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CLERK OF THE COURT

1 CASE NO. C228755

2 DEPT. NO. VII

**ORIGINAL**

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6

DISTRICT COURT  
CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA, )  
8 Plaintiff, )  
9 vs. )  
10 )  
11 NORMAN KEITH FLOWERS, )  
12 aka NORMAN HAROLD )  
FLOWERS, III, )  
Defendant. )

Reporter's Transcript  
of  
Jury Trial  
Volume 3-B

13  
14  
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BEFORE THE HON. STEWART BELL, DISTRICT COURT JUDGE  
FRIDAY, OCTOBER 17, 2008  
1:00 P.M.

19  
20  
21  
22  
23  
24  
25

APPEARANCES:

For the State: Pamela Weckerly, Esq.  
Elissa Luzaich, Esq.  
Deputies District Attorney

For the Defendant: Randall Pike, Esq.  
Clark Patrick, Esq.  
Deputies Public Defender

Reported by: JoAnn Orduna, CCR No. 370

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## WITNESSES FOR THE DEFENSE:

ANTHONY CULVERSON

Direct Examination by Ms. Patrick 4

## WITNESSES FOR THE STATE:

DETECTIVE DAN LONG

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Cross-Examination by Mr. Pike 44

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GEORGE BRASS

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GABRIEL UBANDO

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DEFENSE EXHIBITMARKEDOFFEREDADMITTED

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1 CASE NO. C228755

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4

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22 For the Defendant: Randall Pike, Esq.  
Clark Patrick, Esq.  
Deputies Public Defender

25 Reported by: JoAnn Orduna, CCR No. 370

3  
1 LAS VEGAS, CL COUNTY, NV, FRI, OCT 17, 2008

2 1:00 P.M.

3 -o0o-

4 P R O C E E D I N G S

6 THE COURT: Let's go back on the record  
7 in Case C228755. State of Nevada versus Donald  
8 Keith Flowers.

9 Let the record reflect the presence  
10 of Mr. Flowers with his counsel, counsel for the  
11 State. All ladies and gentlemen of the jury are  
12 back in the box.

13 Ladies and gentlemen, we have a  
14 witness here that is being proffered by the defense.  
15 Normally they wouldn't put on any witnesses until  
16 the State was completed. This gentleman for reasons  
17 that I don't know except that I know it's not  
18 related to anything about this case, is in custody  
19 in the prison system and these fine officers have to  
20 take him back right now as soon as we're done.  
21 That's just part of the rules and routines.

22 So to accommodate them, we're gonna  
23 call him out of order. It doesn't matter whether  
24 somebody's called first, last or otherwise. You can  
25 just add it into the process. But this is a defense

2  
I N D E X

PAGE

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22  
E X H I B I T S

23 STATE'S EXHIBIT MARKED OFFERED ADMITTED  
24 124 69 69  
25 125 98 100

26 DEFENSE EXHIBIT MARKED OFFERED ADMITTED  
27 A, D 10  
28 B 94  
29 A 95

4  
1 witness and we'll pick back up with the prosecution.

2 Sir, will you do your best to stand  
3 and raise your right hand.

4 (Whereupon, Anthony Darnel  
5 Culverson was duly sworn to tell the  
6 truth, the whole truth and nothing  
7 but the truth.)

8 THE CLERK: Thank you. Please be seated.  
9 Please state your full name, spelling your first and  
10 last name for the record.

11 THE WITNESS: Anthony Darnel Culverson.  
12 A-n-t-h-o-n-y. C-u-l-v-e-r-s-o-n.

13 THE COURT: Go ahead, Mr. Patrick.

14 DIRECT EXAMINATION

15 BY MR. PATRICK:

16 Q. Good afternoon, Mr. Culverson.

17 A. Yeah.

18 Q. I want to talk to you a little bit about  
19 an incident that happened on March 24thth, 2005.

20 A. Yes.

21 Q. You, you're related to George Brass, Jr.?

22 A. Yes.

23 Q. And how are you related to him?

24 A. That's my mom's twin sister's son.

25 Q. Okay. And you're related to Robert



1 Lewis?  
 2 A. Yes.  
 3 Q. And what's your relationship with him?  
 4 A. That's my mom's brother.  
 5 Q. Okay. And you knew Sheila Quarles or  
 6 Pooka?  
 7 A. I knew of her by her brother, yes.  
 8 Q. Okay. You knew her brother?  
 9 A. Yes.  
 10 Q. Okay. And was Sheila friends with your  
 11 little sister?  
 12 A. What, Pudge? Yes.  
 13 Q. Okay. And you knew that George was  
 14 dating Sheila?  
 15 A. Well, not --  
 16 MS. LUZAICH: Well, objection, leading.  
 17 You know, this isn't cross-examination. He hasn't  
 18 asked a direct examination question yet.  
 19 THE COURT: Leading, sustained.  
 20 Rephrase. What if anything did you know about any  
 21 relationship between George and Pooka?  
 22 BY MR. PATRICK:  
 23 Q. Did you know -- what if anything did you  
 24 know about a relationship between George and Pooka?  
 25 A. I just know that they was seeing each

1 other off and on.  
 2 Q. Okay. And what if anything did you know  
 3 about Pooka dating another gentleman?  
 4 A. Nothing.  
 5 Q. Now, you, George and Robert Lewis lived  
 6 in the Palm Village Apartments over on Pecos?  
 7 A. Yes.  
 8 Q. And because you knew Sheila, something  
 9 that would happen to her would be of interest to  
 10 you?  
 11 A. What do you mean?  
 12 Q. Well, what I'm trying to get at I guess  
 13 is do you remember the day that Sheila died?  
 14 A. I -- it has came back to mind after  
 15 everything has been brought back up, yes.  
 16 Q. Okay. And were you in that area that  
 17 day?  
 18 A. Later on that day after everything was  
 19 all over and done with, I ended up coming over to my  
 20 grandmother's house.  
 21 Q. Okay. Do you remember how you got there?  
 22 A. In a car.  
 23 Q. In a car?  
 24 A. Yeah.  
 25 Q. Did you have a motorcycle at that time?

1 A. Yeah, but I ended up coming over there  
 2 the next day on the motorcycle.  
 3 Q. Okay. Now, the day that on March 24th,  
 4 the day that Sheila died, when you got there, what  
 5 was going on?  
 6 A. It was just small talk about what had  
 7 happened.  
 8 Q. Okay. Were there any police there?  
 9 A. No.  
 10 Q. Did you -- have you ever talked to  
 11 anybody about this incident?  
 12 THE COURT: Anybody meaning like?  
 13 BY MR. PATRICK:  
 14 Q. Any of your relations, George or Robert?  
 15 A. No. Cuz at the time it was, it was a  
 16 hurting feeling.  
 17 Q. Okay. Have you ever talked to the police  
 18 regarding this incident?  
 19 A. Not until a couple of months ago when  
 20 they came out to Wells.  
 21 Q. Okay. Now, you remember Mr. Pike and Mr.  
 22 Perez came out to see you in Wells?  
 23 A. Yeah, he was one of 'em.  
 24 Q. Okay. And then the police had come out  
 25 also?

1 A. No.  
 2 Q. No. It was just Mr. Pike and Mr. Perez?  
 3 A. Yup.  
 4 Q. Okay. Have you talked to anybody else  
 5 regarding that in the last several months?  
 6 A. Nope. That was the first time it ever  
 7 came back up.  
 8 Q. Do you, do you remember Carlton Fowler?  
 9 A. Not by that name, no.  
 10 Q. Okay. If I was to show you a picture,  
 11 would that maybe help refresh your memory?  
 12 A. It can.  
 13 Q. Okay. What about Brandon Bland, do you  
 14 remember him, do you know him?  
 15 A. Not by that name.  
 16 Q. Again, if I was to show you a picture,  
 17 that might help refresh your memory?  
 18 A. (Positive nod of the head.)  
 19 THE COURT: Do you have these marked?  
 20 MR. PATRICK: Yes, judge.  
 21 MS. LUZAICH: They've never been shown to  
 22 the State however.  
 23 THE COURT: Well, I'm sure he's gonna do  
 24 that right now.  
 25 BY MR. PATRICK:

1 Q. Tis is Defense proposed A and D. Okay.  
 2 I'm gonna show you what's been marked as Defense  
 3 proposed Exhibit A.  
 4 Do you recognize that gentleman?  
 5 A. No.  
 6 Q. No?  
 7 A. Not off the top, no.  
 8 Q. Okay. And I'm gonna show you what's been  
 9 marked as Defense D.  
 10 THE COURT: B you mean?  
 11 MR. PATRICK: D.  
 12 THE COURT: B as in boy?  
 13 MR. PATRICK: No. D as in dog, judge.  
 14 THE COURT: We've got A and D.  
 15 MR. PATRICK: A and D.  
 16 BY MR. PATRICK:  
 17 Q. Do you recognize him?  
 18 MS. LUZAICH: Which one is that?  
 19 MR. PATRICK: Mr. Bland.  
 20 BY MR. PATRICK:  
 21 Q. And how do you recognize Mr. Bland?  
 22 A. He had some intimacy with my sister and  
 23 they had a baby.  
 24 Q. Okay. And is that a true and accurate  
 25 depiction of how Mr. Bland looked?

1 A. Yeah.  
 2 Q. Last time you saw him?  
 3 A. Yeah.  
 4 Q. Pretty much?  
 5 A. Yeah. Not that rough, though, but.  
 6 Q. Okay. Move to admit Defense D, judge.  
 7 THE COURT: Any objection?  
 8 MS. LUZAICH: What's the relevance?  
 9 THE COURT: I'm not sure what it is, but  
 10 I'm not sure that it hurts anything.  
 11 MS. LUZAICH: Well --  
 12 MR. PATRICK: The relevance is the  
 13 defense theory of the case and getting to --  
 14 THE COURT: Well, I don't want you to  
 15 argue it now. I'm gonna conditionally admit it. If  
 16 you haven't tied it up before the case is submitted  
 17 and goes to the jury, I'll exclude it and it won't  
 18 go back.  
 19 You're gonna have to tie it up. And  
 20 I don't want you just to argue your case and then it  
 21 doesn't come that way in the end. Conditionally  
 22 admitted.  
 23 BY MR. PATRICK:  
 24 Q. Now, I think we just talked about you  
 25 remember when Mr. Pike and Mr. Perez came up to talk

1 to you in Wells?  
 2 A. Yes.  
 3 Q. And do you remember Mr. Perez showing you  
 4 pictures of Mr. Fowler?  
 5 A. I remember the pictures, yeah.  
 6 Q. Okay. And he showed you several  
 7 pictures?  
 8 A. No. He only showed me three or four.  
 9 Q. Three or four. And one of them was Mr.  
 10 Fowler?  
 11 A. Yeah.  
 12 Q. And do you remember him showing you a  
 13 picture of Mr. Bland?  
 14 A. Yes.  
 15 Q. And do you remember going back to Mr.  
 16 Fowler, do you remember telling him that you had met  
 17 him because of --  
 18 MS. LUZAICH: Objection. Hearsay.  
 19 THE WITNESS: I mean --  
 20 THE COURT: Sustained.  
 21 THE WITNESS: You're telling me names  
 22 that I don't know.  
 23 THE COURT: Sustained. He says he  
 24 doesn't know Fowler, and Bland used to date his  
 25 sister. That's what he knows.

1 MR. PATRICK: Well, I understand that,  
 2 judge.  
 3 THE COURT: If you want to put your  
 4 investigator on to impeach him, no, he told me  
 5 something else at any other time, we can do that.  
 6 MR. PATRICK: That's fine.  
 7 BY MR. PATRICK:  
 8 Q. Right now you're housed up at the Wells  
 9 Conservation Camp?  
 10 A. No, I'm at Indian Springs.  
 11 Q. You're at Indian Springs. Where were you  
 12 before that?  
 13 A. At Wells --  
 14 Q. At Wells?  
 15 A. -- Camp.  
 16 Q. Okay. Why are you there?  
 17 THE COURT: Nope.  
 18 MR. PATRICK: Nope?  
 19 THE COURT: Sustained. That's not  
 20 relevant to this proceeding.  
 21 MR. PATRICK: Okay.  
 22 BY MR. PATRICK:  
 23 Q. You have -- have you been convicted of a  
 24 felony within the last 10 years?  
 25 A. Yes.

1 Q. How many?  
 2 A. One.  
 3 Q. One. What was that for?  
 4 A. What I'm in prison for now.  
 5 Q. What other felony you were convicted of,  
 6 yes.  
 7 A. Well, why is that relevant to this case?  
 8 THE COURT: Well, he can ask, he can ask  
 9 that and then he can't ask anything more. It could  
 10 be possession of cocaine, it could be robbery. Just  
 11 what is it?  
 12 THE WITNESS: It's a domestic.  
 13 THE COURT: Domestic violence?  
 14 THE WITNESS: Yes.  
 15 BY MR. PATRICK:  
 16 Q. Okay. And you've only been convicted of  
 17 one felony in the last two years?  
 18 A. Yes.  
 19 Q. So if --  
 20 A. This is my first time up state.  
 21 Q. Okay. Was it --  
 22 (Whereupon, an off-the-record  
 23 discussion was had at the bench.)  
 24 BY MR. PATRICK:  
 25 Q. Mr. Culverson, isn't it true that you've

1 actually been convicted of two felonies in the last  
 2 10 years?  
 3 A. If I was convicted of two felonies, I  
 4 would have been, went to prison more than once.  
 5 Q. Okay. Were the two felonies that you've  
 6 been convicted of combined into one case?  
 7 A. I only got charged with one charge and  
 8 that was a domestic.  
 9 Q. Okay. I have two judgements of  
 10 conviction for felonies in the last 10 years with  
 11 different case numbers.  
 12 Are you saying that those cases were  
 13 combined or that you've only been convicted of one?  
 14 A. I've only been convicted of one and  
 15 that's all that I've been hit with.  
 16 MR. PATRICK: Judge, I'd move to --  
 17 THE COURT: Just let me see it. Let me  
 18 see it. If you want to admit these for whatever  
 19 they're worth. You can admit them was defense  
 20 exhibits.  
 21 MR. PATRICK: I move to do that.  
 22 THE COURT: They'll be admitted next in  
 23 order.  
 24 MR. PATRICK: That's all I have, judge.  
 25 THE COURT: Any questions?

1 MS. LAICH: No.  
 2 THE COURT: Thank you, Mr. Culverson.  
 3 You can take him back. Thank you, officers.  
 4 Appreciate your time.  
 5 State, call your next witness.  
 6 MS. WECKERLY: Dan Long.  
 7 (Whereupon, Detective Dan Long was  
 8 duly sworn to tell the truth, the  
 9 whole truth and nothing but the  
 10 truth.)  
 11 THE CLERK: Thank you. Please be seated,  
 12 spelling your first and last name for the record.  
 13 THE WITNESS: Dan Long. D-a-n. L-o-n-g.  
 14 THE COURT: Does this relate to your  
 15 first case or second case?  
 16 MS. WECKERLY: First.  
 17 DIRECT EXAMINATION  
 18 BY MS. WECKERLY:  
 19 Q. How are you employed?  
 20 A. Las Vegas Metropolitan Police Department.  
 21 Q. Where are you assigned?  
 22 A. I'm a homicide detective.  
 23 Q. How long have you been in homicide?  
 24 A. Eight years.  
 25 Q. And prior to that, where did you work in

1 Metro?  
 2 A. I was detective for the gang unit.  
 3 Q. You were working in homicide on March the  
 4 24th of 2005?  
 5 A. Yes, ma'am.  
 6 Q. Were you asked to respond to an address  
 7 at 1001 North Pecos?  
 8 A. Yes, I was.  
 9 Q. Okay. That's obviously in Las Vegas,  
 10 Clark County, Nevada?  
 11 A. Yes, ma'am.  
 12 Q. Were you the only homicide detective to  
 13 respond or did others respond with you?  
 14 A. Detective Vacarro was working as our  
 15 sergeant at that time. He called us, he also called  
 16 the lead Detective George Sherwood, myself, I was  
 17 his partner, Detective Wildman and Detective  
 18 Wallace. We all responded to the scene that she's  
 19 described.  
 20 Q. When homicide is called, obviously patrol  
 21 or someone else has been there ahead of you?  
 22 A. That's correct.  
 23 Q. Do you know what time though the 911 call  
 24 for this incident came in?  
 25 A. Sure. Do you mind if I look?

1 Q. That'll refresh your recollection?  
2 A. It was at 14:51 hours which is 2:51 in  
3 the afternoon.

4 Q. Okay. So that's what time the 911 call  
5 was made to Metro?

6 A. That's correct.

7 Q. About nine minutes to 3:00. When you  
8 responded, it was some time after that, though?

9 A. Correct.

10 Q. Okay. Once you arrived at the scene,  
11 what is the first thing that you and the other  
12 detectives do in terms of starting the  
13 investigation?

14 A. We pulled into the parking lot, we saw  
15 that there had been a scene established by yellow  
16 crime scene tape everybody sees and detective -- or  
17 officers were all on the perimeter. They were  
18 keeping people away from something. We didn't know  
19 what it was at that point.

20 We then huddle up with the first  
21 officer on the scene and he gives us a synopsis of  
22 what we're looking at, why we're there.

23 The call originally came up out as  
24 an unknown trouble call, but then it was updated to  
25 a burglary call. We still didn't know why we were

1 called there.

2 We were told by the officers on the  
3 scene that they had found a young girl in the  
4 bathtub of apartment 633, the mother had found her.  
5 There were reports that there may be some trauma and  
6 it was just suspicious to the officers on the scene  
7 and they wanted homicide to take a look and decide  
8 what to do at that point.

9 Q. Let me interrupt you.

10 A. Okay.

11 Q. The place where you respond at this  
12 address, it's a, we've heard it's a multi-building  
13 apartment complex?

14 A. That's two story, multi-unit apartment  
15 complex at the corner of Washington and Pecos.  
16 It'll be the northwest corner.

17 Q. So you guys have -- you meet with the  
18 patrol officer who's the first one on the scene and  
19 then what's the next thing you all decide to do in  
20 terms of investigating the case?

21 A. Detective Sherwood would be the lead, he  
22 would take the scene. He'd be responsible for  
23 taking care of all the evidence, documenting the  
24 scene and he'd be in charge of all the CSAs.

25 Detective Vacarro who's gonna be the

1 supervisor would stay as the supervisor. Myself,  
2 Detective Wildman and Detective Wallace would start  
3 with the witnesses.

4 There were several people that had  
5 entered the scene once the mother had discovered her  
6 child dead. I was gonna interview those. Detective  
7 Wildman was gonna interview the mother and then  
8 Detective Wallace was gonna assist with whatever  
9 interviews were necessary.

10 Q. Now, even though the investigation was  
11 divided in terms of interviewing in crime scenes  
12 which I assume that's traditionally how it's divided  
13 in homicide investigation?

14 A. Yes, ma'am.

15 Q. And you were on the interviewing part of  
16 it, did you walk through the scene at all?

17 A. Yeah. In order to give any kind of or  
18 take any kind of a coherent statement from somebody,  
19 you have to know what you're looking at.

20 Detective Wildman, I remember  
21 specifically Detective Wildman and I walked into the  
22 scene just to get some idea of the layout of the  
23 apartment and the condition and position of the  
24 victim, so we could have some kind of idea what to  
25 ask the people that had entered the scene; the

1 mother and anybody else that would be relevant.

2 Q. And so when you walked into the scene, I  
3 assume that you observed or had the opportunity to  
4 had observe the victim lying in the bathroom?

5 A. Yes, ma'am.

6 Q. Did you also with the other detectives do  
7 any kind of assessment or make any kind of  
8 determination as to whether or not there was any  
9 signs of forced entry into the apartment itself?

10 A. Yes, ma'am.

11 Q. And what was that determination?

12 A. Well, the first thing we heard was that  
13 it was a burglary. We, we got the information early  
14 on that the apartment had been locked so we wanted  
15 to know how entry was made in order to get to the  
16 victim.

17 We checked all the windows, the  
18 three windows, we checked the door. I remember  
19 specifically standing at the door with Detective  
20 Wildman looking at the jam and the bolt itself to  
21 find out if there had been any force at all through  
22 that door. We could find no signs of any kind of a  
23 forced entry into that apartment.

24 Q. And I know you probably didn't spend  
25 hours in the apartment itself, but in your sort of

1 quick walk-through observations, did you see any  
2 signs of obvious disturbance in any of the areas of  
3 the apartment itself?

4 A. No signs of a struggle. We couldn't see  
5 anything like, you know, major breaking and things  
6 tipped over, anything like that.

7 The kitchen counter had a lot of  
8 things on it, the bathroom where the victim was, I  
9 saw a couple of things on the ground. There was a  
10 cord out in the living room, an electrical cord that  
11 was stretched out in the living room but no obvious  
12 signs of a fight.

13 Q. And I think you said that the patrol  
14 officer had kind of kept or asked the people who had  
15 actually been inside of the apartment in a  
16 particular area for you to start to interview?

17 A. Yes, that's correct.

18 Q. And when you conduct these interviews,  
19 are you interviewing these people one by one or in a  
20 group?

21 A. One by one. We want their specific  
22 knowledge, not everybody's knowledge together. The  
23 officers on the scene did a good job. They kept the  
24 witnesses away from each other so they couldn't  
25 regurgitate any information back and forth.

1 And when we interviewed them, we  
2 interviewed them by themselves to get their specific  
3 knowledge.

4 Q. And the initial people that you interview  
5 at the scene, these are individuals who actually  
6 explained or indicated that they had been inside the  
7 residence and maybe had contact with the victim?

8 A. That's correct.

9 Q. And are those individuals Ebony Lewis,  
10 Elizabeth Tolberg and Marquita Carr?

11 A. That's correct.

12 Q. And so you got information from those  
13 ladies about their contact coming into the apartment  
14 with the victim?

15 A. Yes.

16 Q. In the course of your interviewing, do  
17 you move out from sort of a wider circle then after  
18 you contact the initial people that had been in the  
19 apartment?

20 A. I do that continuously throughout the  
21 investigation. I don't know how to put this. This  
22 area is not a -- there's a lot of drug trade going  
23 on in this area. There's a lot of distrust of the  
24 police because of the drug trade that goes on in  
25 that area. There's a lot of people that are afraid

1 to be even seen talking to the police.

2 So what you do is you wander around  
3 the building, you wander around in the area, you  
4 talk to the people you need to talk to, then you go  
5 wander around the area again.

6 And you do this in subsequent days  
7 also hoping to catch somebody that will -- I've even  
8 had them walk up and stand looking backward away  
9 from me at my back so they could talk to me and tell  
10 me something. And you try to get whatever  
11 information you can get at this point.

12 Somebody will say you need to go  
13 look at this apartment or you need to go look and  
14 they'll give you a name. So you do these, these all  
15 the time.

16 I did the interviews, but between  
17 each one, I would wander into the crowd, wander  
18 down -- there's three allies that intersect off this  
19 apartment, where this apartment is, and you wander  
20 down, go between other buildings, see if there's  
21 somebody that will say something to you. Try to  
22 make your approaches when you can. Sometimes it  
23 works, sometimes it doesn't.

24 Q. At some point that evening, though, did  
25 you make contact with an individual named Robert

1 Lewis?

2 A. I was actually -- yes, I did.

3 Q. Okay. And when you made contact with Mr.  
4 Lewis, was it outside or inside one of the  
5 apartments?

6 A. It was inside one of -- his apartment.

7 Q. Okay. So you went into his apartment?

8 A. Yes.

9 Q. Did he answer the door and let you in?

10 A. No. It was answered by somebody else,  
11 but he was sitting right there. And I, I said I was  
12 a homicide detective, I was doing the investigation,  
13 we were doing a door to door. We wanted to know if  
14 anybody had any information at all about the crime  
15 that we were investigating.

16 They all indicated that they did not  
17 have any information. They didn't hear anything,  
18 didn't see anything, not at all.

19 I asked if I could come in. Mr.  
20 Lewis said I could. I then, I asked the patrol  
21 officers near by to take the others outside, so I  
22 could talk to Mr. Lewis alone. Which they did.

23 I then asked Mr. Lewis if he would  
24 give me a statement at which he said he would not.  
25 But I told him that I was interested in getting a

1 DNA sample from him and he said absolutely. You can  
2 absolutely have it. He said I just don't want to  
3 give you a statement. I said okay, I can understand  
4 that. And it was more that he distrusted the police  
5 than --

6 MR. PIKE: Objection. Calls for  
7 speculation, facts outside of his knowledge. He can  
8 say what he did, he can't say why he did it.

9 THE COURT: Okay. Sustained.

10 BY MS. WECKERLY:

11 Q. Let me ask a different question. When  
12 you had contact with Mr. Lewis, you indicated to him  
13 that you wanted to get a sample of his DNA?

14 A. Yes.

15 Q. And he agreed to provide that to you?

16 A. He immediately said it was not a problem,  
17 go ahead and I'll give it to you.

18 MR. PIKE: Objection. Hearsay.  
19 Response, it can be answered yes or no.

20 THE COURT: Overruled.

21 BY MS. WECKERLY:

22 Q. When you were in contact with Mr. Lewis,  
23 without saying what he said, did you just get the  
24 DNA sample and leave or did you have a further  
25 conversation with him about information he might

1 know about the crime?

2 A. Yes.

3 Q. And during the time period you were  
4 talking to him about the crime, the conversation was  
5 not recorded?

6 A. No.

7 Q. That was at his request?

8 A. Yes.

9 Q. Okay. When you were speaking with Mr.  
10 Lewis about the crime and what information he may  
11 have about it, can you give us an estimate as to how  
12 long he and you discussed any information he maybe  
13 knew about the crime?

14 A. I was there --

15 MR. PIKE: Objection. Best evidence.  
16 Mr. Lewis has already testified.

17 THE COURT: Well, he can testify as to  
18 how long the conversation was. Go ahead.

19 BY MS. WECKERLY:

20 Q. How long was that?

21 A. I was there quite a Long time. I did the  
22 buckle swab and he, he was very forthcoming with me.

23 MR. PIKE: Objection. Nonresponsive.

24 How long were you there, how long did you talk?

25 THE COURT: Okay.

1 BY MS. WECKERLY:

2 Q. How long?

3 A. Approximately an hour.

4 Q. Okay. And while you were there talking  
5 to him for an hour, without saying what Mr. Lewis  
6 said, was he --

7 MR. PIKE: Objection, Your Honor. Can I  
8 take the witness on voir dire for a second?

9 THE COURT: For what purpose?

10 MR. PIKE: I have no written report of  
11 the conversation, I have no recording of that  
12 conversation and I want to know if that's the normal  
13 protocol that's done in this case and whether he  
14 should even be admitted and allowed to testify.

15 THE COURT: He said there wasn't a  
16 recording because the witness wasn't amenable to  
17 record anything and that's the thing.

18 Did you write a report about this  
19 conversation?

20 THE WITNESS: I gave my notes to  
21 Detective Sherwood.

22 THE COURT: Do you have a report on it,  
23 Ms. Weckerly?

24 MR. PIKE: Do you have those notes?

25 MS. WECKERLY: Well, the report, the

1 notes are put into a report and I think there's a  
2 reference to speaking to Mr. Lewis in the report.

3 THE COURT: Okay. And you have that?

4 MR. PIKE: I have that. That's a third  
5 party report. I don't have his notes.

6 MS. WECKERLY: Well --

7 THE COURT: He gave them to somebody  
8 else. He doesn't have them either.

9 MR. PIKE: Do you have those notes?

10 THE WITNESS: No, I do not. I gave them  
11 to Detective Sherwood.

12 MR. PIKE: Would they be in the homicide  
13 book?

14 THE WITNESS: I think they --

15 MS. WECKERLY: And for the record, Your  
16 Honor, we provided the homicide book to the defense  
17 to review.

18 THE COURT: Okay. So I'm guessing that  
19 you two looked through it together and it wasn't in  
20 there, then it probably isn't in there. Fair  
21 enough.

22 MR. PIKE: Fair enough.

23 MS. WECKERLY: Fair enough.

24 THE COURT: Then let's move on.

25 BY MS. WECKERLY:

1 Q. But while we're on that topic, there is a  
2 report drafted by Detective Sherwood on that case,  
3 correct?

4 A. Yes, ma'am.

5 Q. And can you get that?

6 A. Yes, ma'am.

7 Q. And looking at page 10 of that report,  
8 the third paragraph?

9 A. Yes, ma'am.

10 Q. And that paragraph references your having  
11 contact with Mr. Lewis, correct?

12 A. Yes, ma'am.

13 Q. Okay. So let's talk about your  
14 conversation with Mr. Lewis. And again, you can't  
15 say what he said, but while you were talking to him,  
16 were there questions you asked that he ever refused  
17 to answer?

18 A. No.

19 Q. Were there questions that you asked that  
20 he was evasive about answering?

21 MR. PIKE: Objection. Hearsay,  
22 interpretive.

23 THE COURT: Overruled.

24 MR. PIKE: Thank you.

25 THE WITNESS: No.

1 THE COURT: He can't say what he said,  
2 but he can say his observations of the conversation.  
3 BY MS. WECKERLY:

4 Q. Was there -- during the interview, did he  
5 ever, did he ever indicate that he wanted the  
6 interview to stop?

7 A. No.

8 Q. Did he ever -- well, let me ask you this:  
9 In your work as a detective, you're trained in  
10 interviewing people?

11 A. Absolutely.

12 Q. Is there an interviewing technique where  
13 you become more confrontational with the subject of  
14 the interview?

15 A. Absolutely. We want their emotions to go  
16 up and down. We can catch their footing off guard  
17 that way. You don't want somebody comfortable.

18 Q. Did you ever in your conversations with  
19 Mr. Lewis attempt to be more confrontational with  
20 him to see what his reaction was?

21 A. Absolutely.

22 Q. And when you did that, without saying  
23 what he told you, did his demeanor change or did his  
24 willingness to provide information at all change?

25 A. No. It really didn't. He got a little

1 angry, but other than that, no.

2 Q. During the course of the hour you spent  
3 with him, would you describe him as cooperative?

4 A. Yes.

5 Q. You mentioned that there were other  
6 individuals who had been present in the apartment  
7 when you initially came out there to talk to Mr.  
8 Lewis?

9 A. Yes, ma'am.

10 Q. And you said you had patrol keep track of  
11 who those individuals were?

12 A. Yes, ma'am.

13 Q. And those names were kept in the notebook  
14 as well?

15 A. Yes, ma'am.

16 Q. After -- well, on the night that you're  
17 investigating this murder, did you become aware of a  
18 potential burglary that may or may not have occurred  
19 in the apartment complex around the same time as the  
20 murder?

21 THE COURT: Same time of day or same date  
22 or what?

23 MS. WECKERLY: Same date. Well, within  
24 36 hours I guess.

25 THE WITNESS: Okay. 36 hours I can go

1 with.

2 BY MS. WECKERLY:

3 Q. Okay. Or should I say -- no, 36 I think  
4 would be okay. Within 36 hours of the murder, while  
5 you're investigating and talking to these people,  
6 was there a reference made to a possibility that an  
7 apartment different than the murder had been  
8 burglarized?

9 A. Yes.

10 Q. And did you follow-up on that potential  
11 lead to see if it had any connection to the murder  
12 of Sheila Quarles?

13 A. Yes. I know Detective Wallace went  
14 there, I went to the management to ascertain any  
15 information we could about a possible burglary. I  
16 also checked with LVMPD to find out if anything had  
17 been reported, if any officers had responded and if  
18 there was anything that we could get ahold of.

19 Q. Okay. Based on your contact with Metro  
20 to see if this burglary or alleged burglary had been  
21 reported, did you find that there was ever a call to  
22 Metro about a burglary?

23 A. No, there was no call, no forensics had  
24 been done, no officers had done any officer's report  
25 on it. We had nothing that way.

1 Q. And in terms of your conversation with  
2 the manager of the apartment, based on your  
3 conversation with that person, was there anything  
4 that they told you that you thought warranted  
5 follow-up in terms of a homicide investigation?

6 A. No, ma'am.

7 Q. And Detective Wallace had contact with  
8 the resident who was the alleged victim of the  
9 burglary?

10 A. That's correct.

11 Q. And I assume you conferred with Detective  
12 Wallace throughout the evening in terms of this  
13 investigation?

14 A. Yes, ma'am. We huddle up quite often and  
15 find out what each of us is going after, pursuing,  
16 and then we, we want to keep the information amongst  
17 us.

18 Q. And based on what Detective Wallace  
19 learned about this alleged burglary, that's  
20 communicated to you?

21 A. Yes, ma'am.

22 Q. And when you learned that information,  
23 was there anything that you thought that warranted  
24 follow-up in terms of the homicide investigation of  
25 Ms. Quarles?

1 A. Not directly, no.

2 Q. Did they seem like unrelated incidents?

3 A. Yes, ma'am.

4 Q. You mentioned that Detective Wildman was  
5 the detective who made contact or actually  
6 interviewed the victim's mom?

7 A. That's correct.

8 Q. And her name's Debra Quarles?

9 A. Yes, ma'am.

10 Q. You did not interview that lady that  
11 night?

12 A. No.

13 Q. In the subsequent investigation, did you  
14 have the occasion to interview Sheila's mom about  
15 this case?

16 A. Yes, I had actually given her my  
17 condolences that night and her son, but later  
18 Detective Sherwood told me that we were going down  
19 to --

20 MR. PIKE: Objection. Hearsay. The, the  
21 question is nonresponsive.

22 THE COURT: Sustained.

23 THE WITNESS: Detective Sherwood and I  
24 went and did another interview with Ms. Quarles.

25 BY MS. WECKERLY:

1 Q. And when you spoke to, you and Detective  
2 Sherwood spoke to Ms. Quarles in sort of follow-up  
3 interviews, was she able to provide you with people  
4 that were her daughter's enemies or anything of that  
5 nature or was there nothing really to follow-up on  
6 in terms of someone having something against Sheila  
7 I guess?

8 A. There were no other people that she  
9 mentioned in this interview. We were directed -- I  
10 don't know. We were directed back to Quince.

11 Q. Okay. And that would be Quince Toney,  
12 her name came up in the investigation?

13 A. Yes.

14 Q. And obviously detectives interviewed Ms.  
15 Toney?

16 A. Yeah.

17 Q. She was a potential suspect early on in  
18 the investigation?

19 A. Absolutely.

20 Q. And for that matter, everybody was a  
21 potential suspect early on?

22 A. Everybody was, yes.

23 Q. Okay. But as the investigation  
24 progresses, obviously that gets more narrower?

25 A. Yes.

1 Q. Some detectives interviewed Ms. Toney and  
2 she gave information about her whereabouts during  
3 the time of the murder?

4 A. That's correct.

5 Q. And that was taken into account in terms  
6 of further investigation?

7 A. Yes, ma'am.

8 Q. In your conversations with Ms. Quarles,  
9 Debra Quarles, do you recall her referencing a  
10 neighbor or someone who else lived in the complex  
11 that was trying to flirt with or trying to get  
12 Sheila, her daughter's attention, do you remember  
13 her talking about that?

14 A. Yeah. You're talking about the older man  
15 that was staring at her?

16 Q. Right. Darnel?

17 A. Yes.

18 Q. Okay. You know that name?

19 A. Yes.

20 Q. Was Debra Quarles able to give you a last  
21 name of that individual?

22 A. No, she was not.

23 Q. Was there any attempt to follow-up or  
24 determine if this Darnel had any connection to the  
25 murder of Sheila?



1 A. Sure there was. We went back and we did,  
2 several different times did knock and talk on as  
3 many of the doors in the area as we could, many  
4 times bringing up the name Darryl -- Darnel. I'm  
5 sorry. Trying to locate who he might be, if he  
6 lived there, where he lived.

7 We could never find any relation,  
8 anybody that would match that description.

9 Q. I'm sort of going back and forth in time  
10 a little bit, but in terms of the first evening  
11 after you clear the scene, the first evening of the  
12 investigation, not a whole lot of leads to follow-up  
13 on at that point?

14 A. No, there was not.

15 Q. Okay. And I think you mentioned that you  
16 went back and spoke to Debra Quarles a couple times,  
17 yourself or Detective Sherwood?

18 A. Yes.

19 Q. And either yourself and/or Detective  
20 Sherwood also just went back to the complex itself?

21 A. Yes.

22 Q. Do you recall approximately how many  
23 times you might have gone back to that complex in  
24 the early weeks of the investigation?

25 A. Approximately five times Detective

1 Sherwood and I went back. Several times for  
2 specific reasons, other times just to, like I said,  
3 go back and see if we could catch somebody that  
4 would talk to us.

5 Q. And in those times you went back, I take  
6 it if there had been any helpful information that  
7 you could have followed up on, that would have been  
8 noted or you would have followed up on it in some  
9 way?

10 A. Yes, ma'am.

11 Q. When a homicide victim is discovered in  
12 your experience as a homicide detective, an autopsy  
13 is conducted the next day typically?

14 A. Yes, ma'am.

15 Q. And in the course of conducting the  
16 autopsy, a sexual assault kit is taken?

17 A. Detective Sherwood asked for it and we  
18 obviously have to be there to witness it, yes.

19 Q. Okay. And at some point in terms of this  
20 investigation, you become aware of the results of  
21 these vaginal swabs taken from the victim Sheila  
22 Quarles?

23 A. Yes, ma'am.

24 Q. And at the time that those results come  
25 in, you were provided with the name Norman Flowers

1 or Norman Keith Flowers as a source of some of the  
2 DNA from the vaginal swabs of Sheila Quarles or he  
3 was consistent with?

4 A. Correct. Some of the -- there was two  
5 sources of semen and he was one of the depositors.

6 MR. PIKE: Objection. Consistent with is  
7 the question.

8 THE COURT: Okay.

9 THE WITNESS: Consistent with.  
10 BY MS. WECKERLY:

11 Q. At the time you get those results, were  
12 you aware that Mr. Flowers was the suspect in  
13 another murder investigation that was being  
14 conducted by Detective Tremel?

15 A. Yes.

16 Q. And were you aware that in that  
17 investigation the victim had been sexually assaulted  
18 as well?

19 A. Yes.

20 Q. Which is similar to your investigation?

21 A. Yes.

22 Q. And you, were you aware that the victim  
23 in that case had been strangled?

24 A. Yes.

25 Q. Which ended up being the cause or manner

1 of death for Sheila as well?

2 A. Correct.

3 Q. So there were consistencies that I assume  
4 came to your attention as a detective?

5 A. Yes, ma'am.

6 Q. And when you get the DNA results, you're  
7 told there's two, there's two semen sources from  
8 those vaginal swabs?

9 A. Yes, ma'am.

10 Q. At that point did you consider the  
11 possibility that two people may have been committing  
12 these crime against her?

13 A. Absolutely.

14 Q. Don't know what happened?

15 A. No.

16 Q. Okay. During -- or once you have those  
17 DNA results, at some point do you try to identify  
18 who the secondary source of DNA might be?

19 A. Yes.

20 Q. How did you go about doing that?

21 A. There's several ways we could have gone  
22 about it. Find out who's the associate of Norman  
23 Flowers or find out if Sheila had a boyfriend that  
24 could have possibly been one of the depositors.

25 We decided, I decided to start going

1 through the cell phones, talk to all her friends,  
2 other co-workers, see if I could find a boyfriend.

3 We also tracked on any possible  
4 partners that Norman Flowers might have had. I  
5 couldn't find any partners for Mr. Flowers, but I  
6 did find through one source that Sheila had been  
7 talking to a man by the name of Chicken.

8 I happened to know a man by the name  
9 of Chicken and I pulled up everything I could on him  
10 and it turned out one of his addresses listed 1001  
11 North Pecos.

12 Q. Which is the address?

13 A. The address where Sheila lived and was  
14 killed.

15 Q. So you found her associates by calling  
16 numbers from her cell phone records?

17 A. Correct.

18 Q. And from conversations with those  
19 individuals, you're told the name Chicken?

20 A. Yes.

21 Q. And you happened to know who that is?

22 A. Yes.

23 Q. Okay. Did you make an attempt to contact  
24 Chicken?

25 A. Yes. I knew where he was. He was

1 currently residing at the Clark County Detention  
2 Center. So I went down and had him brought into an  
3 interview room and then I sat down and took a  
4 statement from him and also obtained a DNA swab from  
5 him.

6 Q. When you went down to the detention  
7 center and you talked to Chicken, what's his real  
8 name?

9 A. George Brass.

10 Q. Okay.

11 A. B-r-a-s-s.

12 Q. So you go down and you -- Mr. Brass in  
13 custody at the time that you made contact with him?

14 A. Yes, ma'am.

15 Q. When you initially have or Mr. Brass is  
16 brought to you in the interview room, do you  
17 identify yourself as a homicide detective?

18 A. Yes, I do.

19 Q. Did you explain to him what case it was  
20 or what you were there for?

21 A. Yes.

22 Q. And did you mention the name Sheila  
23 Quarles in your explanation?

24 A. Yes.

25 Q. Without saying what he specifically said,

1 did Mr. Brass agree to speak with you about Sheila  
2 Quarles and his relationship with her?

3 A. Yes, he did.

4 Q. Could he have refused to speak with you  
5 at that point?

6 A. Absolutely.

7 Q. Could he have told you that I don't want  
8 to talk to you at all, I want my lawyer, I don't  
9 want to talk to you?

10 A. Yes.

11 Q. He didn't do that?

12 A. No.

13 Q. During the course of your conversation  
14 with him, did you ask him pretty specific questions  
15 about his relationship with Ms. Quarles?

16 A. Very specific questions about his  
17 relationship.

18 Q. Intimate questions?

19 A. Yes.

20 Q. Did he refuse to answer those questions?

21 A. No.

22 Q. At the end of that interview, did -- or  
23 maybe it was at the beginning, did you ask him for a  
24 DNA sample?

25 A. Yes.

1 Q. And did Mr. Brass agree to give you the  
2 sample?

3 A. Yes, he did.

4 Q. Could he have refused?

5 A. Absolutely.

6 Q. Once you got the DNA sample, did you  
7 impound that yourself into evidence?

8 A. Yes, I did.

9 Q. And was that -- I mean to your knowledge  
10 it was later tested against the vaginal swabs that  
11 we had of Sheila Quarles?

12 A. Yes. I actually called over and  
13 requested it be rushed. And it was rushed and it  
14 was compared and it was matched to one of the  
15 depositors in Sheila Quarles.

16 Q. And so based on that investigation that  
17 you did, you were able to identify a secondary  
18 source or the second source of the semen taken from  
19 Ms. Quarles's vaginal swabs?

20 A. Yes, ma'am.

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

22 CROSS-EXAMINATION

23 BY MR. PIKE:

24 Q. Thank you very much. Detective Long,  
25 during the course of your investigation and while

1 being at the scene and going around, I assume that  
2 you were developing a list of the family relations  
3 of the witnesses?

4 A. I was not, but it was being done.

5 Q. Okay. And you went to -- you went over  
6 to Mr. Lewis's apartment where he was residing --

7 A. Yes.

8 Q. -- is that correct? You personally went  
9 into that one?

10 A. Yes. I grabbed a couple of patrol  
11 officers and went over.

12 Q. And initially you were told that nobody  
13 knew nothing?

14 A. Correct.

15 Q. Okay. And then as part of a standard  
16 police technique, you separated all the witnesses,  
17 so that they could number one, as you've indicated,  
18 feel more comfortable that somebody wasn't looking  
19 over their shoulder; and number two, you felt that  
20 by the isolation you gather more, you gather  
21 information that you could compare against other  
22 witnesses' testimony without them over -- or  
23 statements without them overhearing that?

24 A. You don't want them regurgitating  
25 something they heard. You want their original

1 knowledge. And then you also want to make sure that  
2 they -- you know, they're talking to the police.  
3 You don't want to label them as a snitch even though  
4 they may not be.

5 Q. And during the course of the  
6 conversation, did you directly ask Mr. Robert Lewis  
7 if he saw any man go into Pooka's apartment from 10  
8 o'clock until the time that he went in with the  
9 mother?

10 THE COURT: Now, is what Robert Lewis  
11 said that you've been objecting to up till now; is  
12 that correct?

13 MR. PIKE: No. I'm not asking him what  
14 he said. I want to know if he asked that question.

15 THE COURT: Fair enough.

16 THE WITNESS: I asked him if he had gone  
17 in, I asked if --

18 BY MR. PIKE:

19 Q. All right. Now my question is did you  
20 ask him if he saw anybody go in there? Without  
21 saying what he said, did you ask him that question?

22 A. Yes.

23 Q. Okay.

24 A. It's not direct as you're putting it, but  
25 yes.

1 Q. Okay. The substance of the question?

2 A. The substance is yes.

3 Q. Okay. And so had, had you received the  
4 name of someone that had gone into that apartment  
5 from Mr. Lewis or from Ebony Lewis or from any of  
6 the Lewises or Brasses that lived right around in  
7 that area, that would have been a name that you  
8 would have followed up and immediately gone to speak  
9 to that person early on in the investigation?

10 A. Having entered, yes.

11 Q. Okay. And you did not go and find anyone  
12 other than the individuals that you've told us about  
13 at this time?

14 A. We never received any information of  
15 anybody entering or being seen entering that  
16 apartment.

17 Q. And that, this event occurred in 2005.  
18 When was it that you started making the telephone  
19 calls that led to the identification of George  
20 Brass?

21 A. 2008.

22 Q. And that was at the request of the  
23 district attorney?

24 A. Yes, it was.

25 Q. Prior to that time, when you had gone in

1 and started this investigation, did it seem unusual  
2 to you that so many members of the same family lived  
3 around that area?

4 A. Unusual?

5 Q. Yeah.

6 A. No.

7 Q. Robert Lewis, you knew he was related to  
8 George Brass, Sr., who was in the area?

9 A. Yes.

10 Q. You knew they were related to Ebony  
11 Lewis?

12 A. Yes.

13 Q. And they lived in another apartment or  
14 his mother lived in another apartment that was  
15 directly across from where that apartment was?

16 A. Correct. I, I've worked, as Ms. Weckerly  
17 found out, I was in the gang unit prior to coming  
18 into homicide.

19 In many of the projects and  
20 apartments on the west side, you have many families,  
21 family members that will congregate if a certain  
22 area. It's not uncommon.

23 Q. And in fact, part of it may be for  
24 protection in an area?

25 A. Very possible.

1 Q. During the course of your investigation,  
2 you tried there -- the two buildings were connected  
3 together. There were -- the apartment building  
4 where the body of Pooka was found is actually  
5 attached to the next building over with a kind of  
6 fly-over for the second story apartment.

7 Do you remember that?

8 A. Okay. You're talking about the one to  
9 the west. The one to the south is not corrected.

10 Q. Right.

11 A. Okay, yes.

12 Q. Okay. And across that way, you  
13 identified the individuals that were in the bottom  
14 apartments?

15 A. Yes.

16 Q. And you spoke with them?

17 A. I didn't.

18 Q. You didn't. Another detective did?

19 A. Correct.

20 Q. Did you go upstairs to the apartments on  
21 the second floor and, and interview those people?

22 A. Not at that time I didn't.

23 Q. You didn't. Did another detective do  
24 that?

25 A. Yes.

1 Q. Which detective did that?

2 A. I believe that would be Wildman and  
3 Wallace.

4 Q. And they were individuals that were up  
5 there?

6 A. I believe so, yes.

7 Q. Okay. As far as your investigation when  
8 you were looking for Dar -- Darnel Sanchez, you had  
9 that name?

10 A. Darnel.

11 Q. You had Darnel?

12 A. Yes. That was the one that was with  
13 Nicole.

14 Q. It was the name that you gave as the  
15 older guy.

16 A. The older black man. The Darnel you're  
17 talking about was the young Hispanic man?

18 Q. Okay. So there's two Darnels?

19 A. I don't know. I never found a second  
20 one. I knew who the first one is.

21 Q. Okay. So you had a Darnel that was a  
22 younger Hispanic man?

23 A. Yes.

24 Q. Did you have any other information, any  
25 other identifiers?

1 A. For Darnel Sanchez?

2 Q. Yes.

3 A. I believe we had him.

4 Q. Okay. And having him, did you know which  
5 apartment he had been living in? Would you check  
6 that, please?

7 A. Sure. I'm thinking Alfonso. I'm sorry.  
8 I completely misspoke.

9 Q. That's okay. There's a Darnel, a Darryl  
10 and an Alfonso?

11 A. That were with Nicole.

12 Q. No, no. We're getting to Nicole here.

13 A. Okay. I was thinking Alfonso. Alfonso  
14 was the one that was arrested at the scene.

15 Q. Okay. Alfonso was arrested at the scene?

16 A. He was originally placed in handcuffs.

17 Q. Okay.

18 A. There was something that happened with  
19 patrol.

20 Q. Okay. He was placed in handcuffs, he was  
21 identified and he resided upstairs?

22 A. With Natalie, yes.

23 Q. And you didn't interview Natalie, but you  
24 knew where she had lived?

25 A. I -- well, after doing the three

1 interviews that I did and what I was looking for, I  
2 got some other information, I went in another  
3 direction. I later found out about it, yes.

4 Q. Okay. You were -- and that's not unusual  
5 for detectives to develop different theories and  
6 start the investigation on that theory to see if it,  
7 it --

8 A. Pans out.

9 Q. Pans out. Thank you very much. I  
10 appreciate that. And one of the theories that you  
11 initially were investigating that these, both of  
12 these DNAs may have been related to each other in  
13 that you, you were going to find out if there was  
14 anybody that you knew to be an acquaintance of Keith  
15 Flowers and maybe that DNA would come back to that  
16 person?

17 A. Related to as in?

18 Q. No, not related to. Like in cousin or  
19 something like that, but associated with?

20 A. Yes.

21 Q. A friend, acquaintance, something like  
22 that?

23 A. Yes.

24 Q. And that was a theory that you had, that  
25 you think you thought that you had to investigate.

1 In fact, you tried to investigate and find friends  
2 of Mr. Flowers and then determine whether or not  
3 there were DNA samples that you might collect from  
4 them?

5 A. Correct.

6 Q. And that proved to be a theory that  
7 didn't pan out?

8 A. Correct.

9 Q. You have not been able to establish any  
10 relationship between Mr. Flowers and George Brass?

11 A. No criminal relationship.

12 Q. No relationship whatsoever?

13 A. What I'm saying is no criminal  
14 relationship. I couldn't find anything where they  
15 had done any crimes together.

16 Q. Is that the only place you'd looked to  
17 see if they'd done crimes together or if they'd been  
18 friends, if they'd known each other?

19 A. Any associations of that type, yes.

20 Q. Okay. You couldn't find any association  
21 of any type --

22 A. Correct.

23 Q. -- between the two? Once you had the  
24 name of George Brass, and forgive me, but you didn't  
25 get the name of George Brass until August of this

1 year?

2 A. Detective Sherwood and I split as  
3 partners in 2005. He took this case with him and he  
4 was working it. The first time I'd become aware of  
5 it is when Detective Sherwood came over and said he  
6 had had a DNA hit on a Norman Flowers. That's as  
7 much as I knew. He was still carrying this  
8 investigation. I specifically got a phone call in  
9 2008 asking me to follow-up on the phone.

10 Q. And you -- and as a result of that  
11 conversation that you had, you said you had to go  
12 out and look for a boyfriend?

13 A. Yes.

14 Q. And that's what you started to do?

15 A. Yes.

16 Q. During the course of the conversation or  
17 your investigation during the phone calls, you  
18 called relatives of --

19 A. Yes.

20 Q. -- of the Lewises?

21 A. Yes.

22 Q. And you found out that in fact it was a  
23 relative -- well, that would call for hearsay. I'm  
24 sorry.

25 So during the course of the

1 investigation when, you had to revisit relatives of  
2 the Lewis family -- that yes, you're nodding yes?

3 A. Yes. Sorry.

4 Q. And as a result of that contact, that  
5 telephonic contact with the people that you were in,  
6 that you were communicating with, then you got the  
7 name of George Brass and you went to go see him over  
8 at the Clark County Detention Center?

9 A. No. I got the name Chicken.

10 Q. Okay.

11 A. From a Fuller.

12 Q. Okay. Everybody's got -- he's got a  
13 nickname. His nickname is Chicken and you got it  
14 from Mr. Fuller?

15 A. No. I got it from Ameia and Amaya  
16 Fuller.

17 Q. Ameia and Amaya Fuller. Okay. And  
18 they're related to the Lewises also?

19 A. They told me they were, yes. They were  
20 related to, cousins to Sheila.

21 Q. Okay. And having done that, then you go  
22 over to Clark County Detention Center. Now when you  
23 go into the Clark County Detention Center and you're  
24 speaking with Chicken, you don't turn on the  
25 recorder immediately, do you?

1 A. No.

2 Q. You have a recorder with you?

3 A. Yes. It's in my pocket.

4 Q. And you could have turned that recorder  
5 on before you even walked into that room?

6 A. When he saw that I was a detective with  
7 Metro, I hadn't even sat down yet.

8 Q. That isn't the question what he saw or --

9 A. Well, I didn't have it out yet. When I  
10 sat down and I took it out, I put it on the table, I  
11 turned it on.

12 Q. Okay. You work with Henderson police  
13 detectives in cases, don't you? Have you ever  
14 worked with them?

15 A. Henderson?

16 Q. Yeah. You work them on occasion?

17 A. I once in awhile will confer on  
18 something.

19 Q. Henderson detectives have recorders that  
20 they wear and record the entire conversation from  
21 the time they walk in very often, you're aware of  
22 that, aren't you?

23 A. I wasn't, but that's nice.

24 Q. Okay. You have recorders that you --

25 A. Yes.

1 Q. -- carry around with you? You can  
2 decide, you decide when it goes on and when it  
3 doesn't?

4 A. Absolutely.

5 Q. And on this occasion, you made a  
6 determination to not turn it on until after you had  
7 had a conversation and decided that it was time to  
8 record it and put it out on the table and then start  
9 it?

10 A. I didn't want to scare him. Do you  
11 understand that?

12 Q. He was already in jail. I understand  
13 about being scared.

14 A. Yeah. I didn't want to scare him. I  
15 wanted to put him at ease, then sit down and take  
16 out the recorder and explain it to him before I  
17 turned it on.

18 Q. Because you find that when people are  
19 scared, they won't give you information?

20 A. Many times, yes.

21 Q. And that's true when people are afraid  
22 for themselves?

23 A. Sure.

24 Q. So you wanted to make him comfortable and  
25 say you're not, I'm not going to give you any reason

1 to be afraid of me. That was part of the process  
2 that you were going through in order to get the  
3 recording, correct?

4 A. Yes. An investigative tool you're using  
5 there, yes.

6 Q. And you've been trained in a number of  
7 interrogation techniques and investigative tools  
8 over the years?

9 A. Yes.

10 Q. And in going through and doing that, part  
11 of it is putting them at ease?

12 A. Absolutely.

13 Q. And an easy way -- or let me ask you  
14 directly. In this case it was easy to put him at  
15 ease if you told him you're not a suspect, we just  
16 need to make sure that we can identify your DNA and  
17 you're not gonna be charged with this, and you told  
18 him something similar to that, what words did you  
19 use?

20 A. Okay. We're not here about any case that  
21 you have ongoing, I don't want you to be afraid that  
22 I'm trying to tie you into something that you've  
23 already been charged with. I'm here about something  
24 completely different. I'm here about you had an  
25 ex -- or a girlfriend in the past by the name of

1 Sheila Quarles, is that correct. He said yes.

2 I said I'm doing the investigation  
3 into her death. Do you understand that. Yes.

4 I want to get a statement from you  
5 about your relationship with her, if that's okay  
6 with you, and I want to get a DNA swab from you  
7 because I believe that your semen will be found  
8 inside of her. Is that okay. Yes.

9 I said you're not a suspect, you  
10 didn't kill her, correct. He said no.

11 I says then you won't have any  
12 problem with me taking a statement from you,  
13 correct. Yes.

14 Q. Okay. And going through that process,  
15 you've effectively told him, don't worry, don't  
16 worry, I'm not gonna charge you?

17 A. Unless your DNA -- or yes.

18 Q. Well, the DNA came back to be his, didn't  
19 it?

20 A. Well, unless I find other information,  
21 but yes, at that point I'm not gonna charge him.  
22 I'm not gonna arrest him that day. I know that.

23 Q. During that period of time, this has been  
24 a three-year lapse of time that has since the time  
25 of the death until the time that you're in there

1 talking to him about the relationship that he had  
2 with --

3 A. It's actually more than that, yes.

4 Q. -- with Pooka? And then you had --  
5 because it was so late in August, you had to rush to  
6 get the DNA processed, get the sample processed, so  
7 that it could be available for this court date?

8 A. Because it was late in August?

9 Q. Well, because it was late in the game,  
10 the, prior to this trial?

11 A. Well, DNA samples can, if you're put at  
12 the bottom of the stack, it can take six months.  
13 And I asked the scientist over there to put it at  
14 the top of the stack, so that I can get the results  
15 quicker. And for homicide they will do that many  
16 times.

17 Q. So now you have been able to associate  
18 George Brass, Chicken, with the dead body of that  
19 young lady three years later?

20 A. Yes.

21 Q. Now, you've been able to associate with  
22 the homicide a person that up till this interview in  
23 August of this year had been in that apartment at a  
24 time close to the death?

25 MS. WECKERLY: I'm gonna object. That

1 misstates his testimony, associated it with a  
2 homicide.

3 THE COURT: Sustained. According to his  
4 own admission, he had been in that apartment  
5 sometime that day.

6 BY MR. PIKE:

7 Q. And he'd been in that apartment and that  
8 was a new piece of information that you had?

9 A. Yes.

10 Q. During the time frame that from the  
11 identification of Norman Flowers' DNA and the time  
12 that you were requested to do this follow-up  
13 investigation, you weren't involved in the case and  
14 you did no further follow-up?

15 A. I wasn't, no.

16 Q. During an interrogation or when you were  
17 taking this, this statement from Chicken --

18 A. Yes.

19 Q. -- and you talked with him and then you  
20 decided that he was at ease and agreed a recording,  
21 you pulled out the recorder and started it?

22 A. Correct.

23 Q. Then as you start to identify well,  
24 here's the people that are in here, I'm Detective  
25 Long and with me is this individual, this is the

1 date and this is the time I'm taking a statement, at  
2 that point in time did you read him his Miranda  
3 warnings?

4 A. No, I did not.

5 Q. That was never a part of it?

6 A. Not at that time, no.

7 Q. Was it read at any time during that  
8 interview?

9 A. No, no, no. Not at the time of the  
10 interview is what I'm saying.

11 Q. Okay. Did you give it to him, did you  
12 give him his warnings what you came in and first  
13 talked to him?

14 A. No. I didn't consider him a suspect.

15 Q. Because his DNA didn't match?

16 A. No, it matched.

17 Q. You didn't know that it was gonna match  
18 at that point in time?

19 A. No, I didn't.

20 Q. You didn't know what time he'd been in  
21 that apartment?

22 A. Right.

23 Q. You just knew that he'd been identified  
24 as being a boyfriend?

25 A. Correct.

1 Q. And now you have additional information  
2 now that the DNA matches, now you know the name of  
3 Chicken and so that has expanded the knowledge in  
4 the homicide case.

5 Have you gone in since that time of  
6 that investigation and expanded the investigation to  
7 include the possible friends or acquaintances of  
8 Chicken?

9 A. I did follow-up investigation on Chicken,  
10 but I have not gone back into Chicken -- into an  
11 interview with Chicken.

12 Q. Okay. In following up with Chicken, did  
13 you identify his friends and acquaintances that may  
14 have been with him at that apartment that day?

15 A. I followed up on his relationships with  
16 other people, but most specifically, I followed up  
17 with his work at the Wal-Mart.

18 Q. Okay. You subpoenaed the records of his  
19 employment at Wal-Mart?

20 A. Correct. If he was to have -- oh, I'm  
21 sorry. Yes, I did.

22 Q. Thanks. And those records may or may not  
23 be accurate. As far as the records you received,  
24 they're the accurate records from Wal-Mart, aren't  
25 they?

1 A. Yes.

2 Q. As far as you know, Wal-Mart hasn't  
3 altered them at all?

4 A. Correct.

5 Q. You have no personal knowledge whether  
6 they accurately reflect the time that he was there?

7 A. Personal knowledge, no.

8 MR. PIKE: I don't have any further  
9 questions.

10 REDIRECT EXAMINATION

11 BY MS. WECKERLY:

12 Q. Just a couple. Detective Long, you  
13 mentioned that you got the name Chicken or the  
14 nickname Chicken from Ameia and Amaya Fuller?

15 A. Correct.

16 Q. And it's your understanding that they are  
17 related to the victim Sheila Quarles?

18 A. Correct.

19 Q. They're not related to Chicken or George  
20 Brass?

21 A. No.

22 Q. Okay.

23 A. Did I misstate that?

24 Q. I think it was a little bit confusing,  
25 but just to be clear they are related to Sheila?

1 A. Sheila. Not to --  
 2 Q. Not to the Lewises?  
 3 A. Not to the Lewises. And I'm sorry if I  
 4 made that impression.  
 5 Q. Okay. Let's talk about George Brass.  
 6 When you were in contact with him, how long was your  
 7 conversation before the tape recorder was turned on?  
 8 A. Less than five minutes.  
 9 Q. Okay. And you indicated to Mr. Pike that  
 10 based on what he told you, you had to do some  
 11 follow-up information -- follow-up investigation?  
 12 A. Yes, ma'am.  
 13 Q. And that, that was going to Wal-Mart and  
 14 getting his work records for the day of the  
 15 homicide?  
 16 A. Correct.  
 17 Q. Trying to figure out the time he checked  
 18 in?  
 19 A. Yes, ma'am.  
 20 Q. And Mr. Pike asked you, well, based on  
 21 your conversation with Mr. Brass, did you follow-up  
 22 on his friends and associates that may have been  
 23 there the day of the murder.  
 24 Do you recall being asked that?  
 25 A. Yes.

1 Q. Based on your conversation with Mr.  
 2 Brass, was that something to follow-up on? I mean,  
 3 was he telling you I was there with 10 people that  
 4 morning?  
 5 A. No, no. He, he told us that he had met  
 6 Sheila at the apartment that morning, that they did  
 7 have sex together and that he then left that  
 8 apartment and went to work.  
 9 Q. Now, you told Mr. Pike that --  
 10 A. When I was talking about the  
 11 relationships, the relationships I was looking for  
 12 was --  
 13 MR. PIKE: There's no question before  
 14 him.  
 15 THE COURT: Sustained.  
 16 BY MS. WECKERLY:  
 17 Q. Okay. Based on that, that information  
 18 provided to you by Mr. Brass, there weren't  
 19 additional people to interview to see if they might  
 20 have been there that morning because he indicated he  
 21 was by himself with her?  
 22 A. Correct.  
 23 Q. But the information that he gave you  
 24 about his whereabouts at the critical time of  
 25 Sheila's death, that was followed up upon?

1 A. Yes.  
 2 Q. Because that would have been relevant in  
 3 the investigation?  
 4 A. Yes.  
 5 Q. Now, you told Mr. Pike that you didn't  
 6 have any involvement in the investigation  
 7 essentially from the time of the DNA results until  
 8 you were requested to try to follow-up and find out  
 9 who this secondary DNA source might be, correct?  
 10 A. That's correct.  
 11 Q. Okay. Do you know from the investigation  
 12 the name William Kinzy?  
 13 A. Yes.  
 14 Q. Okay. What is your understanding of how  
 15 his name became known in the investigation?  
 16 A. Actually it's the first name that we had  
 17 that was in an envelope on the bed inside the  
 18 apartment that had William Kinzy's name on it.  
 19 So we wanted to know who he was, if  
 20 he was in jail, if he was our possible suspect. We  
 21 went looking to find out who he was. It did turn  
 22 out that he was in prison and then we later went and  
 23 spoke to him.  
 24 Q. He was in custody at the time of the  
 25 murder?

1 A. Yes.  
 2 Q. Okay. And when you say we went and spoke  
 3 with him, that was actually between the DNA results  
 4 and the finding out about George Brass?  
 5 A. Yes, it was.  
 6 Q. Okay.  
 7 A. I --  
 8 Q. And yourself, Detective Sherwood, myself  
 9 and Ms. Luzaich actually went to go speak to Mr.  
 10 Kinzy?  
 11 A. That's correct.  
 12 Q. Was Mr. Kinzy in that meeting willing to  
 13 provide any information whatsoever about the murder  
 14 or the possible associate -- associates of Ms.  
 15 Quarles?  
 16 A. No.  
 17 Q. And, Your Honor, this is reopening, but I  
 18 think it's okay with Mr. Pike. May I approach the  
 19 witness?  
 20 THE COURT: Sure.  
 21 BY MS. WECKERLY:  
 22 Q. Sir, I'm showing you what's been marked  
 23 as State's proposed 124.  
 24 Do you recognize what that document  
 25 is?



1 A. Oh, this is the -- yes, yes.  
 2 Q. Okay.  
 3 A. These are the phone records, cell phone  
 4 records for Sheila Quarles.  
 5 Q. And if we look -- and this is a record  
 6 that was obtained in the course of this  
 7 investigation?  
 8 A. Yes, ma'am.  
 9 Q. And, Your Honor, I believe by stipulation  
 10 this can be admitted, 124.  
 11 THE COURT: Is that right?  
 12 MR. PIKE: That's correct.  
 13 THE COURT: Admitted.  
 14 BY MS. WECKERLY:  
 15 Q. Do you have your own copy?  
 16 A. Yes, I do.  
 17 Q. Okay. Looking at the records, the  
 18 document we have reflects calls made on March the  
 19 23rd of '05?  
 20 A. Yes, ma'am.  
 21 Q. Okay. All the way into the day of the  
 22 homicide which is the 24th?  
 23 A. That's correct.  
 24 Q. Okay.  
 25 A. There we go.

1 Q. Can you get to the 24th?  
 2 A. I got there. I'm there. I got there.  
 3 Q. Okay. I'm gonna put mine on the  
 4 overhead. Putting 124 on the overhead. Well,  
 5 that's probably too small. Let me zoom in.  
 6 Okay. And you have your own set of  
 7 records there, correct?  
 8 A. Yes, I do.  
 9 Q. Looking at the very last call that was  
 10 recorded on her cellular phone, that was on March  
 11 the 24th of '05 at what time?  
 12 A. 1:35 p.m.  
 13 Q. Okay. And just prior to that call, the  
 14 next to last call was a similar incoming call as  
 15 well?  
 16 A. Yes, that's correct.  
 17 Q. And the last outgoing call from Ms.  
 18 Quarles's cell phone was to what phone number?  
 19 A. I'm, I'm not sure I'm following you.  
 20 Q. It looks like on the records when you  
 21 look on the screen here that there's two incoming  
 22 calls that come in to her phone on the 24th,  
 23 correct?  
 24 A. Oh, those two, okay.  
 25 Q. These last two calls.

1 A. Yes, see. Yes.  
 2 Q. And the one right before that which is an  
 3 outgoing call obviously, it's to number  
 4 702-245-9401?  
 5 A. Correct.  
 6 Q. Whose phone number is that?  
 7 A. That's Quince.  
 8 Q. And Quince -- that is consistent with  
 9 information Quince provided?  
 10 A. Correct.  
 11 Q. And the -- in the records prior to that,  
 12 there are several calls, fair to say, to Ms.  
 13 Quince's cell phone during the course of that  
 14 morning?  
 15 A. That's correct.  
 16 Q. Were you able to -- well, let me ask you  
 17 this: Ms. Quince is the person who provided her  
 18 cellular phone.  
 19 THE COURT: Ms. Toney you mean?  
 20 MS. WECKERLY: I'm sorry.  
 21 THE COURT: Ms. Toney?  
 22 MS. WECKERLY: Yeah. Sorry.  
 23 BY MS. WECKERLY:  
 24 Q. Ms. Toney was the one who provided you  
 25 with her cell phone number prior to you getting the

1 records?  
 2 A. Correct.  
 3 THE COURT: It's my understanding that  
 4 you went to the county detention center and you  
 5 interviewed George Brass once you followed up that  
 6 information, but you didn't go back and do a double  
 7 interview with him, correct?  
 8 THE WITNESS: That's correct.  
 9 MS. WECKERLY: I have nothing else, Your  
 10 Honor.  
 11 THE COURT: Go ahead, Mr. Pike.  
 12 MR. PIKE: Thank you.  
 13 RECROSS-EXAMINATION  
 14 BY MR. PIKE:  
 15 Q. Okay. During the course of the  
 16 investigation, in reference to the telephone calls,  
 17 you or the investigative team obtained the access  
 18 code to Pooka's telephone, to her cell phone so that  
 19 you could have obtained any messages that were left  
 20 on the phone; is that correct?  
 21 A. That's correct.  
 22 Q. Okay. Was that accessed and did you  
 23 record the messages that were on the phone?  
 24 A. I believe Detective Wildman took care of  
 25 that.

1 Q. You have no personal knowledge about  
2 that?

3 A. I do not.

4 Q. During the course of the investigation  
5 and in the charging document in this case, it  
6 indicates that the allegations are that a stereo was  
7 taken?

8 A. I couldn't understand you. I'm sorry.

9 Q. I'm sorry. It's been a Long day. During  
10 the course of the investigation, an assessment was  
11 made and other personal items are believed to be  
12 stolen in this case, including a stereo?

13 A. Oh, yes. Yes, sir.

14 Q. Okay. And that stereo was never  
15 recovered?

16 A. That's correct.

17 Q. During the course of the investigation,  
18 there also was allegations that a bank card was  
19 taken.

20 Are you aware of that?

21 A. No, I'm not.

22 Q. Okay. So you have no knowledge from any  
23 of the investigative reports to indicate that there  
24 was a bank card that was stolen.

25 If you did have that knowledge,

1 there -- when a bank card is used at an ATM, is that  
2 often occasioned by a photograph of an individual  
3 trying to use that card or using that card?

4 A. Usually.

5 Q. Usually. And so -- and you don't have  
6 any personal knowledge about that either?

7 A. I don't. I'm sorry.

8 Q. It's okay. I'm just trying to make sure  
9 I've got a complete view of what you know and don't  
10 know about this case.

11 And the information that you have  
12 from that time to this time didn't give you  
13 information that may have possibly tied that earlier  
14 burglary to this offense?

15 A. That's correct.

16 Q. That doesn't mean that they're not  
17 connected, but that you didn't have any evidence  
18 that connected the two of them together?

19 A. Correct. And I had very, very limited  
20 information about the other burglary to begin with.

21 Q. Okay.

22 A. So the ties would be almost impossible to  
23 find.

24 Q. All right. But if there was an  
25 eyewitness to that burglary and that eyewitness was

1 able to identify an individual and then that  
2 individual was then identified as being connected  
3 with or associated with a stolen stereo after the  
4 time of the death, that is, those facts, that  
5 hypothetical as I gave it to you, you would  
6 definitely want to investigate those individuals and  
7 follow-up on that?

8 A. Sure.

9 Q. That may tie the two of them together?

10 A. Possible.

11 Q. Possible. Okay. Thank you. Nothing  
12 further.

13 THE COURT: Thanks, detective.

14 Appreciate your time. Call your next witness. Up  
15 here, ma'am.

16 THE CLERK: Remain standing and raise  
17 your right hand, please.

18 (Whereupon, Ameia Fuller was duly  
19 sworn to tell the truth, the whole  
20 truth and nothing but the truth.)

21 THE CLERK: Thank you. Please be seated.  
22 Please state your full name, spelling your first and  
23 last name for the record.

24 THE WITNESS: Ameia Fuller. A-m-e-i-a.  
25 F-u-l-l-e-r.

# DIRECT EXAMINATION

2 BY MS. WECKERLY:

3 Q. Ms. Fuller, did you know someone by the  
4 name of Sheila Quarles?

5 A. Yes.

6 Q. Were you related to her?

7 A. Yes. She's my cousin.

8 Q. She's your cousin?

9 A. Yes.

10 Q. Did you call her Sheila?

11 A. No.

12 Q. What'd you call her?

13 A. Pooka.

14 Q. I'd like to talk to you just very briefly  
15 about the time right before Pooka died.

16 A. Uh-huh.

17 Q. Okay. Can you speak up just a little  
18 bit. Your voice is --

19 A. Yes.

20 Q. Okay. Were you and your cousin Sheila  
21 close? Would you talk to each other?

22 A. Yes.

23 Q. And did you usually that by phone or in  
24 person?

25 A. Yes, by phone.

1 Q. By phone?

2 A. (Positive nod of the head.)

3 Q. And during the period a couple months

4 before she died, did you know of her being involved

5 with someone named Chicken?

6 A. Yes.

7 Q. Did you ever know Chicken's real name?

8 A. No.

9 Q. At some point did detectives call you and

10 ask you if you knew who Sheila might be involved

11 with?

12 A. Just recently.

13 Q. Okay. Yeah?

14 A. Yeah.

15 Q. And what did you tell them about Sheila's

16 relationship with Chicken?

17 A. She told me that they were friends. That

18 was it.

19 Q. Okay.

20 A. Yeah.

21 Q. No more detail than that?

22 A. No.

23 Q. And did you tell that information to the

24 detective that called you?

25 A. Yes.

1 MS. WECKERLY: Thank you. I'll pass the

2 witness.

3 THE COURT: Questions?

4 MR. PIKE: Thank you. Can I have the

5 Court's indulgence?

6 MR. PATRICK: No, judge.

7 THE COURT: Okay. Thanks, Ms. Fuller.

8 Appreciate your time. Call your next witness.

9 MS. LUZAICH: Can we approach?

10 (Whereupon an off-the-record

11 discussion was had at the bench.)

12 THE COURT: Okay. We've got a couple,

13 three more witnesses?

14 MS. LUZAICH: Yes.

15 THE COURT: We're doing fine. We're

16 gonna actually be done a little early today.

17 The State would like to take a break

18 right now. And I think it will be fine in terms of

19 our time. So let's take our afternoon break.

20 During this break, don't talk or

21 converse among yourselves or with anyone else on any

22 subject connected with this trial.

23 Don't read, watch or listen to any

24 report of or commentary on the trial or any person

25 connected with this trial by any medium of

1 information, including, without limitation,

2 newspapers, television, internet and radio.

3 Don't form or express any opinion on

4 any subject connected with the trial until the case

5 is finally submitted to you.

6 We'll pick up at 25 till. The big

7 hand hits seven.

8 (Whereupon, a recess was had.)

9 THE COURT: We're back on the record in

10 Case C228755, State of Nevada versus Norman Keith

11 Flowers.

12 Let the record reflect the presence

13 of the defendant, his counsel, counsel for the

14 State. All ladies and gentlemen of the jury are

15 back in the box.

16 Sir, will you stand and raise your

17 right hand, please.

18 (Whereupon, George Brass was

19 duly sworn to tell the truth, the

20 whole truth and nothing but the

21 truth.)

22 THE CLERK: Thank you. Please be seated.

23 Please state your full name, spelling your first and

24 last name for the record.

25 THE WITNESS: George Brass. G-e-o-r-g-e.

1 Last name B-r-a-s-s.

2 THE COURT: Go ahead, Ms. Luzaich.

3 MS. LUZAICH: Thank you.

4 DIRECT EXAMINATION

5 BY MS. LUZAICH:

6 Q. Mr. Brass, do people also call you

7 Chicken?

8 A. Yes.

9 Q. Did you know a young lady named Sheila

10 Quarles?

11 A. Yes, ma'am.

12 Q. Did you know her by another name as well?

13 A. Yes.

14 Q. What was that name?

15 A. Pooka.

16 Q. Did you know her whole family?

17 A. Yes.

18 Q. Did she have a brother named Ralph?

19 A. Yes.

20 Q. What's your relationship with Ralph?

21 A. Me and Ralph, we've been friends since

22 like '98, since the sixth grade. So we go like way

23 back.

24 Q. Are you guys good friends?

25 A. Good friends.

1 Q. Okay. In fact, was there a time that  
 2 Ralph was seeing your sister?  
 3 A. Yes.  
 4 Q. What's your sister's name?  
 5 A. Jasmine.  
 6 Q. Do people call her Pudge?  
 7 A. Pudge, yes.  
 8 Q. And during the time that Ralph was seeing  
 9 your sister, were you seeing Pooka?  
 10 A. Yes.  
 11 Q. And when I say "seeing," did you guys  
 12 have a sexual relationship at a point in time?  
 13 A. Yes.  
 14 Q. I'm gonna take you specifically back to  
 15 March 24th of 2005. Do you remember where you were  
 16 living then?  
 17 A. Yes.  
 18 Q. Where was that?  
 19 A. 1001 North Pecos.  
 20 Q. Were you living with your mom at the  
 21 time?  
 22 A. Yes.  
 23 Q. Is your mom Jannie, J-a-n-n-i-e, Brass?  
 24 A. Yes, ma'am.  
 25 Q. And did Pooka live in the same apartment

1 complex?  
 2 A. Yes.  
 3 Q. Doesn't she live like across a little  
 4 walkway?  
 5 A. Like four or five steps away.  
 6 Q. And did you get to see her kind of often  
 7 because of that?  
 8 A. Yes.  
 9 Q. Specifically on March 24th of 2005, did  
 10 you see Pooka?  
 11 A. Yes.  
 12 Q. Did you have sex with Pooka?  
 13 A. Yes.  
 14 Q. Do you know about what time it was?  
 15 A. I'd say about maybe 10:30 in the morning.  
 16 Q. Okay. Did you do something that day  
 17 after you saw Pooka?  
 18 A. Yes, I had to be at work.  
 19 Q. Where do you work or where did you work  
 20 at the time?  
 21 A. At Super Wal-Mart, TLE.  
 22 Q. Where is that located?  
 23 A. On Craig and Clayton.  
 24 Q. What time were you supposed to be at work  
 25 that day?

1 A. By 11:45.  
 2 Q. Did you actually go to work at Wal-Mart  
 3 on March 24th, 2005?  
 4 A. Yes.  
 5 Q. When you worked there, what area of  
 6 Wal-Mart did you work in?  
 7 A. In the TLE department, time loop express.  
 8 Q. Automotive?  
 9 A. Yes.  
 10 Q. And when you worked at Wal-Mart, do you  
 11 have to like sign in or demonstrate in a particular  
 12 way that you're there?  
 13 A. We have to clock in.  
 14 Q. When you clock in, how do you do that?  
 15 A. We swipe our ID badge.  
 16 Q. Okay. So it's something that you hold in  
 17 your hand, a little plastic thing?  
 18 A. Yes.  
 19 Q. And each employee has their own?  
 20 A. Yes.  
 21 Q. You swipe it in and it automatically like  
 22 shows the computer what time you're there?  
 23 A. Yes.  
 24 Q. Do you also swipe out at the end of the  
 25 day?

1 A. Yes.  
 2 Q. While you're working there, do you get a  
 3 lunch break?  
 4 A. Yes.  
 5 Q. Do you have to swipe out to show you went  
 6 to lunch and swipe back in to show you're back from  
 7 lunch?  
 8 A. Yes, ma'am.  
 9 Q. How long did you work at Wal-Mart for?  
 10 A. Two years.  
 11 THE COURT: You meant cumulatively, not  
 12 that day, right?  
 13 BY MS. LUZAICH:  
 14 Q. Oh, yes, correct, cumulatively you worked  
 15 at Wal-Mart for about two years?  
 16 A. Yes.  
 17 Q. Okay. So that day did you get to work on  
 18 time or close to on time?  
 19 A. Yes.  
 20 Q. And do you know when you left?  
 21 A. Probably for lunch break.  
 22 Q. You went out for a lunch break?  
 23 A. Yes.  
 24 Q. Did you go somewhere almost every day for  
 25 a lunch break?

1 A. Yes.  
 2 Q. At the same place?  
 3 A. Yes.  
 4 Q. Where'd you go?  
 5 A. On Karen and Martin Luther King.  
 6 Q. Do you have family there?  
 7 A. Yes.  
 8 Q. Did you have lunch with your family?  
 9 A. Yes.  
 10 Q. Is that grandma?  
 11 A. Yeah, that's grandma.  
 12 Q. And that's not far from the Wal-Mart  
 13 branch?  
 14 A. No. It's like seven blocks away.  
 15 Q. And do you know when you left at the end  
 16 of the day or at the end of your work day?  
 17 A. Yes, I had got a call at work and that's  
 18 when I left.  
 19 Q. Do you remember who called you?  
 20 A. Yes. My mother.  
 21 Q. Your mother Jannie?  
 22 A. Yes.  
 23 Q. Did you also talk to somebody else while  
 24 you were at work?  
 25 A. Yes.

1 Q. Who's that?  
 2 A. My brother Ralph.  
 3 Q. And did Ralph call you on your cell at  
 4 work?  
 5 A. Yes.  
 6 Q. And you found out about what had  
 7 happened?  
 8 A. Yes.  
 9 Q. And did you go from Wal-Mart -- or sorry.  
 10 From Wal-Mart where'd you go?  
 11 A. Straight to the apartment.  
 12 Q. Back to the apartment?  
 13 A. Yes. To my mother's house.  
 14 Q. When you got back to the apartment, were  
 15 the police there?  
 16 A. Yes.  
 17 Q. When you went back to the apartments and  
 18 the police were there, did you talk to the police?  
 19 A. Yeah, I got asked question, a few  
 20 questions.  
 21 Q. You had questions?  
 22 A. No. I got asked a few questions.  
 23 Q. Somebody asked you a few questions?  
 24 A. Yes.  
 25 Q. The individuals that asked you questions,

1 do you remember was it somebody in uniform like the  
 2 gentleman sitting there or somebody in plain  
 3 clothes?  
 4 A. Probably a uniform or maybe somebody in  
 5 regular clothes. I can't remember.  
 6 Q. You can't remember. Did they have a tape  
 7 recorder in their hand and show you the tape  
 8 recorder?  
 9 A. No, ma'am.  
 10 Q. Okay. Now, at the apartment earlier that  
 11 day when you saw Pooka, do you remember what she was  
 12 wearing?  
 13 A. Yes. I think some blue jean pants and a  
 14 red like shirt. I can't really explain the shirt  
 15 so.  
 16 Q. Okay. And when you had sex with her, I  
 17 know this is intimate and I'm sorry, but that means  
 18 you put your penis in a part of her body; is that  
 19 right?  
 20 A. Yes, ma'am.  
 21 Q. What part of her body?  
 22 A. Her vagina.  
 23 Q. Okay. Did you put your penis in her  
 24 rectum?  
 25 A. No.

1 Q. Where in the apartment did you have sex?  
 2 A. On the floor.  
 3 Q. The floor of what room?  
 4 A. Living room.  
 5 Q. The living room?  
 6 A. Yes.  
 7 Q. Is that where you generally did it?  
 8 A. Yes.  
 9 Q. Was anybody else at Pooka's apartment  
 10 while you and Pooka were there?  
 11 A. No.  
 12 Q. Do you have any idea how long you guys  
 13 were together in her apartment that day?  
 14 A. Maybe 20 minutes at the most.  
 15 MS. LUZAICH: Thank you. I have no  
 16 further questions.  
 17 THE COURT: Cross?  
 18 MR. PATRICK: Yes. Thank you.  
 19 CROSS-EXAMINATION  
 20 BY MR. PATRICK:  
 21 Q. Good afternoon, Mr. Brass. Or I'm sorry.  
 22 Yeah, Mr. Brass. How are you doing?  
 23 A. Yes, hello.  
 24 Q. I'm sorry. What time did you say you  
 25 first went into Pooka's apartment that morning?

1 A. I don't know exact time, but it was  
 2 between 10:30, 11:15.  
 3 Q. Okay. And before you went in the  
 4 apartment, you saw your uncle Robert Lewis outside?  
 5 A. Yes.  
 6 Q. And without saying what he said, you two  
 7 had a conversation?  
 8 A. Yes.  
 9 Q. And after that you went into the  
 10 apartment?  
 11 A. Well, not right after, but yes.  
 12 Q. Okay. Now, you went, then you went to  
 13 work. I'm sorry. Back up just a minute.  
 14 While you were in the apartment with  
 15 Sheila, was she receiving or making any phone calls?  
 16 A. Not that I know of.  
 17 Q. You didn't hear any phone calls?  
 18 A. No.  
 19 Q. You went to work, you started work  
 20 regular day?  
 21 A. Yes.  
 22 Q. And then later on you got a phone call or  
 23 it looks like you got two phone calls, one from your  
 24 mother?  
 25 A. Yes.

1 Q. And one from Ralph?  
 2 A. Yes.  
 3 Q. And, and they told you what had happened?  
 4 A. Yes.  
 5 Q. And you were very concerned so you went  
 6 straight back to your mom's house?  
 7 A. Yes.  
 8 Q. And when you left work, you didn't tell  
 9 your supervisor you were leaving or clock out?  
 10 A. Well, yes, he knew I was leaving at that  
 11 present time.  
 12 Q. Okay. Do you remember having a  
 13 conversation with Mr. Perez where you told him that  
 14 you left without clocking out or telling your  
 15 supervisor?  
 16 A. No. I believe I told him I did speak to  
 17 my supervisor because my supervisor's the one that  
 18 acknowledged me that I had an emergency phone call.  
 19 Q. Okay. Now, I'm sorry, I'm jumping around  
 20 a little bit.  
 21 When you left Pooka's apartment to  
 22 go to work, your uncle was still outside?  
 23 A. Yes.  
 24 Q. When you left the apartment, had Pooka  
 25 put her clothes back on?

1 A. Yes.  
 2 Q. Now, you came back to the apartment.  
 3 When you got there, the police were already there?  
 4 A. Yes.  
 5 Q. Okay. And I think you said you talked to  
 6 what you remember as being a uniformed officer?  
 7 THE COURT: He said he didn't know.  
 8 BY MR. PATRICK:  
 9 Q. You didn't know. But an officer asked  
 10 you a couple of questions?  
 11 A. Yes.  
 12 Q. Did he ask to see your driver's license?  
 13 A. No.  
 14 Q. Okay. So he did not take your driver's  
 15 license from you?  
 16 A. No.  
 17 Q. While you were there at that time, you  
 18 saw family members?  
 19 A. Yes.  
 20 Q. You saw Robert Lewis?  
 21 A. Yes.  
 22 Q. Did you see any other family members?  
 23 A. Yes.  
 24 Q. Did you see Anthony Culverson?  
 25 A. No.

1 Q. No. What other family members did you  
 2 see at that time?  
 3 A. Mine or?  
 4 Q. Your, your family members.  
 5 A. I saw my mother, my sister, my  
 6 grandmother, my father.  
 7 Q. Okay. When you came back to that scene,  
 8 you weren't trying to hide from anybody?  
 9 A. No.  
 10 Q. You were out, you talked to the police,  
 11 you talked to your family members?  
 12 A. Yes.  
 13 Q. You talked to Robert Lewis?  
 14 A. Yes.  
 15 Q. Did you see any of your other friends  
 16 there at that time? Like Carlton Fowler or Brandon  
 17 Bland, were they there?  
 18 A. No.  
 19 Q. Now you live, if I'm getting this right,  
 20 if you walked out of Pooka's apartment door and then  
 21 you walked just kind of right across to the next  
 22 building, like the five or six steps and that's  
 23 where your mom lived?  
 24 A. Yes.  
 25 Q. So it was not in the same building, it

1 was just next door?

2 A. Well, the buildings, they connect.

3 Q. They had that little breezeway above  
4 where the upstairs apartments kind of connected?

5 A. Right.

6 Q. Okay. Did you know the people in your  
7 building that lived upstairs from you?

8 A. No, I didn't know them. I've seen them  
9 around.

10 Q. You've seen them around? If I were you  
11 to give you -- did you ever know them by name?

12 A. No.

13 Q. Would you recognize them if I showed you  
14 pictures?

15 A. Yes.

16 Q. Okay. I have defense's proposed B, C, E  
17 and F. May I approach?

18 THE COURT: Sure.

19 BY MR. PATRICK:

20 Q. Okay. Mr. Brass, I'm gonna show you, if  
21 you'd look at these pictures and see if you  
22 recognize these people.

23 THE COURT: If you recognize any of these  
24 people as somebody that lived in the apartment  
25 complex at that time; is that what you're asking?

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1 MR. PATRICK: Yes.

2 THE COURT: Okay.

3 BY MR. PATRICK:

4 Q. Specifically in the upstairs apartment.

5 A. Yes.

6 Q. You recognize all of them?

7 A. No.

8 Q. No. Which ones do you recognize?

9 A. I recognize him, yes.

10 Q. Do you recognize the lady?

11 A. No.

12 Q. No. Either of these two gentlemen?

13 A. No.

14 Q. Okay. So --

15 THE COURT: You recognize that fellow as  
16 having lived in the apartment building at that time?

17 THE WITNESS: His brother did.

18 BY MR. PATRICK:

19 Q. But you saw him around the apartment  
20 complex quite a bit?

21 A. Yes.

22 MR. PATRICK: Okay. Move to admit B.

23 MS. LUZAICH: Well, objection, relevance.  
24 And I never saw who B was.

25 MR. PATRICK: Oh, sorry. We'll tie it up

1 in our case-in-chief, judge.

2 THE COURT: If you don't tie it up, I'll  
3 exclude it.

4 BY MR. PATRICK:

5 Q. Mr. Brass, I'm gonna show you what's been  
6 marked as Defense Exhibit D and proposed A.

7 Do you recognize those two  
8 gentlemen?

9 A. Yes.

10 Q. Are they friends of yours?

11 A. Yes.

12 Q. And were they at the apartment complex  
13 that day?

14 A. No.

15 MR. PATRICK: Admit -- these have been  
16 admitted. Move to admit A.

17 MS. LUZAICH: Same objection, relevance.

18 THE COURT: Same ruling.

19 MS. LUZAICH: Although A wasn't there.

20 THE COURT: Well, as far as he knows,  
21 they weren't at the apartment building that day.  
22 Unless somebody else can tie him into something,  
23 I'll exclude it, but they may have a witness who  
24 said he was there. I don't know. He wasn't there  
25 the whole time. So anything else?

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1 MR. PATRICK: That's all I have jury.  
2 Judge.

3 EXAMINATION

4 BY THE COURT:

5 Q. Let's me ask you a question. It was  
6 quite some time after Sheila's death that the police  
7 talked to you about your sexual relationship with  
8 her and having had sex with her on that morning and  
9 it was a couple three years, right?

10 A. Yes.

11 Q. Do you have any explanation for that? Is  
12 there some reason you didn't go to the police and  
13 say this might be of interest to you or?

14 A. No. Well, they never asked. I mean, I  
15 got questioned, but it was never question about that  
16 authority.

17 Q. And it didn't occur to you that it might  
18 be helpful to them?

19 THE WITNESS: No, not at all.

20 THE COURT: Okay, thanks. State all  
21 done?

22 MS. LUZAICH: Yes.

23 THE COURT: Okay. You can take him back.  
24 Next.

25 MS. LUZAICH: Gabriel Ubando.

1 THE COURT: Come on up here, sir.  
 2 (Whereupon, Gabriel Ubando was duly  
 3 sworn to tell the truth, the whole  
 4 truth and nothing but the truth.)  
 5 THE CLERK: Thank you. You may be  
 6 seated. Please state your full name, spelling your  
 7 first and last name for the record.

8 THE WITNESS: My name is Gabriel Ubando.  
 9 U-b-a-n-d-o.

10 DIRECT EXAMINATION

11 BY MS. LUZAICH:

12 Q. Sir, how are you employed?

13 A. I'm employed at Wal-Mart.

14 Q. What do you do at Wal-Mart?

15 A. I'm assistant manager of Wal-Mart.

16 Q. How long have you been at Wal-Mart?

17 A. Almost three years now.

18 Q. And as an assistant manager of Wal-Mart,  
 19 do you deal with the record keeping of employees?

20 A. Yes, ma'am.

21 Q. And the employees -- which Wal-Mart do  
 22 you work at?

23 A. Craig and Martin Luther King.

24 Q. Okay. The employees at Wal-Mart, how do  
 25 they indicate that they are there every day?

1 A. They have a badge that they carry with  
 2 them all the time when they come in in the morning.  
 3 And that's when they clock in and when they go to  
 4 lunch, coming back and going home as well. So they  
 5 have to clock in and out four times a day.

6 Q. Four times a day?

7 A. Yes.

8 Q. And when they clock in and out, is that  
 9 kept like at a clock and that it goes into a  
 10 computer system, so that it can be retrieved at a  
 11 later date?

12 A. Yes.

13 Q. And have you seen records indicating that  
 14 a George Brass, sorry, B-r-a-s-s, was working at  
 15 that Wal-Mart in March of 2005?

16 A. Yes.

17 Q. May I approach?

18 THE COURT: Yes.

19 BY MS. LUZAICH:

20 Q. Showing you State's proposed Exhibit 125  
 21 which for the record has been provided to counsel,  
 22 do you recognize that?

23 A. Yup. This is archived for attendance and  
 24 clock in, clock out for associates and it indicated  
 25 that yes, the associate was working.

1 Q. And that is the form for -- or the record  
 2 of employee George Brass for March 2005?

3 A. Yes.

4 Q. Did it indicate that Mr. Brass was at  
 5 work at the Wal-Mart on Craig on March 25th, 4th,  
 6 sorry, 2005?

7 A. Yes.

8 Q. Does it indicate what time he clocked in  
 9 at work?

10 A. He clocked in at 12:04, went to lunch at  
 11 4:04, came back at 5:03 and left for work at 7:45.

12 Q. So that would be 12:04 in the afternoon,  
 13 right, afternoon?

14 A. Yes.

15 Q. And then 7:45 he left in the evening?

16 A. Yes.

17 Q. Okay. Now, is it possible that somebody  
 18 could leave Wal-Mart without swiping out and that  
 19 somebody could in the future go in and correct that?

20 A. It is possible, but that is internal  
 21 issue and that's automatic termination. He can have  
 22 other associates clock you in and out.

23 Q. Right. No, my question was could  
 24 somebody go into the computer and change it, like a  
 25 supervisor?

1 A. Yes. If the associates happen to, for  
 2 example have emergency and they have to leave,  
 3 forgot to clock out and when they come back, they  
 4 talk to their associate manager or personnel that  
 5 yes, I left that day, forgot to clock out. And they  
 6 can put that in the system and it will show in the  
 7 system whoever did the transaction.

8 Q. So if that were to occur, there would be  
 9 an indication on the sheet that shows employee, you  
 10 know, John Smith went into the computer and changed  
 11 it?

12 A. Yes.

13 Q. Is there any indication whatsoever on  
 14 March 24th of 2005 that anybody had to go into the  
 15 system and change it?

16 A. No, it's not on this record.

17 Q. So George Brass -- so George Brass's time  
 18 card was swiped out at 7:45?

19 A. Yes.

20 MS. LUZAICH: Thank you. Move it into  
 21 evidence.

22 THE COURT: Any objection?

23 MR. PIKE: No objection.

24 THE COURT: Admitted.

25 MS. LUZAICH: I have nothing further.



1 THE COURT: Questions?

2 CROSS-EXAMINATION

3 BY MR. PATRICK:

4 Q. Good afternoon, sir. I think you just  
5 testified that it is possible for somebody else to  
6 swipe out another employee?

7 A. It is possible, yes, sir.

8 Q. And of course I think you said that would  
9 be cause for immediate termination?

10 A. Yes, it is immediate termination.

11 Q. As assistant manager of that store, is  
12 part of your duties disciplining employees?

13 A. Yes.

14 Q. Hiring, firing?

15 A. Yes, sir.

16 Q. Have you ever fired somebody for clocking  
17 in for another employee?

18 A. Not on my area that I haven't found  
19 anything yet on that situation.

20 Q. Are you aware of any of the other  
21 managers in your Wal-Mart store having to do that?

22 A. Yes.

23 MR. PATRICK: Thank you. Nothing else.

24 THE COURT: Anything else?

25 MS. LUZAICH: Just briefly.

1 REDIRECT EXAMINATION

2 BY MS. LUZAICH:

3 Q. Did Mr. Brass work the next day?

4 A. He was off Friday, Saturday, according to  
5 this document.

6 Q. Did he work after that?

7 A. Came back on Sunday, yes.

8 Q. So he continued to work there after?

9 A. Yes.

10 MS. LUZAICH: Thank you.

11 THE COURT: Thanks, Mr. Ubando.

12 Appreciate your testimony, you're excused.

13 THE COURT: What else?

14 MS. WECKERLY: That's it.

15 THE COURT: Okay. And this is the time  
16 where we got three or four?

17 MS. WECKERLY: We have three on Monday.

18 THE COURT: I'll coordinate with you guys  
19 in terms of -- okay. Here's where we're at. That's  
20 the end of the witnesses that they have today. The  
21 witnesses that the State has left are not available  
22 this week. They're out of town. They can't be here  
23 until Monday. And we knew that going in. So we're  
24 trying to, you know, coordinate this.

25 And when you time manage a case,

1 which is part of my responsibility, what I try to do  
2 is we've got so many days, we need to be here the  
3 first day, here the second day here, here the third  
4 day. So yesterday it seemed like we were going a  
5 little slow, we needed to get what I thought those  
6 11 witnesses in. We went a couple minutes longer.  
7 You know, you get tired by then, but they've been  
8 subpoenaed, they came down.

9 This is where we targeted today and  
10 it actually went fairly quickly. We thought we'd be  
11 done maybe 3:30, 4:00, but we're right on schedule  
12 for the witnesses of the State.

13 We wanted to get everything we could  
14 in except for the people who couldn't come in. So  
15 we are done for the week, but we are exactly right  
16 on schedule.

17 During this break, don't talk or  
18 converse among yourselves or with anyone else on any  
19 subject connected with this trial.

20 Don't read, watch or listen to any  
21 report of or commentary on the trial or any person  
22 connected with this trial by any medium of  
23 information, including, without limitation,  
24 newspapers, television, internet and radio.

25 Don't form or express any opinion on

1 any subject connected with the trial until the case  
2 is finally submitted to you.

3 Mr. Harris is here so I rather  
4 expect they'll be an article in tomorrow's Nevada  
5 section.

6 Have a nice weekend. We'll pick up  
7 Monday at 9:30. And what I'm gonna do with them  
8 between now and then is find out exactly who the  
9 witnesses are, try to coordinate to make sure we do  
10 everything we can not to waste a minute of your  
11 valuable time.

12 Have a good weekend.

13 (Whereupon, the jury exited the  
14 courtroom.)

15 THE COURT: The record should reflect  
16 that the jury has exited. Okay. We got three  
17 witnesses. At least one of them is gonna be very  
18 long I assume?

19 MS. WECKERLY: I mean pretty long. It's  
20 all the DNA. So she's --

21 THE COURT: And what else do you have?

22 MS. WECKERLY: Sherwood.

23 THE COURT: He'll be fairly long.

24 MS. WECKERLY: Well, I mean --

25 THE COURT: He'll take all morning for

1 you, two-and-a-half hours total?

2 MS. LUZAICH: Possibly.

3 MS. WECKERLY: Yeah, possible. I guess

4 just plan for that.

5 THE COURT: I would think it probably is.

6 MS. WECKERLY: With the cross it probably

7 is.

8 MR. PIKE: Don't look at Randy.

9 THE COURT: I'm just saying it seems to

10 me that the DNA person is probably gonna be every

11 bit of an hour and Sherwood's probably gonna be

12 close to an hour if not an hour. And I don't know

13 who else is left, but it sounds to me like we take

14 their stuff and we roll, and if it's 11:30, 11:45,

15 we bail out.

16 Now, then what have you got, Randy?

17 MR. PIKE: We're bringing in our expert

18 in reference to the DNA, but he won't be that long.

19 THE COURT: No, because you'll lay all

20 the foundation with theirs, but he's still gonna be

21 30, 40 minutes.

22 MR. PIKE: That's probably a good

23 estimate.

24 MR. PIKE: And then we'll bring in

25 Natalia, unless you're gonna be bringing her in.

1 She was under subpoena for the State, but I guess

2 you decided not to call her so we'll be bringing her

3 in.

4 MS. LUZAICH: (Negative nod of the head.)

5 MR. PIKE: We'll be bringing in Martha

6 Valdez. We'll be bringing in the manager for the

7 apartment complex and --

8 THE COURT: It sounds like an hour and a

9 half.

10 MR. PIKE: An hour and a half to two

11 hours. We anticipated being done Monday.

12 THE COURT: We'll be done even before

13 that.

14 MS. WECKERLY: Do you have another

15 expert?

16 MR. PIKE: Pardon?

17 MS. WECKERLY: Do you have another

18 expert?

19 MR. PIKE: Sherwood, yeah. He's the same

20 one. He's your DNA, too. He's gonna, basically

21 gonna talk about the crime scene and interpreting

22 the DNA.

23 MS. WECKERLY: Oh.

24 MR. PIKE: But the other guy I have --

25 THE COURT: So any chance of arguing it

1 Monday afternoon or no? Tuesday morning.

2 MS. LUZAICH: Tuesday morning if you

3 don't mind.

4 THE COURT: And what are you thinking?

5 It looks to me like the State's arguing is gonna be

6 every bit of an hour, it's fairly complex, and

7 rebuttal is probably gonna be an hour, maybe an hour

8 and a half.

9 So if we do it Monday morning, if

10 we've already read them the jury instructions Monday

11 night, we can give them to it at noon, give them

12 lunch and we got a pretty good chance of them come

13 in with a verdict Tuesday afternoon. Not

14 necessarily. This could be anywhere.

15 MS. LUZAICH: Sure.

16 MS. WECKERLY: Sure.

17 THE COURT: And then is our, starting

18 with the State, if we get to penalty, is the State's

19 penalty people, people you can get on fairly short

20 notice so if they come in Tuesday we can get them

21 Wednesday?

22 MS. WECKERLY: What I'll do, judge, is

23 I'll, I'll have my investigators start kind of

24 rounding them up on Monday.

25 THE COURT: Because it could be Thursday.

1 It could be nothing.

2 MS. WECKERLY: Right.

3 THE COURT: I mean, I'm not sure what the

4 jury's gonna do with this. It could be that they

5 don't come in until sometime Wednesday and we can't

6 use them until Thursday. But if they do come in

7 Tuesday afternoon, I'd like to start Wednesday.

8 What do you think you have?

9 MS. WECKERLY: I don't think we're longer

10 than a day. We may --

11 THE COURT: You've got prior records,

12 you've got alleged killing number three, and you've

13 got victim impact. Is that pretty much it?

14 MS. WECKERLY: (Positive nod of head.)

15 THE COURT: And then how about you,

16 Randy? You know, you've got family, please be good

17 to him and then --

18 MR. PIKE: Estin (phonetic) to testify

19 about the conditions at Nevada State Prison,

20 possibly Ms. Bass to talk about the unlikely hood of

21 parole and I, and I don't think we're gonna bring

22 in --

23 THE COURT: Now, who's Ms. Bass? I mean,

24 I'm going instruct them that if he gets life

25 without, it is not parolable, period. I'm not sure

1 you can go much beyond that.

2 MR. PIKE: Well, it was one of the, one  
3 of the members of the parole board.

4 THE COURT: Oh, Tammy Bass?

5 MR. PIKE: Yeah.

6 THE COURT: She used to work for me.  
7 You're gonna want her to give her an opinion as to  
8 whether he would get parole?

9 MR. PIKE: No. About how difficult it is  
10 to parole and what conditions an inmate has to meet  
11 before they can, before they would be considered for  
12 parole.

13 THE COURT: Boy.

14 MR. PIKE: She's just one of many.

15 MS. WECKERLY: Oh.

16 MR. PIKE: So that's a proffer. If you  
17 don't if you feel that your instructions are  
18 sufficient.

19 THE COURT: Well, the instruction is  
20 gonna be life without means life without and part of  
21 the instruction says you have to assume that the  
22 death penalty be carried out, life without means  
23 life without. I mean, I put an emphasis on that.

24 If they give him life without, they  
25 understand it isn't gonna happen. You know, if they

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1 give him life with 20 or 50 to 20, assuming they  
2 even get that far and convict him, who knows that  
3 far down the road. I mean I'd have a hard time with  
4 that.

5 MS. WECKERLY: We might think that's  
6 speculative.

7 THE COURT: I mean, she can testify as to  
8 facts, but she can't testify as to her opinion. And  
9 I'm not sure that the, even the circumstances today  
10 wouldn't be dramatically different 20 years from  
11 now. It depends on the prison system and parole.

12 I mean, if you want to use her, if  
13 you can narrow it down to three or four or five  
14 facts, you may be able to get that in, but I'm not  
15 gonna let her talk about whether murderers get  
16 parole or this kind of thing.

17 MR. PIKE: No, I, I -- the questioning  
18 would be you have served as a member of the pardon  
19 board or --

20 THE COURT: Parole board.

21 MR. PIKE: Parole board. During the  
22 time, the factors that you must consider and  
23 determine favorably on behalf of a defendant before  
24 they would even be considered for parole are what,  
25 da, da, da, da, da, and that would be --

1 THE COURT: Danger to the community,  
2 whether they have a job, those kind of things?

3 MR. PIKE: Right. And then that would be  
4 it. I'm not gonna ask her to speculate.

5 THE COURT: I think if they have a  
6 specific list that they use and not simply a fact,  
7 you can do that.

8 MR. PIKE: All right.

9 THE COURT: It sounds to me like we can  
10 do that whole thing in a day, both sides. I mean,  
11 it sounds like four or five hours, three hours,  
12 something like that. It sounds like we can get that  
13 in a day.

14 I mean, so I'm not sure we're  
15 getting there, but I think tentatively we need to be  
16 prepared to start penalty on Wednesday, even though  
17 it may not be Thursday. We'll prepare on Wednesday,  
18 if we don't get to it until Thursday because the  
19 jury's gonna be out quite a bit of time and that  
20 gives us time to adjust.

21 And you probably need to be prepared  
22 to do your penalty witnesses Wednesday afternoon and  
23 your other witnesses, your expert and whatever,  
24 we'll start them at 1 o'clock tomorrow.

25 Now, we need to -- if we're gonna

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1 wait until -- not tomorrow. Monday. But we're  
2 gonna wait until Tuesday to do the argument, fair  
3 enough, but I want, you know, it takes 30 minutes to  
4 read these instructions. Might as well do those  
5 Monday afternoon.

6 So I'm prepared to settle them now.  
7 If you would rather do them at noon on Monday, I  
8 don't mind if you still need some time to play with  
9 them, but we're gonna have them settled before we  
10 put on the defense case and do it so that when the  
11 time comes, we take our afternoon break, and I can  
12 spend a half an hour reading them to them when they  
13 come in. We argue the case and buy them a pizza.

14 MR. PIKE: We'll be ready to settle them  
15 during lunch.

16 THE COURT: Okay. Have you got some good  
17 ones for me, Randy, or is it still this stuff?

18 MR. PIKE: I gave you the good stuff.

19 MS. WECKERLY: Wait a minute.

20 THE COURT: You're instructing because  
21 the State has failed to test the speaker wire that  
22 is rebuttably presumed to have been held by Jessie  
23 Nava.

24 Where did that come from?

25 MR. PIKE: It's a corrective instruction

1 because of the poor investigati work done on this  
2 case.

3 THE COURT: And who's Jessie Nava?

4 MR. PIKE: Oh, we have a picture of him.

5 THE COURT: Yeah, I know. All right.

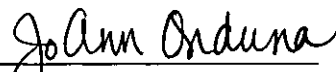
6 Have a nice weekend.

7

8 ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF THE  
PROCEEDINGS.

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JO ANN ORDUNA  
CCR NO. 370

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CASE NO. C228755

DEPT. NO. VII

**ORIGINAL**

**FILED**

DISTRICT COURT  
CLARK COUNTY, NEVADA

OCT 21 8 46 AM '08

CLERK COURT

THE STATE OF NEVADA,  
Plaintiff,

vs.

NORMAN KEITH FLOWERS,  
aka NORMAN HAROLD  
FLOWERS, III,  
Defendant.

Reporter's Transcript  
of  
Jury Trial

Volume 4-A

BEFORE THE HON. STEWART BELL, DISTRICT COURT JUDGE

MONDAY, OCTOBER 20, 2008

9:30 A.M.

APPEARANCES:

For the State: Pamela Weckerly, Esq.  
Elissa Luzaich, Esq.  
Deputies District Attorney

For the Defendant: Randall Pike, Esq.  
Clark Patrick, Esq.  
Deputies Public Defender

Reported by: JoAnn Orduna, CCR No. 370

CLERK OF THE COURT

OCT 21 2008

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JEFF SMINK

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Cross-Examination by Mr. Pike 12

JUANITA CURRY

Direct Examination by Ms. Weckerly 14

DAVE HORN

Direct Examination by Ms. Weckerly 22

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DETECTIVE GEORGE SHERWOOD

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1 CASE NO. C228755

2 DEPT. NO. VII

3

4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6  
7 THE STATE OF NEVADA, )  
8 Plaintiff, ) Reporter's Transcript  
9 vs. ) of  
10 ) Jury Trial  
11 NORMAN KEITH FLOWERS, )  
12 aka NORMAN HAROLD )  
13 FLOWERS, III, )  
14 Defendant. )

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16 MONDAY, OCTOBER 20, 2008

17 9:30 A.M.

18  
19 APPEARANCES:

20 For the State: Pamela Weckerly, Esq.  
21 Elissa Luzaich, Esq.  
22 Deputies District Attorney

23 For the Defendant: Randall Pike, Esq.  
24 Clark Patrick, Esq.  
25 Deputies Public Defender

Reported by: JoAnn Orduna, CCR No. 370

3  
1 LAS VEGAS, CL COUNTY, NV, MON, OCT 17, 2008

2 9:30 A.M.

3 -oOo-

4 P R O C E E D I N G S

5  
6 THE COURT: Okay. Let's go on the record  
7 in Case C228755. Let the record reflect the  
8 presence of the defendant with his counsel, counsel  
9 for the State, absence of the jury.

10 Anything to come before the court  
11 before we start?

12 MR. PIKE: Your Honor, I had given the  
13 State on Friday, I e-mailed them a list of the  
14 witnesses that we'll be calling for this afternoon.  
15 I think that the State's going to be done today at  
16 noon or probably right after.

17 The State has indicated that they  
18 are going to attempt to bring in the statement of  
19 Mr. Flowers.

20 It's a brief statement in this and I  
21 think they're probably going to ask directed leading  
22 statements to just bring out one specific item in  
23 the statement.

24 MS. WECKERLY: Do you want to read a copy  
25 of it or?

2  
1 I N D E X

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2 WITNESSES FOR THE STATE:

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6 Cross-Examination by Mr. Pike 12  
7  
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23 E X H I B I T S

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4

1 THE COURT: Well, is there any objection?  
2 Usually, if it's the statement of the defendant,  
3 it's gonna be admissible.

4 MR. PIKE: Right. And I think what  
5 they're just going to attempt to bring out that, you  
6 know, do you know her and he said Sheila who. He  
7 goes by the nickname Pooka.

8 I was representing him at the time  
9 and they went in to talk to him without discussing  
10 that with me. I was representing him on the other  
11 case. It indicates that, you know, who's your  
12 attorney. Randy Pike. As I recall, it was lawyer  
13 Pike.

14 THE COURT: And they were talking to him  
15 about this case?

16 MR. PIKE: Right. I was under the --

17 THE COURT: He was in custody?

18 MR. PIKE: On the other case.

19 THE COURT: In custody on the other case  
20 and you were representing him?

21 MR. PIKE: Right. I was not informed  
22 that they were gonna go interview him. I had no  
23 knowledge that they were gonna go talk to him. They  
24 didn't contact me. I don't even know if they  
25 contacted the district attorneys to let them know he

1 was going over there.

2 But in reference to that, I, I think  
3 all that they're attempting to bring out is that he  
4 said Sheila who.

5 Was there anything else?

6 MS. LUZAICH: Well, essentially the, the  
7 non-evas -- the evasive nature of the whole. We  
8 won't go anywhere near attorney where he says  
9 attorney.

10 They tell him in the very beginning,  
11 they read him his rights and they tell him right  
12 from the get-go, we're not here to talk about your  
13 case, the case pertaining to Marilee Coote. And  
14 then halfway through five pages, six pages in,  
15 they --

16 THE COURT: Well, my recollection is they  
17 don't have to call you if you're not gonna talk  
18 about your case.

19 MS. LUZAICH: Correct.

20 MS. WECKERLY: Right. Because the  
21 charges had not been initiated yet.

22 MS. LUZAICH: The charges had not yet  
23 been initiated.

24 THE COURT: I understand.

25 MR. PIKE: I understand that, but at the

1 same token in going through that, and that may be  
2 the status of the law now, but I think that we need  
3 to make a record that that isn't what it should be.

4 THE COURT: Well, okay. You've got,  
5 you're gonna -- this is gonna come in over your  
6 objection and you're making your objection now and  
7 your objection is that you think that if he's  
8 convicted on this case, you're gonna appeal and one  
9 of the issues that you're gonna raise is any  
10 statement used, because you think the law should be  
11 changed to the fact that if he has a counsel on any  
12 case they're aware of, that that counsel should be  
13 contacted even though they're talking about  
14 something unrelated. That's your position?

15 MR. PIKE: Right.

16 THE COURT: Okay. I don't think that's  
17 the law today. The supreme court decides to change  
18 it, God love 'em.

19 MR. PIKE: And it's just not really an  
20 inculpatory statement. They said did you know --

21 THE COURT: Well, it doesn't matter if  
22 it's seemingly inculpatory or not. A statement made  
23 by the defendant can be used against him for  
24 whatever reason.

25 I mean, for example when I went over

1 to the public defenders office when I just passed  
2 the bar, the first thing I was assigned to was an  
3 appeal on a homicide.

4 The defendant had gone into a  
5 7-Eleven, robbed it and killed the clerk. The  
6 police had gone to talk to the defendant and the  
7 only thing he said to the police was I've never been  
8 in that store in my life. Well, they got  
9 fingerprints of his off of the cash register. And  
10 so while that wasn't really an inculpatory  
11 statement, but since he obviously had been in the  
12 store, it had some probative value.

13 So again, you get probative value  
14 out of a statement, it seems to be totally  
15 exculpatory. I think it can come in and the jury  
16 can decide what weight to give it. Okay.

17 MR. PIKE: Thanks.

18 MR. PATRICK: Judge, one more thing.  
19 We're gonna need an interpreter this afternoon for  
20 our witnesses.

21 MS. GORD: Spanish?

22 MR. PATRICK: Yeah, Spanish interpreter.  
23 Sorry.

24 MS. LUZAICH: And we do -- and based on  
25 the e-mail we received from Mr. Pike Friday

1 afternoon, we have an objection to quite a few of  
2 the witnesses actually.

3 THE COURT: Let's take that up at noon.

4 MS. LUZAICH: Oh.

5 THE COURT: Let's get the jury in here  
6 and let's get your case done. We're gonna take  
7 about an hour and a half lunch break because we're  
8 gonna settle instructions. It will take just a few  
9 minutes and we can argue about what's coming in and  
10 what isn't coming in and the staff still needs to  
11 get at least about an hour. So we'll take about an  
12 hour and a half lunch break, we'll settle all those  
13 things and whatever's in is in and whatever's out is  
14 out.

15 Is it everybody ready?

16 MS. WECKERLY: No, not anymore.

17 MS. LUZAICH: Can we have just a couple  
18 of seconds?

19 (Whereupon, the jury entered the  
20 courtroom.)

21 THE COURT: Okay. Back on the record in  
22 Case C228755, State of Nevada versus Norman Keith  
23 Flowers.

24 Let the record the reflect the  
25 presence of Mr. Flowers with his counsel, counsel



1 for the State and all ladies and gentlemen of the  
2 jury are back in the box. Did you have a good  
3 weekend?

4 Ms. Weckerly, are you ready to go?

5 MS. WECKERLY: Yes, Your Honor.

6 THE COURT: Next.

7 MS. WECKERLY: We're actually, Your  
8 Honor, recalling crime scene analyst Jeff Smink. We  
9 discussed that with your court and defense counsel  
10 on Friday.

11 MR. PIKE: That's right. I have no  
12 objection to him being recalled and reopening  
13 direct.

14 MS. WECKERLY: Thank you. And judge,  
15 he'll, this -- you'll need to read the admonition  
16 for this witness.

17 THE COURT: All right. Okay. Ladies and  
18 gentlemen of the jury, I'm sure you recall this, but  
19 evidence of crimes not the crime that you are here  
20 to consider may be considered by you only to show  
21 the identity of the person perpetrating the crime  
22 before you, the knowledge, motive, absence of  
23 mistake or accident in the case before you cannot be  
24 used for the purpose of concluding that the  
25 defendant is a person of bad character, has a

1 disposition to crime, and hence, as a result of that  
2 he probably did the crime before you.

3 Come on up, Mr. Smink.

4 (Whereupon, Jeffrey Smink was duly  
5 sworn to tell the truth, the whole  
6 truth and nothing but the truth.)

7 THE CLERK: Thank you. Please state your  
8 name, spelling your last name for the record.

9 THE WITNESS: Jeffrey Smink. S-m-i-n-k.

10 DIRECT EXAMINATION

11 BY MS. WECKERLY:

12 Q. And, Mr. Smink, obviously you've  
13 testified in this matter before. I want to  
14 concentrate specifically on some processing you did  
15 at the crime scene on May the 4th of 2005.

16 Just to review, that's when you were  
17 out at the scene on Russell?

18 A. Yes.

19 Q. And that was the third floor apartment  
20 that you processed with crime scene analyst Charity  
21 Green?

22 A. Yes.

23 Q. Specifically on that date, do you recall  
24 what areas where you used an alternate light source  
25 in an attempt to discover potential evidence?

1 A. As I testified on Friday, the living room  
2 area and that also included the master bedroom, the  
3 south bedroom of the apartment.

4 Q. And when you say that you processed the  
5 master bedroom, would that be the bedspread and  
6 sheets?

7 A. Yes, the bed comforter and the sheet on  
8 the bed.

9 Q. When you used the alternate light source,  
10 what is it reacting to or what would it fluoresce  
11 with?

12 A. Biological fluids, including seminal  
13 fluids, saliva, vaginal fluids, urine and blood.

14 Q. When you processed the bedroom area, the  
15 love seat, cushions and underneath the love seat,  
16 did you get a reaction indicating the presence of  
17 biological fluids?

18 A. No.

19 Q. And so to be clear, the only -- although  
20 you processed those other areas, the area where you  
21 got the reaction was that carpet area in front of  
22 the love seat?

23 A. Correct.

24 Q. That we've discussed?

25 A. Yes.

1 MS. WECKERLY: Thank you, sir. I'll pass  
2 the witness.

3 THE COURT: Questions?

4 MR. PIKE: Thank you very much.

5 CROSS-EXAMINATION

6 BY MR. PIKE:

7 Q. In reference to processing a crime scene  
8 for biological fluids, using the alternate light  
9 source, is that something that could actually be  
10 used to quickly examine a body, maybe to see if  
11 there was -- well, let me just ask it more directly.

12 Is it something that you could use  
13 on a body to determine whether or not they're -- it  
14 may warrant a sexual assault investigation?

15 A. In some cases, perhaps.

16 MR. PIKE: I have no further questions.

17 THE COURT: Thanks, Mr. Smink.

18 Appreciate your time. Next.

19 MS. WECKERLY: Nothing else, Your Honor.  
20 And the next witness is the same event, Your Honor,  
21 and her name's Juanita Curry.

22 THE COURT: It's the same thing, ladies  
23 and gentlemen. You've pretty well got what you  
24 consider evidence of the crime that's not before  
25 you.

1 MS. WECKERLY: She just went to the rest  
2 room so.  
3 THE COURT: Come on up here, ma'am. This  
4 way. Do you need help?  
5 THE WITNESS: Yeah.  
6 THE COURT: Would you rather sit in a  
7 chair down there rather than climb the stairs?  
8 THE WITNESS: Yes.  
9 THE COURT: Officer Moon will put this  
10 chair right down there for you.  
11 THE WITNESS: Okay. Thank you.  
12 THE COURT: Okay. While you're standing,  
13 raise your right hand and she'll swear you in and  
14 you can sit down.  
15 (Whereupon, Juanita Curry was duly  
16 sworn to tell the truth, the whole  
17 truth and nothing but the truth.)  
18 THE CLERK: Thank you. Please state your  
19 full name spelling your first and last name for the  
20 record.  
21 THE WITNESS: Juanita Curry.  
22 J-u-a-n-i-t-a. C-u-r-r-y.  
23 THE COURT: Okay.  
24 MS. WECKERLY: Thank you.  
25 ///

1 DIRECT EXAMINATION  
2 BY MS. WECKERLY:  
3 Q. Ms. Curry, I'd like to talk to you about  
4 the time period of May of 2005.  
5 Where were you residing at that  
6 time?  
7 A. 6650 East Russell Road. And I think it's  
8 Las Vegas, Nevada, apartment 102.  
9 Q. And those are the Silver Pines  
10 Apartments?  
11 A. Correct.  
12 Q. The apartment buildings themselves, is  
13 that a multi-building apartment complex, like are  
14 there different buildings in the complex?  
15 A. Yes.  
16 Q. And are there three floors?  
17 A. Yes.  
18 Q. During that time period, did you live by  
19 yourself?  
20 A. Yes.  
21 Q. I'd like to talk to you specifically  
22 about May the 3rd of 2005.  
23 Do you remember that day?  
24 A. Yes.  
25 Q. Were you home that morning?

1 A. Yes.  
2 Q. You were in your apartment?  
3 A. Yes.  
4 Q. Do you recall what time it was that you  
5 got up that morning?  
6 A. I woke up like around, I don't know, it  
7 was real early. 6:00, 6:30 in the morning.  
8 Q. Okay. When you got up in the morning, do  
9 you remember what you did, if you made yourself  
10 breakfast or?  
11 A. Yeah. I don't know what I got up for  
12 anyway, but I got up and I did laundry and then I  
13 usually eat breakfast every morning so I just cook  
14 me breakfast.  
15 Q. And as you were sort of going through  
16 your morning routine, did you become aware of  
17 paramedics or the fire department responding to the  
18 apartments?  
19 A. Yes. That morning a fire truck came in.  
20 Q. And when you see the fire truck come in,  
21 did you have a sense that they were responding to an  
22 apartment above you?  
23 A. No, I didn't know why they were there  
24 because they parked right in front of my window so.  
25 Q. Okay. But they parked in front of your

1 building?  
2 A. Uh-huh.  
3 Q. Is that a yes?  
4 A. Yes, it is. I'm sorry.  
5 Q. That's okay. Did you ever see paramedics  
6 or the fire department go up the stairs in your  
7 building?  
8 A. Yes, I did.  
9 Q. Okay.  
10 A. Well, I didn't see them go up. I saw  
11 them come down.  
12 Q. Okay. So they had come down --  
13 A. Uh-huh.  
14 Q. -- obviously from an apartment above you?  
15 A. Uh-huh. Yes. I'm sorry.  
16 Q. That's okay. As they, the police and the  
17 fire department were, were coming down the stairs,  
18 did anyone ever come to your door?  
19 A. Not -- no, not while the fireman were  
20 coming downstairs, no.  
21 Q. At some point while the police or fire  
22 department were at the complex still, did anyone  
23 come to your door?  
24 A. Yes.  
25 Q. Who was that?

1 A. Well, I know him as Keith.  
 2 Q. Okay. Explain how it was that you became  
 3 aware that Keith was at your door?  
 4 A. He knocked on my door that morning.  
 5 Q. Did you look out your door to see who it  
 6 was?  
 7 A. I looked through the peep hole, yes, I  
 8 did.  
 9 Q. And did you recognize him?  
 10 A. No, I didn't. He had his back towards  
 11 the peep hole.  
 12 Q. Okay. Did you open your door?  
 13 A. Not at first I didn't.  
 14 Q. At some point did you open your door?  
 15 A. I asked who it was first.  
 16 Q. And what did he say?  
 17 A. I couldn't really hear him clearly  
 18 because I guess the thickness of the door, it's like  
 19 a fire door. And so I thought he said me. And so  
 20 I'm like, well, I don't know who you are. And then  
 21 he told me that I did know him, that he had helped  
 22 me move some things in. So he was really saying his  
 23 name was Keith.  
 24 Q. Okay.  
 25 A. And then he turned to the peep hole.

1 Q. And then did you see him?  
 2 A. Yes. Uh-huh.  
 3 Q. Did you recognize him?  
 4 A. Uh-huh. Well, I didn't, because he  
 5 looked entirely different, but he spoke of my  
 6 friend's name and so I knew that he said, he used  
 7 her name and he said I'm a friend of her and  
 8 remember me helping move you some stuff in, so then  
 9 I did, I remembered who he was.  
 10 Q. And the friend that you two had in  
 11 common, is her name Mawoose (phonetic) Ragland?  
 12 A. Yes.  
 13 Q. Once you open the door, did you have a  
 14 conversation with him?  
 15 A. Yes, I did.  
 16 Q. And as you were having the conversation  
 17 with him, were you aware of whether emergency  
 18 personnel were still coming down the stairs from the  
 19 apartment above you?  
 20 A. Yes.  
 21 Q. When the emergency personnel were coming  
 22 down the stairs, did you notice whether or not this  
 23 Keith moved or reacted to that?  
 24 A. Yes.  
 25 Q. What did you see him do?

1 A. He was trying to, like he wanted to come  
 2 in my apartment.  
 3 Q. Did you have a conversation with him --  
 4 well, let me ask you this: Did he make a comment to  
 5 you at that time that the police made him nervous?  
 6 A. Yes, he did.  
 7 Q. At some point later in the day or  
 8 actually maybe it was even a day or two later, did  
 9 the police contact you and interview you?  
 10 A. That evening.  
 11 Q. And at that time you gave a taped  
 12 statement to them?  
 13 A. Yes.  
 14 Q. Ma'am, do you see this Keith in the  
 15 courtroom today?  
 16 A. I'd have to stand up to look behind me.  
 17 Is that okay? I can't turn.  
 18 Q. You can't turn?  
 19 A. Because of my back.  
 20 Q. Your body can't turn?  
 21 A. Yes.  
 22 Q. Well, let me ask you this: At some point  
 23 did the police show you a group of photographs?  
 24 A. Yes.  
 25 Q. And at that time did you identify who the

1 Keith was that came to your doors?  
 2 A. Yes, I did.  
 3 MS. WECKERLY: I'm sorry. Could I get  
 4 this marked?  
 5 BY MS. WECKERLY:  
 6 Q. Ma'am, I'm showing you what's been marked  
 7 as State's proposed Exhibit 131. I'll just get on  
 8 this side of you.  
 9 That appears to be a series of  
 10 photographs, correct?  
 11 A. Yes.  
 12 Q. And your name it looks like is on  
 13 photograph five?  
 14 A. Correct.  
 15 Q. And it's actually dated 5-5-05?  
 16 A. Correct.  
 17 Q. Is that the date that you wrote down  
 18 yourself?  
 19 A. Correct.  
 20 Q. And did you write your name?  
 21 A. Yes, I did.  
 22 Q. And this is who you identified as the  
 23 person who came to your door?  
 24 A. Yes, it is.  
 25 MS. WECKERLY: State moves to admit 131.

1 MR. PIKE: No objection.  
 2 THE COURT: Admitted.  
 3 MS. WECKERLY: I'll pass the witness,  
 4 Your Honor.  
 5 THE COURT: Questions?  
 6 MR. PATRICK: No, judge.  
 7 THE COURT: Thank you, Ms. Curry. Give  
 8 her a hand, officer.  
 9 Who's next?  
 10 MS. WECKERLY: Your Honor, next is Dave  
 11 Horn.  
 12 THE COURT: He's gonna testify about the  
 13 two different --  
 14 MS. LUZAICH: About Sheila Quarles.  
 15 THE COURT: Just Sheila Quarles?  
 16 MS. LUZAICH: The charged cap, yes.  
 17 (Whereupon, David Horn was duly  
 18 sworn to tell the truth, the whole  
 19 truth and nothing but the truth.)  
 20 THE CLERK: Thank you. Please be seated.  
 21 Please state your full name, spelling your first and  
 22 last name for the record.  
 23 THE WITNESS: David Horn. Last name  
 24 H-o-r-n.  
 25 THE COURT: Go ahead.

1 DIRECT EXAMINATION  
 2 BY MS. WECKERLY:  
 3 Q. Sir, how are you employed?  
 4 A. I'm employed as a senior crime analyst  
 5 with the Las Vegas Metropolitan Police Department in  
 6 the criminalistics bureau.  
 7 Q. How long have you worked as a senior  
 8 crime scene analyst?  
 9 A. Well, as a senior crime scene analyst, 20  
 10 years. In the field overall, probably about 29.  
 11 Q. Okay. How long have you -- has it all  
 12 been with Metro or somewhere else?  
 13 A. It's all been with Metro.  
 14 Q. Okay. On March the 24th of 2005, did you  
 15 respond to 1001 North Pecos?  
 16 A. Did you say March 24th?  
 17 Q. Yes.  
 18 A. I think it was -- let me see here. Yeah,  
 19 you're right. Yes, I did.  
 20 Q. And did you respond by yourself or with  
 21 other crime scene analysts?  
 22 A. There was two others from the  
 23 criminalistics bureau. Senior crime scene analyst  
 24 Fletcher, Sean Fletcher and supervisor Mike Perkins.  
 25 Q. Homicide detectives respond as well?

1 A. Yes, they did. They were there.  
 2 Q. Between yourself and Ms. Fletcher, how  
 3 did you divide who did what at this crime scene?  
 4 A. I basically took the photographs, wrote  
 5 the field report, and we split the baiting processes  
 6 when we got to that point.  
 7 Q. We've heard some testimony about the  
 8 scene itself, but generally did you examine the  
 9 scene for any signs of a forced entry?  
 10 A. Yes, I did.  
 11 Q. And was there any sign of that?  
 12 A. No, there was no sign of forced entry.  
 13 It's a very small one-bedroom apartment. The front  
 14 door was not, there was no sign of prying or forced  
 15 entry on the jam of the door itself.  
 16 And then coming around to where the  
 17 windows were, there was a window that, that was on  
 18 the east side of the apartment would have been to  
 19 her bedroom that was covered by a blanket and a  
 20 headboard to that particular bed, so that wasn't a  
 21 possible point of entry.  
 22 And then there was a little  
 23 cluttered patio area that was on the south side of  
 24 the apartment and there was a window and a door in  
 25 that area that wasn't forced either.

1 Q. So you examined all these points of entry  
 2 and found no signs of a forced entry?  
 3 A. No, there was no signs of forced entry to  
 4 that house.  
 5 Q. Now, the victim in this particular case,  
 6 she was in the bathroom?  
 7 A. Yes, she was.  
 8 Q. And you obviously observed the bathroom  
 9 area?  
 10 A. Yes.  
 11 Q. Any sign of disturbance in the bathroom  
 12 itself?  
 13 A. There was a sign of disturbance in a  
 14 sense that whoever had found the young lady had  
 15 pulled her out of the tub. And so there was a lot  
 16 of water spilled all over the place as they had  
 17 removed her from the bathtub. And she was lying on  
 18 the floor and her leg was hanging inside the, over  
 19 the wall of the tub itself. And so other than that,  
 20 there was not very much disturbance because it was  
 21 so small.  
 22 Q. Aside from that, I mean anything like  
 23 tables broken or broken mirrors or any sign of major  
 24 disturbance in the bathroom?  
 25 A. There was no major disturbance. The only

1 other thing that was slightly unusual, and I think  
2 it was probably done by the people removing her from  
3 a bathtub, there was an overturned small trash can  
4 in the bathroom itself.

5 Q. The bathroom area itself was pretty  
6 small?

7 A. Yes, it was.

8 Q. Did you photograph various aspects of the  
9 bathroom area?

10 A. Yes. There was, in a sense there was two  
11 set of photographs. There was the photographs prior  
12 before the victim had been removed from the  
13 apartment itself because her body blocked a lot of  
14 movement in the bathroom because she was laying on  
15 the floor. And then after she was moved, we found  
16 some clothes that was underneath her that was  
17 obscured by her body position when she was still  
18 there. And then there was some photographs just  
19 showing some of the room after she had been removed.

20 Q. Within the bathtub itself, were there any  
21 items of potential evidence that you recall?

22 A. There was -- because it was, the tub was  
23 blocked with a whitewash cloth at the drain spout  
24 end, we took a measurement and that faucet end of  
25 the bathtub, it was like five and a half inches

1 depth and then at the opposite end or foot end of  
2 the bathtub, there was like five inches of water  
3 depth at that end.

4 So in the bathtub itself, there was  
5 a couple of washcloths that we took. There was a  
6 lotion bottle floating around in it. And I think  
7 there was a little yellow bandana.

8 The two washcloths were taken and  
9 all the clothing items either on top of or beneath  
10 the decedent as she laid on the bathroom floor was  
11 also recovered also.

12 Q. When you go about processing the bathroom  
13 area or actually any crime scene in particular, is  
14 one of the things you're looking for signs of  
15 potential blood evidence?

16 A. Oh, sure. This is one of those type of  
17 homicides scenes where there was no blood shed. It  
18 was just either a smothering or a drowning type of  
19 thing. There was no blood shed in the apartment at  
20 all. Because normally when you see blood, you see a  
21 lot of it.

22 Q. Sir, I'm showing you what's been marked  
23 as State's proposed Exhibits -- sorry. 128, 129 and  
24 130.

25 Could you look through those three

1 photographs and just tell me when you're done.

2 MR. PIKE: For the record, the defense  
3 has reviewed those prior to them being shown to the  
4 witness. We have no objection to them being  
5 admitted.

6 BY MS. WECKERLY:

7 Q. Do you recognize those photographs?

8 A. Yes.

9 Q. You actually took them?

10 A. Yes, I did.

11 THE COURT: They'll be admitted then.

12 BY MS. WECKERLY:

13 Q. Sir, I'm putting on the overhead State's  
14 128. That's a photograph you took of the bathtub?

15 A. Yes, it is. This had been one of those  
16 photographs where the decedent was still in the  
17 bathroom or -- and it kind of showed the water in  
18 the tub, it showed the south end of the bathtub and  
19 you also see part of her legs overhanging the  
20 bathtub.

21 Q. That's probably a little better oriented.  
22 Now, within the bathtub itself in the water area  
23 there's an object that looks like it has red writing  
24 on it.

25 Is that the lotion bottle?

1 A. That was a lotion bottle, yes.

2 Q. Up on the wall there appears to be a mark  
3 of some sort that's like a dark color.

4 Did you examine that mark?

5 A. I believe I was, I looked at it overall  
6 in the bathtub scene itself, yes.

7 Q. And when you examined it, did it appear  
8 to be blood?

9 A. No, it did not.

10 Q. And you've been to crime scenes I take it  
11 before where you've seen blood?

12 A. Lots of it. Lots of homicides, too.

13 Q. Okay. And when you looked at that item  
14 right there or that marking on the bathtub, it did  
15 not appear to be blood to you?

16 A. That's correct, ma'am.

17 Q. And when you looked at the -- or when the  
18 victim was examined, there was no sign on her body  
19 that she was actively bleeding or even any evidence  
20 of external injury?

21 A. That's part of the coroner investigator  
22 exam at initial scene to look for any obvious trauma  
23 to the head, chest and back area. And if there is  
24 none, you know, we take photographs to show the  
25 presence or absence of those types of injuries.

1 The other thing that was done was  
2 her hands were bagged for any potential possibility  
3 of trace evidence that might have been on her hands  
4 or under her fingernails.

5 Q. In this particular case, do you recall  
6 seeing the victim's clothing in the bathroom area?

7 A. We didn't see any initial clothing  
8 because her body covered it. Because when she was  
9 pulled out, the body covered, turned out a wig, a  
10 pair of pants, thongs and a couple of other small  
11 items like that that was completely obscured by her  
12 body.

13 We didn't actually find those items  
14 until she was removed from the bathroom.

15 Q. And when she was removed, though, you  
16 would have photographed the clothing and Ms.  
17 Fletcher would have likely impounded, right?

18 A. That's correct.

19 Q. Did you have an opportunity to observe  
20 her jeans that were in the bathroom?

21 A. They were all wet.

22 Q. Okay. Any other items of clothing, you  
23 know, related to the jeans, did you see how the  
24 thong was positioned on the jeans?

25 A. The thongs was like they had been peeled

1 off her body with the, intermixed with the pant  
2 legs.

3 Q. And were the thongs also inside out and  
4 backwards?

5 A. Yes, they were.

6 Q. And they were out on the outside of her  
7 pants?

8 A. Yes.

9 Q. And then the waist area and the right leg  
10 was over one leg and the left was over the leg left?

11 A. That's correct.

12 Q. Sort of unusual?

13 A. Yes.

14 Q. The bedroom area, did you have an  
15 opportunity to observe that room as well?

16 A. Yes.

17 Q. Any sign of ransacking or forced entry in  
18 that room?

19 A. There was some disturbances. There was a  
20 couple of pillow cases that was missing from the two  
21 pillows that was on the bed. There was some food  
22 articles, you know, like a beef and cheese food  
23 package, some peanuts, a Gatorade bottle that was in  
24 the bathroom. Or excuse me. In the bedroom. There  
25 was a key on the floor, an unplugged phone and a few

1 things like that that was unusual. There was also  
2 clothes laying around, but that might have been part  
3 of, you know, just general clutter in a small  
4 apartment.

5 Q. No sign of a major struggle taking place  
6 in that room?

7 A. No. There was, there was no sign of a  
8 violent physical struggle throughout this small  
9 apartment.

10 MS. WECKERLY: Thank you. I'll pass the  
11 witness.

12 MR. PIKE: Thank you very much.

13 CROSS-EXAMINATION

14 BY MR. PIKE:

15 Q. Mr. Horn, I have a few questions about  
16 the observations that you made at this location. In  
17 reference to the door, when you say you saw no signs  
18 of any forced entry, would I be safe to assume that  
19 you were looking for breaks in the room, cracks in  
20 the doors, bent hardware, door knobs or anything  
21 that may have affected the door jam?

22 A. Not only I talk about those type of  
23 forced entries, you're look for perhaps if there was  
24 a footwear on the door. In this case there wasn't.  
25 Sometimes prior marks on either the door jam or the

1 door hedge. Things of that type nature. And there  
2 was no forced entry on the front door at all.

3 Q. Okay. And what type of a lock was on  
4 that door? Was it a dead bolt that had a straight  
5 type of a closing or was it the type of a lock that  
6 was the normal type where you close a door and it  
7 closes and then --

8 A. I don't specifically remember if it had a  
9 dead bolt or just a regular front little lock or  
10 both. I don't recall.

11 Q. And because there were no marks that you  
12 saw that indicated there was a forced entry, then it  
13 had could either be consistent with any of these.  
14 And if any of them are inconsistent, please

15 interrupt me and tell me that they're inconsistent.  
16 It would be consistent with either,  
17 if someone had gone through that door, that the door  
18 had been left unlocked and they just opened the door  
19 and walked in?

20 A. That's always a possible.

21 Q. It would be consistent with the door  
22 being left ajar or opened?

23 A. Yes.

24 Q. It would be consistent by it being opened  
25 by an occupant within the apartment and allowing

1 somebody else to enter?

2 A. Yes.

3 Q. It is consistent with it not closing  
4 tightly and just opening to a touch or a push?

5 A. Yes.

6 Q. Now, going through the rest of the  
7 apartment, there were also other areas of entry.

8 There was a, some windows; is that  
9 correct?

10 A. Yes.

11 Q. And what rooms were those windows in if  
12 you can recall?

13 A. There was a window that was completely  
14 covered by the headboard and it was covered by a  
15 blanket in the east, it was on the east wall in that  
16 southeast bedroom. There was one window.

17 Q. Okay. I'm sorry. Let me stop you with  
18 that since you brought that up. And you went back  
19 and examined that to determine if there was any  
20 evidence of forced entry or any entry through that  
21 window?

22 A. It wouldn't have been possible to enter  
23 through that window.

24 Q. Okay.

25 A. Because of the height of the headboard

1 ant blanket was still in place.

2 Q. And there was nothing disturbed there  
3 that would indicate that?

4 A. No, that's correct.

5 Q. And then please continue?

6 A. There was a -- the only other possibility  
7 of access generally was off the patio balcony and  
8 there was a wood door there that was from the  
9 inside, it was like on the extended -- it would have  
10 been a little dining area if she would have used it  
11 as such. And that door was locked from the inside  
12 and it had a trash bag hanging off of it.

13 And for me to open it, I had to  
14 really exert some force to open it just to take a  
15 couple of pictures on the outside or from the inside  
16 of the apartment showing the patio area itself.

17 There was also a window, couple of  
18 windows around that area of the balcony area because  
19 part of the balcony was covered by a fence and part  
20 of it wasn't. And so all the glass in that area was  
21 closed, locked type of thing. There was no  
22 disturbance there at all.

23 But trying to come through that door  
24 with all the clutter in the patio with the bikes and  
25 the stuff that she had there, you would have

1 probably broken your neck coming through that door.

2 It just wasn't possible either.

3 Q. And in going through and photographing  
4 the scene, so you were concentrating on that front  
5 door.

6 Now, from that front door as you  
7 were take the photographs, you would have stepped  
8 back and to the back, to your back facing that door,  
9 there was another apartment building that was right  
10 behind you.

11 A. There was a lot --

12 Q. Do you recall that?

13 A. There was several apartment buildings  
14 there. Probably about eight to twelve maybe.

15 Q. Okay.

16 A. In the complex.

17 Q. And within a close proximity to that  
18 front door, there would have been three other  
19 apartments, correct?

20 A. Yes.

21 Q. And that, that second apartment that you  
22 were backing up towards, say for instance near the  
23 front door that you're taking the pictures of, would  
24 it be -- stop me when it's about as far from that  
25 door to the other apartment that's back behind it.

1 A. I don't have any memory of how close the  
2 other apartments were or anything like that. I  
3 wasn't concentrating on that part. I really  
4 couldn't answer your question as to give an  
5 estimate.

6 Q. Do you recall it being a fairly close  
7 area?

8 A. Oh, yes, it was. No question about that.  
9 It was a very small studio apartment. It was  
10 clutter but fairly clean otherwise.

11 MR. PIKE: Okay. I have no further  
12 questions. Well, no, I won't ask that question.  
13 Thank you.

14 MS. WECKERLY: Just two questions.

15 REDIRECT EXAMINATION

16 BY MS. WECKERLY:

17 Q. Mr. Pike was asking you about if the  
18 scene was consistent, and he gave you a couple of  
19 different hypotheticals.

20 Do you recall that?

21 A. Yes.

22 Q. Was it also consistent with the victim  
23 knowing her intruder and letting that person in?

24 A. Yes.

25 Q. You mentioned there was evidence of a

1 phone cord in the bedroom area.  
 2 Was that a cell phone charger cord?  
 3 A. It was like a cordless phone type charger  
 4 type of unit.  
 5 Q. Okay. Was there a cell phone attached to  
 6 the charger?  
 7 A. I'd have to look at the report to see. I  
 8 don't believe it was attached. I think it was not  
 9 attached.  
 10 Q. Your recollection is there was no cell  
 11 phone there?

12 A. Yeah, I don't remember a cell phone, no.

13 MS. WECKERLY: Okay. Thank you.

14 RECROSS-EXAMINATION

15 BY MR. PIKE:

16 Q. Going into the cell phones, knowing that  
 17 there was a cell phone charger there and you took a  
 18 photograph of that, you would anticipate that there  
 19 would have been a cell phone located or associated  
 20 with the occupants of that residence?

21 A. Yes.

22 Q. And so during the course of your  
 23 investigation or you're processing the scene, you  
 24 would be looking for any identification information  
 25 about that cellular phone such as a cellular phone

1 bill?

2 A. Yes. Normally if there's cell phones and  
 3 information associated with that, that's something  
 4 that detectives would take almost automatically,  
 5 yes.

6 Q. And those become important because you  
 7 can trace locations of phone calls from cell sites?

8 A. Yes.

9 Q. And also become important because you can  
 10 make a determination whether or not a cell phone is  
 11 subsequently reactivated by another individual that  
 12 may be associated with the taking or the possession  
 13 of that stolen phone?

14 A. Yes, sir, that's correct.

15 MR. PIKE: Thank you. Nothing further.

16 THE COURT: Thanks, Mr. Horn. Appreciate  
 17 your time. Next.

18 MS. LUZAICH: Detective Sherwood.

19 THE COURT: One scene, both scenes?

20 MS. WECKERLY: The scene.

21 (Whereupon, Detective George  
 22 Sherwood was duly sworn to tell the  
 23 truth, the whole truth and nothing  
 24 but the truth.)

25 THE CLERK: Please be seated. Please

1 state your full name and spell your first and last  
 2 name for the record.

3 THE WITNESS: My name is George Sherwood.  
 4 G-e-o-r-g-e. S-h-e-r-w-o-o-d.

5 DIRECT EXAMINATION

6 BY MS. LUZAICH:

7 Q. Thank you, sir. How are you employed?

8 A. Las Vegas Metropolitan Police Department.

9 Q. How long have you been with Metro?

10 A. 19 and a half years.

11 Q. Are you currently assigned as a detective  
 12 in the bureau?

13 A. I am. Yes, I am a detective from Metro  
 14 police and today's my first day on my new job.

15 Q. Okay. What have you been doing for the  
 16 last several years with Metro?

17 A. The last seven-and-a-half years I worked  
 18 in the homicide section. And since November of  
 19 2006, I've been working Metro's cold case section.

20 Q. As a detective in the homicide section,  
 21 what do you do, what were your duties?

22 A. My duties are to investigate several  
 23 crimes, one of which is murder investigations,  
 24 suspicious deaths, fire-related deaths, infant  
 25 deaths, things of that nature.

1 Q. And when you went to cold case, what were  
 2 your assignments there?

3 A. Basically the same thing other than what  
 4 we do in cold -- or what we did in cold case when I  
 5 was there is we would take a case that was unsolved  
 6 at the time and we would reexamine the evidence  
 7 that's available to see if there's anything that  
 8 maybe with the advances of science has progressed  
 9 where it would help us to solve that case.

10 Q. I'm gonna take you back to March of 2005.  
 11 On March 24th specifically of 2005, were you working  
 12 as a detective in the homicide section?

13 A. Yes, I was.

14 Q. Were you sent to 1001 Pecos, apartment  
 15 number 63 later in the day?

16 A. Yes, I was.

17 Q. About what type of time of day was it  
 18 that you got there?

19 A. I believe Detective Wildman -- we all got  
 20 the call at the same time on our paging system. I  
 21 believe Detective Wildman arrived there  
 22 approximately 3:20 in the afternoon and I was  
 23 probably 10, 15 minutes behind him.

24 Q. Is it natural for the homicide detectives  
 25 to all go out to a scene together?



1 A. Yes, it is.

2 Q. What's the purpose behind that?

3 A. We feel that it's better to bring more  
4 and then cut back as we don't need them then it is  
5 to bring less and have to try and call people  
6 urgently to come there.

7 Q. When you go to a scene, is there  
8 generally a lead detective that is assigned the case  
9 and then who asks other people to do things?

10 A. Yes, there is.

11 Q. Is there one or two actually I should  
12 say?

13 A. We work in partners in homicide. There's  
14 usually a two-team partnership. At the time my  
15 partner was Dan Long and yet we still role other  
16 members of the squad to assist us.

17 Q. When you, the homicide detectives, go out  
18 to a scene and there's two partners there, is one  
19 generally in charge of handling the scene, the  
20 documentation and things of that nature and the  
21 other is in charge of interviewing witnesses and  
22 taking the rest of the detectives to do that?

23 A. That's correct, yes.

24 Q. What was your assignment on that day?

25 A. On that particular day I was responsible

1 for the crime scene documentation.

2 Q. Was Detective Vacarro out there also with  
3 you as the acting supervisor?

4 A. Yes, he was.

5 Q. And as the acting supervisor, did he just  
6 kind of do a little bit of everything?

7 A. Yes. He kind of makes sure that the  
8 interviews are going properly and, you know, in a  
9 timely manner, make sure that we have the crime  
10 scene personnel on the scene. He's kind of if the  
11 investigators doing interviews learn information and  
12 they're doing another interview, they may tell him  
13 in between the two interviews something that he  
14 feels he needs to tell me whose doing the scene. So  
15 he's kind of the liaison between the whole squad.

16 Q. Okay. So when you went to the apartment  
17 on March 24th, patrol was already there?

18 A. Yes.

19 Q. And had they blocked off the scene and  
20 caused it to be separated, so that nobody could  
21 enter the scene other than law enforcement personal?

22 A. Yes, they had.

23 Q. And did you all get together with patrol,  
24 so you could find out what they already knew?

25 A. Yes, we did.

1 Q. And then did you go into the scene, so  
2 that you could find out what occurred?

3 A. Yes.

4 Q. When you went in, where did you go, you  
5 personally?

6 A. Well, being responsible for the scene, I  
7 initially walked into the apartment. The door faced  
8 to the best west so obviously I entered the  
9 apartment, kind of looked around the apartment to  
10 see the shape and condition of the apartment. Even  
11 though it was daytime, utilizing a flashlight to  
12 make sure there's not things on the ground that we  
13 don't want people stepping on or kicking. Just kind  
14 of doing an overall view of the apartment, so I know  
15 what we're looking at.

16 Q. As you entered the apartment, were you  
17 looking to see whether or not there was a sign of  
18 forced entry?

19 A. Yes.

20 Q. Did you see any sign of forced entry?

21 A. I did not.

22 Q. Were you also looking as you entered the  
23 apartment to see if there was any sign of an obvious  
24 struggle?

25 A. I was, yes. I didn't, I didn't notice

1 anything that was grossly out of place. The house  
2 was, the apartment was very cluttered. A lot of  
3 things on a lot things; cabinets, closets, counter  
4 tops, but it didn't look like a violent struggle  
5 where things are knocked over and something of that  
6 nature.

7 Q. And because there was so much stuff  
8 there, it would have been difficult to have a  
9 struggle without some evidence of it; is that right?

10 A. Yes.

11 Q. Did you ultimately enter the bathroom?

12 A. I did, yes.

13 Q. Was it your understanding when you  
14 entered that that was the scene of at least where  
15 the deceased was located?

16 A. Yes.

17 Q. What did you see when you got into the  
18 bathroom?

19 A. I saw -- it was a very narrow area. It  
20 was actually hard for one person to be in that room.  
21 I saw the deceased body of Sheila Quarles laying on  
22 the floor with like a floral print across her chest.

23 I observed water in the bathtub.

24 Like I said, it was a very small area.

25 There was a little, like a stand

1 that had things on it, and it appeared that a couple  
2 of things had fallen off.

3 Closer to the tub, in between the  
4 tub and the stand, that there again the counter tops  
5 were cluttered, a lot of things out.

6 Q. And showing you what's been admitted as  
7 State's Exhibit 43, when you talk about the fact  
8 that, that the bathroom was small, is this what you  
9 mean, how many people could have stood in the  
10 bathroom at the time while the young girl was still  
11 in there?

12 A. I guess if you really pressed it, you  
13 could get a couple people in there to look. We  
14 didn't want to really press it because we didn't  
15 actually know what we were, what we had in front of  
16 us. So we, that's basically where we stayed during  
17 the initial observation period.

18 Q. And additionally if you had had people  
19 walking around in there, were you afraid that you  
20 could have contaminated the scene and any evidence  
21 that you may find?

22 A. Yes, that's correct.

23 Q. Now, you mentioned that you were  
24 responsible for the scene and Detective Long was  
25 responsible for interviews.

1 Would it also be the habit for the  
2 person involved with interviews to enter the scene  
3 just so that they could see what they were gonna  
4 talk about?

5 A. Yeah. Most of the time what we do, if  
6 the scene allows for it, is we have the detectives  
7 that are going to do the interviews take a look at  
8 the scene. That way they can ask intelligent  
9 questions of the person that they're interviewing  
10 because they have first-hand visual knowledge of  
11 what they've seen.

12 Q. And would it be the practice for not only  
13 Detective Long who is the other person in charge of  
14 the investigation but anybody who was going to be  
15 conducting interviews to at least look around to see  
16 what had occurred?

17 A. Yes.

18 Q. And was it your understanding that  
19 Detective Wildman and Detective Wallace also walked  
20 in, looked, and walked out?

21 A. Yes, they did.

22 Q. Now, while you were in the bathroom, did  
23 you notice whether or not there was some sort of  
24 mark on the wall of the bathtub opposite the faucet?

25 A. Yes, there was.

1 Q. Showing you what's been admitted as  
2 State's Exhibit 40, is that what we're talking  
3 about?

4 A. Yes. It's, it's actually probably about  
5 six inches above the tub line. Maybe a little less.

6 Q. Did you take a close look at it?

7 A. I did.

8 Q. And when you took a close look at it,  
9 what did it appear to you to be if anything?

10 A. It appeared to me to be some type of hair  
11 gel. And the reason I say that is because to me it  
12 looked like it had some sort of an oil base to it.

13 Q. An oil base. Okay. Here, I'm showing  
14 you what's been admitted as State's Exhibit 130.

15 Is that the same mark that we're  
16 talking about?

17 A. Yes.

18 Q. Only a little closer without other stuff  
19 in the background?

20 A. Yes.

21 Q. Now, could you tell did it look red like  
22 blood?

23 A. It looked to me to be like a reddish  
24 brown is the best way to describe it, but like I  
25 said, from investigating homicides for seven years

1 or probably five at the time, it didn't appear to me  
2 to be blood.

3 Q. Okay. Now, blood, if blood had been on  
4 the side of the wall, is it likely that blood would  
5 drip down?

6 A. Yes. Or being, being be more smeared  
7 toward the bottom.

8 Q. Okay. Was there any drip down?

9 A. No. It almost, it almost looked like a  
10 rub across.

11 Q. A rub across. Okay. So you said it was  
12 kind of like a gel, a hair gel or something.

13 Did you find anything in the  
14 apartment or in the bathroom that was consistent  
15 with there being hair gel?

16 A. There were a lot of hair products. We  
17 didn't -- and I specifically didn't write every hair  
18 product or cleaning product that was in the  
19 bathroom.

20 Q. When the body of -- and I'm sorry. Did  
21 you subsequently learn that the young lady's name is  
22 Sheila Quarles?

23 A. Yes, I did.

24 Q. When her body was removed, was there a  
25 hair piece found underneath it?

1 A. Yes, there was.

2 Q. Showing you what's been admitted as

3 State's Exhibit 31, on the toilet, is that a hair

4 piece?

5 A. Yes. It appears to be, yes.

6 Q. And is that kind of a reddish brown color

7 that's somewhat similar to the mark that was on the

8 bathroom wall?

9 A. Yes, it is.

10 Q. Okay. Even better, State's Exhibit 33 --

11 am I upside down? I am.

12 Was that actually found under

13 Sheila's body when she was removed?

14 A. Yes, it was.

15 Q. Obviously you didn't spend all your time

16 in the bathroom. As you walked through the

17 apartment, did you notice anything about the

18 bedroom?

19 A. Yes. I noticed that the bedroom the bed

20 was made, I noticed that there were items on the

21 floor. Like I said, the dressers were cluttered, I

22 believe a drawer or two were opened. There was a

23 cell phone charger on one side of the bed, a key,

24 there was --

25 Q. And I'm gonna stop you right there.

1 Showing you what's been marked as State's proposed

2 Exhibit 126, which for the record has been shown to

3 counsel, does that photograph depict what you just

4 describes?

5 A. Yes, it does.

6 Q. The phone charger and a key?

7 A. Yes.

8 Q. On the floor in the bedroom?

9 A. Yes.

10 MS. LUZAICH: Move it into evidence.

11 THE COURT: Any objection?

12 MR. PIKE: None.

13 THE COURT: Admitted.

14 MS. LUZAICH: Thank you.

15 BY MS. LUZAICH:

16 Q. When you say a phone charger, for the

17 record, can you just describe it a little bit?

18 A. The phone charger is plugged into the

19 wall and it's a little small black box. If you

20 trace it from the electrical outlet, it kind of

21 loops and then comes to the end which would

22 accommodate the phone. Just beyond that is the key

23 that I referenced.

24 Q. And this phone charger, is that the kind

25 of phone charger that is associated with a cellular

1 phone or a land line?

2 A. A cellular.

3 Q. Had you made an effort to find the

4 cellular phone?

5 A. Yes.

6 Q. Did you ever find a cellular phone?

7 A. No.

8 Q. Did you talk to Sheila's mother about

9 whether or not there had been a cellular phone?

10 A. Yes, I did.

11 Q. And did it ever turn up?

12 A. No, it did not.

13 Q. You mentioned that there's also a key in

14 the photograph.

15 Is there any significance to that

16 key?

17 A. When I initially talked to Debra Quarles

18 the night of the incident, I asked her --

19 MR. PIKE: Objection hearsay.

20 THE COURT: He can say what he said. Go

21 ahead.

22 MS. LUZAICH: Right.

23 THE WITNESS: I asked her if the key was

24 unusual to be there.

25 BY MS. LUZAICH:

1 Q. And based on her response, did you do

2 anything with that key.

3 A. Yes.

4 Q. What did you do with it?

5 A. I retained the key.

6 Q. Just to fast forward for a minute, did

7 you take that key and try it in other locations to

8 see if it worked?

9 A. Yes, I did. My first thought of seeing a

10 key that perhaps didn't belong there was perhaps it

11 could have been left behind by the suspect, so I

12 took the key and tried it in the eight apartments

13 which were within the building the actual H

14 building. And it didn't work in any of the doors.

15 Q. Okay. And I'll come back to the key in a

16 moment. In addition, in the bedroom, did you notice

17 anything about what was on the bed?

18 A. Yes. There were, there were a couple of

19 actually probably three or four pillows. One of the

20 pillows had a tear in it. Two of the pillows were

21 missing pillow cases.

22 Q. The fact that pillow cases were missing,

23 did that ultimately indicate something to you as

24 well based on something you also learned?

25 A. Yes. I believe that with the pillow

1 cases being missing, they may have accommodated the  
2 transportation of stolen property.

3 Q. Did you discover that there was other  
4 property missing in the -- and I'm sorry. Just  
5 showing you State's Exhibit 26, you mentioned pillow  
6 cases were missing.

7 Are those the two pillow cases  
8 there -- or two pillows there without pillow cases?

9 A. Yes. And that's also the slight tear in  
10 the one pillow that I referenced.

11 Q. Okay. Did you subsequently learn that  
12 there was something else missing from the front of  
13 the apartment?

14 A. Yes.

15 Q. What was that?

16 A. A stereo system.

17 Q. Did you get a description of the stereo  
18 system from Debra, Sheila's mother?

19 A. Yes, I did.

20 Q. Did you attempt to get a serial number or  
21 any identifying features of the stereo?

22 A. Yes. The only thing that Ms. Quarles was  
23 able to provide me with was basically an owner's  
24 manual.

25 Q. So you knew what kind of stereo it was,

1 like the name brand?

2 A. Yes.

3 Q. Or maybe a --

4 A. Yes. It had the name brand and it  
5 actually had like a little picture of the stereo on  
6 the owner's manual.

7 Q. And a model number maybe, too?

8 A. I don't know that it had a model number.  
9 It may have.

10 Q. With that information, just the name of  
11 the stereo and a picture of it, is there any way  
12 that you would be able to run it to find out if it  
13 had been located or it turned up anywhere?

14 A. You can see if there's like a stereo by  
15 that name impounded. To do an accurate pawn shop  
16 check, you basically have to have the serial number  
17 of the item or the person you believe's name may  
18 have pawned it.

19 Q. And at that point did you have any clue  
20 who the suspect could have been?

21 A. None whatsoever, no.

22 Q. And if there's no serial numbers so kind  
23 of a dead end there?

24 A. Yes.

25 Q. As you were investigating and being

1 responsible for the scene and the other detectives  
2 were out interviewing anybody that they could, were  
3 you in contact with them, so that you would find out  
4 anything that they may have learned and they would  
5 find out what you may have learned?

6 A. Yes.

7 Q. And did that go on through the time that  
8 you were there?

9 A. Yes.

10 Q. Now, because the apartment was small, and  
11 especially the particular area was small, were there  
12 occasions that you actually had to stay out of the  
13 apartment so crime scene analysts could do their  
14 job?

15 A. Yes. We actually had three crime scene  
16 analysts at the scene. Myself and detectives, like  
17 I said, we initially let all the interviewing  
18 detectives take a look and then we had to get them  
19 out because of how small the apartment was.

20 And in, in areas like the bathroom,  
21 there was no way possible for two people to be in  
22 there. So it was a constant moving of people to  
23 allow us to do what we felt we needed to get done.

24 Q. Were the detectives that were  
25 interviewing people, were they really able to share

1 any information with you?

2 A. Yes, I received information throughout  
3 the night. I mean, some of it at the time makes  
4 sense, some of it didn't.

5 Q. Okay. A lot of it didn't pan out?

6 A. Yeah, a lot of it just doesn't pan out.

7 One thing that we try to do is intermingle with the  
8 crowd because there's always people that don't want  
9 to cooperate during an investigation. So we try and  
10 intermingle with the crowds. And sometimes we may  
11 get some information that is meaningful or  
12 meaningless and we don't really know at the time.

13 Q. So during the period of time in which you  
14 were outside of the apartment, so that the crime  
15 scene analysts could do their job, were you trying  
16 to intermingle with the crowd?

17 A. Yes, I was.

18 Q. Did you get any information?

19 A. No, I didn't. Most of the people there I  
20 won't say were not cooperative. Most of the people  
21 there gave me the impression that they had no  
22 knowledge as to the crime.

23 Q. Is it sometimes difficult to get people  
24 to talk to police?

25 A. Always, yes.

1 Q. And is it further difficult to get them  
2 to talk when other people know that they're talking?

3 A. Yes.

4 Q. So what do you do?

5 A. A lot of times what we do is we'll, if we  
6 can't get them aside that night, we might ask them  
7 their name, write their name down, we'll come back  
8 and try and find them again which is what we did in  
9 this case.

10 We, if we talked to somebody and we  
11 thought they had information, they were kind of  
12 pulled aside and the information taken and a name.  
13 And most of the stuff that we learned that night at  
14 the scene just didn't pan out.

15 Q. Okay. Was it your understanding that  
16 Detective Wildman spoke with Debra Quarles who is  
17 Sheila's mother?

18 A. Yes.

19 Q. And that he spoke with a lady named  
20 Quince Toney?

21 A. Yes.

22 Q. What did you learn about Quince Toney,  
23 her relationship to the case?

24 A. Later on I learned that Quince and Sheila  
25 were engaged in an intimate relationship. I also

1 learned that I talked to Quince probably four times,  
2 at least two on tape, and I learned that she cared a  
3 lot for Sheila and that she had had conversations  
4 with her during the day and she knew Sheila wasn't  
5 feeling well, but they, like I said, they had a  
6 relationship.

7 Q. Was it your understanding that when she  
8 indicated she had conversations with Sheila during  
9 the day that somebody actually looked at her phone  
10 to confirm whether or not that she had had  
11 conversations with Sheila?

12 A. Yes.

13 Q. And while you were in the apartment, did  
14 you all look at the house phone to see who if  
15 anybody had been calling the house?

16 A. Yes.

17 Q. And did you take note of those numbers?

18 A. I did.

19 Q. And did you confer with Debra and family  
20 numbers to figure out who the numbers belonged to?

21 A. Detective Vacarro did. And we wrote, we  
22 memorialized every number. And some of the  
23 numbers -- I believe there was one call in the  
24 morning that was prior to Sheila getting home and  
25 then there were a couple of calls in the afternoon

1 which were beyond the point of us arriving.

2 So of the 10 calls that I believe  
3 the phone held in its registry, we were able to  
4 eliminate three right out of the shoot.

5 And I know a couple of numbers were  
6 called. One was Quince's, one was a hair dresser,  
7 and I don't really remember the results of the other  
8 calls because they were insignificant.

9 Q. But you followed up on them and none of  
10 them panned out as far as leading you to a suspect?

11 A. Correct.

12 Q. You indicated that you had spoken to  
13 Quince on several occasions, twice on tape and other  
14 times face to face as well as over the phone?

15 A. I talked to her probably two times on the  
16 phone to arrange the taped interviews. And while I  
17 had her on the phone, I would ask her questions.  
18 And then I probably, I might have called her kind of  
19 after the fact. So I probably had five contacts  
20 with her.

21 Q. She was cooperative with you?

22 A. She was very cooperative. I mean, she,  
23 any time I asked her to come in, she'd come in.

24 Q. And in fact, in one of the interviews,  
25 did you guys actually lean on her as a potential

1 suspect?

2 A. Yes.

3 Q. And she still came back after?

4 A. Yes, she did.

5 Q. Do you know about how late you all were  
6 there that night?

7 A. I would say maybe 9:30. 9 o'clock, 9:30.

8 Q. Okay. So you spent quite a bit of time  
9 out there?

10 A. Yes.

11 Q. And weren't able to get any real leads to  
12 follow-up on in all that time from any of the people  
13 that were out there?

14 A. No.

15 Q. Did you attend an autopsy of Sheila  
16 Quarles the next day?

17 A. Yes, I did.

18 Q. Is it custom for the homicide detectives  
19 to attend the autopsies?

20 A. Yes, it is.

21 Q. What's the purpose behind that?

22 A. So we can basically hear and understand  
23 what the doctor has to say. And even though there  
24 are they're a lot smarter than I am, if I can ask  
25 them the question and they can explain it to me,

1 then I usually have a better understanding of what  
2 they're talking about.

3 Q. So at the time that you left the  
4 apartment on March 24th, you had no potential cause  
5 of death; is that right?

6 A. That's correct.

7 Q. I mean, no blood shed, no stab wounds, no  
8 gunshot wounds, nothing?

9 A. No.

10 Q. When you sat through the autopsy, did you  
11 realize that there was a new spin on your  
12 investigation?

13 A. Yes.

14 Q. And what was that?

15 A. Sheila had hemorrhages in her neck and  
16 around the thyroid and petechial hemorrhage present  
17 in her eyes. There was a small amount of trauma to  
18 the head area and she was the victim of a violent  
19 sexual assault.

20 Q. Okay. Now, based on all of your years in  
21 homicide and the investigations that you have  
22 participated in, the hemorrhages to the neck and the  
23 petechial hemorrhages in the eyes, what does that  
24 indicate to you?

25 A. That's consistent with --

1 MR. PIKE: Objection. Lack of personal  
2 knowledge, cumulative and best evidence is testified  
3 by the autopsy.

4 THE COURT: Overruled. He can testify as  
5 to his experience. Go ahead.

6 THE WITNESS: It's consistent with  
7 strangulation.

8 BY MS. LUZAICH:

9 Q. Okay. And have you participated in other  
10 investigations where strangulation was the cause of  
11 death?

12 A. Yes.

13 Q. And you had mentioned a violent sexual  
14 assault.

15 Is it the habit when an autopsy is  
16 performed that somebody from the coroner's office  
17 will obtain vaginal and anal swabs and, and oral  
18 swabs actually the victim?

19 A. Yes. Our crime scene analyst which is  
20 also present at the autopsy collects those.

21 Q. Were you present when that occurred?

22 A. Yes, I was.

23 Q. And did you -- is it then the habit for  
24 them to take those swabs back to the crime lab, book  
25 them into evidence and keep them in a safe place

1 until they can be tested?

2 A. Yes.

3 Q. And did you request that those swabs be  
4 tested for presence of DNA?

5 A. Yes, I did.

6 Q. Did you also get a buckle swab from  
7 Quince Toney to compare with the swabs that were  
8 taken from Sheila?

9 A. Yes, I did.

10 Q. Were there other swabs that were buckle  
11 swabs that were collected the night of the incident  
12 that you're aware of?

13 A. Yes. Detective Long collected one from  
14 Mr. Robert Lewis.

15 Q. And was he somebody who was also  
16 cooperative in the investigation?

17 A. Yes, very.

18 Q. Did you request that the swabs from  
19 Sheila's autopsy be compared with both Quince Toney  
20 and Robert Lewis?

21 A. Yes.

22 Q. Okay. Now, it takes awhile for the DNA  
23 analysis to occur and for a result to come back,  
24 correct?

25 A. It does, yes.

1 Q. And while you're waiting for those  
2 results, are you still trying to follow-up on the  
3 investigation?

4 A. Yes.

5 Q. And is that -- well, did you go back and  
6 speak with Debra and her family after the autopsy?

7 A. I spoke to Debra following the death of  
8 her daughter probably six or eight times and also  
9 Sheila's brother.

10 Q. Do you remember his name?

11 A. Ralph.

12 Q. Okay. Trying to get information from  
13 them?

14 A. Yeah. And just trying to figure out -- a  
15 lot of times one of our greatest tools for solving a  
16 homicide is word on the street. And a lot of times,  
17 somebody will say something to someone who repeats  
18 it and then we have at least a starting point.

19 Q. Are you asking them questions like, you  
20 know, is anybody mad at Sheila, does anybody have  
21 anything against Sheila, do you know if anybody  
22 wants to hurt her?

23 A. Absolutely. We ask the drug question,  
24 the alcohol question, the gambling question. You  
25 know, recent bad break ups. You know, just

1 basically doing what we call the victimology trying  
2 to find out exactly what could have gone wrong.

3 Q. Why would somebody have a reason to harm  
4 her?

5 A. Right.

6 Q. You had mentioned that a stereo was  
7 missing, that you had seen speaker wire and what  
8 not, and that had the cell phone was missing.

9 Did you ever hear that a cell phone  
10 had been located?

11 A. No.

12 Q. Did you hear anything about a bank card  
13 being missing?

14 A. Yes.

15 Q. Whose bank card?

16 A. Sheila's.

17 Q. When you found out a bank card was  
18 missing, what did you do?

19 A. I don't know if we had our investigative  
20 assistant call the bank to notify us if there was  
21 action on the card or --

22 MR. PIKE: Objection as to any further  
23 testimony. If he doesn't know who did it, it's  
24 gross hearsay.

25 MS. LUZAICH: Well, it's not hearsay

1 until he says somebody told him something.

2 THE COURT: What --

3 MS. LUZAICH: He's just describing what  
4 he did.

5 THE COURT: Tell us what investigation  
6 you did in regard to the bank card.

7 MR. PIKE: Well, him personally?

8 THE COURT: Or if it's done under his  
9 control and direction.

10 MS. LUZAICH: Well, can he finish his  
11 answer?

12 THE COURT: Yes. Go ahead.

13 THE WITNESS: I did ask Debra that if the  
14 card turned up to please call me or Debra had called  
15 me that she would call the bank and cancel the card.  
16 BY MS. LUZAICH:

17 Q. But is it sometimes the habit to have one  
18 of your investigative assistants, civilian employees  
19 at Metro, contact the bank and let them know?

20 A. Yes.

21 Q. And is it possible that you did that?

22 A. It is possible.

23 Q. Okay. Did you ever get a bank card  
24 turning up in your hand?

25 A. No.

1 Q. Or any information about the bank card?

2 A. Never got a notif --

3 Q. One way or another?

4 A. Never found the card physically and never  
5 got a notification that the card was being used.

6 Q. In addition to going back and speaking to  
7 Debra and her family on other occasions, did you  
8 make other efforts to find people at the apartment  
9 complex?

10 A. Detective Long and I went back to the  
11 apartment complex probably three or four times. One  
12 time we talked to the manager, another time we went  
13 door to door, just knocking on doors in the  
14 apartments hoping we could maybe find someone that  
15 like I said, might have the word on the street  
16 information.

17 We also talked to a maintenance man,  
18 which is how we found out about the master key  
19 situation.

20 Q. What was the master key situation?

21 A. That because of the amount of move ins,  
22 move outs and lock changes within that apartment  
23 complex, there wasn't actually a master key that  
24 would allow you to go open any apartment as you  
25 would in some complexes because the master key

1 worked on some and those that had changed their  
2 locks or had their locks changed, it didn't work on  
3 them.

4 Q. Was that one of the avenues that you had  
5 looked into initially because there was no forced  
6 entry that it could have potentially been a  
7 maintenance man who came to the door and just opened  
8 it?

9 A. Yes. Which brought the other key into  
10 play because then we kind of went around the  
11 apartment and just the complex and randomly stuck it  
12 in doors just to see if it would twist.

13 Q. That's where I was going next. So that  
14 key, not only the doors that were close by Sheila's  
15 apartment you tried, but just random doors in the  
16 area?

17 A. Yes.

18 Q. You had mentioned earlier that Detective  
19 Long had gotten a buckle swab from Robert Lewis?

20 A. Yes.

21 Q. Did you check the door of the home that  
22 Robert Lewis lived in?

23 A. Yes.

24 Q. Did that key work in that door?

25 A. No, it didn't work in any of the doors in

1 that complex.

2 Q. None of them?

3 A. No. At least the ones we tested.

4 Q. Oh, sorry. Okay. In fact, was there a,  
5 an alleged burglary at or near the time of Sheila's  
6 murder?

7 A. Yes. It was reported or I vaguely  
8 remember the details because there again, we moved  
9 proved -- or we suspected that it was not related.

10 Q. And why is that?

11 A. The manager had said that it was a  
12 intoxicated Hispanic male trying get into an  
13 apartment and that it may have even been an  
14 apartment that he just moved out of it.

15 And it was just, it was a lead that  
16 we didn't feel was connected to our case.

17 Q. Just didn't pan out as well. And was  
18 anything actually taken from that alleged burglary?

19 A. No, I don't believe so.

20 Q. So almost a drunk trespass.

21 MR. PIKE: Objection.

22 THE COURT: Sustained.

23 MR. PIKE: Testimony by the State.

24 THE COURT: Sustained. Just ask a  
25 question. Sustained.

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1 BY MS. LUZAICH:

2 Q. Did you also hear something about the  
3 name Darnell?

4 A. I did from my conversation with Detective  
5 Long. And I remember it was Darnell or Darryl or  
6 something like that. And Detective Long had run  
7 that down and it turned out to be nothing.

8 Q. So another lead that you all tried to  
9 follow-up on but went nowhere?

10 A. Right.

11 Q. As you are trying to follow these leads  
12 that are going nowhere, did you hear that the DNA  
13 results had come back and that there were two  
14 different sources of DNA inside Sheila?

15 A. Yes, I did.

16 Q. So you were further trying to identify  
17 both sources?

18 A. Yes.

19 Q. Did you get some information in August of  
20 2006 that changed your investigation?

21 A. Yes.

22 Q. What did you discover?

23 A. That one of the profiles of semen found  
24 inside of Sheila belonged to --

25 MR. PIKE: Objection. It's inconsistent

1 with the testimony that's been offered at this time.

2 He's not competent to say that, it did not exclude,  
3 it did not match.

4 THE COURT: All right. Well, we're gonna  
5 have testimony from the DNA expert in a minute.

6 MR. PIKE: If it led him to another  
7 individual of interest, then --

8 THE COURT: That's fine. You got some  
9 information that as a result of that DNA you did  
10 then develop a suspect, correct.

11 THE WITNESS: Yes, sir.

12 THE COURT: All right. Go ahead.

13 BY MS. LUZAICH:

14 Q. Was there a CODIS hit?

15 A. Yes, there was.

16 Q. And the CODIS hit gave you a name?

17 A. Yes.

18 Q. What was that name?

19 A. Norman Flowers.

20 Q. When you -- what was the date that you  
21 discovered that?

22 A. I believe it was August 20, right in  
23 there.

24 Q. Maybe August 22nd of 2006?

25 A. I believe it was, yes.

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1 Q. When you discovered that, did you also

2 realize that there was another detective who had a  
3 suspect by that same name?

4 A. Yes.

5 Q. Now, in the homicide office, do you guys  
6 have Monday morning briefings?

7 A. Yes, we do.

8 Q. Okay.

9 A. We try and have them every Monday. Our  
10 Monday morning because of work may sometimes be  
11 Tuesday or Wednesday, but the bottom line is we try  
12 and get together as a group once a week to discuss  
13 everybody has on their table.

14 Q. And that's so that each of you knows who  
15 your suspects, each other suspects are?

16 A. Yes.

17 Q. And sometimes to get help with your own  
18 investigations?

19 A. Well, plus it also, if you have crimes of  
20 similar MO, it may help you to maybe geographically  
21 link a crime series or any tool like that, but yes,  
22 we do discuss it, so that it furthers our knowledge  
23 as to what everyone else is doing that may be  
24 connected to what we're doing.

25 Q. Who is the detective who's handling that



1 other case?

2 A. Detective Tremel.

3 Q. What do you when you discovered that?

4 A. I went over and informed Detective Tremel  
5 that we received a CODIS hit and I asked if I may  
6 look through his file, his case file similar to  
7 mine.

8 Q. His homicide notebook?

9 A. Yes.

10 Q. Which would be a notebook similar to one  
11 that's sitting there in front of you?

12 A. Yes.

13 Q. Did you actually review his notebook?

14 A. Yes, I did.

15 Q. And did you learn that he had a victim  
16 who also had been strangled and also violently  
17 sexually assaulted?

18 A. Yes.

19 MR. PIKE: Objection, hearsay. Absent  
20 hear -- it's hearsay and from the conversation of  
21 what did he do next.

22 MS. LUZAICH: Well, it's not --

23 THE COURT: He looked at the book and  
24 that's what he learned. Overruled.

25 BY MS. LUZAICH:

1 Q. And with that information -- oh, and did  
2 you also learn that there was DNA in his case?

3 A. Yes, I did.

4 Q. With that information, did you also speak  
5 with Debra Quarles?

6 A. Yes, I did.

7 Q. How did you -- what did you do?

8 A. I basically called Debra Quarles and told  
9 her that there may be some new developments in the  
10 case and I would like to speak to her in our office  
11 about the new developments in the case. And she as  
12 usual was more than willing to come in and talk.

13 Q. Did she come talk to you?

14 A. She did.

15 Q. And did you tell her, hey, I have a  
16 suspect his name is blah?

17 A. No, I actually didn't.

18 Q. What did you do?

19 A. Well, I kind of wanted to get her opinion  
20 as to what she may know in this matter. And so I  
21 started asking her like do you think that Sheila's  
22 death could have been caused by someone you know.

23 And she, her answer was basically  
24 she wasn't sure. And then I asked her if she knew  
25 anybody who lived on J Street.

1 Q. How did she visibly react to that?

2 A. She was stunned.

3 Q. And did she indicate anything to you?

4 MR. PIKE: Objection, hearsay.

5 THE COURT: Why isn't it hearsay?

6 MS. LUZAICH: Well, I expect it's gonna  
7 be an excited utterance.

8 THE COURT: Well, you haven't laid  
9 foundation yet. So you can try to lay some more  
10 foundation, but at some juncture the objection's  
11 sustained.

12 BY MS. LUZAICH:

13 Q. You said she was stunned. How did she  
14 react?

15 A. She -- I believe she said, oh, my God, a  
16 couple times.

17 MR. PIKE: Objection, hearsay.

18 THE COURT: Well, you've got to get the  
19 foundation in.

20 MR. PIKE: The foundation --  
21 respectfully, Your Honor, the foundation would be  
22 was there an event that occurred that caused her to  
23 react in this specific way, did she react in a  
24 specific way that indicated she was excited or --  
25 and under that excitement did she make a statement.

1 This is where they've come into an interview.

2 THE COURT: I think you're right.

3 Sustained.

4 MS. LUZAICH: That's fine.

5 MR. PIKE: Thank you.

6 BY MS. LUZAICH:

7 Q. As she was stunned, did she give, without  
8 telling me what it was, did she give you a name?

9 A. Yes.

10 Q. And was it a name that you were familiar  
11 with?

12 A. Yes.

13 Q. And did she give you information about  
14 that individual?

15 A. Yes.

16 Q. Did she appear to know that individual?

17 A. Yes, she did.

18 MR. PIKE: Objection, Your Honor.

19 Foundation. Again, this is all hearsay. And it was  
20 brought out in the guise of the State testifying.

21 THE COURT: Well, I mean, he asked her if  
22 she knew anybody on J Street and she did. And the  
23 person she knew turned out to be the name of the  
24 hit. I don't see any hearsay. Go ahead.

25 Overruled.

1 MR. PIKE: Thank you.

2 BY MS. LUZAICH:

3 Q. It was an individual that she knew and

4 was very familiar with it appeared?

5 A. Yes.

6 Q. Did she also tell you about, without

7 telling me what she said, did she tell you about

8 things that that individual did after the death of

9 Sheila?

10 A. Yes.

11 MR. PIKE: Objection, hearsay.

12 THE COURT: Well, they haven't said what

13 she said.

14 MS. LUZAICH: And I specifically said

15 that, without telling me what she said.

16 MR. PIKE: I understand. I just want to

17 make a record in case I bring up the same questions.

18 THE COURT: The next question is gonna be

19 though.

20 MS. LUZAICH: No, it's not.

21 THE COURT: Let's hear it.

22 BY MS. LUZAICH:

23 Q. So you were you aware of that information

24 as well?

25 A. Yes.

1 Q. Okay. Now, did you go see this person

2 after speaking with Debra?

3 A. Yes, I did. On August 24th.

4 Q. Okay. Now, when you went and saw this

5 person, did you read him -- who did you go see?

6 A. I went and saw Mr. Flowers.

7 Q. You're looking over there. Do you see

8 him here in court today?

9 A. Yes, I do.

10 Q. Can you describe where he's sitting and

11 what he's wearing?

12 A. He's wearing a black suit and a maybe

13 blew or greenish tie.

14 THE COURT: The record will reflect

15 identification of the defendant Norman Keith

16 Flowers.

17 MS. LUZAICH: Thank you.

18 BY MS. LUZAICH:

19 Q. Does the defendant look the same today as

20 he did in August of 2006?

21 A. Yes, he does.

22 Q. Or at least very similar?

23 A. Yes.

24 Q. When you spoke with the defendant, you

25 read him his rights?

1 A. Yes, I did.

2 Q. When you do that, do you do it from

3 memory or from a card?

4 A. From a card.

5 Q. Do you happen to have that card with you

6 today?

7 A. Yes, I do.

8 Q. Can I have that card? May I have it

9 marked?

10 MR. PIKE: It's okay. You can just read

11 it in.

12 MS. LUZAICH: I'm gonna move it in

13 actually. I am about to show defense counsel who

14 has a copy of it, but defense counsel the actual

15 card. State's proposed 135.

16 MR. PIKE: No objection.

17 THE COURT: It will be admitted.

18 MS. LUZAICH: Thank you.

19 BY MS. LUZAICH:

20 Q. When you -- well, actually could you read

21 into the record the rights that you read to the

22 defendant on that day?

23 A. Yes. The adult advisement since Mr.

24 Flowers was an adult at the time and still is, is

25 number one, you have the right to remain silent.

1 Number two, anything you say can and will be used

2 against you in a court of law. Number three, you

3 have the right to the presence of an attorney.

4 Number four, you cannot -- if you cannot afford an

5 attorney, one will be appointed before questioning.

6 Do you understand these rights?

7 Q. Did he indicate to you that you

8 understood the rights?

9 A. Yes.

10 Q. And did he actually sign the card in your

11 presence?

12 A. Yes, he did.

13 MS. LUZAICH: Move it into evidence.

14 THE COURT: It's already been admitted.

15 MS. LUZAICH: Thank you.

16 BY MS. LUZAICH:

17 Q. When you saw the defendant and spoke with

18 him, did you first tell him that you were not there

19 to talk to him about his case?

20 A. Yes.

21 Q. Did you kind of just talk to him about

22 hey, how are you doing, what's your name, what

23 should I call you?

24 A. A little bit. Not a whole lot. He was,

25 he was in custody. I just wanted, you know, I was

1 basically down there to have a talk with him.

2 Q. Did you -- you were aware that his name  
3 was Norman Keith Flowers.

4 Did he indicate that he goes by the  
5 name Norman or another name?

6 A. He indicated to me that he goes by Keith.

7 Q. And when you spoke to him, was it August  
8 24th of 2006 at 8:30 in the morning?

9 A. Yes.

10 Q. Did you tell him that -- well, did you  
11 tell him why you were there right away?

12 A. I basically told him that I was  
13 conducting an investigation and I was seeking his  
14 cooperation.

15 Q. The interview that you conducted with  
16 him, was it tape recorded?

17 A. Yes.

18 Q. Was it then transcribed?

19 A. Yes.

20 Q. And do you have a copy of that transcript  
21 with you?

22 A. Yes, I do.

23 Q. Could you open it up just so that we can  
24 get the words correct? Okay. On page two, did you  
25 ask him the first thing I want to talk to you about,

1 Keith, is I'm trying to find out who a friend of  
2 yours is. Maybe a friend of yours, maybe not a  
3 friends of yours. He's a black guy, he's got like a  
4 skin condition on his arms. Does that ring a bell  
5 of anybody.

6 Did you ask him that?

7 A. Yes.

8 Q. How did he respond to that?

9 A. You're giving me limited information was  
10 his --

11 MR. PIKE: Objection. It's in correct.

12 BY MS. LUZAICH:

13 Q. Well, was there an answer before that?

14 A. What's the point -- I'm sorry, yeah.

15 What's the point of trying to find him. Why are you  
16 trying to find him for.

17 Q. Did you tell him because I need to ask  
18 him some questions on a case I'm investigating and  
19 your name, Keith, the defendant's name, came up in  
20 the case that he's a friend of yours?

21 A. Yes. And he replied you, you're giving  
22 me limited information.

23 Q. Did you try and fix that a little bit and  
24 say okay, how about I start and give you some more  
25 information. Do you know Debra Quarles?

1 A. And there was no verbal response.

2 Q. None at all?

3 A. No.

4 Q. So he didn't say yeah, I know her, I  
5 dated her or anything like that?

6 A. No.

7 Q. So what did you then do?

8 A. I told Mr. Flowers that I wanted to show  
9 him a picture of her and asked him if it would help.

10 Q. How did he respond to that?

11 A. Yeah.

12 Q. So he wanted to actually see a picture of  
13 her before he would talk further?

14 A. Yes.

15 Q. Did you then show him a picture of Debra  
16 Quarles?

17 A. Yes, I did.

18 Q. And did you ask him if he knew her?

19 A. Yes.

20 Q. How did he respond to that?

21 A. I'm not saying.

22 Q. Okay. Not a lot of cooperation thus far?

23 A. No.

24 Q. Did you ask him if he thinks he knows  
25 her?

1 A. Yes.

2 Q. And did you actually tell him because she  
3 told you that she knew him?

4 A. Yes.

5 Q. How did he respond to that?

6 A. Again, he said I'm not saying. I mean  
7 until I know what's it about, I'm not saying  
8 anything.

9 Q. So then what did you say to him?

10 MR. PIKE: Your Honor, I move for  
11 admission of the tape recording of this, the best  
12 evidence.

13 THE COURT: Well, it doesn't have to, but  
14 do you have any objection?

15 MS. LUZAICH: Well, two. One, can we  
16 approach?

17 THE COURT: Yeah.

18 (Whereupon, an off-the-record  
19 discussion was had at the bench.)

20 THE COURT: All right. Go ahead. Go  
21 ahead. Page and line number, Ms. Luzaich, and you  
22 read the question Detective Sherwood asks and  
23 Detective Sherwood can read the answer that Mr.  
24 Flowers gave.

25 BY MS. LUZAICH:

1 Q. Thus far, Detective Sherwood, have you  
2 been reading exactly the responses that the  
3 defendant was giving you?

4 A. Yes.

5 Q. I for the most part was reading the  
6 questions you gave, but now we're on page three and  
7 I'm gonna read questions that you asked if that's  
8 okay with you, and if you could respond exactly the  
9 way he did.

10 A. Yes.

11 Q. Okay. I'm on page three for the record.  
12 Did you say to him after he said I'm not saying  
13 anything to you, okay, here's what I'm  
14 investigating. I'm investigating the, the death of  
15 her daughter. It's possible that someone you know  
16 may have been involved in it. And I just, I'm  
17 trying to find out who that person is, so I can go  
18 and talk to him.

19 I mean, Debra tells me that she's a  
20 good friend of yours and that you would probably  
21 help me, and I wanted to come talk to you and appeal  
22 to you because Debra can't rest in peace because her  
23 daughter's killer hasn't been caught.

24 And the reason I think it's the guy  
25 with the skin condition is just prior to Sheila

1 being found, there was a guy hanging out, outside  
2 that matches the description of him wearing like a  
3 long-sleeved shirt which it wasn't extremely cold  
4 that day. It was a long sleeved flannel shirt and  
5 I'm thinking, you know, maybe this guy is trying to  
6 hide his skin condition or something like that.

7 A. I don't understand what makes you guys  
8 think a person would even have a skin condition  
9 because they have the long shirt.

10 Q. Well, here's why. Because this guy, this  
11 guy that I'm looking for I was told is a friend of  
12 yours. And I was told that you gave Debra rides  
13 home from work. So maybe, maybe he saw Debra and  
14 maybe he saw Sheila and maybe he got interested in  
15 Sheila?

16 A. Who is Sheila?

17 Q. Sheila is Debra's daughter.

18 A. Oh, only knew her by her nickname.

19 Q. Pooka? Okay. So you didn't really know  
20 her well?

21 A. No verbal response.

22 Q. Okay. Anyway, you know, I'm just -- I'm  
23 trying to solve a crime that happened. And I mean,  
24 I know, I know you're probably not real anxious to  
25 cooperate with the police, but I wanted to appeal to

1 you as a friend of Debra's, you know, to maybe just  
2 point me in the right direction.

3 A. Can't do it, no. I'm not. I don't want  
4 to be involved.

5 Q. Okay. Well, I understand that. And I  
6 mean, you know, I can, I can find out. How well do  
7 you know Debra?

8 A. No, I won't answer no questions about any  
9 of that.

10 Q. Okay. Well, could I ask you a couple,  
11 just a couple more things, then we'll be done.

12 A. No. I got my own problems to deal with  
13 so I don't want to get involved in anybody else's  
14 matters.

15 Q. So you don't want to help Debra at all?  
16 You don't want to, you don't want to like try and  
17 help catch who killed her daughter?

18 A. No verbal response.

19 Q. Uh, really?

20 A. I'm not saying yes, I'm not saying no.  
21 I'm just -- I don't want to be involved in anybody  
22 else's problems. I have my own case to deal with.

23 Q. Okay. So as he is talking to you at this  
24 point, you're not getting any cooperation from him?

25 A. No.

1 Q. At the time of this particular  
2 conversation, were you still under the impression  
3 that there may be two suspects?

4 A. Yes.

5 Q. And is that why you're trying to find out  
6 who his friends might be?

7 A. Yes.

8 Q. And are you kind of incorporating  
9 information that you got from just a bunch of  
10 different sources?

11 A. Yes.

12 Q. Not just Debra?

13 A. Right.

14 Q. When you saw the defendant that day, how  
15 old was he?

16 A. 31.

17 Q. Do you know about how tall he was?

18 A. 5'7".

19 Q. Weight?

20 A. A hundred and 85, 90 pounds.

21 Q. After you spoke with him, were you still  
22 trying to identify the other source of semen in  
23 Sheila?

24 A. Yes.

25 Q. And in fact, did you shortly thereafter

1 leave the Detective Long partner part of homicide  
 2 and move over to cold case?  
 3 A. Yes.  
 4 Q. When you went to work cold case, did you  
 5 actually bring this with you?  
 6 A. Yes.  
 7 Q. And still tried to find out who the other  
 8 source of semen was?  
 9 A. Yes.  
 10 Q. And did Detective Long also, even though  
 11 he was no longer partnered with you, do things in  
 12 furtherance of that?  
 13 A. Yes.  
 14 Q. Were you aware of a record -- well,  
 15 actually did you go interview some people after you  
 16 had gone to cold case from Starbucks?  
 17 A. Yes, I did.  
 18 Q. Who did you go interview?  
 19 A. I interviewed a manager there and a  
 20 co-worker.  
 21 Q. Why?  
 22 A. Just trying to see if there again, word  
 23 on the street may have come up or maybe if there was  
 24 more information that they, they had thought about  
 25 regarding Sheila's death.

1 Q. The Starbucks you went to, is that the  
 2 one that Sheila worked at?  
 3 A. Yes.  
 4 Q. Where was that?  
 5 A. It was located within the convention  
 6 center.  
 7 Q. What specifically were you trying to find  
 8 out from that -- well, were you trying to find out  
 9 from them whether she had any male friends in her  
 10 life?  
 11 A. Yes. We were trying to find out if there  
 12 were any guys that used to come pick her up or she  
 13 talked about or any information that may be  
 14 pertinent to another lead developing.  
 15 Q. Okay. And you spoke with a bunch of  
 16 people from Starbucks. Were you aware that  
 17 Detective Long had gotten her cell phone records and  
 18 was calling those people?  
 19 A. Yes.  
 20 Q. And were you still in contact with each  
 21 other regarding what information if any you were  
 22 adducing?  
 23 A. Yes.  
 24 Q. And did you discover that Detective Long  
 25 had potentially identified the other source of

1 semen?  
 2 A. Yes.  
 3 Q. And did you and he talk about, you know,  
 4 who the individual was and what happened thereafter?  
 5 A. Yes.  
 6 Q. And were you aware that the person did in  
 7 fact give a buckle sample -- a buckle swab for  
 8 comparison?  
 9 A. Yes.  
 10 Q. And that it matched?  
 11 A. Yes.  
 12 Q. And that the individual had been working  
 13 that day?  
 14 A. Yes.  
 15 Q. Where was that individual working?  
 16 A. Detective Long informed me that he was  
 17 work at Wal-Mart.  
 18 MR. PIKE: Objection.  
 19 THE COURT: Sustained.  
 20 MS. LUZAICH: Well --  
 21 MR. PIKE: I have no objection to the map  
 22 being introduced into evidence based upon the  
 23 testimony that's previously been offered by another  
 24 witness.  
 25 THE COURT: Yeah.

1 BY MS. LUZAICH:  
 2 Q. And assuming the individual was working  
 3 on the Wal-Mart on Craig between like Nellis and --  
 4 not Nellis. MLK and Simmons, I'm gonna show you  
 5 what's been marked as State's proposed Exhibit 127,  
 6 shown to defense counsel, does that look familiar?  
 7 A. Yes.  
 8 Q. Now, can you see on there the Wal-Mart  
 9 that I just mentioned?  
 10 A. Yes.  
 11 Q. And can you see 1001 North Pecos, the  
 12 apartment that Sheila's murder occurred at?  
 13 A. Yes.  
 14 Q. And are they both depicted on this  
 15 diagram which is an aerial view?  
 16 A. They are.  
 17 MS. LUZAICH: Move it into evidence.  
 18 MR. PIKE: No objection.  
 19 THE COURT: Admitted.  
 20 BY MS. LUZAICH:  
 21 Q. Okay. Can you just point for the record  
 22 to the Wal-Mart. And also to the apartment complex.  
 23 A. Right down here.  
 24 Q. Okay. So for the record, to the top left  
 25 of the aerial view would be Wal-Mart and the bottom

1 right would be the apartments?  
 2 A. Yes.  
 3 Q. Do you know about how far that is?  
 4 A. It's pretty good distance. I don't know,  
 5 I don't know specifically.  
 6 Q. Quite some ways?  
 7 A. Yes.  
 8 Q. And no easy way to get there?  
 9 A. No, there's really not.  
 10 Q. Is it a five-minute drive?  
 11 A. No.  
 12 Q. Quite a bit more than five-minute drive?  
 13 A. Yeah. Depending on the time of day, that  
 14 area can get pretty congested.  
 15 Q. Okay. And showing you, showing you  
 16 State's Exhibit 131, does this appear to be a photo  
 17 lineup?  
 18 A. Yes, it does.  
 19 Q. Is the defendant Norman Flowers depicted  
 20 in that photo lineup?  
 21 A. Yes, it's in the number five box.  
 22 Q. In the number five?  
 23 A. Yes.  
 24 Q. Okay. Is that how he looked in August of  
 25 2006?

1 A. Yes.  
 2 MS. LUZAICH: Thank you. I have no  
 3 further questions.  
 4 MR. PIKE: Thank you.  
 5 CROSS-EXAMINATION  
 6 BY MR. PIKE:  
 7 Q. I may work a little bit back. So I'm not  
 8 quite the same order that's involved. Let me go  
 9 back to a statement that you had previously said  
 10 about people that were speaking with the police and  
 11 people, the sort of cooperation that you were  
 12 getting when you were going around the area of  
 13 Pooka's death.  
 14 There are a lot of people that  
 15 didn't want to talk with the police?  
 16 A. Yes, sir.  
 17 Q. And that's not an uncommon experience  
 18 that you run across. Sometimes there are very  
 19 cooperative and sometimes there are uncooperative  
 20 people?  
 21 A. Yes, sir, that's correct.  
 22 Q. Sometimes individuals are uncooperative  
 23 because they may fear people around them and they  
 24 may fear retribution if they before to be seen  
 25 speaking to the police?

1 A. Yes, sir.  
 2 Q. And so that's one of the reasons why you  
 3 go back and talk to people at different locations,  
 4 at different times?  
 5 A. Yes.  
 6 Q. And in fact, in your experience as  
 7 working in the cold cases, you find that oft times  
 8 even if you go back two or three years or even more  
 9 later, if those individuals have moved away from  
 10 that area or away from certain individuals, they,  
 11 they may feel safer and be much more cooperative?  
 12 A. Yes, sir.  
 13 Q. And often that will lead you to reopen  
 14 areas of investigation that you thought had become a  
 15 dead end?  
 16 A. Yes.  
 17 Q. Okay. In, in this case, you've testified  
 18 that you felt that that burglary, although  
 19 associated with the apartment complex in which the  
 20 murder occurred, may not have had something to do  
 21 with.  
 22 It during the course of your early  
 23 investigation become, became a dead end?  
 24 A. Yes, sir.  
 25 Q. Now, hypothetically, if you were informed

1 that the person that was seen breaking into that  
 2 apartment by the eyewitness that saw that was then  
 3 identified as having possession of the stereo of  
 4 Sheila Quarles shortly after her death, that may  
 5 cause you to re-evaluate that dead end?  
 6 MS. LUZAICH: Objection. Assumes facts  
 7 not in evidence.  
 8 THE COURT: Well, he's just asking him a  
 9 hypothetical. I assume he's gonna tie it up.  
 10 Overruled. Go ahead.  
 11 MS. LUZAICH: Well he can't tie it up.  
 12 (Whereupon, an off-the-record  
 13 discussion was had at the bench.)  
 14 THE COURT: Go ahead. He can ask the  
 15 question.  
 16 BY MR. PIKE:  
 17 Q. Okay. If you were --  
 18 THE COURT: Hypothetically.  
 19 BY MR. PIKE:  
 20 Q. Hypothetically if you were given that  
 21 situation, that may cause you to re-evaluate closing  
 22 that door and reopening it?  
 23 A. Hypothetically.  
 24 Q. Yes.  
 25 A. Yes.

1 Q. Going and investigating that. And  
2 similarly if you're given information that  
3 identifies an individual, then it may be worth going  
4 back to the people that were living around that area  
5 and showing them a photographic lineup to see if  
6 they recognize that person and whether he, anybody  
7 saw him around that area at the time of the criminal  
8 event?

9 A. Yes.

10 Q. Okay. And you were at some point in time  
11 given this photographic lineup?

12 A. Yes.

13 Q. And did you go back around and show that  
14 to the individuals that were living at that area?

15 A. Yes. It was, it was shown at least to  
16 the female. And I don't remember how many other  
17 people it was shown to, but it was shown to that  
18 one.

19 Q. Okay. And you prepared no report about  
20 that?

21 A. There should be a photographic lineup  
22 record.

23 Q. Okay. Do you have that?

24 A. And let me check.

25 Q. In fact, looking at the record of

1 contents of that homicide book, there's no evidence  
2 that there was a photographic lineup prepared for,  
3 prepared in this case?

4 A. These are standardized file indexes. So  
5 it doesn't, just because it's on the index doesn't  
6 mean that there's something in the compartment or  
7 whether there is or isn't. It's just the file index  
8 that we put in all of our files.

9 Q. Okay.

10 A. And some people store things differently  
11 and I just -- can I ask whose name is on the bottom  
12 of that?

13 Q. This -- on this one it was prepared in  
14 relationship to -- let's see. May I approach the  
15 witness, Your Honor?

16 THE COURT: Sure.

17 MS. LUZAICH: Is there an event number on  
18 that lineup?

19 MR. PIKE: There is. There is. It's  
20 signed by Juanita Cruz.

21 MS. LUZAICH: Curry.

22 MR. PIKE: Curry. I'm sorry.

23 MS. WECKERLY: It's from the other main  
24 event. Not this case. That's why you're not --

25 BY MR. PIKE:

1 Q. And I'm just curious. Or not just  
2 curious, but it will be important for me to know if  
3 there's a photographic lineup that's signed or  
4 prepared or anywhere within that homicide book  
5 because --

6 A. In the sections that it would be in, I  
7 don't show it.

8 Q. Okay. And you didn't take one with you  
9 when you went to talk to the people at Starbucks?

10 A. No, I did not.

11 Q. And you never took one around with you  
12 when you interviewed anybody to show them a  
13 photographic lineup. I guess they call that a six  
14 pack?

15 A. Yes.

16 Q. And you didn't take one of those around?

17 A. In looking through the book, I don't  
18 believe we prepared one on this case.

19 Q. Okay. You were subsequently given the  
20 name of Chicken; is that correct?

21 A. Detective Long was, but I've heard a lot  
22 about it.

23 Q. Okay. You're able to identify many times  
24 people by their nicknames or monickers and you can  
25 get photographs of them.

1 And there was to your knowledge, you  
2 didn't see that it was a photographic lineup with  
3 Chicken's name -- or excuse me. Chicken's picture  
4 anywhere within that?

5 A. No.

6 Q. Okay. And in going through and going  
7 back over the investigation, when you were going  
8 through and processing this and you and the other  
9 detectives were fanning out the area to try and talk  
10 to people and try and gather information --

11 A. Yes, sir.

12 Q. -- did you -- you indicated that you had  
13 discussed what sort of information you might want  
14 when you were talking with people and that you gave  
15 some specific interview questions like had you seen  
16 anything. And you gave us some examples like that?

17 A. Yes, sir.

18 Q. Would some of the other questions that  
19 you would want to ask be questions like well, did  
20 you know the people who lived in that apartment?

21 A. I'm sure they were asked.

22 Q. Okay. And, and did you -- when was the  
23 last time you had seen the occupants of that  
24 apartment?

25 A. Yes.

1 Q. Were they friends of yours?

2 A. Oh, okay.

3 Q. I'm sorry. That was a really bad  
4 question. Let me rephrase that. Would an  
5 interviewer or a detective in your case want to know  
6 if somebody was coming out to police, they will, was  
7 the people in those apartments friends of yours,  
8 because that may be a source of additional  
9 information?

10 A. Most of the guys that were doing the  
11 interviews are five, six year homicide detectives  
12 and extremely good interviewers. I was basically  
13 just summarizing some of the questions that might be  
14 asked. Obviously those are great questions.

15 Q. Okay. And, and with the experience and  
16 the trainings that the detectives such as yourself  
17 have in interview techniques, you'd expect that they  
18 would ask questions similar to that, try and  
19 identify, well this person may not give me something  
20 now, but I'll go back and talk to them later?

21 A. Yes.

22 Q. And in doing that, it would probably be  
23 important if you knew that Chicken had been there  
24 and had talked with police and had not indicated  
25 that he knew them or had sex with Pooka on the day

1 of her death?

2 MS. LUZAICH: Well, objection. That  
3 misstates the testimony.

4 THE COURT: Yeah, I'm not sure that's  
5 correct.

6 BY MR. PIKE:

7 Q. Okay. Let me rephrase it. Were you  
8 aware that Chicken testified --

9 THE COURT: At what point in time?

10 BY MR. PIKE:

11 Q. At what point in time. On the day of the  
12 death of Pooka that Chicken came up and talked to  
13 some police?

14 A. I had never heard the name Chicken. I  
15 had never heard his Christian name. I mean, I  
16 didn't know he existed. A lot of times people  
17 mistake talking to the police for a security guard,  
18 a bus driver, a patrol man. Us as homicide  
19 detectives brief and debrief over information we  
20 receive.

21 Q. Okay.

22 A. If he were to tell it to a patrolman, and  
23 I'm not saying he did or didn't, that could be, you  
24 know, information that we never received. But we as  
25 a homicide investigative team didn't receive that

1 information.

2 Q. And you didn't receive the name Chicken  
3 until just a few months ago?

4 A. Correct.

5 Q. And that was after you were directed to  
6 go out and reopen the investigation and look for a  
7 boyfriend?

8 A. Not directed. We were trying to identify  
9 the second donor and we had hit dead end and the  
10 name Chicken, Detective Long was actually running  
11 that aspect of this, but the name Chicken never,  
12 never surfaced, George's name never surfaced.

13 It just, it was information that we  
14 had been out there seeking, but apparently were we  
15 weren't knocking on the right doors or calling the  
16 right people.

17 Q. Okay. And so that was brand new evidence  
18 that you just found this year?

19 A. Yes, sir.

20 Q. And you didn't conduct the interview of  
21 him, but you did go to interview Keith?

22 A. Yes.

23 Q. Now, while you were at -- before I get  
24 into the interview with, with Keith, let me ask you  
25 a few questions about the types of investigations

1 that you may often do in cases and specifically  
2 relate them to this case so we kind of know where  
3 I'm going.

4 Now, in relationship to the cell  
5 phone, is it your understanding or do you have any  
6 knowledge about serial numbers of cell phones?

7 A. I know they exist.

8 Q. Okay. Do you know whether or not when a  
9 cell phone is, is changed from one person to another  
10 that if that person takes a cell phone and  
11 reactivates it even under a different provider, that  
12 that same cell phone identification number becomes  
13 part of the billing and part of the records as to  
14 that individual? Do you know whether or not  
15 that's --

16 MS. LUZAICH: Objection, assumes facts  
17 not in evidence.

18 MR. PIKE: Do you know whether or not  
19 that is true?

20 THE COURT: Overruled.

21 THE WITNESS: I don't know.

22 BY MR. PIKE:

23 Q. That may be an important investigative  
24 tool for you to use if that was available?

25 A. Yes.



1 Q. The other question about cell phones is  
2 you understand or do you have knowledge about when a  
3 call is made from a cell phone that it, it tracks  
4 through a specific cell tower?

5 A. Yes.

6 Q. And you often use that as a tool in order  
7 to locate where telephone calls may have been --  
8 what areas telephone calls may have been made from?

9 A. Yes.

10 Q. Did you ascertain the cellfites that were  
11 used on this phone during the conversations?

12 A. No, I did not.

13 Q. During the time that you retained this  
14 key that you indicated that you impounded, did you  
15 ever take that over and, and try it on the key in  
16 Keith's apartment that he was living in?

17 A. It, it was my opinion --

18 Q. I'm just asking did you try it?

19 A. No, because we weren't sure that he lived  
20 there. We believed he was staying there.

21 Q. If he was staying there, he may have had  
22 a key?

23 A. That's correct.

24 Q. But you never tried it?

25 A. No.

1 Q. In going through and looking at the card,  
2 the bank card that was taken, you were able to  
3 obtain the bank information, in other words the bank  
4 that the bank card was from --

5 A. Yes.

6 Q. -- and the account number? And if that  
7 bank card was ever used, there may have been a  
8 photograph that was associated with that?

9 A. Yes.

10 Q. When you're attempting to obtain those  
11 bank records, do you ever issue a subpoena or as  
12 police officers can you just go in and, and request  
13 the records on that?

14 A. It's an administrative subpoena.

15 Q. Okay. When was the last subpoena issued  
16 to determine whether or not that was used, that bank  
17 card was ever attempted to be used?

18 A. I don't know that there's been any recent  
19 ones.

20 Q. When was the last one done, if any were  
21 done?

22 A. It would probably be immediately after.  
23 As far as the bank card goes I know.

24 Q. Can you look in the homicide book and  
25 tell me?

1 A. Yes.

2 Q. Okay. Thank you.

3 A. We subpoenaed the final bill.

4 Q. Okay. Thank you very much. And what day  
5 did you subpoena that?

6 A. August of '05.

7 Q. Thank you. In going through the  
8 investigation, you also indicated that you obtained  
9 a user's manual or an informational pamphlet I  
10 guess?

11 A. Like an owner's manual.

12 Q. Thanks. In reference to the, the stereo  
13 that was taken, is that in, in the book?

14 A. Yes, sir.

15 Q. In the homicide book? Can you look at  
16 that, please?

17 A. Yes.

18 Q. Okay. Now, you have that in front of  
19 you. That plays, I understand it plays CDs?

20 A. It looks like it has a three CD.

21 Q. Okay. Does it indicate whether or not  
22 there's a radio?

23 A. It looks like there is one. I can go  
24 through the manual.

25 Q. That's okay. You believe that there's a

1 radio component or a tuner portion of that?

2 A. I believe so. That's what I would -- and  
3 this is just an opinion I guess, that that's what  
4 the bottom of it looks like. It's almost just like  
5 a black and white sketch of what it looks like.

6 Q. Okay. And to your knowledge also, the  
7 speakers' separate?

8 A. Yes.

9 Q. Thank you. And were you able -- in going  
10 through, you indicated that going through and making  
11 an investigation through the pawn shop is generally  
12 something that requires a serial number on a radio  
13 or something like that?

14 A. Yes.

15 Q. Okay. And you also indicated that if you  
16 had an individual who may be a suspect, that you  
17 could go and check that individual's names for items  
18 that were being pawned?

19 A. Yes.

20 Q. At that point in time on the date that  
21 the death occurred and the investigation initiated,  
22 there was a swabbing, a buckle swab taken of Robert  
23 Lewis?

24 A. Yes.

25 Q. Robert Lewis was a person of interest?

1 A. Yes.

2 Q. Okay. And that's different than a  
3 suspect. As far as classification, he may become a  
4 suspect, may not, but he's somebody that you want to  
5 watch?

6 A. Yeah. A person of interest is, is just  
7 that. I mean, it's somebody that we would like to  
8 talk to maybe again. Detective Long interviewed Mr.  
9 Lewis originally.

10 Q. And he -- and given that name, you could  
11 take that name and go to the pawn shop detail and  
12 say, tell me, tell me the pawning history of this  
13 individual, and they'd be able to tell you that?

14 A. Yes.

15 Q. And to your knowledge that wasn't done in  
16 this case?

17 A. I personally didn't do it.

18 Q. You're looking for people that were  
19 willing to discuss the, the information they have  
20 with you.

21 Did you ever interview or  
22 reinterview a Natalia Sena?

23 A. I personally did not, no.

24 Q. Okay. You interviewed Quince Toney a  
25 number of different times?

1 A. Yes.

2 Q. And in fact, you gathered from her  
3 information that would have allowed you to access  
4 the messages on the cell phone?

5 A. Yes.

6 Q. And did you access those messages?

7 A. I personally did not, but I was informed  
8 that Detective Wildman did.

9 Q. All right. And in reference to that so  
10 we could ask Detective Wildman about those things?

11 A. Yes.

12 Q. Or those issues. You talked about you,  
13 testified a bit about your investigation and  
14 determining that a sexual assault had occurred. You  
15 called it a violent sexual assault.

16 Now, in your experience as a  
17 homicide detective, violent I assume to you does not  
18 equate with obvious?

19 A. I'm not a doctor. I mean, I --

20 Q. It may or may not?

21 A. I basically go by what they tell me.

22 Q. But when you, -- you've had cases where  
23 you've come in to investigate and it's pretty  
24 obvious that there has been severe trauma to the  
25 vaginal area?

1 A. Yes.

2 Q. There may be bleeding, there may be  
3 foreign objects, there may be a number of things  
4 that when you walk in, that absolutely is obvious to  
5 you that that's a component part of it?

6 A. Yes.

7 Q. And in this case there, when you went in  
8 and looked at the body, there wasn't anything that  
9 you saw that made it that obvious?

10 A. I never got fully in a position where I  
11 could see that because the nature of the small  
12 space. I did look at the body, the coroner did come  
13 out and do basic -- what they basically do at a  
14 death which is check the body for the obvious. And  
15 it wasn't told to me that that was present.

16 Q. And in going through that then, you would  
17 have gone back to, and you had testified that you  
18 went back and you spoke with Pooka's mom, Debra  
19 Quarles a number of times?

20 A. Yes.

21 Q. And you would have asked her if she knew  
22 any boyfriends that she had?

23 A. Yes, she was.

24 Q. And as a result of that conversation, you  
25 didn't have, you did not go out and investigate any

1 male individuals?

2 A. We didn't -- I don't remember that we had  
3 any male names.

4 Q. There was a letter that was found on the  
5 bedspread. Do you remember that?

6 A. Yes.

7 Q. And that letter was addressed to an  
8 individual William Kinzy. Do you remember that?

9 A. Yes, sir.

10 Q. Okay. Did you go speak with Mr. Kinzy?

11 A. Yes, I did.

12 Q. When did you go speak with Mr. Kinzy?

13 A. I don't have the exact date.

14 Q. Was it just within a month or so ago?

15 A. No, it was probably six or eight months  
16 ago I'm guessing.

17 Q. Okay. Who was present when you went to  
18 interview him?

19 A. Myself, Detective Long, Ms. Luzaich and  
20 Ms. Weckerly.

21 Q. During the course of that conversation,  
22 were you able to -- well, did he cooperate with you  
23 at all?

24 A. Very little.

25 Q. Did he tell you that he -- well, that

1 would be hearsay.

2 During the course of that  
3 conversation that you had with him, were you able to  
4 ascertain sufficient facts to determine if he in  
5 fact was going, that being the recipient of that  
6 letter that he knew Pooka?

7 A. Yes.

8 Q. And obviously from the letter that that  
9 had preceded her death?

10 A. Yes.

11 Q. In fact, the letter as it was addressed  
12 from, that you found at the scene contained Sheila's  
13 first name correctly, but it contained a second name  
14 that was not her name?

15 A. Yes.

16 Q. It contained Mr. Kinzy's name?

17 A. Yes.

18 Q. Now, during the course of your  
19 investigation, you also gathered the information  
20 that there had been a search warrant that had been  
21 issued and that in fact Keith's, Norman Keith  
22 Flowers, the, apartment the apartment he had been  
23 staying at had been searched?

24 A. Yes.

25 Q. And you went through the photographs of

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1 that?

2 A. Yes.

3 Q. You went through the photographs to  
4 determine if there was any evidence or any items  
5 that that may have significance or be associated  
6 with this case?

7 A. Yes.

8 Q. And in completing the investigation, you  
9 obtained this, this information from the, I think  
10 from the other detective and it was at the time that  
11 you went in to speak with Keith?

12 A. Yes.

13 Q. Now, going back to his statement, if you  
14 could go back to that, please.

15 A. To Mr. Flowers' statement, sir?

16 Q. Yes, please. And going to page five.

17 A. Yes, sir.

18 Q. At the time that you went in to see him,  
19 you knew that he was in custody on the other charge?

20 A. I was not, I am not sure when I talked to  
21 him if he was in -- what he was in custody for. I  
22 knew he was in custody.

23 Q. He was in custody. He told you and this  
24 is where you ended off, if you go to page five of  
25 the statement, I think it's the second answer, I

1 have my own case to deal with.

2 You knew he was in custody and you  
3 were interviewing him in a room just you and he and  
4 the recorder?

5 A. Yes.

6 Q. And while you were going through and  
7 interviewing him, you were using a number of  
8 different interviewing techniques in order to  
9 attempt to, number one, try and put him at ease;  
10 number two try and get him to give you information.

11 Would that be a fair statement?

12 A. Yes.

13 Q. During the course of that and during the  
14 course of an investigation, if you believe that  
15 someone may be a suspect in this case, then you  
16 would advise him of his Miranda Rights?

17 A. Yes.

18 Q. And you did that in this case?

19 A. I did do that.

20 Q. And in some cases you don't?

21 A. No.

22 Q. In this case you did, in this case you  
23 are giving him information about an individual with  
24 skin condition on his arms?

25 A. Yes.

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1 Q. What witness in the Quarles' case, this  
2 case, told you about somebody with skin conditions  
3 on his arm?

4 A. Debra Quarles.

5 Q. Okay. So there was an individual that  
6 you believed may have been around that had skin  
7 condition problems with his arms?

8 A. No. There may have been an individual  
9 with a skin condition that was an associate of Mr.  
10 Flowers.

11 Q. Okay. And did you do you remember  
12 whether or not Robert Lewis had any problems with  
13 his arms?

14 A. He did not that I noticed, no.

15 Q. Okay. So you're going through and giving  
16 him some information and you're telling him that the  
17 only reason you did that on page two is that you're  
18 in custody?

19 A. Yes.

20 Q. In fact, you believe that he may be a  
21 suspect, so it was more than just he was in custody?

22 A. Yes.

23 Q. And during the course of an  
24 investigation, you're trained that it's you can try  
25 and calm people down to get them to give you

1 information, that's one technique.  
 2 A. Yes.  
 3 Q. You may get somebody angry and try and  
 4 get them to also give you information because  
 5 they're angry?  
 6 A. Yes.  
 7 Q. That's another technique. You can go  
 8 through and ask them questions that are completely  
 9 unrelated to the crime that you're investigating to  
 10 verify how cooperative they're going to be and  
 11 that's another technique?  
 12 A. Yes.  
 13 Q. You also have been trained and informed  
 14 that you can actually give them false information or  
 15 lie to them about facts that you may or may not have  
 16 and use that as an interrogation technique?  
 17 A. Yes.  
 18 Q. And you can also go through and appeal to  
 19 their sense of humanity?  
 20 A. Yes.  
 21 Q. And in fact, you did attempt to appeal to  
 22 his -- on page five. You wanted to appeal to his  
 23 human decency?  
 24 A. Yes, sir.  
 25 Q. At that time in fact, Mr. Flowers advised

1 you that he may want to speak with you in the  
 2 future, going to page seven?  
 3 MS. LUZAICH: Well, objection.  
 4 MS. WECKERLY: I object.  
 5 MS. WECKERLY: Your Honor, can we  
 6 approach?  
 7 THE COURT: Yes.  
 8 (Whereupon, an off-the-record  
 9 discussion was had at the bench.)  
 10 THE COURT: Objection's sustained.  
 11 BY MR. PIKE:  
 12 Q. And based upon the collection of evidence  
 13 just very recently in this case, that is the nature  
 14 of your work in the cold cases is that things can  
 15 come to life in the future and you reinvestigate and  
 16 retalk to people and that in this case and in other  
 17 cases may be a very effective investigative tool?  
 18 A. I'm not sure -- I'm sorry. I'm not real  
 19 sure of the question.  
 20 Q. It was kind of rambling. Let me just put  
 21 it this way: It never hurts to go back and talk to  
 22 potential witnesses?  
 23 A. No.  
 24 Q. And in fact, you would, would say that  
 25 that constant recontact with the witnesses, the

1 re-evaluation -- what they remember often will and  
 2 often times will, will bring forth that item which  
 3 then opens the case wide open?  
 4 A. Yes, sir. In some cases.  
 5 MR. PIKE: All right. Thank you very  
 6 much, detective.  
 7 THE WITNESS: Thank you.  
 8 THE COURT: Anything else, Ms. Luzaich?  
 9 MS. LUZAICH: Just briefly.  
 10 REDIRECT EXAMINATION  
 11 BY MS. LUZAICH:  
 12 Q. In all these times that you went back to  
 13 talk to Debra knowing that there were two different  
 14 sources of DNA, once you had identified the  
 15 defendant Norman Flowers, were you trying to  
 16 determine whether or not Debra knew who his friends  
 17 were?  
 18 A. Yes.  
 19 Q. And is that because often times when  
 20 people commit criminal offenses if they have  
 21 somebody with them it is because it's their friend  
 22 that's with them?  
 23 A. Yes.  
 24 Q. And when you talked to the defendant  
 25 about the guy with the skin condition, is that

1 because Debra Quarles told you he had a friend with  
 2 a skin condition, just couldn't remember his name?  
 3 A. Yes.  
 4 Q. Now, when, when people -- in addition, to  
 5 working homicide and cold case you were a detective  
 6 for many years?  
 7 A. Yes.  
 8 Q. And you were on patrol for many years?  
 9 A. No, not on patrol for very long.  
 10 Q. Well, you've been a police officer for a  
 11 long time?  
 12 A. Yes.  
 13 Q. Investigated lots of different kinds of  
 14 offenses?  
 15 A. Yes.  
 16 Q. You worked narcotics for quite some time?  
 17 A. Yes.  
 18 Q. People who use drugs often steal, people  
 19 who steal often use drugs?  
 20 A. Yes.  
 21 Q. Now, when people steal things, do they  
 22 always pawn them?  
 23 A. No.  
 24 Q. Do they often keep them themselves?  
 25 A. Yes. Or in some cases they give them to

1 friends or.

2 Q. To friends or their mom?

3 A. It's a payment for a debt.

4 Q. Uh-huh. Or to their baby's momma or just  
5 anyone who they know?

6 A. Yes.

7 Q. So just because somebody took it doesn't  
8 mean they're gonna be in possession of it, you know,  
9 even six hours later or three-and-a-half years  
10 later?

11 A. Correct.

12 Q. When the detectives in the other case,  
13 Detective Tremel in particular, served a search  
14 warrant at a location, it was not the defendant's  
15 home, was it?

16 A. It was.

17 Q. It was his sister's home?

18 A. It was my opinion that it was not his  
19 house.

20 Q. Right. It was his sister's home?

21 A. Yes.

22 Q. Was that the information that Detective  
23 Tremel's information provided?

24 A. Yes.

25 Q. And that the defendant also had a woman

1 who was the mother of his child, there was in  
2 existence the woman who was the mother of his child?

3 A. I've heard that.

4 Q. And that he often stayed there as well?

5 A. Yes.

6 Q. And you did not have that address or her  
7 name; is that right?

8 A. That's correct.

9 Q. So you didn't have a location to take  
10 that little key to?

11 A. No.

12 Q. Now, people who steal stuff not only give  
13 it to friends and what not, but criminals pass  
14 stolen property amongst other criminals as well,  
15 too?

16 A. Yes.

17 Q. So property that's stolen could turn up  
18 absolutely anywhere?

19 A. Yes.

20 Q. And when Mr. Pike asked you about did you  
21 go to the pawn people and run Robert Lewis, Robert  
22 Lewis was excluded from being the perpetrator of  
23 this offense by scientific reliable evidence?

24 MR. PIKE: Objection, Your Honor. His  
25 DNA didn't match. He is wasn't excluded. He just

1 is no longer a person of interest.

2 THE COURT: Well, he was excluded as one  
3 of the two people that had had sex and left sperm in  
4 the victim

5 BY MS. LUZAICH:

6 Q. Okay. Was he excluded from being one of  
7 the people who left sperm inside the victim?

8 A. Yes.

9 Q. And in your mind as the detective in  
10 charge of this case, would the person who you  
11 believe committed the sexual assault be the same  
12 person who submitted murder?

13 A. Yes.

14 Q. So if Robert Lewis is excluded from the  
15 sexual assault in your mind, was he excluded from  
16 the murder?

17 MR. PIKE: Objection, Your Honor.

18 Assumes facts not in evidence, speculation.

19 MS. LUZAICH: Well, it's his mind and his  
20 investigation.

21 THE COURT: Overruled.

22 MR. PIKE: He's not here to offer his  
23 opinion as to the ultimate verdict of this case.

24 MS. LUZAICH: Sure, he --

25 MR. PIKE: Objection.

1 MS. LUZAICH: -- investigation.

2 MR. PIKE: I have an objection. I'd like  
3 to finish the objection.

4 THE COURT: Go ahead.

5 MR. PIKE: He is the ultimate question of  
6 this case. He's not, not offering testimony as an  
7 expert, he's not been qualified as an expert to  
8 offer his opinion to assist this jury in making that  
9 ultimate decision. He's not qualified to offer  
10 that, an ultimate opinion in this case or direct  
11 decisions as to each of the counts.

12 THE COURT: Let me hear the question  
13 again. You may be right, Mr. Pike.

14 MS. LUZAICH: Well, in response, the  
15 defense just spent half of cross-examin -- well, all  
16 of cross-examination --

17 THE COURT: Well, as a general  
18 proposition, you can ask an investigating detective  
19 what he saw, what he heard, who said what, but not  
20 his opinion.

21 The opinion testimony is generally  
22 only allowable from experts such as a DNA expert or  
23 a physician or somebody like that.

24 I don't know what the question was  
25 so ask it again.

1 MS. LUZAICH: Okay. I will rephrase it.  
 2 THE COURT: If it isn't an opinion, I'll  
 3 allow it. If it is an opinion, I'll sustain it.  
 4 BY MS. LUZAICH:  
 5 Q. Can you tell us why you did not follow-up  
 6 on Robert Lewis?  
 7 THE COURT: Fair question.  
 8 THE WITNESS: Because the level of his  
 9 cooperation and because he was scientifically deemed  
 10 not one of the contributors of semen.  
 11 BY MS. LUZAICH:  
 12 Q. Okay. And you know what, how many pawn  
 13 shops are there in this town?  
 14 A. I couldn't even tell you.  
 15 Q. Hundreds?  
 16 A. Yes.  
 17 Q. I guess in theory you could have gone to  
 18 each and every one and said here's a list of 20  
 19 people who live in the area, have any of them pawned  
 20 everything and can I have a list of everything  
 21 they've pawned?  
 22 A. I guess.  
 23 Q. Would that help your investigation?  
 24 A. It probably would have. I don't know if  
 25 it would have helped my other ones.

1 Q. Okay. The, the bank card that was found  
 2 missing, is it your understanding that if the bank  
 3 card has been cancelled it can't be used again?  
 4 A. Yes.  
 5 Q. You said that you requested the final  
 6 bill. Did you also receive the final bill?  
 7 A. Of the phone records?  
 8 Q. No. The credit card.  
 9 A. We requested the final bill on the, I  
 10 believe I -- what we requested on the item in  
 11 subpoena was, wasn't the -- I'm sorry. It  
 12 slipped --  
 13 Q. It wasn't the bank card, it was the cell  
 14 phone?  
 15 A. It was the cell phone records, yes.  
 16 Q. And was the cell phone used again --  
 17 A. No.  
 18 Q. -- after Sheila's death?  
 19 A. No.  
 20 Q. If you had received information that the  
 21 bank card had been used, would you then have gone to  
 22 the location to get a photograph of the individual  
 23 who used it?  
 24 A. Yes.  
 25 Q. And did you do that?

1 A. We never got that information.  
 2 Q. Right. When you were asked about the  
 3 cell phone access code, you said a Detective Wildman  
 4 was handling that. And he didn't learn anything  
 5 from that that would further the investigation, did  
 6 he?  
 7 MR. PIKE: Objection, Your Honor. He  
 8 didn't provide this detective any information that  
 9 he'd known.  
 10 THE DEFENDANT: Well, you can ask is  
 11 there anything in the homicide book that indicates  
 12 that he learned anything.  
 13 MR. PIKE: That will be fine. Thank you.  
 14 BY MS. LUZAICH:  
 15 Q. Was there anything --  
 16 THE COURT: Was there anything in the  
 17 homicide book that indicates that he learned  
 18 anything that would be helpful?  
 19 THE WITNESS: No, sir.  
 20 BY MS. LUZAICH:  
 21 Q. So there was nothing to follow-up on?  
 22 A. No.  
 23 THE COURT: Anything else?  
 24 MS. LUZAICH: Yes. I'm sorry.  
 25 BY MS. LUZAICH:

1 Q. William Kinzy, he is the person who the  
 2 letter that was found on the bed in Sheila's  
 3 handwriting was addressed to; is that correct?  
 4 A. Yes.  
 5 Q. And did your investigation reveal that he  
 6 was actually in custody at the time of the murder?  
 7 A. Yes.  
 8 Q. Okay. So he couldn't have participated?  
 9 A. That's correct.  
 10 Q. And when you went to the prison -- and  
 11 I'm sorry. When you went and saw him with us, was  
 12 that in fact at a prison?  
 13 A. Yes.  
 14 Q. And did you do what you could to appeal  
 15 to his human decency to get some information from  
 16 him?  
 17 A. Yes.  
 18 Q. Did he give you any information?  
 19 A. No.  
 20 Q. Did he finally and begrudgingly give you  
 21 the name of a girl?  
 22 A. Yes.  
 23 Q. Never any name of a man or a boy?  
 24 A. No.  
 25 Q. No matter what you said or did to try and

1 get him to share information?  
 2 A. No, he provided nothing.  
 3 Q. Was it obvious that he cared about  
 4 Sheila?  
 5 A. Yes. He cried while I was appealing to  
 6 him.  
 7 Q. Yet he still wouldn't give you any  
 8 information?  
 9 A. No.  
 10 Q. You had no way of knowing at the scene  
 11 that there was a sexual assault, correct?  
 12 A. No.  
 13 Q. The coroner doesn't do a -- or not  
 14 coroner, the coroner, investigator doesn't do a  
 15 pelvic exam at the scene, right?  
 16 A. No. They basically just do a look over  
 17 of the body to see if there's obvious trauma or  
 18 anything of evidentiary value that needs to be  
 19 preserved like in this case we bagged her hands.  
 20 Q. Immediately at the scene?  
 21 A. Yes.  
 22 Q. And when she was found, Sheila, she was  
 23 submerged in hot water, right?  
 24 A. Yes.  
 25 Q. Which further would have gotten rid of

1 any potential visible evidence of a sexual assault  
 2 at least at that point?  
 3 A. Yes.  
 4 Q. Of all the people that you talked to  
 5 during the course of this investigation and all the  
 6 people that you received information regarding, did  
 7 anybody indicate that they had seen anybody go into  
 8 or out of Sheila's apartment that day?  
 9 A. No.  
 10 MS. LUZAICH: Thank you. Nothing  
 11 further.  
 12 THE COURT: Anything else, Mr. Pike?  
 13 RECROSS-EXAMINATION  
 14 BY MR. PIKE:  
 15 Q. You've done a number of investigations  
 16 that have dealt with bank cards and the use of bank  
 17 cards I assume?  
 18 A. Not a bunch.  
 19 Q. You haven't. But within the course of  
 20 the cases that you have done, if there's an  
 21 attempted use of a card, there's a photograph taken  
 22 just as if there's the same one that is actually  
 23 used?  
 24 A. I don't know that I've ever have had that  
 25 happen that I've known about.

1 Q. Okay. So you don't know?  
 2 A. No, I don't know if it takes a picture,  
 3 if they stick it in the machine and it doesn't  
 4 accept it, I honestly don't know.  
 5 MR. PIKE: Thank you. Nothing further.  
 6 MS. LUZAICH: I'm sorry. Can I just have  
 7 one --  
 8 THE COURT: Yeah. Just a couple. The  
 9 key that you recovered, did you ever find a lock  
 10 anywhere that it fit?  
 11 THE WITNESS: No, sir.  
 12 THE COURT: When you were there, did  
 13 you -- when you got there, I know it was some time  
 14 later so there may be a difference, but did you  
 15 check the water temperature, was it warm, cool, you  
 16 or a CSA or anybody --  
 17 THE WITNESS: By the time I got there,  
 18 the water was cool to the touch. The only thing I  
 19 had to go by was what Debra Quarles told me about  
 20 the temperature of the water or the direction of the  
 21 water faucet when I arrived there or when she  
 22 arrived there. I'm sorry.  
 23 THE COURT: Okay. And did you conclude  
 24 anything from that as to the temperature of the  
 25 water when the --

1 THE WITNESS: She said it was all the way  
 2 as far to hot as it would go.  
 3 THE COURT: Okay. Thank you. Go ahead.  
 4 FURTHER REDIRECT EXAMINATION  
 5 BY MS. LUZAICH:  
 6 Q. Just to follow-up on that. You said by  
 7 the time you got there, it was cool to the touch.  
 8 You didn't immediately stick your finger in when you  
 9 got there, did you?  
 10 A. No, I did not.  
 11 Q. Had you been there for quite some time?  
 12 A. I never even stuck my finger in there.  
 13 It was one of the crime scene people.  
 14 Q. Somebody else told you?  
 15 A. Yes.  
 16 Q. Okay. Showing you what's been marked as  
 17 State's proposed Exhibit 136, is this owner's  
 18 manual, the front page of the owner's manual of the  
 19 stereo that Debra gave you?  
 20 A. Yes. And in the little box is my  
 21 handwritten note on there. That is not part of the  
 22 actual --  
 23 Q. Right. So that's how you know that  
 24 that's the thing that Debra gave you?  
 25 A. Yes.

1 MS. LUZAICH: Move into evidence.  
 2 THE COURT: Any objection?  
 3 MR. PIKE: We join in the motion to put  
 4 it into evidence.  
 5 THE COURT: Okay. It will be admitted.  
 6 MS. LUZAICH: Thank you. Nothing  
 7 further.  
 8 THE COURT: Okay, thanks. Appreciate  
 9 your time.  
 10 THE WITNESS: Thanks.  
 11 THE COURT: Okay. We're gonna go to  
 12 lunch now. We're gonna take a couple minutes more  
 13 than normal because I have probably 20 minutes of  
 14 business that I have to do with the lawyers, and the  
 15 staff is entitled to an hour lunch. So we're gonna  
 16 go to lunch until 1:15.  
 17 During this break, don't talk or  
 18 converse among yourselves or with anyone else on any  
 19 subject connected with this trial.  
 20 Don't read, watch or listen to any  
 21 report of or commentary on the trial or any person  
 22 connected with this trial by any medium of  
 23 information, including, without limitation,  
 24 newspapers, television, internet and radio.  
 25 Don't form or express any opinion on

1 any subject connected with the trial until the case  
 2 is finally submitted to you.  
 3 See you at 1:15.  
 4 (Whereupon, the jury exited the  
 5 courtroom.)  
 6 THE COURT: Okay. You just want to come  
 7 back at 12:50 and do everything or what's your  
 8 pleasure?  
 9 MR. PIKE: That'd be fine.  
 10 THE COURT: Okay. We'll resume without  
 11 the jury at 12:50 to settle instructions and to make  
 12 any objections you have as to witnesses for the  
 13 defense.  
 14 Now, how long do you think your DNA  
 15 guy is gonna take? That's your last witness, right?  
 16 MS. WECKERLY: Well, with cross I think  
 17 she'll take an hour probably.  
 18 MR. PIKE: I'm not gonna spend that -- I  
 19 did a lot more cross-examination on the hearing that  
 20 we had than what I was gonna do in reference to  
 21 this.  
 22 MS. WECKERLY: So probably less than an  
 23 hour. Probably like 45 minutes.  
 24 THE COURT: Okay. So you think by 2  
 25 o'clock we'll get to Randy's case. Okay. So at

1 12:50 we'll settle any objections that you have, the  
 2 defense has and we'll settle the instructions and  
 3 we're still gonna get through the instructions today  
 4 and we'll argue the case starting at 9:30 tomorrow.  
 5 MR. PIKE: Okay.  
 6 THE COURT: Okay. See you then. Good  
 7 luck.  
 8  
 9 ATTEST: FULL, TRUE AND ACCURATE TRANSCRIPT OF THE  
 PROCEEDINGS.

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*JoAnn Orduna*

JO ANN ORDUNA

CCR NO. 370

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

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**No. 68140**

Electronically Filed  
Oct 05 2015 01:11 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

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**NORMAN KEITH FLOWERS**

Appellant,

vs.

**THE STATE OF NEVADA**

Respondent.

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Appeal from a Denial of Petition for Writ of Habeas Corpus (Post-Conviction)  
Eighth Judicial District Court, Clark County  
The Honorable Elizabeth Gonzalez, District Court Judge  
District Court Case No. C228755

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**APPENDIX TO APPELLANT'S OPENING BRIEF**

**VOLUME III**

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## **CERTIFICATE OF SERVICE**

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on October 5, 2015. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

ADAM PAUL LAXALT  
Nevada Attorney General

STEVEN S. OWENS  
Chief Deputy District Attorney

BY       /s/ Rachael Stewart        
An Employee of Oronoz & Ericsson LLC

FILED

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ORIGINAL

CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

NORMAN KEITH FLOWERS, aka NORMAN  
HAROLD FLOWERS, III, #1179383,  
Defendant.

Case No. C228755

Dept. No. VII

Volume 2-B

Before the Honorable Stewart L. Bell  
Thursday, October 16, 2008, 1:00 p.m.Reporter's Transcript of  
JURY TRIAL

## APPEARANCES:

For the State:

PAMELA WECKERLY, ESQ.  
LISA LUZAICH, ESQ.  
Deputies District Attorney

For the Defendant:

RANDALL PIKE, ESQ.  
CLARK PATRICK, ESQ.  
Deputies Special Public Defender

REPORTED BY: RENEE SILVAGGIO, C.C.R. No. 122

ACCUSCRIPTS (702) 391-0379

VOL III

AA0411

RECEIVED  
OCT 17 2008  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, )  
 )  
 Plaintiff, )  
 vs. ) Case No. C228755  
 ) Dept. No. VII  
 NORMAN KEITH FLOWERS, aka NORMAN )  
 HAROLD FLOWERS, III, #1179383, ) Volume 2-B  
 Defendant. )

Before the Honorable Stewart L. Bell  
Thursday, October 16, 2008, 1:00 p.m.

Reporter's Transcript of  
JURY TRIAL

APPEARANCES:

For the State: PAMELA WECKERLY, ESQ.  
LISA LUZAICH, ESQ.  
Deputies District Attorney

For the Defendant: RANDALL PIKE, ESQ.  
CLARK PATRICK, ESQ.  
Deputies Special Public Defender

REPORTED BY: RENEE SILVA GGIO, C.C.R. No. 122

ACCUSCRIPTS (702) 391-0379

Las Vegas, Clark County, Nevada

Thursday, October 16, 2008, 1:00 p.m.

PROCEEDINGS

\*\*\*\*\*

(The following proceedings were had in open  
court in the presence of the jury panel:)

THE COURT: Back on the record in Case Number C228755,  
State of Nevada versus Norman Flowers.

Let the record reflect the presence of the defendant, his  
counsel, counsel for the State. The ladies and gentlemen of the  
jury are back in the box.

Miss Weckerly, are you ready to proceed?

MS. WECKERLY: Yes, Your Honor.

THE COURT: Call your next witness.

MS. WECKERLY: Deborah Quarles.

(Witness sworn.)

THE CLERK: Thank you. Please be seated.

MR. PIKE: Your Honor, at this time, the defense would  
move to invoke the exclusionary rule.

THE COURT: That's granted.

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Do we have any witnesses here?

MR. PIKE: I don't know. I don't think so.

THE COURT: Well, I always use that rule. That is, that  
any witness who is going to testify, who has not testified, can't  
sit and listen to anybody else's testimony because it would color  
their evidence, if they testified. If they're not coming back,  
they're certainly free to be in the courtroom because it's a  
public courtroom.

But I will leave it to you, counsel, because you know the  
witnesses, to enforce the rule.

MS. WECKERLY: That wouldn't apply to penalty witnesses,  
would it?

THE COURT: No.

MS. WECKERLY: Thank you.

THE CLERK: Ma'am, could you please state your full name,  
spelling your first and last name for the record.

THE WITNESS: Debra Sue Quarles; D-e-b-r-a,  
Q-u-a-r-l-e-s.

THE COURT: Miss Quarles, you have a soft voice, so speak  
up.

DEBRA QUARLES

called as a witness on behalf of the State,  
having been first duly sworn,  
was examined and testified as follows:

ACCUSCRIPTS (702) 391-0379

DIRECT EXAMINATION

- 1  
2 BY MS. WECKERLY:  
3 Q Is it okay if I call you Deborah?  
4 A Yes.  
5 Q Ma'am, you are the mother of Sheila Quarles?  
6 A Yes.  
7 Q When was she born?  
8 A June 23rd, 1986.  
9 Q 1986?  
10 A Yes.  
11 Q Did she have a nickname?  
12 A Pooka.  
13 Q Like P-o-o-k-a?  
14 A Yes.  
15 Q I'd like to talk to you about March of 2005.  
16 During that time, where were you living?  
17 A 1001 North Pecos, Apartment 63.  
18 Q Okay. Did you live by yourself or did you live with  
19 other people?  
20 A My children.  
21 Q Who lived there with you?  
22 THE COURT: Would you like some water?  
23 THE WITNESS: Thank you, sir.  
24 Pooka, Debrick, Miracle and Xavier.  
25

ACCUSCRIPTS (702) 391-0379

- 1 BY MS. WECKERLY:  
2 Q Pooka, Debrick, Miracle and Xavier, those are your  
3 children?  
4 A Yes.  
5 Q How old were they at that time, a couple years ago?  
6 A Eight, nine and 12.  
7 Q Okay. So they're younger than Sheila?  
8 A Yes.  
9 Q Okay. Were you working at that time?  
10 A Yes.  
11 Q Where did you work then?  
12 A At Family Food Market II.  
13 Q What did you do there?  
14 A Cashier.  
15 Q Was Sheila working?  
16 A Yes.  
17 Q What did she do?  
18 A She worked at Starbucks. She had just became supervisor  
19 there.  
20 Q And do you know which Starbucks it was?  
21 A At the Convention Center.  
22 Q Did you ever drive her to or from work?  
23 A She rode the bus.  
24 Q She rode the bus to work?  
25 A Sometime I would come and pick her up.

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- 1 Q Okay. Generally, she rode the bus. Is that yes?  
2 A Yes.  
3 Q Sorry. She didn't have a car?  
4 A No.  
5 Q During this time period, did you know of a person named  
6 Qunise Toney?  
7 A Yes, I knew Qunise.  
8 Q What was your understanding of her relationship to your  
9 daughter Pooka at that time?  
10 A They were in a relationship.  
11 Q Okay. They were friends?  
12 A Yeah.  
13 Q Okay. This is sort of a hard question, but was that a  
14 relationship that you approved of?  
15 A No.  
16 Q Okay. Did Qunise live at the same apartment complex or  
17 did she live somewhere else?  
18 A Somewhere else.  
19 Q And to your knowledge, did your daughter Pooka keep  
20 clothes and other things at Qunise's?  
21 A Sometimes, yes.  
22 Q During this time period, did you know an individual whose  
23 nickname was Chicken?  
24 A Yes.  
25 Q Do you know what his real name is?

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- 1 A George.  
2 Q George. Do you know his last name?  
3 A Bass.  
4 Q And do you know any other of his family members?  
5 A Yes, his mother. I know his little sister, his dad and  
6 his uncle. Yeah, I know quite a few of them.  
7 Q You know all of them?  
8 A His bigger sister.  
9 Q His mom, do you know where she lived in March of 2005?  
10 A Right across from me, right across the hallway. Like if  
11 I open my door, I can look into her door.  
12 Q Is her name Janie?  
13 A Yes.  
14 Q Okay. And do you know his dad as well?  
15 A Yes.  
16 Q Did he live in the Pecos complex then?  
17 A Yes.  
18 Q Did he live with the mom?  
19 A Yes; yes.  
20 Q Okay. And I think you said you know George's sisters  
21 too?  
22 A Not George's sister; Miss Janie's sister.  
23 Q Okay. Who is that?  
24 A I don't know their names, but I think they're twins.  
25 Q Did she live in the complex as well?

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1 A Her mother did.  
 2 Q Okay. Now, Chicken, George -- his name is George, right?  
 3 A Yes.  
 4 Q Okay. Was he friends with any of your children?  
 5 A Yes, with all my kids, but Pooka and Ralph, my oldest  
 6 son.  
 7 Q Okay. So George was friends with Ralph, your older son?  
 8 A Uh-huh.  
 9 Q Is that yes?  
 10 A Yes.  
 11 Q And is Ralph older than Pooka?  
 12 A He's my oldest, yes.  
 13 Q Okay. And Chicken or George was also friends with Pooka?  
 14 A Yes.  
 15 Q During this time period, would you see Chicken hanging  
 16 around the complex socializing with either your son or your  
 17 daughter or his family?  
 18 A Yes.  
 19 Q Pretty common to see him there?  
 20 A Yeah. They live right across the hallway.  
 21 Q Okay. During this time period, did you know whether or  
 22 not Pooka had a sexual relationship at all with George?  
 23 A No. I know they were close, but, no.  
 24 Q You didn't know if they did or not?  
 25 A Not sex.

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1 Q Okay. But it was your understanding they were close?  
 2 A Yes.  
 3 Q Did you see them spend a lot of time together?  
 4 A No, not really.  
 5 Q Okay. Did you ever see them talking?  
 6 A Yeah, all the time.  
 7 Q All the time.  
 8 In March of 2005, did you make a purchase of a stereo for  
 9 your house, for your family?  
 10 A Yes.  
 11 Q When was it that you bought the stereo?  
 12 A Like maybe four days before my daughter was murdered.  
 13 Q Okay. So she was murdered on the 24th?  
 14 A Yes.  
 15 Q Maybe on the 20th?  
 16 A Yes.  
 17 Q Did you buy it yourself?  
 18 A Yes.  
 19 Q Do you remember approximately how much you paid for it?  
 20 A No.  
 21 Q No? Okay.  
 22 Where did you put the stereo once you bought it?  
 23 A When you would come in my house, the living room was  
 24 right here and I had like a china cabinet; and it was a big  
 25 speaker and it sat right there facing the door.

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1 Q Okay. Was it a pretty big stereo?  
 2 A It was about -- the face of it looked like a flat screen  
 3 TV. The face of it was flat and it had two tall speakers with  
 4 legs on it.  
 5 Q Okay. You kind of gestured, but for the record, was that  
 6 like maybe two and a half feet by maybe the same measurement?  
 7 A Yeah.  
 8 Q Okay. In the days before your daughter was murdered --  
 9 A Yes.  
 10 Q -- did she have a health problem that you were aware of?  
 11 A Yes.  
 12 Q What was that?  
 13 A She had a kidney stone.  
 14 Q Okay. Did you take her to the doctor for that?  
 15 A Yes.  
 16 Q Do you remember how many days before she died that you  
 17 took her to the doctor?  
 18 A Maybe like three.  
 19 Q Three.  
 20 And was her doctor's appointment in the day time or in  
 21 the evening?  
 22 A One was in the evening and then one was the next morning.  
 23 Q Okay. Let me ask you a couple questions about that.  
 24 The one that was in the evening, was it an appointment  
 25 where you took her in to see a doctor?

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1 A Her side was hurting really bad. I went to UMC Quick  
 2 Care on Nellis and they wanted to take blood, but the people that  
 3 take blood had went home for the day. She told me to bring her  
 4 out early in the morning to UMC on Boulder Highway.  
 5 Q Okay. So did you take her to get the blood work the next  
 6 day?  
 7 A Yes.  
 8 Q Okay. Was there a point in time when she got a  
 9 prescription for the kidney problem?  
 10 A Yes.  
 11 Q Was that the same day as the blood work or the next day?  
 12 A Same day.  
 13 Q Same day.  
 14 So there was a point in time when she was taking a  
 15 prescription that --  
 16 A Antibiotics.  
 17 Q Antibiotics. Okay.  
 18 And you took her to all those appointments?  
 19 A Yes.  
 20 Q Now, I'd like to talk to you about the night before that  
 21 Sheila was murdered. Okay?  
 22 A Yeah.  
 23 Q Okay. Were you at home that night?  
 24 A Yes.  
 25 Q And was Sheila home?

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1 A No.  
 2 Q Where had she gone?  
 3 A She was at Qunise's.  
 4 Q Okay. When you were at home, were you home alone or were  
 5 other people with you?  
 6 A I was at my house.  
 7 Q And who is Robert?  
 8 A A guy that stayed across. It's Chicken's uncle.  
 9 Q Is his name Robert Lewis?  
 10 A Yes.  
 11 Q But he lives in the complex as well?  
 12 A Yeah.  
 13 Q Is that yes?  
 14 A Yes.  
 15 Q Okay. And you were sort of friendly with him?  
 16 A Yes.  
 17 Q Did he stay overnight at your apartment?  
 18 A Yes.  
 19 Q Did you socialize with any of your other neighbors that  
 20 night?  
 21 A No.  
 22 Q The next morning, do you remember if you saw Pooka?  
 23 A I did.  
 24 Q Okay.  
 25 A Yes.

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1 Q What time was it that you think you saw her?  
 2 A Maybe like 6:30.  
 3 Q In the morning?  
 4 A Yes.  
 5 Q What were you doing at that time?  
 6 A She was coming in. I was going out.  
 7 Q Do you remember at all what she was wearing?  
 8 A Yes.  
 9 Q What did she have on?  
 10 A She had on a white sleeveless shirt with little ruffles  
 11 around it, with light pink sleeper pants with little shirts on  
 12 it.  
 13 Q Little what?  
 14 A Little shirts, like pajama shirts.  
 15 Q So she was wearing her pajamas?  
 16 A And she had a pink backpack.  
 17 Q So when she came home at about 6:30 in the morning, you  
 18 see her and she's in her pajamas?  
 19 A Yes.  
 20 Q Was that yes?  
 21 A Yes.  
 22 Q Was Robert Lewis still there?  
 23 A No.  
 24 Q He had left at that point?  
 25 A Yes.

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1 Q Do you remember if you turned on your stereo at all when  
 2 you were getting ready for work that morning?  
 3 A No.  
 4 Q You don't remember?  
 5 A I didn't turn it on.  
 6 Q Okay. Do you know if your stereo was in your apartment  
 7 that morning?  
 8 A Yes.  
 9 Q So you saw it?  
 10 A Yes.  
 11 Q What time did you leave the apartment?  
 12 A 6:30, because I had to be at work at seven.  
 13 Q Okay. And when you left the apartment, who was in it?  
 14 A Pooka, alone.  
 15 Q Where were your smaller children?  
 16 A Over at a good friend of mine's house, Yvette Tippet.  
 17 It was track break.  
 18 Q So your smaller children were staying with a friend?  
 19 A Yes, because it was track break.  
 20 Q Okay. From school?  
 21 A Yes.  
 22 Q And that left Sheila alone?  
 23 A Yes.  
 24 Q Once you were at work -- I assume you went to the food  
 25 store where you worked?

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1 A Yes.  
 2 Q Did you ever speak to your daughter during the morning  
 3 hours?  
 4 A Yes. I talked to her maybe like five times the whole  
 5 day.  
 6 Q Okay. During the times that you were talking to her,  
 7 without saying what she said, did she sound at all distressed or  
 8 did she sound normal?  
 9 A Normal.  
 10 Q Do you remember the last time that you actually had a  
 11 conversation with her?  
 12 A Yes.  
 13 Q What time was that?  
 14 A Maybe one o'clock.  
 15 Q In that conversation, without telling me what your  
 16 daughter said, she sounded normal?  
 17 A Yeah, but the phone went dead.  
 18 Q Okay. Explain what happened with that.  
 19 A When I was talking to her, our conversation was cut  
 20 short, but I thought it was cut short because she was on the  
 21 cordless phone, so I called her back on my cell phone. Nobody  
 22 answered.  
 23 Q And when she was initially -- when she was first talking  
 24 to you, the phone went dead during the conversation?  
 25 A Yes.

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1 Q And were you thinking that maybe the phone ran out of  
2 batteries?  
3 A Yes.  
4 Q And that's when you tried to call her cell phone?  
5 A Yes.  
6 Q And you don't get an answer?  
7 A No.  
8 Q Did anyone pick up or was it the phone just rang, the  
9 cell phone?  
10 A Just rang, went to voice mail.  
11 Q What time did you leave work that day; what time did you  
12 get off?  
13 A About three o'clock.  
14 Q Okay. Do you remember giving a statement to the police  
15 about two, two and a half years ago when this happened?  
16 A Yes.  
17 Q Do you remember what time you told them that you left  
18 work that day?  
19 I know it's been a little while.  
20 A Maybe like sometime at three.  
21 Q Do you remember telling them you left work at two that  
22 day?  
23 A I could have, yes.  
24 Q Would that be your shift that day, seven to two?  
25 A Because I was sick, that's why I was leaving early.

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1 Q Okay. So if you left work at two, did you go straight  
2 home?  
3 A No.  
4 Q What happened?  
5 A On my way out -- I was driving my dad's car and a friend  
6 of mine came up and asked me if I could give her a ride to her  
7 house and I said yes.  
8 Q Okay.  
9 A I dropped her off at home and I seen another lady. She  
10 was having car problems. Her name was -- I think her name was  
11 Cassie, Cassandra. She told me she was having car problems, but  
12 she was trying to drive her car all the way home, if I could take  
13 Owens all the way down. Normally, I take Washington all the way  
14 down. I told her yes. That's what made the time like I didn't  
15 get straight home.  
16 Q Okay. Did you stop anywhere to buy food or groceries?  
17 A Yeah, right there where I worked at. I got that before I  
18 left.  
19 Q Okay. So you have your groceries with you and then you  
20 help these two ladies with their car problems; one needs a ride  
21 and one you are sort of following?  
22 A Uh-huh.  
23 Q Is that yes?  
24 A Yes.  
25 Q So it takes you, I would think, a little longer than

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1 normal to get home?  
2 A Yes.  
3 Q And if you left work at two, what time was it, do you  
4 think, that you actually got to your house?  
5 A Three something.  
6 Q Okay. When you get there, what do you do?  
7 A I pull up. I blow my horn and I yell out: Pooka, Pooka,  
8 Pooka. She didn't answer me. And Robert, which is my neighbor,  
9 he was looking out his window. I said: Could you come help me  
10 with my bags? And he said yes.  
11 Q So when you first got there, you are hoping for your  
12 daughter to help you carry stuff?  
13 A Yes.  
14 Q She doesn't come out?  
15 A Yes.  
16 Q Your neighbor, the man that you are sort of friendly  
17 with, he came down?  
18 A Yes. He came to help me with the bags.  
19 Q I want to talk about when you get actually to your  
20 apartment door. Okay?  
21 When you get up to the door, are you in front or is  
22 Robert in front?  
23 A I am.  
24 Q Okay. And what happens as you go into the door?  
25 A I put my key in there to turn it to go in.

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1 Q Was the door locked?  
2 A No.  
3 Q Okay. Was it shut?  
4 A Yes.  
5 Q It was shut, but not locked?  
6 A Yes.  
7 Q Okay. In the past, have you left your oldest daughter  
8 Pooka at home and returned home other times, before this day?  
9 A Yes.  
10 Q And was it her habit to have the door locked while she  
11 was inside?  
12 A Yes.  
13 Q But on this day, the door is open?  
14 A Yes.  
15 Q What happens as you go inside your house?  
16 A When I go in, I called her name again. I set the bags  
17 down. It's in the bar there I sat the bags down. And I looked  
18 over to where the stereo was sitting and it was empty. I'm like  
19 something is missing and I saw my stereo is gone.  
20 Q Did that seem weird?  
21 A Right.  
22 And I went into my room and my bed was messed up. I  
23 could hear drip, drip, water. The bathroom door was pulled to,  
24 but it wasn't closed. So I went in there to turn the water off.  
25 Q Where is Robert as you are kind of moving through your

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1 house?

2 A In the living room.

3 Q So he's just waiting in there?

4 A Uh-huh.

5 Q That yes?

6 A Yes.

7 Q Okay. So you go into the bedroom and it looks a little

8 different and the bathroom door is kind of shut, but there is a

9 little space?

10 A Just pulled to, but not closed.

11 Q What happened when you go in the bathroom?

12 A I could feel the steam. It was hot in there. And I

13 thought maybe she took a shower or whatever and left.

14 And when I pulled the shower curtain back, she was in the

15 tub.

16 THE COURT: Do you need a break or are you okay?

17 THE WITNESS: I'm okay.

18 BY MS. WECKERLY:

19 Q Debra, when you see her in the tub, how was she

20 positioned? Was she face up or --

21 A Face up.

22 Q Was any of her face outside of the water?

23 A She was like this. (Indicating)

24 Q Okay. Sort of laying back with her face up.

25 Was there water up on her face or not at all, do you

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1 remember?

2 A No.

3 Q Okay. That's all right.

4 Did you feel the water at all?

5 A Yeah. I pulled her out of it.

6 Q How did the water feel --

7 A Hot.

8 Q Really hot or kind of hot?

9 A It was too hot.

10 Q Really, really hot.

11 Was the actual faucet still on?

12 A Almost all the way off.

13 Q The bath water was still running?

14 A No. It was dripping.

15 Q Oh, it was dripping?

16 A But the way it is, you set it to the temperature, then

17 you pull it on. But it was set all the way to hot, as hot as it

18 could get.

19 Q So there is a knob just for temperature?

20 A Yes.

21 Q And that was on as hot as it could be?

22 A Yes.

23 Q But the actual water itself was off?

24 A It was just dripping.

25 Q Okay. And when you see your daughter, you actually feel

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1 the water?

2 A I push her -- because I thought maybe she was asleep --

3 and I said Pooka. She went way off to the side. (Indicating)

4 And then when I went to grab her, my hand went in the

5 water and I was trying to pull her out. I asked Robert: Would

6 you please come help me get her. He came and helped me.

7 Q So Robert runs in?

8 A He was right there.

9 Q Okay. When he comes in, does he help you get her out?

10 A Yeah, he pulled her out.

11 Q When you guys pulled her out of the tub, how did you lay

12 her in the bathroom?

13 A Like this is the tub and here's the toilet. There is a

14 little table. She was lying right in between with her head to the

15 door.

16 Q Head to the door.

17 And were her legs still over the tub?

18 A One of them, I believe.

19 Q Okay. After you and Robert pulled her out, what did you

20 do?

21 A I ran and got my son.

22 Q Okay. Do you remember if you went to a neighbor's house

23 at all first?

24 A I went to the car and got my son.

25 Q Well, which son were you going to get?

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1 A Ralph, my oldest kid.

2 Q And where does he live?

3 A He was living up the street from me on Bruce.

4 Q Is that far away from the apartment?

5 A No, maybe like five minutes.

6 Q Okay. So was he home?

7 A No. He was at the store, at the 7-Eleven, right up the

8 street from his house. That was like three minutes from his

9 house.

10 Q Did you find him there?

11 A Yes.

12 Q And what did you do once you saw him?

13 A I told him what happened and we got in the car and we

14 went back.

15 Q Okay. When you get back, were there other people at your

16 apartment?

17 A Yeah. There was -- the police were there, paramedics.

18 Q Okay. Any of your neighbors?

19 A A little girl that used to do her hair was there. She

20 tried to give her CPR.

21 Q Okay. Anybody that you saw go into the bathroom while

22 the paramedics were there?

23 And, at some point, you speak to detectives about this

24 case?

25 A Uh-huh.

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1 Q Right?

2 A Uh-huh.

3 Q Is that yes?

4 A Yes.

5 Q Okay. Was it that night?

6 A Yes.

7 Q And in your conversations with the detectives, do they

8 ask you questions about if Sheila had any enemies or any problems

9 with anyone?

10 A Yes.

11 Q And at that time, were you able to give them ideas about

12 who might have hurt your daughter?

13 A At first, I had told them that it could have been the

14 girl Qunise; not that they had got into it or anything, I just --

15 I didn't know if she had any enemies.

16 Q You are just looking for anybody that might help?

17 A Right.

18 Q Okay. Did you, at that time, know anyone that she was

19 having trouble with?

20 A No.

21 Q After you spoke to the police, were you ever able to go

22 back inside your apartment and tell them whether or not there was

23 certain things missing?

24 A I believe his name was Detective Norwood. Me and him

25 went back in there. And when we went back in there, we saw a

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1 whole bunch of keys. I told him about my stereo.

2 Q Okay.

3 A Pillow cases was missing off the pillows.

4 Q How about Sheila's cell phone?

5 A The cell phone was gone; her bank card was gone.

6 Q Okay.

7 A Jewelry.

8 Q So there was some jewelry gone?

9 A Cell phone.

10 Q The cell phone, hers.

11 You said pillow cases. Where were those gone from?

12 A Off my pillows.

13 Q Off your bed?

14 A Yes.

15 Q Okay. And, obviously, your stereo was gone?

16 A Yes.

17 Q And you told that to the detectives?

18 A All the CDs was gone with it.

19 Q When you were speaking to your daughter Sheila that

20 morning, before you went home, you know, before you go home with

21 your groceries --

22 A Uh-huh; yes.

23 Q -- did you ever tell her that you were going to be

24 shopping or anything else that day?

25 A No.

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1 Q You just sort of did that on your own?

2 A Yes, just to bring a few things home. It was the day I

3 do it, like juice, milk.

4 Q So you didn't communicate that to her at all?

5 A No.

6 Q The detectives speak with you the night -- or sort of the

7 afternoon and into the evening of your daughter's murder?

8 A Yes.

9 Q Okay. And did they speak with you sometime after that?

10 A Yeah, a lot of times.

11 Q A lot of times.

12 Sort of doing a follow-up investigation?

13 A Yes.

14 Q Okay. Did they ever come to you, you know, sometime

15 after her murder and ask you whether or not you knew someone by

16 the name of Norman or Keith Flowers?

17 A Yes.

18 Q And what was your knowledge of him?

19 A He was my boyfriend.

20 Q When were you two dating or when was he your boyfriend?

21 A For like three to four months.

22 Q And would that have been at the time of Sheila's death?

23 A No, no.

24 Q How much before?

25 A I hadn't seen him like maybe six to eight months or more.

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1 Q Okay.

2 A Prior to my baby.

3 Q Okay. So if she was murdered in March of '05, you are

4 saying that the last time you saw him was six months before that?

5 A The last time I saw him or the last time I was in a

6 relationship with him?

7 Q That's a good distinction.

8 When was the last time you were in a relationship with

9 him?

10 A It was in '04.

11 Q All right. So way before?

12 A Right.

13 Q So when you guys were in a dating relationship, how long

14 did the relationship last?

15 A Maybe like four months.

16 Q And was it a sexual relationship?

17 A Yes.

18 Q And during that four month period when you were going out

19 with him, do you remember if he ever met your daughter Sheila?

20 A Yes. He met all my kids.

21 Q Okay. So they knew who each other was?

22 A Yes.

23 Q Now, let me ask you a second question about that.

24 At some point, you and he, I assume, break up or the

25 relationship ends for whatever reason?

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1 A Yes.

2 Q When was the next time you saw him?

3 A Me and Pooka was sitting out on the power box, which is

4 like one door from my apartment. (Indicating)

5 Q And when you see him, on the power box, how much before

6 is that of her death? How far before?

7 A Two weeks before.

8 Q So two weeks before her murder, you and your daughter are

9 out on the power box?

10 A Yes.

11 Q And you see Norman or Keith Flowers?

12 A Yes. That's because he was like, hey, hey and we turned

13 and looked. And he said: You all live back here now?

14 When I was in a relationship with him, we lived in the

15 front, but we were transferred to the back.

16 Q Okay. So that six or eight months earlier when you guys

17 were going out, you still lived at that apartment complex?

18 A Yes. I still lived in the same complex, but in the back.

19 Q In a different unit?

20 A Right.

21 Q Okay.

22 A Yes.

23 Q And so when he says that, your understanding is he's

24 referring to you switching apartments essentially?

25 A Right.

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1 Q And what did you tell him when he said --

2 A And I said: What are you doing over here? He said: I

3 work here now.

4 And I say: You work here? And he said: Yeah.

5 I forgot our landlord's name, the manager's name. He

6 said: I work at a couple of their complexes.

7 I said: Really?

8 He said: Yeah, I'm a maintenance man.

9 He had paint on his clothes and pants.

10 Q Okay. How long does that conversation between you and

11 Mr. Flowers last?

12 A Maybe like 20 minutes.

13 Q Okay. Just kind of regular?

14 A Yeah.

15 Q Was your daughter talking to him as well or was it just

16 you?

17 A No, just me.

18 Q Okay. Now, I want to move to after the time period after

19 your -- after your daughter was killed.

20 Obviously, that was extremely upsetting to you.

21 A Yes.

22 Q Did you have any conversations with Norman or Keith

23 Flowers after Shella had been killed?

24 A Yes.

25 Q Where were you when you had that first conversation?

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1 A In my job, where I used to work. I was up there and he

2 came up to me and he hugged me and he said: I heard what happened

3 to your baby. That's really --

4 Q You can say the word.

5 A -- fucked up. She was a nice girl. She didn't deserve

6 that.

7 He said: You look so down and out. He said: You need

8 to go see a psychiatrist.

9 Q For depression?

10 A Yes.

11 Q And did you --

12 A I said okay.

13 Q And how did that work out then?

14 A He took me to meetings.

15 Q He took you to see the psychiatrist?

16 A Yes.

17 Q Did you pick out the psychiatrist?

18 A No. He recommended him.

19 Q He recommended one to you?

20 A Yes.

21 Q And he actually drove you?

22 A Yes.

23 Q How many times do you think you saw the psychiatrist?

24 A Maybe twice.

25 Q And would he have driven you to the appointments both

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1 times?

2 A Yes, he did.

3 Q Aside from the conversation that you had at your work,

4 where he suggested to you that you need to see a psychiatrist, did

5 you ever have any other conversations with him about the death of

6 your daughter?

7 A Yes. He came and spent the night at my son's house. And

8 he just wanted to be there to support us, because he know what we

9 was going through; and did they find out anything what happened to

10 her and who did it? Different things like that.

11 Q During this time period, did he did he ever tell you I've

12 had a sexual relationship with your daughter; your daughter and I

13 went out a few times, anything like that?

14 A No. And my daughter didn't like older men, no.

15 Q So he never indicated to you that they maybe had some

16 romantic relationship?

17 A No. Me and my daughter was close. We talked about

18 everything.

19 Q Okay. I assume then, in the time before she had died,

20 you never saw him talking to her, having contact with her or

21 anything like that?

22 A No, no.

23 Q Ma'am, I'm showing you what's been marked as State's

24 Proposed Exhibit 39.

25 Do you recognize what room of your apartment this

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1 photograph is taken in?

2 A Bathroom.

3 Q The bathroom.

4 And it looks like in Exhibit 39 that there is a purse --

5 A That's my purse.

6 Q That's your purse?

7 A Yes.

8 Q And do you think you dropped that when you saw your

9 daughter?

10 A Yes, because I had it on my arm.

11 MS. WECKERLY: The State moves to admit 39, Your Honor.

12 THE COURT: Any objection?

13 MR. PIKE: No objection.

14 THE COURT: Admitted.

15

16 (State's Exhibit 38 admitted into evidence.)

17

18 BY MS. WECKERLY:

19 Q Ma'am, I'm showing you what's been marked as State's 1.

20 A Yes.

21 Q Is that your daughter?

22 A Yes.

23 MS. WECKERLY: The State moves to admit State's 1.

24 MR. PIKE: No objection.

25 THE COURT: Admitted.

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1

2 (State's Exhibit 1 admitted into evidence.)

3

4 MS. WECKERLY: Your Honor, I'll pass the witness.

5 THE COURT: Any questions?

6 MR. PATRICK: Yes.

7

8 CROSS-EXAMINATION

9 BY MR. PATRICK:

10 Q Good afternoon, Miss Quarles.

11 A Hi.

12 Q Do you need a minute before we start, ma'am? Are you

13 okay?

14 You said that Sheila never told you about the

15 relationship she was having with Miss Toney.

16 A With who?

17 Q With Qunise Toney.

18 A No. I didn't say she never told me about that.

19 Q Okay. Did Sheila tell you that her and Qunise Toney had

20 a sexual relationship?

21 A No. She said they never had sex.

22 Q Okay. Did she tell you that she was having a sexual

23 relationship with George Brass?

24 A No, but I knew they were close.

25 Q Okay. Now, you were talking about around that time

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1 Sheila had kidney stones.

2 A Yes.

3 Q Did she have any other medical problems?

4 A No.

5 Q She didn't have asthma?

6 A Yeah, like a slight asthma.

7 Q Okay.

8 A But nothing like she would get treated for.

9 Q Okay.

10 A Or that she took an inhaler for.

11 Q She didn't take an inhaler?

12 A No.

13 Q She didn't take any medicine for it?

14 THE COURT: You have to speak up.

15 THE WITNESS: Oh, no.

16 THE COURT: Thank you.

17 BY MR. PATRICK:

18 Q Now, when you went into the bathroom and you found

19 Sheila, you said that your friend came in with you, Mr. Lewis?

20 A Yes.

21 Q Were you both in the bathroom at the same time trying to

22 get Sheila out of the tub?

23 A No.

24 Q No?

25 A I pulled her first and asked him would he come and help

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1 me.

2 Q Your bathroom, was it fairly small?

3 A Yes.

4 Q If you put your arms out like this, could you touch both

5 walls? (Indicating)

6 A Yes.

7 Q And there was a tub and a toilet and a sink?

8 A Yes. And a small white table.

9 Q And a little table.

10 Now, you talked to the police several times about this

11 when they were doing their investigation?

12 A Yes.

13 Q Okay. And one time, you told them about a man that just

14 moved into the apartment that had just gotten out of prison?

15 A Yes.

16 Q And he was an older man?

17 A Yes.

18 Q Okay. Do you know what he was in prison for?

19 A No.

20 Q Okay. But at some point, that man sent Miracle in to get

21 Sheila for him?

22 A He knocked on my door once, yes.

23 Q But he was looking for Sheila?

24 A He was asking could he talk to her. I told him how old

25 she was and to stay away from my house.

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1 Q Okay. So it was your impression that he didn't want to  
2 just talk to her, that he wanted to date her maybe?  
3 A No.  
4 MS. WECKERLY: Objection; calls for speculation.  
5 THE COURT: No, she said it wasn't her impression.  
6 BY MR. PATRICK:  
7 Q Do you remember what his name was?  
8 A No.  
9 Q Do you remember giving the police a name?  
10 A No.  
11 Q No?  
12 If I was to show you your statement that you made to the  
13 police, would that refresh your memory?  
14 A Maybe.  
15 MR. PATRICK: May I approach?  
16 THE COURT: Sure.  
17 BY MR. PATRICK:  
18 Q Page 20 of your second statement.  
19 Okay. Ma'am, if you could just, to yourself -- this is  
20 where you are talking to him -- if you could just kind of read  
21 that one down at the bottom.  
22 A No.  
23 Q Okay. Does that help refresh your memory?  
24 A I still don't remember that.  
25 Q You --

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1 A I don't remember his name or nothing. He had just moved  
2 there.  
3 Q But you gave the police a name?  
4 A I had to.  
5 Q Okay. But you don't remember now what that name was?  
6 A Right.  
7 Q Reading your statement, do you remember that --  
8 A I didn't read it. I only got to see what I had  
9 highlighted.  
10 Q Okay. Take your time.  
11 A Okay. I remember that, but I don't remember his name.  
12 Q You remember telling the police that?  
13 A Yes.  
14 Q What name was it that you told the police that it was?  
15 A I can't remember the name, but I see the name on there,  
16 Darnell.  
17 Q Darnell. Okay.  
18 Now, when Miss Weckerly first asked you what time you got  
19 off of work that day, you told her three o'clock; and then you  
20 said you were sick, so you left an hour early?  
21 A I could have, yes, because I was sick.  
22 Q Okay.  
23 A I hadn't been to work in like two weeks to three weeks  
24 because I had hives real bad.  
25 Q Okay. So your normal shift would have been until three

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1 p.m.?  
2 A Yes.  
3 Q But because you were sick, you got to leave an hour  
4 early?  
5 A Yes.  
6 Q To your recollection?  
7 THE COURT: She said yes.  
8 MR. PATRICK: Okay.  
9 BY MR. PATRICK:  
10 Q During the course of the police investigation, did anyone  
11 else ever ask you how the investigation was going?  
12 A No.  
13 Q No?  
14 Nobody ever asked you if they found anybody or --  
15 A Maybe. I don't remember.  
16 Q Okay. All right.  
17 Did you ever have conversations with any of your friends  
18 and family about the case?  
19 A Yeah.  
20 Q And they never asked you if the police had found anybody?  
21 A They would be there with me when I would go and talk to  
22 the police or when the police would come to my house, they would  
23 be there.  
24 Q Okay. So they knew how the case was going?  
25 A Yes.

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1 Q So they would have no reason to ask you if the police had  
2 any leads?  
3 A Right.  
4 Q Did you ever talk to Chicken about the case after the  
5 incident?  
6 A Did I ever talk to him?  
7 Q Yeah. Did you ever talk to him about Sheila's death?  
8 A No.  
9 Q Was he around the apartments as much after Sheila's death  
10 as he was before --  
11 A We weren't there anymore.  
12 Q You weren't there anymore?  
13 A The same night it happened to my baby, I never came back  
14 except to get my stuff.  
15 Q Okay.  
16 A We moved.  
17 Q Okay.  
18 A And he did come to where we were.  
19 Q Okay.  
20 But not to talk about the case?  
21 A He came over there for support.  
22 Q You received a telephone call from Qunise Toney the day  
23 after Sheila was killed?  
24 A I talked to her the same day.  
25 Q Okay. But then you told the police that you received a

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1 call from her the day after?

2 A I could have.

3 Q Do you remember that? Do you remember telling the police

4 that she called about what the cause of death was?

5 MS. WECKERLY: Objection; hearsay.

6 THE COURT: Why is it hearsay what she said?

7 Sustained. Go ahead.

8 BY MR. PATRICK:

9 Q Do you remember having conversations with Miss Toney?

10 A Yes. I talked to her a couple times.

11 Q Okay. And from those conversations, did you discern what

12 might have been the cause of death for Sheila?

13 MS. WECKERLY: Objection; hearsay.

14 THE COURT: Sustained.

15 BY MR. PATRICK:

16 Q At any point there, after Sheila's death, did you ever

17 hear of somebody talking to a psychic about this?

18 MS. WECKERLY: Objection; hearsay and foundation.

19 THE COURT: What would be the relevance?

20 MR. PATRICK: I'll withdraw it.

21 THE COURT: Sustained.

22 MR. PATRICK: I'll withdraw it.

23 THE COURT: Okay.

24 This person that you described to the police that had

25 just moved in --

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1 THE WITNESS: Yes.

2 THE COURT: You used the name Darnell.

3 Do you have a physical description of him, height,

4 weight, age?

5 THE WITNESS: Yeah. He was about 44, light skinned,

6 short hair cut and maybe about five seven.

7 THE COURT: Okay.

8 BY MR. PATRICK:

9 Q When you got home that day, was George, Chicken, around?

10 A No.

11 Q Okay. At any time after Sheila's death, did George tell

12 you that they were having a sexual relationship?

13 MS. WECKERLY: Objection; hearsay.

14 THE COURT: I'm not sure that that's introduced for the

15 truth.

16 MR. PATRICK: It's not introduced for the truth of the

17 matter. It's just her knowledge.

18 THE COURT: Overruled. I'll let her -- he can ask

19 whether he said that.

20 MR. PATRICK: I'm sorry?

21 THE COURT: I said overruled. I'm going to let her

22 answer if he, in fact, said such a thing.

23 BY MR. PATRICK:

24 Q Okay.

25 A No.

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1 Q No, he never told you that?

2 A No.

3 MR. PATRICK: That's all I have, Judge.

4 THE COURT: Anything else, Miss Weckerly?

5 MS. WECKERLY: Yes.

6

7 REDIRECT EXAMINATION

8 BY MS. WECKERLY:

9 Q Ma'am, the incident that you described with this guy

10 Darnell --

11 A Yes.

12 Q -- where there is a conversation he had with Miracle

13 about Sheila or bringing Sheila out or something like that, that

14 incident --

15 A Yes.

16 Q -- how many days before her murder did that occur?

17 A Maybe a month.

18 Q Like a month before?

19 A Yes, because he had just moved there with a lady

20 upstairs.

21 Q Okay. It wasn't during the days where she was -- you

22 were taking her to the doctor and getting her prescription?

23 A No.

24 Q Okay. And you gave the police the first name of Darnell.

25 Did you have a last name to give them, if you recall?

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1 A No.

2 Q Mr. Patrick asked you about your understanding of the

3 nature of the relationship between Pooka and Qunise.

4 Without saying what she said, you had conversations with

5 your daughter about Qunise?

6 A Yes.

7 Q And you were certainly aware that they were at least

8 friends?

9 A Yes.

10 Q And you were aware, obviously, the night before, that she

11 was with Qunise?

12 A Yes.

13 Q Were you aware whether or not they talked on the phone

14 and spent time together?

15 A Yes, they did.

16 Q Your understanding is they're at least friends?

17 A Yes.

18 Q And I think you mentioned that on the day of Pooka's

19 murder, you actually see the young lady who had done her hair, who

20 does her hair?

21 A Yes.

22 Q So you knew who had done your daughter's hair or who had

23 helped her with her hair?

24 A Yes.

25 Q Chicken is actually friends with your son Ralph, you

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1 said?

2 A Yes.

3 Q Are they, to your knowledge, still friends?

4 A Yes.

5 Q They still communicate?

6 A Yes.

7 Q Do you still see or socialize, to some extent, with

8 some -- I know that Chicken is sort of your son's age, but other

9 members of his family?

10 A I haven't seen them, no. I stay far away now.

11 Q Since you moved?

12 A Yes.

13 Q Okay. Once you moved -- you left that night you said and

14 you just came back to get your stuff?

15 A Yes. I moved in with my son.

16 Q You moved in with your son.

17 When you were living with your son, would Chicken or

18 George come over?

19 A Yes.

20 Q Did you see them quite a bit?

21 A Yes.

22 Q And this is all following Sheila's murder?

23 A Yes.

24 Q Before Sheila was killed, was it your understanding that

25 she spent the night at Qunise's house, not just the night before,

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1 but she did ever do it prior to that?

2 A All the time.

3 Q She was spending a substantial amount of time with her?

4 A Yes.

5 Q And you were aware of that?

6 A Yes.

7 Q Did Sheila actually tell you where she was going?

8 A Yes. Sometimes, if I wasn't there, she would call me and

9 tell me where she was.

10 MS. WECKERLY: Thank you.

11 THE COURT: Anything else, Mr. Patrick?

12 MR. PATRICK: Yes.

13

14 RE-CROSS-EXAMINATION

15 BY MR. PATRICK:

16 Q You said that Darnell had moved into the apartment

17 upstairs?

18 A Yes.

19 Q Was that directly across or to the right?

20 A Directly upstairs.

21 Q But it would have been the other apartment building?

22 A No.

23 Q No? Same apartment building as you?

24 A This is my apartment. (Indicating) This is where

25 Chicken lives, George. They stay right upstairs over him, but to

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1 the right.

2 Q Okay. And did you see him hanging around with the people

3 that lived in the apartment originally?

4 There was other people living in that apartment?

5 A Which apartment?

6 Q The one that Darnell moved into.

7 A Yeah, a lady lived there.

8 Q A lady lived there?

9 A And a kid.

10 Q And a kid.

11 An Darnell would hang around with them?

12 A That was his family, I suppose.

13 Q Do you know the names of the people who lived in that

14 apartment?

15 A No.

16 Q Now, you were talking about Norman coming a few days

17 before when you were sitting on the power box?

18 A Yes.

19 Q And when you were dating Norman, you were living in a

20 different apartment?

21 A Yes.

22 Q And that would have been the apartment that he knew --

23 you brought him into that apartment before?

24 A Yes. He used to bring me home from work. That's how I

25 met him.

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1 Q Okay. Did you ever bring him to the apartment where

2 Sheila was killed?

3 A He knew where we lived after he seen us outside.

4 Q When you were out on the power box?

5 A Right in front of the apartment.

6 Q Right in front of the apartment building?

7 A Right in front of the apartment.

8 This is my apartment; this is the power box.

9 (Indicating) it's one door, then my door. We was right in front

10 of my building.

11 Q Do you know who Tasha is?

12 A Qunise's cousin?

13 Q Yes.

14 A Yeah.

15 Q Okay. Did Sheila ever talk to you about Tasha?

16 A Talk to me about Tasha? Like what do you mean?

17 Q If they had a relationship.

18 A Relationship how? Friendship?

19 Q Friendship, sexual, any way?

20 A No.

21 MR. PATRICK: That's all I have, Judge.

22 THE COURT: Okay. Thanks, Miss Quarles. I appreciate

23 your time.

24 THE WITNESS: Thank you.

25 THE COURT: You are excused.

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1 THE WITNESS: I could leave?  
 2 THE COURT: You can leave.  
 3 THE WITNESS: Okay.  
 4  
 5 (Witness excused.)  
 6  
 7 THE COURT: The State.  
 8 MS. WECKERLY: Robert Lewis, Your Honor.  
 9 THE COURT: Robert Lewis.  
 10  
 11 (Witness sworn.)  
 12  
 13 THE CLERK: Please be seated.  
 14 Would you please state your name, spelling your first and  
 15 last name for the record.  
 16 THE WITNESS: Robert Earl Lewis; R-o-b-e-r-t, E-a-r-l,  
 17 L-e-w-i-s.  
 18 THE COURT: Go ahead.  
 19 MS. WECKERLY: Thank you.  
 20

21 ROBERT LEWIS

22 called as a witness on behalf of the State,  
 23 having been first duly sworn,  
 24 was examined and testified as follows:  
 25

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1 Q A little relationship?  
 2 A Yes.  
 3 Q Sort of a romantic relationship?  
 4 A Yeah, you can say that.  
 5 Q Okay. Besides knowing Miss Quarles, did you know other  
 6 people that lived in the apartment complex?  
 7 A The only one I knew was her, her sister; that's about it;  
 8 other than the other people I just see around.  
 9 Q Okay. Some people you would maybe recognize by their  
 10 face?  
 11 A Right.  
 12 Q Your sister who lived there, what is her name?  
 13 A Janie.  
 14 Q Janie?  
 15 A Yes.  
 16 Q And is her last name Brass?  
 17 A Yes.  
 18 Q Does your sister have children?  
 19 A Yes, she do.  
 20 Q What are their names?  
 21 A Pookie, George and Pug.  
 22 Q Okay. Those sound like nicknames, some of those names.  
 23 A Well, George --  
 24 Q So that would be George Brass?  
 25 A Yes.

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1 DIRECT EXAMINATION

2 BY MS. WECKERLY:  
 3 Q Mr. Lewis, I'd like to talk to you about the time period  
 4 of March of 2005. Okay? Is that yes?  
 5 A Okay. Yes.  
 6 Q Okay. The lady in front of you is taking down what we  
 7 say, so you can't nod. You have to say yes or no out loud. Okay?  
 8 A Okay.  
 9 Q During that time period. Where were you living?  
 10 A 1001, Apartment 74.  
 11 Q Okay. And was that 1001 Pecos?  
 12 A Yes, Pecos and Washington.  
 13 Q Is that sort of a multi-building apartment complex?  
 14 A Yes.  
 15 Q Okay. Did you have a neighbor or did you know a lady by  
 16 the name of Deborah Quarles?  
 17 A Yes.  
 18 Q And is she the lady that just left the courtroom?  
 19 A Yes.  
 20 Q Is that yes?  
 21 A Yes.  
 22 Q Okay. Sorry. I didn't hear you on that one.  
 23 A Okay.  
 24 Q Were you friends with her?  
 25 A Yes. We had a little relationship.

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1 Q Okay.  
 2 A And Ebony.  
 3 Q And Ebony?  
 4 A Yeah.  
 5 Q Is that Ebony Lewis?  
 6 A Yeah. Ebony got my last name.  
 7 Q Okay. And is it Pug Jazman?  
 8 A Yes. Yeah.  
 9 Q Okay. And there is a George Brass, Junior and a George  
 10 Brass, Senior?  
 11 A Senior, yes.  
 12 Q During March of 2005, did all of your sister's children  
 13 live with her in her apartment, to your knowledge, or not?  
 14 A I think Ebony had her own place at the time.  
 15 Q Ebony had her own place?  
 16 A I think she did.  
 17 Q Okay. You, of course, remember a murder that took place  
 18 of Debra's daughter?  
 19 A Yes.  
 20 Q I want to talk to you about the night before that  
 21 happened. Okay?  
 22 A Okay.  
 23 Q On the night before, were you at the apartment complex?  
 24 A The night before it happened, yes.  
 25 Q Who were you with?

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1 A Debra.  
 2 Q With Debra?  
 3 A Yes.  
 4 Q Were you kind of socializing?  
 5 A Yes.  
 6 Q Where was that taking place, in your apartment or hers?  
 7 A In her apartment.  
 8 Q In her apartment?  
 9 A Yeah.  
 10 Q Do you remember whether or not she had a new stereo at  
 11 that time?  
 12 A Yes.  
 13 Q Were you listening to music that night?  
 14 A Yes. I'm the one that hooked it up.  
 15 Q Oh, okay.  
 16 A Yeah. I put it together.  
 17 Q So you and Debra kind of socialized that night?  
 18 A Yes.  
 19 Q Was anyone else there?  
 20 A No.  
 21 Q Was Pooka there? Was her daughter there?  
 22 A Nope.  
 23 Q She wasn't there?  
 24 A Not at that time, no.  
 25 Q Did you stay the night at Debra's?

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1 A Yes, I did.  
 2 Q So, obviously, you were there on the 24th?  
 3 A It was morning, the 24th, yes.  
 4 Q Did you ever see Pooka that morning?  
 5 A That morning, when she come in, they say she came from  
 6 work, I said, hey, Pooka and I walked back upstairs.  
 7 Q When you see her, are you still at Debra's?  
 8 A Yes. I was just coming out the door, just leaving, and  
 9 went home.  
 10 Q You guys pass each other?  
 11 A Right.  
 12 Q When you see Pooka that morning, do you remember at all  
 13 what she was wearing?  
 14 A No, no.  
 15 Q Okay. Do you guys say hi to each other or anything like  
 16 that?  
 17 A Oh, yeah, I said high.  
 18 Q She knew who you were?  
 19 A Yes, exactly.  
 20 Q Knew you were her mom's friend?  
 21 A Right.  
 22 Q And you pass her and you go where?  
 23 A Straight upstairs to my mom's house.  
 24 Q Back up to your mom?  
 25 A Right.

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1 Q Because you live with your mom?  
 2 A Right.  
 3 Q When you get to your mom's, what did you do the rest of  
 4 the morning?  
 5 A Well, I helped my mom in the kitchen. She was doing some  
 6 rice. And I was watching the rice and I heard the horn blowing;  
 7 and that's Debra, wanted me to carry some bags to the house, which  
 8 that's what I did.  
 9 Q And is this kind of in the afternoon of that day or do  
 10 you remember what time that was?  
 11 A I think it was a bit -- I don't even think it was after  
 12 12 o'clock.  
 13 Q You don't think it was?  
 14 A I'm not sure.  
 15 Q You are not sure of the time.  
 16 A I'm not sure of the times.  
 17 Q Okay. Was it quite a bit after you saw Pooka come home?  
 18 A Yes, it was.  
 19 Q At least a couple hours?  
 20 A About that, about two or three hours.  
 21 Q Not at night?  
 22 A No, huh-uh, not at night.  
 23 Q And you hear Debra honking her horn?  
 24 A Right.  
 25 Q And what did you do after you heard the horn?

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1 A She wanted me to come downstairs and help her carry some  
 2 bag in the house.  
 3 Q Did you do that?  
 4 A Yes, I did.  
 5 Q When you go down and help Debra with the bags, do you  
 6 guys go back to her apartment?  
 7 A Right; yes.  
 8 Q And is she in front or are you in front?  
 9 A She was in front of me and opened the door up.  
 10 Q Do you go inside?  
 11 A Yeah, right behind her.  
 12 Q And so you are following Debra carrying some bags?  
 13 A Right.  
 14 Q What happened when you get in the apartment?  
 15 A She goes: Oh, baby, my stereo is gone.  
 16 And I looked and I said: Sure is.  
 17 And that's when she hollered out for Pooka. She looked  
 18 in the bathroom, pushed the door open, no Pooka. So she looked in  
 19 the bedroom, hollered for Pooka, no Pooka. When she went back in  
 20 the bathroom, then she pulled the curtain open.  
 21 Q She pulled the shower curtain?  
 22 A Right.  
 23 Q What do you remember about Debra's reaction when she  
 24 pulled the curtain?  
 25 A She was hysterical, hurt and shocked.

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1 Q She was upset?

2 A Yes, very upset.

3 Q Did she call for you to help her?

4 A Exactly, yeah.

5 Q And where were you when she started calling?

6 A Right at the bathroom door. When she pushed the curtain

7 back, that's when she seen her and that's when I reached up and I

8 pulled Pooka out of the tub. And after that, I couldn't take no

9 more and I went to my sister's house and my niece was over there.

10 Q So you actually helped pull Sheila out?

11 A Yes, I pulled her out.

12 Q I think you said that was upsetting; you couldn't take

13 that?

14 A Yeah, huh-uh, no.

15 Q And you went over to your sister's?

16 A No, I went to the stairs to sit down, after all that, you

17 know.

18 Q Did you see anybody else go inside Debra's apartment

19 after you came out, after seeing Sheila?

20 A Oh, after I left, no. My nieces went in there to try to

21 help out or whatever they could do.

22 Q Okay. And your niece would be Ebony?

23 A And Marquetha.

24 Q And Marquetha?

25 A Yeah, Right.

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1 Q You actually see them run inside?

2 A Yes. I'm the one that went and got them next door, from

3 my sister's house.

4 Q So you go over there first?

5 A Yes, to my sister's house and knocked on the door and

6 said: Pookie, I need some help. Come on.

7 Q So you go to your sister's, tell your nieces Pooka needs

8 help and you stay on the stairs?

9 A Right. I sit right back on my mom's -- from where my

10 momma stay, right back there. I was sitting right there.

11 Q And your nieces run in?

12 A Yes.

13 Q Do you see the police arrive at the apartment?

14 A Oh, on the incident, yeah.

15 Q Okay.

16 A Yeah.

17 Q And did the police come and talk to you?

18 A Yes, they definitely did.

19 Q When they came and talked to you, where were you? Were

20 you outside?

21 A Upstairs in the house at the time when they came. When

22 they come to question me, I was inside the house.

23 Q Okay. And this is the apartment that you share with your

24 mom?

25 A Right.

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1 Q Where you were doing the rice?

2 A That was afterwards. Yeah.

3 Q Okay. When the police came and talked to you, did they

4 ask you if you would give them like a little DNA sample?

5 A Yeah, I volunteered for everything.

6 Q You volunteered for that?

7 A For everything.

8 Q So you gave them a sample?

9 A Right.

10 Q Did they talk to you -- did they tape record you?

11 A I'm not for sure if they had a tape recorder or not, but

12 I was asked a bunch of questions.

13 Q But you agreed to talk to them?

14 A Right, yeah.

15 Q When the police were talking to you, sir, after it all

16 happened and they were getting a DNA sample from you, were you by

17 yourself or was anyone else there?

18 A Just me and that one sister.

19 Q Do you know someone named Anthony Culverson?

20 A That's my nephew.

21 Q Was he there when the police were talking to you?

22 A You know, I'm not even sure if he was or not.

23 Q Okay. Possible?

24 A He was there earlier, yeah.

25 Q Okay.

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1 A But I'm not really sure if he was there at that time when

2 the police was talking to me.

3 Q Okay. And you never saw him talk to the police?

4 A No.

5 Q Okay. You just kind of know what you did?

6 A Exactly.

7 MS. WECKERLY: I'll pass the witness.

8 THE COURT: After you left, do you know whether or not

9 Debra had to go to work that day?

10 THE WITNESS: Yes. When I left her house that morning,

11 yes, she had to go to work.

12

13 CROSS-EXAMINATION

14 BY MR. PATRICK:

15 Q Good afternoon, Mr. Lewis.

16 How are you doing today?

17 A All right.

18 Q Mr. Pike and I and our investigator came out and talked

19 to you last month at your home?

20 A Uh-huh.

21 Q Do you remember that?

22 A Yeah.

23 Q Okay. You spent the night with Debra the night before?

24 A Yes, I did.

25 Q Okay. And what time did you leave the next morning?

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1 A I'll not really sure what time it was.  
 2 Q Do you remember telling Mr. Perez, our investigator, that  
 3 you left at 8:30?  
 4 A No.  
 5 Q You don't remember that?  
 6 A No.  
 7 Q And do you know George Brass, Junior?  
 8 A Yes, my nephew.  
 9 Q He's your nephew?  
 10 A Yeah.  
 11 Q Okay. And the day that Sheila died, you saw him at the  
 12 apartments?  
 13 A Yeah, when weapon he come home for lunch or something.  
 14 Next thing I know, he left and everybody is just kind of sitting  
 15 there and walking off.  
 16 Q Okay. So he came home around lunch time?  
 17 A Yeah. That's when he say he came home for lunch.  
 18 Q Okay. Did you see him when he came home?  
 19 A Yeah. I was standing outside.  
 20 Q Standing on the stairs?  
 21 A No. I was up by the stairs. The other person that was  
 22 there, we started talking.  
 23 Q And around lunch time, would you have any idea when that  
 24 is there?  
 25 A Probably somewhere between 11:20 and 11:30, like that.

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1 Q Was that his regular lunch hour?  
 2 A I'm not even sure.  
 3 Q And you said that you saw Anthony Culverson also there  
 4 that day?  
 5 A Yes, sir.  
 6 Q Are you related to him?  
 7 A A nephew.  
 8 Q Is he related to George?  
 9 A Yeah, that's his cousin.  
 10 Q Cousins?  
 11 A Yes.  
 12 Q Okay. And what was Anthony doing when you saw him?  
 13 A Just standing there.  
 14 Q Did he have a motorcycle that he was driving around?  
 15 A No, sir. I haven't seen him on a motorcycle.  
 16 Q Okay. Last month, when we came to talk to you, we asked  
 17 you about a gentleman that lived upstairs.  
 18 Do you remember that?  
 19 A Yeah, I remember that.  
 20 Q And at one point, he had tried to get together with  
 21 Sheila?  
 22 MS. WECKERLY: Objection; foundation.  
 23 THE COURT: How would he know that?  
 24 MR. PATRICK: He could have been there.  
 25 THE COURT: Were you ever present when he and Sheila had

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1 some interaction?  
 2 THE WITNESS: Well, I was told about the first time.  
 3 THE COURT: Don't want to hear what you were told.  
 4 Objection sustained.  
 5 Go ahead.  
 6 BY MR. PATRICK:  
 7 Q Were you ever present when Sheila and this gentleman had  
 8 interactions?  
 9 A No.  
 10 Q Did you ever confront this gentleman about any  
 11 interaction he might have had with Sheila?  
 12 A Well, I told him that she was a youngster; he shouldn't  
 13 be trying to talk to her like that.  
 14 Q Okay.  
 15 A Yeah.  
 16 Q How old was he, would you guess?  
 17 A I'd say he'd run about my age, about 40 something.  
 18 Q Okay. Do you know the other people that live in that  
 19 apartment?  
 20 A No, I don't socialize with too many.  
 21 Q So you don't know the names of anybody else that lived  
 22 there?  
 23 A No.  
 24 MR. PATRICK: Court's indulgence.  
 25 THE COURT: Do you know if Pooka was working at that time

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1 or if she was home sick?  
 2 THE WITNESS: I know she stayed home from work that  
 3 morning.  
 4 THE COURT: Anything else, Mr. Patrick?  
 5 MR. PATRICK: Yes, Judge.  
 6 BY MR. PATRICK:  
 7 Q Do you remember seeing a motorcycle around that day?  
 8 A No.  
 9 Q Did you see the police talking to George?  
 10 A No.  
 11 Q Did you see the police talking to Anthony?  
 12 A No.  
 13 Q When you talked to the police, did they take a  
 14 handwritten statement from you?  
 15 A No. They just swabbed me and told me to go home and  
 16 don't worry about it.  
 17 Q Okay. Did they take a recorded statement from you?  
 18 A I don't know if they recorded me or not.  
 19 Q But do you remember about how long you talked with them?  
 20 A Oh, man, almost an hour. As a matter of fact, four of  
 21 them came upstairs and talked to me.  
 22 Q And they never mentioned that they were recording  
 23 everything?  
 24 A No.  
 25 Q Did they take notes?

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1 A I'm not sure if I saw anybody writing anything down or  
2 not.

3 Q To your knowledge, the police never talked to George or  
4 Anthony?

5 A I never seen that.

6 Q Did you ever see George go into Sheila's apartment?

7 THE COURT: You mean that day?

8 MR. PATRICK: That day.

9 THE WITNESS: No, I didn't. I didn't see him go in, you  
10 know.

11 BY MR. PATRICK:

12 Q Did you ever see him come out of the Sheila's apartment  
13 that day?

14 A No.

15 MR. PATRICK: That's all I have, Judge.

16 THE COURT: Anything else?

17 MS. WECKERLY: No.

18 THE COURT: Thanks. Appreciate your testimony,

19 Mr. Lewis. You are excused.

20 THE WITNESS: Thank you.

21  
22 (Witness excused.)

24 MS. WECKERLY: James Vaccaro.

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1 Q How many years did you work for the Las Vegas  
2 Metropolitan Police Department?

3 A Thirty years.

4 Q And how many years did you work in homicide?

5 A About 13.

6 Q Okay. I think you said this, but in 2005, in March, you  
7 were assigned to homicide?

8 A Yes.

9 Q Do you recall responding to a scene at 1001 North Pecos?

10 A Yes, I do.

11 Q On that date, when you responded, which was March the  
12 24th, what was your capacity? How were you assigned?

13 A We responded in a squad formation, so there were six  
14 members of the squad that went to the scene.

15 We were absent an immediate supervisor on that day, so I  
16 was the acting supervisor, which meant that I was responsible for  
17 what occurred during the investigation of that apartment.

18 Q Can you describe generally what that neighborhood or that  
19 area of town is like.

20 A Sure. The Palm Village apartment complex is at that  
21 intersection of Pecos and Washington; and it's sort of a -- I  
22 would say working class neighborhood, blue collar workers,  
23 primarily Hispanic is the demographics in that part of our city.  
24 It's a busy apartment complex, surrounded by single family, older  
25 homes here in Las Vegas. It's the old downtown area.

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1 (Witness sworn.)

2  
3 THE CLERK: Thank you. Please be seated.

4 Please state your full name, spelling your first and last  
5 name for the record.

6 THE WITNESS: My name is James Charles Vaccaro;

7 J-a-m-e-s, V-a-c-c-a-r-o.

8 THE COURT: Go ahead.

9  
10  
11  
12  
13 JAMES VACCARO  
14 called as a witness on behalf of the State,  
15 having been first duly sworn,  
16 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. WECKERLY:

20 Q Sir, how were you employed back in 2005?

21 A At that time, I was a member of the Las Vegas  
22 Metropolitan Police Department and my capacity was as a detective  
23 in homicide.

24 Q At some time after 2005, did you retire?

25 A Yes, in December of 2007.

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1 Q So it's a pretty populated area in the apartment complex  
2 itself?

3 A Yes. It's a very busy apartment complex because of its  
4 location. It's convenient for city workers, so to speak. It's  
5 just a dense area.

6 Q The apartment buildings themselves at that address, are  
7 there multiple buildings within the bigger complex?

8 A Yes. It's a pretty typical Las Vegas apartment complex,  
9 two stories, stucco, tan with some brown wood trim, multi-units.  
10 Most of them are two or three story. This was a two story  
11 complex.

12 Q When you responded to the scene, can you remember or were  
13 you aware if patrol officers responded ahead of homicide?

14 A Yes, they did.

15 Q Is that normal?

16 A Yes. I mean, it's a very busy valley here, and depending  
17 on where your murder scene is, your patrol officers are almost  
18 always going to beat us, so to speak. If it's a night time murder  
19 and we're off duty and we get called from our residences, they're  
20 going to beat us because they're working.

21 But in this particular case, it was in the afternoon,  
22 just before three p.m. We knew that patrol would be there because  
23 that dense area has a higher concentration of police patrol  
24 officers in it, and so they were clearly going to beat us to the  
25 scene with traffic and so forth.

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1 So patrol officers were present and they were already  
2 taking steps to preserve the scene for us as they were trained to  
3 do.  
4 **Q** Once you get there, you're the homicide supervisor on  
5 that scene?  
6 **A** That's right.  
7 **Q** What other homicide detectives responded to the scene  
8 with you?  
9 **A** The other detectives were Detective George Sherwood and  
10 Detective Dan Long. They were the primary assigned detectives to  
11 this incident. And the documentation of the scene was given to  
12 Detective Sherwood. The interviewing of witnesses, that aspect of  
13 the investigation would be with Detective Long, another detective  
14 named Marty Wildman and another detective named Mike Wallace.  
15 **Q** And is that typical in a potential murder investigation?  
16 **A** Yes. What we do is evaluate our incident and based upon  
17 the number of people that we may believe that are going to be able  
18 to give us information, like to be interviewed, they know our  
19 victim or they know something about the incident, we bring in  
20 additional detectives. So we may do a saturation with five, six  
21 detectives, maybe eight, and then we'll pare it down as time goes  
22 by.  
23 In this case, we brought out five; we have a six man  
24 team, but I was acting as sergeant at that time, so that  
25 eliminated one.

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1 We would just saturate and as things would slow down a  
2 little bit, we could let people go. But Sherwood and Long would  
3 remain forever there, as crime scene investigators, and myself.  
4 **Q** And as the supervisor, you stayed with the scene or you  
5 go do interviews?  
6 **A** No, you stay with the scene. Your primary scene in any  
7 murder investigation is the location of the body. My  
8 responsibility is to control that and I have to stay there until  
9 all aspects of that scene are documented, photographed, evidence  
10 is collected.  
11 The body is subsequently removed by the coroner's office  
12 to the autopsy the following day. It's our responsibility to  
13 maintain that scene until we feel that we have completed our  
14 investigation there. I think, in this case, we stayed until about  
15 nine o'clock at night. We started at three in the afternoon and  
16 were there until nine that night.  
17 **MS. WECKERLY:** May I approach, Your Honor?  
18 **THE COURT:** Sure.  
19 **BY MS. WECKERLY:**  
20 **Q** I'm showing you first what's marked as State's Proposed  
21 Exhibit 2.  
22 Do you recognize what that is?  
23 **A** Yes, I do.  
24 **Q** And what is it?  
25 **A** This is a typical crime scene diagram at the particular

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1 scene there at 1001 Pecos, in this incident, Apartment H-63.  
2 **Q** And I'm showing you a group of photographs which have  
3 been marked as State's Proposed Exhibits 2 through 47.  
4 I would ask you to look through those and tell me when  
5 you are done, please.  
6 **MR. PIKE:** While the witness is looking through them,  
7 Your Honor, may the record reflect the State has shown them to me.  
8 I've reviewed them all. I don't have any objection to them being  
9 admitted.  
10 **THE COURT:** Exhibits 2 through 47 will be admitted.  
11  
12 (State's Exhibits 2 through 47 admitted into evidence.)  
13  
14 **THE WITNESS:** Yes, I'm familiar with those.  
15 **BY MS. WECKERLY:**  
16 **Q** Do they fairly and accurately depict the scene as you saw  
17 it that night?  
18 **A** Yes, they do.  
19 **Q** Sir, I'm putting on the overhead what's been admitted as  
20 State's 2. I think you said that this was a diagram of the crime  
21 scene itself.  
22 **A** Yes.  
23 **Q** And that would have been completed by a crime scene  
24 analyst, but you are familiar with the actual apartment unit  
25 itself?

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1 **A** Yes.  
2 **Q** You can either write on the screen there, or if you're  
3 more comfortable, you can get up and write on the big screen, but  
4 could you kind of orient the members of jury as to where the front  
5 door is to this apartment and the various rooms that we see on the  
6 diagram.  
7 **THE COURT:** I have a pointer here for you.  
8 **THE WITNESS:** Sure, I can do it like that.  
9 Thank you.  
10 This shows a north orientation right here, but this  
11 sweeping door here is the front door of the apartment. It had an  
12 H-63 designation. It was number 63, ground floor apartment, in  
13 this two story complex, single bedroom apartment. There was an  
14 apartment next door to it, but for the purposes of the diagram,  
15 they just draw the one where the incident is occurring.  
16 And then as you proceed, this is a sidewalk area like out  
17 where the N is here. (Indicating).  
18 And we were all pretty much clustered up at that  
19 location, making our determination about who was going to go  
20 inside of the apartment.  
21 Once you entered the apartment here, you come into a  
22 small area, where there was an end table and a love seat and then  
23 another end table.  
24 And then this is a large speaker, like for an  
25 entertainment center, like a tall tower speaker. (Indicating)

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1 And then this is sort of a breakfast bar countertop; and  
 2 there is the sink right there and the stove there. (Indicating)  
 3 So as you come in the front door, you would wrap around  
 4 this breakfast bar and come into the kitchen area here.  
 5 (Indicating).

6 And then cross into this living room area is a  
 7 three-cushion couch with an end table, another end table or coffee  
 8 table, I guess you would call this here. (Indicating).

9 And then there was a small unit that had a television on  
 10 it right here in the living room area. (Indicating)

11 And then back here is pretty much just a basic one  
 12 bedroom with a connecting bath, back into the hallway here.  
 13 (Indicating)

14 And that's pretty much a small one-bedroom apartment,  
 15 right there. (Indicating)  
 16 BY MS. WECKERLY:

17 Q And now I'm putting on the overhead was been admitted as  
 18 State's 3. That's just the outside of the apartment that you were  
 19 just describing; correct?

20 A Right. This isn't depicting any particular apartment.  
 21 It's just overall a photograph that -- when we first arrived we  
 22 wanted to document that we have the crime scene taped off, and  
 23 that we have good perimeter there that no one is inside of it,  
 24 that hasn't been interviewed by a police officer.

25 And this is an overall view of how the apartment looks.

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1 Q And when you say "the strike area" you mean the side that  
 2 is going to connect to the wall; right?

3 A Right. The strike area would be over on this side.  
 4 (Indicating)

5 The striker plate would be here. And then this is the  
 6 dead bolt lock and the pass out over there. (Indicating)

7 Q Did yourself or another detective looked at that door and  
 8 whatever damage or marks that were on it, you made the  
 9 determination from looking at the door that it wasn't fresh or it  
 10 didn't look like it's been kicked in or anything like that?

11 A Right. I mean we see thousands of doors during our  
 12 investigations, and it's an apartment complex and so it's not  
 13 unusual to see some damage that may have been preexisting from  
 14 somebody else, a different tenant, or another situation.

15 So we usually look for a telltale signs that it's fresh  
 16 or new, and it wasn't present in this case.

17 Q Showing you now what's been admitted as State's 9,  
 18 looking at that photograph, what are we looking at?

19 A Okay. Right where that lamp and that end table are, make  
 20 that hard left around this wall (indicating), that's where the  
 21 front door was.

22 And this is that low breakfast bar that I talked about  
 23 with the sink, right over in this area. (Indicating)

24 And this is the love seat and the other end table here  
 25 and has this plastic covering on top of the love seat. So this

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1  
 2 (Sotto voce at this time.)  
 3

4 BY MS. WECKERLY:

5 Q Now, I'm putting on the overhead what's been admitted  
 6 as State's 4.

7 I don't know if you want me to bring it out, but can you  
 8 tell me what is depicted in that photograph?

9 A Yes, sure.

10 This is the front door to that apartment. If the door  
 11 were in the closed position it would face west.

12 And as you saw from the diagram, it swings in this way  
 13 towards the apartment. (Indicating)

14 We take this kind of a photograph because we are  
 15 interested in looking at the door jam most of the time to see if  
 16 there was a forced entry, if the door looks split, or if the lock  
 17 has been damaged.

18 And in this case there was some damage in the strike  
 19 area; however, it didn't seem to be new to us because there wasn't  
 20 any crumbs or paint or sawdust, like you would see with a fresh  
 21 door kick.

22 So we knew then in speaking with one of the people  
 23 involved in the case it was in the closed position, but not  
 24 locked; but it didn't appear to be forced. So that's the front  
 25 door of the apartment.

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1 would be the north wall of the apartment. (Indicating)

2 Q Now, I'm showing you what's been admitted as State's 6,  
 3 what are we looking at in that photograph?

4 A Okay. Here this was interesting to us because of this  
 5 wire. It appeared to us to be a speaker wire, just like you would  
 6 have associated with a stereo or a television. And it was out in  
 7 the middle of floor and the wires had strip ends, and there wasn't  
 8 anything present, but it appeared that it had been patched.

9 And so our first thoughts were it was an electrical  
 10 component or electronic component that's missing because the wire  
 11 is here and the component is not there.

12 Q Now, I'm putting on the overhead State's 7. What are we  
 13 looking at in that photograph?

14 A Here is the far corner, again that's the north wall, and  
 15 this is the entrance towards the small closet, I think, and then  
 16 the hallway towards the bathroom. (Indicating)

17 And this is significant because, as I said, right below  
 18 here in the bottom of the picture was where that wire was, and  
 19 this is this tall speaker that I spoke about in the beginning when  
 20 we were describing the room, and it looked as though, with these  
 21 C.D.s present on top of the speaker, that there is some sort of  
 22 small unite, electronic unit, that was present there because there  
 23 was sort of a dust shadow on top of the unit and it wasn't there.

24 Q Other than that though, this photograph, is there any  
 25 sign of disturbance from looking at it other than maybe something

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1 is missing?

2 A Yeah; no, not essentially, not a disturbance like  
3 anything was knocked over or anything.

4 Q And now I'm putting on the overhead State's 8. Is that  
5 the coffee table that you were describing?

6 A Right. Now, although you see that plastic again, that's  
7 a three cushion, so that's not the love seat that we saw in the  
8 other picture. That's the couch that I described. And that's the  
9 coffee table with some nicknacks and things on top of it and the  
10 couch in th living room.

11 Q No sign of disturbance on that?

12 A No.

13 Q Now, I'm putting on the overhead State's 11. What are we  
14 looking at in that photograph?

15 A Okay. Now, here in this photograph, your back is now --  
16 of you were the one taking that photograph, your back is to the  
17 north wall, and the door to the apartment would be to your hard  
18 right, if you were holding the camera right now.

19 And this is that kitchen counter that I talked about, and  
20 the cabinets overhead.

21 And there were a lot of things on the kitchen counter  
22 here that were was recently, it looked like, purchased, because  
23 there were plastic bags full associated with the store, and there  
24 is this oscillating fan here. (Indicating)

25 And there is that small television that I talked about

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1 that was on the far side of the living room area.

2 Q Putting on the overhead State's 12. Does that better  
3 depict the bags that you were talking about?

4 A Right. As a matter of fact, now if you were the  
5 photographer, around the corner this way is the front door of the  
6 apartment, and you are looking into that kitchenette area over  
7 into the breakfast bar and the storage above.

8 Q Was the kitchen and maybe the apartment in general, was  
9 it pretty crowded with stuff?

10 A Oh, yeah. You could see from these photographs that it's  
11 very lived in.

12 There are a lot of things as far as in the kitchen area,  
13 it seemed like food products and bottles of things, that were --  
14 it was a cluttered kitchen in my opinion, but it just -- it was  
15 kind of a small kitchen anyway.

16 Q This is State's 13. Does that show what you were just  
17 talking about?

18 A Right.

19 Q This is State's 13. Does that show what you were just  
20 talking about?

21 A Right. This particular area right here is sort of like  
22 the shelving that you see in a convenience store, like the end  
23 rack in a store. It sort of has an advertisement on the side of  
24 it for cookies and stuff like that and then another shelving unit  
25 behind here. And these both had, as you can see, numerous items

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1 that were associated with kitchen and cooking preparation.

2 Q But nothing was really knocked over or looked disturbed?

3 A No.

4 Q Kind of crowded because they have a lot of stuff?

5 A Yes.

6 Q Now, I'm putting on the overhead State's 16.

7 Is that another view of the kitchen?

8 A Yes. Just a little closer of the kitchen; and over here  
9 in this corner would be that sink top and then the stove on the  
10 far side. So this would be the west wall of the apartment. And  
11 on the other side of this wall would be the front door of the  
12 apartment.

13 Q Okay. You obviously walked through the entire apartment  
14 that evening?

15 A Many times.

16 Q When you and other detectives are -- not just doing an  
17 initial walk through, but like in the course of investigating the  
18 case, do you make assessments or determinations, even with regard  
19 to like an apartment that may be a crime scene, as to which areas  
20 of the apartment seem more relevant than other areas?

21 A Sure we do. I mean, depending upon the size and the  
22 location of our crime scene -- in this area, we have a one bedroom  
23 apartment, so it's not overwhelming, but if we were in a three  
24 story house, we would have to try to figure out what's in play and  
25 oftentimes, we know that there could be an incident that's

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1 occurred in the master bedroom or, in this case, in the bathroom,  
2 and we don't want to forensically work the entire house or the  
3 entire apartment. So what we'll do is we'll try to determine what  
4 looks like it could be an item of evidence that will help us in  
5 our case.

6 And so we'll try to focus on what areas we really need to  
7 be in. And we did that while we were present inside of this  
8 apartment.

9 Q I think you might have said this, but did the kitchen  
10 seem at all relevant in this investigation?

11 A No, it didn't. The kitchen, relatively speaking, was out  
12 of play to me, in my opinion; however, we saw on that countertop,  
13 there were items in a plastic bag and some other items that looked  
14 like possibly a quart sized beer bottle and other things.

15 Well, those were of interest to us because if there is a  
16 plastic bag from a store, maybe there is a receipt that's in the  
17 plastic bag that could give us a purchase of that item that might  
18 provide us with a date and time of that purchase to give us the  
19 why is that in this apartment and when is our window? What is our  
20 window here, the last time somebody made a purchase and came home  
21 with it to that apartment to the time that the deceased is found.

22 So receipts are really important to us. When we see a  
23 bag in an apartment like that, that's important to us.

24 Q Obviously, you went into the bedroom of that apartment?

25 A Yes.

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1 Q And now I'm showing you State's 21.  
 2 What are we looking at with that?  
 3 A Well, we're just taking that pulled back first shot  
 4 before we go into the bedroom and with the door in the open  
 5 position, this is a photograph taken by the crime scene  
 6 investigator looking into the bedroom.  
 7 This is the edge of the television here. The television  
 8 was on, something was on. I don't remember which show it was.  
 9 But on the floor here was this small bottle of Gatorade  
 10 with a red fluid inside of it. And then there was also some  
 11 wrappers from some convenience store kind of food items. I think  
 12 one was a beef and cheese stick and the other one was something to  
 13 do with like a bag of peanuts. That was on the floor here in  
 14 that -- in the bedroom.  
 15 We just took note of these things that were on the floor  
 16 because it was a little unusual.  
 17 Q Putting on the overhead State's 20.  
 18 Is that just another view of that TV area and those sort  
 19 of snacks?  
 20 A Yes, same, a little bit closer shot by the crime scene  
 21 investigator taking that photograph. We see some toys here under  
 22 the table supporting the television, a vial that had medication in  
 23 it. I don't recall exactly what it was, but I'm pretty sure, as I  
 24 recall, that was something that was prescribed to the victim in  
 25 this case.

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1 Q You are talking about that prescription bottle that's on  
 2 the sort of TV table?  
 3 A Sort of right in front of the TV. As a matter of fact,  
 4 that little cup there I think had some change and a gold ring  
 5 inside of it.  
 6 Q Now, I'm showing you State's 22.  
 7 Is that another view of the bedroom area?  
 8 A Yes. Now, that television that we were talking about a  
 9 moment ago is off to the right here and that's basically the top  
 10 of that dresser/mirror combination in there. You can just see the  
 11 bedspread at the bottom of the bed.  
 12 Q Now, I'm putting on the overhead State's 23.  
 13 What are we looking at in that photograph?  
 14 A Here, we're looking at a close up of that dresser; and at  
 15 first, we looked at these drawers and see they're a little askew  
 16 and we try to make a determination, looking at that, is that a  
 17 result of somebody hastily going through it or is it a dresser  
 18 that's in disrepair.  
 19 I had more of an opinion that it was a dresser in  
 20 disrepair than it had been searched and ransacked because the  
 21 things inside of it were still in the drawers.  
 22 Q So it didn't look ransacked to you?  
 23 A No, it didn't.  
 24 Q I'm showing you another dresser. This is State's 24.  
 25 Is that also in that bedroom?

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1 A Yes. This is in the bedroom, with the closet just to the  
 2 right of it when you refer to that diagram. I think this is on  
 3 the east wall.  
 4 Q And those drawers appear to be shut, right?  
 5 A Yes.  
 6 Q So it doesn't look ransacked?  
 7 A No, it doesn't.  
 8 Q Okay. Now, I'm showing you State's 26.  
 9 What are we looking at in that photograph?  
 10 A Now we're at the foot of the bed and the television is  
 11 behind us, if you are taking this photograph; and we're looking at  
 12 the bed and of particular interest to me when I saw this was that  
 13 this pillow here is without a pillow case and so was the other  
 14 pillow that's next to it.  
 15 So you have two pillows without pillow cases. It's  
 16 either the person's habit or it's something suspicious, because  
 17 the pillow cases are often used to carry something out of an  
 18 apartment or a house so that you don't see -- you are not seen  
 19 walking out of wherever -- whatever you are taking, just carrying  
 20 it in your hands; you are carrying it inside of something to  
 21 conceal it.  
 22 So this pillow had a pillow case on it and these did not  
 23 and that was of interest to us.  
 24 Q Was there a letter on the bed as well?  
 25 A Yes. Right here is a sealed, handwritten letter that was

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1 addressed to an individual and it also bore a return address on  
 2 the corner of it.  
 3 Q I'm now putting on the overhead State's 25. It's  
 4 probably a little washed out, but is that a closer up view of the  
 5 letter on the bed?  
 6 A Yes, it is.  
 7 Q And probably hard to see -- do you want me to walk up and  
 8 show you the photographs?  
 9 A I can see it really good here.  
 10 Q Okay.  
 11 A And so do you want me to say who the addressee is?  
 12 Q Yes.  
 13 A The addressee is William Kinsey, K-I-N-S-E-Y, and it has  
 14 a long number associated with his address right after his name,  
 15 1698867; and then it is addressed to 330 South Casino Boulevard,  
 16 Las Vegas, Nevada, 89101.  
 17 Q Could you tell who the return address is?  
 18 A I know -- I can't see it that clearly here, but I know  
 19 that it's from -- it says Mrs. Sheila Kinsey as the return  
 20 addressee on that.  
 21 Q Okay. Obviously, you went into the bathroom area of this  
 22 apartment as well.  
 23 A Yes.  
 24 Q I'm putting on the overhead what's been admitted as  
 25 State's 38. That is a photograph of the bathroom area with the

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1 victim, obviously?

2 A Yes.

3 Q In that photograph, is there evidence that she had been  
4 at least -- well, paramedics had attempted treatment on her?

5 A Sure there is. We know that from our response time,  
6 based on the response time of patrol officers and paramedics in  
7 that area, that everybody beat us there. Everybody beat the  
8 homicide detectives there. And the fact that I see these patches,  
9 these are medically -- medical intervention, the ambulance  
10 attendants would have gone in there -- or fire department,  
11 depending upon who was there -- and attached these to see if there  
12 were signs of life on the victim. And then after they determine  
13 there are not, they back out of the apartment. So we see these  
14 often at murder scenes.

15 Q The bathroom appears pretty small and kind of crowded?

16 A Yes. It's both of those. It's small, it's crowded and  
17 it's very difficult to work in because of that.

18 And so we have to actually strategize about how we're  
19 going to conduct our business in there, because we know that  
20 everything in there is important to us because that's where the  
21 body of the victim is and we have to take our time and decide how  
22 we are going to remove things and what we are going to remove  
23 first.

24 Q The items that are placed kind of over the torso area of  
25 the victim, we've had some discussion from witnesses about their

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1 placement.

2 But when you get to the scene, do you know -- I mean,  
3 until somebody is interviewed, you don't know kind of what was put  
4 there by someone afterwards or how she even ended up in that  
5 position, correct?

6 A That's correct. Oftentimes, the finder of a deceased  
7 person does something unwittingly that will alter our crime scene,  
8 especially if there is a loved one or family member involved in  
9 the finding.

10 And so we often find that some dignity has been provided  
11 to the victim by a family member or a loved one and they often do  
12 something that, in our opinion, we would rather they didn't do,  
13 but it often happens.

14 So we would learn later from conversation that this is  
15 not how the victim was originally found, but that she was emersed  
16 in the water in the bathtub.

17 And so we have to deal with those issues as far as  
18 forensics when people have been in or near our victim before we  
19 have an opportunity to be there to do what we do for a living.

20 Q I'm now putting on the overhead State's 40.

21 And that's a different view of the -- of the bathroom  
22 with the victim, but there is sort of a little table next to her.

23 A That's right.

24 Q And there is items on there and it looks like some of the  
25 items on the table are knocked over a little bit or some of them

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1 are at least.

2 A Right. I mean, we have this small table that's just  
3 adjacent to the bathtub. Here is a box of tampons and some other  
4 sundries and hair care products, I think, that are here.

5 And with regard to the appearance of the rest of the  
6 apartment, this was a much more active room, in my opinion,  
7 because of how many things were disturbed.

8 I mean, we have a victim on the floor, clothing strewn  
9 about; we have a handbag that is tipped over the floor and then  
10 this table and the products on top of it are moved around quite a  
11 bit.

12 Q But when you get there, you don't know if that's knocked  
13 over by people trying to help her, paramedics or even -- or if it  
14 was knocked over prior to that. There is no way of knowing?

15 A Right. When we get there and we learn that she's  
16 originally emersed in water and she had been removed from the  
17 bathtub to this current position, we know that there has been  
18 activity inside of that room.

19 We know in the panic, that may have taken place while  
20 that was happening, that that person may have, without even  
21 remembering it, knocked over that table or pushed over something.  
22 So we have to take all of that into consideration.

23 That's why I said we would strategize about how we would  
24 process items of evidence in that room and how we would take the  
25 photographs and what we would remove first. So it's a big, long

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1 process because that's where the body is.

2 Q And now I'm showing you State's 36.

3 And this is sort of another view of the bathroom area and  
4 there is a few items on the floor. And I assume that your  
5 comments would be the same with regard to those items.

6 A Yes, they are.

7 Q Now, I'm putting on the overhead State's 34.

8 What are we looking at in that photograph?

9 A Well, here we have a photograph sometime later, because  
10 you see the absence of the victim in this photograph. So we  
11 didn't have the opportunity to really remove her from the room  
12 until we did a lot of forensic work and slowly collected items of  
13 evidence and took numerous photographs.

14 So, at the point where we could take this picture, the  
15 pickup of that is to document the level of water to determine  
16 maybe the temperature of the water and then the items that were  
17 inside the water, whether or not they were in play for having  
18 something to do with her death.

19 And here we see that there was a wash cloth at the  
20 bottom, that was inside there, and a couple other items. I don't  
21 recall exactly what was in there.

22 Q It looks like there is two wash clothes and then maybe a  
23 bandana, a yellow one?

24 A Oh, right. I knew that there was a yellow bandana. It  
25 didn't make it on the picture. That's right.

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1 Q After the victim's body was removed, were you able to  
2 observe her clothing in the bathroom?

3 A Yes.

4 Q And now I'm putting on the overhead State's 35.  
5 Does this photograph depict her clothing, which would  
6 have been effectively underneath her in the bathroom?

7 A Right. And that was of particular interest to us  
8 because -- because of her position, we knew that she was emersed  
9 in the tub and now with this clothing being underneath her body,  
10 so if you go back, you think to yourself, well, how does that  
11 clothing fit into our situation?

12 And it's wet, and that makes sense because she was taken  
13 out of a bathtub full of water. So the fact that the clothing is  
14 wet doesn't necessarily mean that the clothing was ever in the tub  
15 but that it got wet from the transfer of her body.

16 But we found this was a, I think, brown and reddish  
17 tinted wig. We had a brassiere that was on the floor. We had a  
18 pair of black jeans that were underneath her body as well and I  
19 think a pair of underwear that were associated with those jeans  
20 that was either a thong or a T back pair of underwear.

21 Q And now I'm putting on the overhead State's 37.  
22 Obviously, they've been moved, but does that depict the  
23 jeans and the bra that you have been talking about?

24 A Yes. And here on the -- there is a green, I think, a  
25 dark colored cover on the toilet seat and the bra has been laid

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1 out on the toilet seat by one of the crime scene investigators  
2 prior to the photography. And then we have this black pair of  
3 jeans.

4 But these were all in sort of a disheveled pile  
5 underneath her body, underneath the back side just outside of the  
6 tub on the floor.

7 Q Now, the positioning of the thong or the underwear on the  
8 jeans, kind of like on the outside of the jeans --

9 A Right.

10 Q -- was that done by homicide detectives or is that  
11 literally how the thong was on the jeans and it's just like put on  
12 -- put on the counter there so we could see the positioning?

13 A Right. No, we would never alter or change the appearance  
14 of a particular item. All we would do is probably better display  
15 it so that it could be photographed more efficiently.

16 And in this case, the thong underwear was on the outside  
17 of the jeans in this case; and I recall them as being inside out  
18 and also backwards; and to this moment, I have no idea how they  
19 got like that.

20 Q It wouldn't -- I mean, they don't appear consistent with  
21 someone taking off their own jeans and thong to hop in a bathtub.

22 A No. And as a matter of fact --

23 MR. PIKE: Objection; calls for speculation.

24 THE COURT: It was leading, too.

25 MR. PIKE: Well, objection as leading.

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1 MS. WECKERLY: I'll ask a different way.

2 THE COURT: Let's try it again.

3 MS. WECKERLY: Okay.

4 BY MS. WECKERLY:

5 Q The underwear are on the actual outside of the pants, of  
6 the jeans.

7 A That's true.

8 Q Okay. They're not inside?

9 A They're not.

10 Q If someone were dressed and getting into a bathtub, in  
11 your experience, would you expect their underwear to be within  
12 their jeans?

13 MR. PIKE: Objection. I don't think he has the  
14 experience in wearing women's clothing.

15 THE COURT: You just don't know how much underwear  
16 experience the detective has.

17 In your training and experience, in years of doing this,  
18 were you able to glean anything from that?

19 THE WITNESS: The only thing, Your Honor, is that there  
20 is something wrong with that; that's not right. It is more likely  
21 that it was not done by the victim.

22 THE COURT: Okay.

23 MS. WECKERLY: Thank you.

24 THE COURT: The apartment itself, where was it  
25 juxtapositioned in the whole complex? Was it in the middle, the

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1 corner, at the end?

2 THE WITNESS: As I recall, there were apartments to all  
3 four of my sides while I was there on that sidewalk. So I can't  
4 really orient myself, thinking back on it now a couple years, but  
5 I don't remember it being on the edge.

6 THE COURT: It wasn't on the edge.

7 THE WITNESS: Any of the edges, right.

8 BY MS. WECKERLY:

9 Q After you were the supervisor during the initial  
10 investigation on this case, would you have been involved in  
11 follow-up interviews or other investigation done for this case?

12 A No.

13 Q Do you recall if you attended the autopsy that was  
14 conducted on Miss Quarles the next day?

15 A Yes, I did.

16 Q Have you attended a number of autopsies in your work as a  
17 homicide detective?

18 A Hundreds of autopsies.

19 Q Okay. And why do detectives go to autopsies?

20 A Well, autopsy examinations are a keystone to a very  
21 important homicide investigation because of the fact that there is  
22 evidence that is collected at these autopsies that we need to be  
23 witness to.

24 Oftentimes, we could determine the path of a bullet  
25 through a body or the damage done to an individual by a strike

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1 with a hammer.

2 And so in this particular case, we had an 18 year old  
3 girl who was, for some reason, deceased; seemed to be healthy; and  
4 we needed to attend the autopsy to try to determine what it was  
5 that made her stop working; something made her die.

6 And that would be possibly important to us, if and when  
7 we develop a suspect in this case, about the methodology of how  
8 she died. That's why we attend an autopsy.

9 Q And in your work as a homicide detective, are you  
10 familiar with sexual assault kits?

11 A Yes.

12 Q What are those?

13 A We call it a kit because it contains numerous swabs and  
14 slides that are used for a microscope and collection packets for  
15 hairs and fibers.

16 And the sexual assault kit is typically a box that comes  
17 in a sealed condition; the seal is broken for the first time by  
18 people that are taking care of the autopsy, that are basically  
19 conducting the autopsy.

20 We witness this with our crime scene investigators. Once  
21 the box is opened up, several things happen: Fingernail clippings  
22 are taken from every finger and dropped into a particular vial and  
23 sealed. Hairs are pulled or combed from pubic areas that may  
24 contain trace evidence.

25 There are long, possibly six inch long or eight inch long

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1 wooden dowels that are thin, like a Q-Tip with only the cotton at  
2 one end, and these are placed in every orifice on the victim's  
3 body.

4 So there are -- oftentimes, the mouth, these sticks with  
5 the cotton swabs are placed into the vagina, the anus; all of  
6 these cavities have these swabs placed in them. They're allowed  
7 to sit in there for a ten minute period, approximately, while they  
8 absorb whatever fluids may be of evidence to us. And then they're  
9 collected and separated and placed in separate vials or packages;  
10 then that entire kit is resealed and it's often refrigerated,  
11 depending upon what's been collected, and then later examined at  
12 the lab.

13 Q And you would be present when those swabs or the kit is  
14 used or utilized on a particular victim?

15 A Sure, we're there for the whole process. We're there  
16 from the moment -- usually, the victim is received in a body bag  
17 and the victim is wrapped in a sterile sheet to protect our trays  
18 evidence.

19 And usually by the time we get called to come down to our  
20 autopsy, the body bag has been opened in the presence of our crime  
21 scene investigator, after the seal on the bag has been  
22 photographed that nothing has changed from the apartment scene all  
23 the way to the start of the autopsy; no one has entered that body  
24 bag.

25 And then we're there for the whole process, for every bit

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1 of the evidence collection, all the way through the full autopsy.

2 Q When that evidence is collected from the various parts of  
3 a victim's body, is that done pretty carefully by the technicians  
4 who are there to collect those swabs?

5 A Yes. It's a very clinical hospital-like atmosphere where  
6 every minor little thing -- especially on a case like this, what  
7 we would call a who done it -- I mean, we don't know who took this  
8 girl's life, or if that's the case, until the doctor makes a  
9 ruling that it's a natural death, a drug overdose or an actual  
10 murder.

11 So until we know that, we are carefully looking for every  
12 fiber, hair, everything we can possibly get off her body to tell  
13 us a story about why she's not alive.

14 Q In addition to obviously being present for hundreds of  
15 autopsies, I think you said you were in homicide for over a  
16 decade, right?

17 A Yes.

18 Q In the years that you were in homicide, have you ever had  
19 a case where you, in conjunction with a crime scene analyst, would  
20 attempt to get a fingerprint off someone's -- off a victim's body?

21 A Yes.

22 Q In your experience at homicides, are there situations  
23 where you would attempt to do that versus maybe thinking it would  
24 be futile?

25 A Yes.

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1 MR. PIKE: Objection; he's answered the question. It was  
2 a yes or no question.

3 THE COURT: Okay. What is your next question?

4 BY MS. WECKERLY:

5 Q Why would you do that in some cases?

6 THE COURT: There you go.

7 THE WITNESS: Depending upon the condition on how we  
8 found the victim, we would make a determination and recommend that  
9 processing, to try to determine if there are fingerprints on the  
10 body or the use of poll-light, which is a multiple lighting  
11 technique, to see if there were any marks or saliva or foreign  
12 substances on the skin that we couldn't see with natural or  
13 fluorescent lighting. So what it boils down to is simply we try  
14 to describe the conditions that the body was found in and see if  
15 those techniques would work.

16 Now I know that an emersed body, a body that had been  
17 emersed in water for a period of time is not going to present good  
18 for us for developing a fingerprint by use of chemicals.

19 MR. PIKE: Objection, Your Honor. He's testifying as an  
20 expert in the areas that he isn't qualified in.

21 THE COURT: I don't think --

22 MR. PIKE: His opinion as to why he didn't do it, he's  
23 offered his opinion and now he's interpreting whether the -- the  
24 dynamics of it, processes done; and he's not a CSA; he hasn't  
25 lifted prints like that.

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1 THE COURT: But it's under his supervision that this is  
2 done and he's done hundreds of these and he's telling the jury why  
3 in one instance a CSA does it and why, in another instance, he  
4 doesn't. It's his call.

5 Go ahead, Detective.

6 THE WITNESS: Okay. So to follow up with that, we made a  
7 determination -- I made that call that we would not need to  
8 process for fingerprints by use of chemical fuming, which is one  
9 of the techniques, because of the emersion in water, just like you  
10 wouldn't do that with a body that was burned beyond recognition,  
11 because the skin was burned, so you wouldn't use that technique in  
12 that type of a situation either.

13 BY MS. WECKERLY:

14 Q So in your experience as a homicide detective, is it a  
15 pretty common thing to be able to recover an identifiable print  
16 off a body or is that sort of a rarity?

17 A It's very rare. As a matter of fact, I've had a case  
18 where I've had that happen and a fingerprint was observed and  
19 collected, however, it was not identifiable.

20 So it's very rare that you can get a chemical fuming of a  
21 body and raise a fingerprint.

22 Q Okay. And you had one case where you know that's  
23 occurred?

24 A Yes.

25 Q One last question: When you observed the victim in the

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1 bathroom out of the bathtub, could you tell, just from looking at  
2 her, whether or not she had been sexually assaulted?

3 A No.

4 Q There was no clear external injury to her?

5 A No. I mean, we look at female victims and think all the  
6 time that there could be a sexual issue involved whenever we're at  
7 a scene like that. Or males, for that matter.

8 But in this case, we were open minded because there  
9 wasn't any outward signs. She wasn't displayed where -- we have  
10 seen in some cases where a victim had been displayed in a position  
11 that might indicate there had been a sexual assault.

12 So just the way that we saw her in the bathroom, there  
13 was no way to conclude that there was a sexual assault.

14 MS. WECKERLY: Thank you. I'll pass the witness.

15 THE COURT: Mr. Pike.

16 MR. PIKE: Thank you.

#### 17 CROSS-EXAMINATION

18 BY MR. PIKE:

19 Q Congratulations on your retirement?

20 A Thank you.

21 Q Good to see you again.

22 Showing you what's been admitted as Exhibit Number 40.

23 When you were going through and examining or determining  
24 what processing was going to be done, I see that there is a mark

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1 on the back side of the tub about there. (Indicating)

2 Yeah, that one.

3 A Yes.

4 Q You were able to look at that and were you able to  
5 determine whether or not that indicated to you that there may have  
6 been blood there or contact with the deceased?

7 A I know that I saw that mark and it had the appearance of  
8 blood, but I don't know that -- you know, I never got the results  
9 about whether that was or not and I don't know whether it was  
10 collected or not. I believe it was.

11 Q Okay. And you would have that collected, because where  
12 that is situated, it may have been consistent with a fall or a  
13 forcible impact with the deceased or with somebody else at that  
14 location; and if it was human blood, you would want to know if it  
15 was, number one and number two, whose it was?

16 A Right. When we spoke about the victim in that position,  
17 I wasn't aware of the fact that there was trauma on the back right  
18 corner of the scalp and that blood presence on the wall had more  
19 of a transfer than a location of injury; in other words, a  
20 bleeding object leaned against that wall, rather than the object  
21 struck that wall and that's what caused it to bleed, because that  
22 wall had a smooth surface. And so I drew a different conclusion,  
23 but I didn't learn until autopsy about that laceration that was at  
24 the back side of the head.

25 Q And having learned of that, when you say it's transferred

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1 blood, is it something that -- it may have just been associated  
2 with the head striking it or it may have had contact with another  
3 person who then transferred the blood over there? (Indicating)

4 A Well, a transfer is simply that. I mean, the wall is not  
5 bleeding. It's blood from something else, so it was transferred  
6 to the wall.

7 And what items transferred it? Was it the actual  
8 bleeding part of the body or was it somebody that touched it with  
9 a hand or a glove or something like that?

10 That particular blood smear had more of the impression  
11 that was consistent with the head hair on the victim.

12 Q And you directed that that item be collected just for  
13 follow up?

14 A Yes.

15 Q Because when you went into the scene -- correct me if I'm  
16 wrong -- you didn't know whether it was an accidental death, a  
17 homicide, a drowning; you weren't certain what was the cause of  
18 death?

19 A No, absolutely. That's why we were called. That's why  
20 we were called by patrol.

21 Q And that's why you come out and that's why you take so  
22 many photographs, because not knowing what it was that actually  
23 occurred, until after you get the forensics back, you want to make  
24 sure you take a photograph of potentially everything that may have  
25 significance at a later time?

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1 A That's true. Although I talked about parts of the  
2 apartment that might be out of play, we still take overall  
3 photographs because, at some point, should the investigation swing  
4 in a different direction, we may need to refer back to an item  
5 that was or was not in that apartment, such as that bag that was  
6 on the counter in the kitchen or a missing electronic component or  
7 stereo or something like that.

8 So the number of photographs isn't really indicative of  
9 the case, but it's the quality and the things that are taken, the  
10 photographs that are taken.

11 Q And in going through and making additional determinations  
12 in relationship to that, you went through and directed that  
13 photographs be taken showing the general area of where the love  
14 seat was.

15 A Right.

16 Q And this is -- you can't see it very well on that part,  
17 but these actual photographs will go back to the jury.

18 This also shows the location in the room of where the  
19 speaker wire was.

20 A Yes. It's just above your index finger there on the  
21 floor, as a matter of fact, in the darkened area of the  
22 photograph.

23 Q And that displays something that you felt was amiss?

24 A Yes. The cord was.

25 You know, you don't walk into an apartment and expect to

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1 see an electrical cord with bare ends or a speaker wire just  
2 laying on the floor there; and it makes you think of, well, what  
3 was it hooked up to?

4 Q And when you were having these photographs taken, had you  
5 been informed that it was the belief of the occupants of the  
6 apartment that there were items that were, in fact, missing,  
7 things that had been taken?

8 A Yes.

9 Q So you felt certain, at that point in time, you were  
10 processing a crime scene of at least a burglary or a theft?

11 A Yes. I mean, we have a deceased individual in a room and  
12 there appears to be other criminal elements involved. So we're  
13 looking at this not so much as a heart attack or a drug overdose  
14 as there seems to be something else amiss here in this apartment.

15 So, absolutely, we are thinking that there are things  
16 missing, if that's answering your question, sir.

17 Q It is. It is.

18 A Okay.

19 Q Also, in going through that, you try to ascertain the  
20 items that you -- well, ascertain where the items were that are  
21 missing so that you can document how it appeared and if there is  
22 any evidence that may help you determine how it was removed, such  
23 as the pillow case?

24 A That's correct. We would often contact a person with  
25 knowledge of the interior of the apartment. In this case, it was

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1 the mother of the victim. We would have such a conversation with  
2 her about the condition of her apartment after our victim was  
3 removed, so that she wouldn't have to experience seeing her  
4 daughter in that position again and then we would have done our  
5 forensic work. Now we could bring Mom back into the apartment,  
6 say, what's wrong with your apartment here, what's missing?

7 And that's where we would learn things like the pillow  
8 cases and the stereo and the cell phone and things like that.

9 Q That's also important, because as a detective, as a  
10 homicide detective investigating an offense like this, you've got  
11 a panoply of tools that you can use.

12 For instance, if jewelry is taken, you have the ability  
13 to contact the pawn shop detail?

14 A That's correct.

15 Q And would you describe for the jury what the pawn shop  
16 detail is and what they do.

17 A The police department, years ago, created a detail, a  
18 couple of detectives and civilian employees, that receive  
19 information from all pawn shops in Clark County of items that are  
20 pawned by an individual.

21 If you pawn your television, produce identification,  
22 whatever state it happens to be from, and that item that's been  
23 pawned, at which store, by whom, is brought to the attention, in  
24 paper form, faxed, as a matter of fact, to the police department,  
25 where those items are then compared to theft items that have been

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1 stolen in recent days or months.

2 And so it's sort of a stop gap or a checkpoint so that  
3 thieves that are in the world don't steal something, take it to a  
4 pawn shop, get the money for it and you don't ever see your ring  
5 or television or whatever it is again. And the pawn shop is  
6 successful in reuniting stolen items with victims because of the  
7 work that they do.

8 Q And in reference to that, they also have the information  
9 available to them as to the individual that pawned the item.

10 A Provided that's the information of the person that pawned  
11 it.

12 Q Provided it's the real name?

13 A That's right.

14 Q And there is also something that's called a dropped pawn.  
15 Are you familiar with that term?

16 A No.

17 Q Okay. Have you heard of people going into pawn shops --  
18 well, let me go back.

19 Besides being a homicide detective, you've served as a  
20 detective in lots of other areas, haven't you, over your career?

21 A A couple others. I was assistant team leader in our SWAT  
22 unit for four years and I was a narcotics detective for ten years.

23 Q And in doing that, you have come into contact with people  
24 that go to pawn shops and just sell something; they don't -- they  
25 never intend to redeem it?

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1 A That's true.

2 Q And if I was to suggest to you that a dropped pawn would

3 be that type of a transaction, would that sound right to you?

4 A That sounds fine with me. I mean, I'm aware of the

5 technique. I didn't know that terminology.

6 Q Okay. So you had the ability -- you have that tool at

7 your hand.

8 You also have the ability to bring in the CSAs who take

9 the photographs and preserve, photographically, the scene and you

10 direct that?

11 A Yes.

12 Q You bring in CSAs to do the fingerprinting?

13 A That's true.

14 Q And you work collaboratively with them to say I think you

15 should take these fingerprints over in this area and they may

16 suggest other areas also?

17 A Right. And there again, as I described under direct

18 examination, we try to figure out what rooms or what the part of

19 this apartment is in play, so that we're not fingerprinting the

20 back shelf of a kitchen closet, trying to find a fingerprint that

21 may be of the owner of the apartment or a previous owner.

22 We are going to work our way out from the location of our

23 victim and try to find out what rooms are in play here. Is the

24 bedroom involved? Yes, because of the missing pillow cases.

25 Is the living room? Yes, because of the missing stereo

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1 or the broken wire that we saw. And also, obviously, the

2 bathroom. And so we concentrated primarily on the bathroom.

3 Q And you also had concentrated on some CDs?

4 A Yes.

5 Q And the items that are on the floor, the bottle and the

6 food items?

7 A That's true.

8 Q They were on the floor. They were in front of the TV.

9 So they were enough out of place that you thought, well, it was

10 worth investigating and fingerprinting that?

11 A Right. There was fingerprint work done on the plastics

12 of the snacks that I described; and there was also DNA work done

13 on the threaded rim of the Gatorade bottle.

14 Q An because there was a stereo that was missing -- and you

15 believe some CDs had also been taken?

16 A Yes. I mean, it was sort of a -- stereo goes, maybe some

17 CDs near that dust shadow that I referred to. So they were likely

18 to have been touched by the unknown person. So those particular

19 CDs were dusted for fingerprints.

20 Q And then when fingerprints are retrieved from those

21 items -- which they were in this case; am I correct?

22 A There were lifts taken by the crime scene investigators,

23 but the fact that you lift what appears to be a fingerprint may

24 not necessarily be a fingerprint when the actual people that

25 analyze fingerprints look at them. And I don't know if that's

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1 confusing or not.

2 But a crime scene investigator at a scene may powder what

3 looks like a smudge mark or a fingerprint and may see ridge

4 detail, but when it goes under the microscope for a comparison to

5 an actual human being, there may not be enough lines and ridges to

6 make that comparison. So it would be considered a non-print.

7 Q And that may be the tips, it may be the side, it could be

8 anything that has ridges that produces something that sort of

9 looks like a fingerprint?

10 A Yeah. Most of the time, it is a fingerprint. It's just

11 it was not laid down perfectly. It was an extra sweaty hand, a

12 wet hand, it was a bad surface, not a smooth enough surface to

13 leave a good transfer.

14 There are so many things that can affect a fingerprint,

15 age, weather, too many things for us to talk about, certainly me.

16 I don't know about fingerprints that much, just enough that you

17 don't get them all the time.

18 Q Well, this was inside an apartment, within an hour or two

19 of the death, so there certainly wouldn't have been any weather

20 that would have affected this?

21 A No.

22 Q And the fact that the -- or there were identifiable

23 prints that were then processed and submitted to AFIS.

24 You know what AFIS is?

25 A Sure I do.

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1 Q And would you describe for the jury what AFIS is?

2 A Sure. AFIS is an acronym for the Automated Fingerprint

3 Identification System, AFIS.

4 And in there, in that system data base, are the perfectly

5 rolled or perfectly documented ridge details of the fingerprints

6 of the people in that data base. If they're not clear, they're

7 not in AFIS.

8 My fingerprints are in AFIS; many people in gaming are in

9 AFIS. If my fingerprint was at a scene, such as touching that CD,

10 and it wasn't clear, AFIS, the computer program, would not have

11 hit on my fingerprint. So it has to be a good print that's lifted

12 in order for you to get an AFIS hit and the person has to be in

13 AFIS.

14 Well, everyone isn't in AFIS. So the fact that we didn't

15 get prints in this case off of the CD is not particularly

16 alarming. As a matter of fact, the proof is in the pudding,

17 because if those were owned by the owners of the apartment, we

18 should have gotten their fingerprints on those CDs.

19 Q And you got fingerprints from that; and, usually, at a

20 scene, to eliminate finding unnecessary work, the technician will

21 come out and say, well, let me get the prints of -- in this case,

22 Debra Quarles and Sheila Quarles, and you know that they take

23 fingerprints at the time of the autopsy, so that they will have

24 those fingerprints?

25 A Absolutely.

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1 Q Right?

2 A Right.

3 Q And if you have a suspect, you can go in and you can get

4 their fingerprints and you can take those into the CSA and say,

5 look at these two, match them?

6 A That's true.

7 Q Or not match them. You are not limited to AFIS. You

8 have that tool to go in and get those fingerprints, right?

9 A That's true.

10 Q When you came into the apartment, did you notice whether

11 or not the door was locked? Did you check it to determine,

12 although it was open to you, was the door knob itself locked?

13 A When I got there, the door was in the standing open

14 position. I did not open the door. I was informed about the

15 condition of the door, which was probably two or three deep in

16 this story by the time I got it. I was there about an hour after

17 the 911 call.

18 Q And you were over there, you were securing the scene,

19 overseeing the investigation of the scene; the other detectives

20 were out doing interviews, interviewing the people that, number

21 one, would identify themselves, and, number two, were in the

22 neighborhood.

23 And you weren't involved in the process of doing either

24 of those two things?

25 A Well, I wasn't out identifying people in the

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1 neighborhood. That's true.

2 Q And you were there until nine o'clock in the evening.

3 Did anybody come into you, into the apartment, and say: Hey, I'm

4 her boyfriend. I had sex with her just before she died.

5 A Well, no, obviously, no one said that to me, for a couple

6 of reasons. We have a crime scene --

7 Q I'm not asking for reasons.

8 A Perimeter.

9 Q That's a supposition. I'm just asking if anybody came in

10 and told you: I had sex with that poor girl before she died?

11 A No one said that to me.

12 Q And because you are overseeing the detectives that are in

13 there, you are the supervisor, if there was a witness that had

14 come forward and said, hey, this guy said that he had sex with her

15 an hour before she died or two hours before she died, you would

16 have been informed about that, wouldn't you have?

17 A Absolutely.

18 Q And you weren't informed of that? You were never told

19 that anybody came forward to do that or said that?

20 A I don't really know how to answer that because there is

21 no truth in that. If somebody had come to a perimeter patrol

22 officer or a detective at that scene and made that statement, we

23 would have a tape recorded statement or we would have interviewed

24 and talked to that individual.

25 Q So if the individual, who is subsequently identified as

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1 having sex with her just before her death or associated with her

2 death -- well, let me take it a step back. I'm sorry. I'll

3 withdraw the question at this time.

4 You used the term associated with, when you were

5 describing items. For instance, the items on the floor are

6 associated with the TV. They're nearby it. I'm sorry. Is that

7 okay if I leave it sideways like that?

8 A Yeah, if you must.

9 Q Okay. That's better. I'm sorry.

10 A Okay.

11 Q And those pills are associated with that table?

12 A Yes, I would say they're on the table. I would say

13 they're associated with the table.

14 Q All right. So associated means that there is some

15 proximity to or connection with; and would that be your definition

16 of associated with?

17 A I suppose that's good to say that.

18 Q Okay. So if someone was associated with having sex with

19 the deceased a short period of time before her death, you would

20 want to know about that person; is that correct?

21 A Sure. Of course, we would.

22 Q You'd also want to know everybody that went into that

23 apartment that afternoon, because you can't -- you come out about

24 three and then you are informed that there is a death that's

25 occurred and you're coming in.

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1 Do have a list of the people that was provided to you

2 that you needed to contact who had gone into that apartment or

3 come out of that apartment that afternoon?

4 A Yes, we do.

5 Q Okay. Would you read that list for me.

6 A Sure. I have it here in a report and I also know that --

7 I may be able to give you some of those by their description.

8 Do you want actual names?

9 Q Names, if you could.

10 A Okay.

11 Q And what you are referring to is a notebook that contains

12 a collection of the reports that are associated with this case.

13 And that's going to refresh your recollection?

14 A Yes. This is what we call a homicide book. (Indicating)

15 These binders are common and associated with every homicide that

16 occurs in our valley. Some cases have a single book; some have

17 multiple books.

18 And in here is the work of the detectives and the crime

19 scene investigators in this particular incident, along with

20 photographs and tape recorded statements and things like that. If

21 they're on tape still as they were in '05 and if we're digital

22 now, like we are, they would be either reduced to a CD or

23 something like that. But this is the book about this case.

24 Q Okay.

25 A And I know that in the apartment was a woman named Debra;

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1 that's the mother of the deceased, Debra Quarles. She entered the  
2 apartment.

3 I know that there was another woman. Her name is, I  
4 believe, Janie Brass, that entered -- a friend of Debra Quarles  
5 that entered the apartment when she heard her screaming.

6 Q Just the names. We've heard their involvement.

7 A Okay. Another woman named Elizabeth Tolhurst, had an  
8 apartment there, H-66, a nearby apartment.

9 And then I know that we have a list of the officers that  
10 were the first responders that entered and a list of the fire  
11 fighters or paramedics that entered the apartment.

12 So the officers would, at the scene, document the patrol  
13 officers that arrived. They would ask the mother: Who, besides  
14 you, went into the apartment after the finding of the deceased?  
15 And then we would be able to document the fire paramedics  
16 responders as well.

17 And then, of course, all of us from homicide and the  
18 crime scene investigators are documented in that as well.

19 Q Would George Brass be documented in that file?

20 A No.

21 Q Would it surprise you that George Brass went into that  
22 apartment and had sex with Pooka, Sheila Quarles, at a time that  
23 is associated with her death?

24 MS. WECKERLY: Objection; that's not in evidence.

25 THE COURT: Well, wasn't that in your opening statement?

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1 MS. WECKERLY: We can establish that with evidence, but I  
2 don't know that we can -- Mr. Pike didn't say the time.

3 MR. PIKE: Okay. I'll rephrase the question.

4 THE COURT: Sometime earlier that day.

5 MR. PIKE: Okay.

6 BY MR. PIKE:

7 Q Sometime earlier that day, if I was to inform you that an  
8 individual by the name of George Brass went in and says that he  
9 had sex with Pooka, the deceased, that's information that's new to  
10 you?

11 A Okay. I'm trying to see if I have your question --

12 Q Let me go back and -- It may not be a fair question to  
13 ask you because you are retired.

14 When did you retire?

15 A Well, December of '07.

16 Q Okay. So information that came to light in August of  
17 2008, you wouldn't know?

18 A No, not really, no.

19 Q So if I told you, in 2008, George Brass finally came  
20 forward, after the police found him, and said, yeah, I had sex  
21 with her that day inside that apartment, that's news to you?

22 A Well, as I sit here today, it's not news to me. I'm  
23 aware of what you are saying.

24 However, your line of questioning was about what happened  
25 at my crime scene at 1451 hours on the day that that body was

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1 discovered.

2 Q And I'm asking you: He didn't come forward. Nobody told  
3 you that George Brass was in this apartment and had sex with her;  
4 nobody told you that at the crime scene that day, did they?

5 A No. But I'm trying --

6 Q Okay. That's a yes or no question.

7 THE COURT: No, no. Let him answer. Go ahead.

8 THE WITNESS: I feel that your line of questions was:

9 Did that man go into that crime scene while we were there? And  
10 that's not true.

11 BY MR. PIKE:

12 Q I didn't ask you that way. I said nobody told you that  
13 George Brass was in there?

14 A No, no.

15 Q Okay. And had you known that day, at that time when you  
16 were processing that scene or having it processed, that someone  
17 had had sex with her in that apartment, then you would have  
18 suspected more of a sexual component; would that be fair to say?

19 A Well --

20 Q You are processing a homicide; you may be looking at  
21 processing a sexual assault?

22 A Uh-huh.

23 Q And so you may look at things differently, such as --  
24 well, if he said that he had sex with her on the floor, you might  
25 be more concerned about all of the stains on the floor; would that

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1 be a fair statement?

2 A Yes. I mean, not to say that we didn't examine those.

3 Q I'm not saying that you didn't, but it's -- had you had  
4 that knowledge, it would have allowed you to focus your  
5 investigation?

6 A Well, we didn't have that knowledge until after the  
7 results of the swabs came back though.

8 Q Right. And so then, you went back with the sexual  
9 assault -- or CSA and went back to the scene and you did all the  
10 lighting and cut out pieces of carpet and do all that?

11 A No, I didn't, and I don't know that that occurred in this  
12 case either.

13 Q It didn't?

14 THE COURT: Well, okay. Don't -- you are not testifying.

15 Just ask him a question.

16 MR. PIKE: Okay. All right.

17 BY MR. PIKE:

18 Q So, to your knowledge, that never happened; nobody went  
19 back to that scene and examined the carpet for any sort of  
20 presence of spermatozoa or sperm, or any other biological evidence  
21 associated with a sexual assault?

22 A That's true, to my knowledge.

23 Q To your knowledge?

24 A I don't know.

25 Q To your knowledge. Okay.

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1 And all these questions are to your knowledge.  
 2 The other thing that you have that is available to you as  
 3 a tool is going through and preparing photographic lineups?  
 4 A Yes.  
 5 Q And sometimes that's done when you have an identifiable  
 6 suspect or someone that you believe may have been at a location  
 7 and you want to check and see if anybody in the area or who you've  
 8 been talking with can identify any of those individuals.  
 9 Would that be a fair description of the whole process?  
 10 A Well, so you are saying that we as detectives, knowing of  
 11 an individual that's a suspect in the case, that we would return  
 12 to that complex to show photographs, an array of photographs, to  
 13 people to see if that person had been there?  
 14 Q Yeah.  
 15 A I think at the time that we were there, and for quite  
 16 some time afterwards, we did not have an identifiable suspect, so  
 17 it wouldn't make any sense that we would just -- whose picture  
 18 would we take and incorporate in a photographic array to take to  
 19 this complex? We didn't have a suspect.  
 20 Q Well, as soon as you have a suspect, you can go back and  
 21 do it then?  
 22 A Well, I don't know at the time -- I wasn't involved in  
 23 that aspect of the case when the identification of a potential  
 24 suspect came up.  
 25 Q Okay. To your knowledge, there was never a photographic

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1 lineup that involved Norman Kelth Flowers?  
 2 A I don't know whether that occurred or not, no.  
 3 Q And, to your knowledge, there was never a photographic  
 4 lineup that involved a Jesse Navaro that was located in that area?  
 5 As far as you know, there were no photographs done in this case?  
 6 A Not that I know of, no.  
 7 Q If they're not in the book, it didn't happen?  
 8 A It didn't happen.  
 9 THE COURT: How much long will you be, Mr. Pike?  
 10 MR. PIKE: I'll be very quick.  
 11 THE COURT: Okay. We'll a break as soon as you are done.  
 12 After the autopsy, the doctor opined that the victim had  
 13 been sexually assaulted.  
 14 Was there anything in your investigation that would lead  
 15 you to be able to conclude where that may have occurred, on the  
 16 bed, on the floor, in the bedroom, on the bathroom floor?  
 17 THE WITNESS: No, there wasn't anything glaring that  
 18 would tell us where that occurred.  
 19 And, of course, at some point, we learned that there was  
 20 vaginal tears, but I believe in this case that I remember that the  
 21 doctor's opinion about the homicidal nature of this was not given  
 22 to us that morning at autopsy. I think that it was pondered by  
 23 the doctor -- I don't remember for sure -- but I don't know that  
 24 we had the determination that we had a murder with a sexual  
 25 assault right away.

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1 I don't know if that answers the question, Your Honor, or  
 2 not, but I don't know what room -- the sexual assault, which we  
 3 now know occurred, I don't know what room it happened in.  
 4 BY MR. PIKE:  
 5 Q You have available also for your use as a detective  
 6 access to a number of different data bases, in which you can, once  
 7 an individual is identified or known to you --  
 8 A Uh-huh.  
 9 Q -- that you can actually find them by their nicknames.  
 10 So if I was to, for instance, tell you, I'm looking for  
 11 somebody whose nickname is Chicken, you have the ability to access  
 12 some data bases that would come back and say, well, these are  
 13 people whose nicknames are Chicken?  
 14 A Yes.  
 15 Q And by using the same data bases that are available to  
 16 you, you, oftentimes, can find friends or people that have had  
 17 contact with or are relatives of those individuals?  
 18 A Yes. If you know the moniker of an individual, there may  
 19 be an association list in one of those data bases that Chicken is  
 20 associated with this individual and Chicken's name is such and  
 21 such and this person's name is such and such.  
 22 Q And so Chicken may have been friends with these other  
 23 individuals, and then you can use that investigative technique to  
 24 obtain photographs of those individuals and find whether or not  
 25 they match descriptions that have been given to you by eye

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1 witnesses?  
 2 A That's all true. I wasn't involved in any of that aspect  
 3 of this case, but that is all true.  
 4 Q Okay. So that was another tool that was available, but,  
 5 apparently, there are no lineup photographs that were developed  
 6 that way either.  
 7 A There again, there are no -- that I am aware of --  
 8 photographic lineups in this file. So I would have to say that  
 9 these detectives, if they did, they kept them in another location.  
 10 I was the supervisor at the scene, but I'm not aware of the  
 11 photographic lineups that were used in this case.  
 12 Q Okay. And you weren't following through after, in 2008,  
 13 when the information, I'll represent to you, may have come forward  
 14 to you, that an individual admitted to having sex with her in that  
 15 apartment?  
 16 A That's true.  
 17 Q All right.  
 18 A I wasn't there. That's right.  
 19 MR. PIKE: I don't have any further questions.  
 20 THE COURT: Anything else?  
 21 MS. WECKERLY: Yes.  
 22 THE COURT: Is it going to be brief?  
 23 MS. WECKERLY: Not -- no.  
 24 THE COURT: All right. We'll take our afternoon recess.  
 25

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(Jury admonished by the Court.)

THE COURT: We'll have a ten minute recess. We'll pick up at 3:30.

(Recess in proceedings.)

(The following proceedings were had in open court in the presence of the jury panel:)

THE COURT: Back on the record in Case Number C228755, State of Nevada versus Norman Keith Flowers.

Let the record reflect the presence of the defendant, his counsel and counsel for the State; all ladies and gentlemen are back in the box; the witness is back on the stand.

Detective Vaccaro, you are still under oath.

Go ahead, Miss Weckerly.

MS. WECKERLY: Thank you.

# REDIRECT EXAMINATION

BY MS. WECKERLY:

**Q** Detective, on cross-examination, Mr. Pike was asking you about the pawn detail; do you remember that?

**A** Yes.

**Q** If you had an item stolen that's sort of a generic

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**1** familiar with fingerprints and how they can and can't be valuable  
**2** in a particular investigation.

**3** If an individual is someone who is social with the victim  
**4** or spends time with the victim or her family, would finding his  
**5** fingerprints inside her residence be particularly helpful in an  
**6** investigation?

**A** In that scenario, no, it wouldn't.

**Q** Why is that?

**A** Well, just like being inside of Debra Quarles' apartment,  
where she lived with our victim Sheila, if we found -- let's say  
we spent a half an hour trying to lift a fingerprint off of one of  
those CDs, and time well spent, and then we get it back that  
that's Debra Quarles' print, that didn't help us a bit because  
that's a person that's associated with our victim.

And I use that word associated again, just like we would  
have to learn about our victim, victimology, the study of our  
victim and who is around our person, that would help us eliminate  
or include people whose fingerprints could be or should be present  
in that apartment.

**Q** And in your experience, are fingerprints -- I mean there  
is no aspect to time when they're placed, correct?

**A** No. I know that fingerprints have a life to them. They  
can deteriorate with time; and like I said to Mr. Pike, some  
elements change, like heat, sun, weather, rain. That wasn't  
present inside the apartment, but I don't know that there is a

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**1** electronic item, like a stereo or something like that, in your  
**2** experience, how successful is the pawn detail in identifying a  
**3** generic stereo as being taken; you know, as belonging to a  
**4** specific individual?

**A** Well, in my experience, very unsuccessful if you don't  
have very permanent markings that you may have etched into your  
device. Let's say you have a stereo and you walk into a pawn shop  
and you pawn it and you go to the police department and say I had  
a Kenwood stereo stolen. You can say you could check in the pawn  
shops in the area and you can walk into the pawn shop and say have  
you had any Kenwood stereos come in recently? And they would say  
probably 50 and they will say what is the serial number and they  
will say I don't know.

They will say: Did you have a personal marking like a  
social security number that you etched into it? No.

Well, you need to have more information than that because  
we don't have that -- we need more information. We get all kinds  
of stereos in here and we get Kenwoods and name brands. So it  
would be unsuccessful in that scenario.

**Q** So a generic item like that and absent a serial number,  
not a high percentage of identification of the property through  
pawn by that means?

**A** That's true.

**Q** Mr. Pike was asking you about fingerprints and,  
certainly, in your experience as a homicide detective, you are

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**1** specific way to age a fingerprint within an hour range, but more  
**2** things like was there an extra layer of dust on top of the  
**3** fingerprint, you can presume something about its age, but I don't  
**4** know about that.

**Q** Mr. Pike asked you about sort of when you are at a crime  
scene and, in your experience, when you start investigating or  
talking to people at a particular crime scene, when you are at a  
scene as a detective or law enforcement, do you have the ability  
to force an individual to talk to you and give you information?

**A** No, we don't force anybody to talk to us. Certainly at a  
crime scene, outside of our crime scene tape area, we're so far  
insulated where we are working at the front of this apartment that  
if there was someone on the perimeter tape, I wouldn't even be  
able to see him, much less talk to him at that point. Our  
officers would have taped that apartment complex out to the  
extremes, the apartment complex parking lot.

So there wasn't actually a tape where people could stand  
and look right in the front door of the apartment. It was further  
back than that.

**Q** But I guess, in fairness, if someone had said I have  
important information regarding this case and that was said to a  
detective, certainly one of the detectives at the scene would have  
documented it, taken a report or maybe even tape recorded the  
person?

**A** Sure. I'm not saying at our crime scene tape that people

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1 don't get people that walk up on them and say, hey, I know  
2 something about an individual in this complex. What's going on?  
3 We get that all the time.

4 And the patrol officers are going to immediately take  
5 their identification; oftentimes, they take their driver's license  
6 from them because it's sort of a way to make sure they don't leave  
7 the scene while they're trying to get that person established with  
8 a detective. So they take the driver's license; they keep it.  
9 And now the guy says they've got my driver's license and now I'm  
10 kind of stuck here to get it back to my officer.

11 But those officers and those detectives that are greeted  
12 by people at the scene tape are always going to evaluate their  
13 information and if it's important, they're going to tape record  
14 them or they're going to get a written statement from them.

15 Q Mr. Pike was asking you about who had access to or who  
16 went into the apartment after Miss Quarles was murdered and I  
17 think you spoke about the individuals who told the detective: I  
18 went in the apartment, I pulled her out of the tub and sort of  
19 facts like that --

20 A Right.

21 Q And then you are aware that the paramedics went in and  
22 patrol went in and then homicide and the crime scene analyst went  
23 in?

24 A That's right.

25 Q Obviously, though, in terms of investigating this case,

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1 are there and they're giving us whatever we can evaluate to see  
2 whether it's important and whether it's in play or not.

3 Then we go to that individual and we interview them and  
4 we tape record them if they will let us tape record them.

5 Q Mr. Pike asked you some questions about George Brass.

6 And you are familiar with that name.

7 A Sure, I know who he is.

8 Q And he discussed with you how he's been identified as an  
9 individual who admitted to having sex with the victim Sheila  
10 Quarles in the morning before he went to work?

11 A Right.

12 Q Now, in terms of an investigation --

13 MR. PIKE: I object. The phrasing of that is not proper.

14 I'm not conceding that he did it in the morning.

15 THE COURT: Sustained.

16 MR. PIKE: I believe -- thank you.

17 THE COURT: You are going to put on evidence and the jury  
18 is going to decide how that's going to shake down.

19 MS. WECKERLY: Sure.

20 THE COURT: But at some point, in the last few months,  
21 Mr. Brass came forward and admitted to having sex with her earlier  
22 in the day.

23 MS. WECKERLY: Certainly.

24 THE COURT: Earlier meaning before the murder.

25 MR. PIKE: Well, I object to him coming forward. He was

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1 what's more relevant or what's more of concern, in terms of  
2 deciding or assessing who's responsible for the homicide, is who  
3 was in there prior to her death?

4 A Obviously. I mean, we controlled it from the point that  
5 the 911 call was made and the first officer arrived. Once that  
6 officer arrived, his responsibility was to protect it and document  
7 from anybody who was there from that point on.

8 What happened before him, well, that's why we're there.  
9 That's the mystery. Of course, we would want to know that.

10 Q And certainly if you had a witness or someone who could  
11 tell you, look, I was here all day watching that day and I saw  
12 these five people going in and out of there, obviously, that's  
13 what you would want, but that's not realistic in terms of an  
14 investigation?

15 A No. Of course, we're going to do what we call a canvass.  
16 We're going to talk to as many people and knock on as many doors  
17 and see who will talk to us.

18 I mean, we're the police. We're in an apartment complex.  
19 Does everybody want to talk to us? No.

20 So sometimes we have people that say: I just got home.  
21 What's going on? Other people say: I was here all day and didn't  
22 hear a thing.

23 But the fact that our officers are there and doing that  
24 canvass and talking to everybody that they can talk to, that's  
25 being done and that's being brought back to us as detectives that

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1 found. They went out and searched and found him. He never  
2 voluntarily came in and did this.

3 MS. WECKERLY: Well, he voluntarily gave a statement so I  
4 would say that's voluntarily.

5 THE COURT: All right. Go ahead.

6 BY MS. WECKERLY:

7 Q In terms of Mr. Brass, or even a similar type situation,  
8 the fact that a female victim had consensual sex with someone  
9 known to her prior to her death, that won't necessarily implicate  
10 or mean that there was a sexual component of her homicide later  
11 on, would it?

12 A No, not necessarily.

13 Q I mean, women can have sex with people consensually and  
14 later get murdered and there is not necessarily a sexual component  
15 to the homicide?

16 A That's true.

17 Q But when you have an individual who has consensual sex  
18 and then maybe has lacerations to her vagina and has an additional  
19 source of DNA in her, then perhaps there might be a sexual  
20 component to the homicide?

21 MR. PIKE: Objection; calls for medical conclusions. The  
22 doctor can testify to that.

23 THE COURT: Well, the doctor did testify to that and it's  
24 in the doctor's report, in his file. And he's done hundreds of  
25 these; he's able to testify to that.

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1 Go ahead.  
 2 THE WITNESS: Yes, I would say that if there is some  
 3 damage that's associated with a sexual assault and it's in  
 4 conjunction with the death, that you would have to give that a  
 5 stronger bearing than you would that previous sexual activity.  
 6 BY MS. WECKERLY:

7 Q In this particular case, during the initial few days  
 8 after Miss Quarles was murdered, there was no easily or clearly  
 9 identifiable suspect, correct?

10 A Yes. To my knowledge, this was an unsolved -- what I  
 11 call -- what we all call a who done it, which was unsolved for  
 12 quite a period of time.

13 Q And when the findings of autopsy comes out that she has  
 14 evidence of being sexually assaulted, obviously, as a detective,  
 15 at that point, you all want to know who she had sexual contact  
 16 with?

17 A Yes, of course. When it was determined that there was a  
 18 vaginal tear, that became important to us.

19 We were learning more about our victim at that point and  
 20 now we were awaiting the results of our swabs that were collected  
 21 at the autopsy, because should those swabs bear DNA, then now,  
 22 hopefully, we would have a profile of an individual that could  
 23 tell us more, because whoever's DNA was going to be in our victim,  
 24 that person had something -- something to tell us, because that  
 25 was near the time of her death or at the time of her death.

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1 So that was important for us to get those results back.  
 2 Q Because, at that point, a sexual assault and the homicide  
 3 are linked?

4 A Sure they are.

5 Q In terms of time?

6 A Sure.

7 Q Now, if Mr. Brass -- or assuming Mr. Brass admitted or  
 8 told detectives that he had sexual contact with Miss Quarles on  
 9 the day of her death, prior to her death, the room or the location  
 10 that the intercourse took place wouldn't be particularly relevant  
 11 in the investigation, would it, if it was a consensual encounter?

12 A Not with regard to that sexual contact with regard to  
 13 Mr. Brass.

14 Q Okay. So if he said that he had sex with her on the  
 15 floor of one of the rooms in Debra Quarles' apartment, knowing  
 16 that doesn't necessarily tell you who killed Sheila Quarles later  
 17 on?

18 A I think that the correct answer to that would be that it  
 19 wasn't important until we knew more about that sexual activity and  
 20 whether or not he was a suspect in our case.

21 So I don't know if that's a confusing answer, but when we  
 22 learned about him as a suspect or not a suspect in our case, when  
 23 he did not develop as a suspect in our case, then that location  
 24 that the consensual sex took place wasn't of any importance to us.

25 Q I mean -- yeah, I guess that's my question.

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1 It doesn't tell you any more about the investigation or  
 2 how she was killed if he says I had sex with her on the living  
 3 room floor, on the kitchen floor or on the bedroom floor? That  
 4 doesn't tell you anything about who killed Sheila Quarles, does  
 5 it?

6 A No. I mean, he could have said he had sex with her at a  
 7 location other than the apartment even, for that matter. The fact  
 8 that he said that he had sexual contact with her, but then  
 9 additional information -- or additional investigation showed us  
 10 that he wasn't a suspect in that, where they had sex wasn't of  
 11 importance to us; and, at that point, I think that was beyond my  
 12 time there anyway.

13 So in my experience, that wouldn't have been important to  
 14 me.

15 Q And the fact that someone has sex with another individual  
 16 on a floor or on a carpet, that wouldn't necessarily mean that  
 17 sperm or some kind of DNA would end up on the carpet by virtue of  
 18 the sexual activity, would it?

19 A No. But I guess we could say that depending upon the  
 20 positioning of the two individuals having sex, you could make a  
 21 conclusion whether or not there was some deposit of semen on the  
 22 surface that they were having sex on.

23 So I don't really know how to answer that.

24 Q Maybe, maybe not?

25 A It doesn't mean it's always going to be there.

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1 MS. WECKERLY: Thank you.

2 THE COURT: Anything else, Mr. Pike?

3 MR. PIKE: Yes.

4

# RE-CROSS-EXAMINATION

6 BY MR. PIKE:

7 Q Detective Vaccaro, when the detectives are investigating,  
 8 you indicated, at times if there is someone that's getting the new  
 9 information, they will record that statement, or that individual,  
 10 that conversation, correct?

11 A Yes. Those recorded statements are voluntary. If  
 12 somebody doesn't want to be recorded, then we'll do the best we  
 13 can to have an interview with them. But if they don't want to be  
 14 recorded, then we won't turn it on.

15 Q Those recordings are then transcribed and you've seen --  
 16 they're put on a form called a voluntary statement; is that  
 17 correct?

18 A Right. There is a handwritten statement that a lot of  
 19 people prefer to do, give us a short story; and then others will  
 20 do a taped statement, which then becomes typewritten word for  
 21 word.

22 MR. PIKE: If I may approach the witness, Your Honor.

23 THE COURT: Yes.

24 BY MR. PIKE:

25 Q I'm showing you what is -- appears to be a Voluntary

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1 Statement or a transcript of a Voluntary Statement.

2 And would you verify that that's what that is?

3 A That's what this is, yes.

4 Q Okay. And that would advise you or lead you to believe  
5 that there was a voluntary statement or a recorded statement and  
6 there was a detective that interviewed an individual that was  
7 willing to discuss the case with him?

8 A Yes, correct.

9 Q And that individual that gave the statement, name appears  
10 on that and that is --

11 A Right. It says the name of the person -- If I pronounce  
12 this right -- Natalia, N-a-t-a-l-i-a, Sinna.

13 Q And which detective took that statement?

14 A It says that this interview was conducted by Detective  
15 Wallace, Detective Mike Wallace -- he was one of the detectives on  
16 our team that was there -- and by Detective Marty Wildman, who was  
17 another detective there at the scene working on our squad.

18 Q And she gave a statement about what time?

19 A It says 1901 hours, which would be one minute after seven  
20 p.m. Is when it started.

21 Q Okay. And that's a normal process and that's done during  
22 investigation?

23 A Yes.

24 Q Okay. If during an interview there are key identifiers,  
25 such as monikers, the nickname that you gave before, or something

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1 like gold teeth with initials in them, you are able to access a  
2 number of different data bases to determine if there is an  
3 individual that has gold teeth with initials in them?

4 A Well, we talked about monikers.

5 Q Right.

6 A Which I would say that it's a more favorable data base  
7 than a gold tooth data base.

8 Q Okay.

9 A But there are gold teeth that are identified in data  
10 bases in association with monikers. It's all relevant by who puts  
11 the data in, based on the interview that's conducted by the  
12 officer in the field.

13 So if a uniform officer writes a contact information card  
14 of a suspicious person and he does what we call an FI, a field  
15 interview, card, that would be put into the data base, that the  
16 individual identified himself as Joe Blow, but his nickname is  
17 Chicken and that individual had gold teeth or a bald head or  
18 whatever it happens to be.

19 So whatever that data was that was on that card or  
20 however it got into the system is all relative to the person that  
21 writes it down.

22 Q And that's, in part, why officers are trained in the  
23 preparation of reports; why you receive training on how to write a  
24 report?

25 A Of course.

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1 Q And you've trained other officers, I'm sure, as part of  
2 your duties?

3 A Probably, at some point.

4 Q Okay. Now, in reference to the pawn detail, you  
5 indicated going to the local pawn shop to determine whether or not  
6 there is a stereo, the Kenwood you used, to match that, you can  
7 match or find out who has pawned something by going to the pawn  
8 shop and asking for the records by name, can't you?

9 A Right. We would actually go to our own detail. We  
10 wouldn't necessarily have to go to a pawn shop, but that is an  
11 avenue.

12 We would go to our detail within the police department  
13 and contact those investigators and say: Here is the name. Tell  
14 me if that person has pawned recently; tell me what they pound.

15 Q And to your knowledge, from going through that report,  
16 there was never such an investigation in reference to the name  
17 Robert Lewis, was there?

18 A I know Robert Lewis is a part of this investigative file,  
19 but I don't know whether or not he was the subject of the pawn  
20 shop examination.

21 Q And because you were unaware of George Brass, because you  
22 retired before that time, you don't know whether there has been a  
23 pawn shop investigation in reference to the name George Brass  
24 either?

25 A That's true.

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1 Q In reference to the fingerprint, the unidentified  
2 fingerprint -- we talked about obtaining different, I guess --  
3 what do they call them -- exemplars?

4 A Yes.

5 Q So if somebody suspected me of doing something, they  
6 would take my fingerprints and they would test them against other  
7 ones?

8 A That's true.

9 Q Okay. Now, if -- If an eye witness in this case said I  
10 saw so and so -- I'm just filling in the blank here -- with the  
11 stereo that was taken from that apartment a couple days later, you  
12 as a detective would want to get those fingerprints and you would  
13 want to attempt to match them to see if they matched the  
14 fingerprints that were inside the apartment?

15 A I would want to get the fingerprints of both of those  
16 individuals, the one that told me, to see if he touched the  
17 stereo, and so and so's fingerprints, to see if that was true, if  
18 they were on there. That's according to, of course, if I found  
19 the stereo, so that I could do that examination.

20 Q But even if you didn't find the stereo, but a witness  
21 could identify that, or through various means, at least it would  
22 be a lead or something you might want to follow up on a cold case?

23 A Well, I don't know if I'm getting confused. I'm not  
24 trying to be argumentative. So you are saying I don't have the  
25 stereo, so I don't have any fingerprints to compare it to so and

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1 so and the person that told you about it?

2 Q You don't have the stereo, but you do have the name of  
3 the individual that has been identified with the witness as having  
4 that stereo after the death.

5 A I wouldn't focus on fingerprints at that point. What I  
6 would be more focused on is let's talk to both of these  
7 individuals and find out what they know about this case. That's  
8 where I would go first.

9 Q All right. Now, during the course of this investigation,  
10 you were provided with information that there had been a burglary  
11 that had occurred in the early morning hours in that apartment  
12 complex between one and two. Do you recall that?

13 A I was aware of that while we were at the scene, that  
14 there had been a burglary in another apartment complex. That was  
15 sort of the buzz while we were there, yes.

16 Q Did you ever identify the individual that committed that  
17 burglary?

18 A No.

19 Q In going through the investigation as it was going, when  
20 did you first become aware that there was spermatozoa inside of  
21 the body of Sheila Quarles?

22 A I don't remember the date. I know that when the results  
23 came back from that analysis, because the kit is automatically  
24 sent out, once that result came back, it was spoken about by my  
25 peers, in my presence, and I was, as they were, enthused that we

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1 had a DNA profile of a male -- as a matter of fact, two; and the  
2 fact that there was that presence was encouraging for us in the  
3 case because we had a DNA profile. We had more people to talk to.

4 Q And now, looping back around through that, because you  
5 were aware that there was a mixture of DNA of at least two  
6 individuals, then the clothing became even more important because  
7 the clothing could tell you -- could almost give you a time frame  
8 as to if that clothing was worn after sexual contact with one  
9 person, the other person, or both people; is that correct?

10 A Well, I guess that's sort of an opinion for me there,  
11 because I don't know how long somebody wears an item of clothing,  
12 what their particular personal habits are.

13 If you were, you know -- I guess I could only go into my  
14 own personal tool bag. I can't tell you how often somebody would  
15 change an item of clothing that might be stained with the semen of  
16 an individual.

17 Q I'm not asking you to pull out a whole cloth and say:  
18 Well, this is how this person would do it, because I've seen  
19 pictures of it.

20 What I'm saying is that it would be true, based upon your  
21 experience in murder cases and sexual assault cases that you have  
22 dealt with before, if an individual has sex, a male has sex with a  
23 female, and after they done having that sexual contact, then she  
24 dresses herself and puts on her panties, gravity takes over and  
25 there would be bodily fluids that would be deposited on the inside

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1 of the panties, correct?

2 A Well, if that were the case -- I mean, if you are talking  
3 about this particular case --

4 Q I'm not talking about this case. I'm talking about  
5 you -- you collected the panties in this case because --

6 A Right.

7 Q -- because that's what happens: People put on their  
8 clothing and if there is something in there, it leaks out, right?

9 A And it can, and in this particular case, we examined  
10 those items of clothing.

11 Q Right. And the panties had both DNAs on them?

12 A That's right.

13 Q Okay. Now, going back to that, and knowing the  
14 importance of evidence as it's collected and going through and  
15 wanting to complete the loop and complete the investigation, if  
16 you were to collect the clothing that was worn the night before,  
17 the pajamas, the panties that were worn the night before, then  
18 that would be a piece of evidence that may provide you some  
19 information as to whether or not sexual contact had occurred the  
20 night before or sometime before, when those pajamas were worn, and  
21 that would be a piece of evidence. It may or may not turn out,  
22 but it's a piece of evidence, correct?

23 A I don't know. I would say I haven't done that. I don't  
24 know that I would do that and I didn't do that in this case.

25 Q And so that potential piece of evidence is not something

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1 that was collected and we don't know what the results may or may  
2 not be?

3 A Well, we didn't go through all of her clothing --

4 Q Yes or no, you didn't collect it?

5 A Well, we didn't collect it. We know that.

6 Q Okay. So you didn't collect it, so we don't know what  
7 the results are going to be?

8 A We don't know.

9 Q Yes or No, you don't know?

10 A That's true.

11 Q And, finally, you indicated that there was -- I think  
12 there was a high saturation of police presence in that area?

13 A Yes.

14 Q Is that a kind way of saying it's a high crime area?

15 A No. More people, more cops. There is lots of people in  
16 that area, so there is more concentration of police officers.  
17 It's a more densely populated area. It's not -- I don't know  
18 really what the statistics are in that area, but I'm sure they're  
19 higher than they are at, you know, Mount Charleston or something  
20 like that.

21 MR. PIKE: Thank you very much.

22 Nothing further.

23 THE COURT: Anything else?

24 MS. WECKERLY: No, thanks.

25 THE COURT: Detective, thank you.

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1 THE WITNESS: Okay. Thank you.

2  
3 (Witness excused.)

4  
5 THE COURT: We had a question that doesn't really work  
6 for this witness. Can you tell when the trauma occurred because  
7 the two -- we had testimony about that from the coroner, the  
8 coroner, who as I recall, from notes, who said there were  
9 lacerations, but no bruising; and, hence, I know that the vaginal  
10 trauma occurred contemporaneously with the killing, no more than  
11 20, maybe 30 minimums before. I think that was his testimony.  
12 So, hopefully, that answers your question.

13 MS. LUZAICH: Can we approach, Judge?

14 THE COURT: Yeah.

15  
16 (Sidebar conference at bench, not reported.)

17  
18 THE COURT: Ladies and gentlemen, somebody said one of  
19 the potential witnesses may have been talking to the jurors, but  
20 not about the case.

21 As a juror, please don't talk to any of the people out in  
22 the hallway that aren't jurors, that may be witnesses, just  
23 because we don't want to contaminate the jury.

24 MR. PIKE: Your Honor, we do need to make a record of the  
25 content of the conversation.

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1 THE COURT: We will do that when we're done.

2 MS. WECKERLY: Qunise Toney.

3 THE COURT: Would you rather do that right now?

4 MR. PIKE: Yes, Your Honor.

5 THE COURT: Okay. I'm going to have to ask you to just  
6 step outside a little bit so that we can talk to this potential  
7 witness outside your presence.

8 So if you would just, ladies and gentlemen, step outside  
9 for about two or three minutes, we will take care of this and then  
10 we'll move on. Sorry.

11  
12 (The following proceedings were had in open  
13 court outside the presence of the jury panel:)

14  
15 THE COURT: Come on in, Miss Toney.

16 THE MARSHAL: Judge, do you want her brought in?

17 THE COURT: Yes, Miss Toney.

18 MR. PIKE: While we're waiting for her, we can make a  
19 record.

20 The note came to the District Attorney's attention by one  
21 of their victim advocates, who was vigilant and watching and  
22 assisting the District Attorney in handling their witnesses.

23 THE COURT: That's my understanding, Mr. Pike.

24 MR. PIKE: Yeah. And so it was brought -- as soon as he  
25 or she opened it, they brought it to the District Attorney's

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1 presence or knowledge. The deputy D.A.'s have been present in the  
2 courtroom throughout the entire time.

3 THE COURT: That's my understanding.

4 MR. PIKE: Thank you.

5 THE COURT: Come on up here, Miss Toney.

6  
7 (Witness sworn.)

8  
9 THE CLERK: Thank you. Please be seated.

10 State your name and spell it for the record.

11 THE WITNESS: Qunise Toney; Q-u-n-i-s-e, T-o-n-e-y.

12 THE COURT: Miss Toney, I got a note from the District  
13 Attorney that said one of their witness advocates noticed you in a  
14 conversation with one of our jurors. Did that occur?

15 THE WITNESS: Yeah.

16 THE COURT: Who did you talk to and what did you talk to  
17 them about?

18 THE WITNESS: Well, I didn't -- well, I was just standing  
19 there. I didn't talk. My friend was talking to her.

20 THE COURT: Who is your friend?

21 THE WITNESS: She's outside, Needra.

22 THE COURT: Is she a witness?

23 THE WITNESS: No.

24 THE COURT: She was talking to one of the jurors?

25 THE WITNESS: Yes. He asked her how does she get picked

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1 for a juror.

2 THE COURT: And you overheard that?

3 THE WITNESS: Yeah.

4 THE COURT: Was there anything more than that?

5 THE WITNESS: No.

6 THE COURT: Any questions, Mr. Pike?

7 MR. PIKE: No.

8 THE COURT: Any questions?

9 MS. WECKERLY: No.

10 THE COURT: Okay. Bring the jury in.

11 Okay. Thanks.

12  
13 (The following proceedings were had in open  
14 court in the presence of the jury panel:)

15  
16 THE COURT: Back on the record in Case Number C228755,  
17 State of Nevada versus Norman Flowers.

18 Let the record reflect the presence of the defendant, of  
19 the defendant's counsel, counsel for the State; all the ladies and  
20 gentlemen of the jury are back in the box.

21 This is Qunise Toney. She's already been sworn.

22 Miss Toney, would you state and spell your name again for  
23 the jurors, please.

24 THE WITNESS: Qunise Toney; Q-u-n-i-s-e, T-o-n-e-y.

25 THE COURT: Go ahead.

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COUNISE TONEY

called as a witness on behalf of the State,  
having been first duly sworn,  
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. WECKERLY:

Q Miss Toney, do you know someone by the name of Sheila Quarles?

A Yes, I did.

THE COURT: Speak up, please.

THE WITNESS: Yes, I did.

BY MS. WECKERLY:

Q When was it approximately that you met her?

A March of '04, at a barbecue.

Q And did you -- was it sort of a party? Were there a lot of younger people?

A It was a variety, yeah.

Q A variety?

A Yeah, of different ages.

Q Okay. That was in '04?

A Yes.

Q Sometime after you met Sheila -- let me ask you this: Did you call her Sheila or Pooka?

A Pooka.

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Q Sometime after you met Pooka at that barbecue, did you start talking to her more?

A Yes.

Q About how long after the barbecue?

A About three months.

Q About three months?

A Two, three months.

Q Did the relationship ever turn into a romantic type relationship?

A Yes.

Q When was that?

A Around August.

Q Of '04?

A Of '04.

Q I don't want to know what Pooka would say, but would she come over to where you were living and stay overnight and that sort of thing?

A Yes.

Q During this time period, were you working?

A Yes.

Q What did you do?

A I'm a bus driver for First Transit. At the time, it was called Laha. I'm a bus driver for the mentally challenged, disabled, handicapped.

Q Okay. And you were doing that in 2004 and 2005?

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A Yes.

Q Okay. So you said in maybe August of 2004, you and Pooka developed sort of a romantic relationship?

A Yes.

Q At that time, where was she living?

A With her mother.

Q And do you know where that was, what street?

A Pecos and Washington.

Q Pecos and Washington?

A Yes.

Q And where were you living?

A Lamb and Owens.

Q Were you living alone?

A My mom and sister.

Q Your mom and sister?

A Yes.

Q From August 2004 into the beginning of 2005, were you still socializing and involved with Pooka?

A Yes.

Q About how frequently were you guys seeing each other?

A Every day.

Q Every day?

A Yes.

Q How would that take place, if you were working?

A I picked her up when I get off, picked her up from work

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or picked her up from her mom's house, as well as taking her to and from as well.

Q When you would pick her up, would you occasionally or even frequently take her to stay the night at your apartment where you, your mom and sister lived?

A Yes.

Q I want to talk specifically about March the 24th of 2005.

Do you remember that date?

A Yes.

Q Let me move a little bit backwards.

On the night of the 23rd, did you see Pooka at all?

A Yes, I did.

Q And where was it that you first saw her on the 23rd?

A I picked her up from her mom's house.

Q Was she staying over at your house that night?

A Yes.

Q When you picked her up from her mom's house, did you go up to the door or did she just come out?

A She came out.

Q And when you picked her up, where did you guys go?

A We went and got something to eat.

Q Some food?

A Yeah. And then went back to my house.

Q Okay. When you went back to your house, who was home at the apartment?

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1 A My mother and my sister.  
 2 Q Both your mom and your sister were home?  
 3 A Yes.  
 4 Q Did you have your own room?  
 5 A Yes.  
 6 Q Did you and Pooka stay in your room that night?  
 7 A Yeah.  
 8 Q On the night of the 23rd, did you and Pooka have any  
 9 sexual contact that night?  
 10 A No.  
 11 Q Okay. And sort of using the 23rd as a marker, did she  
 12 also stay with you the night before on the 22nd?  
 13 A No.  
 14 Q How about on the 21st?  
 15 A No.  
 16 Q The 20th?  
 17 A No.  
 18 Q Okay. None of the previous couple nights?  
 19 A Nope, none.  
 20 Q When you saw her on the 23rd and you picked her up at her  
 21 mom's -- did you see her the day before on the 22nd?  
 22 A Yes, on my lunch break.  
 23 Q On your lunch break?  
 24 A Yeah.  
 25 Q So on your lunch break, did you meet up or did you --

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1 A We met at the store by her house, the 7-Eleven.  
 2 Q Is there a 7-Eleven pretty close to where her mom --  
 3 A Her mom was, yeah.  
 4 Q So you see her on your lunch break on the 22nd, obviously  
 5 during the daytime?  
 6 A Yeah.  
 7 Q And then you pick her up on the night of the 23rd and she  
 8 stays the night?  
 9 A Correct.  
 10 Q Did you have to work on the morning of the 24th?  
 11 A What?  
 12 Q She stays the night at your house on the 23rd, right?  
 13 A Right.  
 14 Q The next morning, did you have to go to work?  
 15 A Yeah.  
 16 Q So what did you do with Pooka?  
 17 A I dropped her off at her mom's.  
 18 Q Back at her mom's in the morning?  
 19 A Yeah.  
 20 Q Do you remember what time that was?  
 21 A About 6:05.  
 22 Q Did you go to work?  
 23 A Yeah.  
 24 Q When you go to work, did you have to report to a specific  
 25 place to pick up the bus that you drive?

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1 A We have a manifest; we have to pick up the manifest and  
 2 it's got different pick ups for different times, so, yeah.  
 3 Q Where would you have had to go that morning to pick up  
 4 the manifest?  
 5 A Simmons and Carey.  
 6 Q Simmons and Carey?  
 7 A Yes.  
 8 Q What time did you have to be there?  
 9 A 6:20 or 6:30.  
 10 Q So pretty early in the morning?  
 11 A Yeah.  
 12 Q So once you pick up the manifest, I presume you go and  
 13 pick up your clients?  
 14 A Yeah.  
 15 Q If you started work at a little bit after 6:30, how late  
 16 would you have had to work that day?  
 17 A Twelve hours, 6:30.  
 18 Q And is your route the same every day?  
 19 A Never.  
 20 Q Never the same?  
 21 A Never.  
 22 Q When you pick up that manifest, does that tell you who  
 23 you are picking up that day?  
 24 A Yeah.  
 25 Q On the day of the 24th, you picked up the manifest and

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1 then, I assume, started picking up your clients?  
 2 A Right.  
 3 Q During the morning period of that day, were you in phone  
 4 contact with Pooka at all?  
 5 A Yes.  
 6 Q Would you call her on her cell phone or on a phone in the  
 7 apartment?  
 8 A Cell phone.  
 9 Q Do you recall about how many times you talked to her that  
 10 morning?  
 11 A Not for sure, about three, maybe four.  
 12 Q Three or four?  
 13 A Yeah.  
 14 Q Did you have a cell phone?  
 15 A I did.  
 16 Q Do you remember what your number was at that time?  
 17 A No.  
 18 Q Would looking at your voluntary statement refresh your  
 19 recollection as to what your phone number was back then?  
 20 Do you know if you gave it to the police?  
 21 A Yeah, I gave it to the police.  
 22 Q Okay. I'm not going to walk up there. Mr. Pike is not  
 23 going to make me.  
 24 Does 245-9401 sound like it might have been your number  
 25 back then?

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1 A Yeah, possibly, yeah.

2 THE COURT: Let me ask you this: Did you tell the police

3 accurately back then the number you had, even though you don't

4 remember today?

5 THE WITNESS: Right.

6 BY MS. WECKERLY:

7 Q When you were talking to her throughout that morning, do

8 you remember when it was that you last actually spoke with her and

9 had a conversation?

10 A Around eleven.

11 Q Around eleven in the morning?

12 A Yeah.

13 Q Without telling me what she said, did Pooka seem like she

14 was in a good mood, in a bad mood, anything about her mood that

15 you remember?

16 A In a good mood.

17 Q Good mood.

18 And after that conversation that you think took place

19 around eleven, did you have any further phone contact with her

20 that day?

21 A Yeah, about -- she called, but there was no -- nobody was

22 in.

23 Q Explain that?

24 A I got a phone call from her -- from her phone, but when I

25 answered it, no one said nothing.

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1 Q So your phone rings and it's Pooka's number --

2 A Right.

3 Q -- and when you click to answer it, no one was on the

4 other side?

5 A That's correct.

6 Q Could you tell from listening whether -- you know, like

7 the phone call didn't go through or whether it was like a signal

8 or could you hear anything or was it just dead?

9 A It was just dead.

10 Q When you got that call, what did you do?

11 A I said hello, hello; nothing; then I called back and it

12 went to voice mail.

13 Q So you called back her cell phone?

14 A Right.

15 Q And you got voice mail?

16 A Right.

17 Q So you never spoke to her?

18 A No.

19 Q The last conversation you had was maybe around eleven?

20 A Right.

21 Q Prior to that eleven o'clock conversation, did you have a

22 couple earlier conversations?

23 A Yes.

24 Q In any of those conversations, did you ever hear music

25 playing in the background?

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1 A I did hear music, yeah.

2 Q When you had that call where you got the dead -- the dead

3 end on the other side and then you called back, did you ever make

4 any other attempts to call her that afternoon?

5 A I did.

6 Q Okay. And did you just keep getting a voice mail or what

7 happened?

8 A Voice mail.

9 Q How was it that you ended up leaving work that day? What

10 happened?

11 A I had a pick up off of Bonanza and Lamb, which they had

12 to go to the Community College. That's on Cheyenne and Pecos. So

13 I took Bonanza up to Lamb -- I mean Bonanza to Pecos and then

14 Pecos all the way down to the college.

15 Q And what happened as you went that route?

16 A When I was passing over Washington, I thought I seen her

17 in the back of a police car. So when I dropped off my client, I

18 came back that way and got off the bus and that's when her

19 brother's girlfriend told me that she was no longer there.

20 Q She told you she had died?

21 A Yeah.

22 Q Did you actually get -- you parked your bus and you went

23 over?

24 A Yeah, I parked it like on the other end and then I walked

25 to the apartment.

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1 Q Were the police already there?

2 A Yes.

3 Q And so were people standing outside?

4 A Yes.

5 Q And one of her brother's girlfriends kind of told you

6 what happened?

7 A Yes.

8 Q After you heard that, did you stay there or what did you

9 do?

10 A I called my mom.

11 Q And did you go get your mom or did your mom come over?

12 A She met me at my job and then we proceeded over there.

13 Q So your mom meets you back where you drop off your bus?

14 Is that yes?

15 A Yes.

16 Q And then you and your mom go back to the Pecos --

17 A Me, my mom and my brother.

18 Q When you went back to the Pecos apartment that night, did

19 you talk to the police?

20 A I did.

21 Q And they interviewed you on tape?

22 A Yeah.

23 Q Is that yes?

24 A Yes.

25 Q Okay. Sometime after that night, did you have an

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1 additional conversation with the police?

2 I mean, did they talk to you a couple times?

3 A No.

4 Q Just that night?

5 A Just that night.

6 Q Did they ever ask you for a DNA sample?

7 A The second time I talked to them, yeah.

8 Q Okay. And you provided that?

9 A I did, yes.

10 MS. WECKERLY: Court's indulgence.

11 BY MS. WECKERLY:

12 Q Let me ask you this: When you dropped Sheila off in the  
13 morning before you went to work, do you remember what she was  
14 wearing?

15 A Pajamas.

16 Q Pajamas?

17 A Yes.

18 Q And do you know where Sheila was working during this time  
19 period?

20 A Starbucks in the Convention Center.

21 Q Did she ever keep clothes at your house?

22 A Yes.

23 Q Like a lot or just --

24 A Just a couple outfits.

25 Q A couple outfits?

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1 A Some shoes.

2 Q And that would -- would that be like a full change of  
3 clothes that she'd keep at your house?

4 A Yes.

5 MS. WECKERLY: Thank you. I'll pass the witness.

6 THE COURT: Questions?

7 MR. PATRICK: Thank you, Judge.

8

9 CROSS-EXAMINATION

10 BY MR. PATRICK:

11 Q Good afternoon, Miss Toney.

12 A Good afternoon.

13 Q So Sheila spent the night with you on the night of the  
14 23rd?

15 A That's correct.

16 Q And you brought her home about six a.m.?

17 A Right.

18 Q And I think you said throughout the day you made phone  
19 calls back and forth?

20 A Right.

21 Q Would it be fair to say when you had a break and you had  
22 a minute, you would be able to call her?

23 A Right.

24 Q Now, there was one phone call, I believe, around eleven  
25 a.m.?

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1 A Yes.

2 Q And without saying what Sheila said, was there

3 conversations about her seeing her grandfather that day?

4 A That's correct.

5 MS. WECKERLY: Objection; hearsay.

6 THE COURT: Sustained. That is what she would have said.

7 Sustained.

8 BY MR. PATRICK:

9 Q And then you were talking to Miss Weckerly about a phone  
10 call that you heard music in the background?

11 A Uh-huh.

12 Q And what time was that?

13 A I'm not for sure.

14 Q Okay. You gave a statement to the police on the day of  
15 the incident, 3/24, correct?

16 A Right.

17 Q And when they asked you questions, you answered them  
18 truthfully?

19 A Right.

20 Q And you probably had a better recollection of what  
21 happened on that day than you do three years later; is that fair?

22 A That's fair.

23 Q And if I was to show you your statement of that day,  
24 would that help you remember what you told the police?

25 A Yeah.

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1 MR. PATRICK: May I approach?

2 THE COURT: Well, only if you ask her do you know what  
3 you said and if she doesn't recall, then you can refresh her  
4 recollection or you can --

5 MR. PATRICK: Well, I asked her what time the phone call  
6 was that she heard music and she said she didn't know.

7 THE COURT: Fair enough, if that's what you are  
8 approaching her about.

9 BY MR. PATRICK:

10 Q On page four, if you could read that page to yourself for  
11 me, just the whole thing.

12 Okay. Does that help refresh your memory?

13 A A little bit.

14 Q A little bit.

15 So what time was the phone call where you told the police  
16 that you heard music in the background?

17 A On that, it says 12:30.

18 Q And this statement was taken the same day that phone call  
19 would have been made on the 24th?

20 A Right.

21 Q And the times that you talked to Sheila, I know you  
22 mentioned one time that, in your opinion, she sounded happy when  
23 you talked to her.

24 Did she sound that way in all the phone calls that you  
25 actually talked to her?

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1 A Yeah. She was a happy person.  
 2 Q And then you got a call on your cell phone from Sheila?  
 3 A Yeah.  
 4 Q And that would have been at approximately 1:35 that  
 5 afternoon?  
 6 A Yeah.  
 7 Q And when you answered it, there was nobody on the other  
 8 line?  
 9 A That's correct.  
 10 Q Did you try calling her back at that time?  
 11 A I did.  
 12 Q And did anybody answer the phone?  
 13 A Nope, went straight to voice mail.  
 14 Q And I think you said that you and Sheila started a  
 15 romantic relationship around August of '04?  
 16 A That's correct.  
 17 Q So you were together for approximately seven months?  
 18 A That's right.  
 19 Q Now, you said that she didn't spend the night --  
 20 Miss Weckerly went back three days prior to the 23rd.  
 21 Do you remember when, prior to that time, Sheila would  
 22 have spent the night with you?  
 23 A Maybe a week or -- and a half.  
 24 Q Was that common, that she would spend the night with you  
 25 about once every week and a half?

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1 A No. She was ill; she said I worked too long, so she  
 2 wanted to go home with her mom.  
 3 Q Okay. So in that seven month period, it was more common  
 4 that she would spend the night more often than that?  
 5 A Yeah.  
 6 Q What was the relationship like between you and Sheila's  
 7 mother?  
 8 MS. WECKERLY: Objection; relevance.  
 9 THE COURT: What is the relevance?  
 10 MR. PATRICK: Well, the relevance is Mom didn't know that  
 11 they were having a sexual relationship; she didn't know that she  
 12 was having a sexual relationship with George Brass.  
 13 THE COURT: I'll give you a little leeway; just one  
 14 question.  
 15 Go ahead.  
 16 THE WITNESS: Can you repeat it?  
 17 BY MR. PATRICK:  
 18 Q Yeah. What kind of relationship did you have with  
 19 Sheila's mother?  
 20 A Didn't know her.  
 21 MR. PIKE: A little more leeway?  
 22 BY MR. PATRICK:  
 23 Q Did you ever talk to her?  
 24 A Not really, no.  
 25 Q Okay. Did you meet her?

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1 A No.  
 2 Q You never met her in those seven months?  
 3 A No.  
 4 Q On the 24th, you said that your shift started  
 5 approximately 6:30 in the morning?  
 6 A Correct.  
 7 Q Okay. Where did you say you went to pick up your  
 8 manifest that day?  
 9 A On Simmons and Carey.  
 10 Q Okay. And about how far was that from Sheila's house?  
 11 A About a 15 minute drive.  
 12 Q So you had plenty of time to get to work on time?  
 13 A Yeah.  
 14 Q Were you aware of any other boyfriends or girlfriends  
 15 that Sheila had during the time that you were seeing her?  
 16 A No.  
 17 Q She never talked about any boyfriends to you?  
 18 A Ex-boyfriends, yeah.  
 19 Q She talked about ex-boyfriends?  
 20 A Yes.  
 21 Q But nobody that she was seeing at the same time?  
 22 A No.  
 23 Q Did you feel that you had a monogamous relationship with  
 24 Sheila?  
 25 A I did, yeah.

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1 Q The ex-boyfriend that she talked about, do you know his  
 2 name?  
 3 A Will.  
 4 Q Will? Okay.  
 5 Did Sheila mention if they wrote letters back and forth  
 6 to each other?  
 7 A No.  
 8 Q In your statement, you told the police that Sheila  
 9 indicated that she was trying to get back together with Will.  
 10 MS. WECKERLY: Objection.  
 11 THE WITNESS: I never said that.  
 12 THE COURT: I'm sorry. What did he say?  
 13 MS. WECKERLY: He said, in your statement, you indicated  
 14 Sheila said.  
 15 THE COURT: No, you can't say what Sheila said.  
 16 MR. PATRICK: I didn't use the word said, but --  
 17 THE COURT: The objection is sustained.  
 18 MR. PATRICK: That's all, Judge.  
 19 THE COURT: Anything else?  
 20 MS. WECKERLY: No, Your Honor.  
 21 THE COURT: Thanks, Miss Toney. Appreciate your  
 22 testimony. You are excused.  
 23 (Witness excused.)  
 24  
 25 THE COURT: Next.

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MS. WECKERLY: Shawn Fletcher.

(Witness sworn.)

THE CLERK: Please be seated.

Please state your name, spelling first and last name for the record.

THE WITNESS: Shawn Fletcher; S-h-a-w-n, F-l-e-t-c-h-e-r.

THE COURT: Go ahead.

SHAWN FLETCHER

called as a witness on behalf of the State,  
having been first duly sworn,  
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. WECKERLY:

Q How are you employed?

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

Q How long have you worked as a crime scene analyst?

A Twelve years.

Q Always for Metro?

A Yes.

Q What does a crime scene analyst do?

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training or someone supervising you?

A In the beginning, we're with a trainer and then, gradually, the longer we've been on, we start going to more complicated scenes by ourselves.

Q And so when you first start out, I assume you are not going to a homicide or a potential homicide scene?

A Not usually.

Q You were working obviously on March the 24th of 2005?

A Yes.

Q Were you asked to respond to 1001 North Pecos?

A Yes.

Q That's obviously in Las Vegas, Clark County, Nevada?

A Yes.

Q Were you the only crime scene analyst who responded to that location?

A No. I was with Dave Horn, who is also a senior crime scene analyst, and my supervisor Mike Perkins.

Q We've heard a little -- well, quite a bit actually about the crime scene itself and we've heard this is a multi-building apartment complex.

When the crime scene people get there, yourself, Mr. Horn, and I think you said Mike Perkins, how is it that you three decide how you are going to divide the work at the scene?

A Normally, we just talk about it amongst ourselves.

Normally, one crime scene analyst will do the photography and then

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A As a crime scene analyst, we respond to the crime scenes at the request of either a detective or the patrol officer.

Our main job is documenting the scene and we generally start with that through photography. So we photograph the scene; we'll do any evidence collection and preservation that we need to do, fingerprint processing, and in cases like this, we complete a crime scene diagram.

Q Are you okay?

A Yeah.

Q Do you have training that allows you to work in that capacity?

A Yes. Most of us have a degree in either criminal justice or one of the science fields. Mine is in criminal justice and also in fitness and nutrition. And then once we get hired, we go through an academy that is specific to crime scene. It's not the police academy, but it's a crime scene academy.

And then we also go through a 13 week field training program where we ride with the senior people and get our field experience.

And then we're sent to quite a few classes. I've been to many death investigation classes, shooting reconstruction, blood spatter, fingerprint processing, photography. So it's pretty much a constant in the field training as well as classes and seminars.

Q When you first start as a crime scene analyst, could you respond by yourself to scenes or do you respond kind of with a

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another crime scene analyst will do the diagram and the evidence.

In this case, Dave Horn did the photography and I handled the diagram and the evidence.

Q When you three crime scene analysts get to the scene, do you and the detectives confer as to how the scene itself is going to be processed?

A Yes.

Q And then you go about, I assume, documenting it?

A That's correct.

Q In terms of the photography, is that the first thing that's done at a scene?

A Yes, usually it is.

Q Why would that be the case?

A The photography is done first to document the scene, how it was when we arrived.

Normally, as you are diagramming and picking up evidence and stuff, you are moving things around, so it's important to get the photographs done before you move anything.

Q And you were not the person who did the photographs in this case; you did the diagram?

A Yes.

Q And would that also mean that you impounded evidence?

A Yes.

Q In addition to impounding actual pieces of evidence, did you process certain items of evidence for the presence of latent

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1 fingerprints?

2 A Yes.

3 Q Any idea how much latent print processing that you did at

4 the scene?

5 A From what I recall, we did quite a bit.

6 Q Okay.

7 A I mean, we were doing door frames and counter tops and

8 the items of evidence that I recovered were printed as well.

9 Q When you are processing the structure, like the door

10 frame or counter top, is it noted in your report if you are unable

11 to obtain a fingerprint off a particular item?

12 A No. Normally, what we'll do is we process the scene and

13 the items that we recover prints from are listed in the report.

14 Q Okay. So everything that you attempt to get fingerprints

15 from isn't in the report; you report what you actually are

16 successful with?

17 A Right.

18 Q And then my next question on that is: Once you are

19 successful in recovering a latent fingerprint, what steps do you

20 take to preserve that fingerprint for examination by a latent

21 print expert?

22 A The fingerprint lifts are placed on a white card and the

23 white cards have a heading on them that say what the event number,

24 the case number is; they've got my name on it, the date, the

25 actual address location and the victim's name; and then they've

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1 also got the exact description of the item that the fingerprint

2 was recovered from.

3 Q Miss Fletcher, I'm putting on the overhead what's been

4 admitted as State's Proposed Exhibit 2.

5 Do you recognize that?

6 A Yes.

7 Q That's the crime scene diagram that you completed for

8 this case?

9 A Yes.

10 Q On the right side of the diagram, there appears to be

11 kind of a legend and numbers one through 20.

12 A Yes.

13 Q Are those at least various or potentially significant

14 items of evidence that you noted on the diagram?

15 A They are, yes.

16 Q And I assume the numbers on the right correspond to the

17 numbers that we see on the diagram?

18 A They do.

19 Q Okay. I'd like to talk specifically about the living

20 room. As we look at the diagram and in kind of the corner of the

21 living room where items one and two are, can you circle that with

22 your finger on the screen?

23 A (Complies.)

24 Q Okay. What are items one and two on the diagram?

25 A Items one and two, there were two CDs up on top of the

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1 speaker and a clear CD case.

2 And then number two, behind the speaker is another CD.

3 Q Okay. And were those items -- did you attempt to get

4 latent fingerprints from those items?

5 A Yes.

6 Q And the ones that you were successful in obtaining, those

7 would be preserved on those fingerprint cards for comparison by a

8 print expert?

9 A Correct.

10 Q Okay. What is item five that we see in the living room

11 area?

12 A Item five right here was a speaker wire and it was just

13 lying on the floor.

14 Q Okay. And it wasn't obviously connected to anything?

15 A No, it was not.

16 Q Okay. Let's move into the bedroom area, which is on the

17 right side of the diagram.

18 On the bed itself, there is a number three.

19 What is that?

20 A That was a sealed envelope with a letter inside of it.

21 Q Okay. And was that actually impounded as evidence?

22 A Yes.

23 Q And it was photographed as well?

24 A Yes.

25 Q And also the bedroom, it looks like there is items seven,

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1 eight and 10 through 13.

2 Can you circle where that is on your diagram.

3 A (Complies.)

4 Q What are those items?

5 A Those items -- number seven was a Gatorade bottle that

6 had a little bit of Gatorade left in it.

7 Eight is probably the liquid sample from the Gatorade

8 bottle. Number nine is from the bottle.

9 Number ten was a pack of peanuts, an open pack of

10 peanuts.

11 Eleven was a pack of beef sticks and cheese; the cheese

12 was still sealed and the beef sticks were gone.

13 Twelve is actually the peanuts from the peanut pack.

14 Q And 13 is like a residue?

15 A Yes.

16 Q Okay.

17 A That was a residue from the beef stick side of the

18 package.

19 Q Okay. Let me start with that one then.

20 When you say it was a residue from the beef stick, what

21 were you checking there? What did you do?

22 A Since the beef stick package was open and the beef sticks

23 were already gone, we just swabbed it for possible DNA.

24 Q And you are not a DNA analyst?

25 A No.

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1 Q You just collect it for later testing?

2 A Correct.

3 Q So you swab this kind of package of beef stick snack and

4 later impounded that?

5 A Yes.

6 Q With regard to the Gatorade bottle, you said you took a

7 liquid sample of it.

8 Do you recall if you tried to recover latent fingerprints

9 off of the Gatorade bottle itself?

10 A Yes, we did.

11 Q And were you successful in obtaining prints from the

12 bottle?

13 A I believe so.

14 Q And those would have been submitted?

15 A Correct.

16 Q What about on the other snack items, like the package of

17 peanuts or the beef and cheese pack?

18 A Yes, I did all of that, and I believe there was prints on

19 both of those.

20 Q Okay. And those were submitted for the print experts?

21 A Yes.

22 Q Let's move into the bathroom area, which is obviously

23 where the victim was in this case.

24 Did you take a sample of the bath water itself?

25 A Yes.

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1 Q Maybe it would have been important potentially in

2 determining the cause of death or something like that?

3 A It's possible, yes. We took a sample from there.

4 Q Do you recall if you attempted to fingerprint any area of

5 the bathroom?

6 A I believe we did. I believe we fingerprinted the whole

7 bathroom.

8 Q Why would you fingerprint the whole bathroom in a case

9 like this?

10 A Well, generally, you know, you are looking for areas that

11 appear to be disturbed in a scene. Obviously, we have the victim

12 in that area, so I believe that we did the whole bathroom. I

13 don't think I did most of it. I think Dave Horn did it, but I'm

14 certain that the bathroom was done.

15 Q Okay. And Dave Horn is one of the other crime scene

16 analysts who responded?

17 A Yes.

18 Q And you sort of divide up the work on collection of

19 latent fingerprints?

20 A Yes, we divide that up. We both did latent fingerprint

21 processing in this case.

22 Q But in this particular case, because the victim is

23 actually located in the bathroom, that would be an area that you

24 concentrated on for fingerprints?

25 A I would think so, yeah. Like I said, we kind of divided

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1 It up, because I wasn't in there myself.

2 Q And any prints would have been submitted to an expert for

3 their review?

4 A Yes.

5 Q You were present at the scene obviously when the victim

6 was still in the bathroom?

7 A Correct.

8 Q And at some point, she is removed?

9 A Yes.

10 Q When she was removed from the bathroom, were you able to

11 observe her clothing at all that was left in the bathroom?

12 A Yes.

13 Q Do you recall what clothing was left in there?

14 A Her clothing initially -- well, even when she was still

15 in there, she initially had a shirt and towel on top of her.

16 There was a hair piece on the floor. There was a bra on the

17 floor. And then there was a pair of jeans on the floor that had a

18 pair of thong panties over them.

19 Q The clothing that was on the floor, the hair piece, the

20 jeans that you mentioned and the bra, when you were collecting or

21 in contact with those items of clothing, did you note whether or

22 not they were wet or dry?

23 A They were all wet, yes.

24 Q Okay. And in terms of impounding it, how do you impound

25 wet clothing?

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1 A When we have wet items, we have what we call a drying

2 closet back at the lab and there is individual lockers in this

3 drying closet, so, normally, if we have wet items, they're hung up

4 in the drying closet to air dry first and then they get impounded

5 once they're dry.

6 Q I'm showing you what's been marked as State's Proposed

7 Exhibits 48 through 50. Could you just look through those three

8 photographs and tell me if you recognize what is depicted in that?

9 MR. PIKE: While she is doing that, they've been reviewed

10 by defense counsel prior to being shown to the witness and we have

11 no objection.

12 THE COURT: They will be admitted.

13 I thought you said 48 to 50, but it looks more than

14 three. What were the numbers?

15 MS. WECKERLY: It's just three.

16 THE WITNESS: Yeah, 48, 49 and 50.

17 Yes, I recognize them.

18 BY MS. WECKERLY:

19 Q And do they depict, I guess, your laying out the clothing

20 and some processing that you did back at the crime lab with regard

21 to certain items of evidence?

22 A Yes.

23 Q And they're a fair and accurate depiction of that?

24 A They are.

25 MS. WECKERLY: The State moves to admit 48 through 50.

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THE COURT: Admitted.

(State's Exhibits 48 through 50 admitted into evidence.)

BY MS. WECKERLY:

Q I'm putting on the overhead what's been admitted as States 49.

In that photograph, what are we looking at?

A What you are looking at here are the items from the bedroom floor and the CD from the living room.

These tabs that you see here, that's the coroner of the fingerprint tape. So each place where you see the tape, those are fingerprint lifts. So that's what you are looking at in that photo.

Q And the tape is put on a card, right?

A Correct.

Q And then a print expert can see the lifts that were taken because the print is on the card?

A Yes.

Q Although we have the photograph of those, those weren't the only items obviously that you attempted to get fingerprints from, but that's just what it looks like?

A That's correct, yes.

Q Now, I'm putting on the overhead State's 48.

What are we looking at in that photograph?

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A In this photograph, you are looking at the jeans and the thong panties that were on the bathroom floor.

As you can see, the thong has been pulled up over the leg of the panties; it's backwards and kind of inside out. You can see the tag right here. So those are the jeans that are on the floor in the bathroom.

Q And you actually noted the positioning of the thong or the panties on the outside of the jeans, backwards, and kind of -- well, the legs are off, right?

A Yes.

Q Not in normal wearing position?

A That's correct.

Q And that's the documentation of this photograph?

A Yes.

MS. WECKERLY: Thank you.

I'll pass the witness.

THE COURT: Questions?

MR. PIKE: Thank you. I just have a few questions.

#### CROSS-EXAMINATION

BY MR. PIKE:

Q During the course of the investigation, I guess you were working closely with Detective Vaccaro at the scene?

A Yes.

Q Okay. And you were going through and doing the

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fingerprinting.

During that period of time, you were also looking for any shoe prints or shoe marks that may be there?

A That's possible, yes. I don't believe there were any.

Q Okay. You don't recall there being any footprints or anything.

Did you prepare an independent report on this?

A The evidence impound is my report, yes.

Q Okay. So everything that was impounded from everyone?

A Yes. I did all the impounding.

Q Okay. And the items that you impounded and then submitted for review were the items that you felt may have evidentiary value?

A Correct.

Q Based upon the knowledge of the scene that you had; is that correct?

A Yes.

Q And you impounded the panties because you felt that they may have evidentiary value?

A Correct.

Q Panties often have evidentiary value in cases that involve sexual assault, don't they?

A Yes.

Q They also provide information about who may have had sexual intercourse with a person who had worn those panties?

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A It's possible, yes.

Q Okay. Other clothing, similar to panties, may have the same evidentiary value, such as pajamas?

A It's possible.

Q Panties that were worn the night before or earlier that day?

A Correct.

Q And other than the panties that were located or that were associated with the body, which would have been the panties in the photograph that we dealt with here, you didn't recover or impound any other used or worn panties?

A No.

Q During the course of your collecting of items during that, you were not informed by anyone that any sort of a timeline of clothing evidence may need to be collected, were you?

A No. The only evidence I had of anything was a dress that we collected that I believe the mother had said she had been wearing that morning; that was impounded as well.

Q So you were unaware as to what pajamas she may have been wearing or what bottoms she may have been wearing earlier in the day?

A Right, I didn't have any knowledge of that at the time.

Q In going through and processing for fingerprints, you were collecting fingerprints off a number of different surfaces and different textures; is that correct?

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1 A Yes.

2 Q And what sort of equipment did you employ in collecting

3 those fingerprints?

4 A Most of the items that I did were processed, some with

5 super glue and then with powder.

6 I believe Dave Horn did most of the processing of the

7 stationary items at the scene, but most of mine were chemicals and

8 powder.

9 Q And did you collect the fingerprints in the bathroom or

10 was that by CSA Horn?

11 A I did not collect any fingerprints in the bathroom. I

12 don't know if he did or not.

13 Q Okay. He processed that room?

14 A I believe so.

15 Q Okay. So you didn't attempt to process the body for any

16 fingerprints off of the body?

17 A No.

18 Q Did you have the equipment available to you or for you to

19 use that day in order to attempt to obtain fingerprints off of the

20 body?

21 A It's possible to get that equipment out there, depending

22 on what method you wanted to use. We had things we could have

23 used and there is other methods that we would have had to bring

24 stuff out.

25 Q Okay. So maybe, maybe not.

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1 There were other things that would have had to have been

2 brought out?

3 A Yeah.

4 Q Okay.

5 A Normally, yeah.

6 Q And you were successful in collecting fingerprints off of

7 the CD covers?

8 A Yes.

9 Q You were successful in collecting identifiable or clear

10 enough fingerprints off of the CD covers, so that you felt that

11 they may be able to be matched to a known exemplar?

12 A Right.

13 Q And that's what you look for -- you look for -- you have

14 to make a value judgment on that fingerprint and say: I can use

15 that or potentially the individual that is examining it can use

16 it?

17 A Correct.

18 Q And you collect those.

19 And the other ones you think they may have a slight

20 chance of having evidentiary value, you keep what may be of value

21 but you have to make a value judgment?

22 A Yes.

23 Q And in going through and doing that, you also are

24 collecting or looking for any other piece of evidence that may be

25 important.

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1 Now, because you were checking the panties in this case,

2 I assume that there may have been, in the mind of you as an

3 investigator, a sexual component to it?

4 A It's possible, yes.

5 Q And you are trained also in the collection of blood and

6 blood spatter? You indicated that?

7 A Yes.

8 Q Okay. And you can identify bodily fluids, proteins, by

9 light, wands or light equipment; is that correct?

10 A That's possible, yes.

11 Q What kind of equipment was that? What is it called?

12 A Well, there is several different lights that we use;

13 there is the poli-light; there is an omni-chrome; there is hand

14 held lights that we'll use. There is UV lights.

15 Q And were those available to you on that day?

16 A I don't believe we had the lights out there.

17 Q When I say were those available to you, the Las Vegas

18 Metropolitan Police Department, your department, had that

19 equipment but you didn't have it there?

20 A Yes, that's correct.

21 Q So there was not a sweep or a testing of the carpet, the

22 bedspread or anything else for bodily fluids that may not be

23 visible to the eye?

24 A That's correct, there was not.

25 Q But you would have made a visual attempt to locate

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1 something like that?

2 A Yes.

3 Q Okay. Because you are processing the entire scene?

4 A Correct.

5 MR. PIKE: Thank you. I have nothing further.

6 THE COURT: Anything else?

7 MS. WECKERLY: No. Thank you.

8 THE COURT: Thanks, Miss Fletcher. Appreciate it.

9

10 (Witness excused.)

11

12 THE COURT: Call your next witness.

13 MS. LUZAICH: Fred Boyd.

14 THE CLERK: Thank you. Please be seated.

15 State your name, spelling your first and last name for

16 the record.

17 THE WITNESS: My name is Fred Maurice Boyd; F-r-e-d,

18 B-o-y-d.

19 THE COURT: Go ahead.

20 MS. LUZAICH: Thank you.

21

FRED BOYD

22 called as a witness on behalf of the State,

23 having been first duly sworn,

24 was examined and testified as follows:

25

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DIRECT EXAMINATION

BY MS. LUZAICH:

Q Sir, how are you employed?

A My job title is forensic scientist; my classification is latent prints examiner, employed with the Las Vegas Metropolitan Police Department, assigned to the latent print detail of the forensic laboratory.

Q And how long have you been with the forensic laboratory at Metro?

A Twelve and a half years.

Q Can you describe for our jury what training and education you have that qualifies you to be a latent print examiner?

A I've been associated with the discipline for a little over 40 years. I started my training with the United States Army Criminal Investigation Command, which is the Army CID. I was a field agent for ten years working cases, processing scenes.

I then went into the career field, one of them being the crime laboratory, and I chose latent prints as my chosen profession in the Army.

I retired with 20 years of service in the Army, in the Army CID, as a chief warrant officer specializing in latent print identification. Most of my additional training was within the United States Army.

I attended various FBI schools and things in training and seminars through the Army. I retired in '88, went to Boward

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County Sheriff's Office, worked at the crime laboratory there in Fort Lauderdale, Florida, eight and a half years there. And then I was here for 12 and a half years at Metro.

I'm currently a member of the International Association for Identification, lifetime member. I take annual proficiency testing through our laboratory and through the quality training service. This is required annual training for us.

I'm certified by the Internal Association for Identification. I'm a member of the Nevada chapter of the International Association for Identification. I'm on the certification committee of that organization.

Just an accumulation of years of working in the discipline and training.

Q Have you testified as an expert in the area of fingerprint identification and comparison in the Eighth Judicial District Court, as well as many other judicial courts?

A Yes, ma'am, I have.

Q On many occasions?

A Yes, I have.

Q Thank you.

Can you tell our jury what a latent print examiner does?

A A latent print examiner, we evaluate latent prints that are submitted to us, usually by crime scene personnel or those latent prints that we may develop ourselves as latent print examiners on the evidence that we process ourselves at the

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laboratory.

We evaluate those fingerprints to latent prints to determine if they are sufficient for comparison purposes.

By that, I mean if there is significant detail that we can make a comparison between that latent print and a set of known prints from a known person.

If we classify a print as no value for identification, for insufficient ridge detail, we're saying that that print is of no value for comparison and I cannot make an identification with that no value print, even if I do have a set of known prints from that person.

Q What is a latent print?

A The word latent means hidden. In our discipline, a latent print basically refers to that fingerprint that you find on a piece of evidence that you usually can't see.

Sometimes you can see it and when you can see it, it's called a visible print or maybe a patent print.

But the normal print that we find is the invisible print that we can't see and it has to be recovered basically by maybe fingerprint powder or some technique of processing, maybe even chemically, to help make that print visible.

Q So if Miss Weckerly is looking somewhere else and I take her purse while she's not looking and I touch something here while picking up her purse, somebody can come over here, dust this and potentially get my latent print?

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A That is the normal procedure, although there is times when maybe even though you touch something, you may not necessarily leave a print. There are certain factors why maybe a print might not be on a surface for processing.

Q Well, that was going to be my next question because everybody saw me touch that paper.

Why might my print not show up on that paper?

A Well, we have two different types of surfaces. We have a non-porous surface, which is a flat surface like this, where your latent print residue usually remains on top of the surface.

That piece of paper is porous type surface, where any touch of that, any perspiration that you have, it absorbs down inside the paper and you may have to process that chemically, although if you go like that there, you more than likely may not leave a print. There may be a smudge or something like that.

You really have to handle the item to some degree, whether it would be -- well, some degree of time that would allow the perspiration or moisture to absorb onto that surface.

And it's that medium, that substrait, that we try to process to recover, to make visible.

Q Or, for example, if the air conditioning was really low in here and I was freezing and there was no perspiration on my fingers, would that affect my ability to leave a print behind?

A That could, yes.

Q How?

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1 A Well, not everybody is a secreteer. There are some people  
2 who can touch things all day long and they won't sweat. They may  
3 not leave an impression on the surface.

4 If it's real hot, if it's sweating all the time, then you  
5 may have an item that is more -- or you are more receptive to  
6 leaving a print on a surface if you have sweaty hands and then to  
7 leave your perspiration on the surface.

8 Q Okay. So if you have a latent print and you want to  
9 compare it to a known print, you would go somewhere to get that  
10 known print. So because I work for the county, my prints are on  
11 file; and when you saw me take it, you went and got my prints on  
12 file and compared them to the latent that was found there.

13 And that's what you do on a daily basis, right?

14 A Yes.

15 Q In that capacity, were you employed in June of 2006 doing  
16 this at the crime lab?

17 A Yes, ma'am, I was.

18 Q Were you asked to compare some prints from a crime scene  
19 where the individual Sheila Quarles was murdered?

20 A Yes, ma'am.

21 Q And were you asked to compare a set of latent prints to a  
22 set of known prints or known individuals?

23 A Yes, ma'am.

24 Q Do you remember how many prints were lifted and presented  
25 to you for comparison?

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1 they did have workable fingerprints on the cards.

2 Q What did you do in furtherance of trying to make an  
3 identification of those nine cards?

4 A I compared those nine cards with fingerprint standards  
5 that I had, or exemplars or record prints, there is numerous names  
6 for a set of known prints.

7 I compared them to a list of names that I had, to include  
8 the victim. I compared those to those people.

9 Q Now, you don't just go out into the phone book and choose  
10 names to compare them to, correct?

11 A No, ma'am.

12 Q The detective gives you a list of names?

13 A Yes, ma'am.

14 Q What are the names that we were given to compare the  
15 known latents to?

16 A In this particular case, there were two separate requests  
17 that were received. The first request that was received had the  
18 name of Sheila Quarles, a Qunise Toney, Robert Lewis and Debra  
19 Quarles. Those were the names initially that we looked at.

20 And upon my comparison with the known prints that I had  
21 to the latent prints, I did make an identification to the victim  
22 to two of the print cards.

23 Q How did you go about making identification to the victim?

24 A Identifications are made by using a magnifying glass and  
25 finding the same level one, two and three detail in both the known

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1 A I do have that in my notes.

2 Q Would it refresh your recollection to review your notes?

3 A Yes.

4 MS. LUZAICH: Please go right ahead.

5 THE WITNESS: Your Honor, may I read it?

6 THE COURT: Sure.

7 THE WITNESS: There are 21 latent prints that were  
8 submitted to me to evaluate. The 21 latent prints were submitted  
9 by two crime scene analysts.

10 BY MS. LUZAICH:

11 Q Who were there?

12 A Crime scene analyst Dave Horn and Shawn Fletcher.

13 Q That was the young lady that was just leaving right now,  
14 right?

15 A Yes.

16 Q Of the 21 latent prints that were submitted to you, were  
17 all of them of sufficient quality for you to be able to do  
18 anything with them?

19 A No, ma'am, they are not.

20 Q What was wrong with some of them or all of them and how  
21 many of them were you not able to do anything with?

22 A Of the 21, there were 12 of those latent print print  
23 cards that were of no value for comparison purposes, meaning that  
24 they possess insufficient ridge detail to do a comparison with.

25 That left nine cards that were workable. I mean, that

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1 print and in the record print.

2 And if I may explain just briefly the level one, two and  
3 three detail: The level one detail is a basic pattern that you  
4 have. Level two detail is the minutia points that you have in the  
5 actual latent print. You might hear how many points you need to  
6 make an identification.

7 Well, when we refer to this, this is basically what we're  
8 referring to as the level two detail.

9 And the level three detail are other things that you find  
10 in the prints, such as little incipient ridges, maybe little dots,  
11 little things, porous structure, the edges of the ridges. This is  
12 the level three detail as we refer to it.

13 And when you find a consistency in the latent print and  
14 in the known print, then you have an identification.

15 Q So when you compare them, you visually looked at the  
16 latent print compared to the known print?

17 A Yes, ma'am.

18 Q Did you also utilize a computer system to try and  
19 identify the unknown prints?

20 A Yes, ma'am.

21 Q Can you describe that for us and explain how it works?

22 A We do have a computer. It's called AFIS. It's an  
23 automated fingerprint identification system. Latent prints that  
24 are not identified that are suitable quality for the AFIS system,  
25 we put into the AFIS system in an attempt to have the computer see

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1 If they could match up any candidates. It gives us a candidate  
 2 list of people that have similar type fingerprints and patterns.  
 3 When we encode a latent print into the system, we  
 4 basically encode the level two detail that we see and it's this  
 5 feature that the computer responds to in its search.  
 6 In this case, the latent prints that were not identified,  
 7 those being of AFIS quality, they were put in the system and they  
 8 were searched through the system; however, there was no match to  
 9 those prints.

10 Q So that means that everybody whose prints have been  
 11 entered into AFIS has been checked against those and those  
 12 people's prints that have been entered do not match those prints?

13 A That's correct.

14 Q Is it possible for prints to be of value but not of AFIS  
 15 quality?

16 A Yes, ma'am.

17 Q Why is that?

18 A Well, the computer requires certain criteria in order to  
 19 have it be put in.

20 For example, when you touched that, you went like that,  
 21 so your tips would be on there. We don't put tips into AFIS.

22 AFIS basically scans the prints of the person, the center  
 23 of the pattern, and if you have a print on the side, like maybe a  
 24 partial on the side here, a partial print or tip, we don't put  
 25 those in.

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1 Mr. Flowers as to making any of those prints.

2 Q Okay. Now, the prints that you had, the latent prints  
 3 that were of value and that you were able to compare to the other  
 4 individuals, where did they come from?

5 That's given to you, a description of the location the  
 6 prints were lifted from; is that correct?

7 A Yes, ma'am.

8 Q Can you tell me where the prints of value came from that  
 9 you compared to Norman Flowers?

10 A Yes. The unidentified prints that we have, if I may  
 11 refer to my notes --

12 Q Go right ahead.

13 A The latent prints that were submitted by crime scene  
 14 analyst Horn that were not identified, there was a five drawer  
 15 bureau chest in the southeast bedroom.

16 There was an exterior door jam, north door of the  
 17 southwest bedroom. That's the wording on the lift card.

18 And this print was AFIS quality and it was put into the  
 19 AFIS system; it was not matched.

20 This print was entered initially when it came into the  
 21 crime lab and upon me receiving the subsequent requests later on  
 22 to Mr. Flowers at that time, since it was still not identified, I  
 23 researched that at that time and it was still no match. So that  
 24 print is still outstanding.

25 The known identified prints that were submitted by crime

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1 It's just a matter of what the -- we are under certain  
 2 guidelines as to what we can put into the system. So the tip,  
 3 side of the fingers, prints that have a lack of minutia  
 4 characteristics and points, depending on the clarity, we may or  
 5 may not put them in, depending on the print itself.

6 Q Okay. So, Mr. Boyd, you said that your original request  
 7 to compare prints was to compare those prints of value as Sheila  
 8 Quarles, Qunise Toney, Robert Lewis and Debra Quarles and you only  
 9 identified Sheila Quarles' prints.

10 A Yes, ma'am.

11 Q On August 22nd of 2006, did you receive another request  
 12 to compare the latent prints that were found to another  
 13 individual?

14 A Yes, ma'am, we did.

15 Q Who was that other individual?

16 A The other individual was a Norman Flowers.

17 Q And did you receive prints that were known to be the  
 18 prints of Norman Flowers to compare those to the latents?

19 A Yes, ma'am.

20 Q And did you make that comparison?

21 A Yes, ma'am, I did.

22 Q What, if anything, did you find?

23 A I compared the remaining and identified latent prints  
 24 that we had to the known prints of Mr. Norman Flowers and, upon my  
 25 examination, I found no identification. I did not identify

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1 scene analyst Fletcher is from a compact disk titled Jagged Edge,  
 2 and one, two, three -- there were four prints from a beef cheese  
 3 packet from the bedroom floor. And one print was previously  
 4 identified to the victim from that beef cheese packet.

5 Q Okay. So the fact that his prints were not identified by  
 6 you doesn't mean he wasn't in the apartment; it just means that he  
 7 didn't touch the door jam at that location, he didn't touch the  
 8 compact disk at that location, and he didn't touch the beef and  
 9 cheese; is that correct?

10 A No. The only thing I can testify to is that the prints  
 11 that I looked at that were obtained, they were not identified to  
 12 Mr. Flowers. I can't say whether he was there. I can't say  
 13 whether he was not there.

14 Q Okay. All you can say is that those prints that you  
 15 found weren't his?

16 A That is correct.

17 MS. LUZAICH: Thank you. Nothing further.

18

# CROSS-EXAMINATION

20 BY MR. PIKE:

21 Q Mr. Boyd, good to see you. I just have a few questions.  
 22 In reference to the obtaining and examination of  
 23 fingerprints then, it sounds like it's part art and part science.  
 24 You have the science in the chemicals that you use, the items that  
 25 are used; and then there is an art in collecting it, doing the

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1 physical manipulation; and then part of the art in interpreting  
2 ans examining that latent print or lifted print against an  
3 exemplar.

4 Would that be a good description of what you do?

5 A That would be a good description.

6 Q And then going through this, you have certain tools that  
7 you can use, which is AFIS, you've indicated.

8 And then the rest of the time, it involves going through  
9 and comparing against known exemplars that are obtained or  
10 referred to by the submitting detective or somebody that's  
11 involved in the case; is that correct?

12 A It is correct.

13 Q An in this case, you were only asked to do that two?

14 A Yes, sir.

15 Q Were never asked to compare this to the fingerprint of a  
16 George Brass?

17 A No, sir.

18 Q Or anybody else?

19 A No, just the names that I mentioned.

20 Q And the last time you were asked to do that was in August  
21 of 2006?

22 A Yes.

23 Q I think you gave the August 26th date?

24 A Right. The date of examination to Mr. Flowers was 8/31  
25 of '06, yes.

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1 If it comes out as a number one or two respondent and it  
2 highlights in blue, this is an indicator that, hey, you may have a  
3 match.

4 We get so many of these that we don't have -- unless it's  
5 requested to go into and search a certain number specifically on a  
6 TLI search, you know, to search everything that we have in our  
7 system, I could be there a year working one case, searching one  
8 latent on the millions of fingerprints that are in the system.

9 But, theoretically, the print that was put in, it was a  
10 fairly good print and it should come up pretty decent to within  
11 the first two or three respondents, I would say.

12 But, again, too, if there are other fingers in the system  
13 that are very similar, it could hit on those other ones first  
14 before it hit on this one here.

15 Q Well, I guess my question was more if somebody's prints  
16 that matched get entered now, will the machine tell you there is a  
17 hit or do you have to go to the machine and keep asking if there  
18 has been another hit?

19 A Well, we go in and we check the TLIs that have been for  
20 recent arrests and current arrests. We have people that do check  
21 those.

22 MS. LUZAICH: Okay. Thank you.

23 THE COURT: Thanks, Mr. Boyd. Appreciate it.

24 MR. PIKE: I've got one question.

25 THE COURT: Go ahead.

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1 Q But you stand ready with the exemplars that you have and  
2 you preserve them so that if you were requested to examine any  
3 future fingerprints, you could do that?

4 A Yes, sir.

5 Q And you preserved that for how long?

6 A Oh, this is a homicide. These prints will be retained  
7 probably forever.

8 MR. PIKE: Thank you. I have no further questions.

9 THE COURT: Anything else?

#### 11 REDIRECT EXAMINATION

12 BY MS. LUZAICH:

13 Q You did your last examination in August of 06.

14 Since the prints have been entered into AFIS by you, if  
15 somebody subsequently gets arrested and their prints are entered  
16 into AFIS, if it matches the latents that you have entered, would  
17 it kick it out automatically or would you actually have to go  
18 request it?

19 Do you understand my question?

20 A Yes. If a person is arrested and if it does hit on that  
21 particular print, then hopefully it will come out as a number one  
22 respondent.

23 If it comes out as a number 10 or 20 respondent, under a  
24 TLI search, this would be considered a ten print to latent search;  
25 it may not be picked up.

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#### 1 RECROSS-EXAMINATION

2 BY MR. PIKE:

3 Q But the AFIS is just almost like a numerical match and  
4 that's where the art of your profession comes in to take what may  
5 be a possible hit and then confirm it.

6 Without that confirmation, AFIS is meaningless?

7 A That is correct.

8 THE COURT: Thank you, Mr. Boyd.

10 (Witness excused.)

12 THE COURT: Is that where you want to end, two short  
13 witnesses and go home.

14 MS. WECKERLY: Yes, please.

15 Monica Ramirez.

16 MS. LUZAICH: Can the Court instruct for the other  
17 incident?

18 THE COURT: Yeah. This next witness or two relates to  
19 the incident that doesn't involve Miss Quarles. So, again,  
20 evidence of any other crime cannot be considered for you unless  
21 you find that that crime that has been proven by clear and  
22 convincing evidence and it is only to be considered by you to  
23 prove that identity, intent, motive, absence of mistake or  
24 accident and not that he's a person of bad character or has a  
25 disposition to commit crimes.

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1 And that's the next two witnesses.

3 (Witness sworn.)

5 THE CLERK: Thank you.

6 Please be seated.

7 Please state your name, spelling your first and last name  
8 for the record.

9 THE WITNESS: Monica Ramirez; M-o-n-i-c-a, R-a-m-i-r-e-z.

11 MONICA RAMIREZ

12 called as a witness on behalf of the State,  
13 having been first duly sworn,  
14 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. WECKERLY:

18 Q Miss Ramirez, how were you employed in May of 2005?

19 A I was the property manager for Nevada Hand.

20 Q Like hand? (Indicating)

21 A Like the hand, yes.

22 Q Okay. Did you work at a complex located at 6650 Russell?

23 A Yes.

24 Q And were you the manager of the entire complex?

25 A Yes, ma'am.

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1 Q Third floor?

2 A Third floor, yes.

3 Q Okay. So you and Miss Crow go to this particular  
4 apartment?

5 A Yes.

6 Q Do you know who the occupant was on the inside, what that  
7 person's name was?

8 A Merilee Hooku.

9 Q Merilee Koot?

10 A There you go, yes.

11 Q Okay. When you and Miss Crow get to the outside of the  
12 unit itself, do you knock first before entering?

13 A Yes, ma'am.

14 Q Did you do that?

15 A Yes. We knocked on the door; we knocked hard several  
16 times. There was no answer. Then I attempted to see if the door  
17 was opened and it was locked.

18 Q The door was locked?

19 A Yes.

20 Q So did you use your master key to get in?

21 A Yes, ma'am.

22 Q Once you got in, what did you see on the inside?

23 A Once we went in, the TV was on. It was very quiet.  
24 We just walked in. I announced who I was. I told her  
25 who was with me at the time.

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1 Q Did you have other employees who worked for you at the  
2 complex?

3 A Yes, ma'am.

4 Q Who was in the office staff?

5 A I had a Micheline Crow; she was my assistant. And I had  
6 a Caesar Hernandez, which was my maintenance technician at the  
7 time.

8 Q Okay. I'd like to talk to you specifically about May,  
9 the 3rd of 2005.

10 On that day, did you receive a request to do what we  
11 would call a welfare check on a resident of one of your  
12 apartments?

13 A Yes, ma'am.

14 Q Do you recall what time of day it was that you got the  
15 request to go do the welfare check?

16 A When I arrived at the office at eight o'clock, the call  
17 already came through to my assistant and I would say about 8:15,  
18 8:10, we went there.

19 Q You and who?

20 A Micheline Crow, my assistant.

21 Q Do you have a master key that allows you to get into all  
22 the apartments?

23 A Yes, ma'am.

24 Q Do you recall what unit it was that you went into?

25 A I believe it was 303 or 301.

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1 We walk in, go in a little further into the living room  
2 and that's where I seen Miss Koot laying there.

3 Q You say Miss Koot was laying in the living room.

4 Was she laying on the floor?

5 A Yes, ma'am.

6 Q Did you see whether or not she was wearing any clothing?

7 A There was no clothing.

8 Q Did you see whether or not she was face up or face down?

9 A She was face up.

10 Q When you and Miss Crow went into the living room and saw  
11 her in this condition, what did you do next?

12 A At that time, we called 911 from her cell phone.

13 Q Miss Crow's?

14 A Miss Crow's cell phone, yes, ma'am.

15 Q Did anyone else -- well, prior to the police or  
16 paramedics getting there, did you see anyone else enter the  
17 apartment while you and Miss Crow were there?

18 A The only one that entered after me and Miss Crow was my  
19 maintenance technician, which was Caesar Hernandez.

20 Q And when Mr. Hernandez went in there, did you see -- what  
21 was his purpose for coming in?

22 A The purpose was because me and Miss Crow were  
23 uncomfortable approaching the body, you know, to see if there was  
24 any type of vitals, if she was breathing.

25 So, at that time, we contacted my maintenance guy and he

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1 was comfortable with it; and while he was on the phone with the  
 2 police, he stood over her to see if she was breathing.  
 3 Q So it was as a result of the 911 operator that you three  
 4 are checking to see if Miss Koot is breathing or anything like  
 5 that?  
 6 A Yes, ma'am.  
 7 Q And you and Miss Craw are watching as Mr. Hernandez is on  
 8 the phone and doing those things?  
 9 A Yes.  
 10 Q Other than checking to see if she was breathing, did you  
 11 see Mr. Hernandez move the body at all or dramatically change the  
 12 condition of the body?  
 13 A No.  
 14 Q And you were there the whole time?  
 15 A Yes, ma'am.  
 16 Q And then eventually police or paramedics arrive?  
 17 A Yes.  
 18 Q Do you recall who was the first kind of official unit to  
 19 arrive, whether it was paramedics or the police?  
 20 A It was the paramedics or the fire department that was  
 21 there first.  
 22 Q Ma'am, I'm showing you what's been marked as State's  
 23 Proposed Exhibit 91.  
 24 Do you recognize what's depicted in that photograph?  
 25 A Do I recognize what? I'm sorry.

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1 Q Do you recognize what is depicted in that photograph?  
 2 A Yes.  
 3 Q Is that Miss Koot depicted in her living room as you saw  
 4 her that morning?  
 5 A Yes, ma'am.  
 6 Q Is that a fair and accurate depiction?  
 7 A Yes.  
 8 MS. WECKERLY: The State moves to admit State's 91.  
 9 MR. PIKE: No objection.  
 10 THE COURT: Admitted.  
 11  
 12 (State's Exhibit 91 admitted into evidence.)  
 13  
 14 THE COURT: Any questions.  
 15 MR. PATRICK: Briefly, Your Honor.

CROSS-EXAMINATION

18 BY MR. PATRICK:  
 19 Q Good afternoon, Miss Ramirez.  
 20 You said that Mr. Hernandez was your maintenance man?  
 21 A Yes.  
 22 Q Was he the only one or was he like the supervisor?  
 23 A He was the maintenance tech supervisor.  
 24 Q So there were other maintenance people?  
 25 A Not another maintenance. We only had a porter, which

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1 was -- it was Kenneth. I don't remember his last name at this  
 2 time.  
 3 Q Okay. That's fine.  
 4 And you said that Mr. Hernandez entered the apartment  
 5 sometime after you and your assistant did?  
 6 A Yes, sir.  
 7 Q Do you remember about how long after?  
 8 A I would say no more than maybe five minutes.  
 9 Q Do you remember when the last time that apartment would  
 10 have needed servicing or had a service request that Mr. Hernandez  
 11 would have had to respond to?  
 12 A No.  
 13 Q When you walked in, you said that the TV in the living  
 14 room was on?  
 15 A In the living room in her bedroom.  
 16 Q In the bedroom?  
 17 A Yes.  
 18 Q Okay. Do you remember what was on TV?  
 19 A No.  
 20 Q And you said that Miss Koot was naked in her living room?  
 21 A Yes, sir.  
 22 Q Did you notice any clothes nearby her?  
 23 A No, sir.  
 24 MR. PATRICK: That's all I have, Judge.  
 25 MS. WECKERLY: Nothing else.

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1 THE COURT: Thanks. Appreciate it.  
 2  
 3 (Witness excused.)  
 4  
 5 THE COURT: Next witness; last for the day.  
 6 MS. LUZAICH: Officer Villagrana.  
 7 THE COURT: Okay.  
 8  
 9 (Witness sworn.)  
 10  
 11 THE CLERK: Thank you. Please be seated.  
 12 Please state your full name, spelling your first and last  
 13 name for the record.  
 14 THE WITNESS: William Villagrana; W-i-l-l-i-a-m,  
 15 Villagrana.

WILLIAM VILLAGRANA

17 called as a witness on behalf of the State,  
 18 having been first duly sworn,  
 19 was examined and testified as follows:  
 20  
 21

DIRECT EXAMINATION

23 BY MS. LUZAICH:  
 24 Q Sir, how are you employed?  
 25 A I'm a traffic officer for Las Vegas Metro PD.

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1 Q How long have you been with the Las Vegas Metropolitan  
2 Police Department?  
3 A Four years. Ma'am.  
4 Q And were you a police officer with Metro on May 3rd, 2005  
5 as well?  
6 A Yes, ma'am.  
7 Q And on May 3rd of 2005, were you working patrol?  
8 A Yes, ma'am.  
9 Q Were you dispatched to the Silver Pines apartments at --  
10 I'm sorry. I lost my whole train of thought -- 6650 East Russell,  
11 Clark County, Nevada?  
12 A Yes, ma'am.  
13 Q Were you sent there for a suspicious death?  
14 A Yes, ma'am.  
15 Q When you got there, what did you see?  
16 A When I got there, I made contact with Officer Bevilacqua.  
17 I entered the apartment, saw the apartment appear to be clean and  
18 organized; a ceiling fan and light were on. The TV was turned on  
19 as well. It was tuned to a pay per view channel.  
20 Q What about the pay per view channel?  
21 A It was showing information on how to access pornographic  
22 movies.  
23 Q How to access as opposed to actually showing a  
24 pornographic movie?  
25 A Yes.

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1 Q When you entered the apartment, could you see any sign of  
2 forced entry?  
3 A No, ma'am.  
4 Q And you said that it was very neat and clean, the  
5 apartment?  
6 A Yes. Ma'am.  
7 Q You saw the TV. What else did you see as you entered the  
8 apartment, as you walked further in?  
9 A I walked in and I saw a black female adult laying on the  
10 living room floor.  
11 Q When you saw her laying on the living room floor, was she  
12 covered?  
13 A No, she wasn't.  
14 Q Was she naked?  
15 A Yes.  
16 Q And was she laying face up?  
17 A Face up.  
18 Q Showing you State's Exhibit 91, can you see that?  
19 A Yes, ma'am.  
20 Q Is that how she looked and how the room looked as you  
21 entered?  
22 A Yes.  
23 Q Okay. Did you come closer to the body?  
24 A Yes.  
25 Q What did you notice, if anything, about the body?

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1 A Her legs were spread. She had a gold earring on her  
2 right here. There was another gold earring laying next to her.  
3 Some of her pubic hair was burned. There was an incense  
4 stick, a part of it, in her belly button.  
5 Q An incense stick, like something you burn for aroma?  
6 A Yes.  
7 Q You said part of it was in her belly button.  
8 Was it partially burned?  
9 A Yes.  
10 Q Okay. What else did you notice?  
11 A There were some ashes between her legs under her vaginal  
12 area.  
13 Q When you noticed all of that, did you walk through the  
14 rest of the apartment as well?  
15 A Yes, I did.  
16 Q And what was the purpose of that?  
17 A We were checking the rest of the apartment.  
18 Q Okay. What did you notice, if anything?  
19 A I noticed in the washing machine -- there was a purse,  
20 along with its contents inside the washing machine and it appeared  
21 to have gone through a cycle. The items were wet and there was  
22 residual detergent on the items.  
23 Q What else did you notice in the washing machine?  
24 A Just a purse, along with contents of it.  
25 Q Ice cube trays?

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1 A Ma'am?  
2 Q Ice cube trays?  
3 A Yes, ma'am.  
4 Q Did you go further than the washing machine?  
5 A Yes, ma'am. In the master bedroom, the bathtub was full  
6 of water. There was some makeup items, jewelry, newspaper in the  
7 bathtub and it was all covered up with a blue towel.  
8 Q Okay. Makeup items, paper as well?  
9 A Yes, ma'am.  
10 Q Did you find all of that odd?  
11 A Yes, I did.  
12 Q What did you all do?  
13 A Well, homicide was notified. They responded. We secured  
14 the scene, waited for homicide to conduct their investigation.  
15 Q Okay. You secured the scene and that would be that only  
16 law enforcement personnel could come in?  
17 A Correct.  
18 Q Is that to preserve the scene so that nothing would be  
19 damaged or disturbed?  
20 A Yes, ma'am.  
21 Q And you called homicide because?  
22 A It was suspicious.  
23 MS. LUZAICH: Okay. Thank you.  
24 THE COURT: Any questions?  
25 MR. PIKE: Yes, I do.

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CROSS-EXAMINATION

- 1  
2 BY MR. PIKE:  
3 Q Officer, when you went into the scene, your duties in  
4 going into the scene are, number one, make sure there is nobody  
5 else in there, so that you and any other responding personnel are  
6 safe. That's one of the things you are supposed to do, right?  
7 A Correct.  
8 Q And you went through the entire location to make sure  
9 that that was, in fact, true?  
10 A Yes, sir.  
11 Q The other part of your responsibilities was to make a  
12 determination whether you should call detectives, if so, which  
13 division, and whether or not you should call medical personnel.  
14 Would that be an accurate assessment of what your duties  
15 were?  
16 A Yes, sir.  
17 Q Okay. And you've received training in performing those  
18 duties and you've also received training in the processing and  
19 collection of evidence as part of your training to be a police  
20 officer; is that true?  
21 A Yes, sir.  
22 Q Okay. And in going through that, you would make it a  
23 point not to touch anything that may be of evidentiary value?  
24 A Yes, sir.  
25 Q You left the TV on or did you turn it off?

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- 1 A I did not touch the TV. It stayed on.  
2 Q Was there a TV remote that you observed there?  
3 A I do not recall seeing a remote.  
4 Q Anything like that that may have fingerprints on it, you  
5 would not have touched?  
6 A Correct.  
7 Q When you arrived at the scene, you indicated there was  
8 another officer. Could you spell his last name for court  
9 reporter, please?  
10 A I believe it is Bevilacqua, B-e-v-i-l-a-c-q-u-a. I'm not  
11 sure of the spelling.  
12 Q It's a whole lot closer than I would have come.  
13 And you were the only two officers that were in there?  
14 A No. There were three of us.  
15 Q Who was the other officer?  
16 A Officer Gallagher. He was my training officer.  
17 Q Okay. And had you all arrived at the same time or was  
18 Officer Gallagher there earlier?  
19 A No. Officer Bevilacqua responded at approximately 913  
20 hours.  
21 Q And then you responded second?  
22 A Yes, sir.  
23 Q Did you take any statements from any individuals at that  
24 time?  
25 A No, I did not.

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- 1 Q After the detectives arrived and they took control of the  
2 scene, were you then relieved from this responsibility and went  
3 about your other duties?  
4 A No, I didn't. I stayed until they were done with their  
5 investigation.  
6 Q Okay. So you were involved in the collection of any  
7 statements and the continued investigation of the scene?  
8 A Yes, sir.  
9 MR. PIKE: Okay. I have no further questions.  
10 THE COURT: That's it.  
11 MS. LUZAICH: Nothing.  
12 THE COURT: Appreciate it, Officer. You are excused.  
13  
14 (Witness excused.)  
15  
16 THE COURT: Okay. Well, we're right where we should be  
17 tonight so we're right on track.  
18  
19 (Jury admonished by the Court.)  
20 THE COURT: Again, I expect we will probably have an  
21 article in the Nevada section tomorrow, so set that section aside  
22 or have your significant other take the article out and read the  
23 rest of the paper.  
24 Don't form or express an opinion on the case until it's  
25 submitted to you.

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- 1 Have a good evening. We'll pick up at 9:30 tomorrow.  
2 Again, give yourself a little leeway time because the  
3 elevators sometimes aren't good in the morning.  
4 Have a nice evening.  
5 MR. PIKE: Thank you, Your Honor.  
6 THE COURT: Your pads and pencils will be on your chair  
7 when you get here in the morning. Wear comfortable clothes.  
8  
9 (Proceedings concluded.)  
10  
11 \* \* \* \* \*

ATTEST: Full, true and accurate transcript of proceedings.

  
 RENEE SILVAGGIO, C.C.B. 122

Official Court Reporter

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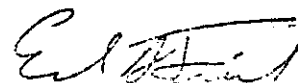
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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

NORMAN KEITH FLOWERS, aka

Defendant.

Case No. C228755

Dept. No. VII

VOLUME 3-B

Before the Honorable Stewart L. Bell  
Friday, October 17, 2008, 9:30 a.m.

Reporter's Transcript of Proceedings

JURY TRIAL

## APPEARANCES:

For the State:

PAMELA WECKERLY, ESQ.  
LISA LUZAICH, ESQ.  
Deputies District Attorney

For the Defendant:

RANDALL PIKE, ESQ.  
CLARK PATRICK, ESQ.  
Deputies Special Public Defender

REPORTED BY: RENEE SILVAGGIO, C.C.R. No. 122

ACCUSCRIPTS (702) 391-0379

VOL III

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CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, )  
 )  
 Plaintiff, )  
 )  
 vs. ) Case No. C228755  
 ) Dept. No. VII  
 )  
 NORMAN KEITH FLOWERS, aka ) VOLUME 3-B  
 )  
 Defendant. )

Before the Honorable Stewart L. Bell  
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Deputies District Attorney

For the Defendant: RANDALL PIKE, ESQ.  
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ACCUSCRIPTS (702) 391-0379

Las Vegas, Clark County, Nevada  
Friday, October 17, 2008, 9:30 a.m.

P R O C E E D I N G S

\* \* \* \* \*

(The following proceedings were had in open  
court outside the presence of the jury panel:)

THE COURT: Case Number C228755, State versus Norman  
Keith Flowers.

Let the record reflect the presence of the defendant, his  
counsel, counsel for the State; absence of the jury.

Anything else to come before the Court before the jury  
comes in?

MR. PIKE: Your Honor, we went through the photographs  
that the State anticipates introducing through the witnesses  
today. They all involve just crime scene photographs, area  
photographs. I've already gone through them, so we stipulate to  
their admission.

THE COURT: Great.

MR. PIKE: And we agree that they truly and accurately  
represent those areas in which the photograph was taken.

THE COURT: Okay. That saves a lot of time.

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(The following proceedings were had in open  
court in the presence of the jury panel:)

THE COURT: Okay. Let's go back on the record in Case  
Number C228755, State of Nevada versus Norman Keith Flowers.

Let the record reflect the presence of Mr. Flowers, his  
counsel, all counsel for the State; all of the ladies and  
gentlemen of the jury are in the box; they've got their note pads  
and they're ready to go.

Ready today, Miss Weckerly?

MS. WECKERLY: Yes.

THE COURT: Call your next witness.

MS. WECKERLY: Jeffrey Smink.

(Witness sworn.)

THE CLERK: Thank you. Please be seated.

Please state your full name, spelling your first and last  
name for the record.

THE WITNESS: Jeffrey Smink; J-e-f-f-e-r-y, S-m-i-n-k.

JEFFREY SMINK

called as a witness on behalf of the State,  
having been first duly sworn,  
was examined and testified as follows:

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DIRECT EXAMINATION

BY MS. WECKERLY:

**Q** How are you employed, sir?**A** I'm a crime scene analyst supervisor with the Las Vegas Metropolitan Police Department.**Q** You are a supervisor?**A** I am now, yes.**Q** How long have you worked as a crime scene analyst?**A** Roughly 21 and a half years.**Q** Did you always work for Metro or another agency prior to that?**A** Another agency prior to it.**Q** And you've been a supervisor of crime scene analysts now for how long?**A** Since March.**Q** Back in May of 2005, were you working as a crime scene analyst?**A** Yes, I was a senior crime scene analyst.**Q** We've had a little bit of testimony about it, but can you describe just generally what your job duties are as a crime scene analyst?**A** It entails primarily responding to crime scenes; documenting the scene with photography, notes and diagrams;

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processing the scene for latent prints; impounding evidence; conducting reconstruction, such as blood stain pattern interpretation and related investigative techniques.

**Q** When you are working as a crime scene analyst, do you typically respond by yourself or do you respond with another analyst?**A** It depends on the type of case.**Q** With a homicide?**A** With the team.

MS. WECKERLY: Your Honor, I haven't told them, but we need to read the admonishment.

THE COURT: Okay. Apparently, he's going to testify about the crime that you have heard a little bit about that is not the crime that you ever here to decide, but it may have some bearing on the crime that you are here to decide.

So, again, I'd advise you that in order for that crime to even be considered, you must find that it was proven by clear and convincing evidence; and then the evidence that the defendant may have committed that crime or any other crime, for which he is not on trial, is only admitted to prove identity, knowledge, intent motive, absence of mistake or accident in the case before you and not that he's a person of bad character or has a general disposition to commit those crimes.

MS. WECKERLY: Thank you.

THE COURT: So let's talk about it now.

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BY MS. WECKERLY:

**Q** Sir, in May of 2005, did you respond to an apartment located at 6650 East Russell?**A** Yes.**Q** And that's in Las Vegas, Clark County, Nevada?**A** Yes.**Q** I want to talk specially -- was this a third floor apartment in a multi-building apartment complex?**A** Yes.**Q** And I think you said when you respond to homicide scenes, there is a team of investigators or analysts who respond; you just don't go by yourself?**A** Correct.**Q** Who was with you?**A** Crime scene analyst supervisor Randy McLaughlin and crime scene analyst Charity Green.**Q** And at that time, Mr. McLaughlin is the supervisor and you are a senior analyst?**A** Yes.**Q** How did you and Miss Green divide the work in terms of processing this particular crime scene?**A** I was responsible for the report, photography, processing for latent prints and searching for evidence.

Miss Green was responsible for the diagram, evidence collection, and evidence search as well.

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**Q** And when you work as a team, I assume you two are conferring with each other?**A** Yes.**Q** Throughout the processing?**A** Yes.

MS. WECKERLY: For the record, these have been stipulated for admission, but I would like you to quickly look through these photographs and tell me if you recognize what's depicted.

THE COURT: What's the first number and the last number?

MS. WECKERLY: 51.

THE COURT: And the last one is 90?

MS. WECKERLY: The very last one?

THE WITNESS: 90.

THE COURT: 90. 51 through 90 are admitted by stipulation, which means that the parties have agreed there is no objection and it's fair for you to consider them and they will be admitted.

(State's Exhibits 51 - 90 admitted into evidence.)

BY MS. WECKERLY:

**Q** Do you recognize those photographs?**A** The majority of them, yes.**Q** Okay. And are they photographs of the crime scene that you responded to in May of '05?**A** There is one that I noticed that was one that I did not

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1 take, but all the other ones, I took.

2 Q Okay. We'll talk about that one.

3 I'm putting on the overhead what's been admitted as  
4 State's Exhibit 51.

5 What are we looking at in that photograph?

6 A It's a view of the apartment building where the scene was  
7 located. The actual scene was the third floor apartment in the  
8 middle right area of the photograph.

9 Q Okay. And you just indicated where it is on your screen?

10 A Yes.

11 Q Thank you.

12 When you first approached the scene, did you look at or  
13 examine the front door at all to see if there was any signs of  
14 forced entry?

15 A Yes, I did.

16 Q And now I'm putting on the overhead State's 52.

17 That would be the front door?

18 A Yes.

19 Q Any signs of a forced entry that you noted when you were  
20 there processing the scene?

21 A No.

22 Q Now, I'm putting on the overhead State's 53.

23 What are we looking at in that photograph?

24 A This is a photograph taken during the course of the scene  
25 processing and it's a view of the front door after it has been

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1 processed for fingerprints.

2 The dark colored blue-ish and black material on the door  
3 is fingerprint powder and the areas where you see tape, as  
4 indicated on the right part of the door, are areas where latent  
5 prints were recovered.

6 Q So, obviously, you and Miss Green processed the door for  
7 latent prints?

8 A Yes.

9 Q And the little pieces of tape that we see on the right  
10 side of the photograph, those are what actually picks up the  
11 latent print?

12 A Yes. It's latent print tape. Essentially, it's two inch  
13 wide masking tape that we use to recover the latent print  
14 impressions.

15 Q The apartment itself that you were examining or  
16 processing, could you tell the members of the jury your overall  
17 impression of how the apartment looked, in terms of if it looked  
18 like there was a major struggle in it or if it appeared neat and  
19 clean?

20 A Upon entering the apartment, it appeared to be very neat  
21 and orderly and I did not see any signs of a struggle.

22 Q I am now putting on the overhead State's 62.

23 What are we looking at in that photograph?

24 A It's an overall view of the kitchen area, which is  
25 located in the east middle area of the apartment.

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1 Q Appears very clean?

2 A Very clean.

3 Q State's 64?

4 A It's a photograph taken of the kitchen sink area, just to  
5 show the contents of the sink and the dish drainer.

6 Q This is State's 65.

7 A It's an overall view of the dining room area, which is  
8 located adjacent to the kitchen, just to show its general  
9 condition and the different furnishings that were present.

10 Q Now, I'm putting on the overhead State's 76.

11 What are we looking at in that photograph?

12 A It's the overall view of the southwest bedroom, just to  
13 show its general condition and contents when I arrived at the  
14 scene.

15 Q So this is the view of the bedroom before any processing  
16 or any removal of potential items of evidence took place in the  
17 bedroom?

18 A Yes. The normal course of my duties is to take all  
19 photographs of the scene when I arrive to show its condition,  
20 contents and any other items before processing begins.

21 Q And now I'm putting on the overhead State's 77.

22 Is that also in the bedroom area?

23 A Yes. That's a dresser within the bedroom.

24 Q And that's how the dresser appeared upon entry?

25 A Yes.

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1 Q Now, I'm putting on the overhead State's 80.

2 What are we looking at in that photograph?

3 A It's another overall view in the same bedroom. And  
4 things that are noteworthy is this is the hallway leading from the  
5 living room, adjacent to the washer and dryer, into the bedroom;  
6 and this is a doorway which led into the master bathroom area and  
7 this was a doorway which led into the closet of the bedroom.

8 Q Now, I'm putting on the overhead State's 82.

9 What are we looking at in that photograph?

10 A An overall view of the bathroom area when I arrived.

11 Q The vanity area that we're looking at, did that appear to  
12 be disturbed at all to you when you were processing the apartment?

13 A No.

14 Q Was there anything unusual in the bathroom that you  
15 noticed?

16 A Yes.

17 Q What was that?

18 A Items contained within the bathtub.

19 Q Can you describe what you mean by that?

20 A There was assorted watch cases, ring boxes, necklace  
21 boxes, phone books, towels, articles of clothing and other  
22 assorted items of value that were located in the bathtub, that  
23 were wet and/or damp.

24 Q I'm showing you State's 84.

25 Is that sort of a wider shot of the bathtub that you were

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1 just speaking of?

2 A Yes. And in addition to the things I've described, there  
3 were also things as depicted in the photograph on the rug adjacent  
4 to the bathtub, as well as a towel hanging on the shower rack for  
5 the bathtub.

6 Q Now, I'm putting on the overhead State's 87.

7 That's a closer view of the bathtub and some of the items  
8 this were inside of it?

9 A Yes.

10 Q And you said those are items of paperwork in the name --  
11 was it in the name of victim, some of that paperwork?

12 A Yes.

13 Q And those items were all wet?

14 A Wet and/or damp or in the process of drying.

15 Q When you were processing the scene on the day that you  
16 were there, did you have knowledge that homicide detectives and  
17 another crime scene analyst were actually in the apartment a day  
18 earlier, on May 3rd?

19 A Yes.

20 Q And was it your understanding that the bathtub was full  
21 of water at that time?

22 A Yes.

23 Q So it was drained before you got there?

24 A Yes.

25 Q Could you tell, when you looked at the bathtub, like a

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1 water level at all?

2 A Yes. There was a water line mark on the side of the  
3 bathtub.

4 Q Besides the bathtub, was there another room in the  
5 apartment that had sort of a similar odd appearance to it -- to  
6 the bathtub?

7 A Yes.

8 Q What was that?

9 A That was the laundry area, which was actually a closet  
10 area in the section of the living room.

11 Q And can you describe what that looked like.

12 A The washing machine contained various items, including  
13 articles of clothing, a purse, a wallet, a daily planner, a knife,  
14 another assorted items; and some of those items had partially been  
15 removed from the washing machine and some of them were still  
16 contained within the washing machine.

17 A number of those items appeared to have been damp; in  
18 other words, they had been washed; and also were discolored as a  
19 result of, in my opinion, some sort of a reagent or oxidized agent  
20 placed in the washing machine.

21 Q And putting on the overhead State's 75, does that depict  
22 part of the washing machine area that you were describing?

23 A Yes, it depicts the washing machine with the tub open and  
24 then some of the contents that were in the washing machine on top  
25 of the dryer.

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1 Q And this is State's 74, sort of a closer view of the  
2 washing machine?

3 A Yes. It depicts the contents on the bottom of the  
4 washing machine tub after a number of items were removed from the  
5 washing machine tub.

6 Q And this is State's 72.

7 Is that the purse that you were speaking of with regard  
8 to the washing machine?

9 A Yes. There is a purse, a wallet, a daily planner, some  
10 credit type cards and miscellaneous items.

11 Q Now, there appears, on those items, to be a residue on  
12 them.

13 Was that consistent with like washing detergent or some  
14 sort of agent like that?

15 A In some areas, yes. There is also residue of like when  
16 paper gets wet and then gets torn up after being exposed to the  
17 water and then breaking up into pieces, then being deposited on  
18 the items, such as the white pieces on this black daily planner or  
19 a little booklet there.

20 Q So sort of paper kind of disintegrating as a result of  
21 water or something like that?

22 A Yes.

23 Q I assume you also were in the living room area of this  
24 apartment?

25 A Yes.

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1 Q At the time that you were there, the deceased, obviously,  
2 had been removed?

3 A Yes.

4 Q I'm showing you State's 54.

5 Does that depict the living room area of the apartment?

6 A Yes, a portion of it.

7 Q And this is State's 56, another view of the living room?

8 A Yes. This is actually a view from the entryway hallway,  
9 as you would enter the living room from the front door.

10 Q Now, I'm putting on the overhead State's 57.

11 That is another view of the living room area?

12 A Yes, yes; specifically, the love seat area adjacent to  
13 the dining room.

14 Q In that photograph, did you note or can you see clothing  
15 in the photograph?

16 A Yes.

17 Q Can you circle on your screen where the clothing was?

18 A It was on the floor area just west of the love seat.

19 Q And do you remember if the clothing sort of -- or what  
20 the condition of it was?

21 A Yes. It was a pair of shorts that were turned inside out  
22 and a pair of underwear.

23 Q Now, once you and Miss Green photographed the scene, what  
24 did you do next in terms of processing the apartment?

25 A I directed my attention to the carpet area in front of

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1 the love seat.

2 Q And why was it that you were concentrating on that area?

3 A Based on information I had received and based on  
4 observations I made of the carpet.

5 Q I'm putting on the overhead State's 58.

6 Is this the area of the carpet that you were  
7 concentrating on?

8 A Yes.

9 Q And it's a little bit hard to see on that photograph, but  
10 is there actually a scale that you put in the photograph that sort  
11 of shows where you are concentrating?

12 A Yes. And what the scale does is it shows the actual size  
13 of the item that I'm photographing. If the photograph was to be  
14 blown up for a comparison, they could use the scale for  
15 measurement and also it advises that I am the person taking the  
16 photograph.

17 Q Now, when you were there on the 4th and you were  
18 specifically focusing on this area of the carpet, did you have  
19 information from detectives or other crime scene analysts as to  
20 where the victim was located a day earlier?

21 A Yes.

22 Q And, obviously, that's the area that you were  
23 concentrating on?

24 A Yes.

25 Q Did you visually examine the carpet area before doing any

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1 type of processing or evidence collection?

2 A Yes.

3 Q What were your findings visually?

4 A Visually, I saw areas of burned or charred carpet and an  
5 area of apparent blood adjacent to that burned carpet area.

6 Q Did you do anything else besides the visual inspection  
7 before attempting to collect evidence from that area?

8 A Yes.

9 Q Explain what you did.

10 A After the visual examination, looking for any types of  
11 evidence, specifically biological fluid stains, I used an  
12 alternate light source, which is a device that emits a specific  
13 wave length or color of light; and it's primarily used for  
14 searching areas for fluids, primarily semen, vaginal fluids,  
15 saliva and urine. It also has applications in fingerprint  
16 development.

17 I used this device with this solid wave length of light,  
18 which was a violet color with a pair of goggles, in an attempt to  
19 locate some biological fluid stains which might have been present  
20 on the carpet.

21 Q And did you locate anything?

22 A Yes, I did locate something.

23 Q Okay. Was there a specific stain that you thought you  
24 saw, either grossly, visually, or as a result of using the  
25 alternate light source?

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1 A Well, visually, with the naked eye, I didn't see any

2 stains. When using the alternate light source with a pair of  
3 goggles and with a pair of goggles -- they're colored goggles and  
4 they filter out the colored lights, so I can see and visualize  
5 what is fluorescing or reflecting with the alternate light source.

6 And what I saw was an area approximately ten inches by  
7 ten inches surrounding the burned carpet area and it appeared to  
8 be a contaminate of some sort.

9 Q And putting on the overhead State's 60, is that a close  
10 up view of that segment of the carpet?

11 A Yes.

12 Q And we see, obviously, the charred area on the carpet?

13 A Yes.

14 Q But you are saying when you use the light source, it kind  
15 of fluoresced to a wider portion of the carpet?

16 A Yes. The carpet itself did not react or fluoresce with  
17 the use of the alternate light source; however, there was some  
18 sort of stain in the areas surrounding the burned and charred area  
19 which did fluoresce.

20 As a result of that, I was on my hands and knees during  
21 the examination and I was attempting to detect an odor from this  
22 area that had this stain. And also, the only area of the carpet  
23 that had this type of contaminant type stain was in the area of  
24 this burned carpet.

25 Q Okay. Now, when you say there was a contaminant or that

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1 you were getting a reaction or visually seeing something that  
2 indicated a contaminant, what sort of things could cause that type  
3 reaction?

4 A Generally, it's anything that has some sort of chemical  
5 added that will fluoresce under this alternate light source.

6 Typically, I find these items in cosmetic products,  
7 cleaning products, products with solvents and/or oxidizers.

8 Q So when you look at this specific area of the carpet, it  
9 appears to be visually; and then I think you said you smelled the  
10 carpet as well, like a cleaning agent has been used on this area  
11 of the carpet?

12 A In my opinion, the odor was a floral type odor; and, to  
13 me, it's not unlike a fabric softener type product.

14 Q And once you saw that and detected that odor, did you  
15 make a determination about whether or not to actually collect that  
16 piece of carpet as evidence?

17 A Well, prior to collecting the -- prior to that point,  
18 what I did do is I used a swab and swabbed areas in the  
19 contaminant, the area that had that contamination, with a  
20 presumptive test, looking for some of the fluid stains.

21 All of these tests came back negative and, at the time,  
22 my feeling was that someone had placed a contaminant in this area  
23 in an attempt to hide evidence.

24 As a result of that, being prudent and erring on the side  
25 of caution, I decided to cut the carpet out for further

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1 examination by the forensic laboratory.

2 Q And I'm putting on the overhead State's 61.

3 Is that a photograph of the carpet that you removed or

4 the segment?

5 A Yes.

6 Q And that was impounded by you?

7 A It was impounded by Miss Green.

8 Q Miss Green.

9 And then it was later -- I mean, you don't do the actual

10 DNA testing?

11 A No, I do not.

12 Q Okay. The segment of carpet that you collected -- well,

13 let me ask it another way.

14 Was that the only portion of the carpet that you cut out

15 of the whole apartment?

16 A Yes.

17 Q In addition to collecting that piece of carpet, did you

18 and Miss Green process the apartment for latent fingerprints?

19 A Yes.

20 Q And what areas, as a crime scene analyst, would you

21 concentrate on for fingerprints?

22 A In general, it's areas where I believe there has been

23 some activity and/or areas that depict areas disturbance.

24 Also included in that are common walkway and areas that

25 people that might have been in the apartment might have touched or

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1 come in contact with.

2 In this case, that would pertain to the doorways, the

3 doors, the area where I found the oddities, such as the bathroom,

4 the bathtub and the washing machine, as well as areas in the

5 living room adjacent to the carpet.

6 Q I'm putting on the overhead State's 78.

7 That's the dresser area in the bedroom?

8 A Yes.

9 Q And it looks like there is some fingerprint tape that's

10 been applied to some of the items there?

11 A Yes.

12 Q So that was obviously processed?

13 A Yes. And just to clarify, myself and crime scene analyst

14 McLaughlin processed the items for latent prints, not Miss Green.

15 Q Okay. Thank you.

16 And this is State's 79.

17 That's sort of a wider view of the dresser area as it has

18 been processed?

19 A Yes.

20 Q Now, you said that you concentrated on areas that

21 appeared odd or where there was possible disturbance.

22 That would include, obviously, the bathtub, which had all

23 those items in it?

24 A Yes.

25 Q I'm putting on the overhead State's 90.

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1 What are we looking at there?

2 A It's an overall view of, basically, the shower stall or

3 bathtub stall, showing basically the results of my processing for

4 latent prints.

5 And what I'm depicting here, in my opinion, are wipe

6 marks or items where a damp cloth has come across, where water has

7 come in contact with this tile, and then I come and process it

8 with fingerprint powder.

9 And what happens is the fingerprint powder would adhere

10 to the streaks left behind as a result of the water or wiping,

11 with some sort of moisture coming in contact with that tile.

12 The streaks, generally, are linear, or go side to side,

13 and were located in the shower area.

14 Q So it appeared to you, based on what's depicted in that

15 photograph, that the shower area -- and that's the bathtub which

16 had all that wet stuff in it -- that it had been wiped down?

17 A Yes.

18 Q No way to tell, I would assume, when that occurred?

19 A Correct.

20 Q I'm also putting on the overhead State's 89.

21 That's the vanity area of the bathroom?

22 A Yes.

23 Q Did that have the same wiped down appearance that the

24 shower area had to you?

25 A Not specifically, no.

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1 Q Okay. Now, I'm putting on the overhead State's 69.

2 This looks like we're back in the laundry room area.

3 A Yes.

4 Q That's fingerprint powder that we see in that photograph?

5 A Yes.

6 Q Anything about how that powder appeared that struck you,

7 as a crime scene investigator?

8 A Yes. In my opinion, there were also wipe marks on the

9 washing machine area, specifically in the upper right area that I

10 circled. Those had the same type of linear wipe marks as I

11 discussed were in the shower. They were side by side and they

12 were streak type marks.

13 And the way these streak marks are made, if you were to

14 spray too much Windex on your mirror at home and wipe across it,

15 you will get streak marks. It's the same type of philosophy in

16 theory.

17 And what happens is then that streak mark will dry and

18 then the fingerprint powder will adhere to those streak marks,

19 which is why I'm able to come to that opinion.

20 Q Did you also process the kind of laundry soap and that

21 sort of thing, that would have also been in the laundry room, for

22 prints?

23 A Yes.

24 Q And I'm putting on the overhead State's 70.

25 Does that photograph depict that sort of processing?

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1 A Yes, it does.  
 2 Q Do you recall whether or not you were able to recover  
 3 latent prints from those items?  
 4 A I don't recall specifically. I would need to refer to my  
 5 report for that.  
 6 Q Okay. Safe to say, though, if you did, those would have  
 7 been submitted for examination by a latent print examiner?  
 8 A Yes.  
 9 Q Now, I'm putting on the overhead State's 66.  
 10 This is back in the kitchen, correct?  
 11 A Yes.  
 12 Q And it looks like this is also a photograph depicting the  
 13 attempt to collect fingerprints from the kitchen?  
 14 A Yes.  
 15 Q Do you see evidence or indications of wipe marks, as you  
 16 described in the laundry room and in the bathtub area, in this  
 17 kitchen area as well?  
 18 A Yes.  
 19 Q Can you point out for members of the jury where you see  
 20 that?  
 21 A It may be difficult to see, but there are areas where  
 22 fingerprints were recovered; but in the corners of the sink, there  
 23 were those linear wipe type marks, which were developed as a  
 24 result of the fingerprint powder being applied to the kitchen  
 25 sink.

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1 Q And based on your review of the bathtub and the laundry  
 2 room and then the kitchen, as well as the carpeting where you  
 3 smelled the fabric softener or type of agent, did you have an  
 4 opinion whether or not, in this apartment, there had been at least  
 5 the appearance of an attempt to destroy or cover up evidence?  
 6 MR. PIKE: Objection; calls for speculation. He hasn't  
 7 been called for interpreting cleaning marks, when they were made.  
 8 THE COURT: Sustained. The jury can figure out what they  
 9 want to figure out from that, but earlier, he testified he  
 10 couldn't tell when the wipe marks occurred.  
 11 Stained.  
 12 MS. WECKERLY: Okay.  
 13 BY MS. WECKERLY:  
 14 Q In terms of the carpeting in the living room area, were  
 15 there other areas, beyond the actual stain that you were  
 16 concentrating on, that had that same smell of detergent?  
 17 A No, no other areas except for that area of carpet with  
 18 that stain had that odor.  
 19 Q Okay.  
 20 A In addition to the carpet, I did examine the sofa, the  
 21 love seat, the cushions, the backs of each sofa and love seat. No  
 22 other area of those type of stains or that odor that we've  
 23 described.  
 24 Q Okay. The detergent or fabric softener -- I think you  
 25 said there was a floral scent that you noted -- was limited to the

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1 area of the stain, rather than throughout the whole living room  
 2 area?  
 3 A Correct.  
 4 Q And this was where the victim happened to be lying?  
 5 A Based on what I was told, yes.  
 6 Q Okay. And the wipe marks that you saw in the bathtub  
 7 area, that's obviously in the bathtub where there had been all  
 8 those items of paper and personal items associated with the  
 9 victim?  
 10 A Yes.  
 11 Q And that's where you see the wipe marks?  
 12 A Yes.  
 13 Q And then the other wipe marks that you see in the laundry  
 14 room, that's where all those strange items were put through what  
 15 appeared to be a wash cycle or it looked like they were in the  
 16 washing machine at least?  
 17 A Yes.  
 18 Q And that's where you see wipe marks as well?  
 19 A Yes.  
 20 Q And then also along the kitchen sink area?  
 21 A Yes.  
 22 Q And throughout the apartment itself, did you ever see any  
 23 indication or any sign of a forced entry?  
 24 A No.  
 25 MS. WECKERLY: Thank you, Mr. Smink.

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1 I'll pass witness.  
 2 THE COURT: Cross.  
 3  
 4 CROSS-EXAMINATION  
 5 BY MR. PIKE:  
 6 Q Good morning.  
 7 A Good morning.  
 8 Q In reference to the scene that you went to, you indicated  
 9 that, as you arrived at that scene, that, in fact, you were there  
 10 upon the information you received the day after detectives had  
 11 been in before?  
 12 A Yes.  
 13 Q And that's not uncommon?  
 14 A No.  
 15 Q In fact, when you go over to that scene, was there some  
 16 sort of a seal or something placed upon the door so that you knew  
 17 that that crime scene had remained unviolated, or at least where  
 18 it was sealed, it had not been opened and gone into?  
 19 A Yes, there was a seal there.  
 20 I knew it was intact prior to my arrival, but the  
 21 detectives had broken it prior to my arriving on the scene.  
 22 Q You don't know that -- from your personal knowledge and  
 23 whatever information you may have had about was hearsay? It  
 24 wasn't sealed when you got there?  
 25 MS. WECKERLY: Your Honor, we may want to approach on

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1 this.

2 MR. PIKE: Okay. Well. Let me rephrase the question.

3 BY MR. PIKE:

4 Q Okay. When you went into this apartment that you

5 processed, that we're talking about today, you went in there and

6 -- were there detectives in there when you went in there?

7 A Yes.

8 Q Okay. That wasn't clear. That's the reason I asked that

9 question before.

10 A Okay.

11 Q So the detectives are in there.

12 Are you working with them and saying: Well, you should

13 check here; you should check there? You are working a

14 collaborative effort to determine what should be examined and how

15 it should be examined?

16 A The collaboration of what should be examined and that

17 type of activity was done more so with the crime scene analyst

18 staff, not with the homicide detective staff.

19 Q And there were three of you that were going in and

20 analyzing the scene?

21 A Yes.

22 Q And you had brought with you the alternate light source?

23 A Yes.

24 Q Is that standard issue, a standard piece of equipment

25 that is available to you and other crime scene analysts to take

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1 Into a scene to determine if there is biological fluid at the

2 scene of a crime?

3 A Yes.

4 Q And going into that scene, then, you use that alternate

5 light source.

6 If you could, explain to the ladies and gentlemen of the

7 JURY how that works.

8 Is it something that you have to get up close to it or

9 can you -- like if you are looking at the floor, the carpet, that

10 you were talking about, do you stand here and just do that and

11 make a determination if you should examine that further?

12 A Well, first off, when using the alternate light force,

13 the environment needs to be dark. You can't do it in daylight

14 because you would not be able to see what the alternate light

15 source, the light with the goggles on, is reacting to.

16 So, first, we have to make the room with the area dark.

17 Then, on a cursory examination, you could examine the area as you

18 described, where you were walking across the floor and looking for

19 any areas which may fluoresce.

20 In this case, I didn't do that. In this case, I focused

21 on the carpet area in front of the love seat when I was on my

22 hands and knees and I was scanning the area.

23 What this alternate light source does is produce a light

24 similar to that of a flashlight, about that intensity of a light

25 and that diameter of a light. And I'm scanning this light across

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1 the carpet, looking for areas that are reacting, or, in other

2 words, fluorescing, as a result of being viewed with the alternate

3 light source.

4 Q And that also is something that is a viable investigative

5 tool over a long period?

6 For instance, let me ask you this question: I assume

7 that you have probably gone to crime scenes where a body has not

8 been discovered for a week or longer periods of time.

9 A Yes, this happens.

10 Q Okay. And in that circumstance, when you go into a scene

11 like that, the protein or the biological fluids will fluoresce

12 even though they may have been there for a long period of time?

13 A With the exception of blood, yes.

14 Q And many of them will survive washing and fluids?

15 A That's a case by case and that's debatable.

16 Q Good enough for President Clinton.

17 But in going through and making a determination, actually

18 even by cutting out that carpet, if it flows through to the

19 concrete or the subfloor, then, oftentimes, you will be able to

20 determine whether or not there was carpet that had been removed,

21 for instance, to remove a biological fluid?

22 A The answer to your question is: It depends on the type

23 of bodily fluid that I'm looking for.

24 Q Okay.

25 A If it's a seminal fluid or vaginal fluid stain, that

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1 would not have enough volume to penetrate through the carpet onto

2 the concrete floor.

3 If you are talking about blood and/or urine, then, yes,

4 that would be possible.

5 Q Okay. And in going through there, you start obtaining

6 the fingerprints from the very point that you walk in the door?

7 A Yes. That area was processed.

8 Q All right. And as you went through and processed this

9 entire scene, how many fingerprints did you actually recover that

10 you felt were of quality for comparison?

11 A Quite a few; and if you want an exact number, I can refer

12 to my report and give you that number.

13 Q If you would do that, please.

14 For the record, the report that you are reviewing is the

15 report that you prepared and you are refreshing your recollection

16 with that report?

17 A Yes.

18 Q Thank you.

19 A Specifically what I am referring to is the attachment

20 that has been -- the labels which were attached to the latent

21 print cards when they were submitted.

22 Q Right.

23 A I recovered 26 latent lifts and Mr. McLaughlin recovered

24 34 latent lifts.

25 Q And by using the alternate light source, you recovered

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1 the portion of the carpeting, correct?

2 You made a determination to harvest; that is the term?

3 A Based on what I saw, I thought it would be prudent to

4 collect that carpet, yes.

5 Q And that would be for later testing that would be done?

6 A Yes.

7 Q Did you go through and -- as we noted in one of the

8 photographs, there was some clothing.

9 Did you use the alternate light source in examining that

10 clothing?

11 A At that time, no.

12 Q Did you impound that clothing for later testing?

13 A I believe Miss Green impounded -- she did all the

14 impounding, so she would have impounded it.

15 Q Okay. But you didn't go over that to determine whether

16 or not it may be a source of biological fluid?

17 A At the time I was there, those articles were still wet

18 and until the items that we examined are dry -- those would have

19 needed to have been dried out before that examination could have

20 taken place.

21 Q So the clothing that was next to the sofa and the love

22 seat was wet?

23 A Oh, I misunderstood your question.

24 Q I'm sorry.

25 A Those items, the pair of shorts and the pair of underwear

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1 were impounded for further eval.

2 Q And now that we're talking about the same pieces of

3 clothing, did you examine them with the alternate light source?

4 A No.

5 Q Had you done that, you could have made the determination

6 as to whether or not there may have been biological fluid on that

7 and to help focus the investigation?

8 A I don't know if it would have focused the investigation.

9 If I would have done that, I would have made a showing if

10 there were stains there, but they are being impounded and that

11 examination wasn't going to be subsequent regardless.

12 Q While you were employing the use of the alternate light

13 source, did you go into the bedroom area?

14 A With the alternate light source?

15 Q Yes.

16 A No.

17 Q Okay. So the bedspread or other areas on the bed were

18 not examined with the alternate light source?

19 A No, they were not.

20 Q Going through the cleaning items that were located, or

21 were photographed by you, did you obtain samples of those cleaning

22 solutions to determine if any of them had a floral scent or if any

23 of them could be identified with what you believed to be cleaning

24 solvent on that portion of the floor?

25 A I recall smelling a few of them, but, no, no samples were

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1 collected.

2 Q In going through the house or the apartment that you went

3 through, it showed that it was fair -- fairly clean, actually

4 quite clean?

5 A Yes.

6 Q And what I want to do is show you -- this is the tub.

7 You went through, processed the tub for fingerprints?

8 A Well, this photograph, I did not take.

9 Q Okay. I'm not saying the photograph, but this is the tub

10 area we're identifying. I'm just showing it to you to indicate

11 that this is the type of a faucet and this is the type of a

12 control that was done on that?

13 A Yes.

14 Q For anyone to turn that on, they would have to grab it

15 and pull it out?

16 A Yes.

17 Q And that area was processed for fingerprints?

18 A Yes, it was.

19 Q Do you know if any fingerprints were obtained from that

20 faucet?

21 A No. And faucets or items that are some sort of

22 manipulation or grasping are a very poor area to recover

23 fingerprints due to the action of the hand.

24 Q That area -- well, let me rephrase the question.

25 This is also a standard tub that has a shower in it. If

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1 the shower had been employed, you would have expected that there

2 may have been water that would have made the streaks on the side

3 go downward?

4 A Yes, that's possible.

5 Q And you did not observe that or see that?

6 A Not that I recall, no.

7 Q And how many fingerprints were obtained from the tub --

8 not the tub -- excuse me -- from the washing machine and the

9 dryer?

10 A Again, I would need to refer to my report.

11 Q If you would do that, please.

12 A A total of 14 lifts were made from either the washing

13 machine or items contained in that general vicinity.

14 MR. PIKE: Thank you.

15 I have no further questions. Thank you very much, sir.

16 THE COURT: Anything else, Miss Weckerly?

17 MS. WECKERLY: No, Your Honor. Thank you.

18 THE COURT: Thank you, Mr. Smink. Appreciate it. You

19 are excused.

20

21 (Witness excused.)

22

23 THE COURT: Next.

24 MS. WECKERLY: Charity Green.

25 THE COURT: Is this witness related to the second

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1 incident?

2 MS. WECKERLY: Yes.

3 THE COURT: Ladies and gentlemen, the same admonition:

4 In order for this to be relevant to the decision you are going to  
5 have to make, you have to find that it's proven by clear and  
6 convincing evidence. It can't be considered that the defendant is  
7 a person of bad character, has a disposition to conduct crimes.  
8 This is to related to the absence of mistake or motive on behalf  
9 of the defendant in relation to the crime before you.

10 THE CLERK: Thank you. Please be seated.

11 Please state your full name, spelling your first and last  
12 name for the record.

13 THE WITNESS: Charity Green; C-h-a-r-i-t-y, G-r-e-e-n.

14

15 CHARITY GREEN

16 called as a witness on behalf of the State,

17 having been first duly sworn,

18 was examined and testified as follows:

19

20 DIRECT EXAMINATION

21 BY MS. WECKERLY:

22 Q How are you employed?

23 A I'm employed as a crime scene analyst supervisor with the  
24 Henderson Police Department.

25 Q How long have you worked for the Henderson Police

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1 Department as a crime scene analyst?

2 A Over two years.

3 Q Prior to working for the Henderson Police Department, did  
4 you work for the Las Vegas Metropolitan Police Department?

5 A Yes.

6 Q As a crime scene analyst?

7 A As a crime scene analyst.

8 Q Okay. How long did you work for Metro as a crime scene  
9 analyst?

10 A Over four years.

11 Q You were working as a crime scene analyst in May of 2005?

12 A Yes.

13 Q Did you respond to a third floor apartment at 6650 East  
14 Russell Road for a processing?

15 A Yes, I did.

16 Q And did you respond with Jeff Smink?

17 A Yes.

18 Q He just left the courtroom.

19 Did you respond with any other crime scene analysts or  
20 supervisors?

21 A I responded with crime scene analyst supervisor Randy  
22 McLaughlin.

23 Q Now, we've heard testimony from Mr. Smink that you were  
24 in charge of impounding the evidence.

25 A Yes.

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1 Q Even though you were the one in charge of impounding, did  
2 you also participate in processing the apartment for latent prints  
3 as well?

4 A Yes, I did.

5 Q And would you have done a walk through with Mr. Smink and  
6 Mr. McLaughlin in terms of how to go about processing?

7 A Yes.

8 Q I want to concentrate specifically on the living room  
9 area of the apartment.

10 Do you recall that area?

11 A Yes, I do.

12 Q And do you recall having discussions about a specific  
13 area of carpet in the living room area?

14 A Yes, I did.

15 Q Did you have opportunity to actually look at or examine  
16 that carpet area?

17 A Yes.

18 Q What were your findings when you looked at that carpet  
19 area?

20 A Well, I did actually get down on my hands and knees and  
21 smell the area because there was a strong floral odor coming from  
22 that particular area of carpet.

23 And I also was able to examine it with the orange goggles  
24 and the alternate light source. I was able to see the size of the  
25 stain.

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1 Q And when you say the orange goggles and the alternate  
2 light source, what are you talking about?

3 A I am talking about an alternate light source, also known  
4 as a forensic light source, in which there is different waves of  
5 light and it distributes different colors; and by putting on the  
6 orange goggles -- or yellow or red -- it filters out a certain  
7 color of light in which you are able to visualize and see what  
8 that light is exciting and it fluoresces.

9 Q What types of things would make that light fluoresce?

10 A It depends on the wave length, but semen, biological  
11 fluids, possibly cleaning products.

12 Q So it could be semen or even a cleaning product could  
13 make it fluoresce?

14 A That's correct.

15 Q When you looked at the area of the carpet where you are  
16 seeing the fluorescence, how big an area in dimension are we  
17 talking about?

18 A It was approximately a ten inch by a ten inch area.

19 Q So like a ten inch square, that piece of carpet was cut  
20 out of the apartment itself?

21 A Yes, it was.

22 Q And you would have been the person that actually  
23 impounded it?

24 A And I did, yes.

25 Q Okay. Did you also have the opportunity to observe a

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- 1 bathtub inside the residence?
- 2 A Yes.
- 3 Q What did that look like to you?
- 4 A When I entered into the bathroom, the bathtub was --
- 5 there was no water in it at the time, but you could see a ring
- 6 line approximately three-quarters of the way up; and inside of
- 7 there, there was phone books, a City Life magazine, newspapers,
- 8 jewelry boxes. There was a toothbrush, a pen. Many miscellaneous
- 9 items were located inside of the bathtub.
- 10 Q Kind of random items?
- 11 A Random.
- 12 Q Would you have been the person that impounded those
- 13 items?
- 14 A Yes.
- 15 Q How did you do that if they were wet?
- 16 A After I recovered them and I brought them back to the
- 17 crime lab, I actually put them inside of our drying cabinets for
- 18 some time to help along the drying process. I had a difficult
- 19 time getting phone books to completely dry.
- 20 Q But you collected the items from the tub?
- 21 A Yes, I did.
- 22 Q What about the laundry room area, what did that look
- 23 like?
- 24 A The laundry area?
- 25 Q Yes.

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- 1 A There was a washing machine and a dryer. The washing
- 2 machine door or lid was up. Inside there was remnants of
- 3 paperwork. There was blue and white granules in there and other
- 4 miscellaneous items, but then on top of the dryer, there were
- 5 items of clothing, a purse, photographs, business cards and other
- 6 items.
- 7 Q You impounded those items as well?
- 8 A Yes, I did.
- 9 Q Did you go through the same drying process for those
- 10 items?
- 11 A Those were not as saturated as those items that I had
- 12 discovered inside of the bathtub.
- 13 Q Okay. I want to ask you about two other items of
- 14 evidence that were collected.
- 15 Do you remember a candy wrapper being at the crime scene
- 16 at all?
- 17 A Yes.
- 18 Q Where was that located?
- 19 A That was located underneath the dining room table, in the
- 20 dining room area.
- 21 Q And did you attempt to recover a latent print from the
- 22 candy wrapper?
- 23 A Yes, I did.
- 24 Q Were you successful in doing that?
- 25 A No, I was not.

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- 1 Q Okay. What about a container of dental floss?
- 2 A Yes, I did recover -- it was like a disposable dental
- 3 floss container.
- 4 Q Where was that located?
- 5 A That was located on top of the coffee table in the living
- 6 room.
- 7 Q And the print that you recovered would have been
- 8 submitted to an expert for comparison purposes?
- 9 A Yes.
- 10 MS. WECKERLY: Thank you.
- 11 I'll pass the witness.
- 12 THE COURT: Any questions?
- 13 MR. PIKE: Very briefly.
- 14
- 15 CROSS-EXAMINATION
- 16 BY MR. PIKE:
- 17 Q The coffee table was a glass top?
- 18 A That's correct.
- 19 Q And glass is usually a good place to recover fingerprints
- 20 from?
- 21 A Yes.
- 22 Q Did you recover fingerprints from the coffee table top?
- 23 A I did not process the coffee table.
- 24 Q Okay. Whoever processed it, they would have given the
- 25 latent prints to you?

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- 1 A I do not impound their latent prints. No, I did not.
- 2 Q So you just performed the investigation that you had just
- 3 advised us of the items that you have described at that point in
- 4 time?
- 5 A Yes.
- 6 Q Were you able to find any cleaning items that smelled or
- 7 reminded you of that floral smell?
- 8 A I did not open -- I personally did not open up any of the
- 9 containers to identify the smell or if it was similar to that
- 10 which we had found on the carpet.
- 11 There were multiple laundry items and such that were
- 12 located on the laundry shelf, but I did not personally smell it.
- 13 Q Okay. During the course of your investigation, did you
- 14 go into the bathroom area to examine the contents of any of the
- 15 cabinets or any personal hygiene items, similar to the dental
- 16 floss that you talked about?
- 17 A I did go in the bathroom. I did see quite a few hygiene
- 18 products throughout the bathroom.
- 19 Q Would that include any sort of female cleansing devices,
- 20 like douches or anything like that?
- 21 A I do not recall seeing that.
- 22 Q You don't recall any of those?
- 23 A No.
- 24 MR. PIKE: All right. Thank you.
- 25 THE COURT: Is that it?

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1 MS. WECKERLY: Could I ask her one question?

2 THE COURT: Sure, sure.

3  
4  
5 REDIRECT EXAMINATION

6 BY MS. WECKERLY:

7 **Q** If crime scene analyst Smink or McLaughlin recovered  
8 latent prints, they would have recovered those themselves?

9 **A** That is correct.

10 MS. WECKERLY: All right. Thank you.

11 THE COURT: Hold on, Miss Green.

12 I'm not sure what this means, but the drying cabinets  
13 that you have in the lab, do they, in any way, affect your ability  
14 to later determine what might be on those items?

15 In other words, do they effect the -- cause any of the,  
16 you know, semen or blood or any of that stuff to disappear or  
17 change in any way or cross-contaminate or do they leave it  
18 unaffected?

19 THE WITNESS: Our drying cabinets, we actually have an  
20 official biohazard cleaning company that comes out and cleans  
21 this, so the chance of cross-contamination would not lie on us,  
22 but would lie on the cleaning company, because there would really  
23 be no chance for there to be that, but, of course, we can always  
24 say 99.99 percent, but none of the biological stuff was ever put  
25 into a drying cabinet. Only those items that were wet and we were

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1 looking for latent prints on those items.

2 THE COURT: Thank you, Miss Green.

3 MR. PIKE: With that, I just have one follow-up question.

4  
5 RECROSS-EXAMINATION

6 BY MR. PIKE:

7 **Q** So even when something is submersed in water, then  
8 fingerprints may survive?

9 **A** Well, the types of -- it depends on the item. The types  
10 of items that we had, when we would put a powder on it or even  
11 certain types of chemicals, it would adhere to the moisture of the  
12 item, and that item being submersed in water, it would then  
13 just -- the powder would adhere to the whole item itself.

14 I personally did not process those items after they were  
15 done drying. I submitted them to our latent lab and they are the  
16 ones who actually did the processing on those items.

17 **Q** Okay. And that may be that sometimes because the human  
18 oils or biological is not always water soluble and there may be  
19 fingerprints that may survive getting wet or if -- if I put  
20 fingerprints on something, even though it got wet, that doesn't  
21 necessarily mean that the fingerprint would be removed; you could  
22 possibly dry it and obtain the fingerprints?

23 **A** It depends on the surface.

24 MR. PIKE: Thank you very much.

25 MS. WECKERLY: May I ask one question more?

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1  
2 FURTHER REDIRECT EXAMINATION

3 BY MS. WECKERLY:

4 **Q** What about on a body, a body that had been submerged in  
5 water? Do you think you would be able to recover latent prints  
6 off body that had been in hot water?

7 **A** Research has shown that it is very, very difficult and,  
8 to be honest, I have not heard results of somebody actually  
9 getting a fingerprint off of a body that has been submerged in  
10 water. And the chemicals that could be used to get a fingerprint  
11 off of the item could not be used on a body.

12 MS. WECKERLY: Thank you.

13 THE COURT: Okay. Thanks. Appreciate it, Miss Green.

14  
15 (Witness excused.)

17 THE COURT: Thank you. Next.

18 MS. LUZAICH: Detective Tremmel.

19 THE CLERK: Thank you. You may be seated.

20 Please state your full name, spelling your first and last  
21 name for the record.

22 THE WITNESS: Donald Tremmel; D-o-n-a-l-d, T-r-e-m-m-e-l.

23 THE COURT: Proceed.

24 MS. LUZAICH: Thank you.

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1 DONALD TREMMEL

2 called as a witness on behalf of the State,  
3 having been first duly sworn,  
4 was examined and testified as follows:

5  
6  
7 DIRECT EXAMINATION

8 BY MS. LUZAICH:

9 **Q** Sir, how are you employed?

10 **A** I'm a homicide detective with Las Vegas Metro.

11 **Q** How long have you been with the Las Vegas Police  
12 Department?

13 THE COURT: Is this going to be related to that?

14 MS. LUZAICH: Oh, yes. Sorry.

15 THE COURT: You've got it memorized by heart? Okay.

16 Same admonition applies. And when we give you the  
17 instructions on the law, it will actually be in there and you will  
18 have it verbatim, word-for-word, and it will sort of -- when  
19 lawyers kind of argue their respective positions, it will be very  
20 clear exactly what this means and what you are allowed to do.

21 MS. LUZAICH: Thank you.

22 THE COURT: Go ahead.

23 MS. LUZAICH: Thank you.

24 BY MS. LUZAICH:

25 **Q** How long have you been with the Las Vegas Metropolitan

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1 Police Department?

2 A Just shy of 29 years.

3 Q And how long have you been in homicide?

4 A Fourteen and a half.

5 Q As a homicide detective, what do you do?

6 A Investigate homicides, suicides, suspicious deaths.

7 Q How would a case come to you? Somebody dies, how do you

8 get involved?

9 THE COURT: You mean him personally or the Las Vegas

10 Metropolitan Police Department?

11 BY MS. LUZAICH:

12 Q Well, the detectives, the homicide detectives.

13 A If it's during the normal business hours, seven a.m. to

14 five p.m., we are notified in our office by either a supervisor in

15 the patrol division or a patrol officer. If it's after hours, we

16 are notified at our home by our supervisor.

17 Q Does a homicide detective respond to every death in the

18 county?

19 A No.

20 Q What would cause you to not have to respond to a death?

21 A Suicides where there is no suspicious circumstances;

22 natural deaths; deaths where they're undetermined, but no any

23 signs of foul play or of any suspicious nature.

24 Q Okay. So if something is suspicious, homicide shows up?

25 A Sometimes, yes.

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1 Q Okay. Specifically, on May 3rd of 2005, were you working

2 as a homicide detective and asked to appear at the Silver Pines

3 Apartments at 6650 East Russell Road?

4 A I was.

5 Q Did you go to apartment 303?

6 A I did.

7 Q And what did you find when you got there?

8 A When I got there, there were patrol officers there; there

9 was criminalistics people there. They informed us that there was

10 a deceased female in the apartment.

11 Q Did you go in and check out what was there?

12 A Yes.

13 Q What did you see?

14 A I saw a deceased black female lying naked on the floor of

15 her small living room, naked; she was on her back.

16 MS. LUZAICH: May I approach?

17 THE COURT: Yes.

18 BY MS. LUZAICH:

19 Q Showing you what's been marked as State's proposed

20 Exhibit 92, which the defense counsel has seen before?

21 Do you recognize this photo?

22 A I do.

23 Q Does that photo depict what you observed when you walked

24 into Apartment 303 on May 3rd, 2005?

25 A Yes.

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1 MS. LUZAICH: Move it into evidence.

2 THE COURT: Any objection?

3 MR. PIKE: There are other photographs that represent the

4 same information that are less prejudicial. I object.

5 MS. LUZAICH: Well, this isn't up close.

6 THE COURT: Come up and tell me. What seems to be the

7 problem?

8

9 (Sidebar conference at bench, not reported.)

10

11 THE COURT: Objection overruled. It will be admitted.

12 MS. LUZAICH: Thank you.

13

14 (State's Exhibit 92 admitted into evidence.)

15 BY MS. LUZAICH:

16 Q Showing you State's Exhibit 92.

17 Is that how the lady appeared when you arrived in the

18 apartment?

19 A Yes.

20 Q Did you approach the body closer to determine what, if

21 anything, appeared suspicious about it?

22 A I got probably halfway to the body from where this table

23 is.

24 Q Okay. And other than the fact that she is naked in this

25 photograph, what was suspicious about the way she presented?

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1 A There was some, what appeared to be, burning to the pubic

2 hair area. There was like an ash from an incense stick of some

3 sort in her navel; legs were spread a little bit.

4 Q Did you notice anything about her thigh?

5 A I did not, no.

6 Q Not at that point?

7 A No.

8 Q Okay. So what did you do?

9 You saw her lying there like that, what did you do?

10 A Well, we looked around the rest of the apartment, talked

11 to the first responding officers to see how entry was made,

12 because they informed us they were there on a welfare check.

13 The apartment was clean, neat, very organized; didn't

14 appear to be any type of struggle, disturbance.

15 Q Did you notice any sign of forced entry?

16 A No. They informed us that the door was locked.

17 Q When they entered, or at least when somebody entered?

18 A They informed us that the nature of their call was for a

19 welfare check. Management from the complex had entered by using a

20 master or pass key.

21 Q Pass key. Okay.

22 Did you also at least look at the door?

23 A Yes.

24 Q And saw no sign of forced entry?

25 A There was none.

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1 Q How about the sliding glass door?

2 A It was locked, shut. I didn't open the door to see if it

3 was locked, but it was shut.

4 Q It was shut when you got there?

5 A Yes.

6 Q Okay. You looked around the apartment. You said the

7 apartment was neat and orderly.

8 Did you go into each of the rooms?

9 A Yes, I did.

10 Q Did you notice anything in the bathroom?

11 A I did.

12 Q What did you notice?

13 A I noticed the tub was full, there was debris in it,

14 paper, a towel, a whole lot of stuff, that had been in there a

15 while. That paper had started to shred a little bit.

16 Q And was the towel on top of all the paper, yet still in

17 the water?

18 A Yes, the tub was pretty full, about ten inches, eleven

19 inches of water. I don't know how much, but it was full.

20 Q But everything in it was submerged?

21 A Yes.

22 Q Did you also look in the laundry room or laundry area?

23 A Yes.

24 Q What did you see there?

25 A I noticed that there was items in the washing machine

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1 that were damp and it appeared that a cycle had been run through.

2 There was some unusual items in there: Ice cube trays,

3 prescription bottles, some more paper and stuff.

4 Q Okay. Did you find that odd?

5 A I thought it was a little unusual.

6 Q As you looked around and looked at the body, could you

7 see any obvious signs of a cause of death?

8 A No.

9 Q Like no gunshot wound, no stab wound, nothing of that

10 nature?

11 A Nothing.

12 Q Didn't find any notes saying I have cancer and I'm dying.

13 I don't want to die like that? Nothing?

14 A Nothing.

15 Q So what did you all do?

16 A We spoke with the patrol supervisor who was on the scene.

17 It was a patrol sergeant. The coroner had been notified by them

18 and had arrived just prior to our departure and informed them that

19 they needed to do a report; that the body was taken to the

20 coroner's office by the coroner personnel. And that was about the

21 extent of our time there.

22 Q Okay. Did you notice anything about a television?

23 A Yeah. The television was on. There was a screen where

24 the -- it looked as if somebody was going to watch a pornographic

25 movie. It was cued up, but, to my knowledge, it had not been

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1 played because it required probably payment of some sort. But it

2 was still cued up.

3 Q Okay. Is it your understanding that, because it was a

4 death of a suspicious nature, that an autopsy would be performed?

5 A Yes.

6 Q Did you, in fact, attend the autopsy the next day?

7 A Yes.

8 Q Did you discover something during the course of the

9 autopsy that was significant in your investigation?

10 A Yes.

11 Q What did you discover?

12 A That she had been sexually assaulted.

13 Q Did you discover anything further?

14 A There was some slight hemorrhaging in the neck area and

15 petechial hemorrhaging in the eyes.

16 Q And based on your years as a homicide detective, did that

17 indicate something to you?

18 A That indicated that there had been some pressure put on

19 the neck and possibly some air restriction, which, I'm not a

20 doctor, but based on my experience in seeing these, there is some

21 restriction which causes hemorrhaging of the eye, the eye region.

22 Q Would that be consistent with someone who has been

23 strangled?

24 A Yes.

25 Q That is something that you might not be able to see while

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1 you are looking at the body on a floor in an apartment; is that

2 right?

3 A That's correct.

4 Q When you say there was evidence of sexual assault, is

5 that something that -- well, did you you observe the coroner

6 examining the genital area?

7 A Yes.

8 Q And anal area?

9 A Yes.

10 Q And that's something that you would also have not been

11 able to see as the body was lying on the floor in the apartment;

12 is that correct?

13 A That's correct.

14 Q So did that kind of put a different spin on your

15 investigation?

16 A It did.

17 Q Did you go back to the apartment that day?

18 A We did.

19 Q Did you cause crime scene analysts to come with you?

20 A We did.

21 Q When you went to the apartment -- well, actually, I guess

22 the day before, when all of you left the apartment, would the

23 apartment have been sealed?

24 A It was. There was an orange public administrator's

25 sticker that's placed on the door. It's not a permanent way to

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1 keep people out, but it is an orange bright seal, which indicates  
2 that it has been sealed up by the public administrator's office  
3 and that was on there before patrol or anybody left.

4 Q Okay. Now, when you went back the next day, on May 4th  
5 of 2005, was it sealed?

6 A It had been broken.

7 Q Did you make an effort to determine who and why it had  
8 been broken?

9 A We did.

10 Q Did you discover how and why it had been broken?

11 A We contacted the management, wanted to know who had been  
12 in the apartment. They informed us that the decedent--

13 MR. PIKE: Objection, hearsay.

14 BY MS. LUZAICH:

15 Q Okay. Well, did you have a conversation and discover who  
16 had been in the apartment?

17 A Yes.

18 MR. PIKE: Objection; hearsay.

19 THE COURT: Why is it hearsay? That's how he discovered  
20 it.

21 Sustained.

22 MR. PIKE: He's saying he discovered something. By  
23 saying what he discovered, they're eliciting the hearsay.

24 THE COURT: I sustained the objection. You can probably  
25 talk me out of it.

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1 THE COURT: Okay. I think you can ask him, in your view  
2 of the apartment, was there any distinction in terms of apparent  
3 cleaning or vacuuming or anything like that that occurred between  
4 the first day you were there and the second day you were there?  
5 You can ask him that.

6 BY MS. LUZAICH:

7 Q Did it appear to you that there had been any cleaning?  
8 Was there any difference between when you were there on the 3rd  
9 and when you were there on the 4th?

10 A Other than items being removed, no.

11 Q Okay. Could you tell which items had been removed?

12 A No.

13 Q Were their obvious things, like the TV had not been  
14 removed?

15 A No.

16 Q I'm sorry. Did her son actually come to the apartment  
17 and meet with you face-to-face?

18 A He came with another female. I believe it was her aunt.

19 Q Is that how you got into the apartment the second day,  
20 with the son?

21 A No. We got in through the management.

22 Q When you were at the apartment on the second day, when  
23 you entered, did it look the same as it did the first day?

24 A Yes.

25 Q And did you cause crime scene to do anything in

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1 MR. PIKE: I'm sorry. I'm used to being on the other  
2 side. Thank you.

3 BY MS. LUZAICH:

4 Q Well, you had a conversation with management?

5 A Yes.

6 Q And they told you something?

7 A Yes.

8 Q And based on what they told you, did you contact  
9 somebody?

10 A Yes.

11 Q Who did you contact?

12 A The decedent's son.

13 Q Did you have personal contact with him?

14 A Actually, I did, yes.

15 Q Did he come to the apartment?

16 A Yes, he did.

17 Q Okay. And did you try to ascertain what he had done in  
18 the apartment?

19 A Yes.

20 Q Did it appear to you that he had done any actual cleaning  
21 in the apartment?

22 MR. PIKE: Objection. The question is whether there was  
23 cleaning done or not. It would be a speculation on his part.

24 MS. LUZAICH: Well, he was there one day and he was there  
25 the next day.

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1 particular?

2 A Yes.

3 Q What did you cause crime scene to do?

4 A We ordered them to remove a section of carpeting, which  
5 was right where she was lying, underneath where she was laying.

6 Q What is the carpet for?

7 A To determine if there was any DNA evidence.

8 Q And the fact that you wanted the part of the carpet that  
9 was under where she was lying would indicate what?

10 A To determine if she was assaulted in that position where  
11 we found her at.

12 Q Okay. Did you also cause them to process fingerprints  
13 and things of that nature in the apartment?

14 A Yes. They fingerprinted the washing machine and dryer  
15 area. They fingerprinted the bathroom. They removed items from  
16 the water. They removed items from the washing machine as well.

17 Q Okay. Now, as you were investigating this offense on the  
18 3rd and on the 4th, did you learn something on the 3rd about the  
19 car, Merilee Koots' car?

20 I'm sorry. Was the apartment belonging to Merilee Koot?

21 A Yes, it was.

22 Q Did you learn something about Merilee Koot's car?

23 A We learned later that the car was missing.

24 Q Does each resident have their own parking spot there?

25 A Yes.

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1 Q Her car was not in her parking spot?

2 A Yes.

3 Q As the investigation continued, did you discover that the

4 car had been found?

5 A Yes.

6 Q Where was the car found?

7 A It was found in the apartment complex. I believe it was

8 on the north end of the complex, but not in her assigned spot.

9 Q I'm sorry?

10 A I didn't say anything.

11 Q And as you were conducting your investigation on the 3rd

12 and the 4th, did you learn that the -- well, did you develop a

13 suspect that became known to you as Norman Flowers?

14 A Yes, eventually, we did.

15 Q Do you see him here in court today?

16 A I do.

17 Q Did you have personal contact with him at some point?

18 A I did.

19 Q Can you describe where he's sitting, what he's wearing.

20 A He's sitting to my left, wearing a gray suit, gray tie.

21 Q Is he white?

22 A Black man.

23 MS. LUZAICH: Let the record reflect identification of

24 the defendant.

25 THE COURT: Yes.

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1 MS. LUZAICH: From here, I see Mr. Patrick. I didn't see

2 the defendant.

3 BY MS. LUZAICH:

4 Q Did you also learn that people called him Keith as

5 opposed to Norman?

6 A Yes.

7 Q Did you learn, during the course of your investigation,

8 that his girlfriend lived in that same apartment complex?

9 A Yes.

10 Q Next door to Merilee Koot?

11 A Yes, right across the porch or the walkway.

12 Q Did there come a time that you received a buccal sample

13 from the defendant?

14 A Yes.

15 Q Now, how do you do that? Physically, how is it done?

16 A A buccal swab was -- containing DNA. It is a little

17 plastic wand with a small, like spongy type of end on it. It's

18 used for swabbing the cheek and the gum area of the person you are

19 collecting it from. It is then placed into a container and booked

20 into evidence.

21 Q Does it look kind of like a really long Q-Tip?

22 A Yes. I think it looks more like a little tiny

23 toothbrush, but it's skinnier and it's a plastic edge.

24 Q And you obtained that sample from the defendant?

25 A I did.

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1 Q Marked it and placed it into evidence?

2 A Yes.

3 Q At the time the autopsy was conducted on Merilee Koot

4 were swabs obtained from her genital and rectal area?

5 A Yes.

6 Q And did you request that those samples be analyzed and

7 compared?

8 A I did.

9 Q And did you also request that the carpet beneath Miss

10 Koot's vaginal area be analyzed and compared?

11 A Yes.

12 Q In addition to Miss Koot's car later being located, on

13 the day that you were there on the 3rd, did you find any car keys?

14 A No.

15 Q Were her car keys ever located?

16 A I don't believe that they were.

17 MS. LUZAICH: Court's indulgence.

18 BY MS. LUZAICH:

19 Q As you were in the apartment on the 3rd or the 4th, did

20 you ever locate a wallet or any identification of Miss Koot in the

21 apartment?

22 A There was items belonging to her. I believe the contents

23 of her purse and I believe the purse itself was in the washing

24 machine as well.

25 Q But did you find her actual identification in the

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1 apartment?

2 A No, I didn't.

3 MS. LUZAICH: Thank you.

4 THE COURT: Is that it?

5 MS. LUZAICH: Yes.

6 THE COURT: Questions?

7 MR. PIKE: Court's indulgence.

8

9

10 CROSS-EXAMINATION

11 BY MR. PIKE:

12 Q Detective Tremmel, good morning.

13 A Good morning.

14 Q You were the supervising detective that was involved in

15 this investigation?

16 A No, I wasn't the supervisor. I was one of the lead

17 detectives. There was a supervisor out there, but --

18 Q Okay. How many detectives were assigned to this area?

19 A The original time we went out there, there was just

20 myself and my partner at the time.

21 Q Okay. And then when you came back the next day, that's

22 when you came with the CSAs?

23 A The CSAs; and I believe my supervisor was out there as

24 well, the sergeant.

25 Q And who was your supervisor?

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1 A Rocky Alby.  
 2 Q E-l-b-y?  
 3 A A-l-b-y.  
 4 Q I'm sorry. Thank you. All right.  
 5 And when you located where the car was at, during the  
 6 course of the investigation, did you take the CSAs down to the car  
 7 and have them process the car?  
 8 A I personally did not. I never saw the car. My partner  
 9 handled that.  
 10 Q Your partner handled that?  
 11 A Yes.  
 12 Q Okay. Is that the homicide book?  
 13 A Yes, it is.  
 14 Q If you were to look in that homicide book, would you be  
 15 able to ascertain whether or not the vehicle was processed for  
 16 fingerprints?  
 17 A Yes.  
 18 Q Okay. Do you know without looking at that book?  
 19 A It was. I personally didn't have any interaction with  
 20 the car, but it was.  
 21 Q Okay. If you would look at that. Then I just want to  
 22 ask you a few questions about that.  
 23 A About the vehicle?  
 24 Q About the vehicle?  
 25 A Okay.

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1 Q Okay. Have you been able to locate that?  
 2 A Yes.  
 3 Q All right. Who was the CSI or CSA -- I don't know which  
 4 one to use here -- that went out and processed the vehicle?  
 5 A I'm reading my partner's report.  
 6 We didn't tow the car so we don't have a tow slip on it.  
 7 Q And that's not unusual because it was located on the  
 8 premises, where it was supposed to be?  
 9 A Yes. And it was subsequently released to her family.  
 10 Q Right. You had a son there that you could release it to,  
 11 so you didn't have to impound it?  
 12 A Yes. And I'm trying to find out where that's at.  
 13 Q That's okay.  
 14 Suffice it to say, in reviewing the report, it was  
 15 processed.  
 16 Were there any fingerprints lifted from that vehicle?  
 17 A No.  
 18 MR. PIKE: There were not. Okay. No further questions.  
 19 Court's indulgence.  
 20 Just one follow-up question in reference to coming back  
 21 the second day with the CSAs.  
 22 BY MR. PIKE:  
 23 Q During the first day in there, was there any processing  
 24 done for any fingerprints?  
 25 A No, there was not.

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1 MR. PIKE: There was not. Thank you.  
 2 THE COURT: Anything else from Detective Tremmel?  
 3 MS. LUZAICH: No.  
 4 THE COURT: Thanks, Detective. Appreciate your time.  
 5  
 6 (Witness excused.)  
 7  
 8 THE COURT: Next.  
 9 MS. LUZAICH: Connie Silva.  
 10 THE CLERK: Thank you. Please be seated.  
 11 State your full name, spelling your first and last name  
 12 for the record.  
 13 THE WITNESS: Consuelo Silva Henderson; C-o-n-s-u-e-l-o,  
 14 S-i-l-v-a, H-e-n-d-e-r-s-o-n.  
 15 THE COURT: Go ahead.  
 16 MS. LUZAICH: This witness also, Judge.  
 17 THE COURT: Okay. Same admonition, ladies and gentlemen:  
 18 This relates to a crime for which the defendant is not on trial  
 19 and any evidence that relates to that crime is only to be  
 20 considered as it may shed light as to the identity, knowledge,  
 21 intent, motive or absence of mistake or accident that relates to  
 22 this defendant versus the crime before you.  
 23 It can't be considered to show that he's a person of  
 24 general bad character, has a disposition to commit such crimes.  
 25 Go ahead.

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1 MS. LUZAICH: Thank you.  
 2  
 3 CONSUELO HENDERSON  
 4 called as a witness on behalf of the State,  
 5 having been first duly sworn,  
 6 was examined and testified as follows:  
 7  
 8 DIRECT EXAMINATION  
 9 BY MS. LUZAICH:  
 10 Q Good morning.  
 11 A Good morning.  
 12 Q Do you know a lady named Merilee Koot?  
 13 A Yes, I did.  
 14 Q How did you know Merilee?  
 15 A I used to be her manager back home in El Paso, Texas. We  
 16 used to work together.  
 17 Q How long did you know her?  
 18 A Since, I would say, 1994.  
 19 Q 1994?  
 20 A Yes, ma'am.  
 21 Q And you met in Texas and became friendly in Texas?  
 22 A Very good friends, yes.  
 23 Q Did there come a time that you left Texas and came here?  
 24 A I left Texas, I'm going to say, maybe in 2000.  
 25 She called me, I would say, maybe 2003, wanting to move

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1 out here with me.

2 Q Okay. Before you get there, while you were here and she

3 was there, did you all still keep in touch?

4 A Yes, we did.

5 Q Because you were that close?

6 A Yes.

7 Q You said around three, she called you and wanted to move

8 out here?

9 A Wanted to move out here and I told her that I hadn't

10 settled, that for her to give me time before she would move out

11 here with me.

12 Q Okay. Did there come a time that she actually did move

13 out here and be with you?

14 A Yes, she did.

15 Q Do you remember about when that was?

16 A I'm going to say maybe 2004. I'm not too sure.

17 Q Okay. When she moved out here, did you and your family

18 do anything to help her move out here?

19 A Yes. My ex-boyfriend went and picked her up, brought her

20 back down here; and she stayed with us, I'm going to say, maybe

21 six months, seven months.

22 Q So she actually lived with you for a long time here?

23 A Yes, she did.

24 Q When she came out here, did she work?

25 A Yeah. Her first job was working at Castaways. She was

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1 working security. Then she worked at the Boardwalk, which she

2 only worked there for, I'm going to say, maybe two weeks. And

3 then she got a job at the school, Andre Agassi's school.

4 Q Is that where she was working at the time of her death?

5 A Yes.

6 Q You said she worked with you for a period of time.

7 Did she subsequently move out of your home?

8 A Yes, she did.

9 Q Where did she move to?

10 A She moved to some apartments on Russell.

11 Q The Silver Pines Apartments?

12 A Yes.

13 Q Did you go visit her there occasionally?

14 A You know, my kids were the ones that went to go visit

15 her. They stayed with her.

16 Q Oh, your kids stayed with her for a time?

17 A Yes.

18 Q Okay. Helped her move in?

19 A Yes.

20 Q Were you familiar that she lived in Apartment 303?

21 A Yes, ma'am; uh-huh.

22 Q As far as you know, did Merilee have any mental health

23 type issues, things where maybe she did things that were nutty at

24 times?

25 A No.

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1 Q Never had any kind of issue like that that you are aware

2 of?

3 A No.

4 Q As her friend.

5 So you had never seen her put, you know, ice cube trays

6 in a washing machine and run it, or her purse and contents in a

7 washing machine?

8 A No.

9 Q Put all of her bills and paperwork and things in a

10 bathtub full of water?

11 A No.

12 Q Nothing like that? Okay.

13 In all the time that you had known Merilee, did you ever

14 know her to watch pornography?

15 A No, ma'am.

16 Q You guys were pretty close, talked about things?

17 A Yes.

18 Q Never talked about anything like that?

19 A No.

20 Q Did she have a significant other when she was living

21 here?

22 A No.

23 Q And when I say significant other, boyfriend?

24 A No.

25 Q Were you close enough that she would have talked to you

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1 about that?

2 A She would tell me, yes.

3 MS. LUZAICH: Thank you, ma'am.

4 Nothing further.

5 THE COURT: Questions?

6 MR. PATRICK: I don't have anything, Judge.

7 THE COURT: Thanks. Miss Henderson, appreciate your

8 time.

9

10 (Witness excused.)

11

12 THE COURT: Next.

13 MS. LUZAICH: Linda Ebbert.

14 THE COURT: Let her pass, please.

15 THE MARSHAL: Don't block the way.

16 THE CLERK: Thank you. Please be seated.

17 State your full name, spelling first and last name for

18 the record.

19 THE WITNESS: My name is Linda Ebbert; L-i-n-d-a,

20 E-b-b-e-r-t.

21

22 LINDA EBBERT

23 called as a witness on behalf of the State,

24 having been first duly sworn,

25 was examined and testified as follows:

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DIRECT EXAMINATION

BY MS. LUZAICH:

Q Miss Ebbert, what do you do?

A I'm a registered nurse and a sexual assault nurse examiner.

Q Can you explain for our jury what is a sexual assault nurse examiner.

A A sexual assault nurse examiner is a nurse who has experience and is trained to gather forensic evidence and document injuries and care for the patient that is there for the examination.

Q When you say gather forensic evidence, what is forensic evidence as opposed to non-forensic evidence?

A What we do is we do what is called a sexual assault kit, when our patients come in, and there is specific envelopes that tell us what to gather, like the underwear, any debris, look for injuries and take pictures of the patient's injuries and document them accurately.

Q Okay. Now, you said you are, first, a registered nurse, as well as a sexual assault nurse examiner.

What is a registered nurse?

A I went to school in Pennsylvania, a three year program, and became a registered nurse. I've been a nurse for 46 years and I have done sexual assault examinations for the past 13 years.

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Q Okay. And just briefly, during the 40 years that you were a nurse, not a sexual assault nurse, what other things have you done?

A I have done air transport, critical care ground transport. I've worked in the emergency room most of the time. And I've also been in management for several years.

Q In order to be a sexual assault nurse examiner, do you have to go through further training and education?

A Yes, I did. I went to Cabrera College in California, where I took a 40 hour course in the classroom. And then after I finished with that, I needed to come back and I did examinations under the direction of a physician until they felt that I was competent to do them on my own.

I also spent time with law enforcement, with the rape crisis center camp, and with the court system, learning how to work together as a group.

Q And once you finished all of that, did you become certified to be a sexual assault nurse examiner?

A After I had finished my preceptorship, which is doing all the outside things, I took an examination for certification and I passed that examination and I'm certified internationally.

Q When did you become certified?

A I believe it was four years ago.

Q Okay. So during the course of your 13 years being a sexual assault nurse examiner, did you continue to have further

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education and go to classes and things of that nature?

A I did. As a registered nurse and as a SANE aid, which means I am certified, there are classes required to keep those credentials. And I always have more than enough continuing education hours in order to keep those qualifications.

Q In addition to being the actual nurse who performs the exams, do you also teach others to become sexual assault nurses?

A Yes, I do.

Twice a year, we present a five day seminar to teach other people how to become sexual assault nurse examiners. We also teach counselors, social workers, law enforcement and attorneys. And my partner and myself wrote a book and copyrighted it for teaching that class.

Q Have you testified as an expert in the area of sexual assault examinations and evaluations in the Eighth Judicial District Court?

A Yes, I have.

Q Many, many times?

A Probably between 60 and 70 times.

Q Okay. Have you also reviewed documentation and photographs and testified as an expert based upon that?

A Yes, I have.

Q Do you know approximately how many actual sexual assault examinations you have conducted or participated in?

A Over 4,000.

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Q When conducting a sexual assault examination, you do what?

A We do a head to toe -- well, when the patient comes in, the first thing we do is separate them from everybody so that everybody isn't hearing what's said. We take them into our room, which is a specific room for examination of sexual assault victims. We do a head to toe examination, look for any injuries. We talk to them about what has happened to them. We talk to them about their medical history. And then we do the gathering of the evidence.

We provide counseling for them and we also give them medication to prevent sexually transmitted diseases and also to prevent pregnancy, if they desire that.

Q So if somebody comes in alleging a sexual assault has occurred, you examine them head to toe, but, specifically, their genital area and rectal area; is that correct?

A That's correct.

Q And when you do a sexual assault examination, whether or not it is alleged that, for example, there was anal sex, you still examine the rectum, correct?

A Yes.

Q And whether or not it's alleged that there is vaginal sex, you know, if it's only alleged anal sex, you would still examine the vaginal area; is that correct?

A That's correct.

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1 Q So during the course of your 4,000 more evaluations,  
 2 you generally get to talk to the victim and find out what you are  
 3 looking for, correct?  
 4 A That's correct.  
 5 Q Now, when you do the vaginal examination, is the woman  
 6 lying down on her back, legs spread?  
 7 A Yes, they are.  
 8 Q And you insert something into the vaginal area so that  
 9 you can get a better look?  
 10 A What we do is we examine the external genitalia; that's  
 11 looking at it without using any tools.  
 12 After we have looked at that and taken pictures, then we  
 13 insert a speculum, which is like a duckbill type instrument, so  
 14 that we can see inside the vaginal canal and document what we see  
 15 there.  
 16 Q In the course of your thousands of examinations, do you  
 17 know what, I guess, percentage of them you actually find physical  
 18 evidence of an assault?  
 19 A Approximately 65 to 67 percent have injuries; and  
 20 approximately 35 percent do not have injuries.  
 21 Q Why is that?  
 22 A Usually, it's because of the human sexual response. A  
 23 lot of things can change it. But human sexual response is when,  
 24 for example, the male gets excited, he has an erection; he's ready  
 25 to have sex.

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1 When the female is excited, she also lubricates; the  
 2 clitoris becomes firm; the lips actually swell and kind of fold  
 3 out so that it's easier to have access to the vaginal canal.  
 4 The female pelvis actually rises a bit and it makes it so  
 5 that the vaginal area is sort of like a slide that the penis can  
 6 go into without trauma.  
 7 Q And when you say trauma, what do you mean?  
 8 A Lacerations, abrasions, bruising.  
 9 Q When you see a laceration or an abrasion or bruising,  
 10 what does that indicate to you?  
 11 A Usually, it would indicate that the patient did not have  
 12 the excitement stage, because when they don't get excited, the  
 13 pelvis remains very flat and the pushing in of the penis causes  
 14 lacerations and abrasions.  
 15 Q Does it generally happen at a certain location in the  
 16 vagina?  
 17 A The most common area that we find it is on the introitus,  
 18 which is a circle that goes right around the vaginal opening.  
 19 (Indicating)  
 20 We usually find that at the posterior area, which would  
 21 mean it's the closest to the anal canal.  
 22 We find that between five o'clock and seven o'clock is  
 23 the most common, certainly from three o'clock to nine o'clock; and  
 24 we're talking about the patient being in stirrups and you are  
 25 looking at their genitalia, like you would look at a clock.

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1 So at the top where the hair and the fleshy area is would  
 2 be 12 o'clock; on the side would be three, bottom would be six,  
 3 and the other area would be nine.  
 4 Q So if something is inserted into the vaginal area  
 5 involuntarily, it can leave behind some sort of evidence?  
 6 A That's correct.  
 7 Q And the evidence would be? Could be, I should say.  
 8 A Could be trauma, as I said, abrasions, lacerations,  
 9 bruising; also there could be sperm or semen found.  
 10 Q What would be the difference between a laceration and an  
 11 abrasion?  
 12 A An abrasion is like roughing of the skin. It's like when  
 13 you fall down and your knee gets a little bit of the skin roughed  
 14 up on it; and a laceration is a jagged edge cut type area, opening  
 15 of the skin, a jagged edge though.  
 16 Q An actual cut?  
 17 A Uh-huh.  
 18 Q Of the skin?  
 19 A Uh-huh.  
 20 Q Does it take perhaps more force -- I use that term in  
 21 quotes -- to cause a laceration than an abrasion?  
 22 A I would expect it to have more force when I see -- if one  
 23 laceration, not as much force, but if you have multiple ones, that  
 24 would indicate that there was larger force used.  
 25 Q Okay. What about if a finger is inserted into the

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1 vaginal or genital area, would you expect that to leave behind any  
 2 kind of evidence?  
 3 A It could. The difference between having a laceration and  
 4 what I see when somebody has inserted a finger is the fingernail  
 5 causes what's called a divot, which is a little crescent shaped  
 6 cut in the skin, while a laceration is more from the force of  
 7 something going in.  
 8 But the -- the finger is usually a crescent shape, not a  
 9 longer laceration.  
 10 Q If somebody engages in consensual sexual intercourse, do  
 11 you expect to find bruises or abrasions or lacerations?  
 12 A I don't.  
 13 Q Okay. At my request, did you review an autopsy report  
 14 and autopsy photos pertaining to an individual that I represented  
 15 to you was Sheila Quarles?  
 16 A Yes, I did.  
 17 MS. LUZAICH: May I approach?  
 18 THE COURT: Uh-huh.  
 19 BY MS. LUZAICH:  
 20 Q What's been marked at State's Proposed Exhibit 123, do  
 21 you recognize this?  
 22 A Yes, I do.  
 23 MR. PIKE: For the record, those photographs that are  
 24 being displayed have been previously shown to counsel.  
 25 THE WITNESS: They are, in fact, the photographs that

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1 were taken of Sheila Quarles.  
 2 MS. LUZAICH: For the record, the next two are going to  
 3 be Merilee Koot and are already in evidence. This one is not yet  
 4 in evidence.  
 5 MR. PIKE: That's right.  
 6 MS. LUZAICH: I would move it into evidence since  
 7 Mr. Pike knows at this time.  
 8 THE COURT: Any objection?  
 9 MR. PIKE: No.  
 10 THE COURT: It will be admitted.  
 11  
 12 (State's Exhibit 123 admitted into evidence.)  
 13  
 14 BY MS. LUZAICH:  
 15 Q Did you also view another photograph that was actually  
 16 already in evidence pertaining to Sheila Quarles?  
 17 A Yes, I did.  
 18 Q Did you look at this one and believe that this one just  
 19 depicted the injuries better, based on your training and  
 20 experience?  
 21 A Yes, it did.  
 22 Q Okay. Thank you.  
 23 Showing you what's been admitted as State's Exhibit  
 24 123 -- let's see. Is that oriented?  
 25 A Yes.

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1 Q What do you see here?  
 2 A Actually, Lisa, it's upside down.  
 3 Q Sorry?  
 4 A No, it isn't. I'm sorry.  
 5 It's much darker on this and it made it a little  
 6 difficult to see, but I see it now. Okay.  
 7 There is a laceration right here.  
 8 Q If you touch the --  
 9 A A laceration here, which is a very significant  
 10 laceration.  
 11 THE COURT: If you touch this, it actually makes a mark  
 12 that they can see on the screen. It's kind of like John Madden.  
 13 THE WITNESS: There are two right there. There is a very  
 14 significant one right here; and then there is smaller ones in this  
 15 area. (Indicating)  
 16  
 17 BY MS. LUZAICH:  
 18 Q Okay. Now, when you call one of them very significant,  
 19 why is that?  
 20 A It's wide and it appears to be deep.  
 21 Q Wide and deep.  
 22 What, in your opinion, could have caused that?  
 23 A Exertion of pressure would normally be what I would  
 24 expect to have.  
 25 Q Would something have to be inserted into the vaginal area

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1 for that to occur?  
 2 A Yes.  
 3 Q Is that consistent, in your opinion, with non-consensual  
 4 sex?  
 5 A Yes, it is.  
 6 MS. LUZAICH: Showing you what's -- oh, this is the other  
 7 one.  
 8 THE COURT: Okay. Again, all this evidence that relates  
 9 to Merilee Koot, you are under the same admonishment, that it can  
 10 only be considered for the purposes of what I've instructed you on  
 11 a dozen times and will instruct you again when I instruct you on  
 12 the law.  
 13 MS. LUZAICH: Thank you.  
 14 BY MS. LUZAICH:  
 15 Q Showing you what's been marked and admitted as State's  
 16 Exhibit 115 -- I'm sorry.  
 17 Did I also ask you to review the autopsy report and  
 18 photographs associated with the autopsy pertaining to a lady that  
 19 I represented to you as Merilee Koot?  
 20 A Yes, you did.  
 21 Q And did you do that as well?  
 22 A Yes, I did.  
 23 Q Okay.  
 24 A Sorry.  
 25 Q Now, showing you State's Exhibit 115 -- is that upside

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1 down or right side up?  
 2 A You are upside down.  
 3 Q Okay.  
 4 A There you go. Yes.  
 5 Q Do you see anything of significance in that photo?  
 6 A Yes.  
 7 Q Well, for the record, what is it?  
 8 A It is the genital area.  
 9 Q Okay. And do you see anything significant in that photo?  
 10 A I find a laceration right here. I find a laceration here  
 11 and a laceration here. (Indicating)  
 12 Q Okay. Now, for the record, you are saying here, here and  
 13 here.  
 14 Where on the clock might that be?  
 15 A That would be from five to seven o'clock.  
 16 Q Okay. And the lacerations that you see there, are those,  
 17 in your opinion, consistent with non-consensual sexual  
 18 intercourse?  
 19 A Yes, they are.  
 20 Q Showing you State's Exhibit 116.  
 21 Am I upside down?  
 22 A No, you are fine.  
 23 Q What is this a photograph of?  
 24 A This is the anal area. It's showing spools in the center  
 25 and the anal ring on the outside.

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- 1 Q What do you observe on this photograph?
- 2 A I see a laceration at seven o'clock and I see some trauma
- 3 at 11 o'clock.
- 4 Q And what does that indicate to you?
- 5 A That would indicate penetration of the anus.
- 6 Q Actual penetration of the anus?
- 7 A Yes.
- 8 Q And would that be consent with non-consensual
- 9 penetration?
- 10 A Yes.
- 11 Q Now, is the anus different than the vagina when it comes
- 12 to engaging in sexual conduct?
- 13 A It's very difficult.
- 14 Q How is that?
- 15 A When people are having penile/vaginal sex, the muscle
- 16 area in the vaginal area is stretchy and it will dilate more and
- 17 the penis can go in more easily if both persons are ready to have
- 18 sex; whereas, the rectal area, there are two sphincters. There is
- 19 an external sphincter and an internal sphincter. If someone is
- 20 engaging in anal sex with a person without consent, when they're
- 21 pushing in, it will cause trauma. The blunt force will cause
- 22 trauma.
- 23 When people are having consensual anal sex, what would
- 24 really most often happen would be they would lubricate; they would
- 25 also push gently through the first sphincter; and the second

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- 1 sphincter is one that spasms until it can't spasm anymore and it
- 2 opens up into the anal canal. When it is not consensual, they
- 3 normally push right in. That's when you see trauma to the area.
- 4 Q And is that what you observed in that photograph?
- 5 A Yes.
- 6 MS. LUZAICH: Thank you. I have no more questions.
- 7 THE COURT: Questions?
- 8 MR. PIKE: Briefly. Thank you.
- 9
- 10 CROSS-EXAMINATION
- 11 BY MR. PIKE:
- 12 Q During the course of the examinations that you have done,
- 13 when you have the benefit of being able to speak to a live
- 14 patient, you can go through and get an idea as to when they have
- 15 previously had consensual sex prior to the event that brought them
- 16 to speak with you.
- 17 Would that be a fair statement?
- 18 A That would be correct.
- 19 Q And during the course of the information that you gather,
- 20 in fact, you look to gather that information to determine what --
- 21 what you might find during the course of the physical examination.
- 22 A I'm sorry. I didn't understand the question.
- 23 Q Let me rephrase it.
- 24 Getting a sexual history from the patient helps you in
- 25 determining or interpreting the physical injuries or physical

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- 1 results of your examination.
- 2 For instance, you would ask them: Have you had anal sex,
- 3 consensual anal sex within the time frame?
- 4 And then you would know to examine the anus, correct?
- 5 A I normally don't ask them if they've had consensual anal
- 6 sex unless they've been penetrated anally, but I would ask them if
- 7 they had engaged in anal sex previously, yes.
- 8 Q And while you are taking the history of that information
- 9 and you are addressing the patient, how far back do you go in
- 10 their sexual history prior to the time of the event that brought
- 11 them to you? Do you go back a day, two days?
- 12 A Our sexual assault kit represents 72 hours, so that would
- 13 be three days.
- 14 Q Okay. And the 72 hour period, does that have medical
- 15 significance?
- 16 A In that you may find mixed DNA or -- normally,
- 17 the injuries that I see -- I use a dye called toluidine blue dye
- 18 and that dye adheres to red blood cells, which would indicate that
- 19 an injury was new.
- 20 Whereas, an injury that's three days old would be healing
- 21 over and the toluidine blue dye would not adhere to it, so I would
- 22 know whether it's fresh or not fresh.
- 23 Q And that dye test that you just described, would that be
- 24 effective during the course of an investigation that would involve
- 25 a young lady that was deceased?

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- 1 A It would depend on whether there was actual active
- 2 bleeding; and it would depend on how soon after the death that the
- 3 dye was applied.
- 4 Q And so a time from the -- the removal of the body up
- 5 until the time of an autopsy, that may affect whether or not that
- 6 test would be meaningful to you?
- 7 A I don't believe at the coroner's office that they use
- 8 that die.
- 9 Q And would it benefit you if they used that dye during the
- 10 autopsy?
- 11 A I think that the doctors who are doing the pathology
- 12 reports and doing the medical examination, that would be their
- 13 determination of whether they felt it would be helpful in their
- 14 case.
- 15 Q In your examination though, it would be helpful?
- 16 A In my examinations that I do on a regular basis, yes, it
- 17 would be helpful.
- 18 Q And had it been done in these cases, it may have been
- 19 beneficial to you also?
- 20 A I can clearly see the injuries on these pictures without
- 21 the dye.
- 22 What happens with the dye is, at times, there are
- 23 injuries that are small, but you wouldn't see with the naked eye
- 24 and they will outline that injury for you and make it easier for
- 25 you to see it.

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1 Q So, if there -- for instance, if there had been  
2 consensual penetration and there was some small abrasions, those  
3 that you may not have seen without the dye would be overshadowed  
4 or you would not have been able to see those on the photographs  
5 that you had and you just concentrated on the ones that were  
6 visible from the autopsy photos?

7 A I don't understand what you are -- what your question is.

8 Q Okay.

9 A I mean, I understand what you are saying, that I could  
10 see these with the naked eye.

11 Q Right.

12 A These are significant injuries that I would not miss with  
13 the naked eye.

14 Q And these types of injuries -- well, you've seen a lot of  
15 injuries that have occurred and sometimes these types of injuries  
16 can occur during consensual sex?

17 A Injuries can happen during consensual sex, yes, sir.

18 Q Sometimes they may occur because there are insertions of  
19 things other than the penis?

20 A That's true, yes, sir.

21 Q Items that are harder, like marital aids, things -- to  
22 use the euphemism -- or things like that?

23 A I have not really had -- other than in a severe case  
24 where the person was in the trauma center, I have not had injuries  
25 with marital aids.

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1 Q Okay. Sometimes injuries like that occur during the  
2 course of normal or rough consensual sex?

3 A They could, yes, sir.

4 Q It also depends upon the position of the female during  
5 the time of the sexual contact?

6 For instance, if the female is on her stomach, as opposed  
7 to being on her back, would that affect the location of the  
8 injuries?

9 A It can affect the location of the injuries, but I still  
10 most often find injuries even with them on their stomach.

11 Depending on how much their hips are raised, a lot of  
12 things depend on that and it depends on the position that the male  
13 is in. If he's standing, we would expect that there would be a  
14 more pronounced thrust and we might find injuries to the cervix as  
15 well as to the vaginal area.

16 Q And the photographs that you have available to you did  
17 not give you access to determine if there were injuries to the  
18 cervix?

19 A No, I did not see cervix pictures in here.

20 Q Also, during the course of normal sexual contact, or  
21 consensual contact between a man and a woman, have you seen  
22 circumstances where, during the excitement of the sexual process,  
23 that there is an accidental withdrawal of the penis and an  
24 insertion into the anus?

25 A I have not had that history.

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1 Q You've never examined anything for that history?

2 A I've not had anyone say that it was an accidental  
3 penetration of the anus. The patients that I see usually, there  
4 was an intentional insertion of the penis into the anus.

5 Q Okay. So you are looking at specific allegations that  
6 sexual assault have occurred, but -- you have received training on  
7 human sexuality?

8 A Yes, sir.

9 Q And you received training on the sex act and what happens  
10 during the course of that.

11 And so there are circumstances in which there may have  
12 been an accidental or unintentional penetration of the anus during  
13 sex.

14 A I'm sure that's possible, yes, sir.

15 Q You mentioned that during a part of the sexual assault  
16 kit that underwear and debris and other items are collected and  
17 those -- what's the significance of having the underwear  
18 collected?

19 A The underwear -- when a sexual assault occurs, the way  
20 that females are built, all of the secretions go towards the  
21 crotch of the panties or towards the back area of the panties, and  
22 we collect that so that we can find evidence of penetration.

23 Q Well, evidence of penetration or evidence of distribution  
24 of sperm or semen into the vaginal cavity?

25 A Yes.

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1 Q And on cases that involve mixtures, is there any  
2 scientific way of telling who was the first person and who was the  
3 second person that deposited the semen?

4 A That would be something --

5 MS. LUZAICH: Objection; foundation. I don't think she  
6 can testify to that.

7 THE COURT: Well, she can tell us whether she can or not;  
8 she's pretty knowledgeable.

9 THE WITNESS: That would be something you would have to  
10 speak with the crime lab about.

11 BY MR. PIKE:

12 Q Okay. That would be outside your area of expertise?

13 A Yes, it would.

14 MR. PIKE: Thank you very much. No additional questions.

15 THE COURT: Any more questions?

16 MS. LUZAICH: Just briefly.

17

# REDIRECT EXAMINATION

19 BY MS. LUZAICH:

20 Q Miss Ebbert, when you use the toluidine dye, is that  
21 because you need the dye to help you see injuries that you could  
22 not see with the naked eye?

23 A Yes.

24 Q And is that because in the 65 percent of the cases where  
25 there are injuries, most of those the injuries are so slight that

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1 you can't see them with the naked eye?  
 2 A That's correct.  
 3 Q The injuries that you saw in both of these ladies,  
 4 however, were quiet significant?  
 5 A Yes, they were.  
 6 Q On the scale of injuries?  
 7 A Oh, definitely.  
 8 Q So when you mentioned that injuries can occur during  
 9 consensual sex, you are not talking about the injuries that you  
 10 observed in the photos?

11 A No.  
 12 MS. LUZAICH: Thank you.  
 13 THE COURT: Okay. Thanks. Good to see you again.  
 14 MS. LUZAICH: Thank you.

15  
 16 (Witness excused.)

17  
 18 THE COURT: Call your next witness.

19 MR. PIKE: Can we approach?

20 THE COURT: You may.

21  
 22 (Sidebar conference at bench, not reported.)

23  
 24 THE COURT: Okay. Apparently, the next witness also  
 25 relates to the incident with Miss Koot, so, again, you know, in

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DIRECT EXAMINATION

1  
 2  
 3 BY MS. WECKERLY:

4 Q And how are you employed?  
 5 A I'm employed with the Las Vegas Metropolitan Police  
 6 Department. I work in the forensic laboratory and my area of  
 7 specialty is latent print analysis.

8 Q How long have you worked in the area of latent print  
 9 analysis?

10 A Well, I've been in the fingerprint business since 1975.  
 11 At that time, I was employed by the Federal Bureau of  
 12 Investigation in Washington DC. That's where I learned the basics  
 13 of fingerprints, classifying, search and so forth.

14 And then in 1977, I entered into a training program with  
 15 the state of Ohio to become a latent print examiner; completed  
 16 that training program; did routine bench work in Ohio for three  
 17 years, followed by 18 years with the Florida Department of Law  
 18 Enforcement in their Tampa crime laboratory. And for the past ten  
 19 and a half years, I've been employed by the Metro Police  
 20 Department here in Las Vegas.

21 Q We've already had one latent print examiner's testimony  
 22 in this case, but just in terms of your own personal experience,  
 23 you have testified before as an expert in the area of latent print  
 24 identification and comparison?

25 A Yes.

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1 order for you to even consider that as it relates to what your  
 2 decisions are in this case, you have to find that it has been  
 3 proven by clear and convincing evidence and it cannot be  
 4 considered to prove that the defendant is a person of bad  
 5 character and has a disposition to commit crimes, but only goes to  
 6 his identity, knowledge, intent, absence of mistake or accident.

7 THE WITNESS: Good afternoon, Your Honor.

8 THE COURT: How are you?

9 THE WITNESS: Fine.

10  
 11 (Witness sworn.)

12  
 13 THE CLERK: Thank you. Please be seated.

14 Please state your full name, spelling your first and last  
 15 name for the record.

16 THE WITNESS: My name is Edward, common spelling; last  
 17 name is Guenther, G-u-e-n-t-h-e-r.

18  
 19  
 20  
 21  
 22 EDWARD GUENTHER

23 called as a witness on behalf of the State,

24 having been first duly sworn,

25 was examined and testified as follows:

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1 Q About how many times?

2 A Over a hundred just in the last ten years here with  
 3 Metro.

4 Q Okay. In the course of working as a latent print  
 5 examiner, are you typically in a situation where crime scene  
 6 analysts have recovered latent prints from a crime scene and you  
 7 compare them to known fingerprints of various individuals?

8 A Yes.

9 Q In your work for Metro, have you ever or do you ever  
 10 attempt to recover latent prints yourself off of various items of  
 11 evidence?

12 A Yes. That's part of our job on occasion -- well, I  
 13 wouldn't say on occasion. Frequently, we are asked to process  
 14 evidence that is collected by the crime scene analyst and/or  
 15 detectives or patrol officers, whatever, in certain situations.  
 16 So processing evidence is part of our job at the laboratory also.

17 Q And is there a rule -- or what determines whether you are  
 18 the one who develops or attempts to develop the latent print item  
 19 of evidence versus the crime scene analyst? Are there any?

20 A I'm not sure exactly what the rules are.

21 Q Okay.

22 A Normally, if it's picked up by a detective or a police  
 23 officer, it will just get booked into the evidence vault and then,  
 24 normally, we would go ahead in a laboratory situation and process  
 25 that.

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1 When it's collected in the field, the majority of the  
2 time, the crime scene analyst will process either at the scene or  
3 back in their processing area, but there are occasions when  
4 decisions are made, maybe by the lead detective or whoever, that  
5 some of the evidence would come over to the laboratory for  
6 analysis.

7 Q And you were obviously working as a latent print examiner  
8 back in August of 2005?

9 A Yes.

10 Q And were you asked to look at some items of evidence  
11 booked by crime scene analyst Charity Green?

12 A Yes.

13 Q Can you describe the items of evidence booked by Miss  
14 Green that you looked at?

15 A Yes. Well, submitted to the laboratory by Miss Green  
16 were three bags. We'll call them, large bags. In the first bag  
17 was a phone book, a yellow pages phone book for January through  
18 July of 2005. There was a second phone book within the same time  
19 frame, January to July of 2005.

20 There was a white pages phone book for the time period of  
21 January through December of 2005; newspaper sections from -- I  
22 believe it was the Review Journal from April 28th and 29th of  
23 2005; a City Life newspaper dated for the week of April 28th  
24 through May 4th of 2005; and also a torn corner of a phone book  
25 cover. That was in the first package.

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1 Q Okay. What was the second one?

2 A The second package was what I listed as miscellaneous  
3 items, to include papers, jewelry boxes, stationary items, pens,  
4 household and personal items.

5 Q And the third bag?

6 A The third bag was also described as miscellaneous items,  
7 to include multiple credit cards, paper items, photographs, ice  
8 cube trays, wallets, daily organizers, a purse and a file  
9 organizer.

10 Q Now, with regard to the phone book and the newspaper and  
11 the City Life newspaper, did you have the information or did you  
12 know, as you were looking at these items of evidence whether or  
13 not they had ever been wet?

14 A Well, when I opened the bag -- I guess the best way to  
15 describe it would be just to kind of read what my observations  
16 were from my notes.

17 Q Okay.

18 A As far as what was labeled at EG2, that would have been  
19 the phone books, all the way down to the phone book cover corner.  
20 I wrote in my notes, all of these items, with the exception of 2F,  
21 which would be the little corner, had been thoroughly saturated  
22 with a liquid. The CSA, which would have been Miss Green in this  
23 case, indicates that the items were in the bathtub, full of water.

24 Basically, I wrote in my notes: They are a mess to  
25 behold as they were just kind of like this old pile -- they

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1 expanded. The phone book that should have been maybe, well, the  
2 regular size of a phone book, I would say is the size of a  
3 basketball, each one of the phone books. (Indicating)

4 So all of these items, obviously, they've been wet,  
5 became fully saturated, making the processing of them quite a  
6 challenge.

7 Q And when you have items of evidence like that, in that  
8 condition, what do you do to attempt to recover latent prints from  
9 them?

10 A When items have been saturated by anything -- I guess,  
11 just real briefly, I'll try to explain.

12 Your fingerprint residue, when you touch something, you  
13 are leaving behind perspiration, 98, 99 percent water, but in that  
14 one to one and a half percent are chemicals, mostly salts and  
15 amino acids that are secreted through your pores.

16 The other items that are in fingerprint residue are  
17 lipids or fats. Now, we don't secrete those, but we pick them up  
18 when we touch our hand or head or having potato chips or whatever,  
19 and those lipids can also be transferred onto items.

20 In this case, the amino acids in the source are water  
21 soluble, meaning that they will sort of float away in water.  
22 Lipid fats, on the other hand, are not soluble in water. So the  
23 technique to process most of these items is a process which we  
24 call physical developer. This is a technique that will adhere to  
25 the lipids that would be present and had been absorbed or sitting

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1 on the surface of some of these paper items. So, that kind of  
2 directed me, for most of the paper items, to choose this process  
3 and technique.

4 Q And given your expertise and educational background, were  
5 you hopeful or did you think you would be able to recover latent  
6 fingerprints from these items, as you reviewed them?

7 A I thought it was very doubtful, but we always try giving  
8 it a good shot. Just based on the condition of the items, that  
9 would be very, very doubtful to develop any latent prints on any  
10 of the items actually.

11 Q And with regard to the items that you just discussed, the  
12 phone books and the newspaper and the torn phone book cover, were  
13 you actually able to develop any latent prints from your work with  
14 those items of evidence?

15 A No.

16 Q How about with the -- I think you said jewelry boxes,  
17 stationary items, pens and other personal items?

18 A Right.

19 Q The second bag?

20 A Right. All of the paper items in that instance also were  
21 kind of in the same condition in general. Some of the harder  
22 items, like a jewelry box and stuff, I used a little different  
23 processing technique with the super glue method and some powdering  
24 and so forth.

25 So I was able to use some different techniques on the

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1 surfaces that weren't paper from some of these items that were the  
2 miscellaneous jewelry boxes and so forth and what's I did.

3 And, once again, I did complete the processing with all  
4 the techniques that were available to us and was not able to  
5 develop any latent prints for comparison of any quality or any  
6 latent prints at all from the items from EG3.

7 Q And the same would be true for the credit cards, ice  
8 cube trays, daily organizer and the purse?

9 A Correct.

10 Q And that was the third bag?

11 A The third bag.

12 Well, also, the same general condition, a lot of the  
13 paper items had obviously been wet. I could see water spots on  
14 them. With the processing techniques that were conducted, again  
15 there were no latent print comparison possible on any of the  
16 items.

17 Q And if you can't recover the latent fingerprint,  
18 obviously, you can't compare it to any knowns?

19 A Correct.

20 Q Okay. Were you given, submitted from crime scene  
21 analysts McLaughlin, Smink and Green, the actual latent print  
22 cards collected from a particular crime scene location or a car?

23 A Yes, I was.

24 Q And was the location 6650 East Russell?

25 A Yes, ma'am.

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1 Q And these were collected by the crime scene analysts I  
2 just mentioned?

3 A Correct.

4 Q Were you able to -- well, were any of the cards that they  
5 submitted -- we've heard of value or not of value?

6 A Correct.

7 Q Can you explain what that is?

8 A Yes. We do an analysis of the cards as they come in and,  
9 as an examiner, we use our training and our experience to make a  
10 determination as to whether or not the ridge structure or detail  
11 that was lifted by the crime scene analyst, whether it's of  
12 comparison quality, which is a term that is kind of up to each  
13 examiner.

14 There are guidelines, obviously, but we make that  
15 determination whether a print -- the material on the print card,  
16 we think we can take that material and make a comparison to the  
17 individual or whether the material that's on the lift card is just  
18 insufficient for whatever reason, it lacks quantity, it lacks  
19 quality, it's distorted. There is a multitude of reasons.

20 So we make those decisions, and in this instance, 69 lift  
21 cards were submitted to the laboratory by those three crime scene  
22 analysts that Miss Weckerly has listed; and of those, 33 of them,  
23 I determined were not -- did not have sufficient ridge detail to  
24 make any kind comparisons at all. Thirty-six of them, however, I  
25 did retain for comparison purposes; and then I did have a list of

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1 individuals that I was asked to make comparisons with.

2 Q Let me ask you about that.

3 When you talk about the list of individuals, those would  
4 be people who you had known fingerprints for?

5 A Correct.

6 Q And did that list include the victim, Merilee Koot?

7 A Yes.

8 Q And did it include someone by the name of Keith Flowers  
9 or Norman Keith Flowers?

10 A Yes.

11 Q What are elimination prints?

12 A Elimination prints are taken by crime scene officers of  
13 people who may have a legitimate reason to be in a residence;  
14 maybe they're a maid or someone like that. And when a crime  
15 happens, a lot of times, we, as latent print examiners, love to  
16 have elimination standards, because it helps us when we're making  
17 our comparisons if we know who the people are who were in the  
18 house, and if we have those standards, we can basically eliminate,  
19 hopefully, some of the latent prints from the crime scene with  
20 these people who are known to have access to a crime scene.

21 So once we have done that and we can eliminate that, then  
22 it lets us look at the prints that are left over and concentrate  
23 those on any suspects that may be developed in the course of the  
24 investigation.

25 Q And so elimination prints are taken from people who have

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1 legitimate access to a crime scene?

2 A Correct.

3 Q And did you have elimination prints in this case?

4 A Yes.

5 Q Who were the individuals that you had the elimination  
6 prints for?

7 A Elimination standards were from a Dalton Koot and a woman  
8 named Marcine Carol.

9 Q Okay.

10 A And later, through the processing -- or through the  
11 comparisons and some of the work that we do as we're doing  
12 comparisons, developed a third individual, an individual named  
13 Paco Hernandez, who was also compared and later was eliminated  
14 through the investigative process.

15 Q Now, with regard to the remaining print cards that you  
16 said were of value, were you able to make any identification of  
17 any of those latents to any of the known prints that you had the  
18 standards for?

19 A Yes, I was.

20 Q And what were your findings?

21 A The results of my findings were that there 43  
22 fingerprints and seven palm prints within those 36 cards that I  
23 looked at, so 50 latent prints that I compared all together. Of  
24 those, I was able to identify 37 of them to Merilee Koot. I was  
25 able to identify -- these are the fingerprints. We'll talk about

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1 the palm prints in a moment.

2 Thirty-seven fingerprints to Marilee Koot; two  
3 fingerprints were identified to Paco Hernandez; one fingerprint  
4 was identified to Marcine Carol. So that was 40 of the 43  
5 fingerprints were identified to those three individuals.

6 On the palm print arena, there were the seven palm  
7 prints, which I described. None of them were identified to Dalton  
8 Koot, Marcine Carol or Norman Flowers.

9 And I did not have palm print standards for Paco  
10 Hernandez or for Merilee Koot, so I was not able to compare those  
11 seven palm prints with those two individuals. So, in essence,  
12 what we have left over are three fingerprints.

13 Q Okay. With regard to the print that you identified to  
14 Marcine Carol, she was one of the elimination prints?

15 A Yes.

16 Q Where was that latent print located?

17 A That latent print was located on the exterior side door  
18 knob into the hall bath.

19 Q And the latent print that you had identified to Paco  
20 Hernandez, where was that from?

21 A There were actually two locations for Mr. Hernandez, from  
22 the exterior east facing front door and the dead bolt of the  
23 exterior east facing door.

24 Q So both of those were exterior to the apartment itself?

25 A Correct, according to the information on the lift cards.

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1 Q Okay. And with regard to the identifications that you  
2 made of Merilee Koot, were there quite a number of those?

3 A There were numerous locations within the house and then  
4 also from a drinking cup that was inside of a 1999 Suzuki.

5 Q Her vehicle?

6 A Yes.

7 Q What was reported to you as her vehicle?

8 A It's her vehicle, yes.

9 Q Okay. So not probably too surprising that her  
10 fingerprints show up in her own apartment or her car?

11 A No, no.

12 MS. WECKERLY: Thank you. I'll pass the witness.

13 THE COURT: Questions?

14 MR. PIKE: Yes.

#### 15 CROSS-EXAMINATION

16 BY MR. PIKE:

17 Q Okay. By count then, there is three unidentified  
18 fingerprints?

19 A Yes.

20 Q And those fingerprints, were they of AFIS quality?

21 A No, they were not.

22 There were AFIS quality prints in the case. That's how  
23 Mr. Hernandez was included for comparisons, because I did enter  
24 one of the latent prints into our automated fingerprint system and  
25

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1 it did produce Mr. Hernandez as the person that we would want to  
2 compare. That was the only AFIS quality prints that were in the  
3 case.

4 Q Submitted to you?

5 A In the case.

6 The other three latents were not what we call AFIS  
7 eligible.

8 Q That doesn't mean that you can't identify that  
9 fingerprint. If you have an exemplar of an individual and you can  
10 compare it, it's still of a nature and quality where, if you have  
11 that known exemplar, you can make that confirmation?

12 A Yes, we do.

13 Q And when was the last time that you were provided any  
14 names to conduct in this investigation?

15 A I don't believe -- I had only issued this one report that  
16 was dated back in August of 2005.

17 Q Okay. And you hold those remaining fingerprints  
18 permanently, I guess, from the testimony of previous officers --

19 A Yes.

20 Q -- and CSIs like yourself, until such time as there is a  
21 match made, if there ever is one made?

22 A Yes. Especially in a violent crime cases, the latent  
23 lifts are actually kept forever basically.

24 Q And, basically, AFIS just numerically kind of categorizes  
25 it and says you should probably look at these?

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1 A Correct. The computer will generate a candidate list for  
2 us, a scoring system, which is not really relevant to the  
3 identification at all. We will then look on the computer screen,  
4 look at the latent print that was entered and the candidate list  
5 that has come up and make a determination that: Hey, this guy,  
6 this individual, is close. We need to pull the original standard  
7 out and make a comparison at that point.

8 So the AFIS just supplies us with a list of people that  
9 may have a potential to match this latent print from the crime  
10 scene.

11 Q And you've been at this for a while?

12 A Yes, sir.

13 Q Do you remember the old days before AFIS?

14 A Oh, yes.

15 Q In the old days before AFIS, if you were looking through  
16 and trying to make an identification, basically, what did you do?

17 A Well, with an AFIS quality print?

18 Q Well, with any print.

19 Would you just go to pretty much the collection of prints  
20 that were available to you --

21 A Yes. There were different systems and before the days of  
22 AFIS, there was different ways of classifying a really high  
23 quality latent print and going into the files, which could,  
24 depending on the police agency, could be hundreds to millions, if  
25 you were working at the FBI or some place like that, and you can

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1 actually do a physical manual search of -- well, today, we call it  
2 a data base. Back then, we just called it fingerprint files.  
3 It's very difficult to do and very seldom was successful.

4 Q AFIS is an improvement on that.

5 And during the time that you have been working in your  
6 profession, has the ability of AFIS to make identification  
7 increased?

8 A Well, as with any technology, the algorithms, which are  
9 what is underneath all of the nice pictures that we get on our  
10 computer screens have improved tremendously, the software has  
11 gotten better. Everything has gotten better, from the very first  
12 AFIS system that started coming out in the mid '80s, so you can  
13 think about computers in the mid '80s to computers that we have  
14 today and we have made those leaps with our systems also.

15 MR. PIKE: Thank you so much.

16 THE COURT: Anything else?

17 MS. WECKERLY: No. Thank you.

18 THE COURT: Thanks. Appreciate your testimony.

19 THE WITNESS: Okay. Thank you, Your Honor.

21 (Witness excused.)

23 THE COURT: Okay. We'll take our lunch recess at this  
24 time.

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1 THE COURT: We'll put him on at one o'clock.

2 What is he, a 20 minute witness?

3 MR. PIKE: If that.

4 THE COURT: So if you want to be here at one o'clock and  
5 come in, you can just take him in here right there.

6 OFFICER OHLER: That will be perfect.

7 THE COURT: And he's going back; he's not staying with  
8 us.

9 OFFICER OHLER: No, he is taking him back up there.

10 THE WITNESS: We will take him first at one o'clock.

11 OFFICER OHLER: I appreciate it very much.

12 MR. PIKE: Thank you very much.

13 THE COURT: How about your witness?  
14 When do you want him?

15 MS. WECKERLY: Two, if you can do it at two.

16 THE COURT: Two o'clock.

17 THE MARSHAL: Yes, we will do it.

18 THE COURT: All right. Thank you.

20 (Proceedings concluded.)

21 \* \* \* \* \*

22 ATTEST: Full, true and accurate transcript of proceedings.

23 

24 RENEE SILVAGGIO, C.C.R. 122

25 Official Court Reporter

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1 (Jury admonished by the Court.)

3 THE COURT: We will be in recess until one o'clock.  
4 Leave everything on your chair. The marshal will lock up  
5 the room.

7 (The following proceedings were had in open  
8 court outside the presence of the jury panel:)

10 THE COURT: The record should reflect the jury has  
11 exited.

12 Come on up, Officer.

13 Apparently you have some issues. I want the lawyers to  
14 hear it too.

15 So what's up? We apparently have a witness from NSP.

16 Go ahead. What can we do to help you?

17 OFFICER OHLER: Officer Ohler.

18 I was told by my partner, who came up here earlier, that  
19 he's not going to be seen until 3:30. And I came to see if we  
20 could possibly book him in.

21 THE COURT: Anybody care if he goes at one o'clock?

22 THE BAILIFF: If he's going to be seen earlier, that  
23 would be great.

24 THE COURT: Anybody care if he goes at one o'clock?

25 MR. PIKE: No. That will be fine.

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