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AA 1501-AA 1518	Transcript June 15, 2021
AA 1519-AA1525	Transcript June 17, 2021

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AA 1526-AA1534	Transcript June 24, 2021
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1 A 8/16/2020 at 20:46, 53 seconds.

2 Q Thank you. And now certainly, after this, it's fair
3 to say that the camera angle's going to jump to a different
4 camera angle?

5 A Yes.

6 Q Okay. And that just -- time change just changed
7 from what? What does that read right there?

8 A Twenty -- 8/16/2020 at 22:15 and seven seconds.

9 Q Okay. So this is two hours later from the previous
10 one that we just looked at?

11 A Yes.

12 Q Okay. So that's what we're referring to when
13 there's different portions? Not necessarily the first still
14 that we're seeing of those two suspects enter an elevator ends
15 with them coming out of that exact elevator; is that correct?

16 A Correct.

17 Q This could be a completely different elevator? This
18 is just --

19 A Yeah.

20 Q -- the next surveillance photo or video that you got
21 of them?

22 A Correct.

23 Q So, essentially, what we have here isn't a
24 real-time, chronological order movie from 8:45 to 10:18?

25 A Correct.

1 Q We don't have every second of that depicted. That's
2 -- those are just the two time frames where there's video in
3 those two time frames?

4 A Yes.

5 Q Okay. So it would be unfair to say that from the
6 last still that we saw -- let me back up. Where the time
7 frame here says 20:46, the next one we have is at 22. So we
8 don't know necessarily if it was when they got back onto this
9 elevator. This is just the next time that we have video
10 picked up during this time period; is that correct?

11 A Correct.

12 Q Okay. So there is a two-hour difference from those
13 two video clips?

14 A Yes.

15 Q Okay, sir, and what's the timestamp on this
16 particular still that we're looking at?

17 A 8/16/2020 at 22:15 and 36 seconds.

18 Q Okay. So, again, this isn't a two-hour difference
19 like the last one; this is just several minutes' difference?

20 A Correct.

21 Q And, again, sir, that frame that we just saw the
22 male suspect come out, again, that's not the same elevator
23 that we just saw the woman alone in, correct?

24 A Correct.

25 Q This just picked up a different camera angle?

1 A Yes.

2 Q Again, showing that this isn't necessarily a movie?

3 A Yes.

4 Q These are a bunch of clips that are put in this time
5 period; is that correct?

6 A Yes.

7 (Surveillance video played)

8 BY MS. COLE:

9 Q Now, sir, in this particular video, are the relevant
10 time frames 8/16/2020 -- or excuse me. 8/16/2020, 22:17 --

11 A Correct.

12 Q -- through 8/16/2020, 22:32?

13 A Yes.

14 Q Okay. So, essentially, this is a smaller time frame
15 of 10:17 to 10:32?

16 A Yes.

17 Q And, again, this would be different camera angles
18 and clips that fall within this time frame?

19 A Yes.

20 Q But not every second of this time period is
21 accounted for?

22 A Correct.

23 MS. COLE: Thank you. No further questions for this
24 witness.

25 THE COURT: Any recross, Mr. Arnold?

1 MR. ARNOLD: No, Your Honor.

2 THE COURT: Any recross, Mr. Hart?

3 MR. HART: I can do it from here.

4 RECROSS-EXAMINATION

5 BY MR. HART:

6 Q On the foyers, those were all on the bottom floor?

7 A Say it again. I'm sorry.

8 Q All the elevator foyers, those were all on the
9 bottom floor?

10 A Yes.

11 Q And when you assembled this, you tried to gather as
12 much -- everything you have and present it to either the
13 police or the district attorney, correct?

14 A Yes.

15 MR. HART: Okay. Nothing further.

16 THE COURT: All right, thank you. Any questions by
17 our jurors? We do have a question. All right. Write your
18 question down with your juror number, ma'am, and the marshal
19 will pick it up. I'll meet counsel in the back room.

20 MR. ARNOLD: All right.

21 (Bench conference begins.)

22 THE COURT: Okay, this is Judge Villani. One
23 question is, "Why only seven days," I'm assuming it says
24 "saved."

25 MR. ARNOLD: Yeah.

1 MR. HART: Who -- what -- do we know what juror that
2 was?

3 THE COURT: Juror 8.

4 MR. HART: Okay.

5 MR. ARNOLD: It's a valid question.

6 MR. HART: It's a valid question.

7 THE COURT: Any -- okay, I'll ask that question.
8 Next one's from Juror 10. "Where suspects -- were suspects
9 actually in the elevator and doors -- where suspects actually
10 in the elevator and doors open, can you tell what floor
11 elevator suspect got off on? The number of floor is on the
12 wall of the elevator bank frame when door opens. Can you tell
13 what the floor is?"

14 MR. ARNOLD: Good question.

15 THE COURT: Sort of confusing.

16 MR. ARNOLD: I know what she's referring to. She's
17 talking about when the elevator opens --

18 THE COURT: Remember, say who's talking.

19 MR. ARNOLD: Oh, this is Attorney Arnold. She's
20 talking about when the elevator banks open, usually there's a
21 number, you know, to your left or right indicating what floor
22 it is, so she's asking if that number can be identified.

23 MR. HART: Or at the top.

24 MS. COLE: I mean, I guess --

25 THE COURT: Identify yourself just for the

1 transcript.

2 MS. COLE: Madilyn Cole for the State. I mean, the
3 video's admitted into evidence. It is what it is. I don't
4 think it's proper for us to comment on that. I mean, they
5 have access to the video. They can re-watch it as much as
6 they want and try to identify what floor number, but, I mean,
7 the video speaks for itself, and that's been admitted.

8 MR. HART: And Marty Hart. I believe
9 (indiscernible) answer, though, if there's a log or anything
10 else that would go also, if there's --

11 THE COURT: So, State -- State -- Villani. State
12 objects to the question?

13 MR. LEXIS: Chad Lexis for the State. I mean, he'd
14 be speculating. There certainly is not a log where, when you
15 got on an elevator, it knows what particular person is getting
16 off an elevator, so that's pure speculation.

17 MS. COLE: Exactly.

18 THE COURT: Well, the bottom -- the last question --
19 part of that question is, "Can you tell what the floor is?"
20 So he can say or no.

21 MR. ARNOLD: Right.

22 MS. COLE: Okay.

23 THE COURT: So I will ask -- I can't really -- I
24 can't change the question because it sort of rambles on here,
25 but I think I'll just emphasize the last portion of that, and

1 we'll go from there. All right.

2 MR. HART: Okay.

3 (End of bench conference.)

4 THE COURT: All right. Sir, we have a couple
5 questions from some of our jurors. First question is, why
6 only seven-day storage?

7 THE WITNESS: I cannot answer that question. That's
8 just -- as long as I've worked there, that's all it's ever
9 been.

10 THE COURT: All right. Another question from one of
11 our jurors, sir, is, during the elevator scenes, it says,
12 where suspects actually in the elevator and doors open, can
13 you tell what floor the elevator suspects got off on? The
14 number of floor is on the wall of the elevator, the bank
15 frame, when doors open. Can you tell what the floor is?

16 THE WITNESS: No.

17 THE COURT: Okay. Any follow-up by the State to
18 jurors' -- the witness's answers to the jurors' question?

19 MR. LEXIS: No, Your Honor.

20 THE COURT: Any follow-up, Mr. Arnold?

21 MR. ARNOLD: No, Your Honor.

22 THE COURT: Any follow-up, Mr. Hart?

23 FOLLOW-UP EXAMINATION

24 BY MR. HART:

25 Q Just to be clear, these seven days, if it's running,

1 you can gather it any time during that seven days and put it
2 on an off-site disk, correct?

3 A Say it again.

4 Q The seven days is as your servers override, correct?

5 A Yeah.

6 Q Okay, but you can always download before the seven
7 days and save it if you so choose?

8 A For the most part, yes.

9 Q Okay. And is there a way to figure out what floors
10 they got off on the elevators?

11 A No.

12 MR. HART: Nothing further.

13 THE COURT: Any additional questions by our jurors?
14 Looks like no questions. Sir, thank you for your testimony.
15 You are excused. Next witness for the State?

16 MS. COLE: And, Your Honor, the State calls Larry
17 Minister.

18 THE MARSHAL: Watch your step. Raise your right
19 hand. Face the clerk. Once she swears you in, scoot your
20 chair all the way up to that red dot. Speak loud because they
21 can't hear you behind this glass.

22 LAWRENCE MINISTER, STATE'S WITNESS, SWORN

23 THE CLERK: Thank you. Please have a seat, and
24 state and spell your first and last name for the record.

25 THE WITNESS: Yeah. Lawrence Minister.

1 L-a-w-r-e-n-c-e, M-i-n-i-s-t-e-r.

2 THE COURT: Go ahead, counsel.

3 DIRECT EXAMINATION

4 BY MS. COLE:

5 Q Good afternoon, Mr. Minister. Where do you work?

6 A Sbarro.

7 Q Okay, and what is your position at Sbarro?

8 A Senior director of operations.

9 Q And how long have you been in that position in that
10 capacity?

11 A Over 12 years.

12 Q Okay. So in your position, do you have access to
13 the system that essentially tracks receipts, video
14 surveillance, things of that nature?

15 A Yes.

16 Q Okay. And, sir, I'm going to be directing your
17 attention --

18 MS. COLE: This is State's Exhibit No. 20 that's
19 been stipulated, and I've showed both Mr. Arnold and Mr. Hart.
20 Permission to approach, Your Honor?

21 THE COURT: Yes.

22 BY MS. COLE:

23 Q Sir, can you take a look at this and tell me if you
24 recognize it?

25 A Yes. It's a Sbarro receipt.

1 Q Okay. And how do you know that?

2 A It has our store number, the name of the store, and
3 the address of the store, along with the information of what
4 was ordered.

5 Q Okay, thank you. And that is a fair and accurate
6 depiction of a receipt from Sbarro?

7 A Yes.

8 MS. COLE: And, Your Honor, permission to publish
9 State's 20?

10 THE COURT: Yes, go ahead.

11 MR. HART: It's trying to pull me over.

12 THE COURT RECORDER: Oh. And someone's got the
13 screen. Someone locked it up.

14 MS. COLE: On the computer?

15 THE COURT RECORDER: Yeah, on this --

16 MR. HART: We can't do it on ours, can we?

17 THE COURT RECORDER: Yeah, you can. I think you
18 can.

19 MR. HART: So lower right?

20 THE COURT RECORDER: Yeah, the right.

21 MR. HART: It doesn't work on this one.

22 THE COURT RECORDER: Oh, okay.

23 MR. HART: I'm drawing.

24 MS. COLE: Oh.

25 THE COURT: There we go.

1 MS. COLE: Okay.

2 THE COURT RECORDER: Thank you.

3 BY MS. COLE:

4 Q Okay, sir, I'm going to zoom in on this and have you
5 describe. So tell me if you can see this. I know this is
6 small. Okay. So, sir, I'm going to direct your attention to
7 the top of this receipt. What is this number in the left-hand
8 corner?

9 A The store number, 1064.

10 Q Okay. And is this the address of this store?

11 A It is.

12 Q Okay. So this is the -- this specifically is the
13 Sbarro's inside of Bally's?

14 A That is correct. It's downstairs, right across from
15 the Sportsbook.

16 Q Okay. Is it in the food court?

17 A It's in the food court, yes.

18 Q Okay. Thank you, sir. Now, directing your
19 attention to where it says "open time" --

20 A Okay.

21 Q -- what is that in reference to?

22 A The time that the ticket was opened.

23 Q Okay. Is that in relation to the register, what
24 type of numbers and transactions are being transmitted?

25 A Yes.

1 Q Okay. And in regards to the close time?

2 A It was when it was rung in and then closed out.

3 Q Okay. And, sir, I know that's in military time.

4 What time is this in Las Vegas?

5 A 10:29 P.M. and 10:30 P.M. close.

6 Q Okay. So in relation to the open time, the register
7 opened at 10:29, or should I say the transaction started at
8 10:29?

9 A Yes, ma'am.

10 Q And the transaction ended at 10:30?

11 A That's correct.

12 Q And this transaction occurred at the Sbarro's inside
13 the Bally's?

14 A That is what the receipt is indicating, yes.

15 Q Okay. And, sir, referencing this number at the
16 bottom that states "total," what is that total?

17 A That's the total of the order, the total amount.

18 Q Okay, and what is that?

19 A \$20.10 is what it shows.

20 Q Okay. And then, sir, pointing your attention to the
21 bottom, is this the card that was used?

22 A That's the -- that AMEX, the last four digits, yes.
23 It was an American Express with -- the four digits was 1004,
24 is what was used.

25 Q Okay. So this represents the card that was used,

1 which you stated was an American Express, ending in 1004?

2 A That's what it shows. Yes, ma'am.

3 Q Okay. And it's showing that that transaction was
4 completed?

5 A Yes.

6 Q And then, sir, just directing your attention to the
7 top, this specific date, can you read that into the record?

8 A August 16th, 2020.

9 MS. COLE: No further -- no further questions for
10 this witness. I'll pass the witness.

11 THE COURT: Any questions, Mr. Arnold?

12 MR. ARNOLD: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. ARNOLD:

15 Q Sir, you said that your responsibilities include
16 tracking video surveillance and receipts; is that correct?

17 A I have access to, yes.

18 Q You have access to video of --

19 A No, no video. We do not have video at this
20 location.

21 Q None at this location?

22 A No.

23 Q Do you know who the employee was that was working at
24 the time of this AMEX purchase?

25 A No, I do -- I don't. It's went off my screen. I

1 don't know who the name -- I don't recall who it was.

2 Q But you can look at the receipt and determine who
3 the employee was that this purchase was made in front of; is
4 that correct?

5 A Yes, it should have the employee's name on the
6 receipt.

7 Q And then you also can go back to the time records
8 and determine who was working at that time; is that correct?

9 A Yes.

10 Q And so that individual would be able to tell us or
11 may be able to tell us who used the AMEX card at that
12 location; isn't that correct?

13 MR. LEXIS: Judge, I'm going to object to
14 speculation. Purely speculative.

15 THE COURT: Sustained.

16 BY MR. ARNOLD:

17 Q In order for there to be an AMEX purchase at the
18 store, wouldn't there had to have been an employee on the
19 other side of the register?

20 A In order for a purchase to be rung in, yes, but --

21 Q Right. And someone to -- that would have made the
22 sandwiches or whatever the food items were on that receipt
23 would also have been present at the store; is that correct?

24 A If you're asking if there were employees working,
25 yes, there should have been employees working.

1 Q Okay. And then, again, you have no video
2 surveillance at this location?

3 A That's correct.

4 Q And why is that?

5 A I don't make those decisions, sir.

6 MR. ARNOLD: Okay. No further questions, Your
7 Honor.

8 THE COURT: Mr. Hart, any cross-examination?

9 CROSS-EXAMINATION

10 BY MR. HART:

11 Q Just to be clear, do you remember seeing the name
12 Fatima (phonetic) on there, on the receipt?

13 A The -- the employee's name? I think --

14 Q Yes.

15 A Yes, I think it was Fatima.

16 Q Okay. And that would have been the person that was
17 -- that took the payment?

18 A Should have been, yes.

19 MR. HART: Okay, nothing further.

20 THE COURT: Any redirect?

21 MS. COLE: No, Your Honor.

22 THE COURT: Any questions by our jurors? No
23 questions. Sir, thank you for your testimony. You are
24 excused.

25 THE WITNESS: Thank you.

1 THE COURT: Next witness for the State?

2 (Pause in the proceedings.)

3 THE MARSHAL: Watch your step. Raise your right
4 hand. Face the clerk. Once she swears you in, scoot your
5 chair all the way towards the red dot and speak loud.

6 THE WITNESS: Thank you.

7 MARIE PRICE, STATE'S WITNESS, SWORN

8 THE CLERK: Thank you. You may have a seat.

9 THE WITNESS: Thank you.

10 THE CLERK: And state and spell your first and last
11 name for the record.

12 THE WITNESS: Marie Claire (phonetic) Price.

13 THE CLERK: Can you spell it for me?

14 THE WITNESS: M-a-r-i-e, P-r-i-c-e.

15 THE COURT: Go ahead, counsel.

16 DIRECT EXAMINATION

17 BY MS. COLE:

18 Q Good afternoon, Ms. Price. Where do you work?

19 A I work in a Big Daddy's Oil, ARCO ampm.

20 Q Okay. You work at ARCO am and pm?

21 A Yes, ma'am.

22 Q Okay, ma'am. I'm just going to remind you,
23 everything that you're saying right now is being transcribed,
24 so I'm going to need you to speak very loudly and close to the
25 microphone so we can hear you.

1 A Okay.

2 Q What is your position at ARCO?

3 A I'm a manager.

4 Q Okay. And do you specifically manage the location
5 at 209 East Flamingo here in Las Vegas, Clark County, Nevada?

6 A That's correct.

7 Q Okay. And how long have you worked at that ARCO?

8 A I've been working for the owner for 25 years. In
9 that ARCO, almost four or five years.

10 Q Okay. And as a manager, are you familiar with the
11 video surveillance at ARCO?

12 A Yes, ma'am.

13 Q Okay. And someone from your -- you or someone from
14 your store collected some surveillance video from August 17th
15 at approximately midnight, and you gave that to Metro; is that
16 correct?

17 A That's correct.

18 Q Okay. And you had an opportunity to review that
19 video surveillance; is that also correct?

20 A Correct.

21 Q And that video surveillance you reviewed fairly and
22 accurately depicted your store on that date and time?

23 A Correct.

24 MS. COLE: Your Honor, at this time, permission to
25 publish State's stipulated Exhibit No. 4?

1 THE COURT: Go ahead.

2 (Surveillance Video played)

3 BY MS. COLE:

4 Q Okay, ma'am, so can you identify the date in this
5 top left-hand corner?

6 A 8/17/2020.

7 Q Okay. And that's -- is this the --

8 A Midnight.

9 Q -- the timestamp?

10 A Midnight.

11 Q Okay. So this is -- this 00 is reflecting that it's
12 midnight?

13 A Correct.

14 Q Okay. And to your knowledge, are the date and
15 timestamp correct?

16 A Always, yes.

17 Q Okay, thank you. And can you tell us the view that
18 we're looking at?

19 A This is -- where the gentleman is, Donald
20 (phonetic), that's Register 1, and the other register is
21 Register 2.

22 Q Okay.

23 A That's right there in front of the store.

24 Q And this angle that we're looking at, this is kind
25 of a birds-eye view? The camera's from above?

1 A Correct.

2 Q And I'm just going to fast-forward to the relevant
3 time period. And, ma'am, can you describe the individual that
4 -- when you're looking at the screen, all the way to the left?

5 A That's the gentleman with the black khaki shorts,
6 white shirt, and he got a white bag with red letters. I
7 can't --

8 Q Okay. And specifically, I have it paused at
9 12:02:08, and this is again on 8/17?

10 A Yes.

11 Q And I'm going to pause it right there. Can you
12 describe that bag that you were discussing?

13 A It's a white bag with a -- with a red mark -- red
14 letters. S, H.

15 Q So you see some letters on that bag?

16 A Yes. S, H.

17 Q Now, ma'am, can you describe what the female
18 individual is wearing right there?

19 A She got a jumpsuit, black with stripes. It's one
20 piece.

21 Q And are you able to tell what those colors are?

22 A Yeah, they're black with stripes, white stripes.
23 She got her wallet, kind of brownish, and a purse. And I can
24 see what the bag say now. S -- oh.

25 Q Okay, and I'm going to just show you another angle.

1 Okay. What are we looking at right here? What angle of the
2 store is this?

3 A That's my whole store.

4 Q So you can see the entire store from this --

5 A The entire store.

6 Q -- camera angle?

7 A In what is all the front, correct.

8 Q Let me just relaunch this really quickly. And I'm
9 just going to fast-forward to the relevant time period. Back
10 up just a second. Okay. The two individuals that walked in
11 the store, can you describe those two people?

12 A Yes. It's a -- it's a black lady with a jumpsuit,
13 black with stripes. She -- she got a black bag, a white mask
14 -- mask that she didn't have put on. And the gentleman, she
15 got a white shirt with a hat and khaki shorts. She got white
16 tennis shoes.

17 Q And just for the record, that was at timestamp
18 12:01:34?

19 A That's correct.

20 Q And this video is on August 17th, 2020?

21 A That's correct.

22 Q Okay, ma'am, and I'm showing you another camera
23 angle. Now, this is again another birds-eye view over the
24 register?

25 A One.

1 Q This specific angle is just showing -- I believe you
2 called that Cash Register 1?

3 A Um-hum.

4 Q And I'm going to fast-forward to the relevant time
5 frame. And, ma'am, can you please describe that individual
6 that's at the register right now?

7 A It's a black female with a jumpsuit, black jumpsuit
8 with stripes, a white mask, and a black purse with white
9 stripes on the side. She got like a brownish wallet, long
10 black hair, white tennis shoes.

11 Q Okay. And the male that's standing next to her, can
12 you please describe him?

13 A He got a gray hat with a white shirt, a gold chain,
14 black khaki shorts, and gray with black shoes, tennis shoes.

15 Q And I see --

16 A And he got a bag, white bag with a black -- a red
17 stripe -- like a red tag with letters on it.

18 Q Okay, ma'am. And I'm just going to show you one
19 more angle. Oh, that's what we just watched. Okay, and I'm
20 just going to fast-forward back to where we were at the end,
21 that last still. And just for the record, what is the time
22 and date stamp in the upper left-hand corner?

23 A It's 8/17/2020, Monday, at 12:04:52.

24 Q Is that 12:04 --

25 A Yes.

1 Q -- 52?

2 A 12:04, 52 seconds, yeah.

3 Q And, ma'am, in looking at this video surveillance,
4 this fairly and accurately depicts your store on this date and
5 time; is that correct?

6 A Yes, ma'am.

7 MS. COLE: And, Your Honor, at this time, I'll pass
8 the witness.

9 THE COURT: All right. Any cross-examination,
10 counsel?

11 MR. ARNOLD: Yes, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. ARNOLD:

14 Q Ma'am, in any of the -- you said you watched that
15 whole Exhibit 4, the entire length of the video from ARCO; is
16 that correct?

17 A Yes, ma'am.

18 Q And in that video, was there any footage ever of the
19 male with the white hat making a purchase at the counter?

20 A I didn't see the gentleman buy anything on the
21 counter. That was the lady that I saw.

22 Q It was only the lady that made the purchase, not the
23 male; is that correct?

24 A That's correct, sir.

25 MR. ARNOLD: I have no further questions, Your

1 Honor.

2 THE COURT: All right. Any questions, Mr. Hart?

3 MR. HART: No, Your Honor.

4 THE COURT: Any redirect by the State?

5 MS. COLE: No, Your Honor.

6 THE COURT: Any questions by our jurors? No
7 questions. Ma'am, thank you for your testimony.

8 THE WITNESS: Thank you, sir.

9 THE COURT: You are excused.

10 THE WITNESS: Have a good day.

11 THE COURT: You, too. Next witness for the State?

12 MR. LEXIS: Arteaga.

13 MS. COLE: And, Your Honor, the State calls Officer
14 Arteaga.

15 THE COURT: All right, thank you.

16 THE MARSHAL: Watch your step. Raise your right
17 hand. Face the clerk. Once she swears you in, scoot your
18 chair all the way up to the red light and speak loud.

19 THE WITNESS: Yes, sir.

20 JOSE ARTEAGA, STATE'S WITNESS, SWORN

21 THE CLERK: Thank you. Have a seat, and state and
22 spell your first and last name for the record.

23 THE WITNESS: My name is Jose Arteaga.

24 THE CLERK: Can you spell that, sir?

25 THE WITNESS: It is J-o-s-e, A-r-t-e-a-g-a.

1 THE COURT: Go ahead, counsel.

2 DIRECT EXAMINATION

3 BY MR. LEXIS:

4 Q Where do you work, sir?

5 A I work for the Las Vegas Metropolitan Police
6 Department.

7 Q How long have you worked there?

8 A Going on a little over six years, sir.

9 Q On August 24th, 2020, did you respond to the
10 Harrah's Hotel at around 1:42 in the morning here in Clark
11 County, Nevada?

12 A Yes, sir.

13 Q Did you go up to Room 15058?

14 A Yes, sir.

15 Q Okay. Did you notice anything unusual about the
16 door?

17 A I noticed there was a couple pry marks on the door.

18 Q Okay. It appeared had -- that it had been tampered
19 with by some type of hard object, some tool?

20 A It did appear that way. Yes, sir.

21 Q Okay. Was anybody in there?

22 A At the time, no.

23 Q Okay. Did you make contact with the people that
24 were staying there?

25 A Yes, sir.

1 Q Did you identify them as one Jewell Love, Raven
2 Hough, and Devonica Jones (phonetic)?

3 A Yes, sir.

4 Q How was their demeanor at the time?

5 A They seemed upset, a little bit distraught, sir.

6 Q Okay. Did you -- did they point you to anything
7 that you impounded?

8 A They -- they stated that there was a black beanie
9 that didn't belong to them that was left in the room.

10 Q Okay. And did you impound that under Event No.
11 200800101167?

12 A Yes, sir.

13 Q Okay. Did they -- you said that they were upset.
14 Did they give you a possible suspect?

15 A Yes. They believed it was a LaShandra Castelllos
16 (phonetic).

17 Q Is that a relation to them?

18 A It was a friend of their cousin that had come into
19 Las Vegas for vacation.

20 Q Okay. Did you inform them that you -- that you
21 would make contact with this person they suspected?

22 A Absolutely.

23 Q Okay. And what -- did they want you to do that
24 eventually?

25 A They said no. They believed it was going to cause

1 more problems between their cousin and Ms. Castelllos.

2 Q Okay. And is this something they personally saw, or
3 they were just guessing on who might have been?

4 A They believed that was the suspect.

5 Q They were guessing?

6 A Yes, sir.

7 Q Okay. It's not like they saw this person coming in
8 and out?

9 A No, sir.

10 Q Okay. Did you then note the damage to the door and
11 then submit your report over to the detective in the case?

12 A Yes, sir.

13 MR. HART: I'm going to object to leading at some
14 point here, Your Honor.

15 MR. LEXIS: I'll rephrase, Judge.

16 THE COURT: All right, there were some previous
17 leading question. I would agree. Just rephrase the question.

18 MR. LEXIS: Sure.

19 BY MR. LEXIS:

20 Q Did you make a report?

21 A Yes, sir.

22 Q Did you then turn it over to the detective on the
23 case?

24 A Yes, sir.

25 Q Okay.

1 MR. LEXIS: Nothing further, Judge.

2 THE COURT: Any cross-examination, Mr. Arnold?

3 MR. ARNOLD: Yes, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. ARNOLD:

6 Q Did you -- you said you impounded the black beanie.
7 Where is the black beanie right now?

8 A I do not have it in my possession, sir.

9 Q Where is it?

10 A I believe it might be in our evidence vault, sir.

11 Q Did you place it there?

12 A No, not directly.

13 Q Who'd you give the beanie to?

14 A So when we impound the items, we impound them at our
15 substation. We have an evidence vault drop, and then it is
16 picked up by the evidence vault.

17 Q Okay. So as far as you know, the black beanie
18 should still be in the evidence vault and should still be
19 available for any type of inspection?

20 A I believe so, sir.

21 Q So if we wanted to do DNA on the black beanie, we'd
22 be able to, since it's in the evidence vault?

23 A I believe so, sir.

24 MR. ARNOLD: No further questions.

25 THE COURT: Any questions, Mr. Hart?

1 CROSS-EXAMINATION

2 BY MR. HART:

3 Q Just to make sure, you put your P number on it and
4 seal it, correct?

5 A Yes, sir.

6 Q You were the impounding officer on it?

7 A Yes, sir.

8 Q I just want to make sure. And that's so there can
9 be a chain of custody to see who opens it when it goes through
10 testing, et cetera, correct?

11 A Yes, sir.

12 Q But ultimately, you were not the lead detective on
13 this?

14 A No, sir.

15 Q Okay.

16 MR. HART: Nothing further.

17 THE COURT: Any redirect by the State?

18 MR. LEXIS: No, Your Honor.

19 THE COURT: Any questions by our jurors? No
20 questions. Sir, thank you for your testimony. You are
21 excused.

22 THE WITNESS: Yes, sir.

23 THE COURT: Next witness for the State?

24 MS. COLE: And, Your Honor, at this time, the State
25 calls Mr. Patel.

1 THE MARSHAL: Watch your step. Raise your right
2 hand. Face the clerk. Once she swears you in, scoot your
3 chair all the way up to the red light there and speak loud.

4 THE WITNESS: All right.

5 BRAGNESH PATEL, STATE'S WITNESS, SWORN

6 THE CLERK: Thank you. Have a seat, sir. And state
7 and spell your first and last name for the record.

8 THE WITNESS: First name is Bragnesh; last name is
9 Patel.

10 THE CLERK: Can you spell it?

11 THE COURT: Will you spell your name, sir?

12 THE WITNESS: Oh. B-r-a-g-n-e-s-h, P-a-t-e-l.

13 THE COURT: Go ahead, counsel.

14 MS. COLE: And, Your Honor, for the record, I'm
15 showing defense counsel State's stipulated Exhibits to No. 3
16 and 21.

17 MR. HART: Did you say 3 and 21?

18 MS. COLE: Yes, State 3 and 21.

19 MR. HART: Okay, thank you.

20 THE COURT: I'm sorry, counsel. I couldn't hear the
21 numbers, please.

22 MS. COLE: I'm sorry. State's Exhibit -- State's
23 stipulated Exhibit 3 and 21.

24 THE COURT: Okay, thank you.

25 //

1 DIRECT EXAMINATION

2 BY MS. COLE:

3 Q Good afternoon, sir. Where do you work?

4 A At 7-Eleven.

5 Q Okay. And what specific 7-Eleven do you work at?

6 A It's the one on Koval and Flamingo. 4158 Koval
7 Lane, Las Vegas, Nevada.

8 Q Okay. And can you state that specific number again?

9 A The address?

10 Q Yes, the address and your store number.

11 A Store number is 13691.

12 Q And your specific address, sir?

13 A 4158 Koval Lane.

14 Q Okay. And how long have you worked there?

15 A Four years.

16 Q And I believe you said that you're the manager?

17 A Manager/owner. Both. So I'm a owner, but I also do
18 day-to-day operations, so manager, too.

19 Q Okay, sir. And in your capacity as the owner and
20 manager, you have access to the video surveillance system, as
21 well as any system that saves and stores receipts; is that
22 fair to say?

23 A Correct.

24 Q Okay. And in this particular case, did you, in fact
25 -- did you or someone from your location on Koval collect and

1 give some surveillance video from August 16th from your store
2 to police?

3 A Yes.

4 Q Was there also a receipt that was collected and
5 given to Metro?

6 A Yes.

7 Q Okay. And, sir --

8 MS. COLE: Your Honor, may I approach?

9 THE COURT: Yes.

10 BY MS. COLE:

11 Q Sir, I'm showing you what's been marked as State's
12 Exhibit 21. Can you take a look at that and tell me if you
13 recognize it?

14 A Yes.

15 Q And how do you recognize that?

16 A First, I mean, it has our store number on it, and
17 then it's a similar receipt that we print out for our
18 customers, and when we do, one we print out for ourself, too.
19 So --

20 Q Okay. So what is the specific document that you're
21 -- that you're looking at?

22 A It's basically a receipt that prints out from back
23 office computer when we -- like, let's say a customer shows up
24 hour or two hour later and be like, hey, can I get a receipt
25 of my transaction? So this will be something printed out from

1 back office computer.

2 Q Thank you. And that is a fair and accurate
3 depiction of a receipt from your location of 7-Eleven on Koval
4 Lane?

5 A Correct.

6 MS. COLE: Your Honor, permission to publish --

7 THE COURT: Yeah.

8 MS. COLE: -- State's stipulated Exhibit 21?

9 THE COURT: Yes, go ahead.

10 BY MS. COLE:

11 Q Okay, sir, I'm going to direct your attention to the
12 top of this, looks like it's called an electronic journal.
13 This number that I'm pointing to, the store number, is that,
14 in fact, your unique store identifying number?

15 A Correct.

16 Q And can you state that for the record?

17 A 13691.

18 Q Okay. And then, at the top, is that a -- is that
19 the name of your business?

20 A Correct.

21 Q Okay. And it looks like, over to the left, there's
22 a timestamp?

23 A Yes.

24 Q Okay. And it also looks like the date might have
25 gotten cut off, but if we go down, is this, in fact, the date?

1 A Yes.

2 Q Okay. And then we have a timestamp at the top and a
3 timestamp at the bottom?

4 A Yes.

5 Q What do those two numbers reflect?

6 A Well, the top one is when the transaction started
7 happening, and then the bottom one is when this transaction
8 was completed, so whatever time it took to start the
9 transaction and complete the transaction.

10 Q Okay. And, sir, specifically directing your
11 attention, was this, in fact, the total that's indicated right
12 here?

13 A Yes.

14 Q For this specific transaction?

15 A Yes.

16 Q Okay. And can you state that total for the record?

17 A Yes. \$20.68.

18 Q Okay. And here, this number that's indicated, is
19 this the card that was used?

20 A No. That's -- that's the approval code from
21 probably the credit card company or something. The last four
22 digit is the 0452. That's the card number or account number.

23 Q Okay, I'm sorry. So this would be the last four of
24 the card that was used?

25 A Correct.

1 Q Okay. And then, again, when referring to these two
2 numbers, this was the start time of the transaction and the
3 end time of the transaction?

4 A Correct.

5 Q And I know that this is in military time, but can
6 you state it in regular time?

7 A Like 10:39.

8 Q Okay. And, again, the date that's indicated right
9 here?

10 A Yeah, 8/16.

11 Q Okay. So this particular transaction happened on
12 August 16th, 2020, at 10:39?

13 A Correct.

14 Q Okay. And it was for this amount?

15 A Correct.

16 Q Which is?

17 A \$20.68.

18 Q Okay, off this card?

19 A Yeah.

20 Q And that's a card ending in -- can you read those
21 four numbers?

22 A 0452.

23 Q Okay. Thank you, sir. You also had an opportunity
24 to review some video surveillance from the date in question;
25 is that accurate?

1 A Yes.

2 Q Okay. And in reviewing that video surveillance, did
3 it fairly and accurately depict your store on August 16th?

4 A Yes.

5 Q And you're familiar with your video surveillance
6 system?

7 A Yes.

8 Q It was working appropriately on that date and at
9 that time?

10 A Yes.

11 Q And to the best of your knowledge, the time and date
12 stamp on the video is also accurate?

13 A Correct.

14 MS. COLE: Court's brief indulgence.

15 Do we still have WePresent up?

16 THE COURT RECORDER: Yeah, yeah.

17 MS. COLE: Okay, let's see.

18 THE COURT RECORDER: With the doc cam, yeah.

19 MS. COLE: Oh, I think it's connected to the Elmo.

20 THE COURT RECORDER: No, I took it off.

21 MS. COLE: Oh, you took it off?

22 THE COURT RECORDER: I was just testing to make sure
23 the mike system was okay. We're good.

24 MS. COLE: Okay, let's see. I apologize for that,
25 Your Honor. I think we're up and running.

1 THE COURT: That's all right. Take your time.

2 BY MS. COLE:

3 Q Okay, sir, if you could state the date and timestamp
4 in the upper left-hand corner, please.

5 A 8/16/2020, Sunday, 22:36.

6 Q Okay. And that 22:36, that's 10:36?

7 A Correct.

8 Q Okay. And in looking, what angle is this of your
9 store?

10 A That's the front entrance. That's when you're
11 walking in; it's right at the main entrance.

12 Q Okay. And, sir, I'm going to pause it right here,
13 8/16/2020 at timestamp 22:36:15. Can you describe the two
14 individuals at the front of the store?

15 A Yeah. I have a gentleman sitting in the -- the
16 chair right there, and then the girl in the back.

17 Q Okay. And what is the gentleman wearing?

18 A A white t-shirt with looks like white -- or white
19 shorts.

20 Q Is he holding any bag?

21 A Yes.

22 Q Can you describe that?

23 A Just looks like a shopping bag with the letter
24 S-b-a-v. Yeah.

25 Q Okay. And what color is that?

1 A Red.

2 Q Okay. Can you please describe the female depicted?

3 A I mean, I can't see her really. It's just her back,
4 so.

5 Q Okay. Can you just describe her clothing?

6 A A striped romper.

7 Q And what colors are those?

8 A Looks like black and gray or black -- yeah, black
9 and white or black and gray.

10 Q And, sir, in looking at this video surveillance --

11 A Yeah.

12 Q -- you've reviewed it prior to your testimony today,
13 and again looking at it, it fairly and accurately depicts your
14 store?

15 A Correct.

16 Q Just going to back up a little bit. And, sir, can
17 you describe that bag that we're looking at?

18 A I mean, it looks like a little shopping carrying bag
19 with black and white. Has a big "G" or --

20 Q And, sir, fast-forwarding to 8/16/20, 22:39:31,
21 those individuals you previously described, what are they
22 doing now?

23 A Leaving the store.

24 Q Okay, and that was at 22:39:37?

25 A Correct.

1 Q Can you tell us what angle of the store this is?

2 A It's the back of the register.

3 Q And I'm going to fast-forward to the relevant
4 portion. And, sir, can you describe the female subject
5 depicted in that frame? And, again, for the record, this is
6 at 8/16/2020 at timestamp 22:38:42.

7 A Yeah. The same clothed female that I saw earlier
8 entering the store, so African-American walking with a white
9 cup in her hand and a Gatorade bottle, actually.

10 Q Sir, I'm going to approach with State's Exhibit 21.
11 Can you note the time again on this exhibit?

12 A 22:39, so 10:39.

13 Q Okay. And is that 22:39 on the screen right now?

14 A Correct.

15 Q So it's safe to say that the transaction that we're
16 watching right now is what's depicted on that receipt?

17 A Correct.

18 Q And as you can see, those items are consistent with
19 what's listed on the receipt?

20 A Yes.

21 Q As well as the timestamp?

22 A Correct.

23 Q And, sir, this is -- can you state the date and
24 timestamp in the upper left-hand corner?

25 A 8/16/2020, Sunday, 22:36, 02 seconds.

1 Q And what angle -- or what camera are we looking at
2 here?

3 A This is the -- the front of the door, parking lot
4 outside. Main entrance.

5 Q That's the main entrance those two individuals are
6 walking through?

7 A Correct.

8 Q And are those the same two individuals leaving?

9 A Correct.

10 Q Sir, again, what camera angle is this?

11 A It's our coffee area.

12 Q Same date, August 16th?

13 A Correct.

14 Q And, sir, all the video that we have reviewed, this
15 is the same date and timestamp, these are just different
16 angles; is that fair to say?

17 A Yes.

18 Q Sir, what part of the store are we looking at here?

19 A Just the back of the grill area.

20 Q And if we're looking at this, can you describe where
21 the front entrance would be?

22 A I mean, if I'm watching the video, it would be to my
23 left.

24 Q Okay, to your left? Do you want to point? You can
25 -- you should be able to mark on your screen. You can go

1 ahead and draw on it.

2 A Oh, okay. Yeah, around this area.

3 Q So that's the front of the store?

4 A That's the front, yeah.

5 Q Thank you, sir.

6 A Yeah.

7 Q I'm pulling up -- looks like Camera 7. I'm just
8 seeking to the relevant portion. Oh. And, sir, pausing it at
9 8/16/2020, the timestamp being 22:39:31, can you describe the
10 individuals that are depicted by the entrance and the slot
11 machine?

12 A Yeah. What are you -- like, what do they look like,
13 or?

14 Q Just, yes, describe their -- the clothing. Describe
15 what they're wearing.

16 A Which one?

17 Q The two individuals that are depicted by the slot
18 machine.

19 A Oh, okay. The one wearing a white t-shirt and the
20 short, and then the woman with a black striped romper or
21 dress.

22 Q And this is the same female individual you've been
23 describing?

24 A Correct.

25 Q Same clothing?

1 A Yes.

2 MS. COLE: No further questions for this witness.

3 Pass the witness.

4 THE COURT: Any cross-examination, Mr. Arnold?

5 THE WITNESS: I have one of your page here.

6 CROSS-EXAMINATION

7 BY MR. ARNOLD:

8 Q Sir, in reference to the video, Exhibit 3, you
9 reviewed that video, all of it; is that correct?

10 A Yes.

11 Q At any point during that video, did the person with
12 the white hat approach the counter?

13 A No.

14 Q At any point, did he move from anywhere other than
15 the chair and outside the store?

16 A No.

17 Q And that's throughout the whole video; is that
18 correct?

19 A Correct.

20 Q Sir, was there anything wrong with the timestamp in
21 the video, 8/16, and that's the date, and then the time that
22 it occurred?

23 A No.

24 Q So as far as you know, it was accurate and
25 accurately reflected the time that this occurred?

1 A Correct.

2 Q And one last area. Sir, you said that your place
3 was located on 415 Koval Lane?

4 A It's 4158 Koval Lane.

5 Q 4158 --

6 A Eight.

7 Q -- Koval Lane?

8 A Correct.

9 Q Where is that in location to Bally's Hotel and
10 Casino?

11 A Bally's Hotel?

12 Q Yes, sir.

13 A It's actually right behind Bally's.

14 Q It's right behind Bally's?

15 A Well, I mean, it's -- it's basically behind Bally's.
16 So I'm not, like, saying they share a wall, but it's behind
17 Bally's Casino.

18 Q Do you have to walk across a street to get there?

19 A Flamingo Street, yes.

20 Q So you have to cross Flamingo to get to your
21 location?

22 A So you have to cross Koval. So if you're walking on
23 Flamingo, you cross Koval, and it's right there.

24 Q Okay. And so could you estimate how much time it
25 would take you to walk there?

1 A Me?

2 Q Yes.

3 A From Bally's to Koval, or --

4 Q Yeah, from the --

5 A -- or Bally's to my store?

6 Q To your store.

7 A Probably 15 minutes.

8 Q Okay, 15?

9 A Yeah. I mean, that's me. I don't know.

10 Q So it's not like, like, how you just described it to
11 me, it'd be from me walking from here to where you're sitting
12 at; it's a further distance than that?

13 A Correct.

14 Q Okay. And you're saying approximately a 15-minute
15 walk without, you know --

16 A Yeah, a 15-minute normal walk. Yeah.

17 Q Okay.

18 MR. ARNOLD: No further questions. Thank you.

19 THE COURT: Any cross-examination, Mr. Hart?

20 CROSS-EXAMINATION

21 BY MR. HART:

22 Q Just to be clear, you said the time -- that you
23 believe the time was correct?

24 A Yes, sir.

25 Q Okay. Do you check it regularly?

1 A Yes.

2 Q And the time on your credit card, is it synched with
3 the surveillance? Those are separate systems, correct?

4 A Separate systems.

5 Q Okay.

6 MR. HART: Nothing further.

7 THE COURT: Any redirect by the State?

8 MS. COLE: No, Your Honor.

9 THE COURT: All right. Any questions by our jurors?
10 No questions. Sir, thank you very much for your testimony.

11 THE WITNESS: Uh-huh. Thank you.

12 THE COURT: You are excused. Ladies and gentlemen,
13 let's take a mid-afternoon recess.

14 During this recess, you must not discuss or
15 communicate with anyone, including fellow jurors, in any way
16 regarding the case or its merits either by voice, phone,
17 email, text, internet, or other means of communication or
18 social media. You're not to read, watch, or listen to any
19 news, or media accounts, or commentary about the case. You're
20 not to do any research such as consulting dictionaries, using
21 the internet, or using reference materials. You're not to
22 make any investigation, test a theory of the case, recreate
23 any aspect of the case, or in any other way investigate about
24 the case on your own, and you are not to form or express an
25 opinion regarding this case until this matter is submitted to

1 you. We'll see you back at 3:35.

2 THE MARSHAL: All rise for the exit of the jury.

3 (Court recessed at 3:21 P.M. until 3:36 P.M.)

4 (Outside the presence of the jury.)

5 (Pause in the proceedings.)

6 (Inside the presence of the jury.)

7 THE COURT: All right. Welcome back, ladies and
8 gentlemen. State, who is our next witness?

9 MS. COLE: Our next witness is Rebecca from American
10 Express.

11 THE COURT: All right, thank you.

12 THE MARSHAL: Get her?

13 MS. COLE: Yep.

14 THE MARSHAL: Okay.

15 MS. COLE: Rebecca.

16 THE MARSHAL: Watch your step. Raise your right
17 hand. Face the clerk. Once she swears you in, scoot your
18 chair all the way up to the red light and speak up loud.

19 THE WITNESS: Okay.

20 REBECCA MULDOON, STATE'S WITNESS, SWORN

21 THE CLERK: Thank you. Have a seat. State and
22 spell your first and last name for the record.

23 THE WITNESS: Rebecca Muldoon. R-e-b-e-c-c-a. Last
24 name is M-u-l-d-o-o-n.

25 THE COURT: Go ahead, counsel.

1 DIRECT EXAMINATION

2 BY MS. COLE:

3 Q Good afternoon, Ms. Muldoon. What do you do for a
4 living?

5 A I'm an assistant custodian of record for American
6 Express.

7 Q Okay, and what does that mean? What does a
8 assistant custodian of record for American Express do?

9 A We authenticate business records and provide
10 testimony for American Express.

11 Q Okay. And so, in regards to business records, you
12 have access to the record system?

13 A Yes, I do.

14 Q So that means you can pull credit card statements
15 and authorizations?

16 A Yes.

17 MS. COLE: For the record, I'm showing defense
18 counsel what's been marked as State's stipulated-to Exhibit
19 No. 14.

20 MR. ARNOLD: Okay.

21 MR. HART: Okay.

22 MS. COLE: And, Your Honor, permission to approach
23 the witness?

24 THE COURT: Yes.

25 BY MS. COLE:

1 Q Ma'am, I'm showing you what's been marked as State's
2 stipulated Exhibit No. 14. Will you go ahead -- you can take
3 it out of the plastic and take a look at it, and let me know
4 when you're done.

5 A Yes.

6 Q Okay, ma'am. And do those -- do you recognize those
7 documents?

8 A Yes, I do.

9 Q What are those documents?

10 A These are documents that were prepared from American
11 Express systems.

12 Q Okay. And you recognize it as -- as actual
13 statements and authorizations from American Express?

14 A Correct.

15 Q Those fairly and accurately depict the records that
16 you have -- you yourself have access to?

17 A Yes.

18 Q Okay. And are these related to a specific
19 individual?

20 A Yes, they are.

21 Q Okay. And who are -- what -- who is the specific
22 individual these records are related to?

23 A Gary A. Krusinski.

24 Q Okay, thank you. And, ma'am, you've had an
25 opportunity to review these records before your testimony

1 today?

2 A Yes.

3 Q Okay. First, I'm going to show you -- let's see.
4 It's going to be 14C, so the third page. Okay, ma'am, what
5 are we looking at right here?

6 A This was a letter from American Express to Gary A.
7 Krusinski.

8 Q Okay. And in this top right-hand corner, is this
9 the account number?

10 A Yes, it is.

11 Q Okay. If an individual had an American Express
12 card, would this number reflect the last four digits of that
13 card?

14 A Yes, it would.

15 Q Okay. And then this is an authorized user or the
16 owner of the account?

17 A Correct.

18 Q Okay. I'm flipping pages. Okay. What are we
19 looking at right here? And excuse me. For the record, this
20 is page -- this is page 11 of State's 14. What are we looking
21 at here, ma'am?

22 A This is an American Express statement that was
23 issued to Gary A. Krusinski for --

24 Q Okay.

25 A Um-hum.

1 Q And what is the relevant closing date?

2 A The closing date listed is 9/10 of 2020.

3 Q Okay. So how long is the approximate billing cycle?

4 A Thirty days.

5 Q Okay. And on this statement, was there any
6 transactions?

7 A There was a credit of \$2.15 on the right-hand side,
8 but no transactions, no.

9 Q Okay. And in looking at this top number right here,
10 that number is different from the first number that we saw?

11 A Correct.

12 Q Okay. And why would that number change?

13 A That number could change for different reasons. It
14 would change if a card was lost, if the card is stolen, or if
15 there's fraud on the account.

16 Q Okay. So, essentially, this would become the new
17 account number?

18 A Correct.

19 Q And this date is September 10th of 2020?

20 A Yes.

21 Q Okay. And, ma'am, I'm showing you page 2 of State's
22 14. I know that this is small, so I'm going to zoom in.

23 Okay. What is this document that we're looking at right now?

24 A This is information from American Express systems
25 for the authorizations that were issued for the card.

1 Q Okay. And is an authorization -- is it going to be
2 represented in this document even if it doesn't come up on the
3 statement?

4 A Yes.

5 Q Okay. Would there be a reason that an authorization
6 would be displayed in this graph but not in the actual
7 statement?

8 A Yes. So if a -- we will provide an authorization,
9 but it still has to be processed. So anybody who uses a card,
10 if they process a transaction, they'll -- it'll show like a
11 pending charge. If somebody were to dispute a pending charge
12 before the statement or before it posted, then it wouldn't
13 show on the statement if it was in dispute.

14 Q Okay. For example, if there was an individual that
15 had, you know, fraud on a credit card and then reported it
16 immediately, is it possible that that wouldn't show up on the
17 statement?

18 A Yes. It takes two to three days for a transaction
19 to post to an account, so if they call during that time frame,
20 it wouldn't appear on the statement.

21 Q Okay. But any time a card is used, whether it's,
22 you know, chip-enabled or swiped, it's going to appear on this
23 graph?

24 A Yes.

25 Q Because this is the authorizations?

1 A Yes.

2 Q Okay. Ma'am, I want to reference you to the third
3 entry from the top.

4 A Okay.

5 Q Okay, and I'm going to zoom in. Can you
6 specifically tell me what establishment that card was used at?

7 A Sbarro 1064.

8 Q Okay. And is that in the column of the merchant
9 name?

10 A Yes.

11 Q Okay. And then I'm going to scroll over to the card
12 number. Can you read the last four of that card number?

13 A Yes. On the third column, 1004.

14 Q Okay. And then, specifically going to merchant
15 address, can you specifically read that line?

16 A 3645 Las Vegas Boulevard, South Las Vegas, Nevada,
17 89109.

18 Q Okay. And this specific transaction date, ma'am?

19 A August 16th of 2020.

20 Q Okay. And the transaction time?

21 A 22:30.

22 Q Okay, so is that 10:30?

23 A Correct.

24 Q Okay. And then the amount?

25 A \$20.10.

1 Q Okay. And then this also says that it was approved?

2 A Yes.

3 Q So does that mean whoever was utilizing that card
4 was able to use that card in exchange to receive whatever they
5 were trying to purchase?

6 A Correct. If it's approved, they can continue on
7 with making the purchase.

8 Q Okay. And then, looking in this column right here,
9 what does that mean?

10 A That the credit card that was used was swiped. So
11 on the machine, it's swiped instead of chip-read.

12 Q Okay. And then, this last column we're looking at,
13 it appears to be terminal ID. What does that represent?

14 A That would be the terminal that the merchant owns.
15 It would be their ID.

16 Q Okay. So, essentially, the information from this
17 graph tells us that a card ending in 1004 was used on this
18 date, at this time, at this establishment?

19 A Correct.

20 Q Whether or not it shows up in the statement?

21 A Yes.

22 Q And I think you previously testified, if it is
23 reported, it can take how many days for a charge to process
24 before it will actually hit your account?

25 A So when you get an authorization, it usually takes

1 two to three days for it to actually be posted to your
2 account. So if this particular transaction was not on the
3 statement, which it wasn't, we would know that it didn't
4 because he called in the two to three-day time frame. So when
5 that happens, instead of posting it to the account -- in this
6 case, it was fraud -- we posted it to the fraud card, which he
7 would not receive a statement for.

8 Q Okay. And then, ma'am, would that also explain why
9 there was, in fact, a different card number on this
10 individual's statement after the 1004 card number?

11 A Yes, we do change the card as soon as it's reported
12 as fraud.

13 Q Okay. And just this is what -- I'm just going to
14 pull this up. And this is the number that you're referring
15 to?

16 A Correct.

17 Q That's what it was changed to?

18 A Yes.

19 MS. COLE: No further questions. I'll pass the
20 witness.

21 THE COURT: Any cross-examination, Mr. Arnold?

22 MR. ARNOLD: No, Your Honor.

23 THE COURT: Any cross-examination, Mr. Hart?

24 CROSS-EXAMINATION

25 BY MR. HART:

1 Q And just to be clear, you're not the one that
2 actually did those records; it was another custodian of
3 records, correct?

4 A I'm sorry, what do you mean?

5 Q Well, the certificate has a different name on it,
6 correct?

7 A Yes.

8 Q Okay. So somebody else provided it, correct?

9 A Provided the documents, yes.

10 Q Okay. And you guys work on Mountain Time?

11 A Yes.

12 Q Okay. Two hours' difference?

13 A I'm sorry, I don't -- two-hour difference from which
14 time zone?

15 Q Okay. We'll just -- you -- your central location is
16 Mountain Time, correct?

17 A Correct.

18 Q Okay.

19 MR. HART: Nothing further.

20 THE COURT: Any redirect by the State?

21 MS. COLE: No, Your Honor.

22 THE COURT: Any questions by our jurors? We do have
23 a question by the jurors. I'll meet counsel in the back
24 hallway.

25 (Bench conference begins.)

1 THE COURT: All right. This is Judge Villani. The
2 question is, "Is 22:30:15 transaction time MST or PST?" I'm
3 assuming that means Mountain Standard Time or Pacific Standard
4 Time.

5 MR. HART: Yep.

6 THE COURT: Any objection to the question, Mr. --

7 MR. HART: I have no objection. (Indiscernible)
8 follow up what I asked.

9 MR. ARNOLD: No objection.

10 MR. LEXIS: No objection.

11 THE COURT: State?

12 MS. COLE: No objection.

13 THE COURT: All right, and that was Juror 11.

14 MS. COLE: Okay.

15 (End of bench conference.)

16 THE COURT: Ma'am, we have a question from one of
17 our jurors. It says, is 22:30:15 transaction time, is that
18 MST or PST? I'm assuming Mountain Standard Time or Pacific
19 Standard Time.

20 THE WITNESS: Mountain Standard Time.

21 THE COURT: All right. Any follow-up by the State
22 to the -- to the juror's question?

23 MS. COLE: Court's brief indulgence.

24 FOLLOW-UP EXAMINATION

25 BY MS. COLE:

1 Q So, ma'am, just to clarify, the 22:30, would that be
2 10:30 Mountain Standard Time?

3 A Yes.

4 MS. COLE: Okay, thank you.

5 THE COURT: Any follow-up, Mr. Arnold?

6 MR. ARNOLD: No, Your Honor.

7 THE COURT: Mr. Hart?

8 FOLLOW-UP EXAMINATION

9 BY MR. HART:

10 Q Just to be clear, the 1:43 -- any other times on
11 there would be Mountain Standard Time also, correct?

12 A I'm sorry, can you repeat the question?

13 Q Any other times listed there would be Mountain
14 Standard Time also, correct?

15 A I just can attest that our system reports in
16 Mountain -- Mountain Standard Time.

17 Q Okay. So if there was one -- we saw one of them
18 there was 1:43, that would have been Mountain Standard Time?

19 A Correct.

20 MR. HART: Okay.

21 THE COURT: Any follow-up?

22 MS. COLE: Yes, Your Honor.

23 FURTHER FOLLOW-UP EXAMINATION

24 BY MS. COLE:

25 Q So, ma'am, I know this has been brought up. I just

1 want to make a clarification. Okay. So this specific record
2 is what we're referring to, this time frame, and you said that
3 that's indicated in Mountain Standard Time?

4 A Yes.

5 Q Okay. The different time zones, it can matter
6 whether daylight savings time has happened or not; is that
7 accurate?

8 A Correct.

9 Q Okay. So this doesn't necessarily mean that this
10 did not happen at 10:30 in Las Vegas; is that accurate?

11 MR. ARNOLD: Objection, leading.

12 THE COURT: Rephrase the question, please.

13 BY MS. COLE:

14 Q So, ma'am, I guess the point that I'm trying to make
15 is this can be confusing regarding what time of year this
16 record was created, whether day -- it was during daylight
17 savings or had -- or we had sprung forward, and you're not
18 sure when that occurred?

19 MR. ARNOLD: Objection, leading again, Your Honor.

20 THE COURT: No, I'm going to -- she's trying to --

21 MS. COLE: I'm just trying to clarify.

22 THE COURT: I'm going to overrule the objection. Do
23 you understand the question, ma'am?

24 THE WITNESS: Yes. So it can be confusing when
25 these records are pulled, yes, but I can just attest that when

1 the transaction is reported, we have it listed with that time
2 on Mountain Standard Time. I can't attest to the time zone in
3 certain states and what time it was. I can only tell you what
4 the document states.

5 BY MS. COLE:

6 Q Okay, that's exactly what I'm asking you. So you
7 don't know, when this record was pulled, whether it was
8 daylight saving time or whether we had sprung forward; you
9 just know that this is the time when the record was produced?

10 A Correct.

11 MS. COLE: Thank you. No further.

12 THE COURT: Anything -- any follow-up, Mr. Arnold?

13 MR. ARNOLD: No, Your Honor.

14 THE COURT: Any follow-up, Mr. Hart?

15 FURTHER FOLLOW-UP EXAMINATION

16 BY MR. HART:

17 Q So just to be clear, if it was daylight savings
18 time, it would be Mountain Daylight Time, correct?

19 A Again, I can only attest to what was produced on
20 that document, and it's Mountain Standard Time. I can't tell
21 you what time that is or what daylight savings time that is.

22 MR. HART: Nothing.

23 THE COURT: Nothing further?

24 MR. HART: No.

25 THE COURT: All right, any --

1 MS. COLE: No redirect, Your Honor.

2 THE COURT: Any additional questions by our jurors?
3 No additional questions. Ma'am, thank you for your testimony.

4 THE WITNESS: Thank you.

5 THE COURT: You are excused. Next witness for the
6 State?

7 MR. LEXIS: State calls Fletcher.

8 THE MARSHAL: Watch your step. Raise your right
9 hand and face the clerk. Once she swears you in, scoot your
10 chair all the way to the front to that red light and speak up.

11 THE WITNESS: Okay.

12 SHAWN FLETCHER, STATE'S WITNESS, SWORN

13 THE CLERK: Thank you. Please have a seat, and
14 state and spell your first and last name for the record.

15 THE WITNESS: Shawn Fletcher. S-h-a-w-n,
16 F-l-e-t-c-h-e-r.

17 THE COURT: Go ahead, counsel.

18 DIRECT EXAMINATION

19 BY MR. LEXIS:

20 Q Where do you work, ma'am?

21 A Las Vegas Metropolitan Police Department as a senior
22 crime scene analyst.

23 Q And how long have you worked there?

24 A 24 and a half years.

25 Q Can you tell the jury what training and experience

1 you have to become a crime scene analyst?

2 A Well, I have a bachelor's degree in cardiac rehab
3 and nutrition, and then I have an associate's degree in
4 criminal justice. When I got hired, I went through an academy
5 and then a long field training program, and then we -- we get
6 quite a bit of training. We do a lot of in-house training,
7 and then any -- a lot of seminars and conferences and stuff.

8 Q Were you involved in an Event No. 20080071911?

9 A Yes, I was.

10 Q Okay. And basically, you responded to the Paris
11 Hotel, Room 2198P, on August 17th, 2020, here in Clark County?

12 A Yes.

13 Q Ma'am, tell me -- tell the jury, basically, what is
14 a latent print?

15 A A latent print is a fingerprint that you leave
16 behind that's not visible to the naked eye. What we usually
17 do and what I did in this particular case is we use a
18 fingerprint powder that's black in nature, and we brush it
19 over the areas that we think might have latent prints, and it
20 will adhere to the ridges of the latent print and make it
21 visible.

22 Q So I've been up here touching this podium. Is it
23 possible for me to leave multiple prints behind?

24 A It's possible, yes.

25 Q Okay. Is it possible for me not to leave any viable

1 prints behind?

2 A Yes.

3 Q Okay. So just because I touch something doesn't
4 mean that I'm going to leave a print?

5 A That's correct.

6 Q And even when I do need a -- leave a print, is there
7 a following step where it needs to be of good enough quality
8 for you to pull?

9 A Yes. Normally with prints, we look -- if it's a
10 fingerprint, we look for roughly a dime-size amount of a
11 print, amount of ridge detail. If it's a palm, we look more
12 for about a quarter-size worth of ridge detail, and it also
13 needs to be very clear. And then if we -- once we lift it,
14 sometimes they're complete enough that they can be run through
15 a system and run against everybody that's in the system.
16 Other times, we need to develop a subject first to do a manual
17 comparison to, and our latent print examiner completes that
18 task.

19 Q Okay, so then there's a third step? Not only do --
20 somebody needs to leave a print, but then it needs to be good
21 enough quality for you to pick up, and then good enough
22 quality for them to analyze?

23 A Correct.

24 Q Okay. So long story short, surely not every time
25 you touch something you're going to leave a good enough

1 quality print to analyze?

2 A That's correct.

3 Q Okay. When you responded to this scene, did you
4 take pictures, ma'am?

5 A Yes.

6 MR. LEXIS: Can you switch it over?

7 BY MR. LEXIS:

8 Q So just so we're clear, this is room -- can you read
9 that?

10 A 2198P.

11 Q Okay, and that is State's Exhibit 25. Showing you
12 State's Exhibit 26. Just a different picture of the -- the
13 room number, correct?

14 A Yes.

15 Q Was there anything that caused you to zero-in on a
16 particular item when you got there?

17 A Inside the room, you mean?

18 Q No. When you went into the room, the door.

19 A Oh, I'm sorry. Yes, the door had been pried.

20 Q Okay. And did it appear that it had been tampered
21 with with some type of tool-type object?

22 A Yes.

23 Q Showing you State's 27. What are we looking at?

24 A This is the exterior knob or lever, and there's
25 gouge marks. You can see them right -- oh, is it not a touch

1 screen?

2 THE COURT RECORDER: It is.

3 THE WITNESS: Okay. Well, they're right --

4 BY MR. LEXIS:

5 Q You can just generalize it, ma'am. It's fine.

6 A Yeah. There -- there are some gouge marks that are
7 just to the right of the handle there.

8 Q Showing you State's 28.

9 A That's a closer-up view.

10 Q Basically, are you talking about this right in the
11 middle of the screen?

12 A Yes.

13 Q Showing you State's 29. What are we looking at
14 here?

15 A That's the striker plate and the -- the receiver for
16 the deadbolt, so that's going to be kind of on the inside of
17 the door --

18 Q Once again --

19 A -- where it latches.

20 Q Once again, showing some type of tool-type object
21 being shoved in there, like a screwdriver or something?

22 MR. HART: Objection, leading.

23 MR. LEXIS: I'll rephrase.

24 THE COURT: Sustained.

25 MR. HART: And speculation.

1 THE COURT: Can you -- ma'am, can you determine what
2 type of item may have made that marking?

3 THE WITNESS: No, just something with some kind of a
4 flat edge. You can see the gouge marks along here.

5 THE COURT: All right, thank you. Next question.

6 BY MR. LEXIS:

7 Q In your training and experience, some type of hard
8 object that you could force into there?

9 A Yes.

10 Q Okay. Showing you State's Exhibit 30. What are we
11 looking at?

12 A That's going to be -- oh, okay, I see. This is the
13 outside of the door. The -- the same interior receiver is on
14 the left, and then you can see more gouge marks on the
15 outside. That's on the jamb on the outside of the door.

16 Q State's 32?

17 A That's just a closer picture up. This is my scale
18 that I put in there so that you can see roughly how big they
19 are.

20 Q Okay. State's 31?

21 A I'm not sure. That glare from the --

22 Q Yeah, let me try to --

23 A -- thing is right on the top of it.

24 THE COURT: I believe that you can turn off one of
25 the lights on that, Mr. Lexis.

1 MS. COLE: There are some sort of arrows on the
2 screen, too. I don't know if that's --

3 THE WITNESS: Those are my marks, but I'm not sure
4 if they can -- oh, there we go. Okay.

5 MS. COLE: Oh, we got to hit the screen.

6 MR. HART: Yep, it's cleared.

7 MS. COLE: It's cleared. Thank you.

8 THE WITNESS: Okay. That's just going to be another
9 closer-up view of those gouges.

10 MR. LEXIS: Okay.

11 THE WITNESS: And that's actually on the door
12 itself. You can see the -- the handle's here, and then this
13 is a little push button here.

14 MR. HART: That's the --

15 BY MR. LEXIS:

16 Q So that's on -- this is where we're saying the
17 damage is on, the smooth surface when the door is closed,
18 correct?

19 A That's the edge of the door, I believe.

20 Q Correct.

21 A Yes, where it's closed.

22 Q State's 33. Again, is this -- this you taking your
23 scale to this?

24 A Correct. That's just another -- another shot of the
25 same thing just to show the size.

1 Q State's 34?

2 A Another close-up. That's the wood gouges right
3 adjacent to the push button or the latch.

4 Q So, basically, documented the damage to the door,
5 correct?

6 A Correct.

7 Q Did you then go in and photograph the room and see
8 if you could take any prints?

9 A I did.

10 Q Showing you State's 35. Is this inside the room at
11 issue?

12 A Yes. This is showing the -- the TV, the
13 entertainment center. The closet is over here, and I believe
14 this had a ironing board and things of that nature in it. And
15 then this is the other side of the armoire over here.

16 Q State's 36?

17 A That's the same thing, just from the other side of
18 the room.

19 Q State's 37?

20 A This is going to be the bathroom counter.

21 Q State's 38?

22 A Just another view of the room from over toward --
23 closer towards the door, showing the nightstands.

24 Q State's 39?

25 A This is just a little table in front of the window.

1 Q And State's 40?

2 A This is -- this is the area that I printed on top of
3 the nightstand.

4 Q And basically, can we tell that by --

5 A Oh, there we go. Okay.

6 Q -- where you lifted it right there?

7 A Yes. This is the fingerprint that I lifted right
8 here. You can see the number 1 and the arrow that's written
9 on the top of my tape that I laid down to recover the print.

10 Q So, essentially, ma'am, you're just trying to
11 document the scene to then give it over to the detective,
12 correct?

13 A Correct.

14 Q Basically guessing as far as whether or not you're
15 going to find a print and if it's going to mean something?

16 A Correct.

17 Q Okay.

18 MR. LEXIS: Nothing further, Your Honor.

19 THE COURT: Any cross-examination, Mr. Arnold?

20 CROSS-EXAMINATION

21 BY MR. ARNOLD:

22 Q Ma'am, the fingerprint that was lifted, did it come
23 back as a print that you can use?

24 A I recovered it and turned it in, and I'm not sure
25 what happened after that.

1 Q So we don't know if that print is matching to any
2 suspect in this case?

3 A I don't have any knowledge of that, no.

4 Q But you did lift one print?

5 A Correct.

6 Q Out of that whole entire room, that was the only
7 print you got?

8 A That's correct.

9 Q And you didn't get any prints off of the door?

10 A I did not print the door.

11 Q Okay.

12 A The entry/exit door, I did not print.

13 Q And was there anything else in the room that you
14 attempted to take prints off of?

15 A Yeah, yes. I printed the closets. I printed the
16 armoire, the bathroom countertop. There was another
17 nightstand in there that I printed, and I printed the safe.

18 Q And did you get any prints off of any of those?

19 A I did not.

20 MR. ARNOLD: No further questions, Your Honor.

21 THE COURT: Any cross-examination, Mr. Hart?

22 MR. HART: Yeah, just be real quick.

23 CROSS-EXAMINATION

24 BY MR. HART:

25 Q You say you go through -- you went through a fairly

1 long training?

2 A Correct.

3 Q Kind of an apprenticeship?

4 A Yes, a field training program.

5 Q Yeah, okay. And you go to where, based on your
6 training and experience, you're likely to find possible
7 evidence, correct?

8 A Correct.

9 Q You didn't -- well, I think Mr. Lexis used the term
10 "guessed" where to go. It's not just a guess, correct?

11 A Correct.

12 Q Okay. What about DNA? Was there any DNA swabbing
13 done?

14 A I did not swab for DNA on anything, no.

15 Q Okay. You are also trained in that, correct?

16 A I am, correct.

17 Q Do you guys have toolmark experts?

18 A We do not do any examination of toolmarks at our
19 lab.

20 Q Okay.

21 A That -- that gets sent out.

22 MR. HART: Okay. Nothing further.

23 THE COURT: Any redirect?

24 MR. LEXIS: Yes.

25 //

1 REDIRECT EXAMINATION

2 BY MR. LEXIS:

3 Q Ma'am, what I mean by "guess" is you have no idea
4 what a person touched or what a suspect touched, correct?

5 A Correct. Normally, and in this situation, I can
6 only go by what the victim tells me, you know, items that were
7 disturbed, and that's everything that I printed.

8 Q Okay. And then you go in, and you try to find what
9 you're going to find?

10 A Correct.

11 MR. LEXIS: Nothing further.

12 THE COURT: Any recross, Mr. Arnold?

13 MR. ARNOLD: No, Your Honor.

14 THE COURT: Any recross, Mr. Hart?

15 RECROSS-EXAMINATION

16 BY MR. HART:

17 Q And just to be clear, was there anything taken from
18 a safe?

19 A I don't believe there was, no.

20 MR. HART: Okay. Nothing further.

21 THE COURT: All right. Any questions by our jurors?

22 No questions. Ma'am, thank you very much for your testimony.

23 You are excused. Next witness for the State?

24 MR. LEXIS: Halm.

25 THE MARSHAL: Watch your step. Raise your right

1 hand and face the clerk. Once she swears you in, scoot your
2 chair all the way up to the red light and speak loud.

3 THE WITNESS: Okay.

4 SAMANTHA HALM, STATE'S WITNESS, SWORN

5 THE CLERK: Thank you. Please have a seat, and
6 state and spell your first and last name for the record.

7 THE WITNESS: Samantha, S-a-m-a-n-t-h-a. Halm,
8 H-a-l-m.

9 THE COURT: Go ahead, counsel.

10 DIRECT EXAMINATION

11 BY MR. LEXIS:

12 Q Where do you work, ma'am?

13 A I'm a crime scene analyst for LVMPD.

14 Q How long have you worked there?

15 A Going on six years.

16 Q And what's your title?

17 A Crime scene analyst.

18 Q Okay. Can you tell the jury your training and
19 experience to become a crime scene analyst?

20 A Yes. I have a bachelor's in criminal justice from
21 UNLV. I attended a approximate three-month academy through
22 LVMPD for crime scene analysts. Upon completion of that, I
23 went into field training, working crime scenes under
24 supervision, and then after that, I progressed to individual
25 casework.

1 Q Did you respond on June 15th, 2020, to the Harrah's,
2 particularly, Room 44001 and Event No. 200600059192 here in
3 Clark County?

4 A Yes.

5 Q And as part of your duties as a crime scene analyst,
6 did you take pictures?

7 A I did.

8 Q Showing you State's 63. Do you recognize this,
9 ma'am?

10 A Yes. This is a photo I -- I took of a -- the room.

11 Q Okay, room ending in 001?

12 A Yep.

13 Q Showing you State's 64. Why did you take a picture
14 of this?

15 A It's a closer view of the door and the doorjamb
16 area.

17 Q State's 63. What is this, and why did you take a
18 picture of it?

19 A Those are toolmarks on the edge of the door.

20 MR. HART: And --

21 THE WITNESS: They're evidence that someone pried
22 into the -- the door.

23 MR. HART: I'm sorry. Did we do 63? I thought the
24 first one was 63.

25 THE COURT RECORDER: That's what I have in my notes.

1 MR. LEXIS: This is a -- oh, it's a five. It looks
2 like a three. My fault.

3 BY MR. LEXIS:

4 Q 65? Same --

5 A That's a photograph --

6 Q Same one we just put up, right, ma'am?

7 A Yes.

8 Q Okay. State's 66. What is that a picture of, and
9 why did you take it?

10 A That's the doorjamb, and it's another view of the
11 tool or pry marks on the door -- the doorframe, rather.

12 Q State's 67?

13 A It's a closer view of the same photograph.

14 Q State's 68?

15 A The pry marks again.

16 Q When you say pry marks, consistent with some
17 hard-type object?

18 A Yes.

19 Q State's 69?

20 A Again, pry marks.

21 Q State's 70?

22 A In this, it's pry marks as well with a scale.

23 Q Ma'am, did you also search for prints?

24 A I did.

25 Q And what is a latent print?

1 A A latent print is the detailed ridges of the
2 friction skin on your fingers or your palms.

3 Q Okay. Ma'am, and once again, we just went over it
4 with the other crime scene analyst, just because you touch
5 something doesn't mean you're going to leave a print behind;
6 is that correct?

7 A Yes, that's correct.

8 Q Okay. And even when you do leave a print behind, it
9 needs to be of good enough quality for you to lift; is that
10 correct?

11 A That's correct.

12 Q And then a separate second step, for the analyst to
13 analyze?

14 A Yes.

15 Q So did you go in this room and basically search for
16 any type of object you could lift a print off of?

17 A Correct.

18 Q Showing you State's 71. What is this a picture of?

19 A This is a view of the inside of the hotel room.

20 Q State's 72?

21 A This is another view of the hotel room facing the
22 dresser and the table.

23 Q State's 73?

24 A This is a view of the nightstand in the same hotel
25 room. On that photograph, you can also see the latent print

1 tape that I placed.

2 Q Okay. Let me show you a close-up. 74, what is
3 that?

4 A Those are latent prints that I developed and then
5 placed tape to lift them in order to collect them.

6 Q Okay. And we basically see a number 1?

7 A Yes.

8 Q Does that correspond with your -- your lift?

9 A Yeah, so this would be Lift 1.

10 Q I'm showing you State's 75. What is this?

11 A This is the table, and I have Lifts 2 and 3 on top
12 of the table.

13 Q State's 76? Is that --

14 A This is a --

15 Q -- that No. 2?

16 A Yes.

17 Q And State's 77, is that on that same table?

18 A Yes.

19 Q Just another print?

20 A Yes.

21 Q Okay. Now, directly across from 44001, is there a
22 44002?

23 A Yes.

24 Q Okay, and why did you go to that area?

25 A When I arrived to the scene, I got briefed by the

1 officers and detectives, and there was a gum -- gum wrapper on
2 the floor adjacent to the door that was believed to be placed
3 over the eyehole of the door.

4 Q Okay. Showing you State's 59. Do you recognize
5 that, ma'am?

6 A Yes. This is the door directly across from 44001.

7 Q Okay. And those are believed to be the wrappers
8 that were in the peephole of 002?

9 A I can only see the top of the door.

10 Q Okay. State's 60. Are those those wrappers on the
11 floor?

12 A Yes.

13 Q State's 61?

14 A Those are a closer view of the wrappers that were on
15 the floor.

16 Q Okay. And State's 78?

17 A That's a closer view of the wrappers on a clean
18 envelope with a scale in place.

19 Q And did you impound those for possible DNA?

20 A I did.

21 MR. LEXIS: No further questions.

22 THE COURT: Any cross-examination, Mr. Arnold?

23 CROSS-EXAMINATION

24 BY MR. ARNOLD:

25 Q Ma'am, would you have conducted the DNA on the gum

1 wrapper?

2 A I did not do the analysis of the gum wrapper; I just
3 impounded it. I preserved the evidence, the DNA that would
4 have been on it, and then I impounded it for a lab to look at.

5 Q Additionally, with the fingerprints, you said you
6 did three lifts; is that correct?

7 A Yes, sir.

8 Q And then did you turn those over to a fingerprint
9 examiner to be examined?

10 A Yes. I impounded them, and then that eventually
11 goes to the latent print examiner.

12 Q Just for reference, I'll let you look at State's
13 Exhibit 69. That's the doorjamb and the damage that you
14 photographed?

15 A Yes.

16 Q Exhibit 70, that's also a photograph of the damage?

17 A Yes, that's the damage with a scale in place.

18 Q I'm going to show you what's been introduced as --
19 as State's Exhibit 33, and I will advise you that this has
20 been introduced as damage to a doorjamb. In comparison to the
21 damage that you saw on the -- on the door that you examined,
22 is this significantly different?

23 A It is different, yes. They are still toolmarks, I
24 believe.

25 Q Show you again page 31 if I can get this glare out

1 of there. And page 31 -- Exhibit 31, I'm sorry, again, is
2 that damage that we see right by the doorjamb significantly
3 different than the damage that you saw in your doorjamb at the
4 Harrah's Hotel?

5 A Those are similar. They're both toolmarks.

6 Q Did you see that extensive tear that we see in
7 Exhibit 33 and 31 as you did in your doorjamb at the Harrah's
8 Hotel?

9 A I'm sorry, can you rephrase? I --

10 Q Yeah. Again, the significant damage that we see in
11 Exhibit 31 and 33 on those doorjamb, the one that's in front
12 of you, is that in comparison, or was it slighter than the
13 damage that we saw in the Harrah's door?

14 A They're all toolmarks, and I don't examine
15 toolmarks, but I can tell you that they look different, yes.
16 Two of them are similar, and the other one doesn't look like
17 those.

18 Q We see a gouge in Exhibit 31, and a similar gouge is
19 not on the doorjamb that you inspected at Harrah's; is that
20 correct?

21 A Yes.

22 MR. ARNOLD: I'll pass the witness, Your Honor.

23 THE COURT: Any cross-examination, Mr. Hart?

24 CROSS-EXAMINATION

25 BY MR. HART:

1 Q And to be clear, your training is you start out,
2 then you kind of zoom in to take pictures, correct?

3 A Yes.

4 Q And you take pictures with and without the scale --

5 A Correct.

6 Q -- when taking photos? And did you try to lift
7 prints anywhere besides that table?

8 A Yes, I processed several areas in the hotel room.

9 Q Okay. What about DNA?

10 A No.

11 Q You are trained in DNA, but --

12 A I am.

13 Q Okay.

14 MR. HART: Nothing further.

15 THE COURT: Any redirect by the State?

16 MR. LEXIS: Yes.

17 REDIRECT EXAMINATION

18 BY MR. LEXIS:

19 Q Ma'am, you have no idea how much force someone used
20 to pry open that door, correct?

21 A Correct.

22 Q For either door, right?

23 A Right.

24 Q In fact, your event was at the Harrah's?

25 A Yes.

1 Q Okay. The previous picture shown to you was at
2 Paris. Two different places, correct?

3 A Yes.

4 Q Two different doors?

5 A Yes.

6 Q But you did say you know that everything looked
7 consistent with what you say as a toolmark?

8 A Yes.

9 Q Which, hard-type object?

10 A Yep.

11 MR. LEXIS: Nothing further.

12 THE COURT: Any recross, Mr. Arnold?

13 MR. ARNOLD: No, Your Honor.

14 THE COURT: Any recross, Mr. Hart?

15 RECROSS-EXAMINATION

16 BY MR. HART:

17 Q Just to be clear, it's not uncommon for you to be
18 looking for toolmarks on home invasion or burglary-type
19 situations, correct?

20 A Yes, I look for toolmarks. Was that the question?

21 Q Yes.

22 A Okay. Yes, I --

23 Q It's not common, correct?

24 A To look for toolmarks?

25 Q Yeah.

1 A No, it's not uncommon.

2 Q It's part of your training?

3 A Yes.

4 MR. HART: Nothing further.

5 THE COURT: Any questions by our jurors? We do have
6 a question. All right, counsel, let's meet in the back room.

7 (Bench conference begins.)

8 THE COURT: All right, this is Judge Villani. The
9 question is from Juror 8. "What was the material of each
10 door?" Any -- any objection, Mr. Arnold?

11 MR. ARNOLD: No objection. Mr. Arnold.

12 THE COURT: Mr. Hart?

13 MR. HART: No objection.

14 THE COURT: State, you can answer.

15 MR. LEXIS: I think I -- yeah, it's pure
16 speculation. She wants to know the --

17 THE COURT: Well --

18 MR. LEXIS: -- type of wood grain, or?

19 THE COURT: I don't know if she wants to know if
20 it's wood or some composite. I mean, I think it's an
21 appropriate question --

22 MR. LEXIS: Okay.

23 THE COURT: -- so I'm going to ask it.

24 MR. LEXIS: And, Judge, just so you know, I have one
25 more, and then we'll be done.

1 THE COURT: How long do you expect this next
2 witness?

3 MR. LEXIS: It's -- it's another CSA, so --

4 THE COURT: Okay. All right.

5 MR. LEXIS: -- probably similar.

6 MR. HART: It's 4:30, so we're --

7 MR. LEXIS: I'll be -- I'll be done (indiscernible).

8 (End of bench conference.)

9 THE COURT: Ma'am, we have a question from one of
10 our jurors. Obviously, if you know, what was the material of
11 each door?

12 THE WITNESS: I don't know. I know that they had
13 some paint on them. I did process the doors for fingerprints
14 with negative results.

15 THE COURT: Any follow-up by the State --

16 MR. LEXIS: No, Judge.

17 THE COURT: -- to this last question?

18 MR. LEXIS: No, Judge.

19 THE COURT: Any follow-up, Mr. Arnold?

20 MR. ARNOLD: No, Your Honor.

21 THE COURT: Follow-up, Mr. Hart?

22 MR. HART: No, Your Honor.

23 THE COURT: Any additional questions by our jurors?

24 No additional -- oh, we do have an additional question. All
25 right. I'll meet counsel in the hallway again.

1 MR. LEXIS: Brackin.

2 (Bench conference begins.)

3 THE COURT: All right. This is Judge Villani. We
4 have a question from a juror, and, "What was the door made of,
5 wood or metal?" Any objection, Mr. Hart?

6 MR. HART: Can we just tell her wood and get it over
7 with? No.

8 THE COURT: Mr. Arnold?

9 MR. ARNOLD: No, Your Honor.

10 THE COURT: Counsel for the State?

11 MR. LEXIS: No, Judge.

12 THE COURT: All right.

13 MR. LEXIS: You were going to ask it anyway, Judge.

14 THE COURT: I was.

15 (End of bench conference.)

16 THE COURT: We have another question from one of our
17 jurors. What was the door made of, wood or metal?

18 THE WITNESS: I believe it was a metal door with a
19 heavy layer of paint on it.

20 THE COURT: Any follow-up by the State to that last
21 question?

22 MR. LEXIS: I will, Judge.

23 THE COURT: All right.

24 FOLLOW-UP EXAMINATION

25 BY MR. LEXIS:

1 Q State's 69. Do you recognize that, ma'am?

2 A I do. This is the toolmarks.

3 Q And does that reiterate your metal door?

4 A Yes.

5 MR. LEXIS: Can't find it, Judge, but I'll pass the
6 witness.

7 THE COURT: All right. Anything further, Mr.
8 Arnold?

9 MR. HART: Where are the rest of them?

10 THE COURT: Anything further, Mr. Arnold?

11 MR. ARNOLD: No, Your Honor, but I'll pass to Mr.
12 Hart.

13 THE COURT: All right. Mr. Hart?

14 MR. HART: Can I see the exhibits?

15 MR. LEXIS: Yeah.

16 (Pause in the proceedings.)

17 MR. HART: Sorry, Your Honor.

18 FOLLOW-UP EXAMINATION

19 BY MR. HART:

20 Q State's Exhibit 63. So you got a frame here, and of
21 course, it's -- and you're saying that is metal or wood?

22 A I'm saying it's metal.

23 MR. LEXIS: Can we -- can we --

24 BY MR. HART:

25 Q The frame is metal?

1 MR. LEXIS: Can we have a foundation as to if this
2 is her door she processed or if this is the other door the CSA
3 processed?

4 THE COURT: All right, let's -- what's the number?

5 MR. HART: State's 63. She did 61 through 70
6 something, right?

7 MR. LEXIS: This -- actually, yes, it's hers.

8 MR. HART: Okay.

9 BY MR. HART:

10 Q How about State's 70? Is that a door that you
11 processed?

12 A Yes.

13 Q Okay, and is there chipping there?

14 A Yes.

15 Q Okay. Do you remember if it was wood or metal?

16 A I believe the door itself was wood, but I had
17 toolmarks on both the wood frame -- or I'm sorry, on the
18 doorframe and the door itself. I believe the door was metal
19 with paint.

20 Q You mean the doorframe was metal, and the door was
21 wood?

22 A No. The door was metal, and the doorframe was
23 possibly wood, but I don't -- I don't fully recall. That's
24 what I believe to -- that it was made of.

25 Q Okay. So I'm going to show you State's 64. Are you

1 saying you believe this frame on the left side was wood?

2 A Yes, where the toolmarks were, but I also had
3 toolmarks on the leading edge of the door itself. Does that
4 make sense?

5 Q Okay. State's 66, this is door -- the doorframe,
6 correct?

7 A Correct.

8 Q You can agree the way the -- looking at that cut,
9 would you say that's a metal frame or a wood frame?

10 A Where are you looking?

11 Q Right about there.

12 A The toolmarks I'm referring to are on the inner
13 part.

14 Q Okay, I'm just talking about the frame itself.

15 A Well, there's both metal and possibly wood on the
16 frame.

17 MR. HART: Okay. Nothing further.

18 THE COURT: Any further by the State?

19 MR. LEXIS: Quickly, Judge.

20 FURTHER FOLLOW-UP EXAMINATION

21 BY MR. LEXIS:

22 Q Ma'am, whether this was aluminum, wood, metal, or
23 whatever it's made out of, did they appear to be breached by a
24 toolmark-type object?

25 A Yes.

1 MR. LEXIS: Nothing further.

2 THE COURT: Anything further, Mr. Arnold?

3 MR. ARNOLD: No, Your Honor.

4 THE COURT: Mr. Hart?

5 MR. HART: No, Your Honor.

6 THE COURT: Any additional questions by our jurors?

7 No additional questions. Thank you very much for your
8 testimony. You are excused.

9 THE WITNESS: Thank you.

10 THE COURT: Next witness for the State?

11 MR. LEXIS: Brackin.

12 THE MARSHAL: Raise your right hand and face the
13 clerk. Once the clerk swears you in, scoot your chair all the
14 way forward to the red light and speak loud.

15 THE WITNESS: Okay, thank you.

16 JANEL BRACKIN, STATE'S WITNESS, SWORN

17 THE CLERK: Thank you. Please have a seat, and
18 state and spell your first and last name for the record.

19 THE WITNESS: Okay. Janel Brackin. J-a-n-e-l,
20 B-r-a-c-k-i-n.

21 THE COURT: Go ahead, counsel.

22 DIRECT EXAMINATION

23 BY MR. LEXIS:

24 Q Ma'am, where do you work?

25 A I'm sorry?

1 Q Where do you work?

2 A I work at the Las Vegas Metropolitan Police
3 Department.

4 Q And how long have you worked there?

5 A I started in January 23rd, 2019, so about two years
6 now.

7 Q And what is your title?

8 A I'm a crime scene analyst.

9 Q What kind of training and experience do you have to
10 be a crime scene analyst?

11 A To be a crime scene analyst, I got a bachelor's
12 degree in biology. And then we -- as -- prior to starting the
13 field -- the academy, we do two weeks of ride-alongs to get an
14 idea of what the job is like. And then we start a 13-week
15 academy where we learn all of the policies and procedures and
16 the technical aspects of doing the job.

17 And then we go through 12 weeks of field training,
18 and so that's supervised training where we go out and run
19 calls with a field trainer to ensure that we're doing the
20 proper policies and procedures and analyzing the crime scenes
21 in the proper way. And then, after that, we take a
22 proficiency exam, and that's what clears us to do independent
23 field work.

24 Q All right. Ma'am, on August 21st, 2020, were you
25 dispatched to the Paris Room 2186 under Event No.

1 200800088817?

2 A Yes.

3 Q Here in Clark County, Nevada?

4 A Yes.

5 Q Okay. When you got there, did you take some general
6 photographs?

7 A I did.

8 Q Showing you what's marked as State's 91. What is
9 this?

10 A This is a photo showing the exterior side of the
11 door and also demonstrating that this is the 2186 -- the hotel
12 room 2186.

13 Q Okay. Showing you State's 43. Why did you take
14 this picture?

15 A So there was -- there was damage to the leading edge
16 of the doorframe, as well as the leading edge of the door, and
17 so this photo demonstrates the damage. And there was also
18 that white adhesive paper that was kind of sticking to the
19 door latch or the strike plate.

20 Q State's 44, showing -- is that just showing more
21 damage?

22 A Sorry, can you repeat that?

23 Q Showing you 94, do you recognize that?

24 A Yes.

25 Q And is that just a photograph taken, too, to depict

1 the damage?

2 A Yeah.

3 Q State's 95. What is that a picture of?

4 A This is just additional close-up photos of the
5 damage.

6 Q State's 46. Do you recognize this?

7 A Yes.

8 MR. LEXIS: Judge, I'm going to go back for a second
9 because --

10 MR. HART: Is it 46 or 96?

11 MR. LEXIS: -- some of them appear to be four, some
12 of them appear to be nine, so I'm going to go back.

13 BY MR. LEXIS:

14 Q 43, picture of the doorframe?

15 A Yes.

16 Q Correct, ma'am? State's 46, same thing, picture of
17 the doorframe? And it depicts --

18 A That's actually a picture of the door itself.

19 Q Oh, okay. I --

20 A The leading edge of the door, yeah.

21 Q All right. The edge of the door where it had been
22 breached?

23 A Correct.

24 Q And does it appear to have been breached by a
25 possible toolmark, hard object?

1 A Yes. So on the leading edge of the door, there was
2 damage to the wood, in particular, what I deemed as a toolmark
3 based on the width or size of it, as well as striations that I
4 saw, so like the grooves that could have possibly been created
5 by some sort of a tool on that surface.

6 Q Okay. State's 49, is this a better picture of the
7 front?

8 A Yes. I believe that's the interior side of the --
9 the hotel room door.

10 Q Okay. State's 47?

11 A So this is a close-up showing the toolmark that was
12 casted that I recovered from scene. And so if -- if you look
13 closely, you can see that it demonstrates a width or a size of
14 some sort, as well as striations in the wood.

15 Q State's 45? I think I already showed you that,
16 ma'am. Basically, same thing, showing the type of damage that
17 went through the lock-type object?

18 A Yes, that's correct.

19 Q And State's 44, same thing, just a overview?

20 A Correct.

21 Q Okay. So, basically, you took pictures to document
22 the damage to the door, which was breached by a possible
23 toolmark?

24 A Yes. So the damage to the door, there was -- there
25 was, as I said, some wood damage, as well as some like

1 scratched paint, but in particular, the photo that we talked
2 about already was deemed by myself to be enough to cast,
3 what's -- what's called a PVS cast, a polyvinyl siloxane cast
4 of that toolmark.

5 Q Okay. And then that was submitted to whoever was
6 the detective?

7 A Yes. So I -- after I casted that toolmark, I
8 impound it, along with the rest of my evidence. And then it's
9 determined by the detectives what happens with that, if it
10 goes any further than my investigation or my crime scene work
11 or not, so that's up to the detective.

12 Q Okay. Showing you State's 48, and is that basically
13 the cast, as you say?

14 A This is not the cast. So this is actually just a
15 close-up of the white adhesive paper that I noticed on the
16 latch. The way that our casts look, we -- we use -- the
17 toolmark casting material is like a goo. So we kind of
18 squeeze the goo onto the toolmark and spread it around, and
19 then we put a latent print card on top of that to stick to the
20 goo, and we mark it as like Toolmark 1 and photograph it that
21 way. And then the goo kind of dries a little bit but stays
22 molded to the toolmark, and then we pull it off, and then
23 we've essentially preserved that toolmark as evidence. And so
24 then that's -- that's what I recover and impound.

25 Q Okay. Showing you State's -- showing you State's

1 50, do you recognize this?

2 A Yes.

3 Q What is it?

4 A It's a view from -- a view showing Room 2186 from
5 essentially the front door. On the left side of the photo,
6 you can see the two beds and the far wall of the hotel room.

7 Q Okay. You basically document the area and see if
8 you can take any lifts of fingerprints?

9 A Correct. So we -- I do a walk-through of the room.
10 After I get a briefing from the officer, and he informs me of,
11 you know, the situation as he knows it at that time, I do my
12 own independent walk-through, and then I begin taking photos.
13 And so this is one of my overall photos or orientation photos
14 showing just an overall view of the scene. And then, after I
15 do my photos, then I -- then I -- you know, as I'm doing my
16 photos and after I do my photos, I go through the scene and
17 think about what's conducive to fingerprint processing.

18 Q Okay. State's 51. Why did you take that?

19 A This is just another view of the room. So
20 typically, when we do like our overall photos, we'll go from
21 each corner of the room inward, so we kind of get a whole view
22 of the entire room, essentially.

23 Q State's 52?

24 A So this is just another view of those two beds
25 coming from a different direction.

1 Q State's 58?

2 A So this is a photograph of a latent print lift, and
3 so this was taken after I used fingerprint powder to develop
4 fingerprints on this surface. This is the -- I believe the
5 leading -- the doorframe, the leading edge of the doorframe.

6 So after I powder for prints, the powder makes the
7 prints visible and allows me to see them, and then I'm able to
8 go over it with tape, which is like -- basically like Scotch
9 Tape or packing tape, to preserve that print. So I put the --
10 I put the tape on there. I number it in sequential order, so
11 this was the third latent print, LP3. The arrow indicates
12 that up is up in the photo, and we photo document -- I took a
13 photo to document that that's the location of that print, and
14 then I pull it off and put it on a latent print card to turn
15 it -- impound it as evidence.

16 Q So you took a total of three prints in this case,
17 correct?

18 A I did.

19 Q Showing you State's 53. Can you tell me what
20 brought your attention to that phone in the upper left?

21 A Yes. So on that bed, there is a cell phone face-up
22 on the bed. When I arrived, I got my briefing from the
23 officer, as I -- as I mentioned prior, and he mentioned to me
24 that the victims had noticed the phone and realized that it
25 did not belong to any of them. And so that cues in my mind

1 that it may be evidence; it may belong to suspect or have been
2 brought into the room by suspect as the -- as all of the
3 victims did not recognize it.

4 Q Showing you State's 54.

5 A This is just a close-up showing that same phone.

6 Q Okay. And State's 55?

7 A So these are two latent print tape lifts on the
8 phone. So once I realized that the phone was present and that
9 victims stated that it did not belong to any of them, I -- I
10 processed the phone both for DNA and for latent prints, and
11 these are the two prints I recovered from the phone.

12 Q Okay. As your job as a crime scene analyst and
13 during your briefings, if you get word that you think one of
14 the victims have touched an object like this, what do you do?

15 A So I was told that two of the victims may have
16 touched this object. Originally, they thought it might have
17 been their -- one of their phones and later realized it was
18 not. So, in that case, I just take what's called elimination
19 fingerprints, and these are just fingerprints from the victim
20 so that the latent print examiners can then compare that --
21 compare that to the latent print tape lifts that I recover so
22 they can determine whether or not it really was that victim or
23 -- or another person.

24 Q So did you take those prints from two of the
25 victims, Marissa Metro and a Brooke Bargholtz?

1 A I did.

2 Q Did you do anything else with the phone?

3 A Yes. Because I knew that this phone was not
4 belonging to any of the victims on scene, I swabbed it for DNA
5 as well. So when I first saw the phone, I noticed that there
6 were -- there were visible prints on it, and so I swabbed for
7 DNA around, avoiding those areas of latent print detail. So I
8 swabbed the back of the phone, the sides of the phone, the
9 mouthpiece of the phone, avoiding those areas of latent print
10 detail.

11 Q And then you impounded everything under the
12 corresponding event number?

13 A Yes. And then I impounded this phone, as well as
14 the latent prints, and the swab of DNA, and the elimination
15 prints, and buccal swab kits from the victims that I
16 recovered.

17 MR. LEXIS: Nothing further, Judge.

18 THE COURT: Any cross-examination, Mr. Arnold?

19 CROSS-EXAMINATION

20 BY MR. ARNOLD:

21 Q Ma'am, I didn't hear what hotel this was. Did you
22 say Harrah's or Paris?

23 A This was -- this was at the Paris.

24 Q Oh, it was at Paris? Thank you. And you also said
25 that it was significant there is white paper, adhesive on the

1 door itself -- doorjamb itself?

2 A Yes. It was on the -- like the striker plate area
3 of the doorframe.

4 Q And then you also stated that you casted the
5 toolmark that was made at the door; is that correct?

6 A That is correct.

7 Q Based upon your experience, can you tell what type
8 of tool was being used to make that mark?

9 A No, I cannot. Toolmark examiners, that's -- that's
10 their forte. I -- my duty on scene is just to recognize what
11 is and is not evidence and recover that evidence for
12 determination at a later date.

13 Q I understand that you're not here to make a toolmark
14 expert opinion, but based upon your education, your
15 experience, can you tell if it was a larger tool or a smaller
16 tool that made the mark?

17 A Yes. I mean, based on -- based on the size of it
18 that I -- I could see, it was a smaller tool as opposed to
19 something larger. But again, I can recognize that it was made
20 by some sort of a tool because of the striations and because
21 there was a size that I could see, and at that point, I
22 recovered it. I made the decision to recover it because it --
23 because of the striations that I could visibly see.

24 Q When you say small tool -- again, I'm not asking you
25 to, you know, tell us what tool it is, but I'm trying to get

1 your understanding of what a small tool is. But when you say
2 small tool, are -- similar to like a simple screwdriver, or --

3 A Sure, or -- or other similar -- some other
4 similar-sized item. It was not like a large saw or anything
5 like that. A small -- a small, possibly hand tool. Again, I
6 can't say. I can just say that I recognize it as a toolmark,
7 and at that point, I recovered it --

8 Q And --

9 A -- or recovered the cast.

10 Q And, again, was it just one tool being used, or did
11 it look to you to be multiple tools that were being used?

12 A From the damage, the only -- the only toolmark that
13 I saw was that -- was that one, but there was other damage to
14 the door, perhaps caused by overlapping of the same tool or
15 overlapping of multiple different tools. It's hard to say,
16 but again, what I -- what I did notice was that there was a
17 distinguishable toolmark amongst also all of the other damage,
18 and that's -- that's when I casted it.

19 Q Other than the phone, did you swab any other area of
20 the room for DNA?

21 A No, I did not.

22 Q And other than the three prints that we saw in the
23 photographs, were there any other prints that you discovered
24 in the resident (sic)?

25 A No, it was just the three.

1 MR. ARNOLD: I have no further questions for this
2 witness.

3 THE COURT: Any cross-examination, Mr. Hart?

4 MR. HART: Yeah.

5 CROSS-EXAMINATION

6 BY MR. HART:

7 Q And just to be clear, you're not a toolmark expert?

8 A Correct.

9 Q But you have to have enough training to know if you
10 can cast it, correct?

11 A Correct. Um-hum.

12 Q Okay, just as you -- when you pull your prints, you
13 know, you can look at them and go, this will likely be used
14 while this will likely not?

15 A Correct, and that's what we call suitability for
16 recovery. So I can look at those items of evidence and say,
17 yeah, this is of quality enough for someone to determine --
18 make determinations later; therefore, it's of quality enough
19 for me to recover it on scene.

20 Q And you're not -- you don't know yourself whether
21 somebody else touched the phone from the people staying there,
22 correct?

23 A Correct. So the victims -- two victims stated that
24 they did touch the phone when they originally came back into
25 the room, and they thought maybe it was one of theirs --

1 Q Okay.

2 A -- or one of the victim's that were staying in the
3 room, but, you know, all I can go off of is what I see when I
4 arrive and what I'm told. And so that phone was not there --
5 per the victims, that phone was not there prior to them
6 leaving the room that morning, and when they returned and
7 noticed their stuff was missing, they also noticed that the
8 phone was there.

9 Q Did you ask where it'd been -- where they touched
10 it?

11 A Yes, I did.

12 Q Okay. And that's why you looked at the screen,
13 correct?

14 A Yes. So I looked at the screen, and there were --
15 the two latent prints that I recovered were visible enough for
16 me to determine that they were suitable for recovery, which
17 they were, again, essentially good enough to take. There was
18 enough latent print detail there for me to recover them.

19 Q And that's what you would call elimination prints if
20 you pull them, in theory?

21 A So the elimination prints are something separate.
22 We -- I take fingerprints from the victim themselves, so I
23 roll their fingerprints onto a card, and that also gets
24 submitted with the latent prints.

25 Q Okay. And you did that?

1 A I did.

2 Q Okay. And then you swabbed the other areas where
3 somebody that would use the phone would touch for DNA?

4 A Right. So I actually swabbed for DNA first, only
5 because the powders could contaminate what possible DNA may be
6 on the phone. And so because the latent prints that I -- that
7 I saw were slightly visible using side lighting with my
8 flashlight, I could swab the phone and avoid those locations
9 of the latent prints, and then I -- and then I recovered the
10 latent prints.

11 Q Okay. And you didn't attempt to do any DNA, other
12 than on the phone, inside or outside that room?

13 A Correct. I did take what's called buccal swab kits,
14 and those are essentially elimination prints but for DNA. And
15 so these -- those are cheek swabs that I recover from the
16 victims just like I recovered the prints in order to compare,
17 so the DNA detail could then have victim DNA to compare to
18 since they did touch the phone. It is -- it is understandable
19 that there might -- may be some of their DNA on the phone as
20 well because they touched it.

21 Q Okay. And the door at the Paris was wood, correct?

22 A Sorry, say that one more time.

23 Q The door was wood at the Paris? The door?

24 A Yeah. So the door was -- the doorframe and the door
25 were wood, and I think the metal -- the metal strike plates,

1 those were metal. I'm not sure like the contents of like what
2 the door is made out of, but it was painted over, and it -- it
3 was like a wood texture.

4 MR. HART: Okay. Nothing further.

5 THE COURT: Any redirect by the State?

6 MR. LEXIS: Yes.

7 REDIRECT EXAMINATION

8 BY MR. LEXIS:

9 Q Ma'am, no matter what an object is made out of, you
10 essentially are looking for striations?

11 A Correct. So you can -- striations are essentially
12 like the grooves on a tool. And so if a harder contact comes
13 -- a harder item comes into contact with a softer item, or
14 even equal hardness, it can leave, like, behind those grooves.
15 And that's what, you know, a toolmark examiner would then
16 compare is the grooves that are created by that tool versus
17 the grooves that were recovered from this scene if that were
18 to ever be examined.

19 Q And you yourself saw striations; that's what led you
20 to say toolmark?

21 A Correct.

22 MR. LEXIS: Nothing further.

23 THE COURT: Any -- any recross, Mr. Arnold?

24 MR. ARNOLD: No, Your Honor.

25 THE COURT: Recross, Mr. Hart?

1 RE CROSS-EXAMINATION

2 BY MR. HART:

3 Q Just to be clear, when you say toolmark, you could
4 mean knife? You could mean an -- any object?

5 A Yes. Yes, essentially. So it depends on the knife,
6 right? Like a butter knife might not leave striations because
7 it's a smooth surface, but it could because if you're pushing
8 it through a small space like the doorjamb, it could leave
9 striations. So, yes, it could be a number of things. Again,
10 that's -- that's not part of -- that's -- that's not part of
11 the -- the job duties that I -- that we -- you know --

12 Q Okay.

13 A -- that we are trained on or that we learn about.
14 We learn to recognize it and recover it.

15 Q So when you say tools, it doesn't have to
16 automatically come from a mechanic's box?

17 A A what?

18 Q A mechanic's box.

19 A Right.

20 Q Okay.

21 A Right. Yeah, any kind of -- yes. Any kind of
22 instrument, I guess, is a -- is a good way of saying. Like,
23 any sort of an instrument that could leave any sort of a mark
24 could be a toolmark in this case.

25 MR. HART: Nothing further.

1 THE COURT: All right, thank you. Any question by
2 our jurors? No questions. Thank you, ma'am, for your
3 testimony. You are excused.

4 THE WITNESS: Thank you.

5 THE COURT: Ladies and gentlemen, it's just a few
6 minutes after 5:00. We're going to adjourn for the day.
7 We'll come back at nine o'clock tomorrow morning.

8 During this evening recess, you are not to discuss
9 or communicate with anyone, including fellow jurors, in any
10 way regarding the case or its merits either by voice, phone,
11 email, text, internet, or other means of communication or
12 social media. You're not to read, watch, or listen to any
13 news, or media accounts, or commentary about the case. You're
14 not to do any research such as consulting dictionaries, using
15 the internet, or using reference materials. You're not to
16 make any investigation, test a theory of the case, recreate
17 any aspect of the case, or in any other way investigate or
18 learn about the case on your own, and you are not to form or
19 express an opinion regarding this case until this matter is
20 submitted to you.

21 Have a safe drive home, and we'll see you tomorrow
22 at 9:00 A.M.

23 THE MARSHAL: All rise for the exit of the jury.

24 (Court recessed at 5:03 p.m., until Wednesday,
25 April 14, 2021, at 9:05 a.m.)

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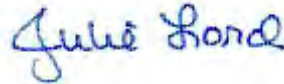
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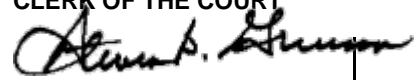
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ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual proceedings in the above-entitled case.

A handwritten signature in blue ink, appearing to read "Julie Lord".

VERBATIM DIGITAL REPORTING, LLC



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	CASE NO. C-20-351676-1
)	C-20-351676-2
Plaintiff,)	
vs.)	DEPT. NO. XVII
)	
VENESHIA LANETTE OLIVER,)	
and DARRELL CLARK,)	
)	
Defendants.)	

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE

WEDNESDAY, APRIL 14, 2021

TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 3

APPEARANCES:

FOR THE STATE:	CHAD N. LEXIS, ESQ. <i>Chief Deputy District Attorney</i>
	MADILYN M. COLE, ESQ. <i>Deputy District Attorney</i>
FOR DEFENDANT OLIVER:	MARTIN W. HART, ESQ.
FOR DEFENDANT CLARK:	CARL E. ARNOLD, ESQ.

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

LAS VEGAS, CLARK COUNTY, NEVADA, WEDNESDAY, APRIL 14, 2021

(Case called at 9:05 a.m.)

(Outside the presence of the jury.)

MR. LEXIS: Judge, just so you know, the first witness is --

THE MARSHAL: All rise.

MR. LEXIS: -- going to be A/V.

THE MARSHAL: All rise for the entry of the jury.

(Inside the presence of the jury.)

THE COURT: Good morning, ladies and gentlemen. Welcome back. We'll resume our trial this morning. State, who is your -- everyone have a seat, please. State, who's your next witness?

MS. COLE: And, Your Honor, the State calls Jeff Davenport.

THE COURT: All right.

(Pause in the proceedings.)

MR. LEXIS: Judge, may I approach?

THE COURT: Yes.

MR. LEXIS: This has been stipulated as -- admitted as Court Exhibit 1.

THE COURT: Okay.

MR. LEXIS: That's consent for the audio-visual guy that's going to appear just now.

THE COURT: All right. Counsel have seen that?

1 MR. LEXIS: Yes.

2 THE COURT: Yeah, all right.

3 MR. LEXIS: It's Court Exhibit 1.

4 MS. COLE: And --

5 THE COURT: I'm sorry?

6 MS. COLE: -- he's appearing on BlueJeans.

7 THE COURT: Okay.

8 THE COURT RECORDER: Oh, he is?

9 MS. COLE: Yes.

10 THE COURT RECORDER: Oh, okay. I'm sorry.

11 MS. COLE: So we've just got to switch it over. No
12 problem.

13 THE COURT RECORDER: Okay.

14 MS. COLE: And then are we going to be able to do
15 BlueJeans and the Elmo at the same time?

16 THE COURT RECORDER: No.

17 MS. COLE: No?

18 THE COURT RECORDER: Okay.

19 THE COURT: All right, the witness is there. I
20 think we can swear him in.

21 THE CLERK: Please raise your right hand, sir.

22 JEFFREY DAVENPORT, STATE'S WITNESS, SWORN

23 THE CLERK: Please state and spell your first and
24 last name for the record.

25 THE WITNESS: Jeffrey Davenport.

1 THE CLERK: Can you spell that?

2 THE WITNESS: J-a -- I'm sorry. J-e-f-f-r-e-y,
3 D-a-v-e-n-p-o-r-t.

4 THE COURT: Go ahead, counsel.

5 DIRECT EXAMINATION

6 BY MS. COLE:

7 Q Good morning, Mr. Davenport. Where do you work?

8 A I work for Capital One.

9 Q And where are you currently right now?

10 A I'm in the City of Los Angeles, California.

11 Q Okay, and you're testifying via audio-visual. You
12 understand that you are subject to the laws of the State of
13 Nevada at this time even though you are not currently present
14 in Nevada?

15 A I do.

16 Q And you are also subject to the pains and penalty of
17 perjury under the laws of the State of Nevada?

18 A Yes.

19 Q And even though you're not present in the courtroom,
20 you have still sworn and taken an oath to tell the truth?

21 A Correct.

22 Q Thank you, sir. How long have you worked at Capital
23 One?

24 A Fifteen years.

25 Q And you -- what is your specific job title with

1 Capital One?

2 A Fraud investigator, analyst.

3 Q Okay. And so you're familiar with Capital One
4 credit card statements and authorizations?

5 A Correct.

6 Q You have access to those documents, and you can view
7 them?

8 A Correct.

9 Q And you -- you actually reviewed some records in
10 regards to this specific case that you're testifying for
11 today?

12 A That is correct.

13 Q And those records concerned three different
14 individuals?

15 A Yes.

16 Q Okay. Were those individuals -- was the first
17 individual Mr. Gary Krusinski?

18 A Yes.

19 Q Was the second individual Ms. Rebecca Finger?

20 A Yes.

21 Q Okay, and was the last individual Ms. Brooke
22 Bargholtz?

23 A Yes.

24 Q And these documents that you reviewed were also the
25 documents that were provided to my office; is that correct?

1 A That -- that is correct.

2 Q And they were given to my office through a legal
3 subpoena?

4 A Correct.

5 Q Okay, sir. I'm going to direct your attention first
6 to Mr. Krusinski's Capital One statement, and that's going to
7 be what we have marked as State's Exhibit No. 15. Sir, can
8 you refer to that document, please? And let me know when you
9 have.

10 A Okay, I'm looking at it. Thank you.

11 Q Okay. So looking at -- okay, sir. I'm going to
12 direct your attention to page 2 of 3 of the August 17th, 2020
13 through September 16th, 2020 billing statement. Let me know
14 when you're there.

15 A I'm there.

16 Q Okay.

17 THE COURT RECORDER: Let's try and put it on the
18 Elmo.

19 MS. COLE: Okay. Sir, I'm just going to try to put
20 this on the Elmo --

21 THE COURT RECORDER: I think we can do that.

22 MS. COLE: -- and see if we can do this at the same
23 time. Yeah, maybe we can just blank him.

24 THE COURT RECORDER: We did.

25 MS. COLE: Okay, perfect. And he can still hear us?

1 THE COURT RECORDER: See if he still hears us.

2 BY MS. COLE:

3 Q Sir, can you still hear us?

4 A I can hear you.

5 Q Okay, perfect. Can you see anything that I'm
6 displaying or no?

7 A I cannot, no.

8 Q Okay, that's okay. Okay, sir, so directing your
9 attention to page 2 of 3 of what we have marked as State's
10 Exhibit No. 15 of the August 17th, 2020 through September
11 16th, 2020, can you -- I'm referring to the date of August
12 17th under the number ending in 0452. Can you read for us
13 what charges occurred on those dates, specifically in
14 regards --

15 A From August --

16 Q -- specifically, sir, in regards --

17 A Sorry.

18 Q -- to the 7-Eleven?

19 A Yeah. So, August 17th, there was a charge for
20 \$20.68 to 7-Eleven in Las Vegas. That same day, it says
21 Whittles at Blue (phonetic) Las Vegas for 31.92. And the
22 following day, there is a charge for Paris Casino front desk,
23 I believe that says, for \$14.

24 Q Okay, sir, thank you. And now, directing your
25 attention, the individual whose name is blue and in bold, is

1 that the cardholder of this specific card?

2 A Correct. That would be the last four digits of the
3 credit card that was used.

4 Q Okay, and can you please state that for the record?

5 A I'm sorry?

6 Q Sir, can you please state the last four digits of
7 the card?

8 A Oh, correct. 0452.

9 Q Okay, and who is the cardholder on that credit card?

10 A Gary Krusinski.

11 Q Okay. Now, with this specific account, was there
12 also -- and when I'm talking about account, not this specific
13 card, but is there another individual who also had a card with
14 Capital One that was related to this account?

15 A Correct. Laura (phonetic) Krusinski was also a cold
16 -- a cardholder on this account.

17 Q Okay.

18 MS. COLE: And then, brief indulgence. Okay.

19 BY MS. COLE:

20 Q Going back to the same page we were just discussing,
21 in looking in the top right-hand corner where it says account
22 ending in 0818, can you explain to the members of the jury why
23 that number is different than the 0452 number?

24 A Well, the 0818 number belongs to Laura Krusinski,
25 and each individual user would have their own credit card

1 number. So, as it's changed, that -- the last four digits
2 would change as well.

3 Q Okay. So that just means that that is Laura
4 Krusinski's card number?

5 A Correct.

6 Q Okay. And then, in looking again at the pertinent
7 information on August 17th in reference to 7-Eleven, we can
8 tell that this transaction was -- occurred on the card listed
9 above; is that correct?

10 A Yes, ma'am.

11 Q And that would be the card ending in 0452?

12 A Correct.

13 Q Okay. And for this transaction to actually be
14 recorded on the statement, does that mean when the card was
15 used, the transaction went through?

16 A That is correct.

17 Q Okay. So, subsequently, an individual -- say that
18 transaction was fraudulent, they could dispute that, but at
19 the time that the card was used, the transaction was accepted?

20 A Correct.

21 Q Okay. And that's why it would be displayed on this
22 statement?

23 A Correct.

24 Q Okay, thank you, sir. Let's move on.

25 THE COURT: Actually, Ms. Cole, before we go any

1 further --

2 MS. COLE: Yes.

3 THE COURT: -- I need to meet with counsel in the
4 back, please.

5 MS. COLE: Okay.

6 (Bench conference begins.)

7 THE COURT: All right, we're outside the presence of
8 the jury panel. This is Judge Villani. Well, there hasn't
9 been any objections, but I'm concerned that there's a
10 potential issue that while this gentleman is testifying, he's
11 looking at documents, that the jury cannot see his face to
12 evaluate his credibility while he's making these particular
13 statements.

14 I didn't know if -- you know, if there's a -- just
15 wanted to bring that to everyone's attention. Mr. Arnold, Mr.
16 Hart, if you want to chime in. I mean, are we going to go
17 back to -- I mean, just the problem is that he's testifying
18 about certain things, and the jury can't see his face.

19 MR. ARNOLD: Right. In regards to -- and this is
20 Mr. Arnold speaking. It's Capital One. My client didn't use
21 the card, so I have no objection whatsoever.

22 THE COURT: Mr. Hart?

23 MR. HART: Your Honor, I understood we stipulated to
24 the custodian of records coming in. So I'm not -- if I find
25 anything eerie or questionable, I'll let you know. The only

1 thing I -- question I do have, at least with my Capital One,
2 my wife and I had the same number.

3 MS. COLE: And, Your Honor, Madilyn Cole for the
4 State. I would just note these are -- these --

5 MR. HART: My ex-wife.

6 MS. COLE: These exhibits have already been
7 stipulated to. We're calling the custodian of records just to
8 get that testimony in. So for all intents and purposes, those
9 documents are already admitted into evidence. I'm displaying
10 them for the jury to see while he's talking about them in real
11 time. I can lay more foundation to confirm that he's, in
12 fact, looking at the same documents that we're looking at and
13 that he reviewed those prior to his testimony. But it's my
14 understanding, and I believe it's Mr. Arnold and Mr. Hart's
15 understanding that these exhibits have already been stipulated
16 to and are, in fact, in evidence.

17 THE COURT: I understood that. I just wanted to
18 make sure. I wanted counsel -- defense counsels' position on
19 the record regarding his testimony.

20 MR. HART: Yes.

21 THE COURT: Initially, when he started the
22 testimony, his face was on the screen, and his face may return
23 to the screen later in his examination.

24 MR. HART: Yeah. I expected there to be a
25 sub-screen, but I do understand the technical issues right now

1 evidently also with not being --

2 THE COURT: Okay.

3 MR. HART: -- able to play them. And based on --

4 THE COURT: I don't know why we can't have a split
5 screen. There's got to be a way to do that.

6 MR. HART: I'm sure we can. Yeah, just like I --

7 THE COURT: All right, but if any --

8 MR. HART: But --

9 THE COURT: So you're fine with it going forward --

10 MR. HART: Yes.

11 THE COURT: -- Mr. Hart? And --

12 MR. HART: At this point, like I said, I don't -- if
13 there's any issues --

14 THE COURT: All right.

15 MR. HART: Yeah, but I don't --

16 THE COURT: And then Mr. Hart doesn't have a dog in
17 this fight because his client's not charged with the Capital
18 One cards.

19 MR. HART: Mr. Arnold.

20 MR. ARNOLD: Mr. Arnold.

21 THE COURT: Mr. Arnold. I'm sorry.

22 MR. ARNOLD: Right.

23 THE COURT: Okay. All right.

24 MR. HART: Actually, (indiscernible). That was --

25 (End of bench conference.)

1 THE COURT: All right. Mr. Davenport, are you still
2 there?

3 THE WITNESS: I am. Can you hear me?

4 THE COURT: Yes, we can. Okay. Counsel's going to
5 ask --

6 THE WITNESS: Great.

7 THE COURT: -- you the next question.

8 MS. COLE: Thank you, sir.

9 THE WITNESS: Thank you.

10 MS. COLE: And we are now going to move on to
11 records regarding Ms. Rebecca Finger, and the first one we're
12 going to move to is going to be State's stipulated Exhibit No.
13 18.

14 BY MS. COLE:

15 Q Now, sir, you reviewed these documents prior to your
16 testimony today; is that fair to say?

17 A Yes.

18 Q And in preparation for your testimony, in that you
19 were going to not be present in the courtroom, did you speak
20 with me regarding which documents matched up to which
21 exhibits?

22 A Correct.

23 Q Okay. So when I'm referring to specific exhibit
24 numbers and specific page numbers, those, in fact, are the
25 documents that you have in front of you?

1 A That is correct.

2 Q Okay. Thank you, sir. So Ms. Rebecca Finger
3 Capital One statement is going to be State's stipulated 18.
4 If you could please pull that, and let me know when you have
5 that document, sir.

6 A I have that document ready.

7 Q Okay.

8 MR. HART: Did you go to 18?

9 MS. COLE: Yes.

10 MR. HART: Okay.

11 MS. COLE: State's stipulated 18. Okay.

12 BY MS. COLE:

13 Q Sir, in looking at page 1 of 3 of the July 24, 2020
14 through August 23rd, 2020 billing statement or credit card
15 statement, can you tell us whose name is in the bottom of the
16 left-hand corner?

17 A Rebecca Finger.

18 Q Okay. And is that her account?

19 A Correct.

20 Q Okay. And in looking at the top of page 1 of 3 of
21 the billing cycle of July 24, 2020 through August 23rd, 2020,
22 can you tell us what that account number ends in?

23 A 4786.

24 Q Okay. And essentially, does this mean -- is that
25 corresponding to the last four digits of the card number?

1 A That is correct.

2 Q Okay. And that card belongs to the individual
3 that's depicted in the bottom left-hand corner?

4 A That is correct.

5 Q And that individual is who?

6 A Rebecca Finger.

7 Q Okay, sir. Now, we -- I previously asked you in
8 regards to transactions that would appear on statements. What
9 about transactions that appear on authorizations? What is the
10 difference?

11 A So an authorization, if it's declined or not
12 processed, it won't appear on the statement, but it'll still
13 show a record in our system that an attempt was made.

14 Q Okay. So, essentially, a card could be used, but
15 the transaction might not show up on the statement?

16 A That is correct.

17 Q But the record of that still exists, and that would
18 be -- that record is recorded in the form of an authorization?

19 A That is correct. So we would -- we would still have
20 a record of that transaction even though it didn't appear on a
21 customer's statement.

22 Q Okay. So, sir, I'm going to direct your attention.
23 If you could please pull State's Exhibit -- State's stipulated
24 Exhibit to No. 17, which is going to be Ms. Rebecca Finger
25 authorizations. And let me know when you have that document,

1 sir.

2 A Okay, I have it.

3 Q Okay. And, sir, is this document essentially in the
4 form of a spreadsheet?

5 A That is correct.

6 Q Okay.

7 A Excel spreadsheet.

8 Q And for the record, I'm looking at page 1 of the
9 spreadsheet for the authorizations. If you could just start
10 by telling us, what is the column header of the first column?

11 A The Column A -- the first one is the plastic credit
12 card number, what we call because it's made of plastic. So
13 that is the full 16-digit credit card number.

14 Q Okay. And is that what's depicted as -- it looks
15 like PLSTC_SRGT_ID?

16 A Correct.

17 Q Okay, so that's the actual plastic credit card
18 number? Then moving to our right --

19 A That is.

20 Q I'm sorry to interrupt you, sir.

21 A Oh, no, no. Go ahead.

22 Q Okay. Now, moving to the right, that column -- and
23 it looks like it's abbreviated, and the abbreviation is
24 AUTHZN_RQST_PROC_DT. Can you tell us what that stands for?

25 A That's the authorization request date, so this

1 column tells you what day the card was attempted to be used.

2 Q Okay. Thank you, sir. And then, again, moving to
3 the right, the next column, looks like the abbreviation is
4 AUTHZN_RQST_PROC_TM. What does that stand for?

5 A That's the authorization request process time, so
6 this would have been the time, which is all Eastern Standard
7 Time, that the card would have been processed. So it's an --
8 it's a -- should be an exact timestamp.

9 Q Okay. And that's the actual time the card is either
10 swiped or the chip is enabled?

11 A It's the actual -- yes, correct. It's the time that
12 the card would have been swiped or used chip-enabled.

13 Q Okay. And you mentioned that this was in Pacific
14 Standard Time -- or I'm sorry --

15 A Eastern.

16 Q Eastern Standard Time?

17 A Yes, ma'am.

18 Q Okay, and so that would be three hours ahead of
19 Pacific Standard Time?

20 A Correct.

21 Q Okay. Thank you, sir. And then moving to the next
22 column to our right, and the abbreviation is AUTHZN_AMT. What
23 does this stand for?

24 A That's the authorization amount, so this would have
25 been the amount that they were trying to process on the card.

1 Q Okay. And then moving to the right again, the
2 column heading is AUTHZN_RESPNS_CD. What does that stand for?

3 A This is an authorization response code, and it's an
4 internal code that lets us know whether the transaction was
5 executed or not, and by seeing that number 5 there, we know
6 that this -- this transaction was declined.

7 Q Okay, sir.

8 MS. COLE: Can we switch back onto the Elmo for a
9 second?

10 THE COURT RECORDER: Sure.

11 BY MS. COLE:

12 Q Okay, sir. So, again, the column to the right of
13 authorization amount is authorization response code, and I
14 think you were explaining what these different numbers could
15 mean. So, specifically, going down to 05 you mentioned, what
16 would a 05 mean?

17 A Under the authorization response code, a 05
18 indicates that a transaction was declined.

19 Q Okay. And then, again, sir, moving to the next
20 column, which stands -- it looks like the abbreviation is
21 POS_ENTRY_MTHD_CD. What does that stand for?

22 A This is the type of transaction that was attempted.
23 This is the point-of-sale method. A 05 means that it was a
24 chip-enabled transaction.

25 Q Okay. And then, sir, moving over to the right

1 column, which looks -- which is abbreviated MRCH_CATG_CD, what
2 does that stand for?

3 A That is the type of merchant. It's an
4 identification code that -- versus -- so you'd have -- so 5310
5 is simply just the type of retailer.

6 Q Okay, sir. And then moving over, is that the
7 merchant name in that column?

8 A Correct.

9 Q Okay. And then moving over one more to the right,
10 the abbreviation is MRCH_CITE -- or CITY_NM. Is this the city
11 that the transaction occurred?

12 A Correct.

13 Q Okay. And then we have the state in our next
14 column; is that correct?

15 A Yes.

16 Q Okay. And then the postal code to our right?

17 A Correct.

18 Q Okay. And then the merchant ID number, that's not a
19 number that is associated with Capital One, correct?

20 A No, that's an individual number assigned to the
21 merchant itself.

22 Q Okay. And then the next column, it looks like that
23 says terminal ID. Again, is that a number associated with
24 Capital One?

25 A No, it is not.

1 Q Okay. And moving to the right, the column with the
2 heading PLSTC_CURR_EXPIRN_DT, what does this stand for?

3 A This would have been the expiration date on the
4 credit card.

5 Q Thank you. And then these last two columns, again,
6 these aren't associated with Capital One?

7 A No.

8 Q Okay, sir. So I'm going to direct your attention to
9 the bottom of this page, specifically two transactions that
10 occurred on 8/21 with timestamps of 12:30:07 and 12:34:28.
11 Can you refer to those and let me know when you've gotten
12 there?

13 A I'm there.

14 Q Okay, and let me just make sure I'm there as well.
15 Okay, sir. So looking at the first one that occurs at
16 12:30:07, that's, again, you indicated in Eastern Standard
17 Time?

18 A That's correct.

19 Q So what time would that be Pacific Standard Time?

20 A It would have been 9:30 and 9:34.

21 Q Okay, 9:30 and then 9:34. And then, in looking all
22 the way to the left, this transaction occurred on the card
23 ending in what number, both of these two transactions?

24 A I'm sorry, can you say that again?

25 Q So both of these transactions that occurred on

1 August 21st, what was the card used?

2 A The card number ending in 4786.

3 Q Okay. And, again, that's the -- that's the card
4 number that belongs to Rebecca Finger?

5 A Correct.

6 Q And we're looking at the authorizations associated
7 with her account?

8 A Correct.

9 Q Okay. And then, in looking -- you mentioned that in
10 the authorization response code, what does 05 stand for?

11 A 05 indicates again that the -- a charge is declined.

12 Q Okay. And so on both of these transactions for
13 \$85.03 at 9:30 and 9:34 were both declined?

14 A Correct.

15 Q Okay. And then looking at the next column, you
16 stated that the 05 indicates whether or not it was
17 chip-enabled, so can you tell us what that 05 means?

18 A It means that the physical credit card that we
19 issued would have had to been in possession for it to be
20 chip-enabled and that it was used at a chip-enabled terminal.
21 It was not swiped or key-entered.

22 Q Okay. Thank you, sir. And then we're going to just
23 move over to the right. And both of these transactions
24 occurred at Target?

25 A Correct.

1 Q In Las Vegas, Nevada, with the ZIP of 89119?

2 A Correct.

3 Q Okay. Thank you, sir.

4 THE COURT: Ladies and gentlemen, we're having some
5 technical issues with our system at this time. We're just
6 going to take a 10-minute break. And so during this recess --
7 so it's 9:40. Let's come back at 9:50. Again, please wait
8 for the Marshal to escort you back in.

9 During this morning recess, you must not discuss or
10 communicate with anyone -- Cynthia, Cynthia. You must not
11 discuss or communicate with anyone, including fellow jurors,
12 in any way regarding the case or its merits either by voice,
13 phone, email, text, internet, or other means of communication
14 or social media. You're not to read, watch, or listen to any
15 news, or media accounts, or commentary about the case. You're
16 not to do any research such as consulting dictionaries, using
17 the internet, or using reference materials. You're not to
18 make any investigation, test a theory of the case, recreate
19 any aspect of the case, or in any way investigate or learn
20 about the case on your own. You are not to form or express an
21 opinion regarding this case until this matter is submitted to
22 you. We'll see you back in about 10 minutes.

23 THE MARSHAL: All rise for the exit of the jury.

24 (Outside the presence of the jury.)

25 THE COURT RECORDER: Okay, off the record?

1 THE COURT: Yes, off the record.

2 (Off the record at 9:39 A.M. until 9:48 A.M.)

3 (Outside the presence of the jury.)

4 THE MARSHAL: All rise for the entry of the jury.

5 (Inside the presence of the jury.)

6 THE COURT: Do we have Mr. Davenport back on so he
7 can hear us? All right. Mr. Davenport, do you understand
8 that you are still under oath?

9 THE WITNESS: Yes.

10 THE COURT: All right. Go ahead, counsel.

11 BY MS. COLE:

12 Q Sir, can you please pull State's stipulated Exhibit
13 No. 19 and let me know when you have that?

14 A I have it.

15 Q Okay. And just to confirm, I'm looking at the
16 billing cycle from July 21st, 2020 through August 20th, 2020,
17 and the account ending in 2309, page 1 of 2. Is that what
18 you're looking at, sir?

19 A That is what I'm looking at.

20 Q Okay. And can you tell me, the account ending in
21 2309, looking at the bottom left-hand page, who does this
22 account number belong to?

23 A It belongs to a Brooke Bargholtz.

24 Q Okay. And that number, 2309, that's the number that
25 corresponds to the last four digits of her card?

1 A Correct.

2 Q And that's a Visa Capital One card?

3 A Correct.

4 Q Okay. And same with the -- with Ms. Finger's card;
5 that was also a Visa Capital One card?

6 A Correct.

7 Q Okay, sir. Moving on to State's stipulated Exhibit
8 No. 16 regarding Brooke Bargholtz's authorizations, can you
9 pull that and let me know when you have that, sir?

10 A I have it now.

11 Q Okay. And, sir, I'm again going to be directing
12 your attention to the date of August 21.

13 A Okay.

14 Q Can you let me know when you've gotten there?

15 A I am there.

16 Q Okay, and specifically, can you read the line on
17 August 20, 2020, of the timestamped 12:28:31?

18 MR. HART: Your Honor, objection. Misstates. Is it
19 August 20th or August 21st?

20 MS. COLE: Oh, I'm sorry. I'm referring to line
21 8/21/2020 with timestamp of 12:28:31, and the authorization
22 amount is 85.03.

23 BY MS. COLE:

24 Q Is that the line you're looking at, sir?

25 A I -- yes, I see that line for 8/21 with timestamp

1 12:28:31.

2 Q Okay. And, sir, can you just please read that
3 transaction amount or that authorization, the line where it
4 occurred, whether -- what the response code and what the entry
5 method code was?

6 A Yes. The authorization amount was for \$85.03. The
7 response code is 05, indicating it was declined. And in
8 Column F, the point-of-sale entry method, 05, was a
9 chip-enabled reader --

10 Q Okay.

11 A -- at Target in Las Vegas.

12 Q Okay, sir. And then could you also tell us what
13 time that occurred?

14 A At 12:28 Eastern Standard Time.

15 Q Okay, sir. What would that be Pacific Standard
16 Time?

17 A That would be at 9:28.

18 Q Okay. And, again, sir, this is in card ending 2309?

19 A Correct.

20 Q On August 21st, 2020?

21 A Correct.

22 Q Okay. And this is, in fact, the card that is
23 associated with Brooke Bargholtz?

24 A That is correct.

25 MS. COLE: Your Honor, I'll pass the witness.

1 THE COURT: Any cross-examination, Mr. Arnold?

2 MR. ARNOLD: No, Your Honor.

3 THE COURT: Mr. Hart?

4 MR. HART: Yes, Your Honor. You can just leave the
5 exhibits there. Ms. Cole?

6 MS. COLE: Yes?

7 MR. HART: Can you remove your papers here --

8 MS. COLE: Oh.

9 MR. HART: -- while he wipes down?

10 MS. COLE: Do you want me to leave these exhibits?

11 MR. HART: Please.

12 MS. COLE: Okay.

13 CROSS-EXAMINATION

14 BY MR. HART:

15 Q Mr. Davenport, can you see me?

16 A Yes, sir.

17 Q I'm the good-looking old guy over here.

18 A I see you.

19 Q To be clear, based on your review of records, you
20 can't tell who's using the card, correct?

21 A That is correct.

22 Q Okay. And if you look at the statements, you can't
23 tell when the card was used that day, correct?

24 A There isn't a specific timestamp on the statement.
25 There is on the authorizations --

1 Q On the --

2 A -- spreadsheet that we provided.

3 Q Okay. So, yeah, that's what I was going to ask you.
4 On the -- on the authorizations, there is a timestamp, but not
5 on the statements themselves, correct?

6 A Correct.

7 Q Okay. You said it is in Eastern Standard Time. Is
8 it in Eastern daylight savings time when it's daylight
9 savings? Is it always three hours off?

10 A Yes.

11 Q Okay.

12 A It would always be three -- it would always be three
13 hours off, correct.

14 Q Okay. Now, you were asked about back-to-back
15 attempts to authorize on one of the accounts like four minutes
16 apart. Can a machine send it through --

17 A Correct.

18 Q -- a couple times, trying to authorize?

19 A No. Each attempt would be an individual attempt
20 based on the user, not the machine itself.

21 Q Okay. So, well, maybe I'm wrong, but if you were
22 using a dial-up one that's going through phone lines, it will
23 not send a second request if it can't get the answer later?
24 Do some machines do that?

25 A Some machines can continue to try to push a

1 transaction through, but not a chip-enabled transaction such
2 as this.

3 Q And you were asked about Code 05, and that's
4 rejected, correct?

5 A Correct.

6 Q For an authorization?

7 A Specifically to the -- to the response code.

8 Q Okay.

9 A There's multiple 05's, unfortunately.

10 Q Okay. And on the response code, what does a double
11 zero mean?

12 A The double zero means it -- it was a successful
13 transaction.

14 Q Okay. What about an 85?

15 A Also -- also a successful transaction.

16 Q Okay. What's the difference?

17 A They're just -- they're different codes based on why
18 and how the card is processed. Whether it was key-entered
19 over the telephone or it was manually swiped would be a
20 different type of code. So there are multiple codes. I'm
21 happy to go through the legend. I have to tell you, there's
22 -- there's so many different codes, it's kind of unbelievable.

23 Q I'm just asking for a couple we saw on there, okay?
24 So it depends on whether it's a chip-read, or a swipe, or a
25 phone, correct? Part of it?

1 A That's correct. It depend -- it depends on, you
2 know, what type. Let's say you're at the ATM, and you put in
3 the wrong PIN. You're going to get a different type of
4 decline code.

5 MR. HART: Okay. Nothing further.

6 THE COURT: Any redirect by the State?

7 MS. COLE: No, Your Honor.

8 THE COURT: All right, thank you. Any questions by
9 our jurors? No questions. All right. Thank you, sir, for
10 your testimony. You are excused.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Who's our next witness for the State?

13 MR. LEXIS: Brant.

14 THE MARSHAL: Watch your step. Raise your right
15 hand. Face the Clerk. Once she swears you in, scoot your
16 chair all the way forward. Speak up loud.

17 DONNA BRANT-GARCIA, STATE'S WITNESS, SWORN

18 THE CLERK: Thank you. Please have a seat, and
19 state and spell your first and last name for the record.

20 THE WITNESS: Donna, D-o-n-n-a; Brant-Garcia,
21 B-r-a-n-t, G-a-r-c-i-a.

22 THE COURT: Go ahead, counsel.

23 DIRECT EXAMINATION

24 BY MR. LEXIS:

25 Q Where do you work, ma'am?

1 A I am a crime scene analyst for the Las Vegas
2 Metropolitan Police Department.

3 Q How long have you worked there?

4 A As a crime scene analyst or prior?

5 Q Altogether.

6 A I began my employment with LVMPD in January of 2017;
7 as a CSA in January of 2020.

8 Q And what's your title?

9 A Crime scene analyst.

10 Q And what is a crime scene analyst? And talk about
11 your training and experience to be a crime scene analyst.

12 A So I have a bachelor's degree in criminal justice
13 with a concentration in forensics. I also completed a 13-week
14 academy, which the first 13 weeks consist of a classroom-based
15 setting. And the second 13 weeks, we go into a field training
16 program where we respond to calls, and we are supervised by
17 field training officers before we're cleared to conduct
18 independent casework.

19 Q Included in your duties is taking pictures of a
20 scene and possibly lifting latent prints?

21 A Correct.

22 Q Okay. What's a latent print?

23 A I'm sorry?

24 Q What is a latent print?

25 A So when we touch an object, there is the possibility

1 that we leave behind our fingerprints. So if you touch an
2 object, based on the composition of your latent print residue,
3 there's a possibility that you may leave an impression of your
4 ridge detail on your fingers on that object.

5 Q So you said "possibility" several times. So just
6 because I'm touching this podium doesn't necessarily mean I'm
7 going to leave a print behind, correct?

8 A That is correct.

9 Q And even if I do, it needs to be of good enough
10 quality for you to lift?

11 A That is correct.

12 Q And then, another step, good enough quality for them
13 to test?

14 A I'm sorry?

15 Q For the expert to test?

16 A Correct.

17 Q Yet another step?

18 A Correct.

19 Q Okay. Did you respond on August 7th, 2020, to
20 Harrah's Room 10060 in Event No. 200800025672?

21 A I did.

22 Q Showing you State's Exhibit 84. Do you recognize
23 this, ma'am?

24 A Yes, I do.

25 Q Did you take that picture?

1 A Yes, I did.

2 Q Is this to show what room we're talking about?

3 A Correct.

4 Q Showing you State's 85. Do you recognize this
5 picture?

6 A Yes.

7 Q Why did you take that picture?

8 A To me, that looks like a picture the officer may
9 have taken.

10 Q Okay. Do you recognize that door?

11 A Yes.

12 Q Does this look like a true and accurate
13 representation of the door?

14 A Correct.

15 Q Okay. What's it show?

16 A It shows apparent damage to the leading edge of the
17 door.

18 Q Okay. I'm showing you State's 86. What does this
19 show?

20 A That is the same thing. It's another picture of the
21 door to the hotel room and the apparent damage to the leading
22 edge of the door.

23 Q Does that apparent damage look like some type of
24 hard object was used on this door to get in?

25 A That is correct.

1 Q Is that correct?

2 A Correct.

3 Q Okay. State's 87. What are we looking at?

4 A Again, that's another picture, a closer version of
5 the same damage to the door.

6 Q State's 88. Is this basically just the scale that
7 you use?

8 A Same thing with scale.

9 Q And, again, more damage. Appear to be done by some
10 hard-type object, tool?

11 A That's correct.

12 Q Showing you State's Exhibit 89. Why did you take
13 this picture?

14 A So that's just showing a general overview upon
15 entering the hotel room.

16 Q Showing you State's 90.

17 A Same thing. So that is another view of the hotel
18 room and the victim's property.

19 Q State's 91?

20 A So that is a set of drawers with a safe, drawers
21 that are open, and a safe that's open.

22 Q State's 92?

23 A Another one of the victim's suitcases that was open
24 on the floor.

25 Q Okay. Showing you State's 93.

1 A So that is a Latent Print Lift 1 on the exterior of
2 the hotel room door.

3 Q State's 95?

4 A That would be a latent lift of Latent Print 3 on the
5 interior of the hotel room door handle.

6 Q And State's 94?

7 A So that is the lock plate of the entry door.

8 Q Okay. And did you happen to discard any of those?

9 A I did.

10 Q Which one?

11 A Latent Print 2.

12 Q And is that due to unsuitability?

13 A That is correct.

14 Q And then you impounded the others?

15 A Correct.

16 Q Did you also take prints from a Bertha Geradeau?

17 A Yes, I did.

18 Q Why?

19 A When we recover latent prints at a crime scene, if
20 the victim is there, we like to obtain elimination prints from
21 the victim so that our latent print examiners can compare the
22 victim's prints to the prints that are recovered on scene.

23 Q And did you impound those as well?

24 A I did.

25 MR. LEXIS: Nothing further, Judge.

1 THE COURT: Any cross-examination, Mr. Arnold?

2 MR. ARNOLD: No, Your Honor.

3 THE COURT: Mr. Hart?

4 MR. HART: Briefly, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. HART:

7 Q Hello. When you were looking at the prints that you
8 pulled, you tried to pull prints from the entry door; the door
9 handles, entry, both sides, correct?

10 A That's correct.

11 Q Why?

12 A Because based on my training and experience, I felt
13 that that is an area that the suspect would have had to have
14 touched to enter --

15 Q Okay.

16 A -- the room.

17 Q That is part of your training and experience?

18 A Correct.

19 Q Unless they teleport into the room, they have to --

20 A They have to --

21 Q -- move the handle to try to get it open, right?

22 A Correct.

23 Q Okay. Did you swab for DNA?

24 A I did not.

25 Q Okay. Anywhere?

1 A I did not.

2 Q You're able to, correct?

3 A Correct.

4 Q And you said No. 2 was eliminated because
5 unsuitable. Please explain that.

6 A So for suitability, there are certain things we look
7 for when we deem that a latent print is suitable for recovery,
8 and that can be its size, the appearance of ridge detail, a
9 certain amount of minutia present. So there's factors that
10 have to be met before it's considered suitable for recovery,
11 and Latent Print 2 did not meet that criteria.

12 Q Okay. You did the outside of the handle. Did you
13 do the bottom side?

14 A No.

15 Q And ultimately, whether you collect DNA or whatever,
16 it's not up to you to decide if it gets tested, correct?

17 A It's not up to me. Correct.

18 Q It's up to -- who's it up to?

19 A I would assume that it's up to whether it's ordered
20 by -- I -- I honestly don't know. I know that it's not up to
21 me to determine that. That's beyond my scope.

22 Q Okay. Would it be, would you assume, the detective
23 that's in charge of the case?

24 A It's possible. I just know that I don't order it to
25 be tested.

1 Q Okay. And do you remember how -- approximately how
2 many photos you took at this scene?

3 A I don't recall.

4 Q Okay. I assume more than we saw, correct?

5 A That's correct.

6 Q And that was -- what kind of door -- what was that
7 door made out of?

8 A I honestly don't know the composition of the door.

9 Q You don't -- okay. Did you originally say it looked
10 like a kick to you or -- when you -- or maybe I misunderstood
11 you. When you were take -- checking the damage on the door?

12 A No, I said there was apparent damage to the leading
13 edge of the door.

14 Q Okay.

15 A Yeah.

16 MR. HART: Thank you very much.

17 THE WITNESS: Thank you.

18 MR. HART: Nothing further.

19 THE COURT: Any redirect?

20 MR. LEXIS: Sure.

21 REDIRECT EXAMINATION

22 BY MR. LEXIS:

23 Q Ma'am, when it comes to determining what to try to
24 lift, it's basically up to the CSA, and to do a visual
25 inspection as well, correct?

1 A As far as what? To process for latent prints?

2 Q Yes.

3 A Correct.

4 Q And DNA as well, correct?

5 A Correct.

6 Q Okay, because obviously, in your training and
7 experience, certain objects and certain things have better
8 chances of getting a latent print or DNA?

9 A That's correct.

10 Q Especially when you're dealing with different
11 textures, surfaces, mixtures?

12 A That is correct.

13 Q Okay. In addition, when you try and get a latent
14 print and dust it, you're, therefore, essentially trying --
15 essentially destroying any type of DNA-type sample; is that
16 correct?

17 A That is correct.

18 Q Okay, and explain that.

19 A I'm sorry?

20 Q Explain that.

21 A So you basically have an option; it's either DNA or
22 latent prints. For me, the door handles I chose because,
23 based on the surface, a door handle is a shiny, like, smooth
24 surface. DNA is better on a textured-type surface. Not to
25 mention door handles are handled by numerous peoples, so if

1 you were to swab for possible DNA, there's the chance that
2 you're going to come back with a mixture, a sample that has a
3 mix of a host of people. So I chose to latent print process
4 instead, and I felt that was the better route, to try and
5 uncover a print versus DNA.

6 Q Okay. And you followed standard Metro practices in
7 this case?

8 A That is correct.

9 MR. LEXIS: Nothing further.

10 THE COURT: Any recross, Mr. Arnold?

11 MR. ARNOLD: No, Your Honor.

12 THE COURT: Mr. Hart?

13 MR. HART: Yeah, I'll just do it from here.

14 RECROSS-EXAMINATION

15 BY MR. HART:

16 Q And just to be clear, you did dusting on the outside
17 of the door handle, correct?

18 A I did the outside, the exterior door handle, and the
19 interior door handle.

20 Q Okay, but you didn't dust on the inside of the door
21 handle?

22 A I did not.

23 Q Okay. So you can DNA test one part of a -- one part
24 of a surface and --

25 A I could, but --

1 Q -- do prints on another, correct?

2 A I could, but again, a door handle is handled by many
3 people.

4 Q Okay. And did you have a area where items were
5 taken, correct? You were directed as to where items might
6 have been removed from, correct?

7 A The limited information that I was provided on
8 scene, I was told that the property inside belonged to the
9 victim and that there was an item that was out of place.

10 Q Okay. And what was that item?

11 A It was a Degree deodorant container.

12 Q Okay. Did you try to fingerprint that?

13 A I did.

14 Q Okay. So these weren't the only fingerprints you
15 lifted, the two we just saw?

16 A There's a difference between fingerprint processing
17 and taking a lift and actually powder processing. So the
18 tapes that you saw, those were lifts. There wasn't -- I
19 powdered the Degree. There wasn't any prints to lift.

20 Q Okay. And you didn't swab the Degree either for
21 DNA?

22 A No.

23 MR. HART: Nothing further.

24 MR. LEXIS: Nothing further, Judge.

25 THE COURT: All right. Any question by our jurors?

1 No questions. Thank you, Ms. Brant, for your testimony. You
2 are excused.

3 THE WITNESS: Thank you.

4 THE COURT: Next witness for the State?

5 MR. LEXIS: Mr. Crank.

6 THE MARSHAL: Watch your step. Raise your right
7 hand. Face the Clerk. Once she swears you in, scoot your
8 chair all the way forward and speak loud.

9 JACOB CRANK, STATE'S WITNESS, SWORN

10 THE CLERK: Thank you. Please have a seat, and
11 state and spell your first and last name for the record.

12 THE WITNESS: First name, Jacob, J-a-c-o-b. Last
13 name, Crank, C-r-a-n-k.

14 MS. COLE: And --

15 THE COURT: Go ahead, counsel.

16 MS. COLE: Your Honor, for the record, I'm showing
17 defense counsel what's been previously marked as State's
18 stipulated Exhibit No. 7.

19 MR. ARNOLD: Okay.

20 MR. HART: Which one?

21 MS. COLE: Seven, and it's the Walgreens video.

22 MR. HART: Okay.

23 DIRECT EXAMINATION

24 BY MS. COLE:

25 Q Sir, where do you work?

1 A Walgreens.

2 Q Okay. What specific Walgreens do you work at?

3 A I'm the area asset protection manager, so I cover
4 all 78 stores within Southern Nevada, Utah, and Arizona.

5 Q Okay, sir. And can you tell us again what is your
6 specific title with Walgreens?

7 A Asset protection manager.

8 Q Okay, and you supervise numerous amounts of stores?

9 A I do.

10 Q Okay. Are you familiar with a Walgreens located on
11 Flamingo and Maryland here in Las Vegas, Clark County, Nevada?

12 A Yes, ma'am.

13 Q And is that specifically located at 1180 East
14 Flamingo here in Las Vegas, Clark County, Nevada?

15 A It is.

16 Q Okay. And you're familiar with the surveillance
17 video system at that store?

18 A I am.

19 Q And with your position as a asset protection
20 manager, you have access to that store's specific video
21 surveillance system?

22 A I do.

23 Q Okay. And you have -- you had the opportunity to
24 review some video from that store; is that correct?

25 A Yes, ma'am.

1 Q And was that specifically video from August 21st,
2 2020?

3 A It was.

4 Q And, sir, on that date, August 21st, 2020, to your
5 knowledge, was the video surveillance system working that day?

6 A It was.

7 Q Okay. And it also has a date and timestamp on it;
8 is that also accurate to say?

9 A Yes, ma'am.

10 Q And to the best of your knowledge, was that date and
11 timestamp displayed on that day correct?

12 A Yes, ma'am.

13 Q Okay, sir. And someone from this store pulled
14 surveillance video and gave that to police and my office --

15 A They did.

16 Q -- is that correct?

17 A Yes, ma'am.

18 Q And you have access to that video?

19 A I do.

20 Q And you reviewed it before your testimony today?

21 A I did.

22 MS. COLE: Brief indulgence. Let's just get this
23 cued up.

24 (Surveillance video played.)

25 BY MS. COLE:

1 Q Okay, sir, do you recognize this?

2 A I do.

3 Q Okay. And can you just explain -- it looks like we
4 have several different camera angles. Can you explain where
5 all those are, starting with what we're looking at in the top
6 -- the main view that we're looking at? It looks like, on the
7 bottom, it says Register 2-3?

8 A Yes. So that's going to be a camera position
9 directly over the front register bay. As you walk into the
10 store, it's going to be off to your right-hand side.

11 Q Okay. And, sir, can you tell us the date and
12 timestamp in the top of this frame?

13 A August 24th -- or I'm sorry, August 21st, 2020, 9:36
14 A.M.

15 Q Okay. And, sir, I'm going to fast-forward to 9:38,
16 but what is the frame that we have depicted off to the right,
17 the top right-hand corner?

18 A It's going to be a front entrance camera, which is a
19 public view monitor, pointing directly at the front entrance
20 door to the store.

21 Q Okay. And then right below that to the right, the
22 bottom video, what is that -- or what is that angle?

23 A That is a wall-mounted camera, again, facing the
24 front entrance of the store.

25 Q Okay. And then, in looking at these two bottom

1 cameras, are those depicting the outside of the store?

2 A They are.

3 Q Okay, thank you. And, sir, I've just made the front
4 entrance the main screen. And can you also state the date and
5 timestamp at this time --

6 A August 20 --

7 Q -- and the camera angle?

8 A August 21st, 2020, 9:37, front entrance camera.

9 Q Sir, can you describe the individual that's being
10 depicted in this screen?

11 A African-American female adult wearing a gray
12 spaghetti-strap shirt, black shorts, black shoes, and carrying
13 a large black-and-white colored purse over her right shoulder.

14 Q Thank you.

15 MR. HART: And, Your Honor, for the record, did we
16 want to state what time that was on the video?

17 THE COURT: I'm sorry, I couldn't hear you, Mr.
18 Hart.

19 MR. HART: Did we want to state what time that was
20 on the video?

21 THE COURT: Could you do that, sir?

22 THE WITNESS: Yes, sir.

23 MS. COLE: Well, let me just back it up.

24 BY MS. COLE:

25 Q Sir, can you state that date and timestamp? This is

1 where we had paused it when you previously described the
2 individual depicted in this surveillance video.

3 A August 21st, 2020, 9:38 and 21 seconds.

4 Q Thank you. And, sir, again, I'm just going to
5 fast-forward this to pertinent time. Okay. Sir, what angle
6 are we looking at right here?

7 A It's a camera that's mounted directly over the front
8 registers of the store.

9 Q Okay. And can you describe the name that's labeled
10 in the bottom left-hand corner?

11 A Registers 2 and 3.

12 Q Okay. And can you describe the female individual
13 that's depicted in this shot?

14 A The same female that entered in the previous shot.
15 African-American female adult wearing a gray spaghetti-strap
16 shirt, black shorts, black shoes, and a black and white large
17 purse over her right shoulder.

18 Q Okay. And can you please state the date and
19 timestamp? I have it paused.

20 A August 21st, 2020, 9:44 and 7 seconds.

21 Q Thank you. And, sir, I'm going to just pause it.
22 It's still 8/21/2020, and what's the timestamp right now?

23 A 9:44 and 49 seconds.

24 Q And we're still looking at the same individual?

25 A Yes, ma'am.

1 Q And I'm just going to change the camera that we're
2 looking at. What are we looking at right here, sir? What
3 camera is this?

4 A This is the entrance profile, which is a
5 wall-mounted camera stationed at the front of the entrance
6 doors.

7 Q Okay. And, again, what's the date and timestamp?

8 A August 21st, 2020, 9:45 A.M.

9 Q I'm going to pause it right there. Can you describe
10 the individual depicted in this shot?

11 A It's a African-American female wearing a gray
12 spaghetti-strap shirt, black shorts, and carrying a large
13 black and white purse over her right shoulder.

14 Q And can you state the date and timestamp that we
15 have it paused at right now?

16 A August 21st, 2020, at 9:45 A.M.

17 Q Thank you. And I'm just going to -- okay. Sir,
18 what are we looking at right here?

19 A This is the Outside Camera 1, which is one of two
20 cameras mounted at the top of that building that face the
21 eastside parking lot of the store.

22 Q Okay. And the individual that just came into the
23 frame, can you state what the date and timestamp is?

24 A August 21st, 2020, 9:45 A.M.

25 Q Okay. And what camera angle are we looking at right

1 now?

2 A Outside Camera 1/Other.

3 Q Okay. I'm going to play it for a second. I'm going
4 to pause it. Can you describe the individual that's depicted?

5 A I believe it's the same female that exited the store
6 wearing the black shorts, gray spaghetti-strap shirt, and the
7 large black and white purse over her shoulder.

8 Q Okay. And that's the person that just entered into
9 the cab?

10 A Correct.

11 Q Okay. Sir, and the direction -- what -- if you're
12 coming out of the store, what direction are we facing right
13 now?

14 A East.

15 Q And looking at this frame, what direction would this
16 be facing?

17 A Also facing east, but this camera is located on the
18 roof as well, but approximately 50 or so feet north of the
19 other previous camera.

20 Q Okay.

21 MR. HART: Your Honor, for the record, that was
22 Camera No. 2?

23 THE COURT: Is that correct, sir?

24 THE WITNESS: Yes, sir.

25 THE COURT: All right, thank you.

1 BY MS. COLE:

2 Q And, sir, can you also state the date and timestamp?

3 A August 21st, 2020, 9:46 A.M.

4 Q Okay. Sir, and this particular Walgreens, what
5 other businesses are you guys located next to?

6 A There is a Target, a shoe business, I'm not sure of
7 the name, and it's in the middle of a strip mall, so there's
8 multiple other retailers and small businesses.

9 Q Okay, sir. And specifically, the Target, how close
10 are you to the Target, or where in proximity is it from the
11 front entrance of this particular store?

12 A The Target location is just north of our location.
13 So as you would exit our store, you would make a left and go
14 north through the parking lot approximately 500 yards.

15 Q All right. Thank you, sir.

16 MS. COLE: And at this time, I'll pass the witness.

17 THE COURT: Any cross-examination, Mr. Arnold?

18 MR. ARNOLD: No, Your Honor.

19 THE COURT: Any cross-examination, Mr. Hart?

20 CROSS-EXAMINATION

21 BY MR. HART:

22 Q And you don't work at this particular store? You
23 cover pretty much all of them, correct?

24 A I do.

25 Q What's that? I'm sorry.

1 A I do.

2 Q Okay. I guess it was a compound question, so I
3 should -- you don't work at this particular store, correct?

4 A I do not office out of that location. Yes, sir.

5 Q Okay, thank you. And I just wanted to ask you about
6 the time frames on your cameras. Now, the individual stores
7 have their own system, or is it a central system?

8 A Each store has a dedicated unit within that
9 location. The store managers do not have access to some of
10 the features as far as date, and timestamp, and how it
11 appears. All of that is controlled by our Security Operations
12 Center in Chicago.

13 MR. HART: Okay. Nothing further.

14 THE COURT: Any redirect by the State?

15 MS. COLE: No, Your Honor.

16 THE COURT: Any questions by our jurors? No
17 questions. Sir, thank you for your testimony. You are
18 excused. Next witness for the State?

19 MS. COLE: Your Honor, the State calls Jewell Love.

20 THE MARSHAL: Watch your step. Raise your right
21 hand. Face the Clerk. Once she swears you in, scoot your
22 chair all the way forward --

23 THE WITNESS: Okay.

24 THE MARSHAL: -- to the red light right there.
25 Speak up loud so they can hear you.

1 JEWELL LOVE, STATE'S WITNESS, SWORN

2 THE CLERK: Thank you. Please have a seat, and
3 state and spell your first and last name for the record.

4 THE WITNESS: Yes, Jewell Love.

5 THE CLERK: Please spell your name.

6 THE COURT: Spell your name.

7 THE WITNESS: J-e-w-e-l-l. Last name, Love,
8 L-o-v-e.

9 THE COURT: Go ahead, counsel.

10 MS. COLE: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MS. COLE:

13 Q Good morning, Jewell.

14 A Good morning.

15 Q Where do you currently reside?

16 A Memphis, Tennessee.

17 Q All right. And did you come to Las Vegas on August
18 23rd, 2020?

19 A Yes.

20 Q Who did you come to Las Vegas with?

21 A I came to Las Vegas with my family. Do I need to
22 state the names?

23 Q Yes, please.

24 A Devonica Jones (phonetic), Raven Hough, Patricia
25 Jones, Terrea Wilson (phonetic), and Shane Costello

1 (phonetic).

2 Q Okay. And specifically, who were -- who was -- were
3 you staying in a room with these individuals?

4 A I'm sorry, can you repeat that again?

5 Q Were you staying in a hotel room with these
6 individuals?

7 A The only individuals I was staying in a room with
8 was Raven Hough, Devonica Jones, and Patricia Jones.

9 Q Okay. And when you say Raven, what's her last name?

10 A Hough.

11 Q Can you spell that?

12 A Yes. H-o-u-g-h.

13 Q Okay. So you were staying with Raven Hough, and who
14 else?

15 A Devonica Jones.

16 Q Okay.

17 A And Patricia Jones.

18 Q Is she also known as Patricia Williams?

19 A Yes, Patricia Williams-Jones.

20 Q Okay. So it was you and these three individuals,
21 and these are your cousins?

22 A Yes.

23 Q Okay. And then you also mentioned -- who else was
24 with you on this trip?

25 A Terrea Wilson and Shane Costello.

1 Q Okay. Now, is Terrea also your cousin?

2 A Yes.

3 Q But Terrea and Costello were staying in a different
4 room?

5 A Correct.

6 Q Okay. And you guys were staying at the Harrah's
7 here in Las Vegas, Clark County, Nevada?

8 A That's correct.

9 Q And that's specifically located at 3475 South Las
10 Vegas Boulevard?

11 A Yes, ma'am.

12 Q Were you staying in Room No. 15058?

13 A Yes.

14 Q Okay. And what was the purpose of this trip?

15 A It was a birthday trip for my cousin Terrea.

16 Q Okay. And when did you guys arrive in Las Vegas?

17 A We arrived that Friday, so I believe that was August
18 21st.

19 Q Okay. And what day did you leave?

20 A We left August 24th, that Monday.

21 Q Okay. And I'm going to specifically direct your
22 attention to August 23rd, that date and that time. Do you
23 recall what time you left your room for the evening?

24 A The time I left the room was about 8:45 to 9:00
25 o'clock.

1 Q Okay. And who did you leave the room with?

2 A I left by myself --

3 Q Okay.

4 A -- with my cousins.

5 Q And when did you return to the room?

6 A I returned back to the room at midnight.

7 Q Okay. And who were you with when you returned back
8 to the room at midnight?

9 A When I returned back to the room, I was with Raven.

10 Q Okay. And was it just you two that were coming back
11 for the first time?

12 A Yes. We were arriving at -- we -- we first came
13 back to Terrea's room, and then me and Raven decided to go
14 back to our room, and then later, Devonica and Patricia came
15 behind us a couple minutes later.

16 Q Okay. So you and Raven were the first ones to
17 respond to your room?

18 A Yes.

19 Q Can you tell me what happened when you entered and
20 -- and opened your door?

21 A What happened when I opened the door, I came in to
22 kind of like gather my things because we were leaving the next
23 morning, and I noticed that my backpack was missing. So --

24 Q Okay. Specifically, what type of backpack was it?

25 A It was a Louis Vuitton backpack.

1 Q Okay. And how much did that backpack cost?

2 A That bag cost \$2,500.

3 Q Okay. And can you describe it?

4 A Yes. It was brown and gold. It had the Louis
5 Vuitton signals across the bag with a gold plate in the front.

6 Q Okay. And you noticed that that was missing?

7 A Yes.

8 Q Okay. So besides Raven, Devonica, Patricia, did
9 anybody else have permission to be in your room?

10 A No, ma'am.

11 Q Had you guys met any new friends or any people that
12 had permission to be in your room?

13 A No, ma'am.

14 Q And Raven or Devonica hadn't met anybody either?

15 A No, ma'am.

16 Q And they hadn't given anybody permission to be in
17 your room?

18 A No, ma'am.

19 Q Did you notice any damage on your door?

20 A When we first appeared in the room, my cousin, she
21 noticed the damage, and that's when she directed me back to
22 the door to show me the damage to the door.

23 Q Okay. And can you describe that damage?

24 A The damage to the door was like flakes of wood
25 chipped off the door, and like the -- the lock had been

1 tampered with.

2 Q Okay. So there was some sort of marks, and the --
3 the wood and the paint was chipped?

4 A Yes, ma'am.

5 Q Okay. When you left -- or prior in your trip, was
6 that damage there?

7 A No, ma'am.

8 Q So that was something new that you recognized when
9 you returned to your room at approximately midnight on August
10 23rd?

11 A That's correct.

12 Q Okay. Was there also a -- an item in the room that
13 didn't belong to anybody?

14 A We did see a skullcap -- a black skullcap that was
15 in the room that we noticed that was laying on the table.

16 Q Okay. And when you say skullcap, is that like a
17 hat?

18 A Yes.

19 Q A beanie?

20 A A beanie. Yes, ma'am.

21 Q So a cloth --

22 A A black cloth beanie.

23 Q Okay. And that did not belong to anybody?

24 A Yes, ma'am. It didn't belong to anyone in the room.

25 Q Was that in your room before you left at 8:45?

1 A No, ma'am.

2 Q Okay, so that was also something new that you
3 recognized?

4 A Yes, ma'am.

5 Q Now, your cousin Terrea, she was staying at the
6 Harrah's with you guys but not in the same room?

7 A That's correct.

8 Q Where was her room located?

9 A Her room was maybe two rooms down, a room down, down
10 the hall.

11 Q Okay. And she was staying with who?

12 A Her friend, Shane Costello.

13 Q Okay.

14 MS. COLE: And, Your Honor, for the record, I'm
15 showing defense counsel what's been marked and stipulated to
16 as State's 177 -- or State's 178 and State's 179.

17 THE COURT: All right, thank you.

18 MR. HART: Okay.

19 MS. COLE: And, Your Honor, permission to approach
20 the witness?

21 THE COURT: Yes. Just want to double-check. I
22 didn't have that in my notes. Mr. Arnold, you're stipulating
23 to the admission of these exhibits?

24 MR. ARNOLD: Yes, Your Honor.

25 THE COURT: Mr. Hart, is that correct?

1 MR. HART: Yes, Your Honor.

2 THE COURT: All right, thank you.

3 (State's Exhibits 178 and 179 are admitted.)

4 BY MS. COLE:

5 Q And, ma'am, can you look at this -- these two
6 photos?

7 A Yes, ma'am.

8 Q Okay. Do you identify your backpack?

9 A Yes, ma'am.

10 Q Okay. How do you know that that's your backpack?

11 A I know that's my backpack. Pretty much the shape of
12 the bag, the gold plate that's in the front, and also,
13 vaguely, the color on it.

14 Q Okay. And that's a unique backpack at Louis
15 Vuitton?

16 A Yes.

17 Q Okay. And that matches the backpack that was taken
18 from your room?

19 A Yes, ma'am.

20 Q Okay. Do you know the individual who's wearing it?

21 A No, ma'am.

22 Q Did he have permission to wear your backpack?

23 A No, ma'am.

24 Q Or a backpack that looks like your backpack?

25 A No, ma'am.

1 MS. COLE: And for the record, I'm publishing
2 State's stipulated-to 179.

3 BY MS. COLE:

4 Q So this was the gold plate that you were describing?

5 A Yes, ma'am.

6 Q Okay. And you recognize this -- these specific
7 markings and the color to be the same as your backpack that
8 was taken?

9 A Yes, ma'am.

10 Q And showing you State's stipulated 178, is this
11 another angle of the backpack?

12 A Yes, ma'am.

13 Q And you recognize that to be consistent with your
14 backpack?

15 A Yes, ma'am.

16 MS. COLE: And, Your Honor, for the record, I'm
17 showing defense counsel what's been previously marked as
18 State's stipulated 104.

19 THE COURT: All right, thank you.

20 MR. HART: Yeah.

21 MS. COLE: And, Your Honor, permission to approach?

22 THE COURT: Yes.

23 BY MS. COLE:

24 Q And, ma'am, did you also have a particular item of
25 clothing that was missing from your room on that date and on

1 that time?

2 A Yes, ma'am.

3 Q And I'm showing you what's been marked as State's
4 stipulated Exhibit No. 104. Do you recognize that shirt?

5 A Yes, ma'am.

6 Q What shirt is that?

7 A That's my Tupac shirt.

8 Q Okay. And can you describe it?

9 A Yes. It was orange with the pictures of Tupac on
10 it, and it was a size large.

11 Q Okay. And that was one of the distinctive, unique
12 items that you had missing from your room on that date?

13 A Yes, ma'am.

14 MS. COLE: And for the record, I'm publishing what's
15 been marked as State's stipulated 104.

16 BY MS. COLE:

17 Q And for the record, there's two different depictions
18 of Tupac; is that correct?

19 A Yes.

20 Q And there's some yellow writing?

21 A Yes, ma'am.

22 Q Okay. And you recognize that to be consistent with
23 the shirt that you had taken on that date and at that time?

24 A Yes, ma'am. That's correct.

25 Q Now, when you initially got back to the room, did

1 you and your cousins believe that it was a particular person
2 that had actually broke into your room?

3 A Yes, ma'am.

4 Q And who was that?

5 A We thought it was my cousin's friend, Shane
6 Costello.

7 Q And what was the reason you thought it was Ms.
8 Costello?

9 A The reason I thought it was Costello, because we did
10 have a prior altercation with her earlier that day. We did
11 have an altercation with her. It -- and we noticed that she
12 was the only person that stayed behind that -- that -- when we
13 left out that evening.

14 Q Okay. So, basically, the basis for that belief was
15 she was the only person that wasn't with you and your other
16 friends when you had left that evening?

17 A That's correct.

18 Q And that you had got into a prior altercation with
19 her?

20 A That's correct.

21 Q When officers responded to the scene, did you want
22 those officers to investigate Ms. Costello?

23 A Yes.

24 Q You did? I'm going to ask you -- let me ask you a
25 different -- do you specifically recall officers asking if

1 they wanted you -- if you guys wanted him to confront Ms.
2 Costello?

3 A Oh, no, ma'am.

4 Q You did not want him to confront Ms. Costello?

5 A That's correct. No, ma'am.

6 Q Okay. So, basically, the only basis for the belief
7 that it was Ms. Costello is that she wasn't with you guys
8 earlier that evening?

9 A Yes, ma'am. That's correct.

10 Q And you had gotten into a prior confrontation?

11 A That's correct.

12 Q When -- let me rephrase this. At what point did, I
13 guess, you guys make up?

14 A It was shortly after the altercation.

15 Q Okay. And at that point, did you believe that she
16 was the one that was responsible for this?

17 A Once we all had made up, no.

18 Q Okay.

19 MS. COLE: Court's brief indulgence.

20 BY MS. COLE:

21 Q And, Ms. Love, I'm going to specifically ask you,
22 did the individual sitting right here have any permission to
23 have any of your property?

24 A No, ma'am.

25 Q Okay. And what about the specific female here? Did

1 she have any permission to enter your room or to have any of
2 your property?

3 A No, ma'am.

4 Q Do you know either of these individuals?

5 A No, ma'am.

6 Q Have you ever seen them before?

7 A No, ma'am.

8 MS. COLE: I'll pass the witness.

9 THE COURT: All right, thank you. Mr. Arnold?

10 CROSS-EXAMINATION

11 BY MR. ARNOLD:

12 Q And, ma'am, this individual that's sitting next to
13 me, you don't know if he was ever inside your room; is that
14 correct?

15 A No.

16 Q And you don't know if he was ever in possession of
17 your backpack or your Tupac shirt; is that correct?

18 A No.

19 Q Ma'am, in regards -- where did you buy that Tupac
20 shirt at?

21 A Fashion Nova.

22 Q Is that here in Las Vegas?

23 A No, sir. It's an online boutique.

24 Q Say that again. I couldn't hear you.

25 A No, sir. It's an online boutique.

1 Q Oh, it's an online boutique? And --

2 A Clothing store. Yes, sir.

3 Q And how much did it cost you?

4 A \$30.

5 Q Okay. And where did you buy that Louis Vuitton bag
6 -- backpack?

7 A We bought the Louis Vuitton bag in Los Angeles --

8 Q Okay.

9 A -- on Rodeo Drive at the Louis Vuitton store.

10 Q And when you bought that backpack, were there other
11 similar backpacks next to it?

12 A No, sir.

13 Q That was the only one?

14 A Yes.

15 Q Did -- when you purchased this backpack, did they
16 advise you that it was the only backpack made by Louis Vuitton
17 like that?

18 A Yes.

19 Q So you're saying that this is the only Louis Vuitton
20 backpack in the world made like this?

21 A Yes.

22 Q And you only paid \$2,500 for that?

23 A That's correct.

24 Q Do you have some kind of certificate of authenticity
25 to say that this was the only backpack made by Louis Vuitton

1 like that?

2 A No.

3 Q Okay. Do you know who this individual is in this
4 picture?

5 THE COURT RECORDER: One second, one second.

6 MR. HART: Got to turn on the Elmo.

7 THE COURT RECORDER: Yeah, I'm doing it.

8 MR. ARNOLD: She's going to.

9 THE COURT RECORDER: Okay.

10 BY MR. ARNOLD:

11 Q Do you know who that individual is in that picture?

12 A No, sir.

13 Q Do you know when this picture was taken?

14 A No, sir.

15 Q And when was your backpack missing?

16 A August the 23rd.

17 Q Originally, you said that you wanted Shane Costello
18 investigated. Why did you say that you wanted her
19 investigated for this?

20 A Are you speaking of now or then?

21 Q Then.

22 A Due to the prior altercation that we had with her
23 previous that day.

24 Q And did she have access to your room?

25 A No, sir.

1 Q How would she have gained access to your room?

2 A You said how would she have gained access to the
3 room?

4 Q Right.

5 A She wouldn't have access to the room.

6 Q But then why would you have wanted her investigated?

7 A It could be several ways that things could be done.
8 That's why we wanted her investigated.

9 Q What -- what idea did you have that somebody could
10 have got into your room? What -- let me be more specific.
11 What idea in your head did you have that Shane could have
12 gotten into your room?

13 A Like I stated before, it's just several ways that
14 people can do just to have access to things, so she was the
15 only person that was left behind.

16 Q When you exit the room and everybody else, was she
17 left in the room?

18 A She was not left in our room.

19 Q Did she stay in a hotel room adjoining your hotel
20 room?

21 A No, sir.

22 Q What floor was she on?

23 A She was on the same floor we was on.

24 Q Okay. How many hotel rooms down?

25 A At least one or two.

1 Q Did she ever tell you that she heard anyone trying
2 to break into your hotel room?

3 A No.

4 Q Did you ask her?

5 A Yes.

6 Q Did you ask her, did she see anybody coming upstairs
7 to go into your hotel room?

8 A Yes.

9 Q And what did she say?

10 A She said she didn't hear nor see anything.

11 Q The Tupac shirt that you saw on the male, do you
12 know what size that is?

13 A Yes, a size large.

14 Q How do you know it's a size large as opposed to
15 extra large?

16 A Because I purchased it.

17 Q No, let me ask you the question again.

18 A Yes, sir.

19 Q The t-shirt that we saw on the male that the DA
20 showed you, do you know what size that t-shirt is? You would
21 have to guess, right?

22 A I would say no because I wouldn't -- I took a guess,
23 yes.

24 Q So you don't know if that was a extra large, you
25 don't know if it was a medium; isn't that true?

1 A Yeah, that's correct, but I just know that the
2 one --

3 Q But the t-shirt that you purchased, that was a
4 large?

5 A That's correct.

6 Q Why did you purchase a large t-shirt?

7 A I like to wear my clothes a little big. I was going
8 to wear it as a dress.

9 MR. ARNOLD: Okay. All righty, I have no further
10 questions.

11 THE COURT: Any questions, Mr. Hart?

12 MR. HART: No, Your Honor.

13 THE COURT: All right. Any redirect by the State?

14 MS. COLE: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. COLE:

17 Q Ms. Love, you don't work at Louis Vuitton, correct?

18 A No, ma'am.

19 Q You don't have an inventory of what items and how
20 many of each item they sell; is that correct?

21 A No, ma'am.

22 Q When you purchased this particular backpack, was it
23 the only one in the store?

24 A Yes.

25 Q But you cannot speak to the inventory of other

1 stores?

2 A I can't. No, ma'am.

3 Q So you -- you don't know if there was this bag in
4 another store even in California?

5 A That's correct.

6 Q When you're referring to you picking the only one,
7 was that specific to that store?

8 A It was specific to that store and also the quantity
9 that was in that store.

10 Q Okay. So your testimony today isn't that you had
11 the only backpack that was manufactured like this from Louis
12 Vuitton?

13 A Correct.

14 Q You just had -- you purchased the only one in that
15 store on that date?

16 A That's correct.

17 MS. COLE: Okay. I'll pass, Your Honor.

18 THE COURT: Any recross?

19 MR. ARNOLD: Yes.

20 RECROSS-EXAMINATION

21 BY MR. ARNOLD:

22 Q Ma'am, I'm looking at this picture, and you have --
23 do you have it in front of you?

24 MR. ARNOLD: Can I approach, Your Honor?

25 THE COURT: Yes. And what's the number of that

1 picture, Mr. Arnold?

2 MR. ARNOLD: It's Exhibit 179.

3 BY MR. ARNOLD:

4 Q Ma'am, in that picture, you can see clearly that
5 that's a Louis Vuitton backpack?

6 A Yes, sir.

7 Q How can you see that clearly, or are you just
8 guessing that that's a Louis Vuitton backpack?

9 A I can see by the way the style is made, and also the
10 gold plate, and also, if I look closer into the picture, the
11 designs on the straps.

12 Q Okay, ma'am. You ever heard of a knockoff?

13 A Yes.

14 Q Okay. And the gold -- and have you heard of Louis
15 Vuitton being a knockoff before?

16 A No.

17 Q Okay. So you -- you're from California, right?

18 A No, sir.

19 Q Where are you from?

20 A I'm from Memphis, Tennessee.

21 Q Oh, okay, maybe that's the reason why. In -- in Las
22 Vegas, you never saw -- let me ask it this way. So you can
23 see -- Louis Vuitton is LXV; is that correct? That's their
24 signature thing that they have on their --

25 A Yes, sir.

1 Q And you're telling me you can look at this backpack
2 and see somewhere on that photo LXV?

3 A I can see some distinguishing on the straps, LV.

4 Q I didn't ask you all that. I said, can you see LXV
5 on this backpack?

6 A No, sir.

7 Q But that's a distinguishing thing with this
8 backpack; isn't that correct?

9 A That's correct, but I know that's the backpack.

10 Q And then what color are we looking at? It looks
11 like black to me.

12 A It looks brown.

13 Q It was brown?

14 A Um-hum.

15 Q You have to say yes for the record, ma'am.

16 A Yes.

17 Q Okay. So it was a brown backpack, but in this
18 photo, it looks black. Let me ask you another question. On
19 that gold plate, what's on the gold plate? Is it LXV?

20 A No, sir, Louis Vuitton.

21 Q It says Louis Vuitton on there?

22 A Yes.

23 Q And so can you see on that backpack the -- the
24 letters Louis Vuitton on there spelled out?

25 A No, sir.

1 Q You can't see that on that gold plate, can you?

2 A No, sir.

3 Q But you for sure know that this is your backpack?

4 A Yes.

5 Q And how do you know that? Because it's the same
6 style?

7 A Yes, just the way it looks. Yes.

8 MR. ARNOLD: All right. All right, I have no
9 further questions for this witness.

10 THE COURT: Anything further, Mr. Hart?

11 MR. HART: Yeah.

12 CROSS-EXAMINATION

13 BY MR. HART:

14 Q Just to be clear, your backpack was brown, correct?

15 A That's correct.

16 Q Yeah. Well, you know, brown and gold, I should
17 qualify, correct?

18 A Yes, sir.

19 Q Okay, not black and gold?

20 A It was brown and gold. Brown backpack with gold
21 trimmings.

22 Q Okay. And your backpack didn't have any special
23 monogram or anything else on it?

24 A I'm sorry, can you repeat that again?

25 Q Your backpack didn't have any special monogram or

1 anything else on it, correct?

2 A No, sir.

3 MR. HART: Nothing further.

4 THE COURT: All right, thank you. Any questions for
5 our jurors -- by our jurors? No questions. Thank you, ma'am,
6 for your testimony. You are excused.

7 THE WITNESS: Thank you.

8 THE COURT: Next witness for the State?

9 MS. COLE: And, Your Honor, the State calls Patricia
10 Williams.

11 THE COURT: All right, thank you.

12 THE MARSHAL: Watch your step. Raise your right
13 hand. Face the Clerk. Once she swears you in, pull your
14 chair forward to that red dot right there and speak loud.

15 THE WITNESS: Okay.

16 PATRICIA WILLIAMS-JONES, STATE'S WITNESS, SWORN

17 THE CLERK: Thank you. Please have a seat.

18 THE WITNESS: Thank you.

19 THE CLERK: And state and spell your first and last
20 name for the record.

21 THE WITNESS: My name is Patricia Williams-Jones.
22 That's P-a-t-r-i-c-i-a, W-i-l-l-i-a-m-s, hyphen, J-o-n-e-s.

23 THE COURT: Go ahead, counsel.

24 DIRECT EXAMINATION

25 BY MS. COLE:

1 Q Good morning, Patricia.

2 A Good morning.

3 Q Where do you currently reside?

4 A I stay in Memphis, Tennessee.

5 Q Okay. And did you come to Las Vegas with some
6 family members in August of 2020?

7 A I did.

8 Q Okay. Do you recall if it was around August 21st?

9 A Yes.

10 Q Okay. And approximately how long did you guys stay
11 here for?

12 A We stayed a few days. I'm not exactly sure how many
13 days we stayed, but we stayed a couple of days.

14 Q And that was at the Harrah's here in Las Vegas,
15 Clark County, Nevada?

16 A Yes, it was.

17 Q Specifically, located at 3475 South Las Vegas
18 Boulevard?

19 A Yes.

20 Q And did you stay in Room No. 15058?

21 A I did.

22 Q Okay. And who was in that room with you?

23 A It was myself, it was my wife Devonica Jones, her
24 cousin Raven, and her cousin Jewell.

25 Q Okay. And what's Raven's full name?

1 A Raven -- I'm not sure of her last name. Raven --
2 I'm sorry.

3 Q Is it Raven Hough?

4 A Yes, yes. I'm sorry.

5 Q That's okay.

6 A And Jewell Love.

7 Q Okay, Jewell Love. So there was four of you?

8 A Yes, there was.

9 Q Was there anybody else who was traveling with you
10 but not staying in that -- in that exact room?

11 A Yes, my wife cousins.

12 Q Okay, and what's her name?

13 A Terrea.

14 Q And did Terrea have another friend with her?

15 A Yes. She had another friend, LaSheila (phonetic),
16 and she also had a friend, Shane.

17 Q And LaSheila, is her last name Costello?

18 A No, it's Shane's last name.

19 Q Okay, Shane's last name?

20 A Yes.

21 Q All right. Now, I'm going to specifically direct
22 your attention to August 23rd of 2020. You were staying at
23 the Harrah's at that date and at that time?

24 A Yes.

25 Q And approximately what time did you leave your room

1 that evening?

2 A It was around 9:15 because we had dinner
3 reservations later, around 9:30.

4 Q Okay. And who was in the room with you at that
5 time?

6 A It was myself and my wife, Devonica. Jewell and
7 Raven had left earlier, before we did.

8 Q So you and Devonica were the last ones to be in that
9 room, and that was at approximately 9:15?

10 A Yes.

11 Q Okay. What time approximately did you return back
12 after dinner?

13 A It was maybe around -- before midnight.

14 Q All right, approximately around 12:00 A.M.?

15 A Yes.

16 Q To the best of your recollection?

17 A Yes.

18 Q Okay. And when you came back to the room, did you
19 notice something?

20 A Well, actually, me and Devonica stopped in Terrea's
21 room to pick up some things that we left in her room earlier
22 that day. Jewell and Raven went into the room first. And
23 when we walked into the room, we noticed that the room was not
24 like we left it. Things was just thrown around. And we had
25 already packed our bags because our plane was leaving in a

1 couple of hours that -- early that next morning, so the room
2 was pretty -- pretty much clean when we left for dinner that
3 night.

4 Q Okay, I'm going to stop you right there.

5 A Okay.

6 Q When you said that the room was a mess, can you
7 describe -- you said that your belongings were packed up.
8 What was the state of the room when you entered?

9 A Well, far as my bag, I packed my bag. It was very
10 neat. When we walked into the room, our clothes was just
11 thrown everywhere, we had food thrown all over the floor, and
12 it was just a big mess. Like, I mean, it was just a mess. It
13 was real, real bad.

14 Q So it was immediately apparent to you that the state
15 of the room was different than when you had left it?

16 A Of course, especially when I saw my bag, and I know
17 that -- know that I packed my bag preparing to leave early for
18 the next morning.

19 Q Okay. And did you notice anything regarding your
20 door that was different?

21 A I did. Actually, when my wife got ready to leave
22 out the room to go let the other -- other people in the next
23 room, Terrea's room, let them know what had happened, we
24 noticed some picks in our doors.

25 Q Okay. And can you describe what you mean by some

1 picks in your door?

2 A It looked like someone maybe took a object or
3 something and tried to pry the door open. There was like some
4 scratches on the outside of the door. Well, it's the inside
5 of the door but the outside of the door, if you understand
6 what I'm saying.

7 Q Kind of -- yes, I do understand what you're saying.

8 A Okay.

9 Q Kind of by -- close to the door handle?

10 A Yes, yes.

11 Q Okay. And you described that specifically as
12 scratches?

13 A Yeah.

14 Q Were there paint chips?

15 A Yes, um-hum.

16 Q And were those marks or those -- were they there
17 prior to you leaving that night at 9:15?

18 A I didn't notice anything wrong with the door, no.

19 Q So when you came back to the room around midnight,
20 that was something different?

21 A Yes.

22 Q Okay. Now, when you were in Las Vegas, did you, or
23 Devonica, or Raven meet any new friends?

24 A No.

25 Q Did you meet anybody that was allowed to come into

1 your room?

2 A Absolutely not.

3 Q Did Raven or Devonica give anybody any permission to
4 be in your room?

5 A No.

6 MR. HART: Objection, speculation.

7 THE COURT: Sustained.

8 BY MS. COLE:

9 Q Did you specifically give anybody permission to be
10 in your room?

11 A No, I didn't.

12 Q So when you and Devonica entered the room, can you
13 describe the state of Jewell and Raven when they were also in
14 the room?

15 A When we walked into the room, they was looking at us
16 like, why did y'all leave the room such a mess? And we told
17 them, you know, we didn't leave the room like this, and that's
18 when Jewell Love noticed that her backpack was missing. And
19 when she noticed that her backpack was missing, that's when
20 everybody started noticing things that was missing.

21 Q Is it safe to say that everybody was concerned,
22 startled?

23 A Yes. I mean, we was very upset about it, very
24 upset.

25 Q Frantic?

1 A Yes, scared.

2 Q Scared?

3 A Yes.

4 Q And you also said that she had noticed --
5 specifically, Jewell had noticed that property was missing?

6 A Yes. She was the first one to notice that something
7 was missing, which was her backpack.

8 Q Okay. How was Raven responding?

9 A Raven was very, very upset. She was very upset.
10 Raven actually started crying.

11 Q Okay. Now, ultimately, who did you and the other
12 girls staying in your room think was responsible for this?

13 A Well, we thought Shane had something to do with it
14 because of the little argument we had earlier that day, but --

15 Q Okay, and just to stop you. When you referred to
16 Shane, this is Costello?

17 A Yes. I'm sorry.

18 Q No, that's okay. So you know her first name to be
19 Shane, and her last name --

20 A Yeah.

21 Q -- to be Costello?

22 A Yes.

23 Q And did you ever see Ms. Costello with any of your
24 property?

25 A No, I didn't.

1 Q Did you ever see her in your room?

2 A No.

3 Q Did she ever state that she went in your room and
4 took your items?

5 A No, she didn't.

6 Q So, essentially, the only reason you thought she was
7 responsible was because of the tiff that you guys were in?

8 A Yes.

9 Q Was she also the only one that wasn't at dinner with
10 you that night?

11 A That's correct.

12 Q Okay. And when officers responded, did you want the
13 officer to confront Costello?

14 MR. HART: Objection, leading.

15 THE COURT: I'm going to overrule the objection. Go
16 ahead.

17 THE WITNESS: No, I didn't.

18 BY MS. COLE:

19 Q Okay, and why did you want -- why did you not want
20 the officers to confront Costello?

21 A Because I didn't want things to get worse than what
22 they already was.

23 Q Okay. And approximately when did you all make up?

24 A We made up pretty much when the officer was there
25 because she was just as upset as we was about what happened to

1 us. She was just as upset. She was real upset about it as
2 well.

3 Q So when you saw her demeanor and her response, that
4 kind of changed your perception of what happened?

5 A I knew she didn't have anything to do with it.

6 Q Okay. And, ma'am, did you specifically have -- you
7 talked about how your bag was packed, and it was unpacked.
8 Did you specifically have any property stolen?

9 A Yes, I did.

10 Q And what property was that?

11 A I had clothes missing. The most important thing to
12 me, I had a small pouch, which I call a wallet. It was a
13 multicolored wallet that had all my personal information in
14 it.

15 Q Okay. And when you say personal information, can
16 you be specific? What was in that small pouch?

17 A I had debit cards, I had credit cards, and I also
18 had my IDs and my kids' IDs.

19 Q Okay. And when you say IDs, are you talking about
20 Social Security cards?

21 A Yes, I am.

22 Q Okay. So, specifically, your Social Security card
23 and your kids' Social Security cards?

24 A Correct. Yes.

25 Q Okay. Did you have anything else taken?

1 A I had some hair -- some wigs that were stolen.

2 Pretty much the clothes, the shoes, and my hair, and the --

3 like I said, the most important thing was my wallet --

4 Q Okay.

5 A -- that had all my information in it.

6 Q Okay.

7 MS. COLE: And, Your Honor, for the record, I'm

8 showing defense counsel what's been marked as State's

9 stipulated 139.

10 THE COURT: All right, thank you.

11 MS. COLE: And, Your Honor, permission to approach?

12 THE COURT: Yes.

13 BY MS. COLE:

14 Q Ma'am, I'm showing you what's been marked as State's

15 stipulated Exhibit 139. Can you take a look at this?

16 A Um-hum.

17 Q Do you recognize what's depicted in those photos --

18 in that photo?

19 A Yes.

20 Q Okay. What are you looking at?

21 A This is my information. This is my Social Security

22 cards and my kids' Social Security cards.

23 Q And how do you know that? Is it because you know

24 your Social Security number?

25 A I know my Social Security numbers, and I know my

1 handwriting on these Social Security cards.

2 Q Okay. Do you also know your kids' Social Security
3 numbers?

4 A Yes, I do.

5 MS. COLE: And, Your Honor, permission to publish
6 State's stipulated 139?

7 THE COURT: Yes.

8 BY MS. COLE:

9 Q So, ma'am, in looking at this, Kylon Antonio
10 Williams, who is that to you?

11 A That's my son.

12 Q Okay. And you specifically had possession of his
13 Social Security card on that date?

14 A I did.

15 Q On August 23rd?

16 A I did.

17 Q Okay. And what about Madison Elaine Williams? Who
18 is that to you?

19 A Madison -- Madison is my daughter.

20 Q Okay. And Patricia Ann Williams?

21 A Yes, that's myself.

22 Q That's you, and you had -- it looks like there was
23 two different copies?

24 A Yes. That was my name change, so I had both copies
25 of my IDs.

1 Q Okay. So this one, can you state your name on this
2 specific Social Security card?

3 A Patricia Ann Williams.

4 Q Okay. And it looks like this one's -- what's the
5 date on that?

6 A It's 12, looks like 05 or 03 -- I can't see that --
7 2017.

8 Q Okay. And then this one, what is your name
9 indicated on here?

10 A It's Patricia Ann Williams-Jones.

11 Q And you stated this was your new Social Security
12 card after your name change?

13 A Yes.

14 Q Okay, and what's the date depicted on this one?

15 A 9/06/2019.

16 Q Okay. And then, again, Madison Elaine Williams,
17 that's also your daughter?

18 A Yes.

19 Q Okay. And all of these Social Security cards were
20 in your possession on August 23rd?

21 A It was, yes.

22 Q And when you came back into your room around
23 midnight, they were gone?

24 A They was gone out of my black purse that I had.
25 They was gone.

1 Q And, ma'am, I'm going to specifically ask you if the
2 male sitting in court today, if he ever had permission to have
3 any of your property?

4 A No, ma'am.

5 Q You don't know that individual?

6 A I do not know him.

7 Q Okay. And I'm going to ask you the same thing with
8 the female sitting in court today. Did she have any
9 permission to have your property?

10 A I don't know her either.

11 Q Okay.

12 A I don't. No.

13 Q Okay, so she did not?

14 A No, ma'am.

15 MS. COLE: I'll pass the witness, Your Honor.

16 THE COURT: All right, thank you. Mr. Arnold, any
17 cross-examination?

18 MR. ARNOLD: Yes.

19 CROSS-EXAMINATION

20 BY MR. ARNOLD:

21 Q Ma'am, you came back to the room about 10:00 P.M.
22 that night?

23 A No, it was close to midnight.

24 Q Oh, it was closer to midnight?

25 A Yes.

1 Q And then when did you meet with Costello? Remember,
2 you -- you described that scenario where Costello came out,
3 and she seemed concerned about your loss, and that's when you
4 knew --

5 A Um-hum.

6 Q -- that she didn't have anything to do with it?

7 A Uh-huh.

8 Q How long was that into everything?

9 A That was like during the time when the officers was
10 there. When we first came back to the room, we instantly
11 thought she had something to do with it only because we was
12 just upset.

13 Q Right.

14 A But it was during the time the officers and the
15 detectives was there that she showed concern about what had
16 happened to us, so it was during that time.

17 Q Okay. And then you recall that you filled out a
18 voluntary statement, though?

19 A I'm sorry?

20 Q Do you recall filling out a voluntary statement, a
21 handwritten statement?

22 A And what is that?

23 Q It's something where the police said, hey, go ahead
24 and describe what was taken from you and write that down in a
25 statement.

1 A Oh, yes. My wife actually did that part. She did
2 the -- the paperwork on that.

3 Q Okay. And did you sign it on -- on -- for yourself?

4 A I signed it, yeah.

5 Q Okay, but your -- your wife was the one that wrote
6 everything down?

7 A The detective told us we can do one paperwork and we
8 both could sign it.

9 Q Okay. And so you read it before you signed it,
10 right?

11 A Yes, I did.

12 Q Now, the things that you listed in this voluntary
13 statement, you filled that out after you were convinced that
14 Costello wasn't involved in this?

15 A Could you repeat that?

16 Q Yeah. This -- when you had listed out and put
17 everything in this statement --

18 A Um-hum.

19 Q -- you were already convinced that Costello wasn't
20 involved in this, right?

21 A It was pretty much during all the same time. When
22 we did the paperwork, she was still sitting there. So, I
23 mean, it was just during that time.

24 Q Well, you said that you had looked at her. All I'm
25 trying to get is a frame of reference as to when you believe

1 she wasn't involved in it. Was it before or after you filled
2 out the statement?

3 A Pretty much after.

4 Q After you filled out the statement?

5 A I really -- really can't understand your question
6 because she was sitting there the whole time. As we was
7 filling out the paperwork, she was sitting there, but she was
8 showing more concern. She was also concerned about what had
9 happened to us as well as -- as we was filling out the
10 paperwork.

11 Q Okay. So you were filling out this -- the paperwork
12 --

13 A Um-hum.

14 Q -- you were looking at her, and you said, while you
15 were looking at her, she had no involvement in it?

16 A Pretty much, yes.

17 Q Okay.

18 MR. ARNOLD: Your Honor, may I approach?

19 THE COURT: Yes.

20 MR. ARNOLD: Do you have a copy of the statement?

21 BY MR. ARNOLD:

22 Q I'm going to hand this to you.

23 A Um-hum.

24 Q I need to look at it, too, at the same time.

25 A Okay.

1 Q But --

2 MR. ARNOLD: Do I need the microphone, or can you
3 hear me?

4 THE COURT RECORDER: I can hear you.

5 MR. ARNOLD: Okay.

6 BY MR. ARNOLD:

7 Q So is that your statement that I handed to you?

8 A This is our statement; this is Devonica's writing,
9 though.

10 Q Okay, that's what you just described to the jury.
11 And then you said, at the bottom, you signed it, right?

12 A Um-hum.

13 Q You have to say yes for the record.

14 A Yes. I'm sorry.

15 Q That's okay. And then read that last sentence.

16 A "We do all believe -- we do all believe it was a
17 young lady that was with us by the name of Costello." I -- I
18 can't see the first. "Black female, about 240, brown hair,
19 brown eyes."

20 Q Now, that's the same Costello that we've all been
21 referring to, right?

22 A Yes.

23 MR. ARNOLD: Okay. I have no further questions for
24 this witness.

25 THE COURT: All right, thank you. Mr. Hart, any

1 follow -- any cross-examination?

2 CROSS-EXAMINATION

3 BY MR. HART:

4 Q You said you also lost your hair?

5 A I'm sorry?

6 Q You said -- did you say your hair was taken, or?

7 A It was a wig.

8 Q Okay. What time did you guys leave your room?

9 A Me and Devonica left at nine -- around 9:15.

10 Q Did everybody leave at the same time?

11 A The others, they left before we did. We was the
12 last two to leave the room.

13 MR. HART: Okay, very good. That's it.

14 THE WITNESS: Thank you.

15 THE COURT: Any redirect by the State?

16 MS. COLE: Yes, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. COLE:

19 Q Ms. Williams, the statement Mr. Arnold was
20 referencing, did you actually write that out?

21 A No, I didn't.

22 Q Who wrote that out?

23 A Devonica, my wife.

24 Q And that was a joint statement on behalf of both of
25 you?

1 A Yes.

2 Q And you did sign that?

3 A Yes.

4 Q And when you're talking about when you guys thought
5 it was Costello, when she acted upset, that was all happening
6 around the same time?

7 A Yes, it was.

8 Q Things were changing moment by moment?

9 A Yes.

10 MS. COLE: No further questions, Your Honor.

11 THE COURT: Anything further, Mr. Arnold?

12 MR. ARNOLD: No further questions.

13 THE COURT: Mr. Hart?

14 MR. HART: No, Your Honor.

15 THE COURT: All right. Any questions by our jurors?

16 All right, no questions. Thank you, ma'am, for your
17 testimony. You are excused.

18 THE WITNESS: Thank you.

19 THE COURT: Next witness for the State?

20 MS. COLE: Your Honor, the State calls Brooke
21 Bargholtz.

22 MR. LEXIS: Judge, may I approach?

23 THE COURT: Yes. Oh, is it a scheduling issue, or?

24 MR. LEXIS: Yeah, scheduling.

25 THE COURT: Oh, hang on. Let's have counsel --

1 MR. LEXIS: No, I already told them, Judge.

2 THE COURT: Is that correct, Mr. Arnold?

3 MR. ARNOLD: Yes, Your Honor.

4 THE COURT: Mr. Hart?

5 MR. HART: Yes.

6 THE COURT: Okay.

7 MR. LEXIS: I just -- after this witness, I got one
8 more.

9 THE COURT: Okay.

10 MR. LEXIS: So our hope's that we get through both
11 of them, and then lunch.

12 THE COURT: All right, great. Thank you. Ladies
13 and gentlemen, that was just a discussion about scheduling of
14 witnesses for today.

15 THE MARSHAL: Watch your step. Raise your right
16 hand. Face the Clerk. Once she swears you in, scoot your
17 chair up here and speak loud, to that red light.

18 THE WITNESS: Okay.

19 THE CLERK: Please raise your right hand.

20 BROOKE BARGHOLTZ, STATE'S WITNESS, SWORN

21 THE CLERK: Thank you. Please have a seat, and
22 state and spell your first and last name for the record.

23 THE WITNESS: Brooke Bargholtz.

24 THE CLERK: Please spell it.

25 THE WITNESS: Oh.

1 THE COURT: Spell your name, please.

2 THE WITNESS: B-r-o-o-k-e, B-a-r-g-h-o-l-t-z.

3 THE COURT: Go ahead, counsel.

4 DIRECT EXAMINATION

5 BY MS. COLE:

6 Q Good morning, Brooke.

7 A Hi.

8 Q Where do you live?

9 A Wisconsin.

10 Q Were you in Las Vegas with some friends around
11 August 21st, 2020?

12 A Yes.

13 Q And what was the purpose of that trip?

14 A One of my friend's birthdays.

15 Q And were you specifically staying at the Paris Hotel
16 at 3655 South Las Vegas Boulevard?

17 A Yes.

18 Q And that's here in Las Vegas, Clark County, Nevada?

19 A Yes.

20 Q Were you specifically staying in Room 2186?

21 A Yes.

22 MS. COLE: And for the record, I'm publishing
23 State's stipulated Exhibit 41.

24 BY MS. COLE:

25 Q Is that, in fact, the outside of your door and the

1 room number?

2 A Yep.

3 Q Thank you. Who was staying in the room with you
4 during this trip?

5 A It was myself, Rebecca, Inga, Marissa, and Kate.

6 Q Okay, so we're going to start with Rebecca. What's
7 her full name?

8 A Rebecca Finger.

9 Q Okay.

10 A Marissa Metro.

11 Q Marissa Metro.

12 A Kate Berry, and Inga --

13 Q Kate Berry.

14 A Inga Williams.

15 Q And you guys are all friends?

16 A Yep.

17 THE COURT: Is that a yes? We have to have a yes or
18 a no.

19 THE WITNESS: Oh, yes.

20 THE COURT: Thank you.

21 BY MS. COLE:

22 Q And specifically, on August 21st, 2020, did you guys
23 leave the room for the purpose of going to breakfast?

24 A Yes.

25 Q And what time was that approximately?

1 A Approximately 7:15.

2 Q Around 7:00?

3 A 7:00, 7:30-ish.

4 Q Okay. And what time did you come back?

5 A Around eight o'clock.

6 Q Could it have possibly been 8:30?

7 A Yeah.

8 MR. HART: Objection, leading.

9 THE COURT: Sustained.

10 MS. COLE: Court's brief indulgence.

11 BY MS. COLE:

12 Q Ma'am, do you remember writing a voluntary statement
13 shortly after this incident occurred?

14 A Um-hum. Yes.

15 Q And that was right after you guys had come back into
16 your room?

17 A Yes.

18 Q Okay. And would looking at that help to refresh
19 your recollection?

20 A Yes.

21 MS. COLE: Your Honor, may I approach?

22 THE COURT: Yes.

23 BY MS. COLE:

24 Q Go ahead and read through this, and then let me know
25 when you're done.

1 A Okay. Yeah.

2 Q Okay. Did looking at that help to refresh your
3 recollection of the time that you left for breakfast and the
4 time you came back?

5 A Yes.

6 Q Okay. And what time did you leave?

7 A 7:45.

8 Q 7:45 in the morning --

9 A Yep.

10 Q -- on the 21st?

11 A Yes.

12 Q And what time did you guys arrive back?

13 A Around 8:40-ish.

14 Q Okay. So you were gone for approximately an hour?

15 A Correct.

16 Q And where did you guys go to breakfast?

17 A Downstairs in the lobby at one of the crepe places
18 down there.

19 Q So it was in the Paris Hotel itself?

20 A Yep, in the hotel.

21 Q Okay. And did you specifically give anybody
22 permission besides the individuals that were staying in your
23 room to enter your room?

24 A No.

25 Q Did anybody have any permission to use any of your

1 property --

2 A No.

3 Q -- besides these individuals?

4 A No.

5 Q And when you left at 7:45 and returned at 8:40, were
6 all of the girls, Rebecca, Marissa, Kate, and Inga, with you?

7 A Yes.

8 Q You had all left the room at the same time?

9 A Yes.

10 Q When you arrived back at approximately 8:40, what
11 did you notice?

12 A I noticed that there was a phone laying on the bed
13 and realized it was none of our phones. So -- and I realized
14 my entire backpack was gone by my suitcase, and some of my
15 clothes were out of my suitcase, so it was kind of all over
16 the place. So I -- and I --

17 Q Okay, I'm going to stop you right there.

18 A When I left prior, it was all intact.

19 Q I'm going to stop you right there.

20 A Okay.

21 MS. COLE: And showing defense counsel what's been
22 marked as State's Exhibit 53.

23 MR. ARNOLD: Um-hum.

24 MR. HART: Yeah, good.

25 MS. COLE: Permission to approach, Your Honor?

1 THE COURT: Yes.

2 BY MS. COLE:

3 Q Do you recognize what's depicted in this photo?

4 A Yes.

5 Q Okay, and what is that?

6 A That is my bed.

7 Q Okay, and what's in the bed?

8 A A phone.

9 Q Okay. Was that the phone that you did not
10 recognize?

11 A Yes.

12 MS. COLE: Permission to publish, Your Honor?

13 THE COURT: Yes.

14 MS. COLE: I'm publishing State's stipulated 53.

15 BY MS. COLE:

16 Q This was one of the first items that you identified
17 that did not belong to anybody else?

18 A Correct.

19 Q Okay. And that was startling to you?

20 A Yes.

21 Q Okay. Did you notice anything significant about the
22 door?

23 A Yes, it had a few punctures to the lock on the door.

24 MS. COLE: And, Your Honor, permission to approach?

25 THE COURT: Yes.

1 MS. COLE: For the record, I'm showing the witness
2 what's been marked as State's stipulated 44 through 47.

3 BY MS. COLE:

4 Q Can you take a look at those?

5 A Um-hum.

6 Q Do you recognize those photos?

7 A Yes.

8 Q And what are these photos depicting?

9 A The puncture to our lock on our door and on the door
10 itself as well.

11 Q Okay. Publishing State's 47. When you left your
12 room on the morning of the 21st, was that mark or those
13 scratches on the door?

14 A No.

15 Q That was something new that you noticed when you
16 returned?

17 A Yes.

18 Q Publishing State's 46. Are those the scratches from
19 a different angle that you noticed?

20 A Yes.

21 Q Okay. Publishing State's 45. Again, this is
22 another photo depicting what you saw, damage to the door?

23 A Yes.

24 MR. HART: Objection, leading.

25 THE COURT: Sustained. Just rephrase the question.

1 BY MS. COLE:

2 Q What are we looking at here?

3 A A puncture to the lock on the door.

4 Q Showing you State's 44. What are we looking at
5 here?

6 A Same thing, a puncture to the lock.

7 Q Okay. And, again, all the -- all those photos, that
8 was different from when you left the -- left in the morning on
9 8/21?

10 A Yes.

11 Q Okay. Now, you specifically talked about some
12 things that were missing from your room. Can you describe
13 those and the value of those items?

14 A A Dell computer, approximately \$800. AirPods.

15 MR. HART: And, Your Honor, I would object if it's
16 not her items as to speculation.

17 MS. COLE: She's testifying to her items.

18 THE COURT: Ms. Cole, can you -- can you just
19 restate the question just to make sure I heard it correctly?

20 BY MS. COLE:

21 Q Can you tell us what specific items you had taken
22 and the value of those items?

23 A Yes.

24 THE COURT: Go ahead. Answer the question.

25 THE WITNESS: A Dell computer, approximately \$800.

1 BY MS. COLE:

2 Q And that was your specific Dell computer?

3 A It was -- yes, it was my work computer.

4 Q Okay. So all the items that you're testifying to
5 are what was taken personally from you?

6 A Correct.

7 Q Okay, so a Dell computer. What else?

8 A AirPods, approximately \$170.

9 Q And you bought the computer and those AirPods?

10 A I did not buy the computer because it's my work
11 computer.

12 Q Okay, but you know the value because it was your
13 work computer?

14 A Yes, because I had to contact them.

15 Q Okay, and what else?

16 A AirPods, approximately \$170. My Apple Watch,
17 approximately \$300. My Kate Spade wallet, approximately \$200,
18 and then credit cards and everything in that.

19 MS. COLE: Okay, and showing defense counsel what's
20 been marked as State's stipulated 19. Permission to approach,
21 Your Honor?

22 THE COURT: Yes.

23 BY MS. COLE:

24 Q Showing you State's 19. Can you take a look at this
25 document? Do you recognize that?

1 A Yes.

2 Q What is it?

3 A My credit card statement.

4 Q Your credit card statement?

5 A Uh-huh.

6 Q Okay.

7 MS. COLE: Permission to publish, Your Honor?

8 THE COURT: Yes.

9 BY MS. COLE:

10 Q Do you see your name on this credit card statement?

11 A Yes.

12 Q Okay, and is that depicted in the left-hand corner?

13 A Yes.

14 Q Okay. And specifically, this was -- this is your
15 credit card ending in 2309?

16 A Yes.

17 Q Okay. Was that one of the cards that was taken?

18 A Yes.

19 Q And that was specifically a Capital One card?

20 A Yes.

21 Q When you realized that that card was stolen, did you
22 report it stolen?

23 A Yes, I automatically locked it.

24 Q You automatically locked it?

25 A Yep.

1 Q Okay. After it was stolen, did you get any
2 notifications that it was attempting to be used?

3 A I did.

4 Q But at that time, you had already locked that
5 specific card?

6 A Correct.

7 Q When you locked that specific card ending in 2309,
8 did you subsequently get a new card with a new card -- with a
9 new four-digit card number at the end?

10 A Yes.

11 Q Did you give anybody permission to specifically use
12 that Capital One card ending in 2309 on August 21st, 2020?

13 A No, no.

14 Q No one had permission to use that card except for
15 you?

16 A Yes, correct.

17 Q When you were in Las Vegas, did you ever make any
18 purchases at Target?

19 A No.

20 Q Did you also have a backpack stolen?

21 A I did.

22 Q Okay. Was that the backpack that your computer was
23 in?

24 A Yes.

25 Q Okay. And can you describe the demeanor of Marissa,

1 Kate, and Inga when you returned to the room?

2 A We were all just kind of freaking out. We really
3 didn't know what to do. My -- all my cards had been stolen,
4 my cash. Like, I literally had nothing. My work computer was
5 stolen, everything. Everybody else was kind of freaking out
6 in the same manner. Some of --

7 Q When you --

8 A -- their things were taken as well.

9 Q I'm going to stop you right there. When you say
10 "freaking out," were they emotional?

11 A Yes, we were all very emotional.

12 Q Was anybody crying?

13 A Two of us were.

14 Q Okay, and who was that?

15 A It was myself and Inga, I believe.

16 Q It's fair to say everyone was surprised?

17 A Yes, very surprised.

18 Q Okay. Do you -- are you aware that -- did any of
19 the other girls give -- give anyone permission to be in your
20 room?

21 A No.

22 MR. HART: Objection, speculation.

23 THE COURT: The question was, "are you aware of
24 anyone"; is that --

25 MS. COLE: Are you aware of any of the other girls

1 that were staying in your room giving permission to anybody
2 else.

3 THE COURT: I'm going to -- I'm going to overrule
4 the objection. Go ahead and answer the question.

5 THE WITNESS: No, I was not.

6 BY MS. COLE:

7 Q So it's your understanding you specifically didn't
8 give any permission, nor did any of the other girls?

9 A Correct.

10 Q And, ma'am, I'm showing you State's 53 again, that
11 specific phone. When you first noticed that, did you actually
12 pick that phone up?

13 A I did.

14 Q Were you trying to determine whose phone that was?

15 A Yes.

16 Q And once you picked it up and handled it, did you
17 understand that it wasn't your phone?

18 A Yes.

19 Q And it also wasn't any of the other girls' phone?

20 A Yep.

21 Q And at that time, did you put it back down?

22 A Yes.

23 Q Did you alert officers about this item of evidence?

24 A Yes.

25 Q And, ma'am, specifically, the male individual that's

1 sitting here in the courtroom, did he have permission to have
2 any of your property?

3 A No.

4 Q Do you know that individual?

5 A No.

6 Q Have you ever seen him before?

7 A No.

8 Q What about the female that's sitting in this
9 courtroom? Did she have any permission to use any of your
10 property?

11 A No.

12 Q Do you know that person?

13 A No.

14 Q Have you ever seen her before?

15 A No.

16 MS. COLE: No further questions. I'll pass the
17 witness, Your Honor.

18 THE COURT: Any cross-examination, Mr. Arnold?

19 MR. ARNOLD: No, Your Honor.

20 THE COURT: Cross-examination, Mr. Hart?

21 CROSS-EXAMINATION

22 BY MR. HART:

23 Q The room wasn't registered in your name, or was it
24 registered in your name?

25 A It was not registered in my name.

1 Q Okay. Whose room -- who got the room?

2 A Inga.

3 Q Inga --

4 A Williams.

5 Q Williams? Okay.

6 MR. HART: Nothing further.

7 THE COURT: Any redirect by the State?

8 MS. COLE: Briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. COLE:

11 Q Ma'am, did all five girls pay for the room?

12 A Yes.

13 Q You guys split it in equal portions --

14 A Correct.

15 Q -- for the amount it was each night and the amount
16 of days?

17 A Yes.

18 MS. COLE: No further questions.

19 THE COURT: Any follow-up, Mr. Arnold?

20 MR. ARNOLD: No, Your Honor.

21 THE COURT: Follow-up, Mr. Hart?

22 MR. HART: No.

23 THE COURT: All right. Any questions by our jurors?

24 No questions. Ma'am, thank you very much for your testimony.

25 THE WITNESS: Thank you.

1 THE COURT: You are excused. Do we have another
2 witness this morning or no?

3 MR. LEXIS: Yes.

4 THE COURT: All right. Who's next?

5 MS. COLE: And, Your Honor, the State calls Gary
6 Krusinski.

7 THE COURT: All right.

8 THE MARSHAL: Watch your step. Raise your right
9 hand and face the Clerk. Once she swears you in, slide your
10 chair all the way forward to that red light and speak loud.

11 THE WITNESS: Yeah, okay.

12 THE CLERK: Sir, stay standing, please.

13 THE MARSHAL: Please remain standing until she tells
14 you to sit down.

15 THE WITNESS: Oh.

16 THE CLERK: Please raise your right hand.

17 GARY KRUSINSKI, STATE'S WITNESS, SWORN

18 THE CLERK: Thank you. Please have a seat, and
19 state and spell your first and last name for the record.

20 THE WITNESS: Gary A. Krusinski.

21 THE CLERK: Please spell that, sir.

22 THE COURT: Spell your first and last name, sir.

23 THE WITNESS: Oh, spell. G-a-r-y,
24 K-r-u-s-i-n-s-k-i.

25 THE COURT: Go ahead, counsel.

1 MS. COLE: Court's brief indulgence.

2 THE WITNESS: I got hearing aids, so.

3 (Pause in the proceedings.)

4 THE COURT RECORDER: Ms. Cole?

5 MS. COLE: Yeah.

6 THE COURT RECORDER: Does your witness need hearing
7 headphones?

8 DIRECT EXAMINATION

9 BY MS. COLE:

10 Q Sir, do you need hearing headphones?

11 A I've got hearing aids on.

12 Q Okay.

13 A I just turned them up. They should be okay.

14 Q Okay, thank you.

15 A Thank you.

16 (Pause in the proceedings.)

17 BY MS. COLE:

18 Q Sir, can you hear me okay?

19 A Yes.

20 Q Okay. I'm going to talk really loud.

21 A Great, thank you.

22 Q Sir, where do you currently reside?

23 A 5854 Queens Highway, Parma Heights, Ohio.

24 Q Okay, so you do not live in Las Vegas?

25 A No.

1 Q Were you visiting Las Vegas on August 16th of 2020?

2 A Yes.

3 Q And were you staying at the Paris Hotel located at
4 3655 South Las Vegas Boulevard here in Clark County, Las
5 Vegas, Nevada?

6 A Yes.

7 Q And were you staying in Room No. 2198P?

8 A 2198P, yes.

9 Q Okay. Sir, I'm showing you what's been marked as
10 State's stipulated 25. Is that the outside of the hotel room
11 door that you were staying in?

12 A Yes.

13 Q And that's 2198P?

14 A That is correct.

15 Q Okay. And, sir, who were you staying there with?

16 A Just me.

17 Q No one else was with you?

18 A Nope.

19 Q No one else had permission to enter your room?

20 A No.

21 Q You didn't meet any friends or anybody there that
22 was -- later came back to your room?

23 A No.

24 Q And do you recall approximately what time you left
25 your room on August 16th, 2020, for the evening?

1 A Yes, 7:00 P.M. I watched Yellowstone, and then I
2 left the room at 7:00.

3 Q Okay. So you left at approximately 7:00 P.M.?

4 A Um-hum.

5 Q And do you recall what time you arrived back?

6 A 1:00. 1:00 A.M.

7 Q 1:00 in the morning? Okay. And when you arrived
8 back in your room, did you notice anything significant?

9 A When I came to the room, I noticed there was a
10 little chip by the door, and I remember saying to myself, oh,
11 somebody tried to get into my room.

12 Q Okay. So when you saw that damage to your door, you
13 immediately thought that somebody had tried to gain access to
14 your room?

15 A Right. Yes.

16 Q Okay, sir, I'm going to get some exhibits for you.

17 MS. COLE: 27 through 34.

18 MR. ARNOLD: Okay.

19 MR. HART: Okay.

20 MS. COLE: 27 through 34. And, Your Honor,
21 permission to approach?

22 THE COURT: Yes.

23 BY MS. COLE:

24 Q And, sir, I'm showing you State's stipulated 27, 28,
25 29, 30, 31, and 32 through 34. Can you take a look at those

1 and let me know when you're done?

2 A Okay.

3 Q Do you recognize those photos?

4 A Yeah.

5 Q And what do those photos depict?

6 A My door being, you know, jammed in with something.

7 Q So these photos depict the damage to your door that
8 you noticed when you arrived back in your room?

9 A Yes.

10 Q Okay. Publishing State's 34. That's consistent
11 with the damage?

12 A Yes.

13 Q Okay. Publishing State's 30. Consistent with the
14 damage?

15 A Yes.

16 Q Publishing State's 31. What are we looking at here?

17 A Looking at my door.

18 Q Okay. And that is, in fact, how it looked when you
19 arrived back to your room?

20 A Yes.

21 Q Okay, sir. Did your door look like that before you
22 left on August 16th?

23 A No.

24 Q So when you came back, that was something new?

25 A Yes.

1 Q Okay. And specifically, when you arrived back in
2 your room, was any of your property missing?

3 A Yes.

4 Q Okay. Can you describe the property you have that
5 was missing?

6 A Some Bower Wilkins headphones, some PX, they were a
7 copper color. My Maui Jim sunglasses, Big Kahuna style. A
8 wallet, two credit cards. The wallet was a -- is made out of
9 -- it's manta ray, so it was a nice wallet. Some clips.
10 Earbuds, wired earbuds.

11 Q Wireless earbuds?

12 A Wired.

13 Q Wired earbuds. Okay. What was the value of the
14 Bower Wilkins headphones that were taken?

15 A \$399.

16 Q Okay.

17 MS. COLE: 126 and 127.

18 MR. ARNOLD: 126?

19 MS. COLE: 126 and 127. Your Honor, permission to
20 approach?

21 THE COURT: Yes.

22 MS. COLE: And for the record, I'm showing the
23 witness what's been marked as State's stipulated 126 and 127.

24 BY MS. COLE:

25 Q Sir, can you take a look at those?

1 A Yeah, those are -- those are my phones. You can see
2 the -- the copper color, so.

3 Q Okay, sir. And for the record, you're describing
4 that as your headphones?

5 A Yes.

6 Q And how do you know that those are your headphones?

7 A Just the -- the color of them.

8 Q Is that a unique color made in those headphones?

9 A Yeah, they're -- yeah. Usually, they're black.
10 Yeah, yeah, all the --

11 Q And that's a specific brand?

12 A Yes.

13 MS. COLE: Your Honor, permission to publish?

14 THE COURT: Yes.

15 MS. COLE: For the record, showing what's been
16 marked as State's 126.

17 BY MS. COLE:

18 Q So when you're describing the color, sir, it's the
19 color specifically on this part of the headphones?

20 A Yes.

21 Q Okay, and what is that color? Can you describe it
22 for the record?

23 A Where the name tag is, the -- the Bower and Wilkins.

24 Q I'm sorry?

25 A What was the question?

1 Q Can you describe the color --

2 A Oh, it's --

3 Q -- of those headphones for the record?

4 A It's copper, copper in color.

5 Q Okay. And specifically, sir, that's where it says
6 Bowers and Wilkins?

7 A Yeah, right where the nameplate is.

8 Q And your headphones were this color?

9 A Absolutely.

10 Q Okay, showing 127. Again, that's another shot, and
11 you recognize this as well to be consistent with your
12 headphones?

13 A Yes. Those little buttons on the bottom, kind of
14 hard to work. They were small. I remember them, yeah.

15 Q Okay. Thank you, sir. And, sir, you also had an
16 American Express card and a Capital One card taken?

17 A Yes.

18 Q Is that correct?

19 A Yes.

20 Q And were those cards specifically in your wallet?

21 A Yes, they were in my wallet, the wallet that was
22 taken.

23 Q Okay, and I think you described that wallet. Is
24 that the manta ray wallet?

25 A Yes.

1 Q That was expensive?

2 A Yeah.

3 Q Do you recall approximately how much that wallet
4 was?

5 A \$120.

6 Q Okay, and what about the Maui Jim sunglasses?

7 A \$350.

8 Q Okay, and what about the wired earbuds?

9 A \$130. They were good ones.

10 Q Thank you, sir.

11 MS. COLE: And for the record, Your Honor, may I
12 approach with State's Exhibit 15?

13 THE COURT: Yes.

14 BY MS. COLE:

15 Q And, sir -- oh. I'm showing you page 8 of State's
16 Exhibit No. 15. Can you look at that page? And, sir, I'm
17 going to direct your attention to a specific item.

18 A Okay, (indiscernible) on there.

19 Q I'm going to specifically direct you to these
20 transactions right here, the number and the name right there.
21 Can you look at that?

22 A Yes.

23 Q Okay. What do you recognize this document as?

24 A It's my credit card statement.

25 Q Okay, this is your credit card statement? And is

1 this in reference to your Capital One card?

2 A Yes.

3 Q Okay, sir. Showing you page 8 of State's 15. Sir,
4 this is your name?

5 A Um-hum.

6 Q Okay, and this is your credit card statement?

7 A Yes.

8 Q Is this the last four of your Capital One Visa card?

9 A Yes.

10 Q Okay. And can you read that number into the record?

11 A 0452.

12 Q Okay. And, sir, did you make a transaction on
13 August 17th at 7-Eleven for \$20.68?

14 A No.

15 Q Did you report that to your credit card company?

16 A Yes, I did.

17 Q When you realized your wallet had been stolen, did
18 you subsequently notify your credit card company?

19 A Yes, while the investigators were still in the room,
20 and I already was calling.

21 MS. COLE: And, Your Honor, may I approach the
22 witness?

23 THE COURT: Yes.

24 BY MS. COLE:

25 Q And for the record, sir, I'm showing you State's 74,

1 and it's going to be page 3. Can you look at this
2 documentation? Do you recognize this?

3 A Yeah.

4 Q What is it?

5 A It's something from my American Express card.

6 Q Thank you, sir. And, sir, is that your name in the
7 left-hand corner?

8 A It is.

9 Q Okay. And is that the last four of your American
10 Express card?

11 A Yes, it is.

12 Q Can you specifically read that into the record?

13 A 11004.

14 Q Thank you. And was that specifically one of your
15 cards that was taken on that date at that time?

16 A It is.

17 Q Okay, the American Express ending in 1004?

18 A Yes.

19 Q Did you subsequently get a new physical American
20 Express card?

21 A I did.

22 Q Okay. And is that -- is that why this number here
23 changed?

24 A Yes.

25 Q Okay. So that -- that's the new card --

1 A Right.

2 Q -- that you did not have on the date of this event?

3 A Right. Yes.

4 Q Thank you, sir. And, sir, on August 16th, 2020, did
5 you make any purchases at the Sbarro's Pizza inside the
6 Bally's?

7 A No.

8 Q What about at the 7-Eleven on Koval Lane?

9 A No.

10 Q Did anyone have permission to make those
11 transactions?

12 A No.

13 Q Did anyone have permission to have either your
14 American Express ending in 1004 or your Capital One ending in
15 0452?

16 A No.

17 Q And, sir, I believe I asked you this before, but
18 just to clarify, did anybody have permission to enter your
19 room?

20 A No.

21 Q Or to use your credit cards?

22 A No.

23 Q And certainly, no one had permission to take your
24 property?

25 A No.

1 Q The headphones, all the property that you
2 identified?

3 A No.

4 Q And, sir, looking at the individual that's sitting
5 in court today, the male, did this person have permission to
6 use or to control any of your property?

7 A Well, nobody did, but I can't see him.

8 Q Okay. Do you --

9 THE COURT: I think you're in the way, counsel.

10 MS. COLE: Oh, am I in the way? Okay.

11 THE WITNESS: Well, the -- the stand is kind of --

12 THE COURT: Sir, if you need to stand up or move
13 from your location --

14 THE WITNESS: Okay.

15 THE COURT: -- please do so.

16 THE WITNESS: Yeah. No, he --

17 BY MS. COLE:

18 Q He did not have permission?

19 A No.

20 Q You don't know him?

21 A I do not.

22 Q You've never seen him before?

23 A No.

24 Q Okay. And what about the female that's sitting in
25 the courtroom? Did she have permission? And you can stand up

1 again if you need to look.

2 A I can see her. No.

3 Q And you have never seen her before?

4 A No.

5 Q And you don't know her?

6 A No.

7 MS. COLE: And, Your Honor, I'll pass the witness.

8 THE COURT: Any questions, Mr. Arnold?

9 MR. ARNOLD: Yes.

10 CROSS-EXAMINATION

11 BY MR. ARNOLD:

12 Q Sir, when you initially reported this, you just
13 reported it to the security at Paris; is that correct?

14 A Yes. I called the front desk, and they called
15 security, sent them up.

16 Q And then security came up to your room and took a
17 statement; is that correct?

18 A Yes.

19 Q And then they were asking you to go ahead and
20 contact Metro; do you recall that?

21 A Yes.

22 Q And initially, you declined contacting Metro. Why
23 was that?

24 A I don't recall that.

25 Q Um-hum. Do you -- after the police came and you

1 gave a statement, did they move you to another room?

2 A Yes.

3 Q And you remember taking your personal items and
4 going to that other room?

5 A Yes.

6 Q Do you recall, once you got to the other room, that
7 that door also had scratch marks on it?

8 A No.

9 MR. ARNOLD: No further questions for this witness.

10 THE COURT: Any cross-examination, Mr. Hart?

11 MR. HART: Just real quick.

12 CROSS-EXAMINATION

13 BY MR. HART:

14 Q On your headphones, what model were they?

15 A They were PX model.

16 Q The PX5 or the PX7?

17 A I know they were PX.

18 Q Okay. How old were they?

19 A Couple years.

20 Q Okay. You said they cost you \$899?

21 A No, no, no, no. 399, and they were a gift from my
22 brother for -- from Christmas.

23 Q Okay, so it was -- okay. I thought you said 899.

24 A No.

25 Q Okay. And you don't know if he got them on sale?

1 A I kind of -- I picked them out and sent him the link
2 for him to buy them for me for Christmas.

3 Q Okay, very good. And you -- the headphones you
4 identified, you had ones similar color, correct?

5 A They were that color.

6 Q Yeah, okay. They come in black?

7 A They came in black, yeah.

8 Q Silver? Or gray, I should say?

9 A Yeah. I don't -- I -- I don't know about those. I
10 know what mine were.

11 Q Okay. There were different -- there's three
12 different -- three or four different colors, correct?

13 MR. LEXIS: I'm going to object --

14 THE WITNESS: I don't know.

15 MR. LEXIS: -- to speculation, Judge. He said --

16 MR. HART: Okay.

17 MR. LEXIS: -- he doesn't know exactly what color
18 they come in.

19 MR. HART: Okay.

20 THE COURT: Sir, do you know what the other colors
21 are?

22 THE WITNESS: No.

23 THE COURT: Okay. Next question.

24 MR. HART: Nothing further.

25 THE COURT: Any redirect by the State?

1 MS. COLE: No, Your Honor.

2 THE COURT: Any questions by our jurors? No
3 questions. Sir, thank you very much for your testimony. You
4 are excused.

5 I think we're going to take our lunch break at this
6 time, ladies and gentlemen. We'll come back at one o'clock.

7 During this lunch recess, you must not discuss or
8 communicate with anyone, including fellow jurors, in any way
9 regarding the case or its merits either by voice, phone,
10 email, text, internet, or other means of communication or
11 social media. You're not to read, watch, or listen to any
12 news, or media accounts, or commentary about the case. You're
13 not to do any research such as consulting dictionaries, using
14 the internet, or using reference materials. You're not to
15 make any investigation, test a theory of the case, recreate
16 any aspect of the case, or in any other way investigate or
17 learn about the case on your own, and you're not to form or
18 express an opinion regarding this case until it's submitted to
19 you.

20 Have a good lunch. We'll see you back at one
21 o'clock.

22 THE MARSHAL: All rise for the exit of the jury.

23 (Court recessed at 12:02 P.M. until 1:05 P.M.)

24 (Outside the presence of the jury.)

25 (Pause in the proceedings.)

1 THE CLERK: Judge --

2 THE COURT: Pardon?

3 THE MARSHAL: Are we ready?

4 THE COURT RECORDER: Are we ready? Marshal --

5 THE MARSHAL: They said they needed to talk to you.

6 THE COURT: Oh.

7 THE MARSHAL: Are they done?

8 MS. COLE: Who?

9 THE COURT: No, we're good.

10 MR. LEXIS: Oh, that's what -- that's what we needed
11 to talk to you about.

12 THE COURT: Yeah. No, we're good to go.

13 THE MARSHAL: Oh, you guys are good? Oh, okay.

14 MR. LEXIS: Yeah, we talked to him.

15 THE MARSHAL: All right. All rise for the entry of
16 the jury.

17 (Inside the presence of the jury.)

18 THE COURT: Welcome back, ladies and gentlemen.
19 State, who is your next witness?

20 MR. LEXIS: Esther Chae.

21 THE COURT: All right.

22 THE MARSHAL: Watch your step. Raise your right
23 hand and face the Clerk. Once she swears you in, slide your
24 chair all the way forward and speak up loud right into that
25 mike right there, okay?

1 THE WITNESS: Okay.

2 ESTHER CHAE, STATE'S WITNESS, SWORN

3 THE CLERK: Thank you. Please have a seat, and
4 state and spell your first and last name for the record.

5 THE WITNESS: My first name is Esther, my last name
6 is Chae.

7 THE COURT: Please spell your name, first and last
8 name.

9 THE WITNESS: Oh. My first name is Esther,
10 E-s-t-h-e-r. My last name is Chae, C-h-a-e.

11 THE COURT: All right, thank you. Go ahead,
12 counsel.

13 DIRECT EXAMINATION

14 BY MR. LEXIS:

15 Q Ma'am, do you also go by Chester (phonetic)?

16 A Yes, I do.

17 Q On June 15th, 2020, were you staying at the Harrah's
18 Hotel, Room 44001?

19 A Yes.

20 Q Showing you State's Exhibit 63. Is that your hotel
21 room, ma'am?

22 A Yes.

23 Q State's 71. Do you recognize that?

24 A Yes.

25 Q State's 72. Do you recognize your items inside that

1 room?

2 A Yes.

3 Q State's 73. Yes?

4 A Yes.

5 Q So, ma'am, did there come a point in time where you
6 left the room in the afternoon?

7 A Yes.

8 Q Around what time?

9 A Around 4:30 and 5:00.

10 Q Do you remember what time you returned?

11 A Around 6:30.

12 Q When you returned, did you notice anything out of
13 the ordinary?

14 A Yes.

15 Q What?

16 A My key card did not work.

17 Q Okay. Anything else?

18 A Yes, I heard voices in the room.

19 Q So what did you do?

20 A I called the front desk.

21 Q When you called the front desk, what, if anything
22 else, happened next?

23 A After I called the front desk, two people came out
24 from my room.

25 Q Okay. Describe who came out first.

1 A The male came out first.

2 Q Okay. And what, if anything, did the male do when
3 he came out?

4 A He came out of my room. He pushed me against the
5 wall. He attacked me, grabbed me by my throat for a few
6 seconds, and then he grabbed my phone, and he started running
7 towards the elevator.

8 Q Were you scared, ma'am?

9 A Yes.

10 Q And you said you couldn't breathe for a couple
11 seconds?

12 A No.

13 Q So he -- sorry, I asked you in the negative. You
14 say it in your own words. Could you breathe?

15 A No, I -- no.

16 Q Okay. Let me show you something else. You say your
17 room was 44001. Showing you State's 59, do you recognize this
18 room, ma'am?

19 A Yes.

20 Q And where in conjunction of your room was this room?

21 A Right across from my room.

22 Q Okay. And can you describe for me where in
23 conjunction of this did the physical altercation ensue?

24 A Right next to the room number.

25 Q Okay, so would it be on the right-hand side of this

1 picture?

2 A Yes, that's correct.

3 Q Okay. And were you against the wall?

4 A Yes, he pushed me against the wall.

5 Q And is that when he grabbed you by the throat?

6 A Yes.

7 Q Were you on your phone at that time?

8 A Yes.

9 Q Okay. And you stated that he took your phone from
10 you?

11 A He did.

12 Q How did he do that?

13 A He just grabbed the phone away from me.

14 Q And then what did he do after he grabbed the phone?

15 A I started screaming, and then he runs down the
16 hallway.

17 Q Okay. Did he eventually drop your phone?

18 A He threw the phone on the ground.

19 Q Did you make eye contact with this individual?

20 A Yes.

21 Q Did you see him?

22 A Yes.

23 Q Can you describe his height?

24 A 5'10, 5'11.

25 Q Okay. What, if anything, was he wearing?

1 A He was wearing a t-shirt, shorts, and he had a
2 backpack on.

3 Q Okay. Did you see anybody else?

4 A Yes.

5 Q Who?

6 A A female came out right after he ran down the
7 hallway.

8 Q Okay. What, if anything, did the female say?

9 A She -- she asked me why am I screaming. She said
10 she was out in the hallway.

11 Q Okay. Did you find that strange since you just saw
12 her come out of your room?

13 A Yes.

14 Q Did she have anything on her person?

15 A Yes, she did have a bag.

16 Q Okay. And can you describe her height?

17 A 5'5, 5'6.

18 Q Was she wearing anything on her face or head?

19 A She has dreadlocks and had a bandana on at that
20 time.

21 Q Were either of them wearing a mask?

22 A No.

23 Q Did you go back in your room then?

24 A Yes.

25 Q And did you discover if anything was missing?

1 A Yes.

2 Q What?

3 A My two laptops, my MacBook Pro, my work laptop. My
4 chargers, my clothes, my wallet.

5 Q Could you describe for me how much that MacBook Pro
6 cost?

7 A 1,500 to 1,700.

8 Q How about your work laptop?

9 A 2,500 to 3,000.

10 Q You also stated some chargers, clothing. How about
11 the wallet, ma'am?

12 A Wallet was around 500.

13 Q And you stated some credit cards as well, ma'am?

14 A Come again?

15 Q Some credit cards as well, you stated?

16 A Yes.

17 Q All right. Did the cops come?

18 A Yes.

19 Q Did you give a voluntary statement of what happened?

20 A Yes, I did.

21 Q And were you later contacted by a detective from
22 Metro?

23 A Yes.

24 Q And were you asked to participate in a six-pack
25 photo lineup?

1 A Yes.

2 Q I'm showing you what has been marked as State's 79,
3 the very first page. Do you recognize this document, ma'am?

4 A Yes.

5 Q And did the officer have either himself or yourself
6 read this admonishment at the top?

7 A Yes.

8 Q What's that?

9 A Yes.

10 Q Okay. So, essentially, you understood this
11 admonishment that, you know, he's not telling you you have to
12 pick anybody; it's up to you --

13 A Yeah.

14 Q -- et cetera?

15 A Um-hum.

16 Q Is that a true statement?

17 A Yes.

18 Q All right. Did he then, after giving you this
19 admonishment, provide a six-pack photo lineup to you?

20 A Yes, that's correct.

21 Q Showing you the second page of State's 79. Is this
22 the six-pack photo lineup that he provided to you, ma'am?

23 A Yes.

24 Q And did you identify anybody to the officer who
25 looked familiar to you on the night in question of this

1 incident?

2 A Yes, I did.

3 Q And what number?

4 A Four.

5 Q Number 4, this individual right here?

6 A Yes.

7 Q Did he then ask you, in your own words, to describe
8 how you felt about No. 4?

9 A Yes.

10 Q Is that your writing, ma'am?

11 A Yes.

12 Q All right, and can you read that for the jury?

13 A "I have identified Person No. 4. Looks similar to
14 the guy who attacked me. I am 50 percent sure. I have
15 identified the suspect based on his nose structure and mouth."

16 Q Okay, thank you.

17 MR. LEXIS: Judge, can we have a sidebar, please?

18 THE COURT: Okay. Counsel?

19 (Bench conference begins.)

20 MR. LEXIS: So, Judge, I brought this up at the
21 beginning of the trial, too, that -- and that's part of the
22 reason why we have clear masks, because of not wanting to take
23 them off, so proper identification. They have been instructed
24 to wear the clear mask; however, it's my understanding as I'm
25 up there, he is having his -- the mask like Your Honor has on

1 and is not wearing the clear mask, which is completely
2 inappropriate when we're identifying people.

3 Now, I would have no problem, like I did in the
4 first COVID trial I did last year, to having them remove their
5 masks, but at a very minimum, it should be the clear mask.

6 THE COURT: Mr. Arnold?

7 MR. ARNOLD: Well, he can stand up, remove his mask,
8 and then put it back on.

9 THE COURT: We can't have anyone remove their mask.
10 He'll have to put the clear mask on.

11 MR. ARNOLD: Okay.

12 THE COURT: Just for safety reasons.

13 MR. ARNOLD: Well, he's going to have to remove it
14 now to put on --

15 THE COURT: Right, but if --

16 MR. ARNOLD: -- a clear mask.

17 THE COURT: But if he's just standing there, I mean,
18 just -- no, we -- under the rules, we can't have anyone
19 without a mask. So, yes, I understand he's got to -- well, we
20 all have to remove our masks to take a sip of water as well.
21 But if he's going to be standing there, just even for a couple
22 seconds, just have him put on the plastic mask, just a couple
23 seconds. If he feels more comfortable after with the cloth
24 mask, then that's fine.

25 MS. COLE: And --

1 MR. LEXIS: And, Judge, I just want to mention, too,
2 we've probably done probably 15, 20 witnesses in this case,
3 and this just happens to be the first case where he has a
4 problem of not wearing the clear mask, but now both -- he
5 wants to wear both masks at the same time.

6 MS. COLE: That's correct, Your Honor. Madilyn Cole
7 for the State. What we have observed is the whole time, he's
8 had on the clear mask, and this is the first witness that he's
9 actually wanted the blue mask and the face shield on. So,
10 clearly, he's fine just wearing the face shield.

11 THE COURT: Because he did wear it yesterday.

12 MS. COLE: Yes, without any other additional mask
13 underneath.

14 THE COURT: Okay. So, Mr. Arnold, do you want to
15 talk to him in the back room or just whisper to him and just
16 tell him to just put the clear mask on?

17 MR. ARNOLD: Yeah, but you said that he can't take
18 off the --

19 THE COURT: No, I mean, he's going to take it off,
20 put it back on, and --

21 MR. ARNOLD: Yeah.

22 THE COURT: That's what I meant. I mean, just --

23 MR. ARNOLD: It doesn't matter to me. Whatever the
24 Court's desire is.

25 THE COURT: Okay. Well, you tell him to put this

1 clear mask on, and if we have, you know, foundation witnesses,
2 he can put the cloth mask back on.

3 MR. ARNOLD: Okay.

4 THE COURT: Or after the ID, he can put the double
5 mask back on, so I'm not going to prevent him from doing that.

6 MR. ARNOLD: Okay.

7 THE COURT: This is for the quick ID. So if he
8 wants to put the cloth mask immediately back on, that's fine.

9 MR. ARNOLD: Okay.

10 THE COURT: All right?

11 MR. LEXIS: Thank you.

12 (End of bench conference.)

13 THE COURT: Go ahead, counsel.

14 BY MR. LEXIS:

15 Q Let's backtrack a little bit, ma'am, okay?

16 A Sorry?

17 Q You stated earlier --

18 THE COURT: He said -- he said, let's backtrack a
19 minute.

20 THE WITNESS: Okay.

21 THE COURT: Okay.

22 BY MR. LEXIS:

23 Q You stated earlier that you had some credit cards
24 stolen; is that correct?

25 A That's correct.

1 Q Okay. Ma'am, I'm showing you State's Exhibit 100.
2 Do you recognize that card?

3 A Yes.

4 Q Okay. Is that your card that was taken on the night
5 in question?

6 A Yes.

7 Q Showing you State's 101. Recognize that?

8 A Yes.

9 Q It's your card?

10 A Yes.

11 Q State's 102. Is this, again, another card that was
12 taken from you on the night in question?

13 A Yes.

14 Q And, again, ma'am, the card has -- the other -- the
15 other one had it on the front; this one has it on the back,
16 "Esther Chae"?

17 A Yes.

18 Q You? Thank you. Getting back to the six-pack photo
19 lineup, ma'am, you identified No. 4, and again, you stated, "I
20 have identified Person No. 4. Looks similar to the guy who
21 attacked me. I am 50 percent sure. I have identified the
22 suspect based on his nose structure and mouth." Is that
23 correct?

24 A That's correct.

25 Q Ma'am, do you recognize anyone in court today who

1 was attacking you on the night in question? You can get down
2 and look around if you have to get a better look.

3 A Is it okay if I stand up?

4 THE COURT: Yeah, that's fine, ma'am.

5 MR. LEXIS: Yes. You can come in front, too.

6 THE WITNESS: Oh, I can come up there? Okay. I do.

7 BY MR. LEXIS:

8 Q Okay, who do you recognize?

9 A I recognize the male.

10 Q Okay. Can you please point to this person and
11 identify for me what he's wearing?

12 A He's wearing a white shirt.

13 MR. LEXIS: Your Honor, let the record reflect the
14 witness has identified the male defendant.

15 THE COURT: Ma'am, I think we may have two or three
16 people here with white shirts. Can you be a little more
17 specific? Mr. Lexis, why don't you move, too. Is he --

18 THE WITNESS: He's the --

19 THE COURT: -- far left, far right, somewhere in the
20 middle? Where?

21 THE WITNESS: On the -- my left, the guy with a --
22 with a clear mask on.

23 THE COURT: I think there's a couple people with
24 clear masks on.

25 THE WITNESS: The African-American guy with a clear

1 mask on --

2 THE COURT: Okay, there are maybe --

3 THE WITNESS: -- with a white shirt.

4 THE COURT: -- two people there, African-American
5 with clear mask on.

6 THE WITNESS: The African-American with no suit and
7 clear mask on.

8 THE COURT: Okay. All right, thank you. The record
9 will reflect the identification of the defendant.

10 BY MR. LEXIS:

11 Q Ma'am, did you -- you had your phone after he
12 discarded your phone, and you got it back?

13 A Yes.

14 Q Okay. Did anything -- did you get any alerts on
15 your phone that caused you concern?

16 A Yes.

17 Q What did you -- did you notify any of your card
18 companies after this?

19 A Yes.

20 Q How soon after?

21 A Right after, I locked all my cards.

22 Q Showing you State's 81. Do you recognize that?

23 A Yes, I do.

24 Q Okay, and what is it?

25 A So when I was with the cops, I got a notification

1 that a transaction has been made on my locked credit card.

2 Q Okay. State's 82. What's this?

3 A So I -- I locked my MacBook and marked it as stolen
4 with my phone. And the way how that works is, once you mark
5 the laptop as stolen, if somebody tries to open it, it plays a
6 sound. So, basically, I got this notification that somebody
7 opened my MacBook on my phone.

8 Q Showing you State's 83.

9 A That's the location of my MacBook Pro after it got
10 stolen.

11 MR. LEXIS: No further questions.

12 THE COURT: Any cross-examination, Mr. Arnold?

13 MR. ARNOLD: Yes, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. ARNOLD:

16 Q Ma'am, when you identified Picture No. 4, you said
17 that you were only 50 percent sure it was that individual; is
18 that correct?

19 A That's correct.

20 Q And additionally, when you first saw Picture No. 4,
21 you were not in front of the police officers, you were at home
22 on your computer; is that correct?

23 A That's correct.

24 Q And this was sent to you by email; is that correct?

25 A That's correct.

1 Q And when you originally saw the photographs, before
2 you wrote or before you stated that it was 50 percent, didn't
3 you look at those photographs and said that you didn't
4 recognize anybody? That was your initial response?

5 A Because I didn't take a close look at it.

6 Q Again, my question was, when you originally saw that
7 on your email, didn't you say to the police officer that was
8 recording your statement at the time that you didn't think it
9 was any of those guys?

10 A Originally, yes.

11 Q And then, after you said you didn't think it was any
12 of those guys, then you started to talk to the police about
13 what happened; is that correct?

14 A That's correct.

15 Q And you gave them the same statement that you did
16 today; is that correct?

17 A That's correct.

18 Q You also said during that statement that when he put
19 you up against the wall, that he wasn't trying to hurt you; he
20 was just trying to get the phone. Isn't that correct?

21 A That's correct.

22 Q And then you also stated that once you had screamed,
23 he threw the phone down; is that correct?

24 A He threw the phone. That's correct.

25 Q Did you see him carrying anything out of the room?

1 A Only the backpack.

2 Q And that was on his back?

3 A Yes.

4 Q And do you know, was that your backpack?

5 A No.

6 Q And do you know what was inside the backpack?

7 A No.

8 Q So any items that you said were missing out of your
9 room, you don't know if that individual had them or not; isn't
10 that correct?

11 A That's correct.

12 Q Did -- you said he threw the phone down on the
13 ground. Who recovered that phone?

14 A I did.

15 Q And did you tell the police officers that that phone
16 was thrown to the ground?

17 A Yes.

18 Q And did the police ask to take the phone from you
19 for fingerprint identification?

20 A No.

21 Q So you kept the phone?

22 A I did.

23 Q Additionally, I recall you saying that the female
24 had dreadlocks; is that correct?

25 A That's correct.