

In the Supreme Court of the State of Nevada

Jemar Matthews,

Appellant

v.

State of Nevada,

Respondent

Electronically Filed
Supreme Court Case No. 84339
Jul 13 2022 12:32 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
Appeal from Judgment of
Conviction of Eighth Judicial
District Court, Clark County, in
Case No.: 06C228460-2

**Appellant's Appendix
Volume 4**

/s/ Todd M Leventhal

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Appellant's Appendix
Volume 4 of 6, pp. 0714 to 0940

1. Docket.	1 AA 0001
2. Amended Information.	1 AA 0021
3. Notices of Witnesses and/of Expert Witnesses.....	1 AA 0027
4. State's Supplemental Amended Notice of Witnesses.....	1 AA 0055
5. Transcript of Trial Day 1.....	1 AA 0064
6. Transcript of Trial Day 2.....	2 AA 0326
7. Transcript of Trial Day 3.....	3 AA 0524
8. Transcript of Trial Day 4.....	4 AA 0714
9. Transcript of Trial Day 5.....	5 AA 0941
10. Transcript of Trial Day 6.....	6 AA 1184
11. Transcript of Trial Day 7.....	6 AA 1323
12. Instructions to the Jury.	6 AA 1333
13. Verdict.	6 AA 1379
14. Amended Judgment of Conviction.	6 AA1383
15. Notice of Appeal.	6 AA 1393

CERTIFICATE OF SERVICE

The undersigned, an employee of Leventhal and Associates, hereby certifies that she served the foregoing on the State by delivering a true and correct copy of it on July 13, 2022, to the following persons via electronic service through the Nevada Supreme Court electronic filing system.

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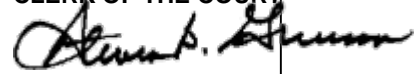
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An Employee of Leventhal and Associates



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff(s),

vs.

JEMAR MATTHEWS
(AKA) JEMAR DEMON MATTHEWS,

Defendant(s).

Case No. 06C228460-2

DEPT. XII

BEFORE THE HONORABLE MICHELLE LEAVITT,
DISTRICT COURT JUDGE

TUESDAY, NOVEMBER 9, 2021

TRANSCRIPT OF PROCEEDINGS RE:
JURY TRIAL – DAY 4

(Appearances on page 2.)

RECORDED BY: SARA RICHARDSON, COURT RECORDER

1 APPEARANCES:

2 For the State: JOHN L. GIORDANI, III, ESQ.
3 (Chief Deputy District Attorney)
4 AGNES M. BOTELHO, ESQ.
(Chief Deputy District Attorney)

5 For the Defendant(s): TODD M. LEVENTHAL, ESQ.
6 RICHARD E. TANASI, ESQ.

7 Also Present:
8 Samantha Goett, State's intern
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18
19
20
21
22
23
24
25

INDEX

Page #

WITNESSES

FOR THE STATE:

<u>BRADLEY CUPP</u>	
Cross-Examination	12
Redirect Examination	42
Recross-Examination	49
Further Redirect Examination	54
 <u>LISA GAVIN</u>	
Direct Examination	58
 <u>DAVID RUFFINO</u>	
Direct Examination	65
Cross-Examination	92
 <u>MICHAEL CALARCO</u>	
Direct Examination	99
Cross-Examination	111
 <u>STEPHANIE FLETCHER</u>	
Direct Examination	115
Cross-Examination	147
Redirect Examination	161
Jury Questions	167
 <u>CHAD BAKER</u>	
Direct Examination	171
 <u>CORD OVERSON</u>	
Direct Examination	173
Cross-Examination	187

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

I N D E X (cont.)

FOR THE STATE (cont.)

BRIAN WALTER

Direct Examination	194
Cross-Examination	213

E X H I B I T S

Page #

For the State:

Exhibit No. 466	72
-----------------	----

For the Defendant:

Exhibit Nos. A, B, 5A	6
Exhibit No. C	98

1 **LAS VEGAS, NEVADA, TUESDAY, NOVEMBER 9, 2021**

2 [Proceeding commenced at 10:25 a.m.]

3
4 [Outside the presence of the jury.]

5 THE COURT: The record will reflect that the hearing's
6 taking place outside the presence of the jury panel. We have a full
7 panel here, but it's my understanding the parties have something
8 outside the presence.

9 And Mr. Matthews is present in the courtroom with us.

10 MR. TANASI: Good morning, Your Honor.

11 THE COURT: Good morning.

12 MR. TANASI: Thank you for calling this outside of the
13 presence. Couple quick matters.

14 THE COURT: You bet.

15 MR. TANASI: We just have some exhibit stipulations.

16 THE COURT: Sure.

17 MR. TANASI: Particularly 5A. That is one of the firearms
18 admitted in this case. I don't remember exactly which firearm, but
19 listed as firearm, short-barreled.

20 THE COURT: So it's the State's exhibit?

21 MR. TANASI: Correct.

22 MR. GIORDANI: Yes.

23 THE COURT: Okay.

24 MR. TANASI: And then there's also --

25 THE COURT: You're moving to admit the State's --

1 MR. TANASI: Yeah.

2 THE COURT: Okay. Just keep going. Keep going.

3 MR. TANASI: Sorry, I'm just -- I'm listing the stipulations

4 on the --

5 THE COURT: Okay.

6 MR. TANASI: The bearer of the good stipulated news.

7 THE COURT: Okay. I'm, like -- I mean, get the straight

8 after this morning.

9 MR. TANASI: Right. Yes. Understood.

10 And then we do have two defense exhibits, A and B. A is

11 a TPO.

12 THE COURT: Okay.

13 MR. TANASI: And B is a map. So, again, we stipulate for

14 their admission. I would move to publish them now, because I'm

15 not sure exactly when we'll get them in through which witness, but

16 I just want to make sure they do go back to the jury and they're

17 there for closing.

18 THE COURT: Well, okay. So Defense Exhibit A and B,

19 they're admitted by stipulation, correct?

20 MR. GIORDANI: Correct.

21 THE COURT: Okay. And then 5A is admitted. But, I

22 mean, you can publish whenever -- whatever witness you want to

23 publish through. But yeah, it's admitted. It will go back to the jury

24 panel.

25 [Defendant's Exhibit Numbers A, B, and 5A admitted.]

1 MR. TANASI: That's my main concern. Because, again,
2 I'm not sure exactly which witness we're going to use it for.

3 THE COURT: Okay.

4 MR. TANASI: It may end up being none, we might just
5 have it for closing. And so I just want to make sure it goes back to
6 the jury.

7 THE COURT: Absolutely. And if you wanted to publish it
8 during closing, you can as well.

9 MR. TANASI: Thank you, Judge.

10 MR. GIORDANI: If I may?

11 THE COURT: Yeah.

12 MR. GIORDANI: As to 5A, I was showing the firearm to
13 Officer Cupp yesterday.

14 THE COURT: Uh-huh.

15 MR. GIORDANI: The box is marked as 5, 5A will be the
16 actual firearm, which is attached inside the box so it doesn't move
17 around.

18 THE COURT: Okay.

19 MR. GIORDANI: As to the TPO, there are addresses in
20 which Mr. Matthews is apparently not allowed to go to or will have
21 to stay away from. There is always, as Your Honor knows. A
22 application that accompanies a TPO. I understand why the defense
23 doesn't want that in and we agreed that it's just the actual order
24 that's coming into evidence.

25 THE COURT: Okay.

1 MR. GIORDANI: And then the identification card
2 [indiscernible].

3 MR. TANASI: So I didn't, and only because we didn't have
4 it, I thought, completely fine on. But I think we do. We're also
5 going to be stipulating in Defense Exhibit C, I just don't have that
6 prepared for the Court just yet, but I will by the end of the day. It is
7 an identification card of Mr. Matthews.

8 THE COURT: What's that mean?

9 MR. TANASI: A DMV --

10 THE COURT: Oh, like a --

11 MR. TANASI: -- identification card.

12 THE COURT: -- Nevada ID?

13 MR. TANASI: Yes, ma'am.

14 MR. LEVENTHAL: It's ID, it's not a driver's license.

15 THE COURT: Okay.

16 MR. LEVENTHAL: It's just the identification.

17 MR. GIORDANI: And I've told defense counsel, obviously,
18 his height is on there and it's listed as 5-11.

19 THE COURT: Okay.

20 MR. GIORDANI: So in multiple different Metro databases
21 and records, he's shown at 5-9. I don't have them all pulled up, I
22 have one right now --

23 THE COURT: Okay.

24 MR. GIORDANI: -- that's entitled Info and Booking Sheet.
25 Of course, that would be prejudicial to talk about what type of

1 documentation is associated with the 5-foot-9 height. So I think we
2 have an agreement we're going to elicit the numbers, 5-foot-9, but
3 not elicit where those numbers --

4 THE COURT: Sure. Just elicit it from one of your
5 detectives.

6 MR. GIORDANI: Right.

7 MR. LEVENTHAL: That --

8 THE COURT: And I'll just ask one of your detectives and
9 how tall is he?

10 MR. GIORDANI: Right.

11 THE COURT: And then when you're -- when you get that
12 marked, I'm assuming it'll come in by stipulation?

13 MR. LEVENTHAL: Yes.

14 THE COURT: Okay.

15 THE CLERK: Just make sure to admit it once it's
16 proposed.

17 MR. TANASI: You got it.

18 THE CLERK: Thank you.

19 MR. GIORDANI: One last thing, Your Honor. We are
20 ready to go except for Ms. Botelho is interviewing a witness in the
21 side room.

22 THE COURT: Sure.

23 MR. GIORDANI: So this one is --

24 THE COURT: And that's Mr. Owens?

25 MR. GIORDANI: Yes, ma'am.

1 This witness on the stand is Cupp, he's my witness. So
2 I'm happy to proceed if they want to proceed right now, just to get
3 the day moving along, and Ms. Botelho can join us later.

4 THE COURT: How long is it going to take her?

5 MR. GIORDANI: I have no idea.

6 THE COURT: I mean, I'll wait.

7 MR. GIORDANI: We have so many witnesses lined up for
8 today, I'd prefer to start, but I'll leave it up to the defense.

9 THE COURT: Okay. Well, I think it's kind of up to you, if
10 you want to start without Ms. Botelho?

11 MR. GIORDANI: I would prefer that. She can just come in
12 the courtroom.

13 THE COURT: Okay. So who are you going to call next?

14 MR. GIORDANI: Well, Mr. Cupp is still on the stand.

15 THE COURT: Okay. That's right. The sergeant is still on
16 the stand.

17 MR. GIORDANI: Right. And he's my witness.

18 THE COURT: And he's -- I'm assuming he's going to take
19 a minute on cross?

20 MR. LEVENTHAL: 20 minutes, 30 minutes.

21 THE COURT: Okay. So where are -- where is he, actually?
22 Where is --

23 MR. GIORDANI: I think they're in the side room here.

24 THE COURT: Okay. All right.

25 [Pause in proceedings.]

1 THE COURT: Okay. I think we have a full panel. Is it okay
2 if I bring the panel in?

3 MR. GIORDANI: Okay with the State.

4 THE COURT: Mr. Leventhal?

5 MR. LEVENTHAL: Yes.

6 THE COURT: I'm going to bring the panel in if that's okay?

7 MR. LEVENTHAL: Yes.

8 THE COURT: Everyone's ready to go?

9 MR. LEVENTHAL: Thank you, Judge.

10 THE COURT: Okay.

11 [Jury reconvened at 10:34 a.m.]

12 THE COURT: Does the State stipulate to the presence of
13 the jury panel?

14 MR. GIORDANI: We do, Your Honor.

15 THE COURT: And the defense?

16 MR. LEVENTHAL: Yes, Your Honor. Thank you.

17 THE COURT: Okay. Thank you very much.

18 Good morning, ladies and gentlemen, and thank you very
19 much for being here today.

20 Sergeant Cupp can take the witness stand.

21 And is the State going to pass the sergeant or do you still
22 have further questioning?

23 MR. GIORDANI: No, I'll pass to the defense, Your Honor.

24 THE COURT: Okay.

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BRADLEY CUPP,

[having been previously called as a witness and first duly sworn,
continued testifying as follows:]

THE CLERK: You may be seated. Please state and spell
your first and last name for the record.

THE WITNESS: It's Bradley, B-R-A-D-L-E-Y, Cupp, C-U-P-P.

THE COURT: Cross-examination.

MR. LEVENTHAL: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. LEVENTHAL:

Q Good morning.

A Good morning, sir.

Q You're a sergeant now?

A Yes, sir.

Q Sergeant Cupp, good morning.

A Good morning.

Q Okay. Obviously, a lot of time has passed since '06. And
back in '06, I want to sort of take you back there as if we were sort
of speaking and interviewing and doing this in '06. Is that okay?

A Sure.

Q Thank you.

So back in '06, you were a -- just -- and not just, you were
a police officer, correct?

A Yes.

Q You weren't a detective, correct?

1 A Correct.

2 Q You weren't a sergeant, correct?

3 A Correct.

4 Q And, actually, in '06, you had been on Metropolitan Police
5 Department for three years at that point, correct?

6 A Yes, sir.

7 Q And, specifically, in the Bolden Heights area, or Bolden
8 Command, that area that you had discussed yesterday with the
9 State, you had been on that area for six months, correct?

10 A No, sir. It was about two and a half years.

11 Q Two and a half years?

12 A Yes.

13 Q So you spent two and a half of the three years in that
14 area?

15 A Yes, sir.

16 Q Okay. And prior to you becoming a Metropolitan police
17 officer, you had two and a half years as security at University of
18 Colorado State?

19 A I was a police officer there, as well, yes.

20 Q Oh, police officer?

21 A Yes.

22 Q At Colorado State?

23 A Yes.

24 Q Very good. Okay. And that was two and a half years
25 there?

1 A Yes, sir.

2 Q And are you from Colorado originally?

3 A No, sir.

4 Q No? Okay.

5 So going back to '06, there's sort of -- I want to say three
6 different areas for you. The first area would be Balzar and Lawry,
7 right? Where the shooting took place.

8 A Yes.

9 Q The second area would be sort of Jimmy and the Eleanor,
10 in that area, right? Where the car hit the fire hydrant.

11 A Jimmy and Lexington.

12 Q Lexington. And then there was another just with you was
13 on -- around J Street, and you described yesterday with the
14 dumpster?

15 A J and Doolittle, yes.

16 Q Okay. So we have sort of three areas that I want to sort of
17 touch on. Okay?

18 Now, you indicated that you were -- you arrived in that
19 area, Lawry and Balzar, and you heard gunshots, correct?

20 A Yes.

21 Q And after you heard gunshots, that sort of piqued your
22 interest, and you saw, in a very dark area, which I think you said
23 three or four males and a female getting into an argument?

24 A Yes.

25 Q Something along those lines, right?

1 A Yes.

2 Q You heard a female voice screaming?

3 A Yes.

4 Q Okay. But that area was very dark, correct?

5 A Yes.

6 Q You couldn't make out sort of facial features, right?

7 A Correct.

8 Q You couldn't make out color of hair or things of that

9 nature, right?

10 A Correct.

11 Q Okay. So at that point you had no idea what was evening

12 happening, correct?

13 A Correct.

14 Q Okay. But because of the gunshots, that sort of piqued

15 your interest, you and -- and you were with Officer Walters that

16 night?

17 A Yes.

18 Q And you were driving the vehicle?

19 A Yes.

20 Q He was passenger?

21 A Yes.

22 Q Okay. No one else was in your vehicle at the time?

23 A Correct.

24 Q Okay. So that sort of piqued your interest. At that point,

25 you rolled your window down?

1 A Yes.

2 Q So you can hear better, right? And what alerted you was
3 the car that was there sort of took off, I think you testified that it
4 took off in a fast pace, right?

5 A Yes.

6 Q Little bit faster than a vehicle that would normally take off
7 leaving a house or some, right?

8 A Correct.

9 Q Did it -- did the tires screech or anything like that that
10 caused you concern at how fast it was going or did it just sort of
11 was the revved up?

12 A It chirped a little, the tires, as it pulled away.

13 Q Okay.

14 A But, you know, it took a little while for it to get going.

15 Q Okay. And so as you're sitting there, your -- is it -- it's
16 going right by you, right?

17 A Yes.

18 Q Okay. And now the car had tinted windows, correct?

19 A Yes.

20 Q Okay. So you couldn't see who was inside, right?

21 A I could see that the -- I saw three males get into the
22 vehicle from the original altercation.

23 Q Okay. You've testified here today that it was three or four.
24 You're going with three?

25 A It's three.

1 Q Three?

2 A Yeah.

3 Q Okay. So as the car goes by, you see tinted windows, but

4 you had seen three -- at least three --

5 A Uh-huh.

6 Q -- individuals get into the car?

7 A Yes.

8 Q Okay. But, again, you didn't know who they were, right?

9 A Correct.

10 Q You had no identities, no facial features at this point

11 either, right?

12 A Correct.

13 Q You didn't know the color of their hair, correct?

14 A Correct.

15 Q You didn't know if they had weapons, correct?

16 A Correct.

17 Q Okay. Now, yesterday on direct, when the State asked

18 you the same scenario, you said that it was -- Jemar Matthews was

19 driving by you, but that, in fact, isn't true; you just saw the car

20 driving by you at this point, correct?

21 MR. GIORDANI: Objection. I believe he said later

22 identified as Jemar.

23 THE COURT: That's correct.

24 MR. LEVENTHAL: Understood. Later identified.

25 ///

1 BY MR. LEVENTHAL:

2 Q But later identified at this point, we're going back to '06, at
3 this point, you didn't know who was in that car?

4 A Yes. The driver was later identified as Jemar Matthews.

5 Q Understood.

6 A Yep.

7 Q And we can -- it's just a yes or no.

8 A Yes.

9 Q At this point, when you're watching that vehicle go by,
10 you didn't know who was in that car?

11 A Correct.

12 Q Okay. So this point it became a suspect, right?

13 A Yes.

14 Q Okay. Now, this vehicle, because it went off -- took off at a
15 high rate of speed, you and Officer Walters decided that you were
16 going to chase after the vehicle; were you lights and sirens
17 immediately?

18 A Yes, sir.

19 Q So immediately the car passed you and you went lights
20 and sirens immediately?

21 A Yes, sir.

22 Q And it drove up to -- is it Martin Luther King there or --

23 A Yes, sir.

24 Q Okay.

25 A It ran a stop sign at Lawry and Martin Luther King.

1 Q Lawry and Martin -- and then it turned left, correct?

2 A Correct.

3 Q West. And then it went down to -- and then it went
4 through Lake Mead?

5 A Yes. It ran the red light at Lake Mead and --

6 Q Ran the red light at Lake Mead. Okay. And so at this point
7 you're about, what, three, four car lengths behind the vehicle?

8 A Yes.

9 Q At Lake Mead?

10 A Because I had to clear the intersection of traffic before I
11 could safely follow.

12 Q Okay. So then from Lake Mead down to Jimmy, where
13 the vehicle then turned left --

14 A Uh-huh.

15 Q -- which is east, right?

16 A Yes.

17 Q That's about, what, one in a -- it's a big block, right?

18 A Uh-huh.

19 Q Okay. So it's about one and a half blocks, would you say?

20 A Uh-huh.

21 Q Okay. It's a --

22 THE COURT: Is that -- are those both yeses?

23 THE WITNESS: Yes. It's a --

24 THE COURT: Okay.

25 THE WITNESS: -- about a block, block and a half. Yeah.

1 BY MR. LEVENTHAL:

2 Q Okay. So you slowed down at Lake Mead and then the
3 vehicle that you are following turns left, you obviously lost sight of
4 it at that point, because you were still behind, correct?

5 A No, sir. I had caught up at that point, because I actually
6 saw the vehicle run up on the curb as it made the turn onto Jimmy
7 from Martin Luther King.

8 Q Okay. Then it went down to Lexington?

9 A Yes.

10 Q Turned right on Lexington?

11 A Yes.

12 Q Okay. Now, this is where we're at. We're at Scene 2 with
13 you, I guess that would be the Lexington and the Eleanor -- or
14 Jimmy-Eleanor area, Lexington-Jimmy--Eleanor; you with me?

15 A Yes.

16 Q That area? Okay.

17 Now, you had testified or you gave a statement previously --
18 you've given a couple of statements previously, right?

19 A Yes.

20 Q Okay. I want to take your attention to the one statement,
21 it's a voluntary statement that occurred on 10/1/2006, that was the
22 next day, right? At approximately 2:00 in the morning; do you
23 remember that? That interview you took -- you gave?

24 A I gave several interviews, but sure.

25 Q Okay. Well, this was a recorded voluntary statement.

1 A Uh-huh.

2 Q Okay? Do you remember that?

3 A Yes.

4 Q Okay. And that was -- just so we're on the page -- same
5 page, you were there, it was 2:00 in the morning, and in all of the --
6 everything had just happened approximately, what, four hours prior
7 to you giving that voluntary statement, right?

8 A Yes.

9 Q Okay. And the statement that you gave, there were a
10 number of homicide detectives there?

11 A Yes.

12 Q Okay. And the reason was that they were -- for that was
13 the voluntary statement was that the detectives wanted to gain
14 information from you as fast as they could and as fresh as they
15 could so that they could help solve the murder, correct?

16 A No, sir.

17 Q No?

18 A No. It was actually reference my officer-involved
19 shooting.

20 Q Okay. You're sure about that?

21 A Yes, sir.

22 Q Okay. Would it refresh your recollection if I showed you a
23 sentence, a -- of the voluntary statement?

24 A Sure.

25 Q Thank you.

1 MR. LEVENTHAL: May I approach?

2 THE COURT: You may.

3 MR. LEVENTHAL: Thank you.

4 BY MR. LEVENTHAL:

5 Q If you could read, sir, the first paragraph to yourself and
6 let me know when you're done.

7 A [Witness complies.]

8 Yes, sir.

9 Q Okay. You done?

10 A Yes.

11 Q Can I come back up?

12 A Sure.

13 MR. LEVENTHAL: May I approach?

14 THE COURT: Sure.

15 MR. LEVENTHAL: Thank you.

16 THE COURT: Sure. Thank you.

17 BY MR. LEVENTHAL:

18 Q Does that refresh your recollection, Sergeant, as to why
19 you were there?

20 A Yes.

21 Q Okay. You were there because it was -- twofold, right? It
22 was a murder investigation, correct?

23 A Yes.

24 Q And then on top of that, as well as an officer-involved use
25 of deadly force, right?

1 A Yes.

2 Q So it was twofold; there was the murder investigation,
3 right? And then the officer-involved. And the only person that --
4 here that was -- was Mersey, correct?

5 A I'm sorry?

6 Q This whole thing, you -- okay. We've heard that you shot
7 in the air, right? You didn't kill anybody, right?

8 A I didn't shoot at the air, I shot at the suspect.

9 Q But you didn't kill anybody?

10 A Correct.

11 Q So the only person that the investigation, when it says
12 murder, did not have to do with you firing your firearm, it had to do
13 with the murder?

14 A Yes.

15 Q Of Mersey, correct?

16 A Yes.

17 Q Okay. So when you say that you did not give a voluntary
18 statement regarding the murder, that's not true, right? They told
19 you that you were there for the murder.

20 A Sir, that's a compelled statement that I had to give,
21 reference my officer-involved shooting, which is why my union rep
22 was present at that interview.

23 Q Understood. But, again, it says here that the investigation
24 into a murder as well as officer-involved use of deadly --

25 A Yes.

1 Q So it was twofold, right?

2 A Sure.

3 Q They were there for two reasons. They wanted to get
4 information regarding the murder, as well as talk to you about the
5 officer-involved shooting, right?

6 A Sure.

7 Q Okay. So it wasn't just about the officer-involved
8 shooting?

9 A Correct.

10 Q Okay. As a matter of fact, they reference here a event
11 number. That event number is the same event number on all of the
12 investigation reports of the murder, correct?

13 A Yes.

14 Q Okay. So now that we're on the same page, you know
15 why you were there?

16 A Uh-huh.

17 Q It was twofold, right?

18 A Yes.

19 Q Murder and then the other one. Okay.

20 So let's just focus on the murder investigation, right?

21 A Uh-huh.

22 Q So you were there and it was four hours after the event,
23 correct?

24 A Yes.

25 Q Okay. And you knew they were there to investigate the

1 murder, correct?

2 A Yes.

3 Q You knew they were there to get as much information as
4 they can from you being one of the main officers on the scene,
5 correct?

6 A Yes.

7 Q Right? And so they can help solve the murder, correct?

8 A Yes.

9 Q Okay. Now, they went through -- you went through with
10 them a number of questions and you indicated that when you got
11 to the area of Jimmy-Eleanor, the vehicle that you were following
12 had slowed down, correct?

13 A Yes.

14 Q Okay. And the suspect -- you indicated the suspect
15 jumped out; that's what you said, right?

16 A The driver, yes.

17 Q Driver jumped out?

18 A Yes.

19 Q Okay. And you indicated at that point, freshest in your
20 mind, we're -- '06, that you were going 15 to 20 miles an hour
21 approximately?

22 A Yes.

23 Q Okay. And you were driving the red Sebring, correct?

24 A Maroon Sebring, yes.

25 Q Yes. Okay. I'm going to show you what's already been

1 marked as State's Exhibit 403; that's the vehicle, the red Sebring
2 that you were driving that evening, correct?

3 A Yes.

4 Q Now, you said that you swerved to hit the driver, correct?

5 A Yes.

6 Q And you struck -- what you said was you struck the -- him
7 with your vehicle on the right quarter panel?

8 A No, sir.

9 Q You didn't say right quarter panel?

10 A No, sir.

11 Q Passenger side, right quarter panel, you didn't -- that's not
12 what you -- you indicated?

13 A He fell on the right-side quarter panel.

14 Q He fell on it?

15 A I -- he jumped out of the driver side, which would have
16 been the front left of my vehicle, which is the driver side of my
17 vehicle. He fell over the hood and fell on -- off of the right-side
18 quarter panel, which was outside of Officer Walters' door.

19 Q Okay. So you're indicating that -- and you see that up
20 there?

21 A Yes.

22 Q Do you have a mouse there?

23 A Yes.

24 Q Okay. Can you, with the mouse, show us where your
25 vehicle struck the driver?

1 A Yes. So this is the driver seat. The driver exited on the
2 driver side of his vehicle, which would have been put him on the
3 driver side of my vehicle. I swerved into him with this part of my
4 car. He fell over the hood and fell down on this side of the vehicle,
5 which would have been on Officer Walters' side of the vehicle, the
6 front passenger seat, quarter panel.

7 Q Okay. Now, you -- so when you struck him on the -- that
8 side there, did you ever look at your vehicle after the fact or was it
9 taken sort of I guess not in custody, but was it preserved at that
10 point?

11 A If you remember, I -- somebody else drove that vehicle
12 after I left in foot pursuit. And I'm not sure happened as far as
13 preservation of the vehicle after that.

14 Q Okay. But you never saw the vehicle after you were done
15 at any point after the investigation?

16 A Correct. I never got back into that vehicle.

17 Q Okay. So you don't know, you never were asked to take a
18 look at your vehicle to see if there were any new dents or anything
19 of that nature?

20 A Correct, I wasn't.

21 Q You weren't. Okay.

22 So this picture, though, shows a couple items on the
23 hood; were those your items? There's -- I think there's a t-shirt and
24 there's some keys or a phone there?

25 A Sir, I don't know whose items those are or where they

1 came from or when the picture was taken.

2 Q Okay. And it's sort of dusty, very dusty, or is that just the
3 lighting there?

4 A Actually, the paint job on that particular vehicle was in
5 really bad shape. It's just oxidation.

6 Q Oxidation, meaning that if you put your hand on it, you
7 could get a swipe of a finger, that sort of oxidation?

8 A Sir, I wouldn't know that. It's just the paint was discolored
9 from sitting in the sun.

10 Q Okay. So oxidation from the sun, not moisture?

11 A Correct. The paint was, basically, peeling off because of
12 sun exposure.

13 Q Okay. And then let's go back to your interview. In the
14 interview you indicated that that suspect got up and ran north on
15 Lexington, correct?

16 A Correct.

17 Q Okay. Now, during that interview, you used the word
18 suspect, right?

19 A Yes.

20 Q You didn't use the word Mr. Matthews, right?

21 A Yes.

22 Q As a matter of fact, in that interview, you never once
23 mentioned Jemar Matthews, right?

24 A I don't recall.

25 Q Okay. So you indicated that the subject got up and then

1 after you and your vehicle hit the subject and he rolled over, that he
2 then ran. And you indicated that your -- you didn't pay much
3 attention, because your attention was on the vehicle, because at
4 least two more people were in the vehicle; sounds correct?

5 A Correct.

6 Q Okay. So you hit the subject, the driver. He rolls over,
7 falls down on the passenger side. But, of course, you're now
8 focused on what else is happening in front of you, right?

9 A Uh-huh.

10 Q And that's because there may be weapons in the vehicle,
11 right? You'd already seen the driver come out and you thought that
12 there was a -- he had a weapon, correct?

13 A Yes.

14 Q So there could have been more weapons, so you were
15 concerned for that, right?

16 A Yes.

17 Q So your focus now, and I don't want to say you were
18 tunnel focused, because I understand officers want to get the full
19 picture as much as they can. That's a lot of information coming in,
20 correct?

21 A Yes.

22 Q Okay. And so all this information that's coming in, you're
23 sort of more focused, because I think we can say it was Officer
24 Walters at that point was trying to get out of the vehicle?

25 A Correct.

1 Q So you stopped focusing over here or on the suspect and
2 now you're focused straight on on the vehicle, right?

3 A Yes.

4 Q As a matter of fact, when the vehicle hit a fire hydrant, you
5 indicated that the other two passengers in the vehicle fell out,
6 correct?

7 A They either fell out or jumped out, I'm not sure.

8 Q Either fell out or jumped out. But as they fell out or
9 jumped out, they both fell on their face in the grass, right?

10 A Yes.

11 Q Okay. At this point, when you saw the other two, you had
12 the -- as you indicated yesterday, you had to make a decision on
13 which two you were going to chase, right?

14 A Yes.

15 Q Because you've got two of them there, one you said you
16 did not see a weapon, so you let him go, correct?

17 A Yes.

18 Q The other one you did see a weapon, so you decided to
19 chase after that person, right?

20 A Yes.

21 Q Now, as you chased after that person, we heard that you
22 fired three shots at the person, correct?

23 A Yes.

24 Q And you ultimately then left that scene and came back in
25 the Sebring with Petrucci, I believe --

1 A Yes.

2 Q -- correct?

3 A Yes.

4 Q And when you went back with Detective Petrucci or
5 Officer Petrucci, you had heard other officers with guns pointing at
6 the dumpster, right?

7 A Yes.

8 Q Yeah, you arrived on scene when that dumpster was
9 already a focus on where somebody was at, right?

10 A Yes, sir.

11 Q Okay. So you didn't actually find anybody in the
12 dumpster; someone else did and you were there though?

13 A I was there as they took the subject out of the dumpster,
14 correct.

15 Q Correct. Okay. So you took the subject out of the
16 dumpster. Okay. Now, that night, you would agree that your
17 memory was much better than it is 15, 16 years later, right? I mean,
18 it's human nature, right?

19 A Yes.

20 Q Okay. So if I showed you what you indicated on your
21 voluntary statement back -- it was the passenger right side front
22 that actually hit the driver, would that refresh your recollection as to
23 what portion of the vehicle actually hit the driver?

24 A Sure.

25 MR. LEVENTHAL: May I approach?

1 THE COURT: You may.

2 BY MR. LEVENTHAL:

3 Q Let me know when you -- that's refreshed your
4 recollection, Sergeant.

5 A Okay.

6 Q Now, does that indicate that it was the right front -- the
7 passenger side in the front?

8 A Yes.

9 Q Okay. So when you just told us that it was the driver side
10 front, that's not what you told the detectives who are investigating
11 the murder case, right? You told them the right front -- the front
12 passenger side, correct?

13 A Correct. And I probably miss --

14 Q I'm sorry. You told them that it's the right front passenger
15 side, and then the person then went off to the side; that's what you
16 said, correct?

17 A That's what it says I'm saying, yes.

18 Q Okay. Well, that's your interview, right?

19 A Yep.

20 Q Okay. So this whole now thing, 16, 17 years later, where
21 now you've got this person on the driver side rolling over the hood,
22 that's not what you told the detectives during your interview four
23 hours after it happened, right? Correct?

24 A I misspoke, yes.

25 Q Okay. You misspoke then or now?

1 A Then.

2 Q So four hours after the event occurred, you misspoke to
3 five detectives investigating a murder, you misspoke, as opposed to
4 now, 15, 16 years later, now you've got it right on, right?

5 A Yes.

6 Q Okay. Now, you were asked that evening, after the event
7 occurred, four hours later, you were asked by multiple detectives in
8 this interview could you describe the -- what the suspect looked
9 like; remember that question?

10 A No, sir.

11 Q No?

12 MR. LEVENTHAL: May I approach?

13 THE COURT: You may.

14 BY MR. LEVENTHAL:

15 Q Would I refresh your recollection if I showed you a copy?

16 A Sure.

17 Q Sure.

18 MR. LEVENTHAL: May I approach?

19 THE COURT: You may.

20 MR. LEVENTHAL: Thank you.

21 BY MR. LEVENTHAL:

22 Q Let me know if the bottom of 17 refreshes your
23 recollection as to that question of --

24 A Yes, sir.

25 Q Thank you.

1 MR. LEVENTHAL: May I approach?

2 THE COURT: You may.

3 MR. LEVENTHAL: Thank you.

4 BY MR. LEVENTHAL:

5 Q Does that refresh your recollection --

6 A Yes.

7 Q -- Sergeant, when you were asked if you could identify or
8 tell the detectives who are investigating a murder four hours after
9 what the suspect looked like?

10 A Yes.

11 Q Okay. Your answer, you said, Um. You said:

12 You know, all the suspect involved were wearing the black
13 or dark-colored gray shirts, um, and I would say all of them
14 were Black male juveniles, later teens, probably early 20s.

15 Was that your answer?

16 A Including the black shirt and red gloves.

17 Q Was that -- okay.

18 A You were just cherry-picking the statement.

19 Q Well, I'm not cherry-picking anything. I'm reading and I --
20 the State will get up, and if I'm cherry-picking, then they'll call me
21 on it.

22 A Okay.

23 Q I'm reading verbatim what it says here.

24 A Part of it.

25 Q Okay. Well, and it says:

1 Okay. Uh.
2 And then you say:
3 The driver, in particular --
4 The driver. Now you're specifying the driver, right?
5 A Yes.
6 Q Today you've said the driver was Jemar Matthews, you
7 knew it, and four hours after, you say:
8 The driver in particular, I knew he had red gloves, because
9 I could see his gloves when he opened -- opened the door.
10 A Yes.
11 Q That's what you said?
12 A Yes.
13 Q Okay. Here, front of this jury, you pointed Mr. Matthews
14 out and said, 16 years later, that's him. But yet when detectives
15 interviewing a murder case, you don't tell them that it's Jemar
16 Matthews, do you?
17 A I hadn't identified him yet.
18 Q You hadn't -- you indicated yesterday you had identified
19 him when he went -- rolled over your hood, you came face to face,
20 you were able to pick out everything on his face, cornrow,
21 everything.
22 A He was later identified as.
23 Q When you -- particular, you -- because yesterday, you
24 indicated you identified him when this suspect, Jemar Matthews, as
25 you said, rolled over your hood face to face, right?

1 A Yes.

2 Q Yes.

3 MR. GIORDANI: I would again object --

4 THE COURT: Right. That's --

5 MR. GIORDANI: -- as to mischaracterizing the testimony.

6 THE COURT: And that objection is sustained.

7 BY MR. LEVENTHAL:

8 Q Okay. You had not identified Mr. Matthews four hours
9 later at an interview that was so important to get as much
10 information as they can to help solve this murder; you didn't injure
11 him, you didn't mention his name, did you?

12 A No, sir.

13 Q Yes, sir? Oh, no. Okay. Thank you.

14 As a matter of fact, they gave you an out, meaning at the
15 end of the interview, they asked you is there anything else you want
16 to add to your statement that maybe we haven't covered or you feel
17 would be important to us to know? That's sort of an overall on tell
18 us anything please, Officer, to help us solve this murder, right?

19 A Yes.

20 Q And your answer was, nope. Correct?

21 A Correct.

22 Q So even when they asked you to identify the person, even
23 when they asked you to give some specifics, facial features,
24 cornrows, anything, was -- did he have shoes on? All you could say
25 is nope, I got nothing. Right?

1 A Correct.

2 Q So we talked about how you misspoke to the detectives
3 about how the person that you hit, you indicated then that he was
4 hit on the right quarter passenger, today you're saying he was hit
5 on the driver's side rolled over, which is not what you said before.
6 But you were going approximately 15-20 miles an hour when you
7 contact -- when you -- your vehicle came in contact with the driver,
8 correct?

9 A Correct.

10 Q Okay. And this Sebring here, it sort of has a lip, or am I
11 not seeing that? From the hood down, it has a lip, right? Meaning
12 from the hood own to where the top of the license plate is, right
13 there, there's -- is that -- that's sort of -- it's not a grill, where it's
14 straight, correct?

15 A The grill is lower. Not real sure what you're getting at.

16 Q If you were to hit somebody, you would probably hit
17 someone along the -- where the license plate is, right?

18 A No. It was the quarter panel, kind of up higher by the
19 headlight.

20 Q Okay. Well, and it would take out the legs, causing them
21 to fall forward, right? As opposed to a big, massive truck that you
22 would hit, they would probably fall backwards, right?

23 A No, sir. When I made contact with him, it was more of a
24 veer into him instead of hitting him square in front of the car.

25 Q Okay. Let me ask you this: Prior to you giving that

1 interview with the detectives regarding the murder, you had already
2 had Joshlin in custody, right? You had already gotten him out of
3 the dumpster, correct?

4 A Correct, he was in custody.

5 Q Okay. So you got him out of the dumpster and then
6 approximately how long after that that you took him out of the
7 dumpster, you were the one you said got him out of the dumpster,
8 correct?

9 A No, sir. I was there when they got him out of the
10 dumpster.

11 Q Okay. You were able to see his face, right?

12 A Yes.

13 Q So you got him out of the dumpster; did you handcuff
14 him?

15 A No.

16 Q So he was ultimately handcuffed, right?

17 A Yes.

18 Q When you saw him, was he handcuffed?

19 A Yes.

20 Q So he had already been pulled out of the dumpster, right?

21 A Yes.

22 Q Okay. So you walked over and you saw him, right?

23 A Yes.

24 Q Okay. And then after that, you went into give this
25 statement to the detectives, right? This voluntary statement that

1 you --

2 A Several hours later, yes.

3 Q Okay. Yesterday, you indicated that you knew that they
4 knew each other, right?

5 A Yes.

6 Q Okay. So you had already seen Pierre, right? But you
7 don't say anything -- I mean, there was no connection to when you
8 gave the statement, correct? No connection at all? You never
9 mentioned that there was a connection --

10 A Yeah, and nobody asked.

11 Q Well, they did kind of ask, sir, when they said that blanket:
12 Is there anything else that you can tell us that would help us in our
13 investigation of the murder? That's sort of a, hey, Officer, help us
14 out with anything you got, right?

15 A Sure.

16 Q Sure? Do you think withholding that evidence to the
17 detectives helps their investigation?

18 A Both suspects were already in custody --

19 Q That's not what I'm asking.

20 A -- they already had --

21 Q Do you think that that withholding or not saying then what
22 you're saying now helps their investigation or hurts their
23 investigation, by you not coming forward with all the information
24 that you have here today?

25 A So what you're neglecting is that they had yet to be

1 identified.

2 Q It's a yes or no, sir, I'm sorry.

3 A Okay.

4 THE COURT: Well, if you can answer it yes or no.

5 THE WITNESS: It would, yes.

6 THE COURT: You can answer it yes or no. If you can't,
7 then I'll ask the attorney if he wants you to still answer.

8 THE WITNESS: Okay.

9 THE COURT: Can you answer it yes or no?

10 THE WITNESS: My opinion if it the hurts the homicide --

11 THE COURT: Is that a no? Okay. So do you want him to
12 answer?

13 MR. LEVENTHAL: No, that's fine.

14 THE COURT: Okay.

15 BY MR. LEVENTHAL:

16 Q Sir, you would agree with me that this Bolden Area
17 is 95-98 African-American, right? Back in '06. I don't know what it
18 is now.

19 A I don't know what the Census count is, sir.

20 Q Okay. I'm not asking for the Census count.

21 A No.

22 Q You had two years' experience of that?

23 A Yes.

24 Q So I'm not asking for a Census count, I'm saying was it
25 predominantly African-American?

1 A There was a mixed race there, there's Hispanics and
2 different people. But I would say predominantly yes.

3 Q Okay. And you'd agree that there are people -- some
4 people that like the police and some people that don't like the
5 police, I mean, that's a fair statement, right?

6 A Sure.

7 Q Okay. And during your time there in the Bolden area, you
8 made a number of arrests, correct?

9 A Yes.

10 Q Okay. And you made arrests for all sorts of different
11 things. You made arrests for robberies, you made arrests for
12 burglaries, right? Correct?

13 A Yes.

14 Q You made arrests for big stuff, you also made arrests for
15 smaller stuff, correct?

16 A Correct.

17 Q Any smaller stuff, like, sort of, for example, you would
18 arrest somebody for violating a TPO if you knew that they had a
19 violation of a temporary protective order, correct?

20 A Correct.

21 Q Okay. And a temporary protective order is just an order
22 by the court telling somebody to stay away from a particular person
23 or a particular place, correct?

24 A Correct.

25 Q Okay. And so you would definitely -- if you knew that

1 somebody was violating that, that's an arrest, that's a violation of
2 our criminal system, right?

3 A Correct.

4 Q And you'd also agree with me, being in that area, that not
5 everybody trusts the police in '06, right? Not everybody?

6 A Sure.

7 Q Okay. And you also agree that's not uncommon for
8 people to hide from you in that area, right?

9 A Correct.

10 Q [Indiscernible], correct?

11 A Yeah.

12 Q Thank you. I appreciate your time.

13 MR. LEVENTHAL: Nothing further.

14 THE COURT: Any redirect?

15 MR. GIORDANI: Thank you, Your Honor.

16 **REDIRECT EXAMINATION**

17 BY MR. GIORDANI:

18 Q Sergeant, I want to ask you just a few follow-up questions.
19 And thank you for coming back today.

20 A Sure.

21 Q I want to first start with some dynamics, so the jury
22 understands what's going on.

23 A Uh-huh.

24 Q At the time of your interview with homicide detectives,
25 you have discharged your duty weapon --

1 A Correct.

2 Q -- in the line of duty?

3 A Yes.

4 Q And it's -- according to the transcript Mr. Leventhal just
5 showed you, October 1st, '06, at 0214 hours, 2:00 a.m.?

6 A Yes, sir.

7 Q So approximately four hours after the murder has
8 occurred, right?

9 A Yes, sir.

10 Q Okay. At that point in time, was Pierre Joshlin already in
11 custody?

12 A Yes.

13 Q And was Jemar Matthews already in custody?

14 A Yes.

15 Q So during the course of your interview, are your
16 identification questions and answers associated with Mr. Matthews
17 and Mr. Joshlin?

18 A Yes.

19 Q Okay. Are they -- are you attempting to give a historical
20 description of what they were wearing and their -- what you
21 observed, I guess?

22 A Correct.

23 Q Okay. You're not attempting to locate Mr. Matthews and
24 Mr. Joshlin, because they're already in custody?

25 A Yes.

1 Q There is an outstanding suspect, however?

2 A Yes.

3 Q Actually maybe two, maybe three, right?

4 A Yes.

5 Q Okay. So during the course of your interview, and I want
6 to bring you to page 17.

7 MR. GIORDANI: Mr. Leventhal, page 17.

8 Q You were asked about this by Mr. Leventhal just now.

9 And there's a question at the bottom that says:

10 Do you have any idea what that suspect looked like?

11 Do you recall that?

12 A Vaguely, yes.

13 Q Okay. If I showed you this, would it refresh your
14 recollection?

15 A Yes.

16 MR. GIORDANI: And page 17.

17 Q I don't want you to start at that question. I want you to
18 start a little higher up so you have context and read that to yourself,
19 not to the jury.

20 A [Witness complies.]

21 Q And then go on to the next page, please.

22 A Okay.

23 Q Does that refresh your recollection as to that particular
24 line of questioning, Sergeant?

25 A Yes, sir.

1 Q Okay. What was that question:
2 Do you have an idea what the suspect looked like?
3 What was that directed at?

4 A That was in direction to the third suspect that got away
5 that I didn't know where he went.

6 Q Okay. You're literally talking about the remaining suspect
7 prior to that question being asked?

8 A Yes, sir. That's why I made the statement about
9 cherry-picking.

10 Q Understood. You were also asked a line of questions that
11 had to do with the collision of your vehicle with Mr. Matthews; do
12 you recall that line of questioning?

13 A Yes, sir.

14 Q Do you recall what you said back then about the speed in
15 which you were going when the collision occurred?

16 A Yes, I believe it was approximately 15 to 20 miles an hour,
17 somewhere in that area.

18 Q Okay. And I'm, again, on 16. Would it refresh your
19 recollection --

20 A Yes.

21 Q -- to look at this? I'm going to direct your attention to the
22 second answer on that page. Just regards to the speed.

23 A Okay. It said 10 to 15.

24 Q Okay. And, of course, I'm not trying to bully you, but you
25 would agree with me there are some minor differences between

1 what you're saying here today 15 years later and what's in this
2 transcript?

3 A Yes, sir. They were approximations.

4 Q Today I believe you said 15 to 20 miles per hour, back
5 then you said 10 to 15 miles per hour --

6 A Yes, sir.

7 Q -- would you agree with that?

8 Mr. Leventhal asked you about whether you took Pierre
9 Joshlin out of the dumpster; do you recall that?

10 A Yes.

11 Q Just so the jury understands, you didn't physically arrest
12 him, correct?

13 A Correct.

14 Q You didn't physically touch him at any point, right?

15 A Correct.

16 Q And I want to ask you the same question as to
17 Mr. Matthews; you didn't physically arrest him, did you?

18 A Correct.

19 Q You never physically touched him that evening?

20 A Correct.

21 Q Okay. Other than with your vehicle?

22 A Yes.

23 Q But you didn't put hands on his hands or handcuff him in
24 any way, did you?

25 A No.

1 Q Other than the suspects in this case for the murder --

2 A Uh-huh.

3 Q -- did anyone other than you discharge their firearm on
4 that scene -- other than folks up at 1271 Balzar, did anyone else
5 discharge their firearms later in the evening or during the course of
6 this event?

7 A No.

8 Q No other officers?

9 A Correct. Just me.

10 Q No other suspect, in fact --

11 A Correct.

12 Q -- to your knowledge when you were involved?

13 A Yes.

14 Q Okay. Mr. Leventhal asked you a couple of questions
15 about why you didn't identify Mr. Matthews and Mr. Joshlin by
16 name that -- during that interview on October 1st; do you recall
17 that?

18 A Yes.

19 Q And there was kind of this implication that you're
20 identifying now, 15 years later, for the first time.

21 A Correct.

22 Q Have you testified on multiple occasions during the
23 course of these proceedings?

24 A Yes.

25 Q In 2006, November, did you testify under oath?

1 A Yes.

2 Q November of 2006?

3 A Yes, sounds correct.

4 Q And at that proceeding, was Mr. Matthews present?

5 A Yes.

6 Q And did you identify him in court then?

7 A Yes.

8 Q In 2007 --

9 MR. LEVENTHAL: Judge, I'm going to object as to
10 bolstering [indiscernible]. He's identified in here today.

11 MR. GIORDANI: It's a prior consistent statement to rebut
12 an implication that Mr. Leventhal just made.

13 THE COURT: Overruled. You can proceed.

14 MR. GIORDANI: Thank you.

15 BY MR. GIORDANI:

16 Q So that was November of 2006 that I just referenced?

17 A Correct.

18 Q And then in 2007 at a prior proceeding, did you testify
19 under oath?

20 A Yes.

21 Q And then in 2007, was Mr. Matthews present?

22 A Yes.

23 Q And did you identify him then?

24 A Yes.

25 Q In 2018, did you testify under oath?

1 A Yes.

2 Q And in 2018, was Mr. Matthews present?

3 A Yes.

4 Q And did you identify him then?

5 A Yes.

6 Q Is there any doubt in your mind, as you sit here today, that
7 Jemar Matthews was the individual --

8 MR. LEVENTHAL: Objection, Your Honor. Bolstering.

9 THE COURT: Overruled.

10 You can answer.

11 BY MR. GIORDANI:

12 Q Is there any doubt in your mind, as you sit here today, that
13 Jemar Matthews was the individual holding the rifle that got out of
14 the driver side of the Lincoln Town Car on September 30th, 2006?

15 A Correct. There's not a doubt in my mind.

16 MR. GIORDANI: I'll pass the witness.

17 THE COURT: Any recross?

18 MR. LEVENTHAL: Yes, Judge.

19 **RECROSS-EXAMINATION**

20 BY MR. LEVENTHAL:

21 Q Does your training and experience lead you to believe that
22 identification is probably the most important thing in an
23 investigation, correct?

24 A Correct.

25 Q Now, Mr. Giordani just came up to you and asked you to

1 read two lines up from where I started, correct?

2 A Correct.

3 Q And you were discussing the third driver, right? Or the
4 third passenger?

5 A Yes.

6 Q Okay. Right? However, it doesn't go without saying that
7 your answer to the question of can you identify or tell us what the
8 suspect looked like -- looked like? That would prompt an answer of,
9 It's Jemar, right?

10 MR. GIORDANI: Judge, I would object as to the form of
11 the question. It's not an exact quote. I asked for an exact quote
12 from the transcript.

13 THE COURT: Okay. Can you just read the --

14 MR. LEVENTHAL: Sure.

15 THE COURT: -- from the transcript?

16 MR. LEVENTHAL: Sure.

17 BY MR. LEVENTHAL:

18 Q Question: Do you have any idea what that suspect looked
19 like?

20 Referring to the third suspect, right?

21 A Yes.

22 Q Okay. We just read it. You say: Um.

23 Then there's a question with a line, and then there's an
24 answer:

25 You know, all the -- all the suspects involved -- all the

1 suspects involved were wearing the black or dark-colored gray
2 shirts, um, and I would say all of them were Black male
3 juveniles, late teens, probably early 20s.

4 Question: Okay. Uh.

5 Answer: The, Your Honor, the driver.

6 Now we're specifically talking about the driver correct?

7 A Correct.

8 Q You don't say Jemar Matthews, you say the driver, right?

9 A Correct.

10 Q You say:

11 In particular, I knew had red gloves.

12 You don't say I knew him, I knew of him; you say I knew
13 he had red gloves. Right?

14 A Yes.

15 Q Okay.

16 'Cause I could see his gloves when he opened, uh, opened
17 the door.

18 A Yes.

19 Q Okay. So you were asked specific questions about the
20 driver four hours after the event occurred, the freshest in your
21 mind, at a place and an interview that's very important to
22 everybody so they get it right and they get the right guy, right?

23 A We already had the right guy.

24 Q You didn't say that, did you?

25 A They were both in custody, sir.

1 Q Understood. You indicated that they were both in custody
2 and that you never mentioned Jemar's name and that was okay,
3 right?

4 A Yes, because I haven't --

5 Q Okay. But you --

6 A -- identified him yet.

7 Q Okay.

8 A At the time of the interview.

9 Q Okay. But you did mention Joshlin's name in that
10 interview, did you?

11 A I don't recall, sir.

12 MR. LEVENTHAL: May I approach?

13 THE COURT: You may.

14 MR. LEVENTHAL: Thank you.

15 BY MR. LEVENTHAL:

16 Q Look up when you -- when that's refreshed your
17 recollection on whether or not you mentioned Joshlin's name in
18 that hearing -- or that interview.

19 A Yes.

20 Q Okay.

21 MR. LEVENTHAL: May I approach?

22 THE COURT: You may.

23 MR. LEVENTHAL: Thank you.

24 BY MR. LEVENTHAL:

25 Q Okay. So, in fact, sir, you did mention Joshlin's name at

1 that hearing, didn't you?

2 A I actually mentioned his moniker.

3 Q I didn't ask that and we're not going to get into that; I
4 asked you if you mentioned his name.

5 THE COURT: Well, if you ask him --

6 MR. GIORDANI: Objection.

7 MR. LEVENTHAL: Well, you mentioned him.

8 THE COURT: -- if he mentioned his name.

9 MR. LEVENTHAL: Okay. His name.

10 BY MR. LEVENTHAL:

11 Q You mentioned what?

12 THE COURT: His nickname?

13 THE WITNESS: His nickname, yes.

14 BY MR. LEVENTHAL:

15 Q Okay. You mentioned his nickname, right?

16 A Yes.

17 Q Okay. So you knew who he was, correct?

18 A Correct.

19 Q Okay. So when Mr. John asked you that you didn't
20 identify anybody, in fact, you had identified Joshlin at that
21 interview, correct?

22 A Correct.

23 Q But you didn't ever identify Jemar Matthews at that
24 interview, correct?

25 A Not --

1 Q You never mention his name, correct?
2 A It was after the interview.
3 Q You didn't -- okay. After the interview?
4 A Yes.
5 Q So, I guess what you're saying is this interview that starts
6 out here:

7 We're investigating into a murder, as well as an
8 officer-involved use of deadly force."

9 That wasn't important enough for you to mention
10 anything, right? You never mentioned it in here, correct? Yes or
11 no.

12 A Correct. But --

13 Q Thank you. That's all I have. Thank you.

14 MR. LEVENTHAL: Nothing further.

15 THE COURT: Anything else from --

16 MR. GIORDANI: Can I ask just a couple of questions?

17 THE COURT: Sure. Go ahead.

18 **FURTHER REDIRECT EXAMINATION**

19 BY MR. GIORDANI:

20 Q What was the moniker that you associated with Pierre
21 Joshlin that you mentioned in this interview?

22 MR. LEVENTHAL: Judge, can we approach?

23 THE COURT: Yeah.

24 MR. LEVENTHAL: Thank you.

25 [Bench conference transcribed as follows.]

1 THE COURT: I would prefer if you use the term
2 nickname --
3 MR. GIORDANI: Oh, okay.
4 THE COURT: I said nickname.
5 MR. LEVENTHAL: Okay.
6 THE COURT: [Indiscernible] saying, what is the
7 nickname?
8 MR. GIORDANI: Pretty Pete.
9 THE COURT: Pretty, P-R-E-T-T-Y, Pete?
10 MR. GIORDANI: Yes, ma'am.
11 MR. LEVENTHAL: Yeah.
12 MS. BOTELHO: Or sometimes just Pretty P.
13 THE COURT: Okay. Do you have an objection to that?
14 MR. LEVENTHAL: Not necessarily. I mean, he says -- but
15 he, you know, he says Joshlin, Pierre Joshlin. And he goes by.
16 THE COURT: He can.
17 MR. GIORDANI: I didn't see that.
18 MR. LEVENTHAL: Let me [indiscernible].
19 THE COURT: Okay. All right.
20 MR. GIORDANI: This is all I have.
21 MR. LEVENTHAL: Yeah, I agree with him, he
22 [indiscernible]. Yeah, he --
23 MR. GIORDANI: So in the transcript at page 21, he says
24 Pretty Pete twice, and there's no other reference to Pierre Joshlin to
25 my knowledge, and I think Mr. Leventhal worries --

1 MR. LEVENTHAL: Yeah, I don't mind if they say nickname
2 Pretty Pete. That's fine.

3 THE COURT: Okay. I just wanted to make sure it wasn't
4 [indiscernible].

5 MR. LEVENTHAL: Yeah. That's fine. Pretty Pete. He's
6 gorgeous.

7 THE COURT: Okay.

8 [End of bench conference.]

9 THE COURT: Okay. The objection's overruled and you
10 can ask the question again.

11 BY MR. GIORDANI:

12 Q What was the nickname you knew for Pierre Joshlin?

13 A It was Pretty Pete.

14 Q Okay.

15 MR. GIORDANI: All right. I'll pass the witness. Thank
16 you.

17 THE COURT: Anything else?

18 MR. LEVENTHAL: No, Your Honor. Thank you very much.
19 Thank you.

20 THE COURT: Okay. So I just want to make sure I don't
21 have any questions from the jury panel.

22 Sergeant, thank you very much for your testimony here
23 today. Thank you very much for coming back this morning.

24 THE WITNESS: Thank you.

25 THE COURT: And you are excused from your subpoena.

1 THE WITNESS: All right. Thank you.
2 THE COURT: Thank you for being here.
3 And the State may call their next witness.
4 MS. BOTELHO: Brief indulgence.
5 MR. GIORDANI: Can I just -- or can we approach about
6 scheduling very briefly?
7 THE COURT: Yes.
8 [Bench conference transcribed as follows.]
9 MR. GIORDANI: We have two witnesses this morning
10 lined up. One is a coroner and the other is a retired CSA. Both of
11 whom have engagements this afternoon.
12 THE COURT: Okay.
13 MR. GIORDANI: Can I -- can we get them both on before
14 we take a break?
15 THE COURT: Yeah, no problem.
16 MR. GIORDANI: Okay. Thank you.
17 THE COURT: Okay.
18 [End of bench conference.]
19 THE COURT: Okay. You may call your next witness.
20 MS. BOTELHO: Your Honor, the State calls Dr. Lisa Gavin.
21 **LISA GAVIN,**
22 [having been called as a witness and first duly sworn, testified as
23 follows:]
24 THE CLERK: You may be seated. Please state and spell
25 your first and last name for the record.

1 THE WITNESS: Good morning. I'm Dr. Lisa Gavin,
2 L-I-S-A, G-A-V-I-N.

3 MS. BOTELHO: May I, Your Honor?

4 THE COURT: You may.

5 **DIRECT EXAMINATION**

6 BY MS. BOTELHO:

7 Q Ma'am, how are you employed?

8 A I'm a medical examiner forensic pathologist here in Clark
9 County.

10 Q Before I ask you what a medical examiner does, can you
11 briefly give the ladies and gentlemen of the jury a synopsis of your
12 education, training, and experience, such that you are qualified to
13 be employed as a medical examiner?

14 A I went to medical school at the University of Connecticut
15 School of Medicine; I did a pathology residency at Hartford Hospital
16 in Connecticut; I did a surgical pathology fellowship at Hartford
17 Hospital in Connecticut; I did a forensic pathology fellowship at the
18 Office of the Medical Examiner in New Mexico; and I came here to
19 Clark County.

20 I have a medical license to practice here in the state of
21 Nevada, and I'm board-certified in anatomic pathology and forensic
22 pathology.

23 Q Thank you, Doctor.

24 How long have you been employed with the Clark County
25 Coroner's Office?

1 A This is the 13th year.

2 Q And what are your duties as a medical examiner there?

3 A To determine the cause of death and manner of death and
4 sudden unexpected deaths here in Clark County, as well as for
5 some adjacent counties.

6 Q Okay. Before we talk about causes and manners of death,
7 can you tell the jury what an autopsy is?

8 A An autopsy is the process of examining a body in order to
9 help determine the cause of death. The overall process of what a
10 medical examiner does is a medicolegal death investigation, if you
11 will, so it has a lot more other things that go into that overall
12 determination.

13 Q Okay. And up until today's date, how many autopsy have
14 you, yourself, completed?

15 A Roughly, about 3,000 or so.

16 Q Okay. Now, you indicated just a little while ago that as a
17 medical examiner, you also render opinions as to the cause and
18 manner of death. What are the different manners of death?

19 A There are five manners of death here in the state of
20 Nevada. One of them would be natural, accident, suicide,
21 homicide, and undetermined.

22 Q Okay. And when is it that a cause of death or -- excuse
23 me, a manner of death would be characterized as undetermined?

24 A An undetermined manner of death might be -- an example
25 I often use is, say you find a skeleton out in the desert, you have no

1 information regarding what happened to that individual. It's a
2 complete skeleton with no evidence of bony injury. You may have
3 nothing that you know that you can use to determine what their
4 cause of death or the manner of death is in that particular instance.

5 Another instance where you might use an undetermined
6 manner of death would be if you have conflicting manners of death.

7 Q Okay. And so what is a homicide?

8 A A homicide by forensic terms is, essentially, death at the
9 hands of another.

10 Q Dr. Gavin, do you know a medical examiner by the name
11 of Alane Olson?

12 A Yes.

13 Q Okay. Did she or does she work at the Clark County
14 Coroner's Office?

15 A No. She medically retired.

16 Q Okay. But she was previously a medical examiner there?

17 A Yes.

18 Q Okay. Were you asked to assist the State of Nevada with
19 the testimony concerning the autopsy of an individual by the name
20 of Mersey Williams?

21 A Yes.

22 Q Okay. And this was because Dr. Olson had retired?

23 A Correct.

24 Q Okay. Now, Dr. Olson performed the initial -- or the
25 original autopsy on Ms. Mersey Williams on October 1st of 2006; is

1 that right?

2 A Yes.

3 Q Okay. At some point, Mr. Giordani and I asked you to
4 testify on behalf of Dr. Olson; is that right?

5 A Yes.

6 Q Okay. To prepare yourself to testify as to the autopsy of
7 Ms. Williams -- mind you, this is a case where you yourself didn't
8 conduct the autopsy; is that right?

9 A That's correct.

10 Q Okay. Did you look at materials to prepare yourself to
11 render an opinion as to cause and manner of death?

12 A Yes.

13 Q What materials did you look at?

14 A I reviewed the investigation report from our office, the
15 autopsy report, the toxicology report, the photographs, and the
16 radiographs on the case.

17 Q Okay. Now, when you yourself conduct an autopsy, do
18 you typically put together a report to memorialize your findings?

19 A Yes.

20 Q Okay. Now, was an autopsy report done by Dr. Olson
21 concerning Mersey Williams?

22 A Yes.

23 Q Okay. And did you have an opportunity to look at that
24 report when you indicated you looked at reports; was the autopsy
25 report one of the reports you viewed?

1 A Yes.

2 Q Okay. Now, were you able to come to your own
3 independent opinions as to the cause and manner of Mersey
4 Williams?

5 A Yes.

6 Q Okay. And I'll ask you about that in just a second.

7 Did you come to find out in the reviewing of the materials
8 in this case whether a bullet or a missile was recovered from
9 Ms. Williams' body?

10 A Yes.

11 Q Did you yourself actually see this missile?

12 A No.

13 Q Okay. Were you able to, upon review of the reports and
14 all of the other items that you indicated, were you able to determine
15 the trajectory of the -- let me ask you -- I got ahead of myself here.

16 What was the cause of death concerning Ms. Williams?

17 A She died of a gunshot wound to the head.

18 Q Okay. And so upon review of all of the materials that you
19 just stated to the jury, were you able to determine the trajectory of
20 the gunshot wound?

21 A Yes.

22 Q And what was that?

23 A The gunshot wound went from the frontal scalp through
24 the skull, through the brain, and ended up becoming lodged just
25 beneath the right posterior parietal occipital bone.

1 MS. BOTELHO: And, Your Honor, I will be publishing
2 State's admitted Exhibits 453 to 457.

3 THE COURT: Okay.

4 BY MS. BOTELHO:

5 Q Publishing State's Exhibit Number 453, Dr. Gavin, what
6 are we looking at here?

7 A We're looking at Ms. Williams' forehead and there's an
8 entrance gunshot wound on the left upper-aspect of her forehead
9 above her left eyebrow.

10 Q Okay. And there's a placard kind of in between her
11 eyebrows; what does that placard represent?

12 A That represents the case number associated with her case
13 and any of the photos or materials associated with her case.

14 Q O. And showing you, actually, State's Exhibit
15 Number 456; what are we looking at here?

16 A This is a radiograph that was taken of her -- when she
17 arrived into the office.

18 Q Okay. And you indicated this was one of the reports or
19 one of the images that you reviewed to prepare for a testimony
20 here today; is that right?

21 A That's correct.

22 Q Okay. Were you able to, upon review of the materials,
23 come to a conclusion as to the entrance of this particular gunshot
24 wound or bullet?

25 A Yes. We saw that on the previous exhibit that had the

1 entrance wound above the left eyebrow on the frontal scalp.

2 Q And, for the record, as you were testifying, I republished
3 State's Exhibit 453.

4 Doctor, were you able to form an opinion as to the
5 manner of death for Ms. Williams?

6 A Yes.

7 Q And what is the manner of death?

8 A Homicide.

9 Q And you indicated earlier that the bullet actually -- or the
10 missile remained in her head; is that right?

11 A Yes.

12 Q Okay. And State's Exhibit Number 456, does that show
13 the location of the projectile or the missile that we have been
14 discussing?

15 A Yes. If you zoom in, it's towards the -- when you're
16 looking at the photo on the left-hand side, that there, yeah.

17 Q Okay.

18 A And it's towards the right aspect -- I'm circling it with the
19 arrow right now, but the right posterior aspect of her skull just
20 beneath the skull bone there.

21 Q Okay.

22 MS. BOTELHO: I have no more questions. Pass the
23 witness. Thank you.

24 THE COURT: Cross-examination?

25 MR. LEVENTHAL: No, Your Honor. Thank you.

1 THE COURT: Okay.

2 MR. LEVENTHAL: Thank you for being here, Doctor.

3 THE COURT: Thank you very much for your testimony

4 here today. You may step down and you're excused from your

5 subpoena. Have a good day.

6 THE WITNESS: Thank you.

7 THE COURT: And the State may call their next witness.

8 MR. GIORDANI: Thank you. David Ruffino.

9 **DAVID RUFFINO,**

10 [having been called as a witness and first duly sworn, testified as

11 follows:]

12 THE CLERK: You may be seated. Please state and spell

13 your first and last name for the record.

14 THE WITNESS: My name is David Ruffino, that's

15 R-U-F-F-I-N-O.

16 THE CLERK: Please spell your first.

17 THE WITNESS: David, D-A-V-I-D.

18 THE CLERK: Thank you.

19 THE COURT: You may proceed.

20 MR. GIORDANI: Thank you.

21 **DIRECT EXAMINATION**

22 BY MR. GIORDANI:

23 Q And good morning, sir.

24 A Good morning.

25 Q Are you currently employed, sir?

1 A Currently employed is a part-time job.
2 Q Okay.
3 A Unrelated to law enforcement.
4 Q Were you previously with the Las Vegas Metropolitan
5 Police Department?
6 A Yes, I was.
7 Q And are you now retired from Metro?
8 A Yes, I am.
9 Q How long were you with Metro, sir?
10 A Almost 30 years.
11 Q And in what capacity did you work for Metro?
12 A I retired as a crime scene analyst supervisor.
13 Q Prior to being a supervisor with crime scene, did -- were
14 you actually a crime scene 2 and 1?
15 A Yes. A 1, 2, and 3 was the series at the time. It was
16 actually called identification specialist 1, 2, and 3 at the time.
17 Q Understood.
18 A It's now called crime scene analyst. Correct.
19 Q Understood. So throughout the course of your career,
20 you promoted up to supervisor, you retired as a supervisor from
21 that --
22 A Yes. 14 -- over 14 years ago, correct.
23 Q As a result of your work back in 2006, did you review
24 multiple crime scene reports, as well as photographs associated
25 with a crime scene at 1271 Balzar?

1 A Yes.

2 Q And the date of that crime was September 30th of 2006,
3 sir?

4 A Correct.

5 Q Did you have any training or education -- or describe your
6 training and education in order to do what you did as a crime scene
7 analyst and, ultimately, a crime scene analyst supervisor.

8 A Okay. I got my undergraduate degree in forensic science
9 back in 1977 from the University of New Haven. I minored in
10 chemistry and biology. I started with Las Vegas Metropolitan Police
11 Department on January 10th of 1978.

12 During the course of my almost 30 years working there, I
13 attended various classes with the FBI and different associations.
14 When I retired in 2007, I had about 10 pages of fine print of all the
15 classes that I went to, including a master's degree in public
16 administration from UNLV.

17 I was also the founding president of the Nevada state
18 division of the International Association for Identification. And I
19 was on the master board of the International Association from 2000
20 to 2004. That is a certifying body for crime scene, bloodstain,
21 fingerprints, and other areas of forensic science.

22 Q Thank you, sir. And thank you for coming out of
23 retirement to testify here today.

24 I would like to ask you some general questions, because
25 you're the first crime scene analyst these jurors are hearing from,

1 okay? Describe, basically, what a crime scene analyst does, and
2 particularly when it comes to a homicide scene.

3 A Okay. A crime scene analyst's main function is to record
4 and document the crime scene, process for fingerprints if need be,
5 recover evidence if need be, and do crime scene diagrams.
6 Specifically on a homicide, it's a lot of the same stuff, depending,
7 from homicide to homicide, but generally, take overall photographs
8 of the crime scene. That could be distance shots, medium shots,
9 close-up shots, especially of evidence.

10 It could include measuring any evidence that is located,
11 photographing evidence close-up, with, without scale. It involves
12 the recovering of evidence. And also crime scene diagrams that
13 depict the evidence, exactly where it is.

14 The crime scene analyst starts out with a rough draft of
15 the scene and then from there, later on, puts it into the computer to
16 make it look neater and more appealing to juries and for later
17 documentation, perhaps, in a courtroom, sometimes several years
18 down the road.

19 Q And, sir, I want to ask you several questions to follow up
20 on that. You mentioned evidence being impounded, essentially.

21 A Correct.

22 Q Is that all done under a particular number?

23 A Yes.

24 Q Go ahead, sir.

25 A If you'd like me to expound, evidence, when it's

1 recovered, the best way to do it is try to get like evidence with like
2 evidence if you can. And it's impounded under numbers,
3 sometimes letters, to be able to put down on evidence impound
4 exactly what that item is by number or letter, and then location it's
5 recovered. Then also too that same number can be depicted in a
6 diagram if a diagram is written up for that particular case.

7 So it just makes it easier for the crime scene analyst as
8 well as anybody looking at it at a later time to understand where the
9 evidence is and see it in photographs and document it on crime
10 scene diagrams.

11 Q Okay. So, essentially, if you have one very large crime
12 scene, all of the items of evidence that are either documented or
13 photographed or impounded from that scene should be impounded
14 under the same what we refer to as an event number?

15 A Correct.

16 Q And in this particular case, was the event
17 number 060930-3216?

18 A Yes.

19 Q Showing you now State's 22; do you recognize this
20 general area, sir?

21 A Yes, I do.

22 Q What are we looking at in this photograph?

23 A Okay. What's depicted in this photograph is an overall
24 photograph looking down on Balzar Avenue, and in particular, the
25 scene we responded to on 1271 Balzar Avenue.

1 Q Thank you.

2 And it appears there are two other addresses flagged on
3 this particular map; do you see that, sir?

4 A Yes, I do.

5 Q One of them being 1261 Balzar and another being 1212
6 Balzar; is that right?

7 A That's correct.

8 Q I want to show you now some different exhibits. I'm
9 going to start with 18. What are we looking at here, sir?

10 A Okay. This is a -- this depicts a crime scene diagram that
11 was produced by Louise Renhard, a crime scene analyst. Her job
12 on that particular night on the homicide scene was to document the
13 locations of where the evidence was going to be recovered from,
14 and she also recovered and impounded the evidence. So this is a
15 finished diagram.

16 There's -- as I said -- stated earlier, you have a rough
17 crime scene diagram and then you have a finished crime scene
18 diagram. This is a finished diagram neatly done in the computer to
19 depict evidence that's recovered, showing the location of the
20 incident and all related items.

21 Q And I want to show you two other exhibits. Next is 19.
22 And I'm going to try to put these both up at the same time while I
23 look for a larger version. 19 and 20, can you see both of those on
24 the screen, sir?

25 A Yes.

1 Q What is that depicting as it's combined, 19 on the left, 20
2 on the right?

3 A What it does it there's two diagrams there, basically. And
4 it is showing the scene on a larger scale, which also includes 12, I
5 believe, Balzar Avenue, which was further down to the right on the
6 top of your screen that you're looking at.

7 Q And there were two addresses previously flagged on that
8 map that now appear to be on this when you combine it, 1261 and
9 then 1212 Balzar, both now showing on this big old diagram?

10 A Yes.

11 Q You previously mentioned Crime Scene Analyst Louise
12 Renhard. On this particular evening, were there multiple crime
13 scene analysts that responded to this scene?

14 A Yes.

15 Q This scene and other related scenes?

16 A Yes.

17 Q And were you in charge or the supervisor over this
18 particular area of 1271 Balzar and these associated scenes on the
19 same street?

20 A Yes, I was.

21 Q Was a crime scene analyst by the name of Ann Nemcik
22 the one who documented via photographs these crime scenes?

23 A Yes.

24 Q And during the course of her documentation via
25 photographs, were you present at the crime scene?

1 A Yes.

2 Q And I want to show you several photographs, not all of
3 these, but some of them.

4 A Okay.

5 Q Starting with State's 27 through 89. Did you have an
6 opportunity to look at that stack, 27 through 89, prior to the jury
7 coming in here today?

8 A Yes.

9 Q To confirm that they were, in fact, what we believe them
10 to be?

11 A Yes.

12 Q In addition, did you have a look at 90 through 231, which
13 I'll go through here momentarily, prior to coming into the
14 courtroom, sir?

15 A Yes, I did.

16 MR. GIORDANI: I believe we're going to admit 466 via
17 stipulation, Your Honor.

18 MR. LEVENTHAL: That's correct, Your Honor. No
19 problem. Thank you.

20 THE COURT: Okay. 466 is admitted.

21 MR. GIORDANI: Thank you.

22 [State's Exhibit Number 466 admitted.]

23 BY MR. GIORDANI:

24 Q And just for the record, I'm publishing 466, it's just a big
25 old sheet of paper with the crime scene diagram combined on one

1 sheet.

2 A Okay.

3 Q Is that right?

4 A That's correct.

5 Q Okay. So that'll go back to the jury. All right.

6 Going back now to 18, I want to dig in a little deeper with
7 this portion of the diagram, sir. I'm going to zoom in. At the top
8 here, does it provide some information?

9 A Yes, it does.

10 Q And what is provided in that little caption at the top?

11 A It's the detailed information of the crime scene, homicide,
12 it gives the event number, which is the same event number we
13 spoke of earlier, 060930216, 1271 Balzar, 930 of 2006, and it was
14 completed by Louise Renhard, Personnel Number 5223.

15 Q And what is this just underneath?

16 A That's a scale showing the approximate scale of that
17 particular diagram.

18 Q And then, of course, there's a north-pointing arrow.

19 A That's correct.

20 Q To orient us?

21 A Yes.

22 Q I want to move now to the bottom of the exhibit. Describe
23 what are we looking at when it says legend?

24 A Okay. Legend typically has information portrayed in the
25 diagram that's shown. In this particular diagram, the legend shows

1 different types of firearms evidence that was recovered. And if you
2 were to look at corresponding numbers above, you would see the
3 same numbers below. And also besides firearms evidence,
4 apparent samples of blood, brown bag and a beer can, Number 50
5 and 51. So, basically, mostly firearms evidence and the blood and
6 the brown bag and beer can.

7 Q Okay. In addition, doesn't quite come across on this
8 overhead, but you see colors associated with these item numbers?

9 A Yes.

10 Q And then should those correspond with the
11 documentation within the actual diagram?

12 A Yes. It helps to locate the evidence easier in the diagram.
13 Not only is it numbered, but it's also color-coordinated as depicted
14 in the diagram.

15 Q Okay. In addition, before I move on, there is a distance
16 that appears to Lawry there; can you read that into the record?

17 A Yes. I believe it says 181 feet 7 inches to Lawry.

18 Q Okay.

19 A So if you were to go southbound, Lawry Avenue is a
20 cross-street. So you have Balzar at the top so to speak, Lawry
21 further south. So it's a north -- you have the one street and Lawry
22 to the south, approximately 181 feet 7 inches south of Balzar.

23 Q Gotcha.

24 I want to go into the meat of the diagram here.

25 A Okay.

1 Q Up on Balzar, there appears to be two little pink
2 numbers, 1 and 2; do you see that?

3 A Yes, I do.

4 Q And then to the right of that, it says shoe --

5 A Uh-huh.

6 Q -- something that's been hole-punched through?

7 A Yes.

8 Q Once I get to these photographs, should that correspond
9 with evidence placards?

10 A Yes.

11 Q So if there's a 1 on the diagram, it should be documented
12 as a 1 on a photograph?

13 A Correct.

14 Q With an evidence -- yellow evidence placard; is that right?

15 A That's correct.

16 Q Okay. Down here, moving back over to the area near
17 these multiple vehicles to the west of the home, it appears there are
18 two items that are labeled a little bit differently than the rest; do you
19 see that? 47 --

20 A Yes.

21 Q What does that represent?

22 A Okay. That represents the way Louise Renhard, who did
23 this actual diagram, she wanted to show where a crime scene
24 analyst had responded approximately 10 days later, recovered two
25 additional casings. And what are the two additional casings? We

1 presume they're from this crime scene. Can evidence be
2 overlooked in the dark when there's a lot of rocks and dirt and stuff?
3 Absolutely.

4 So Mark Washington, whose personnel number is 4725,
5 he recovered two casings 10 days later, and that stands for him --
6 his -- the location of the two items that he recovered.

7 Q Understood. Thank you for that, sir.

8 I want to show you just a few photographs, not all of
9 these. But I want to start with 38; does that appear to reference that
10 shoe we just talked about in the middle of Balzar?

11 A Yes.

12 Q And then in the background, do you see some placards?

13 A Yes.

14 Q Did those represent the 1 and 2 corresponding with the
15 diagram we just saw?

16 A Yes.

17 Q Okay. Showing you 43; do you recognize that, sir?

18 A Which one are you showing as 43?

19 Q Showing you Exhibit 43.

20 A Oh. Oh, yes, I do.

21 Q Do you recognize that home?

22 A Yes, I do. That's 1271 Balzar.

23 Q And is that the crime scene as it appeared when you and
24 the rest of the crime scene analysts were documenting and
25 impounding evidence?

1 A Yes.

2 Q Obviously, Ms. Mersey Williams is still in the yard there?

3 A That's correct.

4 Q And then there are two cones out in the street in front of
5 Balzar; is that right?

6 A That's correct.

7 Q Are those cones later replaced with what I've referred to
8 as evidence placards with numbers?

9 A Yes.

10 Q Would that be consistent throughout these photographs?

11 A Yes.

12 Q That, initially, there are cones, and then later evidence
13 placards with numbers?

14 A Right. That's correct. And that's done so that nobody
15 steps on the item of evidence until we decide how we're going to
16 number things. At least it's marked so nobody steps on it, nobody
17 overlooks it, and it's identified as something that's important that
18 we have to come to later as we're documenting the crime scene.

19 Q Understood. And I don't mean to overgeneralize, but I
20 don't want to go through all of these photographs with the jury
21 now.

22 A Correct.

23 Q So I'm showing you State's 59; just to be clear, there are
24 cones in this photograph, but, ultimately, that's going to be
25 documented via placards, those same items of evidence?

1 A Yes.

2 Q Okay. Were there multiple vehicles up within this crime
3 scene, sir?

4 A Yes.

5 Q And are those documented back on 18 in this diagram?

6 A I believe they -- yes, they are.

7 Q Okay.

8 A They are documented, yes.

9 Q And then were those vehicles within the crime scene also
10 documented via photography?

11 A Yes.

12 Q Okay. Now, I want to move on a bit from the crime scene
13 at 1271 Balzar and move over to 1212 Balzar. Showing you
14 State's 20; do you see 1212 Balzar up on that diagram?

15 A Yes.

16 Q Appears there's some additional vehicles and one, maybe
17 two evidence numbers; do you see that?

18 A Yes.

19 Q Showing you State's 78; is that one of those vehicles over
20 at 1212 Balzar?

21 A Yes.

22 Q And then State's 79; is that what appears to be a bullet
23 impact on that vehicle?

24 A Yes.

25 Q Okay. Now, I'd like to bring you back, sir, to the crime

1 scene itself as 1271 Balzar. Showing you State's 90; can you
2 describe generally what we're looking at and orient the jurors as to
3 the location of this photograph?

4 A Okay. As we stated earlier, the location was 1271 Balzar
5 Avenue. And what we're looking at in this particular photograph is
6 the west side of that residence. And that includes the rock gravel
7 yard, as well as yellow placards that replaced most of the cones
8 that we saw in the earlier photograph. That's where firearms
9 evidence was located and the placards were put down and
10 photographed, and then later recovered as evidence.

11 Q Showing you State's 91, just so we get all the placards. Is
12 that that same area, just turned a little bit to the left -- or the
13 photographer turned a little to the left?

14 A Yes. It's a different viewing, but it's the same evidence,
15 correct.

16 Q Gotcha.

17 Can you describe generally what a cartridge case is, sir,
18 and how it relates to firearms?

19 A Okay. A cartridge case is -- first of all, you have a
20 cartridge. You know, you have .22 cartridges, .45 cartridges, all
21 different types of cartridges for different types of weapons. A
22 cartridge case is -- includes the bullet and the cartridge casing itself.
23 So when the bullet leaves the whole cartridge, you're left with just
24 the cartridge case. And as depicted in those placards laying on the
25 ground there, those are cartridge cases. So the bullet has already

1 left that particular cartridge only leaving behind the cartridge case
2 itself. So the bullet portion is gone.

3 Q And a cartridge case in a semiautomatic weapon would
4 eject from the firearm?

5 A That's correct.

6 Q Is it common for them to eject in one particular direction?

7 A Usually to the right. Usually.

8 Q Okay. In some cases, maybe not.

9 A Maybe not. Correct.

10 Q Now, I want to move on a little bit and show you some
11 more photographs and walk through these, okay? Showing you
12 now State's 95. Is this that same area that we were just looking at,
13 just a little bit of a closer view?

14 A Yes.

15 Q Does that show the rocks or the gravel that you previously
16 referenced?

17 A Yes.

18 Q State's 97; is that also a view of the west side of that
19 home?

20 A Yes.

21 Q And just for orientation and for the record, State's 102;
22 this appears to be an evidence placard Number 1?

23 A Yes.

24 Q And is that associated with a cartridge case?

25 A Yes.

1 Q And so if I refer back to our diagram at 18, would that be
2 Number 1 -- oops, apologies -- Number 1 on the legend here?

3 A Yes.

4 Q And then it should correspond with not only the
5 photograph of it, but the diagram; is that right?

6 A Yes.

7 Q I'm not going to go through each and every one of these,
8 sir, but fair to say that there should be photographs of each and
9 every one of those multiple cartridge cases within the scene?

10 A Yes.

11 Q In addition to cartridge cases, were there actual bullets or
12 projectiles found at the scene?

13 A Yes.

14 Q Were those documented, as well?

15 A Yes, they were.

16 Q And would those be documented, for example, as -- let
17 me go to 46 -- I'm sorry, Exhibit 148.

18 A Yes.

19 Q What does that appear to be to you?

20 A Bullet.

21 Q Okay. And that's the other part of the cartridge, right?
22 The part that actually shoots --

23 A Right.

24 Q -- or projects?

25 A And I also would like to make a comment. Bullets, they

1 come out perfectly round. When they come out, obviously, rifling
2 from the weapon goes on it. But as it hits and impacts things, it
3 gets distorted. So you're going to see bullets that will be pointed
4 out along the way that'll look very distorted. That means they hit
5 something. So I just want to make mention of that.

6 Q Thank you.

7 A So they're aware of that.

8 Q And I'd like to provide one more example of something a
9 little different, sir.

10 A Uh-huh.

11 Q State's 119, what are we looking at there?

12 A That is an entire cartridge. So that includes the bullet and
13 the cartridge case or the cartridge. So that's the entire cartridge.

14 Q That particular cartridge, is that a 45-caliber?

15 A Yes.

16 Q Documented as Item 14?

17 A Yes.

18 Q It appears that one has a brass cart case, a cartridge case;
19 is that right?

20 A Exactly.

21 Q Now, I want to show you State's 120; we looking at
22 Item 15 here?

23 A Yes.

24 Q Is that documented in our diagram as a 45-caliber
25 cartridge?

1 A Yes.

2 Q And that one is a little bit different, it appears to have, like,
3 a silver cart case, not a brass one?

4 A Yes.

5 Q Just for reference, and I'm trying to speed this up as much
6 as I can here, as to the diagram, those were Items 14 and 15
7 documented as cartridge cases, correct?

8 A Or cartridges, yes.

9 Q I'm sorry, cartridges.

10 A Correct.

11 Q And then we're moving on to 16 through 40, those are all
12 what appear to be 22-caliber cartridge cases?

13 A Correct.

14 Q So I'm just going to show one of those as State's 6 --
15 State's 121, showing Item 16, correct?

16 A Yes.

17 Q And is that one of those 22-caliber cartridge cases?

18 A Yes.

19 Q Showing you now State's 151; what are we looking at
20 here, sir?

21 A That is a blue vehicle that's parked in front of 1271 Balzar.

22 Q I'm going to show you 154; is that that same blue vehicle?

23 A Yes, it is.

24 Q Just a different angle?

25 A Yes.

1 Q There's something on the hood?

2 A Yes.

3 Q What is that?

4 A That is a -- it appears to be a shirt of some sort with
5 apparent blood on the sleeve.

6 Q During the course of the processing of the scene, did you
7 become aware that there was not only one murder victim, but
8 someone else who got shot?

9 A Yes.

10 Q Did you and other crime scene analysts also process and
11 document the interior of the home at 1271 Balzar?

12 A Yes.

13 Q Want to start with 176; what are we looking at here?

14 A That is the outside front entrance way, showing the
15 sidewalk. And it appears to be blood-like substance on the
16 sidewalk, if I had to guess at this point.

17 Q Okay. And then 177, is that that same entrance, just a
18 different angle?

19 A Yes. That's between the vehicle that we just spoke about
20 in the front yard and the front entrance looking outward towards
21 the vehicle.

22 Q Okay. And you can see on the hood of that vehicle that
23 same sweatshirt that you referenced earlier with the blood on it?

24 A Yes.

25 Q Okay. I want to show you now State's 178; what are we

1 looking at here, sir?

2 A Okay. That is the west-facing living room window of the
3 northwest living room to 1271 Balzar. And that depicts angles,
4 trajectory angles with the dowels that they have going through the
5 window and the shades.

6 Q When you say dowels, are you referring to those sticks?

7 A Yes.

8 Q Okay. And those sticks sticking out are through what
9 are -- what appear to be, at that time to you guys, bullet impacts?

10 A Yes, shown through and through bullet impacts, yes.

11 Q Okay. One of those trajectory sticks meant -- or dowels
12 meant to depict?

13 A It's meant to show angle of the bullet going through. So
14 you have a dowel, it's going through the glass, these dowels or
15 sticks, you might call them, they're going through the window,
16 they're going through the blinds, and then they're going through,
17 like, a covering on the back side of the blinds. So that's showing
18 trajectory of the path of the bullets that went through that window
19 originally.

20 Q Fair to say, sir, that there are multiple trajectory sticks,
21 ultimately, there's a large concentration of bullets at this -- directed
22 at this window here?

23 A Yes.

24 Q 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, maybe 12?

25 A Yes.

1 Q That look about right?

2 A Yes. About right.

3 Q I want to then proceed to the interior of the home.

4 State's 181; does that appear to be the living room there?

5 A Yes.

6 Q And then 182, does that appear to be the corresponding
7 west-facing window?

8 A Yes. The interior of the west-facing northwest living
9 room. Uh-huh.

10 Q Showing you State's 183; is that that same living room?

11 A Yes.

12 Q Here we go. 199; what are we looking at there?

13 A That's a through-and-through the wall. Actually, it enters
14 the wall just inside the front door. So that's showing entrance of a
15 bullet hitting -- or an impact site where the bullet goes into the wall
16 there just inside the front living room door of 1271 Balzar.

17 Q Okay. And that would be the wall corresponding with the
18 west window. So on the other side of the living room from the
19 window where we just saw those other trajectory rods?

20 A Correct.

21 Q All right. Sir, I want to talk to you about impounds and
22 evidence that was taken from this crime scene.

23 A Okay.

24 Q Anytime a crime scene report is authored, is there an
25 associating impound sheet, assuming some evidence was

1 impounded?

2 A Yes.

3 Q The impound numbers, would they be documented not
4 only on our crime scene diagram, but also on the items of evidence
5 themselves?

6 A Yes.

7 MR. GIORDANI: May I approach the witness?

8 THE COURT: You may.

9 THE CLERK: Mr. Giordani, here's gloves.

10 MR. GIORDANI: Actually, we're probably not taking
11 anything out, but we'll put them on if we need to.

12 BY MR. GIORDANI:

13 Q I'm going to use Exhibit 9 as an example, just so you can
14 convey to the jury what we're looking at, sir. Describe this package
15 and what we're looking at on this particular exhibit number.

16 A Okay. This is one of the bags we'll use to put evidence
17 inside. Okay. And then on the -- we'll seal the back and then we'll
18 also, prior to that, we'll depict exactly what's in the bag, what date,
19 the time it was -- or the time they arrived at the scene, the event
20 number, you know, the charge, location, and the signature of the
21 person doing it with their initials and personnel number. So all
22 that's at the top front of it.

23 Then, under impounded item description, we would put
24 numbers associated with the evidence that was recovered and then
25 it's actually stated exactly what each item of evidence is.

1 Then further down, after the items are stated on the
2 evidence bag, the package number, because often time there's
3 many packages involved in recovering evidence, especially when
4 there's a lot of evidence, and so the package number and the total
5 number of packages.

6 And then further down there's a chain of custody
7 signature if somebody took it out of the evidence vault or whatever.
8 So -- and then there's other stickers on here, like, State's Exhibits
9 numbers and things that they need for this courtroom.

10 Q Okay. And you specifically mentioned chain of custody at
11 the bottom.

12 A Yes.

13 Q Are there times in a case in which forensic testing is done
14 on cartridge cases or cartridges or guns?

15 A Yes.

16 Q And when that type of testing is done, do the items that
17 are impounded by the crime scene analysts, are they taken from the
18 vault by the crime lab at Metro?

19 A Yes.

20 Q And then the crime lab at Metro, if they handle the
21 evidence, will document it --

22 A Yes.

23 Q -- in a chain of custody?

24 A Yes.

25 Q And then they'll make their own follow-up report as to

1 their findings of that particular item of evidence?

2 A Yes.

3 Q Understood. And I want to refer to -- well, you might want
4 to throw one glove on there, sir.

5 A Uh-huh.

6 Q A large bag that has on it, handwritten, 11, 11A, 11B,
7 and 11C. Within that large, clear bag there appears to be a paper
8 bag that's marked as 11.

9 A Okay.

10 Q A smaller bag that's marked as 11B; what is in that 11B?

11 A Yep.

12 Q Another, I guess, smaller bag that's marked 11C.

13 A Uh-huh.

14 Q You see that?

15 A Yes.

16 Q Another one that's marked 11A, and this is a small, like,
17 sandwich bag, right?

18 A Yes.

19 Q Okay. So I'm showing you now 11.

20 A Okay.

21 Q Does that document everything that would be included in
22 these sub packages on the paper bag entitled 11?

23 A Yes.

24 Q Okay. So if items are grouped together within this box
25 that's going to go back with the jury, the impound numbers will be

1 documented on the paper bag; is that right?

2 A That's correct.

3 Q Okay. And then the corresponding numbers for each item
4 of evidence should, if this is done correctly, be on each item of
5 evidence, correct?

6 A Yes.

7 Q Okay. I'm going to put all those back into this bag here.

8 MR. GIORDANI: And if I could be the Court's brief
9 indulgence to consult with my colleague.

10 THE COURT: And, again, I just want to make sure all of
11 these exhibits, including the sub exhibits inside the bag are all
12 admitted by stipulation, correct?

13 MR. LEVENTHAL: Yes, Your Honor. They are. Thank you.

14 THE COURT: Okay. Thank you.

15 BY MR. GIORDANI:

16 Q And you have your impound sheet there, sir?

17 A Yes.

18 Q So we don't have to go through anymore photos or
19 evidence. I'd like to just ask you how many 9mm cartridge cases
20 were impounded from this particular crime scene?

21 A There was two.

22 Q And are those depicted as Item Numbers 1 and 2?

23 A Yes.

24 Q Were Items 3 through 13 45-caliber cartridge cases?

25 A Yes.

1 Q Were Items 14 and 15 45-caliber cartridges?
2 A Yes.
3 Q Were Items 16 through 40 22-caliber cartridge cases?
4 A Yes.
5 Q Was Item 41 a 45-caliber cartridge case?
6 A Yes.
7 Q Were Items 42 through 47 bullets?
8 A Yes.
9 Q Were Items 4725-1, and 4725-2 also 22-caliber cartridge
10 cases found during a follow-up search?
11 A Yes.
12 Q Were Items 48 and 49 samples of apparent blood?
13 A Yes.
14 Q How do you sample apparent blood?
15 A Well, we get a -- we get distilled water and you get a
16 swab, and you'll put it on the blood itself, what appears to be blood,
17 and you'll take your sample, and then put it in the vial. And then
18 you'll later let that dry out. And then you can take one from an
19 adjacent area to make sure there's nothing that interfered with that
20 particular blood sample. But that's how a blood sample is taken.
21 Q Thank you.
22 And were Items 50 and 51 a brown bag and beer can?
23 A Yes.
24 Q All right. Thank you very much, sir.
25 MR. GIORDANI: I'll pass the witness at this time, Your

1 Honor.

2 THE WITNESS: Okay. Thank you.

3 THE COURT: Cross-examination?

4 MR. TANASI: Thank you, Your Honor.

5 Court's brief indulgence, Your Honor.

6 **CROSS-EXAMINATION**

7 BY MR. TANASI:

8 Q All right, sir. How are you this afternoon?

9 A I'm good.

10 Q Good. My name's Rich Tanasi, I represent Mr. Matthews
11 and I have a few questions for you on cross, fair?

12 A Absolutely.

13 Q All right. How long was your career in law enforcement?

14 A 29 and a half years.

15 Q Sure. In that 29 and a half years, how many crime scenes
16 would you say you processed?

17 A I stopped counting after 10,000.

18 Q Wow. So your duties at those crime scenes, those 10,000
19 crime scenes, is to document physical evidence of a crime, fair?

20 A Uh-huh. Fair.

21 Q All right. Recover the evidence, right?

22 A Uh-huh.

23 Q Process it, right?

24 A Uh-huh.

25 Q You want to be as --

1 THE COURT: Are those all yes?
2 THE WITNESS: Yes. I'm sorry.
3 THE COURT: Thank you.
4 THE WITNESS: Yes.
5 MR. TANASI: Thank you, Judge.
6 BY MR. TANASI:
7 Q Want to be as thorough as possible at those scenes, fair?
8 A Yes.
9 Q Okay. You want to be as accurate as possible at those
10 scenes?
11 A Yes.
12 Q Okay. Want to be as complete as you can, right?
13 A Yes.
14 Q Also want to be careful when you handle evidence, right?
15 A Yes.
16 Q All right. Because, eventually, evidence will wind up in
17 front of a jury for their evaluation, fair?
18 A Yes.
19 Q All right. And, in fact, Mr. Giordani went over some of
20 that evidence with you just a moment ago where it was bagged,
21 correct?
22 A Uh-huh. Yes.
23 Q Paper bag? Is that yes?
24 A Yes.
25 Q It was also plastic bagged, correct?

1 A Yes.

2 Q And then when you actually handled the physical
3 evidence yourself, you put a glove on, right?

4 A Yes.

5 Q Okay. You put those gloves on because you don't want
6 your fingerprints, maybe, to get on the evidence, fair?

7 A Yes.

8 Q You don't want your DNA to get on the evidence, fair?

9 A Yes.

10 Q And you also don't want maybe somebody else's DNA to
11 get on the evidence, fair?

12 A Yes.

13 Q Because that happens through a concept called transfer,
14 fair?

15 A Yes.

16 Q In other words, I can touch your hand, right?

17 A Uh-huh.

18 Q When I leave DNA on your hand?

19 THE COURT: Is that a yes?

20 THE WITNESS: Yes.

21 BY MR. TANASI:

22 Q And then now you touch another object with the same
23 hand I touched, fair?

24 A Yes.

25 Q And then you now have put my DNA on that object, fair?

1 A Yes, it can happen.

2 Q Can happen. Same thing can happen with gunshot
3 residue, fair?

4 A Yes, it can.

5 Q It can transfer from one hand or one piece of evidence to
6 another, fair?

7 A Yes.

8 Q All right. You testified earlier that you like to kind of
9 group like evidence with like evidence; do I have that correct?

10 A Usually. Because if evidence -- and the reason for that is if
11 evidence has to be taken out at later times, say, for example, in the
12 crime laboratory, if it's firearms evidence, if it's grouped together,
13 it's much easier for the technician that's going to further examine
14 that evidence that they can take out one or two bags instead of
15 going through tons of bags that have all kinds of evidence in it, and
16 they only need to look at the firearms evidence. And also, too, for
17 blood-like substance, if it's somebody in serology or DNA, they
18 don't have to go through all the bullets. It's in a separate bag, it's --
19 so we try to group things together as much as we can.

20 Q Understood. Also like to try to identify and group
21 evidence or identify evidence that's grouped together on a scene,
22 correct?

23 A Yes.

24 Q For instance, all the gunshot bullets that we heard about
25 today, right?

1 A Yes.

2 Q Same idea for gloves, right? If you have one glove, you
3 want to try to find that other glove, fair?

4 A Yes.

5 Q All right.

6 MR. TANASI: All right. I'll pass the witness. I have
7 nothing further.

8 Thank you, sir.

9 THE COURT: Any redirect?

10 MR. GIORDANI: No, thank you, Your Honor.

11 THE COURT: Okay. Thank you very much for your
12 testimony here today, sir. You may step down and you are excused
13 from your subpoena.

14 THE WITNESS: Okay. Thank you.

15 THE COURT: Thank you very much for being here.

16 At this time, we are going to break for lunch.

17 During this recess you're admonished not to discuss or
18 communicate with anyone, including your fellow jurors, in any way
19 regarding the case or its merits either by voice, phone, e-mail, text,
20 Internet, or other means of communication or social media, read,
21 watch, or listen to any news or media accounts or commentary
22 about the case, or do any research, such as consulting dictionaries,
23 using the Internet, or using reference materials or make any
24 investigation, test a theory of the case, recreate any aspect of the
25 case, or in any other way investigate or learn about the case on

1 your own or form or express any opinion regarding the case until
2 it's finally submitted to you.

3 And we'll be in recess till 1:30. And the jury panel can go
4 with Officer Hawks. Thank you.

5 [Court recessed at 12:21 p.m., until 1:40 p.m.]

6 [Outside the presence of the jury.]

7 THE COURT: The record will reflect that the hearing is
8 taking place outside the presence of the jury panel.

9 Go ahead, Mr. Tanasi.

10 MR. TANASI: Thank you, Judge.

11 I just wanted to make sure we were clear that the defense
12 also has an Exhibit C.

13 THE COURT: Okay.

14 MR. TANASI: A proposed Exhibit C, which is an
15 identification card just provided to the Court. It's a stipulated
16 admission. And so at this time, I'd just like to make sure the record
17 is clear on that.

18 THE COURT: Okay. So Exhibit C will be admitted by
19 stipulation, correct?

20 MR. GIORDANI: Yep.

21 THE COURT: So any objection?

22 MR. GIORDANI: No, Your Honor.

23 THE COURT: Okay. It's admitted.

24 MR. TANASI: Thank you, Judge.

25 THE COURT: Oh, you bet.

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[Defendant's Exhibit Number C admitted.]

THE COURT: Who are you guys going to call?

MR. GIORDANI: Right now --

THE COURT: Just let me know when you're going to call Owens, because we'll have to excuse the jury so we can bring him in and put him in the witness seat. We're going to call him before the end of the day, right?

[Pause in proceedings.]

THE COURT: Can we bring them in now?

MR. GIORDANI: Yes, Your Honor.

THE COURT: Okay. Let's bring them in.

[Jury reconvened at 1:43 p.m.]

THE COURT: Does the State stipulate to the presence of the jury panel?

MS. BOTELHO: Yes, we do.

THE COURT: Thank you.

And Mr. Leventhal?

MR. LEVENTHAL: Yes, Your Honor. Thank you.

THE COURT: Okay. The State may call their next witness.

MS. BOTELHO: The State calls Michael Calarco.

MICHAEL CALARCO,

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

THE CLERK: You may be seated. Please state and spell your first and last name for the record.

1 THE WITNESS: Sure. First name is Michael,
2 M-I-C-H-A-E-L, last name Calarco, C-A-L-A-R-C-O.

3 MS. BOTELHO: May I, Your Honor?

4 THE COURT: You may.

5 **DIRECT EXAMINATION**

6 BY MS. BOTELHO:

7 Q Sir, how are you employed?

8 A Police sergeant with Las Vegas Metropolitan Police
9 Department.

10 Q How long have you been a sergeant with Metro?

11 A For about six years now.

12 Q And how long have you been with Metro total?

13 A About 18 years.

14 Q Okay. In 2006, September 30th of 2006, were you a
15 sergeant?

16 A No. I was a police officer at the time.

17 Q Okay. Were you assigned to the Bolden Area Command?

18 A I was.

19 Q Okay. Turning your attention to September 30th of 2006,
20 going to October 1st of 2006, were you working that particular night
21 going into the early morning hours of October 1st?

22 A I was.

23 Q Okay. And were you working at Bolden Area Command?

24 A Yes.

25 Q Were you a patrol officer at that time?

1 A I was.

2 Q And so were you dressed in your patrol uniform at that
3 time?

4 A I was.

5 Q And so I notice you're wearing your -- what looks to be a
6 patrol officer uniform with Metro today; is that right?

7 A Yes, ma'am.

8 Q Was your patrol uniform that you wore
9 September 30th, 2006, similar to the one you're wearing today?

10 A Very similar.

11 Q Okay.

12 A The only difference might be we were wearing the darker
13 color during the winter, so we might have been wearing that at the
14 time.

15 Q Okay. Were you working alone or with a partner back at
16 that time?

17 A I had a partner.

18 Q And what's your partner's name?

19 A Officer Chad Baker.

20 Q Were you in a marked patrol vehicle?

21 A Yes, ma'am.

22 Q At some point in time, when I -- I'm sorry, when I say
23 marked patrol vehicle, is that the black-and-white vehicle that we
24 normally see out on the street?

25 A Yeah, it was a Crown Vic back then, so it was a little -- it

1 was a sedan --

2 Q Okay.

3 A -- instead of the Explorers we're driving now. But yeah, it
4 was a black-and-white.

5 Q Okay. And so at some point during the night, did you and
6 your partner, Officer Baker, get dispatched or assigned to a call
7 concerning a shooting and a car-jacking, officer-involved shooting
8 over near 1701 North J Street?

9 A Yeah, so we actually -- we heard the radio traffic of a
10 potential shooting, one of the officers heard some shots being fired
11 up in the area of Balzar-Martin Luther King.

12 Q Okay.

13 A And that's when we started kind of driving that direction.

14 Q And when you say we, is that you and Officer Baker?

15 A Baker, yes.

16 Q Okay. And so did anything else come out on the radio as
17 you were making your way to that first reported scene?

18 A So shortly after that, they were mentioning that they saw
19 a vehicle that was taking off at a high rate of speed in that general
20 area, so we started kind of heading in that direction. And they were
21 giving updates about direction of travel and stuff like that.

22 Q Okay. When you say that area, are we still talking
23 about 1271 Balzar or the direction that the vehicle was going at a
24 high rate of speed?

25 A It was going at a high rate of speed, I believe it was

1 eastbound from that area. I don't remember the exact street.

2 Q Okay. So the initial scene?

3 A Correct.

4 Q Okay. And so you start heading kind of that way?

5 A Uh-huh.

6 Q As -- is that a yes?

7 A Yes, ma'am.

8 Q And so as you're making your way now towards where,
9 you know, this car is going fast, do you get any more on the radio?

10 A We did. We had some updated radio traffic from our
11 partners that there were subjects bailing out of the vehicle. And
12 then a short time after that, we -- there was an update of officers
13 were involved in a shooting or shots fired.

14 Q And so at that time, what do you and Officer Baker do?

15 A Start driving to that area. And I believe it was around,
16 like, J and Jimmy.

17 Q Okay.

18 A Somewhere in that area.

19 Q Okay. And so what happens when you arrive at that
20 location?

21 A So shortly before that, there was some radio traffic about
22 one of the suspects that bailed out of the vehicle, was running
23 towards the area of 1701 J, which was in that general area. So we
24 start going there. We arrive there and there was a -- one of our
25 PSU, our problem-solving unit vans, which is, like, a white

1 unmarked van, was going into the complex, which was a gated
2 complex. They're pulling into the gated complex. We pulled in
3 right behind them, and those are the ones that said they last saw
4 one of the subjects running into that complex.

5 Q Okay. And so you follow that van in?

6 A We did.

7 Q Okay. And once you're in the complex, what do you all
8 do?

9 A So once we got into the complex, like I said, they said they
10 last saw him kind of going in that direction. We got out of the
11 vehicle, myself, Officer Baker, and then in the van was I believe
12 Officer Todd Kahn [phonetic] and Officer Kenny Rios. So we got
13 out of the vehicle, quickly communicated which way we were going
14 to go. So myself and Officer Rios paired up and then Officer Baker
15 and Officer Todd Kahn paired up. They continued to run kind of
16 south where they last saw him going. And then we went kind of
17 parallel to the wall. It's kind of hard to explain without a map, but --

18 Q Okay. Let me put a map up.

19 A Oh, perfect.

20 Q Showing you what's been marked --

21 MS. BOTELHO: And admitted by way of stipulation, Your
22 Honor, this is a new one, 467. May I publish?

23 THE COURT: You may.

24 BY MS. BOTELHO:

25 Q Okay. Showing you 467; does this show the area of 1701

1 North J Street?

2 A Yeah. Right --

3 Q You want me to zoom in?

4 A I could see it.

5 Q Okay. And then --

6 A I'm pointing with the mouse here.

7 Q -- you can actually use your mouse, Officer.

8 A There it is. Okay.

9 Q And use that as a pointer.

10 A Yeah. So we pulled in right here. This is the front
11 entrance of 1701 J right here -- sorry, right here.

12 Q Okay.

13 A Yeah, right here.

14 Q And so kind of towards the bottom of the red pin?

15 A Correct.

16 Q Okay.

17 A So this is the front entrance right here. So the van pulls
18 in, we pull in right behind it. We both kind of park in this general
19 area. Officer Kahn and Officer Baker start running kind of south.
20 We go kind of along the wall and then we're -- we ran past the set
21 of dumpsters. I don't know if you want me to get directly into that.

22 Q Let me kind of direct you.

23 A Okay.

24 Q So when -- by the time you're looking towards the
25 dumpsters, are you still in your vehicle or do you get out of your

1 vehicle?

2 A We got out. We were all on foot at that point.

3 Q Okay. And so was the purpose for yourself and the other
4 three officers that you just mentioned in an attempt to locate the
5 suspect who had fled in this general area?

6 A Correct.

7 Q Okay. Showing you what's been marked and admitted as
8 State's Exhibit 377; what's this?

9 A That's right at the front of the complex and it kind of
10 describes where the buildings are in both of the complexes. So you
11 have 1701, which, when you're pulling into the gate, is immediately
12 to the right, 1801 J street is going to be immediately to your left.

13 Q Okay. And showing you now what's been admitted
14 as 380; what are we looking at here?

15 A Okay. So this is as you're pulling in, so this is probably
16 our patrol car here. This is as you pull into the gate, so this is J
17 Street over here. We pull right into the gate and this is 1701.

18 Q Okay. Turning your attention to State's Exhibit 383; what
19 does this depict?

20 A This is immediately when you walk into -- or come into
21 the front gate, this is the building off to your right, and then here's a
22 dumpster over here, as you're heading in, like, a south direction.

23 Q And is this the dumpster that you just testified to kind of
24 running into as you were making your way through this complex?

25 A Yes, ma'am.

1 Q State's Exhibit 384; does this show that same dumpster
2 area, but just kind of more close up?

3 A It does.

4 Q And 386; does this show the dumpster from a different
5 perspective?

6 A It does. It's as if you're looking almost if -- on the other
7 side of the building is J Street.

8 Q Okay. And so, for the record, there are two dumpsters
9 here?

10 A Correct.

11 Q Okay. So once you and your partner make your way
12 through this area, what happens?

13 A So we're running this direction here, just about to pass -- I
14 passed I believe it was the first dumpster here. As I pass it, Officer
15 Rios, a little bit taller than me, said something about he saw
16 movement in the dumpster. So he stopped and kind of focused in
17 on the dumpster.

18 Q Okay. At the time, was -- are there lids to these
19 dumpsters?

20 A I don't -- they weren't on --

21 Q Okay.

22 A -- if there were lids, they were --

23 Q Okay.

24 A -- wide open, just like that.

25 Q Okay. And so what do you all do?

1 A So as we -- this mask is killing me -- as we go past and he
2 says that there's movement in the dumpster, we, obviously, think
3 there's a potential of a suspect. So we kind of lean over to the
4 dumpster and start challenging it.

5 Q What does that mean, to challenge?

6 A So just give verbal commands, let me see your hands, put
7 your hands up, we know you're in there, just verbal commands to
8 try to get him to comply and come out peacefully.

9 Q Okay. Showing you State's Exhibit Number 388; which
10 dumpster is it that you saw movement in or your partner saw
11 movement in that you began to challenge?

12 A I'm pretty sure it's this one, but I couldn't be 100 percent
13 sure.

14 MR. LEVENTHAL: Judge, I'm going to object to
15 speculation.

16 MS. BOTELHO: Okay.

17 THE COURT: All right. We don't want you to speculate,
18 so.

19 THE WITNESS: Okay.

20 MS. BOTELHO: Okay.

21 BY MS. BOTELHO:

22 Q It was one of these dumpsters?

23 A Yes.

24 Q Is that right?

25 A Correct.

1 Q Okay. Let me see if I can help out a little bit. Showing
2 you -- well, first of all, what do you find after you challenge this
3 particular dumpster? Did anything happen? Did you find anyone?

4 A Yeah. So we saw -- when I looked in, I saw what looked
5 like a black t-shirt, like someone was in there, and then we started
6 giving commands. No immediate response, then all of a sudden
7 hands started coming up. And as the hands were coming up,
8 looked like what was a firearm, handgun right next to the hands.
9 And then it -- we, obviously, challenged him, got him out of the
10 dumpster.

11 Q Okay. State's Exhibit Number 393; does this appear -- is
12 there -- are there two dumpsters in this particular photo?

13 A There are.

14 Q Okay. Now, it's the front dumpster that's kind of on the
15 front of this particular photo; is that right?

16 A That's correct.

17 Q Okay. And do you note the -- like, the black bag, plastic
18 bag that --

19 A Yeah, that --

20 Q -- that's at the top?

21 A That definitely helps me. Yes.

22 Q Okay. And, now, State's Exhibit Number 394; does this
23 appear to be looking -- or at least taking a picture of the contents,
24 the top contents of the dumpster that would have been to the left of
25 the picture that we were confused about?

1 A Yes. Yes.

2 Q Okay. And so going back to State's Exhibit Number 388,
3 did looking at these exhibits, the last two or three, help you recall
4 which dumpster the individual was found in?

5 A This one.

6 Q And, for the record, it would be the dumpster to the left.

7 A Correct.

8 Q Yes?

9 A Yes.

10 Q Okay. And so you indicated that an individual was pulled
11 out of that dumpster?

12 A Yes, ma'am.

13 Q Okay. And who actually and how did you all pull him out?

14 A So as his hands were coming up, I want to say there were
15 two other officers that were there. And, obviously, we're dealing
16 with a firearm there and the last thing we want to do is be involved
17 in a shooting. So as he was getting out, grabbed his hands, and
18 then kind of pulled him out and took him into custody on the
19 outside of the dumpster.

20 Q Okay. And State's Exhibit Number 396; what does this
21 show?

22 A So there's -- right here there's a set of what I would
23 consider to be baseball-type gloves --

24 Q Okay.

25 A -- is that I saw after we eventually pulled him out.

1 Q Okay.

2 A And it looks like the handgun's over here.

3 Q Okay.

4 A It's a little blurry.

5 Q Okay. And so as -- after he was pulled out, you had the

6 opportunity to look into that dumpster?

7 A Yes, ma'am.

8 Q And did you observe the pair of baseball gloves?

9 A I --

10 Q Baseball-style gloves?

11 A Yes, ma'am.

12 Q Okay. And then the butt of the firearm?

13 A Correct.

14 Q State's Exhibit Number 397; does that appear to be a

15 closer view of the gloves -- the pair of gloves, as well as the

16 firearm?

17 A It does.

18 Q And, for the record, what color are the gloves?

19 A They're black with, like, white lettering or outline.

20 Q Thank you.

21 And once the individual was pulled out of the dumpster,

22 was he identified?

23 A Yes, he was.

24 Q Okay. And was he identified as Pierre Joshlin?

25 A He was.

1 Q State's Exhibit Number 17; do you recognize the
2 individual depicted in this photograph?

3 A I do.

4 Q And who is that?

5 A Pierre Joshlin.

6 MS. BOTELHO: Brief indulgence.

7 I have no more questions. Thank you so much.

8 THE WITNESS: You're welcome, ma'am.

9 THE COURT: Thank you.

10 Cross-examination?

11 MR. LEVENTHAL: Thank you.

12 **CROSS-EXAMINATION**

13 BY MR. LEVENTHAL:

14 Q Officer Calarco?

15 A Yes, sir.

16 Q Good afternoon, sir.

17 A Good afternoon.

18 Q My name is Todd Leventhal, I represent Jemar Matthews.
19 Just a couple of questions for you.

20 A Sure.

21 Q When you got to J and Jimmy Street, you had heard that
22 there was a police chase, I guess, for better -- lack of better terms,
23 right?

24 A I was not at J and Jimmy when I heard that radio traffic.

25 Q Where were you?

1 A I was somewhere to the south, but I wasn't at J and
2 Jimmy.

3 Q Okay. But what led you to J and Jimmy was you knew
4 that there was an officer-involved shooting.

5 A Correct.

6 Q And you had heard that the suspect was running.

7 A Correct.

8 Q And the officer was chasing the suspect; you'd known
9 that, correct?

10 A Yes.

11 Q Okay. And you stated that when you go there, you went
12 into the dumpster and you found who you identified as Mr. Joshlin,
13 right?

14 A Yes, sir.

15 Q You pulled him out of the dumpster and do you know
16 when this picture was taken, sir?

17 A Exactly? What are you talking about, like, the day, the --

18 Q Well, approximately.

19 A I would say shortly after we got him out of custody.

20 Q When you say shortly --

21 A Or got him in --

22 Q -- within minutes?

23 A Shortly -- I don't know. I'd be guessing if I said when that
24 picture was taken.

25 Q Okay. But you don't usually keep suspects sort of hanging

1 around, you then take them down to CCDC and process them,
2 right?

3 A That's correct.

4 Q Okay. So this would not have been long after he was
5 pulled out of the dumpster?

6 MS. BOTELHO: Objection, Your Honor. It misstates his
7 testimony.

8 MR. LEVENTHAL: Okay.

9 MS. BOTELHO: He's already indicated he doesn't know
10 the times of this picture being taken.

11 THE COURT: Right. Sustained.

12 MR. LEVENTHAL: Okay.

13 THE COURT: If you want to ask it a different way?

14 MR. LEVENTHAL: That's fine.

15 BY MR. LEVENTHAL:

16 Q When you pulled him out of the dumpster, did he look
17 substantially like this? Black shirt --

18 A Yes, he looked --

19 Q -- jeans?

20 A Yes, sir.

21 Q Okay. But for probably the orange --

22 A Yeah, he did not have belly chains on.

23 Q Belly chains, okay.

24 A Yeah.

25 Q But everything else in this picture looks exactly as if -- as

1 when you pulled him out of the dumpster, correct?

2 A It looks similar, yes.

3 Q Okay. And you indicated that when you went in the
4 dumpster, you found a set of gloves, correct?

5 A They were inside the dumpster, yes.

6 Q Inside the dumpster, where you located the suspect, right
7 there, right?

8 A Right next to him, yes.

9 Q Right next to him, okay. You indicated that you found a
10 gun right in that dumpster, right next to him, correct?

11 A I saw it right next to him, correct.

12 Q Right. Right next to him. Okay.

13 And you indicated that this was substantially -- so he had
14 shoes on when you pulled him out of the dumpster, correct?

15 A I don't remember if he had shoes on or not.

16 Q Well, he had shoes on now, right?

17 A In that picture, absolutely.

18 Q Okay. But you don't remember he had shoes on or not?

19 A No.

20 Q Okay. And his jeans are all the way up to his waist,
21 correct?

22 A In this photo, yes.

23 Q And when you pulled him out, did you notice his jeans
24 were way down --

25 A I don't remember how --

1 Q -- how his knees were --

2 A I don't remember how his jeans were, sir.

3 Q Okay. Thank you.

4 MR. LEVENTHAL: I have no further questions.

5 THE COURT: Thank you.

6 Any redirect?

7 MS. BOTELHO: No, Your Honor. Thank you.

8 THE COURT: Okay. Sergeant, thank you very much for
9 your testimony here today.

10 THE WITNESS: Thank you, ma'am.

11 THE COURT: You may step down, you are excused from
12 your subpoena.

13 And you may call your next witness.

14 MR. GIORDANI: Thank you.

15 Stephanie Fletcher.

16 **STEPHANIE FLETCHER,**

17 [having been called as a witness and first duly sworn, testified as
18 follows:]

19 THE CLERK: You may be seated. Please state and spell
20 your first and last name for the record.

21 THE WITNESS: Stephanie Fletcher, S-T-E-P-H-A-N-I-E,
22 F-L-E-T-C-H-E-R.

23 **DIRECT EXAMINATION**

24 BY MR. GIORDANI:

25 Q Good afternoon, ma'am.

1 A Good afternoon.

2 Q How are you currently employed?

3 A Currently, I am employed as a forensic scientist with the
4 Las Vegas Metropolitan Police Department in the firearms section.

5 Q Prior to being with the firearms section, what did you do?

6 A Prior to that, for 18 years, I was a crime scene investigator
7 with the crime scene investigation section.

8 Q Your current assignment that has you working out of a
9 lab; is that right?

10 A That's correct.

11 Q And you're dealing with firearms examinations and
12 ballistics, et cetera?

13 A Yes.

14 Q In your role as a -- I know that mask is uncomfortable.

15 A Sorry.

16 Q I apologize.

17 As a crime scene analyst, did you actually go out into the
18 field and respond to crime scenes?

19 A I did, yes.

20 Q And did you have specialized training in order to do what
21 you did as a crime scene analyst?

22 A Yes.

23 Q Can you describe that very briefly for the jury?

24 A Sure. I graduated from the University of Nevada, Las
25 Vegas, with a bachelor's degree in biological sciences in 1999. I

1 hired in with the Department of -- in the crime scene investigation
2 section in January of 2000, where I received in-house training in our
3 academy. There was about two to three months, I can't quite
4 remember exactly how long it was. But then after I graduated the
5 academy, I completed a field training program with field training
6 officers from the crime scene investigation section.

7 I received training in photography, fingerprint processing,
8 note-taking, report writing, diagraming, evidence collection and
9 handling, as well as death investigation.

10 Q And I can presume that you've had additional training
11 with regard to your current assignment; is that right?

12 A I have, yes.

13 Q And that's not really what you're testifying to today.
14 You're testifying to your work as a crime scene analyst back
15 in 2006; is that right?

16 A I am, yes.

17 Q Can you estimate for the ladies and gentlemen of the jury
18 how many crime scenes that you have been to and processed in
19 your career, ma'am?

20 A Sure. In 18 years I've responded to and processed
21 approximately 4,700 crime scenes.

22 Q That's pretty precise. You keep track?

23 A I do, yes.

24 Q I want to talk to you about a specific crime scene that you
25 processed back in 2006, September 30th; do you know what I'm

1 referring to?

2 A I do.

3 Q On that date, did you respond to an area near 1701 J
4 Street?

5 A I did.

6 Q Did you respond to a couple other secondary areas
7 associated with that address?

8 A Yes, I did.

9 Q And a couple other addresses, in fact?

10 A Yes.

11 Q Did you respond, ma'am, to the initial scene, the scene
12 at 1271 Balzar, the homicide?

13 A No, I did not.

14 Q Okay. So were you responsible for the other secondary
15 scenes later in the investigation?

16 A Yes.

17 Q On what date did you respond to this scene?

18 A I responded the evening hours of September 30th, 2006.

19 Q Okay. So hour, couple of hours after the homicide had
20 occurred?

21 A I believe so, yes.

22 Q And where do you -- where did you respond initially if you
23 can recall?

24 A I responded initially to the Sherman Garden Apartments,
25 located at 1701 J Street.

1 Q Okay. Showing you now State's 467; can you see the
2 Sherman Garden Apartments depicted on this map?

3 A Yes.

4 Q And is that flagged on this map?

5 A It is, yes.

6 Q Showing you State's 377; what are we looking at here?

7 A This is a map located outside the apartment complex that
8 denotes where the buildings are located within the apartment
9 complex.

10 Q 1701 is represented on this photograph, that's Sherman
11 Gardens Apartments, correct?

12 A Correct.

13 Q And then there's another adjoining apartment complex
14 there, as well?

15 A That's correct.

16 Q What is that?

17 A That would be the Villa Capri Apartments located at 1801.

18 Q J Street?

19 A J Street, I'm sorry.

20 Q Want to show you some photographs, ma'am. Going to
21 start with 378; what are we looking at here?

22 A This is the parking lot area that is going to be adjacent to
23 Building Number 6 at 1701 J Street.

24 Q Okay. When you responded that -- to that scene, were
25 you briefed?

1 A Yes.

2 Q And can you describe for the ladies and gentlemen of the
3 jury what that means?

4 A When we arrive to the scene, we receive a briefing from
5 the officers and the detectives that have conducted an initial
6 investigation prior to our arrival. And what they are doing is giving
7 us a brief synopsis of the information that they have gathered up to
8 that point. We conduct a walkthrough of the scene to ascertain
9 what evidence has been located, as well as where all the areas of
10 interest are. We also conduct -- as a crime scene unit, we conduct
11 our own independent walkthrough, determine where we want to
12 conduct our searches, and we also divide up duties at that time.

13 Q Okay. Showing you now 381; do you recognize that?

14 A I do.

15 Q What is that?

16 A That's going to be the vehicle entrance area into the
17 complex.

18 Q Okay. It appears there are Metro law enforcement
19 personnel depicted in this photograph; are they part of this
20 investigation, as well?

21 A Yes.

22 Q Just so the jury understands the dynamics, were there
23 multiple different scenes being processed during the course of this
24 investigation?

25 A Yes.

1 Q And multiple different investigatory units involved in
2 those investigation?

3 A Yes.

4 Q I want to refer you to a very particular area within 1701 J,
5 and that's in 384; what are we looking at here?

6 A This is just a little closer view of that initial photograph of
7 the parking lot area and adjacent to Building Number 6, and there's
8 two dumpsters that are located up against the sidewalk there.

9 Q Fair to say that you work at the address of 1701 J Street
10 was focused on this area now depicted in the photograph?

11 A Yes.

12 Q 385, describe the vehicle depicted in that photo, please?

13 A This is a Chrysler, I believe it's a Sebring, it's one of our
14 unmarked units that one of our officers was using that night and we
15 just documented it in place as it was when we arrived.

16 Q Okay. So when you got there, it was in this condition,
17 parked in front of the dumpsters and with the lights on facing the
18 dumpsters?

19 A Yes.

20 Q Showing you now 387; that the same Sebring?

21 A It is.

22 Q Can you see the hood of that Sebring?

23 A Yes.

24 Q And there -- it appears there are a couple of items on the
25 hood of that vehicle that I'll get to momentarily.

1 A Yes, there are.

2 Q While you're documenting this Chrysler Sebring at the
3 scene, did you observe any damage from, like, a collision or
4 anything on the front of this vehicle?

5 A No, we did not.

6 Q Moving now to 388; what's depicted in this photograph
7 here?

8 A These are the two dumpsters that were located within that
9 parking lot area that the Sebring was parked facing.

10 Q Okay. Showing you 393; is that a different view of those
11 same dumpsters?

12 A It is.

13 Q And then do you see this white material here on the inside
14 of the lip of this dumpster?

15 A Yes.

16 Q What does that appear to be or what did that appear to be
17 to you?

18 A It appeared to be some dried paint of some sort.

19 Q Did you document that particular corner of that dumpster
20 and its contents?

21 A Yes.

22 Q 394, what are we looking at here?

23 A This is the interior view of that dumpster there. Near that
24 corner where that white paint is located, we were able to see a pair
25 of black baseball gloves. There was also a firearm located within

1 the dumpster.

2 Q 399, can you see the firearm in that particular photo?

3 A It is -- it's difficult to see, but if you look up towards -- just
4 underneath where that trash bag is located, underneath there is
5 going to be the back side of the firearm.

6 Q There's a mouse in front of you, ma'am, you can roll over
7 it.

8 A Okay.

9 Q Try not to click, but you can point.

10 A Okay. So here would be the baseball gloves. And then
11 right in this area is going to be where the firearm is located.

12 Q After documenting the gloves and the firearm in place as
13 they are in this photograph, did you ultimately impound those
14 items as evidence?

15 A Yes.

16 Q Were there other items near that dumpster that you
17 photographed and then impounded?

18 A Yes. We also located a wristwatch that was on the
19 pavement just adjacent to the dumpster.

20 Q State's 400; do you see it there?

21 A I do. It's located on the pavement here, in between the
22 two dumpsters.

23 Q State's 402, is that that same wristwatch?

24 A It is, yes.

25 Q In addition, I previously mentioned some items on the

1 hood of that Sebring. 403, what are we looking at there?

2 A On the hood here, when we arrived there were a few
3 items on top of the Sebring. There was a set of keys located right
4 here. We also recovered a white durag or like a head covering
5 scarf-type piece of material. There was a quarter, like, a 25-cent
6 U.S. quarter. And we also recovered a yellow metal, like, a
7 decorate teeth covering, had four teeth and it was a yellow in color.

8 Q Decorative, like a grill?

9 A Like a grill, yes.

10 Q And then what is this up here? Let me show you,
11 actually --

12 A I don't recall specifically. But --

13 Q That's all right. Let me show you State's 406.

14 A Oh, I apologize. Yes, there was also -- this item here was
15 a cell phone.

16 Q I had previously mentioned you impounding those items
17 from within the trash dumpster. I want to show you State's 409;
18 recognize that?

19 A I do.

20 Q What is that?

21 A This is going to be a view of the firearm right after it was
22 removed from the dumpster.

23 Q State's 410, is that that same firearm?

24 A It is, yes.

25 Q And can you read that serial number into the record,

1 please?

2 A Sure. It's ESX135.

3 Q And that's a Glock?

4 A It is.

5 Q What caliber.

6 A .45 auto.

7 Q Did you ultimately remove that magazine from the
8 firearm?

9 A Yes.

10 Q State's 412, what are we looking at there?

11 A This is a view of the firearm after I removed the cartridge
12 from the chamber, and that cartridge is up above the gun. You can
13 see at the top there, and then the magazine has been removed,
14 however, I have not removed any of the cartridges from inside the
15 magazine at this point.

16 Q Okay. So to be clear, this full cartridge up here was
17 actually in the chamber at the time?

18 A Yes.

19 Q It wasn't from this magazine, it was from the chamber?

20 A It was removed from the chamber, yes.

21 Q Understood. Okay. And then I want to show you 413,
22 have you explain what we're looking at here?

23 A And this is showing the back side of the magazine. And
24 what this is depicting is the approximate number of cartridges that
25 are located inside the magazine. This is a capacity marking. So

1 based on this, you can see that there's a little brass color behind
2 that hold above 15, so it would indicate that there are
3 approximately 15 cartridges located inside the magazine.

4 Q Down here, there are some what appears to be 17 and 18
5 as well; do you see that?

6 A I do. I apologize. Yes.

7 Q That's okay. Did you conduct a countdown on this firearm
8 ultimately?

9 A I did, yes.

10 Q Okay. Let's get to that while we're here, then.

11 A Yes.

12 Q What is a countdown?

13 A A countdown is something that we do to determine how
14 many cartridges are loaded inside a firearm. So we would check
15 the chamber to see if there's anything in there, as well as remove
16 any cartridges that are loaded inside the magazine, and take a total
17 count to determine how many cartridges were loaded inside that
18 firearm.

19 Q Okay. And in this particular firearm, the Glock 45-caliber,
20 how many cartridges were within the magazine?

21 A I would have to refer to my report for -- to refresh my
22 memory on that.

23 Q Sure. Do you have that with you or --

24 A I do.

25 MR. GIORDANI: Would that be okay, Your Honor?

1 THE COURT: You may.

2 THE WITNESS: So I removed 15 cartridges from inside
3 the magazine, as well as one from inside the chamber.

4 BY MR. GIORDANI:

5 Q Okay. So 15 would be what you previously referred to
6 here with the brass-looking item behind the plug?

7 A Correct.

8 Q And 17 and 18, that appears that those aren't loaded
9 based upon your countdown; is that right?

10 A That's correct.

11 Q Okay. And then you said one in the chamber?

12 A Correct.

13 Q So 15 plus one is what was in this firearm?

14 A Correct.

15 Q Showing you 461; did you create a diagram associated
16 with this particular scene?

17 A I did.

18 Q And is this that diagram?

19 A It is.

20 Q Does this -- on the left, these two green items, do those
21 depict the trash dumpsters?

22 A Those are the dumpsters, yes.

23 Q And then up on the right, what are we looking at in this
24 little box?

25 A This little box here is denoting the items of evidence that

1 were recovered and are notated specifically within the diagram.

2 Q Okay. So the same items we've looked at before, we got
3 the Glock handgun, the black gloves, and then that wristwatch?

4 A Correct.

5 Q That's the only items impounded from this particular
6 scene?

7 A Those are the only items that I specifically notated on the
8 diagram. However, I did recover the items from the hood of the
9 vehicle as well.

10 Q Okay.

11 A They're just not notated on this diagram.

12 Q Understood. Do you know how those items ended up on
13 the hood of that vehicle?

14 A I do not.

15 Q Okay. And, thus, they're not notated on your diagram; is
16 that right?

17 A It was more so left off for clarity, just because they were
18 all within the same area.

19 Q Oh, okay.

20 A But mostly if they're just all on the hood of a car, that was
21 easily to explain, not as easily shown on the diagram.

22 Q Understood. Okay.

23 A Yep.

24 Q Did you also respond to a scene or an area located at
25 Doolittle and Lexington?

1 A Yes.

2 Q Showing you 462; what are we looking at here?

3 A This is the second diagram that I completed depicting the
4 intersection area of Doolittle and Lexington.

5 Q Okay. While there's a -- clearly a homicide investigation
6 going on, is there also another investigation happening
7 concurrently?

8 A Yes.

9 Q And what was that entail?

10 A We were tasked with investigating the officer-involved
11 shooting.

12 Q Okay. This particular diagram has three -- I don't know
13 what these are. Can you explain what these are at the bottom of
14 the diagram?

15 A Sure. These three circles down here on -- this is Doolittle
16 Avenue running east/west, and Lexington is running north/south.
17 So right here on Doolittle, which would be east of Lexington, the
18 three markers are denoting three fired cartridge cases that were
19 located on the pavement.

20 Q Then going back up, what are we looking at here?

21 A This area here is a grass area that was located just
22 alongside a church that was situated on this side of the street.
23 These are also two evidence -- denoting two areas that I recovered
24 evidence from.

25 Q Okay. And then you have a little box over here entitled

1 Evidence; is that all the items of evidence that are referenced on
2 this diagram?

3 A It is, yes.

4 Q Three .45 cartridge cases that would have -- that would be
5 related to these items down here?

6 A Correct.

7 Q And then what are these two items?

8 A These two items, one item is a 22-caliber rifle, and the
9 other item is a plastic cup holder.

10 Q Showing you 265; what are we looking at here?

11 A This is a overall view of that intersection at Doolittle and
12 Lexington.

13 Q 268, is this that same area, just a different angle?

14 A Yes. This is showing that same intersection from the
15 opposite direction.

16 Q Okay. What are we looking at here?

17 A This is a vehicle that we -- when we arrived, was located
18 up on the sidewalk, partially up on the sidewalk there in front of
19 that church. It was -- appeared to have been involved in an accident
20 with a fire -- and it had struck a fire hydrant.

21 Q And what is this here?

22 A That is the illuminated sign for the church that's located
23 there.

24 Q And is this the scene as it appeared when you responded
25 and, of course, documented these photographs?

1 A It is, yes.

2 Q State's 278, describe what we're looking at here?

3 A This is a closer view of that vehicle that was located up on
4 the sidewalk with the front right end in contact with the fire hydrant.

5 Q And did you document not only the exterior -- like in this
6 photograph, but also the interior of that vehicle?

7 A Yes.

8 Q Showing you State's 285; describe what we're looking at,
9 please.

10 A This is an overall view showing the vehicle -- the left side
11 of the vehicle or the driver side of the vehicle, with the front left
12 door open.

13 Q 287.

14 A That's going to be an overall view from the outside
15 showing the interior portion of the front passenger area.

16 Q So the record reflects it, this also shows the driver side
17 door open, correct?

18 A Correct.

19 Q And one of the previous photos shows the rear-end of the
20 vehicle; do you recall if this vehicle was on at the time?

21 A It was.

22 Q It was still in the running --

23 A Yes.

24 Q -- position? And were there keys in the ignition?

25 A There were, yes.

1 Q Can you see those in this photograph that I show?

2 A You can see the lanyard. There's a lanyard hanging down

3 from the steering column area.

4 Q Okay. Moving over to 291; what are we looking at here?

5 A This is a photograph showing the front passenger

6 floorboard and there was a firearm located on the floor there.

7 Q Did you further document that firearm?

8 A We did at a later time, yes.

9 Q Okay. And did you also impound that firearm?

10 A Yes.

11 Q Do you recall, ma'am, what make and model caliber that

12 firearm is?

13 A This was a .45 auto caliber. Colt is the manufacturer, it's

14 a 1911 style firearm.

15 MR. GIORDANI: Officer?

16 THE COURT: Have you -- Hawks, have you checked that?

17 THE MARSHAL: Yeah, I checked them all when Haley

18 brought them up.

19 THE COURT: Okay. All right.

20 MR. GIORDANI: May I approach?

21 THE COURT: You may.

22 BY MR. GIORDANI:

23 Q Showing you State's Exhibit 8; do you recognize that?

24 A I do.

25 Q What does that appear to be?

1 A This appears to be the package where I impounded the
2 Colt Series 80 45-caliber firearm from inside that vehicle.

3 Q Okay. I don't know if it's open, but can you check?

4 A Sure.

5 Q It should be. Oh, it has been retaped, so let me get you
6 some scissors.

7 There you go. If you can open it up for us, ma'am.

8 A [Witness complies.]

9 Q What do you expect to find in this box?

10 A I expect to find the firearm.

11 Q Okay. And is that that firearm?

12 A Yes, it is.

13 Q How can you tell?

14 MR. GIORDANI: For the record, I'm showing -- the witness
15 has opened the box and now there's Exhibit Tag 8A.

16 THE CLERK: Thank you.

17 THE WITNESS: Inside is the -- on the front of the package,
18 I've denoted the serial number and that serial number does match
19 the firearm that is inside the box.

20 BY MR. GIORDANI:

21 Q Okay. If you could just hold that up so the jury can see it
22 very briefly.

23 A [Witness complies.]

24 Q Should be strapped in there, right?

25 A It's not.

1 Q Okay. It's not strapped in there, but there's a zip tie
2 through the slide, so it's safe at this time.

3 A That's correct.

4 Q Ma'am, you indicated that you documented that firearm
5 later; is that right?

6 A That's correct.

7 Q During the course of impounding that firearm, was there
8 anything of note that you documented?

9 A I did note that there was a magazine seated in the grip.

10 Q Okay. I'm referring to something else, but that, like, a
11 really --

12 A Okay.

13 Q -- cryptic question I just asked.

14 A Yeah.

15 Q So let me show you 302; is that that same firearm?

16 A Yes.

17 Q What is that?

18 A In the chamber, you see the slide has been -- is rearward
19 and open with the ejection port open there. And inside the ejection
20 port, there is a unfired cartridge that has been -- that's jammed
21 inside the gun.

22 Q Okay. 303, is that that same jam, just a little closer?

23 A Yes.

24 Q Based upon your knowledge, I guess back then, but now
25 you're a firearms analyst, so would that render the gun inoperable

1 at that point in time?

2 A Yes.

3 Q Okay. Ah, here, little bit better photograph, 305. Are we
4 seeing that same jam now from a different angle?

5 A That's correct, yes.

6 Q Did you remove the magazine from the gun?

7 A I did.

8 Q 306, and did you conduct a countdown on that magazine
9 as well?

10 A Yes.

11 Q 307, what were the results of the countdown on this
12 particular firearm?

13 A Could I refer to my report?

14 Q Would that refresh your memory?

15 A Yes, please.

16 THE COURT: You may.

17 THE WITNESS: Thank you.

18 So from inside the magazine, I removed six cartridges.
19 And there was an additional cartridge that was jammed inside the
20 chamber for a total of seven unfired cartridges.

21 BY MR. GIORDANI:

22 Q State's 308 is -- what is that there that we're looking at?

23 A This is a photograph showing the head stamp area of the
24 unfired cartridge that was jammed in the chamber of the gun, and
25 it's denoting the caliber, as well as the manufacturer of the

1 ammunition.

2 Q Read that into the record, please.

3 A It is Winchester is the manufacturer, and it is a .45 auto
4 caliber.

5 Q Did you document the cartridges from the magazine as to
6 their head stamps as well?

7 A I don't recall specifically if we did.

8 Q Okay. Let me ask you this way: Did you impound the
9 cartridges in the magazine along with the firearm?

10 A I did, yes.

11 Q And would they be packaged in a similar fashion as the
12 firearm that I just showed you?

13 A Yes.

14 Q Showing you now 294; do you recognize that?

15 A Yes.

16 Q What are we looking at there, ma'am?

17 A This is the grass area that was just next to that church. So
18 it's in between the Lincoln Town Car that was up on the sidewalk
19 and the church, that grass area that's depicted in the diagram.

20 Q State's 295; what are we looking at here?

21 A On the left here, this is going to be that 22-caliber rifle,
22 and on the right is the plastic cup holder.

23 Q 297?

24 A This photograph is showing an overall view of that
25 Ruger 22-caliber rifle.

1 Q Did you impound that item, ma'am?

2 A I did, yes.

3 MR. GIORDANI: May I approach?

4 THE COURT: You may.

5 BY MR. GIORDANI:

6 Q Showing you State's 5; do you recognize this packaging?

7 A I do.

8 Q What does that appear to be?

9 A This is the package that contains the Ruger Model 10/22
10 Carbine 22 Long Rifle -- caliber rifle.

11 Q Okay. It's already open, so I'm going to ask you to take a
12 look in there. What do you see?

13 A Inside the box is the Ruger 10/22 caliber -- 22 Long Rifle
14 rifle that I recovered from the scene.

15 Q Thanks for the giant box. You didn't have a smaller box?

16 A No, I did not. I'm sorry.

17 Q So as it appears here in the box, there's no magazine?

18 A No, there's not.

19 Q Right? That would be impounded separately?

20 A Yes.

21 Q Okay. Did you conduct a countdown on this weapon as
22 well?

23 A I did.

24 Q Showing you 298; what are we looking at there?

25 A In this photograph is showing the bolt pulled open to

1 expose the chamber, and inside there was one cartridge.

2 Q What caliber was that cartridge?

3 A It was a .22 Long Rifle.

4 Q What does that mean, .22 Long Rifle?

5 A It's just the specific caliber that is designated for this
6 particular firearm. So it denotes the overall size design of that
7 particular type of ammunition. And this particular firearm is
8 designed to fire a .22 Long Rifle.

9 Q Well, rather than dig through this, ma'am, do you recall
10 how many, if any, were -- how many cartridges were in the long
11 magazine on this rifle?

12 A Can I refer to my notes just to refresh my memory again
13 once more?

14 THE COURT: You may.

15 THE WITNESS: For this particular firearm, we had
16 recovered one unfired cartridge from the chamber and the
17 magazine was empty.

18 BY MR. GIORDANI:

19 Q Okay. So the rifle had one in the chamber and that's a live
20 round?

21 A Correct.

22 Q And then nothing in the mag?

23 A Nothing in the mag.

24 Q You previously mentioned investigating documenting the
25 officer-involved shooting as well?

1 A Yes.

2 Q Showing you 310; what are we looking at here?

3 A So this is an overall view of the street. It was going -- the
4 street area where the three expended cartridge cases were located.

5 MR. GIORDANI: I apologize, let me bounce back here
6 briefly.

7 May I approach?

8 THE COURT: You may.

9 BY MR. GIORDANI:

10 Q What are we looking at? I'm showing State's 6, what are
11 we looking at here, ma'am?

12 A This is the package that contains the .22 Long Rifle
13 magazine, as well as the unfired cartridge that was recovered from
14 the chamber of the rifle.

15 Q Okay. So what do you expect to find if you open this bag?

16 A I expect to find the magazine as well as the cartridge.

17 Q Okay. If you could do that, try to do it along the side.

18 A [Witness complies.]

19 Q And then while you're cutting that, there's not only red
20 evidence labels on there, but there's also blue labels; what do those
21 mean?

22 A The red evidence seals are the original seals that I placed
23 on the package once I was done and sealed it up and got it ready to
24 be impounded into evidence. The blue seals are associated with
25 our forensic laboratory and those were placed by the firearms

1 examiner after they had completed their examination of the
2 evidence.

3 Q Okay. So this particular item, amongst others, has been
4 processed already by firearms?

5 A Yes.

6 Q And I say firearms, shorthand, but the firearms laboratory,
7 correct?

8 A Correct.

9 Q The court clerk is on top of it, because these are already
10 marked 6A and 6B; do you see that?

11 A I do.

12 Q As exhibits. So what is 6A?

13 A 6A is going to be the magazine that was removed from
14 the .22 Long Rifle rifle.

15 Q And 6B?

16 A And 6B contains a vial in which I placed the unfired
17 cartridge that was recovered from the chamber of the rifle.

18 Q Okay. And we were previously talking about you
19 documenting the officer-involved shooting scene. You indicated
20 three cartridge cases found in that area?

21 A Yes.

22 Q State's 312, what does that document?

23 A This is just a little bit closer view of that street area
24 showing -- and each cone denotes where a cartridge case is located.

25 Q And fair to say there's a vehicle right next to that area --

1 A Yes.

2 Q -- parked on the side of the road?

3 A Yes.

4 Q That's not, like, a police vehicle, right?

5 A As far as I know, it was not a police vehicle.

6 Q Okay. Those three cart cases from this scene, were those

7 documented and impounded by you as well?

8 A They were, yes.

9 Q And then as a, I guess, a result of the officer-involved

10 shooting investigation, did you document a man by the name of

11 Bradley Cupp?

12 A Yes.

13 Q And who is that?

14 A He was the officer that was reported to be involved in the

15 shooting.

16 Q State's 317, is that Bradley Cupp?

17 A Yes.

18 Q And is that how he appeared when you documented him

19 for the officer-involved shooting investigation?

20 A Yes.

21 Q Did you also document his firearm?

22 A Yes, we did.

23 Q Showing you State's 321; what are we looking at there?

24 A This is an overall view of the firearm that we recovered

25 from him at the time of the investigation.

1 Q Did you conduct a countdown on that firearm as well?

2 A Yes.

3 Q What type of firearm is that?

4 A He had a Kimber.

5 Q And the caliber?

6 A Caliber -- I'm going to refer to my notes -- my report to
7 refresh my memory, if I could?

8 THE COURT: You may.

9 THE WITNESS: That was also a .45 auto -- semiautomatic
10 pistol.

11 BY MR. GIORDANI:

12 Q Showing you State's 322; what is this depicting?

13 A This is depicting the countdown. So, again, the cartridge
14 that's right above the firearm there is going to be located inside the
15 chamber. And then the four cartridges that are lined up alongside
16 the magazine are the ones that we removed from the magazine that
17 was seated in the grips.

18 Q Okay. When a semiautomatic firearm discharges, does a
19 new round automatically -- well, can you describe that process
20 briefly?

21 A Sure. So the cartridges are loaded into the magazine.
22 The magazine is then seated inside the grips of the firearm. That
23 slide, the top portion of the firearm moves rearward and forward
24 and it does that at -- during the act of firing the gun. When the slide
25 moves rearward and then moves back forward again to lock, it

1 strips the topmost cartridge from that magazine and it feeds and
2 chambers that cartridge into the chamber of the firearm. So since
3 the -- and it -- the slide moves rearward and forward under the
4 power of the gun as it is firing. That is why it's referred to as a
5 semiautomatic. So every pull of the trigger fires the cartridge that's
6 chambered. The gases and all of that that happens as it's firing act
7 to push rearward and unlock the slide, which then extract and ejects
8 the fired cartridge case from inside the chamber. And as it's
9 moving forward again, it strips the topmost cartridge and
10 rechambers the next one and it's ready to fire again with the next
11 pull of the trigger.

12 Q Okay. So do you know the capacity of this particular
13 magazine in that same exhibit I just showed you?

14 A I believe the capacity on this magazine is seven.

15 Q Okay. So during the course of your countdown, what
16 were the results?

17 A We found that his firearm was loaded with four in the
18 magazine and one in the chamber, and that he had fired three
19 times.

20 Q And was that consistent with three cart cases -- cartridge
21 cases on the ground at the scene?

22 A Yes.

23 Q Just so the jury's not confused when they deliberate, what
24 is this in 325?

25 A This is the spare magazine that Officer Cupp was carrying

1 on his person, so we conducted a countdown on that as well to see
2 how many were loaded inside his backup magazine.

3 Q And how many were in the backup magazine?

4 A There were seven.

5 Q Were there -- was there further testing done on that
6 Lincoln that we saw previously?

7 A Yes.

8 Q And where was that conducted?

9 A We had the vehicle towed back to the vehicle processing
10 bay at our office in the criminal bureau.

11 Q Show you State's 432; is that that same Lincoln?

12 A Yes.

13 Q And what type of processing did you conduct on that
14 vehicle?

15 A The first thing we did is we searched the interior of the
16 vehicle to see if we could locate any additional items of evidence.
17 Once that was completed, we then fingerprint processed both the
18 interior and exterior surfaces of the vehicle.

19 Q Throughout the course of these photographs -- I'm going
20 to show you 433 -- there's a bunch of photos with tape on them;
21 do -- you would agree with me there?

22 A Yes.

23 Q Is that remnants of fingerprint processing?

24 A This is part of the process, yes.

25 Q Can you describe that for the jury?

1 A Sure. So when we do fingerprint processing, the first
2 thing we do is we do just a real cursory visual check using a
3 flashlight to see if there's anything visible to the naked eye. Once
4 we determine what areas are conducive for latent print processing,
5 we take a fingerprint brush that has fingerprint powder on it, we
6 lightly dust that fingerprint powder over those surfaces. And if
7 there are any latent prints, we -- the powder will adhere to that.
8 And then they're -- it's adhering to the moisture that's left behind
9 when you touch something. There's water and different kinds of
10 oils that are on the surfaces of your hands, and that is left behind
11 when you touch things. That powder adheres to that. In order for
12 us to recover that fingerprint for later examination by our latent
13 print examiners, we place a -- basically, it's just a big piece of
14 Scotch tape over top of that developed latent print.

15 We photograph it in place so that we know where it was
16 located later to document. We then lift that tape off and it pulls the
17 powder with it. We place that tape on a contrasting color card, so
18 in this case, we used black powder, so we placed it on a white card.
19 We write all the applicable information related to the call as well as
20 the location where it was recovered for that particular fingerprint.
21 And then those latent print cards are then impounded as evidence.

22 Q Was there latent print processing conducted on a bunch of
23 different areas of this particular Lincoln?

24 A Yes.

25 Q In addition to that, was there latent print processing

1 conducted on that Sebring, the hood of the Sebring, back at the
2 dumpster scene?

3 A Yes. We also towed that vehicle back to our office so that
4 we could conduct latent print processing in our garage.

5 Q Okay. And I fumbled my words there. So I'm referring to
6 the vehicle that we saw in the photos at the dumpster scene, that
7 was towed back and processed at the lab?

8 A Correct.

9 Q And that was processed for potential fingerprints as well?

10 A Yes, it was.

11 Q One last set of about five photos and I'll be done.

12 Did you also observe some -- or respond to an area
13 of 1200 Eleanor?

14 A Yes.

15 Q Showing you now State's 332; do you recognize that?

16 A Yes. This would be the front of the residence located
17 at 1200 Eleanor.

18 Q And 3333, what are we looking at here?

19 A This is the sidewalk area in front of 1200 Eleanor Avenue,
20 and that cone is depicting a piece of evidence that we recovered.

21 Q Okay. And then what is this here in the foreground?

22 A That appears to be a tire mark.

23 Q Okay. Showing you now 334; what are we looking at?

24 A This is a closer-up view showing a red knit glove that was
25 recovered from the sidewalk area in front of the residence.

1 Q 335, that same red knit glove?

2 A Correct.

3 Q Fair to say there's a small hole on the -- I won't
4 characterize it, there's a hole on the side of this glove?

5 A Correct.

6 Q And did you and fellow crime scene analysts impound this
7 glove into evidence?

8 A Yes, we did.

9 Q And would this and all the other items that you previously
10 discussed have been impounded under Las Vegas Metropolitan
11 Police Department Event Number 060930-3216?

12 A Yes.

13 Q Did you conduct -- you yourself conduct any testing or
14 processing on this glove?

15 A I did not.

16 Q Okay. Thank you.

17 MR. GIORDANI: And I'll pass the witness at this time.

18 THE COURT: Thank you.

19 Cross-examination?

20 MR. TANASI: Yes, Your Honor. Thank you.

21 **CROSS-EXAMINATION**

22 BY MR. TANASI:

23 Q Good afternoon, ma'am.

24 A Good afternoon.

25 Q I'm Rich Tanasi, I represent Mr. Matthews. I have a few

1 questions for you on cross, fair?

2 A Okay.

3 Q All right. You indicated that you have processed 4700
4 scenes, correct?

5 A Correct.

6 Q In your 18-year career, fair?

7 A Yes. That's correct.

8 Q All right. And your duties, they include documenting the
9 physical evidence at a scene, correct?

10 A Correct.

11 Q Recovering all the evidence that's relevant to your
12 investigation at the scene, fair?

13 A Correct.

14 Q Processing that evidence as you find it, fair?

15 A Correct.

16 Q All right. You want to be thorough at the scene, right?

17 A Yes.

18 Q You want to be very accurate in everything you're doing,
19 correct?

20 A Yes.

21 Q You want to be as careful as possible, fair?

22 A Correct.

23 Q Okay. You want to be as careful as possible when you
24 handle evidence, right?

25 A Correct.

1 Q Kind of as we went through a little bit on your direct
2 exam, we were careful about how we opened up the boxes, right?

3 A Yes.

4 Q Careful not to touch any of the items inside of those boxes
5 without a glove, correct?

6 A Correct.

7 Q Because things like fingerprints can be left from your
8 hands onto that potential evidence, correct?

9 A They can be, yes.

10 Q Right? DNA can also be left from your hands, correct?

11 A Yes.

12 Q DNA can be left from any part of your hands, your fingers,
13 your palms, fair?

14 A As far as I know, yes. I'm not a DNA expert, so I'm not -- I
15 don't know exactly all of that. But as far as I understand it, yes.

16 Q Understood. Not a DNA expert, but certainly understand
17 the value of DNA in the course and scope of your investigation of
18 the case, correct?

19 A Yes.

20 Q So you're looking for areas that may contain DNA, right?

21 A Absolutely, yes.

22 Q And so also in the 4700 investigations that you've done,
23 you look for fingerprint evidence, correct?

24 A Yes.

25 Q And fingerprint evidence can be left on different objects,

1 like steering wheels, fair?

2 A I -- in my experience, I do not recall ever having recovered
3 a usable fingerprint off of a steering wheel.

4 Q DNA can be left on a steering wheel, though, fair?

5 A Correct.

6 Q Okay. DNA can be -- or fingerprints, rather, can be left on
7 metal surfaces or even glass surfaces on vehicles, fair?

8 A Correct.

9 Q Okay. And so you want to be very careful when you're
10 doing that. How about hair follicles, can that leave any DNA
11 evidence or any evidence of -- anything of an evidentiary value?

12 A From what I understand, it's a possibility, yes.

13 Q Okay. Blood?

14 A Yes.

15 Q Sweat?

16 A From what I understand, yes.

17 Q Potentially can leave something of evidentiary value, like
18 DNA, fair?

19 A Fair.

20 Q When you get to a scene, normally, you conduct an initial
21 briefing, correct?

22 A Yes.

23 Q And you did that in this case, right?

24 A We did, yes.

25 Q All right. When you get there, you meet with the different

1 detectives that are assigned at that point, right?

2 A We do.

3 Q And you sort of get an idea of at least everybody's
4 understanding at that point, fair?

5 A Yes.

6 Q You came to learn then, certainly, that the individual
7 wearing red gloves was running from police, fair?

8 A I don't specifically recall what I was briefed on regarding
9 the glove at the time. I just remember being told that there was a
10 glove of interest located outside that residence and we needed to
11 recover it.

12 Q Sure. So do you or do you not remember being briefed
13 on whether or not you -- the -- there was a path that that individual
14 was following that was wearing the alleged glove?

15 A I don't specifically remember that at this time, being as it
16 was so many years ago, I don't remember every detail of what I
17 was told in the briefing in regards to every piece of evidence. No,
18 I'm sorry.

19 Q Okay. All right. So then, as you sit here today, you would
20 have been the only crime scene analyst who would have followed
21 that potential path, right?

22 A There were several of us working, and I also -- I had
23 somebody that I was working with on this scene. He was
24 conducting the photography with me being present, as well as
25 writing the report and taking notes. And I was tasked with the

1 diagram and recovering the evidence.

2 Q Understood. But you testified here today about the red
3 glove, correct?

4 A Yes.

5 Q Right?

6 A Yes.

7 Q And so you testified to its location, correct?

8 A Yes.

9 Q And you also testified to evidence recovered at the scene
10 of the crash of the Lincoln, fair?

11 A Yes.

12 Q And so you also testified to your recovery of evidence
13 around the dumpster area too, correct?

14 A Yes.

15 Q All right. Any other area that you recall that you actually
16 investigated in this case?

17 A No.

18 Q No. Okay. So that would -- these might be some
19 questions, then, for another analyst potentially?

20 A In regards to what we were told about the glove
21 specifically? Is that what you're --

22 Q In regards to the path that the suspect who was fleeing
23 the Lincoln ran, right? Would you not be the person to ask those
24 questions to or would some other analyst be the person to ask
25 those questions to?

1 A I was in the briefing with everyone. I just don't specifically
2 remember the path that we were told somebody ran in regards to
3 the this glove.

4 Q Understood.

5 A That's all I'm saying. I don't -- I -- all I was told -- I can
6 specifically remember was that this glove was of interest and that it
7 needed to be documented and recovered.

8 Q Understood. But you were told that, right?

9 A Yes.

10 Q Were you told about another glove?

11 A The only other gloves that I was told about were the ones
12 that were inside the dumpster --

13 Q Sure.

14 A -- at 1701 J Street.

15 Q And you testified to those.

16 A Yes.

17 Q Those were two black gloves, correct?

18 A Correct.

19 Q And baseball-style gloves, right?

20 A Yes.

21 Q And they were found next to a weapon, correct?

22 A Correct.

23 Q All in the same place, right?

24 A Yes.

25 Q Okay. In this particular case, with respect to the red glove,

1 though, you've only recovered -- you only recovered one glove,
2 correct?

3 A That's correct.

4 Q All right. So the Lincoln Town Car that we talked about
5 on -- which you talked about on direct, that Lincoln was processed
6 for fingerprints, correct?

7 A Yes.

8 Q Processed for DNA as well?

9 A We did not recover any DNA from the vehicle.

10 Q Was it processed for DNA, though?

11 A No.

12 Q No? Okay. Didn't recover DNA, though, correct?

13 A No.

14 Q Did recover some fingerprint -- some prints, correct?

15 A We did, yes.

16 Q And you testified earlier that fingerprints, they can -- they
17 come from hands, right?

18 A Yes.

19 Q And water on hands, right?

20 A Correct.

21 Q So that's water on fingertips, fair?

22 A Yes.

23 Q Okay. Also water on palms, correct?

24 A Correct.

25 Q And there's such a thing as a palm print, fair?

1 A There is, yes.

2 Q Okay. And that's something you would search for that
3 would have evidentiary value, correct?

4 A Yes.

5 Q All right. We're looking at the glove here in front of us,
6 Exhibit 335, see a hole in that glove, fair?

7 A Yes.

8 Q That would expose part of the hand, correct?

9 A It could, yes.

10 Q And it could expose parts of fingerprints, then, that could
11 be -- or prints that could be valuable to your analysis, fair?

12 A It may, yes.

13 Q Okay. Didn't exist in this case, though, correct?

14 A That I do not know.

15 Q Right. Fair question. I jumped the gun there.

16 You didn't actually process or do any of the fingerprint
17 comparisons yourself, right? You process your fingerprints and
18 then you send that away to someone else to do that job, correct?

19 A Yes.

20 Q All right. Located a 22-caliber rifle, correct?

21 A Correct.

22 Q Right. It was near the church, right?

23 A Yes, it was.

24 Q It was a grassy area, sort of on the sidewalk there, right?

25 A Yes.

1 Q Okay.

2 MR. TANASI: Court's brief indulgence.

3 Q All right. So what I was getting at, what I wanted to chat
4 about, we'll first take a look at Exhibit 268. All right. That depicts
5 the Lincoln Town Car, correct?

6 A Yes.

7 Q And you would agree with me that in this particular
8 picture, there are some dark areas, correct?

9 A Yes.

10 Q Okay. Sort of here in the front, right?

11 A Yes.

12 Q Yeah. And when we looked at some of our photos from
13 earlier of evidence on the scene, take, for example, 297, right?

14 A Yes.

15 Q That is similar to the exhibit I was looking for, but same
16 idea in that in this particular picture, it looks like it's lit up, right?

17 A Yes.

18 Q Right? Because when you get to the scene, what you're
19 doing in order to take pictures is brightening the scene, right?

20 A Yes.

21 Q So you have some flashlights and you're shining those
22 lights, right?

23 A This is -- in this instance, it's just a flashing if it's not into
24 the camera, that's adding artificial light so we can visualize the
25 object.

1 Q Understood. And so the same thing goes for that
2 particular picture I was looking for a moment ago that has the cup
3 holder right next to it. That picture, where the grass is all lit up,
4 that's from the flash as well, right?

5 A Yes.

6 Q Okay. So those kind of bright photos that we see of the
7 evidence don't really depict exactly what the scene looked like
8 without those flashes, right?

9 A Correct. It's not accurately depicting the lighting
10 conditions, no.

11 Q Understood. All right. And again, that was on the
12 passenger side that this particular rifle was located, on the grassy
13 area on the passenger side of the Town Car, correct?

14 A It -- yeah, it would be on the right side of the vehicle, yes.

15 Q Correct. And then you testified that the banana-style
16 magazine, it was empty, right?

17 A Yes.

18 Q Okay. As rounds are fired from this weapon, the firearm
19 kind of loads itself from the magazine, if you understand that
20 correctly?

21 A Yes, it does.

22 Q Okay. And there were no fingerprints that came from this
23 particular weapon, correct?

24 A I did not fingerprint process it, no.

25 Q You did not fingerprint process this. You also didn't

1 process it for DNA, correct?

2 A I did not.

3 Q Okay. You would agree with me that loading a weapon
4 like that would take two hands, right?

5 A Normally, yes.

6 Q Normally yes, right? It would be real difficult to load that
7 with just one hand, right?

8 A Yes.

9 Q Firing and properly aiming that weapon, while it could be
10 done with one hand, that is a little more difficult, correct?

11 A You could -- in my opinion, you could probably fire that
12 firearm with one or two hands, yes.

13 Q You could fire with one or two, but if you're aiming, right,
14 you're going to be using two hands most likely, fair?

15 A You may, yes.

16 Q Okay. And if you're doing -- so your hand might be
17 underneath the muzzle or the front end of the gun, fair?

18 A It could be, yes.

19 Q Okay. Talked about the unmarked Chrysler Sebring;
20 remember that vehicle?

21 A Okay.

22 Q Yep. That particular vehicle was also processed for
23 fingerprints, correct?

24 A Yes.

25 Q Actually took that one back to the -- where did you take it

1 back to process it?

2 A We took that back to our office to process it in our vehicle
3 processing garage.

4 Q Okay. And so went through that vehicle thoroughly,
5 correct?

6 A Yes, we processed the front end of it.

7 Q Front end of it, correct?

8 A Yes.

9 Q And again, at the scene, there were items on the hood,
10 correct?

11 A Yes.

12 Q And again, I think you testified earlier, I want to make sure
13 I have it right, you don't know how those items got there, right?

14 A I do not, no.

15 Q But that Sebring, that's a pretty critical important piece of
16 evidence in this case, wouldn't you agree?

17 A I -- yeah, I guess.

18 Q Okay.

19 A I don't know, I mean, it was our officers' vehicle. That's --

20 Q Sure.

21 A -- what I know about it.

22 Q Understood. But there were items on the vehicle that you
23 have no idea, as you sit here today, how that got there, right?

24 A No, I -- when I arrived on the scene, they were already on
25 the hood of the vehicle.

1 Q There's a cell phone, right?

2 A Correct.

3 Q There was a durag, correct?

4 A Yes.

5 Q And there was also a -- and, for the jury, what is a durag?

6 A A durag is a piece of cloth that is typically worn --

7 somebody wears it on their head to cover their hair.

8 Q Okay. Hair that could expose DNA, correct?

9 A Possibly.

10 Q Right? And there's also a tooth or a grill of some kind?

11 A Grill, like a -- just a metal decorative tooth covering.

12 Q Sure. But that's in someone's mouth, that would leave

13 some DNA, right?

14 A It could, yes.

15 Q Could, right? And, again, none of those three items were

16 processed for DNA, right?

17 A Not by me, no.

18 Q And the hood of that Sebring, right, if somebody's hand

19 were to touch it, that would leave a fingerprint, correct?

20 A Possibly, yes.

21 Q And you processed fingerprints on that vehicle, right?

22 A I did, yes.

23 Q Okay. And their hand or their arm could also leave DNA,

24 correct?

25 A Possibly.

1 Q And you processed it for DNA, right?

2 A There was no DNA processing conducted.

3 Q Didn't process it for DNA. Who made that decision not to
4 go that extra step?

5 A I don't recall who specifically made that decision. That
6 was something that we decided as a group, including the
7 detectives, the crime scene investigators, as well as the supervisors.
8 So I don't know -- I can't tell you a specific name on who would
9 have made a decision as to whether or not we did DNA processing.

10 Q All right. Thank you, ma'am.

11 A You're welcome.

12 MR. TANASI: Pass the witness.

13 THE COURT: Any redirect?

14 MR. GIORDANI: Yes, very briefly, Your Honor.

15 **REDIRECT EXAMINATION**

16 BY MR. GIORDANI:

17 Q Ma'am, you're not a DNA analyst, right?

18 A I am not.

19 Q You're not a fingerprint analyst, right?

20 A No.

21 Q Just common sense would dictate if someone's wearing
22 gloves, they might not leave DNA on a particular item, right?

23 A Yes.

24 Q Same thing goes for prints?

25 A Yes.

1 Q Someone's wearing gloves, they might not leave prints on
2 anything?

3 A Correct.

4 Q I want to talk to you about what Mr. Tanasi just mentioned
5 with regard to lighting.

6 A Okay.

7 Q Showing you State's 265; do you recognize this scene?

8 A Yes.

9 Q Okay. Orient the jury real briefly.

10 A This is a view of that church, along with the Town Car that
11 is located up on the sidewalk in front of the church.

12 Q Okay. And what is this?

13 A That is a street light.

14 Q What is this on the right side of the exhibit?

15 A That is another street light.

16 Q What is this?

17 A That is the sign for the church that was illuminated.

18 Q What is this?

19 A That is a light that is located on the exterior side of the
20 church.

21 Q Showing you now 266; is this just kind of a different angle
22 showing that same street?

23 A Yes, it is.

24 Q Does it appear to you that the street lights are all lit down
25 that road as well?

1 A Yes, it does.

2 Q Okay. And across the street as well?

3 A Yes.

4 Q 267, you've already mentioned this big, bright sign, but
5 what is this?

6 A That appears to be some additional exterior lighting that's
7 attached to the church building.

8 Q 272, is that the -- I guess that same area we were just
9 looking at?

10 A Yes.

11 Q Couple more lights up here?

12 A Yes.

13 Q On the building?

14 A That's correct.

15 Q Okay.

16 MR. GIORDANI: Pass the witness, Your Honor.

17 THE COURT: Recross?

18 MR. TANASI: Thank you, Your Honor.

19 **RECROSS-EXAMINATION**

20 BY MR. TANASI:

21 Q All right. Hello, ma'am.

22 Showing you 273, just in terms of lighting, you would
23 agree with me that this area over here, pretty dark, right?

24 A Yes.

25 Q This area over here, driver side of the door, pretty dark,

1 correct?

2 A Yes.

3 Q All right. And this particular picture, do you have any idea
4 whether there's any lighting from law enforcement shining up the
5 back of the Lincoln?

6 A This photo appears to have been taken with just using the
7 flash associated with our cameras.

8 Q Okay. So if you didn't have the flash from those cameras,
9 it would probably be even darker than this, right?

10 A Probably, yes.

11 Q In your briefing, do you recall learning that the suspect
12 who fled the Lincoln jumped over a gate or a wall?

13 A I do not recall that.

14 Q Would that have been information, if you had learned it,
15 you would have gone and then processed for DNA or fingerprints?

16 A Possibly. It would just depend on where it was located, if
17 it had been secured, and what type of surface we're talking about
18 that was involved, like, the wall surface and things like that.

19 Q Sure. So if law enforcement, let's say, hypothetically,
20 knew what they believed to be the path of the suspect fleeing the
21 Lincoln was running, you'd want to know that, right?

22 A Yes.

23 Q And if they were to have told you that, hey, the suspect
24 jumped over a gate or jumped over a wall, you'd want to have
25 known that too?

1 A Yes.

2 Q Because you would then gone and probably processed

3 those areas, right?

4 A Possibly, yes.

5 Q Okay. Did you ultimately find a second red glove?

6 A I did not.

7 Q You did not. Did you go back the next day, when it was

8 natural daylight, and do any further investigation of the scene?

9 A I did not. I worked graveyard.

10 Q You work graveyard? Okay.

11 All right, ma'am, thank you.

12 MR. TANASI: Pass the witness.

13 THE COURT: Anything else?

14 MR. GIORDANI: No, Your Honor.

15 THE COURT: Okay. We may have a question. So if you

16 don't mind just staying there for a moment.

17 THE WITNESS: No problem.

18 [Bench conference transcribed as follows.]

19 THE COURT: Okay. I might ask the [indiscernible]

20 person --

21 MS. BOTELHO: Why is the 10/22 a manufactured SBR

22 [indiscernible] without that approval? In other words, was the

23 original barrel -- was the original barrel cut? This is 497, Juror

24 Number 10. Reason: Show potential intent.

25 MR. GIORDANI: No objection from the State.

1 MS. BOTELHO: None from us.
2 THE COURT: Do you understand that question?
3 MR. LEVENTHAL: I don't.
4 MR. GIORDANI: Yes.
5 MS. BOTELHO: I think it's --
6 MR. GIORDANI: He's saying is it -- was it --
7 MS. BOTELHO: Sawed off? Yeah.
8 MR. GIORDANI: Was it sawed off?
9 MS. BOTELHO: If she knows.
10 MR. TANASI: [Indiscernible.]
11 MR. LEVENTHAL: I'm not -- I'm still not -- I could read
12 from it.
13 THE COURT: That's okay. Take your time.
14 MS. BOTELHO: Was the 10/22 --
15 MR. LEVENTHAL: 10/22.
16 MS. BOTELHO: -- a manufactured SBR or converted
17 without battle approval? Which in quotations approval.
18 MR. GIORDANI: This is SBR, short-barrel rifle.
19 MS. BOTELHO: Yes.
20 MR. GIORDANI: Was it manufactured short or was it
21 artificially cut?
22 MS. BOTELHO: This goes to the weight and of the charge
23 of the short-barrel [indiscernible].
24 MR. LEVENTHAL: Oh, so was it made that way or did
25 someone manipulate it?

1 MS. BOTELHO: Correct.

2 MR. LEVENTHAL: Okay. I have no problem with that.

3 MS. BOTELHO: Thank you.

4 THE COURT: Thank you. No objection?

5 MR. LEVENTHAL: Thank you.

6 THE COURT: Okay.

7 [End of bench conference.]

8 THE COURT: Okay. The question from a juror has been

9 marked as Court's Exhibit Number 6:

10 Was the 10/22 a manufactured SBR or converted

11 without -- I don't know what this word is -- approval? In other

12 words, was the original -- oh, barrel, I'm sorry, and that other one

13 was barrel -- cut? Did you understand that or --

14 THE WITNESS: I did.

15 THE COURT: Okay.

16 THE WITNESS: So I did not do an evaluation of whether

17 or not it was a short-barrel rifle or if the rifle had been shortened.

18 That would have been something that the firearms examiner would

19 have conducted during their function exam.

20 THE COURT: Okay. Anything else from the State?

21 MR. GIORDANI: No, Your Honor.

22 THE COURT: From the defense?

23 MR. TANASI: No, Your Honor. Thank you.

24 THE COURT: Okay. Thank you very much for your

25 testimony here today. You may step down.

1 THE WITNESS: Thank you.

2 THE COURT: And you are excused from your subpoena.
3 Thank you for your testimony.

4 At this time, we're going to take a recess.

5 During this recess you're admonished not to discuss or
6 communicate with anyone, including your fellow jurors, in any way
7 regarding the case or its merits either by voice, phone, e-mail, text,
8 Internet, or other means of communication or social media, read,
9 watch, or listen to any news or media accounts or commentary
10 about the case, or do any research, such as consulting dictionaries,
11 using the Internet, or using reference materials or make any
12 investigation, test a theory of the case, recreate any aspect of the
13 case, or in any other way investigate or learn about the case on
14 your own or form or express any opinion regarding the case until
15 it's finally submitted to you.

16 And we'll be in recess for 15 minutes. Thank you.

17 [Jury recessed at 3:14 p.m.]

18 THE COURT: Okay. The record will reflect that the
19 hearing is taking place outside the presence of the jury panel. I just
20 wanted to make a record.

21 The State indicated that Exhibit 467 was to be admitted by
22 stipulation. I just wanted to make sure that --

23 MR. TANASI: That's correct.

24 THE COURT: Okay. All right. We'll see you in a few.

25 MR. GIORDANI: Judge, we have four witnesses in the

1 hall.

2 THE COURT: Okay.

3 MR. GIORDANI: If we need to go a few minutes past 5:00,
4 is that going to be feasible?

5 THE COURT: Sure. Yeah.

6 MR. GIORDANI: Okay. Thanks.

7 [Court recessed at 3:15 p.m., until 3:40 p.m.]

8 [Outside the presence of the jury.]

9 THE COURT: I think they're ready. You want --

10 MR. TANASI: They may have something outside the
11 presence.

12 THE COURT: Okay.

13 MS. BOTELHO: Your Honor, at this point, the State is
14 requesting that Your Honor remand Nicholas Owens into the
15 custody of the Clark County Detention Center. We had him
16 transported today and have had the opportunity to talk with him
17 today. I don't believe they're going to be getting to testimony -- his
18 testimony until tomorrow. We were told by his transporting
19 officers from the prison that no one is going to be in their office to
20 receive another transport order --

21 THE COURT: Okay.

22 MS. BOTELHO: -- and it would be impossible to get him
23 transported back tonight and back out here tomorrow. And so the
24 only other way that we can keep custody of him or make him
25 available tomorrow would be if he's remanded into the Clark

1 County Detention Center.

2 THE COURT: Okay. He can be remanded into the Clark
3 County Detention Center. Do they want to hear it or do they want a
4 written order?

5 THE CLERK: I have to do the slip, so I need a scope ID of
6 some sort.

7 MS. BOTELHO: Okay. I can provide that no problem.

8 THE CLERK: Okay.

9 MS. BOTELHO: Thank you.

10 THE COURT: He's going to be remanded into the Clark
11 County Detention Center tonight. And we'll give you the change of
12 custody slip.

13 [Pause in proceedings.]

14 MR. GIORDANI: Your Honor, while we're doing this, just
15 for the record, the next three witnesses are law enforcement
16 officers, two of whom were very familiar with this particular area
17 command, and that's part of the town. They've been thoroughly
18 admonished by myself in the hallway to stay away from any
19 gang-related activities or discussion or relationships.

20 THE COURT: Okay.

21 MR. GIORDANI: I'm probably going to have to lead a little
22 bit, but I guess we'll deal with that when we get to it.

23 THE COURT: Okay.

24 [Pause in proceedings.]

25 [Jury reconvened at 3:46 p.m.]

1 THE COURT: Okay. Does the State stipulate to the
2 presence of the jury panel?

3 MR. GIORDANI: We do, Your Honor.

4 THE COURT: And the defense?

5 MR. LEVENTHAL: Yes, Your Honor. Thank you.

6 THE COURT: Okay. The State may call their next witness.

7 MR. GIORDANI: Chad Baker.

8 **CHAD BAKER,**

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

11 THE CLERK: You may be seated. Please state and spell
12 your first and last name for the record.

13 THE WITNESS: Chad Baker, C-H-A-D, B-A-K-E-R.

14 **DIRECT EXAMINATION**

15 BY MR. GIORDANI:

16 Q How are you employed, sir?

17 A Currently, right now I'm self-employed.

18 Q Okay. Are you retired from the Las Vegas Metropolitan
19 Police Department?

20 A I am, sir.

21 Q How long were you with Metro before you retired, sir?

22 A I was with Metro a little over 20 years.

23 Q I want to bring you way back to 2006. Were you familiar
24 at the time with the Bolden Area Command?

25 A Yes, sir. That's where I was assigned.

1 Q And how long had you been assigned to that area, sir?

2 A Back in 2006, at that time, it would have been seven years.

3 Q And fair to say that you interacted with members of the

4 public and folks that lived in that area on multiple occasions during

5 the course of your seven years there?

6 A Yes, sir.

7 Q Did you know a person by the name of Pierre Joshlin?

8 A Yes, sir.

9 Q Did you know a person by the name of Jemar Matthews?

10 A Yes, sir.

11 Q Can you look around the courtroom and tell me if you see

12 Mr. Matthews here in court today?

13 A Yes, sir. It's the gentleman wearing the blue shirt.

14 MR. GIORDANI: Would the record reflect identification of

15 Mr. Matthews?

16 THE COURT: So reflected.

17 BY MR. GIORDANI:

18 Q Sir, did you know Mr. Matthews and Mr. Joshlin to be

19 friends?

20 A Yes, sir.

21 Q Had you made contact with them not only individually,

22 but together on multiple occasions?

23 A Yes, sir.

24 MR. GIORDANI: I will pass the witness at this time, Your

25 Honor.

1 THE COURT: Cross?
2 MR. TANASI: Nothing from the defense, Your Honor.
3 Thank you.

4 THE COURT: Okay. Thank you very much for your
5 testimony here today.

6 THE WITNESS: Thank you, ma'am.

7 THE COURT: You may step down and you are excused
8 from your subpoena.

9 And you may call your next witness.

10 MR. GIORDANI: Thank you.

11 Cord Overson.

12 **CORD OVERSON,**

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

15 THE CLERK: You may be seated. Please state and spell
16 your first and last name for the record.

17 THE WITNESS: Cord Overson, C-O-R-D, O-V-E-R-S-O-N.

18 **DIRECT EXAMINATION**

19 BY MR. GIORDANI:

20 Q Good afternoon, sir.

21 A Afternoon.

22 Q How are you currently employed?

23 A I'm employed with the Las Vegas Metropolitan Police
24 Department as a sergeant currently assigned to the K-9 section.

25 Q How long have you been with the K-9 section, sir?

1 A I've been a total of about 15 years in the K-9 section.

2 Q As a K-9 sergeant, what are your current duties and kind
3 of responsibility?

4 A So my current duties are to supervise a squad of K-9
5 handlers. I also work a K-9, which is a patrol dog, which is a dog
6 that is used to locate suspects that are hiding.

7 Q I want to bring you back to September 30th of 2006. On
8 that date, were you working in the K-9 section?

9 A I was.

10 Q Were you a K-9 sergeant at the time or a K-9 officer?

11 A Just an officer at the time.

12 Q You -- were you involved in the investigation, I guess, of
13 the murder that occurred on September 30th of 2006?

14 A I was.

15 Q Were you involved kind of in a follow-up capacity,
16 meaning you didn't respond to the homicide scene?

17 A Correct.

18 Q Do you recall where you responded to?

19 A Yes. I responded to the intersection near Eleanor and
20 Jimmy.

21 Q Showing you --

22 MR. GIORDANI: Court's indulgence here.

23 Q Apologies, Sergeant. I'm going to show you right now
24 State's 24; do you recognize this area, sir?

25 A I do.

1 Q Is that aerial map depicting that area of Eleanor and
2 Jimmy that you responded to?

3 A Yes.

4 Q Can you describe the dynamics of the scene as it was
5 when you responded?

6 A So it was a fairly dynamic scene, as you've stated. There
7 was a shooting that had occurred nearby, someone was killed in
8 that shooting. A car-jacking had taken place after that. Some
9 officers attempted to stop suspects that were in the vehicle that was
10 taken in the car-jacking and a shooting occurred with the police
11 officers that attempted that stop as well.

12 When I arrived, there was a -- the suspects had fled from
13 the vehicle and there was a perimeter that had been established
14 around the neighborhood to try and contain those suspects from
15 fleeing out of the neighborhood.

16 Q Okay. So by the time you arrived, there's already a
17 perimeter set up?

18 A Correct.

19 Q And do you remember going en route to this call
20 at 10:28 p.m.?

21 A Yes.

22 Q You arrived in this particular area, Eleanor and Lexington?

23 A So -- yes, it would have been near Eleanor and Lexington.
24 I first responded to where the car was left and it was on Lexington --

25 Q Okay.

1 A -- near Eleanor.

2 Q And the car, meaning the wrecked vehicle?

3 A Correct, the wrecked vehicle that was taken in the
4 car-jacking that the suspects had fled from.

5 Q Did you learn that there were one, if not three suspects
6 outstanding at that point in time?

7 A Yes.

8 Q And was it your job or what was your duty and
9 responsibility as you responded to this scene?

10 A So I responded with several other K-9 handlers. And
11 when we arrived to the scene, we debriefed with the officers that
12 were involved in the shooting to determine what direction the
13 suspects had fled. And then we look at the perimeter that's set up
14 around the neighborhood and then we assign each other chunks of
15 that perimeter to go and search with your dog to try and find the
16 suspects that were outstanding.

17 Q Okay. You mentioned other K-9 handlers; how many
18 other dogs were out on this scene?

19 A I believe there was at least three of us that were out there.

20 Q So that would include not only the K-9, but also the
21 handler, of course?

22 A Correct.

23 Q And you, essentially, set up, like, a grid --

24 A Correct.

25 Q -- is that right?

1 A Yes. We set up a grid search to try and make sure that
2 nothing is missed, that we hit every house and every nook and
3 cranny that's contained inside that perimeter.

4 Q Okay. I want to zoom in here a bit on this map, sir.
5 Describe for us what it was that you did with your K-9 -- what was
6 your K-9's name?

7 A Lasko.

8 Q What did you and Lasko do once you had briefed with the
9 other K-9 handlers?

10 A So we moved -- we were assigned the north side of
11 Jimmy. So we started from Lexington and Jimmy, worked the
12 north side of Jimmy eastbound from Lexington, working towards J
13 Street.

14 Q Okay. There's a map up on the screen and you're going to
15 have a mouse up there in front of you.

16 A Okay.

17 Q Without clicking on it, can you show the path that you
18 traveled with Lasko?

19 A Yeah. So we started here on this corner house, and we
20 worked eastbound towards J Street on the north side of Jimmy.

21 Q Okay.

22 A So that was searching the front yards and then the
23 backyards of each house.

24 Q Okay. Let me --

25 A And systematically go through.

1 Q Understood. Let me back up momentarily, I forgot
2 something.

3 A Sure.

4 Q Do you receive a briefing from other officers on scene as
5 to what exactly and who exactly you're looking for?

6 A Yes. So we spoke to the officers that were involved in the
7 shooting and were on scene when the incident took place, when the
8 car crashed and last saw the suspects fleeing.

9 Q Okay. And --

10 A So that we could ask them what they look like, what
11 they're wearing, what direction did they go, were they armed,
12 things of that nature.

13 Q Was it your understanding that an Officer Walters --
14 Walter was chasing the subject that you ultimately took into
15 custody?

16 A Yes.

17 Q Were you made aware of something or the path in which
18 that individual was traveling when he was last seen?

19 A Yeah. So I was told that he was last seen running from
20 the car northbound towards Jimmy.

21 Q Okay. And did that -- do you know if he traveled the path
22 of Eleanor, where there was another item of evidence located?

23 A I'm not familiar with that.

24 Q Okay.

25 A I can't recall that.

1 Q So you go up to Jimmy, correct?

2 A Yes.

3 Q And then you're on the north side of Jimmy. Where were
4 those other K-9 handlers as you were processing the north side of
5 Jimmy?

6 A So they would have been assigned the other streets,
7 Eleanor and most likely Doolittle.

8 Q Eleanor. Okay. Understood.

9 Describe for us how you went through those homes on
10 the north side of Jimmy with Lasko.

11 A Sure. So we started here on the corner house of Jimmy
12 and Lexington, searched the front yard, and then enter the
13 backyard, search the backyard, and then we'd move to the next
14 house. And, again, the front yard, then the backyard, then move to
15 the next house.

16 Q Did there come a point in time when you searched or
17 cleared the house at 1116 Jimmy?

18 A Yes.

19 Q Describe to your recollection how that happened.

20 A So we made our way down to 1116 Jimmy, which is the
21 fourth or fifth house east of Lexington. We cleared the front yard
22 and moved to the backyard. The gate to get to the backyard was on
23 the east side of the house. We had a slight breeze coming out of
24 the west, so we always try to stay downwind so that we can take
25 advantage of the wind with the dog's nose.

1 So I continued north along that east fence line going into
2 the backyard. We worked our way northbound towards the north --
3 the very furthest northeast corner of that backyard. I noticed there
4 was some brush there off to the side. When we got to that
5 northeast corner, my dog, Lasko, quickly turned and darted into the
6 brush and bit the suspect that was hiding there.

7 Q I'm going to show you now State's 327; you recognize
8 this?

9 A I do.

10 Q What are we looking at here?

11 A This is the backyard of 1116.

12 Q Jimmy?

13 A Yes.

14 Q 328, is that another section of the backyard?

15 A Yes.

16 Q Fair to say there's some grass here?

17 A Yes.

18 Q Or mulch or whatever it may be?

19 A Correct.

20 Q And State's 326; is that the address placard at 1116
21 Jimmy?

22 A Yes.

23 Q So you indicated that you're searching along the
24 perimeter, you get to this area, and there's a suspect hiding. Lasko
25 darts at him. Describe what you recall at that point in time.

1 A So, yeah, as we're searching northbound, we're taking
2 advantage of that wind blowing from the west. We get to the
3 corner of the yard, the backyard and fence line corner, or block wall
4 corner, and Lasko quickly turns and darts into that bush, the brush
5 you can see there next to the potting mix, and bit the suspect that
6 was hiding there.

7 Q Did the suspect say anything as he was being bitten by
8 Lasko?

9 A He did. He immediately yelled out -- I can't remember
10 exactly what it was.

11 MR. LEVENTHAL: Objection. Speculation.

12 THE WITNESS: If I could refresh my memory with my
13 report?

14 THE COURT: Right, because we don't want you to
15 speculate.

16 So go ahead.

17 MR. GIORDANI: Sure.

18 BY MR. GIORDANI:

19 Q Would it --

20 MR. GIORDANI: I'm sorry.

21 THE COURT: Go ahead.

22 BY MR. GIORDANI:

23 Q Would it refresh your recollection to look at the officer's
24 report that you drafted?

25 A Yeah, so I get it exactly right.

1 Q Okay.

2 MR. GIORDANI: May I approach?

3 THE COURT: You may.

4 BY MR. GIORDANI:

5 Q And just while you're doing that, you draft these reports in
6 order to document to the best of your ability what happened --

7 A Correct. So this is my officer's report that I authored later
8 that night.

9 Q And --

10 A And I wrote exactly what the suspect uttered and it's here
11 in the second paragraph. He yelled, Okay, I give up, don't let the
12 dog bite me anymore.

13 Q You see that suspect here in court?

14 A I do.

15 Q Can you please point to that person and describe an
16 article of clothing he's wearing here in court today?

17 A He's wearing the blue shirt and the blue tie.

18 MR. GIORDANI: Will the record reflect identification of
19 Mr. Matthews?

20 THE COURT: So reflected.

21 BY MR. GIORDANI:

22 Q Do you have commands that you can give to your dog,
23 Lasko, in order to have him release the suspect?

24 A I do.

25 Q Okay. Describe that and describe the dynamics as he's

1 biting Mr. Matthews.

2 A Yeah. So he bit Mr. Matthews on the shoulder. When I
3 realized what was going on and Mr. Matthews yelled that, okay, I
4 give up, don't let him bite me anymore, I understood that he was
5 surrendering. So I immediately ordered my dog to release the bite.
6 My dog did. And I got on the radio and asked for additional officers
7 to come into the backyard to handcuff Mr. Matthews.

8 Q Do you recall which officer it was that took Mr. Matthews
9 into custody?

10 A Yes, Officer Seed.

11 Q And is he the individual who handcuffed him?

12 A Yes.

13 Q To your knowledge, did Officer Seed discharge a firearm
14 at any point that evening?

15 A No. He was not involved in the shooting that night.

16 Q Once Mr. Matthews is taken into custody, is he
17 photographed and documented as he was?

18 A Yes.

19 Q Showing you State's 16.

20 MR. LEVENTHAL: What is that? 16?

21 MR. GIORDANI: 16.

22 MR. LEVENTHAL: Thank you.

23 BY MR. GIORDANI:

24 Q What is depicted in this photograph, sir?

25 A That is Mr. Matthews immediately after begin taken into

1 custody.

2 Q Okay. Is that the condition in which he appeared that
3 evening?

4 A Yes. You could see the grass and things that's in his hair
5 and on his clothing from hiding in the backyard.

6 Q Okay. And I want to show you State's 337; is this
7 Mr. Matthews from a right-side angle?

8 A Correct. And you can partially see the bite marks there on
9 his shoulder.

10 Q And would that be the ripped black t-shirt?

11 A Yes, where his shirt is torn there.

12 Q Showing you 339; is that Mr. Matthews from a left profile?

13 A Yes, it is.

14 Q What is this -- all this yellow stuff in his hair?

15 A It looks like grass, dried grass or maybe some of that
16 potting mix or something from hiding in the brush in the backyard.

17 Q State's 340, what are we looking at here?

18 A Oh, that's the back of Mr. Matthews. You can see the
19 ripped shirt and the bite mark to his right shoulder.

20 Q State's 343, what are we looking at here?

21 A That's Mr. Matthews' face.

22 Q And is that how he appeared almost immediately after --

23 A Yes.

24 Q -- his arrest? Can you tell what that is around his mouth?

25 A I can't.

1 Q You ever heard of cotton mouth?

2 A I have.

3 MR. LEVENTHAL: Judge, objection. Leading.

4 MR. GIORDANI: I'll withdraw it.

5 THE COURT: Sustained.

6 BY MR. GIORDANI:

7 Q State's 345, you mentioned some injuries; what is that?

8 A That's where my dog Lasko bit Mr. Matthews on the right
9 shoulder.

10 Q Okay. And those injuries were documented via crime
11 scene analysts, correct?

12 A Yes.

13 Q 346, that's that same shoulder injury?

14 A Correct.

15 Q State's 347, what are we looking at here?

16 A It's a bite that Mr. Matthews received to his hand.

17 Q For the record, is that his left or right hand?

18 A Left.

19 Q That was also documented by crime scene analysts?

20 A Yes, it was.

21 Q State's 349, that same left --

22 A Same left hand. Dog bite as well.

23 Q State's 350, is that Mr. Matthews's left hand as well?

24 A Yes.

25 Q Some remnants of grass still on the hand?

1 A Yes.

2 Q And then I'm showing you State's 351; is this a different
3 hand?

4 A Looks like his right hand.

5 Q And then State's 352, also right hand?

6 A Yes.

7 Q Also some remnants of grass next to a pinkie ring there?

8 A Yes.

9 Q And the nit appears, at 353, to be a small injury to his right
10 webbing of his thumb?

11 A Yes. And I would need to refresh my memory with my
12 report, but it looks like this right hand may be the one that actually
13 received the dog bite to.

14 Q Understood. If looking --

15 A I know that it was one hand that he did get bitten by the
16 dog, as the dog was biting him.

17 Q Okay.

18 A So.

19 Q And would looking at your report refresh your
20 recollection?

21 A Yes, it would.

22 MR. GIORDANI: May I approach?

23 THE COURT: You may.

24 THE WITNESS: Now, my report reflects the same officer's
25 report that authored that night, it reflects that he sustained a dog

1 bite to his right shoulder and one puncture to his left hand.

2 BY MR. GIORDANI:

3 Q Okay.

4 A So that was correct.

5 Q All right.

6 MR. GIORDANI: I will pass the witness at this time.

7 Thank you, sir.

8 THE COURT: Thank you.

9 Cross-examination?

10 MR. LEVENTHAL: Thank you.

11 **CROSS-EXAMINATION**

12 BY MR. LEVENTHAL:

13 Q Good afternoon, sir.

14 A Good afternoon.

15 Q My name's Todd Leventhal and I represent Mr. Matthews.

16 Let me talk about, first, the injuries that you just were
17 asked about on direct by Mr. Giordani. One of your jobs is to
18 document the injuries that Lasko inflicts on the people that he
19 attacks, right?

20 A Sure.

21 Q All right. So you were the person that would document
22 those who have them in your report, right?

23 A Yes.

24 Q So any injuries that occur, you want to make sure that
25 you're thorough enough to make sure that the entire body of the

1 person that Lasko bit was looked at by yourself, right, personally, so
2 you could document it in your report, correct?

3 A I don't necessarily examine a suspect's body. I more ask
4 them where were you bitten, and then based on what I saw with the
5 dog.

6 Q Okay. But you definitely want to look at a person's body
7 to see if there's anything else. I mean, if these bites required
8 medical attention that would be on you, you want to make sure that
9 that person gets the medical attention that was inflicted by Lasko,
10 right?

11 A Yes. We make sure that each suspect receives medical
12 attention after being bitten by a police dog.

13 Q Okay. And that medical attention could either be just a
14 hospital staff or a medical ambulance staff coming over and looking
15 at him all the way up to somebody going to the hospital?

16 A Yes. It could just be a paramedic coming out, an EMT
17 come out and looking at it.

18 Q Okay. And so for that EMT to come out and look at it,
19 again, you want to make sure that all of the dog bites that Lasko did
20 were looked at, so you take a look at the body, right?

21 A I want to make sure I know if there's any dog bites on a
22 suspect.

23 Q Okay. So when we look at Mr. Matthews, we've looked at
24 a number of his injuries, one being on the shoulder, you've noted
25 that, correct?

1 A Correct.

2 Q And that's in State's Exhibit 45. Clearly Lasko's -- and the
3 bite -- and the tearing of the shirt could have also been Lasko, right?

4 A I would assume so.

5 Q Okay. You also have the hand of Mr. Matthews. That also
6 was Lasso, right? Lasko?

7 A The left hand, yes.

8 Q Okay. Now, when you -- those are the only two injuries
9 that you noted in your report, correct?

10 A Yes.

11 Q Okay. So no other injuries that you notice, that you saw
12 on Mr. Matthews you noted on your report, correct?

13 A Sustained by -- from the dog bite, no.

14 Q Okay. Now, Mr. Matthews, you said earlier on directly,
15 he -- that you heard him say, I give up, don't let the dog bite me
16 anymore, right?

17 A Yes.

18 Q Now, is it normal for somebody to say something along
19 those lines when a dog is attacking them? Your Lasko's -- when I
20 say attack, is biting them?

21 MR. GIORDANI: I would object to the question. Is it
22 normal to say something like that. I mean, that --

23 THE COURT: I mean, why don't you be --

24 BY MR. LEVENTHAL:

25 Q In your --

1 THE COURT: -- more specific.

2 MR. LEVENTHAL: Sure.

3 BY MR. LEVENTHAL:

4 Q In your training, you've been -- well, you were with Lasko
5 for quite some time, and you've been training dogs, correct?

6 A Yes.

7 Q And in your training and experience, you've had Lasko
8 and other dogs of that nature, I don't know if Lasko is still around, it
9 was '06.

10 A He's not. He's gone.

11 Q I apologize for that.

12 A Yeah, no problem.

13 Q That's why I --

14 A I'm on my fourth dog now.

15 Q So in your training, in your experience of the number of
16 times a dog hit on people, they do say something, correct?

17 A It's hard to say what is normal --

18 Q Okay.

19 A -- for a person when they're being bitten by a police dog.

20 Q Okay.

21 A Oftentimes, it's a yell, but I can't say to say, I give up, is
22 normal.

23 Q Okay. Or they say get your dog off me?

24 A Sometimes, yes.

25 Q Okay.

1 A I've heard that.

2 Q Ouch?

3 A Yes.

4 Q Okay.

5 A That's probably accurate.

6 Q Okay. He didn't say, oh -- he didn't admit to anything, he
7 didn't say I just shot up a house, or he didn't say anything of that
8 nature, right?

9 MR. GIORDANI: I would object to the terminology admit.

10 MR. LEVENTHAL: Well, he didn't say --

11 THE COURT: Yeah, the objection's sustained.

12 BY MR. LEVENTHAL:

13 Q You didn't hear him say anything other than that?

14 A I did not.

15 Q Okay. Now, when you were the one who got
16 Mr. Matthews out from the area that we saw, correct, you had
17 another officer go in?

18 A Another officer came and took him into custody.

19 Q Okay.

20 A So because of the danger, obviously, at hand with a
21 murder just occurred, a car-jacking, and an officer-involved
22 shooting, I stayed back with my dog in case my dog needed to
23 reengage Mr. Matthews to keep him from fleeing any further and
24 called another officer in to take him into custody.

25 Q Fair enough. And so you had Mr. Matthews in your sight

1 the entire time of when Lasko hit and then when the pictures were
2 taken, right?

3 A Yes.

4 Q Okay. And so what we're looking at here is a fair and
5 accurate representation of how Lasko found or you found
6 Mr. Matthews in that area, right?

7 A Correct.

8 Q *I.e.*, he had some stuff in his hair; you remember that,
9 right?

10 A Yes.

11 Q Okay. And the same sort of that grass in his -- on his
12 shirt?

13 A Yes.

14 Q Right? And the ripping from Lasko of his shirt, right?

15 A Yes.

16 Q And you could see his underwear here, his shorts were
17 down, that's how you found him?

18 A Yes.

19 Q And you could see that he had no shoes on, correct?

20 A Yes.

21 Q Okay. You didn't take -- you didn't find any shoes, did
22 you?

23 A I did not.

24 Q Okay.

25 A And I certainly didn't take them off him.

1 Q You didn't take them off of him, so that's how you found
2 him, with no shoes on?

3 A Correct.

4 Q And, again, I want to make sure that you locate him at 116
5 Jimmy?

6 A 1116.

7 Q 1116 --

8 A 1116.

9 Q I didn't mean to -- 1116 Jimmy.

10 A Correct.

11 Q You're sure of that?

12 A Yes.

13 Q Very good. Okay. Thank you.

14 MR. LEVENTHAL: I have nothing further. Thank you.

15 THE COURT: Thank you.

16 Any redirect?

17 MR. GIORDANI: No, Your Honor. Thank you.

18 THE COURT: Okay. Thank you very much for your
19 testimony here today. You may step down and you are excused
20 from your subpoena.

21 THE WITNESS: Thank you.

22 THE COURT: And you may call your next witness.

23 MR. GIORDANI: State would call Brian Walter.

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BRIAN WALTER,

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

THE CLERK: You may be seated. Please state and spell your first and last name for the record.

THE WITNESS: Brian, B-R-I-A-N, Walter, W-A-L-T-E-R.

DIRECT EXAMINATION

BY MR. GIORDANI:

Q Good afternoon, sir.

A Good afternoon.

Q How are you currently employed?

A Las Vegas Metropolitan Police Department.

Q And how long have you been with Metro?

A 18 years now.

Q And in what capacity are you currently assigned, sir?

A I am currently assigned to -- as a detective in the robbery section.

Q How long have you been with robbery?

A Two years.

Q And I want to bring you back to 2006, September 30th. At that time, how were you employed with Metro?

A I was patrol officer assigned to problem solving unit at Bolden Area Command.

Q And how long had you been with the problem-solving unit in September of 2006?

1 A Just a few months, I believe.

2 Q And how long have you been with Bolden Area Command
3 or in Bolden Area Command at that time?

4 A Since I graduated academy, 2004, since 2004, so two
5 years.

6 Q So --

7 A About two years.

8 Q At that time, were you familiar or did you make contact
9 with various people in the community in the area of Balzar and
10 Lexington?

11 A Yes, sir. All over that area command.

12 Q All over the Bolden Area Command?

13 A Yes, sir.

14 Q I believe a prior officer testified to the boundaries, sir.

15 A Good.

16 Q Those boundaries remain pretty consistent --

17 A Yes.

18 Q -- over time?

19 A Yes.

20 Q Your, I guess, interactions with the community, sir.

21 A Yes. So even as a patrol officer or the unit I was with, the
22 problem-solving unit, we get out on foot and make contact in
23 apartment complexes, housing areas, and make contact with the
24 community to find out any problem areas, anything that they want
25 to let the police know how we can better serve them.

1 Q On the evening of September 30th, 2006 --
2 A Yes, sir.
3 Q -- did something draw your attention while you were in
4 the area of Balzar and Lexington?
5 A Yes, sir. We heard gunfire.
6 Q Okay. When you say we, who are you referring to?
7 A I was with a partner, Brad Cupp. He was driving and I was
8 a passenger in the vehicle.
9 Q And when you -- were you in an unmarked unit?
10 A Yes, sir. It was a Chrysler Sebring, burgundy in color.
11 Q Okay. Were you wearing a police uniform?
12 A No, I was in plainclothes at that time.
13 Q When you're in plainclothes in that capacity with PSU, do
14 you have what's referred to as a ballistic vest?
15 A Yes. A tactical vest, it has police markings and radios and
16 flashlights and handcuffs and stuff in it.
17 Q And on that evening, were you equipped with that?
18 A Yes, sir, I was.
19 Q Were you also equipped with your duty weapon?
20 A Yes, I was.
21 Q Where, if you recall, were you -- I'm showing you
22 State's 26, where were you, generally, when you heard those
23 gunshots?
24 A Is this touchscreen or --
25 Q It is not.

1 A Can I use the -- oh, perfect. Okay.

2 Q Yeah, there's a cursor. Please don't click on it, please. It
3 sends the whole thing into a haywire.

4 A Okay. So we were on Bartlett, which is -- okay -- which is
5 this street here. So we were -- this street -- oops, sorry, is Concord,
6 so we were east of Concord. And north is to the top of the page; is
7 that correct, sir?

8 Q Yes, sir.

9 A Okay.

10 Q So you come -- you hear the gunshots, where do you go?

11 A Yes, sir. Do you want me to use the cursor, probably
12 easier --

13 Q Please.

14 A -- and verbally say?

15 Q Please.

16 A Okay. So we turn -- we were westbound on Bartlett. We
17 turned south -- this is Concord, we went through circle park, and
18 then we turned westbound down Balzar.

19 Q Were you in the passenger seat with Cupp driving?

20 A Correct, sir.

21 Q Was there anyone else in the vehicle?

22 A No, it was just us, sir.

23 Q Where did you go after you turned onto Balzar?

24 A So we went up Balzar, we didn't see anybody on Balzar,
25 the street itself. There wasn't any activity at all. So we went to

1 Lexington and we turned southbound, which is a right turn for us.
2 So southbound. And then we're -- slow roll, so we're driving slow,
3 windows are down, and we're looking, right, because we heard the
4 gunshots. We were listening for more gunshots or cars leaving the
5 area or anything like that. So we're driving slow.

6 And as we're going southbound on Lexington, there's --
7 we hear people arguing or shouting -- talking loud. I think I would
8 say.

9 Q Okay. Was that down here at 1284 Lawry?

10 A Yes, right at the -- yes. Right at the corner, this -- I think
11 it's this yard here, sir.

12 Q Okay. Did that draw your attention, that loud talking?

13 A Yes, we stopped in the street. And we could hear them,
14 so it would be -- as we were sitting in the car, so we're facing
15 southbound. So over to our left. And we're just listening. It's --
16 we're far enough away that we can't really make out what is being
17 said, but there's -- it sounds like two different groups are talking
18 back and forth to each other.

19 Q Okay. Fair to say that when you drove past 1271 Balzar,
20 you did not see Mersey Williams lying in the yard?

21 A No, sir, I did not. There wasn't anybody. I didn't see
22 anybody out.

23 Q Didn't have any idea that a shooting had occurred --

24 A No, sir.

25 Q -- at that particular address?

1 A At that time, no, sir.

2 Q So you see this commotion down at 1284 Lawry; describe
3 for the jury what it is that you do?

4 A We just stop there and we're listening. Because we're
5 trying to determine if this is just, like, an argument between family
6 or something like that and it has anything to do with the shots that
7 we just heard. So we're just sitting there listening. The argument
8 doesn't last long, a few seconds, it's hard to remember, a few
9 seconds. And then we hear car doors opening and then car doors
10 closing.

11 Q And what does the vehicle do at that point?

12 A The vehicle leaves quickly westbound from Lawry -- or
13 from Lexington and Lawry, so going this direction.

14 Q Okay. Let me pull up a different map.

15 A Okay.

16 Q State's 24, describe to the best of your recollection what
17 happens then?

18 A So the vehicle leaves at kind of a high rate of speed, faster
19 than what a normal car would take off. And they're -- it's a silver
20 Lincoln four-door. So it continues traveling west. And Cupp and I
21 are, like, should we chase it? Should we go with it? And we're, like,
22 well, it's leaving fast, let's go. So we start following it. And the --

23 Q Go ahead.

24 A Oh. And the vehicle gets to Martin Luther King Boulevard,
25 which is this street right here. So we're coming up, we're -- where's

1 Lawry -- we're coming up Lawry. So it goes -- there's a stop sign
2 here for westbound traffic on Lawry. It doesn't come to a complete
3 stop for the stop sign, and then turns southbound on Martin Luther
4 King. And there's -- it looks like median, medians here with trees
5 and stuff, that wasn't there then, that's new in this matter. So it
6 was just -- so right here where the cursor is.

7 Q That's --

8 A Oh, you can't see where the picture is.

9 Q That's new?

10 A There's a median on Martin Luther King Boulevard now.
11 That's new. That wasn't there in 2006.

12 Q Oh, I see. Okay. Actually, let me --

13 A So -- yeah, you can -- yeah, so you can then, in 2006, you
14 could turn left from Lawry and go southbound on Martin Luther
15 King Boulevard.

16 Q Ok. Fair to say that this map was printed after 2006?

17 A Yes, sir.

18 Q Or apparently?

19 A Yes, sir.

20 Q Okay. Where do you go from there as you follow this
21 vehicle?

22 A So the vehicle turns and we're behind it. We don't have
23 any of our lights or anything activated yet. We're just watching it
24 still. The vehicle gets to Martin Luther King Boulevard, which is this
25 intersection here. And it's a red light for southbound traffic. It

1 doesn't stop.

2 Q Did you -- I don't mean to cut you off, but did you say
3 Martin Luther King?

4 A No, we're southbound on Martin Luther King, and this is
5 Lake Mead right here.

6 Q Oh, okay. Understood.

7 A Sorry if I made that misread.

8 There's a red traffic light for southbound traffic on Martin
9 Luther King at Lake Mead. And the car doesn't stop at all. So at
10 that time, we active our emergency signal -- emergency lights and
11 sirens.

12 Q Okay. Would that be visual lights?

13 A Yes, sir.

14 Q And when you say sirens, is that audible sirens?

15 A Yes, audible sirens too.

16 Q Need more water there, sir?

17 A It's the mask. The mask is making me thirsty.

18 Q Take your time.

19 So audible sirens, visual lights like a normal police car or
20 is that --

21 A No, we don't have lights on top. At that time, we had -- it
22 was a red-and-blue light in our visor that we flip down and we have
23 red-and-blue lights in our headlights and taillights.

24 Q Understood. So the vehicle speeds through Lake Mead,
25 you activate your lights and sirens, and do you follow?

1 A Yes, sir.

2 Q I'm going to move this map up just a little bit. Where do
3 you -- and where does the vehicle go from there?

4 A So at this time, there's lots of radio traffic going on,
5 because I think by the time we got to Lake Mead, I believe that it
6 had already been broadcast that the address of where somebody
7 had been shot. So that's talking. So Officer Cupp and I are having
8 a hard time getting on the radio.

9 So when we finally get on the radio, we've got a vehicle
10 going southbound, just as it goes through Martin Luther King -- or
11 we -- it makes a left-hand turn onto Jimmy, which is this street right
12 here.

13 Q Okay. Go ahead, sir.

14 A So it makes a left-hand turn onto Jimmy. Again, we're
15 behind the vehicle with lights and sirens going on. And continues
16 eastbound and then makes a right-hand turn or southbound turn
17 onto Lexington.

18 Q At this point in time, when that right-hand turn onto
19 Lexington occurs, are you still strapped into your seatbelts?

20 A The car had started to slow more than a normal person
21 would make a right-hand turn, so I believe that they were getting
22 read to -- the person --

23 MR. LEVENTHAL: Objection. Calls for speculation.

24 THE COURT: Overruled. You can testify. Go ahead.

25 MR. LEVENTHAL: He believes.

1 THE WITNESS: Through my training -- do I continue?

2 THE COURT: Go ahead.

3 THE WITNESS: Through my training and experience,
4 when a vehicle slows down after it's running from the police, it
5 leads me to believe that the occupants are going to jump out of the
6 vehicle and run from officers on foot.

7 BY MR. GIORDANI:

8 Q Okay. And so it started to slow down around that turn at
9 Lexington?

10 A Yes. So it slowed down dramatically on this right-hand
11 turn.

12 Q Okay. Describe for the ladies and gentlemen of the jury
13 what happens then?

14 A So the vehicle slows and it's kind of at a rolling speed
15 now, so we're not going extremely fast. And our vehicle is -- I don't
16 know if I can use my hands or not or -- I don't have a best way to
17 describe it. So this would be the suspect vehicle. And this would
18 be our vehicle. So we're behind it, and as it slows down, we come
19 to the side of it, because we can see the driver's door come open.
20 And as the driver door comes open, we're kind of beside it. So we
21 have seatbelts off now, so we're expecting somebody to run from
22 the vehicle.

23 Q Okay. So you took your seatbelt off?

24 A Yes, sir.

25 Q When you see the driver's door open on Lexington, do

1 you at all see an occupant?

2 A Yes, sir, the driver.

3 Q Describe him; what did you see?

4 A Black male, black shirt on, and blue jeans, red gloves, and
5 he's got the door propped open with his left hand and, like, his left
6 foot. And he's looking back at us as he's driving -- or coasting the
7 car, I think would be the best way to say it.

8 Q You said his left foot was out?

9 A Yes. Kind of --

10 Q Visible to you?

11 A Kind of holding -- yes, sir.

12 Q Was he wearing shoes at the time?

13 A Yes, I believe he was.

14 Q Describe what happens next.

15 A So he's holding the -- he's got the door open, he's holding
16 the -- looked like a rifle, a short rifle in his hand. And as he looks
17 back at us, we're kind of offset, so he's looking back. And he -- the
18 car hits the curb, so I don't know if he intentionally leaves the
19 vehicle or if the jolt of the car knocks him out of the vehicle, but he
20 gets knocked out of the vehicle and then does, like, a roll and then
21 comes right -- and comes up and starts running. But he's right at
22 the front of our car. So he jumped out, so he's right at the front of
23 our car. So he hit the front of our car and goes right past my
24 window, the passenger side window.

25 Q Okay. I want to break this down. Okay. When he exits

1 the vehicle --

2 A Yes, sir.

3 Q -- you said he had a black shirt on.

4 A Yes, sir.

5 Q Red glove --

6 A Yes, sir.

7 Q -- or gloves?

8 A The glove holding -- or the hand holding the rifle I know it
9 had a red glove on it, yes, sir.

10 Q Okay. And then you indicated that the firearm was a
11 longer-type firearm.

12 A It was a -- yes, like a rifle-type, but it had been shortened, I
13 guess the stock had been removed or taken off or something.

14 Q Okay. Do you remember it having a magazine?

15 A At the time of -- we're at now in the incident? No, I don't.

16 Q Okay. Fair enough. At that point in time, are you face to
17 face with this individual?

18 A He's coming by my passenger side window. So yes, he's
19 really close.

20 Q Did there -- was there a point in time where Officer Cupp
21 struck him --

22 A Yes.

23 Q -- bumped him?

24 A He hit the car front passenger side quarter panel, hit it and
25 kind of slid down the side of the car as the car was going by.

1 Q And did --

2 A So we're -- he's moving and we're moving. So it's kind of
3 simultaneously, I guess.

4 Q Did you come face to face with the individual at that point
5 in time?

6 A Yes, I could see him clearly right outside the passenger
7 window.

8 Q And do you recognize that person or see that person here
9 in court today?

10 A Yes, sir, the --

11 Q Can you please point to that person, describe an article of
12 clothing?

13 A Yes, sir. Blue shirt with a blue surgical mask.

14 MR. GIORDANI: Would the record reflect the identification
15 of Jemar Matthews?

16 THE COURT: So reflected.

17 BY MR. GIORDANI:

18 Q You indicated previously that you were familiar with the
19 area?

20 A Yes, sir.

21 Q Had you made contact with Mr. Matthews previously?

22 A Yes, sir.

23 Q And did you know him by face?

24 A By face, couldn't remember his name at the time.

25 Q Okay. When he has that firearm in his hand and he's

1 directly in front of your vehicle, what did you feel? How did you
2 feel at the time?

3 A Scared. To be quite -- I was surprised. Because he
4 jumped out of the car, it was -- everything happened so fast.
5 Surprise, shock, it's like, he's got a gun, and then when I get out of
6 my car, he doesn't have the firearm anymore, so his hands are free.

7 Q And that's after he gets bumped by the front of the
8 vehicle?

9 A Yes, sir.

10 Q So the vehicle -- the gun pops away --

11 A Yes.

12 Q Or he's not -- he's no longer in possession of the gun?

13 A When I get out of the vehicle, he's not longer in
14 possession of the gun. I don't know if he -- he's just not in
15 possession of it when I get out of the vehicle.

16 Q Fair enough. What do you do decide to do at that point in
17 time?

18 A I exit our car. It slowed down enough -- Officer Cupp
19 slowed down enough so where I could exit our car and then begin
20 to chase after Mr. Matthews on foot.

21 Q When you chased him on foot, was he wearing shoes?

22 A Yes, I believe so.

23 Q At the time that you chased him, can you show us on this
24 map that's still up where you went, what direction he went and you
25 went?

1 A So the car is coasting this direction, it's southbound on
2 Lexington. So about here somewhere, because he gets out and
3 runs and we just go right to Eleanor.

4 Q Okay. So you chase him to Eleanor Avenue?

5 A Yes, sir.

6 Q Okay. And do you continue to chase him east down
7 Eleanor?

8 A Just a couple of houses east -- or just a couple of houses
9 on Eleanor east of Lexington. And then he goes into the front yard
10 of a residence that has a fence in the front yard of it, a chain-link
11 fence.

12 Q So does he actually go over a fence?

13 A Yes.

14 Q Do you follow over that fence?

15 A Yes.

16 Q What does on from there? Keep going.

17 A He jumps over the next fence, which would be the fence
18 going into the backyard of that same residence. I go to that fence,
19 and at that time I hear gunshots coming from behind me.

20 Q And who was -- who did you know to be behind you?

21 A My partner, Officer Cupp.

22 Q Fair to say that you prioritized Officer Cupp's safety over
23 following through with that chase you were conducting?

24 A Yes, sir. And before I got to that other yard, there had
25 been another patrol car that had come in coming this direction, east

1 on Eleanor and was kind of in between myself and Mr. Matthews
2 when he was running.

3 Q Bear with me here, I apologize.

4 A It's okay. I need a drink.

5 MR. GIORDANI: Could I have the Court's indulgence for a
6 moment.

7 THE COURT: You bet.

8 [Pause in proceedings.]

9 BY MR. GIORDANI:

10 Q Come back to that, sir.

11 A Okay.

12 Q So you indicated a patrol car pulled up --

13 A Yes, sir.

14 Q -- as you're chasing Mr. Matthews on Eleanor?

15 A Yes.

16 Q And --

17 A So we're moving at kind of a northerly -- northeasterly
18 position. I'll use the cursor here. Thank you. So I don't remember
19 which one of these houses it was, but it was -- we come, hit the
20 corner, and then maybe front yard, backyard, and then keep going.
21 So the patrol car comes in and then skids to a stop, like, right
22 between me and Mr. Matthews, because he was a little faster than I
23 was.

24 Q Okay. So you go up and over a front-yard fence --

25 A Yes, sir.

1 Q -- of a home --

2 A Yes, sir.

3 Q -- a backyard fence, and where is it that you last see
4 Mr. Matthews?

5 A He had gone over the backyard fence in the same -- so he
6 had gone over the backyard fence, and then I was getting ready to
7 go over the backyard fence when I hear gunshots from my -- south,
8 so behind me.

9 Q Okay. When you last saw him, was he heading toward
10 this street here, Jimmy Avenue?

11 A Yes. He was still in a north-northeasterly direction, north
12 direction.

13 Q Okay. And then you turn your attention to your partner
14 and you've heard gunshots, right?

15 A Yes, sir.

16 Q At that point in time, where do you go?

17 A I go back toward the direction, because that's where I
18 think my partner is, back to where I last saw my partner, which was
19 at the Lincoln Town Car or Lincoln four-door.

20 Q Thank you.

21 And I apologize, let me jump back to State's 333; do you
22 recognize that, sir?

23 A Yes. That's where the patrol car would have been.

24 Q And how do you know that?

25 A The scuff marks or skid marks on the sidewalk.

1 Q Okay. Can you just go over it with the cursor --

2 A Oh, sorry.

3 Q -- I don't know if the jury's seeing your fingers.

4 A I'm sorry. So these skid marks here or scuff marks were
5 made by the patrol car that kind of got between. So Mr. Matthews
6 went over this fence, and the patrol car came, caused the skid
7 marks, and then I was over that fence.

8 Q Okay. And this cone, are you familiar what -- with what
9 this item is?

10 A The cone?

11 Q What's -- I'm sorry, what's next to the cone.

12 A From this picture, a red glove. It appears to be a red
13 glove.

14 Q Okay. Fair to say at the time you didn't see that ditched
15 there --

16 A No, I did not.

17 Q -- at that location? Okay.

18 Once you turned your attention back towards your
19 partner, where do you go?

20 A Go back to the vehicle. When I get to the vehicle, there's
21 nobody around the vehicle, there's no patrol officers, nobody in the
22 vehicle.

23 Q And where do you respond to that -- after that?

24 A I clear the vehicle, make sure there's no other occupants
25 inside the car, and then I just stand there and get other units to me

1 and set up the -- give the last known direction of travel of
2 Mr. Matthews to the other officers.

3 Q Understood. Ultimately, do you respond or proceed to
4 the area where your partner is?

5 A No. I stay with the car the whole time. I don't know
6 where Officer Cupp went.

7 Q And did you get updates over the radio that he was, in
8 fact, safe and everything was fine on that end?

9 A Yeah, over the radio he said that he was okay.

10 Q Okay. So you locked down the scene at the church where
11 the vehicles crashed?

12 A Yes, sir.

13 Q And then, subsequently, were you transported to a
14 location or was Mr. Matthews transported to a location for a
15 showup?

16 A I believe he was brought to my location or near my
17 location.

18 Q For a showup?

19 A Yes, sir.

20 Q And is a showup essentially an identification procedure?

21 A Yes.

22 Q And did you observe Mr. Matthews at that point in time
23 again?

24 A Yes.

25 Q And did you positively identify him then to detectives?

1 A Yes, as the -- yes. As the person who ran from the
2 vehicle.

3 Q Understood.

4 MR. GIORDANI: I will pass the witness at this time, Your
5 Honor. Thank you.

6 THE COURT: Cross-examination?

7 MR. LEVENTHAL: Yeah.

8 **CROSS-EXAMINATION**

9 BY MR. LEVENTHAL:

10 Q Good afternoon, sir.

11 A Good afternoon, sir.

12 Q We've heard about -- I don't want to go through all of how
13 you chased the car down. I want to get sort of straight to where
14 you indicated that the car -- the Lincoln in front of you started to
15 stop or slow down, and that was on Lexington, right?

16 A Yes.

17 Q Now, you were the passenger, correct?

18 A Yes.

19 Q Officer Cupp was driving, correct?

20 A Yes.

21 Q And it was in that Sebring that we heard about, right?

22 A Yes.

23 Q And you described how the driver either rolled out or fell
24 out of the vehicle when it hit the curb or a fire hydrant, right?

25 A Yes.

1 Q Correct?

2 A Yes.

3 Q Okay. And when that driver rolled out of the vehicle or fell
4 out, the approximate speed was about, what, 10-15 miles an hour, I
5 think you --

6 A Previously, yes, sir.

7 Q Okay. And when he rolled out, I think you've testified that
8 he's actually rolled twice on the cement, correct?

9 A I don't remember how many times he rolled, sir. All I
10 know is he hit the ground and came right back up fast.

11 Q Okay. You don't remember if it was once or twice?

12 A No.

13 Q Could have been twice that he rolled?

14 A I don't know, sir.

15 Q Okay. Either way, he rolled -- the driver rolled out on
16 asphalt or something hard, correct?

17 A Yeah, the roadway, sir.

18 Q It was in the roadway?

19 A Yes, sir.

20 Q Okay. And then the driver stood up and that's when
21 Officer Cupp then veered off -- did he have to veer off in order to --

22 A No, sir.

23 Q -- hit this person?

24 A No.

25 Q He just went straight on?

1 A Straight. Because we were kind of offset, like I said
2 before, we were kind of offset like this. So when Mr. Matthews fell
3 out of the car, he just came up and ran right beside our car. So I
4 don't know if -- what Officer Cupp --

5 Q Okay. But there was definite -- an impact between the
6 driver and the Sebring?

7 A Can you say that one more time?

8 Q There was a definite impact between the driver and your
9 Sebring?

10 A Yes, sir, there was.

11 Q There was? Okay. And then that actually created that
12 driver to, again, fall down, correct?

13 A He may have fell down, sir. I don't remember. He was
14 beside the car.

15 Q Well, he didn't, like, bump off the car and keep running,
16 right? You had a struggle, didn't you?

17 A I'm sorry?

18 Q Did you have a struggle with the driver at some point?

19 A I don't understand what you mean by struggle.

20 Q Well, were you trying to get out of your vehicle?

21 A After he had passed us, I got out of my vehicle.

22 Q Did you have trouble getting out of your vehicle?

23 A No.

24 Q No? You got right out?

25 A Yes.

1 Q Okay. And then you started chasing the driver down the
2 street?

3 A Yes, sir.

4 Q And that person went right on Eleanor?

5 A Yes.

6 Q Okay. And this person was running fast, right?

7 A Very fast, sir.

8 Q Okay. Now, you've testified more, you saw two gloves?

9 A I don't remember. He had the one --

10 Q The --

11 A Yeah, he had a minimum of one glove on.

12 Q One on each hand?

13 A He had a minimum of one glove on, yes, sir.

14 Q Okay. Which hand was the minimum of one glove?

15 A The right hand was when I saw him in the car, he had a
16 red glove on.

17 Q Okay. Now, you indicated that you saw him open up the
18 door with his left hand --

19 A Yes, sir.

20 Q -- as well as put his foot out?

21 A Yes, sir.

22 Q Did you see a glove when you saw him open up the door?

23 A Don't remember, sir.

24 Q You don't remember whether he had a glove on?

25 A No, sir.

1 Q Okay. But you could see that he had jeans on while he
2 was sitting there?

3 A Shorts, yes, sir.

4 Q You could see that?

5 A No, not until he started running.

6 Q Okay.

7 A Just a black shirt.

8 Q Now, you were shown this picture by Mr. Giordani; do
9 you remember that?

10 A Yes, sir.

11 Q Okay. You indicated that another police unit had come
12 around and then got between you and the driver?

13 A Between me and the --

14 Q You and the driver that was -- you were chasing?

15 A Yes, sir.

16 Q Okay. And so, I if may, if this is correct, the driver would
17 have been past where these skid marks are, right?

18 A Do you mean not -- he was not in front of the car -- or the
19 police car, no, sir.

20 Q Well --

21 A He was already over the fence, sir.

22 Q Okay. So where this car -- where these skid marks are,
23 you were -- you said the car -- the police car got in between you and
24 the person you're chasing?

25 A Yes, sir.

1 Q Okay. So would that mean that the car would be my pen
2 here, which is the skid mark, the -- you would be to the left of that
3 and the person you were chasing was to the right of that?

4 A No, sir.

5 Q No?

6 A No.

7 Q So that's what I gathered. The police car got in between
8 the two of you, is what you testified to, right?

9 A Yes, sir.

10 Q Okay. But not this one?

11 A And between us, you're -- in between us, like, he's this
12 way. If the car comes this way, he's still in -- the car's still in
13 between us.

14 Q Okay. Do you know when these skid marks were made?
15 Was the -- were you already over the fence and --

16 A No, this was made before I went over the fence.
17 Mr. Matthews had already gone over the fence.

18 Q Had already gone over the fence?

19 A Yes, sir.

20 Q And you had already gone over the fence?

21 A No, the -- Mr. Matthews went over the fence, then the
22 patrol car stopped at the fence, and then I went over the fence.

23 Q How did you get around the patrol car?

24 A I just ran around the front of it.

25 Q Oh, you ran around the front of it, so it didn't go up all the

1 way to the gate?

2 A To the gate?

3 Q Yeah, that gate there. It sort of has a slant there, that skid
4 mark.

5 A I don't see a gate there, sir.

6 Q A fence?

7 A Fence, yes, sir.

8 Q Okay. So you went -- you -- the car did not impede your
9 way to go to over the fence; is that what you're saying?

10 A No. Can -- I think you're -- either you're not understanding
11 the way I'm explaining it, or I'm explaining it terribly. Okay. Can
12 you put the other map below back up, please?

13 Q Well, no, I'm sorry. I'm going to ask you the questions. I
14 appreciate that.

15 A Oh, I was trying to explain it to you so you --

16 Q And I appreciate that.

17 A Okay.

18 Q I just -- I -- if I don't understand, then that's my problem, I
19 want to figure this out.

20 A Well, I want to make sure that everybody understands.

21 Q Understood. And that's what I'm trying to do here.

22 A Oh. Okay.

23 Q Thank you.

24 When the person, the driver, went over the fence, do you
25 remember where? Was it by this tree or was it down by where it

1 was open?

2 A Can you adjust the picture down just --

3 Q Sorry. There you go. How's that?

4 A Thank you, sir.

5 I don't remember exactly where he went over the fence,
6 sir.

7 Q Okay. So you wouldn't have known if -- and you didn't
8 see the person who was driving, he was running at full sprint, right?

9 A Say that one more time, sir?

10 Q He was running. Maybe I'm not --

11 A The person from the Lincoln? Mr. Matthews?

12 Q Yes.

13 A Yes, he was running at full speed, sir.

14 Q Okay. And you had -- you saw him clearly the entire time,
15 right?

16 A Yes, sir.

17 Q Okay.

18 A Until I lost visual of him behind -- in the backyard of
19 whatever the address is on that --

20 Q Okay. You never saw him stop at all --

21 A No, sir.

22 Q -- before he jumped over the fence, right?

23 A Oh, no, sir. No, sir.

24 Q Okay. He was running with his hands waving, like
25 running hard?

1 A Yes, sir.

2 Q Okay. And then the person jumped over the fence and
3 you jumped over the fence?

4 A Yes, sir.

5 Q Okay. Now, after you went back to the Lincoln to check on
6 Officer Cupp --

7 A Yes, sir.

8 Q -- you didn't come into contact with Jemar Matthews for
9 another hour and a half, correct?

10 A I don't know what the timeframe was, sir.

11 Q Okay. Was it -- do you know -- was it 20 minutes do you
12 think?

13 A It's probably longer than 20 minutes, I believe.

14 Q Would you say an hour?

15 A I'm not exactly --

16 Q Would it refresh your recollection if I showed you your
17 report?

18 A Yes, sir.

19 Q Okay. Let me get your report.

20 We're going to pull that up for a minute.

21 Now, we know that you went back and that you had -- you
22 indicated that you had seen and identified Mr. Matthews when that
23 person exited the Lincoln, right?

24 A Can you say that over again, please?

25 Q Okay. You indicated on direct that you recognized

1 Mr. Matthews as the person who exited the Lincoln --

2 A Yes, sir.

3 Q Correct?

4 A Yes, sir. Yes.

5 Q Okay.

6 A I didn't know his -- I couldn't remember his name, but I

7 know I'd seen him before, yes, sir.

8 Q Okay. You said that?

9 A Yes, sir.

10 Q You did not know his name, but you would recognize his

11 face, is what you indicated, right?

12 A Yes. Yes. Yes, sir.

13 Q Okay. And did you ever go over to where Officer Cupp

14 was, where they found Joshlin?

15 A No, sir.

16 Q Okay. Did you know who he was?

17 A I never saw Joshlin, sir.

18 Q Okay. And so during that time that you had recognized or

19 you say you recognized Mr. Matthews and the time that he was

20 brought to you, you don't know how much time had passed?

21 A There was some time, yes, sir.

22 Q Okay. And that time was about approximately an hour to

23 an hour and a half, correct?

24 A Okay. If that was in the previous testimony, then yes, sir.

25 MR. GIORDANI: Objection. That misstates the testimony.

1 THE COURT: Right. I mean, was that your testimony?

2 THE WITNESS: I don't remember the timeframe, ma'am.

3 I'm sorry.

4 THE COURT: Okay.

5 THE WITNESS: I --

6 MR. LEVENTHAL: Okay.

7 BY MR. LEVENTHAL:

8 Q And during that time, did you mention to anybody that
9 you had recognized that person?

10 A No.

11 Q Okay. You knew that that car was potentially involved in a
12 murder, correct?

13 A Shooting, yes, sir. We didn't know the outcome of the
14 shooting?

15 Q The shooting?

16 A Yes, sir.

17 Q Okay. But yet you did not mention to anyone that you had
18 recognized the person as Mr. Matthews as exiting that vehicle,
19 right?

20 A Up to that point, sir?

21 Q Up to that point.

22 A No, sir.

23 Q No. Okay. You didn't put it out on the radio that you may
24 have information on the driver?

25 A Just the only information that was put out was last seen

1 direction -- or last known direction of travel and then units set up a
2 perimeter around that area.

3 Q Okay. But you never, like I said, you never got on the
4 radio and said, I know who it is --

5 A No, sir.

6 Q -- I know where he lives, I know --

7 A No.

8 Q -- something about him?

9 A No, sir.

10 Q And your general description was Black male, black shirt,
11 blue jeans, correct?

12 A Yes, sir.

13 Q Okay. Thank you.

14 MR. LEVENTHAL: I have nothing further.

15 THE COURT: Any redirect?

16 MR. GIORDANI: Court's brief indulgence.

17 No, thank you, Your Honor.

18 THE COURT: Okay. Thank you very much for your
19 testimony --

20 THE WITNESS: Thank you, ma'am.

21 THE COURT: -- here today. You may step down.

22 THE WITNESS: Thank you, ma'am.

23 THE COURT: And you are excused from your subpoena.

24 And you may call your next witness.

25 MR. GIORDANI: We have no one scheduled for the rest of

1 today.

2 THE COURT: Oh, okay. We got through all four of them
3 then?

4 MR. GIORDANI: Well, one we sent home to come back
5 tomorrow.

6 THE COURT: Okay. All right.

7 MR. GIORDANI: So --

8 THE COURT: I just wanted to make sure we got through
9 them all.

10 Okay. At this time, we are going to conclude for the day.

11 During this recess you're admonished not to discuss or
12 communicate with anyone, including your fellow jurors, in any way
13 regarding the case or its merits either by voice, phone, e-mail, text,
14 Internet, or other means of communication or social media, read,
15 watch, or listen to any news or media accounts or commentary
16 about the case, or do any research, such as consulting dictionaries,
17 using the Internet, or using reference materials or make any
18 investigation, test a theory of the case, recreate any aspect of the
19 case, or in any other way investigate or learn about the case on
20 your own or form or express any opinion regarding the case until
21 it's finally submitted to you.

22 And we'll be in recess till tomorrow morning at 9:00 a.m.
23 And the jury is excused. Officer Hawks will walk you out.

24 [Jury recessed at 4:50 p.m.]

25 THE COURT: Okay. The record will reflect that the

1 hearing is taking place outside of the presence of the jury panel.

2 MR. GIORDANI: Before we leave, can we have about
3 three minutes to talk to the folks in the gallery? Apparently, there's
4 been an issue with something.

5 THE COURT: What are you talking about?

6 MR. GIORDANI: It might need to be addressed on the
7 record.

8 THE COURT: Oh. Okay.

9 MR. GIORDANI: Can I just have, like, three minutes?

10 THE COURT: Yeah, no problem.

11 MR. GIORDANI: I don't really know what's going on.

12 THE COURT: Uh-huh.

13 [Court recessed at 4:52 p.m., until 4:53 p.m.]

14 MR. GIORDANI: So, Your Honor, if we may.

15 THE COURT: Okay.

16 MR. GIORDANI: Real quick, the elderly ladies that were
17 sitting behind us earlier today, the victim's family, they have
18 reported to our intern, and I guess us now, which I hear, that the
19 folks that were sitting on the other side of the courtroom behind
20 Mr. Matthews were taking photographs of them outside earlier.

21 THE COURT: Taking photographs of who?

22 MR. GIORDANI: Of them. Them. The family members of
23 Mersey Williams.

24 THE COURT: Oh.

25 MR. GIORDANI: So, apparently, they have already

1 handled and escort -- and they were escorted out, because they felt
2 very uncomfortable and scared. I apologize this is coming to you
3 so late, but I was examining witnesses and I didn't quite get what
4 was being conveyed to me.

5 So it was not reported to Marshal Hawks, it was reported
6 to, I guess, the sergeant or something. And then -- or there was a
7 request for further people to escort the rest of the family out. I'm
8 not --

9 THE COURT: Okay. Like, with a phone?

10 MR. GIORDANI: Yes. I'm not accusing, of course,
11 Mr. Matthews of anything, you know, but I wanted to tell the Court
12 that and, considering the issues we had previously, I want it noted
13 for the record.

14 THE COURT: Okay. Thank you.

15 MR. LEVENTHAL: 9:00 tomorrow?


16 THE COURT: 9:00.

17 MR. LEVENTHAL: Great. Thank you, Judge.

18 [Court recessed for the evening at 4:55 p.m.]

19 ///

20
21
22 ATTEST: I do hereby certify that I have truly and correctly
23 transcribed the audio/video proceedings in the above-entitled case
24 to the best of my ability.


Shawna Ortega, CET*562