

1 THE COURT: Okay. All right. So I'm going to give
2 ya'll an opportunity to take a break here and use the
3 restroom. Think about what we're talking about and be back
4 here at quarter until, okay?

5 MR. TANASI: Thank you, Judge.

6 THE COURT: Is there anything else that needs to be
7 brought before me?

8 MR. TANASI: No.

9 MS. MERCER: No, Your Honor.

10 MR. TANASI: Thank you.

11 THE COURT: Okay. Thank you.

12 (Court recessed at 1:17 p.m. until 1:50 p.m.)

13 (Outside the presence of the jury)

14 THE COURT: Okay. We're back on the record in the
15 case of State of Nevada versus Tony Hobson and Brandon Starr
16 in C-303022. Let the record reflect the presence of the
17 defendants and their counsel, State and their counsel. Are
18 we ready to proceed?

19 MR. PORTZ: Yes, Your Honor. Before --

20 MR. TANASI: Yes, Your Honor.

21 MR. PORTZ: -- we bring the jury in, I just want to
22 put on the record that I've spoken with defense counsel. The
23 State has a series of new exhibits, photographs mostly, and a
24 Guilty Plea Agreement of Donte Johns. They're number of
25 Proposed Exhibits 294 through 314.

1 THE COURT: Okay.

2 MR. PORTZ: And pursuant to stipulation by the
3 parties, there's no objection to their admission.

4 THE COURT: Is that correct?

5 MR. MANINGO: That's correct, Your Honor, I'm
6 sorry.

7 MS. LOBO: It is, Your Honor.

8 THE COURT: All right. So 294 through 314 will be
9 admitted.

10 (Exhibits 294 through 314 admitted)

11 THE COURT: All right. So other than that, are we
12 ready?

13 MR. TANASI: Yes, sir.

14 MR. PORTZ: Yes, Your Honor.

15 MS. LOBO: Yes, Your Honor.

16 THE COURT: Jim, get the jury in. And who's your
17 next witness?

18 MR. PORTZ: Donte.

19 THE COURT: Okay.

20 (Pause in the proceedings)

21 (In the presence of the jury)

22 THE MARSHAL: Please be seated. Department 19 is
23 back in session.

24 THE COURT: Okay. This is the continuation of jury
25 trial in Case 303022, State of Nevada versus Tony Hobson and

1 Brandon Starr. I'd like the record to reflect the presence
2 of the -- all members of the jury. Will the parties
3 stipulate to the presence of the jury?

4 MS. MERCER: Yes, Your Honor.

5 MS. LOBO: Yes, Your Honor.

6 MR. TANASI: Yes, Your Honor.

7 THE COURT: Okay. So before we took our break
8 here, State still in their case-in-chief. State, call their
9 next witness.

10 MR. PORTZ: Thank you, Your Honor. The State calls
11 Donte Johns.

12 DONTE JOHNS, STATE'S WITNESS, SWORN

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

16 THE DEFENDANT: Donte Johns. First name D-o-n-t-e.
17 Last name J-o-h-n-s.

18 THE COURT: Mr. Portz, your witness.

19 MR. PORTZ: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. PORTZ:

22 Q Donte, how long have you lived in Las Vegas?

23 A On and off for about four years now.

24 Q And were you living in Las Vegas in November of
25 2014?

1 A Yes.

2 Q What were you doing for work at that point in time?

3 A Pep Boys, military and C3.

4 Q Okay. And Donte, you've got kind of a -- you're
5 soft spoken so if you could lean into the microphone a little
6 more or speak up a little. We just want to make sure
7 everyone here can hear you, okay?

8 A Um-h'm.

9 Q All right. So can you again explain what you were
10 doing for work in November of 2014?

11 A I was currently in the military. I worked at the
12 Pep Boys and C3.

13 Q Okay. What was your position in the military?

14 A Information technology specialist.

15 Q And you said you worked at Pep Boys and then you
16 worked at C3; is that correct?

17 A Yes.

18 Q What is C3?

19 A C3 is third party for a healthcare provider.

20 Q And what would you do for C3?

21 A Work as a billing specialist for Humana Medicare.

22 Q And then at Pep Boys, what was your position?

23 A GST, mechanic.

24 Q Where were you living at that time in November 2014?

25 A With my cousin.

CONTINUED

NEXT

VOLUME

1 Q When you -- did you voluntary go back and
2 reinterpret that data?

3 A I did not.

4 Q Was that pursuant to court order?

5 A It was.

6 Q And again, it was because the lab's position was the
7 way that we did it before was perfectly fine --

8 A Correct.

9 Q -- correct? With regards to the work that you did
10 on this case in reinterpreting, that was done when?

11 A That was done just a couple of weeks ago.

12 Q Did you perform -- or did you prepare a new allele
13 chart?

14 A I did not. Oh, yeah, I did. Apologize, I did.

15 Q Showing you what's been admitted as State's Exhibit
16 308 on the overhead, does this appear to be the new allele
17 chart but in a different order?

18 A I believe so.

19 Q Would you like me to approach and hand it to you so
20 you can look through it?

21 A No.

22 Q Okay.

23 THE COURT: Can you see it okay on that little
24 screen?

25 THE WITNESS: I can.

1 THE COURT: Okay.

2 BY MS. MERCER:

3 Q With regards to the reinterpretation that you did in
4 this case, what happened as it pertained to lab item 2.1?

5 A So originally I was able to pull out a major
6 profile, but the new interpretation procedures were more
7 conservative. So in this particular case, I was able just to
8 say it was a mixture and no additional conclusions were to be
9 made.

10 Q But the data still remains the same, correct?

11 A Correct.

12 Q Showing you the third page of that exhibit, the top
13 left column. And I'm going to put up State's Exhibit 263
14 next to it. This is that same lab item 2.1, correct?

15 A Correct.

16 Q All of the data still exactly the same?

17 A Yes.

18 Q But this time you were not able to make a
19 determination, correct?

20 A Correct.

21 Q And why is that?

22 A As I mentioned before, our procedures now with that
23 we are providing a mathematical basis to a lot of the
24 interpretation choices that we make, they're a little bit
25 more conservative than we were adhering to originally. So in

1 this particular case, it didn't meet the mathematical
2 requirements that are set forth in the new procedures, so I
3 wasn't able to make that major profile distinction.

4 Q What are the new mathematical requirements for
5 interpreting mixture profiles of at least four individuals?

6 A There has to be at least a 10 to 1 mixture ratio.
7 Meaning that there has to be at least 10 parts of the major
8 profile to 1 part everything else. So those other three
9 contributors in order for me to say there's enough
10 distinction there and separation between the major and all of
11 those other contributors before I can make the call.

12 Q But all the alleles are still present in the exact
13 same locations, correct?

14 A Correct. I did not make any changes to any of that.

15 Q And all are still consistent with Brandon Starr?

16 A Correct.

17 Q With regards to lab item 2.2, what, if anything,
18 happened with regards to that item of evidence?

19 A Nothing. That one stayed the same. I wasn't able
20 to make a conclusion in the first place, so that conclusion
21 stuck.

22 Q And with regards to lab item 3.3, what, if anything,
23 changed with regards to that?

24 A It doesn't appear that anything changed.

25 Q So that's still associated with Brandon Starr?

1 A Correct.

2 Q Did the frequencies or the quantification change
3 with regards to that lab item?

4 A It did not.

5 Q What about lab item 4.1.1, did anything change with
6 respect to that item number?

7 A It did not.

8 Q And lab item 4.1.2?

9 A I was -- did not obtain a profile at all so no
10 conclusions could be made either one.

11 Q Lab item 4.2.1?

12 A Did change.

13 Q How did it change?

14 A Originally, I was able to call a major profile, a
15 partial major profile consistent with Donte Johns, but again,
16 according to our new more conservative SOPs, I was able just
17 to call it a mixture with no additional conclusions to be
18 made.

19 Q And again, publishing State's Exhibit 308 and 263 on
20 the overhead. These profiles are still the same, correct?

21 A Correct.

22 Q Lab item 4.2.2, did that stay the same because you
23 weren't able to draw any conclusions originally?

24 A Correct. There was no profile to be obtained.

25 Q And lab item 5, did that change?

1 A It did.

2 Q In what regard?

3 A Originally, I called a full major DNA profile
4 consistent with Brandon Starr, but again, according to our
5 new more conservative SOPs, I was able just to call it a
6 mixture and no additional conclusions to be made.

7 Q Once again, publishing those same two exhibits on
8 the overhead with the yellow mask at 5.5A1 next to each
9 other, all the same data?

10 A Yes.

11 Q All still the same profile as Brandon Starr,
12 correct?

13 A Yes.

14 Q The same allele --

15 A Under my original interpretation, yes.

16 Q Lab item --

17 MS. MERCER: Court's indulgence.

18 BY MS. MERCER:

19 Q Did anything change with regards to lab item 6?

20 A It did.

21 Q And what changed with regards to that specific item
22 of evidence?

23 A This particular profile, I was actually originally
24 calling a partial major profile consistent with Tony Hobson,
25 and in the new interpretation, I just called it a mixture

1 with no additional conclusions to be made.

2 Q And again, publishing those same two exhibits with
3 them right next to each other, the original data -- all the
4 data's still the same, correct?

5 A Yes.

6 Q And now publishing those same two exhibits with
7 profile Tony Hobson next to it and same alleles, correct --

8 A According to my original --

9 Q -- in many locations?

10 A -- interpretation, yes.

11 Q With regards to lab item number 7, did anything
12 change?

13 A It did not.

14 Q And is that because you weren't able to make any
15 conclusions initially?

16 A Correct.

17 Q Lab item 8, did anything change?

18 A It did -- yes, the statistic changed.

19 Q When you say the statistic, what do you mean?

20 A So when we look at a DNA profile, again, there are
21 certain criteria that allow us to do a statistic at a
22 location. If we feel there's complete information there, we
23 can include that information in the statistic we provide. In
24 this particular case, in the second interpretation, I wasn't
25 able to include all of the locations I included in the first

1 so it got just a little bit less.

2 Q And with regards to lab item 10, did anything
3 change?

4 A It did not.

5 Q So that's still associated with Brandon Starr?

6 A Correct.

7 Q What about lab item number 11, 12 or 13?

8 A It did not change. I wasn't able to make
9 conclusions originally.

10 MS. MERCER: Court's indulgence.

11 BY MS. MERCER:

12 Q With regards to the work that you performed on
13 September of 2015 and the methods in which you interpreted
14 mixture profiles, did you do some sort of validation studies
15 to prove that the way you were interpreting them was correct?

16 A We did.

17 Q And how did you do that?

18 A We actually developed profiles in internally. We
19 actually use known profiles. We use profiles that, you know,
20 we obtained from old evidence samples that are nonprobative.
21 We can actually use old proficiency test samples to
22 accumulate all of the data that we need to perform validation
23 studies. And then we actually stress, you know, all sides of
24 a validation procedure.

25 So we make sure that it meets all the criteria we

1 want it to meet as well as, you know, the high end, the low
2 end. We just max out our validation data to make sure that
3 it incorporates everything that we would encompass in
4 casework.

5 Q Okay. So basically, you can create a mixture
6 profile from samples that you have at the lab --

7 A Correct.

8 Q -- already? And you can then test your
9 interpretation protocols and make sure that you are arriving
10 at the results that you should be arriving because you know
11 what you created?

12 A Correct.

13 Q With regards to the DNA profile that you extracted
14 in the various items of evidence you examined in this case,
15 were any of them entered into what's referred to CODIS?

16 A Yes.

17 Q What is CODIS?

18 A CODIS is -- stands for the Combined DNA Index
19 System. It is actually a series of local, state and national
20 indices that we use as an investigative tool to link cases
21 together. So in this -- you know, if we can determine that a
22 crime has been committed and this item or this sample is
23 associated with that crime as well as a few other criteria
24 set forth by the FBI, we can put them into the CODIS system
25 in order to aid us in further investigations.

1 Q What specific types of profiles are you able to
2 enter in to CODIS?

3 A For the most part, we put in full positive files,
4 single source profiles. But we are able to put in up to a
5 mixture of two individuals representing the alleles that are
6 present in the profile that we obtained.

7 Q With regards to the work that you performed in this
8 case back in September of 2015, which specific profiles were
9 entered in to CODIS?

10 A So in this particular case, lab item 2.1, the
11 swabbing from the inside of the right red and black glove, as
12 well as lab item 4.1.1, which is the swabbing of the outside
13 of one of those knit gloves. And the third -- the third
14 profile that was entered is lab number 8, the DNA profile
15 obtained from the swabbing of the inside of the right Snap On
16 glove.

17 Q And with regards to lab item 2.1, that was the one
18 that once again, was associated with Brandon Starr, correct?

19 A Correct.

20 Q And that was one that after reinterpretation, you
21 had to make the conclusion that no additional conclusions
22 could be made regarding that mixture profile?

23 A Correct.

24 Q Did you, after you did the work a couple weeks ago,
25 then remove that profile from CODIS?

1 A We did not.

2 Q Why not?

3 A My original interpretation stands. The
4 interpretation protocol that we had in place at the time was
5 not wrong. I identified a full DNA profile associated, you
6 know, with this item of evidence. It was determined to be
7 used in a crime and then so was eligible then for CODIS
8 upload.

9 Q And with regards to lab item 4.1.1, that was a
10 swabbing of the outside of the glove associated with Donte
11 Johns, correct?

12 A Correct.

13 Q And you -- that conclusion didn't change, correct?

14 A Correct.

15 Q And that was entered into CODIS?

16 A It was.

17 Q And then with regards to lab item 8, you indicated
18 that was one of the -- the profiles that you entered into
19 CODIS, correct?

20 A Correct.

21 Q And that was a profile associated with Tony Hobson?

22 A Yes.

23 Q A major profile?

24 A Yes.

25 Q And then when you reinterpreted it, the frequency

1 dropped a little?

2 A Correct. I wasn't able to make conclusions as all
3 of the same locations.

4 Q And did you then remove that entry from CODIS?

5 A I did not.

6 Q Why not?

7 A For the same reason I spoke of before. Our protocol
8 at the time was not wrong so I was following my protocol.
9 Again, this item of evidence was found to be associated with
10 a crime so then it was eligible for upload into CODIS.

11 Q Is your lab in the process of -- have you all
12 acquired an item of software that you anticipate using in the
13 future with regards to mixture profiles?

14 A We have.

15 Q And when do you anticipate that you will begin using
16 that software?

17 A I believe, in the spring of 2017.

18 Q What is that software?

19 A So that software is called STR Mix. That allows us
20 to -- it's a tool that we use to aid in the interpretation of
21 mixtures. We realize as the technology is improving, we need
22 an improved way to help us take a look at each of these
23 mixtures and determine whether the data is usable, where we
24 can perform the statistics, if we can call a major profile,
25 how many contributors, everything that we struggle with on a

1 regular basis when we're doing the interpretation.

2 So this software will allow us to use a lot of
3 information that as a human being I just can't calculate for
4 every single profile that we would come across. So this --
5 actually, the software, then, would take into account a lot
6 more of the information obtained from the genetic profile and
7 do all of those calculations over a series of hours and allow
8 us to better identify some of these items of evidence.

9 Q And so if you were to look at these items of
10 evidence, once again, in 2017, it might -- the way that you
11 interpret that data might change once again?

12 A It could, yes.

13 Q But again, all the data's still exactly the same?
14 Nothing changed?

15 A Correct. It would be the exact same profile.

16 MS. MERCER: Court's indulgence. Pass the witness,
17 Your Honor.

18 THE COURT: Cross.

19 MR. TANASI: Yes, Your Honor. Thank you.

20 CROSS-EXAMINATION

21 BY MR. TANASI:

22 Q Good afternoon, ma'am, I'm --

23 A Good afternoon.

24 Q -- Rich Tanasi. I represent Mr. Hobson. I have a
25 few questions for you on cross --

1 A Okay.

2 Q -- is that okay?

3 A Sure.

4 Q All right, ma'am. In the case of reevaluating based
5 upon the lab's change in protocols, would you agree with me
6 that there's really two ways or two reasons that you would
7 actually go and reevaluate? One, would be the expert,
8 yourself, has the right to retract data that is no longer
9 supported by significant evolution and technology or
10 fundamental practices; would you agree with me that's a fair
11 statement?

12 A Correct.

13 Q So if the protocols change, that's a way number one
14 that you'll go back and do a reevaluation, correct?

15 A That would be a reason.

16 Q Okay. And again, emphasis on the right. You as the
17 technician, you have the right to decide whether or not you
18 are going to do that --

19 A Yes.

20 Q -- correct? So you can kind of pick and choose when
21 you want to apply the new rules to come up with potentially
22 new results, fair?

23 A That's fair.

24 Q Okay. The other way is if the Court forces you by
25 way of a court order to go back and apply the new rules that

1 have changed that you believe are, in fact, appropriate and
2 the correct rules to that evaluation? The Court has to order
3 you; is that correct?

4 A Court order is a second way we would go back and
5 reinterpret.

6 Q Okay.

7 A Yes.

8 Q So either one, you pick and choose because it's your
9 right, or two, the Court has to tell you in order to go back
10 and do it, fair?

11 A I don't know that that's a fair representation, but
12 it is, yes, what we have outlined in our procedures.

13 Q Is there a third way or a third reason?

14 A No.

15 Q Okay. So in this case, you were court ordered --

16 A Correct.

17 Q -- to go back and do the reevaluation --

18 A I was.

19 Q -- correct? And that's because initially the lab
20 refused to do so, correct?

21 A I believe so, yes.

22 Q Okay. In this case, after going back and doing the
23 evaluations with respect to my client, Mr. Hobson, there are
24 two items, right? Item 6 and item 8, correct?

25 A Correct.

1 Q Okay. Item 6 in this case, you'll agree with me on
2 the -- after doing the reevaluation, you came back with no
3 conclusions, right?

4 A Correct.

5 Q Right, so you applied the new rules and came back
6 with a completely different result that didn't connect DNA to
7 my client, correct?

8 A I came with a similar result that was not allowing
9 me to call a major profile.

10 Q Okay. But you didn't connect DNA to my client,
11 correct?

12 A Correct.

13 Q But prior, item 6 was connected to my client,
14 correct?

15 A Correct.

16 Q And again, that's because the lab changed its
17 protocols, right?

18 A Right.

19 Q Okay. With respect to item number 8, that came back
20 essentially, the same, correct?

21 A Correct.

22 Q And when I say the same, let's talk about that.
23 There's a mixture of three individuals, correct?

24 A Yes.

25 Q Okay. And again, I'm referring to lab item number

1 8.

2 A Correct.

3 Q Okay? So with respect to lab item number 8, there's
4 a mixture of three individuals, right?

5 A Yes.

6 Q Okay. And when you list a number of contributors in
7 your report, the number should always be qualified by a
8 statement of "at least", correct?

9 A Not necessarily.

10 Q Okay. If it's not necessarily, at least, then what
11 is the number? What's the significance of the number then?

12 A Be the significance of the number is what I conclude
13 there to be, the number of contributors in that mixture. So
14 if I think, you know, there are an appropriate number of
15 alleles represented in mixture indicating two contributors, I
16 would expect to see four of those alleles at all of the
17 different locations that we look at.

18 If I look at a profile and I see six alleles, that
19 would indicate the presence of three contributors. If
20 there's -- there are artifacts associated with the DNA, the
21 genetic Xeroxing process that we talked about a while ago,
22 that can possibly introduce additional little peaks in there
23 that may or may not be contributor to the profile.

24 So I can -- there are times when I can say
25 definitively this is a mixture of three people. Other times

1 I can say it's a mixture of at least three people because of
2 those additional little peaks that I can't say for sure are
3 DNA or may be an artifact of the actual processing itself.

4 Q Okay. So with respect to item number 8, is there at
5 least three?

6 A Are we talking about the original interpretation or
7 the reinterpretation?

8 Q The reinterpretation.

9 A The reinterpretation says with a mixture of three
10 individuals.

11 Q Okay. And does that mean there could be four?

12 A No. In this particular instance I say there is a
13 mixture of three individuals.

14 Q Okay. So in this case, there's three individuals,
15 correct?

16 A Correct.

17 Q Okay. Let's talk about the changing protocols
18 coming in 2017 --

19 A Okay.

20 Q -- okay? All right. So in that case, again, if I
21 understand it correctly, the rules that the lab follows could
22 change again or will change again in 2017; is that correct?

23 A Yes.

24 Q Okay. And when those rules change, you could go
25 back and reinterpret the results in this case again, correct?

1 A Correct.

2 Q And those results, if they're reinterpreted again in
3 2017, could come back completely different than they are in
4 this case right now, correct?

5 A Correct.

6 Q And again, that would be either by way of two
7 things; one, if you decide to do so or two, if the Court
8 orders you to do so, fair?

9 A Correct.

10 Q Okay. And just to be clear, you had testified
11 earlier that DNA comes from half a mother and half a father?

12 A Correct.

13 Q That's correct, right?

14 A Yes.

15 Q Okay. Is it fair to say you can never tell when DNA
16 was deposited on an item?

17 A True.

18 Q Okay. There's no timestamp on DNA?

19 A There's not.

20 Q Right? And you're familiar with the transfer DNA
21 concept, correct?

22 A I am.

23 Q All right. So just so the jury understands it,
24 let's look at it this way, that water mug up there, I've
25 never touched that water mug, okay?

1 A Okay.

2 Q If you were to touch the water mug, your DNA would
3 be left on that handle potentially, correct?

4 A Correct.

5 Q All right. And if I walked over to that mug and I
6 touched that mug, I would then put my DNA on that mug, right?

7 A Um-h'm.

8 Q And then I would also take some of your DNA and it
9 would be on my hand, correct?

10 A Potentially.

11 Q Potentially, right? Okay. Then if I walked back
12 here and you've never touched my pen, right?

13 A Correct.

14 Q If I touch my pen, correct?

15 A Correct.

16 Q I could put your DNA on this pen, fair?

17 A It's possible.

18 Q And so you've never touched this pen, correct?

19 A Correct.

20 Q But it's possible that your DNA could be transferred
21 to this pen, fair?

22 A It's possible.

23 Q Okay.

24 MR. TANASI: I'll pass the witness. Thank you,
25 Your Honor.

1 THE COURT: Okay. Thank you, Mr. Tanasi. Ms.
2 Lobo, Mr. Maningo?

3 MS. LOBO: Yes, Your Honor.

4 THE COURT: Ms. Lobo, okay.

5 CROSS-EXAMINATION

6 BY MS. LOBO:

7 Q Good afternoon, Ms. May.

8 A Good afternoon.

9 Q I represent Brandon Starr and I have a few questions
10 pertaining to the items that you conducted testing where you
11 found conclusions linking Brandon to some of those items,
12 okay?

13 A Um-h'm.

14 Q So before I get to the specific items, I would like
15 to talk to you just a little bit about your training and
16 experience. I understand you have your bachelor's in
17 biology.

18 A Correct.

19 Q And your master's also in criminalistics.

20 A Forensic science.

21 Q Okay. And I see a hyphen criminalistics; okay. Is
22 that fair to say?

23 A It is.

24 Q Okay. And part of your training and experience is
25 that you have to stay current on ongoing developments that

1 are in your field?

2 A Yes.

3 Q And by staying current, you attend seminars, read
4 journals or treatises; is that fair to say?

5 A It is.

6 Q Okay. And judging by your CV, I can at least see 25
7 trainings that you've gone and done outside of your formal
8 education --

9 A Correct.

10 Q -- is that fair?

11 A Yes.

12 Q Okay. And part of reading journals keeps you
13 updated on current techniques and what's happening in your
14 field of expertise?

15 A It does, yes.

16 Q And those journals go through a process of peer
17 review?

18 A They do.

19 Q And if you could explain what peer review is for the
20 ladies and gentlemen of the jury, that would be great.

21 A So peer review in regards to journal articles means
22 that the author of the article has done all of the studies
23 incorporating all the data for whatever it is they're
24 researching. So if you're going to research the number of
25 brown dogs in Las Vegas, somebody will go through, develop

1 the data for that, you know, write up the article and then
2 someone else will come behind them and make sure that the
3 methods that they used to come to the numbers that they
4 obtained or scientifically sound, that they're following, you
5 know, a certain set of guidelines. And then once, you know,
6 there are a couple sets of eyes on an article, it then is
7 sent for publication in an official journal.

8 Q Okay. And so the articles that are published in
9 there, you said have a second set of eyes or a group of
10 scientists that declare this to be sound science?

11 A Yes.

12 Q And that they follow those procedures?

13 A Correct.

14 Q Okay. And as far as let's talk about secondary
15 transfer that Mr. Tanasi briefly touched upon. Is it fair to
16 say that there's been a fair amount of literature in this
17 area with secondary transfer?

18 A There is quite a bit, yes.

19 Q Okay. And specifically, with epithelial cells,
20 touch DNA, as you called it?

21 A Yes.

22 Q And that those recent studies, you wouldn't have any
23 reason to disagree or if you know of a different statistic,
24 that a simple touch can leave anywhere from 0 to 169
25 nanograms of epithelial cells in any given touch?

1 A I suppose that's possible depending on how much the
2 item was handled.

3 Q Sounds about right to you?

4 A Sure.

5 Q Okay. And that the average person will shed
6 anywhere about give or take 400,000 epithelial cells in a
7 given day?

8 A That I am less familiar with, but people shed at
9 different rates.

10 Q Right. There's good shedders, as they call them in
11 the journals --

12 A Correct.

13 Q -- and then poor shedders?

14 A Yes.

15 Q And it would be in that range or ballpark area maybe
16 midway down that maybe 400,000 just for the average person,
17 not taking the outliers into consideration?

18 A Again, I haven't seen the article you're speaking
19 of, so I can only assume that that's correct.

20 Q And I'm not referring to a specific article. I'm
21 talking about broadly.

22 A Okay.

23 Q You wouldn't have any reason to disagree with --

24 A No.

25 Q -- that sounds about right? And that it's fair to

1 say then in terms of, I guess, every single contact is going
2 to leave behind some trace of DNA?

3 A It's possible, yes.

4 Q And actually, that statement comes from Edmond
5 Locard, who I believe I'm sure you know who he is?

6 A I do. I'm aware.

7 Q Yes. And if you could explain who Edmond Locard is?

8 A So Mr. Locard is actually one of the initial
9 forensic scientists, I guess, you can say, and his exchange
10 principle is actually the foundation for the transfer
11 principle of which she's speaking about today, saying that if
12 you touch an item, you will leave yourself on the item, but
13 the item will also transfer itself to you.

14 Q Okay. And I believe, you touched briefly on it,
15 I'm not sure with the State or Mr. Tanasi, but that as DNA
16 has developed and changed and the science has evolved, is it
17 fair to say that the technology used to detect DNA has become
18 more refined and sensitive?

19 A Absolutely, that is a fair statement.

20 Q Okay. And that this has caused some problem, as you
21 indicated, with struggles to interpret mixture profiles?

22 A Correct.

23 Q Because as it gets better, it gets more sensitive
24 and you detect more people on any given item?

25 A Correct. Lots more information for us to have to

1 process.

2 Q Okay. And when you're testing DNA in your
3 laboratory or in general, the threshold amount to test DNA is
4 1 to 2 nanograms; is that correct?

5 A That is our ideal target in order to obtain an
6 interpretable profile, yes.

7 Q Right. And that about 1 nanogram contains about 150
8 DNA cells?

9 A I'm not positive on that math, but it could be.

10 Q Okay. You can get a result, though, as little as .5
11 nanograms?

12 A Correct.

13 Q So getting smaller?

14 A Yes.

15 Q For sure. And that touch DNA or epithelial cells
16 can be left on items for as long as up to two weeks if
17 they're not disturbed or cleaned, but you will have a
18 presence of those cells for up to two weeks if they're kept
19 inside, let's say?

20 A It's completely dependent upon the sample, and
21 that's not anything we can ever determine until we process
22 it, but it's possible.

23 Q Right. It doesn't evaporate or disappear --

24 A No, it does not.

25 Q -- on its own? Okay. And I believe, Mr. Tanasi

1 briefly touched on it, it's possible that DNA could be on an
2 item that you've actually never had contact with in the
3 example that he gave?

4 A Correct.

5 Q Okay. And there's no scientific way for you to tell
6 when it was left or how it was left on an item?

7 A No, there is not.

8 Q Okay. I want to talk to you briefly about your
9 different reports in this case. In your initial report that
10 you laid out and went through during your direct examination,
11 there was four items that were linked to Mr. Starr.

12 A Okay.

13 Q Does that sound right?

14 A Yes.

15 Q If you want, you can look at it.

16 A I was going to say, I would have to verify before I
17 agree to four but --

18 Q Right. And --

19 A Yes.

20 Q -- it specifically going to be 2.1, 3, and then 10.

21 A Yes.

22 Q And in your report back in September of 2015, fair
23 to say both reports, they have legal significance, right?

24 A Of course.

25 Q They have scientific significance?

1 A Yes.

2 Q And you sign them at the end --

3 A I did.

4 Q -- verifying these are your statements and findings?

5 A Correct.

6 Q And when you did your analysis in 2015 under the old
7 standards or protocol that Metro had in place, you had four
8 items that were linking Mr. Starr to the events in this case?

9 A I did.

10 Q And those items then changed when you reevaluated
11 it?

12 A Correct.

13 Q And so you -- your report in this case, the second
14 one, was May 6th of this year?

15 A Um-h'm.

16 Q And on May 6th of 2016, the results or findings
17 changed?

18 A Correct.

19 Q And that according to the new standards, that
20 Mr. Starr, as it goes for item, I believe, 2.1, is the red
21 and black glove. That that changed. The language that was
22 in the prior report where you said that he was a full -- it
23 was a full major DNA profile that would be consistent with
24 Mr. Starr?

25 A Correct.

1 Q That language is no longer in this report, the new
2 report?

3 A Correct.

4 Q Okay. And that even your statistic, you had said
5 originally that the probability of selecting an unrelated
6 individual with the full DNA profile of 1 in 87.4 quintillion
7 is now omitted in the new report?

8 A It is.

9 Q The other item that I would like to talk to you
10 about that changed was the yellow mask. I believe, that that
11 is notated as item 5 in your report. Same thing for that,
12 you in your original report said that it was a full major
13 profile that would be consistent with Mr. Starr?

14 A Correct.

15 Q And then two weeks ago that changed and it's no
16 longer in the new report?

17 A Correct.

18 Q And the same probability that it would be 1 in 87.4
19 quintillion, that statistic is now omitted?

20 A It is.

21 Q So the only two findings that are left after your
22 analysis -- your second analysis are items 3 and items 10?

23 A Correct.

24 Q And just briefly, Ms. May, I think you stated --
25 well, let's just start there. I mean, you work for law

1 enforcement?

2 A I do.

3 Q Yes. And when you are -- I believe, you said your
4 focus -- that crimes would never be solved if they weren't --
5 if you weren't allowed to draw conclusions; is that a fair
6 statement of what you said on direct?

7 A I believe, I spoke and said crimes would never be
8 solved if we had to go back and reinterpret all of our
9 conclusions.

10 Q Right. Okay. And you said it wouldn't be worth the
11 time or the resources.

12 A I didn't necessarily mean be worth the time, but --

13 Q You said worth the time.

14 A -- if we've already -- okay. I'm not doubting you.
15 I said I didn't necessarily mean that. I just mean that if
16 we had to go back and reinterpret every file that we've ever
17 put out, we would never get any additional work done. It's
18 for the same reason that we don't analyze all items of
19 evidence that have ever been impounded under a crime.

20 There's -- you know, we -- we pick the ones that,
21 you know, when we're analyzing evidence, the ones that are
22 most probative, the ones that could possibly provide
23 additional information to solving the case so.

24 Q And you don't pick those, the detectives pick --

25 A I don't pick those, correct.

1 Q -- picks them.

2 A Correct.

3 Q Right?

4 MS. LOBO: All right. I'll pass the witness, Your
5 Honor.

6 THE COURT: Redirect?

7 MS. MERCER: Just briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. MERCER:

10 Q Ms. May, with regards to the work that you did in
11 September of 2015 --

12 A Yes.

13 Q -- you still stand by all of those conclusions?

14 A I do.

15 Q And I just want to reiterate, you didn't retest
16 these items of evidence?

17 A Correct.

18 Q You used the same data that you extracted in
19 September of 2015 and just simply reinterpreted it using your
20 new conservative methods for interpreting mixture profiles?

21 A Correct.

22 Q So nothing really changed except your ability to
23 call it as a major profile?

24 A Yes.

25 MS. LOBO: And I'm going to object as to misstating

1 the testimony of Ms. May.

2 THE COURT: Well, I don't think it's misstated
3 because she's answered yes. So that would be her testimony.
4 Are you accepting that?

5 THE WITNESS: Yes.

6 THE COURT: Okay.

7 BY MS. MERCER:

8 Q And with --

9 THE COURT: Overruled.

10 MS. MERCER: Thank you, Your Honor.

11 BY MS. MERCER:

12 Q With regards to the example that Mr. Tanasi used and
13 that Ms. Lobo touched on with regards to the transfer of DNA
14 by -- if we touch the same object and it could get carried
15 from one object to another, blah, blah, blah, blah. Do
16 you remember that line of questioning?

17 A Yes.

18 Q Would you expect that to result in a major profile
19 in a mixture profile?

20 A It's completely dependent upon the actual item of
21 evidence and the profile itself. If I am calling a major
22 profile, that would indicate to me that the item has been
23 handled more than just a brief encounter.

24 Q And just to reiterate, the procedures that you used
25 back in September of 2015, nobody told you that you had to

1 change those, correct?

2 A Correct.

3 Q They're still scientifically approved of?

4 A Yes.

5 Q They're still approved of by the FBI?

6 A Yes.

7 Q Still approved of by your accrediting agency?

8 A Correct.

9 MS. MERCER: No further questions.

10 THE COURT: Recross?

11 MR. TANASI: No, Your Honor.

12 THE COURT: Ms. Lobo?

13 MS. LOBO: No, Your Honor.

14 THE COURT: All right. We have a question, Jim.

15 Okay. Parties approach.

16 (Off-record bench conference)

17 THE COURT: Okay. All right, ma'am. Bear with me;
18 okay? On one item, if any, that you analyzed for touch DNA,
19 including swab DNA on guns, did you detect any presence of
20 Donte Johns?

21 THE WITNESS: I was able to identify Donte Johns on
22 lab item 4.1.1, the swabbing of the outside of one knit
23 glove. I also identified him as the major profile on the
24 outside -- or the -- excuse me, the swabbing of the outside
25 of the other knit glove.

1 THE COURT: Even if such presence was not 100
2 percent conclusive or considered a full major profile
3 presence?

4 THE WITNESS: I'm sorry, can you say that again?

5 THE COURT: All right. Okay, the question was, is
6 did you detect any presence of Donte Johns, even if such a
7 present was -- presence was not a hundred percent conclusive
8 or considered a full major profile presence?

9 THE WITNESS: In my original report, I can conclude
10 that the major profile for those two items was consistent
11 with Donte Johns. That is a conclusive statement that I
12 made.

13 THE COURT: Okay. You guys can follow it up.

14 Were you ever provided the black revolver with wood
15 handle to analyze for the presence of blood?

16 THE WITNESS: I was not.

17 THE COURT: Okay. If the revolver was used to
18 pistol whip victims, as a result, caused the victims to leave
19 blood evidence on the floor at the crime scene, would it be
20 fair to conclude that there would be blood evidence present?

21 THE WITNESS: There could potentially be blood
22 evidence present, but I was not at the crime, nor do I know
23 if any of those types of swabs were impounded.

24 THE COURT: Okay. Do you have any questions as a
25 result of those questions?

1 MS. MERCER: Yes.

2 THE COURT: Okay.

3 REDIRECT EXAMINATION

4 BY MS. MERCER:

5 Q Ma'am, the knit gloves that you're referring to are
6 depicted in the State's Exhibit 218, correct?

7 A Correct.

8 Q And you attributed Donte Johns to that mixture
9 profile?

10 A Yes.

11 Q With regards to a mixture profile, you're not able
12 -- other than saying that you could identify a major profile
13 in that mixture profile, you can't reach any other
14 determinations, correct?

15 A Correct. With these particular profiles, I wasn't
16 able to make conclusions about the rest of the mixture.

17 Q And why is that?

18 A The data wasn't there. Again, if we go back to
19 those allele tables and those astrices that are included
20 there, the data may not be at a threshold at which we can
21 actually interpret.

22 Q With regards to the revolver in this case, if we
23 heard from a crime scene analyst that she processed that
24 revolver chemically to obtain latent fingerprints, what does
25 that process do for DNA?

1 A It has the potential to degrade the DNA, but in this
2 particular case, I received a revolver swab, which was taken
3 prior to the latent print processing.

4 Q Would you expect if the crime scene analyst had
5 processed a revolver for latent fingerprints using super glue
6 and I can't remember the other method, what it's called, but
7 if she had done that, would you have expected to receive the
8 revolver for examination by you?

9 A I would not.

10 Q Why?

11 A Because I had already received -- she had already
12 taken the DNA swab for us.

13 Q And why is it important for her to take that DNA
14 swab first?

15 A Because the latent print processing has the
16 potential to damage the DNA.

17 Q With regards to blood evidence, if someone wipes off
18 the blood, it's not -- you're not necessarily going to be
19 able to extract a DNA profile from that, correct?

20 A It would depend on the sample. It's possible.

21 MS. MERCER: No further questions, Your Honor.

22 THE COURT: Cross?

23 MR. TANASI: Briefly.

24 RECROSS-EXAMINATION

25 BY MR. TANASI:

1 Q Ma'am, would you agree with me that blood is a good
2 source of DNA?

3 A It is.

4 Q So if another police officer wiped blood off of a
5 revolver, that would be getting rid of a good source of DNA
6 for you, correct?

7 A Potentially.

8 Q Okay, thank you.

9 MR. TANASI: Nothing further.

10 THE COURT: Ms. Lobo?

11 MS. LOBO: Yes.

12 RECROSS-EXAMINATION

13 BY MS. LOBO:

14 Q Okay. If you had received in evidence DNA or blood,
15 you could you have processed that for DNA? I think that's
16 been established.

17 A Correct.

18 Q Right. And the DNA can come -- or the blood could
19 come from not just the weapon, it could come from on the
20 floor if there were blood droplets?

21 A Correct.

22 Q And if that had been swabbed, you would have an
23 additional comparison to do a side-by-side analysis --

24 A Yes.

25 Q -- as well?

1 A Correct.

2 Q Even if there was no blood on the actual weapon?

3 A I'm sorry, can you rephrase that?

4 Q Yes. So what I'm talking about is if something was
5 collected at the crime scene, if there was blood spatter or
6 blood droplets, that would have been another, I guess, DNA
7 profile for you now to have a comparison?

8 A Correct.

9 Q Okay. Thank you.

10 MS. MERCER: And just one brief follow-up question.

11 FURTHER REDIRECT EXAMINATION

12 BY MS. MERCER:

13 Q Ma'am, with regard to the work that you do at the
14 lab, you indicated that generally speaking, the requests for
15 examination are generated by the lead detective assigned to a
16 case, correct?

17 A Correct.

18 Q The case agent?

19 A Yes.

20 Q Are they given limits as to the items that can be
21 tested in any certain case?

22 A They are.

23 Q And why are they given limits?

24 A It goes back to the statement I made earlier. There
25 are certain limits depending on the crime type of the number

1 of items of evidence that we are able to analyze. If we
2 impounded every item of evidence associated with, you know,
3 let's say it was a homicide and there were 400 items of
4 evidence impounded, there is a possible chance that we
5 wouldn't get DNA on a lot of that, so we would just analyze
6 the most probative.

7 The caveat to that is, is if we analyze it and we
8 don't obtain anything probative good or bad, we are able to
9 analyze additional items of evidence.

10 Q And is that because you need -- the limitations, is
11 that because you need to be able to work on other cases?

12 A Yes.

13 Q And there's only a certain number of DNA analysts
14 within a lab, correct?

15 A Correct.

16 Q You indicated that that -- the goal is to try to
17 examine the items that are most probative, correct?

18 A Yes.

19 Q Would it be probative for a detective to request
20 analysis of a sample of blood that was left at a scene which
21 is identified by the victim as being their blood?

22 A Identified by the victim?

23 Q Correct.

24 A If we know the victim -- if that -- no, that would
25 not be the most probative.

1 Q Wouldn't be a good use of resources?

2 A I don't think so.

3 MS. MERCER: No further questions.

4 MS. LOBO: And I'm going to object. This is
5 outside of her scope as to what the detective would do or not
6 do.

7 THE COURT: Outside of her scope?

8 MS. LOBO: Out of authority of expertise, Your
9 Honor. And I would ask that it be stricken.

10 THE COURT: I'll sustain the objection.

11 MS. MERCER: Your Honor, may we approach?

12 THE COURT: Sure.

13 (Off-record bench conference)

14 THE COURT: Ms. Mercer.

15 MS. MERCER: I'm going to rephrase my last
16 question.

17 BY MS. MERCER:

18 Q Would it be a good use of resources to examine an
19 item of evidence when it's already been identified as -- by a
20 victim as their blood?

21 A Probably not, no.

22 MS. MERCER: No further questions.

23 MR. TANASI: Just briefly, Your Honor.

24 THE COURT: Okay.

25 FURTHER RECROSS-EXAMINATION

1 BY MR. TANASI:

2 Q Ma'am, excuse me, you mentioned that the lab has
3 limitations, correct?

4 A Correct.

5 Q I mean, there's only so many lab assistants, so many
6 lab techs, there's only so much room in a lab, correct?

7 A Correct.

8 Q So you can only be so thorough on every case,
9 correct?

10 A We are as thorough as we can possibly be with every
11 item of evidence we encounter.

12 Q As you possibly can be, correct?

13 A Correct.

14 Q All right. Thank you.

15 MR. TANASI: Nothing further.

16 THE COURT: Ms. Lobo?

17 MS. LOBO: No, Your Honor.

18 THE COURT: Okay. Got another question, Jim.

19 (Off-record bench conference)

20 THE COURT: All right. If you know, okay, if the
21 revolver had the same blood of DNA as found on a crime -- at
22 the crime scene floor wouldn't it be safe to say that the gun
23 in question was used in that event?

24 THE WITNESS: I don't think I could say that.

25 Again, I never encountered the revolver. I never encountered

1 any sort of blood source from this particular crime scene,
2 but even the presence of blood on an item of evidence doesn't
3 necessarily mean that it was used in commission of the crime.
4 If there's blood on a knife and I live in the house, it's,
5 you know, possible to assume that I cut myself cutting up
6 vegetables as opposed to somebody stabbing me with it.
7 There's many different answers for how -- how the blood got
8 there.

9 THE COURT: Do you have any questions as a result
10 of that question?

11 MS. MERCER: No, Your Honor.

12 MR. TANASI: No, Your Honor.

13 MS. LOBO: No, Your Honor.

14 THE COURT: Okay. Ma'am, I have a question.

15 THE WITNESS: Yes.

16 THE COURT: Now, you indicated that over a course
17 of time things have changed with the lab on the way that you
18 actually do, I guess, you're adopting new procedures?

19 THE WITNESS: Correct.

20 THE COURT: Okay. Just so we're clear, in this
21 case, two items were identified as Brandon Starr, one would
22 have been a glove and one was the revolver; is that right?

23 THE WITNESS: In the original report?

24 THE COURT: No, your second one.

25 THE WITNESS: Correct.

1 THE COURT: Okay. And then one item was identified
2 with Tony Hobson in the second one?

3 THE WITNESS: Correct.

4 THE COURT: Okay. Notwithstanding, the lab's
5 change --

6 THE WITNESS: Um-h'm.

7 THE COURT: -- is that a change that has been
8 adopted across the United States?

9 THE WITNESS: I think the field is heading that
10 direction, yes.

11 THE COURT: Okay. But Metro's ahead, basically?

12 THE WITNESS: We're somewhere nestled safely in the
13 middle.

14 THE COURT: Okay. Currently, under the standards
15 that are used with the FBI --

16 THE WITNESS: Yes.

17 THE COURT: -- which you follow --

18 THE WITNESS: Um-h'm.

19 THE COURT: -- the first test that you did would
20 have been the one they're using today; is that right?

21 THE WITNESS: The FBI does their own
22 interpretation. These are LVMPD procedures.

23 THE COURT: Okay. So it doesn't govern the FBI?

24 THE WITNESS: They provide a set of standards and
25 guidelines that they, you know, require us to follow, but

1 they don't get as specific as this is how you interpret a
2 four-person mixture.

3 THE COURT: Okay. So what I'm saying is that under
4 the FBI standards, your previous tests would have been --

5 THE WITNESS: Would have been acceptable.

6 THE COURT: Okay.

7 THE WITNESS: It was acceptable. It was audited
8 many times by the FBI.

9 THE COURT: Okay. Also, based on one of the
10 questions that one of the jurors asked about a major
11 component, do you analyze or do you even use terms of minor
12 components?

13 THE WITNESS: We do. And that's part of what we
14 have to take into account when we're trying out these new
15 mathematical based -- not try out -- that we have to take
16 into account when we're trying the new mathematical based
17 procedures.

18 In these particular profiles I wasn't able to make
19 any conclusions on those minor components so they weren't
20 included. That's what the last statement says in most of
21 these results. Due to the complexity of the data, I can't
22 make any further conclusions.

23 So the complexity is the contribution from all
24 those minor contributors below that interpretation threshold
25 that don't allow me to make those conclusions.

1 THE COURT: Okay. Under your new standards, is
2 that something that is being used as a, you're on a try out
3 basis, so to speak?

4 THE WITNESS: No. No, those -- a minor is a
5 potential. Just in these particular profiles was -- I was
6 not able to make definitive conclusions on these minor
7 contributors.

8 THE COURT: And what I mean is based on the
9 question asked by Mr. Tanasi, is that, there's a potential in
10 2017 that these would change again?

11 THE WITNESS: Correct. So we implemented our own
12 procedures to build a mathematical conservative basis for
13 interpreting these mixtures. The software that we're
14 bringing online in the spring of 2007 will do all of that for
15 us but take into account way more of the information than me
16 as a human being is able to do.

17 THE COURT: So technically or -- sorry, possibly,
18 the interpretations that you take on online may come back to
19 the original interpretations that you have?

20 THE WITNESS: It's possible, yes.

21 THE COURT: Okay. Do you have any questions as a
22 result of my questions?

23 MS. MERCER: Just a clarifying question.

24 FURTHER REDIRECT EXAMINATION

25 BY MS. MERCER:

1 Q With regards to the minor components of those
2 mixture profiles, in September of 2015 and in May of 2016,
3 each time you were not able to make any further conclusions
4 regarding those minor portions of the mixture profile,
5 correct?

6 A Correct. That did not change.

7 MR. TANASI: Your Honor, just briefly with respect
8 to the Judge's question, the 2017 rules.

9 FURTHER RECROSS-EXAMINATION

10 BY MR. TANASI:

11 Q It could change and they could go backwards to the
12 original conclusions and then they could also change and come
13 back essentially inclusive, fair?

14 A Correct. I won't know that until --

15 Q 2017.

16 A -- until we start using the software.

17 Q All right. Thank you.

18 A Um-h'm.

19 THE COURT: Ms. Lobo?

20 MS. LOBO: No.

21 THE COURT: Okay.

22 MS. LOBO: No additional questions.

23 THE COURT: All right. Jim, we had another
24 question, possibly two questions from the jury.

25 (Off-record bench conference)

1 THE COURT: Okay. How much or little contact does
2 one need to have to leave enough DNA for a major profile?

3 THE WITNESS: It's completely dependent on the item
4 itself. And as we mentioned before, in part of my
5 examination some people are good shedders, some people are
6 poor shedders. So a poor shedder could have contact --
7 prolonged contact with an item and still not leave as much
8 DNA as a good shedder with shortened contact. It's
9 impossible to tell until we run the profile.

10 THE COURT: Does other contact from individuals
11 make it so that the contact must be more frequent to gain
12 enough for a major profile?

13 THE WITNESS: Not necessarily frequency. Again, it
14 could just be prolonged contact. You may not have to touch
15 it multiple times in order to get that major profile, you
16 could just have one really good contact with it. Again, you
17 could be in a potential shedding phase where you leave more
18 DNA based on the one-time contact. But yes, I would expect
19 more contact or more frequent contact in order to get that
20 major profile.

21 THE COURT: Ms. Mercer?

22 MS. MERCER: No, Your Honor.

23 MR. TANASI: No, Your Honor.

24 THE COURT: Mr. Tanasi?

25 MS. LOBO: No, Your Honor.

1 THE COURT: Okay. All right. So I want to excuse
2 you, Ms. May. Thank you so much for your testimony. You can
3 step down.

4 THE WITNESS: Thank you for your time.

5 THE COURT: Okay? Ladies and gentlemen of the
6 jury, we're going to take a brief recess. I'm going to give
7 you 30 minutes because I have something we have to do outside
8 your presence.

9 So during this recess, you're admonished not to
10 talk or converse amongst yourself or with anyone else on any
11 subject connected with this trial or read, watch or listen to
12 any report or commentary on the trial or any person connected
13 with this trial by any medium of information, including
14 without limitation, to newspapers, television, the Internet
15 or radio or form or express any opinion on any subject
16 connected with this trial until the case is finally submitted
17 to you.

18 It's a quarter after 1:00, be back here a quarter
19 to 2:00, all right? We'll be at ease while the jury is --
20 exits the room.

21 (Outside the presence of the jury)

22 THE COURT: Okay. We're outside the presence of
23 the jury. Did -- I know Mr. Hobson, you have to go to the
24 restroom?

25 DEFENDANT HOBSON: Yes.

1 THE COURT: Do you want me to admonish now or I
2 mean, can you wait like --

3 MS. LOBO: After.

4 THE COURT: It's only going to take probably five
5 minutes to read that.

6 MR. TANASI: Can you hold out five more minutes?

7 DEFENDANT HOBSON: Yeah.

8 THE COURT: Is he okay?

9 MR. TANASI: He can wait, I think. We can go now.

10 THE COURT: Okay.

11 MR. TANASI: He's okay.

12 THE COURT: Mr. Hobson and Mr. Starr, I need you to
13 understand that under the Constitution of the United States
14 and under the Constitution of the State of Nevada, you cannot
15 be compelled to testify in this case. Mr. Starr, do you
16 understand that?

17 DEFENDANT STARR: Yeah, I understand that.

18 THE COURT: And Mr. Hobson, do you understand that?

19 DEFENDANT HOBSON: Yes.

20 THE COURT: Okay. You may at your own request give
21 up this right and take the witness stand to testify. If you
22 do, you will be subject to cross-examination by the district
23 attorneys here, and anything that you say, be it on direct or
24 cross-examination, will be the subject of fair comment when
25 the deputy district attorneys speak to the jury in their

1 closing final arguments. Do you understand that, Mr. Starr?

2 DEFENDANT STARR: Yes, sir.

3 THE COURT: Do you understand that, Mr. Hobson?

4 DEFENDANT HOBSON: Yes.

5 THE COURT: Okay. If you choose not to testify, I
6 will not permit the deputy district attorneys to make any
7 comments to the jury because you have not testified.
8 Mr. Starr, do you understand that?

9 DEFENDANT STARR: Yes.

10 THE COURT: And do you understand that, Mr. Hobson?

11 DEFENDANT HOBSON: Yes.

12 THE COURT: Okay. If you do -- if you elect not to
13 testify, I will instruct the jury only if your attorney
14 specifically requests me to do so, as follows: The law does
15 not compel a defendant in a criminal case to take the stand
16 and testify and no presumption may be raised and no inference
17 of any kind may be drawn from the failure of the defendant to
18 testify.

19 Do you have any questions about these rights,
20 Mr. Starr?

21 DEFENDANT STARR: No.

22 THE COURT: Do you have any questions at this
23 point, Mr. Hobson?

24 DEFENDANT HOBSON: No.

25 THE COURT: Okay. I am going to give you both an

1 opportunity to discuss this further. The reason I'm doing it
2 now so you can think about this for a while before it comes
3 to point where it's actually defendants' case-in-chief. Do
4 you understand, Mr. --

5 DEFENDANT STARR: Yes, sir.

6 THE COURT: -- Mr. Starr and Mr. Hobson?

7 DEFENDANT HOBSON: Yes.

8 THE COURT: Okay. Understand this, though, that if
9 you -- I want you to be advised that if you do take the stand
10 and you've been convicted, and your conviction of a felony is
11 not more than ten years either lapsing from the time that you
12 were convicted, discharged from prison, parole or probation,
13 whichever is later, and the defense has not sought to
14 preclude it from coming before the jury, and you elect to
15 take the stand and testify, the deputy district attorneys in
16 the presence of the jury will be permitted to ask the
17 following question: Have you been convicted of a felony?
18 What was that felony? And when did it happen?

19 However, I won't let them go into anything further,
20 any details or any facts. Do you understand?

21 DEFENDANT STARR: Yes, sir.

22 THE COURT: Mr. Starr?

23 DEFENDANT HOBSON: Yes.

24 THE COURT: Mr. Hobson?

25 DEFENDANT HOBSON: Yes.

1 here?

2 MR. TANASI: Well, I'd have to defer to --

3 MR. MANINGO: Your Honor, we --

4 MR. TANASI: -- co-counsel on that.

5 MR. MANINGO: -- served her last week. We asked
6 her to be here on the -- be available as of the 16th, today.

7 THE COURT: Uh-huh.

8 MR. MANINGO: She then responded to my office with
9 that she had travel plans from the 16th through the 23rd or
10 24th and she faxed over to my office, and I apologize, I
11 don't have it with me right now, just a confirmation of her
12 unavailability.

13 THE COURT: When did you serve her?

14 MR. MANINGO: We're thinking it was Tuesday of last
15 week, Your Honor.

16 THE COURT: Okay. So what are you proposing?

17 MR. TANASI: I'd like to admit Detective Turner's
18 reports through Detective Abell as --

19 THE COURT: Okay.

20 MR. TANASI: -- substantive evidence and notice --

21 THE COURT: Well, do you think Detective Abell will
22 not -- I mean, will be saying something different than what
23 you would already have from --

24 MR. TANASI: I don't know that. I mean, it's said
25 two different ways in two different reports so I don't know

1 what Detective Abell's --

2 THE COURT: Okay. Well --

3 MR. TANASI: -- what his position is.

4 THE COURT: Okay. Okay, clear me up again.

5 MR. TANASI: Sure.

6 THE COURT: Detective Abell did one report?

7 MS. MERCER: No. Detective Turner authored two
8 reports. She did one property impound report, in which she
9 inverted items 4 and 5. She did an officer's report
10 documenting the search warrant who was present during the
11 execution of the search warrant, what items of evidence were
12 found where, which is correct. The evidence was photographed
13 in place by a crime scene analyst.

14 Detective Abell, I can make representations to the
15 Court, noticed the typo in her property impound report and
16 told her to correct it. So he's aware of the typo.

17 THE COURT: So Detective Abell's --

18 MS. MERCER: And they can question --

19 THE COURT: -- the one that actually did the --

20 MS. MERCER: No, he caught the typo in her --

21 THE COURT: Oh, and he told --

22 MS. MERCER: -- report.

23 THE COURT: -- her to correct it?

24 MS. MERCER: So he can testify to the error --

25 THE COURT: Okay.

1 MS. MERCER: -- but, I mean, the reports themselves
2 are hearsay. That's the State's position.

3 MR. MANINGO: And that's what's going to -- that's
4 what we're going to deal with when we try to get into that
5 discrepancy with Detective Abell, because Detective Flynn,
6 per Turner's report, says that these receipts were found in
7 one place. Detective Abell says they were found in another.
8 Detective Abell, per the State, is the one who says to
9 Detective Turner, you made a mistake, but yet, we haven't
10 heard from Detective Flynn either.

11 THE COURT: Okay. Did Detective Turner find these
12 receipts?

13 MR. MANINGO: Detective Turner, I believe, took a
14 picture of them at the same location, correct me if I'm
15 wrong, that --

16 MS. MERCER: That was a crime scene analyst.

17 MR. TANASI: -- Detective Abell said that they were
18 located at.

19 THE COURT: Okay. So she takes a picture of --

20 MS. MERCER: Your Honor, she does not photograph.
21 The crime scene analyst Vandering (phonetic) --

22 MR. MANINGO: Oh, pardon me, I didn't mean to
23 misspeak.

24 THE COURT: Okay. Okay, so Detective Turner didn't
25 find anything? She didn't --

1 MR. MANINGO: No. But she --

2 THE COURT: She's reporting what someone told her?

3

4 MS. MERCER: Correct.

5 MR. TANASI: Two different ways.

6 THE COURT: Okay, so Detective Flynn told her it
7 was one place --

8 MR. TANASI: Correct.

9 THE COURT: -- Detective Abell told her it was
10 another place.

11 MR. TANASI: Correct.

12 THE COURT: Detective Abell then tells her to
13 correct it?

14 MR. TANASI: We don't know that, Your Honor.

15 MR. MANINGO: That's what we just learned today.

16 MR. TANASI: That's what we just learned --

17 THE COURT: Okay.

18 MR. TANASI: -- but --

19 THE COURT: But you have Detective Flynn coming in?

20 MR. TANASI: We don't. Again --

21 THE COURT: Did you subpoena Detective Flynn?

22 MR. TANASI: We did not. We did not.

23 THE COURT: Because if he's the one telling
24 Detective Turner where the items are, even if Detective
25 Turner was testifying, it would be hearsay.

1 MR. TANASI: But it's Detective Turner's report
2 indicating where she learned and what she discovered.

3 THE COURT: That someone told her.

4 MR. TANASI: Again, it's her report. It would be
5 fair game in her report.

6 THE COURT: Yeah, but would -- does the report say
7 Detective Flynn is the one that found it that told --

8 MR. MANINGO: Yes.

9 THE COURT: -- Detective Turner --

10 MR. MANINGO: Yes.

11 MS. MERCER: I --

12 THE COURT: Then why wouldn't you subpoena
13 Detective Flynn if he's the one that actually found it in
14 another area that's not --

15 MR. TANASI: Because we don't have Detective
16 Flynn's report, we have Detective Turner's report.

17 THE COURT: But doesn't it say in the report that
18 Detective Flynn told me it was here and that's what I wrote?

19 MR. TANASI: All it says is item 4, which is the
20 receipts, was located by Detective Flynn from a nightstand
21 drawer in the master bedroom.

22 THE COURT: Okay.

23 MR. TANASI: It doesn't get into the conversation.
24 And again, substantively, as a report from Detective Turner,
25 we could have admitted both and had her explain how she got

1 this information.

2 THE COURT: Have you done anything at all to try to
3 contact Detective Flynn?

4 MR. MANINGO: Not yet.

5 MR. TANASI: We have not, Your Honor.

6 THE COURT: Is Detective Flynn available, do you
7 know?

8 MS. MERCER: I don't know. We didn't subpoena him,
9 to my knowledge. And if we did, we didn't pretrial him
10 because we didn't plan on calling him.

11 THE COURT: Reach out to him tonight, if you can.
12 I'm going to ask the State to try to help you with that. And
13 see if you can get Detective Flynn in here because, I mean,
14 if Detective Flynn's the one that actually saying he found
15 it --

16 MR. TANASI: And I understand the Court's position.
17 I guess, I would just point out, though, if Detective Flynn
18 turns around and says no, that's not true, that's not what I
19 said, I can't --

20 THE COURT: Okay.

21 MR. TANASI: -- impeach Detective Flynn with
22 Detective Turner's --

23 THE COURT: Well, I think you can -- I will --
24 under these circumstances --

25 MR. TANASI: Unless Your Honor allows it.

1 THE COURT: -- let's see whether or not you have
2 Detective Flynn, fir of all, okay?

3 MR. TANASI: Okay.

4 THE COURT: Let's go from there.

5 MR. TANASI: Okay.

6 THE COURT: I think I -- my position would be that
7 I think you'd be able to ask him if it would surprise him to
8 know that -- you know, okay, I'll give you how I would do it.

9 MR. TANASI: Okay.

10 THE COURT: Detective Flynn, we heard your
11 testimony, DA, DA, DA, DA, DA. You said you found something
12 in a nightstand. Did you tell anybody that? No, I didn't
13 find it in the nightstand. No, I didn't tell anybody that.
14 Well, who is Detective Turner?

15 MR. TANASI: Turner.

16 MR. MANINGO: Turner.

17 THE COURT: Well, were you aware that she made a
18 report in this -- did you make a report, Detective Flynn?
19 No, I didn't. So Detective Turner would have been making the
20 report. Were you aware that she said that you told her that
21 she found it in a nightstand? You know, that's --

22 MR. TANASI: If Your Honor --

23 THE COURT: -- the way you get it.

24 MR. TANASI: If Your Honor's okay with that line of
25 questioning with Detective Flynn --

1 THE COURT: I --

2 MR. TANASI: -- but I think --

3 THE COURT: But see if you can get him.

4 MR. TANASI: Sure, sure.

5 THE COURT: I think that would be the most
6 appropriate person, though, to talk to anyhow because he'd be
7 the one to be saying whether or not he found it there or he
8 didn't or and he told her something to that effect. I don't
9 know what -- I mean, that's the -- I think that's the best --
10 let's see if you can get him first.

11 MR. TANASI: Okay.

12 THE COURT: All right? And --

13 MS. MERCER: For the record, I -- Detective Abell's
14 the one that found the receipts, which is the one that --

15 THE COURT: No, no, no, no, I understand that, but
16 if somebody's saying another detective found it, I think you
17 have a right to ask him, did you find -- no, I didn't -- you
18 know, I -- that's what I anticipate is probably going to say
19 no, I didn't find it. Were you aware that Detective Turner
20 did a report saying you found it?

21 MR. TANASI: Right. If Your Honor's okay with that
22 line of questioning, that solves the problem.

23 THE COURT: Well, I think since you were already
24 talking about who's doing reports and not doing reports and
25 they rely on other individuals doing the reports, I think

1 that's fair.

2 MR. TANASI: Okay.

3 THE COURT: So I -- let's --

4 MR. MANINGO: We'll start there.

5 THE COURT: -- go from -- let's step over that
6 hurdle first. Let's see if he's even here.

7 MR. TANASI: Okay.

8 THE COURT: I mean, and if not, then we may be
9 waiting until next week.

10 MR. TANASI: Okay.

11 MR. MANINGO: Thank you, sir.

12 MR. TANASI: Thank you, Judge.

13 THE COURT: We're offer the record.

14 (Court recessed at 4:52 P.M., until Tuesday,
15 May 17, 2016, at 11:32 A.M.)

16 * * * * *

17 CERTIFICATE

18 ATTEST: I hereby certify that I have truly and correctly
19 transcribed the audio/visual proceedings in the above-
20 entitled case to the best of my ability.

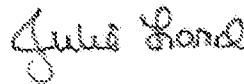
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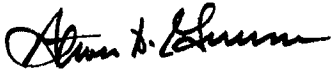
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JULIE LORD, INDEPENDENT TRANSCRIBER



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

TONY LEE HOBSON,
and BRANDON STARR,

Defendants.

.....

CASE NO. C-14-303022-1

CASE NO. C-14-303022-2

DEPT. NO. XIX

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

JURY TRIAL - DAY 9

TUESDAY, MAY 17, 2016

APPEARANCES:

FOR THE STATE:

ELIZABETH A. MERCER, ESQ.
KENNETH PORTZ, ESQ.
Deputy District Attorneys

FOR DEFENDANT HOBSON:

RICHARD E. TANASI, ESQ.

FOR DEFENDANT STARR:

LANCE A. MANINGO, ESQ.
ADRIAN LOBO, ESQ.

COURT RECORDER:

CHRISTINE ERICKSON
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Englewood, CO 80110
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

INDEXWITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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STATE'S WITNESSES:

Crystal May	6	53, 61	71, 75, 78, 86	-- 77/77 81/-- 86/--
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Donte Johns	94			
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EXHIBITS

<u>DESCRIPTION</u>	<u>ADMITTED</u>
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STATE'S EXHIBITS:

Exhibits 293 and 293-A.	123
Exhibits 294 through 314	93

1 LAS VEGAS, NEVADA, TUESDAY, MAY 17, 2016, 11:32 A.M.

2 (Outside the presence of the jury)

3 THE COURT: Okay. We're on the record in Case No.
4 C-303022, State of Nevada versus Tony Hobson and Brandon
5 Starr. I'd like the record to reflect that we're outside the
6 presence of the jury. The defendants are present with their
7 attorneys, Mr. Tanasi for Mr. Hobson; Mr. Maningo and Ms.
8 Lobo for Mr. Starr. Also, State's present with Ms. Mercer
9 and Mr. Portz.

10 Is there anything that needs to be brought to the
11 Court's attention before we get the jury back in at this
12 time?

13 MS. MERCER: Briefly, Your Honor, regarding a newly
14 marked exhibit. It's Exhibit 308.

15 THE COURT: Okay.

16 MS. MERCER: The defense has no objection, Your
17 Honor, so at this point, State would move to admit it.

18 THE COURT: For the record, what is 308?

19 MS. MERCER: It's the allele chart that goes with
20 the new DNA interpretation.

21 THE COURT: And you have no objection to that?

22 MR. TANASI: No objection, Your Honor.

23 THE COURT: Okay. Okay. So 308 will be admitted.
24 Other than that, are you ready to go, then?

25 MS. MERCER: We are, Your Honor.

1 THE COURT: Okay. All right, Jim, you want to go
2 ahead and get the jury in.

3 (In the presence of the jury)

4 THE MARSHAL: Please be seated. Department 19 is
5 back in session.

6 THE COURT: Okay. This is the continuation of the
7 jury trial in Case 303022, Tony Hobson versus -- State of
8 Nevada versus Tony Hobson and Brandon Starr.

9 I'd like the record to reflect the presence of the
10 jury. Will the party stipulate to the presence of the jury?

11 MR. TANASI: Yes, Your Honor.

12 MS. MERCER: Yes, Your Honor.

13 THE COURT: I'm going to go ahead and call roll
14 again. Mr. Noquez.

15 JUROR NO. 1: Yes, here.

16 THE COURT: Robert Bass.

17 JUROR NO. 2: Here.

18 THE COURT: Vince Gaeta.

19 JUROR NO. 3: Present.

20 THE COURT: Lin-Belle Addington.

21 JUROR NO. 4: Here.

22 THE COURT: Daniel Boggs.

23 JUROR NO. 5: Here.

24 THE COURT: Nicholas Kozlowski.

25 JUROR NO. 6: Here.

1 THE COURT: William Burns.

2 JUROR NO. 7: Here.

3 THE COURT: David Synder.

4 JUROR NO. 9: Here.

5 THE COURT: Glynis Bernard.

6 JUROR NO. 10: Here.

7 THE COURT: Daniel Powers.

8 JUROR NO. 11: Here.

9 THE COURT: Charles Worth.

10 JUROR NO. 12: Here.

11 THE COURT: Heather Hedrick.

12 JUROR NO. 14: Here.

13 THE COURT: And Dustin Bigelow.

14 JUROR NO. 15: Here.

15 THE COURT: Okay. Before we took a break for the
16 evening, the State was still in their case-in-chief. Ms.
17 Mercer, you want to call your next witness.

18 MS. MERCER: Your Honor, the State calls Crystal
19 May. Crystal May.

20 CRYSTAL MAY, STATE'S WITNESS, SWORN

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

24 THE WITNESS: Crystal May, C-r-y-s-t-a-l, M-a-y.

25 MS. MERCER: May I proceed, Your Honor?

1 THE COURT: Your witness, yes.

2 DIRECT EXAMINATION

3 BY MS. MERCER:

4 Q Ma'am, where are you currently employed?

5 A I am employed at the Las Vegas Metropolitan Police
6 Department forensic laboratory.

7 Q And what do you do for the forensic laboratory?

8 A I am a forensic scientist with the biology DNA
9 detail.

10 Q Can you please explain to the jurors some of your
11 educational background that enables you to perform the tasks
12 associated with your job?

13 A I hold a bachelor of science in biology from Saint
14 Mary-of-the-Woods College in Indiana. I also hold a master
15 of science in forensic science from the University of New
16 Haven in Connecticut.

17 Q How long have you been employed in the DNA biology
18 unit within the forensic lab at Metro?

19 A A little over four years.

20 Q The entire time doing DNA analysis?

21 A Yes.

22 Q Were you employed elsewhere before that as a --

23 A I --

24 Q -- DNA analyst?

25 A Sorry. I have been employed with the laboratory for

1 ten years. I started out as technical support staff and then
2 promoted to a scientist about four years ago.

3 Q What does technical support staff do?

4 A I created -- made the reagents that make the
5 operational day-to-day functions go. I handled all of the
6 biohazard, the laundry, made sure that the scientists had
7 everything that they needed to do their job.

8 Q And what are your job duties in the DNA and biology
9 unit at the lab?

10 A As a scientist, I examine evidence for the presence
11 of biological substances. If I identify something that could
12 be potentially taken on and generate a DNA profile, I do so.
13 I take it through analysis, summarize my results in a report,
14 issue that report and then also do reviews of other analysts
15 reports as well.

16 Q Have you testified in court before with regards to
17 your work as a DNA analyst for the lab?

18 A I have.

19 Q How many times?

20 A About four.

21 Q Four times?

22 A Four.

23 Q Were they all in district court?

24 A Yes.

25 Q Have you testified at preliminary hearing or grand

1 jury with regards to your work?

2 A I have.

3 Q How many times have you testified at preliminary
4 hearing?

5 A Once.

6 Q And with regards to grand jury, how many times have
7 you testified before the grand jury?

8 A Three times.

9 Q I want to direct your attention to some work that
10 you performed back in September of 2015. Were you asked to
11 perform some work under event numbers 141125-4029 and
12 141124-3628?

13 A I was.

14 Q Could you please explain to the jurors how it is
15 that you become involved in a case such as this?

16 A As far as case assignment is concerned within the
17 DNA detail, the managers dole out each of the case
18 assignments. So this case was handed to me by my management
19 and asked me to do the work.

20 Q And how does a request for DNA work get generated?

21 A Generally, it is provided by either a detective or a
22 crime scene analyst in regards to an event.

23 Q When evidence is collected, it doesn't automatically
24 get examined for DNA, correct?

25 A It does not.

1 Q With regards to this case, did you receive a request
2 from Detective Jeffrey Abell?

3 A I did.

4 Q And in that request he -- what items of evidence did
5 he ask you to examine?

6 A There was a pair of red and black work gloves, work
7 type gloves. One gray and red glove. One pair of knit
8 gloves. Two yellow surgical type face masks as well as a
9 pair of Snap On brand gloves. A revolver swab, a Ruger swab,
10 a magazine swab, an axe swab. Subsequently, I analyzed the
11 axe as well. And then three reference standards.

12 Q With --

13 MS. MERCER: Your Honor, may I approach your clerk
14 and get another set of exhibits?

15 THE COURT: Yes. She's got it back here.

16 (Pause in the proceedings)

17 BY MS. MERCER:

18 Q Do you actually receive the evidence from the
19 evidence locker?

20 A The evidence is -- once it is impounded by generally
21 a crime scene analyst or detective, it is taken to the main
22 evidence vault where it is held until it is called up for
23 analysis, like in this case. It is transported securely to
24 the forensic lab, transferred to my custody where it does
25 maintain its place in an evidence locker until I examine it.

1 Once my examination is done, I return it to the locker. And
2 once I'm complete, everything happens in reverse, and it
3 ultimately goes back to the main evidence vault.

4 Q Okay. So is chain of custody is always maintained?

5 A Yes.

6 Q And that's so that you know the evidence has not
7 been contaminated in anywhere?

8 A Correct.

9 Q With regards to the actual evidence that you
10 receive, if the seal were broken on it, would you still
11 proceed with your work?

12 A We would note it and generally proceed, yes.

13 Q Okay. But you would document that in your reports,
14 correct?

15 A Yes.

16 Q With regards to the evidence that you received, the
17 evidence was all sealed, correct?

18 A Correct.

19 Q And you indicated that some of the items that you
20 were asked to examine were swabs?

21 A Yes.

22 Q So you -- with regards to the items that you
23 received swabs on, specifically the firearms, you would not
24 necessarily receive the firearms themselves, correct?

25 A Correct.

1 Q And is that because you don't need them since you
2 have the swab --

3 A Correct.

4 Q -- already? Can you please explain to the jurors
5 how it is that you go about determining whether or not there
6 is DNA on an item of evidence.

7 A In general, when we're looking for items of evidence
8 to be examined for DNA, we are first and foremost looking for
9 biological substances that could potentially develop that DNA
10 profile that we're looking for. In this particular case, I
11 don't believe they were looking for biological substances.
12 They were actually looking for what we call touch DNA, and
13 this's actually just the amount of DNA we can obtain from an
14 item based on how often that item had been handled and
15 leaving behind those DNA skin cells. So --

16 Q I'm sorry, when you say biological substances, what
17 are you referring to?

18 A In most cases, blood, semen and saliva.

19 Q Okay. And I didn't mean to interrupt you. If you
20 could proceed with explaining how it is that you go about
21 obtaining possible DNA from an item of evidence.

22 A If there is a biological substance present, usually
23 we can see blood. Sometimes we can see semen and saliva. We
24 also do have fluorescent lights available to us to be able to
25 identify those stains that aren't readily visible. Once we

1 identify a stain, we can actually use preliminary chemical
2 tests to determine whether or not it's indicative of a
3 biological stain. If we think it's a biological, blood,
4 semen or saliva, we will take it on for testing.

5 If it's not, generally, we will move on to the next
6 stain. Like I said, in it particular case, there weren't
7 actually biological fluids left, so we were just basically
8 swabbing the items for touch DNA in hopes of retrieving
9 whatever DNA was left on that item.

10 Q With regards to the work that you performed under
11 this event number, were you also given what's referred to as
12 a known sample of DNA?

13 A I was.

14 Q Were you actually given three known samples of DNA?

15 A Correct.

16 Q What is a known sample of DNA?

17 A A known sample of DNA, what we call a buccal swab,
18 is actually just a swab that we use as a reference to compare
19 to the profiles we get from the evidence. It's just a simple
20 cotton swab that we use to swab the inside of a cheek and the
21 cells that are provided in that provide us with the DNA
22 profile for the comparison ultimately at the end.

23 Q Okay. So you have to have the known samples so that
24 you can compare it to whatever DNA profile you might be able
25 to obtain from an item of evidence?

1 A Correct.

2 Q And with regards to this event or this case, you
3 were given reference samples from Brandon Starr, Donte Johns
4 and Tony Hobson?

5 A Correct.

6 Q And those were all impounded by an individual with a
7 P number 8744, correct?

8 A Correct.

9 Q And the reference sample for Brandon Starr was item
10 1?

11 A It was.

12 Q The reference sample for Donte Johns was item 2?

13 A Correct.

14 Q And reference sample for Tony Hobson was item 3?

15 A Yes.

16 Q You've listed all of the items of evidence that you
17 examined. When you -- I'm going to start with item number 9,
18 which is the pair of red and black gloves. Publishing on the
19 overhead State's Exhibit 210. This is what you listed as lab
20 item number 2, correct?

21 A Correct.

22 Q But it was impounded by the CSA as item number --

23 A Correct.

24 Q -- 9? With regards to this particular item of
25 evidence, how did you go about trying to determine whether or

1 not there was any touch DNA available on that item of
2 evidence?

3 A In this particular case, I just swabbed the inside
4 of both of those gloves as that would normally would be how
5 that item of evidence would have been handled or worn.

6 Q Did you swab the inside of like the left-hand glove
7 and the right-hand glove?

8 A I did. I swabbed them separately.

9 Q So with two different swabs?

10 A Correct.

11 Q Now, were you able to extract a DNA profile or a DNA
12 sample from that swab --

13 A I was.

14 Q -- of the left glove and the right glove?

15 A Yes.

16 Q With regards to -- how is it that you take that swab
17 and you obtain a DNA profile?

18 A Just as the reference samples are collected, we
19 collect -- when I swabbed this, I just added a couple drops
20 of water to a cotton tip swab, just like a normal little Q
21 tip. I'm able to cut that swab, add it to a small laboratory
22 tube, and apply all of the different chemicals I need to
23 isolate the DNA in that item.

24 I can then use a couple different procedures to get
25 rid of all of the other junk in that sample to isolate just

1 the DNA so that we can develop that profile for our
2 comparison purposes. We actually -- what's in the tube, what
3 we call extracted -- we actually then add to a genetic
4 Xeroxing machine that amplify -- what we call amplifies. It
5 copies it billions upon billions of times over.

6 During that amplification process, we actually add
7 some fluorescently labeled dyes. So what we get out of that
8 is this kind of soup of DNA bits and pieces that are
9 fluorescently labeled. We can then put it on to an
10 instrument that allows us to separate out by those different
11 dye colors each of those bits of that fluorescent soup that
12 gives us our DNA profile.

13 Q With regards to all of the items that you examined
14 in this case, did you follow that same procedure with
15 extracting the DNA profile?

16 A Exact same procedure.

17 Q And once you extract the DNA profiles, you then have
18 to interpret those DNA profiles; is that correct?

19 A Correct.

20 Q When you performed your work back in September of
21 2015, was the forensic lab, specifically the DNA biology
22 unit, was it accredited?

23 A It was.

24 Q What is required to be an accredited lab?

25 A The American Society of Crime Lab Directors is our

1 accrediting body. They provide a set of guidelines and
2 standards, not just to us, but to all of the forensic labs
3 that they oversee across the nation with a certain set of
4 standards that we have to abide by. If we're not meeting
5 those quality standards or our procedures don't meet the
6 guidelines that they require us, then we would not obtain our
7 accreditation.

8 We were -- the lab as a whole was initially
9 accredited in 2003. Has been reaccredited every five years,
10 and actually in 2013, now adheres to a more strict set of
11 guidelines which are international guidelines.

12 In addition to that, the DNA section also has to
13 adhere by the FBI's quality assurance standards for forensic
14 testing laboratories. So an additional set of standards in
15 order for us to be able to stay accredited.

16 Q Back in September of 2005, when you performed this
17 work, had the lab, in fact, been audited several times by the
18 FBI and the ASCLED?

19 A It had.

20 Q And always found to be in compliance?

21 A Correct.

22 Q With regards to interpreting DNA profiles, how do
23 you go about doing that?

24 A There are protocols within our procedures that allow
25 us to -- that aid us in making those interpretations. So

1 depending -- it allows us to look at DNA profile after we've
2 analyzed it, and determine how many people are there, whether
3 or not we can pull out a major versus a minor component, if
4 it's a mixture of, you know, two or more people or if it's
5 just one contributor to the profile, we have a set of
6 guidelines that we follow.

7 Q And those guidelines were approved by the FBI and
8 the ASCLED at the time you performed the work in this case?

9 A They were.

10 Q With regards to lab item 2.1 and crime scene analyst
11 item number 9, did you develop a single DNA profile or what's
12 referred to as a mixture profile?

13 A A mixture.

14 Q What is a mixture profile?

15 A A mixture profile is a DNA profile that is
16 consistent with two or more people contributing their DNA to
17 it.

18 Q When you're performing your work, do you prepare
19 what's referred to as an allele table?

20 A I do.

21 Q What is an allele table?

22 A When we develop a DNA profile, it actually comes out
23 into a chart of different peaks that we interpret. Those
24 peaks are then transferred to a table for a little bit ease
25 of comparison. It's the exact same data, just in a different

1 form.

2 Q Okay. I'm publishing on the overhead the first page
3 of State's Exhibit 263. Is this the allele table that you're
4 referring to?

5 A It is.

6 Q And with -- it's kind of hard to see on the
7 overhead. Let me see if I can turn the lamp on. If you need
8 me to approach to hand you this so that you can read the item
9 number, please let me know.

10 But with regards to the right red and black glove,
11 is that item 2.1?

12 A It is.

13 Q And what is -- can you please explain to the jurors
14 what these various blocks with the color on them mean and
15 what these numbers next to them mean.

16 A There's a lot of information going here. So each
17 one of the blocks that's on there, the one with the full
18 columns, is a complete DNA profile. So the one that she
19 pointed out for item 2.1 is a representation of the mixture
20 profile I obtained from that right -- the swabbing of that
21 right red and black glove.

22 Any of the numbers that do not have brackets around
23 them mean that those are the -- those are the alleles, which
24 is why it's an allele table, that have -- that have
25 contributed more DNA to that profile. Those are going to be

1 the higher peaks that we would see in the chart that I would
2 have developed or in that original graph.

3 If there are brackets around the numbers, those
4 just mean that those lesser peaks. They are 60 percent or
5 less of those peaks that don't have the brackets. And if
6 there is a star there, that indicates that those -- there are
7 alleles present, but they are below our interpretation
8 threshold.

9 Q Meaning that there's not enough data available for
10 you to make any determination with regards to that?

11 A Correct. That is our internal cut off. We will not
12 make conclusions below a certain level.

13 Q And how is it that you can tell that this is a
14 mixture profile? It wasn't a mixture profile, what would we
15 expect to see that's different?

16 A Based on laws of just genetic inheritance, you get
17 half of your DNA from your mother and half from your father
18 and we know that each person will then have the ability to
19 donate at least one of those numbers.

20 And so if you get one from your father and one from
21 your mother, you're going to donate two per individual. And
22 if we take a look at this, we can actually see just based on
23 the allele table there's at least five there with additional
24 in those star positions on the actual graph that I have.

25 So based on those numbers and how many peaks we

1 see, we determine the number of people that are there.

2 Q Okay. And with regards to DNA profile, with the
3 exception of identical twins or triplets, things of that
4 nature, is everybody's DNA profile unique?

5 A Yes.

6 Q With regards to lab item 2.1, which is the red and
7 black gloves that I just had up on the overhead, were you
8 able to extract what's referred to as a major contributor DNA
9 profile?

10 A I was.

11 Q What is a major contributor?

12 A So a major contributor within a mixture just means
13 that they contributed the most DNA to that profile.

14 Q And with regards to this major contributor profile,
15 were you able to make any other determinations with regards
16 to whose DNA it was?

17 A I was.

18 Q And what determinations were you able to reach?

19 A May I refer to my report?

20 Q Would that refresh your recollection?

21 A It would.

22 MS. MERCER: Your Honor, may she refer to her
23 report, please?

24 THE COURT: Do you have it there?

25 THE WITNESS: I do.

1 MR. TANASI: No objection.

2 THE COURT: You have -- do you have copies of the
3 report?

4 MR. TANASI: We do.

5 MS. LOBO: Yes.

6 MR. TANASI: Thank you.

7 THE COURT: All right. Yes, go ahead.

8 THE WITNESS: Thank you. In regards to the major
9 profile obtained from the right red and black glove, I
10 associated it with Brandon Starr.

11 MS. MERCER: Court's indulgence, Your Honor.

12 THE COURT: Yes.

13 BY MS. MERCER:

14 Q And I'm just going to publish up here the known
15 profile for Brandon Starr. How is it that you determined
16 that that DNA profile -- the major contributor to that DNA
17 profile was Brandon Starr?

18 A So at the end of our comparisons, once I have, you
19 know, made my interpretation and conclusions based on that
20 profile, at the very end, I will then take the known
21 standards that we've developed from those referenced buccal
22 swabs that we took from each of the subjects involved and
23 compare the profile to the profile obtained from the
24 evidence.

25 Q Okay. So here we can see that there's a 15 each of

1 these locations, a 20 and a 32, an 8 and a 10, a 10 and 11, a
2 16 and a 17, a 7 and a 9.3, a 9 and 11, a 13, a 19 and 20, a
3 12 and 14, 14 and a 16, an 8 and a 9, a 13 and a 15, an X and
4 a Y, a 13 and a 21 and 22.

5 A Correct.

6 Q And that's how you're able to determine that it's
7 Brandon Starr's DNA on that left glove?

8 A Yeah. Actually, the second column right next to the
9 red and black gloves says major profile. So I actually have
10 pulled out the specific allele table for that major component
11 and then that's what, yes, I would have compared to the known
12 profile.

13 Q And I apologize if I missed it, but with regards to
14 the major DNA profile that you extracted, how often would you
15 expect to see that profile or how frequently?

16 A Any time that we make a comparison, we also apply a
17 weight to it, so we provide a statistic to show how rare or
18 how common a profile is. In this particular case, I'll give
19 you the whole sentence: the probability of randomly
20 selecting an unrelated individual from the general population
21 having a DNA profile that is consistent with the full major
22 profile obtained from the evidence sample is approximately, 1
23 in 87.4 quintillion.

24 Q How many zeros is that?

25 A I believe, it is 18 zeros.

1 Q What is the population of the world?

2 A Population of the world is 7 billion.

3 Q So you would have to multiply the world's population
4 many times to come across that DNA profile again?

5 A Correct.

6 Q With regards to lab item 2.2, what was that?

7 A Lab item 2.2 is the swabbing of the inside of the
8 left red and black glove.

9 Q Of that same set of gloves?

10 A Correct.

11 Q And were you able to make any determinations in
12 regards to that DNA -- or that item of evidence?

13 A I was not.

14 Q Why is that?

15 A There's not enough information there for us to be
16 able to do anything with.

17 Q And we see several asterisks with regards to the
18 profile that you were able to extract?

19 A Correct. And like I said before, those astrices
20 (sic) mean that that's below a threshold in which we'll make
21 conclusions.

22 Q So the right glove had Brandon Starr's DNA on it and
23 with regards to the left glove, you just couldn't make any
24 determination at all?

25 A Correct.

1 Q With regards to lab item 3, that was a left gray and
2 red glove, correct?

3 A Correct.

4 Q And it was impounded by the crime scene analyst as
5 item number 10?

6 A Correct.

7 Q Publishing on the overhead State's 212. Is that the
8 item that you examined as item number 3?

9 A It is.

10 Q And you followed all the same procedures with
11 regards to that item of evidence?

12 A I did.

13 Q With regards to item number 3, which is this column,
14 correct?

15 A Correct.

16 Q This box. What determinations were you able to
17 reach with regards to that item of evidence?

18 A I was able to call it a mixture and was also able to
19 pull out a major profile.

20 Q And were you able to make any determinations as to
21 who that major profile belonged to?

22 A I was.

23 Q What determinations did you reach?

24 A The major profile is consistent with Brandon Starr.

25 Q And how often would you expect to come across that

1 DNA profile (inaudible)?

2 A They were both the same profile in its entirety so 1
3 in 87.4 quintillion.

4 Q With regards to the major profiles -- I'm going to
5 back up to lab item 2.1 -- the major profile that you
6 extracted in lab item 2.1, were you also able to make some
7 exclusions?

8 A I was, in regards to the major component only.

9 Q And that's this column here labeled major?

10 A Correct.

11 Q Who did you exclude from contributing to that major
12 profile?

13 A In regards to item 2.1?

14 Q Yes, Your Honor -- yes, ma'am, sorry.

15 A Just want to check. I was able to exclude Donte
16 Johns and Tony Hobson.

17 Q Okay. Now going back to lab item 3, were you able
18 to make any exclusions with regards to the major DNA profile
19 that you obtained from that item of evidence?

20 A Same exclusions, Donte Johns and Tony Hobson.

21 Q Now, you indicated that you also examined another
22 pair of gloves?

23 A I did.

24 Q And that was lab -- what you labeled lab item number
25 4, but which was impounded by the crime scene analyst as item

1 number 11?

2 A Correct.

3 MS. MERCER: Court's indulgence.

4 BY MS. MERCER:

5 Q Showing you on the overhead State's 216. Is this
6 the other pair of gloves that you examined?

7 A That is not item 4. That's --

8 Q Which item is that? I'm sorry, that's item 6.

9 A Yes, it is.

10 Q Sorry. You examined this item, correct?

11 A I did examine that item.

12 Q And was it a set of gloves or just one glove?

13 A It was a set of gloves impounded separately, I
14 believe.

15 Q Did you do the same thing that you did with the
16 first set of gloves, swab each -- the inside of each glove?

17 A I did.

18 Q And with regards to lab item 6, were you able to
19 make any determinations?

20 A I was.

21 Q What determinations were you able to reach?

22 A So in this particular -- with this particular item
23 of evidence, I was again, able to call it a mixture but
24 isolate a partial major profile from that mixture.

25 Q And with regards to lab item 6, it's specifically

1 the left Snap On glove, correct?

2 A Correct.

3 Q You indicated you extracted a partial major profile?

4 A Correct.

5 Q Were you able to make any other determinations with
6 regards to that partial major profile?

7 A The partial major profile is consistent with Tony
8 Hobson. And again, the probability of randomly selecting an
9 individual -- an unrelated individual from the general
10 population having a DNA profile consistent with the evidence
11 sample, is approximately, 1 in 39.5 billion.

12 Q With regards to that partial major profile, were you
13 able to make any exclusions?

14 A I was. Brandon Starr and Donte Johns are excluded
15 from the partial major profile.

16 Q And lab item 8 was a right snap on-glove --

17 A Correct.

18 Q -- correct? That was impounded as item number 17 by
19 the crime scene analyst?

20 A Correct.

21 Q Were you able to make any determinations with
22 regards to that item of evidence?

23 A Again, I was able -- I determined it was a mixture
24 and the partial major DNA profile obtained from that is
25 consistent with Tony Hobson.

1 Q And that's depicted in the top second column in from
2 the left and a partial major profile, which is right next to
3 it?

4 A Correct.

5 Q What determinations did you reach with regards to
6 that partial major profile?

7 A Again, it is consistent with Tony Hobson, and the
8 probability of randomly selecting an unrelated individual
9 from the general population having a DNA profile that is
10 consistent with the evidence sample is approximately, 1 in
11 400 quintillion. Brandon Starr and Donte Johns are excluded
12 from the partial major DNA profile.

13 Q Thank you. And were you also asked to examine some
14 knit gloves?

15 A I was.

16 Q Were those -- those were lab items 4, 4.1, 4.1.1,
17 4.1.2, 4.2, 4.2.1 and 4.2.2, correct?

18 A Correct.

19 Q And it starts in the bottom row, third column in
20 from the left, correct?

21 A Correct.

22 Q And publishing 218 on the overhead. Are these those
23 gloves?

24 A They are.

25 Q With regards to lab item 4.1.1, what was that?

1 A So 4.1.1 is actually the swabbing of the outside of
2 one knit glove. And I just want to mention this
3 differentiates from the other set of gloves because there's
4 really only one way to wear those other set of gloves. In
5 regards to these knit gloves, sometimes it's hard for us to
6 tell whether the glove's inside or outside. We just can't
7 tell which part that is.

8 So in this particular case, I did take a separate
9 swabbing of the inside of one glove, the outside of that same
10 glove and then the same inside/outside swabbings. So four
11 samples of both gloves.

12 Q And with regards to 4.1.1, which glove was that, the
13 left or the right?

14 A It's hard to tell left and right-handedness with
15 these gloves.

16 Q Okay.

17 A You have to imagine that these are like cheap Dollar
18 Store gloves that you, you know, get for a dollar a pair when
19 it's wintertime.

20 Q When you swabbed what you believed to be the outside
21 of that glove, were you able to extract a DNA profile?

22 A I was. Again, I determined it was a mixture with
23 the full major DNA profile being consistent with Donte Johns.

24 Q And how frequently would -- can you quantify that
25 for the jurors?

1 A Again, the probability of randomly selecting an
2 unrelated individual from the general population having a DNA
3 profile that is consistent with the one we obtained from the
4 evidence sample is approximately, 1 in 369 sextillion.

5 Q And the major profile is here in this right column?

6 A Correct.

7 Q Were you able to make any exclusions with regards to
8 that major DNA profile?

9 A Yes. Brandon Starr and Tony Hobson are excluded
10 from the full major profile.

11 Q What was lab item 4.1.2?

12 A Was the swabbing of the inside of that same glove.

13 Q With regards to 4.1.2, were you able to make any
14 determinations?

15 A I did not obtain a DNA profile so no conclusions
16 could be made.

17 Q And that's what the NR represents?

18 A Yes, no results.

19 Q What was 4.2.1?

20 A Was the swabbing of the outside of the other glove.

21 Q And is that in this second column from the left on
22 the top row?

23 A Yes, I believe so.

24 Q With regards to your work on that item, did you
25 extract an actual DNA profile?

1 A I did.

2 Q And was it also a mixture profile?

3 A It was.

4 Q Could you tell approximately, how many individuals
5 contributed to that mixture profile?

6 A I determined that there were at least three
7 individuals contributing to this mixture.

8 Q Were you able to develop a major profile?

9 A I was. A partial major profile.

10 Q With regards to the partial major profile on that
11 item of evidence, were you able to reach any conclusions?

12 A I found it to be consistent with Donte Johns with a
13 statistic of 1 in 454 million.

14 Q Were you able to make any exclusions with regards to
15 that item of evidence?

16 A Brandon Starr and Tony Hobson are excluded from the
17 partial major profile.

18 Q With regards to 4.2.2, which is here in the top
19 right column, what was that?

20 A Again, I got no results. NR, no results, so nothing
21 to compare, nothing to interpret.

22 Q And 4.2.2 was a swabbing of the inside of the other
23 glove?

24 A Correct.

25 Q Or what you believe to be the inside?

1 A As it was presented to me.

2 Q Okay. And then what was lab item number 5?

3 A Was a yellow surgical type face mask.

4 Q Which was impounded as CSA item 12?

5 A Correct.

6 Q With regards to mixture profiles, are you able to --
7 when you say that you can determine that there are at least
8 three contributors to the profile, are you able to say
9 whether all three of those people are male or female?

10 A No.

11 Q What can you draw with regards to the sex of the
12 contributor and how?

13 A We can usually only determine if a male is present.
14 We can't tell you how many male are present based on that one
15 marker. So here on the allele table, if you look at the
16 amelogenin, which is the third from the bottom, the top of
17 the red box, there are only two choices when we develop a
18 genetic profile there. It's either an X or a Y. And we know
19 that a male profile is always going to have an XY. So if
20 there's a present there -- or if there's a Y present at that
21 location, I can only tell you that he's present, but not how
22 much of that Y was contributed.

23 Q Okay. And publishing on the overhead State's
24 Exhibit 219. Is this the mask that you examined as lab item
25 number 5?

1 A It is.

2 Q With regards to your work on lab item number 5, were
3 you able to make any determinations with regards to whether
4 or not there was a DNA profile present?

5 A I was able to determine that there was a mixture of
6 at least four individuals with at least one being male.

7 Q And were you able to extract a major profile?

8 A I was. I was able to pull a full major DNA profile
9 being consistent with Brandon Starr.

10 Q And the major profile is in the column (inaudible)?

11 A Correct.

12 Q Were you able to make any exclusions with regards to
13 that profile?

14 A Donte Johns and Tony Hobson are excluded from the
15 full major profile.

16 Q And the full major profile that you extracted from
17 that item of evidence, could you quantify that for the
18 jurors, please?

19 A 1 in 87.4 quintillion.

20 Q You also indicated that you examined an axe in this
21 case?

22 A I did.

23 Q That was what you labeled lab item number 9, but was
24 impounded by the crime scene analyst at number 3, correct?

25 A Correct.

1 Q Showing you on the overhead State's 208. Is this
2 the axe that you examined with regards to this case?

3 A It was.

4 Q With regards to the work you did on the axe, were
5 you able to extract any DNA profiles?

6 A I was able to -- I was able to develop a mixture
7 profile, but I wasn't able to make any conclusions on this --
8 on this particular profile.

9 Q And with regards to the axe, it's on the third page
10 of this exhibit, and it's the top right column, correct?

11 A Correct.

12 Q And why were you not able to make any other
13 conclusions with regards to that sample?

14 A Because you can see just based on the allele table,
15 there are many of those astrices on there and as we mentioned
16 before, anything with an asterisk indicates it's below the
17 threshold with which we make conclusions on any given
18 profile.

19 Q Were you also asked to examine another yellow mask
20 in this case?

21 A I was.

22 Q Was that lab item number 7, which was impounded as
23 -- by the crime scene analyst as item number 16?

24 A It was.

25 Q Showing you 221. Does that appear -- let me zoom

1 out. Does that appear to be the mask that you examined as
2 lab item number 7?

3 A It does.

4 Q With regards to the examination of that mask, were
5 you able to extract a DNA profile?

6 A I was. I obtained a mixture.

7 Q Were you able to make any further conclusions with
8 regards to that mask?

9 A I was not.

10 Q And why was that?

11 A For the similar reasons that we stated with the
12 original mask, there wasn't enough information above our
13 interpretation threshold for me to be able to make any
14 additional conclusions.

15 Q You also indicated that you examined some swabs in
16 this case?

17 A Correct.

18 Q Specifically, you examined a swab that was taken
19 from a revolver?

20 A Correct.

21 Q And was that what you labeled lab item number 10 and
22 which was impounded by the crime scene analyst at item number
23 22?

24 A It was.

25 Q With regards to that swab, and that's in the bottom

1 row far left, correct?

2 A Correct.

3 Q Were you able to make any conclusions with regards
4 to -- or were you able to extract any DNA from --

5 A I was.

6 Q -- the bottom of the swab?

7 A Yes.

8 Q Were you able to make any conclusions from the DNA
9 that you extracted from the swab?

10 A Yes. In this particular case, I was able to
11 identify a partial DNA profile consistent with Brandon Starr.

12 Q And could you quantify that for the jurors, please?

13 A And again, the probability of randomly selecting an
14 individual, an unrelated individual from the general
15 population having a DNA profile that is consistent with the
16 DNA profile I developed from the item of evidence is 1 in 193
17 million.

18 Q Were you able to make any exclusions with regards to
19 that item of evidence?

20 A Donte Johns and Tony Hobson are excluded.

21 Q Were you also asked to examine a swab from those
22 obtained from a Ruger?

23 A I was.

24 Q Was that what you labeled item number 11, and which
25 the crime scene analyst impounded as item number 23?

1 A It was.

2 Q That's depicted in the column next to that one,
3 second in from the left on the bottom?

4 A Correct.

5 Q Were you actually able to develop a DNA profile from
6 that swab?

7 A I was not.

8 Q Did you also examine a swab taken from a magazine
9 that was associated with that Ruger?

10 A I did.

11 Q Was that what you labeled lab item number 12, and
12 which was impounded by the crime scene analyst at item number
13 24?

14 A It is.

15 Q Is that depicted in the third column from the left
16 on the bottom?

17 A It is.

18 Q And were you able to make any determinations from --
19 or were you able to extract DNA from that swab?

20 A Not enough to make a conclusion.

21 Q Were you also asked to examine a swab taken from the
22 axe that you also examined?

23 A I was.

24 Q Were you able to extract a DNA profile from that
25 swab?

1 A Not enough to make conclusions.

2 Q And that's in the last column, right --

3 A Correct.

4 Q -- on the bottom row? Okay. So just to summarize,
5 you were able to determine that with regards to the gray and
6 red glove, there was a mixture profile with a major
7 contributor being Brandon Starr?

8 A Correct.

9 Q And with regards to the Snap On gloves, you were
10 also once again, able to determine that there was a mixture
11 profile?

12 A Correct.

13 Q And the Snap On gloves were consistent with who?

14 A Both were consistent -- the major profile was
15 consistent with Tony Hobson.

16 Q And then with regards to the other red and black
17 gloves, the Grease Monkey gloves, what determinations were
18 you able to reach with regards to those gloves?

19 A There was only one glove, correct?

20 Q Correct.

21 A And I was --

22 Q Or no, I apologize, there were two gloves.

23 MS. MERCER: Court's indulgence.

24 BY MS. MERCER:

25 Q It would be --

1 A I'm sorry, what color did you ask me?

2 Q It was line item 2.1 and lab item 2.2.

3 A The 2.1, the right red and black glove, the major
4 profile was consistent with Brandon Starr. And the left red
5 and black glove, I was not able to make any conclusions.

6 Q And those gloves were impounded by the crime scene
7 analyst as item number 9, right?

8 A Correct.

9 Q Now I'm going to fast forward just a bit. After you
10 conducted your -- actually, publishing 210 on the overhead.
11 Those are the other red and black gloves, correct?

12 A Correct.

13 Q 2.1 and 2.2?

14 A Yes.

15 Q Fast forwarding after you did your work, did your
16 lab adopt some new policies with regards to interpreting
17 mixture profile?

18 A We did.

19 Q Why did you do that?

20 A So as of June or July of last year, ASCLAD, American
21 Society of Crime Lab Directors, which we mentioned briefly at
22 the beginning, mandated that all forensic laboratories that
23 they oversee across the nation were to provide -- were
24 required to provide that supporting data for the procedures
25 that they have in place.

1 So we took a look at our procedures, and we did, in
2 fact, determine that the data that we generated during the
3 validation of our original mixture interpretation procedures
4 was good. However, at this time, we as the LVMPD forensic
5 lab, decided to use this as an opportunity to make our
6 interpretation procedures a little more robust and add a
7 little more consistency from analyst to analyst when we
8 actually do approach our interpretation with these mixtures.

9 So we did on internal studies. We were able to
10 determine a mathematical basis for some of the choices that
11 we make when we are interpreting, and as a result of
12 implementing those choices, we had to change our procedures
13 to account and reflect those changes.

14 Q Okay. But going back to September 2015, the methods
15 that you used at the time and the interpretation protocol
16 that you followed at the time were deemed good procedures,
17 correct?

18 A Correct.

19 Q You had been audited by both the FBI and ASCLAD?

20 A Correct.

21 Q And they approved of those procedures?

22 A Yes. What we were doing wasn't wrong.

23 Q So with regards to the adoption of new procedures
24 pertaining to interpretation of mixture profiles, when the
25 lab adopts a new procedure like that, do you go back and

1 reexamine all the evidence that you examined so far?

2 A We do not.

3 Q Why not?

4 A It's just not possible. It's not worth the time.
5 It's not worth the resources. We would never get any work
6 done. Crime would never be solved. We also have to admit
7 that the science changes. You know, technology is constantly
8 evolving. So it's not realistic to apply what we have in
9 place today to what we, you know, had in place 10 or 15 years
10 ago or in this case even six months ago.

11 Q And there was nothing wrong with your prior
12 procedures, correct?

13 A Correct.

14 Q In fact, you could go back to doing that, and you'd
15 still be in compliance with ASCLAD and the FBI, correct?

16 A Correct.

17 Q With regards to this particular case, did you go
18 back and reinterpret the data that you'd already extracted?

19 A I did.

20 Q So you didn't reperform all the work that you'd done
21 in this case, correct?

22 A I did not.

23 Q You didn't go back and reextract DNA profiles,
24 correct?

25 A I did not.

1 you do photography first?

2 A We have to photograph the scene as it is before it's
3 disturbed.

4 Q So before you move any evidence, it's photographed
5 in place where it was located?

6 A Correct.

7 MS. MERCER: Permission to approach the witness
8 again, Your Honor?

9 THE COURT: Yes.

10 BY MS. MERCER:

11 Q And I'm going to hand you a stack of photographs,
12 but if you could do your best to keep them sorted --

13 A Okay.

14 Q -- that would help. It's State Exhibits 180 through
15 207.

16 A Okay.

17 Q Do you recognize those items?

18 A Yes, these are my photos.

19 Q Those are the photos that you took that night while
20 processing that scene?

21 A Correct.

22 Q Was there one particular vehicle that you focused a
23 significant amount of time on?

24 A Yes.

25 Q What vehicle was that?

1 A It was a silver Dodge Charger.

2 Q And where was it located?

3 A So it was in the south parking lot of a Fresh and
4 Easy at 3220 South Nellis, and it was just north of a Taco
5 Bell.

6 Q When you arrived on scene, what condition was that
7 vehicle in?

8 A The vehicle was parked, the front and rear passenger
9 doors were open, the front driver door was open and the trunk
10 was open.

11 Q Okay.

12 MS. MERCER: May I have it switched back to the
13 dock cam, please.

14 BY MS. MERCER:

15 Q And it was within the custody of patrol officers and
16 detectives, correct?

17 A Correct.

18 Q To show that nothing was tampered with?

19 A Correct.

20 Q Showing you State's Exhibit 180. Is this the
21 condition in which the vehicle was when you arrived on scene?

22 A Yes.

23 Q So the front left -- or the front driver's side door
24 was open, the trunk was open, and then showing you 181, the
25 passenger side doors were also open?

1 A Correct.

2 Q And a better photograph, in 183, it shows that both
3 the front and rear passenger doors were open?

4 A Yes.

5 Q Did you do anything to document the license plate of
6 that vehicle?

7 A Yes, I did.

8 Q What did do you?

9 A I took a photograph of it.

10 Q Showing you 182, is that the license plate that you
11 photographed that belonged to that vehicle?

12 A Yes, it is.

13 Q And for the record, the license plate number is
14 793ASX; is that correct?

15 A Correct, yes.

16 Q And that's a Nevada license plate?

17 A Correct.

18 Q Showing you State's Exhibit 184. Is this just a
19 front view of that same vehicle?

20 A Yes.

21 Q Going back to State's Exhibit 183, there are some
22 items on that front passenger seat as well as the floorboard,
23 correct?

24 A Correct.

25 Q We'll come back to those in a second. Showing you

1 State's 185. Is this a photograph that you took of the
2 driver's seat of that vehicle?

3 A Yes.

4 Q And there appears to be on a phone on the seat?

5 A Correct.

6 Q Showing you State's 186, is this a closer photograph
7 of the front passenger seat?

8 A Yes.

9 Q And the purpose of this photograph is to document
10 the location of the items on the seat and on the floorboard?

11 A Correct.

12 Q Showing you State's Exhibit 187. Is this a
13 photograph of the back seat of that vehicle?

14 A Yes, it is.

15 Q After you photographed the vehicle, did you begin
16 removing some items that were significant to the
17 investigation from the vehicle?

18 A Yes, I did.

19 Q Starting with the trunk, I'm showing you State's
20 Exhibit 188. This is the trunk of that vehicle, correct?

21 A Correct.

22 Q With regards to the trunk, you removed several
23 pieces of evidence, correct?

24 A Yes.

25 Q When you're handling evidence, what methods do you

1 use to ensure that evidence isn't -- that its integrity is
2 maintained? In other words, so you don't contaminate the
3 evidence.

4 A So we wear latex or nitrile gloves before handling
5 of any evidence and we switch them between items of evidence.

6 Q With regards to the trunk, did you locate a revolver
7 in that trunk?

8 A Yes, I did.

9 Q Where specifically did you locate it?

10 A I believe, it was under some of these items of
11 clothing or -- that are in the trunk.

12 Q Okay. Showing you State's Exhibit 189. When you
13 were documenting the trunk, did you remove layers of items
14 from the trunk?

15 A Yes, I did.

16 Q And is that what this is? This is a closer
17 photograph?

18 A Correct.

19 Q Showing you State's Exhibit 190, this is a
20 photograph showing the location of some gloves that you
21 ultimately recovered, correct?

22 A Correct.

23 Q And with regards to State's Exhibit 191, is this a
24 photograph of those gloves?

25 A Yes.

1 Q Those same gloves that we just saw in relation to
2 the revolver --

3 A Correct.

4 Q -- and where it was recovered from?

5 A Yes.

6 Q Showing you State's Exhibit 192, is that a closer
7 photograph of that same revolver?

8 A Yes.

9 Q Showing you State's Exhibit 193, what is this a
10 photograph of?

11 A That is an identification shot of the revolver that
12 was removed from the trunk.

13 Q Where was this photograph taken?

14 A It was taken at the scene on a bag.

15 Q On a paper bag?

16 A Correct.

17 Q Do you do any anything to document the condition of
18 that firearm when you remove it from the vehicle?

19 A Yes, I do.

20 Q What do you do?

21 A So the firearm is photographed as-is and I
22 photograph it as I'm unloading it and manipulating it.

23 Q Do you also have to do anything to ensure that it's
24 safe to transport?

25 A Correct.

1 Q What do you do?

2 A Unload it.

3 Q Showing you State's Exhibit 194 -- well, do you
4 recall whether that gun was loaded or unloaded?

5 A There was one cartridge in it.

6 Q Showing you State's Exhibit 194, is that the
7 cartridge that was in the cylinder of that revolver?

8 A Correct.

9 Q And did you also document the serial number of that
10 firearm?

11 A Yes, I did.

12 Q Showing you 195, can you read that serial number?

13 A 0347119.

14 Q Did you ultimately impound that firearm into
15 evidence?

16 A Yes, I did.

17 MS. MERCER: May I have State's 274 and 274-A? May
18 I approach the witness, Your Honor?

19 THE COURT: Yes.

20 BY MS. MERCER:

21 Q Ma'am, I'm handing you what has been marked for
22 identification purposes as State's Proposed Exhibit 274 and
23 the contents is 274-A. Do you recognize what's contained
24 within this exhibit?

25 A Yes.

1 Q How do you recognize it?

2 A Several different ways. The evidence label that's
3 on the package has my initials and P number and my signature
4 on it as well as all the tape has my initials and P number on
5 it.

6 Q And does it appear to be in substantially the same
7 condition as when you impounded except for the fact that it's
8 been open by the parties?

9 A Correct.

10 MS. MERCER: Your Honor, at this point, I would
11 move to admit 274 and 274-A.

12 THE COURT: Any objection?

13 MR. TANASI: No objection, Your Honor.

14 THE COURT: It will be admitted.

15 (Exhibits 274 and 274-A admitted)

16 BY MS. MERCER:

17 Q With regards to the packaging of this item, you
18 indicated that there were various ways that you could tell it
19 was the same thing you impounded. Is this the evidence label
20 that you were referring to?

21 A Yes.

22 Q What is this number right here?

23 A That's the event number that's associated with this
24 case.

25 Q So when you were dispatched to that location on

1 November 25th of 2014, it was under event number 141125-4029?

2 A Correct.

3 Q And you indicated that your initials on here
4 somewhere?

5 A Yes.

6 Q Could you please circle those for the jurors?

7 A Sure. My initials and P number -- is it circling?
8 Oh, there we go. Sorry. Are right there and then my
9 signature is right here.

10 Q When you say P number, what do you mean?

11 A It's the personnel number that I was given to by the
12 department.

13 Q So it's unique to each employee?

14 A Correct.

15 Q And then is this just a summary of the item that was
16 impounded?

17 A Yes.

18 Q And that says one Smith & Wesson six-shot revolver
19 and it goes on to further describe it?

20 A Correct.

21 Q This chemically processed, what does that mean?

22 A So every firearm that we recover, we swab it for
23 possible DNA and we also chemically process it for latent
24 prints.

25 Q Which occurs first and why?

1 A The swabbing for possible DNA occurs first because
2 the chemicals can degrade the DNA.

3 Q You also indicated that you could tell from the tape
4 on this box that you were the one that impounded it?

5 A Correct.

6 Q And specifically, with the color -- with regards to
7 the color of the tape, is that significant to you?

8 A The red evidence impound tape is what we use in the
9 crime scene investigation section.

10 Q Does the lab use a different color tape?

11 A Yes, I believe so.

12 Q What color tape do they use?

13 A Blue.

14 Q And then you placed your initials somewhere on this
15 -- like right there?

16 A Correct.

17 Q The edge, correct?

18 A Yes.

19 Q And 13572C?

20 A Yes.

21 Q And the tape is placed over the sides of the box so
22 you can tell if it's been tampered with?

23 A Correct.

24 Q With regards to 274-A, which is the actual gun, you
25 indicated that prior to chemically processing it, you swabbed

1 it for DNA?

2 A Correct.

3 Q Where specifically did you swab it?

4 A The firearm was swabbed on the hammer and the
5 trigger.

6 Q What is the hammer?

7 A This lever back here.

8 Q And when you say the trigger, what are you referring
9 to?

10 A The actual trigger itself.

11 Q Why do you swab those locations?

12 A So they're small and they're textured locations,
13 which are not conducive to latent prints so you're not going
14 to be able to get fingerprints there anyways. And they're --
15 because they're textured, they're good for potential touch
16 DNA.

17 Q So in other words, you can safely swab those
18 locations without concern that you're going to damage
19 potential fingerprints --

20 A Correct.

21 Q -- for the latent examiner later?

22 A Yes.

23 Q You indicated that you also chemically processed it
24 to determine whether there were any usable latent prints
25 latent prints --

1 A Yes.

2 Q -- or whether there were any prints period --

3 A Right.

4 Q -- on the firearm? How do you do that?

5 A So after I swab for DNA, the gun is placed into a
6 superglue tank and we call that cyanoacrylate, and it fumes
7 the gun and the superglue adheres to the gun. Then I applied
8 a chemical called R6G, and essentially, if there was any
9 ridged detail on the gun, the superglue will adhere to the
10 ridge detail and the chemical will enhance it.

11 Q With regards to the chemical processing of this
12 firearm, did you -- were you able to develop any latent
13 prints?

14 A No.

15 Q When you impounded this firearm, you impounded it as
16 package 13, item 22, correct? Or actually, I'm sorry,
17 package 1, item 1.

18 A Correct.

19 Q And then when you -- the swabs that you took of
20 those locations on the trigger and the hammer, you did
21 impound those separately?

22 A Yes, I did.

23 Q Can you describe for the jurors what that swab looks
24 like.

25 A It's basically just like a long Q-tip. We apply

1 deionized water to it and then we swab the area and then that
2 Q-tip goes into a little container and it's impounded.

3 Q And again, when you're handling the Q-tip, you're
4 using gloves and taking steps to make sure that the evidence
5 isn't contaminated, correct?

6 A Correct.

7 Q With regards to those swabs, they were impounded as
8 package 13, item 22?

9 A I believe so.

10 Q Did you use one or two swabs?

11 A One swab on the revolver.

12 Q So you used the same swab to do both of those
13 locations?

14 A Correct.

15 Q Did you also locate another firearm in the trunk?

16 A Yes, I did.

17 Q Where was that located?

18 A It was also in the trunk amongst all the clothing.

19 Q Going back to State's 188, specifically with regards
20 to this gray jacket. Was the firearm located within that
21 gray jacket?

22 A I don't recall from that photo.

23 Q Showing you 196, does it appear to have been located
24 in that gray jacket?

25 A Yes.

1 Q Showing you 197, what is this a photograph of?

2 A That is a photograph of the firearm.

3 Q And specifically, it's documenting that it's a Storm
4 Ruger?

5 A Correct.

6 Q And this 45 at the top means .45 caliber?

7 A Yes.

8 Q Do you recall whether that firearm was loaded when
9 you impounded it?

10 A There was nothing in the chamber, but there were
11 seven rounds in the magazine.

12 Q Showing you 198, is this the photograph that you
13 took to document the condition in which that firearm was
14 recovered?

15 A Correct.

16 Q And those are the cartridges, unspent cartridges
17 that were in the magazine of that firearm?

18 A Yes.

19 MS. MERCER: May I have 275, please. Permission to
20 approach, Your Honor?

21 THE COURT: Yes.

22 BY MS. MERCER:

23 Q Ma'am, I'm now handing you what's been marked for
24 identification purposes as State's Proposed 275 and the
25 contents 275-A. If you could take a look at that and tell me

1 whether you recognize it?

2 A Yes.

3 Q Is this the Ruger that you impounded it?

4 A Yes, it is.

5 Q And does it appear to be in substantially the same
6 condition as when you impounded it except for the fact that
7 the box has now been opened by the parties?

8 A Correct.

9 MS. MERCER: Your Honor, I would move for the
10 admission of 275 and 275-A.

11 THE COURT: Any objection?

12 MR. TANASI: No objection, Your Honor.

13 MR. MANINGO: No objection.

14 THE COURT: It will be admitted.

15 (Exhibits 275 and 275-A admitted)

16 BY MS. MERCER:

17 Q And with regards to 275, the box, we see the same
18 indications that you impounded it and when?

19 A Yes.

20 Q Did you also swab this firearm for --

21 A Yes.

22 Q -- potential DNA?

23 A Yes, I did.

24 Q See if I can get the whole thing on here. Where
25 specifically did you swab with regards to this firearm?

1 A So this one was swabbed on the trigger. The slide,
2 because it's a textured surface so not conducive to latent
3 prints -- or I'm sorry, the -- the grips, and these kind of
4 textured portions on the slide.

5 Q And why did you swab those textured portions on the
6 slide?

7 A Again, because they're not conducive to latent
8 prints so I knew I wouldn't ruin any potential evidence.

9 Q And when you say not conducive to latent prints,
10 specifically with regards to the grip, what do you mean?

11 A So it's textured. It's not a smooth surface, but
12 it's also a surface that is clearly touched by someone who
13 handles the firearm so it's good for touch DNA.

14 Q And this specific firearm is what's referred to as a
15 semi-automatic firearm, correct?

16 A Correct.

17 Q When you impounded this firearm, you impounded it as
18 package 3, item 2; is that correct?

19 A Yes.

20 Q Were the swab -- was the swab impounded separately?

21 A Yes.

22 Q And was that package 13, item 2?

23 A I can't recall.

24 Q Would it refresh your recollection to see a copy of
25 your report?

1 A Yes.

2 Q Do you have it with you, by any chance?

3 A I do, yes. Can I --

4 MS. MERCER: Your Honor, may she refer to her
5 report to refresh her recollection?

6 THE COURT: Yeah, yes.

7 THE WITNESS: Package number 13, item 23.

8 BY MS. MERCER:

9 Q With regards to the magazine on this firearm, was it
10 impounded separately from the actual firearm itself?

11 A Yes, it was.

12 Q Was the magazine impounded as package 4, item 2A?

13 A Yes, it was.

14 Q And were the cartridges packaged separately from the
15 magazine?

16 A Yes.

17 Q Were those item 2B?

18 A Yes.

19 Q Did you also swab the magazine?

20 A Yes, I did.

21 Q Where did you swab on the magazine, if you recall?

22 A The bottom and the feeding area.

23 Q Okay. I'm looking specifically at State's 198. If
24 you could identify those places for the jurors.

25 A So this plastic portion on the bottom and then the

1 feeding area up here.

2 Q Those swabs are also impounded?

3 A Correct.

4 Q Separately? And were those impounded as package 13,
5 item 24?

6 A Yes.

7 Q Did you also process this firearm chemically for
8 latent prints?

9 A Yes, I did.

10 Q And did you follow both of those same steps, the
11 superglue and what is it called?

12 A The R6G, and yes, I did.

13 Q What results did you obtain from that?

14 A There was partial ridged detail on the slide.

15 Q Now, with regards to the recovery of latent prints,
16 you are not one that actually makes the comparison, correct?

17 A Correct.

18 Q Same thing with DNA?

19 A Yes.

20 Q You don't do any DNA analysis?

21 A No, I do not.

22 Q Sticking with the trunk, did you also locate -- or
23 did you also impound the orange axe-like object depicted in
24 State's Exhibit 189?

25 A Yes.

1 Q Showing you State's 208, you impounded that as item
2 3, correct?

3 A Correct.

4 MS. MERCER: Your Honor, may I approach your clerk
5 again?

6 THE COURT: Yes.

7 MS. MERCER: May I have 277, please? May I
8 approach the witness?

9 THE COURT: Yes.

10 BY MS. MERCER:

11 Q Ma'am, I'm handing you what have been marked for
12 identification purposes as State's 277 and 277-A. If you
13 could take a look at those and tell me whether you recognize
14 them?

15 A Yes.

16 Q And how do you recognize them?

17 A Same, my initials and P number and signature on the
18 label and my initials and P number on the tape.

19 Q Do they appear to be in substantially the same
20 condition as when you impound them except for the fact that
21 they've been opened by the parties?

22 A Yes.

23 MS. MERCER: Move for the admission of 277 and
24 277-A.

25 THE COURT: Any objection?

1 MR. TANASI: No objection, Your Honor.

2 MR. MANINGO: No objection.

3 THE COURT: It will be admitted.

4 (Exhibits 277 and 277-A admitted)

5 BY MS. MERCER:

6 Q With regards to this particular package, this blue
7 tape right here, is that the blue tape that you indicated
8 that the forensic lab uses --

9 A Correct.

10 Q -- to reseal evidence? And specifically, with
11 regards to the label on this particular item of evidence,
12 there's another name down here, correct?

13 A Yes.

14 Q What is this portion of that evidence label used
15 for?

16 A A chain of custody.

17 Q And so this indicates that Crystal May with P number
18 9288 at some point accessed the contents of this box?

19 A Correct.

20 Q Publishing 277-A for the jurors. With regards to
21 this particular item of evidence, did you do anything to try
22 to develop latent fingerprints?

23 A No, I did not.

24 Q Did you swab it for DNA?

25 A Yes, I did.

1 Q Where did you swab on this particular item of
2 evidence?

3 A The handle.

4 Q And can you see that portion of the handle up on the
5 monitor or do I need to move it down?

6 A No, I can see it.

7 Q Could you circle it for the jurors, please?

8 A Yep.

9 Q And which package and item number did you impound
10 this hatchet as?

11 A Package 5, item number 3.

12 Q What about the swabs that you -- or the swab that
13 you impounded from the handle?

14 A May I refer to my report, please?

15 MS. MERCER: Your Honor, may she --

16 THE COURT: Yes.

17 MS. MERCER: Thank you.

18 THE WITNESS: That was package 13, item 25.

19 BY MS. MERCER:

20 Q Did you also with regards to the trunk locate a pry
21 bar that you impounded as evidence as well?

22 A Yes.

23 Q And was that underneath all of this clothing right
24 there?

25 A Yes.

1 Q Showing you State's 199, is this a photograph of
2 that pry bar that you impounded?

3 A Yes, it is.

4 Q Showing you 209, is this another photograph of that
5 pry bar with its item number?

6 A Yes, it is.

7 Q So you impounded it as item number 4?

8 A Correct.

9 Q Package 6?

10 A Yes.

11 Q Did you also impound these gloves and the mask?

12 A Yes, I did.

13 Q As well as the brown neck gaiter?

14 A Yes.

15 MS. MERCER: Permission to approach the witness,
16 Your Honor?

17 THE COURT: Yes.

18 BY MS. MERCER:

19 Q Ma'am, handing you what's been marked for
20 identification purposes as State's Proposed Exhibit 278. If
21 you could look at that bag and tell me whether you recognize
22 it?

23 A Yes, this is package 8 that I impounded.

24 Q And if we were to look inside of that packet, what
25 would we expect to find?

1 A There should be a brown neck gaiter, a pair of red
2 and black gloves, gray and red left-handed glove, two green
3 wool glove inserts and a yellow medical mask.

4 Q And if you wouldn't mind in just a second -- these
5 are for you.

6 A Okay, thank you.

7 Q Does that package appear to be in substantially the
8 same condition as when you impounded it, except for the fact
9 that it's been opened by the parties?

10 A Yes.

11 Q And if you could just glance into the envelopes that
12 are inside of that package. Do those also appear to be in
13 substantially the same condition?

14 A Yes.

15 MS. MERCER: And it would be for the record,
16 State's Exhibits 278-A through H, Your Honor, but -- and at
17 this point, I'd ask for -- I'd ask to admit those items.

18 THE COURT: Any objection?

19 MR. TANASI: No objection, Your Honor.

20 MR. MANINGO: No objection.

21 THE COURT: It will be admitted then.

22 (Exhibits 278-A through H admitted)

23 BY MS. MERCER:

24 Q If you could just remove the envelopes one at a time
25 for us, please.

1 A Okay.

2 Q And which item of evidence is that?

3 A This is item number 12.

4 Q And it's Exhibit 278-G for the record. If you could
5 remove it. And you indicated that you impounded item number
6 12?

7 A Yes.

8 Q Publishing on the jury 278-H. Is this the medical
9 mask that you impounded as item number 12?

10 A Yes, it is.

11 Q And is one side a different color from the other?

12 A Yes.

13 Q What side is this side?

14 A That appears --

15 Q I'm sorry, what color is it?

16 A Yellow.

17 Q And this side?

18 A White.

19 Q And this is the mask that's depicted in 199?

20 A Yes, it is.

21 Q With regards to that particular item of evidence did
22 you do anything to process it for latent prints or DNA?

23 A No.

24 Q Okay. And if you could pull out another one.

25 A Item number -- oh, this shouldn't be in this

1 package.

2 Q Okay. For the record, you've pulled out 278-I.
3 Okay. If you could pull those out.

4 A Okay.

5 Q And are those the -- a pair of the gloves that were
6 also in the trunk?

7 A Yes.

8 THE COURT: What number is that?

9 MS. MERCER: 278-J.

10 BY MS. MERCER:

11 Q Specifically, looking at 199, it's this -- this pair
12 of gloves, correct?

13 A Yes, it is.

14 Q Again, with regards to this piece of evidence, did
15 you do anything to process it for latent prints or DNA?

16 A I did not.

17 Q And if you could find another envelope, please.

18 A Item number 10.

19 Q Oh, and I'm sorry, those were (inaudible) -- going
20 back to the gray gloves that I have in my hand, which are
21 278-J, those were impounded as item number 15?

22 A No, they were impounded as item 11.

23 Q Okay.

24 A This is I. I don't know if that matters though.

25 Q Okay.

1 A And this is J.

2 Q You impounded them as your item number 11?

3 A Correct.

4 Q And then going back to 278-E, what is inside of that
5 envelope?

6 A This is a gray and red glove.

7 Q And the gray and red glove is in a bag labeled
8 278-F, for the record. Is that the gray and red glove that's
9 found in the trunk of the car right there?

10 A Yes, it is.

11 Q Publishing on the overhead 278-F. Is there a brand
12 name on here somewhere?

13 A Yes.

14 Q Specifically, right here?

15 A Correct.

16 Q And what brand of glove is that?

17 A DeMarini.

18 Q And you impounded that as item number 10?

19 A Yes, I did.

20 Q And then if you could grab another envelope.

21 A Item number 9.

22 Q And what is inside of that?

23 A It is a -- it's red and black gloves.

24 Q And the bag that those came out of is marked as
25 278-C. And you impounded these gloves, item number 9?

1 A Correct.

2 Q And is that the gloves that we see to the right in
3 this photograph?

4 A Yes.

5 MS. MERCER: Your Honor, do you mind if I open
6 these, if I put gloves on?

7 THE COURT: Sure. It's your evidence.

8 BY MS. MERCER:

9 Q Specifically, with regards to those gloves, do you
10 recall what brand they were?

11 A Grease Monkey.

12 Q And is that what's depicted in item number 9?

13 A Yes.

14 Q I'm sorry, in this photograph, which is labeled item
15 number 9, 210?

16 A Yes.

17 Q Did you also photograph the backside of those
18 gloves?

19 A I believe so.

20 Q Showing you 211. Is that the backside of those
21 gloves?

22 A Yes, it is.

23 Q So the only area where there appears to be any light
24 color is around the wrist area?

25 A I'm sorry, there appears to be what?

1 Q The only area on these gloves where there's a light
2 color is around the wrist area?

3 A Yes.

4 Q Back where the snaps are?

5 A Correct.

6 Q I'm showing you on the overhead 278-D. These are
7 those red and black gloves?

8 A Correct.

9 Q And the writing on the front of the hand is black?

10 A Yes.

11 Q And then the backside is black with red stitching?

12 A Correct.

13 Q If you could pull out another envelope, please.
14 What's inside of that envelope?

15 A This is item number 8, and it is a brown neck
16 gaiter.

17 Q And it's labeled 278-A in that envelope, correct?

18 A Correct.

19 Q That's the brown neck gaiter?

20 A Yes.

21 Q And the bag that it's contained in is 278-B,
22 correct?

23 A Yes.

24 Q And this is that neck gaiter that was also contained
25 in the trunk of the car?

1 A Yes.

2 Q Publishing on the overhead that brown neck gaiter.

3 THE COURT: Is that Exhibit 278-A?

4 MS. MERCER: That was 278-B, Your Honor.

5 THE COURT: Oh, the actual --

6 MS. MERCER: And it was inside of the envelope
7 labeled 278-A.

8 THE COURT: Okay.

9 BY MS. MERCER:

10 Q Was the entire contents of that bag?

11 A Yes.

12 Q And with regards to the red and gray glove, you also
13 photographed the front and backside of that, correct?

14 A Correct.

15 Q And there appears to be a letter on the front side
16 of that glove?

17 A Yes.

18 Q And item number -- I'm sorry, Exhibit No. 213 is the
19 backside of that glove?

20 A Correct.

21 Q And the one before that was 212. And showing you
22 State's Exhibit 218. Those are the gray gloves that we
23 pulled earlier that you impounded as item number 11, correct?

24 A Correct.

25 Q And showing you State's Exhibit 219, is that the

1 yellow side of that mask that you impounded as item number
2 12?

3 A Yes.

4 Q And item -- the other side of item 12, which is 220,
5 is that the white side?

6 A Correct.

7 Q Did you do anything to process the mask?

8 A I did not.

9 Q You also located other miscellaneous items of
10 clothing, correct?

11 A Yes.

12 Q Showing you State's Proposed Exhibit 200, those were
13 also located in the trunk, correct?

14 A Correct.

15 Q Moving up to the front passenger seat in the
16 vehicle. Showing you, once again, State's Exhibit 186. Did
17 you collect any items of evidence from the front passenger
18 side of that vehicle?

19 A Yes.

20 Q What did you impound?

21 A The glove and the mask.

22 MS. MERCER: May I approach the witness, Your
23 Honor?

24 THE COURT: Yes.

25 BY MS. MERCER:

1 Q Ma'am, I'm handing you what have been marked for
2 identification purposes as State's Exhibits 279, 279-E, 279-A
3 and 279-C. And if you could look at these and tell me
4 whether you recognize them.

5 A This package got switched with that other one, but
6 yes, these are all of my items.

7 Q Okay. And do they appear to be in fair -- in the
8 same condition as when you impounded them?

9 A Yes.

10 Q With the exception that they've been open?

11 A Correct.

12 MS. MERCER: Move for the admission of those
13 exhibits, Your Honor.

14 THE COURT: 279, 279-A, 279-B and 279-E?

15 MS. MERCER: Yes, Your Honor.

16 THE COURT: Any objection?

17 MR. TANASI: No objection, Your Honor.

18 MR. MANINGO: No objection.

19 THE COURT: It will be admitted.

20 (Exhibits 279, 279-A, 279-B and 279-E admitted)

21 MS. MERCER: And there would also be the contents
22 of those which I haven't pulled out yet. It would be 279-F,
23 279-B and 279-D, Your Honor.

24 THE COURT: Any objection to them admitted?

25 MR. TANASI: No objection, Your Honor.

1 MS. LOBO: No objection.

2 THE COURT: Okay. They'll all be admitted, then.

3 (Exhibits 279-F, 279-B and 279-D admitted)

4 BY MS. MERCER:

5 Q While I'm up here, did you also collect some knives
6 from the floorboard of that --

7 A Yes, I did.

8 Q Can you actually see them in the photograph?

9 A Kind of. They're up here.

10 Q Can you, what has been marked as State's 276, 276-A
11 and B, 276-C and D. If you could take a look at those and
12 tell me whether you recognize them.

13 A Yes. These are the knives that I impounded.

14 Q And do they appear to be in substantially the same
15 condition as when you impounded them?

16 A Yes.

17 MS. MERCER: I would move for the admission of --

18 THE COURT: Okay, hold on, Ms. Mercer.

19 MS. MERCER: Okay.

20 THE COURT: You're moving kind of fast with the --

21 MS. MERCER: Sorry.

22 THE COURT: You said 276 --

23 MS. MERCER: 276 --

24 THE COURT: -- A, B, C and D?

25 MS. MERCER: Yes.

1 THE COURT: All right. So you have four knives?
2 MS. MERCER: No, Your Honor, there's separate bags.
3 THE COURT: Okay, that -- that's what we need to be
4 clear on. Okay, so you have --
5 MS. MERCER: 27 --
6 THE COURT: -- 276.
7 MS. MERCER: A is the envelope.
8 THE COURT: Well, hold on. 276 --
9 MS. MERCER: Is the bag.
10 THE COURT: -- is the bag that holds --
11 MS. MERCER: Everything.
12 THE COURT: -- everything. 276-A is an envelope.
13 MS. MERCER: Correct. And then --
14 THE COURT: And 276 --
15 MS. MERCER: -- 276-B is the knife.
16 THE COURT: -- B is the knife.
17 MS. MERCER: And then --
18 THE COURT: 276-C is an envelope?
19 MS. MERCER: Correct.
20 THE COURT: And 276-D is a knife?
21 MS. MERCER: Correct.
22 THE COURT: Okay, all right.
23 MS. MERCER: Sorry. I would move for the admission
24 of all of those items, Your Honor.
25 THE COURT: Any objection?

1 MR. TANASI: No objection.

2 MS. LOBO: No, Your Honor.

3 THE COURT: All right. They'll all be admitted.

4 (Exhibits 276-A, B, C and D admitted)

5 MS. MERCER: I'm going to take these back
6 (indiscernible).

7 THE WITNESS: Okay.

8 BY MS. MERCER:

9 Q Showing you on the overhead 279. This indicates
10 what was impounded in that paper bag by you, correct?

11 A Correct.

12 Q And again, we see blue tape on this one?

13 A Yes.

14 Q Indicating that someone at the lab has handled it?

15 A Correct.

16 Q Publishing 279-F on the overhead. This is a red
17 glove, correct?

18 A Correct.

19 Q And it has white letters and a white emblem on the
20 outside?

21 A Yes.

22 Q And also white around the wrist?

23 A Yes.

24 Q And the opposite side is black, correct?

25 A Correct.

1 Q And it has the black wristband?

2 A Yes.

3 Q With regards to the gloves that you impounded from
4 the front seat, did you do anything to process them?

5 A No, I did not.

6 Q Showing you 279-D, which is the other glove.

7 Appears to be substantially the same, correct?

8 A Yes.

9 Q Red glove with white lettering and black backside?

10 A Correct.

11 Q Black wristband?

12 A Correct.

13 Q And that's the Snap On brand?

14 A Yes.

15 Q And showing you 279-B. Is this the backside of that
16 mask?

17 A Yes.

18 Q And is this the yellow side?

19 A Correct.

20 Q And does it appear to be similar to the one you
21 impounded from the trunk?

22 A Yes.

23 Q With regards to the red and black Snap On gloves, do
24 you recall which item number you impounded those as?

25 A No.

1 Q Would it be -- would it refresh your recollection to
2 look at your report?

3 A Yes.

4 Q Could you please do so.

5 A And can you tell me again which --

6 Q The red and black Snap On gloves?

7 A Red and black Snap On. Item 15.

8 Q With regards to the mask, do you recall what item
9 number you impounded that as?

10 A Item number 16.

11 Q Package 10?

12 A Correct.

13 Q And you also photographed those gloves, correct,
14 too?

15 A Yes.

16 Q Showing you 214 on the overhead. Is this the red
17 glove?

18 A Black glove.

19 Q I'm sorry. And is this the backside depicted in
20 215?

21 A Yes.

22 Q Showing you 216, is that the other glove?

23 A Yes.

24 Q That matches that pair?

25 A Correct.

- 1 Q Showing that it was impounded as item number 17?
- 2 A Correct.
- 3 Q And State's Exhibit 217, is that the backside of
- 4 that same glove?
- 5 A Yes, it is.
- 6 Q 221, is this the mask that was impounded as item
- 7 number 16 and came from the front of that -- the front
- 8 floorboard of that vehicle?
- 9 A Yes.
- 10 Q 222, is that the other side of that mask?
- 11 A Yes, it is.
- 12 Q You indicated that there was a better picture of the
- 13 location of those knives. Showing you up on the overhead
- 14 201. Is that a better photograph showing the location of the
- 15 knives?
- 16 A Yes.
- 17 Q And could you circle them for the jurors, please?
- 18 A This one here and then here.
- 19 Q Showing you on the overhead State's Exhibit 202,
- 20 what is this a photograph of?
- 21 A That is a photograph of both of the pocket knives.
- 22 Q Did you impound them separately?
- 23 A Yes, I did.
- 24 Q Showing you 223. What is this a photograph of?
- 25 A That is a photograph of one of the knives.

- 1 Q And is it Husky brand?
- 2 A Correct.
- 3 Q It was impounded as item number 18?
- 4 A Yes, it was.
- 5 Q Showing you 224, what is this a photograph of?
- 6 A That is the other knife.
- 7 Q (Inaudible) Smith & Wesson?
- 8 A Correct.
- 9 Q Publishing on the overhead for the jurors 276-B.
- 10 This is that Husky knife, but it's folded up, correct?
- 11 A Correct.
- 12 Q And 276-D, this is that Smith & Wesson knife folded
- 13 up?
- 14 A Correct.
- 15 Q Did you also impound several cell phones from that
- 16 vehicle?
- 17 A Two cell phones, yes.
- 18 Q And where were those cell phones located?
- 19 A There was one on the center console and one on the
- 20 rear left seat.
- 21 Q Did you also impound a blue and black backpack?
- 22 A Yes, I did.
- 23 Q Where was that located?
- 24 A I believe, that was on the rear left floorboard.
- 25 Q Showing you 187. It would have been on this side?

1 A Correct.

2 Q And did you also impound a valve stem puller?

3 A Yes.

4 Q Where did you impound that from?

5 A That was inside the backpack.

6 Q Once you were done at the scene, did you respond to
7 another location?

8 A Yes, I did.

9 Q What was the purpose of responding to another
10 location?

11 A I responded to LVMPD headquarters to photograph the
12 subject.

13 Q Showing you on the overhead State's Exhibit 203. Is
14 this the subject that you photographed?

15 A Yes.

16 Q Where is LVMPD headquarters?

17 A It is at 400 South MLK.

18 Q When you photograph a subject, do you take overall
19 photographs of that person?

20 A Yes.

21 Q Showing them from both sides and -- left side, right
22 side, front, back and their hands?

23 A Correct.

24 Q Showing you 204. Is this the right side of that
25 subject?

1 A Yes.

2 Q 205, is this the backside?

3 A Yes.

4 Q 206, is this the left side?

5 A Yes.

6 Q 207, is this the photograph that you took of the
7 subject with his hands removed from his pockets?

8 A Yes.

9 Q And he appears to have Band-Aids on his right hand?

10 A Correct.

11 Q Going back to State 210. Do these appear to have a
12 tear in the left finger?

13 A Yeah.

14 Q Hand?

15 A Yes, they do.

16 MS. MERCER: Court's indulgence, Your Honor.

17 BY MS. MERCER:

18 Q Once you were done at headquarters, did you then
19 return to the crime scene bureau and impound the evidence?

20 A Yes, I did.

21 Q Did you have any other further involvement with
22 regards to this case?

23 A No, I did not.

24 MS. MERCER: Your Honor, I'll pass the witness at
25 this point.

1 THE COURT: Cross.

2 MR. TANASI: Yes, briefly, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. TANASI:

5 Q Good afternoon, ma'am. My name is Rich Tanasi. I
6 represent Tony Hobson. I have a few questions for you on
7 cross, if that's okay.

8 A Okay.

9 Q All right, so you testified that you do, when you
10 normally do, you take pictures of suspects, correct?

11 A Correct.

12 Q And it's important to take a left side photo, right?

13 A Correct.

14 Q Right side photo, right?

15 A Correct.

16 Q Hands, correct?

17 A Correct.

18 Q Want to be thorough in that photography, right?

19 A Correct.

20 Q Okay.

21 MS. MERCER: Your Honor, may we please approach?

22 THE COURT: Yes.

23 (Off-record bench conference)

24 THE COURT: Okay.

25 BY MR. TANASI:

1 Q Ma'am, in this case, you referred to it a couple
2 times, you've prepared a report, correct?

3 A Correct.

4 Q And like I said, you've kind of used that to refresh
5 your memory a couple times, right?

6 A Correct.

7 Q Okay. Why do you prepare reports?

8 A We prepare reports so that we have a documentation
9 of what we did.

10 Q Okay. And is that important in any reason?

11 A So that we can recall what we did on that date.

12 Q Right. Because you can't remember everything,
13 right?

14 A Correct.

15 Q Got to put it down in a report, fair?

16 A Correct.

17 Q Thank you, ma'am.

18 MR. TANASI: Nothing further.

19 THE COURT: Ms. Lobo? Mr. Maningo, recross?

20 MR. MANINGO: No questions, Your Honor. Thank you.

21 (Pause in the proceedings)

22 THE COURT: You want to approach.

23 (Off-record bench conference)

24 THE COURT: Okay. Was the handle of the black
25 Smith & Wesson .38 revolver tested for traces of blood

1 evidence since it was used to hit witness in the head -- or
2 victims in the head?

3 THE WITNESS: Okay. Every time we impound a
4 firearm, we check it for trace evidence. So any kind of
5 tissue, blood, anything like that. Neither of the firearms
6 had any type of trace evidence on them, which is why they
7 were just then swabbed for possible DNA.

8 THE COURT: Okay. What is the size of the gloves
9 in the trunk?

10 THE WITNESS: I do not know.

11 THE COURT: What is the size of the pants in the
12 trunk?

13 THE WITNESS: I do not know.

14 THE COURT: Okay. Why didn't you perform DNA
15 testing on mask and gloves?

16 THE WITNESS: So when we impound articles of
17 clothing or anything like the gloves, the mask, I basically
18 leave that up to the DNA analyst. They can swab it
19 themselves. They can do all of that on their own that way
20 they know exactly where they got the swabs from.

21 THE COURT: Okay. This might be a repeat question,
22 but I'll ask it anyhow --

23 THE WITNESS: Okay.

24 THE COURT: -- okay? Why was the surgical mask
25 from the trunk not tested for DNA since Detective Weirauch

1 testified that Mr. Starr was wearing it when he got out of
2 the Charger?

3 THE WITNESS: Again, I just leave it up to the DNA
4 analyst to swab it themselves. The only reason I swabbed the
5 firearms is because I followed that up with chemical
6 processing. Otherwise, I would just impound the guns and let
7 the DNA analysts do that themselves as well.

8 THE COURT: Okay. If you know this, who's the gun
9 registered to with the wooden handle Smith & Wesson?

10 THE WITNESS: I believe, it was unregistered.

11 THE COURT: And who is the gun registered to with
12 black handle, the Ruger?

13 THE WITNESS: The serial number was obliterated so
14 I could not run the gun.

15 THE COURT: All right. Do you have any
16 questions --

17 MS. MERCER: I do.

18 THE COURT: -- as a result of those questions?

19 REDIRECT EXAMINATION

20 BY MS. MERCER:

21 Q Ma'am, did you document the size of the gloves that
22 you recovered from the vehicle, in your report?

23 A I may have.

24 Q Would it refresh your recollection if you looked at
25 a copy of that report?

1 A Yes, it would.

2 Q The impound report?

3 A Which gloves specifically, any?

4 Q With regards to the gloves in the trunk, let's start
5 with the Grease Monkey gloves.

6 A Okay.

7 Q The red and black gloves.

8 A Yes.

9 Q What size were those?

10 A Those were size large.

11 Q With regards to the gray and red DeMarini left-hand
12 glove that you impounded, what size was that?

13 A Extra large.

14 Q With regards to the two green or gray wool glove
15 inserts that you impounded?

16 A Those were side large.

17 Q And then with regards to the gloves that you
18 impounded from the front, the Snap On gloves, what sizes were
19 those?

20 A Those were both size large.

21 Q With regards to the obliterated serial number, you
22 have to have a serial number in order to trace a firearm,
23 correct?

24 A Correct.

25 Q And because that serial number was obliterated you

1 couldn't run that -- check on that firearm?

2 A Correct.

3 Q With regards to the various items of clothing that
4 you impounded from the trunk, do you recall what sizes those
5 were?

6 A Yeah, if it's in my impound report.

7 Q Specifically, with regards to the green fleece
8 jacket, which is depicted in 188 right here.

9 A Yes.

10 Q What size was that?

11 A Medium.

12 Q And with regards to the Passion Jacket, which is
13 (inaudible), what size was that?

14 A That was size medium.

15 Q And then there was a jacket with an orange stripe
16 which is over here in this photograph. What size was that?

17 A Extra large.

18 MS. MERCER: Court's indulgence. No further
19 questions, Your Honor.

20 MR. TANASI: No follow-up, thank you.

21 MR. MANINGO: Nothing else, Your Honor. Thank you.

22 THE COURT: Before she leaves, did you have any --
23 what do you want to do with those exhibits?

24 MS. MERCER: Your Honor, the State would move for
25 the admission of 278-I and -- H and I -- or I and J.

1 (Pause in the proceedings)

2 THE COURT: So do you have any objection to I and J
3 being admitted?

4 MR. TANASI: No objection.

5 THE COURT: So all of 278 through -- except for I
6 and J had been moved to admit? So you have no objection to
7 that?

8 MR. TANASI: Correct, Your Honor.

9 MR. MANINGO: No objection.

10 THE COURT: And then I and J will be admitted now.

11 (Exhibits 278-I and J admitted)

12 THE COURT: Okay. Could the parties approach
13 again?

14 (Off-record bench conference.)

15 THE COURT: Okay. Are you aware if any follow-up
16 DNA testing was performed on the surgical mask or gloves?

17 THE WITNESS: I do not know.

18 THE COURT: And -- okay, so you wouldn't know the
19 next one -- the next question so --

20 THE WITNESS: Okay.

21 THE COURT: -- all right. Okay. Anything further?

22 MS. MERCER: No, Your Honor.

23 THE COURT: Okay. Anything further?

24 MR. TANASI: No, Your Honor.

25 MR. MANINGO: Nothing.

1 THE COURT: Okay. All right, thank you so much for
2 your testimony. You can step down. You're excused. Okay.
3 Thank you.

4 THE WITNESS: Thank you.

5 THE COURT: All right. So okay, ladies and
6 gentlemen, we're going to take our evening recess. Tomorrow
7 at 11:00 again. How many more witnesses do you anticipate?

8 MS. MERCER: At least three, Your Honor.

9 THE COURT: Yeah, okay. So during this overnight
10 recess, you're admonished not to converse amongst yourself or
11 with anyone else on any subject connected with this trial or
12 to read, watch or listen to any report, any commentary on the
13 trial by any person connected with this case or by any medium
14 of information, including without limitation, newspaper,
15 television, Internet or radio. You're further admonished not
16 to form or express any opinion on any subject connected with
17 this trial until the case is finally submitted to you.

18 Okay, ladies and gentlemen, we'll see you tomorrow,
19 11:00 o'clock, all right? We'll be at ease while the jury
20 exits the courtroom.

21 (Outside the presence of the jury)

22 (Pause in the proceedings)

23 THE COURT: Okay. We're outside the presence of
24 the jury. Is there anything that needs to be brought to the
25 Court's attention at this point?

1 MS. MERCER: No, Your Honor.

2 MR. TANASI: I don't think so, Your Honor.

3 MR. MANINGO: Well --

4 (Pause in the proceedings)

5 MR. TANASI: Judge, could we the Court's indulgence
6 for one second? We might be able to streamline things.

7 THE COURT: Okay.

8 (Pause in the proceedings)

9 MR. TANASI: Okay. So Judge, I think there is an
10 issue with one witness. I guess, we can put it on the record
11 now and --

12 THE COURT: Okay.

13 MR. TANASI: -- and maybe the defense can figure
14 out a way. But Detective Turner in this case is the
15 detective who impounds the items from the apartment that's
16 ultimately searched, which we haven't gotten to yet, but
17 we're getting there, I think, tomorrow Detective Abell.

18 Detective Turner, in her reports, gives
19 conflicting, contradicting versions of where the Popeye's
20 receipts were found. And so that's a very critical piece of
21 evidence in this case. And so what we have just learned in
22 trying to serve Detective Turner, is that she's out of town,
23 she's in Hawaii until Monday, and I think she's got -- and
24 could be available here on Tuesday of next week.

25 We ran this by the State, and in an effort to see

1 if we could admit those two reports from Detective Turner,
2 which reference statements made by Detective Abell, but also
3 a contradiction made by Detective Flynn as to where --
4 actually, I take that back. Detective Turner notes the
5 receipts are found in two different places, and she says she
6 gets both of them from Detective Abell.

7 THE COURT: Okay, so Detective Abell tells her I
8 found -- or something was found in one place, something was
9 found in another place?

10 MR. TANASI: Same thing was found in two different
11 places.

12 THE COURT: Okay.

13 MR. TANASI: And so the issue, obviously, is now
14 with her not being available to testify, we kind of went into
15 this assuming that Detective Turner would be a critical
16 witness the State would call. We didn't anticipate the
17 travel issue; otherwise, she wouldn't necessarily have been
18 noticed, we at least believe in the State's notice of
19 witnesses. We did notice her on our own as an endorsement,
20 you know, to all of our witnesses as well, but then like I
21 said, we've just now learned that she won't be here until
22 Tuesday. So our request is --

23 THE COURT: Did you subpoena her?

24 MR. TANASI: We did. We served her.

25 THE COURT: Okay. When did you tell her to be

1 Pizza Hut robbery?

2 A Yes, it is.

3 Q And now we're looking at the right Reebok shoe; is
4 that correct?

5 A Yes. This is the impression at the crime scene,
6 the lift that was taken from it and then the right shoe.

7 Q Slide 34.

8 A This is the item 4 lift on the left-hand side of it
9 and the item 2 right shoe next to it. And again, as I said
10 before, when you take your right shoe off and flip it around
11 and look at the bottom, it looks like a left shoe, and that's
12 what you see here.

13 Q And what does the blue arrow indicate?

14 A It points to this curved line that I could see in
15 the toe area. You could see that curved line in the same
16 area on that boot -- or excuse me, on that shoe. There looks
17 like a circle I could see there, and then there's a circle
18 here as well. You can see literally the word "Reebok" in the
19 crime scene impression and you can see it in the same
20 corresponding area on the bottom of that shoe. And this is
21 where I've superimposed the test impression to show you the
22 size correspondence.

23 Q Slide 35, would you explain this, please?

24 A These are the randomly acquired characteristics
25 that I saw in the blue area, you can see where there's a

1 crime scene impression. You can see where it is in the
2 known. On the test impression on the right-hand side where
3 it is on the known shoe and then there's another one on the
4 letters in the Reebok in the red box and then there was a --
5 a void area in the crime scene impression in the green box
6 that corresponded with a RAC on the bottom of the right shoe.
7 And I put that in a green box.

8 Q And do you enlarge each of these particularly
9 randomly acquired characteristics in subsequent slides?

10 A Yes. I did that so you can see it --

11 Q All right.

12 A -- better.

13 Q So which -- what are we looking at here in slide
14 36?

15 A This is the enlarged area of the blue one. You can
16 see the -- the RAC here. You can see how it prints, and then
17 can you see the actual damage that's on the -- that part of
18 the shoe in that particular area.

19 Q And in slide 37?

20 A And this slide you can see damage on the letter E
21 and I'll point that out, I'll mark on it.

22 Q Thank you.

23 A You can see like a void area here.

24 Q You want me to clear that for you?

25 A Can you clear that?

1 Q Yeah.

2 A That void area there is from the letter E, you can
3 see how it prints in the test impression. And you can see
4 that corresponding RAC or damage to the letter E on the
5 Reebok shoe. Same thing with the letter O, you can see the
6 void area that's there. You can see the void area here where
7 the letter O is broken at the top. And then you can see the
8 damage on the -- the letter O there in the center.

9 Q Okay. Thank you. And what are we looking at in
10 slide 38?

11 A There is a void area on this particular line. This
12 one's hard to show. As you enlarge some of these images it
13 gets pixilated or distorted, but you can see a slight void
14 area here. In the crime scene impression, you can see the
15 void area as that area prints on the known shoe. And then
16 you can see the actual damage or RAC that's on the shoe right
17 there.

18 Q Thank you, sir.

19 A And that's all from that green box. I've tried to
20 enlarge it below.

21 Q And slide 39, what was your conclusion as to the
22 white Reebok shoe?

23 A And so basically, what I could see it corresponded
24 in design wear and approximate physical size in this
25 particular case. With the right shoe it had RACs that were

1 in the crime scene impression that corresponded to RACs that
2 were found on the right shoe, and in my opinion, the right
3 shoe was identified as the source of the impression and
4 again, I would not expect to find another Reebok shoe with
5 those RACs that I pointed out to you. And so for those
6 reasons, in my opinion, that shoe made that impression.

7 Q Thank you. And now we'll move on to the El Pollo
8 Loco robbery from November 23rd, 2014, as reflected in slide
9 40.

10 A Yes.

11 Q (Inaudible).

12 A And this compares the item 1 lift from that
13 particular robbery.

14 Q And what are we looking at in slide 42?

15 A Well, on the left-hand side is the item 1 lift and
16 the item 3, item 4 boots. This particular impression, I was
17 not able to orient it with specifically the right or the left
18 shoe.

19 Q Okay. And what does the red arrow indicate?

20 A You can see that trilobe feature in the top and you
21 can also see it on the bottom of the outsoles for the right
22 boots at the right and left boot at the very top there. So
23 you can see that design similarity.

24 Q And the blue arrow.

25 A You can see those, again, those lines, parallel

1 lines in the center of the boot and you can see them in the
2 center of the boot there. This impression was -- did not
3 have a lot of detail in it. And so the design was similar,
4 and you can see how they were similar to the outsole design
5 on the bottom of their shoes. I couldn't orient it with
6 specifically a right or left shoe and so all -- due to those
7 limitations, although it's similar, I don't know whether or
8 not that shoe left the boot -- whether or not those boots
9 left that impression.

10 Q I'll move to the second lift that you received from
11 that El Pollo Loco robbery, slide 44. We'll go to slide 45.
12 What are we looking at here?

13 A Here is the impression on the right-hand side prior
14 to the lift taken. The center is a picture of the lift. And
15 on the right-hand side of the slide is the picture of the
16 outsole for the item 4 right boot.

17 Q Now, I think we -- I'm sorry, let me go back --
18 we've seen this before, but can you explain why there's --
19 the lift and the image appear elongated? What is that --
20 what does that signify to you? (Inaudible)?

21 A Well, at the top here there's some movement or
22 distortion. What you see there is slightly distorted in the
23 toe area. And again, as you can see, as I mentioned before,
24 the lift is oriented in a different direction. You put the
25 lift over it, turn it over, and it looks like it's reverse

1 from the crime scene impression.

2 Q Thank you. And slide 46, sir?

3 A And this is the item 2 lift on the left-hand side
4 and then the item 4 right boot on the right-hand side of the
5 slide. And again, there is a lot of distortion in the toe
6 area, but you can see that trilobe feature, and it also
7 appears on the bottom of the shoe and the toe area. Then you
8 can see those, it looks like a long thin arrow below. It's a
9 shorter, fatter arrow, if you will, and you can see that same
10 arrangement on the bottom of the item 4 right boot. And then
11 you can see in here, I'm pointing to these little -- they're
12 almost like a half moon type feature with a bar next to it,
13 and this is a half moon feature here and this would be the --
14 the bar here. And you can see those same features on the
15 bottom of the -- of the known shoe.

16 Q Thank you.

17 A And again, I'm trying to assess the physical size
18 correspondence. I can't really do it in the toe area because
19 there's a lot of movement there, but in the heel it
20 corresponds.

21 Q And your conclusion, slide 47?

22 A The -- that -- the impression on that lift, the
23 number -- item 2 lift from that robbery corresponds in
24 physical size and design with the heel area of the right
25 boot; and therefore, the item 4 boot could have made this

1 impression, and there were no RACs or identifying features or
2 individualizing features in the crime scene impression; and
3 therefore, I can't definitively say that the shoe made the
4 impression, but it could have made the impression.

5 Q Thank you. Slide 48.

6 A This particular slide summarizes my results with
7 both shoes and boots I got in the case. So reading from the
8 top under the item 1 boot, you can see that the item 1 and
9 item 2 shoes were eliminated as the source, the outsole
10 design was totally different, and that -- but the item right
11 4 boot could have made this impression.

12 Moving down to item 2 lift, and again from the
13 Pizza Hut robbery, the item 1 lift shoe I have identified as
14 a source of the impression. The item 3 and item 4 boots were
15 totally different design and they're eliminated. They could
16 not have made that particular impression.

17 Moving down to item 3 lift, from the Pizza Hut
18 robbery, again, the outsole design was different and so I
19 could eliminate the item 1 and item 2 shoes as having made
20 that impression. The item 3 left boot could have made that
21 impression. Item 4 lift, from that same Pizza Hut robbery,
22 again, I've identified the item 2 right shoe as having made
23 that impression. And the item 3, item 4 boots had a
24 different outsole design and I could eliminate them. They
25 could not have made the impression.

1 Moving onto item 1 lift under the El Pollo Loco
2 robbery and even the item 2 lift from that robbery, the item
3 1 and item 2 shoes were eliminated as a source of both of
4 these impressions. The outsole design or pattern on the
5 bottom of the shoe was totally different. So that pair of
6 shoes could not have made those impressions. For the item 1
7 lift from that El Pollo Loco robbery, I don't know whether or
8 not it made it, although, there were some design similarities
9 with the item 3 and item 4 boots.

10 And then on the second impression on the item 2
11 lift, it could have been made by the item 2 right boot, and
12 so this particular slide summarizes my exam results in this
13 case.

14 Q Just to be clear, sir, in this summary conclusion,
15 the item 1, item 2 shoes that you identify as the source of
16 lifts 2 and 4 in the Pizza Hut a robbery?

17 A Yes.

18 Q Okay. They correspond with State's 282-A --

19 A Yes, that's correct.

20 Q -- correct? Okay. And then the item 3 and 4 boots
21 that you identified could have made the impression at the
22 Pizza Hut robbery, (inaudible) are the same boots as State's
23 283-A?

24 A Yes, they are.

25 Q And again, these same boots were -- one was

1 identified as having could have been made the impression and
2 one had similar features but insufficient detail to determine
3 on the El Pollo Loco robbery on November 23rd, 2014?

4 A Yes, that's correct.

5 Q Okay. Thank you, sir.

6 THE COURT: Cross.

7 CROSS-EXAMINATION

8 BY MR. TANASI:

9 Q Good afternoon, sir. My name is Rich Tanasi. I
10 represent Tony Hobson, and I have a few questions for you on
11 cross; is that okay?

12 A Sure.

13 Q All right. You're a forensic footwear examiner,
14 correct?

15 A Yes, that's correct.

16 Q Okay. You perform your examinations in a
17 laboratory, correct?

18 A Yes.

19 Q Okay. You work in a laboratory, then, it's fair to
20 say, just like any other scientist, correct?

21 A Yes.

22 Q Okay. Your job and your conclusions, you'd agree
23 with me, are based on science, correct?

24 A Yes, they are.

25 Q Okay. You follow the-W -- or I'm sorry, the

1 SWGTTREAD standards is that --

2 A SWGTREAD, yes, that's correct.

3 Q -- correct? So we'll call them SWGTREAD, and
4 you'll know what I'm talking about if I say that, fair?

5 A Yes. I was a part of that group, yes.

6 Q Okay. In fact, the tag line for the SWGTREAD is,
7 scientific working group for shoe print and tire tread
8 evidence, correct?

9 A That's correct.

10 Q All right. You also -- or you do work for the FBI,
11 correct?

12 A Yes, I do.

13 Q Okay. The FBI, pretty obvious, but fair to say is
14 a law enforcement agency, right?

15 A Yes.

16 Q Okay. Law enforcement then, fair to say, pays you,
17 correct?

18 A The FBI pays me, yes.

19 Q That's where you get your paycheck, correct?

20 A Yes.

21 Q All right. And you traveled out here a long way,
22 right?

23 A Yes, I traveled here.

24 Q Okay. Who paid for that travel?

25 A The FBI paid for my trip here.

1 Q Okay. And you'll fly back and the FBI will pay for
2 that as well, correct?

3 A Yes.

4 Q Okay. And will you stay here overnight or will you
5 get right back on a plane?

6 A I'll stay here overnight.

7 Q Okay. And the FBI will pay for that hotel,
8 correct?

9 A Yes.

10 Q All right. You agree with me, then, as a scientist
11 that your conclusions are opinions, right?

12 A They're opinions, yes. They're opinions with a
13 basis, but, yes, they are opinions.

14 Q Yes or no, they're opinions, correct?

15 A Yes, they are.

16 Q Thank you. And so scientific conclusions, while
17 well thought out, may not be 100 percent conclusive, correct?
18 Yes or no, sir?

19 A Yes, that's true.

20 Q Thank you. And identification in this case is an
21 opinion of the examiner that the known shoe is the source of
22 the impression because there is sufficient quality and
23 quantity of corresponding features such that he or she would
24 not expect to find that combination of features repeated in
25 other shoe; is that the right way to --

1 A Yes.

2 Q -- coin an identification?

3 A Yes. That comes directly from my lab report, yes.

4 Q Sure. So again, your opinion is based on something
5 you would not expect to be otherwise, then; is that fair?

6 A Yes.

7 Q Okay. And then you'd agree with me, then, as any
8 other scientific opinion, it's not 100 percent conclusive,
9 correct? Yes or no, please.

10 A Are you talking about my opinion or --

11 Q Your opinion --

12 A Can you rephrase the question?

13 Q Sure, sure.

14 A I don't exactly know what you mean.

15 Q Understood. When you reach an identification,
16 that's your opinion, correct?

17 A Yes, it is.

18 Q And that opinion's not 100 percent conclusive,
19 correct, yes or no?

20 A I don't know what you mean by that question 100
21 percent conclusive. In my opinion, I'm a 100 person of my --
22 certain of my opinion, and that's why I made an
23 identification.

24 Q Understood, but again, your opinion itself, based
25 on science, right, that isn't 100 percent all the time, is

1 not -- means that your opinion in this case cannot be 100
2 percent; isn't that fair?

3 A It's not scientific fact, if that's what you're
4 asking me, yes.

5 Q That's what I'm asking. Your opinion and what
6 you've told this jury so far, this identification that we've
7 heard this word, it's not scientific conclusive fact,
8 correct?

9 A That's correct.

10 Q Let's take a look. Do you have your Power Point in
11 front of you, by any chance?

12 A I do.

13 Q Okay. Why don't we go to page 21, please.

14 A Okay.

15 Q All right. Give me one second and I'll get there
16 with you. Okay. Sir, are you on page 21?

17 A Yes, I am.

18 Q All right. And that everyone now is also looking
19 at page 21 of your Power Point, correct?

20 A Yes, that's correct.

21 Q Okay. Now, these show on the far left, this shows
22 pictures of the left Reebok shoe at Pizza Hut, correct?

23 A That's the impression at the crime scene on the far
24 left, yes.

25 Q Okay. The middle shows a picture of prints left at

1 Pizza Hut, correct?

2 A That is the lift that was taken from that
3 impression, yes.

4 Q Okay. But the far left is a picture of the print
5 and the second in the middle is the lift, correct?

6 A Yes. The one on the far left is prior to the
7 lifting.

8 Q Okay?

9 A The center image is a picture of the lift itself
10 and the far right is a picture of the bottom of the left
11 shoe.

12 Q Okay. So now, if we look at the bottom of the
13 middle picture, do you see this here where my pen is
14 circling?

15 A Yes, I see that.

16 Q Okay. So if you look at that, it looks like
17 there's multiple taps there; would you agree with me?

18 A Yes.

19 Q Okay. So that means that that shoe moved, right?

20 A It means it moved or stepped multiple times, yes.

21 Q Okay. Stepping multiple times and moving same
22 thing, correct?

23 A Yes.

24 Q All right. So the bottom part, if the bottom
25 part's going to shift and move, then it only makes sense that

1 the top part would shift and move as well, correct?

2 A Not necessarily. I can't draw that inference.

3 Q So if the bottom part of a shoe moves, the top part
4 isn't going to move --

5 A Well, it could be --

6 Q -- is that what you're telling me?

7 A -- it could be a second additional step and not all
8 of the top of it where you're referring to printed.

9 Q Okay. So you've broken two examples. Let's take
10 the first. The first is that if it's a double tap on
11 multiple sections, then you're saying there might not be
12 movement; is that fair?

13 A It might mean that there's two separate impressions
14 and parts of it you can see and parts of it you cannot see.

15 Q Okay. But again, if there's multiple tapping,
16 there's multiple movements; isn't that fair to say?

17 A Yes.

18 Q Okay. Let's look at the other example, which
19 again, if the bottom part of the shoe was going to move,
20 wouldn't you agree with me the top part of the shoe would
21 have to move as well?

22 A It could potentially.

23 Q It's one object, right?

24 A It's one object, but not the whole -- the whole
25 outsole does not --

1 Q Just yes or no.

2 A -- necessarily --

3 Q It's one object, correct?

4 A Yes, it's one object.

5 Q Thank you, sir. So again, if the top part of the
6 shoe is moving, then -- or the bottom part of the shoe is
7 moving, then the top part of the shoe moves and then you
8 could have smearing; isn't that correct?

9 A Yes, you could.

10 Q Okay. Let's look at page 22, please. Okay. Now,
11 when we saw this on the Power Point, there was actually on
12 the far left a picture underneath it and then kind of
13 swooping in, right, was the picture on top. And that picture
14 on top on the left, that's a computer generated picture;
15 would you agree with me?

16 A It's a -- it's a copy of the test impression I
17 scanned.

18 Q Understood. But I think as you used the words
19 earlier, you have a photographic studio, correct?

20 A Yes, we do.

21 Q Okay. You superimpose photos, correct?

22 A I superimposed a test impression over the photo.

23 Q Okay. Now, in this case, is that what happened,
24 there was a --

25 A Yes.

1 Q -- superimposed --

2 A Yes, it was.

3 Q So superimposed is something that happens at your
4 photo lab, correct?

5 A Well, that I did specifically, yes.

6 Q Correct. Okay. And in that case, I mean, you're
7 trying to create high definition, right, to make your point?

8 A Well, I'm trying to point out features in the crime
9 scene impression that I see --

10 Q Correct.

11 A -- in the -- on the bottom of the known shoe or in
12 the test impression.

13 Q Right. So that picture that we see, I mean, it's
14 altered, right, to make your point?

15 A No, it's not altered. I didn't alter anything.

16 Q It's superimposed, correct?

17 A It's superimposed. It's a separate image.

18 Q Understood. But a computer does the superimposing,
19 right?

20 A No, I would superimpose it.

21 Q Okay. When you take a picture of what's
22 superimposed, isn't that done on a computer?

23 A When a -- can you repeat that question?

24 Q Sure. When you -- tell me when superimposing is.

25 A As I explained earlier, I take the actual test

1 impression and superimpose it over -- put it over top of the
2 photograph of the impression and that's what I did. This is
3 an illustrative example of that.

4 Q So what happens in the photographic studio?

5 A They photograph the evidence.

6 Q Okay. And they photograph it in a way so that it's
7 -- it's -- creates a contrast, right, high definition?

8 A Yes, they do.

9 Q Right. To make your point, correct?

10 A No. They -- they -- they photograph the evidence
11 prior to me doing the analysis. This is all -- the
12 photography you're talking about is done prior to the
13 analysis. The test impression is made prior to the analysis.

14 Q So what's done at the photo shop then? At the
15 studio?

16 A Well, I don't know what you mean by photo shop.
17 They just photograph the items of evidence and I made the
18 test impressions. They didn't do any photoshop, if that's
19 what you're asking.

20 Q What I'm -- again, using your words. You had used
21 the words photographic studio, correct?

22 A Yes. Where they --

23 Q And what happens in --

24 A -- photograph the items.

25 Q What happens at the photographic studio?

1 A As I just mentioned, they photograph the items of
2 evidence.

3 Q Okay.

4 A They photograph the shoes and the boots and the
5 lifts.

6 Q Okay. And then where did the high contrast come
7 in?

8 A What do you mean by high contrast?

9 Q This very clear, very black and white picture that
10 wasn't the same as the actual lift itself. How -- how does
11 it go from that to this picture?

12 A That -- that's the test impression. I made a test
13 impression, I scanned it in, created an image file and put
14 that in this presentation.

15 Q Okay. Let's take a look at page 33. Okay. Again,
16 we're looking at photos of the right Reebok shoe, correct, on
17 the far left -- or on the far right, rather, is the photo of
18 the shoe?

19 A The far right is the right Reebok shoe, correct.

20 Q Okay. And then the far left is the actual print
21 itself, correct?

22 A Yes.

23 Q Okay. And in the middle is the lift, right?

24 A That's correct.

25 Q Okay. This is just straight photography, right, of

1 these items?

2 A Yes, it is.

3 Q Just take a camera and take a picture and that's
4 it, right?

5 A Yes.

6 Q Okay. Let's take a look at number -- or page 34.
7 Okay, again, page 34 (inaudible) again this right Reebok shoe
8 depicted on right with your arrows, correct?

9 A Yes.

10 Q Okay. And then on the left, what is that high
11 contrast, high definition photo, a photo of?

12 A It's a test impression. I scanned it in, created
13 an image file, and used it in this Power Point presentation,
14 just like I did in the previous example that you asked about.

15 Q Understood. And then looking here at the picture
16 here on the left, you'd agree with me that it's actually
17 bigger in size than the picture on the right, correct?

18 A You're talking about the known shoe and the test
19 impression that I made?

20 Q Correct. It's not actually a scale. I mean,
21 you're looking at two totally different sizes here, right?
22 The picture on the left is bigger on the picture on the
23 right --

24 A Yes.

25 Q -- would you agree with that?

1 A There might be some slight size difference in the
2 image that's in this presentation.

3 Q Understood. I apologize, let's stick with here for
4 -- for one second. Go back to 34. Do you have that with
5 you?

6 A Yes. Thank you.

7 Q Would you also agree with me that on left-hand side
8 of the left-hand picture, there's a lot more jagged edges
9 there than the actual picture itself, correct?

10 A Can you point out what you're talking about? I
11 don't understand what you're referring to.

12 Q This right here. On the left-hand side where my
13 pen is --

14 A Yes.

15 Q -- right, this is kind of framed jagged pictures,
16 correct?

17 A Yes.

18 Q Okay. And again, when you compare it to the
19 picture of the actual shoe, you don't see the same frayed
20 jagged edges, correct?

21 A You don't see it in that particular image, no.

22 Q The lifts in this case were collected from dry
23 surfaces, right?

24 A I don't know the surface of the -- I don't know the
25 condition of the surfaces at the time the lifts were taken.

1 Q Right, because you actually weren't at the scene
2 that -- that's not your job, to be fair, to be at the scene
3 and take pictures of the lifts or take the lifts themselves,
4 correct?

5 A Yes, that's correct.

6 Q All right. So your opinions, you'd agree with me,
7 are based on what other law enforcement folks did at the
8 scene and then gave to you to evaluate, correct?

9 A Yes.

10 Q You'd agree with me, though, that when the lifting
11 is done, the least destructive method of collection should be
12 used?

13 A Yes.

14 Q Okay. That comes right out of those SWGTREADs
15 again, correct?

16 A Yes, that's correct.

17 Q All right. So in this case, you didn't actually do
18 the lifts so you have to seem that the least destructive
19 methods were employed, correct?

20 A Yes, that's correct.

21 Q An assumption you'd have to make, right?

22 A Yes.

23 Q Okay. And the method for a lift depends on the
24 components of the impression; would you agree with that?

25 A Components meaning the -- the type of impression

1 and the type of surface it's on?

2 Q Right. And again, since you didn't do it in this
3 case, you'd have to assume the components of the impression
4 were considered properly, correct?

5 A The components of --

6 Q The components of the impression?

7 A Yes, I'm assuming that this is an accurate -- the
8 lift is an accurate representation that was transferred from
9 the impression at the crime scene.

10 Q Again, going back to the SWGTREAD standards, would
11 you agree with me that they call for the collection of
12 elimination impressions, of photos of footwear of non-suspect
13 persons?

14 A It's dependent upon the case. That generally,
15 might refer to an impression that was left at the crime scene
16 that they think may have been by a responding officer or
17 emergency personnel. That's generally what -- what that's in
18 reference to.

19 Q Have you -- do you recall what the SWGTREADs dated
20 March 2006 say, specifically section 610 regarding
21 elimination photos?

22 A No, you'll have to show me what that says.

23 MR. TANASI: May I approach?

24 THE COURT: Yes.

25 MR. TANASI: Thank you.

1 BY MR. TANASI:

2 Q I'll show you a copy of provision 610. Let me
3 know, please, when you're done reading it.

4 A Okay. It says, collect elimination impressions
5 and/or photographs of footwear and tires of non-suspect
6 persons and vehicles.

7 Q Okay.

8 A It's a recommendation, yes.

9 MR. TANASI: May I approach?

10 THE COURT: Yes.

11 BY MR. TANASI:

12 Q And so if that wasn't done in this case, then this
13 SWGTREAD recommendation wasn't followed, fair?

14 A There may have not been a need to do that in that
15 particular case. That -- that document is written for
16 examiners.

17 Q Again, it's a recommendation, though, but it's a
18 recommendation that comes out of a -- out of a policy that
19 you follow, correct? Something you're a member of or
20 something you actually rely on?

21 A Yeah. They're -- they're guidelines. They're not
22 policy. It's a guideline for making recommendations for
23 people working, recovering and analyzing evidence --

24 Q Sure.

25 A -- the type of evidence. They were just

1 recommendations and guidelines. There -- they're not policy.

2 Q Understood. And you weren't given any elimination
3 samples in this case, right?

4 A No.

5 Q So that policy or that guideline regulation,
6 whatever we want to call it, that wasn't followed in this
7 case, correct?

8 A I don't know, because in this particular case, all
9 I can tell you is it wasn't given in the elimination prints.

10 Q So you don't know if any of the employees' shoes
11 were tested in this case, right?

12 A No, I don't know that.

13 Q Okay. And you also can't say when prints were
14 actually left on a particular surface, correct? Exact time
15 and date of when they were left, fair?

16 A No, I can't tell that.

17 Q All right. And in this case, were all the
18 impressions partials or full impressions?

19 A They were mostly partial impressions.

20 Q Okay. Did you see any full heel to toe impressions
21 in this case?

22 A I'd have to look again. I don't -- offhand I don't
23 recall, but I'd have to look at all of them again.

24 Q Okay. All right, sir. Nothing further. Thank
25 you.

1 THE COURT: Ms. Lobo, Mr. Maningo.

2 MR. MANINGO: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. MANINGO:

5 Q Sir, you've been doing this for 17 years; is that
6 right?

7 A Yes, that's correct.

8 Q And always with the FBI?

9 A Yes.

10 Q Okay. Have you ever worked for any civilian
11 entities in this same capacity?

12 A No.

13 Q You also, I believe, testified that you've been in
14 court testifying 45 times; is that correct?

15 A Approximately.

16 Q Okay. And each time you've testified, is that as a
17 prosecution witness?

18 A Most of the time. A few of the times I was a
19 defense witness.

20 Q Okay. And you offered your opinions -- I
21 believe --

22 (Pause in the proceedings)

23 BY MR. MANINGO:

24 Q You summarized, I believe, your opinions on slide
25 48; is that right?

1 A Yes. It's the second to last slide.

2 Q Okay.

3 A Slide -- it's slide number 48, yes.

4 Q This slide here, correct, sir? Can you see that?

5 A Yes, that's correct.

6 Q I'm sorry to get everyone dizzy. And in
7 referencing the boots, we're looking at the far right-hand
8 column; is that correct?

9 A Yes, that's correct.

10 Q Okay. And if we look at item 2 along the left
11 column and follow it all the way across to the right column,
12 we see that the boots were eliminated as a source of the
13 impression, correct?

14 A Yes, that's correct.

15 Q Okay. If we go down two columns, we also see here
16 that those boots were eliminated as the source of the
17 impressions there as well, correct?

18 A Which item number was it again?

19 Q Item 4 on the left-hand column.

20 A Yes, that's correct.

21 Q If you follow that all away across --

22 A It says eliminate -- yes, they were eliminated as a
23 source of that impression.

24 Q And that means the boots were eliminated as the
25 source of that impression, correct?

1 A Yes.

2 Q Okay. And then if you go one row down, item number
3 1, you follow that all the way across, you could not make any
4 determination; is that correct? That was your finding?

5 A Yes, that's correct.

6 Q Okay. Then there are one, two, three other sources
7 where you opine that the item 3, 4 boots could have made the
8 impression; is that accurate?

9 A In the item 2, that's a typo. It should say item 4
10 right boot. The very last one. And the other -- the other
11 one at the top, the very top, is the item 4.

12 Q Correct.

13 A And then two down from that is the item 3 left.
14 The very bottom of the slide where it says item 2 right boot,
15 the 2 is a typographical error. It should be item 4.

16 Q Okay. Understood. And that was probably one of my
17 next questions, but there's three locations -- three lifts
18 that you opine that the boots could have been the source,
19 correct?

20 A Yes, that's correct.

21 Q Okay. And you spoke to us about the conclusion
22 scale that you use in offering your opinions?

23 A Yes.

24 Q Correct? And that conclusion scale at the highest
25 opinion you can offer started with an identification?

1 A Yes.

2 Q Correct?

3 A That's correct.

4 Q And then from there it goes to probably maybe?

5 A Yes.

6 Q Correct? Then you take another step down on your
7 conclusion scale and you have the opinion that it could have
8 made?

9 A Yes, that's correct.

10 Q Correct?

11 A Um-h'm.

12 Q Now, that's the strongest opinion you're able to
13 offer with respect to the boots; isn't that right?

14 A Yes, that's correct.

15 Q And just from your report that you authored on
16 September 17th, it offers the definition of, could have made?

17 A Yes.

18 Q And isn't it true that that says in the opinion of
19 the examiner, the known shoe is a possible source of the
20 impression?

21 A Yes, that's correct.

22 Q And it goes on to say that, other shoes with the
23 same class characteristics are also included?

24 A Yes, that's correct.

25 Q Okay. Now -- now, you said you worked for the FBI

1 your entire tenure as a footwear expert, correct?

2 A Yes, that's correct.

3 Q And in as much as you work for the FBI, you have
4 access to FBI databases; isn't that correct?

5 A There are some databases I have access to, yes.

6 Q You would have the capability to run these
7 impressions through a footwear database; isn't that right?

8 A Well, the footwear database, just to be clear, that
9 we have --

10 Q You could do that, right?

11 A Yes.

12 Q There's a database that you could run the
13 impressions through?

14 A Of outsole, of class -- yes, of others that have
15 that same outsole design, yes.

16 Q Absolutely. So you could have run it through the
17 database to see if there were similar outsole patterns size
18 impressions, correct?

19 A Well, not size, no. It would just be the outsole
20 design. In this case, there was no need to. I had the
21 direct shoe to do the comparison.

22 Q All right. We're talking semantics, but if you --
23 you would be able to find out other manufacturers that had
24 boots with similar treads, correct, if you were to run it
25 through that FBI database?

1 A If it exists in that database, yes. That database
2 does not have an out -- does not have the outsole design of
3 all the shoes that are manufactured.

4 Q Of course not, because new treads are being created
5 today, and if the database was only updated yesterday, the
6 new ones wouldn't be in --

7 A Well, even from older shoes. It does not include
8 every shoe that was ever made.

9 Q Okay.

10 A It's not a comprehensive database list.

11 Q But there is a database that these outsole patterns
12 could have been ran through, correct?

13 A Well, yes, but let me clarify, those are --

14 Q Yes?

15 A -- for -- yes, it could have been --

16 Q Okay.

17 A -- run through there.

18 Q Okay. And it wasn't done, was it?

19 A It was -- it was not. It was not needed to be
20 done.

21 Q Not needed. Well, and you made the determination
22 that it wasn't needed to be done, correct?

23 A Yes, because I had the direct shoes to do the
24 comparison.

25 Q But you weren't able to, by looking at those shoes,

1 to know that that was the only type of shoes with those
2 treads; isn't that correct? And you could have figured that
3 out if you ran it through the database?

4 A Not necessarily. It depends if other shoes with
5 that same outsole pattern, if they exist, and if they're in
6 that database. It could have been run through the database,
7 yes. But I did not do so. It was my determination it wasn't
8 necessary since I was comparing the actual shoes.

9 Q Right. And your determination was nothing more
10 than it could have been or it could not have been these
11 boots, right?

12 A It could have been those shoes, yes.

13 Q It could not have been?

14 A Yes, if there's another shoe that has that same
15 outsole design that could also made the impressions, that's
16 correct.

17 Q Thank you, sir.

18 THE COURT: Any redirect?

19 MR. PORTZ: Yes, Your Honor. Can we pull the
20 computer screen back up? We'll start with slide 21 that
21 Mr. Tanasi was referring to during his cross-examination.

22 (Pause in the proceedings)

23 THE COURT: Is it up?

24 THE WITNESS: Yes, sir, I can see that.

25 THE COURT: Okay.

1 (Pause in the proceedings)

2 REDIRECT EXAMINATION

3 BY MR. PORTZ:

4 Q Mr. Tanasi was asking you questions about computer
5 generated images that you used in this presentation. Do you
6 recall that lining of questioning?

7 A Yes.

8 Q Okay. And referenced specifically to this slide
9 and this slide's 33 and 34.

10 A Yes.

11 Q Can you just explain, is it -- when you talk about
12 the photographic studio, what exactly is done in the -- in
13 the photographic studio with regards to the evidence that you
14 receive from the Las Vegas Metropolitan Police Department?

15 A They photograph the evidence whether -- in this
16 case it would have been the lifts in the shoes, in the pair
17 of boots. They photograph them and then sent those items
18 back to me.

19 Q Okay. Are these photographs in any way manipulated
20 by you or your office?

21 A No.

22 Q Are the images that you use in your presentation in
23 any way manipulated by you or people in your office?

24 A No.

25 Q When you have those superimposed slides -- let's go

1 to 33 and 34. There we go.

2 MR. PORTZ: Thirty-four please, and then can you go
3 to the superimposed image? (Inaudible). There we go.

4 BY MR. PORTZ:

5 Q So this image that you've superimposed on the lift,
6 where does that image come from?

7 A It comes from a scan of a test impression. So I
8 took the test impression that I made of the -- of the shoe
9 and put it on a scanner bed, scanned it and saved it as an
10 electronic file, and that is what is on the slide. It's this
11 electronic file -- electronic copy of that test impression.

12 Q Okay. Now, is that scan of the test impression
13 manipulated in any way by you?

14 A No.

15 Q Is this how you actually do your comparison or do
16 you just do this for the Power Point presentation to explain
17 to the jurors how you did your examination?

18 A In -- in here, as you see in the Power Point, this
19 is for demonstration purposes. In the lab, actually
20 physically take the test impression and superimpose it offer
21 top of the life size photo, and that's what I did in this
22 instance.

23 Q Mr. Tanasi also pointed out that this demonstration
24 you've given the jurors, the superimposed image on the left
25 is larger than the item 2 right shoe image on the right; is

1 that correct?

2 A Yes, that's correct.

3 Q Is that simply because, again, was this simply in
4 effect of the -- the Power Point demonstration of you
5 superimposing it, but those appear to be different sizes?

6 A The actual shoe is, in this case, the resolution
7 may have been different. It was just to show the outsole
8 design, not any size correspondence.

9 Q And again, while the images on the screen on the
10 right and the left might appear to be different sizes, they
11 all come from State's Exhibit 282-A, correct?

12 A Yes, that's correct.

13 Q This physical object doesn't change size for
14 purposes of a presentation?

15 A No, it does not.

16 Q And this is the actual item you were using and the
17 actual test impressions you were using in your examination;
18 is that correct?

19 A Yes.

20 Q And again, these superimposed images you've just
21 used for purposes of showing the jury how you do your
22 physical examination inside a lab?

23 A Yes, that's correct.

24 Q Can we go -- actually, I want to touch on another
25 question Mr. Tanasi was asking you. He pointed out this -- I

1 guess, this notion that you're depending or relying on the --
2 the lift that you receive to be accurate; is that correct?

3 A Yes. I presume that that's an accurate transfer of
4 the impression from the crime scene.

5 Q And he points out that you're not actually
6 physically there. When the CSA in Las Vegas does a lift,
7 you're not in Quantico, Virginia, correct?

8 A Yes, that's correct.

9 Q Okay. But you also received as part of the
10 evidence in your analysis photographs of those footwear
11 impressions, correct?

12 A Yes.

13 Q Okay. So if those photographs are taken before a
14 lift ever touches those footwear impressions, then those
15 photographs are a basis for you to, I guess, compare and see
16 if the lift in any way affected the -- the footwear
17 impression?

18 A Well, I used both in the exam. In my analysis, I
19 used the image prior to the lifting and then the actual lift
20 itself. I used both of those items.

21 Q So you can use the photographs of the footwear
22 impression to confirm that the lift itself was an accurate
23 lift of the footwear impression?

24 A Yes.

25 Q With regard to elimination photos, employees at the

1 Pizza Hut property. Mr. Tanasi referenced something from
2 your SWGTREAD manual of a recommendation of using elimination
3 photographs; is that correct?

4 A Yes, that's correct.

5 Q Okay. In what instances would it be a good idea to
6 explore elimination prints or photographs?

7 A Typically, from officers or individuals that
8 responded to the crime scene. Perhaps, emergency personnel.
9 Those types of individuals that's what's in reference to
10 elimination prints.

11 Q Okay. So a bloody body on the floor, there's
12 footprints on the floor that may have come from a suspect,
13 but there are also EMTs that are rushing in to try to save
14 the person's life and left boot prints behind as well,
15 correct?

16 A Yes. That's in general what that's referring to.

17 Q Okay. If in this Pizza Hut robbery there was
18 videograph -- or video evidence of the suspect actually
19 stepping on the counter where this lift was taken, and video
20 evidence that none of the employees stepped on the counter
21 where this lift was taken, would you need elimination
22 photographs of the employees' shoes?

23 A That would be a determination made by the agency
24 investigating it. Whether or not I needed to examine that or
25 not, they would make that determination.

1 Q You would agree with me, though, that it would be a
2 complete waste of time to test or look at elimination prints
3 of shoes that were never in the area that these prints were
4 lifted?

5 A Yes, that's correct.

6 Q And again, you only analyzed what you were
7 requested to analyze in this case, correct?

8 A Yes, that's correct.

9 Q And specifically whether those boots and those gray
10 Reeboks left any of the prints behind at these two separate
11 robberies?

12 A Yes, that's correct.

13 Q If we could go to slide 48, please. Okay.
14 Mr. Maningo points out in slide 48 that the boots from the
15 Pizza Hut robbery, so we're looking again at the first row
16 rows here.

17 A Yes.

18 Q The boots were eliminated as the source of the item
19 2 and item 4 lift; is that correct?

20 A Yes, that's correct.

21 Q Is that because the item 2 and item 4 lift were
22 actually identified as the Reeboks?

23 A Well, the outsole design was different.

24 Q Okay.

25 A So I could do an actual comparison and see that

1 they were clearly different and eliminate them on that basis.

2 Q Okay. But you would agree with me that items 2 and
3 item 4 were actually identified as the Reeboks themselves?

4 A Yes.

5 Q Okay. So they -- they would not have come from a
6 pair of size 12 boots compared to a pair of size 9 and a half
7 Reeboks?

8 A I would to do that comparison, but generally
9 speaking, no.

10 Q And to be clear, the boots were identified as could
11 have making -- could have made prints at both crime scenes;
12 is that correct?

13 A Can you repeat which ones you're referring to?

14 Q Sure. The item 3 and item 4 boots, the black
15 boots, size 12 --

16 A Yes.

17 Q -- those were identified as could have been made at
18 both crime scenes you were asked to analyze, correct?

19 A Yeah -- yes, that's correct. In this slide, as I
20 had pointed out earlier, the item 2 should read item 4. It
21 was a typo.

22 Q Now, when you say, could have been made, that --
23 just to be clear, and I think Mr. Maningo cited this to you,
24 they have the same what type of characteristics?

25 A Class characteristics.

1 Q Class characteristics. And that includes that they
2 are the same size or that would include that they're the same
3 size?

4 A It includes the physical size and spacing of the
5 geometric shapes that are on the outsole of that shoe. It's
6 not shoe size.

7 Q So when you say it could have been made, it would
8 have -- strike that question, I'm sorry. I'll move on to the
9 questions Mr. Maningo was asking you about running these
10 through a footwear database.

11 Why was that not necessary in this analysis?

12 A There are two types of requests that we get in;
13 comparison cases we have a suspect and we have his shoes.
14 There are other types of cases where we may or may not have a
15 suspect. You have impressions at the crime scene and you
16 don't have shoes recovered from a suspect or you may not even
17 know -- the crime may have just occurred and you have no idea
18 who committed the crime for investigative assistance;
19 whereas, can you tell us what make and model shoe could have
20 left this impression, and they would typically put that
21 information in a search warrant or add it to whatever case
22 information they already have. It's done for an
23 investigative purposes.

24 Q Thank you, Mr. Gilkerson.

25 MR. PORTZ: No further questions.

1 THE COURT: Mr. Tanasi, anything else?

2 MR. TANASI: Nothing further. Thank you, Your
3 Honor.

4 THE COURT: Mr. Maningo, any further cross?

5 MR. MANINGO: No, thank you, Your Honor.

6 THE COURT: Okay. All right. I have just some
7 questions, sir, I want to kind of clear up myself.

8 THE WITNESS: Sure.

9 THE COURT: When you make an impression, that's
10 from the shoe that's sent to you? You make those
11 impressions?

12 THE WITNESS: Yes, we call it a test impression.

13 THE COURT: Okay. And when you -- so what you're
14 getting is you're getting a photograph of the print on the --
15 and then in this case on a countertop?

16 THE WITNESS: Yes, in digital format. We're
17 getting --

18 THE COURT: And then you --

19 THE WITNESS: -- a digital format.

20 THE COURT: -- get the one it's an actual lift?

21 THE WITNESS: That was taken from it, yes, that's
22 correct.

23 THE COURT: Okay. And on those -- those particular
24 images, they have scales?

25 THE WITNESS: Yes, they do.

1 THE COURT: And that helps you? Would that help
2 you, then, understand the size of what they're dealing with?

3 THE WITNESS: Yes. We can make a life size print
4 if it has an L shape where like you see in these impressions.

5 THE COURT: Okay. Did you do anything to enlarge
6 your impression or make it smaller?

7 THE WITNESS: No. I did a direct side by side
8 comparison with the item as it is.

9 THE COURT: Okay. All right. Okay. Do you have
10 any questions as a result of my questions?

11 MR. PORTZ: No, thank you, Your Honor.

12 THE COURT: Mr. Tanasi?

13 MR. TANASI: No, Your Honor.

14 THE COURT: Mr. Maningo?

15 MR. MANINGO: Sorry. No, Your Honor.

16 THE COURT: Okay. All right. Okay. So sir, I
17 want to thank you so much for your testimony and you're
18 excused. You have a good trip back, okay?

19 THE WITNESS: Thank you, sir.

20 THE COURT: All right. Thank you. You can step
21 down. Why don't we take an afternoon break. Let's see, it's
22 a quarter after 3:00 now. Ladies and gentlemen, I'm going to
23 give you another 15 minutes. We'll be back here at 3:30.

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

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

7 All right. So we'll be at ease while the jury
8 leaves the room; okay?

9 (Outside the presence of the jury)

10 THE COURT: Okay. We're outside the presence of the
11 jury. How many more -- do you have one today?

12 MS. MERCER: We have two lined up, Your Honor.
13 They're both outside.

14 THE COURT: Okay. Well, who are they?

15 MS. MERCER: The CSA and the DNA analyst.

16 THE COURT: You're planning on putting them on
17 today, both of them today? That's up to you. I'll go until
18 5:00.

19 MS. MERCER: Okay.

20 THE COURT: All right?

21 MS. MERCER: We'll see where we're at when --

22 THE COURT: Okay. All right.

23 MS. MERCER: -- we're done with the CSA.

24 THE COURT: Is there anything that needs to be put
25 on the record at this point?

1 MS. MERCER: No, Your Honor.

2 MR. TANASI: No, Your Honor.

3 THE COURT: All right.

4 MR. TANASI: Thank you.

5 THE COURT: Okay. We'll see you back at 3:30.

6 We're off the record.

7 (Court recessed at 3:15 p.m. until 3:34 p.m.)

8 (Outside the presence of the jury)

9 THE MARSHAL: Please remain seated. Department 19
10 is back in session.

11 THE COURT: Okay. Jim, do you want to go ahead and
12 get the jury back in.

13 MS. MERCER: Your Honor, does the Court have any
14 objection to us releasing the DNA analyst?

15 THE COURT: No, no. I'm fine.

16 MS. MERCER: Okay.

17 THE COURT: Did she have to come in from out of
18 state, too?

19 MS. MERCER: No. She's --

20 THE COURT: Oh.

21 MS. MERCER: -- she's local.

22 THE COURT: Okay. Yeah, that's fine. Let's just
23 do the one and be done.

24 MS. MERCER: Okay.

25 THE COURT: And then you're going to run into it.

1 You'll probably run over on it. You'll have to bring him
2 back so -- I mean, I imagine you guys have quite a bit of
3 cross for her like you did this guy.

4 MR. TANASI: The DNA?

5 MS. LOBO: Yes.

6 THE COURT: Yeah. You can just bring her back
7 tomorrow.

8 MS. MERCER: Okay. Thank you, Your Honor.

9 (In the presence of the jury)

10 THE MARSHAL: Please be seated. Department 19 is
11 back in session.

12 THE COURT: Okay. We're back on the record in
13 C-303022, State of Nevada versus Tony Hobson and Brandon
14 Starr. I'd like the record to reflect the presence of the
15 defendant and their counsel as well as the State and their
16 counsel, all members of the jury. Could you still to the
17 presence of the jury?

18 MS. MERCER: Yes, Your Honor.

19 MR. TANASI: Yes, Your Honor.

20 MS. LOBO: Yes, Your Honor.

21 THE COURT: Okay. So before we took a break, the
22 State was still in their case-in-chief. Call your next
23 witness.

24 MS. MERCER: Your Honor, the State calls CSA Noreen
25 Charlton.

1 CSA NOREEN CHARLTON, STATE'S WITNESS, SWORN

2 THE CLERK: Thank you. Please be seated. If you
3 will please state your full name for the record, spelling of
4 the first and last name.

5 THE WITNESS: Noreen Charlton, N-o-r-e-e-n,
6 C-h-a-r-l-t-o-n.

7 MS. MERCER: May I proceed, Your Honor?

8 THE COURT: Yes.

9 DIRECT EXAMINATION

10 BY MS. MERCER:

11 Q Ma'am, where are you currently employed?

12 A I'm a senior crime scene analyst with the Las Vegas
13 Metropolitan Police Department.

14 Q How long have you been employed as a senior crime
15 scene analyst with the Las Vegas Metropolitan Police
16 Department?

17 A About seven and a half years.

18 Q Prior to that, did you work as a crime scene analyst
19 anywhere else?

20 A No, I did not.

21 Q Could you please explain to the jurors some of your
22 educational background and training that allows you to be a
23 crime scene analyst?

24 A So in May of 2007, I graduated from John Carroll
25 University in Cleveland, Ohio with a bachelor of science in

1 biology. In the fall of 2008, I was hired by Metro as a
2 crime scene analyst where I successfully completed a 10-week
3 crime scene analyst academy followed by 12 weeks in the field
4 training and evaluation program.

5 And within the first year I completed the American
6 Institute of Applied Sciences forensic science course. In
7 2010, I progressed to the position of Crime Scene Analyst II
8 and in 2012 I promoted to the position of Senior Crime Scene
9 Analyst. And over the last seven and a half years I've
10 completed over a thousand hours in continuing education in
11 different aspects of crime scene investigation.

12 Q What does the crime scene analyst academy consists
13 of?

14 A It covers everything we pretty do, photography,
15 processing, evidence recovery.

16 Q And when you're in field training, what does that
17 mean?

18 A Field training program is a program that's set up so
19 that you ride with a senior crime scene analyst and they kind
20 of show you the ropes and follow what you do and you're
21 evaluated each day.

22 Q You indicated that you have over a thousand hours of
23 continuing education credits?

24 A Correct.

25 Q Do you each year have to complete a certain number

1 of continuing education courses?

2 A Not a specific number, no.

3 Q But each year you participate in continuing
4 education, correct?

5 A Correct.

6 Q You indicated that you've been a senior crime scene
7 analyst with Metro for seven years?

8 A I've been a crime scene analyst for seven years.

9 Q Okay. What shift do you currently work?

10 A Graveyard.

11 Q Were you working graveyard back in November of 2014?

12 A Yes, I was.

13 Q What are the graveyard hours for a crime scene
14 analyst?

15 A 10:00 p.m. until 8:00 a.m.

16 Q Directing your attention to November 17th of 2014,
17 on that date were you dispatched to a crime scene at a Burger
18 King located at 2599 South Nellis Boulevard?

19 A Yes, I was.

20 Q With regards to the work that you completed at that
21 crime scene, did you dust for latent fingerprints or try to
22 collect any DNA evidence?

23 A I did not.

24 Q Why not?

25 A I was told by patrol officers on scene as well as

1 the employees at the Burger King that the subjects were
2 wearing gloves.

3 Q What did you do in terms of processing that crime
4 scene?

5 A Basically, I just photographed the scene as it was.

6 MS. MERCER: Permission to approach the witness,
7 Your Honor.

8 THE COURT: Yes.

9 BY MS. MERCER:

10 Q I'm handing you State's Exhibit 83 to 91. If you
11 could just glance through those quickly. Tell me whether you
12 recognize them.

13 A Yes, these are my photos.

14 Q Those are the photos that you took that night?

15 A Correct.

16 Q And then moving on to November 25th of 2014, were
17 you working that night?

18 A Yes, I was.

19 Q On that night were you asked to respond to another
20 location?

21 A Yes.

22 Q What location were you asked to respond to on that
23 date?

24 A It was 3220 South Nellis.

25 Q Do you recall what time it was that you were

1 requested to respond to at that scene?

2 A Approximately, midnight 15.

3 Q Is that when you were questioned or when you
4 arrived?

5 A That's when I arrived.

6 Q So 15 minutes after midnight?

7 A Correct.

8 Q When you arrived on scene, did you make contact with
9 any law enforcement officers --

10 A Yes.

11 Q -- or detectives?

12 A Yes.

13 Q What was the purpose of making contact with them?

14 A There were several robbery detectives on scene, and
15 they basically just gave me a rundown of what they had and
16 what they needed.

17 Q Okay. And why is that important to you?

18 A I don't know what happened prior to me getting
19 there, so I need to have kind of a story so I know what route
20 I'm going to take.

21 Q With regards to this particular scene, what route
22 did you take?

23 A So I photographed the scene and then photographed
24 several items and recovered several items for evidence.

25 Q So you indicated you did photography first. Why do

IN THE SUPREME COURT OF THE STATE OF NEVADA

BRANDON STARR,)
#1165964,)
Appellant,)
v.)
STATE OF NEVADA,)
Respondent.)
_____)

CASE NO.: 71401 Electronically Filed
E-FILE Jun 21 2017 09:24 a.m.
D.C. Case: C-14-303022-2 Elizabeth A. Brown
Dept.: XIX Clerk of Supreme Court

APPELLANT'S APPENDIX VOLUME IX
Appeal from a Denial of Post Conviction Relief
Eighth Judicial District Court, Clark County

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CERTIFICATE OF SERVICE

I hereby certify that I am an assistant to Terrence M. Jackson, Esq., am a person competent to serve papers and not a party to the above-entitled action and on the 19th day of June, 2017, I served a copy of the foregoing: Appellant's Appendix and Index, Volumes I - XII, as follows:

[X] Via Electronic Service (*eFlex*) to the Nevada Supreme Court and to the Eighth Judicial District Court, and by U.S. mail with first class postage affixed to the Petitioner/Appellant as follows:

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BRANDON STARR
ID# 1165964
Ely State Prison
P. O. Box 1989
Ely, NV 89301

By: /s/ Ila C. Wills
Assistant to Terrence M. Jackson, Esq.

1 continued to be brief as a detective -- a general detective
2 today, correct?

3 A Yes, sir.

4 Q Like you said, when the windbreaker series was
5 happening, briefings go out to all of patrol when there's a
6 series of this size or nature, correct?

7 A Yes, sir.

8 Q Okay. Have you heard of any, in your entire time
9 since these defendants were arrested, any robbery series with
10 all those unique characteristics or coming close to all of
11 those unique characteristics that would make you think that
12 those were part of the windbreaker series?

13 A No, sir.

14 Q Thank you.

15 THE COURT: Any recross?

16 MR. TANASI: Mr. Maningo does, Your Honor.

17 MR. MANINGO: Yes, Your Honor.

18 THE COURT: Okay. Hold on. You can't hear?

19 UNIDENTIFIED JUROR: If I don't get a break in
20 about ten seconds --

21 THE COURT: All right.

22 UNIDENTIFIED JUROR: I'm sorry.

23 THE COURT: Okay. All right, that's fine. Let's
24 go ahead and take a break, then.

25 Ladies and gentlemen, we're going to take a 15

1 minutes right now. And during this break, you're admonished
2 not to talk or converse amongst yourselves on any subject
3 connected with this trial or read, watch or listen to any
4 report or commentary on the trial or any person connected
5 with this trial by any medium of information, including
6 without limitation, newspapers, television, Internet or radio
7 or form or express any opinion on any subject connected with
8 this trial until the case is finally submitted to you.

9 All right, it's 10 after. Let's be back at 25
10 after, okay? We'll be at ease while the jury leaves the
11 room.

12 (Outside the presence of the jury)

13 THE COURT: Okay. We're outside the presence of
14 the jury. Officer, I want to remind you you're going to
15 remain under oath. If you need to -- if the parties approach
16 you and talk to you, you can talk to them, however,
17 understanding that you're still on the stand, all right? If
18 you need to take a break, that's fine.

19 Anything that needs to be put on the record at this
20 time?

21 MS. MERCER: No, Your Honor.

22 THE COURT: All right.

23 MR. TANASI: No, Your Honor.

24 MR. PORTZ: No, Your Honor.

25 MR. MANINGO: No, Your Honor. Thank you.

1 THE COURT: We'll be back. Okay.

2 (Court recessed at 1:09 p.m. until 1:24 p.m.)

3 (Outside the presence of the jury)

4 (Pause in the proceedings)

5 THE COURT: All right, Jim, why don't you go ahead
6 and get the jury.

7 (In the presence of the jury)

8 THE MARSHAL: Please be seated. Department 19 is
9 back in session.

10 THE COURT: Okay. This is continuation of the jury
11 trial in C-303022, State of Nevada versus Tony Hobson and
12 Brandon Starr. I'd like the record to reflect the presence
13 of the defendant and his counsel as well as the State and
14 their counsel, all members of the jury. Will the parties
15 stipulate to the presence of the jury?

16 MR. TANASI: Yes, Your Honor.

17 MS. MERCER: Yes, Your Honor.

18 THE COURT: Okay. Before we took a break, the
19 detective is here on the stand. I want to remind you that
20 you're still under oath and that we already cross-examined --
21 I guess, re-re-recross.

22 MR. MANINGO: Something like that, Your Honor, yes.

23 THE COURT: All right. Mr. Maningo had some
24 questions. It you still have some questions?

25 MR. MANINGO: Yes, sir, if I may.

1 THE COURT: Okay. All right.

2 FURTHER RECROSS-EXAMINATION

3 BY MR. MANINGO:

4 Q Detective, did you tell us earlier that you were
5 part of northwest area command or --

6 A I'm currently assigned to northwest area command,
7 yes, sir.

8 Q Okay. And since when?

9 A Since July, I think, 17th of 2015.

10 Q Okay. Then you recall at or around that time July
11 through -- excuse me, not July, but November of 2015, isn't
12 it true at that there was about 75 burglaries happening
13 around that time that you were investigating?

14 A Burglaries, could be. I mean, we've got 30
15 detectives that are assigned to northwest area command so it
16 gets kind of divvied out, but, yes -- burglaries possibly,
17 yeah.

18 Q And sometimes northwest area command would put ads
19 in papers, right, to -- or on the TV program Crime Stoppers,
20 those sorts of things?

21 A Yes, sir.

22 Q And that would be to assist -- to have the community
23 assist you in trying to solve crimes?

24 A Correct, yes, sir.

25 Q Okay. And isn't it true that in about November of

1 2015, there was a run of about 75 burglaries throughout the
2 valley?

3 A It's possible, yes, sir.

4 Q Okay. Isn't it true that those burglaries started
5 in about November of 2015?

6 A I don't recall the burglary series. It could have
7 been November.

8 Q And isn't it true that the suspects would gain entry
9 by breaking the glass of the business's front door?

10 A Yes, sir.

11 Q Or that they would enter drive-thru windows at fast
12 food establishments?

13 A Yes, sir.

14 Q Okay. Isn't it also true that you were looking for
15 two black males?

16 A I don't recall the race, sir, but.

17 Q Would it refresh your recollection if I showed you
18 an article that's on my cell phone?

19 MR. MANINGO: If I may approach, Your Honor.

20 THE COURT: Sure.

21 THE WITNESS: Yes, sir.

22 MR. PORTZ: Your Honor, could I approach and see
23 the article he's referencing?

24 THE COURT: Sure, yeah.

25 BY MR. MANINGO:

1 Q Just look at that and read it to yourself and tell
2 me if that refreshes your recollection as to whether, and the
3 question was, you were looking for two black males.

4 MR. MANINGO: And you can look at it, too,
5 Mr. Portz.

6 BY MR. MANINGO:

7 Q Did that refresh your recollection as to --

8 A Yes, sir.

9 Q Okay, thank you. So Detective, has your
10 recollection been refreshed as to whether or not at that time
11 and in that series that you were looking for two black males?

12 A Yes, sir.

13 Q Okay. And were you, in fact, looking for two black
14 males?

15 A Yes, sir.

16 Q Okay. And isn't it true that you were also looking
17 for two black males who were committing these 75 burglaries
18 that were in their 20s?

19 A Yes, sir.

20 Q Okay. And we already established that they were
21 going -- either breaking the glass of fast food restaurants,
22 correct?

23 A Yes, sir.

24 Q Or they were climbing through drive-thru windows,
25 correct?

1 A Correct, yes, sir.

2 Q Isn't it also true that these events that you were
3 investigating were happening between 12:00 a.m. and 4:00
4 a.m.?

5 A Yes, sir.

6 Q And isn't it true that they were demanding money?

7 A They -- these were burglaries. I don't recall them
8 demanding money. Burglaries we define as no one is present
9 -- we categorize robberies as taking items from victims with
10 force or violence, whereas, burglaries, it's a property
11 crime. No one's present.

12 Q Isn't it true that in these events that the suspects
13 were wearing hoodies to conceal their identities?

14 A Yes, sir.

15 Q And wasn't it your prior testimony that you recall
16 since these events no similar activity? Wasn't that your
17 prior testimony?

18 A Yes, for robberies. But these are different --

19 MR. MANINGO: No more questions.

20 THE WITNESS: -- crimes; burglaries.

21 MR. MANINGO: Detective, thank you.

22 THE WITNESS: Yes, sir.

23 THE COURT: Anything further, Mr. Portz?

24 MR. PORTZ: Just following up on Mr. Maningo's line
25 of questioning.

1 FURTHER REDIRECT EXAMINATION

2 BY MR. PORTZ:

3 Q These burglaries that he was referencing, about what
4 time frame did they take place?

5 A 12:00 a.m. until 4:00 a.m., roughly.

6 Q I meant what date range?

7 A November of 2015, so just this past November.

8 Q Okay. So more than a year after the robberies that
9 were similar to the windbreaker series stopped?

10 A Yes, sir.

11 Q Okay. These burglaries, were they at fast food
12 restaurants?13 A They were at numerous businesses, not always fast
14 food businesses --

15 Q But people --

16 A -- restaurants, but --

17 Q -- weren't present for those?

18 A People were not present for those.

19 Q And they occurred between 12:00 and 4:00 a.m., you
20 said?

21 A Yes, sir.

22 Q Okay. Not between 10:30 and about a little before
23 1:00 a.m.?

24 A No, sir.

25 Q Did they in any way bear any similarity to the

1 windbreaker series that would lead you or any other detective
2 in the division to conclude that they might be related to the
3 windbreaker series at -- that it stopped more than a year
4 prior?

5 A No, sir. The windbreaker series was strictly
6 robberies.

7 Q No robberies in the ones Mr. Maningo was
8 referencing?

9 A Correct, yes, sir.

10 Q Thank you.

11 THE COURT: Recross?

12 MR. TANASI: Briefly.

13 FURTHER RECROSS-EXAMINATION

14 BY MR. TANASI:

15 Q Detective, in this case, there are numerous
16 burglaries charged, correct?

17 A Yes, sir.

18 Q And so you've tried to make this distinction between
19 a burglary and a robbery at least in law enforcement's mind,
20 correct?

21 A Correct, yes, sir.

22 Q And the distinction is that in burglaries people are
23 not there, but in robberies people are there; is that
24 correct?

25 A Pretty much, yes, sir.

1 Q Okay. But again, in this case, burglaries are
2 charged, correct?

3 A Burglary is for the case we're investigating right
4 now or the 75 --

5 Q In this case that you're here in this trial on are
6 burglaries in this case, correct?

7 A In this case, yes, burglary is a charge that is put
8 on with a robbery.

9 Q Okay. And the bottom line of what get's
10 accomplished in both a burglary or a robbery you'd agree with
11 me is that something gets taken, correct?

12 A Something gets taken, yes, sir.

13 Q Okay. Thank you.

14 MR. TANASI: Nothing further.

15 THE COURT: Redirect?

16 MR. PORTZ: No, Your Honor, thank you.

17 THE COURT: We have a question, though.

18 UNIDENTIFIED JUROR: I did this --

19 THE COURT: Do you still have it?

20 UNIDENTIFIED JUROR: I did a follow-up

21 (indiscernible).

22 THE COURT: All right. Okay.

23 (Off-record bench conference)

24 THE COURT: All right. The earlier question that
25 was asked about a knife being concealed within the blue bag

1 was not, if the knife was found, but based on your
2 professional opinion, was it possible a knife could have been
3 undetected and concealed in the blue bag given the manner in
4 which the blue bag was folded up?

5 THE COURT RECORDER: I can't hear, sorry.
6 Somebody's cell phone's on.

7 THE COURT: Okay, I'll ask it again. The earlier
8 question that was asked about a knife being concealed within
9 the blue bag was not if the knife was found, but based on
10 your professional opinion, was it possible a knife could have
11 been undetected and concealed in the blue bag given the
12 manner in which the blue bag was folded up?

13 THE WITNESS: Yes, sir.

14 THE COURT: Okay. Do you have any questions as a
15 result of that question?

16 MR. PORTZ: Yes, sir.

17 THE COURT: Okay.

18 FURTHER REDIRECT EXAMINATION

19 BY MR. PORTZ:

20 Q Detective, is it possible to conceal a knife in a
21 pocket?

22 A Yes, sir.

23 Q Is it possible to conceal a knife in a pants pocket
24 or a sweater pocket?

25 A Yes, sir.

1 Q No knife was found inside that blue bag, correct?

2 A Correct.

3 MR. PORTZ: Court's indulgence.

4 BY MR. PORTZ:

5 Q With regards to Mr. -- or with regards to the
6 questions on the burglaries from November of 2015, did you
7 receive photographs of the suspects in question?

8 A Yes, sir.

9 Q Okay. And again, no people were present for those
10 particular burglaries, correct?

11 A Correct.

12 Q And in reviewing those photographs, were they
13 wearing anything similar to the suspects in the windbreaker
14 series that occurred over a year prior?

15 A No, sir.

16 MR. PORTZ: May I approach the witness, Your Honor?

17 THE COURT: Does this question have to do about the
18 blue bag?

19 MR. PORTZ: No, Your Honor. I'm reopening on the
20 line of questioning on the (inaudible).

21 THE COURT: Oh, you are?

22 MR. MANINGO: Then, Your Honor, I would object
23 outside the scope of the last series of direct and
24 cross-examination.

25 THE COURT: Well, I'll allow you. He'll just call

1 him again.

2 MR. MANINGO: Pardon me?

3 THE COURT: He'll just call the witness again and
4 he can do that so go ahead.

5 MR. PORTZ: Okay, thank you.

6 THE COURT: I just wasn't sure if that had to do
7 with the blue bag or not.

8 (Pause in the proceedings)

9 THE COURT: Mr. Portz, do you have any questions?
10 Are you going to continue?

11 MR. PORTZ: Yes, Your Honor, I'm --

12 MR. MANINGO: That was on me, Your Honor. I was
13 asking Mr. Portz questions. Thank you, sir.

14 THE COURT: Okay.

15 MR. PORTZ: May I approach?

16 BY MR. PORTZ:

17 Q Detective, that burglary series that was referenced
18 earlier, I'm showing you a series of photographs from the
19 State's computer here. Are these photographs from that
20 series?

21 A Yes, sir.

22 Q Okay. And in none of these series are they wearing
23 clothing similar to the style of the suspects who committed
24 the windbreaker series, correct?

25 A Correct.

1 MR. PORTZ: Court's indulgence. Thanks, Detective.
2 Nothing further, Your Honor.

3 THE COURT: Okay. Any recross?

4 MR. TANASI: Nothing further, Your Honor.

5 MR. MANINGO: Court's indulgence one moment.

6 FURTHER RECROSS-EXAMINATION

7 BY MR. MANINGO:

8 Q Detective, the pictures you were just shown about
9 the 75 other instances that occurred showed a young black
10 male with a hoodie walking -- climbing through a drive-thru
11 window, correct?

12 A Yes, sir. Or walking up to a drive-thru window,
13 yes, sir.

14 MR. MANINGO: Okay. No more questions, Your Honor.

15 THE COURT: Detective, how long have you been an
16 officer?

17 THE WITNESS: For going on 16 years, sir.

18 THE COURT: Were you a patrol officer prior to
19 being a detective?

20 THE WITNESS: I was, yes, sir.

21 THE COURT: When you're checking an individual for
22 weapons, doing what's been described as a pat down, can you
23 describe that for us?

24 THE WITNESS: When we as officers do a pat down,
25 we'll feel the outside of the clothing that individuals are

1 wearing and if we come across something in their pocket or
2 anywhere concealed on their body, we will literally like
3 squeeze the item and kind of feel on the outside to be able
4 to see what that item is or be able to feel what that item
5 is.

6 If there is a gun, normally with your hand you can
7 feel there's a gun in the waistband or in any pockets or
8 anything like that. If there's a knife, you can feel there's
9 some kind of metal that is felt similar to what a knife would
10 feel like. .

11 You can tell when there's a phone, a cell phone in
12 somebody's pocket due to the fact that it's square. Certain
13 feel to a cell phone. So that's what we -- when we do pat
14 downs, we pat down the outside. If we come across an item in
15 their pocket, then we start squeezing that item just to
16 determine okay, yeah, that is -- that is a knife, that is a
17 gun, that is some kind of weapon or anything, or it is not.

18 THE COURT: If you didn't feel something when the
19 pat down that gave you concern as being a possible weapon,
20 would you have necessarily went into that item, say a pocket
21 or something?

22 THE WITNESS: Not at that time, sir, no.

23 THE COURT: Okay. All right. Do you have any
24 questions as a result of my question, Mr. Portz?

25 MR. PORTZ: I don't, Your Honor. Thank you.

1 THE COURT: Mr. --

2 MR. TANASI: No, Your Honor.

3 THE COURT: -- Tanasi?

4 MR. TANASI: Thank you.

5 THE COURT: Mr. Maningo?

6 MR. MANINGO: No, sir, thank you.

7 THE COURT: Okay.

8 UNIDENTIFIED JUROR: Your Honor, I --

9 THE COURT: Oh, we got another -- okay, Jim, we got
10 a question. Okay. Okay.

11 (Off-record bench conference)

12 THE COURT: Okay, Detective, during an initial pat
13 down, is it protocol to remove any object that could cause a
14 bulge on the suspect's clothing?

15 THE WITNESS: If it is determined -- if we feel
16 that it could be a weapon, yes, sir.

17 THE COURT: If the item is determined to be
18 non-threatening is it to remain on the suspect?

19 THE WITNESS: If we do not remove it, we leave it
20 on the suspect until we pull them away from -- at this time,
21 it was done at what we call a dynamic scene. It's not under
22 control. We're taking people into custody. We try to make
23 it safe for the officers and everybody involved, and then
24 once we get them away from the scene, and we know that we're
25 going to be making an arrest, then we remove items from their

1 pockets.

2 THE COURT: Mr. Portz?

3 FURTHER REDIRECT EXAMINATION

4 BY MR. PORTZ:

5 Q Just Detective, again, as you arrived on the scene,
6 the suspects were being taken into custody, correct?

7 A Correct, yes, sir.

8 Q Okay. And during that time, you saw Mr. Hobson
9 handcuffed with a blue Walmart bag tucked into his waistband,
10 correct?

11 A Yes, sir.

12 Q Thank you.

13 MR. TANASI: Briefly.

14 THE COURT: Mr. Tanasi.

15 FURTHER RECROSS-EXAMINATION

16 BY MR. TANASI:

17 Q Detective, wouldn't you agree with me that
18 contraband would be found in a bag?

19 A Contraband, meaning, drugs or --

20 Q Any non-threatening item, contraband, drugs,
21 correct.

22 A Non-threatening -- yes.

23 Q That's typically in bags, correct?

24 A Correct, yes, sir.

25 Q Thank you, sir.

1 MR. MANINGO: Nothing, Your Honor. Thank you.

2 THE COURT: Okay. All right. Are we done with
3 Detective Matlock?

4 THE WITNESS: Yes, sir.

5 THE COURT: Detective, thank you so much for your
6 testimony. You can step down. You're excused.

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: Okay. State.

9 MR. PORTZ: Thank you, Your Honor. The State calls
10 Eric Gilkerson.

11 THE COURT: Okay.

12 ERIC GILKERSON STATE'S WITNESS, SWORN

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

16 THE WITNESS: Yes, my first name is Eric spelled
17 E-r-i-c. Last name is Gilkerson spelled G-i-l-k-e-r-s-o-n.

18 THE COURT: Your witness.

19 MR. PORTZ: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. PORTZ:

22 Q Mr. Gilkerson, how are you employed, sir?

23 A Fine, thank you.

24 Q And what do you do for a living?

25 A I work as a forensic examiner of footwear and tire

1 impression evidence in the FBI laboratory in --

2 Q And how long --

3 A -- Quantico, Virginia.

4 Q Okay. And how long have you been -- well, what
5 specifically do you to with footwear and tire impression
6 evidence for the FBI?

7 A I examine footwear and tire impressions that are
8 recovered in the crime scene and compare those to known
9 databases of tires and -- and shoe outsoles, and I also do
10 comparisons with shoes that are recovered from a suspect or
11 tires that are recovered from a suspect vehicle and I compare
12 those directly to crime scene impressions.

13 Q And how long have you been doing that for the FBI?

14 A For about 17 years.

15 Q Can you give the jury a brief explanation or a
16 brief description of your educational background that led you
17 into this profession?

18 A Yes. I have a bachelor's of science degree in
19 biochemistry from the University of Maryland. And prior to
20 examining casework, I worked as a trainee for two years in
21 the FBI laboratory and studied under other experienced
22 footwear and tire tread examiners.

23 Q What year was that, that you went through that
24 training?

25 A From approximately, 1997 until the early part of

1 1999.

2 Q And what sort of training did you receive while you
3 were there?

4 A I learned how to compare cases. I learned about
5 casting and lifting exercises. I learned how to photograph
6 shoe impressions and tire impressions at the crime scene and
7 just general information about the footwear and tire
8 impression discipline.

9 Q And since 1999, you have been working for the FBI
10 as a footwear and tire tread analyst?

11 A Yes.

12 Q Have you testified in court before on the topic of
13 footwear or tire tread analysis?

14 A Yes.

15 Q And I'm just going to start limiting my questions
16 to footwear analysis. About how many times have you
17 testified with regards to footwear analysis?

18 A Approximately, 45 times.

19 Q Now, the requests for examination, do those come
20 solely from federal sources or do you also receive requests
21 from state and local sources across the country to conduct
22 examinations of footwear impressions.

23 A We receive them from both state and federal law
24 enforcement agencies.

25 Q And can you describe the process of how those

1 requests are submitted to you and what you receive.

2 A Generally, they'll submit the original evidence.
3 It might be a lift or a cast or, excuse me, or shoes or tires
4 in the images that -- or photographs of the impressions at
5 the crime scene, they'll burn those images to a disk and
6 submit those to us as well. And they'll also submit a
7 request letter asking us to do an analysis of those items.
8 And that's generally how -- how we receive evidence in the
9 lab.

10 Q Now, some of the evidence that you might receive
11 would include, as you testified, lifts, like vinyl lifts of a
12 footwear impression?

13 A Yes.

14 Q Would it also include photographs taken by crime
15 scene analysts of footwear impressions at a crime scene?

16 A Yes.

17 Q And would it also sometimes include actual shoes or
18 boots to compare to those lifts and/or photographs that you
19 receive?

20 A Yes.

21 Q When the office receives those items of evidence,
22 are they typically packaged in evidence bags?

23 A Yes, they are.

24 Q And does your office, as a course and conduct of
25 its business, maintain records of the chain of custody of

1 those evidence bags as they go through and come to you and
2 are processed and examined and then sent back to the state
3 agency making those requests?

4 A Yes.

5 Q In the case where you receive an actual shoe or
6 boot to compare to a foot -- foot impression lift or
7 photograph, can you -- can you describe the process of what
8 you do with those items of evidence?

9 A Sure. We initially make what I call an initial
10 assessment. We'll look at the crime scene impressions and
11 we'll look at the items of footwear, and if there is
12 sufficient detail in the impressions and if there's some
13 design similarity with the submitted shoes, then we'll have
14 those items photographed. And once those items are
15 photographed, we'll make what we call test impressions. And
16 a test impression is basically done by putting fingerprint
17 powder on the bottom of the shoe, putting the shoe on your
18 foot and then stepping on to the ground and then you have a
19 record copy of what the shoe looks like when it comes on to
20 the ground.

21 And so I use those test impressions in my
22 examination process. And that's generally how we do a
23 footwear exam.

24 Q Now, in April of 2015, were you given a request by
25 the State of Nevada to conduct or compare footwear

1 impressions from a Case C-303022?

2 A We were. I don't recall the exact date that I
3 received the case, but yes, we did receive a case from them
4 with some lifts from a couple robberies and a pair of boots
5 and a pair of shoes.

6 MR. PORTZ: May I approach the witness, Your Honor?

7 THE COURT: Yes.

8 BY MR. PORTZ:

9 Q Mr. Gilkerson, I'm going to show you State's
10 Exhibit 283-A. Do you recognize 283-A?

11 A Yes, I do. They have my initials and lab number on
12 the back of them.

13 Q So obviously, when you receive them, they don't
14 have your initial or lab number on the back; is that correct?

15 A No. I put them there once I had them in the
16 laboratory.

17 Q And what's the purpose of putting a lab number and
18 initials on the back of the shoes?

19 A To demonstrate they were in my possession and I did
20 the analysis on them.

21 Q Okay. Approaching with State's 282-A. Do you
22 recognize State's 282-A?

23 A Yes, I do.

24 Q And how do you recognize State's 282-A?

25 A They have my initials and lab number on them.

1 Q And again, is that to -- those were placed on there
2 by you after your analysis or before your analysis?

3 A Yes.

4 Q And are those the pair of tennis shoes and the pair
5 of black boots that you received from the State of Nevada for
6 footwear impression analysis?

7 A Yes. I received them directly from their crime
8 lab.

9 Q What else did you receive from the crime lab?

10 A I received a pair of shoes, a pair of boots. I
11 received lifts from two different robberies and then two CDs
12 that had images or photographs of the shoe impressions that
13 were photographed at the crime scene. Those were also
14 submitted.

15 Q And what was the request -- the examine request
16 that you received?

17 A To determine if either of the boots or the shoes
18 could have made those impressions.

19 Q Okay. And did you conduct an examination on those
20 shoes and the boots and the lifts that you received from the
21 Nevada crime lab?

22 A Yes, I did.

23 Q Did you prepare a Power Point presentation that
24 would assist you in your testimony today with regards to your
25 analysis of the footwear impressions in this case?

1 A Yes, I did.

2 Q I'm going to approach with --

3 MR. PORTZ: May I approach, Your Honor?

4 THE COURT: Yes.

5 BY MR. PORTZ:

6 Q -- what's been admitted as State's 264. If you
7 could just flip through that. And let me know when you're
8 finished.

9 A Yes, this is a Power Point presentation that I
10 prepared.

11 Q So this is a printed out paper copy of your Power
12 Point presentation?

13 A Yes.

14 MR. PORTZ: And at this point, Your Honor, we'll
15 ask to publish an electronic version of State's 264.

16 THE COURT: Any objection?

17 MR. TANASI: No objection, Your Honor.

18 THE COURT: All right. It will be admitted, and
19 you can publish it.

20 (State's Exhibit 264 is admitted)

21 BY MR. PORTZ:

22 Q So Detective, can -- or I'm sorry, Mr. Gilkerson,
23 could you tell us what we're looking at here.

24 A This is the title slide. It has, what I did in
25 this particular case, my name and the case number.

1 Q We'll go to the next slide. Now what are we
2 reviewing here, sir?

3 A These are a list of the items that I received in
4 this particular case. A pair of Reebok shoes, a pair of
5 Interceptor boots. That's the brand name. Four lifts from a
6 Pizza Hut robbery, a CD that had images of the impressions
7 prior to the lifting from the Pizza Hut robbery. I received
8 two lifts from the El Pollo Loco robbery. I think that's how
9 you pronounce it. Pollo. I also received a CD of images of
10 the footwear impressions from that same robbery.

11 Q So as you've testified, a pair of shoes and a pair
12 of boots and then you received lifts as well as photographs
13 from two separate crime scenes, correct?

14 A Yes.

15 Q All right. We'll go to the next slide. And what
16 are we looking at here, Mr. Gilkerson?

17 A These are the outsoles or the bottom of the shoes
18 that I received. On the left side is the pair of Reebok
19 shoes that I received, and on the right-hand side is a
20 photograph of the Interceptor boots that I received.

21 Q And how were these images of the outsoles of the
22 two pairs of shoes made or generated?

23 A They were photographed in our forensic studio.

24 Q We'll go to the next slide, please. And can you
25 describe what we're looking at here?

1 A Here is a listing of the lifts that I received.
2 And what I did in this case, and you'll be able to see on
3 subsequent slides, are I took the item lift and looked at the
4 CD to determine which images on the disk are the same
5 impression as on the lift. And when I did that, I had the --
6 where it says, associated images, for example, 0039-0043,
7 that's the truncated file name to indicate that those images
8 on the disk are the same impression as on the item one lift.
9 And I did that through all four of the lifts that I got in
10 that particular robbery. And then from the second robbery, I
11 did the same thing. And that's what I did in the table
12 version.

13 Q So just to make sure we're all on the same page
14 here, I want to just walk through this briefly. So we have a
15 table here with a heading and then six rows underneath it,
16 correct?

17 A Yes.

18 Q Okay. So the first four rows, is it fair to say
19 those all come from the Pizza Hut robbery that occurred on
20 November 1st, 2014?

21 A Yes.

22 Q Okay. And under lift you have items 1, 2, 3 and 4
23 from that Pizza Hut robbery, correct?

24 A Yes, that's correct.

25 Q Okay. So are those vinyl lifts that a CSA would

1 have recovered from the scene actually lifting the footwear
2 imprint from the place of the foot where an impression had
3 been left behind?

4 A Yes.

5 Q And then an associated image is you have listed
6 item 5 for all four rows; is that correct?

7 A Yes, that's correct.

8 Q Okay. Is item 5 a CD?

9 A Yes, it is.

10 Q And then the images 39 through 43, 44 through 50,
11 et cetera, those correspond to the files on the CD that
12 relate to the photographs taken by the crime scene analyst?

13 A Yes. And that's item 3, and item 3 would be our
14 laboratory's evidence number for it.

15 Q We're talking about item 5, I'm sorry, the first --

16 A Oh, I'm sorry. Yes, for item 5, yes, and the last
17 two that I thought you were mentioning --

18 Q Okay.

19 A -- are items 3. Those are four the second robbery.

20 Q So the last two rows relate to the second robbery,
21 the El Pollo Loco on November 23rd, 2014?

22 A Yes.

23 Q And in this case, there were only two lifts
24 presented, that's item 1, and item 2.

25 A Yes.

1 Q Correct? Okay. And then you received item 3,
2 which is a CD of photographs of those two lifts?

3 A Yes, that's correct.

4 Q All right. Thank you. We'll go to the next slide.
5 What are we looking at here, sir?

6 A These are the images from the previous table and
7 the item lift. And as you can see, they're all the same
8 impression. On the item 1 lift, the vinyl lift is basically
9 a white piece of adhesive. You lay it -- it was laid down
10 over the impression just after the impression was powdered
11 and it was a lift. And when you take that lift and turn it
12 over, it's in reverse orientation as you see on the counter.
13 But you can see from these impressions that that's all the
14 same impression. And when I do analysis, I write a report
15 and have an opinion about that particular impression, and
16 it's easier to do that once I've organized the images of it
17 prior to the lifting and the lift that was taken from that
18 impression.

19 Q Couple more --

20 A And that's what I did in this particular item 1
21 lift. And I did that for all the lifts in this case.

22 Q A couple quick follow-ups on that. If you touch
23 that screen, it will actually mark the screen. Can you
24 circle what you've indicated is the lift in this image?

25 A Yes. This is the -- this is the lift.

1 Q Okay. So the image on the bottom right corner that
2 says item 1, correct?

3 A Yes, that's correct.

4 Q And then with regards to lifts themselves, with
5 regards to crime scene or collection of the footwear
6 impression, it's not necessarily -- is it necessary that a
7 footprint be dusted or can they do lifts without dusting --
8 dusting a footwear impression maybe that just debris left
9 behind from the foot?

10 A It can be lifted without applying fingerprint
11 powder, yes.

12 Q Okay. We'll move to the next slide. And what are
13 we looking at here, sir?

14 A The -- this is the item 2 lift, as you can see in
15 the bottom right corner of the screen.

16 Q Thank you.

17 A And the associated images that go with that are
18 listed above. You can see the actual images as I saw them on
19 the CD.

20 Q And these also come from the same robbery, the
21 Pizza Hut robbery, correct?

22 A Yes, yes. And so this is all the same impression.

23 Q We'll move to the next slide. And again, describe
24 this slide.

25 A This is the item 3 lift at the bottom right-hand

1 corner. And you can see it's the same impression as the
2 other images of it prior to the lifting.

3 Q Is there a reason there's so many photographs for
4 each of these different lifts?

5 A Generally, what they try to do is illuminate the
6 impression from different angles and hold the light source at
7 different heights. Some trying to skim the light across the
8 surface. Sometimes trying to hold the light source a little
9 bit higher. So they're trying to take multiple attempts at
10 getting the best photograph of the impression as they see it
11 at the crime scene.

12 Q Okay. Next slide, please. Can you describe this
13 slide.

14 A Sure. At the bottom center is the item 4 lift, and
15 above it, again, the same impression, as you can see in the
16 images prior to the lifting.

17 Q So the first four, the lifts and images we've gone
18 through, these are all from the same Pizza Hut robbery, four
19 separate prints, correct?

20 A Yes, that's correct.

21 Q Okay. Next.

22 A In the next one, the impressions are, as you can
23 see, faint on this countertop or on -- wherever this was
24 taken, and then the lift from it was from below. It's item 1
25 lift at the bottom right-hand corner. You can see remnants

1 of the impression, but it's kind of faint based on the type
2 of lighting that was used here.

3 Q And this lift in these photographs come from a
4 separate robbery at El Pollo Loco?

5 A Yes. And this is all the same impression.

6 Q Next slide, please. And can you describe this
7 slide, sir.

8 A Yes. In the bottom right corner it says item 2
9 lift. And that lift was taken from the impression that you
10 can see above. Those three images or of the impression prior
11 to the lifting.

12 Q Okay. Next slide, please. Sir, what are we
13 looking at here on slide 11?

14 A This just briefly describes what we were asked to
15 do. We were asked to determine if the shoes or boots that
16 I've shown you in the slide -- previous slides, whether
17 either of those shoes or boots are the source of those
18 impressions that were recovered from those two crime scenes.

19 Q Okay. Thank you. Next slide, please. And slide
20 12, sir, what are we looking at here?

21 A In this particular slide, this is generally
22 described as methodology. This is how I do a footwear
23 comparison. I'll look at the crime scene impression to see
24 if there's enough gross detail. In other words, what am I
25 looking at? Can I see geometric shapes that could comprise

1 an outsole design or the pattern on the bottom of the shoe?
2 And if I see enough detail there, I'll have the items of
3 evidence photographed in our photograph studio, and I'll make
4 what are called one-to-one prints. And a one-to-one print
5 means that the image in the photograph or print is the same
6 size as it appears in real life. And that enables us to do a
7 direct comparison with a test impression that I make from the
8 known shoe.

9 Once those things come back from our photographic
10 studio, I make a test print. And as I briefly described
11 earlier, I'll coat the bottom of the shoe with a fine layer
12 of fingerprint powder. I'll put the shoe on my foot and step
13 on the ground and do a normal walking layer. And so I step
14 onto a clear acetate that kind of looks like contact paper,
15 and it's a record copy of what the shoe looks like when it
16 comes into contact with the ground.

17 And once I have those test impressions, then I can
18 do my comparisons with the crime scene impressions. And
19 there's two ways we do that. The first one is a side-by-side
20 comparison. So I'm looking at features in the crime scene
21 impression with features on the outsole of the shoe. And the
22 second thing that I'm using is called superimposition. In
23 other words, I'm taking that test impression, I'm
24 superimposing it over the photographs to see how well things
25 align and to make assessments.

1 And when I do the comparison, these are the four
2 areas that we look at. We look at the outsole design, which
3 again, is the pattern on the bottom of the shoe. We look at
4 the physical size and spacing of the geometric shapes that
5 make that up. The third area that we look up -- or look at
6 is wear. As you wear the shoe, it becomes damaged over time
7 and becomes worn. The outsole can become eroded through
8 repeated use.

9 The final thing that we looked at are called
10 randomly acquired characteristics, and they might be cuts or
11 scrapes or anything that's added to the bottom of the shoe
12 and would allow me to identify the shoe if they were in
13 sufficient quantity and quality to identify a particular shoe
14 as having a -- a crime scene impression.

15 And so after I compare these four areas and I make
16 observations, then I formulate an opinion. And that's --
17 this procedure is what I followed in this particular case.

18 Q And is that the typical procedure you follow in all
19 submissions of this nature where you actually receive known
20 prints and then lifts and/or photographs?

21 A Yes.

22 Q And again, you've been trained to follow this type
23 of methodology?

24 A Yes.

25 Q Thank you. Go to slide 13, please. Can you

1 briefly describe what we're looking at on slide 13?

2 A This slide and the next slide shows the range of
3 opinion or conclusions that we can reach in a case. One end
4 of the spectrum is an identification where those class
5 characteristics of the outsole design and the physical size
6 and spacing may correspond. And in addition we would have
7 the randomly required characters that I just mentioned. If I
8 had those in sufficient quantity and detail, I could identify
9 the shoe as the impression. Probably made as not an
10 identification but close to it.

11 The third one at the bottom we could have made is
12 the one that we -- is the level of opinion that we arrive at
13 in most cases where we say the shoe could have made the
14 impression. In other words, the sizing and maybe the outsole
15 design correspond, but there aren't those little cuts and
16 scratches in the crime scene impression that would allow us
17 to identify it as having made the impression.

18 And so this is the most common conclusion that we
19 arrive at in footwear cases.

20 Q So as to -- with regards to the could have made,
21 that would mean that the -- just so I'm clear, the actual
22 size of the shoe print that you're comparing with the lift
23 and the photographs are the same size?

24 A Well, it's not shoe size. It's talking about the
25 physical size and spacing of those geometric elements on --

1 Q Okay.

2 A -- on that. So that's we're talk about when we're
3 referring to physical size and then the outsole design as
4 well.

5 Q Okay. Thank you. Slide 14.

6 A The next, again, continues on. Elimination is the
7 opposite end of the spectrum in identification. The outsole
8 design typically would look different and you could eliminate
9 it. Other instances of physical size and spacing is
10 significantly different and we could eliminate it based on
11 that as well. There's, it could not be determined where
12 there's just insufficient detail to form an opinion. And
13 there is a unsuitable, where there's just nothing there that
14 I can even really look at to even do a footwear comparison.

15 So these two slides just shows the range of levels
16 of opinions that we can obtain or get in a footwear
17 impression evidence case.

18 Q Slide 15, please.

19 A And this is the direct comparison that I did. The
20 next subsequent slides show my comparisons and results of
21 those for this Pizza Hut robbery. And the first thing I did
22 was compare the item 1 lift with the item 3 and item 4 boots.
23 And on the left-hand side of this slide, you can see where it
24 says, image 39. That's the same impression as the item 1
25 lift. And as I mentioned earlier, the lift was taken, put

1 down over the impression and then it's turned over and so
2 it's in reverse orientation. And then the item 4 right boot,
3 and the same thing would occur there. If I stepped on to the
4 ground with my right shoe and left an impression, you could
5 see it's a right shoe. If I took off that shoe to compare
6 it, the shoe would be in reverse orientation.

7 And that's what occurred here. And then I in
8 subsequent slides arranged these so that they were all in the
9 same orientation.

10 Q Now I want to move on to slide 18. Have you
11 arranged the item 1 lift, which you said was because of the
12 nature of the lift, a mirror image of the footwear impression
13 itself. Have you rearranged the orientation of that item
14 lift?

15 A Yes. It -- the now boot has been reversed so that
16 it -- well, in this -- excuse me, in this case, no, the lift
17 and the boot are already in the same orientation so they were
18 not changed.

19 Q Okay.

20 A And then I'm just pointing out outsole design
21 features that I see. You can see like a bar with notches and
22 a crime scene impression, and you can see that on the bottom
23 of the -- of the item 2 right boot. Then there's a trilobe
24 figure at the top of the impression, and you can see that
25 that also appears on the top and the toe area of this

1 particular boot.

2 And then there are a series of like almost like
3 small triangles that are together around the perimeter. You
4 can see that in the crime scene impression, you can see that
5 it's similar to what appears on the -- around the perimeter
6 on the toe area of this particular boot.

7 Q Thank you. Slide -- next slide.

8 A That shows the size correspondence. Again, these
9 are multiple impressions here. So that shows how the size
10 corresponded.

11 Q Is this -- have you -- is this a superimposition
12 that we're looking at?

13 A Yes. This is superimposition. I've done this in
14 an animated form of this video. But in the lab we put the
15 test impression directly over the photograph and I do it as a
16 physical comparison.

17 Q Okay.

18 A And in this case, there's a lot of movement and
19 multiple overlapping impressions. And then here's a second
20 one I put over top of it to try to account for the movement
21 that you see. And I'm treating this as all one impression,
22 even though there are really are a couple of impressions that
23 are there.

24 Q And what was your conclusion as to the item 1 lift
25 from the Pizza Hut robbery with that boot?

1 A Well, the physical size and the design corresponded
2 in the -- with the toe area of that item 4 right boot.
3 Therefore, in my opinion, that boot could have made the
4 impression. However, there were no RACs or any other
5 individualizing characteristics; therefore, I can't
6 definitively say that that boot made the impression. I can
7 say that it could have.

8 Q What are we getting into next?

9 A This is the comparison with the item 2 lift and the
10 associated images, again, from the Pizza Hut robbery. On the
11 left-hand side you can see the impression prior to the
12 lifting. You can see the item 2 lift and then you can see
13 the item 1 lift shoe.

14 Q And this is the left Reebok?

15 A This is the left Reebok shoe, yes.

16 Q Thank you. And in slide 22, Mr. Gilkerson, what is
17 this?

18 A This is a photograph of the lift and then again the
19 left shoe and again, they are oriented in the same direction.

20 Q And what are you notating here with the orange
21 arrow?

22 A That arrow you can see part of the word Reebok in
23 the crime scene impression. And you can see that on the
24 bottom of the shoe.

25 Q And the blue arrow, what's indicated there?

1 A You can see a series of curve -- like a curve line
2 towards the center of the shoe and you can see that curved
3 line in the center of the item 1 left Reebok shoe.

4 Q And the yellow arrow?

5 A You can see some circles within that -- that curve
6 line, and again, you can see that same group of circles on
7 the bottom of the left Reebok shoe.

8 Q Are these what you call randomly acquired
9 characteristics or are these prints?

10 A These are features of the outsole design. So these
11 would be on all of the Reebok shoes manufactured with that
12 particular pattern. So they would all have those circles and
13 they would all have that groove and those other geometric
14 shapes that I've pointed out here. So that would be what we
15 call class characteristic and moldable shoes that Reebok
16 makes with this outsole design would have those same
17 features.

18 Q Thank you.

19 A This was a test impression that I superimposed to
20 account for the one side of the impression. You can see how
21 it covers it there. And then there's a second one here.
22 They try to account for that as well.

23 Q And then slide 23?

24 A In this slide there are -- these are the RACs that
25 I observed in the impression, and I've highlighted them with

1 those -- those colored boxes and then made enlargement of
2 those boxes. So in the blue box there are a couple of RACs.
3 In the red box there are, it looks like three RACs and that's
4 the crime scene impression. And then the lift there was
5 another RAC that I could see on the lift itself, and that's
6 indicated by that green box. And that includes the
7 impression at the crime scene, the lift of it in -- towards
8 the right-hand side under test impression, that's the test
9 impression, you can see how the RACs print, and then you can
10 see on the item left shoe how they appear on the bottom of
11 the shoe.

12 Q These random -- these RACs, those are randomly
13 acquired characteristics, these are unique to specific shoes
14 as opposed to what the shoe company itself puts out, correct?

15 A Yes. These would occur as a result of somebody
16 wearing the shoes. In the case of the -- the one RACs in the
17 center, that may have been put there by an individual, they
18 would not have been put there by the manufacturer.

19 Q Thank you. And slide 24, what is this slide
20 explaining?

21 A This shows the first two RACs that I observed, the
22 small blue box at the top on the corresponding area in the
23 crime scene impression, on the test impression, in the
24 center, and then on the bottom of the known shoe. And then
25 you can see the enlargement there. You can see what looks

1 like a small line at the top. You can see how it prints, and
2 then you can see that actual RAC on the bottom of the shoe.

3 Below that is -- running perpendicular to it is the
4 groove. It's a groove on the shoe. So that would be found
5 on moldable shoes. Below that is a scratch, a long scratch.
6 And you can see that long scratch in the test impression and
7 you can see that long scratch in the corresponding area on
8 that particular shoe.

9 Q Can you circle the scratch you're referencing on
10 the --

11 A Sure.

12 Q -- we'll say the shoe image.

13 A Okay. This would be the short scratch here.

14 Q Okay.

15 A And this would be the longer scratch here. And
16 then this line in the middle here is a groove. In other
17 words, it's on the outsole design that would appear on all
18 the shoes of that particular outsole.

19 Q And those two scratches are randomly acquired
20 characteristics?

21 A Yes. They were the result of the normal wear and
22 tear of using a shoe.

23 Q And you were able to locate that same
24 characteristic in a photograph taken of the footwear
25 impression left at the Pizza Hut robbery?

1 A Yes. And that's what you see on the left-hand side
2 of the slide.

3 Q Okay. Thank you.

4 A This one shows those, what looks like to be maybe a
5 letter T and maybe a 6 or M or W, I'm not sure, depending on
6 how you orient it. But you can see those three features that
7 appear on the crime scene impression. You can see them on
8 the test impression, how they print. And then you can see
9 them in the center of the footwear.

10 Q Thank you. Slide 26.

11 A This next one shows the letter R in the Reebok
12 there, if you look closely at the enlargement. There's a
13 slight gap in that R, a void area. You can see how it prints
14 on the test impression. And then you can see the actual RAC
15 or damage on the shoe to the letter R in the same
16 corresponding area.

17 Q So that damage on the R is not typical or a part of
18 the Reebok logo that you find on the outsole of these shoes?

19 A No, it's not.

20 Q And again, this one comes from -- you can see it in
21 the actual lift from the Pizza Hut robbery and compared to
22 the -- the shoe itself in your test impression?

23 A Yes.

24 Q Thank you. Sorry, would you do me a favor and just
25 circle the -- the randomly acquired characteristic on -- on

1 the screen so that the jury can see it as well?

2 A Sure. I'll try to. It's here, this void area
3 there. And then you can see the void area there, and then
4 you can see the actual defect here.

5 Q Thank you. So those last four randomly acquired
6 characteristics all correspond to one lift from one
7 impression made at the Pizza Hut robbery, correct?

8 A Well, the lift and the impression themselves --

9 Q Okay.

10 A -- as -- as it was photographed at the crime scene.

11 Q And what was your conclusion as to the lift
12 corresponding to the left Reebok shoe that you received?

13 A That it corresponded in the physical size, design,
14 the wear, and it also had six RACs, and in my opinion, that
15 shoe is the source of the impression. And I wouldn't expect
16 there to be another shoe out there with that outsole design
17 with those same characteristics that I've just pointed out or
18 same RACs. So my opinion, that shoe made the impression.

19 Q Thank you. And slide 28.

20 A This is the item 3 lift from the Pizza Hut robbery.

21 Q Slide 29?

22 A This is the impression at the crime scene, and then
23 the impression -- or the lift -- of the photograph of the
24 lift is in the center. And then right-hand side of the slide
25 is the item 3 boot. And they've all been oriented so that

1 they're -- excuse me, the crime scene impression is not
2 oriented yet, but this is prior to the lifting, the lift
3 itself, and then the actual boot.

4 Q And can I ask before we go to the next slide, is
5 there a reason why when we look at the left boot and when we
6 saw the right boot ads well towards the center of the sole
7 there's this gray image with, I think, the logo of the boot
8 itself in there. Do you see what I'm referencing?

9 A Yes.

10 Q Would you circle that, please?

11 A This logo here?

12 Q Yes. Why would that not show up on a countertop or
13 the footwear impression?

14 A That is high up inside the arch area, the middle of
15 the shoe, and that wouldn't print when you stepped onto a
16 regular ground, regular hard surface. If you stepped into
17 snow or sand or something that had some depth to it, that
18 might appear.

19 Q So it wouldn't have made contact with the ground
20 given that it's elevated compared to the rest of the sole,
21 correct?

22 A Yes.

23 Q All right. Slide 30?

24 A Again, the picture of the lift and then the -- the
25 left boot.

1 Q And what does the red arrow indicate?

2 A Again, pointing out those design similarities, you
3 can see a trilobe feature at the top of that crime scene
4 impression, and you can see it on the -- in the same area --
5 corresponding area of the bottom of the left boot.

6 Q And the yellow arrow?

7 A Again, you can see rectangular sort of designs with
8 little void areas in them, and that looks like what you see
9 on the known bought where you have these long triangular
10 thing with little notches in them. So you can see the design
11 similarity.

12 Q And the blue arrow?

13 A This is showing the heel area where you see the a
14 bar here, and then perimeters around the logs. And you can
15 see these same features in the boot area, in the heel area of
16 that left boot. So the design looks like it is similar.

17 Q Thank you. And what adjustment was made there?

18 A And this shows the physical size correspondence.

19 Q Your conclusion as to the left boot and the print?

20 A That it corresponded in the physical size and
21 design with the left 3 boot, and therefore, the left 3 boot
22 could have made the impression, but since there were no RACs
23 or any identifying features, I can't definitively say that
24 that boot made the impression. I can say that it could have.

25 Q And then this is the fourth and final lift from the