

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 LUIS HIDALGO, JR.,

3 Appellant,

4 vs.

5 THE STATE OF NEVADA,
6 Respondent.

Electronically Filed
Jul 25 2017 08:16 a.m.
Elizabeth A. Brown
Clerk of Supreme Court
Case No. 71458

7 **APPELLANT'S APPENDIX VOLUME XIII**

8 Appeal from Eighth Judicial District Court, Clark County

9 The Honorable Valerie Adair, District Judge

10 District Court Case No. 08C241394

11
12
13
14
15
16
17
18 MCLETCHE SHELL LLC
19 Margaret A. McLetchie (Bar No. 10931)
20 701 East Bridger Ave., Suite 520
21 Las Vegas, Nevada 89101
22 *Counsel for Appellant, Luis Hidalgo, Jr.*

INDEX TO APPELLANT'S APPENDIX

<u>VOL.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>BATES NUMBERS</u>
II	Appendix of Exhibits Volume 1 to Supplemental Petition for Writ of Habeas Corpus	02/29/2016	PA0048-PA0254
III	Appendix of Exhibits Volume 2 to Supplemental Petition for Writ of Habeas Corpus	02/29/2016	PA0255-PA0501
IV	Appendix of Exhibits Volume 3 to Supplemental Petition for Writ of Habeas Corpus (through HID PA 00538)	02/29/2016	PA0502-PA0606
V	Appendix of Exhibits Volumes 3-4 to Supplemental Petition for Writ of Habeas Corpus (Transcript: Jury Trial Day 5)	02/29/2016	PA0607-PA0839
VI	Appendix of Exhibits Volume 4 to Supplemental Petition for Writ of Habeas Corpus (from HID PA 00765)	02/29/2016	PA0840-PA1024
VII	Appendix of Exhibits Volume 5 to Supplemental Petition for Writ of Habeas Corpus (Transcript: Jury Trial Day 7 pgs. 1-189)	02/29/2016	PA1025-PA1220
VIII	Appendix of Exhibits Volume 5 to Supplemental Petition for Writ of Habeas Corpus (Transcript: Jury Trial Day 7 pgs. 190-259)	02/29/2016	PA1221-PA1290
IX	Appendix of Exhibits Volume 6 to Supplemental Petition for Writ of Habeas Corpus	02/29/2016	PA1291-PA1457
X	Appendix of Exhibits Volume 7 to Supplemental Petition for Writ of Habeas Corpus	02/29/2016	PA1458-PA1649

<u>VOL.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>BATES NUMBERS</u>
XI	Appendix of Exhibits Volumes 8-9 to Supplemental Petition for Writ of Habeas Corpus (Transcript: Jury Trial Day 10 pgs. 1-218)	02/29/2016	PA1650-PA1874
XII	Appendix of Exhibits Volumes 8-9 to Supplemental Petition for Writ of Habeas Corpus (Transcript: Jury Trial Day 10 pgs. 319-341)	02/29/2016	PA1875-PA2004
XIII	Appendix of Exhibits Volumes 10-11 to Supplemental Petition for Writ of Habeas Corpus (Transcript: Jury Trial Day 11 pgs. 1-177)	02/29/2016	PA2005-PA2188
XIV	Appendix of Exhibits Volumes 10-11 to Supplemental Petition for Writ of Habeas Corpus (Transcript: Jury Trial Day 11 pgs. 178-318)	02/29/2016	PA2189-PA2336
XV	Appendix of Exhibits Volumes 12-13 to Supplemental Petition for Writ of Habeas Corpus (Transcript: Jury Trial Day 12 pgs. 1-229)	02/29/2016	PA2337-PA2574
XVI	Appendix of Exhibits Volumes 12-13 to Supplemental Petition for Writ of Habeas Corpus (Transcript: Jury Trial Day 12 pgs. 230-330)	02/29/2016	PA2575-PA2683
XVII	Appendix of Exhibits Volume 14 to Supplemental Petition for Writ of Habeas Corpus	02/29/2016	PA2684-PA2933
XVIII	Appendix of Exhibits Volumes 15-16 to Supplemental Petition for Writ of Habeas Corpus	02/29/2016	PA2934-PA3089

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

<u>VOL.</u>	<u>DOCUMENT</u>	<u>DATE</u>	<u>BATES NUMBERS</u>
XIX	Appendix of Exhibits Volume 17 to Supplemental Petition for Writ of Habeas Corpus	02/29/2016	PA3090-PA3232
XX	Appendix of Exhibits Volume 18 to Supplemental Petition for Writ of Habeas Corpus	02/29/2016	PA3233-PA3462
XXI	Appendix of Exhibits Volumes 19-20 to Supplemental Petition for Writ of Habeas Corpus	02/29/2016	PA3463-PA3703
XXII	Minute Order	08/15/2016	PA3811
XXII	Notice of Appeal	10/03/2016	PA3862-PA3864
XXII	Notice of Entry of Findings of Fact and Conclusions of Law and Order	09/19/2016	PA3812-PA3861
XXII	Register of Actions for District Court Case Number 08C241394	07/11/2017	PA3865-PA3883
XXII	Reply to State's Response to Supplemental Petition for Writ of Habeas Corpus	07/21/2016	PA3786-PA3798
XXII	State's Response to Supplemental Petition for Writ of Habeas Corpus	05/18/2016	PA3709-PA3785
XXII	Supplement to Supplemental Petition for Writ of Habeas Corpus	03/08/2016	PA3704-PA3708
I	Supplemental Petition for Writ of Habeas Corpus	02/29/2016	PA0001-PA0047
XXII	Transcript of Petition for Writ of Habeas Corpus Hearing	08/11/2016	PA3799-PA3810

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

List as follows:

ADAM P. LAXALT
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

LUIS HIDALGO, JR., ID # 1038134
NORTHERN NEVADA CORRECTIONAL CENTER
1721 E. SNYDER AVE
CARSON CITY, NV 89701
Appellant

-5-



CLERK OF THE COURT

MARGARET A. MCLEATCHIE, Nevada Bar No. 10931
MCLEATCHIE SHELL LLC
701 East Bridger Ave., Suite 520
Las Vegas, Nevada 89101
Telephone: (702) 728-5300
Facsimile: (702) 425-8220
Email: maggie@nvlitigation.com
Attorney for Petitioner, Luis Hidalgo Jr.

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LUIS HIDALGO, JR.,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent.

Case No.: 08C241394

Dept. No.: XXI

**PETITIONER'S APPENDIX FOR
SUPPLEMENTAL PETITION
FOR WRIT OF HABEAS CORPUS**

VOLUME X:
**PETITIONER'S APPENDIX FOR SUPPLEMENTAL PETITION FOR WRIT OF
HABEAS CORPUS**

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
I	06/20/2005	Information	HID PA00001 - HID PA00004
I	07/06/2005	Notice Of Intent To Seek Death Penalty	HID PA00005 - HID PA00009
I	07/06/2005	Notice Of Intent To Seek Death Penalty	HID PA00010 - HID PA00014
I	11/14/2006	Answer To Petition For Writ of Mandamus Or, In the Alternative, Writ of Prohibition	HID PA00015 - HID PA00062
I	12/20/2006	Reply to State's Answer To Petition For Writ of Mandamus Or, In The Alternative, Writ of Prohibition	HID PA00063 - HID PA00079
I	02/04/2008	Guilty Plea Agreement	HID PA00080 - HID PA00091
I	05/29/2008	Advance Opinion 33, (No. 48233)	HID PA00092 - HID PA00113

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
I	02/11/2008-01/13/2016	Docket	HID PA00114 - HID PA00131
I	02/11/2008-11/10/2015	Minutes	HID PA00132 - HID PA00200
II	02/13/2008	Indictment	HID PA00201 - HID PA00204
II	02/20/2008	Transcript of Proceedings: Hearing re Arraignment	HID PA00205 - HID PA00209
II	03/07/2008	Notice of Intent to Seek Death Penalty	HID PA00210 - HID PA00212
II	04/01/2008	Transcript of Proceedings: Hearing re Motions	HID PA00213 - HID PA00238
II	05/01/2008	Amended Indictment	HID PA00239 - HID PA00241
II	06/18/2008	Amended Notice of Intent To Seek Death Penalty	HID PA00242 - HID PA00245
II	06/25/2008	Notice of Motion And Motion To Consolidate Case No. C241394 Into C212667	HID PA00246 - HID PA00258
II	12/08/2008	Defendant Luis Hidalgo Jr. And Luis Hidalgo III's Opposition To The Motion To Consolidate Case No. C241394 Into C212667 + Exhibits A- G	HID PA00259 - HID PA00440
III	12/08/2008	Defendant Luis Hidalgo Jr. And Luis Hidalgo III's Opposition To The Motion To Consolidate Case No. C241394 Into C212667, Exhibits H-K	HID PA00441 - HID PA00469
III	12/15/2008	Response To Defendant Luis Hidalgo, Jr. and Luis Hidalgo, III's Opposition To Consolidate Case No. C241394 Into C212667	HID PA00470 - HID PA00478
III	01/07/2009	State's Motion To Remove Mr. Gentile As Attorney For Defendant Hidalgo, Jr., Or In The Alternative, To Require Waivers After Defendants Have Had True Independent Counsel To Advise Him	HID PA00479 - HID PA00499
III	01/16/2009	Order Granting The State's Motion To Consolidate C241394 Into C212667	HID PA00500 - HID PA00501
III	01/16/2009	Waiver of Rights To A Determination Of Penalty By The Trial Jury	HID PA00502
III	01/29/2009	Transcript of Proceedings: Jury Trial - Day 3	HID PA00503 - HID PA00522

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
III	01/30/2009	Transcript of Proceedings: Jury Trial - Day 4	HID PA00523 - HID PA00538
III	02/02/2009	Transcript of Proceedings: Jury Trial - Day 5 (Pg. 1-152)	HID PA00539 - HID PA00690
IV	02/02/2009	Transcript of Proceedings: Jury Trial - Day 5 (Pg. 153-225)	HID PA00691 - HID PA00763
IV	02/06/2009	Transcript of Proceedings: Jury Trial - Day 6	HID PA00764 - HID PA00948
V	02/04/2009	Transcript of Proceedings: Jury Trial - Day 7	HID PA00949 - HID PA01208
VI	02/05/2009	Transcript of Proceedings: Jury Trial - Day 8	HID PA01209 - HID PA01368
VII	02/06/2009	Transcript of Proceedings: Jury Trial - Day 9	HID PA01369 - HID PA01553
VIII	02/09/2009	Transcript of Proceedings: Jury Trial - Day 10 (Pg. 1-250)	HID PA01554 - HID PA01803
IX	02/09/2009	Transcript of Proceedings: Jury Trial - Day 10 (Pg. 250-340)	HID PA01804 - HID PA01894
X	02/10/2009	Transcript of Proceedings: Jury Trial - Day 11 (Pg. 1-250)	HID PA01895 - HID PA02144
XI	02/10/2009	Transcript of Proceedings: Jury Trial - Day 11 (Pg. 1-251)	HID PA02145 - HID PA02212
XII	02/11/2009	Transcript of Proceedings: Jury Trial - Day 12 (Pg. 1-250)	HID PA02213 - HID PA02464
XIII	02/11/2009	Transcript of Proceedings: Jury Trial - Day 12 (Pg. 251-330)	HID PA02465 - HID PA02545
XIV	02/12/2009	Transcript of Proceedings: Jury Trial - Day 13	HID PA02546 - HID PA02788
XV	02/17/2009	Transcript of Proceedings: Jury Trial - Day 14	HID PA02789 - HID PA02796
XVI	02/05/2009	Court Exhibit: 2 (C212667), Transcript of Audio Recording (5/23/05)	HID PA02797 - HID PA02814
XVI	02/05/2009	Court Exhibit: 3 (C212667), Transcript of Audio Recording (5/24/05)	HID PA02815 - HID PA02818
XVI	No Date On Document	Court Exhibit: 4 (C212667), Transcript of Audio Recording (Disc Marked As Audio Enhancement)	HID PA02819 - HID PA02823
XVI	02/05/2009	Court Exhibit: 5 (C212667), Transcript of Audio Recording (Disc Marked As Audio Enhancement)	HID PA02824 - HID PA02853
XVI	05/20/2010	Court Exhibit: 229 (C212667) Note	HID PA02854

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
XVI	02/10/2009	Court Exhibit: 238 (C212667) Phone Record	HID PA02855 - HID PA02875
XVI	02/17/2009	Jury Instructions	HID PA02876 - HID PA02930
XVII	03/10/2009	Defendant Luis Hidalgo, Jr.'s Motion For Judgment Of Acquittal Or, In The Alternative, A New Trial	HID PA02931 - HID PA02948
XVII	03/17/2009	State's Opposition To Defendant Luis Hidalgo Jr.'s Motion For Judgment of Acquittal Or, In the Alternative, A New Trial	HID PA02949 - HID PA02961
XVII	04/17/2009	Reply To State's Opposition To Defendant Luis Hidalgo Jr.'s Motion For Judgment of Acquittal Or, In the Alternative, A New Trial	HID PA02962 - HID PA02982
XVII	04/27/2009	Supplemental Points And Authorities To Defendant Luis A. Hidalgo, Jr.'s Motion For Judgment Of Acquittal Or, In The Alternative, A New Trial	HID PA02983 - HID PA02991
XVII	06/19/2009	Luis A. Hidalgo Jr.'s Sentencing Memorandum	HID PA02992 - HID PA03030
XVII	06/23/2009	Transcript of Proceedings: Sentencing	HID PA03031 - HID PA03058
XVII	07/06/2009	Ex-Parte Application Requesting That Defendant Luis A. Hidalgo Jr.'s Ex- Parte Application Requesting An Order Declaring Him Indigent For Purposes Of Appointing Appellate Counsel Be Sealed	HID PA03059 - HID PA03060
XVII	07/10/2009	Judgment Of Conviction	HID PA03061 - HID PA03062
XVII	07/16/2009	Luis Hidalgo, Jr.'s Notice Of Appeal	HID PA03063- HID PA03064
XVII	08/18/2009	Amended Judgment Of Conviction	HID PA03065 - HID PA03066
XVIII	02/09/2011	Appellant Luis A. Hidalgo, Jr.'s Opening Brief	HID PA03067 - HID PA03134
XVIII	06/10/2011	Respondent's Answering Brief	HID PA03135 - HID PA03196
XVIII	09/30/2011	Appellant Luis A. Hidalgo, Jr.'s Reply Brief	HID PA03197 - HID PA03238
XVIII	03/09/2012	Order Submitting Appeal For Decision Without Oral Argument	HID PA03239

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
XVIII	03/30/2012	Appellant's Motion To Reconsider Submission For Decision Without Oral Argument	HID PA03240 - HID PA03251
XVIII	04/17/2012	Appellant's Emergency Supplemental Motion To Reconsider Submission For Decision Without Oral Argument + Exhibits A-C	HID PA03252 - HID PA03289
XIX	04/17/2012	Appellant's Emergency Supplemental Motion To Reconsider Submission For Decision Without Oral Argument, Exhibit D	HID PA03290 - HID PA03329
XIX	04/26/2012	Notice Of Oral Argument Setting	HID PA03330
XIX	06/05/2012	Appellant's Notice of Supplemental Authorities [NRAP31(e)]	HID PA03331 - HID PA03333
XIX	06/21/2012	Order Of Affirmance	HID PA03334 - HID PA03344
XIX	07/09/2012	Petition For Rehearing Pursuant To Nevada Rule Of Appellate Procedure 40	HID PA03345 - HID PA03351
XIX	07/27/2012	Order Denying Rehearing	HID PA03352
XIX	08/10/2012	Petition For En Banc Reconsideration Pursuant To NRAP 40A	HID PA03353 - HID PA03365
XIX	09/18/2012	Order Directing Answer To Petition For En Banc Reconsideration	HID PA03366
XIX	10/02/2012	Answer To Petition For En Banc Reconsideration	HID PA03367 - HID PA03379
XIX	10/09/2012	Luis A. Hidalgo, Jr.'s Motion For Permission To File A Reply To Answer To Petition For En Banc Reconsideration	HID PA03380 - HID PA03383
XIX	10/12/2012	Instruction #40 Was Structural Error And Therefore Reversible Per Se Under Post-Bolden Nevada Conspiracy Jurisprudence	HID PA03384 - HID PA03399
XIX	11/13/2012	Order Denying En Banc Reconsideration	HID PA03400 - HID PA03401
XIX	05/15/2013	Letter to Clerk of Court: Petition For USSC Writ Of Certiorari Denied	HID PA03402
XX	12/31/2013	Petition For Writ Of Habeas Corpus (Post Conviction)	HID PA03403 - HID PA03483
XX	12/31/2013	Motion For Appointment Of Counsel	HID PA03484 - HID PA03488

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

<u>VOLUME</u>	<u>DATE</u>	<u>DOCUMENT</u>	<u>BATES</u>
XX	01/08/2014	Order For Petition For Writ Of Habeas Corpus	HID PA03489
XX	01/13/2014	State's Response To Defendant's Pro Per Motion For Appointment of Counsel	HID PA03490 - HID PA03494
XX	01/13/2016	Documents received from the Nevada Secretary of State	HID PA03495 – HID PA03516

DATED this 29th day of February, 2016.

/s/ Margaret A. McLetchie
MARGARET A. MCLETCHIE, Nevada Bar No. 10931
MCLETCHIE SHELL LLC
701 East Bridger Ave., Suite 520
Las Vegas, Nevada 89101
Telephone: (702) 728-5300
Facsimile: (702) 425-8220
Email: maggie@nvlitigation.com
Attorney for Petitioner, Luis Hidalgo Jr.

McLetchie



ATTORNEYS AT LAW
701 EAST BRIDGER AVE., SUITE 520
LAS VEGAS, NV 89101
(702)728-5300 (T) / (702)425-8220 (F)
WWW.NVLITIGATION.COM

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b)(2)(B) I hereby certify that on the 29th day of February, 2016, I mailed a true and correct copy of the foregoing VOLUME X: PETITIONER'S APPENDIX FOR SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS by depositing the same in the United States mail, first-class postage pre-paid, to the following address:

STEVEN B. WOLFSON, District Attorney
RYAN MACDONALD, Deputy District Attorney
200 Lewis Avenue
P.O. Box 552212
Las Vegas, Nevada 89155

MARC DIGIACOMO, Deputy District Attorney
Office of the District Attorney
301 E. Clark Avenue # 100
Las Vegas, NV 89155

Attorneys for Respondent

Certified by: /s/ Mia Ji
An Employee of McLetchie Shell LLC

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

FILED
NOV 24 2009
CLERK OF COURT

STATE OF NEVADA,

Plaintiff,

vs.

LUIS ALONSO HIDALGO, aka
LUIS ALONSO HIDALGO, III, and
LUIS ALONSO HIDALGO, JR.,

Defendants.

CASE NO: C212667/C241394
DEPT NO: XXI

Transcript of
Proceedings

0241394

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 11

TUESDAY, FEBRUARY 10, 2009

APPEARANCES:

FOR THE STATE:

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

FOR LUIS ALONSO HIDALGO, JR.:

DOMINIC P. GENTILE, ESQ.
PAOLA M. ARMENI, ESQ.

FOR LUIS ALONSO HIDALGO, III,:

JOHN L. ARRASCADA, ESQ.
CHRISTOPHER ADAMS, ESQ.

RECORDED BY: JANIE OLSEN, COURT RECORDER

TRANSCRIBED BY: KARReporting and Transcription Services

KARReporting & Transcription Services

RECEIVED

NOV 24 2009

CLERK OF THE COURT
HID PA01895

INDEX
OF
WITNESSES

STATE'S WITNESSES:

PAGE

FRED BOYD:

Direct Examination by Mr. Pesci:	16
Cross-Examination by Mr. Gentile:	41
Cross-Examination by Mr. Adams:	50
Redirect Examination by Mr. Pesci:	61

DENISE MATA:

Direct Examination by Mr. DiGiacomo:	68
Cross-Examination by Mr. Gentile:	72

MARTIN WILDEMAN:

Direct Examination by Mr. DiGiacomo:	74
Cross-Examination by Ms. Armeni:	109
Cross-Examination by Mr. Adams:	116
Redirect Examination by Mr. DiGiacomo:	137

* * * * *

1	<u>DEFENSE WITNESSES:</u>	<u>PAGE</u>
2	<u>KEVIN KELLY:</u>	
3	Direct Examination by Mr. Gentile:	142
4	Cross-Examination by Mr. DiGiacomo:	157
5	<u>MICHELLE SCHWANDERLIK:</u>	
6	Direct Examination by Mr. Gentile:	167
7	Cross-Examination by Mr. DiGiacomo:	183
8	<u>MARGARET ANN JOHNSON:</u>	
9	Direct Examination by Ms. Armeni:	193
10	Cross-Examination by Mr. Pesci:	197
11	<u>KATHLEEN CROUSE:</u>	
12	Direct Examination by Ms. Armeni:	201
13	Cross-Examination by Mr. Pesci:	204
14	<u>JEROME A. DE PALMA:</u>	
15	Direct Examination by Mr. Gentile:	209
16	Cross-Examination by Mr. Arrascada:	224
17	Cross-Examination by Mr. DiGiacomo:	225
18	Redirect Examination by Mr. Gentile:	239
19	Recross Examination by Mr. Arrascada:	240
20	Further Redirect Examination by Mr. Gentile:	241
21	<u>DONALD R. DIBBLE:</u>	
22	Direct Examination by Mr. Gentile:	242
23	Cross-Examination by Mr. Adams:	247
24	Cross-Examination by Mr. Pesci:	248
25	Redirect Examination by Mr. Gentile:	251
	Recross Examination by Mr. Adams:	253
	Recross Examination by Mr. Pesci:	253

1	<u>RODOLFO VILLALTA:</u>	<u>PAGE</u>
2	Direct Examination by Mr. Gentile:	254
3	Cross-Examination by Mr. Pesci:	270
4	Redirect Examination by Mr. Gentile:	276
5	<u>PEE-LAR HANDLEY:</u>	
6	Direct Examination by Mr. Gentile:	279
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

INDEX
OF
EXHIBITS

STATE'S EXHIBITS:

OFFERED ADMITTED

145	Metro Print Card (4 pages)	26	26
146	Metro Print Card (2 pages)	27	27
147	Photo - \$100 bill front and back	62	62
156	Metro Print Card	27	27
164	Live Rounds	141	142
171	VIP Cards - Palomino	35	35
172	Latent Print Lifts	28	28
173	Latent Print Lifts	28	28
174	Latent Print Lifts	28	28
175	Prints	23	23
176	Prints	23	23
177	Prints	23	23
178	Prints	23	23
179	Prints	23	23
180	Prints	23	23
181	\$100 bill and prints	32	33
203	Evidence Bag containing Tanqueray bottle	56	56
203A	Plastic Bag	56	56
223	Envelope	71	71
223A	Card	71	71
231	Photo	123	123
232	Photo	123	123
233	Photo	123	123
235	Photo - A. Espindola	126	126
237	Photo - Kenneth Counts	106	106
238	Phone Log	101	101
239	Map of Cell Towers	103	104
240	Photocopy - Check to Deangelo Carroll	98	98
241	Attorney Notes	236	237

<u>OFFERED</u>	<u>ADMITTED</u>
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

299 299

<u>OFFERED</u>	<u>ADMITTED</u>
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
26	26
27	27
28	28
29	29
30	30
31	31
32	32
33	33
34	34
35	35
36	36
37	37
38	38
39	39
40	40
41	41
42	42
43	43
44	44
45	45
46	46
47	47
48	48
49	49
50	50
51	51
52	52
53	53
54	54
55	55
56	56
57	57
58	58
59	59
60	60
61	61
62	62
63	63
64	64
65	65
66	66
67	67
68	68
69	69
70	70
71	71
72	72
73	73
74	74
75	75
76	76
77	77
78	78
79	79
80	80
81	81
82	82
83	83
84	84
85	85
86	86
87	87
88	88
89	89
90	90
91	91
92	92
93	93
94	94
95	95
96	96
97	97
98	98
99	99
100	100

117 117

1 LAS VEGAS, CLARK COUNTY, NV., TUES., FEB. 10, 2009

2
3 THE COURT: As a preliminary matter, can we stipulate on the
4 fingerprint guy, Fred Boyd, or do they need to call him? It's up to you.

5 MR. GENTILE: No, I need to call him. I need to examine him a little bit,
6 not a lot but --

7 THE COURT: Okay. No, that's fine. I just thought if there's no contest
8 on the --

9 MR. GENTILE: Why? Is he not here?

10 THE COURT: No, he's here. I'm trying to speed this up.

11 THE COURT: What's the State's position on asking the jury if they've
12 read anything?

13 MR. GENTILE: I don't think they can oppose it.

14 MR. DIGIACOMO: I don't know that I oppose it. I think that there's
15 always a danger that they're going to want to run out and read to see what the
16 heck they missed.

17 THE COURT: That's my fear.

18 MR. DIGIACOMO: So I'll submit it to the discretion of the Court.

19 MR. GENTILE: Judge, it's a bad habit that my client -- the newspaper
20 says that my client's involved with, okay.

21 THE COURT: No, I can ask him. I mean, my -- candidly, I'm happy to
22 ask them. My fear is the same as Mr. DiGiacomo's. For those people who
23 didn't see it and don't know about it, now they're thinking, oh, my gosh,
24 what's out there in the media that I don't know about.

25 MR. GENTILE: Then all you've got to do is tell them not to do it if

1 they've been listening to your admonishment.

2 But the thing about it, the problem is that if they were casually
3 reading through the newspaper --

4 THE COURT: They saw the headline.

5 MR. GENTILE: -- they would have seen it because it was not on the
6 front page so they would know not to look at it.

7 Are we on the record?

8 THE COURT: Yes.

9 MR. GENTILE: Your Honor, last time, I didn't bring it -- I will supplement
10 the record. Last -- yesterday afternoon you kept out a piece of evidence that
11 was proffered by the State, and as the -- as it should be in our system -- and as
12 the Court knows I do a lot of First Amendment work -- it was reported today,
13 and it was reported on the banner of the local section of the Las Vegas Review
14 Journal, and the headline was to the effect of, Councilman Robinson from North
15 Las Vegas accused of a bribe, words to that effect.

16 My concern is that the Court did rule that that was inadmissible. I
17 am sure that of the 15 people on this jury, some of them subscribe to the
18 Review Journal, and in casual reading of the newspaper this morning, it
19 would -- there was no way it wouldn't have caught their eye. It was in the A
20 section.

21 My further concern is that we ferret out at this point in time if
22 anybody read it. If anybody indicates that they did read it, I think we need to
23 take a voir dire examination of them because they have information now in the
24 mix that will pollute the jury deliberations because the Court has ruled that it
25 was inadmissible, and moreover, frankly, it was not really supported.

1 Councilman Robinson did say --

2 THE COURT: Denied it.

3 MR. PESCI: -- in the article that it was a lie, and the jury may wonder,
4 well, who's telling the lie. Was it Ms. Espindola? Was it Mr. Hidalgo, and, you
5 know, he's damned if he did and he's damned if he didn't. He's accused of
6 bribing a councilman or saying that he bribed a councilman, either one.

7 THE COURT: Or the other option is Ms. Espindola is lying about the
8 whole thing.

9 MR. GENTILE: That is also possible, which would be something that the
10 State I'm sure would want to know what the juror might have read and how
11 they took it.

12 MR. DIGIACOMO: Judge, my position has always been that when you
13 ask the questions you let the (unintelligible) in the room. I'll submit it to the
14 discretion of the Court, but I would ask the Court not to say, Did anybody read
15 today's paper. I think you should ask, During the course of this trial, has
16 anybody seen anything --

17 THE COURT: About this case in the --

18 MR. DIGIACOMO: -- in the paper related --

19 THE COURT: No, in the media. I'm not going to say in the paper.

20 MR. DIGIACOMO: You can say media, that's fine, but, I mean, I don't
21 know that we want to direct it to today's paper.

22 THE COURT: Oh, gosh, no.

23 MR. GENTILE: How about this. How about this.

24 THE COURT: Okay. I just want to make sure that during the course
25 of -- just kind of casual -- I just want to make sure that during the course of the

1 trial I need to ask if anyone has seen anything about the case in the media.

2 MR. GENTILE: How about just saying in the news media, okay.

3 THE COURT: In the news media.

4 MR. GENTILE: Yeah, because some people are -- I don't want to
5 suggest that there are some people that are less literate than others.

6 THE COURT: No, that's fine. I can say in the news media, and then if
7 people hold up their hands -- Mr. Gentile, if people hold up their hands, I'll say,
8 Don't tell me what you saw or heard. Was it on television or in the newspaper,
9 and we'll go through that way, and then the people who saw something we'll
10 question --

11 MR. GENTILE: We'll take them one at a time.

12 MR. ARRASCADA: Your Honor, we'd join in that request, Mr. Gentile's
13 request.

14 THE COURT: All right. I guess I'll do it at the beginning before the
15 break. Otherwise, we could just start with testimony and do it at the break and
16 then argue about whether or not if somebody's seen or heard anything we want
17 to excuse them.

18 It might be better to do it at the break. I think it doesn't highlight
19 the whole things as much as marching them in this morning and that being the
20 first question out of the Court's mouth, which suggests, oh, no, there's
21 something in the media; we've got to address this right away. I would prefer
22 tactically to do it at the break.

23 MR. GENTILE: No, Your Honor, we need to do it now.

24 THE COURT: Why? Because if there's -- if we're going to bring in an
25 alternate or exclude one of them, we can decide on the break to do that. Do

1 you see what I'm saying? They're not supposed to be talking about the case
2 anyway, and so to me, to bring them in right now really highlights the story
3 that we're concerned about as opposed to just saying it at the break. That's
4 just my -- like, oh, this -- you know, why all of a sudden this first morning are
5 we bringing them in and the very first question out of my mouth is, Has anyone
6 seen or heard anything.

7 MR. GENTILE: How about this. How about we do it when the State
8 rests?

9 THE COURT: That's fine, or when we take a break or when the State
10 rests is fine.

11 MR. GENTILE: Because if there is anybody it's going to take some time
12 to be doing some voir dire examination.

13 THE COURT: Okay. All right. That's fine.

14 MR. DIGIACOMO: Yes. Your Honor, can I go to another subject?

15 THE COURT: Sure.

16 MR. DIGIACOMO: I don't know if was ever on the record. I've talked to
17 the defense in the past about reciprocal discovery. As far as I'm aware there
18 isn't any; however, in discussing with Mr. Gentile today, apparently Jerome
19 DePalma had made notes of whatever conversation he had with Anabel.
20 There's really two things related to that. One is we want the notes, obviously
21 before Mr. DePalma gets on there, and then, I think there needs to be a voir dire
22 examination as to what exactly he explained to Anabel about the nature of the
23 communication that he had with her.

24 Did he explain to her that he wasn't her lawyer? Did he explain to
25 her that --

1 MR. GENTILE: My examination of her went directly to that. She
2 acknowledged that he was Mr. Hidalgo's lawyer and not hers.

3 MR. DIGIACOMO: I completely understand that, but she's claiming that
4 the conversation never took place. I need to know from -- I think before it
5 becomes legally admissible he has to say, I informed her I wasn't her lawyer
6 and communications that she gave to me were not privileged. Otherwise, I
7 mean, you can just accept her representations that it never happened, but in
8 order for a conversation with a lawyer to be admissible, that lawyer needs to
9 establish that --

10 THE COURT: Doesn't she waive that by denying the relationship
11 herself? If she says, I had no relationship with this, to me then it's not up to
12 the lawyer to say he has a relationship. I mean, that to me is an issue between
13 Jerome DePalma and the bar if it ever comes to that, not an issue as to the
14 admissibility in a separate trial of these two people because Ms. Espindola -- I
15 mean, I certainly don't want to admit anything that's unethical for the Court to
16 admit.

17 But to me she has waived the privilege by denying a relationship
18 and by denying that a conversation ever -- not only did she deny the -- I would
19 give you if she said, yes, he was my lawyer but we didn't talk, that, yes,
20 there's still a privilege even if she denies the conversation. But if she -- she
21 testified he wasn't my lawyer and we never talked. And so to me I don't know
22 that -- it's her privilege, and if she doesn't -- if she doesn't assert it or believe
23 that he was her lawyer, then I don't know where there would be a privilege.

24 MR. DIGIACOMO: There's a secondary issue that relates to that which
25 is my understanding that the conversation occurred with Mr. H in the room, and

1 certainly I'm assuming that the Court is going to instruct the witness that he
2 can only testify to what Anabel said. He can't testify as to what Mr. H said
3 unless the State asks the question.

4 THE COURT: Oh, as hearsay. Right. I mean, there's obviously no
5 privilege if there's a third person, but as hearsay, yeah. And Jerome DePalma
6 I'm very confident already knows that.

7 MR. GENTILE: We actually discussed that. Mr. Dibble was also there,
8 which I asked her that, and she said he wasn't.

9 THE COURT: Right.

10 MR. GENTILE: And actually --

11 THE COURT: So Dibble could testify to the communication anyway.

12 MR. DIGIACOMO: And there's no notes from Dibble is my
13 understanding --

14 THE COURT: Isn't Jerome DePalma's notes, aren't they similar to the
15 detective's notes of the interview with --

16 MR. GENTILE: They're identical.

17 THE COURT: -- Anabel Espindola. To me I think the analysis is the
18 same.

19 MR. GENTILE: They're absolutely work product, but, frankly, I'm willing
20 to give them up.

21 THE COURT: Thank you.

22 MR. GENTILE: I have read them. Everything in there isn't wonderful,
23 okay, for my client, but I'm going to give them up. He clearly refreshed his
24 recollection with them. We could assert a work product privilege as the State
25 seems to think it has, but I'm willing to give them up.

1 THE COURT: Okay. Terrific.

2 So let's take two minutes and then we'll begin.

3 MR. ADAMS: Judge, one additional point is there had been pretrial
4 litigation about the notes related to Anabel Espindola that the prosecution had
5 with -- meetings with her, and the Court deemed them work product. We
6 would just renew that at this point in time to make sure that the record's
7 complete.

8 MR. DIGIACOMO: And I would take the position that when Mr.
9 Wildemann hits the stand any notes that he made, once he hits the stand that I
10 think they're entitled to -- I think that any notes that he made to the extent that
11 the Court has those notes, they're entitled to them. Detective Wildemann
12 didn't refresh it, but the statute's pretty clear that a statement of a witness and
13 that is a statement of the witness about the subject matter he's going to testify
14 to he's certainly can say he was a --

15 MR. GENTILE: I know. I just --

16 MR. DIGIACOMO: So I would say once he hits the stand that those
17 notes are no longer work product. The work product privilege has been waived.
18 So that would be the position. I don't know whether the -- if the Court still has
19 them. I haven't seen them.

20 MR. GENTILE: We'd certainly like to see them, you know, before the
21 State rests because we may want to call this person.

22 THE COURT: Yeah. Here's the deal on the notes. They were made a
23 Court's exhibit which we're still looking for, candidly. So if Detective
24 Wildemann needs to be recalled, he can be recalled or Anabel --

25 MR. GENTILE: I'm assuming that he kept a copy of his notes. He

1 wouldn't have just --

2 THE COURT: Yeah.

3 MR. GENTILE: -- he may have given you his original, but I can't imagine
4 he wouldn't have kept a copy.

5 MR. DIGIACOMO: He has his whole case file.

6 THE COURT: Yeah, he should have them in his case file. So then it's
7 not an issue. And like I said, Dominic, I remember it exact -- Mr. Gentile, I
8 remember it exactly. It was one page, legal page, and it was -- I mean, I can
9 almost visualize what it was.

10 MR. GENTILE: Things happen, and I understand that, and I'm not -- I
11 mean, you know, at some point in time, God forbid, if there's an appellate issue
12 in this case we may have a problem. But if the man has a copy of it --

13 THE COURT: There's no problem.

14 MR. GENTILE: -- then it moots the problem.

15 THE COURT: Well, the reason I said it was one legal page is because if
16 he has something different, that's not what the Court saw.

17 MR. DIGIACOMO: I'm not even sure that he took notes.

18 THE COURT: Or if he only has one page I don't want --

19 MR. DIGIACOMO: I think Detective --

20 THE COURT: -- I don't want Mr. Gentile to think there could be a
21 second page or whatever.

22 (Jury entering 9:24 a.m.)

23 THE COURT: All right. Court is now back in session. The record will
24 reflect the presence of the State through the Deputy District Attorneys, the
25 presence of the defendants and their counsel, the officers of the court and the

1 members of the jury.

2 Would the State please call their next witness.

3 MR. PESCI: The State calls Fred Boyd.

4 THE COURT: Mr. Boyd, just come on up here, please, sir, to the witness
5 stand and remain standing and facing our court clerk who will administer the
6 oath to you.

7 FRED BOYD

8 Having been called as a witness and being first duly sworn testified as follows:

9 THE CLERK: Please be seated. Please state and spell your name.

10 THE WITNESS: My name is Fred Boyd, B-o-y-d.

11 MR. PESCI: May I proceed, Your Honor?

12 THE COURT: Yes, please.

13 DIRECT EXAMINATION

14 BY MR. PESCI:

15 Q Sir, what do you do for a living?

16 A My job title is forensic scientist. My specialty is latent print
17 identification. I work for the Las Vegas Metropolitan Police Department
18 assigned to the crime laboratory.

19 Q What do you do in that position?

20 A I'm a latent print examiner.

21 Q What does a latent print examiner do?

22 A We evaluate latent prints that are submitted to us by crime scene
23 personnel or those fingerprints that we process at the lab ourselves. We
24 evaluate those latent prints and determine if they are suitable for comparison
25 purposes. If they are, we call those of value for comparison or value for

1 identification, and then we compare those prints to fingerprints of known
2 individuals of regular ink prints, and then we render our conclusion based on our
3 examination of the latent print to the known print.

4 Q Do you have any specialized training and experience in this area?

5 A Yes, sir, I do.

6 Q Could you briefly describe that for the ladies and gentlemen of the
7 jury.

8 A I've been associated with the latent print discipline for a little over
9 40 years. The majority of my training was with the United States Army where I
10 went through their two-year resident instruction. I retired from the United
11 States Army in 1988 as a Chief Warrant Officer specializing in latent print
12 identification.

13 From there I went to the Brower County Sheriff's Office in Ft.
14 Lauderdale, Florida, eight and a half years there as a full-time latent print
15 examiner. And I've been here with Metro for -- this is my 13th year.

16 Q You said for 13 years with Metro?

17 A Yes, sir.

18 Q Have you testified in this capacity here in Clark County?

19 A Yes, sir, I have.

20 Q If you were to guesstimate, about how many times?

21 A Well over a hundred times.

22 Q And that's here in Clark County?

23 A Yes, sir.

24 Q Have you testified other times in other locations?

25 A Yes, I have.

1 Q Could you briefly describe the concept of fingerprints as far as
2 their uniqueness to a particular individual.

3 A Fingerprints are formed during the third or fourth prenatal month.
4 They stay constant to a person throughout their lives. They don't change as far
5 as their patterns. Fingerprints do change only if there is a damage scar where
6 the second layer of skin might be damaged, which is called the dermis. Then
7 you would have a permanent scar. They remain constant throughout life to
8 decomposition after death, and that's why they're so unique.

9 Q Let me ask you this. Does every time somebody touches
10 something is a print left behind necessarily?

11 A Not all the time, no.

12 Q What affects whether a print may or may not be left behind?

13 A Well, first and most obvious is if you're wearing a glove or
14 something like that you won't have any of the ridge structure adhering to a
15 surface. But if there is no medium in between the skin and the surface, then
16 you may not have a print.

17 If I go like that (demonstrating), well, there might be a little maybe a
18 smudge or a little mark indicating that there might have been a touch. But we
19 are concerned with the ridge detail that you have on your finger. Most
20 commonly ridge detail is left on a piece of evidence by way of perspiration, the
21 water, the moisture. When you touch an item and hold it down, your fingers
22 down, that print's going to stay on top of the surface if it's a nonporous
23 surface.

24 If it's a porous surface and if you handle it, then the perspiration
25 that may absorb inside the surface, and you usually cannot see this print. This

1 is where the term latent comes in, latent meaning not visible. When you cannot
2 see the print, then you have to make it visible by some sort of fingerprint
3 powder, processing technique or possibly on a porous surface such as a paper-
4 type product you may have to use a chemical technique to make that print
5 visible.

6 Q And in the process of your job, do you sometimes receive latent
7 prints from crime scene analysts?

8 A Yes, we do.

9 Q On occasions do you actually perform some of the recovery of
10 prints processing yourself?

11 A Yes, we do.

12 Q Now, you talked a minute ago about making comparison. How is
13 it that you go about making comparison? What do you compare?

14 A Well, we evaluate, as I mentioned a few moments ago, we
15 evaluate the latent prints and the known prints, and we evaluate the prints for
16 various levels of detail in that print, which there are three levels of detail. You
17 have the basic pattern type, which is your level 1.

18 Your level 2 is your ridge paths, meaning if you have a ridge that
19 will go up and stop or you have a ridge that will go up and break into two
20 ridges, such as a fork-type impression or mark, these are the features that we
21 look for, points of identification.

22 Well, we do refer to the points of identification this is what we
23 usually look for, but we have different terms now for these features. We call
24 them levels of detail. I like to call them they're points of consideration that we
25 look at. And when we find these points of consideration in the same relative

1 relationship both in the question impression, the known impression, the latent
2 impression from the crime scene evidence and the known impression that we're
3 looking at of the ink print, then we effect our identification by finding these
4 points in the same relative position to one another without any unexplained
5 differences.

6 Q Let me ask you this. In the many cases that you have worked, is
7 it common for you to receive some latents that are not of sufficient quality to
8 make this comparison?

9 A Yes, sir.

10 Q Would you say it's more common to have them not be of sufficient
11 quality or more common for there to be many with sufficient quality?

12 A Well, each case stands alone, and it's about half and half I would
13 have to say. Each case stands alone. Each impression stands alone. What
14 I'm -- based on my experience, I might find a print of value for identification
15 where maybe somebody with less experience might not consider that print to
16 be of value for identification.

17 Q Let me put it to you this way, and I apologize. Let's say I touch
18 this bar here, is it possible for you to recover latent prints and not make me as a
19 comparison on that?

20 A Yes, sir.

21 Q Can outside influence affect whether that could happen?

22 A Yes, sir.

23 Q Weather? Rain?

24 A Yes, sir.

25 Q What about how oily my hands are?

1 A Yes, sir.

2 Q And also the material that I touch, if you -- you spoke of
3 something porous. If I were to touch, let's say the backing of my seat, is that
4 less likely to produce a print as opposed to the surface on this wood?

5 A The seat cushion would be a more difficult surface to obtain a
6 fingerprint impression from.

7 Q I think you testified that you have known prints that you compare
8 the latent prints to?

9 A Yes, sir.

10 Q All right. And is it common in the ordinary course of business to
11 have known prints of various individuals?

12 A Yes, sir.

13 Q Showing you State's Proposed Exhibits 175 through 180, I'm just
14 asking if you recognize those?

15 A Yes, sir, I do.

16 Q Okay. And how do you recognize these?

17 A I recognize these by my signature on each copy of the prints here.

18 Q And were these the known prints that you were speaking of?

19 A Yes, sir.

20 Q Are these the known prints that you use to assist you in making
21 your comparison in the particular case?

22 A Yes, sir.

23 MR. PESCI: And, Judge, I'd move for the admission of State's 175
24 through 180.

25 THE COURT: Any objection to 175 through 180?

1 MR. GENTILE: I'd just like to see them so that I could be sure which is
2 which.

3 MR. PESCI: They were shown prior to us starting.

4 MR. GENTILE: Actually I didn't see them. Ms. Armeni did but --

5 MR. ADAMS: Objection to the commentary.

6 THE COURT: Mr. Arrascada and Mr. Adams, have you seen Exhibits
7 175 through 180?

8 MR. ADAMS: We were handed exhibits; we'd like to see them again
9 before they're introduced though. I think that's appropriate.

10 THE COURT: All right. Once Mr. Gentile's done looking at them you
11 can look at them.

12 MR. ADAMS: Thank you.

13 THE COURT: Mr. Pesci, while they're doing that is there anything else
14 you can move on with Mr. Boyd?

15 MR. PESCI: Sure.

16 BY MR. PESCI:

17 Q The known prints that we're speaking of, were you given a list of
18 people to obtain known prints from?

19 A Yes, sir, I was.

20 Q Were they people that you were supposed to make this
21 comparison that you're talking about to?

22 A Yes, sir.

23 Q Okay. Now, in the process of doing that -- I've got 145, 146
24 and --

25 Did you receive some latent print cards in this particular case?

1 A Yes, I did.

2 Q All right. Now, ladies and gentlemen, a long time ago you heard
3 from Kristin Grammas, the crime scene analyst.

4 Did you receive some cards from her?

5 A Yes, I did.

6 Q Okay. And in the process of looking at those latent print cards,
7 did you make some sort of analysis or comparison from those prints?

8 A Yes, I did.

9 Q Tell us about that.

10 A May I refer to my notes, please?

11 Q Would that refresh your recollection?

12 A Yes, sir.

13 Q Please do.

14 A I received --

15 Q It appears that we've cycled through now 175 through 180.

16 MR. PESCI: Again, the State's going to ask for the admission of 175
17 through 180.

18 THE COURT: Mr. Gentile, do you have any objection to 175 through
19 180?

20 MR. GENTILE: No.

21 THE COURT: Mr. Adams?

22 MR. ADAMS: No, ma'am.

23 THE COURT: All right. 175 through 180 will be admitted, and I'll make
24 a note for the clerk.

25 MR. PESCI: Thank you, Judge.

1 (State's Exhibits 175 - 180 admitted.)

2 BY MR. PESCI:

3 Q Showing you State's 175. You've just spoken to us a little bit
4 about detail. Let's just kind of hone in on this one right here, which is in the
5 middle of row 2 of the three different rows on State's 175, which is Deangelo
6 Carroll's. Could you explain a little bit to the jury what you mean by the detail.

7 A Well, when you have -- we talk about three levels of detail. The
8 first level of detail is the basic pattern that we have. We have here a loop
9 pattern where the ridge flow flows into a loop. This is a left slant loop. If it
10 was flowing the other way it would be a back slant loop. This loop pattern is
11 very common.

12 There are three basic types of fingerprint patterns, arch, loops and
13 whirls. They're broken down basically on a percentagewise per person about
14 55, 60 percent of the world population is found to have a loop type of pattern.
15 The other type would be a whirl-type design of about 30, 35 percent, and the
16 other would be an arch-type flow.

17 Q So is this some of the characteristics that you're looking at to
18 make a comparison?

19 A Uh-huh.

20 Q Is that a yes?

21 A Yes.

22 Q And on 175 to 180, are these known prints, meaning this person
23 you know made these fingerprints?

24 A Yes.

25 Q And in this case, 175 was to Deangelo Carroll; is that correct?

1 A Is that the one that's on here?

2 Q Is 175 Deangelo Carroll?

3 A Yes.

4 Q Is 176 the known prints of Kenneth Counts?

5 A Yes, it is.

6 Q Is 177 the known prints of Antonio William?

7 A Yes, it is.

8 Q Is 178 the known prints of Rontae Zone?

9 A Yes, it is.

10 Q Was 179 the known the prints of Mark Quaid?

11 A Yes, it is.

12 Q And was 180 the known prints of Timothy Hadland?

13 A Yes, sir.

14 Q Okay. And in your experience have you received in the past
15 fingerprints actually from the decedent, the person who's dead?

16 A Yes, sir.

17 Q Now showing you State's Proposed Exhibits 145, 146, and 156
18 and ask you if you recognize those?

19 A Yes, I do.

20 Q How do you recognize those?

21 A I recognize these by my mark on each one of these exhibits.

22 Q When you say your mark, what do you mean by that?

23 A I have -- these are latent fingerprint lists that were submitted by
24 Crime Scene Analyst Grammas and one by -- taken by Crime Scene Analyst
25 Smith, and when we evaluate the prints, when we do our inventory, we give

1 each one of these our own individual mark such as --

2 Q Let me stop you here for a second. Look at specifically 145. Did
3 you put an individual mark of yourself on that one?

4 A Yes, I did.

5 Q Is this -- is this a photocopy of the actual latent print card?

6 A Yes, it is.

7 Q There appears to be a second page attached to this particular
8 exhibit. What is that second page?

9 A The second page is a -- the back of the fingerprint lift.

10 Q And is this a fair and accurate copy of this particular latent print
11 card?

12 A Yes, it is.

13 MR. PESCI: Move for the admission of 145.

14 THE COURT: Any objection to 145?

15 MR. GENTILE: No objection.

16 MR. ADAMS: No, ma'am.

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

18 (State's Exhibit 145 admitted.)

19 BY MR. PESCI:

20 Q Then while we're at it, let's look at 146. Do you recognize that
21 one?

22 A Yes, I recognize this by my mark which is FB 89.

23 Q Did you make a mark on State's 156 as well?

24 A Yes, I did. I recognize this. This bears my mark FB 95.

25 Q Do these also both have a second page?

1 A Yes, they do.

2 Q And what is the second page on these two? Is it the same as we
3 had on 145?

4 A The second page is the reverse side of the card.

5 Q Are these fair and accurate copies of the actual latent print cards?

6 A Yes, sir, they are.

7 MR. PESCI: Move for the admission of 146 and 156.

8 THE COURT: Any objection to 146 and 156?

9 MR. GENTILE: No objection.

10 MR. ADAMS: No objection.

11 THE COURT: All right. Those will both be admitted.

12 (State's Exhibits 146 and 156 admitted.)

13 MR. PESCI: Let's keep those there and we'll come back to that.

14 BY MR. PESCI:

15 Q Did you also look at some latent print cards that have actually
16 been brought to court? In this case were there some latent print cards that
17 were brought to court previously?

18 A Yes, there was.

19 Q Okay. Showing you State's Proposed Exhibits 172, 173 and 174;
20 do you recognize those?

21 A Yes, I do.

22 Q And how do you recognize those?

23 A I recognize these. These also bear my mark.

24 Q Are these the actual physical latent print cards -- the previous
25 exhibits were photocopies of ones similar to these?

1 A Yes, sir, they are.

2 Q Okay. And are these the latent print cards from this particular
3 case, the ones that we're looking at now?

4 A Yes, sir, they are.

5 MR. PESCI: Move for the admission of State's 172 through 174.

6 THE COURT: Any objection to 172 through 174?

7 MR. GENTILE: No objection.

8 MR. ADAMS: No objection.

9 THE COURT: All right. Those will be admitted.

10 (State's Exhibits 172 - 174 admitted.)

11 BY MR. PESCI:

12 Q Did you also look at some physical evidence? Did you analyze
13 some physical evidence in this case?

14 A Yes, I did.

15 Q Specifically did you look at a hundred dollar bill?

16 A Yes, I did.

17 Q Showing you State's Proposed Exhibits 147 and 181; do you
18 recognize State's 147?

19 A Yes, I do.

20 Q And how do you recognize that?

21 A I recognize this by my mark.

22 Q And is this a piece of evidence that's associated with this case?

23 A Yes, it is.

24 Q And would referring to your report reflect to you or show you
25 where was it you received this particular one hundred dollar bill? Who you got

1 it from I should say?

2 A I received this from Crime Scene Analyst Renhardt.

3 MR. PESCI: Your Honor, we'd move for the admission of State's 147.

4 THE COURT: Any objection?

5 MR. ADAMS: I guess I'd like foundation on what day Renhardt got this.

6 THE COURT: Does it indicate what day it was processed?

7 MR. ADAMS: Whether it was the 19th or the 23rd.

8 BY MR. PESCI:

9 Q Mr. Boyd, do you know that offhand?

10 A If I may --

11 Q Would looking at your report refresh your recollection?

12 A If I look at my notes that would --

13 THE COURT: Refresh your memory?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Go ahead.

16 THE WITNESS: Thank you.

17 MR. PESCI: Thank you, Judge.

18 THE WITNESS: 5/23 of '05. It would be 5/23 of '05.

19 BY MR. PESCI:

20 Q Did you prepare a report in this case?

21 A Yes, I did.

22 Q And looking at page 1 of your particular report, do you detail
23 certain evidence that you looked at?

24 A Yes.

25 Q Do you have a number that you associate with a specific piece of

1 evidence that you attribute to it?

2 A Yes.

3 Q Like for example, in general, the FMB, what is that that shows up
4 on your report?

5 A The FMB 4 would be the fourth package that I received in this
6 case.

7 Q Let me stop you. Is that what you attribute -- that's a number that
8 you give to this piece of evidence that comes to you?

9 A Yes.

10 Q So you can track what you're doing?

11 A Right, or this will be -- FMB 4 will be the fourth package. There
12 might be a lot of other items in that package, but the actual envelope itself will
13 be FMB 4.

14 Q And so you associate FMB 4, and does the particular package also
15 have some sort of identification from the crime scene analyst that brought it to
16 the evidence vault?

17 A Yes.

18 Q And specifically focusing on FMB 4, was that a sealed package
19 booked by Louise Renhardt?

20 A Yes, it was.

21 Q All right. And now does Ms. Renhardt have a personnel number or
22 P number?

23 A Yes.

24 Q Does 5223 ring a bell to you?

25 A Yes, it does.

1 Q In your report, do you reference her P number and then have a
2 second number, No. 19?

3 A Yes.

4 Q All right. Is that a number associated with Ms. Renhardt's booking
5 that particular piece of evidence under her P number, and she gives it the
6 number of 19, the 19th piece of evidence?

7 A That is correct.

8 Q Okay. And so the hundred dollar bill that we're speaking of now,
9 is it associated with Ms. Renhardt's 19th piece of evidence?

10 A Yes, her -- yes. Usually her package that she books in, that would
11 be her 19th package that she would book in.

12 Q Okay. And that package contained a hundred dollar bill?

13 A Yeah, and not only one hundred bill but other items too.

14 Q Right, but the hundred dollar bill that we're working on now, did
15 that contain that?

16 A Yes.

17 Q All right. Do you know personally where that hundred dollar bill
18 came from?

19 A No, sir, I don't.

20 Q But looking at that particular piece of evidence, do you -- did you
21 perform some analysis on that, which is State's 147?

22 A Yes, I did.

23 Q And what did you do to that?

24 A The hundred dollar bill was previously processed chemically by
25 Crime Scene Analyst Renhardt. She -- when she brought the money over, I

1 looked at it, and there was a fingerprint on the hundred dollar bill.

2 Q Did you analyze that fingerprint?

3 A Yes, I did.

4 Q Did you look for points of comparison?

5 A Yes, I did.

6 Q Okay. And showing you State's 181, do you recognize what
7 State's 181 is?

8 A Yes.

9 Q And how do you recognize State's 181?

10 A 181 is a chart that I prepared outlining the fingerprint that I found
11 on the hundred dollar bill.

12 Q The hundred dollar bill which we're referring to as State's 147?

13 A Yes.

14 Q Okay. Is that a fair and accurate depiction of both the hundred
15 dollar bill in 147 and the known print and the comparison that you made in this
16 case?

17 A Yes, it is.

18 MR. PESCI: Move for the admission of State's 181.

19 THE COURT: Any objection to 181?

20 MR. GENTILE: No, Your Honor. Well, wait. Let me see this for a
21 second. I don't have 181 in my list over here so I need to see it.

22 THE COURT: Would you show that to Mr. Gentile, please.

23 MR. GENTILE: I probably have seen it I just didn't list it.

24 THE COURT: No objection?

25 MR. GENTILE: No objection.

1 THE COURT: All right. 181 is admitted.

2 (State's Exhibit 181 admitted.)

3 BY MR. PESCI:

4 Q Looking at 181, I want to use this one as kind of our example and
5 then move it back into some other evidence. What did you do to make a
6 comparison, and how does this particular piece of evidence show the jury how
7 you go about it?

8 A Upon evaluating the hundred dollar bill, it was determined that the
9 hundred dollar bill had a print that was of comparison value or value for
10 identification, and at this time the fingerprint was photographed and scanned in.
11 And then upon obtaining names of individuals to compare in this particular case
12 then I did my comparison, and upon doing my comparison I was able to effect
13 an identification on this one --

14 Q Let me stop you. On 181 on the bottom left-hand corner, what
15 are we looking at here?

16 A These are -- the bottom left?

17 Q Right here, this particular one.

18 A Right in here?

19 Q Yes.

20 A Are we referring to the dots?

21 Q Well, no. This particular portion of your exhibit, is this the known
22 print of Deangelo Carroll?

23 A Oh, okay. Yes. What I have here, the exhibit is the hundred dollar
24 bill front and back. The back of the hundred dollar bill, this is the area of the
25 impression that I found that I have squared off. I have an arrow going over to

1 the right and another square. This little bit enlargement of the print and this
2 print is a purplish color, this is a chemical process that's used on paper
3 products, and this was used here, and the bottom arrow going down points to a
4 little bit more enlargement of the known print that was on the hundred dollar
5 bill, and this print is put into a gray scale.

6 When fingerprints are taken they're taken with black ink, and so to
7 make it the same contrast as the fingerprints that we look at, we change the
8 contrast, and the print on the left here is the finger that I was able to effect an
9 identification with.

10 Q Okay. So did you make an identification of Deangelo Carroll on
11 this particular hundred dollar bill?

12 A Yes, I did.

13 Q And this Exhibit 181 shows the process that you went through to
14 make that identification?

15 A Yes.

16 Q Okay. Now, showing you State's Proposed Exhibit 171; do you
17 recognize that?

18 A Yes, I do.

19 Q And how do you recognize that?

20 A I recognize this by my writing on the sheet.

21 Q Okay. And what is it?

22 A This is a -- this photograph depicts --

23 Q Does this photograph depict some of the latent print processing
24 that you performed or others within the Metropolitan Police Department
25 performed?

1 A That Crime Scene Analyst Renhardt performed.

2 Q Is this a fair and accurate depiction of that evidence as it was
3 tested by Crime Scene Analyst Renhardt?

4 A Yes.

5 MR. PESCI: Move for the admission of State's 171.

6 THE COURT: Any objection?

7 (No audible responses.)

8 THE COURT: All right. 171 is admitted.

9 (State's Exhibit 171 admitted.)

10 MR. PESCI: Okay. Any objection on 171?

11 THE COURT: I already admitted it.

12 MR. GENTILE: The problem is that I look at them and I forget to write
13 down the exhibit number. So when he goes up there I don't know what he's
14 talking about.

15 THE COURT: He's seeing 172 now?

16 MR. PESCI: No, we're looking at 171, Judge.

17 THE COURT: All right.

18 BY MR. PESCI:

19 Q Mr. Boyd, as we look at this here, are these certain pieces of
20 evidence that were recovered in this case and that you analyzed after they were
21 taken from the scene?

22 A Yes.

23 Q Okay. Showing you State's 91. You didn't respond out to E
24 Street, did you?

25 A No, I did not.

1 Q Okay. Now, looking at State's 171, was certain latent print
2 processing done on these various pieces of evidence to see if latent prints could
3 be recovered?

4 A Yes.

5 Q Did you then analyze or look at those latent prints that were
6 recovered?

7 A Yes, I did.

8 Q Now, let's go back through specifically looking at State's 172,
9 which is in evidence. Were you able to make an identification of anyone on
10 State's 172?

11 A Yes, I was.

12 Q To whom?

13 A Identified Deangelo Carroll right ring finger.

14 Q Okay. And do you know where this latent print came from? Is
15 there something on the card that tells you that?

16 A Yes.

17 Q Okay. Where did that latent print come from?

18 A It came from Item 29-6.

19 Q Okay. And does it have a print location explanation on this sticker
20 at the top?

21 A Yes.

22 Q Where is it from?

23 A The marking by Crime Scene Analyst Renhardt says on front of
24 Palomino VIP comp card on floor of family room, Item 29.

25 Q Okay. Is that some of the photos -- I mean, some of the items

1 that we just looked at in the photo?

2 A Yes.

3 Q Okay. So we'll keep that up. So Deangelo Carroll's fingerprint
4 shows up on one item?

5 A On 29-6.

6 Q Say what that item is.

7 A It would be this item right here.

8 Q Now, showing you State's 173. Do you recognize that?

9 A Yes, I do.

10 Q Was an identification made on that particular latent print?

11 A Yes, there was.

12 Q And who was it made to?

13 A Identified the No. 6 finger which is the left thumb of Kenneth
14 Counts.

15 Q And where did that print -- or latent print where was it recovered
16 from?

17 A According to the label by Crime Scene Analyst Renhardt, on back
18 of Palomino VIP comp card on floor of family room, Item 29.

19 Q Is Item 29 depicted in State's Exhibit 171?

20 A Yes, by marking on the back 29-1.

21 Q Okay. And which one is that?

22 A 29-1 would be this one right here.

23 Q If you can circle the other VIP card again that you already had.

24 A The other one was 29-6, I believe, that one.

25 Q Now, looking at State's 174, do you recognize that? Did you

1 make an identification on that one?

2 A Yes, I did.

3 Q To whom?

4 A This card by marking FB1 identified this. There were two
5 fingerprints that were identified to the same individual, identified right thumb
6 and also a left thumb to Mr. Kenneth Counts.

7 Q And where did that come from?

8 A The label on this particular card, on cigar box item 26 on family
9 room floor.

10 Q Okay. Can you indicate that on State's 171, please?

11 A No.

12 Q You cannot? You don't see a cigar box? Do you see a cigar box
13 in State's 171?

14 A Do I see a cigar box?

15 Q Yes.

16 A I'm confused. I don't see a cigar -- no, there's no cigar box here.

17 Q Okay. All right. Thanks.

18 Now, looking at State's 146, could you tell us that particular latent
19 print where it came from?

20 A 146 is a copy of a fingerprint lift by Crime Scene Analyst Grammas
21 from the interior side passenger side door window of a 1995 Chevrolet Astro
22 van, Nevada license 363NKS.

23 Q Was an identification made by you?

24 A Yes, there was.

25 Q To whom?

1 A Identified a Mr. Rontae Zone.

2 Q And where was the location on the Astro van?

3 A On the interior side passenger side door window.

4 Q Interior passenger side window?

5 A Yes.

6 Q Okay. State's 156, did you make an identification on that?

7 A Yes, I did.

8 Q To whom?

9 A Identified a Mr. Mark Quaid, Q-u-a-i-d.

10 Q Was he one of the names of the people that you were asked

11 originally to look for? Or let me put it this way. Did you have known prints of

12 Mark Quaid to compare them to?

13 A He was not one of the original names. I believe this was one of

14 the names that your office gave me to look at.

15 Q Okay. Is he one of the known prints that you did compare with?

16 A Yes.

17 Q Okay. And that's in that pile we looked at already?

18 A Yes.

19 Q Okay. Where was Mark Quaid's fingerprint found?

20 A This print here on the label by Crime Scene Analyst Smith, exterior

21 rear cargo door on the 1995 Chevrolet Astro van.

22 Q And then looking at State's 145, was an identification made on

23 State's 145?

24 A Yes, there was.

25 Q To whom?

1 A Also to Rontae Zone.

2 Q Rontae Zone?

3 A Yes.

4 Q And where was that fingerprint of Rontae Zone found?

5 A This was found from the interior side passenger side door window
6 of a 1995 Chevrolet Astro van.

7 Q Now, in the course of your analyzing this different evidence, were
8 you asked to look for prints of a Luis Hidalgo the second?

9 MR. GENTILE: I don't think that person exists.

10 THE COURT: Luis Hidalgo Junior?

11 THE WITNESS: No, sir.

12 BY MR. PESCI:

13 Q Junior? Second?

14 A A junior.

15 Q And a Luis Hidalgo III?

16 A And a senior.

17 Q Okay. Were those submitted to you by homicide as far as the two
18 individuals with the name Luis Hidalgo?

19 A Yes.

20 Q Were there certain numbers that were associated with those that
21 let you know who they were?

22 A Yes.

23 Q Okay. Did you make comparisons using known prints of those
24 individuals to the evidence that we just talked about?

25 A Yes, I did.

1 Q Did you make any matches to either of those two Luis Hidalgos?

2 A No, I did not.

3 Q And you went through this evidence looking for those?

4 A Yes, I did.

5 Q Did you make a report where you specified the specific number
6 unique to each Luis Hidalgo?

7 A Yes, sir, I did.

8 Q Would it refresh your recollection to look at that so we would
9 know which number was associated with which Luis Hidalgo?

10 A Yes, sir.

11 Q Okay. Could you tell us the first number?

12 A Yes, if I may look at my notes here. A name on the request on the
13 Luis Hidalgo Junior had an ID number of 1849634.

14 Q And then the other Luis Hidalgo that you looked, what was the
15 other ID number?

16 A The other number of Luis Hidalgo, and this came in as a senior,
17 1579522.

18 MR. PESCI: Pass the witness.

19 THE COURT: All right. Who would like to conduct cross-examination
20 first?

21 MR. GENTILE: I'll do it. Let me print this out if I can.

22 THE COURT: All right.

23 CROSS-EXAMINATION

24 BY MR. GENTILE:

25 Q Mr. Boyd, how are you today?

1 A How are you, sir?

2 Q Good. When we're talking about known prints I think counsel has
3 already said they can come from many sources; am I correct?

4 A Various sources, yes, sir.

5 Q Right. And for example, anybody here with a sheriff's card,
6 anybody in Clark County with a sheriff's card has to be fingerprinted; am I
7 correct?

8 A Yes, sir.

9 Q And so we probably have -- would it be fair to say that there are
10 hundreds of thousands of prints available to you simply through the work card
11 process?

12 A Yes, sir.

13 Q Okay. And then in addition to that -- and if you work in a liquor
14 licensed establishment, you need a work card?

15 A Yes, sir.

16 Q Okay. In addition to that, sometimes you're supplied with prints
17 that are taken at a jail, for example?

18 A Yes.

19 Q Or I need to get fingerprinted to become a lawyer, right?

20 A Yes, sir.

21 Q The Bar Association, you'd go to the Bar Association?

22 A I would assume you would, yes.

23 Q Okay. So there's nothing about the fact that a fingerprint is
24 provided to you in terms of a known exemplar that would necessarily indicate
25 that it came from having been arrested; is that fair to say?

1 A Yes.

2 Q Okay. Now, you talked a little bit about certain conditions that
3 can either heighten or reduce the probability of a latent print being left on a
4 surface?

5 A Yes, sir.

6 Q If it's a smooth surface such as those VIP cards, that's a pretty
7 smooth surface; isn't it?

8 A Yes.

9 Q Okay. If it's a smooth surface and it's not smudged, that's the
10 kind of a surface that you're likely to find a latent print on; fair to say?

11 A Yes.

12 Q Okay. Money's a little different though; money's porous?

13 A A little more difficult, yes, sir.

14 Q A little more difficult. Do you maintain or maybe -- I don't mean
15 you. I'm using you in the plural, everybody that does what you do for a living,
16 okay?

17 A Uh-huh.

18 Q Professional. Is there a data base or statistics that indicate the
19 probability, just straight-up probability of finding a latent print on money?

20 A No.

21 Q Okay. But it is less -- it's a little more difficult than on a smooth
22 surface like the VIP cards; am I correct?

23 A Yes, sir.

24 Q And certain conditions of the skin at the time that someone
25 touches the money may heighten the likelihood of a latent print being left there;

1 am I correct?

2 A Yes, sir.

3 Q And one of those conditions is if somebody is perspiring heavily;
4 am I correct?

5 A Yes, sir.

6 Q So if I am perspiring and I pick up a hundred dollar bill, then it's --
7 there's a greater likelihood that I will leave a latent print on that bill than if my
8 hands are dry?

9 A Yes.

10 Q Okay. Now, that doesn't necessarily mean that I won't leave a
11 print if my hands are dry; am I correct?

12 A That is correct.

13 Q But the likelihood is greater --

14 A Yes.

15 Q -- if my hands are perspiring at the time, right?

16 A Yes, sir.

17 Q Okay. And your best estimate, what would be the likelihood, the
18 greater likelihood be; can you give an example? Can you give us an estimate?

19 A Just speaking of money?

20 Q Money, yeah, a hundred dollar bill.

21 A Usually money is a difficult surface basically because money is
22 usually put in a wallet, and there's sweat in the wallet. If you have a brand
23 new bill and if money is -- if somebody handles a brand new bill, the length of
24 time that the person would have handled the item, as you're touching an item,
25 your perspiration, your body chemistry is still going, the likelihood of a print

1 being left on that will be maybe a little bit better.

2 The location of the print is a factor. You may find prints more up
3 towards the end because when you go through money you're here. You
4 wouldn't necessarily find prints maybe down here. Maybe if it's folded you
5 might, but more commonly maybe up on top. It's very difficult to say. Newer
6 bills, in my experience, it might be a little bit better for prints.

7 When they make money, they make money with various chemicals
8 and stuff to make money last a long time. It's not like a piece of paper that you
9 have in your wallet that the fiber's coming off and what not. They make
10 money sometimes maybe fingerprint resistant if you want to say. It's protected
11 from sweat and what not so money doesn't tear real easily.

12 So in my estimate newer bill is good, old bills not so good.

13 In the fingerprint world and from my experience, leaving a print on a
14 surface it's some you get, some you don't. The ones you think you're going to
15 get you don't. The ones think you're going to get a print on you don't, and the
16 ones that you don't think you're going to get something well, you do. It's all a
17 crap shoot, if I may use that term. And it is very difficult to say.

18 Q Okay. Well, let's talk about Exhibit 181. If I understood your
19 direct examination, this is the only -- now, you examined a good deal of money;
20 am I correct?

21 A Yes.

22 Q Like how many, five bills or something like that?

23 A In this particular case?

24 Q Yeah.

25 A If I may look, there's a --

1 Q Sure, go right ahead.

2 A There's a whole lot of money that we looked at in this case. In my
3 FB4, the package that had this particular hundred dollar bill in there, there was
4 Item 36, which is a thousand dollars consisting of 10 one hundred dollar bills.
5 And then there was also a --

6 Q Wait, let me stop you. Where did that item come from?

7 A The --

8 Q Or from where did that item come?

9 A From where did it come from?

10 Q Yes.

11 A I don't rightly know.

12 Q Is it in your report where the --

13 A Well, it was in the package by Crime Scene Analyst Renhardt.

14 Q Right.

15 A So you're asking where did she get it?

16 Q Right. Where did she get it?

17 A I don't know if I have that. Let me double check. Just bear with
18 me, please. I don't have that written down. That would be --

19 Q You don't know?

20 A No.

21 Q Okay. And is this the only bill of those that you examined from
22 which you were able to identify a fingerprint?

23 A Yes, sir.

24 Q You were given known exemplars, and your records indicate that
25 one was the known exemplar of Luis Hidalgo Senior, and one was the known

1 exemplar of Luis Hidalgo Junior if my understanding is correct?

2 A Well, the names on the request had junior and senior, and it had
3 the ID number. I pulled up the fingerprint cards based on the ID numbers.

4 Q Okay. So you don't know if they were accurately denominated
5 junior and senior?

6 A No, I do not.

7 Q You just know that there were two people named Luis Hidalgo that
8 you were tasked to retrieve known exemplars and compare them to the various
9 items?

10 A Yes, sir.

11 Q Is that correct?

12 A Yes, sir.

13 Q Okay. And who was it that told you to retrieve Exhibit 177, Mr.
14 Vantonio Williams or maybe it's William Vantonio?

15 A Mr. Vantonio Williams upon doing -- upon the examination of the
16 names that we had to look at, we also looked at fingerprints that were not
17 identified, and those not identified fingerprints that were of sufficient quality
18 that we could put into our AFIS, that's A-F-I-S, automated fingerprint
19 identification system, those fingerprints that met that quality that we could put
20 into our computer data base we did, and a print from the 1995 Chevy Astro
21 van, one was of AFIS quality. We put that in the computer and a match -- or a
22 candidate list did come back, and we subsequently identified Mr. Vantonio
23 William to this particular print by way of our AFIS computer data base. And
24 that's where his name came from.

25 Q Thank you. So when you do what you do, you don't limit your

1 efforts to specific individuals that are requested of you; am I correct?

2 A Well, we -- we have certain -- not all the -- no.

3 Q No, I'm not correct or?

4 A Well, we do in respect if you give me a list of names to look at,
5 hey, Fred, look at the people, I will look at these for you.

6 Q Right.

7 A But if during this investigation, if there are any prints that we can
8 put into our data base and maybe come up with a candidate such as we did
9 with Mr. Williams, well, we will do that, and this is our standard procedure now
10 that we do.

11 Q I think you answered my question, which could have been done
12 with a yes, but I think your answer was better.

13 A Thank you.

14 MR. GENTILE: If I may have a moment.

15 THE COURT: That's fine.

16 BY MR. GENTILE:

17 Q Now, you recovered the fingerprints of Deangelo Carroll on the
18 money; am I correct?

19 A Yes, sir.

20 Q And you recovered the fingerprints of Deangelo Carroll and
21 Kenneth Counts on the VIP cards; am I correct?

22 A Yes.

23 Q All right. And you didn't recover either Counts or Carroll anywhere
24 else, if I understand you correctly?

25 A On any other piece of evidence you're asking?

1 Q Right.

2 A We did identify Mr. Counts on a business card that had the words,
3 "Scooter Guy."

4 Q Scooter Guy?

5 A (Witness nodded.)

6 Q Anywhere else?

7 A No, sir.

8 Q Mr. Pesci asked you about whether you saw a cigar box on Exhibit
9 171, and you said you didn't. I'm going to ask you a little different question.
10 Do you see that box of Optimo there on the left?

11 A Over here?

12 Q Excuse me. Do you see the Optimo on the left?

13 A Is this where you're referring?

14 Q Yes, that's what I'm referring to. Do you remember what that
15 was?

16 A Not the paper that -- I guess I stand corrected if this is the little
17 cigar box. I was -- in my mind, I apologize.

18 Q You had envisioned a box of cigars?

19 A Right.

20 Q I understand that. Now, if we can agree that that's a cigar box,
21 okay, or a box that either currently or once held cigars, peach flavored cigars
22 from the label on it, did you find a print on there?

23 A Did I find a print on here?

24 Q Right.

25 A There was a -- yes, there was a print that was lifted from there.

1 Q Were you able to identify it?
2 A Yes.
3 Q And whose was it?
4 A That was Mr. Carroll's.
5 Q Deangelo Carroll's. Do you know what a blunt is?
6 A Correction. Mr. Counts.
7 Q Mr. Counts. Do you know what a blunt is?
8 A What a what?
9 Q If I use the term blunt and I use it in relationship to something that
10 can be smoked, do you know what it is?
11 A I can visualize what I think it would mean.
12 Q But you'd be speculating?
13 A Yes.
14 Q Okay. Well, we won't do that then.
15 Among the people --
16 MR. GENTILE: Nothing further. Thank you.
17 THE COURT: All right. Mr. Adams, do you have any cross?
18 MR. ADAMS: Yes, ma'am.

19 CROSS-EXAMINATION

20 BY MR. ADAMS:

21 Q Mr. Boyd, let me ask you a handful of questions. I represent Luis
22 Hidalgo III, who's sitting in the very back. You don't know as you sit here
23 whether he's one of the two Luis Hidalgos that you checked the prints of?
24 A Not right off, but I do have dates of births that were on the cards.
25 Q All right. And what is the date of birth for the Luis Hidalgo II,

1 Second or Junior that you have listed?

2 A Bear with me one moment. The name of Luis Hidalgo Junior
3 which came back to ID 1849634, the date of birth on those known prints is
4 listed as 8/15 of '81.

5 Q And how old would that make someone born in 1981 today?

6 A Well, be 27, 28.

7 Q Under 30, correct?

8 A Yes.

9 Q And we can agree, no offense, Mr. H, we can agree that the first
10 gentleman here is probably above 30?

11 A I would assume.

12 Q All right. And the guy in the back is under 30?

13 A I would assume.

14 Q All right. And the person who would be able to tell you what print
15 was submitted to you for comparison would be the detective who made the
16 request of you?

17 A These, I would assume that these -- yes.

18 Q All right. And that would be Detective Wildemann?

19 A Well, there were two requests that came in that bore the name
20 junior and senior with these ID numbers by two different detectives.

21 Q And on your report you have requested by Detective Wildemann?

22 A Yes.

23 Q So Detective Wildemann may be able to tell us if that print that
24 was submitted to you actually is the print from Luis Hidalgo III?

25 A I would -- yes.

1 Q All right. And of that print submitted for the under 30 Luis
2 Hidalgo, who I believe is Luis Hidalgo III, that print was not found on any piece
3 of forensics involved in this case at all, was it?

4 A I did not identify that person to any of the prints that we have.

5 Q Let me show you State's Exhibit 203, which is in evidence. Are
6 you -- have you touched this bag at some point in time?

7 A No, sir.

8 Q That wasn't a bottle that -- or a bag that you examined or
9 secured?

10 A Not me, sir, no, sir.

11 Q All right. Were you ever asked to see if you could identify prints
12 off this bag?

13 A Not off the bag, off the items --

14 Q Off the item within the bag?

15 A There were some latent print lifts that were submitted that bore
16 the description as we have here from the bottle.

17 Q Do you know what's in the bag?

18 A I would assume based on -- appears like a bottle and the label on
19 the outside this one's a 750ml bottle, Tanqueray No. 10 distilled gin.

20 Q All right. Well, we've not been in that bottle either, and I think
21 these jurors have been here a long time it might be time to pull out the liquor.

22 MR. ADAMS: Do you have a problem with us cutting this open?

23 MR. DIGIACOMO: Not at all.

24 MR. ADAMS: A little eye opener to get us going this morning.

25 THE WITNESS: Do we have any gloves?

1 THE COURT: Yeah, I was just -- you read my mind.

2 THE MARSHAL: There might be some gloves right behind you. Is there
3 a box of gloves behind you?

4 THE WITNESS: Oh, yes, there is. Thank you.

5 BY MR. ADAMS:

6 Q And let me ask you, Mr. Boyd, because this is evidence that will
7 be back in the jury room ultimately along with a box of gloves, I'm assuming
8 you're not going to place gloves on to keep from putting prints on something,
9 are you?

10 A I am putting gloves on to protect myself. This has been chemically
11 processed by crime scene, and I don't know what technique they used. I would
12 assume maybe superglue or maybe fingerprint powder. We do have fingerprint
13 lifts that were taken from this particular item that I did compare.

14 Q All right. So based on your training, when something you don't
15 know what is on a bottle or an item, you just wear the gloves?

16 A Well --

17 Q And that's what you'd encourage other people to do who may be
18 handling this material later?

19 A Well, if it was -- if it was processed with superglue and fingerprint
20 powder, that powder will be on there, and you're going to get this black powder
21 all over you.

22 Q Now, it doesn't harm you, right; you'd just need to wash your
23 hands and get it off of you?

24 A Well, it's very messy. However, if they would then maybe apply
25 some dye stain to that superglue to maybe enhance those prints that might be

1 on there, you know, you're going to have fluorescent dye on your hands. So as
2 a precautionary measure, I always like to wear gloves especially if it's
3 something that I know that I did not -- if I packaged this, I know how I
4 packaged it, and I could be a little bit safer.

5 THE COURT: So there's a safety element as well as just getting your
6 hands dirty?

7 THE WITNESS: Yes.

8 Like I said, I have not seen this before.

9 BY MR. ADAMS:

10 Q The clerk asked you to make sure that you're not cutting through
11 tape if at all possible.

12 A Right. I'm trying to do it as easy as I can here. I don't know how
13 they packaged it inside. I hope there's not a -- they did put it inside of a plastic
14 bag. I would assume that maybe I'm over protecting myself by these gloves
15 since it is in a plastic bag. Do I need to take it out of the plastic bag?

16 Q Please.

17 A Okay.

18 THE WITNESS: Your Honor, if I may be permitted to take my coat off?

19 THE COURT: Oh, absolutely. That's fine.

20 THE WITNESS: Again, that's just another precautionary measure. If I
21 may do this here that way if there's any powder it won't be flying over here.

22 BY MR. ADAMS:

23 Q And can you identify this bottle? Just tell us what the label on it
24 is.

25 A No. 10, Tanqueray, T-a-n-g -- or q-u-e-r-a-y.

1 Q A bottle of Tanqueray gin No. 10?

2 A Right. That's distilled gin imported. There's a bar code on the
3 back. It has a description of what it is.

4 Q And there's some smudge marks on that bottle, aren't there, on
5 the -- here on the back side? If you look through up against the light, it doesn't
6 appear that's a clean bottle?

7 A There are some smudge marks on here, and there's indications of
8 some black fingerprint powder where fingerprint lifts were taken from this
9 bottle.

10 Q And in fact fingerprint lifts were submitted to you, weren't they?

11 A Yes.

12 Q And that's part of Item 5, FMB5 was a sealed package booked by
13 Renhardt containing a gin bottle with lifts 38 and 39?

14 A 38 and 39 there were -- if I may -- yes.

15 Q And neither lift 38 or 39 based on your expert opinion came from
16 Little Lou Hidalgo there in the back of the room?

17 A That is correct.

18 Q So there's no forensic evidence that you're aware of that Little Lou
19 Hidalgo ever held, touched this bottle or handed it to somebody?

20 A No.

21 Q And you're not aware what the content is in there, whether that's
22 gin or a mixture of gin and rat poison, are you?

23 A I have no idea.

24 Q Okay. We're not asking you to do any taste test.

25 A I'd have you test first.

1 Q Let me ask you a little about money. You were given --

2 MR. ADAMS: And how would you like, Madam Clerk, how would you
3 like me with the bags and the gin?

4 THE CLERK: I'm going to make the bag 203A, the gin 203B or --

5 THE COURT: Let's just mark the content -- what's the number of the
6 exhibit?

7 THE CLERK: 203.

8 THE COURT: All right. So the gin back in the bag, the plastic bag will
9 be 203A.

10 You can mark that as admitted.

11 (State's Exhibits 203 and 203A admitted.)

12 BY MR. ADAMS:

13 Q And, Mr. Boyd, you were given a lot of money to check out,
14 weren't you --

15 A Yes.

16 Q -- in this case? You were given a stack of money that may relate
17 to May the 19th, a stack of money that may relate to a search warrant on Mr.
18 Counts' house, a stack of money that came from Deangelo Carroll on May the
19 23rd, and a stack of money that came from Deangelo Carroll on May the 24th.
20 Is that consistent that you were asked -- you were given four different groups
21 of money to examine?

22 MR. PESCI: I apologize. I'm going to object as to the characterization
23 as far as the dates when certain money came.

24 THE COURT: Well, if it's indicated on the impound, if he can tell.

25 MR. ADAMS: I'll rephrase.

1 BY MR. ADAMS:

2 Q You were given FMB1 which was a packet Item 25 in your report,
3 a packet of 5 one hundred bills?

4 A Yes, sir.

5 Q You were given FMB 2, a packet of \$95 in US currency?

6 A Yes, sir.

7 Q You were given -- and these are separate packets given to you?

8 A Yes, sir, they were.

9 Q Packed differently in different plastic bags?

10 A Yes, sir.

11 Q All right. And then FMB4 was how much money?

12 A FMB4 consisted of two items, Item 36 and 37. Item 36 was a
13 thousand dollars; that was 10 one hundred dollar bills, and Item 37; that was
14 \$400 that was 20, twenty dollar bills.

15 Q And so -- in this FMB4 it was one packet with two separate
16 amounts of money in there. So there would be two smaller baggies of money
17 within this one larger bag?

18 A That is correct, sir.

19 Q And that would be consistent with somebody given 4 one hundred
20 dollar bills and then coming back later and given a grand, right?

21 A I don't know the circumstances, but, yeah.

22 Q And then FMB8 there was more money?

23 A Yes, sir.

24 Q A fourth pile of money?

25 A Yes, sir.

1 Q And how much was in that fourth pile of money?

2 A FMB8 there was \$800.

3 Q And you checked all this money for prints?

4 A Yes, sir.

5 Q And again, you didn't find Little Lou Hidalgo's print on any of the
6 money?

7 A That is correct; I did not.

8 Q You did find Deangelo Carroll's print on the money?

9 A Yes, sir, I did.

10 Q And that was from the May 23rd seizure, the baggie with the
11 thousand and the baggie with the 400 included in the one larger bag?

12 A Yes, sir.

13 Q Did you check on any shell fragments for any fingerprints on any
14 shell fragments?

15 A That does not sound familiar, but let me double -- as far as
16 checking the shell fragments themselves, no. As far as in the -- check for any
17 fingerprint lists that may -- yes, I did. There were some fingerprint lift cards by
18 Crime Scene Analyst Renhardt that were submitted on items that she had
19 processed.

20 Q You were unable to get any lift off that --

21 A There were four lift cards pertaining to ammunition. There was
22 one card that had a print of comparison value, and that was compared to
23 everybody, and there was no identification made to that print. The remaining
24 three cards, those print cards had prints of no value for identification. So I
25 wasn't able to do anything with those. But there was one card that did have

1 one print that is still outstanding, and the label on that print card was the
2 exterior plastic bag containing 9mm cartridges, and that was listed as Item 12A
3 by Renhardt.

4 Q And that -- the 9mm cartridges were found where, Kenneth
5 Counts' house?

6 A Let's see. The address on those lift cards was 1676 E Street.

7 Q And again those prints don't match either Mr. Hidalgo or his son?

8 A No.

9 Q If I understand you correctly, when you're looking at money for
10 prints, it's a tough surface to get a print off of?

11 A Basically it is.

12 Q And you feel lucky to have gotten one in this situation? Well, not
13 lucky but it's rare --

14 A Well, yes --

15 Q -- that you find one off money?

16 A Well, yeah.

17 Q And with the print you indicated that the more somebody sweats
18 the newer the dollar or the newer the bill, the more likely you are to be able to
19 get a print off of that?

20 A Well, with money you have a lot of contaminants. It's in the
21 wallet and what not, and a lot of people handle it, and there's a lot of
22 contamination on that money. And then when you touch it, you're touching a
23 print over a lot of contamination and stuff. And so it's a, like I say, you're
24 lucky when you do find a print on money.

25 Q And when you found Deangelo Carroll's print on the money, you

1 were unable to tell whether he put that print -- or that print was placed on there
2 on May the 23rd or whether he might have placed that print on there on May
3 19th and then put the money in his pocket?

4 A Unable to tell.

5 MR. ADAMS: Thank you very much.

6 THE COURT: All right. Redirect? And did we have any juror questions?

7 All right, Jeff, go retrieve the questions.

8 And, Mr. Pesci, why don't you start while Jeff's doing that.

9 MR. ADAMS: May I ask one more, please?

10 THE COURT: Sure.

11 MR. ADAMS: Thank you. And boy if I'm lucky it will be in anticipation
12 of the juror question.

13 THE COURT: And can you move so that Jeff --

14 MR. ADAMS: Sure.

15 THE COURT: We'd be hard pressed if there was an emergency.

16 BY MR. ADAMS:

17 Q You would have attempted to run a print on any evidence
18 submitted to you in this case, wouldn't you?

19 A Run a print?

20 Q Or you would have attempted to lift a print, compare a print if
21 there had been whatever evidence the prosecution or the detective submitted to
22 you and requested that you compare a print?

23 A Yes.

24 MR. ADAMS: That's it.

25 THE COURT: All right, Mr. Pesci, go ahead.

1 MR. PESCI: Thank you.

2 REDIRECT EXAMINATION

3 BY MR. PESCI:

4 Q You just said that you couldn't tell the date of the print; am I
5 correct?

6 A No.

7 Q Do prints come with a date on them?

8 A No, sir.

9 Q They're not date stamped?

10 A Do prints come -- we're talking about the latent print?

11 Q Yes, any print. I mean, I walk up and I touch this, is there a date
12 that comes with that?

13 A No, sir.

14 Q All right. Can a print remain in a location for a good period of
15 time?

16 A Yes, sir.

17 Q Okay. I want to show you State's Exhibit 134 and ask you to
18 open that -- there's a clip there -- and take a look inside and see if you
19 recognize that. Mr. Adams just asked you some questions about printing the
20 projectiles or the firearm evidence in this case. Do you remember those
21 questions? Do you remember those questions?

22 A Yes, sir.

23 Q Okay. And your testimony was that you were able to get a lift
24 from some of that evidence that was of sufficient quality to make a
25 comparison?

1 A The -- there was one lift card that was taken from a plastic bag
2 containing 9mm cartridges by Renhardt, and there was one print.

3 Q What about the fragments, the ammunition itself, were you able to
4 get any latent prints from those?

5 A No, sir. These are bullet fragments that were taken from the
6 autopsy, and there's -- this is not a surface where you can obtain suitable latent
7 prints.

8 Q Okay. So this is a difficult surface to get a print from?

9 A Yes, sir.

10 Q All right. Now, going back to State's 174.

11 MR. PESCI: Your Honor, we'd move for the admission of State's 174.

12 THE COURT: Any objection to 174?

13 MR. PESCI: I'm sorry, 147.

14 THE COURT: 147, which is the photocopy of the -- of money.

15 MR. ADAMS: No objection.

16 MR. GENTILE: No objection.

17 THE COURT: All right. That will be admitted as 147.

18 (State's Exhibit 147 admitted.)

19 BY MR. PESCI:

20 Q 147, does this represent the hundred dollar bill that you were able
21 to make an identification from?

22 A Yes, sir.

23 Q And you've gone through on cross-examination the fact that you
24 were asked to look at all the money submitted to you in this case; do you
25 remember those questions?

1 A Yes, sir.

2 Q And that you didn't make anybody other than Deangelo Carroll on
3 any of the cash?

4 A That is correct.

5 Q That included Anabel Espindola, didn't it?

6 A That is correct.

7 Q She was one of the people that you compared it to?

8 A Yes, sir.

9 Q Anabel Espindola's print doesn't show up on a single dollar bill,
10 hundred, twenty, anything?

11 A That is correct.

12 Q And defense counsel asked you about one package that had
13 hundred dollar bills, \$1,000 and then \$400. Do you remember those
14 questions?

15 A Yes, sir.

16 Q It was 4 one hundreds, was it?

17 A No, sir.

18 Q 20 twenties?

19 A It was twenties, yes.

20 MR. PESCI: Thanks. Nothing further.

21 THE COURT: All right. Let me ask these juror questions. Two are the
22 same question actually.

23 Two jurors want to know, were any prints lifted off the gin bottle?

24 THE WITNESS: Yes, there were.

25 THE COURT: All right. And then were those prints, how many prints?

1 THE WITNESS: If I may refer to my notes?

2 THE COURT: Go ahead.

3 THE WITNESS: The gin bottle was processed by Crime Scene Analyst
4 Renhardt. There were five latent print cards that were submitted from the gin
5 bottle that had ridge detail. One of those five was no value for identification.

6 THE COURT: Meaning it didn't have enough detail to make --

7 THE WITNESS: For comparison purposes.

8 THE COURT: -- to compare it to anybody's prints?

9 THE WITNESS: Yes, ma'am.

10 THE COURT: All right.

11 THE WITNESS: That left four of the print cards which had latent print
12 detail for comparison purposes. I compared those to everybody that we had,
13 and there was no identification. In addition to the lift cards that was submitted
14 by Crime Scene Analyst Renhardt, there was a submission on my FMB5 which
15 was addressed of microseal lifts.

16 Now, what a microseal lift is, it's another method of lifting a latent
17 print off of a surface. Usually what's done the fingerprint powder, the taped
18 fingerprint lifts, and that's what I have here, the five cards, and then since it is
19 like a -- it's not completely a round surface. In this particular case it's more of
20 a square surface than a round. You can take a -- you can make a rubber lift,
21 which will adhere to that surface a little bit better sometimes than regular
22 Scotch tape, and this is called a microseal lift.

23 Basically, this is a liquid form of a rubber compound. It's called
24 microseal, and it will adhere to surfaces. A good example would be this pitcher
25 right here where you have the different striations, it's very hard to get, like,

1 tape in here. But if you have a liquid component that could flow into that
2 where you could just kind of peel that off, it would make it a little bit easier,
3 and sometimes this is done, and in this case with this bottle that is what was
4 done, and that is what is referred to as a FMB5.

5 There were two lifts Item 38 and 39 in my report. And basically
6 those lifts have the same information as the fingerprint lift cards that I looked
7 at. So it would be like I have the original lift card that Crime Scene Analyst
8 Renhardt did, and then you have the microseal lift, which would be like a
9 supplement to that. That would just aid me a little bit in my comparisons, and
10 that's what I had there.

11 And so to answer the question, yes, there were other cards taken.

12 THE COURT: So in other words, Crime Scene Analyst Renhardt lifted
13 lifts to the print cards and then you took those same areas where prints had
14 been lifted and you went back and performed this other procedure to get a
15 more detailed or a supplemental print, and then you were able to utilize both of
16 those for comparison. Is that what you're telling us?

17 THE WITNESS: Crime Scene Analyst Renhardt, she also -- she's the one
18 that did the microseal lift, yes. She did both, yes, ma'am.

19 THE COURT: All right. Thank you, Mr. Boyd. I'm going to interrupt you
20 here. We're going to take quick 10-minute break, and then we'll finish up with
21 the jury questions.

22 And once again, if anybody has any additional jury questions, hand
23 those to Jeff on your way out the door. Just our 10-minute morning recess.
24 Once again you're reminded of the admonition not to discuss anything related
25 to the case --

1 MR. DIGIACOMO: Judge, can we approach before you do this?

2 THE COURT: Sure.

3 (Conference at the bench.)

4 THE COURT: Ladies and gentlemen, ten minutes. Once again don't talk
5 about the case or anything related to the case. Notepads in your chairs. Any
6 additional juror questions hand them to Jeff on the way out.

7 (Recess taken 10:51 a.m.)

8 (Jury entering 11:03 a.m.)

9 THE COURT: All right. Court is now back in session, and as a follow-up
10 to what you were just testifying about regarding the gin bottle, you said four
11 were of comparison quality; is that right?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: And who did you -- whose exemplar or known prints did
14 you compare those four to?

15 THE WITNESS: I compared those to everybody who we had mentioned
16 here in the case. Do you want me to read the whole list?

17 THE COURT: Sure, just so it's clear for the jury.

18 THE WITNESS: The names that I compared to the latent prints from the
19 gin bottle: Deangelo Carroll, Kenneth Counts, Luis Hidalgo, both of them,
20 Anabel Espindola, Vantonio William, Rontae Zone, Jason T-a-o-i-p-u, Michelle
21 Schwanderlik, Mark Wood and also to the victim, Timothy Hadland.

22 THE COURT: And what was the result of that comparison?

23 THE WITNESS: There was no match.

24 THE COURT: Okay. So none of those people -- those fingerprints didn't
25 belong to any of those people; is that right?

1 THE WITNESS: That is correct, ma'am, they did not.

2 THE COURT: Now, you earlier testified that some prints are of AFIS
3 quality and you might run them through the system. Were any of these prints
4 of AFIS quality?

5 THE WITNESS: From the bottle?

6 THE COURT: Just from the bottle.

7 THE WITNESS: No, ma'am.

8 THE COURT: All right. And a juror wants to know, who gets to keep
9 the money? You have nothing to do with that, do you?

10 THE WITNESS: I have nothing to do with that. It goes back to the
11 evidence vault, and they have proper disposition instructions pertaining to that.

12 THE COURT: All right. Thank you. So once you try to lift the prints
13 and make the comparison, the evidence leaves your, sort of, province; is that
14 right?

15 THE WITNESS: Yes, ma'am.

16 THE COURT: All right. Mr. Pesci, anything else based on those last
17 questions?

18 MR. PESCI: No, thank you.

19 THE COURT: Mr. Gentile, anything else based on those last questions?

20 MR. GENTILE: No, thank you.

21 THE COURT: Mr. Adams, anything else based on those last questions?

22 MR. ADAMS: No, ma'am, thank you.

23 THE COURT: Any additional juror questions?

24 All right. Mr. Boyd, thank you very much for your testimony, sir,
25 you are excused.

1 State, call your next witness.

2 MR. DIGIACOMO: Denise Mata.

3 THE COURT: Ms. Mata, just come on up here, please, to the witness
4 stand, just up those couple of stairs and remain standing facing our court clerk.

5 DENISE MATA

6 Having been called as a witness and being first duly sworn testified as follows:

7 MR. ADAMS: Judge, may we approach before you --

8 THE CLERK: Can I get her name?

9 MR. ADAMS: Oh, yes, certainly.

10 THE CLERK: Please be seated and please state and spell your name.

11 THE WITNESS: Denise Mata, D-e-n-i-s-e, M-a-t-a.

12 THE COURT: Thank you. Approach.

13 (Conference at the bench.)

14 THE COURT: Ladies and gentlemen, the testimony that you're about to
15 hear is being offered as evidence against Mr. Hidalgo Junior, Mr. H, not as
16 evidence against Mr. Hidalgo III.

17 Go ahead, Mr. DiGiacomo.

18 DIRECT EXAMINATION

19 BY MR. DIGIACOMO:

20 Q Ms. Mata?

21 A Yes.

22 Q Have you and I ever met before?

23 A No.

24 Q Okay. Did you know a person named Anabel Espindola?

25 A Yes.

1 Q How did you know her?

2 A I met her in jail.

3 Q And after you got out of jail did there come a point in time when
4 you met a guy by the name of Luis Hidalgo Junior?

5 A Yes.

6 Q Mr. H?

7 A Yes.

8 Q Do you see him here in court today?

9 A Yes, I do.

10 Q Can you point him out and describe something he's wearing?

11 A He's sitting right there.

12 Q Which, there's like six people --

13 MR. GENTILE: Stand up.

14 THE WITNESS: He's wearing a gray sweater.

15 MR. GENTILE: Let the record reflect that he stood.

16 THE COURT: All right. The record will reflect she's identified Mr.
17 Hidalgo Junior.

18 BY MR. DIGIACOMO:

19 Q I'm going to direct your attention back to around Christmastime of
20 2008, so a couple months ago. Did there come a point in time when Mr. H
21 asked you to do anything?

22 A I was working with him at that time.

23 Q Okay. You were working with him?

24 A Uh-huh.

25 MR. DIGIACOMO: May I approach, Judge?

1 THE COURT: You may.

2 BY MR. DIGIACOMO:

3 Q I'm going to show you what's been marked as State's Proposed
4 Exhibit No. 223. That's an envelope, correct?

5 A Yes.

6 Q Do you know whose writing that is?

7 A Mine.

8 Q Okay. And it's an envelope from you to Anabel Espindola,
9 correct?

10 A Right.

11 MR. GENTILE: What is the exhibit number, I'm sorry?

12 MR. DIGIACOMO: 223.

13 BY MR. DIGIACOMO:

14 Q Inside of 223 is 223A. Do you recognize the card that's inside?

15 A Yes.

16 Q And whose writing is that?

17 A Mine.

18 Q Okay. Now, did you know of a nickname that Mr. H utilized for
19 Anabel?

20 A For her?

21 Q A nickname that he had, how's that?

22 A I know that there was a nano nano that they used to say to each
23 other.

24 Q That they used to say nano nano to each other?

25 A To each other, that's what I've heard.

1 Q And did there come a point in time as it relates to that letter that
2 Mr. H asked you to write a letter?

3 A There was one occasion when I -- it was after Christmas, I believe.
4 I was writing cards to different inmates in CCDC and letters. That day I was
5 writing Anabel a letter personally by myself, and Mr. H did ask me if I could just
6 please write her a Christmas card.

7 Q Write her a Christmas card?

8 A Uh-huh.

9 Q On his behalf?

10 A Yeah.

11 Q And then it was -- and that's what you wrote on his behalf and
12 signed nano nano?

13 A Uh-huh.

14 THE COURT: Is that yes?

15 THE WITNESS: Yes.

16 MR. DIGIACOMO: Move to admit 223 and 223A.

17 MR. GENTILE: No objection.

18 THE COURT: All right. That will be admitted, 223 and 223A.

19 (State's Exhibits 223 and 223A admitted.)

20 MR. DIGIACOMO: Pass the witness, Judge.

21 THE COURT: All right. Mr. Gentile.

22 MR. GENTILE: No cross-examination.

23 THE COURT: All right. Ms. Mata, thank you for your testimony. You
24 are excused at this time.

25 MR. GENTILE: Well, wait. Excuse me. If you're going to put it in then

1 publish it. I would like to publish this document.

2 THE COURT: All right.

3 CROSS-EXAMINATION

4 BY MR. GENTILE:

5 Q If I understand, this is a Christmas card?

6 A Yes.

7 Q Right, Ms. Mata? And the words on this card were essentially
8 dictated -- it's in your handwriting?

9 A Yes.

10 Q But Mr. Hidalgo, Mr. H asked you to write this card?

11 A Yeah.

12 Q And he asked you to write it to Anabel?

13 A Sure.

14 Q Did he seem insincere when he did it?

15 A No, not at all.

16 Q No. Did he seem sincere when he did it?

17 A Yes, sir.

18 Q Were there tears in his eyes?

19 A Most of the time -- every time he used to talk about Anabel they
20 were.

21 Q Did you write this letter thinking in any way, shape or form that it
22 was being written to intimidate Anabel Espindola?

23 A No, not at all.

24 Q You wouldn't do that, would you?

25 A No, because I consider Anabel a friend. I was with Anabel, too,

1 you know.

2 Q All right. And so you understood that if you were to become
3 involved in something like that you could get in trouble?

4 A Yeah.

5 Q You had been in jail?

6 A Yeah.

7 Q You didn't want to go back?

8 A Not really, no.

9 Q Do you still consider Anabel to be a friend?

10 A I understand why she did this, you know what I'm saying. Yes, I
11 do still consider her a friend.

12 Q Okay.

13 MR. GENTILE: I don't have anything further.

14 THE COURT: All right. Anything else?

15 MR. DIGIACOMO: No, Judge.

16 THE COURT: Any juror questions?

17 All right. Ms. Mata, now you are excused. Please don't discuss
18 your testimony with anyone else who may be a witness.

19 And, State, call your next witness, please.

20 MR. DIGIACOMO: Detective Martin Wildemann.

21 THE COURT: Please just remain standing facing our clerk.

22 MARTIN WILDEMAN

23 Having been called as a witness and being first duly sworn testified as follows:

24 THE CLERK: Please be seated and please state and spell your name.

25 THE WITNESS: Detective Martin Wildemann, W-i-l-d-e-m-a-n-n.

1 DIRECT EXAMINATION

2 BY MR. DIGIACOMO:

3 Q Detective, how are you employed?

4 A With the Las Vegas Metropolitan Police Department.

5 Q How long have you been with Metro?

6 A 21 years.

7 Q And where are you currently assigned to?

8 A Homicide.

9 Q How long you been with homicide?

10 A Seven years.

11 Q Direct your attention back to May 19th into the early morning hours
12 of May 20th of 2005, did you become involved in the investigation of the
13 murder of Timothy J. Hadland?

14 A Yes, I did.

15 Q Did you respond out to the scene?

16 A Yes, I did.

17 Q After -- well, let me ask you this. At the scene were the duties
18 divided among what duties you should take versus the other detectives that
19 were out there from the homicide division?

20 A Yes, they were.

21 Q Okay. And can you tell us what your assignments were?

22 A My assignment was any interviews that needed to take place out
23 at the scene.

24 Q And were there -- were there individuals out at the scene?

25 A Yes.

1 Q Okay. And based upon those interviews were any of them
2 percipient witnesses to the events which you were investigating?

3 A No.

4 Q Does there come a point in time that the scene analysis or
5 investigation is concluded?

6 A Yes.

7 Q And what do you do next in your investigation?

8 A We head back to the office for a short period of time, did some
9 research, and I eventually went out to Lake Mead.

10 Q Who did you meet out at Lake Mead?

11 A I met the victim's girlfriend.

12 Q Paijik Karlson?

13 A Yes.

14 Q After speaking to Ms. Karlson was there a person of interest that
15 you wanted to talk to?

16 A Yes, there was.

17 Q And who was that?

18 A Deangelo.

19 Q And did you relay that information back to the office, and was
20 there an effort made to identify him?

21 A Yes, there was.

22 Q And by the time you got back to the office or during the time that
23 you go back to the office, do you learn the identity of this Deangelo?

24 A Yes.

25 Q What was that?

1 A He was identified as Deangelo Carroll.

2 Q And did you have any information as to where Mr. Carroll worked?

3 A The Palomino Club, he had a work card.

4 Q Did there come a point in time when somebody from the North Las
5 Vegas Police Department relays to Metro a phone number for an individual
6 who's eventually identified as Luis Hidalgo Junior?

7 A Yes.

8 Q And do you see Mr. Luis Hidalgo Junior here in court?

9 A Yes, sir, I do. He just stood up.

10 MR. DIGIACOMO: May the record reflect the defendant just stood up.

11 THE COURT: And that the detective identified him, yes.

12 MR. DIGIACOMO: Thank you, Judge.

13 BY MR. DIGIACOMO:

14 Q Did you call the number that was provided to you for Mr. H?

15 A Yes, I did.

16 Q And after calling -- when you called that number, did you speak to
17 an individual?

18 A Yes, I did.

19 Q And what information did you relay to that individual?

20 A I asked for Mr. Hidalgo. He said that he was him on the other end
21 of the phone. I asked him if he could possibly meet, that I needed some
22 information from him regarding a possible employee.

23 Q Did you provide him any other information as to the nature of the
24 investigation at this point?

25 A No.

1 Q Did Mr. Hidalgo agree to meet with you?
2 A Yes.
3 Q Let me ask you this. At the time, what was your desk phone
4 number?
5 A My desk phone number at the time was 229-3613.
6 Q Does there come a point in time when you have a second
7 conversation over the phone with Mr. Hidalgo?
8 A Yes, sir, there is.
9 Q And was that on the desk phone or a cell phone?
10 A That was on my cell phone.
11 Q And can you tell us at the time what your cell phone number was?
12 A 289-5620.
13 Q And do you call the same person you were talking to earlier?
14 A Yes.
15 Q And what information do you relay at this point?
16 A At that point I was just letting him know that we had arrived at the
17 club and wondered what his ETA was.
18 Q Eventually did Mr. Hidalgo arrive at the club?
19 A Yes, he did.
20 Q And can you tell us approximately what time that was?
21 A It was approximately 3 to 4 o'clock, right in there.
22 Q And we're talking on Friday the 20th?
23 A Yes.
24 Q And at that point did you have a communication with Mr. Hidalgo?
25 A Yes, I did.

1 Q And what is it that you said to Mr. H?

2 A I told him that we were investigating a crime that had taken place
3 at the lake. I asked him if he had an employee by the name of Deangelo Carroll
4 there and that if he did, if he had any paperwork regarding Deangelo Carroll's
5 residence or phone number.

6 Q And what was the response from Mr. H at this point?

7 A He explained to me that he did have an employee by the name of
8 Deangelo Carroll, but he didn't have access to any of those records and that we
9 would have to come back to the club later on in the evening and speak with the
10 manager.

11 Q What manager did he tell you to speak to?

12 A He told me her name was Ariel.

13 Q And did he tell you what time you had to come back to the club?

14 A 7 o'clock roughly.

15 Q Okay. And specifically you said you asked for both phone number
16 and address, and he said he had neither of those items available to him?

17 A Correct.

18 Q Did you eventually go back to the club at 7 o'clock at night?

19 A Myself and Detective McGrath did, yes.

20 Q And does there come a point in time when you have contact with
21 a Deangelo Carroll?

22 A Yes.

23 Q And the jury's heard a lot about -- from Detective McGrath -- about
24 that, but at some point do you wind up in an interview with Deangelo Carroll?

25 A Yes, I do back at the homicide office.

1 Q And back at the homicide office how long of an interview does it
2 take?

3 A I'm not sure exactly. It was at least a couple-hour interview.

4 MR. GENTILE: May we approach?

5 THE COURT: Yes.

6 (Conference at the bench.)

7 THE COURT: All right. Mr. DiGiacomo, you may proceed.

8 MR. DIGIACOMO: Thank you.

9 BY MR. DIGIACOMO:

10 Q Without telling us what Deangelo Carroll said, did he give the same
11 story over the course of the two-hour interview?

12 A No, he did not.

13 Q How many different versions did he give?

14 A At least three.

15 Q Okay. After you completed the interview with Mr. Carroll, at some
16 point he was taken back to his house?

17 A Yes, he was.

18 Q Let me back up. During the course of the interview, did you
19 receive information from Deangelo Carroll about the murder weapon?

20 A About? I'm sorry.

21 Q The murder weapon?

22 A Yes, I did.

23 Q And initially did you do some research at some point later in time
24 to see if you could confirm that information?

25 A Yes, we did.

1 Q And tell me initially what you were able to do.

2 A Regarding the actual weapon or the other -- there's two weapons
3 involved so I'm not sure what you're asking?

4 Q Okay. Well, there's a weapon involved that JJ had, correct?

5 A Correct.

6 Q And then there's a weapon described that Mr. Counts had?

7 A Correct.

8 Q And Mr. Carroll provided you certain information that may be able
9 to lead you to that weapon, correct?

10 A Correct.

11 Q And one of those related to what's in the transcript as Javon Gay?

12 A Correct.

13 Q Did you do any research into determining who Javon Gay is
14 initially?

15 A We did. I did. I looked into who Javon Gay was. We weren't
16 able to identify anybody by that name. I'd had a case where I thought a
17 possibility, a Jacori might be the person involved, but that didn't pan out either.

18 Q Okay. And at some point in time in preparation for your
19 testimony, did you listen to the actual audio recording of Deangelo Carroll?

20 A I did.

21 Q And when you listened to the audio recording, did you decide to
22 do any further investigation of this subject matter?

23 A When I listened to the recording I realized that he was actually
24 saying Javon Day, D-a-y.

25 Q Instead of Gay, G-a-y?

1 A Instead of Gay. Ran him through our computer data base and
2 found a Javon Day and found that he was involved in a crime.

3 Q Okay. Let's back up. What information did you -- did you have on
4 the recording other than Javon Day? Did he give you specifics about the crime
5 that Javon Day was allegedly to have committed?

6 A He said that Javon Day had committed a crime of shooting, shot
7 someone in the neck, in the area, what he described as the Jets.

8 Q Okay. And did he describe for you the caliber of the weapon that
9 allegedly he's talking about Mr. Counts using as well as Mr. Day using?

10 A Yes.

11 Q And what caliber was it?

12 A It was a .22 that he described, I believe.

13 Q Let me back up for just a second here and go back to the
14 transcript itself. When Mr. Carroll described for you the shooting that Mr.
15 Counts committed, what kind of gun was he talking about?

16 A .357.

17 Q Okay. When Mr. -- and I don't want you confusing my question --
18 when he was telling you about that gun, what was he saying about Javon Day?
19 Not what the report says, but what was he telling you about Javon Day?

20 A He was saying that that was the gun that Javon Day used in the
21 shooting that he had committed earlier.

22 Q Okay. And do you know at all how Deangelo Carroll knew that
23 Javon Day had committed this alleged other crime?

24 A I don't know that, no.

25 Q So you don't have any information as to how he heard this

1 information?

2 A No.

3 Q Okay. Did you then run Javon Day?

4 A Yes.

5 Q And did Deangelo Carroll tell you anything about what the custody
6 status of Javon Day was in May of '05?

7 A No.

8 Q You don't remember him telling you he was in jail right now?

9 A Oh, yes, I do. I'm sorry, I do.

10 Q Did you look up to see if Javon Day was in jail at the time --

11 MR. ADAMS: Judge, at this point I object.

12 THE COURT: Sustained.

13 BY MR. DIGIACOMO:

14 Q Did you look up the custody status of Javon Day in May of '05?

15 MR. ADAMS: Your Honor, I object that this is beyond what we
16 discussed at the bench as well.

17 MR. DIGIACOMO: This does not have anything to do with Deangelo
18 Carroll's statement.

19 THE COURT: Well, he can say if he looked up Javon Day's -- well, in
20 May of '05 he was looking for a Javon Gay.

21 BY MR. DIGIACOMO:

22 Q Just the other day did you look up Javon Day's custody status as
23 of May of '05?

24 A I did.

25 Q And where was he?

1 A He was in custody at the time of May 19th, 2005.

2 Q And did you also find a police report, an incident report related to
3 why Javon Day was in custody in May of '05?

4 A Yes, I did.

5 Q Okay. And in that report -- well, first of all, did the shooting occur
6 at the Jets?

7 A No. The Jets is a housing complex off of H Street, and it did not
8 occur there. It occurred at 1108 Hassell Avenue, I believe.

9 Q How far from Hassell is the Jets?

10 MR. ADAMS: Objection to relevance, Your Honor.

11 THE COURT: Do you want to approach?

12 MR. GENTILE: Yes, please.

13 (Conference at the bench.)

14 THE COURT: The objection's withdrawn.

15 Go on, Mr. DiGiacomo.

16 BY MR. DIGIACOMO:

17 Q How far from the Jets is Hassell Street?

18 A I would say it's a half mile, roughly, a half mile.

19 Q Did -- in reading the report, what was the allegation as to what Mr.
20 Day did?

21 A He shot a man in the neck and ran away.

22 Q Now, was the bullet recovered under the Day event that actually
23 penetrated the victim's neck?

24 A No, it was not.

25 Q Okay. So it was a perforating gunshot wound, and the bullet was

1 never recovered?

2 A I believe so, yes.

3 Q Now, in addition to that information, were there any other firearm-
4 related evidence recovered at the scene?

5 A A .22 casing, a .22 caliber casing was recovered at the scene of
6 the Javon Day shooting.

7 Q Was there any -- well, let me ask you this. In your experience as a
8 homicide detective, any way a .22 caliber casing fires a .38 caliber bullet?

9 A No, none.

10 Q Other than that information, was there any other information from
11 that report you could utilize to either confirm or refute the information that
12 Deangelo Carroll was telling you?

13 A No.

14 Q After the interview of Deangelo Carroll, what did you do?

15 A I followed -- Deangelo Carroll was transported back to his house. I
16 was in a car. Deangelo Carroll took the detectives that were driving him to a
17 location where some tires were deposited into a dumpster.

18 Q And then did you take -- were you responsible for the recovery of
19 those tires?

20 A I took the tires out of the dumpster and transported them back to
21 the homicide office, yes.

22 Q How many tires were there?

23 A There was four total.

24 Q And what was the condition of the four tires?

25 A They were -- seemed in good condition at the time.

1 Q Were there cuts to any of them?

2 A There were cuts in the sidewalls, I believe, yes.

3 Q Okay. Of all four of them?

4 A Yes.

5 Q All right. At some point in time did you learn about Rontae Zone

6 being with the detectives that had taken Deangelo Carroll home?

7 A Yes, I did.

8 Q And did you conduct an interview with Mr. Zone?

9 A Yes, I did.

10 Q During the course of the interview, Mr. Zone provided you his

11 version of the events, correct?

12 A Correct.

13 Q Now, the version that Mr. Zone gave you, was it consistent with

14 the first or even the second version that Mr. Carroll gave you?

15 A No, it was not.

16 Q Okay. Was it consistent with the third version?

17 A Yes, it was.

18 Q After Mr. Zone was interviewed, what did you do?

19 A After Zone was interviewed --

20 Q Let me ask you this. It's early morning hours of now Friday night

21 or Saturday morning, so at some point did you get to sleep?

22 A Yes. Yes.

23 Q And what time did you return back to the office on Saturday?

24 A We came back to the office Saturday, I would say about 3, 3:30 in

25 the afternoon.

1 Q When you pulled back into the lot, what do you see?

2 A I saw Deangelo Carroll and a young man later identified as Jayson
3 Taoipu sitting in front of the doors to our homicide offices.

4 Q And eventually do you take -- or do you take a statement from
5 Jayson Taoipu?

6 A Yes.

7 Q And during the course of -- well, let me ask you this. How long
8 did he have to wait before you took the interview; do you recall?

9 A At least a couple, couple and a half hours.

10 Q And that's because you were doing other things related to the
11 case?

12 A Yes.

13 Q After the interview of Jayson Taoipu, did you respond out to E
14 Street for the execution of the search warrant at 1676 E Street?

15 A Yes, I did.

16 Q And eventually a second search warrant was executed at 1677 E
17 Street?

18 A Yes.

19 Q Now, we've seen a lot of damage to the home at 1677 from
20 SWAT activity, correct?

21 A Correct.

22 Q Was Mr. Counts given an opportunity to leave voluntarily from that
23 home without there having to be any damage committed to it?

24 A Several opportunities, yes.

25 Q And eventually it was because of his refusal that that damage

1 occurred?

2 A Correct.

3 Q After Mr. Counts comes out, can you describe Mr. Counts'
4 condition when he comes out of the house?

5 A He's very sweaty. He's covered in fiberglass insulation. He's
6 panting a bit, and he's in custody. He's handcuffed.

7 Q Do you -- what do you do with him?

8 A We transport him back to the homicide offices.

9 Q And eventually do you arrest him and book him into the Clark
10 County Detention Center?

11 A Yes, sir.

12 Q After the arrest of Kenneth Counts, did you have communication
13 with Deangelo Carroll?

14 A I did.

15 Q How did you have communication with him?

16 A He called my cell phone.

17 Q Let me back up. Is this the first time Deangelo Carroll had called
18 your cell phone?

19 A No, sir.

20 Q Okay. How is it that Deangelo Carroll had your cell phone?

21 A I provided him with that during our interview.

22 Q Now, up until your interview of Deangelo Carroll on May 20th, in
23 the evening hours of May 20th, had you provided any individual the
24 circumstances of the crime scene or anything related to your investigation?

25 A No, sir.

1 Q Did you ever talk to an individual identified as Little Lou or Luis
2 Hidalgo III?

3 A No.

4 Q Had you ever talked to Anabel Espindola up to this point?

5 MR. GENTILE: Can we have a point? We don't have a time predicate.

6 MR. DIGIACOMO: I said up to the interview of Deangelo Carroll.

7 MR. GENTILE: I don't think we got that.

8 THE COURT: Okay. You're talking about up until the interview of
9 Deangelo Carroll; did you understand that, Detective?

10 THE WITNESS: Yes.

11 MR. GENTILE: What's the date?

12 MR. DIGIACOMO: May 20th.

13 MR. GENTILE: Okay. The May 20th, okay.

14 BY MR. DIGIACOMO:

15 Q During the course of the interview of Deangelo Carroll, did you
16 provide or was there information related to him about some of the physical
17 evidence at the crime scene?

18 A With Deangelo Carroll, yes, sir.

19 Q And specifically I want to reference the fliers that are found at the
20 feet of Timothy Hadland. Those fliers, is it the first time that that's disclosed to
21 anybody in this case, May 20th of 2005, during the interview of Deangelo
22 Carroll?

23 A Yes.

24 Q Now, during the time period that the search warrant is executed at
25 1676, do you have communications with Deangelo Carroll?

1 A During the actual execution of the warrant, yes, I do.

2 Q And without telling us what he said, based upon that
3 communication is that how you identified 1677 E Street?

4 A Yes, it is.

5 Q Now, you said after booking Kenneth Counts you had a
6 communication with Deangelo Carroll?

7 A Yes.

8 Q And did you provide him any advice during the course of that
9 communication?

10 MR. GENTILE: Can we have a time predicate. I mean, we're bouncing
11 around a little bit. We're going back and forth.

12 THE COURT: All right.

13 MR. DIGIACOMO: Didn't I just say after the booking of Kenneth Counts
14 into jail?

15 MR. GENTILE: Well, today is after that.

16 THE COURT: What day was that?

17 MR. DIGIACOMO: I got it.

18 BY MR. DIGIACOMO:

19 Q How long after booking Kenneth Counts into jail was it?

20 A Couple hours.

21 Q A couple hours?

22 A A couple hours.

23 Q We're talking early morning hours now of Sunday or late Saturday
24 night, early morning hours of Sunday?

25 MR. GENTILE: Your Honor, I have to object to the leading. The witness

1 was there. He certainly knows what time this happened.

2 THE COURT: All right. Mr. DiGiacomo, try to ask more open-ended
3 questions such as: What time are we talking about?

4 BY MR. DIGIACOMO:

5 Q What time did you book Kenneth Counts generally?

6 A 12 midnight, I believe, right in there we booked Kenneth Counts.

7 Q So midnight on the 21st into the morning of the 22nd?

8 A Yes.

9 Q Saturday into Sunday?

10 A Yes.

11 Q And you said within a couple hours of the booking of Kenneth
12 Counts you received a phone call from Deangelo Carroll?

13 A Yes.

14 Q And so what are we -- what time period are we talking about?

15 A 2 to 3 in the morning, I believe, Sunday morning.

16 Q And during the course of that did you advise him of anything?

17 A Yes, I did.

18 Q What did you advise him?

19 A I advised him to let the caller know that everything was okay -- or
20 actually, initially I advised him to go and meet the caller.

21 Q Okay. And did you change your mind about -- when you say go
22 and meet the caller, what are you talking about?

23 A He had a call placed to him where he wanted to --

24 MR. ADAMS: Objection, Your Honor. It calls for hearsay.

25 / / /

1 BY MR. DIGIACOMO:

2 Q Without telling us what he told you, did you provide him any
3 advice as to whether or not he should meet with anybody?

4 A Yes.

5 Q And did you provide him any advice as to who it is he should or
6 should not meet with?

7 A No. No.

8 Q Okay. You said you initially told them to go ahead and meet with
9 the person?

10 A Yes.

11 Q Okay. Did you change your mind at some point?

12 A I don't believe so, no.

13 Q Okay. Did you have a subsequent conversation with him,
14 Deangelo Carroll?

15 A Yes.

16 Q Okay. At any point do you tell him not to meet with anybody?

17 MR. GENTILE: Could we have a --

18 THE COURT: I was just going to say, how long after the first
19 conversation in the early morning hours between I think you said 2 and 3 or 1
20 and 2, did this second contact with Deangelo Carroll occur?

21 MR. GENTILE: And we're talking about May the 22nd.

22 THE WITNESS: Which is a Sunday?

23 THE COURT: The Sunday, right.

24 THE WITNESS: I'm not sure exactly when it was, ma'am, but I know he
25 called me Sunday, at some point Sunday.

1 THE COURT: Okay. Do you have any idea how many hours after the
2 first call that might have been?

3 THE WITNESS: I don't. I'm sorry.

4 THE COURT: Don't guess if you don't remember.

5 THE WITNESS: I don't.

6 THE COURT: That's fine.

7 BY MR. DIGIACOMO:

8 Q But it was sometime on Sunday?

9 A Yes.

10 Q Okay. And was your advice different to him than it was the first
11 time that you talked to him?

12 A No.

13 Q Okay. At some point did you decide you were going to do
14 something related to Deangelo Carroll?

15 A Yes.

16 Q What was that?

17 A There came a point where we decided that we were going to send
18 him into a business, preferably Simone's Auto Body and speak with the people
19 that we believed to be involved with the crime.

20 Q Now, how is that you were going to go about getting the recording
21 device to utilize on Mr. Carroll?

22 A Well, we tried to go through the normal channels that we would
23 normally go through, and that didn't work out. We couldn't get the responses
24 that we needed in a timely fashion. So we ended up requesting the help of the
25 FBI.

1 Q Eventually the FBI gets involved, and we've heard some of the
2 testimony from Detective McGrath about his contact with Deangelo. What are
3 you doing during the wire recordings that occurred on May 23rd and May 24th at
4 Simone's?

5 A I am surveillance outside.

6 Q Okay. And I want to talk to you -- we've heard from Zane
7 Simpson about May 23rd, but on May 24th, were you what's known as the
8 "eye"?

9 A Yes.

10 Q What does that mean?

11 A The eye means that I have an eyeball on the front of the
12 establishment, and I'm able to see people as they go in and out of it.

13 Q Prior to Mr. Carroll going in there, were you able to make -- or
14 were you able to see Mr. H enter Simone's Auto Plaza?

15 A Yes, I was.

16 Q And then --

17 MR. GENTILE: Could we have a time?

18 MR. DIGIACOMO: Well, I'm going to back up and ask him that.

19 THE COURT: Go ahead.

20 MR. DIGIACOMO: Thank you.

21 BY MR. DIGIACOMO:

22 Q Approximately what time did Mr. H, if you recall, enter the
23 building?

24 A I don't recall without looking at the surveillance report, I apologize.
25 I'm not sure exactly.

1 Q But you could tell us it was prior to Deangelo Carroll showing up?
2 MR. GENTILE: Objection to the leading.

3 THE WITNESS: Yes.

4 MR. DIGIACOMO: He already answered that question.

5 THE COURT: That's okay. Go on.

6 BY MR. DIGIACOMO:

7 Q After Mr. Carroll exited -- well, let me ask this. During the time
8 period that Mr. Carroll was inside the building on May 24th, did Mr. H leave?

9 A No.

10 Q Okay. After Mr. Carroll exited, did you continue your surveillance
11 down at Simone's, or did you do something different?

12 A After he exited I continued my surveillance until I saw Mr. H and
13 Anabel Espindola leave.

14 Q Now, up to this point had there been any contact with Anabel
15 Espindola?

16 A None.

17 Q Okay. Up to this point had there been any contact with Luis
18 Hidalgo III?

19 A None.

20 Q Okay. Once you saw Anabel leave, who did she leave with?

21 A Mr. H.

22 MR. GENTILE: Could we have a time predicate.

23 THE COURT: Thank you.

24 How long after Deangelo Carroll left did you observe Mr. H and
25 Anabel Espindola leave?

1 THE WITNESS: I observed them leave at approximately 5:30 p.m.

2 THE COURT: All right.

3 BY MR. DIGIACOMO:

4 Q Do you have any idea when Deangelo Carroll left?

5 A I'm not sure exactly. I believe it to be a couple hours before.

6 Q A couple hours before that?

7 A I believe that, yes.

8 Q What happens when Anabel and Mr. H leave?

9 A I continue surveillance. I actually initiated a rolling surveillance,
10 and we followed them out of the area actually onto I-15 northbound.

11 Q At some point in time was there a decision as to what to do with
12 the vehicle that you're following?

13 A Yes. We decided to -- I decided to initiate a car stop. I didn't
14 want to do a car stop on I-15; it was busy, and we followed them into the
15 downtown area, and I got a patrolman to stop their vehicle which took place at
16 6th and Carson.

17 Q Once their vehicle was stopped, did you approach the vehicle?

18 A Yes, I did.

19 Q Can you tell us who the driver was?

20 A The driver was Mr. H, I believe.

21 Q Was Mr. H doing anything when you walked up to the car?

22 A He was on the phone.

23 Q Did you ask him to do anything?

24 A I asked him to hang up his phone.

25 Q And did you also make contact with Anabel?

1 A I did.

2 Q Was there anybody else in the vehicle?

3 A No.

4 Q And approximately what time in the evening was this?

5 A 6 p.m.

6 Q 6 p.m. in the evening?

7 A Yes.

8 Q Okay. And at that point what happens with Anabel?

9 A I ask her to come with me if I could talk to her. I explained to her
10 a little bit of the situation, asked if she would come down to the homicide
11 offices to speak with us further, and she agreed, and I transported her down
12 there with me.

13 Q When you transport -- when you transported her down there, did
14 she have her phone with her?

15 A No, she did not.

16 Q Did there come a point in time where you conduct an interview of
17 Ms. Espindola?

18 A Yes.

19 Q And at some point in time she stops talking to you?

20 A Yes.

21 Q After she stops talking to you, was she eventually booked into the
22 Clark County Detention Center?

23 A Yes.

24 Q After she's booked into --

25 MR. DIGIACOMO: Oh, you're right, Madam Clerk, that's what I was

1 looking for.

2 BY MR. DIGIACOMO:

3 Q After she's booked into the Clark County Detention Center, do you
4 respond to any particular location?

5 A I responded to Simone's Auto Body.

6 Q And do you know approximately what time you got to Simone's
7 Auto Body?

8 A Approximately 7:30, right in there, p.m.

9 Q And while you were at Simone's Auto Body, did you find an item
10 of evidence inside the office of Anabel Espindola?

11 A Yes, I did.

12 Q Have you previously brought that to court for a proceeding?

13 A Yes, I did.

14 MR. DIGIACOMO: Judge, I believe it's going to be in this Justice Court
15 sealed. If there's no objection, I'd ask to open it and pull the items out.

16 THE COURT: That's fine.

17 MR. ADAMS: No objection. What number is that, Your Honor?

18 THE COURT: It hasn't been marked yet. It's from Justice Court, and it
19 will be marked once the contents are removed.

20 MR. GENTILE: Your Honor, what number is that?

21 THE COURT: It hasn't been marked yet.

22 I guess next in order would be what, Ms. Husted?

23 THE CLERK: It will start with 240.

24 THE COURT: 240 is the next up.

25 BY MR. DIGIACOMO:

1 Q Showing you what's about to be marked as State's Proposed
2 Exhibit 240, does that appear to be a photocopy?

3 A Yes, it is.

4 Q Where is it that you located that particular item?

5 A In a -- I believe it was in a satchel in Anabel Espindola's office on
6 the floor.

7 Q Does that appear to be a true, fair and accurate copy of the item
8 that was located at that location?

9 A Yes.

10 MR. DIGIACOMO: Move to admit 240.

11 THE COURT: All right. Let's let the defense look at it.

12 Any objection to 240 from the defense?

13 MR. GENTILE: No, Your Honor.

14 MR. ADAMS: No.

15 THE COURT: All right. State's Proposed 240 will be admitted.

16 (State's Exhibit 240 admitted.)

17 BY MR. DIGIACOMO:

18 Q Now, eventually, Detective, after the arrests in this case was there
19 requests made for some phone records?

20 A Yes.

21 Q And I don't have all the phone records here, but did you in your
22 capacity receive phone records from Nextel?

23 A From Nextel, yes.

24 Q I'm going to show you what's previously been admitted as 188,
25 the subscriber information, correct?

1 A Correct.

2 Q 189 is the cell phone cell site records?

3 A Correct.

4 Q 190 is the direct connect information that you had?

5 A Correct.

6 Q And 197 is the GPS locations for Southern California switch of cell
7 towers?

8 A Correct.

9 Q Now, in preparation for your testimony, did you and other
10 members of your team create some exhibits for demonstrative purposes with
11 this jury?

12 A Yes.

13 Q Let's start with the one I left over here, State's Proposed Exhibit
14 No. 238. Can you tell me what State's Proposed Exhibit No. 238 is?

15 A This is a listing of all the actual cell-to-cell calls and the direct
16 connect calls between Luis Hidalgo Junior, Luis Hidalgo III, Anabel Espindola,
17 Timothy Hadland and Deangelo Carroll and Kenneth Counts.

18 Q Okay. Let me back up. The cell phone records with the cell site
19 information, that's all those calls, correct?

20 A Yes.

21 Q Okay. The direct connect information, is that the information that
22 you were able to gather off State's Exhibit No. 190?

23 A Yes, it is.

24 Q And is it -- does the direct connect information have every direct
25 connect connection there, or is it just the direct connects that related to the

1 individuals associated with this case?

2 A It's the direct connects related to the individuals associated with
3 this case.

4 Q So the direct connect information either to or from Deangelo
5 Carroll, Mr. H, Anabel Espindola, and Luis Hidalgo Junior is contained in these
6 records?

7 A Yes.

8 Q Okay. Now, in preparation -- is this the first copy of this exhibit?

9 A That I've seen?

10 Q Yes.

11 A No.

12 Q Okay. In preparation for trial or actually during the cross-
13 examination of a witness, did you learn that there was an error on the initial
14 exhibit?

15 A Yes, I did.

16 Q Okay. And that related to a phone call from Mr. H to Deangelo?

17 A Yes, it did.

18 Q In your review of the records, is there ever a time that Mr. H's
19 phone number appears to have called Deangelo Carroll or have it direct
20 connected?

21 A No.

22 Q Does this 238 appear to be a true, fair and accurate summary of
23 State's Exhibits 188, 198 or 189, 190 here before you with the exception of
24 not having direct connects to people you couldn't identify to?

25 A Yes.

1 MR. DIGIACOMO: Move to admit 238.

2 MR. ADAMS: I'd like to be heard on that, Your Honor.

3 THE COURT: So you're objecting?

4 MR. ADAMS: Yes. May we approach?

5 THE COURT: Yes.

6 (Conference at the bench.)

7 THE COURT: Any objection on behalf of Mr. Hidalgo Junior for the
8 record?

9 MS. ARMENI: No, Your Honor.

10 THE COURT: All right. That exhibit will be admitted, and that was what
11 number?

12 MR. DIGIACOMO: 238, Judge.

13 THE COURT: Thank you. 238 is admitted.

14 (State's Exhibit 238 admitted.)

15 BY MR. DIGIACOMO:

16 Q I'm going to turn to page 3 of 238, Detective, if you'll look up
17 there.

18 A I think you took mine.

19 Q I know, if you'd look at the screen.

20 A I'm sorry. I got it.

21 Q 702/643-0842?

22 A Yes, sir.

23 Q During the course of your investigation, did you learn who --
24 whose home phone number that is?

25 A Yes, I did.

1 Q And whose is it?

2 A Deangelo Carroll's.

3 Q I'm going to have to back up here 'cause this one actually says
4 Kenneth Counts. Did you learn during the course of your investigation Kenneth
5 Counts' cell phone number?

6 A Yes, I did.

7 Q What is that?

8 A 808-1719.

9 Q So the ladies and gentlemen of the jury can see it here, I'm looking
10 at State's Exhibit 189, and we learned 9646 is Anabel Espindola, correct?

11 A Yes.

12 Q Okay. And that number 808-1719 is Kenneth Counts, correct?

13 A Correct.

14 Q Then if we go back to State's Exhibit No. 238, chronological order,
15 phone call Anabel to Kenneth Counts or it actually says inbound -- it actually
16 says, inbound call Anabel's phone from Kenneth Counts?

17 A Correct.

18 Q And the second one is an outbound call from Anabel's phone to
19 Kenneth Counts, but it's for zero minutes?

20 A Correct.

21 Q You also indicated during the course of your testimony that the
22 cell site records with the cell phone numbers were utilized to create what's now
23 been marked as State's Proposed Exhibit No. 239, correct?

24 A Correct.

25 Q And just so the jury's aware, is this the entire time period from the

1 19th through the 24th, or is it a limited time period for this cell site information?

2 A It's a limited time period.

3 Q And do you know approximately when this cell site information
4 begins on this map?

5 A It looks like the 19th at approximately 11:30 a.m.

6 Q Okay. And extends through some portion of the 20th?

7 A Yes.

8 Q Okay. And did you take these records with the phone calls, match
9 them to the cell sites and check them against the GPS locations to determine
10 where a particular phone was hitting off a particular cell site during a particular
11 time period?

12 A Yes.

13 Q And this is a true, fair and accurate rendition of that?

14 A Yes.

15 MR. DIGIACOMO: Move to admit 239.

16 THE COURT: Any objection?

17 MR. ADAMS: With our -- with the objection we last made.

18 THE COURT: Previous objection.

19 MR. GENTILE: I would join in that objection.

20 THE COURT: For the same reason?

21 MR. GENTILE: Yes.

22 THE COURT: All right. That's overruled.

23 So you took all of the different records that had been provided by
24 the phone company and then using the information on those records prepared
25 that diagram; is that what you did?

1 THE WITNESS: Yes.

2 THE COURT: Okay. So in terms of where the cell sites were you were
3 relying on their records of the cell sites?

4 THE WITNESS: Correct.

5 THE COURT: Okay. It will be admitted.

6 (State's Exhibit 239 admitted.)

7 MR. DIGIACOMO: Thank you.

8 BY MR. DIGIACOMO:

9 Q And I'm actually not going to ask you to go through -- over much
10 of this, but maybe you could step down just a second. Can you explain to the
11 ladies and gentlemen of the jury when they have this in the back room how
12 they can utilize it. So first of all, is this a map of the greater Las Vegas area,
13 for lack of a better term?

14 A Yes. This would be Lake Mead out to the east, Mt. Charleston out
15 to the west.

16 Q Okay. And is the Palomino Club identified on this map?

17 A Yes, it is, right there.

18 Q And is Simone's Auto Plaza identified on this map?

19 A Yes, sir, right there.

20 Q And then are each of the calls color coded or each of the people
21 color coded?

22 A Yes, they are.

23 Q And are the color codes consistent with the way that you
24 highlighted or the team that highlighted the cell phone records?

25 A Yes.

1 Q And so AE represents who?

2 A Anabel Espindola.

3 Q And so she's reflected in this orange color, for lack of a better
4 term?

5 A Yes.

6 Q Okay. And then LL is who?

7 A Little Lou.

8 Q Okay. He's in the pink?

9 A Correct.

10 Q and Mr. H or MRH, he's reflected in what color?

11 A In green.

12 Q And TH is who?

13 A Timothy Hadland.

14 Q And DC?

15 A Deangelo Carroll.

16 Q So the jury remembers, do we have any cell site information from
17 the direct plans?

18 A No.

19 Q So it's only cell phone calls we have cell site information?

20 A That's the only thing they were able to provide us, yes.

21 Q I'm going to show you what's been marked as State's Proposed
22 Exhibits 234, 235, 236 and 237 and ask you if you recognize --

23 MR. ADAMS: We would like to see them.

24 THE COURT: Yes, I was going to say.

25 MR. ADAMS: At some point that would be very nice.

1 MR. ARRASCADA: I'll join Mr. Adams up here, Your Honor, if that's
2 okay.

3 MR. GENTILE: There's an objection interposed, Your Honor. Well, there
4 is now; let's put it that way.

5 THE COURT: In a couple of words, the basis?

6 MR. GENTILE: Cumulative at least with respect to --

7 THE COURT: With two of the pictures we've already got a Deangelo
8 Carroll picture, and so I don't know that we need another one.

9 MR. DIGIACOMO: There's no Deangelo Carroll in this.

10 THE COURT: In this one, okay.

11 MR. DIGIACOMO: There's no Deangelo Carroll in this one.

12 THE COURT: I see.

13 MR. ADAMS: We object to 236, Your Honor.

14 (Conference at the bench.)

15 BY MR. DIGIACOMO:

16 Q 237, do you recognize that guy?

17 A Yes, I do.

18 Q Who is that?

19 A Kenneth Counts.

20 MR. DIGIACOMO: Move to admit 237.

21 THE COURT: Any objection to 237, the picture of Kenneth Counts?

22 MR. ADAMS: No, ma'am.

23 MS. ARMENI: No.

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

25 (State's Exhibit 237 admitted.)

1 BY MR. DIGIACOMO:

2 Q Detective, after gathering some evidence -- and you've testified in
3 a few prior proceedings, correct?

4 A Correct.

5 Q Did there come a point in time of February of 2008 when you
6 asked to be part of a conversation with Anabel Espindola?

7 A Yes.

8 Q Where did that conversation take place?

9 A At your conference room at the District Attorney's office.

10 Q And what was your understanding of the reason for the
11 conversation with Ms. Espindola?

12 A She wanted to give you a statement.

13 Q Was that statement recorded either by audio recording or
14 videotape?

15 A No.

16 Q Okay. And let me ask you this question. Why didn't you record
17 the statement?

18 A I was an invited guest. I was not in my own environment there. I
19 wasn't sure what was applicable or not. So I did not take a recording with me.

20 Q Did you or any other person during this time period make any
21 notations as to questions you might want asked or answered during the course
22 of the interview?

23 A I jotted down some notes, yes.

24 Q And eventually were those notes turned over to the Court?

25 A Yes.

1 Q Did you keep a copy of the notes?

2 A No, sir.

3 THE COURT: Do you recall what you used to make the notes, like what
4 kind of paper or --

5 THE WITNESS: I think it was a legal pad. I think it was a -- I think it
6 was a yellow legal pad.

7 THE COURT: All right. Thank you.

8 BY MR. DIGIACOMO:

9 Q At some point in time you learned that Anabel Espindola entered a
10 guilty plea, correct?

11 A Correct.

12 MR. DIGIACOMO: Judge, I have in my hand State's Proposed Exhibit
13 228, which is a copy of that guilty plea agreement I move to admit.

14 MR. GENTILE: Same objection as yesterday.

15 THE COURT: All right. That's sustained.

16 MR. ADAMS: We join Mr. Gentile's objection.

17 THE COURT: Sustained.

18 MR. DIGIACOMO: I pass the witness, Judge.

19 THE COURT: All right. Before we go to cross while it's fresh a juror
20 had a question.

21 You identified Exhibit No. 240 as having been recovered from
22 Anabel's satchel -- or in a satchel, excuse me, in Anabel's office, and we
23 admitted Exhibit 240; is that right?

24 MR. DIGIACOMO: Correct.

25 THE COURT: And the juror wants to know what that exhibit is.

1 MR. DIGIACOMO: What is 240? What exhibit did you -- or what did
2 you get out --

3 THE COURT: What did you find in the satchel?

4 THE WITNESS: It was a paycheck from the Palomino Club in the name
5 of Deangelo Carroll.

6 THE COURT: And for the record, Mr. DiGiacomo, are you displaying
7 Exhibit No. 240 on the monitor?

8 MR. DIGIACOMO: I am, part of it.

9 BY MR. DIGIACOMO:

10 Q And that paycheck, can you read from there how many hours of
11 work it was for?

12 A In the earning section there's a heading that says, Regular, 24
13 hours is what's listed.

14 Q And the pay start and pay ending period, what does it say there?

15 A May 15th, 2005, through May 21st, 2005.

16 Q And the check date says?

17 A May 27th, 2005.

18 MR. DIGIACOMO: I have nothing further, Judge.

19 THE COURT: All right. Thank you. Who would like to go first for the
20 defense?

21 All right, Ms. Armeni.

22 CROSS-EXAMINATION

23 BY MS. ARMENI:

24 Q Good afternoon, Detective Wildemann.

25 A Hello.

1 Q I want to talk to you a little bit about your contact with Mr. H.

2 A Okay.

3 Q You called him one time from your office phone, right?

4 A Yes, ma'am.

5 Q And you spoke to him?

6 A Yes.

7 Q And then you talked -- you called him a second time, I believe,
8 from your cell phone?

9 A Yes.

10 Q And once again Mr. H spoke to you?

11 A Yes.

12 Q And you made arrangements to meet at the Palomino?

13 A Yes.

14 Q And Mr. H did come down to the Palomino, right?

15 A Yes. Yes, ma'am.

16 Q And you asked Mr. H if he had an employee by the name of
17 Deangelo Carroll, right?

18 A Yes.

19 Q And his answer was yes?

20 A Yes.

21 Q And then you had asked for some additional information which at
22 the time Mr. H told you he couldn't provide?

23 A Correct.

24 Q But he told you to come back and speak to Ariel?

25 A Yes, ma'am.

1 Q At 7 o'clock?

2 A Yes.

3 Q And you came back at 7 o'clock?

4 A A little bit after, yes.

5 Q Okay. And when you came back a little bit after, was Ariel
6 present?

7 A Yes.

8 Q And during the conversation you had with Ariel, was there any
9 discussion about the white van?

10 A I don't believe so.

11 Q Okay. So nothing was asked. At the time -- at the time that you
12 were talking to Ariel, at that point you knew that Mr. H knew that you were
13 inquiring about Deangelo Carroll, correct?

14 A At the time that I was speaking with Ariel?

15 Q Well, you had already -- let me back up. That was a bad question.
16 I apologize.

17 A That's okay.

18 Q Earlier in the afternoon you had told -- you were asking Mr. H
19 questions about Deangelo Carroll?

20 A Correct.

21 Q So is it fair to say at that point Mr. H knew that the homicide
22 detectives were looking into Deangelo Carroll, correct?

23 A Correct.

24 Q And then fair to say that Mr. H knew that you were meeting with
25 Ariel at around 7 o'clock?

1 A Correct.

2 Q And Deangelo Carroll ended up coming into the Palomino?

3 A Yes, ma'am.

4 Q Right after 7 o'clock?

5 A I think it was around 8:30 that he came in.

6 Q Okay. But during the time you were at the Palomino Mr. Carroll
7 walked in?

8 A Yes.

9 Q I want to ask you a little bit about the note that you found at
10 Simone's.

11 A Okay.

12 Q Do you recall where you found it?

13 A Yes.

14 Q And do you remember the note -- the note I'm talking about is a
15 handwritten note --

16 A Yes.

17 Q -- that said we're under surveillance?

18 A Yes.

19 MS. ARMENI: 120?

20 THE COURT: 129, I think.

21 MR. GENTILE: No, I think it's 200-IA, just off the top of my head.

22 BY MS. ARMENI:

23 Q Do you recall the note? It's been used a lot.

24 THE COURT: I think the copy of the note is Exhibit No. 129.

25 MR. GENTILE: Okay. Well --

1 THE COURT: But you would like the original, Ms. Armeni?

2 MS. ARMENI: Actually, if she's getting it, I'll continue with my
3 questioning.

4 BY MS. ARMENI:

5 Q Detective Wildemann, you were present at Simone's when the
6 search warrant was executed?

7 A Yes, ma'am.

8 Q And you basically walked around Simone's?

9 A Yes.

10 Q You knew that -- you understood the format?

11 A The layout of the building?

12 Q The layout, yes.

13 A Yes.

14 Q Okay. And was it your recollection there were two customer
15 waiting areas?

16 A I remember a big, large customer waiting area as you walk in and
17 to the left.

18 Q Okay. To the left there was a customer waiting area?

19 A Yes.

20 Q And you -- do you recall that there was an additional one?

21 A I don't recall that.

22 Q Okay. Do you remember if -- there were CSAs present, correct,
23 during execution?

24 A Yes, ma'am.

25 Q Do you remember CSA Smink being present?

1 A Yes.

2 Q If you looked at his report that he made about evidence he
3 collected, would it help refresh your recollection?

4 A Sure.

5 Q And just for the record, Detective Wildemann, I'm showing you
6 State's Exhibit 200-1A, and that's the note that I'm referring to?

7 A Yes, ma'am.

8 Q That, Maybe we are under surveillance. Keep your mouth shut?

9 A Maybe we're being undersurveilled, I think is what it says.

10 Q You're right. It's spelled incorrectly, isn't it?

11 A Yes.

12 MS. ARMENI: Court's indulgence.

13 THE COURT: That's fine.

14 MS. ARMENI: May I approach the witness, Your Honor?

15 THE COURT: You may.

16 BY MS. ARMENI:

17 Q Detective, I'm showing you the crime scene report done by Jeff
18 Smink. You requested that report, right?

19 A Yes.

20 Q Okay. And do you see --

21 MS. ARMENI: Does the Court have --

22 THE COURT: No, you're fine.

23 MS. ARMENI: I thought I had a copy but I don't.

24 BY MS. ARMENI:

25 Q At the bottom here where it says, Scene.

1 A Okay.

2 Q Can you read that to yourself for a minute?

3 A Sure.

4 Q Does that refresh your recollection about the second waiting
5 room?

6 A Yes. Well, I don't know that it's a second waiting room.

7 Q Okay. Well, it identifies two customer waiting areas, right, one in
8 the northwest area --

9 A Can I see it again, I'm sorry. I didn't see it say that twice. I'm
10 sorry, but I'm only seeing it once, and thought-- I understand this to be the
11 customer -- the initial customer waiting area where you initially walk in has an
12 opening that leads back to the area which I think you're headed towards.

13 Q Okay. So your understanding is there was only that one northwest
14 customer waiting area?

15 A Yes.

16 Q And that waiting area was obviously open to the public?

17 A Yes.

18 Q It was for customers?

19 A Yes.

20 Q And that actually -- that waiting room filtered into the game room?

21 A It had an opening that went into what was described as a game
22 room, yes.

23 Q Okay. And in that game room was the pool table?

24 A Yes.

25 Q And in that game room was the stool?

1 A Yes.

2 Q And on that stool was the note that I had showed you, State's
3 Exhibit 200-IA?

4 A Yes.

5 Q And that was laying face up, correct?

6 A I believe so, yes.

7 MS. ARMENI: Court's indulgence.

8 THE COURT: That's fine.

9 MS. ARMENI: Thank you, Detective.

10 No further questions, Your Honor.

11 THE COURT: All right. Mr. Adams.

12 MR. ADAMS: Do I get to go, Your Honor?

13 THE COURT: Sure.

14 CROSS-EXAMINATION

15 BY MR. ADAMS:

16 Q Detective Wildemann, let me show you what's been marked as
17 Defense Exhibit BB.

18 A Okay.

19 Q Created for the purposes of litigation by me with a pen this
20 morning. Do these numbers look familiar to you based upon your investigation
21 in this case?

22 A Yes.

23 Q Including the number at the very bottom?

24 A Uh --

25 Q Does that number appear numerous times in the various exhibits

1 related to phone records that have been submitted?

2 A Yes, it does.

3 MR. ADAMS: At this point we tender Exhibit BB.

4 THE COURT: Any objection to BB?

5 MR. DIGIACOMO: I guess not, no. I don't know what --

6 THE COURT: BB will be admitted.

7 (Defense Exhibit BB admitted.)

8 MR. ADAMS: Now we have the added advantage of the detective not
9 being able to see it.

10 THE COURT: He can step down if you're going to ask him about --

11 MR. ADAMS: We'll keep him in the dark. I think I prefer that.

12 BY MR. ADAMS:

13 Q Let me just go through these numbers, Detective, and you have
14 the master list of phone records up there. What is the number that you have
15 for Anabel Espindola as her cell phone number from Simone's?

16 A 604-9646.

17 Q And what is the associated Nextel push to talk or chirp number?

18 A One second, please.

19 Q I believe that's in the 139.

20 MR. DIGIACOMO: 189.

21 THE COURT: While Detective Wildemann's doing that, may I see
22 counsel at the bench, please.

23 (Conference at the bench.)

24 THE COURT: Mr. Arrascada, just face that toward Detective Wildemann
25 so he can anticipate the numbers that are coming up. So you can have him

1 look at that and then just kind of verify those numbers.

2 (Conference at the bench.)

3 THE COURT: All right, Mr. Adams, you may proceed or continue.

4 MR. ADAMS: All right.

5 BY MR. ADAMS:

6 Q Detective, I'm going to try to take this all the way to the back
7 maybe so all the jurors can see it.

8 A Sure.

9 Q Is this too small for you, or can you still anticipate what numbers
10 we're talking about now?

11 A I can anticipate it.

12 MR. ARRASCADA: Mr. Adams, is it okay if I move it so the jurors can
13 see it?

14 MR. ADAMS: Yes.

15 BY MR. ADAMS:

16 Q Okay. Do you have the walkie talkie number associated with
17 Anabel Espindola's cell phone?

18 A I do. Can I just do the last few digits?

19 Q Absolutely.

20 A 886 star 4.

21 Q All right. How about Deangelo Carroll's cell phone number?

22 A Give me a second.

23 Q Sure.

24 A 886 star 34.

25 Q And what is his cell phone number?

1 A 604-5322.

2 Q And for that particular number, did you discover during the course
3 of your investigation that that number could not make outgoing calls, that it
4 was limited it could only chirp?

5 A Yes.

6 Q So unlike the other cell phone numbers that Simone's was paying
7 for, Mr. Carroll could only have chirp access with that phone?

8 A I believe so, yes.

9 Q And did you have a home number for Mr. Carroll?

10 A Yes, I did.

11 Q And what is that home number?

12 A 643-0842.

13 Q And what number -- who was registered for that number? Who
14 was paying for that?

15 A I don't recall that at this time, sir.

16 Q How about Mr. Hidalgo Junior, Mr. H, what was his Simone's cell
17 phone number?

18 A 604-4410.

19 Q And how about his walkie talkie direct connect number?

20 A He is 886 star 1.

21 Q The next for Little Lou, Luis Hidalgo III?

22 A 604-6348.

23 Q And how about his walkie talkie number?

24 A 886 star 13.

25 Q In your investigation, and we'll skip Mr. Counts and go down to

1 Mr. Hadland, in your investigation did -- you found a phone or a phone was
2 found at the scene of the crime and car of Mr. Hadland?

3 A Yes.

4 Q And you were able to determine what the number of that phone
5 was?

6 A Yes.

7 Q And what was that number?

8 A I'm not positive off the top of my head. I'm not sure exactly
9 which number.

10 Q Do you believe the number was 234-8019?

11 A I do believe that.

12 Q And during the review of all the phone records, did you come
13 across a number 239-2350?

14 A I've seen it numerous times, yes.

15 Q And that was not a number paid for by Simone's or the Palomino
16 Club?

17 A I don't know that.

18 Q Did you hear the name PK Hadland or PK Handland?

19 A Yes.

20 Q And do you know if that was his number?

21 A I don't know that.

22 Q Let's go to Mr. Counts, and is this Mr. Counts?

23 A Yes.

24 Q Were you able to determine whether he had a cell phone or not?

25 A Yes.

1 Q During the investigation?

2 A Yes.

3 Q And did you discover what his cell phone number was?

4 A It was 808-1719.

5 Q All right. And did that number appear in any of the phone records?

6 A Yes.

7 Q And that number appeared, did it not, in a phone call to Anabel
8 Espindola, or let me correct that, in a phone call to Anabel Espindola's
9 telephone?

10 A Yes, sir.

11 Q And what time was that call?

12 A It was May 19th, 2005, at 11:10:12 p.m.

13 Q 11:10:12 p.m. And how long was this call from Mr. Counts'
14 phone to Anabel Espindola's phone?

15 A 1.4 minutes, I believe.

16 Q All right. So more than a minute, almost a minute and a half?

17 A Yes.

18 Q And it was a call from Kenneth Counts' phone to Anabel
19 Espindola?

20 A Correct.

21 Q Because on the records it shows Anabel Espindola received an
22 incoming call from this number of Kenneth Counts?

23 A Yes, sir.

24 Q And after this 1.4 minute call, the call disconnected?

25 A Yes.

1 Q And Anabel Espindola attempted at 11:12:58 p.m., attempted to
2 call Kenneth Counts back, didn't she?

3 A Correct.

4 Q And there was no answer on her return call to Kenneth Counts?

5 A It just --

6 Q Kenneth Counts' telephone?

7 A It has a duration of zero seconds.

8 Q I'd like to go through some of the calls with you from your master
9 document --

10 THE COURT: You know what, I'm sure there's a number of calls that
11 you're going to go through so maybe this would be a natural time to take our
12 lunch recess.

13 MR. ADAMS: This would be a great time.

14 THE COURT: Ladies and gentlemen, we're going to go ahead and take
15 our lunch recess until 1:30. Before we take it -- don't get up yet -- I need to
16 inquire whether or not during the course of the trial any of the jurors have seen,
17 read or heard anything in the news media about this case?

18 All right. And for the record, all of the jurors are indicating that
19 they have not.

20 Thank you. Lunch till 1:30. Once again you're reminded of the
21 admonition not to discuss the case or do anything relating to the case. Don't
22 read, watch, listen to anything relating to the case. Please don't form or
23 express an opinion on the trial.

24 Notepads in your chairs. We'll see you all back here at 1:30, and
25 through the double doors.

1 (Recessed 12:19 p.m.)

2 (On the record outside the presence of the jury 1:32 p.m.)

3 MR. ADAMS: Are we on the record?

4 THE COURT RECORDER: We are now.

5 MR. ADAMS: We had earlier objections also related to phone records.
6 Is this a good time to --

7 THE CLERK: Can we take care of 231, 232 and 233 first?

8 THE COURT: No objection to those, right?

9 MR. ADAMS: No objection.

10 MR. GENTILE: No objection.

11 THE COURT: Okay. And basically I'm just going to make a really quick
12 record on your behalf and then you can make a more detailed record. We had
13 some discussion I think on the record possibly yesterday, but basically my
14 understanding is from the objection that was preserved by approaching the
15 bench that Mr. Adams objected to everything involving the phone records on
16 the basis he'd not been provided a copy of a probable cause affidavit or
17 administrative subpoena or anything like that to justify the privacy intrusion
18 involved in getting the phone records.

19 MR. ADAMS: In relation to the cell tower records, cell tower location,
20 and only as it relates to Luis Hidalgo III. I don't think we have standing to
21 object to the others.

22 THE COURT: All right I agree.

23 And then Mr. Gentile did not object to any of the phone records
24 save and except the diagram that had been prepared by Detective Wildemann
25 based on his review of the record, and you indicated that your objection was

1 the same as their objection.

2 MR. GENTILE: Whatever they say is good with me.

3 THE COURT: All right. So constitutional grounds and that was --

4 MR. ADAMS: Confrontation clause, yes, ma'am, yes, constitution.
5 Absolutely. Fair trial right.

6 THE COURT: I was thinking of the Fourth Amendment right to privacy,
7 but whatever.

8 MR. ADAMS: Right to privacy, that one too. And I think also in
9 violation of right to counsel and free association. Speaking of free association,
10 I've now had enough. Thank you, Your Honor.

11 THE COURT: Can we get started?

12 MR. DIGIACOMO: We can, and only one problem. Do we have an
13 exhibit that says PK on it? There's no evidence that I'm aware of that has PK's
14 cell phone number. They put it up in front of the jury; I've looked at it. I don't
15 necessarily have a problem. I haven't gone through to check to make sure, but
16 I certainly object that Wildemann during his testimony will confirm the
17 information as to right or wrong. But to my recollection no information as to --

18 THE COURT: Well, if Detective Wildemann can't confirm that that's
19 PK's number and you don't have a record, then just cross it out. I mean, I don't
20 know where you got that from.

21 MR. ADAMS: Well, I think he can say his investigation did not extend
22 far enough to know.

23 THE COURT: Yeah, but then you can't say that that's PK's number if
24 we don't have a record.

25 MR. GENTILE: It doesn't say that now, Judge. It doesn't have anything

1 written on it, does it?

2 MR. ADAMS: Well, not over there it doesn't, but I do have it over here.
3 I'll put some -- if I can -- I'll put some yellow stickies over PK, if that's all right.

4 THE COURT: Okay. Yeah, I mean, I can't see what you've got there.

5 All right. Can we bring the jury in?

6 Get Jeff and tell him to bring them in.

7 (Jury entering 1:36 p.m.)

8 THE COURT: All right. Court is now back in session. The record will
9 reflect the presence of the State through the Deputy District Attorneys, the
10 presence of the defendants and their counsel, the officers of the court and the
11 members of the jury.

12 And, Mr. Adams, you may resume your cross-examination of
13 Detective Wildemann.

14 MR. ADAMS: Thank you very much.

15 BY MR. ADAMS:

16 Q Detective, I know you cannot see what I've now placed up in front
17 of the jurors from where you're seated. So if you'd like to come down, I'd
18 welcome you to come down.

19 A Do you want me to bring this, sir?

20 Q Please. And we're also going to put some of that up on the
21 overhead if we can get everything turned on, the TV.

22 THE COURT: Oh, the TV, the big screen. Jeff needs to do that.

23 MR. DIGIACOMO: Judge, before we start can we approach?

24 THE COURT: You may.

25 (Conference at the bench.)

1 BY MR. ADAMS:

2 Q Before you come down, let me ask you this. But you can stand
3 right there. That's fine. Do you recognize this photograph?

4 A I sure do.

5 Q It's marked State's 235?

6 A Yes, sir.

7 Q I don't believe it was introduced into evidence. Who is that?

8 A Anabel Espindola.

9 Q And was this taken the day of her arrest, May 24th?

10 A I'm not exactly sure on that one. I believe so though.

11 MR. ADAMS: Move that 235 be introduced into evidence.

12 THE COURT: No objection?

13 MR. DIGIACOMO: Well, actually I'll object to relevance unless we're
14 going to admit them all.

15 THE COURT: Well, I'll admit 235.

16 (State's Exhibit 235 admitted.)

17 BY MR. ADAMS:

18 Q And this is Ms. Espindola?

19 A Yes.

20 MR. ADAMS: I'm happy to renumber it as ours if the Court prefer.

21 THE COURT: No.

22 MR. ADAMS: Thank you.

23 BY MR. ADAMS:

24 Q I'd like to go through phone call records with you and maybe one
25 or two other things but primarily the phone calls. Do you have a phone call in

1 the records -- and you're looking at Exhibit 238?

2 A Yes, sir.

3 Q Do you have a phone call at 3:51 p.m. on May the 19th, 3:51:35?

4 A Yes, sir.

5 Q And who was the call made by?

6 A 239-2350.

7 MR. GENTILE: If it please the Court, may I stand over there?

8 THE COURT: Of course. That's fine.

9 BY MR. ADAMS:

10 Q And who was it made to?

11 A Anabel Espindola.

12 Q I'm not looking -- pardon me. I know you're fine; I'm just trying to
13 arrange it. All right. And what was the duration of that call?

14 A 2.2 minutes, I believe.

15 Q And on these records, sometimes you have seconds listed and
16 sometimes they're minutes. Do you know why there's a difference? Let me
17 ask it this way.

18 A Well, I don't show -- I don't actually -- all I see in the column it
19 says duration. My understanding might be that the --

20 Q This is a document not given by the phone company, right? This
21 is a document created for the jurors?

22 A Right.

23 Q And so if there was one set of records that listed calls in minutes
24 and one set of records that listed calls in seconds, both of those would be
25 poured into this one master document?

1 A Yes.

2 Q And so there would be different types of information in the
3 document?

4 A Yes.

5 Q All right. And how long this 2.2 minutes on a call to Anabel
6 Espindola at 3:51:35 on the 19th?

7 A I'm sorry. I lost the spot.

8 Q The bottom of page 2.

9 A Got it. 2.2 is what it says.

10 Q Let's go to page 3. Again, I'm not very good with the Elmo so it's
11 going to be too difficult to read. Is there a call at 4:58 p.m.?

12 A There's a call at 4:58:56.

13 Q And is that call from the home phone of Deangelo Carroll?

14 A Yes, sir.

15 Q And who is that call to?

16 A Anabel Espindola.

17 Q And how long is that call based on your records?

18 A 1.1 second.

19 Q Is there another call from Deangelo Carroll to Anabel Espindola at
20 7:27 p.m.?

21 A 7:27:05 from Deangelo to Anabel.

22 Q And again, that's his home phone, correct?

23 A Yes, sir.

24 Q To Anabel Espindola's cell phone, and the duration of that call?

25 A 3.75 minutes.

1 Q 225 seconds? Can you do that math in your head? All right.
2 More than 3 minutes?

3 A Yes.

4 Q All right. And then is there a call from Little Lou's cell phone to
5 the home of Deangelo Carroll at 7:42 p.m.?

6 A Yes. 7:42:58, yes, sir.

7 Q All right. And that lasted how long?

8 A 1.18 minutes.

9 Q Then is there a call to Little Lou at 8:07:31?

10 A Yes.

11 Q And is that from the number at the bottom of our Exhibit BB, 239-
12 2350?

13 A Yes, sir.

14 Q Let me back up to the top, the first call I asked you about, was
15 that also from that number at 3:51:35?

16 A That was inbound to Anabel, correct?

17 Q Yes.

18 A Yes.

19 Q From 239-2350?

20 A Yes.

21 Q Then we have calls -- two calls from Anabel Espindola to Deangelo
22 Carroll's home phone number at 8:13 p.m. and 8:15 p.m.?

23 A You still on the 19th, sir?

24 Q Yes, sir, all this is the 19th.

25 A 8:13 and 8:15.

1 Q We'll take them one at a time. 8:13:18, is there an attempted call
2 from Anabel Espindola to the house of Deangelo Carroll?

3 A Yes, sir.

4 Q And was that a zero second call?

5 A Yes.

6 Q How about at 8:15:16?

7 A Yes, outbound Anabel to Deangelo Carroll's home phone.

8 Q To his home phone, and what was the duration of that call?

9 A Point 1 minutes.

10 Q All right. So 6 seconds. And then is there a call again from
11 Anabel Espindola at 8:42:16 to this number at the bottom of the page, 239-
12 2350?

13 A Yes, sir.

14 Q And what's the length of that call?

15 A 1.33 seconds -- excuse me, minutes.

16 Q All right. And then we have a break in time until we get to 10:39
17 p.m. or a break in what I'm asking you about, and is there a chirp from
18 Deangelo Carroll's cell phone to Timothy Hadland's cell phone?

19 A Yes.

20 Q And what time is that?

21 A The duration?

22 Q Well, the time is 10:39 --

23 A Or the time of the call, 10:39, the duration is zero.

24 Q Okay. And then is there a chirp at 10:42:07?

25 A Yes, there is.

1 Q And who's that from?

2 A Deangelo Carroll to Anabel Espindola.

3 Q And what is the length of time of that communication?

4 A 25.7 --

5 Q Seconds.

6 A Seconds because it's a chirp.

7 Q And the chirp records are in seconds, and the call records are in

8 minutes?

9 A I believe that to be true, yes.

10 Q Then is there a follow-up chirp from Deangelo Carroll to Anabel

11 Espindola at 10:45:25?

12 A Yes.

13 Q And what is the duration of that chirp communication?

14 A 8.3 seconds.

15 Q Let's move down to 10:45:35 or roughly within an hour of Mr.

16 Hadland's death. Is there a chirp from Anabel Espindola?

17 A Yes.

18 Q And who was she chirping?

19 A Deangelo Carroll.

20 Q And what is the length of that chirp?

21 A 12.6 seconds.

22 Q And then please look down at 10:53:41, eight minutes later.

23 A Yes.

24 Q Is there a chirp to Mr. Hadland?

25 A Yes.

1 Q And who is that by?

2 A Deangelo Carroll.

3 Q Is there another chirp within a minute and 11 seconds to TJ
4 Hadland again from Deangelo Carroll?

5 A Yes.

6 Q And what's the duration, the length of that chirp?

7 A 20.7 seconds.

8 Q What's your estimation on the time of death of Mr. Hadland?

9 A I'd have to review -- I'd have to review a couple of reports. I'm
10 not sure exactly when the 9-1-1 call was placed.

11 Q If we assume -- let's just assume there's been testimony of the
12 9-1-1 call being at 11:44 p.m. Does that seem accurate?

13 A That seems to my memory, yes.

14 Q As to your memory, all right. Let's back up now to get past the
15 11 o'clock hour on May the 19th. Was there a chirp at 11:08:06?

16 A Yes.

17 Q And who chirped who?

18 A Well, there's a number of them. So you're going -- oh, I'm sorry.
19 11:08:06.

20 Q 11:08:06 seconds?

21 A Anabel Espindola to Deangelo Carroll.

22 Q All right. Was there any length of communication based on your
23 records?

24 A No.

25 Q Was there a return chirp 4 seconds later?

1 A Yes.

2 Q Who chirped?

3 A Deangelo Carroll to Anabel Espindola.

4 Q And how long was that communication?

5 A 13 seconds.

6 Q And then we talked before the lunch break about a call from
7 Kenneth Counts to Anabel Espindola. Do you see that in your records at
8 11:10:12?

9 A Yes, sir.

10 Q And how long was that telephone call?

11 A 1.4 minutes.

12 Q 84 seconds?

13 A (Unintelligible.)

14 Q Did Anabel Espindola attempt to call Kenneth Counts' phone back
15 which is marked as KC not as the full name, not as Kenneth Counts?

16 A At 11:12:58.

17 Q And was there any length of communication in that call?

18 A No, sir.

19 Q Did Deangelo Carroll chirp at 11:13:21?

20 A Yes.

21 Q And who did he chirp?

22 A Timothy Hadland.

23 Q Is that the last known communication with Timothy Hadland
24 before his death?

25 A According to the records, yes.

1 Q How long was that communication?
2 A 13.6 seconds.
3 Q Who's the next person to communicate or attempt to
4 communicate with Deangelo Carroll?
5 A Anabel Espindola at 11:37:35.
6 Q And was there any length of communication in that chirp?
7 A No, none.
8 Q Who did Mr. Carroll first call after that chirp by Anabel Espindola?
9 A Anabel Espindola.
10 Q And at what time?
11 A 11:37:41.
12 Q And how long was he on the line with her?
13 A 21.2 seconds.
14 Q 21.2 seconds. Let me talk to you about a few calls on the 20th.
15 Was there an additional chirp at 12:10:45 p.m., the next day, 12 hours, 12 and
16 a half hours later from Deangelo Carroll to Anabel Espindola?
17 A Yes.
18 Q How long was that communication?
19 A 30.5 seconds.
20 Q Were there a series then of communications around 2:53 p.m. the
21 afternoon of the 20th between Anabel Espindola and Deangelo Carroll?
22 A Yes.
23 Q Was there one at 2:53:19?
24 A Yes.
25 Q Did that last 7.4 seconds?

1 A Yes.

2 Q Was there one at 2:53:25?

3 A Yes.

4 Q Did that last -- and that was actually not a chirp; that was call?

5 A It's a call into Deangelo -- it's actually Deangelo calling Anabel.

6 Q So I have that one backwards. I don't know what that symbol
7 means, but I think that means I've got it backwards so it should be flipped.

8 And that was .28 minutes?

9 A .28 minutes, yes.

10 Q So 15 seconds roughly, a quarter of -- a little more than a quarter
11 a minute, maybe 16 seconds?

12 A Okay.

13 Q And then is there a chirp from Deangelo Carroll to Anabel
14 Espindola at 2:53:31?

15 A Yes.

16 Q Now, if they talked -- if they were in communication for 16
17 seconds, it's possible that these two cell records, one for the chirp and one for
18 the call are -- the clocks are not identical?

19 A I would say that could very well happen.

20 Q Or he could be calling on his cell phone while she's calling to his
21 land line, and there could be an overlap?

22 A Very possible.

23 Q And I suspect people who know more about phones than I know
24 might have other explanations for the timing situation?

25 A Possibility.

1 Q All right. And then the last one, Deangelo Carroll chirped Anabel
2 Espindola at 2:54:13 p.m.?

3 A Yes.

4 Q For 8.1 seconds?

5 A Yes.

6 Q Let me back up because I don't think I asked it. The 2:53:31 chirp
7 was the length of that 35.4 seconds?

8 A Yes, sir.

9 Q And all those calls are contained in the document that you're
10 holding that's been admitted into evidence?

11 A Yes.

12 Q Thank you. How much money was received from -- or taken by
13 the police, seized by the police from Kenneth Counts' house?

14 A From his house?

15 Q Yes, on E Street.

16 A I'm not exactly sure of that. I don't recall.

17 Q It was less than \$3,000, wasn't it?

18 A I'm not sure on that one, sir. I'm sorry.

19 Q Well, do you know whether or not in reviewing your records
20 whether it was less than \$5,000?

21 A I don't know that. I'm sorry.

22 MR. ADAMS: May I have the Court's indulgence.

23 THE COURT: That's fine.

24 MR. ADAMS: Judge, should I have that marked for identification
25 purposes if I'm going to use it tomorrow?

1 THE COURT: If you're just going to use it in closing you don't have to.
2 If you want it as an exhibit then you do.

3 MR. ADAMS: Let me go ahead and get that marked. May I have these
4 two pages marked, please, and I have no additional questions of the witness.

5 THE COURT: All right. Redirect.

6 MR. DIGIACOMO: Just very briefly.

7 REDIRECT EXAMINATION

8 BY MR. DIGIACOMO:

9 Q Detective, I noticed during the questioning they kept saying Anabel
10 called Deangelo, Deangelo called Anabel; those type of questions.

11 A Yes.

12 Q So that we're clear, Anabel's phone connected with Deangelo
13 Carroll's phone or whatever -- you're talking about phone numbers; you're not
14 saying you know who made the phone calls?

15 A Exactly.

16 Q One last thing. How long of a communication did you have with
17 Mr. H on the afternoon of the 20th? How long did the conversation occur with
18 Mr. H?

19 A Over the phone or in person?

20 Q The one in person?

21 A A few minutes.

22 Q Okay. It wasn't a long, detailed interview?

23 A No, sir.

24 MR. DIGIACOMO: Nothing further.

25 MR. GENTILE: Your Honor, may we approach?

1 THE COURT: You may.

2 And did we have any juror questions?

3 All right. Jeff's going to go over there and get the juror questions.

4 (Conference at the bench.)

5 THE COURT: Okay. One of the questions goes to Mr. Adams' phone
6 chart.

7 And, Mr. Adams, that was marked as what?

8 MR. ADAMS: I believe it's State's 238.

9 THE COURT: Okay. And the juror is directing -- where is that?

10 MR. ADAMS: Oh, the ones I marked are up here with the clerk.

11 THE COURT: Mr. Adams directed you to a 12:10 and 45 second chirp
12 between Deangelo Carroll and Anabel Espindola on 12:20 that lasted 30.5
13 seconds?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Okay. Would you look at your records, was that
16 12:10:45 p.m. or a.m.?

17 THE WITNESS: 12:10:45 p.m.

18 THE COURT: Okay. So p.m. is correct?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: So that would have been in the -- just to make it real
21 clear -- that would have been in the afternoon then?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: And what was the date on that one?

24 THE WITNESS: May 20th, 2005.

25 THE COURT: All right. So afternoon something on May 20th, 2005?

1 THE WITNESS: Yes, ma'am.

2 THE COURT: All right. And a juror wants to know did the GPS info tell
3 you where each phone was?

4 THE WITNESS: That's it?

5 THE COURT: Well, no, there's more but ...

6 THE WITNESS: The GPS or the cell site information that we have works
7 for the direct connects which is -- which would mean my cell phone calling your
8 cell phone. We could not get cell site location or tower location for the push to
9 talk. So the chirps as you guys have been hearing it we weren't able to get cell
10 site information.

11 THE COURT: Okay. Now, it just tells you what cell site was used; it
12 doesn't tell you the precise location of where the phone call was made; is that
13 right?

14 THE WITNESS: It gives you directionality. It tells you what cell site was
15 used and the directionality of where that call originated from.

16 THE COURT: Okay. Meaning if the caller was located north of the cell
17 site or south of the cell site or east cell site?

18 THE WITNESS: It breaks it into thirds. It breaks the circle into thirds.
19 So, yeah, it will give you a third, a direction, if that makes sense.

20 THE COURT: All right. But you can't tell the precise location or who
21 was there from the records you --

22 THE WITNESS: I can tell you what phone, and I can tell you the general
23 area, but I cannot give a precise location.

24 THE COURT: All right. I'm going to let Mr. DiGiacomo follow up if you
25 have follow-up on any of those.

1 Do we have other juror questions?

2 While you follow up if you've got anything, Jeff is going to be
3 retrieving the additional juror question.

4 BY MR. DIGIACOMO:

5 Q The only follow-up I have is in the chirp the defense showed you.
6 They took certain time periods and asked you certain questions about certain
7 phone calls during that time period, correct?

8 A Yes, sir.

9 Q But there's a lot of other phone calls and chirps in that time period
10 looking at 238 that there's information relating to the case about?

11 A Absolutely.

12 MR. ADAMS: Judge, I do object as that's not a follow-up to the notes
13 you just read, and he's already done redirect.

14 THE COURT: Well, overruled.

15 MR. DIGIACOMO: Well, the 12:45 --

16 THE COURT: It's okay, Mr. DiGiacomo. I said your question was fine so
17 you don't need to say anything else.

18 MR. DIGIACOMO: Thank you.

19 BY MR. DIGIACOMO:

20 Q So there's more information in the early morning hours of May 20th
21 that wasn't shown to the jury on -- at least on that chart, but it's on 238?

22 A Yes.

23 MR. DIGIACOMO: Nothing further.

24 THE COURT: All right. Another juror wants to know has any
25 investigation of inquiry been made about phone number 239-2350?

1 THE WITNESS: I don't have that information with me. I don't recall or
2 remember if that was done or not, ma'am.

3 THE COURT: Okay. So you don't recall if a detective tried to get
4 records related to that phone number?

5 THE WITNESS: I don't remember.

6 THE COURT: Okay. So then at this point in time you don't know who
7 owns that phone or who pays for it?

8 THE WITNESS: No, ma'am.

9 THE COURT: All right. Any follow up on that question?

10 MR. DIGIACOMO: No, Judge.

11 THE COURT: All right. Mr. Gentile?

12 MR. GENTILE: It's actually Ms. Armeni that was --

13 THE COURT: Oh, I'm sorry. It was so long ago.

14 MS. ARMENI: No, Your Honor, I don't have any questions.

15 THE COURT: And what about Mr. Adams?

16 MR. ADAMS: No, ma'am, thank you.

17 THE COURT: All right. Any other juror questions?

18 All right. Detective, thank you for your testimony. You are
19 excused at this time.

20 MR. DIGIACOMO: May I approach the clerk for just a moment, Judge?

21 THE COURT: You may.

22 MR. DIGIACOMO: Judge, the clerk does not have in State's Proposed
23 Exhibit 164 which are the live rounds taken out of 1676 E Street. I'd move to
24 admit if they haven't previously been admitted.

25 THE COURT: Any objection to 164, which are the live rounds from the

1 search warrant?

2 MR. GENTILE: Relevance.

3 MR. ARRASCADA: Same, Your Honor.

4 THE COURT: Overruled. They can be admitted.
5 (State's Exhibit 164 admitted.)

6 THE COURT: Mr. DiGiacomo.

7 MR. DIGIACOMO: Are they admitted, 164?

8 THE COURT: Yes.

9 MR. DIGIACOMO: Okay.

10 THE COURT: The State rests?

11 MR. DIGIACOMO: Reserving the right to check with the clerk to make
12 sure everything we offered has been admitted. Other than that, the State rests.

13 THE COURT: Okay. Defense, yes, who would like to go first?

14 MR. GENTILE: Call Kevin M. Kelly.

15 THE COURT: Jeff will get him.

16 Come on up to the witness stand and please remain standing facing
17 our court clerk.

18 KEVIN KELLY

19 Having been called as a witness and being first duly sworn testified as follows:

20 THE CLERK: Please be seated and please state and spell your name.

21 THE WITNESS: Kevin Kelly, K-e-v-i-n, K-e-l-l-y.

22 THE COURT: All right. Thank you.

23 DIRECT EXAMINATION

24 BY MR. GENTILE:

25 Q Mr. Kelly, what city and state do you live in?

1 A Las Vegas, Nevada.

2 Q How long you been living in Las Vegas?

3 A 31 years.

4 Q And where did you live before that?

5 A Boston.

6 Q Tell us a little bit about your educational background.

7 A Graduated college in 1973, graduated law school in 1978.

8 Q What college and law school did you graduate from?

9 A Mount St. Mary's College in Maryland, New England School of
10 Law in Boston.

11 Q What did you do -- what did you do before you started college, Mr.
12 Kelly?

13 A I was in the military from 1966 through 1977.

14 Q And did you serve a tour of duty anywhere?

15 A I did three tours in Viet Nam, Laos, Cambodia and Thailand.

16 Q What was your assignment?

17 A I was in military intelligence.

18 MR. DIGIACOMO: Objection. Relevance, Judge.

19 MR. GENTILE: Establishing his background. He's being offered as an
20 expert witness, and I think I'm entitled to --

21 THE COURT: Okay. I don't think we need to get too far into his military
22 history.

23 MR. GENTILE: Believe me --

24 THE COURT: Mr. Kelly, you can answer the question just generally. Do
25 you remember what it was?

1 BY MR. GENTILE:

2 Q I asked you -- I think I asked you what your assignments were?

3 A I was in military intelligence. In 1970 I was in charge of collecting
4 US intelligence on missing MIAs, American prisoners of war. I was an intel
5 analyst to the ambassadors at Laos and Cambodia doing daily briefings, black
6 book briefings.

7 Q And how long were you in the military?

8 A Eleven years.

9 Q When did you muster out?

10 A March 2nd, 1977.

11 Q And what was your rank at that time?

12 A Captain.

13 Q When you finished your military duties, were you still -- were you
14 in law school at that time?

15 A Yes. I was in my -- I was going to law school while in the military.
16 I was three-quarter time, which meant I was working full time and going to law
17 school. So I had one more year, graduated in '78.

18 Q After you graduated law school what did you do?

19 A I came to Las Vegas, took the bar exam in Massachusetts,
20 admitted there and then came here, clerked for a judge, took the bar exam in
21 '79 and was admitted in '79 in Nevada.

22 Q Have you been practicing -- do you still practice law?

23 A Yes.

24 Q What else do you do?

25 A I own Spearmint Rhino.

1 Q And what is Spearmint Rhino?

2 A Spearmint Rhino is a gentleman's club.

3 Q Is it part of a chain?

4 A I have a license agreement with a worldwide company. The chain
5 Spearmint Rhino is located worldwide. It has clubs in Melbourne, the UK,
6 Prague, Moscow, or they did have those clubs. I have nothing to do with the
7 worldwide chain. I have a license to use the logo and the name and the brand
8 here in Las Vegas only.

9 Q Now, tell the ladies and gentlemen of the jury -- you still practice
10 law and you own Spearmint Rhino; am I correct?

11 A Yes, sir.

12 Q Are you in this building very often as a lawyer?

13 A Frequently.

14 Q Okay. Would you tell the ladies and gentlemen of the jury how it
15 came to be that you wound up in the strip club business.

16 A Blame you how this happened. 1976 I was advised of a bar that
17 was for sale, and attached to the bar was a totally nude club, and the prospect
18 of the -- the opportunity was to buy both locations. I had no interest in opening
19 a nude club of any type, and so I only bought the bar. It used to be called Hob
20 Nob on Industrial -- on Highland.

21 So I bought that and on January 1st of 1997, we opened up Inferno,
22 which was a gay bar, and kept that until February of 1999, in which we sold
23 the majority of the interest of K-Kal, which was a corporation of Kevin Kelly,
24 Kay Kelly, sold the majority of that, and that became Spearmint Rhino.

25 Q And so you've owned it since then?

1 A Yes.

2 Q Okay. Now, Mr. Kelly, did there come a point in time -- well, let
3 me see, that's almost ten years you were in that business?

4 A I've been actively involved in it in the last nine years.

5 Q Okay. During that period of time did you become involved in a
6 trade organization?

7 A Yes.

8 Q What was the name of that organization?

9 A NAN it was a night -- I don't know the exact name. It was the
10 Association of Nightclub Owners.

11 Q Was it the Nevada Association of Nightclubs?

12 A Nevada Nightclubs, yes.

13 Q Okay. And what was the nature of that organization?

14 A The organization was -- the goal was to develop a professional
15 organization of club owners for the purpose of trying to create laws favorable to
16 our industry and to get some uniformity within the organization, bring some
17 credibility to the organization.

18 Q And at -- at its height, how many members did that organization
19 have?

20 A I bet we had 15 or 18 owners part of that, part of the
21 organization.

22 Q And would that organization hold meetings?

23 A Yes.

24 Q How often?

25 A Monthly.

1 Q And for how long -- is that organization still actually --

2 A I don't think it's actively -- it's definitely not actively in existence,
3 and I don't even know that anyone has maintained its corporate status.

4 Q But was it active in the year 2005?

5 A Yes, it was.

6 Q And how often would meetings be held in those days?

7 A Monthly.

8 Q And, Mr. Kelly, in the course of that organization being active, did
9 you come to learn about some problems -- and I'm not trying to specify any
10 particular one -- but some problems that were basically uniform throughout the
11 industry?

12 A Yes.

13 Q Okay. And what were the nature of the things that the members
14 of this organization sort of all had to deal with?

15 A We had to deal with entertainers, dancers who were prostitutes
16 going from club to club. If a girl was terminated from our club, there was no
17 mechanism to alert the owners of any other club that we were getting rid of
18 one problem, and possibly they were picking up the problem.

19 We had issues of owners creating paying of the cabdrivers, and that
20 created a lot of up and down paying. One day it might be \$10, the next day it
21 would be \$20, and it would go up and down repeatedly. We were accused of
22 assisting diversion by --

23 Q What is diversion?

24 A If a patron gets in a cab and says, please take me to Palomino or
25 take me to Spearmint Rhino, and the cabdriver because they might make more

1 money at some other club, Treasures or Sapphires, the driver would tell the
2 customer that the club that they wanted to go to either burnt down or that the
3 dancers were ugly or that there was a shooting or something of that nature
4 causing that patron to say, no, take me to where you recommend, and they
5 might go to the other club and get a higher bounty.

6 Q From a standpoint of uniformity, are cabs and the support of
7 cabdrivers -- or let's put it this way -- the cooperation of cabdrivers important to
8 the gentleman's club industry?

9 A Very important.

10 Q In what way?

11 A It's a form of advertising. We, you know, we have a budget for
12 billboards and radio spots and TV commercials at the hotels. We have
13 something going on with Cox. All of that is critical to getting our name out, to
14 brand our product, and cabdrivers were a valuable tool in doing that. They
15 would -- if the playing field were equal, we always felt that we could hold our
16 own, and so it was something that you always tried to do to keep the
17 cabdrivers in good company with us.

18 Q And did there come a point in time when doing that became
19 problematic because of the practices of some clubs?

20 A Absolutely.

21 Q In what way?

22 A One of the purposes of the organization was to try and bring
23 uniformity, continuity to the paying of cabdrivers and limo drivers, and there
24 were drivers -- their owners were paying drivers more than what they were
25 agreed to pay, or that they would have almost like frequent flyer miles. If you

1 bring so many people, we'll give you extra bonus coupons which can be
2 redeemed in the back door.

3 And so we attempted to come up with an agreement among the
4 owners that would bring uniformity to the paying of the drivers.

5 Q Did there come a point in time when there was at least for a
6 nanosecond or a minute or maybe a day or a week, an agreement among the
7 clubs where everybody would pay the same amount of money?

8 A Yes.

9 Q Was the Palomino Club in any way exempt from that?

10 A Yes.

11 Q In what way?

12 A We agreed that because the Palomino Club was outside of the
13 industry, I mean, we have Highland and we have Industrial, which are certainly
14 where the bulk of the major clubs are, and Palomino being in North Las Vegas
15 and being totally nude, they either paid 5- or \$10 more than what the other
16 clubs were paying.

17 Q And was the Palomino a member of that organization?

18 A Yes, it was.

19 Q So was the Palomino at least permitted by the other members of
20 that organization to do that?

21 A Yes, they were.

22 Q Okay. And when I say the Palomino, at that time who was the
23 owner of the Palomino?

24 A Louie.

25 Q Louie.

1 Would you stand up, Mr. Hidalgo.

2 MR. GENTILE: Would the record reflect that Mr. Kelly pointed to Mr.
3 Hidalgo, called him Louie.

4 THE COURT: Mr. Hidalgo Junior?

5 MR. GENTILE: Mr. Hidalgo Junior, excuse me. Yes, Your Honor.

6 THE COURT: All right. Thank you.

7 BY MR. GENTILE:

8 Q Did Mr. Hidalgo, Junior, did Louie attend meetings regularly?

9 A Yes, fairly often, frequently.

10 Q Would he be there alone or with somebody else from time to time;
11 or do you recall?

12 A He would have other people there, and I don't recall who they
13 were, but I do remember he would have someone with him frequently.

14 Q Now, in your experience, have you had employees leave Spearmint
15 Rhino and go elsewhere?

16 A Absolutely.

17 Q Okay. And in your experience -- well, let me ask you this way.
18 Everybody doesn't speak well of every club in your experience?

19 A Correct, they do not.

20 Q Okay. As important as the support of cabdrivers is to a club, have
21 you encountered a situation where someone from your club or used to work for
22 your club spoke badly about your club to a cabdriver?

23 A Past and currently, yes.

24 Q Past and currently?

25 A Yes.

1 Q All right. Has this speaking badly had a negative impact on your
2 business?

3 A No.

4 Q Why not?

5 A You know, maybe they just look at the source. We've spent a lot
6 of time, money and energy to build our club with the reputation of having a
7 good club. We've done a number of things to insure compliance with the
8 licensing agreement, with the County, and Metro and things of that nature, and
9 we've been fortunate. We've been very lucky, and we have -- we have about
10 five people who had worked at the Spearmint Rhino within the last year who
11 recently some were fired, some were passed over for promotion, but they all
12 left one way or the other.

13 They were involved in opening another club recently, I mean, it's in
14 existence now. There were all kinds of rumors that were circulating, coming
15 back to me as to what they were saying about the club, about the managers,
16 about the owner, and about the dancers, and although we hear that, it has had
17 no effect whatsoever on the club.

18 Q Mr. Kelly, if you stop paying cabdrivers today, would that have an
19 effect on the club?

20 A If we -- if we alone stop paying cabdrivers, yes, it would have a
21 serious effect.

22 Q What would that effect be?

23 A Probably unofficial boycott of the club.

24 Q So talking bad about the club isn't going to hurt as much as not
25 paying the cabdrivers?

1 A Correct.

2 Q Okay. Now, you testified in the beginning of your testimony about
3 another problem that the industry had that you found out that everybody had
4 which was basically prostitutes?

5 A Yes.

6 Q Okay. What, if any, controls do you have in place to deal with it --

7 MR. DIGIACOMO: Objection. Relevance.

8 MR. GENTILE: Well, let me ask that a little differently.

9 THE COURT: Yeah.

10 BY MR. GENTILE:

11 Q Have you come to learn that the industry now, back in 2005,
12 actually had or developed a system for dealing with prostitutes?

13 MR. DIGIACOMO: Objection. Relevance.

14 MR. GENTILE: I don't think that it is.

15 THE COURT: You mean that it isn't.

16 MR. GENTILE: I'm saying that -- he's saying that -- I said I don't think it
17 is irrelevant. I think it goes to number one, his genuine expertise in the area,
18 and it's been -- there's been an attempt to inject this a number of different
19 ways.

20 THE COURT: Just very -- I'm not sure it's really relevant because we
21 haven't gotten into the issue of prostitution, or if we have at all, just very
22 tangentially.

23 Just answer briefly what, if anything, the organization has done to
24 address this problem in the industry.

25 THE WITNESS: I'm not sure I can answer it organizationally. Are you

1 talking about as far as Spearmint Rhino is concerned?

2 THE COURT: No, I mean the organization of the nightclub owners.

3 MR. GENTILE: Well, Spearmint Rhino isn't the only club that operates in
4 the same fashion with respect to internal controls.

5 BY MR. GENTILE:

6 Q Am I right?

7 A Yes, that's correct.

8 Q And you know that other numbers of the organization basically
9 maintain the same type of control?

10 A They maintain many of the same things, yes.

11 Q All right. Can you tell us what they are?

12 MR. DIGIACOMO: Objection. First of all, foundation as to specifically
13 the Palomino. Second of all relevance.

14 THE COURT: Yes, sustained.

15 MR. DIGIACOMO: Thank you.

16 BY MR. GENTILE:

17 Q Back in 2005, can you tell me what they were? First of all, at
18 these meetings were those issues discussed?

19 A Many of them were, yes.

20 Q Okay. Was Mr. Hidalgo at those meetings?

21 A Yes.

22 Q Okay. And did they share information? Did the various members
23 of the organization share information?

24 A Yes.

25 Q Okay. And among the things that were discussed was it

1 cooperation among clubs to deal with this issue?

2 A Yes.

3 Q And was Mr. Hidalgo one of the cooperators, one of the operators?

4 A Yes, he was.

5 Q Okay. Now, could you answer the question.

6 MR. DIGIACOMO: Objection. Foundation. May I voir dire the witness?

7 THE COURT: No. Just -- I mean --

8 What was the plan that the organization had to deal with the issue?

9 THE WITNESS: I was probably the newest member, newest owner of
10 the club in terms of expertise, and there were lots of owners in the industry
11 who had been around town much longer than I, and I was probably the
12 neophyte in trying to get information to curb some of the issues that I observed.

13 So these conversations took place on a relatively regular basis.
14 Security was another one. But some of the things that we did and we
15 implemented was that the -- all the dancers had to valet.

16 BY MR. GENTILE:

17 Q What does that mean? You're going to need to be a little bit more
18 detail. When you say all the dancers had to valet, what do you mean?

19 A We didn't want dancers being able to sneak out the back door and
20 go home with a patron. So in order to prevent that, they would have to valet in
21 the back of the club. They would have to work a certain minimum of hours so
22 that if a dancer was with a particular gentleman, he would say, listen, why
23 don't we leave here and meet me out back, and we'll go to my hotel room.
24 And so most of the clubs had some sort of minimum hours that they had to
25 work.

1 We would -- and typically what would happen and still happens, you
2 know, dancers may try to do that. They'll be with a particular customer for
3 maybe a few hours. They will have a tip, and the -- they'll go to the manager
4 and say, I have a headache; I want to go home. And the manager being all
5 experienced would say, well, you were with Mr. Jones for a couple hours. Why
6 don't you wait here for the six hours.

7 Lots of times we would see someone buying Rhino chips or fronting
8 money. They'd use their credit card. They might get \$5,000 worth of Rhino
9 chips or funny money. There were different names and different clubs, but it
10 was the currency, if you will, to pay for dancers, and anytime we had a large
11 tip on that when they buy, say, \$5,000 or \$2,000 or \$2500 worth of chips,
12 you might see a \$1500 gratuity. That would be red flags that something was
13 going on, and a manager would go and talk to that customer and say, you
14 understand that prostitution is not allowed. Dancers may not meet you off the
15 property. We would make sure that the tip was truly for services and not for
16 something to be rendered later on.

17 Q Okay. Mr. Kelly, if you learned that a dancer does meet somebody
18 off the property, what is the response?

19 A They're terminated.

20 MR. DIGIACOMO: Objection. Relevance.

21 THE COURT: Sustained. I don't know -- I think we're getting --

22 MR. GENTILE: One more area that I want to cover.

23 BY MR. GENTILE:

24 Q In your experience now in almost ten years in the industry, if a --
25 how much is the Spearmint Rhino dependent on -- let me change it. Let me

1 turn it around.

2 Palomino Club is the only club in Las Vegas that has alcohol and
3 total nudity; am I right?

4 A Yes, sir, to my knowledge.

5 Q Pardon me?

6 A To my knowledge, yes, sir.

7 Q Okay. And yours is one of the busiest clubs in Southern Nevada;
8 am I right?

9 A Yes, sir.

10 Q Okay. And in 2005, it was still one of the busiest clubs in
11 Southern Nevada; am I right?

12 A Yes.

13 Q How often to your knowledge would you, your club refer a
14 customer to another club?

15 A Frequently.

16 Q Okay. And with respect to your club itself, how often do you get
17 referrals from another club?

18 A Frequently.

19 Q Now, if somebody -- in your experience if a low-level employee of
20 your club talked badly about your club, is it going to impact on referral?

21 A No.

22 Q Why not?

23 A Again, the club stands on its own, and we have enough good will,
24 if you will. We have a good reputation, and it just -- again, I mean, I speak from
25 direct knowledge of my guys. We have over 250 employees. We have not a

1 huge turnover, but we have a reasonable number of people who are either
2 thinking that the grass is greener somewhere else and they can get to be a
3 manager maybe faster or a supervisor faster. You know, they talk, but so far
4 we've been fortunate that hasn't affected us.

5 Q And if -- if you hear that somebody's talking badly about another
6 club, is it going to affect you referring to that club?

7 A No.

8 Q For the same reasons?

9 A Yes.

10 MR. GENTILE: Nothing further.

11 THE COURT: Mr. Arrascada, do you have any questions for Mr. Kelly?

12 MR. ARRASCADA: No, Your Honor.

13 THE COURT: Cross.

14 MR. DIGIACOMO: Very briefly.

15 CROSS-EXAMINATION

16 BY MR. DIGIACOMO:

17 Q How are you?

18 A Very well, sir.

19 Q You talked about some generalities. I just want to ask you a
20 couple things about this Nevada Association of Nightclubs, commonly referred
21 to as the coalition?

22 A Yes.

23 Q These meetings took place at Pierro's, the monthly meetings?

24 A Not always, but many, yes. Tony Sgro's office.

25 Q Tony Sgro, okay, another lawyer. And frequently at least up until

1 the time that they wound up in legal trouble, Gilardi and Rizzo would show up
2 at these meetings?

3 A Rick almost always until his legal problems, Gilardi infrequently.

4 Q He'd be there once in a while?

5 A Yes, once in a while.

6 Q You also testified to a lot of generalities about how the business
7 works at least from your perspective as an owner of the Spearmint Rhino,
8 correct?

9 A Yes.

10 Q Do you have any firsthand knowledge, ever go out there and see
11 or specifically review the records as to the specific procedures utilized at the
12 Palomino Club?

13 A I never went out to review records. I have been there, yes.

14 Q No, I'm asking did you see the procedures that you're talking
15 about, like the valet parking for the girls, those type of things that you talked
16 about?

17 A I can't say that I saw it.

18 Q Thank you.

19 MR. DIGIACOMO: Nothing further, Judge.

20 THE COURT: Mr. Gentile, any redirect?

21 MR. GENTILE: No.

22 Thank you, Mr. Kelly.

23 THE COURT: Any juror questions for Mr. Kelly?

24 All right, Mr. Kelly, thank you for your testimony. Please don't
25 discuss your testimony with anyone else who may be a witness in this case,

1 and you are excused.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: And the defense's -- Mr. Gentile, your next witness.

4 MR. GENTILE: Well, Your Honor, I'd have to see if she's out there.

5 THE COURT: All right. Thank you.

6 MR. DIGIACOMO: Judge, may we approach?

7 THE COURT: You may.

8 (Conference at the bench.)

9 THE COURT: Juror No. 3 guessed it. We're going to take a 10-minute
10 recess.

11 And, ladies and gentlemen, once again you're reminded of the
12 admonition that is in place not to discuss the case or do anything related to the
13 case on the break.

14 Notepads on your chairs, follow Jeff through the double doors.
15 We'll be back in session at 2:40.

16 (Jury recessed 2:31 p.m.)

17 THE COURT: Are we on the record?

18 THE COURT RECORDER: We are.

19 THE COURT: All right. Go ahead, Mr. DiGiacomo.

20 MR. DIGIACOMO: Judge, so the record is clear, when they originally
21 filed their notice of witnesses timely, it listed practically every inmate that
22 Anabel Espindola has ever been housed with. This morning at 8:35 this
23 morning, they served a notice of witnesses on us for four witnesses all of
24 which showed the care of the office of Mr. Gentile.

25 Today Ms. Perez apparently arrived here because we couldn't locate

1 her prior to that. We had a -- my investigator began a conversation with her. It
2 was not completed when she was attempted to be called to the stand. Based
3 on the information that my investigator has gathered so far, I obviously need
4 time to prepare the cross-examination of her. My understanding is they will not
5 be resting this afternoon.

6 I certainly believe that I have the right to ask for her to be
7 completely excluded based upon their late notice of her particularly since the
8 information we have is that she used to live with Mr. H. So obviously they
9 must have known of the existence of her prior to this morning, but certainly at
10 the very least --

11 THE COURT: So you're asking that she be called tomorrow --

12 MR. DIGIACOMO: Correct, so I have time --

13 THE COURT: -- so that you can have time to prepare?

14 MR. DIGIACOMO: Correct.

15 THE COURT: And my question is how long -- how long would her
16 testimony be, Mr. Gentile?

17 MR. GENTILE: Direct examination?

18 THE COURT: I mean, what's she going to say?

19 MR. GENTILE: Well, you recall yesterday -- first of all, let me say to the
20 Court that her being not on our witness list -- there's two things that I have to
21 just basically face up to the truth of. Her not being on our witness list was
22 inadvertent, all right, because while I can tell you that I never spoke with her
23 before Saturday, it wasn't that I did not know of her existence.

24 THE COURT: So you knew she was going to be a witness and it --

25 MR. GENTILE: Well, no, I honestly didn't, okay, but we should have

1 listed her, all right, because I thought that all she could offer was this -- was
2 the issue of Anabel being angry at Louie because of --

3 THE COURT: This purported affair?

4 MR. GENTILE: Right, because she was one of the women that Anabel
5 sent -- and Anabel admitted to that -- that --

6 THE COURT: So basically is she going to testify that she had an affair
7 with Mr. H --

8 MR. GENTILE: No, not at all. Let me tell you what she's going to testify
9 to, and I laid the foundation for her with Anabel yesterday. She is going to
10 testify that in the spring of 2007 when she had basically a trustee position at
11 the jail -- and I don't know what they call it -- they call it workers; it means that
12 they don't have to sit in their cell -- she was in the same module as Anabel
13 Espindola, and Anabel Espindola came back from court one day and was in her
14 cell sobbing.

15 And so she went into the cell to comfort Anabel because she had
16 become close with Anabel by that time. And Anabel confided in her that the
17 reason that she was sobbing was because she was afraid that the State
18 through its representatives were going to convict her and put her to death.

19 THE COURT: Okay. So that -- her testimony would contradict that
20 testimony from yesterday?

21 MR. GENTILE: Right. There's more. Let me lay the rest of it.

22 THE COURT: And I'm sorry to interrupt you, but as you know, as you
23 yourself pointed out in my chambers, jurors' biggest complaints is being left out
24 in the hallway.

25 MR. GENTILE: Right.

1 THE COURT: And I'm trying really hard not to do that because these
2 jurors obviously are already upset, for lack of a better word.

3 Is there a witness -- I'm not going to exclude the witness, number
4 one. Number two, you know, I think the State does have some -- have a right
5 to have some time to prepare, and if we're not going to finish the defense's
6 case in chief today anyway, then I would be inclined to say let's set her over
7 and give Mr. DiGiacomo time to prepare.

8 Having said that, do you have another witness or witnesses
9 available to call now?

10 MR. GENTILE: I do, but here's my dilemma, and I addressed this with
11 you off the record, okay.

12 THE COURT: You addressed it previously with me at the bench off the
13 record?

14 MR. GENTILE: At the bench, yeah, but I intended to make a record of it,
15 and it was very brief.

16 Mr. Hidalgo is not well. He has lots of medical problems. The jail
17 knows that because in the period of time that he was at the jail, he had to, you
18 know, advise them of what his medical conditions were. As we get later in the
19 day, his ability to even think clearly, and I've been experiencing this now for a
20 couple of years, diminishes, okay. And so it's my desire that he not be placed
21 on the stand and most definitely not be placed on cross-examination late in the
22 day.

23 It is also important in terms of the order of these witnesses that Ms.
24 Perez testifies before Mr. Hidalgo, and so I guess what I'm saying to you is that
25 if you're going to say that we have, you know, that we must come back

1 tomorrow even if I could otherwise conclude today --

2 THE COURT: Well, you're -- okay. It's already 2:45.

3 MR. GENTILE: Correct.

4 THE COURT: So you're either going to be putting Mr. Hidalgo on late
5 today -- it's already late. So if you put him on it's even going to be even later,
6 or you're going to be putting him on first thing in the morning. So either way if
7 you want --

8 MR. GENTILE: All I'm saying to you is if we run out of witnesses before
9 7 o'clock, I'm going to ask -- now, it won't be much before 7 o'clock -- but if
10 we do, 'cause you said you're going till 7 o'clock, right?

11 THE COURT: Right.

12 MR. GENTILE: Then I'm going to ask you to not force me to put my
13 client on the stand tonight if I decide to put him on the stand. That's all I'm
14 asking you.

15 THE COURT: Okay. Well --

16 MR. GENTILE: I think we probably have enough to go to 7.

17 THE COURT: Okay. Without this witness, 'cause like I said, I'm not
18 going to exclude her, but I feel like the State, you know, they do --

19 MR. GENTILE: Her testimony is devastating to the State; there's no
20 question about it.

21 THE COURT: Right, and I think Mr. DiGiacomo should be given an
22 opportunity to prepare his cross-examination.

23 MR. PESCI: And, Judge, on that note, if any of the rest that he does
24 have include Marilyn Fugi, Lisa Barksell or Sarah Gaiten, we'd make the same
25 objection.

1 MR. GENTILE: Right.

2 MR. PESCI: Because those are also just noticed today.

3 MR. GENTILE: And I have to say that to be candid with you when we
4 left here last night, I went to Rocko's Deli, bought some food, and everybody
5 on our defense team met at my house, and by 9:30 -- not even 9:30, probably
6 9:15, I about collapsed, okay. I was really tired last night.

7 And so at that time when we advised my secretary -- excuse me,
8 my executive assistant, that we needed to file an amended notice, it is my
9 understanding that she was provided with an appropriate address. Now, I
10 might be wrong, but she was provided with an address. So I assure you -- the
11 one thing I want clear is that it was not me -- I know I'm responsible for it; I
12 understand that, but it was not me that said, Care of Gordon and Silver on that
13 amendment. Had I seen it, I'd of had a fit.

14 THE COURT: Right. And even if the correct address had been provided,
15 that would have helped the investigator contact her. That wouldn't necessarily
16 have helped Mr. DiGiacomo prepare his cross-examination --

17 MR. GENTILE: No, I can understand that.

18 THE COURT: -- because obviously we've been in trial straight through
19 with a break for lunch. So it might have been a little better, but he still might
20 not have had -- I mean, I think I have to give him time to prepare because the
21 requirements of the notice weren't met with. You know, the best I can do is
22 say, yeah, you can call her as a witness. She's not going to be excluded, but I
23 think he should at least have a little time to prepare.

24 So let's do this. Let's go with what we can for right now.

25 MR. GENTILE: We'll tell her to go home and come back tomorrow so

1 that he can prepare?

2 MR. DIGIACOMO: That's fine. Are you calling any of the other three
3 people on that new notice?

4 MR. GENTILE: I don't think so.

5 THE COURT: Or what we could do -- that's why I wanted to know how
6 long her direct would be, you can start her direct --

7 MR. GENTILE: 20 minutes.

8 THE COURT: -- and 20, 30 minutes, and you can take notes or
9 whatever, and then still prepare your cross.

10 MR. DIGIACOMO: She's going to get on the stand and claim Anabel
11 Espindola told her specific facts about the crime itself. It would be wholly
12 unfair to allow her to give her direct testimony and then allow this jury to go
13 home with just her direct testimony before her cross-examination.

14 THE COURT: Well, but sometimes that happens just as a matter of
15 timing, number one, and number two, I've been accommodating everybody on,
16 no, we've got to end here, we've got to end there. This person has to be in the
17 room, that person has to be in the room, and that's why we have jurors who
18 are here three weeks when they were promised --

19 I'll do the best I can. I understand your concern, but that's a two-
20 edged sword because it also gives you an advantage in preparing your cross-
21 examination. You have all night to sit with what she said and to really study it.

22 MR. PESCI: I haven't even finished talking to her; that's the other issue,
23 Judge. The investigator is in the --

24 MR. DIGIACOMO: Yeah, our investigator was in the middle of his
25 interview.

1 THE COURT: Yeah, well, number one, Mr. Lasso mouthed to me
2 whether she can go home; no, she can't. Investigator Faulkner gets to go back
3 out, finish conducting his interview with her.

4 And, Mr. Gentile, you're going to call another witness, and that's
5 how it's going to be.

6 MR. GENTILE: Is Investigator Faulkner tape recording the interview
7 because I'd certainly like to have a copy of it?

8 MR. DIGIACOMO: No.

9 MR. GENTILE: You're not?

10 THE COURT: Typically they don't, I don't think.

11 INVESTIGATOR FAULKNER: You know, as I was busy looking for her all
12 day I was told she was here. I came in to talk to her.

13 MR. GENTILE: She's here. She's been here all day.

14 INVESTIGATOR FAULKNER: I don't have a recorder with me. She
15 hasn't been in here all day.

16 MR. GENTILE: She has been here all day.

17 THE COURT: And is Mr. Lasso sitting in on the interview?

18 MR. GENTILE: Well, maybe not all of it. Yes, he's --

19 MR. LASSO: Yes.

20 THE COURT: All right. Mr. Lasso I'm sure is a reliable secondary source
21 as to what was said.

22 So that's the order of the Court.

23 Jeff, bring them in.

24 MR. PESCI: So the remaining ones he's calling today, not the others
25 that are --

1 THE COURT: Apparently not.

2 MR. GENTILE: I am not calling the other three witnesses, certainly not
3 today, and I will provide you addresses for them.

4 (Jury entering 2:51 p.m.)

5 THE COURT: All right. Court is now back in session,

6 And, Mr. Gentile, if you would please call your next witness.

7 MR. GENTILE: Michelle Schwanderlik.

8 THE COURT: All right. Just come on up right here to the witness stand,
9 just up those couple of stairs, and please remain standing facing that lady right
10 there. She's going to give you the oath.

11 MICHELLE SCHWANDERLIK

12 Having been called as a witness and being first duly sworn testified as follows:

13 THE CLERK: Please be seated and please state and spell your name.

14 THE WITNESS: My first name also?

15 THE CLERK: Yes.

16 THE WITNESS: Michelle, M-i-c-h-e-l-l-e, Schwanderlik,
17 S-c-h-w-a-n-d-e-r-l-i-k.

18 DIRECT EXAMINATION

19 BY MR. GENTILE:

20 Q And where do you -- don't tell me your street address, but in what
21 city and state do you reside?

22 A Las Vegas, Nevada.

23 Q Okay. And how old are you?

24 A 33.

25 Q How long have you lived in Las Vegas?

1 A Approximately 12 years.

2 Q Where did you come here from?

3 A Chicago.

4 Q And once you arrived in Las Vegas -- do you have any children?

5 A Yes, I do.

6 Q How old are they?

7 A Four, I have four, a 10, 4 year old, a 3 year old and a 18 month

8 old.

9 Q And when you came to Las Vegas from Chicago, what have you

10 been doing for a living? Give us your work history.

11 A I worked several different jobs. I worked at the airport, and then I

12 worked at Cheetahs, and then I worked at the Palomino.

13 Q And when did you start working at the Palomino?

14 A I started working at the Palomino about '97.

15 Q Now, do you have a name that you use other than Michelle?

16 A Yes, I go by Ariel.

17 Q Ariel?

18 A Uh-huh.

19 Q And for the -- you have to say yes.

20 A Yes.

21 Q One of the problems that we run into in a courtroom is that if you

22 say uh-huh and this is typed up, no one is going to know what your answer

23 was.

24 A Okay.

25 Q Okay. So you need to use a word.

1 How do you spell Ariel?

2 A A-r-i-e-l.

3 Q All right. Now, you say you started in 1997 at the Palomino?

4 A Yes.

5 Q When did you cease working at the Palomino?

6 A 2006.

7 Q And do you recall what month?

8 A I believe it was March.

9 Q March of 2006, okay. So you were there in May of 2005?

10 A Yes, I was.

11 Q All right. Going back to when you started at the Palomino, what
12 was your first job there?

13 A Dancing.

14 Q You were a dancer?

15 A Uh-huh.

16 Q All right. And how did your jobs change?

17 A I started --

18 Q Maybe that wasn't the right way to ask that question, but I think
19 you know what I'm talking about?

20 A I know what you're talking about.

21 Q What happened after you weren't a dancer?

22 A I started working -- when the Perrys owned it I started working
23 cashier, and then from cashier I went to cocktailing, some DJ'ing, some
24 bartending, anywhere that she needed help.

25 Q Okay. Now, you say the Perrys, who were you talking about?

1 A Gail Perry is -- they used to own the club before the Hidalgos.

2 Q Okay. Now, after Gail Perry no longer owned the club, do you
3 recall who the owner was that you were working for?

4 A Dr. Stertz.

5 Q Did you ever meet Dr. Stertz?

6 A One or two times.

7 Q At the club?

8 A Yes.

9 Q Okay. And for how long -- when Dr. Stertz became the owner of
10 the club, do you remember about what year that was?

11 A 2001.

12 Q And for how long -- what did you do at the Palomino when Dr.
13 Stertz owned the club?

14 A Worked in the office. I was the office manager.

15 Q And what was the job that you had when you left the Palomino in
16 '06?

17 A The floor and office manager.

18 Q So you remained office manager for five years?

19 A Uh-huh. Yes, sir.

20 Q What does a -- what did you do on a day-to-day basis as office
21 manager?

22 A I opened up the club, if that was my shift that day, get out the
23 banks, bring in the employees, open up the club, made sure all the employees
24 were there. I'd make sure payroll was done weekly. Do the scheduling, did the
25 hiring, and I did the firing of the employees.

1 Q Would you be able to hire and fire any employee?

2 A Yeah. Yes.

3 Q Okay. Did there come a time when Dr. Stertzner sold the club?

4 A Can you repeat that?

5 Q Okay. Let me ask it a little differently. When Dr. Stertzner owned
6 the club, who was the general manager?

7 A Mr. H.

8 Q Mr. H. Is that how you knew him?

9 A Yes.

10 Q And do you see Mr. H in the courtroom?

11 A Yes.

12 Q And would you please point him out, and I'm sure he'll stand.

13 A (Witness complying.)

14 Q And what's his real name?

15 A Mr. Luis Hidalgo.

16 Q When Luis Hidalgo, Mr. H first started out as the general manager
17 at the Palomino Club, who knew more about it, you or him? Tell the truth.

18 A Probably me.

19 Q Did you train him a little?

20 A On some things in the club, yes.

21 Q Okay. And what about Anabel Espindola, did you ever get to meet
22 her?

23 A Yes.

24 Q And was that also when Dr. Stertzner bought the club?

25 A Yes.

1 Q And what was Anabel's role at that time? What did she do?
2 What did she actually perform?

3 A She was right under Mr. H. She did the ending up banks, the
4 deposits, anything that -- any paperwork that I would have to hand out she
5 would look over it and make sure that it was correct. She was above me.

6 Q She was above you?

7 A Yes.

8 Q Okay. Now, as the floor -- when you talked about letting in the
9 employees or hiring and firing employees, tell the ladies and gentlemen what
10 types of employees, what job functions employees had when you were the
11 office -- or the manager at the Palomino Club.

12 A We had a front cashier cage, ladies, we had the gentlemen outside
13 paying the cabdrivers or writing the tickets for the cabdrivers. We had our DJs.
14 We had our bartenders, our cocktail waitresses and our floor gentlemen.

15 Q Okay. When you left the Palomino Club in March of 2006, did you
16 maintain contact with Mr. H?

17 A A little.

18 Q In what way?

19 A You know, how you doing, you know, talk to him, see how he
20 was doing.

21 Q Would you see him ever?

22 A I'd go visit him every once in a while and then that was it. It was
23 just a couple months afterwards.

24 Q And then after that?

25 A No contact.

1 Q So you haven't had any contact with him for about three years
2 now or close to that?

3 A Yes.

4 Q Okay. Did you ever meet Luis Hidalgo Senior?

5 A Yes.

6 Q And what did you know him as?

7 A Papa, Papa Louie.

8 Q Did you get to know him?

9 A Yes.

10 Q Could you describe him.

11 A Little short man, grayish black hair, always had good jokes, always
12 had good stories, very nice, loving man.

13 Q I want to call your attention to the month of May of 2005. Was
14 Pops still alive?

15 A May of what?

16 Q 2005.

17 A Yes.

18 Q Okay. And if you will, what color hair did Pops have in May of
19 2005?

20 A Black, a little grey.

21 Q And what color hair did Louie have?

22 A Black.

23 Q There was no grey in Louie's hair in '05?

24 A No.

25 Q How often would you see Louie Hidalgo Junior, Mr. H, in May of

1 2005?

2 A Every day.

3 Q Did it ever come to your attention how many keys Mr. H carried
4 around with him as it related to the Palomino?

5 A None.

6 Q Well, how do you know that?

7 A Because I'd open up the door to the office for him.

8 Q Did it ever come to your -- how many times did you see Mr. H
9 open up a locked file cabinet in the -- when did you work with him, five years?

10 A Uh-huh.

11 Q Yes?

12 A Yes.

13 Q How many times did you see him open up a locked file cabinet in
14 that five years?

15 A Never.

16 Q Would he ever ask you to do it?

17 A Yes.

18 Q How often?

19 A Every time he wanted something out of the file cabinet.

20 Q Safes, how many safes were in the Palomino as far as you knew?

21 A In my office there was two. I believe there was an office upstairs,
22 a safe in his office. I'm not too sure; I've never been in there, but -- and then
23 another one downstairs.

24 Q Okay. Now, with respect to the two in your office and the other
25 one downstairs so there's three other than the one that you think is in his

1 office, correct?

2 A Uh-huh.

3 Q Am I right?

4 A Yes.

5 Q Okay. How many times have you opened those safes?

6 A Millions.

7 Q How many times have you seen Louie Hidalgo, Mr. H open those
8 safes?

9 A Never.

10 Q Would he ever ask you to open those safes?

11 A Yes.

12 Q How often?

13 A Any time he needed something out of it.

14 Q How about the liquor room?

15 A I would open that also for him.

16 Q You'd have to open that for him as well?

17 A Uh-huh.

18 Q Is there any time you can remember him ever opening up
19 anything?

20 A Just the door to his office.

21 Q That's it?

22 A Yeah.

23 Q Okay. Now, did you ever see Mr. H walk around inside the
24 Palomino Club with a gun?

25 A No.

1 Q To your knowledge did he have a gun?
2 A Yes.
3 Q What's your memory in terms of where the gun was kept?
4 A It would be in the office or -- not right -- he never had it on the
5 floor, ever. I never seen him have it on the floor.
6 Q And you saw him every day?
7 A Every day.
8 Q What time would he usually -- first let's talk about you. What
9 were your shifts? What time would you arrive? What time would you leave?
10 A Sometimes I'd arrive about 4 and get out of there at 2, and then
11 other days I'd arrive at 7 and get out of there when we closed at 5.
12 Q By the way, what are you doing now? Are you working for a strip
13 club anywhere?
14 A No.
15 Q Did you work for any strip clubs after you left the Palomino?
16 A No.
17 Q You say that very emphatically.
18 A No.
19 Q Okay. What time would Mr. H get into the club usually, on an
20 ordinary day? And if there's a range, then tell us what the range was.
21 A Usually after 8, 9 o'clock he'd arrive in between that time.
22 Q About how long would he stay as far as you can remember?
23 A Some days he'd get out of there 12. Some days he'd get out of
24 there at 1.
25 Q When you were working a 2 o'clock shift, how often would he be

1 there when you left?

2 A Not that often. Usually he was already gone.

3 Q When he would arrive at the club, who would he usually -- when
4 he would arrive at the club would he be alone, or would he be with anybody
5 else?

6 A With Ms. Anabel.

7 Q And what about when he departed the club?

8 A With Ms. Anabel.

9 Q Now, with respect to your job, particularly as it related to banks
10 and payroll and cash and things like that, would you be working with Mr. H or
11 with someone else?

12 A Not understanding.

13 Q Okay. You said -- did you do daily reports and banks and things
14 like that? I think you said that when you --

15 A When I count out banks?

16 Q Right. Who would you report to in terms of the day-to-day
17 financial records that you kept, that you created?

18 A I would turn them in to Ms. Anabel.

19 Q Did you ever see Louie Hidalgo, Mr. H, do the financial -- strike
20 that. Before Anabel Espindola got arrested, did you ever see Mr. H become
21 involved with that function?

22 A No.

23 Q Okay. Now, I want to call your attention specifically to May the
24 19th of 2005, and we've talked about this. We've met prior to your coming to
25 court; is that right?