. PARRIS: Very briefly, briefly.

19 CROSS-EXAMINATION

20 BY MR. PARRIS:

21 Q Ms. Richardson, you had no property -- none of your
22 personal property was taken from you, correct?

23 A That is correct.

24 Q So, you -- not your wallet, your purse, nothing of
25 that nature, correct?

1 A That is correct.

2 Q Let's back up. This happened on your first day at
3 work?

4 A Yes.

5 Q And you still went back for a second day?

6 A Yes.

7 Q Okay, I respect that. On the morning in question,
8 obviously, police were -- you indicated that you saw police
9 officers outside while the robbery was actually occurring,
10 correct?

11 A Yes.

12 Q Later on, you interacted with some police officers
13 who, for example, did that show-up lineup with you, correct?

14 A That is correct.

15 Q Also that morning, you filled out a two-page
16 written statement, correct?

17 A That is correct.

18 Q Okay. Did you have an opportunity to review that
19 statement --

20 A Yes.

21 Q -- prior to coming to court today?

22 A When I had my pre, yes, I did.

23 Q And when your pre -- when you met -- are you
24 referring to a meeting you had with the district attorneys --

25 A Yes.

1 Q -- prior to testifying in court today?

2 A Yes.

3 Q It was within the last week, or thereabouts; is --

4 A Yes.

5 Q -- that fair to say? And regarding that voluntary
6 statement, was there anything -- after reviewing it
7 approximately a week ago, was there anything in that
8 statement that you wanted to change or alter based upon your
9 memories of what happened that morning?

10 A Yes.

11 Q Okay. The information that you testified to today,
12 is it consistent with your memory -- excuse me, your memories
13 of that particular incident?

14 A Yes.

15 Q Okay. So, you're saying the version of events that
16 you gave us today would potentially be more accurate than
17 that which is contained in your voluntary statement?

18 A That -- yes.

19 Q Okay. Now, you would agree that your voluntary
20 statement was written within an hour or two of this incident,
21 correct?

22 A Yes.

23 Q But today, your memory is better than it was, oh,
24 five or six months ago, correct?

25 A My memory is better because at the time of my

1 statement, I was still in shock. I was writing my statement;
2 on top of that, they had me go view the suspects. So, in the
3 meantime of me writing it -- I wrote my statement before I
4 went and viewed them, so me sitting there, thinking of
5 everything from stuff that started to come clearly to me.

6 Q So, you wrote your statement before you had a
7 chance to go and do the show-up lineup with the police,
8 correct?

9 A Correct.

10 Q And when you did the show-up lineup, when you were
11 shown the first individual, I think the first one you had
12 referenced was the guy who had the skull mask, correct?

13 A I didn't see him. I saw the guy with the skull
14 mask. He was my second view.

15 Q Okay. So, the first individual you saw was the guy
16 with the blue hat, correct?

17 A Correct.

18 Q And you had indicated that he was no longer wearing
19 that blue hat, correct?

20 A That is correct.

21 Q And his shirt was different, correct?

22 A Correct.

23 Q And throughout the time that he was inside the
24 store, that person was always wearing a blue bandana,
25 correct?

ROUGH DRAFT TRANSCRIPT

1 A Correct.

2 Q So, you didn't get to see his face, other than from
3 the bridge of his nose to maybe his forehead; is that fair to
4 say?

5 A That is correct.

6 Q Okay. So, he was wearing different clothing, but
7 you could see his face finally when you did the show-up
8 lineup, correct?

9 A Um-hum. Yes.

10 Q And when you did that show-up lineup, I would
11 assume that person was in handcuffs, correct?

12 A Correct.

13 Q Okay. And he was probably standing amongst some
14 number of uniformed police officers, correct?

15 A Correct.

16 Q And other than the second person you identified,
17 I'm guessing that -- excuse me. I'm guessing that the two
18 people you identified were the only two non-uniformed
19 officers in that area, correct?

20 A Yes. Like, are you saying like the only two people
21 that was in the parking lot, or are you saying the one that
22 went to take me to go view --

23 Q When you went and did the actual viewing of the two
24 individuals --

25 A Okay.

1 Q Well, let me back up. The police came to you and
2 said words to the effect of, we caught the guys, we need you
3 to identify them; is that accurate?

4 A No.

5 Q Okay.

6 A They said that they had two people that could be
7 possibly the suspects; we want you to come and view them.

8 Q Okay. So, when you went and saw those two people,
9 there were -- in addition to those two people, there were
10 numerous uniformed officers in that area; is that correct?

11 A Yes.

12 Q Okay. And were those two people you were asked to
13 identify the only non-uniformed officers in that vicinity?

14 A Yes.

15 Q Okay. And they were the only two people that were
16 handcuffed or otherwise restrained, correct?

17 A Correct.

18 MR. PARRIS: Court's indulgence. Your Honor, I
19 have nothing further.

20 THE COURT: Thank you, Mr. Parris. Any redirect by
21 State?

22 MS. KILLER: Yes, Your Honor, just briefly.

23 (Pause in the proceedings)

24 REDIRECT EXAMINATION

25 BY MS. KILLER:

1 Q Keshaun, when you did your show-ups, you were read
2 some instructions from the police officer, correct?

3 A Correct.

4 Q And then --

5 MS. KILLER: And for the record, Your Honor, I'm
6 folding her show-up so she only sees the portion with the
7 instructions, and her signature and writing.

8 THE COURT: Okay.

9 MS. KILLER: If I may approach the witness?

10 THE COURT: You may.

11 BY MS. KILLER:

12 Q Do you recognize these instructions, and then what
13 you said about the defendants?

14 A Yes.

15 Q Okay. And Mr. Parris had asked you what you were
16 told by the officers. Are these the same instructions that
17 you were given before you gave your show-up?

18 A Correct.

19 Q And I'm just going to read them to you, and you
20 tell me if this is what you were told.

21 "In a moment, I'm going to show you a person who is
22 being detained. This person may or may not be a person who
23 committed the crime now being investigated. The fact that
24 this person is detained should not cause you to believe or
25 guess that he or she is guilty. You do not have to identify

1 anyone. It is just as important to free innocent persons
2 from suspicion as it is to identify those who are guilty.

3 Please keep in mind that clothing can easily be
4 changed. Please do not talk to anyone other than police
5 officers while viewing this person. You must make up your
6 own mind and not be influenced by other witnesses, if any.

7 When you have viewed the person, please tell me
8 whether or not you can make -- whether or not you can make
9 identification. If you can, tell me in your own words how
10 sure you are of the identification. Please do not indicate
11 in any way to the other witnesses that you have or have not
12 made an identification. Thank you." Is -- are those the
13 instructions you were given?

14 A Yes.

15 Q Okay. And just to check, there were no other
16 witnesses standing next to you when you did this, correct?

17 A That is correct.

18 Q Okay. And you identified the person as 100 percent
19 sure as to the person who held the gun to your neck, correct?

20 A Correct.

21 Q Mr. Parris had also asked you about the statement
22 you'd given, and I think you already explained you were still
23 in shock, and it was just after the event. That was also
24 handwritten on a piece of paper, correct?

25 A Correct.

1 Q It wasn't a situation where someone was asking you
2 questions and you were just responding verbally?

3 A That is correct.

4 Q What?

5 A That is correct.

6 Q And at that time, you weren't asked all these same
7 questions we're asking you today?

8 A Yes.

9 Q And I think you said you were still upset and still
10 under the shock of the situation?

11 A Yes.

12 Q You also mentioned that the blue bandana on the man
13 holding the gun covered about half his face. Were you able
14 to see enough of his face that you'd recognize him if he were
15 here in the courtroom?

16 A Yes.

17 Q Do you recognize anyone in the courtroom?

18 A Yep.

19 Q Can you point to that person and identify an
20 article of clothing they're wearing?

21 A What they're wearing right now?

22 Q Yes.

23 A A gray shirt, tan tie, little twisties.

24 Q When you say little twisties, are you referring to
25 his hair?

1 A Yes.

2 MS. KILLER: Your Honor, can the record reflect the
3 identification of Defendant Ralph Alexander?

4 THE COURT: So reflected.

5 BY MS. KILLER:

6 Q I think the answer's probably no, but were you able
7 to see enough of the person with the skull mask that you
8 could recognize them?

9 A No.

10 MS. KILLER: No further questions.

11 THE COURT: Thank you. Mr. Sanft, any recross?

12 MR. SANFT: Yes, Your Honor.

13 RECROSS-EXAMINATION

14 BY MR. SANFT:

15 Q Ms. Richardson, when you were required or I guess
16 escorted to the area to which you located those two
17 individuals that were in custody, was that -- was the other
18 individual my client right here to the left of me?

19 A Yes.

20 Q All right. Did he have at that particular point --
21 you recall what he looked like on that day, I'm assuming?

22 A Say it again.

23 Q Do you recall what he looked like on that day?

24 A Yes.

25 Q Did he have short hair or long hair?

1 A He had short hair.

2 Q And when someone -- when you say that someone has
3 twisties or twists, what does that mean to you?

4 A Like they're starting to start dreads.

5 Q Okay.

6 A Yeah.

7 Q So, it's longer, and then you start twisting your
8 hair to create dreads, hopefully?

9 A Correct.

10 Q All right. And with regards to what you recall my
11 client looking on this particular day, did he look like he
12 was starting twisties or twists in his hair?

13 A No, he did not.

14 Q He had very short hair?

15 A I know he had a do-rag on, but from what I saw and
16 what I've seen from his face when he approached me, I'd seen
17 enough of this to know that that was the man that threw me to
18 the ground.

19 Q Okay, and that's fine, but I'm asking specifically
20 about his hairdo on this particular day.

21 A I did not see his hairdo on this particular day.
22 He had a hat on and a do-rag on.

23 Q All right, but at the time that you then show up
24 with a police officer to a scene --

25 A Um-hum.

1 Q -- which my client's in custody --

2 A Um-hum.

3 Q -- at that time?

4 A Yes.

5 Q My question is very simple. That is, you saw his
6 head; is that correct?

7 A I did see his head.

8 Q And no twisties?

9 A No twisties.

10 MR. SANFT: No further questions, Your Honor.

11 MR. PARRIS: No follow up, Your Honor.

12 THE COURT: Okay, thank you very -- okay, if you
13 can just wait one moment. It looks like we have a question
14 by one of the jurors.

15 (Pause in the proceedings)

16 (Bench conference)

17 THE COURT: I'm not going to ask this. This is the
18 CSI effect.

19 MS. KILLER: And I don't believe it was done, so.

20 THE COURT: Okay.

21 MR. PESCI: Yeah, we don't -- we're not sure, but
22 we don't think so.

23 THE COURT: I don't want to ask the question. I
24 think it's inappropriate. Does either side really want me to
25 ask the question?

1 MR. SANFT: No.

2 MR. PESCI: No.

3 MS. KILLER: No.

4 THE COURT: Okay. All right. Okay.

5 (End of bench conference)

6 THE COURT: All right, at this time, the question
7 will be marked as Court's Exhibit number 4, and the Court is
8 not inclined to ask this question. Is there anything else
9 from the jury panel?

10 Okay, at this time, you are excused. Thank you
11 very much for your testimony. You are excused from your
12 subpoena. Thank you for being here.

13 We're going to recess for lunch. During this
14 recess, you're admonished not to talk or converse amongst
15 yourselves or with anyone else on any subject connected with
16 this trial, or read, watch, or listen to any report of or
17 commentary on the trial, or any person connected with this
18 trial, by any medium of information, including, without
19 limitation, newspapers, television, the internet, or radio,
20 or form or express any opinion on any subject connected with
21 this trial until the case is finally submitted to you.

22 1:30. Let's see, it's 1:24. About 2:45. We'll be
23 in recess until 2:45. Thank you.

24 THE MARSHAL: Thank you. All rise for the exiting
25 jury, please. Jurors.

1 (Court recessed at 1:25 P.M. until 2:45 P.M.)

2 (Outside the presence of the jurors)

3 THE MARSHAL: All rise for the entering jury.
4 Jury.

5 (Within the presence of the jurors)

6 THE MARSHAL: Thank you. Please be seated.

7 (Pause in the proceedings)

8 THE MARSHAL: Please remain seated and come to
9 order. Court is now in session.

10 THE COURT: Do I have a stipulation from the State
11 as to the presence of the jury panel?

12 MR. PESCI: Yes, Your Honor.

13 THE COURT: Mr. Sanft?

14 MR. SANFT: Yes, Your Honor.

15 THE COURT: Mr. Parris?

16 MR. PARRIS: Yes, Your Honor.

17 THE COURT: You may call your next witness.

18 MR. PESCI: State calls Elana Chavarria-Ojeda.

19 THE COURT: Does she need an interpreter?

20 MR. PESCI: She does, and the interpreter's here.

21 THE MARSHAL: Straight ahead to the witness stand,
22 please. Please step up into the witness stand, remain
23 standing, raise your right hand, and face the clerk.

24 THE COURT: Will the interpreter please raise his
25 hand so you can be sworn by the clerk?

1 INTERPRETER SWORN

2 THE CLERK: Thank you, sir.

3 THE COURT: And will you please state your name for
4 the record?

5 THE INTERPRETER: Ricardo Pico (phonetic),
6 certified Spanish interpreter.

7 THE COURT: Thank you. And will the witness please
8 raise your right hand so you can be sworn by the clerk?

9 ELANA OJEDA-CHAVARRIA, STATE'S WITNESS, SWORN

10 THE CLERK: Thank you. Please be seated. Please
11 state and spell your name for the record.

12 THE WITNESS: Elana Isabel Ojeda-Chavarria

13 THE COURT: Can you spell that for us?

14 THE WITNESS: E-l-a-n-a; I-s-a, b as in boy, e-l;
15 O-j-e-d-a; C-h-a, v as in Victor, a-r-r-i-a.

16 THE CLERK: Thank you.

17 THE COURT: Okay, you may proceed.

18 MR. PESCI: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. PESCI:

21 Q Ma'am, I want to direct your attention to July the
22 9th of this year. Did you go to the Family Dollar located at
23 4365 East Lake Mead?

24 A Yes.

25 Q What were you doing there?

1 A I went shopping.

2 Q While you were there -- or let me ask you, was it
3 about -- between 8:00 and 9:00 in the morning?

4 A Yes.

5 Q Were you there by yourself, or was there someone
6 with you?

7 A By myself.

8 Q What were you getting at the store?

9 A Some fabric softener for my clothes, and some nail
10 polish.

11 Q Did you make your way to the cash register to pay
12 for the items?

13 A Yes.

14 Q What happened to you when you were at the counter?

15 A Two men approached. One had a gun; the other one
16 did not. The one with the gun grabbed the cashier. The one
17 that had no gun, he came near me, and the one with the gun
18 had the gun pointed at the cashier's head.

19 Q And what happened when the gun was pointed to the
20 cashier's head, and the man -- the other man came over to
21 you?

22 A I could not understand what they were saying. I
23 just kept looking at them, but the one with the gun, he
24 pointed the gun at me, and he made a gesture for me to -- to
25 lay down.

ROUGH DRAFT TRANSCRIPT

1 Q Based -- go ahead.

2 A So I got on my knees, and I remained like that.

3 Q What were you doing on your knees?

4 A I was just, you know, looking at the floor, and if
5 I would turn around to look at them, they would yell at me
6 something.

7 Q Did you know what they said?

8 A No.

9 Q When you walked up to the counter to purchase your
10 items, did you have a means by which you could pay for those
11 items?

12 A How do you mean?

13 Q How were you going to pay for the --

14 A How I was going to pay? With my money.

15 Q Where was your money?

16 A In my purse.

17 Q Were you carrying the purse?

18 A Yes.

19 Q What happened to your purse?

20 A Someone that was there took it.

21 Q Did you see who took it?

22 A Yes.

23 Q Who took it?

24 A The guy in the middle.

25 Q At this table? Which guy?

1 A Dark-skinned gentleman that is in front of me.

2 THE COURT: Can you have her count in, maybe?

3 BY MR. PESCI:

4 Q If this is position 1, 2, 3, and 4, what position
5 is he in?

6 A Second one.

7 Q Position 2? That's the individual that took your
8 purse?

9 A Yes.

10 Q After your purse was taken by the defendant, what
11 happened?

12 THE COURT: Okay, the record will reflect that she
13 did identify Mr. Parker.

14 MR. PESCI: Thank you.

15 THE WITNESS: He put the purse in a black bag that
16 he was carrying.

17 BY MR. PESCI:

18 Q And then what happened?

19 A Later, one of them saw that the police, they were
20 coming. The lady -- the cashier was not able to open the
21 cash register.

22 Q Did they leave after they saw the police?

23 A Yes.

24 Q Did the police come inside the store?

25 A Yes.

1 Q And eventually, did you write a statement about
2 what happened?

3 A Yes.

4 Q Was that a one-page statement?

5 A Yes.

6 Q Was that just a brief summary?

7 MR. SANFT: Objection, Your Honor, leading.

8 THE COURT: Overruled. She can answer.

9 THE WITNESS: Yes.

10 BY MR. PESCI:

11 Q Let me ask it to you this way. Was anybody asking
12 you questions when you wrote your statement?

13 A No.

14 Q Ma'am, to your right, there is a screen. I'm going
15 to play a video.

16 MR. PESCI: With the Court's permission, if we can
17 switch over.

18 THE COURT: Sure.

19 BY MR. PESCI:

20 Q And ask you if you recognize what we see in this
21 screen. Ma'am, do you recognize who's at the counter?

22 A Yes.

23 Q Who is that?

24 A Me.

25 Q Ma'am, why did you get down?

1 A Because the person that was with the cashier is
2 telling me to get down.

3 Q Where's your purse, ma'am?

4 A I have it hanging on my left arm.

5 Q On your left shoulder?

6 A Yes.

7 Q Ma'am, has your purse just been taken off the
8 floor?

9 A Yes.

10 Q You testified earlier that it was put inside of a
11 bag; is that correct?

12 A Yes.

13 Q Is that what we can see in the video now?

14 A Yes.

15 Q Were you close to the person with the mask?

16 A Well, yes.

17 Q Ma'am, what was in your purse?

18 A My phone, my money, my wallet, my bank cards,
19 personal items, makeup, my car keys.

20 MR. PESCI: Thank you. We'll pass the witness.

21 THE COURT: Mr. Sanft, cross-examination?

22 MR. SANFT: Yes, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. SANFT:

25 Q Ms. Ojeda, your -- after your purse was taken, what

1 did you do?

2 A I just stayed there, sitting.

3 Q Did police at some point come into the store?

4 A After they left, yes.

5 Q Did you give a statement to police?

6 A Yes, when I filled out that paper.

7 Q What -- after you filled out the paper, did you
8 have anything else to do with the store?

9 A No.

10 Q Did police ever ask you or transport you to go and
11 see any person?

12 A No.

13 Q So, after you filled out the paper, you haven't had
14 any more contact with police outside of being in court today?

15 A No.

16 MR. SANFT: No further questions.

17 THE COURT: Mr. Parris?

18 MR. PARRIS: No questions, Your Honor.

19 THE COURT: Any redirect?

20 MR. PESCI: No, thank you.

21 THE COURT: Thank you very much for your testimony
22 here today. You may step down. You are excused from your
23 subpoena. You may call your next witness.

24 MR. PESCI: Thank you. The State calls Raymond
25 Wold. If we could switch over, and if I could approach the

1 clerk?

2 THE COURT: Of course.

3 THE MARSHAL: To your right, straight ahead. Thank
4 you. Please step up into the witness stand, remain standing,
5 raise your right hand, and face the clerk.

6 THE CLERK: Please face -- thank you.

7 RAYMOND WOLD, STATE'S WITNESS, SWORN

8 THE CLERK: Thank you. Please be seated. Could
9 you please state your name and spell it for the record?

10 THE WITNESS: Raymond Leonard Wold. R-a-y-m-o-n-d,
11 L., W-o-l-d.

12 THE CLERK: Thank you.

13 THE COURT: You may proceed.

14 MR. PESCI: Thank you, Judge.

15 DIRECT EXAMINATION

16 BY MR. PESCI:

17 Q Sir, on July the 9th of this year, did you go to
18 the Family Dollar on East Lake Mead?

19 A Yes, I did.

20 Q Between about 8:00 and 9:00 in the morning?

21 A Yes.

22 Q What were you doing?

23 A I was having my car fixed next-door. Had an hour
24 or so to kill, so I thought I'd go shopping there.

25 Q What happened as you went to go shopping there?

1 A I opened the door and started to step inside.
2 There was a guy in a mask. I thought it was the manager or
3 something playing a joke on somebody, but then he reached
4 over, he grabbed the person by me, threw them on the floor,
5 and held a gun to them, said, get your ass down there, and
6 then I stepped out of the door and left.

7 Q Okay. I want to show you State's Exhibit 49. Do
8 you recognize that?

9 A Yes, I do.

10 Q What do you recognize that to be?

11 A The Family Dollar Store.

12 Q And focusing on Number 50 -- State's 50, is that
13 the door area?

14 A Yes.

15 Q Is much of the door area glass?

16 A Yes.

17 Q And based on that being glass, were you able to see
18 inside?

19 A I opened the door. I was able to see inside.

20 Q Showing you State's Exhibit 51, do you recognize
21 this location just inside the door?

22 A Yes, I do.

23 Q So, as you approached the door and opened the door,
24 were you able to see what it is that you've just described?

25 A Yes.

1 Q Okay. And tell me again what it is that you saw as
2 far as a mask? Describe it, please.

3 A Well, it was -- it was a Halloween type mask, I
4 think kind of like a Predator movie type mask. Black and
5 white type of thing, skull type.

6 Q And you saw the person with the mask do what?

7 A He was standing in front of me. First, when I went
8 in, he just kind of stood there for a second, and then he
9 grabbed the person by me and threw them on the floor.

10 Q Okay. And then, based on that, did you realize
11 this was not a joke?

12 A Yes.

13 Q And what did you do?

14 A Well, the door wasn't quite shut. I slipped out
15 the door and left.

16 Q Okay. Did police arrive?

17 A Yes. When I went out in the parking lot, I started
18 waving, trying to wave cars down and get some help, and I --

19 Q Did the police arrive?

20 A Well, after a few minutes, yeah.

21 Q Okay. And when the police arrived -- at some point
22 after they arrived, did you go and speak with them?

23 A Yes.

24 Q Did you tell them what had occurred?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

1 Q What you had seen?

2 A Yes.

3 Q Okay.

4 MR. PESCI: Court's indulgence. Pass the witness.

5 THE COURT: Cross, Mr. Sanft?

6 MR. SANFT: No cross, Your Honor. Thank you.

7 THE COURT: Mr. Parris?

8 MR. PARRIS: No questions, Your Honor. Thank you.

9 THE COURT: Thank you very much for your testimony
10 here today, sir. You may step down. You're excused from
11 your subpoena.

12 THE WITNESS: Thank you.

13 THE COURT: Thank you for being here. State may
14 call their next witness.

15 MS. KILLER: The State calls Anthony Diaz. Your
16 Honor, may I approach the clerk to grab a photo?

17 THE COURT: Yes, of course.

18 THE MARSHAL: And if you'll please step up into the
19 witness stand. Remain standing, raise your right hand, and
20 face the clerk, please.

21 ANTHONY DIAZ, STATE'S WITNESS, SWORN

22 THE CLERK: Thank you. Please be seated. Could
23 you please state your name and spell it for the record?

24 THE WITNESS: Anthony Diaz. A-n-t-h-o-n-y, D-i-a-
25 z.

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MS. KILLER:

4 Q Good afternoon, Mr. Diaz.

5 A Good afternoon.

6 Q On July 9th of 2015, were you a patrol officer with
7 the Las Vegas Metropolitan Police Department?

8 A Yes, ma'am.

9 Q And as of today, you're currently switching
10 agencies, correct?

11 A Yes, ma'am.

12 Q And you're going to be working for another police
13 department soon?

14 A Yes, ma'am.

15 Q On July 9th, were you called and responded to an
16 incident that occurred at the Family Dollar at 4365 East Lake
17 Mead?

18 A Yes, ma'am.

19 Q Is that here in Las Vegas, Clark County, Nevada?

20 A Yes, ma'am.

21 Q At the time, were you in a marked patrol car?

22 A Yes, ma'am.

23 Q And were you in uniform?

24 A Yes, ma'am.

25 Q Were you riding alone, or with a partner?

ROUGH DRAFT TRANSCRIPT

1 A With a partner.

2 Q And that officer's name?

3 A Officer Keith Parker.

4 Q Did you respond to a call under event number
5 150709-1037?

6 A Yes, ma'am.

7 Q And was that at approximately 8:30 in the morning?

8 A Yes, ma'am.

9 MS. KILLER: Your Honor, if I may approach the
10 witness?

11 THE COURT: You may.

12 BY MS. KILLER:

13 Q Officer, I'm going to show you some photographs
14 that are maps. I promise I won't make you explain them all,
15 but if you can just take a look, and then I'm going to ask
16 you one question about all of them.

17 MS. KILLER: And for the record, Your Honor, I
18 showed State's Proposed 43 through 48. Counsel, it's the
19 maps.

20 MR. SANFT: No objection, Your Honor.

21 MR. PARRIS: No, Your Honor, none.

22 THE COURT: Okay, they're admitted.

23 (State's Exhibits 43 through 48 are admitted)

24 THE CLERK: 43 through 48?

25 THE COURT: Yes.

1 THE CLERK: Thank you.

2 BY MS. KILLER:

3 Q Officer, let's go with this overview first for the
4 jury. The Family Dollar is located at the corner of Lamb and
5 Lake Mead, correct?

6 A Yes, ma'am.

7 Q Okay. So, the east-west street we see up at the
8 top is Lake Mead Boulevard?

9 A Yes, ma'am.

10 Q And the north-south is Lamb?

11 A Yes, ma'am.

12 Q The street that runs along the bottom of the map
13 here from east to west, that looks like it's two streets.
14 It's Tonopah, and is it Kell?

15 A Yes, ma'am.

16 Q Okay. And in your work with Metro, are you
17 familiar with this area generally?

18 A Yes, ma'am.

19 Q And do all of the maps I showed you fairly and
20 accurately depict the area?

21 A Yes, ma'am.

22 Q For the record, that was State's 43. Let's see if
23 I can get that all to fit on the screen. Okay. Showing you
24 State's 44, a little bit narrower of an area, but the same
25 photograph. Where we see the red marker here, that's the

1 Family Dollar Store, correct?

2 A Yes, ma'am.

3 Q North of it, Lake Mead -- or, yeah, Lake Mead
4 again?

5 A Yes, ma'am.

6 Q And then, running north-south, Lamb?

7 A Yes.

8 Q Okay. I'm going to leave that up there to let you
9 explain to help the jury follow along. When you responded to
10 the call, what was your role?

11 A I was a backup officer.

12 Q And when you arrived, were other officers already
13 pursuing the suspects?

14 A Yes, ma'am.

15 Q What did you see initially upon your arrival?

16 A As I was traveling eastbound on Lake Mead towards
17 Lamb, I see one of the suspects running southbound on Lamb,
18 hop the wall, and go into the neighborhoods.

19 Q And once he was in the neighborhood, I presume you
20 momentarily lost sight of him?

21 A Yes, ma'am.

22 Q What did you do after that?

23 A I entered the neighborhoods right here.

24 Q If you draw on the screen, it should make a mark.

25 A I'm sorry?

ROUGH DRAFT TRANSCRIPT

1 Q If you touch the screen, it will make a mark or a
2 line for us --

3 A Okay.

4 Q -- that we can see on our screens. There we go.

5 A I entered here, made a right, went down here, and
6 parked just before the little gate. Walked through the gate
7 onto Kell Lane. We're looking for the suspect, at which
8 point we see him hop the wall right here.

9 Q And that's approximately three houses down, between
10 the third and the fourth house?

11 A Approximately three houses down, yes.

12 Q At that point, did you take that suspect into
13 custody?

14 A Yes, ma'am.

15 Q Do you see that person here in the courtroom today?

16 A Yes, ma'am.

17 Q Can you point to him and identify an article of
18 clothing he is wearing?

19 A He's sitting right there with the gray shirt.

20 Q What color tie?

21 A A dark gray tie.

22 MS. KILLER: Your Honor, can the record reflect the
23 identification of Defendant Parker?

24 THE COURT: So reflected.

25 BY MS. KILLER:

1 Q Now, Officer, you've kind of described for us where
2 you had parked. Previously admitted State's 48. And I
3 apologize, when -- I'm going to mess up your map. For the
4 record, you had entered about midway through the houses, and
5 then turned on Attleboro Street?

6 A Yes, ma'am.

7 Q Okay, where you parked down at the end here?

8 A Yes, ma'am.

9 Q Okay. Showing you State's 48, is the area we see
10 that white truck where you had parked?

11 A Yes, ma'am.

12 Q And then you described coming through a gate. Is
13 where I'm pointing here in the middle of the photo near the
14 edge of the --

15 A Yeah.

16 Q -- not brick, not stone --

17 A That's the one.

18 Q The block wall? That's the name.

19 A Yes, ma'am.

20 MS. KILLER: Court's indulgence. No further
21 questions.

22 THE COURT: Any cross?

23 MR. SANFT: No, Your Honor.

24 MR. PARRIS: No questions, Your Honor.

25 THE COURT: Officer, thank you very much for your

1 testimony here today. You may step down. You're excused
2 from your subpoena.

3 THE WITNESS: Thank you.

4 THE COURT: Thank you. You may call your next
5 witness.

6 MR. PESCI: State calls Officer Donald Sutton.

7 DONALD SUTTON, STATE'S WITNESS, SWORN

8 THE CLERK: Thank you. Please be seated. Could
9 you state your name and spell it for the record?

10 THE WITNESS: My name is Donald Sutton. It's
11 spelled D-o-n-a-l-d. Last name, Sutton, S-u-t-t-o-n.

12 THE CLERK: Thank you.

13 THE COURT: You may proceed.

14 MR. PESCI: Thank you.

15 DIRECT EXAMINATION

16 BY MR. PESCI:

17 Q Sir, what do you do for a living?

18 A I'm a police officer with Metropolitan Police
19 Department.

20 Q How long have you been with Metro?

21 A A year and one month.

22 Q Prior to being with Metro, what did you do for a
23 living?

24 A I was with North Las Vegas Police Department, and
25 the county marshals.

ROUGH DRAFT TRANSCRIPT

1 Q Have you worked actually in this building?

2 A I have.

3 Q As a marshal?

4 A I have.

5 Q Okay. But focusing in on your time with Metro, I
6 want to direct your attention to July the 9th of this year.
7 Did you respond to the Family Dollar located specifically at
8 4365 East Lake Mead?

9 A I responded to that call, but not directly to that
10 store.

11 Q Good point, I'm sorry. The call originated from
12 that address?

13 A Correct.

14 Q Okay. Where did you respond to?

15 A I responded to Tonopah and Lamb, just west of -- on
16 Tonopah, to do -- basically, other officers were on scene. I
17 was just there to help another officer.

18 Q Okay. Had multiple officers been called to the
19 scene?

20 A Yes.

21 Q As subsequent officers like yourself arrive, are
22 you given different responsibilities?

23 A Yes.

24 Q What was your responsibility?

25 A My responsibility was to do the show-up.

ROUGH DRAFT TRANSCRIPT

1 Q What is a show-up?

2 A A show-up is to grab the witnesses, take them to
3 where the suspects are, not to where the witnesses are
4 identified, but enough to where the witness can identify the
5 suspect. I take them to each suspect, have them identify,
6 take them to another if the case -- if it involves more than
7 one person, and then I take them back to where they -- where
8 I picked them up from originally.

9 Q In this case, did you know if it involved more than
10 one suspect?

11 A I did.

12 Q Did you do a show-up with more than one witness?

13 A I did.

14 Q Did you take those witnesses separately?

15 A Yes.

16 Q Let's start with the female, Keshawn Richardson.
17 Did you take her first, or the male first?

18 A I took the female first.

19 Q All right. With Keshawn Richardson, did you take
20 her from the Family Dollar to the area where the suspects
21 were?

22 A Yes, I did.

23 Q Were the suspects in two separate locations?

24 A Yes, they were pretty far apart.

25 Q Okay. Did you take Ms. Richardson to the first

1 suspect?

2 A Yes.

3 Q Now, when you do a show-up, is there an instruction
4 -- or are there instructions that you give to the individual?

5 A Yes. We have actually a show-up sheet that we were
6 mandatory to have, and we have to read the instructions
7 before we take them to identify the suspect.

8 MR. PESCI: May I approach?

9 THE COURT: You may.

10 BY MR. PESCI:

11 Q I'm showing you what has not been marked, but has
12 been shown to defense counsel. Do you recognize what this
13 is?

14 A Yes, that is a show-up.

15 Q And do you recognize it being associated with this
16 particular case?

17 A I do.

18 Q How do you know it's associated with this case?

19 A Because one of the names is Keshawn Richardson, and
20 I remember doing this page myself, filling it out.

21 Q Okay. So, is the handwriting on some of this page
22 your handwriting?

23 A Yeah, some of it's mine, and some of it's my field
24 training officer's handwriting.

25 Q And then, there's a middle section where it's

1 entitled "Statement." Is there handwriting there that's not
2 yours or your field training officer's?

3 A Where it says "Statement," that handwriting is not
4 mine. That's going to be the witness that writes in that
5 section.

6 Q Did you ask her to write some information down
7 after this show-up was done?

8 A Yes, I did.

9 Q Okay. Now, on this show-up, is -- are the
10 instructions listed on the show-up?

11 A Yes, it is.

12 Q All right. Did you give those instructions to Ms.
13 Richardson before you went to the location of suspect number
14 1?

15 A Yes, we did it at the Family Dollar.

16 Q All right. Just so it's really clear, when you
17 grabbed her, you didn't say, hey, we got them, we want you to
18 come pick them out?

19 A I'm sorry, say that again.

20 Q Did you say to her when you first picked her up,
21 hey, we got him, we just want you to come pick him out?

22 A Pretty much. I mean, I don't know if I used those
23 exact words, but we have people in custody right now; we need
24 to take you down there to make sure this is the person or
25 it's not the person, basically.

1 Q Okay. Those are the instructions that you give --

2 A It's more detailed than that, but yes. And very
3 vague, that's kind of what it means.

4 Q That it could be the person?

5 A Yes.

6 Q Clearly, it's someone that you think might be
7 involved, because that's why the person was stopped?

8 A Absolutely.

9 Q But when you give the instructions, the
10 instructions indicate that it may or may not be the person?

11 A Correct.

12 Q And it's just as important to say if it's not the
13 person than to say that it is the person?

14 A Correct.

15 Q Did you read those instructions verbatim to her?

16 A Verbatim.

17 Q Okay. After reading the instructions, did you
18 bring her to the location?

19 A I did, yeah.

20 Q And then, does she remain in the vehicle?

21 A She did.

22 Q Meaning your car?

23 A Correct.

24 Q Is that a marked police vehicle?

25 A Correct.

1 Q And do you do it in such a way that the individual
2 in your car is not going to be seen by the individual that's
3 the focus of the show-up?

4 A Yes.

5 Q And that's what you did and the procedure in this
6 situation?

7 A I did.

8 Q Okay. When you got to that location, was she able
9 to make an identification?

10 A Yes, she did, right away.

11 Q Did she tell you how sure she was?

12 A Yes. She said 100 percent.

13 Q Okay. Did you then take her -- or did she ask to
14 have the individual moved at all, do you recall?

15 A No, we move the individual. We do a front shot,
16 and then we do side shots. So, we -- we most likely -- I
17 don't remember the event 100 percent right now, but --

18 Q Okay.

19 A -- the -- we normally take the suspect or the
20 person that's in custody, and we face them towards the
21 vehicle, and then we do side to side.

22 Q Okay. Did you then go to a -- or take Ms.
23 Richardson to the second individual?

24 A Yes, I did.

25 Q Did you follow the same procedure?

1 A The exact same.

2 Q Okay. Did she remain in the car?

3 A Yes.

4 Q Was she able to identify that person?

5 A Yes.

6 Q Did she say how sure she was?

7 A She didn't give a percentage on that. And on her
8 statement, I believe there was no percentage; she just was
9 able to identify him.

10 Q Okay. Now, did you bring her back to the Family
11 Dollar?

12 A I did.

13 Q Did you get a male to go with you?

14 A Yes.

15 Q Does Chad Williams ring a bell?

16 A It does.

17 MR. PESCI: May I approach the witness?

18 THE COURT: You may.

19 MR. PESCI: Thank you.

20 BY MR. PESCI:

21 Q Showing you what's not been marked, but what has
22 been shown to defense counsel and provided to them, do you
23 recognize this?

24 A I do.

25 Q And what is that?

1 A That's another show-up with Chad Williams, the
2 witness.

3 Q Did you follow the same procedure with Mr. Williams
4 that you did with Ms. Richardson?

5 A The same exact one.

6 Q Was Mr. Williams able to identify the first suspect
7 that you went to?

8 A Yes.

9 Q Was the first suspect with Mr. Williams the same
10 first suspect with Ms. Richardson?

11 A Yes, it was.

12 Q In the same order?

13 A Yep.

14 Q And was Mr. Williams able to identify the second?

15 A Yes.

16 Q Okay. The two suspects, number 1 and 2, for lack
17 of better terms, that were out in the focus of this show-up,
18 are they here in court?

19 A They are.

20 Q Could you point to them and describe something
21 they're wearing, please?

22 A A light blue-gray shirt and pants, and the second
23 gentleman over here was -- looks like a -- like a gray shirt.

24 MR. PESCI: May the record reflect identification
25 of the defendants, Your Honor?

1 THE COURT: So reflected.

2 BY MR. PESCI:

3 Q After you were done with Mr. Williams, did you
4 bring him back to Family Dollar?

5 A I did.

6 Q And when you dropped off Mr. Williams, what was
7 your responsibility after that?

8 A I don't recall.

9 Q Okay. Do you remember having any real involvement
10 after that?

11 A No. I went back over to where I first initially
12 went, and I believe I helped an officer with a witness
13 statement.

14 MR. PESCI: Okay. We'll pass the witness, Your
15 Honor.

16 THE COURT: Mr. Sanft?

17 CROSS-EXAMINATION

18 BY MR. SANFT:

19 Q Officer Sutton, your testimony is that you've been
20 with Metro for a year and a month so far?

21 A A year and one month, sir.

22 Q Okay. So, at the time when this event occurred,
23 how long had you been with Metro?

24 A At least -- that was my second [inaudible]. At
25 least four to six weeks. I'm not sure.

1 Q Now, your testimony was that prior to working for
2 Metro, you worked for the county as a marshal here or a
3 bailiff here?

4 A Yes.

5 Q Okay. And prior to that, you worked for North Las
6 Vegas?

7 A Yes.

8 Q Was that as a patrol officer as well?

9 A Yes, as a police officer.

10 Q Okay. Now, when you were working and starting with
11 Las Vegas Metro -- no, North Las Vegas Police Department
12 [inaudible]?

13 A Yeah. NLVPD. It doesn't matter, it's all the
14 same.

15 Q All right. When you were working for North Las
16 Vegas, did you have to go through an academy?

17 A I did.

18 Q And I'm sure in the academy, they trained you on
19 how to be a police officer in North Las Vegas; is that
20 correct?

21 A Correct.

22 Q When you graduated from that academy, did you
23 graduate with any other police officers from any other
24 jurisdiction; meaning like Las Vegas, or Las Vegas Marshals,
25 or --

1 A Yes. The first academy I went through had
2 Henderson Police Department school police, and a couple non-
3 affiliates, which is people that just want to go through an
4 academy so they have a -- kind of like a degree, and then
5 they go test for other agencies.

6 Q How long had you been working for North Las Vegas?

7 A I worked for about a year there.

8 Q And then, after that, you switched over to becoming
9 a bailiff here?

10 A Correct.

11 Q Now, when you were with North Las Vegas, how many
12 times were you required to do a show-up?

13 A It was seven years ago. I honestly couldn't
14 remember. I would say maybe a handful that I can remember.

15 Q All right. And then, when you were working as a
16 bailiff, did you ever do a show-up as a bailiff?

17 A I did not.

18 Q All right. Now, when you were working for
19 Metropolitan Police Department, up until the time that you
20 did this particular show-up, how many show-ups had you had
21 done up until that point?

22 A That was my first one.

23 Q Now, when you were in the academy, were you ever
24 taught or trained on how to do a show-up?

25 A Yes, we were.

1 Q Can you explain to this jury why a show-up is --
2 the way you were trained, why that would be important?

3 A It's important for us to know the process through
4 the whole thing, and the reason why we have the sheet of
5 paper is so we don't miss any steps. We literally read it
6 from top to bottom before we take the witness over to the
7 suspect. That way, they know if the suspect's not -- or the
8 person in custody is not the suspect, that we take them right
9 back, we make sure that we document that it's not the person
10 in custody who's involved, and that's pretty much what a
11 show-up is. It's just to identify if that's the person
12 involved in this crime.

13 Q Okay. Now, would it be fair to say, in speaking
14 with this jury and educating this jury as to what that means,
15 you're also trying to preserve the -- well, let me put it
16 this way. You're not -- you're trying to make sure that the
17 person has not been influenced in any way by anything that
18 you might have said or anything along those lines; would that
19 be fair to say as well?

20 A Absolutely. That's why we read it verbatim.

21 Q Okay. Did you at any point prior to either the
22 first person or second person you took to show-ups, did you
23 ever talk to them while they're in the vehicle as you're
24 transporting them to the location of either suspect?

25 A Maybe when -- right -- not initially at the first

1 part of the drive over there, but as we pulled in, I
2 basically said, okay, we're going to turn the vehicle this
3 way so you can identify who he is. And then I get on the
4 radio, advise that officer to pull him out of the vehicle,
5 and do the show-up.

6 Q Okay. Now, as you're driving to that location,
7 once again, what you're trying to do is preserve the person
8 from being influenced by anything; is that correct?

9 A That's correct.

10 Q So that when the person arrives on the scene, the
11 only thing they're going to be able to do is look at a
12 potential suspect and say whether or not they recognize that
13 person, right?

14 A Yes.

15 Q Okay. Do you turn off your car radio?

16 A Yes, everything is silent.

17 Q I'm sorry?

18 A Everything -- I don't turn off -- I have an
19 earpiece.

20 Q Okay.

21 A So, I hear the other officers in my ear. The radio
22 in the car is not on.

23 Q All right. Is that part of your training and
24 experience is to turn off the car radio?

25 A It is.

1 Q And when I say car radio, I'm not talking about the
2 radio for a radio station, right?

3 A Right. You're talking about the police radio that
4 we have in all of our vehicles.

5 Q Okay. Now, as you were going to that location, how
6 did you learn of the location to take the -- or take the
7 person to the -- to wherever the suspect was located? Was
8 that through your ear?

9 A I knew that the first part we were going to go to
10 was where I've already been. And then, when I went to the
11 Family Dollar, there was an officer there that said they had
12 a second person of interest in the crime at another location.

13 Q Okay. Now, when you read this particular item to
14 -- the instructions --

15 A Uh-huh.

16 Q -- when do you read those items? Do you read the
17 item before you take the person to the location, or when you
18 roll up to the location, you give the person the piece of
19 paper to read -- or read to the person?

20 A We basically say, we're, you know, getting in the
21 car, we're going to -- we're going to go ahead and say, do
22 you want to try to identify who these people are? And they
23 say yes, and then say, okay, well, we got to put you in the
24 vehicle. And then, once we put them in the vehicle, I turn
25 around, read the instructions off the piece of paper, make

1 sure they understand, and then drive pretty much over to the
2 location.

3 Q And your testimony is, on both of those occasions,
4 you're driving in silence between -- after the time you read
5 the instructions to both of these individuals to the time of
6 arrival on the scene to identify the suspects?

7 A Absolutely. There's silence in the vehicle, but
8 not silence on my ear.

9 MR. SANFT: Okay. No further questions, Your
10 Honor.

11 THE COURT: Mr. Sanft -- I'm sorry, Mr. Parris?
12 Sorry.

13 MR. PARRIS: No worries, Your Honor.

14 THE COURT: Sorry.

15 MR. PARRIS: His hair is back in a ponytail. It's
16 hard to tell us apart.

17 MR. SANFT: That's not an insult.

18 MR. PARRIS: A lot of people confuse us.

19 CROSS-EXAMINATION

20 BY MR. PARRIS:

21 Q Officer Sutton, we're using the term "show-up
22 lineup." And many times when we hear the word "lineup," we
23 kind of visualize like the beginning of the usual suspects,
24 you know, when there's five people in a room and a person is
25 selecting between them. That's not what happened in this

1 case, correct?

2 A I have not mentioned anything about a lineup
3 whatsoever.

4 MR. PESCI: Nor the State.

5 THE WITNESS: I've only used the word "show-up."

6 MR. PARRIS: All right.

7 BY MR. PARRIS:

8 Q So, for this witness identification, when this
9 identification occurs, the person of interest, as you had
10 referenced, you had indicated that when you pull up to the
11 site where that person's located, that you radio another
12 officer to take that person out of a vehicle, correct?

13 A Yes.

14 Q So -- and that's what happened in this case for
15 both of the -- both of the identifications for both of the
16 witnesses, correct?

17 A Yes.

18 Q So, when you pulled up with the female, you pulled
19 up to -- was it a parking lot, or was it a desert area?

20 A It's on the corner of Tonopah and Lamb.

21 Q Okay. So, when you pulled up to the vicinity,
22 approximately how far away from -- was your car or your
23 vehicle from the vehicle containing the person of interest?

24 A I'm not a -- I'm not a professional at
25 measurements. I don't know, I can't recall.

1 Q Okay. Well, was it -- I'm currently standing at
2 the back door of the courtroom. Was it closer or further
3 away than where I am right now?

4 A I'd have to say it's roughly about that, if not a
5 little bit further. Maybe a few feet.

6 Q So, I'm currently standing in the vestibule area in
7 the middle of it. Is this ballpark, right about where you --
8 the distance, as best as you remember?

9 A Best as I remember, it's pretty ballpark. If not,
10 like I said, maybe a couple feet further. We don't like to
11 obviously put them close, because we don't want the person in
12 custody to identify who is in our vehicle. But as our patrol
13 vehicles do, we do have tinted windows.

14 Q Okay.

15 A So, most likely, they're not going to see who the
16 witness is.

17 Q So, again, approximation from where you're sitting,
18 the person of interest is located somewhere between this
19 first door of the courtroom and the door to the hallway; is
20 that fair to say?

21 A Sounds fair.

22 Q Okay. So, when you arrive on scene, you radio to
23 have the person of interest taken out of that police car,
24 correct?

25 A Correct.

1 Q And as it happened in this particular situation,
2 that person -- or each of those people when they were taken
3 out of the cars was in handcuffs, correct?

4 A Yes.

5 Q Okay. Or restrained in some way, correct?

6 A Yes.

7 Q Okay. And I would assume then that they were in
8 close proximity to one or more officers; is that fair to say
9 as well?

10 A I wouldn't say any more than two.

11 Q Okay, so --

12 A Just for the sole purpose of -- we do that for the
13 sole purpose of not bombarding them with police officers so
14 they're not automatically found like that's a guilty person,
15 so we don't have too many officers around.

16 Q Okay. So, it's one person in handcuffs generally -
17 - well, in this case, were they flanked by an officer on
18 either side?

19 A Normally -- no, it's just one. And then, normally,
20 there's an officer nearby.

21 Q Okay. So, there would be a person who -- the
22 person of interest would be in close proximity to a uniformed
23 officer, correct?

24 A Yes.

25 Q And then there would be another officer somewhere

1 in the vicinity also, correct?

2 A Correct, around the car somewhere.

3 Q And there would be no other, for lack of a better
4 term, civilians or plain clothes individuals other than the
5 person of interest; is that fair to say?

6 A I don't remember that far back, but I don't
7 remember a lot of people being right on scene at that point.

8 Q Okay. And that was true for both identifications
9 for both individuals, correct?

10 A Correct.

11 Q Same procedure. The person's in the car when you
12 pull up -- the person of interest is in the other vehicle
13 when you pull up, and they come out, flanked by an officer,
14 with another officer somewhere nearby, correct?

15 A Yes, yes.

16 MR. PARRIS: Your Honor, I have nothing further.
17 Thank you.

18 THE COURT: Any redirect?

19 MR. PESCI: Yes, please. Can I approach?

20 THE COURT: You may.

21 MR. PESCI: Thanks.

22 REDIRECT EXAMINATION

23 BY MR. PESCI:

24 Q Keeping in mind the questions about the distance,
25 I'd like to show you the copies of the show-up again and ask

1 you if you write down the time when this occurred?

2 A Yes. 09:00 on one, and 09:20 on the other.

3 Q So, is that A.M.?

4 A That is A.M.

5 Q That was here in Las Vegas in July?

6 A It was an extremely sunny, beautiful, hot day out.

7 Q You beat me to it. So, was there any difficulty
8 seeing even this far on a --

9 A No.

10 Q -- summer morning in Las Vegas?

11 A No. It might as well have been a spotlight because
12 it was so bright outside.

13 MR. PESCI: Thank you. Nothing further.

14 THE COURT: Mr. Sanft?

15 MR. SANFT: Nothing further, Your Honor.

16 THE COURT: Mr. Parris?

17 MR. PARRIS: No follow up, Your Honor.

18 THE COURT: Thank you very much for your testimony
19 here today. You may step down. You're excused from your
20 subpoena.

21 THE WITNESS: Thank you, Judge.

22 THE COURT: Thank you for being here. You may call
23 your next witness.

24 MR. PESCI: State calls Chad Embry. May I approach
25 your clerk?

1 THE COURT: You may.

2 THE MARSHAL: If you'll please step up in the
3 witness stand, remain standing, raise your right hand, and
4 face the clerk.

5 CHAD EMBRY, STATE'S WITNESS, SWORN

6 THE CLERK: Thank you. Please be seated. Could
7 you please state your name and spell it for the record?

8 THE WITNESS: Chad Embry. C-h-a-d, E-m-b-r-y.

9 THE CLERK: Thank you, sir.

10 DIRECT EXAMINATION

11 BY MR. PESCI:

12 Q What do you do for a living?

13 A I'm a detective with Las Vegas Metro Police
14 Department.

15 Q How long have you been with Metro?

16 A For 16 years.

17 Q Are you assigned to a particular division within
18 Metro?

19 A I am, the Northeast Area Command.

20 Q Back in July, specifically July the 9th of 2015,
21 were you assigned to that area command?

22 A I was assigned to a robbery.

23 Q Okay. And as you were assigned to robbery, were
24 you asked to respond to the Family Dollar on East Lake Mead?

25 A Yes.

1 Q Specifically, 4365 East Lake Mead?

2 A Yes.

3 Q What was your responsibility at that scene?

4 A To photograph evidence located from a robbery that
5 occurred at the Family Dollar.

6 Q Now, this jury has heard from some crime scene
7 analysts in this particular case. Normally, will crime scene
8 analysts take some photographs?

9 A Yes.

10 Q However, as officers and detectives, are you
11 allowed to take photographs as well?

12 A Correct.

13 Q Sometimes are there many calls at the same time
14 which may utilize the resources of crime scene analysts?

15 A Correct.

16 Q Do you recall at this particular time if the crime
17 scene analysts were called to a different location?

18 A Yes.

19 Q Based on that, did you yourself take some
20 photographs?

21 A I did.

22 MR. PESCI: May I approach the witness?

23 THE COURT: You may.

24 BY MR. PESCI:

25 Q Showing you State's Proposed Exhibits 67 through

1 84, why don't you peruse through those. Detective, looking
2 through 67 through 84, do you recognize those photos?

3 A Yes.

4 Q When you responded to this scene, did you document
5 the scene both at the Family Dollar and in the neighborhood
6 around the Family Dollar?

7 A Yes.

8 Q Do these photographs capture those items of
9 interest and the locations?

10 A Yes.

11 Q Are they fair and accurate depictions of those
12 locations and those items?

13 A Yes.

14 MR. PESCI: Move for the admission, Your Honor, of
15 67 through 84.

16 MR. SANFT: No objection, Your Honor.

17 MR. PARRIS: No objection, Your Honor.

18 THE COURT: They're admitted.

19 (State's Exhibits 67 through 84 are admitted)

20 MR. PESCI: Thank you, Your Honor.

21 THE COURT: 67 through 84.

22 THE CLERK: Thank you, Your Honor.

23 BY MR. PESCI:

24 Q And then I want to ask you to look at 62 through
25 66. Do you recognize 62 through 66?

1 A I recognize that as the area to the rear of the
2 Family Dollar.

3 Q All right. Did you take these pictures?

4 A I don't believe I did.

5 Q Okay. Do you recognize this, however, as being the
6 area that you responded to?

7 A Correct.

8 Q And are they fair and accurate depictions?

9 A Yes.

10 MR. PESCI: Move for the admission of 62, 3, and 4.

11 THE COURT: Any objection?

12 MR. SANFT: No objection, Your Honor.

13 MR. PARRIS: No objection, Your Honor.

14 THE COURT: They're admitted.

15 (State's Exhibit 62, 63, and 64 are admitted)

16 THE CLERK: And 66?

17 MR. PESCI: 66 I'm going to ask a question about.

18 BY MR. PESCI:

19 Q So, Detective, as you look at 66, do you recognize
20 what's depicted in 66?

21 A I do not.

22 Q Okay.

23 MR. PESCI: So, I'm going to bring that one back to
24 the clerk.

25 THE CLERK: Thank you.

1 MR. PESCI: Thank you.

2 BY MR. PESCI:

3 Q Detective, I want to show you State's 67. Why did
4 you take this picture?

5 A I'm sorry, I didn't hear you.

6 Q Why did you take -- why were this pictures taken?

7 A This is documenting the inside of the business as
8 you step through their front door, looking directly at the
9 merchant's counter.

10 Q And on the ground, is there something that appears
11 to be black next to some gum?

12 A Yes.

13 Q Showing you 68, is that a close-up of what those
14 items were on the floor?

15 A Yes.

16 Q And what were those items on the floor?

17 A They were pants that were from inside the business.

18 Q And leaving the inside of the business and going to
19 the outside, did you take some photographs of items outside?

20 A Yes.

21 Q Were you briefed when you got to the scene?

22 A I was.

23 Q And was there information that you had obtained
24 from that briefing that certain items of personal property
25 had been taken and/or seen with the suspects?

1 A Correct.

2 Q Showing you Exhibit 69, what do you recognize that
3 to be?

4 A That was a black backpack that was located to the
5 rear of the business.

6 Q And in 70, are we looking at that particular
7 backpack?

8 A Yes.

9 Q Did that backpack have something inside of it?

10 A Yes, it had a black purse inside.

11 Q Are we seeing that right now as we look at State's
12 70?

13 A Correct. The backpack is unzipped, and you can see
14 the black purse inside of the backpack.

15 Q Did you remove the purse from the backpack?

16 A Yes.

17 Q Looking at State's 71, is that the purse now out of
18 the backpack, and the backpack is the main focus of the
19 photo?

20 A Yes.

21 Q Did you photograph the purse as depicted in 72?

22 A Yes.

23 Q And are you aware that this was returned to one of
24 the victims inside the establishment?

25 A I was, yes.

ROUGH DRAFT TRANSCRIPT

1 Q So, that's -- that's somebody's purse that was
2 stolen that was found in the desert area behind the Family
3 Dollar?

4 A Yes.

5 Q Okay. Now, leaving the immediate area of the
6 Family Dollar, did you also go into the surrounding
7 neighborhood to document some items that were found?

8 A Yes.

9 Q Looking at State's Exhibit 73, did you take a
10 photograph of the cross-streets to be able to orient where
11 some of these items were found?

12 A I did.

13 Q Specifically, this is the cross-street of
14 Provincetown and Lamb; is that correct?

15 A Yes.

16 Q Showing you Exhibit 74, what was that a photograph
17 of?

18 A This is a photograph of the wall that runs
19 north-south on Lamb, just south of that intersection.

20 Q And is there a particular item that you're trying
21 to document with this photograph?

22 A Yeah, there's a blue hat against the wall.

23 Q Were you able to take a close-up shot of that?

24 A Yes.

25 Q Looking at State's 75, do you recognize that?

1 A Yes, that's the blue hat against the wall.

2 Q Is that a Lions hat?

3 A Correct, Detroit Lions.

4 Q Does it have a sticker on the brim?

5 A Yes.

6 Q And even kind of a black corner or diamond shape on
7 the brim as well?

8 A Yes.

9 Q Showing you State's 76, did you take another
10 photograph to try to, again, orient to where you were?

11 A I did.

12 Q Is that a picture of the Tonopah Lamb Apartments?

13 A Yes.

14 Q In the area of 4250 East Tonopah?

15 A Correct.

16 Q That's in State's 76. Looking at 77, was there an
17 item in the area -- it seems to be that these apartments have
18 kind of a wrought iron gate?

19 A Yes.

20 Q Showing you 77, do we know we're in the same area
21 based on the gate?

22 A Yes.

23 Q And then what do we have next to the gate?

24 A That's going to be a black beanie.

25 Q Were some other items found also in the

1 neighborhood surrounding the Family Dollar?

2 A Yes.

3 Q Specifically, State's 78, was there a glove that
4 was found?

5 A Yeah, there was a leather work type glove.

6 Q Speaking of gloves, were there some other gloves
7 also found? Showing you State's 79, do you recognize that?

8 A Yes.

9 Q And what are those?

10 A Those were gloves that were located on one of the
11 suspects, removed from one of the suspects, that were placed
12 on the patrol hood that I documented.

13 Q So, as we see that white background, that's
14 actually a patrol hood?

15 A Correct.

16 Q There's a little bit of black here on the side
17 showing from the car?

18 A Yes.

19 Q Okay. And then, State's Exhibit 80, do you
20 recognize that?

21 A Yes.

22 Q Again, you had information based on the briefing
23 and contact with the victims about the clothing of the
24 suspects?

25 A Yes.

1 Q Were you able to see the surveillance?

2 A Briefly.

3 Q Okay. And based on seeing that, was this shirt of
4 interest to you?

5 A Yes.

6 Q Showing you State's 81, do you recognize that?

7 A Yes. It's a white and blue plaid shirt located
8 next to -- I forget the exact numbers on the residence; next
9 to a house.

10 Q Okay. That's the -- State's 81 is the same as in
11 State's 80; it's just been removed from the side of the house
12 by the water spigot?

13 A Correct.

14 Q And then, showing you State's Exhibit 82, did you
15 again take a picture showing some cross-streets to be able to
16 orient us as to where you were?

17 A Yes, I did.

18 Q What were the cross-streets?

19 A Attleboro and Hinsdale.

20 Q And in that area, looking at State's 83, was
21 something of interest found in front of a house there?

22 A Yes. To the west of the house is a black Punisher
23 style mask that was located in the rocks.

24 Q And then did you take a close-up of that --

25 A Yes.

1 Q -- depicted in State's 84?

2 A Correct.

3 Q Okay. Now, those are items that were found in the
4 neighborhood or surrounding the south area of the Family
5 Dollar; is that correct?

6 A Yes.

7 Q And as we look at State's Exhibit 62, is that taken
8 from the back of the Family Dollar, looking south across the
9 desert area to that neighborhood?

10 A Yes, that's toward -- this is kind of towards the
11 southeast direction from the rear of the business.

12 Q All right. And let's -- let's move maybe a little
13 more exactly south in State's 63. Is that what we're looking
14 at here?

15 A Yes.

16 Q And then, moving in somewhat of a southwest
17 direction, in State's 64, do you see that?

18 A Yes.

19 Q Is that block wall very large?

20 A In height?

21 Q Yes.

22 A I believe it's under six-foot.

23 Q Okay. And then is there a break in that wall to be
24 able to have ingress and egress?

25 A Yes, there is.

1 Q And that's depicted in this photograph?

2 A Yes.

3 Q And the items that we saw earlier came from --

4 MR. PESCI: Bless you.

5 THE COURT: Thank you. I'm sorry.

6 BY MR. PESCI:

7 Q Came from the area of these houses to the south of
8 the Family Dollar?

9 A Yes.

10 MR. PESCI: Court's indulgence. Pass the witness.

11 THE COURT: Cross-examination, Mr. Sanft?

12 MR. SANFT: No cross, Your Honor.

13 THE COURT: Mr. Parris?

14 MR. PARRIS: No questions, Your Honor.

15 THE COURT: Thank you very much for your testimony
16 here today.

17 THE WITNESS: Thank you.

18 THE COURT: You may step down. You're excused from
19 your subpoena. The State may call their next witness.

20 MS. KILLER: The State calls Sean Hubbard.

21 THE MARSHAL: Please step up in the witness stand,
22 remain standing, raise your right hand, and face the clerk.

23 SEAN HUBBARD, STATE'S WITNESS, SWORN

24 THE CLERK: Thank you. Please be seated. Could
25 you please state your name and spell it for the record?

1 THE WITNESS: It's Detective Sean Hubbard. S-e-a-
2 n, H-u-b-b-a-r-d.

3 THE CLERK: Thank you.

4 MS. KILLER: And I apologize, Your Honor, I'm just
5 grabbing one more exhibit.

6 THE COURT: Okay, fine.

7 DIRECT EXAMINATION

8 BY MS. KILLER:

9 Q Detective Hubbard, how long have you been -- let me
10 ask it this way. Are you employed with the Las Vegas
11 Metropolitan Police Department?

12 A Yes, I am.

13 Q How long have you been so employed?

14 A Almost 15 years.

15 Q And how long have you been a detective?

16 A Gosh, a little over seven.

17 Q On July 9th of 2015, were you working as a
18 detective with Metro?

19 A Yes, I was.

20 Q In what division?

21 A I was in the robbery section.

22 Q And on that day, were you asked to respond to a
23 call at 4365 East Lake Mead Boulevard here in Las Vegas,
24 Clark County, Nevada?

25 A Yes, I was.

1 Q And was that the location of a Family Dollar Store?

2 A Yes, it is.

3 Q And did you respond under event 150709-1037?

4 A Yes.

5 Q Showing you what's been previously admitted as
6 State's Exhibit 57, is that the Family Dollar Store you
7 responded to?

8 A Yes, it is.

9 Q And showing you State's 58, is that same store,
10 just a little further down on the sidewalk?

11 A Yeah, that's the west -- the west side of the
12 business.

13 Q Okay. And behind it on the right edge of the
14 photograph -- if you point and touch the screen, it will draw
15 a line. Is there a wall that leads to a housing development?

16 A Yes, it's right here.

17 Q Showing you State's 43 --

18 MS. KILLER: Can you clear it? I'm sorry.

19 BY MS. KILLER:

20 Q Where that orange or red dot is, is that the Family
21 Dollar Store?

22 A Yes, it is.

23 Q Okay. And the houses we see to the south of it, is
24 that the same development we were just looking at from the
25 Family Dollar parking lot in the last photo?

1 A Yes, it is.

2 Q As part of your duties in responding to this call,
3 did you follow along in the area where the suspects had been
4 pursued and recover items related to the robbery?

5 A Yes, myself and Detective Chad Embry did.

6 Q And when you did so, was Detective Embry with you
7 taking photographs?

8 A Yes, he was.

9 Q Before you went looking for this evidence, were you
10 briefed by other officers and detectives who had responded
11 before you?

12 A Yes, we had a briefing out in the parking lot to
13 discuss what had happened inside the business, and then the
14 direction of travel of the suspects.

15 Q Without telling us specifically what was said, the
16 information you gained from that briefing, did you use it to
17 locate these items?

18 A Yes.

19 Q Okay.

20 MS. KILLER: Court's indulgence. Sorry, too many
21 photographs, not enough desk space.

22 BY MS. KILLER:

23 Q I don't have a map with all the street names
24 showing, but generally, when you were recovering the items,
25 did you go through the desert area south of the store, and

1 then within these houses on these side streets that we see
2 here?

3 A Yes, there's an opening in the wall that would be
4 the north wall of that residential area, and you can cross
5 through, and it -- yeah, there we are. There's an opening in
6 that wall, and you can cross, heading southbound through the
7 residential complex. I think it's -- Attleboro is the name
8 of the street.

9 Q This street here on --

10 A Yes.

11 Q -- State's 43?

12 A Yes.

13 Q And for the record, the previously shown photo,
14 including the hole in the wall, is 64. So, you went through
15 the break in the wall and went along through the housing
16 development and were able to recover these items?

17 A Yes.

18 Q Okay. Let's start with the backpack. In the dirt
19 area to the -- correct me if I'm wrong -- south and/or west
20 of the store --

21 A Yes.

22 Q -- did you locate a black backpack?

23 A Yes.

24 MS. KILLER: And Your Honor, may I approach?

25 THE COURT: You may.

1 MS. KILLER: I think it was previously admitted,
2 but just to be safe --

3 THE COURT: What number is it?

4 MS. KILLER: 69.

5 THE COURT: Has 69 been admitted?

6 THE CLERK: I don't believe so.

7 THE COURT: No.

8 THE CLERK: It has been admitted. I'm sorry.

9 THE COURT: Oh, it has.

10 MS. KILLER: It has? Okay.

11 THE CLERK: Sorry.

12 THE COURT: So, you can publish.

13 MS. KILLER: That's okay. Permission to publish
14 then?

15 THE COURT: You may.

16 MS. KILLER: Thank you.

17 BY MS. KILLER:

18 Q Detective Hubbard, is that -- does this photograph
19 reflect where you found the bag, and is that the bag you
20 found?

21 A Yes.

22 Q And inside the bag, did you also locate another
23 item?

24 A Yes.

25 Q Showing you State's 70, does that picture show what

1 was inside the bag?

2 A Yes. The bag's open, and that was inside the bag,
3 yes.

4 Q And is that a black purse?

5 A Yes, it is.

6 Q Okay. Showing you 72, the contents of the purse?

7 A Yes.

8 Q Okay. And that purse was returned to the victim --

9 A Yes, it was.

10 Q -- it was taken from, correct? 71, is that the
11 outside of the backpack?

12 A Yes.

13 Q And I think we kind of see the purse in the lower
14 right corner?

15 A Correct.

16 Q Showing you State's 74, it's a little hard to see
17 on the screen, so let me zoom-in. Did you locate a blue
18 baseball cap in the area of -- in the area near Lamb, just
19 south of Providence?

20 A Yes.

21 Q And is that a photo of where that cap was located?

22 A Yes, it is.

23 Q That wall we're seeing, is that the retaining wall
24 or the border wall of the housing development?

25 A Yeah, it's the west retaining wall facing Lamb from

1 that housing development.

2 Q And Providence is the entry street to the
3 development?

4 A Yes, it's the main entrance right here, and then it
5 was just to the south of that.

6 Q 73 is just a photo of that intersection, correct?

7 A Yes.

8 Q Showing 75, is that where the cap was located when
9 you found it?

10 A Yes, it is.

11 MS. KILLER: Court's indulgence. We'll skip that
12 one because we went over it already.

13 BY MS. KILLER:

14 Q Was there also a black beanie located along one of
15 the fences?

16 A I'm sorry?

17 Q Was there also a black beanie located along one of
18 the fences?

19 A I believe that was off of Tonopah and Lamb.

20 Q Tonopah and Lamb? And Tonopah is the street south
21 of the housing development, correct?

22 A Yes. It runs east-west, and it intersects Lamb.

23 Q Right here?

24 A Yeah, it's right here. Yep, and turns into Kell as
25 it extends across Lamb.

1 Q And I got us a little bit out of order, but State's
2 78, is that a photo of a leather work glove?

3 A Yes, it is.

4 Q And that was also located in the area of Lamb and
5 Provincetown, correct?

6 A Yeah, that's in the bushes along that border wall
7 on Lamb, and there's Provincetown right here.

8 Q There was a plaid button-up shirt also located,
9 correct?

10 A Yes.

11 Q State's 80, is that a photograph of where the shirt
12 was and how it appeared when you found it?

13 A Yes.

14 Q And you found that in the area of -- is it Raynham,
15 or?

16 A I think that's how it's pronounced. It was in the
17 -- on the side yard on the west -- the west side of the
18 house.

19 Q Okay. And that is one of the housing streets --

20 A Yeah, I think it's the second one -- the second one
21 south. It's the first one north of Provincetown, and it was
22 in the -- on the west wall on the side yard of the residence.

23 Q And if you could just draw a line on the screen for
24 the --

25 A Without the thing --

1 Q -- in the general area.

2 A I believe it was right here.

3 Q Okay. State's 81, same shirt, just laid out?

4 A Yes.

5 Q Okay. Was there also a beanie or a mask, something
6 with a white skull-like emblem on the front?

7 A Yes.

8 Q Okay. And did you find that near another one of
9 the homes?

10 A It was -- it was in the side yard just off of
11 Attleboro. I can't remember the exact address it was on, but
12 it was right in the side yard.

13 Q Showing you 82, that's the intersection of
14 Attleboro and --

15 A Yeah.

16 Q -- Hinsdale?

17 A Hinsdale, yeah.

18 Q Somewhere in that area?

19 A Yes.

20 Q Showing you 83, is that where you found that item?

21 A Yes.

22 Q And showing you 84 --

23 A That's --

24 Q -- is that the mask or --

25 A Yes, it is.

1 Q -- whatever we've been discussing?

2 A Yes.

3 Q Was there also a black do-rag located at the corner
4 -- or on Lamb south of Providence -- Provincetown?

5 A I don't recall exactly where that was located.

6 Q It was located somewhere in your search?

7 A Yes, yes.

8 Q Would it refresh your recollection to see a copy of
9 the notes you took as to the locations?

10 A Yes.

11 MS. KILLER: Your Honor, may I approach?

12 THE COURT: You may.

13 MS. KILLER: And for the record, taking a copy of
14 the detective's notes back with me.

15 BY MS. KILLER:

16 Q Detective, does that refresh your recollection?

17 A Yes.

18 Q Okay. The black do-rag was located where?

19 A It was in the bushes south of Provincetown, pretty
20 much where most of the other items were located.

21 Q Same general area as the --

22 A Yes.

23 Q -- hat and some of the gloves?

24 A In the bushes, yes.

25 Q Okay. Were there also a pair of black gloves that

1 were located near one -- where one of the suspects was taken
2 into custody?

3 A I didn't take those off of one of the suspects; one
4 of the other officers did and they gave them to us. I
5 believe it was off of Alexander.

6 MS. KILLER: Court's indulgence.

7 BY MS. KILLER:

8 Q You had said Detective Embry took the photographs
9 of these items as you located them, correct?

10 A Yes.

11 Q Did you impound all of these items?

12 A Yes, I did.

13 Q And did you impound that under your P number?

14 A Yes.

15 Q And what is that number?

16 A 7212.

17 Q And did you also impound them under the event
18 number 150709-1037?

19 A Yes, I did.

20 Q And both those numbers would be placed on the
21 evidence bags used to impound these items, correct?

22 A Yes.

23 MS. KILLER: No further questions.

24 THE COURT: Mr. Sanft?

25 CROSS-EXAMINATION

1 BY MR. SANFT:

2 Q Detective Hubbard, as part of your duties in this
3 particular investigation, you located the items, and then
4 helped to impound the items?

5 A I impounded the items.

6 Q Okay, meaning you actually picked the items up, put
7 them into a bag, and then sealed the bag up?

8 A Yes.

9 Q And then handed it off to somebody else? CSA was
10 never involved in that?

11 A We called for crime scene analysts, but they were
12 busy on another call, so it would be hours before they were
13 available, so we decided to start collecting it our self.

14 Q Okay. And just to be fair, of course, that
15 sometimes when there isn't enough people to do that portion
16 of the work, it falls upon you?

17 A Quite often, it's our responsibility.

18 Q Okay.

19 A It's usually only on very major crime scenes where
20 we have CSAs come out and impound our property.

21 Q Okay. And so, just to describe for this jury, you
22 see something on the ground. I'm assuming you're wearing
23 gloves. You have an evidence bag in your hand, the item gets
24 photographed where you locate it, documented where it's
25 located, and then at that point, you pick the item up with

1 the gloves on, you put it into the bag, and you seal the item
2 in the bag, and then you take that back --

3 A No. In this instance, we went through -- we had
4 officers walk us through the entire path and the route that
5 the suspects took, and as we walked through the scene, we
6 took pictures, noted where it was on my notes, like put where
7 it was located. Then, once we were done finding all the
8 evidence, we went back through, picked it up, put it in bags,
9 and brought it back to the office, where we completed
10 paperwork and sealed it.

11 Q Okay. And with regard to these particular items,
12 you were shown a certain beanie or mask. Do you recall that
13 particular item?

14 A Yes. The mask, or the beanie?

15 Q This would be the -- I guess it would be a mask.

16 A With the skull on it?

17 Q Yes, with the --

18 A Yes.

19 Q -- skull on it. And this is State's Exhibit 84.
20 We're showing this exhibit again?

21 A Yes.

22 Q You actually handled that exhibit; is that correct?

23 A Yes.

24 Q Meaning you picked it up, put it into a bag, and
25 sealed the bag?

1 A Yes.

2 Q All right. Can you describe for this jury what
3 kind of mask this is?

4 A I mean, it kind of looks like the Punisher -- the
5 movie, the Punisher.

6 Q Yeah. And with regard to this particular mask, is
7 this a mask that is a mask that covers the entire head; the
8 front of the face? I mean, can you describe that for the
9 jury as well?

10 A I can't tell from this picture if it has eye holes.
11 It may have eye holes on it where it would cover the entire
12 face, but I can't really tell from this picture.

13 Q Okay. And does it cover your entire head?

14 A It's like a beanie where it would cover a large
15 portion of your head.

16 Q All right. And so the difference between this, for
17 instance, and a mask that you would wear, like say a
18 Halloween mask, a plastic mask you put in front of your face
19 with a little elastic band around the back, it's not that
20 kind of mask; is that right?

21 A No, it's -- it's a knit beanie type that you could
22 pull down over your face --

23 Q Okay.

24 A -- is what it looks like.

25 Q And then, with regard to this particular beanie

1 here, you're saying that you didn't -- you didn't observe
2 whether or not there were any holes in the area of the eyes
3 of this particular mask?

4 A It looks like there are, but I impounded it months
5 ago, so I don't remember exactly if it had eye holes in it or
6 not.

7 Q Fair enough.

8 MR. SANFT: No further questions, Your Honor.

9 THE COURT: Mr. Parris, any cross?

10 CROSS-EXAMINATION

11 BY MR. PARRIS:

12 Q Detective Hubbard, did you follow -- the same
13 procedures Mr. Sanft outlined, did you follow those same
14 impound procedures for all of the items you impounded
15 pursuant to this investigation?

16 A We typically just do it the same way every time.
17 It's the most expedient.

18 Q Okay. So, it's photographed; you put gloves on
19 your hands, correct?

20 A Yeah.

21 Q So as not to contaminate either yourself or the
22 items, correct?

23 A Right, right.

24 Q Then you put it in -- put those items, whatever
25 they may be, in a bag. Now -- correct?

1 A Yes.

2 Q Okay. Now, those bags, are they -- are they just
3 normal Ziploc bags, or are they a little more robust?

4 A No, they're paper grocery bags, for lack of a
5 better term.

6 Q Okay. And then, when you have something along the
7 lines of let's say two gloves, if -- two identical items like
8 gloves, are each of them placed in the same bag at the same
9 time?

10 A Depends if the gloves match each other.

11 Q Assuming they are matching?

12 A Yes.

13 Q And then you take that bag, and you said that you -
14 - in this particular incident, you put the items in that
15 grocery bag, and then took them back to -- I think you said
16 headquarters or your office?

17 A Yeah, we take them back -- well, at that time, we
18 were in headquarters, so we took it back to the headquarters
19 building.

20 Q Okay. And at that point in time, you completed the
21 paperwork, correct?

22 A Right. We go through, we itemize each thing, put
23 it in an item number, a package number, make sure it's placed
24 in the right item -- as the right item in the right package.
25 We write that on the outside of a sticker on the outside of

1 it, make sure it matches and corresponds to the property
2 report. Then we seal it, write our initials and the date on
3 the outside of the seal, and then we impound it.

4 Q Now, when you say you seal it, what do you mean by
5 that?

6 A We seal it with Las Vegas Metropolitan Police
7 Department evidence seals. They're plastic seals, for lack
8 of a better term, that are sticky. They wrap around the --
9 any openings that are on the bag, or box, or what have you.

10 Q And then you said you sign those seals. Why do you
11 sign -- do you sign your actual --

12 A No.

13 Q -- physical name?

14 A Initials and P number, so S7212H, and then the date
15 that we impound it.

16 Q Okay. And then you place them in the -- or they're
17 placed in the evidence vault for tests to be run thereafter,
18 correct?

19 A Well, they're placed in the evidence vault so the
20 evidence technicians can come out and recover it, and later
21 on, if tests are required or asked for, then they can pull
22 that out of the evidence vault and test them.

23 Q Now, in this particular investigation, you were not
24 vested with the duty of determining what should be tested and
25 what shouldn't, correct?

1 A Correct.

2 Q That was given to someone else. Do you know who
3 that someone else is?

4 A Dave Miller was the case agent. I don't -- at that
5 time, we were going through decentralization. I was no
6 longer in the unit, and then we kind of all went our separate
7 ways, unfortunately, and it would have been up to him to
8 request any processing done.

9 MR. PARRIS: Thank you. I have nothing further.

10 THE COURT: Any redirect?

11 MS. KILLER: Just briefly.

12 REDIRECT EXAMINATION

13 BY MS. KILLER:

14 Q Detective, when you said the evidence seals, are we
15 talking -- is it kind of similar to tape?

16 A Yes.

17 Q Okay.

18 A Red tape.

19 Q And if someone like a crime scene analyst or
20 someone needs to open the bag for any reason, they don't un-
21 tape your area, correct? They --

22 A No, they create a new opening in the package.

23 Q And then they follow the same procedure to seal it
24 up?

25 A Yes, and then they would seal it up, they would

1 sign their initials and P numbers, and the date they resealed
2 it.

3 Q I think we may have covered this, but just to be
4 safe, there was also a \$10 bill and a flashlight also found
5 in those bushes on Tonopah west of Lamb, correct?

6 A Yes.

7 Q Okay. And that was the area where one of the
8 suspects was taken into custody?

9 A That's correct.

10 Q And did you look for a bandana and a firearm?

11 A Yes. Never recovered a firearm. The bushes on
12 Lamb are incredibly thick, and we went through them as well
13 as we could, but we never recovered a firearm.

14 Q Same for the bandana?

15 A Yes.

16 MS. KILLER: No further questions.

17 THE COURT: Any recross, Mr. Sanft?

18 MR. SANFT: No, Your Honor.

19 MR. PARRIS: No, Your Honor.

20 THE COURT: Thank you very much for your testimony
21 here today. You may step down. You are excused from your
22 subpoena. And you may call your next witness.

23 MR. PESCI: State calls Allison Rubino.

24 THE MARSHAL: And if you'll please step up into the
25 witness stand. Please remain standing, raise your right

1 hand, and face the clerk.

2 ALLISON RUBINO, STATE'S WITNESS, SWORN

3 THE CLERK: Thank you. Please be seated. Could
4 you please state your name and spell it for the record?

5 THE WITNESS: Allison Rubino. A-l-l-i-s-o-n, R-u,
6 b as in boy, i-n-o.

7 THE CLERK: Thank you.

8 THE COURT: You may proceed.

9 MR. PESCI: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. PESCI:

12 Q Ma'am, what do you do for a living?

13 A I'm employed at the Las Vegas Metropolitan Police
14 Department Forensic Laboratory.

15 Q What do you do at the forensic laboratory?

16 A I'm a forensic scientist 1 in the biology DNA
17 detail.

18 Q And in that detail, what jobs do you perform?

19 A My responsibilities are to examine evidence for the
20 presence or absence of biological material, and then conduct
21 any DNA analysis as requested in certain cases that are
22 requested to my detail.

23 Q And what training and experience do you have that
24 provides you with the opportunity to do that job?

25 A At the laboratory, we go through a very extensive,

1 comprehensive documented training program that involves
2 examining evidence that we would possibly come to find in the
3 field, and then we also conduct DNA analysis on a variety of
4 samples, like blood, semen, references, et cetera.

5 Q And how long have you been doing this, ma'am?

6 A I've been with Las Vegas Police Department since
7 January of 2014, so about two years.

8 Q And do you have any schooling that you did to get
9 you this position?

10 A Yes. I have a Bachelor's of Science in
11 Biochemistry from the University of Scranton in Pennsylvania,
12 and I have a Master's of Science in Forensic Science from the
13 University of New Haven in Connecticut.

14 Q And ma'am, you talked about how you look for the
15 presence or the absence of DNA; is that correct?

16 A Of biological material.

17 Q Okay. And specifically, what is DNA?

18 A DNA, it stands for deoxyribonucleic acid, and it's
19 a chemical that's found in nearly every cell within our body.
20 And what DNA has is the information that makes us who we are,
21 from the size of our organs, our hair and eye color. It's
22 sometimes commonly known as our genetic blueprint.

23 Q Is DNA unique to a specific individual?

24 A Yes. The only people that are known to have the
25 same DNA are identical siblings.

1 Q And how is it that you try to check for the
2 presence of DNA?

3 A Depending -- depending on the sample, we encounter
4 a variety of samples in the lab, and the body fluids we
5 really test for are blood and semen. Another type of, I
6 guess, DNA we look for or test for is touch DNA, or DNA
7 that's present when someone comes into contact with someone
8 else -- someone else or something else. Let's say you open a
9 door. They might take a swabbing of the door handle, and we
10 might do DNA testing to see maybe who has contacted -- has
11 contacted that door.

12 Q Would it be from the skin cells with your example
13 of touching the door?

14 A Correct.

15 Q Okay. Now, that's when you have a particular item
16 that you're looking for the presence of DNA. When you look
17 for the presence, do you compare it to something?

18 A In the case, if we get any reference standards --
19 and what a reference standard is is just a known sample of
20 DNA. So, if you were to give your DNA, we would take a
21 swabbing from the inside of your cheek, and then we could say
22 that this DNA came from you.

23 Q So, let's use that example. Is that often referred
24 to as a buccal swab?

25 A Correct.

1 Q If you were to take my sample, is it as simple as -
2 - almost like a Q-tip rubbed in the inside of my mouth?

3 A Yeah. It's an extended Q-tip that you'll just rub
4 on the inside of your cheek, and then we put your name on it,
5 and that's our reference.

6 Q It's not very invasive; painful?

7 A No.

8 Q All right. In this particular case, were you asked
9 to perform some analysis in the case with the event number
10 150709-1037?

11 A Yes.

12 Q Were you provided specific known samples of DNA
13 from the references you just spoke of about buccal swabs from
14 a Ralph Alexander and a James Parker?

15 A Yes.

16 Q Did that -- do you notate that in your report?

17 A Yes, I do.

18 Q As far as who you got the known sample from?

19 A Correct.

20 Q It's from those two individuals, but the person
21 that actually impounded or retrieved that buccal swab is
22 notated by the P number of that officer?

23 A In the report, yes.

24 Q Okay. And in your report, did you reference that P
25 number 6627 retrieved your number items 2 and 3, which are

1 the reference samples of Ralph Alexander and James Parker?

2 A May I refer to my notes just to be clear?

3 THE COURT: Will that help refresh your
4 recollection?

5 THE WITNESS: Yes.

6 THE COURT: You may.

7 MR. PESCI: Thank you, Your Honor.

8 THE COURT: Are you referring to your report?

9 THE WITNESS: Yes.

10 THE COURT: Okay, she's referring to her report.

11 MR. PARRIS: Okay. And I'm sorry, I was inquiring
12 as to what document she was reviewing.

13 THE COURT: That's what I figured.

14 MR. PARRIS: Thank you.

15 MR. PESCI: Thank you very much, Your Honor.

16 THE COURT: Um-hum.

17 MR. PARRIS: We -- for the record, we have been
18 provided with her report.

19 THE COURT: You --

20 MR. PARRIS: We have.

21 MR. SANFT: We have.

22 MR. PARRIS: Yes.

23 MR. SANFT: Yeah.

24 THE COURT: Okay, thank you.

25 BY MR. PESCI:

1 Q Ma'am, did you just review your report?

2 A Yes. In regards to lab items 2 and 3, they were
3 impounded by the officer with the number 6627.

4 Q All right. So, those are the known samples?

5 A Correct.

6 Q Did you conduct analysis to look at the DNA of
7 those individuals?

8 A Correct.

9 Q What process do you do for that?

10 A Our DNA process, the first thing we do is called an
11 extraction, and we want to isolate the DNA away from -- away
12 from the swab and anything that's on that swab. After we
13 extract the DNA, we quantify it. We need to know how much we
14 have and get a relative on possible quality. Once we've
15 quanted it, we'll take a certain volume of DNA and we amplify
16 it, which is our -- essentially a DNA copy machine. We put
17 it in a tube and add some chemicals, and after a certain
18 length of time, we make millions and millions of copies.

19 And once we've made our copies of amplified sample,
20 we put it in an instrument, and the instrument separates the
21 DNA based on its size. And as it's traveling through the
22 instrument, it approaches a camera, and every time a part
23 of the sample goes through the camera -- goes through this
24 window, it will take a little snapshot. And after the
25 complete DNA has run through the instrument, we then develop

1 the actual picture DNA profile in a software.

2 Q So, is that almost like a blueprint of the DNA of
3 that individual?

4 A We end up essentially getting a chart.

5 Q A chart? I apologize. You seemed uncomfortable
6 with blueprint, sorry. But is it unique to that particular
7 individual?

8 A Correct.

9 Q Okay. Now, that was the known samples. Did you
10 retrieve a piece of physical evidence to be able to compare
11 if there was any DNA from that physical evidence to the known
12 samples?

13 A Yes.

14 Q I want to show you State's Exhibit 84. Do you
15 recognize that?

16 A Yes.

17 Q Now, did you reference in your report that that
18 particular item had been impounded by an officer with the P
19 number 7212?

20 A May I refer to my report just to make sure?

21 THE COURT: Will that help refresh your
22 recollection?

23 THE WITNESS: Yes.

24 THE COURT: You may.

25 BY MR. PESCI:

1 Q That will be the last time I ask a P number, I
2 promise.

3 A You said 7212?

4 Q Yes, 7212.

5 A That is correct.

6 Q All right. So, the officer with that particular P
7 number was written on that item that you retrieved. Inside
8 that envelope with that P number was this particular item,
9 the skull mask?

10 A This was in that package, correct.

11 Q Okay. And then, what did you do with that mask to
12 try to see if you could get any DNA from it?

13 A Okay. Because it's -- because it's a mask, the
14 first thing I did was I cut it open in the back, just to see
15 the whole entire inside. And what I ended up doing, the mask
16 had holes pretty much where your eyes would go and where your
17 nostrils would be. There was no other hole maybe where your
18 mouth could be, but -- there was no hole there. What I ended
19 up doing was swabbing that inside front of the mask around
20 the eyes, around the nose, around possibly where the mouth
21 would have been, and then that swabbing that I took, I
22 processed out for DNA.

23 Q That's the same process you did on the known
24 samples?

25 A It would be the same process, yes.

1 Q Okay. Now, if a mask is on a face, can there be --
2 is it often referred to as a sloughing as skin cells?

3 A We sometimes refer to it as sloughing off skin
4 cells.

5 Q That's how the rubbing could occur, and the cells
6 could get on the actual mask, and then you could find DNA
7 there?

8 A We could test for it, yes.

9 Q You tested for it in this case?

10 A Yes.

11 Q Were you able to get a DNA profile?

12 A Yes, I was.

13 Q All right. Were you able to compare the profile
14 from that mask -- well, was there a mixture in that profile?
15 Was there more than one profile?

16 A Yes. Sometimes with question samples and evidence
17 samples, we don't always get a single source like we would
18 with a reference. In this particular case, I did obtain a
19 mixture which looked like it did come from multiple
20 individuals.

21 Q Now, even with a mixture, can you say if there is a
22 major versus a minor contributor to the mixture?

23 A Yes.

24 Q And what was the result in this case?

25 A In this particular profile, I was able to

1 distinguish a major profile.

2 Q Okay. So, that means you could see who the major
3 profile was?

4 A Correct.

5 Q The minor profile, is it such that you could not be
6 able to identify who that was?

7 A We have thresholds in our lab that allow us to
8 interpret certain data, and the data in -- the extra data, or
9 from the extra -- from the additional contributors did not
10 meet that threshold, so I can't make any conclusions on any
11 minor or trace contributors.

12 Q Okay. So, you couldn't be sure on the minor, but
13 you could on the major?

14 A Correct.

15 Q And then, what was the result when you compared the
16 major profile from the skull mask to the two known samples
17 that you had from Ralph Alexander and James Parker?

18 A The full major profile was consistent with James
19 Parker.

20 Q What does that mean, consistent with?

21 A So, when I get this DNA profile picture, it looks
22 like a series of peaks, and the peaks have associated numbers
23 to them. So, what I'll do is I'll go location by location
24 that we test for and compare the numbers. So, the number at
25 the first location was consistent or matched that of the

1 known reference of James Parker. I continued to do that for
2 each location, and therefore, because each location, the
3 numbers were the same for both the full major and the known
4 reference, we say that it's consistent with James Parker.

5 Q Do you often or sometimes use probability language?

6 A Yes.

7 Q And I said I wouldn't ask any P numbers, but I do
8 want to ask you a different number, so I might need you to
9 look at your report again, with the Court's permission, if it
10 refreshes your recollection.

11 A Okay. May I?

12 THE COURT: Sure.

13 THE WITNESS: Thank you.

14 MR. PESCI: Any objection?

15 MR. SANFT: No.

16 MR. PESCI: No objection from the defense, ma'am.

17 So you --

18 MR. PARRIS: No, Your Honor.

19 BY MR. PESCI:

20 Q I think you have that out. Can you read to me what
21 is the statement that you give as far as the probability in
22 this case?

23 A The probability of randomly selecting an unrelated
24 individual having the DNA profile that is consistent with the
25 full major obtained in the evidence sample was 6.21

1 quintillion.

2 Q What is that number?

3 A Well, if we think about a million has 6 zeros, a
4 billion has 9, a trillion has 12, a quadrillion has 15 zeros,
5 and then you have quintillion, which has 18 zeros. So, what
6 we're saying here is that the probability -- while 6.21 is a
7 very large number, the probability of finding a profile that
8 is consistent with that of the full major in the evidence is
9 one in, which is essentially saying one divided by 6.21
10 quintillion, which is a very small number, which just gives,
11 for us, weight to the evidence.

12 MR. PESCI: Thank you very much. Pass the witness.

13 THE COURT: Mr. Sanft, any cross?

14 MR. SANFT: Yes, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. SANFT:

17 Q What's the definition -- I'm sorry, hold on real
18 quick. Ms. Rubino, hi. What is the definition of a major
19 and a minor contributor?

20 A So, when we look at major and minor, a major is the
21 part of the profile that gives more of the DNA, and a minor
22 or a trace gives less of the DNA.

23 Q So, I'm just going to stand over here, because I'm
24 not quite -- I'm not quite understanding what the difference
25 is anyhow. Is that a matter of volume of, say, for instance,

1 the type of stuff that you're drawing the DNA from; that, you
2 know, there's more of this than that, so therefore, this is
3 major and this is minor?

4 A Well, in this DNA profile, the peaks have certain
5 heights, so the peaks that we're looking at -- when I
6 distinguish a major, I'm looking for the highest peaks in the
7 profile, and they were easily distinguishable in this
8 particular profile. When I'm talking about a minor or a
9 trace component, the peaks for those additional contributors
10 are very low in comparison to that of the peaks of the major
11 contributor.

12 Q Okay. So, if -- if you're looking -- I'm assuming
13 that's some type of graph; is that what it is?

14 A In the chart, correct.

15 Q Chart? And then you've got what looks like a bunch
16 of -- what would these things be called? Waves?

17 A Peaks.

18 Q Okay. And so what you're looking for is the top
19 part of each peak, right, that made you determine which is
20 the major and which is the minor?

21 A Yeah. Each peak in the chart is given the number,
22 and it's also given the peak height.

23 Q All right. So, for instance, even though you may
24 have one profile that keeps hitting the major peaks, there
25 are other potential profiles that are there, they're just

1 hitting minor peaks; is that how that works?

2 A Everything is all relative to a particular profile.
3 For this particular profile, the peaks were substantially
4 higher, and it's relative to the other peaks. So, they're
5 major in relation to all those other peaks that were lower.

6 Q Okay. Can you give us some reasons as to why one
7 DNA profile could have major peaks, while other DNA profiles
8 could have minor peaks?

9 A It would only be major and minor if it was -- if it
10 was a mixture. Sometimes there are no majors. Sometimes you
11 can't distinguish anything, because all the peaks, if they're
12 from 2, 3, 4 people, they're all the same height. So
13 sometimes we can't distinguish, but in this particular case,
14 we could.

15 Q So, your testimony earlier to this jury was that
16 there was a mixture?

17 A Correct.

18 Q And there were multiple people that at some point
19 or another had contact with the inside of that mask, meaning
20 the eyes where you had swabbed, the nose area, and
21 potentially where the mouth was?

22 A Correct.

23 Q Okay. As you sit here today, can you tell this
24 jury as to when the other people potentially touched or wore
25 those -- that mask?

1 A No.

2 Q And that's really not what you're here for,
3 correct?

4 A Correct.

5 Q You're just here to say that there is DNA from Mr.
6 Parker that's on the inside of that mask?

7 A Correct.

8 Q And you don't know when those other people may have
9 used that mask?

10 A Correct.

11 Q Now, in addition to that though, you did find in
12 that package -- as you were preparing that particular item to
13 be swabbed, you did find other material that could have DNA
14 on it; is that correct?

15 A Correct. There were multiple items in the package.

16 Q Okay. And what I mean, the package, we're talking
17 about this specific mask, plus whatever was in there related
18 to the mask; is that correct?

19 A Correct.

20 Q Did you find hair on the inside of the mask?

21 A There were possible hairs that were dislodged from
22 the mask when I was doing my initial examination.

23 Q And of course, you explained to this jury that DNA
24 would be located on a strand of hair?

25 A It could be in the root of the hair.

1 Q Okay. And in this case, did you run any type of
2 DNA comparison to see if the hair matched any particular
3 person?

4 A No.

5 MR. SANFT: I have no further questions, Your
6 Honor. Thank you.

7 MR. PARRIS: No questions, Your Honor.

8 THE COURT: Any redirect?

9 MR. PESCI: Yes.

10 REDIRECT EXAMINATION

11 BY MR. PESCI:

12 Q Why did you not do it with the hair?

13 A Well, once I -- once I noticed there were possible
14 hair from the mask, I looked under a stereo microscope. It's
15 just a larger magnifying glass that allows me to closer see
16 what the hair looks like, because the -- for the DNA testing
17 we do at the laboratory, what we want to look at are the
18 roots, and if we have root material present, that's where the
19 DNA is going to be. When I looked under the microscope, I
20 didn't see anything that would be suitable for our testing.

21 Q So, you looked to try to see if there was another
22 source of DNA, but those particular hairs did not have the
23 root which has the DNA, so you couldn't do it?

24 A Correct.

25 MR. PESCI: Thanks.

1 MR. SANFT: Okay.

2 THE COURT: Any recross?

3 MR. SANFT: Yes, Your Honor.

4 RECROSS-EXAMINATION

5 BY MR. SANFT:

6 Q So, let's make sure for this jury that we
7 understand [inaudible]. The hair that you looked at, can you
8 describe for us that hair?

9 A If I could look at my -- I have notes with me. If
10 I could look at it. I don't --

11 Q Sure, absolutely.

12 THE COURT: Go ahead.

13 THE WITNESS: Thank you.

14 THE COURT: Thank you.

15 MR. PARRIS: Your Honor, just for clarification,
16 are we referring to the report, or notes that are outside of
17 the report?

18 THE COURT: Have you been referring to your report
19 each time?

20 THE WITNESS: Now, yes, but the notes about the
21 hair would be in my notes from my file. It would be outside
22 of the --

23 MR. SANFT: That's fine. That's fine, Your Honor.
24 I'm okay with that.

25 THE WITNESS: It would be outside of the --

1 MR. PARRIS: May we approach?

2 THE COURT: Sure.

3 (Bench conference)

4 MR. PESCI: Sorry I didn't wait. I apologize. I
5 didn't wait for her.

6 MR. PARRIS: I'm not necessarily opposed to her
7 looking at those notes, but I think we would like to see
8 those notes as well. I would assume --

9 THE COURT: Why don't you just go over there and
10 look at them right now?

11 MR. PARRIS: Yeah, and that's -- that's all, I mean
12 --

13 THE COURT: All four of you can go over and look at
14 her notes right now if you want to.

15 MR. PARRIS: Okay, that's all we'd be asking for.

16 MR. PESCI: Thank you, Judge.

17 MR. SANFT: I don't think -- honestly, I'm just
18 going to ask her for a description of the hair. That's all
19 I'm asking for.

20 MR. PESCI: Yeah, she needs to look at it to be
21 able to refresh her memory.

22 MR. PARRIS: Yeah, [inaudible].

23 MR. PESCI: She might not be able to remember.

24 THE COURT: Yeah, she's not going to be able to
25 testify without looking at her notes, is what she said.

1 MR. PARRIS: Yeah.

2 MR. SANFT: No, no, that's fine.

3 THE COURT: She's not going to look at her report;
4 she said she has to look at notes.

5 MR. PARRIS: Well, if it's notes, we --

6 MR. PESCI: We have no objection to be able to look
7 at the notes.

8 THE COURT: Go ahead and look at the notes.

9 MR. PARRIS: Yeah.

10 THE COURT: You can walk right over there and look
11 at them.

12 (End of bench conference)

13 MR. PESCI: Judge, if we -- while we're up here --

14 THE COURT: Oh, sorry.

15 (Bench conference)

16 THE COURT: Sorry.

17 MR. PESCI: I'm sorry. We have three other
18 witnesses still waiting. I don't know how long the witness
19 will go. One of the three we definitely need to do tonight.

20 THE COURT: Okay.

21 MR. PESCI: So, if we can, if we -- if we're
22 approaching 5:00, if we can maybe go a little bit later than
23 5:00. I don't think that's going to happen; depends on your
24 cross.

25 THE COURT: Are you going to call that witness

1 next?

2 MR. PESCI: Yes.

3 THE COURT: Who is it?

4 MR. PESCI: It's a woman who's actually from the
5 nail salon, Briauna Williams. She said she had school so she
6 could only come after 3:30, so we had to work on a day that
7 was good for her, so.

8 THE COURT: Okay.

9 MR. SANFT: Giancarlo, I'll be like one more
10 question [inaudible].

11 MR. PESCI: Okay.

12 THE COURT: Okay.

13 MR. PARRIS: Okay.

14 THE COURT: All right.

15 (End of bench conference)

16 THE COURT: At this time, I'm going to allow the
17 attorneys -- the notes that are in your file, the attorneys
18 have the right to see those, so they're all four I think
19 going to come over, and they can approach the witness and
20 look at her notes. So, if you could just identify the notes
21 that you're referring to.

22 MS. KILLER: Your Honor, do you mind if I come up
23 here [inaudible]?

24 THE COURT: Not at all.

25 MS. KILLER: We don't want to surround you, but --

1 MR. PESCI: Do you feel a little pressure?

2 THE WITNESS: So, these are --

3 MR. PARRIS: Breathing down your neck.

4 THE WITNESS: These are my electronic notes from my
5 serological examination. These are of the reference
6 standards, and it just contains all of the information here,
7 and this is of the actual evidentiary item.

8 And so I have here the one item, which was the
9 skeleton mask, the swabbing from the inside of the mask, and
10 all of my notes. And then here are the dislodged hairs. So,
11 I note here, when moving around, the short hairs were
12 dislodged onto that bench surface, and they were visualized
13 under a stereo microscope. Two of them had blunt cut like
14 ends, and the third appeared frayed at one end, and none of
15 the three appeared to be suitable for further testing.

16 MR. SANFT: Okay.

17 THE WITNESS: I packaged them, and that was it.

18 MR. PARRIS: May I?

19 THE WITNESS: Sure.

20 (Pause in the proceedings)

21 MR. PARRIS: Is this the only set of notes?

22 THE WITNESS: [Inaudible] that's what I have, yes.

23 MR. PARRIS: Okay, okay. Thank you.

24 THE WITNESS: You're welcome.

25 THE COURT: Mr. Parris, are you now satisfied?

1 MR. PARRIS: Yes. Thank you, Your Honor.

2 THE COURT: Okay. And any objection?

3 MR. PARRIS: No, none, Your Honor. Thank you.

4 THE COURT: Okay. You may proceed.

5 MR. SANFT: All right.

6 BY MR. SANFT:

7 Q Ms. Rubino, my question specifically is the
8 description of those hairs. Can you describe for us what
9 they looked like?

10 A Yes. So, I -- when I opened the mask, three small
11 hairs -- three short hairs, I have here approximately six
12 inches or less, were noted, and they fell on the bench top.
13 What I ended up doing was taking them and observing them
14 under the stereo microscope, like I said. Two of them looked
15 like they had blunt ends, so as if -- so, possibly, as if
16 when you get your hair cut, those blunt ends that you see.
17 The other one had kind of a frayed end, and to me, it didn't
18 have any material that I thought would be suitable for DNA
19 testing.

20 Q Okay. So, with regard to those hairs, the length
21 of those hairs you're saying were less than six inches?

22 A Yes, six inches or less.

23 Q Okay. And with regards to those hairs in terms of
24 the length, that's based upon your looking at it? Did you
25 ever --

1 A It's approximation, putting it against a ruler.
2 So, I have all three cumulatively were about six inches or
3 less.

4 Q Okay. And once again, I'm just -- this is about
5 six inches right here? Okay, about [inaudible]. I'm just --
6 for the record, you just estimated what you believe is about
7 six inches?

8 A Could be possibly, yes.

9 MR. SANFT: Okay, no further questions.

10 THE COURT: Mr. Parris?

11 MR. PARRIS: No, Your Honor. Thank you.

12 THE COURT: Anything else from the State?

13 MR. PESCI: No, thank you.

14 THE COURT: Okay. Thank you very much for your
15 testimony here today.

16 THE WITNESS: Thank you.

17 THE COURT: You may step down. You're excused from
18 your subpoena. Thank you for being here. You may call your
19 next witness.

20 MR. PESCI: State calls Briauna Williams.

21 THE MARSHAL: And if you will please step up into
22 the witness stand, remain standing, raise your right hand,
23 and face the clerk, please.

24 BRIAUNA WILLIAMS, STATE'S WITNESS, SWORN

25 THE CLERK: Thank you. Please be seated. Could

1 you please state your name and spell it for the record?

2 THE WITNESS: Briauna Williams. B-r-i-a-u-n-a,
3 W-i-l-l-i-a-m-s.

4 THE CLERK: Thank you.

5 THE COURT: Thank you. You may proceed.

6 MR. PESCI: Thank you.

7 DIRECT EXAMINATION

8 BY MR. PESCI:

9 Q Ma'am, I want to direct your attention to June the
10 26th of this year. Did you go to the LV Nails Spa at 4430
11 East Charleston?

12 A Yes.

13 Q Were you there in the evening hours?

14 A Yes.

15 Q Were you having -- was it your eyebrows that were
16 being done?

17 A Yes.

18 Q Okay. What happened while that was being done?

19 A Two guys came in and robbed the place.

20 Q Okay. When the two guys came in and robbed the
21 place, was anything taken from you?

22 A Yes, my wallet.

23 Q Your wallet?

24 A Um-hum.

25 THE COURT: Is that a yes?

1 THE WITNESS: Yes.

2 THE COURT: Thank you.

3 BY MR. PESCI:

4 Q They're recording everything, so it's just so it's
5 a clear answer one way or the other.

6 A Okay.

7 Q You said your wallet was taken. Did you have any
8 money in that wallet?

9 A Yes.

10 Q Did you have any identification in the wallet?

11 A Yes.

12 Q And how about any credit cards?

13 A Yes.

14 Q And those things were all taken from you?

15 A Yes.

16 Q Were they taken from you by the two individuals?

17 A Yes.

18 Q Can you describe those two individuals?

19 A Well, the one, he had on a mask, so I can't really
20 describe him. The other one, he had nappy hair pulled to the
21 back in a ponytail.

22 Q Okay. Let's start with the first one with the
23 mask. Can you describe the mask?

24 A It was a white mask. It was like long in the
25 front, and it looks kind of like a Scream mask.

1 Q Like a Scream mask?

2 A Yes.

3 Q That movie, Scream?

4 A Yeah.

5 Q Okay. And then, switching to the other person, you
6 talked about a ponytail?

7 A Um-hum.

8 THE COURT: Is that a yes?

9 THE WITNESS: Yes.

10 MR. PESCI: All right, you're doing great.

11 THE WITNESS: Sorry.

12 BY MR. PESCI:

13 Q Is there anything else about that person with the
14 ponytail that you can remember?

15 A He was brown-skinned. He had a bandana around his
16 face, a black one.

17 Q Okay, so a bandana?

18 A Yeah.

19 Q And then, were these males or females?

20 A Males.

21 Q Okay. The first one with the Scream mask, could
22 you tell if he was white, black, or Hispanic?

23 A He was black.

24 Q Okay, so both of the individuals were?

25 A Black.

1 Q Okay. And then, that -- those items that were
2 taken from you, was there anything said to you to make you
3 give over that item?

4 A They demanded for everyone to give them they stuff.

5 Q How did they demand it?

6 A He was just like, it's a robbery. That's what he
7 said when he first came in, and then he -- that's the one
8 with the black bandana; that's what he said.

9 Q Okay.

10 A And he demanded for the owner to open up the
11 drawer.

12 Q What did the owner do?

13 A She -- like, first, she didn't want to open the
14 drawer, and then he was like, don't make me shoot you over no
15 stupid shit. And she opened up the drawer, and she was like,
16 do you want checks, too, and he said no. And then, at that
17 point, he like -- he walked on the other side of me, and he
18 made the owner get on the floor, and that's when he took my
19 wallet, and he walked back with the other guy that had the
20 Scream mask on.

21 Q Okay.

22 A He was on the other end. And he like grabbed
23 everyone's stuff, and the guy that had on the bandana, he
24 walked back down that way to the other -- the far end, and he
25 asked the other -- I'm not sure if he the owner, but the

1 Asian guy, he asked him, you know, if he had any money or
2 anything, and he said no.

3 Q Was that -- you said an Asian guy?

4 A Yeah, I think he's the owner, too. I'm not sure.

5 Q All right, so when you said the owner, the first
6 one, was that a male or a female?

7 A The first one that was doing my eyebrows, she was a
8 woman.

9 Q Okay. And then you just spoke about an employee
10 you think might be the owner; it was a male?

11 A Yes.

12 Q And then there was a demand made from that male for
13 money?

14 A Huh?

15 Q My apologies. I thought I heard you say that they
16 asked the male owner for some money.

17 A Yeah, they did.

18 Q And what happened?

19 A And he didn't have any money to give them, and --

20 Q In any of this event, did you ever see a gun?

21 A Yes. They had two guns.

22 Q You saw to guns?

23 A Yes.

24 Q Where were the guns? Who had the guns?

25 A The one guy with the black -- I mean with the white

1 mask, he had the black gun; and the other guy that had the
2 bandana, he had the gun with the brown handle.

3 Q Okay. Do you remember if you saw gloves on any of
4 these individuals?

5 A I can't remember.

6 Q It's okay. After these items were taken, did you
7 see where they went?

8 A They ran towards the beauty supply.

9 Q Did they exit the store?

10 A Yeah, yeah, they left out.

11 Q Did they exit together?

12 A Yes.

13 Q Okay.

14 MR. PESCI: Thank you. We'll pass the witness.

15 THE COURT: Mr. Sanft, any cross?

16 MR. SANFT: Yes, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. SANFT:

19 Q I'm sorry, it's Ms. Williams?

20 A Yeah.

21 Q All right. Ms. Williams, were you there with
22 anybody; any of your friends?

23 A No.

24 Q By yourself?

25 A Yes.

1 Q All right. And in the nail salon on that
2 particular day, do you recall how many people were in there
3 getting some type of service done?

4 A I think probably about six.

5 Q Six people?

6 A I think about six.

7 Q All right, that's fine. Do you recall, did
8 everyone get robbed?

9 A No, there was one girl that didn't get robbed.

10 Q Who did not get robbed?

11 A It was a black lady. She was the one that was on
12 the far end. She was getting her nails done by the Asian
13 guy.

14 Q Okay. And why didn't she get robbed?

15 A I don't know.

16 Q Do you know -- how did you know that she did not
17 get robbed?

18 A Because I saw. She -- he -- the guy that had the
19 bandana on, when he walked down that way, she went to hand
20 her stuff, and he was like, no, baby girl, you all right, and
21 that was it.

22 Q Okay. He said, no, baby girl, you're all right,
23 and then continued to rob everybody else?

24 A Um-hum.

25 Q Is that a yes?

1 THE COURT: Is that a yes?

2 THE WITNESS: Wait, at that point -- no, at that
3 point, that's when he left out this door. That's when they
4 end up leaving.

5 BY MR. SANFT:

6 Q Okay, so she's about ready to hand over her stuff,
7 and he says, no, baby girl, you're all right, then turns and
8 walks out of the store?

9 A Yeah.

10 MR. SANFT: Okay, no further questions.

11 THE COURT: Mr. Parris?

12 CROSS-EXAMINATION

13 BY MR. PARRIS:

14 Q Ms. Williams, you had indicated that your wallet
15 was taken in this robbery, correct?

16 A Um-hum.

17 Q Is that a yes?

18 THE COURT: Is that a yes?

19 THE WITNESS: Yes, sorry.

20 MR. PARRIS: No worries.

21 BY MR. PARRIS:

22 Q And in that wallet, you had referenced that you had
23 some debit cards and/or credit cards, correct?

24 A Yes.

25 Q How many debit cards or ATM cards did you have in

1 your wallet?

2 A It was just one.

3 Q One? And regarding that ATM card, did you report
4 that as stolen shortly after this incident?

5 A It was a prepaid card. No, I didn't.

6 Q Okay. So, you never reported that to whomever
7 issued that card then?

8 A No.

9 Q Okay. Regarding -- did you have credit cards in
10 there also?

11 A No, just -- just -- it was just a prepaid debit
12 card.

13 Q Okay, and then cash and other identification,
14 correct?

15 A Yeah.

16 Q Okay. Regarding that prepaid card, is there any
17 way for whomever issued it to you to contact you about it?

18 A I can probably get in touch with them.

19 Q Okay, but no one has gotten in contact with you
20 since this incident regarding whether that card was used,
21 correct?

22 A No.

23 MR. PARRIS: Thank you. Nothing further.

24 MR. PESCI: No, thank you, Your Honor.

25 THE COURT: Thank you very much for your testimony

1 here today. You may step down. You're excused from your
2 subpoena. Thank you for being here, Ms. Williams. You may
3 call your next witness.

4 MR. PESCI: State calls Officer Walburn.

5 THE MARSHAL: I'm sorry?

6 MR. PESCI: Officer Walburn.

7 MS. KILLER: I believe it's Damian. Your Honor,
8 may I approach to get photos?

9 THE COURT: You may.

10 THE MARSHAL: If you'd please step up into the
11 witness stand, remain standing, raise your right hand, and
12 face the clerk, please.

13 THE CLERK: Please face me. Thank you.

14 DAMIAN WALBURN, STATE'S WITNESS, SWORN

15 THE CLERK: Thank you. Please be seated.

16 THE WITNESS: Thank you.

17 THE CLERK: Could you please state your name and
18 spell it for the record?

19 THE WITNESS: Damian Avery Walburn. D-a-m-i-a-n,
20 A-v-e-r-y. Last name is W-a-l-b-u-r-n.

21 THE CLERK: Thank you.

22 MS. KILLER: Officer Walburn, just a moment while I
23 grab some maps.

24 THE COURT: Is it detective or officer?

25 THE WITNESS: I'm an investigator at Northeast,

1 ma'am.

2 THE COURT: Okay.

3 THE WITNESS: Thank you.

4 DIRECT EXAMINATION

5 BY MS. KILLER:

6 Q Shall we call you investigator? Is that easiest,
7 or --

8 A Officer's fine. Thank you.

9 Q Officer Walburn, were you employed with the Las
10 Vegas Metropolitan Police Department on July 9th of 2015?

11 A Yes, ma'am, I was.

12 Q And how long have you been employed with Metro
13 total?

14 A 18-and-a-half years.

15 Q All of those as a patrol officer and investigator,
16 or --

17 A And a detective in a gang unit. Yes, ma'am.

18 Q So, you've had multiple roles within Metro?

19 A Yes, ma'am.

20 Q On that day, did you respond to a call at the
21 Family Dollar at 4365 East Lake Mead Boulevard?

22 A Yes, ma'am, I did.

23 Q Showing you State's Exhibit 43, is that a map of
24 the area?

25 A Yes, ma'am.

1 Q And that orange or red dot, is that where the
2 Family Dollar is located?

3 A Yes, ma'am.

4 Q Or, I'm sorry, I guess I shouldn't have phrased it
5 respond to a call. Were you in the area of the Family
6 Dollar?

7 A Yes, ma'am.

8 Q And did something occur that drew your attention
9 around 8:30 in the morning?

10 A Yes, ma'am.

11 Q If you touch that screen, it will make a mark for
12 the jury where you're drawing. Can you describe for us what
13 drew your attention and where you were traveling?

14 A Should I touch the monitor as I move with a
15 directional?

16 THE COURT: Sure.

17 MS. KILLER: Sure.

18 THE WITNESS: Okay. Thank you, Judge. Ladies and
19 gentlemen, my partner and I work as a plain clothes
20 undercover unit in Northeast Area Command, which is where
21 this store is facilitated. We were driving eastbound here on
22 Lake Mead from Lamb Boulevard, and right about here, we
23 noticed two gentlemen that are seated in the courtroom today
24 walking northbound towards the Family Dollar Store. And as
25 they came to the front of the location, which is where I

1 stopped the directional with my finger, we continued.

2 We observed them looking back and forth over their
3 shoulders very frantically, and it was very suspicious in
4 nature. As we continued to go eastbound, my partner and I
5 both said to each other that something didn't look right, the
6 way their mannerisms were. And over my shoulder, I looked
7 back. Both of the gentlemen had stopped on the corner of the
8 store, talked to each other, continued to look around, and
9 then went into the store.

10 BY MS. KILLER:

11 Q Let me stop you there, Officer. Sorry, I'm missing
12 my technology assistant at the moment.

13 MS. KILLER: Kris, can you wait just a minute
14 before you switch it so I can pull up the right file folder?

15 THE COURT RECORDER: Sure.

16 MS. KILLER: Thank you. I apologize, ladies and
17 gentlemen. Just let me grab Mr. Pesci.

18 (Pause in the proceedings)

19 MS. KILLER: Please forgive my lack of technology
20 skills, everyone.

21 THE COURT: You're okay.

22 MS. KILLER: Okay, you can switch it now.

23 BY MS. KILLER:

24 Q As per the investigation, did you become aware that
25 Family Dollar had video surveillance?

1 A I was never aware until I actually left the scene
2 that there was video at the property. I never went inside to
3 view any, ma'am.

4 Q Eventually, you learned of it though?

5 A Yes, ma'am, I did.

6 Q Okay. And did you have an opportunity to briefly
7 review the surveillance before you came to testify today?

8 A Yes.

9 Q We're going to play a clip, and if you could just
10 describe for us and let us know if that was the -- what we're
11 seeing is what you were observing on July 9th.

12 A Yes, ladies and gentlemen, it is.

13 Q Are those the individuals you were referring to?

14 A Yes, ma'am, it is.

15 Q And when you said they were looking around, is that
16 what we just saw there?

17 A Yes, ma'am, it is.

18 Q And we saw them enter the store. Do you see those
19 two individuals here in the courtroom today?

20 A Yes, ma'am, I do.

21 Q Can you point to them and identify an article of
22 clothing they're wearing?

23 A Yes, ma'am. The gentleman in the tie with the gray
24 slacks and the dark shoes, with his hands folded on the end.
25 The gentleman in the shirt and tie here with his hand on his

1 face.

2 THE COURT: The record reflect he has identified
3 both defendants.

4 MS. KILLER: Thank you.

5 BY MS. KILLER:

6 Q And I'm sorry, I'll let you get back to your map
7 and what you were showing us. So, I believe you've drawn
8 your line across Lake Mead. When you observed that, you
9 turned around. I assume this is an unmarked car? It's not a
10 patrol car as we normally think of with the black and white
11 labels and the sirens, correct?

12 A Ladies and gentlemen, we operate in a gold Chevy
13 Silverado. I'm not sure of the year. It's got a toolbox in
14 the back and the windows are tinted. It is a plain vehicle,
15 and we operate in the clothing capacity that you saw me enter
16 the courtroom today. I wear jeans and a t-shirt or a jacket
17 each day, and I'm identified by LVMPD hang badge, as well as
18 raid jackets at times, which are yellow in color and say
19 "Police" on them.

20 Q After you turned around, what did you do?

21 A I'm going to put this back up because I'm old and I
22 need a reference here.

23 Q My apologies.

24 A As we were going eastbound here on Lake Mead and we
25 observed the two gentlemen that I've identified in the

1 courtroom, they're in front of the Family Dollar. As I said,
2 my partner and I both felt that something wasn't right by
3 their mannerisms, by the way they were looking back and forth
4 over their shoulders and around in the immediate area.

5 We conducted a u-turn, and a vehicle was pulling
6 out, almost hit us, so we had to slow down, and I directly
7 started to look at the building again and saw that they had
8 gone inside. Once we came in the u-turn, we pulled into the
9 parking lot. And without blowing this up, we actually pulled
10 into the parking lot to the front of the store --

11 Q Officer --

12 A -- and --

13 Q I think if I put 49 up, does that depict the area?

14 A Yes, ma'am. And I don't know if I can mark this.

15 Q You can.

16 A We actually backed into this stall right here that
17 I've put an X on, and we actually watched the front of the
18 Family Dollar, and had a view partially inside through the
19 clear glass windows that were lit.

20 Q And showing you State's 50, are those the windows
21 that you were looking through?

22 A Yes, ma'am, it is.

23 Q And we took away your line again. I apologize.
24 When you saw the defendants before they went inside the
25 store, could you see if they were speaking to each other at

1 all?

2 A I didn't see their lips moving, ma'am. I just saw
3 them -- their mannerisms, looking over their shoulders back
4 and forth. One would presume, but I don't know if they were
5 speaking or not.

6 Q They were walking together?

7 A Yes, ma'am.

8 Q And by their mannerisms, interacting with each
9 other?

10 A Yes, ma'am, that is correct.

11 Q Once they entered the store, did you continue to
12 remain outside and observe?

13 A Yes.

14 Q Okay. The robbery as you've described, did it
15 occur immediately, or did it occur a few minutes -- not
16 minutes, but a little bit after they entered the store?

17 A For clarification, ladies and gentlemen, from the
18 time that I observed both of the gentlemen walking from the
19 area to the side, or from behind the Family Dollar to the
20 front and go inside, from the time that we actually did -- or
21 conducted the u-turn and came back and parked into the
22 parking lot, it was less than two or three minutes. It
23 happened all within a matter of seconds.

24 Q Okay. Could you -- I guess my question would be
25 better phrased as, when they entered the store, could you see

1 them the whole time, or did they disappear briefly and then
2 come back into view?

3 A They disappeared briefly, and then they did come
4 back into view towards the front of the store, ma'am.

5 Q When they came back into view, did they have
6 anything on their faces?

7 A Yes, ma'am, they did.

8 Q When they were outside, did they have anything on
9 their faces before they entered the store?

10 A No, ma'am, they did not.

11 Q When they came back in, what, if anything, did they
12 have over their faces?

13 A When I observed the individuals at the interior of
14 the Family Dollar, the taller of the two gentlemen had on a
15 black overgarment with what appeared to be a white skull face
16 concealing his face. The shorter of the two gentlemen had a
17 dark-colored mask over his face.

18 Q The person you described with the skull over his
19 face you said was the slightly taller, I believe, or the
20 slightly larger?

21 A Yes, ma'am. There were two distinct sizes with the
22 gentlemen that I observed. One was shorter, one was taller.
23 The one that was taller had the mask with the skull on the
24 front, and it was a white skull, so it stood out.

25 Q Did you see -- the man who had the dark mask or

1 item over his face, the second person you described, did you
2 see what he was wearing?

3 A I don't recall the exact clothing at the time. The
4 one thing that I did observe, however, was that the shorter
5 male with the face concealed, I could see in his hand was a
6 dark-colored handgun.

7 Q Did you know if his clothing was lighter or darker,
8 or the same color as the other's?

9 A I recall that the shorter gentleman had on a
10 lighter-colored top.

11 Q Okay.

12 A I'm sorry.

13 Q And that was the man that you observed with the
14 handgun?

15 A Yes, ma'am, the gentleman that was shorter.

16 Q And the -- the person with the skull mask, you did
17 not see him gun with (sic)?

18 A No, ma'am.

19 Q Once you saw that -- those two individuals inside,
20 could you observe what was happening between them and the
21 store employees?

22 A The mannerism of the employee that was behind the
23 counter, who I would presume to call a clerk, was hysterical
24 and moving around back and forth. The shorter male that I've
25 identified in the courtroom that I observed with a handgun

1 with his face concealed was behind the counter area in that
2 immediate area. The taller man with the face concealed by a
3 skull mask was walking back and forth in the front of the
4 store, and at one point, he had actually stopped and stared
5 out at us in our unmarked patrol vehicle.

6 Q You had just referenced the people you had
7 identified earlier. Just for the jury's clarification, do
8 you mind telling us which one was the person wearing the
9 skull mask, and which one was the shorter man with the gun?

10 A Yes, ma'am. The gentleman that's sitting directly
11 in front of me closest to you was the gentleman that I saw
12 with the skull mask on his face. The gentleman on the far
13 right was the person that I observed with the handgun and the
14 dark concealment over his face.

15 MS. KILLER: And Your Honor, for the record, can
16 the record reflect that the detective identified Mr. Parker
17 as the person with the skull mask, and Mr. Alexander as the
18 person with the gun?

19 THE COURT: So reflected.

20 MS. KILLER: Thank you.

21 BY MS. KILLER:

22 Q You had just mentioned that the suspect -- or the
23 defendant with the skull mask at some point looked up at you
24 and appeared to see you?

25 A Yes, ma'am.

1 Q And at that point, what did you observe them doing?

2 A At that point, it seemed like there was a brief
3 pause, where the subject with the skull mask -- it was almost
4 like he was frozen, looking at us. Then he immediately
5 looked over his shoulder towards the other suspect, and I
6 couldn't see any communication with their lips, but their
7 body language told me that he had said he thought someone was
8 outside. I don't know if he thought we were police or not,
9 but immediately, they disappeared towards the south part of
10 the store, where I presumed and later located a rear exit
11 door to the premise.

12 Q When they disappeared towards the south end of the
13 store, what action did you take?

14 A I ordered my partner to take a perimeter position
15 to the front of the store and guard the point of entry to the
16 front of the premise. I had also called for additional
17 support with air and canine, and additional units as to the
18 behaviors and mannerisms that I see going on within the
19 store, and that I did in fact through my training and
20 experience believe that this was armed robbery. I told my
21 partner that I was going to take a position at the rear of
22 the store in hopes of containing this dynamic incident.

23 Q And showing you State's 46, it's a closer view of
24 what we've been looking at on the map. Can you show us where
25 you went from the front parking lot to your next position?

1 A Can you pull the picture itself down towards the
2 bottom just a little? Okay, thank you.

3 Q I can, but I think it cuts off what you're trying
4 to point out. I apologize. Hold on, I have another that
5 might work. Showing you State's 45.

6 A Thank you. This area -- and I apologize, is there
7 a way to erase that?

8 Q Yes.

9 A We were parked here. My partner stayed with the
10 vehicle to keep containment on the front of the store.

11 Q And your partner's name?

12 A My partner's name is Officer Blaine Martell. I ran
13 and took a wide angle around this corner, and as I started to
14 perceive the doorway, I noticed that the angle that I took to
15 the door was actually somewhat blocked because there was a
16 retaining wall there which facilitated a large dumpster. In
17 between the dumpster and the retaining wall, there's about a
18 12 to 18-inch gap between that and the store itself.

19 So, obviously, I had to take a wide angle, and the
20 reason that I did this was for my own safety, because I had
21 observed a firearm inside and now I'm running to take
22 containment. My presumption was that they were going to the
23 rear of the store and possibly were going to exit, and I
24 didn't want to just run up on someone that was armed and
25 dangerous with a handgun. That's why I took a wide angle.

1 From this position, I immediately started to come
2 towards the rear door, and the rear door kicked open at that
3 time. Want me to keep going, ma'am?

4 Q I'm actually going to -- we'll leave your red up
5 there so you don't lose it.

6 A Okay.

7 Q But showing you State's 58, I'll set it below it,
8 is -- behind the patrol car there, is that the wall area that
9 you were discussing?

10 A Yes. And I don't know how tall it is, ladies and
11 gentlemen, but it is a block wall made out of cinder block,
12 and I don't recall where the dumpster -- it was. I don't
13 know if it was behind it or in front of it. But where the
14 wall is miscolored where it's been painted over for graffiti
15 abatement, the door is on the backside of that wall. If you
16 see the top light on the back of the building, directly under
17 that light is where the rear door is, which would --

18 Q Showing you 59, does that give you a better angle
19 to --

20 A Yes, ladies and gentlemen. This is the rear exit
21 door that both gentlemen ran out.

22 Q Sorry. And that's 60. Those are the rear exits of
23 the building as well?

24 A This is the only rear exit that I know of, ma'am.
25 I don't know what this other door is.

1 Q Okay. And we'll go back to your map so you can
2 show us where you went next.

3 A As the subjects exited --

4 THE COURT: Is there a question?

5 MS. KILLER: No, there's not -- if we clear it, it
6 clears the whole screen, correct?

7 MR. PESCI: Yes.

8 THE COURT: Sure.

9 MS. KILLER: Okay, so --

10 THE WITNESS: It's okay if you want to clear it. I
11 can --

12 MS. KILLER: We'll just have everyone ignore the
13 circle.

14 THE WITNESS: Yes, ma'am. If you want, go ahead
15 and clear it, and I'll fix it.

16 MS. KILLER: Okay, thank you.

17 THE WITNESS: Okay. Sorry, ladies and gentlemen.
18 Just for clarification, this was my angle that I came in.
19 When the subjects came out the back door, the first subject
20 that I observed was the shorter of the two, with the handgun
21 in his right hand, with his face concealed. I immediately
22 started to say, please drop the gun or I'm going to shoot. I
23 gave my intent.

24 Side by side with him was the taller male, and he
25 appeared to be carrying something large. I don't know if it

1 was a bag, or a jacket, or something like that, but when I
2 gave the verbal commands to drop the gun or I will shoot, I
3 kept saying to get on the ground, get on the ground, get on
4 the ground, the taller of the two males started to go to the
5 ground.

6 I recall the taller of the two shed something off
7 of his person, then run through the dirt area, and come to
8 this wall, where he would later, within seconds, jump over
9 this wall and run in a southbound direction down this
10 sidewalk, and run southbound from the store itself, shedding
11 clothing.

12 BY MS. KILLER:

13 Q And Officer, I'm going to show you State's 64. Is
14 that the wall we were just discussing?

15 A It is, and where I'm going to mark this X, this is
16 where the taller of the two gentlemen hopped over the wall,
17 and then ran southbound in this direction here.

18 Q And for the record, it appears to be brown-colored
19 portion near the left edge of the photograph. Where did the
20 shorter -- the individual you saw with the gun go?

21 A I'm going to make a circle here, and you're going
22 to see a white area that looks like a gate, which is actually
23 what it is. It's a point of entry that actually goes inside
24 this residential area. And after I'd given an order to drop
25 the gun, go to the ground, the shorter male stood back up and

1 started running again with a handgun in his right hand, and I
2 continued chasing through this gate, where he actually went
3 through the gate and southbound down that street.

4 MS. KILLER: And then if we could clear that.

5 THE WITNESS: Just to be clear, ladies and
6 gentlemen, the taller male didn't just run off on his own,
7 and then I stayed with the shorter male. This both happened
8 at the same time, and it was very dynamic. They were both
9 running at the same time.

10 However, they had slowed, and before I gave another
11 order to drop the gun with my intent to shoot, I used
12 preclusion, and I thought that they were actually going to
13 give up at that time. Within seconds, the tall subject went
14 down this sidewalk, what I recall, shedding clothes. The
15 second subject came through that POE, or point of entry,
16 which is the gate here, and started to run westbound on
17 Stockbridge with me in hot pursuit.

18 BY MS. KILLER:

19 Q At that point, were other officers responding to
20 the area to pursue both suspects?

21 A To answer that question, I could hear lights and
22 siren -- or not -- I couldn't hear the lights. I could hear
23 the sirens coming, they were getting louder, so I knew that I
24 had help coming. And I was trying to be clear and concise on
25 the radio to walk people in because he was still armed, and

1 also give a directional on the other subject, because I had
2 no idea where he was going, and I did not know in fact if he
3 was armed and dangerous as well. I still knew that my
4 partner was at the front of the location, and I didn't know
5 if he was behind me or if he was still out front.

6 Q Did you stay with the shorter individual with the
7 gun that you've identified as the defendant on the far right
8 of the table?

9 A Yes, ma'am, I did stick with the armed and
10 dangerous subject.

11 Q And from this point, what happened and where did
12 you go?

13 A As we came through this gate, I again said, drop
14 the gun or I'm going to shoot you. He started to round this
15 corner, and I started to take a wide angle again, because I
16 didn't know -- through my training and experience as an
17 officer, there's been a lot of ambushes lately. I didn't
18 want to just run up around that corner. I then observed that
19 male with the handgun in his right hand turn back in my
20 location, and continue to run westbound, with me running
21 behind him this way.

22 Q As you continued to pursue him, at any point, did
23 he turn towards you with the weapon?

24 A Yes.

25 MS. KILLER: Can we clear?

1 THE WITNESS: As the subject went southbound
2 through this point of entry through the gate, and began to go
3 westbound on Stockbridge Street, the subject with the handgun
4 in his right hand turned back and looked, and his hand and
5 firearm came back in my direction. This is after twice where
6 I've identified myself, ordered him to drop the weapon, and
7 go to the ground. He still refused to drop the weapon; still
8 possessed not only the means within his hand, but the ability
9 to cause harm on me.

10 BY MS. KILLER:

11 Q When you say you identified yourself, do you mean
12 as a police officer?

13 A Yes, ma'am.

14 Q Okay. And when he turned around with the gun in
15 his hand, was the gun pointed at you?

16 A It was in my direction. Yes, ma'am.

17 Q And at that point, did you feel that the suspect
18 could or would shoot at you?

19 A Absolutely.

20 Q So, it caused you --

21 MR. SANFT: Objection, leading.

22 THE COURT: I didn't even hear a question.

23 MR. SANFT: Oh, it's going to happen.

24 THE COURT: You have a crystal ball?

25 MR. SANFT: Psychic. Psychic, Your Honor.

1 THE COURT: I didn't hear your question.

2 MS. KILLER: I was actually stopping myself in the
3 middle of a word to rephrase, so.

4 BY MS. KILLER:

5 Q As a result of the situation and your impression of
6 what he was going to do, did you raise your gun or fire upon
7 him?

8 A My gun was in fact raised with my finger on the
9 trigger, running after him. I chose to use preclusion and
10 prudence due to the fact that there was a vehicle moving down
11 that street at the same time of that foot pursuit, and I
12 observed a man standing in the roadway, and had I missed that
13 subject with the firearm, I could have accidentally shot
14 someone else. And being accountable for the round, I chose
15 not to fire my weapon.

16 Q That car you saw, can you describe it, if you
17 remember any details about it?

18 A I only recall a goldish-colored vehicle, and I
19 recall a female that appeared to light-skinned. She could
20 have been white, she could have been Hispanic, I don't know,
21 but it appeared to be a white female to me in a
22 goldish-brownish-colored car.

23 Q Let's switch -- now showing you State's 44, does
24 this map depict the entire housing development south of the
25 store?

1 A Yes, ladies and gentlemen, it does.

2 Q Once the defendant had pointed the weapon at you,
3 you told us you chose not to fire, did he then continue
4 fleeing from you?

5 A Yes.

6 Q Okay. Can you describe for us where your pursuit
7 went from there?

8 A Through the gate, westbound on Stockbridge, he then
9 went all the way to the end of the street and started to go
10 southbound in between the house and the wall that borders to
11 Lamb Boulevard, which is the long street in the map.

12 Then, I started to take a tactical angle on the
13 north side of the street so I could -- we have a technique
14 called cutting the pie. So, like I said, with the ambush, I
15 didn't just run up through there. I tried to go across the
16 street so I could actually see around a parked vehicle that
17 was there, around a tree, and eventually, around the premise.

18

19 And it was at that time that I saw my partner,
20 Officer Blaine Martell, come to this area where I made that
21 dot. And the reason that I could see him was at the end of
22 Stockbridge, as it goes out onto Lamb Boulevard, you actually
23 can't ingress or egress onto it. There's actually a gate
24 there, and I don't know if it's locked or fixed or not, but
25 you can actually see through to the traffic, both pedestrian

1 and vehicle, and I knew he was there.

2 And at that time, I slowed it down. It's a tactic
3 we use just to kind of walk in the rest of the officers with
4 the air and a canine, set a perimeter, and give the
5 directions on what I saw, and eventually, the subjects were
6 taken into custody by assisting units.

7 Q Okay. So, you were unable at that point to
8 personally continue to pursue the suspect down Lamb
9 Boulevard, but you later observed and learned that he was
10 taken into custody by other officers?

11 A Yes, ladies and gentlemen, that's correct.

12 Q When --

13 MS. KILLER: Could we clear it? Sorry.

14 BY MS. KILLER:

15 Q When he was taken into custody by other officers,
16 did you later do -- I guess it would be a show-up. Did you
17 go observe the suspects in custody?

18 A Yes, ladies and gentlemen, I did. We conducted a
19 show-up with both subjects that I've identified in court as
20 the subjects that I saw prior to the violent incident in the
21 Family Dollar, and also running from our position from the
22 Family Dollar.

23 Q Did you view those people individually?

24 A Yes, I did.

25 Q The -- so both defendants -- you were shown -- both

1 suspects that the other officers detained, you went and
2 viewed individually?

3 A Yes, ma'am.

4 Q And those two people were the same two people you
5 saw enter and rob the Family Dollar?

6 A Yes, ma'am.

7 Q Okay, and are those the same two people you've
8 identified for us here in court today?

9 A That is correct, ladies and gentlemen. Going back
10 to the second -- the second individual with the mask -- the
11 skull mask, as I believe you've described it, showing you
12 State's 84, is that the mask you -- is that the mask you saw
13 him wearing?

14 A Yes, it is.

15 MS. KILLER: Court's indulgence.

16 (Pause in the proceedings)

17 MS. KILLER: No further questions.

18 THE COURT: Cross?

19 CROSS-EXAMINATION

20 BY MR. SANFT:

21 Q Investigator Walburn, your testimony was that you
22 were following the two individuals out of the store, chasing
23 after both of them at the same time; is that correct?

24 A Yes.

25 Q And you're running across this dirt field as

1 they're both heading in the general direction of a
2 development?

3 A For clarification, ladies and gentlemen, I didn't
4 say dirt field. Actually, what it is, the majority of my
5 running was done on pavement. There's a small dirt area at
6 the egress point where the exit is at the back of the Family
7 Dollar, and that's actually where the smaller of the two
8 gentlemen with the firearm actually slowed down, and that's
9 where the other subject looked to actually drop something. I
10 don't -- like I said, I don't know if it was a clothing
11 article, or if it was actually a bag, before he jumped over
12 the wall. And then, after that, we were back on hardtop
13 pavement as you get through the gate and into the residential
14 area.

15 Q Okay. Just for clarification for the jury, I'm
16 showing you what's been marked and admitted State's Exhibit
17 number 44. Sir, this particular area right here, this is the
18 area that we're -- oh, that's not it. This is the area that
19 we're talking about. The two individuals came out of this
20 direction of the building and headed in this direction
21 towards this development; is that correct?

22 A May I mark on here, sir, for clarification?

23 Q Absolutely.

24 A Thank you, sir. Ladies and gentlemen, the shorter
25 subject with the firearm came to this direction to the gate,

1 and then here. The taller gentleman side by side slowed
2 down, then came here, over the wall, and then down this
3 sidewalk, and I lost sight of him.

4 Q All right. Now, the two individuals, you chose at
5 some point to focus on one individual over the other; is that
6 correct?

7 A Yes, sir, it is.

8 Q All right. And the individual that you chose to
9 focus on was the individual that I'm assuming you believed
10 was the greater threat out of the two because a -- the
11 presence of a firearm that you believed was in his hand?

12 A Yes, sir, that's correct.

13 Q Okay. So, that particular individual is the one
14 that you've marked here in State's Exhibit 44 that went down
15 in this direction as you've marked; is that correct?

16 A Yes, sir.

17 Q Now, when you are now focusing on one individual,
18 it's fair to assume, of course, at that point, you've not
19 necessarily disregarded, but you no longer have eyes on the
20 other individual; is that correct?

21 A That is correct.

22 Q All right. So, the two individuals at this
23 particular time, one's jumping over a wall, one's going
24 around into this little egress area or whatever the case is;
25 am I being correct so far?

1 A It's a point of entry; an ingress into the
2 community. An open gate, if you will.

3 Q All right. And in terms of the timing of the two
4 individuals, as they're making their way into the
5 development, would it be fair to say that they're roughly
6 about the same time?

7 A Yes, they were both running together --

8 Q Okay.

9 A -- at the same time.

10 Q So, but you realized as the two individuals were
11 coming around this direction that one of those individuals
12 had a gun; is that correct?

13 A Yes, sir.

14 Q It's around this area that you realized that one of
15 the individuals had a firearm?

16 A Yes, because I had close distance from where I was
17 at the front with the vehicle to the back, and as I came up
18 to take an angle of containment on the rear of the Family
19 Dollar, they came out that door.

20 Q All right. And of course, at that particular
21 point, you selected that individual as being the bigger
22 threat out of the two, and put eyes on that individual?

23 A Yes, sir, that's correct.

24 Q Okay. Now, your testimony as well is that as this
25 is happening, you no longer have sight of the other

1 individual that's heading down this street; is that correct?

2 A Actually, to clarify what you're trying to say, sir
3 --

4 Q Sure.

5 A -- because I'm still going in the same directional,
6 which is first south and then west, I still have a peripheral
7 on that subject going this direction.

8 Q You have a peripheral?

9 A Yes.

10 Q Okay. And your testimony is that as that's
11 happening, you have a peripheral on the other person as
12 you're staring at the person that you believe has a firearm
13 in his hands?

14 A That is correct.

15 Q Okay. And your testimony here today is as that's
16 happening, you're observing this individual taking his
17 clothes off, running down the street?

18 A He actually started to shed his clothes, ladies and
19 gentlemen, here in this parking lot before he got onto that
20 sidewalk which goes down that street, and I don't know the
21 name of it, I apologize, but he started to shed whatever he
22 had on here, and I gave that information on the radio.

23 Q Okay. And so when you say "here," just for our
24 clarification, it looks like it's the first side street here
25 on the main street called Attleboro Street, so it would be

1 the first side street that you'd come to if you're heading in
2 this direction; is that correct?

3 A No, actually, I think you're confused, sir. And
4 just for clarification, I apologize if I misunderstand. What
5 I'm trying to tell you is after the taller of the two
6 gentlemen bound over the wall, he began to shed his clothing.
7 They were layered. He then started to run southbound, and I
8 think it says Attlebrook (phonetic). I can't see it very
9 well.

10 Q Attleboro.

11 A He then started to run southbound on that street.

12 Q Okay.

13 A At that point, when he continued southbound, this
14 is happening within seconds. I'm focused now on the subject
15 going westbound on Storybrook (phonetic). I gave the
16 directional on the radio for the incoming assistance that was
17 coming; air, canine, and marked units.

18 Q Okay. So, you're right, I am a little bit
19 confused, so let me make sure I'm absolutely clear with you,
20 sir.

21 A Yes, sir.

22 Q Your testimony now is that the individual -- the
23 second individual that jumps over the wall in this direction
24 sheds his clothing in this area, all of it, and then starts
25 running down the street?

1 A No, sir, that's not what I'm saying. I saw him
2 start to begin to shed his clothing, as if to rip off and
3 over the head, and continue running southbound. I don't know
4 how much clothing he shed --

5 Q Okay.

6 A -- but I did see him start to shed something on his
7 upper torso.

8 Q All right.

9 A I don't know if it was something on his head, if it
10 was clothing up, but that's what I saw.

11 Q All right, and I appreciate that distinction,
12 because I want to make sure --

13 A Thank you, sir.

14 Q I'm sorry?

15 A Oh, I said thank you.

16 Q Okay. And I want to make absolutely sure, your
17 testimony here is that you had eyes on the other person at
18 some point, and your peripheral vision was able to see the
19 other person running down. At some point, you must have lost
20 contact with him, correct?

21 A Yes, I lost contact with him probably in this area
22 right here at the corner.

23 Q Okay.

24 MR. SANFT: Thank you. No further questions.

25 THE WITNESS: Thank you, sir.

1 THE COURT: Mr. Parris, any cross?

2 MR. PARRIS: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. PARRIS:

5 Q When you first saw the two gentlemen making the --
6 looking around the Family Dollar, you were going -- I guess
7 it would be eastbound on Lake Mead, correct?

8 A Yes, sir, that's correct.

9 Q What's the speed limit on Lake Mead on that stretch
10 of road, if you know?

11 A I do not know, ladies and gentlemen.

12 Q And it sounded like you were going at -- well, how
13 fast were you driving if you were called?

14 A I'm actually glad you asked the question. I have
15 been with my partner I want to say about two years. I
16 actually don't drive the vehicle; I sit in the right front
17 passenger seat. And we had actually been coming off of Lamb
18 and were turning from a red light on Lamb Boulevard eastbound
19 onto Lake Mead, so we just started to pick up speed as we
20 actually turned eastbound, going east on that street in front
21 of the Family Dollar when we observed the two gentlemen
22 walking northbound into the store.

23 THE COURT: I think the question was do you know
24 how fast you were going.

25 THE WITNESS: Yeah, and I don't, Your Honor.

1 THE COURT: Okay.

2 MR. PARRIS: Okay.

3 THE WITNESS: Thank you.

4 BY MR. PARRIS:

5 Q But just for clarification purposes, looking at
6 Exhibit 44, you indicated you had turned off of Lamb. Were
7 you going -- well, on this picture, were you coming from the
8 right hand side or the lefthand side?

9 A Where you're marking, we actually -- if I can draw
10 here, sir?

11 Q Please.

12 A Thank you. We came from here, and then started to
13 come eastbound down Lake Mead.

14 Q So, you partner, he was driving the car, and he was
15 accelerating as he was going toward the top of the map as
16 it's oriented on this exhibit, correct?

17 A Yes, sir, that's correct.

18 Q Okay. And then, you indicated that you saw the two
19 gentlemen who were looking around the exterior of the Family
20 Dollar, correct?

21 A That is correct.

22 Q And then your partner pulled -- made a u-turn and
23 almost got into an accident, I believe is what you had
24 referenced, correct?

25 A There was a vehicle that actually came out of a

1 private drive that we had to slow down for, because they did
2 not stop. It was actually a time when my partner was going
3 to stop the vehicle, and I told him, no, we need to get back
4 to the Family Dollar. He agreed, and we went back there and
5 set up in front of the store.

6 Q And when you say stop the vehicle, do you mean that
7 he was going to stop the vehicle to avoid the accident, or to
8 allow you and/or him to get out of the car to go to the
9 Family Dollar?

10 A No. What I'm trying to say is the vehicle violated
11 a traffic violation. So, at first, he was actually going to
12 initiate a car stop. However, we had observed the behavior
13 at the Family Dollar. We chose to bypass the car stop, and
14 go back to the parking lot, and park the vehicle, and observe
15 the incident.

16 Q Okay, I'm sorry. So, you were going to, for lack
17 of a better term, pull over the guy who pulled out in front
18 of you --

19 A Yes, sir.

20 Q -- while you were doing the u-turn?

21 A Yes, sir.

22 Q Okay. And at that point in time -- excuse me.
23 Shortly thereafter is when you returned -- well, regarding
24 the u-turn, this is State's Exhibit 43. On this map -- on
25 this map, can you show me -- or does this map show where the

1 car pulled out in front of you as your partner was completing
2 the u-turn?

3 A It's hard to actually view here, but there are
4 points that come out from this -- it looks like it says Meads
5 Hardware. I don't know if that's a street or not, but if I'm
6 going to draw a circle for you, sir, this is the area where
7 we conducted the u-turn to come back to the store.

8 Q Okay. So, it's somewhere in the vicinity of what's
9 listed on this exhibit as Mead's Hardware, or that building,
10 that's generally where that car pulled in front of you?

11 A Yeah, that's what I recall, sir.

12 Q Okay. Then you indicated you set up directly in
13 front of the Family Dollar Store, correct?

14 A Yes, sir.

15 Q And at that point in time when you were in front of
16 the Family Dollar, when you next saw the gentleman, at that
17 juncture, they were wearing their respective masks or facial
18 coverings, correct?

19 A That is correct.

20 Q Now I'm going to fast-forward a little bit. There
21 was a point in time when you ran around the side of the
22 building and saw those two gentlemen who were wearing masks
23 come out that back side door, correct?

24 A Correct.

25 Q And that's when they ran towards -- this is State's

1 Exhibit 44 again. That's when they ran through this parking
2 lot here toward -- well, yeah, that's when they ran toward
3 Attleboro Street, correct?

4 A That is correct.

5 Q Now, at some point in time, you'd indicated that
6 the taller of the two gentlemen was somewhere in the vicinity
7 of this parking lot where he hopped the wall. You said he
8 was taking off his clothing by his torso, correct?

9 A Yes.

10 Q Okay, so that would be his -- either a shirt or a
11 jacket, something along those lines?

12 A Something in the upper body, yes. I don't know if
13 it was from his head garment, I don't know if it was a
14 jacket, but I saw something coming off as he ran southbound.

15 Q But you're not sure what that was -- what he took
16 off at that juncture, correct?

17 A No, sir, I do not know.

18 Q Your attention was drawn to the other individual,
19 correct?

20 A Yes, sir.

21 Q Now, when the other individual turned down -- I'm
22 sorry, I believe this street right here is Stockbridge; is
23 that what that street is?

24 A I do not recall.

25 Q When the other individual with -- that you said had

1 the handgun ran down the side street toward Lamb Boulevard,
2 he still had his facial covering on; his mask or whatever,
3 correct?

4 A I recall yes.

5 Q Okay. So, you did not see that -- the gentleman
6 with the firearm, you did not see him -- while you had him in
7 your view, you didn't see him taking off clothing or shedding
8 anything, correct?

9 A Not that I recall. No, sir.

10 Q And regarding the taller of the two gentlemen who
11 you did see take off some clothing in this parking lot,
12 you're not sure what if -- what he did succeed in taking off
13 either in that parking lot or further down once you've lost
14 sight of him, correct?

15 A That is correct.

16 Q Now, after you stopped personally pursuing the
17 gentleman with the firearm, and you started -- I believe you
18 said you were helping to set up a perimeter, you and your
19 partner, correct?

20 A Yes, I was.

21 Q After that point in time, you never saw the taller
22 of the two individuals until you did the show-up
23 identification, correct?

24 A That is correct.

25 Q And regarding the shorter of the two individuals,

1 you never saw him from the time that you stopped the pursuit
2 until the time that you made the show-up identification,
3 correct?

4 A That is correct, sir.

5 Q So, you have no independent knowledge as to what
6 route they necessarily took once they were out of your view,
7 correct?

8 A That is correct, sir.

9 MR. PARRIS: Court's indulgence. Your Honor, I
10 have nothing further.

11 THE COURT: Thank you. Any redirect?

12 MS. KILLER: Just very, very, very briefly.

13 REDIRECT EXAMINATION

14 BY MS. KILLER:

15 Q Officer, Mr. Sanft here had asked you a question
16 regarding seeing the firearm in the suspect's hand who
17 pointed it at you after you entered the housing area. You --
18 I just want to clarify, you also saw him holding the firearm,
19 the same person, when they were inside the Family Dollar,
20 correct?

21 A Yes, ma'am, that is correct.

22 Q Okay. And because we have the map every which way,
23 just for purposes of the record, you had been going
24 southbound on Lamb, and made left turn to go eastbound on
25 Lake Mead when you first observed them outside the Family

1 Dollar?

2 A Yes, ma'am, that is what I recall.

3 MS. KILLER: Court's indulgence, I just need to
4 check really quick. No further questions.

5 THE COURT: Any recross, Mr. Sanft?

6 MR. SANFT: No, Your Honor.

7 THE COURT: Any recross, Mr. Parris?

8 MR. PARRIS: No, Your Honor, thank you.

9 THE COURT: Thank you very much for your testimony
10 here today. You may step down. You are excused from your
11 subpoena. Thank you for being here.

12 THE WITNESS: Thank you, Judge. Thank you, ladies
13 and gentlemen.

14 THE COURT: At this time, we're going to conclude
15 for the day. Can I have the attorneys approach so we just --
16 I can't remember what start time I gave you.

17 MR. SANFT:

18 THE COURT: Did I say 9:00 o'clock? I can't
19 remember.

20 (Bench conference)

21 MR. SANFT: I thought it was 9:00.

22 THE COURT: I thought it was 9:00, but I couldn't
23 remember. If I tell them 9:00 o'clock, can everybody be here
24 at 9:00?

25 MR. SANFT: Yeah. I'm sure these guys will be

1 ready to go. They probably have people outside right now.

2 THE COURT: Can everyone be here at 9:00? You just
3 have the [inaudible] left.

4 MR. PESCI: We've got a couple of things --

5 THE COURT: The girlfriend, right?

6 MR. PESCI: Well, no, we've got --

7 MS. KILLER: Two or three more, don't we?

8 MR. PESCI: We have --

9 THE COURT: Oh, okay, you have two or three more
10 witnesses?

11 MR. PESCI: Yeah. We have -- we have some people
12 that we don't know if we're going to get.

13 THE COURT: Oh.

14 MR. PESCI: So, one count might disappear on Chad
15 Williams. We've been trying. Originally, he talked to an
16 investigator, but we haven't been able to pin him down since,
17 so we're still trying to find out about that. We have Rafael
18 Ramirez, who was at Family Dollar, who sees Tonya's car. We
19 have Cang Tran -- presumably, we have him. He's the male
20 inside the Las Vegas Nails.

21 THE COURT: Okay.

22 MR. PESCI: We've been having problems getting a
23 hold of him, but we think we got him now. Then we have the
24 other officer from this incident, then we have the female,
25 and then we have potentially -- definitively, one more

1 detective, Detective Dave Miller, and maybe Detective Guyer
2 if we seek to introduce --

3 MS. KILLER: Parker.

4 MR. PESCI: -- Parker's statement. I'm not sure
5 we're going to introduce Parker's statement. If we don't,
6 then we don't need that --

7 THE COURT: Okay.

8 MR. PARRIS: You also --

9 THE COURT: But can everyone be here at 9:00
10 o'clock?

11 MR. SANFT: Yeah.

12 THE COURT: Sounds like you got a full day of
13 witnesses.

14 MR. PARRIS: Yes. Well, you --

15 MR. SANFT: I don't know -- sorry.

16 MR. PARRIS: Well, you also may have Detective
17 Larsen -- Lorson, depending upon what Ms. Martin does.

18 MR. PESCI: Correct. If Mr. Martin goes backwards,
19 then we would call Lorson, but --

20 THE COURT: She better not go backwards.

21 MR. PESCI: I don't think that she's going to.

22 THE COURT: Was she in front of me?

23 MR. PESCI: We've expressed how she needs to be on
24 task in front of you, but I think we've told our first
25 witness 10:00, but we can tell like Martell 9:00, so we can

1 start at 9:00.

2 THE COURT: Okay.

3 MR. PESCI: We'll figure something out.

4 THE COURT: So, we can start at 9:00? Okay.

5 MR. SANFT: Thank you.

6 MR. PESCI: Sorry, that was long-winded.

7 THE COURT: That's okay. Thank you.

8 MR. PARRIS: The answer's 9:00.

9 (End of bench conference)

10 THE COURT: Okay. At this time, ladies and
11 gentlemen, I just wanted to get a start time. We're going to
12 start tomorrow morning at 9:00 o'clock.

13 During this recess, you're admonished not to talk
14 or converse amongst yourselves or with anyone else on any
15 subject connected with this trial, or read, watch, or listen
16 to any report of or commentary on the trial, or any person
17 connected with this trial, by any medium of information,
18 including, without limitation, newspapers, television, the
19 internet, or radio, or form or express any opinion on any
20 subject connected with this trial until the case is finally
21 submitted to you.

22 You're excused. We'll see you tomorrow morning at
23 9:00 o'clock. Have a good night.

24 THE MARSHAL: Thank you. All rise for the exiting
25 jury, please. Jurors.

1 (Outside the presence of the jurors)

2 (Pause in the proceedings)

3 MR. PESCI: Judge, if we could, before you leave --

4 THE COURT: Oh, do we need -- sure.

5 MR. PESCI: Your J --

6 THE COURT: One of your -- are you okay?

7 MR. PESCI: It's about instructions. I don't think
8 it's --

9 MR. PARRIS: It's about jury instructions.

10 THE COURT: Oh, okay.

11 MR. PESCI: I'll waive my client's presence.

12 THE COURT: Okay, okay.

13 MR. PARRIS: I'll inform him later.

14 MR. PESCI: Your JEA asked for our instructions
15 yesterday during trial. Last night, I sent them to her and
16 to defense counsel. They are proposed. I don't -- we, the
17 State, have not received anything from the defense.

18 MR. SANFT: Yet.

19 MR. PARRIS: To Mr. --

20 MR. PESCI: I would ask, if there's anything, to
21 give that to us. I know they need to review ours.

22 MR. PARRIS: Yeah. To Mr. Pesci's credit, he sent
23 those instructions at -- I believe it was 12:37 A.M.

24 THE COURT: Just to be a show off?

25 MR. SANFT: No.

1 MR. PESCI: My youngest was sick. I was up and at
2 'em.

3 THE COURT: Oh, darn it.

4 MR. PARRIS: Yes, just to be a show off.

5 THE COURT: And then I get that response.

6 MR. PARRIS: Yeah.

7 THE COURT: Mr. Pesci just got me.

8 MR. PARRIS: That having been said, neither Mr.
9 Sanft or I have had an opportunity to review since we've been
10 in trial for most of the day, and we did have court
11 appearances this morning. We will certainly do so tonight
12 and supplement them as needed.

13 THE COURT: Okay.

14 MR. PARRIS: Probably -- I would assume we would
15 have everything submitted to Your Honor by lunch, but again,
16 I don't know if how the witnesses testify in the afternoon
17 might change things.

18 THE COURT: Sounds like we have a full day from the
19 State. I don't -- I don't think we'll be done with the State
20 tomorrow.

21 MR. PESCI: So, let's ask you that. We're --

22 THE COURT: Oh, we might be done with the State.

23 MR. PESCI: But we're asking, do we need to be
24 ready to close tomorrow?

25 MR. PARRIS: I don't think we're going to get

1 there, Your Honor.

2 THE COURT: I think it would be really -- I don't -

3 - MR. PESCI: But if we tell you we're not ready
4 tomorrow, you're not going to be mad?

5 THE COURT: Of course not, of course not.

6 MR. PARRIS: Thank you, Your Honor.

7 MS. KILLER: Thank you.

8 (Pause in the proceedings)

9 (Court recessed at 5:28 p.m., until Friday,

10 December 4, 2015, at 9:16 a.m.)

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ACKNOWLEDGMENT

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

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