

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER ROBERT KELLER,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

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Case No. 73871

RESPONDENT'S APPENDIX

Volume 2

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INDEX

<u>Document</u>	<u>Page No.</u>
Defendant Keller's Substitution of Attorney and Amy A. Feliciano, Esq's Notice of Appearance as Counsel of Record, filed 04/29/17	4 RA 599-601
District Court Minutes of 02/18/16 (Initial Arraignment).....	1 RA 1
District Court Minutes of 03/16/16 (Pre Trial Conference)	1 RA 2
District Court Minutes of 04/13/16 (Calendar Call).....	1 RA 5-6
District Court Minutes of 04/20/16 (Calendar Call).....	1 RA 7
District Court Minutes of 05/04/16 (Confirmation of Counsel).....	1 RA 8
Defendant's Motion to Suppress, filed 06/10/16	1 RA 9-28
District Court Minutes of 06/20/16 (All Pending Motions)	1 RA 32-33
District Court Minutes of 07/21/16 (All Pending Motions)	1 RA 36-37
District Court Minutes of 09/14/16 (Calendar Call).....	1 RA 38
District Court Minutes of 05/08/17 (Sentencing)	4 RA 602
District Court Minutes of 06/05/17 (Sentencing)	4 RA 603
District Court Minutes of 06/19/17 (Sentencing)	4 RA 604
District Court Minutes of 06/24/17 (Sentencing)	4 RA 605
District Court Minutes of 07/31/17 (Sentencing)	4 RA 606
Motion to Dismiss Counsel and Appoint Alternate Counsel, filed 06/13/16	1 RA 29-31
Notice of Intent to Seek Punishment as a Habitual Criminal, filed 03/24/16 ...	1 RA 3-4
Notice of Intent to Seek Punishment as a Habitual Criminal, filed 07/18/16	1 RA 34-35
Recorder's Transcript of 03/06/17 (Jury Trial-Day1), filed 11/13/17	1 RA 39-60
Recorder's Transcript of 03/07/17 (Jury Trial-Day 2), filed 11/13/17	1 RA 61-127
Recorder's Transcripts of 03/08/17 (Jury Trial-Day 3), filed 11/13/17	2 RA 128-357
Recorder's Transcripts of 03/09/17 (Jury Trial-Day 4), filed 11/13/17	3 RA 358-570
Recorder's Transcripts of 03/10/17 (Jury Trial-Day 5), filed 11/13/17	4 RA 571-598
Recorder's Transcripts of 08/07/17 (Sentencing), filed 10/05/17	4 RA 607-621

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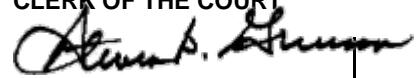
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-16-312717-1
	.	
Plaintiff,	.	DEPT. NO. XIX
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
CHRISTOPHER ROBERT KELLER,	.	
	.	
Defendant.	.	
.	

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

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

WEDNESDAY, MARCH 8, 2017

APPEARANCES:

FOR THE STATE:	MATTHEW T. BUNNETT, ESQ. MICHAEL DICKERSON, ESQ. <i>Deputy District Attorneys</i>
FOR THE DEFENDANT:	KENNETH G. FRIZZELL, III., ESQ.

RECORDED BY: CHRISTINE ERICKSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

RA 0128

1 LAS VEGAS, NEVADA, WEDNESDAY, MARCH 8, 2017, 11:54 A.M.

2 (Outside the presence of the jury)

3 THE COURT: All right. On the record in State of
4 Nevada v. Christopher Keller in C-312717. Let the record
5 reflect the presence of the defendant and his counsel, and
6 State and their counsel. We're outside the presence of the
7 jury. Is there anything that needs to be put on the record at
8 this time?

9 THE DEFENDANT: Your Honor, I wanted to say, I
10 wanted about five witnesses to come, and I was informed
11 yesterday at the beginning of trial that I wouldn't be allowed
12 to have witnesses because I guess since me and him aren't
13 communicating, I didn't have a chance to tell him until the
14 day of trial that I wanted the witnesses, so.

15 THE COURT: Well, we're in trial now. Tell him --
16 tell him who you want here, and see if you can get them
17 served.

18 THE DEFENDANT: Well, I told him yesterday.

19 THE COURT: Okay. What are you doing? Are you
20 trying to do that, Mr. Frizzell, or?

21 MR. FRIZZELL: They're -- candidly, Your Honor,
22 they're witnesses that I don't -- I don't believe that will be
23 of a help.

24 THE DEFENDANT: They're my boss from my -- they're
25 my boss from my work, different high-standing members of the

ROUGH DRAFT TRANSCRIPT

RA 0129

1 community that --

2 THE COURT:

3 THE DEFENDANT: Well, they're character witnesses,
4 and then I --

5 THE COURT: So you want -- you want to put your
6 character into evidence?

7 THE DEFENDANT: Yes. I'm going to go on the -- I'm
8 going to go -- I was going to go on the stand anyway.

9 THE COURT: Oh, okay.

10 THE DEFENDANT: And then I had also wanted to -- a
11 witness -- I wanted to call Mark Maston (phonetic), because he
12 -- when he went to my house to investigate, I mean, the other
13 -- the other person that was living there at the residence was
14 there, and still had access to the vehicle and all this stuff,
15 and he -- I mean, he's aware of that stuff, but I have no way
16 of like putting that -- I have no way of presenting that to
17 the Court without -- you know, I have no way of really
18 presenting the -- this evidence to the Court.

19 THE COURT: Okay, well that's something you need to
20 discuss with your attorney. Your attorney's indicating that
21 -- I mean, you got the information, Mr. Frizzell.

22 MR. FRIZZELL: I -- I --

23 THE COURT: And if in fact there's witnesses you
24 believe will assist you in your trial, then I'd suggest that
25 you probably try to do what you can to call them. But have

ROUGH DRAFT TRANSCRIPT

RA 0130

1 you provided a witness list to the -- I mean, to the State?

2 MR. BUNNETT: Your Honor, we have not --

3 MR. FRIZZELL: No, I just --

4 MR. BUNNETT: -- received a witness list. That -- I
5 mean, just based on what we're hearing today, my thoughts are
6 that, if these witnesses were to be presented, they sound
7 mostly like -- I mean, he mentioned upstanding members of the
8 community. If he puts on character evidence, Your Honor, I
9 feel like it's going to be our position that we're going to be
10 able to ask them about his character. And I think the
11 procedure how that's done is asking them, you know, have you
12 heard that the defendant has been convicted of a felony, or
13 that he's been --

14 THE COURT: Well, that's why I was asking whether or
15 not -- that was his question, was he putting his character
16 into issue.

17 MR. BUNNETT: So, I mean, I don't at this point
18 think -- if character witnesses are being presented, I don't
19 think we've been noticed, but I don't think our requested
20 remedy would be that he not be allowed to call those
21 witnesses.

22 THE COURT: Um-hum.

23 MR. BUNNETT: I mean, it would also sort of depend
24 on what evidence is proposed to be presented, but I mean, if
25 it's merely character evidence --

1 THE COURT: Okay. Well, I mean, I'm going to leave
2 it to Mr. Frizzell at this point in time to determine --
3 because we still have a trial going. We're still in the
4 middle of trial. There's still time. We're not done with it.
5 You've made your record. You've made your record, Mr. Keller.
6 Mr. Frizzell, you and he need to discuss that and determine
7 whether or not you're going to be in a position where you want
8 those witnesses to testify or not. So -- and then, Mr.
9 Frizzell, I'd do what you can to see what you can get -- get
10 -- see what you can find out.

11 MR. FRIZZELL: And just so that you understand, he
12 did just tell me all this; gave me this written down
13 yesterday.

14 THE DEFENDANT: This I gave you on Monday.

15 MR. FRIZZELL: And Your Honor, I just --

16 THE DEFENDANT: I gave him this on Monday, but I
17 told him that I want --

18 MR. FRIZZELL: Well, what he wanted from -- what he
19 wanted from this list he gave me was some documentation that
20 there wasn't going to be any way to get it in, and the
21 documents at least themselves. All he wanted was like
22 printouts of Registers of Actions on some other -- some other
23 people and their case. And not only is that -- not only
24 during our discussion did I say -- did I tell him that I
25 thought that was -- that was irrelevant and there was other --

1 a better strategic way to handle that issue, I'm -- I'm
2 hearing actually -- like I said, just yesterday afternoon,
3 about I want to call all these people, some of which I have
4 absolutely no contact information for. Yes, my investigator,
5 Mr. Maston, I have certainly ways to contact him.

6 THE COURT: Okay.

7 THE DEFENDANT: I have numbers for the witnesses.

8 MR. FRIZZELL: Okay. But if -- I mean, if he wants
9 witnesses to be called, I'm just letting Your Honor know that
10 I'm just -- I just learned of who -- that he wanted to call
11 somebody yesterday, so there has been no notification to the
12 -- to the State about that --

13 THE COURT: Okay.

14 MR. FRIZZELL: -- at all.

15 THE COURT: All right, that's fine. All right, get
16 the jury in.

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

18 (Within the presence of the jury)

19 THE COURT: Okay. We're back on the record in the
20 case of State of Nevada vs. Christopher Keller in C-312717.
21 Let the record reflect the presence of the defendant and his
22 counsel, as well as State and their counsel.

23 (COURT CALLS ROLL OF THE JURY)

24 THE COURT: All members of the jury have answered
25 the call. Do the parties stipulate to the presence of the

1 jury?

2 We do, Your Honor.

3 THE COURT: Mr. Frizzell?

4 MR. FRIZZELL: Yes, Your Honor. I'm sorry.

5 THE COURT: Okay. When we took our break last
6 night, the State's still in their case in chief. Call your
7 next witness, Mr. Dickerson.

8 MR. DICKERSON: State's next witness is going to be
9 Daniel Lopez.

10 THE MARSHAL: Watch your step. Face the clerk.
11 Raise your right hand.

12 OFFICER DANIEL LOPEZ, STATE'S WITNESS, SWORN

13 THE CLERK: Thank you. Please be seated. Please
14 state your full name, spelling your first and last name for
15 the record.

16 THE WITNESS: Daniel Lopez. D-a-n-i-e-l, L-o-p-e-z.

17 THE COURT: Your witness, Mr. Dickerson.

18 MR. DICKERSON: Thank you very much, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. DICKERSON:

21 Q Sir, drawing your attention to January 28th, 2016,
22 approximately 2:25 A.M., what were you doing?

23 A Working for Las Vegas Metropolitan Police
24 Department.

25 Q In what capacity?

ROUGH DRAFT TRANSCRIPT

RA 0134

1 A As a Police Officer II.

2 Q Okay. And so what were your duties as a police
3 officer 2 with the Las Vegas Metropolitan Police Department on
4 that day?

5 A Responding to calls for service, initiating self --
6 self activity, doing traffic stops, person stops, that type of
7 stuff.

8 Q What was your specific assignment?

9 A I was One George 24.

10 Q Okay, and what does that mean?

11 A It's basically my call sign, which means I'm
12 assigned to George 2 Sector and George 4 Sector.

13 Q So, explain this for the folks in the jury who don't
14 really understand how a sector works and how this call sign
15 relates to that at all.

16 A So, each part in the Valley, it's -- the Valley is
17 divided up into different area commands, and within each area
18 command, they break it down to even smaller sections, or they
19 call it sector -- sector beats. And depending on which area
20 command you're assigned to depends on what your call sign's
21 going to be, so G, as in George, is assigned to the Northeast
22 Area Command.

23 Q What is the general area of the Northeast Area
24 Command?

25 A It is pretty much everything -- there is a little

ROUGH DRAFT TRANSCRIPT

RA 0135

1 bit of gaps where it's North Las Vegas and stuff like that,
2 but for the most part, it is everything to the east of the
3 I-15, and everything north of Sahara.

4 Q Okay. So the George area is one area inside the
5 Northeast Area Command's overall area?

6 A Correct.

7 Q And then, as a patrol officer, do they also break
8 down the George area?

9 A Yes.

10 Q And how does that work?

11 A So, they -- so Northeast has George and Frank.
12 George area is broken down to everything south of Washington
13 all the way up to Sahara, and everything north of Washington
14 is Frank area.

15 Q So, when you talk about your call sign that day, how
16 does that relate to you, and where you're patrolling, and what
17 you're doing?

18 A In general, unless you're responding to calls for
19 service outside of your area, that's the area that you're --
20 you're supposed to typically be in.

21 Q And on January 28th, 2016, what area was that for
22 you?

23 A I was assigned to George area; to George 24.

24 Q Okay. And any area specifically within the George
25 area, or just all the George area?

ROUGH DRAFT TRANSCRIPT

RA 0136

1 A Typically, we're allowed to go anywhere within the
2 George area.

3 Q Okay. And when you say your general duties are
4 patrol duties, does this mean that you're driving one of those
5 typical black and white Las Vegas Metropolitan Police
6 Department vehicles?

7 A Correct.

8 Q And you're wearing a uniform?

9 A Yes.

10 Q The standard tan Metro uniform?

11 A Yes.

12 Q Now, is the area of 265 Lamb Boulevard located
13 within the George area of Northeast Area Command?

14 A Yes.

15 Q And so would that have been an area that you're
16 patrolling on the night of January 28th, 2016 -- or the early
17 morning, I should say?

18 A Yes.

19 Q Now, I'm going to show you --

20 MR. DICKERSON: If I may, Your Honor?

21 THE COURT: Um-hum.

22 MR. DICKERSON: Thank you.

23 BY MR. DICKERSON:

24 Q -- what's been marked as State's Proposed 3 through
25 4. Please take a look through those. Tell me if you

1 recognize what's depicted in those proposed exhibits.

2 A It's the southwest corner of Lamb and Stewart.

3 Q So you recognize all three of those images depicted
4 in State's Proposed 3 through 5?

5 A Yes.

6 Q Okay, and what do you recognize them to be?

7 A Mostly it's the Crossroads 3 (phonetic), the
8 apartment complex.

9 Q An overview of that area?

10 A Yes.

11 Q Okay.

12 MR. DICKERSON: State moves for the admission of
13 State's Proposed 3 through 5, Your Honor.

14 THE COURT: Any objection?

15 MR. FRIZZELL: Those are just the map -- those are
16 just the map pictures, right?

17 MR. DICKERSON: Yeah.

18 MR. FRIZZELL: No, Your Honor.

19 THE COURT: They'd be admitted.

20 (State's Exhibits 3, 4, and 5 are admitted)

21 MR. DICKERSON: Thank you.

22 BY MR. DICKERSON:

23 Q So, that evening, about 2:25 A.M., where were you in
24 your patrol duties?

25 A At 2:25 A.M.?

1 Q Approximately 2:25.

2 A I was in the George area.

3 Q Okay. And at some point in time, did you make your
4 way towards the general area of Stewart and North Lamb?

5 A Yes.

6 Q And as you approached that area, what were you
7 doing?

8 A I was driving my black and white patrol car, a Ford
9 Explorer, and I was traveling southbound on Lamb, and I had
10 just passed Stewart.

11 Q Okay. I'm going to show you what's been admitted as
12 State's Exhibit 3.

13 MR. DICKERSON: If I may publish for the jury, Your
14 Honor?

15 THE COURT: Yes.

16 MR. DICKERSON: State's Exhibit 3 here on the Elmo.

17 THE COURT: It's coming on.

18 MR. DICKERSON: Thank you very much.

19 THE COURT: There it is. Do you have that, ladies
20 and gentlemen?

21 UNKNOWN SPEAKER: Yeah.

22 THE COURT: Okay. Can you see that, Officer, in
23 front of you?

24 THE WITNESS: Yes.

25 MR. DICKERSON: All right.

ROUGH DRAFT TRANSCRIPT

RA 0139

1 BY MR. DICKERSON:

2 Q Do you -- you obviously recognize this area, as you
3 previously testified. Is this the area that you were speaking
4 of, driving southbound on Lamb?

5 A Yes.

6 Q If you could indicate generally where you were at
7 this time that I'm speaking about right now, approximately
8 2:20, 2:25 A.M.

9 A 2:25, I'm not entirely sure exactly where I was.

10 Q Okay. Where were you when you -- what time was it
11 approximately when you came into this area?

12 A I would say it was closer to 2:40, 2:45.

13 Q Okay. And so what happens as you come southbound on
14 Lamb Boulevard?

15 A As I was traveling south on Lamb, I saw a vehicle
16 pull off of Sunrise Avenue, and it made a left turn, and it
17 was -- it made the left turn at a high rate of speed, which
18 caught my attention. And I couldn't tell if the vehicle had
19 stopped for the stop sign at Sunrise or not, but the vehicle
20 had -- it was a silver Dodge Stratus, and it made a left turn,
21 and when it made the left turn, it went straight into the
22 center turn lane. It didn't actually get into the northbound
23 lanes that are right here on Lamb.

24 Q Okay. So if you could -- this screen to your left,
25 it's a touch screen. So if you touch it, it will make a mark

ROUGH DRAFT TRANSCRIPT

RA 0140

1 on this screen here.

2 A Okay.

3 Q If you could indicate for the jury where you saw
4 this vehicle turning from.

5 A It was turning right here off of Sunrise Avenue.

6 Q Okay. And again, this was a silver Dodge Stratus?

7 A Yes.

8 Q At this point in time, when this car turns off of
9 Sunrise Avenue, where are you in your patrol car?

10 A I am about right there.

11 Q Okay. So, you're heading southbound?

12 A Yes.

13 Q And when we're looking at this map here, where is
14 this south portion?

15 A Do you want me to point on the map, or --

16 Q If you could just say up, down, right --

17 A Down is the south part of this map.

18 Q Okay, so down. So, Sunrise Avenue would be south of
19 where you were?

20 A Correct.

21 Q And you're traveling south, so you're traveling
22 towards Sunrise Avenue?

23 A Correct.

24 Q Now, this vehicle, this silver Dodge Stratus that
25 turns from Sunrise Avenue onto Lamb, which direction does that

ROUGH DRAFT TRANSCRIPT

RA 0141

1 vehicle go?

2 A He's making a left turn to go northbound.

3 Q Okay. So, at that point in time, the vehicle would
4 at some point in time have to cross paths with you?

5 A Correct.

6 Q So, as this vehicle comes onto Lamb Boulevard, in
7 what manner did the vehicle turn onto Lamb Boulevard?

8 A It was -- it was really quick, and it was at a high
9 rate of speed.

10 Q So, if you could describe for us what Lamb Boulevard
11 looks like in this area. You indicated that there's a center
12 turn lane. What other lanes are there?

13 A There are three northbound travel lanes, there are
14 three southbound travel lanes, and then there's the center
15 turn area where vehicles from either southbound or northbound
16 pull in while they yield for traffic to make their left turns
17 across traffic.

18 Q Okay. And so, when this silver Dodge Stratus turns,
19 it turns into that center turn lane?

20 A Correct.

21 Q That would mean there's three travel lanes to the
22 right of it?

23 A Correct.

24 Q And three travel lanes to the left?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0142

1 Q And you were coming towards this vehicle in one of
2 those travel lanes to the left?

3 A Yes.

4 Q Okay. So what happens from this point in time?

5 A I decided I was going to conduct a records check on
6 the vehicle, on the plate, and so I made a U-turn to get
7 behind the vehicle.

8 Q So now you're going to travel northbound as well?

9 A Correct.

10 Q Had the vehicle passed you at this point in time?

11 A Yes.

12 Q When you make that U-turn, what happens?

13 A I noticed that the passenger taillight was broken
14 and that the driver was not slowing down.

15 Q Okay. Is the vehicle still in the center turn lane?

16 A Correct.

17 Q Are you able to see a license plate at that time?

18 A Yes.

19 Q Was that Nevada 098ASW?

20 A Yes.

21 Q And so what happens from this point in time after
22 you recognize the issue with the taillight?

23 A I speed up to try and catch up to the vehicle so I
24 could initiate a traffic stop. The vehicle continued
25 northbound, and then it made a left turn into the Crossroads 3

ROUGH DRAFT TRANSCRIPT

RA 0143

1 (phonetic).

2 Q Okay. How did the vehicle make that left turn into
3 the Crossroads 3?

4 A From the center turn lane, he made the left turn.
5 It was quick. It was -- it was obvious to me that he was
6 trying to put some distance between me and him.

7 Q Was there any other traffic on the road?

8 A Yes.

9 Q And coming which direction?

10 A There was other vehicles coming southbound.

11 Q What happened with that traffic as this Dodge
12 Stratus made a left turn?

13 A So the other vehicles that were coming southbound,
14 they obviously could tell because of the manner -- the way
15 they were driving -- the drivers that were driving southbound,
16 they all slowed down because they saw this car and they knew
17 he was going to cut in front of them, and sure enough, he cut
18 in front of them. And southbound traffic, they actually
19 basically came to a slow crawl, allowing me to actually go
20 into the Crossroads 3 as well.

21 Q Did you have your lights and sirens on at this time?

22 A No.

23 Q Lights?

24 A No.

25 Q Okay. So the traffic stopped nonetheless?

ROUGH DRAFT TRANSCRIPT

RA 0144

1 A Correct.

2 Q Okay. So what do you do at this point in time?

3 A I'm catching up to the vehicle inside the Crossroads
4 3 apartment complex. The vehicle's hitting the speed bumps
5 pretty quick, and I'm still trying to close the distance
6 between our two vehicles.

7 Q So what is the procedure that you take now as a
8 police officer about to make contact with this vehicle?

9 A Well, because of the way he was driving -- and most
10 typical drivers that see a police officer, they tend to behave
11 themselves, slow down, drive in a manner that's more prudent.
12 And since this driver was actually trying to put distance
13 between us, I knew from my training and experience being a law
14 enforcement officer and getting into lots and lots of foot
15 pursuits and foot chases that the driver was going to bail
16 from the vehicle, and so I initiated the traffic stop on him
17 as he was pulling into a parking spot.

18 Q And what do you do when you initiate a traffic stop?

19 A I turn on lights and sirens.

20 Q Okay. Do you have to notify anybody about this?

21 A I had already called out radio traffic because I
22 knew that the vehicle was obviously trying to get away from
23 me. I'd already called for another unit, and I'd already
24 called out the traffic stop as well before I turned on the
25 lights and siren -- just the lights.

ROUGH DRAFT TRANSCRIPT

RA 0145

1 Q Where were you about when you called out that radio
2 traffic?

3 A I believe it was about the time I was pulling into
4 the Crossroads 3.

5 Q Okay. And just so we can tell here, where is the
6 Crossroads 3 located on this particular map that we're looking
7 at?

8 A The entrance to the Crossroads 3 is right here.

9 Q All right. So you indicated that entrance right
10 there, kind of between those white buildings?

11 A Yeah.

12 Q All right. And that's the area that you indicated
13 that this silver Dodge Stratus had turned left into?

14 A Yes.

15 Q Okay. I'm going to show you what's been marked as
16 State's Exhibit 4 and admitted as such. Is this the area of
17 the Crossroads 3 apartment?

18 A Yes.

19 Q Just a close-up of that? Is that a yes?

20 A Yes.

21 Q Okay. If you could just indicate where the entrance
22 of the Crossroads is right on this map as well.

23 A The entrance is right there.

24 Q So you say right about there is where you get on
25 your radio and you say what?

ROUGH DRAFT TRANSCRIPT

RA 0146

1 A I call out the traffic stop, stating that I was
2 going to -- basically, I was notifying dispatch that I was
3 initiating a traffic stop on the vehicle.

4 Q When you notify dispatch, does that also notify
5 other people that are on the same radio?

6 A Yes.

7 Q Who else would be on this radio?

8 A The entire George squad, and the entire Frank squad.

9 Q So all of the patrol officers from the Northeast
10 Area Command?

11 A Yes.

12 Q Okay. Do the dispatchers take notes on what's going
13 on?

14 A Yes.

15 Q Do they take notes to specifically what is called
16 out by you and what time that's happening?

17 A Yes. Dispatch actually creates an event, and they
18 put on the event that I initiated a traffic stop, and what I
19 initiated the traffic stop on, and they timestamp it.

20 Q Okay. Do you recall the exact timestamp of that?

21 A I do not.

22 Q Is there a CAD Report that you could look at that
23 would help refresh your recollection?

24 A Yes.

25 Q And what is CAD?

ROUGH DRAFT TRANSCRIPT

RA 0147

1 A CAD is basically a printout of the chronological
2 order of everything that happened as it's being relayed to
3 dispatch and dispatch is updating the event.

4 Q If I may, showing you a CAD Report, just take a look
5 at that and tell me if that refreshes your recollection as to
6 when you conducted this traffic stop.

7 A Yes.

8 Q When was it that you conducted the traffic stop,
9 sir?

10 A It says at 2:25.

11 Q Okay. So, approximately 2:25 A.M., you are calling
12 out on the radio you're coming into the Crossroads 3
13 Apartments, about to do a traffic stop?

14 A Yes.

15 Q On this silver Dodge Stratus, Nevada license plate
16 098 Adam, Sam, William?

17 A Yes.

18 Q Okay. So, when you get into the Crossroads, how was
19 this silver Dodge Stratus traveling through the apartment?

20 A Into the Crossroads, it was hitting the speed bumps
21 fast. He was going really fast.

22 Q Okay, and where does this vehicle end up?

23 A He actually ends up -- do you want me to point on
24 the map?

25 Q Please do.

ROUGH DRAFT TRANSCRIPT

RA 0148

1 A He actually parks in a parking spot right about
2 there.

3 Q All right, and that's at Building 265?

4 A Yes.

5 Q And you indicated that it's right there, somewhere
6 in front of where it says "F" on the map?

7 A Yes.

8 Q I'm going to show you what's been marked as -- and
9 admitted as State's Exhibit 5. Do you recognize this to be
10 the same area, just a close-up of it?

11 A Yes.

12 Q If you could, for the ladies and gentlemen of the
13 jury, just tell them where that vehicle was parked as you
14 conducted that traffic stop. And is that under an awning?

15 A Yes.

16 Q So where are you in your vehicle at that point in
17 time when the vehicle pulls in?

18 A As he pulls in, I'm pulling in right behind him. Do
19 you want me to indicate where my vehicle was?

20 Q Please do. Okay. At this point in time, do you
21 have your lights on?

22 A Yes.

23 Q Okay. And now that you're behind the vehicle with
24 your lights on, the vehicle's in this parking spot, what
25 happens?

ROUGH DRAFT TRANSCRIPT

RA 0149

1 A He had already jumped out of his car, and I had
2 jumped out of my car.

3 Q When you say "he," who are you referring to?

4 A I am referring to the defendant.

5 Q Okay. You pointed over here to my right?

6 A Yes.

7 Q If you could, please identify a piece of clothing
8 and point to the individual that you're identifying.

9 A He's wearing a light blue collared shirt, sitting
10 right there.

11 Q Okay.

12 MR. DICKERSON: If the record could reflect that the
13 witness is identifying the defendant, Your Honor?

14 THE COURT: Yes, it will.

15 MR. DICKERSON: Thank you.

16 BY MR. DICKERSON:

17 Q So you see the defendant jump out of that silver
18 Dodge Stratus?

19 A Yes.

20 Q And where does the defendant go?

21 A He opens the door and he starts running towards the
22 back of his car.

23 Q Okay. So the back of his car would have been where?

24 A Towards his bumper.

25 Q Okay. And are you near the back?

ROUGH DRAFT TRANSCRIPT

RA 0150

1 A Yeah, I'm there at the back of his car as well.

2 Q Is the door of that silver Dodge Stratus still open?

3 A Yes.

4 Q So, what does that cause to happen, this door being
5 open?

6 A The door is open on the car. I can smell the odor
7 of cannabis on him, and I can smell it also coming out of the
8 vehicle.

9 Q Okay. Was there any route forward for the defendant
10 to take?

11 A No, because the way he opened his door, he kind of
12 prevented himself from being able to run towards the front of
13 his vehicle, because he would have had to have got out of the
14 car, shut the door, and then proceed to go forward towards the
15 front of his car.

16 Q Okay. So, how quickly after the defendant gets that
17 silver Dodge Stratus parked right there in that parking spot
18 is it that he's exiting the vehicle?

19 A It was -- it was basically instantaneously.

20 Q Okay, so he didn't wait around to get things
21 together in there?

22 A No.

23 Q Okay. You said instantaneously?

24 A I mean, he basically -- he -- the car stopped, he
25 got out of his car, I was ready to end up in a foot chase so I

ROUGH DRAFT TRANSCRIPT

RA 0151

1 was already out of my car as well.

2 Q So what did you do?

3 A I made contact with him on his side of the car, and
4 I walked him over towards the front of my patrol car.

5 Q And your patrol car is right there behind it?

6 A Correct.

7 Q This vehicle, was it -- it was parked in a specific
8 parking spot; is that right?

9 A Yes.

10 Q Do you recall the number of that parking spot?

11 A I believe it was 58.

12 Q Okay. Now, parking spot 58, you're right behind it.
13 Where is it that you take the defendant?

14 A Right to the front of my patrol vehicle, which is --

15 Q And you said, at this time, you're already smelling
16 marijuana?

17 A I can smell marijuana.

18 Q Coming from where?

19 A Coming from him and coming from inside the vehicle.

20 Q Okay. So what do you do?

21 A I conducted a pat-down for weapons on him. He was
22 upset that he had gotten stopped, and he was really nervous,
23 so I went ahead and placed him in handcuffs, because that and
24 the way he was driving and trying to get away from me, I
25 suspected that he was a flight risk and that he was going to

ROUGH DRAFT TRANSCRIPT

RA 0152

1 run.

2 Q Okay. And so you conduct a pat-down?

3 A Correct.

4 Q Do you find any weapons?

5 A I did not find any weapons.

6 Q What do you do next?

7 A I asked him if he had his ID.

8 Q Like a driver's license?

9 A Yes.

10 Q And what does he say?

11 A He says he does.

12 Q And so what happens next?

13 A I ask him if his ID is on his person; he says yes.

14 I asked him where it was; he said it was in his front pocket.

15 I asked him if I could remove it; he said yes.

16 Q Okay, so did you proceed to remove his ID?

17 A I did.

18 Q And what happens when you do that?

19 A As I removed the wallet, I end up grabbing a wad of
20 cash that was right next to the wallet on the outside of it.

21 Q What was this wad of cash?

22 A It was mostly \$20 bills, some other denominations as
23 well.

24 Q And it was right there with his wallet?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0153

1 Q Where exactly was his wallet?

2 A His wallet was in his front right pants pocket.

3 Q Okay, and the money was right there with it?

4 A Yes.

5 Q But not in the wallet?

6 A There was some that ended up being in the wallet,
7 and some that was outside of the wallet.

8 Q Was there any particular way that this money was
9 organized?

10 A Yes. He had five 20s folded facing one direction,
11 then he had another five 20s folded facing the opposite
12 direction. They were -- they were all folded the same, but
13 the creases of the fold were on different sides, opposite
14 sides, and so then it just kept on switching.

15 Q Okay. Was this a lot of money or just a little bit
16 of money?

17 A It was -- it was a good amount of money.

18 Q Do you recall offhand how much money?

19 A I don't remember the exact dollar amount. I do
20 remember it was over \$2,000.

21 Q And do you recall offhand the exact denominations of
22 that money?

23 A I don't.

24 Q Okay. At some point in time later in the night, did
25 you end up impounding all of that money?

ROUGH DRAFT TRANSCRIPT

RA 0154

1 A I did.

2 Q Did you, as part of that impound, use a money
3 accounting report sheet?

4 A Yes.

5 Q Would looking at that money accounting report help
6 you refresh your recollection as to, number one, how much
7 money it was; and number two, what the denominations were?

8 A Yes.

9 Q Okay. Just take a look at this. Do you recognize
10 this form?

11 A Yes.

12 Q Did you fill out this form?

13 A This is an enlarged version of the form that I
14 filled out, yes.

15 Q Okay. It fairly and accurately represents that
16 form?

17 A Yes.

18 Q When you filled out this form, was the information
19 that you put on this form fresh in your memory, or was it
20 happening right at that time?

21 A It was fresh in my memory.

22 Q Okay. Had you just counted down the money?

23 A Yes.

24 Q And was that what you were memorializing here?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0155

1 Q So how much money was it that was in the defendant's
2 pocket?

3 MR. FRIZZELL: I'm going to object, Your Honor,
4 because if we're just refreshing recollection --

5 MR. DICKERSON: It's --

6 MR. FRIZZELL: -- he can't keep that with him. He
7 can look at it, and then --

8 MR. DICKERSON: It's actually a --

9 THE COURT: Okay.

10 MR. DICKERSON: -- past recollection recorded.

11 THE COURT: Well --

12 MR. FRIZZELL: Yeah, but still, he can't read from
13 it.

14 MR. DICKERSON: Well, he could if it's past --

15 THE COURT: Can -- can I get in on this?

16 MR. FRIZZELL: Absolutely.

17 THE COURT: Okay. So what are you offering -- how
18 are you offering this? Are you asking --

19 MR. DICKERSON: I'm offering --

20 THE COURT: -- to refresh his memory? Are you --

21 MR. DICKERSON: I'm offering this as a past
22 recollection recorded, Your Honor.

23 THE COURT: Are you offering the actual report?

24 MR. DICKERSON: I'm not; just for him to read from -
25 - to -- for his recollection that he recorded at that time.

ROUGH DRAFT TRANSCRIPT

RA 0156

1 THE COURT: After reviewing it, Officer, does it
2 refresh your memory how much money you actually retrieved from
3 him?

4 THE WITNESS: Yes.

5 THE COURT: Okay. Tell us what it was.

6 THE WITNESS: It's \$2,187.

7 MR. FRIZZELL: Objection, he just looked at it
8 again.

9 THE COURT: Well, it's either way. It's either way.
10 It's got -- it's got -- he's refreshing his memory. He said
11 it refreshed his memory, and then he told me how much. If he
12 didn't refresh his memory -- does it refresh your memory or
13 not?

14 THE WITNESS: Yes.

15 THE COURT: Can you tell me without looking at the
16 report?

17 THE WITNESS: \$2,187.

18 THE COURT: Okay, so it refreshed his memory. If
19 not, then it --

20 MR. FRIZZELL: Okay.

21 THE COURT: -- is past recollection recorded. So
22 either way, we're going to hear it. So I'm just trying to
23 make the record clear.

24 MR. FRIZZELL: All right, I just want to make sure,
25 because the questions the State was asking was not what you

ROUGH DRAFT TRANSCRIPT

RA 0157

1 ask for --

2 THE COURT: But I asked, okay?

3 MR. FRIZZELL: Got it.

4 THE COURT: All right. Go ahead, Mr. Dickerson.

5 MR. DICKERSON: Thank you, Your Honor.

6 MR. FRIZZELL: Just for the record, I do object, but
7 you can overrule it.

8 THE COURT: Go ahead.

9 MR. DICKERSON: Okay. Thank you, Your Honor.

10 BY MR. DICKERSON:

11 Q Sir, do you recall the exact denominations?

12 A I don't.

13 Q And so would looking at this report of -- that you
14 wrote; is that right?

15 A Yes.

16 Q And the information on this report was clear on your
17 mind when you wrote it?

18 A Yes.

19 Q And this was more recent in time than today; is that
20 correct?

21 A Yes.

22 Q When was it that you created this report?

23 A January 28th of 2016.

24 Q Okay. So, how many \$1 bills were in that wad of
25 money?

ROUGH DRAFT TRANSCRIPT

RA 0158

1 A I'd have to look at it, because --

2 Q Feel free.

3 A Two \$1 bills.

4 Q How many \$5 bills?

5 A There's one \$5 bill.

6 MR. FRIZZELL: Your Honor, this is a continuing
7 objection, because he's -- he's --

8 THE COURT: I understand, but I also understand he
9 is doing it by past recollection recorded. There is a
10 difference, so.

11 MR. FRIZZELL: I just want to make my record, Your
12 Honor.

13 THE COURT: Okay. All right, thank you.

14 MR. FRIZZELL: I'm objecting that he's --

15 THE COURT: Okay.

16 MR. FRIZZELL: -- continuing to just read it.

17 THE COURT: Overruled. Go ahead.

18 BY MR. DICKERSON:

19 Q How many \$10 bills?

20 A \$10 bills? There were two \$10 bills.

21 Q How many \$20 bills?

22 A 68 \$20 bills.

23 Q Okay. How many \$50 bills?

24 A Two \$50 bills.

25 Q And how many \$100 bills?

ROUGH DRAFT TRANSCRIPT

RA 0159

1 A Seven.

2 Q All right. And that was a total of \$2,187?

3 A Correct.

4 Q In cash?

5 A Yes.

6 Q Located in the defendant's front right pants pocket?

7 A Yes.

8 Q So, at that point in time, you've pulled his wallet
9 out; you see all this money. What do you do?

10 A I set the wallet and I set the money on the hood of
11 my car.

12 Q And has the backup unit that you -- that you'd
13 previously called for arrived?

14 A Yes.

15 Q So now the defendant's in the front of your car; is
16 that right?

17 A Yes.

18 Q What happens?

19 A Officer Henry was walking up; he was my backup
20 officer. He was walking up on the passenger side of the car,
21 I was still up there at the front of the car with him, and
22 while we're out there, there's about five gunshots that go off
23 in the apartment complex.

24 Q Five gunshots?

25 A Five gunshots.

ROUGH DRAFT TRANSCRIPT

RA 0160

1 Q How close are you to the gunshots?

2 A They are -- they literally sound like they're on the
3 other side of one of the buildings in the apartment complex.

4 Q I'm going to show you here what we've looked at
5 previously and what's been marked and admitted as State's
6 Exhibit 4. Do you recognize this, sir?

7 A Yes.

8 Q So you indicated where you were generally; is that
9 right?

10 A Yes.

11 Q If you could do that again.

12 A My car is right about -- a little bit up from that.
13 Every time I touch the screen, it goes a little lower, but.

14 Q And so you're there in front of your car with the
15 defendant?

16 A Yes.

17 Q You have a backup officer that has just arrived?

18 A Yes.

19 Q Is that Officer Henry?

20 A Yes.

21 Q And so it's just you and Officer Henry?

22 A Yes.

23 Q Where do you hear these gunshots coming from?

24 A The gunshots are -- they -- they're coming from the
25 north, and they sound extremely close. They sound like

ROUGH DRAFT TRANSCRIPT

RA 0161

1 they're literally on the other side of this building right
2 here.

3 Q Okay. If you could make a circle so it's a little
4 bit more clear.

5 A They basically sound like they're coming from this
6 area right here.

7 Q Okay, so very close by?

8 A Yes.

9 Q As a police officer in this situation, what do you
10 do?

11 A Well, since I'd already taken control of my suspect,
12 I took him and I put him in the back of my patrol car for his
13 safety. Officer Henry went north to go investigate the
14 gunshots that just occurred. I called out the radio traffic
15 over the radio. The air unit and basically a lot of black and
16 white police cars all showed up in the area.

17 Q So cops flood the area?

18 A Yes.

19 Q Looking for remnants of a shooting?

20 A Yes.

21 Q What are you looking for in that situation?

22 A Whenever there's a shooting, we're looking for
23 victims, we're looking for suspects, we're looking for
24 gunshots in -- you know, in buildings or anything like that,
25 casings.

ROUGH DRAFT TRANSCRIPT

RA 0162

1 Q And so how long is this search going on?

2 A It's going on for -- it goes on for a while.

3 Q Where are you at that time?

4 A I'm still with my -- my suspect.

5 Q The defendant?

6 A The defendant.

7 Q He's in the back of your patrol car?

8 A Yes.

9 Q And what do you do?

10 A I initially -- I put him in the back of my patrol
11 car. I took cover on the side of my patrol car because of the
12 gunshots, and I was still calling out all the radio traffic,
13 coordinating with the air unit as to where to go, and where we
14 heard them, and that type of stuff.

15 Q And what was the end result of all these units and
16 the air unit coming down and looking for these gunshots?

17 A No victims were located, no suspects were located,
18 no gunshots, no shell casings --

19 Q So what happened?

20 A -- no impacts. We continued on with my traffic
21 stop.

22 Q So you're on your traffic stop. Do you have
23 occasion to look inside the vehicle?

24 A Yes.

25 Q And when does that occur?

ROUGH DRAFT TRANSCRIPT

RA 0163

1 A It basically happened after I was right there next
2 to the driver's side corner panel.

3 Q Okay. At this point in time, is there any sort of
4 police training or anything that comes into play with the
5 situation you're in?

6 MR. FRIZZELL: Object, leading.

7 THE COURT: Overruled.

8 THE WITNESS: I basically continued my investigation
9 of my traffic stop.

10 BY MR. DICKERSON:

11 Q Okay, and what do you do?

12 A So, while I was by the car door, I saw a green leafy
13 residue -- substance, actually, on the floorboard, and it's
14 basically the leftovers of what I know from my training and
15 experience to be marijuana.

16 Q Okay. What did this look like?

17 A It's just basically like little crumbs and small
18 pieces of the green leafy residue.

19 Q Okay, like green flakes?

20 MR. FRIZZELL: Objection, leading. What did it look
21 like. I thought we had --

22 THE COURT: Yeah, don't --

23 BY MR. DICKERSON:

24 Q What did it look like, sir?

25 A It's small pieces of green leafy substance.

ROUGH DRAFT TRANSCRIPT

RA 0164

1 Q How big?

2 A Very, very small.

3 Q If we're thinking about a pencil, would it be the
4 size of the top of the pencil or the eraser?

5 A It would be about the size -- I'd say it's about the
6 size of an eraser, maybe a little less than that.

7 Q Okay, so somewhere in between?

8 A Yes.

9 Q So very small?

10 A Yes.

11 Q And so now you've smelt marijuana on the defendant;
12 is that right?

13 A Yes.

14 Q And you've smelt marijuana coming from the car?

15 A Yes.

16 Q And you see little flakes of marijuana as well?

17 A Yes.

18 Q So what do you do?

19 A Since I had probable cause that there was a
20 controlled substance inside the vehicle, I began to do a
21 search inside the vehicle.

22 Q All right. And what does that entail?

23 A Basically, I'm looking for the marijuana,
24 essentially. And during my initial search, I located a bag
25 containing a whole bunch of small clear plastic bags

ROUGH DRAFT TRANSCRIPT

RA 0165

1 underneath the driver's seat. I located another larger bag in
2 between the center console and the driver's seat.

3 Q Okay. This bag that you located -- the little bags
4 that you located, what did those look like?

5 A It was basically one bag, and inside it, it had lots
6 of the smaller bags.

7 Q Are you familiar with these type of bags?

8 A Yes.

9 Q And how are you familiar with these bags?

10 A They're commonly used to transport a controlled
11 substance.

12 Q Do you have an estimate of how big these bags are?

13 A They're relatively small, about an inch by an inch
14 maybe.

15 Q At some point in time, did you collect those
16 baggies?

17 A I did.

18 Q And did you later on impound those baggies?

19 A Yes.

20 Q I'm going to show you here a bag. Tell me if you
21 recognize what's on this bag.

22 A The bag is from this event, and it says, "17,
23 baggies with black pouch."

24 Q Okay, that's Item 17?

25 A "Item 17, baggies with black pouch."

ROUGH DRAFT TRANSCRIPT

RA 0166

1 Q And are you familiar with this specific bag and this
2 label?

3 A Yes.

4 Q And how are you familiar with it?

5 A It has my signature on it.

6 Q What does that mean?

7 A It has my signature and my P number, which is my
8 badge number.

9 Q And what's a P number?

10 A A P number is your badge number, but when you put
11 it, you put your initials and your badge number on there.

12 Q So what does that indicate about this bag?

13 A It indicates that this was my property --

14 Q Okay.

15 A -- that I impounded.

16 Q And so did you in fact impound the items in this
17 bag?

18 A Yes.

19 Q That being what?

20 A Baggies with black pouch.

21 Q And was this bag previously opened by the Court?

22 A Yes.

23 Q All right, but it wasn't opened after you sealed it
24 up; is that right?

25 A Correct.

ROUGH DRAFT TRANSCRIPT

RA 0167

1 Q And is there any indication that it was ever opened
2 after that time, before it was opened here in the courtroom?

3 A No.

4 Q And how would you know?

5 A Because this is the evidence seal tape that I put on
6 there.

7 Q This red tape here?

8 A Yes.

9 Q And how do you know you put this here?

10 A Because it has my initials -- my initials and P
11 number that's on the tape as well.

12 Q And the baggies and black pouch, are those the
13 baggies and black pouch that you located in reference to this
14 particular case?

15 A Yes.

16 Q In a search that you did here?

17 A Yes.

18 MR. DICKERSON: State moves for the admission of 84,
19 Your Honor.

20 THE COURT: Any objection?

21 MR. FRIZZELL: No, Your Honor.

22 MR. DICKERSON: And --

23 THE COURT: It'd be admitted.

24 (State's Exhibit 84 is admitted)

25 MR. DICKERSON: And admission of all its contents.

1 THE COURT: What exhibit is it again?

2 MR. DICKERSON: Exhibit 84, and its contents being A
3 through C.

4 THE COURT: Any objection?

5 MR. FRIZZELL: No, Your Honor.

6 THE COURT: All right. 84A through C would be
7 admitted.

8 (State's Exhibits 84A through C are admitted)

9 MR. DICKERSON: 84C here.

10 BY MR. DICKERSON:

11 Q Officer, showing you here what's been marked and
12 admitted as State's 84C, do you recognize that item?

13 A Yes.

14 Q And how do you recognize it?

15 A It's the item that I found underneath the driver's
16 seat.

17 Q The small baggies?

18 A Yes.

19 Q So it's a bag of baggies?

20 A Yes.

21 Q Are they new or used?

22 A They look relatively new.

23 Q And is that bag able to be opened?

24 A When I first initially --

25 Q Yes.

ROUGH DRAFT TRANSCRIPT

RA 0169

1 A Yes.

2 Q At this point in time, is it as well?

3 A Yes.

4 Q If you could, sir, please open that bag.

5 A Let me put the gloves on.

6 Q So, at this point in time, what are you doing?

7 A I'm opening the bag that has all the other baggies
8 in it.

9 Q Okay. And if you could, pull those little baggies
10 out and show the members of the jury what they look like.
11 Okay, so those are the baggies that you're familiar with?

12 A Yes.

13 THE COURT: For the record, do they appear to be
14 clear Ziploc baggies about two inches wide by, what, four
15 inches tall?

16 THE WITNESS: Yes.

17 THE COURT: Okay. Is that -- are you satisfied with
18 that?

19 MR. DICKERSON: I'm satisfied with that, Your Honor.

20 THE COURT: Mr. Frizzell, is that -- would you
21 believe that's correct?

22 MR. FRIZZELL: Yes.

23 THE COURT: Okay.

24 MR. FRIZZELL: I saw them when we unpacked
25 everything.

ROUGH DRAFT TRANSCRIPT

RA 0170

1 THE COURT: That's the little bags out of the big
2 bag, right? Is that correct, Officer?

3 THE WITNESS: These are the bags that are inside the
4 bag.

5 THE COURT: Okay. All right.

6 BY MR. DICKERSON:

7 Q And about -- do you have an estimate of about how
8 many bags are in there?

9 A I don't know --

10 Q Okay.

11 A -- off the top of my head.

12 Q More than just a few though?

13 A Yes, there's quite a few in there.

14 Q Does it appear to be a new package?

15 A Yes.

16 Q Okay. So you find those underneath the driver's
17 seat?

18 A Yes.

19 Q At this point in time, what do you do?

20 A I decided -- because of the size of those bags and
21 the large amount of money that was on his person, I called for
22 a canine narcotics dog.

23 Q What was it about the situation that you were in at
24 that point in time that made you decide to call for a
25 narcotics dog?

ROUGH DRAFT TRANSCRIPT

RA 0171

1 A Basically, all the circumstances that had come
2 about; the shots being fired close by, the large amount of
3 cash that was on the defendant, the items that I'd already
4 found underneath the seat and in the center console area right
5 there. So I decided to stop my search right there, get a
6 canine dog to come over there and do a narcotics sniff.

7 Q So what was it about those items that indicated you
8 may need a canine?

9 A Basically, it's items that are commonly used for --
10 to transport controlled substances.

11 Q Those beings the bags?

12 A Yes.

13 Q And what was it about the money?

14 A Well, it was a large, significant amount of cash,
15 and cash is commonly used to make transactions happen as far
16 as narcotics.

17 Q Did the denominations of that money play any role
18 into your reasoning?

19 A Yes. The large amount of 20s and the way that the
20 20s were stacked up, it was consistent with somebody who's
21 making sales.

22 Q So is that something you have seen before?

23 A Yes.

24 Q In how many years of police experience?

25 A At the time of this stop, I had nine years on the

ROUGH DRAFT TRANSCRIPT

RA 0172

1 department.

2 Q So had you stopped people that you later found out
3 were selling drugs?

4 A Yes.

5 Q And did they have large amounts of cash on them?

6 A Yes.

7 MR. FRIZZELL: Objection, relevance.

8 THE COURT: Approach the bench.

9 (Off-record bench conference)

10 THE COURT: Mr. Frizzell, I'm going to sustain your
11 objection.

12 MR. FRIZZELL: Thank you, Your Honor.

13 BY MR. DICKERSON:

14 Q In those nine years as a police officer, had you
15 been on narcotics investigations?

16 A Yes.

17 Q Narcotics investigations that started at traffic
18 stops?

19 A Yes.

20 Q And the large amount of cash, especially in the
21 denominations of 20s that you saw here, was that consistent
22 with the sale of drugs that you've seen in previous
23 investigations?

24 A Yes.

25 Q And the baggies as well?

ROUGH DRAFT TRANSCRIPT

RA 0173

1 A Yes.

2 Q So, you also mentioned the gunshots. What was it
3 about the gunshots?

4 A Well, it appeared to me that it was some type of
5 distract to get me away from the -- from the defendant and
6 from the car.

7 Q Is that -- you mean a distraction?

8 A A distraction.

9 Q Okay, and why would you think that?

10 A It doesn't happen very often that you do a traffic
11 stop and that somebody decides to fire off rounds really close
12 to where you are.

13 Q Okay, and so all these things indicated to you that
14 you might need to get a dog out there?

15 A Yes.

16 Q How do you get a dog out there?

17 A Through dispatch.

18 Q Okay. Put it on the radio?

19 A Yes.

20 Q And then, does the police canine arrive shortly
21 thereafter?

22 A Yes.

23 Q Was that Officer Newton?

24 A Yes.

25 Q And Officer Newton has a canine partner?

ROUGH DRAFT TRANSCRIPT

RA 0174

1 A Yes, he does. He's got a couple.

2 Q How does that work?

3 A Basically, he has dogs for different jobs, and he
4 has them in his patrol vehicle.

5 Q So there's a job that's specifically for narcotics?

6 A Yes.

7 Q Was that dog with Officer Newton a dog by the name
8 of Stewie?

9 A Yes.

10 Q So, Stewie comes out with Officer Newton. How do
11 they work?

12 A They work basically hand in hand as one unit.

13 Q Okay. What do they do when they arrive on scene
14 here?

15 A Initially, I told him that I was concerned that the
16 defendant had tossed items out of the window while pulling
17 into the complex, and then I told him about the vehicle and
18 the other circumstances surrounding the vehicle.

19 Q Okay. So what does Officer Newton, with his canine
20 partner, Stewie, what do they do?

21 A They do a narcotics search on the car.

22 Q And does that entail Stewie actually getting into
23 the car?

24 A Yes.

25 Q And once Stewie gets into the car -- let me back up

ROUGH DRAFT TRANSCRIPT

RA 0175

1 a second. Are you standing there for this?

2 A Yes.

3 Q You're watching this canine, Stewie?

4 A Yes.

5 Q And what do you watch Stewie do?

6 A Stewie, he indicates on the glove compartment of the
7 -- of the car that I had stopped.

8 Q Okay. And when he's indicating, what was he doing?

9 A He basically -- he just indicates to the canine
10 officer, and the canine officer says, hey, I just got
11 something.

12 Q That's Officer Newton?

13 A Yes.

14 Q So, once that indication on this glove box area
15 happens, what do you guys do?

16 A We take a closer look at the glove box.

17 Q When you take a look at the glove box, what, if
18 anything, do you see?

19 A If you open the glove box, you will see -- on the
20 right side of the glove box, you will see a small hole that
21 goes across the top of the glove box when it's open. So when
22 it's open, there's just a small opening.

23 Q So when you see this hole in the glove box, is it
24 something that you recognize in any way?

25 A It wasn't -- it wasn't a factory-made hole. It was

ROUGH DRAFT TRANSCRIPT

RA 0176

1 obvious somebody had made the hole and put it there.

2 Q So what do you do?

3 A I end up putting my hand in there and reaching in,
4 and I can feel that there's a bag inside the hole. And I just
5 kind of touch the bag, and I felt something solid inside the
6 bag, so I decided to stop -- stop with my search.

7 Q Did you have any idea or any belief what you thought
8 it was that you felt in that bag?

9 A Yes, I was quite confident that it was a firearm
10 that was inside the bag.

11 Q So why -- what are you stopping your search for?

12 A Because if it was a firearm, I know that district
13 attorneys, they like warrants better than just doing a
14 probable cause search. So I decided to stop my search at that
15 point and get a warrant, and so I applied for a telephonic
16 warrant.

17 Q Okay. How does that work?

18 A A telephonic warrant -- judges are on call. There's
19 one on call judge and a backup judge that's on call 24 hours,
20 seven days a week. And so you call the judge and you
21 basically read them your warrant verbatim, and -- to the
22 judge, and the judge will either approve the warrant or not
23 approve the warrant. Since it's graveyard hours, in the
24 middle of the night, telephonic warrants are very, very
25 common.

ROUGH DRAFT TRANSCRIPT

RA 0177

1 Q Telephonic being instead of taking them paper? Is
2 that --

3 A Correct. Doing it over the phone.

4 Q And then is that a recorded phone call?

5 A Yes, it is.

6 Q Okay, and you tell them all your bases for applying
7 for the warrant?

8 A Correct.

9 Q And here, I think we've kind of previously discussed
10 some of the basis -- bases already, but now -- you know, that
11 being, what, the gunshots?

12 A I don't believe I put the gunshots in the warrant --

13 Q Okay.

14 A -- because I wasn't able to -- I wasn't able to 100
15 percent positively say that those were because of my traffic
16 stop, so --

17 Q Okay.

18 A -- I didn't put them in there.

19 Q But the other things?

20 A All the other stuff, I put in there.

21 Q The baggies?

22 A The baggies.

23 Q The cash?

24 A The cash.

25 Q And now, after the dog arrives, what else?

ROUGH DRAFT TRANSCRIPT

RA 0178

1 A I'm not sure what your question is.

2 Q Did you talk about the dog indicating?

3 A Yes. So -- and because the dog indicated, that was
4 also on the warrant as well.

5 Q So you present this all to a judge, and what does
6 the judge do?

7 A The judge approves the warrant for the -- for the
8 car.

9 Q Okay. So, after the warrant's approved by the
10 judge, what happens?

11 A We -- Officer Henry proceeds to remove the cover to
12 the glove compartment because he's trying to get into the hole
13 where the bag is, and he -- when you remove the actual glove
14 compartment part and it comes off, then the hole is -- it's a
15 lot bigger, and you can tell that somebody just basically
16 punched a hole into the side of the glove box.

17 Q So you indicated that he had to remove the glove box
18 -- or, excuse me, glove box portion. I'm going to show you
19 what's been admitted as State's Exhibit 19. Is the area that
20 you're describing depicted here in this image?

21 A Yes, it is.

22 Q If you could, indicate on the screen what it is
23 you're talking about.

24 A This is the hole that I'm talking about here.

25 Q Okay.

ROUGH DRAFT TRANSCRIPT

RA 0179

1 A I guess I'll circle it.

2 Q And was there a door on this glove box?

3 A Yes. It's the -- the door and the sides -- there's
4 actual sides of the door when you pull it out, so it comes out
5 with it, and so that was actually in there and it was
6 obstructing the majority of the hole. You could only see
7 about the top -- about -- just the top little portion of the
8 hole that you could actually see.

9 Q You're indicating with your fingers about an inch,
10 maybe an inch-and-a-quarter?

11 A High, and then a couple inches long.

12 Q Okay. But you couldn't see that full hole?

13 A No, you couldn't see this full hole.

14 Q And so some steps were taken to remove the actual
15 door to the glove box?

16 A Yes. Officer Henry had removed the glove box.

17 Q Okay. Did that come off easily or did tools have to
18 be used?

19 A No, it came off easy enough. He didn't have to have
20 any special tools that I'm aware of.

21 Q So, now looking at State's Exhibit 20, is that the
22 hole as it appeared?

23 A Yes, it's just -- this is a closer up view of the
24 same hole.

25 Q So, once you have this door of the glove box open

ROUGH DRAFT TRANSCRIPT

RA 0180

1 and you can now see this hole, what do you guys do?

2 A Well, we tried to get the bag out. And we could
3 tell that there was a black bag inside the hole, the same bag
4 that I suspected had a firearm in it, and we -- you can't pull
5 the bag out through this hole.

6 And so while Officer Henry was trying to get the bag
7 out through this hole, I actually walked up, and if the
8 passenger door is open on the car, the side of the dash panel
9 that's closest to the door is basically just a simple little
10 plastic cover. I walked over to the plastic cover, and I
11 popped it off, and it just simply popped right off, and you
12 could get to the bag that way as well.

13 Q I'm going to show you what's been marked and
14 admitted here as State's Exhibit 17. Is that area that you're
15 talking about located in this exhibit?

16 A Yes. Basically, it's this whole plastic piece right
17 here. That all pops off, and I basically touched it right
18 about here, and just kind of got a little hold on it, and
19 popped it off.

20 Q And when you're indicating that you got a little
21 hold on it, you're just indicating with your thumb?

22 A Yeah. Basically, it was just -- you can grab it
23 with your finger, and just kind of grab onto it, and it pops
24 off, so.

25 Q Okay. So you didn't have to use any tools to take

ROUGH DRAFT TRANSCRIPT

RA 0181

1 it off?

2 A No, no tools.

3 Q It came off relatively easily?

4 A Yes.

5 Q Is that something that appeared to be a
6 manufacturing design?

7 A I believe so.

8 Q Okay.

9 A It looks part of the car.

10 Q Okay. Now you've taken off -- and I'm going to show
11 you here what's been marked and admitted as State's Exhibit
12 22. Do you recognize this image, sir?

13 A Yes. That's the black bag that was in the
14 compartment after the side has been popped off.

15 Q Okay, so this is immediately after you'd taken off
16 that plastic portion?

17 A Yes.

18 Q And when you take that off, now, is CSA Stephanie
19 Thi there with you?

20 A Yes.

21 Q And Officer Henry's still there with you?

22 A Yes.

23 Q What is CSA Thi doing at this time?

24 A She's taking pictures of everything.

25 Q Okay, taking step by step?

ROUGH DRAFT TRANSCRIPT

RA 0182

1 A Yes.

2 Q So what's the next step here?

3 A The next step here is to remove the bag out of the
4 compartment.

5 Q And when the bag's removed, what do you find?

6 A The bag is removed, and there's three gold bags
7 inside of the black -- the larger black bag, and then a
8 smaller canvass black bag within it as well.

9 Q I'm going to show you here State's Exhibit 24. Do
10 you recognize what's depicted here in this image, sir?

11 A Yeah. This is ID Tech Thi's hand, and these are the
12 gold bags that are inside the black bag.

13 Q And those are the gold bags you remember seeing?

14 A Yes.

15 Q And State's Exhibit 26, does that depict those gold
16 bags?

17 A Yes, that's the two bags that had items in it.

18 Q So, what was it that you found in these bags?

19 A A lot of controlled substance, very different types.

20 Q I'm going to show you here State's Exhibit 28. What
21 does it appear to you is depicted here in this image?

22 A These are the items that we -- that we removed from
23 the bag. It's different controlled substances, a watch that
24 was inside the bag, the black bag itself. The keys were not
25 inside the bag.

ROUGH DRAFT TRANSCRIPT

RA 0183

1 Q Okay. The black bag that's there in the foreground,
2 what is that?

3 A That is the black bag that had the firearm in it.

4 Q Okay, so there was also a firearm recovered?

5 A Yes.

6 Q In addition to the drugs?

7 A Yes.

8 Q And showing you here State's Exhibit 31, is that how
9 that firearm appeared?

10 A Yes.

11 Q And did CSA Thi remove that?

12 A Yes. She -- she made the gun safe, and she ended up
13 placing it in an evidence bag for me.

14 Q Is that the gun as you remember it?

15 A Yes.

16 Q Okay, and we're showing you State's Exhibit 32. All
17 right.

18 MR. DICKERSON: Court's brief indulgence.

19 BY MR. DICKERSON:

20 Q Did you have the opportunity to later look at all
21 the items that were in those -- in the black bag and within
22 those gold bags?

23 A Yes.

24 Q And did you in fact impound all those items?

25 A Yes.

1 Q Is that part of your duty as a police officer?

2 A Yes.

3 Q Similar to how we looked at the other brown evidence
4 bag, did you do the same things with the things that were
5 located inside that black bag?

6 A Yes.

7 (Pause in the proceedings)

8 BY MR. DICKERSON:

9 Q Okay, sir. I'm going to show you what's been
10 previously opened by the Court, State's Proposed Exhibit 82
11 and its contents. If you could, take a look at State's
12 Proposed Exhibit 82. Tell me if you recognize that.

13 A It is from this event. It has my signature on it,
14 it has my P number, initials on it, and it indicates a lot of
15 items.

16 Q And are you speaking about the evidence tag here on
17 this brown bag?

18 A Yes. On the brown bag, I put an evidence tag, and I
19 basically put on the piece of paper what's inside the bag.

20 Q Okay. And this particular bag, what is it that you
21 indicated was in here?

22 A I'd have to read it all off.

23 Q Okay. Is this -- is this as you recall impounding
24 this brown bag?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0185

1 Q And the contents with it?

2 A Yes.

3 Q Is your P number located here?

4 A Yes.

5 Q And that's 9806?

6 A Yes.

7 Q And this red evidence tape here, is this significant
8 to you?

9 A Yes, that's the evidence tape. It's got my P number
10 and the date on it as well.

11 Q So does that indicate that you sealed this bag?

12 A Yes.

13 Q And this blue evidence tape, what, if anything, does
14 that indicate?

15 A That is not me. That is the lab, I believe.

16 Q Okay. So the lab, if they opened it, they would put
17 a tag on it as well?

18 A Yes.

19 Q Would they seal it back up?

20 A Yes.

21 MR. DICKERSON: At this time, State moves for the
22 admission of State's Exhibit 82 and all of its contents.

23 THE COURT: Aren't they labeled differently? You
24 have 82 --

25 MR. DICKERSON: Yeah.

ROUGH DRAFT TRANSCRIPT

RA 0186

1 THE COURT: -- A, 82 --

2 MR. DICKERSON: I do, Your Honor.

3 THE COURT: 81, 2, 3 --

4 MR. DICKERSON: I do.

5 THE COURT: -- 82 -- are you moving for 82A and
6 everything?

7 MR. DICKERSON: We're going to move --

8 THE COURT: Okay.

9 MR. DICKERSON: I'll move the --

10 THE COURT: Come up here, Ken.

11 MR. DICKERSON: I'll move each one individually,
12 just to make it easier on Your Honor.

13 THE COURT: All right.

14 MR. FRIZZELL: I just wanted to see which one he was
15 talking about.

16 THE COURT: Okay. Just so the record's clear.

17 MR. DICKERSON: Right.

18 (Counsel conferring)

19 THE COURT: So what do you have right there, Mr.
20 Dickerson? 82 is what's been marked as the evidence bag.

21 MR. DICKERSON: That's correct, Your Honor.

22 MR. FRIZZELL: Well, they're --

23 THE COURT: He's identified the -- okay.

24 MR. DICKERSON: And to be --

25 THE COURT: Everything that's in that -- let me

ROUGH DRAFT TRANSCRIPT

RA 0187

1 talk.

2 MR. DICKERSON: Go ahead.

3 THE COURT: Everything that's in that pouch or in
4 that box there is out of 82?

5 MR. DICKERSON: Correct, Your Honor.

6 THE COURT: Okay. All right.

7 MR. FRIZZELL: And --

8 THE COURT: So --

9 MR. FRIZZELL: Your Honor, there are some other --
10 other exhibits I'm sure that they'll get to later that are in
11 this particular box --

12 THE COURT: That's what I'm asking.

13 MR. FRIZZELL: -- that's in front of him. There's
14 -- there's other --

15 THE COURT: Okay.

16 MR. FRIZZELL: -- exhibits, so not everything in
17 this --

18 THE COURT: Is that right, Mr. Dickerson?

19 MR. FRIZZELL: -- clerk's box is 82.

20 MR. DICKERSON: I'll go through them one by one --

21 THE COURT: Okay.

22 MR. DICKERSON: -- and then we can make it nice and
23 clear for the record --

24 THE COURT: All right.

25 MR. DICKERSON: -- and for Mr. Frizzell.

ROUGH DRAFT TRANSCRIPT

RA 0188

1 THE COURT: Okay. All right.

2 MR. DICKERSON: Thank you, Your Honor.

3 THE COURT: Okay.

4 MR. DICKERSON: All right.

5 THE COURT: Just -- just start out -- because I know
6 that my clerk's labeled them differently, so --

7 MR. DICKERSON: Yes.

8 THE COURT: -- start out each one of them, and then
9 -- and then, when you're done, if you want to move to admit
10 whichever ones you want.

11 BY MR. DICKERSON:

12 Q Here we have State's Proposed Exhibit 82B. Do you
13 recognize that, sir?

14 A Yes.

15 Q What do you recognize that to be, sir?

16 A A gold bag that was inside the black bag that I
17 found in the car.

18 Q And State's 82 -- bear with me -- B1 --

19 THE COURT: Okay.

20 MR. DICKERSON: -- B2, B3, B4.

21 MR. FRIZZELL: Your Honor, do you mind if I just
22 come up there while he's --

23 THE COURT: Yeah, that's fine, Mr. Frizzell.

24 MR. FRIZZELL: -- going through -- thank you.

25 MR. DICKERSON: And that's what we'll be looking at

ROUGH DRAFT TRANSCRIPT

RA 0189

1 for this point in time. 82-B1 through 4. Do you --

2 THE COURT: You have 82B, and then B1 through 4?

3 MR. DICKERSON: That's correct, Your Honor.

4 THE COURT: Okay.

5 BY MR. DICKERSON:

6 Q Do you recognize these items?

7 A Yes.

8 Q And what do you recognize those items to be?

9 A This is the methamphetamine that was located inside
10 the bag.

11 Q Okay. These --

12 THE COURT: Is that all 1 through 4?

13 MR. DICKERSON: Yes.

14 THE COURT: Or which one -- which -- whatever you're
15 looking at, please notify for the record so we're clear.

16 MR. DICKERSON: Okay.

17 BY MR. DICKERSON:

18 Q B -- 82B1, what is this?

19 A Meth.

20 THE COURT: Okay.

21 BY MR. DICKERSON:

22 Q Is this methamphetamine that you impounded --

23 A Yes.

24 Q -- as part of State's Exhibit 82 that we just marked
25 and admitted into evidence?

ROUGH DRAFT TRANSCRIPT

RA 0190

1 A Yes.

2 Q And you kept it in that bag?

3 A Yes.

4 Q Was this located with any of the other items that
5 you see in front of you?

6 A Yes.

7 Q 82B2?

8 A Yes.

9 Q Do you recognize that?

10 A Yes.

11 Q What do you recognize that to be?

12 A More methamphetamines.

13 Q Did you impound that methamphetamine?

14 A Yes.

15 Q As part of this Exhibit 82?

16 A Yes.

17 Q And 82B3, do you recognize that?

18 A Yes.

19 Q What do you recognize that to be?

20 A More methamphetamine.

21 Q Did you impound that methamphetamine?

22 A I did.

23 Q As part of this Exhibit 82?

24 A Yes.

25 Q And 82B4, do you recognize that?

ROUGH DRAFT TRANSCRIPT

RA 0191

1 A Yes.

2 Q What do you recognize that to be?

3 A More methamphetamine.

4 Q And was that -- was that admitted -- or was that
5 impounded by you as part of Exhibit 82?

6 A Yes.

7 Q All right.

8 MR. DICKERSON: State moves for the admission of
9 82B, 82B1 through 82B4 at this time, Your Honor.

10 THE COURT: Any objection?

11 MR. FRIZZELL: No objection, Your Honor.

12 THE COURT: Okay. All right. So, 82B, which is the
13 gold bag, and then 1, 2, 3, and 4 was methamphetamine --
14 identified as methamphetamine taken from the gold bag?

15 MR. DICKERSON: Yes.

16 THE COURT: Right? Okay, all right. That's
17 admitted, 82B, through 4 is admitted.

18 (State's Exhibits 82B1 through 82B4 are admitted)

19 MR. DICKERSON: Okay.

20 MR. FRIZZELL: And Your Honor, more for
21 clarification, the gold bag that came out of 80 -- Exhibit 82,
22 because there's two gold bags.

23 THE COURT: Okay.

24 THE WITNESS: There's three total.

25 THE COURT: All right, well, at least one --

ROUGH DRAFT TRANSCRIPT

RA 0192

1 MR. FRIZZELL: There's three, okay.

2 THE COURT: -- gold bag that's identified as 82B is
3 what I'm dealing with right now.

4 MR. FRIZZELL: Yes.

5 MR. DICKERSON: That's correct, Your Honor.

6 MR. FRIZZELL: Okay, I don't have a problem with
7 that.

8 THE COURT: Okay.

9 BY MR. DICKERSON:

10 Q All right, sir. 82B contains what appear to be a
11 lot of suspected methamphetamine?

12 A Yes.

13 Q Did you have occasion to do any sort of tests on
14 this?

15 A Yes, I did ODV field tests on it.

16 Q And what is that?

17 A It's a -- it's a little kit, and it basically -- you
18 put a little bit of the suspected meth into the little kit,
19 and you crack some capsules that are on the little package,
20 and if it changes the right colors at the right times, then
21 it's suspected to be meth.

22 Q Okay. If you could, just one by one, pull up 82B1.
23 Is that an entire bag filled with what you suspect to be
24 methamphetamine?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0193

1 Q And what does it look like?

2 A It's basically a white crystal-like substance.

3 Q Is it a powder?

4 A No.

5 Q What is it?

6 A It's like -- compared to like small crystals, or --

7 Q Okay. Like a crystal rock, kind of?

8 A Yes.

9 Q Okay, and if you could hold up 82B2. Does that
10 appear to be the same substance?

11 A Yes.

12 Q And 82B3. Does that appear to be the same
13 substance?

14 A Yes.

15 Q And 82B4. Does that also appear to be the same
16 substance?

17 A Yes.

18 Q So, all of these bags of suspected methamphetamine,
19 is this a normal amount that you see on the street every day?

20 A No.

21 Q When you -- you have contact with people who use
22 drugs; is that right?

23 A Yes.

24 Q Have you had training in drug use?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0194

1 Q What would be a normal amount that you might see in
2 a drug --

3 MR. FRIZZELL: Objection, vague and ambiguous.

4 MR. DICKERSON: It goes to --

5 MR. FRIZZELL: Relevance.

6 MR. DICKERSON: -- his training and experience.

7 THE COURT: Sustained.

8 BY MR. DICKERSON:

9 Q In your training and experience, are you familiar
10 with how methamphetamine is used?

11 A Yes.

12 Q And how much methamphetamine is generally used by a
13 user at a given time?

14 MR. FRIZZELL: Objection, relevance, foundation,
15 vague, ambiguous.

16 THE COURT: Can you answer that, Officer? I mean --

17 THE WITNESS: Yes, I feel -- I feel comfortable with
18 the question.

19 THE COURT: I'll allow you to answer it. Overruled.

20 THE WITNESS: It only takes a small amount of meth
21 to -- for a user to get a high off of it.

22 MR. DICKERSON: Okay.

23 MR. FRIZZELL: I'm going to object again then as to
24 what is a small amount.

25 MR. DICKERSON: He did indicate with his fingers,

1 Your Honor.

2 THE WITNESS: It's --

3 THE COURT: Officer, can you tell us -- I
4 understand. Officer, can you tell us, through your training
5 and experience, when you're contacting an individual who'd
6 been arrested for suspected use of a controlled substance, of
7 methamphetamine, do they -- do they have them in different
8 sizes? Or do -- or I mean --

9 THE WITNESS: The vast majority of the time when I
10 come in contact with a user and they have meth on them, it's I
11 would say less than half-a-gram.

12 THE COURT: Okay. And what -- and is there
13 different denominations to -- like when you're on the street
14 and you're purchasing it, is there different denominations
15 that signify what you've just explained?

16 THE WITNESS: Meaning how much you can buy?

17 THE COURT: Uh-huh.

18 THE WITNESS: Yes.

19 THE COURT: Can you tell us about that?

20 THE WITNESS: You can buy -- basically -- it's
21 basically within the gram measurements.

22 THE COURT: Okay.

23 THE WITNESS: So it's either a quarter of a gram,
24 half-a-gram, three-fourths of a gram, to a gram, and then from
25 there on, you go into larger quantities.

ROUGH DRAFT TRANSCRIPT

RA 0196

1 THE COURT: Okay. Well, so we're clear, it's
2 obvious that you can buy as much as you can afford, possibly;
3 is that right?

4 THE WITNESS: Correct.

5 THE COURT: But street level, how are you usually --
6 how are individuals that you've through your experience have
7 seen has usually been obtaining in what quantities?

8 THE WITNESS: Usually, it's about a quarter of a
9 gram of meth.

10 THE COURT: Okay. And when you say quarter, you
11 took your finger and you held it.

12 THE WITNESS: It would be hard for me to indicate
13 any other way, but it's a small amount.

14 THE COURT: Is it -- with regards to what you've
15 just identified in Exhibit 1, 2, 3, and 4 of 82B --

16 THE WITNESS: That's a whole lot of meth in those --

17 THE COURT: Okay, but what I'm saying is with
18 regards -- did you do anything to weigh that? Because you --

19 THE WITNESS: Yes.

20 THE COURT: -- identified it --

21 THE WITNESS: Yes.

22 THE COURT: -- through a test that you did
23 previously. Do you weigh it as well?

24 THE WITNESS: Yes.

25 THE COURT: When you -- let's just say the small

ROUGH DRAFT TRANSCRIPT

RA 0197

1 bag, that was number 4.

2 THE WITNESS: Yes.

3 THE COURT: Can you tell the jury, did you weigh
4 that?

5 THE WITNESS: Yes.

6 THE COURT: Can you tell the jury what your weight
7 was for that?

8 THE WITNESS: Not off the top of my head.

9 THE COURT: Do you have -- do you have it in a
10 report?

11 THE WITNESS: On ODV test sheet.

12 MR. DICKERSON: And I can go there, Your Honor.

13 THE COURT: All right.

14 MR. DICKERSON: Sir, did you --

15 THE COURT: What I'm getting at is -- because I want
16 -- I want him to be able to, if he can, tell the jury the
17 weight with that and what he's talking about would be a street
18 level, because you keep going like this with your finger.

19 THE WITNESS: Okay.

20 THE COURT: And when I say "this," for the record,
21 I'm holding like my fingers together, my thumb and my front
22 finger, so it'd be like a small amount.

23 THE WITNESS: Yeah.

24 THE COURT: I want to know, because you talked --
25 you just gave testimony about gram weight. And when you

ROUGH DRAFT TRANSCRIPT

RA 0198

1 weighed that, do you weigh it in gram weight?

2 THE WITNESS: Yes.

3 THE COURT: So that -- would that give us a better
4 understanding what you mean by what you talked about street
5 level versus this?

6 THE WITNESS: Yes.

7 THE COURT: Okay, there you go.

8 BY MR. DICKERSON:

9 Q And did you weigh all the methamphetamine that you
10 found in that black bag --

11 A Yes.

12 Q -- together?

13 A Yes.

14 Q Is that right? And did you mark that down on your
15 property report as you impounded that methamphetamine right
16 there?

17 A Yes.

18 Q Everything that -- all the methamphetamine that was
19 ultimately impounded and bagged, which is Exhibit 82?

20 A Yes.

21 Q Would looking at that property report help refresh
22 your recollection as to exactly how much you had weighed it
23 out at the time?

24 A Yes.

25 Q Just look at that. If it refreshes your

ROUGH DRAFT TRANSCRIPT

RA 0199

1 recollection, flip it upside-down and tell me so. Did that
2 refresh your recollection?

3 A Yes.

4 Q How much did the methamphetamine that you recovered
5 in that black bag weigh?

6 THE COURT: Are we just talking about those four
7 bags?

8 MR. DICKERSON: It's -- there's going to be two more
9 bags --

10 THE COURT: I know, but are -- right now, are we
11 talking about those four bags?

12 MR. DICKERSON: We are -- those are included, Your
13 Honor.

14 MR. FRIZZELL: Okay, well, then --

15 THE COURT: My question was, are we talking just
16 about those four bags?

17 MR. DICKERSON: No, Your Honor.

18 THE COURT: Okay, then --

19 MR. FRIZZELL: Then -- then I have an objection.

20 THE COURT: And I'm going to --

21 MR. DICKERSON: What's the objection?

22 THE COURT: -- sustain the objection, because my
23 question of the officer was did he weigh these, and I was
24 specifically talking about the small bag. Just -- maybe I put
25 you on the spot, Officer. I didn't mean to do that, but now

ROUGH DRAFT TRANSCRIPT

RA 0200

1 it's my understanding that you weighed everything
2 collectively?

3 THE WITNESS: Everything got weighed.

4 THE COURT: Okay. Did you weigh all what you
5 suspected to be methamphetamine together, or did you weigh
6 them individually, or do you remember?

7 THE WITNESS: Some of it was weighed together, some
8 of it wasn't, because it was -- we kept on finding more.

9 THE COURT: Okay, so --

10 THE WITNESS: And so, as we found more, we ended up
11 having to weigh that stuff, and so they ended -- some of them
12 are weighed together, some of them are not.

13 THE COURT: Well, do you remember if those four bags
14 right there --

15 THE WITNESS: These were all weighed together.

16 THE COURT: By themselves, nothing added to it?

17 THE WITNESS: These four items weighed together.

18 THE COURT: All right. There you go, Mr. Dickerson.
19 That seems simple.

20 MR. DICKERSON: Yes, thank you, Your Honor.

21 BY MR. DICKERSON:

22 Q And how much did those weigh?

23 A 351 grams.

24 Q All right. 351 grams of methamphetamine?

25 A Yes.

1 Q That's as you weighed it on the scene?

2 A Yes.

3 Q And would that -- would these items have later been
4 tested at the lab as well?

5 A Yes.

6 Q All right. At this point in time, we've admitted
7 these items. If you'll pass me that. Thank you.

8 Showing you now State's Proposed Exhibit 82A, 82A1,
9 82A2 --

10 MR. FRIZZELL: Your Honor, can I come up again while
11 he's doing this --

12 THE COURT: Yes, Mr. Frizzell.

13 MR. FRIZZELL: -- just so we make sure --

14 MR. DICKERSON: 82 --

15 THE COURT: Come on up.

16 MR. DICKERSON: -- A3, 82A4, and 82A5. Yes.

17 THE COURT: All right.

18 BY MR. DICKERSON:

19 Q Do you recognize all of these items, sir?

20 A Yes.

21 Q And how do you recognize them?

22 A They're all the items located inside another one of
23 the bags, with the exception of this gold bag.

24 Q Okay. And what is that gold bag?

25 A This gold bag was actually next to the other two

ROUGH DRAFT TRANSCRIPT

RA 0202

1 gold bags.

2 Q Okay.

3 A And it was in the black bag, but it wasn't inside
4 this bag.

5 Q And when you're indicating -- you're indicating bag
6 82A2. You can hold that down, please.

7 A Okay.

8 Q 82A2; is that correct?

9 A Yes.

10 Q Okay.

11 MR. FRIZZELL: Can he hold up again which one?
12 Because he held up both of them there.

13 THE WITNESS: This is the gold bag that was
14 containing the majority of these items, but --

15 MR. FRIZZELL: And that's 82A1?

16 THE COURT: 82A.

17 THE WITNESS: 82A is the gold bag.

18 MR. FRIZZELL: Okay, and then the contents are the 1
19 -- okay.

20 BY MR. DICKERSON:

21 Q All right, sir. 82 and 82A1 through 5, are these
22 items that you impounded as part of the bag that was
23 previously admitted as Exhibit 82?

24 A Yes.

25 Q Okay. These are items that you recovered from the

ROUGH DRAFT TRANSCRIPT

RA 0203

1 defendant's vehicle?

2 A Yes.

3 Q Specifically, the black pouch that was inside the
4 secret compartment in the car?

5 A Yes.

6 Q Okay.

7 MR. DICKERSON: State moves for the admission of
8 State's Exhibit 82A, 82A1, 82A2, 82A3, 82A4, and 82A5.

9 THE COURT: Any objection?

10 MR. FRIZZELL: No objection.

11 THE COURT: All right, 82A1, 2, 3, 4, and 5 will be
12 admitted.

13 (State's Exhibits 82A1 through 82A5 are admitted)

14 MR. DICKERSON: Thank you, Your Honor.

15 THE COURT: Okay.

16 MR. DICKERSON: At this point in time, I'm going to
17 put the contents of what's been admitted and -- marked and
18 admitted as 82B and its contents, including the bag, 82, back
19 in the box. We'll talk about 82A.

20 BY MR. DICKERSON:

21 Q First, 82A, what is that?

22 A 82A is a gold bag.

23 Q And that was one of the gold bags that was
24 recovered?

25 A Yes.

1 Q What is 82A? A1, I'm sorry.

2 A A1 is -- A1 is the heroin --

3 Q Okay.

4 A -- after I had ODV-tested it.

5 Q So you ODV-tested that heroin?

6 A I didn't. Two other officers who were certified on
7 heroin tested it.

8 Q Okay. Is this a normal amount of heroin to see?

9 A No.

10 Q Is this heroin that is, in your training and
11 experience, personal use?

12 A This is not personal use heroin.

13 Q So when you generally see heroin, how much do you
14 see on the street?

15 A Basically, a really relatively small amount, very
16 similar in size to the meth that we had already talked about.

17 MR. FRIZZELL: Okay, and --

18 MR. DICKERSON: How is it that you know --

19 MR. FRIZZELL: Your Honor, I need to lodge an
20 objection on this because of the fact that he just said that
21 he wasn't the one that actually ODV-tested it or anything.
22 So, other than looking at a package, he can't say what it was.

23 THE COURT: Okay, I understand that objection. I'm
24 going to sustain the objection as to him. He can refer to it
25 as something that appears to him to be heroin, but it has not

1 been identified as heroin, all right?

2 MR. FRIZZELL: Okay.

3 MR. DICKERSON: We will --

4 MR. FRIZZELL: So if it's admitted at this point, it
5 can only be admitted for -- I mean, I guess it can't be
6 admitted. I would have an objection to its admission.

7 THE COURT: Why can't it be admitted? It's
8 something that he found. Whether or not it's a rock in the
9 dirt, or a shoe, or whatever, it's just -- I mean, it has --
10 it's what he found. Why is it not being admitted?

11 MR. FRIZZELL: Well, well, if -- he's going to say
12 what it looked like to him, but he's not --

13 THE COURT: Okay.

14 MR. FRIZZELL: -- the one that actually tested it.
15 So if we're admitting it without knowing exactly what it is
16 from the -- from the officer who actually tested it, then I've
17 got a problem with that.

18 THE COURT: Approach -- approach the bench.

19 (Off-record bench conference)

20 THE COURT: Okay.

21 MR. DICKERSON: Thank you, Your Honor.

22 THE COURT: Mr. Frizzell, as I said, I'm going to
23 overrule the objection. Officer, you can testify. I'm going
24 to allow him to testify, but he has not been able to -- he's
25 not in a position he can identify it as heroin.

ROUGH DRAFT TRANSCRIPT

RA 0206

1 MR. DICKERSON: Right.

2 THE COURT: Okay.

3 BY MR. DICKERSON:

4 Q You aren't a scientist, right?

5 A I am not.

6 Q Okay. So that wouldn't necessarily be your job --

7 A Correct.

8 Q -- to say conclusively that that's heroin?

9 A Correct.

10 Q Is that right? So, from this point in time, let's
11 refer to it as suspected heroin.

12 A Correct.

13 Q Does that work for you?

14 A Yes.

15 Q Okay. Now, that suspected heroin, you found that
16 also in that black pouch?

17 A Yes.

18 Q You said that's not the normal size to see around?

19 A No.

20 Q In your training and experience as a police officer
21 working patrol, how is it that you see heroin normally
22 packaged?

23 A It's normally packaged in aluminum foil, sometimes
24 balloons. Those are the most common ways you'll see it.

25 Q And when you say balloons or aluminum foil, what

ROUGH DRAFT TRANSCRIPT

RA 0207

1 size balloons or aluminum foil are we talking about?

2 A Very, very small balloons, very small pieces of
3 aluminum foil, and it will be wrapped up in there.

4 MR. FRIZZELL: Again, object to the quantification
5 of small.

6 MR. DICKERSON: I think --

7 THE COURT: That's fair. Sustained.

8 MR. DICKERSON: Well, let's --

9 THE COURT: Ask him --

10 BY MR. DICKERSON:

11 Q Let's talk about the size of a fingernail, all
12 right?

13 A Okay.

14 THE COURT: Well, Mr. Dickerson, just ask him. He's
15 on the street; he's dealing with it all the time. Has he seen
16 it, how has he seen it, how do they measure it --

17 MR. DICKERSON: Right.

18 THE COURT: -- what's the terms they use.

19 BY MR. DICKERSON:

20 Q How do you measure it on the street, sir?

21 A We just refer to it as a ball of heroin.

22 Q Okay, and do you measure it in grams?

23 A Yes.

24 Q And is this maybe a balloon that you would find?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0208

1 Q About the size of a fingernail?

2 A It's usually -- yes.

3 Q Okay.

4 A That's -- that's close in size.

5 Q So how many grams of heroin do you usually see in an
6 average user on the street?

7 A I would say a quarter of a gram.

8 Q Okay, quarter of a gram. And this here was
9 ultimately tested by somebody?

10 A Yes.

11 Q Is that right? Is that something that -- that you
12 came to find out?

13 A Yes.

14 Q Did you take part in the entire investigation of
15 this case?

16 A Yes.

17 Q And is that something that you put in your report?

18 A Yes.

19 Q Knowing it at the time?

20 A Yes.

21 Q So do you know how much it weighed at the time you
22 put it in your report?

23 A Yes.

24 Q How much?

25 A I don't know it off the top of my head. There was a

ROUGH DRAFT TRANSCRIPT

RA 0209

1 lot of numbers.

2 Q Would looking at your property report help refresh
3 your recollection?

4 A Yes.

5 Q If that refreshes your recollection, please flip it
6 over and let me know. Did that refresh your recollection,
7 sir?

8 A Yes.

9 Q How much did it weigh?

10 A 36.4 grams of heroin.

11 Q If you could please hold that up for the members of
12 the jury. So, now, we've looked at the gold back into A and
13 82A1. What do we see in 82A2?

14 A 82A2 is the other golden bag.

15 Q And what is that?

16 A Basically, a bag similar in make as the other two
17 golden bags.

18 Q Okay. What was the significance of this bag when
19 you found it?

20 A This bag, when -- when I opened it, it was a very
21 overwhelming horrid smell that was coming from inside the bag.

22 Q What did that indicate to you?

23 A I suspected it was heroin, or had been used for
24 heroin to some degree.

25 Q And why is that?

ROUGH DRAFT TRANSCRIPT

RA 0210

1 A Just because of the -- the foul smell of it.

2 Q Is there some basis of the foul smell being related
3 to heroin?

4 A Yes. When it's cooked, it gives off a smell.

5 Q Okay. Was there anything else in this bag?

6 A No, there was nothing else in this bag.

7 Q Okay. At this point in time, 82A3. Does that
8 appear to be more methamphetamine?

9 A It does.

10 Q And that was actually included with the overall
11 weight of the methamphetamine that you found; isn't that
12 correct?

13 MR. FRIZZELL: Objection, that's leading. I mean, I
14 let it go somewhat, but I can't keep letting these leading
15 questions go.

16 MR. DICKERSON: And Your Honor --

17 THE COURT: I'm going to sustain the objection. I
18 think you need to --

19 MR. DICKERSON: Okay.

20 BY MR. DICKERSON:

21 Q Do you recall having weighed the methamphetamine
22 found in the black pouch?

23 A It was -- you mean like the method?

24 Q Yeah. Did you weigh it together or separate?

25 A Together.

ROUGH DRAFT TRANSCRIPT

RA 0211

1 Q Okay, and it was this methamphetamine that was found
2 i the black pouch?

3 A Yes.

4 Q 82A3?

5 A Yes.

6 Q And did you weigh this methamphetamine?

7 A Yes.

8 Q How did you weigh this?

9 A This meth I believe was weighed by itself.

10 Q Okay, so this meth was weighed by itself?

11 A Yes.

12 Q Thank you for correcting me, sir. I very much
13 appreciate that. Now, this methamphetamine, 82A3. 82A4, what
14 are we looking at?

15 A This is a white powdery substance.

16 Q Okay. And what did that appear to be at the time?

17 A From my training and experience, this appears to be
18 cocaine.

19 Q All right. And was that cocaine ODV-tested?

20 A Yes, it was.

21 Q By yourself?

22 A Yes.

23 Q And what did you determine?

24 A That it was positive for cocaine.

25 Q Did you weigh the cocaine at that time?

ROUGH DRAFT TRANSCRIPT

RA 0212

1 A I did.

2 Q And do you know what it weighed?

3 A I couldn't tell you off the top of my head.

4 Q Would looking at your property report help refresh
5 your recollection?

6 A Yes.

7 Q If that refreshes your recollection, please just
8 flip it over. Thank you. How much of that cocaine in State's
9 Exhibit A23, 4? I'm sorry, A24 weigh?

10 A .8 grams.

11 Q .8 grams.

12 A Yes.

13 Q If you could hold that up for the members of the
14 jury. Okay. And finally, 82A5. Is this an item that you
15 found inside that black pouch?

16 A Yes.

17 Q And what does it appear to be?

18 A It appears to be a crushed up mixture of stuff.

19 Q What color is it?

20 A It's blue, a light blue.

21 Q If you could hold that up for the members of the
22 jury, please. Is it -- what form is it taking?

23 A Some of it's -- I'd say crystal.

24 Q Is it powder, or -- okay.

25 A It's got a little bit of powder, little bit of

ROUGH DRAFT TRANSCRIPT

RA 0213

1 crystal. It's got a little bit of several different stuff in
2 it.

3 Q Okay. Did you know what this was at the time?

4 A Not positive.

5 Q Okay, great. Thank you. So you found all these,
6 some of what you were able to determine at the time ODV-tested
7 positive narcotics, others which were suspected; is that
8 right?

9 A Yes.

10 Q And so what did you do?

11 A After I found all these items, I was doing my
12 background check on the defendant.

13 Q Okay. Well, at that point in time, did you take any
14 other steps to search anything?

15 A We had determined that --

16 MR. DICKERSON: Court's brief indulgence.

17 THE COURT: Okay.

18 MR. DICKERSON: May I approach?

19 THE COURT: Yes.

20 (Off-record bench conference)

21 THE COURT: Ladies and gentlemen, at this time,
22 we're going to take a 15-minute recess. Stay where you're at,
23 Officer.

24 During this recess, you're admonished not to talk or
25 converse amongst yourself or with anyone else on any subject

ROUGH DRAFT TRANSCRIPT

RA 0214

1 connected with this trial, or read, watch, or listen to any
2 commentary or report on this trial, or any person connected
3 with this trial, by any medium of information, including,
4 without limitation, newspapers, television, internet, or
5 radio, or form or express any opinion on any subject connected
6 with this trial until the case is finally submitted to you.

7 Okay. It's 20 after. Be ready to go by 20 'til,
8 okay? It's 25 after; be ready to go by 20-til. All right,
9 we'll see you -- we'll be at ease while the jury leaves the
10 room, okay?

11 (Outside the presence of the jury)

12 THE COURT: Okay, we're outside the presence of the
13 jury. At this time, I believe what was happening was there
14 was questioning by the State that the officer -- what
15 additional steps did he take for purposes of securing the
16 second search warrant; is that correct?

17 MR. DICKERSON: That's correct, Your Honor.

18 THE COURT: Okay. And I know from -- from reading
19 the search warrant, some of the -- some of the information
20 provided to the reviewing judge for the search warrant was --
21 taken in consideration was the defendant's past record. Is
22 that correct?

23 THE WITNESS: Yes.

24 THE COURT: Okay. Understand that at this point in
25 time, I'm admonishing you to not discuss before the jury any

ROUGH DRAFT TRANSCRIPT

RA 0215

1 statements made about his past record.

2 THE WITNESS: Okay.

3 THE COURT: Okay? You've already said that you took
4 into consideration -- you looked -- you were doing a
5 background, but do not get into his prior convictions and all
6 that, okay?

7 THE WITNESS: Yes.

8 THE COURT: It's not being admitted at this time.
9 The State did not move to admit those for purposes of their
10 case in chief, so I'm just wanting to let you know, do not do
11 that.

12 THE WITNESS: Yes.

13 THE COURT: The other testimony I imagine would be
14 with regards to other information that you learned based on
15 your training and experience from what I looked at in the
16 search warrant, indicating from reading it, was that where he
17 was living, close in proximity to the vehicle, what you've
18 just testified about the gunshot going off, felt that there
19 was somebody that was distracting you from that area. That's
20 your belief and training, that they would keep items of -- you
21 know, somebody trafficking in a controlled substance would
22 keep guns or drugs at their home, or wherever they're heading,
23 and whatever information you have additional. That's what I
24 read in the search warrant application.

25 THE WITNESS: Yes.

ROUGH DRAFT TRANSCRIPT

RA 0216

1 THE COURT: Okay. All right. Mr. Dickerson, is
2 there anything else that you need to add at this point, or Mr.
3 Frizzell?

4 MR. DICKERSON: Nothing for the State, Your Honor.

5 MR. FRIZZELL: Well, I don't believe --

6 THE COURT: I just did this as a precautionary
7 measure so we didn't get into something where he's saying
8 something that would cause a possible mistrial.

9 MR. FRIZZELL: No. And Your Honor, I appreciate
10 that, because I was -- I was smelling that strange wind
11 myself.

12 THE COURT: Okay.

13 MR. FRIZZELL: The other thing that I had though,
14 what's currently in the box has not all been admitted,
15 correct?

16 THE COURT: Right. I believe number 6 is something
17 that -- they didn't move to admit that.

18 MR. DICKERSON: No, and we were doing that --

19 MR. FRIZZELL: Just the blue --

20 MR. DICKERSON: The blue stuff is definitely
21 admitted. The -- number 6, we didn't move for admission.

22 MR. FRIZZELL: (Inaudible) I thought you said that
23 was Viagra.

24 MR. DICKERSON: No, it's methamphetamine.

25 MR. FRIZZELL: The blue --

ROUGH DRAFT TRANSCRIPT

RA 0217

1 MR. DICKERSON: It's a combination.
2 Methamphetamine, amphetamine, and cocaine is the blue stuff.

3 THE COURT: Okay.

4 MR. DICKERSON: As far as number 6, number 6 is a
5 bunch of pills.

6 THE COURT: Oh.

7 MR. DICKERSON: And so we just figured -- and
8 although we could probably move it in as res gestae of
9 everything that was found, we were kind of just throwing them
10 a bone here and not trying, so.

11 THE COURT: Throwing them a bone? All right, so
12 either you move it in or you don't. You're not moving it in?

13 MR. DICKERSON: We're not moving it in, Your Honor.

14 THE COURT: Okay, all right.

15 MR. FRIZZELL: Okay.

16 THE COURT: So, that's fine. So, we had it marked
17 because it came out of that package.

18 MR. FRIZZELL: Okay.

19 THE COURT: All right?

20 MR. FRIZZELL: All right.

21 THE COURT: Okay, anything else?

22 MR. FRIZZELL: No, Your Honor.

23 THE COURT: All right, so ten minutes, all right,
24 Officer?

25 THE WITNESS: Yes, sir.

ROUGH DRAFT TRANSCRIPT

RA 0218

1 THE COURT: Okay.

2 THE MARSHAL: Court will be in short recess.

3 (Court recessed at 1:28 P.M. until 1:46 P.M.)

4 (In the presence of the jury)

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

6 THE COURT: Okay, we're back on the record in the
7 case of State of Nevada vs. Christopher Keller in C-312717.
8 Everyone have a seat. I'd like the record to reflect the
9 presence of the defendant and his counsel, as well as the
10 State and their counsel, all members of the jury. Will the
11 parties stipulate to the presence of the jury?

12 MR. FRIZZELL: Yes, Your Honor.

13 MR. DICKERSON: Yes, Your Honor.

14 THE COURT: Okay. Currently, we have the officer
15 still on the stand here. Officer, I want to remind you that
16 you're under oath, and -- all right. Your witness.

17 MR. DICKERSON: Thank you, Your Honor.

18 BY MR. DICKERSON:

19 Q One last item, sir, is from the vehicle, 82B5. Do
20 you recognize that?

21 A It's more meth.

22 Q Does that appear to be methamphetamine that was
23 recovered from the black pouch in the vehicle?

24 A Yes.

25 Q All right.

ROUGH DRAFT TRANSCRIPT

RA 0219

1 MR. DICKERSON: State moves for the admission of
2 82B5 as well.

3 THE COURT: Any objection?

4 MR. FRIZZELL: No objection, Your Honor.

5 THE COURT: It will be admitted.

6 (State's Exhibit 82B5 is admitted)

7 THE COURT: Okay.

8 (Pause in the proceedings)

9 BY MR. DICKERSON:

10 Q All right, sir. I'm showing you now what's been
11 marked as State's Proposed Exhibit 91, as well as 91A. Do you
12 recognize these two items, sir?

13 A Yes.

14 Q What is State's 91 -- Proposed 91?

15 A It is another envelope that was impounded under this
16 event. It has my signature and my P number on it as well.

17 Q Does that indicate anything to you?

18 A Another item that I impounded.

19 Q Okay, and what item was it that you were impounding
20 here in this envelope?

21 A This is Item number 15.

22 Q And what was that?

23 A Nevada registration.

24 Q Okay, for?

25 A For Christopher Keller.

ROUGH DRAFT TRANSCRIPT

RA 0220

1 Q All right. And now looking at the other item, 91A,
2 do you recognize that?

3 A Yes.

4 Q What do you recognize that to be?

5 A It's the registration slip.

6 Q And is that the registration that you impounded in
7 the envelope 91?

8 A Yes.

9 Q All right.

10 MR. DICKERSON: State moves for the admission of 91
11 and 91A, Your Honor.

12 THE COURT: Any objection?

13 MR. FRIZZELL: No objection.

14 THE COURT: They'll be admitted.

15 (State's Exhibits 91 and 91A are admitted)

16 MR. DICKERSON: Permission to publish, Your Honor?

17 THE COURT: Yes.

18 BY MR. DICKERSON:

19 Q You had indicated that you impounded this item, sir?

20 A Yes.

21 Q What is it?

22 A This is a registration slip.

23 Q And where was it found?

24 A Inside the vehicle.

25 Q And what does this registration slip indicate to

1 you, sir?

2 A The owner of the Dodge Stratus.

3 Q Being who?

4 A Christopher Keller.

5 Q Now, on this DMV registration slip, it appears to
6 show an address of 244 Molly Court?

7 A Yes.

8 Q Did you do any further background research to
9 determine whether there was any other DMV information?

10 A Yes.

11 Q And what did you determine?

12 A When you run the subject through DMV, you get a
13 printout of their addresses, and whether or not the driver's
14 license is valid, whether or not the vehicle is valid.

15 Q So, looking at this registration sheet, does that
16 indicate to you that the defendant owned the vehicle; the
17 Dodge Stratus that you stopped?

18 A Yes.

19 Q And doing your research through DMV, did that
20 indicate the same?

21 A Yes.

22 Q Now, did you learn any further information through
23 the DMV?

24 A Yes.

25 MR. DICKERSON: Your Honor, I have in my hand what's

ROUGH DRAFT TRANSCRIPT

RA 0222

1 been marked as State's Proposed 1, certified DMV records. At
2 this time, State's going to be moving those in with permission
3 pursuant to NRS 52.260, as well as NRS 51.155. They are
4 certified.

5 THE COURT: Any objection?

6 MR. FRIZZELL: No, Your Honor.

7 THE COURT: It'll be admitted.

8 (State's Exhibit 1 is admitted)

9 BY MR. DICKERSON:

10 Q Showing you here State's Exhibit 1, do you recognize
11 those to be certified DMV records, sir?

12 A Yes.

13 Q Three pages total?

14 A Yes.

15 Q The first two pages, what are those in relation to?

16 A It gives off the driver, their address, the driver's
17 license status.

18 Q Okay. And the third page?

19 A It's got vehicle registration, the vehicle that's
20 registered, the Dodge Stratus.

21 Q Okay.

22 MR. DICKERSON: Permission to publish, Your Honor?

23 THE COURT: Yes.

24 BY MR. DICKERSON:

25 Q The information contained in these certified DMV

1 records, does this in any way relate to what you found in your
2 own background research?

3 A Yes.

4 Q And what was it that you found?

5 A I found out that the defendant lived in the complex.

6 Q Okay. And so that Molly Court address that was on
7 the registration, that wasn't his only address?

8 A No.

9 Q Looking here at the third page of State's Exhibit 1,
10 does this indicate the same?

11 A The same address that was there?

12 Q The same information that you learned, sir.

13 A Yes.

14 Q Namely, that 2002 Dodge Stratus --

15 A Yes.

16 Q -- was registered to Christopher Robert Keller?

17 A Yes.

18 Q And had a mailing address and a physical address of
19 265 North Lamb Boulevard, Unit F?

20 A Yes.

21 Q Again, that was the same Dodge that you had stopped
22 right there at that time?

23 A Correct.

24 Q And 265 North Lamb Boulevard, was that the building
25 that that vehicle was parked in front of?

ROUGH DRAFT TRANSCRIPT

RA 0224

1 A Yes.

2 Q As well as -- were you able to run Mr. Keller's own
3 driver's license information?

4 A Yes.

5 Q And in running his information, did you also learn
6 that his driver's license came back to a physical address and
7 a mailing address of 265 North Lamb, Unit F?

8 A Yes.

9 Q So, here we are at this traffic stop, 265 North
10 Lamb. Were you able to find this Unit F?

11 A Initially, no, we were not able to find Unit F.

12 Q And why was that?

13 A Because somebody had removed the letter F off of the
14 apartment.

15 Q Was it replaced with anything?

16 A Yes.

17 Q And what was it replaced with?

18 A It was replaced with another letter, D.

19 Q Okay. So, how did you determine where Unit F was?

20 A So, I walked around the building, and I actually
21 went through the alphabet on the side of the building, and the
22 top northeast corner starts off as Unit A, then it goes to
23 Unit B, C, D, E, and then there was another D, and -- where
24 there should have been an F.

25 Q Okay. So I'm going to show you here what's been

ROUGH DRAFT TRANSCRIPT

RA 0225

1 admitted as State's Exhibit 5. Would this help you explain
2 how you found out where Unit F was?

3 A Yes. I started right here, and that's where Unit A
4 is, and then I just walked around. And there's four units on
5 this side -- or, here, I'll -- there's four units on this side
6 of the building, and there's four units on this side of the
7 building.

8 Q All right. So did you find E next to what you later
9 learned was F --

10 A Yes.

11 Q -- (inaudible)?

12 A E is down here in the far corner.

13 Q Okay. And so it was through that process that you
14 learned that Unit F was in fact right there where it is on the
15 map?

16 A Yes.

17 Q Okay. That Unit F, how close was that in relation
18 to where this vehicle stop was occurring?

19 A The car was literally right in front of Unit F -- of
20 the one that was supposed to be marked as F.

21 Q So, having found a large quantity of suspected
22 narcotics in the vehicle, as well as the gun, did you take any
23 other steps after learning this address?

24 A Yes, I did.

25 Q And what was it that you did?

ROUGH DRAFT TRANSCRIPT

RA 0226

1 A I applied for another telephonic warrant to go
2 inside the apartment.

3 Q Did that work the same way; you contacted a judge?

4 A Yes, over the phone, recorded conversation.

5 Q And you tell them what it is that you've learned and
6 found?

7 A Yes.

8 Q And you ended up doing that?

9 A Yes.

10 Q You talked to a judge?

11 A Yes.

12 Q And did a judge approve another warrant for you?

13 A Yes.

14 Q And was this warrant specifically for a condo, what
15 we determined was F, at 265 North Lamb Boulevard?

16 A Yes.

17 Q And at that time, were you able to make entry into
18 Unit F?

19 A Yes.

20 Q How was it that you made entry?

21 A With the key from the defendant's keychain.

22 Q Okay. The same one that was used to start the --
23 the same keychain that was used to start the Dodge Stratus?

24 A Yes, within the same keys.

25 Q Okay, and the same keys that were also used to open

ROUGH DRAFT TRANSCRIPT

RA 0227

1 the trunk of the Dodge Stratus?

2 A Yes.

3 Q So, you make entry into this Unit F. What do you
4 see is the layout of Unit F?

5 A Unit F, when you walk in, you walk in, you're in the
6 living room. It's a single-bedroom unit. There -- the only
7 bedroom is immediately to your right. If you walk in, you
8 have a very small living room, very small dining room area,
9 and at the -- if you keep going straight, on the far corner if
10 you keep going straight is the little kitchenette set.

11 Q Okay. Who was it that assisted you with service of
12 this search warrant?

13 A I had a couple detectives and a couple officers.

14 Q Officer Huff being one of them?

15 A Yes.

16 Q What was Officer Huff's job there?

17 A Officer Huff -- I believe he was taking pictures, he
18 was helping out where he could.

19 Q Okay. Is that normal for like CSA type, someone to
20 take pictures during a search warrant?

21 A The majority of the time, we like to have ID techs
22 to do it.

23 Q And Officer Huff is a police officer?

24 A Yes, he is.

25 Q So, his assigned duty (indecipherable) search

ROUGH DRAFT TRANSCRIPT

RA 0228

1 warrant was pictures?

2 A Yes, more or less.

3 Q Detective Belmont, was he also assisting?

4 A Yes.

5 Q And Detective Embry?

6 A Yes.

7 Q And what were they doing?

8 A They were helping to search the apartment.

9 Q Were you basically the lead on this search warrant?

10 A Yes.

11 Q So, upon making entry into this unit, Unit F, what
12 do you do?

13 A We conduct a methodological search of the apartment.

14 Q And did you find anything of interest inside the
15 apartment?

16 A Yes.

17 Q What, if anything, did you find?

18 A We found numerous scales, more suspected meth, more
19 suspected narcotics. We ended up finding another firearm. We
20 found a lot of TVs, a lot of purses, a large jar of what we
21 suspected was marijuana at the time.

22 Q Okay. Did you find anything to indicate that the
23 defendant lived at that address?

24 A Yes.

25 Q What -- what did you find?

ROUGH DRAFT TRANSCRIPT

RA 0229

1 A We found a pay stub --

2 Q Okay.

3 A -- with his name and that address on the pay stub.

4 Q And did you find anything else to indicate that
5 there was anybody else living at this address?

6 A There was nobody else's clothes or anything like
7 that, no.

8 Q So what were the clothes that you found there?

9 A It was just clothes that were consistent with what a
10 male would typically wear.

11 Q Okay. Were they consistent with what the defendant
12 was wearing that night?

13 A Yes.

14 Q And specifically, the purses that you mentioned --

15 MR. FRIZZELL: Objection, that assumes facts not in
16 evidence as far as the clothing.

17 THE COURT: What's that?

18 MR. FRIZZELL: As far as the clothing, that assumes
19 facts that are not in evidence, are they consistent with what
20 he was wearing that night.

21 MR. DICKERSON: In fact, Your Honor, I believe we
22 entered into a stipulation that defense counsel was
23 stipulating that the shoes the defendant was wearing were
24 consistent with the shoes found in the apartment.

25 MR. FRIZZELL: I --

1 THE COURT: Could you approach? Approach.

2 (Off-record bench conference)

3 THE COURT: Mr. Frizzell, I'm going to overrule the
4 objection. Go ahead, Mr. Dickerson.

5 MR. DICKERSON: Thank you, Your Honor.

6 BY MR. DICKERSON:

7 Q The clothing that you saw inside the apartment --

8 A Yes.

9 Q -- you said it was similar to what the defendant was
10 wearing that night?

11 A Yes.

12 Q How was it similar?

13 A Same type, same style.

14 Q Same style clothing?

15 A Yes.

16 Q So, you said there was also purses in there?

17 A Yes.

18 Q What was the significance of those purses?

19 A The purses were -- it was -- they were all together,
20 and they were basically with the other items that were also
21 stacked up. There was numerous TVs that were stacked up,
22 there were also numerous other items.

23 Q And where were those items located?

24 A In the living room area/dining room.

25 Q Okay. And this is how many bedrooms in this

ROUGH DRAFT TRANSCRIPT

RA 0231

1 apartment?

2 A It's just a one-bedroom unit.

3 Q Okay. So, no women's clothes that you saw?

4 A No women's clothes.

5 Q And did you have occasion to look in the bathroom?

6 A Yes.

7 Q And what did you find in the bathroom?

8 A Just simple toiletries, nothing that would suggest
9 that a woman lived there.

10 Q Makeup?

11 A No makeup.

12 Q Okay. Did you find anything else in the bathroom?

13 A Not that I can recall of significance.

14 Q Did anybody happen to search under the sink?

15 A Yes, I did.

16 Q And what, if anything, was found under the sink?

17 A I located a lot of insulation underneath the sink,
18 and when I moved the insulation, I could tell that there was a
19 large hole that had been cut into the wall underneath the
20 sink.

21 Q And what did it appear that this hole went to?

22 A This hole went into the adjacent unit that was next
23 to it.

24 Q Were you able to determine whether that unit was
25 occupied?

ROUGH DRAFT TRANSCRIPT

RA 0232

1 A It was a vacant unit --

2 Q Okay.

3 A -- that was next-door to it.

4 Q And so how big was this hole?

5 A It was big enough for a person to crawl through, but

6 not big enough for me to crawl through with all my gear.

7 Q And your gear you're referring to is what?

8 A I have body armor, I have a (indecipherable) that

9 has all my tools, my firearm, my handcuffs, all that stuff is

10 on my duty belt.

11 Q And so you figure if you didn't have that on --

12 A If I didn't have all that on and I had some loose

13 clothes, I could fit through the hole.

14 Q Okay. And so what was your job doing the service of

15 this search warrant, sir?

16 A I had a large notepad, and I was basically --

17 whenever somebody found something of significance, I would

18 write down the stuff that was being found.

19 Q So, as an item's found, what happens?

20 A Item found, a detective will call me over, they'll

21 point it out, they'll tell me what they -- what it appears to

22 be. I'll write it down, and write down who found out. Then

23 ID would ID, or in this case, Officer Huff will come over

24 there and take a picture of the item that's being found.

25 Q Okay. And so you specifically also found some

ROUGH DRAFT TRANSCRIPT

RA 0233

1 items; isn't that right?

2 A Yes.

3 Q You'd indicated some scales?

4 A Yes.

5 Q Did you find them?

6 A Yes. They were basically out in the open --

7 Q Okay.

8 A -- in the bedroom.

9 Q And you said there was also a (indecipherable)?

10 A Yes.

11 Q Was there any ammunition?

12 A Yes, there was ammunition recovered as well.

13 Q Who found that?

14 A I don't recall off the top of my head, but it was a
15 detective.

16 Q Who would have impounded it?

17 A I impounded everything.

18 Q And you would have been called over (indecipherable)
19 items that were found in the house?

20 A Yes.

21 Q Showing you here what's been marked as State's
22 Proposed 86, an item that's also been opened by the Court, do
23 you recognize this item, State's Proposed 86?

24 A Yes. It's this event number, it has my signature on
25 it, it also has my P number, initials, and it has Item 5 and

ROUGH DRAFT TRANSCRIPT

RA 0234

1 Item 6 in it.

2 Q Okay. So, do you recognize this as items that you
3 impounded as part of this case?

4 A Yes.

5 MR. DICKERSON: State moves for the admission of 86,
6 Your Honor.

7 THE COURT: Any objection?

8 MR. FRIZZELL: If I may approach, just to --

9 THE COURT: Mr. Frizzell, come on.

10 (Pause in the proceedings)

11 MR. FRIZZELL: No, Your Honor. No objection.

12 THE COURT: All right, 86 will be admitted.

13 (State's Exhibit 86 is admitted)

14 BY MR. DICKERSON:

15 Q First looking at one piece of the contents, 86A. Do
16 you recognize that?

17 A Yes.

18 Q What do you recognize that to be, sir?

19 A It's a box of ammunition.

20 Q Okay. And was that ammunition recovered by you
21 during this search warrant?

22 A Yes.

23 MR. DICKERSON: State moves for the admission of
24 86A, Your Honor.

25 THE COURT: Any objection?

ROUGH DRAFT TRANSCRIPT

RA 0235

1 MR. FRIZZELL: No, Your Honor.

2 THE COURT: It will be admitted.

3 (State's Exhibit 86A is admitted)

4 MR. DICKERSON: Thank you, Your Honor.

5 BY MR. DICKERSON:

6 Q What kind of ammunition was that?

7 A .9 millimeter.

8 Q And does that match any of the weapons that were
9 found?

10 A Yes.

11 Q Which one?

12 A That's the firearm that was found inside the -- the
13 unit.

14 Q Okay. Specifically, a .9 millimeter?

15 MR. FRIZZELL: I'm sorry, inside the what?

16 THE WITNESS: The unit, the apartment. It's set up
17 like an apartment, but I think it's --

18 MR. DICKERSON: It's fine.

19 MR. FRIZZELL: Okay.

20 MR. DICKERSON: I'm the one asking questions, don't
21 worry.

22 MR. FRIZZELL: Okay.

23 BY MR. DICKERSON:

24 Q So it was an item found inside the apartment?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0236

1 Q And that was a gun?

2 A Yes.

3 Q And you indicated that it fits .9 millimeter
4 bullets?

5 A Yes.

6 Q What kind of gun was it?

7 A I don't recall off the top of my head.

8 Q Do you recall if it was a rifle or a handgun?

9 A That was a semi-auto handgun.

10 Q Okay. .9 millimeter semi-auto handgun?

11 A Yes.

12 Q And there were -- the scales that you spoke of, I'm
13 going to have you now look at State's Proposed 86 B through E.
14 Do you recognize these items, sir?

15 A Yes.

16 Q And what do you recognize those to be?

17 A They are scales that were located inside the
18 apartment.

19 Q If you could hold them up one by one. Or, I'm
20 sorry. Stop, please. So, you located these items?

21 A Yes.

22 Q And you impounded them as part of the bag 86?

23 A Yes.

24 MR. DICKERSON: State moves for the admission of 86B
25 through E, Your Honor.

ROUGH DRAFT TRANSCRIPT

RA 0237

1 THE COURT: Any objection?

2 MR. FRIZZELL: No objection, Your Honor.

3 THE COURT: All right, it'd be admitted.

4 (State's Exhibits 86B through 86E are admitted)

5 BY MR. DICKERSON:

6 Q These scales -- if you could hold up 86B. And 86C.
7 Are you familiar with these type of scales?

8 A Yes.

9 Q How are you familiar with these type of scales?

10 A I commonly come across them when dealing with
11 narcotic stops.

12 Q Okay. Is there anything that you believe these
13 scales are used for?

14 A I believe these scales are used for controlled
15 substance or narcotics.

16 Q Okay. To weigh narcotics?

17 A Yes.

18 Q The other two scales, would you hold those up,
19 please? And the one in your right hand is what?

20 A The one in my right hand is 86D.

21 Q And the one in your left hand?

22 A Is 86E.

23 Q Okay. Those are a little bigger scales?

24 A These are larger scales.

25 Q And what are those scales used for?

ROUGH DRAFT TRANSCRIPT

RA 0238

1 A Commonly, they're used for kitchen stuff.

2 Q Okay. In this case, were they found in the kitchen?

3 A No.

4 Q Where were they found?

5 A These were all found inside the bedroom of the
6 apartment.

7 Q Okay. Is there any specific measurement that we'd
8 be looking for on those type of scales?

9 A Grams.

10 Q Grams? Is that generally how drugs are weighed?

11 A Yes.

12 Q And dealt?

13 A Yes.

14 (Pause in the proceedings)

15 BY MR. DICKERSON:

16 Q And you indicated there was also a suspected
17 controlled substance found in the home?

18 A Yes.

19 Q And you impounded that controlled substance?

20 A Yes.

21 Q Showing you now first what's been marked as State's
22 Proposed 90. Do you recognize that?

23 A Yes.

24 MR. FRIZZELL: Your Honor, can I come up there again
25 for the -- just to go through it?

ROUGH DRAFT TRANSCRIPT

RA 0239

1 THE COURT: Yes.

2 MR. FRIZZELL: Thanks.

3 BY MR. DICKERSON:

4 Q And 90A, B, C, and D, do you recognize those items?

5 A Yes.

6 Q How is it that you recognize 90?

7 A It's got the event number from this event, it has my
8 signature, it has my P number, it indicates Items 9 through
9 11.

10 Q Okay, so would these all be items that you
11 impounded, 9 through 11?

12 A Yes.

13 Q And this particular bag is a bag that you impounded?

14 A Yes.

15 Q 98A through D, how is it that you recognize those
16 items?

17 A These are the items that were inside the apartment.

18 Q Okay. And were those items impounded in bag 90?

19 A Yes.

20 Q Okay.

21 MR. DICKERSON: State moves for the admission of 90,
22 90A, 90B, 90C, and 90D, Your Honor.

23 MR. FRIZZELL: No objection, Your Honor.

24 THE COURT: Okay, they'll all be admitted.

25 (State's Exhibits 90, 90A, 90B, 90C, and 90D are admitted)

ROUGH DRAFT TRANSCRIPT

RA 0240

1 BY MR. DICKERSON:

2 Q And specifically, the impounds there where what kind
3 of additional controlled substances?

4 A More heroin, more meth.

5 Q And those items were items that you found?

6 A Yes.

7 Q And where did you find those?

8 A They were -- two of them were on top of scales,
9 actually in the bedroom, and the other two items were right
10 there next to the scales in the bedroom.

11 Q The scales that we just looked at?

12 A Yes.

13 Q So, the controlled substances were actually on top
14 of the scales when you found them?

15 A There was two that actually had controlled substance
16 still on the scales.

17 Q Okay. And then, that's what you subsequently
18 impounded here?

19 A Yes.

20 MR. DICKERSON: If I could get 92.

21 BY MR. DICKERSON:

22 Q Showing you State's Proposed 92 and 92A, tell me if
23 you recognize those items.

24 A It's got this event number on it, it has my
25 signature and my P number on it. It indicates Item number 7,

1 which is a pay stub for Christopher Keller.

2 Q Okay, and 92A? Pull it out.

3 A It is the pay stub for Christopher Keller.

4 Q Do you recognize both these items as items you
5 impounded from the home during the search warrant?

6 A Yes.

7 MR. DICKERSON: State moves for the admission of 92
8 and 92A.

9 THE COURT: Any objection?

10 MR. FRIZZELL: No, Your Honor.

11 THE COURT: Be admitted.

12 (State's Exhibits 92 and 92A are admitted)

13 MR. DICKERSON: Thank you very much. Permission to
14 publish, Your Honor?

15 THE COURT: Yes.

16 BY MR. DICKERSON:

17 Q This is the pay stub that we were just speaking
18 about?

19 A Yes.

20 Q That indicates it's to Christopher Keller?

21 A Yes.

22 Q At 265 North Lamb Boulevard?

23 A Yes.

24 Q And it says -- indicates the pay date is 11/27/15;
25 is that right?

1 A Yes.

2 Q And it also indicates earnings was \$4,368?

3 A Yes.

4 (Pause in the proceedings)

5 MR. DICKERSON: Now, I have in my hand what's been
6 marked as State's Proposed Exhibit 2, which is a certified
7 copy from the Clark County Recorder's Office. This is also
8 being proposed to be moved in at this time under NRS 52.260
9 and 51.155 as a public record, and a certified record at that,
10 Your Honor.

11 THE COURT: Mr. Frizzell, do you have any objection
12 to that being admitted?

13 MR. DICKERSON: No, Your Honor. Sorry.

14 THE COURT: It'll be admitted.

15 (State's Exhibit 2 is admitted)

16 MR. DICKERSON: Thank you, Your Honor.

17 BY MR. DICKERSON:

18 Q Did you come to learn of any Clark County Recorder's
19 records associated with this case?

20 A Yes.

21 Q And specifically here, what's been marked and
22 admitted as State's Exhibit 2, this is a Clark County Recorder
23 record, as you see it?

24 A Yes.

25 Q Does this appear to be deeding that property at 265

1 North Lamb, Unit F to Christopher Keller?

2 A Yes.

3 Q Is that indicated up here on the left?

4 A Yes.

5 Q And that is dated as of December 2014 on the top
6 right; is that right, sir?

7 A Yes.

8 MR. DICKERSON: Can I get 88, ma'am?

9 BY MR. DICKERSON:

10 Q Sir, you indicated that there was a .9 millimeter
11 firearm found inside the residence?

12 A Yes.

13 Q And where was that found?

14 A It was in the bedroom closet on the floor.

15 Q Okay. Showing you now what's been marked as State's
16 Proposed 88, do you recognize that?

17 A Yes.

18 Q And how do you recognize it?

19 A It's got my signature on it, my P number, it's from
20 this event, and it says, "Item 1, semi-auto firearm."

21 Q And is that an evidence tag you're speaking of?

22 A Yes.

23 Q Would this be an evidence tag indicating that you've
24 impounded this firearm?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0244

1 Q When you put the evidence tag on, did it seal this
2 box?

3 A Yes.

4 Q Is this a particular box that the police department
5 provides?

6 A No.

7 Q Okay.

8 MR. DICKERSON: State moves for the admission of 88,
9 Your Honor.

10 MR. FRIZZELL: No objection.

11 THE COURT: Be admitted.

12 (State's Exhibit 88 is admitted)

13 BY MR. DICKERSON:

14 Q This box here is what, sir?

15 A It's a gun case.

16 Q Okay. Where was this gun case found?

17 A It was in the closet.

18 Q Okay. And was there anything in that gun case?

19 A Yes.

20 Q Now, opening that gun case, I'm showing you what's
21 been marked as Proposed 88A and 88B. Do you recognize those
22 items, sir?

23 A Yes.

24 Q And how do you recognize those?

25 A That's the firearm that we found in the closet.

ROUGH DRAFT TRANSCRIPT

RA 0245

1 Q Okay. Is that the firearm that you impounded as
2 part of what is now marked and admitted as 88, the gun box?

3 A Yes.

4 MR. DICKERSON: State moves for the admission of 88A
5 and 88B.

6 MR. FRIZZELL: No objection.

7 THE COURT: They'll both be admitted.

8 (State's Exhibits 88A and 88B are admitted)

9 BY MR. DICKERSON:

10 Q And that is in fact the .9 millimeter firearm?

11 A Yes.

12 Q You indicated there was also some marijuana found?

13 A Yes.

14 Q Showing you now what's been marked as State's
15 Proposed 87. This one is still sealed, sir. If you could
16 please indicate if you recognize State's Proposed 87.

17 A Yes. It has my signature on it, my P number. It's
18 the event from this, and it says, Item number 4, last jar with
19 ODV-positive marijuana. 188.4 grams in that.

20 Q All right. And this red tag that we've seen on the
21 other bags, what is that?

22 A That's the evidence seal tag that I put my P number
23 on and the date on.

24 Q Okay, and you seal this when you impound it?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0246

1 Q And the blue tape here, are you familiar with that?

2 A Yes.

3 Q Is that something you put on?

4 A No.

5 Q Who would have put that on?

6 A The lab.

7 Q Okay. You -- is there a P number indicated on there
8 as well?

9 A Yes, there is.

10 Q So would that indicate another Metro employee?

11 A Yes.

12 MR. DICKERSON: Specifically -- may I move for the
13 admission of State's 87 and its contents?

14 THE COURT: Any objection?

15 MR. FRIZZELL: No, Your Honor.

16 THE COURT: Be admitted.

17 (State's Exhibit 87 and contents are admitted)

18 BY MR. DICKERSON:

19 Q What is it that's contained in State's 87?

20 A Marijuana.

21 Q Okay, and how much marijuana?

22 A A lot.

23 Q Was it ODV-tested, sir?

24 A Yes, it was ODV-tested.

25 Q And what did you indicate when you impounded it on

1 the ODV test?

2 A That it was positive for marijuana.

3 Q And how many grams?

4 A 188.4 grams (indecipherable).

5 Q Okay. And what is it that we have in here?

6 A It's the marijuana, and it's in a glass jar.

7 Q Okay. Is it -- is the glass jar the size of this
8 bag?

9 A Yes.

10 Q And is that glass jar full of marijuana?

11 A Yes.

12 Q And also showing you -- now, you indicated there was
13 some glass pipes found?

14 A Yes.

15 Q Showing you what's been marked as State's Proposed
16 85, another sealed bag.

17 A Yes.

18 Q Do you recognize it?

19 A Yes. It has the event --

20 MR. FRIZZELL: Objection, Your Honor. Can we
21 approach?

22 THE COURT: Yes.

23 (Off-record bench conference)

24 BY MR. DICKERSON:

25 Q Do you recognize this item, sir, State's Proposed

1 85?

2 A Yes.

3 THE COURT: Mr. Dickerson, for the record, I'm going
4 to overrule your objection at this time. Mr. Frizzell, I
5 understand your objection. I'll make a record later, okay?

6 MR. FRIZZELL: That's fine, Your Honor. Thank you
7 so much.

8 THE COURT: All right, go ahead.

9 BY MR. DICKERSON:

10 Q What do you recognize it to be?

11 A It's glass smoking pipes.

12 Q Okay, and is this an item that you impounded?

13 A Yes.

14 Q As part of this case?

15 A Yes.

16 Q From the search warrant on the residence at 265
17 North Lamb Boulevard, Unit F?

18 A Yes.

19 MR. DICKERSON: State moves for the admission of
20 State's Proposed 85 and its contents, Your Honor.

21 THE COURT: Understanding your objection, Mr.
22 Frizzell, I'm going to overrule your objection and admit it,
23 okay?

24 (State's Exhibit 85, and contents, is admitted)

25 MR. DICKERSON: You said that --

ROUGH DRAFT TRANSCRIPT

RA 0249

1 MR. FRIZZELL: Now, well, hold on, hold on, because
2 if you're going to allow me to make a record on it --

3 THE COURT: I already did. You've made your record
4 here. I'm going to allow you to make a record, because we
5 were on the -- we were closed off when you were talking to the
6 Court. I told you what my ruling would be, and that's why I'm
7 allowing him to go forward with this now.

8 MR. FRIZZELL: Okay.

9 THE COURT: All right? Okay. Admitted.

10 BY MR. DICKERSON:

11 Q You indicated the contents of this bag is glass
12 smoking pipes?

13 A Yes.

14 Q How many glass smoking pipes?

15 A Five.

16 Q Are these used or new glass smoking pipes?

17 A They're used.

18 Q They're all used?

19 A Yes.

20 MR. FRIZZELL: Your Honor, can we approach?

21 THE COURT: Yes.

22 (Off-record bench conference)

23 BY MR. DICKERSON:

24 Q Did you also find new smoking pipes?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0250

1 Q And how many?

2 A There was a lot.

3 Q Unused?

4 A Not -- yeah, there was not -- used and not used
5 pipes that were found in the apartment.

6 Q And when you say unused pipes, smoking pipes, what
7 kind of smoking pipes are we talking about?

8 A These are smoking pipes that are commonly used to
9 introduce a controlled substance into the human body.

10 Q And what do these type of smoking pipes look like?

11 A Typically, they're the glass, clear smoking pipe.

12 Q I imagine that many members of the jury don't have
13 an idea of what that looks like; glass, clear. That kind of
14 describes it, but does it have a particular shape?

15 A So it's got a round ball on the end, basically, and
16 basically a stem that comes from it, and you heat up the ball
17 end and inhale from the stem end.

18 Q You said you found numerous unused pipes?

19 A Yes, there was both.

20 THE COURT: Mr. Dickerson, do you have anything
21 else?

22 MR. DICKERSON: Court's brief indulgence. I'm -- if
23 I could get 89 and -- just two more items, sir.

24 BY MR. DICKERSON:

25 Q State's Proposed 89. Do you recognize this?

1 A Yes. This is the event number from the incident, it
2 has my signature, my P number on it, and indicates Item number
3 2.

4 Q Okay. Would this be an item that you impound as
5 part of the search warrant on Mr. Keller's residence?

6 A Yes.

7 Q The contents of this bag being what, sir?

8 A Ammunition.

9 MR. DICKERSON: State moves for the admission of 89.

10 THE COURT: Any objection?

11 MR. FRIZZELL: Oh, no.

12 (State's Exhibit 89 is admitted)

13 BY MR. DICKERSON:

14 Q And 89A, sir, what is contained here in State's
15 Proposed 89?

16 A .22 rounds for -- they're small .22s.

17 Q .22 caliber ammunition?

18 A .22 caliber ammunition.

19 Q And how is that related, if at all, to State's 89?

20 A To State's 89?

21 Q To the bag you just --

22 A To the bag? These were the items that were
23 impounded in this bag.

24 Q Okay.

25 MR. DICKERSON: State moves for the admission of

ROUGH DRAFT TRANSCRIPT

RA 0252

1 State's 89A.

2 THE COURT: Any objection?

3 MR. FRIZZELL: No, Your Honor.

4 THE COURT: It'd be admitted.

5 (State's Exhibit 89A is admitted)

6 BY MR. DICKERSON:

7 Q Specifically, this ammunition was found during the
8 search warrant?

9 A Yes.

10 Q And you impounded it?

11 A Yes.

12 Q And that's Remington .22 caliber ammunition?

13 A Yes.

14 Q Now, looking to State's Proposed 83, do you
15 recognize that, sir?

16 A Yes. It has the event number on it, my signature,
17 my P number. It says, Item number 16, which is a crystal
18 substance.

19 Q Okay, and inside is 83A. Do you recognize that?

20 A Yes.

21 Q How do you recognize that?

22 A This was the item that was removed off of --

23 Q Was it impounded as part of this, sir?

24 A Yes.

25 Q Was that the contents of 83?

ROUGH DRAFT TRANSCRIPT

RA 0253

1 A Yes.

2 MR. DICKERSON: State moves for the admission of 83
3 and 83A, Your Honor.

4 THE COURT: Any objection?

5 MR. FRIZZELL: No, Your Honor.

6 THE COURT: Be admitted.

7 (State's Exhibits 83 and 83A are admitted)

8 MR. DICKERSON: State will pass the witness.

9 THE COURT: Cross?

10 MR. FRIZZELL: Yes, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. FRIZZELL:

13 Q Officer Lopez, I know it's been a long day, but I'm
14 going to ask you to kind of go back to the beginning of your
15 testimony, and we're going to kind of go through it a little
16 bit chronologically here, so -- so we'll try and keep things
17 in order so we don't get confused. Now, initially -- and I
18 think it's State's admitted 4.

19 MR. FRIZZELL: State's 4, I'm sorry.

20 THE CLERK: It's going to be in that little folder
21 right there.

22 MR. FRIZZELL: Actually, I was incorrect. I'm going
23 to start with State's 3.

24 BY MR. FRIZZELL:

25 Q And I believe that you indicated initially that my

ROUGH DRAFT TRANSCRIPT

RA 0254

1 client was proceeding northbound on Lamb; is that -- is that
2 correct?

3 A Yes.

4 Q This being Lamb Boulevard where my pen is?

5 A Yes.

6 Q Okay. And he wasn't speeding, correct?

7 A I don't know what his exact speed was.

8 Q Okay. Do you know what the speed limit is there on
9 North Lamb?

10 A Yes.

11 Q What is that?

12 A It's 45.

13 Q Okay. Did you have any reason to believe he was
14 exceeding 45 miles an hour when you first --

15 A No.

16 Q -- came in contact?

17 A I don't have a definite speed.

18 Q Okay. And I believe you said -- I believe you said
19 that from where you first saw him here at Sunrise --

20 THE COURT: Why don't you move it up a little bit?

21 MR. FRIZZELL: Oh, I apologize.

22 THE COURT: There you go.

23 MR. FRIZZELL: It's always opposite. Messes me up.

24 Okay.

25 BY MR. FRIZZELL:

ROUGH DRAFT TRANSCRIPT

RA 0255

1 Q You said from this Sunrise to where he turned here
2 on this little side street that goes into the complex --

3 A Yes.

4 Q -- was you said about 200 feet?

5 A It's greater than 200 feet.

6 Q Well, did you -- did you have an occasion to measure
7 that, or were you just estimating when you -- when you say
8 that?

9 A Estimating.

10 Q Okay. So greater than 200, but was it -- was it 500
11 feet, 400?

12 A It was -- I would say it's probably greater than 500
13 feet, too.

14 Q Okay. Do you recall your testimony about -- that it
15 was 300 feet? Would that be fair?

16 A I believe so.

17 Q That would be fair? Okay. So you're -- you
18 initially make contact -- you're passing him, correct? You're
19 going --

20 A Yes.

21 Q -- southbound, he's going northbound?

22 A Yes.

23 Q Okay. Approximately how fast are you traveling at
24 that point?

25 A I'm not traveling very fast. I'm actually slowing

ROUGH DRAFT TRANSCRIPT

RA 0256

1 down because I saw the vehicle come out off of Sunrise.

2 Q Okay, but you saw him turn to come toward you,
3 correct?

4 A Yeah, I turned -- saw him turn to make his left turn
5 to go northbound. And as I saw him coming out, he was coming
6 out at a fast speed, and from a stop sign, so I knew that he
7 was going at a high rate of speed.

8 Q Okay, but you -- you -- you couldn't estimate how
9 fast you anticipated he was going?

10 A I don't know --

11 Q Okay.

12 A -- the exact speed he was going.

13 Q All right. Now, you say he turned and he went into
14 a -- he was in a turn lane; is that what I recall you saying?

15 A It's the center turn lane.

16 Q Okay. So for -- did he immediately turn from
17 Sunrise and go right into that lane, or did he go into a
18 travel lane and then into the turn lane?

19 A No, he went straight into the center turn lane.

20 Q Okay. So, straightaway, he turns here, left turn
21 Sunrise onto North Lamb, and he's headed in basically what I'm
22 pointing, the center of the road, correct?

23 A Yes.

24 Q Okay. And you say that distance is roughly 300
25 feet?

ROUGH DRAFT TRANSCRIPT

RA 0257

1 A Yes.

2 Q So it's not illegal at that point to be driving in
3 that center turn lane when you're going to turn?

4 A Yes, it is.

5 Q It is?

6 A Yes.

7 Q Now, were these -- were these apartments where you
8 saw him turn into?

9 A They are -- they used to be apartments. I believe
10 they're now townhomes or something of that nature.

11 Q So like condos? In other words, you could buy the
12 unit as opposed to --

13 A Yes.

14 Q Okay. And you testified you didn't put -- you
15 didn't -- you said he was -- approximately how much time would
16 you say passed from when you -- I guess, first, point out on
17 here where you first -- where you turned around; when you made
18 contact and you turned around to follow him.

19 A I turned around about here.

20 Q Okay, so roughly about halfway between Sunrise and
21 the turn-in to the townhomes?

22 A Yes.

23 Q Roughly about halfway? So if we're saying -- if
24 we're saying that that stretch is approximately 300 feet,
25 you're talking about 150 feet then, if we're roughly in the

ROUGH DRAFT TRANSCRIPT

RA 0258

1 middle?

2 A Yes.

3 Q And I'm estimating. I'm not asking you to get
4 pinned down on that. So, you testified earlier that he's --
5 he's -- you -- since he was trying to -- trying to cause
6 distance to be made between the two of you, after you turn
7 around at 150 feet, he's -- he's got to be almost turning into
8 the complex, correct?

9 A I -- I don't understand.

10 Q In other words -- in other words, he's traveling
11 northbound on North Lamb here, and roughly halfway in between
12 Sunrise and the entrance into the complex is when you say you
13 turned around to follow him, correct?

14 A Yes.

15 Q And he had passed you at that point, correct?

16 A Yes.

17 Q And you -- your testimony is you can't say that he
18 was speeding, correct?

19 A Correct.

20 Q So it would have been very easy for him to have
21 passed you and gotten to that point before you were able to
22 make your u-turn, correct?

23 A No, I was -- I was with him.

24 Q Okay, so did you -- did you make -- did you make a -
25 - just a u-turn, or did you actually fishtail the car to turn

ROUGH DRAFT TRANSCRIPT

RA 0259

1 around and get him?

2 A Just made a u-turn.

3 Q Okay, so how many seconds would you think passed
4 there? 3, 4, 5 to make the u-turn?

5 A A couple seconds.

6 Q Okay. So even if he's going 45, and there's 150
7 feet after you've -- after you've turned to get -- to follow
8 him, it would have been nothing for him to -- because you
9 didn't have your lights and siren on, correct?

10 A Correct.

11 Q Okay. So he had no reason to think that you were
12 after him, correct, or following him?

13 A I believe that he thought I was after him. He saw
14 me make the u-turn.

15 Q And what time of night was this?

16 A It was around 2:00 A.M.

17 Q Okay, so it's dark, correct?

18 A Yes.

19 Q And this -- this area -- are there streetlights on
20 the road?

21 A Yes.

22 Q On this road, North Lamb?

23 A Yes.

24 Q And so you're telling me that you saw him turn his
25 head and look at you as you were making a u-turn?

ROUGH DRAFT TRANSCRIPT

RA 0260

1 A We basically passed right past each other, and I
2 made the u-turn to conduct the records check on the vehicle.

3 Q Okay, but you say he saw you?

4 A He saw me.

5 Q Okay. All right, so he pulls into the complex and
6 goes back to what we've marked back here as the 265 North
7 Lamb, Unit F, correct, where we've got the red arrow roughly?

8 A Yes.

9 Q Okay, I'm going to switch to a little bit closer
10 shot here, which is actually State's admitted 5. Okay. So
11 you see where we have the F; that's where you said that you
12 pulled in?

13 A Yes.

14 Q Correct? Okay. He had just -- Mr. Keller's vehicle
15 had just pulled into an area roughly where again? If you'd
16 just tap it.

17 A Pulled in right about there.

18 Q Okay. So do you see the light light-colored strip
19 that's on top of the one awning there?

20 A Yes.

21 Q Right here where my pen is in front of that -- I
22 guess what would have been down diagonal a little bit from
23 Unit F, where my pen is.

24 A Yes.

25 Q So he was -- he was a few -- he was a few spaces --

ROUGH DRAFT TRANSCRIPT

RA 0261

1 as we look at this picture, a few spaces down towards the
2 bottom of the picture, away from that -- away from that
3 lighter-colored strip, correct?

4 A Correct.

5 Q Okay. Now, you pull in. How did you -- did you
6 pull in parallel behind him? Or excuse me, end-in behind him,
7 or did you t-bone park your car behind his?

8 A I pulled in. My car was at an angle to his -- to
9 his car.

10 Q Okay. All right, and so then you turn on your
11 lights and siren after you're stopped at an angle directly
12 behind his car?

13 A No. I turn on my lights as we're making this last
14 little turn into this parking cul-de-sac.

15 Q Okay. So can you mark roughly where you put on your
16 lights and siren?

17 A About there.

18 Q Okay, so it would be right before you would have
19 made a right turn?

20 A Yes.

21 Q Okay. When you activated your lights and siren, was
22 Mr. Keller's vehicle parked at that time yet, or not?

23 A No, his car was still moving.

24 Q Okay. And then he pulled in -- then he pulled in,
25 and you followed him and parked angular behind him?

ROUGH DRAFT TRANSCRIPT

RA 0262

1 A Correct.

2 Q Okay. Now, you say his taillight was broken, is I
3 believe what your testimony was. The right taillight was
4 broken?

5 A Yes.

6 Q Broken meaning it didn't operate, or it didn't
7 illuminate bright, or what -- define broken, please.

8 A It was not operating correctly.

9 Q So it was operating, it just was not operating
10 correctly; is that what we understand?

11 A Yes.

12 Q Okay. When you say that, does that mean that it was
13 illuminated?

14 A The light was on, but there was white light coming
15 from the rear tail lamp.

16 Q Okay. Would that be -- so like -- like what we
17 might know as a backup light?

18 A No, it's -- it's -- it's -- on this particular car,
19 the backup lights are actually a lot lower than -- than what
20 he has on the -- on the vehicle. So there's an opening on the
21 tail lamp that he put on the car that allows light from the
22 tail lamp itself to come out as white, and not the red color
23 that it needs to be for the tail lamp.

24 Q So what you're saying is maybe there was a -- there
25 was a gap; is that what you're saying? There was a gap in the

ROUGH DRAFT TRANSCRIPT

RA 0263

1 -- in the actual light that went into the socket area?

2 A There was an opening in the lens cover that allowed
3 the light to come out as clear white.

4 Q Okay, but so -- but the light was working?

5 A The light was working.

6 Q And it was illuminated?

7 A Yes.

8 Q Okay. Could you notice, was there even a brake
9 light on when he stopped?

10 A Yes.

11 Q All right. So then he -- you say at that point, he
12 exits the vehicle?

13 A Yes.

14 Q And you say you immediately exit your vehicle?

15 A Yes.

16 Q But he didn't -- but he didn't run away?

17 A He didn't get away.

18 Q You say he walked to the front of his vehicle, was
19 your testimony?

20 A No. He didn't walk --

21 Q Where did he --

22 A He got out of his car and ran towards the back of
23 his vehicle.

24 Q Okay, so he went to the trunk?

25 A Towards the trunk.

ROUGH DRAFT TRANSCRIPT

RA 0264

1 Q Towards the trunk of his vehicle?

2 A Yes.

3 Q Okay. Okay, but it appeared to you that he was just
4 going into his trunk, correct?

5 A No. It appeared to me that he was trying to get
6 away from me.

7 Q But you -- but the keys were -- his keys were in his
8 trunk -- in the -- in the trunk lock, correct?

9 A No.

10 Q All right. So after you secure Mr. Keller and
11 you're standing outside the vehicle -- outside of his vehicle,
12 okay, did you place him in -- did you place him in handcuffs,
13 and then put him in your cruiser, and then go to the car, or
14 how did -- what was the chronology there?

15 A I walked him over to the front of my patrol vehicle,
16 I placed him in handcuffs, and that was about the time Officer
17 Henry was arriving. Then the gunshots took place. I secured
18 him in the back of my patrol vehicle, I took cover by the side
19 of the car, and then I walked over towards his door, which was
20 still open.

21 Q Okay. Now, at that point, the door was open. Was
22 there -- there was no interior light illuminated in the
23 vehicle, was there?

24 A I don't recall.

25 Q Okay. And this is at roughly 2:20 or so A.M. in the

ROUGH DRAFT TRANSCRIPT

RA 0265

1 morning?

2 A Yes.

3 Q Okay, and if there was no illumination -- you say
4 that you saw a green leafy substance on the floorboard?

5 A Yes.

6 Q Okay. What color was the -- what color was the
7 carpeting in the vehicle; do you recall?

8 A I don't recall the exact color.

9 Q Okay. Were -- were you able to, with your visible
10 eye -- well, let me back up. How far away were you from the
11 vehicle before you actually saw what you say was a green leafy
12 substance on this floorboard?

13 A Next to the driver's side door, which was open.

14 Q Okay. When you say next to, were you standing up?

15 A Standing up.

16 Q Okay. About how tall are you, Officer?

17 A I am 6'1.

18 Q Okay. And do you recall roughly how high the -- the
19 bottom of the vehicle came up on your leg where the floorboard
20 would have been?

21 A I -- I'm not 100 percent positive.

22 Q Okay. If I said maybe a foot to 16 inches, would
23 you have any reason to object to that?

24 A I'm not sure.

25 Q Okay. Well, so you're 6'1, you're standing next to

ROUGH DRAFT TRANSCRIPT

RA 0266

1 the vehicle, you're looking down at -- would it be fair to say
2 at least four to five feet away from you? Were you crouched?

3 A No.

4 Q Okay, so you were standing up, you were -- you were
5 standing fully erect and looking into the vehicle, so that
6 would approximately be about four to five feet?

7 A I would take your numbers.

8 Q Okay. And understanding they're just -- it's an
9 estimate, but I'm just estimating. Four to five feet away, in
10 the dark, no illumination, you're able to -- you're able to
11 see a green leafy substance on the floor in the dark?

12 A Yes.

13 Q All right, so you didn't find -- you didn't see
14 initially any -- any -- any gun casings, or ammunition, or
15 shells inside the vehicle, did you?

16 A Initially, no.

17 Q Okay. Now, you say that you had to -- you reached
18 under the seat -- under the seat, and you found baggies?

19 A Yes.

20 Q Okay. Is that -- is that something that's routine
21 before you get a search warrant?

22 A Since I determined that there was probable cause
23 because of the odor of the cannabis coming from inside the
24 vehicle, and the green leafy substance I could see on the
25 floorboard in the vehicle, I decided to conduct a search for

ROUGH DRAFT TRANSCRIPT

RA 0267

1 the contraband inside the vehicle.

2 Q Were you at that point using a flashlight, or were
3 you still just feeling around?

4 A I have a flashlight.

5 Q But were you using it, or were you just feeling
6 around?

7 A I always use my flashlight during graveyard.

8 Q Okay. So again, did you use the flashlight to look
9 under the seat, or did you just reach under the seat?

10 A I used my flashlight.

11 Q Okay. And did I hear you -- did I overhear you say
12 that you -- that you opened the center console?

13 A It's -- it was between the center console and the
14 driver's side seat, so it was tucked in between.

15 Q Okay, so is that something you saw with the naked
16 eye, or did you have to reach down, or contort--

17 A I had to reach --

18 Q -- a little bit?

19 A I had to reach in there, in between the seat.

20 Q So you didn't know at the time anything was down in
21 there; you were just reaching around?

22 A Yes.

23 Q And at that time, you hadn't secured a search
24 warrant?

25 A Correct.

ROUGH DRAFT TRANSCRIPT

RA 0268

1 Q So was there a center console door, if you will; a
2 flip-open door?

3 A Yes.

4 Q And did you then open that as well?

5 A No, I hadn't opened that yet.

6 Q Okay. And when we -- when we get over to the glove
7 box, how did you -- how did you -- did you remove the glove
8 box?

9 A No.

10 Q You did not?

11 A No.

12 Q Did -- did you see it being removed?

13 A No.

14 Q Okay. Did it appear to you as though it had been
15 torn off?

16 A This was after the warrant was secured, or are we
17 still --

18 Q Well, I'm just saying --

19 A -- talking about the initial search?

20 Q I'm saying, when you saw the -- if you weren't the
21 one to remove the glove box cover, the flip-down door, did it
22 appear to you that it was -- that it was broken off, ripped
23 off, or did it look like it was in totally pristine condition?

24 A I know Officer Henry was tinkering with it for a
25 little bit, and he had removed the glove box.

ROUGH DRAFT TRANSCRIPT

RA 0269

1 Q Okay. Do you know if he --

2 A I'm not exactly positive how he removed it.

3 Q Okay. Did you see him use any tools on it, like --

4 A No, I didn't see any tools.

5 Q -- prying anything? You didn't see it?

6 A I didn't see him use any tools.

7 Q Okay. Were you close enough by that you could
8 physically watch him remove it?

9 A I was nearby, but I wasn't standing right next to
10 him.

11 Q Okay, so he would be the better one to testify to
12 how it came off?

13 A Yes.

14 Q Okay. All right, so then when you -- let's move
15 over to Mr. Keller. You conduct a pat-down on him, you say?

16 A Yes.

17 Q Is that -- is that what we would commonly refer to
18 maybe as a frisk?

19 A Yes.

20 Q Okay, where he -- where you pat all parts of his
21 body, and you're feeling to see if there's anything that he
22 has under there that doesn't feel normal?

23 A It's a check for weapons.

24 Q Okay. All right. And so you -- you ask if he has
25 an ID?

ROUGH DRAFT TRANSCRIPT

RA 0270

1 A Yes.

2 Q He says, yes, it's in my wallet?

3 A Yes.

4 Q And he -- so then you go into -- where was it?

5 Which pocket?

6 A His front right pants pocket.

7 Q Okay. So you reach into his front right pants

8 pocket and you feel a wallet, and you say that's when you feel

9 some money?

10 A When I pulled his wallet out, the money came with

11 it.

12 Q Okay. Now, was it -- was it simply folded? It was

13 simply folded, right? The money was folded, much like taking

14 a -- any of us would take a 5 or a 1 and fold it in half?

15 A Yes, the bills were folded in half.

16 Q Okay, so they weren't rolled up in a -- in a big

17 roll, like --

18 A No.

19 Q -- a small roll of toilet paper, say, or something

20 like that?

21 A No.

22 Q Okay. But you said it wasn't together?

23 A He had cash inside the wallet and he had cash

24 outside the wallet.

25 Q Okay.

ROUGH DRAFT TRANSCRIPT

RA 0271

1 A All of it came out when I pulled out the wallet.

2 Q All right. Do you recall what the amount was that
3 was on the inside versus the outside?

4 A I do not.

5 Q But yet, you said it was, what, 20s?

6 A It was a lot of money, mostly all 20s.

7 Q Okay. Were there any larger bills?

8 A Yes.

9 Q Was there a couple of 100s in there, or something
10 along those lines?

11 A Yes.

12 Q Okay. Okay, let's -- let's move over to the
13 gunshots. You said you heard five gunshots. And I'm still
14 going to be using State's 5 here that's on the -- on the
15 overhead. Can you mark again where it was that you thought
16 those gunshots emanated from?

17 A If you can move the --

18 Q Sure.

19 A Yeah.

20 Q Sure. Sorry about that.

21 A It basically sounded like it was coming from right
22 here on this side of this building.

23 Q Okay, so on -- based on where you were here in front
24 of what has been marked as the Unit F, where we're talking
25 about here, you say this would have occurred on the back --

ROUGH DRAFT TRANSCRIPT

RA 0272

1 essentially, the back side of this building that is, I guess,
2 at the top of this picture?

3 A Yes.

4 Q Okay. So you couldn't see -- could you see anybody
5 that was shooting?

6 A No.

7 Q And to the best of your knowledge, there -- there
8 wasn't anyone that was -- that you saw that was looking out or
9 anything like that, correct?

10 A I didn't notice anybody.

11 Q So it would be safe to say that whatever was
12 happening over here where you circled, where you say you
13 thought the gunshots were emanating from, would not have been
14 able to see where you guys were at in front of Unit F,
15 correct?

16 A Correct.

17 Q Okay. So it could have been just unrelated
18 gunshots?

19 A It could have been.

20 Q All right. You say that then you -- you then -- at
21 some point in your searching of the vehicle, you find -- you
22 find this hole. Was that -- was that hole -- you say that was
23 before you called for a search warrant, right?

24 A That was after the dog hit and before we called for
25 the search warrant.

ROUGH DRAFT TRANSCRIPT

RA 0273

1 Q Okay. So the dog comes out, and I believe you
2 initially -- you initially said earlier that you called the
3 canines because you thought the defendant had thrown something
4 out of the window on the way in?

5 A Yes.

6 Q Okay. And that was -- that was not in -- that was
7 not in your search warrant, correct, as your probable cause?

8 A Nothing was located on the entranceway up to where
9 the car stopped.

10 Q But wouldn't that have been -- wouldn't that have
11 been something you would have put in your -- in your probable
12 cause when you're talking to the judge?

13 A No, because it didn't lead to anything. It didn't -
14 - it didn't add anything to it. If we had found something
15 along the path that had gone with the car, then that would
16 have been --

17 Q Okay. So basically what you're telling me is,
18 ultimately, you didn't see any -- you didn't see the defendant
19 throw anything out the window?

20 A I didn't see him throw anything out the window.

21 Q Okay, all right. All right, so the dog -- so the
22 dog -- the canine unit hits on the part of the car that --
23 where this hole is, and so then you talked about, what you
24 said, popping off the -- the cover that is on the side of the
25 dash that goes up against the door when it's closed, correct?

ROUGH DRAFT TRANSCRIPT

RA 0274

1 A Yes.

2 Q Okay. And there wasn't any -- did you have to pry
3 on that at all?

4 A No.

5 Q Okay. And you say it's just something that was
6 factory that was made to come off that way?

7 A It looks like it was factory.

8 Q Okay, all right. So then you reach in, you pull out
9 -- I mean, and we've seen all of the exhibits. We've seen the
10 black bag, and the gold bags, and all of that. After you test
11 it and you determine that it tests positive for whatever drug
12 that it tested positive for; some was meth, some heroin, some
13 cocaine, I believe you found; is that correct?

14 A Yes.

15 Q And that was in the car, or that was in the house?

16 A That was in the car.

17 Q Okay. Now, when you -- when you weigh these, after
18 they're ODV-tested and then you weigh them, do you have your
19 own scale, I'm assuming?

20 A I do.

21 Q Okay. Is it -- is it similar to the ones that we
22 saw that are in evidence, or is it --

23 A It's similar. It's a small scale.

24 Q Okay. And when you -- so, the way that we are
25 seeing these drugs today, minus the protective evidence bags

ROUGH DRAFT TRANSCRIPT

RA 0275

1 that they're in, were -- are they basically in the form -- in
2 other words, how they're packaged was the way that they were
3 packaged that night?

4 A Yes.

5 Q Okay. So, in other words, you -- when you're
6 putting all these items into evidence, you're not opening the
7 bags, or the wrapper, or what have you, and emptying contents
8 and weighing it that way?

9 A Some we do, some we don't.

10 Q Okay. On at least what we -- what was found in the
11 vehicle --

12 A There's --

13 Q -- how did you weigh that?

14 A The items that were found in the vehicle were
15 weighed in -- in the bags.

16 Q Okay.

17 A The wrapping.

18 Q So when you're weighing that, do you take into
19 consideration the weight of whatever the wrapping material is?

20 A Yes, then it becomes gross weight. The net weight
21 is just the substance itself, not the wrapping as well.

22 Q Okay. If you don't take it out of the packaging
23 before you test it, how do you -- how do you know what that
24 difference is between gross and net?

25 A I don't.

ROUGH DRAFT TRANSCRIPT

RA 0276

1 Q So when you're telling us that there was 300, or
2 whatever the number was, grams of methamphetamine, you're
3 including -- that's not all methamphetamine, that's also the
4 weight of the packaging material; is that correct?

5 A The weight -- yes.

6 Q Okay. And do you have any way that you
7 differentiate how much that wrapping material adds to it?

8 A Only if I -- only if it's separated.

9 Q Okay. So when it's not separated, you weigh it,
10 packaging and all, but yet that becomes the weight -- the
11 gross weight of the drugs themselves? Is that how we do this?

12 A It's labeled as the gross weight because it's
13 including the packaging.

14 Q Okay, but so it's your testimony that these items
15 that were found in the car were weighed with their packaging
16 material, and not just -- not just the weight of the drugs, so
17 it actually weighs more -- the gross weight is much more than
18 what the drug weight is, correct?

19 A Yes.

20 Q Okay. But you can't tell us the difference -- the
21 difference right now?

22 A Correct.

23 Q As to what just -- just the drugs weighed?

24 A Correct.

25 Q Okay. Now, I wanted to move to the --

ROUGH DRAFT TRANSCRIPT

RA 0277

1 MR. FRIZZELL: Court's indulgence. State's 91, and
2 I'm just going to get it here briefly.

3 (Pause in the proceedings)

4 MR. FRIZZELL: All right. State's 91 was this
5 registration. Okay. How do we erase the text that's on
6 there?

7 THE CLERK: Got it.

8 THE COURT: It's done.

9 MR. FRIZZELL: Oh, thank you. All right.

10 BY MR. FRIZZELL:

11 Q Now, you see where it says, "Christopher Keller, 244
12 Molly Court" up there?

13 A Yes.

14 Q Was there ever any investigation done into that
15 address?

16 A No.

17 Q But yet, it says this is an address on what was
18 basically a current registration, or almost current
19 registration?

20 A Yes.

21 Q Just recent -- just recently expired, fair to say,
22 this particular one you found?

23 A No, this doesn't expire until November of 2016.

24 Q Okay. So at the time of the -- of the stop in
25 January of 2016, this was still good?

ROUGH DRAFT TRANSCRIPT

RA 0278

1 A Yes.

2 Q This was a good address? Did you check to see if
3 Mr. Keller actually lived at 244 Molly Street?

4 A No.

5 Q Why wouldn't that be something that you would have
6 checked out?

7 A Because it was apparent that he was living there at
8 the address there where he had stopped.

9 Q At the time when you're making -- when you made what
10 was initially a traffic stop, you had not confirmed that 265
11 North Lamb, Unit F was his -- was Mr. Keller's address,
12 correct?

13 A During the stop, I had confirmed that that was his
14 address.

15 Q Okay. When you locate -- when you located this
16 current registration, and you see 244 Molly Street -- Molly
17 Court. Excuse me, I apologize. 244 Molly Court, that didn't
18 signify any -- anything of importance to investigate that
19 address?

20 A Not at the time, no.

21 Q So, Mr. Keller could very well have been living at
22 that address?

23 MR. DICKERSON: Calls for speculation, Your Honor.

24 MR. FRIZZELL: Well, I mean, it goes -- it goes to
25 -- there's definitely a piece of evidence here that has been

1 admitted that says that Mr. Keller is at a different residence
2 than this residence.

3 THE COURT:

4 MR. FRIZZELL: So it's very relevant.

5 THE COURT: -- speculation that he's living there.

6 MR. FRIZZELL: Okay.

7 THE COURT: That's the speculation. So he has an
8 address someplace else -- I'm going to sustain the objection.

9 MR. DICKERSON: Thank you, Your Honor.

10 MR. FRIZZELL: All right, I'll actually rephrase it.

11 BY MR. FRIZZELL:

12 Q You can't say that Mr. Keller was not living at
13 Molly Court, can you?

14 A I didn't have any reason to believe that he had
15 multiple addresses that were -- he was actually residing at.

16 Q Even though you have this exhibit --

17 A Yes.

18 Q -- that clearly shows -- clearly shows a different
19 address?

20 A Yes.

21 Q Okay. Did you ever -- so what you're telling the
22 Court and the ladies and gentlemen of the jury is that you
23 never even checked into what that address was?

24 A I -- I didn't.

25 Q Okay. Do you know if anyone else did?

1 A It's possible, but I don't know.

2 Q Okay.

3 MR. FRIZZELL: Court's indulgence, Your Honor. All
4 right.

5 BY MR. FRIZZELL:

6 Q Now, at some point during -- during this
7 investigation; at some point between the initial traffic stop
8 and you actually leaving the scene, you were approached by a
9 female during that time, were you not?

10 A Yes.

11 Q Okay. And that female requested something of you,
12 did she not?

13 A Yes.

14 Q Okay. And in fact, she requested that she be
15 allowed to go into Unit F to retrieve some items that she --
16 that belonged to her that were in there, correct?

17 A No.

18 Q Okay. What did she -- what did she say to you?

19 A She requested her purse from inside the vehicle.

20 Q Okay. She didn't request anything from up in Unit
21 F?

22 A No, she did not.

23 Q Was her purse actually in the vehicle?

24 A No, it was not.

25 Q Did you -- did you have any other occasion to deal

ROUGH DRAFT TRANSCRIPT

RA 0281

1 with her at all?

2 A That was our only encounter with her.

3 Q Okay. Do you recall where she went after that?

4 A I do not.

5 Q Okay. Did she -- so did you see -- did she -- did
6 you see her at least walk into a unit, or did she walk totally
7 away, or --

8 A She had walked away. I didn't see her go into any
9 unit.

10 Q Okay. Did you have occasion to ask her her name, if
11 she had --

12 A Yes, one of my partners had interviewed and talked
13 to her.

14 Q Okay. Do you know which partner interviewed her?

15 A I believe it was Officer Vance.

16 Q Office Vance. Okay. Now, you -- you are not
17 someone who takes, or lists, or checks for fingerprints or
18 DNA, are you?

19 A I'm not.

20 Q Okay. However, when you go into -- when you go into
21 the vehicle first, is there -- is there anything that you do
22 to preserve any of that should -- should it be present, either
23 fingerprints or DNA?

24 A When I did my initial search?

25 Q I'm just saying -- yes. When you -- do you secure

ROUGH DRAFT TRANSCRIPT

RA 0282

1 the vehicle in such a way that it would preserve that, or is
2 that not your job?

3 A That's typically not something that I do.

4 Q Okay. And likewise in the house?

5 A Correct.

6 Q Okay. Now, let's go on up into the house, or into
7 the -- into the condo, Unit F. You say that this -- it
8 basically looked to be a one-bedroom unit?

9 A Yes.

10 Q Okay. Let's go in the bathroom first. You say that
11 once you opened the -- once you opened the cupboard, there was
12 a -- there was a hole that you said that you could have
13 crawled through without all your gear on?

14 A Yes.

15 Q Okay. And you say it went into the adjacent unit?

16 A Yes.

17 Q Was there -- but you didn't find anything of any
18 import inside that hole?

19 A Inside the hole itself? No, nothing --

20 Q Yes. In other words, was there a space -- a gap in
21 between one unit and the other, or did the hole just
22 immediately go right to the other unit?

23 A It just went into the other unit.

24 Q Okay. You didn't have any reason -- but you didn't
25 see anything of any import -- of any evidentiary value in that

ROUGH DRAFT TRANSCRIPT

RA 0283

1 area underneath the sink?

2 A No.

3 Q Okay. Then you said that, I believe -- if we go in
4 the bedroom, how many closets were there?

5 A There's two closets in the bedroom.

6 Q Okay. And the one closet, I believe you said you
7 located some purses?

8 A No, the purses were out in the living room, dining
9 room area.

10 Q Okay. And did you -- were those impounded as any
11 evidence at all?

12 A No.

13 Q So you just left them there. Did -- were you the
14 one that looked at them?

15 A I looked at them.

16 Q Okay, and were there contents in them?

17 A Nothing that would identify anybody. There was
18 nothing significant in the purses.

19 Q Okay, but they weren't new?

20 A I wouldn't say that they're new, no.

21 Q Okay. So when you say nothing of significance in
22 the purses, there were some things in the purses; is that what
23 you're telling me, that you recall?

24 A I don't recall -- I don't recall.

25 Q Okay. And when you were in the bathroom, did you

ROUGH DRAFT TRANSCRIPT

RA 0284

1 notice any -- any makeup, anything like that?

2 A I did not.

3 Q Any lipstick?

4 A No.

5 Q Did you actually -- did you actually -- were you the
6 one that secured the bathroom, or was it someone else?

7 A I -- I don't -- I don't believe it was me.

8 Q Okay. Do you recall who might have done that such
9 that we could ask them about the makeup or whatnot --

10 A I'm not --

11 Q -- those type questions?

12 A I'm not sure.

13 Q Okay. Would it have been Officer Vance?

14 A No, Officer Vance wasn't there for the search
15 warrant on the -- on the condo/apartment.

16 Q Okay, he was just there for the vehicle?

17 A He was there for the initial -- the vehicle stop.

18 Q Okay. But you -- you did find -- how many purses
19 did you find, if you recall?

20 A I don't remember the exact number.

21 Q Okay. Now, when you went through -- you said there
22 were two closets. Were you the one that went through both
23 closets?

24 A No.

25 Q Okay. So the closet that you went in you say had

ROUGH DRAFT TRANSCRIPT

RA 0285

1 basically male clothes in it -- what appeared to be male
2 clothes?

3 A The closet that we -- somebody had left open just
4 had male clothes, yes.

5 Q Okay, but you weren't the one that looked in the
6 other closet?

7 A I was brought over to the closet when the second
8 firearm was found.

9 Q Okay, but that was the closet that had the door
10 open, right?

11 A No, that's the closet that's next to the bathroom
12 sink.

13 Q Okay. And you -- and you saw -- did you say you saw
14 girls' clothing in there?

15 A No, no women's clothing.

16 Q Okay. Were there dressers in that bedroom?

17 A There were dressers.

18 Q Okay. Any -- any -- any ladies' items in any of
19 those drawers?

20 A None.

21 Q Were you the one that actually searched those
22 drawers?

23 A I was there for part of the drawers.

24 Q So you weren't there for -- how many dressers do you
25 recall were in the bedroom?

ROUGH DRAFT TRANSCRIPT

RA 0286

1 A Two dressers.

2 Q Okay. And so how much of the dresser drawer search
3 were involved in?

4 A The first one, the one that was closest to the bed.

5 Q Okay. So you didn't -- you didn't look in the --
6 what you're saying was the second set of drawers?

7 A Not really.

8 Q Okay. Do you recall who looked in those?

9 A I don't.

10 Q So there could have been girls' clothes in the other
11 one, but you wouldn't know?

12 MR. DICKERSON: Calls for speculation.

13 MR. FRIZZELL: No, I said there could have been
14 girls' clothes and he would not have known.

15 MR. DICKERSON: Compound, Your Honor.

16 THE COURT: What's that?

17 MR. DICKERSON: Compound and calls for speculation.
18 Calls for speculation on the first part of the compound
19 question, and the second part for he wouldn't have known.

20 THE COURT: Overruled. Go ahead. Can you answer
21 it?

22 THE WITNESS: I -- I can't. I don't know.

23 BY MR. FRIZZELL:

24 Q I mean, you couldn't say one way or the other, is
25 what I'm -- is what I'm asking you.

1 A Yes.

2 Q Because you did not look. So it could be, couldn't
3 be, but you don't know personally?

4 A One of the detectives would have mentioned it to me,
5 I'm sure.

6 Q Okay.

7 A But you personally don't know, no.

8 Q Okay. All right. Now, I'm going to need to open
9 that.

10 A Okay.

11 (Pause in the proceedings)

12 THE COURT: Is it 83?

13 MR. FRIZZELL: Sorry, it's 85.

14 THE COURT: 85.

15 MR. FRIZZELL: All right.

16 BY MR. FRIZZELL:

17 Q I'm handing you what's been marked as State's
18 Exhibit 85. It has not been opened yet. Could you open that
19 for us?

20 MR. FRIZZELL: Were these -- were these admitted?
21 Because they're not marked individually. Were these admitted?

22 THE WITNESS: They were not.

23 THE COURT: Well, it was the contents.

24 MR. FRIZZELL: I'm sorry?

25 THE COURT: Eighty -- eighty -- I imagine 85 and the

ROUGH DRAFT TRANSCRIPT

RA 0288

1 contents.

2 MR. FRIZZELL: So we're just going to call it as
3 one.

4 MR. DICKERSON: That's correct, Your Honor.

5 THE COURT: Um-hum.

6 MR. DICKERSON: And can we just make a record that
7 the bag was opened from the top, breaking the prior seal?

8 THE COURT: Yeah, that's fair. I was noticing that,
9 too. I just want the record to reflect that when they opened
10 it, they opened at the top of the bag, and by spreading it
11 open, it ended up breaking the original seal that was intact.

12 MR. FRIZZELL: Yes, yes, I don't have any argument
13 with that.

14 MR. DICKERSON: Thank you, Your Honor.

15 THE COURT: Okay.

16 BY MR. FRIZZELL:

17 Q So, these items, do you -- do you -- these have
18 already actually been admitted, but do you recognize the items
19 that are here?

20 A Yes.

21 Q And what are these items?

22 A These are smoking pipes that were from the bedroom.

23 Q Okay. So I believe your testimony was that there
24 was some clean or some dirty?

25 A Yes.

ROUGH DRAFT TRANSCRIPT

RA 0289

1 Q Okay. (Inaudible). Is it safe to say that at least
2 what's in here is not clean?

3 A These are all the dirty.

4 Q These are all the dirty --

5 A These are used pipes.

6 Q But you did find clean ones?

7 A There were clean ones inside the apartment.

8 Q That's all I needed.

9 MR. FRIZZELL: Court's indulgence. I have one last
10 question.

11 THE COURT: Okay.

12 MR. FRIZZELL: Okay. Actually, it's in a couple
13 parts.

14 THE COURT: Okay.

15 BY MR. FRIZZELL:

16 Q So in the car, when you were searching the car, you
17 didn't actually find any rolling papers, pipes, lighter,
18 matches, and other than the little bit you may have seen on
19 the floor, you didn't find any other marijuana?

20 A No.

21 Q Okay. And so what you're -- what you're basing the
22 -- that you -- that you had a strong smell, it wasn't
23 emanating from the car, correct?

24 A It was emanating from both the defendant's person
25 and from inside the vehicle.

1 Q Okay, but he had been sitting in the vehicle,
2 correct?

3 A Yes.

4 Q Okay. And you didn't find any -- any drugs or
5 anything other than the wallet and the money on his person,
6 correct?

7 A There was drugs that were found on his person over
8 the course of the investigation.

9 Q Okay, but there wasn't marijuana that was found on
10 his person?

11 A No marijuana found on his person.

12 Q Okay.

13 MR. FRIZZELL: Court's indulgence.

14 BY MR. FRIZZELL:

15 Q So what little bit of marijuana that you say that
16 you saw a green leafy substance, was that that you found on
17 the floor ODV-tested?

18 A No, it was not.

19 Q Okay, so you never -- you never confirmed that what
20 you thought was marijuana on the floor was not marijuana?

21 A Correct.

22 Q So it could have been just crushed leaves on the
23 floor, and you wouldn't know any -- you wouldn't be able to
24 say any different?

25 A Correct.

ROUGH DRAFT TRANSCRIPT

RA 0291

1 Q Okay.

2 MR. FRIZZELL: Court's indulgence. I'll pass the
3 witness, Your Honor.

4 THE COURT: Redirect?

5 MR. DICKERSON: Briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. DICKERSON:

8 Q Touched on a little bit about your initial stop, the
9 -- what you saw of the vehicle before you stopped it; do you
10 recall that, sir?

11 A Yes.

12 Q Specifically, the taillights?

13 A Yes.

14 Q Showing you what's been marked and admitted as
15 State's Exhibit 6, does this image fairly and accurately
16 depict the taillights as you saw them when you got behind that
17 vehicle on Lamb Boulevard?

18 A Yes.

19 Q And what is it that you notice about the taillights?

20 A So the passenger taillight -- obviously, the vehicle
21 looks like it was in some type of traffic collision, accident,
22 and the damage is to the rear passenger taillight. Whoever
23 went back to repair the rear passenger tail lamp, they
24 installed the wrong tail lamp on it. It's not the right --
25 it's to a different model.

ROUGH DRAFT TRANSCRIPT

RA 0292

1 Q Okay. So the passenger lamp on -- or the tail lamp
2 on the left, the driver's side, would be correct?

3 A It appears to be correct, yes.

4 Q Okay. I'm showing you now what's been marked and
5 admitted as State's Exhibit 9. Right here, is that that
6 driver's side back taillight?

7 A Yes.

8 Q That's the correct one?

9 A Yes.

10 Q You said the reverse lamps are on the bottom?

11 A Yes, the reverse lamps are down here.

12 Q Okay. Now, showing you what's been marked and
13 admitted as State's Exhibit 12, is that the passenger side
14 rear taillight that you were speaking of?

15 A Yes.

16 Q And what is it that's different about this light?

17 A So the lens that they installed on this, it has an
18 opening right here that's not supposed to be on this
19 particular model. So when they put the lens cover on here,
20 it's allowing the light to come out through this opening as
21 just white light for the taillight.

22 Q So, when the taillights are on, it's reflecting
23 white?

24 A Yes.

25 Q And so that's what you saw as you're driving down

1 Lamb Boulevard?

2 A Yes.

3 Q Okay. Now, as to the registration of the vehicle,
4 you talked a little bit about seeing the Molly Court
5 registration (inaudible). Is that correct?

6 A Yes.

7 Q So you noticed that at the time, that being the
8 registration that was found that says Molly Court. Showing
9 you State's Exhibit 91 --

10 A Yes.

11 Q Right there, Molly Court. But you received other
12 information?

13 A Yes.

14 Q Which is here today in certified DMV records; is
15 that right?

16 A Yes.

17 Q In State's Exhibit 1, what's been admitted as such
18 and shown to the jury at this time, does that show a physical
19 address for this registration from Mr. Christopher Robert
20 Keller as being 265 North Lamb Boulevard, Unit F?

21 A Yes. This right here says the physical address, and
22 then that's the address.

23 Q And below that is the mailing address?

24 A Yes.

25 Q Also 265 North Lamb Boulevard, Unit F?

ROUGH DRAFT TRANSCRIPT

RA 0294

1 A Yes.

2 Q And that's information that you were able to find
3 out on scene?

4 A Yes.

5 Q And how did you do that?

6 A From my mobile computer terminal that's inside my
7 patrol vehicle.

8 Q What is it, connected to the DMV?

9 A Yes.

10 Q Okay. Also, the defendant's driver's license. Did
11 you check his particular address on there as well?

12 A Yes.

13 Q And where did that come back to?

14 A It had this -- the address right there on Lamb.

15 Q Okay. And just for reference, the last page of that
16 State's Exhibit 1 actually shows the vehicle registration,
17 right?

18 A Yes.

19 Q And that's the mailing address and physical address
20 both listing 265 North Lamb Boulevard?

21 A Yes.

22 Q And the first page shows the driver's license
23 information of Mr. Christopher Robert Keller --

24 A Yes.

25 Q -- same thing? Mailing and physical address?

ROUGH DRAFT TRANSCRIPT

RA 0295

1 A Yes.

2 Q Okay, both of those addresses being 265 North --
3 North Lamb Boulevard, Unit F?

4 A Yes.

5 Q Now, you said there was some contact with a female
6 on scene?

7 A Yes.

8 Q Who was this?

9 A I -- I don't recall her name.

10 Q You said that Officer Vance had spoken to her?

11 A Yes.

12 Q When did she come up to you?

13 A During -- during the stop, she had come up, and she
14 had told us she wanted to get her purse out of the car.
15 Officer Vance had asked her what color the purse was, and she
16 said she didn't know, and we said, well, how do you know if
17 your purse is in the car if you don't even know what color the
18 purse is?

19 Q And --

20 MR. FRIZZELL: I'm going to object, hearsay.

21 That --

22 MR. DICKERSON: And Your Honor, defense counsel
23 opened the door on this one.

24 THE COURT: Well, the -- it's still hearsay. The --

25 MR. DICKERSON: It's still hearsay, but it's just

1 clarifying what he's already brought out.

2 THE COURT: Well, he said purse. I'm going to
3 sustain the objection as to her describing what the -- what
4 the purse was and not saying -- or not being able to describe
5 the purse.

6 MR. DICKERSON: Okay.

7 THE COURT: So, ladies and gentlemen, I'm going to
8 instruct you you must disregard the statements regarding her
9 stating that she couldn't give a description of the purse,
10 okay? All right.

11 BY MR. DICKERSON:

12 Q You did -- or Officer Vance did request more
13 information about the purse?

14 A Yes.

15 Q And did an officer on scene conduct a search of the
16 vehicle for a purse?

17 A Yes.

18 Q Was a purse located?

19 A No.

20 Q Was that odd to you?

21 A Yes.

22 Q Now, just real quickly, we've gone over what was
23 marked and admitted as part of State's Exhibit 85 the pipes in
24 this case. Just for the jury's edification, you were
25 describing a methamphetamine pipe earlier?

ROUGH DRAFT TRANSCRIPT

RA 0297

1 A Yes.

2 MR. DICKERSON: And if I could have this marked,
3 Madam Clerk.

4 THE CLERK: Sure.

5 MR. DICKERSON: Thank you so much.

6 BY MR. DICKERSON:

7 Q You said that's a glass type pipe?

8 A Yes.

9 Q So how is it that that pipe works; do you know?

10 A You heat up the bulb or ball end. You heat it up
11 after you put the contraband, controlled substance in that
12 part of the pipe, and you heat it up, and then you inhale the
13 -- the smoke.

14 Q Showing you what's been marked and now moving for
15 the admission of this specific one, 85A --

16 THE COURT: They're all admitted.

17 MR. DICKERSON: Thank you, Your Honor.

18 THE COURT: But I guess just for --

19 MR. FRIZZELL: I'm not objecting, for the record.

20 THE COURT: Okay, but just --

21 MR. DICKERSON: 85 --

22 THE COURT: Just so we understand which one he's
23 talking about, 85A, all right? Okay.

24 BY MR. DICKERSON:

25 Q 85A here, what do you recognize that to be?

1 A This is a glass smoking pipe.

2

3 Q Okay. Specifically used for smoking what?

4 A Mostly, it's for smoking meth.

5 Q Okay. Methamphetamine?

6 A Yes.

7 Q And what's what you were describing earlier --

8 A Yes.

9 Q -- (inaudible) pipe?

10 A Yes.

11 Q Okay, thank you.

12 MR. DICKERSON: State will pass the witness.

13 THE COURT: Recross, Mr. Frizzell?

14 MR. FRIZZELL: No, Your Honor.

15 THE COURT: Okay. All right. Anything -- okay, we
16 have a couple questions?

17 MR. FRIZZELL: Actually, yes, Your Honor, there is
18 one.

19 THE COURT: All right. Okay, make up your mind.

20 MR. FRIZZELL: I apologize. I apologize.

21 THE COURT: There you go. Hold on, Officer, got
22 some more questions.

23 MR. FRIZZELL: I need 85, again.

24 (Mr. Frizzell/Clerk conferring)

25 RECROSS-EXAMINATION

ROUGH DRAFT TRANSCRIPT

RA 0299

1 BY MR. FRIZZELL:

2 Q All right, I'm showing you State's Exhibit --
3 admitted Exhibit 1, this DMV record. And --

4 THE COURT: Turn your phone off. Thank you.

5 MR. FRIZZELL: All right.

6 BY MR. FRIZZELL:

7 Q Now, do you see up here under -- under Item Sub 2
8 where it says ID card details, issue date -- can you read the
9 issue date there where I've held my finger?

10 A Yes.

11 Q What's that say?

12 A June 6th, 2014.

13 Q It has an address for 265 North Lamb Boulevard,
14 correct? Okay. Right --

15 A Yes.

16 Q -- so far? Okay. Yet, when we're looking at the
17 registration, which is State's 91A, this is 2016 where it
18 talks about where he's at 244 Molly Court, correct?

19 A Yes.

20 Q So he was at 265 Unit F -- North Lamb Unit F as of
21 2014, but it could very well have been at 244 Molly Court
22 2016.

23 Q So --

24 MR. DICKERSON: Calls for speculation.

25 MR. FRIZZELL: Could have.

ROUGH DRAFT TRANSCRIPT

RA 0300

1 THE COURT: Overruled.

2 MR. FRIZZELL: I'm asking.

3 THE COURT: Overruled.

4 MR. FRIZZELL: Okay.

5 THE WITNESS: So the first one that you showed,
6 that's the ID card; that's not the driver's license that was
7 issued. And it shows the issue date for the ID card. It's
8 not the same thing as the driver's license. And if you go
9 back to the other exhibit and you scroll down a little bit, it
10 will say the last transaction date. That's when the date that
11 that address was put in, into DMV.

12 Q All right, well, I see it. So do you have any
13 reason to dispute that this is a valid registration card?

14 A No, it's a valid registration card.

15 Q Okay. So do you have an explanation or do you know
16 why then the DMV -- the actual registration from the DMV would
17 show 244 Molly Court as the registered address for this car,
18 and yet show 265 North Lamb as a mailing address?

19 A Yes, because you can see right here the last
20 transaction date. Just because they changed their address or
21 moved, it doesn't necessarily mean that they have the updated
22 registration slip right there.

23 Q Okay. So this update -- this registration would
24 have been -- would have been issued -- okay, so it would have
25 expired basically ten months after this arrest, right? So

ROUGH DRAFT TRANSCRIPT

RA 0301

1 they would have gotten it -- if it's good for a year --

2 A Yes.

3 Q -- he would have gotten it sometime around
4 11/15/2016?

5 A Yes.

6 Q Or 11 -- excuse me. No, I apologize. 11/15/2015.

7 THE COURT: Um-hum.

8 BY MR. FRIZZELL:

9 Q Is that correct?

10 A Yes.

11 Q So they may -- so it's very possible then -- what
12 you're saying is DMV would not have updated their record from
13 the 265, even though they issued with the new address,
14 correct?

15 A It's possible, yes.

16 Q Okay. Because the last transaction date you see is
17 11/28/15. This -- this was issued basically ten days earlier;
18 eight days earlier, correct?

19 A Yes.

20 Q So it's possible -- you don't -- I understand you're
21 not -- you don't work in the DMV. It's possible that the
22 record you pulled up did not reflect this change on the new
23 registration?

24 A Correct.

25 Q Is that fair? All right, that's where I was getting

ROUGH DRAFT TRANSCRIPT

RA 0302

1 at.

2 MR. FRIZZELL: Thank you. Now I'm done.

3 THE COURT: All right.

4 MR. DICKERSON: Just one thing on that, Your Honor,
5 please. May I? Thank you very much.

6 FURTHER REDIRECT EXAMINATION

7 BY MR. DICKERSON:

8 Q Sir, that same last page of State's Exhibit 1.
9 (Inaudible) certified record from the Nevada DMV; is that
10 right?

11 A Yes.

12 Q You saw in the middle where you were referring to
13 earlier that says mailing address, physical address is 265
14 North Lamb Boulevard; is that right?

15 A Yes.

16 Q Unit F?

17 A Yes.

18 Q And then right under that where my finger is here --

19 A Um-hum.

20 Q -- it says "name and/or address on registration"?

21 A Yes.

22 Q Is that right? And what does that say?

23 A It's got the 244 Molly Court address.

24 Q Okay. So the DMV records show 265 North Lamb
25 Boulevard, Unit F being connected to Defendant Christopher

ROUGH DRAFT TRANSCRIPT

RA 0303

1 Keller?

2 A Yes.

3 Q But they also show that his registration at the time
4 reflected Molly Court?

5 A Yes.

6 MR. DICKERSON: State will pass the witness.

7 THE COURT: Mr. Frizzell, any further questions?

8 MR. FRIZZELL: No, Your Honor.

9 THE COURT: All right. We have some questions from
10 the jury. Parties approach.

11 (Off-record bench conference)

12 THE COURT: Okay. Officer, you got two questions.
13 Did the female approach you before or after the gunshots?

14 THE WITNESS: It was after the gunshots.

15 THE COURT: And how much time took place between the
16 two events?

17 THE WITNESS: I would say 30 minutes.

18 THE COURT: Okay. Do you have any questions as a
19 result of those questions, Mr. Dickerson?

20 MR. DICKERSON: I do not, Your Honor.

21 THE COURT: Mr. Frizzell, do you have any questions
22 as a result of those questions?

23 MR. FRIZZELL: No, Your Honor.

24 THE COURT: All right. Okay, Officer, thank you so
25 much for your testimony. You can step down. You're excused.

ROUGH DRAFT TRANSCRIPT

RA 0304

1 THE WITNESS: Okay.

2 THE COURT: Okay. Mr. Dickerson, call your next
3 witness.

4 Your Honor, the State will call Detective Chad Embry.

5 THE COURT: Okay.

6 THE MARSHAL: Watch your step. Face the clerk,
7 she's going to swear you in.

8 DETECTIVE CHAD EMBRY, STATE'S WITNESS, SWORN

9 THE CLERK: Thank you. Please be seated. Please
10 state your full name, spelling your first and last name for
11 the record.

12 THE WITNESS: Chad Embry. C-h-a-d, E-m-b-r-y.

13 THE COURT: Your witness.

14 Thank you, Your Honor.

15 DIRECT EXAMINATION

16 MR. BUNNETT?

17 Q Good morning -- or good afternoon, sir, I should
18 say.

19 A Good afternoon.

20 Q What do you do for a living?

21 A I'm a detective with Las Vegas Metro Police
22 Department.

23 Q And what's your current assignment?

24 A I'm with quality assurance.

25 Q Okay. How long have you been an officer for Metro?

ROUGH DRAFT TRANSCRIPT

RA 0305

1 A 17 years.

2 Q Okay. And back in January 28th of 2016, what was
3 your assignment?

4 A I was working as a detective in the Northeast Area
5 Command.

6 Q Okay, and were you working that day?

7 A Yes.

8 Q Were you working in the morning of that day?

9 A Yes.

10 Q Okay. And during work, were you brought to 265
11 North Lamb, Unit F here in Las Vegas, Clark County, Nevada?

12 A Yes, I was.

13 Q Okay, and what brought you out there?

14 A To assist patrol officers on a search warrant.

15 Q Okay, and what was the search warrant of?

16 A It was an ongoing investigation of a vehicle stop
17 that was -- the patrol officers had conducted, which led into
18 a potential search warrant for a residence.

19 Q So did you assist in the search of the car, or did
20 you assist in the search of the residence?

21 A For the residence.

22 Q Okay. What specific areas of the residence did you
23 search?

24 A I searched the bedroom area and outside storage area
25 that was attached to the residence.

ROUGH DRAFT TRANSCRIPT

RA 0306

1 Q Okay, I want to start with the storage area.

2 MR. BUNNETT: All right. And Your Honor, I have in
3 my hand what's been previously marked and not yet been
4 admitted -- admitted into evidence as State's Proposed 42 and
5 43. For the record, I'm showing them to Mr. Frizzell. May I
6 approach the witness with these?

7 THE COURT: Yes.

8 BY MR. BUNNETT:

9 Q All right, Detective, I'm showing you what's been
10 previously marked as State's Proposed 42 and 43. Do you
11 recognize what's being depicted in these exhibits?

12 A Yes.

13 Q Again, what's that?

14 A That's the outside storage unit of the residence.

15 Q And is that the unit you searched?

16 A Yes.

17 Q And is that a fair and accurate depiction of the
18 storage unit that you had searched?

19 A Yes.

20 MR. BUNNETT: Your Honor, at this time, I'd move to
21 admit State's Proposed 42 and 43 into evidence.

22 THE COURT: Any objection?

23 MR. FRIZZELL: No, Your Honor.

24 THE COURT: It will be admitted.

25 (State's Exhibits 42 and 43 are admitted)

ROUGH DRAFT TRANSCRIPT

RA 0307

1 BY MR. BUNNETT:

2 Q All right, so this is the storage closet you
3 searched?

4 A Yes.

5 Q Okay. I'm going to show you State's 42. Okay, and
6 did you find anything of significance in this storage closet?

7 A Yeah, I located three boxes of Remington .22 short
8 ammunition.

9 Q Okay, and I'm going to show you State's 43. Can you
10 indicate where you found the .22 short ammunition?

11 A It was in the bottom of the closet, I believe.

12 Q Okay. Was it in a box or something?

13 A Yeah.

14 Q Okay. And how many boxes of the .22 short
15 ammunition were there?

16 A It was -- there were three boxes that were located.

17 Q Okay.

18 MR. BUNNETT: And Your Honor, may I approach Madam
19 Clerk?

20 THE COURT: Yes.

21 (Pause in the proceedings)

22 MR. BUNNETT: May I approach the witness?

23 THE COURT: Yes.

24 BY MR. BUNNETT:

25 Q Sir, I'm showing you what's been previously admitted

1 into evidence as State's 89 and 89A. I'm going to ask you to
2 take 89A out of the envelope. And do you recognize those?

3 A Yes.

4 Q Okay, and are those the -- is that the ammunition
5 you recovered from the storage shed?

6 A Yes.

7 Q Okay. If you could hold that up for the jury and
8 show them.

9 All right. Thank you, sir. And sir, what is your
10 background, training, and experience as it comes to -- as it
11 comes to firearms?

12 A Being a police officer for 17 years, just normal
13 qualifying every quarter with firearms, coming into contact,
14 obviously, multiple types of firearms in the course of my --
15 my job as a police officer.

16 Q Okay. And are you familiar with what kind of gun
17 would fit .22 caliber short ammunition?

18 A Typically, a pistol.

19 Q Okay, and so typically a handgun?

20 A Yes.

21 Q All right. So let's move onto the bedroom area.
22 You mentioned you had searched the bedroom area?

23 A Yes.

24 Q What did you find in the bedroom?

25 A I located a .9 millimeter handgun on the bottom of

ROUGH DRAFT TRANSCRIPT

RA 0309

1 the bedroom closet, I located some paperwork in the bedroom,
2 and those are the two items that I located in the bedroom.

3 Q Okay. How was the firearm placed when you found it?

4 A It was in the bottom of the bedroom closet in a --
5 in a container --

6 Q Okay.

7 A -- a manufacturer's container, gun box that they
8 typically come in when you purchase a firearm.

9 Q All right.

10 A Which would have been a black plastic box.

11 MR. BUNNETT: May I approach?

12 THE COURT: Yes.

13 BY MR. BUNNETT:

14 Q All right, I'm showing you what's been admitted as
15 State's 88. Do you recognize this box?

16 A Yes.

17 Q What's that box?

18 A It's a Ruger handgun box.

19 Q Okay. And if you open the box, do you recognize
20 what's in there?

21 A A black Ruger, appears to be a .9 millimeter
22 handgun.

23 Q Okay, and is that the handgun you found?

24 A Yes.

25 Q You mentioned paperwork. Do you remember what the

1 specific paperwork was?

2 A It was a pay stub in the name of Christopher Keller.

3 Q Okay.

4 MR. BUNNETT: Court's indulgence, Your Honor. A
5 couple more questions.

6 BY MR. BUNNETT:

7 Q Were you also tasked with taking -- with taking a
8 buccal swab?

9 A Yes.

10 Q Okay. What's a buccal swab?

11 A It's just a DNA collection that we take from
12 potential suspects. It basically amounts to a toothbrush type
13 of item that's rubbed against the inside of the mouth and
14 sealed in a container later to be processed for DNA.

15 Q Is it taken from the cheek?

16 A From the inside of the cheek, correct.

17 Q Okay, and did you take a buccal swab in this case?

18 A Yes.

19 Q Okay, and do you see who you took a buccal swab from
20 in court today?

21 A Yes.

22 Q Could you please point to that individual and
23 identify an article of clothing that he or she is wearing?

24 A He's wearing a blue shirt.

25 MR. BUNNETT: And Your Honor, I would ask that the

1 record reflect that the witness has identified the defendant.

2 THE COURT: It shall.

3 MR. BUNNETT: Okay.

4 BY MR. BUNNETT:

5 Q And were you wearing gloves when you collected that
6 swab?

7 A Yes.

8 Q What did you do with that swab?

9 A I sealed and placed into evidence.

10 Q Okay. And I want to go back to the gun really
11 quick. When you handled the gun, did you take any protective
12 measures to prevent contamination?

13 A Yes, I was wearing latex gloves.

14 Q Okay, and so you wore those the entire time you
15 handled the gun?

16 A Yes.

17 MR. BUNNETT: Court's indulgence.

18 THE COURT: Which gun are you talking about? The
19 one he found?

20 MR. BUNNETT: Yes.

21 THE COURT: Okay.

22 BY MR. BUNNETT:

23 Q And when I say "gun," you're referring -- I'm
24 referring to the .9 millimeter; is that correct?

25 A Correct.

1 Q So you handled the .9 millimeter with gloves?

2 A Yes.

3 MR. BUNNETT: Nothing further, Your Honor.

4 THE COURT: All right, thank you. Cross?

5 CROSS-EXAMINATION

6 BY MR. FRIZZELL:

7 Q Now, Officer, where -- or, I'm sorry, Detective.

8 Where is this storage area in relation to the unit itself?

9 A If you were looking directly at the unit, you have
10 your front door, and the storage unit is on an exterior wall
11 to the north of the front door.

12 Q Was there access to it from inside the unit, or only
13 outside?

14 A No, only outside.

15 Q And you testified that the .22 shells that were just
16 recently admitted, you say they typically go to pistols; is
17 that correct?

18 A To my knowledge, .22 shorts typically are fired from
19 handguns.

20 Q But they can be fired out of rifles as well, you
21 would agree?

22 A Yes.

23 Q Now, you say that -- did -- did you have occasion --
24 was the bathroom part of your search area, or was that not the
25 part that you looked at?

ROUGH DRAFT TRANSCRIPT

RA 0313

1 A No.

2 Q Okay, so you didn't go in a bathroom at all?

3 A No.

4 Q You went in that storage unit?

5 A Well, it's -- if I can -- it's one room. The
6 bedroom and the bathroom's kind of one area. Did I search the
7 bathroom? I did not search the bathroom.

8 Q Okay.

9 A I searched the bedroom and closet specifically.

10 Q Okay. Bedroom and closet, okay, and then of course
11 this outside storage?

12 A Correct.

13 Q So, in the bedroom, how many dressers were in the
14 bedroom? Or were there any dressers in the bedroom that you
15 recall?

16 A I don't recall off the top of my head.

17 Q Okay. Were you tasked with searching through the
18 drawer -- the dresser drawers?

19 A If they were in the bedroom, yes.

20 Q Okay, but you don't remember how many dressers?

21 A I don't.

22 Q If I said there was two, would that -- would that
23 sound fair?

24 A That would sound fair.

25 Q Okay. And so you would have been the one that

ROUGH DRAFT TRANSCRIPT

RA 0314

1 actually searched through both of them?

2 A There were multiple people there that were assisting
3 in the search. Again, off the top of my head, I don't recall
4 which drawers I would have searched, or if I would have
5 searched through drawers.

6 Q Okay. So your answer is you're not -- you're not
7 sure if you were the one that searched at all in those
8 drawers?

9 A In the drawers, correct.

10 Q Okay. So you couldn't tell me the contents of any
11 of those drawers?

12 A No.

13 Q Do you know -- do you know who would have been the
14 one to search those drawers, or who would have searched those
15 drawers?

16 A Not off the top of my head, no.

17 Q Okay, but it wasn't you?

18 A Correct.

19 Q Okay. Now, you searched both closets, did you say?

20 A I searched the closet off of the -- next to the bed
21 in the bedroom.

22 Q Okay. And the -- that's where you say that you
23 found the .9 millimeter --

24 A Yeah.

25 Q -- in the box, correct?

ROUGH DRAFT TRANSCRIPT

RA 0315

1 A Correct.

2 Q Okay. And that was -- was it out in the open? Was
3 it covered with clothes?

4 A It was laying just on the floor of the bedroom --

5 Q Okay, were there --

6 A -- closet.

7 Q Were there clothes in that -- was it -- you say it
8 was on the floor, correct?

9 A Yes.

10 Q Okay. Were there clothes in that closet?

11 A Yes.

12 Q And were they on the floor?

13 A I believe there were some on the floor.

14 Q Okay. Did you have occasion to look at those
15 clothes?

16 A I did.

17 Q Okay. And so, but they weren't -- these clothes you
18 say were not -- when you looked, they were not covering the
19 box with the gun?

20 A I don't believe so, no.

21 Q Okay. Okay, well, do you recall if they were or
22 not?

23 A I -- I recall the gun laying on the floor uncovered.

24 Q Inside the box?

25 A Inside the box.

ROUGH DRAFT TRANSCRIPT

RA 0316

1 Q So with the box that you saw initially?

2 A Correct.

3 Q Okay. So you didn't have to move any clothes?

4 A Not that I recall.

5 Q Okay. So you didn't have to move any girls clothes
6 or anything like that?

7 A Not that I recall.

8 Q Okay. Do you recall if they were girls clothes?

9 A I don't recall any girls clothes in the closet.

10 Q Okay. Did you actually secure any of the clothes?
11 Were those of any evidentiary value to you?

12 A I did not.

13 Q So if they were in the way, you would have just kind
14 of pushed them, and pushed them out of the way, maybe, to get
15 to the box, or?

16 A Again, I don't recall moving any clothes. I just
17 recall the gun box being on the floor of the bedroom closet.

18 Q Okay. Did the closet just have a door, or was there
19 sliding doors?

20 A It had a sliding door.

21 Q Okay. And was the closet otherwise illuminated when
22 you opened that door?

23 A No.

24 Q Okay. Did you -- do you recall seeing a light in
25 the closet, or you just -- you know there was no light?

ROUGH DRAFT TRANSCRIPT

RA 0317

1 A I don't recall seeing a light.

2 Q Okay. And in any event, even if there was one, it
3 wasn't on?

4 A I -- I'm assuming, because it was a small closet, it
5 wasn't a walk-in type closet. It was a small older style
6 closet with a sliding door, which typically doesn't have a
7 light, so I don't recall a light being in the closet or
8 turning a light on or off.

9 Q Okay. So what you're saying is you really didn't
10 pay too much attention to the clothes once you saw that box?

11 A The clothes were searched through to make sure there
12 was no contraband, or additional firearms, or anything in the
13 clothes, but nothing extraordinary stuck out to me --

14 Q Okay.

15 A -- about the clothes.

16 Q So you could -- could you -- you couldn't tell
17 whether they were guys or girls clothes?

18 A I don't recall seeing any women's clothes. I only
19 recall seeing male clothes.

20 Q Okay.

21 MR. FRIZZELL: Court's indulgence.

22 BY MR. FRIZZELL:

23 Q How -- do you recall, in this particular closet,
24 where you found the .9 millimeter, was it -- were there a
25 bunch of clothes in there, or was it very sparse? Was there

1 just like a few pieces of clothing, or was it -- was it full?

2 A It wasn't full. I don't recall exactly how much was
3 in there. I'd have to look at a photo, I guess, to remind --
4 to --

5 Q Did it have a rod in it that had clothes hanging, do
6 you recall?

7 A Yes, I do believe it did have some clothes hanging.

8 Q And did you look through those clothes?

9 A Yes.

10 Q Any girls' clothes in that?

11 A I don't recall any women's clothes.

12 Q Not that there weren't any; you just don't recall
13 there was any, correct?

14 A Correct.

15 Q Okay. But yet, you did search the other closet as
16 well?

17 A No.

18 Q You were not the one that searched the closet that
19 did not have the .9 millimeter?

20 A Correct.

21 Q Someone else did?

22 A Yes.

23 Q Do you recall who would have searched that?

24 A I do not.

25 Q Okay. So you didn't look in that one at all?

ROUGH DRAFT TRANSCRIPT

RA 0319

1 A No, sir.

2 MR. FRIZZELL: All right, nothing further.

3 THE COURT: Mr. Bunnett?

4 MR. BUNNETT: Nothing further, Your Honor.

5 THE COURT: Any further? Okay. Detective, thank
6 you so much for your testimony. You can step down. You're
7 excused. Okay. Do you have another witness?

8 MR. DICKERSON: Yes, Your Honor. State would call
9 Allison Rubino.

10 THE COURT: Okay. Is everyone doing all right? Do
11 we need to take a break? No? Ms. Hicks, do you think you
12 need a break?

13 JUROR NO. 6: No, I'm good.

14 THE COURT: Okay, okay.

15 JUROR NO. 6: We'll be done in an hour (inaudible)?

16 THE COURT: We're going to be done -- we're going to
17 be done in an hour or earlier.

18 JUROR NO. 6: Okay, we good.

19 THE COURT: Okay.

20 JUROR NO. 6: Thank you.

21 THE MARSHAL: Watch your step. Face the clerk,
22 she'll swear you in.

23 ALLISON RUBINO, STATE'S WITNESS, SWORN

24 THE CLERK: Thank you. Please be seated. Please
25 state your full name, spelling your first and last name for

ROUGH DRAFT TRANSCRIPT

RA 0320

1 the record.

2 THE WITNESS: My name is Allison Rubino.

3 A-l-l-i-s-o-n, R-u-b-i-n-o.

4 THE COURT: Your witness, Mr. Dickerson.

5 MR. DICKERSON: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. DICKERSON:

8 Q How are you employed, ma'am?

9 A I am a Forensic Scientist 2 at the Las Vegas
10 Metropolitan Police Department Forensic Laboratory.

11 Q How long have you been employed in that capacity?

12 A I've been here in Las Vegas since January of 2014,
13 so a little over three years.

14 Q Okay. And what are your duties there at the Las
15 Vegas Metropolitan Police Department Forensic Lab?

16 A I'm assigned to the biology DNA detail, and in that
17 detail, we examine evidence for the presence or absence of
18 biological material, and then conduct DNA analysis on those
19 samples, as well as other samples as they're requested to our
20 detail of the lab.

21 Q What sort of training and education do you have to
22 be in this position?

23 A I have a Bachelor's of Science of Biochemistry from
24 the University of Scranton in Pennsylvania, and I have a
25 Master's of Science in Forensic Science from the University of

ROUGH DRAFT TRANSCRIPT

RA 0321

1 New Haven in Connecticut.

2 Q And do you have any specific study about DNA in that
3 education?

4 A As part of the forensic science master's degree, we
5 kind of decide whether or not we want to go into an
6 investigative route or a lab route, and I chose the laboratory
7 route and focus primarily on DNA.

8 Q So in your time with Metro, have you conducted any
9 sort of DNA analyses?

10 A Yes, I have.

11 Q And what does that entail?

12 A So, with DNA analysis, when we get a case, we will
13 screen evidence as necessary for any biological material, and
14 after that, we do a series of laboratory steps. So the first
15 step is called an extraction where we isolate any DNA that may
16 be present on a sample. After we isolate the DNA, we want to
17 quantify it, see how much DNA is present, and once we've done
18 that, we ultimately want to put the DNA through a DNA copy
19 machine, where we'll make millions and millions of copies of
20 certain parts of the DNA, and we run it through an instrument
21 that takes pictures of it. And when we put those pictures
22 together, we create the DNA profile.

23 Q So, it might be basic, but what is DNA?

24 A DNA stands for deoxyribonucleic acid. It's a
25 compound that's found in nearly cell within our body. We

ROUGH DRAFT TRANSCRIPT

RA 0322

1 inherit half of our DNA from our mom and half from our dad,
2 and what ultimately DNA carries is the instructions and
3 information that makes us the individuals that we are, from
4 our hair, and our eye color, our height, the size of our
5 organs, things of that nature.

6 Q So where is DNA found in humans?

7 A It can be found in the skin, it can be found in
8 blood, other body fluids like semen and saliva. Nearly every
9 cell that is in your body, with the exception of red blood
10 cells.

11 Q So if DNA is on the human body and in the human
12 body, how is it that we're able to test other objects with
13 DNA?

14 A Well, what happens when you get a cut or a scrape,
15 you bleed on the table. We can do DNA analysis on maybe a
16 swab from that table because you left behind blood. Let's say
17 you -- when you go home every day and you put your hand on a
18 doorknob, when you put your hand on that doorknob, because the
19 DNA is in certain skin cells, if you kind of shed your skin
20 cells onto that doorknob, you're going to be leaving behind,
21 in some respect, some DNA.

22 Q So what's the difference between the doorknob DNA
23 and the blood that's left behind DNA?

24 A The blood DNA is from -- comes from within your
25 body. A DNA from the doorknob is what we sometimes will --

1 you'll hear touch DNA, and that DNA is very variable, just
2 because of the nature of -- there are so many environmental
3 factors involved in shedding DNA from the skin.

4 Q So what do you mean by that, that it's variable?

5 A Well, if I were to scratch somebody's arm, I'm
6 having direct contact with someone's skin, where I'll be able
7 to take off skin cells very readily. If I'm just touching a
8 doorknob, for example, so many other people come in contact
9 with that doorknob, so I might not be the only one leaving
10 behind that DNA. If it's -- if it's really warm out and I'm
11 sweating, maybe then I will leave a lot of DNA, because with
12 that sweat is going to come skin cells. If it's very cold,
13 I'm not going to be sweating as much, and therefore, I might
14 not leave behind DNA. There are a bunch of different factors
15 in regards to how easily you shed DNA, what the temperature is
16 like outside, what other environmental conditions are like.
17 So we consider it very variable.

18 Q So if I were to bleed onto this podium here versus
19 touching this podium, the blood would be more likely to find
20 DNA than the touch?

21 A Probably, yes.

22 Q Okay. Now, you also mentioned just there about
23 multiple people touching a certain object and touch DNA. What
24 does that do?

25 A What that will do -- it depends. Depending on the

1 person, depending on how many people, you may have -- you may
2 -- we may get a profile that contains multiple people in there
3 because so many people have touched a certain item and left
4 behind their DNA on a certain item.

5 Q And does that cause any problem for you as the
6 examiner?

7 A Depending on how much DNA is essentially in that
8 sample, it may result in the inability to interpret certain
9 DNA profiles we obtain.

10 Q So what sort of results can you get in your
11 analysis?

12 A We really have one of two options. We can either
13 get a single-source profile, which is a DNA profile that comes
14 from one contributor, or we can get a mixture DNA profile,
15 which is consistent with being from more than one contributor.

16 Q And then, when you analyze either a mixture or a
17 single-source against a known source, what can you ultimately
18 conclude?

19 A Well, when we're doing our comparisons with any
20 known DNA profiles we have, we can make inclusions, and we can
21 make exclusions, or, depending on that evidence sample
22 profile, we might not be able to make any conclusions at all.

23 Q So how is it that the DNA analysis actually done
24 with a known sample versus what you've just (inaudible)?

25 A Okay. So if I have -- if I have a single-source

1 profile and I have a known DNA profile, we look at a certain
2 number of locations on the DNA. After I've generated both
3 profiles, I make my evidence interpretation first, and then,
4 after I've done that, I will go side by side and compare the
5 profile at each location. If -- if I go down each location, I
6 may match, then we say that question or evidence sample is
7 consistent with this known sample. If I find any location
8 that isn't consistent, then we can say that that known person
9 is excluded from being part of that profile.

10 Q So, did you conduct a DNA analysis reference this
11 case?

12 A Yes, I did.

13 Q And is that specifically reference an event number
14 that the Las Vegas Metropolitan Police Department uses?

15 A Yes.

16 Q And that'd be 1601280259?

17 A Yes.

18 Q And is that event number found on the evidence bags
19 where the evidence is stored?

20 A Correct.

21 Q And do you -- how is it that you get evidence to end
22 up conducting an analysis?

23 A Okay. That evidence is found at the main Las Vegas
24 vault where all the evidence is kept. So when I get a
25 request, I will call up the evidence, and the employees at the

1 evidence vault will bring that evidence to the lab, where it
2 goes into my custody, and we do electronic custody. And once
3 it's in my custody, I'll keep it in the -- in the laboratory.
4 We have our own small DNA vault, which is behind a key card
5 access and a push pad access, so -- and then within that is an
6 evidence locker that I have the key for. So, once it's in my
7 custody, we keep it in a secure location as the lab has.

8 Q So, as part of this case, were you requested to take
9 a look at two items; namely, Ruger handgun, and magazine, and
10 a Baretta handgun?

11 A As well as a reference standard, yes.

12 Q And what was the reference standard?

13 A The reference standard was a known DNA sample from
14 Christopher Keller.

15 Q And how is it that a known DNA sample is generally
16 obtained?

17 MR. FRIZZELL: I'm going to object, Your Honor. We
18 need to approach.

19 THE COURT: Okay.

20 (Off-record bench conference)

21 THE COURT: All right, Mr. Dickerson, go ahead.

22 BY MR. DICKERSON:

23 Q Ms. Rubino, did the known DNA source from the
24 individual in this case come from a buccal swab?

25 A Yes, it did.

1 Q And that was a buccal swab that was collected and
2 impounded under the event number that we just spoke of?

3 A I believe so, yes.

4 Q Okay, as well as the guns?

5 A Yes.

6 Q Okay. And we heard about what a buccal swab is and
7 how it's taken. How is it that you use the buccal swab?

8 A Well, after I've processed evidence, so in this
9 case, the two guns and the magazine; after I've -- after I've
10 done my work with those, examining those items, I will examine
11 any reference standards I have. When we're doing analyses, we
12 make sure to separate when we do evidence samples from any
13 known samples, so I will spend a week doing my question
14 samples and processing them, taking them, opening them one at
15 a time, and then after all that is done, I'll go back and
16 start examining the reference standards.

17 Q So, in this case, you specifically got a Ruger
18 handgun as one of the items you were going to analyze; is that
19 right?

20 A Correct.

21 Q Showing you now what's already been admitted as
22 State's Exhibit 88 and its contents inside, do you recognize
23 this tag on State's Exhibit 88?

24 A Yes, I do.

25 Q And how is it that you recognize it?

ROUGH DRAFT TRANSCRIPT

RA 0328

1 A Well, this has a tag, and it has our laboratory
2 number, our laboratory item number, and then my initials, my
3 personnel number, and the date that I analyzed it.

4 Q And that's on the evidence tag?

5 A Yes.

6 Q And so what does that indicate about this item?

7 A That it was in my custody at some point.

8 Q Okay. And is that normal when you receive something
9 in your custody that you mark it?

10 A Yes, we'll mark it.

11 Q I also see that there's a blue piece of tape on here
12 that says "Evidence." What is that?

13 A So, normally, the packages we receive are paper
14 bags, sometimes envelopes in which, when we're sealing, we'll
15 close the seal with a laboratory-specific tape, which is the
16 blue and -- blue and white tape on this tag. Because this was
17 a different container than we normally receive, we want to
18 make sure that we have some sort of seal on there so that we
19 know that, after it's been here, if that seal has been broken,
20 somebody else has gotten into it.

21 Q So when you see this, was the seal broken?

22 A No.

23 Q Okay. And inside of it, there was a gun?

24 A Yes.

25 Q The .9 millimeter Ruger?

ROUGH DRAFT TRANSCRIPT

RA 0329

1 A Yes.

2 Q And what, if anything, did you do to start an
3 analysis on that Ruger?

4 A What I did was just essentially look at it, make
5 documentation on it, and then I prepared a swab -- or I
6 swabbed some of the textured areas, including the grips and
7 the trigger, which is good areas that we usually swab on
8 firearms for DNA, because the trigger is a small surface, and
9 it's something that, if a sample is submitted for latent
10 prints, they wouldn't be able to really get too much off of
11 that. Grips on a gun are usually textured, and that's also a
12 place where latent prints wouldn't be. So, with grips, they
13 have these textured surfaces, which is a good place for DNA,
14 because it's going to rub up against the skin, and hopefully
15 we'll be able to acquire some skin cells.

16 Q Now, you also received a Baretta handgun --

17 A Correct.

18 Q -- (inaudible) this case? Showing you here what's
19 already been admitted as State's Exhibit 81 and its contents,
20 which are numbered sequentially after that, do you recognize
21 State's Exhibit 81?

22 A Yes, I do.

23 Q And how is it that you recognize it?

24 A I recognize it. It has our laboratory number, our
25 laboratory item number, my personnel number with my initials,

ROUGH DRAFT TRANSCRIPT

RA 0330

1 and the date.

2 Q And does this bag here -- was this containing the
3 .22 handgun, the Baretta?

4 A Yes.

5 Q And is that the gun that you analyzed?

6 A Yes.

7 Q And this blue tape here, does that indicate anything
8 to you as well?

9 A That has my personnel number and initials as well,
10 meaning that I sealed up that -- that evidence.

11 Q So would that have been where you opened the bag
12 from?

13 A Correct.

14 Q And closed the bag?

15 A Correct.

16 Q So upon receiving these two guns, did you also take
17 steps on the Baretta to analyze that?

18 A Similar to that of the Ruger, yes.

19 Q And when you took those swabbings from both guns,
20 were you able to compare them against a reference sample for
21 Christopher Keller?

22 A I could not.

23 Q Okay. You could not compare them?

24 A I could not compare them because the DNA results
25 were inconclusive.

ROUGH DRAFT TRANSCRIPT

RA 0331

1 Q And why is that?

2 A Well, the profiles that I obtained -- we'll start
3 with the Ruger. I obtained a mixture DNA profile that
4 consisted of at least two individuals, one -- at least one
5 being a male, but because I had such limited data, other than
6 those two conclusions, I couldn't make any other conclusions.
7 So, ultimately, this was an inconclusive profile.

8 Q And what about the magazine for the Ruger?

9 A The magazine for the Ruger, I had similar results.
10 I had a mixture DNA profile of at least two individuals, with
11 at least one being a male, but unfortunately, due to the
12 limited data, I couldn't draw any other conclusions.

13 Q What about the Ruger? I'm sorry, the Baretta. I'm
14 sorry.

15 A For the Baretta, I obtained a mixture of two
16 individuals, but due to the limited data, I couldn't make any
17 additional conclusions.

18 Q So, you can't tell me whether Mr. Keller's DNA is on
19 that gun?

20 A No, I cannot.

21 Q And you also can't tell me that his DNA is not on
22 that gun?

23 A It -- the results were inconclusive.

24 Q And that's just due to the profiles not being able to
25 tell the one specific individual?

ROUGH DRAFT TRANSCRIPT

RA 0332

1 A We have certain standard operating procedures and
2 interpretation guidelines in place based on our validated data
3 for our work, and none of these profiles met the
4 specifications in order to make any comparisons to reference
5 standards.

6 MR. DICKERSON: State will pass the witness.

7 THE COURT: Cross?

8 CROSS-EXAMINATION

9 BY MR. FRIZZELL:

10 Q Ms. Rubino, so the bottom line is, is you tested two
11 guns and a magazine, correct?

12 A Correct.

13 Q Okay. And out of those two guns and a magazine, you
14 cannot say that my client -- you did not find my client's DNA
15 on any of those items?

16 A All of my results were inconclusive.

17 Q And inconclusive means that you can't say for sure
18 whose DNA is on there?

19 A Correct.

20 Q Okay. Now, were you given any other items to test,
21 or just these three items?

22 A Those three were the only requested.

23 Q Okay. So you didn't test anything else regarding
24 this case; just those three things?

25 A Just those three things.

ROUGH DRAFT TRANSCRIPT

RA 0333

1 Q Okay. Was there any -- was there anyone else that
2 you know of in your office that was asked to test anything
3 else from this?

4 A Usually, when -- when one person starts a laboratory
5 case, they'll be the ones that get any subsequent requests for
6 testing, so I don't think anybody else would have gotten any
7 requests.

8 MR. FRIZZELL: Okay, perfect. That's all I have.

9 THE COURT: Anything further?

10 MR. DICKERSON: Nothing from the State, Your Honor.

11 THE COURT: Okay. So, Ms. Rubino, it was nice
12 seeing you again.

13 THE WITNESS: Thank you.

14 THE COURT: You can step down. You're excused. Do
15 you have a short witness?

16 MR. BUNNETT: State calls Officer -- or Detective
17 Michael Belmont.

18 THE COURT: Okay.

19 THE MARSHAL: Watch your step up. Face the clerk,
20 she'll swear you in.

21 DETECTIVE MICHAEL BELMONT, STATE'S WITNESS, SWORN

22 THE CLERK: Thank you. Please be seated.

23 THE WITNESS: Thank you.

24 THE CLERK: Please state your full name, spelling
25 your first and last name for the record.

ROUGH DRAFT TRANSCRIPT

RA 0334

1 THE WITNESS: It's Michael Belmont. M-i-c-h-a-e-l,
2 B-e-l-m-o-n-t.

3 THE COURT: Your witness, Mr. Bunnett.

4 MR. BUNNETT: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. BUNNETT:

7 Q Good afternoon, sir.

8 A Good afternoon, sir.

9 Q What do you do for a living?

10 A I'm a detective with Las Vegas Metropolitan Police
11 Department.

12 Q All right. And what's your -- where do you
13 currently work?

14 A At the Northeast Area Command.

15 Q Okay. In what -- in what capacity do you work
16 there?

17 A I'm a detective -- a patrol detective there.

18 Q Okay. Were you working in that capacity on January
19 28th, 2016?

20 A I was.

21 Q Okay. And for how long had you been a -- or how
22 long have you been a Metro officer?

23 A For 13 years.

24 Q Okay. So, on January 28th, 2016 in the morning, did
25 you respond to 265 North Lamb --

ROUGH DRAFT TRANSCRIPT

RA 0335

1 A I did.

2 Q Did you respond to a specific unit there?

3 A There was a patrol unit. I don't know the actual
4 call sign, but there --

5 Q Okay.

6 A -- was a unit already assigned.

7 Q Okay, but did you respond to Unit F in that
8 apartment complex?

9 A There was a -- yes, I do believe it was F.

10 Q Okay. Do you know who else was there?

11 A There was a couple patrol units, and of course we
12 responded with their -- our particular unit as far as the
13 detectives.

14 Q So you all responded together?

15 A That's correct.

16 Q Was Detective Embry with you?

17 A He was.

18 Q Okay. And do you recall the patrol units who were
19 there?

20 A No, sir. There was a primary unit there, and I do
21 believe a secondary unit there.

22 Q Okay, so why did you respond to that location?

23 A There was a patrol unit that had stopped a vehicle,
24 and upon the stop, they were seeking a search warrant in that
25 particular time frame.

ROUGH DRAFT TRANSCRIPT

RA 0336

1 Q Okay. Was the search warrant a search warrant for a
2 car or a search warrant for a house?

3 A It was for a car.

4 Q It was for a car?

5 A Yes, the first search --

6 Q So you actually -- you actually responded when they
7 were just searching the car?

8 A It was after.

9 Q Okay. Did you eventually participate in the search
10 of a house?

11 A I did.

12 Q Okay. And what was your role during that search?

13 A Basically, I inventoried as far as if anybody found
14 anything inside the house, I would annotate and document it,
15 and I did the property report for that particular -- for the
16 items located.

17 Q So, in essence, you're the person who's essentially
18 walking around and writing down where everything's found?

19 A Sort of like a scribe.

20 Q Sort of like a scribe?

21 A Yes, sir.

22 Q Is that what you would typically call it?

23 A No, that's how I would describe it though.

24 Q Okay. Were you also -- did you also participate in
25 a search?

ROUGH DRAFT TRANSCRIPT

RA 0337

1 A I did.

2 Q What area did you search?

3 A Just the immediate area where I stayed in, because
4 it was less congested, was the kitchen, so I sort of just
5 stayed in that area.

6 Q Okay. And what in the kitchen did you search?

7 A Just the cupboards. I'd take a look at the
8 cupboards, and then I'd look through the refrigerator, the
9 oven, that sort of thing.

10 Q Okay. When you looked through the refrigerator --
11 and before I get there, actually, could you -- is this one of
12 those refrigerators with -- is it one with like two doors
13 directly next to each other, or is it one with --

14 A It's a top and bottom. Top was the freezer, bottom
15 was like your open shelf --

16 Q Okay.

17 A -- doors.

18 Q Did you search both of them?

19 A I did.

20 Q Did you find anything in either of them?

21 A I did.

22 Q And where did you --

23 A I found --

24 Q First of all, what did you find?

25 A I found a jar, it was maybe 18 inches tall, and it

ROUGH DRAFT TRANSCRIPT

RA 0338

1 was like a -- like a Mason jar almost. Had a flat top and it
2 had a green leafy substance in it.

3 Q Okay, and did you believe that green leafy substance
4 was any particular substance?

5 A Yes, sir, I believed it to be marijuana.

6 Q Okay.

7 MR. BUNNETT: May I approach Madam Clerk?

8 THE COURT: Yes.

9 MR. BUNNETT: May I approach the witness?

10 THE COURT: Yes.

11 BY MR. BUNNETT:

12 Q All right, I'm showing you what's been previously
13 admitted as State's Exhibit 87.

14 A All right, sir.

15 Q Do you recognize that?

16 A I don't --

17 Q Okay.

18 A -- recognize the parcel, no.

19 Q Okay, but if you feel the parcel, do you -- does
20 that -- do you feel something inside there?

21 A Yeah, it feels like a jar.

22 Q So that, to you, feels like a jar?

23 A Yeah. And it does say, as far as -- and that's my
24 writing right there, "Glass jar with ODV-positive marijuana,
25 188 point (inaudible) grams net."

1 Q Okay. I'm also going to show you what's been
2 previously marked as State's Proposed 61. Do you recognize
3 this?

4 A Yes, sir.

5 Q And what's that?

6 A And that is the jar.

7 Q And is that the jar of marijuana you found?

8 A That's correct.

9 Q Is that a fair and accurate depiction of the jar you
10 found?

11 A It is. Yes, sir.

12 MR. BUNNETT: And Your Honor, at this time, State
13 would move to admit State's Proposed 61.

14 THE COURT: Any objection?

15 MR. FRIZZELL: I thought it was -- I thought it had
16 already been admitted. No, no objection.

17 THE COURT: All right.

18 MR. BUNNETT: And permission to publish that, Your
19 Honor?

20 THE COURT: Yes.

21 BY MR. BUNNETT:

22 Q So that's the jar?

23 A That is.

24 Q And are those your hands in the picture?

25 A It may be. I don't know at the time.

ROUGH DRAFT TRANSCRIPT

RA 0340

1 Q Okay.

2 A But I know everyone was gloved up, so if I touched
3 anything, it would have been -- I would have been gloved up
4 also.

5 Q Okay. And in the background, is that the freezer
6 where you found it?

7 A Yes.

8 Q All right.

9 MR. BUNNETT: Nothing further, Your Honor.

10 THE COURT: Cross?

11 MR. FRIZZELL: I guess just -- just one.

12 CROSS-EXAMINATION

13 BY MR. FRIZZELL:

14 Q Officer, do you recall -- I know they took it back.
15 Do you recall what the weight was?

16 A 1 --

17 Q

18 A I think I read 188.4, sir.

19 Q Okay. Were you -- would you have been the one to
20 weigh it?

21 A We actually weighed the properties or the narcotics
22 -- or purported narcotics back at Northeast Area Command.

23 Q But would you have been the one to weigh it?

24 A I'd have to take a look at the ODV test, sir, to see
25 if I actually weighed it.

ROUGH DRAFT TRANSCRIPT

RA 0341

1 Q Okay. Do you know if it was -- if it was -- if the
2 contents were emptied and it was weighed, or if it was weighed
3 with that glass jar?

4 A Well, if it said net, it would have been -- it would
5 have been without the jar.

6 Q Okay, okay. And so it said "net"? Is that what
7 you're saying?

8 A I do believe I read "net."

9 Q Was that your --

10 A So it would have been taken -- it would --

11 Q Sorry.

12 A It would have been taken out of the jar.

13 Q And was that your writing on there -- on that?

14 A It was. Not the top though, just as far as what --

15 Q Okay. Well --

16 A -- was written down --

17 Q -- can I have it back, please? Just so we can
18 identify what portion you're saying is your writing.

19 A I recognize this.

20 Q Again, we're looking at State's Exhibit 87.

21 A That's correct. I recognize this particular
22 handwriting. Now, I don't have my glasses, and I do apologize
23 to the Court for not bringing them, but as far as -- this is
24 not -- these are not my initials. I did not impound this
25 particular property.

ROUGH DRAFT TRANSCRIPT

RA 0342

1 Q Okay.

2 A But I wrote this particular part right here --

3 Q Okay, so basically, where it says "Impounded item
4 description," and then an item number --

5 A That's correct, Item number 4.

6 Q -- which is Item number 4, and then the contents?

7 A Yes, sir. I wrote that.

8 Q That's your writing?

9 A That is my writing.

10 Q But everything above that line --

11 A I don't recognize it.

12 Q -- is not your writing?

13 A No, I just --

14 Q Okay.

15 A -- don't recognize it, sir.

16 Q Okay. So you wouldn't -- you say you wouldn't have
17 been the one that sealed this up?

18 A No, sir. I may not have been the person, because we
19 were helping -- there was a large amount that was located, so
20 we had a lot of people working at that particular time frame.
21 Now, the impounding officer would have been D9806L.

22 Q Okay. Do you know who that is?

23 A No, sir, I don't.

24 Q Okay. And when you filled out this part that you --
25 that you say is your writing --

ROUGH DRAFT TRANSCRIPT

RA 0343

1 A Um-hum.

2 Q -- below the thick black line here, below the thick
3 black line I'm showing the jury, the one line right there
4 below the -- below the black line. Anything below that being
5 yours below what you're saying is your writing?

6 A That -- I do believe those are if individuals take
7 those particular items out. If -- let's say your chain of
8 custody in this particular incidence, someone by those
9 initials and by that particular P number took this particular
10 property out on 9/6 of '16 at this particular time frame.

11 Q Okay. The writing where you're saying that that's
12 your writing --

13 A Um-hum.

14 Q -- was that -- would that have -- would you have put
15 that on there before the rest of this writing, or do you
16 recall?

17 A It's -- I would have put it on before, because I was
18 in charge of the property sheet itself, the property sheet.
19 So I kept track of all the -- as far as Package 1, Item 1;
20 Package 2, Item 2, I had to write that out, because basically,
21 I was the scribe. So I would put that on, and whoever was
22 impounding it at the time after they had done their initial
23 tests would know that this was Item number 4, and four of
24 particularly eight packages total.

25 Q Okay. So once you -- once you put your card on

ROUGH DRAFT TRANSCRIPT

RA 0344

1 here, what do you do with -- what do you do with this?

2 A It's sealed -- it's sealed, and then the individuals
3 sign it off as far as whoever's doing the impound.

4 Q But on this, so --

5 A Um-hum.

6 Q -- you would have -- who would you have -- when you
7 filled this out, this part, who would you have handed it back
8 to?

9 A That would have went to this individual right here,
10 T9806L.

11 Q Okay.

12 A And he would have impounded that particular item.

13 Q Okay. But as we sit here today, you can't tell me
14 who -- who it is that did that?

15 A I'm assuming it might be --

16 Q Well, I don't want you to assume.

17 A Well --

18 Q If you know --

19 A No, I don't know.

20 Q Okay.

21 A I don't know that P number. I'm sorry.

22 Q Okay. All right, all right.

23 MR. FRIZZELL: I have nothing further, Your Honor.

24 THE COURT: Any further?

25 MR. BUNNETT: Yes, Your Honor. And I'm going to ask

ROUGH DRAFT TRANSCRIPT

RA 0345

1 for that exhibit back.

2 THE CLERK: Um-hum.

3 REDIRECT EXAMINATION

4 BY MR. BUNNETT:

5 Q So you didn't impound this, right?

6 A No, sir.

7 Q Okay.

8 MR. BUNNETT: May I approach?

9 THE COURT: Yes.

10 BY MR. BUNNETT:

11 Q Now, you said that the person who did -- who would
12 have impounded it had that D9806L identifier, right?

13 A That's correct.

14 Q Okay. And so it also shows at the bottom of the --
15 lower on here where it says "Chain of Custody" --

16 A Um-hum.

17 Q -- it looks like there's a P number there as well.

18 A That's correct.

19 Q And what's that P number.

20 A 14211.

21 Q Okay. And then, I'm looking at some blue tape. Are
22 you familiar with blue tape?

23 A Not necessarily.

24 Q But do you know what it's typically used for in
25 Metro?

ROUGH DRAFT TRANSCRIPT

RA 0346

1 A No, not necessarily --

2 Q Okay.

3 A -- to be honest.

4 Q But this -- it looks like there's a J14211A written
5 across the tape?

6 A Correct.

7 Q Okay. So, based on Metro's procedures, would that
8 be the person who opened up and resealed that?

9 A That's correct.

10 Q Okay. So I'm going to give this to you, and in a
11 second, I'm going to ask you to open up --

12 MR. BUNNETT: And Madam Clerk, to the right, the
13 right side.

14 THE COURT: Just do it where you're not touching the
15 -- hitting the seams.

16 MR. BUNNETT: Okay.

17 THE COURT: Just do it on one of those corners.

18 THE CLERK: (Inaudible).

19 THE COURT: Yeah, just let her open it.

20 MR. BUNNETT: Okay, we'll let Madam Clerk open it.

21 For the record, that was -- couldn't complete open the bag,
22 but across the same way as the tape.

23 BY MR. BUNNETT:

24 Q And before I give this to you, would you like
25 gloves?

1 A If you have them.

2 Q Okay.

3 A But I can look probably just down inside.

4 Q Well, let me get you some.

5 (Pause in the proceedings)

6 BY MR. BUNNETT:

7 Q Okay, so the -- you're holding up what appears to be
8 a jar?

9 A Yes, sir.

10 Q So that was inside State's 87, which has been
11 admitted now into evidence.

12 A Okay.

13 Q Okay? And is that the jar that you found --

14 A Yes, sir.

15 Q -- marijuana in?

16 A It appears to be.

17 Q Okay. And how about -- is there another item inside
18 the --

19 A There is. Did you -- sorry, are you going to open
20 that up?

21 Q So it looks like there's also an ODV test sheet in
22 there?

23 A Yes, sir.

24 Q Okay. And then, finally, there's a package that
25 you're holding in your left hand?

ROUGH DRAFT TRANSCRIPT

RA 0348

1 A Yes, sir.

2 Q Okay.

3 MR. BUNNETT: Court's indulgence.

4 BY MR. BUNNETT:

5 Q All right, I'm going to ask you to put that all back
6 in the bag.

7 A Okay.

8 Q I'm going to show you what's been admitted, again,
9 as State's 61. Now, in your experience, have you ever been
10 involved in stops involving marijuana?

11 A I have.

12 Q Okay. And in your typical experience, when you
13 normally stop somebody for possessing marijuana, is that
14 usually an amount of personal use?

15 A No, that's -- that's pretty high. That's not --

16 Q Okay, well, I meant in your experience when you have
17 stopped somebody, they were possessing the marijuana -- or
18 what you believed was personal use?

19 A No, that's not -- not to me, that's not personal
20 use.

21 Q Okay. So just -- my question's not getting out
22 really the way I want it to get out.

23 A I'm sorry.

24 Q That's okay. This amount is not personal use --

25 A That's correct.

ROUGH DRAFT TRANSCRIPT

RA 0349

1 Q -- in your opinion?

2 A That's correct.

3 Q Okay.

4 MR. BUNNETT: I have nothing further.

5 THE COURT: Recross?

6 MR. FRIZZELL: No, Your Honor.

7 THE COURT: And just for the record, I want to make
8 sure, the bag is 87, the contents, the jar will be 87A, the
9 ODV test will be 87B, and the bag that wasn't opened here is
10 87C. Okay?

11 MR. DICKERSON: Okay. Thank you, Your Honor.

12 THE COURT: All right. Anything -- okay, anything
13 further from the parties? Nothing from -- okay. Detective,
14 thank you so much for your testimony.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: You can step down. You're excused.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: Okay. Ladies and gentlemen, we're going
19 to take our evening recess.

20 During this evening, once again, you're admonished
21 not to converse amongst yourself or with anyone else on any
22 subject connected with this trial, or read, watch, or listen
23 to any report or commentary on the trial by any person
24 connected with this case, or by any medium of information,
25 including, without limitation, newspapers, television, the

1 internet, or radio. You're further admonished not to form or
2 express any opinion on any subject connected with this trial
3 until the case is finally submitted to you.

4 8:30 tomorrow morning, all right? Be here tomorrow
5 8:30. We're going to get started at 8:30. You get the whole
6 -- we don't have a calendar, right? Okay.

7 MR. FRIZZELL: Your Honor, I have a pretty full
8 calendar tomorrow morning.

9 THE COURT: What's that?

10 MR. FRIZZELL: I have a pretty full calendar
11 tomorrow morning.

12 THE COURT: So are we going to wait for your
13 calendar to be done; is that what you want me to do? When are
14 you going to be done?

15 MR. FRIZZELL: I've got a few cases up with Judge
16 Leavitt. They're other appointed cases. I'll do my best.
17 Hold on, I'm pulling up my calendar.

18 THE COURT: She doesn't start a calendar until 9:00.

19 THE CLERK: She starts at 8:30.

20 MR. FRIZZELL: No, she starts at 8:00 now.

21 THE COURT: She starts at 8:30?

22 MR. FRIZZELL: No, she --

23 THE COURT: Okay, I'll give you -- we'll start at
24 9:00. Be here tomorrow at 9:00 o'clock, okay? Thank you.
25 All right. We'll be at ease while the jury leaves the room.

ROUGH DRAFT TRANSCRIPT

RA 0351

1 (Jury recessed at 4:39 P.M.)

2 THE COURT: Okay, we're outside the presence of the
3 jury. During the testimony of Officer Lopez, there was an
4 objection lodged by the defense with regards to Exhibit 85
5 with respect to the five glass smoking pipes; his testimony
6 that those were used and also other ones were found that were
7 new. Mr. Frizzell, do you wish to make a record as to that
8 any further? You objected to it, and I indicated at the bench
9 that, based on what you indicated here, that I wasn't going to
10 overrule the -- I wasn't going to sustain the objection, so.

11 MR. FRIZZELL: And I don't have any other record to
12 make, so.

13 THE COURT: Okay, so are you withdrawing your
14 objection?

15 MR. FRIZZELL: I don't want to withdraw it, but
16 you're overruling it, so --

17 THE COURT: I know, but did you want to make a
18 record as to what you were arguing with respect to that?

19 MR. FRIZZELL: No.

20 THE COURT: All right. Okay. Anything further from
21 the parties?

22 MR. DICKERSON: Just a brief record on our part,
23 Your Honor, that the objection was relevance on Mr. Frizzell's
24 part, that those items are relevant to show the knowledge of
25 the defendant both to the nature of the substance and the

ROUGH DRAFT TRANSCRIPT

RA 0352

1 possession of the substance itself; knowing possession and
2 knowing the nature of it, that's why we admitted those. At
3 the time we were admitting those, there was belief that they
4 were clean, but nonetheless, the clean and the dirty pipes are
5 all relevant, as well as being part of the res gestae of the
6 crime, being found together with the items in these search
7 warrants, especially that they are tools of the trade in both
8 using and possessing and selling these narcotics, Your Honor.

9 THE COURT: Okay.

10 MR. FRIZZELL: Well, and for that, Your Honor,
11 because there was -- because when we opened it, basically,
12 there was only -- there was only dirty in there is why I'm not
13 making anymore of a record, so.

14 THE COURT: Okay. All right, so okay, be here by
15 9:00 o'clock tomorrow. Mr. Dickerson, Mr. Bunnett, I would
16 suggest maybe in the future you got two deputies working.
17 Both of you can be looking at the evidence while the other
18 one's presenting.

19 MR. DICKERSON: Okay.

20 THE COURT: I also would suggest that you write down
21 a list of everything you have, Exhibits 1 through 90, or
22 whatever you have, on a piece of paper you have. That way,
23 you can go right to the number you need, and so when one
24 deputy's questioning, he can tell you -- the other deputy,
25 hey, I'm going to need this, and so you can fumble through it.

ROUGH DRAFT TRANSCRIPT

RA 0353

1 That way, we're not doing it in front of the jury like that,
2 okay?

3 MR. DICKERSON: Absolutely.

4 THE COURT: All right.

5 MR. DICKERSON: So Your Honor doesn't mind if I'm up
6 there while he's questioning then?

7 THE COURT: That's fine. I don't mind. I don't
8 mind --

9 MR. DICKERSON: Thank you very much.

10 THE COURT: -- if you're addressing that. It makes
11 it move a little bit easier, okay?

12 MR. DICKERSON: We'll be doing that tomorrow. Thank
13 you very much, Your Honor.

14 THE COURT: All right. Okay.

15 MR. FRIZZELL: And Your Honor, I just want to tell
16 you, this was a revo that came up, and I just got noticed
17 about it, so that -- I mean, I'll get here as soon as I can --

18 THE COURT: All right, just let her know --

19 MR. FRIZZELL: -- but that's where I'm going to be.

20 THE COURT: Just let her know you're in trial, and
21 we'll wait. We can't go without you.

22 MR. FRIZZELL: That's fine.

23 THE COURT: Okay.

24 MR. FRIZZELL: But I just wanted to let you know it
25 was something that just recently came up.

ROUGH DRAFT TRANSCRIPT

RA 0354

1 THE COURT: Okay.

2 MR. FRIZZELL: Otherwise -- I had cleared everything
3 otherwise.

4 THE COURT: Okay. All right, we'll see you tomorrow
5 then, okay?

6 MR. FRIZZELL: Thank you.

7 MR. DICKERSON: Thank you, Your Honor.

8 THE COURT: We're off the record.

9 (Court recessed at 4:42 P.M., until Thursday,
10 March 9, 2017, at 9:14 A.M.)

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ROUGH DRAFT TRANSCRIPT

RA 0355

INDEXWITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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STATE'S WITNESSES:

Off. Daniel Lopez	7	127	165/176	172/--
Det. Chad Embry	178	186		
Allison Rubino	194	206		
Det. Michael Belmont	208	214	219	--
	*	*	*	*

EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
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STATE'S EXHIBITS:

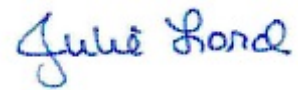
Exhibit 1.	96
Exhibit 2.	116
Exhibits 3, 4 and 5.	11
Exhibits 42 and 43.	180
Exhibits 82A, 82A1, 82A2, 82A3, 82A4, and 82A5.	77
Exhibits 82B1 through 82B4.	65
Exhibit 82B5.	93
Exhibits 83 and 83A.	127
Exhibits 84A through 84C.	42
Exhibit 85 (and contents).	122
Exhibit 86.	108
Exhibit 86A.	109
Exhibits 86B through 86E.	111
Exhibit 87 (and contents).	120
Exhibit 88.	115
Exhibits 88A and 88B.	119
Exhibit 89.	125
Exhibit 89A.	126
Exhibits 90, 90A, 90B, 90C, and 90D.	113
Exhibits 91 and 91A.	94
Exhibits 92 and 92A.	115

ROUGH DRAFT TRANSCRIPT

RA 0356

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ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I acknowledge that this is a rough draft transcript, expeditiously prepared, not proofread, corrected, or certified to be an accurate transcript.



JULIE LORD, INDEPENDENT TRANSCRIBER

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RA 0357