

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY BROWN

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

Docket No. 81962

Direct Appeal From A Judgment of Conviction
Eighth Judicial District Court
The Honorable Valerie Adair, District Judge
District Court No. C-17-326247-1

APPELLANT'S APPENDIX VOLUME 11 OF 18

Navid Afshar
State Bar #14465
Deputy Special Public Defender
JoNell Thomas
State Bar #4771
Special Public Defender
330 South 3rd Street
Las Vegas, NV 89155
(702) 455-6265
Attorney for Larry Brown

<u>VOLUME</u>	<u>PLEADING</u>	<u>PGS</u>
14	Amended Fourth Superseding Indictment (1/20/19)	2728-30
18	Amended Judgment of Conviction (10/20/2020).....	3431-33
13	Amended Jury List (12/19/19)	2520
18	Amended Notice of Appeal (11/18/2020).....	3451-52
5	Amended Third Superseding Indictment (12/9/19)	960-62
18	Criminal Court Minutes (unfiled)	3460-3518
13	Defendant's Objections to State's Proposed Jury Instructions (12/19/19)	2521-32
4	Defendant Larry Brown's Motion for Disclosure of Corrective Action Reports (11/18/19).....	808-16
3	Defendant Larry Brown's Motion for Disclosure of Favorable Evidence (7/31/19)	479-509
3	Defendant Larry Brown's Motion in Limine Requesting This Court Preclude The State and its Witnesses from Referring To the Decedent as "The Victim" (8/9/19)	668-72
3	Defendant Larry Brown's Motion in Limine Requesting This Court Preclude The State from Presenting as Evidence Specific Items Recovered from the Search of Angela Ryder's Residence On March 20, 2017 (8/9/19).....	654-59
4	Defendant Larry Brown's Motion in Limine to Preclude All Cell Phone Information Obtained by Cellebrite and Response to State's Motion in Limine to Address Cellebrite Testimony Pertaining To Advanced Proprietary Software (8/12/19).....	723-39

4	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting as Evidence Unclear Video Surveillance Of What Appears to be a White SUV (8/9/19)	673-716
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting Details of the Condition of Decdent’s Nissan Altima Located in a Business Complex at 7495 Azure Drive and Motion to Strike Experts L.Brown, H. Jarrad, S. Saucedo, and J. Sypniewicz (8/9/19)	572-614
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting to the Jury any Evidence That Suggests Flight Prior to this Court Ruling on Whether to Allow a Flight Instruction (8/9/19)	615-53
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting Unduly Prejudicial and/or Cumulative Photographs to the Jury (8/9/19)	660-63
3	Defendant Larry Brown’s Motion in Limine to Preclude the State from Referring to the Trial Phase as the “Guilt” Phase” (8/9/19)	664-67
4	Defendant’s Motion to Declare the Court’s Order Finding that The State May Present Footwear Impression Evidence to the Jury Through Lay Witnesses Void as it Violates Mr. Brown’s Due Process and Fair Trial Rights (11/15/19)	873-79
4	Ex Parte Motion for Clark County Detention Center Records (8/12/19)	717-22
4	Ex Parte Order for Clark County Detention Center to Produce Records Related to Defendant Anthony Carter (8/26/19).....	767-68
15	Exhibit List and Exhibits by Court (unfiled).....	2799-2912
15	Exhibit List and Exhibits by Defendant (unfiled).....	2913-15

16	Exhibit List and Exhibits by State (unfiled) [CONTINUED IN NEXT VOLUME].....	2916-3151
17	Exhibit List and Exhibits by State (unfiled) [CONTINUATION].....	3152-3359
14	Guilty Plea Agreement (12/20/19)	2731-40
1	Indictment (9/6/17).....	62-65
15	Instructions to the Jury (12/20/19)	2741-82
18	Judgment of Conviction (Plea of Guilty-Alford) (9/23/2020) ..	3425-28
7	Jury List (12/11/19).....	1443
1	Motion for Order to Show Cause (2/21/18)	199-219
1	Motion to Compel Compliance with Subpoena (1/18/18)	182-98
2	Motion to Join Co-Defendant Anthony Carter's Motion to Sever And Defendant's Motion to Sever Co-Defendants (4/16/18)	261-70
1	Motion to Place on Calendar and Motion to Reduce Bail (10/5/17)	101-08
18	Motion to Unseal Minutes and Portion of Sealed Part of the Testimony on December 13, 2019 (10/21/2020)	3434-42
2	Motion to Withdraw as Attorney of Record (4/11/18)	255-60
18	Notice of Appeal (10/19/2020)	3429-30
3	Notice of Defendant's Expert Witnesses (8/2/19)	514-15
4	Notice of Defendant's Expert Witnesses (11/08/19)	817-35

4	Notice of Defendant’s Witnesses (8/16/19)	746-47
5	Notice of Defendant’s Witnesses (11/26/19)	943-44
5	Notice of Motion and Motion to Suppress Information Obtained By a Constitutionally Deficient Warrant (12/3/19).....	956-59
2	Opposition to State’s Motion to Compel Defendant Brown’s Cellular Phone Passcode, or Alternatively, to Compel Fingerprint (5/18/18)	378-99
5	Order Denying Defendant Larry Brown’s Motion in Limine to Preclude the State from Presenting as Evidence Specific Items Recovered from the Search of Angelisa Ryder’s Residence on March 20, 2017 (11/27/19).....	948-50
5	Order Denying Defendant’s Motion to Declare the Court’s Order Finding that the State May Present Footwear Impression Evidence to The Jury Through Lay Witnesses Void as it Violates Mr. Brown’s Due Process and Fair Trial Rights (11/27/19).....	945-47
17	Order for JAVS via CD (1/17/2020)	3362
18	Order Granting Defendant’s Motion to Unseal Minutes and Portion of Sealed Part of the Testimony on December 13, 2019 (11/6/2020)	3447-50
4	Order Granting Defendant Larry Brown’s Motion For Disclosure Of Corrective Action Reports (11/21/19)	880-82
2	Order Granting State’s Motion to Compel Fingerprint and Denying State’s Motion to Compel Defendant’s Cellular Phone Passcode (5/31/18)	404-05

5	Order Reserving Ruling Until the Time of Trial for the State’s Motion In Limine to Address Cellebrite Testimony Pertaining to Advanced Proprietary Software, and the Defendant Larry Brown’s Motion in Limine to Preclude all Cell Phone Information Obtained by Cellebrite And Response to State’s Motion in Limine (11/27/19).....	951-53
1	Petition for Writ of Habeas Corpus and Motion to Dismiss (10/3/17)	76-86
18	Second Amended Judgment of Conviction (12/2/2020).....	3453-57
18	Second Amended Notice of Appeal (12/10/2020).....	3458-59
1	Second Superseding Indictment (10/11/17)	126-130
5	Second Supplemental Notice of Defendant’s Witnesses (12/9/19)	963-64
18	Sentencing Memorandum (9/17/2020)	3369-97
1	State’s Motion and Notice of Motion to Revoke Bail (10/5/17)	109-18
3	State’s Notice of Motion and Motion in Limine to Address Cellebrite Testimony Pertaining to Advanced Proprietary Software (8/2/19).....	516-23
2	State’s Notice of Motion and Motion to Compel Defendant Brown’s Cellular Phone Passcode, or Alternatively, to Compel Fingerprint (4/23/18)	283-95
2	State’s Notice of Witnesses and/or Expert Witnesses (5/8/18) ..	321-77
3	State’s Opposition to Defendant’s Motion to Compel Production of Discovery and Brady Material (8/2/19)	524-52

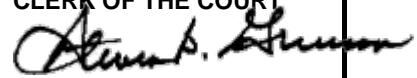
4	State’s Opposition to Defendant’s Motion to Preclude the State And Witnesses from Referring to Kwame Banks as “The Victim” (8/22/19)	758-61
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Evidence of Arson (9/3/19)	769-73
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Evidence of Flight (9/3/19).....	774-79
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Evidence of Shoes and Brass Knuckles (9/3/19)	780-82
4	State’s Opposition to Defendant’s Motion to Preclude the State From Presenting Unduly prejudicial and/or Cumulative Photographs to the Jury (8/22/19)	755-57
4	State’s Opposition to Defendant’s Motion to Preclude the State From Using the Term “Guilty Phase” (8/22/19).....	753-54
3	State’s Supplemental Notice of Witnesses and/or Expert Witnesses (6/7/19).....	467-74
5	State’s Tenth Supplemental Notice of Witnesses and/or Expert Witnesses (11/25/19).....	933-42
6	Stipulation and Order to Waive Penalty Hearing (12/9/19).....	1248-49
3	Supplement to Notice of Defendant’s Expert Witnesses (8/7/19)	553-71
4	Supplemental Notice of Defendant’s Expert Witnesses (11/15/19)	869-72
5	Supplemental Notice of Defendant’s Witnesses (12/2/19).....	954-55
1	Superseding Indictment (10/4/17).....	97-100

1	Third Superseding Indictment (12/13/17).....	167-71
1	Transcript of Hearing Grand Jury Vol 1 August 29, 2017 (9/9/17)	1-19
1	Transcript of Hearing Grand Jury Vol 2 September 5, 2017 (9/12/17)	20-61
1	Transcript of Hearing September 6, 2017 (12/1/2020)	66-70
1	Transcript of Hearing September 14, 2017 (11/19/2020)	71-75
1	Transcript of Hearing Grand Jury Superseding Proceedings October 3, 2017 (10/17/17)	87-92
1	Transcript of Hearing October 4, 2017 (12/1/2020)	93-96
1	Transcript of Hearing Grand Jury Second Superseding Proceedings October 10, 2017 (10/24/17)	119-25
1	Transcript of Hearing October 11, 2017 (12/1/2020)	131-134
1	Transcript of Hearing October 19, 2017 (11/19/2020)	135-46
1	Transcript of Hearing October 31, 2017 (11/20/2020)	147-51
1	Transcript of Hearing Grand Jury Third Superseding Proceedings December 12, 2017 (12/28/17)	152-66
1	Transcript of Hearing December 13, 2017 (12/1/2020)	172-75
1	Transcript of Hearing December 19, 2017 (11/20/2020)	176-81
1	Transcript of Hearing February 27, 2018 (11/20/2020)	220-24
1	Transcript of Hearing March 6, 2018 (11/20/2020)	225-29

1	Transcript of Hearing March 20, 2018 (10/22/2020).....	230-37
2	Transcript of Hearing April 3, 2018 (11/20/2020).....	238-54
2	Transcript of Hearing April 17, 2018 (11/20/2020).....	271-82
2	Transcript of Hearing April 24, 2018 (11/20/2020).....	296-309
2	Transcript of Hearing April 26, 2018 (11/20/2020).....	310-15
2	Transcript of Hearing May 8, 2018 (11/20/2020).....	316-20
2	Transcript of Hearing May 22, 2018 (11/20/2020).....	400-03
2	Transcript of Hearing May 31, 2018 (11/20/2020).....	406-27
2	Transcript of Hearing June 7, 2018 (11/20/2020).....	428-32
2	Transcript of Hearing August 9, 2018 (11/20/2020).....	433-38
2	Transcript of Hearing August 30, 2018 (11/20/2020).....	439-42
2	Transcript of Hearing November 27, 2018 (11/20/2020)	443-49
2	Transcript of Hearing January 17, 2019 (11/20/2020).....	450-54
2	Transcript of Hearing March 21, 2019 (11/20/2020).....	455-58
2	Transcript of Hearing April 25, 2019 (11/20/2020).....	459-62
2	Transcript of Hearing May 30, 2019 (11/20/2020).....	463-66
3	Transcript of Hearing June 27, 2019 (11/20/2020).....	475-78
3	Transcript of Hearing August 1, 2019 (11/20/2020).....	510-13
4	Transcript of Hearing August 15, 2019 (11/20/2020).....	740-45

4	Transcript of Hearing August 20, 2019 (11/20/2020).....	748-52
4	Transcript of Hearing August 22, 2020 (11/20/2020).....	762-66
4	Transcript of Hearing October 29, 2019 (11/20/2020)	783-803
4	Transcript of Hearing November 5, 2019 (11/20/2020)	804-07
4	Transcript of Hearing November 14, 2019 (11/20/2020)	836-58
5	Transcript of Hearing November 21, 2019 (11/25/2019)	883-932
5	Transcript of Jury Trial Day 1 December 9, 2019 Pages 1-55 (12/9/2020) [CONT'D IN NEXT VOLUME]	965-1019
6	Transcript of Jury Trial Day 1 December 9, 2019 Pages 56-283 (12/9/2020) [CONTINUATION]	1020-1247
7	Transcript of Jury Trial Day 2 December 10, 2019 (12/9/2020)	1250-1442
8	Transcript of Jury Trial Day 3 December 11, 2019 (12/9/2020)	1444-1625
9	Transcript of Jury Trial Day 4 December 12, 2019 (12/9/2020)	1626-1784
10	Transcript of Jury Trial Day 5 December 13, 2019 EXCERPT (12/9/2020)	1785-1995
11	Transcript of Jury Trial Day 5 December 13, 2019 EXCERPT (12/9/2020)	1996-2066
11	Transcript of Jury Trial Day 6 December 17, 2019 (12/9/2020)	2067-2231
12	Transcript of Jury Trial Day 7 December 18, 2019 Pages 1-173 (12/9/2020) [CONT'D IN NEXT VOLUME] .	2232-2404

13	Transcript of Jury Trial Day 7 December 18, 2019 Pgs 174-288 (12/9/2020) [CONTINUATION].....	2405-2519
14	Transcript of Jury Trial Day 8 December 19, 2019 (12/9/2020)	2533-2727
15	Transcript of Jury Trial Day 9 December 20, 2019 (12/9/2020)	2783-98
17	Transcript of Hearing August 6, 2020 (11/20/2020).....	3363-68
18	Transcript of Hearing September 18, 2020 (11/3/2020)	3398-3424
18	Transcript of Hearing November 5, 2020 (12/5/2020)	3443-46
17	Verdict (12/20/19)	3360-61



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
LARRY DECORLEON BROWN,)
)
)
Defendant.)

CASE NO. C-17-326247-1
DEPT NO. XXI

**SEALED BY ORDER OF THE
COURT
EXCERPT OF PROCEEDINGS**

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

FRIDAY, DECEMBER 13, 2019

JURY TRIAL - DAY 5 - SEALED HEARING

APPEARANCES:

FOR THE STATE: JOHN L. GIORDANI III, ESQ.
Chief Deputy District Attorney
MICHAEL DICKERSON, ESQ.
Deputy District Attorney

FOR THE DEFENDANT: MONICA R. TRUJILLO, ESQ.
W. JEREMY STORMS, ESQ.
Chief Deputy Special Public Defenders

RECORDED BY: ROBIN PAGE, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

I N D E X

W I T N E S S E S

WITNESSES FOR THE STATE:

BRIAN STOFIK

Direct Examination by Mr. Giordani	6
------------------------------------	---

Cross-Examination by Mr. Storms	11
---------------------------------	----

1 **LAS VEGAS, CLARK COUNTY, NEVADA, DECEMBER 13, 2019, 9:04 A.M.**

2 * * * * *

3 (Outside the presence of the jury)

4 THE COURT: Officers, bring the defendant in.

5 Where's your cocounsel?

6 MR. STORMS: Mine?

7 THE COURT: Oh, there she is. I'm sorry.

8 MS. TRUJILLO: I'm right here.

9 THE COURT: I was looking over your head.

10 And are we proceeding without Mr. Dickerson?

11 MR. GIORDANI: Yes.

12 THE COURT: All right. And I see the witness is
13 here.

14 MR. GIORDANI: Yes.

15 THE COURT: All right. And then is the attorney
16 present with the witness?

17 MR. GIORDANI: Not physically present, but he's on
18 the three-way -- well, conference call with his cell phone.

19 THE COURT: Okay. So --

20 MR. GIORDANI: So he can hear us. We've tested it.
21 We can hear him.

22 THE COURT: Okay. So he can hear us now, and we're
23 on the record. All right.

24 We're on the record.

25 Can you close that back door, please.

1 We're in a sealed hearing with only the prosecutor,
2 Mr. Giordani, the defendant and both of his counsel, the court
3 officers, the two corrections officers for the defendant and
4 then the IT person for the court.

5 And are both sides ready to go forward?

6 MR. GIORDANI: Yes, State's ready.

7 MR. STORMS: Indeed.

8 THE COURT: All right. And we have the Cellebrite
9 attorney.

10 And, sir, can you hear me?

11 THE WITNESS: Yeah, I can hear you. Can you hear me?

12 THE COURT: I'm Valerie Adair, the Judge. And you
13 are the witness; is that right?

14 THE WITNESS: Yep.

15 THE COURT: And the -- who's -- where's the
16 Cellebrite attorney; can he hear me?

17 MR. MCDERMOTT: I can. I'm on the phone separately
18 in the same -- I'm on Verizon.

19 THE COURT: Okay.

20 MR. MCDERMOTT: For --

21 THE COURT: I'm just -- I'm just making sure you can
22 hear everything. Can you hear me? I'm pretty loud so if you
23 can't hear me --

24 MR. MCDERMOTT: Yes, I can.

25 THE COURT: Okay. And, sir, can you state your name

1 for the record.

2 And at this point I am speaking with the Cellebrite
3 attorney.

4 THE WITNESS: Brian Stofik. Oh, the attorney or?

5 THE COURT: Yeah, the attorney.

6 THE WITNESS: Okay.

7 MR. MCDERMOTT: Sure. My name is Jacob, J-a-c-o-b.
8 McDermott, M-c-D-e-r-m-o-t-t.

9 THE COURT: All right. And this proceeding is more
10 to address questions that the defense has.

11 But, Mr. Giordani, would you like to begin with the
12 questioning of the witness?

13 MR. GIORDANI: Yes. Thank you.

14 THE COURT: All right. And, sir, now I'm directing
15 my comments to the witness.

16 Would you please stand up and raise your right hand,
17 and the court clerk will administer the oath to you.

18 **BRIAN STOFIK**

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

21 THE CLERK: Can you please state and spell your first
22 and last name for the record.

23 THE WITNESS: Brian Stofik. B-r-i-a-n, Stofik,
24 S-t-o-f-i-k.

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

DIRECT EXAMINATION

BY MR. GIORDANI:

Q Mr. Stofik, you can have a seat. And if you could move that mouse it's right -- right in the middle of your face. If you can't do it, it's fine.

A That might be your mouse.

THE COURT: I think it might be as.

MR. GIORDANI: Okay. No worries.

THE COURT: Okay. It's --

BY MR. GIORDANI:

Q What is your title with Cellebrite, sir?

A Technical Forensic Specialist.

Q As a forensic specialist is it your job to receive phones and particularly in the context in which we're speaking today, receive phones from various law enforcement agencies across the country and use advanced proprietary software to attempt to access those phones?

A Yes.

Q I want to talk to you about -- well, the ultimate issue here whether -- what is on the thumb drive that was analyzed by our local law enforcement agency is what it purports to be, meaning is it a duplicate of what was on the device you received; do you understand that?

A Yes, I do understand that.

Q Okay. In the course of your work with Cellebrite --

1 and I should ask how long have you been doing that?

2 A For a little over two years now.

3 Q And do you have particular training in order to do
4 what you do?

5 A Yes, we have internal screening on the tools that we
6 use.

7 Q Okay. And the tools that you use, are there various,
8 I guess, software programs associated with the Cellebrite
9 Corporation?

10 A Can you explain that a little bit further.

11 Q Well, the tools that you use, there's more than one,
12 I guess, Cellebrite program; is that right?

13 A The tools that we use, our internal tools it really
14 depends on the device submitted, but I guess --

15 Q Oh, I understand, okay. And during the course of
16 your work are the items of evidence that you receive closely
17 monitored in order to keep the device secure and a chain of
18 custody secure within Cellebrite's lab or wherever you're
19 located when you do your work?

20 A Yes.

21 Q In this particular case, did you receive -- excuse
22 me, a Samsung SM G920P Galaxy S6?

23 A Yes, we received that device.

24 Q And did that have IMEI number 256691573506447512?

25 A Yes, it did have it. At night we usually send out a

1 document that verifies this. So if you have that document that
2 has been verified by us that has that IMEI and that we received
3 it.

4 Q Understood, sir. And I should have mentioned that I
5 am reading off a Cellebrite certification and business record
6 of Cellebrite, Inc., under Case Number CBFL00186567. If the
7 IMEI number is referenced in that document, would that be the
8 IMEI number associated with the Samsung that you worked on?

9 A Yes. So during our intake process we visually see
10 that the IMEI is on the device and then compare it to the IMEI
11 that the officer submitted as the ticket when they sell it --
12 send it to Cellebrite.

13 Q Understood. And when you received that, was that
14 back in on April 30th, 2018?

15 A I believe so. We mainly go off the witness statement
16 because of the amount of devices that we get in. So if the
17 witness statement states it, then yes, we did receive it at
18 that time.

19 Q Understood. And when that's received is that
20 transferred directly to you from the sealed package in which it
21 came?

22 A So we have a evidence intake admin who will intake it
23 and double check that all the information is correct. When he
24 verifies all the information, it is then given to me to do the
25 technical aspect of the phone.

1 Q Understood. When it's given to you to do the
2 technical aspect of the phone, what is your goal or what are
3 you attempting to do? Is it accessing the device first and
4 then copy whatever's on it?

5 A So our main duty is to extract the user data off the
6 phone and forensically preserve it into a forensic manner that
7 an investigator can take the forensic image and do their
8 investigation.

9 Q Okay. And were you able to do that using your
10 advanced proprietary software on this particular device?

11 A Yes.

12 Q Once you have accessed the device and accessed the
13 data on it, do you then copy that data over to a thumb drive or
14 an external hard drive?

15 A Yes.

16 Q And are there ways that you as an analyst can confirm
17 and make sure that what is taken off the phone is an exact
18 duplicate of what is on the external hard drive or thumb drive?

19 A Yes. So our process would be we extract the data;
20 from there we hash it which is kind of a known term in the
21 forensics community to kind of put a unique identifier on it,
22 it's kind of like a fingerprint in a term, hash it and then we
23 put it through our software. We don't look at any data or
24 anything though; we're just verifying that the integrity of the
25 image is there and that the data's there, and we make sure that

1 that hash is confirmed. And then from there is when we kind of
2 confirm the integrity of the image.

3 Q Okay. And in this particular case was that done, and
4 did you confirm that the data on the external thumb drive or
5 hard drive mirrored the data that was on the phone when you
6 accessed it?

7 A Yes. Yes, if it's in the statement then it was done.
8 We do it on every device that comes in.

9 Q And you indicated that you did not, I think your word
10 was examine it, but I might be wrong, but you don't do any
11 tweaking or examining or anything of any data that comes off
12 that phone; is that accurate?

13 A Yeah. We don't look at any data on the phone. We
14 don't know what's on the phone, and usually we don't know
15 anything about the case. All we do is extract the data, put it
16 on a flash drive in layman term and then send it to the
17 investigator who than can do the investigation of the data.

18 Q Okay. And the sending and receiving of the device,
19 that's all done via UPS with a unique tracking number; is that
20 accurate?

21 A Yeah. So everything's done through UPS. There's
22 special implementation put in place so the UPS driver knows
23 that these are special packages and we take care of that. And
24 we also seal it an evidence bag. So if anything is -- the
25 evidence bag is open upon receival, then you know something was

1 tempered with, but if it's sealed and everything's good,
2 there's evidence bags with signatures on it, then you know that
3 it arrived without any manipulation to -- if anybody
4 intercepted it or anything like that, but we've never had that
5 happen, and we put those protocols in place so that upon
6 receiving the package the investigator knows if anything
7 happened.

8 Q And I assume you have no involvement in the local
9 Las Vegas Metropolitan Police Department's accessing of the
10 external hard drive or analysis of that. Once you've sealed it
11 and sent it back your job is done?

12 A Yes.

13 MR. GIORDANI: All right. Thank you, sir. I have no
14 further questions.

15 I'll pass the witness.

16 THE COURT: All right. Thank you.

17 Mr. Storms, will it be you?

18 CROSS-EXAMINATION

19 BY MR. STORMS:

20 Q Is it okay if I just call you Brian?

21 A Yes, that's fine.

22 Q Okay, Brian. So you're a forensic analyst for
23 Cellebrite; correct?

24 A A forensic -- or, yes.

25 Q And you do this sort of extraction for your work?

1 A Yes.

2 Q Now, for this particular case were you the forensic
3 tech who did the extraction on this particular device that
4 we're talking about here today?

5 A Yes, I'm the tech who did the extraction of this
6 device.

7 Q Okay. And you mentioned also that there was an
8 intake admin person who first looks at the device before it
9 gets to you; correct?

10 A By look at the device, he mainly looks to make sure
11 of the IMEI number; so he does a physical look over to make
12 sure there's no damage on receival; otherwise, we usually
13 notify the police department, like, if something comes in
14 damaged. He makes sure the integrity of the phone is in place.
15 For example, customers will seal it in an evidence bag to make
16 sure there's no manipulations to the evidence bag, but he kind
17 of looks over the back where the IMEI is located or underneath
18 the battery where the IMEI is located, but he doesn't turn on
19 or do any of that kind of stuff by -- if you mean by looked at
20 the device. He just does a visual aspect of the device.

21 Q But that's the person who checks the IMEI number on
22 the device?

23 A Yes. I also do check; it's kind of like a double
24 standard protocol so just in case anything happens, but when I
25 do the extraction I will also double check.

1 Q Okay. So whenever this device is returned to the
2 local law enforcement agency, they received one document which
3 was this certification of business record from Cellebrite;
4 correct?

5 A Yes.

6 Q Was there any of -- there was no other documentation
7 provided them from your company about this extraction?

8 A Not to my knowledge, and usually this is the only
9 real document that we provide to the law enforcement.

10 Q Do you generate a report internally to document what
11 you do whenever you do one of these extractions?

12 A The only things that we document are the date and
13 times, basically what's in the witness statement. So basically
14 we'll document when the device arrived, when it was started
15 working on, but we don't document, like, data or we, like,
16 anything like that. Basically where the device was when it was
17 in our lab. So it's kind of a chain of custody, but an
18 internal one.

19 Q So you don't document that you checked the IMEI
20 number on this device?

21 A There's no documentation of somebody visually
22 checking it. I would say that no -- there's nobody that
23 documents that they did it. The witness statement is the
24 documentation of him checking the IMEI.

25 Q And when you say the witness statement, you mean the

1 certification business records that we receive that was signed
2 by Mr. Raspante?

3 A Yeah, it's a bit of an age change because this is a
4 2018 device, I think it's now called witness data, but, yes,
5 that's primarily what it's referred to as.

6 Q Okay. So there's no internal paperwork documenting
7 that the IMEI was checked by -- by any -- by you or the intake
8 admin person?

9 A There is no internal document of us documenting that
10 we in took or nobody checked the IMEI.

11 Q So your representation is this is just your course of
12 practice essentially?

13 A It's -- we're kind of based off of forensic lab kind
14 of practice. So it's as soon the device is in admin we'll open
15 it up, and he'll check there, but there's no documentation of
16 him documenting the IMEI.

17 Q Okay. So Cellebrite is an Israeli company?

18 A I don't really know the history, but we do have a
19 headquarters in Israel.

20 Q So and they're -- you're owned by a Japanese company?

21 A I don't know a lot of that.

22 THE COURT: Why do we care about the corporate
23 structure?

24 MR. STORMS: Judge, this has to go to the -- their
25 claim of proprietary secrets. It's not an -- there's not an

1 evidentiary exception here in Nevada. I'd like to establish
2 what they do, who they work for --

3 THE COURT: If he knows, I mean, I think that's
4 beyond the scope of this witness, but.

5 BY MR. STORMS:

6 Q Brian, how many of these sorts of hearings have you
7 testified at?

8 A So far one.

9 THE COURT: Today or one previous to today?

10 THE WITNESS: One previous to today.

11 THE COURT: Okay.

12 BY MR. STORMS:

13 Q And have you ever testified in open court about the
14 work you do as a forensic examiner for Cellebrite?

15 A Not the work, but mainly the chain of custody that we
16 received the device and that we sent it back. It was mainly on
17 the intake and outtake of the device and the shipment practices
18 that we put in place, but not on what we do internally.

19 Q Have you ever testified in any sort of civil hearing
20 as part of a discovery process for your work for Cellebrite?

21 A Yeah.

22 MR. GIORDANI: And, Judge, I'd just object to
23 relevance at this point. I don't understand the relevance of
24 that.

25 THE COURT: He can. I don't know. He can --

1 MR. STORMS: Okay. So --

2 THE COURT: -- answer. I guess it goes to whether or
3 not they've disclosed this information --

4 MR. STORMS: That's correct.

5 THE COURT: -- in a prior forum --

6 MR. GIORDANI: Okay.

7 THE COURT: -- publicly so he can answer.

8 Is that where you're going with that, Counsel?

9 MR. STORMS: That's right, Judge.

10 BY MR. STORMS:

11 Q So your office for -- the office for Cellebrite, the
12 main office in the United States is located in New Jersey --
13 oh, I'm sorry.

14 So going back to that last question. Have you ever
15 testified in a civil hearing about your work for Cellebrite?

16 A No, I have not.

17 Q So your company is headquartered in New Jersey here
18 in the United States?

19 A We have a office in New Jersey and one in Virginia.

20 Q And you also have facilities in Tennessee and Texas?

21 A Not to my knowledge.

22 Q Okay. Do you have -- are you aware of having a
23 facility in California?

24 A I don't believe we have facilities. We might have a
25 training for Cellebrite training, but not to my knowledge.

1 Q You don't have any facilities here in Las Vegas or in
2 the State of Nevada; correct?

3 A Not to my knowledge.

4 Q You're not incorporated in any way in the State of
5 Nevada?

6 A I don't know what -- I wouldn't know that.

7 Q Okay. And so your company does data extraction?

8 A We do do data extraction, yes.

9 Q And data analysis?

10 A We don't do data analysis. We usually provide tools
11 for forensic examiners to do data analysis, but in-house to my
12 knowledge we don't do data analysis.

13 Q What is your company's mission statement?

14 A For a safer world, I believe.

15 Q Did you say, for a safer world?

16 A I don't know the full -- full statement, but it might
17 be digital intelligence for a safer world or something like
18 that. I know it has for a safer world in it.

19 Q So you sell machines that help law enforcement, for
20 instance, extract data from devices; right?

21 A The company has a business where they do sell
22 forensic extraction machine software, yes.

23 Q And you also sell forensic -- those same machines or
24 and also software you sell, facilitates data analysis done by,
25 say, law enforcement agencies; correct?

1 A I really wouldn't know because I'm not really on that
2 side. I'm more so just on the side of doing extractions, but I
3 believe they do sell forensic software that parses, for
4 example, images for mobile data, yes.

5 Q Yeah. So like in this case provided a data set to
6 the local law enforcement agency; right?

7 A Yes.

8 Q And then they used a Cellebrite device or program to
9 look at that data set and be able to analyze it?

10 A I can't say if they use Cellebrite software because
11 there's various other ones. Most law enforcement agencies will
12 use maybe two different ones for the integrity images, but
13 there's various other vendors out there that do supply the same
14 software for investigating the image and kind of parsing the
15 data.

16 Q So you're saying that another software sold by a
17 different company could analyze the data that you provided
18 Metro in this case?

19 A It's just a forensic image so whatever software the
20 investigator wants to use I really don't know what he would
21 use, or I wouldn't know anything about what their practices are
22 for their law enforcement agency.

23 Q So what you're saying is that your data could be read
24 by other companies' programs?

25 A It's a forensic image so it's just the standard in

1 the digital forensic industry. It's just -- I believe this one
2 is just a VIN file. So whatever you can use software, or
3 whatever you can use to open up a forensic image. The same
4 thing, for example, with a computer you do a forensic
5 preservation of it, and you can use software to analyze it.

6 Q Okay. So you did -- your company does extraction of
7 data at the lab that you work at?

8 A Yes.

9 Q Okay. And this is in New Jersey?

10 A Yes. Yes.

11 Q Okay. And you do this extraction with proprietary
12 software?

13 A Yes.

14 Q Proprietary techniques?

15 A Yes.

16 Q Proprietary equipment?

17 A Yes.

18 Q And we're having this hearing right now because your
19 company does not want to disclose those three things, the
20 techniques, equipment, and software that are proprietary?

21 A I wouldn't know why you're having.

22 THE COURT: You were just told to show up; is that
23 fair?

24 THE WITNESS: Yeah, basically, yeah, basically.

25 / / /

1 BY MR. STORMS:

2 Q Is your -- is it your understanding that your company
3 doesn't want to have an open hearing about these proprietary
4 techniques software and devices?

5 MR. GIORDANI: Objection. That calls for
6 speculation.

7 MS. TRUJILLO: If you know.

8 MR. STORMS: I asked --

9 THE COURT: He already said he doesn't know why he's
10 here. Well, I guess that was a different question.

11 Do you know whether or not your company doesn't want
12 you to disclose the proprietary software?

13 THE WITNESS: I wouldn't know why -- why. All I know
14 is I have signed NDAs and there is protection of our product in
15 place.

16 BY MR. STORMS:

17 Q So if I tried to ask you specific questions about
18 your product, you're saying your NDA would prevent you from
19 answering my question?

20 A Yes. I would feel uncomfortable really asking or
21 testifying to what the product does due to those NDAs.

22 Q Okay. And you signed these NDAs because these things
23 you know are your company's trade secrets?

24 A Yes.

25 Q And they don't -- they had you sign an NDA because

1 disclosing these things could get to your competitors and you'd
2 lose your competitive edge; fair to say?

3 A I wouldn't say that they're probably -- I wouldn't
4 know a hundred percent, but, for example, it's secrets that
5 probably be like, for example, getting out into the public
6 because this is a law enforcement only thing. So that's why we
7 don't want to discuss this stuff out in public too. Also the
8 competitor edge too.

9 Q Your company sells its products to business entities
10 like banks; correct?

11 A I wouldn't know that, per se, but they don't sell,
12 for example, my services and all that kind of stuff. I know we
13 don't -- we work heavily with law enforcement only.

14 Q You work for law enforcement in other countries; your
15 company does that?

16 A I don't -- I've only done the United States.

17 Q Are you aware that your company works with law
18 enforcement in other countries?

19 A I'm aware that there's other offices in other --
20 people with my role in those companies so yes, they do, but I
21 do not work with those countries.

22 Q So your company has an office in Singapore?

23 A I believe so.

24 Q Your company has an office in Germany?

25 A I believe so.

1 Q Your company has a support number on its website for
2 China?

3 A I don't think that's --

4 Q So you're not familiar with your company's website?

5 A No, I'm not familiar with support and other divisions
6 of this company, no.

7 Q You're aware that your company does work in Russia?

8 A I'm not aware of that --

9 MR. GIORDANI: Judge, I would just object to
10 relevance.

11 THE WITNESS: -and I don't think that's true --

12 THE COURT: Yeah.

13 THE WITNESS: -- to the best of my knowledge.

14 MR. GIORDANI: Mr. Stofik, when there's an objection
15 you can just stop until the Judge --

16 THE COURT: He may not have heard you; your voice was
17 quiet.

18 What's the relevance of all of this?

19 MR. STORMS: Judge, again this -- this claim of some
20 sort of business exception to my client's constitutional rights
21 I think it's important to establish who this company sells to,
22 what their business interest is. And I think a Court later on
23 would like to evaluate what they're doing with this
24 technology --

25 THE COURT: Well --

1 MR. STORMS: -- that in this case --

2 THE COURT: Okay.

3 MR. STORMS: -- they've got a nondisclosure agreement
4 where we can't have an open hearing about a criminal case in
5 the United States about what they do to track this data.

6 THE COURT: Well, I'm going to --

7 MR. STORMS: I can represent to -- I can --

8 THE COURT: -- I haven't heard anything too
9 proprietary yet. I mean, I haven't heard anything proprietary.
10 I'll welcome comments --

11 MR. STORMS: Well, he's --

12 THE COURT: -- from the Cellebrite attorney, but so
13 far, I mean, they -- I haven't heard anything --

14 MR. STORMS: We'll what he's going to --

15 THE COURT: -- that's like a trade secret or anything
16 like that.

17 MR. STORMS: And he said he has a nondisclosure
18 agreement. There's no way he's going to say anything
19 proprietary so.

20 THE COURT: Well, nobody's asked him to say anything
21 proprietary yet. And, you know, that protects him civilly. So
22 in -- if there were a court order to answer the question then,
23 you know, a nondisclosure agreement is really an instrument
24 that protects the company. And then if he violates it, I'm
25 sure either in the contract or just under general legal

1 principles there could be a civil action against this employee.

2 MR. STORMS: For the record, Judge, I marked as
3 Court's Exhibit 18 a news article from Motherboard which is a
4 publication by Vice which is a news organization. They had
5 data disclosed to them from a hacker that hacked Cellebrite
6 that suggests that Cellebrite sells their services to
7 repressive regimes like Turkey, the United Arab Emirates,
8 Russia --

9 THE COURT: Are you aware that Turkey is a NATO
10 member?

11 MR. STORMS: Yes.

12 THE COURT: I'm just saying I don't --

13 MR. STORMS: I'm also aware that Turkey has a long
14 history of being a repressive regime also.

15 THE COURT: Okay.

16 MR. GIORDANI: And again I just --

17 THE COURT: I'm just saying I don't know if that's
18 the official position of the United States; that's why I made
19 that comment.

20 MR. STORMS: Okay.

21 MR. GIORDANI: I don't --

22 THE COURT: In any event certainly don't have the
23 rights in that country that we do enjoy here in the United
24 States. I think we can all stipulate to that; fair enough?

25 MR. STORMS: Okay.

1 THE COURT: In any event, just Mr. Storms' questions
2 are only directed at this point and you're only required to
3 answer to the technology that you're using. If there's other
4 kinds of technology that are products that Cellebrite sells in
5 foreign countries and you're not, you know -- obviously that's
6 not relevant here.

7 So your question was the product is sold to companies
8 in Russia or the Russian government?

9 MR. STORMS: The Russian government.

10 THE COURT: Okay. Go ahead and answer. Do you know
11 whether or not the product that you utilize is sold by your
12 company to the Russian government?

13 THE WITNESS: My product to the best of my knowledge
14 is not sold to the Russian.

15 BY MR. STORMS:

16 Q So what product was used to extract data from the
17 phone in this case?

18 A It's a proprietary type of product that I really
19 don't feel comfortable talking about.

20 Q So you won't identify the particular product used in
21 this case?

22 A No, I won't.

23 Q Are you familiar with the product you now sell to law
24 enforcement called the UFED Premium?

25 A I'm familiar with it, yes.

1 Q And that product allows law enforcement to in-house
2 unlock cellular devices that are password protected?

3 A Yeah.

4 Q Okay. And that --

5 A Yes, it does.

6 Q And that product would allow a law enforcement agency
7 in-house to unlock Samsung cellular devices S6 to S9 models?

8 A It will allow them to unlock various models. It
9 depends on scenarios and stuff like that, but, yes.

10 Q Okay. What are those scenarios?

11 A It really depends, and for Android side if people put
12 custom flesh on it or anything like that.

13 Give me a second the lights just went out.

14 Q Yeah, no problem --

15 MS. TRUJILLO: That's scary.

16 THE WITNESS: All right. We're back on.

17 No, it's just technical problems or various other
18 little problems, but I wouldn't say every single phone can be
19 unlocked. But it unlocks from S6 to S9s.

20 BY MR. STORMS:

21 Q Can you give me an example of one of the technical
22 problems you're talking about that would prevent you from
23 unlocking an S6 phone with the UFED Premium.

24 A Phones smashed or burned or anything like that.

25 Q So you're saying if the phone was unlockable -- I

1 mean, that was damaged to the point that it was inoperable your
2 device wouldn't work?

3 A I wouldn't say that. There is -- anybody takes it to
4 the microwave or something like that it could be pretty hard to
5 get the UFED Premium to unlock that device.

6 Q So you're saying if the phone was essentially
7 bricked, meaning not functional, then your device wouldn't work
8 on it?

9 A Yeah.

10 Q So besides the phone being completely inoperable, are
11 there other circumstances that you can give me an example of
12 where your UFED Premium device would not be able to unlock an
13 S6 phone?

14 A I really don't feel like mentioning anything because
15 it's proprietary -- that is also proprietary technology, and I
16 don't really feel comfortable mentioning various things that
17 would keep it -- I -- there's so many different variables out
18 there I can't testify to every single variable. It does unlock
19 it. Is there a phone out there possibly that it won't unlock,
20 possibly, but it really -- it's kind of hard to testify to
21 every single phone being unlocked out there.

22 Q And you realize that --

23 THE COURT: Okay. Well, let me ask you this. In
24 your experience have you received a phone from law enforcement
25 that your proprietary software was unable to lock?

1 THE WITNESS: We've received them every now and then,
2 but, yes, we do receive ones, but, yes.

3 BY MR. STORMS:

4 Q And so my question was, I'm not asking for every
5 variable, can you give me one example of a phone that's
6 operable that's an S6 that you would be -- would be unable to
7 unlock?

8 A I don't feel comfortable answering that question to
9 be honest.

10 MR. STORMS: Judge, I'd ask you to direct the witness
11 to answer that question.

12 MR. GIORDANI: Well, I would object to relevance.
13 Why does that matter at all if this hearing is about what is on
14 the thumb drive that's sent back, is that what it purports
15 itself to be, meaning an exact duplicate of the phone. Why is
16 it relevant for whether he's ever had a phone that he couldn't
17 get into?

18 THE COURT: What's the relevance of whether he's ever
19 had a phone?

20 MR. STORMS: Judge, we're trying to establish how
21 they're able to unlock this phone and he won't -- I'm not even
22 getting any information whatsoever about what their abilities
23 are other than they can't unlock a phone that's not -- that's
24 inoperable.

25 MR. GIORDANI: I still don't see the link there.

1 There's no relevance.

2 THE COURT: What was your last question? He can't
3 unlock a phone that's inoperable. What was your last question?

4 MR. STORMS: I'm asking for one example of a phone
5 that is operable that they would be unable to access with their
6 technology.

7 MR. GIORDANI: And I'm asking for the relevance of
8 that. What is the relevance of that?

9 THE COURT: What's the relevance?

10 MR. STORMS: If you'd like I can ask specifically
11 about this phone?

12 THE COURT: Okay. Yeah, ask about this phone.

13 MR. STORMS: Okay.

14 BY MR. STORMS:

15 Q So going back to this phone you first received this
16 Samsung phone back in March of 2017; is that correct?

17 A If that's what the witness statement says, then I
18 believe yes, we did receive it then. That would be documented
19 in the witness statement when we receive it, but I can't
20 remember every single phone.

21 Q So you're unaware that this phone was sent twice to
22 Cellebrite in the course of this case?

23 A Right now I will be, but if I go back and look at the
24 documentation and everything about it, there's an audit log in
25 place of when we receive stuff. I should be able to do that,

1 but right now I -- all I know is that the phone did come to us,
2 and we sent it back with the data. I don't know exactly -- I
3 can't verbatim remember exactly what the phone was or what --

4 Q Okay.

5 A -- state markers were on the phone or anything like
6 that. All I know is the phone did come to Cellebrite. We did
7 send it back. We sent back the image and that.

8 Q Can you please look at that paperwork and refresh
9 your recollection about what your company did.

10 THE COURT: Do you have your affidavit in front of
11 you there?

12 THE WITNESS: I don't have it on me right now, no.

13 MR. GIORDANI: And, Judge, I would stipulate that the
14 phone went to Cellebrite twice --

15 THE COURT: Well --

16 MR. GIORDANI: -- I don't think this gentleman looked
17 at it the first time so I don't understand the relevance of the
18 question for this gentleman.

19 THE COURT: Well, maybe then --

20 MR. STORMS: Judge, they --

21 THE COURT: -- there's another issue. I understand
22 why did they have to look at it twice? Why did the phone go
23 back and forth twice. So if he needs the audit log --

24 Is that there at the same office where you -- where
25 you're located, sir?

1 THE WITNESS: Yeah. I would need to look into it and
2 determine why it was.

3 THE COURT: I mean, is it something like a, you know,
4 clerical person could run down the hall with the audit logs so
5 you have it in front of you, or is it in some warehouse
6 somewhere? My question is really how long will it take you to
7 get the audit log? Can you have a secretary, you know, go get
8 it and bring it into your room, or is that, you know,
9 impossible? Or can you access your desk computer and, you
10 know, print it out and bring it into the room with you, or is
11 it off, you know, in a warehouse, you know, 10 miles away?

12 THE WITNESS: It's stored online. It's mainly just
13 for me and admin. We do this because if there's kind of
14 confidential information possibly attached to it. So I would
15 have to go down on my computer and kind of look over it and
16 also discuss with admin exactly what happened, look at notes
17 and that kind of stuff, but it really -- I don't know what it's
18 going to look like so it would just take me maybe anywhere from
19 10 or if it's -- it really depends on if it's indicating it's
20 two different cases; did it come in as one case? It really
21 depends on that kind of stuff.

22 So, for example, when we send the device back,
23 sometimes the customer will re-create the case and send it to
24 us; so we will have to kind of view of that to determine what
25 happened on the device if they come in.

1 THE COURT: Okay. And are -- right now are you in
2 the building where you have your work computer? Are you in the
3 same building or are you on an off-site?

4 THE WITNESS: I'm in the same building.

5 THE COURT: Okay.

6 THE WITNESS: But I'm just in a conference room right
7 now.

8 MR. GIORDANI: Can I --

9 THE COURT: All right.

10 MR. GIORDANI: Can I make a brief suggestion before
11 we send him off?

12 THE COURT: Oh, I wasn't going to send him off right
13 now, but --

14 MR. GIORDANI: Okay.

15 THE COURT: -- it's a typical question when you're,
16 you know, hey, where is it --

17 MR. GIORDANI: Yeah, yeah.

18 THE COURT: -- does he have to drive, you know, to
19 Long Island to get this thing or, you know.

20 What?

21 MR. GIORDANI: I think that -- I think that we would
22 agree that the actual examination report done here by Metro --

23 THE COURT: Uh-huh.

24 MR. GIORDANI: -- indicates the phone was sent off
25 the one time, and I -- we had a bunch of arguments in court

1 about this. It was sent off one time --

2 THE COURT: Right.

3 MR. GIORDANI: -- they were not able to get into it;
4 it was sent back. In the examination report by Metro, it
5 indicates we became aware that new software had been developed
6 and we sent it back.

7 THE COURT: And you sent it back.

8 MR. GIORDANI: And that's where this gentleman comes
9 in.

10 THE COURT: Comes in.

11 MR. GIORDANI: So unless -- well, I can't think of a
12 reason why it being sent there and not accessed would be
13 relevant for this proceeding. I thought this proceeding was to
14 determine whether what this guy did is mirror the document, I
15 mean, mirror the data or not, and I think that's been
16 established so far. I don't know why we're delving into this
17 prior thing where they didn't get into it.

18 MR. STORMS: Judge --

19 THE COURT: Go on, Mr. Storms.

20 MR. STORMS: Again, it goes to chain of custody. It
21 goes to their -- what their techniques are --

22 THE COURT: I don't know that -- I don't know that
23 this witness would know who first received the phone at
24 Cellebrite. That would be something that Mr. Giordani might
25 know or even the lawyer might know, meaning the lawyer for

1 Cellebrite or Metro might know --

2 MR. STORMS: It's a --

3 THE COURT: -- so there's -- we're missing somebody
4 for the chain of custody because it was a different employee
5 apparently --

6 MR. STORMS: That's correct.

7 THE COURT: -- I don't know.

8 Let me just ask the witness because I don't know that
9 he would know any of this.

10 Sir, would you know -- would you have any information
11 as to what Cellebrite employee would have received the phone
12 initially?

13 THE WITNESS: I don't know who because we have had
14 people join us and leave us. I know this is an old case; so it
15 might be kind of when I started. So it might be prior to me
16 starting --

17 THE COURT: Okay.

18 THE WITNESS: -- but I wouldn't really know.

19 THE COURT: Okay. So it could have been you, but you
20 don't know; is that a fair statement you're not sure?

21 THE WITNESS: I wouldn't know right now, no.

22 THE COURT: Okay. All right.

23 Go on, Mr. Storms.

24 MR. STORMS: And again I'd object under Crawford if I
25 can't get into this issue, and he's not able to answer these

1 questions. I have a right to confront him about these issues,
2 chain of custody.

3 THE COURT: Well, ask him the question. I mean,
4 there is a missing link now on the chain of custody --

5 MS. TRUJILLO: He did; he said he doesn't know.

6 THE COURT: -- but if he doesn't know, he said he
7 doesn't know --

8 MR. STORMS: Okay.

9 THE COURT: -- whether it was him or not. Let me ask
10 the lawyer.

11 Sir, can you hear me?

12 MR. MCDERMOTT: Yes.

13 THE COURT: Do you have in your information what
14 Cellebrite employee would have received the phone the first
15 time when your company was unable to duplicate or download the
16 information? Would you have that information there with you?

17 MR. MCDERMOTT: I don't. I don't, and that's for a
18 few reasons. One, we keep that information pretty siloed from
19 the rest of the company for confidentiality reasons. And two,
20 that happened long before I joined the company which was about
21 nine months ago.

22 THE COURT: Okay.

23 MS. TRUJILLO: Can I follow up?

24 Mr. McDermott, you just said that you keep it
25 confidential, but isn't it true that you sent a certification

1 and business record or what your -- your client is referring to
2 as a witness statement along with the phone back to Metro; is
3 that correct?

4 MR. MCDERMOTT: So when I say it's confidential, I
5 may have misspoken there. It keeps their system of records
6 access separate from the rest of the company meaning I can't
7 access it to see that information.

8 MS. TRUJILLO: Okay. Mr. Stofik, would you be able
9 to access the witness statement of the phone when it originally
10 came to your company which contains the information of the
11 analyst who viewed it or transferred the information?

12 THE WITNESS: If they get me a case number, I can see
13 the DFL case number, like that one does, if like I mentioned
14 before, sometimes they make different CDFL case numbers when
15 they resubmit it. It could be a completely different case
16 number. If they can get me that case number, I can pull up
17 records for it and kind of also see the notes that go into it,
18 but if it's not under this CDFL number, then I wouldn't really
19 know, but if they can get me the prior case or any
20 identification of what the previous, 'cause based off of what
21 it sounds like is they submitted it; it went back, something
22 happened, and then they resubmitted it. So it might be two
23 separate cases so we would have to have the other case number.

24 MS. TRUJILLO: Okay. So as you sit here you're
25 unaware whether or not there was a witness statement sent to

1 Metro in that instance where they were unable to open the
2 phone?

3 THE WITNESS: Yes.

4 BY MR. STORMS:

5 Q And you're unaware of how many times they attempted
6 to unlock the phone at that point in time?

7 A By "them" who do you mean, Metro or?

8 Q Cellebrite.

9 A I'd be unaware of how many attempts they sent it in
10 or anything like that. If they sent it in three different
11 times it would probably be most likely three different case IDs
12 or anything like that. I'm unaware of that.

13 Q And so based upon what you previously testified to,
14 at best there would be one of these business record documents
15 about what was done at that time because you don't otherwise
16 keep documentation about the steps you take or that any analyst
17 takes whenever they attempt to unlock a phone?

18 A This was before my time it sounds like. If it came
19 in and it was before my time, I wouldn't have any recollection
20 of what they did this documentwise. All I know is we, for
21 example, may, if the phone does come in, we do provide a
22 business document. So to the best of my knowledge I don't know
23 the previous -- anything about the previous case or what was
24 submitted or anything like that.

25 Q So to the best of your knowledge there was no

1 documentation generated by an analyst who would have looked at
2 this phone before you did in that earlier time that it went to
3 Cellebrite?

4 A To the best of my knowledge that was -- I don't know
5 anything about that completion for --

6 Q So no, you don't -- you're unaware of there being any
7 documentation?

8 A I would be unaware of any documentation, yes.

9 MS. TRUJILLO: Mr. Stofik, when you received the
10 phone in this case, were you aware that Cellebrite previously
11 tried to access the information on the cell phone?

12 THE WITNESS: A lot of times when I receive phones I
13 don't know cases or anything like that. We're just receiving
14 the phones, extract the data. So most likely I would be -- I
15 wouldn't be aware of it unless it was submitted under the same
16 case number, which it sounds like most likely it wasn't because
17 it was sent back to us.

18 MS. TRUJILLO: When you received the phone in this
19 case, what did you receive along with the phone, if any,
20 documentation from Metro?

21 THE WITNESS: I don't know -- I wouldn't remember
22 that. So to the best of my knowledge I really cannot answer
23 what we received on that end.

24 MS. TRUJILLO: Is there an administrative log that
25 indicates what documentation arrives with the phone that you

1 receive to analyze?

2 THE WITNESS: What year was the phone received
3 because one other issue that will come into play is that if
4 it's an older phone --

5 MR. STORMS: March --

6 THE WITNESS: -- we recently have, I think in 2018
7 swapped how we document stuff. So, but if we did receive it,
8 we should have logs of --for example, when we receive a device
9 we take photos of the device, but it really depends what --
10 when it was received and everything like that. The original
11 one I wouldn't have any idea.

12 BY MR. STORMS:

13 Q If it was received back in March of 2017, but you're
14 saying you wouldn't have any idea what would have happened at
15 that point time?

16 A I don't remember. All I know is we did change
17 systems; so I don't know if it would be in the new system or if
18 it's in the old system or anything like that. So I don't know
19 exactly what documents we have or anything like that.

20 Q Okay. And you were -- and to the best of your
21 recollection, you do not recall being aware that the phone had
22 been previously sent to Cellebrite when you did the analysis
23 that you did?

24 A No. I wouldn't be aware of it really because a lot
25 of documents we don't really look into cases or anything like

1 that. I'm usually just handed the device, and then I'll just
2 do -- get the extraction dumped, and then that's it. We really
3 don't look into the past history of it when we receive it if
4 there was a past history of it.

5 Q Okay. So no, you were unaware of any past history;
6 correct?

7 A Yes.

8 Q Okay. So whenever you make -- you made a copy of the
9 device in this instance. You made this copy using proprietary
10 techniques and software and these things that you've got a
11 nondisclosure agreement about; correct?

12 A So yes, we made a forensic image. I wouldn't be able
13 to say copy, but more so a forensic image out of the phone
14 using proprietary software, yes.

15 Q What does --

16 MR. GIORDANI: Judge, can I --

17 I'm sorry to interrupt you. If I could chime in just
18 for the Court's edification I was texting when Mr. Storms
19 started asking this series of questions. I was texting with
20 our local guy Mike Mangione --

21 THE COURT: Uh-huh.

22 MR. GIORDANI: -- to see if he could get the case
23 number for the prior submission and asked him, do you receive
24 any documentation back when they sent the form back the first
25 time. He indicated, let me see if I can get the case number,

1 but also they don't send documentation when they are not
2 successful just a notification, and they ship it back. So just
3 for the Court's edification maybe Mr. Storms as well during the
4 course of it.

5 THE COURT: Okay. So is the notification, can you
6 find out, like, signed by an employee --

7 MR. GIORDANI: Okay.

8 THE COURT: -- or is it just like a generic, sorry
9 we're unable to get anything, or is it signed by the tech or
10 just to give us a starting point on who might have knowledge
11 about this from the document if we can learn something.

12 MR. GIORDANI: Okay.

13 BY MR. STORMS:

14 Q So what is a forensic copy -- image, excuse me.

15 A It's a image that's forensically preserved. So it's
16 supposed to maintain forensic integrity of the device. So
17 basically you're kind of duplicating the data that's on the
18 phone at the time of the extraction. So you're not messing
19 with metadata or anything like that; it's more of a preserving
20 the phone in the state that it is and keeping the metadata
21 intact.

22 Q Okay. And that process was documented in the
23 business record that was received by local law enforcement from
24 Joe Raspante; correct?

25 A Yes, I believe so, yes.

1 Q And then a part of that statement was, quote, "That
2 Cellebrite did not examine the applications on or the data of
3 the device nor did Cellebrite alter any of the applications on
4 or the data of the device," unquote; is that correct?

5 A Yes.

6 Q So is that a fair and accurate statement of how your
7 proprietary techniques and software and equipment work?

8 A Yeah. So what we want to do is preserve the forensic
9 integrity of the image so we don't -- for example, going off
10 the first statement that we don't look at any of the data. We
11 don't open any of the data, for example, in the image or
12 anything like that because we're not doing the investigation or
13 anything like that, and that our software doesn't manipulate
14 any apps or anything or any of the user data, just to maintain
15 forensic integrity of the device.

16 Q Cellebrite didn't examine the applications on the
17 device or the data on the device itself; correct?

18 A No. So, for example, if there's a text message or
19 anything like that, we don't ever look at those messages. All
20 we're doing is providing a forensic image.

21 Q You did not look at the data on the device itself;
22 correct?

23 A No, we don't look at any data or anything like that.
24 No.

25 Q Okay.

1 A For example, if I look at the data -- what I mean is,
2 like, for example, text messages and stuff like that. I don't
3 mean look at the data as a container because what we do is hash
4 it. So if you mean looking at the data that way then, yes,
5 but, for example, prying into, like doing the investigation
6 kind of stuff, we don't look into the data. So if there's like
7 text messages or WhatsApp, we don't look at any of that data.
8 We don't open that data. We don't do anything like that.

9 Q So was the phone rooted when you received it in order
10 to do the analysis that you did?

11 A We don't -- are you asking was the phone rooted or
12 can you clarify that little bit?

13 Q Yes. Was the phone rooted during your process of
14 extracting the data?

15 A No, because that would manipulate the forensic
16 integrity of the device because in order to root it you would
17 have to manipulate data.

18 Q Okay. So in -- Cellebrite examined what was
19 described in the certification letter as the, quote, forensic
20 copy of the data contained on the device, after you had
21 determined the pass code; is that correct?

22 A I don't know if we determined the pass code on some.
23 Sometime we don't even determine the pass code; we just turn
24 over the data. It's device -- it's by device; I wouldn't know.

25 Q So in this instance, we're dealing with a device that

1 was pass code protected; do you recall that?

2 A I don't recall if it had a pass code or what the pass
3 code was, but it potentially could have had a pass code.

4 Q So you don't recall defeating a pass code on this
5 particular device that you analyzed?

6 A I wouldn't -- I -- like I said, all we did is really
7 preserve the forensic integrity and kind of dumped the data
8 that was on the device.

9 Q Can I represent to you that the certification of
10 business records of Cellebrite states that the forensic
11 specialist, quote, Was able to determine the pass code of the
12 device and make a forensic copy of the data contained on the
13 device, unquote; would you dispute that?

14 A I don't know if a pass code was presented; so I don't
15 know if it would be disputable or not. It really depends is
16 pass code -- 'cause each device that is submitted to us we
17 sometimes will provide a pass code, but sometimes we will just
18 provide the data. It's a case-by-case scenario, but I wouldn't
19 know if we did derive a pass code for this device or not.

20 Q Brian, that's not my question. My question is, did
21 you defeat the passcode or determine the passcode to access the
22 data on this particular device?

23 A I really don't recall this particular device. I
24 wouldn't really know this particular device because the amount
25 of devices that we get in. Potentially we provided the

1 passcode; potentially we didn't get the passcode, but I
2 wouldn't know off the top of my head.

3 Q So, but we -- the certification we have says that
4 that was done here, that in this case the passcode was
5 determined and then a forensic copy of the data of the device
6 was made. Are you -- that's what happened here; are you
7 disputing that?

8 A I'm not disputing it. I'm just saying I don't know
9 off the top of my head. I'd assume because it's in the witness
10 statement that that's true --

11 Q Okay.

12 A -- but I'm also stating that there's other devices
13 where we don't provide passwords or anything like that. So I
14 would have to go check my notes and everything like that, but
15 I'm not saying it's not true; I'm just saying there are
16 scenarios where we don't provide passwords.

17 Q How do you determine the passcode of the device?

18 A That's -- I wouldn't be able to testify to that
19 because I really don't know. All I know is we use a tool and
20 all that kind of stuff. So I wouldn't know how we determine
21 it.

22 Q So you're unaware of the process by which the
23 forensic analyst determines a passcode of a device that you're
24 extracting data from?

25 A Not unaware, it's just at a high technical level, and

1 also it depends device by device. And also I do also feel
2 uncomfortable discussing it, but I guess those -- it's kind of
3 above my level about how the stuff works and all that kind of
4 stuff.

5 Q So you -- this is an S6 Samsung Galaxy phone that you
6 extracted data from; are you saying that you are unaware how
7 the password protection on it was defeated?

8 A I wouldn't know off the top of my head because it
9 depends on what device -- or what happened and everything like
10 that. But I wouldn't be able to describe it, per se. I know
11 how the tools work and everything like that, but it's -- it's
12 just I really wouldn't know how to describe it and that kind of
13 stuff.

14 Q Well, you wouldn't know how to describe what you did
15 in this case?

16 A I can describe on my level, but, for example, how
17 exactly the tools work and everything, but that's mainly a lot
18 in research and development team --

19 Q Okay.

20 A -- and they --

21 Q Will you describe what you did on your level then
22 with this Samsung S6 phone.

23 A Really, all I can describe is that we possibly ran a
24 solution and then got the data and provided the password if the
25 password was provided.

1 Q You said you possibly ran a solution?

2 A No, we ran a solution, but possibly give the password
3 if it was provided. I don't know -- I don't know verbatim this
4 phone. I can't recall exactly -- what exactly happened on this
5 specific phone, but I can kind of give you procedure.
6 Basically we take the phone, we do an extraction, provide a
7 password if we're able to get the password. If we're not able
8 to provide a password, we'll do an extraction. This exact
9 phone I can't remember off the top of my head exactly what
10 happened and everything like that. All I know is that it did
11 come to Cellebrite. We did run our solution on it, and then we
12 returned the device with the dock.

13 Q And then it --

14 A I don't know exactly -- yes?

15 Q In this case the certification and business records
16 of Cellebrite does not indicate the password to the phone. But
17 your testimony is that it was determined?

18 MR. GIORDANI: No. Objection.

19 THE WITNESS: I -- I --

20 MR. GIORDANI: That was not --

21 THE COURT: Well, he can clarify his testimony.

22 You can clarify your testimony.

23 MR. STORMS: Yeah, please clarify.

24 THE WITNESS: I don't -- I don't --

25 THE COURT: I think he's saying he doesn't know.

1 THE WITNESS: I can't recall like -- I wasn't
2 really -- it's really -- so what we do is we don't put the
3 password in the business record just in case if anything were
4 to happen. What it would be is it's on the customer side
5 because the customers provided in the past. It was a separate
6 form of e-mail. We changed our -- we changed it now so the
7 customer logs into a portal, and what they would do is log into
8 their case; they're receiving the encryption key because the
9 images are encrypted. So if anything does happen, like,
10 interception, they can't look at the data. And also we do --
11 we work -- we get the password, provide that password on the
12 customer portal for the customer.

13 BY MR. STORMS:

14 Q And are you aware if that was done in this case, yes
15 or no?

16 A I am -- I -- no.

17 MS. TRUJILLO: Other than the IMEI number, is there
18 any other way that you identify the device when Cellebrite
19 accepts it from law enforcement?

20 THE WITNESS: No. We strictly go off the IMEI.

21 MS. TRUJILLO: Okay.

22 BY MR. STORMS:

23 Q I wanted to talk to you about the hash value
24 comparison that was done in this case, okay?

25 A Okay.

1 Q Okay. So the hash values that were compared
2 according to the certification of business records were the
3 hash values, quote, associated with the data on the device,
4 unquote, and then, quote, the hash values associated with the
5 data on the drive, unquote, meaning the drive given local law
6 enforcement; is that correct?

7 A Yes.

8 Q Okay. So when you're comparing -- so we've got three
9 sets of data. We've got the phone itself that you didn't
10 examine the data of; correct?

11 A I wouldn't say three sets. Basically what we do is
12 let's say we receive a device, we do the extraction on the
13 device. We hash that extraction, and then we copy it over to a
14 thumb drive and then we hash that extraction and compare and
15 make sure that comparatively stayed while copying the thumb
16 drive --

17 Q So you --

18 A -- so then -- yes?

19 Q So you extract the data from the device, and then the
20 data that you extracted from the device you then forensically
21 copy to a thumb drive, and then you compare the copy you made
22 from the device to the copy on the thumb drive; is that a fair
23 statement?

24 A Yes, it's fair.

25 Q Okay.

1 MS. TRUJILLO: Can you just walk us through the
2 process; when is the first hash done?

3 THE WITNESS: I guess I'll go through it from the
4 beginning.

5 MS. TRUJILLO: Yes.

6 THE WITNESS: So basically when we receive a phone,
7 we'll do an extraction. The extraction we'll then store
8 locally, and then we'll move it to a thumb drive. When we move
9 to that thumb drive, we hash the locally stored one and the
10 thumb drive stored one, and then compare them, and then we make
11 sure once, for example, if we're comparing the thumb drive one,
12 we're parsing or we're putting the data in the tool to make
13 sure the hash registers correctly. So basically we're
14 comparing our local storage to the thumb drive to make sure
15 nothing happened when the transfer happened.

16 BY MR. STORMS:

17 Q But you're not looking at your local storage and
18 comparing it to the data on the device itself because you're
19 not looking at the data on the device itself; correct?

20 A There's -- in the forensic world, it's kind of hard
21 to hash a mobile phone due to as soon as you turn it on,
22 changes happen to it from just the event of it powering on. In
23 the forensics world, for example, a lot of people will do a --
24 when they testify, a forensic examiner they may double check
25 their data by looking at what's on the phone versus what's in

1 the data or parsing into two different tools to make sure the
2 data is the same, and they're getting the same results. But
3 there's no way to hash, per se, the data on the phone at the
4 time and compare it to the data that's on the flash drive.
5 We're just housing the image of the dump.

6 Q But you're not comparing the data on the thumb drive
7 to the data on the phone itself, correct, because you're not
8 looking at the data on the phone itself?

9 A You are in a way because the data on the phone was
10 dumped locally and then hashed at that point. So whatever was
11 dumped at that point is hashed. So whenever that data was
12 created, that's a hash for that phone at that state. So you're
13 kind of freezing the phone in the state that it is when it was
14 dumped.

15 Q So you're saying if you assume that the forensic copy
16 that you make at your work is a copy of the phone, then the
17 hashing of the forensic copy you make at your office compare it
18 to what you give to law enforcement, if that all matches and it
19 should match what the phone has on it itself; correct?

20 A I'm just -- sorry, I'm trying to go back in my head
21 and kind of -- can you repeat that again really quick.

22 Q Sure. You don't -- the only -- you hashed -- you
23 hashed the data once you make a copy of it; you're not
24 obviously hashing the data on the phone itself; correct?

25 A Yes.

1 Q And the hashing is done so it's basically a value, a
2 numeric value that is unique to the data in that copy that you
3 made; correct?

4 A Yes.

5 Q And it's kind of like a fingerprint or Social
6 Security number or, you know, a unique identifier of the data
7 so you don't have to physically look through every last file to
8 make sure they're exactly the same; correct?

9 A It's a fingerprint of the device at the time. It's
10 kind of the fingerprint of a container containing that data.

11 Q Yeah.

12 A It's more so, for example, if somebody was to let's
13 say I took the image and started manipulating data in it, if
14 you were to rehash that, then the hash value would change;
15 that's why the hash value is in place. So it's just a hash of
16 a container of the data.

17 Q So you're looking at the hash of the container of the
18 data from the copy you made and you're comparing that to the
19 image, the forensic image that you're providing local law
20 enforcement and seeing that those hash values match; correct?

21 A Yes. Yes.

22 Q But ultimately you're not comparing either of those
23 data sets to the data that's on the phone itself?

24 A In that terms, no.

25 Q Okay.

1 MS. TRUJILLO: Do you typically power the phone on
2 when you receive it to access it and copy it?

3 THE WITNESS: No, we don't turn it on, like, power it
4 on, and if they were like, for example, a normal user powers
5 on, we don't power it on or anything like that. And the reason
6 why is because the forensic integrity because as soon as you
7 power it on, it puts on a power on event, and you'll see those
8 kind of logs so no, we don't power it on.

9 MS. TRUJILLO: Okay. So you just, for lack of a
10 better term, plug it into your software, and it powers on in a
11 different manner?

12 THE WITNESS: Yes.

13 BY MR. STORMS:

14 Q So this process that you use, local law enforcement
15 can't -- doesn't have that capacity to do -- to check --

16 A At the time, no.

17 Q Okay. Do they have it now that you're aware of?

18 MR. GIORDANI: Objection. Relevance.

19 THE COURT: Yeah, that's sustained.

20 BY MR. STORMS:

21 Q And so is there any way for me to check your work to
22 make sure that the values, that the data that you say is a
23 forensic copy matches the data that's on the phone?

24 A The hashes wouldn't match because now you're powering
25 on the device. But if you were to dump the data again, you can

1 match, for example if you were to power it on and do an
2 extraction now, you can kind of do what would be known as like
3 a quick thumbprint, a view of it. So you can compare the, for
4 example, you can look at logs or various other things. So if
5 you'd want to look at SMS database, you can image it now and
6 look at it now and then see if it's also the same as when it
7 was preserved then. But if you turn on the device and somebody
8 sends you a text message or something like that, the hashes
9 wouldn't match.

10 Q So there's no way for me to verify that the hashes
11 that you examined are accurate because they would be changing
12 at this point if I tried to do -- tried to reproduce it?

13 MR. GIORDANI: Well, I would object. That misstates
14 what he just said.

15 THE COURT: Right. Well, if he turns it on the
16 conventional way, the way we would all turn our phone you
17 couldn't check. If Mr. Storms were to send the phone back to
18 you, and you did another data dump or that's not -- you did
19 another forensic whatever, would the hashtags match the
20 original hashtag and the hashtag of your first forensic
21 duplication?

22 THE WITNESS: Yeah, it should as long as nobody
23 manipulated it. To the best of my knowledge yes, it should --

24 THE COURT: Okay. So as long as --

25 THE WITNESS: -- another way to do --

1 BY MR. STORMS:

2 Q Would you -- would you -- do you do work like that
3 for defense attorneys?

4 A No, not to the best of my knowledge, no.

5 Q Okay. Do you work for public defender offices?

6 A To the best of my knowledge, no.

7 Q Okay.

8 THE COURT: Are all of your clients law enforcement?

9 THE WITNESS: To the best of my knowledge, yes.

10 BY MR. STORMS:

11 Q Other than possibly banks like I mentioned
12 previously?

13 THE COURT: He was not aware of that. So that's --

14 THE WITNESS: I don't --

15 MR. GIORDANI: Objection.

16 THE COURT: Yes, sustained. He already said he
17 wasn't aware of, I mean, you can't impeach him with some
18 article from the newspaper.

19 BY MR. STORMS:

20 Q Are you aware that your processes have been submitted
21 to any peer review?

22 A I'm not aware of anything like that, no.

23 Q So no one else has this same technology and can
24 replicate what you guys do?

25 A I don't -- I wouldn't know what other people have.

1 All I know is I really can't answer that because I don't know
2 what other people have.

3 Q Okay. The hash values or checksums of the data that
4 you checked here in this case, where are they located in the
5 UFED reader report that we've been given in this case?

6 A Usually what you'd have to do is open it in physical
7 analyzer and then just rehash it. It would -- I don't think in
8 the UFED reader report that's mainly on the forensic examiner
9 so that kind of would be out of my scope.

10 Q Okay. So it's not readily -- the work is not there
11 in the UFED reader for us just to be able to see that the hash
12 values are the same?

13 A We didn't provide -- we don't provide any UFED reader
14 reports or anything like that so that would be on the forensic
15 examiner who decides that.

16 MS. TRUJILLO: Does your company follow any national
17 or international standards or guidelines of practice and
18 forensic analysis that you're aware of?

19 THE WITNESS: I know that we're applying to various
20 ones, but that's like, that's usually the manager who knows
21 that kind of stuff, and we have a lot of managers who know what
22 they're applying for and all that kind of stuff. I really
23 don't know exactly all those things. All I know is we have
24 SOPs that we follow and procedures that we follow.

25 MS. TRUJILLO: And those are internal SOPs?

1 THE WITNESS: Yes.

2 MS. TRUJILLO: And those are created by the company
3 Cellebrite?

4 THE WITNESS: Yes.

5 MR. STORMS: No more questions. Thank you.

6 THE COURT: All right. Any follow-up?

7 MR. GIORDANI: No.

8 THE COURT: All right. Mr. McDermott can weigh in on
9 this, but I didn't really hear any proprietary information that
10 came out. I think a lot of the defense's questions are
11 irrelevant for purposes of what can be asked in front of the
12 jury such as the corporate structure and things like that. I
13 don't know what the relevance of the corporate structure would
14 be in front of the jury.

15 MR. STORMS: Well, I would say --

16 THE COURT: Although it's certainly not proprietary,
17 but I didn't really hear anything that was proprietary.

18 MR. GIORDANI: I -- would you agree, Mr. McDermott?

19 THE COURT: Would you agree, Mr. McDermott? You can
20 weigh in on that.

21 MR. MCDERMOTT: Well, I agree. I don't think
22 anything was discussed that was proprietary.

23 THE COURT: Right. So, I mean, everything you asked,
24 everything that came out in the hearing I think is fair game in
25 front of the jury so long as it's relevant. And I don't know

1 that the corporate structure and all of that is really relevant
2 to anything, that it's a foreign-based company. And some of
3 this he didn't know in terms of is it Japanese owned or, you
4 know, what they do with the Russians and the whole banking
5 thing. He's already said he doesn't know it. So I don't see a
6 basis to ask him in front of the jury on the questions that
7 he's already said he doesn't know. And it, you know, it makes
8 sense that somebody who's working as a technical employee isn't
9 going to necessarily be familiar with the corporate structure
10 of their employer.

11 So anything from the defense --

12 But much of what you got into you want to get into it
13 in front of the jury, I don't see it as proprietary or
14 confidential so, you know, have at it.

15 MR. STORMS: Okay. I believe that ultimately we
16 weren't --

17 THE COURT: And obviously the State --

18 MR. STORMS: -- they didn't -- he wasn't going to
19 answer the questions that approached anything proprietary.

20 THE COURT: But that again, you know, this Court has
21 already ruled that, you know, technical programming and coding
22 and things like that is way beyond, it's beyond my knowledge
23 and the jury.

24 And may I just point now the irony here that, you
25 know, defense is arguing that the jury can't compare a

1 footprint and the sole of a shoe that that's so complicated and
2 technical that they can't look at two pictures. And now is
3 arguing oh, no, the jury needs to hear this complicated
4 technical computer testimony --

5 MR. STORMS: Well, Judge, we -- because we have --

6 THE COURT: -- and it may I just point out the only
7 juror who may have understood the engineer was preempted.

8 MR. STORMS: Judge, we have a -- we have a right to
9 go into these things. Unfortunately we're blind. We're not
10 allowed to ask him about these things. We're not allowed to
11 learn about them to be able to attack them in some manner. I
12 mean, we would like to have an expert to explain these things
13 and to challenge --

14 THE COURT: Right. Well, you have --

15 MR. STORMS: -- but we don't know what it is, and
16 we're doing -- it's the same position as you are with the
17 footprint that there should be an explanation that is logical
18 and reproducible and science based --

19 MS. TRUJILLO: Yeah.

20 MR. STORMS: -- that the jury can hear and that we
21 can challenge. But here we've got a block box process that
22 produces the state that is being used against our client.

23 MR. GIORDANI: And again, Judge, ultimately the
24 question is does this Court satisfied that what is returned to
25 Metro is what it purports to be, a copy of the cell phone of

1 Mr. Brown.

2 Now, I guess what the defense is alleging is that
3 Mr. Stofik here implanted a text message that says, yo, Kwame's
4 on his way; he carries a knife on his right side and his weight
5 is in his vehicle. I mean, I don't mean to be flippant, but
6 that's the ultimate issue here.

7 So I think what Mr. Stofik has just testified to
8 completely satisfies the foundation that we need to establish
9 in order to admit the DFL examination done here with Metro.
10 And with that I would submit it to the Court. I'd ask --

11 MS. TRUJILLO: And I would say --

12 MR. STORMS: And again, Judge, we had that chain of
13 custody issue with the previous time it went over there --

14 THE COURT: That's a problem, but --

15 MR. STORMS: -- and then also, I mean, this --

16 MR. GIORDANI: It goes to weight.

17 MR. STORMS: -- this is all -- this is circular.
18 It's bad information. So it should be admissible and it's
19 obviously -- I mean, there's got to -- there's still normally
20 conditional precedence of letting something like this in, and
21 we're allowed to get into these things ultimately, that it's
22 information that is damning. Once it would be admissible
23 doesn't change a fact that we should be able to challenge the
24 basis for saying this is an accurate copy --

25 THE COURT: Well, you can certainly --

1 MR. STORMS: -- and have it -- and have some sort of
2 scientific attack or way to review the evidence against our
3 client.

4 THE COURT: Well, first of all on the whole expert
5 thing, it was the time, I mean, you knew they were going to use
6 the Cellebrite. And I know Ms. Trujillo says it's burden
7 shifting, but if you'd wanted an expert to look at this and
8 analyze the science behind it, and I'm assuming what we're
9 talking about here is computer science, the coding --

10 Is that how this is all done based on some kind of
11 proprietary computer program that's able to duplicate the data
12 from the phone to the thumb drive that then is transferred to
13 Metro? Is that basically what the science or the technology
14 is, some kind of computer programming?

15 THE WITNESS: Yeah, and so in the law enforcement
16 they may have a 4PC or something like that. It's locally known
17 in the law enforcement that's allowed them to get into like
18 various other devices that aren't, like, not the more high-end
19 devices, but they might be able to get into low-end devices.
20 It's kind of based off of that kind of stuff. Those are
21 publicly known out there.

22 So it's kind of like a forensic examiner will know
23 what the Cellebrite tool kind of operates and stuff like that.
24 So it's kind of based off of that kind of stuff; it's just more
25 proprietary software to get into the more technical devices and

1 all that kind of stuff.

2 THE COURT: I mean, he can say that there's
3 proprietary software, but even if he knew the coding, which I'm
4 not sure -- no offense -- he does, none of us could evaluate or
5 understand the coding, and so I don't know why further inquiry
6 would be germane in front of a jury. And by none of us, I
7 mean, non-technical, the lawyers and the jurors. And like I
8 said, the one juror who may have had the technical expertise to
9 understand any of this has been excused.

10 And so, you know, that's the Court's position. You
11 can certainly -- like I said, I didn't hear anything
12 proprietary.

13 I certainly think it's a fair inquiry, you know, what
14 do you do with the phone when you get it, and how is this
15 information downloaded, and what do you do then, and all those
16 procedures and making sure the phone isn't tampered with is all
17 fine. But again I don't see that the proprietary coding or
18 programming is anything that needs to be presented to the jury.
19 And frankly I don't think any of us would understand it. I
20 think there's the danger of undue confusion in front of the
21 jury who are all laypeople.

22 MR. STORMS: And, Judge, so let me --

23 THE COURT: And so, you know, I think he can testify
24 within the parameters that have been established at this
25 hearing so.

1 MR. STORMS: So, Judge, just briefly, know that we
2 still have the chain of custody issue which we're, you know, we
3 have -- we know where those issues which goes to admissibility
4 not the weight of the evidence.

5 And then otherwise I would be, you know, objecting to
6 the introduction of this under NRS 52.015 which is process or
7 system of authentication, that evidence described as a process
8 or system used to produce a result and showing that the result
9 is accurate is sufficient to authenticate the result. I think
10 based upon his testimony he hasn't established that. He's
11 unaware of how the system ultimately works, that he was unable
12 or unwilling to testify to those things.

13 And then otherwise we're objecting here the best
14 evidence rule NRS 52.255 that obviously the content of this
15 phone is very much something that we're fighting over and is an
16 important piece of evidence in this case, and we're objecting
17 of the -- to the admission of this information under those two
18 rules.

19 THE COURT: Okay. Well, I don't --

20 MR. STORMS: Just make my record so we don't have to
21 do this later on.

22 THE COURT: Okay. I don't see it as a best evidence
23 issue because the only way to read it is to -- I mean --

24 MR. GIORDANI: Make a copy.

25 THE COURT: -- make the copy. So we are looking at

1 the content. The question is, is it the actual content? I
2 feel that they've established it is, you know, and you can look
3 at the content to see if it's the content. And by that I mean
4 it's specific to the individuals, as Mr. Giordani pointed out,
5 in this case. So it's unlikely some Cellebrite employee would
6 have known what to input if they wanted to tamper with this in
7 the first place because it is so specific to the individuals
8 involved in this case.

9 MR. GIORDANI: Can we take, like, a five-minute
10 break?

11 THE COURT: Yeah, we're going to take a quick break.
12 What I would like on this first issue with the chain of custody
13 is, you don't have to do it right now, but at some point today
14 I'd like the witness to check on his computer and find out or
15 maybe Mr. McDermott --

16 MR. GIORDANI: Oh.

17 THE COURT: -- find out who the first employee was
18 who got the phone and determined that it was unable to be
19 accessed --

20 MR. GIORDANI: I have that --

21 THE COURT: -- and that we may need to hear from that
22 person Tuesday or later today or something.

23 MR. GIORDANI: I have that case number for you,
24 Brian.

25 THE WITNESS: Oh, can you give it to me then.

1 MR. GIORDANI: Cellebrite Case Number 00129990.

2 MS. TRUJILLO: And also the notification --

3 THE WITNESS: Okay. Will do.

4 MS. TRUJILLO: -- that was provided to Metro along
5 with the phone.

6 THE COURT: And maybe when we take about a 10 minute
7 break. If you're in the same building maybe -- I don't know
8 how long that takes to access on your computer, but maybe if
9 you could go find that out right now before you testify. Maybe
10 it was you, in which case this is all very easy.

11 MR. GIORDANI: Can I chime in?

12 THE WITNESS: Okay.

13 MR. GIORDANI: According to Detective Mangione who is
14 local with the DFL lab at Metro, he indicated there wasn't a
15 certification when they couldn't get into the phone; it's a
16 generic e-mail with the tracking number saying we're sending
17 this back with a tracking number.

18 THE COURT: Okay.

19 MS. TRUJILLO: I would ask that the State provide us
20 with a copy of that e-mail.

21 THE COURT: Yeah, absolutely. State, provide them.

22 And, sir, if you could go check. If it's you, we can
23 just cover all this in your testimony, and we won't need to
24 have you come back to testify about that.

25 THE WITNESS: Okay.

1 THE COURT: So see what you can find out. Is 10
2 minutes sufficient for you to do that or 15?

3 THE WITNESS: Maybe 15, if 15 works.

4 THE COURT: All right. Yeah, we'll take a break for
5 15 minutes.

6 MR. GIORDANI: Can you leave -- sorry, can you leave
7 your link up and just come back on?

8 THE WITNESS: Yeah, I'll leave it up, yeah.

9 MR. GIORDANI: Okay.

10 THE COURT: Okay. He's the first witness, State?

11 MR. GIORDANI: Yeah.

12 THE COURT: Okay. So we'll just do that. We'll see
13 and then we can call him. None of the content's being
14 introduced through him anyway. So if there's still some issue
15 you're not hearing content. All right.

16 Go ahead, sir, you're excused to go try and find that
17 information.

18 THE WITNESS: Thank you.

19 (Proceedings recessed 10:25 a.m. to 10:44 a.m.)

20 (Outside the presence of the jury)

21 THE COURT: All right. We're on the record out of
22 the presence of the jury and the witness is back.

23 And, sir, were you able to locate that information
24 during our break?

25 THE WITNESS: Yes, I was.

1 THE COURT: All right. And who was the analyst or
2 employee that received the phone the first time?

3 THE WITNESS: The first person was somebody who's no
4 longer with us, and the case was before I started.

5 THE COURT: Okay. And what is that person's name?

6 THE WITNESS: Christina.

7 THE COURT: Do you have her surname, her last name?

8 THE WITNESS: I don't have it on me right now, but I
9 can look it up and get it. If it's easier I can look it up
10 later.

11 THE COURT: Okay.

12 MR. MCDERMOTT: Your Honor, I can give it (video
13 interference) do want me to --

14 UNIDENTIFIED SPEAKER: Did you hear Jake?

15 THE COURT: I was -- did you hear it, it was gargled?

16 MR. GIORDANI: I didn't catch that, Jake.

17 MR. STORMS: He said --

18 THE COURT: Yeah, it was garbled.

19 Can you say that again.

20 MR. MCDERMOTT: I have her last name if you don't
21 mind me jumping in.

22 THE COURT: Sure. What is it?

23 MR. MCDERMOTT: It's Horvath, H-o-r-v-a-t-h.

24 THE COURT: All right. And you said she's no longer
25 with the company. How long ago did she leave the company?

1 MR. MCDERMOTT: Probably about a year.

2 THE COURT: A year ago, and do you know where she
3 works now?

4 MR. MCDERMOTT: So I started with the company nine
5 months ago, and she was not working here then, and I believe
6 she left shortly before I started. So, yeah, I think about a
7 year.

8 THE COURT: Okay. And then does anybody know where
9 she's working now? I mean, does she work for another tech type
10 firm or anybody know?

11 MR. MCDERMOTT: I don't see an answer to that.

12 THE COURT: Okay. Any follow-up from either side on
13 that point?

14 MR. GIORDANI: No.

15 MR. STORMS: Please, Judge.

16 How long did Ms. Horvath work for the company?

17 THE WITNESS: I --

18 MR. MCDERMOTT: (Video interference).

19 MR. STORMS: Did you say you have no idea?

20 MR. MCDERMOTT: Correct.

21 MR. STORMS: Do you know what her background was?

22 MR. MCDERMOTT: She and I -- we've never even met.

23 MR. STORMS: Do you know under what terms she left
24 the company?

25 MR. MCDERMOTT: I do know she left on her own accord

1 not for any misconduct or anything like that.

2 MR. STORMS: Are you aware if she was ever written up
3 or reprimanded for any misconduct?

4 MR. MCDERMOTT: I am not aware.

5 MR. STORMS: Okay. Thank you.

6 THE COURT: All right. Are we ready to begin?

7 MR. GIORDANI: Yes, but I would just say, Jake, now
8 we're going to be in front of the presence of the jury, so I
9 would suggest that unless you're asked a specific question by
10 either side don't chime in.

11 THE COURT: Correct. And because we --

12 MR. MCDERMOTT: Consider it done.

13 THE COURT: -- we don't want the jury to know that we
14 had this closed-door hearing. When the jury comes in and we
15 begin, we will have the clerk administer the oath to you again
16 because obviously the jury doesn't know we just had this
17 closed-door hearing.

18 Okay. So that's why we'll be administering again.

19 / / /

20 / / /

21 / / /

22 / / /

23 / / /

24 / / /

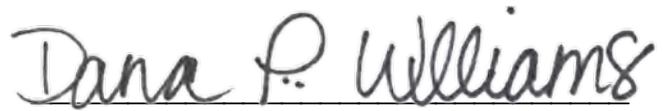
25 / / /

THE WITNESS: Okay.

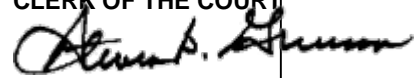
(Sealed Hearing ended at 10:48:45 a.m.)

-oOo-

ATTEST: I do hereby certify that I have truly and correctly
transcribed the audio/video proceedings in the above-entitled
case.

A handwritten signature in cursive script that reads "Dana L. Williams". The signature is written in dark ink and is positioned above the printed name and title.

Dana L. Williams
Transcriber



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff(s),

vs.

LARRY DECORLEON BROWN,

Defendant(s).

Case No. C-17-326247-1

Department XXI

BEFORE THE HONORABLE VALERIE ADAIR,
SENIOR DISTRICT COURT JUDGE

TUESDAY, DECEMBER 17, 2019

**TRANSCRIPT OF PROCEEDINGS RE:
JURY TRIAL – DAY 6 of 9**

APPEARANCES:

For the Plaintiff(s):

JOHN L. GIORDANI, III, ESQ.
Chief Deputy District Attorney
MICHAEL DICKERSON, ESQ.
Deputy District Attorney

For the Defendant(s):

MONICA R. TRUJILLO, ESQ.
W. JEREMY STORMS, ESQ.
Chief Deputy Special Public Defenders

RECORDED BY: ROBIN PAGE, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Page #

W I T N E S S E S

FOR THE STATE:

<u>MICHAEL MANGIONE</u>	
Cross-Examination	7
Redirect Examination	25
 <u>JAMILAH MIGGINS</u>	
Direct Examination	29
Cross-Examination	39
Juror Questions	42
 <u>EUGENIO BASILOTTA</u>	
Direct Examination	48
Direct Examination (cont.)	133
Cross-Examination	136
Juror Questions	151
Further Examination by Mr. Dickerson	155
Juror Questions	158
Additional Examination by Mr. Dickerson	159
Additional Examination by Mr. Storms	160

E X H I B I T S

State's Exhibits:	
Nos. 2 through 5	45
No. 303	99

1 **LAS VEGAS, NEVADA; TUESDAY, DECEMBER 17, 2019.**

2 [Proceeding commenced at 12:31 p.m.]

3
4 [Outside the presence of the jury.]

5 THE COURT: We're on the record, out of the presence of
6 the jury.

7 MS. TRUJILLO: So since we're still in Mangione's
8 testimony, which was the basis for our continuing objection --

9 THE COURT: Right.

10 MS. TRUJILLO: -- I think it was just a little unclear last
11 time. So I just want to be sure we did already say that we believe
12 it's a confrontation clause violation. But I want to specifically say
13 separately the text messages for Anthony Carter. That's what
14 we're talking about, that we believe it's a confrontation issue,
15 despite the fact that the State obviously has alleged it's
16 co-conspirator statements. I don't believe co-conspirator exception
17 trumps the confrontation clause. So I just wanted to make that
18 clear with our prior record.

19 THE COURT: So it's not that you're arguing they haven't
20 established that he's a -- potentially a co-conspirator; it's that you
21 feel like he's being -- your client's being deprived of his
22 confrontation clause rights based on the content of the text
23 messages.

24 MS. TRUJILLO: That's an additional argument.

25 THE COURT: Okay.

1 MS. TRUJILLO: So just continuing from our prior
2 arguments.

3 THE COURT: Does the State want to say anything?

4 MR. GIORDANI: No, I would submit it based upon our
5 prior arguments.

6 THE COURT: All right. That'll be noted for the record, so
7 you don't need to --

8 MS. TRUJILLO: Correct.

9 THE COURT: -- continuously object.

10 MR. STORMS: Just real quick, Judge, there's an issue
11 with the number that may be in this extraction report that is not on
12 the description of the extraction. Mr. Mangione just wants to check
13 in the actual program to make sure that we're on the same page
14 about this issue.

15 THE COURT: Okay. Can we call the jail and find out
16 where the defendant is? I thought we were ready.

17 [Pause in proceedings.]

18 [Jury reconvened at 12:40 p.m.]

19 [Off-record bench conference.]

20 THE COURT: Ladies and gentlemen, we thought we were
21 ready to start, but they're -- we're having technical issues again.
22 So we'll go ahead and have the bailiff escort all of you -- it's
23 probably more comfortable for you folks to sit around in the
24 hallway than in here. So, you know, it might be 5 or 10 minutes
25 while we try to correct our technical issues.

1 So notepads in your chairs, and follow the bailiff back out
2 through the double doors. We'll get started just as soon as we can.

3 [Jury recessed at 12:49 p.m.]

4 THE COURT: So while the witness is doing that, you don't
5 need me, right?

6 MS. TRUJILLO: No, Judge.

7 MR. STORMS: No.

8 THE COURT: Okay. So I'm going to leave the bench.

9 MR. STORMS: Sounds good.

10 THE COURT: And just as soon as that's ready, let the
11 bailiff know and then we'll start.

12 MR. STORMS: Thank you.

13 MS. TRUJILLO: Thank you.

14 [Court recessed at 12:43 p.m., until 12:53 p.m.]

15 [Outside the presence of the jury.]

16 THE COURT: All right. Is everyone ready?

17 MR. STORMS: Indeed.

18 MR. GIORDANI: Yes, Your Honor.

19 THE COURT: Okay. Can we bring the jury in?

20 MR. STORMS: Yes. Thank you for that, Judge.

21 THE COURT: All right.

22 [Pause in proceedings.]

23 THE MARSHAL: Your Honor, apparently two jurors went
24 downstairs to get a cup of coffee. So we're down two. I'm
25 informed they'll be back.

1 THE COURT: We should have their -- list of their numbers
2 from Kenny. Do we have that?

3 THE MARSHAL: Oh, yeah. I can call them.

4 THE COURT: Can you call them and tell them we're ready
5 to start? Was there anything I said that suggested, Oh, go
6 downstairs and get a cup of coffee?

7 MR. GIORDANI: Nope.

8 MS. TRUJILLO: No.

9 [Pause in proceedings.]

10 THE COURT: I'm leaving the bench again.

11 MS. TRUJILLO: Okay.

12 THE COURT: Does anyone have anything they need to
13 put on the record --

14 MR. GIORDANI: No.

15 THE COURT: -- in the future? Okay.

16 [Court recessed at 12:57 p.m., until 12:59 p.m.]

17 [In the presence of the jury.]

18 THE COURT: All right. Court is now back in session. The
19 record should reflect the presence of the State, the defendant and
20 his counsel, the officers of the court, and the ladies and gentlemen
21 of the jury.

22 And, Detective, you are still under oath; do you
23 understand that, sir?

24 THE WITNESS: Yes.

25 THE COURT: All right. You may be seated.

1 And I believe when we took our weekend recess,
2 Mr. Giordani has concluded his direct examination.

3 MR. GIORDANI: Correct.

4 THE COURT: And Mr. Storms, are you ready to proceed
5 with your cross-examination?

6 MR. STORMS: I am, thank you.

7 THE COURT: All right.

8 **CROSS-EXAMINATION**

9 BY MR. STORMS:

10 Q Detective Mangione, your job in this case was to access
11 data on a Samsung phone; is that correct?

12 A Yes.

13 Q Okay. And the part of your job is to collect records that
14 are associated with you forensically accessing a phone; fair to say?

15 A Yes.

16 Q Because Metro's rules are that for you to access a phone,
17 there has to be a warrant in place for that to happen?

18 A Correct.

19 Q And the warrant describes what sort of a crime you're
20 seeking information about?

21 A Yes.

22 Q And, obviously, the device that you're looking in?

23 A Correct.

24 Q And so you maintain copies of these warrants, obviously?

25 A Yes.

1 Q And you look at them to understand what you're
2 supposed to do?

3 A Correct.

4 Q And so there's a couple of warrants that are issued in this
5 case, right?

6 A Yes.

7 Q And you're familiar with them?

8 A Correct.

9 Q And when I say couple, I mean, literally, two?

10 A There was two, yes.

11 Q Okay.

12 A For this particular device that we're talking about.

13 Q That's right, just this device --

14 A Yes.

15 Q -- we're talking about right now.

16 And one was written by Detective Dosch, another one by
17 Detective Cook?

18 A Correct.

19 Q All right. I'm going to talk to you about the first warrant
20 from 2017, okay?

21 A Okay.

22 Q That warrant actually was for the phone you analyzed and
23 two others?

24 A Do you have a copy of that I can look at?

25 Q I do. I do. Would looking at that help you remember how

1 many phones were in that?

2 A Yes.

3 MR. STORMS: May I approach?

4 THE COURT: You may. You may move freely.

5 MR. STORMS: Thank you.

6 THE WITNESS: Okay. Yes. Three devices.

7 BY MR. STORMS:

8 Q Okay. And these devices were identified as -- one was
9 described as a black cell phone in a black case?

10 A Correct.

11 Q And that phone was actually identified being in a
12 landscaped area -- a landscape area; does that sound familiar to
13 you?

14 A I'd have to re-read the warrant.

15 Q Let's do that, okay?

16 A Okay. [Witness reviews document.]

17 Q Okay. So there was a black cell phone that was found in a
18 landscaped area; is that correct?

19 A Yes.

20 Q And then there was a second phone that was described as
21 a black LG Samsung cell phone with a cracked screen and apparent
22 blood?

23 A Yes.

24 Q And that phone is identified as being underneath
25 Mr. Banks' body?

1 A Correct.

2 Q And then there was a third phone that was identified as a
3 black LG cell phon?

4 A Correct.

5 Q And that phone, actually, in the warrant, was describe
6 with an IMEI number; is that right?

7 A Yes.

8 Q And that IMEI number ends in 2423?

9 A I believe so.

10 Q Okay. And that phone was also described as having a
11 cracked screen and apparent blood?

12 A Correct.

13 Q And was also described as being found 100 feet north of
14 the victim's body, in a parking lot near the main entrance?

15 A Yes.

16 Q Okay. The phone you worked on was the black cell phone
17 found in the landscaped area; that's right?

18 A I'd have to compare the numbers, but I believe that's the
19 correct phone -- the description on the second warrant.

20 Q Would you like to look at that to make sure?

21 A Can I, please?

22 Q Okay. Sure.

23 A [Witness reviews document.]

24 Q So we're talking about the same phone, the phone that
25 was found in the landscape area, correct?

1 A Correct.

2 Q And in the first warrant, that phone was not identified with
3 any IMEI number, correct?

4 A Correct.

5 Q I want to talk to you a little bit IMEI numbers and ICC ID
6 numbers. This is going to come up a little bit here right now. An
7 ICC ID number is an integrated circuit card identifier, and so that's
8 essentially a SIM card serial number; is that fair to say?

9 A Fair to say, yes.

10 Q And an IMEI number stands for International Mobile
11 Station Equipment Identity, and that's a serial number for the
12 phone itself?

13 A Yes. It's a unique identifier for every mobile device.

14 Q It's an identifier -- it's assigned a phone at the factory?

15 A Correct.

16 Q And that is the serial number that's factory assigned to the
17 phone, right?

18 A The -- some devices have their own separate serial
19 number. But yes, it identifies the uniqueness of the individual
20 device.

21 Q The SIM card is, in effect, something that one gets by
22 ascribing to a particular cellular network for your phone to use,
23 right? And it's, essentially, a key for your phone to use a cellular
24 network?

25 A Yes.

1 Q And that identifier could be changed if you change cellular
2 networks, change SIM cards, things of that effect?

3 A Correct.

4 Q Okay. SIM cards are not where data's stored on phones.
5 The data's stored on the physical phone itself at this point in time,
6 right?

7 A Correct.

8 Q It used to be that, you know, a phone company would
9 have people's text messages for a certain period of time. But they
10 don't really do that anymore, right?

11 A Not usually, no.

12 Q You're going to have to look at the physical phone to get
13 the data from the phone at this point in time, right?

14 A In most cases, that's correct.

15 Q Okay. So I want to turn your attention to the phone to
16 sent to Cellebrite in 2018, okay?

17 A Yes.

18 Q All right. So it was placed in an evidence bag here. I'm
19 showing you what's previously been marked and admitted as
20 State's 299. So this right here is an evidence bag?

21 A Yes.

22 Q And we can see that it has two different entries on it,
23 right?

24 A Correct.

25 Q Okay. So this would mean -- the first entry, it has your P

1 number on it?

2 A Yes.

3 Q And then it has the date that you sent the phone?

4 A Yes.

5 Q And then it has a -- there's a second entry which is when
6 you got the phone back from Cellebrite, essentially?

7 A Yes.

8 Q And this evidence bag says, you know, on it that this is a
9 tamper evident -- this is a tamper evidence security package, once
10 sealed, any attempt to open results in obvious signs of tampering;
11 is that what it says on there?

12 A Yes.

13 Q Because, you know, your -- this bag is to preserve a chain
14 of custody?

15 A Correct.

16 Q And so -- and it has, you can see this blue piece of tape on
17 the side that would indicate that Cellebrite got into that bag?

18 A That's where they resealed it, yes.

19 Q Uh-huh. And then they resealed it so we know that one
20 area where they entered the bag was resealed and --

21 A Yes.

22 Q -- there hasn't been any tampering with it?

23 A Correct.

24 Q And this thing also, when you got the phone back, it came
25 with a certification letter from Cellebrite?

1 A Yes.

2 Q Identifying what they did with it and swearing, you know,
3 under the penalty of perjury, that this phone is the same one that
4 they received, essentially?

5 A Yes.

6 Q And the whole point of this is, of course, to make sure that
7 things don't get switched up?

8 A Yes.

9 Q And that evidence isn't somehow tampered with,
10 essentially?

11 A Correct.

12 Q This brings us to that first warrant we were talking about,
13 okay? With that first warrant, the phone did go to Cellebrite, then?

14 A Yes.

15 Q And the second warrant refers to what happened after the
16 phone went to Cellebrite the first time; is that fair to say?

17 A Yes.

18 Q Are you aware that in the second warrant, referring to
19 what happened, Detective Dosch wrote:

20 On March 17th, 2017, computer forensic detectives sent
21 the Samsung phone to Cellebrite with an attempt to use their
22 program as it possibly accessed the pass code of the phone,
23 and each attempt was unsuccessful. After many unsuccessful
24 attempts to access the phone's data, the phone was returned to
25 the Las Vegas Metropolitan Police Department's evidence vault.

1 Are you aware that that's what happened?

2 A Yes.

3 Q Okay. But this evidence bag doesn't document that
4 particular trip to Cellebrite?

5 A It does not.

6 Q Did -- whenever that phone went to Cellebrite the first
7 time, did you receive a certification letter from them?

8 A No.

9 Q What documentation did you receive after they tried to
10 access the phone multiple times unsuccessfully?

11 A I received an e-mail from their main e-mail account.
12 Very -- it's a generic, doesn't come from an individual employee. I
13 think it's automated, saying that the device processing had failed
14 and that they would be mailing the device back.

15 Q So you received no certification letter?

16 A No.

17 Q You were not told who accessed the device that was sent?

18 A No. I contacted the person who's in charge of Cellebrite's
19 advance service lab through e-mail after I received the failure
20 notification, and just asked if they could provide any more details
21 or if they sent any kind of documentation. He said they don't when
22 they -- when a device fails.

23 Q So you asked them for more documentation and they said
24 that's not what they do?

25 A Yeah. He said that they only provide a certification letter if

1 the device processes successfully. And then he couldn't offer any
2 additional details on why it had failed. He just had told me that
3 they had tried it, their proprietary solution multiple times and it
4 wasn't successful.

5 Q Okay. So you don't know who accessed the phone at
6 Cellebrite?

7 A I do not.

8 Q Okay. And you don't know what programs are run on it,
9 because they don't tell you that, right?

10 A Correct.

11 Q And where's that e-mail that you received?

12 A Metro's retention policy is only a year, I don't have it
13 anymore.

14 Q Okay. You [indiscernible; coughing] or anything like this?

15 A No.

16 Q So we don't have any chain of custody from Cellebrite
17 from the first time the phone went to their business?

18 A I'm not sure what kind of records they keep in terms of
19 internal for who worked on the devices. But when I sent the device
20 to Cellebrite the first time, although I don't have the -- there's no
21 pictures documenting it, this is the same state that when we send
22 it, we also receive it back, they use the same chain-of-custody bag
23 the first trip it was used and the second trip. So when I sent it off, I
24 sealed it in a baggie, I signed it, sent it to Cellebrite. And then
25 when I received it back, it was the same thing. It was filled out with

1 a chain of custody on the front by an employee at Cellebrite. And
2 then --

3 Q So --

4 A -- because it was unsuccessful, I ended up re-impounding
5 the device with our evidence vault.

6 Q So we don't -- we don't have any chain-of-custody letter
7 from them?

8 A No.

9 Q And in your report, you don't photograph or document
10 the bag that it came back in?

11 A At the time we weren't doing that as a procedure in the
12 lab. This was a relatively new thing we were doing, sending the
13 devices out. Now we do have those procedures in place where
14 every time we send something to Cellebrite, when we get it back,
15 we photograph it.

16 Q So at that time you didn't photograph what you received
17 back from them?

18 A No.

19 Q And we don't have the evidence bag that they provided
20 you?

21 A I do not.

22 Q We don't have any information from -- of what happened
23 that first time, since we don't have the e-mail, we don't have the
24 bag?

25 A All I have is a -- they have a customer portal, which keeps

1 track of all the devices. So we have the date that the case was
2 opened with their advance services lab. They typically document
3 inside of their portal the date they received it. They document
4 when evidence processing started. And then they document when
5 they ship it back to us, whether successful or unsuccessful.

6 So inside of the customer portal, there is information as
7 far as the fact that the processing was unsuccessful. And then I'm
8 not entirely sure if they actually still have the tracking number in
9 there or not that would document the exact date that they sent it
10 back. But they do show some kind of tracking as to where the
11 phone has moved along in their system.

12 But as far as how they keep their internal records of what
13 employees touched the device, I don't know.

14 Q And what employees touched the device in documenting
15 that, its chain of custody, so who had the device, right?

16 A Correct.

17 Q And so we don't have chain of custody from that first trip
18 that --

19 A Well, not necessarily who touched the device, but digital
20 evidence is kind of unique in the fact that the reason we're sending
21 this device off to Cellebrite to begin with is because there's no way
22 to actually access the contents, because it's locked and encrypted.
23 So, I mean, from the physical standpoint, you're correct. As far as
24 not finding any data on the device, it would be -- they're the only
25 company out there that's able to even crack into these things. So it

1 would be very unlikely that anything would have been changed.

2 Q Yeah, but that's not my question. The question is they
3 didn't give you any chain of custody?

4 A They did not.

5 Q Okay.

6 A They did not.

7 Q So you've been employed with Las Vegas Metro for 10
8 years?

9 A Yes.

10 Q And you're a supervisor for the digital forensics lab, right?

11 A Correct.

12 Q And you've got more than 2,500 hours of training specific
13 to electronic storage devices?

14 A Specific to electronics, I'm about 1,000.

15 Q Okay. And then when it comes to forensics-related
16 computers and cell phones, the objective is to obtain an accurate
17 copy, right?

18 A Correct.

19 Q And often that'll include, you know, deleted words or
20 e-mails or things that the user wouldn't even know were on the
21 device that they're looking at, right?

22 A Yes.

23 Q So the idea is to be accurate?

24 A Yes.

25 Q Thorough?

1 A Correct.

2 Q Precise in your report writing?

3 A Yes.

4 Q Because, I mean, in this case, the phone's a part of a
5 homicide investigation, right?

6 A Yes.

7 Q We don't want to make any mistakes here?

8 A Correct.

9 Q I want to talk to you a little about the report you wrote,
10 okay? Your report chronicles, you know, what you did, obviously,
11 with this phone?

12 A Correct.

13 Q And there's a section, the search authorization, and that
14 search authorization speaks to the warrant that was authorized by
15 Detective Cook on April 6, 2018?

16 A Correct.

17 Q It doesn't mention the prior warrant that was signed by
18 Detective Dosch the year before?

19 A Correct.

20 Q Why --

21 A Typically -- I'm sorry.

22 Q Oh, I was just going to ask why not, so go ahead.

23 A Okay. Usually, when we can't get -- not usually, it's our
24 policy and procedures now within the lab when we can't get into a
25 device, we issue what's called an unsupported device report. And,

1 basically, what that documents is the fact that we made an attempt
2 to access the contents of a device. We try to state the reason why
3 we couldn't get into the device, and then we provide that as
4 something for them to give to the court.

5 But you're correct, that report I wrote for the second trip
6 does not mention anything from the first.

7 Q Okay. Turning to the evidence of examine section of your
8 report, this is where you describe what's going to go to Cellebrite,
9 right?

10 A The -- it should describe the actual device itself, yes.

11 Q And in your report, you do have some photographs of the
12 device, but they're photographs of the device in an evidence bag
13 like we have here, after it's already come back from Cellebrite,
14 correct?

15 A There should be additional photos in the report of just the
16 device itself, not in a bag, yes.

17 Q That's right.

18 A Yes.

19 Q But when you went to send this device to Cellebrite, you
20 had to access it from the Las Vegas Metropolitan Police
21 Department's evidence vault?

22 A Correct.

23 Q And in the evidence vault, it would be contained in some
24 sort of package that would have the chain of custody on it?

25 A Yes.

1 Q And in your report, we don't have any photographs with
2 the chain of custody for -- internally from Las Vegas Metropolitan
3 Police Department?

4 A No photographs, but I believe I documented that I picked
5 it up from the vault and it was inside of a sealed evidence
6 envelope.

7 Q So you open the sealed evidence envelope and then your
8 report describes what you found there?

9 A Correct.

10 Q And in your report, you describe package 1, Item 1:
11 Is a gold Samsung cellular phone, Model SMG920P.
12 Is that correct?

13 A Correct.

14 Q The -- showing you what's been marked previously and
15 admitted as 298, State's Exhibit 298; these are the photographs you
16 took of the phone -- a phone in this case, right?

17 A Yes.

18 Q These photographs don't have any dates on them?

19 A No.

20 Q So we can't really be sure when they were taken?

21 A I don't recall if I took them before or after I got the phone
22 back from Cellebrite. But as standard practice, usually, we take
23 photographs before we send the device out.

24 Q But you're -- in this case, you don't have any
25 documentation, not sure when that would happen; is that fair to

1 say?

2 A I don't have any documentation, no. You're right.

3 Q Okay. And this phone is a black phone?

4 A No, this phone is gold. However, if I remember correctly,
5 it was inside of a black case.

6 Q So you're saying that this back portion of this phone here
7 is gold?

8 A Yes.

9 Q As a part of your job, you are familiar with phones,
10 different models of phones, some things like the Samsung S6
11 here?

12 A Correct.

13 Q And so your testimony is this is a gold phone?

14 A Kind of hard to tell from the picture, but I believe it's gold.

15 Q Okay. And you previously testified, you received a thumb
16 drive back from Cellebrite; is that right?

17 A A hard drive, yes.

18 Q And then you processed this hard drive using their
19 physical analyzer?

20 A Correct.

21 Q The physical analyzer just simply gives you the data that
22 you were provided by Cellebrite in a readable format?

23 A Yes.

24 Q It doesn't manipulate or change the data in any way,
25 shape, or form?

1 A No.

2 Q Okay. I'm going to show you what's previously been
3 marked as Defense Exhibit B. And we'll start with Exhibit A. This,
4 by stipulation, is admitted. Can you see that okay?

5 A Yep. Right there is good.

6 Q Can the jury read that? Does it need to be focused in
7 some way or brightened?

8 So this is, essentially, a printout of the reader that you
9 used to look at the data that you received from Cellebrite; is that
10 fair to say?

11 A Correct.

12 Q And this extraction report has different identifiers for the
13 phone on it here, correct?

14 A Yes.

15 Q Turning your attention to the factory number there, it has
16 a value of zero?

17 A Correct.

18 Q And the factory number is the IMEI number, essentially?

19 A It could be.

20 Q Whenever you looked at this report and ran the IMEI
21 number through it, it didn't come up at all?

22 A It did not.

23 Q So the IMEI number, the number that is a serial code for
24 the device itself is not in the report from Cellebrite?

25 A No.

1 Q And, again, this is the data that they provided you?

2 A Correct.

3 MR. STORMS: Court's indulgence.

4 Pass the witness.

5 THE COURT: Okay. Redirect.

6 MR. GIORDANI: Just real briefly.

7 **REDIRECT EXAMINATION**

8 BY MR. GIORDANI:

9 Q And, Detective, just so we're clear here, that -- what you
10 identified as the gold Samsung phone, that -- the IMEI number,
11 let's go with the last four, 7512; is that right?

12 A Yes.

13 Q That is identified in your report?

14 A Correct.

15 Q There was some exhibits I showed you at the end of the
16 day on Friday that I want to just clarify one thing that I didn't quite
17 get to, so the jury is clear. I'm showing you 301. Is this the exhibit
18 that contains phone calls back and forth between Poke and the
19 device associated with Larry Brown?

20 A Yes.

21 Q Okay. Phone calls only, correct?

22 A Correct.

23 Q And the time, 10:07, say, for this first one, is adjusted
24 away from UTC. So that's the actual Vegas time; is that right?

25 A Yes.

1 Q Okay. State's 302, this one with the little blue icons on it,
2 that consists of solely text messages between the device
3 associated with Poke or the contact 702-581 --

4 MR. STORMS: Your Honor, may we approach?

5 THE COURT: Sure.

6 [Off-record bench conference.]

7 THE COURT: Redirect.

8 MR. GIORDANI: Thank you.

9 BY MR. GIORDANI:

10 Q And just to be clear, 302 -- I'm sorry, yeah, 302 with the
11 little blue icons on it, that just contains texts back and forth
12 between the two phones, correct?

13 A Yes.

14 Q And then I didn't quite go into this, but I just want to
15 clarify, so when the jury has this back there, they understand.
16 Looking at 302A, and I'm just going to use this first page as an
17 example. 302A is a combined timeline of calls and texts between
18 those two devices, correct?

19 A Correct.

20 Q Now, looking at lines 2 and 3, it appears that is the exact
21 same text; would you agree with me there?

22 A Yes.

23 Q Okay. So the jury understands, and then you go down to,
24 say, lines 7 and 9. Says:

25 You up fan?

1 And that's an exact duplicate, same time and same
2 content; you agree?

3 A Yes.

4 Q When you created this third extraction report, did it just,
5 essentially, upload the same text twice?

6 A So this is a timeline report from the device. And when
7 fiscal analyzer, our tool that we use to make all this data human
8 readable, when it generates a timeline report, it looks for any
9 timestamp associated with something in the phone, and it lays it
10 out in a timeline. If you see -- can see all of the activity that was
11 going around -- on around the date or the time.

12 So it's actually not duplicating. These texts don't exist in
13 the phone twice. The reason it displays twice is because in the
14 timeline view -- and it's not depicted in these columns up here, but
15 it shows timestamp on there. There's multiple timestamps stored
16 with a text message. There's the actual phones time, which is
17 what's depicted here, and then there's the network time, which it's
18 syncing to the actual cell phone network. And that gets stored in
19 the same line, when it puts a text message into the database.

20 So the reason these are showing duplicated is because
21 there's actually a slight different between time on the phone and
22 the network time. And that can be due to the fact that it's sending
23 or you have bad service at the moment or whatever else. So these
24 are not actually sent twice.

25 Q Okay. And so the ones I went through on Friday, just say

1 the final two, there wasn't two texts that says, Pulling in --
2 A No. And just like --
3 Q -- at 10:40?
4 A Sorry. Just like there's the singular one that just says,
5 Okay, all that means is that the network time that's associated and
6 recorded in that database entry matches the phone time at that
7 exact second.
8 Q Got it.
9 A So that's why it's only showing once.
10 Q Thank you, Detective.
11 MR. GIORDANI: And I'll pass the witness, Your Honor.
12 THE COURT: Any recross?
13 MR. STORMS: No, thank you, Your Honor.
14 THE COURT: Any juror questions for the witness? I see
15 no additional questions.
16 Detective, thank you for your testimony. Please do not
17 discuss your testimony with anyone else who may be a witness in
18 this case.
19 THE WITNESS: Thank you.
20 THE COURT: Thank you, and you are excused.
21 And the State may call its next witness.
22 MR. DICKERSON: State will call Jamilah Miggins.
23 **JAMILAH MIGGINS,**
24 [having been called as a witness and first duly sworn, testified as
25 follows:]

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

3 THE WITNESS: Jamilah Miggins.

4 THE COURT CLERK: Please spell --

5 THE COURT: And can you spell that for us.

6 THE WITNESS: J-A-M-I-L-A-H, M-I-G-G-I-N-S.

7 THE COURT: Thank you.

8 Mr. Dickerson, you may proceed.

9 MR. DICKERSON: Thank you very much.

10 **DIRECT EXAMINATION**

11 BY MR. DICKERSON:

12 Q Where are you from, ma'am?

13 A I'm from Atlanta. Well, Stone Mountain, Georgia.

14 Q Okay. Is that close to Atlanta, Georgia?

15 A Yes.

16 Q Okay. And, specifically, before we even get started here,
17 do you know anybody here in the courtroom today?

18 A Yes.

19 Q Specifically, any male that here's in the courtroom today?

20 A Yes.

21 Q If you could please point to that individual and identify
22 them and what they're wearing.

23 A I know Mr. Brown, with the suit and glasses.

24 Q Okay.

25 MR. DICKERSON: If the record could reflect the witness's

1 identified the defendant, Larry Brown?

2 THE COURT: It will.

3 MR. DICKERSON: Thank you.

4 BY MR. DICKERSON:

5 Q And how is it that you know Mr. Brown?

6 A I'm sorry?

7 Q How it is that you know Mr. Brown?

8 A He was married to my best friend.

9 Q Okay. How long have you known Mr. Brown for?

10 A About 13 to 14 years.

11 Q Okay. In those 13, 14 years, have you actually spent time
12 one on one with Mr. Brown?

13 A Yes. We've been on, like, some couples' trips and things
14 like that.

15 Q Okay. And I want to draw your attention to
16 June 29th, 2017.

17 A Okay.

18 Q Around that time, were you still living at Stone Mountain,
19 Georgia?

20 A Yes, I was.

21 Q And at that point in time, do you know where Mr. Brown
22 was?

23 A Yes. He came to my house.

24 Q Okay. On June 29th, 2017?

25 A That's correct.

1 Q Can you tell me a little bit about that, how that started?
2 A It was the afternoon, and my boyfriend at the time was
3 coming to visit.
4 Q What's his name?
5 A His name is Gregory Surrett.
6 Q Okay.
7 A And he called me and said, Hey, Quintan's dad is outside.
8 Q Okay. Quintan is?
9 A Larry's son.
10 Q Okay. Is that with your best friend?
11 A Yes.
12 Q Just for background, at that time, it was Quintan as well
13 as his mother, your best friend, living with you at your house?
14 A They were.
15 Q Okay. So up until this date of June 29, 2017, had
16 Mr. Brown come over before?
17 A Yes.
18 Q Okay. Can you approximate or do you know how many
19 times or when it was?
20 A I'm not sure exactly how many times. But he was coming
21 to pick up his son, who lived there.
22 Q Okay. And how long was it up until that point in time, that
23 you were aware of Mr. Brown being in that general Georgia area?
24 A I can't say with 100 percent certainty how long he was
25 there. But know it was, like, more -- at least more than a week.

1 Q Okay.

2 A Yeah.

3 Q And so he had come over up until that point to see his son

4 or pick up his son?

5 A Yes, that's correct.

6 Q So on June 29, 2017, was his son there?

7 A He was not.

8 Q Was your best friend, the mother of that child there?

9 A She was not.

10 Q Who was there at your home?

11 A I was already there, and Gregory was coming to the

12 house.

13 Q Okay. And so then how is it you become aware of

14 Mr. Brown arriving at your home?

15 A Okay. So Gregory called me to say, Hey, Quintan's dad is

16 outside, do you want me to let him in? Because he was coming in

17 at that particular time. And I told him, Yeah, you can let him in.

18 Q Okay. And then once that happened, did Mr. Brown come

19 into your home?

20 A He did.

21 Q All right. Did Gregory also come in?

22 A That's correct.

23 Q And once Mr. Brown came into your home, what was his

24 demeanor?

25 A He appeared to be a bit nervous, because he was

1 sweating and a little bit -- he appeared to be nervous.

2 Q Okay.

3 A Uh-huh.

4 Q Well, were you expecting Mr. Brown at that time?

5 A I was not.

6 Q Was it unusual for Mr. Brown to be there when it was just
7 you and Gregory there?

8 A It was unusual for him to come when just Gregory and I
9 were there. But it wasn't unusual for him to come without, like,
10 communication with an adult first.

11 Q Okay. Am I right that it would generally just be to see his
12 son or pick up his son?

13 A That's correct.

14 Q Okay. So that would be the unusual part?

15 A What?

16 Q That he was there and his son wasn't there?

17 A That's correct.

18 Q Him coming in, you said nervous; is that right?

19 A Yes.

20 Q Was that unusual?

21 A It was.

22 Q And so as Mr. Brown gets into your home, what occurs?

23 A Well, I offer him some water, because he was sweating.
24 And then he was just kind of making small talk at first. And then
25 things got a big stranger when he was trying to say, like, to

1 Gregory, like, So, you understand how it is when people are
2 following you and things like that. And so Gregory was, like, No, I
3 don't understand.

4 Q Okay. That's what Mr. Brown said to Gregory?

5 A I'm not sure of the specific words that he used, but yes,
6 that's the general idea.

7 Q Something along the lines of, You understand how it is
8 when people are following you?

9 A Yeah. Like, they after you. When people are after you;
10 that type of thing.

11 Q Did you find that commentary unusual?

12 A Yes, I did.

13 Q And what, if anything, did Mr. Brown at that point in time?

14 A Well, he stated that he needed to make a phone call in
15 private.

16 Q Okay.

17 A So I suggested that he go in Quintan's room, which is
18 upstairs, away from Gregory and I. Because Gregory and I were
19 kind of eyeing each other, like, this is strange. You see this? That
20 was kind of the thought process. And so he did go upstairs in
21 Quintan's room. And at that time, Gregory and I kind of were
22 deciding, like, something is strange. And so Gregory was, like,
23 He's got to go.

24 Q Okay.

25 A So then Mr. Brown comes downstairs -- come back

1 downstairs. And at that point, we hear a helicopter. And so
2 Gregory is asking, like, Is that for you? So kind of like things are
3 kind of coming to get there at that point.

4 Q Where are you guys standing at this point in time?

5 A We're in the kitchen.

6 Q And so Gregory actually asked Mr. Brown, Is that for you?

7 A The helicopter, correct.

8 Q And then what does Mr. Brown say?

9 A He confirms that it's for him.

10 Q Okay.

11 A Uh-huh.

12 Q And what occurs at that point in time?

13 A Then I see out of the back -- out of the window -- so the
14 kitchen is on the back side of the house. And there's a window that
15 leads to the backyard. So I see police moving past the window.
16 And I see the police they have on, like, the camouflage outfit, the
17 helmets, they have large guns. I could see that out the back
18 window.

19 So I ask Gregory, I say, I need you to get up slowly and
20 come sit down where I am. Because Gregory was sitting close to
21 the backyard.

22 Q Okay. And where is Mr. Brown at that moment?

23 A He is to the left -- my left of Gregory. So he's probably
24 about 4 feet away from Gregory, further away from the door and
25 the window.

1 Q So right there in the kitchen with you?

2 A Yes.

3 Q And do you tell Gregory and Mr. Brown why you've
4 having Gregory move over?

5 A Well, once he got up to come my way, then I explained
6 that the police were in the backyard. I could see them.

7 Q What happens at that point in time?

8 A At that point, Gregory looks at Mr. Brown, and he's, like,
9 You got to go. You going to go out the front door or you going to
10 go out the back door; you choose which one it's going to be.

11 Q And so what's Mr. Brown's response at that point in time?

12 A Well, he told us that, you know, we didn't have to let the
13 police in, because Gregory was telling him --

14 MS. TRUJILLO: Objection. Judge, may we approach?

15 THE COURT: Sure.

16 [Off-record bench conference.]

17 BY MR. DICKERSON:

18 Q So you were saying what Mr. Brown's response was once
19 you were telling him and Gregory that there were -- police were
20 there?

21 A Yes. And he was saying to me, like, This is your house.
22 You don't have to let the police in. And then Gregory said, They'll
23 just kick the door down.

24 Q Okay.

25 A And he said --

1 Q Does Mr. Brown have a response to Gregory telling him
2 that?

3 A Yes.

4 Q What does he say?

5 A Yes. He said, Well, if they kick the door down -- I'll give
6 you \$800 to pay for the door if they kick the door down.

7 Q Okay.

8 A And then Gregory says, No, you going to have to leave.
9 And then he says, Well, I'll give you a thousand dollars to pay for
10 the door in case they knock the door down. And so he's -- Gregory
11 is still saying, No, you going to have to leave, which one is it going
12 to be?

13 Q Okay. And when you say which one is it going to be, the
14 front door or the back door, there's no --

15 A That's correct.

16 Q And so what happens at that point in time?

17 A So at that point, Gregory stands up and he's kind of
18 ushering Mr. Brown towards the front door. And so while the two
19 of them are occupied, then I get up and go to the back door and I
20 open the door and I say, He's in here.

21 Q And who did you say that to?

22 A I was talking to some of the police in the backyard.

23 Q Okay. So you told the police in the backyard he's in here?

24 A Yes.

25 Q And then what happened?

1 A So Gregory comes closer to where I am, to where the back
2 door, and the police yell and scream at us, Come outside, stand
3 over here, you know, put your hands up, all of that type of thing.
4 And then they went inside the house. So some stayed outside with
5 us and some went inside the house.

6 Q Do you know where Mr. Brown was at that point in time?

7 A I did not see him with my own eyes, but they were headed
8 toward the front door when I was going to the back door.

9 Q Okay. And Gregory was heading to the front door with
10 them?

11 A Yes.

12 Q Okay.

13 A And then he turned around and came back my way.

14 Q Okay. And then it was just you and Gregory out in the
15 backyard with the police?

16 A That's correct.

17 Q And you then allowed the police to search your home?

18 A That's correct.

19 Q Okay. And Mr. Brown was not found in your home, right?

20 A No, sir.

21 Q Okay.

22 MR. DICKERSON: State will pass the witness.

23 THE COURT: All right. Cross.

24 MS. TRUJILLO: Thank you.

25 ///

1 **CROSS-EXAMINATION**

2 BY MS. TRUJILLO:

3 Q Good afternoon, Ms. Miggins.

4 A Hello.

5 Q How are you?

6 A I'm fine, thank you.

7 Q Good. [Indiscernible; coughing] the police searched your
8 home after, right?

9 A I'm sorry.

10 Q The police searched your home after?

11 A Yes.

12 Q And did they take any property from you at the time of the
13 search?

14 A They did.

15 Q And they returned that property to you, right?

16 A A cell phone, yes.

17 Q And when they did that, you filled out a property -- a
18 receipt of property?

19 A That's correct.

20 Q Okay.

21 MS. TRUJILLO: May I approach with it just to make sure
22 this is --

23 THE COURT: You can move freely.

24 MS. TRUJILLO: Thank you.

25 THE WITNESS: [Witness reviews document.] Yes.

1 BY MS. TRUJILLO:
2 Q Do you recognize this document?
3 A That's my signature at the bottom.
4 Q Okay. And it also has your information, correct?
5 A That's correct.
6 Q It lists your name --
7 A It does.
8 Q -- is that right?
9 It lists your address?
10 A It does.
11 Q And it lists the information that you were returned from
12 the police, right?
13 A That's correct.
14 Q You didn't fill out any other statements that day, right?
15 A Not that I recall.
16 Q You never wrote anything down for the police?
17 A Not that I recall.
18 Q You never wrote down any of the information you just
19 testified to?
20 A No.
21 Q Okay. And you indicated that it was usual for Mr. Brown
22 to pick up his son from your house, right?
23 A That's correct.
24 Q And that's because the son was staying there, right?
25 A He was.

1 Q And your best friend was also staying there?

2 A Yes.

3 Q So that wasn't unusual that he was at your house?

4 A No.

5 Q And, in fact, you stated he had been to your house earlier
6 that week?

7 A I'm not sure if it was earlier that week, but he had been to
8 my house to pick up his son while he was in Georgia, yes.

9 Q Well, you testified on direct that he was there for about a
10 week, so you knew he was there, he had seen his son at some
11 point, right? That you were --

12 A That's correct.

13 Q And you were aware of that?

14 A Yes.

15 Q Okay.

16 MS. TRUJILLO: No further questions.

17 THE COURT: Any redirect?

18 MR. DICKERSON: No, Your Honor.

19 THE COURT: Any juror questions for the witness? All
20 right.

21 Counsel, approach.

22 [Off-record bench conference.]

23 THE COURT: Ma'am, we have a couple of juror questions
24 up here.

25 THE WITNESS: Okay.

1 THE COURT: A juror would like to know: Did Quintan
2 ever show up?
3 THE WITNESS: No.
4 THE COURT: And another juror asks: Did Mr. Brown
5 frequently call his son or the son's mother when they were staying
6 with you?
7 THE WITNESS: To arrange visits or just period?
8 THE COURT: Just in general.
9 THE WITNESS: Yes.
10 THE COURT: He did.
11 THE WITNESS: Well, he spoke to both of them.
12 THE COURT: Okay. So he frequently did call. All right.
13 Follow-up?
14 MR. DICKERSON: Nothing from the State, Your Honor.
15 THE COURT: Follow-up?
16 MS. TRUJILLO: Nothing from the defense.
17 THE COURT: Any additional juror questions? All right.
18 Ma'am, thank you for your testimony. Please don't
19 discuss your testimony with anyone else who may be a witness in
20 this case.
21 THE WITNESS: Okay.
22 THE COURT: Thank you, and you are excused.
23 THE WITNESS: Thank you.
24 THE COURT: All right. I think we needed a break or no?
25 MR. GIORDANI: Yes, we've got to get the --

1 THE COURT: All right. We need a technology break so
2 the State can set up. Another technology break.

3 All right. Let's go ahead and take a break until 2:00. And
4 during the recess, you're all reminded you're not to discuss the
5 case or anything relating to the case with each other or with
6 anyone else. Do not read, watch, or listen to any reports of or
7 commentaries on the case, person, or subject matter relating to the
8 case. Do not do any independent research by way of the Internet
9 or any other medium. And please do not form or express an
10 opinion on the case.

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

13 [Jury recessed at 1:46 p.m.]

14 THE COURT: Mr. Giordani, who's left for today?

15 MR. GIORDANI: Just Gino and Marjorie Davidovic, the
16 DNA analyst.

17 THE COURT: And then we're done?

18 MR. GIORDANI: Then we're resting.

19 THE COURT: Okay. And then you said between three and
20 five for tomorrow?

21 MS. TRUJILLO: Right. Depending on what the DNA --
22 well, we're going to discuss. We have three lay witnesses and two
23 potential experts. So we might not call the experts. It might just
24 be three --

25 THE COURT: Okay. So --

1 MS. TRUJILLO: But between three and five.

2 THE COURT: Okay. So we're on good -- our schedule's
3 good.

4 MS. TRUJILLO: Yes.

5 [Court recessed at 1:48 p.m., until 1:59 p.m.]

6 [Outside the presence of the jury.]

7 MR. GIORDANI: Your Honor, just while we're -- are we
8 on?

9 THE COURT: Yes.

10 MR. GIORDANI: Just real briefly, Exhibits 2 through 5 are
11 all the raw data phone records. We had addressed previously,
12 understanding the defense's objecting for relevance, I believe --
13 well, I'll let them say what they're going to say. But those are the
14 witnesses that we called off as the custodians.

15 THE COURT: Okay.

16 MR. GIORDANI: So they weren't formally admitted, but
17 now that the detective who's on the stand now is going to discuss
18 them, we're going to move to admit 2 through 5, in addition to a
19 KMZ file.

20 So I just want to say it now, because if there's any
21 ongoing objection we need to address, we should do it --

22 THE COURT: Right.

23 MR. GIORDANI: -- pretty quick.

24 THE COURT: Defense?

25 MR. STORMS: Our objection was always -- to these

1 records is identification, authentication. Who's using the phone?
2 That the records are produced by the companies, we're not
3 objecting to that.

4 THE COURT: Right.

5 MR. STORMS: So it's the same as it was. And then,
6 Judge, I'd move to -- just so the record's clear, I'd move to admit
7 Defense A and B that we were talking about with the last witness.

8 MR. DICKERSON: Oh, and we stipulated.

9 MR. STORMS: Or the witness before.

10 MR. DICKERSON: We stipulated.

11 THE COURT: All right. Those will be admitted. The
12 records will be admitted subject to the defense's objection.

13 [State's Exhibit Nos. 2 through 5 were admitted.]

14 THE COURT: Anything else?

15 MR. GIORDANI: 303 is our KMZ mapping file. We've
16 discussed with the defense, due to the technology of this and not
17 being able to quickly and easily use the actual CD disc, Detective
18 Basilotta looked at it. He has it downloaded onto his computer and
19 it's the same exact as Exhibit 303. So.

20 THE COURT: Okay. So 3 and 3 [sic] will go back to the
21 jury?

22 MR. GIORDANI: Yeah, 303 is the disc, but he put it onto
23 his computer in order to be able to access it live so the jury can see
24 it.

25 THE COURT: Okay. Now, will the jury be able to look at it

1 in the back?

2 MR. GIORDANI: Yes.

3 THE COURT: Just the way we send it as a disc?

4 MR. GIORDANI: Yes.

5 THE COURT: Okay.

6 MR. GIORDANI: Mr. Dickerson's going to walk through

7 how to open it --

8 THE COURT: Okay. Okay.

9 MR. GIORDANI: -- how you --

10 THE COURT: Okay. Great.

11 Anything from the defense on that point?

12 MS. TRUJILLO: Our continuing objection.

13 THE COURT: Okay.

14 MS. TRUJILLO: But we did stipulate to that phone record

15 being from the company.

16 THE COURT: Right. That their authentic business records

17 of the various companies.

18 MS. TRUJILLO: Correct.

19 THE COURT: Okay. Officer Hawks?

20 THE MARSHAL: Yes, ma'am.

21 THE COURT: You can bring the min.

22 THE MARSHAL: Yes, ma'am.

23 [Jury reconvened at 2:01 p.m.]

24 THE COURT: There's 13 people. We're missing

25 whoever's in Chair 2.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Pause in proceedings.]

THE COURT: All right. Court is now back in session. And the State has called its next witness to the stand.

MR. DICKERSON: Eugenio Basilotta, Your Honor.

THE COURT: All right. So, sir, if you would please face our court clerk.

EUGENIO BASILOTTA,

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

THE COURT CLERK: Thank you. Please be seated. State and spell your first and last name for the record.

THE WITNESS: Does the Court mind if I remove my jacket?

THE COURT: That's fine.

THE WITNESS: Okay.

THE COURT: It's both cold and hot, depending on where you're seated.

THE WITNESS: Agreed.

THE COURT: And, sir, if you would state and spell your name for the record.

THE WITNESS: Yes, ma'am.

First name is Eugenio, it's spelled E-U-G-E-N-I-O. Last name is Basilotta, spelled B-A-S-I-L-O-T-T-A.

THE COURT: All right. Thank you.

Mr. Dickerson, you may proceed.

1 MR. DICKERSON: Thank you, Your Honor.

2 **DIRECT EXAMINATION**

3 BY MR. DICKERSON:

4 Q What do you do for a living, sir?

5 A I'm a detective with the Las Vegas Metropolitan Police
6 Department.

7 Q And how long have you been employed at the Las Vegas
8 Metropolitan Police Department?

9 A 15 years.

10 Q How long have you been a detective?

11 A About nine -- well, nine years in this unit.

12 Q Okay. What's your current assignment?

13 A So I'm a detective for a unit called TASS. TASS is part of
14 the Southern Nevada Counterterrorism Bureau, which is part of the
15 Homeland Security Section. And it, basically, stands for Technical
16 and Surveillance Squad.

17 Q How long have you been employed and assigned to that
18 division?

19 A Nine years.

20 Q And so the whole time you've been a detective?

21 A Correct.

22 Q Can you tell us what the TASS section's overall duties
23 are?

24 A In a nutshell, it's, basically, we are an electronics
25 surveillance support unit for the entire department. So that covers

1 overt and covert cameras, camera that you may see on the Las
2 Vegas Strip that cover areas of the Strip, as well as around town.
3 We provision something called pen registers and wire taps, and a
4 few other myriad of things, such as analyzation of call records, and
5 in the current function I'm here today, which is a testimony for call
6 records when they're needed by detectives.

7 Q Okay. So when you say electronic surveillance, that
8 includes all those things you just discussed, phone records?

9 A Correct.

10 Q And the data that you can get from phone records?

11 A Correct.

12 Q And then analyzing that particular data?

13 A Correct.

14 Q What sort of training and experience do you have to hold
15 this position?

16 A So I've been working in what we call the pen room for just
17 about the entire time I've been in TASS, which is, basically, a room
18 in a sectioned-off area where we actually provision something
19 called pen registers, acquire historical call records from the phone
20 companies, provision something called wire tapes or sometimes
21 referred to Title 3s. And during that time, there's been a massive
22 amount of call records that go along with that as far as analyzation,
23 because pen registers, you get active call data coming in when a
24 pen register is put up with the phone company, as well as
25 historical records before the pen is put up. So there's been a lot of

1 call records I've had experience with over the last nine years in that
2 unit.

3 Q Okay. So when you say pen register, just for the
4 edification of the jury, that's actually getting data real-time as calls
5 are coming into a phone and outgoing from a phone?

6 A Correct.

7 Q And so you guys can do that through some sort of court
8 process after a judge approves it, you can [indiscernible; sneezing]
9 sort of things?

10 A Correct. We're the only law enforcement entity in Las
11 Vegas that has that ability as far as local law enforcement goes. So
12 we actually put them up for Henderson as well as North Las Vegas
13 Police.

14 Q Okay. And with that, considering all that, you actually
15 taken training on all this particular material; is that right?

16 A Correct. I've had several training classes. A couple of
17 training classes from the actual company that makes the product
18 that we use for pen registers, as well as some other FBI training
19 from the CAST team, which was several years ago. FBI has a
20 group called CAST, which specializes in analyzing call records.
21 And as well as from a company called Zedex. I've had the
22 basic 40-hour course as well as the advance course, which I
23 actually had last March.

24 Q What is Zedex?

25 A Zedex is a company that allows us to take the records

1 from the phone company when they come in, the historical
2 records, and it allows us to ingest them into their engine and it
3 spits back out a file format that's much easier to use and analyze.

4 One of the challenges of the call records is there's so
5 many of them, thousands in some cases, when you're requesting
6 them from a phone company, depending on the date ranges you're
7 requesting. So there can be -- we used to do this manually before
8 a couple of years ago. And that -- the use of Zedex when we -- we
9 reviewed, like, two or three different companies that did this kind
10 of thing and we found that Zedex was actually the best in terms of
11 how they process the records, their methodology for inputting --
12 ingesting the records and then spitting back out something that's
13 actually usable, in this case, by Google Earth, to actually review
14 them.

15 Q Okay. So when you talk about phone records, it's
16 specifically to the phone records that we've received here in this
17 case, are those generally received in some sort of, like, Excel
18 format?

19 A Excel or what they call a comma-separated format.

20 Q Okay. And so this is maybe thousands of lines of data
21 that are included in there?

22 A Correct.

23 Q And is it fair to say that you received phone records, and
24 specific here in this case as well, from multiple different phone
25 companies?

1 A That's correct.

2 Q And these phone companies may keep that data in
3 different formats?

4 A That's correct.

5 Q On a -- in different time zones?

6 A That's correct.

7 Q And does Zedex allow you to bring all those together?

8 A Yes.

9 Q And allow you to bring them all into the same time zone
10 so you can see how they all are?

11 A Correct.

12 Q And does it tell you which particular cell phone towers
13 you can actually -- or does it show you which particular cell phone
14 towers these cell phones are hitting off of on each particular line
15 item?

16 A It does.

17 Q And it does that, you said, using Google Maps -- or
18 Google Earth?

19 A Google Earth.

20 Q And tell us about that; how does that work?

21 A So --

22 Q What are we going to see here with that?

23 A So Google Earth is a program that is open source or
24 shareware. You can download it from the Internet. It's important
25 to kind of distinct that from -- distinguish that from Google Maps,

1 which you can actually get off a web browser. You can go to
2 maps.google.com, it actually uses the same kind of engine, but
3 Google Earth is an actual program you can install on a PC or Mac
4 platform. And so it's an actual free-running program. Then it uses
5 the Google mapping images and street views to allow you to see
6 all kinds of maps in anywhere in the world.

7 Q Okay. And so these are maps that are going to show us
8 the general range and locations of cellular towers that are involved
9 in the records in this case; is that right?

10 A Correct. Correct.

11 Q As far as that general background that we're looking at,
12 fair to say that cell phones, when they're used, they interact with
13 cell phone towers?

14 A Correct.

15 Q Cell phone towers are those big poles that we see with
16 multiple antennas; is that right?

17 A Correct.

18 Q Do they have multiple sides?

19 A They do.

20 Q Can you tell me about the sides of the cell phone towers?

21 A So cell phone towers typically have three sides. They're
22 usually referred to as sectors. We can think of it as a triangle
23 shape, when -- if you look top-down. And then on each one of
24 those sides or sectors, there is usually a long, tall device that looks
25 kind of like a elongated brick. But, basically, it's that -- it's an

1 antenna. And there may be several antennas on each side,
2 because one of those antennas may be servicing the voice
3 network, one may be servicing the data side of the network. So if
4 you're surfing the Internet or using Google or YouTube, maybe
5 tune for that. And then there's three sides to those -- to that tower.
6 So one side typically faces north-ish, in most cases. Second side in
7 most common cases faces towards the southeast, and then the
8 third side faces southwest by west.

9 Q Okay. And those are generally the directions they face?

10 A Generally, it depends on the cell company and where it's
11 located. If there's a mountain facing the first side, then they may
12 tune that first side away from the mountain, because, obviously,
13 nobody lives on the mountain in those cases. But, generally, that's
14 the way they work.

15 Q And does Zedex take into consideration the specifications
16 of each of these towers that are --

17 A Yes, they do.

18 Q Including how they're positioned?

19 A Correct.

20 Q And including how the antennas are designed or set to
21 capture a certain area?

22 A Correct.

23 Q Because when it comes to that, is it fair to say that some
24 antennas are set to capture a wide area or a far area?

25 A Some antennas are set -- that's correct. Some antennas

1 are set to capture a wider area because of population.

2 Q Okay.

3 A Because with more population, they put up more cell
4 towers to have better coverage for better quality of service.

5 Q And so then the adverse is true too, some antennas are
6 set to capture a smaller area?

7 A Correct.

8 Q When we look at these Zedex records, are we actually
9 going to see the area that those particular antennas are set to
10 capture?

11 A You will, yes.

12 Q And is it going to kind of look like a blob?

13 A Correct.

14 Q For a lack of better word.

15 A Right.

16 Q And that general area would be designated to the
17 particular sector of each cell phone tower?

18 A Correct.

19 Q So when a cell phone tower sector is activated, is it fair to
20 say that the phone that activates it would generally be in that area
21 of coverage for those antennas?

22 A Most of the time that's the case, yes.

23 Q Okay. And that's how those towers are designed, in fact?

24 A That's how they tune the sectors of the tower, correct.

25 Q Okay. And do the records that you received in this case

1 display the approximate area that the phone is located when those
2 calls are made?

3 A The records would indicate the side of the tower that it
4 was hit on, correct.

5 Q Okay. And did you, in fact, receive various records from
6 phone companies in this case and attempt to map them?

7 A I did.

8 Q And from which companies did you receive cell phone
9 records?

10 A T-Mobile, Sprint, and Verizon.

11 Q Did you, in fact, receive Sprint records associated with a
12 telephone number of 404-808-2233?

13 A Correct.

14 Q And -- I'm going to bring that to your attention.

15 MR. DICKERSON: May I approach, Your Honor?

16 THE COURT: You may move freely.

17 BY MR. DICKERSON:

18 Q Showing you your State's Exhibit 2. Before we get started
19 today, you reviewed all of these records; is that right?

20 A That's correct.

21 Q And are these, in fact, all the records we're going to go
22 through, the same records that you actually had used to analyze
23 the phone records in this case?

24 A Yes.

25 Q State's Exhibit 2, is this a fair and accurate copy of the

1 phone records, including the subscriber page and the actual call
2 records, of that phone number, 404-808-2233?

3 A It is, yes.

4 MR. DICKERSON: State moves to admit State's Proposed
5 Exhibit 2.

6 THE COURT: Oh, subject to the record, that'll be admitted.

7 MR. DICKERSON: Okay.

8 MR. STORMS: Thank you, Your Honor.

9 BY MR. DICKERSON:

10 Q I'm going to show you here what is the third page of
11 State's Exhibit 2. I'm just going to switch it over real quickly. In
12 fact, you have all these records on your device, correct?

13 A I do.

14 Q Okay. Can you go ahead and pull up the subscriber page
15 for that particular phone number?

16 A [Witness complies.]

17 Q And who was the subscriber for that
18 number, 404-808-2233?

19 A It states Larry Brown.

20 Q Okay. And did you also receive phone records from
21 T-Mobile for a number 702-581-2072?

22 A I did.

23 Q And I have here in my hand State's Exhibit 3; did you
24 review State's Exhibit 3?

25 A I did.

1 Q And the records contained here in State's Exhibit 3, are
2 these fair and accurate copies of the records received from
3 T-Mobile for that phone number?

4 A They are.

5 MR. DICKERSON: State moves for the admission of
6 State's Exhibit 3.

7 THE COURT: Those will be admitted subject to the record.
8 BY MR. DICKERSON:

9 Q Can you pull up the subscriber page for State's Exhibit 3.

10 A And that's going to be --

11 Q That's going to be 702-581-2072.

12 A [Witness complies.]

13 Q Who does it show is the subscriber for 702-581-2072?

14 A The subscriber page states Anthony Carter.

15 Q All right. In addition to that, did you receive other
16 T-Mobile records for another individual? And that's a phone
17 number of 702-517-3499.

18 A I did.

19 Q And I have in my hand here State's Exhibit 4. Again, you
20 reviewed this, and is this a fair and accurate copy of the records
21 received from T-Mobile for that phone number, 702-517-3499?

22 A It is.

23 Q And if you could please pull up the subscriber page for
24 that number? Oh, I'm sorry, before you do that.

25 MR. DICKERSON: State moves for the admission of

1 State's Proposed Exhibit 4.

2 THE COURT: That'll be admitted subject to the record.

3 BY MR. DICKERSON:

4 Q If you could pull up that subscriber page.

5 A It's onscreen.

6 Q And who's the subscriber of that number?

7 A The subscriber page states Carnell Cave.

8 Q Okay. Did you, in fact, receive three sets of records from
9 Verizon phone company for the following phone
10 numbers: 702-277-4856?

11 A I did.

12 Q You received that one?

13 A I did.

14 Q As well as 702-755-2805?

15 A Correct, I did.

16 Q As well as 702-786-9811?

17 A Correct, I did.

18 Q And did you learn that those phone numbers were
19 associated with the victim, Kwame Banks?

20 A I did.

21 Q Now, we had briefly touched on it, but the records that
22 had come from T-Mobile and Sprint and Verizon all have some
23 nuances to them; is that right?

24 A They do.

25 Q Slightly different from one another?

1 A Correct.

2 Q But they do generally capture the same information?

3 A That's true -- correct.

4 Q And that being cell tower locations for cell phone calls?

5 A Cell phone calls and texts.

6 Q Which records captures cell phone locations for text?

7 A Generally, T-Mobile and AT&T are the only two.

8 Q Okay. And here in this case we're only dealing with

9 T-Mobile out of that -- those two companies, correct?

10 A Correct.

11 Q And they -- these records also show call and text dates

12 and time; is that right?

13 A Correct.

14 Q And that is incoming and outgoing logs of both of those,

15 right?

16 A Yes.

17 Q The mapping that you did, does that include all of those

18 particular things we're discussing, the cell phone records, as well

19 as text records where they exist for location data?

20 A Correct.

21 Q But if there's text records that don't have locations

22 associated with them, then you can't map those, right?

23 A They're not mapped. Correct.

24 Q Okay. And we'll see there's some cell phone tower

25 locations for Mr. Carter's T-Mobile records; is that right?

1 A Correct.

2 Q As well as Mr. Brown's Sprint records?

3 A Correct.

4 Q As well as Mr. Banks' Verizon records; is that right?

5 A That's correct.

6 Q I want to go through some of those phone records,
7 actually, before we get into the mapping. So if you could first go
8 to State's Exhibit 2, and that's going to be the phone
9 number 404-808-2233, associated with Larry Brown; the Sprint
10 records.

11 A Yep, I got them.

12 Q In looking at these records, were there or were there not
13 calls or texts between Larry Brown and any of the three phone
14 numbers associated with Kwame Banks, the victim in this case?

15 A There were not.

16 Q Okay. And, in fact, there were also no calls or texts
17 between Larry Brown and Carnell Cave; is that right?

18 A Correct.

19 Q And there were, however, a number of calls and text log
20 between Larry Brown and Anthony Carter?

21 A Correct.

22 Q So when we look at these records, could you actually lock
23 that header down for us, so we can have that scroll?

24 A Sure. Give me a second to remember how to do that.
25 Court's indulgence.

1 Q No problem. If it's too much of an issue, we can just have
2 you explain what each one is.

3 A Sure.

4 Q Yeah. Not a problem at all.

5 A Just freeze the top [indiscernible] this is going to do it.
6 There we go. Done.

7 Q Okay. So when we're looking at these records here, could
8 you tell us what each one of these columns represents?

9 A Sure. So Column A states the calling number, and that is
10 going to, in this case, for the first row, indicate the actual number
11 that's calling the target number in this case, the 2233 number.

12 Q Okay.

13 A And the second column, it's the called number. So
14 because it was an inbound call to this actual number of records
15 we're looking at, the actual target number appears in the called
16 number column. If it was flipped around and the actual target
17 number was calling out, it would be flip-flopped.

18 Q Okay.

19 A And then if there's any dialed digits, generally this is on
20 an outgoing call, because it's capturing the actual dialed digits
21 from the phone, the target number of the records it belongs to, it
22 captures those in that column there.

23 The type of call, if it's inbound, outbound, or in some
24 cases a routed call, start date and time, end date and time.

25 Q And that's for the actual call?

1 A That's for the actual transaction on this line number that
2 we're looking at, yes.

3 Q So when that call would begin and when that call would
4 end?

5 A That's correct.

6 Q Okay. And then after that in --

7 A There's a duration column represented in seconds. And
8 what type of call it is for the next column over. The -- NEID stands
9 for Network Identifier. It's Sprint's switching system that does
10 several things. It identifies to the Sprint network what kind of call it
11 is, what market or geographical location the call occurred from,
12 which actually affects the time zone of the record. And then the
13 last two columns are first cell tower and last cell tower.

14 Q Okay. So these particular records, the first one that we're
15 looking at, in fact, is a text, is that right?

16 A Correct.

17 Q And so it doesn't have any tower location information
18 recorded?

19 A Correct.

20 Q And in looking at that, you said the NEID in Column I, that
21 has general location information affecting the time zone?

22 A So for text messages, because they don't keep a cell tower
23 location, the NEID identifier, basically, sets it up to be a certain
24 time zone. In this case, all text messages that appear on Sprint
25 records are in Central time. So minus two. So any IDs, there's a

1 bunch of them, two -- there are 200-some-odd, they start with 200,
2 some of them are 500. But, basically, there's no -- the only time
3 zone issue with text message records and Sprint records is they're
4 all on Central time.

5 Q Okay. So all text messages that we're going to see in
6 Larry Brown's Sprint records are going to be in Central time?

7 A Yes. You've got to subtract two to get Pacific.

8 Q Okay. To get to our local time?

9 A Correct.

10 Q Now, what about the voice call records? What time zone
11 are those in?

12 A So those time zones are driven by whatever the network
13 identifier is. 34 happens to be the Las Vegas market, they only
14 have one for Las Vegas. So 34 represents Las Vegas. Henceforth,
15 it's in Pacific time. So the actual call time stamp will be in Pacific
16 time.

17 Q Okay. So if the call is here, then the call records are going
18 to be in Pacific time?

19 A Correct.

20 Q But the text could be here, but it would still be in Central
21 time?

22 A Correct.

23 Q Okay. And does that Zedex program that you're using
24 take that into account?

25 A It takes into account understanding the Sprint records,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

yes.

Q Okay.

A And it doesn't make any adjustments for time, because it knows it's Pacific.

Q That's right. Okay. And with Sprint records, where they're actually getting location data for text messages, just the calls?

A Correct.

Q Let's go ahead and take a look at the specific records that we have here. I want to start on February 21st, 2017, around 9:36 in the morning, probably directing you to Row 59 at 52.

A Okay.

Q What are we seeing at, like, 5952?

A So on line 5952, it looks like we have an inbound call from a 702-581-2072.

Q And that would be the number that it was subscribed to Anthony Carter?

A Correct.

Q Okay.

A So it shows it's an inbound call on February 21st, 2017, at approximately 9:35 in the morning, 9:35:40 is when the call started.

Q Okay. And then if we go to line 5957; do you see that?

A Correct.

Q Does that show a text message from Carter to Brown at 9:37 a.m.?

1 A Correct, it does. It shows 11:37, but we have to take off
2 two, because text messages are in Central time, which would make
3 it 9:37.

4 Q Okay.

5 A Exactly.

6 Q And then to line 5959, does that show a call from Brown
7 to Carter at 11:39:57 a.m.?

8 A It does.

9 Q And how long is that call?

10 A 17 seconds, according to the records.

11 Q Looking to line 5970; do you have that?

12 A I do.

13 Q Does that show a text message from Brown to Carter
14 at 11:40:43 a.m.?

15 A It does.

16 Q And line 5971, is that a text message from Carter to Brown
17 at 11:41:15 a.m.?

18 A Correct, it does.

19 Q Line 5972, is that a text message from Brown to Carter
20 at 11:42:13 a.m.?

21 A Correct.

22 Q And then we go forward a couple of hours; is that right?

23 A You do.

24 Q To line 5999; do you have that?

25 A I do.

1 Q What do you see at line 5999?

2 A So there's an outbound call from 404-808-2233
3 to 702-581-2072 at -- it shows in military time, so it's 4:43 p.m.,
4 which is 1643 military, which is what is showing on the records,
5 for 18 seconds.

6 Q Okay. So that's from Brown to Carter?

7 A Correct.

8 Q And so all the times are in military time, correct?

9 A Correct.

10 Q Okay. And so just correct me if I'm wrong with my
11 translation from military time into standard time, okay? Line 6042,
12 do you have that?

13 A I do.

14 Q Is that a call from Carter to Brown at 7:11 p.m.?

15 A And -- correct. And 7 seconds is when it starts,
16 for 110-second duration.

17 Q Okay. And line 6049?

18 A Okay. It's at the very bottom.

19 Q Is that a call from Carter to Brown at 7:58:05 p.m.?

20 A It is.

21 Q And how long is that call?

22 A 29 seconds.

23 Q Now, I want to look at a series of calls between line
24 Number 6050 and 6058. What time range are we covering here
25 with these particular lines?

1 A So line 6050 starts around 8:16 p.m., and it goes all the
2 way to line 6058, which starts a call -- an inbound call at 10:06 p.m.
3 on the -- all on the 21st.

4 Q So line 6052, are you able to tell if that's a phone call?

5 A It indicates it's an outbound phone call.

6 Q Okay. And how long is that particular phone call?

7 A It's logged as 918 seconds.

8 Q That's --

9 A You're talking about line 6052?

10 Q Yeah.

11 A Okay.

12 Q And you said 918 seconds?

13 A Correct.

14 Q Is that, like, 15 minutes --

15 A Correct.

16 Q -- and 18 seconds?

17 A Divide by 60 -- 60 seconds, a minute.

18 Q Okay. What about line 6055?

19 A Line 6055 is an inbound call and it's approximately 943
20 seconds.

21 Q So that would be about 15 minutes and 43 seconds?

22 A Correct.

23 Q What about line 6056?

24 A Another inbound call around 9:15 p.m. in the evening,
25 for 1282 seconds.

1 Q So that's, like, 21 minutes and 22 seconds?

2 A Ish.

3 Q Okay. Those particular calls, are those all made -- are you

4 able to tell if those are made from similar tower areas?

5 A So, yes. They're hitting all off the same tower.

6 Q Okay. Now, let's take a look at 6067; we're after 9:00 p.m.

7 at this point, right?

8 A It's 9:38 p.m. adjusted for the text message time zone.

9 Q Okay. 9:38 p.m. And is that -- that's a text message?

10 A It's an outbound text message, correct.

11 Q Is that text message from this phone to Mr. Carter's

12 phone?

13 A Correct.

14 Q And then line -- the next line down, is that also a text

15 message?

16 A It is.

17 Q Is that from Carter phone to Mr. Brown's phone?

18 A It is.

19 Q And what time is that?

20 A At 11:39 p.m. and 33 seconds.

21 Q And so that would be minus 2?

22 A So it's showing 11, so that's right. It's 9:39 p.m.

23 Q Okay. So the first one is at 9:38, and then just a little over

24 a minute later, at 9:39, comes the ones from Carter to Brown, right?

25 A Correct.

1 Q And then the line under that, 6069, what time is that? Is
2 that 9:39:57 p.m.?

3 A Correct.

4 Q And is that another text from Carter to Brown?

5 A It is.

6 Q The line under that, 6070; is that at 9:40:41 p.m.?

7 A It is.

8 Q And is that another text message, this one from Brown to
9 Carter?

10 A It is, correct.

11 Q And the line right under that, 6071; is that another text
12 message from Brown to Carter?

13 A It is.

14 Q And is that at 9:43 p.m.?

15 A And 4 seconds, yes.

16 Q And then down to line 6074; is that another text message?

17 A It is.

18 Q Is that from Carter to Brown?

19 A It is.

20 Q And what time is that?

21 A Adjusted time would be 9:45:37.

22 Q P.m.?

23 A P.m., correct.

24 Q And then looking down to 10:06 p.m. at line Number 6058,
25 if you could.

1 A 6058?

2 Q Yes.

3 A Okay.

4 Q What are we seeing there?

5 A This is a call from -- it would appear Carter to Brown. An
6 inbound call at 10:06:52 p.m. for 32-second duration.

7 Q 10:06 p.m. you said?

8 A Correct.

9 Q Then let's look down to line 6081, all the way to 6096. Is
10 this an exchange of text messages here?

11 A It is.

12 Q And what time do we start and what time did we end
13 here?

14 A So this is on February -- so you have to adjust the date
15 and the time, because the actual time shown in here is 13 minutes
16 after midnight. So that would be the day before, so that's the --
17 February 21st at 10:13 p.m. and 52 seconds --

18 Q Okay.

19 A -- for the first one on line 6081.

20 Q So fair to say that all these calls that we're looking at in
21 this particular range were made on February -- or all these texts
22 were made on February 21st, 2017, in the hour of 10:00 p.m.?

23 A Correct.

24 Q So 6081, is that the first text?

25 A Correct.

1 Q And that's from Carter to Brown?

2 A Correct.

3 Q 6082, is that a text from Brown to Carter?

4 A Correct.

5 Q And how long -- what time is that?

6 A That would be 10:14:54 p.m.

7 Q Okay. Less than a minute later, at 10:15:15, at line 6084, is

8 that a text from Carter to Brown?

9 A It is.

10 Q Just about two minutes later, at line 6085, is that a text

11 from Brown to Carter?

12 A It is.

13 Q Just about 15 seconds later, at 6086, is that a text from

14 Carter to Brown?

15 A Correct.

16 Q Just about nine seconds later, at line 6087, is that a text

17 from Carter to Brown?

18 A It is.

19 Q Just about 21 seconds later, at line 6088, is that a text

20 from Carter to Brown?

21 A Correct.

22 Q Just about 22 seconds later, at line 6089, is that a text

23 from Brown to Carter?

24 A Correct.

25 Q 30 seconds later, at 6090, is that a text from Carter to

1 Brown?

2 A It is.

3 Q Less than 15 seconds later, at line 6091, is that a text from

4 Carter to Brown?

5 A It is.

6 Q And then at line 6092, is that a text from Brown to Carter

7 at 10:21 p.m.?

8 A It is, with -- and 32 seconds, yes.

9 Q And then following that, 27 seconds later at line 6093, is

10 that a text from Carter to Brown?

11 A It is.

12 Q Line 6094, is that a text from Carter to Brown?

13 A It is.

14 Q And is that at 10:22:12 p.m.?

15 A That's correct.

16 Q 30 seconds later, at line 6095, is that a text from Brown to

17 Carter?

18 A It is.

19 Q And then, finally, at line 6096, is that 10:40:29 p.m.?

20 A It is.

21 Q And is that a text from Carter to Brown?

22 A Correct.

23 Q Okay. Let's go ahead and move to the records for

24 Anthony Carter, the T-Mobile records for phone

25 number 702-581-2072. That's going to be State's Exhibit 3. These

1 are T-Mobile records, correct?

2 A That's correct.

3 Q Slightly different than the Sprint records that we were just

4 looking at?

5 A In formatting, correct.

6 Q If you could please tell us what we're looking at as far as

7 the formatting on these records?

8 A Can you see that okay up there? Or do you want me to

9 blow it up?

10 Q If you could bring it out just a little bit.

11 A Let me zoom in a little bit here.

12 Q Great.

13 A Little better?

14 Q So at the top we see your name?

15 A Correct.

16 Q You were requestor for these particular records?

17 A Correct.

18 Q That's part of your duties?

19 A Correct. In certain cases, yes.

20 Q And then on Row 12, do those appear that the -- those

21 appear to be the headings for each column?

22 A That's correct.

23 Q Can you just go through each one of those, as they do

24 appear to be slightly different than the Sprint records.

25 A So the first thing about T-Mobile records is they are all in

1 what's called Coordinated Universal Time, which for Las Vegas
2 purposes, between approximately a date, so I think it's March to
3 November, when we have Daylight Savings Time, you're talking
4 about minus 7 in the summer, minus 8 in the winter. So they're
5 all -- and the reason they do that is it standardizes for them a better
6 way to store records, so you're not having to worry about time
7 zone changes for different law enforcement agencies that request it
8 across the country. So they just standardized on UTC.

9 The columns, I'll just go through them, if that's what you
10 want me to do?

11 Q Yeah, please.

12 A So the first column is a date column, which is the date.

13 And then the second column is the time. Again, it's in
14 UTC, so you have to do some math to get the actual time zone, if the
15 call occurred in your area.

16 Duration, which would be the duration of the call. It
17 should be noted that on T-Mobile records in this case, voice calls
18 will actually have the actual call duration time, but text messages,
19 they just put a 60 in there for 60 seconds. It's not a 60-second text,
20 it's just 60.

21 So the call type, which tells you if it's -- what type of call it
22 is, if it's voice or SMS.

23 The direction tells you if it's incoming or outgoing.

24 The calling number, same idea as the Sprint records, what
25 number the calling number was.

1 And the called number, which would be the target number
2 that it's calling.

3 And there's some other columns in the middle here too
4 that don't always populate. The dialed number column would
5 possibly have -- if it was the device that was actually calling it,
6 sometimes they put extra dialed digits in there, press 1 for
7 Spanish, press 2 for English. And, like the Sprint records as well,
8 sometimes it's the actual number that they actually dialed the call.

9 Destination number, kind of the same idea, but a little
10 similar. The destination number would be the number that it
11 actually called.

12 The IMSI stands for International Mobile Subscriber
13 Identity. For those of you that have cell phones, I commonly refer
14 to this as kind of like your SIM card. It's your subscriber; it's what
15 attaches your actual phone number to your device. And that's
16 assigned by the phone company when you hook up a number with
17 the phone company.

18 IMEI stands for International Mobile Equipment Identity,
19 and that's actually the serial number of the actual phone. So every
20 phone has a serial number and it identifies itself with the cell
21 network. So those two numbers are passing through the network
22 and they logged them on these records, which brings it back to the
23 actual user of the phone.

24 Q To that point, a device could have an IMEI that's
25 separately defines serial number, correct?

1 A That's -- that is true.

2 Q Okay.

3 A This is the actual network identifier.

4 Q Okay.

5 A And you can actually tell what kind of phone it is by the
6 IMEI.

7 Q Okay.

8 A Completion code, just tells you different things. But in
9 this case, for this call we're looking at, it completed successfully.
10 There's some extra service codes we can go through if need be,
11 but those are all on the how-to-read records on identifying the
12 actual call types.

13 Switch name is the switch that the call passed through.
14 So you can kind of think of switches as an actual physical location
15 of something sitting in a closet. All the stuff transpires in the air
16 through cell towers. But somewhere along the lines, it goes from a
17 cell tower down to a hard line. And switch name in most all telco
18 cases or carrier cases identifies the market in which the call was
19 connected or how it was routed. So that helps T-Mobile to
20 understand where the call was routed from.

21 Then there's a few more columns. We have first LTE site
22 ID, which is the actual cell site identifier. First LTE sector ID, which
23 would be the sector of the side of the tower, we talked earlier
24 about how most cell towers have three sides. So this is Sector 1.

25 Lack and Sid [phonetic], as they used to call them years

1 ago. This is older technology that can actually appear in the phone
2 records. The fact that we logged an LTE call just tells us that the
3 phone, when it connected, uses the LTE network, that's the super
4 faster, better than the old technology, you can -- it's faster Youtube
5 browsing and all that. So it's just indicating that it hit off an LTE
6 site versus an older cell site, which is why those are blank.

7 In some cases they give you the azimuth, which is the
8 center of the tower. So each tower has some tuning. And so
9 commonly, if a cell tower sector was facing north, the azimuth
10 would be zero. And each tower is 120 degrees wide. So
11 sometimes they put the azimuth in there to help you understand
12 where the center point of that tower was.

13 Q And so these particular columns that we're seeing right
14 here in this section, these appear to be all related to cell tower
15 location; is that right?

16 A That's correct. All of them are.

17 Q And -- so just looking at these numbers, well, you may
18 know some of them off the top of your head, you can't say exactly
19 where that tower is just right off the top of your head, right?

20 A There's so -- no, that's correct. There's so many cell
21 towers that have surfaced with LTE and now a 5G coming online
22 that you really have to be a cell tech expert on the phone
23 companies so understand that.

24 Q So your ability to -- and your training in Zedex, does that
25 actually allow you to interpret that data and make it easy to read

1 and analyze?

2 A Much easier.

3 Q Okay. And that's what we're going to see later, is it's
4 going to be maps based upon these particular numbers that are in
5 these sections?

6 A Correct.

7 Q Okay. If you could just scroll down to the other side.
8 Okay. And so you said something about SMS earlier; is that text
9 message?

10 A Correct. It stands for Short Messaging Service.

11 Q On these particular records from T-Mobile, how can you
12 tell us -- or how can we tell the difference between a phone call
13 and a text message?

14 A So you're going to see something like SMS in the actual
15 call-type column.

16 Q Okay. So what we see there does appear to all be text
17 messages --

18 A Correct.

19 Q -- from Lines 13 through 19?

20 A Correct. And the other dead giveaway is a 60-second
21 duration that goes along with that.

22 Q Okay. And then later on, we'll see other identifiers for call
23 records?

24 A Correct.

25 Q In looking at these records, there were, in fact, the

1 corresponding calls and text messages to Larry Brown's phone
2 that we had just looked at on his records; is that right?

3 A Correct.

4 Q And then in addition to that, there -- as you had
5 mentioned earlier, several calls and texts between Anthony Carter
6 and also to of the three numbers associated with Kwame Banks?

7 A Correct.

8 Q And those numbers that we see calls and texts here on
9 Mr. Carter's phone as associated with Mr. Banks are 702-277-4856
10 and 702-755-2805?

11 A Correct.

12 Q There weren't any contacts with that other phone
13 associated with Mr. Banks, 702-786-9811?

14 A That's correct.

15 Q And then in addition to those calls, there were also calls
16 and texts between this phone or call -- there were contacts
17 associated between this phone, Anthony Carter's phone, and
18 Carnell Cave's phone, which is 702-517-3499?

19 A Correct.

20 Q Now, you've mentioned it before, but I just want to be
21 clear, all of these records are in that universal time that you
22 discussed, right?

23 A Universal Coordinated Time, yes, sir.

24 Q Okay. So somebody makes a call in Germany and they
25 have T-Mobile, somebody makes a call here and they have

1 T-Mobile, they're going to be -- all be recorded in this same
2 universal time?

3 A Correct.

4 Q Okay. But it's just a matter of being able to tell where the
5 phone is at the time and then you change it to the local time; is that
6 right?

7 A Correct.

8 Q And is that something that Zedex takes into effect when
9 they actually analyze these records in your program?

10 A Correct, they do.

11 Q And you also do; is that correct?

12 A Correct.

13 Q So you said that' minus eight hours from Pacific Standard
14 Time?

15 A In the wintertime, after you fall back.

16 Q Or to get to Pacific Standard Time --

17 A Right.

18 Q -- we would minus eight hours from this time?

19 A Correct.

20 Q Okay. Let's take a look at a couple of the records that we
21 have here. Let's start around that same time, 9:00 a.m. on
22 February 21st, 2017. Look to line 7703.

23 A Hang on.

24 Q Is that 7703?

25 A It is.

1 Q And so do we have a time, a UTC time associated with
2 this?

3 A Correct. It's logged as 17:26:25.

4 Q Okay. So then minus eight from that would put us
5 at 9:26:25 a.m.?

6 A Correct, on the 21st.

7 Q Okay. And is that a text from this particular
8 number, 702-581-2072, to Mr. Banks' number, 702-755-2805?

9 A Correct.

10 Q And then looking to line 7709, is that a call at 9:32:41 a.m.
11 from Mr. Banks' phone to Mr. Carter's phone?

12 A That's correct.

13 Q And how long was that call?

14 A Logged as 42 seconds.

15 Q And then the row right under that, 7710, is that a text from
16 Mr. Carter to Mr. Banks at 9:34:21 a.m.?

17 A Correct.

18 Q And so then less than two minutes later, at line 7712, do
19 you have that?

20 A 7712? Yes.

21 Q Is that a call from this phone to a specific phone number?

22 A It is.

23 Q And what phone number is that?

24 A That's the Larry Brown phone number, 404-808-2233.

25 Q And does it say how long that call was?

1 A It logs it as a three-second outgoing call.

2 Q And then the next row under that, what are we seeing

3 there at 7713?

4 A So that's a outgoing text message from the target phone

5 here, which is the 2072 number, to, again, Larry

6 Brown, 404-808-2233, at 9:37 a.m. on the 21st.

7 Q Okay. So right after that last call from Carter to Brown,

8 there is a text from Carter to Brown less than a minute later?

9 A That's correct.

10 Q And then at line 7715, am I correct that that's 9:38:53 a.m.?

11 A Correct.

12 Q And that's a text from Mr. Banks' phone number ending

13 in 2805 to Mr. Carter?

14 A Correct.

15 Q And then the next row under that, 7716, is that a call from

16 Mr. Banks' phone number ending in 4856 to Mr. Carter

17 at 9:40:10 a.m.?

18 A Yes, that's correct.

19 Q And then at 7765, is that a call from Carnell Cave's

20 number, 702-517-3499?

21 A Correct, incoming.

22 Q To Mr. Carter?

23 A Correct.

24 Q And that is at 10:55:50 a.m.?

25 A That's correct, on the 21st.

1 Q How long is that call?
2 A 45 seconds, according to the records.
3 Q At line 7787, is that a call?
4 A It is.
5 Q Is that from Mr. Brown to Mr. Carter?
6 A Correct.
7 Q And that's at 11:40:09 a.m.?
8 A Correct.
9 Q Line 7788, is that a text?
10 A It is.
11 Q Is that from Brown to Carter?
12 A It is.
13 Q And is that less than a minute after that last call?
14 A Yes.
15 Q It's at 11:40:45 a.m.?
16 A Correct.
17 Q The call just before that, what's the time duration?
18 A The call before that, five seconds.
19 Q Okay.
20 A Yeah.
21 Q And the followed up immediately with a text?
22 A Correct.
23 Q Then 7789, just under that last text message, is that a text
24 from Mr. Carter to Mr. Brown?
25 A Correct.

1 Q And is that just about 30 seconds after the last text from
2 Mr. Brown and Mr. Carter?

3 A It is.

4 Q And then line 7790, is that a text from Mr. Brown to
5 Mr. Carter at 11:42:15 a.m.?

6 A It is.

7 Q And line 7794, is that a call from Mr. Cave to Mr. Carter
8 at 11:53:42 a.m.?

9 A Correct.

10 Q Does that last 17 seconds?

11 A It does.

12 Q And then at line 7840, do we have another call from, this
13 time, Carter to Cave?

14 A Correct.

15 Q And 7861, another call from Carter to Cave?

16 A Correct.

17 Q And that call there, what time did that occur?

18 A That looks like it's going to be -- we're talking about
19 line 7861, right?

20 Q Yes, sir. Is that --

21 A So it's going to be around 2:36:06 on the -- I'm sorry, let
22 me look here real quick.

23 Q So --

24 A Yeah. 2:36:06.

25 Q P.m.?

1 A Correct.

2 Q And how long did that call last?

3 A 288 seconds.

4 Q And then line 7880, is that another call from Mr. Carter to

5 Mr. Cave?

6 A Correct.

7 Q And is that 30 minutes after the last call, this one being

8 at 3:06:24 p.m.?

9 A P.m. on the 21st, correct.

10 Q And then at the next line, 7910?

11 A You're talking about Row 7910?

12 Q What's that?

13 A You're talking about Row 7910?

14 Q Yes, sir.

15 A Okay.

16 Q Is that another call, this one from Carter -- from Cave to

17 Carter?

18 A Correct.

19 Q And that's at 3:56:31 p.m.?

20 A Correct.

21 Q For 73 seconds?

22 A That's right.

23 Q And line 7935.

24 A Okay.

25 Q Is that another call?

1 A It's an outgoing call, yes.

2 Q This one's from Mr. Carter to Mr. Cave?

3 A Correct.

4 Q And that's at 4:38:25 p.m.?

5 A Correct. On the 21st.

6 Q On the 21st?

7 A Yeah.

8 Q All of these have been on February 21st, 2017, correct?

9 A Correct. Just the date jumped, so I wanted to clarify it.

10 Q Thank you for that.

11 And the next line under that, is that a call?

12 A That is a text message.

13 Q Okay. And what is that? What line is that?

14 A The line I'm looking at is 7936.

15 Q Okay. Can you go to 7942?

16 A Okay.

17 Q Is that a call?

18 A It's an incoming call, yes.

19 Q And is that at 4:43:19 p.m.?

20 A Correct.

21 Q And that's, in fact, from Larry Brown to Mr. Carter?

22 A That's correct.

23 Q And then let's go forward at this point in time, to just

24 around 7:00 p.m., Pacific Standard Time, around line 8017.

25 A Okay. 8017?

1 Q Yeah, do you have that?

2 A I do.

3 Q Is that a call?

4 A It's an outgoing call, yes.

5 Q And so it's a call from Mr. Carter, is that to Mr. Banks'

6 phone ending in 2805?

7 A Correct.

8 Q And what time is that?

9 A That's going to be at -- looks like 7:10 p.m. and 12

10 seconds, for 41-second duration on the 21st.

11 Q Okay. How long does that -- you said it's how long a

12 duration?

13 A 41-second duration.

14 Q Okay. So let's look at the line right under that, the next

15 transaction.

16 A Okay.

17 Q Is that a call?

18 A It is.

19 Q And is that outgoing?

20 A Correct.

21 Q From Mr. Carter?

22 A Correct.

23 Q To Mr. Brown's phone at 404-808-2233?

24 A That's correct.

25 Q And is that just about one minute after Mr. Carter's prior

1 call to Mr. Banks?

2 A Correct.

3 Q How long does this call with Mr. Carter and Mr. Brown

4 at 7:11 p.m. last?

5 A 98 seconds.

6 Q And then let's go down just under that to 8020; is that

7 another call?

8 A Correct.

9 Q Outgoing?

10 A Outgoing.

11 Q Is that from Mr. Carter to Mr. Cave?

12 A Correct.

13 Q And is that at 7:13:41 p.m.?

14 A Correct.

15 Q How long does that call last?

16 A 113 seconds.

17 Q And then we'll go down in transactions to 8033, about 45

18 minutes later, approximately, at 7:57 p.m.

19 A Okay.

20 Q Is that a call from Mr. Carter to Mr. Banks' phone ending

21 in 4856?

22 A Correct.

23 Q How long is that?

24 A The duration is 10 seconds.

25 Q Okay. And then right under that, is that another call from

1 Mr. Carter at 8034?

2 A Correct.

3 Q Okay. So this is the next transaction after the call from

4 Mr. Carter to Mr. Banks?

5 A That's correct.

6 Q And at 8034, who is Mr. Carter calling?

7 A Mr. Brown.

8 Q And how long is that call?

9 A It's logged as 22 seconds.

10 Q And am I correct that that's just one minute and 12

11 seconds after his prior call to Mr. Banks?

12 A Correct.

13 Q Then looking around 9:30 p.m., we're going to look to

14 line 8067; is that a text message from Mr. Brown to Mr. Carter?

15 A Correct.

16 Q And that's at 9:38:12 p.m.?

17 A Correct.

18 Q And then right under that, at Lines 8068, is that a text

19 message from Mr. Carter to Mr. Brown?

20 A Correct.

21 Q And that's just a minute and 21 seconds after?

22 A Correct.

23 Q And then the line right under that, 8069, is that a text

24 message from Mr. Carter to Mr. Brown, just seconds later

25 at 9:39:57 p.m.?

1 A Correct.

2 Q Line 8072, is that a text message from Mr. Brown to
3 Mr. Carter?

4 A It is.

5 Q And that's at 9:40:42 p.m.?

6 A Correct.

7 Q And line 8076, is that another text message from
8 Mr. Brown to Mr. Carter, just a couple of minutes later --

9 A Correct.

10 Q -- at 9:43:05 p.m.?

11 A That's correct.

12 Q And the line right under that, 8077, is that a outgoing text
13 from Carter to Brown --

14 A Correct.

15 Q -- shortly thereafter, at 9:45:37 p.m.?

16 A That's correct.

17 Q And then looking just under that to 8080.

18 A Okay.

19 Q I want you to look at 8080 and to 8082. Do we see a series
20 of calls between Mr. Carter and Mr. Banks, his phone number
21 ending in 4856?

22 A Correct.

23 Q It's three calls?

24 A Correct, two outgoing, one incoming.

25 Q The last one being the incoming?

1 A That's correct.

2 Q And that would be from the time period of 9:56:14 p.m.

3 to 10:06:16 p.m.?

4 A Correct.

5 Q So just about 10 minutes that they're going back and

6 forth; is that right?

7 A Correct.

8 Q And that last call, how long was that?

9 A 19 seconds is how it's logged in the call records.

10 Q And that last call was at 10:06:16 p.m.?

11 A Correct.

12 Q For 19 seconds?

13 A That's correct.

14 Q From Mr. Banks to Mr. Carter?

15 A That's correct.

16 Q And then I want you to look right under that; what do we

17 see there at 8083?

18 A That's an outgoing call from -- it's from Carter to Brown.

19 Q And is it that -- at 10:07 p.m.?

20 A Exactly 10:07 p.m., yes.

21 Q Less than a minute after the call where Banks and Carter

22 connected?

23 A Correct.

24 Q Looking towards a series of text messages that began

25 after 10:00 p.m. at line 8085; do you see those?

1 A Yes.

2 Q Those are going to be after the -- during the 10:00 p.m.

3 hour; is that right?

4 A Correct.

5 Q On the 21st of February 2017?

6 A Correct.

7 Q Correct me if I'm wrong, but we're going to look at 8085;

8 is that a text from Carter to Brown?

9 A It is.

10 Q 8086, Brown to Carter?

11 A It is.

12 Q 8087, Carter to Brown?

13 A It is.

14 Q 8088, Brown to Carter?

15 A Correct.

16 Q 8089, Carter to Brown?

17 A Correct.

18 Q 8090, Carter to Brown?

19 A Correct.

20 Q 8091, Carter to Brown?

21 A Correct.

22 Q 8092, Brown to Carter?

23 A Correct.

24 Q 8093, Carter to Brown?

25 A Correct.

1 Q 8094, Carter to Brown?
2 A Correct.
3 Q 8095, Brown to Carter?
4 A Correct.
5 Q 8096, Carter to Brown?
6 A Correct.
7 Q 8097, Carter to Brown?
8 A Correct.
9 Q 8098, Brown to Carter?
10 A Correct.
11 Q Those text messages that we went through from line 8085
12 to 8098, those all occurred within a approximately less
13 than 10-minute time period?
14 A Correct.
15 Q Between 10:13:52 p.m. and 10:22:43 p.m.?
16 A Correct.
17 Q I want you to look at line 8104.
18 A Okay.
19 Q 8104, is that a call?
20 A It is.
21 Q What time is that call?
22 A It's at 10:39:38 p.m. on the 21st.
23 Q And is that a call from Mr. Banks' phone, 4856, to
24 Mr. Carter?
25 A That's correct.

1 Q And that's line 8104?

2 A That's correct.

3 Q And then I want you to look right under that at line 8105;

4 and what time is this transaction?

5 A Approximately a minute later.

6 Q And what is it?

7 A It's an outgoing text message from --

8 Q To who?

9 A -- from the target number, which is Carter, to Larry

10 Brown's number.

11 Q Okay. So this is a call at -- or a text from Mr. Carter to

12 Mr. Brown?

13 A Correct.

14 Q At 10:40:29 p.m.?

15 A Correct.

16 Q And that's less than a minute after the call from Banks to

17 Carter?

18 A Correct.

19 Q And then below, right under that, 8106, is that a call from

20 Mr. Banks' number, 4856, to Mr. Carter?

21 A That's correct.

22 Q Is that at 10:40:42 p.m.?

23 A Right, that's correct.

24 Q In addition to that, we'll go on at this point to Mr. Cave's

25 phone, another T-Mobile records, correct?

1 A Correct.

2 Q Mr. Cave's phone had this -- was subscribed to him
3 at 702-510-3499; is that right?

4 A 517, I believe.

5 Q 517-3499, right?

6 A Correct.

7 Q And if you could go ahead and pull those up; these are
8 also T-Mobile records, just like the ones -- or similar to the ones we
9 just looked at, right?

10 A That's correct.

11 Q However, these are slightly different, with less
12 information; is that right?

13 A That's correct.

14 Q The records that you have here, they don't have the tower
15 location; is that right?

16 A Correct.

17 Q Okay. And then let's go next to Mr. Banks' phone,
18 the 702-277-4856.

19 A You want the raw records?

20 Q Yeah. If you could pull those up. Just in case, you did
21 review -- before you pull those up, you did review these records
22 prior to your testimony today?

23 A I did.

24 Q State's Proposed Exhibit 5? And what's contained in
25 State's Proposed Exhibit 5 is a fair and accurate copy of Mr. Banks'

1 records?

2 A That's correct.

3 Q Okay.

4 MR. DICKERSON: State's going to move for the
5 admission of State's Proposed Exhibit 5, if we haven't already.

6 THE COURT: All right. That'll be admitted subject to the
7 record.

8 MR. DICKERSON: Thank you.

9 BY MR. DICKERSON:

10 Q If you could go ahead and pull those up for Mr. Banks'
11 phone number, 702-277-4856.

12 A Okay.

13 Q These are Verizon records; is that right?

14 A That's correct.

15 Q So when we look at these records, can you tell us a little
16 bit about these, just so we know, you know, what the headings are
17 and what the times --

18 A So the first column is the header column. It, basically,
19 gives you explanation of what's within that column.

20 The first they call it is a network element name. To
21 Verizon, that's, basically, the switch that the call passed through, as
22 we were talking about switches earlier. And they're based on
23 geographical regions. So in this case, the first set of calls you're
24 looking at passed through the Las Vegas switch, which would also
25 indicate that they're -- for Verizon records, there is no time

1 adjustment for if you're in Las Vegas, the time is going to be in Las
2 Vegas time. There's no time adjustment.

3 Q Okay. That's the important thing I wanted to get to here.
4 So that switch up front, we see Las Vegas, right?

5 A Correct.

6 Q And so that means that these records record the time zone
7 as wherever the phone is located?

8 A If the phone is powered on, correct.

9 Q Okay. Understood. If it's not, then it might hit a generic
10 switch or central switch?

11 A It might hit -- if -- so the best explanation for that is if it
12 was an 808 number, which I believe is a Hawaii area code, for
13 example, if the phone was off and it received a call to where the
14 phone was not on network, you would see a Hawaii switch in
15 there, because that's where the source area code or the home
16 location for the origination of the number came from.

17 If an 808 number was in Las Vegas, then it would -- and it
18 was online receiving a call and their cell tower's recorded, then Las
19 Vegas 01, if it was in Las Vegas, would be recorded in that column.

20 Q Okay. With that, I'd like to move into your map. So
21 before we open up your map, you did review the State's Proposed
22 Exhibit 303 today, right?

23 A Correct.

24 Q Is this a fair and accurate copy of your mapping that
25 you've done and it's in a specific KMZ file format?

1 A Correct.

2 Q Okay.

3 MR. DICKERSON: State's going to move for the
4 admission of State's Proposed 303.

5 THE COURT: All right. Subject to the record, that will be
6 admitted at this time.

7 [State's Exhibit Number 303 admitted.]

8 BY MR. DICKERSON:

9 Q And like these other records that we've had, you have a
10 exact copy of this on your computer for ease of presentation today;
11 is that correct?

12 A That's correct.

13 Q And is that what we're seeing here?

14 A That is correct.

15 Q The phones that you mapped in here, did you map Larry
16 Brown's phone number, 404-808-2233?

17 A I did, correct.

18 Q Did you map Anthony Carter's phone
19 number, 702-581-2072?

20 A Correct.

21 Q You did not map Carnell Cave's number, 702-517-3499,
22 because there was no location data, right?

23 A There's no cell tower location data, correct.

24 Q Okay. You did not map Kwame Banks' cell phone
25 number, 702-755-80 -- or 2805; is that right?

1 A Correct.

2 Q All right. You became aware that that was found under
3 his body at the scene, right?

4 A That's what my understanding was, yes.

5 Q You did not map the 702-286-9811 Kwame Banks phone;
6 is that right?

7 A That's correct.

8 Q Is that because it hadn't had a cell tower hit except for
9 very early in the morning that same day on the --

10 A That's correct.

11 Q So there was no location done?

12 A Around 10:00 a.m., I believe --

13 Q Okay.

14 A -- is the time.

15 Q But you did map Kwame Banks' other
16 phone, 702-277-4856?

17 A That's correct.

18 Q As well as Mr. Brown and Mr. Carter's?

19 A That's correct.

20 Q And in addition to that, did you become aware through
21 your investigation and work on this case of several addresses that
22 have become relevant?

23 A That's correct.

24 Q And did you, in fact, plug those into your map here?

25 A I did.

1 Q Okay. The 2520 Sierra Bello Avenue, is that an address
2 that you knew -- you've come to know was associated with
3 Mr. Brown?

4 A That's correct.

5 Q Okay. The -- above that 5850 Sky Pointe Drive address, is
6 that an address that you were aware was the scene of the homicide
7 in this case?

8 A Correct.

9 Q And 7495 is -- that's an area where you became aware
10 was the scene of a vehicle being recovered in this case?

11 A Correct.

12 Q And then if you could pull it out just a bit, the -- above
13 that, 6828 Rosinwood Street, is that an address that you came to
14 know was associated with Mr. Carter?

15 A Correct.

16 Q And then pulling back out from there, this 9328 Freedom
17 Heights address, is that an address that you became aware was
18 associated with Mr. Banks?

19 A Correct.

20 Q Okay. And then if we could, go to your mapping at the
21 beginning of the day on February 21st, 2017.

22 A Whereabouts would you like to go? What time?

23 Q Let's go into the morning hours, let's say before, say,
24 around 9:00 a.m.

25 A Okay.

1 Q So -- as we're going to go through this, just because the
2 jury is going to have the ability to access this later when they
3 deliberate, I just want to make sure that you explain for them what
4 we're doing and how we're using this particular program, so they
5 can have ease of use.

6 A Okay.

7 Q Okay? Right here, where are we in the timeline?

8 A So right up here in the top left-hand corner is what we call
9 our time slider. This shows you a date and a time. And then,
10 depending on how you zoom in or zoom out shows you a
11 timeframe. In this case, within this time slider encompasses about
12 a one-hour segment in this case, from 8:00 a.m. to 9:00 a.m. If I
13 actually click on the magnifying glass that has a minus in it, I can
14 actually back that out a little bit, and that allows you to see a little
15 wider day ranger. And subsequently, if I click on the plus on the
16 magnifying glass, it allows me to zoom in.

17 In addition, there's a little wrench here, which you may
18 see me click on from time to time where I can actually manually set
19 my time zones relation, the beginning and ending record. In this
20 case, I'm a minute apart, and there's a reason I'm starting at a
21 minute apart, because if you show, say 15 minutes apart, you may
22 get a cluster of phone activity and it's harder to break it out to
23 show you. So I'm using a minute, since it's a lot easier to view on
24 the screen.

25 And then the start date and the end date. That's the

1 wrench.

2 Q Am I correct too that kind of keeping a limited time span
3 that you're looking at may also help the program run more
4 smoothly?

5 A It does, if you're displaying less graphics. So one of the
6 things about Google Earth and ingesting these thousands and
7 thousands of call records is you need to have a decent what they
8 call a graphics card on your computer so that it doesn't bog it
9 down. And I happen to have one that is a little bit more beefy that
10 can handle that. So.

11 Q So what we're seeing here is what time period?

12 A So right now we're seeing a time period on the 21st
13 between 8:59 a.m. and 9:00 a.m.

14 Q Okay. That's in the morning?

15 A Correct.

16 Q And we're seeing a green cellular; is that right?

17 A Correct. So what I did was, just for purposes of color
18 coding everything, is the 702-581-2072 number subscribed to
19 Anthony Carter, those cell records would pop up in green.
20 The 404-808-2233 or the phone number subscribed to by Larry
21 Brown would appear in gray. And then, in this case,
22 the 702-277-4856, the Verizon line subscribed to Kwame Banks
23 would show up in red.

24 Q Okay. So Mr. Carter's phone is green, Mr. Brown's phone
25 is gray, and Mr. Banks' phone is red?

1 A Correct.

2 Q Okay. And at this point in time, where are we seeing
3 Mr. Carter's phone?

4 A So it's showing up in the area of what we call the
5 northwest part of Las Vegas. And then what we're showing you
6 here, which you talked a little bit earlier about, is this blob. So this
7 is actually representative of a cell call or text, in some cases,
8 transaction. The number that you're seeing here represents the
9 line number and the original raw file. So if you have to do a
10 double check to make sure that the time zones work correctly, it
11 refers to the actual line number in the Excel files we reviewed, in
12 this case, 7696.

13 And then sometimes you see the same number that says,
14 Last, by it. And if you see a Last, if you remember in the original
15 raw records, you had first cell site and last cell site. So beginning
16 the call, end the call. So that last means that's the ending cell site
17 from that call.

18 Q Okay. So those numbers that I was giving you for each
19 row, those correspond directly with the numbers that we're seeing
20 here?

21 A That's correct.

22 Q Okay. And this is Mr. Carter's phone, correct?

23 A Correct.

24 Q The area in the blob here, can you tell us what that
25 means?

1 A So it's kind of a strange-shaped blob. First of all, the little
2 green pushpin right here represents where the tower is actually
3 located. And if I just click to zoom in real quick, this is where you
4 can actually see the tower planted in the ground, if you zoom in
5 close enough and you can actually see that there's -- looks like a
6 place where several companies are sharing some real estate here,
7 because there's several cell towers. But this is actually a Sprint cell
8 tower in this case. And you can actually go down to a street view
9 and drive by it and actually see it.

10 Not all of them show up that way. Some of the colors
11 overshadow that. In this case, it cleared up for us.

12 And then the blob, very simply, I don't want to get into too
13 much technical stuff, because it's very eye-rolling, but in antenna
14 cases, for the type of antennas that the cell companies use, there is
15 what's called some backslash coverage. So you can have a
16 directional antenna that faces out. And if you were close enough
17 to that antenna, just because of the way antenna mechanics work
18 and the strength of the antenna and all the wattage they throw out
19 and the dBs and all that they're rated for, if you're standing behind
20 the tower, this indicates that there's some coverage that could
21 happen behind the forward-facing antenna. And again, it's very
22 eye-rolling, but that's the way it works. These are directional
23 antennas versus, like, an antenna on your car, which is, like, 360
24 degrees that can, you know, take from radio or AM radio from any
25 direction.

1 But cell tower antennas are directional. And they're
2 stronger that way and they have better coverage that way, and
3 they just -- that's what the technology that they use.

4 Q Okay. So this is Zedex putting into a visual format their
5 own inputs of the technical specifications of this particular antenna
6 to show us what its coverage area is?

7 A Correct. And it's a -- it's a coverage area that's the most
8 potential. There is a chance that the phone can be a little bit
9 outside that coverage area, but based on the mechanics of the
10 antenna, the fact that Zedex catalogues, all of the cell phone
11 companies' antenna strengths and specifications, this is the
12 projected coverage of that antenna at that location.

13 Q Okay. And it takes into account that maybe somebody
14 right behind it could be getting that service right there?

15 A Correct. And it also takes into account there's other cell
16 phone -- cell tower antennas in the area that also would cover as
17 the phone moves.

18 Q So we knew that Mr. Carter was associated with that 6828
19 Rosinwood Street address?

20 A Correct.

21 Q And it looks like he is squarely within the coverage area
22 for this particular tower; is that right?

23 A Correct.

24 Q And you talked earlier about sectors. Are we able to tell
25 what sector this particular transaction was made on?

1 A So just looking at it on the outside, it looks like it's
2 Sector 3. But if I open up the box, this is the actual date from the
3 original raw file. So you're talking about it gives you the date and
4 time stamp, talks about, again, what number we're dealing with,
5 the fact that this is an incoming text message from this number
6 here, which is 702-428-5083, for, again, in T-Mobile's case, they're
7 all 60 seconds for text messages. Gives you the actual tower
8 number and the sector. So there it is, Sector 3, or the third sector.

9 Q Okay. So we're in the third sector and we're able to tell
10 where this particular sector faces based upon this map here, right?

11 A Correct.

12 Q And, in fact, we see this black-gray line in the center of our
13 so-called blob --

14 A Right.

15 Q -- is that right?

16 A Correct.

17 Q Is that actually the center point of that sector?

18 A That would be the -- what they call the azimuth or the
19 center point, yes.

20 Q Okay. So then we're seeing Mr. Carter's home directly
21 almost in the line with the center of Sector 3 of this tower?

22 A Correct.

23 Q Which would be consistent with him picking up or
24 receiving service on Sector 3 of this tower, during this here in this
25 neighborhood?

1 A Correct.

2 Q Okay. And we can tell that that sector faces that direction
3 because that's where the majority of the coverage area is, as well
4 as the center azimuth, that we call it, right?

5 A Correct.

6 Q And so that black line would be the azimuth?

7 A That would be the center point of that antenna facing --

8 Q Got it.

9 A -- in this case, west. Yes.

10 Q Okay. If you could pull out a little bit. Now, let's just -- if
11 you could just click forward, forward throughout the morning.

12 A All right. So what I'm doing, just so that everybody
13 understands, is I'm actually clicking on the -- you can forward in
14 time by clicking on this right arrow here, if you have to do it later,
15 and you can actually click back in time by clicking on the left arrow.
16 And then subsequently you can shoot forward a lot faster if you
17 actually zoom out. I'm going to go ahead and just click forward
18 based on -- how far forward did you want me to go, sir?

19 Q I just want -- once we get to the other phones so we can
20 identify them, let's just go take a look.

21 A Do you want me to just play it forward or would you like
22 me to manually --

23 Q Sure, you can play it forward.

24 A Okay.

25 Q You're able to pause, right?

1 A Yes.

2 Q Okay. So explain to the jury what you're doing when
3 you're playing it forward.

4 A So what I'm doing now is I'm actually hitting the play
5 button, which is right next to the plus magnifying glass, I'm
6 actually zoomed in here. So if you just play it forward, you can
7 watch this time, 9:23, 9:24, :25, :26, :27 in the morning. And this
8 will play for you the actual sweep of the records based on just
9 going forward in time, so we're at 9:50 a.m., coming up
10 on 10:00 a.m.

11 Q Go ahead and pause it.

12 A Okay.

13 Q Take it back a little bit. Right there.

14 A So that's right around --

15 Q Right there.

16 A Yep.

17 Q That's perfect.

18 A All right.

19 Q Go ahead and zoom into that gray.

20 A Okay.

21 Q Okay. What time is this?

22 A So this is Record 5953 for Target Number -- for
23 Mr. Brown's number, 404-808-2233, based on an inbound call for
24 about 25 seconds around 10:00 a.m. on the 21st.

25 Q Okay. And, again, we see the so-called blob, right?

1 A Correct.

2 Q And does this tell us what direction the sector is that
3 Mr. Brown's phone is picking up service from?

4 A Correct.

5 Q The majority of the blob is facing the direction where that
6 sector faces, correct?

7 A That's correct.

8 Q Which will be like a west -- north -- northwest?

9 A It's a west-facing center point.

10 Q Okay.

11 A It might be a little bit more northwest. But it's basically
12 west.

13 Q And then you had also mapped Mr. Brown's address, 2520
14 Sierra Bello Avenue?

15 A Correct.

16 Q Okay. Is that within this coverage area here?

17 A Yes.

18 Q Okay. Tell me about that.

19 A So it's, again, the coverage is suggested, the -- it would
20 suggest in most cases that the antenna, because the population
21 and surrounding antennas, that -- I'm trying to make this as -- I
22 want to make this as easy as possible to understand. But the
23 bottom line is that coverage can happen inside the gray area and it
24 can happen outside the gray area. But most strongest coverage is
25 inside the gray area.

1 But if I can use an example, if you don't mind. So I always
2 use the light bulb example. Think of a cell tower and a cell phone
3 communicating with light bulb. So if I have a light bulb standing
4 right here and I have a cell tower right behind me outside this big,
5 thick wall right here, but I have a sheet of glass in front of me and
6 there is a cell tower a couple of miles away, but yet I'm looking
7 through an open area here, glass or otherwise, the cell -- and this
8 represents -- the cell phone is out that way.

9 So the cell phone is going to basically be able to --
10 actually, let me turn that around. Cell towers are behind me and
11 this is the cell phone. All right. So the cell phone is going to be
12 able to pick up something better line of sight, because it sees the
13 cell tower, versus an actual object blocking it.

14 So you can't tell 100 percent on here on what the objects
15 were that may have blocked it. But it's going to, basically, pick up
16 the cell tower with the best line of sight.

17 Q And Mr. Brown's address here, 2520, is right there within
18 the outer edge of this particular cell tower for service, correct?

19 A Well, it's outside the suggested area, but it's -- just based
20 on my training and experience, it's not unusual that it would pick it
21 up at that point.

22 Q Right.

23 A It just depends on surrounding other objects of what may
24 be happening with the cell phone coverage and how it sees a cell
25 tower.

1 Q Right. And then if you could pull out just a bit, and
2 continue playing it through the morning hours until -- stop when
3 you get to one of Mr. Banks' phones.

4 A I'm sorry, what was the --

5 Q When you get to a red --

6 A Okay.

7 Q -- for Mr. Banks.

8 A [Witness complies.] So we're at 10:15, 10:30 a.m.,
9 11:00 a.m.

10 Q There we go.

11 A Yep. Just want to make sure I didn't pass --

12 Q All right. If you could go ahead and zoom in on that.

13 And so you already mentioned it, but this is the red
14 so-called blob for Mr. Banks' phone, right?

15 A Correct.

16 Q This would be the cell tower that he was hitting off during
17 this particular call?

18 A Correct.

19 Q What time is this?

20 A So this is line 173 from his records, and this would appear
21 at around 11:09:30 a.m. on the 21st.

22 Q Okay. And we're also able to see where the center point
23 of the sector is that Mr. Brown is hitting off at this point in time; is
24 that right?

25 A Correct.

1 Q That's that black or gray line center of the blob?

2 A That's correct.

3 Q And now -- so to, like we discussed previously,
4 Mr. Brown's -- or Mr. Banks' address here, I'm sorry, I stand
5 corrected on that -- Mr. Banks' address of 9328 Freedom Heights,
6 that's able to be serviced by this particular cell tower in that sector?

7 A That's correct. That's what happened at this particular
8 call.

9 Q Okay. Now, let's go ahead and bring it out till right
10 around 6:00 p.m.

11 A All right. So move forward to 6:00 p.m.?

12 Q Yes, sir.

13 A [Witness complies.] Just make sure my settings are right.
14 All right. I'm at 5:59 p.m. on the 21st.

15 Q Perfect. So 5:59 p.m. on the 21st, we see kind of a
16 different sort of projection here; is that right?

17 A Correct.

18 Q And that's over in the area of Mr. Brown's house?

19 A That's correct.

20 Q What is this that we're seeing here?

21 A So these are what we call data records. They show up as
22 circles. This is, basically, records that, in this case, Sprint logs
23 anytime any data sessions are used off the handset of a phone. So
24 that would be jumping on your phone and playing a Youtube
25 video, maybe, receiving a Facebook notification, or anything that's

1 not a phone call.

2 Q Okay. So this is using your data?

3 A Right.

4 Q Getting on Facebook or the Internet or something like
5 that?

6 A It also could be due to some other factors. Anything that's
7 not a phone call or a traditional text message --

8 Q Okay.

9 A -- from the phone company.

10 Q And this is still Mr. Brown's phone?

11 A That's correct.

12 Q But when we see a data session -- a data projection that is
13 logged, that's going to be in one of these circular logs?

14 A That's -- yeah, that's -- the phone company is only giving
15 you a rough estimate of the coverage on the data session, so they
16 make a circle.

17 Q Okay.

18 A It can be outside that circle.

19 Q Okay.

20 A It doesn't necessarily mean it's inside the circle, but it's in
21 the general area.

22 Q Okay. Not as exact as the call log data?

23 A That's correct.

24 Q Okay. All right. So if we could, just let's slowly go
25 through the time from this point on, looking at the entire map.

1 A All right. You want me to advance it manually, or do you
2 want me to auto --

3 Q Yeah, go ahead and advance it manually.

4 A Okay.

5 Q And then as we get towards 7:00 p.m. --

6 A Okay.

7 Q -- slow down.

8 A So we're 6:15 p.m.-ish. 6:30. 6:45. 6:55. And now we are
9 at 7:01. Back up a little bit. This is 7 -- 6:59. And then you want me
10 to keep going forward?

11 Q And so up until this point in time, we've seen Mr. Brown's
12 phone generally in the area of his house; is that right?

13 A Correct.

14 Q Mr. Carter's phone in the area of his house up there at
15 Rosinwood?

16 A Correct.

17 Q And then Mr. Banks' phone had been in the area of his
18 house as well as driving it seems like around the -- or around the
19 area of the 215 area?

20 A Looked like it went a little bit east, yes.

21 Q Okay. And so we can keep going forward from this point.

22 A All right. 7:01 p.m.

23 Q Okay. Still same thing, except we were seeing some
24 different projections of Mr. Brown's phone; is that right?

25 A Correct. So we're at 7:11 p.m. here, where there's a call

1 logged for Brown's phone up towards Summerlin area.

2 Q Okay. That's 7:11 p.m.?

3 A That is 7:11:07.

4 Q And what can you tell me about that call?

5 A So it looks like it's an inbound call from Carter for 110
6 seconds, so more than a minute. And that cell tower is hitting
7 somewhere up towards the Summerlin area here.

8 Q Okay.

9 A And I can zoom in to show you, but it's --

10 Q Yeah, if you could.

11 A It's basically west of his original home location that we
12 have mapped here.

13 Q Okay. If you could zoom in on that. Does that appear to
14 be a cell tower in the area of Summerlin Hospital?

15 A Correct.

16 Q All right. And then if you could slowly -- if you could pull
17 out and then slowly go forward from that point, looking at the
18 larger view there.

19 A All right. So we're 7:13.

20 Q Okay. So what are we seeing of Mr. Brown's phone at this
21 point in time?

22 A So it would appear that the phone is moving back down
23 towards his original home location.

24 Q Okay.

25 A Based on the data sessions that were recorded.

1 Q Okay. So it appears we saw data sessions go from the
2 area of that Summerlin Hospital hit at 7:11 p.m., down towards the
3 area east of -- at 2520 Sierra Bello?

4 A Correct.

5 Q Okay. And what time are we looking at right here?

6 A Right now, we're around 7:27 p.m. on the 21st.

7 Q Okay. And so now 7:27 p.m., that's less than 15 minutes,
8 approximately, since that phone call at the Summerlin Hospital
9 ended?

10 A Correct.

11 Q And where do we see Mr. Brown's phone go from here?

12 A So we're at 7:35 --

13 Q Actually, if you could back that up.

14 A Sure.

15 Q 7:35.

16 A This is 7:36, so.

17 Q Okay. In this time period right here, this is when we first
18 start to see Mr. Carter's phone go into the area of this crime scene,
19 right? 5850 Sky Pointe, right?

20 A There is coverage towards that address, yes.

21 Q Okay. And it's changed from where it was earlier when it
22 was covering his home at Rosinwood; is that right?

23 A Correct. Different sector, different cell tower location.
24 And different cell tower location entirely.

25 Q If you could zoom in on that for us.

1 A I just moved it forward here. My apologies.

2 Q Yeah, there you go. That's perfect.

3 A I clicked before I clacked. So it just -- let me get back to

4 that date.

5 Q Let's see that right there.

6 A Well, this is on the 19th, so.

7 Q Oh, okay.

8 A I just -- I clicked something and it shot backwards for me.

9 So Court's indulgence here.

10 Q We'll go to 7:29.

11 A On the 21st, right?

12 Q Yeah, and 29 seconds. There we go.

13 A Well, we're getting there. Give me one second. All right.

14 So I'm at 7:27 p.m. on the 21st. And then 7:29.

15 Q Okay.

16 A And that's 7:30.

17 Q Okay. And so that is 8027, that's the call line?

18 A That's the call line for this record I'm on right now, which

19 is Carter's phone.

20 Q Okay.

21 A Correct.

22 Q And then this is showing that it is covered into the area of

23 his home at Rosinwood; is that right?

24 A That is correct.

25 Q What was the specific time of this call or this text?

1 A So this is an outgoing text message at 7:29:29 p.m. on
2 the 21st.

3 Q Okay. And if you could just go forward slowly from here.
4 There we go.

5 A 7:36.

6 Q Can you tell me about this particular call line, 8028
7 and 8029?

8 A 8028 is an outgoing text message or SMS as they call it,
9 at 19:35:30, or 7:35:30 p.m.

10 Q Okay. So between the last call or the last text and this
11 one, we saw a shift in where Mr. Brown's -- what tower or what
12 sector Mr. Brown's phone was hitting on; is that right?

13 A Correct.

14 MR. GIORDANI: Carter.

15 BY MR. DICKERSON:

16 Q Mr. Carter.

17 MR. DICKERSON: Thank you.

18 THE WITNESS: Correct. Carter's phone. So this is before
19 and then this is after.

20 BY MR. DICKERSON:

21 Q Okay. Very clearly a directional shift; is that right?

22 A It is, according to the records, yes.

23 Q And that actually has meaning as far as we know, as far as
24 what -- where he would be picking up the antennas on those
25 towers?

1 A Correct.

2 Q So here Mr. Carter wouldn't be picking up the sector and
3 antenna from his home?

4 A Based on the historical data and what's been charged as
5 far as pattern of life, correct.

6 Q Okay. And it appears that the sector of the tower that he's
7 picking up now here at 7:35 p.m. is directly in line with the crime
8 scene at 5857 --

9 A It covers that area, yes.

10 Q Okay. If you could bring it out a bit and are you covering
11 the time period -- if you could just move forward in the time
12 period.

13 A So we're at 7:45 p.m.

14 Q Okay. And at this point in time, you stop -- is it fair to say
15 that we've seen Mr. Carter's phone remain in the area of the crime
16 scene?

17 A Well, we went -- as soon as we went back, we had it there
18 based on a call. So it's here --

19 Q Right.

20 A -- based on a call at 1941 or 7:41 p.m. --

21 Q Okay.

22 A -- in this case.

23 Q 7:41 p.m. And what are we seeing happening during this
24 time period with Mr. Brown's phone?

25 A So Mr. Brown's phone appears to be still back in the area

1 of Sierra Bello.

2 Q Okay.

3 A And as we step forward, it's still there at 7:45 p.m.,
4 7:47 p.m. So it looks like it's moving now west of his original
5 location.

6 Q Okay. And what time is this particular log that we're
7 seeing here, 6047?

8 A So 6047 is an outbound call from Mr. Brown's phone at
9 around 7:48 p.m. and 28 seconds on the 21st.

10 Q Okay. And so that puts him west of his home?

11 A Correct.

12 Q Okay. And then if we could go forward from that point.

13 A All right. So we're 7:52, do you want to keep --

14 Q And what are we seeing there?

15 A So there's some data sessions that are further north from
16 the last call.

17 Q All right. And those are Mr. Brown's data sessions
18 moving north?

19 A That's correct.

20 Q What time were those?

21 A There's three of them. 1952, 7:52 p.m.

22 Q Okay. And so now we're seeing his phone -- and if you
23 could give me that one too?

24 A Yeah, 7:52:47. There's several sessions.

25 Q Okay.

1 A When you have several sessions within a few minutes, it's
2 indicative of cell tower movement. So the phone is going to
3 connect to the strongest tower to give the user the best quality of
4 service if they're playing, like, a Youtube video or something like
5 that that's ongoing.

6 Q Okay. And these data sessions are moving north?

7 A Correct.

8 Q Okay. If you could keep going forward.

9 A So 7:57 p.m.

10 Q Okay. Here at 7:57 p.m., it looks like we have two hits for
11 Mr. Banks' phone; is that right?

12 A Correct.

13 Q If you could -- it looks like we have 195 and 195 last.

14 A Correct.

15 Q What does that mean?

16 A So the two numbers -- or the first and last are the 195 and
17 the 195 last means that the -- again, it logs the beginning of where
18 the call -- the cell tower where the call started, and then the cell
19 tower where the call ended.

20 Q Okay. So if we could take a look at the first there. What
21 time is that?

22 A 19:56:34, or 7:56:34 p.m.

23 Q Okay. And that particular call is made to a specific phone
24 number; is that right?

25 A It's an incoming call.

1 Q Okay. Incoming call from?

2 A It's an incoming call from Carter.

3 Q Okay. So this is a call from Mr. Carter to Mr. Banks
4 at 7:56 p.m.?

5 A Correct.

6 Q Okay. And then if you could go to 195 last, so this is
7 where that call ended; is that right?

8 A Correct.

9 Q And that would be in the same tower or sector area that
10 we saw for previous calls that were within the range for Mr. Banks'
11 home at 9328 Freedom Heights?

12 A Correct.

13 Q Okay. At this same point in time, where is Mr. Carter's
14 phone?

15 A So in this time period, we don't have any logged calls yet.
16 But if you move towards a minute later --

17 Q Mr. Carter's phone, it appears, was in the area -- coverage
18 area where the crime scene that whole time, right?

19 A Correct.

20 Q Okay.

21 A Correct. I'm sorry, I backed -- I went forward a little bit too
22 much. You're talking about Mr. Carter. So Mr. Carter's phone is
23 appearing right here, pointing toward the area of the crime scene.

24 Q Okay. So that was the call from Mr. Carter to Mr. Banks?

25 A Correct.

1 Q Okay. Now, if you could go forward just to the next
2 smallest time period. All right. You could stop right there. What
3 are we seeing here?

4 A So we're seeing several transactions in the same area of
5 the crime scene or that same serviced address area. We're seeing
6 activity from Carter's phone, we're seeing activity from Brown's
7 phone.

8 Q Okay. Let's look at the activity from Mr. Carter's phone.

9 A Okay.

10 Q That's 8034?

11 A Line number 8034, correct.

12 Q Okay. And so this is an outgoing call?

13 A Correct.

14 Q This is immediately after the ones that we just looked at
15 with Mr. Banks, right?

16 A Correct.

17 Q And this call was made to Mr. Brown?

18 A It was.

19 Q For 22 seconds?

20 A That's correct.

21 Q Okay. And Mr. Carter is right within the coverage area for
22 the crime scene?

23 A That is correct.

24 Q Okay. Do you have the ability to just turn off Mr. Carter
25 real quick, so it's not covering the area?

1 A [Witness complies.]

2 Q Okay. What is it that we're left with here?

3 A So you're left with two of, basically, Brown's -- looks like --

4 well, more than two, but it's -- there's both a data session and an

5 actual phone call for Mr. Brown's phone.

6 Q Okay. Can we take a look at those?

7 A So these are all the data sessions, the ones with the 11000

8 series number. And then this 6049 should be an actual phone call.

9 So this is line 6049 as far as a phone call is concerned.

10 Q And that would be a call to Mr. Carter?

11 A That's correct.

12 Q Inbound, so it's the sister call for the one we just looked at

13 for Mr. Carter?

14 A Correct. Carter is calling Brown.

15 Q Okay. And if you could, are you able to take off the IP

16 session for Mr. Brown?

17 A [Witness complies.]

18 Q And so what are we left with here?

19 A So you're just showing actual phone calls. You've --

20 we've -- by checking that box under Sprint LTE usage, you can strip

21 away the actual IP sessions and just show the calls.

22 Q Okay. Now, this particular call, where does this put

23 Mr. Brown's phone?

24 A It puts it anywhere in the northwest -- I'm sorry, the

25 northeast area coverage of the cell tower. So this is going to be

1 right at the -- looks like, basically, N95 area for the cell tower,
2 which faces towards the area of the Sky Pointe address.

3 Q So that covers 5850 Sky Pointe Drive?

4 A Correct.

5 Q Okay. So from this point on, I want to have you just move
6 forward -- well, pull it back a bit and then move forward slowly
7 here. If you could recheck Mr. Carter's phone?

8 A You mean the IP records.

9 Q No, Mr. Carter's phone --

10 A Oh, okay.

11 Q -- green --

12 A Sorry.

13 Q -- and then we can leave the IP records off there.

14 A Okay.

15 Q So you get a clear view of these cell phone towers.

16 A All right.

17 Q All right. If you'll move forward from there.

18 A All right. So we're at 8:00:13 p.m.

19 Q Okay.

20 A 8:01, 8:03, 8:06, 8:10, 8:13, and into 8:18, again, p.m., 8:30,
21 8:34.

22 Q And, Detective, for all those records that we've just been
23 looking at, all those calls -- we showed calls with Mr. Carter and
24 Mr. Brown, correct?

25 A Correct.

1 Q Okay. And all of those were in the coverage area for that
2 crime scene?

3 A That's correct.

4 Q In addition to that, we have one up on the screen right
5 now, 6052?

6 A Correct.

7 Q This was, in fact, one of those really long calls on
8 Mr. Brown's phone, right?

9 A Correct.

10 Q This one here showing 918 seconds, the first of the three,
11 right?

12 A Correct.

13 Q Are we able to see where that call ended and began?

14 A So for this particular record, you've only -- you've got -- let
15 me back up here real quick, because that's last, so -- so 6052,
16 correct?

17 Q Uh-huh.

18 A So 6052 here is the -- this is the first tower at 20:17:55, the
19 first cell tower log for that 918-second call. And then because I'm
20 only showing one-minute increments, I've got to step forward
21 several minutes to see the last call, the last cell tower for 6052.

22 Q Okay. Because it's about 15 minutes and 18 seconds,
23 right?

24 A Correct. So here's 6052 last at 20:33, or 8:33:13 p.m.

25 Q Okay. And it's in the same area?

1 A Correct, it hasn't moved.

2 Q Okay. And if we could keep going from there, there's
3 another one that Mr. Brown's going to make, another long one,
4 at 6055. And during this time, Mr. Carter's still hitting within the
5 coverage area for the crime scene, correct?

6 A Correct, it hasn't moved. Okay. 6055, this is the first
7 tower for Larry Brown.

8 Q Okay. And that was a call that was 943 seconds long?

9 A Correct.

10 Q About 15 minutes and 43 seconds, right?

11 A Ish.

12 Q And can we see that call stays in the same area as the last
13 one, right?

14 A It's in the same coverage area, yes.

15 Q Okay. It covers the crime scene?

16 A Correct.

17 Q Okay. You can keep going forward from there. And then
18 the next one, what is going to be 6056.

19 A So there's a 6055 last.

20 Q Ending in the same tower and sector as it began?

21 A Correct. So here's 6056 beginning.

22 Q That's 1282-second long call?

23 A Correct.

24 Q And that's in the same area as the last long call?

25 A Correct.

1 Q And that's covering the crime scene?

2 A Correct.

3 Q Okay. And what time is that?

4 A It shows as 21:15:15.

5 Q So that's 9:15?

6 A 9:15 p.m.

7 Q All right. And then if you could keep going forward there.

8 A So we're at 9:30. And then here's the last part of that cell

9 tower recording from the call.

10 Q In the same area?

11 A In the same area, same tower, same sector.

12 Q Okay. Now, if you could keep moving forward, we're

13 going to look at this point in time, we continue to see Mr. Carter

14 and Mr. Brown's phones in the area of the crime scene?

15 A Correct.

16 Q And if you could just continue going on, we're going to

17 look out for Mr. Banks' red phone here. If you could go right there

18 and just tell me the times of what we're looking at there?

19 A So there's -- looks like there's two sets of calls that were

20 logged.

21 Q And these are Mr. Banks' phone?

22 A From Mr. Banks' phone, yes, sir. So -- well, from 197

23 and 198.

24 Q Okay.

25 A So 197 is a call at 10:05:34 p.m., from 581-2072.

1 Q Which is Mr. Carter?

2 A Which is Mr. Carter's phone, correct. And that's for a
3 duration of 22 seconds. And it also has the same ending tower,
4 same location.

5 And then Call Number 198 actually, between
6 the 30-second duration, moves towers between the first tower and
7 the last tower logged.

8 Q And that's also to Mr. Carter's phone?

9 A That's correct.

10 Q And those are both within the coverage area for
11 Mr. Brown's -- or Mr. Banks' home at Freedom Heights?

12 A The -- that's correct. Yeah.

13 Q Okay. If we could go forward from there.

14 THE COURT: Maybe this would be a good time to take
15 our break.

16 MR. DICKERSON: Okay.

17 THE COURT: So, ladies and gentlemen, just 10 minutes,
18 that'll put us at 4:10. And during the brief recess, you're all
19 reminded that you're not to discuss the case or anything relating to
20 the case with each other or with anyone else. You're not read,
21 watch, or listen to any reports of or commentaries on the case,
22 person, or subject matter relating to the case. Do not do any
23 independent research by way of the Internet or any other medium.
24 Please don't form or express an opinion on the trial.

25 Please leave your notepads in your chairs and follow the

1 bailiff through the double doors. We'll see everyone back at 4:10.
2 [Jury recessed at 3:59 p.m.]
3 THE COURT: Scheduling, how much more have you got?
4 MR. DICKERSON: 10 minutes.
5 THE COURT: Oh, okay. Sorry, I didn't know.
6 MR. DICKERSON: No, it's all good.
7 MS. TRUJILLO: I need to get up anyway. I was going to
8 approach.
9 THE COURT: Okay. What do you guys think on cross?
10 MR. STORMS: Not super long.
11 MS. TRUJILLO: Maybe 30 minutes?
12 MR. STORMS: Yeah, maybe 30 minutes.
13 MS. TRUJILLO: But the next witness is DNA, so --
14 MR. STORMS: That's going to take a bit.
15 THE COURT: I think probably -- well, no offense, but this
16 is torture.
17 THE WITNESS: I agree. If I'm getting tired, I'm sure
18 they've been getting tired. It's dry.
19 [Court recessed at 4:01 p.m., until 4:09 p.m.]
20 [Outside the presence of the jury.]
21 THE COURT: What are we going to do about the DNA
22 expert?
23 MR. GIORDANI: I'm intending to hammer through that.
24 THE COURT: To 5:00? I don't know if people can stay
25 late.

1 Randy, do you want to see if people can stay a little bit
2 after 5:00 or if they have to leave right at 5:00?

3 THE MARSHAL: Yes, ma'am.

4 THE COURT: For the record, it is now 4:10.

5 [Pause in proceedings.]

6 MS. TRUJILLO: And, Judge, for the record, Defense
7 position would be I don't want to be the one crossing a witness
8 and keeping the jurors late.

9 THE COURT: Well --

10 MS. TRUJILLO: So for whatever that's worth.

11 THE COURT: I mean, if they can't stay after 5:00, they
12 can't stay after 5:00. I guess the DNA -- the DNA experts are the
13 big deals with Metro, because they're, you know, the detectives --
14 no offense --

15 THE WITNESS: None taken.

16 THE COURT: I'm sorry.

17 THE WITNESS: None taken.

18 THE COURT: Part of your job. And like I like to say, okay,
19 we can inconvenience, what is this, 14, 18, 20, 24 people or one
20 person.

21 MR. GIORDANI: Fair enough.

22 THE COURT: Right? I mean, I know for the DNA people,
23 we try to accommodate them, because --

24 [Pause in proceedings.]

25 THE MARSHAL: They all said they're good to stay a little

1 bit after 5:00.
2 THE COURT: Okay. Let's get this party started.
3 How long is the DNA expert?
4 MR. GIORDANI: 20 minutes.
5 THE COURT: For your side or both?
6 MS. TRUJILLO: My cross is more.
7 MR. GIORDANI: Well, for my side, yeah.
8 MS. TRUJILLO: My cross is probably maybe an hour.
9 THE COURT: The we better send the DNA expert home.
10 MS. TRUJILLO: My preference would be to do it
11 tomorrow.

12 [Jury reconvened at 4:11 p.m.]

13 THE COURT: Counsel approach.

14 [Off-record bench conference.]

15 THE COURT: Court is now back in session. And
16 Mr. Dickerson, you may resume your direct examination of the
17 witness.

18 MR. DICKERSON: Thank you.

19 **DIRECT EXAMINATION (CONT.)**

20 BY MR. DICKERSON:

21 Q Detective, if you could just pull up your map. Where we
22 left off was at 97 -- or 197 and 198. And then if you could go
23 forward to 199. And I would just mention -- what time are you at
24 right now?

25 A We're at the 10:09 p.m. timeframe.

1 Q At this point in time, Mr. Carter and Mr. Brown's phone
2 have remained in the area of the scene?

3 A Correct.

4 Q All those text messages between Mr. Brown and
5 Mr. Carter between 9:00 and this -- and this early 10:00 time, those
6 two phones have remained in the area of the scene, right?

7 A Correct.

8 Q Okay.

9 A So we're at 10:25 p.m.

10 Q It's going to be at 10:39.

11 A Okay, 10:39.

12 Q Okay. At 10:39, at 199, what are we seeing there on
13 Mr. Banks' phone?

14 A So there's an outgoing call to the -- Anthony Carter's
15 phone, which is the 2072 number logged at 10:39:06 p.m.

16 Q Okay. And then what are we seeing of Mr. Carter's
17 phone? Still in the area?

18 A Still in the area, correct.

19 Q Okay.

20 A Yeah, still on the same cell tower.

21 Q So at this point in time, Mr. Banks' phone is just now
22 hitting in the area where it could cover the crime scene, right?

23 A Correct.

24 Q For the first time at 10:39?

25 A Correct.

1 Q And then if you could move forward.

2 A 10:40.

3 Q Okay. And if you could go to this record for Mr. Banks.

4 A Record Number 200. So there's an outgoing call to

5 Anthony Carter at 10:39:22 p.m.

6 Q Okay. And now Mr. Banks' phone, at 10:39:22 p.m. is

7 squarely within the coverage area for the crime scene?

8 A Correct.

9 Q Okay. And what are we seeing for Mr. Carter's phone?

10 A Same thing. It's still in the coverage area --

11 Q Okay.

12 A -- of the crime scene.

13 Q And if you could go forward from here, just --

14 A Okay. So we're 10:41.

15 Q And these -- and at this point in time, Mr. Banks' phone

16 remains here; is that right?

17 A Correct. Uh-huh. Correct.

18 Q And Mr. Brown and Mr. Carter's phone had remained in

19 the crime scene during that entire time period; is that right?

20 A Correct.

21 Q And that includes the next time period of long

22 text-message sessions between Mr. Carter and Mr. Brown

23 from 10:13 p.m. to 10:40 p.m.?

24 A Correct. Stepping forward?

25 MR. DICKERSON: State will pass the witness.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: All right. Cross?

CROSS-EXAMINATION

BY MR. STORMS:

Q Could you go ahead and go through those -- that final sequence? The last few minutes?

A Sure. Where would you like to --

Q After 10:40, you had talked about the chain of text messages, but I don't believe you actually went through it on the --

A So the reason that we can't show the text messages is because there's no cell towers recording.

Q There's no cell tower recording it?

A Correct. Unless it's off a T-Mobile phone, we're not going to record those. So which text messages did you want to go through?

Q Well, you were earlier talking about the phone associated with Mr. Brown and then data, those data circles?

A Uh-huh.

Q So you're saying those data circles would cover something like searching on the Internet or watching a Youtube video?

A Correct.

Q But when it comes to a text message, you're not going to register that on a particular cell tower?

A On a Sprint phone, correct.

Q Okay.

1 A They don't -- Sprint does not keep the cell tower location
2 information for text messages.

3 Q They only keep it for --

4 A Calls.

5 Q -- calls?

6 A Calls and data sessions, correct.

7 Q And their paperwork has two different time zones,
8 depending on whether or not it's a phone call or it's a text
9 message?

10 A Correct.

11 Q And what were those again?

12 A So the phone calls log what's called a network ID, and Las
13 Vegas happens to be 34. And that puts it in Pacific Time. So the
14 text messages log of a myriad of any IDs anywhere from the 200
15 range to the 500 range. But the bottom line is they don't record a
16 cell tower location historically of where the text message was sent
17 or received as far as a cell tower goes. And it's always in Central
18 Time.

19 Q It's always at Central Time?

20 A Uh-huh. On the call records.

21 Q Okay. The folder on your computer that was, like, the
22 State versus Larry Brown folder, could you pull that up, please?

23 A Sure.

24 Q On that, you have a couple of different folders within that
25 larger folder of State versus Larry Brown, correct?

1 A Correct.

2 Q And you have folders for a number of different phone
3 records, it looks like, on it?

4 A Correct.

5 Q Okay. And you have one for Carnell Cave?

6 A Correct.

7 Q And would you go back, actually, in the descriptor for
8 Carnell Cave, it says: Carnell Cave SUSP. And then in
9 parentheses: No cell towers.

10 A Correct.

11 Q What does SUSP stand for?

12 A I labeled it as suspect.

13 Q Okay.

14 A And the no cell towers meant that there were not cell
15 towers logged inside the CDR records received from the telecom.

16 Q So there's no log -- there's no towers for that phone at all?

17 A Correct.

18 Q So you just have tower information for the phone from
19 Anthony Carter?

20 A Correct.

21 Q The phone associated with Mr. Brown?

22 A Correct.

23 Q And the phone associated with Mr. Banks?

24 A Correct. For calls, correct.

25 Q But no cell tower information for the Carnell Cave phone?

1 A For actual phones calls, correct.

2 Q Okay. So there's no way to plot it on this map that you
3 have here?

4 A That's correct.

5 Q All right. I wanted to talk to you about the cell tower
6 technology you've been mapping here for us, okay? The cell tower
7 that is used by phone isn't necessarily the closest one to the
8 physical cellular device?

9 A That's -- that can be correct.

10 Q And -- yeah. And this is not something that is -- that -- it's
11 not -- it's more of an outlier, I would say, right? It's not that the
12 phone would always connect to something that's farther away, it's
13 just that certain conditions would have the phone connect to a
14 tower that's farther away; is that fair to say?

15 A It's fair to say, yes. I always say that it's the tower that has
16 the strongest and best quality connection.

17 Q So it could be a line of sight, like you mentioned before?

18 A Correct.

19 Q It could be the amount of people using that tower at the
20 time?

21 A Correct.

22 Q It can be the buildings around the tower, built -- of a --
23 something like concrete, that would block the signal?

24 A Line of sight, correct.

25 Q Okay. And then you also, when you're going through this,

1 there are times where you've discussed a handoff between two
2 towers, right?

3 A In this case, it was first and last tower.

4 Q And first and last meaning that the phone call started on
5 one tower --

6 A Correct.

7 Q -- right? And then it ended up on another?

8 A Correct. That's the way the phone company logged it at
9 the time the call started and ended.

10 Q And some of this discussion has been in your direct about
11 the phone appearing to move between two places?

12 A Correct.

13 Q But these handoffs, or first and last towers that are used
14 by a phone, that could just be a change in conditions in the people
15 on that particular tower and it needing to transfer it to a better -- to
16 a tower with less use versus --

17 A In the case of handoffs, that's correct.

18 Q It can be, again, a signal issue, essentially?

19 A Correct.

20 Q Okay. These -- this tower data that you have from this --
21 what was the name of the company again?

22 A Which one are you talking about?

23 Q The company that gives you -- that -- whose process
24 you're using to log these different phone records on the Google
25 Maps?

1 A Oh, the engine that ingested all the records --
2 Q Yeah.
3 A -- and spit them out to go [indiscernible] is called Zedex.
4 Q So Zedex, they produce these maps for you where it has
5 these estimated reception areas for the different towers, right?
6 A Correct.
7 Q Those are estimates, essentially, correct?
8 A Correct.
9 Q Those are where you would expect a handoff to happen
10 between the towers, right?
11 A Correct.
12 Q But we saw earlier that towers were being used for --
13 appear to be used for calls made from locations that were at the
14 very distant edge of the reception for the tower, right?
15 A Correct.
16 Q If you could, could you pull up on your map there this
17 area of time that you've talked about between 6049, really, till the
18 end of the mapping that you have -- I'm sorry, the time would
19 be 2017. And I'm talking specifically about the Larry Brown phone.
20 A Okay. So do you want me to just show that phone only?
21 Q Yes.
22 A Okay. And what timeframes did you want?
23 Q From 2017 that was -- it looks like that was around line
24 number 6049 or so.
25 A Okay.

1 Q And then can you just move through that phone's pinging
2 or cell tower use through that time period --

3 A Okay. So we're at --

4 Q -- from then till --

5 A We're at 8:17 p.m. on the 21st --

6 Q Uh-huh. Can you zoom it --

7 A -- is that what you want, sir?

8 Q -- a little bit closer to that area, please?

9 A Sure. Yeah.

10 Q So we can see what that area covers?

11 A Is that good for you?

12 Q Can you get a little bit closer?

13 A Absolutely.

14 Q Thank you.

15 A How about that?

16 Q That looks -- can you get a little bit closer?

17 A You bet.

18 Q Can you check the data on there as well, so we get --

19 A Yes. You want to check the IP?

20 Q Please, thank you.

21 A You bet.

22 Q And so this is --

23 A This is indicative of a call, line 6050, inside the original
24 records, which was an inbound call at around 8:16:41 p.m. for a
25 duration of 25 seconds.

1 Q Okay. And so this coverage area here is where you'd
2 expect a phone in that area would hit -- would be using that tower,
3 right?

4 A Correct.

5 Q And this area covers, you know, the crime scene,
6 obviously, correct?

7 A Correct.

8 Q And it covers a much larger area, right?

9 A Correct.

10 Q You've been a detective here in Las Vegas and lived here
11 for over a decade, right?

12 A [No audible response.]

13 Q A couple of decades, correct?

14 A For me or you?

15 Q You.

16 A I've been here all my life, 53 years.

17 Q Okay. 53 years.

18 A Yes.

19 Q And so this area, I mean, this is where all this Centennial
20 Shopping is, correct?

21 A Correct.

22 Q There's gas stations in the area, there's restaurants?

23 A Correct.

24 Q There are a lot of locations inside that coverage area?

25 A Correct.

1 Q And if you move through this coverage area, over time --
2 A Do you want me to move it --
3 Q -- could you do that, please?
4 A -- move it forward? Okay.
5 Q Yes.
6 A Okay. So we're at 8:18 p.m., 8:19. I zoomed out a little bit
7 just in case it moves. 8:30, 8:31. This is --
8 Q Data use there?
9 A Yes, there's some data use there. That's the circle, you're
10 correct. So that's 8:35-ish. 8:40, 8:41, 8:45 p.m., :47, 8:50, :51.
11 Coming up on 9:00 p.m. 9:06, 9:07 was when those popped
12 up. 9:08, 9:11, 9:12, 9:16.
13 Q Are you able to show what cell towers are being used
14 during a period of time, save us time you're scrolling through
15 here?
16 A I'm not understanding the question.
17 Q Well, it looks like the phone uses one or two cell towers at
18 least in this area, correct?
19 A The phone is using primarily, in the timeframe we've gone
20 through, just really the one cell tower there at 95 and Ann.
21 Q So this -- they look to all be that one tower?
22 A Correct.
23 Q And that was the tower that we had zoomed in on earlier
24 that covers the Centennial Hills Shopping Center and all that stuff?
25 A At Ann and 95.

1 Q Okay. You have there on the map 4 -- 7495 West Azure as
2 a pin drop?

3 A Yes.

4 Q Do you know what that location is?

5 A That was the location where a stolen vehicle was
6 recovered or a car was recovered.

7 Q I wanted to direct your attention to the phone records you
8 receive from Verizon. Okay?

9 A Which records were those?

10 Q Those are the records that you've associated with Kwame
11 Banks.

12 A Okay.

13 Q To -- as a part of this investigation, you're -- as a detective,
14 you're operating under subpoena -- warrants for these materials,
15 like, records from Verizon?

16 A There's different ways, but yes. There's different ways
17 you can obtain records that includes cell tower information or not
18 include cell tower information.

19 Q In this case, there was a warrant issued for -- to Verizon
20 for these records, correct?

21 A For the records that had cell tower, there would have had
22 to have been a warrant. There are a few records that didn't have
23 cell tower location, in which case those were requested by
24 somebody other than myself, and I believe that was probably a
25 court order.

1 Q Okay. But you have reviewed them as a part of your
2 involvement in an investigation?

3 A Correct.

4 Q So you're familiar with the contents hopefully now, but at
5 least at some point in the past, right?

6 A Of which? Of the actual search warrant or the actual
7 records?

8 Q The actual search warrant for this Verizon number.

9 A Correct.

10 Q Okay. So you're aware that this Verizon number was for,
11 you know, the number was 702-277-4856?

12 A Correct.

13 Q And this phone was the phone that was found
14 approximately 100 feet north of Mr. Banks' body?

15 A That was my understanding.

16 Q Okay. And you, in your review of these records, looked to
17 see who the phone -- this phone is registered to?

18 A That's -- sometimes that happens, sometimes it doesn't
19 happen. One of the things about our unit is that when we're asked
20 to actual -- actually chart records for folks, we're actually a -- I will
21 just call it an uninvolved third party. It's not our actual case that
22 we are trying to prosecute.

23 Q Uh-huh.

24 A And that's one of the nice things about the TASS section
25 is that we are an independent party when we look at records. So

1 it's not our investigation. So a lot of times we'll get records and
2 they'll ask us to chart them, and sometimes we'll get a subscriber
3 page and sometimes we won't. But we're always advised by the
4 detective or the DAs generally upon doing the investigation on
5 who the subscriber was, if we didn't initially receive it.

6 Q And you received that information --

7 A If that makes sense.

8 Q -- in this case?

9 A Correct.

10 Q For these Verizon records that I'm talking to you about?

11 A Correct.

12 Q And that phone is registered to a man named James
13 Patterson?

14 A That sounds familiar, yes.

15 Q And that man lived in North Las Vegas?

16 A I believe that was the address, yes.

17 Q It was 6612 Black Oak in Las Vegas?

18 A That sounds right, yes.

19 Q Do you know who that person is?

20 A I do not.

21 MR. STORMS: Court's indulgence.

22 Q When you're looking at the cell tower information, you
23 know, these phones were not designed to track people, correct?
24 The cell -- or I should rephrase that. The cell phone companies
25 aren't keeping this data to give you pinpoint accuracy to where

1 folks are using their phones.

2 A I'm not sure how you are looking for me to answer that. I
3 don't know what the cell company's intention is. I can tell you that
4 they retain cell phone data for a myriad of reasons. One is to bill
5 the customer for usage and track usage to bill them appropriately
6 for data plans and all that. And then there's another type of set of
7 records that they use to track quality of service of the phone, so
8 they can understand how the phones are reacting with the cell
9 tower and the carrier signals to make sure they have the best
10 quality of service they can provide and improve that service. And
11 then there were some -- been some suggestions that they track it
12 for marketing reasons. But that's what I can tell you.

13 And then when we send process to the phone companies,
14 we ask for certain types of records, and that's what they send us.

15 Q And in this case, you asked for records of tower usage,
16 correct?

17 A We asked for -- either myself, because I was involved with
18 the pen, or the other detectives involved in the case requesting
19 records asked for all call -- what they call call detail records, along
20 with IP location and distance of tower information. That's -- we
21 use the verbiage that's in the warrant.

22 Q And in this -- there's also a type of record that's called a
23 PCMD; is that correct?

24 A Correct. It's call Per-Call Measurement Data.

25 Q Can you tell us what that is?

1 A Yeah. So that's the Sprint's acronym, per-call
2 measurement data, and that is actually Sprint's way of tracking
3 quality of service of the phone.

4 Q Okay. And how do they do that?

5 A I can't actually tell you, because I'm not an engineer from
6 Sprint.

7 Q Uh-huh.

8 A But, basically, they're measuring signal strengths, which
9 is called a RSSI, and they're basically logging all the signal
10 strengths from the phones in different locations at different times.

11 Q So this is the -- this is whenever the phones are pinging
12 the towers to find the closest one, those sort of things?

13 A I wouldn't say it's pinging the tower. I would say that the
14 purpose of the PCMD, as I understand it from the Sprint reps that
15 I've talked to, are that they're measuring signal strengths from the
16 devices in the area. And watching the handoffs as they move
17 around to make sure that they can provide the best quality signal
18 to the actual customer.

19 Q Having that information, would that change your ability to
20 say with accuracy where a phone was in a particular area?

21 A It can in certain cases. The call logs are actually better,
22 because the call logs are a lot more set to a timeframe. So, I mean,
23 that -- the call logs are the best way to actually chart, if you have
24 actual call logs for somebody's phone. But PCMD can be used in
25 certain situations that I've used before in trying to find missing or

1 endangered people if you don't have any call logs, because you
2 might get some extra tower measurements after -- out of it, and
3 where, actually, the phone has been.

4 Q So the PCMD is not based upon a timeframe of use like
5 the call log is?

6 A The PCMD is not based on anything that the user at the
7 handset is doing. So they're not -- PCMD measurements are
8 strictly the Spring network reaching out to that phone.

9 Q So even when the person's not using it?

10 A Correct.

11 Q So it would give you information, like, whenever you
12 don't have -- from Verizon -- excuse me, from -- with respect to the
13 Brown phone, we don't have information from the text messages,
14 right? Because they don't record the text messages, what towers
15 are used for texting, correct?

16 A Correct, they don't record historical cell tower locations
17 for text messages.

18 Q So the PCMD would be giving you the data of the phone,
19 simply looking for the closest tower, and you would get -- have an
20 idea of roughly where the phone is at that point in time?

21 A If it's been recorded and if we receive it from them, yes.

22 Q Okay. And you didn't receive that information in this
23 case?

24 A We didn't review that information.

25 Q Okay.

1 MR. STORMS: Court's indulgence.
2 I'll pass the witness, ma'am. Thank you.
3 THE COURT: All right. Redirect.
4 MR. DICKERSON: Nothing from the State, Your Honor.
5 THE COURT: Any juror questions for this witness?
6 All right. Counsel approach.
7 [Off-record bench conference.]
8 THE COURT: All right. Detective, we have some
9 questions up here from the jury.
10 A juror asks: Under what circumstances are phones not
11 mapped by a cell tower?
12 THE WITNESS: I think the question is based upon -- when
13 a phone doesn't hit a cell tower, maybe?
14 THE COURT: I think -- okay.
15 THE WITNESS: Okay. So if we get call records and the
16 call records don't show a cell tower that's been logged, that
17 generally means the phone was off network. So it's -- you're going
18 to see a couple of things on that. You're generally going to see it's
19 an incoming call to the phone number in question. And you'll see
20 the call log show the number that was calling the target phone
21 number and no cell towers, which generally means the phone was
22 off network.
23 If it's an outgoing call and there's no cell tower recorded,
24 that's -- could mean something like the cell phone company didn't
25 record the cell tower at the time. Maybe there was a technical

1 difficulty, but most of the time, if you don't see a cell tower in the
2 call records, that means the phone was not on the network or is
3 powered off.

4 THE COURT: All right. And then, why no call duration
5 shown for some calls? For instance, the 808080811?

6 THE WITNESS: I'd have to pull those up and look and find
7 out --

8 THE COURT: Okay.

9 THE WITNESS: -- what they are. So -- and which target
10 number would that be? Do we know?

11 THE COURT: Hello?

12 THE WITNESS: What -- what --

13 THE COURT: Do you need them to --

14 THE WITNESS: Yeah. Okay.

15 THE COURT: Oh, I'm sorry. Okay.

16 THE WITNESS: And what timeframe was that, do you
17 know? I have to go back, I mean, I can turn them all on and scroll.
18 Might be a minute.

19 Let me -- while they're looking, can I handle another
20 question?

21 THE COURT: Sure. Another juror asks: Do you know why
22 Carnell's cell tower records were not obtained? Do you make that
23 decision?

24 THE WITNESS: So I'm going to pull them up here. The
25 only thing I can say to that is that they -- so under -- the law is

1 *Carter v. U.S.* It happened last June. And, basically, it escalated
2 the process to obtain cell tower information from a teleco to be a
3 search warrant.

4 The only thing I can tell you is that based on what I'm
5 looking at here is they didn't serve a search warrant, they served
6 some sort of a court order or subpoena, which only gives you
7 numbers in, numbers out, and it doesn't include cell tower
8 information. But I wasn't the one that actually requested this. It
9 looks like somebody from homicide did.

10 THE COURT: Okay. Let me ask you this: In your role in
11 this case, do you make the determination as to whose cell phone
12 records should be obtained or whether to use a court order or a
13 search warrant? Is that something you do or is that something the
14 homicide detectives do?

15 THE WITNESS: The investigative detective would be the
16 one to determine that.

17 THE COURT: Okay. So he might be better able to --

18 THE WITNESS: Correct.

19 THE COURT: -- answer that? Okay.

20 On the call log on Mr. Brown's phone, what are the last
21 texts or calls logged on February 21st or February 22nd?

22 THE WITNESS: Okay. So Mr. Brown's phone?

23 THE COURT: Correct.

24 THE WITNESS: Okay. Going towards, I'm assuming,
25 midnight? Or are we talking about after the 10:30 p.m. timeframe?

1 THE COURT: Well, just the -- I guess the end of the day of
2 February 21st, so that would be going towards midnight --

3 THE WITNESS: Right.

4 THE COURT: -- I'm assuming. And then it would be the
5 early morning hours.

6 THE WITNESS: Right. So I just have Mr. Brown's phone
7 checked up here. And we'll take the data off, just because that's
8 anomalous in this case for the question. And if I go back -- make
9 sure my timeline slider didn't screw up -- so it would appear that
10 the last -- I've got a call here at 9:37 p.m., as far as calls that
11 registered the cell tower go. And then, basically, up until --
12 we're 5:00 a.m. the next day, 7:00 a.m., 8:00 a.m. the next day. Let
13 me just zoom in a little bit more.

14 Now, there's a couple of different ways I can break this
15 out. I mean, this is just calls. Text messages would not be
16 included in here, because it's Sprint and they don't record any cell
17 towers. So if we want to look at text message transactions, we
18 have to pull up the original raw file and go through them, and if I
19 want to turn on, like, data, I can turn that on to see if the phone
20 was, actually, maybe active doing something into the main hours.

21 So let's see what we've got here. So we've got on
22 the 22nd at 7:49 a.m., that's the next day, looks like we've got a call
23 registered somewhere west of the area, and that's at 7:49 a.m.
24 And if I move back from that -- this is going to be a little bit painful,
25 because I've got to go minute by minute. So depending on the

1 Court's indulgence, if you want to go through that.

2 Let's do it this way. Let's go back to -- so I'm going to do
3 this. I'm going to -- just to speed this up, I'm going to go ahead
4 and turn on the animator, which is going to step us through, and
5 we'll see both data and voice calls for Mr. Brown's phone number
6 starting at 10:09 p.m. on the 21st. And I'm shooting forward here.
7 So I'm going to just call out the times for you: 10:20 p.m., we're
8 at 10:30 p.m., 10:45, coming up on 11:00 p.m. on the 21st,
9 11:15 p.m., 11:25, 11:30, 11:40 was that one, 11:45 p.m., 12:00
10 midnight.

11 Now we're into the 22nd. 12:12, 12:30, 12:45. Coming up
12 on 1:00 a.m.

13 I'm not sure how far you want to go through on this.

14 1:15 a.m. now.

15 MR. DICKERSON: Judge, could we permitted to just ask a
16 follow-up question?

17 THE COURT: Sure. That might --

18 MR. DICKERSON: To try to --

19 THE COURT: The State's going to just follow up to kind of
20 I think direct your testimony a little bit.

21 MR. DICKERSON: Thank you.

22 **FURTHER EXAMINATION**

23 BY MR. DICKERSON:

24 Q Detective, it's your understanding this phone is for a
25 phone number was actually found on scene, correct?

1 A Correct.

2 Q And by the early morning hours, detectives had already
3 had possession of this particular phone, correct?

4 A Correct.

5 Q Okay.

6 MS. TRUJILLO: And, Judge, if you may permit, based on
7 the --

8 BY MR. DICKERSON:

9 Q And if that phone is on scene and it's receiving calls or
10 signals, it would be also hitting off IP or data -- or cell towers?

11 A Yeah. If they hadn't shut the phone off, it's still going to
12 be registering with the tower.

13 Q Great. Thank you.

14 MS. TRUJILLO: And, Judge, my understanding of the
15 question was specifically what was the last text or call actually
16 logged on the records, was my understanding of the question. So I
17 would ask that he answers that question.

18 THE COURT: Right. Can you --

19 MR. GIORDANI: So can we pull up the records as
20 opposed to the map?

21 THE COURT: Yeah, I think if he --

22 THE WITNESS: Yeah, that's probably better.

23 THE COURT: -- can look at the records and just say what's
24 the call, the last call on 2/21, and then I guess maybe to the first call
25 on 2/22.

1 THE WITNESS: Okay. And again, the 404 number,
2 correct?

3 MR. GIORDANI: Yes.

4 THE WITNESS: All right.

5 THE COURT: And then also the last call on 2/22.

6 THE WITNESS: Okay. So we've got two types of calls,
7 obviously. We have the inbound and outbound calls. So I'm
8 at 2/22 at 5:51 a.m., we have an inbound call that hits a cell tower,
9 because we've got our cell tower coverages here, so I'm going to
10 highlight the line for you here. This is one of them. I'm just going
11 to highlight it to make sure I don't miss anything else that goes
12 down below that.

13 So that is, again, at 5:51 a.m. on the 22nd where it hit a
14 tower. And it looks like we do have one down here at 8:57 on
15 the 22nd, which is an inbound call again. No outbound calls so far.
16 And that's 8:57 on the 22nd. And that would appear -- so let me
17 make a side note here, because you guys are going to see that
18 there's some other stuff here. These routed calls we have to
19 disregard, because that's the engineers have always told us from
20 Sprint that routed calls are not actual user making a phone call on
21 the handset. So if you see a routed call there and you think I'm
22 skipping over it, it's because we disregard those. It's a network
23 routing thing.

24 So henceforth, you see a cell tower's located here, but
25 there's a routed call, so I can't count that as part of this whole last

1 call thing that you're asking me. So I'm going to just scroll down
2 here a little bit more, because it's all zeroes in the cell column.

3 Again, that's a routed call right there. That's a routed call
4 right there. That's a routed call for that one. Routed, routed,
5 routed, routed, routed, routed, and we're done.

6 So it would appear that the last call that I highlighted in
7 bold at 8:57 that was an actual nonrouted call would have been the
8 last time the phone had an inbound call that hit a cell tower.

9 Does that answer the question or am I missing
10 something?

11 THE COURT: They can follow up. All right.

12 And then another juror asks: Does having a phone
13 connected to WiFi change or limit how a location cell tower is
14 determined?

15 THE WITNESS: Good question. So a lot of the newer
16 phones do have options for WiFi coverage, and in that case, the
17 call would be noted as WiFi in the records and wouldn't be hitting
18 a cell tower. But the -- little bit longer explanation is WiFi, your
19 WiFi routers in your house, if the handset determines -- and it's
20 supported to do WiFi calling, if the handset determines that the
21 WiFi signal and your Internet connection is better than the cell
22 tower, it will want to hook off of the WiFi and not the cell tower.

23 THE COURT: Okay. Let's see. I think Mr. Dickerson was
24 going to pull something up so that you could answer the pending
25 question, Why no call duration shown for some calls, 8080

1 and 8081.

2 **ADDITIONAL EXAMINATION**

3 BY MR. DICKERSON:

4 Q Detective, if -- I believe the question was reference
5 Anthony Carter's calls, given that they are referencing, I believe,
6 the line number of the 808 onward line numbers. If you could go
7 to Mr. Carter's call detail records --

8 A Okay.

9 Q -- 702-581-2072.

10 A Let me find him here. Okay.

11 Q And these are calls that we actually discussed; is that
12 right?

13 A Yes.

14 Q Including the 8088 -- sorry, 8080 --

15 A Uh-huh.

16 Q -- which is an outgoing call --

17 A Right.

18 Q -- to Mr. Banks.

19 A And so these two lines we're talking about, where there's
20 no duration?

21 Q Right.

22 A Okay. So the answer is I don't know. Sometimes the cell
23 phone companies don't send us all the information. That's the
24 best answer I can give you.

25 MR. DICKERSON: No further questions.

1 THE COURT: Is there any follow-up from the defense?

2 MR. STORMS: Just briefly.

3 **ADDITIONAL EXAMINATION**

4 BY MR. STORMS:

5 Q We see these 19-second connections, or we even looked
6 at some shorter ones earlier in your direct testimony. That's
7 documenting that the phones are being connected in some way; is
8 that correct?

9 A They call it -- some of them refer to it as seizure time
10 duration. It's, basically, different phone companies handle it
11 different ways. But it's usually from the time that the call's
12 initiated to the time the call is ended. There's one exception, and
13 that's AT&T, which we're not dealing with here, which they
14 actually break out the time it took the phone to connect to the party
15 they're calling and the actual time that the call was logged and
16 duration, they actually separate them. But everybody else
17 combines that into one number.

18 Q So this could be, you know, the time that it takes the
19 phone to make a connection to make the call, and it could just be
20 ringing for, you know, something like 19 seconds?

21 A That's accurate.

22 Q Okay. It doesn't necessarily mean, like it used to, that you
23 had a phone call where people were actually physically on the
24 phone with a landline talking for any amount of time?

25 A Correct.

1 Q Okay.

2 THE COURT: Anything else, State?

3 MR. DICKERSON: Nothing further.

4 THE COURT: Any additional juror questions? All right.

5 Sir, I see no other questions. Thank you for your
6 testimony. Please don't discuss your testimony with any other
7 witnesses in this case. You are excused.

8 THE WITNESS: Yes, ma'am. Thank you.

9 MR. GIORDANI: I went ahead and sent her home.

10 THE COURT: All right. Ladies and gentlemen, looks like
11 we're not going to stay late tonight. There's one final witness for
12 the State and we wouldn't have finished up with that witness today
13 anyway. So we'll go ahead and take our evening recess. We will
14 reconvene tomorrow morning at 9:00 a.m. 9:00, the Court has no
15 other matters tomorrow morning, so it's a 9:00 a.m. start.

16 During the evening recess, you're all reminded you're not
17 to discuss the case or anything relating to the case with each other
18 or with anyone else. You're not to read, watch, or listen to any
19 reports of or commentaries on the case, person, or subject matter
20 relating to the case. Do not do any independent research by way
21 of the Internet or any other medium. Do not visit the locations at
22 issue. And please do not form or express an opinion on the trial.

23 Please leave your notepads in your chairs and follow the
24 other Officer Hawks through the double door. And we'll see
25 everyone back at 9:00 a.m. tomorrow.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Jury recessed at 4:54 p.m.]

THE COURT: All right. We're now out of the presence of the jury, and counsel wanted to put some things on the record based on our -- the objections made here at the bench.

So go ahead, Ms. Trujillo.

MS. TRUJILLO: That's correct. So during Detective Mangione's testimony, I objected to being beyond the scope of cross when we were referring to I believe it was the text messages. He pulled up the extraction report and that was not discussed during cross-examination. And the Court sustained the objection. And I don't know if the State wants to say anything else.

MR. GIORDANI: No, Your Honor.

THE COURT: I felt like, on that, you'd gotten into -- I don't remember exactly, but I think Mr. Giordani just wanted to point out not the details of the content, but something relating to what was included in the report, but not the details. Is that --

MR. GIORDANI: That is correct.

THE COURT: -- fair? I don't remember exactly.

MR. GIORDANI: That is correct. We were wrapping up at 5:00 p.m. on Friday or maybe it was even after 5:00, and I just failed to ask in one of the exhibits, do the texts show up twice as opposed to just once? And I didn't want the jury to be confused with the exhibit.

THE COURT: Next.

MS. TRUJILLO: And then the second one was during

1 Jamilah Miggins' testimony, I objected to her repeating my client's
2 statements. And the Court said sustained. I said, hearsay, and it
3 was Mr. Brown's statements.

4 THE COURT: Right. It was overruled as a statement by a
5 party opponent. And the statements made by the other individual
6 present in the house or I think offered to provide content to the
7 defendant's statements. And --

8 MR. GIORDANI: Correct.

9 THE COURT: -- give them meaning, not for the accuracy --
10 or the truth of the statements themselves, but just -- it's
11 conversation.

12 MR. GIORDANI: In addition, there were co-conspirator
13 statements during the course and in furtherance of.

14 THE COURT: All right. Anything else?

15 MS. TRUJILLO: No. Just scheduling, Judge. I misspoke
16 earlier and I did tell the State it's going to be four, possibly six
17 witnesses tomorrow for the defense.

18 THE COURT: Okay. So we'll do the DNA expert in the
19 morning.

20 MR. GIORDANI: Yes.

21 THE COURT: And the defense says an hour, and you
22 said 20 minutes, so maybe an hour and 45 minutes. They'll have
23 questions. So will the defense have anybody ready in the
24 morning? And then we'll take lunch and finish up in the afternoon
25 with the --

1 MS. TRUJILLO: I can if the Court wants me to.

2 THE COURT: Okay. I mean, I think if we start right at 9:00,
3 we're not going to go till lunchtime on just the DNA expert.

4 MR. GIORDANI: No, I don't really --

5 THE COURT: So.

6 MS. TRUJILLO: Don't think so? Okay.

7 THE COURT: And then about jury instructions, has the
8 State provided their proposed jury instructions to the defense?

9 MR. GIORDANI: Yes.

10 MR. DICKERSON: Yes.

11 MS. TRUJILLO: And we provided objection -- written
12 objections and proposed defendant's, which we'll submit to the
13 Court, but I figured we were going to argue on the record at some
14 point.

15 THE COURT: Right. We'll argue on the record. But I like
16 counsel at some point to see if they can agree on some of them
17 and change -- you know, if you can agree on their proposed or you
18 can't agree to any modifications, then we'll just do it all on the
19 record.

20 But Defense, don't submit, like, a complete packet to me.
21 Only submit the ones that you want that are either in addition to or
22 in lieu of the ones they had.

23 MR. STORMS: Okay.

24 THE COURT: Sometimes lawyers will give me a whole
25 separate packet, don't do that. Just the ones that you want in lieu

1 of or in addition to what they've given.

2 MS. TRUJILLO: Okay.

3 THE COURT: And then we'll do that on the record. So
4 maybe tomorrow afternoon or evening, we can do that. If not,
5 we'll do it kind of lunch-time-ish --

6 MR. GIORDANI: Okay.

7 THE COURT: -- on Thursday, depending on how late we
8 go tomorrow. So.

9 MR. GIORDANI: Okay.

10 MS. TRUJILLO: Should we anticipate closing tomorrow
11 then?

12 THE COURT: I don't think we'll close tomorrow.

13 MS. TRUJILLO: Or no?

14 MR. GIORDANI: Close?

15 THE COURT: I think we'll settle jury instructions --

16 MS. TRUJILLO: Okay. I just want to make --

17 THE COURT: -- tomorrow.

18 MR. STORMS: Yeah.

19 THE COURT: That's what I want them all exchanged and
20 everything.

21 MS. TRUJILLO: So Thursday morning close.

22 MR. DICKERSON: Close Thursday?

23 THE COURT: So say we do that at the end of the day.

24 MR. GIORDANI: Thursdays a 12:30 start?

25 THE COURT: I haven't looked at the calendar yet. It might

1 be a little bit earlier. So it may -- for right now, let's say 12:30. So I
2 thought we could maybe settle the instructions tomorrow.

3 MR. GIORDANI: Okay.

4 THE COURT: After testimony. All right.

5 MR. GIORDANI: Thank you.

6 MS. TRUJILLO: All right. Thank you.

7 [Court recessed at 5:00 p.m.]

8 ///

9

10

11

12

13

14

15

16

17

18

19

20

21 ATTEST: I do hereby certify that I have truly and correctly
22 transcribed the audio/video proceedings in the above-entitled case
23 to the best of my ability.

23



24

Shawna Ortega, CET*562

25