

No. 79554

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

CHRISTIAN STEPHON MILES,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Appeal

From the Eighth Judicial District Court, Clark County
The Honorable Mary Kay Holthus, District Court Judge

APPELLANT'S APPENDIX
(Volume 6)

MARIO D. VALENCIA
Nevada Bar No. 6154
40 S. Stephanie St., Ste. 201
Henderson, NV 89012
(702) 384-7494
Attorney for Christian Stephon Miles

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Las Vegas, Nevada, Friday, April 5, 2019

[Case called at 10:21 a.m.]

[Outside the presence of the jury]

THE COURT: Anything outside the presence?

Mr. Miles, did you bring your jury instructions proposed?

MR. MILES: Yes, I did, Your Honor.

THE COURT: Okay.

MR. MILES: Give a copy to the State?

THE COURT: Did you give a copy to the State?

MS. RHOADES: No.

MR. MILES: No, I said I didn't give a copy.

MR. MARTINEZ: Can we get a copy?

THE COURT: Yeah. Somebody bring it to me, please. I'll be back. Is there anything else while I'm going to make copies of this?

MS. RHOADES: No, Your Honor.

THE COURT: Well, obviously, we're not going to get to settle these now. So --

MR. MILES: Would -- there actually might -- I might actually be doing an oral motion to suppress. There's actually some information that came out of the evidentiary hearing that I wasn't aware of, in support of like the motion to suppress one of the phones. If we could do that. Because I know the motion to suppress can be made during the trial if I wasn't aware of the evidence. And I didn't become aware of the evidence until the trial.

1 THE COURT: What evidence?

2 MR. MILES: Becky York's testimony and Mark Hunt's
3 testimony that they didn't receive a phone from Gabrielle King when she
4 got arrested. And Gabrielle King --

5 THE COURT: The what --

6 MR. MILES: Well, testimony from Becky York was that when
7 Gabrielle King got arrested, she didn't take any property from her. Mark
8 Hunt's testimony was he didn't take any property from her at the time of
9 her arrest either. Gabrielle King testified of the day of her arrest she
10 didn't Detective Gatus until a couple days later.

11 When I had filed the motion to suppress, Mr. Martinez
12 represented to the Court that Detective Gatus searched -- obtained
13 consent from Gabrielle King on February 13th at CCJH. But Gabrielle
14 King testified that she didn't see her until a couple days later. So that
15 was evidence that I wasn't aware of. But that was my similar position
16 saying there was no consent obtained from February 13th to -- I mean on
17 February 13, 2015, from Gabrielle King at CCJH.

18 THE COURT: What difference does that make to your motion
19 to suppress?

20 MR. MILES: Well, it makes a whole bunch of difference,
21 because how did she become -- how did Detective Gatus get in
22 possession of the phone is the main question? Her position --

23 MR. MARTINEZ: She's going to testify to that.

24 MR. MILES: Her --

25 THE COURT: Yeah.

1 MR. MILES: Her position was well, it was -- she didn't really
2 specify at the evidentiary hearing. She just said at some point in time.
3 And I was stating for the Court that that was probably the 16th. It makes
4 it important because that could be an illegal seizure when she had no
5 permission from anybody to obtain that phone. That was my phone.
6 That wasn't Gabrielle King's phone. That was my phone.

7 MR. MARTINEZ: That was ruled upon already, that -- that
8 legal argument was denied by Judge Togliatti. That was denied. No
9 matter --

10 MR. MILES: It was a separate legal argument.

11 THE COURT: I don't think that -- I don't think it's any
12 different.

13 MR. MILES: Okay.

14 [Recess at 10:25 a.m., recommencing at 10:29 a.m.]

15 THE COURT: You. Copy for Mr. Martinez. Copy for me.

16 MS. RHOADES: Okay.

17 THE COURT: Copy -- extra copy for him if he wants to have
18 one marked.

19 MS. RHOADES: Okay. I can --

20 THE COURT: And one for you.

21 MS. RHOADES: Okay.

22 [Counsel confer]

23 THE COURT: I made you two copies, Mr. Miles, in case you
24 want to keep a copy. And then if -- to the extent that we use or don't use
25 any, you may want to make a record of them.

1 MR. MILES: Okay.

2 [Pause]

3 THE COURT: Ready?

4 THE MARSHAL: We're ready, folks.

5 THE COURT: Okay. Where are we now? You guys have
6 witnesses. Do you have your witnesses all ready?

7 MR. MARTINEZ: Yes.

8 THE COURT: That was a heavy sigh.

9 MS. RHOADES: Is Vince here?

10 MR. MARTINEZ: Yes, he is.

11 MS. RHOADES: Is he? He is. Okay.

12 MR. MILES: Is it all the same witnesses or are we talking
13 about witnesses? You said three yesterday.

14 MR. MARTINEZ: Right. The same three. Our first witness is
15 going to be Vince Ramirez.

16 THE COURT: Okay.

17 MR. MARTINEZ: And I was told that he was on this floor
18 somewhere. I told him the courtroom number, but I told him to stay
19 away from the jury. So he might be --

20 THE COURT: Gotcha. Okay.

21 MR. MARTINEZ: -- wandering.

22 THE COURT: And you have your witnesses ready, Mr. Miles?

23 MR. MILES: Well, Mark informed me that he would be ready.
24 I asked him if he could have James Jacobs ready. He wasn't sure if he
25 could do that. He said just give him a call. He wouldn't be too far to

1 come, and he said he'll be able to come.

2 THE COURT: Okay.

3 MS. RHOADES: Vince is here.

4 MR. MARTINEZ: So I --

5 THE COURT: Okay.

6 MS. RHOADES: I believe that we'll be done with our
7 witnesses in the early afternoon, but I've been wrong before.

8 THE COURT: You have. Okay. Ready?

9 MR. MARTINEZ: Yes.

10 THE MARSHAL: Ready for the jurors?

11 MR. MARTINEZ: Yes.

12 THE MARSHAL: Bring on the jury.

13 [Clerk and court confer]

14 THE MARSHAL: All rise.

15 [Inside the presence of the jury.]

16 THE MARSHAL: All present, Your Honor.

17 THE COURT: Okay. Morning. Welcome back.
18 State.

19 MR. MARTINEZ: The State calls Vince Ramirez.

20 THE COURT: And the record should reflect the entire jury is
21 present.

22 THE CLERK: Please raise your right hand.

23 VICENTE RAMIREZ, STATE'S WITNESS, SWORN

24 THE CLERK: Please state your full name and spell your first
25 and last name.

1 THE WITNESS: Full name is Vicente Ramirez. It's V-I-C-E-N-
2 T-E. Last name Ramirez, R-A-M-I-R-E-Z.

3 MR. MARTINEZ: May I proceed?

4 THE COURT: You may.

5 DIRECT EXAMINATION

6 MR. MARTINEZ: Thank you, Your Honor.

7 BY MR. MARTINEZ:

8 Q Sir, are you presently retired?

9 A Yes, I am.

10 Q What did you retire from?

11 A September 1, 2018.

12 Q Okay. And what did you do for a living?

13 THE WITNESS: I'm trying to turn this cell phone off. Sorry.
14 Let me just turn this off real quick.

15 I work for LVNPD for the past 23 years.

16 BY MR. MARTINEZ:

17 Q And what was your position with Metro?

18 A I worked in the internet crimes against children detail.

19 Q What were your duties and responsibilities in that position?

20 A My duties was to investigate any child sexual exploitation
21 cases and to conduct computer forensics and cell phone forensics.

22 Q What is a cell phone forensic?

23 A A cell phone forensic is basically an analysis of what's
24 presently on the cell phone. And that's called -- what's called a logical.
25 And if I could do a physical, that would be whatever's been on that cell

1 phone since day one.

2 Q Okay. And we'll come back to that. What training and
3 experience have you had throughout your career that qualified you to
4 perform these types of examinations?

5 A For cellular phones, I've had what's called chip off training
6 and analysis that's repair of any cell phones and also chip off. You
7 remove the chip and do an analysis on the phone. I've also had lantern
8 training, which is also another analysis tool. I've had Cellebrite training,
9 which is also an analysis tool of strictly cellphones. I've had what's
10 called SANS 563 forensic training on cell phones. And I've also had the
11 certifications for Cellebrite and Lantern.

12 Q And how long -- you said you were with Metro for 23 years.
13 Was it the same position all 23 years or did you have different ones?

14 A I had different ones, but I worked in the sexual assault detail
15 starting from 1998. And then in 2002 is when I started with the internet
16 crimes detail.

17 Q Okay. So how long with the internet crimes detail?

18 A 16 years.

19 Q And you said that part of your duties was conducting
20 forensic exams of cell phones?

21 A Yes.

22 Q Okay. And before I get to that, have you testified previously
23 as an expert in the Eighth Judicial District Court?

24 A Yes.

25 Q Approximately how many times?

1 A At least 20.

2 Q And how many phones -- if you could just estimate. How
3 many phones do you think you've forensically examined?

4 A Over 500.

5 Q Now what is -- what are the different types of examinations
6 that you can do on cellular phones?

7 A There's two types. One is called a logical. A logical is
8 exactly what's on the phone presently right now. And then there's also
9 what's called a physical. And a physical is where I take the data from
10 that phone, and then I put on a computer forensic platform like EnCase,
11 which is spelled capital E-lowercase N-capital C-A-S-E, or Access Data.
12 And that extracts things as far as deleted and things that have been on
13 that phone in the past.

14 Q So are you sometimes able to recover deleted items and
15 sometimes you're not able to recover those?

16 A Correct.

17 Q What are the circumstances in either scenario?

18 A It depends on the cell phone itself. If it's a modern up to date
19 cell phone, and the software has already been updated with all the
20 drivers, you can do a physical examination on some of them. If it's an
21 older phone that's possibly produced in China or somewhere else, where
22 the drivers are foreign, then the machine will tell me that it's not
23 supported. So it will tell me that I can only do a logical and not do a
24 physical.

25 Q Can you walk us through the process that you typically

1 follow? How -- from retrieving -- of how you retrieve the phone to
2 actually examine and what the process is?

3 A As soon as I get the search warrant, I'll review the search
4 warrant for the contents. Either the detective will bring the phone to me
5 from the evidence vault or I will go and sign out that phone. I will bring
6 it back to my office. We were in a unsecure -- a secure area undisclosed.
7 I will prepare my machine which is what holds my software. I either use
8 Cellebrite or Lantern. I make sure that there's, you know, a clean drive
9 that I'm going to put the artifacts and everything on that drive. Then
10 once I do that, I get the phone. I examine it.

11 As far as looking at it physically to see if there's SD cards or
12 anything that's plugged into the phone on the side, external memory.
13 And then I also documented these, you know, the serial number and the
14 model number.

15 Once I have that, I'll go to what's called phonescoop.com, and I'll
16 see what capabilities that phone has, so I know right off the bat, you
17 know, is it internal storage, is it external storage, what capabilities does
18 that phone have.

19 Once I do that, then I will start up my program. Let's say I use
20 Cellebrite. I will start up the program. I will select the model number.
21 There's also a -- or it will check for you as soon as you just plug it in. So
22 it will tell you what cable to put, you know, into that device. And once it
23 does that, it can either auto detect, or you direct it. Once that starts, then
24 it will -- most of the time, it will just flat out tell you logical only. So you
25 hit the button on there. And then once it does that, it actually starts the

1 acquisition.

2 It might tell you some other little things like, you know, turn on
3 debugging or something like that. But typically, you already do that, you
4 know, prior to. You definitely have to have it on airplane, because since
5 you're doing an exam, you don't want anything to change, so that device
6 has to be on airplane, so it does not receive any more signals or
7 anymore transmissions. Once you do that, it goes through. And once it
8 acquires successfully, it will give you a hash number, and it will tell you
9 that the acquisition was successful. It retrieved whatever it possibly
10 could.

11 So once that happens, you remove it. You make sure that the
12 exam copied to your drive that you selected it to go to. And once I do
13 that, then I take that to my forensic machine, and I put it on there, and I
14 start to review the contents.

15 Once it's on that drive, now it's in a shell where you can't --
16 there's nothing that can be touched in that examination. So once I
17 review that it's successfully acquired, I will contact the detective if it's not
18 my physical case, and I will tell them that their examination is ready for
19 review.

20 Q Now just going back a little bit. You had mentioned that you
21 worked at a place that's offsite. So your location where you would
22 conduct these examinations was not at Metro headquarters; is that
23 correct?

24 A No, correct.

25 Q Okay. With -- you don't have to tell me where it is. But what

1 types of security precautions were in the building that you were in to be
2 able to protect the integrity of the phones that you would retrieve from
3 detectives or that you received from detectives.

4 A Okay. The offsite location that we're at, we are a federal
5 taskforce, so do have the FBI with us. The -- you know, Metro has a
6 normal key card to go into our area. But with FBI there, since they are
7 classified, one, we don't have to get top secret security clearances. But
8 also, they also have their key tumblers.

9 So there's two other methods -- doors that you have to pass
10 through in order to get to -- into our office. You cannot go in the front
11 door even just to go into the lobby. And in our space, since we do exam
12 some computers and cell phones, we have a temporary evidence vault
13 which the -- our evidence vault has come out and reviewed that and
14 deemed it as an evidence vault.

15 The FBI also has came -- come out and made sure that the walls
16 had to mesh and all their standards in that area, because they also keep
17 their evidence in our office.

18 Q Now you had mentioned that you typically will receive the
19 cell phones to examine from Metro detectives; is that correct?

20 A Correct.

21 Q Or FBI agents; is that correct?

22 A Yes.

23 Q Okay. When you are examining a suspect's phone, do you
24 require any sort of documentation from the detective before you do any
25 sort of search of -- or analysis/examination of the phone?

1 A Yes, a search warrant.

2 MR. MILES: Objection, Your Honor. I think if the State is
3 going to refer to the search warrant, that the original search warrant
4 should be offered in evidence.

5 THE COURT: Overruled.

6 BY MR. MARTINEZ:

7 Q I'm sorry. What was your --

8 A A search warrant.

9 Q Okay. And that's standard policy and procedure; is that
10 correct?

11 A Yeah. Typically, if the detective seizes a phone, their search
12 warrant is to seize it. I require a search warrant to examine it. So they'll
13 have to go out and get a separate search warrant just for the
14 examination.

15 Q All right. And you mentioned two different types of -- if -- I'm
16 going to say machines. If that's not correct terminology, please correct
17 me. But you had mentioned a Cellebrite machine and a Lantern
18 machine; is that --

19 A Correct.

20 Q What are the differences between those two?

21 A The difference is it's just two different software. Lantern is --
22 was created by Sean Morrissey. So that's his -- he's the CEO. So that is
23 his specific program. And then you have Cellebrite. And that program is
24 just two different entities. But according to our national standards for
25 forensic training and forensic examinations, we typically try to use, you

1 know, two different softwares.

2 If one doesn't pick up what's on that software or that device, then
3 we'll try to use another one. Some devices are -- seem easier with
4 Lantern. And a lot of times I would use Lantern first. And if it withdrew
5 all the artifacts and everything, then I would just stay with that one.

6 Q Okay. And are you -- were you aware at the time that you
7 were employed with Metro if the vice section of Metro, the detectives,
8 have their own Cellebrite machine?

9 A Yes.

10 Q And is it true that they have --

11 A Yes.

12 Q -- that to your knowledge?

13 A Yes, I do.

14 Q Okay. Did you, in your working as a detective, did -- do
15 you -- are you familiar with Justine Gatus?

16 A Yes.

17 Q Okay. Who is she?

18 A She's a detective who's in our same building but upstairs.

19 Q Okay. Now are you familiar with the type of machine that --
20 the Cellebrite machine that the vice detectives had, how it operated and
21 if it was simple or not?

22 A Yes.

23 Q Okay. Can you describe to the jury what they had and
24 if -- whether -- the ease of using it?

25 A The vice detectives used a UFED mobile. That is just a -- kind

1 of looks like a -- just a block. And that one is pretty much step by step.
2 Pretty much it -- you just -- to ask you what you want to do. It typically
3 only does the logical part, just what's on the phone right now.

4 They made that machine so detectives could go out in the field.
5 And if they either see something that they immediately needed to
6 examine or if they did a consent, somebody didn't want to lose their
7 phone for a couple months, they could just go ahead and get the
8 consent, and the owner could sign off on that and then go ahead and just
9 extract all the information on site.

10 Q Okay. And that -- is it common for vice detectives to do an
11 initial cell phone retrieval when they had consent to look through phones
12 without sending it to your place to examine?

13 A Correct.

14 Q Okay. Can you talk about whether or not the Lantern and
15 Cellebrite machines would be able to extract TextNow application
16 messaging?

17 A TextNow, those applications are browser driven. So,
18 basically, you had to go out in the Internet to be able to retrieve anything
19 from those. So when we do our examinations, we can't have Internet on
20 the device, because we want to make sure that nothing interrupts it. And
21 it doesn't receive other information. Or as soon as we get a phone, we
22 put it in airplane mode, because we don't want someone to call up the
23 subscriber and say my phone just got stolen, wipe it.

24 So to preserve the evidence, we make sure that it's in airplane
25 mode. And when you do your examinations, you have to do it -- pretty

1 much what we call a dead phone, that there's no Internet activity on it
2 whatsoever.

3 So with TextNow, you have to have the Internet to go out and use
4 it. It's a voiceover Internet protocol. So it needs the Internet to be able
5 to be used. If you don't have the Internet on, you can't use that
6 application.

7 Q Okay. And so, the policy in your building to preserve the
8 integrity of the information on that device that you're -- you would be
9 examining is to not have Internet available in your building; is that
10 correct?

11 A Correct.

12 Q All right. So what are the -- you mentioned that a provider
13 could wipe the phone clean if there's -- if it's not in airplane mode or if
14 there's Internet access. Are there any other dangers are concerns and
15 why that's a precaution and a policy?

16 A It's just the standard policy that we use to make sure that if
17 it's in airplane mode that no other transmission, no signal goes to it at
18 all. We don't want anything else to be interrupted. We just want a clean
19 acquisition. We don't want it to be trying to pick up other things while
20 it's doing an exam.

21 Q So is it fair to say that because you're doing the examination
22 at that safe offsite secure location, you can't retrieve TextNow app data?

23 A Correct.

24 Q All right. Can you describe to the -- or explain to the jury
25 what an event number is with Metro?

1 A An event number is just something that we track cases by.
2 So, say if it's 2018, the first two letters will be 18. And then you have the
3 month, the date. And then when you have the dash, that'll be like if it's
4 2000, that's the 2000th case that's been called into Metro. So that's how
5 those numbers come about. So that way, that number is unique. And it
6 can only be used on that specific case. And that'll be archived forever
7 under that case number.

8 Q And is evidence that's logged at the evidence vault or
9 examined by you always assigned an event number before you examine
10 it?

11 A Yes.

12 Q Okay. And you said it's to an individual case?

13 A Yes.

14 Q Okay. How do you typically receive the -- what -- do you ever
15 have to open anything but anything like that when the detectives bring a
16 device to you to examine?

17 A Yes. The detective will show up. And if they didn't prior
18 send me a search warrant, they will show up with their search warrant,
19 look at the search warrant, look at the event number. They will also
20 bring me the evidence if I didn't go sign it out. I will match the event
21 number on the search warrant and the event number on the evidence
22 bag and make sure that it is the right evidence package that I am
23 opening.

24 Q And did you follow that procedure for an event number that
25 you are asked to evaluate some devices, event number 150213-3799?

1 A Yes.

2 Q And do you recall what you were asked to examine in a case?

3 A I was asked to examine a cell phone. It was a -- we call them
4 kind of a burner phone. So they could say Galaxy, but it might not be a
5 Galaxy. I would have to look at the package to tell you the exact model
6 number --

7 Q Sure.

8 A -- of that cell phone.

9 Q Would it refresh your recollection to look at the package
10 itself?

11 A Yes.

12 MR. MARTINEZ: The middle one.

13 BY MR. MARTINEZ:

14 Q And for the record, if you could look on the back of that and
15 tell me what proposed exhibit that is.

16 A Proposed Exhibit Number 2.

17 Q Okay. So I'm showing you what's been marked as State's
18 Proposed Exhibit 2. Do you recognize what that is? You can flip it over
19 or keep it on that side.

20 A Yes, I do.

21 Q You -- how do you recognize that?

22 A I recognize it by the event number, and I recognize it by my
23 signature, my P number, the date I sealed it, and the time I sealed it, and
24 my P number with my initials when I sealed it.

25 Q And you recognize your handwriting --

1 A Yes.

2 Q -- on that? Okay. And that's the actual evidence envelope
3 that you wrote on?

4 A Yes.

5 Q Okay. And you recall doing that?

6 A Yes.

7 Q Okay.

8 MR. MARTINEZ: Move for the admission of State's Proposed
9 Exhibit 2.

10 MR. MILES: And --

11 THE COURT: Any objection?

12 MR. MILES: -- I'm going to object if they can't offer any
13 direct or circumstantial corroborating evidence that that cellular phone
14 and the VIN number corresponds to the search warrant that he used to
15 obtain that information.

16 THE COURT: I'm sorry. What is --

17 MR. MILES: Well, he testified that the VIN number
18 corresponds to the search warrant.

19 THE COURT: Correct.

20 MR. MILES: But the State hasn't offered the search warrant
21 itself for him to be able to testify that that search warrant itself
22 corresponded with the VIN number that he's testifying to now. So
23 unless the State could offer the search warrant itself, I would object.

24 MR. MARTINEZ: I'm not required to provide the search
25 warrant.

1 MR. MILES: Well, I have the case.

2 MR. MARTINEZ: He --

3 MR. MILES: I can pull it out.

4 MR. MARTINEZ: Mr. Ramirez testified that he reviewed a
5 search warrant in this case and that this case had a specific event
6 number.

7 MR. MILES: And --

8 MR. MARTINEZ: And that he reviewed a search warrant in
9 examining the device. He's testified to that. That's sufficient foundation.

10 MR. MILES: And, Your Honor, I would just say Mr. Martinez
11 did say he was referring to the search warrant itself. So if the proponent,
12 which is Martinez, is referring to the search warrant, he's required to
13 prove that the search warrant is actually, in fact, what he claims it to be.

14 So since he didn't offer the search warrant itself, I don't see
15 why I -- it should be admitted into evidence at this time unless he offers
16 the search warrant. If he offers a search warrant, then I probably -- I
17 mean we'll go from there.

18 THE COURT: It's overruled. You're free to cross-examine
19 him regarding the search warrant.

20 MR. MILES: Okay.

21 MR. MARTINEZ: Have -- so is it moved into evidence, Your
22 Honor?

23 THE COURT: Yeah. Yes.

24 MR. MARTINEZ: Okay. Can we have it marked real quick?
25 And I guess while you're over there, can you give those to him for now

1 just so that you don't have to go back?

2 [State's Exhibit 2 admitted into evidence]

3 MR. MARTINEZ: May I publish this particular exhibit, Your
4 Honor?

5 THE COURT: You may.

6 BY MR. MARTINEZ:

7 Q So if you could look on your monitor there. Can you -- just
8 starting from the top. Can you explain what the jury is looking at?

9 A The top is the date that the detective that actually seized the
10 cell phone, the date that cell phone was seized.

11 Q And what date does it say on there?

12 A 3/24 of '15. And under -- and then the next thing -- the next
13 thing is the possession. That's the time that the detective possessed that
14 device. And it's 1415, which is military time, which is 2:15.

15 Q Okay. And what's next to that?

16 A Next is the evidence -- or sorry -- the event number, what
17 she's operating this case under, which is 1-5 -- that would 2015 -- 0-2.
18 That would be February -- 13. And then the dash is 3799.

19 Q And that's the number that this case was assigned --

20 A Yes.

21 Q -- as an event number; is that correct?

22 A Yes.

23 Q Okay. Now could you just work your way down that exhibit
24 and explain to the jury what you see there?

25 A The J9868G, that is the detective's first initial, J, her P

1 number, and then the G is her last name. The signature of the
2 impounding officer is her signature. The suspect or suspects is first
3 name -- or last name Miles, first name Christian. The charges
4 underneath that are sex trafficking.

5 The location of the recovery was CCDC, which is the Clark County
6 Detention Center. From there, you go to the item number. The item
7 number is 9. It's a Samsung Galaxy 3 cell phone. From there, you have
8 that this is package number two of a total of packages of number 3.

9 Underneath that is where I actually signed it and put my P
10 number, 4916, my badge number, the date I sealed it, 10/1 of '15. And I
11 sealed it at 10:00. When I seal it back, I put an evidence tag of where I
12 had originally opened it. And I sealed it. And then I put my initials,
13 V4916R, to show that I am the person that sealed that evidence.

14 Q Okay. So the red outline that we see that says evidence, is
15 that the seal that you're referring to?

16 A Yes.

17 Q Okay. And then just referring you to the bottom here. That
18 handwriting there is what?

19 A Yeah. It's V for Vicente. 4916 is my badge number. And R is
20 for Ramirez.

21 Q Okay. And what is the purpose of that protocol? What do
22 you call it?

23 A I am verifying that it was me that actually verify that that
24 device is in there. The evidence is in there, and I'm putting my badge
25 number saying that I'm the one that actually reinserted it and sealed it.

1 Q Okay. Did Detective Gatus request a forensic examination of
2 this particular item that's inside?

3 MR. MILES: Objection, Your Honor. Hearsay.

4 MR. MARTINEZ: It's not offered for the truth of the matter
5 asserted. It's just offered to explain why Detective Ramirez --

6 THE COURT: Just rephrase it. Rephrase your question.

7 MR. MARTINEZ: Okay.

8 BY MR. MARTINEZ:

9 Q Did you do a forensic examination of this phone?

10 A Yes, I did.

11 Q At whose request?

12 A Detective Gatus.

13 Q Okay.

14 MR. MARTINEZ: At this time, Judge, I would move to allow
15 Mr. Ramirez to actually open this envelope.

16 MR. MILES: I would just --

17 THE COURT: Any objection?

18 MR. MILES: The only objection I would have is that if he's
19 going to open evidence, it be limited to him just opening the evidence
20 and not actually do anything else with it.

21 MR. MARTINEZ: Absolutely.

22 THE COURT: Okay.

23 MR. MILES: At this time.

24 THE COURT: I'm sorry. Did you say something?

25 MR. MILES: No. I'm just saying at this time. It might change

1 during my cross-examination.

2 THE COURT: Sure.

3 BY MR. MARTINEZ:

4 Q And could you open -- do you need some scissors or
5 something?

6 THE COURT: Scissors.

7 THE WITNESS: Scissors, knife.

8 [Clerk and court confer]

9 BY MR. MARTINEZ:

10 Q And as -- before you open that, right now, is it sealed?

11 A Yes.

12 Q Okay. There's no -- there's nothing that's open on any corner
13 or anything like that?

14 A There's not.

15 Q Okay. Go ahead and open.

16 A Okay. It's open.

17 Q Okay. Can you hold up what is inside the envelope for the
18 jury to see? And what kind of phone is that?

19 A It's a Samsung.

20 Q Okay. And were -- did you do forensic examination of that
21 particular cell phone?

22 A Yes.

23 Q Okay. And what device did you use? Or what procedure did
24 you follow to examine that particular cell phone?

25 A I used the Lantern program on my forensic machine.

1 Q Okay. And when used that machine, is -- do you generate a
2 report of what's contained on that particular phone?

3 A Yes.

4 Q And did you do that in this case?

5 A Yes, I did.

6 Q And who did you provide that report to?

7 A Detective Gatus.

8 Q Okay.

9 MR. MARTINEZ: Now I am going to ask that he be able to
10 look at State's Proposed --

11 MR. MILES: Can I view that?

12 MR. MARTINEZ: -- 31.

13 BY MR. MARTINEZ:

14 Q Did you have a chance to review your report before testifying
15 today?

16 A Yes.

17 MR. MILES: Well, I will say, Your Honor, this is the first time
18 I'm receiving this actual report. I haven't seen this evidence report
19 specifically. I haven't seen it.

20 THE COURT: Is that correct?

21 MR. MILES: This is my first time seeing it.

22 MR. MARTINEZ: That's not correct.

23 MR. MILES: And I have my discovery CDs here. I don't
24 believe this can be in evidence. I will state for the record this is my first
25 time that I've seen that specific report. This is my first time seeing it.

1 THE COURT: Let me see it.

2 The State is saying it was produced.

3 MR. MARTINEZ: It was produced ages ago, Your Honor.

4 MR. MILES: Can we actually state, Your Honor, actually
5 where -- when and where he produced it, because I did make a record,
6 Your Honor, that I was requesting any reports and document --

7 MR. MARTINEZ: Can we please do this outside the
8 presence --

9 THE COURT: Yeah.

10 MR. MARTINEZ: -- of the jury?

11 THE COURT: Ladies and gentlemen, we're going to take a
12 few-minute recess. During this recess, you're admonished not to talk or
13 converse amongst yourselves or with anyone else on any subject
14 connected with this trial, or ready, watch or listen to any report or
15 commentary on the trial, or any person connected with this trial, buy any
16 medium of information, including without limitation to newspapers,
17 television, the internet and radio, or form or express any opinion on any
18 subject connected with the trial until the case is finally submitted to you.
19 And no legal or factual research or investigation or recreation of
20 testimony on your own.

21 THE MARSHAL: All rise.

22 [Outside the presence of the jury]

23 THE COURT: Mr. Ramirez, you want to go in that little room.
24 You don't have to sit.

25 THE WITNESS: Can I leave my bag here?

1 THE COURT: Of course. We'll watch it.

2 Okay.

3 MR. MARTINEZ: Your Honor, first --

4 THE COURT: Oh, let the record reflect we're outside the
5 presence of the jury.

6 MR. MARTINEZ: I'm just going to express some frustration
7 here. That was completely inappropriate to bring up in front of the jury.
8 These have been proposed exhibits since day one, before the jury ever
9 first came in here. He had the opportunity to review them. And as an
10 officer of the Court, I provided these cell phone reports at issue to
11 Carmine Collucci, to Mr. Beckett. And there have been multiple file
12 reviews.

13 And Mr. -- I don't know if Mr. Miles is trying to cause a
14 mistrial or something of that nature, but to say in front of the jury that I
15 withheld evidence from him is completely inappropriate. And I would
16 like some sort of admonishment that we did not do that.

17 He's filed multiple motions to suppress anything related to
18 the Samsung phone. He knows we had it. He's done multiple discovery
19 reviews. I've given this thumb drive that has Miles and the case number
20 to Carmine Collucci. I've given it to Mr. Beckett. And I -- there have been
21 discovery conferences where the Defendant has had the opportunity to
22 look at these multiple times and look on the docket. It's happened. And I
23 remember specifically. Mr. Collucci provided me a thumb drive. I made
24 a copy for him.

25 Our file has been open and repeatedly reviewed by Mr.

1 Beckett, Mr. Collucci, and Mr. -- and his investigator, Mr. Preusch. So he
2 has this. It's been the subject of litigation for some time. He's had the
3 photos that were retrieved from it. They were in his phone. And it's a
4 complete misrepresentation of the truth. And he's bringing it up in front
5 of the jury.

6 MR. MILES: And, Your Honor, this is not a misrepresentation
7 of the truth. I have all the CDs, and I have the thumb drive that he's
8 referring to. It's the thumb drive I was provided. It says 32 gigabytes.
9 All the evidence -- we can go through this right now. I didn't receive
10 anything associated with that report. I have all the CDs here.

11 My private investigator provided me these CDs. I'm pretty
12 sure Bob was provided CDs. We can look through them. We can go
13 through every CD right now, and that report will not be in there.

14 THE COURT: Mr. Beckett, will you take a look at the report
15 and see if you recall it?

16 MR. MILES: This is the thumb drive. We can plug it up right
17 now to the computer. The only report --

18 MR. MARTINEZ: Well, this is the thumb drive that showed
19 Mr. Collucci, showed Mr. Beckett, and actually copied to give to him.

20 MR. MILES: Well, I would say --

21 THE COURT: So they've reviewed it.

22 MR. MILES: I would say for the Court, Your Honor, they --
23 if -- I can't testify to -- I mean I can't speak for what anybody reviewed.
24 But I will remind Mr. Martinez that I'm the attorney of record. Whatever
25 he gave Collucci, Collucci is not here right now. He passed away. He

1 can't testify to that.

2 MR. MARTINEZ: Yeah. That's --

3 MR. MILES: I'm --

4 THE COURT: -- extremely convenient for the Defendant to be
5 able to say that Mr. Collucci never gave him anything, because he
6 passed away and is it able to represent that he did that.

7 MR. MILES: It sounds like it's convenient for the State too to
8 say well, he can't it to somebody who is not here and can't speak for
9 that. It goes both ways.

10 [Counsel confer]

11 MR. MILES: Never received them. We can go through
12 every -- I mean, look, I have the case file CD. I have the Ramsey
13 interview CD, jail phone calls.

14 MR. MARTINEZ: It's not going to be in the interview CD.

15 MR. MILES: I have the case file CD. That's case file. We can
16 check his own case file CD and see if it's in there.

17 THE COURT: Mr. Martinez, is that the same thumb drive that
18 was reviewed by the Defendant in court at Judge Togliatti's --

19 MR. MARTINEZ: Yes.

20 THE COURT: Okay. And he was given complete --

21 MR. MARTINEZ: Yes. See, they were given this thumb drive
22 to review. And we are not required to give them copies.

23 THE COURT: Correct.

24 MR. MARTINEZ: There are things on there that defendants
25 are allowed to see, period. So that's why Judge Togliatti gave him so

1 many opportunities to review the evidence in this case.

2 MR. MILES: And I --

3 THE COURT: And this is part of what they reviewed.

4 MR. MILES: And I will say the record does reflect Togliatti
5 said look, print out those documents. I made it clear that those
6 documents weren't printed out. We went through that before.

7 THE COURT: That wasn't our responsibility to do it. She told
8 Mr. Beckett to do it.

9 MR. MILES: That's --

10 THE COURT: I can't control what the Defense does, and we
11 are not required to provide copies. We are required to provide access to
12 what we have, which we did --

13 MR. MILES: And --

14 THE COURT: -- on multiple occasions.

15 MR. MILES: And, Your Honor, I mean the record is clear.
16 When I did the file reviews for what evidence we looked at, I mean the
17 only -- I didn't see this. Like I said, I have the case file CDs right here. I
18 have the thumb drive he's referring to. I had Mark personally download
19 everything he had on this thumb drive. It's a 32 gigabyte thumb drive
20 right here.

21 So I don't know if Mr. Martinez is saying he gave it to me. He
22 didn't give it to me. I mean I think the --

23 MR. MARTINEZ: I can't give him anything. I can't go to the
24 jail and give it to him.

25 MR. MILES: I mean I think my --

1 THE COURT: You are afforded the opportunity to review that
2 thumb drive; is that correct?

3 MR. MILES: I wasn't afford -- not -- no. I wasn't afforded the
4 opportunity to review that thumb drive. I wouldn't lie about it. I made
5 the record very clear, and this was a big issue for Togliatti. I'm like look,
6 I'm representing myself. And she said I agree. You can't print out a lot
7 of the stuff. It's a lot of discovery. And she came to the point where
8 she's like look, just print it out, so we don't have this issue. And I was --

9 MR. MARTINEZ: And that's why the --

10 MR. MILES: -- like thank you. And it was never printed out.

11 MR. MARTINEZ: That's why the taxpayers have been paying
12 for an investigator for four years of this case, paying Mr. Beckett to be
13 his counsel and then also standby counsel, because he -- if they didn't
14 print it off, it's not my fault and it's not an unfair surprise. He's been
15 aware, and they've had multiple opportunities to review this and make
16 copies of this. Mr. Preusch has been to my office at least on two
17 occasions to review the entirety of my file and copy whatever he wanted.
18 So has Mr. Beckett.

19 So our entire file I can represent has been subject to review,
20 including this, the entire time. And I'm not required to make copies for
21 the Defendant. That is not anywhere. They have to have access to what
22 I have. And if they want copies, they can make copies. This was not
23 hidden from the Defense at any point in time. Evidence that was on the
24 phone report was in my PowerPoint. It was in the proposed exhibits.
25 And Mr. Miles is now bringing this up in front of the jury on pretty much

1 the last day of trial to -- I don't know what his reasons are. I'm not in his
2 head, but this is absolutely absurd.

3 MR. MILES: I understand what --

4 THE COURT: Mr. Beckett.

5 MR. MILES: -- Mr. Martinez is trying to --

6 THE COURT: Hang on.

7 MR. MILES: -- make it seem like --

8 THE COURT: Hang on.

9 MR. MILES: -- because I want to --

10 THE COURT: Hang on.

11 MR. MILES: Okay. Okay. I'm sorry, Your Honor.

12 THE COURT: Can you weigh in?

13 MR. BECKETT: Yes, Judge. I was instructed by Judge
14 Togliatti to take the thumb drive and print out every -- all the content on
15 that thumb drive. It turned out to be about 6,000 pages, which I had
16 done it at FedEx off of Cheyenne or Lake Meade. And it filled up -- put --
17 and Mr. Miles has -- had put like four pages on one actual page, double
18 sided, so it could be somewhat manageable, and we could put it all in
19 one banker's box. And that was delivered to Mr. Miles.

20 MR. MILES: Okay. And --

21 MR. BECKETT: I mean I'm just saying that was it.

22 MR. MILES: And I just want -- for the record, what he's
23 saying about them printing out those records, he printed out those
24 records, but it wasn't the records that he's referring to. I have all those in
25 the jail. I could go get them right now. None of those documents

1 that -- those 6,000 pages I've printed out has one page of that. The
2 only -- it has nothing on the Samsung. And I can go get that. We can go
3 through every page. I haven't moved any of the pages. The only thing
4 it --

5 MR. BECKETT: Right.

6 MR. MILES: -- has is the ZTE contents. I remember it having
7 the ZTE contents. It had the LG cellular phone contents, Facebook
8 contents, and that was it. That came up to 6,000 pages. And I could go
9 get that to represent to the Court that I'm telling the truth. I wouldn't lie
10 about this. It's a lot of evidence in the case --

11 MR. MARTINEZ: I wouldn't lie about it either.

12 MR. MILES: -- that he's using that I didn't say oh, I didn't see
13 this either. I -- we can go down to the jail, so I can go get it right now.

14 MR. MARTINEZ: That solves nothing.

15 MR. MILES: If we want to get to the bottom of whether
16 this -- is furnished to me, you can go get to the bottom of it.

17 MS. RHOADES: We don't have to furnish it to him.

18 THE COURT: Wasn't -- didn't you file a motion to suppress
19 all of this evidence from the Samsung though?

20 MR. MARTINEZ: Yes, he did.

21 MR. MILES: Well, I -- the evidence I was suppressing was he
22 took photographs of the Samsung phone. That's the only evidence I
23 received was the photographs --

24 THE COURT: Come on.

25 MR. MARTINEZ: That is absolutely --

1 MR. MILES: He did -- Your Honor.

2 THE COURT: A motion to suppress a photograph of a
3 phone?

4 MR. MILES: Yes. That's what he gave to me.

5 THE COURT: Is that what the motion was?

6 MR. MILES: Yeah.

7 THE CLERK: I can go look, Your Honor.

8 THE COURT: Pull that motion, will you, please? I don't even
9 know when that motion would mean.

10 THE CLERK: Does anyone know when it was filed?

11 MR. MILES: Wait, wait, wait.

12 MR. MARTINEZ: There were --

13 MR. MILES: I didn't -- I don't remember actually filing a
14 motion to suppress --

15 THE COURT: It seems like you're not --

16 MR. MARTINEZ: I remember filing an opposition to it.

17 MR. MILES: I filed a motion to suppress the LG phone. And I
18 filed a motion to suppress the ZTE. But I -- no, I didn't file a motion to
19 suppress the Samsung phone. That's a misrepresentation. I could
20 actually represent that I didn't file a motion to suppress that. Maybe a
21 motion in limine, but the motion in limine was any text messages. It was
22 broad. It had nothing -- really had nothing to do with anything. I filed it
23 just to file it. I'm always the one that typed it up for them --

24 THE COURT: Well, you know what? I don't appreciate your
25 filing motions that don't have anything to do with anything in filing just

1 to file it, because we have motions that need to be filed.

2 MR. MILES: Well --

3 THE COURT: So I'm real -- please.

4 MR. MILES: I think I actually misspoke, Your Honor. When --

5 THE COURT: Yeah.

6 MR. MILES: -- I said it didn't have nothing -- I'm talking about
7 it has nothing to do with this situation.

8 MR. MARTINEZ: And regardless of whether there was a
9 motion filed or not, since there were dozens and dozens of motions filed,
10 this was made available to the Defense on multiple occasions to copy --

11 THE COURT: All right.

12 MR. MARTINEZ: -- print, download.

13 THE COURT: I hate to ask you to do that, but can you pull
14 up --

15 MR. MARTINEZ: Absolutely.

16 THE COURT: -- the thumb drive and where the photos are.

17 And Mr. --

18 MR. MILES: And, Your Honor --

19 THE COURT: I'm not talking to you right now.

20 MR. MILES: I'm sorry. I'm sorry.

21 THE COURT: Mr. Beckett, you have looked at that thumb
22 drive and you've confirmed that that, in fact, is the thumb drive that you
23 reviewed and that you copied in its entirety and delivered to the
24 Defendant?

25 MR. BECKETT: I'll verify that now, Judge.

1 THE COURT: Okay. Thank you.

2 MR. MARTINEZ: Okay. On this thumb drive are two phone
3 examinations that were done, the ZTE and the Samsung.

4 THE COURT: Okay.

5 MR. MILES: Yes.

6 MR. MARTINEZ: That's was in the envelopes, the separate
7 envelopes. Some going to open up the Samsung.

8 THE COURT: Does that include the ZTE phone?

9 MR. MARTINEZ: Yes.

10 THE COURT: Yes.

11 MR. MILES: And, Your Honor, if I may. He's already
12 represented that the 6,000 pages that Bob printed up was that. That's
13 what he -- I --

14 MR. MARTINEZ: I didn't represent that.

15 MR. MILES: That's what he said.

16 MR. MARTINEZ: I did not represent that.

17 MR. MILES: I said that.

18 MR. MARTINEZ: I said the thumb drive was made available
19 to copy, to print out, and do whatever. Mr. Beckett printed out whatever
20 he printed out. I have no idea. I wasn't with him at FedEx with he did it.

21 MR. MILES: I mean that's what was represented to the Court.
22 He said yes, I printed out the thumb drive. It was 6,000 pages. None of
23 those pages have that in there. I wouldn't lie about it. What is that going
24 to do for me? He's already had other photos that has been admitted into
25 evidence. That doesn't change anything.

1 THE COURT: Didn't I just ask you to stop for moment?
2 MR. MILES: Yeah.
3 THE COURT: Thank you.
4 MR. MARTINEZ: Okay. I need to --
5 MR. MILES: I'm just trying to --
6 THE COURT: Just sit down --
7 MR. MILES: Okay.
8 MR. MARTINEZ: I need to be able to connect to the internet.
9 THE COURT: -- for a minute.
10 MR. MARTINEZ: Is there a --
11 THE COURT: Where's the rest of the exhibit? Did I -- do you
12 have it?
13 THE CLERK: I have the exhibits. We have the exhibits.
14 THE COURT: You have it over there?
15 MR. MARTINEZ: That's a proposed exhibit that I was going
16 to give to Mr. Ramirez. It's a cover sheet of his report and some
17 information that was retrieved from his report that he's going to be able
18 to authenticate --
19 THE COURT: Okay.
20 MR. MARTINEZ: -- that came from the phone. I'm not
21 printing out thousands and thousands of pages of an exhibit for the jury
22 to go through. I'm printing out what I think is appropriate for this case.
23 THE COURT: Okay.
24 MR. MARTINEZ: And that's what he's going to identify. Do
25 you want these?

1 THE COURT: What's that?

2 MR. MARTINEZ: These are our -- just the exhibits. I thought
3 you were asking for the exhibits.

4 THE COURT: No. Where's the things I just showed Mr.
5 Beckett to look at to see if he'd seen before?

6 MR. MARTINEZ: Oh, that's -- it's the phone -- that's --

7 THE COURT: That's what we're talking about right now. I
8 just didn't --

9 MR. MARTINEZ: Okay.

10 THE COURT: -- know where it went. Okay. Go ahead. And
11 you're pulling it up in the thumb drive?

12 MR. MARTINEZ: I just need to be able to connect to the
13 internet to be able to --

14 THE CLERK: Here.

15 MR. MILES: And, Your Honor, I will say I think the case law is
16 clear. It says -- and he said there's some things I can't have at the jail.
17 There's already case on that. Those have to --

18 THE COURT: Mr. Miles.

19 MR. MILES: -- be provided.

20 THE COURT: Mr. Miles, did I ask you to wait? We are doing
21 this now.

22 MR. MILES: Okay.

23 THE COURT: All right?

24 MR. MILES: Yeah. I'm just -- I apologize, Your Honor. I'm
25 not trying to -- I apologize.

1 THE COURT: You keep apologizing, but then you keep --

2 MR. MILES: Yeah.

3 THE COURT: -- going on and on. So just sit down and be
4 quiet --

5 MR. MILES: All right.

6 THE COURT: -- until we get this figured out. And then I will
7 give you all the time you need to make whatever record or argument you
8 want to make.

9 [Pause]

10 THE COURT: Did you figure out how to connect to the
11 internet?

12 MR. MARTINEZ: It's not letting me connect.

13 THE COURT: Morgan says she uses the guest Wi-Fi.

14 THE CLERK: The Clark guest.

15 THE COURT: Anybody know how to help him?

16 THE CLERK: I can go down there.

17 THE COURT: All right. Go help him.

18 MR. MARTINEZ: There. It just -- I just connected.

19 THE COURT: You're good?

20 MR. MARTINEZ: Yeah.

21 THE COURT: All right. I'll be right back. See if you can find
22 that.

23 [Pause]

24 MR. MARTINEZ: Are we still on the record or no?

25 THE CLERK: Do you want to get off?

1 MR. MILES: No. We can stay on the record. Just stay on the
2 record for everything that's been said.

3 THE CLERK: Well, the judge is off the bench, so --

4 MR. MILES: Well, I was just saying that's how I felt.

5 [Recess taken from 11:18 a.m. to 11:25 a.m.]

6 [Outside the presence of the jury.]

7 THE COURT: Okay. It's my understanding that the State in
8 the presence of the Defendant and Mr. Beckett have pulled up the thumb
9 drive and found the records on the thumb drive that Mr. Beckett has
10 confirmed you viewed with the Defendant or printed out?

11 MR. BECKETT: I printed out, Judge. And then I -- at the time
12 he was at High Desert and we gave him the Baker box when he came to
13 court, Judge Togliatti and took the bankers box back with him which
14 contained 6,000 pages that were on the thumb drive which I had printed
15 out.

16 MR. MILES: And Your Honor --

17 THE COURT: Which --

18 MR. MILES: Oh, okay. I thought he was done. Sorry.

19 THE COURT: Which you verified -- you just viewed on the
20 thumb drive that you had previously seen?

21 MR. BECKETT: I had seen pictures, I remember seeing those
22 pictures. I remember seeing a lot of pictures. There was 6,000 pages,
23 Judge.

24 THE COURT: Obviously --

25 MR. BECKETT: I mean I do remember seeing pictures and

1 one other thing to say, there were some pictures that depicted nudity
2 which of course we couldn't put in and give Mr. Miles, but those weren't
3 those pictures. These pictures do not depict nudity.

4 THE COURT: Okay. So those were not pictures that you
5 selected to not give him?

6 MR. BECKETT: Correct.

7 THE COURT: So it's your belief that you gave him those?

8 MR. BECKETT: Only the pictures that depicted nude, you
9 know --

10 THE COURT: Your belief is that you would have had those?

11 MR. BECKETT: Correct.

12 THE COURT: He would have.

13 MR. BECKETT: Well, I mean if it was on the thumb drive --

14 THE COURT: Which you've confirmed.

15 MR. BECKETT: -- it would have been printed out and it would
16 have been given to Mr. Miles if they were on the thumb drive.

17 THE COURT: And you just confirmed that they were on the
18 thumb drive.

19 MR. BECKETT: And Mr. Martinez is showing me the contents
20 of the thumb drive and these pictures were on the thumb drive.

21 THE COURT: Okay.

22 MR. MARTINEZ: And there's also been file reviews in my
23 office by Defense investigators, by standby counsel and counsel for the
24 Defense to review and copy whatever they wanted. They've had access
25 to this for --

1 THE COURT: Can I see them again now?

2 MR. MARTINEZ: Yes. So what the proposed exhibit is, Your
3 Honor, it's the cover page on Mr. Ramirez's report.

4 THE COURT: Okay.

5 MR. MARTINEZ: He's going to be able to identify that as his
6 report, the cover page.

7 THE COURT: Okay.

8 MR. MARTINEZ: And then we're going to go through some
9 of the things that he was able to recover from the Defendant's phone
10 that are certain images that are basically snippets of his actual physical
11 report that he's going to be able to identify as being recovered and a part
12 of his report contained in that.

13 THE COURT: Okay.

14 MR. MARTINEZ: And whether or not this report is in the
15 6,000 pages, isn't the final issue. The issue is they've had the
16 opportunity to review this thumb drive multiple times. It's been
17 available. They've reviewed my binder, the detective's binder and this
18 thumb drive has been available to the Defense ever since I got this and
19 that was over three years ago.

20 THE COURT: Well, I'm completely satisfied that Mr. Beckett
21 viewed it, printed it and gave it to the Defendant.

22 MR. MILES: And, Your Honor, that's not --

23 MR. MARTINEZ: And Mr. Preusch [phonetic] and so did Mr.
24 Colucci when he was alive.

25 MR. MILES: And I'll just clarify Bob. He's not saying that

1 those 6,000 pages had those documents in it. That's not what he's
2 saying. He's saying if it was, then it maybe, which I just discussed with
3 him. He's not saying the 6,000 pages for sure had that evidence in it.
4 Like I said, I have the evidence --

5 THE COURT: Mr. Beckett, will you speak for yourself please
6 instead of --

7 MR. BECKETT: Yes, Judge.

8 THE COURT: -- what are you saying?

9 MR. BECKETT: What I said earlier was the printout of 6,000
10 pages I remember a number of photographs that were in that 6,000
11 pages. The only photographs that were not included and were not given
12 Mr. Milles were the photographs that depicted nudity which was he
13 cannot have while he's in custody.

14 THE COURT: Okay.

15 MR. BECKETT: And these photographs, they look familiar,
16 but I can't say exactly for sure whether those are the exact photographs.
17 It was a long time ago. But there were a number of photographs and
18 everything that was on the thumb drive, every photograph that was on
19 the thumb drive that didn't depict nudity was printed and given to Mr.
20 Miles.

21 MR. MARTINEZ: And I'd just ask Mr. Beckett to represent if
22 he's had the opportunity to review my entire file including this.

23 MR. MILES: Your Honor, I don't think that's the issue.

24 MR. MARTINEZ: I'm sorry, he's speaking right now.

25 MR. BECKETT: We did. We sat in court, in Togliatti's court.

1 We went through the entire file that Mr. Martinez has in front of him and
2 there was a computer -- and with Mr. Preusch. And we had the
3 opportunity to also review the thumb drive and CD's --

4 MR. MARTINEZ: Including this thumb drive. It says, "Miles
5 and 15F03450X" which is the justice court number which I've had since
6 this case was in justice court in 2015.

7 THE COURT: Okay.

8 MR. MILES: And --

9 MR. MARTINEZ: That's why Mr. Colucci, Mr. Beckett, Mr.
10 Preusch have all had the opportunity to review this. There are --

11 THE COURT: And that was in the presence of Mr. Miles; is
12 that correct?

13 MR. MARTINEZ: I don't know.

14 MR. MILES: Your Honor --

15 MR. MARTINEZ: I wasn't able to be a part of that because
16 she wanted to be able to do it --

17 THE COURT: Right.

18 MR. MARTINEZ: -- outside the prosecutor's presence.

19 THE COURT: Mr. Beckett?

20 MR. BECKETT: We had at least -- well, the two --

21 MR. MILES: Yeah. Two. We had two.

22 MR. BECKETT: -- at least two sessions where we met in the
23 courtroom. Judge Togliatti was not present. Mr. Martinez was not
24 present. It was just Mr. Miles, Mr. Preusch at times and myself with the
25 CD's, with the thumb drive and a computer and we had as much time as

1 we need. We were offered at least three hours **5:26 (indiscernible) if
2 needed --

3 MR. MARTINEZ: On multiple occasions.

4 MR. MILES: And then I made a record --

5 MR. BECKETT: -- on at least two occasions.

6 MR. MILES: And then I made a record exactly of what I
7 received. We can go review that record. That's why I told Preusch to
8 provide me all the CD's. I have the CD's right here. If he's saying I didn't
9 -- it's crazy.

10 Your Honor, Mr. Martinez said the 6,000 pages contain those
11 documents in it, now he's changing around saying, okay. Well, that's not
12 the issue. I provided it to Bob. You can't throw this on Bob. I have all
13 the CD's that were provided to me by Mr. Martinez.

14 MR. MARTINEZ: I never handed anything to the Defendant.

15 MR. MILES: So he's saying he's never handed me anything.
16 The CD's --

17 MR. MARTINEZ: It's always been through the investigator --

18 MR. MILES: I wasn't actually finished. I let Mr. Martinez talk.

19 MR. MARTINEZ: -- or through Defense counsel that was
20 appointed.

21 MR. MILES: I'm trying to wonder when I can make my own
22 representations. That wasn't provided to me. And I have the CD's if
23 Your Honor feels like there might be some type of manipulation going
24 on.

25 THE COURT: You know what, I don't.

1 MR. MILES: I'm keeping it real. He said the 6,000 pages was
2 on the thumb drive and printed out. I'm not disputing 6,000 pages were
3 printed out.

4 I'm saying to 6,000 pages he's saying was printed out, didn't
5 have that evidence on it and we can go verify that. It didn't have it on
6 there.

7 THE COURT: I am finding that you have been offered the
8 opportunity to inspect --

9 MR. MILES: Okay.

10 THE COURT: -- as required by law. Whether you remember
11 it or saw it or not. I think the State has done what they can under the
12 circumstances no more than it's your fault is it their fault that it was
13 provided to Mr. Colucci who passed away and then we had new counsel
14 and now you're representing yourself.

15 It appears that the State has made repeated efforts to give
16 you the opportunity to have everything that they have. I don't think
17 anybody's pulling anything over.

18 Do you need a little bit of time to look at these?

19 MR. MILES: Well, see -- yes, I do. From what I was looking
20 at, it looked like a contained email addresses. Email addresses wasn't in
21 my discovery as far as the Samsung phone. I don't -- never seen those
22 email address.

23 MR. MARTINEZ: It was --

24 MR. MILES: I didn't get a chance to review it, see if it's
25 relevant to the case. I might need to call additional witnesses. I don't

1 know. I haven't had a chance to look at it. He's saying they're the
2 pictures -- the stuff he's trying to say he provided to me, he didn't
3 provide to me and he knows that. And I made a record every time -- we
4 did the file review, I made a record for the Court saying exactly what I
5 had and exactly what I didn't have because I knew it might come to an
6 issue where he tries to throw something in there that I didn't see. I made
7 sure the record was clear.

8 When I had Bob as a counsel, I made it clear what he
9 provided to me what he did provide to me, that's why the pages were
10 printed out. Then I made a record of what pages was printed out, what
11 had it on here.

12 THE COURT: I'm confident that you did not make a record of
13 6,000 pages.

14 MR. MILES: I have the court minutes and I could -- if Your
15 Honor wants to read --

16 THE COURT: Did you document 6,000 documents?

17 MR. MILES: The only thing I was saying was when it came --

18 THE COURT: You didn't. I've done the best I can to figure
19 out where we are. So this is where we are, I believe it's been produced
20 or at least you've been able to inspect it previously. Now I need to know
21 what do we do here going forward?

22 MR. MILES: I would need to review it, see how it's relevant
23 to the case, what type of defense I would need to --

24 THE COURT: Well you know how it's relevant to the case. I
25 mean you've done motions to suppress on every one of these phones.

1 You know what's been on the phones. You know what the accusations
2 are. It was there in opening from the very get go. This picture was in
3 opening.

4 MR. MILES: It's not the pictures, Your Honor, that I'm
5 disputing. It's the emails. I never seen those emails. He hasn't talked
6 about anything with emails yet.

7 MR. MARTINEZ: Yes, I did. In my opening.

8 THE COURT: Mr. Martinez, do we need the email addresses?

9 MR. MARTINEZ: Yes, we do.

10 THE COURT: Okay.

11 MR. MARTINEZ: And I can make a proffer as to why those
12 are relevant.

13 THE COURT: Please.

14 MR. MILES: Okay.

15 MR. MARTINEZ: In the State's Exhibit 4 which are the
16 Craigslist ads, the three pages of Gabby being advertised by the
17 Defendant --

18 THE COURT: Uh-huh.

19 MR. MARTINEZ: -- with the photos and the number across,
20 there is a poster email on each of these advertisements and it's a
21 different Gmail account on each one. Each one of these emails, so
22 mymojo01@gmail.com, isabellawilliams8567@gmail.com and
23 jocelyndiaz3746@gmail.com are stored in the Defendant's phone.

24 It's on the Craigslist ad posting in the Craigslist records of the
25 advertisements of Gabby. So that's how it's relevant. They're connected

1 to his phone.

2 And so what I printed out, Judge, were snippets of his entire
3 report that I feel that I wanted to present to the jury. So there are
4 photographs found in the Samsung phone that was recovered from the
5 Defendant that are pictures of Gabby with cellphone or with phone
6 numbers across it and some without. There are photos of Ms. Ramsey,
7 some with numbers, some without. And there are many other girls,
8 photographs like that. There are multiple males sending selfies. I can't
9 speak for what those are, I don't know why men were sending selfies of
10 themselves to Mr. Miles. I can only guess. I'm not raising that to the
11 jury.

12 THE COURT: Okay.

13 MR. MARTINEZ: I'm not bringing that up. I'm just bringing
14 in the portions of the report having to do with Gabby, with the email
15 addresses matching what is on the Craigslist ads.

16 And this has been on the report since day one available to
17 Defense investigators, Defense attorneys, standby counsel and
18 Defendant to review.

19 MR. MILES: And Your Honor if I may whenever I can speak.

20 THE COURT: You may speak.

21 MR. MILES: Okay. Like he said and then like I represented
22 previously, I've never seen these email addresses from any type of
23 report. I have all the CD's here. I told Mark to print out and give me
24 every CD he has on file just in case it comes to something weird and I
25 thought it was going to be probably jail calls or something. And Mark

1 will tell you that himself. I said, Mark, can you bring me every CD you
2 have? And I said that on the jail phone too and that's recorded. I said,
3 can you bring me every CD that you have and that you received from
4 Martinez that we reviewed to make sure I've seen everything in the case,
5 and I can prepare my Defense. He said, Yes, I'll do that for you. He said,
6 I'll even bring you the thumb drive.

7 All the CD's are here. These were the CD's that Mr. Martinez
8 provided me. He said that was all the evidence he had. These are the
9 CD's I have, and I've never seen that on any of this information in here.

10 He represented to the Court that the thumb drive had the
11 6,000 pages which he printed out and Bob used it and printed it out from
12 FedEx. It didn't have that in there. Didn't have those email addresses in
13 there. It didn't have anything to do with Samsung in there, period. It
14 only had two phones. The ZTE phone, the LG phone and two Facebook
15 accounts. That came down to 6,000 pages.

16 The Facebook messages alone for one account was 3,000
17 page. So a lot -- and --

18 THE COURT: Mr. --

19 MR. MILES: Okay.

20 THE COURT: Mr. Martinez, this report, was this all at the
21 same time provided or is this different?

22 MR. MARTINEZ: It was on this thumb drive. So what I did
23 was print it off from the from Mr. Ramirez's report, so these are copies,
24 electronic copies of his report. And he can --

25 THE COURT: In the thumb drive?

1 MR. MARTINEZ: In the thumb drive.

2 THE COURT: Can you do me a favor? You have it there?

3 MR. MARTINEZ: Yes.

4 THE COURT: Can you pull that up and see the date the file
5 was created?

6 MR. MARTINEZ: Absolutely.

7 THE COURT: Please.

8 MR. MARTINEZ: On the cover sheet? Is that what you're --

9 THE COURT: On the thumb drive when the file with the
10 report was made.

11 MR. MARTINEZ: Oh, I see what you're saying. When Mr.
12 Ramirez made the report or when --

13 THE COURT: No. When you --

14 MR. MARTINEZ: -- it was saved on this report or this thumb
15 drive?

16 THE COURT: Exactly. When it was saved on that thumb
17 drive.

18 MR. MARTINEZ: Sure.

19 MR. MILES: And can I actually view the property report too
20 just to verify he's representing that correctly, Your Honor, if I may?

21 THE COURT: The what? I'm going to have --

22 MR. MILES: Because I can understand what Your Honor's
23 saying, Your Honor is saying look at the property reports, see when the
24 file was created so we could determine if it was provided and I think
25 that's fair, we should get to the bottom of it.

1 THE COURT: She's taking these exhibits to go make copies.
2 So to the extent Mr. Miles needs to look at them.

3 [State and Defense confer]

4 THE COURT: We're going to go off the record for a minute,
5 okay? I'll be back.

6 [Recess at 11:39 a.m., recommencing at 11:46 a.m.]

7 [Outside the presence of the jury.]

8 THE COURT: Mr. Martinez, were you able to find when that
9 file was uploaded to the thumb drive?

10 MR. MARTINEZ: Yes, Your Honor. September 22nd, 2015.
11 And Mr. Beckett reviewed that, and Mr. Miles saw it as well.

12 MR. MILES: No. That's a misrepresentation, Your Honor.
13 We just got to the bottom of it. I just reviewed what he's talking about,
14 that has --

15 MR. MARTINEZ: Here is it right there. September 22nd,
16 2015.

17 MR. MILES: No. I'm not talking about the date being a
18 misrepresentation. I'm talking about I just reviewed more of those files.
19 That printout alone is probably like 8,000 pages. It has CSS files, it has
20 JavaScript files. That's the UFED file I've been requesting and was never
21 provided. I make the record clear on that, where's these UFED files at?

22 My motion to dismiss on one of the cellphones was where's
23 the UFED file? He didn't respond to that. He didn't say nothing about it.
24 That's pretty much a UFED file and I'll make that clear for the record, I
25 want these UFED files. He doesn't want to print that out or even show it

1 to me.

2 MR. MARTINEZ: That was the LG phone. The record that I
3 would like to make this point because I think you've already made a
4 ruling last time you were in here, were we on the record about the
5 access that was provided --

6 THE COURT: Yes. Yes.

7 MR. MARTINEZ: -- to all of the Defense multiple times? So
8 Mr. Miles in front of the jury represented that he had never been
9 provided that information and that he had never seen it and maybe he
10 has never seen it.

11 But the inference to the jury is that the State withheld
12 evidence from the Defendant and then the jury stepped out when I said
13 we need to do this outside the presence of the jury.

14 So I think -- and the State's entitled to a fair trial too and it
15 shouldn't be hanging out there that the State withheld evidence from the
16 Defendant especially when it's not true. They need to be instructed or
17 admonished or something to that effect that it actually was made
18 available for review or something to that effect because that's not fair to
19 the State if we just keep going and the jury thinks that we withheld that
20 from the Defense, because we didn't.

21 THE COURT: Here's what I'm going to do, let me figure out
22 what I can do. I agree that that was kind of the tone and it's going to be
23 exacerbated because my inclination is to go forward, but not until
24 Monday. To send the jury home for the day and give the Defendant the
25 opportunity just to keep the record clean. I believe he had it. I believe he

1 didn't see it, or he didn't find it or whatever.

2 MR. MARTINEZ: Your Honor, we may have some scheduling
3 issues with our witnesses. They're expecting to testify today. They're all
4 here.

5 MR. MILES: Your Honor, if I can please make a record after
6 he's done.

7 MR. MARTINEZ: They've made arrangements in their
8 schedules to be here and this this has been available to the Defense for
9 years --

10 THE COURT: You know what, Mr. Miles? Stop it.

11 MR. MILES: Okay.

12 THE COURT: I don't need it. I believe you should have
13 looked at this and you're causing the difficulty because you didn't review
14 the documents. So don't be heavy sigh and tsk and tsk over here under
15 your breath.

16 MR. MILES: Okay. I understand that.

17 THE COURT: You're wasting a lot of people's time here.

18 MR. MILES: But I just wanted to please represent to the
19 Court, he said that that 6,000 pages, that's the UFED file. If we print that
20 out, that will probably be 10,000 pages.

21 MR. MARTINEZ: I did not say that.

22 MR. MILES: First he --

23 MR. MARTINEZ: Mr. Beckett said it --

24 MR. MILES: He knows he didn't provide that to me. It's
25 clear. That's a UFED file.

1 THE COURT: Is there a file there of 8,000 pages --

2 MR. MARTINEZ: I have no idea.

3 THE COURT: -- within that file there? What is the entirety of
4 that --

5 MR. MARTINEZ: I can bring it up to Your Honor.

6 MR. MILES: Can we play it on the screen?

7 MR. MARTINEZ: It's the full reports. Absolutely.

8 MR. MILES: I think it would be better.

9 MR. MARTINEZ: Sure.

10 MR. MILES: Let's look at it on the screen.

11 MR. MARTINEZ: Sure.

12 MR. MILES: We can -- each file and I'll explain it.

13 MR. MARTINEZ: And we can have --

14 MS. RHOADES: The [indiscernible] exam, Your Honor, has
15 different --

16 MR. MARTINEZ: Sections.

17 MS. RHOADES: -- and then you go into each different
18 section and things come up on each different section. So you have to go
19 into each of them.

20 MR. MARTINEZ: And then there's an overall report that's
21 web based.

22 THE COURT: So let me -- if Mr. Beckett printed out 6,000
23 pages, are you telling me that he would not necessarily have printed out
24 everything?

25 MR. MARTINEZ: I have no idea what he printed out.

1 THE COURT: But you know if there's more than 6,000 pages
2 there, that's what I'm asking you. If Mr. Miles is saying that one file
3 alone has 8,000 pages in it, then clearly Mr. Beckett did not print out
4 14,000, you know what I'm saying?

5 MR. MARTINEZ: I've never attempted to print it out because
6 it's just too --

7 THE COURT: Well can you look and see?

8 MR. MARTINEZ: That's not how this program works, Your
9 Honor. It doesn't say how many pages it is. It's not that kind of a report.

10 MR. MILES: Well, from what I look at Your Honor it's a CSS.
11 Normally when -- because I do know a little bit about computers --

12 MR. MARTINEZ: Yeah.

13 MR. MILES: -- and how they work. That's why I wanted the
14 UFED file to be able to prove if something was altered. CSS files is
15 cascading stylesheets. Obviously we have HTML files in there too. I'm
16 able to look at the evidence from the forensic examination and
17 determine line by line what the evidence is, where it came from, where
18 was it located, and it has all of that information in there and it's broken
19 down section by section.

20 He had all of that. That was definitely not printed out to me.
21 I've been requesting that, I made the record clear --

22 MR. MARTINEZ: It's not my responsibility to print anything
23 out for the Defendant.

24 THE COURT: I --

25 MR. MILES: I didn't look at it either.

1 MR. MARTINEZ: So however many thousand pages he got --

2 THE COURT: I --

3 MR. MARTINEZ: -- it doesn't matter. The rule is I make it
4 available to the Defense to examine. I don't have to provide copies.

5 THE COURT: I --

6 MR. MARTINEZ: I don't.

7 THE COURT: I completely agree.

8 MR. MARTINEZ: And respectfully, Judge, I don't think
9 continuing -- it's a severe prejudice to the State if we just continue it to
10 Monday. They've had years to review this. There's been multiple file
11 reviews. It's finally time for trial and at the very end Mr. Miles claims he
12 didn't get something. It is completely prejudicial, inappropriate and says
13 it in front of the jury.

14 MR. MILES: And --

15 MR. MARTINEZ: So the jury's going to go home --

16 THE COURT: No. And that's why I'm going to figure out a
17 way to let them -- because I do absolutely find that the State has been in
18 good faith throughout. So I'm just not clear how I want to make the
19 record to the extent.

20 MR. MILES: And Your Honor, he's saying I've seen it, I didn't
21 see it. And that's clear from his own thumb drive right there, that's clear.
22 Like I said, probably the whole discovery in this whole case will probably
23 be like a hundred thousand pages.

24 THE COURT: Can we continue this witness until Monday and
25 go on with somebody else?

1 MR. MARTINEZ: I don't know what his availability is.

2 THE COURT: Vince will work with you.

3 MR. MARTINEZ: It was a miracle we got him here when we
4 did.

5 THE COURT: I know. I know.

6 MR. MILES: Can I make an offer of proof?

7 MR. MARTINEZ: It's --

8 THE COURT: No, you can't do anything right now.

9 MR. MILES: Okay.

10 THE COURT: Can you just go check with him please?

11 MR. MILES: Your Honor, may I say something please?

12 THE COURT: No.

13 MS. RHOADES: He said he can come back on Monday. I
14 think if anything if the Court wants to give him time to review, he can
15 take the lunch hour, he can look at this.

16 THE COURT: That's what I'm contemplating right now.

17 MS. RHOADES: And then bring Vince back and we can go on
18 with our case.

19 THE COURT: That's what I'm thinking.

20 MR. MILES: And see Your Honor, f I may, the only thing is
21 I'm saying is that since I don't know the whole content of his forensic
22 examination, they're only showing culpatory evidence. What about
23 culpatory evidence? I don't know what else is on there. They're just
24 showing me, okay, well this is the culpatory evidence we're using that
25 hasn't been provided.

1 MR. MARTINEZ: Fine. I'll let the jury see the whole phone.
2 That's fine. If he wants it on there, that's fine.

3 MR. MILES: That's not the issue. Now the next issue is, how
4 do I use it for my case? Like he said, he thinks it's prejudicial for him.
5 What about me? I'm the one being charged with the crime. I have the
6 right to prepare a proper defense. I didn't have a time to prepare a
7 defense for this. I didn't know he was using it, where he was going with
8 that.

9 THE COURT: What do you mean you didn't know where he
10 was going with that? Where did you think he was going with it?

11 MR. MILES: No, I'm talking about -- no, not with this report
12 itself. When I said that, I was actually referring to he showed the little
13 Craigslist ad. I seen the email on there, wasn't thinking nothing about it.
14 Now he's saying he's going to use this email address to add some type
15 of corroborating evidence to establish, well, okay --

16 THE COURT: Well, it's on your phone.

17 MR. MILES: That's not my phone.

18 THE COURT: It's actually fairly compelling evidence.

19 MR. MILES: That's not my phone.

20 MR. MARTINEZ: Go ahead and testify to that.

21 THE COURT: Well, then what are you worried about?

22 MR. MILES: I'm worried -- well, what I want to do is do I
23 need more investigators, do I need --

24 THE COURT: Well, if it's not your phone, who cares what's
25 on it?

1 MR. MILES: But see, I didn't have a chance to defend, to
2 properly defend myself in this.

3 MR. MARTINEZ: Yes --

4 MR. MILES: I didn't know about any of this.

5 THE COURT: If it's not your phone, who cares what's on it?

6 MR. MILES: Well because he has -- conveniently he has
7 witnesses blaming me for the phone. So I had no idea they was going to
8 testify to that to five days before the trial. He just put Ramsey on the
9 stand, I mean on his notice of witness list five days before trial. I didn't
10 know that. Now she's all of a sudden saying, well that's his phone.

11 MR. MARTINEZ: Okay.

12 MR. MILES: Although she admitted --

13 MR. MARTINEZ: So if we're going to abide by the rules then,
14 then he -- his witness list isn't complete, and Officer Jacobs is not on
15 there. So now I'm going to object to being able to have Officer Jacobs
16 testify and I'm going to be moving for the admission of this business
17 records affidavit that has the Defendant's phone number. Since we're
18 throwing everything out the window of what we agreed to, then let's do
19 it.

20 MR. MILES: Okay. And then I would object to that report
21 because when is that affidavit dated?

22 MR. MARTINEZ: April 4th, 2019.

23 MR. MILES: Okay. Trial started when? When was that
24 provided to me, the affidavit?

25 MR. MARTINEZ: Yesterday. Yesterday.

1 MR. MILES: In trial?

2 MR. MARTINEZ: Yes.

3 MR. MILES: You provided me evidence in trial?

4 MR. MARTINEZ: Exactly. Yes, sir.

5 MR. MILES: So I never got that -- to see that evidence?

6 MR. MARTINEZ: Right. Right.

7 MR. MILES: Okay. I just wanted to make a record for that.

8 MR. MARTINEZ: Sure.

9 MR. MILES: So it's more evidence that I haven't received
10 from the State that they're just admitted into evidence during the whole
11 trial.

12 MR. MARTINEZ: When Mr. Miles says that his defense is that
13 phone number never existed before February 25th, 2015 and I have
14 direct evidence to show that it actually did, and not only did it exist, it's
15 associated with him. He pawned a printer in 2014, October 2014. Gave
16 the information and it has his phone number on there, it has his name,
17 his driver's license, his same address, everything.

18 So when you talk about good faith, I mean, he's representing
19 himself, that's one thing. And he makes it more difficult for himself
20 because it makes discovery more difficult. And Judge Togliatti spent
21 years giving him the opportunity to review everything. That's why we
22 have so many motions. He filed motions regarding the Samsung phone.

23 MR. MILES: No, I didn't.

24 MR. MARTINEZ: There's --

25 MR. MILES: No. The only motion I filed was the motion in

1 limine saying that he has corroborated text messages, then they
2 shouldn't be admitted. I didn't move to suppress it. I probably would've
3 moved to suppress it if I'd seen that. I didn't know that was even -- the
4 Samsung phone was even relevant to the case.

5 THE COURT: Honestly it seems like from what I've seen
6 you've got a lot bigger problems than that, but so is there any reason
7 why we couldn't finish up the other witnesses and then break for the day
8 and put Vince on, on Monday?

9 MR. MILES: I would say there was a reason for that because
10 I didn't know where this was going. I haven't had a chance to properly
11 prepare for this.

12 MR. MARTINEZ: Well, I don't --

13 THE COURT: Okay. Well your choice is going to be today or
14 Monday probably.

15 MR. MILES: Okay. I mean, as long as I have a chance. Like I
16 said, I didn't have a chance to review it.

17 MR. MARTINEZ: It's up to.

18 MR. MILES: When he says I probably could have called
19 motions, I could have filed --

20 THE COURT: He did. I know he did. I know he did.

21 MR. MILES: If we can, he could right click the file right now,
22 press print and see how much pages that will come up. I think that will
23 establish a lot. He said Bob printed out 6,000 pages. I have the 6,000
24 pages.

25 THE COURT: You and or your attorney had access to that.

1 What you guys chose to do isn't the State's fault.

2 MR. MILES: I didn't have access to that, Your Honor. That's
3 not true. And I told Togliatti like three times, I haven't received one
4 UFED file and we made that very clear. She asked him, where's the
5 UFED file? He said, well, I don't know. There could be -- it could be at
6 the Metro department. That's the stuff he said for the record.

7 And then I said, okay, well I'm going to try to see if I can have
8 my expert do it. I haven't spoken to my expert since I've been in
9 custody, I mean in max because of some fabricated charge that ended up
10 being dismissed.

11 THE COURT: That's nothing we can do anything about.

12 MR. MILES: Yeah. Yeah. But I'm saying -- and then so there
13 was no record of me ever receiving any UFED file. That's the UFED files
14 I've been requesting, and he's been withholding.

15 He didn't say it's for the court. Oh, well we let him review
16 the evidence.

17 MR. MARTINEZ: This is --

18 MR. MILES: Now he's saying I reviewed the UFED file --

19 MR. MARTINEZ: This isn't the UFED file.

20 MR. MILES: -- which he said he couldn't fine.

21 MR. MARTINEZ: This isn't the UFED file.

22 THE COURT: It's not a UFED file?

23 MR. MARTINEZ: It's not a UFED file.

24 MR. MILES: It's a lantern file, same thing. Lantern, UFED, it
25 was the data extraction --

1 MR. MARTINEZ: It's actually not the same thing.

2 MR. MILES: Well, what is it?

3 MR. MARTINEZ: We can ask the expert.

4 MR. MILES: We can click it right now. I know what the
5 expert said. He testified that he only does examinations through Lantern
6 and Cellebrite and that those documents -- you reference UFED file on
7 here. He said, it comes through UFED file.

8 MR. MARTINEZ: I referenced --

9 MR. MILES: That there's browser driven --

10 MR. MARTINEZ: I referenced you for that file on your
11 notebook.

12 MR. MILES: No. I'm talking about as far as his testimony.

13 MR. MARTINEZ: Right.

14 MR. MILES: And then he said that the data comes from data
15 driven devices and that's what explained some of the evidence in there.
16 CSS files, PDF files, all of those is connected to web based information.

17 I didn't know. I didn't know. I haven't had a chance to look
18 at it and it's clear. I don't really appreciate Mr. Martinez representing to
19 the Court that I reviewed that when he knows for sure I didn't review
20 that.

21 THE COURT: He didn't say that. He said you had the
22 opportunity to review --

23 MR. MILES: I didn't have the opportunity --

24 THE COURT: -- and that's all he's required to do.

25 MR. MILES: And Your Honor, I didn't have an opportunity to

1 review. I wouldn't like about it. He has all the evidence he really needs
2 to really do some stuff. I didn't object to any of that and say oh, I didn't
3 receive that either. I could have did that a long time ago.

4 THE COURT: You actually objected to everything, but.

5 MR. MILES: No. I'm saying as far as me being received that.

6 MR. MARTINEZ: Yeah. You also stated that you didn't buy
7 Gabby a phone 13 times --

8 MR. MILES: That wasn't testified, sir.

9 MR. MARTINEZ: -- and then you said --

10 MR. MILES: We're not talking about the evidence. We're
11 talking about the evidence you didn't provide to me --

12 MR. MARTINEZ: But you told --

13 MR. MILES: -- and you have more evidence that you said
14 you didn't provide to me until the day of trial, but you want the Judge to
15 believe that you provided that to me a long time ago.

16 MR. MARTINEZ: I didn't say that.

17 MR. MILES: That doesn't make sense.

18 MR. MARTINEZ: I never said that.

19 MR. MILES: That's what you said. You made it available to
20 me. You didn't make available to me the evidence that you just said
21 you're going use today and to the day of trial, well during trial.

22 MS. RHOADES: Just stop talking.

23 THE COURT: Okay. Here's what we're going to do. We're
24 going to take our lunch break now. Everybody take a time out. It'll give
25 you an opportunity to look over these documents. I do find that you

1 have been afforded the opportunity to review the documents. I think
2 they -- I believe they've been provided to you, but certainly you had the
3 opportunity to view them.

4 Here's the reality, the for edict [phonetic] canvas is done to
5 advise you that there are issues in representing yourself that make it
6 much more complicated. You chose to do that, but you're held to the
7 same standard. If Mr. Beckett were standing here and had the
8 opportunity inspect those documents and was provided them, it would
9 be the same ruling. We're going to go forward.

10 I'm going to give you -- we'll come back at 1:30, give you a
11 little bit extra time with the lunch hour to review the documents and then
12 we'll just keep plugging.

13 MR. MILES: Can I review that entire thumb drive? Because
14 Your Honor, like I said, I'm not worried about his case going forward, I'm
15 worried about my defense.

16 THE COURT: Okay.

17 MR. MILES: If he's done with his case, I probably might as
18 well not even present a defense. I don't know what's going on.

19 THE COURT: That's your choice.

20 MR. MILES: Okay. I don't think it's fair.

21 THE COURT: I've made my ruling.

22 MR. MILES: Okay.

23 THE COURT: That's what we're going to do.

24 MR. MILES: Okay.

25 THE COURT: Is there a way of --

1 MR. MARTINEZ: The only thing -- there needs to be some
2 security protocols in place for him to review this thumb drive in my
3 computer. I would ask that Mr. Beckett be in place, that the marshals
4 obviously be here so that it doesn't get destroyed.

5 THE COURT: Okay. Will you do that?

6 MR. MARTINEZ: Or modified or in any way tampered with.

7 MR. MILES: Can I make an offer of proof then if we're going
8 to proceed with evidence that obviously it's on the record I didn't receive
9 it. It's clear for the record, I made a record of everything I received.

10 THE COURT: Okay. I just made a record. I make the record
11 now.

12 MR. MILES: Can I make an offer proof of probably what I've
13 been able to do, probably what witnesses I call for? I mean, whatever
14 good that's going to do.

15 THE COURT: I don't know what you're talking about.

16 MR. MILES: Can I be able to say, you know, had I been able
17 to, you know, view this evidence, what possible defenses I would have
18 had, what motions I would have been able to file pretrial? I mean a lot of
19 I think is relevant.

20 THE COURT: Well I found that you had access and the
21 opportunity to inspect the evidence.

22 MR. MILES: Okay. Well -- okay.

23 THE COURT: Okay. So yeah, I'll give you --

24 MR. MARTINEZ: And I want the jury to hear that. That
25 ruling, that he had the opportunity because the tone --

1 THE COURT: Yeah. I got to figure out how that's done. Let
2 me ask around at lunch.

3 MR. MARTINEZ: Something has to be done.

4 THE COURT: I agree. I agree.

5 MR. MARTINEZ: That's not fair to the State.

6 MR. MILES: I think -- see, Your Honor, I'm not trying to do
7 this to cause chaos. I'm really telling you that. He hasn't provided that
8 to me.

9 THE COURT: Okay.

10 MR. MILES: I made it really clear he hasn't provided that to
11 me.

12 THE COURT: Okay.

13 MR. MILES: To the day of trial.

14 THE COURT: You know what? How many times are you
15 going to say it?

16 MR. MILES: I mean I just -- because I really feel like I don't
17 know what else to say.

18 THE COURT: I understand your position.

19 MR. MILES: Okay.

20 THE COURT: I've made my ruling --

21 MR. MILES: Okay.

22 THE COURT: -- that whether you say you have it or not, it's
23 been provided to you or at least the opportunity for inspection on
24 numerous occasions.

25 MR. MILES: Okay.

1 THE COURT: You directly, you your investigator, you your
2 attorneys.

3 MR. MILES: And so who's representing, Your Honor, just so
4 I'm clear, who's representing from me because Bob already represented
5 he's not sure if that was -- if we reviewed any of that.

6 THE COURT: Actually, that's not what Mr. Beckett said. So
7 when I hear him say stuff and then you go back and say what he says
8 and it's not what he said, it gives me some pause in the next --

9 MR. MARTINEZ: And that's exactly what's happening to me.

10 MR. MILES: I talked to him. I just talked to him. That's what
11 he said. That's what he said.

12 THE COURT: Okay. He said what he said, it's on the record.
13 That's what counts.

14 MR. MILES: Okay.

15 THE COURT: So if you'll go ahead and send the jury to lunch
16 for an hour and a half.

17 MR. MARTINEZ: Your Honor, our expert witness is going to
18 have to -- Mr. Hoier, is going to have to make some childcare --

19 THE COURT: Well, do you want to put him on quick first?

20 MR. MARTINEZ: So I guess Mr. Ramirez can't be here past
21 1:30. I mean I thought we were going to be able to get through --

22 THE COURT: Oh, he can't be here passed 1:30?

23 MS. RHOADES: That's what he says.

24 MR. MARTINEZ: Right. So can we go off the record for a
25 second? I need to talk about something that's personal in somebody's

1 life that shouldn't be on the record.

2 THE COURT: Okay.

3 [Recess at 12:05 p.m., recommencing at 12:19 p.m.]

4 THE COURT: Okay. We're going to take the lunch break
5 now. We're going to come back at 1:30 and proceed with the next
6 witnesses. We're going to hold Mr. Ramirez until Monday.

7 Over the lunch hour the State is getting another computer
8 brought out, Mr. Beckett is going to stay here and go through the, again,
9 the files regarding the phone the Defendant claims he didn't see, but that
10 I found previously have been provided both actually provided as well as
11 an opportunity to inspect them and then we're going to come back at
12 1:30 and go on.

13 And that also gives the Defendant the whole weekend to do
14 whatever it is he wants to do. He's been provided a copy of the exhibits
15 that he says he can't find in his 6,000, correct? You all got copies of
16 these?

17 MR. MILES: Not that I couldn't find. That's not in the 6,000
18 pages. I received a copy of those, Your Honor. And I'd actually just to
19 preserve the records say move for a mistrial saying that the State didn't
20 provide culpatory and exculpatory evidence.

21 THE COURT: Okay.

22 MR. MILES: Okay.

23 THE COURT: And I find that they did both provide and or an
24 opportunity to inspect and moreover I see nothing exculpatory about it.

25 MR. MILES: Okay.

1 THE COURT: See you at 1:30.

2 MS. RHOADES: Thank you.

3 THE MARSHAL: Can the Defendant -- can he go to lunch or
4 is he staying out here?

5 THE COURT: He wants to stay here and --

6 MR. MILES: Well, I mean, I get to bring the [indiscernible]
7 and stay right here.

8 For the record, I haven't even eaten lunch, and nobody wants
9 to provide me food, so that's fine.

10 MR. MARTINEZ: Well, now we're getting into -- Mr. Miles is
11 making representations that --

12 MR. MILES: I mean, I haven't ate since 9:00. I requested
13 food. I didn't want to make that for the record. But now it's the lunch
14 break, I'm the only one that can't eat. I don't know why I can't eat. If
15 that's what you all want to do, that's fine.

16 THE COURT: Can you bring his meal up here or something?

17 THE MARSHAL: Because you asked me. Like I said, he's
18 supposed to eat downstairs, but that's fine.

19 THE COURT: I understand. But I don't want to be in a
20 position where Mr. Beckett has to go buy him a sandwich and bloody,
21 bloody blah.

22 THE MARSHAL: No, I wouldn't want that either. All right.

23 THE COURT: I appreciate it.

24 THE MARSHAL: Anytime, ma'am.

25 THE COURT: Thank you so much.

1 [Recess at 12:22 p.m., recommencing at 1:32 p.m.]

2 [Outside the presence of the jury.]

3 MS. RHOADES: I have a couple things I do want to put on
4 the record, Your Honor.

5 THE COURT: Okay. Are we on the record?

6 Okay. You're on.

7 MS. RHOADES: Over the lunch break, Mr. Beckett sat with
8 Mr. Miles and reviewed the contents of the flash drive that Mr. Beckett
9 they had already previously had access to. I would not that, on that flash
10 drive, there's a file folder for the Samsung. There's a file folder for the
11 ZTE, which were the two phones that were found on the Defendant.

12 I want to go through the motions that I was able to find and
13 the title of the motions that the Defendant has filed throughout this case.
14 On February 8, 2017, he filed a motion to suppress cell evidence due to
15 search warrant issues. On December 15, 2017, he filed a supplement to
16 that motion. On September 7, 2017, he filed a motion to exclude the ZTE
17 phone. On September 26, 2017, he filed a motion in limine to exclude
18 Samsung three text messages. On February 18, 2018, he filed a motion
19 to suppress illegally obtained evidence, naming the cell phones in the
20 case, which were the Samsung, the ZTE, and Gabrielle's LG phone. So I
21 think that that is important for the record to note.

22 MR. MILES: And --

23 THE COURT: Appreciate that.

24 MR. MILES: And, Your Honor, I'd like to make some
25 representations, if I may.

1 THE COURT: Go ahead.

2 MR. MILES: When that motion to exclude that she's talking
3 about, the text messages that's actually getting marked as a proposed
4 exhibit for the State, those were to exclude the TextNow text messages.
5 And that's what was represented in here. That was the one that was
6 provided to me. And I would like to state that she has misrepresented
7 Bob's representations, that he clearly stated that he wasn't aware -- it
8 was the lot of pictures that he seen in the case. He did say he knew for
9 sure.

10 THE COURT: Okay. Mr. Beckett's --

11 MR. MILES: He said -- so that --

12 THE COURT: His words will speak for themselves. He was
13 on the record earlier --

14 MR. MILES: Okay.

15 THE COURT: -- and he made clear what he did and whatnot.
16 So don't need to rehash that now, okay?

17 MR. MILES: Okay. I won't rehash that. But when I did
18 review her file, there was some evidence in there that I wasn't aware of.
19 And for the record, some of that evidence pertained to -- could have
20 been used for exculpatory purposes as far as proving that Ramsey -- Ms.
21 Ramsey owned that phone. I think the time frames between when the
22 phone was found and when -- pretty much the time frames between
23 what they're talking about is far as who owned the phone, I think the
24 timelines, it goes as far as -- the evidence I seen is October 15th. That
25 could've been relevant to my defense, and that there was evidence in

1 there that I didn't see. So I'm just putting that on the record.

2 MS. RHOADES: Because he didn't see it previously. I mean
3 he had access to it. Also, Mr. Beckett -- I would just ask that he tell the
4 Court -- he did tell us over the break that the pages that he printed out
5 had four sheets per page. So the 6,000 pages would actually be 24,000
6 pages.

7 THE COURT: Oh, okay.

8 Is that correct, Mr. Beckett?

9 MR. BECKETT: Judge, there was at least four pages on each
10 sheet. And now we're trying to go back in time to the best of my
11 recollection. I know there were four pages on each sheet.

12 [Counsel confer]

13 MR. BECKETT: Judge, I just remember there were four
14 pages on each sheet.

15 THE COURT: Okay.

16 MR. BECKETT: And then there was -- there's like lots of
17 pages.

18 THE COURT: Okay.

19 MR. MILES: Yeah. But what he's saying when he says four
20 pages is each page --

21 THE COURT: Okay. We're done.

22 MR. MILES: -- is marked as an --

23 THE COURT: No.

24 MR. MILES: -- individual pages.

25 THE COURT: You've made your record.

1 Mr. --

2 MR. MILES: So it's not 2,400 pages.

3 THE MARSHAL: Mr. Miles, you've made your record.

4 MR. MILES: Okay.

5 MS. RHOADES: And we would ask the Court to instruct the
6 jury.

7 THE COURT: Basically, what I'm going to do is I'm going to
8 just rule in front of them on the discovery issues and just find that the
9 State has complied with discovery.

10 MS. RHOADES: Okay.

11 MR. MILES: And, Your Honor, can I actually admit into
12 evidence what Bob was talking? Can I -- whatever --

13 THE COURT: No.

14 MR. MILES: -- purpose that would be, can I admit that into
15 the evidence to show what he's referring to for the --

16 MS. RHOADES: I don't think he has the 6,000 pages with
17 him.

18 MR. MILES: I have exactly what he's -- when we come back
19 for Monday, I'm going to provide that to the Court. And I would ask if
20 they can make an exhibit of that of the record.

21 THE COURT: Of the 6,000 pages?

22 MR. MILES: Well, it's not -- it's --

23 THE COURT: Okay.

24 MR. MILES: When he says 6,000 pages, it's not really 6,000.
25 It's four pages on each side. So that's eight pages per one page. So it's

1 really -- one page is eight pages. That's what he's saying when he says
2 6,000 pages. He's not saying individually it's the pages. One page, if
3 you got one piece of paper, that's eight pages for every one page. So it's
4 not 6,000 pages. I'm not going to bring in 6,000 pages. It's whatever
5 6,000 would be divided by 4 is how much paper is there. So it's not --

6 THE COURT: Why are we dividing by four if there's eight?

7 MR. MILES: Well, I mean divided by eight.

8 MS. RHOADES: Mr. Beckett already made his --

9 MR. MILES: I'm sorry.

10 THE COURT: Okay. Mr. Beckett made his record, and that's
11 the record right now.

12 MR. MILES: And I'll just -- yeah, okay. But he's not saying
13 there's 24,000 pages. If there's any clarity, that we could have him clear
14 that up. He's not saying it's 24,000 page.

15 THE COURT: Mr. Beckett, is that -- what are you saying?
16 How many pieces of paper, pages, were provided to the Defendant?

17 MR. BECKETT: Judge, I can't remember. I just know that
18 there were eight pages on page.

19 MR. MILES: Yeah.

20 MR. BECKETT: Eight pages reduced to one page. So there's
21 lots of pages. And so, I can't remember.

22 THE COURT: Okay. So you did provide -- so when you say
23 6,000, it's not necessarily 6,000 times 8?

24 MR. BECKETT: I don't know, Judge.

25 THE COURT: Or is it?

1 MR. BECKETT: All I know is I presented the thumb drive --

2 THE COURT: I mean you would have paid --

3 MR. BECKETT: -- to the people at the --

4 THE COURT: You would have paid for the copies.

5 MR. BECKETT: Correct.

6 THE COURT: So how many copies did you pay for?

7 MR. BECKETT: I don't recall, Judge. I just -- you don't -- it
8 was a long time ago.

9 THE COURT: Okay.

10 MR. BECKETT: Lots of pages. I presented the thumb drive to
11 the people at FedEx and told them to copy it in its entirety and reduce it
12 to something manageable, so there wouldn't be five or six --

13 THE COURT: Okay.

14 MR. BECKETT: -- banker boxes.

15 THE COURT: So you produced the thumb drive that's here
16 that had that on it to be --

17 MR. BECKETT: Yes.

18 THE COURT: -- printed out? Okay.

19 MR. BECKETT: I presented the thumb drive that I was given
20 from the State to the people at FedEx --

21 THE COURT: Got it. Then we've confirmed --

22 MR. BECKETT: -- and asked them to copy it in its entirety.

23 THE COURT: -- contained the documents in question.

24 MR. MILES: Do --

25 THE COURT: Okay. The record is made.

1 MR. MILES: Okay.

2 THE COURT: And we're going to move on.

3 MS. RHOADES: Thank you.

4 MR. MILES: Okay. I'm not going to discuss anything about
5 that, Your Honor.

6 THE COURT: Here's what I also want to tell you.

7 MR. MILES: Yeah.

8 THE COURT: I want you to -- when you make your
9 objections, I want legal objections. I don't want speaking objections. I
10 don't want narratives. I don't want you accusing people of stuff. I don't
11 want you describing what's going on. It's legal objections not the this is
12 the first time I've ever seen it; the State didn't give this to me. That's not
13 how we roll here, okay?

14 MR. MILES: So just derivative evidence or not relevant --
15 relevancy?

16 THE COURT: Exactly. If you have an issue, then you could
17 pass a note or let the marshal know. If we have to excuse the jury, we
18 will. But I don't want any more of this speaking in front of the jury like
19 that, okay?

20 MR. MILES: Okay. And, Your Honor, tomorrow -- if it's okay
21 with you, on Monday, can I bring -- because I do have the court record of
22 what he's talking about? And we made it very clearly and Togliatti --

23 THE COURT: I'm not going to tell you what to bring or not
24 bring, but I'm --

25 MR. MILES: Okay.

1 THE COURT: -- done with this topic right now.

2 MR. MILES: All right.

3 THE COURT: Please don't ask me any more about it.

4 MR. MILES: Okay.

5 THE COURT: Please don't ask me any more about it.

6 MR. MILES: Okay.

7 THE MARSHAL: Anything else, State?

8 MS. RHOADES: No.

9 MR. MARTINEZ: So you're going to be overruling the
10 objection in front of the jury and saying that we actually did comply with
11 our discovery --

12 THE COURT: Correct.

13 MR. MARTINEZ: -- obligations to the defense?

14 THE COURT: And I'm going to explain because of a
15 scheduling issue though, we're going to finish that witness on Monday.

16 MR. MARTINEZ: Thank you.

17 MR. MILES: Can I just asked, Your Honor, that -- I don't know
18 if I could bring you representations for that. But can I ask is if he can be
19 a fair way of saying it, because that actually implicates that I'm lying and
20 saying I did receive it and when that's not true.

21 THE COURT: I'm going to say that I have determined that the
22 State has complied with their discovery.

23 MR. MILES: Okay.

24 THE COURT: Right. Rules.

25 MR. MILES: Okay.

1 THE MARSHAL: Okay.

2 MR. MILES: Okay.

3 THE COURT: Getting the jury.

4 [Pause]

5 THE COURT: And I assume the Defendant did eat; is that
6 correct?

7 THE MARSHAL: Yes, correct.

8 THE COURT: Thank you.

9 THE MARSHAL: All right for the jury.

10 [Inside the presence of the jury.]

11 THE MARSHAL: All present.

12 THE COURT: Okay. Back in the presence of the jury. Before
13 we went to break, there was an objection regarding some documents.
14 We've heard arguments. The Court finds that the State complied with its
15 discovery requirements, and we're going to proceed. However, because
16 of the delay, there's a scheduling issue.

17 So we are going to pick up two other witnesses today,
18 because the other witness needed to get somewhere. So that's where
19 we are.

20 Okay. If you want to call your next witness, Mr. Martinez.

21 MR. MARTINEZ: The State calls Don Hoier.

22 THE COURT: And Mr. Ramirez will be back Monday.

23 [Pause]

24 THE CLERK: Please raise your right hand.

25 DONALD HOIER, STATE'S WITNESS, SWORN

1 THE CLERK: Please be seated. State your name and spell
2 your first and last name for the record.

3 THE WITNESS: My name is Donald Hoier. First name D-O-N-
4 A-L-D. Last name Hoier, H-O-I-E-R.

5 MR. MARTINEZ: May I proceed, Your Honor?

6 THE COURT: You may.

7 MR. MARTINEZ: Thank you.

8 DIRECT EXAMINATION

9 BY MR. MARTINEZ:

10 Q Sir, are you presently retired?

11 A Yes, I am.

12 Q From what profession?

13 A Law enforcement .

14 Q Who did you work for?

15 A I was a police sergeant with the Las Vegas Metropolitan
16 Police Department.

17 Q For how long?

18 A For 23 years.

19 Q And what sections of Metro did you work in?

20 A I was a patrol officer and sergeant for the first nine years of
21 my career. And then the last 14 years -- roughly 14 years was spent in
22 the vice section.

23 Q Okay. What is the vice section?

24 A The vice section is responsible for investigating prostitution
25 related crimes to include soliciting prostitution, loitering for the purposes

1 of prostitution, all vice related theft, prostitution related theft type cases,
2 and also sex trafficking.

3 Q And there is also pandering cases; is that correct?

4 A Yes, pandering.

5 Q Okay. How long in that 14-year period that you were with
6 vice were you a sergeant?

7 A The whole time.

8 Q The whole time. Okay. So --

9 A Yeah. I was promoted in 1998, and I got up into the section
10 in 2001.

11 Q So as a sergeant, supervised who?

12 A I supervised detectives that were assigned to the particular
13 squad I was working at that particular time. And it can be anywhere
14 upward -- I had as many as 15. I was kind of simultaneously supervising
15 two different squads at the same time. Generally speaking, 5 to 8
16 detectives was the norm through that -- average through the 14 years.

17 Q And those detectives were investigating sex trafficking
18 pandering related crimes?

19 A For the last six years, yes. So we have -- the vice section is
20 divided into two kind of parts. There's a short-term investigation part,
21 which are the individuals that go out and work in a covert or undercover
22 capacity and investigate the crimes specifically of soliciting prostitution
23 or loitering for the purpose of prostitution. So they would be the ones
24 that would go out and arrest customers of prostitutes and the prostitutes
25 themselves. Early on in the career, some pimps would come into play in

1 that regard.

2 And then the flip side, it was the long term investigations. And
3 there were two different teams that were assigned to do those. And one
4 was the juvenile sex trafficking team, also referred to as the I-team. So
5 they were responsible for doing nothing but sex trafficking investigations
6 involving juveniles, victims, so persons under the age of 18. And then
7 there was the adult sex trafficking team, which dealt with all sex
8 trafficking victims over 18 years of age and older.

9 And so, I had the opportunity to -- I was a supervisor in both
10 the enforcement side. I also supervised both the juvenile sex trafficking
11 teams and the adult sex trafficking teams.

12 Q How many -- if you can estimate, how many investigations
13 were you a part of participating in as -- in vice and in your capacity?

14 A In terms of just we're talking sex trafficking investigation or
15 just general investigations as a whole?

16 Q Sex trafficking.

17 A When we're looking at sex trafficking, I think, conservatively,
18 850.

19 Q Okay. And --

20 A And that would be either -- because I did carry a caseload at
21 times when I was a sergeant. So I was either directly involved as a first
22 chair detective or a secondary detective on a case or, most certainly,
23 supervising them. So I'll have completed cases that would have
24 happened during the time that I was supervising. Those two units would
25 eventually come across my desk. So I would know everything about the

1 case, see all the evidence and be able to review all the interviews, and so
2 on and so forth.

3 Q In your capacity and what you just described, have you had
4 an opportunity to interview prostitutes?

5 A Yes.

6 Q In Clark County?

7 A Yes.

8 Q Approximately how many do you think --

9 A In 14 years --

10 Q -- you've encountered and talked to?

11 A In 14 years, again, conservatively -- I apologize for cutting
12 off -- is around 10,000.

13 Q Okay.

14 A Conservatively.

15 Q And have you had the -- also have the opportunity to either
16 review interviews participate in interviews of suspected pimps?

17 A Yes.

18 Q Okay. Approximately how many do you think you've been
19 involved with like that?

20 A Somewhere between 100 and 150, why was actually in the
21 room or conducting the interview myself or sitting there as second chair
22 listening in on the interview.

23 Q Have you received training, education regarding the pimp
24 prostitution subculture outside of your first-hand experience in
25 investigating, and what type of training?

1 A So the training -- there's elective training that I chose to do
2 myself to expand my knowledge base. And so, I had 241 hours of actual
3 off-site training that was given by other agencies or other expert to the
4 field. It turned into conferences. So there's like a Western State Vice
5 Investigators Association Conference I attended on two separate
6 occasions years apart. So it wasn't like the same thing back to back.

7 The National Center for Missing and Exploited Children offer a
8 protecting victims of child prostitution, which is absolutely hands-down
9 the best training that I received in the entire 14 years that I was -- have
10 been involved as a law enforcement officer of -- combating sex
11 trafficking. Advanced vice investigations is another long -- week long
12 seminar that I attended.

13 The Attorney General, during the push to change our pandering
14 laws, did add sex trafficking. She had a training component that was
15 involved in that. And I attended and participated in that.

16 Q And have you also been an instructor for trainings in this
17 area of pimp prostitution subculture?

18 A Yes.

19 Q How many, approximately, have you participated in and
20 where?

21 A That would be something I'd kind of look at my resume and
22 count up the exact number of trainings I've done. But it's been several
23 hundred hours' worth of training. So that has included not only people
24 within the Las Vegas Metropolitan Police Department but police agencies
25 across the country. I've taught, you know, agencies in Arizona. I've

1 taught at the State of Utah's Sheriff's Association. Three different times
2 their conferences there they've asked me to do that. I've talked to legal
3 professionals, federal judges in Washington D.C. I provided training to --
4 here, locally, to the DA's Office, the Public Defender's Office, security
5 personnel, mental health professionals.

6 My wife is a mental health professional and we do a combined
7 training. She had previously before she started working for the State,
8 had a program for victims of child sex trafficking. So she did that for
9 several years. So we trained together. And we still train together now.
10 It's just all over the place. It's pretty much been all over the country.

11 And I've done -- even in retirement, have gone out of state to do
12 some training. It's been a couple years since I've done that, but I have
13 done that. People have reached out to me to do that.

14 Q Have you previously testified as an expert in the pimp
15 prostitution subculture in the Eighth Judicial District Court?

16 A Yes.

17 Q How many times?

18 A I believe this was the 13th time, but it could be the 12th. So
19 it's 12 or 13. We're in that range.

20 Q And as an expert, have you been retained only by
21 prosecution?

22 A No.

23 Q Okay. Who else has retained your services?

24 A I have been retained by the federal public defender's office
25 for two separate federal cases, and I've also been retained by the Clark

1 County Public Defender's Office having to deal with a vice related -- or
2 prostitution related theft case.

3 Q In your training and experience, have you come to know the
4 pimp prostitution subculture is called the game?

5 A Yes.

6 MR. MILES: Objection, Your Honor. I don't believe there's
7 been a valid foundation to --

8 THE COURT: Overruled.

9 BY MR. MARTINEZ:

10 Q And what is the game?

11 A The game is simply the subculture of pimping and
12 prostitution.

13 Q And are there, in your training and experience, rules that are
14 commonplace in this game?

15 A Yes.

16 Q What are some of those rules?

17 A There are some core rules. And rules will vary from pimp to
18 pimp. But the core rules are is that you will always get money up front
19 from your tricks or customers of prostitution. So the prostitute needs to
20 get the money upfront. The prostitute needs to bring that money back to
21 the pimp if she, in fact, has a pimp.

22 Typically, pimps have quotas that the prostitute is supposed to
23 meet. They vary some. But in -- seriously, in 14 years, it hasn't changed
24 when I started in 2001. It was anywhere between \$1,000 a night to \$1500
25 a night for a girl that would be working on the strip. And it hasn't

1 changed at all to this date. You still see quotas in the neighborhood of
2 1000 to 1500. So they're required to make that nightly quota.

3 They're not supposed to talk to other prostitutes that are not in
4 their own stable or not associated with a pimp that is friendly with a
5 pimp that they're currently with. And the reason why that happens is
6 because the prostitutes are constantly in recruitment mode. And so,
7 they're recruiting for the pimp that they are representing or they're
8 working for. Not to talk to other pimps.

9 One of the biggest rules that they say, and, you know, it's not a
10 Don Hoier rule. It's just a rule. You hear it all the time. Don't talk to
11 other black guys because it's believed in the subcultures that black males
12 are -- could potentially be pimps.

13 Q Now in your training and experience -- I'm referring to
14 juvenile victims of sex trafficking -- would it be fair to say that they come
15 from different backgrounds?

16 A Yes.

17 Q Okay. And every victim is different?

18 A Yes.

19 Q And pimps are different?

20 A Yes.

21 Q It just depends on the background that they're coming from;
22 is that correct?

23 A Yes.

24 Q Okay. Did you, in your training and experience, encounter
25 juvenile victims that came from a stable home life?

1 A Yes.

2 Q Okay. And had a seemingly caring mother and a caring
3 father?

4 A Yes.

5 Q And did you also encounter juvenile victims of sex trafficking
6 where they were in abusive families and broken households?

7 A Yes.

8 Q Okay. So there's kind of two ends of the spectrum there.
9 What is it about juveniles and how have you seen, in your training and
10 experience, those kids from stable homes and not stable homes get into
11 the game in the world of sex trafficking?

12 A It really varies from girl to girl, pimp to pimp. To try to break
13 down pimping and the art of turning out and trying -- in simplest terms, I
14 want to start off by saying that there's a pimp who wrote a book. His
15 name is Mickey Royal. And he wrote a book. It's simply entitled "The
16 Pimp Game: Instructional Guide".

17 And so, it's 95 pages of simply telling the reader how to be a pimp.
18 And one of the direct quotes in that book is that if you have an interest, a
19 dream, or a desire that you are willing to chase, you can be pimped. And
20 that doesn't -- he wasn't focusing just on juveniles. He's talking about
21 anybody in general.

22 So hold that thought kind of in the back of your mind for a second.
23 And I want to just bring your attention to something that -- be -- try to --
24 it's going to be kind of boring, and I'm going to try to make it as
25 uninteresting as possible. But talk about psychology for a section -- a

1 second. And a renowned psychologist by the name of Abraham
2 Maslow, who came up with what is widely regarded today as the theory
3 of -- a valid theory of human motivation, which has been known as the
4 Maslow hierarchy of needs.

5 And so, the backbone of this or the basic crux of this is that people
6 are motivated. Their behaviors and their actions are motivated by the
7 needs in which they need to fulfill. And so, he breaks these down into
8 five section. This will be real quickly. The bottom of this pyramid. And I
9 don't know if you're familiar with it. But normally, it is displayed as a
10 peer made with the most basic needs being at the bottom, and you build
11 up to the top.

12 And so, the bottom is your physiological needs; air, water, food,
13 sleep, things that we all need to kind of just be alive and be walking
14 around. The next thing you have above that is the security or the safety
15 needs and having the means to be able to provide for yourself and
16 having shelter, clothes on your back, that type of a thing. And when we
17 start moving up the ladder, we get into kind of the more interesting areas
18 where pimps will predominantly play not only with adults but with kids,
19 and kids that come from stable homes. And that is the love and the
20 sense of belonging section. And then esteem needs.

21 And those four brackets are all lumped together, and they're kind
22 of basic required needs. And he hypothesizes and is widely accepted for
23 the fact that the more you're deprived of those needs, the more you need
24 to have those needs and the harder you will work to get those needs.

25 And finally, at the very end, at the tip of the pyramid, is

1 self-actualization. And so, everybody is trying to be the best that they
2 can be, which is what self-actualization is. And along that journey, you
3 get sidetracked like on a car ride to Disneyland, or whatever, when you
4 got to stop and get -- for gas. It's a need that you have to fulfill to get to
5 where you're going. It's the same way with all these other needs. If
6 you're not happy, you don't have a -- somebody in your life that you can
7 get love and affection from, you're going to focus on that, and it's going
8 to derail, to a degree, your journey to self-actualization.

9 And so, the idea to reach -- to be all you want to be, you want to try
10 to keep a healthy balance of all that stuff. So a pimp, a good pimp, will
11 identify that one piece of the missing puzzle, that need that is not being
12 met. And so, in a loving family situation, you can play on your esteem
13 things. If you think about a child or a teenager, that's when the greatest
14 change is happening to a person's body. If your body is not growing in
15 proportion to everybody else, it's not growing at the same rate that
16 anybody else's does.

17 So it impacts your self-esteem. That's an area that a pimp can play
18 in. And it doesn't matter whether or not you have loving parents or
19 siblings or other family members and a support group that's telling you I
20 love you, you're great, everything is -- you know. It doesn't mean
21 anything. You want to hear it from somebody that's not directly related
22 to you and, you know, you're not feeling like they're just saying it to try
23 to make you feel better.

24 It's the same thing with love and affection. You can get all the love
25 and affection that you can get at home, but there's a much different

1 relationship that the one has with their parents. They're not going to get
2 the same kind of love that they can get from somebody who could
3 potentially be a wife or, you know, a husband or somebody, a long-term
4 mate type of thing, an inner -- not going to get that same thing. So that's
5 an area that a pimp can play in, for example.

6 Q And you indicated previously that someone is always in
7 recruiting mode. Were you talking about pimps being in recruiting
8 mode?

9 A Pimps are in recruiting mode, and their prostitutes are in
10 recruiting mode.

11 Q Okay. And what do you mean that, recruiting mode, always
12 being in recruiting mode?

13 A Well, you know, a pimp is -- you know, I'm trying to think of
14 what the old saying is, that you want to have more -- the more people
15 that you have in your pocket working for you, the more money you're
16 going to have. And the fewer you have, the closer you are to zero, the
17 closer you are to being, you know, busted and not having anything at all.
18 So the pimp is always looking for additional bodies to -- that he can
19 recruit to work for him, because that's going to be more money in his
20 pocket.

21 And the people that are working for him want to recruit that in
22 there, because that, in turn, gets them and keeps them in good graces
23 with the pimps. And it makes the whole unit run better and, you know,
24 in theory, you know, everybody is getting a little more out of it.

25 Q And the investigations that you were involved in and your

1 training and experience, was it common for pimps to recruit other girls
2 that already had pimps?

3 A Yes.

4 Q Okay. And is that why there's that common rule about not to
5 talk to other -- that's a big reason why.

6 A Okay. Now how -- you said that you'd been there for 14
7 years. And how have traffickers or pimps adapted to the changes in
8 technology and society in general, what you've seen.

9 Well, technology is constantly changing. I mean you can see it in
10 terms of -- we'll use one example of the internet. The internet came
11 online. It became a very -- once they discovered they could use the
12 internet, it became a very easy way to advertise. And so, you'll have
13 sites that pop up and then are taken down, and whatever it is.

14 And so, the core used to be Back Page and Craig's List. Well, the
15 government took down Back Page. It doesn't exist anymore. Craig's List
16 took down their erotic services section. And now advertisements are
17 being done under therapeutic services.

18 So that's one way to show the adaptation occurring. But
19 then there's other advertisement sites. There's a site called Mojo Village,
20 for example. It's very similar to Back Page and Craig's List. I'm
21 surprised they're still up and running, because they actually have an 18-
22 plus section. That's exactly what it's titled underneath. You can -- it's
23 subtitles of female companionship, male companionship, and adult jobs.

24 And so, if you click on female companionship, all it is, is
25 prostitution advertisements. And it's really largely the same way under

1 the male companionship as well. It's predominantly prostitution related
2 advertisements.

3 And then there's other websites that have cropped up over the
4 period of time, like Eros.com [phonetic] is another one. It's just strictly
5 nothing but prostitution related advertising site. Customers of
6 prostitution call themselves hobbyists. And they get together and create
7 chat rooms and websites, so they can talk about all the prostitutes that
8 they have had relationships with. And prostitutes will then, in turn, join
9 that site as well and advertise in there, do that. We'll have pimps and/or
10 prostitutes that create their own personal webpages, that advertise them
11 and are there to hawk themselves and their services.

12 So that's one thing with the internet. And then we start looking at
13 things like social media. We say advertising and recruitment off of sites
14 like Facebook, Myspace when that was a thing. We see it on Instagram.
15 We see it on Tumblr. Tumblr actually recently just started to take down
16 all their adult content, because it was really getting out of hand in terms
17 of some of the stuff that was being advertised on there. So they're
18 taking some corrective means to do that.

19 But if you're looking at any kind of a social media app, if you can --
20 whether or not it's a, you know, chatroom, you know, with a telephone
21 chat or a chatroom online, pimps and prostitutes will find a way to
22 infiltrate that. And it's kind of like if one goes down, they'll just find
23 another one that they can kind of move into and slide into and use to
24 their benefit.

25 Q I'd like you to talk about -- well, identify if there is a control

1 dynamic in relationships between pimps and prostitutes?

2 A Yes.

3 Q Can you describe what that is like commonly?

4 A The -- in a nutshell, the pimp has the control over everything.

5 There is a huge power imbalance in a pimp-prostitute relationship. The

6 pimp holds the power. He determines what the girl is going to wear,

7 what she's going to do, whether she has contact with her family,

8 whether she has any friends, she comes and goes, could even have

9 control over her hairstyle. All aspects of her life are typically controlled

10 by the pimp. The pimp has some sort of say in there.

11 Q And in your training and experience, have you seen that

12 control be violent?

13 A Yes.

14 Q And have you seen that control be completely not violent?

15 A Yes.

16 Q Okay. How do you reconcile those two? And how can there

17 still be control in both?

18 A There are two types of pimps. Type one is the finesse or

19 Romeo pimp they are also called. That's the pimp that relies particular --

20 on schemes and gift of gab and being able to manipulate ones emotions

21 through actions that aren't necessarily centered around violence. So

22 they don't necessarily have to rely on violence to do that. It's not -- it

23 could be a tool in their tool bag, but it's used kind of sparingly, in

24 extreme circumstances.

25 And on the flip side, there's the gorilla pimp, and that the primary

1 tool in the tool bag is the, you know, sledgehammer metaphorically
2 speaking. Violence is the name of the game, and he has very little ability
3 to utilize any of these other tools that might be available. And he's just
4 not capable of using them. In the subculture, it is more desired. And
5 you have more prestige in the subculture as a pimp if you are that
6 Romeo pimp or that finesse pimp.

7 And so, you know, victims are -- everybody is different. Everybody
8 response to different ways, you know. When you're talking about
9 having, you know, fear and fear of injury and some of the things that you
10 see happen to some of these girls, you totally get and understand why
11 they are totally afraid to leave.

12 But again, we go back to the Romeo part of it, the finesse pimp
13 part of it. And going back to Maslow's theory of that missing piece, and
14 that missing piece being so important that pimp, through his gift of
15 game, and what I mean by gift of game is just the way he can manipulate
16 you; his powers of manipulation make him the only answer to all of
17 those problems.

18 And so, it's like having -- put it this way. A pimp is motivated by
19 money, something that you can feel and touch. Prostitutes are no
20 motivated by the money, typically. What you're seeing is things that
21 can't be seen, felt, or touched, you know, love, self-esteem, confirmation
22 of one's self-worth, feeling of security. Those things can be shown in an
23 instant and be gone in that same instant.

24 So all a pimp has to do is flash that. And it's almost like a plow
25 horse following the dangling carrot out at the front. Becomes so fixated

1 on what the endgame could potentially be that she keeps doing what the
2 plow horse does and plows the field. And maybe at the end of the field
3 plowing, she may get a little bit of data which was flashed to her. And
4 he will take it away and give it back to her as he sees fit, to keep her in
5 line and doing what it is.

6 And so, as like Mickey Royal likes to say, pimps provide the poison
7 and then sell the cure to that. So the pimp is the answers. Not only the
8 pimp is the cause of her problems, and he's also the solution to their
9 problems.

10 Q And as a part of the manipulation that you've been able to
11 observe, are there other common promises that are made by pimps to
12 potential victims that they're recruiting?

13 A There are some. I mean it would be -- again, that really
14 varies a lot. But you'll hear things like the pimp -- pimps usually have
15 romantic relationships with their prostitutes. And if he has multiple
16 prostitutes, he's having multiple romantic relationships with these girls
17 and at separate times he's feeding them the information that they're
18 number one, they're number one and he'll treat them differently from the
19 other girls.

20 And sometimes he'll do that when they're all together to kind of
21 drive that point home to where he's trying to impress or keep on the line
22 at that particular time.

23 So you'll see those, you know, there's that love or just kind of us
24 against the world, we're going to get rich together, we're going to build
25 this huge kind of empire type of a thing and we're all going to live

1 happily ever after and we're going to own the world essentially is the
2 large dream. One consistent thing that kind of runs between pimps.

3 Q Is that uncommon or common to see the control of the pimp
4 being exerted over the victim when they're not in physical proximity of
5 each other?

6 A Yes.

7 Q And how does that work?

8 A Again, the power of the pimp lies within his ability to seem to
9 be like he's everywhere to his prostitutes and then nowhere to anybody
10 else. And so there's a number of different ways. I've seen pimps where
11 they actually put G.P.S.'s in cars, in purses, whatever, so they can
12 monitor people that way. They'll get monitored through phones. You
13 know, the iPhone has an ability, it's like a family kind of thing on it where
14 you can track people's locations. All they have to do is get that activated.

15 So there's that aspect of it, but there's just a, you know, whatever
16 his means of doing it whether it's threats where he actually has people
17 that he's friendly with out there that have an eye out there or whether
18 he's actually out there himself at a distance watching. He will in some
19 sort of way let the victim know that he knew what she was doing at this
20 time.

21 And so there's the fear that she can't leave because either she's
22 being watched by the pimp himself and something's going to happen or
23 he's going to find out and there's no there's no way to get out of that.

24 Q In your training and experience have you seen as a part of
25 that control pimps negotiating directly with Johns or indirectly with

1 Johns?

2 A Probably more of an indirectly thing. You would see what
3 we would call low level popcorn tennis shoe pimps which are kind of like
4 these more like street hustler types that might befriend a prostitute to get
5 a kickback from the date that she might have. She's like prostituting to
6 support a drug habit.

7 He might go and arrange a date and technically under the law you
8 could charge them with a sex trafficking related crime or certainly
9 pandering for facilitating that commercial sex act. Pandering more likely
10 at that point because you wouldn't necessarily have the force right of
11 coercion part of it.

12 But where I've seen pimps negotiate would be almost exclusively
13 pimps are the ones that are posting the advertisements online if there
14 are advertisements online.

15 There have been occasions where I working in an undercover
16 capacity have had text message conversations with what was believed to
17 be a prostitute or the one that was going to come to my location, or I
18 was going to go to their location to meet. And when you got there it was
19 obviously who you were talking to is not who you were talking to on the
20 phone because they're completely oblivious to the conversation that you
21 had over the phone.

22 So the pimps use that because it gives them more control over
23 they know who they're seeing, when they're seeing and how much is
24 going to be charged typically during that negotiation in that text
25 message. That provides the control of knowledge of what the girl should

1 be coming back with.

2 Q So if a pimp is knowing how much the negotiation is for
3 whatever sex act, how much they're paid for it, then if he knows then he
4 knows how much to get from his victim?

5 A Right. If he negotiated an act for \$300 and she's coming back
6 with \$200 or anything under \$300, you know, there's going to be a
7 problem.

8 Q And you've touched on this how some pimps will recruit girls
9 that are working for other pimps. So is that common for pimps to recruit
10 people who are already engaging in prostitution in their life?

11 A It's common. There's typically two demographics that are
12 primary like the low hanging fruit so to speak with pimps to try to target.
13 When you're talking about girls that are already involved in prostitution, I
14 would say that's probably, I don't know, it could be a toss-up depending
15 on what is -- the issue of the girl already being in prostitution, all the
16 pimp has to do is convince her why it's better to be with him than it is
17 with her current pimp or why she needs a pimp in the first place and why
18 he can make her better at her job because she's already made the
19 decision to go out there and work. Whether that was done voluntarily on
20 her own or whether somebody else they kind of groomed her for that.

21 So half the battle is over with. So that's why I've added such an
22 enticing demographic from which to recruit from. And then of course
23 the other demographic is kids because they lack life experience, because
24 they have all these needs and all this, you know, being a kid is chaotic.
25 Even when you come from a good stable home, there's nothing not

1 chaotic about being a teenager. There's just so much coming at you at
2 once, there's so many bodily changes, it's hard to deal with all these
3 things emotionally and physically.

4 And the fact of the matter is that your brain doesn't get fully
5 developed until you're 26. You know, you consider that, I mean, there's
6 huge problems, right. So that's why that demographic is very, very
7 enticing.

8 But they will recruit from the demographic of adults as well. But
9 that's not as -- it happens, and I don't want to say that that would be
10 -- they would certainly jump at the opportunity if the opportunity
11 presented itself to do that, but those are the two target, general targets
12 are the already in prostitution whether it's adult or a kid or kid.

13 Q What would be some advantages of recruiting someone
14 that's already in prostitution? Advantages to a pimp.

15 A Well, there's a much lower learning curve. It's a matter of
16 just explaining what your rules are to them. She should already have
17 some basic understanding about, you know, personal experiences of
18 how to deal with a trick, how much to charge a customer for prostitution
19 and if she's had a previous pimp probably understands there's some sort
20 of a routine that goes on with what happens when you get to a day, you
21 know, when you have to drop off the money to the pimp. Does that
22 happen at the end of the night?

23 There was a real interesting program and, you know, you bringing
24 this up where this kind of illustrates, you can go back online, Kenneth
25 Bond is the pimp's name and he was profiled in 20/20 on 20/20 in the

1 year 2000 I want to say it was. They were doing a story on juvenile
2 prostitution and they happened to run into this guy.

3 He had recruited into his fold a gal who had already previously
4 been a prostitute and was currently working as a prostitute when she ran
5 into him. And one of the things he said was, look at her, she knows what
6 to do already. And so he used her as an example of how, you know, you
7 automatically you just ought to be falling in line like she's falling in line.
8 She already knows what to do. I don't have to go out and tell her what
9 to do. You can see that dynamic play out on film literally in that
10 program.

11 Q In the pimp prostitution subculture, what's a trick?

12 A A trick is a customer of prostitution. They're also referred to
13 as marks and that vernacular is -- can be regional or, you know,
14 crossover.

15 There's some terms in prostitution that are kind of unique or
16 slightly different depending on what part of the country it is, and I equate
17 that to kind of like police officers have codes here in Las Vegas. We use
18 what's called 400 code system, but there's a 10 code system and a 200
19 code system that are used by various things.

20 So you'll get a different code, but it'll essentially mean the same
21 thing.

22 Q And can you tell the jury what the difference between an
23 outcall and an in-call is in this subculture?

24 A An outcall is when the prostitute comes to your location and
25 an in-call is where you go to the prostitute's location. So on an in-call, a

1 prostitute will have a room. They might even operate out of their own
2 house. So you'll go to their locations. They feel like they have more
3 control over that. I mean there's pluses and minuses to both. But some
4 people prefer to do it that way because they feel like they have more
5 control over their environment.

6 And a lot of times and there has been times in the past where we
7 found, you know, pimps hiding in the closet or hiding behind drapes or
8 under furniture, things where they can kind of be there to manage the
9 situation if it gets out of hand.

10 Outcalls, you know, all the billboard you see driving down the strip
11 with the numbers, those are outcall entertainment services. They send a
12 girl to your room or your house or to wherever it is that you happen to
13 be staying.

14 Q In your training and experience where pimps have had more
15 than one victim working for them, do you often see a girl that's in charge
16 of the other prostitutes?

17 A Yes.

18 Q What's that called?

19 A She's referred to as a bottom bitch.

20 Q And what is the dynamic there with those victims?

21 A Essentially a bottom bitch or his bottom is that she's also
22 referred to as the most -- typically the most trusted. Doesn't necessarily
23 have to be with the pimp the longest, but is the most trusted. The one
24 who is going to do what the pimp expects of her to do without having
25 the pimp having to remind her.

1 So she actually kind of acts as kind of a second in command and so
2 to kind of use a Star Trek metaphor it's like, you know, she's Mr. Spock
3 to Captain Kirk or, you know, William Riker the Captain Picard. The first
4 officer type of a thing.

5 And so when the pimp is out of town or disposed, she handles the
6 pimp's affairs. So she could be collecting money, she could be out there
7 actively recruiting, she could be out there training, she could be out there
8 enforcing the rules of the pimp when he's just not available to do that.

9 That would be another way that pimps could utilize where the
10 pimp might not even be seen or visible, but there's that bottom that's
11 working in the same area and the other girl, the kid may not feel or the
12 other victim who might want to leave, may not feel compelled to leave or
13 run because they're worried that the bottom might find out and
14 immediately turn around and tell the pimp.

15 Q Okay. And I believe you had indicated previously that some
16 pimps in exercising their control won't allow the different girls that are
17 working for them to really communicate; is that common?

18 A That happens. I've seen it work. I don't know how they're
19 able to pull this off, but literally I'm thinking of one particular case in
20 mind where he had three different girls and none of the girls knew that
21 the other girls existed. He had them all set up in different houses.

22 And for him, I guess he found that the easier way to manage them.
23 But frequently, they're all living underneath the same roof. They're all
24 acting like they're having, you know, they're essentially married to the
25 pimp which is where you find the terms wifey or wifey in-laws as they

1 refer to each other in the stable, it's just another prostitute in the stable.
2 You hear that quite frequently. Comes into play.

3 But there are times where they'll keep -- again, it's predicated upon
4 the level of gamesmanship that the pimp has to pull that off and the type
5 of victim that he is exploiting at that time. He may have a bunch of
6 victims that if they got together it would just be a terrible thing and it
7 could completely blow up in his face, so he keeps them separate.

8 He might be able to wing it to where everybody is kind of onboard
9 and understands it's all part of a family, we're all part of a larger group,
10 we're all working together for something much greater and that can
11 work out. But I've seen it -- I've definitely seen it both ways.

12 Q And the investigations that you've been involved with
13 regarding juvenile victims, have you been asked or has the question
14 been asked, why is it when the victim isn't in physical proximity with the
15 pimp, why aren't they screaming for help or calling 911 as soon as
16 they're apart?

17 A It certainly happens with both adults and juveniles, but, you
18 know, juveniles -- inherently as law enforcement, juvenile cases are very
19 very difficult. And the single biggest reason why it's difficult is because
20 the law is making the kid a victim based on their age and the kid may not
21 actually recognize themselves as being a victim.

22 In other words, they may have come from a situation that they
23 deem in their mind is worse than the situation that they're currently in.
24 So they don't want to run, scream help because A, they don't identify
25 themselves as being a victim or if they do recognize themselves as being

1 a victim, they don't want to run to the police because A, they're being
2 programmed by the pimp the entire time that they're with him, don't talk
3 to the police because they're going to arrest you.

4 Or they're fearful that they're going to get sent right back to where
5 they came from and they don't want to do that. So those are just some
6 of the reasons why that happens. And the other part of it is just straight
7 fear. You know, they're afraid of retribution from the pimp, somebody
8 else if the pimp's got multiple people working for him, retribution by
9 somebody involved in that or even somebody that's associated loosely
10 with the pimp. So there's that fear.

11 There's also shame that, you know, nobody wants to go. They
12 understand they've messed up. They've come to that rationalization that
13 they messed up. There's some internal shame. They feel like they need
14 to be the ones responsible for getting themselves out of the trouble so
15 they'll lay low to try to figure out a way to do that and may never ever
16 really, you know, potentially come to fruition.

17 Q In your training and experience especially and specifically
18 regarding juvenile victims, in your interactions with your detectives and
19 in their investigations are those victims typically completely upfront and
20 honest with detectives when they very first meet them?

21 A No. No.

22 Q Okay. And you kind of chuckled a little bit. Can you explain
23 what you mean by that?

24 A I'll give you, I mean a real life example of one that just
25 happened to me. One that I handled as a lead detective on. They'd gone

1 down and she was cooperative with me, she gave me a statement. I
2 went down to visit her the second day to check on her and the very first
3 thing she did when she came, you have to ignore everything I told you
4 last night and none of it was true.

5 And she did that one, because she said she was under the
6 influence of some marijuana at the time that she did it, but I think that
7 overnight she had the thought process of what this is really an
8 opportunity for me to get out. So they don't do that, and they don't do
9 that because again there's a lack of trust between are the police really
10 going to help me, am I going to end up going back to right where I came
11 from.

12 There's the feeling of because they're so off in a romantic
13 relationship between pimp and prostitute, there's that loyalty to the pimp
14 that they don't want to break that loyalty to it because, you know, quite
15 frankly some of these gals end up when they get kind of liberated from a
16 current pimp, wind up staying in the lifestyle for a number of different
17 reasons.

18 But when they become and get labeled to be a rat, there's a target
19 on their back from other people in the subculture. So there's a real
20 hesitation to cooperate with the police initially, so it's very important
21 whether it's an adult case or a kid case to really develop and earn the
22 trust and build trust with them before they're going to actually come
23 clean most of the time.

24 Q And as part of building that trust, in the cases that you
25 investigated and supervised, is it a common thing for investigators to

1 make multiple visits, have multiple conversations with victims that have
2 absolutely nothing to do with the investigation itself?

3 A Absolutely.

4 Q And what is the purpose of that?

5 A Again, it's building trust, building rapport. I think that --
6 especially from a victim perspective and particularly when you're talking
7 about a kid who gets, you know, put into the juvenile justice system as a
8 result of that. So even adults get put in the adult justice system, right.
9 So the question immediately comes into mind, why are we arresting
10 victims. That's a completely separate issue. But that's kind of the
11 elephant in the room type of thing.

12 And from a victim perspective they think, well, all you're really
13 using me for, you don't really care about me. All you care about is that
14 arrest at the end of the day. And quite frankly nothing could really be
15 further from the truth. The idea is to try to get the victim whether it's an
16 adult or a kid out of that lifestyle and the bonus is if you can successfully
17 prosecute somebody who has victimized her, that, you know, we want to
18 be able to do that.

19 And so there's been a number of occasions where, you know, you
20 just have to meet multiple times with the gal. We had a very egregious
21 terrible adult case where I had my -- two of my detectives met with the
22 victim and they did nothing regarding even talking about that incident
23 with her while she was recovering from the injuries that she received in
24 the hospital for three months before we even began to start broaching
25 what really happened to her.

1 Q Is it common for victims as they gain trust with the detectives
2 to disclose little by little and then eventually disclose everything that
3 happened?

4 A Absolutely.

5 Q Is the DA's office or the State of Nevada paying you for your
6 testimony today?

7 A No.

8 Q Okay.

9 MR. MARTINEZ: Pass the witness.

10 THE COURT: Mr. Miles?

11 MR. MILES: Yes, Your Honor. If I may approach, briefly.

12 CROSS-EXAMINATION

13 BY MR. MILES:

14 Q Good morning, officer.

15 A Good morning.

16 Q So you testified that you was a sergeant, you are currently a
17 sergeant, you're retired, right?

18 A I'm a retired sergeant with the Las Vegas Metropolitan Police
19 Department, correct.

20 Q Now you also indicated on direct examination that you're
21 overseeing prostitution related crimes? You supervise --

22 A The investigation. Yes. So supervisor in the vice section,
23 both short and long term investigations at various times throughout the
24 14 years I was assigned there.

25 Q Now during your testimony you were talking about pimps;

1 isn't that correct?

2 A Yes.

3 Q Okay.

4 A And prostitution in general.

5 Q Now when you were talking about pimps, were you referring
6 to a specific type of gender or --

7 A No. I use the term pimp. It's gender neutral.

8 Q Okay. Gender neutral. So a pimp could be essentially
9 anybody; is that correct?

10 A Right.

11 Q And so based on your training and experience, have you also
12 seen female pimps as well?

13 A Yes.

14 Q Okay. Can you tell us a little bit about that?

15 A It's the same dynamic essentially as you have with the male
16 pimps. There's no delineation based on race, gender, sexual orientation
17 in terms of pimping. The foundation of pimping is exactly the same. It is
18 motivating somebody to go out and commit a commercial sex act and
19 then in turn, turn over that money to the pimp.

20 And life experiences of the pimp, a whole bunch of things play --
21 life experiences of the victim. What motivates me, doesn't motivate --
22 may not motivate some of you. The pimp regardless of sex, race,
23 political affiliation, all the little variations that you can find in there, all
24 function under the same thing, which is to find that which they can
25 exploit, and they can manipulate to their advantage. And it happens

1 whether it's a male pimp, whether it's a female pimp, black pimp, white
2 pimp, Hispanic pimp, Asian pimp, a pimp from Mars if such a things
3 exists.

4 I've seen them -- I've arrested adult pimps, I've arrested juvenile
5 pimps, male pimps, female pimps, black, white, Hispanic, Asian and a
6 variety of mixed race, you know, pimps.

7 Q Now -- okay.

8 A So it's not -- anybody can be a pimp.

9 Q Now when you were supervising those type of cases, were
10 you telling your officers that is important to prosecute females as well as
11 males too?

12 A Yeah. Well the thing is -- here's the thing, we're talking
13 about pimp investigations and you're talking about any investigation at
14 all, police work is highly reactive unfortunately. And then when we're
15 talking about sex trafficking investigations, that is really the case.

16 We don't get to pick and choose when we recover a kid off the
17 street or in a hotel or wherever it is, or we arrest her who the pimp is.
18 That's not something we have any control of.

19 The pimp, the person who's controlling that person at that time is
20 who it is regardless of color of skin or gender. It doesn't make any
21 difference whatsoever. We don't have any control over that.

22 So we go where the evidence leads us and that's who ends up
23 getting arrested.

24 Q Okay. So you go wherever the evidence leads you; is that
25 correct?

1 A Correct.

2 Q So during your supervision of these type of cases, would it
3 be fair to say that --

4 MR. MILES: Actually, Court's indulgence.

5 BY MR. MILES:

6 Q Well, you indicated on direct examination that typically
7 outcalls and in-calls are references to prostitution related activity, is that
8 what you indicated on direct?

9 A Well, in the way that the question was posed to me, yes. He
10 was specifically talking about in-call prostitution and outcall prostitution
11 and what the difference was in terms of those terms or what those terms
12 meant in regards to prostitution. So, yes. I was talking about
13 prostitution.

14 Q So if a prostitute were to receive messages from a John,
15 what type of messages would you see from the John regarding the
16 outcall?

17 A Might be, are you available. How much. It could be
18 discussions of costs. Certainly if it was an outcall situation where the girl
19 was coming to the guy, what room he was in, where he was located and
20 the time of the meet or what time he would prefer to meet.

21 There may be some conversations over the physical appearances
22 of the prostitute and things that she will do and what she won't do. Kind
23 of what the menu is. It's going to vary from -- again, those are just some
24 things that I would expect that I might be able to see, but it's not going to
25 be all inclusive. It's not going to be the same thing for every customer

1 prostitute interaction. It's going to be different based on how much --
2 how comfortable, A, the customer is discussing that stuff via text
3 messaging because there's always that concern by both parties of this
4 transaction that on the other side the other one's a police officer.

5 So that might not be open, necessarily openly discussed. There
6 could be some hesitation. So it could be kind of veiled in the way that
7 they're discussing it. It's all really going to be kind of individualized, I
8 guess to say.

9 Q Okay. So if a prostitute were to receive a message from a
10 John regarding an outcall, there would obviously be an address that
11 John would have to send them; is that correct?

12 A Certainly at some point in time that would have to come up
13 whether it happened over the telephone or happened during a text
14 message. Yeah, I mean I would imagine that the customer would
15 actually want the prostitute to show up where he is currently located at.

16 Q So it would be fair to say if a prostitute were to receive a
17 message from a John regarding an outcall, she would obviously need
18 the address, where he's located, if he's available and then you would
19 probably see some text messages regarding like, okay -- can you tell us a
20 little bit more about that? Can you stress a little bit more about the
21 outcalls and the messages that you would see from --

22 A I mean there's a number of different ways to communicate.
23 Now everything might not happen according to text message. Some of
24 that might actually happen via direct telephone calls. I mean there has
25 certainly been times where I have responded to a telephone number in

1 an ad and talked to a human being. Now whether that was actually the
2 person that showed up at the door, it could be debatable, but you do talk
3 to a human being.

4 So there's a number of different forms of communication. At some
5 point if you're going to have a successful outcall encounter, the
6 prostitute would have to know where the customer is located at and
7 would have to -- that information would have to be exchanged in some
8 form or fashion. It could be text message, could be telephone, it could
9 be --

10 Q So it wouldn't be as successful outcall if she didn't receive
11 that type of information as far as where he's located; is that right?

12 A Well, it certainly wouldn't be a successful outcall if she
13 wasn't able to show up at the location and commit the act and get paid
14 for it, right?

15 Q Now can you tell us a little bit more about in-call messages
16 that you would see if it were text messages? Can you tell us a little bit
17 more --

18 A A lot of that would be kind of the same but only be kind of in
19 reverse. It would be the prostitute or person acting on behalf of the
20 prostitute and setting up the date, giving a time, a location.

21 A lot of times when we're doing in-calls off of ads that are
22 advertising in-calls, you'll be set to a series of kind of tests or whatever.
23 Go to this location, shoot me a text message or call me once you get to
24 this location. Jump through a bunch of hoops to -- before you get the
25 actual location of where it is.

1 And there could be discussion of price, but a lot of times you're not
2 going to see discussion again of prices necessarily in a message that can
3 be used later on potentially in a criminal investigation. A lot of times
4 girls aren't talking price until they get into a spot where they can screen
5 you to determine whether or not that you're a law enforcement officer or
6 not.

7 So you might not see that. You might see it, you might not see it.
8 Some people are very direct. And again, it just depends on the
9 individual, their comfort level, whether or not it's a regular or not a
10 regular. I mean there's just a whole bunch of different factors that go
11 into that. I don't think that you would see one constant stream.

12 But certainly at some point in time if I as a customer was going to
13 go to a prostitute's location to receive a commercial sex act, I would
14 need to know where that is. And so somehow that information would
15 have to be relayed to me.

16 And then at some point in time before that commercial sex act is
17 consummated, a discussion of money would have to take place and
18 whether that happens in person, over the phone, in a text message,
19 there's a lot of different variables there.

20 Q About how long ago did you retire again? I'm sorry.

21 A I retired at the end of March, actually March 27th, 2015 was
22 my last day of work. So my first day of retirement was the 28th of
23 March. So four years ago.

24 Q Now during those time frames, do you recall a case by the
25 name of Ocean Fleming?

1 A Yes.

2 Q Can you tell us a little bit about that case?

3 A What specifically would you like to know about it? I mean
4 he's a very violent and notorious pimp. The case started for us when
5 one of his prostitutes ran out of the house on the telephone with 911
6 screaming bloody murder. She jumped into a complete strangers car.

7 Mr. Fleming pulled his car and blocked that car when she's
8 screaming at the girl to hurry up, drive away, drive away, drive away.
9 Got out of the car. You can hear Mr. Fleming on the 911 call yelling
10 obscenities, telling his victim to get out of the car and that he was going
11 to crush their skulls with a rock. Then you hear the victim pleading,
12 please don't unlock the door, don't do it. She unlocks the door because
13 she doesn't want to get -- the innocent party doesn't want to get hurt.

14 And then you hear nothing but blood curdling screams as he's
15 grabbing her and basically kidnapping her. That's how that case got
16 started.

17 At the end of the day, he got convicted. I don't remember on how
18 many -- this was back in 2012 is when it finally came to trial.

19 MR. MARTINEZ: At this point Judge, I'm just going to ask
20 that -- I don't think this is relevant to the incident, case at hand.

21 MR. MILES: And I believe it's relevant, Your Honor. He's
22 testifying to this subculture. Pursuant to statute he could testify to the
23 prostitute subculture. I see no reason why --

24 THE COURT: Well, there's a subculture and then there's
25 specifics of specific cases that I don't find to be relevant. So I'm going to

1 sustain that objection.

2 MR. MILES: Okay.

3 THE COURT: You got out the basic facts.

4 BY MR. MILES:

5 Q Okay. And again, when you're supervising these type of
6 cases, do you stress to your officers how important it is to figure out the
7 real facts of the case?

8 A Of course.

9 Q Okay. Because it's fair to say that the facts of the case would
10 be important; isn't that right?

11 A The facts of the case are always important.

12 Q Okay. And why is that?

13 A The purpose of an investigation is to prove or disprove the
14 charges that have been levied in the case. So, you know, the case works
15 for all parties involved. It could exonerate the suspected person, or it
16 could, you know, confirm what the victim is claiming had happened.

17 Q Okay. Now in your investigation, you said you investigated
18 female pimps as well. During those type of investigations, were all those
19 females honest with you upfront about what they were doing?

20 A Pimps or --

21 Q The female pimps.

22 A I've never had anybody who was a pimp, female, whatever
23 demographic you want to attach to them just come out and say, yeah,
24 I'm a pimp.

25 Q Okay. So it would be fair to say that female pimps place the

1 blame on other males, would that be fair to say?

2 A Depends on the situation of the case I suppose. I mean I
3 suppose if you were looking at somebody who was actually more
4 inclined to be a bottom as opposed to being an actual pimp, but you
5 don't have anything that can link the actual real pimp, but she's the
6 bottom and she's acting as a pimp, she probably can get arrested as a
7 pimp.

8 So sometimes you would see in those cases where they might try
9 to say that it was somebody else, it's not them. But normally not --
10 they're not saying, it's not me, it's somebody else. Just like, I'm not a
11 pimp. That's not what I'm doing. I'm not a pimp.

12 Q Okay.

13 A And it would be the same thing with a male pimp. I just
14 never had anybody come up and say, you got me, I'm a pimp. Well,
15 actually that's not necessarily true. One time I had somebody that I
16 caught on the street doing the pimping and I had mentioned a piece of
17 evidence and his response was, you saw that, and I said, yeah. He goes,
18 oh, you got me. So that was technically an admission.

19 But other than that in 14 years, I've never had anybody else in a
20 long term investigation that wasn't done right there at the time where I
21 saw something happen say, yeah, you got me. I'm a pimp. They all
22 deny it.

23 Q Now during minor sex trafficking investigations, is it
24 important as well as -- is it as important to arrest the Johns as well as the
25 pimps as well too?

1 A We would certainly if an opportunity presented itself to arrest
2 a John that was involved in the juvenile prostitute. That's what I'm
3 assuming you mean when you're talking minor and not like less serious
4 sex trafficking case.

5 Cases involving juveniles, it is a felony to solicit a juvenile. It's a
6 low level felony, but it is a felony, nonetheless. So if the opportunity
7 would present itself where we could catch a John with a juvenile
8 prostitute, the John most certainly would be arrested.

9 Q Okay.

10 A Certainly under my command it would be. I certainly would
11 do that.

12 Q Okay.

13 MR. MILES: No further question, Your Honor.

14 THE COURT: Anything else from the State?

15 MR. MARTINEZ: No, Your Honor.

16 THE COURT: Ladies and gentlemen of the jury, anybody
17 have a question? Seeing no hands. Is this witness excused?

18 MR. MARTINEZ: Yes, Your Honor.

19 THE COURT: Okay. You're excused. Thanks so much for
20 your testimony.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: And please don't discuss it with anyone else.

23 THE WITNESS: Of course.

24 THE COURT: Next witness?

25 MR. MARTINEZ: Can we take a quick restroom break?

1 THE COURT: Sure.

2 MR. MARTINEZ: Thank you.

3 THE COURT: Ladies and gentlemen, we're going to take a
4 recess. During this recess, you're admonished not to talk or converse
5 amongst yourselves or with anyone else on any subject connected with
6 this trial or read, watch or listen to any report of or commentary on the
7 trial or any person connected with this trial by any medium of
8 information including without limitation to newspapers, television, the
9 Internet and radio or form or express any opinion on any subject
10 connected with the trial until the case is finally submitted to you. And no
11 legal or factual research or investigation or recreation of testimony on
12 your own.

13 JUROR: Five or ten minutes?

14 THE COURT: We don't do anything in five minutes, right?
15 10, 15. This will probably be your last five minutes. Okay. We'll do it as
16 quickly as we can. This will probably be the last break of the day.

17 THE MARSHAL: All rise.

18 [Outside the presence of the jury.]

19 THE COURT: The record will reflect we're outside the
20 presence of the jury. If there's any exhibits to be offered with this next
21 witness, can you please make sure the Defendant sees it before the jury
22 comes back in so if we have any issues, we don't have any more that
23 other stuff?

24 MR. MARTINEZ: Yes. And I do need to address the
25 parameters of cross-examination for Detective Gatus. Throughout the

1 four and a half year, whatever however long this has been going, there
2 have been allegations made by Mr. Miles that she conspired with me to
3 perpetrate a fraud on the court. That she perjured herself in search
4 warrant affidavits that all sorts of things of that nature that have been
5 litigated and ruled upon by Judge Togliatti and yourself that there isn't
6 evidence suggesting that there was such a conspiracy or any perjury or
7 perpetrating a fraud upon the court.

8 Now I don't think it would be appropriate for Mr. Miles to
9 start lobbing accusations like that after these rulings have taken place.
10 I'm not suggesting that he can't pursue a theory of defense because of
11 the white LG phone ceasing to function while in Metro custody. I think
12 that's an appropriate avenue to explore.

13 But as far as Detective Gatus lying in affidavits and perjuring
14 herself and conspiring with me to perpetrate a fraud on the case, I just
15 want the Defendant to understand what the parameters are, be advised
16 of that so that we don't have another situation in front of the jury where
17 something inappropriate happens like last time.

18 MR. MILES: Well Your Honor, I'm not sure exactly where my
19 cross-examination is going to go, but if it's any -- if it's relevant to the
20 case, then the jury should see the evidence and hear the evidence how it
21 is. I see no problem with if she has a search warrant affidavit that if I
22 question her like, okay, did Gabrielle King tell you this or tell you this at
23 the time?

24 THE COURT: You can do inconsistencies and whatnot.

25 MR. MILES: Yeah. I don't see no problem pointing that out

1 and then pointing out, okay, well who signed the warrant affidavit, who
2 approved it, did you talk to that person when they approved it, what did
3 you all talk about. You know, things like that that's appropriate. I'm just
4 referring to the evidence. I'm not going to just make some blatant
5 allegation, you conspired with Mr. Martinez, didn't you, unless the
6 evidence suggests that.

7 THE COURT: As long as you keep it legal questions and if
8 you feel it's not, then you object and I'll rule.

9 MR. MARTINEZ: Right. And hearsay still applies I'm
10 assuming. On cross-examination, the rules of hearsay.

11 THE COURT: Absolutely.

12 MR. MARTINEZ: So we can't just admit search warrant
13 affidavits as evidence. If he confronted Gabby with a specific
14 inconsistent statement, then he can refer the detective to a particular part
15 of the search warrant --

16 THE COURT: Correct.

17 MR. MARTINEZ: -- where she said that Gabby said
18 something inconsistent. But I think we're -- he needs to understand the
19 rules of admissibility at this point.

20 THE COURT: That's correct. Hearsay rules apply.

21 MR. MILES: And I understand, Your Honor. If I do try to
22 admit something, it's going to be, okay, is this a true and accurate
23 document, do you recall this evidence, what did you say in this evidence,
24 I'm showing you this exhibit. Do you recall stating this and stating that.
25 I'm aware of the hearsay rule.

1 MR. MARTINEZ: He can refresh recollection, but we can't go
2 down the same road that we went down before where he just starts to
3 admit something. He can refresh recollection with anything, but we --

4 THE COURT: He moves it in, you object, and then we'll rule.

5 MR. MARTINEZ: That's fine. I just don't want the side
6 commentary either saying, oh, if the State doesn't want it in, then I guess
7 we won't do it.

8 THE COURT: Yeah. I don't want that either because that
9 can't be undone once you start going down that road. So no speaking
10 objections. No commentary, if you will. Okay?

11 MR. MILES: Okay.

12 MR. MARTINEZ: Thank you, Your Honor.

13 THE COURT: All right.

14 [Recess at 2:49 p.m., recommencing at 2:58 p.m.]

15 [Outside the presence of the jury.]

16 MR. MILES: -- and she testified about these Metro PCS
17 documents that she received it from Metro, what the contents of Metro
18 was and at what time the number was activated.

19 THE COURT: Are we on now?

20 MR. MILES: I don't have no problem laying a foundation, I
21 have a transcript here.

22 THE COURT: [Indiscernible] of what?

23 MR. MILES: Huh?

24 THE COURT: What's the State's response on that?

25 MR. MARTINEZ: Well, he can't admit the Metro PCS record

1 just because she issued the subpoena for it.

2 MR. MILES: That's not just going to be my -- obviously I'm
3 not going to lay the whole foundation if we're just discussing --

4 THE COURT: What's the foundation? What are you offering
5 it for?

6 MR. MILES: Well, I'm offering it to prove that the number
7 that he's saying I was using wasn't even activated at the time. But we'll
8 get to that. I'm not just going to tell him exactly my trial strategy during
9 the --

10 THE COURT: I just want him to look at the exhibits --

11 MR. MILES: Yeah.

12 THE COURT: -- because if there's any objections, I want to
13 do it outside the jury now. Actually, no. I don't want to do it now
14 because I'm done. Bring the jury in. They asked for a five minute break,
15 it's been another 15 minutes.

16 THE MARSHAL: All rise for the entering jury.

17 [Inside the presence of the jury.]

18 THE COURT: Welcome back. All jurors are present. Next
19 witness?

20 MR. MARTINEZ: State calls Justine Gatus.

21 THE MARSHAL: Please watch your step.

22 THE CLERK: Pleaser raise your right hand.

23 JUSTINE GATUS, STATE'S WITNESS, SWORN

24 THE CLERK: Please be seated. State your name for the
25 record and spell your first and last name.

1 THE WITNESS: Justine Gatus. J-U-S-T-I-N-E G-A-T-U-S.

2 MR. MARTINEZ: May I proceed?

3 THE COURT: Go ahead. Yup.

4 MR. MARTINEZ: Thank you.

5 DIRECT EXAMINATION

6 BY MR. MARTINEZ:

7 Q Ma'am, how are you employed?

8 A I am a detective with the Las Vegas Metropolitan Police
9 Department.

10 Q In what capacity?

11 A I am a --

12 Q Today.

13 A Today I'm a homicide detective.

14 Q Okay. And back in 2015, were you a detective then?

15 A Yes, I was.

16 Q In what division?

17 A I worked in the vice section.

18 Q How long have you been a detective total?

19 A I promoted to detective and I think it was January 2012.

20 Q And when you were in the vice section, what were your
21 duties and responsibilities?

22 A I worked on a couple of different teams up in the vice section.
23 One, I worked enforcement, so I did primarily undercover work for about
24 three years and then I went over to the Child Exploitation Task Force
25 which is a task force that's federally funded. I was a federally sworn

1 deputy by the U.S. Marshal to investigate crimes that involve children
2 being sex trafficked.

3 Q I'm going to turn your attention to February 13th, 2015. Did
4 you get assigned to investigate a sex trafficking of a child case involving
5 Gabrielle King and Christian Miles?

6 A Yes, I did.

7 Q How did you become aware of that particular case and how
8 did you get assigned?

9 A Gabrielle King was listed as a missing person and so her
10 mother had actually called up to our unit to tell us that she had run away.
11 So I got a call on the 13th from -- I'm not sure if it was the probation
12 officer or if it was a clerk at juvenile hall, but I was notified from the
13 juvenile system that Gabrielle was found and brought to juvenile hall.

14 Q Do you know how long she had been reported missing
15 approximately?

16 A I think her missing date was February 8th.

17 Q Of 2015?

18 A Yes, sir.

19 Q And you had learned that Gabby had been arrested; is that
20 correct?

21 A Yes.

22 Q And are you aware of where she was transported?

23 A Yes. To the Clark County Juvenile Hall.

24 Q Did you go to talk with her that night?

25 A Yes, I did.

1 Q And what was your purpose of going to go see her that
2 night?

3 A Basically just to start by building a rapport so that we could
4 investigate the circumstances of why she was down there and what was
5 going on in her life.

6 Q Okay. And is that a common thing for you to do in your
7 investigations is build rapport with juvenile victims of sex trafficking?

8 A Yes, it is.

9 Q Okay. And how do you go about typically doing that in these
10 types of cases?

11 A Just sitting down and talking with them. They're typically
12 pretty scared. A lot of them don't like police officers. So it's just kind of
13 getting to know them and telling them about yourself and kind of
14 building a bond from the beginning so they do -- so they are able to trust
15 you.

16 Q Did Gabby tell you everything that happened to her
17 immediately up front on that February 13th, 2015?

18 A No, she did not.

19 Q After you visited with her at the detention center, what did
20 you do next?

21 A I went to her mother's house.

22 Q Okay. And what did you do when you were there?

23 A We talked about the investigation or basically that she was
24 just arrested for the probation violation. I offer services too, that's part
25 of the task force. Our main goal is to rescue child victims, facilitate social

1 services for them through nongovernmental organizations.

2 So talking with her mom, you know, asking if they need counseling
3 and stuff like that. Her mom had given me the cellphone that Gabby had
4 while she was out of the house after she had run away, but to just kind of
5 get to know the family too a little bit and see exactly what's going on and
6 how to help the juvenile.

7 Q And you mentioned the phone. You were able to retrieve the
8 phone from that location their house; is that correct?

9 A Yes.

10 MR. MILES: Objection, Your Honor. Can there be a
11 foundation that's laid as what phone she's referring to?

12 BY MR. MARTINEZ:

13 Q What phone are you referring to?

14 A The phone that she had while she was a runaway.

15 Q Okay. And what type of phone was that, do you remember?

16 A It was a LG phone.

17 Q And do you remember what color?

18 A It was white.

19 Q Okay. And is that the type of phone that you retrieved from
20 the house on February 13, 2015?

21 A Yes.

22 Q Okay.

23 MR. MARTINEZ: I'm assuming that objection is overruled
24 or --

25 THE COURT: Overruled, I don't know. If it's withdrawn. You

1 answered it, so I don't k now whether it matters.

2 MR. MARTINEZ: Okay.

3 BY MR. MARTINEZ:

4 Q When you received that phone, were you able to get into it
5 right away?

6 A No, I was not.

7 Q And if you had been able to, would you have done that?

8 A No.

9 Q Why not?

10 A I won't go into somebody's phone unless they give consent.
11 By law we can only go into property or places by certain criteria and
12 consent or a search warrant or two of the most common. So I would not
13 go in the phone without her providing consent and she was not there to
14 do that at the time.

15 Q And was there a passcode function to be able to actually
16 open the contents of the phone?

17 A Yes, there was.

18 Q Did you know what that was at the time that you recovered
19 it?

20 A No, I did not.

21 Q Now did that phone -- what did you do after the visit with the
22 parents and after retrieving the phone, what did you do next in your
23 investigation?

24 A Well that night I ended up going home. You know, we go
25 back to the office, secure everything. I just remember it was late at night

1 that I was there at their house. So in the following days I would go just
2 to continue building a rapport with her. I know I conducted several
3 interviews with her to see if I could figure out basically again why she
4 got into the position that she was in.

5 We did eventually look at her phone. She gave me consent. She
6 provided the passcode. There's a machine called Cellebrite machine and
7 it basically transfers data from one digital device to another. It's kind of
8 like if you go to Sprint or Verizon then you have your old phone and you
9 want your phone numbers transferred to your new phone, it's the same
10 type of -- it's actually the same machine, it's Cellebrite. But it transfers
11 the data into another device.

12 So I did that with her phone. I put it on a thumb drive. Checked
13 the contents of the phone. So it gives me -- I have to request exactly
14 what I want on it, but I requested the call logs, the messages,
15 photographs and videos and that type of thing. So just started going
16 through the data in the phone to see if I could -- where it was going to
17 lead.

18 Q I'm going to back up a little bit. You said that after you had
19 visited the house you went back to the office, secured everything and
20 then went home.

21 A Yes.

22 Q Okay. So what did that include, securing everything, what do
23 you mean by that and what did that include?

24 A The cellphone. Any items of possible evidence that we have
25 that are associated with the case, we secure into a locker in my

1 sergeant's office which is also locked in our secure building. So the
2 phone was secured and whatever just initial paperwork that I had I keep
3 at my desk.

4 Q Okay. And when your sergeant is not in his office, is his door
5 locked?

6 A Yes, it is.

7 Q Okay. And is there a lock on the locker?

8 A Yes, there is.

9 Q And that's where you placed the white LG phone that you
10 retrieved from Gabrielle's family's house?

11 A Yes.

12 Q Okay. And did it remain in your sole, care, custody and
13 control up to that point that you put it in a locker?

14 A Yes, it did.

15 Q And did you eventually go back to the locker and was the
16 phone there?

17 A Yes, it was.

18 Q Okay. And was it in substantially the same condition as it
19 was when you left it?

20 A Yes, it was.

21 Q Okay. And did there come an occasion where you went back
22 and spoke with Gabrielle some more?

23 A Yes. Multiple times.

24 Q And what was the purpose of meeting with her multiple
25 times?

1 A Basically just to try to get the story of what had happened. A
2 lot of times juveniles they don't want to tell the truth right away. So you
3 kind of have to weed through it a little bit and figure out what actually
4 did happen. So when they tell us an initial story, we kind of -- I always
5 tell them that I'm going to go back and do my homework because they
6 kind of can relate to that and I'll start trying to identify people or places
7 or things.

8 And then I come back to the juvenile again and re-ask, you know,
9 the same types of questions and see if their answers change and a lot of
10 times they do. So it's just multiple times that we kind of have to kind of
11 confront them on certain things that we have found before they start
12 really opening up because then they get to realize like, you know, we are
13 able to figure things out.

14 Q In one of those visits subsequent to the 13th, did you talk to
15 Gabby about her phone?

16 A Yes.

17 Q And did you obtain her consent to be able to look through
18 the phone?

19 MR. MILES: Objection. No foundation as to when.

20 THE COURT: Overruled.

21 BY MR. MARTINEZ:

22 Q Do you remember the date that that was?

23 A I think it was February 16th that I -- that she gave me consent
24 to look through the phone.

25 Q Okay. And was she still at the juvenile detention center?

1 A Yes, she was.

2 Q Okay.

3 A It was during a follow-up visit with her.

4 Q Did you retrieve the phone from the evidence locker in your
5 sergeant's office before you went to the detention center?

6 A Yeah. Yes, I did.

7 Q And did Gabby identify that as her phone, the white LG
8 phone?

9 A Yes, she did.

10 Q And did she provide you a passcode to get into it?

11 A Yes, she did.

12 Q Okay. And she consented that you go through it, look at it,
13 take photos of it and retrieve the information --

14 MR. MILES: Objection, hearsay, Your Honor.

15 THE COURT: Overruled.

16 MR. MARTINEZ: It's not offered for the truth.

17 THE COURT: Overruled.

18 THE WITNESS: Yes, she did.

19 BY MR. MARTINEZ:

20 Q Okay. Now you mentioned the Cellebrite machine. Is that
21 located in your building that you work at?

22 A Yes. It's also locked and secured in my sergeant's office.

23 Q Okay. Now after you got the consent to go through, what
24 procedure did you follow to retrieve the information from Gabby's
25 phone? So how did you set it up on the Cellebrite machine, what did

1 you do to get the information?

2 A Well the Cellebrite machine itself it's like a touch screen and
3 you plug the phone in on one side of it and you plug in a USB thumb
4 drive on the other side. And then I just tell the machine, it asks if I want
5 to enter the type of phone or if I want to put it on like -- it kind of
6 searches just because it already can start to read what's in it to where it
7 knows what kind of phone it is.

8 And then once it figures out what type of phone like the name, the
9 brand and model, then I tell the machine specifically what to pull from it.
10 So that was being like the call logs and the text messages whether
11 they're the SMS or the MMS. MMS is the multimedia text messages.

12 MR. MILES: Objection, Your Honor. I don't think she's
13 qualified as an expert to testify what that is. What text message --

14 MR. MARTINEZ: She's not testifying as an expert, Your
15 Honor. She's testifying from personal knowledge.

16 THE COURT: Overruled.

17 THE WITNESS: So yeah. The multimedia messages are like
18 photographs and videos and music and the SMS are short messages.
19 So those are the text messages only, like without video and audio and
20 that type of stuff.

21 BY MR. MARTINEZ:

22 Q And you mentioned a thumb drive that gets plugged into the
23 Cellebrite machine. Is there multiple thumb drives that go with that
24 machine to retrieve the information or is there just one?

25 A In the Cellebrite case there are two thumb drives and they

1 are different gigabyte data storage levels and they're basically -- they're
2 just reusable to where you take the data and with like the corresponding
3 -- for however much data you think is going to be on the phone with that
4 thumb drive and then we take it and make copies into our Metro or
5 police issued desktop computers.

6 And then we either burn multiple thumb drives again for the
7 defense and for the state or we burn CDs. It just depends on how much
8 data is on that for which type of device we use whether it's a disk or a
9 thumb drive.

10 Q So were you able to retrieve the data from Gabby's phone
11 and get it onto that UFED thumb drive?

12 A Yes, I was.

13 Q What did you do with the UFED thumb drive once you
14 retrieved the information?

15 A After I plug it into my computer, I delete it and put the thumb
16 drive back with the Cellebrite machine itself so it can be reused.

17 Q And you say you put it in your computer, do you save it?

18 A Yes.

19 Q Okay. And then you make copies available for the
20 prosecution and defense; is that correct?

21 A Yes.

22 Q And is that what you did Gabby's phone data?

23 A Yes, I did.

24 Q Okay. Now did there come a point in time when you went
25 over the text messages that were located in her phone?

1 A Go over you mean with her or review them?

2 Q Just review them yourself.

3 A Yes.

4 Q Did you review them with Gabby as well?

5 A Yes, I did.

6 Q Did you review them by yourself first and then with Gabby or
7 what happened first?

8 A By myself first and then I brought the printouts to Gabby.

9 Q Okay. Were you also able to retrieve incoming and outgoing
10 calls list?

11 A Yes.

12 Q Were you able to obtain a missed calls list?

13 A Yes.

14 Q Were you able to retrieve images?

15 A Yes, I was.

16 Q And that all got saved right after it was retrieved from the
17 phone, it got saved into your computer; is that correct?

18 A Yes.

19 Q Okay. Now after reviewing the text messages in Gabby's
20 phone, did you have any concerns?

21 A Yes, I did.

22 Q What were those concerns?

23 A There was conversations that were basically indicative of
24 prostitution and with her being so young it was concerning.

25 Q And what was your understanding as to how old Gabby was

1 at the time?

2 A I believe she was 16 at the time.

3 Q Did you review the text messages from her phone with her at
4 the detention center?

5 A Yes, I did.

6 Q Now if you recall, did you go over them with her phone or
7 was it from the data retrieval report?

8 A I think I did both because initially when she gave me the
9 password there at juvie, I'm sure we scrolled through it while we were
10 there together. But then I know -- basically at that point I do want to
11 keep that phone secured, so I keep that locked in the office until I deposit
12 it into the evidence vault.

13 So I'm fairly certain I did both with the printouts and the physical
14 phone, just at different times.

15 Q And did she identify who -- well, were you able to find a
16 contact name with an associated phone number with somebody by the
17 name of Chris?

18 A Yes, I did.

19 Q And did Gabby identify who that was?

20 A Yes, she did.

21 Q Who was that?

22 A Christian Miles.

23 Q Have you had -- did there ever become a point in time when
24 you conducted an in-person interview with Christian Miles?

25 A Yes, I did.

1 Q Do you see Christian Miles in the courtroom today?

2 A Yes, I do. He's wearing a blue shirt with a black or dark
3 colored coat.

4 MR. MARTINEZ: Would the record reflect identification of
5 the Defendant?

6 THE COURT: It will.

7 BY MR. MARTINEZ:

8 Q And we'll get back to that conversation shortly. Now you
9 had indicated that you reviewed the text messages. Were there only text
10 messages from the Defendant to Gabby over their numerous text
11 messages?

12 A There were numerous text messages from all sorts of people.

13 Q And those text messages, were the text messages that had
14 nothing to do with your investigation of this case?

15 A Yes.

16 Q But you did review all of them to see if there was a
17 connection or not a connection, is that fair to say?

18 A Yes.

19 Q Did you have the ability once you retrieved the information
20 to print out a report that only contains text messages from a specific
21 individual to a particular phone?

22 A Yeah. But what I did was -- the report that generates from
23 the computer, it's a PDF. So it shows me everything, all of the text
24 messages. But for paperwork purposes later on down the road to show
25 that the elements of the specific crime that I was investigating, I basically

1 took out -- I separated out the messages that I was able to identify just as
2 coming from Christian Miles versus all of them because I can't -- well, I
3 didn't want to put, you know, hundreds and hundreds of messages from
4 all sorts of people into an official document that were determined did not
5 really have anything to do with the crime. So they were separated.

6 Q Okay.

7 A Everything with that name or the specific numbers.

8 Q And that information that you were able to retrieve being
9 specifically from Christian Miles to Gabby, were you able to put it
10 together in one report?

11 A Yes, I was.

12 Q Okay. And that was generated from the overall report that
13 you extracted with the Cellebrite machine; is that correct?

14 A That is correct.

15 Q Okay.

16 MR. MARTINEZ: I'm going to publish what's been admitted
17 as State's Exhibit Number 6.

18 BY MR. MARTINEZ:

19 Q Does this look familiar to you?

20 A Yes, it does.

21 Q What is this exhibit?

22 A Those are the text messages that were in Gabrielle's LG
23 phone to a person named Chris and with the phone number associated
24 on the left next to the name.

25 Q And what is the phone number that was associated with

1 Chris to the left?

2 A On this one it was 702-913-2289.

3 Q You said, this one. Were there multiple numbers that Gabby
4 identified belonging to Christian Miles?

5 A Yes, there were.

6 Q How many?

7 A Two.

8 Q That were in that phone; is that correct?

9 A That's correct.

10 Q Now you had indicated that you were concerned regarding
11 some of these text messages. Just off the top of your head, can you
12 remember what some of those were that concerned you with regards to
13 trafficking?

14 A Yeah. She was talking about needing condoms. She was
15 saying that her vagina hurt and there was incoming messages talking
16 about how much money he had. I don't know if it was \$150 something
17 like that. So to me that's indicative of prostitution.

18 Q Okay. Was there talk of outcalls?

19 A Yes, there was.

20 Q And in your training and experience, do you know what an
21 outcall is in the pimp prostitution subculture?

22 A Yes. It's when you go to a customer wherever they're
23 located at.

24 Q Now on this State's Exhibit 6, how was -- you had mentioned
25 that there was the initial phone number that you already read off and

1 then you said there was a second number associated with the Defendant
2 identified by Gabby. How did she -- do you recall how she had that
3 saved in her phone?

4 A Chris2.

5 Q And was that part of what you compiled from the master -- I
6 say master report. From the main report?

7 A Yes.

8 Q And what was that number for Chris2?

9 A 702-478-2713.

10 Q Did you see these numbers in any other place in the main
11 report that you were able to retrieve such as a calls list?

12 A Yes.

13 Q If you could look at State's proposed Exhibit Number 5.

14 [State's Exhibit 5 marked for identification]

15 A Thank you.

16 Q Just take a look at that and let me know if you recognize
17 what that is.

18 A Yes. This is the incoming, outgoing and missed call list.

19 Q Okay. Did you create that report?

20 A Yes, I did.

21 Q And was that from the main report retrieved from the white
22 LG cellphone that Gabby gave you permission to review?

23 A Yes, it is.

24 Q Is it fair and accurate copy of that report?

25 A Yes, it is.

1 Q And again, you created it?

2 A Yes, I did.

3 Q Okay.

4 MR. MARTINEZ: Move for the admission of State's proposed
5 Exhibit 5.

6 MR. MILES: And I'm going to object, Your Honor, to hearsay
7 and I'm going to object that it hasn't properly been authenticated as
8 being those messages. So as being those incoming and outgoing calls.

9 Every incoming and outcoming call has not been
10 authenticated.

11 THE COURT: Overruled.

12 MR. MILES: Okay.

13 THE COURT: It will be admitted.

14 [State's Exhibit 5 admitted into evidence]

15 BY MR. MARTINEZ:

16 Q Did you go over these call lists with Gabby as well?

17 A Yes, I did.

18 Q And these numbers correspond with the text messages and
19 the contact name of Chris and Chris2; is that correct?

20 A Yes, they are.

21 MR. MARTINEZ: Permission to publish.

22 THE COURT: You may.

23 BY MR. MARTINEZ:

24 Q Did you compile this in the same manner that you did the
25 text messages?

1 A Yes, I did.

2 Q And are you able to see a list of incoming calls, outgoing
3 calls and missed calls?

4 A Yes, I am.

5 Q And what phone numbers are those?

6 A The two separate phone numbers. It's 702-913-2289 and that
7 one's listed as Chris. And then Chris2 is listed as 702-478-2713.

8 Q Okay. Now there are dates and times on this; is that correct?

9 A Yes, there are.

10 Q Okay. And the very right hand column, what is that?

11 A That's the call duration.

12 Q Okay. Now GMT, what does that stand for? Do you have an
13 understanding of what that means?

14 A It's Greenwich Mean Time. It's basically like the world clock
15 is set at a certain time for all time zones to follow. So if it's the GMT
16 minus 8, that means that we take off -- I can't remember if it's take off 8
17 hours or add 8 hours because we're 8 hours behind.

18 So basically to make it like a universal time so it's very accurate in
19 the sense that it doesn't get confused with Pacific Standard Time or
20 Mountain Central Time or anything like that. It all falls on the main
21 universal time zone if that make sense.

22 Q I think so.

23 A Okay.

24 Q Now the date on there, does that conform with the typical
25 way that we traditionally write down dates?

1 A No, it's not.

2 Q Okay. Can you tell the jury how the dates work on this? For
3 example, the very top one, is that September 2nd, 2015?

4 A No. It's all in February. So the way that they're recorded
5 with that time zone information is that they always put the day of the
6 month first and then the month and then the year. Very similar with
7 most European type date recordings.

8 Q So those incoming call, that list that you have from 702-913-
9 2289 with a contact name of Chris and 702-478-2713 with Chris2, what
10 are the dates beginning and ending with that?

11 A From what I can see right here it's all beginning February 9th
12 and goes to February 12th.

13 Q Okay. Now there are a number of outgoing calls to the
14 Defendant as well; is that correct?

15 A Yes. And those go down to February 13th.

16 Q And then there are missed calls that came in from the
17 Defendant to Gabby; is that correct?

18 A Yes.

19 MR. MILES: I'll object, Your Honor, to hearsay. It hasn't
20 been authenticated as being said by me.

21 THE COURT: Overruled.

22 MR. MARTINEZ: Well, it's already been admitted.

23 THE COURT: Overruled.

24 MR. MARTINEZ: That's why I'm asking her to read it.

25 THE COURT: Overruled.

1 BY MR. MARTINEZ:

2 Q And the missed calls are from the same phone numbers that
3 we've been talking about, same contact name. And what are the range
4 of dates that you see?

5 A From February 9th, 2015 to February 12th, 2015.

6 Q Based on your investigation in this case, how much time
7 approximately or what was the date range that from when Gabby went
8 missing to when she got arrested by her probation officer?

9 A It was within a week. I think it was February 8th to February
10 13th.

11 Q Of 2015?

12 A 2015.

13 Q As you met with Gabby and had conversations with her, you
14 discussed the text messages and Christian Miles; is that correct?

15 A Yes, we did.

16 Q Okay. As time went on, did there come a point in time when
17 you decided to do a recorded interview with Gabby?

18 A Yes, I did.

19 Q Okay. Do you remember when that was?

20 A I can't remember the date off the top of my head.

21 Q Sure. Would it refresh your recollection to look at the
22 transcript?

23 A Yes, it would.

24 Q Did you cause that interview to be recorded?

25 A Yes, I did.

1 Q And you caused a transcript to be prepared; is that right?

2 A Yes, I did. And on the transcripts I announce the date and
3 time or on the recording I announce the time.

4 Q And when it gets transcribed, they put the date of the
5 interview; is that correct?

6 A Yes, they do.

7 Q Okay. So you said it would refresh your recollection to look
8 at the transcript; is that correct?

9 A Yes, it would. It was March 4th, 2015.

10 Q So that refreshes your recollection; is that right?

11 A Yes, it did.

12 Q Okay. Now once you receive the information that's
13 contained in that recorded statement, what did you do with that
14 information? What was the next step in your investigation?

15 A To draft the arrest warrant.

16 Q Okay. And for who?

17 A For Christian Miles.

18 Q And what was -- after you conducted that, did you start to
19 attempt to corroborate the things that Gabby told you in the interview?

20 A Yes. I actually started trying to corroborate things pretty
21 much from the beginning.

22 Q From the little bits that she would tell you?

23 A Yes.

24 Q Okay. Now what kinds of things did you do investigation
25 wise to corroborate what Gabby was telling you?

1 A She told me that Laporscha and Christian had rented a room
2 for her at the Budget Suites on Boulder Highway. So I went to the
3 Budget Suites and asked for all the room reservations during a certain
4 timeframe that I knew that she was with them. I drafted search warrants
5 for their -- both of their Facebook account information to include their
6 messages, private messages, photographs, everything that --

7 MR. MILES: Objection, Your Honor. She referring to
8 evidence that hasn't been admitted in evidence. She's referring to the
9 search warrant herself without the search warrant being admitted into
10 evidence.

11 THE COURT: Overruled.

12 MR. MARTINEZ: I'm not required to admit it. Thank you.

13 BY MR. MARTINEZ:

14 Q Now you had indicated that you went to the suites the Gabby
15 had described to you; is that correct?

16 A Yes.

17 Q And she had indicated that Laporscha had rented the room?

18 A Yes.

19 Q Were you successful in obtaining the room registration that
20 she was describing?

21 A Yes, I was.

22 Q I'm showing you --

23 MR. MARTINEZ: Or I'm publishing State's Exhibit 29 for the
24 record, Your Honor.

25 BY MR. MARTINEZ:

1 Q Is this what you're able to retrieve from the suites?

2 A Yes, it is.

3 Q And do you recognize the person that's depicted in that
4 driver's license photo?

5 A Yes, I recognize the person, but the name is incorrect.

6 Q Okay. So who do you recognize to be in that photo?

7 A Laporscha Ramsey.

8 Q And have you met her face to face?

9 A I had not at that point, but I --

10 Q But have you now?

11 A Oh yes. Yes.

12 Q And you said that the name isn't correct in the ID?

13 A The printed name is incorrect. Yes.

14 Q Okay. It's fair to say it's probably a fake ID?

15 A Yes. Which I confirmed by running the license number on it.
16 It didn't exist.

17 Q And were you able to find out her true identity eventually?

18 A Yes.

19 Q Okay. Did you take photos of photos in Gabby's phone?

20 A Yes. I took -- so some of the things in the Cellebrite, it won't
21 collect certain data that's in the phone. I don't know how or why, I'm not
22 the phone or I'm not the digital expert, but I know there's certain things
23 that they don't collect.

24 So if I see that once the report has been generated, that if there are
25 still things in the phone, then I just take actual photographs of the image

1 on the phone to preserve it that way.

2 Q Okay. So you weren't able to recover into a report format the
3 TextNow messages that existed in Gabby's phone when you were able
4 to go through it; is that correct?

5 A Correct.

6 Q Were you able to go through and speak with Gabby
7 regarding these TextNow application messages?

8 A Yes, I was.

9 Q And did she recognize herself in these messages or any
10 statements or photos?

11 A She recognized that they were statements or images from
12 her phone, but she told me that she did not write them.

13 Q Okay. Now did she tell you who did?

14 A She did.

15 Q Who did she say?

16 A Christian Miles.

17 Q Okay. Now you said that you had gone over these messages
18 with her. Did you take photos of her phone with these messages in her
19 presence or was it somewhere else?

20 A No, I was sitting at my desk when I took the photos.

21 Q Okay. And after you took the photos, is that when you went
22 over these with Gabby?

23 A Yes.

24 Q Okay. Did you prepare a kind of a grid of the messages that
25 you were able to --

1 A Yeah. My printer didn't really want to cooperate, and we
2 were trying to save on ink.

3 Q Okay.

4 A So they came out a little funny. Sorry.

5 Q I'm going to have you just look at State's proposed 24 for the
6 record.

7 [State's Exhibits 24 through 28 marked for identification]

8 MR. MARTINEZ: Defendant has seen these. 24 through 28.

9 BY MR. MARTINEZ:

10 Q And I'm just going to have you look at those and tell me if
11 you recognize what's depicted.

12 A Yes, I do.

13 Q How do you recognize that?

14 A These are the images that I took of her phone that weren't --
15 that basically were in an app -- they were in the app, not -- I don't know
16 how to explain it.

17 Q Are they TextNow application messages?

18 A Yes, they are.

19 Q Okay. And you indicated previously that the Cellebrite
20 machine doesn't retrieve that data into a report; is that correct?

21 A Correct.

22 Q And is that why you took photos of the messages because
23 you couldn't get it into a report?

24 A Yes.

25 Q And again, you went over those photos with Gabby?

1 A Yes, I did.

2 Q Okay. Now, I mentioned a grid and you said that your printer
3 wasn't working right. Did you prepare or did you compile the photos
4 that you took of the TextNow application into a document?

5 A Yes, I did.

6 Q And tell us how you did that.

7 A Basically, I just -- I organized them in order because every
8 time I would take a photo, I would start at the top of the conversation
9 and take a photograph and then I would scroll to where you could still
10 see part of the bottom of that picture and I would put that up at the top
11 and then take another photograph.

12 So it was kind of -- like now we can do the scrolling text photo if
13 you're familiar with that function on your phone, but so basically like
14 that. I would keep scrolling through the messages and taking the picture
15 with the new information on there.

16 And then to get it onto the actual printout that we have here,
17 I told my computer to print them in order, but it kind of mixed them up a
18 little bit. So I wrote in which order they go in.

19 Q And you recognize your handwriting in that?

20 A Yes, I do.

21 Q And you numbered those in chronological order to the best
22 that you could --

23 A Yeah.

24 Q -- as far as your printer was cooperating?

25 A Yes.

1 Q Is that a fair and accurate copy of the photos that you took
2 and went over with Gabby?

3 A Yes, it is.

4 MR. MARTINEZ: Move for the admission of State's proposed
5 exhibit -- and I can't remember what it is. Can you look at the back?

6 THE COURT: 24 through 28, I think.

7 THE WITNESS: 24 --

8 MR. MARTINEZ: 24?

9 THE COURT: 24 through 28 I believe is what you said.

10 THE WITNESS: Yes.

11 MR. MARTINEZ: Moving for the admission of 24.

12 MR. MILES: I'm going to object as to hearsay.

13 THE COURT: Overruled. They'll be admitted.

14 [State's Exhibit 24 admitted into evidence]

15 BY MR. MARTINEZ:

16 Q And now I want you to look at those exhibits that you have,
17 the other proposed exhibits, not the one that's submitted.

18 A Okay.

19 Q If you can get that sticker on there. Thank you. What are the
20 -- do you recognize the photographs in those specific exhibits?

21 A Yes, I do.

22 Q And what are those?

23 A They're photographs of Gabrielle King.

24 Q And was that from the TextNow app?

25 A Yes, it was.

1 Q And were those photos in the TextNow app messaging, were
2 they blow ups of those? Would you like to look at State's Exhibit 24?

3 A No. Yeah, they are. But it's when you click on the picture,
4 then it goes to like full screen of the picture.

5 Q Okay.

6 MR. MARTINEZ: I'm going to publish State's Exhibit 24
7 before we move to admit those. Can you --

8 MR. MILES: And I'm going to object to the publishing, Your
9 Honor, before the document is admitted into evidence.

10 MR. MARTINEZ: It was already admitted.

11 MR. MILES: Oh, I thought he said it was --

12 THE COURT: It was admitted, yeah.

13 MR. MILES: Okay.

14 THE COURT: So overruled.

15 BY MR. MARTINEZ:

16 Q Okay. And just focusing your attention on 4 and 5. So in the
17 middle, those middle messages. So each of these are photos of Gabby's
18 phone with the TextNow app up on the phone; is that correct?

19 A Yes, they are.

20 Q So I'm just going to zoom in to 4 and 5. And do you see
21 those photos depicted there?

22 A Yes, I do.

23 Q Okay. And did you talk to Gabby about the photos?

24 A Yes, I did.

25 Q And who did she identify as being in those photos?

1 A Herself.

2 Q And the exhibits, so on the second page on the middle,
3 which is number 5, is that another photo of Gabby?

4 A Yes, it is.

5 Q And then on page -- that's all. Okay. All right. Now, if you
6 could look at the exhibits that you have, the proposed exhibits, you
7 indicated that those are blow up photos of what are in the TextNow
8 application?

9 A Yes, they are.

10 Q And are those fair and accurate copies of the photos that you
11 took from Gabby's phone?

12 A Yes, they are.

13 Q And you went over those with Gabby and you yourself
14 actually took the photographs?

15 A Yes.

16 Q Okay.

17 MR. MARTINEZ: Move for the admission of State's proposed
18 exhibits --

19 MR. MILES: I'm going to object to hearsay.

20 THE COURT: -- 25 through I think it's 28.

21 THE WITNESS: Yes, it is.

22 THE COURT: Are they just blow ups of those exhibits, is that
23 what I'm understanding?

24 MR. MARTINEZ: They are single photos of --

25 THE COURT: Of some of those?

1 MR. MARTINEZ: Yes.

2 THE COURT: And your objection was hearsay? Overruled.
3 They'll be admitted.

4 [State's Exhibit 25 through 28 admitted into evidence]

5 BY MR. MARTINEZ:

6 Q Now, there are messages that we're going to get to later that
7 Gabby had indicated that she did not recognize or send; is that correct?
8 On this State's Exhibit 24?

9 A Well she recognized that they were from her phone, but she
10 said that she did not text the message out or send the message.

11 Q Okay. And you'd indicated previously that she said that
12 Christian had done that; is that correct?

13 A Yes, she did.

14 Q Did there come a point in time when --

15 MR. MARTINEZ: So I'm going to publish States 27.

16 BY MR. MARTINEZ:

17 Q And this is actually a photo of her phone; is that correct? Can
18 you see the outline of her white phone?

19 A Yes, I can.

20 Q Okay. Can you just point to it what you can see?

21 A There we go.

22 Q And then here is another photo of her phone; is that correct?

23 A Yes, it is.

24 Q And how can you tell that it's her phone?

25 A Even down here you can see just the edge of the button or

1 the -- you could see the edge of the face of the phone and here on the
2 side a little -- my finger's not --

3 Q It's not matching up?

4 A It's not calibrated. How about that?

5 Q Okay. All right. Now did you, as a part of your investigation,
6 issue an administrative subpoena to Craigslist?

7 A Yes, I did.

8 Q Why did you do that?

9 A Because Gabrielle told me that there were ads placed on
10 Craigslist.

11 Q And did you get a response from Craigslist?

12 A Yes, I did.

13 Q Okay. And did you receive anything back from them?

14 A Yes, I did.

15 Q Of evidentiary value?

16 A Yes.

17 Q What did you receive?

18 A I received numerous ads back.

19 Q And specifically, did you see ads reflecting Gabrielle King?

20 A Yes, I did.

21 Q Okay. I'm going to have you look at State's Exhibit 4, it's
22 already been admitted. And on the first page is the custodian of records
23 affidavit that you received; is that correct?

24 A Yes.

25 Q And then can you tell the jury what you're looking at?

1 A They're advertisements with pictures of Gabrielle and a
2 phone number across the front of it.

3 Q Okay. Now and is there a message on the advertisement?

4 A Yes. There's three -- or is it two or three? Yeah, it's three
5 different messages.

6 Q Okay. And how many different photos?

7 A Two different photos.

8 Q And do those correspond with the photos that you took
9 pictures of in the TextNow app?

10 A Yes, they do.

11 Q And did Gabby identify herself in those photos?

12 A Yes, she did.

13 MR. MARTINEZ: If I could get those back. Thank you. I'd like
14 to publish States Exhibit 4, it showed the Craigslist records. Now I'm
15 hopeful that we can zoom in on this.

16 BY MR. MARTINEZ:

17 Q There's a date associated with this particular ad; is that
18 correct?

19 A Yes, there is.

20 Q What is that date?

21 A Monday, February 9th, 2015.

22 Q Now, there is also, if you look at the second line, is there an
23 email called a poster email?

24 A Yes, there is.

25 Q And can you read for the record and to the jury what that

1 email is?

2 A Jocelyn --

3 Q Can you see it?

4 A Yeah. Jocelyndiaz3746@gmail.com.

5 Q And on the next page of this exhibit, is there a date
6 associated with this particular ad?

7 A Yes, there is. It's also Monday, February 9th, 2015.

8 Q Is there a poster email that's associated with this
9 advertisement?

10 A There is.

11 Q And what is that?

12 A IsabellaWilliams8567@gmail.com.

13 Q And on the last page of this exhibit, is there a date associated
14 with this ad?

15 A Yes. February 9th, 2015.

16 Q And is there a poster email associated with this?

17 A Yes. It says, MyMojoVillage01@gmail.com.

18 Q Did there come a point time in your investigation when you
19 learned -- you had indicated previously that you had submitted an arrest
20 warrant for the arrest of Christian Miles; is that correct?

21 A Yes, I did.

22 Q Okay. Did there come a point in time when he was arrested?

23 A Yes, there was.

24 Q Did you effectuate that arrest?

25 A Well, I didn't physically arrest him, but it was because of the

1 arrest warrant that I drafted and that was authorized that --

2 Q Right.

3 A -- gave them legal cause to arrest him.

4 Q Okay. But you weren't with the officers that arrested him; is
5 that correct?

6 A No, I wasn't.

7 Q Were you notified that he had been arrested?

8 A Yes, I was.

9 Q And was one of those detectives or officers named Mark
10 Admundson?

11 A Yes, he was.

12 Q And was he the one that reached out to you that the
13 Defendant had been arrested?

14 A Yes, he did.

15 Q Okay. And did you meet him somewhere?

16 A I ended up meeting him at jail.

17 Q And did he have any items of evidence that were recovered
18 incident to the arrest of Christian Miles?

19 A Yes, there were several cellphones.

20 Q Okay. And what did you do with those cellphone -- do you
21 recall how many there were?

22 A I think there was three initially, but one of them was
23 Laporsha's and then two of them were Christian's.

24 Q Okay. And what did you do with those particular cellphones?

25 A With Laporsha's, I'm not sure. I would have to go back and

1 look for that. I'm not sure if we just put it back in her property bag
2 because it wasn't Christian's or if -- but I know Christian's, they were all
3 impounded. The two of his, for sure, were impounded.

4 Q And when you say impounded, when you recovered them
5 from Mark Admundson, what did you do with them specifically?

6 A They get shut off and placed into evidence bags and I fill out
7 the paperwork and impound them for the evidence vault.

8 Q And did you put those in evidence envelopes?

9 A Yes, I did.

10 Q And does this particular case that you were investigating
11 have an event number?

12 A Yes, it does.

13 Q Okay. Do you have it memorized?

14 A I do.

15 Q You do?

16 A Yes, I do.

17 Q Okay. What's the event number?

18 A 150213-3799.

19 Q Okay.

20 MR. MARTINEZ: If I can get the evidence envelopes that are
21 exhibits. Okay.

22 BY MR. MARTINEZ:

23 Q State's Exhibit 2 has already been admitted, but I'm still
24 going to have to look at that. And then there's State's proposed Exhibit 1
25 and proposes Exhibit 3. 2 has already been admitted, but I'm going to

1 have you look at all three. But specifically tell me what you recognize, if
2 anything on these exhibits.

3 A Okay. Number 3 is Gabriel King's phone, and this is my
4 packaging and my signature.

5 Q And which exhibit are you saying that's your packaging and
6 signature?

7 A Number 3.

8 Q Okay.

9 A It's the LG white Cellular phone.

10 Q And is that envelope sealed?

11 A Yes. Yes, it is.

12 Q And what writing do you specifically recognize, if anything,
13 on there?

14 A My signature to start, but then also the date, the time, the
15 event number, the subjects, the charges and the location of the recovery
16 of the item.

17 Q Okay. And is that the envelope that you put the white LG
18 cellphone in?

19 A Yes, it is.

20 MR. MARTINEZ: I would move for the admission of State's
21 Exhibit 3.

22 THE WITNESS: 3.

23 MR. MARTINEZ: Proposed Exhibit 3.

24 MR. MILES: I'm going to object as hearsay.

25 THE COURT: Overruled. It will be admitted.

1 [State's Exhibit 3 admitted into evidence]

2 BY MR. MARTINEZ:

3 Q And is there something that's inside that envelope? You can
4 hand it to the officer. That's fine.

5 A Yes, there is. There's a cellphone inside.

6 Q Once it's admitted, I'm going to have you open that. Do you
7 see those scissors right there?

8 A Okay.

9 MR. MARTINEZ: Is it okay if she grabs the scissors, Your
10 Honor?

11 THE COURT: Yup.

12 THE WITNESS: Thank you.

13 BY MR. MARTINEZ:

14 Q Now, before you open it, there's tape on there; is that
15 correct? Can you see tape?

16 A Yes.

17 Q And what is that tape?

18 A It's our evidence tape to show that it's secured and that it
19 hasn't been tampered with.

20 Q And is it sealed completely?

21 A Yes.

22 Q Are there any initials or writing on those seals?

23 A Yes. Anytime that we seal a package, we tape the area that
24 was opened. In the original circumstance it's that the flap of the
25 envelope is open like it's brand new. And then after that, if we need to

1 look at the phone again or the item, we make a slit in one portion of the
2 bag. And then when we seal it back up, we put tape over that slit. We
3 write our name and initials and our P number and then the date on one
4 side.

5 In this case it was opened twice. So basically it was sealed the
6 very first time. It was sealed a second time by me and then a third time
7 by Detective Ramirez.

8 Q Okay. And do those specific times that you're talking about,
9 are those referring to when it's actually secured at the Metro evidence
10 vault?

11 A No, it's when we physically seal it.

12 Q Okay. So wherever you are to physically seal it. And then
13 what do you do with it after you seal it?

14 A We bring it to a evidence drop location. We have many.

15 Q Okay.

16 MR. MARTINEZ: Permission to open the exhibit.

17 THE COURT: Uh-huh. Go ahead.

18 THE WITNESS: Okay.

19 BY MR. MARTINEZ:

20 Q And can you remove the contents please?

21 A Uh-huh.

22 Q Can you hold up the contents of what is there?

23 A It's a phone, the battery and the back -- it's not like it's a
24 separate case, but it's just the piece that comes off to protect the battery.

25 THE COURT: Do you want to have the contents marked?

1 MR. MARTINEZ: Yes, please. I guess whatever exhibit that
2 is, we can make A or --

3 THE COURT: A, B, C. What is the exhibit number on the
4 bag?

5 THE WITNESS: I believe it was 3.

6 THE COURT: Those will be 3A, 3B and 3C, please.

7 BY MR. MARTINEZ:

8 Q So there's three pieces to that; is that correct? There's a
9 battery, there's the front and the back of the cellphone?

10 A Yes.

11 Q And do you recognize that cellphone?

12 A Yes, I do.

13 Q Which cellphone is it?

14 A That was Gabrielle King's phone.

15 Q On this evidence envelope, does that have the same event
16 number that you memorized for this case?

17 A Yes, it does.

18 Q And are those event numbers unique to a specific
19 investigation?

20 A Yes, they are.

21 Q And you indicated previously that you had gone over that
22 specific phone with Gabby and you reviewed the contents with her and
23 also retrieved the data from that; is that correct?

24 A Yes, I did.

25 Q Okay. Did there come a point in time when you asked

1 somebody by the name of Vince Ramirez -- who is Vince Ramirez?

2 A He was a detective on the ICAC Task Force, which actually it
3 is -- the Child Exploitation Task Force has two sides. One is innocent
4 images and that's where Vince worked and I worked on Innocence Lost,
5 which is the victims of child sex trafficking.

6 So Vince is -- he was like our computer guy that we would
7 use for our cases for cellphones and stuff like that.

8 Q So he could do forensic examinations and retrievals of data
9 on cellphones; is that correct?

10 A Yes, he could.

11 Q And that's at a secure location?

12 A Yes, it is.

13 Q Did there come a point in time when you took Gabby's phone
14 to that secure location for Mr. Ramirez to do a forensic evaluation?

15 A Yes, I did.

16 Q And did you have a search warrant for that?

17 A Yes, I did.

18 Q Okay. But you also had consent from Gabby to go through
19 her phone anyways; is that right?

20 A Yes.

21 Q Okay. Now, did you provide that information -- okay. You
22 look kind of looked up. So --

23 A Well, I'm just trying to think. I honestly don't remember if I
24 did a separate search warrant just for her phone.

25 Q Okay.

1 A Yeah. I just can't remember if that was specifically for hers.

2 Q Is there a policy where Mr. Ramirez completes his or
3 completed his duties that you had to either present him with a search
4 warrant or that you had consent of an owner of a phone for him to be
5 able to extract the information from it?

6 A Yes.

7 Q And so whatever that information was that he needed, you
8 provided him; is that correct?

9 A Yes.

10 Q Was Mr. Ramirez actually able to do a forensic examination
11 of that particular phone?

12 A No, he was not.

13 Q Do you remember how much time had gone by from when
14 you did the Cellebrite retrieval of data to when you requested that it be
15 forensically examined?

16 A I'm going to say well over a year, I think it was.

17 Q Okay. And do you remember a particular reason why that
18 much time had gone by before you requested that?

19 A Actually the forensic dump would have been around October
20 13th and that's because it's written, that's when this was sealed back
21 with Vince's initials. So it would have been around that timeframe.

22 Q Now, was Mr. Ramirez, actually -- was he able to turn on the
23 phone to be able to do a forensic dump on Gabby's phone?

24 A No, it looked like it was trying to do something, but it
25 wouldn't boot up. Like no screen would light up. But it looked like it

1 wanted to, it just -- it wouldn't boot.

2 Q So it was functioning in a way running, but you couldn't turn
3 on the phone?

4 A Yeah.

5 Q During that time, after you had gone over the messages and
6 the contents of the phone with Gabby, what did you actually do with the
7 phone after you were done with it during that timeframe before you took
8 it to Vince Ramirez?

9 A It was secured at the evidence vault.

10 Q And so that's what -- you would have put it in the envelope
11 that you have there?

12 A Yes.

13 Q And submitted it to the evidence vault?

14 A Yes.

15 Q Okay. So a year goes by and it's in the evidence vault; is that
16 correct? Approximately.

17 A Oh, yeah. I was going to say I think it was more than a year.
18 It was October of '16. So a year and eight months-ish.

19 Q Okay. And you already had the data retrieval from the
20 Cellebrite data retrieval from her LG cellphone; is that correct?

21 A Yes.

22 Q So why did you want to take it to Mr. Ramirez to do a
23 forensic eval?

24 A I know it was requested that a forensic examination be done
25 to show that it did contain the data that it had.

1 Q Okay. Now, when you took the phone to Mr. Ramirez, were
2 you present when he attempted to do the forensic examination?

3 A Yes, I was.

4 Q Okay. And then what did Mr. Ramirez do with the phone to
5 try to turn it on or to do his examination?

6 A I know we tried to power it up and we let it sit for a while,
7 because at first when he -- when he first tried to turn it on, it wasn't
8 doing anything. So we plugged it in, thinking it was out of power to let it
9 charge for a while. I remember we sat there for quite a while to try to let
10 it to charge up because once phones go dead for that long, sometimes it
11 takes them a little bit of time to kind of wake back up.

12 So it just -- we kept trying to turn it on and it just would not boot
13 up to where -- like if you normally turn on your -- if your phone's off and
14 you turn it on, it will typically come back with either the type of phone
15 that it is or the service provider that you have, like whether it's Samsung
16 or Verizon or something like that would pop up on the screen. Nothing
17 was popping up. So that's why I say it was just -- it wouldn't boot up.

18 Q Now did there come a point in time when Mr. Ramirez,
19 yourself and a Defense investigator, Mark Preusch, came to my office
20 and allowed the Defense investigator to try to turn on the phone and
21 examine it?

22 A Yes.

23 Q And that was done in my presence, Mr. Ramirez's presence
24 and obviously the Defense investigator, correct?

25 A Yes.

1 Q And what did you do with the phone after that?

2 A Returned it back to evidence storage.

3 Q Okay. Was the Defense investigator able to turn it on?

4 A No, he was not.

5 Q Did he make attempts to try to --

6 A Yes. He did the same thing and we plugged it back in again
7 to try to get more power to it and went through the same steps and it
8 wouldn't turn on.

9 Q Okay. And what did you do with the phone after that visit?

10 A Returned it back to the evidence vault.

11 Q And you sealed it back up?

12 A Yes, I did.

13 Q As a part of your investigation, did you execute a search
14 warrant for the phone numbers that were or for the phones that were
15 recovered from the Defendant?

16 A Yes, I did.

17 Q And I'm going to do you have you -- do you have two other
18 exhibits up there that are envelopes?

19 A Yeah.

20 Q They're proposed exhibits right now. So you can put the
21 white LG phone back in the envelope. One is already admitted and has
22 been opened; is that correct?

23 A Yes.

24 Q Can you pull out the contents?

25 THE COURT: What number exhibit is that?

1 THE WITNESS: Number 2.

2 THE COURT: Okay.

3 BY MR. MARTINEZ:

4 Q And that's for the record, already been admitted. And do you
5 recognize the contents inside that envelope?

6 A Yes. This was one of Christian Miles' phones.

7 Q Okay. That was recovered --

8 THE COURT: Go ahead and mark that as 2A.

9 [State's Exhibit 2A marked for identification]

10 MR. MARTINEZ: That's fine.

11 BY MR. MARTINEZ:

12 Q Once you obtained the search warrant for -- well, first, let me
13 ask you this. You had indicated previously that you had recovered that
14 Samsung phone from Detective Admundson; is that correct?

15 A Yes, it is.

16 Q And you were informed that he had recovered an incident to
17 the Defendant's arrest?

18 A Yes.

19 Q What did you do with the phone initially? Did you impound
20 it? What did you do with it?

21 A Yeah. This phone was impounded immediately after.

22 Q Okay.

23 A Because there was no consent given for me to review it. So
24 we were going to have to do a search warrant on it.

25 Q And you drafted a search warrant to review the contents of

1 the Samsung phone; is that correct?

2 A Yes.

3 Q And once you obtained that search warrant, did you take the
4 Samsung phone and the search warrant to Detective Ramirez?

5 MR. MILES: Objection, Your Honor. I want to say if he's
6 going to be referring to the search warrant, that he offer the search
7 warrant himself. He's --

8 THE COURT: Overruled.

9 BY MR. MARTINEZ:

10 Q Did you --

11 A I don't know if I withdrew these two phones from the vault or
12 if Vince himself did. But it was -- the phones were reviewed by Vince.

13 Q Okay.

14 A He's the person --

15 Q You made the request to Vince --

16 A Yeah.

17 Q -- Ramirez to conduct a forensic evaluation or a retrieval of
18 the Samsung phone; is that correct?

19 A That is correct.

20 Q And was a report completed for you in that regard?

21 A Yes, there was.

22 Q For the Samsung phone?

23 A Yes.

24 Q Did you have an opportunity to review that phone, that
25 report that Mr. Ramirez was able to generate?

1 A Yes, I did.

2 Q I'm going to show you what's -- there are some proposed
3 exhibits that I'm going to have you look at. I'm not going to be seeking
4 their admission at this point. I'm just going to have you review them.
5 31, State's proposed Exhibit 31, 32, 33 and 34.

6 [State's Exhibit 31 through 34 marked for identification]

7 BY MR. MARTINEZ:

8 Q I'll have you review those without saying what's in them yet.

9 A Okay.

10 Q So do you recognize what are depicted in those photos?

11 A Yes, I do.

12 Q How do you recognize it?

13 A These were provided by Detective Ramirez from his report of
14 the download of Christian's phones.

15 Q And did you examine that entire report?

16 A Yes, I did.

17 Q And so are those fair and accurate copies of the portions of
18 Mr. Ramirez's report of the Defendant's Samsung phone?

19 MR. MILES: Objection, Your Honor. I don't think she can
20 testify to truthfulness of another person's examination of a phone. She
21 wasn't the one that extracted the data, so she doesn't know if it's truth or
22 not.

23 MR. MARTINEZ: She testified that she was provided the
24 report, that she reviewed the report. And so what I'm asking her is if
25 that's a fair and accurate copy of what she read from the report. I'm

1 asking her if she created the report.

2 THE COURT: Overruled then.

3 MR. MARTINEZ: And I'm not seeking to admit these at this
4 time.

5 BY MR. MARTINEZ:

6 Q But you recognize the information that's in the portions of
7 the report in those exhibits; is that correct?

8 A Yes, I do.

9 Q What is it that you -- I had shown you before State's Exhibit
10 4. Do you remember that, the Craigslist ads?

11 A Yes.

12 Q In the report that -- in part of the report, Mr. Ramirez's report
13 of the Defendant's Samsung phone, was there a list of email addresses
14 that were stored in the Defendant's phone?

15 MR. MILES: Objection, your honor. He's referring to
16 evidence that hasn't even been admitted into evidence, Your Honor.

17 THE COURT: I'm going to sustain that one.

18 MR. MARTINEZ: Well I guess -- that's fine, Your Honor. I'll
19 move on.

20 THE COURT: The exhibit will speak for itself when and if it
21 comes in.

22 MR. MARTINEZ: Okay. That's fine.

23 BY MR. MARTINEZ:

24 Q So without saying --

25 MR. MILES: And objection, Your Honor. I'm going to ask

1 that you ask the jury to disregard that comment too, Your Honor.

2 MR. MARTINEZ: That's fine.

3 THE COURT: Okay. Disregard the question which isn't
4 evidence in any event.

5 BY MR. MARTINEZ:

6 Q Was there any common characteristics that you saw in the
7 Craigslist ad that were contained in the Defendant's -- or in the report?

8 A Yes, there were.

9 Q Okay. And what were those?

10 A They were email addresses.

11 Q Okay. And did any of those email addresses correspond with
12 those ads, the email addresses that you read?

13 A Yes. They were all three of the email addresses that I found
14 on the ads were located in Christian's phone.

15 Q Did you also take -- were able to see that there was a
16 TextNow application or various TextNow applications that were on the
17 Defendant's phone?

18 A Yes, I was.

19 Q Did you take photos of the Defendant's phone while it was
20 powered on?

21 MR. MILES: Objection, Your Honor. No foundation as to
22 when.

23 MR. MARTINEZ: I just asked if she did it.

24 MR. MILES: There's no foundation of when she did.

25 MR. MARTINEZ: She hasn't answered the question yet, so I

1 need to --

2 THE COURT: Overruled.

3 THE WITNESS: Yes. I did take photographs of his phone.

4 BY MR. MARTINEZ:

5 Q Okay. Do you remember when you did that?

6 A It was the same day that Vince was doing the forensic dump
7 on it.

8 Q Okay. So did you learn that there was a TextNow app or
9 TextNow applications, plural, on his phone?

10 A Yes, I did.

11 Q Okay.

12 A I was physically with Vince at his office when he was doing
13 the downloads of the phones.

14 Q And you were reviewing the reports as it was generating?

15 A Yes.

16 Q Okay. So you were actually present for the forensic retrieval
17 of information?

18 A Yes, I was.

19 Q And you reviewed that information in real time as it was
20 coming through?

21 A Yes.

22 Q Okay. And that information as it was coming through that
23 you watched happen, are those fair and accurate copies of what you
24 viewed from Mr. Ramirez's reports as it was happening, as it was getting
25 retrieved?

1 MR. MILES: Objection, Your Honor. I don't think she could
2 testify to the truthfulness of --

3 MR. MARTINEZ: If she's a percipient witness, she certainly
4 can.

5 THE COURT: He hasn't moved them in yet. She can testify
6 to what she saw. So overruled.

7 THE WITNESS: Yes.

8 BY MR. MARTINEZ:

9 Q Did you see that specific information being retrieved in the
10 report?

11 A Yes.

12 Q And are those fair and accurate copies of what you saw
13 being retrieved from Defendant Samsung phone?

14 A Yes.

15 MR. MARTINEZ: I'd move for the admission of those exhibits
16 now.

17 MR. MILES: And I'm going to object, Your Honor, on a
18 number of grounds. Hearsay, it hasn't been properly authenticated and
19 I'm not really understanding the questions of how she viewed a cellular
20 phone extraction coming into a computer. I'm not understanding that.

21 MR. MARTINEZ: And here's my response to that, Your
22 honor. We had to do witnesses out of order.

23 THE COURT: I understand that. I'm going to reserve my
24 ruling on this, but I'm not going to admit them yet. I'm going to sustain
25 it for now.

1 MR. MARTINEZ: Right. And my intention, Your Honor, was
2 to move to admit those through Mr. Ramirez --

3 THE COURT: I understand.

4 MR. MARTINEZ: -- but we can't get to him until Monday.

5 THE COURT: I understand. So we just have to do what we
6 have to do.

7 MR. MARTINEZ: Okay.

8 THE COURT: So for the moment, it's sustained. I'm not
9 letting them in at this point.

10 MR. MARTINEZ: Okay. That's fine. That's fine.

11 BY MR. MARTINEZ:

12 Q Okay. You indicated previously that you took photos on the
13 same day that the forensic report was done of Defendant's phone; is that
14 correct?

15 A Yes, I did.

16 Q I'm going to show you what's been marked as State's
17 proposed Exhibit 43 through -- 43 through 50. I'm going to have you
18 look at those and recognize if you see what's depicted in those proposed
19 exhibits.

20 [State's Exhibit 43 through 50 marked for identification]

21 A Yes, these are the photographs that I took of Christian's
22 Samsung phone.

23 Q And are those fair and accurate copies of the photos you
24 yourself personally took of those photographs?

25 A Yes, they are.

1 Q And that was on the day that the forensic examination was
2 done?

3 A Yes.

4 MR. MARTINEZ: I'd move for the admission of State's
5 proposed Exhibits, 43 through 50.

6 MR. MILES: And I'm just going to object as hearsay, Your
7 Honor.

8 THE COURT: Overruled. Granted, they'll be admitted.

9 [State's Exhibit 43 through 50 admitted into evidence]

10 MR. MARTINEZ: Thank you.

11 THE WITNESS: Okay.

12 BY MR. MARTINEZ:

13 Q During the course of your investigation, did you come into --
14 were you able to retrieve information from the Rhodes Ranch security
15 where Gabrielle King and her family lived?

16 A Yes, I was.

17 Q And what was the purpose of obtaining that information?

18 A They have video cameras at their gates. So the vehicle that
19 Gabrielle was in when she left, it was in a video -- it was in a still image
20 printed up on a piece of paper that they provided.

21 Q And you had indicated previously to your recollection that
22 she had been reported missing on February 8th of 2015; is that correct?

23 A Yes.

24 Q And were you able to run -- were you able to see on the
25 surveillance footage that's associated with that security footage, were

1 you able to see the make, model and license plate of that particular
2 vehicle?

3 A Yes.

4 Q As a part of your duties and responsibilities as a detective
5 with the Las Vegas Metropolitan Police Department, do you have access
6 to run license plates and makes and models of vehicles to see who
7 they're registered to?

8 A Yes, I do.

9 Q And do you have access in the ordinary course of conducting
10 your duties to those specific records and generating those types of
11 reports?

12 A Yes.

13 Q And were you able to run that make, model and license plate
14 for this particular case?

15 A Yes, I was.

16 Q And who was that car registered to?

17 A To Christian Miles.

18 MR. MILES: Objection, Your Honor. That's hearsay.

19 BY MR. MARTINEZ:

20 Q Did you, yourself, retrieve the information?

21 A Yes, I did.

22 Q And do you have access to that information, as part of your
23 duties and responsibilities?

24 A Yes.

25 MR. MILES: Objection. It's still hearsay.

1 BY MR. MARTINEZ:

2 Q It's a law enforcement tool to be able to search and generate
3 reports in the ordinary course of you doing your duties as a detective, is
4 that correct?

5 A It is.

6 Q Okay.

7 MR. MARTINEZ: So I would ask that that objection be
8 overruled and that she be able to answer the question as to who that
9 particular vehicle was registered to.

10 MR. MILES: And I'm going to ask, Your Honor, that -- I want
11 to add to that, that hasn't properly been authenticated either. He's
12 referring to somebody else's records. I don't think she could testify as to
13 somebody else's records and what she received. That would still be
14 hearsay and not properly authenticated.

15 MR. MARTINEZ: She has -- she testified that she has access
16 to the information, she can generate the reports from that database, and
17 retrieve the information and generate a report. She, herself, personally.
18 She didn't request it from anybody. She didn't testify in that regard.
19 She, herself, can generate the report and retrieve the information.

20 THE COURT: Overruled. She can answer the question.

21 BY MR. MARTINEZ:

22 Q Who was the car registered to?

23 A Christian Miles.

24 Q Okay. In that report, were you able to run the specific VIN
25 number for that vehicle?

1 A Yes, you are.

2 Q Okay. And was -- at the time of Christian's -- Christian Miles'
3 arrest, was the car that he was arrested in, or that was there with him,
4 was that towed and taken to a metro facility or a tow yard?

5 A I'm not sure where it went because I wasn't there while he
6 was arrested so.

7 Q Okay. Did you -- were you able to obtain the information
8 from that vehicle, such as plate information, and make and model and
9 type?

10 A Yes, I was.

11 Q Okay. And was it a different license plate number than the
12 one that you had in the security footage?

13 A Yes.

14 Q Okay. Did you run that -- those -- that plate number from the
15 arrest, from the vehicle?

16 A I actually ran that before he was arrested.

17 Q Okay.

18 A Just during the course of the investigation, there's several
19 things that I just kind of continually check up on. And a couple weeks
20 after I knew what the vehicle was and the license plate, I just ran it -- or I
21 ran Christian Miles' information again and a different license plate
22 popped up.

23 So I compared that to the last one that I had ran and printed and
24 the VIN numbers were the same. It was the same car, but he had
25 switched his license plate.

1 Q Okay.

2 A With the DMV.

3 Q All right. So the car was the same, license plate was
4 different, is that correct?

5 A Yes.

6 Q Okay. After the Defendant was arrested, did you have the
7 opportunity to conduct an interview with him?

8 MR. MILES: Objection, Your Honor. I'm going to say if he's
9 referring to the arrest itself, the arrest warrant affidavit should be
10 admitted to prove that the arrest was -- an arrest occurred.

11 THE COURT: Overruled.

12 BY MR. MARTINEZ:

13 Q Did you interview the Defendant after he was arrested?

14 A Yes, I did.

15 Q And did you record that interview?

16 A Yes, I did.

17 Q Okay. And when you spoke to the Defendant, and before you
18 started asking questions specifically about this case, did you advise him
19 of his rights per Miranda?

20 A Yes, I did.

21 Q Did he indicate whether or not he understood his rights?

22 A Yes.

23 MR. MILES: Objection, Your Honor. I don't think a valid
24 foundation has been laid for that.

25 THE COURT: Overruled.

1 A Yes, he did.

2 BY MR. MARTINEZ:

3 Q Okay. Did he agree to speak with you after he had indicated
4 that he understood his rights?

5 A Yes, he did.

6 Q Okay. And did he give a statement regarding the facts and
7 circumstances surrounding this investigation?

8 A Yes, he did.

9 Q Okay. Did you provide a copy of that to the DA's office and a
10 copy for the Defense?

11 A Yes, I did.

12 Q Okay.

13 MR. MARTINEZ: Your Honor, at this point in time, I'd like to
14 publish a portion of State's proposed Exhibit Number 47, which is the
15 audio recording of the interview --

16 MR. MILES: I'm going to object.

17 MR. MARTINEZ: -- unless the Defendant will stipulate to its
18 admissibility. If not, I will play a portion of it to see if she recognizes it
19 and then stop and have her identify it and then I'll move for its
20 admission.

21 MR. MILES: And I'm going to object, Your Honor, because
22 he hasn't proved that any Miranda rights were voluntarily, knowingly
23 and intelligently waived. So him playing the evidence, it hasn't been
24 admitted into evidence, he hasn't proved that the Miranda warnings
25 were knowingly and intentionally waived.

1 MR. MARTINEZ: She just testified to that.

2 MR. MILES: Or that it was voluntary.

3 THE COURT: Okay.

4 MR. MILES: By a preponderance of the evidence.

5 THE COURT: Okay. The question is, do you need him to play
6 that or have you viewed that? Are you willing to stipulate to the
7 admissibility of that recording?

8 MR. MILES: I'm not willing to stipulate.

9 THE COURT: Go ahead and play some.

10 MR. MILES: Unless he can prove by a preponderance of
11 evidence.

12 THE COURT: Okay.

13 BY MR. MARTINEZ:

14 Q I'm going to show you --

15 MR. MARTINEZ: As we boot the computer up, Your Honor, if
16 I could just ask a couple of other questions --

17 THE COURT: Sure.

18 MR. MARTINEZ: -- while we do that. Sorry about that.

19 BY MR. MARTINEZ:

20 Q While she's bringing that up --

21 MR. MILES: And for the record, he's publishing an exhibit.

22 BY MR. MARTINEZ:

23 Q State's Exhibit 8, do you recognize that photo?

24 A Yes, I do.

25 Q Okay. Do you recognize the phone that's depicted in the

1 photo?

2 A Yes, I do. That's Gabrielle's phone.

3 Q That's Gabrielle's phone?

4 A Uh-huh.

5 Q And that's in the State's Exhibit you just opened, is that
6 correct?

7 A Yes. State's Exhibit 3.

8 Q State's Exhibit 30?

9 A Three.

10 Q Three. Okay.

11 A Yeah. That was her phone.

12 Q Was there a common phone number that you saw on the
13 Craigslist ads and the TextNow application in Gabby's phone?

14 A Yes. I don't remember what it was off the top of my head
15 because --

16 Q Would it refresh your recollection to look at one of the ads?

17 A Yes, it would.

18 Q Or a picture of one of the ads?

19 A Yes, it would.

20 Q Okay. It's State's Exhibit 28. It's already been admitted. If
21 you can look at that.

22 A Yes.

23 Q Does that refresh your recollection?

24 A Yes.

25 Q Okay.

1 A Do you want me to read the number?

2 Q If you remember what it is, you can testify to it, or you can
3 read it; what is it?

4 A It was 702-291-2355.

5 Q Before we get to the statement, I apologize, if you could --
6 there's another envelope that's State's Exhibit -- Proposed Exhibit 4, is
7 that correct or 1?

8 A Number 1.

9 Q State's Exhibit Number 1?

10 A Yes.

11 Q Okay. Do you recognize anything on State's Proposed
12 Exhibit 1?

13 A Yes. This is my packaging again with my signature and the
14 same event number.

15 Q Okay. And what is located inside?

16 A It's a black cell phone.

17 Q Okay. And does it say whether -- what the brand is, or does
18 it say a black cell phone?

19 A Just a black cell phone on the outside packaging?

20 Q Okay. And is that one of the phones that you retrieved from
21 Detective Admundson?

22 A Yes, it is.

23 Q That you impounded along with the Samsung phone?

24 A Yes, it is.

25 Q Okay. And you recognize your handwriting on there?

1 A Yes, I do.

2 Q And you physically impounded that at the evidence locker
3 vault?

4 A Yes.

5 Q Okay.

6 MR. MARTINEZ: I'd move for the admission of State's
7 Exhibit 4 -- 1.

8 THE WITNESS: One.

9 MR. MARTINEZ: I'm sorry, 1. State's Proposed Exhibit 1.

10 THE COURT: Any objection?

11 MR. MILES: My objection is actually going to be kind of, you
12 know, objection that you don't really hear a lot. I'm going to ask that if it
13 be admitted into evidence -- I'm not stipulating to its admissibility, but
14 I'm going to ask that if she's -- if they're going to have the phone, that we
15 actually identify what phone it is. So I'm going to say, for my purposes,
16 when it comes later to my cross-examination, I'm going to ask that the
17 phone be identified as to what phone it is.

18 THE COURT: I'm not sure what you're saying. But when we
19 get to your turn, you can make whatever requests or motions are
20 appropriate. At this moment, I'm asking if you have any objection to the
21 admission of State's 1?

22 MR. MILES: I'm just going to object as it hasn't properly
23 been authenticated or identified as what phone she's referring to.

24 THE COURT: Overruled.

25 MR. MARTINEZ: And so that's --

1 THE COURT: It will be admitted.

2 [State's Exhibit 1 admitted into evidence]

3 BY MR. MARTINEZ:

4 Q Do you still have the scissors up there?

5 A Yes, I do.

6 Q Okay.

7 MR. MARTINEZ: Permission to have her open the Exhibit,
8 Your Honor.

9 THE COURT: You may.

10 MR. MARTINEZ: Then we'll have the contents marked, as
11 well.

12 THE COURT: Okay. Do you want to get a 1A ready.

13 [Pause]

14 BY MR. MARTINEZ:

15 Q Is there one item in there?

16 A Yes, there is.

17 Q Okay. Can you hold that up for the jury? And does that
18 appear to be the phone that you retrieved from -- well, is that the phone
19 that you retrieved from Mark Admundson, along with the Samsung
20 phone?

21 A Yes, it is.

22 MR. MARTINEZ: I'd ask that that be marked and admitted as
23 State's Exhibit 1A.

24 THE COURT: I think it's already in as the contents of one --

25 MR. MARTINEZ: That's correct.

1 THE COURT: -- but we'll make it 1A.

2 MR. MARTINEZ: Thank you.

3 [State's Exhibit 1A admitted into evidence]

4 THE COURT: How long is the statement?

5 MR. MARTINEZ: About 40 minutes or so. Maybe 45
6 minutes, 40 minutes, 35.

7 MR. MILES: And my understanding, Your Honor, when he
8 was going to play a portion of it, but I still objected as it hasn't been
9 proved by a preponderance of evidence that the Miranda warnings was
10 waived voluntarily or uncoerced.

11 MR. MARTINEZ: The only way that I can authenticate it is to
12 publish a portion of it so if she recognizes her voice, Defendant's voice.

13 THE COURT: I understand.

14 MR. MILES: I have a written statement. If she could -- I mean
15 I'm not using that --

16 THE COURT: Go ahead. Start -- my question is, I don't
17 necessarily want to keep the jury past 5:00 on a Friday. And I'm
18 wondering how long it is. That was my issue.

19 MR. MARTINEZ: I think it's --

20 MS. RHOADES: It'll go past 5:00.

21 MR. MARTINEZ: Okay.

22 MS. RHOADES: Probably like 5:10.

23 THE COURT: Does anybody have a problem with that? Raise
24 your hand if you can't stay till 5:10, 5:15. Okay. Go ahead.

25 [Whereupon, an audio recording was played in open court at 4:23

1 p.m. and not transcribed]

2 MR. MILES: Can we approach, Your Honor.

3 THE COURT: Can you pause it?

4 MS. RHOADES: Sure.

5 [Audio paused at 4:23 p.m..]

6 MR. MILES: Can we approach, Your Honor. Reference is

7 to --

8 THE COURT: Okay. Ladies and gentlemen, we're going to
9 take our evening recess now. During this recess, you're admonished not
10 to talk or converse amongst yourselves or anyone else on any subject
11 connected with this trial, or read, watch, or listen to any report or
12 commentary of this trial, or any person connected with this trial, by any
13 medium of information, including without limitation to newspapers,
14 television, the internet and radio, or form or express any opinion on any
15 subject connected with the trial until the case is finally submitted to you.
16 And no legal or factual research or investigation, or recreation of
17 testimony on your own.

18 Is anybody not able to come back at 10:00 Monday morning?
19 Raise your hand if you're not. Otherwise, that will be when we'll start.
20 All good? Okay. We'll see you at 10:00. Drive safe and have a good
21 weekend.

22 THE MARSHAL: All rise.

23 [Outside the presence of the jury.]

24 THE COURT: I'm going to ahead and excuse -- the jury is out
25 of the courtroom. I'm going to go ahead and excuse Detective Gatus

1 until Monday at 10:00. See you then. We'll take the exhibits back from
2 you.

3 Okay. Mr. Miles.

4 MR. MARTINEZ: For the record, Your Honor, we stopped the
5 interview at 15:11 and we'll just resume there on Monday.

6 THE COURT: Right.

7 MR. MILES: My understanding, wasn't those references
8 supposed to be omitted? I mean that's what I --

9 THE COURT: Which one? Give me a page on the transcript,
10 please.

11 MR. MILES: Page 19, weed.

12 MR. MARTINEZ: We offered to take that out and the
13 Defendant wanted it to stay in.

14 MR. MILES: The pages I seen says --

15 THE COURT: That's correct.

16 MR. MILES: -- it will be omitted.

17 MR. MARTINEZ: No. We offered and he said that he wanted
18 it in, so we left it in.

19 THE COURT: That's what my notes indicate, as well. That
20 the State was going to keep it out and you indicated that you wanted it
21 in. And moreover, that's exactly why we had you listen to the recording
22 outside the presence the other day. Wasn't this the recording that was
23 played?

24 MS. RHOADES: Yes.

25 MR. MILES: Yeah. Then it had a couple more references in

1 there that they were supposed to take out.

2 THE COURT: And what --

3 MS. RHOADES: This is the recording that was played.

4 MR. MARTINEZ: We've taken out all the references to the
5 bad acts that he wanted out. We offered to take out the weed.

6 THE COURT: My recollection was when I came back, you
7 guys said that he listened to it and there was something more he wanted
8 out and you took that out, as well.

9 MR. MARTINEZ: Right. And we took it out.

10 THE COURT: What was that? Because I don't have -- do you
11 know?

12 MR. MARTINEZ: I can't remember.

13 THE COURT: Well bring it Monday. Just so I can make a
14 record on my thing.

15 MR. MARTINEZ: That's fine. But, so the record is clear, the
16 Defendant wanted the weed references in.

17 THE COURT: That's my notes.

18 MR. MILES: My note says out. I wouldn't have said --

19 THE COURT: I'm specifically looking at it. And -- because
20 they offered to say, "but were selling shit like that" and ultimately you
21 said "leave the weed in." That's what have.

22 MR. MILES: I wouldn't have -- I'm sorry for excusing them, I
23 didn't know that. The one I got, it was supposed to be out so.

24 THE COURT: Okay. Will you double check Monday? Just go
25 back to the thing. I'm fairly sure -- anything else outside the presence?

1 MR. MARTINEZ: No, Your Honor.

2 THE COURT: Okay. I assume -- do you know how much
3 cross-examination you're going to have for Detective Gatus?

4 MR. MILES: Oh, yeah. It's going to be a lot to explain to the
5 jury --

6 THE COURT: What's a lot?

7 MR. MILES: There's going to be everything as to why has
8 the evidence been destroyed, why hasn't she set the record straight, as
9 far as this number hasn't even been activated until the 25th.

10 THE COURT: You get that those aren't going to be questions
11 you're going to ask. You're not going to be asking her why didn't she set
12 the record straight.

13 MR. MILES: Well, I'm not going to say it like that.

14 THE COURT: Okay.

15 MR. MILES: But it's the context I'm going to draw out. She's
16 making it seem like the number was activated at the time these
17 messages were sent and that's false.

18 THE COURT: Okay. We'll just see you Monday at 10:00. I
19 guess -- yeah, see you Monday at 10:00.

20 MR. MILES: Is he done with his cross-examination or no?

21 THE COURT: Pardon me?

22 MR. MARTINEZ: It's direct and I'm not done.

23 MR. MILES: I mean is he done with this direct examination
24 or no?

25 MR. MARTINEZ: I'm not done.

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THE COURT: No.

MR. MARTINEZ: So I'll continue -- we'll continue playing --


THE COURT: There's still 20 minutes more of the -- 20 minutes plus of the recording to play yet.

MR. MARTINEZ: And I still have follow up questions after that.

THE COURT: Okay. We'll be here all week.

[Proceedings concluded at 4:45 p.m.]

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-visual recording of the proceeding in the above entitled case to the best of my ability.



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