

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 83796

DONTE JOHNSON,
Petitioner,

Electronically Filed
May 27 2022 06:45 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

v.

STATE OF NEVADA, *et al.*,
Respondent.

Appeal From Clark County District Court
Eighth Judicial District, Clark County
The Honorable Jacqueline M. Bluth, District Judge
(Dist. Ct. No. A-19-789336-W)

APPELLANT'S APPENDIX

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198. Voluntary Statement of Jeff Bates (handwritten)_Redacted (Aug. 14, 1998)	02/13/2019	46	11508–11510
199. Voluntary Statement of Jeff Bates_Redacted (Aug. 14, 1998)	02/13/2019	46	11511–11517
200. Presentence Investigation Report, State’s Exhibit 236, <i>State v. Young</i> , District Court, Clark County, Nevada Case No. C153461_Redacted (Sep. 15, 1999)	02/13/2019	46	11518–11531
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202. School Record of Sikia Smith, Defendant’s Exhibit J, <i>State v. Smith</i> , District Court, Clark County, Nevada (Case No. C153624)	02/13/2019	46	11541–11542
203. School Record of Sikia Smith, Defendant’s Exhibit K, <i>State v. Smith</i> , District Court, Clark County, Nevada (Case No. C153624)	02/13/2019	46	11543–11544

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204. School Record of Sikia Smith, Defendant's Exhibit L, <i>State v. Smith</i> , District Court, Clark County, Nevada (Case No. C153624)	02/13/2019	46	11545–11546
205. Competency Evaluation of Terrell Young by Greg Harder, Psy.D., Court's Exhibit 2, <i>State v. Young</i> , District Court, Clark County, Nevada Case No. C153461 (May 3, 2006)	02/13/2019	46	11547–11550
206. Competency Evaluation of Terrell Young by C. Philip Colosimo, Ph.D., Court's Exhibit 3, <i>State v. Young</i> , District Court, Clark County, Nevada Case No. C153461 (May 3, 2006)	02/13/2019	46	11551–11555
207. Motion and Notice of Motion in Limine to Preclude Evidence of Other Guns Weapons and Ammunition Not Used in the Crime, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154 (Oct. 19, 1999)	02/13/2019	46	11556–11570
208. Declaration of Cassondrus Ragsdale (Dec. 19, 2018)	02/13/2019	46	11571–11575
209. Post –Evidentiary Hearing Supplemental Points and Authorities, Exhibit A: Affidavit of Theresa Knight, <i>State v. Johnson</i> ,	02/13/2019	46	11576–11577

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210. Post –Evidentiary Hearing Supplemental Points and Authorities, Exhibit B: Affidavit of Wilfredo Mercado, <i>State v. Johnson</i> , District Court, Clark County, Nevada Case No. C153154, June 22, 2005	02/13/2019	46	11578–11579
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¹ This transcript was not filed with the District Court nor is it under seal.

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CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2022, I electronically filed the foregoing Appendix with the Nevada Supreme Court by using the appellate electronic filing system. The following participants in the case will be served by the electronic filing system:

Alexander G. Chen
Chief Deputy District Attorney
Clark County District Attorney's Office

/s/ Celina Moore

Celina Moore
An employee of the Federal
Public Defender's Office

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and there was even talk of a sting operation targeting Baldonado. But Chipman said after the meeting with police, she and Brooks were never contacted again.

Three years later, when the FBI took up the matter, they organized a sting operation in which Baldonado talked to a confidential informant about quashing warrants in exchange for sex.

"To me, with an issue as serious as this, it should have been looked into," Chipman said.

Bell, who is now a district judge, confirmed the basics of Chipman's account. Bell said when the Baldonado complaint was reported to him, he took the matter very seriously and asked police to initiate an investigation.

However, he said he was subsequently told by police that the allegations against Baldonado could not be proven.

"They looked into it and could not substantiate it," Bell said.

It was unclear exactly who investigated Baldonado and to what extent. Bell said he believes he asked Las Vegas police to investigate the matter, but he can't be sure. Chipman said the detectives she met with were from the North Las Vegas Police Department.

Regardless, Baldonado was free to continue his work as an investigator with the district attorney's office. Nearly two years after Chipman and Brooks reported their suspicions, a woman said Baldonado raped her while he was working in his capacity as an investigator.

The alleged sexual assault victim is a potential witness in the Las Vegas Valley murder case of Kenneth Curtis, who is accused of killing his girlfriend in 1997. The woman said Baldonado showed up at her house and raped her in 2003.

District Attorney David Roger, who took office in January 2003, said he was not aware of the allegation that Chipman and Brooks made against Baldonado in 2001. "Absolutely not," he said Friday.

Roger said he also was not aware, before Baldonado's arrest, that the investigator had a prior conviction for stealing thousands of dollars from Caesars Palace, where he worked as a floorman in a blackjack pit.

The Review-Journal has previously reported that Baldonado was granted a pardon by the Nevada Pardons Board in 1989, and went to work as an investigator with

the district attorney's office in 1991.

He was promoted to a senior investigative position in 1996, and was assigned to several major cases in recent years. Investigators with the district attorney's office carry a gun and a badge, and perform investigations on behalf of prosecutors.

"I had no idea about his background. I didn't know about his prior conviction," Roger said. "All I knew was that he was a hardworking investigator and apparently a good employee."

Baldonado's defense attorney, Bill Terry, declined comment on this story.

The FBI, Henderson police and the Nevada attorney general's office charged Baldonado this year with sexual assault and asking for or receiving a bribe by a public officer or employee. He immediately resigned from his position as an investigator.

The charges were filed after another woman, a confidential informant for the FBI, told authorities Baldonado promised to quash traffic warrants for her if she had sex with him. The FBI and Henderson police caught Baldonado discussing such an arrangement during a tape-recorded sting.

On April 1 in Henderson Justice Court, prosecutors from the attorney general's office announced Baldonado had accepted a plea agreement. Baldonado agreed to waive his right to a preliminary hearing and indicated he will plead guilty before District Judge Donald Mosley on April 22 to one count of coercion and one count of misconduct by a public employee.

Baldonado faces a potential sentence ranging from probation to 10 years in prison if Mosley accepts the negotiation. Part of the negotiation dictates that he will not be prosecuted for any other crimes that investigators are currently aware of.

According to federal documents obtained by the Review-Journal, multiple witnesses have told authorities that Baldonado has been quashing warrants in exchange for sex for years.

Desiree Gillard told the FBI she first met Baldonado in the early 1990s when he was serving a subpoena to one of her friends. According to an FBI report, Gillard said she was working at an escort service at the time. She told agents she "had been receiving help with warrants from Baldonado in exchange for sex since 1994," the FBI report

said.

When contacted, Gillard said much of what she told the FBI is not true. She said she told the FBI "what they wanted to hear" because they intimidated her.

"I spoke to them because of other problems," Gillard said. "They called my cousin, making her believe if I didn't meet with them, a warrant would be issued for my arrest."

Gillard denied ever having sex with Baldonado. She said Baldonado did, however, help her with several outstanding traffic warrants.

Gillard also doubts Baldonado is capable of sexual assault.

"I would bet my life that is a complete lie," she said. "Peter is not that type of person. He's passive and quiet."

According to the FBI reports, Gillard told the FBI that Baldonado would help her and others fix warrants if they found someone who was willing to have sex with him.

The report states that Gillard told agents Baldonado helped one woman's boyfriend with "tons of stuff" when the man's girlfriend "paid a girl \$50 to have sex with Baldonado."

Gillard told the FBI that she lost contact with Baldonado for a couple of years, but then one day he suddenly reappeared in her life.

"When she asked him how he had located her, Baldonado replied, 'I'm an investigator, I saw that you applied for food stamps,'" the report states.

According to the FBI, Gillard told agents she was arrested on traffic warrants in May or June 2003. She called Baldonado, and he said he would get her out of jail.

But Gillard said she didn't immediately get out of jail. She told the FBI she called Baldonado from jail the next day to ask why she hadn't been released.

"Baldonado became very angry and said, 'Everything should have been taken care of already. ... I spoke to the judge the other day.'"

Gillard told the FBI that Baldonado called a judge's chambers and then called the jail back with the unnamed judge on the other line.

"Gillard advised that, within minutes of the phone call, her name was called over the intercom system to be released,"

the FBI report states.

The report goes on to say that Gillard told the FBI that Baldonado "had taken care of a 'material witness warrant for \$10,000.' "

In addition, Gillard told the FBI Baldonado had helped out another woman who "was involved in a robbery at an Albertson's store."

In addition, the FBI reports state Gillard knows two individuals who once tried to blackmail Baldonado by recording him as he talked about trying to exchange warrants for sex.

The blackmail plot eventually fell through.

The FBI asked Gillard if she knew anything about Baldonado being involved in fraudulent identifications, check-cashing schemes or insurance fraud.

"Gillard stated that she had never known Baldonado to be involved in anything like that, and that it 'would completely go against his character,' " the report said.

In a statement to the FBI, Crystal Brooks said she knew of a man who had a robbery case pending, and that the individual was denied a release from jail on his own recognizance during a court appearance.

"Brooks said that Baldonado called a North Las Vegas judge and got (the man) released from jail," an FBI report states.

Another person who gave a statement to the FBI, Tony Dodson, told the FBI that he knew several women who dealt with Baldonado. He said none of them "liked Baldonado but that they all used him to get things done."

Review-Journal writer Carri Geer Thevenot contributed to this report.

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EXHIBIT 3

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5
6 IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7
8 IN AND FOR THE COUNTY OF CLARK

9 LOVE HOLLOWAY,

10 Plaintiff,

Case No. 05-A-498609-C

11 v.

Dept. No. 16

12 PETER BALDONADO, individually and in
13 his official capacity as former investigator
14 for the Office of the Clark County District
15 Attorney; STEWART BELL, individually
16 and in his official capacity as former Clark
17 County District Attorney; DAVID ROGER,
18 individually and in his official capacity as
19 Clark County District Attorney; BILL
20 YOUNG, individually and in his official
21 capacity as Sheriff of the Las Vegas
Metropolitan Police Department; CLARK
COUNTY, a political subdivision of the
State of Nevada, on relation of its Office of
the Clark County District Attorney, and on
relation of its Las Vegas Metropolitan Police
Department; CITY OF NORTH LAS
VEGAS, a municipal corporation existing
under the laws of the State of Nevada in the
County of Clark ex rel. its North Las Vegas
Police Department; DOES I through X;
inclusive; and ROES I through X inclusive,

22 Defendants.
23

AFFIDAVIT OF WILLIAM C. JEANNEY, ESQ.

24 I, William C. Jeanney, being first duly sworn, under penalty of perjury, depose and say:

- 25 1. I am the attorney of record for plaintiff LOVE HOLLOWAY;
26 2. That, based upon information and belief, that there are three witnesses to the facts
27 alleged in plaintiff's Complaint as against these defendants;
28 3. That based upon information and belief believes that these three witnesses reside in

1 Las Vegas, Nevada;

2 4. That these three witnesses are known as Crystal Chipman, Crystal Brooks and
3 Desiree Gillard;

4 5. That based upon information and believe, these three witnesses will testify that they
5 personally met with defendant then District Attorney BELL in 2001 and informed
6 him in regards to inappropriate sexual behavior by defendant BALDONAD while an
7 employee of the District Attorney's Office;

8 6. That based upon information and belief, that defendant BELL informed these
9 witnesses that he would have this information investigated by the North Las Vegas
10 Police Department;

11 7. That based upon information and belief these witnesses will testify that they were
12 then interviewed by detectives from the North Las Vegas Police Department;

13 8. That based upon information and belief, defendant BELL then told them that North
14 Las Vegas Police Department had investigated and could not substantiate the
15 allegations;

16 9. That counsel for the plaintiff has retained the services of a private investigator in Las
17 Vegas, Nevada who is attempting to locate these individuals, but as of this date has
18 been unable to do so.

19 10. That the investigator hired by plaintiff's counsel has stated his optimism in locating
20 these witnesses.

21 11. That discovery is ongoing, no depositions have been taken and are now being
22 scheduled, and the locating and deposing/interviewing these witnesses will all greatly
23 impact the factual tenor of this case.

24 Dated this 31 day of July 2007.

25 BRADLEY, DRENDEL & JEANNEY

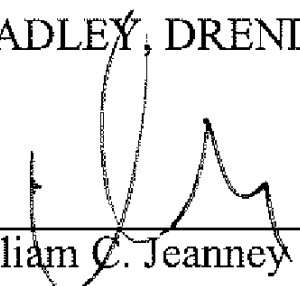
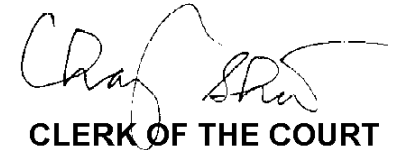
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27 
28 William C. Jeanney

EXHIBIT 216

EXHIBIT 216


CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

LOVE HOLLOWAY,)	Case No. A498609
)	Dept. No. XVI
Plaintiff,)	
)	
vs.)	
)	
PETER BALDONADO, individually and in his)	
official capacity as former investigator for the)	
Office of the Clark County District Attorney;)	
STEWART BELL, individually and in his capacity)	
as former Clark County District Attorney; DAVID)	
ROGER, individually and in his official capacity)	
as Clark County District Attorney; BILL YOUNG,)	
individually and in his official capacity as Sheriff)	
of the Las Vegas Metropolitan Police Department;)	
CLARK COUNTY, a political subdivision of the)	
State of Nevada, on relation of its Office of the)	
Clark County District Attorney, and on relation)	
of its Las Vegas Metropolitan Police Department;)	
CITY OF NORTH LAS VEGAS, a municipal)	
corporation existing under the laws of the State of)	
Nevada in the County of Clark ex rel. its North)	
Las Vegas Police Department; DOES I through X;)	
inclusive; and ROES I through X, inclusive,)	
)	
Defendants.)	

**OPPOSITION TO "MOTION FOR SUMMARY JUDGMENT" FILED BY
DEFENDANTS STEWART BELL, DAVID ROGER, AND CLARK COUNTY**

COMES NOW Plaintiff, Love Holloway, acting by and through her undersigned
counsel, and hereby opposes the "Motion for Summary Judgment," filed by Defendants Stewart
Bell, David Roger, and Clark County on or about December 27, 2007, and served by mail on

1 that date.

2 Plaintiff's opposition is based upon the accompanying memorandum of points and
3 authorities and all other matters properly of record herein.

4 DATED this 16th day of January, 2008.

5 BRADLEY, DRENDEL & JEANNEY, LTD.

6

7 By: /s/ William C. Jeanney
8 William C. Jeanney, Esq.
9 401 Flint Street
10 Reno, Nevada 89501
11 Telephone: (775) 335-9999
12 *Attorneys for Plaintiff*

11

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. INTRODUCTION**

14 The Clark County Defendants make three arguments concerning the federal claims and
15 direct two other arguments to Plaintiff's state-law claims. As to the federal claims, the
16 Defendants argue that: (1) as a matter of law, Baldonado was not acting under color of law; (2)
17 as a matter of law, Bell and Roger were not deliberately indifferent to Holloway's health and
18 safety and, therefore, Holloway has no substantive due process claim against such Defendants;
19 and (3) as a matter of law, Clark County had no policy or custom that caused Holloway's
20 injury. Regarding the state-law claims, the Defendants argue that: (1) as a matter of law,
21 Baldonado did not act within the course and scope of his employment; and (2) as a matter of
22 law, liability for Baldonado's intentional conduct is precluded by NRS 41.745. None of these
23 arguments has merit.

24 **II. GENERAL OVERVIEW OF BALDONADO'S SEXUAL ASSAULT OF
25 HOLLOWAY**

26 As the Court is aware, this case arises out of Peter Baldonado's rape of Love Holloway.
27 Baldonado was an investigator for the Clark County District Attorney's Office, who was
28 responsible for locating and serving subpoenas on witnesses and other persons of interest to that
office. Baldonado came into contact with Holloway by virtue of her role as a witness in a

1 murder case being prosecuted by the DA's office. Baldonado had several contacts with
2 Holloway, all of which were precipitated by his official business--or the pretense of it.

3 As set forth in the Statement of Disputed and Undisputed Facts, *infra*, prior to
4 Baldonado's contact with Holloway several allegations of sexual misconduct had been made
5 against him. In at least one of these instances--which occurred some ten years before his rape
6 of Holloway--a fairly extensive (albeit, internal) investigation was undertaken.

7 Notwithstanding that all the witnesses corroborated the victim's charge of sexual misconduct,
8 no disciplinary action was taken. The stated reasons for the passivity were twofold: 1) the
9 feeble notion that a hearing officer would have to resolve factual disputes as to whether the
10 harassment took place; and 2) a disciplinary action would subject the then-serving District
11 Attorney and the office he occupied to adverse publicity.

12 Baldonado raped Holloway in her apartment on November 28, 2003. He gained entry
13 on the pretense of having some important information to share with her with regard to the status
14 of the murder case in which she was to testify. Pursuant to arrangements made by telephone the
15 previous day, Baldonado arrived at Holloway's apartment early in the morning. After
16 conveying the new information, *i.e.*, that the case had resulted in a plea bargain and she would
17 not need to testify, Baldonado began to make verbal and physical advances. When Holloway
18 retreated to her bedroom to retrieve a small tape recorder with which to document Baldonado's
19 outrageous conduct, he followed her into the room and raped her.

20 **III. STATEMENT OF DISPUTED AND UNDISPUTED FACTS**

21 _____ 1. It is undisputed that every contact Baldonado initiated with Holloway was in
22 connection with his job as a DA investigator and her status as a witness in a murder case. *See*
23 Ex. 1 (Deposition of Love Holloway), pp. 20-54.

24 2. It is undisputed that on each such occasion, Baldonado was wearing his badge.
25 Ex. 1, p. 41.

26 3. It is undisputed that when Baldonado gained access to Holloway's apartment,
27 allegedly in order to sexually assault her, he did so on the pretext of needing to discuss a change
28 in the case that formed the basis of their previous contacts. Ex. 1, pp. 47-48; 51-52.

1 4. It is undisputed that during the encounter in which Baldonado allegedly sexually
2 assaulted Holloway, he was also carrying his gun and wearing his badge. Ex. 1, p. 55.

3 5. It is undisputed that Baldonado began this final contact by informing Holloway
4 that the case was over and there would be no necessity for her to testify at a trial. Ex. 1, p. 57.

5 6. While Baldonado may dispute it at trial, for purposes of their motion for
6 summary judgment the County Defendants do not appear to dispute that Baldonado then told
7 Plaintiff she was “sexy” and told her he liked her breasts. Ex. 1, p. 59.

8 7. While Baldonado may dispute it at trial, for purposes of their motion for
9 summary judgment the County Defendants do not appear to dispute that Baldonado told
10 Holloway that he liked black women. Ex. 1, p. 69.

11 8. While Baldonado may dispute it at trial, for purposes of their motion for
12 summary judgment the County Defendants do not appear to dispute that Baldonado thereafter
13 began to rub Holloway’s breast. Ex. 1, p. 64.

14 9. While Baldonado may dispute it at trial, for purposes of their motion for
15 summary judgment the County Defendants do not appear to dispute that when Holloway
16 retreated to the bedroom to retrieve a miniature tape recorder (Ex. 1, pp. 66-73), Baldonado
17 followed her and raped her. Ex. 1, pp. 76-85.

18 10. While Baldonado may dispute it at trial, for purposes of their motion for
19 summary judgment the County Defendants do not appear to dispute that Holloway was too
20 scared to resist: “I was scared. All I saw was the gun.” Ex. 1, p. 86, ll. 10-11.

21 11. It is undisputed that the DA’s Office had previously conducted an internal
22 investigation of Baldonado for allegations of prior sexual misconduct, in 1993. Ex. 2; April 20,
23 1993 Investigative Report.

24 12. It is undisputed that Candace Vogeles Williams, then an employee of Emergency
25 Medical Services Associates at the Clark County Detention Center, was the individual who
26 received subpoenas that Baldonado served on the Detention Center nurses. Ex. 2, p. 2.

27 13. It is undisputed that Williams complained that, on March 15, 1993, Baldonado
28 accosted her while the two were alone in the Detention Center elevator. Ex. 2, p. 2.

1 14. It is undisputed that Williams alleged that, without provocation or
2 encouragement, Baldonado suddenly put his arms around her and kissed her on the lips. It is
3 further undisputed that Williams alleged that she was shocked. Ex. 3, pp. 4, 11.

4 15. It is undisputed that Williams immediately reported the incident to Carol
5 Mercer, the nurse administrator. Ex. 3, p. 5.

6 16. It is undisputed that Brown then related the information to the secretary, Darcy
7 Brown. Ex. 3, p. 5.

8 17. It is undisputed that both of these women later reported in interviews with the
9 detectives that they had discussed the matter with Williams on the day of the incident, and both
10 confirmed that Williams appeared shocked, embarrassed, and upset. Ex. 4, p. 2; Ex. 5, p. 2.

11 18. It is undisputed that the detectives also interviewed another co-worker, Josie
12 Padua. Ex. 6.

13 19. Padua was off on the day in question, but it is undisputed that Williams
14 mentioned the incident to her on the following day, at which time Williams was still very upset.
15 Ex. 6, p. 3.

16 20. It is undisputed that Williams resolved to hide in the back room whenever
17 Baldonado returned to their offices. Ex. 3, p. 7; Ex. 6, p. 3.

18 21. It is undisputed that Williams alleged that, about two weeks later, Baldonado
19 approached Williams and put his arm around her, asking her what she was doing that weekend.
20 Ex. 3, p. 7.

21 22. It is undisputed that two weeks after that, while Williams was in the back room
22 to avoid Baldonado, he again approached her and again placed his arm around her, squeezing
23 her and remarking that it was chilly outside and that he came into the offices to warm up. Ex.
24 3, p. 8.

25 23. It is undisputed that Padua witnessed the latter incident and confirmed that
26 Williams appeared embarrassed by the uninvited and unwanted affection. Ex. 6, p. 4.

27 24. It is undisputed that, despite the corroboration provided by Williams' co-
28 workers, the Chief Investigator of the Clark County District Attorney recommended that no

1 disciplinary action be taken against Baldonado. Ex. 2, p. 2; Ex. 7.

2 25. It is undisputed that the ostensible justification for this recommendation was the
3 feeble conclusion that, “[t]o go before a hearing officer would not resolve the issue completely,
4 that it was his word against hers.” Ex. 7.

5 26. While it may be disputed at trial, a reasonable jury could conclude that this
6 justification was an impermissible “white wash” of the event, given that: a) many crimes and
7 other matters would not be pursued because it would be the perpetrator’s word against that of
8 the victim; b) a key function of any fact-finder, including a hearing officer, is to resolve issues
9 that turn on the credibility of conflicting testimony; and c) Williams’ account of the events was
10 buttressed by those who witnessed her reactions and by Padua’s eye-witness account of the
11 third incident.

12 27. While it may be disputed at trial, a reasonable jury could readily infer that the
13 Clark County DA’s investigation was tainted by bias and protectionism, given that the Chief
14 Investigator was Baldonado’s co-employee and that he stated disciplinary action “would result
15 in some undesirable publicity for Rex Bell [then D.A.] and the office.”¹ Ex. 7.

16 28. While it may disputed at trial, a jury could reasonably conclude that another
17 woman, Denise Robinson, reported that she had been the victim of Baldonado’s sexual
18 misconduct in 1998. Ex. 8.

19 29. While it may be disputed at trial, a reasonable jury could find that Robinson
20 reported Baldonado inappropriately touched her breast and leg, further telling her that it was
21 every older man’s fantasy was to have sex with a black woman and that, so far, he hadn’t. Ex.
22 8.

23 30. While it may be disputed a trial, a rational jury could find that Robinson made
24

25 ¹ Indeed, Stewart Bell--who became the Clark County District Attorney in 1995--justified his
26 failure to conduct an internal investigation of subsequent complaints about Baldonado’s sexual
27 misconduct on the ground that the DA’s office could not, and should not, investigate its own
28 employees. Ex. 9 (Deposition of Stewart Bell). ‘Could not’ because its “investigators” were not
trained to develop evidence (ex. 9, p. 21) and ‘should not’ because any exonerating results of the
investigation would be tainted by the appearance of impropriety. Ex. 9, pp. 22-23.

1 her report to Candy Byrd, who forwarded the information to the Clark County District
2 Attorney's Office, along with an assurance that Robinson wanted to come forward and
3 complain. Ex. 8.

4 30. It is undisputed that discovery has revealed no evidence that the DA's office ever
5 pursued this incident. Ex. 10; Declaration of William C. Jeanney, ¶ 11.

6 31. It is undisputed that sometime before the subject 11-28-2003 rape of plaintiff
7 Holloway, in the time frame between 1995 and 2002, woman telephoned Bell's office to report
8 that Baldonado was engaging in sexual misconduct; Bell's sole response was to give her an
9 appointment which she failed to keep. Ex. 9, pp. 18-19.

10 32. It is undisputed that also prior to the subject 11-28-2003 rape of Ms. Holloway,
11 two--possibly three--women met with Bell personally to discuss their concern about
12 Baldonado's inappropriate relationship with another woman, Desirie Gillard. Ex. 9, p. 9.

13 33. It is undisputed that the women who met with Bell reported that Baldonado
14 helped Gillard with some legal problems and, in exchange, Baldonado had extracted "some
15 kind of relationship" with Gillard. Ex. 9, 9.

16 34. It is undisputed that Gillard now denies that she traded sexual favors for help
17 with her legal problems (Defendants' Ex. C), but a jury would be free to reject this testimony.

18 35. It is undisputed that Bell realized that trading some kinds of favors with a
19 "sinner" may well have been within Baldonado's job description. Bell explained as follows:

20 BY MR. BOEHRER:

21 Q. Now, similar hypothetical. You have an investigator that is
22 trading favors, taking care of warrants, and helping a person with trial dates in
exchange for witness information. Would that be --

23 A. It might be perfectly within their job description.

24 Q. Okay.

25 A. You know, they may be, you know -- a lot of times law
26 enforcement makes a deal with the sinner to get the devil, whether it be police or
27 whoever. I mean, if they have a key witness in a big case they need and
28 somebody can help them out in exchange for some minor assistance they can
give them in the system, I'm sure that happens thousands of times a day, but I
wouldn't know about it because I -- when you are the administrator, you don't
get involved into the day-to-day stuff.

Q. Okay.

A. But that could be perfectly appropriate.

1 Ex. 9, pp. 27-28.

2 36. Bell does not recall that Baldonado was ever confronted with the women's
3 allegations concerning his relationship with Gillard (Ex. 9, p. 15), but there is no indication of
4 such in the materials developed during discovery. Ex. 10, ¶ 12.

5 IV. ARGUMENT

6 1. Genuine Issues of Material Fact Exist as to Whether Baldonado Was Acting Under Color of Law

7 The Clark County Defendants appear to argue that Baldonado instantaneously denuded
8 himself of any pretense of acting under color of law once he announced to Holloway that the
9 murder case had ended in a plea bargain. Motion, p. 15, ll. 15-17. This is absurd. The
10 uncontradicted evidence shows that Baldonado gained access to Holloway's apartment solely
11 on the pretext that he had to discuss the murder case with her. He could have just as easily
12 informed her of the plea bargain over the telephone. But he utilized the authority of the County
13 to enter Holloway's apartment to rape her.

14 The legal authorities on which the Defendants rely are essentially the same ones that the
15 City of North Las Vegas cited in the motion for summary judgment, which it ultimately
16 abandoned in favor of settling with Holloway. These decisions were discussed in Holloway's
17 opposition to the Clark County Defendants' improper "joinder" in the City's motion. For
18 purposes of completeness, however, the discussion of these decisions will be repeated here.
19 And it will be demonstrated that the cases cited by the Clark County Defendants reveal that
20 summary judgment is inappropriate on the question as to whether Baldonado was acting under
21 color of law.

22 The Defendants cite *Martinez v. Colon*, 54 F.3d 980 (1st Cir. 1995). Motion, p. 15, ll. 3-
23 6. Their reliance on *Martinez* is misplaced because in that case the First Circuit recognized that
24 whether an individual acted under color of state law is a fact-intensive inquiry requiring
25 examination "of the totality of surrounding circumstances." *Id.* at 987. The question "rarely
26 depends on any single, easily determinable fact." *Id.* at 986. Rather,

27 whether a police officer is acting under color of state law turns on the nature and
28 circumstances of the officer's conduct and the relationship of that conduct to the

1 performance of his official duties. *See Pickrel v. City of Springfield*, 45 F.3d
2 1115, 1118 (7th Cir. 1995); *Anthony v. County of Sacramento*, 845 F.Supp. 1396,
1400 (E.D.Cal. 1994).

3 *Ibid.*

4 And the other authorities cited by the Clark County Defendants recognize that the kind
5 of conduct in which Baldonado engaged clearly meets the “under color of state law”
6 requirement. In *Martinez* itself, for example, one police officer accidentally shot his fellow
7 officer while harassing him in the station house. *Id.* at 982. In determining that the summary
8 judgment record would not support a finding that the defendant officer was acting under color
9 of state law, the “plaintiff has not produced any evidence tending to show that his tormentor,
10 when brandishing the firearm, was exercising or purporting to exercise police power.” *Id.* at
11 988. Had such evidence been present, the outcome would have been different because--as the
12 *Martinez* Court recognized--the “color of state law” requirement is met when the actor “abuses
13 the position given to him by the State” (*id.*, at 986, internal quotation marks and citations
14 omitted) by acting “under pretense of law.” *Id.* at 987. This occurs when the conduct is
15 “related in some meaningful way either to the officer’s governmental status or to the
16 performance of his duties.” *Ibid.*

17 Holloway’s testimony clearly sets forth the requisite facts. Baldonado gained access to
18 Plaintiff’s home by virtue of actually being there on police business or pretending to be there
19 for that reason. This is precisely the kind of conduct that was lacking in *Martinez*. In fact,
20 *Martinez* was distinguished on this basis in *Monsky v. Moraghan*, 127 F.3d 243 (2nd Cir. 1997).

21 The Defendants rely on *Gibson v. City of Chicago*, 910 F.2d 1510 (7th Cir. 1990), for the
22 proposition that acts committed by a police officer, even while on duty and in uniform, are not
23 under color of state law unless they are in some way related to the performance of police duties.
24 Motion, p. 15, ll. 9-12. The perpetrator in *Gibson* was an officer that had been placed on the
25 department’s medical roll because he was deemed mentally unfit for duty. *Id.* at 1512.

26 The central operative fact in *Gibson* was that he had been stripped of all authority by a
27 valid order some three months before the incident. *Id.* at 1516-19. Given that Officer Novit
28 had essentially been suspended from duty, he was no more a state actor than a private citizen

1 who had gained unauthorized possession of a badge. In discussing the issue, the *Gibson* Court
2 acknowledged that Novit might have been deemed to have acted under color of state law in
3 circumstances more like those present here. For example, the Court approvingly discussed
4 *Davis v. Murphy*, 559 F.2d 1098 (7th Cir. 1977), in which off-duty police officers initiated an
5 altercation with black citizens by shouting racial epithets. When the situation escalated, the
6 officers exited their vehicle with their guns and badges and identified themselves as police
7 officers. *Gibson*, 910 F.2d at 1518. On these facts, and because a police department regulation
8 required the officers to always be subject to duty, the Seventh Circuit found that the officers had
9 acted under color of state law. Baldonado was likewise abusing the power conferred upon him
10 by the state and was thus acting under color of law.

11 It should also be mentioned that the language which the Clark County Defendants quote
12 from the *Gibson* decision is, in turn, quoted from the case of *Johnson v. Hackett*, 284 F.Supp.
13 933, 937 (E.D.Penn. 1968), although the Defendants fail to note this fact. There, the acts
14 complained of “were not committed in the performance of any actual or pretended duty of
15 policemen.” *Ibid*. Here, by contrast, Baldonado’s conduct is alleged to have been in the
16 performance of his actual or pretended duties.

17 Notably, the Clark County Defendants have edited their cannibalized version of the
18 City’s previous motion by deleting all reference to *Mark v. Borough of Hatboro*, 51 F.3d 1137
19 (3rd Cir. 1995). The reason for this deletion is undoubtedly because *Mark* firmly establishes
20 that Baldonado’s conduct was perpetrated under color of law. The Third Circuit, in *Mark*, sets
21 forth the following body of law:

22 [I]n order for the tortfeasor to be acting under color of state law, his act must
23 entail “[m]isuse of power, possessed by virtue of state law and made possible
24 only because the wrongdoer is clothed with the authority of state law.” *United*
25 *States v. Classic*, 313 U.S. 299, 326, 61 S.Ct. 1031, 1043, 85 L.Ed. 1368 (1941);
26 *Barna v. City of Perth Amboy*, 42 F.3d 809, 815-16 (3rd Cir. 1994) . . . “[U]nder
27 color of law means under ‘pretense’ of law. Thus, acts of officers in the ambit
28 of their personal pursuits are plainly excluded. Acts of officers who undertake
to perform their official duties are included whether they hew to the line of their
authority or overstep it.” *Screws v. United States*, 325 U.S. 91, 111, 65 S.Ct.
1031, 1040, 89 L.Ed. 1495 (1945 (plurality opinion)).

Id. at 1150-51. The testimony concerning Baldonado’s conduct places his actions squarely

1 within the foregoing description of acts that are committed under color of state law.

2 Finally, the Clark County Defendants cite *Van Ort v. Estate of Stanewich*, 92 F.3d 831
3 (9th Cir. 1996). Once again, the Defendants repeat the mistakes of the original author of the
4 motion, the City of North Las Vegas, by focusing on inapposite language and disregarding the
5 controlling legal principles. In *Van Ort* the Ninth Circuit specifically explained that Officer
6 Stanewich “might have been acting under color of law if he had purported to or pretended to act
7 under color of law, even if his goals were private and outside the scope of authority.” *Id.*, at
8 838, citing *Screws v. United States*, 325 U.S. 91, 65 S.Ct. 1031 (1945) and other authorities.
9 The instant case is exactly the type of situation described in *Van Ort*.

10 In fact, the Ninth Circuit relied on this very language to distinguish *Van Ort* in *McDade*
11 *v. West*, 223 F.3d 1135, 1141 (9th Cir. 2000). There an ex-wife (McDade) brought a civil rights
12 action against her ex-husband, his current wife, and others. The current wife (West) was an
13 employee of the district attorneys office. West illegally used the DA’s medical eligibility data
14 system to discover McDade’s address (in a battered women’s shelter) so that West’s husband
15 could serve McDade with papers relating to child custody issues. Notwithstanding that West
16 was acting solely to further a private goal, the Ninth Circuit concluded she acted under color of
17 state law:

18 Here, the circumstances are radically different [than those in *Stanewich*] because
19 Ms. West acted under the pretense of state employment by asserting her state-
20 authorized passcode to enter into the database. Therefore, since she committed
21 an act that was related to her official duties, we conclude that Ms. West acted
22 under color of state law. *See Dang Vang [v. Vang Xiong X. Toyed]*, 944 F.2d
23 476, 480 (“[A]ctions taken under color of state law must be related to the state
24 authority conferred on the actor, even though the actions are not actually
25 permitted by the authority.”).

26 223 F.3d at 1141.

27 In sum, the Clark County Defendants have utterly failed to support a contention that, as
28 a matter of law, Baldonado was not acting under color of law.

29 **2. Genuine Issues of Material Fact Exist as to Whether Holloway’s Injury**
30 **Resulted from Clark County’s Policy or Custom**

31 The Clark County Defendants argue that, as a matter of law, the County had no policy or
32 custom that led to a deprivation of Holloway’s constitutional rights. This argument lacks merit.

1 A. **Clark County Has a Long-Standing Policy of Tolerating**
2 **Baldonado's Sexual Misconduct**

3 In order for liability to attach to a municipality, such as Clark County, under 42 U.S.C. §
4 1983, a municipal policy must be a moving force which caused the constitutional injury.
5 *Monell v. Dept. of Social Services*, 436 U.S. 658, 98 S.Ct. 2018 (1978); *Polk County v. Dodson*,
6 454 U.S. 312, 102 S.Ct. 445 (1981). Case law recognizes that a municipality's policy can
7 violate an individual's civil rights in three ways. First, the municipality can adopt an express
8 policy that, when enforced, causes a constitutional deprivation. Second, it can tolerate a
9 practice that, although not authorized by written law or express policy, is so permanent or well
10 settled as to constitute a "custom or usage," also referred to as a *de facto* policy, with the force
11 of law. Third, a constitutional injury can give rise to municipal liability when it is caused by
12 the conduct of a person with final policymaking authority. *See, e.g., McTigue v. City of*
13 *Chicago*, 60 F.3d 381, 382 (7th Cir. 1995).

14 A *de facto* policy can arise "without showing a pattern of violations . . ." *Bryan*
15 *County Commissioners v. Brown*, 520 U.S. 397, 409, 117 S.Ct. 1382, 1391 (1997). For
16 example, where a need for training or supervision is obvious, a single constitutional violation
17 can be said to arise from a *de facto* municipal policy. In *City of Canton v. Harris*, 489 U.S.
18 378, 109 S.Ct. 1197 (1989), the Court gave two examples in which the need for training may be
19 so obvious as to support an inference that the failure to provide it amounts to "deliberate
20 indifference." Only one such example involved a showing of widespread constitutional
21 violations of a particular kind. *Id.* at 390 n. 10, 109 S.Ct. at 1205 n. 10.

22 Evidence uncovered in discovery, and delineated above, reveals that Clark County had a
23 long-standing *de facto* policy of tolerating Baldonado's sexual misconduct. The DA's Office
24 conducted an internal investigation of Baldonado for sexual harassment in 1993. Candace
25 Vogeles Williams, then an employee of Emergency Medical Services Associates at the Clark
26 County Detention Center, was the individual who received subpoenas that Baldonado served on
27 the Detention Center nurses. She complained that, on March 15, 1993, Baldonado accosted her
28 while the two were alone in the Detention Center elevator. Without provocation or

1 encouragement, Baldonado suddenly put his arms around Williams and kissed her on the lips.
2 She was shocked.

3 Williams immediately reported the incident to her co-workers, Carol Mercer and Darcy
4 Brown. Both of these women later reported in interviews with the detectives that they had
5 discussed the matter with Williams on the day of the incident, and both confirmed that
6 Williams appeared shocked, embarrassed, and upset. The detectives also interviewed another
7 co-worked, Josie Padua. She was off on the day in question, but Williams mentioned the
8 incident to her on the following day. Williams was still very upset. She resolved to hide in the
9 back room whenever Baldonado returned to their offices.

10 About two weeks later, Baldonado approached Williams and put his arm around her,
11 asking her what she was doing that weekend. Two weeks after that, while Williams was in the
12 back room to avoid Baldonado, he again approached her and again placed his arm around her.
13 He squeezed her and remarked that it was chilly outside and that he came into the offices to
14 warm up. Padua witnessed the latter incident and confirmed that Williams appeared
15 embarrassed by the uninvited and unwanted affection.

16 Despite the corroboration provided by Williams' co-workers, the Chief Investigator of
17 the Clark County District Attorney recommended that no disciplinary action be taken against
18 Baldonado. The ostensible justification for this recommendation was the feeble conclusion
19 that, "[t]o go before a hearing officer would not resolve the issue completely, that it was his
20 word against hers." If this justification were valid, many crimes and other matters would not be
21 pursued because it would be the perpetrator's word against that of the victim. A key function of
22 any fact-finder, including a hearing officer, is to resolve issues that turn on the credibility of
23 conflicting testimony. Furthermore, Williams' account of the events was buttressed by those
24 who witnessed her reactions and by Padua's eye-witness account of the third incident. It can
25 readily be inferred that the Clark County DA's investigation was tainted by bias.² After all, the
26

27 ² As previously noted, Defendant Bell justified his failure to conduct an internal investigation
28 of subsequent complaints about Baldonado's sexual misconduct on the ground that the DA's office
could not, and should not, investigate its own employees. *See* footnote 1, *supra*.

1 Chief Investigator was investigating the conduct of a co-employee.

2 The Chief Investigator was also motivated by a desire to protect the District Attorney's
3 Office from adverse publicity. As noted above, his report expressly stated that disciplinary
4 action "would result in some undesirable publicity for Rex Bell [then D.A.] and the office."
5 Ex. 7.

6 Another woman complained about Baldonado's sexual misconduct in 1998. Denise
7 Robinson reported that Baldonado inappropriately touched her breast and leg. Robinson
8 reported further that, upon doing so, he told Robinson that every older man's fantasy was to
9 have sex with a black woman and that, so far, he hadn't. Robinson made her report to Candy
10 Byrd, who forwarded the information to the Clark County District Attorney's Office, along with
11 an assurance that Robinson wanted to come forward and complain. Discovery gave no
12 indication that the DA's office ever pursued this incident.

13 **B. Bell's Failure to Initiate a Serious Investigation of the Complaints in**
14 **2000 About Baldonado's Sexual Misconduct and His Failure to**
15 **Provide Meaningful Supervision of Baldonado Perpetuated the**
Municipal Policy of Tolerating Such Official Misconduct

16 In his deposition, Stewart Bell testified that while he was the Clark County District
17 Attorney, a woman called and left a message that Baldonado was abusing the authority
18 conferred upon him by Clark County to extract sexual favors from her. An appointment was
19 made for the individual to come in, but she never appeared. Thereafter, two or three other
20 women met with Bell to discuss their concerns that Baldonado was victimizing their sister,
21 Desiree Gillard, in the same manner. This all occurred prior to Baldonado's sexual assault
22 upon Holloway.

23 Bell's response was tepid, at best. He conveyed the information to LVMPD. Metro, in
24 turn, sent out detectives to Gillard's residence. Though the detectives knew Gillard was inside,
25 she refused to come to the door and discuss the matter with them. When this single action
26 failed, Bell was apparently content to bury his head in the sand and assume nothing further
27 could be done:

28 They communicated to her that they were available for her if she needed police
assistance. And at that point the only thing we could do is wait and see if she

1 wished to come forward.

2 Although Baldonado was an employee of the Clark County District Attorney, Bell recalls no
3 attempt to confront him and apparently took no action to increase in the level of supervision
4 over him. Even a review of Baldonado's personnel file would have revealed the existence of
5 previous allegations against him. If similar charges had been leveled against a private citizen, it
6 is hard to imagine that the investigation would have come to a screeching halt merely because a
7 victim chose not to cooperate.

8 It can readily be inferred that Bell's feeble response reflected a *de facto* policy of
9 sweeping allegations under the rug when they were directed at DA employees. Bell's conduct
10 amounted to deliberate indifference to an obvious need for supervision, such that Clark County
11 can be held to answer for the constitutional injury that Baldonado later perpetrated on
12 Holloway. Such liability arises under the second type of policy outlined in *McTigue, supra*.
13 And because Bell is a policymaker for Clark County, his conduct gives rise to municipal
14 liability as a result of the third type of policy as well. *McTigue, supra*.

15 **3. Summary Judgment Is Unwarranted Based on Defendants' Assertion That**
16 **Neither Bell Nor Rogers Acted with Deliberate Indifference to Holloway's**
Rights

17 It is unclear whether the Clark County Defendants take the position that Holloway
18 suffered not constitutionally protected deprivation. If so, they are wrong. It is well-settled that
19 citizens have a constitutionally protected liberty interest, secured by the Fourteenth
20 Amendment, to be free from unjustified physical assaults on their persons. *Davis v. Fulton*
21 *County, Arkansas*, 884 F.Supp. 1245 (E.D.Ark. 1995). As the Clark County Defendants
22 concede, such a constitutional deprivation is actionable under 42 U.S.C. § 1983 where the
23 assault results from intentional conduct or deliberate indifference.

24 Before discussing this matter further, it is important to note the limitations inherent in
25 the Defendants' argument. It is their position that, as a matter of law, neither Bell nor Roger
26 exhibited deliberate indifference to Holloway's constitutionally protected right to be free from
27 unjustified physical assault. In this portion of their motion, the Defendants do not make a
28 similar argument with respect to Baldonado's conduct, for obvious reasons. If the jury finds

1 that Baldonado raped Holloway which acting under color of law, if follows as night follows day
2 that Baldonado intentionally deprived Holloway of her liberty interest in being free from
3 unjustified physical assault. Furthermore, in this portion of their motion, the Defendants do not
4 argue that the County cannot be held liable for the constitutional injury. Clearly, if the
5 County's policy was the moving force that permitted Baldonado to sexually assault Holloway,
6 then the County is subject to liability under *Monell, supra*.

7 Thus, the Defendants' only argument here is that, as a matter of law, Defendants Bell
8 and Roger displayed no deliberate indifference to Holloway's constitutionally protected liberty
9 interest. With respect to any individual claim against Roger, Holloway agrees. However, there
10 is ample evidence to support such a finding against Bell. Bell turned a blind eye to the previous
11 accusations against Baldonado. The records that Clark County has produced in discovery
12 would have been available to Bell had he made even minimal inquiry into the allegations
13 against Baldonado. And had Bell confronted Baldonado, that fact alone may have made a
14 sufficiently significant impact on him to have deterred him so as to have spared Holloway the
15 misery she has subsequently endured.

16 **4. Genuine Issues of Material Fact Exist as to Whether the County Is Subject**
17 **to Liability for Baldonado's Conduct**

18 The Clark County Defendants argue that, as a matter of law, Baldonado was not acting
19 within the course and scope of his employment. Motion, pp. 20-21. They likewise contend that
20 the County is, as a matter of law, protected from liability for his conduct by NRS 41.745.
21 Motion, pp. 21-22. These arguments, which can be discussed together, should be rejected.

22 While merely establishing that a perpetrator was acting within the course and scope of
23 his employment is insufficient to affix § 1983 liability on his employer, such proof ordinarily is
24 sufficient for purposes of Holloway's state-law claims. *See, e.g., Rockwell v. Sun Harbor*
25 *Budget Suites*, 112 Nev. 1217, 1227 n.5, 925 P.2d 1175, 1181 n.5 (1996).

26 The *sin qua non* of respondeat superior liability is the foreseeability of the employee's
27 conduct. In *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026 (2005), our Supreme Court
28 explained "foreseeability" in the context of respondeat superior as follows:

1 The California Court of Appeal has explained “foreseeability” in the context of
2 respondeat superior as follows:

3 One way to determine whether a risk is inherent in, or created by, an
4 enterprise is to ask whether the actual occurrence was a generally
5 foreseeable consequence of the activity. However, “foreseeability” in
6 this context must be distinguished from “foreseeability” as a test for
7 negligence. In the latter sense “foreseeable” means a level of probability
8 which would lead a prudent person to take effective precautions whereas
9 “foreseeability” as a test for *respondeat superior* merely means that in
10 the context of the particular enterprise an employee’s conduct ***is not so***
11 ***unusual or startling that it would seem unfair to include the loss***
12 ***resulting from it among other costs of the employer’s business.*** [Our
13 emphasis.] In other words, where the question is one of vicarious
14 liability, the inquiry should be whether the risk was one “that may fairly
15 be regarded as typical of or broadly incidental” to the enterprise
16 undertaken by the employer.

17 Under the modern rationale for *respondeat superior*, the test for
18 determining whether an employer is vicariously liable for the tortious
19 conduct of his employee is closely related to the test applied in workers’
20 compensation cases for determining whether an injury arose out of or in
21 the course of employment.

22 *Rodgers v. Kemper Construction Co.*, 50 Cal.App.3d 608, 124 Cal.Rptr. 143,
23 148-49 (1975) (citations omitted). This court quoted a portion of the above
24 language in *State, Department Human Resources v. Jimenez*, 113 Nev. 356, 365,
25 935 P.2d 274, 279-80 (1997). However, that opinion was later withdrawn based
26 on a voluntary stipulation to dismiss the case. *State, Dep’t Hum. Res. v. Jimenez*,
27 113 Nev. 735, 941 P.2d 969 (1997).

28 *Id.* at ____ n. 53, 121 P.3d at 1036 n. 53.

29 In light of the fact that Baldonado’s job description apparently included “trading favors”
30 with criminal defendants, *i.e.*, intervening on their behalf with the criminal justice system in
31 return for their cooperation in locating individuals Baldonado needed to serve with subpoenas,
32 it was foreseeable that he might be tempted to extract other types of “cooperation” as well. In
33 fact, in *State, Department Human Resources v. Jimenez*, 113 Nev. 356, 365, 935 P.2d 274, 279-
34 80 (1997), the Supreme Court found that an adult’s sexual assault upon a child was sufficiently
35 foreseeable to warrant imposition of vicarious liability on his employer. And, in *Rockwell*,
36 *supra*, the Supreme Court reversed a summary judgment in a wrongful death action in which a
37 security guard in an apartment complex murdered a tenant. The Court found that genuine
38 issues of material fact existed as to whether the guard acted within the course and scope of his
39 employment, notwithstanding that he killed the female tenant out of jealous rage when she

1 informed him she was ending an extramarital affair with him and returning to her husband.

2 NRS 41.745 does not require a different result. That statute is essentially a codification
3 of respondeat superior, as it applies to an employee's intentional acts. It reads as follows:

4 1. An employer is not liable for harm or injury caused by the
5 intentional conduct of an employee if the conduct of the employee:

6 (a) Was a truly independent venture of the employee;

7 (b) Was not committed in the course of the very task assigned to the
8 employee; and

9 © Was not reasonably foreseeable under the facts and circumstances
10 of the case considering the nature and scope of his employment.

11 For the purposes of this subsection, conduct of an employee is reasonably
12 foreseeable if a person of ordinary intelligence and prudence could have
13 reasonably anticipated the conduct and the probability of injury.

14 While *Jimenez* and *Rockwell* were decided prior to the enactment of NRS 41.745, *Wood*
15 was decided after its passage and its discussion (quoted in part above) is controlling. However,
16 to illustrate further that foreseeability, for purposes of vicarious liability in the instant case, is--
17 at a minimum--an issue of fact for the jury, it is helpful to more thoroughly examine *Rodgers v.*
18 *Kemper Construction Co.*, which the Nevada Supreme Court cited in the quoted passage from
19 *Wood*, and which our High Court had previously also cited in *Jimenez*.³ The Supreme Court
20 has also noted that *Rodgers*, an intermediate appellate court decision, has been embraced by the
21 California Supreme Court. So *Rodgers* is a reliable guide in the analysis of an employer's
22 vicarious liability for the intentional acts of its employee.

23 In *Rodgers*, the two plaintiffs (Rodgers and Kelley) were employed as heavy equipment
24 operators by the general contractor on a 24-hour-a-day job known as the Cedar Springs Dam
25 project. One defendant, Kemper Construction Co. (Kemper) was a subcontractor on the same
26 project. Also named as defendants were two Kemper employees, Herd and O'Brien. These

27 ³ 113 Nev. 356, 365, 935 P.2d 274, 279-80 (1997). We realize that the *Jimenez* decision was
28 withdrawn based on a voluntary stipulation to dismiss the case. See *State, Department Human*
Resources v. Jimenez, 113 Nev. 735, 941 P.2d 969 (1997). However, its withdrawal had nothing to do
with any perceived defect in the Supreme Court's analysis and, in fact, the Court subsequently cited the
withdrawn opinion in *Wood*. 121 Nev. at 740 n. 53, 121 P.3d at 1036 n. 53.

1 two men had worked the day shift, which ended at 4 p.m. They stayed on the construction site
2 to work on O'Brien's truck. In the ensuing four hours, the men had each consumed 3 or 4
3 beers. None of the foregoing facts was out of the ordinary for Kemper employees. That they
4 lingered on the job site was convenient to Kemper, because those still present were solicited for
5 voluntary overtime if the need arose.

6 At about 8 p.m., Herd and O'Brien decided to walk across the jobsite to locate a friend
7 in order to borrow money so they could continue drinking in a nearby town. They came upon
8 Rodgers, who was operating a bulldozer. After the men signaled Rodgers to stop, O'Brien
9 climbed up on the equipment and asked for a ride. Rodgers refused because it was against
10 regulations. Herd and O'Brien then attacked Rodgers, beating him with their fists and with
11 rocks.

12 The attackers then left. Rodgers drove to where Kelley was working and asked for help
13 in obtaining the identities of the assailants. Rodgers and Kelley then drove to the Kemper
14 parking area and found Herd and O'Brien as they were climbing into O'Brien's truck. When
15 Rodgers began to write down the license number, O'Brien exited the truck and struck Kelley,
16 knocking him to the ground. Rodgers then threw a rock at O'Brien, missing him and instead
17 cracking the truck's windshield. Herd then jumped out of the truck and began fighting with
18 Rodgers. After another individual took the side of Herd and O'Brien, Rodgers was knocked
19 unconscious from behind and the fight was ultimately broken up by another employee of the
20 general contractor.

21 Rodgers was permanently disabled and Kelley sustained permanent double vision.

22 Associate Justice Stephen K. Tamura wrote the unanimous opinion for the panel.

23 Justice Tamura elaborated on the form of foreseeability required for purposes of vicarious
24 liability. In doing so, he drew heavily from the California Supreme Court's decision in another
25 case involving an assault:

26 In holding that the assault in *Carr v. Wm. C. Crowell Co.* [28 Cal.2d 652,
27 171 P.2d 5 (Cal. 1946)], was an outgrowth of the employment, the court
28 observed: "[D]efendant's enterprise required an association of employees with
third parties, attended by the risk that someone might be injured. 'The risk of
such associations and conditions were risks of the employment.'" Cardozo, J., in

1 *Leonbruno v. Champlain Silk Mills*, 229 N.Y. 470, 472, 128 N.E. 711, 13 A.L.R.
2 522. Such associations “include the faults and derelictions of human beings as
3 well as their virtues and obediences. Men do not discard their personal qualities
4 when they go to work. Into the job they carry their intelligence, skill, habits of
5 care and rectitude. Just as inevitably they take along also their tendencies to
6 carelessness and camaraderie, as well as emotional makeup These
7 expressions of human nature are incidents inseparable from working together.
8 They involve risks of injury and these risks are inherent to the working
9 environment.” (Citations.) (*Carr v. Wm. C. Crowell Co.*, *supra*, 28 Cal.2d 652,
10 656, 171 P.2d 5, 7. *See also Fields v. Sanders*, [29 Cal.2d 834, 180 P.2d 684
11 (Cal. 1947)] (employer liable for an assault by its truck driver on a motorist
12 resulting from a collision on a highway).)⁴

13 Justice Tamura then applied the foregoing principles to the facts before the Court in

14 *Rodgers*:

15 In the instant case, it was reasonably to be expected that Kemper’s
16 employees would come into contact with employees of other contractors on the
17 same project. The risk of such associations, as explained in *Carr* and *Fields*,
18 extends to expressions of normal human traits which, unhappily, include
19 occasional emotional flareups and propensity for violence. In the case at bench
20 the quarrel on the job site, though between employees of different contractors,
21 arose over the rights and privileges of Kemper’s off-duty employees. It was
22 manifestly an outgrowth of the employment relationship and a risk which may
23 fairly be considered as typical of, or incidental to, the employment. The incident
24 which led to plaintiff’s injuries was such as might normally be expected to occur
25 during the course of a major construction job.⁵

26 Precisely the same reasoning here requires precisely the same result. Baldonado’s job
27 description included trading favors with members of the criminal element. He was essentially
28 unsupervised, even after several serious questions had been raised by his sexual misconduct.
29 His continued sexual misconduct can easily be viewed, in these circumstances, as “broadly
30 incidental”⁶ to the business of a district attorney’s office that took no significant steps to
31 supervise or otherwise control him. Thus, it is entirely fair that the employer should be required
32 to treat such incidents as a cost of doing business.

33 Stated slightly differently, the test for foreseeability in this context is whether the
34 employee’s tort is so “unusual or startling that it would seem unfair to include the loss resulting

35 ⁴50 Cal.App.3d at 622, 124 Cal.Rptr. at 151.

36 ⁵*Id.* at 622-23, 124 Cal.Rptr. at 151.

37 ⁶*Id.* at 622, 124 Cal.Rptr. at 151.

1 from it among other costs of the employer's business."⁷ It is hardly unusual or startling that
2 someone in Baldonado's position would take advantage of his free reign as he did. This case is
3 wholly unlike *Wood* in which a janitor raped a co-employee. Here, respondeat superior is far
4 more compelling than in other Nevada decisions, of relatively recent vintage, in which far more
5 unusual and startling conduct has been held to have been within the course and scope of
6 employment.⁸

7 **V. CONCLUSION**

8 For the foregoing reasons, Holloway respectfully submits that the motion for summary
9 judgment should be denied

10 **AFFIRMATION**

11 **Pursuant to NRS 239B.030**

12 The undersigned does hereby affirm that the preceding document filed in case number
13 05-A-498609-C, does not contain the social security number of any person.

14 Dated this 16th day of January 2008.

15
16 /s/ William C. Jeanney
17 William C. Jeanney, Esq.
18 Attorney for Plaintiff
19
20
21
22
23
24

25 ⁷*Id.* at 619, 124 Cal.Rptr. at 149.

26 ⁸ See, again, *Rockwell v. Sun Harbor Budget Suites*, 112 Nev. 1217, 925 P.2d 1175 (1996)
27 (summary judgment in favor of employer reversed because fact issue existed as to whether apartment
28 house security guard's murder of female tenant, with whom he was having an affair, was within the
course and scope of his employment).

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of BRADLEY, DRENDEL & JEANNEY, LTD., and that on this 16th day of January 2008, I served a true and correct copy of the foregoing document by:

Placing an original or true copy thereof in a sealed envelope placed for collecting and mailing in the United States mail, at Reno, Nevada, postage prepaid, following ordinary business practices.

Richard A. Harris, Esq.
Harris Law Firm
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Attorney for: David Roger,
Bill Young,
Clark County,
Stewart Bell

/s/ Reva S. Archer
Reva S. Archer
Employee of Bradley, Drendel & Jeanney

EXHIBIT "1"

Love Holloway

September 19, 2007

Holloway v. Clark County, et al.

Page 1

DISTRICT COURT
CLARK COUNTY, NEVADA

LOVE HOLLOWAY,)
)
 Plaintiff,)
)
 vs.) Case No. A498609
)
 PETER BALDONADO,)
 individually and in his)
 official capacity as former)
 investigator for the Office)
 of the Clark County District)
 Attorney; STEWART BELL,)
)
 ///
 ///

DEPOSITION OF LOVE HOLLOWAY

Taken on Wednesday, September 19, 2007

At 9:14 a.m.

At 9950 West Cheyenne Avenue

Las Vegas, Nevada 89129

Reported by: Susan Lee Naylor, RPR, RMR, CCR #513

Western Reporting Services, Inc.
500 South Rancho Drive, Suite 8A, Las Vegas, Nevada 89106

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AA11892

1 individually and in his)
2 capacity as former Clark)
3 County District Attorney;)
4 DAVID ROGER, individually)
5 and in his official capacity)
6 as Clark County District)
7 Attorney; BILL YOUNG,)
8 individually and in his)
9 official capacity as Sheriff)
10 of the Las Vegas)
11 Metropolitan Police)
12 Department; CLARK COUNTY, a)
13 political subdivision of the)
14 State of Nevada, on relation)
15 of its Office of the Clark)
16 County District Attorney,)
17 and on its relation of its)
18 Las Vegas Metropolitan)
19 Police Department; CITY OF)
20 NORTH LAS VEGAS, a municipal)
21 corporation existing under)
22 the laws of the State of)
23 Nevada in the County of)
24 Clark ex rel. its North Las)
25 Vegas Police Department;)
DOES I through X; inclusive;)
and ROES I through X,)
inclusive,)
Defendants.)

APPEARANCES

For the Plaintiff: RICHARD A. HARRIS, ESQ.
DAVID D. BOEHRER, ESQ.
Richard Harris Law Firm
801 South Fourth Street
Las Vegas, NV 89101

For Defendants WALTER R. CANNON, ESQ.
Stewart Bell, Olson, Cannon,
David Roger, Gormley & Desruisseaux
Bill Young, and 9950 West Cheyenne Avenue
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For Defendant AMY V. MONDRAGON, ESQ.
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For Defendant STEPHANIE A. BARKER, ESQ.
Clark County District Attorney, Civil Division
District Attorney: 500 South Grand Central Parkway
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Las Vegas, NV 89106

Also Present: Peter Baldonado

* * * * *

I N D E X

WITNESS	PAGE
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EXAMINATION	
BY MR. CANNON	5
BY MS. MONDRAGON	132

E X H I B I T S

NUMBER	DESCRIPTION	MARKED FOR ID
A	Victim Statement	5
B	Plaintiff's Answers to Defendant City of North Las Vegas's Interrogatories	10
C	Answers to Stewart Bell's Interrogatories to Plaintiff	11
D	Diagram	135

1 (The reporter marked Exhibit A.)
2 (Prior to the commencement of the
3 deposition proceedings, a discussion was
4 held off the record between the court
5 reporter and counsel wherein all counsel
6 agreed to waive the reporter requirements
7 under Rule 30(b)(4).

8 LOVE HOLLOWAY

9 was called as a witness, and having been first duly
10 sworn, testified as follows:

11 EXAMINATION

12 BY MR. CANNON:

13 Q Would you state your name, please.

14 A Love Holloway. Lovel Bea, like that,
15 Lovel Bea Holloway.

16 Q Okay. Ms. Holloway, have you ever had a
17 deposition taken before?

18 A No.

19 Q Okay. Prior to coming here today, I'm
20 assuming that you had a chance to talk with someone
21 concerning what the process was all about; is that
22 right?

23 A Yes.

24 Q All right. In addition to what you might
25 or might not know from that, let me basically

1 explain the deposition process to you so I'm
2 absolutely certain that you understand what is going
3 to be happening here this morning. Under the laws
4 of the State of Nevada, when someone sues someone
5 else, each side or party in that lawsuit is given
6 the right to take what we call a deposition.

7 A Mm-hmm.

8 Q Essentially, a deposition is a series of
9 questions and answers. I'll be asking questions, as
10 well might be other counsel that are present here
11 today. You will be asked to respond to those
12 questions.

13 The oath you have just taken is the same
14 oath you would take in a courtroom. It carries the
15 same obligations to tell the truth and the same
16 penalties for not doing so.

17 As you might notice, there's a court
18 reporter seated to your immediate right, and it is
19 her function to take down each question asked of you
20 and each answer you give. At the end of that
21 process, she's going to prepare a booklet which will
22 be a verbatim transcription of all the questions and
23 answers. You will then be contacted, asked to
24 review the booklet, and again under oath, attest to
25 the truthfulness of what you testified to today.

1 If you make a change at the time that you
2 review the booklet -- and you have that right --

3 A Mm-hmm.

4 Q -- and that change is in some way
5 important to this case, any attorney that would be
6 present at the trial of this case would have the
7 right to comment -- I can assure you they will
8 comment -- on the fact that you changed your
9 testimony. So for that reason, if none other, it's
10 extremely important that, as we go through this
11 process today --

12 A Mm-hmm.

13 Q -- you understand what's being asked of
14 you. If I ask you a question and you don't
15 understand, tell me. Tell me, I'm sorry. I can't
16 understand you. You talk too fast, you mumble, you
17 did all kinds of stuff, and I just couldn't keep up.
18 Whatever I do, tell me, and I will rephrase my
19 question.

20 But if you answer a question I've asked of
21 you without asking me to explain it or say it again,
22 I'm going to assume that you understood my question,
23 and that the answer you gave responded to my
24 question, okay?

25 A Okay.

1 Q All right. Couple other points. The
2 deposition is a verbal process. By that, I mean the
3 court reporter can only take down verbal responses,
4 yes, nos as opposed to uh-huhs and uh-uhs. And
5 don't use head gestures, nods of the head --

6 A Right.

7 Q -- waves of the arm, because she just
8 can't take that down.

9 Finally, in everyday speech, I might start
10 to ask you a question, and you might know what I'm
11 going to ask you, and you might start to answer
12 before I finish the question.

13 A Mm-hmm.

14 Q If we are outside of the deposition, that
15 works fine. But if we're in the deposition, both of
16 of us are talking at the same time, the court
17 reporter can't take that down. So I'm going to try
18 to let you finish your answer before I ask the next
19 question, and I would ask that you wait for my
20 question to be asked before you attempt to answer
21 it, okay?

22 A Okay.

23 Q Any questions about the process?

24 A Not at this time.

25 Q Okay. If you have one that comes up as

1 we're going through the process, you tell me, and
2 we'll go back and talk about it again, okay?

3 A Okay.

4 Q All right. In anticipation of coming here
5 today, did you review any documents?

6 A Yes.

7 Q Okay. Can you tell me what it is you
8 reviewed.

9 A My deposition.

10 Q Your deposition?

11 MR. HARRIS: Interrogatory.

12 THE WITNESS: Interrogatories.

13 BY MR. CANNON:

14 Q Answers to interrogatories where you
15 answered certain questions under oath?

16 A Yes.

17 Q And how many different documents entitled
18 "Answers to Interrogatories" did you review?

19 A Three.

20 Q So you reviewed all three sets of answers
21 to interrogatories?

22 MR. BOEHRER: (Nodding.)

23 THE WITNESS: Yes.

24 BY MR. CANNON:

25 Q Let me show you those three sets, or at

1 least what I think might be those three sets so we
2 can be sure we're both talking about the same thing.
3 I have a document that's been marked Plaintiff's
4 Answers to Defendant City of North Las Vegas
5 Interrogatories. This document was apparently
6 signed by you on August 27th -- or August 22nd of
7 2007, and we'll mark this as Defendant's B, and I'm
8 going to hand it first to the court reporter.

9 (The reporter marked Exhibit B.)

10 BY MR. CANNON:

11 Q All right. Can you take a look at that
12 document that we've now marked as Defendant's
13 Exhibit B, and tell me if that's one of the
14 documents you reviewed?

15 A Yes.

16 Q And at the time you reviewed it, did you
17 notice any answer that was not accurate to any
18 question in that document?

19 A No.

20 Q Okay. So everything you put down in that
21 particular document is true and correct, to the best
22 of your knowledge; is that correct?

23 A Yes.

24 Q And you actually supplied the information
25 by which those answers were crafted; is that right?

1 A Yes.

2 Q Okay. Let me then show you what we'll now
3 mark as Defendant's C entitled, "Answers to
4 Defendant Stewart Bell's Interrogatories."

5 (The reporter marked Exhibit C.)

6 BY MR. CANNON:

7 Q Is that the other document, or another one
8 of the documents that you reviewed?

9 A Yes.

10 Q Okay. And at the time you reviewed it,
11 was everything in there true and correct to the best
12 of your knowledge?

13 A Yes.

14 Q And you actually supplied the information
15 by which each of those questions was answered,
16 correct?

17 A Yes.

18 Q Okay. And certainly, had something not
19 been correct, you would have brought it to someone's
20 attention, right?

21 A Yes.

22 Q Do you remember the name of the other
23 document you looked at? because I don't seem to have
24 it. It was another set of interrogatory answers.

25 MR. HARRIS: That's the same as this.

1 THE WITNESS: This is it.

2 BY MR. CANNON:

3 Q Okay. Those are the only two you looked
4 at?

5 A Yes.

6 Q Okay.

7 MR. HARRIS: Was there a set from --

8 BY MR. CANNON:

9 Q So there was also a set from -- well,
10 there's another couple sets. There was one from
11 Clark County. Do you remember reviewing a document
12 from Clark County entitled, "Answers to" -- or
13 "Interrogatories"? I think this is what you're
14 talking about.

15 MR. HARRIS: Mm-hmm.

16 MR. CANNON: I don't have an extra set of
17 that.

18 BY MR. CANNON:

19 Q Is that the other document?

20 A Yes.

21 Q Everything in there was true and correct?

22 A Yes.

23 Q And you supplied the information by which
24 those questions were answered?

25 A Yes.

1 Q And certainly, if it would have been
2 inaccurate, you would not have attested to it under
3 oath, correct?

4 A Correct.

5 Q Okay. Now, besides for the three
6 interrogatory answers that you've now identified,
7 did you review any other documents?

8 A No.

9 Q Did you speak with anyone except your
10 attorneys prior to coming here today concerning the
11 deposition or this case?

12 A No.

13 Q Okay. All right. Where are you presently
14 employed?

15 A Quest Diagnostics.

16 Q And how long have you been employed at
17 Quest?

18 A Nine and a half years.

19 Q And what is your function or job there,
20 please?

21 A Phlebotomist.

22 Q What does a phlebotomist do?

23 A I draw blood. We do blood testing.

24 Q And have you always had that position
25 since you've been employed by Quest?

1 A Yes.

2 Q Is Quest that you work at on the corner of
3 Lake Mead and Bruce?

4 A No.

5 Q Where is it?

6 A Lake Mead and McDaniel.

7 Q Who's your supervisor, please?

8 A DeShawn Johnson.

9 Q And how long has Mr. Johnson been your
10 supervisor?

11 A Ms. Johnson.

12 Q I'm sorry. Ms. Johnson.

13 A Oh, she came in -- at least three years
14 now, to my knowledge.

15 Q Are you saying that she might have been
16 your supervisor at some time, and you didn't know
17 about it?

18 A No. She came over to our center and took
19 over the other supervisor's position.

20 Q Okay. And who was your supervisor before
21 her?

22 A Cynthia Worthy.

23 Q And how long was Ms. Worthy your
24 supervisor?

25 A The last eight years.

1 Q All right. Where do you presently reside?

2 A 2221 West Bonanza Road.

3 Q Okay. Is that a house or apartment?

4 A Apartment.

5 Q What's the apartment number, please?

6 A Number 31 -- I mean, 38. I'm sorry. 38.

7 Q How long have you lived there?

8 A August the 1st.

9 Q Of 2007?

10 A 2007.

11 Q And do you live there alone?

12 A Yes.

13 Q Okay. And where did you live immediately
14 prior to that address, please?

15 A 6901 East Lake Mead Boulevard.

16 Q Okay. And is that in Las Vegas or North
17 Las Vegas?

18 A It's in Las Vegas.

19 Q And how long did you live there?

20 A A year.

21 Q Is that a house or apartment?

22 A Apartment.

23 Q And what's the apartment number?

24 A 2136.

25 Q And did you live there alone?

1 A Yes.

2 Q Okay. And where did you live immediately
3 prior to that place?

4 A 4515.

5 Q Okay.

6 A I think it was -- I can't remember. Are
7 you waiting on me?

8 Q I didn't hear the last part. You said
9 4515?

10 A I'm sorry. I was waiting on you.

11 Q 4515 what?

12 A Las Vegas Boulevard. Eagle Trace.

13 Q Okay. That's on Craig and Las Vegas
14 Boulevard?

15 A Uh-huh.

16 Q How long did you live there?

17 A A year.

18 Q So basically from August of '05 to August
19 of '06?

20 A Yes.

21 Q Okay. And did you live there alone?

22 A Yes.

23 Q All right. And can you tell me the
24 apartment number.

25 A I can't remember. I think it's 1018,

1 Building 7, I believe.

2 Q And before that, did you live at Cheyenne
3 Villas?

4 A Yes, I did.

5 Q And do you remember the address for
6 Cheyenne Villas?

7 A No, I don't.

8 Q Do you remember if that was a house or
9 apartment?

10 A Apartment.

11 Q And do you remember the number?

12 A No.

13 Q And how long did you live there?

14 A A year.

15 Q So basically August of '04 to August of
16 '05?

17 A That's correct.

18 Q Did you live there alone?

19 A Yes.

20 Q And before that, you lived at 1820
21 Featherbrook?

22 A That's correct.

23 Q Was that a house or apartment?

24 A A house.

25 Q And for what period of time did you live

1 there?

2 A Four years.

3 Q Okay. In your answers to interrogatories,
4 it says you lived there from 2001 to 2004. Is that
5 accurate?

6 A Four years?

7 Q Approximately.

8 A Yes.

9 Q Okay. And did you live there alone or
10 with someone?

11 A No. I was married at the time.

12 Q As I understand it, you and your husband
13 divorced in 2002; is that correct?

14 A Yes.

15 Q So would you have lived there alone from
16 2002 to 2004?

17 A No -- I'm sorry. Can I back up?

18 Q You can.

19 A I was married for four years. I lived in
20 a house for two years, so I'm sorry about that. I'm
21 backing up. I'm thinking of how long I was married.
22 But I was in the house for two years, because -- two
23 years? Yeah, two years.

24 Q What two years was that?

25 A I got married -- when did I get married?

1 '93? No. I got married in '98. I'm sorry. 2000,
2 2001 -- we got the house in -- I can't remember all
3 the dates.

4 Q I understand. You lived in that -- in the
5 house on Featherbrook for --

6 A I was in there for at least two years,
7 because we were married before we got the house.

8 Q Before you and your husband got divorced
9 in 2002, did you continue to live in the house?

10 A No. I moved out to the Cheyenne Villas.

11 Q Okay. And before that, did you and your
12 husband live in the house for approximately two
13 years?

14 A Yes.

15 Q And was it just you and he that lived
16 there?

17 A No, my son.

18 Q Your son's name is what?

19 A Terry Marlando Smith.

20 Q And how old is he?

21 A He's 19.

22 Q Besides for him, do you have any other
23 children?

24 A Yes.

25 Q Can you tell me their names and ages.

1 A Brian Darnell William, 26.

2 Q Okay.

3 A Andre Lee McDowell, 24.

4 Q Any other ones?

5 A No.

6 Q And prior to living at Featherbrook, I
7 understand you lived on Carey, correct?

8 A 5370, that's when we first moved out here.
9 Carey, that was the first apartment we had.

10 Q 2525 East Carey?

11 A Yes.

12 Q And you lived there from when you first
13 came to Las Vegas in 1993?

14 A Yeah. Yes.

15 Q Until you moved into the house on
16 Featherbrook?

17 A That is correct.

18 Q Okay. When did you first meet Pete
19 Baldonado?

20 A I don't know when I first met him, but it
21 was whenever I got that first subpoena during my
22 friend's case. That's all I can tell you.

23 Q As I understand it, you had a friend that
24 was killed; is that correct?

25 A That's correct.

1 Q And she -- was it a she or he?

2 A She.

3 Q What was her name, please?

4 A Marisa.

5 Q And her last name?

6 A I think it's Perez, if I'm not mistaken.

7 Q And she was killed by a boyfriend or

8 ex-boyfriend; is that right?

9 A No.

10 Q Who was she killed by?

11 A Her sister's ex-boyfriend.

12 Q And his last name was Smith?

13 A I don't know what his last name was.

14 Q In any event, you were going to be a

15 witness in a case involving the death of your

16 friend; is that correct?

17 A Yes.

18 Q And in conjunction with being a witness
19 was how you first met Mr. Baldonado; is that right?

20 A Yes.

21 Q And tell me how it was you met him. How
22 did it come about?

23 A I got a subpoena letter. To my
24 recollection, I got a subpoena letter. I went to
25 the courthouse, and I met him, I do believe, at that

1 time. And he introduced hisself, and then me and
2 Letitia, and that's how I met him.

3 Q Who is Letitia?

4 A Her sister.

5 Q What's her name? Letitia what?

6 A If I'm not mistaken, Perez.

7 Q So both of you got subpoenaed, and you
8 went down to the -- where did you go? The
9 courthouse? The district attorney's office? Where?

10 A Courthouse.

11 Q And while you were at the courthouse with
12 Ms. Perez, you and her met Mr. Baldonado?

13 A That's right.

14 Q And tell me about that first meeting.
15 What happened?

16 A We just met him. They kind of told us
17 about the case, and we sat down, and that was it.

18 Q Okay. When you say you sat down, did you
19 sit down in the court?

20 A No. On a bench outside the courtroom.

21 Q And was the case continued?

22 A Yes.

23 Q And did Mr. Baldonado indicate at that
24 time that he would be contacting you in the future?

25 A Yes.

1 Q Did he ask you for a contact information?

2 A I don't remember.

3 Q Did he ask the same questions of Ms. Perez
4 that he asked of you?

5 A I don't remember.

6 Q All right. In any event, after that first
7 time, when was the next time you had any contact
8 with Mr. Baldonado?

9 A The second subpoena.

10 Q You received --

11 A Subpoena.

12 Q You received a second subpoena in the
13 mail, or was it served on you?

14 A I don't remember.

15 Q The first time, were you served with a
16 subpoena, or did somebody simply mail it to you?

17 A I don't remember that either.

18 Q When you first got -- before you received
19 the first subpoena, did somebody call you and tell
20 you the subpoena was coming?

21 A It's been a while back. I don't remember.

22 Q All right. In any event, Mr. Baldonado
23 did not deliver the second subpoena to you, correct?

24 A No.

25 Q Okay. You would have remembered that?

1 A I would have remembered.

2 Q Okay. So you were contacted in some way
3 and received a second subpoena. You're not sure if
4 you got it in the mail, if it was delivered to you,
5 but you got one, correct?

6 A Correct.

7 Q After you got it, what happened? How did
8 you come in contact with Mr. Baldonado?

9 A Of course, I met him again at the
10 courthouse.

11 Q Okay. So you went to the courthouse. Did
12 you go with Letitia Perez again?

13 A By myself.

14 Q All right. And what happened when you got
15 to the courthouse?

16 A Same thing. Hi, introduced myself -- I
17 mean, he introduced himself. He knew who I was from
18 the first. And I just sat down and waited.

19 Q Did you and he engage in any talk --

20 A No.

21 Q -- other than hi at that point?

22 A No.

23 Q What happened? After -- you were waiting
24 there, and what happened?

25 A Once again, it was cancelled.

1 Q Okay. Did you have any conversations with
2 Mr. Baldonado at that point after the case was
3 cancelled?

4 A No.

5 Q Did he ever tell you, for example, well,
6 we're going to be contacting you again, or anything
7 of that nature?

8 A Yes.

9 Q He did say that to you?

10 A Yes.

11 Q Did he say anything else to you besides
12 you'll be contacted again?

13 A No.

14 Q So you went home. When was the next time
15 you heard from Mr. Baldonado?

16 A The next subpoena.

17 Q Do you remember how many in total there
18 were?

19 A No. I didn't count them.

20 Q Could you give me an approximation of how
21 many in total there were.

22 A I think it was more than seven.

23 Q More than seven subpoenas?

24 A Mm-hmm.

25 Q Each time that you went to the courthouse

1 in response to one of those subpoenas, was
2 Mr. Baldonado there?

3 A Yes.

4 Q So let's deal with the next-in-order time,
5 which would have been the third time, by my count.
6 You went to the courthouse again?

7 A Yes.

8 Q Mr. Baldonado was there?

9 A Yes.

10 Q You and he have any conversations at that
11 point?

12 A No.

13 Q The case got continued?

14 A Yes.

15 Q And did you have any conversations with
16 him at that point?

17 A No.

18 Q Did he indicate to you that you would be
19 called again?

20 A Yes.

21 Q Did he request from you a contact phone
22 number?

23 A I don't remember.

24 Q Okay. Do you remember if, on the first
25 two occasions when you went to the courthouse and

1 the case was cancelled, as you say, anyone
2 requesting a phone number from you by where you
3 could be contacted?

4 A I don't remember, but I did start getting
5 business cards.

6 Q You started collecting business cards?

7 A His business cards.

8 Q Okay. So Mr. Baldonado gave you a
9 business card?

10 A Yes.

11 Q Was that on the third time that you went
12 to court?

13 A I don't remember.

14 Q Okay. And did he give you one each time?

15 A I had a couple of them. I don't know when
16 I received them, but I got a couple of them.

17 Q When you say you had a couple, do you
18 mean --

19 A I had like four.

20 THE COURT REPORTER: Hang on. You're
21 talking over each other.

22 THE WITNESS: Oh, I'm sorry.

23 BY MR. CANNON:

24 Q That probably wasn't a good question
25 anyway.

1 A I'm sorry.

2 Q So you remember having four of
3 Mr. Baldonado's business cards?

4 A Yes.

5 Q They were all the same cards?

6 A Yes.

7 Q Did he handwrite anything on any of these
8 cards --

9 A Yes.

10 Q -- like a cell phone number or some kind
11 of number of that nature?

12 A Yes.

13 Q On all of them?

14 A No.

15 Q Okay. On the fourth one that you
16 received?

17 A I don't remember.

18 Q Okay. Not on the first one, but on one of
19 the ones that came after that; is that right?

20 A Yes.

21 Q And he would have given you this business
22 card when you went to the court on one occasion, and
23 the case was cancelled, to use your words, correct?

24 A Yes.

25 Q All right. What was on the back or on the

1 front of the card that Mr. Baldonado gave to you
2 that was handwritten?

3 A On the back was his cell number.

4 Q Did he tell you why he put his cell number
5 on the back?

6 A If I had any questions, or if, for some
7 reason, maybe if I couldn't make it or whatever.

8 Q So if, when you got resubpoenaed, you had
9 any questions or couldn't make it to court, you were
10 to call him?

11 A Yes.

12 Q Is that what he explained the reason for
13 his cell number was?

14 A Yes.

15 Q On any of the other cards that you
16 received from Mr. Baldonado, did he make any other
17 notations?

18 A No.

19 Q Okay. So you would have had one of his
20 cards with his cell number, correct?

21 A Yes.

22 Q And the other three cards were just
23 regular business cards?

24 A Yes.

25 Q All right. After the third time that you

1 went down there, talked to Mr. Baldonado, found out
2 the case was continued and went home, were you
3 contacted again?

4 A At that time, I started -- he would start
5 calling my job.

6 Q Okay. How did he have the number for your
7 job? Did you give it to him?

8 A I gave it to him. I don't exactly know
9 when.

10 Q Did he ask you for it?

11 A For contact information. If they
12 cancelled the court or something like that, then he
13 would give me a call. That way, I wouldn't have to
14 come down there.

15 Q And this would have been after the first
16 three times after you went down?

17 A Yes.

18 Q Okay. So at the time that he asked you
19 for your work number for contact information, was
20 that the same time that he gave you his cell phone
21 number on his business card?

22 A I don't remember.

23 Q Okay. And in any event, he had your work
24 number?

25 A Yes.

1 Q And you were next subpoenaed again,
2 correct?

3 A Yes.

4 Q And do you remember if Mr. Baldonado
5 delivered the subpoena?

6 A He did deliver one.

7 Q Okay. Do you remember where he delivered
8 it to?

9 A To my job.

10 Q Do you remember if that was toward the end
11 of all the seven appearances or the middle? Where
12 was it?

13 A In the middle toward the end. In the
14 middle toward the end.

15 Q Somewhere toward the middle and the end?

16 A Toward the end.

17 Q Was it the last time?

18 A No.

19 Q So we can rule that one out?

20 A Rule that one out.

21 Q All right. So in any event, after you
22 gave Mr. Baldonado your contact number at work, the
23 next time that you were to go to court, he called
24 you on the phone and told you?

25 A At my job.

1 Q Okay. And did he have any other
2 conversation with you besides you needed to go to
3 court?

4 A Nope.

5 Q And did you go with Ms. Perez?

6 A No.

7 Q Okay. Did she go down on all seven
8 occasions?

9 A No.

10 Q So at some point, she dropped out of the
11 process of going down to court?

12 A I'm not sure. She just wasn't there.

13 Q Well, after the first time, did you ever
14 see her again going to court?

15 A I seen her twice.

16 Q So after the first couple of times, you
17 never saw her again?

18 A No.

19 Q Did you ever contact her and ask her why
20 it was that you were going and she wasn't?

21 A No.

22 Q Okay. Was she a witness, to your
23 knowledge?

24 A Yes.

25 Q But apparently she wasn't continuing to

1 go, and you were?

2 A Right.

3 Q So after you were contacted by
4 Mr. Baldonado, you went down to court, and the case
5 was continued again?

6 A Yes.

7 Q And Mr. Baldonado was there?

8 A Yes.

9 Q Did you and he have any conversations on
10 that occasion?

11 A No.

12 Q Basically, did you exchange hi's?

13 A Well, yeah. We spoke.

14 Q Anything else besides hi, how are you?

15 A No.

16 Q And was he the one that told you the case
17 was continued?

18 A Yes.

19 Q And you then left and returned, I assume,
20 to your job?

21 A Right.

22 Q All right. Did you have any further
23 contact with Mr. Baldonado after that time?

24 A Just called my job.

25 Q The next time you heard from him, he would

1 have called your job?

2 A Mm-hmm. Yes.

3 Q And was it in conjunction with another
4 subpoena that you'd received?

5 A No. He talked about the case, though,
6 that he would contact me if anything changed.

7 Q So he --

8 A For the case.

9 Q So he called you on the phone at your
10 place of employment and indicated what about the
11 case?

12 A That if anything changes, or if I get the
13 subpoenas that I've already had, if anything changes
14 between then, you know, that they would contact me
15 and let me know, but to call that number on the
16 subpoena letter and -- to see if it's cancelled, or
17 whatever it's called.

18 Q So you were given a date when the last
19 trial date continued to come back; is that right?

20 A Yes.

21 Q And Mr. Baldonado called you and told you
22 that you should call the number on the subpoena and
23 ask if they were going to go forward, and if you had
24 any questions, you could talk to him?

25 A Right.

1 Q All right. Did you have any other
2 conversations with him on that occasion, that you
3 can remember?

4 A No.

5 Q And this was by telephone as opposed to in
6 person; is that correct?

7 A By telephone.

8 Q All right. And did you go down to the
9 court the next time?

10 A Yes.

11 Q And was Mr. Baldonado there?

12 A Yes.

13 Q Did you and he speak?

14 A Yes.

15 Q And what did you talk about?

16 A Hi.

17 Q Other than hi, did you have any
18 conversation with him?

19 A No.

20 Q Was the case continued again?

21 A Yes.

22 Q Did he inform you of that, or did you
23 learn it from someone else?

24 A He informed me.

25 Q So you would have said hi, and he came to

1 you and told you that the case had been continued?

2 A Right.

3 Q Did he have any other conversation with
4 you?

5 A No.

6 Q When is the next time that you had contact
7 with him?

8 A Came to my job again.

9 Q He came to your job?

10 A Mm-hmm.

11 Q Okay. That was the first time that he
12 came to your job?

13 A Second time.

14 Q All right. We forgot that. Let's go back
15 and talk about that one now, because I thought you
16 said up to this point, he had called you on the
17 phone at your job and talked to you, but now you're
18 actually telling me that at least on one prior
19 occasion, he had come to your job to talk to you; is
20 that right?

21 A Right.

22 Q Was that the third or fourth time? Do you
23 remember?

24 A I don't remember.

25 Q Why don't you tell me about what happened

1 when he came to your job.

2 A He handed me the subpoena, and he just
3 told me, you know, about the case. He just kept it
4 business. And then, you know, I was busy, and he
5 left.

6 Q Did it surprise you that he showed up with
7 a subpoena?

8 A Yeah, but I don't know how that works. I
9 don't know how the law works with that.

10 Q Well, that was the first time
11 Mr. Baldonado had delivered a subpoena to you,
12 correct?

13 A Yes.

14 Q The other times, you'd received the
15 subpoena from someone else, correct?

16 A Right.

17 Q All right. So did it surprise you that he
18 actually came down to your office and in person as
19 opposed to call you on the phone or something of
20 that nature?

21 A It just scared me, because I thought was
22 in trouble. I didn't know.

23 Q So he brought the subpoena in to you?

24 A Mm-hmm.

25 Q He handed it to you?

1 A Mm-hmm.

2 Q And what was the conversation between you
3 and he at that point?

4 A Just to contact him if I had any questions
5 about it.

6 Q Okay. And that was the end of it?

7 A Yes.

8 Q There was nothing else said between either
9 of you two at that time?

10 A No.

11 Q So then the next time, Mr. Baldonado
12 delivered the subpoena again himself; is that
13 correct?

14 A Right.

15 Q And he again delivered it to your place of
16 employment?

17 A Right.

18 Q Did that cause problems at your
19 employment?

20 A Yeah, my supervisor just asking me -- she
21 just never seen so many -- you know, this case is
22 still going on? I mean, I've never seen a case so
23 long. And it was kind of getting me almost in
24 trouble, but, I mean, what am I supposed to do? I
25 mean, I have to go, or I'll go to jail. And so she

1 understood, but she just didn't understand why I
2 kept getting subpoenas and stuff like that.

3 Q So in other words, your supervisor was
4 concerned with you taking off work and going down to
5 the courthouse?

6 A Yes.

7 Q She wasn't concerned with Mr. Baldonado
8 bringing the subpoena in to you?

9 A Right.

10 Q And then on the second occasion when
11 Mr. Baldonado came to your office personally with
12 the subpoena, did you and he have any other
13 conversations?

14 A No.

15 Q Okay. He basically dropped the subpoena
16 off and said, if you have any questions, call me?

17 A Right.

18 Q When was the next time you had contact
19 with him? We are at about four or five now.

20 A I don't know where we are.

21 Q We are at about four or five now.

22 A The next subpoena.

23 Q Okay. You don't remember?

24 A No.

25 Q Okay. Did he deliver it personally?

1 A I don't remember.

2 Q Okay. Do you remember having any
3 conversation with him at that point?

4 A Not that I can remember.

5 Q Okay. Basically you got the subpoena, and
6 that was it?

7 A Right.

8 Q By the way, when you saw Mr. Baldonado on
9 these times up to now, did he always carry a gun?

10 A I never looked in his jacket. I don't
11 know.

12 Q Did you see a weapon on him at any point
13 up to now?

14 A Oh, yes.

15 Q Okay. And where did he keep the weapon?

16 A When he came to my job, it was on the
17 right side, if I'm not mistaken.

18 Q Are you familiar at all with guns?

19 A No.

20 Q Okay. Can you describe for me the color
21 of the gun.

22 A Black.

23 Q Was it in a holster?

24 A Yes.

25 Q What color was the holster?

1 A It was black.

2 Q Did he have anything else on his belt at
3 that time? A badge? A pager --

4 A Badge.

5 Q -- a beeper or anything of that nature?

6 A A badge and a pager.

7 Q Okay. So when he came to your job on both
8 occasions, he came to your job we've talked about up
9 to now, did he wear the gun --

10 A Yes.

11 Q -- that you saw?

12 A Yes.

13 Q Did he wear the badge?

14 A Yes.

15 Q Did he wear the pager?

16 A Yes.

17 Q Did he wear any handcuffs that you saw?

18 A I didn't see any.

19 Q When you saw him at the courthouse, did
20 you see any gun?

21 A I don't remember.

22 Q Did he have the badge?

23 A Yes.

24 Q Did he have the beeper?

25 A I don't remember.

1 Q Okay. Did he have anything else on his
2 belt or person that you can remember?

3 A No. I don't remember.

4 Q All right. So the next time you were
5 subpoenaed again, did Mr. Baldonado personally
6 deliver the subpoena?

7 A I don't remember.

8 Q Don't remember. Do you remember any
9 conversations with him?

10 A I don't remember.

11 Q You went to the courthouse again?

12 A Yes.

13 Q Mr. Baldonado was there?

14 A Yes.

15 Q Do you remember any conversations with him
16 at that point?

17 A Other than hi, no.

18 Q He never asked you any questions about
19 yourself, your family, or anything of that nature?

20 A No.

21 Q At no time up to now, in all the visits
22 that we've talked about, did he ever raise those
23 questions to you?

24 A No.

25 Q All right. Then the next time you saw

1 him -- or you were subpoenaed again, I assume?

2 A Yes.

3 Q Did Mr. Baldonado deliver the subpoena?

4 A I don't remember.

5 Q Between the subpoenas, okay, between the
6 times you were subpoenaed, did Mr. Baldonado call
7 you?

8 A At my job.

9 Q Okay. Other than when he was talking to
10 you -- let me be clear, start again. You've told us
11 about the time when Mr. Baldonado called you at your
12 job, delivered you the subpoena to your job.
13 Between, let's say, the third time that you were
14 subpoenaed and the fourth time you were subpoenaed,
15 that time frame, did you receive any calls from
16 Mr. Baldonado?

17 A Yes.

18 Q Okay. Between the third time you were
19 subpoenaed and the fourth time you were subpoenaed,
20 would you receive calls from Mr. Baldonado?

21 A Yes.

22 Q Tell me about these calls. When he called
23 you between the times when you were being
24 subpoenaed, what did you and he talk about?

25 A Nothing, because I was really busy. But

1 he was just asking me how was I doing and everything
2 and just checking on me, and I made it short because
3 I was busy at work.

4 Q Was that the way it was each time --

5 A Yes.

6 Q -- that he called?

7 A Yes.

8 Q Was it your impression he was calling to
9 make sure that you would be able to go back for the
10 next subpoena?

11 A That's all I thought he was calling to
12 check on.

13 Q You didn't have any perception, in getting
14 any of these calls, that he was trying to inquire of
15 you personally; is that correct?

16 A That's correct.

17 Q Okay. And in each of these calls, it was
18 kept very short because you were at work, correct?

19 A Yes.

20 Q All right. Now, the next time that you
21 were subpoenaed, do you remember where Mr. Baldonado
22 delivered it? What happened?

23 A I don't remember. I don't remember if he
24 delivered it. I got so many, I really lost track of
25 all that. I wasn't really thinking about the

1 subpoenas at the time.

2 Q During some point -- and let me do it this
3 way. At some point, Mr. Baldonado came to your
4 house, correct?

5 A Correct.

6 Q All right. On any of the occasions when
7 you talked to Mr. Baldonado up to now, the time he
8 came to your house --

9 A Mm-hmm.

10 Q -- did you ever have the sense that he was
11 trying to engage you in a personal as opposed to a
12 professional conversation?

13 A No.

14 Q Okay. He was always professional in his
15 demeanor towards you on every contact he had with
16 you up to the time he came to your house; is that
17 right?

18 A That's right.

19 Q Did you ever ask Mr. Baldonado, on any of
20 these occasions up to the time he came to your
21 house, any personal questions?

22 A Only when he came to my house.

23 Q Okay. Before he --

24 A No.

25 Q -- came to your house? Okay. Did you

1 ever, on any of the occasions up to the time he came
2 to your house, did Mr. Baldonado ever offer to buy
3 you lunch? Dinner? Breakfast? Anything of that
4 nature?

5 A I can't remember.

6 Q Well, is that something you would
7 remember, an offer to buy you a lunch, dinner,
8 breakfast by a district attorney investigator?

9 A You know -- can I say one thing? Yeah.
10 Like me and Letitia, the very first time she came
11 down, if I remember, he did offer us lunch. I guess
12 it was on court -- I don't know -- or on the state.
13 I don't know. I remember that part.

14 Q Any occasion when Letitia was not there,
15 did he ever offer to buy you lunch, dinner, or
16 anything of that nature?

17 A No.

18 Q On any occasion when Letitia was not
19 there, did you ever request that he buy you lunch,
20 dinner, or anything of that nature?

21 A No.

22 Q Now, it's my understanding, and you
23 correct me if I'm wrong, that Mr. Baldonado did come
24 to your house, and I believe the date that people
25 have used is November 27th or 28th of 2003. Is that

1 what you remember?

2 A Yes.

3 Q Okay. Which one?

4 A Oh, the date, I don't know exactly what
5 date. I know it was --

6 Q Okay. And in the documents that you filed
7 wherein you sued my client, you suggest that the
8 date was November 28th, 2003. Why don't we use that
9 date for the questioning, okay?

10 A Okay.

11 Q And if it turns out to be the 27th, I'll
12 understand, okay?

13 A Okay.

14 Q All right. Now, prior to coming to your
15 house, Mr. Baldonado had contacted you the day
16 before, had he not?

17 A Correct.

18 Q And did he do that in person or by
19 telephone?

20 A By telephone.

21 Q What was it that he said to you in that
22 conversation?

23 A He called me at my job, and he told me
24 that the case -- there's been a change in the case,
25 and that he will discuss it with me. And he was

1 asking me, do I have time -- when will I have time
2 to discuss it? And I told him at that time I was at
3 work, so I couldn't discuss it at that time, and I
4 had to tell him, you know, let me think about it.
5 And I was trying to think, what was a good time to
6 talk about the case? And so I'm like, well, I'm off
7 tomorrow. I mean, that's the only time that I had
8 free, you know. I had to remember that I was off
9 the next day.

10 So he said, you know, well, that would be
11 fine. I said, well, I got appointments in the
12 morning. And so he said, well, that's okay, because
13 he had an investigation to go to in the morning. So
14 I told him the earliest is the best, so he told me
15 around 7:30. So I said okay, because my appointments
16 didn't start until like around nine o'clock that
17 morning.

18 Q Okay.

19 A So I told him that would be fine. So he
20 said that he'll come to my house, and so I said
21 okay, that's fine, you know, because I was talking
22 fast because I was at work. So I was like, that's
23 fine. You can come to my house. I have
24 appointments. So he said he will make it fast, so I
25 said okay. So we set it for around like 7:30, so

1 that morning, he came over.

2 Q Hold it right there. What were your
3 normal work hours?

4 A At that time, it was 7:30 to 4:30.

5 Q Five days a week?

6 A Uh-huh. Yes.

7 Q What days did you customarily have off?

8 A My regular days off are Saturday and
9 Sundays.

10 Q All right. And was the 28th of November
11 of 2003 a Saturday or a Sunday?

12 A No. It was a Thursday I got the call,
13 because I was off that Friday because I had doctors'
14 appointments.

15 Q So you had appointments already
16 prearranged on Friday the 28th?

17 A Yes.

18 Q And you had arranged to take off from work
19 in order to go to those appointments?

20 A Yes.

21 Q Okay. How many doctors' appointments did
22 you have?

23 A I had two.

24 Q Do you remember the physicians involved?

25 A Yes. Dr. Angus.

1 Q And?

2 A And Dr. Bruce at the time.

3 Q Doctor who?

4 A Bruce.

5 Q Bruce?

6 A Mm-hmm.

7 Q Dr. Angus is what kind of physician?

8 A A family physician, a regular physician.

9 Q Dr. Bruce?

10 A OB-GYN.

11 Q Okay. And you had appointments with both?

12 A Yes.

13 Q And when was your first appointment?

14 A Nine o'clock.

15 Q And that was Dr. Angus?

16 A Yes.

17 Q And what time was your appointment with

18 Dr. Bruce?

19 A It was right after Dr. Angus, which was

20 around 10:00.

21 Q Were they in the same building?

22 A No.

23 Q Different areas of town?

24 A Right. Yes.

25 Q All right. So on the day that

1 Mr. Baldonado calls you, did he tell you there had
2 been a development in the case?

3 A I don't know if he used that word, but it
4 was a change, a development.

5 Q A change in the case?

6 A Yeah.

7 Q And he needed to talk to you?

8 A Right.

9 Q There was another trial date coming up,
10 correct?

11 A I don't remember.

12 Q Okay. In any event, he asked to see you
13 in person as opposed to talk to you on the phone?

14 A Yeah, because I was busy at work.

15 Q Whose idea was it for him to come to your
16 house?

17 A He told me that he can stop by, because he
18 had a investigation case he had to go take care of
19 that morning anyway.

20 Q Okay. So it was his suggestion that he
21 come to your house.

22 A Right.

23 Q Is that what you're saying? Okay. And
24 you suggested the 7:30 time, or did he?

25 A He said he had an appointment, so I told

1 him, you know, that's fine. Seven-thirty is fine.

2 Q All right. And are you sure it was 7:30
3 as opposed to some other time?

4 A No, it was 7:30, because it was really
5 early in the morning. I was still asleep. And he
6 had called me and told me he was, you know, like
7 right there. As soon as I hung up, he was at the
8 door.

9 Q Okay. So did he show up at 7:30?

10 A Yeah.

11 Q So he came at the exact time that the
12 appointment was set for?

13 A I don't know if it was exactly 7:30, but
14 he came around 7:30 or so in the morning.

15 Q He wasn't way early?

16 A No.

17 Q And you knew he was coming that morning,
18 correct?

19 A Right.

20 Q And he showed up, and apparently you just
21 overslept?

22 A Right.

23 Q Had you planned on waiting for him to get
24 to the door and ringing the bell before getting up,
25 or had you planned on getting up earlier?

1 A No. I got up to get ready because I knew
2 he was coming by.

3 Q What time did you get up?

4 A I don't remember. It was only like ten
5 minutes before he got there.

6 Q Did you wake up or set the alarm?

7 A No. He called me.

8 Q Okay. He called you about ten minutes
9 before he got there and said, I'm on my way?

10 A Right.

11 Q All right. And if he hadn't called you,
12 you'd have still been sleeping?

13 A I would have been asleep.

14 Q All right. So when he called you, did you
15 get up?

16 A Yes.

17 Q Did you change clothes in any way?

18 A Yes.

19 Q How were you dressed when he called you?

20 A I had on a big old shirt, and I had on my
21 shorts.

22 Q When you say a "big old shirt," you mean a
23 T-shirt?

24 A A big old T-shirt.

25 Q And a pair of shorts?

1 A Yes.

2 Q All right. And what did you change into?

3 A That's what I changed into.

4 Q What did you have on when you woke up?

5 A A nightie.

6 Q Okay. Were you wearing shoes after you
7 changed your clothes?

8 A No.

9 Q And when you had -- when you were sleeping
10 in, as you say, a nightie, was that all you were
11 wearing?

12 A Yes.

13 Q And when you answered the door for
14 Mr. Baldonado, you had your large T-shirt on and a
15 pair of shorts, correct?

16 A Right.

17 Q And how was he dressed?

18 A In a casual shirt and some casual slacks.

19 Q Okay. Was he wearing his gun?

20 A Yes.

21 Q On the right-hand side?

22 A Yes.

23 Q Same gun that you'd seen before?

24 A I don't know if he got different guns.

25 Q Was the gun in the holster?

1 A Yes.

2 Q Black holster?

3 A Yes.

4 Q Did he have his pager on?

5 A Yes.

6 Q Did he have his badge on?

7 A Yes.

8 Q Did he have anything else on his belt that
9 you saw?

10 A Not that I can remember.

11 Q So what did you and he say when he arrived
12 at the door?

13 A I said good morning.

14 Q Anything else?

15 A Come on in and have a seat.

16 Q Okay. And after he came into the house,
17 did you and he go to a particular location within
18 the house?

19 A The living room.

20 Q Okay. Let me ask you this. Let me
21 backtrack a second, if I could. During the time
22 when he called you the day before, how long would
23 you estimate that conversation lasted?

24 A Long enough to make the appointment, and
25 to get -- long enough to make the appointment,

1 really, to get off the phone because, like I said, I
2 was busy.

3 Q And besides for what you've told us was
4 said between you and Mr. Baldonado, was anything
5 else said that you can remember?

6 A No, not that I could remember.

7 Q All right. So once you and Mr. Baldonado
8 went into the living room, did you go -- did either
9 of you sit down?

10 A Yes.

11 Q Where did you sit?

12 A He sat on one corner, and I sat on the
13 couch.

14 Q Corner of what?

15 A The couch.

16 Q How long is the couch?

17 A About a normal-sized couch. I don't know.

18 Q What would you estimate?

19 A Like probably from that little rail to
20 that little rail, not a little short --

21 Q Okay.

22 A It's a big, long, white couch.

23 Q Big, long, white couch. All right. Tell
24 me what happened then, please.

25 A He sat on the right-hand side right here

1 (indicating), and I sat on the left-hand side. And
2 I had something right here in the middle, but...

3 Q In the middle of the couch?

4 A No, on the floor. I can't remember if it
5 was a table or what, but he was sitting here, and I
6 was sitting here, and we started talking. And I was
7 trying to, you know, talk a little fast because I
8 had, like I said, appointments, so I was trying to
9 make it really quick.

10 So he sat down, and he started telling me,
11 and I started asking him what about the case. And
12 he got to telling me about the case was over, that
13 the guy pleaded guilty, and so we don't have to go
14 to trial anymore, anything like that, which, you
15 know, was a relief, and I was glad of that. And I
16 thanked him for all the concern and just helping,
17 you know, with the case and everything.

18 Q Hold on right there. So based on all of
19 your contacts with Mr. Baldonado up to that point,
20 okay, you thought, given the way he treated you,
21 that you needed to thank him for the way he had
22 treated you, correct?

23 A Not me, the case.

24 Q Well, the way he had treated you as a
25 witness.

1 A I guess.

2 Q You didn't have a problem with anything he
3 had done up to that point?

4 A No, because I had never had contact with
5 him with, like friend talk.

6 Q Given the contact you'd had with him up to
7 that point, you thought he had acted professionally,
8 correct?

9 A Yes.

10 Q He had been pleasant to you?

11 A Yes.

12 Q He had made sure that you were fully
13 advised of what was going on?

14 A Yes.

15 Q And he had done everything you expected
16 him to do as a deputy district attorney
17 investigator, correct?

18 A Yes.

19 Q All right. So go ahead. Tell me what
20 happened again.

21 A So he -- like I said, he finished up about
22 the case, and then he just got to, you know, telling
23 me, and he mentioned that I was pretty, and I had
24 said thank you.

25 Q Was that the first time he'd ever said

1 that?

2 A Yes.

3 Q Okay. This was after he told you the case
4 had been resolved. He mentioned you were pretty?

5 A Yes.

6 Q And you said thank you?

7 A Mm-hmm.

8 Q Anything else?

9 A He just got to telling me -- he was just
10 giving me compliments, telling me I was pretty, and
11 that, you know, he liked my breasts, and --

12 Q Okay.

13 A And at that time, I just started feeling
14 uneasy. So I had got up, went to the kitchen and
15 made some hot cocoa.

16 Q Did you go there to make the cocoa for
17 both you and Mr. Baldonado?

18 A No, just for me.

19 Q So you had excused yourself, said, I'm
20 going to go into the kitchen and make some cocoa?

21 A Yes.

22 Q And didn't offer him any?

23 A No --

24 Q Go ahead.

25 A -- because I started feeling a little

1 uneasy. And so then I got to asking him about --
2 you know, I threw him off and got to asking him
3 about his family and stuff like that.

4 Q Did he stay on the couch when you went
5 into the kitchen?

6 A Yes.

7 Q How long were you in the kitchen making
8 the cocoa?

9 A I don't know. Long enough to make the hot
10 water and make the cocoa.

11 Q All right. And how long would you
12 estimate that to be?

13 A Couldn't have been more than like five or
14 ten minutes. I just boiled water.

15 Q Did you stay in the kitchen while the
16 water boiled?

17 A No. Actually, I stayed -- I have like a
18 island. And while the water was on the stove, I
19 just came around the corner and leaned against the
20 island talking to him from, you know, by the stove.

21 Q Was it open from the couch to where the
22 island was that you were laying -- or you were
23 leaning against?

24 A The couch is right here, and there was an
25 open right here to the kitchen, and the island was

1 right here, and I was standing here, and he was
2 still sitting on the couch on the right-hand side
3 right here (indicating).

4 Q He hadn't moved?

5 A No, he didn't move.

6 Q And during the time that you were boiling
7 the water to make the cocoa, tell me what he was
8 saying and what you were saying, please.

9 A I asked him about his family because I was
10 getting a little nervous.

11 Q Okay.

12 A And he told me that he was married and had
13 two sons.

14 Q All right. Any other things that you can
15 remember, please.

16 A I got my cocoa, and I sat back down.

17 Q Wait a minute. So during that five-minute
18 period, the only thing that you can remember that he
19 said or you said was that you asked him about his
20 family, and he said he was married and had two sons;
21 is that correct?

22 A Right.

23 Q You don't remember anything else being
24 said during that five-minute period?

25 A No.

1 Q All right. So then, were you still
2 nervous after the cocoa was made?

3 A Yeah, and I started telling him that I
4 really got to get ready to go because I have
5 appointments and everything.

6 Q Where were you standing when you said
7 this?

8 A I actually had the cocoa in my hand,
9 walking back to the couch.

10 Q Okay. So even though you were nervous
11 about Mr. Baldonado, you walked back over to the
12 couch where he was sitting?

13 A No. Well, I sat on my side. I was going
14 back to sit back on my side.

15 Q I understand. But you went from the
16 kitchen, which is obviously further away from where
17 Mr. Baldonado was and sat on the couch, correct?

18 A I wasn't that far.

19 Q Well, would you agree with me that where
20 you were sitting on the couch and where he was
21 sitting on the couch, that distance was a lot closer
22 than when he was sitting on the couch and you were
23 standing in the kitchen?

24 A Actually, we was sitting apart, far apart.

25 Q I'm not suggesting that you were sitting

1 next to him.

2 A Oh.

3 Q What I'm saying, you were a lot closer --

4 A Yes.

5 Q -- to him than -- when you were sitting on
6 the couch than when you were standing in the
7 kitchen?

8 A Actually, I was closest by standing in the
9 kitchen.

10 Q So you were closer in the kitchen --

11 A Yes.

12 Q -- than you were sitting on ends of the
13 the couch?

14 A Yes.

15 Q That's one heck of a long couch.

16 A It's a big couch.

17 Q In any event, you were nervous, but you
18 came back and sat on the end of the couch that you
19 had vacated to go into the kitchen to get the cocoa,
20 correct?

21 A Right.

22 Q And when you came back and sat down, what
23 conversation was transpiring between you and he?

24 A I was explaining to him that I really had
25 to get ready to go and everything to my appointment.

1 And so he was like, okay. I understand and
2 everything, and then he scooted closer to me. He
3 came from his side over to my side, and he --

4 Q Was he right next to you?

5 A He scooted to me. Yes.

6 Q Okay. And as he was saying, okay. I
7 understand you've got to go get ready for your
8 appointment, is that when he was scooting toward
9 you?

10 A Yes, he started scooting toward me.

11 Q And what did you do?

12 A He felt my breast --

13 Q Wait a minute. He scooted and grabbed
14 your breast?

15 A He didn't grab. He just touched it like
16 that (indicating).

17 Q He rubbed your breast?

18 A Yes.

19 Q So just so -- and I need to try to get
20 this, and I know it's very difficult to stop and
21 start, but I need to get this in sequence as best I
22 can, okay, so I am going to ask you questions as we
23 go along. I don't mean to be rude or nothing, but
24 I'm just trying to make sure I understand what you
25 are saying, okay?

1 A Okay.

2 Q Mr. Baldonado is scooting down towards
3 you. And ultimately, does he stop before he rubs
4 your breast?

5 A Stopped? You mean --

6 Q He is scooting along. Does he reach out
7 and rub your breast then, or does he come to a stop
8 and then reach out and rub your breast?

9 A Come to a stop, then rubbed my breast.

10 Q Okay. What hand did he rub --

11 A This (indicating).

12 Q His right hand?

13 A Yes.

14 Q And which breast did he rub?

15 A This one (indicating).

16 Q Your right breast. Okay. Did he say
17 anything as he did that?

18 A That I was pretty, and that he likes black
19 women.

20 Q Okay. Did you say anything?

21 A I just don't remember what I said. I just
22 know I got up and told him I had to go to the
23 bathroom.

24 Q So you said you had to go to the bathroom?

25 A Mm-hmm.

1 Q And you didn't say anything about what he
2 had just done to you?

3 A I told him that wasn't right, you know.

4 Q You did say that?

5 A Yes.

6 Q So you said, that's not right. I've got
7 to go. What else did you say?

8 A I had to go to the bathroom.

9 Q You had to go to the bathroom. Anything
10 else you said?

11 A I'll be right back.

12 Q Okay. So what happened?

13 A I went into the bathroom -- I really
14 didn't go to the bathroom. I used it as a
15 scapegoat. I was going to get my tape recorder,
16 because I was just kind of shocked what he was
17 saying. You know, I'm like, this is a guy that's
18 with the law, and he was married, and I just thought
19 it was really weird. And I am like, I do not
20 believe this.

21 So I'm trying to go into my bedroom to get
22 the tape recorder, because I have a little bitty
23 tape recorder, because I was going to put it in my
24 shirt and record him because I couldn't believe what
25 he was saying, and I was getting nervous. And I

1 couldn't find it, and at that time as I turned
2 around, he was standing in my bedroom.

3 Q Okay. Now, just so I'm clear,
4 Mr. Baldonado basically had complimented you on your
5 breasts and had said that he liked African American
6 women, correct?

7 A Yes.

8 Q Did he say anything else that you say that
9 took you back because he was a member of law
10 enforcement, as you understood it? Was there any
11 other comment that he made that you said, oh, my
12 gosh. How can you say that? You're member of law
13 enforcement. Anything else that he said that you
14 can remember?

15 A Not that I can remember offhand.

16 Q All right. And other than the one time he
17 touched your right breast with his right hand, had
18 he touched you in any other way that you found
19 offensive up to the time that you went into the --
20 went toward the bathroom and the bedroom?

21 A No.

22 Q And as I understand your testimony, did
23 you -- as he was rubbing your right breast, did you
24 try to push his hand away? Did you immediately
25 stand up? Did you -- what did you do?

1 A I immediately stand up and said I had to
2 go to the bathroom.

3 Q Because you had to go to the bathroom?

4 A (The witness nodded.)

5 Q So the reason you stood up was so you
6 could go to the bathroom?

7 A I told him that.

8 Q Okay. Right. But the real reason you
9 stood up was so he wouldn't rub your breast?

10 A Correct.

11 Q So you got up, and you went into your
12 bedroom. Where's your bedroom located from your
13 couch?

14 A It's just the one studio, so my bedroom
15 was just around the corner. There was a door. I
16 have a door right here, the living room, and then
17 there's a door, and there's my bedroom.

18 Q So you had to go through a door --

19 A A door.

20 Q -- to get into your bedroom?

21 A Yes.

22 Q And was your bathroom in your bedroom,
23 attached to it in some way?

24 A Attached to it, yeah.

25 Q So as you stood up to get Mr. Baldonado to

1 quit rubbing your right breast with his right hand,
2 you said to him, I've got to go to the bathroom, and
3 walked through the door into your bedroom?

4 A Correct.

5 Q Did you close the door behind you?

6 A No.

7 Q Why didn't you?

8 A Because I didn't think about closing the
9 door. I was thinking about getting the tape
10 recorder.

11 Q Were you afraid for your safety at the
12 time --

13 A Yes.

14 Q -- that he was rubbing your breast?

15 A Yes.

16 Q What had he done that made you fear for
17 your safety? Had he grabbed you? Had he hit you?
18 Had he threatened you? Had he done anything to you
19 up to that point? And I acknowledge that he did rub
20 your breast. Anything other than that?

21 A Just the sexual comments.

22 Q That he likes black women?

23 A Yeah.

24 Q So he said, I like black women. He rubbed
25 your right breast, and that made you fear for your

1 safety; is that correct?

2 A Yes.

3 Q And was that the reason you went into your
4 bedroom?

5 A Yes.

6 Q Between going into your bedroom to get
7 your tape recorder and going into your bedroom for
8 your safety, which one was the higher priority for
9 you?

10 A To tape-record what he was saying was
11 the -- to be able to save me, because I would have
12 no recording.

13 Q So the tape recording, to go get your tape
14 recorder was the number one reason you went into
15 your bedroom?

16 MR. HARRIS: I think you interrupted her.
17 She actually made a different comment as you were
18 talking over her. She said the tape recorder was
19 for her safety.

20 BY MR. CANNON:

21 Q Okay. The tape recorder was your number
22 one priority when you went into the bedroom?

23 A Yes.

24 Q And the reason you wanted to get the tape
25 recorder was why?

1 A To record what he was saying.

2 Q Did you think he was going to charge you
3 with something?

4 A No. I just couldn't believe what he was
5 saying to me. I mean, he was just -- you know, he
6 was a policeman. I didn't think he would say stuff
7 like that.

8 Q You didn't think he would say --

9 A I didn't know why he said stuff like that.

10 Q You didn't think that he would say that he
11 liked black women?

12 A Any of it.

13 Q What else did he say to you?

14 A That I was pretty, and, you know.

15 Q Well, certainly men have complimented you
16 on your looks before?

17 A Yeah, but he is a policeman. He was there
18 for business.

19 Q Okay. So it was inappropriate, the
20 setting in which he said the words, correct?

21 A Yes.

22 Q The words itself, as far as you being
23 pretty, you'd certainly heard that before, right?

24 A Yes.

25 Q Okay.

1 MR. CANNON: Can we take a quick break?

2 MR. HARRIS: Mm-hmm.

3 (Off the record.)

4 MR. CANNON: Okay.

5 BY MR. CANNON:

6 Q Ms. Holloway, I believe we left off with
7 you in the bedroom looking for your little tape
8 recorder, and let me try to pick up from there.
9 Where did you customarily keep this recorder?

10 A On the side of my bed by the telephone.

11 Q Do you dictate for your job?

12 A No.

13 Q Why would you have a recorder?

14 A It's me and my son's. We just like record
15 a song or something like that.

16 Q So it's primarily -- the recorder that
17 you're talking about was primarily used to record
18 music?

19 A Music, talking, and stuff like that.

20 Q Is it a Walkman or something?

21 A No. It's like a little miniature tape
22 recorder.

23 Q And you wanted to, as I understand it, get
24 the recorder and record what Mr. Baldonado was
25 saying to you, correct?

1 A Yes.

2 Q Okay. And when you walked into the
3 bedroom to get the recorder, did Mr. Baldonado stay
4 on the couch?

5 A As I proceeded into my bedroom, yes.

6 Q And you had, as I understand it, right
7 before that, came back with your cocoa, sat down on
8 your couch, and then got up from the couch and went
9 into the bedroom, correct?

10 A Yes.

11 Q In other words, you didn't go directly
12 from the kitchen into the bedroom?

13 A No.

14 Q You did come back to the couch first?

15 A Yeah. I didn't want to be rude, as I
16 said.

17 Q All right. And when you were in the
18 bedroom, describe for me what you did.

19 A I was scared, so I said I had to get
20 something to protect myself, so I'm like, the tape
21 recorder. The tape recorder. So I got the tape
22 recorder. I was scared at this time. I didn't
23 know what he was going to do. So I got the tape
24 recorder, go back out there and record him.

25 Q Did you have a phone in your house?

1 A No.

2 Q You didn't have a telephone available to
3 you in your residence?

4 A No.

5 Q You didn't have a cell phone at the time?

6 A I had a cell phone.

7 Q Okay. Where was the cell phone?

8 A On the floor on the side of my bed.

9 Q Okay. Was it on the same side as the tape
10 recorder?

11 A Yes.

12 Q Okay. Did you ever pick up the phone and
13 use it?

14 A No.

15 Q Was there more than one door in your house
16 at the time?

17 A What do you mean, more than one door?

18 Q That's a bad question. I appreciate you
19 correcting me on that. You were living in an
20 apartment at this time?

21 A Yes.

22 Q Okay. So there was only one exit from the
23 apartment?

24 A Right.

25 Q That exit was the front door that

1 Mr. Baldonado came in, correct?

2 A Yes.

3 Q All right. And apparently you'd never
4 considered just walking out of your apartment,
5 correct?

6 A No.

7 Q Okay. And you never considered picking up
8 your phone and calling somebody, correct?

9 A I didn't have time to get to my phone.

10 Q Well, you had time to get to the recorder.

11 A I didn't get the tape recorder either. I
12 said I went into the room to try to get the tape
13 recorder.

14 Q Did you open the dresser drawer where you
15 kept it?

16 A It wasn't on the dresser drawer.

17 Q Where was it?

18 A It wasn't there.

19 Q So where was it customarily kept?

20 A By the bed, over by the other stand.

21 Q Was it kept on top of the nightstand?

22 A It's all over the floor, anywhere. It be
23 all over the floor in the room. There's no certain
24 place.

25 Q When you walked into the room, where did

1 you find it?

2 A On the other side of the bed.

3 Q Which side of the bed was your telephone
4 on, the cell phone?

5 A On the same side. On the other side on
6 the floor.

7 Q So when you went over to the other side of
8 the bed to try to locate the tape recorder, you were
9 on the same side where the cell phone was, correct?

10 A No. Can I tell you where I was?

11 Q Please.

12 A Okay. I didn't make it that far. He was
13 already in my bedroom, is what I'm trying to tell
14 you.

15 Q So how far did you get into your bedroom?

16 A Halfway to the bed. As you come in, my
17 bed is facing this way (indicating). The front door
18 is here, my bed is facing this way. As I walked in,
19 I got halfway to my bed, thinking about the tape
20 recorder. Before I can even crawl over my bed and
21 walk around it, he was already in my bedroom. My
22 idea was to get the tape recorder. That's why I
23 made the excuse to go to the rest room.

24 Q I understand. So as I understand it, you
25 get into the room. You don't get to where either

1 the tape recorder or the cell phone are, correct?

2 A Correct.

3 Q And Mr. Baldonado is standing in your
4 bedroom?

5 A Correct.

6 Q And are you on one side of the bed?

7 A No.

8 Q You're in front of the bed?

9 A I'm on the side of the bed.

10 Q That's what I asked you. You're on one
11 side of the bed?

12 A Yes.

13 Q Mr. Baldonado is at the foot of the bed?

14 A No.

15 Q Where is he?

16 A Okay.

17 Q Let me do this. Can you draw a diagram to
18 show me how this works?

19 A I'm not a artist, but I'll do the best I
20 can.

21 Q I will not hold you to any dimensions
22 whatsoever, and I promise I will not criticize your
23 artwork. Draw for me where the bed is.

24 A (Drawing.) Let's say this is the bedroom.

25 Q Hold on. I have to describe --

1 A Okay. This is the door (drawing).

2 Q Hold on. I have to describe what you're
3 doing so the record has it.

4 A Okay.

5 Q You've now made a three-sided box, and you
6 put a horseshoe-type symbol at the bottom of the box
7 with a little squiggly mark on it which you say is
8 the doorway. Can you write "door" inside of that so
9 we'll know that? Just write "door," D, double O, R
10 right there.

11 A (The witness complied.)

12 Q All right. Now, on the right-hand side or
13 the far side where this line is, would you indicate
14 "bedroom." That would stand for that portion of the
15 diagram inside.

16 A (The witness complied.)

17 Q Okay. Great. Now, can you put a
18 rectangular box where your bed was located, please.

19 A (Witness drawing.)

20 Q Okay. Now, can you write "bed" inside of
21 that.

22 A (The witness complied.)

23 Q All right. Now, how far is it from the
24 doorway to your bed?

25 A Okay. You have to bring my bed down,

1 because I made it right in the middle. But as soon
2 as you walk in, my bed is like right here because
3 it's small.

4 Q So you've written another line. Why don't
5 you go ahead and make another rectangular box there,
6 and put "bed" and a 1 after it. That's the location
7 of your bed. Now, which way is the head of your
8 bed?

9 A Okay. (Witness drawing.)

10 Q Okay. You've written "head" on top of the
11 way. So as you come in the door, the foot of your
12 bed would be facing the doorway?

13 A Yes.

14 Q How far is it from the doorway to the foot
15 of your bed, approximately?

16 A Two step -- three steps.

17 Q Okay. And when you came into the bedroom,
18 show me where you went to before you stopped.

19 A Show you where I went?

20 Q Yeah. You don't have to draw a thing.
21 Just show me with an X where you stopped.

22 A Right here on the side (indicating).

23 Q Where is Mr. Baldonado at? And put a Y
24 when you first saw him.

25 A (Witness drawing.)

1 Q How far away from you was he at that
2 location?

3 A Right behind me.

4 Q Okay. Could you reach your hand out and
5 touch you?

6 A Yes.

7 Q Okay. Did he say anything as he followed
8 you in the bedroom?

9 A I don't -- I don't remember.

10 Q Okay. When you noticed him inside your
11 bedroom that close to you, did you say anything?

12 A I asked him, what are you doing in here?

13 Q And did he respond?

14 A Yes.

15 Q What did he say?

16 A I don't remember what he said.

17 Q Can you give me the substance of what he
18 said without giving me his exact words? Can you
19 tell me, in effect, what he said, please.

20 A Just complimented me again, just saying
21 compliment things.

22 Q So in other words, he said to you that
23 you're a very pretty woman. Anything else?

24 A There was -- it wasn't pretty woman at the
25 time. It was something else.

1 Q Was it about your --

2 A That I was sexy or something in that form.

3 Q Do you remember generally he was calling
4 you sexy? Did he make any comments again about your
5 breasts?

6 A No. Everything just happened so fast.

7 Q I understand, and I appreciate the fact
8 that it is happening fast. I'm just trying to ask
9 you for the best of your memory. If you would be
10 nice enough to try to -- if you don't have a memory,
11 you can tell me that, but tell me what you remember,
12 if at all, about what he was saying to you.

13 A I don't remember. I was just scared.

14 Q Okay. You don't remember what he was
15 saying. You are scared. All right. Do you
16 remember what you said?

17 A No. I was scared. I don't remember.

18 Q Okay. So what did you do then?

19 A Next thing I knew, I was on the bed.

20 Q Okay. Did he push you on the bed?

21 A He just sort of sat me down on it. He
22 didn't push me. He sat me down.

23 Q Do you want a Kleenex? Do you want to
24 take a minute?

25 A I'm fine.

1 Q There's a Kleenex right here if you'd like
2 it. You want to take a second?

3 A I'm fine.

4 Q We don't need to take a break. Just sit
5 there for a second. Go ahead. Relax yourself.
6 Tell me when you're ready for my next question.

7 A I'm ready.

8 Q So you say that Mr. Baldonado sat you down
9 in the bed. Did he grab your body in some fashion?

10 A No. He just sat me down.

11 Q Did he touch you to sit you down?

12 A Yes.

13 Q Where did he touch you?

14 A On my arms.

15 Q Both arms?

16 A Just sat me down and said, this will just
17 take a minute.

18 Q He came over in front of you?

19 MR. HARRIS: Did you hear what she said?

20 MR. CANNON: I didn't hear what she said.

21 I'm sorry.

22 THE WITNESS: No. He sat me down and
23 said, this will only take a minute, won't take long.

24 BY MR. CANNON:

25 Q So he was standing in front of you, and he

1 grabbed both arms and sat you down on the bed?

2 A He turned me around and sat me on the bed.

3 Q Turned you and sat you on the bed. And as
4 he did that, if I understand your testimony, he
5 said, this won't take long?

6 A Yes.

7 Q Can you tell me what happened then,
8 please.

9 A Before I can even blink my eyes, he
10 started taking off his badge and his pager and his
11 holster, and next thing I knew, his pants came down.

12 Q Was he still standing as he was doing
13 this?

14 A Yes.

15 Q And when he took off his badge and his gun
16 and his holster and his pager, where did he put
17 them?

18 A On my nightstand.

19 Q Can you put a W where the -- put an S
20 where the nightstand was, please.

21 A (The witness complied.)

22 Q Okay. So how far would he have to walk in
23 order to put that down?

24 A No. Just reach out and do it.

25 Q Okay. He was close enough to reach out.

1 All right. And were you saying anything as you were
2 sitting on the bed to him as he was taking off his
3 gun and his pager?

4 A That this isn't right.

5 Q Did you say anything else?

6 A No.

7 Q Did you say this isn't right more than
8 once?

9 A No.

10 Q Okay. Did you scream it, or did you just
11 say it, or can you tell me how it is you said that.

12 A Well, the gun and stuff was on my table,
13 so I wasn't trying to say the wrong things. I just
14 said it low.

15 Q Okay. You said it low. Did he do
16 anything to acknowledge that he heard it?

17 A I don't know if he heard it or not, but I
18 said it to him.

19 Q Okay. So what happened after he took off
20 his gun and his belt or his badge and his beeper?

21 A He took his clothes off.

22 Q All of his clothes?

23 A All of his clothes.

24 Q All right. And did you say anything when
25 he did that?

1 A I was quiet.

2 Q Did he say anything?

3 A Nothing I can remember.

4 Q All right. What happened then, please?

5 A He got on top of me.

6 Q Okay. Did he remove your clothes?

7 A Yes.

8 Q All of your clothes?

9 A Just my pants.

10 Q Okay. And were you still seated in the
11 same location when he removed your pants?

12 A I was laying down.

13 Q Did he push you down? Did you lay down?

14 A He laid me down.

15 Q So he actually pushed you or positioned
16 you back on the bed and laid you down, and then he
17 took off your pants at that point?

18 A (The witness nodded.)

19 Q And then can you tell me basically and
20 generally -- you don't have to be graphic or
21 specific. I know it's a difficult topic for you.
22 Can you tell me what happened generally.

23 A He just got on top of me and did it.

24 Q He had sexual relations with you?

25 A (The witness nodded.)

1 Q Is that correct?

2 A Yes.

3 Q Did you say anything to him at the time he
4 was doing it?

5 A I just said no, and this isn't right
6 again.

7 Q You said that during the act itself; is
8 that correct?

9 A Yes.

10 Q Did you ever attempt to push him off you?

11 A No. I was scared. All I saw was the gun.

12 Q All right. Where was the gun as you were
13 laying down? Right next to your left-hand side or
14 right side?

15 A It was on the nightstand right by the bed
16 with the badge and the pager.

17 Q Did he require you to touch him in any
18 manner?

19 A Kiss his penis.

20 Q Okay. Was that before the act itself?

21 A Yes.

22 Q And he instructed you to do that?

23 A (The witness nodded.)

24 Q Is that correct?

25 A He just took my hand and put it there.

1 Q All right. And after the act was over,
2 what happened, please?

3 A He got up and put his clothes on.

4 Q Did he say anything to you?

5 A It was good.

6 Q All right. Anything else?

7 A Just when he was leaving, he said, shh.
8 Don't ever tell nobody. It's our little secret.

9 Q Did you say anything to him?

10 A No.

11 Q Okay. So did you remain on the bed when
12 he got up and got dressed and left?

13 A I hurried up and put my clothes on and saw
14 him to the door.

15 Q Why did you see him to the door?

16 A He left. I locked my door. I was scared.

17 Q Did you walk with him to the door?

18 A He walked to the door, and I was behind
19 him.

20 Q Okay. So you put on your clothes, he put
21 on his clothes. He started to walk to the door, and
22 you followed him to make sure he was leaving?

23 A Yes.

24 Q And when he left, you locked the door?

25 A After he turned around and said, shh.

1 Don't ever tell nobody. This is our little secret.

2 Q Do you remember him saying anything else
3 after the act was over besides that was good and
4 don't ever tell anybody, this is our little secret?

5 A No.

6 Q And you did not say anything in response
7 to either of those comments; is that correct?

8 A No.

9 Q All right. What did you do next?

10 A I just fell on the floor and started
11 crying.

12 Q Okay. Did you call the police?

13 A No. I didn't call anybody.

14 Q Did you go to a medical center or
15 anything?

16 A No.

17 Q You had an appointment with a doctor that
18 day, two doctors, correct?

19 A Yes.

20 Q One of whom was an OB-GYN; is that right?

21 A Yes.

22 Q Did you keep those appointments?

23 A No. I just locked myself in the house.

24 Q Okay. All right. Did you call and cancel
25 the appointments?

1 A I didn't do anything. I just stayed in my
2 house.

3 Q Okay. So you just didn't show up for the
4 appointments?

5 A No.

6 Q No, you just didn't show up?

7 A No, I didn't show up.

8 Q All right. And how long did you stay in
9 the house?

10 A The whole weekend.

11 Q Did you talk to anybody?

12 A No.

13 Q When was the first time you told anybody
14 about what happened?

15 A Monday morning when I went to work.

16 Q Who did you tell?

17 A Felicia Flourney.

18 Q And who is she, please?

19 A She's a really good friend of mine that
20 used to work with me at Quest.

21 Q She left Quest?

22 A Yes.

23 Q Where does she work now? Do you know?

24 A She's at the correction officer center,
25 one of the jails.

1 Q Oh, she's a correction officer?

2 A Uh-huh.

3 Q Okay. How long has she been a corrections
4 officer?

5 A Oh, I don't know. Probably about right
6 after this happened, she got -- she started working
7 there.

8 Q She got an appointment to the academy?

9 A She went down there and got an
10 application, and it just followed after that.

11 Q Okay. And what did you tell her?

12 A I just took her in the bathroom and told
13 her I had to tell her something, because she kept
14 looking at me like, Love, what's wrong? because she
15 knew something was wrong with me because I didn't
16 come in perky that day and smiling and laughing.
17 And I took her in the bathroom, and I told her what
18 happened, and she told me I needed to tell someone
19 about it. I said, I can't because he is an officer,
20 and they wouldn't believe me.

21 Q And did you tell anybody else besides --
22 what's her name?

23 A Felicia.

24 Q Felicia. Did you tell anyone else besides
25 Felicia?

1 A Not for a long time.

2 Q What was it that convinced you to go ahead
3 and tell someone, and who was it that you told?

4 A That next day -- I don't remember if it
5 was the same day or the next day, but I just
6 happened to be turning on the news when I was
7 getting ready for work, and I saw him in a
8 courtroom. And I saw him, I just heard bits and
9 pieces about it, and I just really thought it was
10 about me. And so I went and I told her what
11 happened, what I saw on the news, and that's when
12 she told me I needed to call and tell somebody,
13 because I thought he was like telling on me or
14 something that I did, and so I called some police
15 station.

16 Q Okay. Let me back up, because I think --
17 I'm a little confused. As I understand it, when you
18 went back to work on Monday after the Friday that
19 this happened, that was when you told Felicia about
20 what happened, correct?

21 A Yes.

22 Q And Felicia said you ought to tell
23 somebody, and at that time your belief was, well, he
24 is a policeman, and I don't want tell anybody
25 because he's a policeman, correct?

1 A He told me not to tell nobody, and I was
2 scared.

3 Q Exactly, because you were scared. You
4 weren't going to tell anybody. All right. And then
5 at some later point, you saw something on the
6 television?

7 A Mm-hmm, on the news.

8 Q What was it that you saw?

9 A I saw him in a courtroom saying that he
10 resigned or something.

11 Q Okay. So there was something on the
12 television about him that would suggest that he was
13 in trouble of some kind?

14 A Yes.

15 Q And so at that point, you decided you
16 should go forward and call?

17 A Felicia told me to. Yes.

18 Q Okay. Between -- do you remember how long
19 after that Monday when you first told Felicia it was
20 until you saw this on the TV?

21 A I don't remember -- like I don't remember
22 if it was the same day or the day, you know, after,
23 but I know it was like either the same day or the
24 next day I saw it. I can't remember which day.

25 Q Whatever day you saw it was the day you

1 called?

2 A I called that afternoon on my lunch break.

3 Q So whatever day you saw the television
4 information about Mr. Baldonado and that he was in
5 trouble of some -- in some manner, that was the day
6 that you called to report what happened to you?

7 A Yes.

8 Q You hadn't -- besides from Felicia up to
9 that point, you hadn't told anyone else about it,
10 correct?

11 A No.

12 Q And you're sure it's within a couple of
13 days as opposed to a couple of months?

14 A It wasn't a couple of months. I don't
15 believe so.

16 Q Okay. Do you remember who it was you
17 ultimately told this to about what happened to you?

18 A I just was calling police stations -- I'm
19 not giving my name and everything -- and kept
20 hanging up, because they kept giving me different
21 people. And finally they gave me some department,
22 and some guy was on the phone, and I was explaining
23 to him I saw something on the news, and I know about
24 an incident that happened.

25 And I wasn't giving him my name. I just

1 was acting like it was somebody that I knew. And he
2 had told me that, no, he's been caught, and he's
3 resigned. He was asking me, can I go more into
4 detail? So I hung up, and I told Felicia, I can't
5 do it. I'm too scared.

6 So she said, just do it, Love. So she
7 stayed in the room with me, and I called back again,
8 and I got that guy again. I don't remember who
9 it was. And he had told me that they had wired
10 Mr. Baldonado with some girl. He had got wired, and
11 he got caught, and they told me all of that. And
12 after they told me that, I had then told him, and he
13 wanted to meet with me.

14 And the next thing I knew, it was these
15 different agents and people up at my job, and it's
16 been a circus ever since then. They kept coming up
17 there and all that, and they got all the reports and
18 all his cards that he gave me and all of the
19 subpoena letters that I copied and gave to my boss,
20 and it just started after that.

21 Q And when is the first time after all of
22 this happened that you saw any physician with regard
23 to what happened to you?

24 A I don't remember. I know I took off
25 around April or so. It was in April, I believe, and

1 I took off. I asked my boss, can I please take off
2 a couple of days? And it was already a mess because
3 all of those subpoenas I was getting. It was just
4 kind of hard for her to let me off, but she did, and
5 I explained to her what happened. She was mad, but
6 she let me go, and that's why I never took off,
7 because I was scared I was going to lose my job
8 behind this. But I had to take a couple of days
9 off, and I went to the doctor.

10 Q Okay. It's my understanding that -- and
11 I'm trying to get to the point where I saw that. I
12 think it's my understanding that you missed a grand
13 total of a week of work; is that right?

14 A Yes.

15 Q And was that the time period you took off
16 in April?

17 A Yes.

18 Q Okay. This happened in November of '03,
19 and in April of '04 was the first time that you'd
20 taken off because of what happened to you?

21 A That I could remember, yes.

22 Q Okay. And between November of '03 and
23 April of '04, you never attempted to see anybody for
24 what happened to you, correct?

25 A I saw my doctor for what happened.

1 Q Okay. That was my question earlier.

2 A I'm sorry.

3 Q That's okay. Again, we're just trying to
4 get straight what happened, so I'd appreciate when
5 you tell me I made a mistake. Let me do this.
6 You've given us the names of a number of doctors
7 that at some point you've seen. What I'll do now
8 is, I'm going to go through those doctors, and you
9 tell me whether or not you saw them or not, and when
10 you saw them, okay?

11 First doctor, of course, is Dr. Angus, who
12 you mentioned earlier. He was the one that you had
13 an appointment with on the very day this happened.
14 When did you first relate to him or her when this
15 happened?

16 A I think it was like the end of that week,
17 but I did it after work because I couldn't take off,
18 like I said.

19 Q So you would have told Dr. Angus about
20 this within a week of it happening?

21 A I think it was a week after. I don't
22 know. I just know that I told him.

23 Q Did you relate exactly what happened to
24 him?

25 A Yes, I did.

1 Q And so that would have been sometime in
2 early December?

3 A December, yes.

4 Q Of '03?

5 A Yes.

6 Q Okay. And you indicated that you hadn't
7 called the police because you were afraid until you
8 saw the television information about Mr. Baldonado,
9 but you were able to talk to Dr. Angus about what
10 happened, correct?

11 A Yes.

12 Q Okay. What about Dr. -- and I'm probably
13 going to mispronounce the name, but it's A-S-I
14 Bruce. Do you know that physician?

15 A Yes.

16 Q Who is that?

17 A That's my OB-GYN.

18 Q Okay. And he is another one that you had
19 an appointment with on the day this happened,
20 correct?

21 A She. Yes.

22 Q I'm sorry. And did you ever report that
23 to her?

24 A Yes.

25 Q When did you report it to her?

1 A I don't remember when I reported it, but
2 it was -- I don't remember.

3 Q Okay. Was it after or -- before or after
4 you reported it to the police?

5 A It was after I reported it to the police.

6 Q So you didn't tell Dr. Bruce about it
7 until after April of '04 when you reported it to the
8 police, correct?

9 A I believe so, yes.

10 Q But you did tell Dr. Angus before that?

11 A Yes.

12 Q Okay. When you talked Dr. Angus about
13 what happened to you, did he perform any tests on
14 you, give you any medication, do anything for you?

15 A Yes, he did.

16 Q What did he do?

17 A He did a test, and he did an HIV test and
18 all the regular tests that you do.

19 Q So he did bloodwork?

20 A Yes.

21 Q He did. He checked for sexually
22 transmitted diseases?

23 A No. He just gave me the bloodwork and the
24 red form for the bloodwork for the HIV. But then
25 when you go to Dr. Bruce, that's when that picks up

1 for the other stuff.

2 Q Okay. Did you have any -- I understand
3 that you were very upset by what happened to you. I
4 understand that. Did you have any physical damage
5 as a result of what Mr. Baldonado had, as you say,
6 done to you?

7 A You mean, like tear my insides?

8 Q Tearing, any bruises, anything of that
9 nature.

10 A I can't say, because I didn't go right
11 away.

12 Q Okay. Do you remember, before you went to
13 a doctor, do you remember having any pain in any
14 area that led you to believe that you had some type
15 of physical damage?

16 A Not that I could remember.

17 Q Okay. Now, you say when you -- well, you
18 say when you went to Dr. Bruce, she picked up on
19 what? What was it she did?

20 A She did all the regular tests, all the
21 tests, the Pap smear, everything.

22 Q Okay. And another name we have here is a
23 dentist. You didn't have any dental problems?

24 A No.

25 Q That was just a dentist you had seen

1 within the last ten years?

2 A Mm-hmm.

3 Q What about Annette Mayes?

4 A That's another doctor.

5 Q Who is she?

6 A She's another OB-GYN.

7 Q Okay. And when did you first see her?

8 A Can I -- can I say one thing?

9 Q Absolutely.

10 A A lot of these doctors I started seeing
11 after the state gave me papers and everything to,
12 say, help me. So I started seeing all of these
13 doctors when the state started helping me and was
14 paying for everything for me.

15 Q Okay. Well, let me do this. You've given
16 us a name -- let me run through the names, and you
17 tell me which ones were your doctors before this
18 happened.

19 A Okay.

20 Q And which are the doctors that were
21 provided to you by the state, okay?

22 A Okay.

23 Q Now, is Dr. Mayes a personal doctor or the
24 state-provided doctor?

25 A She's the personal doctor.

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1 Q And she's also an OB-GYN?

2 A Mm-hmm.

3 Q And do you see both her and Dr. Bruce?

4 A Yes.

5 Q So you were going to both of them?

6 A Well, I started seeing Dr. Bruce first,
7 but then she stoped taking insurance, so I just went
8 on to Dr. Mayes because she picked it up. And I
9 still use my insurance. You know what I mean? I
10 still use my insurance even though the state was
11 helping me, because I was comfortable with these
12 doctors because they're my doctors.

13 Q Okay. So at Quest Medical, you had
14 medical insurance?

15 A Yes.

16 Q And Dr. Angus and Dr. Bruce initially
17 would both take your insurance, but at some point
18 Dr. Bruce quit taking it?

19 A Yes.

20 Q So you transferred and went to Dr. Mayes
21 who took it?

22 A Right.

23 Q And do you remember about when that
24 happened that you switched over?

25 A No, I don't. It was toward the first of

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1 the year, because I think that's when she stopped
2 taking the insurance, if I'm not mistaken.

3 Q Did you go to Dr. Mayes before you went to
4 the police?

5 A I don't remember.

6 Q Okay.

7 A I don't remember.

8 Q Did you tell Dr. Mayes what had happened
9 to you --

10 A Yes.

11 Q -- when you went to her? Okay. And it's
12 a her, right?

13 A Annette.

14 A Yes.

15 Q What about Dr. Rhoa?

16 A All the rest of them are just my regular
17 doctors from ten years ago from surgeries and stuff.

18 Q So what kind of doctor is Dr. Rhoa?

19 A A breast doctor.

20 Q A breast doctor?

21 A Yes.

22 Q All right. And Dr. Harrison Noel?

23 A Another OB-GYN.

24 Q Was he a treating doctor recently?

25 A No. It was when I first moved out here I

1 had found him.

2 Q Then you switched from him to Dr. Bruce?

3 A Yes.

4 Q Did you ever see Dr. Noel after this
5 incident happened?

6 A No.

7 Q Did you ever see Dr. Rhoa after this
8 incident happened?

9 A For my breast, yes.

10 Q And anything that was wrong? Or the
11 reason you saw him for your breasts had nothing to
12 do with what happened?

13 A No.

14 Q No, it didn't?

15 A No, it didn't.

16 Q Dr. Foot?

17 A That's just a foot doctor. I had a
18 surgery on my foot.

19 Q That's -- okay.

20 A Sorry.

21 Q That makes it easier. That's all right.
22 You should have put down Dr. Mouth for the dentist,
23 and I would have gotten that one.

24 A Sorry.

25 Q Okay. Dr. Jacks?

1 A Wrist doctor.

2 Q A wrist doctor. Okay. And he wasn't
3 treating you for anything related to this incident?

4 A No.

5 Q All right. And you've given us a list of
6 what you -- of some of the medication that you were
7 taking, and I'm going to butcher the names as we go
8 through it, but I kind of want you to tell me who
9 prescribed them for you and what they were
10 prescribed for as we go through, if you know. If
11 you don't know, then tell me.

12 A Okay.

13 Q The first one is ibuprofen, which I
14 understand is like Advil?

15 A Right

16 Q Did anybody prescribe the ibuprofen for
17 you?

18 A All three, Angus, Bruce, and Mayes.

19 Q Angus, Bruce. And what was -- what were
20 they prescribed for?

21 A Because I retained a lot of water, and I'd
22 been in a lot of pain from my chest and everything,
23 so they prescribed it for that.

24 Q What was wrong with your chest?

25 A They were too big.

1 Q Okay. So it didn't have anything to do
2 with what happened to you. It was because of --
3 okay. Got you. How about Atenolol?

4 A That's the -- T-E-Z, that's the sleeping
5 pill, I think.

6 Q Atenolol, do you have high blood pressure
7 or a heart problem?

8 A Oh, that's the blood pressure pill. Yes,
9 I have high blood pressure.

10 Q Who prescribed that for you?

11 A Dr. Angus.

12 Q And again, the high blood pressure, was it
13 related to this incident?

14 A Yes.

15 Q Did you have high blood pressure before
16 the accident?

17 A Not that I can recall, no.

18 Q So you were diagnosed with high blood
19 pressure after the incident?

20 A Yes.

21 Q Okay. And as a result of the diagnosis of
22 high blood pressure, Dr. Angus prescribed you
23 Atenolol?

24 A Mm-hmm.

25 Q You have to answer with a yes.

1 A I'm sorry.

2 MR. CANNON: And again, I'm not trying to
3 beat it, but she doesn't understand it.

4 THE WITNESS: I'm sorry.

5 BY MR. CANNON:

6 Q That's fine. Don't worry. And we are
7 going to deal with some of these I can read before
8 we get to the ones I just have no chance on. How
9 about hydrocodone?

10 A That's for pain that I have.

11 Q Right. And who prescribed that for you?

12 A Dr. Mayes and Dr. Angus.

13 Q That was for what?

14 A Same thing, breast.

15 Q For your chest. Okay. And fluoxetine,
16 it's F-L-U-O-X-E-T-I-N-E. Do you know what that is?

17 A I'm not sure if that was another blood
18 pressure pill or the depression pill. I'm not sure
19 which one that was. I can't remember.

20 Q So it's either blood pressure or
21 depression?

22 A Yeah.

23 Q And who gave that to you?

24 A Which doctor gave me that? That was
25 through the state. I can't remember which doctor

1 gave me that. I have to look at my bottle. I don't
2 remember.

3 Q So that came from a state doctor?

4 A Well, they paid for it, but one of the
5 physicians gave it to me.

6 Q Okay. Either Dr. Angus? Dr. Mayes?

7 A It was either -- Bruce. Dr. Bruce, she
8 gave it to me.

9 Q Okay. And were you taking any type of
10 depression medicine before this incident happened?

11 A No.

12 Q Did you ever have any kind of history
13 involving depression?

14 A No.

15 Q Okay. Ever have any prior suicidal
16 ideations?

17 A No.

18 Q You know what that means, suicidal?

19 A That I tried to kill myself.

20 Q Thoughts of it, not that you tried.

21 A You mean before the incident?

22 Q Before this.

23 A No.

24 Q What about Temazepam?

25 A Sleeping pill.

1 Q Sleeping pill. Who gave that to you?

2 A Dr. Bruce.

3 Q Did you have problems sleeping before this
4 happened?

5 A No.

6 Q So you take this sleeping pill as a result
7 of this happening?

8 A Yes.

9 Q Do you have to take it every night?

10 A Yes.

11 Q What about Lisinopril --

12 A Blood pressure pills.

13 Q -- HCTZ?

14 A H?

15 Q HCTZ.

16 A I don't know what that is. That could be
17 another depression pill. I'm not sure on that one.

18 Q What about Diovan HCT?

19 A I take so many things, I don't even
20 remember.

21 Q Do you have any --

22 A I don't remember what they are, but most
23 of them are just depression, sleep pills, and pain
24 pills.

25 Q Do you have -- setting aside for the pain

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1 pills and the ibuprofen that you take because of
2 your chest and the problems or the pain you're
3 associating --

4 A Mm-hmm.

5 Q -- did you have any other physical
6 conditions that you were treating for before this
7 incident happened?

8 A Yeah.

9 Q What?

10 A Before?

11 Q Yes.

12 A No.

13 Q You weren't required to take medication
14 for any condition besides for taking the pain pills
15 and the ibuprofen before this incident happened,
16 correct?

17 A No.

18 Q So all this medication that's listed here
19 with the exception of the ibuprofen and the pain
20 pills, you are taking because of this incident and
21 what happened to you?

22 A Yes.

23 Q Okay. You were kind enough in one of the
24 questions which I asked you, we asked you to
25 describe any physical or mental issues that you are

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1 having as a result of the incident, and your answer
2 to that was, my blood pressure is high, I'm nervous
3 all the time, I can't sleep. Okay. How high is
4 your blood pressure? Have you been told by any
5 doctor how high it is? I mean, is it dangerously
6 high? Is it moderately high? Is it slightly high?

7 A It's dangerously high.

8 Q Who told you that?

9 A Dr. Angus.

10 Q Okay.

11 A And Dr. Bruce.

12 Q Prior to the incident, you never had any
13 issue with your blood pressure --

14 A No.

15 Q -- being elevated at all?

16 A No, none that they ever told me.

17 Q And you had never taken any medication for
18 high blood pressure?

19 A No.

20 Q Had you ever taken any medicine for a
21 heart issue --

22 A No.

23 Q -- before this happened?

24 A No.

25 Q Okay. Now, you indicate you're nervous

1 all the time. What are the symptoms you have being
2 nervous? What happens because you're nervous?

3 A We will go, like out in the public, and I
4 kind of see people that look like him, I get nervous
5 and scared, and I start shaking.

6 Q You physically shake?

7 A Mm-hmm.

8 Q And that started right after this
9 incident?

10 A Yes.

11 Q And the high blood pressure started right
12 after this incident?

13 A Yes.

14 Q All right. And you take medicine for the
15 nervousness?

16 A If this is a depression pill, I guess so I
17 be calm.

18 Q Okay. So you take medicine that makes you
19 calm?

20 A Mm-hmm.

21 Q And because of the medicine that you're
22 taking from the various doctors, you're able to
23 perform your job without any problems?

24 A Yes.

25 Q Okay. And, in fact, you've been able to

1 work except for a week you took off from the date of
2 this incident until today, correct?

3 A Yes.

4 Q That's over four years now, right?

5 A Yes.

6 Q Okay. Now, you indicate you can't sleep.
7 How often is it that you can't sleep? Every night?

8 A It's -- you could almost say every night.
9 Unless I take this medicine, it's almost every
10 night. I have nightmares, and I have dreams, and I
11 wake up in sweats, and I still do it.

12 Q And this started right after the incident?

13 A Yes.

14 Q Did you ever have any prior sleeping
15 problems before the incident?

16 A Unless I have a headache or something, no.

17 Q Unless there was some physical --

18 A Yes.

19 Q -- problem? Other than that, you're able
20 to go to sleep, no problem?

21 A Before, yes.

22 Q Yeah. Hit the pillow, you're gone, right?

23 A Yes.

24 Q Okay. Now, you indicate you've also tried
25 to kill yourself.

1 A Yes.

2 Q When did that happen?

3 A I don't remember. I don't remember. I
4 just know I tried.

5 Q Well, what did you do?

6 A Slit my wrists.

7 Q Well, can you tell me -- and again, I have
8 to apologize because I know these questions are
9 difficult for you, but at the same time, you have to
10 appreciate the fact I have to ask them. It's my
11 job. I don't get any joy out of it, okay? And if
12 you need a break at any time when we're doing this,
13 you tell me, okay?

14 A Okay.

15 Q Are you okay?

16 A Yeah.

17 Q Want some water?

18 A I'm fine.

19 Q Soda? Beer? Anything you want.

20 A No.

21 Q Okay.

22 A Justice.

23 Q All right. Can you tell me when that
24 happened? Can you give me a year.

25 A It was like maybe two years or three years

1 ago.

2 Q Two or three years ago. Which doctor did
3 you see because of it, if any?

4 A My therapist.

5 Q You've got a Margo Hill and an Erma
6 Holloway.

7 A I saw Erma Holloway.

8 Q Is Erma related to you?

9 A No.

10 Q Just coincidentally, she has your last
11 name?

12 A Yes.

13 Q And had you been seeing Ms. Holloway or
14 Ms. Hill before this happened?

15 A No.

16 Q So it was after this incident happened
17 that you started seeing them --

18 A Yes.

19 Q -- is that correct? Now, you've given
20 us -- you've been kind enough to give us some
21 documents from New Dimensions. Is that where
22 Ms. Holloway and Ms. Hill are --

23 A Yes.

24 Q -- New Dimensions?

25 A Not Ms. Hill. She was on Las Vegas

1 Boulevard.

2 Q And we've been given a set of documents
3 that reflect times that you went and saw, apparently,
4 Ms. Holloway --

5 A Mm-hmm.

6 Q -- at New Dimensions, and the first date
7 we have for you going is February 19th of 2005.
8 Does that help you at all with regard to when it was
9 that you might have attempted to hurt yourself?

10 A It was before -- no. It was after that if
11 I saw her in 2005. I had tried to hide my cuts from
12 her, so it was after that.

13 Q So it was after 2-19 of '05?

14 A Yeah, I'm pretty sure it was. Yes.

15 Q Did you report to her that you had
16 attempted to hurt yourself?

17 A (The witness nodded.) Yes.

18 Q Excuse me one second. I'm just looking to
19 see if she has a note that would help us. Excuse
20 me.

21 All right. So did you attempt to hurt
22 yourself more than once, ma'am?

23 A Twice. Just tried to go to sleep.

24 Q So you took extra sleeping pills? On one
25 occasion, you took -- you cut yourself, and another

1 occasion, you took extra sleeping pills?

2 A (The witness nodded.)

3 Q Was that around the same period of time?

4 A I don't think so.

5 Q Can you give me any idea about the year --
6 and let me help. You started seeing Ms. Holloway in
7 February of '05, and you said it was after that that
8 this happened. Which one happened first? The
9 cutting or the taking the sleeping pills?

10 A I tried to do sleeping pills after I went
11 to court that day.

12 Q Okay. So that was in '04. When you went
13 to court which day?

14 A When I testified -- when I went to court
15 on when this happened.

16 Q Okay. So the day you gave a statement in
17 court, was that the day that you took the sleeping
18 pills?

19 A That night, I just wanted to go to sleep
20 for a while.

21 Q Did you intentionally take more sleeping
22 pills than you were supposed to?

23 A I just wanted to go to sleep. I wanted to
24 go away.

25 Q And then it was after -- how long after

1 that one? The same year that you attempted to hurt
2 yourself? Or do you remember?

3 A I don't remember.

4 Q Okay. Did you see any doctor for that?

5 A No. I didn't tell anybody.

6 Q So did you ever report the fact that you
7 took extra sleeping pills to anybody?

8 A I never told anybody.

9 Q So you never hold Ms. Holloway or any of
10 your doctors?

11 A I didn't.

12 Q Did you ever tell Ms. Holloway that you
13 attempted to hurt yourself in any way?

14 A Just when I tried to kill myself with the
15 wrists.

16 Q Okay. Did you ever tell Dr. Angus that
17 you attempted to hurt yourself?

18 A No.

19 Q Did you ever tell Dr. Bruce?

20 A I didn't tell nobody.

21 Q Nobody except Ms. Holloway?

22 A For just the wrist one, yes.

23 Q And nobody about the sleeping one?

24 A (The witness shook her head.)

25 Q Is that right?

1 A Yes. I'm sorry.

2 Q No. That's fine. Okay. Excuse me one
3 second. I lost my page. Okay.

4 Also, in your answers to our questions
5 relative to mental and physical ailments, you
6 indicate that you are afraid of getting into a
7 relationship because they might not want you. You
8 have that fear, ma'am?

9 A Yes.

10 Q Okay. And you've had that fear since this
11 happened?

12 A Yes.

13 Q And why is it you think someone might not
14 want you?

15 A I just feel like they might feel like I'm
16 nasty, or I might have something from him or
17 something.

18 Q Have you discussed this with any of your
19 physicians?

20 A Yes.

21 Q And was it with Ms. Holloway you talked
22 about it with? Not anyone, any doctors?

23 A No.

24 Q Okay. You also indicate that you feel,
25 I'm dirty, and people are always looking at me. Did

1 this start right after this happened?

2 A Yes.

3 Q And it continues to this day?

4 A Yeah. People that know me, that they
5 still ask me how I'm doing, some of my patients.

6 Q Okay. Did you tell the patients what
7 happened to you?

8 A They saw it on TV when I was in court.

9 Q And you think that they're looking at you
10 like you're dirty?

11 A Just like -- you know, I do. Yeah.

12 Q Your patients?

13 A Just people. Not just my patients, just
14 people. Like, you know, you're nasty. Why did you
15 do -- you know. I don't know.

16 Q All right. And you remain scared at this
17 point?

18 A Yes.

19 Q Scared of what?

20 A Him.

21 Q You are afraid that this might happen
22 again?

23 A I'm just afraid he's going to get me.

24 Q Okay. All right. With regard to the
25 problems as far as your getting into a relationship,

1 thinking -- people thinking you're dirty, your being
2 scared and you're afraid, is the primary doctor you
3 are talking about that with Ms. Holloway?

4 A I'm not understanding.

5 Q Okay. You've told us that you feel people
6 are looking at you like you're dirty, that you're
7 afraid to get into a relationship, that you're
8 scared, and that -- my question was, are the people
9 or the person you're talking to about that, is it
10 primarily Ms. Holloway?

11 A Yes.

12 Q Is she the one you are communicating with?

13 A Yes.

14 Q You're not talking with Dr. Angus or
15 Dr. Bruce or Dr. Mayes about that?

16 A No.

17 Q Can you tell me -- I'm going to give you
18 some names, okay, and you tell me who they are, if
19 you would, if you can.

20 A Yes.

21 Q All right. Who's Terry Smith?

22 A My youngest son.

23 Q Okay. And what does Terry know about
24 what's happened?

25 A His dad kind of told him what happened,

1 and I kind of told him a little bit of what
2 happened.

3 Q Okay. And Brian D. Williams?

4 A My oldest son.

5 Q What does he know about what happened?

6 A The same as Terry.

7 Q Just basically what you've told him
8 happened?

9 A Right.

10 Q What about Pam Utay?

11 A Pam Utley (sic).

12 Q I'm sorry.

13 A She knows.

14 Q She knows what?

15 A She knows what happened. She knows
16 everything.

17 Q So you told her?

18 A Yes.

19 Q When did you tell her?

20 A Oh.

21 Q After?

22 A It was after I told Felicia. Like I say,
23 everybody else was told a while after.

24 Q Okay. She never had any contact with
25 Mr. Baldonado, correct?

1 A No.

2 Q Did she ever indicate to you she saw him
3 come to your office or anything of that nature?

4 A Yes, she seen him.

5 Q She'd seen him?

6 A Yes.

7 Q Did she ever talk to him?

8 A No.

9 Q Who's Joe Johnson, please?

10 A That's a friend of the family's.

11 Q What does Mr. Johnson know about this?

12 A He just briefly knows a little bit about
13 it.

14 Q How did he find out?

15 A One day he called me, and I had told him
16 what happened.

17 Q Okay. He's never talked, to your
18 knowledge, with Mr. Baldonado or had any
19 communications or conversation with him?

20 A No.

21 Q Okay. And then, of course, Felicia you
22 have told us about?

23 A Yes.

24 Q Has she ever talked with Mr. Baldonado, to
25 your knowledge?

1 A Only when she answered the phone a couple
2 of times.

3 Q And then Margo Hill, of course, and Erma
4 Holloway, both of whom have treated you for some of
5 the problems associated with this?

6 A Yes.

7 Q Are you still treating actively with
8 Ms. Hill?

9 A No. The state referred me to her for a
10 couple of weeks, and then after her, they gave me a
11 list to find another one. She was just for a little
12 while. The state took care of that.

13 Q So Ms. Hill was -- you were referred to
14 her by the victim --

15 A Crime -- yes.

16 Q -- crime --

17 A Witness.

18 Q -- committee, or whatever it is?

19 A Yes.

20 Q And you saw her for a couple weeks?

21 A Yes.

22 Q How many times do you remember you saw
23 her?

24 A Every Thursday at one o'clock.

25 Q Okay. So twice? It was a couple weeks.

1 Was it more than twice?

2 A Once a week -- once a week -- yes.

3 Q Okay. And then you stopped seeing her and
4 went to see Ms. Holloway?

5 A Yes.

6 Q Why did you quit Ms. Hill?

7 A Because the funds ran out. It was only a
8 limited, of the funds that I was able to see her.

9 Q And Ms. Hill didn't take your insurance?

10 A I don't even remember. I didn't even try
11 to use my insurance.

12 Q Okay. Ms. Holloway took your insurance?

13 A Yes.

14 Q How did you get to her?

15 A They gave me a list. The victims people
16 gave me a list of people, and I just went through
17 the list and just randomly went through names, and
18 she actually was the first one to call me back, and
19 I just said I will just go with her, because I
20 needed to talk to somebody.

21 Q Okay. When did you first get a lawyer in
22 this case, ma'am?

23 A I think -- I don't know. I think it was
24 right after the court, after the court, after the --
25 we went to court, after I went to court. It was a

1 little while after that.

2 Q After your victim's statement?

3 A Yes.

4 Q Okay. And with regard to your victim's
5 statement, you actually hand-wrote that out before
6 you gave it, correct?

7 A I don't remember.

8 Q Well, maybe I can help you. All right.
9 Why don't -- there should be one of these marked.
10 Here it is. Let me hand you what we're going to --
11 what we've marked as Exhibit A, ask you to take a
12 look at that, and tell me if you recognize that. Do
13 you remember giving that -- is that your
14 handwriting?

15 A Yes.

16 Q Is that the statement that you ultimately
17 gave in court?

18 A In court, yes.

19 Q You read it?

20 A I didn't read this in court. I talked in
21 court.

22 Q Right. Okay. So did you submit that
23 statement to somebody?

24 A I guess one of the officers or whoever was
25 taking it at the time. I don't remember.

1 Q But you prepared that, in order when you
2 went to court, to make a statement about what
3 happened to you, correct?

4 A Yes.

5 Q And it was true and accurate at the time
6 you wrote it out; is that right?

7 A Yes.

8 Q Okay. I know you're going to hate to hear
9 this, but I think I'm just about done. Can we just
10 take about five minutes and make sure? And then if
11 you'd like to take just about five minutes, is that
12 okay with you?

13 A Mm-hmm. Yes.

14 MR. CANNON: We can go off the record.
15 (Off the record.)

16 MR. CANNON: Let's finish up.

17 BY MR. CANNON:

18 Q Ms. Holloway, did you see a doctor for the
19 cuts on your wrists?

20 A No.

21 Q Okay. They healed by themselves?

22 A Yes.

23 Q But you did report them to a doctor?

24 A Not a doctor, my therapist.

25 Q To Ms. Holloway?

1 A Yes.

2 Q And since the day that Mr. Baldonado
3 walked out of your house, have you had any contact
4 with him whatsoever?

5 A No.

6 Q He hasn't called you? You haven't seen
7 him? There haven't been any attempts at
8 communication, nothing, correct?

9 A No.

10 Q Okay. Do you have an appointment at this
11 time to see Ms. Holloway?

12 A Next Thursday, as a matter of fact.

13 Q And are you on a regular appointment
14 schedule with her?

15 A Yes.

16 Q How often do you see her?

17 A Sometime -- every week, like if she don't
18 have something to do every week.

19 Q The reason I ask the question is the last
20 note we have from Ms. Holloway concerning you is in
21 April of this year.

22 A No, I've seen her after that. What
23 happened was, I thought the funds had stopped, and
24 so I had called, and I talked to my lawyer about
25 that because I wanted to continue to see her. We

1 thought the money had stopped, and I didn't want to
2 keep seeing her because she said she wasn't getting
3 paid, so I couldn't afford to pay her at that time.

4 Q Your insurance didn't cover it?

5 A I didn't go through my insurance. I mean,
6 she went through my insurance, but it was just a big
7 mess. That is between her and the insurance and the
8 state, because the state was still supposed to pay
9 for it. And they were supposed to send me a letter
10 when the funds ran out, and I never got a letter,
11 and I just happened to call up there one time, and
12 they told me I still have funds to see her, so I
13 still have been seeing her.

14 Q So the answer to my question is that
15 you -- did you ever attempt to use your own
16 insurance and continue to see Ms. Holloway?

17 A Yeah. I gave her copies of my insurance
18 card, yes.

19 Q Okay. And the reason that you have not
20 seen her since February or April 5th is because
21 there was a mixup as far as whether she was going to
22 get paid or not?

23 A Right, but I've seen her before then.
24 I've seen her last month, as a matter of fact. I've
25 still been seeing her. But I had surgery, so I

1 haven't been anywhere since then.

2 Q All right. And you say you were seeing
3 her weekly, correct?

4 A Sometimes weekly, yes.

5 Q Because the notes that we have, at least
6 the ones that run through April of this year, they
7 show that from January 1st of '07 through April 5th
8 of '07, you've seen her exactly four times in four
9 months.

10 A Nope. I've seen her more than that.

11 Q So you're saying that we don't have all of
12 her notes?

13 A Probably not. No.

14 Q Your memory is, you're seeing her at least
15 weekly when she's available?

16 A Yes.

17 Q And how long was the break between this
18 April 5th of 2007 visit before the insurance thing
19 got straightened around and you could see her again?

20 A The insurance didn't pay for it. That's
21 what I was telling you. It was the state. They're
22 still paying for it, to my knowledge.

23 Q When's the last time you saw Ms. Holloway?

24 A Just before my surgery.

25 Q Which was?

1 A It was in June. I saw her in May.

2 Q You saw her one time in May?

3 A I don't know if it was one time, but I saw
4 her in May. I can't remember if it was more than
5 once.

6 Q Have you seen her since May?

7 A No. I am just getting back from my
8 surgery and work and stuff.

9 Q How long were you off for your surgery?

10 A Six weeks exactly.

11 Q What was wrong with you?

12 A I had a breast reduction.

13 Q Okay. And who did that --

14 A I can't think of his name.

15 Q -- the doctor?

16 A Dr. Charles Ebert.

17 Q Okay. And you haven't seen Ms. Hill after
18 that first two-week period that you saw her?

19 A Whenever the funds ran out is when I
20 stopped seeing her.

21 Q Have you ever seen Joanne Lippert?

22 A I don't know who that is.

23 Q Okay. It's a Ph.D. psychiatrist or
24 psychologist that is in Reno, Nevada. Do you have
25 any idea who she is?

1 A I don't know who she is.

2 Q And certainly, you haven't seen or talked
3 with her?

4 A Not that I can recall, no.

5 Q Okay. Well, have you ever had any
6 conversations or contact at all with a man named
7 Stewart Bell?

8 A No.

9 Q Do you even know who he is?

10 A No. I just see his name on things.

11 Q Okay. Have you ever had any contact with,
12 or communications at all with a man named David
13 Roger?

14 A No.

15 Q Beside for -- strike that.
16 Have you ever had any contacts or
17 communication whatsoever with anyone from Clark
18 County about this case?

19 A No.

20 MR. HARRIS: Civil case?

21 MR. CANNON: That's a good question.

22 BY MR. CANNON:

23 Q About this civil case. Your answer's no?

24 A Right. No.

25 Q Have you had any contact with anyone from

1 Clark County or communications with anyone from
2 Clark County about the incident involving you and
3 Mr. Baldonado or any of the problems you've suffered
4 as a result of the incident?

5 A No.

6 MR. CANNON: And with that, Ms. Holloway,
7 I certainly thank you for your testimony. I know it
8 was difficult, and I appreciate the effort you gave,
9 and I don't have any more questions at this time. I
10 don't know if anybody else does.

11 THE WITNESS: Thank you.

12 EXAMINATION

13 BY MS. MONDRAGON:

14 Q Can you hear me from here? You've also
15 named my client, the City of North Las Vegas, in
16 your complaint. And at the beginning of your
17 deposition, you mentioned that you had reviewed your
18 answers to the defendants City of North Las Vegas'
19 interrogatories before this deposition, right? Do
20 you remember that?

21 A I don't understand what you're saying to
22 me.

23 Q You reviewed your answers to the City of
24 North Las Vegas's interrogatories before your
25 deposition, right?

1 A Yes.

2 MR. CANNON: One of them right there
3 (indicating).

4 THE WITNESS: Yes.

5 BY MS. MONDRAGON:

6 Q I just have a couple questions about your
7 answers. You mentioned a Crystal Chipman in your
8 answers. Do you know a Crystal Chipman?

9 A I don't know her.

10 Q What about a Crystal Brooks?

11 A I don't know her.

12 Q Okay. And what about Desiree Gillard?

13 A I don't know her.

14 Q So you've never met either one of those
15 individuals?

16 A No.

17 Q Okay. Do you know anything about the
18 investigation that you reference that the North Las
19 Vegas Police Department started after speaking with
20 those three people?

21 A No.

22 Q Okay. You've alleged that the actions of
23 the City of North Las Vegas were motivated by racial
24 animus. Do you know what I mean when I say "racial
25 animus"?

1 A No.

2 Q Animus is basically hostility or an ill
3 feeling and, you know, racial -- you understand when
4 I say "racial," right?

5 A Yes.

6 Q Do you have information that you believe
7 backs up that allegation?

8 A I'm not understanding.

9 Q When you say that the actions of the City
10 of North Las Vegas that you're complaining of in
11 your complaints --

12 A Yes.

13 Q -- were racially motivated --

14 A Yes.

15 Q -- why are you saying that?

16 A Why was it just black women? Why me?

17 Q What do you mean, why was it just black
18 women?

19 A Well, seeing as he loved black women, he
20 liked black women, that tells me that's racial. Why
21 are you targeting us?

22 Q When you say -- I'm sorry. I'm just
23 trying to understand that. What did you say at the
24 beginning about liking black women?

25 A That's what he quoted to me.

1 Q Who is "he"?

2 A Pete Baldonado.

3 Q Okay. Did you understand him to be
4 working for the City of North Las Vegas at the time
5 that he said that?

6 A I don't know who he works for. I just
7 know he's a policeman, detective that's supposed to
8 uphold the law.

9 Q Okay.

10 MS. MONDRAGON: That's all I have. Thank
11 you.

12 THE WITNESS: Thank you.

13 MR. CANNON: Thank you very much.

14 MR. HARRIS: All right.

15 (The reporter marked Exhibit D.)

16 (The deposition concluded at 11:47 a.m.)

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Western Reporting Services, Inc.

500 South Rancho Drive, Suite 8A, Las Vegas, Nevada 89106

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1 CERTIFICATE OF DEPONENT

2
3 I, Love Holloway, deponent herein, do hereby
4 certify and declare the within and foregoing
5 transcription to be my deposition in said action,
6 subject to any corrections I have heretofore
submitted; and that I have read, corrected and do
hereby affix my signature to said deposition.

7 _____
8 Love Holloway
9
10
11
12

13 STATE OF NEVADA)
14) ss:
15 COUNTY OF CLARK)
16

17 Subscribed and sworn to before me this ____ day
18 of _____, 2007.

19 _____
20 Notary Public
21
22
23
24
25

1 CERTIFICATE OF REPORTER

2
3 STATE OF NEVADA)
) ss.
4 COUNTY OF CLARK)

5 I, Susan Lee Naylor, a duly commissioned Notary
Public, Clark County, State of Nevada, do hereby
6 certify: That I reported the taking of the deposition
of the witness, Love Holloway, commencing on
7 Wednesday, September 19, 2007 at 9:14 a.m.

8 That prior to being examined the witness was by me
duly sworn to testify to the truth. That I thereafter
9 transcribed my said shorthand notes into typewriting
and that the typewritten transcript of said deposition
10 is a complete, true and accurate record of the
testimony provided by the witness at said time.

11
12 I further certify that (1) I am not a relative or
employee of an attorney or counsel of any of the
parties, nor a relative or employee of an attorney or
13 counsel involved in said action, nor a person
financially interested in the action, and (2) that
14 transcript review pursuant to FRCP 30(e) was
requested.

5
15 IN WITNESS WHEREOF, I have hereunto set my hand and
16 affixed my official seal in my office in the County of
Clark, State of Nevada, this 2nd day of October 2007.

17
18
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22 Susan Lee Naylor, RPR, RMR, CCR #513
23
24
25

Western Reporting Services, Inc.

500 South Rancho Drive, Suite 8A, Las Vegas, Nevada 89106

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EXHIBIT "2"

CLARK COUNTY
DISTRICT ATTORNEY

INVESTIGATIVE REPORT

FILE: I-93-8

VICTIM: CANDACE VOGELE WILLIAMS
SEXUAL HARASSMENT
WFA, DOB: 12/15/70, HAIR/BLND, EYES/GRN
HGT/5'7", WGT/140, SOC/530-86-0973

SUSPECT: PETER BALDONADO
WMA, DOB: 5/19/44, HGT/6, WGT/185
HAIR/GRY, EYES/BRN, SOC/585-07-7976

PERSONS INTERVIEWED: CANDACE VOGELE WILLIAMS
CAROL MERCER
DARCY BROWN
JOSIE PADUA
PETER BALDONADO
JOSEPH EVERS

REFERENCE: Memorandum dated April 13, 1993, from Todd Schwartz,
health administrator, EMSA/corection care, to Joseph K. Evers,
director, Support Bureau, Clark County Detention Center.

STATUS: -C-

INVESTIGATIVE PERIOD: 4/15/93 - 4/20/93

PREPARED BY: *L. P. Markovich*
L. P. MARKOVICH

DATE: 4/20/93

cc: Kelly Isom
Personnel File/
Peter Baldonado
File I-93-8

INVESTIGATIVE REPORT

FILE: I-93-8

4/20/93

Page 2

SYNOPSIS: Candace Lee Vogele Williams, employed by Emergency Medical Services Associates, Clark County Detention Center, advised she has known Clark County District Attorney Investigator Peter Baldonado, who handles subpoenas for the nurses at the Detention Center, for approximately one-and-a-half years. About March 15, 1993, while they were in the Clark County Detention Center elevator, Investigator Baldonado put his arm around her and kissed her on the lips. That immediately after this, Williams advised Darcy Brown and Carol Mercer of EMSA of this incident. Williams denies any form of encouragement to Baldonado for this action. Subsequently, when Baldonado appears in nurses' section, Williams would hide from him. On April 12, 1993, Baldonado approached Williams in the medical office, put his arm around her and she asked him how the weather was outside. He said it was kind of chilly, and he came in to warm up. Incident witnessed by Josie Padua.

Carol Mercer, Darcy Brown and Josie Padua were interviewed and stated Williams had related incident to them, and she had attempted to avoid contact with Baldonado by hiding from him. Baldonado was interviewed and denies knowing who Candy Vogele Williams is by name but states he believes she is heavyset person. He denies putting his arm around Williams in elevator and kissing her on the lips. Baldonado says he was friendly with heavyset girl but never got out of line with anybody. Baldonado recalls conversation of April 12 where he says it was cold outside but denies putting his arm around anyone, stating he may have put his arm around her back.

On 4/19/93, Polaroid photos taken of persons interviewed. Photo No. 3 of Candace Williams identified by Baldonado as girl he previously described as heavyset and who he deals with on subpoenas. Denies knowing her name. Exhibited photo of Williams in office where she states he put his arm around her. Baldonado states he may have put his hand on her shoulder but not around her.

On 4/19/93, facts of this case were discussed with Joseph Evers, director, Support Bureau, Clark County Detention Services. I advised Evers this appeared to be a no-win situation and that I would not want to subject Williams to a polygraph examination. It was a situation of an accusation and a denial with no witnesses to the incident. That I had immediately removed Baldonado from making the subpoena run to the jail and that he was advised to have no further contact with any of the jail personnel. Mr. Evers agreed nothing would be gained by carrying this matter any further, and I stated any disciplinary action taken would be done by this office.

INVESTIGATIVE REPORT

FILE: I-93-8

4/20/93

Page

DETAILS: This investigation was predicated upon receipt of a letter from Todd Schwartz, health administrator/EMSA/correction care to Joseph K. Evers, director, Support Bureau, Clark County Detention Center, concerning the alleged sexual misconduct of Mr. Pete Baldonado of this office. Candy Vogeles advised Mr. Schwartz that Mr. Baldonado had placed his arm around her as if to hug her and then kissed her on the lips while in the elevator of the Clark County Detention Center.

EXHIBIT “3”

INTERVIEW REPORT

DATE: April 20, 1993

FILE:

Q. My name is Pat Markovich. I am the Chief Investigator, for the Clark County District Attorney's Office. It is April 15, 1993, the time is 9:18 a.m. Present with me are Assistant Chief Dale Horton and for the record, would you please give us your full name, Miss Williams.

A. Ah, Candace Lee Williams.

Q. You were married last night and your maiden name was.

A. Vogele.

Q. Would you spell that please?

A. V-o-g-e-l-e.

Q. And, normally people call you Candy?

A. Yeah.

Q. Do you have any objection if we call you Candy?

A. No, not at all.

Q. All right, and for the record, Candy, this interview is being recorded. Do you have any objection to that?

A. No, I don't.

Q. We have received a complaint of an alleged sexual misconduct against you by an officer who works for the Clark County District Attorney's Office, by the name of Peter Baldonado and you have filed that complaint, is that correct?

A. Yes.

fm
L. P. Markovich

D. Horton *DRH*

Interviewed by:

4/15/93

Date of Interview

/sj

INTERVIEW REPORT
SUBJECT: I-93-8
April 16, 1993
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Q. All right, just going back a minute, what is your position here at the, ah, Clark County Detention Center?

A. Medical records clerk.

Q. And, who is your employer?

A. EMSA.

Q. And what does EMSA stand for?

A. Emergency Medical Services and Associates.

Q. O.K., you do not work for the County, is that right?

A. That's right.

Q. So this is a separate entity that is under contract to the jail or the detention center?

A. Yeah.

Q. What are part of your duties here, Candy?

A. Um, I do sick call for the doctor and I type up psychological for the psychologist, I do a lot of filing and I handle all the subpoenas.

Q. In the course of your duties of handling the subpoenas, is that how you became acquainted with Investigator Baldonado?

A. Yes.

Q. And approximately how long have you known him?

A. About a year and a half.

Q. In making this report, has anyone mentioned anything to you that you should not make the report in fear of being retaliated against as far as your position is concerned?

A. No.

Q. As a matter of fact, yesterday afternoon when I telephonically contacted you to set up this interview, I assured you that there would be no repercussions as far as your making this allegation, is that correct?

A. Yes.

INTERVIEW REPORT
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April 15, 1993
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Q. O.K. The job that Mr. Baldonado has is bringing the subpoenas over to the jail for the nurses. Do you initially receive those?

A. Yes, I do.

Q. And then what do you do with them?

A. I take them and I record them and give them to the nurses and when they sign them, I record that they signed them and then I send them back to the D.A.'s Office.

Q. Recently, we instituted a new program regarding return of subpoenas, so now we have a what, two baskets over here?

A. Yeah.

Q. An "in" basket?

A. And an "out" basket.

Q. And an "out" basket. So you get the subpoenas, deliver them to the nurses, they sign them off and put them back into the out basket, is that correct?

A. Yes.

Q. And then Investigator Baldonado picks them up and returns them to the D.A.'s Office?

A. Yes.

Q. Approximately how many times a week is he here?

A. About three days.

Q. Three days of the, of the week.

A. Uh huh.

Q. O.K., would you relate the first instance that Investigator Baldonado made any advances toward you?

A. You mean--

Q. Did he physically touch you, did he, ah verbally, ah, make any suggestive remarks?

A. Yeah, the first time, he kissed me.

INTERVIEW REPORT
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April 15, 1993
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Q. This is the first?

A. This is the first?

Q. Occasion. Approximately when was that?

A. About March 15.

Q. Could you describe the circumstances under which that happened?

A. Ah, we were both going downstairs, we got on the elevator together. When the elevator closed, he put his arm around me, like a buddy would, and just reached over and kissed me.

Q. Where did he kiss you?

A. On the lips.

Q. Open mouth or closed mouth.

A. Closed.

Q. Had he on prior occasions put his arm around you?

A. Yeah, he had, just as a friendly hug, just like a friend would.

Q. So, at that time, you didn't think anything of the incident?

A. No, not at all.

Q. Are there officers employed in the detention center that make this friendly gesture?

A. Yes there are.

Q. And you do not take offense to it?

A. No, not at all.

Q. Did he say, did Investigator Baldonado say anything to you after he kissed you?

A. No, he just, the elevator doors opened and he exited first.

Q. What floor were you on?

A. On the ground floor.

Q. And then where did you go?

INTERVIEW REPORT
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April 15, 1993
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A. I waited in the elevator for a few minutes until he was gone and then I also walked out.

Q. Back up one minute. Where were you when you got on the elevator, which floor?

A. We were on the second floor.

Q. O.K., on the second floor and then down to the main floor.

A. Right.

Q. So in effect, you were only on the elevator a short period of time?

A. Yeah.

Q. O.K., was there anyone else on the elevator?

A. No.

Q. Do you feel that you gave him any form of encouragement to have him kiss you?

A. No, none at all.

Q. After he had kissed you, did you relate this incident to anyone?

A. Yes, I did. My boss nurse, ah, Carol Mercer.

Q. And what is, ah, Carol Mercer's position.

A. She's a nurse manager.

Q. Nurse manager. Is that a C-a-r-o-l?

A. Yes.

Q. And Mercer is M-e-r-c-e-r?

A. Yes.

Q. What did, ah, Ms. Mercer say to you, if anything?

A. She said that this can't happen again and that was it.

Q. She didn't give you any suggestions as to who you should tell it to or any action to take?

INTERVIEW REPORT

SUBJECT:

April 16, 1993

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Q. She didn't give you any suggestions as to who you should tell it to or any action to take?

A. No, none.

Q. Did you relate this incident to anyone else?

A. Yes, ah, Darcy Brown.

Q. That D-a-r-c-y?

A. Yes.

Q. Brown, B-r-o-w-n?

A. Yes.

Q. And what is Darcy's position?

A. Ah, she's a secretary.

Q. In EMSA?

A. Yes.

Q. What was Darcy's reaction?

A. Darcy was very upset, and she said that we should write a report or talk to Joe, Mr. Evers, um, do something about it, she said. And then, that wou-and then we got, know, real busy and kind of forgot about it.

Q. O.K., and this happened approximately March 15?

A. Yes.

Q. Since that time, have you been frightened?

A. Yes. Well, not really frightened. Um, I just really wanted to avoid him, any contact with him.

Q. O.K., and frightened wasn't, ah, the proper word, ah that you have been apprehensive about seeing him?

A. Yes.

Q. Is that correct?

INTERVIEW REPORT

SUBJECT: I-93-8

April 15, 1993

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A. Yes.

Q. Ah, how do you do that?

A. Um, I, somebody will notify me if he's coming down the hall and I will go in, we have a, a medical supply room and I'll go hide in there or back in my office cause he doesn't know where that's at.

Q. You said someone would notify you when he is on the premises. Ah, approximately how many people have you related this incident to?

A. About six.

Q. At least six people.

A. At least six.

Q. Are aware of it then?

A. Yes.

Q. O.K., and Darcy is the one that told you you should file the report of some type?

A. Yes.

Q. But since then, nothing, ah, has been filed until recently?

A. No, right.

Q. O.K., now when is the, ah, next time that, ah, you had direct contact with Mr. Baldonado?

A. Ah, it was about two weeks after the first incident, and he, ah, he came up and he put his arm around me and asked me what I was doing that weekend.

Q. Did you take that to mean that he wanted to meet you during the weekend?

A. Yes.

Q. So it was, in effect, ah, a request for a date?

A. I thought it might be.

Q. Had he asked you at any time prior to this, of going out with him?

INTERVIEW REPORT
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April 15, 1993
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A. No.

Q. Have you ever seen Mr. Baldonado outside the premises of the Clark County Detention Center?

A. No, I haven't.

Q. Have you spoken to him on the telephone?

A. No, I haven't.

Q. So, he has never called you during work hours?

A. No.

Q. Made any advances over the telephone?

A. No.

Q. And then when is the next incident?

A. Ah, Monday, April 12.

Q. Monday would be April 12, and could you relate for us what happened on that date?

A. Ah, Josie had come up to me and said that Pete was, ah, had walked into the medical office, so I hid in the corner over by where Darcy's desk is cause it's behind another wall, and he came right over around the corner, and Josie was right behind him, cause she knew what had happened. And he walked right up next to me and put his arm around me and said that it was-I asked him how the weather was outside and he said that it was kinda chilly and that he came in here to warm up.

Q. Did he physically touch you at that time?

A. Yes, he did.

Q. In what manner.

A. He put his arm around me and kinda squeezed me a little bit.

Q. Did he say anything to you?

A. Just about that he came to warm up and--.

Q. Did you say anything to him as to, ah, his doing this?

INTERVIEW REPORT

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Q. Did you say anything to him as to, ah, his doing this?

A. No, I didn't.

Q. Darcy Brown witnessed this incident.

A. Josie did.

Q. Ah, Josie.

A. Yeah.

Q. Josie, I'm sorry, who is Josie?

A. She's the other, ah, medical records clerk.

Q. O.K., what's her last name?

A. Padua.

Q. Josie--

A. P-a-d-u-a.

Q. Padua, O.K., and she's another medical, ah, records technician?

A. Yes.

Q. After Mr. Baldonado left, did, ah, Josie have any comments/

A. Ah, no she didn't.

Q. Did you say anything to her?

A. No.

Q. When, then, did you decide to report this latest incident?

A. As soon as Todd, ah, Todd who is up on the twelfth floor, as soon as he came down, I told him, I said, I want to talk to you.

Q. O.K., who is Todd?

A. He's the medical administrator.

Q. And what is his last name?

A. Schwartz.

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Q. S-c-h-w-a-r-t-z?

A. Yes.

Q. And he's the health administrator for EMSA?

A. Yes.

Q. At this time, you described to him the previous incidents as they had happened, is that correct?

A. Yes.

Q. You feel intimidated by Mr. Baldonado?

A. Yes.

Q. Would you be willing to testify at a hearing if this matter comes down to having a hearing--

A. Yes.

Q. Regarding his sexual harassment?

A. Yes, I would.

Q. Dale, do you have any other questions?

Q. Just a couple for you, Candy.

A. O.K.

Q. Um, going back to the old procedure that was utilized prior to the baskets, what was the normal procedure that involved you to have, ah, contact with Investigator Baldonado under the old procedure for doing the subpoenas?

A. He would either go to Post Ten and have one of the cadets down there call and then I would come downstairs and pick them up from him, or he would come up to the floor himself.

Q. So it just depended on what he did that day, there isn't any, there wasn't any set procedure for that?

A. No.

Q. Ah, where is Post Ten?

A. Ah, right when you walk in the door.

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A. The lobby, yeah.

Q. In the lobby. So, it just depended on whether he had enough time to come in, go upstairs to the second floor probably would depend on whether or not he came up there as opposed to calling you?

A. Right.

Q. During those times where you would have contact with him, what was the nature of the conversation between the two of you?

A. There never was any conversation.

Q. O.K. There was, I guess what I'm asking is, is there any sort of banter that everybody kind of engages in back and forth of kidding sort of things, and the reason I'm asking you this, I want to clear up any, ah, any questions regarding whatever conversation may have been taking place or the nature of it.

A. No, um, he would just hand me the subpoenas, and I'd say thank you, and he would leave. It was just, "hi", it was never "how are you" or anything like that. There was never anything, he just--

Q. So it was very cursory.

A. Yeah, yeah.

Q. Um, do you remember what you were talking about on the elevator? When you both stepped on the elevator during the incident where he kissed you and the doors closed, do you remember what you were talking about at the time?

A. He just asked me how I was doing, and that's when he put his arm around me and--

Q. And you said to him, what?

A. I didn't say anything, I, he didn't give me the chance.

Q. O.K., so, basically, then, you didn't say anything. He just said, hi, how are you, put his arm around you for a hug and then kissed you?

A. Um hum.

Q. And you were basically shocked and silent?

A. Yes.

INTERVIEW REPORT
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Q. Till the doors opened and he left.

A. Yes.

Q. Um, I know I asked you this before, but I'll ask you this again for the tape, have you ever indicated to Pete Baldonado that you did not want him touching you or, or anything of this nature, at least in the form that he was using, ever reject him in any way or tell him that his advances were unwanted?

A. No.

Q. O.K. Did you ever have the opportunity to tell him that?

A. No. I never had to.

Q. That's what I'm going to ask. In other words, the opportunity never really presented itself.

A. No.

Q. Have you ever heard anyone in your office complain about Mr. Baldonado?

A. No.

Q. So as far as you know, your contact with him in this nature is the only one that you're aware of?

A. Yes.

Q. Have you ever seen him hug anybody else in the office?

A. Ah, my former boss, Jackie Miller.

Q. And you saw that.

A. Yeah.

Q. Did Jackie ever mention anything to you about that situation, that she was uncomfortable with it or that she complained about it to you in any way?

A. No.

Q. So as far as you were concerned, that was a friendly situation also, just like everyone else, pretty much commonplace in the office?

INTERVIEW REPORT

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April 15, 1993

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A. Right.

Q. (Markovich) In your opinion, Candy, to wrap this up, do you feel that you have done anything, ah, in any way, shape or form to encourage Mr. Baldonado to take any action in regard to this respect toward you?

A. No, none.

Q. Do you have anything that you would like to add to this statement?

A. No.

Q. O.K., it will be the conclusion of the statement, same persons present, time will be 9:36 a.m.

EXHIBIT "4"

INTERVIEW REPORT

DATE: April 20, 1993

FILE: I-93-8

Q. My name is Pat Markovich. I'm the Chief Investigator, Clark County District Attorney's Office, Las Vegas, Nevada. Present with me are Assistant Chief Dale Horton and Darcy Brown. The time is 9:52 a.m. April 15, 1993. For the record, would you please give your name and spell your name, Darcy?

A. Ah, Darcy Brown, D-a-r-c-y B-r-o-w-n.

Q. And what is your employment, Darcy?

A. I work with EMSA, Ltd., Partnership and I'm a medical secretary for the administrator, Todd Schwartz.

Q. And approximately how long have you been employed?

A. I've been employed with EMSA for a year.

Q. And prior to that, there was another company?

A. Another year I was employed here also with Crutchnel Medical Management.

Q. O.K., and this, we are at the Clark County Detention Center on the twelfth floor in the conference room. We are investigating an incident of alleged sexual misconduct against Candace Vogeles Williams. How long have you known Candy?

A. About a year and a half.

Q. And what is Candy's position?

A. Ah, she's, ah, medical records secretary.

Q. And you are a good friend of Candy's?

A. Yes

pm
L. P. Markovich *llm*
D. Horton

Interviewed by:

4/15/93

Date of Interview

/sj

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Q. Going back to approximately March 15, an incident occurred. Could you tell us what Candy related to you?

A. Ah, we were in the medical records office and she came back from going down to the front desk and she said that, ah, Pete had put his arm around her in the elevator.

Q. Excuse me, Pete, referring to who?

A. Ah, the officer that brings the, the subpoenas.

Q. Do you know his last name?

A. No I don't. I just, by hearing people say the name.

Q. O.K., but you know him as Pete?

A. Yeah, that's what I've heard people call him.

Q. O.K., and he works for the Clark County District Attorney's Office?

A. Right.

Q. And one of his duties is to bring subpoenas from the District Attorney's Office over to the medical section.

A. Right.

Q. And these are subpoenas for nurses?

A. Right, for the medical nurses.

Q. O.K.

A. Here in court. Ah, she was going down in the elevator, go to the front desk, Post 10, and she said that while they were in the elevator, he put his arm around her and kissed her directly on the lips. And, she was very upset and very embarrassed by it and was kind of shocked and kind of came in and sat down and was really, you know, upset over it.

Q. Did she appear to be taken aback, so to speak, that something like this would even happen?

A. Yes, I think, the fact, yes, she was, she was just kind of in

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shock. I said-I asked her if she said anything and she said she just stood there. She didn't know what to say. She was really taken back and shocked by it.

Q. As far as you know, you're the first person that she talked to?

A. Right, she came directly back in.

Q. And then what did you do?

A. I went out to our main office and I told our nurse manager, Carol Mercer, about what had happened and then Candy came out of the back office into the main office and Carol, you know, we kinda talked about it, about you know, that no one should do that, you know, it's not appropriate, and, and we were discussing it.

Q. So you, were--

A. What to handle, what to do next.

Q. So you were present when Candy told Carol Mercer?

A. Yes. I told Carol Mercer and then Candy came up kinda directly behind me and then we started discussing it and then she did say (unintelligible).

Q. So the three of you had a discussion?

A. Yeah, we kinda.

Q. As to what happened? Were there any recommendations made by anyone?

A. Ah, we said that we could, you know, Carol Mercer did say that she could go to, you know, fill out a complaint or go to Joe and--

Q. Joe, meaning?

A. Joe Evers.

Q. Who is?

A. He's director of Support here at the Clark County Detention Center.

Q. O.K.

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A. At that time, we didn't really have a, an administrator. Carol Mercer was acting, ah, Todd Schwartz hadn't arrived yet from Florida, so she was our immediate, ah, supervisor.

Q. O.K. Do you know of any other incidents? Did Candy relate to you any other incidents?

A. Ah, yes, on, ah, what was it? I think it was Wednesday she related that on, I'm not sure if it was Monday or Tuesday that she was kind of in the back alcove by my office cause she knew that Pete had come in so she was kind of standing back there just to stay out of the way and he had walked up to her and said that it was cold outside and he came in to get warm and put his arm around her again, and ah, that's the only other thing that she's really--

Q. To the best of your knowledge, then, Candy has related these incidents to a number of people?

A. Right. Also, when Todd Schwartz arrived, ah I did tell him the incident. I said, you know, just to make you aware of what happened while you were gone that, you know, when the first thing did occur and he also talked to Candy and told her to, you know, fill something out.

Q. Is it your impression that Candy makes a deliberate effort to stay out of the way or not come in contact with Mr. Baldonado?

A. Yes.

Q. And, in fact, haven't you on at least one occasion advised Candy that Mr. Baldonado was on the floor?

A. Yes.

Q. And Candy went to an office and--

A. Yeah, she was back in her office and to get into her office, you have to have a key. It automatically locks. I went back and, ah, knocked a little, ah, piece of wood out of the way and shut her office and I said, you know, I just shut the office so it would look like she wasn't there. And I, he was out in the main office but just, you know, just shut the door to let her know.

Q. O.K., so then when he left, you went back and got Candy.

A. Yeah, (unintelligible).

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Q. In your opinion, have you ever seen Candy make any suggestive remarks, gestures to anyone that would encourage them to make advances toward her?

A. Ah, no.

Q. Dale, do you have anything?

Q. (Dale Horton) Are you familiar with the current procedure that they now use for subpoenas, where they're placed in the basket to be served and they're returned to the basket when they have been served?

A. Right. Right. He suggested that. Pete did.

Q. O.K. That, ah, deviates from the previous procedure, from what I understand, that was utilized prior to placing the baskets, is that correct?

A. Ah, the other procedure was, we'd pin em on the board, aft-the nurses would have to go on the board and filter through and find their subpoenas, sign them when they would give them back to Candy then they'd be put in an envelope and sent back over, but-

Q. To the District Attorney's Office?

A. Right. But then they were getting, I guess they weren't getting returned in time and so he suggested we do it this way, he'd come three times a week, because they just weren't being returned, ah, quickly enough.

Q. O.K., the situation was where he would come into the front where ah, Mr. Baldonado would come into the front door and either call from downstairs or come up.

A. Right.

Q. Is that under the current procedure?

A. Yes, ah, well, we used to go down and sign for them, but with, ah, we now have an inmate in the office and we've been short staffed and everything, that he would bring them up cause we didn't have time to actually go down and get em ourselves, and then that's what it, I think that started about in December, January, ah--

Q. December or January?

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A. Yeah, around that time.

Q. But that, the um, the new procedure is, ah, started prior to these, these incidents where Candy has reported these contacts to you?

A. Um, I think the basket was after the first incident, if I remember correctly.

Q. O.K.

A. It hadn't been too long.

Q. Do you remember the first incident being what?

A. Are you talking about the date or?

Q. No, ah, just what was the inci-what was the first incident reported to you?

A. O.K., to me, it was when she was going down to Post Ten and when he, they were in the elevator together going down and he put his arm around her and just kissed her on the lips.

Q. And that's been about a month or so ago?

A. I think it was back in March.

Q. O.K. Ah, have you seen, do you know Mr. Baldonado on sight?

A. Yes, he has gray hair.

Q. Can you describe him to me?

A. He's probably about five-ten, five-eleven, ah, gray hair, good looking gentleman, I think maybe Spanish descent, ah--.

Q. O.K. Has anyone ever complained to you or have you ever heard anyone complain about Mr. Baldonado's actions toward anyone else in the office?

A. No.

Q. So as far as you know, this is the only incident that at least has been reported?

A. Right, yes.

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Q. That Mr. Baldonado's been involved in?

A. Yes.

Q. (Pat Markovich) Darcy, do you have anything that you would like to add to this statement?

A. No.

Q. If it came, if it comes to a hearing, would you be willing to testify in this matter?

A. Sure.

Q. This will conclude the statement, same persons present, time is 10:01 a.m.

EXHIBIT “5”

INTERVIEW REPORT

DATE: April 20, 1993

FILE: I-93-8

Q. My name is Pat Markovich. I am the Chief Investigator for the Clark County District Attorney's Office. Present with me is Assistant Chief Dale Horton. The time is 9:07 a.m., April 16, 1993. We are at the Clark County Detention Center, and present with us is Carol, that's C-a-r-o-l?

A. Yes.

Q. Mercer, M-e-r-s-e-r?

A. M-e-r-c-e-r.

Q. M-e-r-c-e-r?

A. Um hum.

Q. Ah, Carol, would you tell us what your position here is at the Clark County Detention Center?

A. I'm the nurse manager in the medical department.

Q. And you work for EMSA?

A. Yes.

Q. What does EMSA stand for?

A. Emsa, Ltd., Partnership, it's Emergency, ah, Medical Services Associations.

Q. Approximately how long have you been so employed?

A. I've been here at the facility for four-and-a-half years.

Q. And do you know a young lady by the name of Candy Vogelee Williams?

A. Yes.

L.P.M.
L. P. Markovich

D.H.
D. Horton

Interviewed by:

4/16/93

Date of Interview

/sj

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Q. Do you know what her position is?

A. She's a file clerk.

Q. Also employed by EMSA?

A. EMSA.

Q. O.K. And about how long have you known her?

A. Ah, I would say about, approximately two years, I'm not quite sure, but she worked here before.

Q. I'm calling your attention to approximately March 15. An incident occurred wherein Candy was involved. Could you explain what your knowledge is of that?

A. Apparently, that day, the gentleman in question had come to deliver subpoenas.

Q. And who was that?

A. Pete, I'm not sure what--.

Q. You're not sure of his last name?

A. I wasn't sure of his last name, but I know his name is Pete.

Q. O.K.

A. Um.

Q. And where is he employed.

A. I believed for the D.A.'s Office. He delivers the subpoenas to the facility for the nurses who do the alcohol blood draws. Um, and he comes two or three times a week, ah, most days, you know, most weeks. Um, apparently he came up to deliver some subpoenas, and I'm not sure how they ended up at the elevator. Apparently there was reason for Candy to go to the elevator. I don't know whether she was going down to Post Ten to retrieve something that had been delivered or there was some need for her to go down there, but apparently, from what I was told, when they got in the elevator, ah, he took the liberty to kiss her. She then came back upstairs and she was quite embarrassed about it and confided this in-ah information to Darcy, the administrator.

Q. Darcy would be Darcy Brown?

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A. Darcy Brown. And, ah, then the story was related to myself and the three of us discussed it.

Q. O.K., first, did, ah, Darcy come in and talk to you about it?

A. She had, yeah, she had come and told me that, ah, apparently Pete had kissed Candy in the elevator.

Q. Subsequently, Candy came in and then the three of you had a conversation.

A. We talked about it and had a conversation in reference to the incident.

Q. In your opinion, looking at Candy, what would you say was her physical and mental state?

A. She was embarrassed, um, it's not something she would encourage and she was embarrassed, really embarrassed by it.

Q. Would you categorize Candy as being an outgoing but yet shy type person?

A. Yeah, that says it, um hum. She, she's outgoing but shy in certain areas.

Q. She then is easily embarrassed.

A. Yes.

Q. You related a few minutes ago, before we went on tape, an incident that if she goes down into the kitchen area while the inmates are being dressed out, she becomes embarrassed at looking at them?

A. Um hum. Yeah, she sometimes, you can't time when she's gonna, you know, have to go down there and deliver something and that, that situation definitely, you know, embarrasses her. Sometimes she won't go down there cause she knows that at that time they might be doing that, so she'll try to avoid going down at times like that.

Q. So, in your opinion, Candy is friendly and outgoing, but she would not be the type who would outwardly encourage anyone to make advances toward her?

A. Correct.

Q. Is that a correct assumption?

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A. Correct, yes.

Q. Do you know if Candy related this incident to anyone else?

A. I believe that our small group there at fir-at first was the only, we're the only people that were aware that it had happened and then this week she related this to Todd Schwartz, our administrator.

Q. Are you aware of any other instances where Pete, and his last name is Baldonado, has approached or been near Candy Williams?

A. I don't know of any other incidences such as the one kissing in the elevator, but I do know that he did seem to show an interest in having contact with her when he did come up for, for, to deliver subpoenas. I mean, you know, it was just obvious he kind of liked her.

Q. Is it also your impression that Candy deliberately attempted to avoid any contact?

A. Yes, he did, especially she did aft-especially after the incident in the elevator.

Q. And how did she try to avoid him?

A. Mostly stayed in the back office where she was out of sight.

Q. Are you aware of an incident that occurred last, I believe, Monday, where Officer Baldonado went into the office where Candy and Josie were, together?

A. I vaguely, in all honestly, I'm vaguely aware of that. I'm not really sure what happened in that situation, but I, I do know that both Candy and Josie were back there.

Q. But Candy did not tell you.

A. She did-well, she didn't really relate what he said. All I know is that she did, that he did go back there, because he is kind of aware that the clerk's office is back there in the back file room, their desks are back there. That's where they do most of their work. I think she felt safe, because if somebody else was in the room, she felt rather, you know, con-she didn't feel too uncomfortable with it, because she knew Josie was there, so, she wouldn't have to confront any situations.

Q. Dale, do you have any questions?

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Q. A couple. To your knowledge, how long has Pete Baldonado been delivering subpoenas here to the jail?

A. I believe he's been delivering subpoenas for quite some time. I couldn't put a months or a year figure on it because, ah, the previous administrator was somebody he knew and that was Jackie Miller, and ah, he used to, ah, there was a time when he used to, ah, call from downstairs and somebody would go down there and pick them up and it's only been, ah, once in a great while that he would come upstairs for the medical department to deliver them.

Q. Have you had any prior complaints about his conduct?

A. In all honesty, no, I can't say that I have.

Q. O.K., so this is the first time anyone has complained to you about him?

A. I never knew him very well, ah, until the last few months.

Q. (Markovich) O.K., you have to answer yes or no, the tape does not pick up shaking of the head.

A. Oh, I'm sorry. What was the question again?

Q. (Horton) The question was, have you ever had any prior complaints brought to you about Pete Baldonado's conduct regarding the girls or the nurses.

A. Not previous to this.

Q. This is the first time that you're aware of?

A. This is the first time that I'm aware of, yes.

Q. Have you ever heard any of the conversations go on between Candy and ah, Pete, when he would visit?

A. I, I have heard conversation, but, you know, you sit there and you're doing your work and you can hear them rattling on, but I can't say that I can tell you word for word what those conversations involved, because I have a tendency to tune that stuff out unless something really obnoxious is going on. I can't really--

Q. So you couldn't characterize what kind of conversations they had back and forth other than to say that they seemed congenial?

A. No, to be honest, I, I, I couldn't. If he said anything un,

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you know, inappropriate to her, I can't honestly say that I've heard him say anything like that, although, some of it that I, I've heard could maybe be interpreted as mild flirting or cajoling, like you said.

Q. Um hum, O.K., but nothing that alarmed you, that you heard.

A. No, because I, you know, if I heard anything as such--

Q. (Markovich) All right, Carol, is there anything else that you might like to add to this statement?

A. No, I think we've covered it.

Q. Very good, thank you.

A. Thank you.

Q. The statement will be concluded. The time is 9:16, same persons present.

EXHIBIT "6"

INTERVIEW REPORT

DATE: April 20, 1993

FILE: I-93-8

Q. My name is Pat Markovich. I am the Chief Investigator, Clark County District Attorney's Office. The time is 9:26 a.m. It is April 16, 1993. Present with me is Assistant Chief Dale Horton and is it Josie?

A. Josie.

Q. How do you spell?

A. J-o-s-i-e.

Q. And your last name is?

A. Padua, P, as in Paul, a-d-u-a.

Q. O.K. Also present is Darcy Brown, at the request of Josie Padua. Josie, what is your position?

A. A clerk.

Q. A clerk?

A. Uh huh.

Q. And you work for who?

A. Ah, EMSA.



Q. EMSA. Which is called the Emergency Medical Services Associates.

A. Emergency Medical Services Association, Associates.

Q. O.K., approximately how long have you been so employed?

A. Ah, a year.

Q. About a year. Do you know a young lady by the name of Candy Vogele Williams?


L. P. Markovich
D. Horton 

Interviewed by:

4/16/93

Date of Interview

/sj

INTERVIEW REPORT

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April 20, 1993

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A. Yes.

Q. About how long have you known Candy?

A. A year.

Q. About a year. You're good friends with her?

A. Yeah.

Q. Referring to approximately March 15, an incident occurred regarding an alleged sexual harassment by an officer of the Clark County District Attorney's Office against Candy Vogele, now Candy Vogele Williams. Did Candy mention this to you?

A. Yes.

Q. In what way?

A. Ah, she told me personally.

Q. Were you off the day it happened?

A. Ya, I was off.

Q. So, the next day, she talked to you?

A. She told me about it, yeah.

Q. In person or by phone?

A. Person.

Q. When you came to work?

A. Um hum.

Q. All right, would you tell us what she told you?

A. That the, ah, subpoena guy kissed her on the mouth in the elevator.

Q. By subpoena guy, you mean the man from the District Attorney's Office?

A. Yeah.

Q. That delivers the subpoenas?

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A. Uh huh.

Q. O.K. Did Candy appear upset about this incident?

A. Yeah.

Q. What did she tell you as best as you can recall?

A. That she wants to do something so she could not see him any more.

Q. So, subsequently, whenever Officer Baldonado, and do, do you know him by that name?

A. No, by Pete.

Q. By Pete.

A. Yeah.

Q. O.K. Whenever Pete came into the office, what would Candy do?

A. She would hide in the back room.

Q. And you feel that she was doing this to deliberately avoid Pete?

A. Yes.

Q. Do you know of any other instances where Pete approached Candy?

A. Ah, no.

Q. How about, ah, last Monday or Tuesday?

A. Tuesday. Yeah, last Tuesday.

Q. Tuesday. And what happened on Tuesday?

A. Candy was doing paperworks in that office and then Pete came in and Candy went on the back, ah, desk to hide but then Pete went back there to look for Carol Mercer and then he saw Candy and Candy asked him if it nice outside and he said it's cold and he came here to get warm and he puts her, ah, his arms around her.

Q. Did he put one arm or two arms?

A. One.

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Q. One arm. Around her shoulder?

A. Um hum.

Q. Did Candy appear to be upset?

A. Yes.

Q. Did she say anything?

A. No.

Q. Was she, did she appear to be embarrassed?

A. Yeah, she was embarrassed.

Q. After Pete left, did Candy say anything to you?

A. Yes.

Q. What did she say?

A. She said, oh, I hate that man.

Q. Dale, do you have anything?

A. (Horton) No, you pretty well covered it.

Q. Do you have anything further that you'd like to add, Josie?

A. No.

Q. All right, thank you very much. That will be the end of the statement. The time is 9:32, same persons present.

EXHIBIT "7"


MEMORANDUM

Office of the District Attorney

REX BELL
District Attorney

=====

TO: FILE I-93-8

FROM:  L. PATRICK MARKOVICH
CHIEF INVESTIGATOR

SUBJECT: PETER BALDONADO
SEXUAL HARASSMENT

DATE: April 27, 1993

=====

On 4/26/93, I spoke to Investigator Baldonado and advised him that the preliminary inquiry into the sexual harassment allegation was finished, and there would be no further action. That the people at the jail and I had agreed nothing further could be accomplished. Candy Williams had made the allegation and he denied it. To go before a hearing officer would not resolve the issue completely, that it was his word against hers.

Investigator Baldonado stated that, "You can't unring the bell," and he feels there will be a mark against him. I advised him if he desired, he could go before a hearing officer, however, we would then have to go public on the issue and it would result in some undesirable publicity for Rex Bell and the office.

He stated again he would take a polygraph examination, and he felt this had hurt him inside. I pointed out that again there had to be a reason for the allegation and it could not really be proved as it was her word against his.

I advised him that he was not to touch any female in the office or out of the office, even if it were a friendly gesture, as at this time there were people out there just looking to make charges.

He was concerned about other people in the office knowing about it, and I told him the only ones that knew about it were Rex Bell, Kelly Isom, Assistant Chief Horton, secretary Susan Johnson and myself plus the people at the jail.

He was advised if another allegation is made against him that this time the investigation would be carried out to a final resolution.

LPM/sj

EXHIBIT "8"

From: LARA, DYN
To: COUNTY_B DIST_ATT_2 BELLIS
Date: 7/30/98 12:20pm
Subject: Complaint

I work for Metro IAB. I received a call from a Denise Robinson stating that Sgt. Baldonado has acted inappropriately. She stated that he touched her breast and leg and told her how it is every older mans fantasy to have sex with a black woman and so far he hasn't.

She wants to come forward and complain, I advised her to get a hold of you. Her phone number is 459 - 6017. *-Home #*

Let me know if you need any more information. I'm at 229 - 3422.

EXHIBIT "9"

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3
4
5 LOVE HOLLOWAY,)
6 Plaintiff,)
7 vs.) CASE NO. A498609
8 PETER BALDONADO, et al.,) DEPT. NO. V
9 Defendants.)
10 _____)
11
12
13

14 DEPOSITION OF STEWART L. BELL
15
16 Taken at the offices of
17 Richard Harris Law Firm
18 801 South Fourth Street
19 Las Vegas, Nevada
20
21 on Thursday, September 27, 2007
22 at 2:14 p.m.
23
24
25 Reported by: CINDY K. JOHNSON, RPR, CCR NO. 706

LAURIE WEBB & ASSOCIATES
(702) 386-9322

1 APPEARANCES:

2
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16 Defendant in Proper Person:

17 PETER BALDONADO
18 2923 Matese Drive
19 Henderson, Nevada 89052

20 * * * * *

21
22
23
24
25

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9

10 EXHIBITS

11

12 (None offered.)

13

14 * * * * *

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1 Whereupon,

2 (By stipulation of counsel, the
3 requirements of NRCP Rule 30(b)(4) were
4 waived.)

5 (Mr. Freeman not present.)

6 STEWART L. BELL,
7 having been first duly sworn to tell the truth, the
8 whole truth, and nothing but the truth, was examined and
9 testified as follows:

10 EXAMINATION

11 BY MR. BOEHRER:

12 Q. Good afternoon, Judge Bell. Thanks for coming
13 down on short notice. We appreciate that. My name is
14 David Boehrer. I'm an attorney for Love Holloway and we
15 are here, obviously, on your deposition for this case.

16 A. Understood.

17 Q. I'm not going to go through all of these
18 admonitions, because I'm well aware you have done this
19 several times before me.

20 A. I know them, yes.

21 Q. Okay. Judge Bell, what years were you the
22 district attorney of Las Vegas?

23 A. 1995 through -- let's see. For eight years to
24 the end of 2002.

25 Q. Is that a single term or is that two terms?

LAURIE WEBB & ASSOCIATES
(702) 386-9322

0

5

1 A. Two terms.

2 Q. And during your time as a district attorney --
3 at what point, I should say, as a district attorney did
4 you meet Mr. Peter Baldonado?

5 A. I knew Pete Baldonado before I became district
6 attorney.

7 Q. Okay. When did you meet Pete Baldonado?

8 A. I believe the first time I became aware of
9 Pete he was a bailiff for Judge Wendell, I believe, and
10 that would go back literally decades.

11 MR. CANNON: Be careful with that. I know
12 him.

13 THE WITNESS: Then Pete was an investigator in
14 the district attorney's office when I came on board.

15 BY MR. BOEHRER:

16 Q. Already an investigator?

17 A. Oh, yeah. Sure.

18 Q. And you say decades with Judge Wendell --

19 A. Well, I'm thinking probably in the -- probably
20 in the '70s, but at the very latest, the early '80s, I'm
21 sure. You know, when you start thinking back that far,
22 you are not too accurate in time, but it was -- it was
23 quite a ways back.

24 Q. I understand.

25 So you didn't actually hire Mr. Baldonado?

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1 A. Nope.

2 Q. Do you know, Judge Bell, of Mr. Baldonado,
3 when he was hired, if there was a background
4 investigation done?

5 A. I don't know. I didn't hire him.

6 Q. But in the district attorney's office do they
7 regularly or routinely do a background investigation on
8 all new hires?

9 A. You know, I can't say what the other
10 administrations did.

11 Q. Okay. Would you have done a background
12 investigation on anybody you hired?

13 MR. CANNON: Vague. For what?

14 THE WITNESS: For what position?

15 BY MR. BOEHRER:

16 Q. For a senior investigator such as
17 Mr. Baldonado.

18 A. Yeah. We usually look at the background of
19 the lawyers and investigators at least. At the very
20 least, we would pull a scope. That would be the way we
21 would do it.

22 Q. Okay. Judge Bell, are you aware of
23 Mr. Baldonado's criminal past at all?

24 MR. CANNON: Objection.

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1 BY MR. BOEHRER:

2 Q. Prior to this --

3 A. Prior to this incident?

4 Q. -- incident.

5 A. No.

6 Q. I apologize. I wasn't going to bring this
7 out.

8 A. Well, then don't.

9 Q. I just need to ask you about it. Let's go
10 back to that.

11 And when you first started in 1995, what was
12 Mr. Baldonado's position?

13 A. He was one of the investigators.

14 Q. Was he a senior investigator at that time?

15 A. I -- not only would I not know, I don't know
16 one from another. We had a whole bunch of
17 investigators, 15, 18; I don't know. And I don't know
18 if somebody was senior, junior or otherwise. When I
19 took over, I made a lawyer the chief investigator, a guy
20 named Bill Hayne, and to me the rest of them were all
21 investigators.

22 Q. Bill Hayne?

23 A. Yeah.

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24 Q. Is he still in town?
25 A. I don't know. He has been retired for years.

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1 Q. Judge Bell, do you remember meeting Crystal
2 Chipman or Crystal Bey Chipman?
3 A. Is that -- do you have some notes? I can tell
4 you.
5 Q. The one I'm talking about -- this is the
6 Review-Journal article that we discussed earlier.
7 A. It's certainly on my notes from the day that
8 I -- can I see my notes from that day?
9 Q. I don't have your notes from the day, no.
10 A. It is on my notes.
11 MR. BOEHRER: Did you have those, walt?
12 Do we have those?
13 MR. CANNON: Uh-huh.
14 MR. BOEHRER: I did not see on the bottom.
15 THE WITNESS: What was the name?
16 BY MR. BOEHRER:
17 Q. It was Crystal Bey or Crystal Bey Chipman.
18 A. No. I don't think I met with a person named
19 Crystal Bey or Crystal Chipman.
20 Q. What about Crystal Brooks?
21 A. I did have a meeting with a lady by the name
22 of Crystal Brooks.

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23 Q. Was she alone?
24 A. No.
25 Q. Do you know who she was with?

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1 A. She was with a Crystal Simon. And there may
2 have been a third lady there, but I'm not sure.

3 Q. Could that Crystal Simon possibly be the
4 Crystal Chipman that we are talking about?

5 A. Beats me. I don't know.

6 Q. What was the substance of this meeting -- or
7 let's step back a little bit. When did you meet with
8 these ladies? What year?

9 A. I don't know. I don't know. And there is
10 nothing in these notes that indicates a date.

11 Q. Okay. Does it indicate where the meeting took
12 place?

13 A. It doesn't, but it was in my office.

14 Q. And do the notes indicate what the substance
15 of the meeting was?

16 A. They had a sister named Desirie Gillard. And
17 their claim was that Pete Baldonado had helped her with
18 some issues in the legal system and in exchange she had
19 some kind of a relationship with him and they were
20 concerned about it.

21 Q. Okay. Do you have any personal recollection

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22 of this meeting, Judge?

23 A. No.

24 Q. Is that pretty much all that took place during
25 that meeting we have in those notes right there?

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1 A. Yeah.

2 Q. Okay. What did you decide to do about these
3 allegations that they made?

4 A. Well, I mean, I don't know whether the
5 allegations are true or false. You have to keep in mind
6 that based upon the evaluation my chief deputies gave me
7 of Mr. Baldonado, he was always deemed a stellar
8 employee. And he was well-liked and well-sought after,
9 but we do take this kind of allegation seriously. So I
10 mean, it was possible there was a crime being committed.
11 It is possible there was no crime being committed, but
12 there was some improprieties in as far as your job is
13 concerned, if you are doing things you are not supposed
14 to do on company time. And it could be that a good man
15 is having his name tarnished for nothing.

16 So I called the police department and asked
17 them to check it out. If, in fact, his name should be
18 cleared, it would be. If, in fact, that we needed to
19 take disciplinary action as far as his employment, we
20 would do that. And if, in fact, a crime appeared to be

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21 committed, we would refer it to the attorney general to
22 do whatever they thought was appropriate.

23 Q. which police department did you call?

24 A. Metro.

25 Q. So the allegation -- just so I can make sure I

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1 have this right -- was he was trading services? Is that
2 what you said?

3 A. well, this is what these ladies believed. You
4 know, I didn't -- I wasn't sure they had their
5 information right, but they seemed to believe that he
6 was trading assistance in the system for some type of
7 relationship with their sister and it was of concern to
8 them. So my job was to find out what the truth was and
9 take appropriate action. That is what I intended to do.
10 That is what I did.

11 Q. And is it pretty commonplace of the
12 investigator -- for an investigator at the district
13 attorney's office to trade assistance with warrants and
14 stuff like that in return for help finding a suspect or
15 a witness?

16 MR. CANNON: I'm going to object to that
17 question. It is vague as to "assistance."

18 Go ahead and answer, sir.

19 THE WITNESS: I wouldn't know. I'm not an

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20 investigator. You know, I trust the investigators to go
21 out there and get their job done. And they find
22 witnesses and they get them subpoenaed, and how they do
23 it on a day-to-day basis, I don't know.

24 BY MR. BOEHRER:

25 Q. So the district attorney doesn't really follow

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1 up on how they get the information, just as long as they
2 get the information?

3 A. Understand this: While our people are called
4 "investigators," they don't do investigation.
5 Detectives with the Metro Police Department do
6 investigation. Our, quote, investigators, unquote, do
7 litigation support. Their job is to go out and get
8 people subpoenaed; if they can't find them, to locate
9 them and get them subpoenaed, to do what is necessary to
10 have a lawyer be in a position to put on his case. If
11 investigation is needed, Metro does it.

12 Q. Okay. I understand that. I appreciate that
13 clarification. I guess my -- the district attorney
14 would not know or even be involved if an investigator
15 was trading services?

16 A. Unless there was a problem brought to my
17 attention.

18 You know, we had 580 employees, I think. You

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19 know, I worked, just like any other big business, with
20 strata. I have assistants and then we have chief
21 deputies and people and they were -- you know, the
22 people down at the bottom I don't deal with on a
23 day-to-day basis unless there is a problem brought to my
24 attention.

25 Q. Okay. And at this point in time these ladies

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1 brought a possible problem to your attention?

2 A. It could be a problem.

3 Q. Okay.

4 A. It was certainly something we would take
5 seriously and look into to make sure we got to the
6 bottom of it as best we could.

7 Q. Okay. You called Metro to have them
8 investigate this; is that right?

9 A. Yes.

10 Q. Did you ever hear back from Metro to find out
11 how their investigation ended up?

12 A. Sure. They sent people out to Ms. Gillard's
13 to try to talk to her. And they went on at least two
14 occasions, maybe three. I know it was more than one.
15 She refused to talk to them in any way. They indicated
16 they could tell she was inside the house. They talked
17 at her through the door, let them know that they were

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18 Metro; that there had been this allegation made, they
19 were investigating it, they were here for her if she
20 needed too. She wouldn't come to the door. She
21 wouldn't unlock the door. She wouldn't talk to them.

22 So after two or three efforts, I got a call
23 from the chief of intelligence who told me that is where
24 they were. What do we want them to do? I said, "well,
25 did you make it clear to that if she decided she wanted

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1 assistance from the legal community, she could come in
2 and it would be investigated?" and they said they did.
3 I said, "Okay. Let's wait and see if she comes in."

4 Q. So it was never determined if he was actually
5 doing this or not?

6 A. No. I mean, the only person that would have
7 any idea wouldn't talk to the police.

8 Q. And the police, according to your notes or
9 your knowledge, the police made no other efforts to
10 contact any other potential victims of this alleged
11 crime?

12 MR. CANNON: well -- objection. That was the
13 only victim that was indicated.

14 THE WITNESS: Yeah, Simon and Brooks, the only
15 people who they talked about was Desirie Gillard. This
16 was something that we looked into. Desirie Gillard

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17 wouldn't cooperate, wouldn't talk to the police, even
18 though -- in fact, I think they said they even saw her
19 through the blinds once. They knew she was inside. She
20 wouldn't unlock the door, wouldn't come to the door,
21 wouldn't talk to them. They communicated to her that
22 they were available for her if she needed police
23 assistance. And at that point the only thing we could
24 do is wait and see if she wished to come forward.
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1 BY MR. BOEHRER:

2 Q. Was Mr. Baldonado confronted with these
3 allegations?

4 A. I don't recall.

5 Q. Would that have taken place through Metro?

6 A. No, I don't believe so.

7 Q. And you don't -- let me clarify your answer.

8 You don't recall if he was confronted?

9 A. Correct.

10 Q. So he might have been? Might not have been?

11 A. It has been too many years.

12 Q. Would there be records of that somewhere if he
13 was confronted with these allegations?

14 A. I don't know.

15 Q. Okay.

16 A. See, here is the deal. It is kind of a
17 two-edged sword. You see? Some of the allegations are
18 false. It doesn't really matter whether I talk to him
19 or not. If some of the allegations are true, if I talk
20 to him, that might put an end to it. On the other hand,
21 we have an open police investigation where the police
22 have told this woman to come forward if you want or if
23 you need police assistance. Now, you know, to talk to
24 somebody who is a potential suspect in that
25 investigation is like calling a dope dealer and saying,

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1 "Hey, you know, Metro is coming over with a search
2 warrant for your lab tomorrow." You have to be careful
3 when you are doing an investigation not to tip off the
4 person being investigated. So the point is there is a
5 good reason to talk to them, a good reason not to talk
6 to them. It has been years and years and years and I
7 really have no recollection of whether I did or didn't,
8 and either would have been a reasonable approach
9 depending on the information I had.

10 Q. Okay. So if I understand your answer --

11 A. The answer is: I don't know. I don't recall.

12 Q. Okay. Did you ever talk to these ladies that
13 brought this to your attention ever again?

14 A. The answer to that is I also don't recall. I

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15 can say that my habit and practice is that I don't leave
16 loose ends. And so based on my habit and practice, it
17 is my guess that I called and told them what the
18 situation was and that the police would be willing to
19 talk to their sister if she wanted to come forward.

20 Q. Um --

21 A. That's all I can say.

22 Q. I'm sorry I didn't mean to interrupt you.

23 A. Fine.

24 Q. Do you know if these police officers from
25 Metro ever contacted these two ladies?

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1 A. I have no idea.

2 Q. Do you know anything about these police
3 officers talking to these ladies about setting up a
4 sting operation?

5 A. I have no idea. The only communication I got
6 was that the person about who they were bringing the
7 complaint was -- made it pretty clear they didn't intend
8 at that juncture to cooperate with the police.

9 Q. So was this case then closed at that point?

10 A. Well, I don't know that there was a case.

11 Q. This inquiry?

12 A. Well, there was nothing that we could do or
13 Metro could do until or unless this Ms. Gillard decided

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14 she wished to come forward and talk to them, so the door
15 was always left open. So I guess in a sense it's -- it
16 was never closed, but until or unless she wants to
17 cooperate, there is nothing that can be done.

18 Q. I understand in our justice system we are
19 innocent until proven guilty. And at this point we are
20 assuming Mr. Baldonado is innocent until proven
21 otherwise, correct?

22 A. I'm not assuming anything. I mean, when
23 somebody makes an allegation that is serious like this,
24 my job is to find out as best I can what the truth is.
25 I'm not assuming he is. He has an excellent work

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1 record, but, you know, we are going to get to the bottom
2 of this as best we can. I don't do it myself. I call
3 the police department. They did what they could. They
4 reached a dead end. They left the door open for the
5 alleged victim to come forward. To my knowledge, she
6 never has. I guess the door is still theoretically
7 open.

8 Q. when these other victims came forward --

9 A. Other victims?

10 MR. CANNON: I'd object to that.

11 THE WITNESS: What other victims?

12 BY MR. BOEHRER:

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13 Q. Give me just a second. I'll rephrase the
14 question.

15 Did anybody else ever between 1995 and 2002
16 come forward to you or anybody in the district
17 attorney's office with these same or similar allegations
18 towards Mr. Baldonado?

19 A. I can't speak to anybody else in the district
20 attorney office. Do you want me to just talk about me?

21 Q. Please.

22 A. One other lady at a time prior to this called
23 the office and left a message that she was having
24 problems with Mr. Baldonado. We made her an appointment
25 to come in and see me and she never came in.

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1 Q. So we have two separate events where somebody
2 made a complaint about Mr. Baldonado?

3 A. Correct.

4 Q. And the one with the message, was that
5 regarding sexual --

6 A. Yes.

7 Q. And both of those alleged -- both of those
8 complaints went investigated or the first one -- was the
9 first one investigated?

10 A. Nobody ever came in. We made an appointment
11 for the person that called to come in and see me and she

12 never showed. She never called and she never did
13 anything and there really was nothing further to do.

14 Q. And that was prior to --

15 A. It was.

16 Q. Does this happen a lot -- let me rephrase that
17 again. I apologize.

18 Allegations of sexual misconduct, does that
19 happen -- are those complaints that come in a lot to the
20 DA's office?

21 MR. CANNON: On the part of whom? I mean,
22 criminal cases? Internally? What?

23 BY MR. BOEHRER:

24 Q. Let's talk about just through investigators
25 first. Do you get a lot of sexual -- I just lost my

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1 train of thought, Your Honor. I apologize.

2 A. You know, we have 580 employees. We have
3 complaints about our employees. We take all complaints
4 seriously and we deal with them.

5 For example, we had another investigator and
6 information came to our attention that he was going to
7 the gym every day at 2:00 o'clock on county time. We
8 got somebody to go out there, sit on the gym, take a
9 videotape of him. We confronted him with it and he was
10 fired. Okay? But the complaints are all over the

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11 board. We had a lawyer who was picked up with cocaine
12 in the car of a hooker. We fired him. We referred it
13 to the attorney general. They prosecuted him. Things
14 do happen. Every case is different. You take whatever
15 it is, you try to make sure you have the truth, and then
16 you take appropriate action. That is all you do.

17 Q. So this gentleman that was going to the gym at
18 2:00 o'clock, you sent somebody to follow him and take
19 pictures of him at the gym at 2:00 o'clock? Was that
20 what you said?

21 A. We sent somebody over to the gym, yeah, and
22 they waited and he walked in at 2:00 o'clock. They took
23 about ten minutes of videotape and we showed it to him
24 the next day.

25 Q. Could that have been done with Mr. Baldonado

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1 on these allegations where you followed him for a
2 half-hour, 45 minutes?

3 A. We had specific information on this other
4 situation. You know, we didn't have anything but really
5 kind of rumor and innuendo in regard to Baldonado at
6 that point in time. If, in fact, Ms. Gillard had come
7 forward to the police and if, in fact, she had said
8 there are problems going on, I'd rather expect they
9 would have taken action to try to get corroborative

10 evidence. It wouldn't have been me. We don't do
11 investigation. We don't develop evidence. We are just
12 prosecutors. That is all we do. But it would be total
13 speculation on my part to try to assume how Metro would
14 approach further investigation if, in fact, she had come
15 forward.

16 Q. Okay. I'll ask these -- I'm going to rephrase
17 my question about the sexual misconduct. In a year's
18 time, let's say the last year you spent as a district
19 attorney before your appointment as a judge, to the best
20 of your recollection, estimate how many times you
21 received news or information about sexual misconduct
22 from one of the 500-and-some-odd employees at the
23 district attorney's office?

24 A. I couldn't -- it would be total speculation.
25 I can say one of my best friends, Dan Bowman, a lawyer,

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1 was found to have e-mailed a fairly inappropriate
2 picture of people engaged in sexual conduct using the
3 county employ, and it was brought to my attention, and
4 he was suspended without pay for that kind of stuff
5 because we don't tolerate it, but --

6 MR. CANNON: Just for the record.

7 THE WITNESS: -- anything beyond that is
8 speculation.

9 MR. CANNON: And just for the record, I'd like
10 that particular part of this to be sealed from the
11 public. It can be used in the case, but Mr. Bowman's
12 discipline really has no --

13 THE WITNESS: It was in the paper.

14 MR. CANNON: Oh, never mind.

15 THE WITNESS: It was in the paper. It ain't
16 any big deal. In fact, it was in the paper twice.

17 BY MR. BOEHRER:

18 Q. All right. So you had never enlisted the
19 assistance of these ladies to help you in the
20 investigation of Mr. Baldonado?

21 A. I don't do investigation.

22 Q. Internal investigation. Obviously, he is your
23 employee.

24 A. No, no. We wouldn't do an internal
25 investigation, because the problem with doing an

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1 internal investigation is that if that we come to the
2 conclusion that Pete should be exonerated, these people
3 aren't going to believe it and they are going to say the
4 fix is in. So when we have any kind of serious
5 misconduct of an employee alleged, it is always done by
6 the police. We refer it to the police. They do it. We
7 don't do internal investigation.

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8 They investigate until they -- you know, can
9 affirm the allegations or deny the allegations or in
10 this case they just had an investigation that was open
11 until Deserie Gillard came forward.

12 Q. Judge Bell, how well did you know
13 Mr. Baldonado?

14 A. You'll have to rephrase that. I mean, I've
15 known him for a long time. We don't go out to dinner
16 with each other, but when he worked for me, I considered
17 him a friend and a valuable employee. Obviously, he had
18 some troubles after I left and I'm sorry to hear that.

19 Q. Did you know him to be trustworthy?

20 A. As far as I knew, he was a trustworthy
21 individual.

22 Q. And honest?

23 A. As far as I knew. I didn't have any reason to
24 believe otherwise. I didn't have any personal
25 interaction with him where I did believe he was

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1 dishonest. He would get a review every six months by a
2 chief deputy who worked with him on a daily basis. His
3 reviews were always generally glowing. I mean, he would
4 have as good or better reviews than any other
5 investigator that you could point out in the office. So
6 as far as I knew, Pete was an "A", No. 1 employee.

7 Q. Did you know about Mr. Baldonado's prior
8 criminal history?

9 A. No.

10 MR. CANNON: That is asked and answered.

11 THE WITNESS: Well, the answer is no. I don't
12 know what you are talking about.

13 BY MR. BOEHRER:

14 Q. You had no idea he was convicted of a gross
15 misdemeanor from stealing from a casino back in the
16 '80s?

17 A. No.

18 MR. CANNON: Second time it's been -- third
19 time.

20 THE WITNESS: Well, the answer is no. I
21 didn't know that.

22 BY MR. BOEHRER:

23 Q. So after this investigation, this internal
24 investigation --

25 A. There was no internal investigation.

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1 Q. You are right.

2 A. We would do an internal investigation on some
3 minor complaint that needs resolution with relatively
4 minor discipline. If we have an allegation that is
5 serious, we have an external investigation so that the

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6 integrity of the investigation can't be questioned.

7 Metro did the investigation as far as I was concerned.

8 They reached a dead end. They left the door open. That

9 is where it is at.

10 Q. And the door was left open and Mr. Baldonado
11 continued working for the DA?

12 (Mr. Freeman entered.)

13 THE WITNESS: They told me that they had made
14 it clear through the door and that there was somebody in
15 there that -- you could come forward if there was a
16 problem that needed police work. That is the end of
17 that.

18 what I had was an allegation with no support
19 and no proof against an individual that had a pretty
20 good work record. There was nothing for me to do at
21 that point in time, nothing I could do and nothing I
22 would do. Now, if she had come forward, cooperated with
23 the police, said there were problems and they brought
24 that to my attention, we would take appropriate
25 personnel action. And if we needed to do something with

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1 the attorney general, we'd do that. That didn't happen
2 on my watch.

3 BY MR. BOEHRER:

4 Q. Your Honor, I just want to follow up because I

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5 don't think I got the answer to the question. Maybe you
6 said you can't answer it. But I recall asking you how
7 many allegations within a year's period of the last year
8 you were there of sexual misconduct?

9 A. I wouldn't have the slightest idea.

10 Q. More than ten?

11 MR. CANNON: Objection. Calling for
12 speculation.

13 THE WITNESS: I really don't know. I would
14 doubt it, but I don't know. I gave you one example, you
15 know, where we were able to verify that there was what
16 we believed was misconduct that was sexual-related and
17 we took action in that. Maybe you might call cocaine in
18 a car with a hooker sexual misconduct. You know, that
19 person was fired and the case referred to the attorney
20 general. Those are ones that jump out at me.

21 BY MR. BOEHRER:

22 Q. I have a hypothetical. If, as a district
23 attorney, it came to your attention that one of your
24 investigators was trading favors, sexual favors for
25 warrants, would that lead to the dismissal of that

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1 employee?

2 MR. CANNON: Objection.

3 THE WITNESS: What it would lead me to do is

4 call the police and ask them to see if, in fact, that
5 information existed. Then, based upon the police
6 investigation, I'd take appropriate action. We wouldn't
7 investigate that internally. The police investigate.
8 They tell us what they have and what they can prove and
9 then we take appropriate action.

10 BY MR. BOEHRER:

11 Q. Now, similar hypothetical. You have an
12 investigator that is trading favors, taking care of
13 warrants and helping a person with trial dates in
14 exchange for witness information. Would that be --

15 A. It might be perfectly within their job
16 description.

17 Q. Okay.

18 A. You know, they may be, you know -- a lot of
19 times law enforcement makes a deal with the sinner to
20 get the devil, whether it be police or whoever. I mean,
21 if they have a key witness in a big case they need and
22 somebody can help them out in exchange for some minor
23 assistance they can give them in the system, I'm sure
24 that happens thousands of times a day, but I wouldn't
25 know about it because I -- when you are the

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1 administrator, you don't get into the day-to-day stuff.

2 Q. Okay.

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3 A. But that could be perfectly appropriate.

4 MR. BOEHRER: I don't have any further
5 questions.

6 MR. CANNON: Do you have any questions?

7 EXAMINATION

8 BY MR. FREEMAN:

9 Q. Your Honor, Robert Freeman here on behalf of
10 the City of North Las Vegas.

11 Do you remember meeting with the two women,
12 Ms. Chipman and Ms. Brooks?

13 A. I don't know a Ms. Chipman. I met with a
14 Ms. Brooks.

15 Q. Okay. And as a result of that, you referred
16 the matter to the police?

17 A. I did.

18 Q. Did you refer the matter to the North Las
19 Vegas Police Department?

20 A. I did not.

21 MR. FREEMAN: Thank you. That is all of the
22 questions I have.

23 MR. BALDONADO: One question.

24 EXAMINATION

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1 BY MR. BALDONADO:

2 Q. Your Honor, everything that those ladies
3 mentioned to you, they were just allegations; is that
4 correct?

5 A. Correct.

6 Q. Unfounded?

7 A. Well, they didn't seem to have personal
8 information and they were making allegations, you know.
9 The allegations are of such a nature that you can
10 respect that we have to check them out. We gave it to
11 the police department to check out and they were never
12 able to verify anything. So what else can we do?

13 MR. BALDONADO: Thank you, Your Honor. That
14 is it.

15 EXAMINATION

16 BY MR. CANNON:

17 Q. Just one point of clarification, if I could.
18 The two women that talked to you were telling you that
19 certain improprieties were going on with a third woman.

20 A. They believed that to be the case, yes.

21 Q. Exactly. But these women did not relate to
22 you any improprieties that they had firsthand knowledge
23 of?

24 A. Absolutely not. They didn't have any
25 firsthand knowledge.

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1 Q. And without the cooperation of this person
2 that allegedly had the firsthand knowledge --

3 A. I got nothing.

4 Q. -- you were stymied in what you could or
5 couldn't do?

6 A. No, I couldn't -- I don't have any evidence.
7 All I have are some hearsay allegations. I couldn't do
8 anything internally. I couldn't do anything criminally.
9 It was up to the police. They were waiting for her to
10 come forward. If she came forward, we'd take
11 appropriate action. If she doesn't come forward, I
12 suppose they are still waiting today if she wants to
13 come forward.

14 Q. And the third person that they were
15 referencing was a Denise Gillard?

16 A. Here it looks like Deserie -- D-e-s-e-r-e-e --
17 Gillard. There is some mention in my notes of another
18 sister, Jasmine Robinson, and another sister, Donna
19 Gillard, but I don't believe they referenced them as
20 alleged victims. These are just some other people that
21 are in the circle, but I don't believe I talked to
22 either Jasmine Robinson or Donna Gillard. I think I
23 talked to two ladies -- it is possible -- directly.

24 Q. And Deserie Gillard was the third person that
25 allegedly was getting these favors done in exchange for

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1 something?

2 A. That is what these two ladies thought and
3 after was never able to verify that that was the case.

4 Q. And apparently, Ms. Gillard would not
5 cooperate, at least as you understood it, with anyone at
6 the time?

7 A. Correct. Well, at the time.

8 Q. Right.

9 A. You know, whenever you are in the situation
10 I'm in, you are hoping that at some later time she'll
11 come forward so we can either verify what is going on or
12 clear this man's name, one way or the other.

13 Q. Well, you know, I think I can help you with
14 that, sir. About an hour and a half ago, Ms. Gillard
15 came in here under oath and said that she had absolutely
16 no improprieties whatsoever with Mr. Baldonado.

17 A. I hope not. May not. I don't have any
18 information one way or the other, so I don't have any
19 reason to dispute that.

20 MR. CANNON: Okay. I have no further
21 questions. Thank you, Your Honor.

22 EXAMINATION

23 BY MR. BOEHRER:

24 Q. Your Honor, you say you called Metro to do the
25 investigation; is that correct?

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1 A. Correct.

2 Q. Are you certain it was Metro that actually
3 performed the investigation?

4 MR. CANNON: Objection. Foundation.

5 THE WITNESS: I called Metro and Metro called
6 me back. Somebody said something about North Las Vegas
7 being involved. I could speculate how that might
8 happen, but it would only be speculation on my part.

9 MR. FREEMAN: I'll object. It calls for
10 speculation.

11 MR. CANNON: Yeah. Good objection.

12 THE WITNESS: I might speculate.

13 MR. CANNON: You might even sustain it.

14 BY MR. BOEHRER:

15 Q. But Your Honor's testimony is that it very
16 well could have been North Las Vegas? You don't know?

17 MR. FREEMAN: Same objection.

18 THE WITNESS: No. No. I called either Jerry
19 Keller, the sheriff, or Dick Winget, the undersheriff.
20 Those are the people I always dealt with. Metro has
21 county-wide jurisdiction, you know. That is who I deal
22 with. And I called one of those guys probably ten times
23 a week. I mean, we had direct phone contact. I was
24 called then by the head of intelligence who was assigned
25 to supervise this operation. I don't know who did what.

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1 MR. BOEHRER: Okay.
2 THE WITNESS: Okay? That's it? Anything
3 else?
4 MR. CANNON: No.
5 MR. FREEMAN: No.
6 MR. BOEHRER: Thanks, Judge Bell.
7 (The deposition concluded at 2:48 p.m.)

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1 CERTIFICATE OF DEPONENT

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15 * * * * *
16 I, Stewart L. Bell, deponent herein, do hereby
17 certify and declare under penalty of perjury the within
18 and foregoing transcription to be my deposition in said
19 action; that I have read, corrected and do hereby affix
20 my signature to said deposition.

19 _____
20 Stewart L. Bell

21 STATE OF NEVADA
22 COUNTY OF _____

23 _____ day of _____ 2007.
24

25 _____
Notary Public

□

35

1 CERTIFICATE OF COURT REPORTER

2 STATE OF NEVADA)
3 COUNTY OF CLARK) ss:

4 I, Cindy Johnson, a duly commissioned Notary
5 Public, Clark County, State of Nevada, do hereby
6 certify: That I reported the deposition of Stewart L.
7 Bell, commencing on Thursday, September 27, 2007, at
8 2:14 p.m.

9 That prior to being deposed, the witness was
10 duly sworn by me to testify to the truth. That I
11 thereafter transcribed my said shorthand notes into
12 typewriting and that the typewritten transcript is a
13 complete, true and accurate transcription of my said
14 shorthand notes. That transcript review pursuant to
15 NRCP 30(e) was requested.

16 I further certify that I am not a relative
17 or employee of counsel or any of the parties, nor a
18 relative or employee of the parties involved in said
19 action, nor a person financially interested in the
20 action.

21 IN WITNESS WHEREOF, I have set my hand in my
22 office in the County of Clark, State of Nevada, this
23 10th day of October 2007.

24

25

Cindy K. Johnson, RPR, CCR No. 706

BELL, Stewart 09-27-07

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EXHIBIT 10