

IN THE SUPREME COURT OF THE STATE OF NEVADA

GUSTAVO RAMOS,
Appellant,

vs.

THE STATE OF NEVADA,
Respondent.

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APPELLANT'S APPENDIX VOLUME 7 OF 9 PAGES 0987-1212

ATTORNEY FOR APPELLANT

RESCH LAW, PLLC d/b/a
Conviction Solutions
Jamie J. Resch
Nevada Bar Number 7154
2620 Regatta Dr., Suite 102
Las Vegas, Nevada, 89128
(702) 483-7360

ATTORNEYS FOR RESPONDENT

CLARK COUNTY DISTRICT ATTY.
Steven B. Wolfson
200 Lewis Ave., 3rd Floor
Las Vegas, Nevada 89155
(702) 455-4711

NEVADA ATTORNEY GENERAL
Aaron Ford
100 N. Carson St.
Carson City, Nevada 89701
(775) 684-1265

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VOLUNTARY STATEMENT
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EVENT #: 980516-0400 / 980517-0848

SPECIFIC CRIME: MURDER

DATE OCCURRED:

TIME OCCURRED:

LOCATION OF OCCURRENCE:

CITY OF LAS VEGAS

CLARK COUNTY

NAME OF PERSON GIVING STATEMENT: GUSTAVO RAMOS-MARTINEZ

DOB:

SOCIAL
SECURITY #:

RACE:

SEX:

HEIGHT:

WEIGHT:

HAIR:

EYES:

WORK
SCHEDULE:

DAYS OFF:

HOME
ADDRESS:

HOME PHONE:

WORK
ADDRESS:

WORK PHONE:

BEST PLACE TO
CONTACT:

BEST TIME TO
CONTACT:

The following is the transcription of a tape-recorded interview conducted by DETECTIVE R. HALL, P# 6756, LVMPD Violent Crimes Section, on 10-13-10 at 1210 hours. Present during the interview is Detective Hall and Gustavo Ramos-Martinez. Also present is Detective R. Depaulis (RD).

Q. Operator, this is Detective R. Hall, H-A-L-L, P# 6756, with the Las Vegas Metropolitan Police Department, Violent Crimes Detail, conducting a taped interview with Gustavo, spelled G-U-S-T-A-V-O, uh, last name of Ramos,

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STATEMENT OF: GUSTAVO RAMOS-MARTINEZ

R-A-M-O-S - (hyphen) Martinez, M-A-R-T-I-N-E-Z. Also known as Gustavo Ramos. Local ID number of 1516662. His date of birth is 07-10-79. He has no social security number. He is a, a white / Hispanic male adult, 5'6", 160 pounds, black hair, brown eyes. Home address of 10192 South Maryland Parkway, apartment 2034, Las Vegas, Nevada 89183. Also present is Detective R., R. Depaulis, D-E-P-A-U-L-I-S, P# 4784. This interview is being conducted at 4750 West Oakey, Las Vegas, Nevada 89102. The date is 10-13-10, and the time now is 1210 hours. This interview is being conducted as part of a continuing investigation involving the crimes of Murder which occurred on 05-16-98 and 05-17-98, at 4255 South Spencer, apartments 212 and 120, under Event numbers 980516-0400 and 980517-0848. Gustavo, you aware I'm taping this conversation? Are you aware I'm taping this conversation?

A. Yeah.

Q. Okay. Do I have your permission to continue taping?

A. Yeah.

Q. Okay. Hey, let me ask ya. Um. Back in the day I was readin' your, uh, your, your immigration, uh, folder and it says you and you claimin', uh, was it Pisces? Do you claim that?

A. Pisces?

Q. Yeah, Pisces?

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STATEMENT OF: GUSTAVO RAMOS-MARTINEZ

- A. Well, actually that's what, uh, ya know, where the institution. Was the people parks.
- Q. Okay.
- A. And like because I'm a Mexican...
- Q. Right.
- A. Like I'm not a gang member or white or black. I'm just, ya know, like that's how we call is like Pises. Ya know. Like...
- Q. Right. ____ (both talking).
- A. ____ (both talking).
- Q. Yeah. Well, and that's why Mexicans are here...
- A. Yeah.
- Q. ...in America?
- A. Yeah.
- Q. Is it because your bein' shi...*shook* down by, uh, ya know, local, uh, local gang members if ya happen to be in prison? Is that why they form, um, was it Pisa? Did I say it correctly?
- A. Oh, no, it's just like, like that's how the system run them. Ya know. Like they, uh, classify them last time. Wherever you are that's who you're gonna be with, I guess.
- Q. Okay. Are they pretty strong in the prison system?

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- A. Me?
- Q. Not you personally, but, uh, Pisa, the gang, or I don't wanna call it gang, but for lack of a better term.
- A. Well, actually like because I turn myself to the Lord I was just like out of all this stuff. Ya know. And, and like I'm gonna like, you know like someone that like to look for trouble or something. So when I did that... When I, when I first got, I was just like have to like, you know, like callin' myself Pisa because that's how they do it. So after like awhile I just like decide not to be like, you know, like politics. That's kinda like politics.
- Q. *Prison politics?*
- A. Yeah. So I'm just like, ya know, I'm not here for like getting in trouble. I'm here doin' my time. And...
- Q. I, okay. And the only time you did was for probation violations.
- A. Mm hmm.
- Q. And, uh, ya had an incident back with a, a girl. Back in 1998.
- A. Yes.
- Q. Okay. You, you *do time for that as well?*
- A. No. The, that...
- Q. Jail time?
- A. That's when I, that's when I did the time for.

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Q. Okay. Um. You, you said ____ you a Christian now?

A. Yeah.

Q. When did you become a Christian?

A. Uh. November 8th, 2007.

Q. Okay. Good. Let's go back to 1998. Early, earlier time in your life. Nineteen.
Before you became a Christian were you a, were, were you doin' drugs at all?

A. No.

Q. Nothin'? Have you ever done any drugs in your life before?

A. Like probably when I was like 15. I just try like probably some weed and that's it.

Q. Fifteen?

A. Yeah.

Q. How 'bout when you're around 19?

A. Not really. I like just like just drink.

Q. Okay. When you got involved in this incident in, uh, June of '98, were you drinkin'
or were ya doin' drugs?

A. Yeah. We were drinkin'. No, we were just drinkin' at the apartment because that
was my girlfriend, uh, birthday.

Q. Okay. And you got pretty violent with her?

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STATEMENT OF: GUSTAVO RAMOS-MARTINEZ

- A. Well, what happened was, uh, we were like arguing. So we *grabbed* each other. And then like wh...when I pushed her like that, she hit her head on the chair. So I was like by that time we were like it was her birthday. I was *cooking* for her.
- Q. Okay.
- A. But for some reason we start like arguing, ya know, about other stuff. And that's how we end up like fighting each other.
- Q. Okay. I mean, I'm not investigatin' this, but it says here you *began to*, uh, chokin' her and it says hit her with a chair. Is that true?
- A. No.
- Q. Oh, okay.
- A. That's, that's what I, I _____ on the court.
- Q. Okay. So at the time of that, that you were livin' on E...East, uh, Rochelle?
- A. Yeah. I think so. The _____.
- Q. Okay. That's where the incident took place, right?
- A. Mm hmm, mm hmm.
- Q. 155 East Rochelle.
- A. Yeah.
- Q. Apartment 113.
- A. Yeah.
- Q. That ring a bell with you?

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A. Huh?

Q. Does that ring a bell? Is that, you familiar with that address?

A. Yeah.

Q. How long were you living there?

A. Uh, that was like just till like maybe it was like two months, I guess. We just barely like got the place.

Q. Well, can you remember when you *bought* it?

A. Nah.

Q. I mean, rent it?

A. Not really 'cause she rents it for _____. Because she's the one with the papers. So.

Q. Okay. *Speaking of that*, goin' back to 1998 now, were you familiar with the area?

A. No.

Q. Around this apartment complex?

A. Not really because I just like got there from Oxnard.

Q. From Oxnard, California?

A. Yeah.

Q. You runnin' with a gang in Oxnard by chance?

A. Never.

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STATEMENT OF: GUSTAVO RAMOS-MARTINEZ

- Q. 'Kay. Did have a chance to, uh, go on the property of 4255 South Spencer? In the Ca...the *Camlu* Retirement Home? That ring a bell to you?
- A. No, man.
- Q. If I showed you a... That ring a bell for you back in 1998? *Camlu* Retirement Home, 4255 South Spencer.
- A. No.
- Q. No? Okay. So you've never _____ been on that property.
- A. Nnh nnh.
- Q. *Basically* a retirement home. There's some people with assisted living.
- A. Mm hmm.
- Q. And unassisted living. For elderly people. Never been on that property?
- A. No.
- Q. Ya have any reason to go on that property by chance?
- A. No. We just barely like got living on the *studio that we rent* back, back on the time.
- Q. This gentleman look familiar to you? This elderly man. Not the two females.
- A. I, I don't know really like see good because my, my right eye.
- Q. Okay.
- A. I'm blind.
- Q. You're blind in your right eye?
- A. Yeah. I lost it during my s...my prison system.

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Q. Okay. How'd that happen?

A. Um. They said it's glaucoma.

Q. Okay.

A. But they never ____ like they never really find 'em what was the reason. Because they said it's like five different types.

Q. Okay.

RD. But you can read, right? You can read? You can see?

A. Well, um, like on my left eye is _____. Not like ____ because of the glaucoma and because I had to use like those drugs for life.

Q. Okay.

A. Yeah.

Q. Let me show you an ariel photo of the, uh, area. These are basically down the block behind the Shell. Okay? Spencer's right here. That ring a bell to you, Cam...the, the, the 4255 South Spencer, the *Camlu* Retirement Home it was called back then?

A. Nnh nnh.

Q. Doesn't ring a bell at all?

A. No. Not, not really.

Q. Okay. *This*, here's the deal, Gustavo, um, somebody went on that, that property.

A. Mm hmm.

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- Q. On the evening of, uh, May 16th, 1998, and, uh, murdered an elderly male and an elderly female. Female wasn't found until, uh, May 17th. You're gonna tell me that, that you were never on that property.
- A. Nnh nnh.
- Q. Did you ever socialize with anybody from that property?
- A. No. Like I just, we just barely got from Oxnard to Las Vegas. And then actually I got first and *then* my girl came like probably like two weeks, three weeks later.
- Q. Okay. What were you doin' for a livin' back then?
- A. Uh. Do landscaping.
- Q. Okay. Money was good?
- A. Well, yeah, it was like, I was getting cash. Because the guy who I worked for he was a black guy. He was his own company. And he worked with somebody _____. So that's how I got the job.
- Q. So there would be no reason then, absolutely no reason that any property, clothing, or otherwise would be found at 4255 South Spencer. No reason at all.
- A. What was that?
- Q. Would there be any reason why some clothing belonging to you would be found at this retirement home that I just, uh, showed you? Any reason at all?
- A. No. Not really.

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- Q. And no reason why I would find, um, any clothing of yours in apartment 212? Inside that complex? Okay. Alright. Here's the deal. Uh. Whoever did this broke in through a bedroom window.
- A. Mm hmm.
- Q. There's an elderly man by the name of Wallace Siegel. He lived in apartment 120. He, uh, he's sittin' in a recliner chair in his, uh, in his apartment. His son had just left him shortly after midnight on, uh, May 16th, 1998. Someone enters that apartment through a bedroom window. Picks up a 25 pound dumb bell and proceeds to hit Mr. Siegel in the head with it. You familiar with that at all?
- A. Nnh nnh.
- Q. So there's no reason why I would find any, any clothing, any evidence belonging to you.
- A. No.
- Q. Inside Mr. Siegel's apartment. My opinion is the person left that, left that, uh, apartment, Mr. Siegel's apartment, goes upstairs and encounters an elderly female by the name of Helen Sabraw. And she's in room 212. At 1:00 in the morning neighbors across the hall from Mr. Siegel report hearing a female screaming like she's havin' a nightmare. For about five minutes they say and then it stops. Sabraw's found by her son and friend on May 17th, 1998. Murdered. She's been beatin' up pretty good. _____. Uh. Two different

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knives and *has* been rape, anally raped we think. I know about the knives.
_____ The crime scene was, uh, horrendous. Is there any reason why I would
find any clothing belonging to you in that apartment? And I want you to be honest.
'Cause you, you told me, hey, you changed your lifestyle. Okay. I mean, uh, ya
know, I'm askin' you questions today, Gustavo. I'm tryin' to appeal to you to give
these families closure. Okay?

A. Mm hmm.

Q. Uh. You, you were a different man back then. You're a different man now. And
you became a Christian, uh, what, what year?

A. Um. '07.

Q. Okay. You were a different man back in 1998. Somethin' else was goin' on in
your life. Uh. Uh. Uh. I wanna tell you why. 'Cause I don't believe in beating
around the bush. I have a t-shirt in Helen Sabraw's apartment with your DNA on
it.

A. A t-shirt?

Q. Yeah. It's a gray Royal t-shirt. Any reason why that would be?

A. No.

Q. None whatsoever? Then I'm goin' through some of the evidence in Mr. Wallace
Siegel's apartment. I find a Review Journal newspaper. I found a *bloody* palm

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print on that newspaper. Comes back to you, Gustavo. It's got your bloody palm print on it. How, how do you explain that?

A. I don't know.

Q. You can't. I want you to think.

A. Yeah.

Q. Do you remember what you were doing back in May of 1998?

A. _____.

Q. Nah.

A. Nnh nnh.

Q. Well, based on the evidence I have, Gustavo, I mean, look at what my partner explained to you. We're not here. We're not ICE detectives. So we work for Metro. I can prove beyond a reasonable doubt that you killed Wally Sieg...Wallace Siegel and Helen Sabraw. But how do ya explain that? That evidence.

A. I got no idea ____.

Q. Listen. Back in 1998, I think you're a different kinda guy. You're drinkin' a lot. I...

A. I use to drink, yeah.

Q. I think, uh...

RD. Maybe this will refresh a little.

Q. Do ya recognize that person? Who is that?

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A. Me.

Q. That's you.

A. Mm hmm.

Q. Back in 1998. That's you as well?

A. Mm hmm.

Q. That's you?

A. Mm hmm.

Q. Okay. Look. I'm appealin' to ya. I mean, this case is basically what we call slam dunk. I'm not gonna lie to ya. Your DNA shows up in Helen Sabraw's apartment. And then I have a bloody palm print that comes back to you in Wally Siegel's apartment. That's pretty damning evidence, Gustavo. I'm appealing to you because there's no way you can explain that away. Okay?

A. Mm hmm.

Q. Now as I said that was a different time in your life. I think you were drinkin' a lot more. You're 19. You're clearly a lot more violent back then when you were drunk. Eh, you tell me. Is it b...were drunk that night?

A. When?

Q. The night of, of May 16th, 1998.

A. I...

Q. When you approach that apartment complex. Do you remember?

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- A. No. I _____. Like use to like drink like back then. Ya know. I drink for like just drink, ya know.
- Q. Get into a lot of fights?
- A. *No, not really.*
- Q. No?
- A. Like no. Like fights like on the streets, *something like that?*
- Q. Well, how, how do you explain, how do you explain what happened a month later with, with your...
- RD. Girlfriend.
- Q. ...is this your girlfriend?
- A. Yeah. She's, she...
- Q. _____(both talking).
- A. ..._____. Yolanda, right?
- Q. Yolanda?
- A. Yeah.
- Q. How do you explain that? That's pretty violent. I mean, this whole, is this whole report a lie? ____ Let me read what it says.
- RD. Here's the narrative, sir.
- Q. "Victim Guzman and suspect Ramos have been livin' together for three months. Ramos had been drinking heavily and got into an argument with Guzman inside

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the apartment. Ramos hit Guzman approximately five times in the head with a metal chair, causing a blackened right eye and swollen lip." That sounds pretty violent to me. Were you drunk?

A. Yeah. I know. But that's... When we went to court, she even appears to talk to the judge and explain that it wasn't like that.

RD. This was taken the night of from your previous girlfriend. This is the night of not in court. This is when it happened the night.

Q. Right.

RD. This is her account to the officers then.

Q. Okay.

A. Yeah. 'Cause like when we went to the, I went to a court, she appeared. She was like, she always went to see me. Because like what happened when she hit on her head, that was, ya know, that's it when I pushed her. So she went and, and told the judge ____, ya know, that she didn't even ____.

Q. I'm not, I'm not investigatin' that case. I'm just sayin' to you, Gustavo, you were, you're a Christian now. You're a different man now. You were more violent back then when you got drunk.

A. Mm hmm.

Q. You can't explain away your evidence being in these two apartments. You've just told me you've never been to those complexes. Right?

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A. Mm hmm.

Q. Never been to those apartments. So how do ya explain a t-shirt with your DNA on it inside Helen Sabraw's apartment?

A. Well, what a t-shirt?

Q. It's a t-shirt.

A. Yeah. What a t-shirt?

Q. A gray t-shirt. Ya know. Like this.

A. Uh huh.

Q. You can't explain that.

A. I don't, I don't like, honestly, I don't know like what kinda t-shirt you should, ya know, talk about.

Q. Well, it's any t-shirt. I mean there's a t-shirt...

A. No. ____ (both talking) But like say like, you know, like havin' a t-shirt ____.

Q. But why would an 86 year old woman have a t-shirt ____? You have no, tell me you don't know her. Right?

A. Mm hmm.

Q. You told me you've never been on that complex.

A. Mm hmm.

Q. How do you explain that away? And if that's not bad enough, how do you explain your bloody palm print?

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A. What do ya mean like bloody?

Q. Well, you have a palm print in blood on a Review Journal newspaper.

RD. The victim's blood.

Q. The victim's blood.

RD. With your palm print.

Q. And his blood on a Review Journal.

RD. That means you would of have to come in contact with that paper with your hand just like we did here with the prints. Your palm print is on that newspaper in his apartment with his blood the night he was murdered.

Q. I'm appealin' to you now, Gustavo. Hey, I'm gonna show you a picture. Maybe this'll... That's Wally Siegel. Can you see that?

A. Yeah. A little.

Q. Yeah. A little?

A. Mm hmm.

Q. And it's just because like my eye is really a mess.

RD. Who's that?

A. My wife.

RD. Okay. You can see this picture. That's your wife. So you can see well enough to identify this picture. He's showin' you a picture too. Just like this one. Only of a different person.

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STATEMENT OF: GUSTAVO RAMOS-MARTINEZ

Q. How 'bout that picture?

A. But I don't know that person.

Q. Okay. Uh. Imagine you don't. That's Wallace Siegel. That's what Wallace Siegel looked like after you got done hittin' him in the head with a 25 pound dumb bell.

A. ____.

Q. You don't recall removing this screen in the bedroom of this man's apartment, goin' into the bedroom. You don't recall that?

A. No.

Q. Then how do you explain to me your bloody palm print in Wally Siegel's blood on a Review Journal, copy of the Review Journal? How do you explain that?

A. I don't got nothing to say about it. Like not really.

RD. Do ya remember...

Q. ____ (both talking).

RD. I'm sorry.

Q. Go ahead.

RD. You told me the truth'll set you free. Well, the truth means ____ (both talking).

A. Yeah. But that ____ (both talking) diff...different things like I think I should get my lawyer and then talk to him. Ya know. ____ Because I don't really like, ya know, can't say anything about, ya know. So I think I have my right to get a lawyer and

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STATEMENT OF: GUSTAVO RAMOS-MARTINEZ

spoke into him or, ya know, however is the process. Because like I, I do understand English, right?

Q. Yes.

A. And it's like ____ percent. Sometimes it's words that I don't really get it. And that's why sometimes I'm ask you like explain to me again.

Q. Okay. Have you understand what I've said to you so far?

A. Yeah. Kinda.

Q. What don't you understand?

A. Well...

Q. It's all clear ____ (both talking).

A. It's just like but you said that back on whatever day.

Q. May 16th.

A. Yeah.

Q. 1998.

A. And if I was familiar with the area and all that. Like we were like barely got there.

Q. Okay.

A. So, I mean.

Q. So is that what you don't understand about what I'm sayin'?

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A. And, and a whole lot a things. Yeah. I, I _____ I do understand, ya know, like the, like 80 percent of it. But I just like got nothing to say about it, ya know. I just _____ have a lawyer.

Q. Okay.

A. 'Cause I don't wanna say like somethin' that I'm gonna mess up myself, ya know. I mean. It happens once. You know. It happens once that, uh, send me for something that I _____ happens _____ years. And like, ya know, like I was explaining him. Like, ya know, how they turn on the stuff. So I'll just prefer to, you know, have a lawyer.

Q. Okay.

RD. Okay. Then.

Q. Operator, that concl...concludes, uh, this interview. Uh. Same persons present. Date is 10-13-10. Time now is 1236 hours. End of interview.

THIS VOLUNTARY STATEMENT WAS COMPLETED AT 4750 WEST OAKLEY, LAS VEGAS, NEVADA 89102, ON THE 13TH DAY OF OCTOBER 2010, AT 1236 HOURS.

RH/RD:sac

**TEXT IN ITALICS ARE CHANGES MADE BY DETECTIVE R. HALL, P# 6756*



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

GUSTAVO RAMOS,
Defendant.

CASE NO. C-10-269839-1
DEPT. III

BEFORE THE HONORABLE DOUGLAS W. HERNDON,
DISTRICT COURT JUDGE

FRIDAY, MAY 31, 2019

**TRANSCRIPT OF HEARING
BENCH TRIAL – DAY 4**

APPEARANCES:

For the State:

GIANCARLO PESCI, ESQ.
PAMELA WECKERLY, ESQ.
Chief Deputy District Attorneys

For the Defendant:

IVETTE A. MANINGO, ESQ.
ABEL M. YANEZ, ESQ.

Court Interpreters:

Norma Caucas
Elsa Marsico
Ximena Fienes
Rafeal Leel

RECORDED BY: JILL JACOBY, COURT RECORDER

TRANSCRIBED BY: MANGELSON TRANSCRIBING

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1 Las Vegas, Nevada, Friday, May 31, 2019

2
3 [Trial began at 10:41 a.m.]

4 MR. YANEZ: I would like to go on the record. So -- or I
5 don't know if you want to do it -- eventually it's got to be on the
6 record, I don't know if you want to make it unofficial on the record
7 now just to give you --

8 THE COURT: Well --

9 MR. YANEZ: -- a heads up.

10 THE COURT: -- you can just give me a heads up and we'll
11 make a record when the client's here.

12 MR. YANEZ: Okay.

13 THE COURT: So.

14 MR. YANEZ: So our expert has been in town since this
15 morning. Her flight, and it's the last flight, is at 4:20.

16 THE COURT: Okay.

17 MR. YANEZ: I sent an e-mail to the district attorney
18 yesterday. My concern is we have Detective Hardy who is going to
19 testify first and then after that my request was that the State's
20 pathologist testify.

21 THE COURT: Okay.

22 MR. YANEZ: And a little bit of background, because I
23 know Your Honor hasn't been on the case the entire time, my
24 understanding is the original pathologist from '98, Dr. Green, is not
25 going to testify.

1 THE COURT: Okay.

2 MR. YANEZ: At the prelim that was held in 2010, it was
3 Dr. Olsen who testified. My understanding is, they can correct me if
4 I'm wrong, that she's no longer at the medical office -- I've been
5 trying locate her for a while now and I can't --

6 THE COURT: She's in Bullhead City, isn't she --

7 MR. YANEZ: -- locate her.

8 THE COURT: -- or something?

9 MS. WECKERLY: I think she's up in northern Nevada --

10 THE COURT: Oh.

11 MS. WECKERLY: -- she had a medical retirement.

12 THE COURT: Okay.

13 MR. YANEZ: So she's not available so I believe the State
14 was going to call Dr. Gavin, that's --

15 THE COURT: Okay.

16 MR. YANEZ: -- at least who they noticed.

17 THE COURT: Okay.

18 MR. YANEZ: So the issue becomes I would like to have
19 my -- because there is no transcript of testimony, there's no report,
20 because obviously she's going to have to give her own opinions
21 based -- I don't know what those are. I want my expert to be able to
22 sit and listen to that.

23 THE COURT: Okay.

24 MR. YANEZ: So I had requested from the State that after
25 Detective Hardy, that the pathologist testify and then my SANE

1 nurse so we can get her out of here on her flight.

2 THE COURT: Okay.

3 MR. YANEZ: The State does not want to agree to that, so I
4 am making that request to the Court. If not, I don't know if we're
5 going to have enough time today, the way things are going and
6 how long the testimony is for her to testify --

7 THE COURT: Okay.

8 MR. YANEZ: -- and she's got to fly out of here at 4:20, I
9 don't want to be accused of wasting resources, we'd have to fly her
10 back out.

11 THE COURT: Understood. So what's the State's issue?

12 MS. WECKERLY: So, you know, we're juggling schedules
13 and we have a detective that wants to testify in the morning -- this
14 morning because he has a doctor's appointment in the afternoon.

15 THE COURT: Okay.

16 MS. WECKERLY: He was here yesterday and didn't get on
17 so we told him he could come at 11:00 and he would likely get on
18 this morning.

19 THE COURT: Okay.

20 MS. WECKERLY: As far as Dr. Gavin goes, when we
21 spoke to her, she said she would be on-call in the morning -- this
22 morning and so she wanted to testify in the afternoon.

23 THE COURT: Okay.

24 MS. WECKERLY: We have Julie Marschner who's also the
25 DNA expert and we asked her, hey look, if you don't get on Friday,

1 could you testify on the 10th, meaning the next -- yeah.

2 THE COURT: Okay.

3 MS. WECKERLY: She is not available on the 10th, she's
4 out of town. So we were like okay, we've got to get Julie
5 Marschner on because then she's -- you know, because she's not
6 available even on the 10th. So we put Gavin in the afternoon late,
7 last; Julie Marschner before her.

8 THE COURT: Is Julie available next Monday, the 3rd?

9 MS. WECKERLY: I don't know, I didn't ask her that
10 because I thought we would be --

11 THE COURT: No, I know.

12 MS. WECKERLY: -- in on the 10th.

13 THE COURT: I know.

14 MS. WECKERLY: My -- and so we set all our witnesses
15 up --

16 THE COURT: Right.

17 MS. WECKERLY: -- and I guess they e-mailed us last
18 night. I, you know, feel like we set up our witnesses, we've tried to
19 accommodate the Defense, and I'm just not --

20 THE COURT: Let me ask you this. Is your witness
21 available the 10th?

22 MR. YANEZ: I could call her and find out.

23 THE COURT: Okay.

24 MR. YANEZ: Again, I have no problems flying her out but
25 because --

1 THE COURT: Look, it's not your fault.
2 MR. YANEZ: Right. And you know, there's resources,
3 so --
4 THE COURT: If Drew or anybody --
5 MR. YANEZ: I can --
6 THE COURT: -- gives you any consternation about that let
7 me know and I'll sign an order.
8 MR. YANEZ: I can step out and call her right now --
9 THE COURT: Let's find out --
10 MR. YANEZ: -- and ask her.
11 THE COURT: -- if she's available just so --
12 MR. YANEZ: Okay.
13 THE COURT: -- you know that to start with.
14 MR. YANEZ: Okay.
15 THE COURT: And then the only other thing that I was
16 saying was, since I had mentioned earlier that I might not be
17 leaving until Monday afternoon, if we can get what we need to and
18 do something Monday morning with somebody that creates time
19 today, I'm happy to do that. But let's first find out because I'd like
20 you to be able to put your cases chronologically how you want to
21 and have them listen to people.
22 MR. YANEZ: Okay.
23 THE COURT: But we're at least going to get Gavin on
24 today so that she can listen to that testimony because your -- is
25 your -- she or he, I'm sorry, your expert?

1 MR. YANEZ: It's a she.
2 THE COURT: She. We're anticipating Gavin testifying
3 today.
4 MS. WECKERLY: Yeah, I --
5 THE COURT: Okay.
6 MS. WECKERLY: Yes.
7 THE COURT: Okay.
8 MS. WECKERLY: I mean, Gavin was the one I was putting
9 on last because I thought oh well, she'll be available on the 10th --
10 THE COURT: Okay.
11 MS. WECKERLY: -- but I mean, I can ask her other things.
12 I just didn't -- you know, once we schedule everybody, we're not
13 too --
14 THE COURT: Understood.
15 MS. WECKERLY: -- interested in --
16 THE COURT: Understood.
17 MS. WECKERLY: -- switching it around.
18 THE COURT: So go Abel, let's find out if she's available.
19 MR. YANEZ: Okay. And the 10th would be in the
20 afternoon, you want me to --
21 THE COURT: The -- no, the 10th I would say we would
22 start in the morning and --
23 MR. YANEZ: In the morning.
24 THE COURT: -- whenever she's available, yeah.
25 MR. YANEZ: Okay. I will give her a call.

1 THE COURT: Thank you.

2 And just for the record, Mr. Ramos did come in during
3 part of that.

4 And I take -- have you had a chance to talk with him about
5 the timing issues yet?

6 MS. MANINGO: No.

7 THE COURT: So Mr. Ramos, we were having a discussion
8 about timing issues --

9 MS. MANINGO: I'm sorry, he needs the interpreter.

10 THE COURT: Oh, I'm sorry.

11 THE COURT INTERPRETER: Oh, I'm sorry.

12 THE COURT: Well why don't you go ahead and talk to
13 him first, Yvette and I'll --

14 MS. MANINGO: Okay.

15 THE COURT: -- we can make a further record if we need
16 to.

17 [Pause in proceedings]

18 MS. WECKERLY: Just to kind of add in a little bit on the
19 scheduling, Julie is here Monday through Thursday next week.

20 THE COURT: Okay.

21 MS. WECKERLY: So we have Gavin at 3:00 and Julie at
22 1:30.

23 THE COURT: Okay.

24 MS. WECKERLY: I can maybe try to get Gavin at 1:30 and
25 Julie at 3:00 --

1 THE COURT: Okay.

2 MS. WECKERLY: -- so their expert can hear --

3 THE COURT: Gavin.

4 MS. WECKERLY: -- Gavin.

5 THE COURT: Okay.

6 MS. WECKERLY: And that -- and then the only thing I'm

7 just worried about is we would maybe need to be in session on the

8 3rd or otherwise Julie's not available until the 11th.

9 THE COURT: Got. So we could -- if we could do Gavin

10 earlier that'd make sure their expert can hear her and then make her

11 flight --

12 MS. WECKERLY: Right.

13 THE COURT: -- because if we -- if Gavin goes later in the

14 afternoon she's not going to be able to hear her all and still get over

15 to the airport on time to make a 4:30 flight.

16 MS. WECKERLY: Uh-huh.

17 THE COURT: So let's plan on flying her back for the 10th

18 but if you could arrange to have Gavin here earlier.

19 MS. WECKERLY: I'll see if --

20 THE COURT: And I'm fine with Julie thereafter and if we

21 need to go to finish up Julie, that's fine, we don't have to bring her

22 back on Monday.

23 MS. WECKERLY: Okay.

24 THE COURT: But if they could switch and make it

25 available for their expert to hear that before she has to leave, that

1 would be great.

2 So can we go ahead and get started this morning while
3 you guys are messaging back and forth or do you need --

4 MS. WECKERLY: Yes. Yes.

5 THE COURT: Are you sure?

6 MS. WECKERLY: Yes, I'm just asking Gavin if she can be
7 here at 1:30.

8 THE COURT: Got it. No worries.

9 Did you -- Ivette, do you need to make any further record
10 or are you okay?

11 MS. MANINGO: I spoke to my client with regards to the
12 scheduling and the coroner and our expert's issues so --

13 THE COURT: Okay.

14 MS. MANINGO: -- he's up --

15 THE COURT: Got it.

16 MS. MANINGO: He's aware.

17 THE COURT: We'll be back on the record then, getting
18 ready to resume trial. Everybody's present; all attorneys, Mr.
19 Ramos, and the interpreters. And we were on the record with those
20 earlier comments as well, so.

21 Who's your next witness going to be?

22 MS. WECKERLY: I think they wanted to call a Defense
23 witness.

24 THE COURT: Oh, that's right. Detective Hardy.

25 MS. MANINGO: We'll be calling someone out of order,

1 Your Honor.

2 THE COURT: Okay.

3 MS. MANINGO: Thank you for the accommodation.

4 THE COURT: Sure.

5 MR. PESCI: Really quick though, I apologize. Your Honor
6 asked me to make a cropping of that portion of the --

7 THE COURT: Yes, to redact the --

8 MR. PESCI: Correct.

9 THE COURT: Okay.

10 MR. PESCI: I provided it to the clerk and showed it to the
11 Defense Counsel before I gave it to the Clerk.

12 THE COURT: Okay.

13 [Colloquy between the Court and the Clerk]

14 THE COURT: All right, Ivette, who do you want to call?

15 MS. MANINGO: The Defense calls Ken Hardy.

16 THE COURT: Okay. Could you get Detective Hardy?

17 Thank you.

18 **KEN HARDY**

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

21 THE CLERK: Thank you, please be seated.

22 If you could state and spell your name for the record,
23 please.

24 THE WITNESS: My name is Ken Hardy; K-E-N, H-A-R-D-Y.

25 THE COURT: All right. Thank you, sir.

1 THE WITNESS: Thank you.

2 THE COURT: Ms. Maningo.

3 **DIRECT EXAMINATION**

4 BY MS. MANINGO:

5 Q Good afternoon -- or good morning, Mr. Hardy, how are
6 you?

7 A Good morning.

8 Q How were you employed in 1998?

9 A I was employed as a detective with Metro.

10 Q And when was it that you started with Metro?

11 A 1985.

12 Q Okay. And so in 1998, what detail were you on?

13 A The Homicide Detail.

14 Q And who was your partner at that time?

15 A Roy Chandler.

16 Q And for how long was he your partner?

17 A Approximately eight years, I believe.

18 Q Now I want to take you back to May of 1998, are you
19 familiar with a call that Mr. Chandler went on with regards to a
20 homicide that occurred at Camlu Apartments?

21 A Yes.

22 Q Okay. And you just testified that Mr. Chandler was your
23 partner. Were you actually also called to the scene?

24 A No.

25 Q And why is that?

1 A I was out of town.

2 Q And who was called to the scene with Mr. Chandler that
3 night?

4 A Detective Mikolainis.

5 Q When did you return to Las Vegas, if you remember,
6 around that time?

7 A I believe I first became involved in this case on the 19th of
8 May.

9 Q When you returned, you said you became involved in the
10 case, did you take over for Mikolainis at that point?

11 A Yes.

12 Q And were you made aware when you returned -- were you
13 caught up to speed on the case?

14 A Yes.

15 Q And were you made aware that also while you were away,
16 there was another call to a homicide at the same building the
17 following day?

18 A Yes.

19 Q Do you recall who worked on the other case?

20 A Yes.

21 Q Okay. And who -- well first of all, the case that you were
22 assigned to, who was the victim in that case?

23 A Wallace Siegel.

24 Q Okay. And the other case, who was it that was assigned to
25 it and what was the victim's name in that case?

1 A Detectives Vaccaro and Detective Ramos were assigned to
2 that case and the victim was Helen Sabraw.

3 Q Did you work the cases independently as teams?

4 A We worked each case independently yet shared
5 information if that's fair to say.

6 Q Did there come a time during the investigations that the
7 teams believed that potentially these were connected in same way?

8 A Yes.

9 Q Now you testified with regards -- strike that.

10 Did you remain on the case until the time that you retired?

11 A Well I remained on the case and it sort of was a cold case
12 and there were other detectives that would look at the unsolved
13 cases and try to see if there was any leads to follow up with so it
14 was sort of being looked at by different detectives; as we still had
15 our case load, it was an unsolved case.

16 Q During that time, however, during that period where
17 maybe other detectives were looking -- first of all, do you remember
18 when that started? When the cold case detectives started looking at
19 that?

20 A No, I recall I believe the first detectives that looked at cold
21 cases was Sergeant Manning who had retired and also Detective
22 Dave Mesmar, when he retired they came back and were looking --
23 they started like a Cold Case Unit.

24 Q But you don't remember what year that was?

25 A I'm going to guess it was probably 2008/9-ish, a few years

1 before I -- maybe even '7, but not a lot of years before I retired.

2 Q So before that time period, approximately 2007 and 8,
3 there weren't any calls on the case or leads or anything. Those
4 calls would go to either Mr. Chandler or yourself?

5 A Yes. If there were calls -- if we were still there -- if one of
6 the detectives handling the case was still there, that lead -- and then
7 we would then go to the file room and pull the file.

8 Q So the file was still your file or Mr. Chandler's file, just
9 located in a different part of the office?

10 A Yes.

11 Q And you were still assigned and would be the ones
12 following up during that time period?

13 A Up until the time that both detectives are retired.

14 Q Now you testified before in another proceeding, in
15 December, not too long ago in this case, correct?

16 A Yes.

17 Q So it was December 14th of 2000 -- I'm sorry, December 4th
18 of 2018?

19 A Yes.

20 Q And did you review some case files in preparation for that
21 hearing?

22 A Yes.

23 Q Okay. And those were case files that were provided to
24 you by the district attorney?

25 A Yes.

1 Q This week in preparation for this hearing, were you able to
2 also review some items?

3 A Yes.

4 Q And did they include some of the things that you reviewed
5 before for the evidentiary hearing?

6 A Yes.

7 Q Now who was the prime suspect in this case -- when you
8 returned and you were caught up to speed, what was your
9 understanding of who the suspect in the case was?

10 A The suspect that was being focused on would have been
11 the son, Jack.

12 Q And why was that?

13 A Well with the homicide cases, when you -- you sort of
14 work from the people that are closest to the victim then work their
15 way out. Jack was the last one with his son [sic], there were some
16 issues in the statement as far as -- that had to be verified but he was
17 the last one there. Normally once you can eliminate them as a
18 suspect then you start working your way around as to who else
19 would have had the motive for the homicide.

20 Q And you said there was some issues with his statement.
21 Do you recall off the top of the head what some of those issues
22 might have been?

23 A Well to me the fact that he went to the emergency room at
24 midnight, in the middle of the night, the door was left unlocked
25 when he left, there was -- he was aware of financial gain also if -- as

1 to what his father possessed, as far as financially. But more, I think
2 that when Detective Mikolainis and Chandler, it wasn't -- there was
3 a suspicion about his story in the early morning.

4 Q And you discussed that Mr. Siegal was aware of some
5 finances with regards to his father, correct?

6 A Yes.

7 Q Okay. And do you remember if that included a life
8 insurance policy?

9 A I believe we were trying to find the -- there was -- he was
10 asked if he knew about a life insurance policy, but he described his
11 accounts, of CDs, and other accounts that would have had money in
12 those. As far as whether he had an actual life insurance policy, I
13 don't recall that.

14 Q And aside from him knowing about the finances, did you
15 also learn that he had argued with his father over money?

16 A I don't recall that. I don't recall that.

17 Q Okay. Do you recall reviewing some of the notes from
18 your homicide file?

19 A Yes.

20 Q Okay.

21 MS. MANINGO: May I approach, Your Honor?

22 THE COURT: You may.

23 [Colloquy between Counsel]

24 MS. MANINGO: May I approach?

25 THE COURT: Yes.

1 BY MS. MANINGO:

2 Q I'm going to show you what was previously in another
3 hearing admitted as Exhibit A, just -- I'm going to show you this
4 version first, if you could just look through that and let me know if
5 you recognize those.

6 A Okay.

7 Q Do recognize that packet?

8 A Yes.

9 Q And what is that packet?

10 A Well it looks like they're pictures of handwritten notes that
11 were in the front of the file with the tabs being lettered off to the
12 side of the three-ring binder, which is how we kept our file, and any
13 of the notes would have been housed in the front of the file.

14 Q Okay. So these are detective notes, correct?

15 A They -- yeah, I recognize the handwriting of the first note.

16 Q Okay. Do you recognize this from reviewing this before
17 when you were provided --

18 A Yes.

19 Q -- the packet from the DA's office?

20 A Yes.

21 Q Okay. And that -- some of those pages are a little dark, is
22 that right?

23 A Yes.

24 Q So let me see if -- I'm going to refer you to one of the
25 pages here and if you could -- if you have a problem reading it let

1 me know, I have a clearer copy but you could read the bottom
2 paragraph there; see if that refreshes your recollection.

3 A The bottom paragraph says --

4 THE WITNESS: You want me --

5 MR. PESCI: Judge, I object as --

6 THE WITNESS: -- to read --

7 MS. MANINGO: You can just read it to yourself.

8 MR. PESCI: -- to what's said there --

9 THE WITNESS: Okay.

10 MR. PESCI: -- because this is a hearsay document.

11 There's been no foundation as to whose notes they are. He's
12 recognized one page.

13 THE COURT: Well I think she asked him to read it silently
14 to himself first. So regardless of whether it's admissible, he can
15 refresh his recollection with anything.

16 So you just read it to yourself, Detective Hardy, and then
17 let the attorney know when you have an opportunity to finish up.

18 THE WITNESS: Okay.

19 BY MS. MANINGO:

20 Q These are notes that you would have reviewed when you
21 got back in catching up with the case, is that right?

22 A Yes.

23 Q Okay. Does that refresh your recollection with regards to
24 the information you had gathered about not only that he knew
25 about the -- that Jack knew about his dad's finances, but they had

1 actually argued over it?

2 A The bottom paragraph speaks about the argument and
3 how he didn't want to be there over money.

4 MR. PESCI: Judge, objection, that's hearsay. You need to
5 strike it.

6 THE COURT: Ms. Maningo.

7 MS. MANINGO: I just asked him if it refreshed his
8 recollection about what he learned and that's it.

9 THE COURT: Well you -- her question was does that refresh
10 your memory about what you learned and then you just referenced
11 what that paragraph said. So does that refresh your recollection
12 about learning about what's in that -- what paragraph -- what that
13 paragraph said is something that you had learned about during
14 your investigation?

15 THE WITNESS: Yes.

16 THE COURT: Okay. I'll allow it to stand.

17 BY MS. MANINGO:

18 Q So, again, you testified that that was part of the concern
19 with regards to the motive, is that right?

20 A Yes.

21 Q And did you also learn through the investigation that
22 there was no forced entry that was determined?

23 A Yes.

24 Q And because Jack had access to the building, is that
25 another concern to the detectives with regards to him being a

1 suspect.

2 A It was a concern that he had the access to the door that
3 was near Wallace's room.

4 Q And that he had access to the entire facility, is that fair to
5 say?

6 A Yes.

7 Q Did you also have evidence with regards to blood found in
8 a vehicle in this case?

9 A Yes.

10 Q Can you explain what that evidence was?

11 A There was evidence -- there was, I believe, blood located
12 inside of Wallace Seigel's vehicle when it was processed at the
13 scene.

14 Q And what did you know about who had access to that car,
15 who was driving it, et cetera?

16 A Jack was the only other person that would have been
17 driving it, other than Wallace --

18 Q Okay.

19 A -- and he couldn't drive.

20 Q And did you know that about -- that night, did you know
21 that he had driven the vehicle on that night?

22 A Yes, he had told the detectives that had responded that
23 night because I came in three days later, he had told them that he
24 had driven that vehicle to the hospital that night.

25 Q And were you also aware that he had been the only

1 person exclusively that was driving that vehicle for the entire three
2 months that he was there?

3 A I don't recall if I could say exclusively. I know that it was
4 the night -- that night he had returned in that vehicle because he
5 had left his prescription and food in the car.

6 Q With regards to the blood in the car, there was actually
7 blood on the steering wheel, is that what your memory is?

8 A Yes, correct, they recovered some on the steering wheel.

9 Q Okay. And where else was it recovered?

10 A I don't recall.

11 Q Okay. Do you recall that it was located in another part of
12 the vehicle as well?

13 A Yes.

14 Q Okay. And that was important evidence, fair to say?

15 A Yes.

16 Q Okay. And with regards to Jack's reasoning for that --
17 strike that.

18 Was Jack asked whether there would be blood in the
19 vehicle to connect him to his dad's murder?

20 MR. PESCI: Judge, I'm going to object. I don't believe
21 that this detective was present for the interview with Mr. Siegel.

22 THE COURT: Detective -- Ken --

23 MS. MANINGO: I'll --

24 THE COURT: -- were you there at the interview?

25 THE WITNESS: I was not.

1 BY MS. MANINGO:

2 Q Well first of all, when you came back to this three days
3 after it occurred and you were catching up and getting up to speed
4 on the case, did you review any witness statements and have
5 conversations with your partner with regards to what the interview
6 contained?

7 A Yes.

8 Q And you reviewed the case file since and reviewed Jack's
9 statement, is that right?

10 A Yes.

11 Q Now based on what Jack told you about blood in the
12 vehicle that night, was that part of the concern and why he was a
13 suspect?

14 A The blood being in the vehicle is a concern, along with all
15 the issues that raised suspicions.

16 Q And is it true that he denied that there would be blood in
17 the vehicle?

18 A Yes.

19 MR. PESCI: What he says is hearsay. He --

20 THE COURT: Well, I'll sustain the objection as to the
21 hearsay part of Mr. Siegel's statement. The other parts of the
22 answers there, I'll allow.

23 BY MS. MANINGO:

24 Q Was the vehicle impounded and later processed at the
25 lab?

1 A I believe so -- because I wasn't there -- but I believe
2 that's -- and I don't recall -- I didn't review that prior to today.

3 Q Based on what the evidence was, would the vehicle be
4 something that was important to the detectives.

5 A Yes.

6 Q And at the time did you learn about what the results were
7 with regards to that blood that was found in the vehicle that Mr.
8 Siegel -- Jack Siegel was driving?

9 A I believe -- I don't recall the results of the blood itself, as to
10 whether they were Jack or Wallace's, but it did not create any more
11 suspicion as to the blood being in the vehicle.

12 MS. MANINGO: Court's indulgence.

13 BY MS. MANINGO:

14 Q The fact that the blood was in the vehicle -- well first, let
15 me back up. The detectives inquired with Jack with regards to
16 whether there would be blood in the vehicle, is that right?

17 A During the statement they had asked him should there be
18 blood in there and --

19 MR. PESCI: Judge, I'm going to --

20 MS. MANINGO: Okay.

21 MR. PESCI: -- object.

22 MS. MANINGO: That's --

23 THE COURT: Well I'll sustain the objection. I know he
24 didn't go there, and I don't know if you were going ask but I will --
25 I'll stop it there.

1 BY MS. MANINGO:

2 Q So they ask the question and then after the fact they
3 impounded the vehicle, correct?

4 A Yes.

5 Q Fair to say at the time of impound they were looking to
6 see what was in the vehicle, including the blood and what result
7 there would be, correct?

8 A Correct.

9 Q So at one point you had more information about the
10 blood that was found in the vehicle and by that time had you
11 reviewed the 9-1-1 tape?

12 A I don't recall what time I reviewed the 9-1-1 tape.

13 Q Okay. Did there come a time generally during the course
14 of this investigation early on that the detectives reviewed the 9-1-1
15 tape?

16 A Yes.

17 Q So you don't remember the date, but you know that it was
18 reviewed?

19 A Correct.

20 Q Okay. And that you would have heard it?

21 A Correct.

22 Q Was that also another reason for suspicion?

23 A Yes.

24 Q And why is that?

25 A The way that Jack had -- was talking to the dispatcher and

1 the answers that he was giving, as far as not wanting to perform
2 CPR on his dad.

3 Q So based on everything you just spoke about and results
4 of the blood and the 9-1-1 call, did you or the detectives go back
5 and confront Jack about these things?

6 A I know that we went -- that we had continuous interviews
7 with Jack as far as different things throughout the investigation,
8 follow-up questions. It wasn't just that night that we talked to Jack
9 and never talked to him again.

10 Q So when -- if that happened, the only one that was
11 recorded was the conversation that was from Jack that night, with
12 the detectives, correct?

13 A I believe so.

14 Q Okay. And if you would have had follow-up
15 conversations, is that something that you might have put in notes
16 or a report or anything like that?

17 A Yes.

18 Q Okay. Do you recall seeing anything in the reports when
19 you reviewed the case files that say that you ever spoke to Jack
20 after that night?

21 A I don't recall all the reports in reviewing them if Detective
22 Chandler put it in his notes or in an Officer's Report. I don't recall
23 any follow-up documents being -- or any follow-up statements
24 being documented in those.

25 Q Okay. So you don't independently recall documenting

1 anything, do you?

2 A No.

3 Q Okay. And review of the file, you didn't see anything that
4 documented the fact that you ever spoke to Jack after the night he
5 was interviewed?

6 A Not that I recall as far as reviewing the reports for the last
7 hearing.

8 Q So you mentioned before that if there were calls or leads
9 that the detectives still assigned to the case would be people that
10 were contacted, is that right?

11 A Yes.

12 Q So did there come a time in 2000 that you received more
13 information or contact regarding the case, if you recall?

14 A I recall there was a follow-up with -- where Jack had come
15 into the office some time -- I don't recall if it was 2000 or exactly
16 what date but many years -- years later.

17 Q Okay. And in the -- in reviewing the notes from the
18 homicide file and the ones that you have before you, do you recall a
19 contact that was made with one of the Mr. Siegel's daughters,
20 Leslee Siegel?

21 A Yes.

22 Q And was that in 2000?

23 A I don't recall the exact date?

24 Q Would it refresh your recollection to take a look at the
25 notes?

1 A Yes.

2 Q If you could do that, please.

3 I'll refer you to the first page of the packet.

4 A Okay.

5 Q If you could take a look at that and just read it to yourself
6 and see if that refreshes your recollection.

7 A Okay.

8 Q And before we talk about what's in those notes, do you
9 recognize whose handwriting that is?

10 A Yes.

11 Q Whose handwriting is that?

12 A Detective Chandler's.

13 Q And how do you know that?

14 A I worked with him for eight years and I recognize his
15 handwriting.

16 Q Now -- so in 2000, Mr. Chandler had a conversation with
17 Leslee Siegel, is that right?

18 A According to these notes, he talked to Roselyn and to
19 Leslee.

20 Q And with regards to his conversation with a Leslee Siegel,
21 did Leslee --

22 MR. PESCI: Judge, objection as to anything in any of
23 these notes, even the comment about --

24 THE COURT: All right.

25 MR. PESCI: -- the names in his notes.

1 THE COURT: I get where you're going.

2 MS. MANINGO: Ms. Siegel was on --

3 THE COURT: You can finish the question. Are you going
4 to ask him what Detective Chandler's notes say Leslee Siegel said?

5 MS. MANINGO: I'm going to ask him specifically a
6 question. Ms. Siegel was on the stand yesterday.

7 THE COURT: Okay. Go ahead and ask the question. Let
8 me hear the question first.

9 BY MS. MANINGO:

10 Q Do these --

11 MS. MANINGO: Court's indulgence.

12 THE COURT: Is Detective Chandler going to be a witness,
13 by the way?

14 MR. PESCI: Not for the State, Judge.

15 THE COURT: Okay.

16 MR. PESCI: The Defense had mentioned that they thought
17 they were going to call him, but I don't know if they are or not.

18 THE COURT: Okay.

19 MR. PESCI: He's told me that he's told them he's available
20 and that he contacted them.

21 THE COURT: Okay.

22 Go ahead.

23 MS. MANINGO: Court's indulgence.

24 BY MS. MANINGO:

25 Q In addition to recognizing his handwriting, these notes are

1 dated June 21st, 2000, correct?

2 A Yes.

3 MR. PESCI: Judge, it's --

4 MS. MANINGO: At 8 --

5 MR. PESCI: I apologize for interrupting. That is hearsay.
6 Everything in those notes, everything written is hearsay.

7 THE COURT: I would agree that if we're trying to get out
8 things that Detective Chandler got from Leslee Siegel, even if it's an
9 attempt to impeach Leslee Siegel and some of the things he said,
10 it's Detective Chandler -- that's the person in a position to reference
11 those. I mean, I'm kind of dealing with a witness who didn't do the
12 interview, reading notes about a purported interview.

13 MS. MANINGO: Well Your Honor, I mean, this is his
14 partner who's completely involved in the case --

15 THE COURT: Right.

16 MS. MANINGO: -- up to speed on the case. These are --
17 there's no reason to believe these aren't reliable. These are notes
18 that actually were provided to this witness by the State and -- I
19 mean, I don't believe it's necessary to call Mr. Chandler to the
20 stand.

21 THE COURT: But you're purporting to use them for the
22 purpose of impeaching Ms. Siegel, correct? But your -- because
23 you're saying -- you were referencing that she had been on the
24 stand so I'm assuming you're going to ask something that is
25 somehow contrary to what she said on the stand.

1 MS. MANINGO: It is an inconsistent statement.

2 THE COURT: Right. So when we talk about the reliability
3 of the notes, I'm not saying that the notes might not be reliable, but
4 that doesn't eliminate the kind of double hearsay nature of what
5 you're dealing with here, so I still think it's objectionable.

6 MR. YANEZ: And I'm just stepping -- because I'm the one
7 who did the Trial Brief on this case, Judge, and that's kind of the
8 main reason why I did it in this case.

9 THE COURT: Okay.

10 MR. YANEZ: So a couple things. Number one, the notes
11 are basically in general, this is what Leslee Siegel said.

12 THE COURT: Right.

13 MR. YANEZ: So if the objection is that it's hearsay, a
14 couple things. Number one, it's an inconsistent statement because
15 it is Leslee Siegel's statement that's inconsistent with that.

16 THE COURT: And I'm not saying it's objectionable if it's
17 the person that took the statement seeking to impeach her, but I
18 think we're a little intenerated from that with this particular
19 detective.

20 MR. YANEZ: And -- I respectfully disagree, I understand
21 your --

22 THE COURT: Okay.

23 MR. YANEZ: I can see it that way as well. However, it's
24 also a public record, Judge, and that's why I put that in there. And
25 I've dealt with this before -- if you read the statute to the public

1 record -- and I was double checking it today to make sure I -- I'm not
2 going to misquote it, it says -- and this is only admissible against
3 the government, right? It's not admissible against the Defense.

4 It says: Records, reports, statements, or data compilations
5 in any form of public officials or agencies are not inadmissible
6 under the hearsay against the government in the State and criminal
7 cases. Factual findings resulting from an investigation made
8 pursuant to authority granted by law.

9 THE COURT: Okay.

10 MR. YANEZ: And I can inform the Court -- I do have an
11 unpublished opinion and it was my case, a murder case a couple
12 years ago. And in that factual scenario, we had a police officer and
13 we were trying to question him about a police report that had the
14 statements from a doctor --

15 THE COURT: Okay.

16 MR. YANEZ: -- that the victim wasn't pregnant when she
17 claimed she was pregnant.

18 THE COURT: Okay.

19 MR. YANEZ: My position was that's a public record and
20 so it's admissible.

21 THE COURT: Okay.

22 MR. YANEZ: The district attorney, Mr. DiGiacomo
23 disagreed, Judge Delaney disagreed.

24 THE COURT: Okay.

25 MR. YANEZ: It went on appeal. We lost the appeal overall

1 but on that issue, the Supreme Court said Judge Delaney was
2 incorrect, that is a public record.

3 THE COURT: I don't know that I disagree with you on a
4 report. But we're dealing with a detective's notes.

5 MR. YANEZ: Right. And that's why the statute says
6 records, reports, statements in any form --

7 THE COURT: But that's not a statement. It's his notes
8 purporting to be what somebody else was telling him that you want
9 to use because you believe it's -- it varies from what the person
10 testified in trial which means that now there's a question about
11 what the person said so -- and we're saying that the notes are
12 necessarily trustworthy and reliable but we want to use them to
13 impeach somebody as being not reliable in what they said.

14 MR. YANEZ: Well she was here to -- I mean, she testified
15 yesterday.

16 THE COURT: Right.

17 MR. YANEZ: So typically hearsay is inadmissible because
18 you want the declarant here so you can clear up any type of
19 confusion or anything like that.

20 THE COURT: Sure.

21 MR. YANEZ: So we don't have that here. She testified --

22 THE COURT: Right.

23 MR. YANEZ: -- the State was free to cross-examine her
24 about anything she might have said or not said.

25 THE COURT: Right.

1 MR. YANEZ: So if the argument is double hearsay, it's
2 Leslee's statement and then it's the detective's rendition of that
3 statement, it's -- the first level of hearsay it's a prior inconsistent
4 statement because Leslee denied -- I specifically asked her line by
5 line from those notes and so we don't have hearsay because it's a
6 prior inconsistent statement and if the objection then is well it's
7 technically Chandler's notes so that doesn't apply, it's a public
8 record --

9 THE COURT: Let me ask you this, is this memorialized in
10 a report anywhere?

11 MR. YANEZ: It's not.

12 THE COURT: Okay.

13 MR. YANEZ: But --

14 MS. MANINGO: Which is part of the point.

15 THE COURT: That's the distinction that I'm trying to draw
16 here is I would agree that if it's a police report, if it is a transcribed
17 statement, those are different things in terms of public records of
18 the agency. I think that's a different than I want to use Detective
19 Hardy to say what's in Detective Chandler's notes and he wasn't
20 there and had no involvement in that. That's where I think you're
21 having your problem right now.

22 I don't disagree with the admissibility of a prior
23 inconsistent statement with the appropriate witness. Or if it's
24 coming out of an appropriate record that falls within what you're
25 talking about. My difficulty here is you're dealing with Detective

1 Chandler's notes about something when Detective Hardy isn't the
2 person that took those notes, was present for that interview, knows
3 what was said or doesn't know what was said and Detective
4 Chandler would be the one to seemingly verify his notes and his
5 presence at that interview and then offer the inconsistent
6 statement.

7 MR. YANEZ: Yeah and -- I mean, we can do that,
8 obviously, but obviously I want the record to be clear that we think
9 obviously based on our position that it's admissible through this
10 witness but --

11 THE COURT: Okay.

12 MR. YANEZ: -- it's just -- obviously we'd have to just
13 come back for Detective Chandler --

14 THE COURT: Okay.

15 MR. YANEZ: And the case is being continued anyway.

16 THE COURT: Yeah, well.

17 MR. YANEZ: But -- and also -- just so the record's clear
18 that this is a statement -- the other level of hearsay because I know
19 Your Honor said you don't think this applies under a public record
20 because you think there's a distinction with the notes versus --

21 THE COURT: With just notes versus a --

22 MR. YANEZ: -- a report --

23 THE COURT: -- report --

24 MR. YANEZ: It's also --

25 THE COURT: -- or a statement.

1 MR. YANEZ: It's also a declaration of a party opponent.
2 He's an official of the state of Nevada, he -- this is being used
3 against the State, so if the public -- if Your Honor doesn't believe
4 that the public record exception applies, a statement by the party
5 opponent exception applies. And that was in my trial brief as well.

6 THE COURT: Yeah, I don't think I agree that a police
7 officer is a party opponent to the State of Nevada's prosecution. I
8 mean, the --

9 MR. YANEZ: Well he is a -- he's a --

10 THE COURT: Okay. Go ahead.

11 MR. YANEZ: He's an official of the State of Nevada and
12 the State of Nevada is the party opponent. And I provide -- I cited
13 case law in the brief that supports that position.

14 THE COURT: Okay. State.

15 MR. PESCI: Judge, if I could just make a record, I respect
16 your ruling, I just want to kind of perfect it. Starting where we just
17 left off, it's a statement by Leslee. Leslee's not a party opponent.
18 So Detective Chandler just writing down what Leslee said to him
19 does not transpose this into somehow --

20 THE COURT: Well but what I'm disagreeing with is that
21 it's even a statement. A detective taking notes about what they're
22 saying somebody said is different than an audio statement of a
23 person or a written statement of a person.

24 MR. PESCI: Agreed. And I would also point out, Judge
25 under 51.155, there is a catch-all -- there has been portions of it

1 that's been cited to you but there's also the portion where it says
2 unless the sources of information. I am not taking issue with
3 Detective Chandler's handwriting --

4 THE COURT: Right.

5 MR. PESCI: -- or his taking good notes. It's the sources of
6 information or method or circumstances of it. And so we take issue
7 with the underlying assertion that Leslee's saying it and somehow
8 that be bootstrapped into a party opponent, that's not the case.

9 Additionally, this statute does not obviate the
10 responsibility of the person who wants a prior inconsistent
11 statement to get the person on the stand who took the statement in
12 order to introduce that.

13 I have to make this last record, I apologize.

14 THE COURT: That's okay.

15 MR. PESCI: The Defense asked us to reach out to
16 Detective Chandler and we did and we made him available. We
17 told them they're trying to get ahold of you, they're trying to get
18 this information. So he's available. I understand they have no
19 burden but this witness on the stand right now is theirs. So them
20 calling witnesses, it kind of shifts the analysis. They can call
21 Detective Chandler. Not really sure why it is that an available
22 witness who actually took the statement is not on the stand.

23 THE COURT: All right.

24 MS. MANINGO: Well I'd like to make a record with
25 regards to Detective Chandler since he brought it up.

1 THE COURT: Okay.

2 MS. MANINGO: From the very beginning we were trying
3 to call Detective Chandler and I had conversations with him, okay?

4 THE COURT: Okay.

5 MS. MANINGO: He told me and I informed the Court, I
6 think it was more than a week ago that he was going to be away
7 and that you said no problem, we can bring him back when he was
8 available, so we --

9 THE COURT: Correct.

10 MS. MANINGO: -- discussed this long ago.

11 THE COURT: Right.

12 MS. MANINGO: And he was completely conversing with
13 me with regards to that.

14 THE COURT: Right.

15 MS. MANINGO: Then he went radio silent on me and
16 that's when they told me that he had reached out to them and now
17 they were -- he was speaking to them. I had e-mailed him and tried
18 to contact him since they told me that --

19 THE COURT: Okay.

20 MS. MANINGO: -- he would not -- he did not return any of
21 my e-mails, although they kept saying he's coming, he's coming. I
22 got an e-mail from him yesterday evening that he was -- got back
23 late last night is what he told me at 7:00 in e-mail yesterday.

24 THE COURT: Okay.

25 MS. MANINGO: I had already talked to Mr. Hardy because

1 I couldn't get Chandler and I didn't know what was happening and
2 we wanted to make sure we tried to move the case along and
3 that's -- and that's what happened.

4 THE COURT: I get it. And look, I appreciate the difficulties
5 of getting everybody -- particularly everybody that's retired and
6 trying to be efficient with things. And I'm sure Roy will come in and
7 I'll issue an order if Roy gives you any problem about coming in.

8 But I still have kind of have to dot I's and cross T's in
9 terms of whether it's appropriate to have Ken testify to this
10 particular issue versus Detective Chandler who took the statement.

11 MS. MANINGO: I understand. And just to add to the
12 record, we were under the impression because this is a double
13 homicide that the detectives actually would be called to the stand.

14 THE COURT: Okay.

15 MS. MANINGO: So yes, the State has not subpoenaed the
16 detectives, I guess -- I understand that's their choice but that's been
17 a little bit of what -- the trouble we're coming from our side. I'm not
18 suggesting that Chandler is refusing to come --

19 THE COURT: Okay.

20 MS. MANINGO: -- it's just that I -- he wasn't having
21 contact with me anymore, he was only having contact with the
22 State. And so when we fin-- I finally set it all up through
23 Mr. Hardy --

24 THE COURT: Okay.

25 MS. MANINGO: -- and yes, it looks like we're going to be

1 bringing Chandler back anyway. We were trying to move the case
2 along.

3 THE COURT: Okay. All right.

4 Next question.

5 BY MS. MANINGO:

6 Q Was there any -- well first of all, do you have any
7 recollection of interviewing Jack in 2000?

8 A I have the recollection of when he came to the office and
9 Detective Mogg and I had a conversation with him.

10 Q Okay. Do you recall what that was in 2004? Or does that
11 refresh your recollection?

12 A I -- from the last hearing I recall it being 2004. As far as
13 2000, no, I don't.

14 Q Okay. And you didn't see anything in the reports that you
15 reviewed that say that there was some type of contact with Jack
16 Siegel in 2000, correct?

17 A I don't recall that.

18 Q Okay. And did you ever interview a Martha Morales?

19 A I don't recall. I don't know if I did or didn't.

20 Q Okay. Does that name ring a bell from an interview that
21 you had with her from reviewing the case or anything like that?

22 A No.

23 Q There was various items of blood obviously processed at
24 these -- at the scene, correct, of Mr. Siegel?

25 A I will say that yes, there were -- there was -- the scene was

1 processed and I recall a blood print being recovered.

2 Q Okay. And do you also recall that that was -- through the
3 investigation that you learned that there was an unknown female
4 DNA substance found on the handle of the door leading to the
5 stairway by Mr. Siegel's apartment?

6 A I don't recall that.

7 Q Do you know if any buccal swabs or anything were ever
8 taken from a Martha Morales?

9 A I don't recall.

10 Q Do you recall ever interviewing or having contact with a
11 person by the name of Axe?

12 A I don't recall that.

13 Q You just referenced in 2004 -- the case had gone cold, is
14 that right?

15 A Yes.

16 Q Okay. In 2004, you just referenced that you had contact
17 with Mr. Siegel -- Mr. Jack Siegel, correct?

18 A Yes.

19 Q Okay. And what were the circumstances of that?

20 A It was in reference to him coming to town and he brought
21 paperwork that he thought was relevant to the case.

22 Q Did Mr. Siegel make arrangement to meet with you?

23 A He met with us. I don't know if he just walked in or we
24 had an appointment. But we met with him.

25 Q Do you recall him contacting you and traveling from

1 California to Las Vegas to make the meeting?

2 A I know he came from California, yes.

3 Q And again, you didn't reach out to him, he reached out to
4 you; you do recall that?

5 A Yes.

6 Q At that time, was he providing you with what he believed
7 was further information about his dad's death?

8 A Yes.

9 Q And is it fair that he was trying to communicate that he
10 felt someone was setting him up and framing him for the death?

11 A Yes.

12 Q Was that interview recorded?

13 A No.

14 Q And that would have been your decision whether or not to
15 record it obviously, correct?

16 A Correct.

17 Q Fair to say that Jack Siegel was still in the pool of suspects
18 at that point, correct?

19 A Yes.

20 Q And he himself was still worried about being a suspect?

21 A Yes.

22 Q He wanted to know whether you -- he was still on your
23 radar, correct?

24 A Correct.

25 Q Do you remember what he asked you at the end of the

1 interview?

2 A I don't recall verbatim.

3 Q Do you remember if he asked you how did I do?

4 A That sounds familiar from reviewing my report for our last
5 hearing that we had.

6 Q Would it actually refresh your recollection if you took a
7 look at the report?

8 A Yes.

9 MS. MANINGO: May I approach, Your Honor?

10 THE COURT: You may.

11 BY MS. MANINGO:

12 Q Would you go ahead and read that last paragraph to
13 yourself?

14 A Okay.

15 Q Does that refresh your recollection a little bit about the
16 conversation?

17 A Yes.

18 Q What did he say at the conclusion of your interview?

19 MR. PESCI: Objection, hearsay.

20 THE COURT: Are you asking about that specific statement
21 that he referenced a moment ago because I don't recall Jack ever
22 being asked about that in terms of impeaching him or anything.

23 MS. MANINGO: It goes to the course of their
24 investigation and what they knew at the time. And again, this is a
25 police report, so we want to --

1 THE COURT: Well I still think it's hearsay though, I'll
2 sustain the objection.

3 MS. MANINGO: Court's indulgence.

4 In addition to what effect that had on Mr. Hardy with
5 regards to his investigation, it also goes to Mr. Siegel -- Jack
6 Siegel's state of mind with regards to this case and how he felt
7 about the investigation against him.

8 THE COURT: What's the relevance of -- are you saying
9 that to the detective or to me?

10 MS. MANINGO: To you, of course.

11 THE COURT: To me --

12 MS. MANINGO: Yes.

13 THE COURT: -- what's the relevance of Jack's state of
14 mind as to whether he thinks he's a suspect or not though in terms
15 of the decision as to whether Mr. Ramos is guilty or not of anything,
16 what is Jack's state of mind relevant to that?

17 MS. MANINGO: Well with regards whether he's a suspect
18 in the case, I think that's completely relevant. It's the theory of our
19 case and it's relevant on what the suspect with regards -- he's
20 testified obviously that he's still in the suspect pool and it's relevant
21 to what suspect believes --

22 THE COURT: All right. Mr. Pesci.

23 MR. PESCI: Judge, you've hit the nail on the head as far
24 as Jack's state of mind doesn't matter and she was able to get out
25 of the detective already that he, Jack, was still a suspect, so I don't

1 see the need for that --

2 THE COURT: Well I'm going to stand by the earlier ruling.
3 I still think it's inappropriate hearsay.

4 BY MS. MANINGO:

5 Q Were you aware that Mr. Wallace Siegel had a girlfriend at
6 the time of his death?

7 A I don't -- I do not recall that.

8 Q If you would have been aware of that, is that something
9 you would have maybe followed up on and maybe spoken to that
10 woman?

11 A Absolutely.

12 Q Was there any indication within the reports that you
13 reviewed with regards to Mr. Wallace having a girlfriend?

14 A Not that I recall.

15 Q In addition to -- you said you would have interviewed a
16 girlfriend of his, would have you -- would you have interviewed
17 other people that you believed might have been in Las Vegas on
18 that week that were associated with Jack Siegel?

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

20 Q Yes, of course.

21 You just testified that if you knew that Mr. Siegel --
22 Wallace Siegel had a girlfriend, you would have interviewed her. If
23 you had learned that Mr. Siegel, Jack Siegel, had a girlfriend or
24 associates there that week or during that time period, would you
25 have interviewed them?

1 A Should have.

2 MS. MANINGO: Nothing further.

3 THE COURT: State.

4 MR. PESCI: Thank you.

5 **CROSS-EXAMINATION**

6 BY MR. PESCI:

7 Q Detective, with all this suspicion that we just talked about
8 surrounding Jack Siegel, you just immediately arrested him, right?

9 A No.

10 Q Why is that?

11 A We didn't have probable cause.

12 Q You -- so you didn't even think you had probable cause,
13 let alone proof beyond a reasonable doubt?

14 A Correct.

15 Q Okay. And could that be based on the fact that you had
16 taken DNA samples from Jack Seigel, taken fingerprint samples
17 from Jack Seigel and he wasn't implicated on any of the evidence at
18 either of those scenes by his fingerprints or his DNA?

19 A Fingerprints were taken -- I mean, the fingerprint
20 exemplars were taken, along with the DNA. Nothing came back to
21 indicate that -- which Jack's prints should have been in the
22 apartment anyways.

23 Q Right. You know what, that's a good point, let me be
24 more specific.

25 A Okay.

1 Q The bloody print --

2 A Yes.

3 Q -- in the newspaper --

4 A Yes.

5 Q -- in Wallace's room, did that come back to Jack?

6 A No.

7 Q Okay. So you didn't have something tying him to the
8 blood of his dead father?

9 A Correct.

10 Q Okay. And based on that, even in 2004, when he came to
11 talk to you, you didn't arrest him?

12 A No.

13 Q All right. You were asked earlier about him being a
14 suspect and why there was suspicion and you explained that. You
15 talked about some things had to be verified. Do you remember
16 that?

17 A Yes.

18 Q Are you aware of things being verified as far as Jack's
19 alibi, being at the hospital and going to the Walgreens and going
20 out to eat?

21 A Yes, they were all verified.

22 Q Okay. So in the course of your investigation, you were
23 able to verify those things, meaning you and/or your partner?

24 A Correct.

25 Q Okay. And then as far as him being a suspect, Jack

1 Seigel, he wasn't the only suspect, correct?

2 A No.

3 Q All right. Was there efforts in the course of your
4 investigation to look at employees or former employees?

5 A Yes.

6 Q In fact, weren't -- speaking of fingerprints and DNA, were
7 they taken of the employees?

8 A Yes.

9 Q Okay. And in the course of your investigation --

10 MR. PESCI: May I approach the witness, Your Honor?

11 THE COURT: Yeah.

12 BY MR. PESCI:

13 Q Showing you what's been marked as State's Proposed
14 Exhibit 230 that's been provided and shown to Defense Counsel.

15 Did you also go a step further, meaning you and your
16 team, not just the current employees but former employees of the
17 Camlu Apartments.?

18 A Yes.

19 Q Get names, contact information, things of that nature.

20 A They were provided to us.

21 Q Showing you this particular document, do you recognize
22 it? This is 230?

23 A Do I recognize it? It says list of termination and I can -- I
24 guess I can assume that those were the terminated employees --

25 Q You want me to get the --

1 A -- provided.

2 Q -- where that is?

3 A Do you have the file?

4 Q Yeah.

5 A If they're in the file then --

6 Q Okay.

7 A -- that's where it came from.

8 Q Do you remember getting a list though, right?

9 A Yes.

10 Q And as you look at that, understandably right now, you

11 can't independently say that you remember 21 years ago, right?

12 A Correct.

13 Q Okay. So I'm going to show you this one here.

14 A Okay.

15 Q Do you recognize that?

16 A Yes, I do.

17 Q Okay. Do you mind opening it up?

18 MR. PESCI: Court's indulgence.

19 BY MR. PESCI:

20 Q Looking at what falls under V, Divider V, is that correct?

21 A Yes.

22 Q Okay. And is there an employee list in that section?

23 A Yes.

24 Q And then is there a list of termination in that section as

25 well?

1 A There is.

2 Q Is this one a little bit harder to read because of the print?

3 A It is, in addition to there's more information on there.

4 Q Right. Is there handwriting?

5 A There's handwriting.

6 Q All right. But looking at --

7 A And it's -- I'm sorry.

8 And there's a fax on the top as to who it came from.

9 Q But as far as this list here in 230, is it the same list here
10 that's harder to see as far [indiscernible].

11 A Yes.

12 Q Okay. The exact same.

13 A Not the exact same because there's maybe half on this list
14 that there is on this list.

15 Q Right. And I apologize, the -- not the handwritten but the
16 typed version inside the binder --

17 A Yes.

18 Q -- matching to 230 as far as the typed version, do these
19 two columns match up?

20 A Yes.

21 Q Okay. And you did point out that there's additional
22 information as far as what appears to be social security numbers?

23 A They appear to be.

24 Q So do you feel more comfortable then that 230 is a copy, a
25 little more legible, of what was in your homicide file?

1 A Yes, with the exception that it's not this list.

2 Q Correct. It's not the exact list, it's not all --

3 A Okay. So this was not -- is not in here.

4 Q Not the exact version.

5 A This is a partial of this.

6 Q Correct. And I'm just trying to get one --

7 A Okay.

8 Q -- that we can read.

9 A Okay.

10 THE COURT: Just so our record's clear in terms of this
11 and this, which one is the partial of the full?

12 THE WITNESS: 230.

13 MR. PESCI: So 230 is the partial and if you want, Your
14 Honor --

15 THE COURT: Is a partial of what's actually in the homicide
16 notebook?

17 MR. PESCI: Correct.

18 THE COURT: Okay.

19 MR. PESCI: I'll give this to you and you can kind of see --
20 print, it's a little bit hard to read.

21 THE COURT: Got it. Okay.

22 So what you're saying is it looks like you received kind of
23 a typed list -- typed written list from the institution and then you all
24 have supplemented that in handwriting?

25 THE WITNESS: Yes.

1 THE COURT: Okay.

2 All right. Thank you.

3 BY MR. PESCI:

4 Q Detective, earlier on direct examination, there were some
5 questions to you about being familiar with the other homicide. Do
6 you remember that?

7 A Yes.

8 Q Okay. Are you familiar with this binder?

9 A I am familiar with that binder.

10 Q All right. Just to try to add a layer of ease, let's turn to
11 that binder, Section 14. Do you see -- okay, I'm going to go behind
12 you, okay?

13 Do you see State's 230 in --

14 A Yes.

15 Q -- the Homicide Investigation File of Helen Sabraw?

16 A Yes.

17 Q Okay. Does that help you feel a little more comfortable as
18 far as --

19 A Yeah, because this was not what's --

20 Q Right.

21 A 230 is not what is in our file.

22 Q And your file has even more.

23 A Correct.

24 Q Okay. But do you feel comfortable that this is a list, not
25 complete, now with all the information of employees that were

1 terminated that was obtained by you and also Detective Ramos and
2 Vaccaro?

3 A Let me rephrase that. This list was obtained by either
4 Detective Chandler, myself or what other detectives in reference to
5 Wallace Siegel and also for Vaccaro and Ramos?

6 Q Right.

7 A Okay. Yes.

8 Q Okay.

9 MR. PESCI: So I'd move for the admission of State's 230,
10 Your Honor.

11 THE COURT: Any objection to 230?

12 MS. MANINGO: No objection.

13 THE COURT: All right. That'll be admitted. Thank you.

14 **[STATE'S EXHIBIT NUMBER 230 ADMITTED]**

15 BY MR. PESCI:

16 Q There was this meeting in 2004, Defense Counsel asked
17 you about not recording that meeting. Do you remember that?

18 A Yes.

19 Q Okay. However, did you create what's often referred to as
20 an OR, or an officer's report?

21 A I did.

22 Q All right. So you memorialized that conversation that you
23 had with Mr. Siegel?

24 A Yes.

25 Q In that OR?

1 A Yes.

2 Q All right. And then you were asked some questions --
3 [indiscernible].

4 You were asked some questions about -- thanks -- about
5 him still being a suspect on your list. Do you remember that?

6 A Yes.

7 Q Why didn't you arrest him in 2004?

8 A We still didn't have probable cause.

9 Q Okay. And then why didn't you take anything that he was
10 bringing to you, the paperwork?

11 A It did not appear to be relevant to the actual murder in
12 1998.

13 Q Speaking of relevance, was it sometimes hard to track the
14 conversation with Mr. Siegel?

15 A Yes.

16 Q Did he sometimes talk about things that were irrelevant to
17 the homicide?

18 A That I recall, yes.

19 Q In fact the materials that he had from your review of them
20 and your conversation with them, did they appear to you to be
21 irrelevant to this case?

22 A Yes.

23 Q And was it based on that that you did not impound those?

24 A They are not impounded, yes.

25 Q Okay. And then just want to follow-up on something

1 really fast. You were asked about forced entry, do you remember
2 that?

3 A Yes.

4 Q Showing you State's Exhibit -- what's been admitted as
5 229. Take a minute and read that to yourself, please.

6 MS. MANINGO: Can I see what that is, please, I don't
7 know -- or just tell me.

8 MR. PESCI: State's 229 is the admitted piece of evidence
9 which is a portion of the Jerry Autrey --

10 BY MR. PESCI:

11 Q Take a second and review that.

12 A Okay.

13 Q Does that refresh your recollection as far as a portion of
14 Crime Scene Analyst's Jerry Autrey's crime scene report?

15 A If that's where this came from then -- I don't recall his
16 report.

17 Q Okay. Based on this report and the rest of your
18 investigation, did you have information not necessarily of forced
19 entry but of the window to Mr. Siegel's apartment having the
20 screens off?

21 A According to this report here, the screens were off.

22 Q All right. And that there appeared to be slide marks in
23 dust or fingerprints --

24 MS. MANINGO: Again, it's hearsay, Your Honor.

25 MR. PESCI: It's an admitted piece of evidence.

1 MS. MANINGO: Well then the evidence speaks for itself. I
2 don't think that he can ask him --

3 THE COURT: Well --

4 MS. MANINGO: We went through this.

5 THE COURT: -- you -- go ahead, you can finish your
6 question.

7 BY MR. PESCI:

8 Q Did you have evidence in the course of your investigation
9 that would indicate that there had been some sliding of a window --
10 maybe not forced or maybe pried, but some sliding?

11 A This report that --

12 MS. MANINGO: Again, objection. I think he's asking if he
13 remembers that during the course of the investigation.

14 BY MR. PESCI:

15 Q Do you remember?

16 A I don't remember.

17 Q Fine. Do you remember in the course of your
18 investigation, getting information about Mr. Wallace Siegel being
19 diabetic?

20 A I don't recall that either.

21 Q Okay.

22 MR. PESCI: Thank you, I'll pass the witness.

23 THE COURT: Ms. Maningo.

24 ///

25 ///

1 **REDIRECT EXAMINATION**

2 BY MS. MANINGO:

3 Q Mr. Pesci asked you about documentation that Mr. Jack
4 Seigel had with regards to his trip to the hospital and Carl's Jr., and
5 Walgreens, correct?

6 A Yes.

7 Q And that documentation was obviously for a period of
8 time in the middle of the night, correct?

9 A Yes.

10 Q Okay. You're not aware of when this murder occurred,
11 right?

12 A The only thing that I could say is from when Jack said he
13 left at midnight until he returned home at 4:30 in the morning.

14 Q And that would be according to what Jack says, correct?

15 A It's according to what Jack said.

16 Q Again, the blood in the car that was found, that was
17 something that was an important piece of evidence, correct?

18 A Blood in the car would be important, yes.

19 Q In fact, before you -- or before the detectives knew that
20 there was blood in the car, that car was actually impounded, taken
21 to the lab in order to search for that, am I right?

22 A Yes.

23 Q Important enough to go through that entire process, right?

24 A Correct.

25 Q The car was completely processed.

1 A It was processed.

2 Q You testified that you had to verify things, correct?

3 A Yes.

4 Q I mean, that's part of what obviously a detective does,
5 right?

6 A Yes.

7 Q And in addition to verifying things, if you get tips you
8 follow up on things, right?

9 A Yes.

10 Q So if you had more information in 2002 with regards to
11 the names of people that might have actually been involved, would
12 you have followed-up?

13 A In 2002, yes.

14 Q That would have been something that you would have
15 wanted to do is follow-up, correct?

16 A Yes.

17 Q Particularly if you had received specific names and
18 information and details with regards to who might have been
19 involved in Mr. Siegel's killing?

20 A Yes.

21 Q And who might have actually killed Ms. Sabraw?

22 A Yes.

23 Q And at any period during your investigation, even when
24 the case was cold, whether it's 2000 or another date, you would
25 have wanted to follow-up on that information, right?

1 A Yes.

2 Q Again, a double homicide and all tips are worth following
3 up on?

4 A Yes.

5 MS. MANINGO: That's it, Your Honor. Thank you, pass
6 the witness.

7 THE COURT: Anything further?

8 MR. PESCI: No, thank you.

9 THE COURT: Detective Hardy, thank you very much for
10 your time, sir, you are excused.

11 THE WITNESS: Do you want --

12 THE COURT: Yeah. Thank you.

13 All right. Moving back to the State's case, you have any
14 witnesses available right now?

15 MS. WECKERLY: We do. We have Detective Hall, Your
16 Honor.

17 THE COURT: Okay.

18 MS. WECKERLY: And just for the record, as he's coming
19 in, he's the one that takes the statement from the Defendant.

20 THE COURT: Okay.

21 MS. WECKERLY: It had several redactions in it, so I think
22 it was yesterday or the day before I provided Defense Counsel with
23 sort of a highlighted version. I'm going to do a question and
24 answer with him because --

25 THE COURT: Okay.

1 MS. WECKERLY: -- it was too hard to cut up the audio and
2 I believe they are in agreement with the edits after having time to
3 review them.

4 MS. MANINGO: They do concur with what we had agreed
5 to.

6 THE COURT: Okay.

7 Did you hear back from Dr. Gavin?

8 MS. WECKERLY: I texted her twice and he --

9 MR. PESCI: I've e-mailed her --

10 MS. WECKERLY: -- e-mailed -- she might have gotten a
11 case because she was on call.

12 THE COURT: Okay.

13 **RICHARD HALL**

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

16 THE CLERK: Thank you, please be seated.

17 If you could state and spell your name for the record,
18 please.

19 THE WITNESS: Richard Hall, R-I-C-H-A-R-D, H-A-L-L.

20 THE COURT: All right.

21 **DIRECT EXAMINATION**

22 BY MS. WECKERLY:

23 Q Sir, how are you employed?

24 A I'm a detective with the Las Vegas Metropolitan Police
25 Department.

1 Q How long have you worked for Metro?

2 A 19 years.

3 Q And how are you currently assigned?

4 A I'm a detective at the Northwest Area Command.

5 Q And how were you assigned, sir, back in 2010?

6 A I was a detective in the Violent Crimes Section which was
7 part of Robbery/Homicide.

8 Q Okay. Back in 2010, did you work on cold cases?

9 A I did.

10 Q And was one of the cases you worked on involving
11 victims by the name of Helen Sabraw and Wallace Siegel?

12 A Yes.

13 Q Can you tell us approximately the date that you would
14 have begun working on that case or --

15 A I was notified that a request for DNA was put in by
16 Detective Blasko back in 2009. We were notified of the results back
17 in, I think August 2009, as well.

18 Q And then -- so that would have been the beginning of your
19 involvement --

20 A Correct.

21 Q -- in 2009?

22 A Correct.

23 Q As part of the investigation, did you come to interview an
24 individual named Gustavo Ramos?

25 A Yes.

1 Q And do you see him in the courtroom today?

2 A Yes, ma'am. He's sitting right there with the sunglasses
3 on.

4 MS. WECKERLY: Your Honor, may the record reflect the
5 identification of the Defendant?

6 THE COURT: Yes.

7 BY MS. WECKERLY:

8 Q Detective Hall, do you recall the date it was that you
9 interviewed Mr. Ramos?

10 A The 13th of October.

11 Q Okay. On that date, did you interview him by yourself or
12 with another detective?

13 A I was with Detective Rick Depaulis.

14 Q And where did the interview of him take place?

15 A It was at 4750 West Oakey, the old Metro Detective
16 Headquarters.

17 Q Okay. Prior to that -- prior to the interview, did you inform
18 Mr. Ramos of his Miranda Rights?

19 A I did.

20 Q And was that from a card or by memory?

21 A That was by card.

22 MS. WECKERLY: Your Honor, if I could approach the
23 witness, I'm going to give him a copy.

24 THE COURT: You may.

25 ///

1 BY MS. WECKERLY:

2 Q Sir, does that appear to be a transcript of the interview
3 that you conducted with Gustavo Ramos?

4 A Yes, it is.

5 Q What we're going to do in terms of getting the interview
6 in the record is read the parts that are highlighted in green.

7 A Uh-huh.

8 Q Okay. I'll read your part and then you read the
9 Defendant's answer, if that's okay?

10 A Yes, ma'am.

11 Q Okay.

12 **[Reading portions of Detective Hall's interview with**
13 **Gustavo Ramos into the record]**

14 MS. WECKERLY: Just Court's indulgence. There's just --

15 THE COURT: Okay.

16 MS. WECKERLY: -- one photo I'd like to show.

17 BY MS. WECKERLY:

18 Q Detective, did you -- are you able to approximate where
19 East Rachelle is -- 155 East Rachelle is in relation to the Camlu
20 Retirement Apartments?

21 A I want to say it's between .3 -- it's a half a mile, .3 miles.

22 Q And that's where East Rachelle -- 155 East Rachelle is
23 where Gustavo Ramos indicated he was living in 1998?

24 A Correct. Apartment 113.

25 MS. WECKERLY: May I approach, Your Honor?

1 THE COURT: You may.

2 BY MS. WECKERLY:

3 Q Sir, I'm showing you two exhibits; one is State's Proposed
4 215 and the other is 216.

5 Looking at those, do you recognize those aerial views?

6 A Yes.

7 Q And starting with 216, what's that?

8 A That is an aerial view of 155 -- it says 155 East Rachelle.

9 Q Okay. And does it also depict the location of the Camlu
10 Retirement --

11 A Yes.

12 Q -- on Spencer?

13 A Yes, it does.

14 Q And it indicates the distance as?

15 A A five-minute walk, .3 miles.

16 Q And then this is State's 215. Is that just an aerial view of
17 the Camlu Retirement?

18 A Yes, it is.

19 MS. WECKERLY: State moves to admit 215 and 216.

20 THE COURT: Any objection?

21 MS. MANINGO: Submit it.

22 THE COURT: Those will be admitted. Thank you.

23 **[STATE'S EXHIBIT 215 and 216 ADMITTED]**

24 MS. WECKERLY: Thank you, sir.

25 I'll past the witness, Your Honor.

1 THE COURT: All right. Mr. Yanez or Ms. Maningo?

2 MS. MANINGO: Court's indulgence.

3 **CROSS-EXAMINATION**

4 Q Detective Hall?

5 A Yes, ma'am?

6 Q Oh, I'm sorry, I didn't realize you were in the middle of
7 getting water, I apologize.

8 A Yes, ma'am?

9 Q When was it that you first were assigned to this case, if
10 you remember?

11 A Well the DNA was requested back in '09 by Detective
12 Blasko. I believe -- can I see my arrest report -- but I want to say it
13 was about two months later. It was June of '09 he -- Detective
14 Blasko requested a DNA analysis and I want to say August of '09 is
15 when -- there were some results came back.

16 Q And in 2010, were you involved with requesting some
17 analysis to be done with the print lab?

18 A Yes, ma'am.

19 Q The forensic print lab?

20 A I believe it was -- I want to say September 21st, off the top
21 of my head.

22 Q Okay. And did you review that request by any chance in
23 preparation for hearing?

24 A Not that particular request.

25 Q Do you remember what was in the request or would you

1 want --

2 A We were requesting --

3 Q -- to take a look at it?

4 A I'll take a look but we were requesting the latent print
5 comparison from Mr. Ramos to the bloody palmprint found on the
6 Review Journal.

7 Q Okay. And you -- actually you did a formal request for
8 that, correct?

9 A Yes, ma'am.

10 Q And when you do those requests that are on a form
11 basically, that you write what you're requesting to be examined,
12 correct?

13 A Yes, ma'am.

14 Q And that's something that's given to the lab directly?

15 A Yes, ma'am.

16 Q Okay. And sometimes there's conversations with the lab
17 in addition to form, fair?

18 A Yes.

19 Q Okay. Do you recall if you had any conversations?

20 A No, ma'am.

21 Q Okay. And do you recall that in addition to asking that the
22 latents recovered at the scene be compared to Mr. Ramos, you gave
23 some more information to the lab with regards to the fact that there
24 had actually been a CODIS hit, correct?

25 A I was told it was a CODIS hit, yes, ma'am.

1 Q And that's the inf -- that's information that you actually
2 gave to the lab technician as well, correct?

3 A Yes.

4 Q And you told that the lab -- you told the lab that the above
5 subject identifiers were obtained as a direct result of a CODIS hit,
6 correct?

7 A Yes, ma'am.

8 Q With regards to my client's statement, he's primarily a
9 Spanish speaker, fair?

10 MS. WECKERLY: Objection, foundation.

11 BY MS. MANINGO:

12 Q You interviewed Mr. Ramos, correct?

13 A Yes, ma'am.

14 Q Okay. And during the course of your interview with him,
15 were there discussions on whether he spoke Spanish or not?

16 A I'd have to check my notes. I don't believe there was,
17 ma'am. He spoke pretty good English to us so it felt like it was no
18 problem with the interpretation.

19 Q Okay. And I was -- you were talking back and forth with
20 him and he was speaking in English, correct?

21 A Yes, ma'am.

22 Q Fair to say it was broken English?

23 A It appears to be, based on the transcript, yes, ma'am.

24 Q And at the time he was 18 or 19 years old, correct?

25 A When I -- not when I interviewed him. At the time of the --

1 Q At the time -- and you referred to that in the statement. At
2 the time of this occurrence in 1998 --

3 A Yes, ma'am.

4 Q -- Mr. Ramos would have been 18 --

5 A Going on 19.

6 Q -- years old?

7 A Yes, ma'am.

8 Q Going on 19?

9 A I'd have to look at his date of birth, but I believe it was 18
10 going on 19, ma'am.

11 Q And again, he told you he was a landscaper at the time,
12 correct?

13 A Yes, ma'am.

14 Q And he told you he had nothing to do with these killings.

15 A Yes, ma'am.

16 MS. MANINGO: Pass the witness.

17 THE COURT: State, anything?

18 MS. WECKERLY: No, Your Honor.

19 THE COURT: All right. Detective Hall, thank you very
20 much for your time. I appreciate it. You are excused.

21 THE WITNESS: Thank you, sir.

22 THE COURT: Do you guys have anybody else you want to
23 try and get on this morning?

24 MS. WECKERLY: No, but we have heard from Dr. Gavin.

25 THE COURT: Okay.

1 MS. WECKERLY: She can be here at 1:30 or --
2 THE COURT: Okay.
3 MS. WECKERLY: -- earlier than we -- thank you.
4 THE COURT: Okay.
5 MS. WECKERLY: Earlier than we said and then I'll have
6 Julie come at 2:30.
7 THE COURT: Excellent. So we will be in recess and we'll
8 just start back at 1:30 with Dr. Gavin so you guys can have your
9 expert listen to her.
10 All right. Thank you.
11 [Court recessed at 12:08 p.m., until 1:41 p.m.]
12 THE COURT: All right. We are back on the record. Mr.
13 Ramos, his attorneys, State's attorneys are all present. Do you
14 guys have anything before we get started?
15 MS. WECKERLY: I do just briefly, Your Honor.
16 THE COURT: Okay.
17 MS. WECKERLY: The defense noticed Diana -- and I
18 apologize for the pronunciation.
19 MR. YANEZ: Faugno.
20 MS. WECKERLY: Fag --
21 MR. YANEZ: Faugno.
22 MS. WECKERLY: Faugno.
23 MR. YANEZ: Uh-huh.
24 MS. WECKERLY: As an expert. I believe she's present in
25 the courtroom.

1 THE COURT: Okay.

2 MS. WECKERLY: The expert notice says that he's an
3 expert in sexual assault nurse examinations. She may be called to
4 testify regarding a post mortem examination of the vaginal and the
5 anal regions of Helen Sabraw, including the examination findings of
6 these regions by Coroner Dr Sheldon Green, as detailed in his
7 autopsy report, as well as opinions of any expert pathologist called
8 to testify by the State of Nevada in this case. And as the Court
9 obviously knows from this morning's session, we've switched our
10 witnesses around so this expert could be present.

11 To date, the State has not received a single piece of paper
12 in terms of reciprocal discovery.

13 THE COURT: Okay.

14 MS. WECKERLY: My understanding is they intend to call
15 this expert. Frequently when the experts hit the stand they don't
16 have their files with them or anything that they relied upon, their
17 notes. I get that I don't get work product but if there's anything
18 outside of that that this expert has with her this afternoon, if I even
19 ask the Court to review *en camera* to see what I'm entitled to, I'd
20 like that discovery now seeing she's present.

21 THE COURT: Okay.

22 MR. YANEZ: She's asked for a copy of what she has
23 reviewed?

24 THE COURT: She's asked for --

25 MS. WECKERLY: I want her --

1 MR. YANEZ: Is that what you're requesting?

2 MS. WECKERLY: -- notes. She didn't do a report
3 obviously, they never do.

4 THE COURT: Is that correct, she didn't do a report?

5 MR. YANEZ: No report, that's correct, which is --

6 MS. WECKERLY: I would --

7 MR. YANEZ: There's no law requiring that of course.

8 THE COURT: No, understood.

9 MR. YANEZ: Right?

10 MS. WECKERLY: I would like a repor -- any notes, any
11 conclusions she reported to Defense Counsel, anything she relied
12 upon, anything she reviewed so I -- you know, am not asking that
13 for the first time on cross-examination when she hits the stand and
14 then have to go back and go through it.

15 THE COURT: All right. Mr. Yanez.

16 MR. YANEZ: Okay. Number one, obviously, I haven't
17 received anything from the State from their experts, so the record's
18 clear on that.

19 THE COURT: Okay.

20 MR. YANEZ: I can tell you what my expert has reviewed is
21 Items -- and it's going to be detailed when she testifies but I'm more
22 than happy to give a list. It's the items that have been provided
23 through discovery.

24 THE COURT: Okay. So there isn't anything she's
25 produced on her own --

1 MR. YANEZ: Correct.

2 THE COURT: -- that she has that she's reviewed.

3 MR. YANEZ: Correct. Right. So --

4 MS. WECKERLY: The difference being they have Sheldon
5 Green's report, they have the testimony of the pathologist at the
6 preliminary hearing, and I don't know what this expert's conclusion
7 is or what her assessment is of the evidence.

8 THE COURT: Well I agree, right or wrong, under the law
9 she doesn't have to provide a report, she doesn't have to produce a
10 report. My only concern is if there are things independent of what's
11 been provided in discovery by the State, that an expert's utilizing to
12 rely upon. But if she hasn't produced or created anything on her
13 own that she's relied upon other than those autopsy reports, those
14 conclusions, those preliminary hearing transcripts, then it kind of is
15 what it is in that regard.

16 MS. WECKERLY: Okay.

17 MR. YANEZ: And --

18 MS. WECKERLY: And it's the record that she hasn't
19 created anything on her own.

20 MR. YANEZ: That's my understanding, that's correct.

21 MS. WECKERLY: Okay. Could the Court then just direct
22 her when she returns to bring her whole file?

23 THE COURT: Yes. So Dr. Faugno, I know you're not going
24 to testify today but whatever you have with you in terms of a file,
25 would you just make sure you bring that when you come back to

1 court on the 10th?

2 MS. FAUGNO: Sure.

3 THE COURT: Thank you very much.

4 MR. YANEZ: And also just for the record, the Sheldon
5 Green, the re -- his report is almost somebody relevant in this case
6 because their person is going to testify. Obviously can't testify to
7 Dr. Green's report, that'd be hearsay and there'd be a confrontation
8 issue. It's your own independent evaluation based on --

9 THE COURT: True.

10 MR. YANEZ: -- that.

11 THE COURT: True. But an expert's allowed to rely upon
12 certain things that are not necessarily produced by themselves, just
13 like an autopsy report or the expert relies upon the toxicological
14 results or --

15 MR. YANEZ: Correct.

16 THE COURT: -- the results of slides that are tested
17 elsewhere.

18 MR. YANEZ: I agree.

19 THE COURT: But you're correct, they can't mirror or
20 parrot other people's opinions about things

21 MR. YANEZ: I agree.

22 THE COURT: Okay.

23 MS. WECKERLY: Yeah. I mean, obviously Dr. Gavin has
24 reviewed it, so.

25 THE COURT: All right. Anything further?

1 MS. WECKERLY: Nope.

2 MR. YANEZ: Can I have the Court's indulgence?

3 THE COURT: Sure.

4 And Dr. Gavin's our first witness, right?

5 MS. WECKERLY: She is.

6 THE COURT: Okay.

7 [Pause in proceedings]

8 THE COURT: Yeah?

9 MR. YANEZ: And just so the record's clear, I just

10 doublechecked with Ms. Faugno. She doesn't have any notes.

11 What she has with her is just some of the discovery that I've given

12 her in this case to do her evaluation.

13 THE COURT: Okay. Thank you.

14 All right. Dr. Gavin, could you grab her, please?

15 **LISA GAVIN**

16 [having been called as a witness and being first duly sworn,

17 testified as follows:]

18 THE CLERK: Thank you, please be seated.

19 If you could state and spell your name for the record,

20 please?

21 THE COURT:

22 THE WITNESS: Good afternoon. I'm Dr. Lisa Gavin.

23 L-I-S-A, G-A-V-I-N.

24 THE COURT: All right. Ms. Weckerly.

25 ///

1 **DIRECT EXAMINATION**

2 BY MS. WECKERLY:

3 Q How are you employed?

4 A I am a forensic pathologist medical examiner at the Clark
5 County Coroner's Office, here in Las Vegas.

6 Q How long have you worked there?

7 A About nine and a half years, almost ten.

8 Q And as a forensic pathologist, what is it that you do?

9 A I determine the cause of death and manner of death in
10 sudden and unexpected deaths here in Clark County, as well as for
11 several adjacent counties.

12 Q And what is your educational background that allows you
13 to work in that capacity?

14 A I went to medical school at the University of Connecticut
15 School of Medicine. I went to a pathology residency program at
16 Hartford Hospital in Connecticut. I did a surgical pathology
17 fellowship at Hartford Hospital in Connecticut. I did a forensic
18 pathology fellowship in the office of the medical investigator in
19 New Mexico. And then I came here to Clark County. I have a
20 medical license to practice here in the state of Nevada and I'm
21 Board Certified in Anatomic Pathology and Forensic Pathology.

22 Q And have you testified as an expert in the area of forensic
23 pathology?

24 A Yes.

25 Q And any idea approximately how many times?

1 A Probably about 150 or so.

2 Q In regards to your testimony this afternoon, did the State
3 ask you to review the autopsy and photographs of two individuals
4 identified to you as Wallace Siegel and Helen Sabraw?

5 A Yes.

6 Q And obviously you did not conduct those autopsies
7 yourself?

8 A Correct.

9 Q You were not working to the coroner's office back in 1998.

10 A Correct.

11 Q When you're tasked to do that, what do you review in
12 order to prepare for your testimony?

13 A Any photographs that may be available and medical -- any
14 kind of medical information, including the autopsy report,
15 investigator's report, and toxicology reports.

16 Q At the Clark County Coroner's Office, are the -- each
17 autopsy or each case assigned a unique number?

18 A Yes.

19 Q And is that a number corresponding to sort of the placard
20 that's placed on a decedent at autopsy, and then also on the report?

21 A Yes.

22 Q I'd like to start with the autopsy of Wallace Siegel. In
23 preparation for your testimony, did the State ask you to select
24 photographs from the ones that were available to sort of pick out
25 the ones that you thought would be relevant in terms of your

1 assessment?

2 A Yes.

3 [Colloquy between Counsel]

4 MS. WECKERLY: May I approach, Your Honor?

5 THE COURT: You may.

6 BY MS. WECKERLY:

7 Q Dr. Gavin, first I want to show you State's 232 to 234, ask
8 you to look at those and then just let me know when you're done.

9 A Yes.

10 Q Do those three photographs appear as photographs
11 associated with the autopsy of Wallace Siegel?

12 A Yes.

13 Q Is there a case number that you see depicted in 232?

14 A Yes.

15 Q And what case number is that?

16 A 98-2550.

17 Q And does that correspond with the autopsy report that
18 you also reviewed in preparation for your testimony?

19 A Yes.

20 MS. WECKERLY: State moves to admit 232 to 234.

21 THE COURT: Any objection?

22 MR. YANEZ: Submit, Judge.

23 THE COURT: Thank you. Those will be admitted.

24 **[STATE'S EXHIBIT 232 TO 234 ADMITTED]**

25 ///

1 BY MS. WECKERLY:

2 Q I'm going to ask you to put those in an order in terms of
3 the injuries and how you'd like to discuss them.

4 Thank you.

5 MS. WECKERLY: May I publish these at your -- as she's --

6 THE COURT: Yes.

7 MS. WECKERLY: -- testifying, Your Honor?

8 BY MS. WECKERLY:

9 Q Dr. Gavin, I'm going to go through the photographs and
10 then just ask you to describe what injuries that you see -- or that
11 you've been able to observe in the photographs, if that's okay?

12 A Yes.

13 Q Okay. This is what's been admitted as 232. Obviously
14 that's just an identification photo, is that fair?

15 A Yes, but I also think this represents the distribution of
16 injuries on the body and demonstrates that the injuries are
17 predominately on the head and partially on the upper chest and
18 shoulder, predominantly on this particular picture.

19 Q Okay. So it's sort of an overall picture of the injuries that
20 were suffered by Wallace Siegel.

21 A Correct.

22 Q Next I'll put on the overhead --

23 THE COURT: Well, I'm sorry, this thing kind of froze. I
24 was trying to get it so she could utilize it to draw if she needed to,
25 but -- yeah, can you click the air -- the little kind of arrow cursor to

1 the left there?

2 There you go.

3 BY MS. WECKERLY:

4 Q Next, Dr. Gavin, this is State's -- I'm going to back this up
5 just a little bit but this is State's -- can you see what you wanted to
6 describe in that photograph?

7 A Yes.

8 Q Okay.

9 A He has a contusion, a bruise, of the left eye and he has an
10 abrasion and a laceration present of his nose and that's
11 predominately these injuries and there's a few other scattered
12 contusions that are present on the right eye.

13 Q The contusion that you see on the left eye, is that as a
14 result of blunt force trauma or is it your opinion that's associated
15 with other trauma that he sustained on his head?

16 A The -- they're both one in the same --

17 Q Okay.

18 A -- they're both blunt force trauma. The injuries that are
19 present on his head are also blunt force trauma, just as these ones
20 that are present on the face.

21 Q Next I'm -- oh, can you do that?

22 A Uh-huh.

23 Q Thank you. Next I'm putting on the overhead State's 91.
24 Obviously that's depicting sort of the side of the decedent.

25 A Correct.

1 Q And what do you see in that photograph?

2 A Here you start to reveal more of the abrasions and
3 contusions that are present on the head and then you start to be
4 able to visualize the lacerations that are present on the top of the
5 head. Additionally, this demonstrates the lacerations, contusions,
6 and abrasions that are present of the left ear and the left side of the
7 face. Additionally, you can see contusions that are present down
8 on the neck and then you could start to see the ones that are
9 present on the chest and the upper shoulder.

10 Q For the record, you used the terms abrasions, lacerations,
11 and contusions. What is your definition of each of those?

12 A A contusion is a bruise, a laceration is like a tear in the
13 skin, and an abrasion is a scrape on the skin.

14 Q Can you clear that?

15 Thank you.

16 Next I'm putting on the overhead State's 89. Is that how
17 you want the photograph oriented?

18 A Can you push it up a little bit, please?

19 Thank you.

20 Q Sure.

21 A This demonstrates the top of his head and shows the
22 extensive lacerations that are present across the top of the head
23 and multiple lacerations that are present on top of the head. In fact,
24 one of the lacerations that's towards the center of the head is so
25 extensive that you can actually see a fractured portion of the skull

1 through that laceration that's at the top of the head. And there are
2 obviously to each side, additional lacerations and there's areas of
3 contusion, bruising that are associated with that. And all of these
4 are blunt force injury.

5 Q On the one that where you can see the portion of the skull,
6 how many layers of the head would you have to go through before
7 you would see that?

8 A Well there's the skin, the underlying skin, and the
9 subscapular area as well, and then the skull bone itself is fractured
10 extensively.

11 Q If someone were suffering these types of injuries from like
12 repeated blunt force trauma, would you expect to see sort of blood
13 cast off in the area where it was taking place?

14 A Oh, absolutely.

15 Q Next I'm putting on the overhead State's 90.
16 What can we see in that photograph?

17 A This is the -- again, the left side of his head and face and
18 this demonstrates the injury that occurred specifically to the ear
19 with a contusion, as well as abrasion and laceration that's present
20 of the ear as well.

21 Q On the right side of the -- oops. On the -- did your --

22 A Not it.

23 Q -- screen go --

24 THE COURT: Oh, hold on. We're rebooting ourselves.

25 MS. WECKERLY: Sorry.

1 THE COURT: It's just finding.

2 Sorry about that.

3 [Pause in proceedings]

4 THE COURT: You can go ahead.

5 MS. WECKERLY: Okay.

6 BY MS. WECKERLY:

7 Q On the right side of the photograph -- or my right side of
8 the photograph, Dr. Gavin, you see more -- you see the injuries I
9 think that you previously spoke of that are the -- on the top of the
10 head, the skull fractures?

11 A That's correct. You can see the lacerations and then the
12 large laceration within which is the area of skull fracture that's
13 protruding from that laceration.

14 Q As part of the autopsy, are there sometimes internal
15 photographs that are taken that show the extent of the injuries
16 internally to a victim?

17 A Yes.

18 Q I'm now putting on the overhead State's 34. Do you want
19 the photograph that way or?

20 A That's fine.

21 Q Okay.

22 A Actually if you flip it, it'll be more consistent with what
23 we've been showing.

24 Keep going.

25 Like that.

1 Q Okay. Thank you.

2 A So what you're looking at is the scalp is reflected
3 posteriorly and anteriorly and then you're looking down upon the
4 skull in the center and you're looking at the extensive skull
5 fracture -- the extensive depressed skull fracture that's present in
6 the left side of the head with fragmentation of the skull as well.
7 And you can actually see that there is -- bleeding around the brain
8 is present.

9 Q Next, I'm putting on the overhead State's 233.
10 Do you want it that way?

11 A Yes.

12 Q Okay. What can we see in that photograph, in terms of
13 the injury?

14 A Again, the scalp is reflected anteriorly and posteriorly and
15 this gives you a better view of the anterior aspect and the
16 fragmentation of the skull and all of the fractures that are present
17 on the left side of the skull. And in addition, you can see the kind of
18 fragmented brain matter that's in here, as well as the bleeding
19 that's present on the brain.

20 Q When you say fragmented brain matter, what do you
21 mean by that?

22 A It has a pulverized type appearance --

23 Q And that --

24 A -- from the blunt force.

25 Q That was my next question. That would be consistent

1 with blunt force trauma.

2 A Yes.

3 Q In terms of the injuries that you observed to the head,
4 would you be able to give any kind of estimation of how many
5 blows to the head this victim might have sustained or is hard to
6 count because of the nature of the injuries?

7 A There are multiple blows to the head. There's most
8 definitely more than one blow that's occurred here. But to give a
9 top number, it's very difficult because of the number of lacerations
10 that are present there.

11 Q Okay. And you could in theory have a blow to the head in
12 the same place and not be able to distinguish it from another blow,
13 right? If it's at the same location?

14 A If you're saying you can have multiple blows in the same
15 location?

16 Q Yes.

17 A Yes, you can. And then this has some implications of that
18 because of the amount of fracturing that you have extending out
19 and you have multiple fractures that are -- end up crossing across
20 each other.

21 Q And if someone were to sustain this type of injury to their
22 head, I know we don't know the sequence but some of those skull
23 fractures, would they be rendered unconscious soon after that or
24 right immediately upon that?

25 A Yes.

1 THE COURT: Which one? Soon after or the other?

2 THE WITNESS: The impact one that's to the side there,
3 that large one that I showed would be immediate.

4 THE COURT: Okay.

5 BY MS. WECKERLY:

6 Q Now I'm going to move on to State's -- this is State's 92.

7 A This demonstrates the injuries that extend down on to the
8 neck, including the contusions and abrasions, as well as other
9 contusions that are present on the anterior upper aspect of the
10 chest and it reveals some of the contusions that are present
11 towards the shoulder as well.

12 Q And those are also consistent with blunt force trauma or
13 blows with a blunt object?

14 A Yeah, they could be a result as the blow impacts the head
15 and then the hand continues -- or object rather continues
16 downwards into the body.

17 Q Sort of like a secondary blow or a blow after the head --

18 A Yeah.

19 Q -- is hit?

20 A Yes, it could be all part of one strike, or it could be
21 multiple individual strikes.

22 Q This is State's 93.

23 Can you clear that -- your screen again?

24 A Oh, my apologies.

25 Q Thank you.

1 A Uh-huh.

2 Q So this is State's 93.

3 A And this demonstrates further out on to the shoulders
4 where you see the contusions that are present on the shoulder, as
5 well as the contusion that's present on the arm. And again, this
6 could be the blows that hit the head and then continue on to the
7 shoulder or they could be separate blows that occur to the
8 shoulder, as well as the ones that are separate that occurred to the
9 head.

10 Q Next I'm showing you State's 94.

11 A This is the back of the left hand that contains a contusion,
12 as well as a laceration that's present there.

13 Q And what's the purpose at autopsy of photographing
14 hands?

15 A You look for any kind of wounds and they may be related
16 to defensive wounds or you may be able to see them as offensive
17 wounds.

18 Q Now do -- in terms of this injury that you have observed,
19 would you say it's consistent with a defensive wounds or --

20 A This is most consistent with a defensive wound.

21 Q This is State's 95. Oh, should I put it the other way? 95.

22 A This is the right hand and demonstrates the contusion
23 that's present on the back of the right hand.

24 Q In terms of the injuries that you observe, is there any
25 timeframe you could give us in terms of how they appear as to how

1 old they were, if they're fresh or not?

2 A All of these injuries that --

3 MR. YANEZ: And I'm going to object -- I'm sorry, I'm just
4 going to object as to vague and ambiguous as to fresh or not.

5 BY MS. WECKERLY:

6 Q Is there any sort of timeframe you could give us as to
7 the -- when these injuries were inflicted, relative to that?

8 A These all -- all of these injuries are contemporaneous to
9 death and the majority of these injuries are contemporaneous to
10 each other, particularly the ones that I pointed out.

11 Q Okay. And after your review of those photographs and
12 the other materials that you reviewed, have you -- or could you
13 form an opinion as to the cause of death of this individual?

14 A Yes.

15 Q What would that be?

16 A Blunt force injury of head.

17 Q And the manner?

18 A Homicide.

19 Q Now in terms of objects that could have inflicted these
20 types of injuries, is -- would it be consistent with a -- like a weight
21 barbell? Like a 25-pound barbell?

22 A These injuries are consistent with that.

23 Q You don't know that for -- it could be another object but
24 it's some sort -- indicative of some sort of object being used?

25 A Yes.

1 Q Is there any possibility that these injuries in your mind
2 could be inflicted without an object, like just by human hand?

3 A No. The depressed skull fracture is most consistent with
4 an object being used to inflict those injuries.

5 Q Doctor, I'd now like to just move on to the autopsy of
6 Helen Sabraw.

7 [Colloquy between Counsel]

8 MS. WECKERLY: Could I have the Court's indulgence for
9 one second?

10 THE COURT: Sure.

11 MS. WECKERLY: Your Honor, if I could just make a quick
12 record on two photographs?

13 THE COURT: Yes.

14 MS. WECKERLY: State's Proposed 227 and 228, I believe
15 yesterday we discussed admitting those by stipulation. I think there
16 may be an objection to 228 --

17 THE COURT: Okay.

18 MS. WECKERLY: -- today.

19 MS. MANINGO: Yeah. Well actually what I said yesterday
20 was I -- they didn't have to bring in another person --

21 THE COURT: Okay.

22 MS. MANINGO: -- because they said that they would have
23 to bring it in through Detective Manning. I said absolutely, they
24 don't have to bring in another witness. That's what we were
25 agreeing to.

1 THE COURT: Okay.

2 MS. MANINGO: With regards to --

3 THE COURT: So you're objecting to the -- to what? I'm

4 sorry.

5 MR. YANEZ: No -- well -- and because of the nature, I

6 don't know if we want to approach, Judge.

7 THE COURT: Okay. You can approach.

8 [Bench conference begins, transcribed as follows:]

9 THE COURT: Will you bring those two photos?

10 So is it kind of a -- you're objecting to the photos but if

11 they're were going to come in you want them to say -- bring

12 somebody else?

13 MR. YANEZ: Well --

14 MS. MANINGO: Right. They don't have to bring anybody

15 else.

16 THE COURT: Okay.

17 MS. MANINGO: I mean, if they're coming in --

18 THE COURT: But you're still --

19 MS. MANINGO: -- they're coming in.

20 THE COURT: -- objecting on relevance or --

21 MR. YANEZ: Relevance as to why a picture -- there's a

22 picture of the vaginal area. He's not charged with vaginal sexual

23 assault --

24 THE COURT: Okay.

25 MR. YANEZ: -- it's anal. So unless it's just the -- give a

1 general description, I've looked at this stuff, but other than that, I
2 don't see what the relevance is.

3 MS. WECKERLY: Well --

4 THE COURT: Okay. And what about the other one?

5 MR. YANEZ: The other one I don't have an objection to --

6 THE COURT: Oh, okay.

7 MR. YANEZ: -- because there's the charge.

8 MS. WECKERLY: So the only -- the reason why -- the only
9 reason why I want that is just to show like a thoroughness of the
10 investigation.

11 MR. YANEZ: Okay.

12 MS. WECKERLY: I mean, I don't know what it really
13 matters --

14 THE COURT: I think you can describe the thoroughness of
15 the investigation, including vaginal swabs, et cetera, and that you
16 did an examination of the vaginal area, assuming there's no
17 relevant findings there, we don't need the photo.

18 MS. WECKERLY: I won't ask her about that.

19 THE COURT: Okay.

20 MS. WECKERLY: Okay. Is that all right then?

21 MR. YANEZ: Yes.

22 MS. WECKERLY: I'm not going to ask her about that
23 particular photo, but I'll --

24 MR. YANEZ: Right.

25 MS. WECKERLY: I'll just say that there's indications that

1 that area was examined.

2 MR. YANEZ: Yes.

3 THE COURT: Okay.

4 MR. YANEZ: And then we don't need to --

5 THE COURT: So --

6 MR. YANEZ: Yeah.

7 THE COURT: So there were two pictures you said though.

8 So one's coming in?

9 MS. WECKERLY: Yeah, so I can withdraw them.

10 MR. YANEZ: In other words, I'm not going to argue they

11 didn't do a thorough investigation.

12 THE COURT: Were both of those vaginal pictures?

13 MS. WECKERLY: Well one's anal, one's vaginal. So one

14 is anal, one's vaginal.

15 THE COURT: So is there an objection.

16 MS. WECKERLY: One's anal, there's a charge and the --

17 THE COURT: Right.

18 MR. YANEZ: That one we understand.

19 THE COURT: So that one you're not objecting to.

20 MR. YANEZ: No, because there's a charge.

21 THE COURT: Okay.

22 [Bench conference ends]

23 THE COURT: Okay. So the one -- and I'm sorry, Pam, is it

24 227 or 228 that's going to be withdrawn?

25 MS. WECKERLY: 228.

1 THE COURT: Got it. Thank you.
2 And so 227, there's no objection to?
3 MR. YANEZ: Yeah as -- per our discussion, yes, Judge.
4 THE COURT: Got it.
5 Okay.

6 MS. WECKERLY: Okay.

7 THE COURT: So that one will be admitted.

8 **[STATE'S EXHIBIT NUMBER 227 ADMITTED]**

9 BY MS. WECKERLY:

10 Q And Doctor, I'm just showing you 231 first.

11 Is that a photograph that you recognize to be taken in
12 association with an autopsy?

13 A Yes.

14 Q And does the number on the photograph correspond with
15 the autopsy report that you would review in this case?

16 A Yes.

17 Q And it's an autopsy associated with Helen Sabraw?

18 A Yes.

19 MS. WECKERLY: State moves to admit -- this is the only
20 one that hasn't been admitted. 231.

21 THE COURT: Any objection?

22 MR. YANEZ: Submit it, Judge.

23 THE COURT: That'll be admitted. Thank you.

24 **[STATE'S EXHIBIT NUMBER 230 ADMITTED]**

25 ///

1 BY MS. WECKERLY:

2 Q And similar to our discussions about your preparation for
3 the autopsy of Wallace Siegel in the case of Helen Sabraw, did we
4 ask you to separate photos that you thought would be relevant in
5 order for you to testify this afternoon?

6 A Yes.

7 Q I'm going to hand you those backup photographs and ask
8 you to do the same thing, separate them how you'd like to discuss
9 them.

10 MS. WECKERLY: And same request, Your Honor, can I
11 publish as we --

12 THE COURT: Yes.

13 MS. WECKERLY: -- assess them?

14 BY MS. WECKERLY:

15 Q Okay. Dr. Gavin, I'm going to first put on the overhead
16 State's 231.

17 And similar to our -- my questions about the autopsy of
18 Wallace Siegel, this is a placard that is typically used at the Clark
19 County Coroner's Office to identify photographs associated with an
20 autopsy?

21 A Yes. We usually use a placard. They're different today but
22 this was our placard to represent what case it is.

23 Q Okay. And does this one actually has the date of the
24 autopsy on it, 5/18/98?

25 A Yes.

1 Q In terms of though the injuries or what would be relevant
2 for what you observe as a doctor, what do you see in terms of the
3 injuries on this victim?

4 A The next pictures are better for --

5 Q Are better.

6 A -- that.

7 Q Okay.

8 A This was for the demonstration of the case and the
9 number and name.

10 Q This is State's 203.

11 Can you describe what you see in that picture, please?

12 A Yeah. This is the left side of her head and neck and you
13 can see several injuries that are present on her forehead, as well as
14 the left aspect of her forehead near her left eye. In addition, there
15 are some injuries on her left cheek and then several that are present
16 on her -- on the left side of her chin and on her neck.

17 In addition, you can see some injury towards the top of
18 her head. All of these injuries are consistent with sharp force
19 injuries and there is some blunt force injury components that are
20 associated with them in that you can see some bruising and focal
21 abrasions associated with these sharp force injuries.

22 Q Now when you say sharp force injuries, I think like a knife
23 or some sort of sharp object, is that fair to assume?

24 A Generally an edged weapon.

25 Q And then you said there's blunt force trauma associated

1 with them?

2 A Yes, there's some areas that have a focal abrasion
3 scraping of the skin and some areas that have a contusion as well.

4 Q And --

5 A Bruise.

6 Q And how would that -- how does that occur? Like what's
7 the mechanism that gives you a sharp force and a blunt force
8 injury.

9 A Sometimes you can have the object that has the sharp
10 edge being used, in addition to a blunt force being -- occurring as
11 well. So for example, punching of the face could generate a blunt
12 force, a contusion. And then using a sharp weapon on the face
13 would generate the sharp force injuries.

14 Q Okay. So they could be inflicted independently.

15 A Yes, they could be inflicted independently.

16 Q Next, I'm putting on the overhead State's 204.

17 I think you're going to have to clear that again.

18 A Oh my sorry -- I'm sorry.

19 Q Thank you.

20 This is State's 204.

21 A This is a closeup of some of the sharp force injuries that
22 are present on her head. There's at least five that are present in this
23 photo that are on the forehead and towards the left aspect of the
24 eye and also on the cheek.

25 Q And all those injuries that you just described those are

1 sharp force injuries, is that fair?

2 A Yes.

3 Q And are these -- is there associated blunt force trauma to
4 any of the ones that we see in this photo?

5 A There's a focal abrasion present for some of them and you
6 can see it on the edges. And then you can see the contusion
7 bruising that's present of the eye as well.

8 Q Thank you.

9 Next we'll put on State's 205.

10 Do you want it oriented that way?

11 A Yes.

12 Q Okay.

13 A That's fine, thank you.

14 Again, we can see the edge of the injuries about which
15 we've spoke but are present on the left side of the forehead, the
16 sharp force injuries and you can see portions of it that are more
17 towards the hairline. But in addition, you can see additional sharp
18 force injuries that are present within the hairline as well.

19 Q Next photograph you identified is 206.

20 A This is extending towards the right side of her face and we
21 just spoke of the sharp force injuries that are present in the hairline
22 which are demonstrated in this picture as well.

23 And then you can see focal area of abrasion that's present
24 adjacent to the nose. Of note, there's an area of drying that's
25 present on the skin that has more of a yellow parchment-like

1 appearance to it and that's just drying that's occurred after she's
2 died. That's not related to injury.

3 Q When -- at what point in time do you start seeing the
4 drying?

5 A You can see that within hours to 24 hours after someone
6 has died.

7 Q Okay. And I think you said that's like sort of an artifact of
8 death not associated with injury?

9 A That's correct.

10 Q Can you clear that one?

11 A Oh, yes.

12 Q And the next one is State's 207.

13 A This is beneath the chin and there are at least seven sharp
14 force injuries that are present on the chin and towards the neck,
15 basically in this area that are all sharp force injuries.

16 Q And you said at least seven just in that area.

17 A Yes. And on the head, there were at least five.

18 Q Okay. The next one is State's 208.

19 A Sorry.

20 Q Oh, sorry.

21 A Clear now.

22 This is looking at the left breast and the center upper
23 aspect of the abdomen and there are at least sharp force injuries
24 that are occurred here within this picture.

25 THE COURT: I'm sorry, you said that was the left side?

1 THE WITNESS: That's her left breast --

2 THE COURT: Okay.

3 THE WITNESS: -- yes.

4 BY MS. WECKERLY:

5 Q And the next one is 209.

6 What are we looking at there?

7 A Then we're looking at the side of her body. So, again, we
8 can see that her left breast is in this picture and you can see the
9 sharp force injury that was present on her left breast and you can
10 see a little bit of the sharp force injury that was present towards the
11 center of the abdomen.

12 But additionally, you can see essentially six more sharp
13 force injuries that are present on the left side of her body.

14 Q Could you clear that?

15 A I did.

16 Q Oh sorry.

17 A That's okay.

18 Q The next one is 210.

19 A And this is towards her back and you can see additional
20 sharp force injuries that's present towards her side of -- or her back
21 left side.

22 Q This next one is 211.

23 A And again, you're looking at her back-left side and you
24 can see multiple sharp force injuries that are present on her back,
25 upwards of seven to nine injuries.

1 THE COURT: Does that photograph include the one that
2 we just saw a moment ago on the back-left side?

3 THE WITNESS: It does include the one, yes.

4 THE COURT: Okay. So seven to nine total on that one.

5 THE WITNESS: Yes.

6 BY MS. WECKERLY:

7 Q And the next photograph is State's 214.

8 A So we're looking -- we can see one of the wounds that
9 was in the center of the chest that we saw when we saw the original
10 picture with the left breast and those wounds present on her chest
11 and upper abdomen.

12 Additionally, this photograph represents the sharp force
13 injuries that are present on her arms, as well as some areas of
14 abrasion on the elbow and areas of contusion as well; bruises.

15 Q Now in terms of the abrasion that you just described on
16 her elbow, how -- what are ways that someone can suffer that type
17 of injury?

18 A They can vary from any type of injury that occurs that you
19 end up scraping your skin. I couldn't infer just based on this injury
20 alone how that occurred.

21 Q The stab injuries or the sharp force injuries that are further
22 up on sort of her forearm, are -- could those be characterized as
23 defensive injuries?

24 A Yes, I would characterize these as defensive injuries.

25 Q And defensive injuries means what?

1 A That she is defending herself against some sharp object.

2 Q And this is State's -- sorry, 212.

3 A This is her left hand and you can see within the webbing
4 of the left hand a sharp force injury as well.

5 Q Is that also characterized as a defensive injury?

6 A Yes, this is characterized as a defensive injury.

7 Q And this is State's 213.

8 A This is her right hand and again, she has evidence of a
9 sharp force injury on the outer aspect of her right index finger.

10 Q Now in terms of the sharp force injuries that you observed
11 all over from these photographs, can you -- did you calculate how
12 many you could note or --

13 A Yes, it's well over 20 and upwards towards 30 individual
14 injuries.

15 Q Okay. And --

16 A Sharp force injuries.

17 Q And I think I might have asked you this before, but this
18 would have been inflicted with some sort of implement, right, not
19 human hands?

20 A You hadn't asked me that on this case.

21 Q Okay.

22 A Yes, it would be an implement. Other than the injuries
23 that I described that were abrasions or contusions, those could be
24 done by a hand or some type of blunt force.

25 Q Do these injuries appear contemporaneous with each

1 other?

2 A Yes, they do.

3 Q And do they appear contemporaneous with death?

4 A Yes.

5 Q Now in addition to the sharp force injuries, were there
6 also photos taken of the decedent's anal area?

7 A Yes.

8 Q I'm going to put on the overhead, State's 227.

9 Looking at that photograph, do you -- are you able to
10 discern whether there's evidence of injury?

11 A Yes.

12 Q And could you point that out and describe what sort of
13 abrasions or --

14 A The vagina is towards the right side of the photo and then
15 the anus is towards the opposite, towards the left side of the photo.
16 Within the anal verge, the anal opening, there are tears that are
17 present in the anal opening here and some abrasions that are
18 associated with that area as well.

19 Q The abrasions and tearing that you see, are those
20 contemporaneous with death or are you able to make any kind of
21 timing assessment of those?

22 A Yes, they appear to be contemporaneous with the other
23 injuries.

24 Q When you observe those types of injuries as a forensic
25 pathologist, are they indicative of a sexual assault?

1 MR. YANEZ: I'm going to object, Judge on lack of
2 foundation. I think she's said she's qualified to give opinions about
3 cause and manner of death. I do not believe sexual assault
4 examinations are her expertise, so I would object.

5 THE COURT: I will sustain the objection, but you can lay
6 further foundation.

7 MS. WECKERLY: Sure.

8 BY MS. WECKERLY:

9 Q Dr. Gavin, how many autopsies would you say you've
10 performed in your career?

11 A Over 2500, getting closer to 3,000 now.

12 Q Okay. And of those autopsies have some of them been
13 associated with sexual assault, as well as homicide?

14 A Yes.

15 Q Do you have any estimation of the percentage?

16 A No, it -- most people tend to commit homicide by
17 firearms. It's less frequent that you end up seeing them more
18 intimate -- these more intimate-type assaults, so they'd be a smaller
19 percentage of the total number of homicides.

20 Q And you've worked at the coroner's office how many
21 years?

22 A Nine and a half, going towards ten.

23 Q Okay. Would you say you've had at least 20 or more
24 cases of sexual assault and homicide?

25 A The 20 is reasonable, yes.

1 Q Okay. And in your training as a forensic pathologist, as
2 well as in medical school, were you trained to recognize injuries
3 that are associated with sexual assault?

4 A Yes.

5 Q And in that training were you called upon to ever make
6 assessments, either as a doctor or in other areas of practice of
7 evidence of sexual assault?

8 A Yes.

9 Q And looking at this photograph, are you able to give any
10 sort of opinion about whether or not this injuries -- or these injuries
11 appear consistent with a sexual assault?

12 MR. YANEZ: And Judge, I have the same objection. If I
13 could voir dire the witness if the Court does not want to sustain my
14 objection.

15 THE COURT: I will let you voir dire. I would sustain the
16 objection right now --

17 MR. YANEZ: Okay.

18 THE COURT: -- just to be more specific to areas of anal
19 injury --

20 MS. WECKERLY: Okay.

21 THE COURT: -- autopsies.

22 MS. WECKERLY: Okay.

23 THE COURT: And if you still want to voir dire after that,
24 you can certainly do so.

25 MR. YANEZ: Thank you, Judge.

1 BY MS. WECKERLY:

2 Q In terms of your training and experience, have you be
3 trained to recognize evidence of injury in terms of sexual assault of
4 the anal area?

5 A Yes.

6 Q And part of that training I assume would have been in
7 medical school.

8 A Yes.

9 Q As well as since then.

10 A Yes.

11 Q And have you had cases in your work at the coroner's
12 office that have had aspects of anal sexual assault associated with
13 an autopsy?

14 A Yes.

15 Q And based on that experience that you've had, are you
16 able to make a determination or draw an opinion about this injury?

17 A Yes.

18 Q And what is that?

19 MR. YANEZ: And Judge, again, I think you were going to
20 allow me to voir dire, correct?

21 THE COURT: I'll allow you to voir dire.

22 MR. YANEZ: Thank you.

23 **VOIR DIRE EXAMINATION**

24 BY MR. YANEZ:

25 Q Good afternoon, Doctor, how are you?

1 A Good afternoon.

2 Q Good.

3 [Colloquy between Counsel]

4 MR. YANEZ: Judge, can I have this marked, just for
5 identification purposes. I'm not going to seek to admit it.

6 THE COURT: Okay.

7 BY MR. YANEZ:

8 Q Dr. Gavin, have you ever done a -- you know what sexual
9 assault nurse examinations are?

10 A Yes.

11 Q Okay. Have you ever done a sexual assault examination,
12 similar to -- I think they call it SANE, right?

13 A Yes.

14 Q On a live human being?

15 A Yes.

16 Q Okay. And where was that at?

17 A During medical school.

18 Q At medical school.

19 A Yes.

20 Q Okay. Was that under the supervision of another
21 professor or doctor or something like that?

22 A Yes.

23 Q Okay. Outside of medical school, have you ever done a
24 SANE examination on a live person?

25 A On a live person, no.

1 Q Okay. I'm going to show you what's been marked for
2 identification purposes Defense EE. I believe it's a copy of your
3 resume or you CV that was provided to the district attorneys. Is
4 that a current copy, is that --

5 A It still needs some updates to it.

6 Q I just want to ask you a few questions about it in regards
7 to giving an opinion on sexual assaults. And if you -- I'm assuming
8 you know what's on here so I'm going to step back over here but if
9 you need to refresh your memory just let me know, okay?

10 You have it broken down in different areas of your
11 background. You have training and education, correct?

12 A Yes.

13 Q Okay. And in that section you have a Bachelor of Arts.
14 And what was your degree in, in Bachelor of Arts? I don't think it
15 says.

16 A Biology and Women's Studies.

17 Q Okay. And then you have a Master's degree of Public
18 Health --

19 A Yes.

20 Q -- right?

21 Is that more kind of administration or what exactly is
22 public health?

23 A It's many broad things. It's looking at women's health,
24 looking at epidemiology, looking at statistics --

25 Q Okay.

1 A -- looking at public policy.

2 Q Okay. Nothing specific to doing sexual assault
3 examinations, you'd agree with that?

4 A Agree.

5 Q Okay. And then you have your medical degree, correct?

6 A Yes.

7 Q And then obviously you describe that you did some SANE
8 examinations under the supervision of a doctor or a professor,
9 right?

10 A Correct.

11 Q Okay. And then you did -- you have a fellowship in
12 pathology, correct?

13 A Yes.

14 Q Okay. Anatomical and clinical pathology, surgical
15 pathology, and forensic pathology, correct?

16 A Yes.

17 Q Okay. And during that training you didn't do
18 unsupervised SANE exams on live human beings, correct?

19 A Not on live people, no.

20 Q Okay. And then your current and previous work
21 experience, there's nothing in there specific to sexual assault
22 examinations, you would agree? At least on your CV?

23 A Correct. On the CV, that's correct.

24 Q Okay. And on your service work, resident, and fellow
25 topics, research, experience, nothing specific to sexual assault

1 examinations, is that correct?

2 A That's correct.

3 Q Okay.

4 MR. YANEZ: As to that topic, Judge, I know obviously I'm
5 going to have further cross-examination, I would renew my
6 objection.

7 THE COURT: All right. I will at this time let her go ahead
8 and answer the questions. I think she's expressed, obviously, her
9 education in medicine, training prior to her work in pathology
10 included SANE examinations, even though I know that's limited
11 obviously back during medical school but also during the
12 experience as a pathologist having conducted numerous autopsies,
13 including those that involve genital and anal exams and examining
14 for evidence of sexual assault. I think it's more of a weight
15 argument at this point than it is admissibility. So you can move
16 forward with your questions.

17 MS. WECKERLY: Thank you.

18 **CONTINUED DIRECT EXAMINATION**

19 BY MS. WECKERLY:

20 Q I'm going to just put back on the overhead State's 227 and
21 ask you to -- Dr. Gavin, in State's 227 the injuries that you
22 described, are they consistent with or indicative of sexual assault?

23 A They're consistent with penetration by something. I don't
24 know what that would be.

25 Q Okay. And there is injury though associated with the

1 penetration, right? You said there's an abrasion and --

2 A Yes, there is injuries here. Yes.

3 Q Okay. And in terms of the timing of those injuries, do
4 those injuries appear contemporaneous with death?

5 A Yes.

6 Q And how were you able to make that assessment?

7 A These injuries have similar qualities to the other injuries
8 that we saw on the rest of her body.

9 Q Are you able to give us any kind of idea of what type of
10 object could have caused those injuries or any sort of thing like
11 that?

12 A Which injury?

13 Q With the injury to the anal area.

14 A No.

15 Q In terms of sexual assault, is it true that victims of sexual
16 assault all can be sexually assaulted but not exhibit injury --

17 MR. YANEZ: Objection --

18 MS. WECKERLY: -- on their genital area.

19 MR. YANEZ: It's leading, Judge. And it's vague and
20 ambiguous.

21 THE COURT: Well, I mean, I'll sustain the objection. I
22 think you need to -- you're kind of basing -- asking her the normal to
23 be normal type questions but I don't know that there's been a
24 foundation that she's got that level of understanding of sexual
25 assault exams.

1 MS. WECKERLY: Okay.

2 BY MS. WECKERLY:

3 Q In terms of in your work as a forensic pathologist, have
4 you had occasion to work on cases that have involved sexual
5 assault -- I think you described you worked on at least 20 cases in
6 that capacity as a forensic pathologist?

7 A Yes.

8 Q And then you also described doing exams on live
9 individuals when you were in medical school.

10 A Correct.

11 Q Was it a single exam or multiple exams?

12 A There were a few exams. I don't remember how many
13 there were. It was a particular clinic.

14 Q Okay. And what was the clinic called?

15 A I don't remember.

16 Q Okay. In order to do the clinic, did you have to have
17 training?

18 A That was part of the rotation for medical school.

19 Q And in the clinic, was the purpose of the clinic to teach
20 doctors like yourself to identify or see injuries associated with
21 sexual assault or see the lack of injuries associated with the sexual
22 assault?

23 A Part of it was to do evaluations of women's genitals,
24 including any genitals and anus areas --

25 Q Uh-huh.

1 A -- to look for any evidence of pathology and/or injury.

2 Q And in medical school and I'm sure as you've practiced
3 later, you have had training in anatomy and how the female body
4 works.

5 A Yes.

6 Q And in all of your training and experience, is it your
7 opinion that you always see injury when someone is sexually
8 assaulted?

9 A No, that was not true in my training.

10 Q Okay. Why is that?

11 A It often depends on the flexibility or the -- even the
12 moisture that's in that particular area that's being potentially
13 penetrated.

14 Q Now in terms of -- sort of back to our sharp force injuries
15 in this case. Do you have an opinion as to the cause of death of
16 Helen Sabraw?

17 A Yes.

18 Q And what would that be?

19 A She died of multiple sharp force injuries.

20 Q And the manner?

21 A Homicide.

22 MS. WECKERLY: And if I could just have the Court's
23 indulgence.

24 Thank you. I'll pass the witness, Your Honor.

25 THE COURT: All right. I just want to ask one quick

1 question to clarify --

2 MR. YANEZ: Sure.

3 THE COURT: -- something and if you need any follow up,
4 you can.

5 When you were referencing the anal injury you said
6 consistent with other injuries you've seen on the body. You
7 weren't -- I didn't think you were saying that the anal injuries were
8 sharp force injuries but were you just saying that they consistent in
9 terms of time period?

10 THE WITNESS: Yes, I -- her question was regarding the
11 contemporaneousness of the --

12 THE COURT: Okay.

13 THE WITNESS: -- injuries so that's how I was referring to
14 those injuries --

15 THE COURT: Got it.

16 THE WITNESS: -- not that they are -- they are not --

17 THE COURT: Sharp force.

18 THE WITNESS: -- sharp force injuries.

19 THE COURT: Okay. Thank you.

20 All right. Did you have anything based on that?

21 MS. WECKERLY: No, that --

22 THE COURT: All right. Abel.

23 MR. YANEZ: Thank you.

24 ///

25 ///

1 **CROSS-EXAMINATION**

2 BY MR. YANEZ:

3 Q Dr. Gavin, you graduated law school in 2001, correct?

4 A I've never graduated law school.

5 Q I'm sorry.

6 THE COURT: Lucky you.

7 MR. YANEZ: Yes. You're lucky.

8 THE COURT: Medical school.

9 BY MR. YANEZ:

10 Q Medical school?

11 A Pardon me, yes.

12 Q And so these exams that you just talked about, you would
13 have done those late 90s, maybe year 2000?

14 A Correct.

15 Q So about 19 -- over 19 years ago?

16 A Correct.

17 Q Okay. And in medical school, I'm assuming you studied a
18 large amount of subjects under the field of medicine, correct?

19 A Yes.

20 Q Okay. And I'm pretty sure you're not telling Judge
21 Herndon that you're an experts in all the fields that you studied
22 getting your medical degree, correct?

23 A Correct.

24 Q Okay. Can you remind me again, because I'd like to know
25 exactly what you reviewed to come and give your testimony today?

1 I know you reviewed photos, correct?

2 A Yes.

3 Q And both of Helen Sabraw and Wallace Siegel --

4 A Yes.

5 Q -- right? The autopsy pictures?

6 A Yes.

7 Q The autopsy reports that were done?

8 A Yes.

9 Q Okay. Anything else besides that?

10 A There are some investigator reports and toxicology
11 reports.

12 Q Okay. The investigative report was from the coroner's
13 office?

14 A Correct.

15 Q Anything else?

16 A No.

17 Q Okay. Did you -- I just want to clarify -- I know you told me
18 that's all you reviewed but I just want to make sure. Did you review
19 any -- let me back up. Based on your review, are you aware that in
20 this case, there was a sexual assault examination kit that was done?

21 A No, I was not aware that the kit was done.

22 Q Okay.

23 A Although -- no, let me rephrase, there were -- there was
24 evidence of a kit being performed in the photographs.

25 Q Okay.

1 A Yeah.

2 Q And I'm assuming, correct me if I'm wrong, that when you
3 come and testify here, the more information you have, the better --
4 the stronger foundation for your opinions, correct?

5 A True.

6 Q And I'm also assuming, correct me if I'm wrong, that it
7 would be preferable in order to form your opinions to actually do
8 the autopsy on the body, versus reviewing pictures and stuff like
9 that, correct?

10 A Generally when you're in with the autopsy you can see
11 the injuries firsthand. But I've done many cases where I've just
12 reviewed photographs and lots of times that's part of your training.

13 Q Right.

14 A In fact, our certification examinations are based on
15 photographs that we've never seen before at all.

16 Q And my question is though, if you had a preference,
17 wouldn't you prefer to do an autopsy so that you could be more
18 precise on an actual body and not through pictures or reports?
19 Would you agree with me or no?

20 A It varies. I'm comfortable doing it on photographs and I'm
21 comfortable doing it on reports --

22 Q So you have no preference, is that --

23 A It's nice being hands-on but I can -- I'm comfortable doing
24 both.

25 Q Okay. So it sounds like, correct me if I'm wrong, you don't

1 have a preference, correct?

2 A Not particularly. I do enjoy doing my work hands-on.

3 Q Fair enough.

4 The -- you said you remembered seeing something about
5 a sexual assault kit being done. Were you provided by the district
6 attorney, the results of those examinations?

7 A Of the sexual assault?

8 Q Correct.

9 A No, I was not.

10 Q Okay. So you're unaware of whether semen was found or
11 not found based on the testing they did with the sexual assault kit?

12 A That's correct. I have no idea whether or not it was or not,
13 I was just reviewing the injuries that were present there.

14 Q Okay. Would you agree with me that knowing the results
15 would help form your opinion in a more accurate fashion in this
16 case?

17 A Whether or not there is semen or not semen --

18 Q Correct.

19 A -- can play a role in in determining what implement may
20 or may not have been used --

21 Q Correct.

22 A -- in the individual or if it was an implement at all. And so
23 that's where it would be helpful but it doesn't assist with
24 interpreting the injury itself.

25 Q Okay. So I'm not sure if I understand your answer.

1 Wouldn't your opinion today be stronger, be on a better foundation,
2 if you knew the results of the sexual assault kit?

3 A My opinion was rendered about these injuries being --

4 Q I under --

5 A -- relative to --

6 Q No, I understand that --

7 A -- penetration, so.

8 Q -- Doctor. I think it's a yes or no question. Don't you think
9 that your opinions today would be stronger, on a better foundation,
10 if you had the results of a sexual assault kit? Do you agree with that
11 or do you not agree with that?

12 A My opinions regarding that specific injury may be
13 stronger with that sexual assault kit, but that might --

14 Q A better foundation, correct?

15 A A better foundation for that --

16 Q Right.

17 A -- interpretation.

18 Q Right. So if there had been semen found, right, that
19 would bolster your opinion, correct?

20 A Of those injuries in particular, yes.

21 Q Right. And if there wasn't semen found, that would kind
22 of knock it down a little bit, wouldn't it?

23 A Those injuries still exist though.

24 Q Right. But your case is a little bit weaker if you had that
25 information either way, correct?

1 A Yes, the -- regarding the sexual assault aspect of it, not the
2 penetration aspect --

3 Q Thank you.

4 A -- of it.

5 Q At the coroner's office, you work with other coroner's
6 there in the Coroner's Office of Clark County, correct?

7 A Yes.

8 Q Okay. And I'm assuming, because they're your
9 colleagues, you guys perhaps discuss cases, issues, questions you
10 might have, and stuff like that?

11 A Yes, we do.

12 Q Okay. And you sometimes rely on them, they rely on you
13 to give you opinions on what you think about perhaps an autopsy
14 you performed?

15 A Yes.

16 Q Okay. And do you know who Dr. Alane Olsen is?

17 A Yes.

18 Q Okay. And she is a former colleague of yours, correct?

19 A Correct.

20 Q Okay. Are you aware that she did an evaluation of the
21 case, kind of like you did, and testified at the preliminary hearing,
22 another court hearing in this case? Are you aware of that?

23 A Yeah, I'm aware.

24 Q Okay. Did you review her transcript in preparing for your
25 opinion here today?

1 A I had seen her transcript, but I hadn't read through it.

2 Q Okay. So I'm not --

3 A They gave it to me --

4 Q Maybe I'm confused.

5 A -- but I didn't read through it.

6 Q You didn't --

7 A I wanted to form my own opinion based on my review of
8 the photographs and make my own determination.

9 Q Okay. So are you saying the district attorney provided it
10 to you but you just didn't read it?

11 A That's correct.

12 Q Okay. Did you review anything related to Helen Sabraw's
13 medical history?

14 A Only what was provided in the investigator's information
15 and that's it.

16 Q Okay.

17 A And then there's some references in the autopsy report
18 for the findings.

19 Q Okay. So again, outside -- I know you described it -- or
20 you detailed it. What we already discussed, you didn't talk to any
21 family members about a medical history or prior medical records or
22 anything like that, is that fair to say?

23 A Yeah, that's fair to say.

24 Q Okay. Now in general, when you're going to do an
25 autopsy, you -- before you start, one of the things you do is to wipe

1 down the body, is that correct?

2 A Yes.

3 Q Okay. And the reason you do that is because there could
4 be fluid, blood, different substances on that body that could maybe
5 hide or mask what you're looking for --

6 A Correct.

7 Q -- right?

8 Okay. And --

9 [Colloquy between Counsel]

10 BY MR. YANEZ:

11 Q I'm going to show you State's 227 again.

12 That was previously shown to you, correct?

13 A Okay.

14 Q You'd agree with me that in this picture it doesn't look like
15 the body's been wiped down, correct?

16 A Correct.

17 Q Right. And again, like you said, the preference is to wipe
18 the body down beforehand so that you can clearly see things like
19 lacerations or abrasions, right?

20 A Correct.

21 Q Okay. Now the difference with an abrasion and a
22 laceration is an abrasion is you said more of a scraping, correct?

23 A Correct.

24 Q And a laceration is a more of a kind of cutting?

25 A A tear.

1 Q A tear, okay.

2 Let me talk to you about a few things and ask your
3 opinion on things that can cause either abrasions or lacerations. Is
4 constipation one of those things?

5 A In that anal area, yes.

6 Q Okay. And in this case you weren't able to rule out a
7 history of whether she had constipation or not, correct?

8 A Correct.

9 Q Okay. Are you familiar with diverticulitis?

10 A Yes.

11 Q Okay. And what is that?

12 A It's when there is an outpouching in the colon, and it gets
13 inflamed.

14 Q Okay. And one of the symptoms of that can be diarrhea,
15 correct?

16 A Yes.

17 Q Okay. Loose stools?

18 A Correct.

19 Q Constipation?

20 A Yes.

21 Q Right? Which all those things can also cause lacerations
22 or abrasions, correct?

23 A In general, not the diarrhea, but yes the constipation.

24 Q Right.

25 A Yeah.

1 Q The diverticulitis can as well, correct? Depending on your
2 symptom, but that is the cause.

3 A Correct. Yes.

4 Q You weren't able to rule that out in this case, correct?

5 A Correct.

6 Q You weren't shown any type of detective notes or
7 anything like that that might give an indication of some of her
8 medical histories when it comes to diverticulitis?

9 A No, I just have the investigation report from our office and
10 the autopsy report, and toxicology.

11 Q Okay. Assume for a second with me, please, assume that
12 Ms. Sabraw did have a history of diverticulitis, that's something
13 you'd like to know in forming your opinions, correct?

14 A Yes, medical history can be helpful on some of those
15 types of issues, particular regarding those abrasions and
16 lacerations around the anus.

17 Q Okay. But as far as you know, obviously I know you don't
18 know everything about the case but what you've provided you
19 didn't happen to receive any type of reports, or notes, or anything
20 explaining that type of history for Ms. Sabraw, correct?

21 A That's correct.

22 Q Now when -- you'd agree with me, with these pictures,
23 since the body hasn't been wiped down, we've already discussed
24 that, that could potentially cause a -- maybe a misinterpretation of
25 what is an abrasion, what's a laceration, right? It doesn't provide as

1 clear as a picture. Would you agree with that?

2 A It doesn't provide as clear a picture --

3 Q Right.

4 A -- I agree.

5 Q Okay. And in this case, since you didn't examine the
6 body, correct?

7 A Correct.

8 Q Okay. When you have something like an abrasion, let's
9 say, the true way to try to figure out if it is an abrasion or not is to
10 do kind of like a cell dissection and look at it microscopically, would
11 you agree with that?

12 A I think abrasions can be interpreted on a microscope, but I
13 don't find it necessary to do a microscopic examination on every
14 abrasion.

15 Q How old was Ms. Sabraw in this -- when -- at the time of
16 autopsy?

17 A I'd have to look into the report to recall that.

18 Q Okay. If I tell you it was 86-years old, does that sound
19 about right?

20 A Yes.

21 Q Okay. You would agree with me that elderly people at
22 that age have a stronger propensity for injury?

23 A Yes, their skin, yeah, it can be more susceptible to
24 injuries.

25 Q Right. And especially with women and -- who have less

1 estrogen at that age, correct?

2 A Yes.

3 Q All right. The lack of estrogen makes the tissue more
4 friable, do you agree with that?

5 A And dry.

6 Q Right. More prone to being -- perhaps abrasions or
7 lacerations occurring, right?

8 A Yes.

9 Q Okay. Long fingernails on a person when they come to
10 cleaning themselves, that can cause lacerations and abrasions as
11 well, correct?

12 A It would be unusual for the lacerations and -- but the
13 abrasions would be likely.

14 Q Okay. And did you see in the pictures the length of Ms.
15 Sabraw's fingernails?

16 A Yes.

17 Q Okay. They were fairly long, you would agree with me?

18 A Yes.

19 Q Okay.

20 MR. YANEZ: Court's indulgence.

21 BY MR. YANEZ:

22 Q Doctor, in the pictures -- the picture that I just showed you
23 and those similar type pictures, the close-up of the anal region, it
24 appears that in those pictures the anus is dilated, correct?

25 A Yes.

1 Q Okay. Your opinion today isn't that dilation of the anus is
2 some type of consistency or proof of a sexual assault or a
3 penetration by an object? That's not your testimony today, is it?

4 A That's correct.

5 Q Okay. I don't think I have anything further.

6 MR. YANEZ: Nothing further, Judge. Thank you.

7 THE COURT: Thank you. Ms. Weckerly?

8 MS. WECKERLY: Just two questions.

9 **REDIRECT EXAMINATION**

10 BY MS. WECKERLY:

11 Q On cross-examination you were asked about diverticulitis.
12 And that's a -- what type of condition is that?

13 A There is an outpouching that occurs in the colon and then
14 that outpouching gets inflamed.

15 Q And is that -- does the outpouching like is -- do you have
16 that then you whole life or how would it manifest?

17 A Generally it happens as you get older and generally it's in
18 the colon portion of the intestine, not in the anus portion.

19 Q And then -- so how would the diverticulitis -- or how
20 would diverticulitis fact -- I guess how -- well let me ask it this way.
21 Do you see -- does diverticulitis make you more susceptible to the
22 type of injury we see in that photograph?

23 A The diverticulitis can you make your more susceptible
24 to -- or can occur because you've had constipation and constipation
25 can result in some of the injuries that we see here on the anus.

1 Q Okay. Not necessarily that -- is there any way to
2 distinguish like whether this type of injury that you're seeing is -- I
3 mean, you see injury, you just don't know how it got there or are
4 you able to make any sort of assessment if it's related to a medical
5 cause, versus a criminal cause?

6 THE COURT: You -- are you -- that's a question I was
7 going to ask just so both of you know is, is there any way to
8 distinguish between a type of penetration injury versus a type of
9 exit injury for constipation. Is that kind of what you're asking?

10 MS. WECKERLY: Yes.

11 THE COURT: Okay.

12 MS. WECKERLY: Yes.

13 THE COURT: Do you understand that?

14 MS. WECKERLY: That's a better question.

15 THE COURT: I mean, it sounds crude but entrance versus
16 the exiting of something from the body, is there any way to
17 articulate between those two or are they kind of like the same?

18 THE WITNESS: They can appear similar. But to also
19 expound on your question that goes back to Counsel's question
20 about microscopic and if you have an injury that's occurred there
21 and you do microscopic on it, you can end up seeing whether or
22 not that injury is deep or relative to the skin's surface or just
23 superficial.

24 BY MS. WECKERLY:

25 Q And the injury that we see in the photograph, is there any

1 way to make that determination no, because it's just a photograph?

2 A You can't just from the photograph. You would need to
3 be able to do microscopic on that -- on those particular injuries.

4 Q Okay. And then lastly Mr. Yanez asked you about the fact
5 that the victims' anus is dilated, and I think there was a question
6 about whether or not that's associated with sexual assault.

7 A He didn't ask that question but --

8 Q Oh.

9 A -- are you asking that question?

10 Q I am asking that question. Can that be associated with
11 sexual assault?

12 A When you have someone die, you can have relaxation of
13 the sphincter. So just the presence of it being dilated doesn't tell
14 you definitively that that's a sexual assault.

15 Q Okay. Are there -- have you seen cases where someone is
16 in the middle of -- or -- well as a result of being attacked violently,
17 where someone would urinate or defecate.

18 A Yes.

19 MS. WECKERLY: Court's indulgence.

20 BY MS. WECKERLY:

21 Q Are you able to give us any opinion in -- back to the
22 photograph of the anal injuries. Are you able to give us an opinion
23 as to whether or not that's medical or as a result of penetration?

24 MR. YANEZ: I'm going to object as to vague and
25 ambiguous, Judge. I'm not sure what that means.

1 THE COURT: Yeah, I don't know really what you mean by
2 medical.

3 BY MS. WECKERLY:

4 Q Are you able to give us an opinion as to whether or not
5 that photograph is -- or the injury, I should say, is associated with a
6 medical condition of the victim versus penetration?

7 A The lacerations that you see can be related to penetration,
8 they can be related to constipation. It's unusual for the abrasions to
9 be related to constipation. That would be more consistent with the
10 penetration.

11 Q Thank you.

12 THE COURT: Abel.

13 **RECROSS-EXAMINATION**

14 BY MR. YANEZ:

15 Q And abrasion's also consistent with wiping with someone
16 with long fingernails, correct?

17 A Correct.

18 Q All right. And just -- I'm sorry, and just to clarify, from
19 what you reviewed you couldn't -- there was nothing provided to
20 you that that cell analysis microscopically was done in this case, is
21 that correct?

22 A That's correct.

23 Q Thank you.

24 MR. YANEZ: Nothing further, Judge.

25 THE COURT: All right. anything further?

1 MS. WECKERLY: No.

2 THE COURT: Dr. Gavin, thank you very much for your
3 time. I appreciate it. You are excused.

4 THE WITNESS: Thank you.

5 THE COURT: All right. You all can call your next witness.

6 MS. WECKERLY: Your Honor, can I have just a five-
7 minute break.

8 THE COURT: Sure.

9 MS. WECKERLY: It's the DNA analyst and I want to get
10 pictures of the evidence.

11 THE COURT: Okay.

12 [Court recessed at 2:57 p.m., until 3:08 p.m.]

13 THE COURT: We're back on the record. Mr. Ramos and
14 the interpreter, and all the attorneys on both sides are present.

15 We'll continue on with the State's case and you're going to
16 call Ms. Marschner?

17 MS. WECKERLY: Yes.

18 THE COURT: All right. Would you get Julie Marschner
19 please?

20 **JULIE MARSCHNER**

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

23 THE CLERK: Thank you, please be seated.

24 You can state and spell your name for the record, please.

25 THE WITNESS: Sure. My name is Julie Marschner.

1 Spelled J-U-L-I-E; last name, M-A-R-S-C-H-N-E-R.

2 THE COURT: All right, Ms. Weckerly.

3 **DIRECT EXAMINATION**

4 BY MS. WECKERLY:

5 Q How are you employed?

6 A I'm supervisor with the Las Vegas Metropolitan Police
7 Department's Forensic Laboratory and I'm assigned to the Biology
8 and DNA Detail.

9 Q As a supervisor in the DNA lab, what is it that you do
10 now?

11 A So my main duty is CODIS Administrator. So I oversee
12 Metro's connection to the FBI's CODIS database. And I also
13 supervise the staff responsible for processing database samples to
14 enter into CODIS.

15 Q Prior to that, did you hold a different position at the Metro
16 DNA lab?

17 A Yes , I was a forensic scientist for nine years, where I
18 worked case work regularly.

19 Q And as a forensic scientist, doing case work, what does
20 that mean that you do?

21 A So I examine evidence that's been collected from crime
22 scenes and attempt to generate what we call a DNA profile, and so
23 then I can prepare a DNA profile from an evidence sample to a
24 known individual to see if they are consistent with each other.

25 Q And what is your educational background that allows you

1 to work in these two jobs?

2 A I have a Bachelor's degree in Biological Sciences from Cal
3 Poly State University, San Luis Obispo. And a Master's degree in
4 Forensic Science from Virginia Commonwealth University, in
5 Richmond, Virginia.

6 Q And have you testified before as an expert in the area of
7 DNA analysis and comparison?

8 A Yes, I have.

9 Q Do you have an idea how many times?

10 A Probably about over a hundred times. Probably over 60 in
11 jury trials.

12 Q In this particular case, back in March of 2009, were you
13 asked to do some testings for the presence of DNA on a particular
14 item of evidence?

15 A Yes.

16 Q And what was the item of evidence that you were first
17 working with?

18 A Do you mind if I refer to some of my reports?

19 Q Sure. How many reports do you think you prepared in
20 association with these two cases?

21 A I think there are six main reports, and then a couple of
22 them have amended reports that go with them.

23 Q Okay. So yeah, the first -- the -- I just want to know how
24 you -- what you first tested in this case?

25 A It would be a sexual assault kit.

1 Q Okay. And in that kit you had vaginal swabs, rectal swabs,
2 rectal smears, oral swabs, and oral smears?

3 A Yes, as well as some fingernail clippings.

4 Q Okay. And let's talk about that testing first. Although I
5 should back up. Can you explain what DNA is?

6 A DNA is an acronym, it stands for deoxyribonucleic acid.
7 And it's the genetic material that's found in the cells of all living
8 organisms. Now in humans, most of our DNA is consi -- most of
9 our cells contain DNA, and there's two copies of the DNA, because
10 we inherit half of our DNA from our mother, half of DNA from our
11 father. And it's the unique combination of these two that make us
12 different from one another.

13 In forensic DNA analysis, we are only looking at less than
14 one percent of the DNA, because there's enough difference
15 between individuals for us to be able to distinguish two people
16 from one another. And the only time we can't do that is with
17 identical siblings, because identical siblings have identical DNA.

18 Q And so how is DNA used in a forensic setting?

19 A So we will try to extract DNA from evidence items to get
20 that DNA profile. And then we can compare a DNA profile from an
21 evidence item to a DNA profile from a known individual to see if
22 they're consistent with each other.

23 Q And when did you start working as a forensic scientist at
24 Metro?

25 A In 2005.

1 Q Okay. And just from 2005 up until now, 2019, has the
2 testing changed at Metro, like what kits you used or how many
3 alleles are available or --?

4 A Yeah, so the kits have become more sensitive, and then
5 we're also testing more locations. In 2005, we were only testing 15
6 locations in the DNA; now we're up to 21 that we're using for
7 comparisons.

8 Q And when you get up to 21, is that greater differentiation
9 or more specificity?

10 A Yes.

11 Q It's possible because of the additional alleles being looked
12 at?

13 A Yes, due to the more data to work with.

14 Q Okay. So sorry, but let's go back to the sexual assault kit
15 of Helen Sabraw. In terms of the sexual assault kit of the vaginal
16 swabs, rectal swabs, and oral swabs, was there any semen present?

17 A No.

18 Q And when you don't have that present, are you able to do
19 any further analysis in terms of DNA?

20 A I mean, I could take it on, but I wouldn't expect to get any
21 foreign DNA from it --

22 Q -- Okay.

23 A -- and so I dropped those samples from doing any further
24 testing based on those semen testing results.

25 Q So nothing from -- aside from the fingernail clippings,

1 nothing from any of the sexual assault kit came back with semen in
2 order for you to feel like it was viable to do additional testing?

3 A Correct.

4 Q Now let's talk about the fingernail clippings. You -- the
5 sample you get is right hAnd left hAnd is that fair?

6 A Yes.

7 Q Okay. Are all the fingernail clippings kind of in one
8 envelope?

9 A Yes.

10 Q In terms of the right hAnd can you just tell the Court what
11 your results were?

12 A So I did a test, a presumptive test, for blood which was
13 positive, and then I took a swabbing from the underside of the
14 fingernail clippings and the DNA profile obtained was consistent
15 with Helen Sabraw.

16 Q And was there any indications of a mixture?

17 A No, there was not.

18 Q When you got the full female profile, obviously you had a
19 comparison profile from Helen Sabraw?

20 A Yes.

21 Q That was collected at autopsy?

22 A Yes.

23 Q And when you compared the two, you got a full profile
24 consistent with her?

25 A Correct.

1 Q No indication of a mixture?

2 A Correct.

3 Q Was that the same on the left hand?

4 A Yes, it was

5 Q Now in addition to testing those items in that first report,
6 were you als -- did you also conduct testing on a serrated knife with
7 a green plastic handle?

8 A Yes, I did.

9 Q And I'll just go back to our crime scene diagram which is
10 110. And then a photograph which is 119, which shows the location
11 of that knife. And can you tell the Court what your results were in
12 terms of the knife?

13 A So I took a swabbing of the blade of the knife, it had
14 negative presumptive test for blood. And then I didn't get anything
15 for a DNA profile, that I could make any comparisons to. I did a
16 separate swabbing of the handle; again, my presumptive test for
17 blood were negative. And then I didn't have any data to any
18 comparisons.

19 Q So there was essentially no further testing you could do
20 on those items?

21 A Correct.

22 Q Did you also test, or look at a coffee mug?

23 A Yes, I did.

24 Q And this is State's 148. I'm pointing to a mug. Does that
25 look like the mug that you would've done the testing on?

1 A Yes.

2 Q And what were your findings in regard to that mug?

3 A So I took a swabbing of the rim of the coffee mug, where
4 someone would have drank out of it and I got a partial female
5 profile, meaning that I didn't get a full profile at all the locations.
6 But with that partial profile, when I compared it to the known profile
7 of Helen Sabraw, it was consistent with hers.

8 Q Okay. Any indication of a mixture from that partial coffee
9 mug?

10 A No.

11 Q Or from the profile from that mug?

12 A No.

13 Q In addition to those items that we just discussed, did you
14 also conduct examination on pieces of carpet, or swabs from carpet
15 areas?

16 A Yes.

17 Q And those carpet areas were submitted to you from -- well
18 you probably got them from evidence from the vault?

19 A Correct.

20 Q And how did you label them in order to correspond with
21 the labels of the crime scene analyst?

22 A So I received a cut out piece of carpet.

23 Q Okay.

24 A And then I tested three different looking stains on the
25 carpet.

1 Q Okay. And how did you describe the stains?

2 A So there was one that I called, an orange-colored stain.

3 Q Okay.

4 A Another I called, a dark brown stain. And then other, a red
5 smear-type stain.

6 Q Okay. And with regard to the orange-colored stain, what
7 were your findings?

8 A I did a test for semen -- or did tests for semen on this
9 particular stain, and they were negative.

10 Q Okay.

11 A I went ahead and took a cutting off for DNA and got a
12 partial DNA profile from a female, that was consistent with Helen
13 Sabraw.

14 Q Okay. And then you also did the dark brown stain?

15 A Yes.

16 Q And what were your findings there?

17 A I tested this for blood, with a presumptive test that was
18 positive, and took a cutting on for DNA and that DNA profile was
19 also consistent with Helen Sabraw.

20 Q And any indications of a mixture or anything like that on --

21 A No.

22 Q Okay. And with regard to the red smear-type stain?

23 A Again, I tested this for blood, and it was positive. And the
24 DNA profile I got was consistent with Helen Sabraw.

25 Q Okay. So all of the carpet area that you ending up testing

1 was cons -- was blood positive and consistent with Helen Sabraw?

2 A The brown and the red stains were positive for blood, the
3 other one I didn't do any blood testing on, but it was consistent to
4 her.

5 Q Now, in terms of -- when you say it's blood positive, back
6 at the time you did the testing -- this report was from 2009, what
7 type of tests do you -- did you administer to determine that it was
8 blood?

9 A So I used a presumptive chemical test called
10 phenolphthalein. And at the time if we had a positive test for
11 phenolphthalein, in the presence of DNA, we would report that as
12 blood positive.

13 Q Okay. And is phenolphthalein -- would that have been
14 used also back in 1998, do you know?

15 A Yes, I believe so.

16 Q Okay. And it's a presumptive test?

17 A Yes.

18 Q It -- is there a test that actually is more conclusive about
19 whether or not something's human blood?

20 A There is a test called HemaTrace, it's similar to a
21 pregnancy test, where you add a sample to a cartridge, and you're
22 looking for multiple lines to appear on the cartridge. It's not
23 something that we would routinely use, because it's not as
24 sensitive as phenolphthalein.

25 Q Okay. And phenolphthalein was used, to your knowledge,

1 back in 1998?

2 A Yes.

3 Q And it's a presumptive?

4 A Yes.

5 Q Okay. So the next item I would like to focus on is testing
6 that, I think you did after that, which would be in August of 2009, on
7 a grey t-shirt and white tank top?

8 A Okay.

9 Q Now going back to our crime scene photo, this is State's
10 148, and the diagram is 110, just so we can orient. And the grey
11 t-shirt is Item D, and the white tank top is 33. When you get the
12 item at the lab, like the grey t-shirt in this case, did you do your own
13 sampling?

14 A Yes, I did.

15 Q And I'm putting that on the overhead now, this is State's
16 169. Does that look like the t-shirt?

17 A Yes, it does.

18 Q When you did the sampling on the t-shirt, where -- what
19 areas did you sample?

20 A So I cut from the inner seam along the neck of the collar.

21 Q Uh-huh.

22 A So that was one sampling. And then I also took cuttings
23 from seams from the inside of the armpit area. And the reason I
24 picked these areas is because they cause some friction, when they
25 come into contact with the skin, and so if I'm trying to test those

1 items to see who may have worn this t-shirt, I would have a good
2 chance of picking up skin cells that were shed from their skin, when
3 it came into contact with their skin.

4 Q Okay. So you did the back-collar area, and the armpit --

5 A -- Correct.

6 Q -- area?

7 A Correct.

8 Q And what were your results in terms of the back collar?

9 A So I got a mixture DNA profile, and that means that there
10 was DNA present for more than one individual. For this mixture I
11 determined that there were two -- it was a mixture of two
12 individuals, and at least one of those individuals is a male because
13 we test a sex typing marker that gives an indication of whether a
14 male DNA is present or not. And from that mixture DNA profile, I
15 could see that DNA was -- more DNA was contributed from one
16 person, compared to the other contributor in the mixture.

17 Q Okay.

18 A And so, we would call that, like a major DNA profile
19 compared to the minor contributor of the profile.

20 Q And this is all from the collar area?

21 A Yes.

22 Q And so at that time though, in 2009, did you have anyone
23 to compare this to?

24 A No, only Helen Sabraw.

25 Q Okay. It wasn't Helen Sabraw?

1 A Not the major contributor, no.

2 Q Okay. What about the armpit area, what were the
3 findings?

4 A So again I got a mixture DNA profile from here, consistent
5 with three individuals, at least one of those being male. And then I
6 saw that same major profile on that particular sample that I saw on
7 the other sample that I took. And then when I compared it to Helen
8 Sabraw, I couldn't exclude her as a minor contributor to that
9 mixture.

10 Q Okay. So from the collar area and the armpit area, both of
11 those had a major profile that you can see?

12 A Yes.

13 Q And that was the same profile?

14 A Yes.

15 Q But at the time it was unknown to you, whose profile that
16 was?

17 A Correct.

18 Q And in terms of both of those areas, Helen Sabraw
19 couldn't be excluded as -- in that mixture?

20 A From the armpit one, I couldn't make any conclusions for
21 the neck whether she was included or not.

22 Q Okay. So she's only not excluded from the armpit one?

23 A Correct.

24 Q And in the neck, there's just not enough data?

25 A Correct.

1 Q So when you have that profile from those two areas of
2 that grey t-shirt, what did you do with it?

3 A So I picked the profile from the armpit cutting, because it
4 had more data for that major contributor, and then entered it into
5 the CODIS database.

6 Q Okay. And what is CODIS?

7 A CODIS stands for Combined DNA Index System. And it's
8 a database of DNA profiles from known individuals that are
9 required to give DNA. And then also unknown forensic profiles that
10 are being searched in there to possibly hit against a known
11 individual, or to hit against another case, so that we can link cases
12 together.

13 Q Okay. And before we get to the CODIS results, the white
14 tank top -- And I'm putting on the overhead, State's 200. Were
15 you -- did you try to get a wearer profile from this item?

16 A I did. Again, for this particular item I would want to go for
17 those seams that are along the arm openings, and then also the
18 collar opening, but avoiding the blood areas on here. However,
19 when I received the item, it had been previously sampled from, and
20 so there were only a few areas for me to cut from here and so then I
21 did not get a DNA profile from the area that I cut from.

22 Q And was there any -- is there anything else that you
23 could've done, or is it just the fact that it had been tested previously
24 that there weren't a lot areas that wouldn't have been saturated
25 with blood, left?

1 A Correct, correct.

2 Q And why would you try to avoid areas that were saturated
3 with blood?

4 A Because I -- blood is a much better source of DNA, than
5 the touch DNA or the cells I'm looking for when I'm trying to find
6 out who wore an item of clothing. And so if I introduced any of that
7 blood evidence into that sample, it's most likely going to
8 overwhelm any of those epithelial cells or cell DNA that I'm looking
9 for.

10 Q After you entered the profile that you got from the grey
11 t-shirt into CODIS, at some point after that, did you receive a buccal
12 swab of someone identifying to you as, Gustavo Ramos?

13 A Yes.

14 Q And did you develop a profile from his buccal swab?

15 A Yes, I did.

16 Q Were you able to compare that buccal swab to the collar
17 area and the armpit area of the grey t-shirt?

18 A Yes, I was.

19 Q And what were your conclusions?

20 A So the profile from Gustavo Ramos Martinez, couldn't be
21 excluded as the major contributor, to the neck -- next -- from the
22 cutting from the collar that I took. And then I calculated a statistic
23 to show how strong that inclusion was and the estimated frequency
24 of the major DNA profile in the population was rarer than 1 in
25 882,000.

1 Q And that's on the neck area?

2 A Yes.

3 Q What about on the armpit area?

4 A So when I compared the profile Gustavo Ramos Martinez,
5 he could be excluded as the major contributor to this sample. And
6 the estimated frequency, of the major DNA profile in the population
7 was rarer than 1 in 30 million.

8 Q And when you say a profile -- or the armpit profile is rarer
9 than 1 in 30 million, I assume that's 1 over 30 million, like in
10 fractions?

11 A Yeah, like probability, is what we're calculating.

12 Q Okay. And that's from the armpit area?

13 A Yes.

14 Q Now sometime after you did that comparison, did you do
15 any sampling on the blood areas of this grey t-shirt?

16 A Yes, I did.

17 Q And what areas did you focus on for the -- for your testing
18 of the blood?

19 A For the grey t-shirt, I tested three different stains on the
20 front of the shirt.

21 Q Okay. What -- can you describe the areas of the shirt?

22 A So two of them were in the lower area where you can kind
23 of see the smear or swipes there, near the bottom of the shirt.

24 Q Okay.

25 A And then the third one I did was right below the collar on

1 the right-hand side. Do you want me to circle it? Or?

2 Q Yeah. Or I'll zoom in, actually.

3 Can you see it? Or?

4 A Yeah. Okay.

5 Q Oh, I think you use the mouse now.

6 A Oh.

7 THE COURT: You can go ahead, just left click and circle it.

8 BY MS. WECKERLY:

9 A So the one near the collar was right here.

10 Q Okay. And then the other parts were the more obvious
11 ones towards the bottom of the t-shirt?

12 A Correct.

13 Q Let me zoom back out. That we -- I mean, we can see the
14 blood there. But the neck area was a much smaller little speck?

15 A It was kind of a streak I would describe it as.

16 Q Okay. And from the sampling of the shirt in those areas,
17 what -- were you able to get results? Let's start with the one
18 towards the neck.

19 A So the stain near the neck, I got a mixture profile of two
20 individuals.

21 Q Okay.

22 A And there was an indication of a male, below threshold.
23 The major DNA profile, from that stain, was consistent with Helen
24 Sabraw. And I wasn't able to make any conclusions about the
25 minor contributor to that mixture.

1 Q In terms of the one at the collar, are you able to generate a
2 statistic as to Sabraw on that upper part --

3 A Yes.

4 Q -- that stain? What is that?

5 A The estimated frequency of the major DNA profile among
6 unrelated individuals in the general population is rarer than 1 in 700
7 billion.

8 Q And that's as to Sabraw on that mixture on the top part of
9 the shirt?

10 A Correct.

11 Q Okay. What about the other -- you said there were two
12 sta -- you divided into two stains on the bottom portion of the grey
13 t-shirt?

14 A Yes.

15 Q And what were your findings, I guess just describe one
16 and then the next one.

17 A So one that I described as being on the lower right front.

18 Q Okay.

19 A I got a single source profile, it was a full female profile
20 that was consistent with Helen Sabraw. And again, the statistic for
21 that one was rarer than 1 in 700 billion.

22 And then for the other stain that I described being in the
23 lower center front of the shirt, I again got a mixture profile of two
24 individuals. The major DNA profile was consistent with Helen
25 Sabraw. And again the statistic for that one was rarer than 1 in 700

1 billion. And I couldn't make any conclusions about the minor
2 contributor to that mixture.

3 Q Now, did you do any further testing on the white tank top?

4 A Yes, I tested stains on that as well.

5 Q Okay. I'm going just to put that on the overhead. This
6 State's -- on the overhead, State's 200. In terms of -- you'd already
7 testified about how you tried to get a wearer profile that that was
8 unsuccessful. This time were you focusing on a different aspect of
9 the shirt?

10 A Yes, I was testing areas of blood stains on that shirt.

11 Q And can you describe what areas that you focused on for
12 your sampling?

13 A Do you want me to try and mark them on here?

14 [Colloquy between Counsel]

15 BY MS. WECKERLY:

16 A Do you want to try to mark them on here again?

17 Q Or you can just describe it.

18 A Okay.

19 Q Whatever's easier.

20 A So there was a stain on the right shoulder strap.

21 Q Okay.

22 A A stain on the left chest.

23 Q Yep.

24 A A stain on the left front shoulder seam. And then a stain
25 on the front bottom right.

1 Q Okay. Let's start with the right inner -- or the right
2 shoulder strap.

3 A Okay.

4 Q What were your findings there?

5 A I got a mixture profile of at least two individuals with an
6 indication of a male contributor below threshold. The major DNA
7 was consistent with Helen Sabraw. And I couldn't make any
8 conclusions about the minor contributor on that sample.

9 Q And are -- were you able to generate a statistic as to
10 Sabraw for that stain?

11 A Yes. Again, it was rarer than 1 in 700 billion.

12 Q Okay. And what about the next stain, which I think you
13 have as the left chest?

14 A Yes. I got a mixture profile of two individuals. The major
15 DNA profile was consistent with Helen Sabraw. The statistic was
16 rarer than 1 in 700 billion. And I could not make any conclusions
17 about the minor contributor to that mixture.

18 Q And the last one -- or no, are we on the left front outer
19 shoulder seam?

20 A Yes. This one I got a single source profile, it was a full
21 female profile, that was consistent with Helen Sabraw. And the
22 statistic is rarer than 1 in 700 billion.

23 Q And the last stain?

24 A Was a mixture profile of two individuals, with an
25 indication of a male below threshold. The major DNA profile was

1 consistent with Helen Sabraw. The statistic was rarer than 1 in 700
2 billion, and I could not make any conclusions about the minor
3 contributor of that mixture.

4 Q So on the four samples that you took from this tank top,
5 two of them -- well all four of them indicated Sabraw and you were
6 able to generate a profile of rarer than 1 in 700 billion?

7 A Correct.

8 Q And then on two of the stains there are indications of a
9 male profile, but it was below threshold and you couldn't interpret
10 that any further?

11 A Correct.

12 Q Okay. So in addition, were you asked to examine some
13 Bali panties that were found at the crime scene?

14 A Yes.

15 Q And were there three different stains that you looked at, in
16 those?

17 A Yes.

18 Q What were your findings with those?

19 A So the first stain was on the inside of the front left leg, and
20 it tested positive for blood and I got a full female profile that was
21 consistent with Helen Sabraw. And the statistic was rarer than 1 in
22 700 billion

23 Q And the next one?

24 A These were stains on the center front below the waist
25 band. Tested positive for blood, and I had a full female profile

1 consistent with Helen Sabraw, and the statistic was rarer than 1 in
2 700 billion.

3 Q And the third one?

4 A This was on the inside near the front left leg opening.
5 Tested positive for blood, and I had a full female DNA profile
6 consistent with Helen Sabraw, and the statistic, again, was rarer
7 than 1 in 700 billion.

8 Q So in terms -- just to kind of summarize, in terms of the
9 stains you were able to analyze, from the panties, it was blood all
10 consistent with Helen Sabraw and no indications of a mixture?

11 A Correct.

12 Q Okay. Now, were you asked to look at a wooden chair
13 associated with that crime scene? And this is State's 121.

14 A Yes, I was.

15 Q Did you get the chair itself? Or were there swabbing's
16 from it?

17 A No, I got the actual chair.

18 Q Okay. And you swabbed it?

19 A Yes.

20 Q And what were your -- did you -- how many areas did you
21 swab?

22 A I tested three areas. There was a stain on the bottom of
23 the cross bar in the back of the chair. And then a stain on the back-
24 right chair leg on the outside of the leg, and then also on the inside
25 of that leg.

1 Q Okay.

2 A Near the bottom.

3 Q So let's start with the first one that you mentioned. That's
4 the bottom of the right bottom cross bar, towards the back of the
5 chair. What were your findings?

6 A So I did a presumptive test for blood, which was positive.
7 However, when I did that second HemaTrace test it was negative.
8 Possibly due to the fact that this chair had been previously
9 chemically processed for latent prints. And we found that has
10 inferred with that HemaTrace test for blood.

11 Q Okay.

12 A I went ahead and tested it for DNA, and got a full female
13 profile consistent with Helen Sabraw, again. And the statistic was
14 rarer than 1 in 700 billion.

15 Q And the second one?

16 A So this was a stain on the outside of the back-right chair
17 leg near the bottom. Again, I had a positive presumptive test for
18 blood, but the confirmatory test was negative. I went ahead and
19 tested it for DNA and got a full female profile that was consistent
20 with Helen Sabraw, and the statistic, again was rarer than 1 in 700
21 billion.

22 Q And the third one?

23 A So this was a stain on the on inside of the back-right chair
24 leg, near the bottom. Again, I did a presumptive test for blood,
25 which was positive, the confirmatory HemaTrace test was negative.

1 I tested for DNA and got a full female profile that was consistent
2 with Helen Sabraw, and the statistic was rarer than 1 in 700 billion.

3 Q Okay. So in terms of the wooden chair, two of the three
4 stains were blood positive, but all three of them were consistent
5 with Helen Sabraw?

6 A All three of them had presumptive --

7 Q Oh, I'm sorry.

8 A -- positive test for blood.

9 Q Okay.

10 A Yeah.

11 Q And all with -- sorry -- all consistent with Helen Sabraw?

12 A Correct.

13 Q Okay. And then did you also analyze a cane?

14 A Yes, I did.

15 Q And that's in our same photograph, which is 121. What
16 were your findings with regard to that?

17 A So for this one, I tested three different stains. And again,
18 this one had been previously chemically processed for latent prints
19 before I got it. So there was one stain on the left side of the cane,
20 kind of up there where it bends, near the handle. I got a positive
21 presumptive test for blood on this. The confirmatory HemaTrace
22 test was negative. And the DNA profile that I got was too partial to
23 make any conclusions about.

24 Q When you get a profile like that, is there any further
25 testing that can be done, or is there just simply not enough data

1 recovered in order to do any further testing?

2 A Correct. There just isn't enough data to do any
3 comparisons.

4 Q Okay. What about the second one?

5 A So this was a stain on the back-left side of the cane.
6 Again, it was a positive presumptive test for blood, the
7 confirmatory HemaTrace test was negative. And then the same
8 thing, it was too partial of a profile to make any comparisons to.

9 Q Okay. So let's sort of shift gears. You also analyzed
10 various items of the evidence from the crime scene associated with
11 Wallace Siegel?

12 A Yes.

13 Q And just to orient where -- this is State's 12. In terms of
14 this scene, were three of the things -- three of the items that you
15 looked at swabs taken from doorways?

16 A Yes, they were.

17 Q Okay. I want to start with the first one which is the front
18 door or the entrance. Is that how it was described to you?

19 A The north door of the apartment entrance.

20 Q Okay.

21 A Yes.

22 Q And so if you look on our diagram that would be 7. And
23 just for orientation this is State's 14. What were your findings with
24 regard to that?

25 A So I did a presumptive test for blood which was positive,

1 and then I got a full DNA profile when I took it on for DNA testing.
2 And when I compared it to the DNA profile of Wallace Siegel, they
3 were consistent with each other. And the statistic for that
4 comparison was again, rarer than 1 in 700 billion.

5 Q Okay. And then the next swabbing, I think it's from the
6 east stairway door?

7 A Yes.

8 Q Okay. What were your findings with regard to that?

9 A So there was very little stain left for me to do a good
10 presumptive blood test on here, so my results were inconclusive for
11 the blood. But then when I took it on for DNA testing, I got a full
12 female DNA profile that was unknown.

13 Q And this is State's 69, I think depicting that door. When
14 you said you -- the stain was faint? Or what did you say?

15 A So it looked like it had been previously tested.

16 Q Okay.

17 A Like, cut by someone else. And so there wasn't a lot of
18 stain left for me to do blood testing.

19 Q Blood testing?

20 A Yes.

21 Q Okay. So you did get a profile?

22 A Yes, I did.

23 Q Okay. And the -- in profile that you got, was that
24 consistent with Helen Sabraw or anybody that you had known in
25 this case?

1 A No.

2 Q Okay. But your -- are you able to give us any conclusion
3 or information about whether or not it was even blood, or was the
4 sample so limited you want to preserve it for the DNA --

5 A -- DNA. --

6 Q -- testing?

7 A -- correct.

8 Q Okay. But you did get a profile just not consistent with
9 anyone that we know?

10 A Correct.

11 Q And then this third swab I think is from an exit?

12 A So this is from the interior of the south door.

13 Q Okay. And this is 174, just for orientation. And what were
14 your findings?

15 A So there wasn't any visible stain left on the swab for me
16 to do any testing for blood. I went ahead and consumed the swab
17 for DNA testing, and then got too partial of a profile to be able to
18 make any comparisons.

19 Q And is that --

20 THE COURT: Hey Julie, I'm sorry did you say two partials,
21 or it was --

22 THE WITNESS: Correct.

23 THE COURT: -- too impartial?

24 THE WITNESS: T-O-O.

25 THE COURT: T-O-O.

1 THE WITNESS: Too partial.

2 BY MS. WECKERLY:

3 Q Anything further that could be done with that?

4 A No.

5 Q And is it like a matter of age, or you think it was limited
6 sample when it was collected, or is it too hard to tell?

7 A It could be limited sample when it was collected, or
8 pervious testing that was done on the -- that swab. That analyst
9 may have cut the stain that would contain DNA.

10 Q All right. In addition to the Siegel -- associated with the
11 Siegel scene, did you do any testing on swabs that were from a
12 steering wheel? The center of --

13 A Yes.

14 Q -- a steering wheel?

15 A Yes.

16 Q And this is State's 85. What were your findings with
17 regard to that?

18 A So when I received the swab, it looked like it had been
19 previously sampled, there was some faint grey stain on it. So I
20 went ahead and consumed it for DNA.

21 Q Okay.

22 A But the DNA profile that I got again, was too partial to be
23 able to make any conclusions on.

24 Q Okay. Anything further that can be done that?

25 A No.

1 Q And then also, did you sample some tan-colored carpet?

2 A Yes.

3 Q This is State's 86. What were your findings with regard to
4 that?

5 A So I did do some presumptive blood tests on the stain, but
6 they were negative. I went ahead and I took a cutting to take it on
7 for DNA and I got a partial male profile that was consistent with
8 Wallace Siegel. The statistic for that one was rarer than 1 in 1.36
9 million.

10 Q Okay. So the profile that you got from that is consistent
11 with Wallace Siegel. Any indications of a mixture?

12 A There were a couple of additional alleles below threshold,
13 that I couldn't make any conclusions about.

14 Q And when you see alleles below threshold, does that
15 mean other DNA is present, or because it's below threshold you
16 can't say whether it is or not?

17 A I really can't say whether it is or not.

18 Q Now, let's see, in the -- back in 2016, did you also do some
19 testing on some newspaper that was collected from the Siegel
20 scene?

21 A I did testing back in 2012.

22 Q Okay.

23 A And then --

24 Q I'm looking at a -- your report that's August 4th of 2016?

25 A So that was a report that I issued to amend statistics, that

1 were --

2 Q Oh, okay.

3 A -- that were reported in my original report.

4 Q Okay. So on -- in '12 you tested the newspaper?

5 A Yes.

6 Q And that was -- I guess part of the initial testing of
7 evidence from the Siegel scene?

8 A Yes.

9 Q And what did you have, just like a piece of the
10 newspaper?

11 A Yeah, it was a cutout piece of the newspaper, that had
12 staining on it.

13 Q And back in 2012, what were your findings when you did
14 the testing then?

15 A So I tested a stain on that newspaper that was positive for
16 presumptive test for blood. And then the DNA profile I got from
17 that was a mixture profile. It was a partial mixture because I didn't
18 get data at all of the locations. But it was a mixture profile of two
19 individuals, with at least one of them being male.

20 Q Okay. And we'll come back to that piece of newspaper in
21 a minute. Back in '12, did you also test a dumbbell?

22 A Yes, I did.

23 Q Okay.

24 A A swab from a dumbbell.

25 Q A swab?

1 A Yes.

2 Q What were your findings with regard to that?

3 A So I did a presumptive test for blood on this, that was
4 negative. And then the DNA profile that I obtained, again was too
5 partial of a profile to make any conclusions on.

6 Q Okay. And what about a Jockey tank top that was
7 recovered from a dresser drawer at the Siegel scene?

8 A I tested two stains on this shirt that were negative for
9 presumptive tests for blood. And I went ahead and took a cutting to
10 take on for DNA testing but did not obtain a DNA profile from either
11 of the stains.

12 Q And is there anything else that can be done with those, in
13 ter -- with that item, in terms of testing?

14 A No.

15 Q Now, sometime after -- well let me ask you this.
16 Sometime after you completed the testing of all of those items, did
17 DNA technology, or testing change, or get more complex?

18 A So I mean the DNA testing itself has become more
19 sensitive, and then the methods that we use for interpreting the
20 DNA profiles have probably become more sophisticated.

21 Q Okay. Have they kind of become less -- was there more
22 consistency in interpretation or thresholds that takes out sort of
23 arbitrary opinions of the analyst? Has that changed at all over time,
24 in your opinion?

25 A Yeah, I mean, the FBI has issued some standards that

1 we're required to follow, that require us to do specific validations to
2 determine these thresholds where we're analyzing our data at. And
3 then also the methods that we're using for interpretation.

4 Q Okay. In terms of mixtures, at the Las Vegas Metropolitan
5 Police Department, sometime after 2012 or even 2016, did the
6 department start using additional or a different methodology for
7 mixtures?

8 A Yes, we have a software tool that we use to help us to
9 assist in interpretation.

10 Q And did you use that for a particular item of evidence
11 associated with these two cases?

12 A Yes, I did.

13 Q Did you prepare a PowerPoint for demonstrative purposes
14 to talk about this type of testing?

15 A I did.

16 MS. WECKERLY: And could we load that in?

17 THE COURT: Yeah.

18 Just so I understand, the original things you were asking
19 about, that she tested from the Siegel scene, was that in 2009 as
20 well? And then it was the newspaper, dumbbell, t-shirt in 2012?

21 THE WITNESS: That -- the -- all of the evidence from the
22 Siegel scene was done in 2012.

23 THE COURT: Oh, all of it, okay.

24 MR. YANEZ: Sorry, Ms. Weckerly, what is this?

25 MS. WECKERLY: This is a PowerPoint she's prepared for

1 demonstrative purposes.

2 MR. YANEZ: Just to explain the STRmix?

3 MS. WECKERLY: Uh-huh.

4 Could you switch us over to --

5 THE COURT: I think you have to hit the button there.

6 MS. WECKERLY: Oh.

7 THE COURT: All right.

8 [Colloquy between the Court and the Clerk]

9 THE COURT: Okay.

10 BY MS. WECKERLY:

11 Q Okay, so you've prepared a PowerPoint to sort of explain
12 how this software works for a STRmix?

13 A Yes.

14 Q Can you explain generally, what was the need for it? Why
15 was it developed?

16 A It was to give us the ability to use more information from
17 the DNA profiles. When we have mixtures and sometimes only
18 have partial profiles, we aren't able to use a lot of the locations that
19 we get because of the complex nature of the data. But using this
20 software tool, it allows us to use more information from the data, to
21 be able to make comparisons to known samples.

22 Q And when the data comes out -- how was the data -- how
23 does it present itself? In ratios, or how?

24 A So when we do the initial STRmix analysis, if we have a
25 mixture, it will give us an indication of the approximate proportions

1 of that mixture and the contributors, how much DNA they're
2 contributing. And then when we do a comparison to known
3 individuals, it calculates a statistic called the likelihood ratio that
4 we're using now to explain the weight of the evidence.

5 Q Okay. So -- yep.

6 So do you have background or knowledge about how that
7 software, for the STRmix, was developed?

8 A I mean, I received extensive training on --

9 Q -- Can you --

10 A -- how to use the software, yes.

11 Q Can you describe what that is?

12 A The training that I --

13 Q -- Yeah.

14 A -- take? So everyone in the DNA section underwent six
15 months of training. We started out with a five-day course with the
16 actual developers of the software, to get hands-on training on it.
17 And then we did follow-up sessions every week for six months, to
18 learn more about the software, and how we were going to use it for
19 interpretation at our laboratory.

20 Q Prior to it coming to Metro, where was it developed, and
21 can you describe the background of it?

22 A So it was developed by scientist and statisticians from
23 New Zealand and Australia. So they designed software and first
24 starting using it in their regions and then started sharing it with
25 other laboratories throughout the world.

1 Q And then it was brought to Metro when?

2 A I believe we purchased it in 2015, and then we had to go
3 through a validation process before we would be able to use it in
4 our laboratory.

5 Q Okay. And you said that Metro did training for all its
6 analysts associated with STRmix?

7 A Yes.

8 Q Was there any type of validation done by the Las Vegas
9 Metropolitan Police Department in terms of the STRmix?

10 A Yeah, so we -- it took us about two years to do the
11 validation. And so we're using hundreds of knowns samples to be
12 able to test the software, using data generated from our laboratory.
13 So these were samples from known individuals and known
14 concentrations, so that we could see -- test out the limitations of the
15 software, to be able to apply the correct interpretation methods to
16 data generated from our laboratory.

17 Q And that was all done prior to the lab issuing any types of
18 reports for STRmix?

19 A Correct.

20 Q And it was validated according to the DNA kits that you --
21 that the Metro lab uses in particular -- associated with mixtures and
22 that sort of thing?

23 A Yeah, so we validated it with the kit that we're currently
24 using, and then we also validated it to data generated with the
25 pervious kit that we were using, which goes back to about the

1 Spring of 2011. So that we're still able to go back and reanalyze
2 that data using STRmix.

3 Q Okay. And can you explain like what is that STRmix, like it
4 can do in terms of interpreting mixtures?

5 A So it's just allows us to be able to use more information
6 from the DNA profiles. And it does this because it does all of these
7 mathematical calculations that we can't do by hand. We couldn't
8 even use an Excel. So it's able to use that information, do the
9 calculations, and then allows us to be able to interpret profiles that
10 we couldn't do before.

11 Q It is more applicable or more informative in terms of
12 mixtures than, like, single source profiles? I mean its purpose is for
13 mixtures, is that correct?

14 A Its main purposes is for mixtures and partial profiles, but
15 we still use it for both single source profiles as well.

16 Q Okay. And can you explain the past interpretation of DNA
17 versus STRmix, I guess?

18 A Yeah, so looking at a mixture profile, so we would say that
19 this was a mixture of two individuals because we would expect up
20 to two peaks to be contributed by each person, and so if you see
21 four peaks there then you would say that this would be from two
22 people. But then when you try to figure out which -- what their
23 DNA profile would be at that different location, there are a bunch of
24 different options. And so --

25 Q So -- I just want to interrupt you. When we're looking at

1 this slide, I see sort of a graph with peaks. Can you explain what
2 you mean by saying, you -- when you look at that you would say,
3 you know there was a presence or absence? Like, explain what you
4 see when you see that type of graph.

5 A Okay. So when I look at this graph, I see four significant
6 peaks that are there. And that 8, 9, 10, 11, those are the different
7 fragments of DNA that we're looking at. And so each person can
8 either contribute one peak or two peaks. If it was one peak, it would
9 be because they're contributing the same number from both their
10 mother and their father. So if you see four peaks, then you would
11 expect that maybe you would have two people that are each
12 contributing two different peaks.

13 Q Okay. So the sort of chart that's on the right-hand side,
14 that's depicting, based on the graph, the combinations that could
15 be included from looking at that data?

16 A Correct. And the way that we did our interpretations in
17 the past, if that parti -- persons' particular DNA profile was one of
18 those options on the right-hand side, then we would include them
19 at that location.

20 Q And then how did it change with the STRmix?

21 A So this wasn't necessarily new from STRmix, this was
22 kind of an evolution in between there. Where if we would see that
23 we had four peaks, we're going to assume that there are two people
24 in this mixture, so that we know that they have to be contributing
25 two unique peaks each. And so you can't have people contributing

1 two of the same number.

2 Q All right.

3 A And so that's why we were able to eliminate those four
4 possible combinations there. And so, this kind of restricts the
5 possible DNA profiles that would be included in this mixture.

6 Q And that's how the interpretations sort of evolved over --

7 A Correct.

8 Q -- like a period of time you were able to eliminate people
9 based on knowing that two people would each be contributing?

10 A Correct.

11 Q Okay. And then, move on to your next --

12 A And so these are the kind of DNA profiles that we're able
13 to look at using STRmix now. So you can see that they aren't
14 always obvious, where you're getting, like, two clear contributors.
15 Like we can make assumptions, again, based on how many
16 contributors we think that there are to this mixture. But then the
17 software's able to determine which DNA profiles at those locations,
18 would make the most sense to be a contributor to that mixture.

19 Q So looking at the part of the data that's on the far left, on
20 the slide --

21 A Yes.

22 Q -- there's 16, 3, 49, and then there's another box. Explain
23 what that is, what are we looking at there?

24 A So again, each of these peaks represents a fragment of
25 DNA that's being contributed by any number of individuals. When

1 we are determining how many people are possibly contributor --
2 contributing DNA mixture to this mixture profile, we're still looking
3 at the heights of the peaks, to help give us an idea of how many
4 possible contributors are here. Because if they're going to
5 contribute two numbers, you would expect them to contribute
6 those two numbers equally. And so you would be looking for equal
7 peak heights to give you an indication that those two might be
8 coming from the same person.

9 Q And look -- staying with that box that's on the far left,
10 does that data suggest a mixture, or a single source?

11 A This would indicate a mixture of mostly likely three
12 individuals.

13 Q And how do you see that in the data? Tell us what you're
14 seeing -- that you know --

15 A -- So I'm --

16 Q -- that it's three.

17 A -- I'm looking for peaks that could possibly pair up with
18 each other to show that they're being contributed by the same
19 individual.

20 Q Okay.

21 A So I would think that the 19 peak, which is the second
22 peak --

23 Q Yep.

24 A -- and the 28 2 -- 28.2 peak, which the peak on the far
25 right --

1 Q Okay.

2 A -- that because those are kind of balanced in their peak
3 heights, that they're being contributed by the same person.

4 Q Okay.

5 A So that's one person.

6 Q All right.

7 A For the second person I would make the assumption that
8 they are contributing the first 16 peak --

9 Q Right.

10 A -- and then the next to last 27.2 peak, because they are
11 somewhat balanced.

12 Q And the number below, like the 16, the 19, and the 21,
13 what is that number?

14 A That's again, what we called RFU, or relative fluorescence
15 unit. And that's what's telling you how high that peak is compared
16 to the other peaks there.

17 Q Okay. So in that -- looking at that part again, you pointed
18 out two peaks that appear at one height, two peaks that appear
19 relatively at another height, but you said that there could be three
20 people in this mixture?

21 A Yeah, so that fifth peak that's in the middle, the 21 --

22 Q Right.

23 A -- that gives the indication that there's a third contributor
24 there. And it could be that they're only contributing at 21, or it
25 could be that they're contributing at 21 and then the second

1 number that they're contributing is either included in one of the
2 other taller peaks, or it's what we call dropout, where it wasn't
3 detected by the testing method that we used.

4 Q Okay.

5 A But STRmix is able to predict the possibility of that
6 dropout, and it -- we're able to use that then in the statistic.
7 Previously if we thought that there was dropout, we would exclude
8 the location from making any comparisons.

9 Q So STRmix is sort of able to calculate the possibility of
10 incomplete data?

11 A Yes.

12 Q Okay. And so when a analyst looks like -- looks at that, the
13 pervious way to an interpret it would be to eliminate it. With
14 STRmix there's a likelihood ratio associated to whether you include
15 it or not include it?

16 A Correct.

17 Q Is that fair?

18 A Yes.

19 Q Okay. And are the other two graphs just similar
20 examples?

21 A Correct.

22 Q Okay. So we'll move on. What is deconvolution?

23 A So this is, kind of the teasing apart of the mixture by the
24 software, to try to pull out the individual contributor profiles that
25 are contributing to that overall mixture profile. And so then it will

1 basically pull out individual profiles from that mixture to be able to
2 make the comparisons to the known individuals.

3 Q And when you're -- when an analyst is using STRmix, do
4 you -- are you inputting possibilities or hypotheses for the software
5 to kind of make the calculation?

6 A Yeah, so we're looking at the data up front, and we're
7 making the determination of how many individuals we think are in
8 that mixture.

9 Q Okay.

10 A And so then once we tell the STRmix software this
11 mixture has two people or it has three people, it will do its
12 modeling and testing using that assumption to run the software.

13 Q So when we were in the previous slide when we were --
14 well actually, or this one when we're looking at the peaks and the
15 RFU's --

16 A Yes.

17 Q -- are you still looking at that data before you input it into
18 the STRmix software?

19 A Yes, because we're using that data to help us determine
20 how many contributors are in that mixture.

21 Q Okay. And then -- and just -- is there anything else on that
22 slide you need to talk about?

23 A No.

24 Q Okay. And so then I guess we've kind of covered this, but
25 when you're -- when the analyst does -- is looking at, there is some

1 aspect that the analyst is sort of saying, look I think there's two
2 people based on the peak heights and the RFU's and maybe seeing
3 other data?

4 A Yeah, and what this slide is showing is that in the past we
5 were basically picking out the single combinations -- the single set
6 of combinations that would make up this mixture. And that was
7 based on the peak height. And so for here, we were saying that the
8 major DNA profile is that the taller 29, 31 peaks there. And so then
9 that would make the minor contributor profile the smaller 28, 30
10 peaks here.

11 Q Okay.

12 A However, when you use the STRmix software, it still
13 considers all of the possible combinations. And then it assigns
14 weights based on which ones fit the data the best.

15 Q And when you -- I think that's the next slide --

16 A -- Yeah.

17 Q -- but when you say fits the data the best, is that based on
18 the RFU, or is it based on what else is possible in terms of like,
19 different numbers on alleles?

20 A It's still using the peak height of the data.

21 Q Okay.

22 A And so it basically -- it considers all of those possible
23 combinations that would explain this DNA profile. But then when it
24 actually compares it to the data, that's in front of it, it gives more
25 weight to the ones that make more sense based on those peak

1 heights.

2 Q Okay. And why couldn't that be done, if you know, by the
3 analyst?

4 A It's just -- part of it is the math that's involved is too
5 complex to be able to do by hand.

6 Q Okay. So when you have -- this slide, you have an
7 example of the two-person mixture and like the STRmix
8 interpretation?

9 A Yes.

10 Q So when I see this, is it -- am I right that you would say it's
11 a two-person mixture because you see two peaks at the same
12 height, and two peaks at the other relative same height?

13 A Correct.

14 Q And then -- how does like -- like how does STRmix make a
15 different calculation than an analyst would, I guess?

16 A So it considers all the possible combinations that would
17 explain this mixture. So even though -- so the major contributor,
18 which it's saying is 89 percent, even though it's pretty clear that it --
19 that they're the 29, 31, it will still consider a combination where
20 they're actually contributing a 28, 30.

21 Q Okay. That's accounted for, in the cal -- in the likelihood
22 ratio?

23 A Yes. And it assigns that very low weight, because it's very
24 unlikely that the major and minor would kind of flip flop the profile
25 when you have that incidence.

1 Q Okay. And then what is like a mixture proportion?

2 A So this is what it's doing -- so when we're telling it that it
3 has two contributors, it's going to look at the data and try to
4 determine what proportions they're contributing DNA to that
5 profile. And so, you know, it adds up to a hundred, but it will break
6 it up into -- if you have a two-person mixture it will break it up into
7 two parts. If you have a three-person mixture it will break it up into
8 three parts, saying how much DNA is being contributed by each
9 individual.

10 Q Now you also mentioned that STRmix can account for,
11 like an incomplete profile?

12 A Yes.

13 Q So like, missing data?

14 A Correct.

15 Q And the way it accounts for that, I assume is in the
16 likelihood ratio to -- on each different hypothesis? Does that makes
17 sense? Or how would you describe it accounts for it?

18 A Well, so when it's looking at those possible combinations
19 of the profile at that particular location, sometimes if the profile
20 looks like it's degraded and possibly, dropout would be expected it
21 will propose a Genotype, or you know a DNA profile at that location
22 that doesn't have a number that's actually called in the profile. It
23 labels the missing number of Q. And so it will consider a profile
24 where either both numbers have dropped out or maybe one of the
25 numbers have dropped out, and it will assign of weight just like it

1 does when a number's actually called.

2 Q Okay. And then the assigning weight, is how we get to
3 the likelihood ratios of various hypotheses?

4 A Yes, it's considered in the likelihood ratio.

5 Q Okay. And then are there -- it generated statistics based
6 on that right, the likelihood ratio --

7 A -- Yes.

8 Q -- this hypothesis versus this one?

9 A Correct.

10 Q Okay. Thank you.

11 And can you explain what likelihood ratio is?

12 A Okay. So like a ratio is a fraction. And so you're
13 comparing two different probabilities so -- you have a probability
14 given one hypothesis that you're comparing to a probability given a
15 different hypothesis. And so it's the ratio of those two different
16 probabilities that gives you a likelihood ratio.

17 Q Okay. And so this is like an analysis -- STRmix is an
18 analysis -- it's not like the testing of the DNA, it's more of an
19 analysis of mixture results, right, to generate the likelihood ratios of
20 combinations of people?

21 A Yeah, I mean it's still going to consider the frequency of
22 the different alleles, that are occurring because that's considered in
23 those probabilities. But then it's comparing, you know,
24 probabilities given one set of evidence and then comparing it to a
25 probability given a different set.

1 And so, this is just an example. So again it's a fraction, so
2 you're comparing one event to another. And so if we think of rain,
3 where they sometimes say that the chance of rain is 80 percent. So
4 that probability is .8. And then you would be comparing that to the
5 probability of there being no rain, which is the opposite of that,
6 which would be .2. And if you divide those the probability that it's
7 going to rain over the probability that it's not going to rain, you
8 would get a likelihood ratio of 4. And so then you would say it's 4
9 times more likely that it's going to rain than it's not going to rain.

10 Q Okay. How do you use that likelihood ratio in terms of
11 DNA?

12 A So the hypotheses that we're setting up here, in the top
13 part of the ratio, or the numerator, is what is often called the
14 prosecutor's hypothesis.

15 Q Okay.

16 A And so this is going to be the hypothesis that you're
17 including someone in that particular sample.

18 Q Okay.

19 A Where are the denominator, or the bottom part of the
20 ratio, is often referred to as the defense hypothesis. And this is
21 going to be the hypotheses that you're excluding the person from
22 that mixture.

23 Q And then -- well you just explained that -- but -- and then
24 the -- once you put the hypothesis in, then the software will
25 generate the actual numeric ratio?

1 A The likelihood ratio, yes.

2 Q The likelihood ratio.

3 And I don't think we need to go into what the numbers
4 mean.

5 But in this case, what did you do the STRmix on?

6 A So I went back and reanalyzed the data from that stain on
7 the newspaper cutting.

8 Q Okay.

9 MS. WECKERLY: Can I have that flipped back over?
10 Please?

11 THE COURT: You just got to hit that button.

12 MS. WECKERLY: Oh, I'm -- sorry.

13 BY MS. WECKERLY:

14 Q This is State's 81. Did you have the whole newspaper, or
15 did --

16 A No, so I had that little cutting on the bottom.

17 Q Okay.

18 A And then I tested the stain that was covering the B-L in
19 boulevard.

20 Q Okay. And so that stain?

21 A Yeah.

22 Q And what, I mean, orig -- just remind us, originally, you
23 got a mixture?

24 A Yeah so originally, I had a mixture of two individuals and
25 that would still be the same conclusion -- I would still be making the

1 same conclusion that there were two individuals in that mixture.

2 Q Okay.

3 A Even today.

4 Q And then you, though -- use STRmix to analyze that
5 mixture?

6 A Yes, I did.

7 Q Okay. And how -- like, do you input it into a computer, or
8 does it look like --

9 A Yeah so I input the data into the software and then it does
10 the initial deconvolution of the mixture. And that's where it's going
11 to determine the approximate mixture proportions --

12 Q Okay.

13 A -- you know, and how much DNA each contributor is
14 giving. And then after that I take the comparisons to the dominant
15 individuals' side of that.

16 Q Okay. And what were -- what was the hypothesis -- what
17 was the finding that you got?

18 A So for this particular sample, so it was a mixture of two
19 individuals. The approximate mixture proportions was a 85 to 15
20 mixture proportion. And then I compared all of the reference
21 samples that I had individually to the profile. And then when I
22 determined that there were multiple individuals included, then I ran
23 a separate likelihood ratio including both of those people in the
24 same time.

25 Q Now when you say that the samples were 85/15, does that

1 mean like 85 percent/15 percent?

2 A Yeah, so that major contributor was contributing 85
3 percent of the DNA and then the minor contributor was contributing
4 15 percent of the DNA.

5 Q Okay. And so you can see that in your data?

6 A Yes.

7 Q And then you had a bunch of buccal swabs of known
8 individuals and -- what the software does is sort of tease out, or
9 kind of calculate out what's the likelihood ratio of various
10 combinations of individuals?

11 A Correct.

12 Q And what were the results?

13 A So when I did the individual calculations where I was only
14 comparing one person to the sample at a time, for the first sample
15 from Wallace Siegel, he was included as being a contributor to the
16 mixture. And the likelihood ratio for that one -- so we report it as
17 the probability of observing the mixture DNA profile, is at least
18 3.01-quintillion times more likely if it originated from Wallace Siegel
19 and an unknown contributor than if it originated from two unknown
20 contributors.

21 Q Okay. And quintillion is, like many zeros?

22 A Yeah, there's 18 zeros, after that.

23 Q Okay. And then did you do a different hypothesis other
24 than just Wally Siegel and an unknown individual?

25 A Yeah, so I also did Helen Sabraw and one known

1 individual, and the likelihood ratio for that one was at least 50,000
2 times more likely that it was Helen Sabraw and an unknown, than if
3 it was two unknown contributors.

4 Q Okay. And what about the combination?

5 A So when I did the combination of the two of them -- and
6 so this would be the probability of observing the mixture DNA
7 profile, it was at least 593-sextillion times more likely than if it
8 originated from Wallace Siegel and Helen Sabraw, than if it
9 originated from two unknown contributors. And that sextillion
10 number, there are 21 zeros after that number.

11 Q Thank you.

12 MS. WECKERLY: I'll pass the witness Your Honor.

13 THE COURT: All right. Ms. Hernandez.

14 MR. YANEZ: Good afternoon, how are you?

15 THE COURT: Or Mr. Yanez

16 MR. YANEZ: Yes. Oh, sorry.

17 **CROSS EXAMINATION**

18 BY MR. YANEZ:

19 Q Ms. Marschner, a few minutes ago on your direct
20 testimony, you used the phrase, touch DNA. Do you remember
21 that?

22 A Yes.

23 Q Okay. That's a bit of a misnomer calling it touch DNA,
24 correct?

25 A I mean, we --

1 Q You know what, let me explain what I mean by that.
2 Touch DNA seems to give the assumption that someone's DNA is
3 on an object because it's been touched by that person, right?

4 A Or if it came into contact with their skin.

5 Q Right.

6 A Yes.

7 Q But, just because someone's DNA is on an object doesn't
8 necessarily mean that they touched that object. You'd agree with
9 that, correct?

10 A Correct.

11 Q Okay. And same thing I think Ms. Weckerly used the
12 phrase, wearer profile. I'm assuming she was using that similar to
13 touch DNA? Same thing, wearer profile does it mean if you find a
14 DNA on someone's shirt that necessarily means they wore that
15 shirt, correct?

16 A Correct.

17 Q Doesn't necessarily mean they were the last person to
18 touch the that shirt, correct?

19 A Correct. I can't tell how DNA got there.

20 Q Right.

21 A I can only speak to the results that I got from the prior
22 investigation.

23 Q Right. And you know who Kim Murga is?

24 A Yes.

25 Q Okay. We had this whole discussion yesterday about

1 transference. Is she your supervisor, or is she the boss of the lab,
2 or what's her relationship and yours at the laboratory?

3 A So she's currently the director of the laboratory.

4 Q Okay. Not that you don't have an important position, but
5 she would be the supervisor then?

6 A Correct.

7 Q Okay. I want to back track a little bit to that March 2009
8 report, so if you need to reference it, I just want to follow up on a
9 few things.

10 Now you mentioned that -- tell me when you're ready.

11 A I'm ready.

12 Q Okay. You mentioned that you analyzed the sexual
13 assault kit, correct?

14 A Certain items, yes.

15 Q Right. The swabs, right from the -- rectal swabs, vaginal
16 swabs, oral swabs, correct?

17 A Yes.

18 Q Okay. And you indicated that those all came back
19 negative for semen, right?

20 A Correct.

21 Q All right. And you found now DNA foreign to Helen
22 Sabraw, right?

23 A I only tested -- so I only tested the fingernail clippings
24 from the sexual assault kit, and there was no foreign DNA on those
25 items.

1 Q Right, okay. Yeah, sorry I was switching gears. That kit
2 was also tested by an analyst named Terry Cook back in 1998,
3 right?

4 A Correct.

5 Q Okay. And he obtained the same results as you, right?

6 A I'm not as familiar with the results that he obtained in
7 his --

8 Q -- Okay.

9 A -- report.

10 Q Yesterday, when Ms. Murga testified, she said that Terry
11 Cook didn't find any semen as well, you have no reason to disagree
12 with that would you?

13 A [No audible response - nods head yes].

14 Q Okay. You tested a few other items looking for semen.
15 You tested, what you label as wadded toilet paper with fecal
16 matter -- fecal material and hairs, right?

17 A Yes.

18 Q Okay. And that came back negative?

19 A Correct.

20 Q All right. And you already mentioned the brown carpet
21 came back negative for any type of semen?

22 A Correct.

23 Q And then you just mentioned, the fingernail clippings both
24 as to the left hand/right hand, those are all consistent with Helen
25 Sabraw, no foreign DNA there, correct?

1 A Correct.

2 Q And same thing with the Starbucks coffee mug, and those
3 carpet stains that you already mentioned, right?

4 A Correct.

5 Q Okay. The first time you became involved testing-wise,
6 with the white t-shirt, undershirt, and the grey t-shirt that was found
7 in Sabraw's room, that was in 2009, correct?

8 A Correct.

9 Q Okay. And that's where you obtained that profile and
10 placed it in -- you had it placed in CODIS?

11 A Yes.

12 Q Okay. That was your first time touching those two objects
13 or dealing with those objects?

14 A Yes, it was.

15 Q Okay. And you're aware that two previous analysts had
16 tested those same -- maybe not the same extracts, but the same
17 items, the t-shirt and the grey shirt?

18 A Correct.

19 Q Okay. One of them was Terry Cook in '98, yes?

20 A Yes.

21 Q And the other one was David Welch in 2000?

22 A Correct.

23 Q Okay. So you're the third analyst at that point, who's
24 handling those two items?

25 A Yes.

1 Q Okay. Now, the extracts that you took in August of 2009 --
2 well let me back up. Your August 2009 report is basically related to
3 your report -- sorry -- in -- let me find my other reports here. Your
4 August 2009 report is related to the one that you issued in 2010
5 based on that CODIS match, right?

6 A When I had the buccal swab, yes.

7 Q Yes. So the 2009 one, the cuttings that you took from
8 grey t-shirt, those were separate cuttings that David Welch had
9 taken, and that Terry Cook had taken, correct?

10 A Correct.

11 Q Okay. So this would be a third set of cuttings for that grey
12 t-shirt?

13 A Yes.

14 Q And the same thing applies for the white tank top, right?
15 You took your own separate cuttings?

16 A Yes, I did.

17 Q And that would be a third set of extractions, let's say, from
18 Terry Cook in 1998, Welch in 2000, and now you in 2009, correct?

19 A Correct.

20 Q Okay. Now the 2009 report, and with the 2010 report, as
21 to the neck cuttings, I want to focus on those neck cuttings.

22 A Okay.

23 Q You indicated, I believe in the 2009 report versus the 2010
24 report, as to those neck cuttings, in 2009 you said there was a
25 contributor -- contribution of two individuals. In 2010 you said, of at

1 least two people, correct?

2 A Yes, I did.

3 Q Okay. And you would agree with me, as to those neck
4 cuttings, if you account for Gustavo Ramos' alleles, and Helen
5 Sabraw's alleles, there's additional alleles that can't be included
6 from Mr. Gustavo, or for Helen Sabraw, correct?

7 A Correct.

8 Q And that would indicate a third contributor, correct?

9 A Yes, which is why I increased it to at least two.

10 Q Right, right, right. But I just want to ma -- I just obviously
11 want to make that point, there's alleles in there, and that's what --
12 that don't relate to Mr. Ramos, or to Ms. Sabraw, and that's why
13 you said at least two, because there's that third unaccounted for
14 alleles -- at different loci, right?

15 A So on the neck cuttings, I wasn't able to include or
16 exclude Helen Sabraw.

17 Q Right.

18 A Yeah.

19 Q Right. I just want to make sure we're on the same page,
20 right? There's additional alleles that you cannot attribute to Mr.
21 Ramos, or to Ms. Sabraw at different loci, right?

22 A Yes.

23 Q Okay. I ca -- there was 15 loci that were -- is that right, is it
24 15?

25 A 15 that were tested?

1 Q Right.

2 A Yes.

3 Q And on those neck cuttings, at ten of those loci, there are
4 alleles not attributable to either Mr. Ramos or to Ms. Sabraw, is that
5 correct? And I do have the electropherograms if you need to --

6 A Is that what you're looking at, okay.

7 Q Yeah.

8 A Are you looking at one that is marked on, like --

9 Q Yeah, well I have ones that I marked on and then I have
10 the actual -- permission to approach, Judge?

11 THE COURT: Yes.

12 BY MS. WECKERLY:

13 Q If you wanted to see the -- if you look at this one, and I got
14 this from your report -- those are your initials at the bottom, right?

15 A Yes, you're looking at allele tables, what we call the
16 tables.

17 Q Right. And then if you compare those with what your --
18 what the profile obtained for Helen Sabraw and for Mr. Ramos.

19 A Okay.

20 Q Okay. So I counted, you can correct me if I'm wrong --
21 and if it's an approximation that's fine, but of those 15 loci, at 10 of
22 those, there is present alleles that do not -- you cannot attribute to
23 Mr. Ramos, or to Ms. Sabraw, correct?

24 A So the way that you're doing your comparison isn't
25 something that I would actually do. So I look at the raw data, which

1 is the one that has the peaks on it.

2 Q Okay.

3 A And so that's where I'm determining whether there's a
4 clear major profile. And so then I'm comparing that major profile to
5 the known individuals I have. And then --

6 Q Well, let me ask you this way then, at least based on the
7 result of the electropherogram, okay?

8 A Okay. The electropherogram's what I considered the
9 peak.

10 Q Oh.

11 A The one that has the peaks on it.

12 Q Okay. Then the -- what would you call --

13 A Allele table?

14 Q Yeah, okay the allele table?

15 A Yes.

16 Q Right. Based on these numbers, there is this potential
17 third person, correct?

18 A If you were going to look at it that way, yes.

19 Q Okay.

20 A That's not --

21 Q -- And --

22 A -- the way I do my interpretation.

23 Q Right, but that is why you aim -- you changed your report
24 to at least two people, versus a year before you said just two
25 people, correct? That's what we just discussed just a few minutes

1 ago. I'm just kind of re-going over what you already agreed to. Or
2 correct me if I'm wrong.

3 A No, you're right. It's taking another look at the data, and
4 determining whether that initial assumption of two individuals was
5 correct or not, or is there an indication of an additional contributor.

6 Q Right. There's an --

7 A -- Yes.

8 Q -- addi -- right, and you would agree there is indication of
9 an additional contributor?

10 A Yes.

11 Q Okay. And sorry, maybe I went the wrong way of doing
12 that, I just wanted to make sure that point was being made.

13 And then on the armpit cuttings of the grey t-shirt, there
14 you did say you found a mixture of at least three people, correct?

15 A Yes.

16 Q Okay. Now this mixture from the basis of those reports,
17 that's never been run through STRmix correct?

18 A No, because this data was run prior to 2011, and it's only
19 after 2011 that we're able to go back and look at that data.

20 Q Okay. The June 2012 report -- so I'm switching, I'm
21 moving past that one now.

22 A Okay.

23 Q And I believe this is the Siegel Case.

24 A Okay.

25 Q Now on this one, there was testing of items that were

1 from inside of a 1993 Dodge, right? An automobile?

2 A Yes.

3 Q Okay. And it was the carpet between the front seats?

4 A Yes.

5 Q Right? Okay. And I just want to kind of go over your
6 results. On the carpet between the seats, you found a partial profile
7 consistent with Wallace Siegel, right?

8 A Correct.

9 Q Okay. And then you mentioned your statistical frequency
10 was 1 in 1.36 million, correct?

11 A Correct.

12 Q Okay. You're aware that wa -- that item was tested in
13 1998, by Terry Cook?

14 A Yes.

15 Q Okay. And previously, in 1998, he also detected a mixture,
16 correct?

17 A Again --

18 Q And if you don't remember that's fine, not a huge point.

19 A Yeah.

20 Q And you know that he tested that item, correct?

21 A Yes, I do.

22 Q Okay. And Cook found, back then, that the substance was
23 in fact blood.

24 A Okay.

25 Q Okay. Are you aware of that? That it was tested in 1998

1 by Terry Cook and he found it to be blood?

2 A I'll have to take you at your word.

3 Q Well I'm just -- if you don't know, you don't know.

4 MS. WECKERLY: I'm going to object. That was Kim
5 Murga's testimony --

6 MR. YANEZ: I'm --

7 THE COURT: Well --

8 MS. WECKERLY: -- about Terry Cook's report.

9 THE COURT: -- I'll sustain the objection to the nuance of
10 who it was that was testifying versus what -- who it was that found
11 it. You're correct, in that she, Kim Murga testified that Terry Cook
12 found that to be blood.

13 MR. YANEZ: Right. And I was asking if he knew that; that
14 was my question. If I stated it improperly, I'm sorry.

15 THE COURT: Okay.

16 BY MS. WECKERLY:

17 Q My only question at this point was, are you aware of that?

18 A I know that he tested it. I'm not as familiar with the
19 results --

20 Q -- Okay.

21 A -- that he got from that testing.

22 Q And if Ms. Murga testified yesterday under oath, that that
23 was tested by Cook, and it was in fact blood, you have no reason to
24 disagree with that based on your testing, correct?

25 A Correct.

1 Q Okay. And the -- switching gears, we're staying on the
2 same page; on the steering wheel, that also was previously tested,
3 by Terry Cook, correct?

4 A Yes, it was.

5 Q Okay. And are you aware that Terry Cook's testing
6 showed that to be blood?

7 A Not intimately, no.

8 Q Okay. You have no reason to disagree if Ms. Murga
9 testified yesterday that Terry Cook's results, was in fact, blood.
10 You'd have no reason to disagree with that?

11 A Correct.

12 Q Okay. Now the -- switching over now to that interior door
13 handle of the east stairway. Are you with me?

14 A Yes.

15 Q Okay. Are you aware that that item was also tested by Mr.
16 Cook in 1998?

17 A Yes.

18 Q Okay. And in that one there was a full female profile that
19 you found, and -- correct?

20 A Yes.

21 Q Okay. And Helen Sabraw is excluded as being one of the
22 contributors, correct?

23 A Correct.

24 Q Okay. And are you aware that in Terry Cook's testing, that
25 he found substance to be blood?

1 A I don't have reason to disagree if --

2 Q Oh, okay.

3 A -- if that's what was testified too?

4 Q Yes, I was going to ask that, you beat me to my next
5 question. You have no reason to disagree if that was testified too?

6 A Correct.

7 Q Okay. The full female profile, as far as you're aware was
8 never put into CODIS?

9 A No, it was not.

10 Q Okay. And that's something that could've been done,
11 correct?

12 A Based on the location, and where it was to the actual
13 homicide scene, it may not be eligible to be put into CODIS.
14 Because it was a common stairway, you might not be able to say
15 that it was directly related to the crime, rather than being deposited
16 there previously.

17 Q Is your testimony then, you're 100 percent sure that that
18 full female profile that is not eligible to be placed in CODIS? Or is
19 your testimony, that you're not sure?

20 A I'm not sure.

21 Q Okay. That's fair.

22 Now staying on that June 2012 report, you're still there?

23 A Yes.

24 Q Okay. One of the items that you also tested there, was
25 what's labeled -- you labeled it as JM-5, as a Jockey white tank top.

1 A Okay.

2 Q Right? And you tested some stains on that item, correct?

3 A Yes.

4 Q Okay. And the size of that tank top is a large, correct?

5 A Do you mind if I refer to my notes to see --

6 Q Please do.

7 A -- if I noted it.

8 Q Go ahead.

9 A Yeah, I noted it was a size 42/44 Large.

10 Q Okay. And as far as you're involved in direct testing,

11 that's the only time this item has been tested, is that correct?

12 A Yes.

13 Q Okay. Now switching over to your -- same year, but in

14 October -- your October 2012 report.

15 A Okay.

16 Q And you -- this is now additional testing that is done on

17 the Royal t-shirt that is found in Ms. Sabraw's room and the white

18 tank top that's found there are well.

19 A Correct.

20 Q Correct? Okay. So this would've been your second time,

21 correct, handling those two items?

22 A Yes.

23 Q All right. Because you didn't -- you already had a profile

24 in 2010, you didn't have to handle those again, right, you were just

25 doing a comparison? In 2010, when the CODIS matched?

1 A Correct. I didn't get the evidence out again, I used the
2 profiles generated --

3 Q Right.

4 A -- in 2009.

5 Q Right. So it's your -- excuse me -- it's your second time
6 handling it, and it would be based on what we said about Terry
7 Cook, or what you said about Terry Cook, and well, this is now the
8 fourth time it's being handled, correct?

9 A Correct.

10 Q Okay. And you went through it, there was no foreign DNA
11 besides Helen Sabraw's, correct?

12 A There -- so I was testing --

13 Q That you could identify.

14 A Correct.

15 Q Okay.

16 MS. WECKERLY: I'm sorry --

17 THE COURT: Wait, which item are we --

18 MS. WECKERLY: -- what are we talking about?

19 MR. YANEZ: October 2012 reports.

20 THE COURT: No, which item?

21 MS. WECKERLY: Well

22 MR. YANEZ: The grey Royal t-shirt and the white tank top.

23 THE COURT: Okay.

24 THE WITNESS: The stains.

25 MR. YANEZ: Yes.

1 MS. WECKERLY: The blood stains?

2 THE WITNESS: Yeah.

3 MR. YANEZ: Yeah, the stains.

4 MS. WECKERLY: Okay.

5 MR. YANEZ: Yeah.

6 BY MS. WECKERLY:

7 Q And I -- we can go through them individually, the grey
8 Royal t-shirt, there's a stain on the lower right front, full female
9 profile; that was Ms. Sabraw's?

10 A Correct.

11 Q Right. Stain on the lower center front, Ms. Sabraw?

12 A She was the major profile.

13 Q Right. A stain right, front, below collar?

14 A She was the major profile of the mixture.

15 Q Correct. None of that you include Gustavo Ramos in any
16 of those correct, in your report?

17 A I couldn't make any conclusions about the additional
18 contributor to the mixture.

19 Q Right.

20 A Correct.

21 Q Just like my DNA, you couldn't make a -- you don't -- if
22 you have my DNA you couldn't make that because you didn't
23 sufficient information to make that determination, correct?

24 A Correct.

25 Q Okay. And so I don't drag you on here too long, the white

1 tank top, same thing? There's four different stains, you analyzed
2 that. The profile that you could obtain was Helen Sabraw's?

3 A Correct.

4 Q Okay. Thank you, Ms. Marschner.

5 MR. YANEZ: I have nothing else, Judge.

6 THE COURT: Thank you. Ms. Weckerly?

7 **REDIRECT EXAMINATION**

8 BY MS. WECKERLY:

9 Q Ms. Marschner, back in 1998, are you familiar with the test
10 that the lab used to determine -- or test for the presence of blood?

11 A So they would've been using the same phenolphthalein
12 test that we currently use.

13 Q Okay. And that's a presumptive, not conclusive?

14 A Correct.

15 Q And that would've been the test that Terry Cook used back
16 in 1998?

17 A Correct.

18 Q You are the CODIS administrator --

19 A -- Yes.

20 Q -- for Metro now?

21 A Yes.

22 Q In order for evidence profiles to be entered into CODIS,
23 are there restrictions or rules about what can go into CODIS?

24 A Yes, so it -- you know, obviously when you're talking
25 about an unknown profile from a crime scene it has to be

1 attributable to the suspect in the case. So you don't put every
2 unknown profile in the CODIS, you have to be able to provide
3 written documentation as to why you think that that blood is from a
4 suspect in the case that committed the crime.

5 Q And if you break the CODIS rules, are you no longer --
6 you're no longer allowed to have access to it?

7 A Correct.

8 Q Okay. Now in terms of the grey t-shirt, when you -- were
9 you the first person to sample the armpit area from the inside?

10 A From the t-shirt, yes.

11 Q Okay. The collar area had been sampled previously by
12 Terry Cook?

13 A I believe Dave Welch.

14 Q Or Dave Welch, I'm sorry.

15 A Yes.

16 Q But you were the first one who did the armpit area?

17 A Yes.

18 Q And that was, obviously, from the inside of the shirt?

19 A Yes.

20 Q That same t-shirt, the blood samples from, sort of the neck
21 area and the lower area, did you swab those from the inside, or the
22 sort of outside of the t-shirt?

23 A From the outside of the shirt.

24 Q Mr. Yanez showed you some allele tables with multiple
25 numbers and you know, just sort of counting up, you know, where

1 there were exclusions or additions and you said I -- that's not how I
2 make the calculation whether or not, you know, there's two
3 contributors or indications of three or four?

4 A Correct.

5 Q Why is that? Why don't you do it from the table?

6 A Because that's -- it's kind of stripped of the information
7 that is present in the DNA profile. So if you look at the
8 electropherogram that has the peaks, there you can see the
9 different -- the differences in the peak heights to give you a better
10 indication of whether there's an additional contributor or not.

11 Q Would it be scientifically sound to just look at the allele
12 tables and make determination of -- determinations about the
13 number of contributors or inclusions and exclusions?

14 A No.

15 Q How many labs are currently using STRmix, if you know?

16 A I believe in the United States, there are 40 labs that have
17 brought it online, and have completed their validation. And I know
18 of number more that are still in the validation process. And then
19 it's being used in other countries as well, besides Australia and
20 New Zealand.

21 Q Thank you.

22 MS. WECKERLY: Nothing else, Judge.

23 THE COURT: Mr. Yanez?

24 MR. YANEZ: I have nothing further, Judge.

25 THE COURT: Ms. Marschner, thank you very much for

1 your time. I appreciate it, you are excused.

2 Do you guys have any other witnesses today?

3 MS. WECKERLY: We do not.

4 THE COURT: Okay. So how many witnesses do we have
5 left from the State?

6 MS. WECKERLY: One, maybe two?

7 THE COURT: Okay. And then what we need to anticipate,
8 obviously, we have Ms. Faugno coming back.

9 MR. YANEZ: Correct.

10 THE COURT: On the 10th.

11 MR. YANEZ: Detective Chandler. We might have one
12 other --

13 THE COURT: Okay.

14 MR. YANEZ: -- but not positive on that one, Judge.

15 THE COURT: So I mean, from the stand -- let's assume
16 you have the one other, how much time, possibly, are we looking at
17 to finish up the presentation of witnesses?

18 MS. WECKERLY: So our one -- our -- we have the print, so
19 maybe he's an hour, at most.

20 THE COURT: Okay.

21 MS. WECKERLY: So we think we could wrap up -- oh and
22 we have reading of Autrey.

23 THE COURT: Oh, okay. Then it's like a long time?

24 MS. WECKERLY: Which is like, literally, like ten pages of
25 transcript at most, I think.

1 THE COURT: Yeah.

2 MS. WECKERLY: But I think our -- we can wrap up in two

3 hours? Two hours.

4 THE COURT: Okay.

5 MR. YANEZ: I'm sorry, I'm -- Pam, what did -- Autrey --

6 reading of Autrey --

7 MS. WECKERLY: Print --

8 MR. YANEZ: -- fingerprints --

9 MS. WECKERLY: -- and --

10 THE COURT: She was just saying, she thought they

11 would probably --

12 MS. WECKERLY: That will --

13 THE COURT: -- be able to wrap up in about two hours

14 MS. WECKERLY: We are not sure, but that's --

15 MR. YANEZ: Oh --

16 MS. WECKERLY: -- for sure we'll have that --

17 MR. YANEZ: Can you just --

18 MS. WECKERLY: -- but we may have another witness.

19 THE COURT: All right. I'll tell you what then, let's just

20 plan on starting on the 10th at 9:00. And then we also need to do an

21 instruction settled. I don't know if you guys have gone through

22 those with each other, at all?

23 MR. PESCI: We've provided ours --

24 MS. WECKERLY: We've provided them, we haven't

25 received any.

1 MR. PESCI: -- we never received any.

2 THE COURT: Okay. Do you guys have any that you're
3 proposing, or?

4 MR. YANEZ: Yes, I think it's going to probably just be a
5 clean instruction, Judge.

6 THE COURT: Okay. Can you get that over to me next
7 week?

8 MR. YANEZ: Absolutely

9 THE COURT: I mean, because I'll be able to get things by
10 e-mail, and take a look at them even though I'm gone.

11 And then we come in that morning at 9:00, hopefully we'll
12 have all the instructions, so we'll be able to sit down at some point
13 and talk about those and get those completely settled.

14 MR. YANEZ: And ju --

15 THE COURT: Okay.

16 MR. YANEZ: I'm sorry.

17 THE COURT: Don't -- no, that's okay.

18 MR. YANEZ: I was going to say, on that Monday, so we
19 don't have issues with Faugno, can we do her in the morning
20 sometime, or so?

21 THE COURT: Yeah.

22 MR. YANEZ: We don't -- I don't want to cut it close, and
23 you know --

24 THE COURT: I don't have any issue, whenever you guys
25 want to give her a call, or call her out of order, or whatever --

1 MR. YANEZ: Okay.

2 THE COURT: -- since we're flying her back in. I mean, we
3 can put her on first, if you wish.

4 MR. YANEZ: Or if I can maybe have her take a later flight.
5 But it's the timeframe is like we had today --

6 THE COURT: Right.

7 MR. YANEZ: -- earlier morning would be preferable, so
8 we don't run into any issues.

9 THE COURT: You guys have any objection if we call her
10 first that morning so they can get her out?

11 MS. WECKERLY: No objections.

12 THE COURT: Okay. So if you want to bring her in Sunday
13 evening, and then put her on in the morning, and then she'll be
14 done.

15 MR. YANEZ: Okay. Or maybe early -- like she got here
16 today about 8:30 in the morning, so.

17 THE COURT: Oh, okay.

18 MR. YANEZ: Yeah.

19 THE COURT: Where is she flying from?

20 MR. YANEZ: Georgia.

21 THE COURT: Okay.

22 MR. YANEZ: Yeah.

23 THE COURT: So yeah, I don't know that you can fly her
24 early enough Monday morning --

25 MR. YANEZ: Yes, yes.

1 THE COURT: -- to get her here.

2 MR. YANEZ: I'm sorry, Judge?

3 THE COURT: What time would she leave Georgia to get
4 here?

5 MR. YANEZ: Early. So it might be better to have her fly
6 on Sunday. I just want -- I didn't want to disrupt her life too much,
7 so I'll talk to her.

8 THE COURT: Okay.

9 MR. YANEZ: If she prefers to fly in Sunday, we'll fly her in
10 Sunday. That way she's already here, and we can be ready to go.

11 THE COURT: Okay. Yeah.

12 MR. YANEZ: And then the only other potential hiccup
13 Judge, is the new fingerprint evidence of the State, dropped on us
14 yesterday. We're obviously going to investigate that.

15 THE COURT: Okay.

16 MR. YANEZ: So I don't know if we want to do a status
17 check on Thursday to see where we're at?

18 THE COURT: I can do it, but I'm not going to be here.

19 MR. YANEZ: Oh.

20 THE COURT: So I can -- we can have a conference call or
21 something if you wanted that. Or I can -- if you want a status check,
22 I can get another judge to hear the status check?

23 MS. MANINGO: Well -- what -- maybe another alternative
24 is we could assume that we're going to be ready to go on Monday,
25 if there's --

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THE COURT: Okay.

MS. MANINGO: -- a problem, we can contact on
Thursday, chambers, and then do a conference call --

THE COURT: Sure.

MS. MANINGO: -- because I don't think we need to do it
unless we can't be ready.

THE COURT: Yeah, the can -- they'll be able to get a hold
of me however. So just get together with each other, if there's any
issues and then, yeah, we can get on a conference call.

MR. YANEZ: Okay.

MS. MANINGO: Okay, thank you.

THE COURT: All right. I will see everybody back on
Friday -- or excuse me, Monday the 10th at 9:00 a.m.

MS. MANINGO: Thank you.

MR. PESCI: Thank you.

MS. WECKERLY: Thank you.

MR. YANEZ: Thank you.

[Evening recess at 4:44 p.m.]

* * * * *

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



Brittany Mangelson
Independent Transcriber

IN THE SUPREME COURT OF THE STATE OF NEVADA

GUSTAVO RAMOS,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Supreme Court Case No. 79781

APPELLANT'S APPENDIX

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 31st day of March, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Steven Wolfson, Clark County District Attorney's Office

Aaron Ford, Nevada Attorney General

Jamie J. Resch, Resch Law, PLLC d/b/a Conviction Solutions

By: 

Employee, Resch Law, PLLC d/b/a Conviction Solutions