A Correct.
Q Okay. So just setting aside the 15 levels of hearsay involved with that for a moment, let's leave AFICctronically Filed
 Elizabeth A. Brown are you saying the entire fingerprint if -- Clerk of Supreme Coult There could be some people with very similar fingerprints if you compare the entirety of both?

A Correct.
Q But if we compare the entirety, you're working under the assumption no two of them will be identical in every aspect?

A Right. With over a hundred years of application of fingerprint comparison, no two fingerprints have been found to be --

Q Now, ma'am --
A -- the same.
Q -- once again, you haven't been doing this for 100 years --

MR. SCOW: Objection.
THE WITNESS: No.
MR. SCOW: Judge, I'm going to object.
MR. HUGHES: I ask that her answer be stricken.
THE COURT: Well, okay. What's your objection?
MR. HUGHES: Well, that she --
THE COURT: No. No. You didn't make the objection.

MR. HUGHES: Okay.
THE COURT: Mr. Scow, what's your objection.
MR. SCOW: My objection is first of all he's getting very argumentative with the witness.

Second of all, when he's trying to cut her off when she's talking about a hundred years of experience in testing and science, she can rely on that. She can rely on --

THE COURT: Right.
MR. SCOW: -- hearsay and the science --
THE COURT: Okay.
MR. SCOW: -- and he's trying to cut her off and stop her from talking about it.

THE COURT: Well, okay. Two things. First of all, Mr. Hughes, you don't need to make editorial comments. Just ask the questions, number one.

And, number two, let the witness finish her answer, and if you feel like she's not answering the question, then make an objection that it was nonresponsive and ask to have the answer stricken.

So I don't remember what the last question was. So and I don't know if the jury remembers the last question. So can you state your last question again.

And if you've been doing this for a hundred years, I want to know your face cream.
/ / /

BY MR. HUGHES:
Q Ma'am, is it possible that two fingerprints from different individuals could be very similar on the tips of the print but have disagreements on the bottom?

A Anything is theoretically possible, yes.
Q What you're saying -- I'm getting the hint that you think that, well, that might be theoretically possible, but it really is impractical?

A Correct.
Q Why is that?
A Because we have -- the FBI database, for example, has over 70 million individuals. That's 700 million potential fingerprints that no two have been found to be the same from two different individuals.

Now, it's true that two people can have similar fingerprints. They've done, for example, twin studies of identical twins that have the same DNA, but their fingerprints are -- can be similar, but they are different in Level 2 and Level 3 details, but they can look on appearance very similar.

Q 700 million. How many people do you understand exist on the planet today roughly?

A $\quad 7$ billion or more.
Q Can we agree that most of them have 10 fingers each?
A Yes.
Q So how many possible fingerprints are there on the JD Reporting, Inc.

A $\quad 70$ billion or more.
Q And that's today. People live and die all the time; right?

A Correct. But they're not all in the Las Vegas area.
Q So the FBI has in their great database what percentage of the possible fingerprints on the planet today?

A A fraction.
Q It's your belief that if you only see a portion of a print and it matches in a lot of detail that even the greater portion of the print that you don't have to compare wouldn't have points of disagreement, meaning they are not the same prints?

A If I had done a thorough analysis on that print and determined that there is sufficient detail in there to conclusively identify it to a single source, then, yes.

MR. HUGHES: And thank you.
THE COURT: All right. Redirect.
MR. SCOW: Thank you, Judge.
REDIRECT EXAMINATION
BY MR. SCOW:
Q First question. Was Anthony Barr identified for any of these latent lifts from any of these bank scenes?

A All of the remaining unidentified prints that I compared to Anthony Barr, he was excluded as a source except
for that one which was the high tip, and I could not identify or exclude anybody out of the sources that I had.

Q That one you couldn't make any type of conclusion because there wasn't enough information.

A There wasn't enough information on the known prints that I had to compare. Correct.

Q And so that kind of leads into some of the questions that were asked by Mr. Hughes. He kept asking you about what percentage. Why can't there be a definite percentage of a latent print to be able to use in making comparisons?

A Because all latent prints are different, and you're going to capture different amounts depending on the size, the shape of the latent, distortion that may be in the latent, smearing, and that's why we do a thorough analysis and look at all those characteristics.

During that analysis portion, I look at whether I can tell if it's a fingerprint or a palm print, a joint. I look at orientation, which way is up. I can determine sometimes if they're simultaneous impressions which finger it may be. I'm looking at pattern type. I'm looking at distortion, and then I look at those Level 2 and Level 3 details, kind of going down to those smaller details, taking all of that information to determine if that print is of value.

Q You talked about the standards and verification. Can you just explain for the jury again what are the national

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standards, and what standards do you use in your lab as far as latent print identification?

A In the fingerprint community as well as other impression evidence sciences, the comparison methodology is known by the acronym ACE-V. That's A-C-E, dash, V. That stands for analysis comparison evaluation and then verification. We follow this in our laboratory which means that that is the order of methodology:

I look -- I do my analysis on the prints.
Any prints that are deemed suitable for comparison, I then move to the comparison part of the ACE. I compare it.

The evaluation is the part of my comparison, side by side, back and forth, coming to my conclusion, whether it's an identification, an exclusion or an inconclusive.

And then the verification part is the last part. Like I briefly talked about, anytime that I compare and any results that I have in our laboratory get looked at by a second qualified and certified examiner. Any comparison results -those identifications, exclusions or inconclusive -- have to be reworked by that second examiner trying to prove me wrong, and it's only when they come to the same conclusion as mine that I'm allowed to then release those results. When I write my report, all of my notes, all of my information is technically reviewed by another qualified certified examiner, and then finally it goes through an administrative review before that

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information is released.
Q There was another question also asked about the flexibility, well, why you can't do overlapping and say, oh, that's the same frame because you put one on top of the other, and it's an exact match. You mentioned flexibility. Describe that, why you can't do an overlap comparison?

A The skin is very pliable, especially with friction ridge skin. That's the whole -- the whole purpose of friction ridge skin being two-dimensional is it has those raised ridges which are -- have sweat pores which provides friction and allows you to grip surfaces. Without friction ridge skin, you would not be able to grab things, and so that actually -- those ridges are very flexible allowing for that friction and grip, and so when you're touching things, you have that flexibility of the skin. It moves.

There's distortion, but collectively, because all of those ridges are connected with underlying connectors within the furrows, collectively that distortion is going to be seen throughout the entire latent print. So if I do have corresponding features that are out of perspective, then I'm going to exclude that based on distortion.

Q So what you're doing -- and I'll put up a couple of these. This is Exhibit 373. This was the palm you identified to Damien Phillips with the a.k.a. Travis Phillips on that check writing counter at Bank of the West in the third

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incident.
A Correct.
Q As you're looking at the ridges, those are the lines that you see going through, or is it the space between the lines?

A The ridges are represented by black lines. That is the top of the friction skin. So that's what's coming in contact with the surface. The white lines in between are the depressed areas which are the furrows.

Q So as you're going through and making your comparisons, and when you talk about the flexibility of the skin, it can change somewhat the direction that these lines will go because the skin can move as it's applying pressure and moves with touching a surface, but where they move and stop, stop here and here where you've put some of these dots, those are things that are going to be identifiable when comparing with a known?

A Correct. Those are actual characteristics in the ridges. So the ridges and in that location. So those ridge characteristics are then transferred to the surface and can be compared back to the known impression.

Q And as you put the dots on both, and when you come over to here, you can see the same patterns and where they end and stop, and this is how you're making your comparison?

A Correct. That ridge detail doesn't change throughout

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a person's life. They're fixed permanent position at about four month gestation in utero, and they remain unchanged barring any deep tissue damage, such as a scar, and they remain unchanged throughout life and into decomposition after death.

And it's only with those deep scars that that friction ridge can change, and then it's going to be represented in a scar, and if that scar is in the known print and the latent, that can also be used as a point of comparison.

Q When you see a line coming through like this, what is that?

A That is actually a artifact from processing. That is a crease in the tape when it was lifted.

Q Okay. Like you said, sometimes there's things on our fingers. Whether it's dust or other particles because we're touching a lot of things, sometimes that will come out in these images.

A Correct. Just like if you have gloves or some sort of barrier that's blocking those ridges from touching the surface, that area is not going to be transferred in the latent.

Q Just because you have an area like that doesn't mean you have to stop your identification or examination because there is this difference because something happened to be on the finger?

A No. I'm looking at the entire print and all of the JD Reporting, Inc.
information collectively.
Q And you were asked about, a lot of questions, about whether anybody has ever had the same fingerprint as anybody else.

A Correct.
Q Do you remember those questions?
A I do.
Q That's never been found, ever?
A Correct.
Q And you were asked because there's 7 billion people on the planet, and the FBI database only has about 700 million prints, none of which are the same, that there is this remote possibility in 700 -- or 7 billion people there could be someone with the same fingerprint as someone else?

A I mean, it goes against our science, but anything is theoretically possible, and we have not examined all the prints of everybody that's ever lived or anybody that's currently living on the planet. We have not compared all their prints.

Q And when Mr. Hughes asked about the population of the world, 7 billion, and you started to mention the population of Las Vegas, why is that important?

A Because when I identify a print, I'm saying that this individual touched that surface. If there is a remote possibility that two people have the same friction ridge arrangements, then that second person would also have to have

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accessibility to that surface.
Q You've been doing this for how many years?
A Approximately 11 years.
Q And you --
A Well, sorry. 13 years.
Q And you couldn't even number the number of latents that you've looked at in those years?

A Correct.
Q With all that experience, as you come across this case that you were given three bank robberies and latent lifts from each of the three, you have no suspects?

A Correct.
Q You have no known sources to compare against?
A Initially I was not given anybody. It was just unknown suspects. Correct.

Q And as you run and make comparisons, you were able to identify Damien Phillips on these palms from that check writing counter at Bank of the West?

A Correct. I ran the print in the FBI database. I identified it to the card bearing the name Travis Phillips, and I recorded that out. Like I said, I don't just identify suspects. I identify prints and report that out. At the time I did not know any connection of what this individual had with the case.

Q And then in the next one, you still don't know what

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connections. You don't know anything about the cases. On the fourth one, you identified Damien Phillips to the twistable crayon boxes and the note that was found on the ground outside the bank?

A In that fourth case, his name as well as Anthony Barr's were listed as potential suspects to compare.

Q But you identified him again?
A Correct. And, oh, I identified Damien Phillips.
Q Yes. And in that particular incident, you also identified the latent prints of David Kranz and Navaal Ali on those twistable crayon boxes from those latent lifts as well?

A Correct. I identified both of them multiple times.
Q And can you state to a degree of certainty based on your experience, your training, time as a forensic scientist how certain you are in these identifications?

A It was my opinion that they were identified that both the latent prints in these cases and the known prints that I compared and identified them to were from the same individual.

Q And when we're talking about the same individual, that's as to each of the ones you've discussed, the ones for David Kranz? That's a yes or no?

A Yes.
Q Navaal Ali?
A Correct.
Q Damien Phillips?

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A Correct.
Q And for none of them were you able to identify Anthony Barr?

A Correct.
Q And on the first two, just so we're clear, the first two you weren't able to identify either Anthony Barr or Damien Phillips in those latent lifts?

A And not only were they not identified, but they were excluded as a source, meaning that those prints were not made by those two individuals.

MR. SCOW: Okay. I don't have any more questions. THE COURT: All right. Mr. Brower, any recross? RECROSS-EXAMINATION

BY MR. BROWER:
Q So I wanted a whole lot of numbers here. So forgive me if I'm --

We learned that there's a lot of prints in the FBI database; correct?

A Correct.
Q So I'm just going to start potentially with me just because I know how many times I've given prints. So I've given prints in Florida when I was a bartender for my, you know, liquor license and cards, and I've given prints for law school, and I've given prints for the bar here, and I've given prints to the school district to get, you know, the screen to work
with the schools, and I've given prints to the bar here and when I applied in New Hampshire and some of the other things. So I've probably had -- oh and for my [unintelligible] background. So I probably had 15 or 20 sets of prints. Some were the rolled type. Some were the electronic type. Some were, you know, whatever.

How many times do those prints get uploaded to the FBI database? Do you have any idea?

A Depending on how long ago it was, all of those prints, every time that you are fingerprinted -- so let's say you're applying for two different jobs here in Las Vegas and you're fingerprinted let's say at Metro and at Henderson. Both of those sets are going to be uploaded to the State, which is the WIN, Western Identification Network as well as the FBI, and all of those records will be retained.

Q So assuming my first set of prints was when I was around 20, and I'm a lot older; I'm almost 50. So I have prints going back 30 years. When you compare prints, do you have to compare just the last set, or do you compare all of my prints that are on the file?

A It depends on the quality of the record because that's why there are multiple records available for each individual because just like a latent print, or like we were talking about, sometimes it's impossible to capture all of that friction ridge when you're rolling it, whether it's by ink or

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computer, and so all of those records are available, and if I compare and it's inconclusive, like that one print where it was the high tip, I will pull more records and more records and look to see if that area is available.

Q Okay. So let's say I leave a print on this desk, which I probably just did, and it was given to you to compare, and you ran it through your Western database because that's the most recent, would you also compare it to the others to make sure it matched, or would you stop right there?

A If I've identified it, I will stop right there.
Q Okay. So you don't go to check if it's the same prints later or even do like just a random sampling of some of the other 10 or 15 or 20 prints that were left?

A No. It would be similar to if you lost your car keys and you're looking for your car keys. Once you find them, you stop looking.

Q Well, that's a good point like with your car keys because you can find a car key, but it could be the valet key, right, which doesn't open everything in the car. It's slightly different, but it kind of works?

A Right. But if you're looking for your personal keys and you find them, you recognize your keys and identify them as your keys, and you stop looking.

Q But there can be differences; right?
A Only one is going to work in your car.

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Q Well, but one works in more things in life [unintelligible] than the other. So --

A Right. But what I'm trying to say is if you're looking for a particular thing and you find that thing, you stop looking. So once I've identified a print, I don't look for other identifications because it's identified to one source.

MR. BROWER: Okay. All right. I'll pass the witness, Judge.

THE COURT: Mr. Hughes, any other questions?
MR. HUGHES: Oh, sure.
RECROSS-EXAMINATION
BY MR. HUGHES:
Q Ma'am, I think you spoke on direct about finding a fourth print on the deposit slip or the note that you couldn't identify who it belonged to; is that right?

A No. There were four prints that were photographed on the note. Two were determined to be no value, and the other two were identified.

Q There was a fourth print on one of the items. Maybe I'm missing it. Was there one of these items there was a fourth -- there was a print that you could not exclude or include anybody?

A That's correct.
Q What item is that?

A That was the card that I had labeled L2. It was described as the exterior of the 24 twistable Crayola crayons in the grocery cart in the aisle.

Q Oh. Thank you. That fourth unidentified print isn't limited to one of the four people you compared it to, is it? It could have belonged to anybody on earth?

A That's correct.
Q Or anybody that was in Las Vegas.
A Anybody that touched that twistable crayons package; correct.

Q Okay. I want to go back to the office procedure where your decisions are reviewed. It is true, is it not, that whoever reviews your work is limited to the same small portion of the latent print that you had access to? Is that right?

A Well, not all of the prints in this case were small.
Q The reviewer is limited to the portion of the latent print that you had access to; is that correct?

A They are -- they are -- they had accessibility to all the same evidence that I looked at. Correct.

Q They don't get to see more of the latent print than you do; right?

A It doesn't exist. Correct.
Q So by examining that, they are deciding whether your decision that the similarities at whatever level that you found in that portion of the latent print is sufficient so that the
missing portion of the latent print that neither you nor they have access to could not possibly have things that would be different and therefore exclude the latent print; is that right?

A They are not -- they're not agreeing with my decision. They are doing their own independent analysis comparison and evaluation trying to prove me wrong, and it's only if they come to the same conclusion as mine that I'm able to release that, but, yes, they are looking at the same information.

Q And they're coming to the same conclusion that there is so much similarity in this portion we're looking at that the portion that we don't have access to could not possibly have an exclusion?

A Correct. When I'm doing that and coming to the conclusion of identification, I'm looking at all of that information and saying that it's more than I've ever seen in 13 years of comparison in agreement between those that were not from the same source.

Q I'm sorry. Which one of these latents did you say it's more than you've ever seen?

A No. That's -- that is what as an analysis when I do my analysis and my comparison. It has to be more than I've ever seen in two prints that were nonmatched.

Q So in effect each print you examine has more points
of identity than any of the ones you saw before?
A That were from nonmatches.
Q Okay. From nonmatches. Okay. Thank you very much. A Thank you.

THE COURT: Any redirect -- any re-redirect?
MR. SCOW: No, Your Honor. Yeah, no.
THE COURT: Any juror questions for the witness?
All right. Counsel, approach.
(Conference at the bench not recorded)
THE COURT: All right. We have a juror question. A juror asks, What is the accuracy percentage when you state that a latent print is a match with a known print? To what degree of certainty or what degree of accuracy.

THE WITNESS: There are no -- I mean, we don't have statistical analysis like they do in DNA; however, there have been extensive studies on error rates, and the two most recent error rates that were conducted with examiners collective throughout the world and the United States indicate that there is about a less than . 01 percent or less in these studies error rates.

Because we don't have -- because friction ridge skin is so different, there's literally no way to collectively say that this percentage of the population is going to have this feature in this specific location because they're so diverse and so much difference in them.

So the best way that we do have, we have what's called a Black Box study which looks at examiners and tests them and develops error rates as well as we have our quality assurance program in our laboratory that, like I talked about the review system as well as all of our examiners are certified, and all of our examiners are proficiency tested every year to ensure that no errors are -- errors are found, and if they are found that they are corrected, and none of those errors are released.

THE COURT: Any follow-up, State?
MR. SCOW: Just a little bit, Judge.
FOLLOW-UP EXAMINATION
BY MR. SCOW:
Q The error rate you said for national studies less than . 01 percent?

MR. BROWER: Judge --
THE WITNESS: Yes. It had a false positive. This study, which is called the Noblis study, reported a false positive rate of 0.1 percent.

MR. BROWER: And, Judge, I think she read something into evidence without just answering the question as to what she had previously stated. I was actually in the middle of objecting --

MR. SCOW: I'll ask her what she looked at.
MR. BROWER: -- but --

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THE COURT: Okay. He's going to follow up and ask her what she's referring to. BY MR. SCOW:

Q So you looked at a study that you had just referred to in that last juror question?

A Correct.
Q What's that study?
A It is -- it's written by Austin Hicklin. It's referred to as the Noblis, N-o-b-l-i-s, study, and it's referred to as a Black Box study.

Q So describe what the settings are, so how they can grade it or know what the error rate is per examiner. Can you describe it.

A Well, they -- I mean, it -- you can't really take what the error rates are in these studies because like I said latent prints are different, and the quality of the latents in this case could be easier or harder than the prints in this study as well as this study does not include that verification, which is part of that quality assurance program to ensure that no errors or all errors are detected.

So these studies are kind of limited because they don't have the verification, but what they do is they send it out to examiners. They send out known prints and latent prints. It's anonymous, and you -- they submit their results, and then they calculate error rates based on positive

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nonmatches, erroneous exclusions and other error rates.
Q So what I was trying to get at is what they send out. The people who send it out, they know which one is the correct latent print to the known?

A Correct. In these studies you have to know the ground truth in -- which is who touched that surface. Of course, in latent prints we never know the ground truth.

Q Okay. So in that study the error rate you said was -- I think you said when you looked at the study is 0.1 (sic) percent?

A That was the error rate for a false positive, which means that . 01 percent of the time the examiners said this print was identified to this person and that that was not the ground truth.

Q Okay. And that was without somebody else looking at it to review it to make their own independent conclusion?

A Correct. The purpose of the verification process is for that second examiner to prove me wrong, and it's only when they can't and their conclusion is the same as mine that $I$ can release my results.

Q So when you're looking at a latent, Mr. Hughes was asking about -- and this relates to the juror question -you're looking at a portion of the latent. You're not looking at a portion of a latent print. You're looking at the entire latent print?

A Correct. I'm looking at the entire latent print and all of the information that's in that latent print.

Q There may be other areas that, like when I touch it, it doesn't cover every portion of my finger, but what is recovered you're looking at the entire portion of that latent recovered print?

A Correct. All latent prints are going to be fragments or partial prints, and like I said yesterday, people aren't going around rolling the entire palm surface of their hands on items. So every latent print is a portion of the friction ridge skin. It could be a large, very clear portion. It could be small fragmented portions, and every latent is different. Latent is a print of chance, and that's why I analyze it, every latent in the case, determine if it's sufficient to move on to comparison.

Q And then you can't give a percentage of your certainty, but when you look at the latent print, you're looking for the total agreement in all three different levels?

A That's correct.
Q And in this case you found that agreement as to the latents for the third and fourth bank for Damien Phillips?

A In my opinion, the latent prints that I identified to those were made by the same sources that I identified them to.

Q As Damien Phillips in particular for those two banks?
A Correct.

Q And David Kranz and Navaal Ali on those crayons for the third -- the fourth bank?

A Correct.
MR. SCOW: I have no questions.
THE COURT: Follow-up?
MR. BROWER: Just real brief I hope.
FOLLOW-UP EXAMINATION
BY MR. BROWER:
Q So you talked about this double layer exam at your lab.

A Correct.
Q Have you ever approved one of your other lab technicians wrong?

A You'll have to explain that a little bit differently.
Q Well, you're checking to see if -- you said somebody checks your work before you can release it to try to prove you wrong; correct?

A Correct.
Q So you in theory would then check other people's work to try to prove them wrong; correct?

A Correct.
Q So have you ever proved somebody else wrong?
A What do you mean by wrong? Because there's different --

THE COURT: Well, have you ever done a check of

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another examiner's work in your lab where you disagreed with the conclusion?

THE WITNESS: Of course, but never, never on an identification. We have never, and in my 13 years I've never had an erroneous identification that I've made brought to my attention, nor have I ever found one in the labs that I've worked in.

MR. BROWER: That was my question.
BY MR. BROWER:
Q So your lab has never found a coworker to be wrong on an identification?

A Not where it's -- they identified it to a source and it was not. There was no erroneous identifications. We occasionally have a missed ID.

Q Okay. So on an identification, your lab has never found an examiner to be incorrect on that identification; correct?

A Correct.
MR. BROWER: All right. Thank you.
THE COURT: What's a misID?
THE WITNESS: A misID was where a comparison was done, and they said it's inconclusive, or it wasn't that person, and then possibly better-known's were found. It was a different area, and then it turned out to be an identification. It was just a missed ID.

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THE COURT: Okay. So somebody might have excluded somebody or said I can't form a conclusion whether it's this person or not, and then if you got a better quality of a known print, the examiner then might be able to form a conclusion as to whether or not that was the person?

THE WITNESS: Correct. And when that does happen, we do have a consultation form that we fill out and corrective action report is generated depending on the error in that case. MR. BROWER: I was -- I'm going to pass the witness, Judge.

THE COURT: All right. Mr. Hughes, any follow-up? MR. HUGHES: No.

THE COURT: Mr. Scow, anything else based on that? MR. SCOW: No.

THE COURT: Any additional juror questions?
All right. I see no other questions.
Ma'am, thank you for your testimony. You are excused at this time.

THE WITNESS: Thank you.
THE COURT: And just follow the bailiff from the courtroom.

We should probably take a break. Let's take -- is about 10 minutes enough for everybody? Does that give you all enough time?

Let's go ahead and take till 10:35.

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During the brief recess, you're all reminded that you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium, and please don't form or express an opinion on the trial.

Please leave your notepads in your chairs, and follow the bailiff through the double doors.

We'll see everyone back at 10:35.
(Proceedings recessed at 10:23 a.m., until 10:39 a.m.)
(In the presence of the jury)
THE COURT: All right. Court is now back in session, and the State may call its next witness.

MS. SCHIFALACQUA: Thank you, Your Honor. We're calling a lay witness a little bit out of order just so it's clear. It's Vince Rotolo.

THE COURT: Okay. And then just remain standing facing our court clerk, and she'll administer the oath to you.

## VINCENT ROTOLO

[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last names for the record.

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THE WITNESS: Vincent Rotolo. V-i-n-c-e-n-t,
R-○-t-o-l-○.
THE COURT: All right. Ms. Schifalacqua.
MS. SCHIFALACQUA: May I? Thank you.
DIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Mr. Rotolo, can you tell the members of our jury how you're employed.

A I own a pizza shop.
Q Okay. And does that pizza shop help service First Friday, which is today?

A Yes, it does.
Q And so we're going to kind of take you out of order to get you out of here as fast as we can, sir. I appreciate you coming down.

I want to direct your attention to August 9th of
2018. Do you remember that day?

A Yes, I do.
Q Do you -- excuse me. Does your business or yourself actually utilize the U.S. Bank located at 801 East Charleston?

A That's my bank.
Q Okay. And were you at that location on August 9th of 2018?

A Yes, I was.
Q What were you doing at that location? Let our jurors JD Reporting, Inc.

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``` know.

A I was in a meeting with the bank manager and one of the other bank associates talking about credit card processing. The bank had offered to give me some information on their services, and they were kind of explaining what they offer to my business.

Q All right. And that bank manager, is that Michael Irish?

A Yes, it is.
Q In the other bank employee that was helping service you, was that Kerri Pedroza?

A Yes.
Q Okay. And when you were in that branch, are you familiar with how the branch is kind of set up?

A Yes, I am.
MS. SCHIFALACQUA: If I may approach with State's 175
through 177, having been previously provided in discovery?
THE COURT: All right.
BY MS. SCHIFALACQUA:
Q Mr. Rotolo, I'm going to show you what's been marked as State's Proposed Exhibits 175 through 177. Do you recognize what's depicted in those photographs?

A Yes, I do.
Q Please describe for the jury what they are.
A It's the inside of the bank with kind of a desk where JD Reporting, Inc.
we were sitting.
Q And when you say, "we were sitting," is that Michael Irish and yourself and Kerri Pedroza on August 9th of 2018?

A That's correct.
Q And those fairly and accurately depict that location?
A Yes.
MS. SCHIFALACQUA: I'd move for admission of 175
through 177, Your Honor.
MR. HUGHES: Submitted.
MR. BROWER: Sulomitted, Judge.
THE COURT: All right. Those will all be admitted at this time.
(State's Exhibit Numbers 175-177 admitted)
BY MS. SCHIFALACQUA:
Q I'm going to show these to the juror -- jurors, excuse me. Oh, I pushed the wrong one.

And there's a mouse in front of you, Mr. Rotolo.
A Okay.
Q Do you see that?
A Yes.
Q Can you point out where it is you were seated.
A I was right here.
Q And do you remember where Kerri and Michael were?
A So this --
Q Or did they move around?

A Yeah. This chair was on the other -- so there were two seats on that side.

Q Okay.
A So I think Kerri was there, and Michael was there.
Q And I'm going to show you 176. Is that just another angle of where you were seated?

A Yes, I was there.
Q Okay. And where are the tellers?
A The tellers are in here.
Q Okay. And then finally, if you were at that seat -I'm going to show you 177. Is this the opposite direction of that desk looking out towards the doors?

A Yes, it is.
Q Okay. And so where would you have been seated?
Could you show the jurors again, please.
A I was sitting right there.
Q Okay. What happened on that day while you were having your meeting with Michael Irish and Kerri Pedroza that causes you to testify here today?

A Well, you know, I remember I was in a meeting with them, and I heard a command to get down on the floor, and so, you know, I just reacted by turning to my left, and someone was there pointing a gun there at Michael, and so my first reaction was like just not really reacting, just kind of like I froze for a second, and then I heard again, Get down on the floor,

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and I got down on the floor.
Q Okay. Let's back up. You indicated that you turned over your left shoulder. Was the person with the gun positioned behind you?

A Yeah, to my left. So that would be kind of like where the Judge would be and where I'm sitting now.

Q When you turned, did you observe the person?
A For a second. I'm more saw the gun than the person.
Q Is it fair to say you were focused on the gun?
A Yes, it is.
Q Why?
A Well, I don't see guns every day, and when someone says get on the floor and you look and see a gun, it makes it a little more like you're going to listen.

Q And did you follow the demands then to get on the ground?

A Yes, I did.
Q After observing the gun?
A Yes, I did.
Q When you said you glanced back and looked, could you tell the gender of the person? Was it a male or a female?

A Yes, it was a male.
Q Okay. And what about the race? White, black, Hispanic or Asian?

A It was a black male.

Q Okay. Anything that you recognize about the build of that person?

A Skinny, tall guy.
Q Okay. How tall are you, sir?
A \(5-11\).
Q Okay. Taller or shorter than you?
A Well, I was sitting, but he seemed taller than me.
Q Okay. When you observed that gun, let's describe for the jurors -- describe the gun that you observed.

A Well, it was -- it seemed like a big gun, right. I don't know. I'm not a gun guy. I don't really have any guns, but it seemed like a pretty big gun, and it didn't have, like, a revolver thing. It had a gun that you would, like, put a clip in the bottom of.

Q So you're describing kind of the difference between a revolver and a semiautomatic weapon. It was not the revolver type. It didn't have that wheel?

A Exactly.
Q Okay. And when you say a big gun, but you're not a gun guy, let me back up and just clarify for our jurors. Have you ever handled any firearms before or guns before?

A I've been to a shooting range like maybe twice in my life.

Q Okay. Did you -- and for your estimation at least, you described it as big?

A It seemed like a big gun, meaning like the whatever that barrel of the gun coming out was, you know, it drew my attention.

Q When you were commanded to get on the ground, you indicated you did so?

A Yes.
Q What happened next?
A Well, most of my attention while \(I\) was on the floor was on Michael because he was directly in front of me, and so I could see Michael kind of looking at whoever had the guns out, and there was another voice in the back. It seemed like the bank was being robbed; right? So there was another person behind me that I could hear saying give me money, and then the other person kind of had the gun on Michael the whole time. So I was kind of more looking on the floor, and I was down like this, but my head was kind of up.

Q Okay.
A So I was just watching Michael.
Q And I'm going to show you again State's 176. Can you use the mouse and indicate kind of where you were.

A Okay.
Q Laying on the ground when you were demanded to get down.

A So I was probably laying in this area here between those two desks. I was laying on the floor right there.

JD Reporting, Inc.

Q Okay. And when you say that you were focused on Michael, did you see Michael get to the ground?

A You know, at first he didn't. He kind of got down on one knee, but he maintained like -- he was looking the whole time at what was going on. He never -- Michael was more in this area here. He backed up a little bit and was on -- I think he got to his knee and maybe he was down on one knee, but he -- but I was like straight up laying on the floor, and Michael was not.

Q Were there commands after Michael had not gotten completely down that you heard?

A Yeah. It was the -- the same command was repeated. Get down on the floor. Get on the floor. It was a few times that it was said.

Q And when -- does Michael eventually get down? That you remember.

A Yeah. He kind of kept getting lower and lower, but he never -- he never laid down on the floor.

Q What about Kerri?
A She kind of froze and just stayed in the corner.
Q Okay. You don't remember her getting on the ground?
A I think -- I didn't really see her as much.
Q Okay.
A But --
Q Where was she positioned?

A Well, she was in this corner, and she kind of stayed there the whole time from what I remember.

Q Is there a lot of room behind that desk area?
A Not really a lot, no.
Q With regard to your focus, is it fair to say the entire time your focus at least is that gun?

A Yeah. For sure. Look, I was watching Michael because the gun was pointed at Michael, and I'm thinking if Michael gets shot, right, then I need to -- I need to move or run. Like I wasn't sure if someone was going to get shot, right. So I was watching Michael thinking, hey, if he gets shot, I need to --

Q To be able --
A -- I need to run away. Right.
Q Did you ever think you'd get shot?
A Yeah, it crossed my mind. I mean, you know, I felt kind of helpless there, right. You're laying on the floor. Someone has a gun. I figured, hey, I just hope they give him the money and let these guys leave quick. That's what I was hoping for.

Q How quick in time? Do you remember? Did it seem like this took a long time or a short time?

A You know.
Q Or is it hard to say? I mean --
A Maybe a few minutes, right. I don't -- I mean, I
wasn't looking at a timer, but maybe a few minutes. Maybe between three and five minutes if I had to guess, right.

Q Okay. If -- well, let me go back. After you heard that other voice demanding money, did you remain on the floor, or what happened next?

A Yeah, I remained on the floor.
Q Okay. Until when?
A Until I think Michael got up and started making phone calls, and then I felt like it was like they had left. And so when Michael got up, I saw him making phone calls. I kind of turned my head back.

Q Sure.
A And I could see that, you know, the guy with the gun was gone. So then I got up.

Q And so you didn't actually observe the guy with the gun or the other guy that you heard exiting, but as soon as you kind of saw Michael moving around, did you feel it was safe to move around?

A Yes. Yes, I did.
Q Did you ultimately stay at the branch and give a taped statement to police?

A I did.
MS. SCHIFALACQUA: Okay. Court's indulgence.
I have nothing further for this witness, Your Honor. THE COURT: All right. Mr. --

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MR. BROWER: Judge, I have nothing for this witness. THE COURT: Mr. Hughes.

MR. HUGHES: I have no questions, Your Honor.
THE COURT: Any juror questions for the witness? No? (No audible response)

THE COURT: All right, sir. Thank you for your testimony. Please don't discuss your testimony with anyone else who may be a witness in this case.

THE WITNESS: Okay.
THE COURT: And you are excused.
THE WITNESS: Thank you.
THE COURT: And just follow the bailiff from the
courtroom.
And the State may call its next witness.
MR. SCOW: Thank you, Judge. Karl Lippisch. KARL LIPPISCH
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last names for the record.

THE WITNESS: First name is Karl. It's K-a-r-l.
Last name is Lippisch, L-i-p-p-i-s-c-h.
THE COURT: All right. You may proceed.
MR. SCOW: Thank you, Judge.
DIRECT EXAMINATION

JD Reporting, Inc.

BY MR. SCOW:
Q How are you currently employed?
A I'm a police officer with the city of Henderson.
Q How long have you been a police officer?
A Just over 10 years now.
Q What's your current assignment in Henderson?
A My current assignment, I'm a detective with our Robbery-Homicide and Crimes Against Persons Unit.

Q How long have you been a detective?
A I've been a detective about six years now.
Q And is all that time as a robbery detective?
A No, robbery detective for approximately two years.
Q Directing your attention to July and August of 2018, who was your partner during that time, or do you work with partners?

A Yeah. We have a squad, approximately eight people, and during that we'll work with different detectives depending on the cases.

Q In July did you get involved with some bank robberies that were occurring at U.S. Banks and a Bank of the West?

A Yes, I did.
Q Who else was involved or assigned working those robberies?

A The other detective that had already taken a couple reports was Detective Ozawa.

Q So at the time you were involved, which bank robbery, which number and which location were you first involved with this case?

A I became involved in assisting on the second robbery that actually occurred, which was a U.S. Bank on Eastern.

Q Okay. And what was your role in that bank robbery?
A In that bank robbery I was assisting, just helping Detective Ozawa with, you know, anything that was necessary in terms of either talking to, you know, victims or witnesses, attempting to gain or find video surveillance and just work on any possible leads.

Q So at the time you get involved, two bank robberies have occurred. There's some investigation that occurs. Did you have any leads on the suspects?

A We didn't have any specific leads, but we did have video surveillance that gave us some images that identified the suspects, but we didn't have specific identifications yet.

Q So you had reviewed the surveillance video from the first and the second U.S. Bank robberies?

A Video or still images, depending on what was available.

Q So that helped you be familiar with what -- there was one suspect in the first?

A Correct.
Q And two in the second?

JD Reporting, Inc.

A Correct.
Q And with the images or video you became familiar with both?

A Yes, I did.
Q And then you were called out to a third bank robbery, and this third one was at the July 31st, Bank of the West robbery on North Valle Verde?

A Correct.
Q Tell us what you did when you respond to that location.

A On that day I responded to the Bank of the West. Patrol officers were already there and had secured the scene so that we could respond and CSA could respond and then we could start our investigation. Once I got there, I contacted patrol officers, found out any information they initially had for us, and then at that point I went inside the bank and contacted the employees and the victims of the robbery.

Q Take statements from them. To gather information about what happened?

A Correct. I interviewed both of the tellers that were the victims of the robbery. I was able to look at some still images that the bank was able to provide at the time, and then I communicated with our CSA unit in terms of what was processed and any evidence that they were able to recover, and then upon leaving there, then worked on attempting to find any video
surveillance in the area that would help to identify the suspects or suspect vehicles.

Q Before you get to check the surrounding areas, as you're interviewing witnesses and reviewing images or video from that particular bank, did you notice similarities from the first two?

A Yes. When we responded to the bank and started talking to the victims and reviewing the video surveillance, we observed that it was once again two subjects that had entered the bank and committed the robbery, and both subjects were described as black male adults, and one of them was identified as a male although he was wearing a wig and dressed as a female, but everybody that was contacted at the time specifically said that it was a male just dressed as a female.

Q Okay.
A Another similarity in this one was that both of the subjects had produced notes to state their demands, and on one of the notes it said that they had a weapon. On another note it said that they had a bomb. And the note aspect it with talking about a weapon was consistent with the prior two robberies as well.

Q So as you then search the surrounding areas, what's the purpose of that?

A A search of the surrounding areas is -- the purpose of that is when the suspects left the bank, they were observed JD Reporting, Inc.
running around and then behind the bank, and behind there is a, like, an industrial kind of commercial business complex, and a lot of times those businesses will have video surveillance available on the exterior of the building. So our purpose is to attempt to find video surveillance that will then help to identify any additional -- like if there's a vehicle that was waiting for them to come back to or where specifically those suspects went.

Q Okay. Showing you State's Exhibit 106. Do you recognize this?

A Yes, I do.
Q What is it?
A The image, that's 701 North Valle Verde is the U.S. -- or excuse me, the Bank of the West, and then it's showing the locations I was talking about that surround it that we were looking for video surveillance.

Q And you can use the mouse to move the cursor. If you can just kind of show these areas.

A Okay. So this right here is specifically the bank itself, Bank of the West, and then when the suspects fled, we were told that they fled around and then up. This is actually -- the area behind is raised from the actual Bank of the West itself, and we were told that they fled up into this area.

Q Okay. That was the information you had. So it's up JD Reporting, Inc.
like a hill to go back up there?
A Correct.
Q Is there a church back in there as well?
A Yes, over on this side there's a church. These buildings are commercial, industrial looking. So it's not specific to where you would, you know, it looks like a church, but it had a logo on the outside so you could see it.

Q Okay. And checking the surrounding areas, were you able to find anything that helped develop leads for your investigation?

A Yes. I was able to -- this building right here has a realty office inside of it with a front door on this side, and then a backdoor approximately right in this area right here, and that specific business has exterior cameras. We were able to make contact with the owner of that business, and he was able to provide us with video surveillance footage from the time frame of the robbery.

And upon viewing that video surveillance footage, we observed a vehicle arrive just prior to the time of the robbery. We saw two subjects exit that vehicle from passenger side doors. The subjects matched the description of the subjects that had actually robbed the Bank of the West.

Once they get out of the car, you're able to see them walk in the direction of the bank and then out of view of the camera itself, and then shortly after you see the two of them
come running back up to the car, and then they both quickly jump into passenger side doors once again, and the vehicle immediately speeds off.

Q The camera, can you just show the jury the angle or viewpoint from the camera on there.

A So the camera -- just an approximation. The camera is roughly in this area right here. It's on the vertical wall of the back of the building, and it points in a direction that shows where this driveway comes around from Valle Verde. If a car were to drive up this way as it would clear this corner, you're able to see this area, and then it shows either the first two or first three parking spots I believe it was that are right there on the edge of this building, and then you're also able to see kind of like a dumpster area in just the far background of the camera.

Q Okay. I'm going to show you portions of Exhibit 105 now. Is this -- this is a view from that surveillance video?

A Yes, it is.
Q The camera mounted on the wall of that back side of that building?

A [No audible response.]
Q Is that a yes?
A Yes.
Q Okay. So when you got this video, when you were seeing what happens here in this video, what are your

JD Reporting, Inc.
observations, and as far as leads, we're talking leads for your investigation, what do you develop from this video?

A So from watching this video, you'll see it in a moment is the vehicle that just went out of view is actually going to back into the parking spot directly underneath where the camera's at. As it backs in, actually prior to it backing in as you see it arrive, you can tell it's actually a very -it's an older vehicle, fairly distinct, and then as you see it back in, once again you're able to see there's blemishes or distinct items or descriptors to this vehicle. So as we're watching this and we see the vehicle, you're going to see in a moment the people are -- the suspects are going to get out of it.

So once we realized that our suspects got out of that car, I work more on identifying specifically what that vehicle is, and based on the specifics of that vehicle, including like headlights, the shape of the hood and the other images that we had that show exactly what that vehicle looks like, I'm able to determine it's either a -- it's limited to the '92 to '94 Mercury Grand Marquis.

And then we obviously -- we have the color of the car as well in that video. So then from that I worked on looking through multiple databases for Southern Nevada, actually Nevada in general, like DMV as well as like other law enforcement agencies to see if a '92 to '94 red or maroon Mercury Grand

JD Reporting, Inc.

Marquis had been contacted or was registered in the state.
And I was able to find that Las Vegas Metro PD had stopped a 1994 Mercury Grand Marquis four separate times, once in April, once in May and twice in June, and it was the same vehicle, same 1994 Grand Marquis.

Q Let me pause you here real quick.
A Okay.
Q How were you able to determine the year, make, model of this vehicle from the Anthem surveillance video?

A Initially because when the vehicle is backing up these cameras are very clear, and you can actually see that it says Grand Marquis in the back, and you can also see the Mercury symbol. So at that point I knew exactly that I'm looking for a Mercury Grand Marquis.

And then when the vehicle is pulling into from that drive and making that turn, you're able to see the front of the vehicle, and from the front you can see the lines of the headlights and the front hood are very straight, and when you do a research, you research online through Google and look up vehicle models and start really digging into it.

From year to year, vehicles will change. They'll change their lines in terms of how the headlights look. If the hood is straight across or if it has just even a little bit of an indention or impression or a little bit of raised portion to it.

And then at that point, from looking through those years and those models, you're able to limit your search to specific years, and that's how I was able to get to the fact that from 1992 to 1994 those were the only years that Mercury made the Grand Marquis in this specific body style.

Q I'm going to show you a couple of photographs and have you identify these for the jury as well. 149 through 151, let me know if you recognize these images.

A Yes. These are -- so this one is the Bank of the West parking lot showing their drive -- their drive-through area. This one is then the drive that would be on this side of that that would go up to the back area, and then this right here is going to be the back of the business that we're talking about, specifically right now in the camera.

Q Okay. And these accurately depict the area as you've just described behind the bank going up the hill to the business area?

A Yes.
MR. SCOW: Move for the admission of 149 to 151.
MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. Those will be admitted at this time.
(State's Exhibit Numbers 149-151 admitted)
(Pause in the proceedings)

JD Reporting, Inc.

BY MR. SCOW:
Q Okay. So we'll go through some of the other things that you noticed from the video that helped you in developing leads, and again can you tell us how it was that you were able to determine that the car was involved with the bank robbery at Bank of the West.

A So actually that image that you're showing right now --

Q And that image, sorry, is from Exhibit 105. Go ahead.

A As you can see, there's now a person in that video or in that image, and that person matches the description of one of the suspects from the robbery, and specifically it's the suspect that was wearing the women's clothing and the wig that committed the robbery at the Bank of the West.

Q And then when that person moves, kind of tell us the direction they go in relation to the surveillance camera and how that relates to this area we're talking about.

A Okay. So initially, as you see, they're walking, you know, one direction. That person turns around, and as soon as they turn around to go the other direction, that's actually the direction of the Bank of the West and the drive that leads -from where they are right now it would lead down to where the Bank of the West is.

And now this is the second suspect, and this suspect
matches the description again. The clothing, the towel and that hat, the camouflage hat with the blue rim on it matches up exactly to what the person was wearing inside the Bank of the West, and that person, again, once they got out of the car and made the left around the front of the car, they're going in the direction of the Bank of the West.

Q Okay. And then the time stamp on the video itself, when that happened, the second one got out, in the black clothing, was about a few seconds after 11:25 a.m.?

A Correct.
Q And as we watch the video, tell us about the time and what you know about this surveillance video.

A So the time from this surveillance video and the time of the surveillance video that was from the Bank of the West, the two match up in terms of -- what we just saw with the two suspects leaving is just prior to the robbery, and what we're seeing right there when they come back is just after the robbery.

Q Okay. And it went from 11 roughly 26 to 11:29 and 27 seconds?

A Correct.
Q Is that -- what did that indicate to you?
A That indicates the time span. You know, the three-minute jump of the time from when there was motion on the camera and there was anything depicted in terms of when they
were leaving and when they were coming back, and that's the time frame of when the robbery occurred.

Q So it's a motion-sensored camera, and it was recording when there's motion?

A From what I understand, yes.
Q Okay. And as they, the two, got into the vehicle, tell us what observations you have from this that also helped you develop leads in your investigation in these bank robberies.

A So the fact that they -- as you can see, they both jump into passenger side. They get in the front passenger and rear passenger door, and before they even start or get the doors completely closed, the car is already driving away which then leads us to believe that there's going to be a third person involved and that there's actually a person that stayed in the car to be the driver the entire time that the robbery occurred.

Q So after you leave the bank, you have this surveillance video. You do the research that you've described as far as determining the type of vehicle, if there are any in Las Vegas or Clark County. And you testified that you determined that there was one that had been stopped by Metro a few times?

A Correct.
Q And you had indicated the months April, May and two JD Reporting, Inc.
in June?
A Yes.
Q What did you do when you learned that that vehicle had been -- that that type of vehicle, a red or maroon Grand Marquis, Mercury Grand Marquis, what did you do when you learned that?

A Well, one of the things also from watching the video that we just saw is you can see that the vehicle wasn't registered. It didn't or I should say it didn't have a license plate on the back, and it had a what appeared to be like a temporary tag in the rear window. It also, you could see when it was backing in, you could see that it had a trailer hitch mounted on the back of the car, and then the trunk lid itself had three specific oxidation points on it where the paint was oxidized as well as other blemishes that you could see in the video to the roof and to the sides of the car and the rear bumper.

So having those specifics not only determining what type of vehicle it was, but also specific marks or identifying marks on the vehicle, when I learned that Las Vegas Metro had stopped a vehicle that matched this description four times, I started researching those stops, and I found that in all four stops it was the same people so it was the same -- and that same vehicle because they were entering the VIN number of the vehicle because it -- since it wasn't registered and didn't
have a license plate, they would use the VIN number for identification purposes in those traffic stops.

And getting the -- or finding those four instances, I was then able to request the body cam footage that the Metro officers wear which would then depict what vehicle or would show the images of the vehicle they had stopped and the people that they contacted while doing those stops, and once I was able to get that body cam footage and view that body cam footage, I was able to positively identify that the same vehicle that Metro had stopped was the vehicle that was in this video through identifying that it was a 1994 Mercury Grand Marquis, that it was red or maroon in color --

Q And while you're describing, can you use the mouse to indicate --

A Oh, definitely.
Q -- the areas that you knew that this was the same vehicle.

A So again, like so we had the color of the vehicle. Right here -- well, first, you can tell right down here there's no license plate displayed, and so right here, there's a paper which would most likely be a temporary tag. I mean, obviously from the video you can't tell if it is or not, but that's where a person would display a temporary tag if they didn't have a license plate.

Down here at the bottom you can also see that there's JD Reporting, Inc.
a -- don't hit the other stuff -- that there's a trailer hitch on the bottom that's mounted right there, and then you can also see that the oxidation marks I was talking about, how you've got some clear areas and then some blurred areas in the paint on the car. In this one you can tell the shape of it, how it comes over to the edge of the trunk, and then these other ones that are right on here, there's also like a blemish right here. There's a blemish up on the roof of the car.

And as the car pulls away at some point, and I don't know if this screen you'll be able to see it, but the bumper also has some damage, a little bit of, like, scratches or damage to it that you were able to see.

Q So when you reviewed each of the body cameras for that Mercury Grand Marquis, you were able to identify all or most of these unique features about the vehicle?

A That's correct. We were able to see -- on a couple of the different videos you're able to see, like, the trailer hitch. You're able to see that the vehicle wasn't registered. It was displaying a temporary tag, and you're also able to see -- on one video in particular I remember you're able to see the trunk really well, and the marks or the blemishes that you can see on the trunk from this video were identical in the video from Metro.

Q So one thing, and I'll pull up just one. [Unintelligible] go through all just so you can kind of

JD Reporting, Inc.
describe just how you went about your investigation.
And as it's pulling up, can you tell the jury again about the individuals that were in the car during the traffic stops.

A The traffic stops, Las Vegas Metro, they would also update with, you know, who was contacted in the vehicle when they would make those stops, and two of the people that were consistent in the stops was a gentleman by the name of Anthony Barr and then a female by the name of Sabrina Henderson that were contacted again, like I said, multiple times as those stops were made.

Q Do you see Anthony Barr in the courtroom today?
A Yes, I do.
Q Can you point to him and describe what he's wearing.
A He's straight ahead of me, and he's wearing a pink shirt, a pink button-down shirt.

MR. SCOW: Okay. Your Honor, may the record reflect identification of Anthony Barr?

THE COURT: It will.
BY MR. SCOW:
Q So this is State's --
(Pause in the proceedings)
BY MR. SCOW:
Q So is this some of the -- what we're showing you here, is this some of the body-cam footage that you reviewed?

A Yes, it is.
THE COURT: Mr. Scow, what exhibit is that?
MR. SCOW: That's what --
MS. SCHIFALACQUA: We're trying to figure that out. THE COURT: Oh, okay.

MS. SCHIFALACQUA: Your Honor, I just moved to the -MR. SCOW: It's on the disc which is in, but it's also in the envelope, which we can't find right now.

MS. SCHIFALACQUA: [Unintelligible.]
MR. SCOW: We have one, but it was for the other
Anthem Realty exhibit.
(Pause in the proceedings)
MR. SCOW: This is Exhibit 362.
THE COURT: Okay.
BY MR. SCOW:
Q All right. So let me go back a little bit. (Pause in the proceedings)

BY MR. SCOW:
Q So some of the features as you've described -- I mean, the body cam is what it is. There may be some times it's easier to see and some times that it's not, but can you indicate on here some of the areas of consistency that you noticed.

A Yes. So as you can tell with different times in this video you're able to see a little bit better or a little bit JD Reporting, Inc.
worse, but you can tell that the car has the temporary tag displayed up here in the rear window which is consistent with what we had seen in the Anthem Realty footage, and then you can see the one right here right now, but as the body cam footage proceeds through, you'll be able to see more of the blemishes and everything, but you can see this is that one that I had described that's on the left side of the trunk that goes over to the trunk line. You can also see some of the blemishes right here and then also down here on the bumper, and I think just prior to this you were able to see the trailer hitch on the back of the car as well.

Maybe it's later in the video. This one is kind of hard to tell. This one --

Q It's really dark on that screen.
A Right.
Q All right. And the parts that you can see from the video at this angle, what other things do you notice?

A There's also -- you can tell that there's no license plate down here on the bottom of the vehicle.

Q And is this white mark here also consistent throughout?

A I believe so. I'd have to confirm that and continue to watch.

Q And then the officers, they speak with and get IDs from the individuals in the car, and you've named them Anthony JD Reporting, Inc.

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Barr, Sabrina Henderson, and then there was Anthony's brother that was in the car as well?

A Correct. Anthony's brother is actually I believe in the backseat right now.

Q And having reviewed the bank surveillance videos, Anthem Realty, when you looked at these -- the vehicle stops from the body cam footage, what conclusions did you make as far as what next steps you would make in your investigation? What did you learn?

A So from watching the body-cam footage, we identified the vehicle as being our suspect vehicle based on everything we've just talked about. So at that point we knew which -- at least we knew the vehicle from the Bank of the West robbery was this vehicle. So we knew that this was the vehicle that we were looking for in our investigation.

And then from watching the body-cam footage and seeing Anthony Barr from multiple angles at different times throughout the stop, I was able to determine that he matched the description of or, excuse me, the physical description of one of our robbers, our bank robbers. Based on his features, he was identical in terms of his nose, cheeks. Just the facial features that he has match up with the facial features of one of the bank robbery suspects.

Q Now, is there something different about Barr as you saw him in the traffic stops compared with the surveillance

JD Reporting, Inc.

A Yes. The only thing that we did see that was different that concerned us is the fact that he has multiple face tattoos and very prominent neck tattoos that you can see when he's contacted in all these traffic stops.

Q Okay. And just for the record, can you describe the tattoos that are on Anthony Barr's face. If you need to get closer, that's fine, but just describe the tattoos that can be seen here in court.

A From what I can see from here, he's got on -- I guess that would be the right side under his eye. He's got I believe it's three -- it looks like three teardrops --

Q And now are you referencing your right hand side --
A On his right-hand side.
Q -- or his?
A His right side. I'm sorry. Right side of his face. On the left side of his face, he's got a triangular-shaped it looks like three dots or circles, and then he's got a symbol directly in the middle of his -- between his eyes, right between his eyebrows.

Q Okay. And then maybe if he moves his hand, maybe you can see his neck too. He doesn't want to move his hand.

A No. He's also got an extensive neck tattoo around the front and the back of his neck.

JD Reporting, Inc.

Q Okay. And those are visible in these body cam? A Yes.

Q Now, in terms of the surveillance video, maybe not all were really close to his face, but what you could see you didn't see any tattoos on the one that you said is identical otherwise in facial features of Anthony Barr?

A Correct.
Q So what happens next? You're researching the vehicle. What's the next thing in sequence that happens in this case?

A So as we're developing this lead and working on researching this vehicle and hopefully attempting to identify where this person is with this vehicle, on August 6th, another robbery occurs at a U.S. Bank inside the Smith's at 55 South Valle Verde, and that robbery I then responded to to investigate, and when I arrived there, once again patrol was already there on scene, had secured the scene.

I made contact with them, learned from them that they already had -- Smith's employees were already working on bank surveillance for -- excuse me, surveillance inside Smith's for us since the bank was located inside the Smith's, and I also learned that they were already kind of canvassing the area, contacting other businesses because it's in a little shopping center, contacting other businesses to see if there's any other additional video surveillance available.

JD Reporting, Inc.

I was notified that there was a business in the complex, a dental place that had video surveillance, and they were going to review theirs to see if they could find anything for us that would involve our suspects.

And while that was going on, I then went inside the bank and contacted the two tellers who were the victims of this robbery and conducted interviews with them as well as I watched the video surveillance that Smith's was able to provide on scene through their DVDs and the screen that they had that we could watch it on, and then I was also provided with some still images from U.S. Bank from their video surveillance.

Q Okay. Let's go through some of the things that you learned in this fourth bank robbery. It was a U.S. Bank inside of Smith's is what you said; right?

A Correct.
Q 55 South Valle Verde Drive?
A Yes.
Q All right. We'll go through some of the things that you said that you reviewed and just kind of describe for us what you're learning through this investigation that particular day and what you've known before. So first start with Sabrina Henderson. What did you learn about her in the traffic stops?

A In the traffic stops, we learned that Sabrina Henderson was identified as Anthony Barr's girlfriend, and she actually had kind of a distinct hairstyle. So in terms of
physical features, she was very distinct if you were to -- if I were to see her again, I would be able to identify her.

Q And was she -- in one of the traffic stops was she the driver?

A Yes, she was. Yeah. So she was also a person that was known to drive that vehicle.

Q I'm pulling up the video from the State's Exhibit 59, and I'm being very careful to keep my envelope separate so I can tell you which numbers.

Okay. So first you reviewed first and interviewed witnesses from Smith's and U.S. Bank; is that right?

A Correct.
Q So when you -- we'll start with the camera that's behind the tellers. And approximately how long is this video, if you know?

A This I do not know.
Q All right. I'll click at the end, make it easy. What does it say here?

A 1:19:33.
Q So it's about an hour and 20 minutes long?
A Yes.
Q We won't play the whole thing for you, but we'll try to skip to the relevant portions as far as you determined in your investigation. So just give me a second as I click through.

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This is that -- starting at 2759 on this exhibit.
Tell us what you see that was relevant for your investigation.
A As of right now, the two tellers that are standing --
Q I'll pause.
A -- or victims, the two that are standing at the actual terminals at the computers are our two victims, and as you're starting to see in kind of the top right corner are the two suspects starting to approach the bank.

Q [Unintelligible.]
A Correct.
Q And you know that, having reviewed the surveillance video already, you know that those are the two suspects?

A Yes.
Q And what happened there?
A As you can see, they initially were walking towards the bank; however, another customer came up to one of the terminal -- or to the tellers, and so they diverted and went down, like, a pharmacy aisle instead of approaching the bank.

Q Okay. So would one of the first things that you observe or go to would be, like, the actual robbery to determine who the suspects are?

A That's correct.
Q Were you able to determine when the robbery occurs based on speaking with the victim tellers and then reviewing the video afterwards?

A Yes. They were able to provide -- actually, through the still images that were provided as well, we were able to see the time stamp in terms of when it occurred and then --

Q Okay. So then when you go back from there reviewing U.S. Bank video and Smith's video, you're able to see that these two individuals, what they're doing previously, that's them, and track them backwards from there?

A Correct.
Q What do you notice about some of the physical descriptions that you see in the video as compared to your prior investigation?

A So as you can see right here, the two suspects are at the counter, and in terms of descriptions, and unfortunately this isn't the clearest video on this right here, but the suspect on the right side, as you're looking at the screen.

Q Go ahead and use your mouse for the --
A Okay. Yeah.
The suspect right here on the right, as you can see, he's wearing a hat, and unfortunately, like I said, this isn't the clearest, but in some of the images and in the videos different camera angle, you can definitely -- you can see that it's a camouflage hat with a blue bill, and it specifically matches the hat from the Bank of the West video that we showed you prior with the suspect that was wearing that same exact hat, the one that was dressed in all black, not the female or the one dressed as a girl.

Another thing that you see is a towel right here on his shoulder, and from one of the things from reviewing the body cam footage from Metro is a number of the times when Anthony is contacted he's got a towel with him, and he's always kind of holding onto that towel and, you know, putting it on himself, holding it, putting it on his shoulder, that kind of thing. So that was a similarity that we noticed just in mannerism that also led us to believe that Anthony was our suspect even though we couldn't see his tattoos.

Q Now, is that what you're determining as of this particular bank robbery as you're seeing this video?

A This one and then also in the Bank of the West, the same suspect who was wearing the camouflage hat also had a towel that was wrapped around his neck, and it kind of -- it covered kind of the back of his neck and hung down on the front just slightly.

Q Okay. What else do you notice that's similar from your prior -- the prior investigation that leads you to connect these together?

A As of right now, as you can see, at the teller stations, it's again it's two black males. In all of the investigations, the males were described approximately 20s to maybe early 30s. So that kind of matches up descriptionwise. A couple of them they identified that one of the suspects was JD Reporting, Inc.
wearing a do-rag style head cover, and the suspect on the left in this one is wearing that type of cover, and then you can also see that it appears from this video that right now they're producing a note to make their demands to the teller, which is consistent with the three prior robberies that we were investigating as well.

Q So then as far as description goes, we'll go to a different camera angle. This one's clipped to the right teller, and it's about 32, 38 seconds leading into this. Do you see the same two suspects approaching?

A Correct. Same two suspects are approaching right now. In this image right here, again you can see the camouflage hat. The colors aren't the best right now on this, but you can see the camouflage hat with the blue bill. Again you see that towel, and then the suspect has a pair of glasses that are hanging off his shirt, and those glasses are actually consistent with the second robbery. One of the suspects in that second robbery is actually wearing those, that glasses that match the glasses that are hanging on his shirt right there.

And then the close-up of this allows us to see facial features once again, and this is where the facial features are identical to the facial features of Anthony Barr when you're looking at the nose and, like, the shape of the ear and how it does or doesn't attach to the side of the head and cheekbones

JD Reporting, Inc.
as well as kind of the shape of the mouth and that kind of thing is what we use when we're trying to -- if we have video surveillance, and we're trying to match up people, we'll use those specific features to help identify it.

And at this point from seeing this and comparing it as well to the video body-cam footage we were confident that it's Anthony Barr as well. Again, the only thing you're not seeing is the facial tattoos.

Q Okay. And went from where you're sitting on Anthony Barr in court, you can see tattoos in the areas of, like you said, underneath the eye, upper cheek on both sides?

A Correct.
Q And one in the middle?
A Correct.
Q The towels in these are, as you described in the prior robbery, it's in the neck area?

A Correct.
Q So I'm going to go back in time a little bit on this particular video. As you reviewed this video and what you knew about the case already, did you make a determination that somebody else -- after you reviewed the video, what did you do next?

A Well, Smith's also had their video surveillance, and we were able to review their video, which showed a little bit more of the aisles leading up to the bank, and from looking at

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those, you're actually able to see on video a female matching Sabrina Henderson's description who comes into the Smith's and walks over to the area by the pharmaceutical aisles and is seen like kind of staring at the bank and the tellers, and that actually that --

What's up on the screen right now, that's Sabrina Henderson right there.

While I was watching the video, I saw that she had come in, and she walked over to this area specifically, and she appears to be on her cell phone, and as she's kind of walking around at the very end of that aisle she keeps staring over at the bank, and for a period of time she would stare at the bank, and then she would kind of duck into the aisle a little bit, make it look like she was looking for something, but then she would pop back up to the end of the aisle --

MR. BROWER: Judge, objection as to what she may or may not have been doing in the aisle. It calls for speculation.

THE COURT: All right. Well, just describe what you see in the video.

THE WITNESS: Okay. Okay. So --
MR. SCOW: Just one second.
THE WITNESS: Yeah.
BY MR. SCOW:
Q And we'll play it for you now.

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A Okay.
Q But as you sit here now, you hadn't just reviewed pictures or personal information about Sabrina Henderson. You've seen her in person as well; right?

A At this point --
Q Right. Not at this point in time.
THE COURT: As you sit here --
THE WITNESS: Oh, I'm sorry.
THE COURT: -- today right now.
THE WITNESS: Oh, I'm sorry. You're right. I'm
sorry. My fault.
Yes, I have.
BY MR. SCOW:
Q Okay. Back then you had looked at pictures and video of Sabrina when she was in the Grand Marquis?

A Correct.
Q So you knew features of her like her hair, but as you sit here today, you've also met her and seen her in person; is that right?

A Yes, I have.
Q And you spoke with her after ultimately she was arrested a little over a week after this time frame?

A Actually under a week.
Q This is August 6th?
A Correct.

Q So a few days later.
A Correct. Correct.
Q Thank you for correcting me.
So when you look at this video, what was it that led you to notice her? You know, in the time frame when the notes were presented, it was like in the 32, 33 minutes, and this is the 16 minutes of this video. So about 16 minutes earlier, what led you to that time frame of this video?

A We were actually led to this just based on the fact that Smith's was able to provide us with the video, and whenever we request video, we always ask for time before and after robberies or incidents because a lot of times there's other actions or other activities that will happen prior to a crime which will help us to develop leads or help us kind of realize exactly how the crime took place.

So having reviewed some of the video prior, it was known that the two suspects had actually entered the Smith's earlier, before the robbery and had been seen walking around the aisles for a little bit, and so then we also wanted to look and see if someone else had been in there prior to see if maybe they were trying to look at the bank, the location of the bank, see how busy it was and that kind of thing, which is consistent with a lot of times what happens in robberies. And so by doing that we were able to then go back and review to see if anything of interest for us investigative purposes had happened prior to

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the robbery.
Q And so when you did that you found something of interest in this particular August 6, U.S. Bank robbery?

A Yes.
Q And is that what we're about to see here now?
A Yes, it is.
Q Tell us what you observed.
A So right now you can see that subject that just came into view, and is walking actually now towards the camera is Sabrina Henderson.

Q Go ahead and use the cursor.
A I'm sorry. The person right here, and it looks like -- as you can see her arm is up. So it makes it look like she's on a cell phone or talking on a cell phone, and right now she's, you know, walking in the direction of the bank.

Q What is it that's distinct or unique about her that helps you recognize this as Sabrina?

A Specifically, you know, from height and weight descriptions as well as the fact that she's a black female, and that she also has a very distinct hairstyle that we were able to see in the Metro body-cam footage.

Q Okay. I'm going to take the cursor back so I can hit play [inaudible].

A So right here you see that she turns into an aisle. This is, like I said, this is kind of the pharmaceutical area, JD Reporting, Inc.
and then she comes back out, and as she -- each time she comes back out to the end of the aisle, as you see her standing right here, her face, instead of looking at the aisle, she's actually looking directly towards the bank, and she would pause numerous times. She would pop back out as you're seeing on the phone and looking straight at the bank and at the tellers and what was going on in that area.

Q Okay. And are there -- you mentioned the hairstyle twice. Can you point out anything on there that you can see that's unique.

A You can kind of -- right here and right here. Her hair was done up in, like, little, for lack of a better term, like little balls on top of her head, and so in this video you can see that she's got those little balls of hair on there.

Q Okay. When you met with her a few days later, after she was ultimately arrested, did you notice the same distinct hairstyle?

A Yes, I did.
Q Okay.
A So see right here again, after she kind of came around the front and went back in, she then popped back out right there and was looking back to the area of the bank, in that direction. And then once again she does the same thing. And then that's her walking away right there as you can see, and at that time it didn't appear that she had

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actually removed any items from the shelf. She didn't have anything else in her -- it didn't look like she had anything in her left hand and was still on the phone.

Q And where she had just walked, is that to the store entry exit?

A Yeah, the direction that she -- when she went to the end of this aisle and turned left, that's going back towards the checkstands and then the entry exit of the store.

Q And from the first time that you saw her is around 16, a little after 16 minutes, and to where she leaves about how much time is she in there?

A Approximately what we just saw is about approximately about a minute and a half.

Q Showing you State's Proposed Exhibit 199. What's this?

A This is a picture of Sabrina Henderson, and it shows her hairstyle.

Q And was this a picture that was taken a few days later, August 9th, 2018?

A It appears to be --
Q That's how you saw her when you spoke with her that day?

A Correct. Yes. That's what she looked like on the day that I spoke with her.

MR. SCOW: Move for admission of State's 199.

JD Reporting, Inc.

THE COURT: Any objection? Submitted?
MR. BROWER: I'll submit it, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. That'll be admitted.
(State's Exhibit Number 199 admitted)
MR. SCOW: I'll try this again.
(Pause in the proceedings)
MR. SCOW: Publish for the jury 199.
BY MR. SCOW:
Q You mentioned --
(Pause in the proceedings)
BY MR. SCOW:
Q When you reviewed surveillance video from Smith's and spoke with Smith's employees, did you learn that there might be items of evidence relevance inside the Smith's store?

A Yes, I did. The Smith's employee that was actually able to -- that was actually getting the video surveillance for us --

Q And without going into what he said, did that employee or another employee direct you or a CSA to items of potential evidence?

A Yes.
Q And what did they lead you to?
A They directed the CSA to boxes of what's called twistable crayons that the suspects had held.

Q And those crayon boxes were processed by the CSA Randi Newbold?

\section*{A Correct.}

Q And you had mentioned earlier in this particular bank investigation, checking surrounding areas and businesses for other potentially relevant video?

A Yes. Because this is a -- like a strip mall shopping complex, along the business to the one side of the Smith's, there was a number of businesses, and one of the businesses which was I believe it's Desert Dental had video cameras on the inside of the business that also showed their front door area, and you could see out the front door to the walkway in front of the business.

And so initially they had been given the time frame of the robbery itself, and they were able to find on their video surveillance, you were able to see the two suspects walking in front of their business in the direction of the Smith's prior to the robbery, and then you're able to see them -- it appears that they're running from the direction of the Smith's immediately after the robbery.

And then after watching the Smith's video again and coming back and looking earlier and seeing that Sabrina Henderson had been inside Smith's as well, we then had Desert Dental kind of go back a little bit farther on their video and were able to see Sabrina Henderson walking from the same

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direction that our suspects came from, going in the direction of Smith's. And then when she leaves Smith's, she walks past the front of that again going away from the Smith's in the same direction where our suspects came from, and this was approximately -- I think she leaves or she walks in front going away from Smith's approximately three minutes I believe it was before our suspects are seen walking toward Smith's.

Q Okay. And did you or one of the officers obtain still images or take pictures of the surveillance video --

A Yes. They --
Q -- provided by that business?
A I'm sorry.
The business was able to -- they were able to show us the video; however, they were unsuccessful in being able to burn the video. So they were then able to provide still images of the specific times and images of our suspects.

Q Maybe -- and if you could just kind of have a seat over here since the display screen is not working right now, just try to hold up so the jury can see, this is Exhibit 98 -MR. BROWER: Judge, do you mind if I move so I can see what he's testifying to.

THE COURT: That's fine.
(Pause in the proceedings)
BY MR. SCOW:
Q Okay. So Exhibit 98, what is it that we're seeing in JD Reporting, Inc.
this still from Desert Dental?
A In that still you can see there are two bank suspects, two people right there, and they're walking in the direction of the Smith's, which Smith's would be over this direction.

Q So off to the left out of camera view?
A Correct.
Q In this photo?
A Yes.
Q And what's the time on that?
A The time on that shows 13:49.
Q And did you first learn that you were able to see the suspects in the Desert Dental video?

A Yes.
Q And then in the Exhibit 100, what is it we're seeing here?

A In this exhibit you're seeing next will be the suspects coming from the direction of Smith's. So running back this direction. As you can see they appear to be running based on their -- the way their legs are, and when you watch the video, you can see that they were running, but this still image, that depicts that they were running.

Q Okay. And what's the time on that one with the seconds?

A And that one's at 13:58:08.

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Q [Unintelligible] Exhibit 99?
A That's 13:58:07, and that's showing the other suspect clearly running from the Smith's.

Q Okay. And this was one second before the other one?
A Correct.
Q Or seven seconds. And these other two images, 101 and 102, are they similar images, just zoomed out?

A Yes. Yes, they are.
Q Okay. And then based on what you learned from the Smith's -- oh, there's a couple more.

MR. BROWER: Well, if you hadn't broken that earlier, we wouldn't be --

MS. SCHIFALACQUA: I think you were the last one there, Keith.

BY MR. SCOW:
Q So based on what you learned in Smith's and what you've just described on the video that was just reviewed, you had seen Sabrina Henderson there?

A Correct.
Q Did you go back to Desert Dental to look for other images?

A Yes. So knowing that we saw the suspects in their video --
(Pause in the proceedings)

BY MR. SCOW:
Q So you were just getting to the point where you went back to Desert Dental after seeing Sabrina in the Smith's and U.S. Bank video?

A Correct. So we went back to Desert Dental knowing that we'd seen the suspects. We wanted to see if Sabrina had also come from and then returned to the same direction.

Q Showing you first Exhibit 97 --
(Pause in the proceedings)
BY MR. SCOW:
Q Can you see that?
A I can see it. I can't tell you what's on it right now.

Q All right. Now can you see it?
A Yes.
Q And what do we see in this one?
A So on that you see the person that we know as Sabrina Henderson is walking in the direction of the Smith's, and it appears that she's got her phone kind of wedged between her shoulder and her head as she's walking.

Q Consistent with what you saw inside the Smith's, her arm up by the ear?

A Correct and same clothing that she was wearing inside Smith's.

Q And the hairstyle?

A Yes.
Q And I think you said; I might have missed it. The direction she was walking there was towards the Smith's?

A Yes.
Q And now Exhibit 96, what is that there?
A 96 shows Sabrina Henderson once again, and this time she's walking from the Smith's.

Q And does she appear to be on the phone in this image?
A In this image she does not.
Q As a result of what you've learned on this incident on August 6, and what you knew from the prior three, you're still trying to learn more information; is that right?

A Yes, it is.
Q And you guys do another press release regarding the bank robberies at U.S. Bank and Bank of the West?

A Yes, because we got good images of our suspects once again from their video surveillance. We were able to do another press release.

Q Now, the release that was done -- I'll show it to you first. This is State's Exhibits 363 -- or sorry, 263 proposed and 365. What is that?

A This is our City of Henderson news release or press release with the information that we found from that investigation asking for the public's assistance and providing some photos of our suspects so they can hopefully help identify JD Reporting, Inc.
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our suspects.
Q Okay. And that's for the August 6th incident specifically?

A Correct.

Q And the press release is dated August 7th, so the next day?

A Yes.
MR. SCOW: Move for admission of State's Proposed 263 and 365.

THE COURT: Any objection?
MR. BROWER: Sulomitted.
MR. HUGHES: Submitted.
THE COURT: Submitted.
(State's Exhibit Numbers 263 and 365 admitted)
BY MR. SCOW:
Q Okay. So the images that were attached with that press release in 365, those are from the surveillance video we just watched?

A Yes, it is -- or yes, they are. Excuse me.
Q From that U.S. Bank?
A Yes.
Q It's like you said, you were seeking the public's help to confirm identities?

A Yes.
Q At that point in time did you have a general idea of JD Reporting, Inc.
who the suspects were?
A Yes, we did. And the other thing we were actually -we were also helping -- seeking their assistance in locating our suspects because we had them identified in that respect with Anthony Barr and the vehicle; however, we didn't know where they were at the time either.

Q Okay. At some point did latent print results come back for any of the banks?

A Yes. We actually on the 7th also we received information that latent results from the Bank of the West robbery, which happened the week prior they had made an identification.

Q Okay. So then as of that point you had identity of two male suspects and then the female that you saw inside the Smith's and the Desert Dental surveillance?

A Correct.
Q With that information and the information about the vehicle, what do you do next?

A The next thing we do is with the latent print information, we were provided with an identity and determined that Anthony Barr, Sabrina Henderson and Damien Phillips were our suspects and that we had the 1994 Grand Marquis as our suspect vehicle. So the next thing I did was --

Q Let me pause you there. When the latent result came back, what was the name for that identification by Tanya Hiner?

JD Reporting, Inc.

A The name on that was Terrell Alexander Phillips.
Q Well, the first name was actually Travis.
A I'm sorry. Travis. My fault. I misspoke.
Q Travis Alexander Phillips?
A Yes. That's correct.
Q And did you do some research on that name to determine any information about that individual and that name?

A Yes, I did. When we got that name back, I used our databases to attempt to see who that was or if we had any information on that. That person didn't come back as anybody identified in specifically in like the Las Vegas, Henderson area.

Q The database you're looking at, that's things like housing information, DMV? Is that like kind of the information?

A Yeah. So initially what I'll look into is like our specific, our internal databases within our department. There'll be specific ones where if we've contacted somebody by that name --

Q Traffic stop.
A Exactly. Through traffic stops, any calls for service, anything like that, that person will be in our database.

And then from there I expand out usually to, you know, looking at DMV, if that person has a Nevada driver's

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license, different things of that nature for public -- for records of those sorts. Another application that we can use is a web-based application that actually compiles information from people from DMV records, power records, locations that they've lived and that kind of thing. And when I looked in that, I was actually provided with an a.k.a. that then led us to Damien Alexander Phillips was identified as that same person.

Q So you learned that Travis Alexander Phillips was an a.k.a. for Damien Alexander Phillips?

A Correct.
Q And, in fact, you had a CSA go to Damien Phillips to get his known prints, and when those were compared, they're the same as the knowns of Travis Alexander Phillips?

A That's correct.
Q Do you see Damien Alexander Phillips in the courtroom today?

A Yes, I do.
Q Can you identify him and an article or articles of clothing that he's wearing?

A Yes. He seated over there. He's got glasses on his forehead and a blue button-down shirt.

MR. SCOW: Your Honor, can the record reflect
identification of defendant Damien Phillips?
THE COURT: It will.

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BY MR. SCOW:
Q And you had an opportunity to see Damien Phillips in person a few days after the August 6th incident ultimately when he was arrested as well?

\section*{A Yes.}

Q So -- all right. Now, back to the information you had. You have three -- three suspects and a vehicle. What do you do with that information then?

A So at that time \(I\) end up writing what's known as a search warrant for a mobile tracker. So that's a tracking device that can be placed on a vehicle. So I authored that search warrant which was signed by a Judge. That was completed the morning of August 8th.

And then at the same time we have other detectives trying to work to see if we can kind of locate our suspects, and through a Facebook post by Damien Phillips, we were able to see, like, an apartment complex or a suites, and a detective through prior investigations identified or believed he knew that those suites were actually called the Aviator Suites, which are located on Las Vegas Boulevard.

Q So to make sure we're clear, you were looking through some of the Facebook for Damien Phillips, and there's a building that a detective recognizes --

A Correct.
Q -- as Aviator Suites?

A Correct.
MR. BROWER: Judge, I think to be clear he said another detective was looking through Facebook, not him.

THE COURT: So you received that information from a different detective?

THE WITNESS: I did.
THE COURT: Okay.
BY MR. SCOW:
Q Did you look at the Facebook posts at all?
A Yes, I did, and I also saw the same picture and saw the building that was depicted. I personally did not recognize the building, but another detective did.

Q So the thing that the other detective did was recognize the building?

A Correct.
Q So what did you do with that information?
A So based on that, that was -- we believed that it could be a possible location for our suspects and hopefully our suspect vehicle. So on August 8th, we then, myself and other detectives within my unit respond out to that area in our unmarked police vehicles and start to do surveillance on the area and on that building or that location to see if we could find our suspects and the vehicle.

Q And at that point in time did you already have the signed and approved warrant for the tracking device?

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A Yes, I did.
Q And that was to be able to track the movements of that red Mercury Grand Marquis?

A Yes, it was.
Q Did you have the tracking device with you when you went to the Aviator Suites?

A I personally did not.
Q Okay. Was it brought with another detective at that time?

A I believe at that time we did not. There was another detective. We had a unit at the time that we do our applications of the tracker warrant -- or excuse me, the tracker itself, and so once we were waiting to find the vehicle, and then we would notify them if we were able to find the vehicle so that they could then assist us in placing the tracker.

Q Okay. So when you went to Aviator Suites, you didn't have a tracking device with you?

A I did not, no.
Q You were attempting to locate the vehicle first?
A Correct.
Q So what happened when you went to Aviator Suites on August 8th, 2018?

A So August 8th we, a number of, like, myself and detectives in my unit, go and set up in the area, and while

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we're doing our surveillance in the area and on the Aviator Suites, we see a vehicle matching our suspect vehicle arrive and then pull into the parking lot and park in front of the building, one of the buildings of the suites.

Q And what do you observe? What happens after the vehicle comes into the parking lot?

A The detective who actually initially observed it then saw two subjects get out, and the two subjects were identified. At that time it was believed to be Anthony and Sabrina, and the two of them then went upstairs and into an upstairs apartment or an upstairs suite located at the suites.

Q From where you were posted could you see Anthony and Sabrina, where they went?

A When they first arrived, I could not. I was not the one that was directly on there; however, once the vehicle arrived, I was in -- I repositioned myself into the parking lot of the suites, and so from that point I was unable to then watch the movements.

Q So you didn't see them get out of the car?
A When they first arrived, I did not see them get out of the car.

Q But did you see them then walk up the stairs to one of the suites?

A Actually, at the time that I got into the parking lot, I was able to see them leave from the upstairs park --
apartment, excuse me, and head down the stairs back to the car as well as other people.

Q Okay. The vehicle, did it leave the parking lot at any time after driving to the Aviator Suites?

A Yes. After it arrived, people were going to and from the vehicle loading up items into it, and then I saw four people. I saw Anthony, Sabrina, Damien and then a second female who we hadn't identified at the time, but later identified as a Melissa Summlears [phonetic]. All entered the vehicle, and then the vehicle exited the parking lot.

Q Did you follow or were you part of a team that followed the vehicle from the Aviator Suites?

A Yes.
Q And again when we're talking about the vehicle, this is the red Mercury Grand Marquis?

A Yes.
Q Was it the same vehicle you had seen in surveillance video from Anthem Realty?

A Yes.
Q When you saw a person on the video from Anthem Realty, was there anything that was different as compared to the traffic stop videos that you'd seen from Metro's officers?

A Yes. The difference to the vehicle, it still had all the blemishes and the trailer hitch and all that, but the difference that we observed is that it now had tinted windows.

Q And that was different from the June 12th traffic stops body camera video?

A Correct.
Q But as far as the blemishes, the trailer hitch, everything else, was that the same?

A Yes, it was.
MR. SCOW: I'm going to approach -- Judge, I'm going to move for admission of State's Proposed 195, and I believe in talking to them they'll submit on that. THE COURT: Submitted? MR. BROWER: Judge, I'll submit it. MR. HUGHES: Submitted. THE COURT: All right. That will be admitted. (State's Exhibit Number 195 admitted) BY MR. SCOW:

Q Displaying now 195, what are we seeing in this photograph?

A This is the second female that we later identified as Melissa Summlears?

Q So she was one of the four people including Anthony Barr, Damien Phillips and Sabrina Henderson that went from -or at the suites location, got into the car and then left?

A Correct.
Q When you guys followed the vehicle?
A Yes.

Q Okay. Where did you go from there?
A From there we followed the vehicle doing our mobile surveillance, and the vehicle ended up stopping a short time later at Circus Circus and specifically it's called the Circus Circus Manor, which is buildings behind Circus Circus and the waterpark, which are also hotel rooms that are associated to the Circus Circus.

Q Do you know how many Henderson detectives or vehicles were involved with following the vehicle to that location?

A I don't remember specifically, but we had I would say approximately probably eight different vehicles involved in mobile surveillance at that time.

Q Okay. Was the tracking device -- by the time you got to Circus Circus or while you're there at the Manor location, was the tracking device -- did it arrive there as well?

A I don't recall the exact time that the detectives that had the tracking device arrived, but they did arrive and assist in the mobile surveillance.

Q Okay. So what happens when you get to the Circus Circus?

A The first time we get to the Circus Circus, the vehicle pulls up alongside Building C of Circus Circus Manor, and at that time you see all four of them kind of moving around getting in and out of the vehicle, unloading some of the items, and then you see Damien and Anthony enter Building C and stay

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at Circus Circus while Melissa and Sabrina get back in the car and leave the location.

Q What did you do when Sabrina and Melissa got in the vehicle and left?

A When they got in the vehicle and left, I along with all of our mobile people doing the mobile surveillance, all detectives, we continued to follow the vehicle.

Q Did anybody stay at Building \(C\) at the Circus Circus?
A At the time I don't believe so.
Q Okay. What happens when you follow the vehicle, conducting the mobile surveillance?

A So we continued the surveillance. We follow as Sabrina drives the vehicle back downtown Las Vegas. At one point she stopped, and we observe as Melissa exits the vehicle and heads over to CCDC. Sabrina then continues to drive. At one point she stops in a parking lot, gets out of the car. She's on her phone.

She then gets back in the car. Surveillance is continued. She stops at a gas station. She then goes and picks Melissa back up, and then the two of them go to a Jack-in-the-Box on Main Street. They go in and get some food, which it looks like they got food to go because they brought stuff back out with them, and then they return in the vehicle to the Circus Circus Manor and park the vehicle near Building C. They then get out and enter the building.

Q After they go in the building, what happens? What do you guys do, the detectives in the parking lot, or does anybody go inside? Tell us what happens next.

A At that point we set up to where we can as safely as possible. We determined this is where we're going to do the application of actually putting the tracker on the vehicle. So at this point we attempt to get positioned in the best way possible to make it as safe as possible for the detectives that will actually apply the tracker, and then we also work on getting detectives inside the building itself so that if our suspects exit we can alert the other detectives so that they can, you know, get out of the area so we don't have a bad situation occur.

Q Okay. So everybody is posted for safety reasons and keeping an eye out. Who are the detectives that went to go place the tracker on the vehicle?

A The detectives that placed the tracker are Detective Gutierrez and Detective Stier.

THE COURT: Counsel, approach.
MR. SCOW: Yeah. I was just going to ask.
(Conference at the bench not recorded)
THE COURT: All right. Ladies and gentlemen we're going to go ahead and interrupt the testimony of this witness. The State tells me that they have a very, very quick witness that's, like, 5 or 10 minutes. We'll hear from that witness

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before the lunch break, and then we'll go to lunch.
Now, as you've been told, you have to keep an open mind until you've heard all of the evidence in the case. So the order in which the testimony comes in doesn't really matter.

So, Detective, I'm going to go ahead and excuse you for the lunch break, but before I do, I have to admonish you not to discuss your testimony with anybody at all during the lunch break.

THE WITNESS: Okay.
THE COURT: All right?
THE WITNESS: Yes, Your Honor.
THE COURT: And we'll probably come back -- I don't know --

MS. SCHIFALACQUA: We'll let him know, Judge.
THE COURT: Wait around. We'll take an hour whenever we finish with the next witness.

THE WITNESS: All right.
THE COURT: All right. And you are excused until
after the lunch break.
And call your next witness.
MS. SCHIFALACQUA: The State calls Detective
Gutierrez.
THE COURT: And, sir, remain standing facing our court clerk.

\section*{CHRISTOPHER GUTIERREZ}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last names for the record. THE WITNESS: Christopher Gutierrez.

C-h-r-i-s-t-o-p-h-e-r, G-u-t-i-e-r-r-e-z.
MS. SCHIFALACQUA: May I?
THE COURT: Ms. Schifalacqua.
MS. SCHIFALACQUA: Thank you.

\section*{DIRECT EXAMINATION}

BY MS. SCHIFALACQUA:
Q Detective Gutierrez, can you tell the members of our jury how you're employed.

A With the City of Henderson Police Department as a detective.

Q How long have you worked with the city of Henderson?
A Since 2008.
Q Okay. And what is your current assignment?
A Auto theft unit.
Q Okay. Did you have occasion back on August 8th of 2018, to work with Detective Lippisch on placing a tracking device?

A Yes, ma'am.
Q Okay. And Detective Lippisch just left the JD Reporting, Inc.

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courtroom; is that right?
A Yes.
Q Okay. Were you part of a team of persons that went out on surveillance to assist in this track -- placing of this tracking device?

A During that time \(I\) was with the criminal intelligence unit.

Q So and that's partly why you were out -- asked to go out with the surveillance?

A Yes, ma'am.
Q Okay. Were you working with another specific detective, Detective Stier?

A Detectives Stier, yes, ma'am.
Q Okay. And did you -- describe for the members of our jury where you went on August 8th of 2018.

A I don't recall the actual location, but it was the motel across from, like, Circus Circus.

Q Okay. So would it be called the Circus Circus Manor?
A I believe so.
Q Okay. Fair to say. So it was by the Circus Circus?
A Yes.
Q And you went there with Detective Lippisch, Detective Ebert, some other detectives?

A Yes.
Q -- that were with you.

And what were you tasked with doing?
A Placing a tracking device on a vehicle.
Q Okay. And was that a 1994 Mercury Grand Marquis red or maroon in color?

A Maroon, yes, ma'am.
Q Okay. And did you physically place that tracking device on that vehicle?

A I physically did. MS. SCHIFALACQUA: Okay. Nothing further, Your Honor.

THE COURT: Mr. Brower. CROSS-EXAMINATION

BY MR. BROWER:
Q So, Detective, were you involved in any mobile surveillance?

A I'm sorry?
Q Were you involved in any mobile surveillance of the vehicle?

A Yes.
Q Did you see the vehicle in any traffic accidents?
A No.
Q Okay. When you placed the tracker on the vehicle,
where was the vehicle?
A Where was the vehicle parked?
Q Yes.

A Is that what your question was?
It was against the wall with the trunk facing the actual motel portion.

Q Was it in an outside parking lot, in a parking garage a --

A Inside.
Q Inside?
A An outside location inside the parking lot.
Q Okay.
THE COURT: So was it a garage, or was it just
outdoor parking?
THE WITNESS: Outdoor parking.
THE COURT: Okay.
THE WITNESS: The parking lot was specifically for the Manor itself. BY \(M R\). BROWER:

Q And do you take any video? We've seen a bunch of body cams and stuff on this case, but do you take video of what you're doing when you place the tracker on so that you can show whether you damage the vehicle or not or how that works?

A No.
Q Or where it's parked, things like that?
A No.
MR. BROWER: I have no further questions, Judge. THE COURT: Mr. Hughes.

BY MR. HUGHES:
Q Officer, how long did it take you to place the device?

A Well, I didn't time it. I'm going to guesstimate it probably took from the time --

Are you asking from the time that I exited the vehicle?

Q Okay. Let's --
A We'll go from there --
Q Well, how far away was your vehicle parked from the vehicle that we're placing the tracking device on?

A At the time that I exited the vehicle, I would say probably about 5 feet.

Q Okay. And so from the time you exited your vehicle, how long did it take you to attach and plant, place --

A Place. Place.
Q That's pretty euphemistic.
A We'll go with place. Yes.
Q Okay. How long did it take you to place it?
A I would say maybe 7 seconds, 10 seconds.
Q Is this device screwed into the subject vehicle?
MS. SCHIFALACQUA: Objection, Your Honor. If we may approach.

THE COURT: Yeah, that's sustained.

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MS. SCHIFALACQUA: Thank you.
THE COURT: I don't know that that's relevant.
BY MR. HUGHES:
Q It took 7 seconds to place this device?
A Yes.
Q Does this device have its own battery or power source?

A Yes, sir.
MR. HUGHES: And as I understand it, the Court is not
going to allow me to go any further into where it was placed?
THE COURT: That's -- I don't know that that's
relevant. So --
MR. HUGHES: I'm sorry?
THE COURT: I don't think it's relevant.
MR. HUGHES: Okay. My client wants me to ask --
THE COURT: Well, and --
MR. HUGHES: -- and I want to explain why I'm not.
THE COURT: Okay.
MR. HUGHES: Thank you.
THE WITNESS: Thank you.
THE COURT: Redirect?
MS. SCHIFALACQUA: Nothing further, Your Honor.
THE COURT: Juror questions?
(No audible response)
THE COURT: All right. Detective, thank you for your JD Reporting, Inc.
testimony. Please don't discuss your testimony with anyone else who may be a witness in the case, and you are excused at this time.

THE WITNESS: Thank you, Your Honor.
THE COURT: And, ladies and gentlemen, we're going to go ahead and take our lunch break. We'll take an hour or a little over an hour.

MR. BROWER: Judge, I'm sorry.
Could you quiet down for a second. Thank you.
THE COURT: Oh.
MR. BROWER: I couldn't hear what you were saying.
THE COURT: We're taking our lunch break. We're going to be in recess for lunch until 1:20.

And during the lunch break, you're all reminded you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to any reports of or commentaries on the case, person, subject matter relating to the case. Don't do any independent research by way of the Internet or any other medium. Do not visit any of the locations at issue, and please do not form or express an opinion on the trial.

Please leave your notepads in your chairs, and follow the bailiff through the double doors. We'll see everyone back at 1:20.
(Proceedings recessed at 12:18 p.m., until 1:26 p.m.)
(In the presence of the jury)
THE COURT: -- the court, and the ladies and gentlemen of the jury.

And the State may resume its direct examination of the detective.

MR. SCOW: Thank you, Judge.

\section*{KARL LIPPISCH}
(having been recalled as a witness and previously sworn, testified as follows:) CONTINUED DIRECT EXAMINATION

BY MR. SCOW:
Q Detective Lippisch we had just gotten to the point where you were part of the team initially conducting surveillance, and then the tracker warrant for the tracking device was placed on the red 1994 Mercury Grand Marquis. Is that where we left off on your testimony?

A Yes.
Q And it was detectives Gutierrez and Stier who placed that tracking device?

A Yes, it was.
Q What happened after the device was placed on that vehicle?

A After the device was placed on the vehicle, we confirmed that it was active, and then at that point we broke off surveillance. We met up at a separate location to just

JD Reporting, Inc. kind of debrief and confirm everything was done, and then we discontinued surveillance for the rest of the day.

Q So when you say confirm that it's active, what's the display like? How is it that you're able to see a location for whatever that device is attached to?

A So it's set up to where it can send alerts either via text message, email or, you know, a method such as that so that you get the notifications depending on how the tracker is set, and then as well it also has an online application where you're able to access the tracking information.

Q And does that give you locations as well?
A Yes. It'll give you locations, and the online service will then -- it has a map that you can have displayed, and it'll show the track or the location of the tracker itself on that map.

Q Okay. So does it have, like if you pull up Google Maps, for example, and it has the streets with the street names? Does it pull up something that looks like that with a symbol that indicates where the tracker is on --

A Yes. Yeah. So if -- the map itself will have, like, the streets and kind of show just area, you know, location as if you were looking at a basic Google map, and then it'll have -- it has a specific mark where that tracker is, and if you're doing, for instance, if you're doing live tracking, which means you're tracking as the vehicle is moving, it'll
show like the direction of movement as well.
Q The map that comes up with the tracking device symbol that moves on that map, does the map show, like, where buildings and things are located on that map? Does it have labels for those?

A It does not. It doesn't specifically say. So for instance, since the vehicle was at Circus Circus Manor, it doesn't tell you that it's at Circus Circus Manor. It just shows like the location on a map, and then so for instance when I was -- when I would get that information, I then would also use Google Maps which has a bunch more detail so that I could specifically find out what kind of business or location they were at at the time.

Q So you would have those kind of side by side. Just kind of wherever it's showing on the tracker map, you could look at Google map and see what is at that area or nearby?

A Correct. And then if you wanted to do like a specific, when you get the tracker information, it'll give you like the lat and long. So for that location.

Q When you say that, just for the record --
A I'm sorry. Latitude and longitude. It'll give you the coordinates so that you can then -- you could actually plug the coordinates into Google map if you wanted to -- or Google Earth if you wanted to do it that way.

If at the time when we were tracking, if it was

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something where it was currently moving, I was just using the two side by side and moving Google Earth -- or excuse me, Google Maps on my own to make sure that it stayed in sync with the track.

Q Okay. And so that August 8th, was it the evening time when the tracker was placed on the vehicle, or what time was it?

A It was at 1509 hours, so it was in the afternoon.
Q Okay. So for people like me that don't speak military --

A 3:09 p.m.
Q Okay. And then was there anything else related to the case or the surveillance or tracking of that vehicle the rest of that day?

A The rest of that day, no. I was the one that actually wrote the tracker warrant. So I just had to complete the paperwork that documented the location and time that the tracker was placed on the vehicle, and then that paperwork has to be filed with the court, and then other than that, we just we're continuing to follow up on our investigation so that we'd be ready to continue as the case moved forward.

Q So what happens next? You go home. What happens next with regard to either tracking or this particular case?

A So the following day, which would have been August 9th, Thursday, that morning we come back in to work, and

Detective Ozawa and I are continuing to work on the case in terms of we knew at the conclusion we wanted to do search warrants and different investigative aspects that still hadn't been done.

So as we're at our main police station in our office area, one of our other detectives, Detective Ebert, had left to go back to the Aviator Suites area to do some follow up out there, and then I get a notification at approximately 9:14 in the morning that the vehicle is mobile. The tracker sends me a notification saying, it's moving at this point.

Q And is that all the notification says: Vehicle in motion?

A It --
Q Or something to that effect?
A Specifically it shows -- the tracker itself is set up to where if the tracker starts moving it sends a notification. So when I get that alert, I know that it has moved, and then it gives you -- on that notification it gives you a link to where you can pull up a map to see where that tracker's at.

Q So what did you do when you got the notification?
A So when I got that notification, I actually opened the web application that allows it to do the live tracking and see where everything's at, and as I did so I was able to see that the vehicle left the Circus Circus Manor, was in motion and started proceeding westbound on Sahara from that area.

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Q Did you do -- at that point in time did you do anything else to, like you said before, side by side with Google Maps? Did you pull up a Google map at that point in time to see what was in the area of where that vehicle was?

A As I was watching the motion, I did see that it pulled off of the road into what looked to be like a business area or a parking area. So at that time I pulled up the Google Maps right next to it so that I could see what businesses were in that parking area, and as soon as I pulled up that and zoomed into the area where the parking or commercial center that they pulled into, I saw that two of the buildings inside that specific commercial area, one was a Bank of the West, and another one was a Nevada State Bank.

Q I just want to be able to talk when I ask you more questions.

So I missed some of that. I apologize. I want to -I don't want you to have to say that all over again, but you were tracking it, and you said it looked like it went to a business area?

A Correct. And when I pulled up Google Maps and looked at what was in that business area, that's when I saw that there was -- there was actually two banks within that parking area, and one was a Bank of the West, and one was a Nevada State Bank.

Q What did you do at that point when you saw that there JD Reporting, Inc.
was some banks in there where the vehicle had stopped?
A At that point I -- we assumed, myself and the other detectives, we assumed that they were either doing some reconnaissance --

MR. HUGHES: Your Honor, I'll object to what the other detectives assumed.

THE COURT: Yeah. Don't assume. Just tell us what you actually --

THE WITNESS: We believed at that time that they were -BY MR. SCOW:

Q And if --
MR. HUGHES: And --
BY MR. SCOW:
Q And if you can just talk about what you believe when --

A Okay. So I believed at that time, based on prior history, that they were either attempting to do some reconnaissance on those banks so that they could see possibly what, you know, locations that they could rob in the future.

So at that time Detective Ebert, who was already out from the station, I contacted him and asked him to divert to that location so that we can start getting some visual surveillance as well to see what they were doing because the tracker only gives us obviously the location of the vehicle,
but we don't know who's in the vehicle or what they're doing at the time. So I diverted Detective Ebert to do that.

And then there were additional detectives at our main police station who I was able to get them to assist as well and head from our station in that direction.

Q Was one of those Detective Worley?
A Yes.
Q So you have Worley and Ebert that are going out to the field to get visual of the vehicle?

A Correct.
Q And you're in contact with them?
A Yes.
Q How do you have contact with them?
A Through our police radios.
Q So as you're getting information on the tracker where it's going on the map, you're relaying that to them in realtime?

A That's correct.
Q And on the other end, whatever they see and observe of the vehicle or people associated with the vehicle, they're relaying it back to you?

A That's correct.
Q As it happens?
A Yes.
Q I'm going to pull up State's Proposed Exhibit 370 JD Reporting, Inc.

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just for identification purposes. When it comes up and when you recognize what you see, you let me know.

A Okay.
Q Do you see anything you recognize yet? It's coming.
A It kind of looks like the sky.
MS. SCHIFALACQUA: [Unintelligible], yeah.
MR. SCOW: I had to restart it because it wasn't playing sound before. And I forgot I had to restart it. So it's coming up. BY MR. SCOW:

Q Do you recognize this?
A Yes. This is a map that was done after the fact that shows the tracks of the vehicle.

Q And the tracks are displayed by what symbols?
A It's going to be these symbols over here with the little -- the circles.

Q Okay. So the green circles indicate locations that the vehicle has been or is at currently?

A Correct.
Q And is the one with like the little curvatures is like the current ping?

A Without seeing the exact time, I would assume it is, but, yeah, that showing that it's registering a ping.

Q Got it. So let's -- I'm going to play a little bit and see what you recognize. Okay?

JD Reporting, Inc.

Nevada Supreme Court
State of Nevada, Plaintiff
v.

Anthony Barr, Appellant
Docket Number 78295

\section*{APPELLANT'S APPENDIX Vol. V}

NRAP 26.1 Disclosure
The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Jeannie Hua, Esq., Attorney of record for Appellant, Anthony Barr Clark County District Attorney's Office for the State of Nevada

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A Uh-huh.
So from this you can see that the vehicle initially
started over here. This is the Circus Circus Manor.
Q And, Detective, before we go in to describing it, it's not an exhibit quite yet.

A Okay.
Q But you recognize this. Is this showing the pings --
A Yes.
Q -- the locations of that tracking device --
A Yes.
Q -- from August 9th, 2018?
A Yes.
Q Starting at about 9:14 in the morning?
A Yes.
MR. SCOW: Move for admission of State's Proposed
370.

THE COURT: Any objections?
MR. BROWER: Submitted.
THE COURT: Submitted?
MR. HUGHES: Submitted.
THE COURT: 370 is admitted.
(State's Exhibit Number 370 admitted)
BY MR. SCOW:
Q All right. You were about to describe -- you were going into more detail, and now you can do that for

Exhibit 370.
A So what you're seeing right now is it's showing the initial pings that it was receiving of the vehicle, of the tracker itself that started out at the Circus Circus Manor, and then you're seeing the continued pings as the vehicle moves and the locations that it's receiving from the tracker as it went out on to West Sahara and then up to the parking lot that included the banks, the Bank of the West and the Nevada State Bank.

Q And when you first got the notification of movement, you said it was moving westbound on Sahara?

A The initial notification just said that movement was detected, and it was leaving from its parking area at the Circus Circus Manor.

Q Okay. So you tracked it to where it went westbound on Sahara into the parking lot?

A Correct.
Q And when it got to that parking lot where the Bank of the West and Nevada State Bank were at, that's when you called in for other detectives to go try to get visual?

A Correct.
Q Do you know what point in time it was that they obtained visual of the vehicle?

A They actually don't obtain visual until it is back after this point when it proceeds eastbound and ends up in an
apartment complex is when we were -- they were actually able to get visual on the vehicle.

Q Okay. And is the address or location of that apartment complex on this map?

A Yes, it is.
Q Can you use the cursor and show where it is and tell what it is.

A This blue marker and then this box right here that says Sterling Sahara Apartments at 1655 East Sahara Avenue is the apartment complex.

Q And that's where it next came to a stop?
A Along the way it stopped at a gas station, and then once it proceeded from the gas station, it went to that apartment complex.

Q Okay. Now, as we play this, I want you to let us know if this is in realtime. Okay. Let me go back. It was frozen and then moved. So it looks like they flew there.

A So initially in the parking lot, as you're seeing, there were multiple pings because it remained in the parking lot where the Bank of the West was, and as you can see from the --

Is it all right if I take over the cursor?
Q Yeah. It's yours.
A As you can see in here, it initially pulled into the parking lot at 9:23, and then it doesn't exit the parking lot
until 9:37, and while it was in the parking lot, the initial pings were showing it towards the front, and then it worked its way back farther north in the parking lot before then leaving, and so that's why there's so many pings in that area.

MR. BROWER: Judge, I'm going to object to the term them leaving. I don't think he had any actual surveillance on them at that -- anybody at that point in time.

THE COURT: Do you see who was in the car?
THE WITNESS: Not at that time.
THE COURT: All right. So just say the vehicle or -THE WITNESS: The tracker then left.

MR. BROWER: That's -- I like the tracker, Judge.
That works.
BY MR. SCOW:
Q And the tracker was attached --
A To the vehicle.
Q The red Grand Marquis?
A Correct. So at that time the vehicle leaves the parking lot and proceeds eastbound on Sahara. At one point at stops in a gas station parking lot which I was able to see on Google Maps when I had that side by side, and then it left the gas station parking lot and arrived at the Sterling Sahara Apartments.

Q Okay. So I'm going to go back a little bit and let it play, and hopefully it just goes normal speed at this point.

So that's what you described. It was in that area of that parking lot for about 14 minutes according to the label and what you observed?

A Correct.
Q And then at about 9:37 is when it leaves that parking lot?

A Yes.
Q So that's one of the pauses there where it stopped?
A I believe from watching this and timingwise that should be the gas station that they stopped at.

Q Okay. And I just paused it. So that's why it stopped right now.

A Oh, okay.
Q And so I'm going to hit play again. So I just paused it again.

A Okay. And so --
Q That happened over a matter of a few seconds; right?
A [No response.]
Q What we just observed?
A On the screen, yes.
Q Yes, but when you were watching in realtime, it was passing in minutes. For example, when you get to the -- this next label over here, it says 9:51, so about 14 minutes after leaving the previous location --

A Correct.

Q -- right?
A Correct.
Q So it wasn't just two seconds. It was -- so this map and this video of it is a very much shortened time frame from what you were observing live?

A Yes.
Q Okay. And these labels are here to assist the jury in knowing what time the vehicle arrives at what location?

A Yes.
Q How long was the vehicle in this Sterling Sahara Apartments?

A So it arrived in the apartments at 0951 hours, and then it doesn't leave the apartments until 1014 hours. So it's in the apartment complex for approximately 23 minutes.

Q Okay. Was there anything near that apartment complex that you observed on a Google map?

A When I saw the vehicle pull into the apartment complex and I zoomed into that area, just west of the apartment complex on the other side of the wall of the apartment complex is a Smith's shopping center, and inside of that Smith's is a U.S. Bank branch.

Q So U.S. Bank inside a Smith's?
A Correct.
Q So based on what you're observing here, the vehicle parks at the apartment complex near a Smith's with a bank in
it. What are you thinking as far as what you've learned in your investigation up to this point?

A So the prior investigation had shown that the suspect vehicle or what would be kind of their transportation to and from would not park directly in front of the bank or in the parking lot bank, but would park somewhere nearby that they could then come from and run to as they commit the robbery. So based on seeing that it had parked in the apartment complex and then the fact that there was a Smith's with a bank in it right next to it led me to believe that this was very -- a good possibility that they were again either doing some research on the bank to see if it is a location that they could rob in the future or possibly rob it at the time, but we did not know at the time.

MR. BROWER: Judge, that calls for speculation as to what they were thinking.

THE COURT: All right. That's sustained.
BY MR. SCOW:
Q So based on what you're observing, what you knew about the robberies and your investigation up to this point, this was something significant to you?

A Yes.
Q Do you know about what time detectives Worley or Ebert were able to obtain visual of either individuals associated with the vehicle or the vehicle?

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A The exact time I don't know, but it was shortly after the car arrived in the apartments. I was able to direct Detective Ebert to where the vehicle was within the apartment complex. So he was able to position his vehicle inside the apartment complex to get a visual on the vehicle itself, and then I was also able to direct the additional detectives to go to the parking lot of the Smith's so that in case our -- the vehicle had the suspects inside it and they decided to walk to the Smith's there would be -- people would be able to see the doorway and see if the suspects arrived.

Q At some point were you notified by one of the detectives that a visual was obtained of people associated with the vehicle?

A Yes, I was. Over our police radio, Detective Worley announced that he saw our two suspects walking towards the Smith's.

Q Which detective was it that had the visual?
A Detective Worley.
Q And we won't go into what he's reporting to you, but they're reporting to you what they see. You're giving location information, and it's the tracker that's giving you location; is that right?

A Correct.
Q Is it the Google map that's giving you location?
A No.

Q Are you using the Google map to assist in knowing what may or may not be in the location?

A Yes.
Q And is Google map always right?
A From my use of it it's accurate; however, I can't say if it's always going to be right or not.

Q It's pretty accurate; right?
A Correct.
Q But there may be times when the exact location of a business or something else may be a little bit off?

A Correct.
Q But it'll usually give a pretty precise location generally speaking?

A Yes.
Q But as far as the locations for the vehicle, you're using a tracker, the tracking information, not Google Maps?

A Correct. I was using -- I had two windows open at the same time. One would be the actual tracker application which was showing -- giving me the specific locations of the actual tracker itself and was plotting it on the map very much similar to what you see right here, and then I was using Google Maps to coincide with that so that I could see what specific businesses or that kind of thing was in the area.

Q Okay. At some point does the vehicle start moving again?

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A Yes. At approximately 1014 hours is when it then proceeds to exit from the apartment complex.

Q And that's 10:14 a.m.?
A Yes.
Q Do you know if any of the officers has visual of the vehicle at this time?

A Yes. Detective Ebert had visual of it.
Q All right. I'm going to play it again and if you can just describe directions it goes. It's going to move fast. Okay?

A So from the apartment complex it went eastbound on Sahara. It proceeded eastbound until it completed what appeared to be a U-turn at just before getting to McLeod. It came back westbound on Sahara until it got to Maryland Parkway.

MR. BROWER: Judge, I'm going to object to the term U-turn. I don't think he's watching it. He's only getting latitude and longitude. So we have no idea if it's a U-turn or if it's a -- what type of turn it is. It's just latitude and longitude that he's getting.

THE COURT: The vehicle headed one way and then
turned around and headed the other way --
THE WITNESS: Yes.
THE COURT: I think we can.
MR. SCOW: It's a logical inference from what he sees on the --

THE COURT: I think we can assume that the vehicle wasn't driving in reverse the other way. So I think that's a fair assumption. It's overruled. BY MR. SCOW:

Q Okay. And use the mouse to --
A Okay.
Q -- as you're explaining the direction and where the U-turn occurred.

A Okay. So from the apartment complex here, it proceeded eastbound on Sahara to about to this location right here. McLeod is the next intersection right here. This is where the vehicle then proceeds to go the other direction coming back westbound until it gets to this intersection which is with Maryland Parkway. At this intersection, it turns and proceeds southbound on Maryland Parkway to just prior to Desert Inn, which is right here.

At that point, it pauses and then turns and heads back northbound coming back up through the intersection at Sahara until turning on a smaller sidestreet up here just before it gets to Charleston.

When it makes this turn, it proceeds westbound, and then another turn is made for it to go northbound until it comes up here to the intersection with Charleston, and then it proceeds through the intersection before it actually comes to a stop in an alley right back over here, and as I'm watching the
tracks and then using Google Maps, I was able to see that very close to where the vehicle stops there's a U.S. Bank that's on Charleston at this location.

Q You had said Detective Ebert had eyes on the vehicle. Was he eyes on as it went on Sahara, back the other direction, down on Maryland Parkway, south and then back north? Was he maintaining generally visual on the vehicle?

A It was -- there were times, but at the same time, since we had the tracker on the vehicle, we knew that we didn't have to be very close to it, and we didn't want to -- you know, we want to make sure that our suspects didn't get suspicious. If they were in the vehicle, you know, we don't want to make sure -- we want to make sure that they're not suspicious of vehicles that are around them.

So knowing that we had the tracker on the vehicle, there were times where they didn't maintain the visual because I was radioing realtime information to let them know specifically were the vehicle was. So if it made a turn, they didn't instantly have to be right up on the vehicle to see where it turned or where it was going because I could update them with that, and then they would get back in the position where they would then have a visual of the vehicle without making it obvious that they were following it.

Q When you say "they," was that the vehicle Detective Ebert was in? And potentially Worley as well?

A Correct.
Q So on this disc, where the vehicle is that now, I'm going to bring up a different map that's closer in of that area. Can you give the cross streets here to help orient the jury.

Oh, it's playing.
Okay. Can you give the cross streets to help orient the jury of where this is.

A In terms -- the U.S. Bank itself is at 801 East Charleston.

Q Sorry. I'm going to steal the mouse so I can bring this up here.

A Yeah. It's --
Q All right. Yours. Your mouse again.
A Actually, if I could refer to my notes? It's tough to read specifically on here what those street names are.

Q Yeah, yours is a little blurry. So --
A It's very blurry.
Q So then is this Charleston?
A Yes, it is. The main road, the Nevada 159 is also referred to as Charleston Boulevard right here.

Q Okay. I meant the big streets, and is Maryland Parkway on there too?

A Oh, I'm sorry. Yes. Maryland Parkway is the main road right here.

Q Okay. And if you need to get into your notes to see some of the smaller sidestreets that you can't read the names of, if that helps you remember the locations, you can look at your notes. Okay?

A Okay.
Q So from the big map, we've seen where it went up Maryland Parkway and turned left on one of the side streets. Do you remember or do you have it in your notes the name of the sidestreet you turned left on?

A Yes. So -- so as it was proceeding northbound on Maryland Parkway, after passing through Sahara, they turned left to go westbound on to East Franklin Avenue.

Q Okay. So I'm going to hit play and see if this kind of indicates to us the path that it follows.

Okay.
A So the left turn from Maryland Parkway on to Franklin is right here, and so it proceeds on Franklin, and then it turns right to go northbound on to South 8th Street, which is the turn right here. So now it's on 8th Street proceeding northbound, and then 8th Street is also -- it turns into what's also East Park Perseo -- Park Paseo, excuse me, to the intersection with Charleston. And it continued northbound through the intersection turning right to go eastbound right here on Garces and then made another immediate right into the alley between 8th and 9th Street.

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Q Is that where the tracker is at this time on the video?

A That's what it appears from here.
Q Okay. And how long is it in that area, in that alley between 8th and 9th?

A It parked in the alley. I don't have the specific time in my notes actually as to when it parked, but it parked there for a minute, and it stays there as our other detectives get into the area now, now that it's stopped, they try and get in the area so they can set up in case it starts moving again or something happens, especially knowing that there's a U.S. Bank in close proximity, and while it's stopped at that position, a person is seen coming from -- over the radio I hear a person is seen coming from the area where the vehicle had stopped.

Q Was it a male or a female?
A It was a female.
Q Okay. And the detectives, did they set up around where the vehicle was at, or where did they say they had set up at?

A They set up more specifically in the area of the U.S. Bank to make sure, knowing that the vehicle had stopped near a bank, they wanted to make sure that they had eyes, were able to see the front doors of the bank in case anything were to happen or people were to come from the vehicle towards the bank.

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Q Did the vehicle shift position at all in that alleyway during that time frame?

A After hearing on the radio that a female had come from the area of the car and gone into the bank, the vehicle then actually moves and --

Give me one moment.
Q And you're referring to your notes to get exact --
A I'm sorry.
Q -- times or locations?
A Yes. I'm referring to my notes to see where it had moved to.

So the vehicle then goes northbound in the alley across Garces and approximately 1036 hours, the vehicle stops behind what appeared to be 626 South 9th street.

Q So you didn't have the time of the first time it stopped, but after a few minutes it moves to another spot, and that's the time that you had on the tracker for when it stops a second time in that alley?

A Correct.
Q So is that -- did it just show it moving to the second location?

A Yes, it did.
Q And so that label there indicates the time stop of the second stop location?

A Yes.

Q Of the red Grand Marquis and the tracker?
A Yes.
Q And how long was it there at the second parked spot?
A So it stops and parks at that spot at approximately 10:36 a.m., and then at approximately 10:44 a.m., it leaves the area; it starts moving again. So for approximately 8 minutes it was stopped in that area.

Q And you don't have on your notes how long it was stopped the first time?

A I do not.
Q Okay. So it left the area, but again in realtime, when it got -- when it left the area at 10:44, at what time does it next stop, and then after you give us that, give us the path that it traveled.

A Okay. So at 10:44 it leaves that area. And then at 10:50 it stops. It's shown on the map right here at 705 East St. Louis Avenue.

Q Okay. And what was the route it took?
A So the route it took is from --
And if I can refer to my notes just to confirm if I have times, specific times in here.

Q Okay. And just to be clear, the notes you're referring to, is that a supplemental report that you've done for -- which event number is it that your report is supplementing?

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A I completed this under our report Number 18-16972, and this is a supplemental report to document what took place and what we observed and the information that we gathered.

Q Okay.
A So at 10:44, the vehicle drives northbound to the alley to East Bonneville Avenue, which is right here where it turns right and proceeds eastbound, continues eastbound to the intersection of Maryland Parkway which is right here and then makes another right turn and proceeds southbound through Charleston and continues southbound to East St. Louis Avenue, which is right here at which point it makes a right turn and proceeds westbound until stopping at 705 East St. Louis Avenue.

Q So that last street, the turn is on St. Louis Avenue?
A Correct.
Q And during this last part of the vehicle movement, were you aware if Detective Ebert had visual of the vehicle?

A Yes. At that point, prior to this, I was the one that was doing all the live updates because I was using the tracker to give locations; however, at this time Detective Ebert who was able to get visual of the vehicle took over notifications of where the vehicle was and was providing live updates on the radio so that I knew he had a visual of the vehicle.

Q Okay. And so what he was relaying was matching what you saw, the tracking data on the map as to where the vehicle

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was going?
A Correct.
Q And it also became a stop at 705 East St. Louis Avenue?

A Yes.
Q And were you made aware that an arrest had been made with regards to people in the vehicle at that location and then areas close by?

A Yes.
Q And after the arrests were made, were those individuals brought to where you were at at the Henderson Police Station?

A Yes, they were.
Q Who was it that was brought to you?
A There were four individuals that were brought to the police station and include Anthony Barr, Damien Phillips, Sabrina Henderson and Melissa Summlears.

Q You weren't there to see what happened; right?
A No, I was not.
Q But you were the one tracking the vehicle and giving that information to those that were on scene?

A Correct.
Q I'm showing you some other photos of Melissa and Sabrina. I'll show you now State's Proposed 180 and 204 and ask if you recognize these.

A Yes, I do. These are photos of Damien Phillips and Anthony Barr.

Q Okay. And then, sorry, also 181?
A This is another photo of Damien Phillips.
Q And was that the condition and clothing they were wearing when they were brought to the Henderson Police Station where you were on August 9th, 2018?

A Yes, it is.
MR. SCOW: Move to admit State's Proposed 180, 181 and 204.

MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. Those will be admitted.
(State's Exhibit Numbers 180-181, 204 admitted)
BY MR. SCOW:
Q First on 180, who's in this photograph?
A Damien Phillips.
Q And in 181, what's that showing?
A That's also Damien Phillips.
Q And the clothing he was wearing?
A Yes.
Q That's what he was wearing when he was brought back to your location at the police station?

A Yes.
Q And the shoes?

A Yes.
Q And then 204?
A And that's Anthony Barr.
Q And the clothing that he was wearing?
A Yes.
Q And then showing you State's Proposed 233 to 252. If you want to flip through those and let me know if you recognize these?

A I do recognize these. These are pictures of the clothing from Anthony and Damien.

Q So as they're arrested and booked, these are pictures of the clothing after it had been removed from their persons?

A Correct.
MR. SCOW: Move for admission of State's Proposed. MR. HUGHES: Submitted.

MR. BROWER: Submitted, Judge.
THE COURT: Whatever it might be.
MR. SCOW: 233 to 252 .
THE COURT: 233 through --
MR. SCOW: 252.
THE COURT: All right. That'll all be admitted. (State's Exhibit Number 233-252 admitted)

BY MR. SCOW:
Q And I'll just go through a few of these. 234?
A Those are Damien's -- the pants that Damien had been JD Reporting, Inc.

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Q 235?
A The T-shirt Damien had been wearing.
Q 236?
A The shoes Damien had been wearing.
Q Was there something that you noticed about what's shown in 236 and 237?

A Those shoes matched the shoes that we had seen in prior images from the other robberies.

Q 240?
A That is Anthony's ID and the wallet that Anthony had on him.

Q So this was on his person?
A Correct.
Q Okay. So his ID, and did you see this ID in some of the traffic stops of the body cam you had seen from Metro's police traffic stops?

A Yes. He had provided a Texas ID in those traffic stops.

Q This green card here in 241, does that show a better, and I'll zoom in, and you can -- the lighting. Is that one of the cards that was in his wallet?

A Yes.
Q And what does it say? And I'll try to turn it so you can actually.

A It says, give your adulthood a timeout. Life's a circus. Let's play.

Q So is that a door card for Circus Circus?
A It appears to be so, yes.
Q What is this? I'll zoom out so you can actually see it?

A That's the shirt that Anthony was wearing.
Q Is there anything that you noticed specifically about Anthony and the shirt he was wearing?

A The shirt that he was wearing has stains on it around the collar which was from makeup that had been coming off of his face and neck area.

Q So you observed that to be makeup?
A Yes.
Q Did you see makeup that was on his face still?
A Yes, I did.
Q Describe what you saw.
A When he was brought to the station, he still had some makeup that was on his face covering the tattoos. The makeup that I first observed was the makeup on the right side of his face that was covering the teardrop tattoos, partially covering it. A lot of it had actually started to already be rubbed off or was coming off.

Q And which cheek did it seem that it was kind of rubbed off from?

A The right one.
Q And then --
(Pause in the proceedings)
BY MR. SCOW:
Q Showing you State's 232, I know you weren't at the arresting, but just focusing on the individual in the picture, is that how he looked, Anthony Barr when you saw him brought to your police station?

A It does other than the fact that in this picture it appears that the makeup is still covering most of his tattoos.

Q Okay. But the clothes he's wearing, but that's him that day?

A Yes.
MR. SCOW: Move for admission of 232.
MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: Submitted.
(State's Exhibit Number 232 admitted)
BY MR. SCOW:
Q I'll zoom in a little bit. It's hard to tell with the zoom in, but the members of the jury will have this to look at, but as you described, this was him shortly before you got him at the police station, but in this photograph, it appears that you cannot see the teardrops. Is that what you were just saying?

A Yes.

Q The tattoos on the right cheek?
A [No audible response.]
Q Is that yes?
A Yes.
Q Okay. And the picture also shows just for reference to one of the other exhibits, does it also show Anthony's wallet with that Circus Circus card and his wallet in that picture?

A Yes, the Metro officer is holding Anthony's wallet. MR. SCOW: I will pass the witness, Judge. THE COURT: All right. Mr. Brower, cross. CROSS-EXAMINATION

BY MR. BROWER:
Q So, Detective, you testified about the similarities; correct?

A Yes.
MR. BROWER: I'm just going to stand over here
because Mr. Scow is in my way.
BY MR. BROWER:
Q And you said the FILAs -- had you say it? Fiela?
FILA sneakers.
A FILA.
Q How do you -- okay. So --
A I call it FILA.

JD Reporting, Inc.

Q All right. So the FILA sneakers, you said that was important because it matched similarities from other alleged robberies; correct?

A Yes.
Q Like the sandals that were worn by one of the individuals in one of the robberies; correct?

A No. I said the --
Q Do the FILA sneakers look like the sandals?
A -- FILA sneakers.
No. No, I said the FILA sneakers looked like sneakers from other robberies.

Q And you talked about what you said were consistencies; correct?

A Yes.
Q So you said there was a note?
A Yes.
Q Now, you've worked robberies for quite a while; right?

A A couple years, yes.
Q Okay. Your experience that most robberies have a note?

A I wouldn't say most, but some do, some don't.
Q Half?
A I would have to look up all the cases to see to give you an actual number.

JD Reporting, Inc.

Q Well, the ones you've worked, how many use a note?
A Again, I don't remember specific numbers.
Q So it really stood out in this case that people used a note. That was real unusual and that was a ink -- that was something so specific that it caused you to have a flag; correct?

A No. What was specific about it was the fact that the notes were very similar in terms of what they stated as well as the fact that in every single one they made sure to keep the note with them after showing it to the tellers and that they -all of them referenced a weapon or some sort of weapon, gun or bomb that they had.

Q Okay. And you talked about a red car. You had photos of a red car, and we watched a video which was what kind of I guess cracked the case for you; correct?

A It was a lead, yes.
Q Okay. And in that lead did you see an individual get in the front passenger side of the car?

A Yes, I did.
Q And did that individual have a ponytail?
A It appeared that possibly he had a ponytail, yes.
Q Okay. And did any of the individuals that were arrested in this case have a ponytail?

A Not when they were arrested, no.
Q Okay. And did you recover the sandals that were

A I do not recall if we recovered them in the search warrant or not.

Q Okay. So there were definitely inconsistencies in this case as well as some consistencies; correct?

A Yes.
Q Okay. And you were asked about Google Maps being accurate, probably because we spent some time yesterday when you weren't here looking at a Google map that had some wrong locations. The maps that we just watched a few moments ago, was that done by you on Google Maps?

A That was not done by me at all, no.
Q Okay. Was that using Google Maps? Do you know?
A I could not tell you. I don't know.
Q Well, when you get the update on -- however, you get the update from the tracker, do you get it on your mobile phone?

A It can be through mobile phones or email or through the live tracking on the website.

Q So there's an app?
A There's a specific website on the Internet --
Q So we can't go download the app and watch all the trackers --

A No, you cannot.
Q -- in the valley; right? Okay. JD Reporting, Inc.

A Not that I'm aware of.
Q But does that app show you just latitude and longitude, or does it show you a map?

A It shows me a map.
Q And that's not as reliable as Google Maps because you said you used Google Maps at the same time; right?

A I did not -- I didn't use Google Maps at the same time because of reliability. I used it so that I could specifically identify businesses in the area.

Q Okay. And it's your experience that Google Maps is pretty accurate?

A From my experience, yes. I use it all the time.
Q Okay. Ever sent you to the wrong place?
A Sent me to the wrong place, no.
Q It's never given you the wrong location?
A Never.
Q Okay.
A Not that I can recall.
Q Well, I can show you an exhibit that's been admitted that's got the wrong locations, but we'll skip over that.

A In my experience, I've always had great luck with it.
Q Okay. And the tracker doesn't have a camera; correct?

A It does not have a camera, no.
Q Okay. And the tracker only shows movement. Like JD Reporting, Inc.
does it show -- for instance let's say the tracker is on this podium. Well, this podium is better. It's got wheels. If I shake it, like I get in the car, and I shake it, will it start notifying you, or does it actually have to be physical movement of so many yards, feet, inches?

A All of the specific capabilities I'm unaware of.
Q Okay.
A However, I know that it's -- there's different settings that you can do with it to where you can make it to where it shows motion. You can also have times the vehicle would actually stop. So the stop motions. You can also get it to just send information on a -- let's say you want information every minute of where that tracker is at. You could get it -you could set it to that as well, as well as numerous capabilities, like I said, I'm unaware of.

Q So is this tracker big enough to be put like on somebody's shoe or --

MR. SCOW: Judge, objection. For the reasons
discussed at the bench earlier, the size and placing of it.
THE COURT: Counsel, approach.
(Conference at the bench not recorded)
BY MR. BROWER:
Q So I'm going to go to the map that we were watching a few minutes ago.

A Okay.

Q So originally we were watching -- there was lots of little dots all in a row kind of, and then we had that long gap that happened where there was only, like, three or four of them. You didn't actually put the map together that we watched. You just said that; correct?

A Correct.
Q But when you were getting tracking information, was there a gap in those spaces that would be an explanation as for why we weren't getting lots of little dots in between those big ones? Is it not live time, or how accurate is that tracking device?

A So it's basically you receive the information via satellite. That goes to the software that then allows us to see the tracks or the plots that the tracker is at. So the faster the car is moving, the farther apart those plots will be. If it's stationary or barely moving, say you're going 1 mile per hour, you're going to get a lot of spots in that location because the information is sent, you know, makes every second.

So if you're moving 1 mile per hour every second, that's going to show a very high density of dots at that time whereas if you're going a hundred miles an hour, and it's only sending it every second, at a hundred miles an hour, the dots are obviously going to be much more spaced.

Q So, well, I guess I can ask this then. We had a

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large -- a couple large segments of spot, you know, where there was very few spots. Was the car going exceptionally fast there?

A I can't tell you what the speed was; however, I obviously --

Q Oh, so you don't get that information, like the car is going 85 in a school zone or anything like that?

A Yes, you can get the -- you can get the speed information; however --

Q But you didn't?
A I was not keying in on the speed information. I was keying in on the location.

Q Okay. And I apologize. You pointed to Mr. Barr earlier and described some tattoos I think; correct?

A Yes.
Q And you said on the right side of his face there was I think you said three tattoos?

A I believe I said three like teardrop looking tattoos from here.

Q On the right side of his face?
A On the right side of his face; correct.
Q Okay. Do you wear glasses?
A I don't.
Q Do you think you might need to?
A It's difficult to see the right side of his face from JD Reporting, Inc.

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this angle because I can see the left side of his face better than the right.

Q Okay. How many do you see on his left side of his face?

A I see what looks like three on the left side of his face.

Q Okay. Because I count differently on the right side. That's why I was just curious.

A Okay.
Q But I had Lasix. So --
A I'd be happy to get closer so I could actually see --
Q No, I was just curious if, you know --
A Okay.
Q -- you know, you wore glasses or you needed to check your prescription?

A No, I don't.
MR. BROWER: All right. Thank you.
THE COURT: Is that it, Mr. Brower?
MR. BROWER: That's it for me, Judge.
THE COURT: Mr. Hughes.
CROSS-EXAMINATION
BY MR. HUGHES:
Q Officer, I believe early in your testimony you
testified about looking at surveillance video from a parking lot after a robbery where one of the suspects was dressed in a JD Reporting, Inc.

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wig. Do you remember that?
A Which parking lot are you referring to?
Q There's been so many parking lots I can't keep track. There was a parking lot where you indicated the suspects were getting out of a red vehicle and walking towards a bank. Do you remember that?

A Yes.
Q And it showed them later, the suspects coming back to the vehicle?

A Correct.
Q That surveillance had time and date on it. Do you remember? The videotape?

A I believe it did.
Q Did you do anything to verify the accuracy of the time and date on that video?

A I personally did not, no.
Q So you don't have any knowledge about whether that video was actually taken at the time it said; right?

A I was --
MR. SCOW: Objection, Judge, can we approach on that?
THE WITNESS: -- provided --
THE COURT: Sure.
(Conference at the bench not recorded) THE COURT: All right. Move on, Mr. Hughes.

BY MR. HUGHES:

Q Officer, I believe you testified that after this magic tracking device was placed at the Circus Circus location. Is that right?

A That it was installed on the vehicle?
Q Yeah.
A Yes.
Q After that was done, you all went home -- oh, no, you went to debrief?

A Correct.
Q Then you went home?
A No.
Q Oh. Did you work all night?
A I told you I actually did the paperwork that was associated with the tracker, and I went back to continue the investigation and work on the investigation.

Q When you say you went back to continue the investigation, where did you go?

A The station. Our main station where our office --
Q Okay. In Henderson?
A -- where our office is, yes.
Q So nobody kept a visual on that vehicle overnight; is that correct?

A That's correct.
Q So when the vehicle started moving, or when your device started moving the next day, you were assuming that it JD Reporting, Inc.

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was still attached to that vehicle?
A [No response.]
Q Is that right?
A Yes. I did not get an alert that it had been removed.

Q Is the device such that if it was moved you would get a special alert?

A If it's removed from what it's been attached to, yes.
Q Oh. And you received no alert?
A I did not receive a removal alert, no.
Q What kind of an alert would you get?
A A device removal alert.
Q Okay. Which is different then -- something different than a dot? A green dot on the map?

A It would provide the details that it was a device removal, yes.

Q You know as soon as I go home I'm going to go on Google and order one of these, and you know I can because it doesn't sound all that much different than my device. It'll give a location by satellite.

Does this device have difficulty getting its location if you're in mountains?

A I've never used it in a mountain. So I could not tell you.

Q How about around tall buildings?

A I have not experienced any issues in Las Vegas and Henderson when I've used the device.

Q How often have you used the device?
A I've had several cases where it's been used, and I've also been involved in other people's cases where they've used it.

Q And so apparently buildings and clouds don't interfere.

Does it need line to line site with the satellite?
A Not as far as I'm aware of.
Q But from your understanding, it's locating by satellite?

A From my understanding of the device, yes; however, I'm not an expert on the actual mechanics of the device itself.

Q While you were at the Circus Circus Manor, you were physically present there?

A Yes.
Q Did you get out of your vehicle?
A At which time?
Q At any time you were at Circus Circus.
A Yes.
Q How close did you get physically to the suspect vehicle?

A At one point it drove right behind my vehicle.
Q The vehicle in motion was behind you?

JD Reporting, Inc.

A Correct.
Q Okay. But you were in your vehicle at the time?
A At that time, yes.
Q Okay. How close did you get to this vehicle when you were out of your vehicle?

A I don't have an exact number. I don't know.
Q Okay. Let's narrow it down. Less than a quarter mile?

A I was a couple buildings over from it. So I don't know exact distance of what that was.

Q Okay. Is there a parking garage at Circus Circus?
A There is a parking garage there, yes.
Q To your knowledge, at any time was the suspect vehicle in the parking garage?

A From the track -- the specifics that I had seen, I did not notice it in the garage.

Q Did you take any still photos or video while you were at Circus Circus Manor?

A I did not.
Q To your knowledge, did any of the other officers on your squad take any videos or still photos while they were there?

A At Circus Circus Manor, I do not believe so. MR. HUGHES: Okay. All right. Thank you, Officer. THE COURT: Any redirect?

JD Reporting, Inc.

MR. SCOW: Yes. Just a minute.
/ / /
/ / /

\section*{REDIRECT EXAMINATION}

BY MR. SCOW:
Q You were first asked by Mr. Brower about the bank note, and he asked you if that was some odd or unique thing that you connected these cases by just the bank note. Is that what happened?

A No. There's --
Q So how did the bank note play into you determining that these were related?

A The bank note was just one of the similarities between all of the robberies that we investigated, the four robberies that had been in Henderson. In every single one of them, the bank note was -- or a note, excuse me, was used, along with the other similarities that took place.

Q Similarities such as you described the suspects on the videos that you're able to see their descriptions, clothing, things like that that you're able to -- and mannerisms, what they do with the notes that they don't give it. They'll let the tellers take them, all those kinds of things are playing into your determination?

A Correct.
Q You were also -- some of the questions about the JD Reporting, Inc.
tracker map, and there was a lot of questions as to whether you know if the tracker was on the vehicle or if its locations were accurate. At some point you were able to confirm that the tracker was with the vehicle; is that not right?

A That is correct.
Q How were you able to confirm that?
A Based on the information that I was providing realtime over the radio, I was directing detectives that had the mobile surveillance that were in their vehicles. I was directing them to where the tracker was showing on the computer where I was using it, and the locations I was giving them was accurate because I was able to direct them specifically to where that vehicle was, and when I told them where it was and they would arrive in that location, they would then see the vehicle at that spot.

Q And they would let you know and confirm that that is accurate?

A Correct.
Q You were asked, and reference was made to a Google map and accuracy that could potentially get you lost if you were looking for something, and is this -- this is Exhibit -sorry -- 62 showing the area of Valle Verde and the 215 Beltway. Do you recognize this?

A Yes, I do. That's the location of the fourth robbery.

JD Reporting, Inc.

Q The 55 South Valle Verde?
A Correct.
Q And there's a U.S. Bank inside that Smith's; is that right?

A Yes.
Q Where is the U.S. Bank inside the Smith's if you can indicate on the map?

A If you enter in the Smith's, you would then go right, and the bank would be somewhere in this area towards --

Q Okay. Do you see --
A Towards the [inaudible].
Q Do you see where the Google map label is for the U.S. Bank branch?

A Yes, I do; it's down here.
Q It's what, maybe like a hundred yards off?
A I'd say even less approximately.
Q So if you were to plug that into your phone, would you have gotten lost --

A No.
Q -- if you were looking for that U.S. Bank branch?
A No.
Q So but again you weren't using Google Map, you were using the tracking program and the locations that were giving specific latitude and longitudes?

A Correct.

Q And you gave us an Excel spreadsheet with those latitude and longitudes which we provided to the defense that gave those specific locations with times; right?

A Correct.
Q And those latitude, longitudes and times were then used by one of the detectives in Henderson Police Department to place on the map that we've been viewing in court today?

A It was used by one of our analysts, yes.
Q Okay. An analyst, not a detective, and so what we're seeing today is demonstrative evidence of what you were viewing live?

A Correct.
Q Now, are each of the spaces between the dots, are those showing accurate speed references, or is it just showing where the next dot is for the next time?

A It's showing where that tracker is showing at that specific time and when it receives that information, and then you can get speed information from it because it actually contains that information.

Q That wasn't something that you did for this case when you were looking at the tracker?

A Correct. We were focused on location, not how fast they were driving.

Q You weren't going to give them a speeding ticket?
A I was not.

Q You were asked about the parking garage for Circus Circus. Is there a garage, a parking garage for the Circus Circus Manor or just for the Circus Circus Hotel Casino?

A Circus Circus Hotel Casino has a parking garage in the area of the actual -- the Circus Circus Manor. It was surface parking, like a parking lot. There was not a parking garage directly in that area.

Q And that's the parking lot that your testimony has been about where the vehicle was, where the tracker was placed, things like that?

A Correct.
Q Finally, I'm going to ask you about some of the questions that were posed about clothing, shoes and hair. So let's first go to the Anthem Realty video. Mr. Hughes asked you whether any of the defendants that were arrested had a long ponytail. Do you remember that question?

A Yes.
Q And when you saw Damien Phillips and Anthony Barr, did either of them have a ponytail?

A Not that I recall.
Q And in the photos we just looked at, there's no ponytail; right?

A Correct. Correct.
Q Just give me a second. I'll pull this up. So I'm going to move it forward on the video. That was one of them
getting out to walk to the bank; right?
A Yes.
Q Now, afterwards, when they're coming back to the car -- I'm going to play and pause so we can kind of see step by step. Is that what's looking like the ponytail, what we see right here?

A It appears it could possibly be a ponytail.
Q It could be. It could potentially be a do-rag with something tied on the back?

A Correct.
Q It could be the actual hair?
A Correct.
Q It could be a wig?
A Correct.
Q When you brought -- when the suspects were brought back to you, did anybody have long black and white hair like that?

A No.
Q And then I'm going to go back towards the beginning of this video when we're talking about clothing, and you were asked specifically about FILA shoes. What do you notice in this photograph right here or this still shot of that video?

A That the shoes in that match -- appear to match the shoes that we recovered when the two suspects were arrested.

Q That Damien Phillips was wearing when they were
arrested?
A Correct.
Q And you say appear because you can't say for sure; right? It's a video from a little ways away?

A Correct. It's just based on the colors and the design of the shoe it appears to be the same shoe.

Q Like the line that goes around from the side around the back to the other side?

A Correct.
Q And then I'll -- that was from the 7/31 Bank of the West?

A Yes. 701 I believe.
Q Oh, I was saying the date. I'm sorry.
A Oh, I'm sorry.
Q July 31st.
A 7/31. Correct.
Q And showing for the record Exhibit 59. This was the right teller camera angle. We're not going to wait 30 something minutes. So I'll skip ahead.

And the shoes you saw there, there were some black laces that were across the front; right?

A Yes.
Q And go a little bit further.
The shoes that we're looking at, what is it that you noticed about them in relation to the ones we saw in the

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picture earlier or the other photograph?
A I noticed that they're primarily white shoes with black laces, what looks like a darker black logo and then the sole, around the sole is also darker black. They're high tops, and they look like the FILA shoes that we recovered later.

MR. SCOW: Okay. I have nothing further of the witness, Judge.

THE COURT: All right. Any recross, Mr. Brower?
MR. BROWER: Just one, Judge. I might have got this. RECROSS-EXAMINATION

BY MR. BROWER:
Q So, Officer, you were asked if the U.S. Bank was in the right place; correct, and you said you --

Do you recall that?
A Yes, I was asked that.
Q And you said it wasn't, and you wouldn't have gotten lost going --

A I would not have gotten lost.
Q But do you see the Fantastic Sam's over here?
A I do.
Q If you were looking for that, would you have gotten lost if you were looking at the Google Maps location? That's an apartment complex or a housing complex; right?

A That's correct.
Q And there's this place way over here called Footsies; JD Reporting, Inc.

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A Uh-huh.
Q This is still an apartment or a housing complex; right?

A And I know from viewing Google Maps in the past that people who have private businesses, if they run it out of their home, will also show in at their residence.

Q But the Fantastic Sam's is actually over -- not over in this location in these houses; right?

A I don't know the location of Fantastic Sam's. MR. BROWER: I have nothing further, Judge. THE COURT: Mr. Hughes. RECROSS-EXAMINATION

BY MR. HUGHES:
Q Officer, I believe you were testifying a few minutes ago about the similarities between these various bank robberies. Do you remember?

A Yes.
Q You'll agree with me that there is a number of dissimilarities between them, won't you?

A Such as?
Q I knew you'd say that. Isn't it true that one of the bank robberies involved only one suspect?

A To my knowledge, yes.
Q And the others involved at least two?

JD Reporting, Inc.

A Yes.
Q Is it true that some of the banks robbed were U.S.
Banks?
A Yes.
Q But not all of them?
A Correct.
Q What else was robbed?
A Bank of the West.
Q How about the notes? Did some of the notes say gun?
A Yes.
Q What did other notes mention?
A Weapon, bomb.
Q Is it true that in one of these robberies a male was dressed as a woman?

A Yes.
Q But that's not true of all of them; right?
A No.
Q Did these robberies all occur on the same day of the week?

A The majority of them were very similar at the beginning of the week.

Q What's the beginning of the week?
A Monday or Tuesday.
Q How about time of day?
A The majority of them, if I recall correctly, were

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right around the middle of the day.
Q Is it true that at least one of these banks was a standalone bank?

A Yes.
Q But not all of them?
A That's correct.
Q And is it true that the suspects wore different clothes in these various robberies?

A Some of the clothing was different, yes.
Q So would it be fair for me to say that there are more dissimilarities than similarities between these events?

A You could say there were both, yes.
MR. HUGHES: Okay. Thank you. I have nothing further.

THE COURT: Anything else, Mr. Scow?
MR. SCOW: Just one thing.
FURTHER REDIRECT EXAMINATION
BY MR. SCOW:
Q You were asked by Mr. Hughes whether in the first -well, the way he said it was, isn't it true that in the first event only one person was involved, the first bank robbery?

A Only one person went into the bank, yes.
Q So you said only one that went into the bank?
A Correct, that we know of.
Q That you know of that went in the bank. Okay.

A Correct.
Q But in all of these, including the first, you know that more than one was involved?

A Yes.
MR. SCOW: All right. Nothing else.
MR. BROWER: Nothing further, Judge. MR. HUGHES: Nothing.

THE COURT: Any juror questions for the witness? I see no additional questions.

Detective, thank you for your testimony. Please do not discuss your testimony with anyone else who may be a witness in this case, and you are excused. THE WITNESS: Thank you. THE COURT: And the State may call its next witness. MR. SCOW: Teri, Teri Williams. And, Judge, just for the jury purposes, there might be some witnesses that are slightly out of order this afternoon just for scheduling purposes.

THE COURT: That's fine.
MR. SCOW: And for the jury's notes.
THE COURT: Good morning -- good afternoon. Are you
able to get up the stairs with assistance?
THE WITNESS: It'll take a little, but, yeah.
THE COURT: That's fine. Kenny will help you.
And then, ma'am, just remain standing for a moment.

JD Reporting, Inc.

THE WITNESS: Okay.
THE COURT: While the court clerk swears you in.
TERI WILLIAMS
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat.
THE WITNESS: Okay.
THE CLERK: If you could stay and spell both your first and last name.

THE COURT: Well, go ahead and sit down first, and then once you do that, we'll have you spell your first and last name for the record.

THE WITNESS: First is Teri, T-e-r-i. And the last is Williams, W-i-l-l-i-a-m-s.

THE COURT: All right. Thank you.
Mr. Scow, you may proceed.
MR. SCOW: Thank you, Judge.
DIRECT EXAMINATION
BY MR. SCOW:
Q Teri, do you bank with U.S. Bank?
A Yes, I do.
Q Where is it that you bank with them? Is there a particular branch that you usually go to?

A The one that's closest to me is Charleston and Las Vegas Boulevard.

Q Okay. Do you --
A Well, not west of it, but over east of Las Vegas Boulevard.

Q Okay. Is that the one located at 801 East Charleston Avenue?

A I don't know the exact address. I know it's off of Charleston and Las, but that's the one I usually go to.

Q Okay. I'm going to direct your attention to -- were you at a U.S. Bank in August, early August, August 9th, 2018?

A Yes.
Q When the bank was robbed?
A Yes.
Q Okay. Was that the branch that you usually go to?
A Yeah, that's the one that's closest to me.
Q Okay.
A So I usually go there.
Q On Charleston?
A Yeah, Charleston.
Q Now, as we get into this, let me ask you first how old are you?

A 76 .
Q And when you went to the bank August 9th, 2018, what was your purpose for going there that day?

A I needed to speak to one of the bankers because I had some questions regarding a matter that had happened with my

JD Reporting, Inc.
account.
Q Were you able to get that matter resolved that morning?

A No. No.
Q So what happened when you were in the bank that day?
A Well, I walked in, and I took a seat to wait because two of the bankers was with a customer at a desk, and while I was sitting waiting, two men walked in, and they walked past me. I'm sitting on the left side, and the next thing, I'm sitting, and I looked up, and then one of them raised his hand up with a gun in his hand, and I said, oh, the bank is being robbed.

Q Okay. So let me -- I'm going to pull up some images for you, and this is, for the record from State's Exhibit 154. And it'll show up on the screen right in front of you or the one up here, whichever is easier for you to look at.

Do you recognize this?
A Yeah, that's the inside of the bank.
Q Okay. Of the branch that you go to?
A Oh, they're all laid out about the same.
Q Okay. Let me move forward a little bit. Tell me when you see something or someone that you recognize. Okay?

A Well, yeah, that's me walking in.
Q Okay. And what did you do when you walked in? You said you were there to do some business.

JD Reporting, Inc.

A Yeah. I just sat down, sat down to wait.
Q Okay. And where do the bankers sit? You said they looked busy.

A Over in the -- over here in the corner I can see one of the employees sitting in the chair, the desk.

Q Okay. If you use the mouse that's right in front of you, the computer mouse --

A I can't hear you. What did you say?
Q The computer mouse that's right on the desk in front of you.

A Uh-huh.
Q If you move that around, there's an arrow and triangle that will show up on the screen.

A Oh, okay.
Q If you could move that back and forth.
A Yeah, that's one of the employees. There was three of them sitting in that area, two employees and a customer.

Q Okay. And then point to yourself.
A And that's me as I'm sitting down waiting for one of them to be free, and I know this over here, that's where the manager sits. That's his desk.

Q And in reference to what we see here, it may not be on the video, but are the teller windows for this branch, where are they?

A They're here.

Q Off to the right hand --
A In that area there directly in front of me.
Q Okay. So it's not on the image, but it's off to the right from this image?

A No. I'm here. The tellers' windows are right in here, this area.

Q Okay.
A There's about --
Q And that's the right-hand side of -- right lower side of the image?

A No. Straight across.
Q Okay. Straight across -THE COURT: For the record, she's indicating -MR. SCOW: Her position. THE COURT: -- on the picture on the photo. MR. SCOW: Yes.

THE COURT: But when you're standing there, you're
looking straight ahead at the teller window --
THE WITNESS: Yes.
THE COURT: -- right?
THE WITNESS: Yes. Yes. Right. Uh-huh. THE COURT: Okay.

BY MR. SCOW:
Q Okay. And you said that while you were sitting there two men came in?

A Yeah. Uh-huh. They came in, and they walked around here, and one stopped here, and the other kept going.

Q Okay. And describe them. Give a description of the two men that you saw coming in.

A Well, they were both thin black males. They had a black scarf or a wrap around their head, and one stopped right here, and that's when he lifted up a gun, and the other one went to the teller's window.

Q Okay. And as you're sitting there, what did you do when you see this unfolding?

A I just sat there and looked at it.
Q Okay. And so describe then what happens after the one pulls out a gun, and the other goes to the teller.

A Well, yeah, they pulled, and then the one that's at the teller's window turned around to the one that was holding the gun because he had the gun pointed towards the teller's window, and he instructed him to point the gun at the people who were sitting over here to my left, and he did, and he told them to get down, and they did.

Then he turned around, and he pointed the gun at me, and he told me to get down, and I sat there and I looked at him because it was difficult for me to move, to get on my knee. I only have one knee, and then he looked at me again and said get down, and that's when I attempted to get down.

Q When he was telling you to get down, what was he
doing with the gun?
A He was pointing the gun directly at me.
Q And so after the second time, that's when you started to get down?

A Yeah, but the gun was pointed directly at me. He had turned -- after they got down, he turned around, and he pointed the gun at me and told me to get down twice.

Q Describe the gun.
A The gun, it was a large gun. After I described it to one of the officers, they said -- I said -- because it looked like something like they carried, and so it probably looked, like, probably a .45, but it was a large gun. It wasn't a small gun.

Q But like a handgun like they carry on their belt?
A Yeah. Yes. Yes.
Q So after he told you the second time while pointing the gun at you to get to the ground, what did you do then?

A Well, that's when I attempted to get down.
Q Were you able to get all the way down?
A Not all the way, but I did get on the floor, but not all the way.

Q Okay. And you mentioned earlier you said you have one knee. Is that you said?

A Yes. I don't have a right knee.
Q Okay. So you have some -- did you have surgery?

JD Reporting, Inc.

A Yeah, I had surgery, and I only have, like, 4 percent cartilage in there.

Q Okay. And that's why it was difficult to get down?
A That's why it's difficult to get down, and for medical reasons I cannot have surgery. So that's why I have to deal with my knee.

Q So as you're trying to get down, you've been told twice. What happens after that?

A Well, after I got down, then I was on the floor, and I turned to my left towards -- looking towards the teller's window, and that's when I noticed the one that was at the teller's window. He started walking away, and then the one with the gun, they started walking away, and as they walked around, I turned to my right, and that's when I saw them going out the door, and the one that was at the teller's window had a yellow plastic bag in his hand.

Q Okay. So I'm going to play this. So if you let go of the mouse, then I'll be able to move the mouse. There you go.

And just tell us what you see, what you observe, what you recognize as we play this video. Okay?

A What do I see?
Q Yeah. Tell us what you recognize as we see it.
Okay?
A Oh. I just -- that's just me sitting there.

JD Reporting, Inc.

Q Perfect. Okay. And I'm going to just fast-forward. You sat there for a couple of minutes; is that right?

A Yeah, it was more than a couple of minutes. It was probably a good five minutes at least.

Q Okay. So maybe I'll skip instead of fast-forward. All right. What did we just observe there?

A I observed those two guys walking in, and I'm sitting there, and I'm just watching them.

Q So at that point one had walked over to the left. Did you see that on the video?

A Yeah. Uh-huh.
Q What was happening when he walked over to the left? Was that when he pulled out the gun?

A That's when he -- I noticed a hand go up, and he did like this towards the window.

Q Okay.
A And that's when I says, oh, the bank is being robbed. That's the first thing that crossed my mind.

Q Okay. What are you doing right now?
A I'm reaching for money that I have in my bag in case they were going to snatch my bag.

Q And you put it in your shirt?
A Yeah. Uh-huh.
Q So on the video you saw him come close to you the first time. Was that when he told you the first time to get on JD Reporting, Inc.
the ground?
A Yeah. When he first walked over there, and he pointed the gun over there, they got down. The three of them got down, and that's them on the floor. Then he came over, and he pointed at me, and he said, get down, and then he walked back over there. Then he walked around, and I was still sitting there when he came back, and that's when he told me to get down again, and that's when I got down because I didn't get down the first time.

Q I see. So I'll go back a few seconds.
A And this is when I'm down. I'm seeing they're going out. As I'm looking to my right, they're going out the door.

Q Okay. Let me get it back to about where we were.
Okay. It's not quite exactly where we were, but this will show some of the events unfolding again.

So you said you had looked back as you were on your knee and kind of getting down; is that right, and saw --

A No, I didn't look back. When I got down, I looked first -- I'm on the floor. I looked first to the left towards the teller's window which would be this way, and then as I -and then when I got down, then as they came, as they were going towards the door, that's when I look to the right, and that's when I saw this yellow bag as they were heading towards the door.

Q Okay. So you didn't see it right at this point, but JD Reporting, Inc.
when they get around past it?
A Well, when they came around this way, and I turned, which would be to the right, and that's when I saw it.

Q Okay.
A I didn't see anything from here from when I looked to the right. That would be my right.

Q So if you'll let go of the mouse for a second, that way I can get down to play. There we go.

So that's when you're looking out and saw them running out with the yellow bag?

A When I -- yeah, that's when they went out the door, and that's when I got up after they exited the door.

Q Okay. The total amount of time, did it seem like it lasted a long time, or did it seem like it lasted pretty quick to you?

A No, it felt like it was a long time. It didn't feel like it was fast at all.

Q And the gun that was pointed at you, what did you think when that gun was pointed at you?

A When he was pointing the gun at me, I thought he was crazy.

Q And you complied with what he said because you didn't want anything to happen to you?

A Well, I -- yeah, I did because the person who's holding the gun is the one you have to be afraid of. So that's JD Reporting, Inc.

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why I got down.
Q Did you get a good look at --
A The only one I got a good look at was the one who was holding the gun. The one who was at the teller's window, his back was to me the whole time.

Q So you didn't --
A And as he was going out the door, I just saw the side of him. So I never really saw his full face.

Q When you saw the side, it was quick because he's running out?

A Right. As he's going out the door, I could see the left side of him. I never saw his full face. The only full face I saw was the one who was pointing the gun at me.

Q The person who had the gun, do you see him in the courtroom today?

A Yes, I do.
Q Can you point to who you see and describe the clothing that they're wearing.

A Now?
Q Yeah. Yes.
A Oh, he's sitting at the table, and he has glasses on. He didn't have glasses on at the time, and he has on the blue shirt and dark pants and shoes, sitting right over there.

MR. SCOW: And, Judge, can the record reflect she just pointed at Damien Phillips?

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THE COURT: Yes, it will.
MR. SCOW: All right. I don't have any more
questions for this witness.
THE COURT: All right. Mr. Brower.
THE WITNESS: And I don't need to be stared at.
MR. BROWER: By me?
MR. SCOW: No.
MS. SCHIFALACQUA: No, not you.
(Pause in the proceedings)
CROSS-EXAMINATION
BY MR. BROWER:
Q So the one that was pointing the gun at you, can you describe the pants he was wearing.

A They were dark-colored pants. I can't tell you the fabric and all that. I wasn't close enough, but they wasn't light-colored pants.

Q Okay. And the one at the window was wearing checkered pants; right?

A I didn't -- I can't say for sure because as I said his back was to me, and my eyes was more or less on the one who was holding the gun, not the one who was at the teller's window.

Q And as you sit here today, you believe the person that was holding the gun was the gentleman that you just said --

A No, I don't believe it. I know it.
Q Okay. So that's what you know as you sit here today? A Yes.

Q But that person wasn't wearing plaid pants; correct?
A Wasn't wearing what?
Q Well, in the video that -- what you're looking at, they weren't wearing a plaid set of pants; correct?

A No. I just -- no, there was no, there wasn't any plaid. I never said plaid at all in my statement.

Q I didn't ask you if you said plaid. I just asked you if you're looking at the video right now is that -- the person that was pointing the gun at you is the one in the pants that's right in front of you; correct?

A Yes.
Q And they're not plaid pants; correct?
A Correct.
Q All right. So that's all I asked you. I wasn't asking you anything different. So I actually thought you did pretty well putting money in your shirt by the way. I thought that was pretty foresightful.

And you previously testified that you thought this occurred over about 10 minutes, 10 to 15 minutes [unintelligible] at the time; correct?

A Yeah, I would say, yeah, maybe about 10 minutes at least.

Q But as you sit --
A No more than that.
Q As you sit here today, does this video appear to be in realtime?

A What do you mean by realtime?
Q Well, as you're watching it, does it appear to be like an accurate amount of time, or does it appear like it's sped up or slowed down?

A No, I think --
Q To you.
A Oh, no, I think it's moving a little fast.
Q A little fast.
A Yeah.
Q But not, like, 9 minutes fast; right?
A What do you mean by 9 --
Q This whole event took place over about a minute and a half maybe. So it doesn't look like it's moving 9 minutes fast or 10 minutes fast to you; correct?

A What do you mean it doesn't -- I don't understand your question.

Q Okay. From the time that the gentlemen came in till the time that they left is like a minute and a half to 2 minutes; correct? On this video?

A I can --
Q We can watch it and time it.

A To me it felt like it was a while at least.
Q Okay.
A 5 minutes at least. It didn't seem like it -- it didn't seem like it was something that -- to me, it seemed like it was a while. That's the way I felt.

MR. BROWER: Okay. Judge, I'm going to pass the
witness.
THE COURT: Mr. Hughes.
MR. HUGHES: No questions at all, Your Honor.
THE COURT: Any redirect?
MR. SCOW: No.
THE COURT: Any juror questions for the witness?
All right, ma'am. I see no additional questions.
Thank you for your testimony.
THE WITNESS: Okay.
THE COURT: Kenny will help you.
And please don't discuss your testimony with anybody
else who may be a witness in this case.
THE WITNESS: Okay.
THE COURT: Thank you, and you are excused.
THE WITNESS: All right.
THE COURT: And the State may call its next witness. MS. SCHIFALACQUA: Your Honor, the State calls

Claudia Ruacho Benitez.
THE MARSHAL: Judge, the witness is using the rest
room right now.
THE COURT: Okay. Well --
MS. SCHIFALACQUA: Okay. Can we call -- Court's indulgence. We have more back there unless --

MR. BROWER: Judge, do we want to take a brief break?
THE COURT: Well, I was going to ask them if --
MS. SCHIFALACQUA: We had a bunch of people waiting.
Sorry.
THE COURT: -- the jury needed a break. And they're all nodding --

MS. SCHIFALACQUA: Oh, yes. Sorry.
THE COURT: -- that they all need a break.
MS. SCHIFALACQUA: Sorry. Sorry. Sorry.
THE COURT: I guess I'm the only one for once who didn't need a break.

Let's go ahead. Is 10 minutes good for everybody? Is that enough? So that'll put us right at 3:22.

During the brief recess, you're all reminded that you're not to discuss the case or anything relating to the case with each other or with anyone else. Do not to read, watch or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Don't do any independent research by way of the Internet or any other medium, and please don't form or express an opinion on the trial.

Please place your notepads in your chairs and follow

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the bailiff through the double doors.
(Proceedings recessed at 3:11 p.m., until 3:27 p.m.)
(In the presence of the jury)
THE COURT: All right. Court is now back in session, and the State may call its next witness.

MS. SCHIFALACQUA: Thank you, Your Honor. The State calls Claudia Ruacho Benitez.

\section*{CLAUDIA RUACHO}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: Claudia Ruacho. First name
C-l-a-u-d-i-a. Last name \(\mathrm{R}-\mathrm{u}-\mathrm{a}-\mathrm{c}-\mathrm{h}-\mathrm{o}\).
THE CLERK: Thank you.
THE COURT: All right. Thank you.
You may proceed.
MS. SCHIFALACQUA: May I?
DIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Are you also a Benitez?
A Correct. Yes. Hyphenated.
Q Okay. Can you tell that to --
A Hyphenated Benitez. B-e-n-i-t-e-z.
Q Thank you. Claudia, can you let the members of our JD Reporting, Inc.

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jury know how you were employed back in August of 2018.
A I was employed as a teller, a full-time teller at the East Charleston location.

Q At the U.S. Bank?
A Correct.
Q Okay. And that's 801 East Charleston, Las Vegas, Clark County, Nevada?

A Yes.
Q Okay. On August 9th of 2018, when you say you're a full-time teller, are there differences in the types of tellers at U.S. Bank?

A Correct. Yes. There's --
Q Okay.
A -- part-time tellers and full-time tellers.
Q Okay. And you were one of the full-time employees?
A Correct.
Q How long had you worked at that branch?
A At that branch I would say it was about three months
or so.
Q Okay. How long did you work for U.S. Bank?
A For four years.
Q Okay. Now, who were you working with on August 9th, 2018, at that bank?

A I was working with my manager Michael Irish and the other teller Jada Copeland.

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Q Okay. And as far as tellers went, were you and Jada the only two on the line -- on the teller line at that time?

A Yes.
Q Okay. I want to ask you where -- what window were you working at on that day? Do you remember?

A It's the far right.
Q Okay. All right. Do you distinguish that? Is there like a business window?

A Correct. Yes.
Q Okay. And by far right, if I'm looking at it, is that the far right, or is it to the left, or -- do you see what I'm saying? Is it this way and it's the right?

A Yes.
Q Okay. So if I look at you, it's my left, your right?
A Correct.
Q Okay. And so you were working at the business window. Describe just generally for our jury how was business that day? Busy, slow, how was it?

A It was steady.
Q Okay. And describe what happened that causes you to testify here today.

A Explain how the morning went?
Q Yeah. Start with that.
A So that morning I was taking in a large deposit from our business customers. It was a guy and a lady. They're our JD Reporting, Inc.
usuals. They were coming in, and then I was doing a deposit, and all of a sudden something caught my attention. So I looked up, and there was a gentleman standing in front of me, and he demanded money. He said give me your money. Give me all your money.

Q And the man that was standing in front of you, describe him for the members of our jury. Was he white, black, Hispanic or Asian?

A Black.
Q Okay. And do you remember anything else distinct about him, his build or anything like that?

A Just tall and skinny.
Q Okay. How tall are you, Claudia?
A 5-5.
Q So he was taller than you?
A Yes.
Q And you said his build was skinny?
A Uh-huh.
Q Is that a yes?
A Yes.
Q Okay. Thank you. And he said, Give me all your money. What did you observe next?

A So when he said that, I kind of was caught, like, off guard. So I did not know what to do. I was in shock. So I looked over at Jada. She was to my left, and then I seen her
scrambling for money. So I started to do the same thing too, and then I started like doing it like shoving it underneath the glass barrier.

Q Okay. So for our jurors' purposes, describe how the teller window is set up. You said there's a glass barrier in front of you?

A Correct.
Q Are all of the teller windows have a glass barrier in front of it?

A Yes.
Q As far as the area of the branch where customers come in, are there any glass in that area, or is that open?

A That's open.
Q Okay. So when you were giving the money, what happened after you were slipping it under that glass? What happened after?

A After --
Q Correct.
A -- I mean, so I just kept shoving money under the glass barrier.

Q Did you empty your drawer?
A Yes, the first drawer I did.
Q Okay.
A Yes.
Q What happened next?

A I believe they told us to turn around.
Q Now, I'm going to stop you there. You said, "They told us to turn around." Let's go back. You talked about one male. Was there more than one male that was involved in this?

A There was.
Q Describe that for our jury, please.
A There was another black male standing a little bit further behind from where the first male was standing, and I seen him. He was holding a gun.

Q Okay. Describe for our jury where did you see him pointing that gun?

A At that time he was pointing it towards the right side towards where my manager and a business customer and our merchant --

Q So is that Michael Irish?
A -- section was that.
Q I'm sorry. I didn't mean to interrupt you.
A No, that's okay.
Q Was that Michael Irish?
A Correct.
Q And then you said there was another customer there?
A Yes.
Q A business customer?
A Yes.
Q For purposes of our jury, did you have regular

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customers that you would service at that branch so you kind of got familiar with them?

A Yes.
Q Okay. As the persons that came in that robbed, had you ever seen them before?

A No.
Q Okay. With regard to he was pointing a gun towards your manager, did he stay positioned in one position, or what did he do, the guy with the gun?

A Well, I kind of just took a glance. So I don't know what he did afterwards.

Q Okay. And while he's pointing the gun, is that the same time frame that the other man was demanding the money?

A Yes.
Q Okay. When you gave all that was in your drawer, you indicated I believe that somebody told you to turn around?

A Correct.
Q What did you do?
A I turned around.
Q Did you see what Jada was doing?
A She turned around as well.
Q Okay. And what were you thinking at that time?
A I mean, I was terrified. Like I did not know what was going to happen next.

Q After you turned around, how long did you think you JD Reporting, Inc.

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stayed in that position?
A I would say about a minute or less than a minute. I don't know. It just happened so fast.

Q Sure. And were you able to turn back around at some point?

A Yes. After --
Q What happened?
A The two people that were standing in front of my window, they say it's okay that they left. So then I turned around.

Q So customers were still there, the ones that you had just helped?

A Correct.
Q Is that correct?
A Yes.
Q Are there protocols that kind of occur when it comes to bank robberies for U.S. Bank that you guys have to follow if a robbery happens?

A Yes.
Q Okay. And did you follow those?
A I was panicking. So I forgot everything that was -that we were trained to do.

Q You were trained to give over the money; is that right?

A Correct.

Q So you did follow that?
A Yes, I did do that.
Q Okay. As far as trackers or bait money or anything like that, did your drawer, was it equipped with any of that? A No.

Q Okay. What about alarms? Did you have an alarm at your station?

A Yes.
Q Did you either pull or push an alarm?
A Yes, after they left.
Q Okay. Did you see your manager Michael Irish? Did he, like, lock the doors, another kind of protocol, after they left?

A Yes, after they left.
Q Okay. At some point there's an accounting of your cash drawer; is that right?

A Correct.
Q Showing defense 265 -(Pause in the proceedings) MS. SCHIFALACQUA: If I may approach, Your Honor. THE COURT: You may.

BY MS. SCHIFALACQUA:
Q Claudia, I'm showing you what's been marked -- excuse me, marked as State's Proposed Exhibits 265, and there's two pages to this. I'm showing you what is the second page, and
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what is this if you could look at the top and bottom of that?
A That's my balance sheet.
Q Is that from August 9th, 2018?
A Correct.
Q Does it indicate your name?
A Yes.
Q And does it indicate your starting and ending balance?

A Yes.
Q And is that a fair and accurate copy of the one that was filled out?

A Yes.
Q This one doesn't have your signature. Were you -you weren't actually -- you were at the bank when this gets processed, however?

A Yes.
Q Okay. How much money was the drawer out?
A \(\$ 5,452\).
Q Okay. And is this -- this cite you indicate is a fair and accurate copy of that accounting?

A Yes.
MS. SCHIFAIACQUA: And, Judge, I'll save admission for the second portion.

THE COURT: Okay.
MS. SCHIFALACQUA: For the next teller, Your Honor.

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Thank you.
BY MS. SCHIFALACQUA:
Q We're going to watch some video, Claudia, and I want you to tell me what you recognize on State's 154. Claudia, do you recognize yourself in this video?

A I do.
Q Okay. If -- there's a mouse in front of you right there. Do you see that mouse?

A Yes.
Q Can you point with that arrow of that mouse of where you are.

A Right here.
Q And there's a woman in front of you. Is that the business customer you were referring to?

A Yes.
MS. SCHIFALACQUA: Okay. You can play, Mr. Scow. BY MS. SCHIFALACQUA:

Q And that business customer, actually, there's more than one customer; is that fair?

A Correct.
Q A man and a woman?
A Yes.
Q Claudia, what are we seeing here?
A There's the gentleman holding a gun.
Q Okay. And you said that was the male that was

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further back; is that right?
A Yes.
Q Okay. And who is he pointing it at? Who's over in that direction?

A My manager.
Q Was that Michael Irish?
A Correct.
Q And you indicated another business customer was there as well?

A Yes. And also our merchant specialist.
Q Is that Kerri Pedroza?
A Correct.
Q And what are we looking at now?
A There is the black male in front of me, and that's when he's demanding for me to give him my money.

Q Okay. He's now walked out of our view. Where did you observe him go?

A To Jada's window.
Q And Jada was to the left of you?
A Correct.
Q And then you -- do you see the male with the gun again?

A Yes.
Q Did he come close to your window?
A He did.

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Q There was a bag. Did you provide a bag to the male that was demanding the money while the other male had the gun? A No.

Q Is that -- what are you doing there?
A I'm turning around. He told me to turn around.
Q Claudia, in that branch is there any signal, or are you ever aware of when the door opens and closes at that branch?

A Not all the time because I'm usually busy helping customers.

Q When you were turned around, after being told to do so, did you pay attention to whether the door opened and shut? A No.

MS. SCHIFALACQUA: Okay. I pass the witness, Your Honor.

THE COURT: All right. Mr. Brower.
MR. BROWER: Nothing, Judge.
THE COURT: Mr. Hughes.
MR. HUGHES: No questions, Your Honor.
THE COURT: Any juror questions for this witness?
All right, ma'am, I see no additional questions.
Thank you for your testimony, and please do not discuss your testimony with any other witnesses in this case.

THE WITNESS: Thank you.
THE COURT: Thank you. And you are excused.

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THE WITNESS: Thank you.
THE COURT: And the State may call its next witness. MR. SCOW: Jeff Smith.

\section*{JEFF SMITH}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last names for the record. THE WITNESS: Jeff, J-e-f-f. Smith, S-m-i-t-h. THE CLERK: Thank you. DIRECT EXAMINATION

BY MR. SCOW:
Q How are you currently employed?
A I am a senior crime scene analyst with the Las Vegas Metropolitan Police Department.

Q How long have you been a crime scene analyst?
A Just over 15 years now.
Q Did you do anything else occupationwise before being a crime scene analyst?

A I originally got my business degree. So I was a certified public accountant before I became a crime scene analyst.

Q So what kind of training, education, experience goes into becoming first a crime scene analyst and then a senior crime scene analyst?

A When we get hired as a crime scene analyst, we go through Metro's crime scene analyst academy. It lasts for about 12 weeks, and it teaches us how to take photographs, process a crime scene, recover evidence, recover latent fingerprints, all that type, so the activities that we do. And then we go through field training, which lasts for about another three months, where we're paired up with a senior crime scene analyst, and we kind of do on-the-job training.

And then to become a senior crime scene analyst, you take a test after about four years, and then you pretty much can work all the calls that come in as well as you're training the new people.

Q So 15 years as a crime scene analyst, how many scenes have you worked?

A Last time I did my statistics, I was somewhere over 3,000 scenes.

Q So were you called to assist with a bank robbery investigation under Event Number 180809-1546?

A Yes, I was.
Q And that event number references the date of the incident. So that's August 9th, 2018?

A Yes. That's correct.
Q Did you respond to one scene or to multiple scenes?
A I have -- there were multiple scenes that I responded to.

Q And who was the detective that was involved and maybe directed for one of you to come out?

A The main detective was Detective Hubbard, but I didn't meet him until one of the later scenes. The first detective I met up with was Detective Miller.

Q And were there Henderson detectives out on the scenes as well?

A Yes. Yes. There were Henderson detectives at the first scenes that I went to, multiple detectives.

Q So what was the first scene that you went to when you were called out August 9th, 2018?

A The first scene I went to was a residence. It was 606 Bonita Avenue.

Q And what were you photographing there?
A There was some money kind of strewn around the backyard of the residence?

Q Showing you what's been marked as State's Proposed 205 through 230. If you could flip through those and see if you recognize those.

A Yes, I do.
Q What are they?
A These are photographs that I took of the address at 606 Bonita and then at 701 East St. Louis.

Q Okay. Can you -- those were images that you took that day, August 9th, at those two different addresses?

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A Yes. That's correct.
MR. SCOW: Move for admission of 205 through 230. MR. HUGHES: Submitted.

THE COURT: Submitted. All right.
205 through 230 are admitted.
(State's Exhibit Number 205-230 admitted)
BY MR. SCOW:
Q We won't go through each of these, but we'll go through enough so that you can let the jury know what you did at each of these locations.

What is this first?
A That's the first scene that I went to. That's the front of 606 Bonita Avenue.

Q For just general purposes, they've heard from a couple crime scene analysts already. When you come to a scene and you're going to process or take pictures, what's your procedure as far as documenting the scene.

A Usually when I arrive at the scene I'll kind of have an idea sort of what happened, but once I get there I'll go and talk to the detective or patrol officer, whoever's there and just get their -- what they know as far as what happened. And then I'll kind of start taking my notes as far as what I've got at the scene, and then I'll take my pictures.

Q When you're doing pictures, do you just go right to what you want to document and take a picture of it, and do you
kind of do the scene generally and then narrow in?
A Usually what we do is we take kind of our overall pictures, which is our, you know, from far away so we can sort of show where we're at. We can show everything. Then we'll take some more close-up shots so we can sort of see this is the evidence that I'm photographing, and this is where it's located. And then I'll take some identification pictures which is some close-ups of what I'm taking pictures of.

Q Where -- in relation to this address, where was the item that you were going to photograph or document?

A This is going to be on the backside of this in the backyard.

Q Okay. Showing you 207, what are we seeing here?
A That's going to be the backyard of 606, and that's kind of in the southwest corner of that backyard.

Q So what do we see in that picture?
A You can see some of the money there on the right side of the picture, and then you can see a yellow bag there.

Q Okay. And if you use the mouse, you can move it to -- the cursor will --

A Oh.
Q There you go.
A Yeah, you can see kind of some of the money here, and then you can see this yellow bag right here.

Q So that image, is that taken as you're coming to the JD Reporting, Inc.

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backyard and what you see as you're going to the backyard?
A Yes, it is. It's kind of coming from the driveway area looking back into the backyard.

Q 208?
A That's another one looking sort of towards the west side of the backyard, and you can see more money here, and then there's that same bag again.

Q And 209 you're getting closer?
A Right. Correct. Just a little bit closer, showing all the money and the bag on the ground.

Q 211?
A This is kind of going around to the west side of the house and just showing more money.

Q And then 212?
A That's going to be the west side of the house as you work your way back towards the front yard and just showing kind of where we're going because we've got some more money back here around the corner of that tree there.

Q And 214, is that a closer up of where that other money was?

A Yes, it is. Yeah. It's right there on the ground.
Q And you did a close-up of that in 215?
A Right. Correct. Right there.
Q And then as you're gathering things and kind of documenting everything you find, is that -- this is

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Number 218 -- a close-up of the yellow bag?

A Yes, it is.
Q 219, is that showing the inside of the bag?
A Yes.
Q And then 220?
A And this is where Detective Miller had kind of laid out the money that we found in that backyard, and so I was just documenting it sort of all together.

Q So did you count it and do an accounting for the money that was recovered?

A No, I did not. Detective Miller did that.
Q So this was in the backyard of 606 Bonita?
A Yes.
Q And you said there was another address you went to after Bonita?

A Yes. And that was going to be 701 East St. Louis Avenue.

Q Is that shown in Exhibit 224?
A Yes, it is. Yeah. That's the address -- or that's the residence at 701.

Q Where in relation to this address and the residence was there something that you were here to document?

A Yes. I was there to document some more money that was on the west side of the residence.

Q Okay. And this is a distinct location from the 606?

A Yes, it is. Yes. Separate house. It's just south of the address at 606. They kind of back up to each other basically.

Q So the rear yard of one, if I understood that right, the rear yard of one touched the rear yard of the other?

A That's correct, yes.
Q And Exhibit 225?
A That's that southwest corner of 701 , and you can see there's sort of a side gate there.

Q And is that where you're headed?
A Yes.
Q 226?
A And there you can see -- just looking through the gate, you can see a little bit of money on the ground just right there, just inside the gate.

Q 227?
A And that's kind of looking -- going around the corner from that -- where you walk in the backyard, and it's just showing some more money on the ground.

Q So is that -- do you see that in the previous photo in 226?

A I believe some of it's right there just as you walk in, and then there's more as you go around. Yeah. Yeah, you can see that there, and then as you go around is where you see a little bit more money like in that next picture.

JD Reporting, Inc.

Q 227?
A Right. Because this is the -- here's that wall where you walk through the -- to that gate, and then you look and you see more, a little bit more money.

Q So this is right around the corner of the gate and the cinderblock wall that's on the right of that gate?

A Right. Yes.
Q And then 228, what are you documenting here?
A I'm just showing the back wall of 701. And then this is kind of showing the backyard of 606 , which is just over that block wall.

Q And the money that you photographed at 701 East St. Louis, did you count that or impound or do anything with that money?

A No. Detective Miller took that money also.
Q So at both scenes Detective Miller took custody and charge of that money?

A Yes. That's correct.
Q After 701, what did you do then?
A I took pictures of some of the subjects that the detectives had out in their vehicles.

Q I'm going to approach you. Some of these have already been admitted. So I'll show you the ones that have not. And 185 to 203, if you'll look at those and let me know if you recognize them.

JD Reporting, Inc.

A Yes, I do.
Q And those are images of the suspects in custody that you had just described?

A Yes. That's correct.
MR. SCOW: Move for admission of State's Proposed 185 through 203.

MR. BROWER: Submitted.
MR. HUGHES: Submitted.
THE COURT: All right. Those will all be admitted.
(State's Exhibit Number 185-203 admitted)
BY MR. SCOW:
Q So first showing you State's Exhibit 180. Do you recognize that?

A Yes. That was the first subject that I took a picture of, but --

Q And did you get the identity -- sorry, the identity of each individual you photographed?

A Yes, I did.
Q And who was this one?
A Can I refer to my report just so I get the name correct?

Q Yeah.
A That was described to me as Damien Phillips.
Q And then when you take a picture of each individual, do you just kind of get every angle as shown in \(182 ?\)

A That's correct. Usually when I'm photographing a suspect or a victim, I'll take a picture kind of showing from shoulders up, show who they are, and I do all four sides, head to toe.

Q 183, the back?
A Yes. That's correct.
Q 184?
A And that's going to be the left side.
Q And then 181 is a full front shot?
A Yes.
Q The second individual that you photographed, who was that identified as?

A That was going to be Melissa Christine Summlears.
Q Showing you 194?
A Yes. That's Melissa.
Q 196?
A Right. From the head-to-toe from the right side.
Q And you did the other side and the back of her as well?

A Yes. That's correct.
Q The third individual that you photographed?
A Yes. That was going to be Sabrina Henderson.
Q Exhibit 200?
A Right. That's going to be Sabrina Henderson.
Q Okay. And then you did front and side and back

A Yes. Correct.
Q And then here's one on the sides, 203?
A Yes. Yeah. Left side.
Q And the final subject that you photographed?
A Right. That was Anthony Terrell Barr.
Q And Exhibit 204, is this the photograph that you took?

A Yes, it is.
Q And what was the note that you made about taking photographs of this individual?

A He was not compliant, and he refused to let me take photos of him.

Q And as you sit here today, you may not remember exact houses on the map. But 258, is that showing an overhead of that general location?

A Yes, it is.
Q And what are the streets that you recognize there?
A That's going to be Bonita Avenue and then East
St. Louis Avenue.
Q So this shows the areas where you were documenting the money and the arrest scene or where you took pictures of the suspects?

A Yes. That's correct.
MR. SCOW: Move for admission of State's 258.

JD Reporting, Inc.

MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. 258 is admitted.
(State's Exhibit Number 258 admitted)
Q Like I said before, you may not know exactly just based on this image. If you pull it upon Google Maps, you might be able to see; right?

A Uh-huh. That's correct.
Q But when you look at it, do you know the specific house or houses that you looked at?

A I want to say it was somewhere in this area just from what I can recall.

Q Okay.
A And this is 6th Street here. So this is probably going to be the -- I'm kind of -- I'm going off the street name though, 6th Street. I believe the 606 is going to be somewhere in that area.

Q Okay. So between 6th and 8th Streets?
A I believe so.
Q And were you -- well, you've got the cursor right
there. Okay. Was that the final scene that you documented?
A No. I went to 801 East Charleston after that.
Q What was at that location?
A That was going to be the U.S. Bank.
Q Is that where you met up with Detective Hubbard?

JD Reporting, Inc.

A Yes.
Q What did you do at East Charleston?
A Again, I met with Detective Hubbard and talked to them about what he knew about the scene, where suspects were at, where they went throughout the scene, where they went in and out of the bank, that type of information.

Q And then what did you do once you got there?
A Once I got there, I took pictures just documenting the entrance going in and out of the bank and then took pictures of the bank itself, and then I was told that there were two teller windows that the suspects had gone to, and so I took pictures of those also, and then finally I processed for fingerprints on those two teller windows, the counters and then kind of a pass-through opening.

Q I'm going to show you what's been marked as State's Proposed 163 to 174. Flip through those and tell me if you recognize them.

A Yes, I do.
Q All right. What are those?
A Those are the pictures that I took of the U.S. Bank on the inside and outside.

Q When you went there August 9th, 2018?
A Yes.
MR. SCOW: Move for admission of State's Proposed 163 through 174.

MR. HUGHES: Submitted.
MR. BROWER: Submitted, Judge.
THE COURT: All right. Those will be admitted.
(State's Exhibit Number 163-174 admitted)
BY MR. SCOW:
Q And again you start with kind of a general overall photograph of the bank?

A Yes.
Q And then that's 163.
164, where are we going?
A That's the southwest corner of the bank, and that's where I was told that suspects had gone in and out through those doors right there on the southwest corner.

Q Okay. And is that the only entrance, entry -- public entrance to the bank?

A I believe so.
Q 165?
A That's going to be just a close-up of those doors.
Q 166?
A That's going to be the interior of the bank, and then you can see it's looking back towards that entrance.

Q Okay. And 167, where are we now?
A We're kind of just inside the bank. The entrance is going to be off to our right over here, and then this is looking east towards the teller windows against that east wall.

Q Okay. And was there an area that you were going to focus on from discussions with other officers or witnesses?

A Yes. That's correct. You can see part of these two teller windows here. There's crime scene tape around them, and that's where I was told the suspects had been at those two locations.

Q And then in 169, were you just getting closer to those teller windows?

A Yes. That's correct.
Q 170?
A That's going to be that second -- the second one from the north end of those teller windows just a little bit close up.

Q From the left-hand side it's the second one moving right?

A Yes. Correct.
Q 171?
A That's going to be the one at the far left teller window.

Q And then 174, what is this?
A That is from that far left teller window. You can see where I -- the fingerprint pattern on this counter, and then you can see this is that pass-through window that I was talking about, and then this is a latent fingerprint that I recovered.

Q Okay. And describe for the jury the process of looking for potential latent prints at a scene.

A What you do is, you know, you're using a powder. So you put them on the surface where the suspects supposedly touched, and then you're looking to see if there is any ridge detail that was developed. And once you find some, you can use a little bit more powder and try and make it look a little bit better. And then once I'm happy with the print, then I'll put tape down on top of it, and that's what that is on that pass-through window right there.

Q How is it that you apply the powder?
A In this one it's -- it looks like on the counter I used some magnetic powder. It's a little -- just a little metal brush-type thing, and that's what you'd use. And then I've also got regular powder that you just use a regular fingerprint powder brush.

Q And then do you brush over the surface or --
A Yes. Yes. Yes. Yeah. You use -- you brush over the surface, and the dust adheres to sweat or moisture that's still left behind on the -- which makes up the fingerprint.

Q And the only area that you found any potential ridge details where this tape is --

A Yes.
Q -- in the pass-through tray thing?
A Yes. That's correct.

Q And what did you do with that tape after you put it over that label?

A We take that tape, and then we put it on a white card, and then we've got all the information from that event that goes on that card, you know, our event number, who I am, the when did I recover it and where did it come from. That way when a latent print examiner looks at it, they know -- they have all the information.

Q So on that card you'll write a description of where in the bank, like Teller Window 1 or 2, pass-through -- maybe pass-through tray area?

A Yes. That's correct. That's what we do.
Q A little diagram sometimes?
A Sometimes, yeah, but now we kind of have the picture so the latent print examiners can then go look back at it.

Q And is the event number something that's printed on the card, or is it something that you handwrite on there?

A It's something we'll write on there. Usually I use little labels that I type out and then just put it on there, but I have to add in the event number.

Q Okay. So you'll type in the information: Your name, event number, location of recovery?

A Yes.
Q Just so for later on when somebody else is looking at it they'll have all the information that you had when you
documented it and lifted it?
A Right. That's correct.
MR. SCOW: Court's indulgence.
BY MR. SCOW:
Q I might have missed it, but just to be sure, the tape that we were just looking at in that last exhibit, after you lifted it, put it on the card -- again Exhibit 174 -- what did you do with it?

A What I do with it then is I put it in an envelope. It has -- then I put all the information on the outside of it: What event number it's from, the date I recovered it, who the victim was. And then it gets -- I seal it up so no one can do anything with it, and then it goes to a latent print -- or it goes -- it gets impounded as evidence.

Q So from Metro, what are the -- what do you seal it up in?

A We've got latent print envelopes that just has a little fold over it, and then you put a seal on it, and then you put your initials and the date on it so that you can tell if anyone's, you know, opened it or been in to that package.

Q Or tampered with your seal?
A Exactly.
Q So you write initials and date partially on, partially off the seal tape?

A Yes. That's correct.

Q And what color of tape do you use?
A It's red.
Q And then anybody else that opens it would put their blue tape on it to indicate it's been accessed and reviewed?

A Right. Exactly. Yeah. They'll cut into it and remove the evidence, do whatever they need to with it, and then they'll return the evidence or the latent print cards back into the envelope, and then they'll seal it up and then sign it also.

Q Okay. Last, when you came in today, you were carrying a box of evidence; is that right?

A Yes.
Q What was it that you brought in?
A It was a box containing a BB gun.
Q Okay. And this was in Metro's evidence vault?
A Yes, it was. It was at our forensics lab.
Q At the forensics lab?
A Yes.
Q So does that indicate to you that someone from the firearms lab had access to it?

A I believe so, yes; that's correct.
Q Okay. And is that what the blue tape indicates on there?

A Yes. Yes. Whatever the lab goes in, and they take something out and they do their examination, they put it back

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in here and seal it back up and put their blue tape on it.
Q The red tape on here, is this your red tape?
A No, it's not.
Q And the label on here, what does it indicate it's from?

A It indicates that it's from the Henderson Police Department.

Q So a Henderson crime scene analyst Michael Cromwell, his name's on there?

A Yes.
Q He would've impounded it?
A Yes.
Q But this is what you brought to court today?
A Yes.
Q From Metro's custody?
A Correct.
Q And you had the clerk sign for chain of custody purposes?

A Yes.
MR. SCOW: All right. I don't have any more
questions.
THE COURT: All right. Mr. Brower. CROSS-EXAMINATION

BY MR. BROWER:
Q Well, let's just go through the chain of custody that JD Reporting, Inc.
we were just talking about. That came from Henderson?
A Okay.
Q The box; right?
A From what \(I\) can tell, yes.
Q So how do you end up picking it up? Aren't you just an extra link in the chain of custody?

A I go to our evidence -- or I'm sorry. I go to our forensics lab. They have a smaller version of the evidence vault in our lab over there. So they're able to maintain, you know, chain of custody of all the evidence. So --

Q So, but before today, you weren't on this?
A Correct. No, I was not.
Q So your involvement today was like a runner?
A Pretty much, yes.
Q Like a Uber Eats or something?
A Nah, pretty close though.
MS. SCHIFALACQUA: Except with a subpoena.
BY MR. BROWER:
Q Okay. So do you -- we talked a lot about labels the other day and stuff, but you see these labels on here?

A Yes.
Q Is your name on here now?
A No.
Q But for chain of custody, didn't you pick this up?
A Yes.

Q So why don't you get put on here?
A Because I'm not opening that.
Q Okay. So you signed it out someplace else?
A Correct.
Q Not on here?
A Correct.
Q And then you just bring it in on -- so there's another whole set of paperwork on these types of logs?

A Right. Yeah. There was one sheet that I brought in and gave it to the clerk --

Q Okay. Do you know why --
A -- that has my name on it.
Q -- why there's a whole bunch of holes here?
A More than likely -- those aren't boxes that we've ever used, but probably the holes are kind of set up for different types of firearms that you put in there or really any types of evidence that you could put in there.

Q It's not because there's an animal in here like a mouse or something?

A Right. Exactly.
Q We hope.
MR. BROWER: I have no further questions.
THE COURT: Mr. Hughes.
MR. HUGHES: No questions, Your Honor.
THE COURT: Mr. Scow, any redirect?

MR. SCOW: Two, probably two questions.
/ / /
/ / /

\section*{REDIRECT EXAMINATION}

BY MR. SCOW:
Q You were subpoenaed to bring that item of evidence to court today; is that right?

A Yes, I was.
Q And then the holes on the back, you saw there was some zip ties that were going around the back to hold the gun inside in place?

A Yes, that's what the holes are for. So we're holding a gun or a piece of evidence in that box; we'll put a zip type through it and secure it inside the box, and that's why you see those little pieces of plastic zip ties.

MR. SCOW: I don't have any more questions.
RECROSS-EXAMINATION
BY MR. BROWER:
Q You haven't actually opened that box; correct?
A No, I have not.
Q So you're just assuming what's in there is a \(B B\) gun or a gun because we haven't opened it; correct?

A Right. That's what it says on the label on the outside. So that's as far as I know.

MR. BROWER: Okay.

JD Reporting, Inc.

MR. HUGHES: Nothing.
THE COURT: Anything else, Mr. Scow?
MR. SCOW: No.
THE COURT: Any juror questions for the witness?
All right. I see no other questions.
Thank you for your testimony. Please don't discuss your testimony with anybody else who may be a witness, and you are excused.

And the State may call its next witness.
MR. SCOW: Kerri Pedroza.

\section*{KERRI PEDROZA}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last names for the record.

THE WITNESS: Kerri Pedroza. K-e-rーr-i,
P-e-d-r-o-z-a.
THE COURT: All right. Thank you.
MR. SCOW: It's going to be me.
THE COURT: Okay. DIRECT EXAMINATION

BY MR. SCOW:
Q Kerri, how are you employed?
A I work for U.S. Bank Elavon.
Q Do you have a particular branch that you work at?

A No. I cover 13 different U.S. Bank branches.
Q Is your son employed by U.S. Bank as well?
A Yes, he is.
Q And what does he do, and where does he work?
A He's a banker for U.S. Bank on Eastern, the Anthem branch.

Q I'm going to direct your attention to August 9th of 2018. Were you at the U.S. Bank branch on 801 East Charleston Avenue?

A Yes, I was.
Q And that's in Las Vegas, Clark County, Nevada?
A Yes.
Q What were you doing? What's your purpose in being in that branch that morning?

A I was meeting with a business customer at that location.

Q What was the name of that business customer?
A The guy's name was Vince. It was a pizza place.
Q Okay. So was that Vince Rotolo?
A I believe so. I'm not certain of his last name.
Q So at about -- was that in the afternoon then?
A It was around 11:00, 11:30.
Q Okay.
A Maybe earlier.
Q At about -- if I say about 10:45 a.m., does that JD Reporting, Inc.
sound about right?
A Yeah.
Q So you're meeting with Vince. Who else is part of that meeting?

A The branch manager Michael Irish.
Q And the customer had a need that both of you were trying to help with?

A Yeah. I do merchant services. So I was trying to set his business up with a point-of-sale system, and Michael was sitting in on the meeting with me.

Q Okay. Now, as you're meeting with Vince, Michael is there at the table with you, what happens?

A The bank was robbed.
Q Okay. Describe what you saw.
A Okay. So I noticed two gentlemen standing in the middle of the bank kind of looking at each other, not really looking like they knew what they were going to do next, and then all of a sudden I saw one of the gentlemen pull out a gun, point the gun in our direction, and he asked everybody to get on the floor. Michael and I just sat there, and then he pointed the gun again at Michael and told Michael to get on the floor. Michael got on the floor. Then he turned to a customer sitting in the lobby and asked her to get on the floor, and she -- I'm not sure if she got on the floor or not, and then he turned back to me and said, I fucking told you to get on the

JD Reporting, Inc.

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floor, and so then I went under the desk.
Q Okay. So the first time the individual with the gun pointed it in the direction of where all three of you were sitting?

A Correct.
Q And you told you all to get on the ground?
A Yeah. Vince was on the ground, like, right away, like the business customer, but Michael and I didn't get on the ground right away.

Q And when you and Michael didn't get on the ground -and how did the persons say it? Did he say everybody get on the ground or just what did he say?

A I think he said everybody get on the ground. I can't tell you word for word, but --

Q Words to that effect?
A Yeah.
Q So Vince dived down immediately?
A Yeah.
Q And you and Michael kind of hesitate for a second. What happens after that?

A We both hesitated, and then like I said, he pointed the gun more towards -- Michael was next to me. So he pointed more towards Michael and said, Get on the ground. So in my head I'm thinking he's still not -- doesn't mean me. He means Michael. So Michael got on the ground, and then he turned away JD Reporting, Inc.
from me, like from this direction over to this direction to the lobby and told the ladies in the lobby to get on the ground.

And then he turned back to me, and he said, I fucking told you to get on the ground, and I could just see kind of in his eyes that he looked like he was agitated, and he was probably going to -- I thought he was going to shoot. So that's why I went under the desk because I didn't want to endanger anybody's life.

Q So I'm going to direct your attention to the screen. I'm going to show you some of State's Exhibit 154. Now, if you can tell me as you see it what it is that you recognize. Okay?

A Okay. That's right when you're coming in. The front door is right to the right of that closet. It's over this way, and it's a hallway that goes upstairs. I'm over --

Q Now, if you use -- there's a mouse.
A Oh, okay.
Q The mouse will, yeah. You can --
A Okay. So I'm over in this direction right over here. There's a desk over on this side.

Q Okay. And then can you put the cursor where the entry is.

A It's along this area right here.
Q Just outside of the camera angle?
A Yeah. Yes.
Q Okay. And as things unfold on this video, why don't
you just describe for us what it is that you recognize. Okay?
A Sure. This is when I came in, and they were over by the check writing stand over here. And that's the first time when he pulled out the gun. That's the second time when he told Michael. And then I couldn't really see what was going on --

And that's when he came and told the lady in the lobby, and then this is when he came back to me and told me.

I couldn't really see from where I was sitting what was going on here at the window.

Q So this angle is perfect because that sign blocks it too; right?

A Yeah. But it also from the desk over here, it's kind of hard to actually see without getting up and coming around the desk what's going on here, and I was so focused on him and the gun that that's where all my attention was.

Q Okay. And by the time that he'd gone back the third time and told you to F-ing get on the ground, that's when you got on the ground; right?

A Yes.
Q At that point could you see anything -- what was happening in the lobby area and by the tellers or anything else?

A There was commotion going on up there by the tellers, and then the man that was --

JD Reporting, Inc.

Q The commotion -- sorry. The commotion, is that something that you could hear or see?

A I wasn't really looking at it and focusing on it. I could hear it. There was two customers up there at the window. There was another man up there. I couldn't really hear what was going on, but the man that was in the gray that was pointing the gun at me had said -- told the other guy that was at the window hurry up: Hurry up, G. Let's go. So that was --

Q Okay. And you -- as you're on the ground, did you observe or see anything while you were down on the ground?

A You know, I thought I saw like some red tennis shoes, but that's really all I kind of remember, but I don't know if I saw that when I was just getting on the ground or after they left. I didn't -- I didn't really see too much after I went under the desk.

Q Okay. You said you remember seeing shoes?
A Red tennis shoes.
Q And the color red?
A Yeah.
MR. SCOW: Okay. All right. I will pass the witness, Judge.

THE COURT: All right. Mr. Brower.
MR. BROWER: Nothing, Judge.
THE COURT: Mr. Hughes.

JD Reporting, Inc.

MR. HUGHES: No questions, Your Honor.
THE COURT: Any juror questions for this witness?
All right. I see no additional questions.
Thank you for your testimony.
THE WITNESS: Thank you.
THE COURT: Please don't discuss your testimony with any other witnesses in this case.

THE WITNESS: Yes, ma'am.
THE COURT: Thank you. And you are excused.
And the State may call its next witness.
MS. SCHIFALACQUA: The State calls Michael Irish. MICHAEL IRISH
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Please have a seat. State and spell your first and last names for the record.

THE WITNESS: Okay. It is Michael Irish.
M-i-c-h-a-e-l, I-r-i-s-h.
THE COURT: Okay. Thank you.
MS. SCHIFALACQUA: May I, Your Honor?
THE COURT: Ms. Schifalacqua.
MS. SCHIFALACQUA: Thank you.
DIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Mr. Irish, please let our jurors know how you're JD Reporting, Inc.

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employed.
A I'm a branch manager for U.S. Bank.
Q Okay. And how long have you been -- first of all, how long have you been with U.S. Bank?

A A little over nine years --
Q Okay. And --
A -- about nine years and four months.
Q And what's the branch that you are currently a manager of?

A The Charleston office.
Q Is that 801 East Charleston?
A Yes, it is.
Q Okay. And how long have you been at that branch?
A Since February of 2017.
Q Okay. And have you always been in the managerial position in that branch?

A In that branch, yes.
Q Okay. Yes. Prior to that you've worked in other capacities throughout U.S. Bank, but when it comes to that branch, you're the manager?

A Correct. Yes.
Q Were you working in that capacity on August 9th of 2018?

A Yes, I was.
Q And describe for the members of our jury who else was JD Reporting, Inc.
at the branch on that date?
A On that date it was myself, my assistant manager Jovan [phonetic], my tellers Claudia and Jada.

Q Okay. And was Kerri Pedroza also there?
A Oh, yes. Kerri Pedroza was there. She's our payment solutions merchant services rep. She was there in the morning time --

Q And was that by appointment? She doesn't normally stay there?

A Correct. Yeah. She visits our branch typically by appointment to meet with our merchant service customers or potential customers.

Q So tell us why you had a meeting with Kerri and I believe a customer. Who was that?

A That was Vincent Rotolo. So we had an appointment scheduled at our branch for about 10:30 on that date to meet with Vince to discuss options for payment solutions.

Q Okay. And you know Vince as one of your regular customers. Is that fair? A business customer?

A Yes.
Q Okay. And on that date, were you sitting in on that business meeting between Kerri and Vince?

A Yes, I was.
Q What happens while you're at that meeting? Describe for the jurors.

A Okay. So while we were at that meeting -- the meeting was scheduled for about 10:30. At that time my assistant manager Jovan went to lunch, and I was sitting in during the meeting time with Kerri, and at that specific time, it was my responsibility to cover and assist any other customers that might walk in during the time. So I was kind of bouncing back and forth between watching for other customers and sitting in on the meeting with Kerri and Vince. So --

Do you just want me to go through the whole --
Q Sure -- well, let me stop you there.
A Okay.
Q Help pull it along. I want to show you what's been -- oh, actually I want to approach and show you some photographs. Okay. I'm not sure if this is --

THE COURT: Are they marked?
MS. SCHIFALACQUA: They are marked as 176 and 177.
Have they been -- I thought they were admitted, Madam Clerk, but I'm not --

MR. SCOW: Not yet.
MS. SCHIFALACQUA: No.
BY MS. SCHIFALACQUA:
Q On second thought, I am showing you what's been marked as 176 and 177. Do you recognize what's depicted in those photographs?

A Uh-huh.

JD Reporting, Inc.

Q Is that a yes?
A Yes. Sorry.
Q Okay. Yeah. They're taking down everything you say. So you can't --

A Got it.
Yes, I do. Yeah.
Q Okay. And does that show the branch?
A Yes. This is the branch.
Q Okay. And are these fair and accurate pictures of your branch?

A Yes, they are.
MS. SCHIFALACQUA: I'd move for admission at this time of 176 and 177, Your Honor.

THE COURT: Submitted?

MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.

THE COURT: All right. Those will be admitted.
(State's Exhibit Number 176-177 admitted)
BY MS. SCHIFALACQUA:
Q Showing you 176, describe the area that we're looking at here, Mr. Irish.

A So this area to the very left, the --
Q And I'm sorry to interrupt you. There's a mouse in front of you.

A Oh. All right.

Q So you can kind of just point. There you go.
A Yeah. So this particular area right here, so this area there's a customer sitting. This would be my banker's desk where a customer would be sitting. This open desk here is reserved for our partners such as Kerri and our business banking officers. When they come visit the branch by appointment, we'll sit here and meet with business clients. Over here is the vault safe deposit box area.

And then off to this area begins the teller line. This is the merchant window for business customers and then additional teller windows off to the right.

Right here would be the check writing stand where customers can fill deposit-withdrawal slips, payment slips, stuff like that. That's it.

Q And can you tell me where you -- the area that you were in with Kerri Pedroza and Vince Rotolo on the date that this incident occurred.

A Sure. We were sitting here at this desk. So Kerri was sitting directly right here in front of the computer. She had brought her laptop. I was sitting right here at the corner of the desk. I had just rolled over a chair just to sit side by side with her, and Vince was sitting here in front of the desk.

Q And where were your tellers located; I believe it was Claudia Ruacho-Benitez and Jada Copeland?

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A Yeah. So Claudia who was our merchant business teller was stationed here at this window, and Jada was at the window next to her.

Q Did you have any other tellers on the line at [unintelligible]?

A Not at that hour.
Q Okay.
A We had another teller that was scheduled to come in later in the afternoon, but nobody else currently --

Q And was the branch busy that day that you remember or?

A No.
Q No.
A Not at all. We only had a few customers --
Q Show --
A -- in at that time.
Q Okay. Showing you 177, what angle are we looking at here?

A So this would be the angle from -- basically it would be from my perspective where I was sitting during that time.

Q Okay. So let's talk about that. What happens when you're in that meeting? Describe for the members of our jury while you have that view, what do you observe?

A So basically during that time, the branch, we'd had Vince sitting in front of myself. We had two of our regular
merchant customers, husband and wife, at Claudia's window, the merchant window, and we had a customer sitting in the lobby waiting to speak to me when I finished up with Vince and Teri --

Q And where was she --
A -- I'm sorry. Vince and Kerri.
Q Where was she seated?
A She was seated right here actually where this customer is sitting here.

Q And to be fair, these were taken at a later date, not the date of the incident --

A Uh-huh.
Q -- and so that's why you see different people in these photographs?

A Yes.
Q And was these taken at your branch a couple weeks ago just to specifically show your view when things occurred?

A Correct. Yes.
Q And the customer that was sitting where you pointed out where that customer was, was that Ms. Teri Williams?

A Yes, it was.
Q Describe what happens, or what do you see when Ms. Williams comes in, sits down and you're having a meeting?

A Yes. So when Ms. William sits down, so I know that I'm going to need to attend to her. So we're wrapping up our JD Reporting, Inc.
meeting with Vince because it wasn't going to be a very long meeting at that point in time. So as I'm kind of just getting everything wrapped up and getting ready to excuse myself, so I see the door open. I see two guys walk in and walk up and go through the teller line.

Q Okay. With regard to the two males that walked in.
A Uh-huh.
Q Did you recognize them as customers?
A No, not regular customers.
Q Regular --
A Yes.
Q -- and I should say that. I mean, do you get a fair amount of regular customers at your branch?

A We get a decent amount of regular customers. We also get a lot of just customers in general.

Q Is that by location?
A Yes.
Q Do you get just tourists --
A Absolutely.
Q -- or people in town --
A By location, because we are located downtown, we get a lot of people who are just visiting the city, a lot of new customers. So, you know, while we do have our regular customers, we get a lot of people who we're not familiar with as well. So it's not uncommon for us to not recognize

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individuals.

Q So you didn't think anything of the two males that walked in; is that fair to say?

A Correct. Yeah.
Q Describe the males. Were they white, black, Hispanic or Asian?

A Black.
Q And what about heightwise?
Let me go back. How tall are you?
A About 5-7.
Q And were you seated when they walked in?
A Yes.

Q Can you give us a range of how tall you thought they were? Were they taller than you, shorter than you?

A I would say at least my height or taller.
Q Okay. And what about the build of the two males?
A Thin. Yeah.
Q Describe what happens next after these two males walk in? Where do you see them go?

A So I see them, you know, walk in, and they go on the other side of this check writing stand as, you know, if walking to go in line which is not uncommon, you know. If you're going to do a transaction at the branch, that would be the first place to go.

Q Okay.

A So I turned my attention back to Vince and Kerri to see where the rest of the conversation is going, and then when I turned my attention back, I noticed that a gun was drawn.

Q A gun was drawn by one of the two males?
A Yes.
Q And where -- do you remember where the male was positioned when he drew the gun?

A At first when he was -- when the gun was drawn, I don't remember which side of the stanchion it was, but then the next thing I knew he was then on the front side of the stanchion closest to us.

Q Okay. Did he stay there, or did he go somewhere else?

A He moved closer to us and then was moving around the branch.

Q Okay. When the gun was drawn, and you say "drawn," and moved closer to you, describe for the members of our jury what position do you mean by "drawn"?

A "Drawn" meaning it was pointed directly to us.
Q Okay.
A And he was telling us that we needed to get on the ground.

Q And did you get on the ground?
A I hesitated at first because I was just kind of shocked because I wasn't sure what exactly was happening

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because I had never had anything like that happen to me before, and then \(I\) was instantly kind of starting to kind of take note of what was going on in the branch, who else was in the branch, where my staff was at.

Q Were you concerned for your staff?
A Absolutely, yeah.
Q Were you concerned for yourself?
A Yeah.
Q After the first demand is made to get on the ground, what does Vince do?

A Vince immediately gets on the ground instantly.
Q Do you or Kerri?
A We hesitated. I slowly -- after I think the second request to get on the ground --

Q So let's back up.
A -- I got to my knees.
Q Let me back up. I'm sorry, Mr. Irish.
A No, you're fine.
Q But you say the second request. Describe for the jury. There was a second request?

A Yes.
Q Describe how. What?
A It was not even a request. I should say a demand to get on the ground, you know. It was told to us again with the gun pointed at us: Get on the ground.

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So then I basically -- I got on my knees because then I was still kind of looking around because my concern was where else in the branch, you know, was he going to go with the gun if he was going to go, you know, towards my staff or, you know, what else was going to happen. So then I started to comply and, you know.

Q Do you ever observe Kerri get on the ground?
A At the end, yeah.
Q Okay. Was that after another demand?
A Uh-huh.
Q Is that a yes?
A Yes. I'm sorry.
Q Okay. Do you see if that man with the gun goes towards Ms. Teri Williams?

A Yes.
Q What do you see her do?
A It was hard for me to see when I was down low from my position to Teri, but I know he was over in her area. So I couldn't really see her from my point of view at that point.

Q What about -- while this is occurring you said there were two males that were together at the station. What is the other male doing while the male with the gun is demanding you get on the ground?

A He is at the teller windows demanding and taking the money from each of my tellers.

Q Okay. After the man gets the money, do you see where the men go?

A After they collect the money, I don't see them in their path to exit because then the next time I look up to kind of just see if they're still in the branch, they're not in the branch anymore, and that's when I jump up and try to secure the branch.

Q Okay. And are there kind of protocols of what happens in a -- after a robbery that you need to do?

A Yes.
Q Is one of those to lock the doors?
A Absolutely.
Q Did you pull an alarm?
A Yes.
Q One or more than one?
A More than one.
Q What about -- what are the next steps that you take?
Did anybody call 9-1-1?
A Yes. Kerri did.
Q Okay. And eventually do you make your way over to your tellers?

A I do.
Q Okay. And --
A Yeah.
Q Police are called?

A Yes. Police are called. Basically I checked on my customers first, and then I checked on my tellers. Then I checked on Kerri.

Q Let me ask you this. With regard to your branch, is there training in robberies and what to do if someone demands money at your branch?

A Yes.
Q And what is the directive?
A We need to --
Q To your employees?
A -- comply.
Q Okay. Do you have bright yellow bags at your branch?
A We do.
Q What are they made of?
A They're made of cloth.
Q Okay. They're not plastic?
A No.
Q Okay. With regard to kind of regular customers that you are familiar with, are you familiar with a customer by the name of Bryce Crafton [phonetic]?

A Yes.
Q And does he regularly come into your branch?
A Yes.
MS. SCHIFALACQUA: Showing counsel what's 394. If I may approach?

THE COURT: Sure.
MS. SCHIFALACQUA: Thank you.
/ / /
BY MS. SCHIFALACQUA:
Q Mr. Irish, who's depicted in that photograph?
A This is Bryce.
Q That's a fair and accurate picture of him?
A Uh-huh. Yes.
MS. SCHIFALACQUA: I move for admission of State's
394.

MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. That'll be admitted.
(State's Exhibit Number 394 admitted)
Q And this will kind of connect up later, but your -for your purposes, you know Mr. Bryce Crafton as a regular customer at the bank?

A Yes, I do.
Q Okay. And I'm going to show you now some video, Mr. Irish of State's 154, and before we -- it's paused right now. Do you see yourself in this video?

A Yes.
Q Can you use that mouse and show our jurors where you are seated.

A Right here.

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Q Okay. And are these the two gentlemen that you indicate were first together at that check writing station?

A Yes.
Q Okay. And then do you see Mr. Teri Williams?
A Yes. Mrs. Williams is right here.
Q Okay. I'm going to play a little bit of this, and if you can walk through what it is you observe yourself doing and lived on that day.

A So I, you know, was sitting in my meeting and, as you can see, they walked in the teller line first, and then --

Q What are you doing now?
A I got down on my knees onto the ground as he came over, pointed the gun at us.

Q What are you doing now?
A He's still yelling at us to get down on the ground. So then I got further down on the ground as well.

Q Okay.
A Because he had come back over, and he circled back around.

Q And then eventually -- and we'll stop it there -- as you describe, they leave, but that's the portion that captures you're getting on the ground after the demands with the gun?

A Right.
MS. SCHIFALACQUA: Okay. I pass the witness. THE COURT: Mr. Brower.

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MR. BROWER: I'm going to pass on the witness, Judge. THE COURT: Mr. Hughes.

MR. HUGHES: I have no questions, Your Honor.
THE COURT: Any juror questions for this witness? All right, sir, I see no additional questions. Thank you for your testimony. Please don't discuss your testimony with anyone else who may be a witness in this case.

THE WITNESS: Thank you.
THE COURT: Thank you. And you are excused.
MR. HUGHES: Judge, may we approach?
THE COURT: Sure.
Oh, just follow the bailiff, please.
(Conference at the bench not recorded)
THE COURT: All right. Ladies and gentlemen, this is a good time to take our weekend recess. We will reconvene Monday at 10:00 a.m., 10:00 a.m. Monday.

During the weekend recess, you're all reminded that you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Don't do any independent research by way of the Internet or any other medium. Do not visit any of the locations at issue, and please do not form or express an opinion on the case.

Please leave your notepads in your chairs. Follow

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the bailiff through the double doors, and we'll see everybody back at 10:00 a.m. on Monday.
(Jury recessed for the evening at 4:41 p.m.)
THE COURT: Was there anything we needed to put on the record? No?

MR. SCOW: Ed, do you want to put anything on the record about the fact that we were --

THE COURT: Oh, yeah. Mr. Hughes wanted to ask the location of the tracker device. That was objected to by the State because I guess --

MS. SCHIFALACQUA: To the extent it, you know --
THE COURT: -- the feeling is that that could be utilized by others in the criminal community to locate trackers or tip other offenders off or something like that.

I didn't really see the relevance as to the location of the tracker on the car, but I told counsel at the bench they could ask about accuracy and other things like that, but where it was precisely on the car and the size and shape of it I didn't really see as relevant to anything at issue in this case. So I'm not saying it could never be relevant in a case. I'm saying in this particular case I didn't see the relevance of it.

Is that a fair summation of what we talked about?
MR. HUGHES: That's a fair summation of what we discussed.
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MR. BROWER: That's accurate from my recollection, Judge.

THE COURT: State?
MR. SCOW: Yes, Judge.
MS. SCHIFALACQUA: Yes, Your Honor.
THE COURT: All right. I think that was it. All right. We'll see everybody back Monday.
(Proceedings recessed for the evening at 4:43 p.m.) -lOo-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case.


JD Reporting, Inc.

\section*{BY MR. BROWER:}
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\hline touched [9] 11/14 \\
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\(38 / 23\) 45/9 50/6 226/5 \\
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\begin{aligned}
& \text { nit [7] 67/8 69/23 } \\
& 114 / 20 \text { 115/11 } 115 / 25
\end{aligned}
\]} \\
\hline & & & \multirow[b]{2}{*}{U-turn [4] 148/13} & \\
\hline & & \[
152 / 9152 / 11194 / 15
\] & & \\
\hline & \[
\begin{gathered}
\text { traffic [16] } 81 / 283 / 3 \\
83 / 586 / 2587 / 589 / 22
\end{gathered}
\] & 152/9 152/11 194/15 & \multirow[t]{2}{*}{148/16 148/17 149/8} & \multirow[t]{2}{*}{\[
47 / 18
\]} \\
\hline & \multirow[t]{2}{*}{\[
\begin{aligned}
& 83 / 586 / 2587 / 589 / 22 \\
& 89 / 2390 / 3111 / 20 \\
& 111 / 21117 / 22118 / 1
\end{aligned}
\]} & & & \\
\hline & & 196/10 196/14 199/2 & 21/6 21/6 23/10 & \multirow[t]{2}{*}{unknown [1] 39/15 unless [2] 21/24 205/4} \\
\hline & \[
\begin{aligned}
& 111 / 21 \text { 117/22 118/1 } \\
& 125 / 20160 / 16160 / 17
\end{aligned}
\] & & & \\
\hline & & 213/9 218/11 245/22 & 68/19 71/14 88/14 & \multirow[t]{2}{*}{unloading [1] 119/24 unmarked [1] 114/21} \\
\hline & trailer [6] 80/12 82/1 & 245/25 246/25 247/3 & 89/11 89/13 90/11 92/5 & \\
\hline & \multirow[t]{2}{*}{\[
\begin{aligned}
& 82 / 1785 / 10117 / 22 \\
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\end{aligned}
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\hline & trained [2] 213/22 & & & \multirow[t]{2}{*}{\[
\begin{aligned}
& \text { intil [18] 55/12 65/7 } \\
& 65 / 8 \text { 122/3 122/19 }
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\]} \\
\hline & & \multirow[t]{2}{*}{turns [7] 77/20 99/24} & & \\
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\hline & \multirow[t]{2}{*}{\[
\begin{aligned}
& \text { 219/23 220/6 220/6 } \\
& 220 / 11264 / 5
\end{aligned}
\]} & 152/20 156/7 & & 142/1 144/13 148/12 \\
\hline & & \multirow[t]{2}{*}{\begin{tabular}{l}
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\hline & cribed [2] 1/25 & & & \\
\hline & \multirow[t]{2}{*}{\begin{tabular}{l}
269/11 \\
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\end{tabular}} & twins [1 & 251/4 251/19 & \multirow[t]{2}{*}{\[
\begin{array}{llll}
\text { lp }\left[\begin{array}{lll}
142] & 2 / 11 & 2 / 12 \\
9 / 12 & 12 / 20 & 23 / 2 \\
33 / 18
\end{array}\right.
\end{array}
\]} \\
\hline & & \multirow[t]{2}{*}{twistable [10] 10/13} & Uber [1] 240/15 & \\
\hline & TRANSCRIPT [1] 1/10 & & Uh [14] 139/1 18 & 35/22 48/10 48/12 49/1 \\
\hline & \multirow[t]{2}{*}{transferred [2] 36/20} & 10/15 10/18 11/24 12/6 & & 2/5 52/7 54/11 57/14 \\
\hline & & \multicolumn{3}{|l|}{37/19} \\
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1 / 2171 / 2371 / 2572 / 1
\]} \\
\hline & & & 258/7 262/10 26 & \\
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\hline & 8/20 35/24 39/20 111/2 & 29/4 29/10 29/13 30/13 & 194/1 197/11 197/23 & \multirow[t]{2}{*}{\begin{tabular}{l}
2/8 82/24 83/2 85/2 \\
6/22 90/7 91/16 93/24
\end{tabular}} \\
\hline & \multirow[t]{2}{*}{\[
\begin{aligned}
& 111 / 3111 / 4112 / 8 \\
& 112 / 13
\end{aligned}
\]} & 30/16 31/2 31/13 31/14 & 209/18 231/8 253/25 & \\
\hline & & 31/15 35/9 38/24 41/5 & \multirow[t]{2}{*}{\[
\begin{aligned}
& \text { 257/12 258/7 262/10 } \\
& \text { 265/8 }
\end{aligned}
\]} & 4/21 95/3 95/25 96/6 \\
\hline & tray [2] 235/24 236/11 & 41/6 41/10 42/11 44/18 & & 6/15 99/13 100/12 \\
\hline & & \multirow[t]{2}{*}{\[
\begin{aligned}
& \text { 44/19 46/24 47/16 } \\
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\end{aligned}
\]} & \[
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\hline \text { 265/8 } \\
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\] & \multirow[t]{2}{*}{104/19 107/22 113/9} \\
\hline & trial [4] 1/15 5 & & \[
97 / 21 \text { 100/16 113/3 }
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\hline & & \multirow[t]{2}{*}{\[
\begin{aligned}
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\hline & true [9] 31/15 45/12 & & uncommon [2] 258/25 & 135/9 135/20 137/25 \\
\hline & \multirow[t]{2}{*}{\[
\begin{aligned}
& \text { 185/22 186/2 186/13 } \\
& 186 / 16 \text { 187/2 187/7 }
\end{aligned}
\]} & \multirow[t]{2}{*}{94/11 98/17 103/16 105/2 105/3 106/6} & \multirow[t]{2}{*}{} & \multirow[t]{2}{*}{\begin{tabular}{l}
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\end{tabular}} \\
\hline & & & & \\
\hline & \[
\begin{aligned}
& \text { 186/16 187/2 187/7 } \\
& 187 / 20
\end{aligned}
\] & \[
\begin{aligned}
& 105 / 2 \quad 105 / 3106 / 6 \\
& 110 / 14116 / 8116 / 8
\end{aligned}
\] & \[
\begin{array}{|l|}
\hline \text { under [12] } 6 / 23 ~ 10 / 9 \\
29 / 987 / 1197 / 23 ~ 156 / 1
\end{array}
\] & \[
\begin{array}{ll}
40 / 25 ~ 145 / 2 ~ 145 / 20 ~ \\
49 / 18 & 149 / 19
\end{array}
\] \\
\hline & \multirow[t]{2}{*}{\begin{tabular}{l}
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\end{tabular}} \\
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& \text { 192/17 193/25 194/4 } \\
& \text { 197/7 208/2 213/8 }
\end{aligned}
\] &  & 191/16 192/13 194/7 \\
\hline & \multirow[t]{2}{*}{try [13] 8/24 19/15} & 214/24 221/25 232/11 & \multirow[t]{2}{*}{\[
\begin{aligned}
& \text { 29/4 31/20 79/5 128/9 } \\
& 203 / 19
\end{aligned}
\]} & 97/14 199/12 203/8 \\
\hline & & \multirow[t]{2}{*}{\[
\begin{aligned}
& 232 / 13234 / 3234 / 5 \\
& 242 / 1242 / 1245 / 15
\end{aligned}
\]} & & \multirow[t]{2}{*}{\[
\begin{aligned}
& 09 / 3210 / 5220 / 7 \\
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\end{aligned}
\]} \\
\hline & 26/12 52/16 52/20 & & \begin{tabular}{l}
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\hline & \multirow[t]{2}{*}{\[
\begin{aligned}
& \text { 140/20 153/9 160/24 } \\
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\end{aligned}
\]} & \[
\begin{aligned}
& 242 / 1 ~ 242 / 1 ~ 245 / 15 \\
& 249 / 4 ~ 256 / 25 ~ 258 / 4
\end{aligned}
\] & \multirow[t]{2}{*}{5/19 5/22 10/1 175/11
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\]} & \multirow[t]{2}{*}{24/22 225/1 226/2} \\
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\hline & \[
\begin{aligned}
& \text { 235/7 263/6 } \\
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\end{aligned}
\] & \multirow[t]{2}{*}{\[
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\]} & & & 15 238/8 239 \\
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& \text { 266/1 } \\
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\begin{aligned}
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\hline & \multirow[t]{2}{*}{148/13 148/16 148/17} & \multirow[t]{2}{*}{\[
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DISTRICT COURT CLARK COUNTY, NEVADA

THE STATE OF NEVADA, )
vs.
DAMIEN ALEXANDER PHILLIPS, a.k.a. TRAVIS ALEXANDER PHILLIPS, and ANTHONY TERRELL BARR, ) PROCEEDINGS

Defendants.

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE
MONDAY, DECEMBER 10, 2018
JURY TRIAL - DAY 6
APPEARANCES:
FOR THE STATE:
BARBARA F. SCHIFALACQUA, ESQ. RICHARD. H. SCOW, ESQ.
Chief Deputy District Attorneys

FOR DEFENDANT PHILLIPS: KEITH C. BROWER, ESQ.

FOR DEFENDANT BARR:
EDWARD B. HUGHES, ESQ.

RECORDED BY: SUSIE SCHOFIELD, COURT RECORDER TRANSCRIBED BY: JD REPORTING, INC.

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GAYLE JOHNSON

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LAS VEGAS, CLARK COUNTY, NEVADA, DECEMBER 10, 2018, 10:13 A.M.
(In the presence of the jury)
THE COURT: All right. Court is now in session. The record should reflect the presence of the State through the deputy district attorneys, the presence of the defendants and their counsel, the officers of the court, and the ladies and gentlemen of the jury.

And is the State ready to call its next witness? MR. SCOW: Yes, Judge. Gayle Johnson.

## GAYIE JOHNSON

[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last name for the record, please. THE WITNESS: Gayle Johnson. G-a-y-l-e, J-o-h-n-s-o-n.

THE COURT: Okay. Thank you.
Mr. Scow.
MR. SCOW: Thank you, Judge. DIRECT EXAMINATION

BY MR. SCOW:
Q How are you currently employed?
A I am a forensic scientist assigned to the latent print detail for Las Vegas Metropolitan Police Department. JD Reporting, Inc.

Q How long have you worked as a latent print examiner?
A I have worked as a latent print examiner for over -a little over seven and a half years.

Q And before you became a latent print examiner, did you do anything else that was related to forensic science or crime scene investigation?

A Well, I do have a degree in chemistry, and I did work in both research and academic areas as well as industrial areas as a chemist for over 20 years.

Q So can you tell us a little bit about the degree that you received and then over those 20 years and beyond, the training that you went through to become a forensic scientist in latent prints.

A Yes. So as I said before, I have a Bachelor of Science, in natural science with an emphasis in chemistry, and with that degree I have held about four or five positions in the area of industrial. I was a production chemist for an ammunition factory as well as some research positions that I worked in in those past 20 years.

Then I switched gears, and I received a degree in accounting which is how I got my -- which is how I received a position for Metro. I worked at the jail as an accounting technician, but there I saw the notices for forensic scientist training. I had all of the qualifications. So I applied. Once I did that, once I was promoted to a trainee, I JD Reporting, Inc.
went through an intensive two-year program which is during that time I learned from the basic skills to the more advanced skills on how to do latent print examinations, how to look at evidence, how to determine something that would maybe have something that I could recover -- the surface of that evidence item to see if I would be able to recover a latent print as well as generate reports.

And I've also gone to different conferences where I learned new methods and to keep up-to-date with my profession, and each year annually I am tested with a proficiency test to make sure that I am at the skill level that I need to be to perform my duties.

Q Proficiency tests. Can you describe a little bit of detail of what that is and how it --

A Sure.
Q -- recertifies you.
A Sure. So what the test comprises of is it will have -- there usually are 12 to 14 latent prints, and it will provide all the different -- usually there's five people. So I will look at those prints, and I will try to either exclude or make identification to the records that is also accompanied or submitted with the test.

So once that test -- once I complete the test, it is verified by a tech reviewer, much similar to casework. They try to present these testing processes to us that will mimic

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casework. So I will have a tech reviewer review my work, and then once that is complete, it'll be reviewed again by an administrator, and then once it has passed, those results are sent back to the company that manufactures these tests and my scores are given back to me, and then it's recorded in my records.

Q So is the way that the test's administered whoever administers it knows who the known is and which of the ones you're testing is the known --

A Correct.
Q -- and you receive it not knowing any information --
A Correct.
Q -- trying to make an identification or exclusion?
A Right. And I follow the same process just as if I were completing a case.

Q Okay. You look to see if the latent is even
usable --
A Correct.
Q -- in the first place, and you go from there?
A Uh-huh. And I will keep my notes just as I would if I was completing a case.

Q They've heard from a latent print examiner already as far as what latent prints are and how you get involved in a case. But in this particular case were you asked to examine some evidence impounded under Las Vegas Metropolitan Police

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Department Event Number 180809-1546?
A Yes, I was.
Q Was the crime scene analyst for that particular case for the evidence you reviewed Jeff Smith?

A That is correct.
Q Is his P Number 8177?
A To remember that I would have to look at my report.
Q Okay. If that helps you remember, then go ahead and look at your report.

A Yes.
So, yes, his $P$ number is 8177.
Q And so tell us what it is that you examine, how you gain access to it and what you do with it after you receive it?

A Well, with this particular case I was assigned, it fell under the assignment of an administrative AFIS, and what that means is that there was not a suspect developed, and so what my job was to once I retrieved the evidence -- which the evidence is stored in a secure location at my laboratory. So the way that it's assigned to me by my manager so that this particular event number would be in my queue. So via the computer I would see that.

So once that I am ready to work that case, I go to the secure storage. I look at that event number. I open it. I retrieve that packet. Then I transfer that packet of evidence to me via the computer so that now it is in my JD Reporting, Inc.
possession. Once I have done that, I will look at the evidence that's in the packet, and with this particular case, there was only one lift card submitted. So I looked at that card to see if there was anything on that card that would qualify and meet the criteria for an admin AFIS case.

And in this case there was. There was one print that did meet the criteria, which the criteria to be able to submit this print into the database we need to know what direction is it. So we need to know orientation. We need to know is it a finger or is it a palm. We need to know the core or the basic pattern.

So you may know that the patterns that we look at, or you may not know, but there's only basically three choices. It's a loop pattern, which will either have a right slant or a left slant. Or it will be an arch pattern, which an arch pattern is where the ridges come in from one side and exit out the other. Or it's a whorl, which maybe you are familiar with those as a circular patterns.

So we have to know what the pattern type is. We have to know the orientation. We have to be able to make sure that the detail that is visible is clear enough and that there's at least eight separate features that I can see clearly. Once it meets that criteria, I'm able to enter that latent print into the database to see if it is able to generate any candidates with that same matching detail.

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So that is what I did in this particular case.
Q Okay. So by looking at a latent card -- and in this particular case it was submitted by Jeff Smith -- did it come in an envelope that's sealed with red tape?

A It does, yes.
Q Okay. And when you gain access to it and after you seal it up again you use a blue tape?

A I'm not -- you know, whatever is available to us. Sometimes it's blue. Sometimes it can be -- most of the time it is blue. So that is kind of standard. I'm not sure if that's what it is -- like if it's required that it has to be that color.

Q Okay.
A But I will make my markings on the packet so that people will know that yes, I did have this packet in my possession, and I will make my special markings on the items of evidence, like the lift card so that other people after me will know that I did have possession of this evidence.

Q So the three things that you mentioned in order to submit into the AFIS database are the direction, the type if it's a finger or a palm and then the swirl, the --

A Yeah, the pattern.
Q The pattern. Okay.
A The pattern type. Uh-huh.
Q So when you look at a latent print on a lift card,
you can tell the direction that the print is facing?
A Well, basically with my experience and how many times that I've actually reviewed and examined into the ridge flow that's present in someone's fingerprint, it's kind of like when you see a face. You automatically know which way is up. So once I have looked at these prints for so long, when I look at the card, even though maybe I have to turn it 90 degrees, my experience with how ridge flow and what I know is consistent with how it should appear allows me to make that orientation and how it should be presented and which way is up.

Q So then when you submitted it into the database, that has to match in order for the database to say --

A Correct.
Q -- here's your possible options?
A Correct. It will -- sometimes the database that we currently use will -- you can submit a tolerance of, like, 30 degrees. So if you were off just a little bit with the exact up direction, that will take in account for that and still be able to produce candidates that could be a match.

But you are right. I do need to put it in -- when I scan it into the database, I need to make sure that orientation is correct for that computer to give me back the best results that it's able to.

Q When you submitted your information to that database, did it give you some possible options to look at?

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A Yes, it did.
Q Okay.
A We have ours set to generate 15 candidates with the scoring, and that is what I -- once I submit it and it is done searching, it will produce a printout that has 15 candidates with the different images that will match up to the image that I submitted.

Q Okay. And in this case, there was only one print that was of AFIS quality to submit?

A Correct.
Q And what did you do after you received the candidates from AFIS in relation to this latent print?

A So the next step in our process is once I view it on screen and I start to see that the detail that I have already encoded, so that I had told the computer to look for, and I saw that same matching detail in the candidate in the Number 1 spot, I went ahead then and I printed up the record for that Candidate Number 1, and then I did a manual comparison, and I was able to make an identification to that latent print.

Q So the known prints for that candidate that you retrieved was from your database from February of 2015?

A As far as the date of that person's record?
Q Yes.
A I need to review my notes.
Q Okay.

A So, yes, it was February 9th of 2015, and, yes, it is from the Las Vegas Metropolitan Police Department archive.

Q Okay. And so what conclusions did you make when you made your comparison of that known archive prints with the latent lift card submitted by Jeff Smith?

A I was able to identify the latent print I marked Q1A to a Bryce Crafton, and it was his right index finger.

MR. SCOW: Pass the witness, Judge.

## CROSS-EXAMINATION

BY MR. BROWER:
Q I just have a question about the proficiency test.
A Okay.
Q So you said, and maybe I misheard it, but did you say when you pass they forward your results; correct?

A Well, when -- I mean, I could've misspoke. What I meant to say is that once I -- once the test is complete, it is submitted back to that manufacturer where they will review my results, and they will produce how I did, and they submit those back to Metro.

Q Okay. So what's the pass-fail rate of the proficiency test?

A As far as pass-fail, I mean, all the tests that I have taken, each year I passed.

Q Okay. But what's the rate for the test? Do you know?

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A I don't know that --
Q So you don't know if anybody has ever failed?
A I do not know that.
Q Okay. Has anybody --
A Because I -- I don't -- I mean, I'm only going to be interested in my own results.

Q Okay. How about your lab?
A I believe that they have all passed.
Q Okay. So you're not aware of anybody ever failing the proficiency test?

A I -- I mean, I don't know. I'm not -- no, I'm not -I mean, I would be -- it's something that I just don't go and research.

Q Okay. And what do you have to have to pass? Is it like a C is passing or, you know, D is degree, and it's a 60?

A I believe with every -- I mean, I'm not sure, but I know that if you -- it's different like if you exclude someone or if you falsely identify someone. So it's different in terms of how you progress forward.

Q So there's no, like, overall score. You know out of 100 points you have to have an 85 or a 93 or --

A No, I don't believe it's that way.
Q -- a 60?
A No.
MR. BROWER: Okay. No further questions, Judge. JD Reporting, Inc. THE COURT: Mr. Hughes. MR. HUGHES: Nothing, Your Honor.

THE COURT: Any redirect?

## REDIRECT EXAMINATION

BY MR. SCOW:
Q You don't administer the proficiency test; right?
A I do not.
Q So you don't have any reason to know the results of those tests or who passes or who fails?

A That's correct. As a matter of fact, we are not supposed to discuss it with our other coworkers, anything about the test or the results or what we are doing. It's very -it's supposed to be done completely independently.

Q And your lab is accredited?
A Correct.
Q And describe what that means for the jury.
A So for us to be accredited --
MR. BROWER: Judge, I think that's outside the nature of cross.

MR. SCOW: Judge, if he's asked about proficiency,
it's --
THE COURT: Well, I think he can get into it. You kind of opened the door with the test questions.

Go ahead.

JD Reporting, Inc.

BY MR. SCOW:
Q Go ahead and tell what the -- what accredited means to the jury.

A I mean, simply it's just that we have policies that are written that are documented for us in terms of a manual so that we know that our work is being checked so that we are producing results that is to the best of our abilities.

Q And you've never failed a proficiency test?
A No.
MR. SCOW: I don't have anything else, Judge.
THE COURT: Anything else?
MR. BROWER: No, Judge.
MR. HUGHES: No.
THE COURT: Any juror questions for the witness? No.

All right. Ma'am, thank you for your testimony. You are excused at this time, and the bailiff will direct you from the courtroom.

MS. SCHIFALACQUA: Court's indulgence.
THE COURT: Okay.
MS. SCHIFALACQUA: The State would call Jada
Copeland, Your Honor.
THE COURT: Face that lady right there.

## JADA COPELAND

[having been called as a witness and being first duly sworn,

JD Reporting, Inc.
testified as follows:]
THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: Jada Copeland. J-a-d-a,
$\mathrm{C}-\mathrm{o}-\mathrm{p}-\mathrm{e}-1-\mathrm{a}-\mathrm{n}-\mathrm{d}$.
THE COURT: All right. Thank you.
Ms. Schifalacqua.
MS. SCHIFALACQUA: Thank you.

## DIRECT EXAMINATION

BY MS. SCHIFALACQUA:
Q Jada, can you tell the members of our jury how you're employed, please.

A How?
Q Yes, how.
A With U.S. Bank. I'm a teller.
Q Okay. How long have you been with U.S. Bank?
A Since May of this year.
Q Okay. So were you working as a teller in August of 2018?

A Yes.
Q Okay. And just only a couple months at that time; is that right?

A Yes.
Q Okay. On August 9th of 2018 -- excuse me, 2018, what was your -- you said you're a teller. Are you full time, JD Reporting, Inc.

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part time? Describe for our jury, please.
A Part time.
Q Okay. Were you working at 801 Charleston, Las Vegas, Clark County, Nevada on that day, August 9th?

A Yes.
Q Describe at approximately 10:40 in the morning, describe kind of just how your day started out.

A It was a regular day. It was one other teller. We were just going with the flow. Our merchants were coming in. So we were taking in deposits.

Q Okay. With regard to the other teller, who was that?
A Claudia.
Q Okay. Claudia Ruacho Benitez?
A Yes.
Q Yes. And who else was working on that day?
A Michael Irish, the branch manager.
Q Okay.
A And Kelly. She's our tech ops person.
Q Okay. Approximately 10:40 in the morning, you indicated that Claudia was working by you. Describe for our jury where were you in relation to Claudia?

A I was to the left of her at the next teller window.
Q And was she at that business window?
A Yes.
Q Is that situated at the end of the teller line?

A Yes.
Q Okay. Did she have customers at her window?
A She had one of our merchant customers at the time.
Q Do you know who that merchant customer was?
A Ms. Kamal [phonetic].
Q Okay. Is it fair that U.S. Bank or as a teller you get kind of regular customers that you're used to seeing?

A Every day.
Q Okay. And so you get to recognizing them; is that right?

A Yes.
Q Did anyone come in to open on account, a female that you remember on that day?

A No.
Q Not that you remember. Did you ever service a female that came into the branch to open an account?

A No. Tellers don't open accounts.
Q Okay. Did anybody ever ask you about opening an account?

A Yes.
Q Okay. Do you remember what that woman looked like?
A I do not. I just remember she was tall.
Q Okay. Was she white, black, Hispanic or Asian?
A Black.
MS. SCHIFALACQUA: Okay. Court's indulgence.

JD Reporting, Inc.

BY MS. SCHIFALACQUA:
Q Describe then after -- so you remember a woman coming in asking to open accounts, but that's not one of the duties that you're tasked with; is that right?

A Correct.
Q Okay. After that what happened, if anything, that causes you to testify here today, Jada?

A There was a customer in line. I told them to -- I could help them at my window, and then they came up and asked me to give them my money.

Q Okay. When you say there was a customer in line, was he -- was it a he or a she?

A He.
Q Okay. Was he or she white, black, Hispanic or Asian?
A Black.
Q Was he or she standing in line alone or with someone else?

A It looked like they were with someone else. They were close.

Q Okay. Describe how the people were set up.
A Like, one behind another.
Q Okay. And were they -- what was the gender of each?
A Both male.
Q Okay. What was the race of each?
A Black.

Q And can you describe, if you remember, anything else about the two males, their height or their build.

A Regular build, maybe like 5-10, 6-foot.
Q Okay. For both of them?
A I know the one that came to my window. I don't know about the other one.

Q Okay. As the one came -- you said one was standing behind the other; is that right?

A Correct.
Q As the one came to your window, did you see what the other one was doing?

A Not really. My focus was kind of in front of me.
Q Okay. When your focus was in front of you, what did the male say to you? If anything.

A To give him all my money.
Q Okay. What did you do?
A I gave him the money that I had --
Q Sure.
A -- in my second drawer.
THE COURT: And you have a super quiet voice.
THE WITNESS: Okay. Speak up.
THE COURT: I don't know if the jurors can all hear you, but just keep your -- make sure you speak up. Okay. BY MS. SCHIFALACQUA:

Q And I'm sorry, Jada. I know courtrooms aren't JD Reporting, Inc.

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something you normally are in; is that right?
A Right.
Q Is this the second time, in fact, that you've testified?

A Yes.
Q Did you testify at a preliminary hearing for this matter as well?

A Yes.
Q Okay. So with regard to the money, you said you gave your money. Was that the top drawer and bottom drawer? Or describe that for our jury, please.

A It was just my bottom drawer.
Q Okay.
A I didn't get to my top.
Q Now, we've seen -- we've heard from Claudia. We know that there are windows kind of in front of where the teller stations are; is that right?

A Correct.
Q Describe for our jurors what you did with the money when the male had demanded it.

A There was a little slot we can slide it under to hand out anything we have to give our customers. So that was the slot I put it in.

Q Now, you said that you were next to Claudia. She was to your right; is that correct?

A Yes.
Q While you're sliding that money -- or let me go back. When the money was first demanded of you, did you give it over right away, or what did you do?

A I kind of hesitated, and then I kind of looked to see what was going on with Claudia, and then he went to her window and told her the same thing. So that's when I started to give the money.

Q Okay. So did you hear him demanding money from Claudia as well?

A I don't know what he said to her, but it was something said.

Q Did you see her putting money --
A Yes.
Q Okay. And so then did the male actually come back to your teller window to collect the money?

A Yes.
Q Okay. So he had gone from your window to Claudia's back to yours?

A Yes.
Q Did he go back to Claudia's, or do you know?
A I'm not sure.
Q Okay. Fair enough. After you slid the money under, what, if anything, did the male say to you?

A After that I didn't -- I didn't have any encounters JD Reporting, Inc.
with him. I was trying to get into our regulations of what we have to do in that instance.

Q Okay. Did you pull any alarms?
A I did. I don't know if it went off, but I tried. I did.

Q Okay. When you gave over the money, did you see what the male did with the money?

A No. I just seen him grab it.
Q Okay. Did you see if he had a bag or not?
A I don't know if he had a bag.
Q Do you remember giving a statement to the detective that came to interview you actually on the date of the crime?

A I remember there were detectives there.
Q Okay. Would looking at a transcript of your statement help you remember whether or not that person had a bag?

A It probably would. MS. SCHIFALACQUA: If I may approach, Your Honor. THE COURT: You may. MS. SCHIFALACQUA: Counsel, page 5. BY MS. SCHIFALACQUA:

Q Jada, I'm going to show you -- see the front of this is the transcription of the statement that you gave to Detective Hubbard on August 9th of 2018. I'm going to direct your attention to page 5. If you could go ahead and read that

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to yourself, not out loud, and when you're done, please look up at me.

A Okay.
Q Does looking at that help refresh your memory of whether or not the male had a bag?

A I said he had a bag that day. So that must have been correct because it was fresh.

Q Okay.
A On my mind.
MS. SCHIFALACQUA: And if I may approach?
BY MS. SCHIFALACQUA:
Q Do you remember what color the bag was?
A No, I do not.
Q Not off the top of your head. Would looking at your statement help you remember that?

A Yes.
Q Showing you the top of page 6. You read that to yourself. I'm going to take that away so the record is clear. Do you remember what you told Detective Hubbard about the bag on the date that this happened?

A Yes.
Q What did you tell him? What color was it?
A It was a yellow bag.
Q Okay. Is that -- you're kind of nodding. Does that refresh your memory as to the color?

JD Reporting, Inc.

A Yeah. Yes.
Q Okay. When the male that was demanding the money from you and getting money from yourself, and Claudia was obtaining that, do you remember what the other male was doing?

A He was in, like, in the lobby. He was by my manager, but I don't know exactly what was going on out there.

Q Okay. And did you see him with a weapon of any type? A Yes.

Q Describe for the jury what you saw.
A A gun.
Q Okay. When you say you saw a gun, did you see where the gun came from?

A Somewhere on his body. I don't know where he had it exactly.

Q Okay. Let me ask it a different way. When the males were lined up, one behind another and you first observed them, did you see that either one of them had a gun?

A No.
Q Was it some time after that the gun was displayed?
A I seen it when he was leaving.
Q Okay. Let me ask you this. Did you see or remember seeing where the other male pulled the gun from?

A No.
Q Would looking at your statement help refresh your memory of what you told Detective Hubbard on the date that this JD Reporting, Inc.

A Yes.
MS. SCHIFALACQUA: If I may approach?
Page 7, Counsel.
BY MS. SCHIFALACQUA:
Q Actually, I'm going to back up and have you start on the bottom of page 6 up towards to page 7. If you would look at that, Jada, and then when you're done, go ahead and look up at me.

I'm taking that back so the record is clear.
Jada, do you now remember where it is you saw the other man pull the gun from?

A Under his jacket or shirt.
Q Okay. And did he --
MS. SCHIFALACQUA: Court's indulgence.
BY MS. SCHIFALACQUA:
Q Do you remember telling the detective that he pulled it from his waist?

A Yes.
Q Okay. And let me be clear so our jurors understand. Have you ever even had a chance to review your statement before today?

A No.
Q Okay. You met with Mr. Scow and myself before you had to testify, but we never gave you a copy of this; right?

JD Reporting, Inc.

A No.
Q Okay. So today is the first time. You're kind of refreshing yourself live?

A Correct.
Q While you testify, okay. And did you have occasion to watch some video surveillance with myself and Mr. Scow at your branch before you had to testify here today?

A Yes.
Q With regard to that video surveillance, does that video angle actually show Claudia's interaction with the two men that you observed?

A Yes.
Q Did the camera from your angle of the video, was that actually not pointed --

A Yeah, I was not visible.
Q Okay. And so you reviewed that, and you later -were you able to see yourself kind of on screen later on after the robbery had occurred?

A Yes.
Q Okay. Let me ask you, did you do or have your drawer counted as to how much money had been taken from you? Was there an accounting done?

A Yes.
Q Okay. And I'm going to approach with State's 265. Jada, I'm going to show you State's 265. Do you recognize this JD Reporting, Inc.

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document?
A Yes.
Q Okay. Is this a cash settlement for August 9th of 2018?

A Yes.
Q Do you see your name at the top? Is that your teller drawer?

A Yes.
Q And how much money was taken from your drawer?
A 3,108 .
Q And this is a fair and accurate copy of the accounting that was done at the branch?

A Yes.
MS. SCHIFALACQUA: I move for admission of 265 at this time.

MR. HUGHES: Submitted.
MR. BROWER: Submitted, Judge.
THE COURT: All right. 265 is admitted.
(State's Exhibit Number 265 admitted)
MS. SCHIFALACQUA: Thank you.
BY MS. SCHIFALACQUA:
Q Now, did you see if the other male that had the gun was going towards Michael Irish, your manager, at any point while you were gathering up the money?

A No.

Q Okay. You don't remember seeing --
A I just know he was in the same area. I don't know what was going on.

Q Okay. After you had given that over \$3,000 to that man, what happens next? Did he stay? Did he leave? What happened?

A At that point I think he got Claudia's money, and then they left.

Q Now you say they left, did they leave together, the two men?

A Yes.
Q Okay. Did you stay in the position facing forward?
A Not the whole time.
Q Why?
A Because one of them told us to turn around.
Q Okay. And what did you do when you were told to do that?

A Turned around.
Q Why?
A I was just following instructions.
Q Why?
A So nothing bad would happen.
Q Okay. Were you scared?
A It was -- yes.
Q Had you ever gone through anything like this before?

A No.

Q After the two men ran out, how do you know it's safe to turn around?

A Our doors are loud.
Q Okay.
A Like when they close the front doors to our branch. So we heard that.

Q Okay. And you say we heard that. You can only testify to what you heard.

A Oh, I heard the doors close.
Q And then is that -- at that time, is that when you turned around?

A Yes.
Q What happens next? Kind of what other protocols of what happens in the bank after you were robbed?

A My branch manager, Michael, he locked the front doors. We found the robbery kit, and we had to fill out paperwork, and then the police and the detectives came, and they got our statements.

Q Okay. I'm going to show you what's been previously admitted --

MS. SCHIFALACQUA: Madam Clerk, I want to make sure. Court's indulgence.

BY MS. SCHIFALACQUA:
Q Let me show you what's been previously admitted as JD Reporting, Inc.

State's 195, and see if you recognize this person. You indicated that there was a woman that was tall that had come in to request about opening a branch -- I mean, a bank account on August 9th of 2018. Do you recognize this female as that person, or do you not recognize the female?

A I don't recognize her.
Q Okay. Fair enough. Did you -- let me go back. I want to ask you some specifics about the timing of when the man demanded the money from you. Did you call that person up to your window?

A Yes.
Q The male, did he hesitate?
A Yes.
Q When did he actually come up? If he hesitated, what did you observe when he came up?

A He hesitated, but he still -- he came up like a second after. It wasn't -- it was just a feeling I got.

Q Was it, the timing, the same or different from when the other male had pulled the gun?

A It was about the same time frame, both events, him coming up and the other guy being --

Q Okay. So the time frame that he approached and demanded the money would have been the same time frame that the other male pulled out the gun?

A Yes.

Q Jada, I'm going to show you a portion of what's been admitted as State's 154. Who are we looking at here?

A Myself.
Q Okay. And is that after the robbery occurred?
A Yes.
Q Okay. And so as we indicated, the actual event from your teller window were not on video surveillance; is that right?

A No.
Q But you can see Claudia, and you're next to Claudia; is that right?

A To the left, yes.
Q Okay. And this is you after the robbery occurs?
A Yeah.
MS. SCHIFALACQUA: I pass the witness, Your Honor.
MR. BROWER: No questions, Judge.
THE COURT: Anything, Mr. Hughes?
MR. HUGHES: Nothing, Your Honor.
THE COURT: Any juror questions for the witness?
All right. I see no questions.
Thank you for your testimony. Please don't discuss your testimony with any other witnesses in this case. Thank you and you are excused.

And the State may call its next witness.
MS. SCHIFALACQUA: Thank you, Your Honor. The State JD Reporting, Inc.

C-18-335500-1,-2| State v. Phillips/Barr| 2018-12-10 | Day 6
calls Detective Worley, Christopher Worley.
CHRISTOPHER WORIEY
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: First name's Christopher,
C-h-r-i-s-t-o-p-h-e-r. Last name Worley, W-o-r-l-e-y.
MS. SCHIFALACQUA: May I?
THE COURT: You may proceed.
DIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Detective, can you let our members of our jury know how you're employed.

A I'm employed with the City of Henderson Police Department as a detective in the financial crimes unit.

Q How long have you been in the financial crimes unit, sir?

A Approximately a year and a half.
Q Okay. Prior to that were you a patrol officer or a detective in another unit?

A I was a detective in the Special Victims Unit.
Q How long have you been with Henderson Police Department?

A A little over 13 years.

JD Reporting, Inc.

Q Okay. And prior to being on SVU or the special victims unit, were you patrol, or were you something else?

A I was patrol.
Q Okay. On August 9th, 2018, even though you're currently assigned to the financial crimes unit, did you have occasion to assist Detective Lippisch and Detective Ozawa on some surveillance?

A Yes.
Q And was that in regard to an ongoing robbery series that you knew they were investigating?

A Yes, it was.
Q So even though you weren't in robbery-homicide, you were enlisted, or your help was enlisted with regard to surveillance; is that right?

A That's correct.
Q Was there a target vehicle that you were made aware of that you were going to be part of the surveillance team?

A Yes.
Q What was the vehicle?
A It was a Grand Marquis, maroon burgundy color.
Q Okay. And were you made aware of suspects that were a target of the investigation?

A Yes, I was.
Q And who were those suspects?
A It was determined to be Anthony Barr and Damien

Phillips.
Q And did you have occasion eventually to see Anthony Barr and Damien Phillips?

A Yes.
Q Throughout your portion of this investigative process?

A That's correct.
Q Okay. And do you see them in the courtroom here today?

A Yes, I do.
Q Can you please point to Damien Phillips and tell me what he's wearing today in court.

A Damien Phillips is the gentleman in the white shirt with the brown and khaki pants and black glasses.

MS. SCHIFALACQUA: And, Your Honor, let the record reflect the witness has identified Damien Phillips.

THE COURT: It will.
BY MS. SCHIFALACQUA:
Q And Anthony Barr, do you see him in the courtroom here today, Detective Worley?

A Yes, I do. He's sitting there with the pen in his hand and a pink shirt.

MS. SCHIFALACQUA: And, Your Honor, let the record reflect the witness has identified Anthony Barr. THE COURT: It will.

MS. SCHIFALACQUA: Thank you.
BY MS. SCHIFALACQUA:
Q So you have a target vehicle, described a maroon colored Mercury Grand Marquis. You have target subjects, both of the defendants. What is it you're first tasked with doing as far as your assistance in surveillance?

A The information $I$ had is that they were in the area of Sahara and Maryland Parkway, and so my first task was to take a position in the Smith's parking lot at that intersection and just kind of watch that area.

Q Okay. Let me back up. At that time were you already made aware that there was a tracker on that target vehicle?

A Yes, I knew that.
Q Put on pursuant to a search warrant? That was approved by a Judge; is that right?

A That is right.
Q Okay. And so were you -- while you had eyes in the field, if you will, were you also getting updates from Detective Lippisch?

A Yes, I was.
Q With regard to that tracker?
A Correct.
Q Okay. So you indicated that you first were in the parking lot of the Smith's. Is that Smith's located at 2540 South Maryland Parkway?

A That is right.
Q I'm going to show you -- sorry -- for identification purposes State's 160. Now, what are we looking at here, Detective?

A It appears to be an image of the Smith's parking lot on the southeast corner of Sahara and Maryland Parkway.

Q Okay. And that's here in Las Vegas, Clark County, Nevada? Is it?

A It is.
Q Okay. Where did you go in relation -- you said that you headed over to the Smith's because that was information relayed to you. Where did you go? Tell our jurors.

A As part of this the large white building here, the white rooftop --

Q And I'm sorry. There's a mouse in front of you.
A Oh.
Q It'll give you kind of a --
A All right.
Q There you go.
A Okay. So this is the Smith's grocery store with this area here being the front entrance, and I parked my car I believe right here where the mouse cursor is.

Q Okay. When you are in this capacity of doing eyes-on surveillance in conjunction with the tracking device, are you in a covert type of position?

JD Reporting, Inc.

A Yes, I am. I'm in an unmarked vehicle.
Q And presumably you don't have a patrol uniform on?
A I do not.
Q So you don't have a body camera?
A I do not.
Q And is it fair -- so our jurors -- they got asked some questions about body camera earlier from some detectives. If you're in a covert-type position and you don't want to be recognized, is that partly why you don't have a body camera on your shoulder?

A That is one of the reasons; correct.
Q So when you park and wait at the Smith's, do you observe a Mercury Grand Marquis red in color? The target vehicle?

A I do not.
Q Okay. Were you also working with a Detective Ebert on that day?

A Yes.
Q In conjunction were you part of the actual eyes-on video -- I mean, not video, excuse me -- eyes-on surveillance of the suspects and the vehicle?

A No, I was not part of the actual observation of the vehicle at that time.

Q Okay. So you don't see the vehicle when you first go to the Smith's?

A That's right.
Q What do you see? Tell our jurors.
A So I'm at that parking spot there in front of the Smith's and essentially my role at that time is to see if anybody was to make entry or just kind of be around that front entrance area.

Q And do you observe anyone make entry?
A Correct. Yes. I see Anthony Barr and Damien Phillips walk from north to south beginning around this northwest corner, and they walk along the front towards the front of the main entrance.

Q Do they walk right in?
A They do not.
Q Describe for the juries -- jurors what you observed them do.

A So they walk along the front towards the entrance, and essentially there's two doors with a pillar in between. They stop right around the pillar and kind of scan the area looking back and forth. It appears like they were collaborating with one another --

MR. BROWER: Judge, I'm going to object --
THE WITNESS: -- try to walk in --
MR. BROWER: -- to what he's saying it appears they were doing. It calls for speculation on somebody else's action.

THE COURT: Well, just --
MS. SCHIFALACQUA: I can clarify.
THE COURT: -- describe what --
MS. SCHIFALACQUA: Sure.
THE COURT: -- you know, what you actually observed. THE WITNESS: Okay.

BY MS. SCHIFALACQUA:
Q You said "collaborating." Did you actually physically observe these two gentlemen talking or facing each other and communicating?

A That's correct. Yes, I did.
Q Okay. So your basically analysis of collaboration was what you physically observed this man and this man doing in front of you?

A Yes, that's what I physically observed.
Q Okay. Go ahead. Continue on. While they're doing that, do they make entry right away, or are they talking and communicating with one another?

A Yeah. So they approached the front. They stopped. My observation is them kind of scanning around looking in the parking lot communicating with one another and, you know, that lasted for, you know, maybe 10 seconds or so, and then they walk in.

Q Okay. Can you describe the parking lot and the business at this time, the Smith's.

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A The observation at the time was that it was very busy. There was a lot of cars in the parking lot. A lot of foot traffic going in and out, actually both sides. A lot of pedestrians walking in. A lot of pedestrians walking out.

Q And what, if anything, did that make you conclude or that -- what you concluded from the busyness of it?

A My thought would be that I would have been surprised that this would be one of the target locations for the -- of the bank robbery --

Q Is that --
A -- due to how busy it was and just the volume of people and the activity going on.

Q When you observed both of the defendants make entry into that Smith's, were you aware whether or not there was a U.S. Bank branch in that Smith's?

A Yes, I knew there was one.
Q Okay. And did you observe anything on the person that caused you concern at that time?

A I did. Anthony Barr. It appeared he had a bulge in the -- behind his, like, his lower back in, like, the waistband area. The shirt would have been covering the bulge, but it was something that I took notice of.

Q And how long do you think or did you observe [unintelligible] the defendants being in that Smith's, slash, where the U.S. Bank was located?

JD Reporting, Inc.

A I think they were in maybe two to four minutes or so.
Q Okay. Was it a relatively short period of time?
A It was a short time.
Q Did you time it? I want to make clear.
A I did not time it.
Q Okay. And so if I stood here and looked at you for two minutes, it could have been longer; it could have been shorter. Is that fair?

A Yeah, that's fair.
Q Okay. But did it seem relatively quick?
A It did seem quick.
Q Okay. After that, when they made exit, did you watch what they did?

A I did.
Q What? Tell our jurors what did you observe?
A So they exited out the front, and then they turned northbound, and they walked along the front of the store there.

Q And were you giving this information to the other detectives that were doing surveillance this day?

A I was providing some updates, yes.
Q Okay. And so were you working in over radios with Detective Ebert?

A Yes, I was.
Q And Detective Lippisch?
A That's right.

JD Reporting, Inc.

Q And some other detectives ultimately?
A Correct.
Q Okay. When the defendants made exit from that Smith's, did you have occasion to take a photograph of them walking away?

A I did.
MS. SCHIFALACQUA: If I may approach with State's 161? That's been previously provided in discovery, Your Honor. THE COURT: You may.

MS. SCHIFALACQUA: Thank you. Sorry. I'll never break my habit. BY MS. SCHIFALACQUA:

Q Detective Worley, what are we looking at here?
A This is the photographs that I took from that parking spot just after they had exited out the front doors of the Smith's.

Q And this is a fair and accurate copy of the photograph you took of the defendants on that August 9th, 2018?

A Yes, it is.
MS. SCHIFALACQUA: Permission to -- well, move for admission. I'm sorry.

THE COURT: Submitted?
MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.

MS. SCHIFALACQUA: Permission to publish, Your Honor? THE COURT: Submitted?

MR. BROWER: Submitted, Judge.
THE COURT: All right. That's admitted. You may publish.
(State's Exhibit Number 161 admitted)
BY MS. SCHIFALACQUA:
Q Okay. Now, you indicated that you saw Defendant Phillips and Defendant Barr walking away. Can you use that mouse and describe what it is you observed on Defendant Barr if it's depicted in that photograph.

A So right here in the lower waistband area is where I took notice of a -- it appeared to be -- I call it a bulge, but it was just a, you know, the flat surface rounding out as though I thought that there was something stored in his waistband.

Q Okay. And did you also have occasion to take video surveillance of the defendants exiting that said 2540 South Maryland Parkway?

A Yes, I did.
MS. SCHIFALACQUA: Permission to publish a portion for authentication of --

THE COURT: You may.
MS. SCHIFALACQUA: -- State's --
Thank you.

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BY MS. SCHIFALACQUA:
Q Detective Worley, is this a copy of the video surveillance you took of the defendants exiting that Smith's?

A Yes, it is.
MS. SCHIFALACQUA: I'd move for admission of State's 155.

MR. BROWER: Submitted. MR. HUGHES: Submitted. THE COURT: All right. 155 is admitted.
(State's Exhibit Number 155 admitted) MS. SCHIFALACQUA: Permission to publish, Your Honor? THE COURT: You may. MS. SCHIFALACQUA: Yes. We'll go back. BY MS. SCHIFALACQUA:

Q And, Detective, use that mouse when you want to point out what you're observing.

A All right. So from this location, initially when they were walking in, I watched them walk from north to south, but then as they were exiting they walked back in that same direction as they initially came from. This was one of the opportunities where I could take notice of the bulge in his back.

Q And you're pointing that out on the video today?
A Yes.

Then they turned westbound and walked towards a standalone Chase branch bank that's in the same parking lot.

Q After you watch the defendants walk to that standalone Chase Bank, are you able to observe whether or not they make entry into that bank?

A No. As they get, like, very close to the front, my view became obstructed. I could not see if they actually went in, but they definitely walked right to close proximity of that bank.

Q What did you observe next?
A A few seconds later, when they came back into view, they then were walking back towards the front of the Smith's, that northwest corner that they initially appeared from.

Q Okay. And do you in conjunction with Detective Ebert get some information as the defendants are walking away from you?

A Correct. I last announced that they had gone out of my view back towards the rear of the Smith's. Detective Ebert was able to then observe them.

Q Okay. And so he is giving you updates about where he observes them to go, but you don't observe them after they walked out of view of the Smith's; is that right?

A That's correct.
Q At some point do you get updated information from either Detective Lippisch and/or Detective Ebert that that
vehicle, that target vehicle Mercury Grand Marquis begins to move again?

A Yes. Detective Ebert had the visual of that vehicle and made the announcement over the radio that they had entered into the car, and that it's now leaving the parking lot.

Q Okay. And what was the next -- well, let me ask this. Did you leave right away, or what did you do?

A No. I stayed in that spot. It was a good spot to maintain a visual of the front. It was unobstructed. So I just remained there and just kind of monitored what the -- how the scenario was going to play out.

Q Okay. At some point do you get information given this ongoing surveillance and tracking that the defendants and the vehicle have gone to the area of 801 East Charleston?

A Yeah, I was made aware of that.
Q Okay. What did you do when you got that information?
A I initially remained in that spot, and then once there was an announcement that the vehicle was actually parking in, like, a secluded area near that bank, I started to make my way towards -- towards 801 East Charleston bank.

Q Okay. Do you remember the locations of how you got there?

A I traveled north on Maryland Parkway and made a left turn, a westbound turn onto Charleston, and as you proceed westbound on Charleston, the bank will then be there on your

JD Reporting, Inc.

C-18-335500-1,-2। State v. Phillips/Barr|2018-12-10 | Day 6 right.

Q Okay. So if the bank is over to your right, which I'm pointing out, and you're on Charleston driving, what if anything do you observe?

A So as I'm on westbound Charleston approaching the bank, I observe Anthony Barr, Damien Phillips crossed the street and then walk around the bank and then actually make entry into the front of the bank, and about the time that they were walking into the bank is when I was driving directly in front of the bank.

MS. SCHIFALACQUA: Showing counsel what's been previously provided as State's 162. BY MS. SCHIFALACQUA:

Q Detective Worley, I'm showing you State's 162. Is that an overhead map of the area you've just described?

A It is.
Q Okay. Does that fairly and accurately show that Charleston road that you were driving on and the bank location?

A Yes, it does.
MS. SCHIFALACQUA: I move for admission of 162.
THE COURT: Submitted?
MR. HUGHES: Submitted.
MR. BROWER: Submitted, Judge.
THE COURT: All right. That will be admitted. (State's Exhibit Number 162 admitted)

MS. SCHIFALACQUA: Permission to publish, Your Honor? THE COURT: You may.

MS. SCHIFALACQUA: Thank you.
BY MS. SCHIFALACQUA:
Q To kind of aid our jurors -- let me back up a little bit -- as to what you were describing, if you could use that mouse again, Detective, please, and show our jurors where you were driving when each of the defendants crossed physically in front of you.

A All right. So this right here would be east to west traveling right here on Charleston. So I was traveling west, and I was probably around this area right here at the time I observed them crossing over Gass Avenue.

Q Okay.
A And I just continued traveling westbound.
Q So did you ever see the vehicle?
A I did not.
Q Okay. Not at this time; is that right?
A That's right.
Q Okay. But you saw both of the defendants?
A I did.
Q What happens next? Where do you go?
A So as I'm passing the front, this is when I observed them round this corner and then enter the bank, and then I parked my car like right around this corner here.

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Q At this point was Detective Ebert still working with you?

A He was.
Q And were you still getting updated information from Detective Lippisch?

A That's right.
Q And did you also work with Las Vegas Metropolitan Police Department Detective Will Hubbard?

A Yes.
Q Okay. And was it your understanding that -- well, let me explain this for the jurors.

Is this a Henderson location?
A It is not a Henderson location.
Q Okay. So as far as jurisdiction goes, this is Metro's jurisdiction?

A That's right.
Q Is that partly why you were working in conjunction with Detective Hubbard from Metro?

A Yes.
Q Okay. And what do you do after you park your vehicle? What do you observe?

A So I parked the car, and it wasn't but a few moments I then observe the two running out, one with a yellow bag in their hand. They then go running and cross over Gass Avenue, and then I -- I didn't have a visual any further from there.

Q At that time were you updated that they had -- that a robbery had occurred at that bank?

A No, I had no knowledge of that. It just appeared as such.

Q Okay. Eventually over radio traffic is it confirmed that a robbery had occurred?

A That's right.
Q Okay. So not directly when you see them running with the bag, but thereafter it is confirmed that a robbery had occurred?

A That's correct.
Q What do you do next?
A So because other detectives had some observations of what's of -- like where the car had gone and whatnot, I kind of laid back a little bit and let things get situated. The next -- really the next information came is that the vehicle was then in movement I believe on Bonneville Avenue.

Q Were you aware of detectives from your department and the Metro detectives trying to enlist marked patrol vehicles with regard to pulling over that vehicle?

A Correct. That was going on.
Q Okay. Describe where you went as far as following the Mercury Grand Marquis.

A So Detective Ebert had been given updated locations. He'd had the visual on the car as it's -- as it was kind of
leaving the area. Detective Lippisch also had the tracker information and was providing updates. So essentially when the information came out that the vehicle went on Bonneville, which is just kind of north right up here, I then went up to Bonneville and essentially start following that same path that the updates were coming from.

Q And I'm trying --
MS. SCHIFALACQUA: Court's indulgence. BY MS. SCHIFALACQUA:

Q I'm just trying to get you a map to show the members of our jury, but while Mr. Scow assists me, let's have you talk about what you did next so we don't kind of waste any time.

A Okay.
Q Do you remember what path you took when you were getting those updates from Detective Ebert about where the Mercury Grand Marquis and where the defendants are?

A Yeah. The update was that the vehicle traveled I believe it was on Bonneville eastbound and then turned south, which would be a right turn on to Maryland Parkway, and that it was heading south back towards Sahara. So I essentially follow that same route not too far from the car. I didn't have a visual, but I was essentially just right behind it kind of just following.

Q Okay. And then eventually where do you end up, Detective?

A So the vehicle then turned west on to St. Louis Avenue, and then that's when marked units initiated the traffic stop.

Q Okay. And those were Metro's marked patrol units?
A Metro's marked.
Q Okay. And were they attempting and you have at least information or knowledge that they were kind of trying to set up and before they pulled over the vehicle?

A Correct. It sounded as though they were trying to get some resources into the area.

Q After that, what do you do next?
A At the time, as Detective Ebert is giving the locations and there's an announcement that the vehicle stop has been conducted at 705 St. Louis, I'm essentially traveling west on St. Louis, and at the time of the traffic stop, I observed the two flee out the back rear of the car.

Q Okay. And so I'm going to show you State's 258. That's been previously provided in discovery. Detective Worley, is that overhead map depicting the area that you were just describing?

A It is.
Q Okay. Is that a fair and accurate depiction of that area?

A Yes, it is.
MS. SCHIFALACQUA: I'd move for admission of 258.

JD Reporting, Inc.

MR. HUGHES: Submitted.
THE COURT: All right. That's admitted.
(State's Exhibit Number 258 admitted)
MR. BROWER: Submitted, Judge.
BY MS. SCHIFALACQUA:
Q All right. See if we can get -- you said East St. Louis Avenue, and I don't know that we have marked on here 705 St. Louis Avenue, but that becomes the actual location that that Mercury Grand Marquis is stopped --

A That's correct.
Q -- is that correct -- okay.
And that was by marked patrol vehicles of Metro?
A Yes.
Q We'll hear from those officers. So I don't want you to be worried about that, but what do you do next?

A So because I observed them fleeing out the side of the car, they essentially traveled northbound and are jumping over a -- like into the neighborhood and the walls. So I'm traveling on St. Louis, and I essentially go around and make my way to Bonita Avenue in an attempt to intercept as they're traveling north.

Q When you drive around towards Bonita, do you see the defendants running still?

A I observed Anthony Barr running.
Q Okay. You deserve -- observed defendant Barr

JD Reporting, Inc.
running. What do you do?
A So as he is jumping over the wall onto Bonita Avenue, I had just parked my car and was getting out of the car at the time he's coming over the wall. I then draw my firearm. I challenge him to stop. Tell him to get on the ground. He observes my presence then jumps back over the wall and runs back in the opposite direction.

Q So he did not listen to your commands to stop at that time?

A That's correct.
Q And he continued to flee?
A That's right.
Q You did challenge him; however, with your weapon, and he did not follow any of your commands?

A That's right.
Q Are you familiar then -- I'm going to show you what's been admitted as --

MS. SCHIFALACQUA: Court's indulgence.
(Pause in the proceedings)
BY MS. SCHIFALACQUA:
Q -- 705 St. Louis, State's -- previously admitted
State's 159. Detective Worley, are you familiar with the surveillance of the defendants at that location?

A Yes, I am.
Q And, in fact, is that the front area of what you just JD Reporting, Inc.
described of the defendants jumping over walls?
A It is, yes.
Q Okay. And there's a couple of clips we're going to show you if you want to describe. Is this 705 St. Louis?

A It is.
Q And what did we see there?
A All right. So the car had been traveling east on St. Louis, and it pulls into the driveway of 705 East St. Louis in a like a 45-degree angle, canted, and as I'm traveling west right here, I observed the two run out the -- come out the back rear of the passenger side and then it went pretty quick. You can then see them running towards the backyards of the houses there.

Q And you were made aware that obviously there was video surveillance from this area? You're familiar with it?

A I am.
Q Okay. I'm going to show you another angle, and what did you see there?

A So what we saw coming in in the closer portion of the video, this bottom -- the bottom right here, would be Damien Phillips running from that car towards the side and rear of 705 East St. Louis.

Anthony Barr was then running on the adjacent house and then towards the back.

Q And then we're going to show you another.

JD Reporting, Inc.

When you -- you talked about challenging defendant Barr where he did not adhere to your commands. Did he stay in that location, or which direction did he run after you challenged him?

A So he had jumped over the wall to go northbound and cross over Bonita; however, I was posted right there on Bonita. So when I challenged him, he then jumped back over the wall, and I then announced over the radio traffic that he's running back towards the actual vehicle stop.

Q Okay. And then are you aware that he then runs back across the street?

A I am, yes.
Q And that's captured in this video surveillance?
A It is. Not this clip.
Q Right. We'll go over it in a little bit. What are we seeing now?

A So this is just moments after I had challenged him. Again I was over here to the north. He then -- after seeing me, he then went back in the opposite direction towards the vehicle stop which is right here in this driveway. So after challenging him, he then runs across the street over towards this red building.

Q And then we're going to show you one more angle of the video cameras at 705 St. Louis. Are we looking at the side of that building?

A It is. This is the west side of 705.
Q Who was that?
A That would be Damien Phillips right here jumping over the wall running that way.

And then Anthony Barr, as I had previously stated, was -- initially ran to the adjacent house towards the back, and then that would be him jumping over the wall there. I'm directly on the other side of that house at the time he's coming over that wall.

Q What are we seeing here?
A So this will be Anthony Barr after I had challenged him, and indicated that he had run back the opposite direction towards that car. That was him turning that corner right there.

Q And we see the gentleman who is at 705 St. Louis kind of pointing in the air. Let me ask you this. Was there an air unit assisting at this time during this portion of the stops?

A Yes.
Q And you were made aware of that; is that right?
A That's right.
Q You weren't part of Metro's radios, but you guys had been linked up; is that fair?

A That's right. And I had my just personal observation.

Q Okay. And you could see and hear the air unit?

A That's right.
Q Okay. After Defendant Barr runs back away from you, what do you observe?

A So my very first observation of him as he's going over the wall is he was holding a yellow plastic bag. It appeared to be the same bag I observed one of them holding in front of the bank as they entered. So as he jumped over the wall, he's holding the bag, and then I then challenge him, and he climbs back over the wall continuing to hold the bag.

Q At some point do you observe that bag and/or money?
A Yes. So as he jumps over the wall, I then run to the wall, and I'm starting to jump over the wall, and at that time I observed the bag was sitting on the ground, and the contents of the money was just spread out all over the place.

Q Showing you what's been previously admitted as State's 205. Is that the front of the location that you're talking about where the money is observed?

A Correct. That's the front of 1606 Bonita.
Q Okay. And showing you 208. What are we looking at here?

A So this is where I said he had just -- he had just jumped this wall right over here, and there was money spread out along the side of the wall over here, and then there was all this, and then this was the bag that I observed him holding.

Q And --
A And then, as I had indicated earlier, his direction of travel was back towards the car. So he would have continued on.

Q Do you stay without money until it's collected?
A I --
Q Or what happens?
A I stayed with the money until I was relieved by a Metro detective who then took custody of that scene.

Q Okay. And was that detective Detective David Miller?
A It was, yes.
Q And after Detective Miller takes over this scene, what do you do? Tell our jurors where you go next.

A So because there's just various scenes going on, different locations, arrest locations and whatnot. So I was just trying to find a way to be useful at that time. So I had gone to the in-custody locations to see if there was any help I can provide and ultimately went back to the scene of the car.

Q And by the in-custody locations, did you see Damien Phillips being taken into custody or having been taken into custody?

A Yes, I did.
Q I'm going to show you what's been previously provided in discovery as State's 231. Do you recognize that?

A I do. That is Damien Phillips being placed in JD Reporting, Inc.

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custody.
Q And is that a fair and accurate picture of what you observed on August 9th of 2018?

A It is.
MS. SCHIFALACQUA: Move to admit at this time.
MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. That'll be admitted.
(State's Exhibit Number 231 admitted)
MS. SCHIFALACQUA: Permission to publish 231, Your
Honor?
THE COURT: You may.
MS. SCHIFALACQUA: Thank you.
BY MS. SCHIFALACQUA:
Q And that you indicated, Detective, is Damien Phillips at his arrest location?

A It is.
Q Did you also have occasion to go see Anthony Barr at his arrest location?

A I did.
Q Showing you what's been previously admitted as State's 232. What are we looking at here?

A This is Anthony Barr in custody in a Metro vehicle?
Q Now, did you have occasion to observe anything about Anthony Barr's face when you saw him in person?

A Yeah. There was some unusual observations. It appeared that he had makeup on his shirt right here on like the collar area and then on his face in various spots. It was like really sharp contrasted like in the area right here below his eye, and just it was like a sweaty makeup appearance.

Q Okay. And this picture, is it fair to say it doesn't do as much justice as the in-person observations that you had?

A Correct. It's very distinct in person.
Q Okay. And did you see that makeup smeared, for lack of a better term, on his face?

A It was smeared, yeah.
Q Okay. And he was sweaty?
A And sweaty.
Q You had observed him running obviously?
A Correct.
Q It was August 9th?
A It was hot.
Q Did those two locations you went to -- did you also go to the location of the Mercury Grand Marquis that had been pulled over?

A That was my next stop.
Q And did you have occasion to see the females that were taken into custody at that location?

A I did.
Q And did you observe Sabrina Henderson at that

A Yes. She was -- she had already -- both of the females had already been detained by the time I got over there, but, yeah, I seen them on scene.

Q Okay. And showing you what's been admitted as State's 199, are we looking at Sabrina Henderson in this photograph?

A That's right.
Q Is that a fair and accurate depiction of how you observe her on August 9th --

A It is.
Q -- 2018?
A It is.
Q And showing you what's been previously admitted as State's 195, did you have occasion to also observe Melissa Summlears?

A That's right.
Q And is that a picture of her?
A Yes, and I was standing right there when that photo was taken.

Q And so you were present when Jeff Smith, the CSA, photographed Melissa?

A That's right.
Q Okay. And that was at the location of where the Mercury Grand Marquis was found?

JD Reporting, Inc.

A It was.
Q Did, in fact, you have occasion to transport Melissa to Henderson Police Department?

A I did.
MS. SCHIFALACQUA: I'd pass the witness, Your Honor.
THE COURT: All right. Mr. Brower, cross.
MR. BROWER: I think she just took all of the
exhibits, Judge.
MS. SCHIFALACQUA: I'm sorry. Here you go. (Pause in the proceedings)

CROSS-EXAMINATION
BY MR. BROWER:
Q So, Officer -- or, Detective -- sorry -- you said that when you left the one Smith's location you came up, you drove up Charleston Boulevard towards the U.S. Bank; correct?

A That's right.
Q And that's the exhibit that I just -- I have no idea --

MS. SCHIFALACQUA: Court's indulgence.
162.

MR. BROWER: 162. Sorry.
BY MR. BROWER:
Q That's the right orientation; right?
A It is.
Q All right. So can you tell me again where -- you JD Reporting, Inc.

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said you saw the suspects crossing Gass Street; correct?
A That's right.
Q You can use your mouse there. Where were you when you saw them going across Gass?

A I would have been approximately in this vicinity right here where I moving the mouse back and forth.

Q And how was traffic that day?
A I don't know.
Q Light? Heavy? Standstill?
A I really don't know, but I would say light.
Q Okay. Were you traveling the whole time or driving the whole time?

A From Smith's over to here I was driving, yeah.
Q Okay. And you said you saw them -- they walked across Gass; correct?

A They did.
Q They walked across Gass, and they walked around to the front of the building?

A They did.
Q And you were probably here when you first saw them?
A Around that area, yeah.
Q Okay. And you continued driving, I'm assuming, the speed limit to not cause attention to yourself; correct?

A I don't know the speed I was traveling.
Q Were you going at a walking speed?

JD Reporting, Inc.

A I was not walking, no --
Q No. I mean, were you driving at a walking speed?
A A slow speed.
Q Okay. Were cars slamming on the brakes to go around you, or were they -- were you going -- were you impeding traffic?

A I'm sure I was traveling with the flow of the traffic.

Q Okay. And this is about a block, a block and a half; correct?

A Sure.

Q And you said you saw them. So they walked across
Gass, and then you saw them walk around to the front?
A That's right.
Q So where were you when you saw them walk around?
A I was directly passing in front at the time they were turning this corner and made entry. So I was --

Q So you --
A -- I was traveling right about here, right where that white car is.

Q Okay. So you lost sight of them on this side of the building; correct?

A I did.
Q And then you parked you said over here on the southwest corner; right?

A That's right.
Q Or the north corner of Charleston, but the southwest corner.

A Right where your pen is --
Q Is there parking spaces --
A -- in that area.
Q -- in there?
A I'm not sure what that is.
Q So I guess you say you're in an unmarked patrol car or an unmarked unit; correct?

A That's right.
Q So is this an area where you can park that you not draw attention to yourself or --

A I'm not sure. I believe there is parking right there along for this commercial building here.

MR. BROWER: Okay. I have no further questions for the witness, Judge.

THE COURT: All right. Mr. Hughes. CROSS-EXAMINATION

BY MR. HUGHES:
Q Hello, Officer. I believe you testified on direct that you saw what you believed was to be makeup on Mr. Barr when you came into contact with him; is that correct?

A Yes.
Q What color was this makeup?

A It was like a peach, like a skin tone peach.
Q When you say a skin tone, would it be skin tone for me or you or skin tone for Mr. Barr?

A I think it would be -- let me just remove that word skin tone because there is some variation in that. I'll stick with it was like a peach color.

Q When you noticed the individual you say was Mr. Barr walking in the Smith's parking lot, did you observe any peach colored makeup on him?

A I was not able to see that at that time.
Q How far away were you from the individual you said was Mr. Barr when you observed him in the Smith's parking lot?

A I can give you like an approximation: Maybe 60 to 80 feet.

Q Were you using any optical enhancement devices while you observed him at that point?

A No.
Q When you observed the individual you said was Mr. Barr walking into the U.S. Bank on Charleston, did you notice any peach colored makeup on him?

A No.
Q How far away were you at that time? Could you approximate?

A I could approximate again: 120 feet, maybe more, maybe less.

Q And once again you were not using any optical
enhancement devices at that time, were you?
A I was not.
Q When you observed the individual you say was Mr. Barr hopping over a fence in the neighborhood, how close were you to him?

A 20 feet.
Q At that point in time --
A Approximately.
Q -- did you notice any peach colored makeup?
A I did not. It was going so fast.
Q It was hot that day, wasn't it?
A It was.
Q And at least the individual you say was Mr. Barr was doing a lot of running. Is that your understanding?

A Yeah.
Q And climbing?
A Yeah.
Q Hopping and jumping?
A I did observe that, yes.
Q So he was pretty sweaty?
A Seems to be.
Q Is it possible the substance you believe you saw on Mr. Barr was, in fact, dirt mixed with sweat?

A I did not think that.

Q I believe that you also testified on direct while you were observing the individuals in Smith's parking lot, you said they were collaborating; is that right?

A I did.
Q And you said that they were facing each other and communicating; is that correct?

A That's what their body language appeared to show.
Q Are we collaborating right now?
A We are.
Q The two of us?
A Yeah.
Q So one person is speaking is another person's collaborating?

A I think when we're sharing communications to be on a single issue then, yes.

MR. HUGHES: Thank you.
THE COURT: Redirect.
REDIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Mr. Hughes asked you, Detective Worley, if you had seen the makeup on this defendant when he was making entry into the U.S. Bank. You had seen the makeup at that time; is that fair to say?

A That's fair.
Q Okay. And it wasn't until after Defendant Barr had JD Reporting, Inc.

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been running from you, after you challenged him, after he was caught that you observed that makeup; is that right?

A That's when I did observe it.
Q Okay. You observed it on his clothing; is that right?

A I did.
Q Did you also observe it smearing on his face?
A I did.
MS. SCHIFALACQUA: Okay. Nothing further.
THE COURT: Anything else based on that?
MR. BROWER: No, Judge.
MR. HUGHES: No, Judge.
THE COURT: Any juror questions for this witness?
No?
All right, Detective, there are no additional
questions. Thank you for your testimony.
THE WITNESS: Thank you.
THE COURT: Please do not discuss your testimony with any other witness in this case. Thank you, sir.

THE WITNESS: Will do, Your Honor.
THE COURT: And you are excused.
And the State may call its next witness.
MS. SCHIFALACQUA: Thank you, Your Honor. The State calls Detective Will Hubbard.

WILL HUBBARD

JD Reporting, Inc.

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[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: Will, w-i-l-l. Hubbard, H-u-b-b-a-r-d. THE CLERK: I'm sorry. A-r-d?

THE WITNESS: Yes.
THE CLERK: Thank you.
THE COURT: You may proceed.
MS. SCHIFALACQUA: Thank you, Your Honor.
DIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Detective, can you let our jurors know how you're employed.

A As a detective with the Las Vegas Metropolitan Police Department.

Q What's your current assignment, sir?
A Robbery detective.
Q And how long have you been at that assignment with Metro?

A Eleven years.
Q Okay. Prior to that -- well, let me back up. How long have you been with Metro?

A Twenty-one years.
Q Okay. And 11 years with robbery?

JD Reporting, Inc.

A Yes.
Q Okay. Were you working in that capacity on August 9th of 2018, sir?

A Yes, I was.
Q And did you have occasion to assist in what started as a series of cases with Detective Karl Lippisch, Detective Dennis Ozawa and Detective Joe Ebert out of the Henderson City Police Department?

A Yes.
Q Were you given information with regard to the robbery series suspects that had come into Metro's jurisdiction?

A Yes.
Q And did you work, in fact, closely with Detective Ebert and the other detectives on August 9th of 2018?

A I did.
Q Let's back up and kind of tell our jurors how it is you first get called to assist in this investigation. Can you let them know, please?

A Yes. That morning I get a call from a Detective Joe Ebert with Henderson police advising that they had a group of robbery suspects that were down in the area of Sahara and I-15 just west of the In-N-Out Burger sitting, possibly casing a bank. He asked me to let him know if we got any bank robbery alarms from that location or any other banks in that specific area since there are several.

JD Reporting, Inc.

So being that I'm at Alta and Martin Luther King is where my office is, and that's a very short distance, I decided to drive over that way since they were on their way just to see and well relatively just to be in the area. As I get to that area, I call Detective Ebert back, and he tells me that the car is now driving eastbound on Sahara and is approaching Maryland Parkway.

Q Did you have occasion then go -- to go to the area of 2540 South Maryland Parkway where there is a Smith's with a U.S. Bank inside?

A I did.
Q And I'm showing you what's been admitted as State's 160. It's an overhead map. Is this the area of the Smith's on Maryland Parkway that you ultimately end up going to that location?

A Yes.
Q Where is it that you are when it comes to that location?

There's a mouse in front of you by the way, Detective.

A Okay.
Q And so you can kind of use it to point things out.
A Much better than the finger.
Q Yeah. Better than your finger. Right.
A I pull in and park approximately probably right in

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this area right here.
Q Okay. And I'm sorry. I know you didn't get oriented to this map. Are the doors in this area?

A Yes. The front entrance doors, there's two doors, but they're both right in the center here.

Q Okay. And did you also work or were familiar that a Detective Worley who just exited was also working the surveillance of this team of robbers?

A Yes.
Q Okay. And how is it that you are able to communicate with Henderson Police Department?

A Originally, when I arrive at this location, I'm on the phone with Detective Ebert.

Q Okay.
A And we're relaying information back and forth.
Q Okay. And your understanding is he also is working with Detective Lippisch and Detective Worley?

A Yes.
Q Okay. And you're getting kind of updates live as they come through; is that fair?

A Yes.
Q Describe what you do when you get to this location.
A As I get here, I park and at that point the suspects had already -- who they're watching have already entered the Smith's.

Q Okay. What do you observe if anything while you were at the Smith's?

A A short time later they come out. They walked back --

Is it okay if I sort of describe on the screen?
Q Sure.
A They walk back along the front of Smith's northbound here, and then walk west through the parking lot over to Chase Bank.

Q Okay. And what do you observe the suspects doing after they walked towards the Chase Bank, if anything?

A From my field of view, it looks like one enters, but I couldn't see where the second suspect was at.

Q And thereafter do you observe them do anything else from that location?

A A very short time later they walked back eastbound right along here and past the front of where I'm parked. I see them walk by, and they continue east back to the apartment complex which is just offscreen here.

Q Okay. And that apartment complex, is that an apartment complex off of Sterling? Are you familiar with that area?

A Yes, I am.
Q Okay. And were you getting updates from Detective Ebert about where the target vehicle was?

A Yes.
Q And was that in that same apartment complex area?
A It was.
Q Okay. After the suspects walk off towards that apartment complex, do you stay in this location, Detective, or do you go somewhere else?

A I stay here until they get in their car and actually leave the apartment complex.

Q Okay. And are you continuing to get updates with regard to a tracking device that was on that Mercury Grand Marquis?

A Yes.
Q Okay. And working that as well with the other Henderson police detectives?

A Yes.
Q Describe what you do next, sir.
A After they leave the apartment complex, I meet with Joe Ebert who's inside the actual apartment complex, and he gives me one of the Henderson radios so I can communicate directly with everybody.

Q Okay. So you no longer have to be on just phone with Detective Ebert relaying what you're relaying and playing the game of telephone what you actually can get live updates and hear live updates; is that --

A That is correct.

Q After you get the Henderson police radio, what do you do next, sir?

A The vehicle heads eastbound on Sahara, eventually makes a U-turn back westbound, and ultimately, from there it goes southbound on Maryland Parkway almost to Sunrise Hospital where it makes a U-turn again and goes northbound.

Q Okay. And where do you go?
A I'm sort of just we call it bubbling. I'm in the area, but not specifically behind them.

Q Okay.
A You know, and I'm just trying to stay relatively close.

Q When you're using this bubbling technique, you're staying close in nature. Where does that direct you to?

A We ultimately end up downtown off of Charleston and 8th Street, in that area. They park just north of a U.S. Bank.

Q And I'm going to show you what's been admitted as State's 162. Is that the U.S. Bank depicted here, 801 East Charleston?

A It is.
Q Okay. And where do you go when you get in this area?
A When they set up and wherever they park -- I'm not sure where exactly it was they park, but with the information being given, they were trying to get somebody to watch the front doors of the bank are approximately right here on this
corner. I worked this area for over 10 years, and I came and parked literally about right here, which is a direct view across Charleston at the front bank doors.

Q And so I want to -- so our jurors are shown -MS. SCHIFALACQUA: If I may approach? Madame Clerk, is 163 and 179 [inaudible]?

BY MS. SCHIFALACQUA:
Q I'm going to show you what's been already admitted as State's 163, Detective. What are we looking at there?

A The front entrance of U.S. Bank.
Q And I'm going to approach with State's 179. Is this the angle looking from the bank out the other way?

A It is.
Q Is that a fair and accurate picture of that location?
A Yes, it is.
MS. SCHIFALACQUA: I'd move for admission of 179.
MR. HUGHES: Submitted.
MR. BROWER: Submitted, Judge.
THE COURT: All right. That's admitted.
(State's Exhibit Number 179 admitted)
MS. SCHIFALACQUA: Permission to publish, Your Honor?
THE COURT: You may.
MS. SCHIFALACQUA: Thank you.
BY MS. SCHIFALACQUA:
Q So now I'm just showing you kind of the opposite. Is JD Reporting, Inc.
that the front entrance looking out where you were parked across that street?

A It is.
Q So did you have eyes on the door of this bank?
A Yes.
Q You said earlier you didn't know exactly where they parked. Did somebody else have the eye as far as the vehicle was concerned on August 9th of 2018 --

A Yes, one of the Henderson detectives did.
Q Okay. And you were doing kind of a different technique as you talked about, bubbling, and then ended up parking with a view of the bank; is that right?

A Yes.
Q Were you getting prepared to call out marked Metro patrol vehicles if need be given the circumstances of what you knew about this investigation?

A As this went on, there was -- Joe Ebert came over the radio and said that here's an update. My boss says if they -if the robbery goes down at this bank, we're going to take them down and asked me to get downtown units in the area.

Q Okay. You were prepared and going to get ready to do that if a robbery occurred?

A Yes.
Q Okay. With regard to you looking at -- and again I'll show you 163 -- the front door, what happens next? Tell
our jurors what you see.
A The two suspects come from -- the parking lot is here to the street behind it. They walk this way coming in the bank. A short time later they come and run out carrying a yellow bag.

Q Okay. And did you have occasion to take video surveillance at that time?

A Yes. After they entered the bank.
MS. SCHIFALACQUA: And permission to publish a portion of State's 156 for authentication purposes?

THE COURT: All right.
BY MS. SCHIFALACQUA:
Q And I'm going to pause this first of all. Do you recognize this video?

A Yes.
Q Is this the video that you took while you were surveilling the suspects in this investigation?

A Yes.
Q Is this a fair and accurate copy of the video you took on August 9th, 2018?

A Yes.
MS. SCHIFALACQUA: I'd move for admission of State's 156.

MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.

THE COURT: All right. 156 is admitted.
(State's Exhibit Number 156 admitted)
BY MS. SCHIFALACQUA:
Q And, Detective, you can just tell us what you observe when you observe it, please.

A So during this time is when the radio traffic was given that if the robbery does occur that they'd like downtown units, and they were going to take them down and effect the arrest.

Q We don't have any sound here, but that's what you're indicating is on this video in fact?

A It is. When the doors open, you can see the yellow bag being carried by the person in the front, and they run off back northbound towards the same direction they came from.

Q Then do you have occasion to call out to Las Vegas Metropolitan Police Department's patrol units in Downtown Area Command to get them on scene in order to effectuate an arrest?

A Yes. I am now relaying the information from the GPS and the detectives following the car to the downtown units on the downtown channel.

Q Okay. And with regard to those units, your understanding is that they do make an arrest ultimately of the suspects?

A Yes.
Q Do you go to the arrest scenes, or what do you -- are JD Reporting, Inc.

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State of Nevada, Plaintiff
v.

Anthony Barr, Appellant
Docket Number 78295

## APPELLANT'S APPENDIX Vol. VI

NRAP 26.1 Disclosure
The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Jeannie Hua, Esq., Attorney of record for Appellant, Anthony Barr Clark County District Attorney's Office for the State of Nevada

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you tasked with doing?
A I stay and handle the scene at the bank.
Q Okay. With regard to the scene at the bank, describe for our jurors what you do.

A At that point, once patrol arrives, we put up -- they put up the crime scene tape. I request our CSI and ultimately interview the victims and or witnesses that are present at the bank.

Q Okay. And so did that include Jada Copeland? She was one of the tellers.

A Yes.
Q Did it include Claudia Benitez or Claudia Ruacho Benitez?

A Yes.
Q And did it also include some other handwritten statements of victims of just customers at the bank as well?

A Yes.
Q Okay. When it comes to the CSA, was that CSA Jeff Smith? Did he arrive on scene?

A Yes.
Q And did he take photographs of that scene while you were there?

A Yes, he did.
Q With regard to the set up of --
MS. SCHIFALACQUA: Court's indulgence.

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BY MS. SCHIFALACQUA:
Q Showing you what's been admitted as State's Exhibit 169. Detective, what are we looking at here?

A These are the two teller stations inside the bank. The two bank employees were at this window and this window --

Q Okay.
A -- were the only two windows open inside the bank.
Q When that scene was processed, it included latent print processing; is that correct?

A Yes.
Q Ultimately were you given information about a latent lift that was recovered from one of those teller stations?

A Yes.
Q And did that include an identification of a Bryce Crafton?

A It did.
Q And I'm going to show you what's been already admitted as State's 394, and, in fact, is that Bryce Crafton?

A It is.
Q With regard to the arrest scenes, were those tasks to other detectives and/or officers?

A Yes. The Henderson detectives remained at the scene where they were taken into custody, and then Detective Dave Miller from my section came and helped out and recovered the money that was found in one of the backyards.

Q Okay. With regard to then the suspects from the arrest on August 9th of 2018, they were taken by Henderson, not yourself; right?

A That is correct.
MS. SCHIFALACQUA: Okay. Court's indulgence.
I'd pass the witness, Your Honor.
THE COURT: All right. Mr. Brower.
MR. BROWER: I'm going to pass the witness, Judge. THE COURT: Mr. Hughes?

MR. HUGHES: Nothing, Your Honor.
THE COURT: Any juror questions for this witness?
All right, Detective, I see no additional questions.
Thank you for your testimony. Please don't discuss your
testimony with any other witnesses in this case.
THE WITNESS: Thank you, Judge.
THE COURT: Thank you. You are excused.
THE WITNESS: Thank you, ladies and gentlemen.
THE COURT: State, call your next witness.
MR. SCOW: The next witness will be --
And we can do part now. He'll be like a little bit lengthy.

THE COURT: Okay. We'll start and then take our lunch break around 12:15 --

MR. SCOW: Joe Ebert.
THE COURT: -- is everybody okay with that?

UNIDENTIFIED SPEAKER: Huh-uh.
THE COURT: No? You need a break now?
Counsel, approach.
(Conference at the bench not recorded)
THE COURT: All right. Ladies and gentlemen, rather than just take a 10-minute break and then come back for another 15 or 20 minutes, we'll just take our lunch break now. We will be -- we'll have a little bit of a longer lunch break today. We'll be in recess for the lunch break until 1:30.

During the lunch break -- it's almost 12:00 now -you're all reminded you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium. Do not visit any of the locations at issue, and please do not form or express an opinion on the case.

Please leave your notepads in your chairs, and follow the bailiff through the double doors. 1:30.
(Jury recessed at 11:53 a.m.)
(Pause in the proceedings)
THE COURT: How are we on finishing?
MS. SCHIFALACQUA: We have four --
THE COURT: I mean, it seems like we've --

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MS. SCHIFALACQUA: After Detective Ebert we will have all of the arresting officers. It will be Brooks, Patterson, Damschen, Farrington, Papazian and Parrish and Miller that we have lined up for today. And then we anticipate tomorrow having four to six witnesses.

THE COURT: And then that's it?
MS. SCHIFALACQUA: And then we should be prepared to
rest our case in chief.
THE COURT: So --
MS. SCHIFALACQUA: So we believe that we should be done by tomorrow.

THE COURT: So we'll do closings Thursday then?
MS. SCHIFALACQUA: Thursday, correct, provided
defense doesn't call the defendants.
THE COURT: Or --
MS. SCHIFALACQUA: Or other witnesses.
THE COURT: -- any other witnesses.
MS. SCHIFALACQUA: Correct. Sabrina or somebody.
THE COURT: I'm assuming you're not calling any
witnesses, but we'll cross that bridge. It's a little early to canvass the defendants. So we won't do that today --

MR. BROWER: And, Judge, I've actually --
THE COURT: -- we'll maybe do that tomorrow.
MR. BROWER: On that topic, I told my client to wait until the end of the testimony --

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THE COURT: Right.
MR. BROWER: -- to make the decision --
THE COURT: Right.
MR. BROWER: -- on whether he wants to testify.
THE COURT: That's why I'm not going to canvass them until we get to the very end of everything.

MS. SCHIFALACQUA: Sure.
THE COURT: Or just right before the last witness or something like that.

MS. SCHIFALACQUA: Right. But we are moving. We anticipate calling all those witnesses today. We have them lined up for it.

THE COURT: Okay.
MS. SCHIFALACQUA: And so then I think we'll be able to finish tomorrow our case in chief.

THE COURT: Okay. And then like I said, closings
then on Thursday --
MS. SCHIFALACQUA: Thursday.
THE COURT: Have you sent your proposed jury
instructions to the defense yet?
MS. SCHIFALACQUA: I have not, but I did do them yesterday. So I just want to get them kind of finalized. Mr. Scow was going to look at them, and then we'll send them over tonight.

MR. BROWER: And, Judge, she sent me stuff the last JD Reporting, Inc.

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several weekends on this case. I don't know why she couldn't send it yesterday, just so we're clear.

MS. SCHIFALACQUA: It's because I was
[unintelligible] a little too tired. I want to relook at that before I --

THE COURT: You guys, if you -- defense has any, just send the ones that are in addition or in lieu. Don't send a whole other packet because --

MR. BROWER: We understand, Judge. We're talking about potentially having one, and we need to see the State's before we reach an agreement on that.

THE COURT: Right. And then if you do have proposed changes, get with the State and see if you can work it out.

MR. BROWER: I understand, Judge.
THE COURT: If you can't work it out, then we'll do it --

MS. SCHIFALACQUA: Thank you, Your Honor.
THE COURT: All right. Lunchtime.
(Proceedings recessed at 11:56 p.m., until 1:45 p.m.)
(In the presence of the jury)
THE COURT: All right. Court is now back in session. The record should reflect the presence of the State through the deputy district attorneys, the presence of the defendants along with their counsel, the officers of the court, and the ladies and gentlemen of the jury.

And is the State ready to call its next witness?
MR. SCOW: Yes, Judge. Joe Ebert.

## JOSEPH EBERT

[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: It's Joseph Ebert. J-o-s-e-p-h,
E-b-e-r-t.
THE COURT: You may proceed.
MR. SCOW: Thank you, Judge.
DIRECT EXAMINATION
BY MR. SCOW:
Q How are you currently employed?
A With the City of Henderson, robbery-homicide unit.
Q You're a detective within that unit?
A I am.
Q How long have you been within that unit as a robbery-homicide detective?

A Eight years.
Q How long have you been a police officer?
A Twenty-four years.
Q And before your eight years in robbery-homicide, what were your different roles or assignments?

A I worked in patrol as a field training officer, also JD Reporting, Inc.
in undercover narcotics for five and a half years. I've worked as a resource officer for the school at one point in my career, and in the investigations unit, robbery-homicide and also in intel.

Q So directing your attention to the beginning of August of this year, you were working with the robbery-homicide section at that time?

A I was.
Q You were aware of a bank robbery series that was being worked by Detectives Lippisch and Ozawa?

A Yes, I was.
Q Did you become involved with assisting in that investigation and follow-up investigation?

A I did.
Q When did you first become involved?
A August 8th for surveillance.
Q Okay. The day before on August 7th, did you happen to go to a location related to this case?

A I did.
Q What was that location?
A It was Aviator Suites.
Q Okay. Why did you go to the Aviator Suites on August 7th?

A I don't remember the exact date to be honest with you, but it was the 7th, August 7th. Just confirming that
was the date.
Q Did you do something there before surveillance started on the vehicle?

A Yes.
Q Okay. So surveillance started on the 8th. The day before is the 7th.

A Yes, the day before.
Q Okay. And that -- the address of that is 4244 North Las Vegas Boulevard?

A That's correct.
Q And was your purpose in going there to confirm the nature of a building you'd seen in a photograph?

A That's correct.
Q What was -- tell us about that and why you went there.

A So we had a social media post where a possible suspect vehicle had been parked. So I went to the Aviator Suites to see if we could locate the vehicle, and in that social media post there was a vehicle in that post that was in the parking lot of the Aviator Suites which confirmed the location where that picture was taken from.

Q Was that Facebook post one from the account of Damien Phillips?

A It was.
Q Okay. And when you went to the Aviator Suites, you JD Reporting, Inc.
said you saw the vehicle in the parking lot. What else did you confirm or identify that particular day?

A That day, a little bit after 11:00, 12:00 o'clock in the afternoon, I observed the suspect vehicle arrive at the Aviator Suites.

Q And what was the suspect vehicle again?
A It was a Mercury, maroon colored Mercury.
Q A Grand Marquis?
A Yes.
Q And what happened when you saw that vehicle enter the parking lot?

A It pulled in the parking lot and parked in front of the downstairs apartments on the right-hand side of the parking lot. Everybody exited the vehicle, went upstairs to an apartment upstairs and entered that apartment, took some property out of that apartment, brought it downstairs, and then Damien eventually entered the downstairs apartment, knocked on the door, couldn't see who opened it, but somebody did open the door. He went inside, came out and put some stuff in a white Protege, which was the broken-down vehicle in the parking lot that we had saw in the Facebook post.

Q Okay. We're going to break down a little bit what you just testified to. Who was it that you saw get out of the red Mercury Grand Marquis?

A So Damien, Anthony Barr and Sabrina Anderson.

Q Okay. And Damien, is that Damien Phillips?
A That is.
Q And do you see Damien and Anthony in the courtroom today?

A I do.
Q Can you point to them and describe an article of clothing and who was who.

A Damien is on the left-hand side with the white color shirt and khaki pants.

And Anthony is in the middle with a pink colored collared shirt, and I can't see his pants.

MR. SCOW: Your Honor, can the record reflect identification of defendants --

THE COURT: It will.
MR. SCOW: -- Damien Phillips and Anthony Barr?
THE COURT: It will.
BY MR. SCOW:
Q Showing you what's been marked as State's Proposed Exhibit 318 and ask if you recognize this.

A I do. This is that Protege.
Q That was in the parking lot of the Aviator Suites?
A It is.
MR. SCOW: Move to admit State's Proposed 318.
MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.

THE COURT: All right. 318 is admitted.
(State's Exhibit Number 318 admitted)
MR. SCOW: Publishing for the jury to see.
BY MR. SCOW:
Q The red building in the background, is that the Aviator Suites?

A It is.
Q And where was this vehicle parked in relation to the apartments that you saw Damien and Anthony enter?

A Pretty much right in front.
Q Okay. So there's one downstairs and one upstairs?
A That's correct.
Q And you saw Sabrina Henderson with them as well?
A I did.
Q And earlier -- I said we're going to kind of break it down.

So you'd seen them go to an apartment upstairs?
A That's correct.
Q And then afterwards they went and knocked on an apartment directly below it?

A Yes. So when he went to the upstairs apartment, he just walked right in, and when he came to the downstairs apartment and he knocked on the door, unknown person opened the door. I don't know who it was. I couldn't see who was opening the door from the inside. And he walked in.

Q And you're saying "he." This was --
A Damien.
Q Okay. And then after when they exited, was Anthony with Damien when he went into that bottom apartment?

A I don't remember if Anthony went into the bottom apartment or not.

Q Okay.
A He was with him, but $I$ don't know if he actually physically walked into the apartment.

Q And you'd seen some property being carried out of one of those apartments?

A I did.
Q Which one?
A Both.
Q Okay. Where did the property go?
A Some of it went into the Grand Marquis, and some of it went into the Protege.

Q And ultimately did you see them all get into a vehicle and leave the area?

A I did.
Q Which vehicle was it?
A The Grand Marquis.
Q And who was it that got in and left?
A Sabrina Henderson, Damien Phillips got in. Anthony Barr got in, and Melissa Summlears got into that vehicle and
then left.
Q So she was with them when they left that location?
A Yes.
Q And just to also through the photographs and exhibits, if you can just indicate who's who. In Exhibit 232, do you recognize this?

A I do.
Q Who is that?
A That is Anthony Barr in the backseat of a Metro police car.

Q And in 181?
A And that's Damien Phillips.
Q The clothing that they're in, did there come a time that you saw them in person wearing the clothing in these photographs?

A Yes, I did.
Q When was that?
A Before a bank robbery that occurred in Vegas and at the Smith's grocery store.

Q Okay. And that was on August 9th?
A That's correct.
Q Okay. Just to make sure we are seeing who is it that you're talking about, in 199, who is this?

A That's Sabrina Henderson.
Q And --

MR. SCOW: 195 been admitted?
THE CLERK: Yes.
BY MR. SCOW:
Q Okay. And State's 195?
A And that's Melissa Summlears.
Q Okay. So on the 7th, when you were doing your preliminary follow-up, you'd seen all of them get into the Grand Marquis and then leave the parking lot?

A I did.
Q Did you do anything else with regards to this case on the 7th?

A No. Once we followed the car over to where it went which was Circus Circus, we did nothing more.

Q So from that Aviator Suites parking lot, you followed the red Grand Marquis to Circus Circus?

A That's correct.
Q So what happens the next day now, August 8th?
A I go back to Aviator Suites where I'm getting information in reference to who lived in the two apartments upstairs and downstairs, and while I'm there, I received a radio transmission or a notification from my unit that the vehicle was on the move.

Q Okay. And maybe we have our dates crossed up. On August 8th, is that when you had followed the vehicle to the Circus Circus?

A Yes.
Q Okay. Because the next day is when you started doing some visual surveillance?

A Not on August 8th. August 8th we had started visual surveillance that morning.

Q Okay. Saw it go to the Circus Circus?
A Yes. We followed it to the Circus Circus. August 9th is when I'm at the Aviator Suites getting the information from management on reference to who's in the apartments when I get notified that the vehicle is on the move.

Q So I just want to make sure that we're clear. When you had gone to the Aviator Suites and saw the defendants and the two females with the vehicle, that was on August 8th?

A Yeah. That's where I was confused on the date. That's why I was saying I wasn't certain on the 7 th or the 8 th but whichever day it was, it was the day before the bank robbery actually occurred.

Q Okay. And the bank robbery occurred August 9th.
A Okay.
Q And then prior to that is when you went to the location at Aviator Suites to confirm the Facebook location?

A Yes. That's correct.
Q Okay. So then August 8th is when you followed it to the Circus Circus, and then was a tracker placed on the vehicle at that time?

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A Yes, it was.
Q Okay. So now moving to August 9th, the following morning, the tracker is already placed. What do you do that morning?

A That morning on August 9th I actually go to the Aviator Suites, meet with management, get notified that the vehicle was on the move. I leave the Aviator Suites and go attempt to locate the vehicle while it's moving, and ultimately find it in a parking lot in an apartment complex near Smith's.

Q Okay. So back at the Aviator Suites, so you said you were confirming who was renting the two apartments --

A That's correct.
Q -- 142 and 242?
A That's correct.
Q And who did you confirm that was renting those?
A I don't remember the guy's first name for the downstairs. It was --

Q Vidal?
A Vidal. That's correct.
Q And upstairs?
A Damien Phillips.
Q But while you're doing that, you receive a call from Detective Lippisch that the Grand Marquis is on the move?

A That's correct.
Q When you get that information from Detective

Lippisch, where did you go?
A Ultimately ended up at the Smith's grocery store, but went to try to get behind the vehicle or get eyes on the actual vehicle.

Q So as you're driving around on the streets, Detective Lippisch is giving you updated information as to the vehicle's location?

A That's correct.
Q But you weren't able to intercept it before you went to the Smith's parking lot?

A I actually intercepted it, if you want to call it that, in the parking lot of the apartment complex. That's where I first came in contact with it, when I went to that apartment complex.

Q The morning of the 9th?
A Yes.
Q Okay. And is that when you were confirming the information about who's renting the room?

A Yes.
Q And then when you left the Aviator Suites to catch up to the vehicle location, where did you meet up with it?

A That's at the apartment complex and near the Smith's grocery store. That's where I first put my eyes on the vehicle itself.

Q Okay.

A I know that there was a time prior to that before. So I have to explain. There's the detective, Detective Lippisch, is giving us that radio transmissions of where the car is at. There was a period of time where it was in the downtown area of Las Vegas by the Regional Justice Center, where we are now. It left there and ultimately ended up at the apartment complex right before or just east of the Smith's grocery store.

Q That's at Maryland Parkway and Sahara?
A Yes.
Q Is that the Sterling Apartments?
A I don't remember the name of the apartment complex, but that's where it was at, just east of the Smith's.

Q Okay. But you weren't following the vehicle when it was prior to the Smith's location?

A No, because we had a tracker on the vehicle. So we didn't have to be right up on it.

Q But Detective Lippisch, who was getting those updates, he could follow where it was at?

A Yes, he could.
Q Showing you Exhibit 160. Do you recognize this?
A I do.
Q Okay. That's showing the Sahara and Maryland Parkway intersection and the Smith's there as well?

A That's correct.

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Q So you had mentioned that you went to this location following the information provided by Detective Lippisch. What did you do when you got there?

A I ultimately went to the apartment complex which is just east of that, which is where I was told the vehicle was parked.

Q Okay. If you use the mouse, you can kind of indicate if it's on the map or off the map?

A It's off the map, and it's just to the east over here behind the Smith's.

Q Okay. So that's where you went at first?
A That -- yes.
Q Were you able to obtain a visual of the red Grand Marquis?

A I was.
Q Where was it?
A It was parked in the apartment complex just to the east over here, and it pulled head in into a parking spot.

Q Nose end in first?
A Yes. That's correct.
Q Could you tell who was with the vehicle at that time?
A I could not.
Q Did you see anybody get in or out of the vehicle?
A I did see both Damien and Anthony get out of the vehicle. I couldn't tell which doors they exited from on the JD Reporting, Inc.

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car itself, but they got out and started walking towards -- on the map I'll show you -- walking through the apartment complex, which would've came -- took them out here onto the East Sahara side.

Q Okay. So the north end?
A Toward Smith's.
Q The north end of that building?
A Yes.
Q Did you see the clothing that they were wearing?
A I did.
Q And was it consistent with what you saw in those previous photographs?

A It was except for they had a couple of additional pieces. They had a skullcap on is what we refer to it as.

Q And describe the skullcap.
A It's just a tight fitting black cap that fits over their head.

Q Okay. And it's -- the clothing otherwise is what you see in State's 181?

A That's correct.
Q And 232?
A That's correct.
Q So you saw them wearing that clothing get out of the Grand Marquis and head north to the north end of the Smith's building?

A That's correct, walking that direction, and then I pulled out of the parking lot of the apartment complex. I parked in Smith's.

Q Okay. Show us on the map where you went.
A So I parked about in this area right here in Smith's behind another detective that was in the parking lot.

Q Okay. And do you see where the entry of the Smith's is?

A I do, right here.
Q Okay. So you were -- the area that you indicated was fairly close to the entrance?

A Yes.
Q You could see who was going in and out at that time?
A Uh-huh.
Q That's a yes?
A That's correct.
Q Okay. When you got over there, did you see Damien and Anthony walking in any direction?

A I did. They came around the side of the building and walked right up to the front here, stood outside for I don't know, 30 seconds or a minute, communicated back and forth and then went in.

Q How long were they inside the Smith's?
A Not very long, probably around a minute, pretty quick.

Q What did they do when they came out?
A When they came out, I left the parking lot. They started to walk through the parking lot over towards this Chase Bank. I left the parking lot because we weren't exactly certain where they were going and drove back around to the apartment complex to get eyes on the car.

Q Showing you Exhibit 161, do you recognize this?
A I do.
Q What is it?
A And that's Damien Phillips and Anthony Barr in front of the Smith's.

Q So after you drive around and back to the apartment where the car is parked, you're obviously not seeing what Damien and Anthony are doing in the parking lot?

A That's correct, not in the Smith's parking lot I'm not seeing.

Q Tell us then what you observed when you get over to where the Grand Marquis is parked.

A I'm told that they're walking back towards the Grand Marquis or the apartment complex. I watch him approach the vehicle. Both of them approach the vehicle, get into the backseat of the Grand Marquis. The Grand Marquis backs out and drives away, and we follow it at a distance.

Q So at that point in time were you parked at either a close or better vantage point that you could see where they got
into the vehicle?
A Yes.
Q After you said they backed out and drove away and you were following, where did you go?

A Initially they went eastbound on Sahara, and we eventually went northbound towards Charleston.

Q Did you follow them for a little bit and made your way then towards Charleston?

A That's correct.
Q What happened when you got to Charleston?
A We noticed that they ultimately ended up in an alleyway between 8th and 9th Street off of Gass, right off Charleston and Gass right there. I parked on the south side of Charleston where I had a visual of a U.S. Bank, the backside of the U.S. Bank in the alleyway where the car had went into the alleyway, and I lost sight of the vehicle at that point.

Q So at this point in time -- well, I'll show you this just to give the jury an idea of where you just said you positioned yourself. In 162, do you see on this map where you had positioned yourself?

A I do. I had parked in this parking lot right here facing this way where I could see the backside of the U.S. Bank and the alleyway between 8th and 9th, which is where the car went. Once it pulled into this alleyway, again I lost sight of the car.

Q And from your position, you can see the bank building. Can you see the front entrance?

A I could not see the front entrance.
Q As this is happening, at some point did you get a hold of Las Vegas Metropolitan police detective?

A I did. I had already previously talked to him and met up with him and gave him a radio.

Q Where did you give him the radio at?
A At the apartment complex by Sahara at the Smith's grocery store.

Q And what was that detective's name?
A Detective Will Hubbard.
Q And is it fair to say you got a hold of him because you're now in Metro's jurisdiction and want Metro's assistance when you're there?

A That's correct.
Q All right. And as you're positioned here on Charleston, tell us what you observed.

A So while I'm parked in this parking lot here and the suspect vehicle initially went down this alleyway, I observed a female -- later identified as Melissa Summlears -- walk from the alleyway towards the bank. I radioed that to Detective Hubbard and all the other units that were out there.

Q How is it that you were able to identify the person you saw from some distance as Melissa?

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A Because when the car backed out of the parking lot of the Smith's -- or I'm sorry, the apartment complex next to the Smith's, I could see it was occupied four times and who was in the specific positions in the car at that point.

Q So who was in the car when it backed out of that apartment by the Smith's?

A The driver was Sabrina Henderson, and the passenger was Melissa Summlears, and then in the backseat were Damien and Anthony.

Q And the clothing that Melissa was wearing that day that you saw her in the car and then walking down that alley, what was the clothing she was wearing?

A She was wearing a blue top with dark colored pants.
Q And that's what we're seeing in 195?
A That's correct.
Q So you saw her come down from the alley, walk towards the bank. At some point do you lose sight of her?

A I do. As soon as she rounds the west side of the bank, I don't see her anymore.

Q Okay. I'm going to show you a portion of State's Exhibit 154 and ask if you recognize anything from this? This is an already admitted exhibit.

A So that's Melissa walking into the bank.
Q And at this point in time, had you seen Damien and Anthony come down from that alley?

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A No, not at this point.
Q And I'm fast forwarding some. This is at --
MR. SCOW: Just for the record, when she came walking in, it was at roughly 34 minutes 20 seconds.

And this is also for the record: Clip 4 of the different clips for inside the bank.

BY MR. SCOW:
Q And what do you see now?
A She's -- Melissa is walking towards the exit.
Q And what's the time that she's walking out? Right here on the bottom.

A $35: 22$.
Q So about a minute she's in the bank?
A About a minute. And then she exited.
Q From your vantage point, you said you lost sight of her when she got to the north end of the bank. At some point did you see her come into view again?

A Actually I think it's the west side of the bank is where I lose sight of her. Right when she rounds the west side of that bank, I can't see her anymore. If we can go back to that picture, I can --

So right when she comes from the alleyway and crosses the street and rounds this side of the bank, I can't see her anymore from my position over here.

Q Okay. And then shortly after losing sight of her,

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did you see her again in that area?
A I do. She came back from the same side of the bank that I lost sight of her right back up the alleyway.

Q What was the time frame from when you lost sight to when you saw her again?

A A minute or so.
Q Not very long?
A Not very long.
Q After you saw her walk up into the alley, you lose sight of her heading north. What happens next?

A I see Anthony and Damien come from the alleyway, the same alleyway and walk towards the bank around this corner, I lose sight of them again.

Q About the time frame from when you saw Melissa disappear to when they come down?

A It's probably a minute or two from the time Melissa walks up the alleyway that I see Damien and Anthony come from the same alleyway.

Q Okay. Now, I'm going back to the surveillance video, and this is from that U.S. Bank. State's Exhibit 154. And 35:25, that was the time that Melissa exited the bank; right?

A That's correct.
Q So I'll just play it continuously from there so we can just get a feeling for the time frame of events from when Melissa was there to what happens next, and we'll fast-forward

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to move it along a little bit, but I just wanted to --
And it's moving about two seconds at a time from what you can see on the bottom time frame; is that right?

A Yes.
Q Does that appear to be some customers that just walked in?

A It does.
Q Someone else just walked in?
A That's correct.
Q That wasn't Damien --
A -- a customer.
Q -- or Anthony; right?
A No. That's correct.
Q And what do we see here?
A Damien Phillips and Anthony Barr entered a bank.
Q And that's the clothing you'd seen them wearing and then the black skull caps --

A Yes. That's correct.
Q -- as you described them.
And how would you describe Damien's pants?
A They're like a plaid, red colored plaid, like a pajama-bottom-type pants.

Q So then the -- just for the record, at 42:54, when they are walking into the front entryway.

And what we just saw there was, time reference, was JD Reporting, Inc.

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that about the time frame right after you'd lost sight of them as they came around that back corner of the bank?

A Yes. It was pretty fast.
Q So after you lose sight of them, what do you observe as you're posted there at Charleston and Gass?

A When I lost sight of them and I'm being told over the radio that they entered the bank, and then I'm being told over the radio that they exited the bank, and when they exited the bank they were carrying a yellow colored bag, came back around the corner of the same side of the building right here and went right back up the alleyway running, on foot.

Q And when you're getting updated information, that's from detectives who are -- that can see the front entry of the bank?

A Detective Hubbard, yes. That's correct.
Q And did you see them come running to the back side of the bank?

A The back side of the bank going northbound up the alleyway.

Q You saw that?
A I did.
Q You lose sight of them as they run in between the houses --

A Yeah, right up the alleyway. As soon as they get into the alleyway, you can't see them anymore. I lost sight of JD Reporting, Inc.
them.
Q What did you do after you lost sight of them?
A Knowing that they ran northbound up this alleyway, I immediately shot across Charleston, went up Gass, turned right on 9th Street looking for the car, the suspect vehicle, the Grand Marquis. And I drove northbound on 9th. I don't know if you have a picture to show the next intersection. They passed the first intersection. I believe it's Garces is the street, and the second street or intersection would be Bonneville. They turn -- I turned right, and they happened to pass right in front of my vehicle that I was in.

Q So just to make sure it's clear, you turned up 9th, and you described driving up to Bonneville. Is Bonneville a one-way street that heads eastbound?

A I can't say if it's one way to be honest with you, but it does go eastbound.

Q Okay. So as you're coming up to Bonneville, what do you see?

A I see the car pass directly in front of me, and I pull in behind it.

Q And what do you do at that point?
A I'm giving radio transmission or communication to all of my detectives that are in the area explaining where we are, where we're headed, and Detective Hubbard is coordinating with Metro to get the traffic stop done on the vehicle so we can

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take them into custody.
Q At that point in time, in the vehicle you were in, were you going to effect a traffic stop?

A I was not.
Q Were you waiting for marked Metro police vehicles?
A I was.
Q And from the time that you saw the vehicle, after Barr and Phillips had run north up the alley and you catch sight of the vehicle on Bonneville, did you lose sight of that vehicle again?

A I did not.
Q And what did you follow it to?
A St. Louis and Maryland Parkway where it turned right on St. Louis.

Q Okay. Showing you Exhibit 258. Is this showing St. Louis 10th, 8th, 6th Streets, the area of St. Louis?

A Yes.
Q And this is after they would've turned right from Maryland Parkway?

A That's correct.
Q And if you can just indicate on there what you observed and what happens along St. Louis.

A So Maryland Parkway is over here to the right, and they turned right on to St. Louis, and I stayed behind them until I saw a Metro black-and-white pull in behind my car.

Then I pulled over and let the black-and-white pull in front of me, and once they affected or activated their emergency lights or just prior actually to activating the emergency lights, the vehicle pulled into a -- halfway into a -- somebody's residence and partially in the street. Metro activated their lights, and we did a felony car stop.

Q I'll show you what's been marked as State's Proposed 384 and ask if you recognize this?

A This is a picture from inside the Metro police vehicle showing my car in front of them.

Q And what's in front of your car?
A It's the suspect vehicle, the red Grand Marquis.
Q And that's fairly and accurately depicting the events that morning, August 9th, 2018?

## A Yes.

MR. SCOW: Move for admission of State's 384.
MR. HUGHES: Your Honor, I've got an issue with this. Unless he lays a foundation that this officer was actually in the Metro vehicle that was following his vehicle, he really doesn't have any firsthand knowledge of what it would appear to be.

MR. SCOW: He indicated he's in this vehicle off to the right, and that's the vehicle he was following, and it accurately depicts the scene that he was there present for.

THE COURT: Okay. So he can't see through the

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windshield, but you knew there was a police vehicle behind you? THE WITNESS: That's correct. THE COURT: And then you're in this -- this -- I don't know.

THE WITNESS: It's a Chevy Tahoe. THE COURT: Okay. Thanks. And then the target vehicle is the one ahead of you? THE WITNESS: That's correct. THE COURT: All right. I think he's clarified. It's admitted.
(State's Exhibit Number 384 admitted)
BY MR. SCOW:
Q Showing you now 384. Can you just let the jury know what it is that you were just describing and what you see here.

A So this is from inside the Las Vegas Metropolitan police car. This is my car right here which is a goldish colored Chevy Tahoe, and this is the suspect vehicle right here.

THE COURT: So to be clear, your view wasn't the exact same thing as from the vehicle, but the depiction of the street and everything is accurate?

THE WITNESS: That's correct.
THE COURT: Is that right? Okay.
BY MR. SCOW:
Q And you had just barely driven past this area where

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the police vehicle is at too; right?
A I'm sorry. I don't understand that.
Q Where this police vehicle is that --
A Oh, yes. Yes. Uh-huh.
Q -- you were moving in that direction, and you had just been --

A That's correct. Yes.
Q And you saw the police car coming up behind you?
A That's correct.
Q So everything that you see that's in front of you there, that's what you saw that day?

A That's correct.
Q And after you pull to the side, you previously described how the Metro car when it was pulling out to the red Grand Marquis it pulled over before the Metro turned on their lights and sirens?

A That's correct.
Q Did you see what happened? Tell us what happened after that.

A So as soon as I pulled over, let Metro go around me, the suspect vehicle just automatically pulled over partially into a driveway and partially in the street of a residence. I believe it was 705 St. Louis.

Both Damien and Anthony exited the rear of the vehicle, the passenger area of the vehicle, on foot and took
off running.
Both Sabrina and also Melissa stayed in the vehicle.
So we stayed with the vehicle while other detectives, including the air support unit, which was up for Metro, surveilled Anthony and Damien as they ran.

Q How do you know it was Damien and Anthony jumping out of the car at that stopped location?

A Well, at the time I didn't know the exact name of the persons, but I knew that they were the same people that we were doing surveillance on in reference to the bank robberies. I knew that they were the same two people that we saw go to the Smith's grocery store and the same two people that we saw leave the U.S. Bank after it was robbed.

Q Wearing the same clothing, the red --
A The same clothing.
Q -- red pajama pants, and then the other one with the jeans, the light shirt with the long black sleeves?

A Long black sleeves underneath, that's correct.
Q Were you involved with going after them or taking anybody into custody?

A Just the two females with the car. We didn't pass by the car because it was still occupied. So we dealt with them while other detectives and patrol units from Metro, including air support, took them, Damien and Anthony, into custody.

Q And who was it that was driving the red Grand

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A It was Sabrina Henderson.
Q And Melissa, she was the --
A Front passenger.
Q -- front --
So as you're at that -- the vehicle stop location, the red Grand Marquis is at an angle semi into the driveway of that residence. What do you do as far as taking control of or assisting with that scene?

A So I pull my tan, my goldish colored SUV on the left side of Metro. We complete a felony car stop, getting both Sabrina and Melissa out of the vehicle. Ultimately they're placed and handcuffed -- in handcuffs and detained by patrol officers.

I along with one of the Metro patrol officers go up and clear the car and observe a hand gun on the floorboard of the passenger side -- in the passenger compartment behind the driver seat on the floorboard of that car.

Q So in the rear area of the red Grand Marquis?
A Uh-huh. That's correct.
Q Did you do anything to take the gun out of the car or anything with the vehicle at that location?

A Not at that location. We sealed it and towed it to our crime scene lab.

Q So after the arrests are effectuated are the suspects JD Reporting, Inc.

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taken to Henderson police station for processing and booking?
A To the jail for booking.
Q Okay. And was Detective Lippisch involved with that end of it?

A Yeah. Yes. He would've been involved with the booking, interviews and all that with the suspects.

Q And what did you do after that in terms of the different locations and search warrants to search different items or locations? What did you do next?

A I went back to the Aviator Suites where a search warrant was served on both the apartments upstairs and downstairs, and I interviewed two different individuals.

Q Okay. And was that Vidal Holman and Jasmine Moorehead?

A It was Jasmine Moorehead and Jakari Miller.
Q Okay. Vidal wasn't there at that time?
A Vidal was there, but I did not interview him.
Q Did you get anything from Jakari?
A I did. He emailed me a video which showed Damien wearing a woman's clothing, woman's wig --

MR. BROWER: Judge, I'm going to object to what the video is alleged to have shown. They can play the video if they lay the foundation.

MR. SCOW: Well, at this point I won't try to lay a foundation with this witness.

THE COURT: Okay.
MR. SCOW: I was just trying to elicit that he got something from Jakari.

THE COURT: Okay.
BY MR. SCOW:
Q So you did get video from Jakari; is that right?
A I did.
Q And how did you get it from him?
A He sent it to me in email --
MR. BROWER: Well, Judge --
THE WITNESS: -- from his phone.
MR. BROWER: Yeah, that calls for speculation that somebody is sending something from an email doesn't necessarily mean --

THE COURT: Well, he can lay a foundation. How do you know it was from that person and that -- I'm assuming you received it at your Henderson email address?

A I did while I was in the car interviewing Jakari, he sent it to me voluntarily right there in front of me. BY MR. SCOW:

Q So he pulled out his phone?
A That's correct.
Q And with our phones nowadays, we can email things; is that right?

A That's correct.

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Q And you can receive it on your end with a telephone as well?

A That's correct.
Q So you saw him pull it up and hit send and send it to you?

A That's correct.
Q Did you see what was on his phone before he sent it to you?

A I did.
Q And the email you received from Jakari while you're sitting next to him, it was the same video that you received?

A That's correct.
MR. SCOW: Court's brief indulgence.
BY MR. SCOW:
Q I'm going to show you a portion of State's Proposed Exhibit 358. When you see what you see, just let me know if you recognize it.

A Okay.
Q All right. I'll put it up there for you. Just say when you recognize it or not. Just give me a second.

Can you see it now?
A I can.
Q And do you recognize what you see?
A I do.
Q What is it?

A That's a video from Jakari's phone. It shows Damien wearing a female wig and clothing.

Q And is this consistent with anything that was investigated in this bank robbery series?

A That's correct. There was a bank robbery that occurred where it was believed Damien was wearing a wig with a female's clothing and that wig during the bank robbery.

Q And in your interview with Jakari he identified this as Damien. Is that how you know it's Damien?

A Yes.
MR. BROWER: Judge, that calls for --
THE COURT: Yeah. That's sustained.
Did you as part of your investigation review the videos from the prior bank robberies?

THE WITNESS: Not the videos, but still images. THE COURT: Okay.

BY MR. SCOW:
Q And what you saw in the still images, is that consistent with what you saw here?

A It is.
Q And is this, just for location purposes, is this inside of one of those Aviator Suites?

A That's correct.
MR. SCOW: I move to admit the video at this time.
It's 358.

MR. BROWER: I'll submit it, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. 315 you said?
MR. SCOW: 3, 5, 8. 358.
THE COURT: Oh. 358 is admitted.
(State's Exhibit Number 358 admitted)
BY MR. SCOW:
Q All right. So that just reached the end, and it started over; is that right?

A That's correct.
Q And that was what was provided to you from Jakari?
A That is correct.
Q Were you involved with -- well, I guess first of all, when you execute a search warrant and you're searching a car or an apartment or anything like that, do you call in a crime scene analyst as well to take pictures and document items of evidence?

A We do.
Q Was Crime Scene Analyst Cromwell present during the Aviator Suites while that was being searched?

A Yes.
Q And while that's happening, you were interviewing Jakari and Jasmine?

A That's correct.
Q The following day were you involved with executing JD Reporting, Inc.

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the search warrant of the red Mercury Grand Marquis?
A I was.
Q Was CSA Michael Cromwell involved with processing the vehicle that next day as well?

A In the morning.
Q The next morning?
A Yes.
Q So we'll go through pictures and evidence with him, but you were present when that was happening?

A I was.
MR. SCOW: Court's brief indulgence.
I don't have any more questions. I'll pass the witness.

THE COURT: All right. Mr. Brower, cross. CROSS-EXAMINATION

BY MR. BROWER:
Q Detective, how tall is Jakari?
A He's very short. I don't know his exact height.
Q Okay. Do you know how tall Mr. Barr is?
A I don't recall.
Q Okay. Was Jakari shorter or taller than Mr. Barr?
A Shorter.
Q And do you know how tall Damien is?
A Yes. Well, I don't know the exact height.
Q Okay. And is Jakari taller or shorter?

A Shorter.
Q And can you give me the race of Jakari?
A He's a black male.
Q And in the -- you investigated these robberies;
correct?
A I did not.
Q You did not?
A I did not.
Q Okay. Were you informed of any suspects regarding these robberies?

A Yes.
Q And were you informed that the witnesses giving descriptions of the black male about 5-foot-5 to 5-foot-7 as doing the robberies?

A I don't recall exact heights of what the description would be.

Q Would Jakari be in that height limit?
A Jakari is shorter than 5-7.
Q So I said 5-5 to 5-7 --
A I still think he's shorter.
Q -- do you think he's shorter than 5-5?
A I do.
Q Okay. How much shorter?
A I think he's closer to 5-foot to be honest with you, but I'm not a hundred percent.

Q Okay. And the only way or the way you were given Damien's name from that video is because Jakari told you; correct?

A No. I was given their names through the packet that's sent out to us --

Q Okay.
A -- it's an intelligence packet.
Q What I'm saying is you didn't have any independent way to verify in that video that that was Damien wearing the wig; correct?

A That's correct.
Q Okay. So Jakari told you that individual was Damien; correct?

A That's correct.
Q Right. On the video we just watched, it doesn't say hi, this is Damien --

A No, sir.
Q -- I'm here to identify myself and tell you who this is; right?

A That's correct.
Q Okay. So Jakari said, that's Damien?
A That's correct.
Q And Jakari is short?
A That's correct.
Q And black?

A That's correct.
Q And a male?
A That's correct.
Q Okay. How did you rule him out -- well, never mind. I'm going to withdraw that question.

You said that when you were at the apartments behind the Smith's you testified that you identified the people in the vehicle. Do you recall that?

A That I identified them?
Q You said you were able to place the occupants in the vehicle and figure out what they were wearing and basically who they were based on the events that unfolded later; correct?

A I remember saying that I could tell you where Sabrina was sitting and --

Q Okay. So --
A -- Melissa was sitting.
Q Well, that's -- and that's kind of what I want to get to. When you were at the apartment complex, were you looking at the front or the back of the car?

A Initially I was looking at the back of the car.
Q Okay. And was the windows tinted in that vehicle?
A I don't recall if they're tinted to the point where you can't see in.

Q Okay. But photos of the vehicle at the time of the stops would show that; correct?

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A It might.
Q If the windows were tinted, which I believe we'll get to photos in a minute, did you see from the front of the vehicle?

A At one point I did.
Q Okay. Is that when you identified who was sitting where?

A No. I identified who was sitting in the passenger seat as far as clothing is concerned when the vehicle was moving.
(Pause in the proceedings)
MR. BROWER: Judge, may I approach the witness? THE COURT: You may.

BY MR. BROWER:
Q Showing you what I believe has been marked as State's Proposed 277. Does that look familiar to you?

A It does.
MR. SCOW: If he wants to stipulate, we'll stipulate to the admission of the State's Proposed --

MR. BROWER: We'll have to see if Mr. Hughes wants to stipulate.

THE COURT: All right. Okay.
MR. HUGHES: Oh, I won't stand in the way of progress.

THE COURT: All right. Pursuant to stipulation then, JD Reporting, Inc.

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can we admit 277?
MR. BROWER: 277, but it's the State's Proposed, Judge, not mine.

THE COURT: Right.
MR. BROWER: And for numbering purposes, it'd be great to just keep it with them.
(State's Exhibit Number 277 admitted)
BY MR. BROWER:
Q So does that look like the vehicle that you encountered?

A It does.
Q Okay. Do you know where that photo was taken?
A In our crime scene garage.
Q And will that truly and accurately reflect the way it looked at the time you found it?

A No.
Q No? You guys changed it?
A No.
Q So what's different?
A Well, it appears that the windows are much darker sitting downstairs in that basement.

Q Okay. But you would admit the windows are tinted in that; right?

A I would say that the rear window is tinted, yes.
Q Okay. And you think that this is different than the JD Reporting, Inc.

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way it looked when you were at the scene?
A I could see through the windows.
Q Okay. So you think this window was tinted at the crime scene?

A No.
Q At the crime lab?
A No.
Q Okay. So that -- you don't think that anybody changed the window tint?

A No.
Q Okay. How's the lighting in the crime lab? Do you know?

A Dark.
Q Enough light to take this photo though; right?
A Yes.
(Pause in the proceedings)
BY MR. BROWER:
Q One other quick question. You said you saw a white -- I believe you said a white Mitsubishi; correct? A Protege?

A Protege.
Q Is that the vehicle you described as a white Protege?
A That is the Protege, yes.
MR. BROWER: Okay. I'm going to ask to actually approach the witness, Judge.

THE COURT: You may move freely.
BY $\operatorname{MR}$. BROWER:
Q So does this picture as I'm showing it to you
accurately reflect the Protege that you saw?
A It does.
Q Okay. Does that picture show a white Protege or a silverish Protege with a black or dark blue door?

A Silverish Protege with a dark-colored door.
Q Okay. So is this the Protege you were talking about?
A That is.
Q Are you colorblind?
A No.
Q Okay. So is there a reason you described it as a white Protege?

A It looked white.
Q Okay. I mean, did you have sunglasses on?
A No. I don't wear sunglasses.
Q Okay. And real briefly you mentioned going on Facebook; correct?

A I did not go on Facebook.
Q So when they asked about the Facebook post that took you to the Aviator Suites, that wasn't you that reviewed the Facebook posts?

A That's correct. I did not go on Facebook.
Q Okay. Well, I think it was social media and the JD Reporting, Inc.

State said Facebook. Did you go on social media?
A I did not go on social media.
Q Okay. So that was not you that went on social media to do the investigation here in the Aviator Suites?

A That's correct.
MR. BROWER: Okay. I'll pass the witness, Judge. THE COURT: Mr. Hughes.

CROSS-EXAMINATION
BY MR. HUGHES:
Q Officer, I think you were called in to help with surveillance in this case on the 7th of August?

A Initially, yes, that was the day we confirmed the Aviator Suites.

Q And you personally went to the Aviator Suites to look for what?

A The picture of the -- the Protege that was in the picture of -- that was sent out in social media.

Q And while you were there, did you notice the red Marquis?

A Not on the 7th.
Q I'm sorry. Not what?
A Not on the 7th.
Q On the 8th you saw the grand -- how close did you get to the Grand Marquis on the 8th?

A I was using binoculars. I was sitting across the JD Reporting, Inc.
street, so probably a couple hundred yards.
Q Were you able to verify the VIN number from where you were?

A No.
Q So what you identified was a Grand Marquis, not necessarily the Grand Marquis; is that right?

A I believed it was the Grand Marquis we were looking for.

Q And well, you could tell the color from where you were; is that correct?

A That's correct.
Q Could you make out the make of the car?
A I could tell it was a Ford product.
Q Okay. What else could you tell from your location?
A I could tell the people that exited the vehicle and went into the rooms.

Q You could only identify them once they exited the vehicle?

A No, I could tell who the people were that went into the rooms, and that suspect vehicle that was in the parking lot matched the pictures that was sent out in the intel packet of the suspect vehicle --

Q At least from a hundred yards?
A -- that we -- yeah, a hundred or so, 200 yards.
Q Officer, I think you said that you were somewhere in

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the vicinity of the U.S. Bank on East Charleston on the 9th; is that correct?

A That's correct.
Q Did you ever enter the U.S. Bank on East Charleston on that date?

A I did not.
Q Did you enter it on a subsequent day?
A Not that I can recall any day.
Q Now, I recall you being asked to view a video, State's 154, and you described I think Melissa entering the bank and being inside the bank. Do you remember doing that?

A I do.
Q So if you were never in that bank, how did you know that was the interior of the bank?

A I knew that that was the video that was given from Metro in reference to the bank robbery that occurred prior to the incident.

Q Okay. But you had no firsthand knowledge because you've never been in the bank?

A That's correct.
Q So we made a little assumption, did we?
A No, I wouldn't say so.
Q Who did you learn rented Unit 142 at the Aviator Suites?

A Vidal.

Q And you don't remember his first name?
A I can't remember, no.
Q Did you ever meet this individual?
A I think Vidal was his first name.
Q Oh. Do you remember his last name?
A I don't.
Q Did you ever meet him?
A I did not. I didn't interview him. I didn't -- I saw him through binoculars when he came into the parking lot, but I don't remember what his first name is.

Q Okay. Do you remember what he looked like?
A I do.
Q What did he look like?
A A light-skinned male. I couldn't tell if he was black or Hispanic, but he was light-skinned with dark-colored hair.

Q But you feel comfortable that he was not Caucasian?
A I feel comfortable saying he was light-skinned.
Q Did you actually conduct the search of both of the units at Aviator Suites --

A I did not.
Q -- pursuant to a search warrant?
A I did not.
Q Do you know who did?
A I don't.

MR. HUGHES: Okay. Thank you, Officer. That's all I have.

THE COURT: Redirect.
MR. SCOW: Thank you, Judge. REDIRECT EXAMINATION

BY MR. SCOW:
Q First, with regards to the social media and the Facebook, you didn't look at it. You were just assigned to go follow up and see if you could confirm the building that was in that picture?

A That's correct.
Q And you did that on the 7th?
A On the 7th.
Q And then mobile surveillance started on the 8th?
A That's correct.
Q The tracker is placed on the 8th?
A That's correct.
Q At the Circus Circus Manor?
A That's correct.
Q And you were asked when you saw the vehicle at the Aviator Suites parking lot from your binoculars, you were asked if that was the red Grand Marquis. Had you done the investigation in this case?

A I had not.
Q Had you looked at any of the body cams of prior JD Reporting, Inc.

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vehicle stops of that red Grand Marquis?
A I did not see the actual body cam videos of prior traffic stops.

Q That was Detective Lippisch who did that?
A That's correct.
Q And at the scene he confirms that that is the red Grand Marquis?

A That is correct.
Q When -- you were asked about the differences in the picture that you saw of the Grand Marquis at the lab and with the windows that looked extremely tinted in the photograph; is that right?

A That's correct.
Q When you saw it at that apartment complex parking lot by the Smith's at Sahara and Maryland Parkway, was it a vehicle that you could see the inside of?

A Yes, it was.
Q When you testified first on direct that when you first got there the way the vehicle was positioned you couldn't tell who was in the car from where you parked?

A That's correct.
Q Is that in part because of distance and the windows were tinted?

A It was because there's other cars parked around it too in the parking complex and the position of where I

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initially was when I first pulled into that apartment complex.
Q And when you first got there, that's when you saw Damien and Anthony get out of the car and head towards the north side of the Smith's?

A That's correct. I saw them -- I couldn't see exactly which doors they exited from the car, but I could see them coming from that car. They couldn't have gotten out of any other car.

Q Okay. And you went up to the Smith's parking lot, saw some things, saw them come around and walk to the front of the Smith's?

A That's correct.
Q And then after they left Smith's and headed toward the Chase, you went back to the vehicle?

A That's correct.
Q And where you parked you had a different vantage point?

A That's correct.
Q So you could better see the vehicle and who was getting in and out of the vehicle?

A That's correct.
Q And ultimately you saw Damien and Anthony come back to and get inside the vehicle?

A That's correct.
Q And you could tell they got in the rear portion of JD Reporting, Inc.

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that vehicle?
A That is correct.
Q And when it backed out, is that when you saw the front windshield?

A That's correct.
Q And you could see who was in the driver's seat and the front passenger?

A That's correct.
Q And could you see their clothing?
A I could see the upper portions of their clothing, not the lower portions.

Q And there are regulations and laws as far as how tinted the front window can be; is that right?

A That's correct.
Q So you can see out of them when you're driving?
A That's correct.
Q But that's when you saw who was in the front of the vehicle?

A That's correct.
Q And you could see their clothing?
A That is correct.
Q Now, the final line of questioning from me is with regards to the video you got from Jakari. In that video, you see an individual with a long wig that is black on top and then white that comes down the last part?

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A That's correct.
Q And also in a dress? Is that right?
A That is correct.
Q And it's a male?
A That's correct.
Q On the surveillance video of the Bank of the West, July 31st, 2018, you saw still images of that same image, the male in a dress with that same wig?

A That's correct.
Q Inside the Bank of the West?
A I believe it was outside of the bank where I saw that image. I did see additional images, but I can't remember exactly where they were at.

Q And you are the investigator of this case?
A That's correct.
Q But specifically in regards to that dress and the information provided by Jakari, inside that bank, the counter the person in that dress touched, there was some latent prints that came back to a palm of Damien Phillips; is that right?

A That's correct.
MR. SCOW: I don't have any more questions.
THE COURT: Mr. Brower.
MR. BROWER: Nothing further, Judge.
THE COURT: Mr. Hughes, any other questions?
MR. HUGHES: Nothing further, Your Honor.

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THE COURT: Any juror questions for this witness?
All right. Counsel, approach.
(Conference at the bench not recorded)
THE COURT: Detective, we have some juror questions. A juror asks, did both Damien and Anthony load things into the Protege?

A Just Damien.
Q Who owns the Protege, if you know?
A I don't know who legally owns it.
Q All right. Do you know the original date from the video Jakari sent you?

A I do not.
THE COURT: State, any follow-up?
MR. SCOW: No, none from the State.
THE COURT: Defense, any follow-up?
MR. BROWER: No, Judge.
MR. HUGHES: No, Judge.
THE COURT: Any additional juror questions before I excuse the witness?

All right, Detective, I don't see any additional questions. Thank you for your testimony. Please don't discuss your testimony with any other witnesses in this case.

THE WITNESS: Thank you.
THE COURT: You are excused.
And, State, call your next witness.

MR. SCOW: David Brooks.
THE COURT: Sir, right up here by me, please. And then just please remain standing facing our court clerk, and she'll administer the oath to you.

## DAVID BROOKS

[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat.
THE WITNESS: Thank you.
THE CLERK: State and spell both your first and last name for the record.

THE WITNESS: David Brooks. D-a-v-i-d, B-r-o-o-k-s. THE COURT: All right. Thank you.

Mr. Scow.
MR. SCOW: Thank you, Judge. DIRECT EXAMINATION

BY MR. SCOW:
Q How are you currently employed?
A I am currently employed with the Las Vegas Metropolitan Police Department.

Q How long have you worked for Las Vegas Metropolitan Police Department?

A About 15 and a half years.
Q What's your current assignment?
A Currently I'm assigned to the air unit.

Q How long have you been with the air unit?
A Nine and a half years.
Q Describe for us the role of the air unit when you get involved and training that comes into working in the air unit.

A The primary responsibility of the air unit is to support -- is to support the patrol function of the department. So when you first go into the air unit, you're trained up as an observer which takes roughly nine months. That's the person inside the helicopter that conducts the police work. After that, you go into a pilot training, and that takes approximately a year after which you're a full pilot and tactical flight officer. We fly six hours of patrol a day with time that we take off. There's eight area commands inside the Las Vegas Metropolitan Police Department that we provide services to aerial services on all the dynamic or Priority Zero, Priority 1 type of calls.

Q So when you're in training or if one of the officers in the helicopters is in training, is the recording of the camera that shows below, is that turned on or activated?

A No. So since we purchased the new recording capabilities, typically we record every call that we go on; however, when we're training a new officer, it's not a passive recording system. It's an active recording system. So he has to understand how the camera functions, have control of the camera, and so when they first come into the training program,
it's broken into three phases.
Phase 1 is about orientation, patrol procedures as we conduct them from the helicopter orientation, some of the basics.

And then once he starts into Phase 2, they get introduced into the mapping system, the camera system, conducting flare searches, conducting camera searches with the camera and surveillance type techniques.

Q Directing your attention back to August 9th, 2018, were you working with an officer in training at that time?

A I was. I was conducting patrol operations with Officer Mark Patterson.

Q And was he in -- what was his status in the training?
A He was in -- it was actually I believe his first or second week assigned to the unit. So he was in a very early stages of orientation training.

Q So you're the pilot, and then your partner is the one in training.

A Uh-huh.
Q Whatever is observed down below, he's not going to be turning on the recording because he's not been trained on that yet?

A No. At that point we're just really trying to get him used to the orientation from the air, seeing the streets, knowing the streets, landmarks, seeing the way police
operations appear from the air because the officers that come into the air unit typically have substantial police experience in patrol, but then transitioning that experience to what they're seeing in the air and conducting command and control from the air takes a little bit of time to get used to, and that's what the training program is for. So he was in the first, like I said, first or second week of training, and the camera had not even been introduced to him. It wouldn't get introduced until the second phase of training.

Q So for the events that we're going to be talking about this morning, there isn't video associated with --

A No, there was no video taken at all.
Q So at about 10:45 in the morning, August 9th, 2018, did you get called out to assist with a robbery that had occurred at a U.S. Bank at 801 East Charleston?

A Yes, we did.
Q And tell us what you do. You're in the air at that time?

A Yeah. We were available on patrol. So we were flying patrol, which like I said, we're available to any of the area commands for any priority calls.

A priority call came out that there was a bank robbery in the Downtown Area Command, and so we assigned ourselves and then went to the wants channel. So there's -each area command has a specific radio channel, and all bank
robberies go to the wants channel because there's multiple agencies responding. So we went to the wants channel, got the details of the bank robbery and was en route, or were en route.

Q And then as things transpire, you're giving updates from what you see in the air with the Birdseye view?

A Yes. So there was -- the update was given in the wants channel, and in the aircraft we also monitor other channels as well because we have that capability.

Q And then during this, as you fly into the area and as you get there, did you receive information that an unmarked Henderson vehicle was at or near the vehicle in question?

A Yes, we did.
Q And did you locate that vehicle?
A Yes.
Q What do you do once you locate the vehicles in question?

A Well, the vehicle description was given out, and the location was given out over the radio. So we went to the location that was broadcasted. Upon seeing the video, just confirm that, hey, this is the vehicle that we're -- we make confirmation that that's the vehicle we're actually looking for, which that was given because there was a plain car behind the vehicle that was in -- that was following it, and we had the description, I believe, of that plain car, and then there was a marked patrol unit that was rolling up on that vehicle as

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well as we saw it visually. I think it was on St. Louis Street.

Q Okay. So is your air unit, you would give a -that's the correct vehicle type call out so that they know?

A Yeah, time permitting. I mean, every scenario is different, but typically we confirmed that's the vehicle.

Q The radio, you mentioned the wants channel. Is that recorded by Las Vegas Metropolitan Police Department?

A Yes, it is.
Q The Communications Bureau?
A Yes.
Q And once that's retrieved, you can listen to things that are called out with regards to a specific --

A Yeah, all radio traffic is recorded.
Q I'm going to let you listen to a portion of State's Proposed 157, and just let us know if you recognize what you hear.

Do you recognize what you've heard so far?
A That sounds like Metro radio traffic. I heard Air 2.
Q Okay. And if you recognize a voice or anything on here, you just let us know. And you were Air 2 at the time?

A Yes.
That would be Officer Mark Patterson, the tactical flight officer for that day that was in training.

Q He was your partner?

A He was my partner.
Q The one in his first or second week?
A Yes.
Q Okay. And this is going to capture the information that you're broadcasting as it happens that morning when you come out to that call?

A Yes, absolutely.
MR. SCOW: Move for admission of State's Proposed 157.

MR. HUGHES: Submitted. MR. BROWER: Submitted, Judge. THE COURT: All right. 157 is admitted.
(State's Exhibit Number 157 admitted)
BY MR. SCOW:
Q Now, the way that officers speak over the radio to each other, is it like we speak to each other in everyday language?

A No.
Q So there's going to be short phrases to help make the information go quickly from one person to the next?

A Yeah. We use 400 codes and then what we call police jargon if you will, but you'd probably be able to follow most of it.

Q Okay. So what's the call number for a robbery?
A 407.

Q Okay.
(Publishing State's Exhibit Number 157.)
BY MR. SCOW:
Q So is that you guys calling out they're behind the right vehicle for the Metro police to make a stop?

A I'm not sure. Could you replay it. I was trying to hear it, but I heard something about the car.

Q Okay.
(Publishing State's Exhibit Number 157.)
BY MR. SCOW:
Q Who was that giving information there?
A That's Officer Patterson.
Q Indicating that they were running from the car?
A Yeah. So there was a plainclothes Henderson detective that was following the vehicle that was on an admin channel, which is our administration channel, and like I said, we went to the wants channel, but we monitor both channels, and you can hear that radio traffic in there about there's an officer on the admin channel.

So we got the description that there's a plainclothes officer following, and then, like I said, there was a marked Metro unit closing in when we caught visual of the suspect vehicle. About the time that we have visual, that marked unit makes a car stop on that suspect vehicle, and so it jumps, as you can see, real quickly to they're bailing from the vehicle.

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Q So tell us, does this record and then does it keep the pauses in between --

A No. That's one thing confusing about the new or the way the recording is provided now is there's no -- like it's not in realtime. It's the exact thing that was said to the next exact thing that was said. So it's misleading. The radio traffic is not continuous like that. There may be dead spots. There may be pauses that we don't have on the audio recording.

Q So if just, for example, when you got to the area and you see the vehicle being followed by the unmarked Henderson car, there might have been some time that elapsed between confirm that's the right vehicle to, oh, they're now running --

A Yes.
Q -- running from the vehicle?
A Yes. That -- but the recording wouldn't show that because they just -- whatever was said is recorded minus the delay or the blank radio time.

Q So what we were just hearing was your partner Officer Patterson, and he's giving updates as to what you guys are seeing?

A Yeah. You heard him say -- I believe he said they're bailing from the vehicle which is because the car had just been stopped.

Q And are these things that you're able to observe as well?

JD Reporting, Inc.

A Yeah, for the most part.
Q Okay. So when he's giving description, when you're in the helicopter, the cameras or equipment that you have, does it zoom in pretty well, and you can see details pretty detailed what's happening below?

A Yes. Yes, if it's operational.
Q Okay.
A If you're using it, yes.
Q So he's giving descriptions of clothing. You can see clothing on people --

A He's using his visual -- his eyes. I mean, he's outside the ship. Like I said, he was not trained to use the camera, but he's using his eyes, and he's using binoculars. That's what he's -- his primary tools are at that moment, but from our altitude, which is typically 4- to 500 feet on daytime patrol, you can see very clearly what's going on on the ground.

Q Okay. So there was broadcast that one suspect was in custody at 8th and Canosa?

A That's what it sounded like, yes.
Q And then there's another one that's on the roof?
A Uh-huh.
Q So there was two that you were -- that were out
there. Did you guys focus your attention on one of those two?
A Yeah. Well, so our procedure is on something like this is when they bail from the vehicle we'll always stay with
the driver unless we have a specific suspect description. We didn't have that at that time.

The two bailed out of the car -- or excuse me, jumped out of the car and took off running on foot. So they both initially ran the same direction. So we stayed with the two, and we're giving out the details, as you can hear Mark, or Officer Patterson, gives out the specific descriptions of the two that jumped out of the vehicle.

Then within that time period, and it's hard to tell because, like I said, there's no gaps, but within that radio traffic, now we have units converging in on the area, and you can hear him saying unit, they're running now back southbound. There was one suspect that they were able to -- the units were around pretty quickly, and there was a second suspect that ran southbound and broke away from where the units were converging on and ran south across St. Louis. So we stayed with that suspect that was running southbound while the officers took the one suspect into custody.

Q Whose voice is that?
A That's my voice.
Q And you're giving updates as to where the one you followed southbound --

A The one went southbound, and then he attempted to hide, and so I was giving the description of where he was hiding so units that were converging on that area would know.

Q So from what they're seeing on the ground, you're telling specific things that you can see that they could identify from the ground?

A Yeah. That's -- part of our training is to paint the picture for the officers on the ground, and so we use objects that they can readily identify and then a direction from that object for officer safety purposes.

Q And from what we just heard, you were describing a truck and a box trailer?

A Yes.
Q And was this at the end of a cul-de-sac?
A It was.
Q From what was said, it sounded like it was in a cul-de-sac Alhambra Circle?

A I'll take your word that that was the street, but I don't recall the exact street, but it was in a cul-de-sac.

Q Okay. So there at the end there everybody is just trying to confirm that everybody involved is in custody?

A Yeah. That's.
Q And what's a 413?
A It's a gun.
THE COURT: And, Mr. Scow, this might be a good time to take a break.

MR. SCOW: Yeah, and I think I was just about done with questions for him too.

JD Reporting, Inc.

THE COURT: Okay.
MR. SCOW: I was about to pass the witness. So when we come back we can go to cross.

THE COURT: Does anybody need a break, or -- if
everybody's okay, we'll power on.
All right. Don't be shy.
All right. Mr. Brower.
MR. BROWER: I just had one question. CROSS-EXAMINATION

BY MR. BROWER:
Q Did I hear you say the person was leaning out of the aircraft?

A No.
Q Okay.
A I'll probably say he's out of the aircraft, which means he's looking, his eyes are looking out of the aircraft.

Q Okay. So he wasn't hanging on to some strap or something --

A No, absolutely not.
Q -- as you are flying around?
A Absolutely not.
Q So that would be one heck of a training.
MR. BROWER: All right. Thank you.
THE COURT: Mr. Hughes.
MR. HUGHES: No questions.

THE COURT: Do we have any juror questions?
Do we have any follow-up to Mr. Brower's question? MR. SCOW: No, I don't, Judge.

THE COURT: All right. Detective or Officer, thank you for your testimony. Please don't discuss your testimony with any other witnesses in this case. Thank you, and you are excused.

THE WITNESS: Thank you, Your Honor.
THE COURT: Does anybody need a break?
UNIDENTIFIED SPEAKER: Sure.
THE COURT: Okay. We'll take our break now. Let's go ahead. We'll take -- is 10 minutes enough? Put us right at 3:20.

During the brief recess, you're reminded that you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Don't do any independent research by way of the Internet or any other medium, and please don't form or express an opinion on the case.

Please leave your notepads in your chairs and follow the bailiff through the double doors.
(Proceedings recessed at 3:10 p.m., until 3:27 p.m.)
(In the presence of the jury)
THE COURT: All right. Court is now back in session, JD Reporting, Inc.

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and the State can call its next witness.
MS. SCHIFALACQUA: Thank you, Your Honor. The State calls Officer Lee Damschen. (Pause in the proceedings)

LEE DAMSCHEN
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last name for the record.

THE WITNESS: My name is Lee Damschen. L-e-e,
D-a-m-s-c-h-e-n.
MS. SCHIFALACQUA: May I?
THE COURT: You may proceed.
MS. SCHIFALACQUA: Thank you.

## DIRECT EXAMINATION

BY MS. SCHIFALACQUA:
Q Officer Damschen, can you let our members of our jury know how you're employed.

A I'm employed with Metro. This is my 11 months on. I started on January 25th.

Q Okay. So you say "11 months on." Were you working in this capacity in August of 2018?

A Yes, I was.
Q And what is your current assignment, sir?
A My current assignment right now is Northeast Area JD Reporting, Inc.

Command.
Q Okay. And that's a patrol officer in Northeast Area Command?

A Yes, ma'am.
Q Back on August 9th of 2018, Officer Damschen, were you in Downtown Area Command?

A Yes, I was.
Q Okay. And were you working alone or with someone?
A I was with my FTO.
Q Okay.
A Officer Rollo.
Q Officer Rollo, and by FTO, describe for our members of our jury, what's an FTO?

A That's a field training officer. So I --
Q How -- go ahead.
A So I'm a trainee, and he oversees everything I do.
Q Okay. And how many days on were you on August 9th with that particular officer?

A I was -- after police academy, I was on three days.
Q Okay. So Day 3 and you get assigned to this call; is that right?

A Yes, ma'am.
Q Okay. So with regard to August 9th of 2018, did you become aware than at approximately 10:45 in the morning or thereafter that there had been a bank robbery at U.S. Bank at

801 Charleston?
A Yes, ma'am.
Q And did you and Officer Rollo then get assigned to that call?

A Yes, we did.
Q Okay. With regard to how you're outfitted -- if you could do me a favor and just stand up and face the jurors for a second -- is this your standard uniform that you were wearing on August 9th?

A Yes.
Q Describe what's on your left shoulder there, sir.
A It's a body-worn camera. So anytime I hit this button that's right here in my pocket -- I'll show you -- it'll activate, and within 30 seconds of what I was filming before, and then sound will kick in, and then that's when the rest will start filling with sound.

Q Okay. And so thank you for showing that to our members of our jury, Officer. You can have a seat when you're done with that.

So on August 9th, after you get called or are made aware of this robbery that's in your particular unit, you assign yourself to the call, or you and Officer Rollo do that, and then do you hit your body camera?

A Yes.
Q Okay. Now, for purposes -- our jurors have seen a JD Reporting, Inc.
bunch of body camera footage. For purposes of court, you're aware that we've narrowed down some of that body camera footage?

A Yes, ma'am.
Q Okay. Before we play that video, sir, describe for the members of our jury kind of what location do you go to, and what's your path to get there?

A The location I go to was the street St. Louis. The path we took, we were a couple blocks down. So we had to go -I believe what the street was was Maryland, and then we had to go down and cross over to St. Louis up to 9th.

Q Were you made aware over radio traffic, which we've heard some of, were you made aware that there was an unmarked Henderson officer also following the suspect vehicle?

A Yes, there was.
Q And that suspect vehicle, was that a Mercury Grand Marquis red or maroon in color?

A Yes, it was.
Q Okay. And so did you have occasion to follow to where the suspect vehicle was as well as observe the unmarked Henderson officer's vehicle?

A Yes.
MS. SCHIFALACQUA: Court's indulgence.
BY MS. SCHIFALACQUA:
Q I'm going to publish for you, which means a fancy way JD Reporting, Inc.
of show you what's been admitted as State's 384. And is that the view from the vehicle, the patrol vehicle that you're in, Officer Damschen, showing that unmarked Henderson vehicle in front of you?

A Yes, it is.
Q Okay. Does this appear to be a still shot of the video surveillance that you had on that date?

A Yes, it is.
Q And so just so it's clear of any questions that were thrown before, this is a fair and accurate depiction of what you personally observed on August 9th?

A Yes, it is.
Q Okay. After that -- this particular vehicle gets out of the way, where do you go? Do you end up at 705 St. Louis?

A Yes, ma'am.
Q How do you end up there? Describe for our jury.
A What we do is the -- on the radio -- the Henderson unit saw us coming behind him, and then he pulled off to the right so we could go around and take the car and flash our lights and sirens at him so the car knows that it's supposed to pull over, and we go right behind it.

Q Okay. Before -- either at that time or before that time, does the vehicle start to pull over?

A If I remember correctly, it goes for a little bit, and then it pulls kind of sideways into a driveway.

JD Reporting, Inc.

Q Okay. And that driveway is the 705 St. Louis location?

A Yes.
Q At that time, tell our jurors what you see.
A At that time, once the car finally stops, I see two black males jump out of the backseat from the driver's side. The driver and the passenger stay inside the vehicle, and then we try to call the passenger out of the -- and the driver out of the vehicle.

Q Prior to the two black males fleeing that vehicle, had you given commands to that vehicle?

A I had not, but my -- Officer -- my field training Officer Rollo did.

Q Okay. And were you kind of in conjunction outside of your vehicles given commands if you will to the --

A Yes. Yes, ma'am.
Q -- the car -- okay.
And did you have your weapon drawn at that time?
A Yes, I did.
Q Okay. Is that what's known as a felony car stop?
A Yes, it is.
Q And you had obviously were stopping for the felony crime of robbery; is that right?

A Yes, ma'am.
Q Okay. After those males run, what, if anything, do JD Reporting, Inc.
you observe? Describe for the members of our jury.
A As the males run, I see they both went -- one had a yellow bag in his hand, and then both took off I believe it was north behind the house to the right of the stop.

Q Okay. Did both of them stay in that location, or did you observe something else?

A After we were able to pull both the females out of the car, one of the males decided to run back in front of us and run across the street to the church.

Q Okay. And you say after you got the females out of the car. Could it have been before the females got out of the car?

A It could have, yes.
Q Okay. But either way you saw one of the males.
A I saw -- yeah, either way I saw one.
Q Okay. Run back over.
I'm going to show you, Officer Damschen, what's been marked as -- or start to show you State's 256.

MS. SCHIFALACQUA: Permission to publish for identification purposes, Your Honor?

THE COURT: Go ahead.
BY MS. SCHIFALACQUA:
Q And, Officer Damschen, first of all, do you recognize -- well, let's play a little bit of this.

Is this a copy of your body camera worn footage from JD Reporting, Inc.

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August 9th of 2018, sir?
A Yes, ma'am.
Q And did you just hear on that radio traffic -What's a 407, sir?

A 407 is a robbery.
Q Okay. And they said that was at the U.S. Bank; is that right?

A Yes, ma'am.
Q Okay. And this is a fair and accurate copy of the footage from that date from your body camera; is that right?

A Yes, ma'am.
Q Having been redacted for court?
A Yes, ma'am.
MS. SCHIFALACQUA: Okay. I'd move for admission at
this time, Your Honor, of State's 256.
MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. 256 is admitted.
(State's Exhibit Number 256 admitted)
MS. SCHIFALACQUA: Permission to publish?
THE COURT: You may.
BY MS. SCHIFALACQUA:
Q And you heard all of those. It said, North Las Vegas admin wants. What are -- what's happening there, Officer?

A He's switching the radio channels, and what we do is JD Reporting, Inc.

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when there's a robbery in progress we switch over to wants. So that way the $F B I$ can listen on the radio.

Q Okay. And so that's what we did there so that all of the radio traffic can be on the same channel?

A Correct.
Q Okay. Are you headed down Maryland Parkway as you described showing in the video?

A Yes, ma'am.
Q Is that the plainclothes officer Henderson Detective Ebert's unit that's pulling over to the right?

A Yes, it is, ma'am.
Q And do you see the Mercury Grand Marquis up in front of you on this video?

A Yes, ma'am.
Q And you indicated --
There's a mouse in front of you, Officer Damschen.
A Yes, it is.
Q Can you point out the suspect that ran back across?
A That would be him right there.
Q There. And is it fair to say that you alerted the other officer to that on --

A Yes, I did, ma'am.
Q -- on the date -- thank you.
And, Officer Damschen, you heard, I mean, maybe some language that was used by officers. Is it sometimes

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frustrating when the general public doesn't get out of the way --

A Very, yes. Yes.
Q -- when you're on a call like this -- okay. And that was kind of depicted in the --

A Yes, ma'am.
Q -- video --
MS. SCHIFALACQUA: I pass the witness, Judge. THE COURT: Mr. Brower.

MR. BROWER: I'm going to pass the witness, Judge. THE COURT: Mr. Hughes.

MR. HUGHES: I have no questions, Your Honor.
THE COURT: Any juror questions?
All right, Officer, I see no additional questions.
Thank you for your testimony. Please don't discuss your testimony with anyone else who may be a witness in this case. Thank you and you are excused.

And the State may call its next witness.
MR. SCOW: Yes. Can we approach the bench really quick on this?

THE COURT: Sure.
(Conference at the bench not recorded) MR. SCOW: The next witness is Brian Farrington. BRIAN FARRINGTON
[having been called as a witness and being first duly sworn, JD Reporting, Inc.
testified as follows:]
THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: Brian Farrington. B-r-i-a-n. F as in Frank, -a-r-r-i-n-g-t-o-n.

THE COURT: All right. Thank you. Mr. Scow, you may proceed.

MR. SCOW: Thank you, Judge.
BY MR. SCOW:

## DIRECT EXAMINATION

BY MR. SCOW:
Q How are you employed?
A I work for Las Vegas Metropolitan Police Department as a police officer.

Q How long have you been a police officer?
A Four and a half, almost five years.
Q What is your current assignment within Metro?
A I'm a field training officer currently assigned to Spring Valley Area Command.

Q And as a field training officer, are you working patrol with a trainee?

A That's correct.
Q And patrol, your duties, you assist in calls for service and are just generally observing the streets for traffic infractions and other potential criminal-related JD Reporting, Inc.
activity?
A That's correct.
Q I'm going to direct your attention back to August 9th, 2018. Were you nearby when a call comes out for a robbery that occurred at a U.S. Bank on Charleston?

A That's correct. I was working Downtown Area Command on day shift at that time.

Q And were you working with a partner as well?
A Yes. I was working with Officer Presta, who was new to field training, just recently out of the academy.

Q So when you get the call at about 10:45 a.m. of a -it's a 407 that gets called out, a robbery?

A Correct. Bank robbery.
Q What do you do then?
A We start moving to the area of where the bank robbery was -- details were kind of fuzzy. They gave a description of the vehicle. They gave a description of the U.S. Bank. They gave a location of where the vehicle is coming at or from, and it also matches a series of bank robberies that we've been kind of happening in our area for a month or so before that.

We start heading west on Charleston and then east on 8th Street as they're giving updates as to the vehicle location. We subsequently get to about 8th and Canoso -Canosa where the vehicle has already been stopped. Two subjects have gotten out of the vehicle and fled from the

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vehicle in two different directions.
We're trying to establish a perimeter around where these subjects are running in or about. We take up the position there. We see a unmarked patrol vehicle -- subsequent was a Henderson robbery detective. We kind of make contact with him to try to establish what he might know. As we're coming up to him, he's pointing to a backyard to the south of our location indicating that one of the males that was involved in the robbery was in the backyard at one of those residences going west.

Q So what do you do after he's pointing, directing you?
A Because I'm driving, I back the vehicle up to 8th and Canosa where I'm talking to Officer Presta, giving him directions that, okay, our responsibility is this corner. We're going to watch over here and make sure the subject doesn't run west past 8th Street. We're going to make sure he doesn't go any further north over Canosa while we're talking about kind of our tactics because he's still brand-new out of the academy. He's not sure exactly what's going on.

I swing from being on 8th and Canosa to where I turned back to my left, and I see a black male running north across Canosa from the area of where the suspect was last seen trying to go north from our perimeter.

Q Okay. Let me -- I'm going to throw up on here, and you'll have it on your computer screen in front of you [unintelligible] a little bit.

Can you still read the street names on there?
A Yes, I can.
Q And can you -- you can use the mouse to indicate areas that you recognize. Do you see the area that you were at on here?

A Yes, I do.
Q Go ahead and grab the mouse and move the pointer up to where you're at.

A We should be right about here.
Q 8th and Canosa?
A Correct.
Q And a few houses down is St. Louis as well; is that right?

A That's correct.
Q And so you're in this area when the Henderson
detective --
That's not in a patrol uniform; right?
A That's correct.
Q Plainclothes?
A Plainclothes.
Q -- was pointing the direction to you. Where was the direction that he was pointing to you?

A We came down 8th Street from this direction, make the left-hand turn to go east. He's right about here, and probably

JD Reporting, Inc.
down a little bit further, but he's in this location pointing in this direction towards these houses as the last place that he saw the suspect running west.

Q Okay.
A So we take this position so we can look down Canosa, and we can look down 8th Street to ensure the suspect stays in this area.

Q So you had driven this way a little bit, but then back up --

A Correct.
Q -- as you previously testified?
A Correct. Correct. So as we made a left-hand turn to go east, we made contact with the detective who then points in this direction that the suspect is in this area. I back the vehicle up and basically point the vehicle so that we have both containments until another officer gets in the area.

Q So you're trying to set up a perimeter to prevent anybody from getting outside of that area?

A That's correct.
Q What do you do when you're at that location, 8th and Canosa? What do you see, and what do you do?

A Like I said, as I'm talking to Officer Presta and directing him to keep an eye down 8th Street, as I come back to look east on Canosa, which is where the detective is and my lieutenant subsequently in that area also, I believe he stopped

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to talk to the detective; I see a black male adult running from the south side of the street north across the -- north across Canosa. He's looking back over his shoulder.

I immediately turned towards him, draw my weapon, give verbal commands for the man to lay down on the ground and to basically stop.

Q Okay. When you're working patrol, you're in a uniform, a police -- recognizable police uniform?

A That's correct.
Q And as part of that uniform a body camera that would be up on one of your shoulders?

A It's on my left shoulder.
Q And I'm going to show you a portion of State's Proposed 255 and ask you if you recognize what you see.

Let me know when you recognize what you see.
A That's my body-worn camera. That's the watch I wear when I work on duty, and that's my left hand as I'm driving the vehicle --

Q In a nearby area?
A In a nearby area.
Q As you start to recognize the streets that you're on as we go along on this video, go ahead and let us know, but this is from events that morning, August 9th, 2018? Officer Farrington?

A That's correct.

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MR. SCOW: Okay. I'll move for admission of State's Proposed 255.

MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. That'll be admitted.
(State's Exhibit Number 255 admitted)
THE WITNESS: And then also in the upper right-hand corner is the date-time stamp even though the time says 1746 , that's from that date.

BY MR. SCOW:
Q Okay. And can they time stamp reflect when you actually uploaded it in to digital evidence?

A It could, yes. I'm not sure exactly the time stamp that's on there, and there's some drift in the tasers.

Q And just to help orient what the time frame is, is there a log that's created with each Metro event number?

A Yes, there is.
Q With regards to a 9-1-1 or another call for service?
A Any time there's a call or we generate a call for a car stop, it gets updated into our CAD system to generate the call.

Q And is this a catalyst for this particular event?
A It appears so, yes, based on the details such as the location, the burgundy Grand Marquis. They watched it happen. The car is going northbound through an alleyway towards

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Bonneville, and it says Henderson is tracking the vehicle. It's occupied four times.

Q Okay.
A And it just goes through a description of which way the vehicle is traveling and who's giving out the information.

Q And it gives times associated with --
A Yes, it does.
Q -- what's getting called out?
A Correct.
Q So again the event number is 180809-1546?
A That's correct.
It's 407, which is a burglary to the U.S. Bank which happened at 801 East Charleston, and the call comes in roughly 10:45 and three-tenths of a second.

Q And at the time that the call comes out or near when the call comes out is when you're going to be getting information about the vehicle and what you're searching for when you respond to this call?

A Yes. Immediately the information is given out with, like I said, the make, model or color of the vehicle and direction of travel.

Q Okay. I just wanted to make sure it was clear that you're responding to a 10:45 a.m. call, and the time on here is 1746?

A That's correct.

Q Which is likely when it was uploaded into digital evidence?

A Most likely, yes.
MR. SCOW: Move for admission of State's 255.
MR. HUGHES: Submitted.
MR. BROWER: Submitted, Judge.
THE COURT: All right. I think it's already in, but if not, now it's really in.
(State's Exhibit Number 255 admitted)
THE COURT: Now, I mean it.
MS. SCHIFALACQUA: It's doubly in evidence.
MR. SCOW: That's right. I forgot that happened. BY MR. SCOW:

Q Okay. As you're responding to calls like robberies when there may be information a weapon was used or threatened, what does that do for you in your mindset as you're responding?

A And in this instance I also have to talk to Officer Presta to ensure he knows exactly what the details are; he knows what our proper response should be when we arrive.
[Unintelligible], one of the biggest things is the severity of crime at issue. What's going on? This is a robbery. It's not some minor nothing. This is a robbery. Typically there is violence or a weapon is involved. So we need to respond appropriately and anticipate that we might come across somebody who has a gun or is armed and is going to fight
it out with us or shoot it out with us as soon as we make contact with them.

Q So when you make contact with someone in that situation, are you going to use strong language to get command of that situation?

A Absolutely. I need to control the situation from the onset that I make contact with that person to try to immediately de-escalate through verbal commands for him to understand where I'm coming from from the get-go. If I come in, you know, please, sir, can you do this and I'm trying to be nice, I'm probably not going to get the desired response. So if I have to come in and swear at somebody or yell at somebody to get their attention and get them to understand where I'm coming from, then I have to do that.

Q And are you prepared to use your weapon if need be to protect yourself or your partner?

A Absolutely.
Q Or anybody else who --
A Or anybody else.
Q Okay. Not -- like I said before, as we go through this, as you recognize streets, whatever, just feel free to talk about what we're observing on this video, okay?

A Okay. So you can hear the lights and sirens going because we're responding Code 3. We're switching to the radio channels to get over to the wants channel because it's a bank
robbery. So our channel is typically downtown. Because it's a federal crime, we have to switch over channels. So we're actually operating on two different channels right now. Our car is on one channel, which is where everybody's going to, and then our actual pack sets, our radios that are on our body, is actually on downtown.

Q Okay.
A So Officer Presta, who is off to my right, should have the computer up, and he's trying to read details in case we miss anything while I'm trying to navigate traffic.

Q And you heard on there there's information about a vehicle --

A A burgundy Grand Marquis.
So right now I'm trying to basically listen to see where the updates are at. Dispatch started giving a direction of travel. I'm trying to wait for them to try to give us more information so I -- before I keep going west when I should have actually gone south. That's why we stopped at this intersection. We're kind of waiting, trying to wait for the update from dispatch to tell us which way the car's going.

So I'm getting ready to come up to Charleston which is the street right in front of us, but the traffic on it directly in front of us is Charleston, and I'm going to end up making a right-hand turn to go west on Charleston. We should subsequently pass Maryland Parkway, which should be the first major street we come to.

Q Okay. And if you want to use the mouse, you can use the mouse to kinda indicate what you're talking about on the screen.

A So this is Charleston, and we'll come up here to where this car is at. We'll make a right-hand turn and head west. And then right over here should be Maryland Parkway.

So now we're going west on Charleston.
Q What was that?
A We're going west on Charleston at this point.
Q Okay. What street did you just pass through?
A Maryland Parkway.
Q I didn't mean to pause it where I did. I wasn't trying to highlight anything. I just wanted you to say the street.

You were getting a little frustrated about the call and getting assigned to the call?

A Correct. Because when dispatch finally puts us on the call it also generates a mapping system. So it shows really the entire area where the call is coming from, and it puts us on the call and tells dispatch we're on the call. So if right here I get in a car accident -- our policy mandates that when we go and start driving Code 3, which is lights and sirens, dispatch is notified either $A M$ or on the radio, or text message or on the radio, that we're going Code 3 to a call.

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This call could be at this Burger King right now. We could stop, jump out, immediately get in a shooting. I get on the radio and say shots fired, and dispatch is going to go, Where are you at? I'm, like, put me on the call. Put me on the call so if something happens everybody knows exactly where I'm at, which is why I'm being frustrated at dispatch because, like I said, we're operating on two different channels, and neither one of the dispatchers is going to -- has put us on the call at this point.

So it's frustrating because put me on the call, these guys in the car could pop out right here in front of me, and I might have an accident, and nobody knows where I'm at. So I'm getting frustrated at dispatch for not doing their job so we can do our job.

Q Okay. So you drive straight through Maryland Parkway?

A That's correct. And I'm getting frustrated with my new officer because he's not doing more than he's -- he should be doing more to try to get everybody to put on the call.

Eventually I come up here to 8th Street where I'll go south.

So I'm pointing out the air unit to him because the air units typically circle wherever the vehicle or suspect is at. So it tells us which way we're going to go.

That's 8th street.

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And again we're still not assigned to the call. So if something goes down, we're in the wind.

Up there on the left where that car comes out, so I'm now going to follow this car into the area. This is -- I'm not sure which street that was we just crossed over.

Q And the air unit you can see in this shot of your body cam?

A Correct. So I can see this unit ahead of me. So I'm not going to drive up behind him. I'm going to try to stop behind him to set up a perimeter barrier, make a north end cap so they can't go any further, and that should be Canosa right there where he stops at.

Q So you said this was 8th and Canosa?
A This should be 8th and Canosa. Correct.
So at this point I'm just waiting for updates, which direction do I need to go, and again you can still see the air unit circling ahead of us.

And that's where I'm at right now.
And that's the unmarked Henderson detective.
Q Did you speak with that detective, or is he just kind of --

A I think he was just pointing. So at this point I backed the car up to 8th and Canosa and park it.

And R3 is one of our robbery units.
So I tell Officer Presta to grab a shotgun based on

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the details of the call. The suspects of robbery might be armed. Our reach out and touch somebody weapon is a shotgun.

Q What did he say he was cut from?
A Bushes.
Q So is the end of your portion of the video for that the arrest of Damien Phillips?

A Correct. We took him into custody. We subsequently talked to the Henderson detective that's there for robbery that actually was one of the two subjects or two officers that were trailing the vehicle after it committed the robbery. We subsequently turned Damien over to that detective to process for the robbery.

Q Okay. And obviously caught on video, when you're asking his name, he says it and spells it for you. You took him into custody without incident?

A That's correct. MR. SCOW: Pass the witness, Judge. THE COURT: Mr. Brower. CROSS-EXAMINATION

BY MR. BROWER:
Q People don't like to pull over for you when you're in those cars, do they?

A Not always, no. MR. BROWER: I have nothing else, Judge. THE COURT: Mr. Hughes?

## CROSS-EXAMINATION

BY MR. HUGHES:
Q Officer, how exactly does dispatch put you in a call? What does that mean?

A How they do it, I have no idea. It's like magic to me. I told --

Q Well, what is the consequence of them putting you on the call?

A They assign, they show me that I'm assigned to this call, the robbery, whatever it might be in the event that they make -- the sergeant may ask how many officers are on this call, and she might say two, but I'm out there floating. Even though I'm going to the call, they haven't assigned me to the call. So I still show open or vacant.

Q If you are put on the call, do you have access to different or other radio channels?

A I have access to all the radio channels. By putting me on the call, everything that's been broadcast, all the details of the call are put on my computer, and now I can read the details that I may have missed before I got assigned to the call or just didn't hear in the first place. Maybe I missed an important detail of the call when it first came out. Once they put me on the call, the information populates to my computer, and I can then read whatever my updates at.

MR. HUGHES: Okay. I just didn't understand what you JD Reporting, Inc.
meant. Thank you.
THE WITNESS: You're welcome.
THE COURT: Any redirect?
MR. SCOW: No.
THE COURT: Any juror questions for the witness? No.

All right, Officer, thank you for your testimony. Please do not discuss your testimony with anyone else who may be a witness in this case.

THE WITNESS: Yes, Your Honor.
THE COURT: Thank you. And you are excused.
THE WITNESS: Thank you.
THE COURT: And the State may call its next witness. MR. SCOW: Yes. It's Manny Papazian.

## MANUEL PAPAZIAN

[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last name for the record.

THE WITNESS: The first name is Manuel, M-a-n-u-e-l.
Last name is Papazian, $\mathrm{P}-\mathrm{a}-\mathrm{p}-\mathrm{a}-\mathrm{z-i-a-n}$.
THE COURT: All right. Thank you.
Mr. Scow.
MR. SCOW: Thank you, Judge.

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BY MR. SCOW:
Q Manuel, how are you employed?
A With Las Vegas Metropolitan Police Department.
Q How long have you been a police officer?
A About four and half years now.
Q Going back to August 9th, 2018, what was your assignment on that day?

A Downtown patrol, working the downtown area.
Q And at about 10:45 a.m., did a call come out for a bank robbery that had occurred at 801 East Charleston?

A Correct.
Q And they were asking for patrol units to respond and help with a vehicle stop and arrest of the suspects?

A Yes, sir.
Q What was the description of the vehicle that you were looking for?

A A red vehicle. I can't remember the make and model off the top of my head, but it was a red vehicle.

Q Okay. If you were to look at the CAD report of the incident would that help?

A Right. I want to say Oldsmobile, but I'm not sure.
Q And having looked at that, did you ever come in contact with a red vehicle?

A We did see it pulled over as I got to the area, the JD Reporting, Inc.

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Grand Marquis.
Okay. Yeah, burgundy in color.
Q So did that help refresh your memory of --
A Yeah. Right.
Q Okay. So red Grand Marquis. So you drove by the stop location?

A Correct.
Q Do you recall where you were when you first get the call?

A I was, let's see, Main and [unintelligible] area-ish, over there.

Q So when the call first comes out, it'll take you a minute or a couple minutes to get to the area where the vehicle stop ultimately takes place?

A Right. Right.
Q I'm going to show you State's Exhibit 258. Do you recognize this?

A I do.
Q What area of downtown are we looking at?
A This would be the southern portion of our area command, if you will, say 8th and St. Louis area basically.

Q Okay. 8th and St. Louis -Where is Charleston in relation to St. Louis Avenue?

A Charleston is going to be -- [unintelligible] Sahara. So we're going to go Charleston.

Is this true north right here? And we're going --
Q Yeah. North is pointing straight up.
A Right. Then we're going to know that Charleston is going to be just north of us.

Q Okay. And in relation to this map, where is Maryland Parkway?

A Just east of us, so just to the right.
Q So off to the right from this map?
A Correct. Correct.
Q So as you get the call, you're not at the location. So you have to drive a little bit to get there?

A Correct.
Q And as you're driving, what are you looking for? What do you do?

A We're basically looking for the red vehicle, listening to the radio traffic, see which way the vehicle is traveling, and then we hear the vehicle is stopped and people are chopping out of it.

Q So when you hear that information, what do you do then?

A I just start -- we're looking for the air unit to see where he's hovering around, listening to the radio traffic which way someone's running, and we heard traffic. Someone is running southbound over a wall, if I remember right.

Q Okay. So then do you kind of anticipate the movement

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of somebody who's running and get in the area to intercept or --

A Right. Yeah. Because we're not looking for a crime anymore. So we're just looking who's hopping walls and who's trying to get away from us.

Q Okay. And that's where --
A Along with the descriptors that were provided. So.
Q Okay. Now, there's an air unit in the area as well?
A Uh-huh.
Q That's a yes?
A Yes, sir.
Q And they're giving updates as to what they're seeing and suspect descriptions as well?

A Correct.
Q And as you mentioned, there was information given about somebody running southbound; that's coming from the air unit?

A Correct.
Q I'm going to show you a portion of State's
Proposed 257 and ask if you recognize what you see in that.
Do you recognize what we're seeing and listening to?
A Yeah. This is my body camera I'm assuming. Correct?
Yes?
Q I'm asking you --
A Yes.

Q -- do you recognize this?
A Yeah, it looks like it is. Yes. As soon as I see my --

Q Do you need to see a little bit more before you --
A I'll recognize my nose once it's in the camera footage.

Q Is that your nose?
A Yeah. I recognize it. There it is.
Q All right. And this is body camera from your camera on your shoulder from August 9th, that morning?

A Correct. I'm driving. It's on my left shoulder because I have a trainee, I'd rather have driven than the new officer.

Q Okay.
A So I'm driving.
MR. SCOW: Move for admission of State's Proposed 257.

MR. HUGHES: Submitted.
THE COURT: Submitted?
MR. BROWER: Submitted, Judge.
THE COURT: 257 is admitted.
(State's Exhibit Number 257 admitted)
BY MR. SCOW:
Q Now, I'm going to play it, and as you recognize things that occur you tell us where you are and what's
happening. Okay?
A Okay. So eastbound St. Louis. I'm trying to listen to the radio, and I'm also keeping an eye out for the helicopter here. I'm trying to see where he's hovering specifically.

Q And the helicopter is in your view right here?
A Correct. Oh, yeah. I could hear and see him. Definitely.

So here I'm just trying to slow the momentum, wait for more radio traffic so I'm not driving everywhere.

Q Now, is that from the air unit?
A I believe so, yes.
So in the -- oh, sorry. This is going to play.
Q Go ahead.
A So when I heard that radio traffic, I'm familiar with that area. So I kind of know where to go once he said cul-de-sac and the black trailer. There's a little nook where homeless people like to sleep and hang out. So we've been there a few times to move it along. So once I heard that, I pretty much knew where I was going.

Q So when you heard the box trailer described --
A The box trailer in the cul-de-sac. It's pretty much the only cul-de-sac with the box trailer in the driveway there.

Q So you had right there?
A Yeah. It seems the trailer seems to never move. So

I kind of knew where to go.
Q Now, can you indicate on there where you see where the suspect is at?

A Yeah. My body camera doesn't catch it, but just to the right of the trailer, it looks like he was going to run this way, saw a patrol car and kind of ran back, and then he's between the front of the Chevy and the back of this trailer laying down in the landscaping there behind the retaining wall.

Q There's a mouse in front of you. If you grab that and move it --

A Oh.
Q If you can put the cursor where you're talking about.
A Yeah. So he looked like he was going to run this way. He saw us and kind of went back, and then --

MR. BROWER: Judge, I'm going to object as to what the person saw.

THE WITNESS: Okay.
THE COURT: Did you see him looking at you?
THE WITNESS: In our direction. I don't know. We didn't make eye contact or nothing.

THE COURT: Okay. But maybe not directly at you?
THE WITNESS: Correct.
THE COURT: Okay. And then what did you see?
THE WITNESS: Went behind this trailer and then laid down in the landscaping here.

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BY MR. SCOW:
Q And you're referring to Ponce on there. Who is Ponce?

A She's my trainee at the time, a new officer.
Q And when you're coming into a situation like this, you don't know what's in that person's mind?

A No.
Q You're taking control of the situation?
A Absolutely.
Q With strong language and commands?
A Uh-huh.
Q That's a yes?
A Yes, sir.
Q Now, as the other officers walked him out of the landscaping bush area, you saw on his clothing there was like something that looked like grass or something on his clothing; correct?

A Right. Right.
Q Did you notice anything else on him or on his clothing during this time that you're taking him into custody?

A Not at this time, just the grass on him that we can see.

Q So as you were interacting with him and getting into your patrol vehicle and placing him under arrest, did you notice anything on his face?

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A Yeah. He had -- when he was in the backseat and I was talking to him, I noticed he had what appeared to me at the time was makeup on his face.

Q Okay. And on your patrol vehicle right here, what's that?

A I'm going to go with his makeup once he rested his head on there.

Q And right before he put his face down on the hood -I'll just go right back to it. I'll go back a little bit more.

So the -- the hood is clear and wide at that point; is that right?

A Say it one more time. I'm sorry.
Q The hood.
A Yeah, there's nothing on it except for that stick looking thing.

Q Stick looking thing. And it looks like a piece of grass or something --

A Right.
Q -- was deposited?
A Correct.
Q And his feet are getting spread apart?
A Correct.
Q So you can do a pat-down search for safety reasons?
A Right. Yeah. We don't want to have a firearm or any weapons in the crotch area or pockets or anything. So we break JD Reporting, Inc.
the power base down.
Q And his face now is touching the hood of your car?
A Correct.
Q And what's left behind there?
A It's going to be his makeup on the hood of my car.
Q And you said when he's later in your car and looking at him more closely and talking to him to get his identification and stuff like that?

A Right.
Q You notice something on his face?
A Right. Because he's in the backseat. I was talking to him, and I looked, and I was like -- and I thought to my -is this guy wearing makeup? So I'm like it was weird, and then I went to another -- I think it was a detective, and I was like, hey, I think my guy is wearing makeup. However that was relevant or not I didn't know at the time, but I was finding it weird, strange.

Q You let one of the detectives know?
A Correct.
Q At the time that you're doing this, taking him into custody, do you notice this on the hood?

A I want to say I was kind of wondering what this was, and then when I looked at him and then I was thinking to myself he had makeup on, and then I kind of put two and two together. I was, like, oh, that's his makeup on my hood. Kind of what
was going through my head and my thought process, however you want to explain it.

Q So after this, there's -- it's almost halfway through. It's about six minutes. Is the rest of this just kind of processing things at the scene, updating the dispatch?

A Yeah. I think we're talking small talk, and then he said something. And so I turned my camera back on and --

Q Okay. And in this first part of the video, it's just getting to the point where you get him in the vehicle? It takes a few minutes?

A Yes.
Q So just to -- this is an exhibit now if the jury wants to review it later, but we don't need to go through all of it for time purposes right now.

A Okay.
Q But you said you did have some interaction with that suspect back in the car?

A Correct.
Q And how did you identify him? In the video you were saying it sounded like, We know who you are. What's your

A Right.
Q -- and he didn't give you his name; right?
A No. No.
Q Did he have an ID on him?

A $\quad \mathrm{He}$ did.
Q And what was his name?
A Anthony Barr I believe it was.
Q Okay.
A And I say that to every suspect I come into contact with. Just if they provide me false information, you know, kind of, hey, I know who you are and just who are you. So --

Q And then there's a second video where you turn it back on because you're going to have some interaction with him at the car?

A Uh-huh.
Q And that's a yes?
A Yes. Sorry.
Q Sorry. It's being recorded.
A Yes.
Q So you need to --
A I apologize.
Q And that's Officer Purcell who was involved in the arrest of Barr?

A Correct. He assisted with Officer Briggs in taking him into custody in the landscaping area.

Q And again the first 30 seconds is silent of your body cam?

A Correct. That's the way the body cameras work. Once we double click to activate it, it will give you 30 seconds of JD Reporting, Inc.
audio, but no sound.
Q And this is --
A Or I'm sorry. The other way around.
MR. SCOW: For the record, we're showing State's Proposed 253, and you recognize what you're seeing?

A Correct.
MR. SCOW: Move for admission of State's Proposed 253.

MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.
THE COURT: All right. 253 is admitted.
(State's Exhibit Number 253 admitted)
BY MR. SCOW:
Q So we'll watch this all the way through, and then I'll ask you follow-up questions. This is after he's already in the vehicle?

A Yes.
Q So when you went back to the car, he was trying to tell you something.

A Right.
Q What was it that he told you?
A Just something about two girls being involved. So I don't know if he heard my -- so the problem is with us is sometimes we'll leave the radio on, and they could hear what's going on, and then they'll bang on the window -- I'm not sure
if this happened exactly in that case -- and they'll want to talk to us. So I'll activate my body camera and see what he wanted done -- wanted to ask or say.

But I was careful not to ask him anything
interrogative because I don't want to get into Miranda versus Arizona case law or anything. So I let him say what he said and that was about it.

Q Okay. So he had knocked -- patted on the window. You went over and --

A See what he needed.
Q -- and from what you hear on the video, he says the two females in the car, they knew nothing about this?

A Correct. MR. SCOW: All right. We'll pass the witness, Judge. THE COURT: All right. Mr. Brower. MR. BROWER: I don't have anything for this witness, Judge.

THE COURT: Mr. Hughes.
MR. HUGHES: No questions.
THE COURT: Any juror questions for this witness?
All right, Officer, I see no additional questions.
Thank you for your testimony. Please don't discuss your
testimony with anybody else who may be a witness in this case. THE WITNESS: Thank you. THE COURT: Thank you.

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Do you have another witness?
MS. SCHIFALACQUA: Yes, we do. We have two more,
Your Honor.
THE COURT: All right.
MS. SCHIFALACQUA: Officer Parrish. STEPHAN PARRISH
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: It's Stephan Parrish. S-t-e-p-h-a-n, P-a-r-r-i-s-h.

THE COURT: All right. Thank you. Ms. Schifalacqua. MS. SCHIFALACQUA: Thank you, Your Honor.

DIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Officer, can you tell the members of our jury where and how you are employed.

A I am currently with the Las Vegas Metropolitan Police Department at Downtown Area Command.

Q And how long have you been with Metro?
A Eleven years.
Q And what's your current assignment in Downtown Area Command?

A Currently I am a COP officer, but I was an FTO.

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Q Okay. And FTO, you were the field training officer back on August 9th, 2018?

A Correct.
Q Who were you working with?
A I was working with Officer Price.
Q Okay. And Officer Price was your trainee; is that fair?

A That's correct.
Q Okay. I want to turn your attention. Did you have occasion to get called out to a robbery that had been called out over the radio at 801 East Charleston?

A Yes. Yeah. I believe we actually self-dispatched ourselves to that call, but I do -- I'm aware of the call, yeah.

Q And I apologize. I said that wrong.
A Yeah.
Q There was a call about the U.S. Bank being robbed, and then thereafter you assigned yourself to the call; is that fair?

A Correct. Correct. Yes.
Q Okay. With regard to what you were tasked with on that day, describe for the members of the jury kind of where you go with your trainee and the steps that you take.

A So ultimately when we arrived on scene, the suspects had been already -- they were already in custody, and when we
arrived, I spoke with another officer, Officer Rollo, and he described the direction that the suspects went out from the vehicle, and so I followed the path that they went, and ultimately that's when I discovered money.

Q Okay. And so it's clear, was Officer Rollo working with Officer Damschen?

A Correct. Yes.
Q Okay. And those two were together. It was his, Officer Damschen's --

A Yes. Yes.
Q -- third day; is that right?
A Yes. Yes, correct. Yes.
Q Okay. And that was in the area of 705 St. Louis?
A Yes.
Q And then you had occasion to get information from him about where suspects went, and describe for the members of our jury kind of what physically you do when you're in that area.

A So I was just retracing the steps. I'm looking for any sort of evidence via the weapon or money or any sometimes, you know, tossed clothes around, and so that's ultimately what I was looking for when I was --

Q And in this case were you aware that a gun was used at the robbery?

A I don't recall if I heard that over the radio or not.
Q Okay. Is it -- was that one of the things you were JD Reporting, Inc.
looking for?
A It was, yes.
Q Okay. And after you kind of walked around, did you have occasion to go to 701 East St. Louis?

A Yes.
Q And is there a residence there?
A It's a -- yeah, it's a residence.
Q Okay. I'm showing you what's been previously admitted as State's 224. Do you recognize that residence?

A Yes.
Q Is that the 701 St. Louis?
A Yes.
Q In Las Vegas, Clark County, Nevada?
A Yes.
Q Okay. Showing you a little closer up of State's 225. What are we looking at here?

A That's just the open gate that I ultimately discovered the money in the backyard right there.

Q Okay. And showing you then 226, is that the gate area that you're describing?

A Correct.
Q And there's a mouse in front of you, Officer.
A Okay.
Q Can you show kind of the path that you went when you observed that money?

A Okay. So I was just walking right here, and then the money is ultimately around this area.

Q Did a Detective Worley get -- get permission to go back and ultimately seize that money?

A Correct.
Q Okay. And so you had permission of the owners to go to the back of the residence?

A From my understanding, yeah.
Q Okay. And showing you 227, is that the close-up of the money that you observed?

A Yes.
Q Ultimately was that -- was crime scene analyst Jeff Smith called to scene?

A Yes.
Q Did you sit on this money or for lack of a better term watch this money until the crime scene analyst could come?

A Yes. Myself and Officer Price did. Yes.
Q Okay. And then ultimately did Detective Miller come with crime scene analyst Jeff Smith to collect that money?

A Yeah. Correct.
MS. SCHIFALACQUA: Court's indulgence.
BY MS. SCHIFALACQUA:
Q Did you wear body camera, or did you have a body camera activated on August 9th of 2018?

A I did.

MS. SCHIFALACQUA: Permission to publish a portion of State's Proposed 254 for authentication purposes.

THE COURT: Okay.
BY MS. SCHIFALACQUA:
Q And, Officer Parrish, I'm going to have you tell us when you recognize what we're observing on the video.

A I believe right now all you're hearing on the radio is just we're trying to get to the area right now.

Q Okay. And is this a fair and accurate copy of the footage that you wore from your body camera on August 9th of 2018?

A It is.
MS. SCHIFALACQUA: I'd move for admission of 254 at this time, Your Honor.

THE COURT: Submitted?
MR. HUGHES: Submitted.
MR. BROWER: Submitted, Judge.
THE COURT: 254 is admitted.
(State's Exhibit Number 254 admitted)
BY MS. SCHIFALACQUA:
Q And for purposes of this court proceeding, you're aware that we redacted some of this footage so that we're not just having --

A Yes.
THE COURT: So were not here all month.

JD Reporting, Inc.

THE WITNESS: Correct. Yes. Yes. Yes.
BY MS. SCHIFALACQUA:
Q Right. So we're not for a month. Yes?
A Yes. Yes.
Q Okay. And what are you approaching here?
A So right now I'm approaching where the vehicle was -where they ultimately left the vehicle.

Q Okay.
A That's where Damschen and Rollo were located.
Q Is that your trainee?
A That is my trainee, yes.
Q What are you approaching now?
A Officer Damschen and Rollo, and then now we're going to discuss -- that's the vehicle.

So that's when he mentioned that there was a gun in
the car.
Q And what did that do for you --
A I may -- there's a possibility that there's another one.

Q Okay.
A My understanding there was two of them.
Q So it was more than --
A Two suspects.
Q -- one suspect?
A Correct. Two suspects.

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Q And so you're going to as an officer kind of go back, search the perimeter, and that's what you did in this case?

A Well, search where they actually ran, the direction that they ran in.

So Officer Rollo just pointed out a direction that they went and said that they jumped a certain wall into the yard that I ultimately went into.

So that's when I found it, and I told my trainee to stop, and then we eventually got on the radio, announced it. We taped it out.

Q And as you indicated, you weren't tasked with collecting that money, but ultimately it was collected?

A Yes.
Q And then you ensure that no one else kind of went, took the money --

A That went -- no.
Q -- that kind of thing --
A That it just remained there.
Q -- at the scene?
A Yes.
MS. SCHIFALACQUA: I pass the witness, Your Honor. CROSS-EXAMINATION

BY MR. BROWER:
Q So when you started this, you said you were currently -- did you say a COP officer?

A Yes. It's Community Oriented Policing. I've only been there for two weeks right now.

Q Okay. I just thought it was ironic that you were currently a COP.

A I'm a cop. I'm a COP. Yeah. Yeah.
MR. BROWER: Okay. That's my only question, Judge. THE COURT: Mr. Hughes.

MR. HUGHES: No questions, Your Honor.
THE COURT: Do we have any redirect from that question?

MS. SCHIFALACQUA: No, Your Honor.
THE WITNESS: I'd give you my card.
THE COURT: Any juror questions?
All right, Officer. I see no additional questions.
Thank you for your testimony.
THE WITNESS: Thank you.
THE COURT: Please don't discuss your testimony with any other witnesses in this case.

THE WITNESS: Thank you.
THE COURT: Thank you, and you are excused.
And you --
MS. SCHIFALACQUA: And, Your Honor, the State calls Detective Miller.

THE COURT: Okay. We have a quick one?
MS. SCHIFALACQUA: Correct. THE COURT: All right. DAVID MIITFER
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last name for the record, please. THE WITNESS: My name is David Miller. D-a-v-i-d, M-i-l-l-e-r.

THE CLERK: Thank you.
MS. SCHIFALACQUA: May I, Your Honor?
THE COURT: You may.

## DIRECT EXAMINATION

BY MS. SCHIFALACQUA:
Q Detective, please let our members of our jury know how you're currently employed.

A I am a detective with the robbery section with the Las Vegas Metropolitan Police Department.

Q How long have you been with Metro, sir?
A For almost 19 years.
Q Okay. And how long have you been assigned to robbery?

A For almost 14 years.
Q Okay. And did you have occasion to work with Detective Will Hubbard on August 9th of 2018?

A Yes.

Q Was that in conjunction with a robbery that occurred at 801 East Charleston at the U.S. Bank?

A Yes, ma'am.
Q And from your perspective or understanding, did you get called out after suspects were already taken into custody?

A That is correct.
Q Okay. With regard to your duties on that date, did you have occasion to work with crime scene analyst Jeff Smith?

A I did.
Q And, in fact, did you go to two locations to collect money that was recovered from that robbery?

A Yes, ma'am.
Q The first location, did you go to a Bonita, 606 Bonita?

A That is correct.
Q And did you also go to a 701 St. Louis?
A Yes, ma'am.
Q Which one -- do you remember which one you went to first, sir?

A 606 Bonita.
Q Okay. So the 606 Bonita, I'm showing you what's been previously admitted as that address. Is that depicted here in the photograph?

A That is correct, ma'am. MS. SCHIFALACQUA: And that State's, I'm sorry, for JD Reporting, Inc.

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the record, 205.
BY MS. SCHIFALACQUA:
Q In the backyard of that home, showing you State's 208, Detective, does that look familiar?

A Yes, it does.
Q Okay. And ultimately did you also work -- there was a Detective Worley that Henderson police Detective Worley that was at that scene?

A Yes, ma'am.
Q Okay. And did he kind of pass off the duties of collecting the money to your jurisdiction, Metro's jurisdiction?

A That's correct.
Q With regard to State's 220, what are we looking at here, Detective?

A That's once we gathered it all up in the yard and we laid it out on this little storage bin so that the CSA Smith could take photographs of it.

Q Okay. And then you said your secondary location you did go to 701 St. Louis?

A Yes.
Q Is that right, sir?
A That is correct.
Q Showing you State's 225, is that the outside of that area?

JD Reporting, Inc.

A Yes, ma'am.
Q Showing you 226, is that the side area?
A Yes, ma'am.
Q And then showing you 227, what are we looking at here, Detective?

A That's the money that Officer Price and Officer Parrish found on the ground at 701 East St. Louis.

Q And did you have occasion to collect that money as well for evidence in this case?

A Yes, ma'am.
Q With regard to the collection of money, do you fill out what we call or what Metro calls or uses as a money accounting report?

A Yes, ma'am.
Q Did you do so in this case?
A Yes, ma'am.
MS. SCHIFALACQUA: Showing defense what's been
previously provided in discovery, State's Proposed 357. BY MS. SCHIFALACQUA:

Q Detective Miller, I'm going to show you what's been marked as State's Proposed 357. Do you recognize that, sir?

A I do.
Q And what is it?
A That is the money accounting report that we fill out as we were counting the money.

JD Reporting, Inc.

Q Okay. And did you physically count the money? A Yes.

Q And then did you physically fill out the report?
A I did.
Q Is your signature on there, sir?
A My signature is printed actually.
Q Okay.
A This is my supervisor's signature there. And that's my partner Jason [inaudible].

Q Okay. And your --
A Printed.

Q And your personnel number as well?
A Yes.

Q It fairly and accurately depicts the amount of money that you collected in this case?

A Yes, ma'am.
MS. SCHIFALACQUA: I move for admission of 357.
MR. BROWER: Submitted, Judge.
MR. HUGHES: Submitted.

THE COURT: All right. 357 is admitted.
(State's Exhibit Number 357 admitted)
MS. SCHIFALACQUA: Permission to publish, Your Honor?
THE COURT: You may.
MS. SCHIFALACQUA: Thank you.

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BY MS. SCHIFALACQUA:
Q Okay. So let's zoom in and just talk about what this is. If you want to go ahead, there's a mouse in front of you, Detective.

A Uh-huh.
Q And can you just point out where your information is.
A Right here.
Q Okay. And then is this -- I'm going to move this down. We have all these bills numbered. What do you do when you fill out this form in conjunction of the money you collected?

A We add it up.
Q There we go. And what was the total amount?
A $\$ 8,540$.
Q Was it your understanding that that was $\$ 20$ off of the amount of money that was taken in the robbery at U.S. Bank?

A Correct.
MS. SCHIFALACQUA: I pass the witness, Your Honor.
MR. BROWER: So I just have a couple crazy questions. What else is new; right?

CROSS-EXAMINATION
BY MR. BROWER:
Q So you see over here where it says $\$ 100$ bills, 26 of them?

A Yes.

Q How do you get to \$2700?
A That is incorrect.
Q Okay. If I add all of these up, am I going to find other inconsistencies or --

A I don't know.
Q I'm not going to do it. I just --
A I'm no math whiz, but we could get out a calculator and try.

Q Your supervisor ought to probably read things better, huh?

A He obviously made a mistake there too.
MR. BROWER: Okay. I'll pass the witness. CROSS-EXAMINATION

BY MR. HUGHES:
Q Officer, did you check to see if 606 Bonita was occupied?

A Yes.
Q Was it occupied?
A No.
Q When I say occupied, I meant owned by somebody or somebody was living in it.

A Oh. Yes. Somebody lived there. They just weren't home at the time. Correct.

Q So what did you do to ascertain whether the owner of the property had any claim to the money on his property?

A The Detective Worley had contacted -- I want to say her name was Jessica Brown.

MR. BROWER: Objection.
BY MR. HUGHES:
Q Let me stop you.
A Oh, sure.
Q What do you personally know about whether anything was done?

A I only know what Detective Worley told me when he gave me the scene.

Q So you didn't do anything yourself?
A No.
Q And you didn't seek permission to enter the property?
A Again, I only know what Detective Worley told me.
Q Regarding 701 St. Louis, is it your understanding that somebody was residing in that residence also?

A I don't know anything about the -- who was residing in that residence.

Q You did enter on that -- or you did enter the yard of that residence, didn't you?

A We sure did.
Q And did you personally get permission from anyone who may have owned the property?

A No.
Q Did you personally check with the owner of the JD Reporting, Inc.
property and whether they had claim to the money on their property?

A As I just said, no.
MR. HUGHES: Okay. Thank you, Officer. That's all I have.

THE COURT: Ms. Schifalacqua.
MS. SCHIFALACQUA: Thank you.
REDIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Detective, did you work with Detective Worley as you already indicated?

A Yes.
Q So you worked in conjunction with other officers; is that right?

A Yes, ma'am.
Q Are some of them tasked with doing certain things, and you were tasked with collecting the money?

A Correct.
Q With regard to that, let me make clear. Have you gotten any calls from any homeowners with regard to the money you collected, sir?

A We have not.
Q Okay. And if they would've claimed or had some claim to that money and contacted the unit, would you have done a report for the same, sir?

A Yes, ma'am.
Q Did you do that?
A No, ma'am.
Q Because it didn't happen?
A It did not happen.
MS. SCHIFALACQUA: Thank you. Nothing further.
THE COURT: Any follow-up?
MR. HUGHES: Officer --
THE COURT: Well, Mr. Brower might have follow-up.
MR. BROWER: Mr. Hughes is so anxious to go, I'm
going to let him.
THE COURT: Okay. Now, it's your turn.
RECROSS-EXAMINATION
BY MR. HUGHES:
Q Officer, how would the homeowner know to contact you about money that was taken from his or her property? Did you leave a card at the residence?

A Regarding the St. Louis address, again, that homeowner was spoken to on the phone.

Q You -- by yourself?
A No, by Detective Worley.
Q You believe --
THE COURT: Was that done in your presence or -THE WITNESS: No, it was done out of my presence. THE COURT: Okay.

BY MR. HUGHES:
Q So once again, how would either of the homeowners know to contact you if they had some question?

A I can only tell you that the police were out there with yellow crime scene tape or standing by there for several hours. I can only tell you that the homeowners, as far as I know, were either made aware of the fact that we were out there or would've noticed we were out there.

Other just general ideas would be that if somebody was missing $\$ 8,540$, they might contact the police department to inquire into such activity. I can only tell you to my knowledge that did not happen.

THE COURT: Or $\$ 8,440$ depending on where the arithmetic error occurred?

THE WITNESS: Correct. We'd have to pull it from evidence and recount it, and I apologize for that. BY MR. HUGHES:

Q But if they contacted the department, they would just call the usual desk. They wouldn't necessarily call you, would they?

A Me personally --
Q They wouldn't know you existed.
A Me personally, no.
MR. HUGHES: Okay. Thank you.
THE COURT: Mr. Brower?

JD Reporting, Inc.

MR. BROWER: Nothing, Judge.
THE COURT: Ms. Schifalacqua?
MS. SCHIFALACQUA: Nothing further, Your Honor.
THE COURT: Ladies and gentlemen of the jury, do you have any questions for the detective?

All right, Detective, I see no additional questions. Thank you for your testimony. Please don't discuss your testimony with anybody else who may be a witness in this case. THE WITNESS: Yes, ma'am.

THE COURT: Think you, and you are excused.
THE WITNESS: Have a good day.
THE COURT: All right, ladies and gentlemen, it's almost 5:00 o'clock. In a moment we're going to take our evening recess.

Because of some scheduling issues tomorrow, our schedule is going to be a little bit different. We're going to start at 9:00 o'clock. We're not going to take a lunch break. We're going to go until 1:30, so from 9:00 to 1:30, and then we'll take our lunch, slash, evening recess at 1:30. So for that reason make sure you eat breakfast or bring a snack with you or whatever you need to do because we're not going to break until 1:30.

The following day, Wednesday, we will be dark. So we will not be in session Wednesday.

Thursday we will reconvene at 12:30 without a lunch

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break, and we're ahead of schedule.
The good news is we're running ahead of schedule. So we'll definitely be finishing up this week either Thursday or Friday. So, again, we'll reconvene tomorrow at 9:00 a.m.

Before I excuse you for the evening recess, I must remind you that you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium. Do not visit any of the locations at issue, and please do not form or express an opinion on the trial.

Please place your notepads in your chairs and follow the bailiff through the double doors. We'll see everyone at 9:00 a.m. tomorrow.
(Jury recessed for the evening at 4:57 p.m.)
THE COURT: And while I think of it, we have to put on the record that prior to -- I can't remember which officer it was, whoever the first officer --

MR. SCOW: Farrington.
MS. SCHIFALACQUA: Farrington.
THE COURT: -- with the body-cam footage testified, counsel approached, and defense counsel indicated that they had no objection to the redacted body-cam footage and that the

JD Reporting, Inc.

State could play the redacted body-cam footage, and so I said, well, let's put that on the record at our next break.

Is that correct, Mr. Brower?
$\operatorname{MR}$. BROWER: That is correct, Judge. If you recall, when we were at calendar call, I did indicate that there was a redaction that I had requested regarding my client's apprehension that took place on -- at least on the body-cam footage, where they asked about a prior arrest, and that was redacted by the State, and obviously since we wanted it out, I'm certainly not opposed to it having come out.

THE COURT: All right. So, and, Mr. Hughes, is that correct?

MR. HUGHES: Yes. That's correct.

THE COURT: All right. And I didn't hear anything in any of the body-cam footage that would have been objectionable relating to prior arrests or convictions or jail time or gang membership or anything of that nature.

All right. We'll see everybody back tomorrow. (Proceedings recessed for the evening at 4:58 p.m.)
-oOo-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case.


220/24 223/13
BY MR. BROWER:
[12] $14 / 1066 / 1266 / 22$ 128/16 132/14 133/8 134/17 135/2 158/10 184/20 208/23 215/22 BY MR. HUGHES: [8] 69/20 136/9 185/2 216/14 217/4 219/14 220/1 220/17
BY MR. SCOW: [28] 5/22 16/5 17/1 92/13 96/17 97/4 100/3 112/7 119/12 119/24 124/5 124/20 125/14 126/17 127/7 140/6 146/17 152/14 153/3 153/10 170/9 170/11 176/10 178/13 187/2 191/23 194/1 199/13

## BY MS.

SCHIFALACQUA: [44]
18/10 21/1 22/24 25/21
26/11 28/5 28/16 30/21 32/24 35/12 37/18 38/2 42/7 45/12 46/7 47/2 47/15 50/13 51/4 54/9 56/5 57/20 63/14 72/19 74/12 81/7 81/24 83/12 84/3 86/1 160/16 163/24 166/22 167/22 201/16 205/22 206/4 206/20 207/2 210/13 212/2 213/19 215/1 218/9
MR. BROWER: [62] 15/25 16/18 17/12 30/17 34/16 41/21 41/23 45/24 46/3 47/8 50/23 56/4 63/6 66/7 66/21 69/16 73/11 81/18 83/24 87/8 89/22 89/24 90/2 90/4 90/25 91/9 91/14 96/24 123/21 124/10 124/12 126/11 127/1 132/12 132/20 133/2 133/5 134/24 136/6 144/23 145/16 152/11 158/8 158/23 167/16 169/10 176/3 178/6 184/24 191/20 193/15 199/9 200/16 206/17 209/6 214/18 215/19 216/12 217/3 219/10 221/1 223/4
MR. HUGHES: [38] 16/2 17/13 30/16 34/18 45/25 47/9 50/22 56/1 63/7 72/16 73/12 81/17 83/25 87/10 96/25 118/17 127/2 132/23 140/1 144/25 145/17 152/10 158/25 167/17 169/12 176/4 178/5 185/25 191/18 199/10 200/19 206/16 209/8 214/19 218/4 219/8

MR. SCOW: [48] 5/10 5/20 14/8 16/20 17/10 87/19 87/24 92/2 92/11 96/12 96/15 96/23 97/3 100/1 112/3 118/16 118/22 123/24 124/2 125/13 126/24 127/4 128/11 132/18 140/4 144/21 145/14 146/1 146/15 152/8 157/24 158/2 159/3 169/19 169/23 170/8 176/1 178/4 178/12 184/17 186/4 186/14 186/24 191/16 199/4 199/7 200/14 222/21
MS. SCHIFALACQUA: [97] 17/19 17/21 18/8 20/25 25/18 25/20 26/10 28/3 28/15 30/14 30/20 32/22 34/15 34/25 35/9 37/15 37/23 38/1 42/2 42/4 45/7 45/10 45/21 46/1 46/21 46/24 47/6 47/12 47/14 50/11 50/20 51/1 51/3 54/8 55/25 57/18 63/5 63/10 63/13 66/5 66/9 66/19 73/9 73/23 74/10 81/5 81/16 81/21 81/23 83/9 83/22 85/25 87/5 88/24 89/1 89/7 89/10 89/13 89/16 89/18 90/7 90/10 90/14 90/18 90/21 91/3 91/17 160/2 160/12 160/14 163/23 166/19 167/14 167/20 169/8 178/11 201/2 201/5 201/14 205/21 206/1 206/13 208/21 209/11 209/22 209/25 210/10 211/25 213/17 214/17 214/22 214/24 215/18 218/7 219/6 221/3 222/22
THE CLERK: [16] 5/14 18/2 35/5 74/3 74/6 74/8 92/6 100/2 146/8 146/10 160/8 170/2 186/18 201/9 210/5 210/9
THE COURT: [183] 5/4 5/18 16/1 16/3 16/22 17/11 17/14 17/20 17/23 18/6 22/20 22/22 25/19 30/18 34/17 34/19 35/10 37/17 37/25 42/1 42/3 42/5 45/9 45/23 46/2 46/4 46/23 47/10 47/13 50/21 50/24 51/2 56/2 63/8 63/12 66/6 69/18 72/17 73/10 73/13 73/18 73/21 74/9 81/19 81/22 83/11 84/1 87/7 87/9 87/11 87/16 87/18 87/22 87/25 88/2 88/5 88/23 88/25 89/6 89/9

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THE WITNESS: [45] 5/16 18/4 22/21 35/7 41/22 42/6 73/17 73/20 74/5 74/7 87/15 87/17 92/8 119/2 119/5 119/8 119/22 124/11 126/15 145/23 146/9 146/12 159/8 160/10 170/4 176/7 186/2 186/10 186/12 186/20 193/17 193/19 193/22 193/24 200/24 201/11 207/1 209/12 209/16 209/19 210/7 219/24 220/15 221/9 221/11
UNIDENTIFIED
SPEAKER: [2] 88/1 159/10

## \$

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20 feet [1] 71/7
200 yards [1] 137/24
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DISTRICT COURT CLARK COUNTY, NEVADA

THE STATE OF NEVADA, ) Plaintiff, VS.

DAMIEN ALEXANDER PHILLIPS, a.k.a. TRAVIS ALEXANDER PHILLIPS, and ANTHONY TERRELL BARR, )

Defendants.

CASE NOS. C-18-335500-1, C-18-335500-2 DEPT NO. XXI

TRANSCRIPT OF PROCEEDINGS

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BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE
TUESDAY, DECEMBER 11, 2018
JURY TRIAL - DAY 7
APPEARANCES :
FOR THE STATE:
BARBARA F. SCHIFALACQUA, ESQ. RICHARD. H. SCOW, ESQ.
Chief Deputy District Attorneys
FOR DEFENDANT PHILLIPS: KEITH C. BROWER, ESQ.
FOR DEFENDANT BARR: EDWARD B. HUGHES, ESQ.

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LAS VEGAS, CLARK COUNTY, NEVADA, DECEMBER 11, 2018, 9:04 A.M. * * * * *
(Outside the presence of the jury)
THE COURT: All right. We're on the record. And we're out of the presence of the jury.

MS. SCHIFALACQUA: Morning, Your Honor.
THE COURT: Good morning.
MS. SCHIFALACQUA: We did have a lay witness that was as of a couple minutes ago parking at the Fremont parking garage and making their way over, but before they testify I did want to outside the presence address just some things before the Court. It includes Jaszman who testified at the preliminary hearing and potentially Vidal Holman as well.

Earlier in the trial I know Mr. Hughes had made a comment to myself and Mr. Scow that Jaszman Moorehead had reasons or motives to lie and I wanted to put something outside the presence because we have that no discovery from defense with regard to any character evidence. We want to make sure that they're admonished not to have impermissible character evidence. We've had no motions in limine before the Court, and no Petrocelli hearings. And we've gotten no -- we've run the records, they have no prior criminal history and so to the extent that there's going to be questioning potentially about a motive to lie, we just wanted to make a record thereof that it's obviously not going to delve into any impermissible

JD Reporting, Inc.
character evidence that they would act in conformity thereof and/or the basis of that because at this point we don't know if any of the defendants are going to hit the stand --

THE COURT: Okay. I mean, obviously if she has a motive to lie in this case for --

MS. SCHIFALACQUA: For sure.
THE COURT: -- to stay out of trouble or because she's angry at the defendants or whatever -MS. SCHIFALACQUA: Sure. THE COURT: -- clearly they can get into that. MS. SCHIFALACQUA: Correct.

THE COURT: So --
MS. SCHIFALACQUA: But --
THE COURT: -- what are you afraid they're -- let's cut to the chase.

MS. SCHIFALACQUA: Well, I -- I don't know. That's my point. We've got nothing from defense and so to the extent that Mr. Hughes or Mr. Brower stands up and alleges something before the jury rings the bell if you will, Judge, and we haven't not -- we've had nothing about it with regard to any particular bad act. We know of nothing. We've run their, as I said, run them. They have no criminal history, convictions, and so I just wanted to make a record upfront that they're obviously NRS 48045 applies to each side equally so I just wanted to make sure out of the presence that they're aware of JD Reporting, Inc.
that and not going to try to elicit something that would fall in that -- under that statute, Judge.

THE COURT: Are you guys going to ask about anything that -- any acts or --

MR. BROWER: Judge, I'm not --
THE COURT: -- things that don't relate to this case?
MR. BROWER: Judge, my only inclination as far as well, I don't really want to necessarily go into all my questions because I have to hear what she's going to testify to. But there was some video that was presented the last time that showed some people that would meet the height description as I addressed yesterday of people that could potentially be --

THE COURT: That's fine. I mean, that's --
MS. SCHIFALACQUA: Sure.
THE COURT: -- if you need these other people that are similar looking that's all fine, that's fair game.

MR. BROWER: I mean, those were kind of the questions that I remember going through. I don't know if there's something different the State recalls, but that's -- was my general line of questioning.

THE COURT: Mr. Hughes, are you going to go into any prior acts or anything that's not directly related to the events in the --

MR. HUGHES: I'm not aware of any prior -- Your Honor, I'm not aware of any prior acts or records. All I would JD Reporting, Inc.
say is that the State is in communication with Jaszman, whose last name \(I\) forget, so if there is any -- if there is any relationship issues between her and the defendants, the State has just as much acts as to prior relationships that I would have for my --

THE COURT: Well, you can get into that anyway. I mean, I don't see that that's objectionable what's going on with the defendants and any witness's relationship to the defendants. I mean, that's I think always fair game.

MS. SCHIFALACQUA: Absolutely, Your Honor.
THE COURT: All right. Is the witness here?
MR. SCOW: Not that we know of yet.
The other thing that we wanted to do this morning. The information --
(Pause in the proceedings)
MR. SCOW: In the Information there's two -- one clerical error and the other was information that we didn't have at prelim and so is bound up Count 20 as to an unnamed customer, and based on the testimony that's been presented and what we've received in discovery that customer is Vince or Vincent Rotolo. He testified in the end of last week he was one of the customers that was in the meeting at the table when the gun was pointed in the direction and he dove to the ground. THE COURT: The pizza guy? MR. SCOW: Yes.

JD Reporting, Inc.

THE COURT: Okay.
MR. SCOW: So that's all I needed to say.
THE COURT: So you want to amend it to insert his
name --
MR. SCOW: Instead of unnamed.
THE COURT: -- in Count 20?
MR. SCOW: Yes.
THE COURT: Any objection?
MR. HUGHES: No, Judge.
MR. BROWER: No, Judge.
THE COURT: All right. So the clerk will
interlineate the Information to or amended whatever it is to replace unknown customer with --

And you have the spelling; correct? All right.
THE CLERK: Count 20?
MR. SCOW: Okay. Yeah. Count 20. That's on page 12 lines 1 and 2. And then the other is a clerical issue that -in the heading with the list of charges it's page 2 line 4 . It gives the date range on or between July 17th, 2018, and August 6th, 2018. It should say August 9th and that's reflected in the remaining counts that it's on or between July 17th and August 9th, that would be the second. So I'd move to amend that one as well.

THE COURT: Any objection?
MR. HUGHES: No objection to that.

JD Reporting, Inc.

THE COURT: Mr. --
MR. BROWER: I'll submit it, Judge.
(Pause in the proceedings)
MR. SCOW: Judge, I just checked the hall and they're not out there quite yet.

THE COURT: Okay.
Okay. So I guess we'll just be at ease then until somebody shows up.

MS. SCHIFALACQUA: I'm sorry, Your Honor, we did tell them 8:45.

THE COURT: And I told the jury we would break at 1:30, I mean, if we're all like starving to death, maybe we'll break closer to 1:00. We'll see. We'll see actually meaning if they're starving to death. I don't really care if you people are starving to death.

MR. SCOW: We may not --
THE COURT: Did they complain or anything, Kenny?
THE MARSHAL: I'll go check.
THE COURT: Did they bring --
MS. SCHIFALACQUA: Yeah, we may not even go -- we have about five more witnesses, Judge, before we're complete.

THE COURT: Before you rest?
MS. SCHIFALACQUA: Correct.
MR. SCOW: Right.
THE COURT: Okay.

MR. SCOW: We may not make it till 1:30.
THE COURT: Where are we on the jury instructions? MS. SCHIFALACQUA: We sent them to defense. The -our packet to defense. I believe they're reviewing them.

MR. HUGHES: We received -- I received them; I'm most the way through them.

MR. BROWER: I'm trying to look at them right now, Judge. We received them last night, and I'm looking at one other case.

THE COURT: All right. I guess Kenny will come get me when --

THE MARSHAL: Will do, Judge.
MS. SCHIFALACQUA: Thank you, Your Honor. Sorry about that.

THE COURT: It's, okay.
(Proceedings recessed 9:12 a.m. to 9:30 a.m.)
(In the presence of the jury)
THE COURT: All right. Court is now back in session. The record should reflect the presence of the State and the deputy district attorneys, the defendants and their counsel, the officers of the court and the ladies and gentlemen of the jury.

And is the State ready to call its next witness?
MR. SCOW: Yes, Judge.
Jaszman Moorehead.

JD Reporting, Inc.
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for our record.

THE WITNESS: Jaszman, J-a-s-z-m-a-n. Moorehead, M-o-o-r-e-h-e-a-d.

THE COURT: All right. Thank you.
Mr. Scow.
MR. SCOW: Thank you, Judge.
DIRECT EXAMINATION
BY MR. SCOW:
Q Jaszman, I'll start by asking you do you know a Vidal
Holman?
A Yes.
Q How do you know him?
A He's my boyfriend.
Q Currently your boyfriend?
A Yes.
Q When did you meet him?
A Where?
Q When?
A Eight months ago.
Q Okay. Did you say eight months ago?
A Eight months ago.

THE COURT: Okay.
BY MR. SCOW:
Q Okay. Was this -- where was it that you met Vidal?
A Boulder Pine Apartments.
Q Were you living there?
A Yes.
Q And was he living there?
A Yes.
Q Did you -- did you also meet Damien Phillips in that time frame?

A Yes.
Q How did you meet Damien?
A Walking. They were walking their dogs.
Q When you say they, who's they?
A Him and Vidal.
Q Damien and Vidal?
A (No audible response.)
Q And that's a yes?
A Yes.
Q Okay. So as we're talking back and forth if it's a yes, don't nod if it's no don't shake your head because everything you're saying is being recorded and a nod won't be picked up.

A Okay.
Q So if it's a yes, say, yes, if it's a no say no,
okay.
So that was when you first met Damien or was it also
when you first met Vidal?
A Both.
Q Okay. And what was your understanding of the relationship between Vidal and Damien?

A They were cousins.
Q And also if you can keep your voice up so everybody can hear you too.

A Okay.
Q So is it your understanding that Damien and Vidal were cousins?

A Yes.
Q Did there come a point around that time frame when you first met Vidal that you became his boyfriend and started living with him?

A No.
Q You didn't start living with Vidal?
A Not right away.
Q Okay. But sometime after that?
A Yes.
Q Okay. About how long after you met him did you start living with him?

A A week and a half.
Q And where did you live together at that time?

A In the truck.
Q In his truck?
A Yes.
Q Okay. Did there come a point that you found a place where you could live together?

A Yes.
Q Where was that?
A Aviator Suites.
Q Do you remember when you moved in to the Aviator Suites?

A Mid June -- mid July.
Q June, July time frame?
A Yes.
Q When you guys moved into there was it an upstairs or downstairs apartment?

A Downstairs.
Q Do you remember the room number?
A (No audible response.)
Q Okay. Was it 142?
A Yes.
Q Does that help you remember?
A Yes.
Q Okay. And when you and Vidal moved to the Aviator Suites apartments, did anybody else move there as well?

A Yes.

Q Who?
A Damien and Jakari.
Q Damien and Jakari?
A (No audible response.)
Q That's a yes?
A Yes.
Q What apartment did they move into?
A 140.
Q Was it one next to you?
A No, it's upstairs.
Q Above you?
A Yes.
Q Okay. And was that 242?
A I think so.
Q If you don't remember that's okay.
A I don't remember.
Q You don't remember the number. Was it directly above you?

A Yes.
Q And Damien and Jakari moved into that room?
A Yes.
Q And during this time frame, this is, you said June,
July --
A Yes.
Q -- did you also meet Anthony Barr?

JD Reporting, Inc.

A Not this time frame, no.
Q Not June?
A July-ish.
Q July-ish?
A Yes.
Q While you were living at the Aviator Suites?
A Yes.
Q Do you see Damien Phillips in the courtroom today?
A Yes, I do.
Q Can you point to him and describe an article of clothing that he's wearing.

A To my left. He has glasses and a gray shirt and black pants.

MR. SCOW: Your Honor, can the record reflect the identification of defendant Damien Phillips?

THE COURT: It will.
BY MR. SCOW:
Q And we just mentioned Anthony Barr. Was the first time you met him in July when you were living in the Aviator Suites apartments?

A No. I met him at Boulder Pines also.
Q Okay. But he wasn't living in or near you guys until Aviator Suites?

A Yes.
Q And what room was he living in?

JD Reporting, Inc.

A Upstairs with Damien.
Q Do you see Anthony Barr in the courtroom today?
A Yes, I do.
Q Can you point to him and describe an article of clothing that he is wearing.

A A white long-sleeved shirt and twists in his hair.
Q All right. I missed some of that because of the cell phone that was, can you say it again.

A The white long-sleeved shirt and twists in his hair.
Q Twists in his hair, you said?
A Yes.
MR. SCOW: Your Honor, can the record reflect the identification of the defendant Anthony Barr?

THE COURT: It will.
BY MR. SCOW:
Q Did you know Anthony by a different name?
A Yes.
Q What was that name?
A Shiraq [phonetic].
Q While you were living at the Aviator Suites, did there come a time where you noticed that Damien started coming into money?

A Yes.
Q When was that? Well, in terms of -- we'll go through this. When rent payments were due --

A Uh-huh.
Q -- about what number of rent payment was it that Damien started coming into money?

A The third rent payment.
Q And how was it that you noticed, what did you observe that led you to believe he had come into some money?

A Small talks. Him not coming home sometimes or he leave early in the morning and, like, going with Shiraq and Sweet Pea.

Q You'd see them leaving together?
A Yes.
Q And Shiraq, Anthony, that's Anthony?
A Yes.
Q And then Sweet Pea, who's that?
A Sabrina.
Q Okay. Did you ever see Damien with cash or money?
A Yes.
Q Did he offer to buy you things or people that --
A Sometimes. Not all the time.
Q Okay. When you, this time frame that you're talking about that you noticed that Damien was coming into money --

A Uh-huh.
Q -- did you ever ask him about that or hear him say about where he was getting the money?

A Just a few times. Talked about he was hitting licks JD Reporting, Inc.
or, you know, like, he came -- I don't know he just came into, like, a lump of cash that I saw him with.

Q You saw him with lumps of cash?
A (No audible response.)
Q And that's a yes?
A Yes.
Q And from what you said, you said he got it from hitting some licks?

A Yes.
Q And what do you understand hitting some licks to be?
A Like getting money illegally or going places that he shouldn't be going without, like, a loan or just, like, robbing people.

Q Robbing people?
A Yeah.
Q When you say he would leave with Sweet Pea and
Shiraq, did you notice anything about their appearances when they would leave? Were they wearing anything unique?

A One time. Not all the times though.
Q Okay. What did you notice?
A That Damien was wearing a wig, like, girly girl clothes.

Q Okay. Did you see him wearing those?
A In pictures, but not in person, no.
Q Okay. Not in person, you saw it in a picture?

A Yes.
Q Did you ever notice makeup on anybody?
A Yes.
Q On who?
A Shiraq.
Q Where was the makeup that you noticed?
A On his face.
Q What was it covering or on?
A His tattoos.
Q Just to talk about when you're saying -- I'm going to show you State's Proposed or it's Exhibit 199, ask if you recognize on this screen or right in front of you?

A Yes.
Q Who's that?
A Sabrina Henderson.
Q And what was the name that you knew her by?
A Sweet Pea.
Q Was she dating or had a relationship with anybody that we're talking about?

A Yes.
Q Who's that?
A Shiraq.
Q Okay. And you're looking here at the defendant Anthony Barr?

A Yes.

Q You mentioned Jakari --
A Yes.
Q -- earlier, he moved into Aviator Suites with Damien?
A Yes.
Q Showing you what's been marked as State's Proposed 274.

A Yes.
Q Okay.
MR. SCOW: What's the next in line, Madam Clerk?
THE CLERK: 403.
MR. SCOW: 403.
BY MR. SCOW:
Q State's Proposed 403 and ask if you recognize these?
A Yes.
Q And what is it?
A Jakari.
MR. SCOW: Move to admit State's Proposed 274 and
403.

THE COURT: Any objection? Submit it?
MR. HUGHES: Submit it.
MR. BROWER: I'll submit it, Judge.
THE COURT: All right. Those will be admitted. (State's Exhibit Nos. 274, 403 admitted.)

BY MR. SCOW:
Q Showing you first, 403, who's this?

A Jakari.
Q And a closer up in 274?
A Jakari.
Q When was the rent due at Aviator Suites; do you remember?

A No.
Q Now let's -- let me ask you a little bit about when you said you saw Damien in a wig and women's clothing; where was it that you saw that?

A On Jakari's cell phone.
Q Okay. I'm going to show you some images from State's Exhibit 358. I'm going to ask if you recognize anything, okay?

A Okay.
Q Okay. Do you recognize what you're seeing?
A Yes.
Q What is it that you're seeing?
A Damien.
Q And there's --
A In a wig.
Q Okay. And I'm going to go back to the beginning and play it again. There's a mouse in front of you --

A Uh-huh.
Q -- when you see something that you recognize.
A Right here.
Q Okay. I'm going to pause it. Okay. Point to what JD Reporting, Inc.
you recognize again.
A Damien and the wig that he has on.
Q Okay. And it panned to the right as well -- if you let go of the mouse for a second, there we go. Do you recognize anybody there?

A Shiraq.
Q And is the cursor on Shiraq right now?
A Yes.
Q That's Anthony?
A Yes.
Q Okay. You had seen that on Jakari's cell phone?
A Yes.
Q And after seeing that, did you ever talk to Damien about that?

A No, not about that incident.
Q Okay. And did there come a time where you saw anything on the news that caused you to confront or talk to Damien about something you saw in the news?

A Yes.
Q I'm going to show you a couple of exhibits and ask if you recognize anything from these; 365, 263, 352, 264, 351, and 354, let me know when you recognize something that you saw from the news.

A This there.
Q Okay. And you're pointing at some pictures, and this JD Reporting, Inc.

A Yes.
Q I'm just going to put that up now. Showing you State's Exhibit 264. These -- are these the images that you had seen on the news?

A Yes.
Q And there's three there, which ones did you see on the news?

A The top left and the top right.
Q Okay. When you saw those images on the news, what did you do or after that?

A Well, we were actually at a car shop and we went home, and Vidal brought it up to him as well as I did. And he just said don't worry about it that everything was going to be okay.

Q And when you said him who did you bring it up with?
A Vidal.
Q Okay.
A To Damien.
Q To Damien?
A Yes.
Q And what did Damien say about what you saw in the news?

A He said don't worry about it that everything is going to be okay.

Q Did he say anything about the cops or fear of being caught by the police, anything like that?

A He said he didn't care.
Q He said he didn't care. I'm going to show you now State's Exhibit 195; do you recognize what you see here?

A Yes.
Q What do you see?
A Melissa.
Q Okay. And did you see her at the Aviator Suites apartments as well?

A Yes.
Q About what time frame?
A Mid-August.
Q In August?
A Yes.
Q And so when you guys move in it's July --
A Uh-huh.
Q -- you're there for a little while, and so in August is when you first see Melissa?

A The ending of July beginning of August, yes.
Q Okay. In that time frame?
A Yes.
Q In the time frame that you were living at the Aviator Suites apartments when Damien and Anthony were living in the apartment above you guys, did you ever see either of them with
a gun, a handgun?
A Yes.
Q Who did you see with the gun?
A Both.
Q Did you ever see them both with a gun at the same time?

A No, not at the same time.
Q Okay. So at different times you had seen one of
them --
A Yes.
Q -- or both of them holding a gun?
A Yes.
Q I'm going to direct your attention now to the beginning part of August 2018. Did there come a time where they left and you didn't see them anymore?

A Yes.
Q Do you know or were you aware whether they were staying at a room at the Circus Circus?

A Yes, they were.
Q Okay. And is this the time frame we're talking about when you last saw them?

A Yes.
Q The last time that you saw them, describe what was happening that day and what you observed.

A Me and my mom or -- well, me and my stepmom were in JD Reporting, Inc.
the room and Damien came in and knocked on the door, opened it, he was, like, where's my gun? I said where you left it at. So he went on top of the shelf, grabbed it then walked out the door, shut the door, went in the Mazda car that he had, grabbed some clothes and left.

Q Okay. Who was he with when he left at that time?
A Shiraq.
Q Okay. Was Sabrina with them?
A I didn't see her.
Q You didn't see her. And what about Melissa, did you see her?

A Yes. She was there too.
Q Before they left, did you have any conversation with Shiraq?

A Outside.
Q Outside?
A Outside.
Q Okay. Tell us about the interaction that you had with Shiraq.

A Well, I did get -- I got threatened the first time saying that if I told anybody about what happened my life was over and that --

Q Okay. So what happened right before that?
A Oh, he asked me to go with them.
Q Who asked you to go with them?

JD Reporting, Inc.

A Shiraq.
Q Okay. And when he -- when Shiraq or Anthony asked you to go with them, what did you say?

A I said no.
Q Was this after you had seen Damien grab a gun?
A Yes.
Q So what did Shiraq tell you when you said you didn't want to go with them?

A That if I told anybody, that my life was over.
Q Okay. Do you remember the type of clothing that they were wearing when they left?

A Damien had on red pajama pants and then a do-rag I think. And then I just remember Shiraq had a towel around his neck.

Q Okay. Was that, you mentioned a towel around Shiraq's neck, is that something that you had seen him with frequently?

A Yes.
Q I'm showing you Exhibit 181 and ask you if you recognize anything here?

A Yes.
Q What do you recognize?
A Damien and the outfit he was wearing when he left.
Q State's 204, do know who that is?
A Yes. That's Shiraq.

Q Shiraq?
A Yes.
Q Do you know what type of vehicle Shiraq drove?
A It was a red -- I don't remember the name of it though.

Q Okay. It was a red vehicle?
A Yes.
Q And that was the vehicle that Anthony had and drove around?

A Yes.
Q Who would -- and you said before Sabrina or Sweet Pea was his girlfriend?

A Yes.
Q And she would go with him in that car a lot?
A Yes.
Q And when that last day that we're talking about when Shiraq said if you told anybody what they were doing your life would be over, what did they leave in; did you see what they left in?

A The red car.
Q And who did you see leave again?
A Shiraq and Damien and Melissa.
Q And I asked you before I'm pretty sure, did you see Sabrina at that time?

A No.

Q Okay. I'm going to show you some images now. This is from State's Exhibit 1, and as we go through these I just want to ask you if you can tell me what you recognize, okay?

A Okay.
Q And as I'm pulling this up if you can tell us during the time frame that you were living at the Aviator Suites and Damien was there, how frequently would you see Damien?

A All the time.
Q And when Shiraq moved in, how frequently did you see him?

A Sometimes.
Q Do you recognize anything in this video?
A Yes.
Q What do you recognize?
A Damien.
Q Okay. You can use that mouse and that cursor to indicate what you recognize.

A The shirt and his hat.
Q Okay. That first image for the record was from clip two. In an earlier image you'd said you'd recognized clothing. Do you recognize anything else in this image from clip six?

A Glasses.
Q The glasses as well?

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A Yes.
Q And who's this?
A Damien Phillips.
Q Okay. And do you recognize the face as well?
A Yes.
Q Okay. Next I'll show you images from State's 27. And again as you see anything that you recognize, let the jury know what it is you recognize.

A Damien right here in the white sweater and in the hat. And then Shiraq is in the plaid red and white long-sleeve shirt.

Q Okay. And if you can remember to keep your voice up so everybody hears you.

From what you just said, Damien's the one in the
white?
A Yes.
Q And Shiraq is the one in the red and white --
A Yeah.
Q -- plaid shirt?
A Yes.
Q How is it that you recognize them?
A Damien wears that sweater a lot.
Q You recognize that sweater that Damien wears a lot?
A Yes.
Q And about Shiraq?

A I can just -- I just know it's him.
Q Okay. And how is it that you can tell that it's him? Describe what it is that you recognize.

A The glasses and the do-rag.
Q Okay. And I'm just moving in a fast motion to get us to relevant points. What do you recognize here?

A That's Damien.
Q Okay. And again just tell us what you recognize and how you know that's Damien.

A His face and the sweater he's wearing.
Q Okay. And do you recognize the glasses as well?
A Yes.
Q What do you recognize in this image?
A The long-sleeve shirt and the glasses that Shiraq is wearing.

Q And you said that's Shiraq?
A Yes.
Q And you recognize his face as well?
A Yes.
Q I'm showing you portions of State's Exhibit 105. Do you recognize anything in the image right now?

A The car.
Q Whose car do you see?
A Shiraq's.
Q And use the mouse to show which car that is.

A This one.
Q And what do you recognize there?
A Damien.
Q And describe what it is that you recognize about Damien in this?

A The wig.
Q Okay. Do you recognize anything in the video at this point?

A Yes.
Q Okay. What do you recognize?
A Shiraq.
Q Did you say you recognize Shiraq?
A Yes.
Q How is it that you recognize him?
A The towel around his neck.
Q And I'm going to show you portions of State's 103.
When you recognize things in the video, you let us know, okay?
A Okay. That's Damien.
Q And what is it that you recognize?
A The wig.
Q Okay. Did you recognize anything about the clothing?
A That's what I saw on the picture on Jakari's phone.
Q Okay. And what about here?
A That's Shiraq.
Q And what do you recognize about Shiraq?

A The towel.
Q So now as you look at both of these images and you say that you see here Damien Phillips in the wig?

A Yes.
Q Is there any question about that in your mind?
A No.
Q And when you see this image here, do you have any doubts about who this is?

A No.
Q And who is that?
A Shiraq.
Q Now showing you portions of State's Exhibit 59. Do you recognize anything in this?

A Yes, that's Shiraq.
Q How do you recognize Shiraq?
A The glasses and the towel.
Q What's that?
A The glasses and the towel.
Q Okay. Do you recognize the face?
A Yes.
Q Is there something different about the face in this image than what you know Shiraq?

A Yes.
Q What is it?
A His tattoos are not showing.

Q And as you look at that image is there any doubt in your mind that that's Shiraq?

A No.
Q What do you recognize in this image?
A Damien.
Q Tell us how you recognize Damien.
A His face and the shirt.
Q Okay. Now showing you portions of State's Exhibit 154.

And just for the record we are at 40 minutes and 20 seconds fast forwarding a little bit.

As you see things that you recognize you just let us know, okay?

A Okay. Shiraq.
Q Okay. What did you say you recognize?
A Shiraq.
Q Okay. And how do you recognize him?
A The tattoo on his face.
And that's Damien.
Q That's who?
A Damien.
Q Okay. And how do you recognize Damien?
A 'Cause that's the shirt he had on when he left.
Q That was the shirt he had on when he left?
A Yes.

Q Okay. If you could just keep your voice up. All right. What do you recognize there?

A Shiraq.
Q Okay. And when you look at this image how do you know that's Shiraq?

A His face.
Q His face. Did you recognize the clothing that he's wearing?

A Kinda. Not really, no.
Q Okay. But you recognize his face?
A Yes.
Q And this is now for the record clip four.
What do you recognize here?
A Damien and Shiraq.
Q Okay. And what do you -- sorry. What do you recognize about Damien?

A The clothing.
Q Can you point to the clothing that you recognize.
A The shirt and his pants.
Q The day that -- the day that you -- you talked about when they left the last time that you saw them, that was the time that Shiraq made a threat to you; is that right?

A Yes.
Q When you saw Shiraq at that time could you see the tattoos on his face?

A Yes.
Q You could?
A (Witness nods head.)
Q Okay. And that was before they left?
A Yes.
Q Was there any time that you ever saw anybody putting makeup on Shiraq?

A Not personally, no.
Q Okay. And what about on Damien?
A No.
Q I'm going to show on here a couple more images. Showing you State's Exhibit 97, do you recognize anything from this?

A Sabrina.
Q How do you recognize Sabrina?
A Her hair.
Q And State's Exhibit 96?
A Sabrina.
MR. HUGHES: Sorry, I'm having a hard time hearing.
Could you ask her to speak up.
THE COURT: Make sure you keep your voice up and talk into that black box there; it's the microphone.

BY MR. SCOW:
Q Who was that?
A Sabrina.

MR. SCOW: Court's brief indulgence. All right. I'll pass the witness, Judge. THE COURT: All right. Mr. Brower.

\section*{CROSS-EXAMINATION}

BY MR. BROWER:
Q So, ma'am, you were asked about Damien having money; do you recall that?

A Yes.
Q Do you recall Damien having a job?
A Yes, I do.
Q Okay. Do you know what he did?
A He was a nurse.
Q Okay. So he was working?
A Yes.
Q Normally when people work do they have money?
A Yes.
Q Okay. And you were shown a picture or a video of a phone -- phone that you said or were told came from Jakari's cell phone; do you recall that?

A Yes.
Q And you identified two people on that video; do you recall that?

A Yes.
Q There's a third person in that video; do you know who JD Reporting, Inc.
that was?
A Yes.
Q Who was it?
A Sweet Pea.
THE COURT: I'm sorry. Can you say that again; I didn't hear you.

THE WITNESS: Sweet Pea.
BY MR. BROWER:
Q Okay. And that wasn't Jakari?
A The shirt looked like it could have been, but her hair was different too.

Q Okay. But it's possible it was Jakari?
A Yes.
Q Okay. And I'm going to ask you do you know how -well, how tall are you?

A \(\quad 5-4\).
Q 5-4. Do know how tall Jakari is?
A No.
Q Well, if you had to describe somebody to Jakari, would you describe him as your height, taller, shorter?

A Shorter.
Q How much shorter?
A I don't know.
Q Okay. When you stand by each other, do you kinda look each other in the eye?

A Kinda. Not really.
Q Kinda, not really. So that's two different answers.
A Yeah.
Q So which one, kinda or not really?
A Yeah.
Q Let me try this again. When you're looking at the person do you have to look down to look into their eyes or are they looking up at you?

A Up.
Q Okay. How far up is her head craned totally up or --
A No.
Q -- just slightly?
A Slightly.
Q Okay. And you said you saw -- I think you said you saw Damien grab a gun; correct?

A Yes.
Q Isn't it true that just technically do you believe it was a real gun or was it a toy gun?

A I'm not sure.
Q So you don't know?
A (No audible response.)
Q Okay. One of the last sets of videos you saw, I believe it was State's 154, you were watching a video of a bank; do you recall that?

A Yes.

Q Okay. And you said that you could identify the person in the video because of tattoos that you saw?

A Yes.
Q You saw the tattoos on that video?
A Yes.
Q And I also noticed the State showed you a whole bunch of videos, and they said let us know when you see something, and it seemed to me that you didn't let them know when you saw anything, that the State had to pause the video and ask you what you were seeing?

A Yes.
Q Okay. So they had to prod you to tell them what was on the video or you just didn't recognize anything until they specifically asked?

A Yes. Until they specifically asked.
Q Okay. So you -- when you were watching the video you didn't recognize any of it?

A No.
MR. BROWER: I'm going to pass the witness, Judge. THE COURT: Mr. Hughes. CROSS-EXAMINATION

BY MR. HUGHES:
Q Ma'am, I want you to think back to the last time that you saw either Mr. Barr or Mr. Phillips at the apartments you were living in; do you remember the time?

JD Reporting, Inc.

A Yes.
Q You said that they -- they left and you didn't see them again for some time?

A Yes.
Q What time of day was that that they left?
A Morning.
Q Can you describe what Mr. Phillips was wearing the last time you saw him?

A The red pants and the gray shirt.
Q What was Mr. Barr wearing?
A He had a white shirt on at the time and he had blue jeans on.

Q Anything else that you remember about either of them the last time that you saw them?

A No.
Q Was Mr. Philip -- did Mr. Phillips have makeup on his face when you last saw him?

A No.
Q Did Mr. Barr have makeup on his face the last time you saw him?

A No.
Q So the last time you saw Mr. Barr his tattoos were visible?

A Yes.
Q Did you also testify that Mr. Phillips came down to JD Reporting, Inc.
your apartment I think you said it was 142 to get his gun?
A Yes.
Q If there was a gun and if it belonged to
Mr. Phillips, why would it be in your apartment?
A Because that's where he had left it at.
Q Mr. Phillips lived upstairs; is that right?
A Yes.
Q Who lived with you in the downstairs apartment?
A My boyfriend Vidal.
Q Describe Vidal for me.
A He's tall. He's light skinned. He has tattoos.
Q Is he black or is he white?
A He's black.
Q So he's a tall, light skinned black man --
A Uh-huh.
Q -- with tattoos?
A Yes.
Q Is he skinny?
A Yes.
Q And he lived downstairs in the apartment with you?
A Yes.
Q Where supposedly Mr. Phillips stored his gun?
A Yes.
Q I think you testified that -- that Mr. Phillips had trouble with his rent?

A Yes.
Q How would you know whether Mr. Phillips was able to pay his rent or not?

A Because both rooms were paid for at the same time all the time.

Q By whom?
A By Damien.
Q Damien paid for your rent?
A Yes.
Q Why is that?
A Because we didn't have the money and my boyfriend was at work all the time when rent was due.

Q And your boyfriend Vidal you say he's the cousin of Mr. Phillips?

A Yes.
MR. HUGHES: Okay. Thank you, ma'am. That's all I have.

THE COURT: Any redirect?
MR. SCOW: Yes, Judge. Thank you. REDIRECT EXAMINATION

BY MR. SCOW:
Q I just need to ask you a few questions. First you were asked by Mr. Brower the attorney right there that asked the questions first, was he -- he asked you about when Damien was working; is that right?

A Yes.
Q And you knew him to be work -- Damien to be working as a nurse?

A Yes.
Q Did there come a time that Damien lost his job?
A Yes.
Q Do you remember the time frame for that?
A End of June beginning of July.
Q Okay. And in that time frame when you knew that Damien lost his job how did you learn that?

A Because he just stopped going to work. Because he would go to work with my boyfriend every morning.

Q And then he stopped going to work altogether?
A Yes.
Q Altogether?
A Altogether.
Q And then he started leaving with Sabrina and Shiraq?
A Yes.
Q And then by the third rent payment is when you noticed that he started having lumps of cash?

A Yes.
Q At some point was Damien dating your stepmother?
A They were messing around, yes.
Q Okay. And at times would he leave things in your apartment?

A Yes.
Q I'm going to ask you some questions about surveillance video now. You were asked by Mr. Hughes if -- or maybe it was Mr. Brower, is when you are watching the surveillance video that you had to be prodded by me to ask what if anything you recognized; do you remember that?

A Yes.
Q So as we were watching these videos was it because I'm asking you what you saw that you recognized something or was it because what you saw that caused you to recognize something?

A Because of what I saw.
Q Okay. It's not because of what I was asking?
A No.
Q So the times that anybody walked into the screen, were those the times that you recognized something?

A Yes.
Q Showing you again portions of 154.
And the time frame just for the record on the video
is 42:50.
A That's Shiraq.
Q Okay. Now as you're looking at this -- you said before that you thought you had seen some tattoos on here; is that right?

A Yes.

Q And I can't zoom in any further. Do you see tattoos in this image?

A Yes.
Q Okay. Can you point to where you see tattoos.
A Below his eye.
Q Okay. Is it possible that that could be a shadow?
A Maybe.
Q But as you're looking at this image of that individual moving around in the bank, what is it that you recognize about that that you said that that's Shiraq?

A His whole image. His face. Everything.
Q Everything about him?
A Yes.
Q So it's not because of any tattoos that you're seeing there then that you think that that's Shiraq?

A No.
Q That's because of the entire image?
A Yes.
Q And the face?
A Yes.
Q And just to be clear and what you just saw here in the videos that I had shown you previously from each of the other locations, did you ever see Jakari in any of those videos?

A No.

Q Did you ever see Vidal in any of those videos? A No.

MR. SCOW: I don't have any more questions.
THE COURT: Mr. Brower, any follow-up?
RECROSS-EXAMINATION
BY MR. BROWER:
Q The last time you saw Mr. Phillips can you describe to me again what clothes you thought he was wearing.

A His gray shirt and his red pajama pants.
Q You didn't see him in a different shirt?
A No.
Q When you said you saw him -- I'm sorry, you said that your stepmom and Mr. Phillips were in an argument or, I mean, in a relationship?

A They were messing around, yes.
Q Okay. Did there come a time when they were in an argument or when Melissa and your mom were in an argument?

A Yes.
Q Was that regarding Damien?
A Yes.
Q Okay. And --
MR. BROWER: Court's indulgence.
Judge, I'm going to move on and just pass the witness at this point in time.

THE COURT: Okay. Mr. Hughes, do you have any follow JD Reporting, Inc.
up?
RECROSS-EXAMINATION
BY MR. HUGHES:
Q Ma'am, how long was Mr. Barr living with Mr. Phillips before they left that last time?

A A month, two months maybe.
Q Are you sure or are you guessing?
A An estimate. It was a month or two months.
Q During that period of time did you ever see Mr. Barr with money?

A Sometimes. Not all the time.
Q Can you recall one time that you recall him having money?

A Yes.
Q Tell me about it.
A It was upstairs in the room with I believe Damien. I think Damien was in the rest room, but he had money and Sabrina was laying down on the floor.

Q And where was Vidal during this time?
A Downstairs.
Q So you often came upstairs to see them without Vidal?
A Sometimes.
Q You've seen a lot of videos this morning --
A Yes.
Q -- on your screen. Have you ever seen any of those JD Reporting, Inc.
prior to today?
A What do you mean?
Q Have you ever seen any of these videos prior to today when you were watching on video?

THE COURT: Did you watch those videos at any time before you watched them here in the courtroom with us? THE WITNESS: Oh, yes. THE COURT: Okay. BY MR. HUGHES:

Q Can you tell me when.
A Last week sometime.
Q Where?
A In the office where my attorneys were located.
Q With your attorneys?
A Yes.
Q Are these your attorneys?
A Yes.
Q As I point to the prosecutor at this table?
A Yes.
Q Those are your attorneys?
A (No audible response.)
Q How many times -- was that the only time that you had seen any of these videos prior to today?

A Yes.
Q And I'm sorry I -- I was distracted when Mr. Brower JD Reporting, Inc.
was talking to you so I have to clarify. Did I understand you to say that Mr. Phillips has some kind of relationship with your mother?

A Yes.
Q And your mother had some kind of fight with Melissa?
A Yes.
Q And that was about Mr. Phillips?
A Yes.
Q Where was Mr. Barr when all of this was going on?
A He was not there.
Q Was there just one fight?
A Yes.
Q How long had Mr. Phillips been having a relationship with your mother?

A It wasn't that long.
THE COURT: What's that?
THE WITNESS: It wasn't that long.
THE COURT: It wasn't that long?
THE WITNESS: (Shakes head.)
THE COURT: Okay. Does that mean a few days or a --
THE WITNESS: Like a week.
THE COURT: -- couple weeks?
THE WITNESS: A week.
BY MR. HUGHES:
Q That you know of?

A Yes.
Q How did you learn of it?
A I talk to my mom every day.
Q I'm sorry?
A I talk to my mom every day.
Q What does your mom live?
A Downtown.
Q In Las Vegas?
A Yes.
Q Do you have any idea where this relationship was taking place?

A Not really, no.
Q Thank you. THE COURT: Mr. Scow, anything else? MR. SCOW: Just a couple if I may? THE COURT: Sure.

FURTHER REDIRECT EXAMINATION
BY MR. SCOW:
Q You were asked about when you saw the video before today; right?

A Yes.
Q And we met with you --
A Yes.
Q -- to see what you know about the case, and we let you see video to see if you recognized anybody; right?

A Yes.
Q We met with you just like we meet with all the witnesses before trial; right?

A Yes.
THE COURT: Well, she doesn't know -MR. SCOW: Okay. So if they want to object they can. THE COURT: -- what you do with other witnesses.

Sorry, I guess I was making an objection there. MR. BROWER: I appreciate that, Judge. MR. SCOW: Is that sustained, Judge? THE COURT: I sustain my own objection, yes. MR. SCOW: Okay.

BY MR. SCOW:
Q And then the -- you were asked about when you had seen Anthony Barr with cash before, and you described seeing that upstairs with Anthony and Sabrina --

A Uh-huh.
Q -- what -- where was the money?
A On Sabrina. (Unintelligible.)
Q Who was putting it on Sabrina?
A Anthony.
Q What was he doing with the money?
A Taking pictures.
Q And you remember testifying a few months ago too; is that right?

A Yes, I do.
Q And at that time did you talk about Damien coming into money problems and losing his job?

A Yes.
MR. SCOW: I don't have any more questions.
THE COURT: Any follow-up to the --
MR. BROWER: No, Judge.
MR. HUGHES: No, Your Honor.
THE COURT: All right. Any juror questions for this
witness?
All right. Counsel approach.
(Conference at the bench not recorded) THE COURT: All right. I have a question from a juror and it refers to the video from Jakari's phone. Do you know what video we're talking about?

THE WITNESS: Yes.
THE COURT: Okay. The question is, Anthony looks
like he has a ponytail, was he wearing a wig if you know?
THE WITNESS: No.
THE COURT: No you don't know or no you don't think he was wearing a wig?

THE WITNESS: I don't think he was wearing a wig. THE COURT: Okay. Does the State have any follow-up? MR. SCOW: Yeah, I'll just put that up.

THE COURT: They're going to have you look at it.

JD Reporting, Inc.

BY MR. SCOW:
Q All right. Is this the -- is this the image you remember from Jakari's cell phone?

A Yes.
Q And did you see -- do you see what the question was referring to?

A Yes.
Q Okay. And do you know -- I'll just let it play. Do you know if -- the question was do you know if that was a wig or not?

A No, I don't.
Q Okay.
MR. SCOW: I don't have any other follow-up then, Judge.

THE COURT: Mr. Brower?
MR. BROWER: No, Judge.
THE COURT: Mr. Hughes?

\section*{FOLLOW-UP EXAMINATION}

BY MR. HUGHES:
Q Ma'am, did you ever see Mr. Barr with a wig any other time other than what you think might or might not be in that video?

A No.
Q Did you ever see a wig like that in the upstairs JD Reporting, Inc.
apartment?
A No.
Q Did you ever see a wig like that in downstairs in your apartment?

A No.
Q Were you ever aware of a wig similar to what that may or may not have been in his car?

A No.
MR. HUGHES: Thank you.
MR. SCOW: No follow-up.
THE COURT: Nothing else.
Any additional juror questions? All right. I see no other questions.

Thank you for your testimony. Please don't discuss your testimony with anybody else who may be a witness in this case. Thank you. You're excused, and just follow the bailiff from the courtroom.

Ladies and gentlemen, were going to go ahead and take a brief break. Is 10 minutes enough?

MR. SCOW: Yeah.
THE COURT: Enough for everybody. All right. We'll be in recess until, let's see, 10:50.

And during the brief recess you're all reminded you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read,
watch, listen to any reports of or commentaries on the case, person or subject matter relating to the case. Don't do any independent research by way of the Internet or any other medium. And please don't form or express an opinion on the trial.

Please place your notebooks in your chairs and follow the bailiff through the double doors.
(Jury exiting 10:38 a.m.)
(Colloquy off the record.)
MR. BROWER: Judge, I'm sorry. When were we going to canvass the two ugly gentlemen standing beside me?

THE COURT: When we're on our next --
MR. BROWER: Okay.
THE COURT: -- I mean, right when the State rests.
MR. BROWER: I understand. I just wanted to make
sure.
MS. SCHIFALACQUA: Maybe after the CSA.
THE COURT: So whenever we take our next break --
MR. BROWER: And thank you, Judge.
THE COURT: -- and State is close to resting I'll do it.

MR. BROWER: Change the topic.
THE COURT: I like it to be closer to when they actually --
(Jury entering 10:54 a.m.)

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\(001470^{58}\)

THE COURT: All right. Court is now back in session. And the State may call its next witness.

MS. SCHIFALACQUA: The State calls Vidal Holman.

\section*{VIDAL HOIMAN}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: Vidal Holman. V-i-d-a-l, H-o-l-m-a-n.
THE COURT: Thank you.
You may proceed.
MS. SCHIFALACQUA: Thank you.

\section*{DIRECT EXAMINATION}

BY MS. SCHIFALACQUA:
Q Vidal, I want to start by asking you if you want to be here today; do you want to be here today?

A No, I don't.
Q You were issued a subpoena to come to court; is that right?

A Yes.
Q And it's your understanding that that's a court order to appear --

THE COURT: Okay.
THE RECORDER: I'm sorry I can't hear.
THE COURT: Do you see this lady --

JD Reporting, Inc.

THE WITNESS: Oh, sorry.
THE COURT: -- here at the end, she records everything --

THE WITNESS: Okay.
THE COURT: -- and so it's important that she as well as the ladies and gentlemen of the jury can hear you --

THE WITNESS: Okay.
THE COURT: -- so make sure you speak up clearly and loudly into the microphone --

THE WITNESS: Okay.
THE COURT: -- okay, because you have a quiet voice, all right?

THE WITNESS: Okay. Sorry.
THE COURT: Okay.
Ms. Schifalacqua, go ahead.
MS. SCHIFALACQUA: Thank you.
BY MS. SCHIFALACQUA:
Q Vidal, you were issued a subpoena to be here today;
is that right?
A Yes.
Q You were explained that that's a court order to appear before the court; is that right?

A Yes.
Q You were explained by myself that if you did not appear, in fact, I could request an order to show cause to the JD Reporting, Inc.

Judge upwards of a warrant for your arrest if you did not appear; is that your understanding?

A Yes.
Q Was that explained to you?
A Yes.
Q If you had your choice and your way, would you be here testifying?

A No.
Q Okay. I want to have -- but you understand that you have to tell the truth when you're on this stand; is that right, sir?

A Yes.
Q Okay. Do you know Damien Phillips?
A Yes.
Q Do you see him in the court?
A Yes.
Q Can you point to him and tell me what he's wearing today.

A Gray shirt --
Q And there's tissues here, sir.
A -- and black pants.
MS. SCHIFALACQUA: Your Honor, let the record reflect the witness has identified Damien Phillips.

THE COURT: It will.

BY MS. SCHIFALACQUA:
Q And with regard to Damien have you known him for a number of years?

A Yes.
Q How many?
A Since, like, 2010.
Q Okay. Have you ever referred to him as your cousin?
A Yes.
Q Okay. Is that blood relation or is cousin like you act in a familial like you're like family --

THE COURT: Like, you're so close like family. THE WITNESS: Like family. Yes. MS. SCHIFALACQUA: Okay. THE COURT: So you're not actually blood related through --

THE WITNESS: No.
THE COURT: Okay.
MS. SCHIFALACQUA: Okay.
BY MS. SCHIFALACQUA:
Q Is it fair -- is it your -- the mother of your children and the mother of his children, are they like best friends?

A No.
Q Okay. How is it that you've known him then?
A His son's mother and my son's mother are friends and JD Reporting, Inc.
so that's how we, yes.
Q Okay. So I kind of set it backwards, but you explained it better.

A Oh, yes.
Q Okay. Do you know a person that goes by the name of Shiraq?

A Yes.
Q Do you see him in the court today?
A Yes.
Q Can you point to him and tell me what he's wearing today in court.

A White shirt. MS. SCHIFALACQUA: And, Your Honor, let the record reflect the witness has identified the defendant Anthony Barr. THE COURT: It will.

BY MS. SCHIFALACQUA:
Q Do you -- I went to turn your attention to approximately July of 2018; were you living in Las Vegas at that time?

A Yes.
Q Did you meet at some point at the end of June or early July Jaszman?

A Yes.
Q Okay. When was that, when was the time frame; do you remember?

A I can't remember, like, the date --
Q Where --
A -- the days or --
Q Okay. You don't know the exact date. Where were you living at that time when you met Jaszman?

A These apartments, don't know the name of them.
Q Okay. Where were they located?
A Off of Boulder.
Q Okay. At some point do you and Jaszman start a dating relationship?

A Working on it.
Q Okay.
A At that point.
Q Are you continuing -- are you with her -- would you call her your girlfriend --

A Yes.
Q -- I don't want to label anything --
A Yes.
Q -- well, labels are not big nowadays; right, but you have a romantic relationship with her; is that fair?

A Yes.
Q Okay. When -- did there come a time that you moved with her to the Aviator Suites?

A Yes.
Q Where did you live in the Aviator Suites, was it an JD Reporting, Inc.
upstairs or downstairs apartment?
A Downstairs.
Q Okay. And was there an upstairs apartment that Damien lived at?

A Yes.
Q And was it directly above your downstairs apartment?
A Yes.
Q Okay. Who stayed at that apartment -- at those two apartments, excuse me, in July and early August of this year?

A In my apartment?
Q Yes, who was in your apartment? We'll start with that.

A Me and Jaszman.
Q Okay. And who was in Damien's apartment?
A Damien, Shiraq, and his girlfriend.
Q Okay. His girlfriend. Did his girlfriend have a nickname?

A Sweet Pea.
Q Okay. And did you know her real name or no?
A No, I don't.
Q Okay. Showing you what's been admitted as State's 199, who are we looking at here?

A Sweet Pea.
Q Okay. That's Sweet Pea. Did you know a person named Melissa Summerlays [phonetic]?

JD Reporting, Inc.
\({ }_{001477} 65\)

A Yes.
Q Okay. Showing you what's been admitted as State's 195 who are we looking at here?

A Yes.
Q Who is that?
A Melissa.
Q Okay. And did you know a person named Jakari or J?
A \(J\), yes.
Q Okay. You knew him as J. I'm going to show you what's been admitted as State's 274, who are we looking at there?

A J.
Q Okay. And showing you 403, is that another picture of J?

A Yes.
Q Okay. I want to talk to you about the July and early August time frame. Were you aware if Damien had a job?

A When we moved to the Aviator's he did have a job.
Q He did or did not, I'm sorry, sir.
A He did have a job.
Q He did have a job. How was he employed?
A He was a nurse.
Q Okay. At some point after you moved to the Aviator Suites does he still have that job or did he lose that job?

A Lost the job because I was told that he wasn't
working there no more.
MR. BROWER: Judge, I'm going to object to what he was told.

MR. HUGHES: -- he was told.
MS. SCHIFALACQUA: Okay. Let me back up and I can clarify.

THE COURT: All right. She's going to rephrase. MS. SCHIFALACQUA: Thank you.

BY MS. SCHIFALACQUA:
Q When you say he's -- what you were told were you told by Damien about his job?

A No.
Q Okay. Were you told by someone else about his job?
A Yes.
Q Let me ask you this. When Damien had a job and you knew that he was working, did you guys leave for work -- leave the Aviator apartments for work around the same time?

A Yes.
Q Okay. When there comes a time where -- well, let me ask you this. Does there come a time where you continue to leave for work that Damien no longer leaves at the same time frame as you?

MR. BROWER: Judge, this is leading.
MS. SCHIFALACQUA: It's not leading, Your Honor,
I'm --

JD Reporting, Inc.

THE COURT: Well, overruled.
MS. SCHIFALACQUA: Okay.
THE WITNESS: Can you repeat that.
BY MS. SCHIFALACQUA:
Q Sure. Does there come a time where you continue to leave for work routinely and Damien no longer leaves at the same time?

A Yes.
Q Okay. Now with regard to the Aviator Suites are -what type of apartments are those? Do you pay by the month? Do pay by the week? Do you pay by the day? How do you pay for Aviator Suites?

A Week.
Q Okay. And do you know when the rent was due -- the weekly rent was due generally?

A Every Tuesday.
Q Okay. And you kind of got a question look on your face are you certain of when it was due?

A I'm just trying to remember.
Q Okay. But you knew it was due weekly; is that fair?
A Yes.
Q Okay. Does there come a point in time that Damien begins to pay for your apartment as well as his apartment?

A Yes.
Q Okay. What time frame was that, sir?

A The second payment.
Q Of what month?
A Of the month we moved in.
Q Okay. Do you remember what month you moved in?
A No, I don't.
Q Okay. Let me ask you this. Do you remember when you moved out?

A Maybe September.
Q Okay. Did there come a point in time where you were present when police came to your apartment and searched?

A Yes, I was there.
Q Okay. Did they also search your vehicle?
A Yes.
Q And you gave them that permission to do that when it came to your vehicle?

A Yes.
Q Okay. And so you were there on that day. Were the -- you said the second payment, were the payments made by Damien before the time frame of when the police came and did search warrants?

A No.
Q Okay. When the -- he didn't make payments after the police searched; right?

A No.
Q Okay.

MS. SCHIFALACQUA: And showing counsel what's been previously provided as State's 402 if I may approach?

THE COURT: It's fine.
MS. SCHIFALACQUA: Thank you.
BY MS. SCHIFALACQUA:
Q I'm showing you what's been marked as State's Proposed Exhibit 402; do you recognize your name?

A Yes.
Q Okay. And is this the information form for Aviator Suites to move in?

A Yes.
Q Does it have your unit number?
A Yes.
Q What's that?
A 142 .
Q Okay. I'm going to turn a couple pages in. Does it show the receipt from the first time that you rented a room 142?

A Yes.
Q What's the time frame?
A \(\quad 7 / 01\) to 7/17.
Q So that was the first. So you said about the second payment or after the second payment is when Damien started paying for the room; is that right?

A No.

Q Okay. When do you remember him starting to pay for the room?

A If I remember it was since the first time 'cause he had got paid from his job that he did have.

Q Okay. And so that was in July; is that fair?
A Yes.
Q Okay. And looking at this helped you -- we have the -- did you recognize up there the guy from the Aviator Suites?

A No.
Q Okay. Well, these aren't your records, but this is where you rented from; is that fair?

A Okay, yes.
Q Okay. So it was in July at some point, I believe you said July 1st through July 17th that he would have began paying for your room and; is that right?

A Yes.
Q Okay. I want to show you what's been admitted as State's 318, do you recognize the vehicle depicted in that photograph, sir?

A Yes.
Q What's that?
A Damien's car.
Q Okay. And you had seen Damien in this car driving this car, et cetera?

JD Reporting, Inc.

A Yes.
Q Okay. I want to talk to you about the -- about meeting with myself and Mr. Scow in preparation for this case. Do you remember coming and meeting with us?

A Yes.
Q Okay. Prior to meeting with us had you reviewed any video surveillance?

A Yes.
Q On the date you met with us is that when you first saw it?

A Yes.
Q Okay. And did we review video surveillance with you before you had to come testify today?

A Yes.
Q Okay. And that was in our offices; is that right?
A Yes.
Q And when we came to meet with you, were there any officers waiting to meet with us as well that you saw?

A Yes.
Q Okay. And so did we call you in one at a time to meet with you?

A Yes.
Q Okay. And you remember doing that; is that right, sir?

A Yes.

Q Okay. I'm going to show you some video surveillance that's been previously admitted. We're going to start with State's Exhibit 1. And, Vidal, I'm going to ask you to view what's in State's 1, and if you recognize something please say it out loud.

A Yes.
Q Who do you recognize?
MR. BROWER: Judge, he just said he recognized
something; he didn't say he recognized the person.
THE COURT: What do you recognize?
BY MS. SCHIFALACQUA:
Q What do you recognize?
A Damien.
Q We're going to go forward for the record's sake. Do you recognize anyone in this video?

A Yes.
Q Who is that?
A Damien.
Q Damien that's in court here today?
A Yes.
Q I'm now going to show you, Vidal, State's 27.
A Yes.
Q What did you recognize?
A Damien and Shiraq.
Q Okay. Damien and Shiraq that are sitting in court JD Reporting, Inc.
today that you've identified?
A Yes.
MS. SCHIFALACQUA: So the record is clear, we are going -- moving in an elevated speed with regard to the video. BY MS. SCHIFALACQUA:

Q I'm going to pause it. Vidal, who do you see there?
A Damien.
Q Okay. And who are we looking at here?
A Shiraq.
Q With regard to the time frame of Shiraq living with Damien at Aviator Suites with yourself, was that the same time frame that you were staying there starting in July?

A I think he came, like, a little bit after.
Q Okay. But --
A He just started like -- first, he was like he was just coming over just like this hanging out with him.

Q Okay. And so you observed him coming over and hanging out; is that fair?

A Yes.
Q Okay. And you've spoken with him before?
A Yes.
Q Okay. You've met him, et cetera; is that right?
A Yes.
Q And so the time frame you're not certain of, but it was at least in July; is it fair to say part of August as well?

JD Reporting, Inc.

A Repeat that.
Q The time frame of when Shiraq was coming around and/or living with Damien, was that July and August?

A Yes.
Q Okay. Was it all before the time that the police served search warrants?

A Yes, it was before.
Q Okay. I'm going to show you what's been admitted as State's 103. Vidal, again, let me know if you recognize anything.

A Yes.
Q What did you recognize?
A Damien and Shiraq.
Q With regard to who you recognized as Damien, was there anything that stuck out to you about his appearance in this video?

A He had a wig on and a dress.
Q Okay. You have a mouse in front of you. You said you also saw Shiraq. Do you see that mouse in front of you, Vidal?

A Yes.
Q Can you use it to point out who it is you recognize.
A (Witness complies.)
Q Who's that?
A Shiraq.

Q Do you recognize anyone in that angle of the camera?
A Yes.
Q Who?
A Damien.
Q Were you aware if Shiraq had a particular vehicle?
A Yes.
Q Okay. And do you remember what type of vehicle Shiraq had?

A I can't remember the name, but it looks like a Lincoln.

Q Okay. Do you know what color it was?
A Like a burgundy red.
Q Okay. Did you ever see him driving that vehicle?
A Yes.
Q Okay. What about his girlfriend, did you ever see her driving his vehicle, Sweet Pea?

A I don't recall seeing her ever.
Q Okay. I'm going to show you a portion of State's 105. Do you recognize any of the vehicles depicted in this video?

A Yes.
Q And which one?
A The red one.
Q And how do you recognize that or what do you recognize it to be?

JD Reporting, Inc.

A The car Shiraq was driving.
Q Okay. Vidal, do you recognize anything that's depicted in that video?

A Yes.
Q What did you recognize?
A Shiraq and Damien getting in the car.
Q Who's getting in what part of the car? Describe for our jury, please.

A Shiraq in the front and Desmond in the back.
Q Okay. And is that the vehicle, Shiraq's vehicle?
A Yes.
Q Okay. I'm now going to show you a portion of what's been admitted as State's 59, Vidal. Vidal, do recognize anyone in this video?

A Yes.
Q Who?
A Damien and Shiraq.
Q Who are we looking at right now?
A Shiraq.
Q Did you know Shiraq to have tattoos on his face?
A Yes.
Q Do you see them in that video?
A No.
Q Vidal, what are you looking at here?
A Damien.

Q And I'm going to show you a portion of what's been admitted as State's 154. While that's getting ready to load, did you ever see Shiraq use a towel or have a towel around his neck?

A Sometimes.
Q Okay. And, Vidal, let me know again if you recognize anything in State's 154.

A Yes.
Q What did you recognize?
A Shiraq.
Q Anyone else?
A Yes, Damien.
Q Do you see them both in the video right now?
A Yes.
Q Which one is Damien and which one is Shiraq?
A Shiraq is the one with the gun and Damien was the one that got whatever he had got.

Q And I didn't hear you as to describe Damien. Shiraq's the one with the gun, Damien was he in front of Shiraq at some point?

A Yes, he was in front.
Q Okay. When you just observed these video surveillance and reviewed them, did you ever see who you know as \(J\) in any of the videos?

A No.

Q Okay. Let me make it clear to these jurors, at any time did you -- were you involved in any bank robberies?

A No.
MS. SCHIFALACQUA: I pass the witness, Your Honor. THE COURT: All right. Mr. Brower. MR. BROWER: Judge, I'm going to pass the witness. THE COURT: Mr. Hughes.

BY MR. HUGHES:
Q Sir, I want you to think about the car that you say that Mr. Barr owned. Did it have tinted windows?

A Yes.
Q Were the windows always tinted since you knew Mr. Barr?

A No.
Q No? When --
A I don't recall the windows being tinted.
Q I'm sorry, you don't recall the windows being tinted?
A No, I don't.
Q So your testimony is that Mr. Barr's car did not have tinted windows; is that what I understand?

MS. SCHIFALACQUA: Objection, Your Honor. He said he didn't recall. He didn't say he didn't.

THE COURT: Well, he can follow up because he said JD Reporting, Inc.
two things.
THE WITNESS: But you asked me was his windows tinted and I said, yes. BY \(\operatorname{MR}\). HUGHES:

Q Okay. How long did you know Mr. Barr?
A I didn't, like, really know him.
Q When did you first meet Mr. Barr?
A I can't remember.
Q Did you take anything to steady your nerves today before you came in?

A No, I didn't.
Q Did you have a gun in your apartment at Aviator Suites?

A I had like a -- it was like a -- it was a air soft gun in there.

Q Was it your air soft gun?
A Not really mine. We -- I, like -- I found it, and we bought like some air things that go in there just to see if it would work.

Q So when you say an air soft gun what do you mean?
A Like a BB gun.
Q And you found it?
A Yes.
Q Where did you find it?
A At the -- the apartments where I was living at, the JD Reporting, Inc.
ones on Boulder.
Q Okay. And you kept it in your apartment because it was your gun?

A It was in the apartment.
Q And you are the one that found it?
A Yes.
Q And I believe you said that you often left in the morning with Mr. Phillips; is that right?

A Yes, when he was working. MR. HUGHES: Thank you. That's all I have. THE COURT: Redirect? MS. SCHIFALACQUA: Thank you.

REDIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q I want to make clear for our jury, were you ever friends with Shiraq?

A No.
Q Okay. You knew him; is that fair?
A Yes.
Q Okay. But as far as how close you were with Damien you didn't have that type of relationship with Shiraq?

A Not at all.
Q But you had a chance to observe him; is that right, see his face?

A Yes.

Q He lived in the apartments same as you?
A Yes.
Q Okay. With regard to this BB gun, when you say we bought things to see if it would work, who's we?

A Me and Damien.
Q Okay.
MS. SCHIFALACQUA: Nothing further.
THE COURT: Any follow-up?
MR. BROWER: No, Judge.
MR. HUGHES: Nothing, Your Honor.
THE COURT: Any juror questions for this witness?
All right. I don't see any questions.
Thank you for your testimony. Please don't discuss your testimony with anybody else who may be a witness.

THE WITNESS: Okay.
THE COURT: Thank you, and you are excused. And the State may call its next witness.

\section*{TERRY DYCUS}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last name for the record.

THE WITNESS: Terry Dycus. T-e-r-r-y, D-y-c-u-s.
THE COURT: All right.
THE CLERK: One more time, I'm sorry.

JD Reporting, Inc.

Nevada Supreme Court
State of Nevada, Plaintiff
v.

Anthony Barr, Appellant
Docket Number 78295

\section*{APPELLANT'S APPENDIX Vol. VII}

NRAP 26.1 Disclosure
The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Jeannie Hua, Esq., Attorney of record for Appellant, Anthony Barr Clark County District Attorney's Office for the State of Nevada

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THE WITNESS: D-y-c-u-s.
THE COURT: All right. Thank you.
Mr. Scow.
MR. SCOW: Thank you, Judge.

\section*{DIRECT EXAMINATION}

BY MR. SCOW:
Q Terry, what do you do for a living?
A I work in property management. I'm the current property manager at Aviator Suites.

Q How long have you been a manager of that property?
A Since the beginning of June of this year.
Q And as the property manager do you take rent payments and help manage the rooms, who's renting rooms and things like that?

A Correct.
Q Do you get to know somewhat the people that are in the particular suites?

A Yes. I don't deal with the payments as much as I should be doing because I'm an leasing agent, but I do see everybody from time to time.

Q Okay. So I'm going to direct your attention to July and August 2018. Did you provide room records for 142 and 242?

A Yes, I did.
Q I'm going to approach and showing you what's been marked as State's Proposed Exhibits 401 and 402 and ask if you JD Reporting, Inc.
recognize these?
A Yes, the -- this is my rental application, copy of the ID and these are rent receipts.

Q And which room is that associated with?
A This one is 242.
Q And exhibit -- Proposed Exhibit 402 take a look at that.

A Rental application, copy of ID, yep, these are Aviator Suites tickets for room 142.

Q Okay. Who applied for and was on the receipts for Room 242?

A Damien Phillips.
Q Okay. And for 142?
A Vidal Holman.
MR. SCOW: I move for admission of State's Proposed 401 and 402.

MR. HUGHES: Submitted.
MR. BROWER: Submitted, Judge.
THE COURT: All right. They will be admitted.
(State's Exhibit Nos. 401-402 admitted.)
BY MR. SCOW:
Q And are you familiar with who was making payments for both of these rooms?

A Yes. It was to my knowledge that Damien that was the one that was doing the arrangements.

JD Reporting, Inc.

Q We'll just -- just go through a few of these so the jury knows what it is that they're looking at when they see this exhibit. Can you describe what are -- what's on these copies?

A What am I looking at?
Q If you -- the monitor.
THE COURT: It should be on the monitor right there. THE WITNESS: Oh, I didn't even see that. Wow.

BY MR. SCOW:
Q And there's a mouse too that you can move the cursor around as you're pointing to things.

A Okay. So this is week two. Where is week one? Move in, oh, this is the first week. Okay. So this is the -- it just has the room numbers and it goes by date and it looks like he was paying a week at a time. This is his move-in special, 199. There's week three down there and --

Q And can you show where the dates are.
A The dates are at the top. 7/3/18, was the first move-in initial date for --

Q So they moved in on July 3rd?
A Yes, sir.
Q Okay. And then the second payments with these would be somewhat out of order --

A It would be the 10th.
Q -- but the 10th is the last one?

JD Reporting, Inc.

A Yeah. So as you see here it's 7/3 to 7/10 and then it goes from 7/10 to 7/17.

Q Okay. And then the second or the third week payment?
A 7/17 to 7/24. And week four 7/24 to 7/31.
Q Okay. And then it has other receipts for later dates?

A Yeah. So this was his final week of taxes or you see here this one is two days with no tax. And this one -- no, I'm sorry. This is the two days with tax and five days no tax I'm sorry.

Q Okay. And the last -- the last?
A The last date is 8/7.
Q Okay. It's similarly with the other --
A Yeah.
Q And this is Exhibit 402. Does it show when they moved in as well?

A Yep. This is a move-in date of \(7 / 3\). And then that's the 7/10, second week. Let's see where is -- 7/10 to 7/17. And week three the 7/17 to 7/25 --

Q Okay.
A -- four.
Q They -- they had receipts going through about what time that you see there?

A Last one is September 1st.
Q Okay.

MR. SCOW: Pass the witness, Judge.
THE COURT: All right.
Mr. Brower?

\section*{CROSS-EXAMINATION}

BY MR. BROWER:
Q Sir, you just testified that it was your recollection that Mr. Phillips was making payments on Mr. Holman's suite; correct?

A Yes, sir.
Q Okay. And you were just shown a series of exhibits; does that ring a bell?

A Yes.
Q Okay. And on the exhibits you were shown do you see signatures on the receipts?

A Yes.
Q Okay. Now, this is the receipts for Mr. Phillips's rooms; correct?

A Yes.
Q Do you also see receipts for Mr. Holman's rooms?
A Right. Yes.
Q Okay. Now, do the signatures on the receipts, do they look the same for Mr. Holman's and Mr. Phillips?

A No.
Q Okay. They're actually -- they look to you to be different; correct?

A Yes.
Q Now, if Mr. Phillips is paying those receipt or those payments, why wouldn't he be signing the receipts the same?

A Because all he has to do is get a money order for his -- for Mr. Holman's.

Q So a money order paid for the rooms; correct?
A Possibly.
Q Do you sell the money order?
A No -- did I sell the money order?
Q Yeah, did you sell the money order?
A No.
Q So you don't have any --
A There's also --
Q -- idea who purchased the money order; correct?
THE COURT: Well, let --
THE WITNESS: There's also been credit card payments and all that. BY MR. BROWER:

Q Okay. Did you -- did you accept mostly money orders in this case?

A We accept credit cards and money orders.
Q Okay. Do you have the credit card receipts with you?
A No. I did provide those.
Q You show the names of who paid -- was on the credit card?

A We do require ID, yes.
Q Okay. But you didn't bring those?
A No.
Q And you admit that the signatures are different; correct?

A Correct.
Q All right. And you were paid by a money order?
A In which payment? There was multiple tickets there.
Q Some of the payments were made by money order;
correct?
A I can go with that, yes.
Q Okay. And you have no idea who purchased the money order; correct?

A Correct.
Q So you have no idea who was making the payments for the room; correct?

A Correct.
MR. BROWER: No further questions.
THE COURT: Um --
MR. HUGHES: No, no questions.
THE COURT: Any redirect?
MR. SCOW: Yep.
REDIRECT EXAMINATION
BY MR. SCOW:
Q Were you present when payments were made?

A No.
Q Okay. And when you testified initially, you said it was to your knowledge that Damien was paying for both rooms at times?

A Correct.
Q I know you're not a handwriting expert, so I'm not going to ask you to -- but don't these two signatures look different?

A Yes.
Q Doesn't that look like it starts with a D?
A It does.
Q And what about down here?
A It does. And I just want to throw out there too, people can pay on other people's units especially in this incident when they were known to be relatives, that's how they presented themselves to us. So if he wanted to pay a room on his brother or whoever he was, he's allowed to do that, but they're not allowed to grab the receipt. The tenant in that room would have to come down and grab it so.

Q Okay. And they -- you said they presented themselves as --

A As -- as I was -- if they're paying with a credit card, they have to show their ID; we don't just run it.

Q Okay. And you said that Damien and Vidal presented themselves as family or related?

JD Reporting, Inc.

A Correct.
Q Okay.
MR. SCOW: Nothing else.
THE COURT: Anything else?
MR. BROWER: No, Judge.
THE COURT: Mr. Hughes?
MR. HUGHES: Nothing, Your Honor.
THE COURT: Any juror questions for the witness? All
right. I see no additional questions.
Thank you for your testimony. Please don't discuss your testimony with any of the witnesses in this case.

And the State may call its next witness.
MR. SCOW: It's Michael Cromwell.
THE COURT: And then please remain standing. Face that lady right there.

\section*{MICHAEL CROMNELL}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last names for the record.

THE WITNESS: Michael Cromwell. M-i-c-h-a-e-l,
\(\mathrm{C}-\mathrm{r}-\mathrm{O}-\mathrm{m}-\mathrm{w}-\mathrm{e}-\mathrm{l}-\mathrm{l}\).
THE RECORDER: I couldn't hear that.
THE CLERK: Can you spell last name again.
THE WITNESS: C-r-o-m-w-e-l-l.

JD Reporting, Inc.

THE CLERK: Thank you. DIRECT EXAMINATION

BY MR. SCOW:
Q How are you employed?
A I'm a crime scene analyst with the City of Henderson Police Department.

Q How long have you been a crime scene analyst?
A Total approximately 11 years.
Q Has it been always with Henderson?
A No. I've been with Henderson for the past five. I was with Las Vegas Metropolitan Police Department before that, and for a brief period of time I was with the Washington DC Department of Forensic Sciences.

Q Can you describe for the jury your background, education, training and experience that led up to you becoming a CSA.

A Sure. I graduated in 2007 from University of Central Florida with my bachelor's degree in forensic science and a chemistry minor. I hired on with Las Vegas Metropolitan Police Department in 2008 where I underwent a 400 hour crime scene analyst academy followed by a 12 week field training and evaluation program. And since then I have regularly participated in several trainings that are relevant to the field of crime scene investigations.

Q About how many scenes have you worked in your 11 or JD Reporting, Inc.
so years?
A Approximately I believe it's upwards to 2,000.
Q And how many times have you testified?
A Greater than 25.
Q And each of the times that you testified in a trial, did you meet with the prosecuting attorney beforehand?

A Yeah, as a pretrial conference we request or we expect it.

Q Each time?
A Each time.
Q And when -- did you meet with us before this trial in this case?

A Yes, we did.
Q And when you came did you notice other witnesses or officers that were waiting to meet with us?

A When I came I was the only one in the waiting area.
Q Okay. I want to direct your attention to August 9th and August 10th of this year. Were you called to assist with a bank robbery series investigation?

A Yes, I was called to assist with a search warrant regarding that investigation.

Q What was the first search warrant location that you went to?

A It was located at the Circus Circus motel behind the casino.

Q And where was that located?
A 2080 South Las Vegas Boulevard.
Q And you were there to take some images of a room at that location that was being searched?

A That's correct.
Q Do you remember what room?
A I believe 2404.
Q And do you have that documented in your report?
A I do.
Q Because you said you believe it, would it help you to remember for sure by looking at your report?

A Yes, it would.
Q Okay. Go ahead.
A It's correct, 2404, Building C.
Q Okay. And when you -- when you go to that location is it verified who is renting from the location?

A Once inside we located a room receipt that was documented and photographed as well as collected as evidence.

Q Okay. And do you go with a detective that's part of searching the scene and you go to document it?

A Yes. We're there solely to assist the detectives in executing a search warrant.

Q So is it your decision as to what is impounded or not impounded?

A Ultimately, no.

Q I'm going to show you State's images -- Proposed 299 to 317 and ask if you recognize what you see here.

A Yes, these are images from the hotel room.
Q At the Circus Circus?
A At the Circus Circus.
Q Room 2404?
A Yes.
MR. SCOW: Move for admission of State's Proposed 299
through 317.
\(\operatorname{MR}\). BROWER: Judge, can we actually see them?
MR. SCOW: These have previously been provided in discovery.

THE COURT: Submit it?
MR. BROWER: I'll submit it, Judge.
MR. HUGHES: Submit it.
THE COURT: All right. That will -- those will be admitted.

THE CLERK: That was 299 through 317?
MR. SCOW: Yes, 317.
(State's Exhibit Nos. 299-317 admitted.)
BY MR. SCOW:
Q Showing you first 315, what is this?
A That's a photo of the exterior just documenting the sign that says Circus Circus Manor.

Q As you document a scene you kind of start big and
then kind of narrow into where you're going?
A Yes. That's correct.
Q What do we see in State's Exhibit 299?
A This is a photo of the exterior of the door leading into Room 2404.

Q 300?
A That's a close-up of the placard with the room number on it.

Q 301?
A That's an overall view of the hotel room once inside. Q 303?

A That's a relationship shot of the desk located in the hotel room to document its contents.

Q And did you get closer up and photograph items of potential evidence on that table?

A Yes, I did.
Q Is 304 kind of moving closer?
A Yes.
Q 306 ?
A That's even closer, yeah.
Q What is it that we're looking at that you're getting close ups of?

A There was open cosmetics containers on the desk.
Q 307?
A Again that's another photo of the open cosmetics JD Reporting, Inc.
container as well as a cell phone.
Q 308?
A Again, another cosmetic container open.
Q Those are all on the little table or desk as you called it?

A Yes.
Q Did you do anything with those cosmetics?
A I collected them and impounded them as evidence.
Q Show you what's been marked as State's Proposed Exhibit 339 and ask if you recognize it?

A Yes. This is the package containing those cosmetics.
Q And how do you know that that's what's contained in there?

A There's a label with the item description as well as the case number as well as my name and information. It has package 2100-001, 2100 is my P number and on the back it's sealed with tamperproof evidence tape both initialed and dated by me.

Q And what's the case number that you did the search warrant under?

A It's 18-15877.
Q And there were multiple of that number and this was just the one that attached to you serving this search warrant and taking pictures?

A I think so, yes.

MR. SCOW: I'll move for admission --
Q And what's contained in here is what we're looking at in those pictures that we just looked at?

A Yes.
MR. SCOW: Move for admission of State's Proposed
339.

MR. BROWER: Submit it.
MR. HUGHES: Submitted.
THE COURT: All right. That will be admitted. (State's Exhibit No. 339 admitted.)

MR. SCOW: And contents.
THE CLERK: What?
MR. SCOW: I'm going to have the witness open it. So
I just need some scissors.
THE CLERK: Mr. Scow.
THE COURT: Does he need gloves?
MR. SCOW: (Inaudible.)
THE CLERK: I have some right here.
THE WITNESS: Thank you.
BY MR. SCOW:
Q And in looking at this, since you impounded it has it been opened or accessed before today?

A It has not.
Q And how do you know that?
A Both my seals are intact and there's no additional

JD Reporting, Inc.
00151098
cuts or seals on the package itself.
Q So if you could go ahead and open it and you can display what's inside. It's already in the bag.

A Yeah.
Q So can you just show it up for the jury the items that you documented by photograph.

A (Witness complies.)
MR. SCOW: Okay. I'll give these back to I think to mark. Put those with the other one. BY MR. SCOW:

Q And you documented other areas inside of that Circus Circus room as well?

A I did, yes.
Q And in 309?
A That is an upholstered chair located in the corner of the room.

Q In 310 is that a closer up of that chair?
A Yes, to document and ID what was on top of the chair.
Q And what's the name on that ID?
A Damien Phillips.
Q 312?
A This is a bag that was located in the room.
Q 311?
A Further images of contents of that bag.
Q And did you -- were you able to see what was inside JD Reporting, Inc.
that bag?
A It looks like miscellaneous cosmetics.
Q 313?
A This is in the bathroom. That's a photograph of towels hanging off of a shutter rod.

Q And then did you take a close-up shot of that as well?

A I did I believe.
Q In 314?
A Yes. That's the close-up image.
Q That's the close-up image?
A Yes.
Q And in Exhibit 317?
A This is a pair of jeans.
THE CLERK: Mr. Scow.
MR. SCOW: Would you like to see a little bit better?
There you go.
THE WITNESS: Still a pair of jeans.
BY MR. SCOW:
Q Still a pair of jeans. Well, that was impressive.
That's the front of the jeans?
A Yes.
Q And then 316?
A That's the back.
Q Just showing the overall condition of those pants? JD Reporting, Inc.

A Correct.
Q Of note are there some tear holes on both knees?
A Yes.
Q And other defects in the pants?
A Correct, yes.
Q You mentioned a receipt that you located in the room; where was that?

A Do you mind if I look at my report?
Q If you could look -- yeah, go ahead look at it and see.

A The receipt is Item No. 7, and it was located on the end table.

Q Was that the one between beds?
A That was the one next to the chair.
Q And we'll show you State's Proposed Exhibit 333 and ask if you recognize this?

A Yes. Again this is my package containing one Circus Circus Manor room receipt dated 8/7/18.

Q And is this the receipt that you found inside room 2404?

A Yes, it is.
Q And as was asked with the other package of evidence, has this been opened since you impounded it?

A No, it has not.
MR. SCOW: Move for admission of State's Proposed 333

JD Reporting, Inc.
and contents.
MR. BROWER: Submit it, Judge.
MR. HUGHES: Submitted.
THE COURT: Okay. 333 and contents are admitted. (State's Exhibit No. 333 admitted.)

BY MR. SCOW:
Q I'll ask you to open this as well.
A (Witness complies.)
Q Showing you the contents which we've marked as 333A. This is the receipt you found?

A Yes.
Q And the name of the person that was renting the room per the receipt?

A Per the receipt it's Sabrina Henderson.
Q After you documented the scene at Circus Circus, took those pictures, grabbed some items of evidence that you later impounded, what scene did you do after that?

A I then responded to the Aviator Suites located on North Las Vegas Boulevard.

Q I'm going to show you what's marked as State's Proposed to 266 through 3 -- I'll do that one later.

MR. SCOW: These are different sections. Just give me a second. 266 through 275 first and then 319 through 327. BY MR. SCOW:

Q While they look at those, I'll have you look at these JD Reporting, Inc.
ones first. And these are 266 through 275. Do you recognize those?

A I do.
Q What are those?
A They are photos from the Aviator Suites specifically room 142 and room 242.

Q Okay. And then 319 to 327?
A These are also photos looking at the Aviator Suites of a vehicle parked outside.

Q And these are the photographs you took August 9th when you went to Aviator Suites?

A Yes, they are.
MR. SCOW: Move for admission of State's Proposed 266 through 275 and then 319 to 327.

THE COURT: Submit it?
MR. HUGHES: Submitted.
MR. BROWER: Submit it, Judge.
THE COURT: All right. That will -- those will all be admitted.
(State's Exhibit Nos. 266-275 \& 319-327 admitted.)
BY MR. SCOW:
Q Room 142 that's the room number from Exhibit 266? THE COURT: Is that just a picture of the room number there?

THE WITNESS: It is.

BY MR. SCOW:
Q And then 267, is that a picture of the interior after you took the room number picture?

A It is.
Q Did you impound anything from the Room 142?
A 142 a number of cell phones and I believe currency. U.S. currency was recovered from that room.

Q Okay. And then 268, is that a number for the -- on the exterior of the door?

A Yeah, of Room 242.
Q And 269 is that showing the inside of that apartment?
A Yes.
Q And if you zoom in on the door, I think you caught the number on the door?

A Yes. Correct.
Q So in the kitchen there's like that dog cage and the dog inside?

A Yes, there was.
Q And then there this 270 just kinda getting more into the room now?

A It is.
Q Didn't -- oh, I meant to go out. Do you see anybody in the picture that you recognize?

A You can see me in the mirror.
Q And just overall room condition 271?

A Yes.
Q \(\quad 273\) in the kitchen area?
A Yes; correct.
Q In 275 in the bathroom?
A Correct, yes.
Q And the other photos you took, 319 what is this showing?

A This is showing a Mazda Protégé that was parked outside.

Q We already previously admitted 318.
A Another view of that same vehicle.
Q 320?
A Another view of the same vehicle.
Q Just the back with the license plate?
A Correct.
Q In the interior 321?
A Yes, looking into the front passenger door.
Q And then you documented some of the items within that vehicle as well?

A Correct.
Q Is that showing in 325?
A Yes, that was in the rear cargo area.
Q 326?
A Yes, that was a BB gun that was located inside.
Q 327?

A This is the vehicle registration of that vehicle.
Q And who is it registered to?
A Damien Phillips.
Q Did you do anything else on August 9th as far as documenting evidence or going to process the scene?

A There was another vehicle that we processed on consent that was outside, and no evidence was recovered from that vehicle.

Q Is that a vehicle belonging to Vidal Holman?
A I don't recall who it belongs to. It was a Tahoe or a Suburban.

MR. BROWER: Judge, he's referring to his notes. I'd ask before he can use that if he --

THE COURT: I'm sorry?
MR. BROWER: He seemed to be just referring to his
notes without questioning.
THE COURT: Were you referring to your notes there? THE WITNESS: I was. May I look at my notes? THE COURT: Would that refresh your memory?

BY MR. SCOW:
Q As you sit there now you don't remember whose vehicle that was?

A I don't know whose vehicle that was. I can just give you a description of the vehicle.

Q Is it reflected in your notes?

A The description of the vehicle is.
Q But not the owner of the vehicle?
A Correct.
Q Okay. So it would not refresh your recollection if you looked at your notes?

A No.
Q Okay. The next day August 10th were you asked to assist further in the investigation of the bank robberies in executing search warrants?

A Yes, I was.
Q Where did you go or what were you asked to assist with on the next day?

A A search warrant of another vehicle that was -- had been towed to our criminalistics garage.

Q I'm going to show you State's Proposed Exhibits 276 through 298. Although one of them has already been admitted; it is Exhibit 277. And then a different set 390 through -- it looks like 390 is the last one. 385 through 390.

A Okay. These are vehicle or photographs of the vehicle taken during that search warrant.

Q Okay.
A And these are also photographs I had took of the same vehicle during that same search warrant.

Q Photos you took on August 10th, 2018?
A Correct.

Q Where were these photos taken?
A In our criminalistics garage located at our main station.

Q When you first saw the vehicle, was it sealed in a sealed condition?

A Yes, it was.
Q And describe for the jury how it's sealed.
A The doors, trunk and hood have red evidence tape covering, you know, so preventing them from being opened. And they were all intact showing that the doors, hood and trunk were not opened previous.

Q All right. So I'm going to show you first State's Exhibit --

MR. SCOW: I'd move for admission of those proposed exhibits.

MR. BROWER: Submit it, Judge.
MR. HUGHES: Submitted.
MR. SCOW: So it's 276 to 298.
THE COURT: All right. Those will be admitted.
(State's Exhibit Nos. 276-298 admitted.)
MR. SCOW: And then the second batch was 385 to 390.
MR. BROWER: Submit it as well, Judge.
MR. HUGHES: Submit it.
THE COURT: All right. 385 through 390 is admitted. (State's Exhibit Nos. 385-390 admitted.)

JD Reporting, Inc.

BY MR. SCOW:
Q Showing you first 276. Just tell us what you see as we put these up.

A This is the photograph of the vehicle from the front end of the vehicle.

Q 277?
A This is the backside of the vehicle.
Q 278 you just kinda do every side of the vehicle just to get the condition on each side?

A Correct.
Q And then 280?
A This is the license plate that was attached to the inside of the rear windshield.

Q And as you're looking at that the one picture made it seem like you couldn't see anything in the car at all when we look at 277, but the way that this picture documents the car 280 you could see into the vehicle?

A Correct. It had tinted windows, but as you got closer to the vehicle and you could focus your flash on that particular area it was able to illuminate the plate.

Q So does the lighting have an effect on how the tint of the window appeared?

A It can. You can shine light through it.
Q So on the front of the vehicle in Exhibit 390 did you take a picture of the VIN?

A I did. And this is the photo of that.
Q And can you read that into the record for us.
A It's 2MELM75W6RX655459.
Q 282 a closer up of the back of the vehicle?
A Correct.
Q And as you get into the inside 283?
A That's in the inside as viewed from the opened driver door.

Q 284?
A Another photograph of the inside as for the rear driver's side door.

Q 285?
A That is looking down at the floorboard and what's on the seat of the rear driver's side passenger seat.

Q And what was on the floorboard of the rear passenger area of that red Grand Marquis?

A There was a BB gun on the floorboard there.
Q 286?
A That's a photo -- a close-up photo of the BB gun that was located on the floor.

Q Did you collect that item of evidence?
A Yes, we did.
MR. SCOW: Did you mark this one? Is this one marked?

THE CLERK: (Inaudible.)

BY MR. SCOW:
Q I'm going to show you what's just been marked as State's Proposed Exhibit 404 and ask if you recognize that?

A I do.
Q What is it?
A This is the BB gun that was impounded from that vehicle. It is in a gun box secured inside and a label with the case information, again my information and the description of the evidence inside on the front.

Q And it's under that same event number of the previous packages that we went through, the one ending in 15877?

A Yes.
Q And what's -- what's contained in this box?
A Inside is Item No. 2100-007-012, and it is one SIG Sauer P226X5C02 pistol, point 177 caliber serial number 60631954.

Q Okay. And is it -- is what's inside what's documented on the photograph that's being displayed at this time?

A Yes.
MR. SCOW: And for the record that's in Exhibit 286. BY MR. SCOW:

Q Which tape on here is yours?
A The red tape is ours and then the blue tape would be the forensic labs.

Q Okay. And does Henderson have a firearms forensic lab?

A No, we do not.
Q So if it's going to be examined or looked at would it be sent to another jurisdictions lab?

A Yes, it would.
Q Which lab is that?
A LVMPD.
Q And I'm gonna ask you the condition of the tape, has your tape been disturbed?

A Yeah, my tape has been broken; however, the blue tape is intact.

Q Okay.
MR. SCOW: So I'll move for admission of State's Proposed 404 and contents.

THE COURT: Submit it?
MR. BROWER: Submit it, Judge.
MR. HUGHES: Submit it.
THE COURT: All right. That will be admitted. (State's Exhibit No. 404 admitted.)

MR. SCOW: And I want to have him open it at this
time.
THE COURT: Okay.
BY MR. SCOW:
Q Looking back at 285 you'd mentioned some contents on
the rear seat of the vehicle?
A Yes.
Q So the blue bag and some contents?
A That's what it looks like, yes.
Q And were there other -- you documented other items that were located within the vehicle; is that correct?

A Yeah, we try to document what the contents of that vehicle.

Q I'm going to show you now what's marked as State's -or State's Exhibit 298; what was this?

A A makeup case.
Q Do you recall where that was located in the vehicle?
A I do not.
Q That was something that you documented?
A Correct.
Q 297?
A A close-up of just more cosmetics.
Q Were those items that you recovered?
A No, they were not.
Q Showing you Exhibit 289.
A That's a photograph inside the trunk of the vehicle.
Q A blue bag?
A Correct.
Q Okay. And when you take pictures of the cosmetics like that on top of something else, what does that indicate to JD Reporting, Inc.

A That that's where they were removed from.
THE COURT: Maybe this would be a good time to take another break.

MR. SCOW: Okay.
THE COURT: Ladies and gentlemen we're going to go ahead and take another break just till 12:25.

During the brief break, you're all reminded you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch, or listen to any reports of or commentaries on the case, person, or subject matter relating to the case. Don't do any independent research by way of the Internet or any other medium, and please do not form or express an opinion on the case.

Please leave your notepads in your chairs and follow the bailiff through the double doors.

And, sir, during the break, please don't discuss your testimony with anybody, okay.
(Jury exiting 12:12 p.m.)

THE COURT: All right. Scheduling, how much longer do we think with this witness?

MR. SCOW: I have probably five or six more questions. I was almost done.

THE COURT: Sorry.

MR. SCOW: That's all right.
THE COURT: I don't know these things.
MR. SCOW: I know.
THE COURT: And then cross what do we think?
MR. BROWER: Judge, I'm -- I don't anticipate many
questions at all.
MR. HUGHES: My average.
THE COURT: Okay. And then the ballistics --
MS. SCHIFALACQUA: Correct.
THE COURT: -- and that's it?
MS. SCHIFALACQUA: And that's it.
MR. SCOW: Yeah.
MS. SCHIFALACQUA: Correct.
MR. SCOW: We'll finish probably by 1:00 maybe a little after 1:00.

THE COURT: Okay.
MR. SCOW: The ballistics I don't think will be that long.

MS. SCHIFALACQUA: It's a functionality test, Your Honor.

THE COURT: All right. So --
MS. SCHIFALACQUA: There's --
THE COURT: -- if we finish a little after 1:00 then maybe when we take a break I'll canvass the defendants --

MS. SCHIFALACQUA: Sure.

THE COURT: -- at the next break because it'll be late, and that way if they're going to testify it'll be Thursday --

MS. SCHIFALACQUA: Sure.
THE COURT: -- because it sounds like probably we're going to be really close to the 1:30 time.

MR. SCOW: I would think so.
THE COURT: So, yeah, I'll just do their canvass at the break, and then they can think about it for the next day and a half.

MR. BROWER: I would hope we would know before that, Judge, just to prepare our --

THE COURT: Well, I know but.
(Pause in the proceedings 12:14 p.m. to 12:26 p.m.) (Jury entering 12:28 p.m.)

THE COURT: All right. Court is now back in session. And you may resume your questioning. MR. SCOW: Thank you, Judge.

BY MR. SCOW:
Q Showing you 386. It's just more pictures documenting the condition -- the overall condition of the vehicle?

A Yes, it is.
Q 387?
A Another photo documenting the condition of the vehicle.

Q As you guys were taking these pictures you guys didn't do anything to roll windows down or up or just you just documented the condition it was in at the lab after it had been brought there and sealed?

A That's correct.
Q And then the last thing we cover, last couple photographs are, are these images you took of the firearm at a different location before they were -- before you put this in the box to impound it?

A Yes, just close-ups of that firearm.
Q 291?
A Like, another close-up of the firearm with the magazine removed.

Q And it's at the flip side of the firearm from the last picture?

A Yes, it is.
Q Okay. And it gives you different information, the make, model, the caliber, things like that?

A Yes.
Q All right.
MR. SCOW: I will pass the witness, Judge.
THE COURT: All right.
Mr. Brower.

JD Reporting, Inc.

BY MR. BROWER:
Q So you said when the car was brought to you it was sealed; correct?

A Yeah, the doors, the trunk and the hood were sealed.
Q So I guess my question is how do you seal a car if in 386 the windows are open? Isn't it true that anybody can just reach in and move things or place things or do anything else?

A This is how the vehicle was when I first came to it.
Q So it's not really sealed?
A The doors were sealed. There was tape over the door preventing them from being open, but, yes, the windows were opened in that.

Q Okay. And to your knowledge people can reach in opened windows; correct?

A Reach in to open the windows?
Q Well, in your life experience when a window's open can you stick your hand through it?

A You can.
Q Can you take -- can you go to the drive through; can they hand you something and you get it back?

A But in addition to being secured or sealed it's also in our secure laboratory.

Q Okay. But -- okay. Well, I guess we'll differ around what the term sealed is.

JD Reporting, Inc.

MR. BROWER: And I'll pass the witness.
THE COURT: Mr. Hughes.
CROSS-EXAMINATION
BY MR. HUGHES:
Q Sir, as I understand it, you were present during execution of the search warrant executed at the Circus Circus Manor; is that correct?

A That's correct, yes, sir.
Q Was your job there simply to take photographs or did you do other crime scene analysis duties?

A It was to document the room, and the detectives were searching the room. I'm then ultimately to collect any evidence that was seized.

Q So nobody was dusting for prints?
A No.
Q Nobody was checking for DNA?
A Not in the room, no.
Q How about at the Aviator Suites where you searched two places pursuant to a search warrant; is that right?

A Two rooms and then the vehicle.
Q And was -- was part of your duty there to check for fingerprints?

A No. It was simply to document the search and collect any evidence that was taken.

Q You say collect evidence, were you able to make a JD Reporting, Inc.
determination as to whether something would be evidence and collected, or were you simply told what to collect?

A I worked hand in hand with the detective, but ultimately they were the ones who decided what was collected and what was not and pursuant to search warrant.

Q So how were you working hand in hand with them if they're making the decision, you had no input?

A They ultimately have the input and as well as the search warrant.

Q Did you make any suggestions on collection of evidence that you ran by them and they rejected?

A Not that I know of.
Q Did you have an understanding as to why you were asked to photograph certain items?

A In some cases, yes, some cases no.
Q Do you know why you were -- or do you have an idea why you were asked to photograph makeup?

A Based on the search warrant and just based on the crime and the -- what they told me at the crime they said that this would be relevant --

Q Okay. I don't want to -- that would be hearsay.
A Okay.
Q Do you have any understanding as to whether any females were registered to the room you were searching?

A The name on the receipt appeared to be a female's JD Reporting, Inc. \(0_{001532} 120\)
name.
Q So it would not be unusual to have cosmetics in the room with at least one female in it; right?

A It might not be, no.
Q Did you have an opportunity to see the vehicle registration on the vehicle that you searched at the Henderson impound area?

A I don't recall. Typically we will photograph it if we see it.

Q And if you did, you have no memory of the name on it, do you?

A I don't, no. MR. HUGHES: All right. That's all I have. Thank you.

\section*{THE COURT: Any redirect?}

\section*{REDIRECT EXAMINATION}

BY MR. SCOW:
Q So when you're with detectives executing a search warrant and documenting a scene, things that you come across, can you just seize anything that you want, or is it tied to a search warrant?

A Everything we see is tied to the search warrant.
Q So if there's something that's not in the search warrant, you can't seize it?

A Correct.

Q I'm going to show you State's Exhibit 356. I'll just let you look at it in person. If you go ahead and look on the VIN for that vehicle on that DMV record. And now showing you Exhibit 390, the picture that you took of the VIN.

A Yes. They are the same.
Q Same number?
A Yes.
Q And now the registration from State's Exhibit previously admitted by stipulation 356. It shows a request date of 11/21/2018. The last transaction was September 1st, 2016, as far as registration goes; is that right?

A That's what it says on the receipt of the registration.

Q On the DMV record?
A Yes.
Q And the last person to register it back in
September 2016 was Joseph B. Vernato [phonetic]?
A That's what this says, yes.
Q So you didn't find any current registration, documentation of that vehicle, did you?

A I don't recall.
Q Because the last one was from September 2016 per the DMV records?

A That would make sense. MR. SCOW: No questions left.

THE COURT: Mr. Brower.
RECROSS-EXAMINATION
BY MR. BROWER:
Q You did find or take photographs of a temporary moving permit though; correct?

A Was that what was fixed to the rear windshield?
Q I'll show you what was --
MR. BROWER: Your clerk is ahead of me, Judge.
BY MR. BROWER:
Q Page or excuse me Exhibit 385, so what did you take a photograph of?

A The temporary license plate with a Texas 30 day permit.

Q Okay. And you don't have any registration information that you gleaned off of this? Did you take a copy of or a photograph of the other side?

A I took a photograph of what was shown in the rearview mirror or I'm sorry, in the rear windshield.

Q Okay. So when you were showed the 2016 information this actually comes up with 2018; correct?

A This states on here 2018.
Q And that's the last DMV items that you photographed; correct.

A That was affixed to the vehicle, yeah.
Q All right. But you photographed that; correct?

JD Reporting, Inc.

A I did.
MR. BROWER: All right. No further questions, Judge. MR. HUGHES: Nothing further.

THE COURT: Anything else?
MR. SCOW: Nope.
THE COURT: Do we have any juror questions for this
witness? All right. I see no additional questions.
Thank you for your testimony. You are excused at this time.

THE WITNESS: Thank you.
THE COURT: And the State may call its next witness.
MS. SCHIFALACQUA: Thank you, Your Honor. The State calls Jerry Wilcox.

Heavier than I thought, sorry.

\section*{ROY WILCOX}
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell your first and last name for the record.

THE WITNESS: My name is Roy Wilcox. R-o-y, W-i-l-C-O-X.

THE COURT: All right. Thank you.
Ms. Schifalacqua.
MS. SCHIFALACQUA: May I?

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BY MS. SCHIFALACQUA:
Q Did go by Jerry?
A Sometimes. That's my first name.
Q Okay.
A I -- it's on all my official documents. LeRoy is my middle name and I've gone by Roy my whole life.

Q Okay. And so your official name is Jerry Wilcox, but you're referred to as Roy?

A That's right.
Q Okay. Can you tell the members of our jury, please, Mr. Wilcox, how you are currently employed?

A I am currently employed as a forensic scientist for the Metro Police Department in the forensics lab. I am assigned to work in the firearms detail.

Q Okay. With regard to firearms forensic scientist what type of education do you have, sir?

A I have a bachelor of science degree in zoology from Brigham Young University. After I completed that I began work, a training program which took about two years, very intensive about firearms. This was with the Phoenix Police Department where I started, and after completing that and passing a series of competency tests and proficiency tests I was able to start firearms examination work.

Q Now let me go back and ask you -- you indicated

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Phoenix Police Department, how long did you work there in firearms analysis?

A Almost eight years. It was 7 and 10 months, something like that.

Q Okay. And then ultimately you come to work for Metro's lab; is that right?

A That's correct.
Q About how long have you been with Metro's lab now?
A In a few weeks it will three years.
Q Okay. And with regard to firearms and tool mark analysis, can you talk -- you talked a little bit about it in intensive training, but talk about the training that you have received to do this type of work, sir.

A The two-year training program that I talked to is a pretty standardized program that is utilized by every accredited lab in the country, many of them around the world. This was put together by a body called AFTE which is -- stands for the Association of Firearms and Tool Mark Examiners. This is the largest professional organization of forensic firearms examiners such as myself; I am a member of that organization. And as a member I also voluntarily took and passed their certification program which was additional testing both tests and practical tests, and so I am AFTE certified firearms examiner as well.

Q Okay. How long -- well let me go back and ask so JD Reporting, Inc.
it's clear for our jurors. You talked about accredited labs, is Metro's lab accredited with firearms and tool marks?

A Yes, it is.
Q Okay. And how many cases over your career you said almost eight years with Phoenix PD about three years here, how many firearms, sir, do you believe that you've analyzed?

A Hundreds. From the time I started I've probably looked at easily 4- or 500 firearms in regular casework.

Q Now, can you please describe to our jury what our -what is your area, what is firearms and tool marks? Those are kind of not layman terms. So can you describe for them what it is you do.

A In a case usually I will receive a firearm or components of a firearm or components of ammunition, and a big part of my training was to learn how firearms function, how they function and what kind of tool marks they can impart on the components, the ammunition components. A tool mark that I'm referring to would be where a hard object comes in contact with a softer object. For example, if a firing pin on a gun hits a primer on a cartridge, that creates pressures, and the dimpling of that firing pin would be considered a tool mark. So when the pressures rise inside a firearm a lot of things happen. Tool marks are made, the firing pin impression is one of them. And so occasionally I'm asked just to look at a firearm and discover whether it is operational as designed, if JD Reporting, Inc.
it has been modified and then sometimes also match components of ammunition back to that firearm in question.

Q And so if I can break a little bit of this down for our jurors. You first can talk about the functionality of a gun or a firearm; is that right?

A Correct. Yes.
Q And you can analyze the functionality?
A Yes.
Q Is it in working order, what is the length, the size, the weight, all of that; is that correct, sir?

A Yes.
Q Okay.
A In fact, most of our examination is to discover whether it is operational as designed, how was it designed, how was it meant to operate. And then we look at things like safety, trigger pull, modifications to length and then our report includes those things.

Q And you also have a capacity to if, for example, cartridge casings from firearms were collected on a particular scene and/or what evidence recovered to see whether or not those tool marks indicated it was fired from that particular weapon; is that also something that you're able to analyze?

A Yes. That's one part of it.
Q Okay. And that's kind of layman's terms of microscopic detail, forensic analysis with regard to markings JD Reporting, Inc.
on potential items of evidence; is that fair?
A That's correct. And a big part of it is the training and experience I receive allows me to create a value to the tool marks that I see understanding how they were created during the normal functioning of this firearm. So that all comes into play.

Q Okay. And in this particular case you weren't asked to analyze any particular cartridge casings or evidence of items to a gun, but you were asked to analyze a gun that was collected in this case; is that right?

A That's right.
Q And I'm going to actually first approach with what's been provided previously as State's 395 through 400.

Mr. Wilcox I'm going to show you a series of photographs if you can look at those, and when you're done feel free to look up at me, please.

And you recognize what's depicted in these
photographs?
A I do.
Q In fact, are these photographs that you took of the gun that you analyzed in the instant case?

A Yes, they are.
Q Okay.
MS. SCHIFALACQUA: And I'd move for admission of 395
to 400.

MR. BROWER: Submit it, Judge.
MR. HUGHES: Submit it.
THE COURT: All right. 395 through 400 are admitted. (State's Exhibit Nos. 395-400 admitted.)

BY MS. SCHIFALACQUA:
Q And I'm going to now show you, Mr. Wilcox, what's been admitted as State's Exhibit 404. What are we looking at here, sir?

A This is how such evidence is packaged currently. It's a firearms cardboard box, and I noticed there's a label here which I actually had photographed and also a series of markings, also notation of chain of custody which we write on the outside. I also recognize here that I have my seals with my dates and my signature showing that I received them in chain of custody and now I turned it back.

Q So let's walk through what you were asked to analyze a gun that was under this Henderson event number 18-15877; is that right?

A Yes.
Q And then when this piece of evidence comes to you, your lab, it's Metro's lab, it came from Henderson, however; is that right?

A I'm not sure how it comes through. I get notified that I have a case to work and then it -- the vaults talk to each other and I do get it. The chain of custody is all noted JD Reporting, Inc.
along the way.
Q So you're not responsible for getting it over to you, but you're responsible thereafter taking, for example, the condition of the box, and I'll show you for our jurors photographs of how it looked when you received it?

A Yes.
Q And then you thereafter opened the seals, the red seals that were already placed?

A Yes.
Q After you do -- well, let's walk through. What did you do in this case, sir?

A After I had noted that everything was sealed by the previous possessor, I cut all the seals, opened it up, took the pictures, and then I removed the zip ties that were holding this pistol in there and began my examination noting manufacturer, noting condition, noting everything that I could about -- about it externally.

Q And let's have you open this for our jurors, sir. For the record let me make clear. Is this in the same -substantially the same condition as it was after you had examined it?

A It appears to be my seals that I put on are still intact, and they are very tamper evident when they start getting played with.

MS. SCHIFALACQUA: Permission of the witness to open JD Reporting, Inc.
the evidence, Your Honor.
THE COURT: Go ahead.
THE WITNESS: (Witness complies.)
BY MS. SCHIFALACQUA:
Q You can go ahead and hold that up to show it to the jurors, please.

A It's zip tied to the box.
Q And -- well, you want to just --
A Okay.
Q Yeah. We'll start with that. So you -- when you receive it, it's also zip tied to the box, this is the firearm box that has holes in the back to hold the -- or excuse me, a gun box to hold the gun?

A It just keeps it from rattling around. I put them through the back and to hold it in place plus there's a zip tie going through the action from the magazine well up through the chamber area which keeps everything from closing and locking up.

Q And is also there a magazine?
A This is a magazine as I received. And this is also a spent CO2 cartridge which was inside the magazine when I received it.

Q Okay. So let's talk about your analysis for this particular gun. What type of gun is it, sir?

A There -- this is modeled after a SIG Sauer P226

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\section*{firearm.}

Q Okay.
A It is a CO2 powered pneumatic gun. It's designed to fire a projectile using -- using compressed air from a CO2 cartridge which is inside of the magazine.

Q And so when you referred to things like a pneumatic -- pneumatic pressure, is that by air or by gas?

A Yes, it would be a prepressurized gas or air and in this case CO2.

Q Okay. So in this case the pneumatic pressure is the CO2; is that right?

A Yes.
Q Okay. And you said it's modeled after a SIG Sauer pistol, but it is a for layman's purposes we don't go around saying pneumatic weapon, but for layman's purposes it's a BB gun; is that right?

A Yes.
Q Okay.
A BB and might -- maybe it can fire pellets as well. I tested it with BBs, but it's designed to fire small objects, small metal objects.

Q Okay. And what is -- can you describe for our jurors what a ball bearing is?

A A ball bearing could be -- would be a small metal sphere in various sizes. They're generally used to reduce JD Reporting, Inc.
friction and moving parts, but it would be a very small, very hard metal or maybe ceramic sphere.

Q With regard to this CO2 powered pistol or gun, was this designed to shoot metal BBs?

A Yes.
Q Okay. And did you in fact shoot this gun, this particular gun?

A I did.
Q Can you describe for the jurors what you do to test the functionality so that you know that it's working.

A With -- with this particular one after I had gone through and recognized that every -- all the linkages, everything appeared to working as designed before I fire it, then I took the spent CO2 cartridge out. I went to our range, and I set up a chronograph which is designed --

Q Let me stop you there. What's a chronograph?
A It's designed to measure velocities. It's basically speaking there's a few checkpoints that shine light into a sensor and as something passes between the light and the sensor it recognizes and measures the time spent to travel a known distance. So then a little machine if it reads the shadow going across it, going through it, then it will spit out a speed that is calculated. So we have a chronograph, and I set that up within our range.

Q After you set up the chronograph, what did you do,

Mr. Wilcox, with this gun?
A The chronograph first of all what I did with it is I took a standard firearm and I made sure that the chronograph was set up properly by firing a .9mm Luger bullet through it, and it came up with a pretty standard speed, what I would expect for a .9mm Luger pistol. And then I proceeded to set this up, get it ready to fire, and in doing so I took out the spent CO2 cartridge. I put in a new one that we have there at the lab, and I filled the magazine with 4.5 mm standard BBs, which it says on the side of this pistol that it's sized for.

Q And so that's what it's designed to shoot?
A Yes.
Q Okay. Go ahead. What did you do next?
A So I set up the magazine, filled it up, and I put in the CO2 cartridge and began turning it down to puncture the seal and prepare this pressure to be used by the gun with every pull of the trigger a small amount would be released to fire the projectile down the barrel.

Q And so were you able to fire one of the BBs out of this SIG Sauer pneumatic gun?

A What happened is with this particular one is when I put in the cartridge and turned it down, I could hear pressure. I could hear gases escaping. I noted --

Q How did that lead you to believe?
A I realized that what that meant is that there is a JD Reporting, Inc.
seal that was likely just broken inside of this pistol, but it was a slow enough leak that I walked into the -- the range and went ahead and we've -- were able to fire, and I got a few measurements through the chronograph speed measurements, not as many as I would have liked, but that's expected with such a small projectile. The chronographs do not always measure the travel through all three of the planes that they measure. But I was able to get three and noted three measurements.

Q Okay. So there -- so our jurors aren't confused by that, if you weren't able to get some of those measurements or when you weren't able with regard to BBs, that wasn't unusual in your experience?

A It's not unusual for that size. That size of projectile it -- in my experience I've done a lot of these BB guns, and I've had to shoot many times to get a few measurements. So in this case I shot probably 20 -- 20 something times BBs through this and I got three measurements.

Q And the -- however, the gun itself did function the BBs shot through as it is designed to do, sir; is that right?

A Yes.
Q Describe for our jurors what a trigger pull is. And how do you measure it?

A Trigger pull is the amount of pressure that the manufacturers have designed to allow for the firing of the firearm or pistol. In this case it had a distinct point where JD Reporting, Inc.
the trigger once it was pulled it released and then it would release this burst of air behind the BB and propel it down the barrel.

Q Sir, are you able to analyze and get what the amount it is for a trigger pull in this case for this gun?

A Yes.
Q And what was that? Do you remember or would look --
A I'd like to look at my notes if that's okay?
Q Sure. Absolutely.
A This particular pistol has both a double action and single action trigger pull.

Q What does that mean?
A What that means is that there's a physical hammer that's pulled back. With the pull of the trigger the hammer can be pulled back and then released that would be called a double action. Usually there's a little more pull required because you're cocking the hammer back and then releasing it. Or if I with my thumb pull the hammer back and it locks rearward and then I pull the trigger, then that's a different amount of pressure to release from that state which would be a single action.

Q What was the double and what was a single?
A In single action it was two and a half to two and three-fourths pound of pressure and in double action it was seven and three-fourths to 8 pounds of pressure.

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Q And did the magazine -- did you know how many BBs it could hold?

A I did. This magazine -- this particular magazine I was able to put 214.5 mm the standard BB s size into the magazine.

Q And if you could now, I'm going to have you take the gun out of the box. And then if you could cut.

A Let's see if this works. This is really hard.
Q I'm not going to have you, however, take out the magazine.

A The magazine's out. It's over here.
Q Okay. I mean, excuse me, place in the (unintelligible) I meant take it out of the box.

A I'm going to break your scissors.
Q Well, not quite.
I want you to talk to the jurors a little bit about you indicated kind of the make of this gun. You indicated that it's modeled after a SIG Sauer firearm pistol. Are you familiar -- you indicated you did analysis on a number of pneumatic gums as well as traditional firearms; are you familiar with the traditional firearm SIG Sauer that this is modeled after?

A Yes. Yes, I've seen it in many cases.
Q Okay. And with regard to that when I picked up the box if you heard I made a noise a little earlier, is that
weighted like a regular traditional firearm?
A I did not weigh it and compare it exactly, but it's got pretty significant heft with it. If I were to put them side by side I imagine it's very close to what a traditional SIG Sauer P226 would weigh.

Q What are the other characteristics of a traditional SIG Sauer that you see represented in this pneumatic gun?

A Well, it's similar in how the hammer moves. Also I noted with this pistol is with every pull of the trigger part of the energy imparted by the cartridge causes the slide to move back and forward thereby cocking the hammer which is exactly the same as a SIG Sauer 223 firearm would do. So with every pull of the trigger this would come back and set the hammer for a single action trigger pull.

Q With the naked eye without having the advantage of the CO2 cartridge, can you see the differences between a traditional SIG Sauer and this one that's the pneumatic gun?

A The only way that \(I\) know that this is not an actual SIG Sauer P226 actual firearm is because I looked at the markings on the side, and I'm familiar with how this particular pistol functions and that took me looking at it, pulling it apart, looking at how the magazine was built and noting how the chamber was designed.

Q What about from the front, if the barrel is towards you was there anything indicative on the front of this -- I'm JD Reporting, Inc.
going to put this down -- is there anything indicative on the front? You said that you looked at the side. You looked inside the chamber. Was anything in the front that you would have been able with your naked eye even as you've analyzed guns for a living, is there anything that would with your naked eye be able to make you tell the difference?

A With regards to how this is designed from the front, the hole here, the mouth, the muzzle is designed to look larger than a 4.5 mm BB. If you look down inside, you can see the smaller barrel, but you have to look for it. Just looking at the side like this it looks as though it's chambered for a . 9 mm maybe a . 40 Smith and Wesson bullet. It looks from the front it looks real.

MS. SCHIFALACQUA: Court's indulgence. I pass the witness, Your Honor.

THE COURT: All right.
Mr. Brower.

\section*{CROSS-EXAMINATION}

BY MR. BROWER:
Q So you differentiated a few times between a firearm and what you're holding in your hand; correct?

A That's right.
Q Okay. And you said you're a firearms examiner?
A I am.
Q Okay. So what is the true difference between a JD Reporting, Inc.
firearm and what you're --
A Firearms rely on a combustion event. They require a primer to go to allow for a rapid increase of pressures. So in this case I don't call this a firearm. It doesn't meet the definition because there's a container of prepressurized gas in there that is released and provides that energy to push the projectile down the barrel.

Q So this is not a firearm?
A It is not.
Q Okay. And you also testified that there was -- when you placed a new cartridge or CO 2 cartridge in the not a firearm, you noticed a leak; correct?

A That's right.
Q Okay. How long did it take for that leak to -- well, how long did it take to empty the CO2 cartridge?

A Well, what I did is -- is I -- as soon as I realized there was a leak, I went quickly into the range. I put the cartridge in, magazine was out of this pistol and I put it in, and I was going to take it in and load it in. Normally there isn't a leak, but as soon as I put it in there and I heard the gas leaking, we went straight into the range and I began shooting.

If I remember correctly, I got maybe 8 or 10 shots off before the cartridge had to -- had diminished noticeably and so I pulled it out and put in a new one. So in my 21 BBs

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that I fired, I used two CO2 cartridges, and there was a little bit left over after that.

Q Okay. And how long did that take?
A Just a few minutes.
Q Okay. So you believe -- did you -- so you didn't test the actual how long the leak lasted; correct?

A No. I just noted that there was.
Q Okay.
MR. BROWER: I'll pass the witness, Judge.
THE COURT: Mr. Hughes.

\section*{CROSS-EXAMINATION}

BY MR. HUGHES:
Q Sir, as I understand the totality of your testimony is the soft air pellet gun that you tested was operable for mere moments after a new CO2 cartridge was placed in it; is that correct?

A Most of what you said is correct except it was not an air soft. It was actually a BB. It fires a metallic BB from it. But you are correct it did have a leak in a seal which meant that the pressure dropped pretty quickly.

Q Thereby rendering the weapon inoperable except for mere moments after a new CO2 cartridge was placed in it?

A For a normal function of firing a very small projectile at whatever speed it's designed to do it at it only does this for a few minutes once a new cartridge was put in.

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Q After that it may be good for blowing out a birthday candle?

A I haven't tried.
Q Or maybe not even that? Okay. Thank you. MR. HUGHES: That's all I have. THE COURT: Redirect? MS. SCHIFALACQUA: Thank you.

REDIRECT EXAMINATION
BY MS. SCHIFALACQUA:
Q Mr. Hughes used the word inoperable. Let's make something clear for this jury. It requires CO 2 pneumatic pressure to fire; does it not?

A It requires that pressure to expel the projectile through the barrel, yes.

Q So even without a leak does it -- if the CO2 has run out, does it require more pneumatic pressure another CO2 cartridge?

A In order to expel a projectile, yes.
Q Okay. And so the operability wasn't in question, whether or not the CO2 ran out was; is that fair?

A I noted that the CO2 ran out, it was in my notes. My report noted that it operated as designed --

Q Okay.
A -- minus the CO2 leak.
Q So there was nothing about inoperability. It
operated as it should operate, but there was a leak?
A Yes.
Q Okay. So if you had a hundred CO2, new CO2 cartridges, if you will, lined up and I don't know if they're called cartridges, what are they called? Canisters?

A I think they're CO2 cartridges. I've always called then that.

Q Oh, okay. Fair enough. If you had a hundred of them lined up and you put a hundred in you could continue to operate the gun as designed?

A Theoretically, yes.
Q Okay. You didn't do that, to be fair?
A I did not. I spent two.
Q Okay. Sure.
A I put two in there.
Q Thank you. MS. SCHIFALACQUA: Nothing further.

RECROSS-EXAMTNATION
BY MR. BROWER:
Q How long did it take you to put a CO2 cartridge in?
A I made a change halfway through and it took me walking out of the range, loosening the back plate, popping it, it dumps right out, put in the new one and then crank it down, so depending on how quickly I wasn't trying for speed, but I could probably do it in 30,45 seconds.

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Q And I just want to go back. You testified earlier you had a bunch of training in firearms; correct?

A Correct.
Q But to be clear this isn't a firearm?
A It's not a firearm, but this particular type of a pistol is part of our training because it does come up regularly. It's not uncommon for the source of things to be used in situations that to look like a firearm. So it's our job to define it as what it is. So we were trained in it.

Q Okay. So when you were testifying about your training earlier you didn't include more but you were trained more?

A I've been trained in many areas not just firearms examination. There's comparisons, there's distance determinations, there's lots of things, yes.

Q Okay. But again it's not a firearm?
A This is not a firearm. MR. BROWER: Thank you. MR. HUGHES: Nothing. THE COURT: Nothing else. Any redirect? MS. SCHIFALACQUA: No, Your Honor. THE COURT: Any juror questions for the witness? All right. Counsel approach. (Conference at the bench not recorded) JD Reporting, Inc.

THE COURT: All right. Sir, we have a juror question. A juror asks, Does the end of the barrel appear to be modified?

THE WITNESS: No, it did not appear to be modified at all. It appeared to be -- the appearance was as designed by the manufacturer.

THE COURT: Okay. And then, Airsoft pellet guns typically have an orange knob on the and of the barrel to indicate they're not actual firearms; is that correct?

THE WITNESS: I've seen that. I'm not sure of the rules surrounding their manufacturing. But I do know that -- I know my son had one with a bright orange tip on it, and it was designed to fire Airsoft. Now, this is not an Airsoft gun. Airsofts are generally plastic spheres slightly larger about 6 millimeters. These were smaller designed for a little more kinetic energy, a little more movement made out of metal at 4.5 millimeters.

THE COURT: Thank you.
Ms. Schifalacqua, follow-up?

\section*{FOLLOW-UP EXAMINATION}

BY MS. SCHIFALACQUA:
Q And -- and actually you cleared it up. This isn't an Airsoft gun; correct?

A It is not an Airsoft gun.
MS. SCHIFALACQUA: Okay. Thank you.

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THE COURT: Mr. Brower?
MR. BROWER: Nothing, Judge.
MR. HUGHES: Nothing.
THE COURT: Nothing?
MR. BROWER: No, Judge.
THE COURT: Any other juror questions?
All right, sir, I see no additional questions. Thank you for your testimony. You are excused at this time.

\section*{State?}

MR. SCOW: Judge, I was just reviewing the exhibit list and it looks like everything has been that should be admitted. If we need to readdress it, I'll ask that we can do that --

THE COURT: Okay.
MR. SCOW: -- but at this point in time as far as witnesses and evidence go, we'll rest.

THE COURT: All right. The State rests.
Ladies and gentlemen, it looks like we finished up a little bit earlier today. So in a moment we're going to go ahead and take our evening recess. As I told you yesterday we will be dark tomorrow, and then we will reconvene at 12:30 on Thursday, 12:30 on Thursday. Since we're getting a late start we won't be taking a lunch break so once again eat lunch or bring a snack or do whatever you need to do in that regard.

Before I excuse you, I must remind you that you're
not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch, or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium. Do not visit any of the locations at issue. And please do not form or express an opinion on the case.

Please leave your notepads in your chairs and follow the bailiff through the double doors. And I'll see you all back at 12:30 on Thursday.
(Jury exiting 1:10 p.m.)

THE COURT: All right. Before we take our break I'm going to go over the admonishment with the defendants. I will start with Mr. Phillips. I'm just going to do it individually.

Mr. Phillips, you have the right to take the stand and testify on your own behalf; are you aware of this right?

DEFENDANT PHILLIPS: Yeah.
THE COURT: All right. If you choose to take the stand and testify, the deputy district attorneys will have the opportunity to (unintelligible). They'll have the opportunity to cross-examine you, and defense cocounsel Mr. Hughes may question you as well. And anything you say whether it's in response to a question from your lawyer or the deputy district attorneys or the Court or one of the jurors or anyone else will be the subject of fair comment by the deputy district attorneys JD Reporting, Inc.
in their closing arguments; do you understand that? DEFENDANT PHILLIPS: Yeah.

THE COURT: All right. Also, if you've been convicted of a crime within the past 10 years, a felony crime, he has no --

MS. SCHIFALACQUA: He has not.
THE COURT: All right.
MR. SCOW: Not with Mr. Phillips.
MS. SCHIFALACQUA: Not for Phillips.
THE COURT: All right. So Mr. Phillips has no crimes which might be utilized for impeachment purposes; is that right?

MS. SCHIFALACQUA: Correct.
THE COURT: All right.
Mr. Phillips, conversely you have the right not to take the stand and testify. If you choose to avail yourself of your right not to testify, the deputy district attorneys are precluded or forbidden from commenting upon that in their closing arguments; do you understand?

DEFENDANT PHILLIPS: Yes, ma'am, thanks.
THE COURT: Also if you choose not to take the stand and testify, the Court will give an instruction to the jury if asked to do so by your lawyer. The instruction essentially says an accused in a criminal case may not be compelled to testify. Thus the decision as to whether or not he should

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testify is left to the defendant on the advice and counsel of his lawyers. It tells the jury that they're not to draw any inference of guilt from the fact that he does not testify nor should that be discussed or considered by them in their deliberations in any way. Do you understand?

DEFENDANT PHILLIPS: Yes, ma'am.
THE COURT: All right. Have you had an opportunity to discuss your right to testify as well as your right not to testify with your lawyer Mr. Brower?

DEFENDANT PHILLIPS: Yes, ma'am.
THE COURT: All right. And do you have any questions you would like to ask me, the Court, about any of these rights? DEFENDANT PHILLIPS: No.

THE COURT: All right. And have you made a decision as to whether or not you want to testify in this case?

DEFENDANT PHILLIPS: I have made a decision, Your Honor.

THE COURT: What's that? DEFENDANT PHILLIPS: I have made decision. THE COURT: You have made decision. And what is that decision?

DEFENDANT PHILLIPS: I'm not going to testify. THE COURT: I'm sorry? DEFENDANT PHILLIPS: No, I'm not going to testify. THE COURT: You don't want to testify.

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MR. BROWER: Judge, just for purposes of this record I'm going to put him closer to the microphone. But I know he's now standing by his codefendant --

THE COURT: Okay.
MR. BROWER: -- so I --
THE COURT: I think we're done.
MR. BROWER: Okay.
THE COURT: All right.
MR. BROWER: I just know you asked him to repeat himself so I wanted --

THE COURT: All right. Turning to Mr. Barr. We'll go over these rights with Mr. Barr.

Mr. Barr, do understand that you have the right to take the stand and testify in your own behalf; do you understand that?

DEFENDANT BARR: Yeah.
THE COURT: If you choose to take the stand and testify, the deputy district attorney will have the opportunity to cross-examine you, and anything you say whether it's in response to a question from your lawyer, defense cocounsel, the deputy district attorney, the Court or one of the jurors will be the subject of fair comment by the deputy district attorneys in their closing arguments; do understand that?

DEFENDANT BARR: Yes.
THE COURT: Also if you choose to take the stand and JD Reporting, Inc.
testify and you've been convicted of a felony crime within the past 10 years or you have discharged your sentence of parole, probation or imprisonment within the past 10 years, the deputy district attorneys will be able to question you about that limited to the offense, the date of the offense, the date of the conviction and the jurisdiction. And then the Court will also give an instruction that they can only consider that conviction as it bears on your credibility; do you understand? DEFENDANT BARR: Yes.

THE COURT: And does the State have any convictions that might be used for impeachment if Mr . Barr were to take the stand?

MS. SCHIFALACQUA: Yes, we do, Your Honor. MR. SCOW: Yes, there are four. There are four judgments that we have against him. THE COURT: All right. And, Mr. Hughes, are you aware of what those four judgments of conviction are?

MR. HUGHES: I have been provided something regarding juvenile court, and I've been provided two other judgments of conviction, but as I remember looking they have the same case number.

MR. SCOW: They don't. There's a similar date.
There's the same conviction date, but there's different underlying offense dates.

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THE COURT: Okay.
MR. SCOW: But different convictions. One is robbery with substantial bodily harm. The other is aggravated robbery. And then the other two there's, like, a harassment -- something with --

THE COURT: Is that an adult case or juvenile case?
MR. SCOW: They're all adult.
MS. SCHIFALACQUA: All adult.
MR. SCOW: There is also a juvenile one as well, but that wouldn't be used for any impeachment.

THE COURT: Right. Okay. And so --
MS. SCHIFALACQUA: Right. And we're not including that, Your Honor.

THE COURT: Okay. Tell us on the record this is a little fuzzy on the record what the convictions are if you have them.

MR. SCOW: The two are -- the two robbery ones are aggravated robbery and robbery resulting in substantial bodily harm.

THE COURT: Okay. Are those different case numbers?
MR. SCOW: They are.
THE COURT: Okay. And those are both in the Eighth Judicial District?

MR. SCOW: Nope.
THE COURT: Okay. Where --

MR. SCOW: They're out of Texas.
THE COURT: All right. But you have the certified judgments of conviction?

MR. SCOW: Yes.
THE COURT: All right. And then the others?
MR. SCOW: The other two I don't remember the specific names. One of them is, like, a harassment for spitting on an officer.

THE COURT: Okay. And that was a felony?
MR. SCOW: Yes. And the other one I can't remember as I sit here, but I can bring them with me and put them on the record when we come back next week or Thursday.

THE COURT: Okay. All right. And what state are
those out of?
MS. SCHIFALACQUA: Texas.
MR. SCOW: Texas as well.
MS. SCHIFALACQUA: Texas.
THE COURT: All right. So everything is out of
Texas, and you do have certified judgments of conviction?
MR. SCOW: Yes.
THE COURT: All right.
So you understand if you were to testify, Mr. Barr, they'd be able to ask you about those prior convictions, and they'd have to show the Court the certified judgments of conviction ahead of time so we can make sure that those were

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felony crimes; do understand that?
DEFENDANT BARR: Yes, ma'am.
THE COURT: Okay. Conversely you have the right not to take the stand and testify. Should you choose not to testify, the deputy district attorneys are precluded or forbidden upon commenting upon that in their closing arguments; do you understand?

DEFENDANT BARR: Yeah.
THE COURT: That means they can't say well, what Mr. Barr didn't tell you where he was or Mr. Barr didn't testify or Mr. -- they can't say anything like that; do you understand they can't refer to it at all?

DEFENDANT BARR: Yes, ma'am.
THE COURT: Yes?
DEFENDANT BARR: I got a question to ask.
THE COURT: Go ahead.
DEFENDANT BARR: What if all those cases was one case?

THE COURT: Well, they basically that's why we look at the certified judgments of conviction. So they would say case number blah, blah, blah and, you know, this County in Texas were you convicted of this particular crime on this date. So let's just say even if it was one case and five felony counts, they can ask you about all five felony counts. They would just have to say in this particular case number were you

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convicted of attempt robbery, and in the same case number were you convicted of robbery. So we look at the JOCs ahead of time and see what those are. And they're going to bring that with you and put it --

MR. SCOW: I have it scanned from the e-mail I sent to Mr. Hughes.

MR. HUGHES: I have it on my phone.
MR. SCOW: And I can pull it up right now to help verify.

MR. HUGHES: It's not big enough for me to read clearly.

Your phone is smaller than mine.
MR. BROWER: He's younger (unintelligible).
MR. SCOW: I'll get the case numbers. The conviction for aggravated robbery with a deadly weapon a firearm is Case Number 1211085D, and it has a separate offense date from the next that I'm about to read and a separate case number. I think the plea date or the conviction date is the same day. THE COURT: Okay.

MR. SCOW: So the robbery -- it's pulling up the robbery with substantial bodily harm Case Number 12 -- need to make it bigger -- 1111 so it's four ones 9D and that conviction is for robbery causing bodily injury. And I -- I'm just going to see if I can go down and see the listed offense date. If not I can get it from the actual paperwork that's easier to
read. And there's different victims named on each.
THE COURT: Okay.
MR. SCOW: And so then the harassment judgment of conviction is Case Number 1209761D State of Texas, harassment of public servant, third-degree felony. And then the fourth one, the offense is retaliation Case Number 12097 -- oh, wait let's see. Do -- I think this one might be the same as the other one, harassment and retaliation they might -- but this -THE COURT: It's one case?

MR. SCOW: They might be. The case number -- and I'll look again at the other one to see if it's the same number. It's 1209760D and I'll just pull up the harassment now 9760. It is -- it's different, it's one number off. This one is 9761D the other one is 9760D so they are different case numbers.

THE COURT: Okay.
So they could ask you about that if you choose to testify. Now, if you choose not to testify, again they are precluded or forbidden from commenting upon the fact that you didn't testify when they make their closing arguments to the jury. And also the Court will give an instruction to the jury if asked to do so. Which essentially says, that an accused or in a criminal case may not be compelled to testify thus the decision as to whether he should testify is left to the defendant on the advice and counsel of his lawyer. And it
tells the jury that they're not to draw any inference of guilt from the fact that he does not testify nor should that be considered by them or discussed by them in their deliberations in any way. Do you understand all that?

DEFENDANT BARR: Yes.
THE COURT: Okay. Have you had an opportunity to discuss your right to testify as well as your right not to testify with your lawyer Mr. Hughes?

DEFENDANT BARR: Yes.
THE COURT: And do you have any questions you would like to ask me, the Court, about either of these rights?

DEFENDANT BARR: Yes.
THE COURT: What?
DEFENDANT BARR: 'Cause I was convicted for them already. I went to prison for all those.

THE COURT: Right.
DEFENDANT BARR: I'm saying does -- does -- does that -- I'm saying, like, it's supposed been one case so, like, how's it -- I want to know how's it different?

THE COURT: Well, I don't know that -- I mean, all I -- all they're required to do is get the certified judgments of conviction, and if they have the certified judgments of conviction they can say, you know, isn't it true that you were convicted on this date, in this county, and case number of this crime. That's all they can ask you basically.

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And then they can't argue, like, to the jury they can't say we know Mr. Barr is a bad person because he's been convicted of robbery before or we know Mr. Barr must have committed these robberies because he's a robber. All they can say and there's an Instruction --

MS. SCHIFALACQUA: Yeah.
THE COURT: -- and I don't have it in front of me, but essentially the instruction tells the jury that they can only consider the evidence of your past convictions as it weighs on your credibility as a witness, but they can't consider it as evidence of bad character or that you acted in conformity with the bad character.

Does anyone have that instruction? I'm essentially paraphrasing it.

MS. SCHIFALACQUA: Correct. And I said if they would testify I would put in it's a standard felony instruction that we use even if our witnesses had a felony --

THE COURT: Right.
MS. SCHIFALACQUA: -- they're instructed that it is directed only to their credibility as a witness --

THE COURT: Right.
MS. SCHIFALACQUA: -- the fact that a witness or a witness is a felon is only to be considered by the jury as to it weighs on their credibility and the jury is to give it its weight, and it's not to be considered for any evidence of that
character.
THE COURT: Of bad character or anything like that. DEFENDANT BARR: Okay. Yes, ma'am. THE COURT: Do you understand that?

DEFENDANT BARR: Yes, ma'am.
THE COURT: Any other questions?
DEFENDANT BARR: No.
THE COURT: All right. Did I cover that admonishment to the --

Oh, well, I'm sorry. Mr. Barr, have you made a decision as to whether or not you want to testify in this case? DEFENDANT BARR: Yes.

THE COURT: And what is that decision?
DEFENDANT BARR: No, I do not want to testify. THE COURT: Okay.

Did I cover that admonishment to the satisfaction of the defense, Mr. Brower?

MR. BROWER: Judge, you did. Especially given my prior conversations with my client regarding his rights to testify. We addressed all that, and we've gone through actually the fact that you were going to do this as well so you're fine with me.

THE COURT: Mr. Hughes?
MR. HUGHES: I'm satisfied, Your Honor.
THE COURT: State?

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MR. SCOW: We are satisfied as well, Judge. MS. SCHIFALACQUA: That's correct.

THE COURT: All right. So here's the deal. We have the jury coming back at 12:30. Maybe, lawyers, you can come in at -- I looked at the calendar it's not too bad. Do you guys --

\section*{THE CLERK: Tomorrow?}

THE COURT: No, on Thursday --
THE CLERK: On Thursday.
THE COURT: -- come in at 11 on Thursday --
MS. SCHIFALACQUA: Okay.
MR. SCOW: That's fine.
THE COURT: -- so we can settle jury instructions. And I don't know if you need your clients here for that if you want them here or don't want them here for settling jury instructions?

MR. HUGHES: I don't see that they would add anything to the --

THE COURT: Yeah.
MR. BROWER: Judge, I think my client would just like to be here to discuss part of my closing which would be easier when we have the break. So I don't know if it's inconvenient to bring them over, but if it is, I'd like to go over at least have him available so I don't wait later. But I will leave that to the discretion of the Court and the staff. I don't
know if it's easier or not.
THE COURT: Can't you visit him at the jail?
MR. BROWER: Well, I can visit him at the jail.
THE COURT: I mean, I'm fine if the jail brings him
over. I don't know -- I mean --
MR. BROWER: I just don't know if --
THE COURT: -- maybe dressed and everything to go at 11 -- 11:00 o'clock and then they eat their lunch --

THE CORRECTION OFFICER: Yeah, that way we're going to dress them at 7:00 in the morning and have them downstairs (inaudible).

THE COURT: -- and then they'd come back at
12:30 for --
MR. BROWER: Yeah, he's actually indicated he's okay with coming over a little bit later, Judge, so.

THE COURT: Okay. So Mr. --
MR. BROWER: Phillips.
THE COURT: -- Phillips, I'm sorry, Phillips, do you want to be here when we just talk about the jury instructions? DEFENDANT PHILLIPS: I mean, if I can. If it's a big deal, no, that's cool.

THE COURT: It's not a big deal.
DEFENDANT PHILLIPS: All right.
THE COURT: You do. All right. Then they'll both be here --

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MR. HUGHES: Mr. Barr says he'd prefer to stay over at his accommodations.

THE COURT: Well, it's probably easier for the jail --

MR. HUGHES: All right.
THE COURT: -- to do both or none. So if one comes, they both come.

And then we'll take our -- however long that takes to do then we'll eat lunch or --

MS. SCHIFALACQUA: Sure.
THE COURT: And then 12:30. So what I'd like the lawyers to do is if there are objections or you have some proposed instructions, defense -- defense?

MR. BROWER: Sorry --
THE COURT: Then if you guys have proposed
instructions, send them to the State and then before you come in and see me because you have a whole day to do this --

MR. BROWER: And, Judge, can I --
MR. SCOW: We'll have it --
THE COURT: -- see if you meet together -- the lawyers just the lawyers meet and see if you can resolve your differences so.

MR. BROWER: Judge, can I just address the 11:00 thingy. My client was under the impression the jury would be here --

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THE COURT: No.
MR. BROWER: -- and he did not want -- I just explained to him it's just us going over the written instructions. He's okay coming over later.

THE COURT: Right. Right.
\(\operatorname{MR}\). BROWER: And he will dress that --
THE COURT: And sometimes we may be, you know, like, they might object to a word, and we may rewrite something that kind of thing.

MR. BROWER: But he's okay coming over at 12:30. I know he was just canvassed so he would --

THE COURT: Is that right, Mr. Phillips?
DEFENDANT PHILLIPS: Yes, ma'am.
THE COURT: Okay.
And then, Mr. Barr, you didn't want to come over till 12:30 either?

DEFENDANT BARR: Yes, ma'am.
THE COURT: Okay. All right. If there's anything momentous in settling of the jury instructions we'll put it on the record when the defendants are here.

MR. HUGHES: Okay. Can I call you tonight?
MR. BROWER: Judge, just procedurally while we're -THE COURT: You can, but I'm not going to answer the phone.

MR. HUGHES: That's what \(I\) was afraid of.

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MR. BROWER: -- while we're still here, I had reserved my opening. My client's not testifying I won't be giving one. We can address it later but I won't be getting an opening at this point in time because --

THE COURT: All right.
MR. BROWER: -- I'm not anticipating calling any other witnesses.

THE COURT: All right. So basically probably what you should just do is they've rested. When I turn to you, Mr. Brower, you can just rest.

MR. BROWER: Right and -- that's correct.
THE COURT: All right.
MR. BROWER: I just wanted the Court to be aware procedurally because of that I won't be trying to do an opening and then resting.

THE COURT: Right. Because your opening basically is going to be your closing. MR. BROWER: Correct.

THE COURT: All right. So we'll see everybody back 11:00 on Thursday. (Proceedings recessed for the evening 1:27 pom.) - ono-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case.


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DISTRICT COURT CLARK COUNTY, NEVADA

THE STATE OF NEVADA, )
vs.
DAMIEN ALEXANDER PHILLIPS, a.k.a. TRAVIS ALEXANDER PHILLIPS, and ANTHONY TERRELL BARR

Defendants.))))

## TRANSCRIPT OF PROCEFEDINGS

CASE NOS. $\begin{aligned} & C-18-335500-1, \\ & C-18-335500-2\end{aligned}$ DEPT NO. XXI

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE THURSDAY, DECEMBER 13, 2018 JURY TRIAL - DAY 8

APPEARANCES:
FOR THE STATE:
BARBARA F. SCHIFALACQUA, ESQ. RICHARD. H. SCOW, ESQ.
Chief Deputy District Attorneys

FOR DEFENDANT PHILLIPS: KEITH C. BROWER, ESQ.

FOR DEFENDANT BARR: EDWARD B. HUGHES, ESQ.

RECORDED BY: SUSIE SCHOFIELD, COURT RECORDER TRANSCRIBED BY: JD REPORTING, INC.

## I N D E X

Closing argument for the State by Ms. Schifalacqua 30
Closing argument for Defendant Phillips by Mr. Brower 55 Closing argument for Defendant Barr by Mr. Hughes 57 Rebuttal argument for the State by Mr. Scow 64

EXHIBITS
STATE'S EXHIBITS ADMITIED:
182-184 24

JD Reporting, Inc.

LAS VEGAS, CLARK COUNTY, NEVADA, DECEMBER 13, 2018, 11:40 A.M.

THE COURT: I've received the packet submitted by the State, and it's rather thick. Does the defense have any objection to the proposed instructions submitted by the State?

Mr. Hughes.
MR. HUGHES: I'm trying to find it.
THE COURT: What do you mean?
MR. HUGHES: I'm trying to find the one that I objected to.

THE COURT: Oh.
MR. HUGHES: I'm not going to object to all of them. Oh. It's on the -- oh, it's on page 32.

THE COURT: Okay.
MR. HUGHES: The State is not required to have recovered the deadly weapon used. I don't think that that conforms to our evidence. There's no allegation. They submitted a weapon they say was used. It's an exhibit.

THE COURT: Okay. First of all, I don't know what Ms. Schifalacqua was going to say, but it occurs to me that the jury might think, well, this wasn't the same weapon used in all the crimes and have a question there. So it is a correct statement of the law. To the extent that they might think it's a different weapon or I can't remember if the witnesses described the weapon differently for any of the scenarios, but JD Reporting, Inc.
if they did, then certainly that question could arise in the minds of the jurors. So I think given that, they're entitled to give the instruction and it's a correct statement of law.

MS. SCHIFALACQUA: And I appreciate that, Your Honor. Not only do we want them to understand that we don't have to produce it. But even if we do, there were multiple crimes in this case. And so if they have a question about each one, just what you said --

THE COURT: That's what I --
MS. SCHIFALACQUA: And then there also is an
allegation of $a$ bomb. So we clearly did not produce that. And so that deadly weapon, as an explosive device, also was not produced and we're not required to.

MR. HUGHES: Well, I wouldn't want you to.
MS. SCHIFALACQUA: Well, that's fair. That's fair.
So that's why we put it in there.
THE COURT: All right. So any other objection?
MR. HUGHES: I object to every time the word "victim"
is used in the verdicts. I have no objection to the individuals' names appearing on the count, but I object to the word "victim."

THE COURT: State -- I mean, look. Sorry. They're allowed to use the word victim.

MS. SCHIFALACQUA: Right. To the --
THE COURT: I think it's used too many times to go

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through and insert "purported victim." And since it's legally okay --

MR. BROWER: And, Judge, just for the record, I actually -- we talked about these objections earlier so -THE COURT: You're joining?

MR. BROWER: They are joint objections, but Mr. Hughes was gracious enough to want to articulate that. THE COURT: That's fine. MS. SCHIFALACQUA: And for our purposes, Judge, part of why we're using and identifying the victims of the different count is because we have similar counts --

THE COURT: Well, I don't think he's objecting to being named.

MS. SCHIFALACQUA: Correct, yes.
THE COURT: Because that's assuming that they're really victims. Although in this case, it's not whether it happened. It's not like a fraud case where the question is, did it happen? It's -- well, generously, it's more of a whodunit.

MS. SCHIFALACQUA: And to the extent that, you know, legally they are -- and it's in the statutes -- victims of crime because it is a criminal case. I mean, you know, so -THE COURT: No, I mean, like I said, it's legally allowable. So --

MR. SCOW: Judge, just for the record, since we're on JD Reporting, Inc.
the verdict form, I didn't know if there would be changes or anything, so I didn't fix the spacing.

THE COURT: Okay.
MR. SCOW: So, like, if you see on page 66 at the top, it's the not guilty from Count 8. So I didn't go through and fix that because I didn't --

THE COURT: And generally we don't -- I mean, we can fix it, I guess.

MR. HUGHES: Your Honor --
THE COURT: Like page numbers, because the page
numbers won't correspond to the --
MR. SCOW: And I just had those in there just so -THE COURT: Yeah, it's actually helpful for us right now.

MS. SCHIFALACQUA: Right.
THE COURT: So, I'm sorry, where is the spacing wrong? Like on Count 13, that should go on some page.

MS. SCHIFALACQUA: That's correct. And then Count 8, the not guilty --

THE COURT: And then the date is on a different page. MR. SCOW: Do you want me to go through and fix that? MR. HUGHES: I believe that if the victim was taken out of every count, by removing those words, the spacing would be perfect.

THE COURT: Right.

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MS. SCHIFALACQUA: Except that [indiscernible] would still be in the exact same spot, Mr. Hughes.

THE COURT: It's the same exact thing.
Okay. So any objection to the verdict form?
MR. BROWER: There was -- I don't believe we had any objection to the form. I don't mind if it gets spaced differently, but it's the State's -- the form is what it is.

THE COURT: Okay. I mean, you can correct the spacing, State, and then just email us that.

MR. SCOW: Do you want me to take out the page numbers too?

THE COURT: Right.
MR. SCOW: Okay.
THE COURT: And then turning to the rest of the jury instructions, did the defense have any other objections to the proposed jury instructions.

MR. BROWER: No, Judge, but if they're taking out spacing issues, on page 9 and 14, there's some little dashes that come down in the middle of the top of the page on 14 and then 9. There's -- it's the original spacing from the original charges.

THE COURT: Oh, right.
MR. BROWER: So they might as well fix that too.
It's page 9 and page 14 that $I$ noticed it on.
THE COURT: Right.

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All right. Now, so did the defense have any instructions they are offering?

MR. BROWER: Judge, we do not. We did discuss potentially an instruction based on the case called Dorina [phonetic] v. State; however, those instructions are essentially encompassed in what is given here. It's more of an argument for the jury, so we decided not to tender those.

THE COURT: Okay. Is that right, Mr. Hughes? MR. HUGHES: That's correct.

THE COURT: All right. Because the -- and I know Justice Cherry, when he was a district court judge used to do this, so it's purely allowable. On very long informations, he would not read the very long information as part of reading the jury instructions. He would just say the information just read to you. Oh, there's also a mistake on 14 in the spacing, so you guys need to go through that.

MS. SCHIFALACQUA: 14.
THE COURT: He would just say the information is included as part of Instruction 3 that has been read to you by the clerk. Do both sides waive the court rereading that? So if you don't waive it, I'll read it. It probably adds another 15 minutes.

MR. HUGHES: I think I'm willing to waive that.

## THE COURT: Right.

MS. SCHIFALACQUA: Do you want to waive the reading JD Reporting, Inc.
of the Information?
MR. SCOW: Yes, I would like to.
THE COURT: All right. And just --
MR. SCOW: We can just tell them it's on the printed form.

THE COURT: Yeah, it's on this -- it's on here. And I read the first part and then I say, you'll see counts. You need to go through each count separately. Because it's already been read to you at the beginning, I'm not going to read it again, but it's -- you know.

Mr. Brower, do you waive the court rereading the lengthy Information?

MR. BROWER: Absolutely, Judge. I think we could save a good amount of time with that.

THE COURT: Yeah. And, Mr. Hughes, you waive it as well?

MR. HUGHES: I do.
THE COURT: Plus the other benefit, in my opinion, is you don't put them to sleep reading this. They're alert and listening to the instructions which is really what, you know, the new Information they need to listen to. So I think it's beneficial from that point of view as well.

MR. SCOW: A couple things just for the record. On page 14, I left that space there on purpose just so that last paragraph is easily separated from the last charge. If you

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want me to move it up or put it before the counts, I can do that.

THE COURT: Oh. Wait a minute. I'm talking about lines 4 through 6 where you've got the -- whatever their -- the lines. So why don't you put Count 22 and 23 up tight? Are you saying it's because it only charges Mr. Barr?

MR. SCOW: The copy that I have is already -- that's already fixed.

THE COURT: Oh, it's not fixed on my copy.
MR. BROWER: And it wasn't fixed on mine either.
MR. SCOW: So the one that I recently sent, it must not have been changed or saved.

THE COURT: All right. So your copy is fine. All right.

MR. SCOW: Here's a clean one that you can use. And then I'll change the -- and there's two verdict forms, one for each defendant?

THE COURT: Right.
MR. SCOW: So I'll take out the page numbers and then --

THE COURT: And then you'll just re-email those. MS. SCHIFALACQUA: Right, separately. Yes, Your Honor.

THE COURT: So if there's nothing else, can we number?

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MR. BROWER: I'm fine with number, Judge.
MS. SCHIFALACQUA: Judge, yes.
THE COURT: All right. Instructions to the jury, Number 1, Members of the jury.

Number 2, If in these instructions.
3, An Information is but.
MR. BROWER: [Indiscernible.]
THE COURT: I guess, maybe. I don't know. Maybe you should leave the page numbers because it's so lengthy that --

What do you guys think?
MR. SCOW: Judge, I'm going okay with --
THE COURT: Does that make it easier for the jury
then to go through this if there's page numbers?
MR. SCOW: It might.
MS. SCHIFALACQUA: It might.
THE COURT: It might. So maybe because there's so many, maybe if everybody agrees, just leave -- normally I delete the page numbers, but it might just make their job easier if we have page numbers. What do you guys think?

MR. SCOW: I'm good with it.
MR. BROWER: Judge, I don't think the pages numbers detract from anything. There's still an instruction number, so I'm fine with page also.

MR. HUGHES: So are we going to -- we're going to number the second page of the Information as page 4 then?

THE COURT: No. It's page 2. The instruction numbers are the same. It would just keep the page numbers on the bottom so that when they go through it, it's easier for them to flip through it than trying to find the -- I just want to make it easier for them.

MR. SCOW: But I'll take it off the verdict form. THE COURT: Yes, absolutely off the verdict form. MR. SCOW: I'm going to go do that now while -THE COURT: Okay. So, Mr. Hughes, are you fine with -- I'm just trying to make it easier for the jurors to go through these.

MR. BROWER: Yes, we're fine, Judge.
THE COURT: Don't you think it makes it easier for them?

MR. BROWER: Judge, it makes it easier for me when I'm trying to look at the notes I already have.

THE COURT: I'm just trying to make it easy on them. Are you fine with that, Mr. Hughes?

MR. HUGHES: I am.
THE COURT: Like I say, normally I delete them but this is kind of long.

All right. So page 15 is Instruction 4: A conspiracy is an agreement.

5, It is not necessary.
6, Where several parties.

7, Whenever there is slight.
Are we -- what is it, a Carter instruction? Do we have that in here? It is -- are you requesting that, Defense? MS. SCHIFALACQUA: Yes. I think we did -- I believe we put it in but I don't know if they're going to want it. THE COURT: Do you want that, that your clients don't have to testify? I don't see it.

MR. HUGHES: Well, I've seen it in here. I don't know where it is but I know I saw it.

MS. SCHIFALACQUA: I think it's near the end.
THE COURT: I usually put that by the reasonable
doubt. And it is. It's page 53.
MS. SCHIFALACQUA: Okay. Great.
THE COURT: Is the defense requesting that?
MR. BROWER: Court's indulgence.
THE COURT: I think it's good to give, but it's up to you folks.

MR. BROWER: Judge, I'm okay with it being in there.
THE COURT: It's up to you. I mean, you need to request it.

MR. BROWER: I'm going to defer to Mr. Hughes.
MR. HUGHES: I am thinking just for later down the road, we could probably leave it in. And we're going to leave it at 53?

THE COURT: Right. Because we already went -- I

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mean, to me it's better to leave it in, but it's up to you. Because we told them that at the beginning, but that was days ago and they may not remember. So this reminds them.

So defense wants it in?
MR. HUGHES: Yes.
MR. BROWER: Yes, Judge.
THE COURT: All right. Turning to Instruction Number-- we're on page 19, Instruction 8: A conspiracy to commit.

9, Each member of a criminal conspiracy.
10, It is not necessary.
11, Where two or more persons.
12, A defendant cannot.
13, While a guilty verdict.
Do we have the aiding and abetting instruction? MS. SCHIFALACQUA: We do. And I think -- court's indulgence. For some reason, we put it after --

MR. BROWER: I remember seeing it, Judge.
MR. HUGHES: I remember seeing it.
MR. BROWER: I just don't remember where it was.
THE COURT: This is why it's better -- now I'm reminded why we don't number the bottoms of the pages because if you want to move things around --

All right. Because we take -- well, it could be an aider and abettor, but we don't tell them what an aid or

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abettor is until later.
MS. SCHIFALACQUA: Until much later, yes, and I'm sorry, we should.

THE COURT: So I think 13 should go later.
MS. SCHIFALACQUA: Yeah.
THE COURT: After we've instructed them on all the theories of liability. Don't you agree? Because we tell them, oh, you can find them guilty as an aider and abettor, but then we don't tell them what that is until later.

MS. SCHIFALACQUA: Right, and I'm trying to find it. THE COURT: All right. I'm going to -- and then so renumber the bottom pages.

MS. SCHIFALACQUA: Let me text Mr. Scow because --
MR. HUGHES: Starting at --
MR. BROWER: Page 24.
THE COURT: Yeah. So I think Instruction 13 should be a person who by day or night. So I'll wait for Ms. Schifalacqua to do that.

MR. BROWER: So that's page 25; correct, Judge?
THE COURT: Right. I don't know. Do you guys agree with me?

MR. BROWER: I'm fine with it, but --
THE COURT: We're using a term and it hasn't been defined yet.

MS. SCHIFALACQUA: Right. I'm just trying to find JD Reporting, Inc.

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our aiding and abetting because I know we --
MR. HUGHES: This Instruction 14 -- or 13.
THE COURT: So 13 was page 25.
14, It is not necessary.
15, A person who enters.
16, When two or more persons.
17, Every person who.
18, Every person who commits the crime of burglary.
19, As used in these instruction, deadly weapon
means.
20, The State is not required.
21, In order to use.
22, If more than one person.
23, The law recognizes.
24, Robbery is the unlawful taking. That should have been earlier also. I guess it's okay.

25, Personal property is.
26, It is unnecessary to prove.
27, For the defendant to be found.
28, Where one defendant.
I'm looking to see where your aiding and abetting instruction is.

MS. SCHIFALACQUA: You what I just realized, Your Honor. It's 11.

THE COURT: Did I miss something?

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MS. SCHIFALACQUA: Yeah, it's 11.
THE COURT: Oh, it is?
MS. SCHIFALACQUA: Correct.
THE COURT: Well, then maybe we can redo this.
Sorry. I didn't catch it.
MS. SCHIFALACQUA: I didn't see it either. Sorry about that, Judge.

THE COURT: I'm sorry. Let's put page 24 back where it was, and then we'll just have to renumber the tops.

MR. BROWER: So that's back to Number 13?
THE COURT: Yeah, because I didn't see this. Nobody else did either.

MS. SCHIFALACQUA: No, I didn't either.
THE COURT: All right.
MS. SCHIFALACQUA: And I've looked at it a hundred times. I'm sorry, Judge.

THE COURT: So let's start over on page 24. And then Instruction 13 is going to be, While a guilty verdict must be unanimous.

Instruction 14, page 25, is, A person who by day or night.

Instruction 15, page 26, It is not necessary.
Instruction 16, A person who enters.
Instruction 17, When two or more persons.
18 is, Every person who.

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19, Every person who commits the crime of burglary.
20, As used in these instructions.
21, The State is not required.
22, In order to use a deadly weapon.
23, If more than one person commits a crime.
24, The law recognizes two kinds of possession.
25, Robbery is the unlawful taking.
26, Personal property is.
27, It is unnecessary.
28, For the defendant to be found.
29, Where one defendant.
30, If you find the defendant guilty.
31, If more than one person.
32, A person unlawfully attempts.
33, If you find -- you are instructed. I'm sorry.
33, You are instructed that if you find.
34, As to Count 21.
35, A person who.
36, Evidence that.
37, A person who carries.
38, The flight of a person.
39, You have heard and/or seen.
40, To constitute the crime charged.
41, The defendant is presumed innocent.
42, It is a constitutional right.

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43, it says, You are here to determine the guilt or innocence of the defendant. Since we have two defendants, shall we say each defendant?

MS. SCHIFALACQUA: Each, yeah.
MR. BROWER: And, Judge, I apologize. I should have addressed this earlier. I actually don't think they're here to determine the innocence as the clients are innocent as they sit here.

THE COURT: I'm willing to change this one if requested to do so to, You are here to determine whether or not each defendant is guilty or not guilty of the crimes charged. MR. HUGHES: I would prefer that.

MR. BROWER: I would prefer that, Judge. And I apologize.

THE COURT: Are you fine with that, State?
MS. SCHIFALACQUA: I have no objection to that, Your Honor.

THE COURT: I change that. Each defendant is guilty or not guilty of the crimes charged.

MR. BROWER: Thank you, Judge.
THE COURT: Are you all fine with that?
MS. SCHIFALACQUA: Yes.
THE COURT: Yeah, I make that change if requested.
MR. BROWER: And, Judge, I usually do that
automatically. I don't know why I didn't think to do it.

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THE COURT: Some defense attorneys don't bring it up, and we leave it. Some do. If they do --

44, The evidence which you are to consider.
45, The credibility of a witness.
46, A witness who.
47, Although you are to consider.
48, In your deliberation.
49 --
MR. BROWER: Judge, should this say defendants now that we're here? And then we have the guilt or innocence again on this one.

MR. HUGHES: Oh, we should do that again.
THE COURT: You are here -- your duty is confined to the determination. I mean, we can rewrite this a couple of different ways. Whether each defendant is guilty or not guilty of the crimes charged.

MR. HUGHES: I like that.
MR. BROWER: That's fine with me, Judge, if the State's okay with that.

MS. SCHIFALACQUA: No opposition.
MR. BROWER: [Indiscernible] too soon.
MS. SCHIFALACQUA: Yeah.
THE COURT: Or you can say -- another way to do it is your duty is confined to the determination of whether the State has proven each defendant's guilt beyond a reasonable doubt of

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the crimes charged.

I actually like the first way better because there's so many crimes. Does that mean -- oh, I don't know. MR. HUGHES: I like the first -- I like what we did the first time.

THE COURT: I like the first one better, but there's two ways we can do it. Probably more than that but --

49, During the course of this trial.
50, When you retire to consider your verdict.
51, If during your deliberations.
And 52, Now you will listen.
MR. HUGHES: Congratulations, Barbara. That's the first case I've ever done where there was more witnesses than instructions.

MS. SCHIFALACQUA: Well, there we go. We had 53
witnesses. So --
Madam, what is the email --
THE COURT: I think we moved really quickly, and I really want to compliment defense counsel on not wasting time with a lot of cross-examination that would lead nowhere. No seriously, I mean --

MR. HUGHES: It's easy when you --
THE COURT: You kind of homed in, you know. You didn't --

MR. HUGHES: And we let you lead nonstop for a couple JD Reporting, Inc.

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days, just to speed it along.
MS. SCHIFALACQUA: Your definition of leading is
not --
THE COURT: Well, a lot of it was foundational stuff, though. You know, like the --

MS. SCHIFALACQUA: Where you worked, if --
THE COURT: Right. Is this your body cam footage
or --
May I just say that these Metro cops are just so nice. I've never encountered, when I've been pulled over, such niceness.

MS. SCHIFALACQUA: They get a bad rap.
MR. BROWER: It's because they're all on film now, Judge.

THE COURT: I know.
MS. SCHIFALACQUA: That might be -- it has an impact. But, actually, most of the guys I knew even before that were pretty -- just standard, like they didn't have -- I mean, it's traffic.
(Pause in the proceedings.)
(Proceedings recessed 12:04 p.m., until 12:47 p.m.)
THE COURT: You could make sure the changes were made correctly and you approved of the verdict form. Did she give the right verdict form to each of you?

MR. HUGHES: I'm looking at Mr. Phillips.

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MR. SCOW: We did.
MS. SCHIFALACQUA: Yes, we have them both.
MR. HUGHES: Oh, I've got both.
MR. BROWER: Here, give me mine.
THE COURT: Okay. All right. So each one, check them over just to make sure that -- they should be correct, but I just want counsel to verify it just in case. That way it's on you.

MR. SCOW: And there are three exhibits that we somehow missed in the naming the range of exhibits, so I'm going to move to admit these before the defense says that they rest their case.

THE COURT: Okay. So you're reopening to move to admit. And you did reserve the right on the exhibits when you rested to make sure they were all in, so that's fine.

MR. BROWER: And, Judge, I think what happened is, when we were going through numbers, there were numbers that were anticipated being named and marked and we had anticipated just moving on them. So I don't know that they -- they can't just admit them in this one time without technically reopening. I would submit that we didn't anticipate having those admitted before.

THE COURT: Okay. So no objection.
And as I said, they did say, before they rested, subject to the admission of all the exhibits.

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MR. HUGHES: No, and I saw the exhibits, and, yeah, we stipulate.

THE COURT: All right. So say the numbers.
MR. SCOW: It is 182, 183, and 184.
THE COURT: All right. So those will be admitted.
Go ahead and give those to the clerk so she can mark them.
(State's Exhibit Numbers 182-184 admitted)
MR. SCOW: Thank you, Judge.
MR. BROWER: Do you want me to say it when the jury
comes in, or just by stipulation, we're -- we're good?
THE COURT: Yeah, just by stipulation.
All right. Okay. We're on the -- is the verdict -Mr. Brower, did you double check the verdict form?

MR. BROWER: Judge, it looks accurate to me. I don't see any glaring inconsistencies.

THE COURT: All right. Then we can blue back that. And, Mr. Hughes, did you double-check the verdict form?

MR. HUGHES: I did, Your Honor. It looks fine. THE COURT: All right. So we can blue back that one. All right. And is there anything -- we did number and agree on the jury instructions. A couple of changes were requested by defense counsel, and those changes were made by the court, and the State didn't have any objection to those changes.

MS. SCHIFALACQUA: That's correct.
THE COURT: There was one that Mr. Hughes asked that we remove, but -- regarding they didn't have to recover the deadly weapon -- but since there was multiple robberies, the court said no, that that did pertain, and Ms. Schifalacqua pointed out the bomb -MS. SCHIFALACQUA: Correct. THE COURT: -- was not recovered. So that did pertain.

Does that accurately reflect what happened with us settling the jury instructions?

MR. BROWER: It does, Judge, but I don't think there was ever any proof that a bomb existed to be recovered.

THE COURT: Well, you can say that.
MR. BROWER: I will. I just did. But I'm going to say it again.

THE COURT: I meant to the jury. Say it to someone who matters, Mr. Brower, Mr. Hughes.

MR. HUGHES: That accurately reflects the discussion that took place.

MS. SCHIFALACQUA: It does, as well, Judge.
THE COURT: All right. And that was on the record, but that's just to kind of let the defendants know that the requested changes were made.

All right. Is there anything else we need to do JD Reporting, Inc.

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before we bring the jury in?
MR. HUGHES: No.
MR. SCOW: Are the jury instructions being reprinted now with the --

THE COURT: No. I told Crystal, because they're my notes, to hold off because I'm going to read them.

MS. SCHIFALACQUA: Got it. And then we'll --
THE COURT: And then she'll work on that while you guys are making your arguments.

MS. SCHIFALACQUA: Sure. Just so that such -- they will have the copy of the Information.

THE COURT: No, no, they have --
MS. SCHIFALACQUA: Yeah.
THE COURT: Yeah.
MS. SCHIFALACQUA: Okay.
THE COURT: No, no, I don't pass them out.
MS. SCHIFALACQUA: I understand.
THE COURT: I'm not one of those departments.
MS. SCHIFALACQUA: Got it. Got it.
THE COURT: Because they don't listen, and there's reading --

MS. SCHIFALACQUA: Right.
THE COURT: I guess some people like it better, but, to me, it's --

All right. Bring them in.

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-- they're reading ahead, and then they're reading the instructions when people are making their --

MS. SCHIFALACQUA: And they're not following along.
THE COURT: -- arguments and not following along. I think it's better not to hand them out. I will do it if requested, but I prefer not to do it.

MS. SCHIFALACQUA: Sure.
MR. SCOW: Okay.
THE COURT: Plus, then they make notes on their
instructions.
MS. SCHIFALACQUA: I know. They always collect them and --

THE COURT: And they don't get it -Right.

THE MARSHAL: All rise for the presence of the jury. THE COURT: We're not too late, considering.
(Jury entering 12:53 p.m.)
THE COURT: Do they have their notepads?
THE MARSHAL: No, that would probably help if they did.

THE COURT: While Kenny is passing out the notepads, we did have a calendar this morning that went rather late, so I apologize for the somewhat tardy start.

The record should reflect the presence of the State through the deputy district attorneys, the presence of the

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defendants along with their counsel, the officers of the court, and the ladies and gentlemen of the jury.

State.
MR. SCOW: Judge, we did rest on Tuesday. There were a couple of exhibits that, in going through, weren't admitted but have just been admitted by stipulation, 182 through 184. And with that, we are resting at this time again.

THE COURT: All right. Mr. Brower.
MR. BROWER: Judge, the defense will submit this to the jury following closing argument.

THE COURT: All right. So defense rests?
MR. BROWER: That's correct, Judge.
THE COURT: On behalf of --
MR. BROWER: Of Mr. Phillips.
THE COURT: Of Mr. Phillips. Mr. Hughes?
MR. HUGHES: Your Honor, Mr. Barr rests.
THE COURT: All right. Thank you.
Ladies and gentlemen, that concludes the presentation of evidence in this case. As I told you at the outset, that's followed by the instructions on the law which I shall read to you in a moment.

Following the instructions on the law, the attorneys will have the opportunity to make their closing arguments. Because the State has the burden of proof in this case, they both open and close the closing arguments, meaning they get to

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address you twice.
It is important that I read these jury instructions exactly as they are written. I am precluded from trying to clarify them or expound upon them in my own words in any way.

You will have a number of copies of these written jury instructions back in the jury deliberation room with you so that you can refer to them throughout your deliberations. You will also have all of the exhibits that were admitted into evidence. Each instruction has the number for your convenience and ease of reference.
(Reading of the instructions not transcribed)
THE COURT: Ladies and gentlemen, Instruction Number 3 thereafter sets forth all of the counts from the information. You will all recall that the information was read to you by the court clerk at the beginning of the trial. I'm not going to reread all 23 counts of that information to you at this time, but they are a part of the instructions and you are directed to go through each count throughout your deliberations.

And I believe both sides waive any objection to the Court not reading the 23 counts of the information; is that correct?

MS. SCHIFALACQUA: Yes, Your Honor.
MR. SCOW: Correct.
MR. BROWER: That is correct.

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MR. HUGHES: Yeah, that's correct.
(Resumes reading the instructions, not transcribed)
THE COURT: Ladies and gentlemen, that concludes the instructions on the law. Is the State ready to proceed with their closing argument?

MS. SCHIFALACQUA: Yes, Your Honor.

## CLOSING ARGUMENT FOR THE STATE

MS. SCHIFALACQUA: Ladies and gentlemen of the jury, on August 9th of 2018, the employees and the customers at the US Bank, located at 801 East Charleston, really had their lives turned upside down. They didn't know it at that time, but those two men had been committing burglaries and robberies in Henderson, and they had a plan to continue their crime spree.

But the employees and the customers weren't the only ones that didn't know something that day. On that day, the defendants didn't know that their moves were being tracted. They were woefully unaware that Detective Dennis Ozawa and Detective Karl Lippisch had been researching and tirelessly working the Henderson crimes in order to catch the defendants.

They applied for a tracker warrant, and they placed it on the Grand Marquis of Anthony Barr's that was used throughout this crime spree. They didn't know that Detective Worley, Detective Ebert, and ultimately Metro Detective Hubbard had eyes on them as they went forward with their plan to continue crime.

But on August 9th of 2018, that's when it stopped. You saw firsthand body camera footage of Officer Farrington arresting Damien Phillips and firsthand of Officer Papazian apprehending and arresting Defendant Barr.

Now, what crimes did they commit? Let's look at them. Damien Phillips's crimes: conspiracy to commit burglary, conspiracy to commit robbery, burglary while in possession of a deadly weapon, robbery with the use of a deadly weapon, assault with use of a deadly weapon, and assault with use of a deadly weapon, victim 60 years of age or older.

Defendant Barr's crimes include much of what Defendant Phillips's crimes include: The conspiracy to commit burglary, a conspiracy to commit robbery, burglary while in possession of a deadly weapon, robbery with the use of a deadly weapon, assault with use of a deadly weapon, assault with use of a deadly weapon, victim 60 years of age or older, carrying a concealed pneumatic gun, and preventing your dissuading a witness or victim from reporting a crime or commencing prosecution.

So let's talk about the law. A conspiracy to commit a crime, what is that? Well, a conspiracy is an agreement, a mutual understanding between two or more persons to commit a crime. What does the law tell us? That there's no formal contract needed; right? No one has to sign up on the dotted line for the conspiracy. It's not necessary even to show a
meeting of the alleged coconspirators or their making of an express or formal agreement. It's inferred from the circumstances. What do we know? What do you look to? You look at the conduct before, during, and after the crimes. And is there a coordinated series of events and acts by these two? The answer is yes.

So let's talk about who's liable. Who is liable in a conspiracy? Each member of a criminal conspiracy is liable for each act and bound by each declaration of every other member of the conspiracy if the act or declaration is in furtherance of the object of a conspiracy. What does that mean? Well, the law recognizes that when more than one person gets together to commit crime, the success rate increases. But what else it recognizes is that when more than one person gets together to commit crime, different people will have different acts. Oftentimes, someone might be a driver. Someone might be the person that actually physically does something. And the law recognizes that you're responsible for the acts of the other because you have a joint intent to commit that crime. So it's smart.

The act of one is the act of all. The words of one are the words of all. For specific-intent crimes, it's that -the specific-intent crime was intended by the defendant, and then he or she is liable for the acts of the coconspirator. And general-intent crime, it follows as one of the probable and

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natural consequences of the object of their conspiracy. Did the defendants conspire together? Absolutely. Watch as they -- how the coordinated series of acts, they go together, they act together, they leave together.

But they're not the only ones involved in the conspiracy. There's one or more coconspirators in this case. And when you get that information, and there's always kinds of words that has and/or, and/or, and/or, what are we talking about here? We're talking about that the defendants charged here are obviously Damien and Anthony, but there's others. There's Sabrina Henderson and there's Melissa Summlears.

Now, does it matter who they conspired with? The law recognized that it doesn't. They can -- you can show the acts of their conspiracy between the two, which you've seen over and over again, even by video surveillance. But you can also see the conspiracy and the acts with Sabrina Henderson, with Melissa Summlears, or any combination thereof. And so it isn't that you have to have every single person. It's one or more of the coconspirators that got together to effectuate this crime spree.

Aiding and abetting. The law tells us that a person who knowingly and with criminal intent aids, promotes, encourages, instigates, by act or advice or by act and advice, the commission of such crime with the intention of the crime be committed. And we're not required to prove who committed the

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crime and who aided and abetted. In this case, it's unique in the fact that you see them do all -- many of the theories, if not all of the theories, of liability.

So these different theories, what are they? First of all, all of these theories -- liable as directly committing the offense, aiding and abetting, or as a coconspirator -- you don't have to agree on the theory. You have to be unanimous, and we're confident you will be unanimous in your guilt as to these defendants. But the liability, the theory, if they directly committed the crime or if they helped each other or if they did it pursuant to their conspiracy to continue to commit crime, that's your choice. And they don't have to be the same. As long as you agree that the evidence establishes a defendant's guilt, your verdict will be guilty to that offense.

And in this case, it is interesting. It's unique in a way. Because the defendants and liability they had in multiple ways. Both the defendants would make entry into a branch on most of our occasions, except for the first US Bank. And while one was directly robbing one of the tellers, they were aiding and abetting their coconspirator and conspiring as they committed the offense on the other. And so in this case, it's a unique circumstance where they're doing more than one theory at the same time.

So let's talk about the crimes that they committed. Burglary. Every person who, by day or night, enters any

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building with the intent to commit a felony is guilty of burglary. Well, burglary is all about intent, ladies and gentlemen and the law tells us that. The gist of it is the criminal intent. It's committed if a defendant entered a building with the intent to commit a robbery even if -- even if they don't effectuate the ultimate crime that they entered to complete.

And also of import, especially in commercial establishments like the US Banks or the Bank of the West, it's no defense that that establishment is open to the general public. There's no breaking that needs to occur. It's all about the intent of the people that make entry. And what do we know? We know that neither of these defendants have a bank account at US Bank. They neither have one at Bank of the West. And we also know what it is they were intending to do when they walked in those doors. It was to commit a robbery. That's a felony in the state of Nevada. And regardless if they're successful, they're guilty of the crime of burglary.

We have an example of that in this case. On August 9th of 2018, at the Smith's US Bank at 2550 [sic] Maryland Parkway, Detective Worley talked to you about seeing these defendants collaborating. Remember the questioning?

How did you know they were collaborating? Well, they were looking at each other, they were talking to each other, and then they were looking around before they made entry into

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that Smith's. Did they stay there long, Detective? No, they sure did not. Why? Well, it was busy.

But what did they enter in to do? Think of their conduct before, during, and after this -- on this day. They entered to rob. But did they do so? They didn't rob but they sure burglarized the place, because it doesn't matter if they were successful in completing the underlying offense, which, in this particular instance, they weren't. And they did so with a deadly weapon. If you remember, Detective Worley talked about the bulge that he saw. And you have video surveillance from them walking away from that. What did they do after that? Think about how we know their intent. Because after that is when they actually complete the robbery at 801 East Charleston. After they make a stop but don't enter that Chase branch.

So they're guilty of burglary while in possession of a deadly weapon. So let's talk about that crime. And it tells you that anybody who commits a crime of burglary, who has in his possession or gains the possession of a deadly weapon at any time during the commission of the crime or before leaving, is guilty of burglary while in possession of a deadly weapon.

The law talks about different types of possession, actual and constructive, right. I actually hold this gun in my hand or I have possession, dominion and control over that clicker, and it is possessed either by myself or jointly with Mr. Scow who may use it next. The law recognizes that

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possession can be all of those things, sole or joint, actually or constructive.

What other crimes did these two men commit? Robbery with use of a deadly weapon. What is it? Robbery; it's an unlawful taking of personal property from the person of another by means of force or violence or fear or injury thereto. Such force or fear has to be used to either obtain or retain the property or to prevent or overcome resistance to the taking or to facilitate an escape with the property. In this case, it's clear that the force or violence or fear of injury thereto was to get money from the tellers at the bank, and that's a robbery.

It's not necessary to prove both violence or intimidation, and it just has to be likely to create an apprehension of danger and induce a man -- and in our instance, all women -- to part with her property for the safety of her person. That's a robbery. It's not necessary to prove actual fear. Although, I would submit to you that the fear was actual, and you heard from the victims in this case, many through tears about what happened to them that day and why they parted with the money. But the law will presume it even if they don't have actual fear.

So let's talk about that degree of force. It's
immaterial. And one other thing about robbery is that a value of the property, it's not an element of the crime. So when the JD Reporting, Inc.
defendants came in and robbed the victims of thousands of dollars, it's not of import that it was thousands of dollars, right, because it could have been of their pen. It could have been of anything. It's just personal property.

Deadly weapon. What does the law tell us? A deadly weapon is any instrument which, if used in the ordinary manner it's contemplated by its design or construction, will or is likely to cause substantial bodily harm or death; or a deadly weapon is under the -- same under the circumstances in which it's used, attempt to be used, or threatened to be used, is readily capable of causing substantial bodily harm or death; or an explosive or incendiary device -- that's a deadly weapon. The example in this case would be the threat to bomb -- or a pneumatic gun.

Now, let's talk about pneumatic guns because you saw one before you in this case. What is it? The law defines it as any implement designed as a gun that may expel a ball bearing or a pellet by action of pneumatic pressure.

Now, the State is not required in any trial to recover a deadly weapon alleged in a crime or to produce a deadly weapon at court. Why is that? The law is smart. It understands that most people would get rid of some type of evidence like that, or it can happen, and we're not required to show you a deadly weapon in court. But we did.

Let's talk about the different deadly weapons we
showed you in court. One was in Defendant Phillips's Mazda Protege. Mike Cromwell got on the stand and told you that he photographed this gun. Where else have we seen a gun? In Defendant Barr's Grand Marquis. That gun, however, was brought to you in court and you have it. You have it in evidence for you to see. What is that? It's a pneumatic gun, and it is, by law, a deadly weapon. But what else do we know about it? Forensic scientist, Mr. Wilcox, got on the stand and talked to you about the gun that was impounded being a pneumatic gun, that it was a Sig Sauer pistol powered by CO2 pneumatic pressure, gas, and that it was fully operational as designed, though it did have a leak in one of the cartridge casings -- I mean, excuse me, one of the cartridges for the CO 2 , and that it shoots ball bearings, metal BBs, and he was successfully able to shoot those multiple times. The gun that was recovered in this case and presented to you, the pneumatic gun, is a deadly weapon.

Now, use of a deadly weapon. What does the law tell us? In order to use a deadly weapon, there need not be conduct that actually produces harm, but only conduct which produces fear of harm or force by means or display of the deadly weapon in aiding in the commission of the crime. The law makes sense and it's smart. It protects its citizens. You do not have to shoot someone, hit someone, show someone the deadly weapon in order for it to be used when you do things like rob someone.

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Why? Because the law is going to recognize that it's protecting its citizenry when it doesn't make the tellers, as I asked, challenge these defendants when they tell them they have guns. No, show it to me. That makes no sense at all. It doesn't want to increase the risk of harm to victims, and it recognizes that you can show that they used a deadly weapon by other means or by display. It's an "or."

The law makes sense. It also recognizes that more than one person commits a crime -- and when more than one person commits a crime and one uses a deadly weapon in commission of that crime, that each -- each may be convict of using a deadly weapon even though he or she didn't personally use it. And that makes sense because, when you have that coordinated series of events and actions and intent by more than one person, one person might be collecting the money, as we saw at 801 East Charleston, while the other person is helping to effectuate the fear and getting that money. But whether or not they physically had hands on it is of no importance in the terms of the law and responsibility. The act of one is the act of all so long as the unarmed offender had knowledge of the use of the deadly weapon, which is clear here.

Now, I want to talk about the deadly weapon before August 9th of 2018. Mr. Hughes and Mr. Brower, skilled attorneys, will get up before you and they will argue. Now, what they say and what I say is not evidence, and it's argument
on both parts. But listen to what it is they will ask you to conclude when it comes to a deadly weapon and ask yourself if that's consistent with the evidence. Because it's likely that they will argue that all of the crimes before August 9 didn't have a deadly weapon, and the State submits otherwise. But make no mistake, even if you found that all of the crimes that these two committed prior to August 9th of 2018 didn't have a deadly weapon, then your verdict would be a burglary, just not a burglary while in possession of deadly weapon, or it would be a robbery, but not with use of a deadly weapon, right. It wouldn't be that they're not guilty of the crimes, if that's your determination. And make no mistake, ladies and gentlemen, it is your determination.

But when they get up and argue that to you, respectfully think back of what evidence you have. The law says there has to be fear of harm by a means or display. So what means did these two men have and use that proves to you that a deadly weapon was used in all of the crimes? And I'll show you.

Let's talk about Amie Carr. When Defendant Phillips passed that note to her and got the money, what did the note say? 4,500, weapon, no alarm. What about Melanie Terada? Note: Give me your money. We have a gun. Allyson: This is a robbery. Give me your money from both drawers. This is no bullshit. Nur Begum: Give me all your money. I have a
weapon. These are the means. Mary Grace -- Give me all your money. I have a bomb in my bag.

Meghan Zitzmann and Sunny Shay Cortner. With regard to Meghan, she couldn't read the note, but the defendant at the time said verbally to her, We have a gun. Give us everything. If you alarm, I'm going to shoot you. She told you those words as she cried on this stand. And what did Sunny tell you? She also couldn't read the note. But what did Barr say to her? Give me everything in your drawer, and then when that wasn't enough, she showed him the bottom drawer. Remember? If you say anything or do anything, I will shoot you.

What do we know -- what do we know about the defendants and their means of the use of this deadly weapon in their crimes? We know that they did use one. They used one not on August 6th, not on the times before, but on August 9th. So what does that tell you? Is it reasonable that they had the weapons on these occasions? Absolutely. Is it reasonable that, when they told the tellers they had weapons or guns or that they would shoot them, that they had access to them? Of course it is. His Mazda had a gun. His Grand Marquis had a gun. And who else told you that they had access to guns during this time frame? It was Vidal and Jaszman, right. Seen them both with them.

Now, if each had access and availability, you should take them at their word. They and their statements made is
evidence. So when they get up to argue with you -- to you that there wasn't a deadly weapon, the means by which there was includes what they told the victims. Take them at their word. It's reasonable. It's absolutely reasonable that the defendants had the weapons that they said they had on all of the other dates of crimes.

So let's talk about the crimes they committed then. On August 9th of 2018, the day that this conspiracy comes finally to a halt, as I said, they're not the only ones involved; right? Who else do we know was there? Melissa Summlears, she's a lookout. She goes in. She walks into that branch. You have the video of it. This is a still from that video. She walks in -- timed it. She walks in, has a very short time frame, walks out. When she walks in, she's on a cell phone. She walks out, and minutes after that is when they come in to commit their crimes. She's a lookout.

What else do we know? We know Sabrina Henderson was the getaway driver; right? She gets caught with him driving the vehicle, and they committed burglary while in possession -burglary, excuse me, while in possession of a deadly weapon and robbery with use of a deadly weapon. You see it on video. Taken from Claudia was $\$ 5,452$ in their robbery, and taken from Jada was $\$ 3,108$, robbery with use of a deadly weapon. That was on August 9th.

What else happened on August 9th, 2018, in that

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branch were other crimes and included assault with use of a deadly weapon. What is that? It's an intentional placing of another person in reasonable apprehension of immediate bodily harm or an unlawful attempt to use physical force against another person. What does the law tell us? There doesn't have to be an actual injury. The reasonable apprehension, the dropping to the ground by all of our victims in this case is clear, and they used a deadly weapon to do so.

Now, both defendants are guilty because they're working together with knowledge to effectuate these crimes. So even though it is Defendant Barr that physically had the gun in his hand, we know that Phillips had knowledge of the same, and he also, if you remember Teri Williams's testimony, was directing him where to go with that gun. And even Jada told you that he hesitated and waited until Barr pulled out the gun before he went over to complete these robberies. So he acts with use of a deadly weapon for the assaults, as well as for the robberies themselves.

Now, they use a deadly weapon but on who? Well, you can see it here. And you have video surveillance of this, and this portion is in a corner portion. But who's on the ground when [indiscernible] has the gun? Drop to the ground right away. That's consistent with what Vince told you on the stand and with what Michael Irish told you and Kerri Pedroza. Vince dropped to the ground right away. He didn't hesitate one

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minute. When that man told him to get down on the ground and had a gun pointed at his face, he dropped to the ground, period.

But then what happened? Michael Irish -- and you can see him on these slides -- finally dropping to the ground. And Kerri Pedroza talked to you about her dropping to the ground because of the gun. She's off camera when it comes to Barr pointing it at her, but she testified to the same, that she, too, dropped to the ground.

But there's another assault with deadly weapon that occurs at this branch at that time, and that's of a victim 60 years of age or older, Ms. Teri Williams, who told you that she was 76 years old. She was 76 years old when this man came back more than one time, having her get on the ground. And if you watch the live surveillance that you did, you saw her struggle with her bad knees trying to get to the ground. Now, she was smart because you also saw her put her wallet in her bra before she got there. But it's clear that they committed the crime of assault with use of a deadly weapon, victim 60 years of age or older, when Ms. Teri Williams is told to get to the ground.

That's not the only crimes that were committed on
August 9th of 2018. What else was committed? Carrying a concealed pneumatic gun. And concealed means it's carried upon a person in such a manner not to be discernible by ordinary observation. What does that mean? You can't see it, right.

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We know it's pneumatic gun. Mr. Wilcox obviously talked to you about it, we collect it.

But what do we know? We know that when Anthony Barr first makes entry, when both of them together make entry and burglarize the place but before they commit the robberies, you can't see the gun. That's because it's concealed. And if that is not clear enough for you, watch the video because it will show you Anthony Barr pulling that gun from his waistband before he uses it. And if you notice something else, as Jada Copeland said, Damien Phillips has yet to come because he hadn't pulled out the gun yet. He has knowledge and the same criminal intent as Mr. Barr.

Let's talk about August 6 of 2018. Sabrina Henderson is the lookout, right. On that day -- well, she may have also been the driver, but she was the lookout [indiscernible] shows it. Much like Melissa on August 9th, there she is on her cell phone, and look at the time frame before those two men make entry to rob the bank. And this is the one located in the Smith's.

And what occurs? A robbery with deadly weapon occurs. Taken from Meghan Zitzmann, \$1,047. Taken from Sunny Shay Cortner, \$1,439. That's what they were robbed of on that day. On July 31st, the Bank of the West was burglarized and robbed with use of a deadly weapon. We talked about the "with use." But what was taken from Nur, \$686. From Mary Grace,
$\$ 1,929$. They're guilty of the robbery with use of a deadly weapon.

Let's talk about the US Bank on July 23rd of 2018. That's the one on Eastern. Again, they burglarize and rob the bank with use of a deadly weapon. And from Melanie, \$10,395 was taken in that robbery. And from Allyson, \$5,775. July 17th, 2018, this is the count that just Mr. Phillips is charged in. In this case, he went into the US Bank and burglarized it with use of a deadly weapon and robbed Amie Carr. Of how much? Taken from Amie, $\$ 3,309$.

Ladies and gentlemen, they're guilty of all those crimes, and the evidence you can see with your own eyes proves it. But that's not the only crime. Dissuading a witness from reporting a crime, what is that? So a person who, by intimidating or threatening another person, prevents or dissuades a witness from reporting a crime or possible crime to a peace officer is guilty of preventing or dissuading a witness from reporting a crime or commencing prosecution.

What is this about? This is about Jazsman Moorehead and the threats that that man made to her before he left for his final crime. Defendant Barr threatened to end Jazsman's life if she told anybody about what they were doing, and she testified to the same. Remember the timing of this. This is after she confirmed it him about what she saw on the news. Remember those press releases that she was familiar with --

Mr. Scow presented them -- and who she recognized and who she confronted. And it's also after what? After she refused to go with him.

We take seriously, and the law takes seriously, the threats to witnesses of crime and to people who are doing what's right, which is reporting crime and refusing to go along with crime when they're invited to go, which is why he is guilty of preventing or dissuading a witness from reporting a crime. But what else does this show? What else does his threats show? The consciousness of guilt.

Barr knows he's guilty. Evidence that a defendant attempted to suppress evidence against himself in any manner, such as the intimidation of a witness or by discouraging a witness from providing evidence or testimony, can be considered by you as consciousness of guilt. He knows he's guilty and he knows Jazsman can identify him and she did, and he's guilty of that crime.

All of these crimes have been presented to you, and these are the men that committed them. But how do you know that? Well, let's talk about the identity of Damien Phillips. Ladies and gentlemen, you yourself can do the analysis when it comes to identity because you yourself have Damien Phillips on video from every single crime he committed. And that, standing alone, proves his guilt beyond a reasonable doubt.

But additionally, with Mr. Phillips, we have

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fingerprint evidence. Remember Forensic Scientist Tanya Hiner, as well as Gayle Johnson, testified before you. And Phillips's prints were at the Bank of the West. They were on the note collected from the US Bank, the one that's at 55 South Valle Road [sic] in the Smith's, and the prints are on the Twistable Crayola crayon box. But to the extent that defense counsel will get up and talk to you about the scientific evidence that was presented, remember that there are other prints collected. And what's that consistent with? The reliability.

Gayle Johnson picked a lift off of -- well, got a lift from, excuse me, Jeff Smith at the 801 East Charleston. And who did she identify that as? Bryce Crafton [phonetic]. Now, Michael Irish said I know Bryce Crafton. He's a regular customer of ours. Was he there that day? The video suggests that he was. And if you went all the way back to earlier in the day, which you have, Bryce Crafton was there at the same window of which she found the print. Why is that important? Because it's consistent with the reliability of the prints that we find of Phillips's. But what other prints do we have? Of Navaal Ali and David Krans, and they're on those crayons along with Phillips. Why does that make sense? Because they helped him. They testified that they helped him, and that's why their prints are there.

Do you need any of that? No, you have it live on those videos to watch. So let's talk about the identity of

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Anthony Barr, a.k.a. Chi-Raq, right. That's the name he went by, the name that Vidal and Jazsman know him by. [Indiscernible] photographs and video of Chi-Raq. They're right there. And there he is committing all of the crimes that we've alleged. You have it and can do your own analysis, but there are people that know both of them, that lived but merely upstairs -- excuse me, downstairs from where they were living and saw them regularly. And they each viewed video surveillance, and that's Jazsman Moorehead and Vidal Holman. And each one told you that it was Chi-Raq and that it was Damien that committed all the crimes.

Let's talk about the flight. What is that? It's another way where we are able to show the consciousness of their guilt. And you have that as well, that you can watch on the body camera footage of Officer Damschen. Why did they flee? They fled because they knew they were guilty. Let them know that you know that they are guilty too. And when you go back to deliberate, we ask that you find them guilty of all the charges, for all the crimes that they committed across this valley from July through early August.

Thank you.
THE COURT: All right. Thank you, Ms. Schifalacqua.
Does anyone need a break?
All right. We'll take just a quick break. Put us right at 2:15.

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During the brief recess, you are all reminded you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to reports of or commentaries on the case, person, or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium. Please don't form or express an opinion on the trial.

Please leave your notepads in your chairs and follow [indiscernible] out through the double doors.
(Jury recessed 2:03 p.m.)
MR. BROWER: Judge, we have something when we're totally outside the presence we need to address.

THE COURT: Sure. We're out of the presence. I think those are -- I mean, I think they are --

MR. BROWER: They're DA employees that just came down to observe.

MR. SCOW: Yes, an officer and our investigator.
THE COURT: Yes.
MR. BROWER: So, Judge, if you recall, when we were first here last week, I brought to the attention of Mr. Scott, before I brought it to the Court, that we believe Juror No. 8 may not have been paying the most attention during the trial. It seems like after maybe a conversation with your bailiff she was paying more attention. However, we never had her canvassed or addressed as to whether she was paying attention. We were JD Reporting, Inc.
wondering if it is possible to move her as one of the alternates, by stipulation of the parties, to the end. And then if we have to, we can address her later. So just making the alternates Jurors 7 and 8 --

THE COURT: If you stipulate to that, I'm fine with it.

MR. SCOW: We do, Judge.
THE COURT: The first alternate in order is Mr. -- is Juror No. 6, Mr. Destro. So we would make the alternates 7 and 8, Ms. Giovani and Ms. Chrisotomo; is that right?

MR. BROWER: That's what the parties agreed on.
MR. HUGHES: I'm okay with it.
MR. BROWER: And we thought that would resolve the issue, Judge.

THE COURT: If you stipulate, I'm fine with it.
MR. BROWER: We're fine with that, Judge.
MR. SCOW: We do. Just to help protect the record, we're fine with it, by the way.

THE COURT: Right. I mean, I didn't see her sleeping. You know, I think she just kind of -- okay. It's not going to be clear on any record. She's quite young and so I think as a younger person, she's, A, more flexible; she's, B, thinner.

MS. SCHIFALACQUA: Much more flexible than myself.
THE COURT: Well, let's face it. Some of us can

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barely fit in the chairs as it is, let alone put our feet up. MS. SCHIFALACQUA: Right.

THE COURT: But my point being is she's young and she's thin, and she can fit in the chair with her hips and both of her feet, unlike a lot of us, who can -- in fact, well, one of my -- I'm proud of this. One of the only accomplishments as Chair of the Jury Services Committee was we have now plus-size chairs in each department because I was so sick of watching jurors sit on the edge of their chairs for over a week because they couldn't fit, and all of the plus-size litigants that can't get in the chairs. So now each department has plus-size chairs because there really were a lot of people who can't fit in these chairs.

But the point being, she's young, she's thin, she can fit in the chair, she can put her feet up, and I think that may be why she's sitting like that, as opposed to a lot of the older jurors, maybe heavier jurors, who couldn't sit like that if he wanted to sit like that.

So I don't think it's necessarily -- my whole point of this long dissertation is that I don't think that we can infer from that that she's sleeping or not paying attention. think it has more to do with just -- she's trying to be comfortable in a chair that's uncomfortable.

MR. BROWER: And, Judge, neither one of us actually saw her asleep. We were just concerned -- given the record we JD Reporting, Inc.
made last week and the fact that we had [indiscernible], we thought it was a safer record to make.

THE COURT: It's fine if you stipulate, but I just want it to be clear that I'm not finding that she wasn't paying attention or she was sleeping or anything like that. I think it has, like I said, a lot more to do with the fact that the chairs aren't comfortable and she has more, let's say, flexibility to sit in that chair than a lot of the other jurors.

MR. BROWER: I know I couldn't get in any of those positions.

MS. SCHIFALACQUA: We do yoga.
THE COURT: I could but not -- I mean, I'd have to use the plus size chair. I'll just put it out there.

MR. SCOW: Yes, Judge, we do agree on that
stipulation.
THE COURT: All right. So that's fine. Do you agree, Mr. Hughes?

MR. HUGHES: I do.
THE COURT: All right. Take our break.
THE CLERK: So six and eight will now be the alternate?

THE COURT: Yes.
(Proceedings recessed at 2:08 p.m., until 2:16 p.m.)
THE MARSHAL: All rise for the members of the jury.

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(Jury reconvened at 2:17 p.m.)
THE MARSHAL: Thank you. Everybody be seated. THE COURT: All right. Court is now back in session. Mr. Brower, are you ready to proceed with your closing argument?

MR. BROWER: I am, Judge.

## CLOSING ARGUMENT FOR DEFENDANT PHILLIPS

MR. BROWER: So unlike the State, I'm going to try to be brief. They were --

You guys have sat here for -- going on your second week now, almost your full second week. And I'm assuming and from what I've seen you've paid attention, so you know where we are with this case and you remember what we talked to you about in the beginning. And you know that it's the State's job to prove this case, and it's not anybody else's. And I submit to you that they have not done so to their burden on -- in this case.

You'll notice in the first four alleged robberies there was never any use of a weapon or display of a weapon. The State's talked about their version of that, but you can remember all of the witnesses that sat here and, despite the numerous inconsistencies of who did what or what they looked like or the height -- they were five-five, they were this height, they were dark skinned, they were light skinned. What none of them told you was a weapon was used in this case.

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So you have to determine on all of the stuff that you've been given every single aspect of that case, and I'm sure you can do that. So when you get back, you have to go through, not only what they've told you, but all of the inconsistencies in this case. They've all been brought to your attention. Again, the person was five-foot-five. There was two people. There was one. They displayed a note. I think the note said this. I think the note said that. One note was upside down. I'm pretty sure it said, Give me something. I don't remember because I didn't read it. That's all things that you guys have to look at.

You also have to look at an alleged burglary at a Smith's where you had officers testify, hey, we followed some individuals. It looked like they went into the Smith's. We're certain that, hey, they had to be there to rob the place. You've seen video testimony from, I think, every one of these places. What you didn't see was any video from the Smith's. You didn't see anything from that US Bank that's inside that Smith's. You didn't see anybody walk up and case the joint. You didn't see whether somebody walked up and bought Chiclets at the counter. You didn't see any video surveillance. If it existed, I -- and there was clearly some lookout or we were casing the joint. I'm certain the State would have played that for you.

So, your job is to go weigh all of this evidence, all

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of it, each count, one by one, to go through it and determine if those two -- because they got to point at me a whole bunch. Now I get to point at them -- whether those two proved to you each and every element that they've brought in this case.

Mr. Hughes is going to go. I'm sure he's going to be a lot longer than I am. And I'm going to turn it over to him.

THE COURT: All right. Thank you, Mr. Brower.
Mr. Hughes, you may proceed.

## CLOSING ARGUMENT FOR DEFENDANT BARR

MR. HUGHES: So, ladies and gentlemen, you're going to get a lot of exhibits when you go back to the jury room on this case. You have movies, you have photographs, you'll have the instructions. Please pay close attention to the last page of the Information as part of your package -- I think it will be page 14 -- and the last portion of that which tells you that each charge and the evidence pertaining to it should be considered separately.

There's 30-some-odd pages of information. There's two defendants. They each have numerous charges. But what you are not to do is, if you find an overabundance of evidence regarding one charge, you can't make up a deficiency on another charge. If I could have taken the excess points on my history grade and applied them to organic chemistry, my life would have been different. But I can't. And you can't switch evidence around in this case. You decide each charge based on the
evidence pertaining to it.
The State wants you to believe that these two individuals committed a series of five crimes. And they tell you the crimes are really similar to each other. The similarity is that there's always one or two black males involved, and four out of the five were at US Banks. I don't think that amounts to a modis operandi. We have to look at the dissimilarities.

Some cases have one defendant -- one suspect. Others have two. Some of them have a female scouting. Others don't. In some of the cases, a male dresses up as a female. Some cases have weight. Some don't. Banks are open five days a week. These five events occurred on three of those days. There's very little similar in these cases. There's more dissimilar. The most similar thing between these is in four of them, there was a note. The suspects, whoever they may be, showed the tellers a note. And the note said, I have a gun or I have a weapon. In one case, I think it said, I have a bomb. And this seemed to be working well, because you heard the tellers testify our training is, if somebody says give me the money, I'll give you the money. You don't have to tell me you have anything. You don't have to even look mean at me. Say, give me the money, I give it to you. That's their training.

I think the fact that the last case, the one on August 9th, was different. In that case, the suspects had a BB JD Reporting, Inc.
gun. They didn't use a note. They had a BB gun or a pneumatic gun, if you listen to the State, which may or may not have been operable depending on what you heard. That's different because if the individuals who did the last robbery on the 9th of August were the same as had done the first four, why would they have changed the most crucial element of their modis operandi? They got rid of notes and they actually had a BB gun. The notes were working so well, why change? But they did change, apparently.

I also -- I remember watching the videos. You'll get a chance to watch them ad nauseam. The various events had suspects wearing distinctive clothing. I remember a camouflage hat. I remember a black wig, a red shirt, a black T-shirt that said Gizmo and it had some drawing on it.

The police, after the arrest in this case, got search warrants, and they searched two cars and they searched two rooms at Aviator Suites and they searched a room at Circus Circus. And I don't remember them seizing or photographing any of these items in any of those locations. If these were the same people who committed those crimes wearing these clothes and hats and wigs, where were they? They searched every possible place that these individuals could be, and they didn't find those things.

Some other items they didn't find when they were searching was any handgun ammunition. They didn't find a bomb.

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They didn't find any bomb-making equipment. The State didn't find any prints of Mr. Barr at any of these locations. Didn't find any of Mr. Barr's DNA at any of these locations.

Remember, we're talking about five events. And there's one or two black males involved in each one of them, according to the State, according to the video. But there's some discrepancies. We have different heights between these people that are supposedly robbing the banks, and they go from a low five-five to a high of six-something.

There was more than just two black males living at the Aviator Suites -- are connected. We have Mr. Barr and Mr. Phillips. Mr. Phillips lived upstairs, I believe. Mr. Barr was a visiter. But we also have Jakari and we have Mr. -- or Vidal, Vidal Holman, something. Mr. Jakari is rather short. He's about five-five, if I estimated by his photograph. And Vidal is up there at six foot or so. I was struck by how similar Vidal looks to my client, Mr. Barr. Of course, Jazsman and Vidal tell you that it was Barr and Phillips who did this. But Jazsman -- Jazsman could possibly have been angry at Mr. Phillips because she believed that he was having an affair with her mother.

MR. SCOW: Judge, objection. There's no evidence of this even remotely.

MR. HUGHES: I believe she testified to that.
MS. SCHIFALACQUA: Angry?

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THE COURT: She didn't testify -- I don't recall her saying she was angry, but she said they were, as I recall, messing around.

MS. SCHIFALACQUA: Correct.
THE COURT: And so Mr. Hughes can argue reasonable inferences. It's up to the jury. But she did not testify that she was angry --

MR. HUGHES: I don't think she testified to that.
THE COURT: And, ladies and gentlemen, there may be other disputes as to what the evidence was. I may not remember it. I may remember it incorrectly. Regardless of what I may say or the lawyers may say, it's your collective recollection of the evidence that should control in your deliberations.

All right. Go on, Mr. Hughes.
MR. HUGHES: So Jazsman was aware that Mr. Phillips, in her mind, was having an affair with her mother. When Jazsman testified, she said how Mr. Phillips ran down to get his gun from her apartment. She talked around the fact that that gun, that apparently was found on the night, belonged to her boyfriend Vidal. He testified to that. Jazsman seemed to talk around some of the issues and was less than forthcoming about the ownership of that weapon or -- I'm sorry, that BB gun.

I want you to consider the possibility the other two black male adults that were connected to the Aviator Suites

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could have taken part in some of these robberies. That would explain the height differentials that the witnesses testified to. And, remember, you're supposed to apply the evidence to each charge. They may be guilty of one. They may not be guilty of all.

Regarding the gun, in the first four events, there's not even a witness who says they saw a gun. They said they saw a note. It said gun and/or weapon or bomb. What they -- what was used in the first four robberies was lines of ink on paper. It was not a weapon. If I say I have something, and I tell you and you believe me, it doesn't mean that it exists. Try this when you get home. Go tell your spouse that you have a winning lottery ticket in your pocket and make her believe you. Jump around. Laugh, smile. And if she does believe you, you don't have a winning lottery ticket in your pocket, it's not fair. The fact that I say I have a gun and you believe me doesn't mean I have a gun. It doesn't mean I'm using a gun. I'm using the idea of a gun. And we haven't gone so far yet as to make ideas criminal.

The first four events, the State is giving you zero evidence of a gun or a bomb or a weapon of any nature being used. Try -- try this, spice up your tomorrow. The next time you're in the courthouse, come through the metal detector by security with a note in your pocket that says gun, and see if you breeze in. Then after lunch, you may -- I don't suggest
this -- but try walking in with a gun. It's an existential difference between a piece of paper that says gun and having the gun.

Also, the police apparently suspected some of these people in the Aviator Suites taking part in these robberies. And so they got a tracker on the car, and they had half of Metro and half of Henderson following. Do you believe that if the police department believed that these individuals were engaged in robbing banks and they were armed that they would have allowed that last one to happen? The police obviously did not believe these people had a weapon or that they were armed. They believed, like everybody else, they had a note and they wrote the weapon of the day on it -- bomb, gun. Because if they thought they really were going to walk into banks with firearms, they would not have allowed the last event to happen. It's disingenuous for the State to come in now and say they were armed in all of them when the police, they didn't think so.

I want you to keep the evidence of each count separate. Please consider not just what you've been shown but what you weren't shown, what they didn't test for. They didn't test -- they did not test, as far as I remember, for fingerprints of Jakari or Vidal on anything. Checked other people's. They never checked for those prints. We have some unidentified prints there. There may have been other people

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involved in this. And I want you to consider all those, as you consider, each count separately.

Thank you for your attention.
THE COURT: All right. Thank you, Mr. Hughes. Rebuttal.

## REBUITAL ARGUMENT FOR THE STATE

MR. SCOW: I'm going to start seated. Can you guys tell me how tall I am? Write it down. Everybody write down what you think and then compare when you go back to deliberate. How tall do you think I am? You've walked past me every day for a week and a half. I'm seated right now which makes it harder, I'm sure.

And you heard questions all week last week and some of this week about discrepancies and witnesses and guessing height when they're not even trying to think about height. They're thinking about the note that's in front of them and that they don't want to get shot or blown up. They're not thinking about how tall the person is.

So if everybody has written it down -- I didn't see anybody writing. I really want you to do this. And then I'll tell you afterwards how tall I am.
$\operatorname{MR}$. BROWER: Judge, I think that would be evidence not in the --

THE COURT: Well, that's true.
MR. SCOW: That's why I said afterwards.

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THE COURT: Oh, you mean --
MR. SCOW: Yeah. When everything is done, when everybody is able to talk.

Okay. Let me get this up going now. I just wanted to throw that out there. And while we're doing that, think about the tellers that gave heights of around five-five. Nur and Mary, what were they doing? They were sitting. And what did the individuals do that approached them? They're not paying attention to them when they're standing there in line because that's how every customer is in the bank. When they came to them, they sat down. How the heck are they going to know how tall they are?

And then the next one is Meghan and Shay. What did they do, Anthony and Damien? What did they do when they approached those two tellers? They leaned on the counter. I'll show you the video in a minute. But they leaned. How are they going to know how tall they are? They weren't paying attention. They didn't care. They just didn't want to get shot.

So let's -- let's talk about a few things. First, there's an instruction about reasonable doubt. I mean, the label of that phrase kind of says it all; it has to be reasonable. It can't be something that's made up or speculation or mere possibility. It has to be based on reasonableness.

And we have the videos. Go on, look at them. You won't see Jakari. You have a picture of him. Hold it up next to each video. His face is way different. His nose is what? Look at it. You guys are the judges of fact. It's not Jakari. And you saw Vidal in person; that's not him either. Because you all know who it is. It's these two guys. And we'll show some images. We'll go through that because it's important to keep in mind what the evidence is and not what the speculation is.

I'm going to first address some things that were brought up. I already addressed the height. We all know why that they gave them five-five, because they were either sitting or bending over and you'll see the slides in a minute. There's no video of the Smith's shopping center at 2540 South Maryland Parkway, as if that's a reason to acquit, as if the detectives watching them doing the crime isn't enough. They both said they went in. A few minutes later they came out. Why did they go in? Why did they go in the earlier Smith's a few days before that had a US Bank inside of it? They went in there to rob. And what were they doing this day? Looking for a place to rob. We know that because, ultimately, at the 801 East Charleston location, they robbed somebody.

What they're trying to tell you about the instructions is slightly off. When it says that evidence pertaining to each charge should be considered separately,
yeah, you need to go through and make sure the elements of each offense for each charge are met for each charge. You can't just say, oh, they committed the last one because the police saw them and arrested them right after. That means they did them all. No. That doesn't mean they did them all, but you can use that in establishing the identity of offenders in the ones before. You don't look at each one in a vacuum and say, Is this one alone? Do we have this? You look at it all. You know that. That's your common sense.

You look at all of them to determine whether the people that are committing these crimes are the same in each one. You can look at the video from the fifth one and compare it to the second one and say, hmm, those are the same guys. You're allowed to do that. You don't have to consider the evidence of each independently, as was argued to you.

And something that I want to make sure is clear for you as far as the act of one is the act of all. When Anthony Barr walks up to Sunny Shay Cortner, presents a note, says give me all your money, second drawer too, and then I'm going to shoot you if you cause an alarm, he's also responsible for the one that Damien is robbing next to him, Meghan Zitzmann, because they're in it together. It's not just the one that they approach. Each one is responsible for each teller that they rob when they're in it together.

They talked to you about the firearm and how it was
never displayed in the first four bank robberies. That's absolutely right. But the instruction doesn't tell you it's only by means of display that you can use it. It says by means or display. If I say I had a lottery ticket in my pocket and tomorrow you find one in my car, is it safe to assume that I had one in my pocket today? Of course it is. That's why it's reasonable to conclude. If you find that it's not reasonable to conclude, then find that it's not.

As far as the weapon being used in the first four bank robberies, that's your determination. But the evidence that you see and the fact that they have two different guns and one is brought out on the last one, because the bank is somewhat busy, there's customers scattered throughout, they don't want problems when they walk into that bank and can't do it in their own little isolated control teller window like the first four, that's when the gun comes out immediately. But you can conclude with their access to the guns and that they had them with them on that last one that they did on the previous ones too. And it's by means or display. It's not by display of the firearm.

A lot was talked about, like, look at all these differences. Of course, there's going to be differences. What idiot is going to rob a bank five different times wearing the same exact clothing? That's never going to happen. But what does happen, there's so many similarities that we'll go
through, it's going to blow your minds. But the only one that matters, the only similarity that matters is that it's these two guys in each one.

All right. Let's go through a little bit that's been prepared. I'll move as quickly as I can. First of all, you don't just have video to rely on. You have witnesses who were there and observed. First, Alex Orellana. This is the guy that described to you what each one was wearing from head to toe. A black do-rag. The other one had a hat, facial hair, eyeglasses, the red plaid shirt, the white jacket, the jeans on both, the black Air Force 1 shoes.

What did he miss? Nothing. Because then as he -- we were asking him questions and he kept pointing to the accusers, in his words, finally asked, do you see them? You keep pointing in the direction. He was, like, yeah, that one right there and that one right there, and he pointed out Damien Phillips and Anthony Barr. You can rely on that. And there's nothing that you've heard that suggests that he is mistaken or didn't pay attention. He got every bit of their clothing correct. And he identified Anthony Barr on the left and Damien Phillips on the right.

Chelsey Gritton, same thing. Was she a little bit off on which was which? Yeah, and she told you why. Because my employers are getting robbed and my first concern is their safety, but I'm not mistaken that we're being robbed and that

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those are the guys that did it. She identifies both Damien Phillips and Anthony Barr.

Allyson Santomauro, she identified Phillips, if you recall. She was asked, Why didn't you point him out at the preliminary hearing? Well, I was never asked. If you were asked, would you have been able to identify them? Definitely. And she was certain in her identification of Damien Phillips, the one that approached her.

Manny Saenz, remember Manny? He's the greeter. And what's Barr doing when he walks in? Look at his hand. Oh, here, Manny. Manny says, Hey, welcome to the branch. He got a good look at him. And when he's sitting up here, it's like, Do you recognize anybody? Yeah, that one right there, Anthony Barr. Because they had a little conversation when he walked in, when you see that, because he's waving at him. And then as he's leaving, he's looking right at him. Goodbye, Manny. He was, like, have a good day customer, not knowing right then that he just robbed their bank and he's walking out counting the money. He identified Anthony Barr.

Regina Coleman also identified both. That's the guy that was in the dress, but he's got facial hair today. He didn't have it back then. And that's the guy who was in the towel. She identified both as well.

That's evidence. You don't have to rely just on the video; although, the video is all you need. But you heard it
from eyewitnesses. And you also hear it from the detectives who were following them, both before the entry of the Smith's, which is not on video -- everything else is. But they did watch them go in, watch them come out, and identified them. That's Anthony Barr and Damien Phillips.

Jazsman and Vidal, they also -- look, you saw Vidal. Is that Vidal? Is that Jakari? Again, pull up Jakari's picture. There's no way. They're, like, that's Damien, that's Damien, that's Damien. How do you know? Because I saw it on Jakari's cell phone. And that image from that will come up too. That's Damien and that's Damien.

And as to the other, Anthony wasn't at the first robbery/burglary of the first bank at 1440 Paseo Verde, but when he's in the images, they're identifying Anthony Barr. And his face is pretty distinguishable. You can tell each one. This is the only one that's somewhat blurry as far as the bank's camera, but there's plenty of other ways to identify this as Anthony Barr other than the one, two -- the two witnesses at this bank identified him. Anthony Barr -- that one couldn't be any clearer. And neither could that one because the police watched him go in and watched him come running out with the yellow bag of money. But Jazsman and Vidal, each one: Well, that's Anthony. That's Anthony. How do you know? His face, the way he moves. I've seen him, interacted with him. That's Anthony.

All right. And so we'll go through each of these. How do you know just based what you see in the video that these are these guys? The first one, as he's walking out, Damien is wearing the glasses. He's got his hat down low. And as was pointed out in the opening statement, the very beginning, when he comes in from the second one, he's got those same glasses hanging around his neck. That's a pretty unique identifying factor. What do we learn from those body cameras from the traffic stops? You learn a lot from those. Take a look at them. They're kind of fun. Because in them, you see those same glasses two months before the first robbery in Anthony Barr's car. They're so interconnect -- there's no way to separate them. It's impossible given the evidence in this case. But what was it that Amie said about the glasses? Do you remember? They were very reflective. I could see myself very well. And who can you see reflected in those glasses? Officer Okinaka.

All right. What else do we know about Damien? He's the guy that likes to touch things. He goes in on this check-writing counter and pushed his hands down on it and is writing something, maybe what he used on the note that day. But when you look at each of the arms, they don't stop to write a note. They come in prepared. Show the note, make the threats, get the money, and leave.

And when they process that, they find the right palm
of Damien Phillips. That's his Centennial [indiscernible] working card that was found in the Circus Circus. And that's the image of his palm, got the latent prints on those.

Damien Phillips. What else do we know? Okay, this image is a little bit grainy, but look right there, right through here. When you get the video, go look at it. It's fun. And you can see it in that one. Maybe it's my angle there. You can see it -- well, yeah, you can see it on both.

When he's arrested, what's he got there on the right side of his neck? Oh, a tattoo that he was covering. The ear piercing is the same. The ear -- it's the same. You didn't need Vidal to come in and say that's my cousin Damien over there through tears. Well, we also know because the note that he touched and dropped right on the ground there, those come back to not Oscar De La Hoya. They come back to Damien Phillips.

And again, you know all this. The Crayons that he puts down that they pull from the shelf because Navaal put them back. She's a very diligent employee. I hate it they don't buy them and they're not going to put them back.

The shopping carts, when they test those, they also -- that one's not Damien's. That one is an image to help you know that's a fingerprint. But they find Damien's prints on the Twistable crayons. Who else? David Krans and Navaal Ali, two employees that helped them. It's, like, they did
their job and they identified people who touched it because you saw it on video who touched it.

Now, Barr. I made reference to this in my opening statement. This is a guy that doesn't want people to know he's there. He's very careful. And I'll go through some images, but I invite you to go watch them too.

This one here, when he comes walking in, the doors open by themselves because there's a button out there. You don't see it, but I submit to you that he knocked it with his elbow, with his sleeve, to get those to open so he didn't have to touch anything. And why do I submit to you that he used his elbow? Because when he's leaving this branch, he uses his elbow -- go watch the video -- to open it and he opens the door with it, and then his foot or the elbow to keep the door propped open until Damien could come running out with him. Very careful.

Remember, at the check stand he doesn't touch anything. When he goes on that same bank -- I didn't put a still -- but when he goes to sit down, he doesn't put his hands on the counter. He holds the note up. And, if anything, he rests the sleeve on the edge. He doesn't touch anything so there's -- it's no wonder his prints aren't anywhere. Because he doesn't want it to be known that he's there. He doesn't touch anything. This one, he doesn't touch anything on the counter.

Damien, he must be nervous. He was touching papers there and something by the coffee stand, but Anthony doesn't. He doesn't touch a single thing. Walks up with the shirt touching the edge. You can see it there. Presents the note, puts it in his pocket, and then the only thing else that he touches is the money that he grabs to put in his pockets as he goes walking out.

Hear's another image from the fourth one, the third one that Barr is in, the 55 South Valle Verde. You can see it right there. His arms are rested on the counter and his hands are above with the note, not touching anything. So of course you're not going to have his prints. And then in the last one, the only thing he's touching there is the gun. He's walking around and pointing it at everybody. Get them on the ground, make sure that you get in and out because there's a lot of people in there, that he's surrounding them. Of course he's going to go right to the gun because if somebody somehow clues in as to what's going on, they're all over.

So Phillips on the last one, that -- that was a sidenote because Damien's prints are multiple locations. That doesn't explain why Barr's aren't anywhere. But back to Phillips. August 9th, the shirt he's wearing, the pants he's wearing, and when he's arrested. That couldn't be any clearer, especially when there's detectives that follow. Did they make a mistake in letting -- I say letting. They didn't let them
rob a bank. Those guys chose to rob the bank.
Looking back, should they have maybe have arrested them beforehand? Probably. But that's not what's on trial here. The trial is about their actions, what they chose to do, not what the police could have stopped from happening. The police didn't put a gun to their heads and say, You're going to commit this last robbery so we can have it on video and us following you. Got it. That didn't happen. They just did it. They didn't know they were being followed. I mean, what Damien told Jazsman was, I don't care about the cops. I'm going to keep doing this until I get caught. Fortunately for banks in the Valley, he got caught.

So Damien Phillips, we'll again look at each of these images. It's clearly him. You know that he's guilty of each at each location.

Anthony Barr. Let's look at some of the unique things that are consistent throughout. The glasses first, and then the one on the -- the first image was from the second robbery. The one on the right is from the fourth robbery. Same glasses. And with the face that close, there's no question in the world it's this guy sitting right here, Anthony Barr. Now, the third one. What's unique here? He's wearing a towel. That's pretty unique. You don't see people walking around with towels, long sleeves, long pants, in the middle of summer, making themselves even hotter. So there's the towel.

And then on the next one, this one is August 6th. Again, the towel. Where else is he wearing -- or had a towel? Like I said before, the body cams at the traffic stops, they're really fun because they give you a lot of information. He's also got a towel there too, and it appears to be the same color. He's wiping his face with it there.

What else? The one with the hat. This is from the third one where he's waving to Manny. The next one, he's wearing the same hat, same logo, same camouflage, the blue bill [indiscernible]. And in Jakari's video from his cell phone that Detective Ebert got, it's the same hat. When you look at the bottom, there's two stickers there. Oh, there's two stickers there, when Barr is wearing it and the next one at the Smith's. If you just look at the face, the hat. That's Anthony Barr.

What else do we know about this that helps connect it to these guys? The dog. When the police go back and take pictures, it was 2:42. That same dog is there. You know the video was taken at 2:42 where Damien Phillips was the registered tenant, and Anthony Barr was living with him there. And Jakari was, too. But, I mean, you look at this, it's not Jakari. You guys can see that.

Another interesting thing is, clothing sharing. When you look at the traffic stops and you see the skull cap is one, the detective said, or the black do-rag, look on little
[indiscernible] on top. It's there on this one, too, in the traffic stop. Just little interesting fun things from the video. There were some things mentioned about a ponytail when Barr gets in his car. What could that be? Well, when you look at Damien's, in a couple of these different videos, what do you see on the back of him on the do-rag? And when you play the video, it looks identical to the way it looks in this one here with Anthony Barr. And the same hat. And as you'll see, the same shoes. And Damien dressed with the same wig as the Bank of the West. It's got the same look. It's wig or do-rag. Well, you saw the pictures of the do-rag that were the same as to what you see here. But could it have been a wig? Well, yeah. I mean, the other guy was wearing a wig too.

So as you look at the face or the funny nose, the forehead, everything about him, the chin, the facial hair that's more prominent around the mouth. When you look at these, you know that this is Anthony Barr. And how else do you know that it's Anthony Barr on the right in Jakari's cell phone video? Because right here, you see Anthony Barr getting in Anthony Barr's car.

When you look at the back of that vehicle, everything that's so unique about it, the white paint on the back middle, the Mercury emblem, the trailer hitch, even the moving permit that Mr. Brower so helpfully pointed out from Dallas, Texas, when he'd already been here for four months and no registration
information. But it's the same car.
What's the only difference? In the traffic stops, the windows were never tinted. But as you look at the paint -I don't even need to point it out to you; it's so obvious. I mean, look at the paint. It's the car with the trailer hitch.

And how else do you know it's the same a car?
Officer Baldassarre. I don't know if you all finished writing the VIN when he said the VIN of the vehicle stopped, but it's the same VIN. It's the same car. They just tinted it when they started committed robberies to conceal who's inside. Officer Baldassarre read that number into the record when he talked about his vehicle stop, if you recall.

And how else did Karl Lippisch, the detective, determine that these four vehicle stops were the same vehicle? The VIN. Because each time, the officers have to run the VIN. So that's how Lippisch said, Oh, these are all the same vehicle, and Anthony Barr is in the car, driving, every time but the one that Sabrina is driving it. It's the same car. So they tinted the windows.

All right. This is the fun part. Anthony Barr, with no tattoos that you -- you don't see tattoos here. But what do you see in the body cam when he's arrested? First, there's a clear hood. Then when he's brought down to spread his feet so they could pat him down, make sure he didn't have any weapons, in the video you see his face kind of moving up and down on

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that hood, and when he lifts, you see a smear of makeup covering his right cheek where there's tattoos [indiscernible]. Worley, Lippisch, they both said that he had smeared makeup on his right side because part of it's on the car, and they could start to see the tattoos coming through.

And you can also see it starting to come through on his neck, tattoos, and -- and as they said, makeup on his shirt. There's the tattoo -- the tattoo is not on the car. The makeup is on the car. When they go to Circus Circus, they find open makeup, like it had just been used, as it was, to cover up Anthony Barr.

All right. Let's look at the shoes. They're black laces. There's a black line that goes from the side, around to the back, to the other side. You can see that also in Jakari's video and in the Anthem Realty video. These are pretty unique features about the shoes. Oh, and by the way, there's the towel in Jakari's video that he had around his neck. You can see it hanging down on the table at the Smith's. He's also got those same shoes on, black laces in the front. You can see a black logo on the front of the shoes of his left foot. What's Damien arrested in? White shoes with black laces. There's a black line on the side, a Velcro thing, and the black line around the back and a black Fila logo on the front.

What else do you notice about this picture that the defense tries to say is not Anthony Barr? Look at those pants JD Reporting, Inc.
with pretty unique tears in each knee and white -- from defects on the pants up above. Remember when he's arrested? What's in his wallet? Circus Circus room card. And when they go there, can't find the pants that he wore August 6th. See the little defects and the holes, and when you look at them compared to the video, it's pretty clear.

And then the final thing, do you see the clothing in the video that he's wearing? The police identify him beforehand. They also identify him running out. And by the way, this picture makes it abundantly clear that Damien Phillips knew there was a gun involved that was being used. It's right in front of his face at that point. So the police follow him to the stop location where Lee Damschen is able to pull them over and they jumped out and start running also with that yellow bag with the money. When he's arrested down here, look at the clothing he's wearing. Obviously it's the same because they'd followed them to that spot after he robbed the bank.

And listen carefully to what he says. You have to listen carefully because he's kind of soft in this video. I'll go back.

Do you hear that? They're females. He uses a swear word. I don't like to swear. But they didn't know spit -rhyme with that -- about this. They didn't know nothing about this, meaning that he did. You hear from himself yourself that JD Reporting, Inc.
he's involved, trying to protect the females. One of them is his girlfriend, Sabrina. But he's telling the officer the females didn't know anything about this. And what's this? The robbery that they had just committed.

So when you look at each surveillance video, you look at his face, the features, the clothing, the things connected between him and Damien Phillips, and after you do that, you've reviewed carefully the evidence, you'll come to the only conclusion possible, the one that they know is inevitable, come back and show them you know it too. Find them guilty.

Thank you.
THE COURT: All right. Thank you.
The clerk will now swear the officer to take charge of the jury.
(The clerk swears officer to take charge of the jury.)
THE COURT: All right. Ladies and gentlemen, in a moment, I'm going to ask all 14 of you to collect your belongings and your notepads and follow the bailiff through the rear door.

As you may now have figured out, a criminal jury is composed of 12 members. There are 14 of you. Two of you are the alternates who were seated in preselected chairs. Those are Jurors No. 7, Ms. Giovani and Juror No. 8, Ms. Chrisotomo. You are the alternates.

Before you leave today, please provide a member of my JD Reporting, Inc.
staff with phone numbers where you can be reached today or tomorrow. If, God forbid, one of the regular 12 jurors becomes ill or something like that before a verdict is reached, then you might be called in to deliberate with the jury.

For that reason, until you are contacted by a member of my staff and told that the jury has reached a verdict and you are excused, the prohibition that I've been reading you about discussing the case or reading about the case or doing anything else relating to the case is still very much in effect until you have been discharged as an alternate juror.

So if all 14 of you would get your notepads and your belongings and follow the bailiff through the rear door.

THE MARSHAL: All rise.
(Jury recessed to deliberate at 3:05 p.m.)
MR. BROWER: Judge, Mr. Hughes and I gave our numbers to your JEA earlier today so that she already has them, and we will hang around for quite a while. If the clerk would like our numbers, we can give them to her.

THE COURT: You know, what is the big deal? Give them to the clerk.

MR. BROWER: Well, no. By saying we already gave them to the JEA just so that's --

THE COURT: Give your numbers, stay, give your cell phones, whatever you have. Also, don't, you know, go to Boulder City. Don't go to Lake Mead.

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MR. BROWER: I live in Henderson, Judge.
THE COURT: I know. Don't go to Henderson. Stay close.

MR. HUGHES: How long will you allow them to deliberate?

THE COURT: At 5:00 o'clock we go in and ask if they have a verdict and then if they want to keep deliberating, but we typically don't let them deliberate past, like, 5:45, 6:00. We try -- like, hopefully they'll leave at 5:00.

MR. HUGHES: We're turning the air off for --
THE COURT: And, actually, we might just kick them out at 5:00 because we're already way ahead of schedule.
(Pause in the proceedings)
(Proceedings recessed 3:07 p.m. to 4:41 p.m.)
THE COURT: All right. Court is now back in session. The record should reflect the presence of the State through the deputy district attorneys, the presence of the defendants along with their counsel, the officers of the court, and the ladies and gentlemen of the jury. Who is the jury foreperson?

JUROR NO. 09: I am, Your Honor.
THE COURT: All right. Juror No. 9, Mr. Mosley. Has the jury in this matter reached a verdict?

JUROR NO. 09: They -- we have, Your Honor.
THE COURT: All right. Would you please hand the forms of verdict to the bailiff.

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All right. The clerk will now read the verdicts out loud and inquire if this is the verdict -- that these are the verdicts of the jury.

THE CLERK: District Court, Clark County, Nevada, State of Nevada versus Damien Alexander Phillips, Case No. C335500-1.

Verdict. We, the jury in the above entitled case, find the defendant, Damien Alexander Phillips, a.k.a. Travis Alexander Phillips, as follows:

Count 1, Conspiracy to commit burglary; Guilty of conspiracy to commit burglary.

Count 2, Conspiracy to commit robbery; Guilty of conspiracy to commit robbery.

Count 3, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 4, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 5, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 6, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 7, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

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Count 8, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 9, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 10, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 11, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 12, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 13, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 14, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 15, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 16, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 17, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 18, Assault with a deadly weapon; Guilty of

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assault with a deadly weapon.
Count 19, Assault with a deadly weapon; Guilty of assault with a deadly weapon.

Count 20, Assault with a deadly weapon; Guilty of assault with a deadly weapon.

Down 21, Assault with a deadly weapon, victim 60 years of age or older; Guilty of assault with a deadly weapon, victim 60 years of age or older.

Dated this 13th day of December 2018, jury foreperson.

District Court, Clark County, Nevada, the State of Nevada versus Anthony Barr, Case No. C335500-2, Department 21. Verdict: We, the jury, in the above entitled case, find the defendant, Anthony Barr, as follows:

Count 1, Conspiracy to commit burglary; Guilty of conspiracy to commit burglary.

Count 2, Conspiracy to commit robbery; Guilty of conspiracy to commit robbery.

Count -- I'm sorry.
Count 5, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 6, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 7, Robbery with use of a deadly weapon; Guilty
of robbery with use of a deadly weapon.
Count 8, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 9, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 10, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 11, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 12, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 13, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 14, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 15, Burglary while in possession of a deadly weapon; Guilty of burglary while in possession of a deadly weapon.

Count 16, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

Count 17, Robbery with use of a deadly weapon; Guilty of robbery with use of a deadly weapon.

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Count 18, Assault with a deadly weapon; Guilty of assault with a deadly weapon.

Count 19, Assault with a deadly weapon; Guilty of assault with a deadly weapon.

Count 20, Assault with a deadly weapon; Guilty of assault with a deadly weapon.

Count 21, Assault with a deadly weapon, victim 60 years of age or older; Guilty of assault with a deadly weapon, victim 60 years of age or older.

Count 22, Carrying a concealed pneumatic weapon; Guilty of carrying a concealed pneumatic weapon.

Count 23, Preventing or dissuading witness or victim from reporting a crime or commencing prosecution; Not guilty.

Dated this 13th day of December 2018, jury foreperson.

Ladies and gentlemen of the jury, are these your verdicts as read, so say you one, so say you all?

THE JURY: Yes.
THE COURT: All right. Before the verdicts are recorded into the minutes of the court, does either side desire to have the jury polled?

MR. SCOW: Not the State, Your Honor.
THE COURT: Mr. Hughes?
MR. HUGHES: No, Your Honor.
THE COURT: Mr. Brower, do you want the jury polled? JD Reporting, Inc.

MR. BROWER: Court's indulgence, Judge.
No, we don't need them polled, Judge.
THE COURT: All right. The verdict will now be recorded into the minutes of the court.

Ladies and gentlemen, this concludes your service as jurors. I want to thank you very much for your willingness to serve and your attentiveness during these, what, eight days. The prohibition about speaking about the case is now lifted. You're free to speak with each other or anyone else you choose, including the lawyers who sometimes like to talk to the jurors and get feedback and whatnot. We've arranged -- oh, here they are in the bailiff's hand.

And may I see the bailiff at the bench for a moment. (Pause in the proceedings.)

THE COURT: All right. As you see, he's got your checks in his hand, and those will be distributed to you. Once again, thank you all for your service.

THE MARSHAL: All rise.
THE COURT: Please follow the bailiff. Get your
belongings and follow the bailiff through the rear door.
(Jury excused from service, 4:49 p.m.)
MR. BROWER: The jury is clear, Your Honor.
THE COURT: Wait until the door shuts.
Mr. Barr, yes.
DEFENDANT BARR: I've got a question. I didn't hear

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the last one.
THE COURT: Oh. The last one was not guilty of preventing or dissuading a witness.

MS. SCHIFALACQUA: Correct.
THE COURT: That's what I heard.
MR. SCOW: That's what I heard too, Judge.
THE COURT: Okay. We'll refer the matter to the Department of Home Probation and give in-custody sentencing dates.

MR. SCOW: Judge, are they remanded without bail at this point? We would request that.

THE COURT: All right. It's academic, but they will be remanded based on the verdicts and the mandatory prison of the charges and held without bond.

MS. SCHIFALACQUA: Sentencing will be on January 31st at 9:30.

MR. BROWER: I'm sorry, what -- is that a Wednesday?
THE COURT: No, it's definitely not a Wednesday.
MS. SCHIFALACQUA: It's a Thursday.
MR. BROWER: It's a Thursday. That should be fine with me, Judge.

THE COURT: Do you -- I mean, it's kind of early to tell. Do you anticipate speakers?

MS. SCHIFALACQUA: Yes.
MR. BROWER: Judge, do we want to go a week or so JD Reporting, Inc.
after that or two -- I'm okay with the 31st, but I just -- I'm not sure.

MS. SCHIFALACQUA: We anticipate speakers.
THE COURT: Let us know kind of ahead of time how many people you anticipate speaking.

MS. SCHIFALACQUA: Sure.
THE COURT: Just so if it's going to be a lot of people, we can maybe close that day early, you know, instead of having a bunch of unrelated matters. Maybe we should put it on a Tuesday because the Tuesdays tend to be lighter than the Thursdays, so maybe --

MR. HUGHES: You know, ideally, we would put it on a Tuesday or Thursday when Department 2 in Henderson is in session, so we don't have to be back there.

THE COURT: That's fine.
MR. HUGHES: But I don't know --
MS. SCHIFALACQUA: We don't know their calendar.
Yeah, we do anticipate a number of speakers, Your Honor, so I would -- yeah.

THE COURT: Right. So what I'm saying is let us know ahead of time so we can keep that day sort of light with other matters and not have, you know, 30 matters and then this.

MS. SCHIFALACQUA: Yes. Understood, Your Honor.
Thank you.
THE CLERK: How about -- do you want to do

JD Reporting, Inc.

February 12th? February 5th?
MR. HUGHES: We have that trial coming up with -MR. BROWER: We have a trial starting that week. Judge, could we do --

THE COURT: We could do the end of January.
MR. BROWER: The 29th of January?
THE CLERK: That's February. Oh, that's what I have, the 31st. We could do that Tuesday.

MR. BROWER: Which would be the 29th?
THE COURT: Or that following Tuesday. Are you in trial the following --

MR. BROWER: We are set to start a trial right around that week, which is, like, the 3rd or whatever -- the 31st, 1st, 2nd --

THE COURT: So let's -- yeah, that would be the 3rd.
So --
MR. BROWER: If we could do the 29th, that would work.

THE COURT: Or the 2nd.
MR. HUGHES: So January --
MS. SCHIFALACQUA: Well, we can do January 29th.
THE COURT: Let's do that then.
All right. Some of the jurors had to leave right at 5:00, so I told Kenny that's fine; I don't need to talk to them, just take them, let them go. So if you want to catch JD Reporting, Inc.

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them, run down to --
MS. SCHIFALACQUA: Absolutely. Thank you, Your Honor.

MR. SCOW: Are they checking into the third floor? THE COURT: No, they don't have to do that. I thought we were going to send them for their -- but we had already gotten their checks. And I know a few were worried about getting out of here, so I told Kenny, well, don't keep them for me.

MS. SCHIFALACQUA: Sure.
THE COURT: You know what I mean? Like, let them go if they have child care issues. So they may not be around, just FYI.

MS. SCHIFALACQUA: Thank you, Your Honor.
THE COURT: Usually I talk to them and everything, but I know people were really expressing concern.
(Pause in the proceedings)
MR. BROWER: Oh, procedurally, we know we're going to need transcripts in this case. Do you want me to submit a transcript order now?

THE COURT: If you want to, but I can't do anything until [indiscernible]. Okay.
$\operatorname{MR}$. BROWER: Well, we're going to make motions for appellate counsel which I've already explained to my client. I might just -- don't know how -- if it's easier for you to start

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now since the Supreme Court is touchy with [indiscernible]. I mean, I'm just thinking for you, not for --

THE COURT: We'll have to send out.
MR. BROWER: Right. But I'm thinking for you it might be easier because it will already be done, so --

THE COURT: It will be better.
MR. BROWER: You're okay if I drop one off, an order off --

THE COURT: Yeah. MR. BROWER: And you did the entire trial; right? No days --

COURT RECORDER: No, I wasn't here -- Patty was here that one day.
(Parties talking over each other.)
COURT RECORDER: I got here that one day by the time we started, but what other day was it that --

THE COURT: I don't know the day, but --
MR. BROWER: Okay. Are you okay if I serve the department, though, just to --

COURT RECORDER: Yeah, that's okay. It doesn't matter. I'm responsible for it anyway.

MR. BROWER: Well, because some -- the Supreme Court makes you [indiscernible] but the transcript is already done, then it saves the appellate counsel the headache, so --

All right. Thank you. I'm going to go. I'm just JD Reporting, Inc.

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going to bring the order in next week while I'm here. Thank you. Hey, it was fun. We'll do this again soon. COURT RECORDER: No, we won't.
(Proceedings concluded at 4:54 p.m.) -oOo-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case.


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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.
DAMIEN ALEXANDER PHILLIPS; ANTHONY TERRELL BARR,

Defendants.

CASE\#: C-18-335500-1 C-18-335500-2

DEPT. XXI

BEFORE THE HONORABLE DOUGLAS SMITH, DISTRICT COURT JUDGE
TUESDAY, JANUARY 29, 2019
RECORDER'S TRANSCRIPT OF HEARING:
SENTENCING
APPEARANCES:

For the State:

For the Defendant BARR
For the Defendant PHILLIPS

RICHARD SCOW, ESQ.
Chief Deputy District Attorney
EDWARD HUGHES, ESQ.
KEITH BROWER, ESQ.

RECORDED BY: SUSAN SCHOFIELD, COURT RECORDER

Las Vegas, Nevada, Tuesday, January 29, 2019
[Hearing began at 9:30 a.m.]
THE COURT: C335500, Damien Phillips and Anthony Barr.
Time set for rendition of sentence. Is there any cause or reason why sentencing should not proceed today?

MR. HUGHES: Yes, Your Honor, two reasons. Number one, Mr. Brower, the attorney for Mr. Phillips, is in the building but he's not here yet.

THE COURT: Call him, get him here, we're sentencing today.
MR. HUGHES: Your Honor, regarding Mr. Barr, I have not had an opportunity to go over his massive PSI with him to check for inaccuracies.

THE COURT: Well, you better get with him. I'm sentencing today. So get your PSI over to your client. Have a seat, your attorney's going to come over and talk to you.

And somebody get Brower here.
[Pause in proceeding]
MS. STEWART: Your Honor, l'm Sandra Stewart and l'm here to confirm as appointed appellate counsel for Mr. Phillips and I'm wondering if --

THE COURT: What page?
THE CLERK: 12.
THE COURT: 12 ?
THE MARSHAL: That's for the Phillips and Barr matter.

MS. STEWART: I wonder if we can do that before the sentencing or if you want me to wait here.

THE COURT: Well, no, l've got to sentence him, then you can be appointed for appeal.

MS. STEWART: All right.
THE COURT: Thank you.
MS. PANDUKHT: And Mr. Scow's coming back on that one?
THE COURT: Yes.
[Pause in proceeding]
THE COURT: C335500, Damien Alexander Phillips and Anthony Terrell Barr.

Time set for rendition of sentence.
Let's do Mr. Barr first.
MR. BROWER: Well, Judge, may I approach very briefly.
THE COURT: Sure.
MR. BROWER: With the State.
[Bench conference -- not recorded]
THE COURT: Give me a second to read this.
[Pause in proceeding]
THE COURT: Yeah, you should have thought about your consequences. I'm sure your church didn't teach you this.

You want -- was this for the judge?
MR. BROWER: Judge, the paperwork --
THE COURT: For the file?
MR. BROWER: -- I gave you was for Mr. Phillips who's --

THE COURT: Right.
MR. BROWER: And he's got his copy of it. I made a copy for the Court.

THE COURT: Okay. So this can be filed in -- on the left side file?

MR. BROWER: He wanted that turned into the Court, Judge for his sentencing --

THE COURT: All right.
MR. BROWER: -- statement. So, yes, it can be filed for Mr. Phillips.

THE COURT: All right. We'll start with Mr. Brower -- or Mr. Barr. I think that's what I said I would do first anyway.

State wish to be heard?
MR. SCOW: Yes, Your Honor.
MR. HUGHES: Your Honor, l'd like to make a record that l've spoken to Mr. Barr, with his PSI, while the court was in session. Mr. Barr tells me that the criminal record included in the PSI is inaccurate.

THE COURT: I didn't look at it but -- well, I did look at it but I'm not taking that into consideration in sentencing.

MR. HUGHES: I -- well, Your Honor, I would object to you sentencing without taking in consideration the PSI.

THE COURT: No, I took the PSI, the convictions, the four prior convictions I wasn't looking at them. Now, you've drawn my attention to them.

MR. HUGHES: Your Honor, my client tells me the PSI is
inaccurate and I would request a continuance for the Department to investigate this and provide an accurate presentence investigation.

THE COURT: What is the problem with the PSI?
MR. HUGHES: Mr. Barr tells me his prior criminal record is inaccurate.

THE COURT: What is inaccurate about it?
MR. HUGHES: Your Honor, he tells me that --
THE COURT: No, l'm asking him.
What's inaccurate about it?
DEFENDANT BARR: Well, they say right here I went -- I went to prison four times, never been to prison four times.

THE COURT: Four counts.
DEFENDANT BARR: Right here it say prison. It say incarcerated four time.

Also l've got some charges on here that -- that's not my charges due to the fact this -- l've got somebody else social on there so. That social is whoever I think charges - some of the charges is, that, and, um, arrested before.

THE COURT: All right. Under Stockmeyer we have to have a clean PSI.

MR. SCOW: Objection, I can --
THE COURT: I'll --
MR. SCOW: -- I can clarify. I have Judgments of Convictions for every felony conviction on there. You can ignore everything else, criminal history-wise -- under that decision --

THE COURT: But if it's wrong --
MR. SCOW: It's not wrong. I have the JOC's.
THE COURT: Let me see the convictions you have.
This is robbery with -- causing bodily injury, that's a second degree felony in Texas. You went to prison for that.

Fingerprints. Seven years?
MR. SCOW: Yes, Judge.
THE COURT: Is that right?
DEFENDANT BARR: Yes, yes, Your Honor.
THE COURT: Okay. That one's correct.
Then Exhibit 2 is aggravated robbery with a weapon, firearm, an Indictment, first degree felony. You got seven years for that one. That's the second one.

Is that right?
DEFENDANT BARR: Yes, sir.
THE COURT: Then another one out of Texas, Judge was Silvant (phonetic); your attorney was Dan Pitzer, harassment of a public servant, third degree felony.

You went to prison for that?
DEFENDANT BARR: Yes.
THE COURT: Then the next one is Silvant, Pitzer again was your attorney, it's retaliation, third degree felony, guilty.

You got seven years for that?
DEFENDANT BARR: Yes.
THE COURT: Well, there's four that you went to prison on.

DEFENDANT BARR: Yeah, but -- but all of them was jury -by one juror. I got charged by one judge. But I was -- not four different judges.

THE COURT: I didn't say four different judges.
DEFENDANT BARR: Well -- well, the problem that I was having was -- I had went over it earlier with my lawyer about it, Mr. Hughes, some -- l've got some stuff on there that's not me.

THE COURT: What? I've asked you what it is.
DEFENDANT BARR: I told you. I've got socials on there that's not me. I've got a social security on there. I've got a weight that say I weigh 170. Your Honor, I never weighed no 170.

THE COURT: Okay.
DEFENDANT BARR: It say I'm five-ten, I'm five-nine.
THE COURT: All right.
DEFENDANT BARR: I feel like the -- that the charges, that whoever was (unintelligible) Gregory Reynolds was, this is his -- this is him. This is him and they're trying -- they're trying --

THE COURT: Well, the ones that concern me were the four felonies and you -- you admit to those, you went to prison for those -DEFENDANT BARR: That's correct.

THE COURT: -- and they have certified documents for those.
MR. SCOW: And the aka listed in the JOC's is -- oh, here they are, it's Gregory Reynolds. It's one of the aka's listed in the PSI that he's trying to challenge now --

THE COURT: All right.

MR. SCOW: -- different social security numbers.
THE COURT: All right.
MR. SCOW: And just --
THE COURT: It appears to the Court that the State has done their homework. I'm sentencing him today.

DEFENDANT BARR: And, Your Honor, I wasn't -- I wasn't locked up for no possession of marijuana. I never was locked up for that. On here it say I was locked up for possession of marijuana, um, somethin' a fugitive, there's a lot of things on here that's not me.

MS. SCOW: That's a misdemeanor offense listed in there, Judge.

DEFENDANT BARR: That's what I'm saying.
THE COURT: I'm going to sentence him today on this.
MR. HUGHES: Your Honor, I would just like to --
THE COURT: They went to trial, he went to trial, he admits to those four felonies, and that's what he says it wasn't him, the other stuff is nonconsequential to the sentencing.

MR. HUGHES: Your Honor, I would request a corrected PSI be done regarding any inaccuracies. This is a document that's going to follow Mr. Barr --

THE COURT: I understand.
MR. HUGHES: -- throughout the system. Mr. Barr's probably going to be in the system for quite a while, it's important that he have a corrected PSI.

In addition, Mr. Barr arrived at this point after a two-week trial
and 50 some odd witnesses. Another judicial officer did that trial, Your Honor doesn't have the benefit of all the information that was brought forth in two weeks, you have the PSI. So all Your Honor's aware of -and we've got questions about the accuracy of some of the PSI.

I would request --
THE COURT: The weight --
MR. HUGHES: I'm sorry?
THE COURT: -- the weight and a misdemeanor? He's got four prior felony convictions and he filed -- he's got 'em there and he admits to it. Mr. Barr admits to it.

DEFENDANT BARR: Your Honor, I've got more than that on there. I've got more on that. I got more than that on there. I just can't point it all out right now. I've got more than that on there. More than that.

MR. SCOW: And, Judge, just --
DEFENDANT BARR: I pointed -- I pointed some of 'em out to my lawyer. Your Honor, it's like this, why I needed Mr. Hughes is because if you see on there it say I got a third grade education level. So I need him to help read some of this stuff. I need him to go over this. And I told him I need him to help me read some of this stuff.

MR. SCOW: Judge, if I may. What l've seen in this case from the very beginning are strategies by the defense to either try to hold us to the fire, to see if maybe we don't get it together in time to get the case presented and maybe we lose counts because we can't get witnesses or evidence gathered. That was a strategy throughout the prelim stage and
the trial stage.
And I'm going to go into that a little bit more in a second.
But now we're at sentencing, we have a victim speaker here who's 76 years old, has bad knees. She doesn't want to have to come back. And if she speaks today, and it's continued to another judge, she'd have to come back and speak again.

They're wanting to continue because they want a different judge sentencing. I know that for a fact. I know the Court knows that. And it's not a proper reason to continue, the little minor discrepancies he brings up, which aren't even discrepancies, have no bearing on whether this should be continued or not.

But here's what happened. At the preliminary hearing stage when I got the case the preliminary hearing was in four days. I got it from another deputy. We didn't have all or really any of the evidence. We had no video surveillance. I sent out an email that said, hey, let's continue this, let me get this together. If it got dismissed at prelim, I could just go the grand jury. It wasn't a big deal. But I just thought, you guys might want everything too in order to proceed at prelim.

In those four days I gathered everything that I could, provided it to the defense, and we went forward because they wanted it to go forward in the hopes that we wouldn't be ready.

The same thing happened at trial. The trial date was set, they wanted it the next week, that's how -- that's how badly they wanted the case to go forward and be done with it, also in the hopes that we wouldn't be able to get the evidence and witnesses ready in time for trial.

So it was set for the December $3^{\text {rd }}$ trial date.
I emailed the Court and said, hey, look, I know this was a short setting, the defense represented it would be a week-long trial; there's no way. And I know the Court had asked about overflow. But the judge said we'll keep it at that time and just see what happens. And we got everything together. And they were unyielding in any discussion about having it continued, more time, because there was still evidence coming in. Even during trial there was evidence coming in but it was their strategy to go forward.

And now they're asking for time. So I want you to give them the same amount of time and leniency that they gave me, which is zero. So I'm asking that the case be sentenced today.

MR. HUGHES: Your Honor --
DEFENDANT BARR: Your --
THE COURT: All right. I've heard -- l've heard him. I've heard you counsel. I'm going to go forward with the sentencing today. DEFENDANT BARR: And, Your Honor, can I say one more thing, please.

THE COURT: Sure.
DEFENDANT BARR: Hey, this is my life on the line. This small error right here is still my life on the line. I gave -- I gave -- look, I told them l'd give them more time, a continuance, if he wanted a continuance, Your Honor, if he OR'd me --

THE COURT: All right.
DEFENDANT BARR: -- and set a new trial date. He said, no.

I gave him all the time. I gave him more than 60 days.
THE COURT: All right.
MR. SCOW: And we went forward.
THE COURT: Before he's --
MR. SCOW: So we're going forward today.
THE COURT: -- the State wish to be heard?
MR. SCOW: I do, Judge.
THE COURT: We'll do Mr. Barr first.
MR. SCOW: I will speak as to Mr. Barr first.
The victim speaker, would you like to proceed after you hear everything from both or are you going to sentence Barr first?

THE COURT: No, l'll -- l'll hear from the victim speaker after both parties have had a chance.

MR. SCOW: Okay. Your Honor, I've submitted -- or I will submit, they're marked now, and l've provided them all to Mr. Hughes, email, PDF copies, and you've reviewed them as well. These are felony convictions and they're also listed in the notice of habitual.

We've noticed three and l'll tell you why there's only three noticed. The first one is a conviction from 2011 out of Fort Worth, Texas. That case number is 12 -- I should have kept it convictions to be able to state 'em. I think the first one is 1211119D. The second one is 1211085D. The first is a robbery resulting in substantial bodily injury. And the second one is aggravated robbery.

And I'll briefly tell you about these cases. The first one was a May $29^{\text {th }}$ robbery, 2010, victim, Allen Polk. At trial the defendant tried to
argue that these were the same case, the same charges, and they're not. They have different case numbers, different offense dates, they just all happen to be sentenced on the same day, if you look at the sentencing or judgment date. The victim on that first one is Allen Polk. The defendant and another unknown co-conspirator beat him with a metal broomstick causing him to need staples or stitches on his head and they took his property.

The second case, the aggravated robbery, is a firearm used in a 7-Eleven convenience store robbery. The defendant walks in, points the gun at the clerk, and they steal money from the register.

Those two convictions are sufficient for the mandatory habitual felon in that the Court has no discretion, it must be a minimum 10-year sentence on that large mandatory felon habitual.

The other conviction there, the harassment and the retaliation, is from the defendant spitting on police officers when he was being arrested for trespassing. He also had these outstanding robbery warrants. And after spitting on the one officer, when they're putting him in the vehicle, he tells the other officer that he's going to have an X put on him as marked. That's the kind of individual we're dealing with.

What's missing from the PSI, the defendant also has a juvenile robbery adjudication where he carjacked an individual who was stopped at a stoplight, him and two other individuals. The defendant was the one with the gun. From the reports it appears that it was a BB gun. But at the age of 14 that's what he's already up to. Carjacks an individual and I have the paperwork here, if the Court would like to see it,

I've provided that also to Ed Hughes.
This is the defendant's life and livelihood. When he comes to Vegas, in the videos that were presented at trial, in the traffic stops, the defendant says he -- he'd only been here in Vegas for a few months. So when he comes to Vegas what he does then is starts robbing banks. And it's not just a single bank robbery. It's five different bank robberies. One of them, as to Mr. Barr, is an attempt, as they're being followed by the police, once they catch on to whose doing these robberies, the police follow them to one Smith's that has a bank inside of it. They go in but they don't -- they choose not to rob it because it's too busy. And then the police follow them to the fifth and final bank robbery location and they're arrested immediately after.

What l'd like to point out briefly in the PSI, in one of the events the -- the -- Mr. Phillips said that they had a bomb. There's two -- there's two victims at each bank robbery except for the first. And the reason I mention that is because $\mathrm{P} \& \mathrm{P}$, in their infinite wisdom, they recommend concurrent on every charge. It blew me away when I saw that. Because the message that they're really sending to this community is, if you have already committed a robbery or you're about to, don't just stop at the first one, keep on going, because everything else after that's going to be run concurrently, the victims after that don't matter, we'll just sentence on the first, run 'em all concurrent. Which I think is absolutely a horrible recommendation. Not just the circumstances of this case but the message that would send to our community.

Based on Mr. Barr's prior felony convictions, he's mandatory
eligible. We have for him four banks that were robbed, eight victims. And if you look at it just from a numbers perspective, this would apply to Phillips also. Each robbery victim, it's a minimum sentence of three years. And if you apply a three year sentence to each victim because really which one doesn't matter. If you're going to run one or a few of them concurrent, which one doesn't matter? If you give a minimum three-year sentence for each victim, for Mr. Barr that's already -- that's 24 years and without any habitual. Then you add in the assault with the use charges for the last bank, 'cause Mr. Barr's walking around the bank pointing the gun at everybody in the bank, including the 76-year-old victim in the back. Who, when she's struggling to get to the ground, 'cause she's elderly and she has bad knees, after he's already pointed the gun at her face told her to get down, he comes back, while she's struggling to get down, as you see on video, and tells her to get on the ground again. I mean it's such callous behavior.

I've had a prior case that went to trial on a mandatory habitual felon, a guy that robbed three convenient stores, no guns in the first two, a gun in the last one, that guy got life without, which, for Mr. Barr, I don't think that's out of the question. He's shown from a juvenile age through all of his adult years, he's committing robberies, he's either been in prison for it or he's out committing more. I know it's a mandatory habitual sentence but l'm asking either for life without or you run at least five of them consecutive because there were five different bank locations where either there was an attempt made or victims were actually robbed, terrorized at their work, when they're just trying to go about their day,
make a living, and instead they're traumatized by the actions of Mr. Barr.
THE COURT: Before your attorney has an opportunity to speak, is there anything you want to say.

DEFENDANT BARR: Yes.
Your Honor, that -- that -- that -- the elderly lady that's back there, she -- the DA -- he ask her, can she point out the victim that -- the -- the -- the defendant that supposedly robbed her; right? She never pointed me out. She said it wasn't me, what she said. And he -- excuse me when I say this, he trying to make like I'm -- I'm a big bad person. Some of that stuff right there, that wasn't that -- that stuff wasn't me.

When I was young I was hanging with the wrong people at the wrong time, you know what I'm sayin'? That -- that situation's over. And I feel like to me I never really had a chance because when they send me to prison, for them robberies that I went to prison for, they send me to a closed custody unit. In Texas, they sent me to a common unit. I'm pretty sure you know what that is. That was one of the worse units in Texas. And I spent four years in closed custody, couldn't go to school, couldn't get my GED, couldn't read, couldn't write, couldn't do none of that. And I did -- I did six and a half years on that seven year sentence, straight. And it wasn't 'cause no behavior. It was because of the crimes I committed. Supposedly it's because the crimes I committed. I didn't commit no murder. I was -- I was charged and convicted for a robbery, not a murder. I feel that I shouldn't be -- I shouldn't get my life thrown away in prison and just rot in a cell. I'm only 28. I don't have no kids, Your Honor.

And not just that -- and -- and what I was telling you about my PSI, they asked me, do I got any family? When I -- when I was in prison, my mom, my dad, my grannie, my aunties, all of 'em passed away or either got killed. Now -- now -- now everybody looking at me like some type of way because l've probably got tear drops on my face or whatever but those are because all of the people that I -- that I -- that passed away while I was in prison or something happened to 'em while I was in prison, Your Honor.

And on the other hand is they asked me, do I got any family? I said, yes, I got one -- one person that I care about. And every time I got pulled over on a traffic stop, which is they already know, he know, everybody that went to trial with me know, I had a -- an autistic little brother. And -- and -- I-- I-- I grew up with him but I went away for them seven years so I kind of lost touch with him. I taught him how to tie his shoe. I taught him to do a lot of things that my parents didn't teach him because they had passed away.

But every time I got pulled over I made sure I told the officers they say, who is this? I tell 'em this is my autistic brother and I'm taking care of him. And I'm all he got. Like I told you, I don't got no kids, Your Honor. He --that's like my son. And now he -- he -- he with a family member that I don't know what's going on with him. And they didn't even put that in my PSI that I got a family member. I don't care if it was just one, that's still my little brother.

And they got something to do with my point schedule. Now -now -- now I probably coulda got a point while -- probably could got
nothin' point. But I got no family support on here. But I should have. But it made me like I'm a bad criminal right here. They made sure they put everything on me and put this and put that it's making me like I'm a bad person, but l'm not.

And I'm not who that gentleman said I am. Now, l'm sorry for being in this courtroom and I apologize for that elderly lady back there, you know what l'm sayin'? I can't change your mind of what you're going to do, Your Honor, of putting me away but I feel I should deserve a chance and not just thrown away. Because I didn't commit no murder and get a life sentence. In those cases was all concurrent. All of them was ran concurrent. The only reason why I fought, Your Honor, to go to trial is because I had no choice, Your Honor. It was a worser charge than that they was offering me. I wasn't going to see the daylight with that, Your Honor. So I feel I might as well go out with a fight. That's the honest God truth. And that's all I got to say.

THE COURT: Thank you.
Counsel.
MR. HUGHES: Your Honor, I renew my objection in proceeding with sentencing today based on the inaccuracies in the PSI and the legibility limitations with Mr. Barr.

That being said, Mr. Barr has been to prison one time, it was three charges or four charges, they were all run concurrent. I don't think that that meets the intent of the habitual criminal enhancement. That is intended for people who had more than one opportunity to correct their behavior and refused to do so after having the opportunity.

Mr. Barr may have four charges but he went to prison once. He was sentenced once. He served one sentence. He's basically had one opportunity to correct his behavior and failed to do so. I don't think that the habitual criminal enhancement is appropriate.

That being said, Mr. Barr in the PSI, accurate portion, as far as I can tell, was removed from his parents' custody due to abuse. He spent some time with a grandmother, as one of 12 children she was caring for and then he bounced around from various group homes. He made it to sixth grade to his education. He started out with no chance. It's not surprising what has happened. I would ask you, if you insist upon sentencing him despite everything, to follow the recommendation of the Department of Parole and Probation, which has spent a lot of time on this case. If you're going to sentence him as a habitual criminal, I would request that you do it and give him 10 to 25 years, run all of these charges concurrently as recommended by the Department of Parole and Probation.

Hopefully, if Mr. Barr has that period of time in prison, he's 28 years old, he will have an opportunity to maybe get a GED, moving up from sixth grade. If he does that, it's possible that he'll be able to earn a living and be self-sufficient if and when he ever gets out. I would ask you to consider the absolute part of the PSI that there is no inaccuracy with -- in setting a sentence.

THE COURT: Thank you.
All right. I'll take the same arguments if -- do you want to argue anymore on Mr. Phillips?

MR. SCOW: Yeah, l'll say a little more for Phillips.
THE COURT: I'm ready to go on Phillips.
MR. SCOW: Okay. As to Mr. Phillips, I anticipate -- I didn't see this letter until this morning. But I anticipated that he would come in and ask the Court for leniency because he's never been in trouble before. He's educated. He had a good job. And someone else --

THE COURT: CNA, he was a certified nurse's assistant.
MR. SCOW: That's right.
-- and somebody else was probably the ring leader. When I read the letter it was exactly that. But here's why I think that he does not deserve much, if any, leniency, because with his education, with his lack of criminal history, he says he just got in with the wrong crowd. But what Your Honor may not know, but what was displayed in the video at trial, the first bank robbery that occurred he committed by himself. There wasn't anybody in there telling him what to do or do this, do that. He went in by himself. He did the first one alone. It shows that he -- he's perfectly capable and willing to do this criminal behavior.

One of the witness that testified at trial, Jazsman Morehead, when talking about seeing this case on the news and recognizing the defendants and the clothing, confronted Mr. Phillips about it and he said, I don't care about the police. I'm not going to stop until l'm caught. That doesn't sound like a guy who's just falling in line based on what other people are trying to get him to do. And he's trying to toss the blame over to Mr. Barr.

That's -- that's the main thing I wanted to say. But again, in
relation to the time recommended by P\&P, everything running concurrent, it's absurd. Not in this community. We don't want the message being sent that anything after the first is a free shot, just keep on committing crimes because it'll all be run concurrent. And like I said before, if you give a minimum of three for each robbery location, that's six locations for Mr. Phillips, that's already 18 years. If you do it for every victim, which I think is more appropriate, you're looking at quite a few more years because as to Mr. Phillips, there's nine victims that he was involved with robbing.

THE COURT: Before your attorney has an opportunity to speak, is there anything you want to say?

DEFENDANT PHILLIPS: Yes, sir.
First and foremost, I just want to apologize to the Las Vegas and Henderson community. You know, I would like to go back in time and change, you know, my actions I definitely would do so. I know I'm educated. I've been, you know, but I want to speak on that, on the education perspectives. I grew up in group homes. My mother was a drug dealer, who turned into a user. My father, I never really knew my father. I spoke that in the letter.

Just --
THE COURT: I read the letter.
DEFENDANT PHILLIPS: -- just to touch base on a few things. When I came out here I came out here to be closer to my son, you know what I mean. And I may have -- I'm not pointing the finger at nobody, you know, I don't wanna -- I don't want anyone to think that I'm pointing
the finger at anybody in -- in this case. You know I did do what I did. I've been trying to take responsibility for my actions. Going to trial, I had to go, like, there was nothing else for me to do but to go to trial. I've never been in court. I don't really know how the court system works and so on and so forth. So l'm really, like, going to trial, which was going through the motions and throwing away, you know, what -- what I did. I didn't really have anything, like, to base this trial or -- or -- what my decisions or anything is doing here, you know, like.

Honestly, like I said, I just want to apologize. You know I'm not -- l'm not a bad a person. I did work in the community. I did make a -- a few mistakes and I just want --

THE COURT: Serious mistakes.
DEFENDANT PHILLIPS: -- and I'm just asking for another chance you know to go out. I do have a 10 year old son. And like I said, like, I don't -- I don't -- I just want to be able go out and show him that you can go through something and turn around.

THE COURT: Mr. Brower.
MR. BROWER: Well, Judge, I'm going to start with Mr. Scow's original address to the Court that we were trying to continue sentencing. I actually wasn't trying to continue sentencing today at all. I just want to address that because it goes to the next part of what I'm going to say.

Mr. Phillips has addressed this briefly but he didn't have a choice in this case. Mr. Phillips went to the State, asked for a negotiation, and they said all negotiations were contingent on Mr. Barr.

There was no offers for Mr. Phillips regardless if Mr. Barr didn't want to take one. And Mr. Barr did not want to take anything because of the potential sentence that he's facing. So we ended up at trial. I went to the State numerous times, and I don't think they're going to dispute this, trying to work out a negotiation for Mr. Phillips. He wanted to accept responsibility for why we're here and ultimately we're here to be sentenced, which is what he was trying to do from the beginning. There were no negotiations.

So when the State's saying, we had this trial tactic of going forward. Well, we didn't have a choice. Mr. Barr exercised his rights, as did Mr. Phillips, to have a speedy trial. Because of that we ended up in a speedy trial. And when the Court said, hey, we can have a speedy trial, calendar call will be tomorrow, we actually said, okay. There was 15 witnesses done. I know that that's a bit absurd but we got a trial date 28 days later. And for the State to couch this as this was a tactic, it -- it was not. I went to them repeatedly and asked for a negotiation.

THE COURT: I don't want to listen to that, that -- that stuff.
MR. BROWER: Well, it's important because he's -- he's trying to tell you that he made a mistake. He did tell you that he made a -THE COURT: He made a huge mistake.

MR. BROWER: He did, Judge. And he's here to pay the price for that by Your Honor.

THE COURT: Huge mistake.
MR. BROWER: So that said, I'm going to reiterate what Mr. Hughes said. P\&P spent a lot of time doing this recommendation. My
client does not have the priors. He absolutely made a mistake. He's here to be sentenced for it. They recommend quite a stiff sentence in my opinion but it is concurrent counts.

The State -- you did not have the benefit of the actual trial. They were found guilty with the first four places for using a firearm. No firearm was ever displayed or used. There was a note. One of the notes said Oscar De La Hoya give me the money. And the banks did what they were trained to do and what they testified about for a week. And they said we just hand the money over. We don't question them. We don't ask to see a gun. We don't do anything else. We just hand them the money.

The last robbery that they were charged with, and convicted of, has an awful set of facts with the video. And my client, again, wanted to accept responsibility. I think the recommendation is appropriate. My client would ask that you give him a 3-to-7 but the 6-to-20 with everything concurrent I do believe is appropriate and I know we're going to have a victim speaker. So --

THE COURT: All right. Thank you.
MR. BROWER: -- I'll wait for after that.
MR. SCOW: And before the victim speaker gets up, just one point I wanted to address as to the habitual and the convictions, to the extent that he's trying to argue that they're the same or don't qualify, if you look at them, they each have separate case numbers, the offense dates are --

THE COURT: I've looked -- l've looked at them.

MR. SCOW: -- the offense dates are different on each, they are certainly --

THE COURT: I've looked at them.
MR. SCOW: -- separate and independent. Okay.
THE COURT: I look at things.
Bring your victim up here.
Ma'am, if I could have you raise your right hand, please.

## TERI WILLIAMS

[having been called as a speaker and being first duly sworn, testified as follows:]

THE CLERK: Please state and spell your first and last names for our record.

THE SPEAKER: It's Teri, T-e-r-i, Williams, W-i-l-I-i-a-m-s.
THE COURT: Go ahead.
THE SPEAKER: I'm here in this court because you two decided to be criminals. The only good outcome is that no one was shot. I am 76 and will live the rest of my remaining life having visions of a gun being pointed at me.

Many years ago I was caught up in a casino shooting. That shooting wrecked my nerves. October 1 shooting was a reminder of the shooting at the casino. Now I have August incident to add to my memory.

The two of you caused fear and trauma to me and a lot of other people.

That's it, Your Honor.

THE COURT: Do you have any questions?
MR. SCOW: No.
THE COURT: No --
MR. BROWER: No, Judge.
THE COURT: Mister --
MR. HUGHES: No, Your Honor.
THE COURT: Thank you.
THE SPEAKER: Thank you, Your Honor.
THE COURT: Mr. Barr you are adjudged guilty of Count 1, conspiracy to commit burglary, a gross misdemeanor. Count 2, conspiracy to commit robbery, a felony. Counts 3,5 , and 8 , burglary while in possession of a deadly weapon; 11, 14, and 15 as well.

Robbery with use of a deadly weapon, $4,6,7,9,10,12,13,16,17$ counts. Counts 18 and 19 assault with a deadly weapon, all felonies, and 20. 21, assault with a deadly weapon victim over 60 years of age or older.

At some point we have to live with the consequence of our actions.

Mr. Barr on Count 1 you're sentenced to 364 days in the Clark County Detention Center.

Count 2, a concurrent 12 to 48 months in Department of Corrections.

Count 3, a concurrent 36 to 120 months in Department of Corrections.

Count 4 , robbery with the use, 36 to 120 , plus 36 to 120
consecutive, concurrent to Counts 1, 2, and 3 .
MR. SCOW: And, Judge, is this -- is this as to Mr. Phillips?
THE COURT: No, this is Mr. Barr.
MR. SCOW: Okay. And Mr. Barr's the mandatory habitual. I just want to make sure that you're -- I'm not trying to interrupt. I'm just trying to make sure it's --

THE COURT: Yeah, well, you guys all interrupt.
Count 5, 36 to 120 months in Nevada Department of Corrections, concurrent to Count 4.

Count 6 , consecutive 36 to 120 , plus 36 to 120 for robbery with use.

Count 7,36 to 120 , plus 36 to 120 for robbery with the use, consecutive.

Count 8,36 to 120 months, concurrent.
Count 9 , robbery with the use, 36 to 120 months, plus 36 to 120 months in Nevada Department of Corrections.

Count 10, a consecutive -- and that's consecutive.
Count 10's a consecutive 36 to 120 months, plus 36 to 120 months in Nevada Department of Corrections.

Count 11, 36 to 120 months concurrent to the consecutive times.

Count 12, 36 to 120 , plus 36 to 120 for robbery with use, consecutive to Count -- the other robbery with the use, 1, 2, 3, 4, 5 .

Count 13 , robbery with the use, 36 to 120 , plus 36 to 120 consecutive to the other robberies.

Count 14,36 to 120.
Count 15, 36 to 120, both concurrent, concurrent to the consecutive time.

Count 16,36 to 120 , plus 36 to 120 for the robbery with the use, consecutive to the other robberies with the use.

Count 17, 36 to 120, plus 36 to 120 , consecutive to the other robberies with the use.

Count 18, 12 to 48 months in Nevada Department of Corrections, concurrent.

19, 12 to 48 months, concurrent.
20, 12 to 48 months, concurrent.
And Count 21, 12 to 48 , plus 12 to 48.
Credit for time served 174 days and that's concurrent. So -[Colloquy between the Court and the Clerk]

THE COURT: Which I have it calculated as 54 years to 180 years. But you want me to sentence him as a habitual?

MR. SCOW: I think you have to. And you can't use the habitual to give less time by statute.

THE COURT: Each robbery with the use you're sentenced to a habitual life without the possibility of parole, consecutive.

So that's one, two, three, four, five, six, seven, eight, nine.
Mr. Phillips you're sentenced on Count 1, conspiracy to commit burglary, a gross misdemeanor, 364 days. Count 2, conspiracy to commit robbery, 12 to 48 months, concurrent to Count 1. Count 3, 5, and $8,11,14,15$, burglary while in possession of a deadly weapon, 36
to 120 , concurrent. Count 4 , robbery with the use, 36 to 120 , plus 36 to 120, concurrent to the concurrent ones. Count 6 , for robbery with the use of a deadly weapon, 36 to 120 , plus 36 to 120, consecutive; consecutive to Count 4. Count 7, 36 to 120, plus 36 to 120 , for the use of a deadly weapon, consecutive to 6 and 4 . Count 9,36 to 120, plus 36 to 120 , consecutive to 7,6 , and 4 .

The remaining counts are all going to be concurrent, 36 to 120 , plus 36 to 120, it has to be consecutive. But 10 is concurrent to the other counts. Count 12, 36 to 120, plus 36 to 120 , concurrent to the consecutives. Count 13, 36 to 120, plus 36 to 120, concurrent to Count 12 and the other orders. Count 16, 36 to 120, plus 36 to 120 , concurrent. Count 17, 36 to a hundred -- but those two have to be consecutive. 36 to 120 , plus 36 to 120. Count 17 is concurrent. Counts 18, 19, 20, are each 12 to 48 concurrent.

Now, 21 is 12 to 48 , plus 12 to 48 concurrent.
So -- let me see if I can figure this out.
My calculation on Mr. Phillips is 360 months to 1200 months in Nevada Department of Corrections. Credit for time served 174 days.

MR. BROWER: Judge, before we move on, we contacted -both defense counsel --

THE COURT: Oh, yeah.
MR. BROWER: -- contacted Mr. Christensen's office. We have substitutions of attorney for Mr. Phillips that we'd like you to sign an order on.

THE COURT: All right.

MR. BROWER: And I know Ms. Hua's here for Mr. Barr's case.

THE COURT: All right. That's fine.
MR. HUGHES: Your Honor, I don't have a substitution, but l'd move to withdraw --

THE COURT: That's granted.
MR. HUGHES: -- and to have Ms. Hua to --
MR. BROWER: Judge, can I -- oh, sorry.
MR. HUGHES: And would the record reflect l've already turned my entire file over to Ms. Hua.

MS. HUA: That's correct.
THE COURT: Okay.
MR. SCOW: Thank you, Judge.
MS. HUA: So, Your Honor, I'm appointed --
THE COURT: Yes.
MS. HUA: -- for Mr. Barr's appeal?
THE COURT: Yes.
MS. HUA: Thank you.
THE COURT: And you'll be appointed for Mr. Phillips.
MS. STEWART: As appointed appellate counsel, yes, Your Honor.

THE COURT: Yes.
MR. BROWER: And, Judge, l've been asked to retain the actual file, which l'm doing. Now, current appellate counsel, after you've just signed the order, has indicated she'll order any of this -- the
transcripts and other things that she needs from the Court. If she needs anything else, she can just contact me directly.

THE COURT: You probably should make copies of --
MR. BROWER: It's 24 or 30 CD's and a two terabyte hard drive and a bunch of other stuff, Judge, which I understand volume-wise why a lot of the electronics would be kept with me.

THE COURT: All right. Thank you.
MS. STEWART: Thank you, Your Honor.
MR. BROWER: Thank you, Judge.
[Hearing concluded at 11:10 a.m.]

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


Gina Villani Court Recorder/Transcriber

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

VS.
DAMIEN PHILLIPS and ANTHONY BARR,,

Defendants.
BEFORE THE HONORABLE DOUGLAS SMITH, DISTRICT COURT JUDGE MONDAY, FEBRUARY 04, 2019

RECORDER'S TRANSCRIPT OF HEARING: CLARIFICATION OF SENTENCE

APPEARANCES:
For the State:
BARBARA SCHIFALACQUA, ESQ. RICHARD SCOW, ESQ.
Chief DeputY District Attorneys
For the Defendants
Anthony Barr:
EDWARD HUGHES, ESQ. JEANNIE HUA, ESQ.

Damian Phillips
KEITH BROWER, ESQ.

RECORDED BY: GINA VILLANI, COURT RECORDER

Las Vegas, Nevada, Monday, February 04, 2019
[Hearing began at 8:38 A.M.]
THE COURT: C335500, Damien Phillips and Anthony Barr.
I have missed two sentencings on their - that's why l've called it back. And that was on Mr. Phillips, it was -- I missed Count 22, carrying a concealed firearm with pneumatic gun.

MR. SCOW: That sentence is to Mr. Barr.
THE COURT: I thought that --
MR. BROWER: It's not Mr. Phillips, Judge.
THE COURT: I was told it was both. That's why both are on today.

MS. SCHIFALACQUA: No, Judge, I think they made Barbara Schifalacqua for the State. They made a clerical error. Mr. Phillips' sentencing was fine.

THE COURT: Okay.
MS. SCHIFALACQUA: Mr. Barr is who we needed the modification.

THE COURT: Okay. That's why you were so upset to come. MS. SCHIFALACQUA: Correct.

THE COURT: Why didn't you call and tell us.
MR. BROWER: But what I said, Judge, is (a) they didn't tell me exactly why you wanted to be here; and (b) that there was appellate counsel appointed on this case that should be here.

THE COURT: Right. Should have been here, but that's all
right.
MR. BROWER: And that I was confused at sentencing because you went so fast, and then I said maybe it should go back to Judge Adair since it was from her department.

THE COURT: No.
MR. BROWER: So those were my concerns.
THE COURT: I've already talked to Judge Adair about it, and that's why it's over here. But thank you for coming. I appreciate it.

THE CLERK: Can we have everybody's names?
MR. BROWER: Judge, that was Keith Brower, 7288, for Mr.
Phillips, or actually, l've already withdrawn from this case.
THE COURT: 7288, yeah, that's pretty old, 7288.
MR. HUGHES: Ed Hughes, 1603.
THE COURT: All right.
MR. HUGHES: I was the trial counsel -
THE COURT: You were released on it as well. But on 22, carrying a concealed pneumatic gun, a felony, you're not going to get any extra time. I'm going to sentence him to 12-to-48 months in Nevada Department of Corrections, concurrent to all counts.

MS. SCHIFALACQUA: And, Judge, for the record, we do need to address with Mr. Barr. He was not on Counts 3 and 4. It was Mr. Phillips, alone, that did those two, so we would just ask that you strike the adjudication of Counts 3 and 4 -

THE COURT: Okay.
MS. SCHIFALACQUA: -- for the record.

Nevada Supreme Court
State of Nevada, Plaintiff
v.

Anthony Barr, Appellant
Docket Number 78295

## APPELLANT'S APPENDIX Vol. VIII

NRAP 26.1 Disclosure
The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Jeannie Hua, Esq., Attorney of record for Appellant, Anthony Barr Clark County District Attorney's Office for the State of Nevada

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THE COURT: All right.
MS. SCHIFALACQUA: And then with regard to the burglaries while in possession, we understand that it will run concurrent, but by law, he needs to be adjudicated under the violent habitual criminal statute for those counts as well. We know you've already run them concurrent to the robbery counts, but we do need -

THE COURT: Why, by law, it has to?
MS. SCHIFALACQUA: Right.
THE COURT: Why, by law, does it have to?
MS. SCHIFALACQUA: The statute requires because he's a mandatory violent criminal.

THE COURT: Provide it to me and I'll look at it.
MS. SCHIFALACQUA: Sure.
MR. SCOW: Okay.
MS. HUA: And just for the record, Jeannie Hua appearing -
THE COURT: Yes.
MS. HUA: -- on behalf of Mr. Barr. 5272.
THE COURT: All right, thank you. And we'll get the transcripts for you if it is statutory that I have to do it, l'll have to do it, but it's concurrent.

MS. HUA: Okay. Thank you, Your Honor.
THE COURT: Okay. Thank you. And thanks for coming in, Mr. Hughes.

THE CLERK: And Mr. Sgro and Ms. Schifalacqua? MR. SCOW: Yes.

THE CLERK: Okay.
THE COURT: Scow, not Sgro. He looks like Sgro but it's not.
MR. SCOW: We'll provide that statute to your chambers.
MS. SCHIFALACQUA: Thank you, Your Honor.
[Hearing concluded at 8:41 A.M.]

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


me EABFI:

# PRESENTENCE INVESTIGATION REPORT 

The Honorable Valerie Adair Department XXI, Clark County Eighth Judicial District Court

Date Report Prepared: January 10, 2019

 both fine and impisonment.

Offense: Count $2=$ Conspiracy to Commit Robbety $(5)-m$
NRS: $\quad 200.380,199,480$
NOC: 50147
Penalty: By imprisonment in the state prison for a minimum termoftotess than 1 year and a maximum term of not more than 6 years.

Offense: Counts 5, 8, 11, 14, and 15 - Burglary While in Possession of a Deadly Weapon (F)
NRS: 205.060 Category: B
NOC: 50426
Penalty: By imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $\$ 10,000$, each count.

PRESENTENCE INVESTIGATION REPORT ANTHONY TERRELL BARR
CC\#: C-18-335500-2
Offense: Counts $6,7,9,10,12,13,16$, and 17 - Robbery with Use of a Deadly Weapon (F)
NRS: $\quad 200.380,193.165$
NOC: 50138
Category: B
Penalty: By imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years plus a consecutive term of not less than 1 year and a maximum term of not more than 15 years for the use of a deadly weapon, enhancement.

Offense: Counts 18, 19 and 20-Assault with a Deadly Weapon (F)
NRS: 200.471
Category: B
NOC: 50201
Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $\$ 5,000$, or by both fine and imprisonment.

Offense: Count 21 - Assault with a Deadly Weapon, Victim 60 Years of Age or Older (F)
NRS: 200.471,193.167 Category: B
NOC: 50202
Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $\$ 5,000$, or by both fine and imprisonment, plus a consecutive minimum term of not less than 1 year and a maximum term of not more than 6 years, for the victim 60 years of age or older enhancement.

Offense: Count 22 - Carrying a Concealed Pneumatic Weapon (F)
NRS: 202.350 Category: C
NOC: 51459
Penalty: By imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. In addition to any other penalty, the court may impose a fine of not more than $\$ 10,000$, unless a greater fine is authorized or required by statute.

IF ADJUDICATED AS A SMALL HABITUAL:
NRS: 207.010 (a)
Category: B
NOC: 53138
Penalty: By a minimum term of not less than 5 years and a maximum term of not more than 20 years in the NDOC

## IF ADJUDICATED AS A LARGE HABITUAL:

NRS: 207.010 (b)
Category: A
NOC: 53139
Penalty: For life without the possibility of parole; For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or for a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

## IF ADJUDICATED AS A HABITUAL FELON:

NRS: 207.012

## Category: A

NOC: 53140
Penalty: For life without the possibility of parole; For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or for a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

## PRESENTENCE INVESTIGATION REPORT ANTHONY TERRELL BARR <br> CC\#: C-18-335500-2

## III. DEFENDANT INFORMATION

Address: Homeless
City/State/Zip: Texas
NV Resident: No
SSN: 319-86-6246
POB: Chicago, Lllinois
Date of Birth: 03-11-90
Age: 28
Phone: (504) 300-2342 (message)
Driver's License: 41865545 (Identification Card)
State: Texas
Status: Valid

FBI: 807657EC4
SID: NV04619819
Aliases: Anthony Barr, Anthony Terrell Barr, Jr., Gregory Reynolds, Arthur Lord Fields, Gregory Montreal Reynolds
Additional SSNs: 321-64-3155
Additional DOBs: 03-19-88, 02-24-90
Additional POB: None
Alien Registration: N/A
US Citizen: Yes
Notification Required per NRS 630.307: No

## Identifiers:

Sex: M Race: B Height: 5'9" (SCOPE reflects: 5'10") Weight: 150 (SCOPE reflects: 170)
Hair: Black Eyes: Brown
Scars: Both ears pierced once (unverified); (NLETS reflects: Scar on left arm)
Tattoos (type and location): Heart, cards, gambling items, naked lady, portrait of lady on right arm; "Somona" on right hand; "Anthony" on left hand; portrait of mother, "Amber" on chest; graffiti design on neck (all unverified); five teardrops on face; dollar symbol on bridge of nose (all verified)

Social History: The following social history is as related by the defendant on December 28, 2018, and is unverified unless otherwise noted:

Childhood/Family: The defendant reported his childhood as poor stating he was abused by his parents at a very young age, was removed from the home by social services and placed with his grandmother. He was periodically placed into group homes as his elderly grandmother was raising twelve children. There was no abuse or neglect while in his grandmother's care and substance abuse was not present in the home.

Marital Status: Single
Children: None reported
Custody Status of Children: N/A

## Monthly Child Support Obligation: N/A

Employment Status: The defendant was employed with a temporaty agency as a porter from April 2018 to June 2018. He also worked as a mover from February 2018 to June 2018. He reported past employment in Texas as a porter, a fruit chopper and crate assembler.

Number of Months Employed Full Time in 12 months Prior to Commission of Instant Offense: 4 months

Age at first arrest: 19 or younger $\boxtimes$
Income: None reported

20-23
 24 or older $\square$

Other Sources: None reported

Assets: None reported
Debts: None reported
Education: He completed the $6^{\text {th }}$ grade, never receiving his diploma or GED. No further education was reported beyond this level.

Military Service: None reported
Health and Medical History: He reported his health as fair stating he has acid reflux and takes Zantac to ease the symptoms.

Mental Health History: While incarcerated in Texas, he participated in mental health counseling. The defendant was diagnosed with Attention Deficit Hyperactivity Disordex, Bipolar Disorder and Schizophrenia. He is not currently receiving treatment and is not taking medication. He believes his mental health has contributed to problems in his life and affects his ability to gain and maintain employment stating he does not like being around other people and feels they are "out to get" him.

Gambling History: He believes gambling to be problematic, spending $\$ 1,200.00$ per week trying to achieve monetary gain.

Substance Abuse History: The defendant began smoking marijuana at the age of 14 , smoking eight times per year until his last use in 2008. He used ecstacy once at the age of 16 then began consuming alcohol at the age of 17 drinking five times per year with his last reported drink in 2016. While incarcerated, he attended mandatory substance abuse treatment and received a certificate of completion.

Gang Activity/Affiliation: None reported

## IV. CRIMUNAL RECORD

As of December 28; 2018, records of the Las Vegas Metropolitan Police Department, the National Crime Information Center and the Federal Bureau of Investigation reflect the following information:

CONVICTIONS- FEL: 4
GM: 0
MUSD: 1
INCARCERATIONS-
PRISON: 4
JAIL: 1
SUPERVISION HISTORY:
CURRENT- Probation Terms: 0
Parole Terms: 0
PRIOR TERMS:

| Probation" | Revoked: 0 | Discharged: | Honorable: 0 | Other: 0 |
| :--- | :--- | :--- | :--- | :--- |
| Parole- | Revoked: 0 | Discharged: | Honorable: 0 | Other: 0 |

## ANTHONY TERRELL BARR

CCH: C-18-335500-2
Active Arrest Warrants:
Warrant\#: 4213535 Issued: 06-21-18 Jurisdiction; Las Vegas Municipal Court Charges: Drive Without Driver's License (M) Extraditable: Clark County only Bail Amount: $\$ 563.00$

Warrant\#: 4218182 Issued: 06-28-18 Jurisdiction: Las Vegas Municipal Court Charges: Drive Without Driver's License (M) Extraditable: Clark County only Bail Annount: $\$ 743.00$

Warrant\#: 4248279 Issued: 07-17-18 Jurisdiction: North Las Vegas Municipal Court Charges: Drive Without Driver's License (M) Extraditable: Clark County only
Bail Amount: \$763.00
Adult:

## Arrest Date:

04-21-10
Pantego, Texas
Pantego PD

## Offense:

Assault Causes Bodily Injury to Family Member (M)

08-13-10
Fort Worth, Texas
Fort Worth PD

1. Obstruction or Retaliation Against Juror ( F )
2. Assault Public Servant (F)
3. Criminal Trespass (M)

## Disposition:

1197232001
10-15-10: Convicted of Assault Causes Bodily Injury to Family Mexuber (M), 45 days jail and \$267 fine

08-13-10
Arlington, Texas
Arlington PD

08-13-10
Arlington, Texas
Arlington PD

11-13-17
Dallas, Texas
DPD

Robbery (F)
Robbery (F)

R

1209761001
08-18-1 1: Convicted of Count 1 Harassment of Public Servant (F); Count 2 - Obstruction or Retaliation (F), 7 years prison for each count

1211085001
08-18-11: Convicted of Count 1 Aggravated Robbery (F), 7 years prison for each count 08-12-17: Discharged

1211119001
08-18-11: Convicted of Robbery ( F ), 7 years prison 08-12-17: Discharged

M1762639B
03-22-18: Warrant Issued
Warrant \#: 773415273
Jurisdiction: Dallas County Sheriff's Office
Extraditable: Texas only
Bail: Unknown

08-09-18
Henderson, Nevada HPD

1. Robbery ( F ) (3 Counts)
2. Burglary, ( $1^{\text {st }}$ ) ( F ) (3 Counts)
3. Conspiracy Robbery (F) (3 Counts)
4. Conspiracy Burglary (GM) (3 Counts)
RMD: 08-21-18
RMDR: 10-05-18
5. Burglary While in Possession of Gun/Deadly Weapon (F)
6. Robbery, Enhancement/Deadly Weapon (F)
7. Assault, With Deadly Weapon (F) (3 Counts)
RMDR: 10-11-18
8. Conspiracy Burglary (GM) RMDR: 10-12-18
9. Assault, With Deadly Weapon (F)
10. Carry Conceal Weapon Without Permit ( F )
11. Prevent/Dissuade Report Crime/Cause Prosecution/Arrest (F)

Additionally, the defendant was arrested, detained or cited in Texas between April 21, 2010, and November 13, 2017, for the following offenses for which no disposition is noted, prosecution was not pursued or charges were dismissed: (Texas): Failure to Identify Fugitive Intent to Give False Information; Possess Marijuana Less Than Two Ounces.

Additionally, the defendant's criminal history consists of several instances of failure to appear, failure to comply, and/or failure to pay traffic citations.

Supplemental Information: N/A
Institutional/Supervision Adjustment: 1209761001/1211119001: The defendant was convicted of Count 1 - Harassment of Public Servant (F) and Count 2 - Obstruction or Retaliation (F) in 1209761001 and convicted of Robbery ( F ) in case 1211119001 and sentenced to 7 years prison for each count.

## V. OFRENSE SYNOPSIS

Records provided by the Henderson Police Department and the Clark County District Attorney's Office reflect that the instant offense occurred substantially as follows:

On July 17, 2018, a male adult entered a local US Bank. He produced a note demanding money and warned the teller, Victim \#1, he was in possession of a firearm. The teller complied and provided money to the suspect who fled the scene.

On July 23, 2018, two male adults entered a local US Bank. Both suspects produced notes demanding money and warned the tellers, Victim \#2 and Victim \#3, they were in possession of firearns. Both tellers complied and provided money to the suspects who fled the scene.

On July 31, 2018, two male adults entered a local Bank of the West. Both suspects produced notes demanding money and warned the tellers, Victim \#4 and Victim \#5, they were in possession of firearms. Both tellers complied and provided money to the suspects who fled the scene. Officers were able to obtain surveillance footage which showed the two suspects arriving at the scene in a 1994 Mercury Grand Marquis. The vehicle was driven by a third suspect who did not leave the driver's seat. Following the robbery, the video shows the two male suspects enter the vehicle and the three suspects leave the scene in the same vehicle.

On August 6,2018 , officers were dispatched to a local US Bank, located inside a Smiths grocery store, referencing a reported robbery. Upon arrival, officers met with two bank tellers, Victim \#6 and Victim \#7, who were approached at their windows by two male adults. Both suspects produced notes demanding money and warned the tellers they were in possession of firearms. Both tellers complied and provided money to the suspects who fled the scene. US Bank was able to provide still images of the suspects. Upon viewing the photos, officers were able to identify them as participants in the prior robberies. Latent prints were obtained at the scenc and compared to prints obtained at the Bank of the West robbery. The prints returned to a male identified as the co-defendant Damien Alexander Phillips. Photos of Mr. Phillips were obtained and proved to match the suspect in three of the robberies.

Officers confirmed the involved vehicle had been stopped in the past and was driven by the defendant Anthony Terrell Barr. Further investigation revealed Mr. Barr and Mr. Phillips were living at a local apartunent complex. On August 8,2018 , officers conducted surveillance at the complex and observed the suspect vehicle pulling into the parking lot. They followed the vehicle to another apartment complex and observed Mr. Barr, Mr. Phillips and the co-defendant Sabrina Henderson exit the car. At that time, officers were able to attach a tracking device to the vehicle.

On August 9,2018 , officers received an alert that the vebicle was moving. Officers began surveillance on the car which eventually parked in an alleyway near a US Bank. A female adult exited the vehicle, entered the bank and returned to the car. Mr. Phillips and Mr. Barr then exited the vehicle and entered the US Bank. After a short period of time, officers observed them run from the bank carrying a yellow bag and enter the vehicle. A traffic stop was conducted on the vehicle. Mr. Barr and Mr. Phillips fled the car and a foot pursuit ensued. Both men were taken into custody. Officers detained Ms. Henderson and the fermale adult.

Evidence recovered at the scene revcaled Mr. Barr and Mr. Phillips had committed a robbery at the US Bank. Ms. Henderson admitted driving the vehicle to three of the robberies and waiting while Mr. Barr and Mr. Phillips committed the robberies. She also admitted entering the store prior to the robberies to surveil them and reported the conditions inside to the co-defendants prior to the commnission of the offenses.

## PRESENTENCE INVESTIGATION REPORT ANTHONY TERRELL BARR <br> CC\#: C-18-335500-2

Mr. Barr was arrested, transported to the Clark County Detention Center and booked accordingly
Co-Defendant Information: On October 31, 2018, Sabrina Marie Henderson pleaded guilty to Conspiracy to Commit Robbery ( F ), Robbery ( F ) and Attempt Burglary ( F ) in C-18-335500-3 and is scheduled to appear in the Eighth Judicial District Court Department XXI on January 10, 2019, for sentencing.

Co-Defendant: On December 13, 2018, Damien Alexander Phillips was found guilty by a jury verdict in C-18-335500-1 of Conspiracy to Commit Burglary (F), Conspiracy to Commit Robbery (F), Burglary While in Possession of a Deadly Weapon (F) (6 Counts), Robbery with Use of a Deadly Weapon (F) (9 Counts), Assault with a Deadly Weapon ( $F$ ) ( 3 Counts) and Assault with a Deadly Weapon, Victim 60 Years of Age or Older ( F ) and is scheduled to appear in the Eighth Judicial District Court Department XXI on January 29, 2019 for sentencing.

## VI. DEFENDANT'S STATEMENT

See Attached
Defendant interviewed, no statement submitted
Defendant not interviewed

## VII. VICTIM INFORMATION/STATEMENT

The Division was able to make contact with Victim \#2 (VC2258254) and Victim \#4 (VC2258256) who are not requesting restitution and do not wish to speak at sentencing. The Division attempted to make contact with Victim \#1 (VC2258253); Victim \#3 (VC2258255); Victim \#5 (VC2258257); Victim \#6 (VC2258258); and Victim \#7 (VC2258259); however a response has not been received as of the date of this report. Therefore, the Division is unable to provide this information. If the requested information is received after this report has been submitted, it will be provided to the court at sentencing.

Contact with the District Attomey Victim Witness Assistance Center regarding US Bank (VC2133072) and Bank of the West (VC2228864) and they reported they have not requested restitution or made speaker reservations.

## VIII. CUSTODY STATUS/CREDIT FOR TIME SERVED

Custody Status: In Custody, CCDC CTS: 174 DAYS: 08-09-18 to 01-29-19 (CCDC)

## IX. PLEA NEGOTIATIONS

N/A

## X. RECOMMENDATIONS

Based on information obtained and provided in this report, the following recommendations are submitted.

FEES

Administrative Assessment: $\$ 25.00$
DNA Adxain Assessment: $\$ 3.00$
Domestic Violence Fee: N/A

Chemical/Drug Analysis: N/A
Extradition: N/A

DNA: $\$ 150.00$
Psychosexual Fee: N/A

## SENTENCE

COUNT 1 - CONSPIRACY TO COMMIT BURGLARY (GM) Minimum Term: N/A Maximum Term: 365 Days
Consecutive to/Concurrent With: N/A Probation Recommended: No

Fine: None

Restitution: None

COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (F)
Minimum Term: 24 months
Concurrent With: Count 1
Fine: None

Maximum Term: 72 months
Probation Recommended: No
Restitution: None

Location: CCDC
Probation Term: N/A
Mandatory Probation/ Prison: N/A

Location: NDOC
Probation Term: N/A.
Mandatory Probation/ Prison: N/A

IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 84 months
Concurrent With: Count 1
Fine: N/A

Maximum Term: 240 months
Probation Recomonended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes

IF ADJUDICATED AS A LARGE HABITUAL
Maximum Term: Life, with the
Minimunn Term: $N / A$ possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Consecutive to/Concurrent With: Count 1 Probation Recommended: No Fine: N/A

Restitution: N/A
Probation Term: N/A
Mandatory Prison: Yes
IF ADJUDICATED AS A HABITUAL FELON
Maximum Term: Life, with the
Minimum Term: $\mathrm{N} / \mathrm{A}$
Concurrent With: Count 1
Fine: $\mathrm{N} / \mathrm{A}$
ten (10) years has been served.
Probation Recommended: No
Restitution: N/A

Probation Term: N/A
Mandatory Prison: Yes

| COUNT 5-BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F) |  |  |
| :--- | :--- | :--- |
| Minimum Term: 48 months | Maximum Term: 180 months | Location: NDOC |
| Concurrent With: Count 2 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Probation/ |
|  |  | Prison: N/A |

IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 84 months
Concurrent With: Count 2
Fine: N/A

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes

IF ADJUDICATED AS A LARGE HABITUAL
Maximum Term: Life, with the
Minimaum Term: N/A
Concurrent With: Count 2
Fine: None possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Probation Recommended: No Probation Term: N/A
Restitution: None
Mandatory Prison: Yes

## IF ADJUDICATED AS A HABITUAL FELON

Maximum Term: Life, with the
Minimum Term: N/A
Concurrent With: Count 2
Fine: N/A
possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Probation Recommended: No . Probation Term: N/A
Restitution: N/A
Mandatory Prison: Yes
COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON (F)
Miniooum Term: 48 months Maximum Term: 180 months Location: NDOC
Enhancement: A consecutive minimum Enhancement: A consecutive sentence of 48 months for the Deadly Weapon Enhancement
Concurrent With: Count 5
Fine: None maximum sentence of 180 months for the Deadly Weapon Enhancement Probation Recommended: No
Restitution: None
Probation Term: N/A
Mandatory Prison: Yes
If ADJUDICATED AS A SMALL HABITUAL
Minimum Term: 84 months
Concurrent With: Count 5
Fine: N/A

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes
PRESENTENCE INVESTIGATION REPORT ANTHONY TERRELL BARR CCH: C-18-335500-2
IF ADJUDICATED AS A LARGE HABITUAL
Maximum Term: Life, with the
Minimum Term: N/Apossibility of parole after a minimum of Location: NDOCten (10) years has been servedConcurrent With: Count 5Fine: None
Probation Recommended: No Probation Term: N/A
Restitution: None Mandatory Prison: Yes
If ADJUDICATED AS A HABITUAL FELONMaximum Term: Life, with theMinimum Term: N/Apossibility of parole after a minimum of Location: NDOCten (10) years has been servedProbation Recommended: No Probation Term: N/AConcurrent With: Count 5
Fine: N/ARestitution: N/A.Mandatory Prison: Yes
COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON (F)Minimum Term: 48 months Maximum Term: 180 months
Location: NDOC
Enhancement: A consecutive minimum Enhancement: A consecutivesentence of 48 months for the DeadlyWeapon Enhancement
Concurrent With: Count 6
Fine: None
maximum sentence of 180 months for
the Deadly Weapon Enhancement
Probation Recommended: NoRestitution: None
Probation Term: N/AMandatory Prison: Yes
IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 84 months
Concurrent With: Count 6
Fine: N/A

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes

## IF AD.JUDICATED AS A LARGE HABITUAL

Maximum Term: Life, with the

Minimum Term: N/A.
Concurrent With: Count 6
Fine: None
IF ADJUDICATED AS A HABITUAL FELON
Minimum Term: N/A.
Concurrent With: Count 6
Fine: N/A

Maximum Term: Life, with the
possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Probation Recommended: No Probation Term: N/A
Restitution: None $\cdots$ Mandatory Prison: Yes
possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Probation Recommended: No
Restitution: N/A.

Probation Term: N/A
Mandatory Prison: Yes
PRESENTENCE INVESTIGATION REPORTANTHONY TERRELL BARR

| COUNT 8 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F) |  |  |
| :--- | :--- | :--- |
| Minimum Term: 48 months | Maximum Term: 180 months | Location: NDOC |
| Concurrent With: Count 7 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Probation/ |
|  |  | Prison: N/A |

IF ADJUDICATED AS A SMALL HABITUAL

| Minimum Term: 84 months | Maximum Term: 240 months | Location: NDOC |
| :--- | :--- | :--- |
| Concurrent With: Count 7 | Probation Recommended: No | Probation Term: N/A |
| Fine: N/A | Restitution: N/A | Mandatory Prison: Yes |

IF ADJUDICATED AS A LARGE HABITUAL

Maximum Term: Life, with the $\quad$\begin{tabular}{lll}

Minimum Term: N/A \& | possibility of parole after a minimum of Location: NDOC |
| :--- |
| ten (10) years has been served | <br>

Concurrent With: Count 7 \& Probation Recommended: No \& Probation Term: N/A <br>
Fine: None \& Restitution: None \& Mandatory Prison: Yes
\end{tabular}

$\left.\begin{array}{ll}\text { IF ADJUDICATED AS A HABITUAL FELON } \\ \text { Maximum Term: Life, with the }\end{array}\right]$.
COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON (F)Minimum Term: 48 months
Maxinuum Terms 180 months ...... Location: NDOC
Enhancement: A consecutive minimum Enhancement: A consecutivesentence of 48 months for the Deadly maximum sentence of 180 months forWeapon Enhancement ...... the Deadly Weapon Enhancement

Concurrent With: Count 8
Fine: None
IF ADJUDICATED AS A SMALL HABITUAL

Mininoum Term: 84 months
Concurrent With: Count 8
Fine: N/A

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC Probation Term: N/A Mandatory Prison: Yes


## IF ADJUDICATED AS A HABITUAL FELON

Minimum Terim: N/A
Coacurrent With: Count 8
Fine: N/A

Maximum Term: Life, with the possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Probation Recommended: No
Restitution: N/A

Probation Term: N/A
Mandatory Prison: Yes

COUNT 10 - ROBBERY WITH USE OF A DEADLY WEAPON (F)
Minimum Term: 48 months Maximum Term: 180 months Location: NDOC

| Enhancement: A consecutive minimum Enhancement: A consecutive |  |  |
| :--- | :--- | :--- |
| sentence of 48 months for the Deadly | maximum sentence of 180 months for |  |
| Weapon Enhancement | the Deadly Weapon Enhancement |  |
| Concurrent With: Count 9 Probation Recomonended: No Probation Term: N/A <br> Fine: None Restitution: None Mandatory Prison: Yes |  |  |

IF ADJUDICATED AS A SMALL HABITUAL
Minimum Term: 84 months *....... Maximum Term: 240 months .... Location: NDOC"
Concurrent With: Count $9 \quad$ Probation Recommended: No Probation Term: N/A
Fine: N/A Restitution: N/A Mandatory Prison: Yes

| IF ADJUDICATED AS A LARGE HABITUAL |  |  |
| :---: | :---: | :---: |
| Minimum Term: N/A | Maximux Term: Life, with the | Location: NDOC |
|  | possibility of parole after a minimum of ten (10) years has been served |  |
| Concurrent With: Count 9 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Prison: Y |

IF ADJUDICATED AS A HABITUAL FELON
Minimum Term: N/A Maximum Term: Life, with the Location: NDOC possibility of parole after a minimum of ten (10) years has been served Probation Recommended: No

Probation Term: N/A
Restitution: N/A
Mandatory Prison: Yes

| COUNT 11 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F) |  |  |
| :--- | :--- | :--- |
| Minimum Term: 48 months | Maximum Term: 180 months | Location: NDOC |
| Concurrent With: Count 10 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Probation/ |
|  |  | Prison: N/A |

IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 84 months
Concurrent With: Count 10
Fine: $\mathrm{N} / \mathrm{A}$

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes
IF ADJUDICATED AS A LARGE HABITUAL
Maximum Term: Life, with the
Minimum Term: N/A possibility of parole after a minimum of Location: NDOC ten (10) years has been served

Concurrent With: Count 10
Fine: None
If adJUdICATED AS A HABITUAL FELON
Minimum Term: $\mathrm{N} / \mathrm{A}$

Concurrent With: Count 10
Fine: $\mathrm{N} / \mathrm{A}$.

> Maximum Term: Life, with the Location: NDOC possibility of parole after a minimum of ten (10) years has been served. Probation Recommended: No $\quad$ Probation Term: N/A Restitution: N/A.

COUNT 12 - ROBBERY WITH USE OF A DEADLY WEAPON (F)
Minimum Term: 48 months . ...... Maximum Term: 180 months ..... Location; NDOC
Enhancement: A consecutive minimum Enhancerment: A consecutive sentence of 48 months for the Deadly maximum sentence of 180 months for Weapon Enhancement $\qquad$ the Deadly Weapon Enhancement
Concurrent With: Count 11 Probation Recommended: No
Fine: None
Restitution: None
Probation Term: N/A
Mandatory Prison: Yes
IF ADJUDICATED AS A SMALL HABITUAL
Minimum Term: 84 months
Concurrent With: Count 11
Fine: $\mathrm{N} / \mathrm{A}$

Maximum Term: 240 months
Probation Recommended: No
Restitution: N/A

Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes

TRESENTENCE INVESTIGATION REPORT
ANTHONY TERRELL BARR
CC\#: C-18-335500-2
COUNT 14 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F)
Minimum Term: 48 months
Concurrent With: Count 13
Fine: None
IF ADJUDICATED AS A SMALL HABITUAL

| Minimum Term: 84 months | Maximum Term: 240 months | Location: NDOC |
| :--- | :--- | :--- |
| Concurrent With: Count 13 | Probation Recommended: No | Probation Term: N/A |
| Fine: N/A | Restitution: N/A | Mandatory Prison: Yes |

IF ADJUDICATED AS A LARGE HABITUAL

| Minimum Term: N/A | Maximum Term: Life, with the Location: NDOC |
| :--- | :--- | :--- |
| possibility of parole after a minimum of |  |
| ten (10) years has been served |  |


| Concurrent With: Count 13 | Probation Recommended: No. | Probation Term: N/A |
| :--- | :--- | :--- |
| Fine: None | Restitution: None | Mandatory Prison: Yes |


| If ADJUDICATED AS A HABITUAL FELON |  |  |
| :---: | :---: | :---: |
| Minimum Term: N/A | Maximum Term: Life, with the possibility of parole after a minimum of ten (10) years has been served | Location: NDOC |
| Concurrent With: Count 13 | Probation Recommended: No | Probation Term: N/A |
| Fine: $\mathrm{N} / \mathrm{A}$ | Restitution: N/A. | Mandatory Pris |

COUNT 15 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F)

Minimum Term: 48 months
Concurrent With: Count 14
Fine: None

Maximum Term: 180 months
Location: NDOC
Probation Recommended: No Probation Term: N/A
Restitution; None

Mandatory Probation/ Prison: N/A

## IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 84 months
Maximuxa Term: 240 months Location: NDOC

Concurrent With: Count 14
Fine: $\mathrm{N} / \mathrm{A}$

Probation Recommended: No
Restitution: N/A

Probation Term: N/A
Mandatory Prison: Yes

IF ADJUDICATED AS A LARGE HABITUAL

Minimum Term: N/A

Concurrent With: Count 14
Fine: None
Maximum Term: Life, with the Location: NDOC possibility of parole after a minimum of ten (10) years has been served
Probation Recommended: No
Restitution: None
Probation Term: N/A
Mandatory Prison: Yes

## gRESENTENCE INVESTIGATION REPORT

ANTHONY TERRELL BARR
CC\#: C-18-335500-2
IF ADJUDICATED AS A HABITUAL FELON

Minimum Term: N/A

Concurrent With: Count 14
Fine: N/A

Maximum Term: Life, with the Location: NDOC possibility of parole after a minimum of ten (10) years has been served Probation Recommended: No

Restitution: N/A
Probation Term: N/A
Mandatory Prison: Yes

COUNT 16-ROBBERY WTTH USE OF A DEADLY WEAPON (F)
Mininaum Term: 48 months

Maximum Term: 180 months

Enhancement: A consecutive minimum Enhancement: A consecutive sentence of 48 months for the Deadly Weapon Enhancement
Concurrent With: Count 15
Fine: None
maximum sentence of 180 months for
the Deadly Weapon Enhancement
Probation Recommended: No
Restitution: None
Probation Term: N/A
Mandatory Prison: Yes
IF ADJUDICATED AS A SMALL HABITUAL
Minimum Term: 84 months
Maxinnum Term: 240 months
Concurrent With: Count 15
Probation Recommended: No
Fine: $\mathrm{N} / \mathrm{A}$
Restitution: N/A.
Location: NDOC
Probation Term: N/A
Mandatory Prison: Yes

## IF ADJUDICATED AS A LARGE HABITUAL

Maximum Term: Life, with the
Minimum Term: N/A
possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Concurrent With: Count 15
Fine: None
Probation Recommended: No Probation Term: N/A
Restitution: None
Mandatory Prison: Yes

## IF ADJUDICATED AS A HABITUAL FELON <br> Maximum Term: Life, with the

Minimum Term: N/A
possibility of parole after a minimum of Location: NDOC ten (10) years has been served
Concurrent With: Count 15
Probation Recommended: No
Probation Term: N/A
Fine: N/A
Restitution: N/A Mandatory Prison: Yes

COUNT 17 - ROBBERY WITH USE OF A DEADLY WEAPON (F)
Minimum Terma: 48 months
Enhancement: A consecutive minimuxn sentence of 48 months for the Deadly Weapon Enhancement
Concurrent With: Count 16
Fine: None

Maximum Term: 180 months
Location: NDOC
hancement: A consecutive maximum sentence of 180 months for the Deadly Weapon Enhancement Probation Recommended: No Probation Term: N/A Restitution: None

Mandatory Prison: Yes

| PRESENTENCE INVESTIGATION REPORT ANTRONY TERRELL BARR CCH: C-18-335500-2 |  | Page 18 |
| :---: | :---: | :---: |
| IF ADJUDICATED AS A SMALL HABITUAL |  |  |
| Minimum Term: 84 months | Maximum Term: 240 months | Location: NDOC |
| Concurrent With: Count 16 | Probation Recommended: No | Probation Term: N/A |
| Fine: $\mathrm{N} / \mathrm{A}$ | Restitution: N/A | Mandatory Prison: Yes |
| IF ADJUDICATED AS A LARGE HABITUAL |  |  |
| Minimum Term: N/A | Maximum Term: Life, with the possibility of parole after a minimum of ten (10) years has been served | Location: NDOC |
| Concurrent With: Count 16 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Prison: Yes |
| IF ADJUDICATED AS A HABITUAL FELON |  |  |
| Minimum Term: N/A | Maximum Term: Life, with the possibility of parole after a minimum of ten (10) years has been served | Location: NDOC |
| Concurrent With: Count 16 | Probation Recommended: No | Probation Term: N/A |
| Fine: N/A | Restitution: N/A | Mandatory Prison: Yes |
| COUNT 18-ASSAULT WITH A DEADLY WEAPON (F) |  |  |
| Minimum Term: 24 months | Maximum Term: 72 months Loca | tion: NDOC |
| Concurrent With: Count 17 | Probation Recommended: No Prob | ation Term: N/A |
| Fine: None | $\begin{aligned} & \text { Restitution: None } \end{aligned} \begin{aligned} & \text { Man } \\ & \text { Priso } \end{aligned}$ | datory Probation/ <br> n: N/A |
| IF ADJUDICATED AS A SMALL HABITUAL |  |  |
| Minimum Term: 84 months | Maximum Term: 240 months :. | Location: NDOC |
| Concurrent With: Count 17 | Probation Recommended: No | Probation Term: N/A |
| Fine: N/A | Restitution: N/A | Mandatory Prison: Yes |
| If ADJUDICATED AS A LARGE HABITUAL |  |  |
| Minimum Term: N/A. | Maximum Term: Life, with the | Location: NDOC |
| . . ... ... | possibility of parole after a minimum of ten (10) years has been served | $\cdots \quad: \quad \cdots \quad . .$ |
| Concurrent With: Count 17 | Probation Recommended: No | Probation Term: N/A |
| Fine: None | Restitution: None | Mandatory Prison: Yes |


COUNT 21 - ASSAULT WITH A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (F)Minimum Term: 24 months

Enhancement: A consecutive minimum Enhancement: A consecutive sentence of 24 months for the victim 60 years of age or older Concurrext With: Count 20

Fine: None
maximum sentence of 72 months for the victim 60 years of age or older Probation Recommended: No

Restitution: None

Probation Term: N/A Mandatory Probation/ Prison: No

IF ADJUDICATED AS A SMALL HABITUAL

Minimum Term: 72 months

Maxionum Term: 174 months
Probation Recommended: No:
Restitution: N/A

Location: NDOC
Concurrent With: 20
Fine: N/A
Probation Term: N/A
Mandatory Prison: Yes

IF ADJUDICATED AS A LARGE HABITUAL
Minimum Term: N/A Maximum Term: Life, with the Location: NDOC possibility of parole atter a minimum of ten (10) years has been served.
Concurrent With: $20 \quad$ Probation Recommended: No Probation Term: N/A
Fine: N/A
Restitution: $\mathrm{N} / \mathrm{A}$
Mandatory Prison: Yes

IF ADJUDICATED AS A HABITUAL FELON
Minimum Term: N/A

Concurrent With: Count 20
Fine: N/A

Maximum Term: Life, with the Location: NDOC possibility of parole after a minimum of ten (10) years has been served. Probation Recommended: No Probation Term: N/A
Restitution: N/A

# PRESENTENCE INVESTIGATION REPORT ANTHONY TERRELL BARR 

COUNT 22 - CARRYING A CONCEALED PNEUMATIC WEAPON (F) Minimum Term: 18 months<br>Concurrent With: Count 21<br>Fine: None<br>Maximum Term: 60 months<br>Probation Recommended: No<br>Restitution: N/A<br>Location: NDOC<br>Probation Term: N/A<br>Mandatory Probation/<br>Prison: N/A<br>IF ADJUDICATED AS A SMALL HABITUAL<br>Minioum Term: 84 months<br>Concurrent With: Count 21<br>Fine: N/A<br>Maximum Term: 240 months<br>Probation Recommended: No<br>Restitution: N/A<br>Location: NDOC<br>Probation Term: N/A.<br>Mandatory Prison: Yes<br>\section*{LF ADJUDICATED AS A LARGE HABITUAL}<br>Concurrent With: Count 21<br>Fine: None<br>Maximum Term: Life, with the Location: NDOC<br>possibility of parole after a minimum of ten (10) years has been served<br>Probation Recommended: No Probation Term: N/A<br>Restitution: None Mandatory Prison: Yes<br>\section*{IF ADJUDICATED AS A HABITUAL FELON}<br>Minimum Term: N/A<br>Maximum Term: Life, with the Location: NDOC<br>possibility of parole after a minimum of<br>ten (10) years has been served<br>Concurrent With: Count 21<br>Probation Recommended: No Probation Term: N/A<br>Restitution: N/A.<br>Mandatory Prison: Yes

$\boxtimes$ Pursuant to NRS 239B.030, the undersigned hereby affirms this document contains the social security number of a person as required by NRS 176.145.

Pursuant to NRS 239B.030, the undersigned hereby affirms this document does not contain the social security number of any person.

Per the Nevada Revised Statutes, any changes to factual allegations in the Presentence Investigation Report may be ordered by the court within 180 days of the entry of Judgement of Conviction. The prosecuting attorney and defendant must agree to correct the contents.

The information used in the Presentence Investigation Report may be utilized reviewed by federal, state and/or local agencies for the purpose of prison classification, program eligibility and parole consideration.

In accordance with current Interstate Commission for Adult Offender Supervision rules and requirements, all felony convictions and certain [gross] misdemeanants are offense eligible for compact consideration. Due to Interstate Compact standards, this conviction may or may not be offense eligible for courtesy supervision in the defendant's state of residence. If not offense eligible, the Division may still authorize the offender to relocate to their home state and report by mail until the term of probation is complete and/or the case has been completely resolved.

200.471; COUNT 21 - ASSAULT WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (Category B Felony) in violation of NRS 200.471, 193.167; COUNT 22 - CARRYING CONCEALED PNEUMATIC GUN (Category C Felony) in violation of NRS 202.350; and COUNT 23 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING PROSECUTION (Category D Felony) in violation of NRS 199.305; the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 - CONSPIRACY TO COMMIT BURGLARY (Gross Misdemeanor) in violation of NRS 205.060, 199.480; COUNT 2 - CONSPIRACY TO COMMIT ROBBERY (Category B Felony) in violation of NRS 200.380, 199.480; COUNTS 5, 8, 11, 14 and 15 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony) in violation of NRS 205.060; COUNTS 6, 7, 9, 10, 12, 13, 16 and 17 - ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.380, 193.165; COUNTS 18, 19 and 20 - ASSAULT WITH USE OF A DEADLY WEAPON (Category B Felony) in violation of NRS 200.471; COUNT 21 - ASSAULT WITH USE OF A DEADLY WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (Category B Felony) in violation of NRS 200.471, 193.167; and COUNT 22 CARRYING CONCEALED PNEUMATIC GUN (Category C Felony) in violation of NRS 202.350; thereafter, on the $29^{\text {th }}$ day of January, 2019, the Defendant was present in court for sentencing with counsel EDWARD G. HUGHES, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses under the VIOLENT HABITUAL Criminal Statute as to COUNTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 and, in addition to the $\$ 25.00$ Administrative Assessment Fee, $\$ 250.00$ Indigent Defense Civil Assessment Fee and \$150.00 DNA Analysis Fee including testing to determine genetic
markers plus $\$ 3.00$ DNA Collection Fee, the Defendant is SENTENCED to the Nevada Department of Corrections (NDC) as follows: COUNT 1 - THREE HUNDRED SIXTYFOUR (364) DAYS in the Clark County Detention Center (CCDC); COUNT 2 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 1; COUNT 5-a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 2; COUNT 6 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon; COUNT 7 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 6; COUNT 8 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 5; COUNT 9 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 7; COUNT 10 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 9; COUNT 11 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 8; COUNT 12 - LIFE WITHOUT THE

POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 10; COUNT 13 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 12; COUNT 14 - a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 11; COUNT 15-a MAXIMUM of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS, CONCURRENT with COUNT 14; COUNT 16 LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 13; COUNT 17 - LIFE WITHOUT THE POSSIBILITY OF PAROLE plus a CONSECUTIVE term of ONE HUNDRED TWENTY (120) MONTHS with a MINIMUM Parole Eligibility of THIRTY-SIX (36) MONTHS for the Use of a Deadly Weapon, CONSECUTIVE to COUNT 16; COUNT 18 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 15; COUNT 19- a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 18; COUNT 20- a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 19; COUNT 21 - a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS plus a

CONSECUTIVE term of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS for the Use of a Deadly Weapon, CONCURRENT with COUNT 17; and COUNT 22- a MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS, CONCURRENT with COUNT 21 with ONE HUNDRED SEVENTY-FOUR (174) DAYS credit for time served. The AGGREGATE TOTAL sentence is LIFE WITHOUT PAROLE ELIGIBILITY. DATED this 25 day of February, 2019.


NOASC
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ANTHONY BARR

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vS.
ANTONY BARR, \#8437104

Defendant.
Case No.: C-18-335500-2
Dept. No.: 21

## NOTICE OF APPEAL

Notice is hereby given that ANOTHONY BARR, defendant above named, hereby appeals to the Supreme Court of Nevada Judgment of Conviction entered in this action on the 27th day of February 2019.
/s/Jeannie Hua, Esq.
Jeannie Hua, Esq.
Attorney for Appellant
5550 Painted Mirage Rd., Suite 320
Las Vegas, NV 89149

