

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,

Appellant,

vs.

TATIANA LEIBEL,

Respondent,

\_\_\_\_\_ /

Electronically Filed  
Aug 30 2022 03:24 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Case No. 2014-CR-00062  
2014-CR-00062BD

RECORD ON APPEAL

VOLUME 10

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TATIANA LEIBEL  
INMATE #1137908  
FLORENCE MCCLURE WOMEN'S CORRECTIONAL CENTER  
4370 SMILEY ROAD  
LAS VEGAS, NEVADA 89115

IN PROPER PERSON

THE STATE OF NEVADA

DOUGLAS COUNTY DISTRICT ATTORNEY

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In The Matter Of:

State of Nevada vs

*Tatiana Leibel, aka Tatiana Kosyrkina - 14-CR-0062*

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JUN 18 2015

Douglas County  
District Court Clerk

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*Jury Trial - Friday*

*January 30, 2015*

*Rough Draft*

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*Carson City, Nevada 89703*

Original File 013015 TLeibel.txt

Min-U-Script® with Word Index

1 Case No. 14-CR-0062  
2 Dept. No. I  
3 DA 14-343G  
4  
5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF  
6 NEVADA IN AND FOR THE COUNTY OF DOUGLAS  
7 THE HONORABLE NATHAN TOD YOUNG, DISTRICT JUDGE  
8 -oOo-  
9 STATE OF NEVADA, )  
10 Plaintiff, )  
11 vs. )  
12 TATIANA LEIBEL, a.k.a. )  
13 TATIANA KOSYRKINA, )  
14 Defendant. )  
15 \*\*\*ROUGH DRAFT\*\* TRANSCRIPT OF PROCEEDINGS  
16 JURY TRIAL  
17 FRIDAY, JANUARY 30, 2015  
18 MINDEN, NEVADA  
19 For the State: Thomas Gregory,  
20 Deputy District Attorney  
21 For the Defendant: Kristine L. Brown, Esq.  
22 Jamie Henry, Esq.  
23 The Defendant: Tatiana Leibel, a.k.a.  
24 Tatiana Kosyrkina  
25 Reported by: Capitol Reporters  
Nicole Alexander, Nevada CCR #446  
(775) 882-5322

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1 MINDEN, NEVADA, FRIDAY, JANUARY 30, 2015, A.M. SESSION  
-oOo-  
2  
3  
4 THE COURT: We're back in session in 14-DI16,  
5 State of Nevada versus Tatiana Leibel. Mr. Gregory is  
6 here for the State, and for the defense, we have  
7 Ms. Brown and Ms. Henry, who are both here. Ms. Leibel  
8 is here, and the interpreters are here. However, we have  
9 a new interpreter that I would like to swear before we go  
10 any further. New to us. Face the clerk here. Raise  
11 your right hand.  
12 (WHEREUPON, the interpreter was duly sworn.)  
13 THE COURT: Thank you, ma'am. You may have a  
14 seat. Now all of our interpreters has been sworn. I  
15 want to address an issue that came to my attention this  
16 morning. One of the bailiffs advised me that one of our  
17 jurors saw someone that she knew, apparently didn't know  
18 her very well, and it turns out that they had a very  
19 brief conversation, and she -- the question was, "What  
20 are you doing here? Do you work in this building?" She  
21 said, "No, I'm at Ed Garren's mom." And she said, "Oh,  
22 well, I can't talk to you," I think, was the extent of  
23 it.  
24 However, I intended to bring that juror in

1 just to have her say exactly what happened and hear if  
2 either of you believes that there's cause to dismiss her  
3 from the jury. So it's Miss Martin, and it's my  
4 intention to start with that. Do you have any objection  
5 to that, Mr. Gregory?  
6 MR. GREGORY: No, Your Honor.  
7 THE COURT: And do the defense, either of one  
8 of you?  
9 MS. BROWN: No, Your Honor.  
10 THE COURT: Can we bring Miss Martin in.  
11 Ms. Martin, good morning.  
12 JUROR NO. 3: Good morning. It's me again.  
13 I apologize.  
14 THE COURT: No, ma'am. It's all right, but  
15 it came to my attention that perhaps you had a  
16 conversation with Mr. Garren's mother.  
17 JUROR NO. 3: I didn't know it was  
18 Mr. Garren's mother at the time.  
19 THE COURT: That's okay. Do you mind telling  
20 us about it?  
21 JUROR NO. 3: No. I mentioned it because I  
22 didn't know who possibly could have seen it who might  
23 have misconstrued it. So when I was leaving, I saw Sandy  
24 Garren, and I had seen her in the audience yesterday, and

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1 as I was leaving, I just said, "Hi, Sandy." She said,  
2 Hi. I thought it was you." And so I said to her, "Are  
3 you still going to the same church?" We talked about the  
4 church for a little bit, and then we talked about bunco  
5 because that's how we knew each other, and this is years  
6 and years ago. I mean, years and years ago. I used to  
7 do coffee and doughnuts at Life Point Community Church,  
8 so when she'd get her donut, we'd say, "Good morning."  
9 That was the extend of it.  
10 I would not call her a friend, but an  
11 acquaintance, and just as we were just about finishing  
12 the conversation, I said to her, "Do you work here?" And  
13 she said, "No. I was here to see my son testify,  
14 whatever Garren." And I said, "Okay. Nice to see you,"  
15 and I left.  
16 THE COURT: Okay.  
17 JUROR NO. 3: And I realized it was somebody  
18 that was involved.  
19 THE COURT: Well, first of all, I greatly  
20 appreciate you telling us. I really, really do. And do  
21 you believe that that conversation influences you in this  
22 trial in any fashion?  
23 JUROR NO. 3: Absolutely not.  
24 THE COURT: Does it tend to make you believe

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1 or disbelieve Investigator Garren, that conversation?  
2 JUROR NO. 3: No.  
3 THE COURT: Has it impacted you in any  
4 fashion regarding this trial?  
5 JUROR NO. 3: No, and I didn't even know if I  
6 should mention it, but I thought there could have been  
7 someone who witnessed an encounter that could have  
8 thought it went on beyond that point.  
9 THE COURT: Well, you should have mention it.  
10 You did exactly the right thing.  
11 JUROR NO. 3: Well, you had said people on  
12 the board, and Sandy wasn't on the board, but -- and I  
13 didn't even know she had -- I know people like to come  
14 see trials, so I didn't have a clue.  
15 THE COURT: Absolutely, ma'am. Mr. Gregory,  
16 do you have any questions?  
17 MR. GREGORY: No.  
18 THE COURT: Ms. Brown?  
19 MS. BROWN: No, Your Honor.  
20 THE COURT: Ms. Martin, I think you did  
21 exactly the right and honorable thing. There's no reason  
22 to excuse you. We appreciate your participation.  
23 Now I'm going to bring in the rest of the  
24 jury. You can go back and walk in with them or just take

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1 your seat.  
2 JUROR NO. 3: I'd like to get something  
3 first.  
4 THE COURT: Okay. We'll give you a moment to  
5 do that.  
6 JUROR NO. 3: Just going to grab a bottle of  
7 water.  
8 THE COURT: Thank you.  
9 THE BAILIFF: Can we let the audience in or  
10 the people?  
11 THE COURT: Yes, sir, you may.  
12 Counsel still think we're looking okay for  
13 Friday concluding?  
14 MR. GREGORY: Yes, Your Honor.  
15 THE COURT: You know the place you're at,  
16 so --  
17 MR. GREGORY: Yes. I would tell the Court I  
18 think I'm ahead of schedule. Yeah, we're on track.  
19 THE COURT: Well, you I don't know where we  
20 are?  
21 MS. BROWN: Yeah. I was going to say how far  
22 ahead of schedule.  
23 THE COURT: All right. Well, we'll see. Why  
24 don't we bring in the jury. Thank you very much.

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1 MS. BROWN: And, Your Honor, just in case  
2 there's any witnesses in the courtroom, they need to be  
3 instructed on the rule of exclusion.  
4 THE COURT: Are there any witnesses in the  
5 courtroom other than the family members I've talked to  
6 already? Okay. Thank you. The public is welcome.  
7 Good morning, all. Have a seat please.  
8 Thank you. Good morning to all of you. Ms. Martin, I  
9 forgot to ask, and I apologize. How is your mother?  
10 JUROR NO. 3: Much better. I think it was  
11 blood pressure. She was very low again this morning, and  
12 she couldn't get out of bed, so it's probably the blood  
13 pressure that's affecting her. But she's a got caregiver  
14 that is coming in all day long.  
15 THE COURT: Very good. Thank you. To all of  
16 the jurors, I want to apologize. We generally have that  
17 jury room cleaned up a little bit. Mr. Seddon and I went  
18 in last knew night and cleaned up a few things, but  
19 generally the janitorial staff comes in and empties the  
20 garbage can. I note that that didn't happen last night,  
21 but we'll make sure it does. We want you to be  
22 comfortable back there. Those of you who left bottles of  
23 water out here, we left them in place. If you want fresh  
24 water, you're welcome to it, but I kind of presume that

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1 you left your bottles here because you wanted them. If  
2 you don't and you want a fresh bottle, you're welcome to  
3 that. Good morning to all of you.  
4 So will counsel stipulate to the presence of  
5 the jury?  
6 MR. GREGORY: Yes, Your Honor.  
7 MS. BROWN: Yes, Your Honor.  
8 THE COURT: Okay. With that, Mr. Gregory,  
9 your next witness, please, sir.  
10 MR. GREGORY: Thank you, Your Honor. I'll  
11 start with an exhibit first, Exhibit Number 140. That's  
12 a certified copy of a Certificate of Death from  
13 Mr. Leibel. I'd move for its admission.  
14 THE COURT: May I see it, please?  
15 MR. GREGORY: Yes.  
16 THE COURT: Do you have any objection to it?  
17 MS. BROWN: No, Your Honor.  
18 THE COURT: 140 is admitted.  
19 (Exhibit No. 140 was admitted into evidence.)  
20 MR. GREGORY: The State calls Ralph Burach.  
21 Come on in, sir. If you would pause right there and face  
22 the clerk for a moment. This is the clerk right here,  
23 the lady who is standing. Raise your right hand, sir.  
24

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1 RALPH BURACH,  
2 having been first duly sworn, was  
3 examined and testified as follows:  
4  
5 THE COURT: Come over here and have a seat,  
6 please, sir.  
7 THE WITNESS: Yes, sir.  
8 THE COURT: There's some water if you'd like.  
9 THE WITNESS: Thank you.  
10 THE COURT: Mr. Gregory?  
11  
12 DIRECT EXAMINATION  
13 BY MR. GREGORY:  
14 Q. Good morning, sir. Will you please state  
15 your full name.  
16 A. My name is Ralph Baruch.  
17 Q. How do you spell your last name?  
18 A. B-a-r-u-c-h.  
19 Q. And it's my understanding you're visiting us  
20 today from Southern California?  
21 A. Yes, sir. That is correct.  
22 Q. Do you know Harry Leibel?  
23 A. No know him very well.  
24 Q. Tell us a little bit about your relationship

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1 with Mr. Leibel.  
2 A. Harry Leibel was my dearest and closest  
3 friend. I knew the man for over 50 years. Our  
4 relationship started back in Los Angeles at Fairfax High  
5 School. We went to high school together, junior college,  
6 practically grew up together, lived in the same community  
7 for years. He encouraged me to move to Orange County. I  
8 knew him in Orange County for years; knew his family  
9 exceptionally well. Harry Leibel was my closest and  
10 dearest friend.  
11 Q. Do you know when about in time Harry moved to  
12 Tahoe?  
13 A. Harry moved to Lake Tahoe, I believe, the me  
14 beginning of like 2001-2002, somewhere in there.  
15 Q. How did that impact your contact with  
16 Mr. Leibel?  
17 A. It impacted it a little bit. Obviously, you  
18 know, the distance was a bit of a problem, but it didn't  
19 stop me from using the phone and always calling my buddy  
20 to see what was going on. We were very close.  
21 Q. And would you still be able to get together  
22 sometimes even though he had moved up here?  
23 A. Absolutely. I drove up and I saw Harry on  
24 occasion a few times. I enjoyed the Lake Tahoe area.

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1 It's beautiful.  
2 Q. And describe Harry's personality.  
3 A. Describe Harry's personality. Harry was one  
4 of a kind. He had a very up-tone personality. He loved  
5 living. He was very intelligent. Him and I would share  
6 many stories and discuss many different topics. Harry  
7 was open minded about a lot of things. He was always  
8 kind of searching for truths, and different kinds of  
9 things. He had a very unique personality. He was very  
10 fun person, very up-tone, and just a swell guy. A good  
11 guy to be around.  
12 Q. Are you also familiar with Tatiana Leibel?  
13 A. Yes, I'm familiar with Tatiana.  
14 Q. And who is she? How do you know Tatiana?  
15 A. Well, obviously through Harry when they  
16 married and they started their relationship in Los  
17 Angeles. I met her then.  
18 Q. Are you familiar with Harry's children?  
19 A. I am very familiar. I am the Godson --  
20 Godfather to both of them, both Sharon and Justin.  
21 Q. And they're both adults now?  
22 A. Yes, they are.  
23 Q. And were they children of Harry's by a prior  
24 marriage?



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1 A. By a different marriage, yes.  
2 Q. And did you actually attend Harry and  
3 Tatiana's wedding?  
4 A. I did, yes, in the Marina Del Ray. I  
5 attended. Yes.  
6 Q. Are you familiar with Harry's religious  
7 beliefs?  
8 A. Yes, I am, to some degree. You know, Harry  
9 was a member of the Jewish faith, and Harry also started  
10 practicing and learning the Kabbalah, which is old Jewish  
11 scriptures.  
12 Q. Do you know to what extent he was involved  
13 with that?  
14 A. Very extensively. The Kabbalah, he got into  
15 it very extensively in Los Angeles. He was actually an  
16 instructor in the West L. A. Kabbalah Center and did a  
17 lot of reading, and we talked about it openly. Harry was  
18 very well-versed on Kabbalah.  
19 Q. Are you familiar with that as well?  
20 A. Not as well as he was, but through lectures  
21 and stories with Harry, he turned me on to quite a few  
22 things, and he brought me along.  
23 Q. Do you know that religion's view of suicide  
24 is?

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1 A. Totally unacceptable. It's a sin.  
2 Q. Describe Harry's relationship with Tatiana.  
3 A. Well, at first, it was very good. It was a  
4 good relationship, a loving relationship. They got along  
5 exceptionally well. They were good together. Through  
6 their years in Los Angeles, they got along very well.  
7 They worked well together.  
8 And then when they moved to Tahoe, I would  
9 have to assume in the beginning it was good, but towards  
10 the end, I sensed a little friction in the relationship.  
11 Something was quite not right. Things were changing a  
12 little bit, but I never got too personal with Harry.  
13 That's a line I didn't like to cover or cross, you know.  
14 If he wanted to tell me something, he would tell me  
15 something, but it was changing a little bit. The  
16 relationship was changing a little bit. I sensed a  
17 little friction.  
18 Q. Okay. So I take it you said you didn't get  
19 into it with him. You don't know what the problem was?  
20 A. No, not in the beginning. Towards the end,  
21 my last trip when I saw Harry was in 2013 around the July  
22 4th weekend, and I had some discussion Harry about a few  
23 things. Tatiana wasn't there at the time, but we talked  
24 about a few things.

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1 Q. Anything that -- You said you sensed some  
2 friction. Anything that shed light on that?  
3 A. The money situation, some financial things  
4 came up. He had been helping Tatiana's oldest Daughter  
5 out, Lana, and he was going to stop doing that. He  
6 wasn't going to be a part of that. He wasn't going to  
7 subsidize them anymore, and that was causing a little bit  
8 of friction.  
9 Q. Okay. You said he visited them July 4th,  
10 2013?  
11 A. Yes, sir. That is correct.  
12 Q. And was that up here in Lake Tahoe?  
13 A. Yes, it was.  
14 Q. How long did you stay?  
15 A. I stayed maybe four days, five days. It was  
16 a short stay.  
17 Q. And you said when you talked with Harry,  
18 Tatiana wasn't there. Was she there during the course of  
19 your stay?  
20 A. No. She was down taking care of her  
21 daughter. Her daughter had just given birth to twins. I  
22 believe she was either living in, I think, Glendale or  
23 the Pasadena area.  
24 Q. So Southern California --

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1 A. Yes, sir. That's correct. Yes.  
2 Q. -- as well? When did you last speak with  
3 Harry on the phone?  
4 A. I spoke to my friend a week before the  
5 murder.  
6 MS. HENRY: Objection, Your Honor.  
7 THE COURT: What's your objection?  
8 MS. HENRY: The objection is is there's --  
9 THE COURT: What's your legal objection?  
10 MS. HENRY: Assuming facts not in evidence.  
11 THE COURT: The reference to "murder" will be  
12 stricken.  
13 MS. HENRY: Thank you, Your Honor.  
14 THE COURT: And the jury is instructed to  
15 disregard that.  
16 Q. (BY MR. GREGORY:) You told investigators you  
17 last spoke to him on February 20th. Does that sound  
18 correct?  
19 THE COURT: The objection was it's based on  
20 supposition, not this witness's personal knowledge, would  
21 be the appropriate objection. Thank you. And that's why  
22 it was stricken. Go ahead.  
23 MR. GREGORY: Understood.  
24 THE WITNESS: Could you repeat the question?

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1 THE COURT: Would you, please.  
2 Q. (BY MR. GREGORY:) Yes. You had told  
3 investigators that the last conversation was on February  
4 20th.  
5 A. Yeah, right around there, yeah. I had talked  
6 to Harry then, yes.  
7 Q. Okay. And then he passed away on the 23rd,  
8 just three days later?  
9 A. (Indicating.)  
10 THE COURT: The witness is nodding his head.  
11 Q. (BY MR. GREGORY:) Thank you. Nodding his  
12 head in affirmative.  
13 A. Yes, that's correct.  
14 Q. How was Harry during that conversation?  
15 A. Harry was okay. He kind of apologized to me.  
16 When we had saw each other last during that 4th weekend,  
17 he wasn't feeling quite well, and then he later explained  
18 to me that he had gone to the doctor, and he was  
19 suffering from blood poisoning, and he was on heavy-duty  
20 antibiotics.  
21 Q. That's from back in July when you visited  
22 him?  
23 A. Yes, when I saw him. That's correct. And he  
24 apologized to me. We didn't really do much. We

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1 basically stayed in the house because I didn't really  
2 want to do much to him. I didn't want to take him down  
3 the hill because I knew he wasn't feeling well.  
4 Q. How about during the course of this  
5 conversation? Did you guys discuss his health at all  
6 then?  
7 A. No, that was about it. It was just that  
8 brief thing about the blood poisoning, and he was  
9 starting to feel a little better because of the  
10 medication.  
11 Q. How did he sound to you?  
12 A. He sounded okay. He sounded pretty good.  
13 Q. Did he sound like himself?  
14 A. Yeah, he did. He did. He did. He was  
15 basically up-tone, and I could understand him clearly.  
16 Q. Anything about that conversation that raised  
17 red flags or concerns --  
18 A. No.  
19 Q. -- for Harry's well-being?  
20 A. No, none at all.  
21 Q. When did you hear of Harry's death?  
22 A. I guess it was the middle of the week. I was  
23 working, and I had just got home from work, and my wife  
24 told me that Harry had been shot and killed.

Page 19

1 Q. Did you ever hear from Tatiana?  
2 A. Never.  
3 Q. Did that surprise you?  
4 A. No, didn't surprise me.  
5 Q. Okay. Why not?  
6 A. You know, towards the end of the  
7 relationship, I hardly spoke with her, you know. There  
8 wasn't much communication. And usually when I did call  
9 Harry, he would be the one that always answered the  
10 telephone, so our conversation was between the both of  
11 us.  
12 Q. So predating the July 4th day when you came  
13 to see him, when was the time prior to that you had seen  
14 him? About how much separation in time?  
15 A. Possibly a year, maybe two. We had been -- I  
16 had been up with my wife to Tahoe to see him. I don't  
17 know if it was in '12 or '11. Some time had passed.  
18 MR. GREGORY: Thank you. Nothing further.  
19 THE COURT: Ms. Brown, Ms. Henry?  
20 MS. HENRY: Thank you, Your Honor.  
21  
22  
23  
24

Page 20

1 CROSS-EXAMINATION  
2 BY MS. HENRY:  
3 Q. Now, you had said that when you spoke with  
4 Mr. Leibel, he indicated to you that he wasn't feeling  
5 well on the last visit in the summer of 2013; correct?  
6 A. Yes, that is correct.  
7 Q. He had suffered from blood poisoning, that he  
8 was on heavy antibiotics?  
9 A. Yes, that's what he told me.  
10 Q. And being his best friend, you obviously know  
11 that he had cancer a while back as well; correct?  
12 A. That's correct. Yes.  
13 Q. And he also had major surgery for that  
14 cancer; correct?  
15 A. Yes, ma'am. That is correct. Yes.  
16 Q. And then I'm sure that you're also probably  
17 aware that there might have been some issues with that  
18 surgery?  
19 A. Yes, there were.  
20 Q. Okay. And do you know who those issues were?  
21 A. He had to visit the bathroom frequently.  
22 Q. Very frequently; correct?  
23 A. Yes, ma'am, he did.  
24 Q. That it was very hard for him to leave the

Page 21

1 house?  
2 A. At times, yes.  
3 Q. And then in addition to those -- to his  
4 health issues, he also you had indicated, was stressed  
5 with his financial situation as well; correct?  
6 A. Yes, to some degree, you know, over that one  
7 situation with Tatiana's oldest daughter, Lana.  
8 Q. Sure. But he was worried about money?  
9 A. You know, that's difficult. Kind of yes and  
10 no. Just pretty much that situation. I didn't get too  
11 involved with Harry's personal finances and everything.  
12 Q. Sure. Did you also know -- Did you know  
13 Harry's family as well, like his mother?  
14 A. I knew them very well. Grew up with them.  
15 Q. And Harry's mother and Mr. Leibel's mother,  
16 she was very religious; correct?  
17 A. Yes.  
18 Q. And she had a lot of influence over  
19 Mr. Leibel's decisions?  
20 A. I would have to say yes, she did.  
21 Q. Because isn't it true that he was married  
22 previous to Mrs. Leibel, and he divorced that woman  
23 because of his mother; correct?  
24 A. That is correct. Yes.

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1 Q. And I believe you said in your interview with  
2 the sheriff's office that, you know, even though you  
3 didn't really speak with Mrs. Leibel at the end, you  
4 know, in the last few years previous and in the years  
5 that they had been married, she's always been nice to you  
6 and a good hostess; right?  
7 A. Yes, she was. Yes, she was.  
8 Q. And whenever you had seen them previously,  
9 they seemed like a good couple?  
10 A. They did. Yes. They did.  
11 MS. HENRY: No further questions.  
12 THE COURT: Mr. Gregory?  
13 MR. GREGORY: Nothing further, Your Honor.  
14 THE COURT: Sir, thank you so much for being  
15 here today. You are excused.  
16 THE WITNESS: Yes, Your Honor.  
17 MR. GREGORY: Court's indulgence.  
18 THE COURT: Yes, sir.  
19 MR. GREGORY: Thank you, Your Honor. Your  
20 Honor, the State calls Darla Leibel.  
21 THE COURT: Do you intend to recall  
22 Mr. Burach?  
23 MR. GREGORY: I do not.  
24 THE COURT: Ms. Brown?

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1 MS. BROWN: No, Your Honor.  
2 THE COURT: Sir, you may remain.  
3 THE WITNESS: Thank you.  
4 THE COURT: Hello, ma'am.  
5 THE WITNESS: Hi.  
6 THE COURT: If you would pause right there  
7 and raise your right hand.  
8  
9 DARLA LEIBEL-BURROW  
10 having been first duly sworn, was  
11 examined and testified as follows:  
12  
13 THE COURT: Would you come up here and have a  
14 seat please, ma'am. And if you'd like, there's some  
15 water right there this that pitcher.  
16 THE WITNESS: Oh, thank you.  
17 THE COURT: Yes, ma'am.  
18 MR. GREGORY: Good morning.  
19 THE WITNESS: Hi.  
20  
21 DIRECT EXAMINATION  
22 BY MR. GREGORY:  
23 Q. Would you please state your full name.  
24 A. Darla Leibel-Burrow.

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1 Q. Spell your last name, please.  
2 A. L-e-i-b-e-l dash B-u-r-r-o-w.  
3 Q. Thank you. Are you familiar with Harry  
4 Leibel?  
5 A. Yes.  
6 Q. How so?  
7 A. He was my husband.  
8 Q. Okay. When was he your husband?  
9 A. From 1985 to 1998.  
10 Q. And where did the two of you reside?  
11 A. In Los Angeles.  
12 Q. Following your separation, did you  
13 subsequently move?  
14 A. I moved to Reno.  
15 Q. When did you move the Reno?  
16 A. In 2000.  
17 Q. After you divorced Mr. Leibel or the two of  
18 you divorced, tell us about the level of contact you  
19 continued to have with him.  
20 A. Well, for the first few years in L. A. After  
21 our divorce, we still saw each other. We worked  
22 together, and we saw each other without his parents  
23 knowing. Either I'd go to his apartment or he'd come to  
24 my house. And then over the years after he moved -- I

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1 moved here, I went on with my life. And after I moved  
2 here, he'd call. After he moved up to Lake Tahoe, he'd  
3 call quite frequently, and over the years, it dwindled.  
4 So that was our relationship.  
5 Q. So it dwindled. During the last five years  
6 of his life, how much did you have contact with him?  
7 A. Well, the last five years, probably a half a  
8 dozen times. There was a four-year space where I never  
9 heard from him, and then out of the blue, about a week  
10 before his death.  
11 Q. Let's talk about that out-of-the-blue  
12 communication. How did that happen?  
13 A. I got a message on Facebook from Harry that  
14 said something about, "How you doing? Can we talk? Can  
15 I call you?" So I answered back, "Sure. Here's my  
16 number." Well, he had my number. So he says, "How about  
17 1:00 clock?" And I said, "That's fine." So he called.  
18 I spoke to him. Now you have to know there was nothing  
19 romantic between us at this time. We were just friends.  
20 We had always been best friends, and we talked for a long  
21 time, and that was that.  
22 Q. I can tell you're emotional.  
23 A. Yes.  
24 Q. Sorry to make you go through this. You said

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1 you talked a long time. About how long did you talk?  
2 A. Close to two hours.  
3 Q. Did how did Harry sound to you?  
4 A. Fine. He was talking about a project he was  
5 working on, and they expected it to come to fruition real  
6 soon. And then we started talking about our -- we had at  
7 one time bought a fifth wheel and a truck and traveled  
8 across the country, and we started talking about some of  
9 the things that we did and he sounded pretty jovial.  
10 Q. Did he say anything that was of concern to  
11 you?  
12 A. Actually, not of concern because everything  
13 seemed positive. The only thing he asked me how my  
14 husband was doing, how Ariel was doing, and I said he was  
15 great. He had told me about his cancer, going through  
16 his cancer thing, and I had had a liver transplant, so I  
17 was describing how my husband took such good care of me,  
18 how I was down to 84 pounds, and he'd carry me from my  
19 bed to the living room to the bathroom. He bathed me,  
20 cleaned me. I says, "He took such good care of me." And  
21 even in the hospital, he would sit with me all day long  
22 for days because I'd be in there for months, and how well  
23 he took care of me and how much he loved me and  
24 everything. And he said --

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1 MS. HENRY: Objection. Hearsay.  
2 THE WITNESS: Pardon?  
3 MS. HENRY: She's saying what Mr. Leibel  
4 said.  
5 THE COURT: Sustained.  
6 Q. (BY MR. GREGORY:) Did he indicate anything  
7 about his relationship with Ms. Leibel?  
8 A. Well, he stated that he wished he had that,  
9 what I had, but he didn't. He said --  
10 MS. HENRY: Objection. Hearsay.  
11 THE COURT: Sustained.  
12 MR. GREGORY: Your Honor, it goes to his  
13 state of mind.  
14 THE COURT: It's sustained.  
15 Q. (BY MR. GREGORY:) Okay. Anything else?  
16 THE COURT: The jury is instructed to  
17 disregard that.  
18 Q. (BY MR. GREGORY:) Anything else about the  
19 conversation that caused you to concern?  
20 A. He basically told me he had --  
21 MS. HENRY: Objection. Hearsay. "He told  
22 me."  
23 MR. GREGORY: Your Honor --  
24 THE COURT: Sustained.

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1 MR. GREGORY: -- I'm trying to elicit his  
2 state of mind regarding his marriage.  
3 THE COURT: I'm not going to allow that.  
4 Q. (BY MR. GREGORY:) Okay. Did you have any  
5 children in common with Harry?  
6 A. No.  
7 Q. And are you familiar with his -- Did he have  
8 a wife prior to you?  
9 A. Yes.  
10 Q. And who is she? Do you know?  
11 A. Susan Leibel. She's now Susan Green. I  
12 raised her children, you know, Sharon and Justin, and we  
13 still today have always had a good relationship.  
14 Q. Describe Harry's personality.  
15 A. He was basically a happy type individual,  
16 always happy, made the best out of something bad or made  
17 you laugh when you were at your worst. He could be mean  
18 as far as nothing physical. It was normally just verbal,  
19 and then he'd smile at you and hug you, and it was over  
20 with. In fact, I couldn't get him to fight. He'd never  
21 raise his voice, and I'm a voice -- very boisterous. So  
22 I keep him going, and he wouldn't fight. He'd just sit  
23 back and say, "Okay. Just does that make you feel  
24 better?"

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1 Q. Is there any posturing that he would do when  
2 he'd have those verbal debates with you?  
3 A. No.  
4 Q. Okay. And when you said he was mean, I also  
5 heard you say --  
6 A. Mean verbally.  
7 Q. I also heard you say he didn't yell.  
8 A. No.  
9 Q. So he'd do it with a calm voice?  
10 A. He never yelled at anybody.  
11 MR. GREGORY: All right. Thank you. Nothing  
12 further.  
13 THE COURT: Cross, Ms. Henry?  
14 MS. HENRY: Yes. Thank you, Your Honor.  
15  
16 CROSS-EXAMINATION  
17 BY MS. HENRY:  
18 Q. So when you said Harry was mean --  
19 A. Verbally.  
20 Q. Verbally. Just a sharp tongue?  
21 A. Yes.  
22 Q. Okay. Now, he contacted you by Facebook? He  
23 found you on Facebook?  
24 A. Yes, that's how he made contact with me.

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1 Q. And prior to that contact, you hadn't had  
2 contact with him, did you say, for four years?  
3 A. About four years, yeah.  
4 Q. And but you always thought about him?  
5 A. Well, I didn't think about it. No.  
6 Q. Didn't you say that you guys were best  
7 friends?  
8 A. We were best friends.  
9 Q. So you --  
10 A. But, see, I left for a liver transplant. I  
11 was Back East waiting for a liver and going through  
12 everything that there has to be with that comes along,  
13 out of your head and --  
14 Q. Sure. And Harry, Mr. Leibel, he was the love  
15 of your life; correct?  
16 A. You might say that.  
17 Q. And you believe that he loved you too when  
18 you guys were married; correct?  
19 A. It was never brought up, but I'm sure at some  
20 degree, you know. You never lose -- These are people you  
21 marry. You love them.  
22 Q. And the only reason you were divorced was  
23 because of his mom --  
24 A. Yes.

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1 Q. -- correct? Otherwise, you probably wouldn't  
2 have divorced?  
3 A. Right.  
4 Q. And was that because his mom didn't like you?  
5 A. It was because I wasn't Jewish.  
6 Q. Okay. So she was very religious?  
7 A. Yes.  
8 Q. Didn't you say, when we spoke, didn't you  
9 they you converted?  
10 A. I converted. I went to the University of  
11 Judaism on Mulholland Drive in L. A. And got my  
12 certificate. It wasn't good enough.  
13 Q. It wasn't good enough for her?  
14 A. No. I had to be born Jewish.  
15 Q. When he contacted you on Facebook, were you  
16 surprised?  
17 A. Yes.  
18 Q. And do you check Facebook regularly?  
19 A. No.  
20 Q. Did you just happen to check Facebook?  
21 A. I just happened to check Facebook, and it had  
22 been there for a while.  
23 Q. Okay. How long?  
24 A. A week, two weeks. Something like that. The

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1 date -- That's about how often I check Facebook.  
2 Q. Okay. So you spoke with him about a week  
3 before he had passed --  
4 A. Yes.  
5 Q. -- but you made contact with you --  
6 A. Uh-huh.  
7 Q. -- two or three weeks prior to that?  
8 A. Probably on Facebook --  
9 Q. Right.  
10 A. -- but the day I read the Facebook I --  
11 Q. Okay. Sure. And then after that, you spoke  
12 for a couple of hours?  
13 A. Uh-huh.  
14 Q. And when we had our conversation, you had  
15 said that you guys reminisced for over two hours?  
16 A. Well, it was about two hours, yeah.  
17 Q. About two hours, and that was regarding?  
18 MR. GREGORY: Your Honor, I'd object if  
19 they're going to get into hearsay and ask about the  
20 conversation.  
21 THE COURT: Exactly. Sustained if you're  
22 going to get the substance of conversations.  
23 Q. (BY MS. HENRY:) So you reminisced --  
24 A. Yes --

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1 Q. -- about old times?  
2 A. -- about our travels.  
3 Q. And you guys had traveled. Where did you  
4 travel to?  
5 A. Just across country. We went to every state  
6 just about and spent a little time here and there.  
7 Q. And had a great time doing that?  
8 A. Yes.  
9 Q. And you reminisced about that?  
10 A. Yes.  
11 MS. HENRY: Nothing further.  
12 THE COURT: Anything else, Mr. Gregory?  
13 MR. GREGORY: Yes, Your Honor. I'd like to  
14 ask the questions I was prohibited from asking before  
15 given the nature of the defense's questioning.  
16 THE COURT: No.  
17 MR. GREGORY: Nothing further.  
18 THE COURT: You may step down.  
19 THE WITNESS: Am I excused from jury? I mean  
20 from being a witness?  
21 THE COURT: Yes, ma'am, you are. You may  
22 stay in the courtroom, if you'd like.  
23 THE WITNESS: Thank you.  
24 MR. GREGORY: The State calls Sharon Oren.

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1 THE COURT: Come on in, sir. If you would  
2 pause right in front of the clerk, face the clerk, raise  
3 your right hand, please.  
4  
5 SHARON OREN,  
6 having been first duly sworn, was  
7 examined and testified as follows:  
8  
9 THE COURT: Come on up and have a seat up  
10 here, please. Help yourself to some water, if you'd like  
11 it.  
12 THE WITNESS: Thank you. I'll be fine.  
13 THE COURT: Mr. Gregory?  
14 THE WITNESS: I was in the service a long  
15 time ago. Please don't call me sir.  
16  
17 DIRECT EXAMINATION  
18 BY MR. GREGORY:  
19 Q. Morning, sir. Can you please state your full  
20 name?  
21 A. Sharon Oren.  
22 Q. Spell your first name, please.  
23 A. S-h-a-r-o-n.  
24 Q. And your last name?

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1 A. O-r-e-n.  
2 Q. What do you do for a living?  
3 A. I own Maccabee Arms here in Nevada.  
4 Q. All right. And are you familiar with Harry  
5 Leibel?  
6 A. Yes, I am.  
7 Q. How are you familiar with Mr. Leibel?  
8 A. I met him a few years ago through business,  
9 and then we became friends.  
10 Q. And are you also familiar with Tatiana  
11 Leibel?  
12 A. I am.  
13 Q. And how familiar are you with her?  
14 A. Through Harry so, you know, I met both of  
15 them at the same time, and most of our interaction,  
16 majority of them were together through the family, wives.  
17 Q. Did Harry's death surprise you?  
18 A. No.  
19 Q. Were you becoming -- Did you have concerns  
20 for Harry during the latter portions of his life?  
21 MS. BROWN: Objection as to --  
22 THE COURT: What is the objection?  
23 MS. BROWN: As to his concerns, the relevance  
24 of his concerns.

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1 THE COURT: The relevance. Okay. Why is  
2 that relevant?  
3 MR. GREGORY: Because he's going to be --  
4 He's going to give background as to what his concerns  
5 were that shed light on what was going on in Harry's life  
6 that he's aware of.  
7 THE COURT: I'll overrule it, but you're  
8 going to have to tie it in.  
9 MR. GREGORY:) Okay. Go ahead.  
10 THE WITNESS: If you can repeat the question  
11 again. Sorry.  
12 Q. (BY MR. GREGORY:) Yes. Were you having  
13 concerns for Harry towards the end of his life?  
14 A. Yes. Yes, I did.  
15 Q. What type of concerns?  
16 A. I pretty much was afraid for his life.  
17 Q. Okay. Why was that?  
18 A. Unfortunately, seeing what was going on in  
19 his life in the past, I would say almost couple of years,  
20 and that I've seen with my eyes and I heard from him,  
21 unfortunately, and the writing was on the wall.  
22 A JUROR: Your Honor, I'm having trouble  
23 hearing what he's saying.  
24 THE COURT: Sir, you're going to have to sit

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1 up, okay, and put your -- Understand that there's a  
2 microphone right in front of you, sir, and I'm going to  
3 ask you to speak a little bit louder if you would,  
4 please.  
5 THE WITNESS: Sure.  
6 THE COURT: Thank you. Would you repeat your  
7 answer.  
8 THE WITNESS: Yes. Unfortunately because of  
9 my interaction with Harry in the past couple years, the  
10 writing was pretty much on the wall, so --  
11 Q. (BY MR. GREGORY:) Explain that. I don't  
12 know what that means.  
13 A. Looking at the relationship between Harry and  
14 Tatiana, conversations I had with Harry regarding --  
15 regarding their marriage and their current situation.  
16 Like I said, the concerns were definitely there.  
17 Q. What were your worried was going to happen?  
18 MS. BROWN: Objection. Relevance.  
19 THE COURT: I'm going to sustain that, and  
20 not on the relevance, but it's speculation. And I'm not  
21 going to -- You're going to have to go to some specific  
22 incident or something like that.  
23 Q. (BY MR. GREGORY:) Okay. Did you give Harry  
24 any warnings.

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1 A. Yes.  
2 Q. What were those warnings?  
3 A. I told him that he basically needs to get  
4 away from Tatiana, lock the door, get a divorce attorney  
5 because I think she will kill him.  
6 MS. BROWN: Objection.  
7 THE COURT: Okay. It is important that if  
8 you want to object that you need to state a legal basis  
9 for that objection as opposed to just the fact that you  
10 object to it. So do you have a legal basis that you'd  
11 like to object to that testimony on?  
12 MS. BROWN: Again, it's relevance.  
13 MR. GREGORY: The relevance --  
14 MS. BROWN: And speculation.  
15 THE COURT: Mr. Gregory?  
16 MR. GREGORY: Your Honor, the cell phone  
17 information we went through had an entry log for Harry  
18 for February 25th saying that he was going to call a  
19 locksmith, so I'm trying to get context to that. His  
20 testimony that he had told Harry to lock her out is  
21 relevant for that purpose.  
22 THE COURT: Then establish a timeframe  
23 because right now, he's talked about two years, and  
24 that's not going to tie it in.

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1 Q. (BY MR. GREGORY:) Okay. How often did you  
2 warn Harry?  
3 A. I believe that the first real warning was  
4 when I met with him in the Lake at the -- probably it was  
5 Camp Richardson. There was another friend of ours who  
6 was -- of mine from Los Angeles was present for the  
7 conversation.  
8 THE COURT: Wait a minute. Wait a minute.  
9 First out when the most recent warning was.  
10 Q. (BY MR. GREGORY:) When was the most recent  
11 warning?  
12 A. I will have to say it was roughly about a  
13 month prior to the event.  
14 THE COURT: Okay. That testimony is allowed.  
15 I'm not going to go back.  
16 MR. GREGORY: And I'll end with that, Your  
17 Honor. Thank you.  
18 THE COURT: Do you have questions of this  
19 witness, defense table?  
20 MS. BROWN: Yes, Your Honor.  
21 THE COURT: Thank you.  
22  
23  
24

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1 CROSS-EXAMINATION  
2 BY MS. BROWN:  
3 Q. Do you own Maccabee Arms?  
4 A. I do.  
5 Q. And was Mr. Leibel involved in guns?  
6 A. Both Harry and Tatiana liked guns, yes.  
7 Q. I'm sorry?  
8 A. Both Harry and Tatiana liked guns. That's  
9 how I met them.  
10 Q. So they both liked guns?  
11 A. That is correct.  
12 Q. And did you ever go shooting with them?  
13 A. No.  
14 MS. BROWN: Thank you. I have nothing  
15 further?  
16 THE COURT: Mr. Gregory?  
17 MR. GREGORY: Nothing further.  
18 THE COURT: Sir, you may step down. Thank  
19 you for being here today.  
20 MR. GREGORY: Your Honor, I'd like to check  
21 on the availability of Steve Smith. If he's here, I'd  
22 like to call him next.  
23 THE COURT: Okay.  
24 MR. GREGORY: We'll go with Matt Noedel,

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1 please.  
2 THE COURT: Mr. Noedel.  
3 MR. GREGORY: Can I take a moment to see if  
4 he's --  
5 THE COURT: Actually, I believe someone just  
6 left to go check for you, sir.  
7 MR. GREGORY: Thank you.  
8 THE COURT: I believe Mr. Schultz is looking  
9 for him, so we'll give him a moment.  
10 Come on in, sir. Step right up, and we're  
11 going to swear you again here. Okay, Mr. Noedel. Would  
12 you pause, please. Face the clerk.  
13  
14 MATHEW NOEDEL,  
15 having been first duly sworn, was  
16 examined and testified as follows:  
17  
18 THE COURT: Come on up and have a seat  
19 please, sir.  
20 MR. GREGORY: Good morning, sir.  
21 THE WITNESS: Good morning.  
22  
23  
24

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1 DIRECT EXAMINATION  
2 BY MR. GREGORY:  
3 Q. Please state your full name and spell your  
4 last name.  
5 A. Matthew Noedel: N-o-e-d-e-l.  
6 Q. And Mr. Noedel, we're going to be covering  
7 two different subject matters, broad matters: Ballistics  
8 and reconstruction. I'd like to talk about the first  
9 part of that, the ballistics part. What is your training  
10 and experience regarding ballistics and firearms?  
11 A. Well, specifically, my first level of  
12 training involves my college education, Bachelor of  
13 Science degrees in microbiology and medical technology  
14 with a chemistry minor. I have a third Bachelor of  
15 Science degree in forensic science from California State  
16 University.  
17 After obtaining my degrees, I worked for a  
18 private forensic company for three years before I went  
19 moved onto the Washington State Patrol Crime Laboratory  
20 in Tacoma, Washington. That's where I first began  
21 training in firearm and tool mark analysis. Training is  
22 provided in the form of mentorship programs where senior  
23 members of the crime lab provide training. It's also a  
24 lot of external training from courses offered by firearm

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1 manufacturers, FBI courses, ATF courses, and  
2 participation in professional memberships and  
3 organizations, for example, like AFTE, which is the  
4 Association of Firearm and Tool mark Examiners; provide  
5 annual training, conferences, publish journals, and are  
6 basically the association that covers scientists like  
7 myself who study firearm and tool mark and ballistic  
8 issues as a primary part of their job responsibility. So  
9 I'm a member of that organization and trained in those  
10 fields with the state patrol for 15 years before I left  
11 for starting my own company, which is how I'm employed  
12 now as a private consultant in firearm, tool mark and  
13 shooting scene reconstruction.  
14 Within those organizations, there are  
15 certifications. I carry certifications in firearm  
16 examination, tool mark examination, gunshot residue, and  
17 crime scene reconstruction. I also take proficiencies in  
18 each of those areas every year to maintain a level of  
19 expertise and experience. So basically, that involvement  
20 is where my training comes from, where the experience and  
21 practical application of firearm examination comes from,  
22 working in the crime labs as well.  
23 Q. Have you been trained in how to determine  
24 distancing between barrel of a gun and an object that's

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1 hit with a projectile?  
2 A. Yes. That's a common task that we are asked  
3 to evaluate in forensic situations, and one of the  
4 certifications deals with that aspect specifically, that  
5 is, the gunshot residue certification.  
6 Q. And have you also been trained in how to  
7 identify whether a particular shell casing was fired out  
8 of the gun?  
9 A. Yes. Again, the practical application of  
10 that, of the ballistic science in the laboratory involves  
11 microscopic analysis of microscopic pieces of information  
12 that are left behind on bullets or cartridge cases that  
13 come from the gun that fired it. So we study the  
14 microscopic marks that are translated from a gun onto  
15 something like a cartridge case where, say, the firing  
16 pin has struck the cartridge case. That can leave  
17 microscopic marks.  
18 So a big portion of the responsibility and  
19 experience in ballistic examination is studying those  
20 marks and comparing knowns, marks that we make on purpose  
21 by test firing a particular firearm, comparing those  
22 knowns to evidence exhibits that are recovered from a  
23 scene, from some scene, and the comparison of those  
24 microscopic pieces of information is a big part of what's



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1 done in the forensic laboratory and ballistic  
2 perspective.  
3 Q. Did you have an opportunity to actually  
4 examine the gun that was used in this case?  
5 A. I did.  
6 Q. Where did that take place?  
7 A. That was at the Washoe County Crime  
8 Laboratory in Reno.  
9 Q. And were you able to determine whether the  
10 gun was operable or not?  
11 A. Yes.  
12 Q. How did you do that?  
13 A. Operability testing of the gun starts with a  
14 visual inspection. Typically, we maintain a worksheet as  
15 we go through that prompts us to check each of the  
16 aspects. We do things like look down the barrel to make  
17 sure there's no obstructions blocking the barrel. We  
18 measure some of the characteristics of the firearm, for  
19 example, how hard it is to pull the trigger, what is the  
20 amount of pressure it takes to pull a trigger. We check  
21 the safeties, visually check them. And in doing all of  
22 these visual assessment, we get an idea of how the gun is  
23 going to perform, if there's any problems that we can  
24 anticipate, and all of those visual assessments are spent

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1 to work towards a point to whether or not we can actually  
2 test fire the gun.  
3 If we consider the gun as safe and reasonable  
4 to test fire, then take it to either an indoor water tank  
5 range of an outdoor range and load it up and actually  
6 shoot it to test the performance, the actual firing  
7 performance of the gun.  
8 Q. Did you actually shoot this gun?  
9 A. Yes.  
10 Q. And did it -- Was it working as it should?  
11 A. Yes. This gun has no mechanical flaws or  
12 failures with this gun at all.  
13 MR. GREGORY: Your Honor, I'm going to show  
14 him Exhibit 119, which is the firearm that has been  
15 rendered inoperable.  
16 THE COURT: That's the duplicate firearm;  
17 correct?  
18 MR. GREGORY: The what?  
19 THE COURT: The one that the sheriff's office  
20 purchased.  
21 MR. GREGORY: Yes, correct.  
22 THE COURT: Thank you. It has the firing pin  
23 removed.  
24 MR. GREGORY: Yes.

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1 Q. (BY MR. GREGORY:) Mr. Noedel, this exhibit  
2 has already been marked into evidence. It is a replica  
3 gun of the that was used. I'm going to ask you to verify  
4 that, but I want you to know they pulled the firing pin  
5 out of it, but I would ask you to do a quick inspection,  
6 ascertain that it's not loaded, and that the firing pin  
7 has in fact been removed from it.  
8 A. The firearm is not loaded, and the firing pin  
9 is not installed in the proper position. This gun cannot  
10 fire in this condition.  
11 Q. Not the actual gun that was used, but give us  
12 a general description of the gun.  
13 A. It's a -- It's essentially an exact copy of  
14 this firearm. This is a firearm that's mass produced.  
15 It has some unique features. This particular design is  
16 made by a company called Rossi. They're in association  
17 with a company called Taurus, so it's Rossi slash Taurus  
18 out of Brazil.  
19 And the interesting features about this gun  
20 is it's essentially a revolver, which is something we  
21 typically see in handguns. A revolver refers to this  
22 rotating cylinder which is the position that holds the  
23 ammunition in line for firing. Usually we see this as a  
24 handgun type of a design, but what Rossi has done is they

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1 put a long stock on it to make it capable of shoulder  
2 firing, and instead of a short handgun barrel, it's got a  
3 full-length rifle barrel, so it's basically a revolving  
4 rifle, which is a fairly unique type of a design.  
5 In the late 1800's, there were some rifles  
6 that had this mechanism, but the modern guns, I don't  
7 know of anyone else who is making a revolving rifle in  
8 modern production gun.  
9 Q. Is Exhibit 118 a fair representation of the  
10 actual gun?  
11 A. Yes, it is.  
12 Q. What's the name of the gun?  
13 A. This is called a Circuit Judge.  
14 Q. And what kind of ammunition is it capable of  
15 firing?  
16 A. Another unique feature of this gun is it can  
17 fire both shotgun shells in 410 caliber, so that's the  
18 small the small-sized shotgun shells, or it can fire 45  
19 Colt. And it happens that the 410 shot shell and the 45  
20 Colt happen to have a similar profile of the size of the  
21 cartridge case. That's why this gun can actually  
22 accommodate either the single type of projectile in a 45  
23 Colt or shotgun loads that are the smaller size, the 410  
24 caliber shotgun.

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1 Q. For the layperson, what's the difference  
2 between a 45 round and a 410 shotgun?  
3 A. The 45 Colt is a single projectile. It's  
4 designed to deliver typical construction, so it's a  
5 cartridge case with gun powder, but a single projectile.  
6 That's what a 45 Colt is designed to be. The shot shell  
7 is a shell that is designed that the payload can be a  
8 single projectile, but you can basically dump anything  
9 you would like in a shot shell, so you can use multiple  
10 small pellets and load them in the shot shell and that  
11 shot would deliver all of those pellets downrange, or you  
12 could put four big pellets. The shot shell accommodates  
13 a variety of different types of projectile, where the 45  
14 Colt is always going to be just a single projectile.  
15 Q. Can you just kind of tell us some of the  
16 terminology with this gun and point out the barrel, the  
17 muzzle, cylinder, different types of terminology, please.  
18 A. Yeah. So basically, the barrel is the long  
19 portion. That's the part of the firearm that directs the  
20 bullet when you fire this gun. The bullets or  
21 projectiles, if it's a shot shell, go down the barrel and  
22 are directed on their way to their target.  
23 In this gun, we have this metallic rotating  
24 piece is called the cylinder. This gun can accommodate

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1 five -- up to five shots, so there are five chambers  
2 inside the cylinder, and each chamber is aligned one next  
3 to the other. The hammer is this small spur that comes  
4 back here. In this gun, you can either simply pull the  
5 trigger and the firearm will caulk and fire -- that's  
6 called double action -- or you can manually caulk into  
7 single action and manually caulk the hammer and fire it  
8 with single action.  
9 Q. Let me ask you about that. So if you could  
10 release the hammer. Is there a difference in the how  
11 hard it is to pull the trigger between double action and  
12 single action?  
13 A. Yes, there is, because in double action,  
14 double action refers to what happens when you pull the  
15 trigger. Two activities occur. What has to happen in  
16 double action is when you pull the trigger, it has to  
17 rotate the cylinder, caulk the hammer, and if you keep  
18 pulling it, ultimately fire. So double action, you have  
19 to pulling the trigger caulks the hammer and fires it.  
20 So you have to move the trigger farther to have all of  
21 those mechanisms operate.  
22 In single action, the trigger is actually  
23 reset because you do half of the work externally by  
24 physically caulking the hammer. Now, pulling the trigger

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1 doesn't have to do so much work. So single action is  
2 much lighter. It takes much less pressure in single  
3 action than it does in double action to fire. So single  
4 action is the easy way to fire. It takes about -- on the  
5 evidence gun, it takes about three or four pounds of  
6 pressure. Double action, because you're doing so much  
7 more work on the evidence gun, took about 13 or 14 pounds  
8 of pressure. So double action is quite a bit heavier,  
9 more difficult to pull through than single action.  
10 THE COURT: Would you make the record clear  
11 as to what he means by evidence gun because both guns are  
12 in evidence.  
13 Q. (BY MR. GREGORY:) If we could refer to this  
14 as the demonstration gun as opposed to the gun that was  
15 actually used.  
16 A. Yes. The trigger pull pressures that I  
17 measured were on the gun that was recovered as evidence  
18 from the house. I haven't measured this gun on that. So  
19 when I talk about evidence gun, I'm talking about the gun  
20 recovered from the Leibel house.  
21 Q. So all of the analysis and shooting of the  
22 gun that you do was the gun that was taken from the crime  
23 scene; correct?  
24 A. Correct. The actual firearm, the test

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1 firing, the manipulation, the measuring of the trigger  
2 pull was all done with the gun that was recovered from  
3 the scene, not the replica gun.  
4 MR. GREGORY: If you could just stand right  
5 there, I'd like you to demonstrate and close the  
6 cylinder. Your Honor, can he just step right there.  
7 THE COURT: Certainly.  
8 MR. GREGORY: I would just like to have you  
9 demonstrate for the jury first double action. Go ahead  
10 and shoot it?  
11 THE COURT: One moment. I don't know which  
12 of you is going to cross this witness, but whomever,  
13 Ms. Brown, if you'd like to step around where you have a  
14 better view, you're welcome to do that as he engages in  
15 this demonstration.  
16 Q. (BY MR. GREGORY:) So this in a double  
17 action, as I understand it, the hammer is uncocked;  
18 correct?  
19 A. Correct. Double action starts with the  
20 hammer at rest forward, and all of the activity is going  
21 to occur by pulling the trigger. So when I -- it's  
22 called dry firing. When I dry fire this gun because this  
23 gun cannot fire without a firing pin, when I dry fire  
24 this gun, if you watch the cylinder, pulling the trigger

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1 is going to cause the cylinder to rotate, it's going to  
2 cause the hammer to caulk back, and if I pull all the way  
3 through, ultimately, the hammer will go as far back as it  
4 can go, and it will slam forward, and that would initiate  
5 a discharge if the gun were loaded.  
6 So in double action, access the trigger, once  
7 the cylinder rotates, the hammer goes back, and bang. So  
8 double action, I can fire this gun in double action.  
9 That's about -- on the gun recovered from the scene,  
10 that's about -- takes about 13 or 14 pounds of pressure  
11 to fire in double action because we're doing work  
12 internally to turn the cylinder, caulk the hammer, and  
13 load all of the mechanisms.  
14 Q. As far as trigger pulls go, what does 13  
15 pounds mean to the layperson?  
16 A. Thirteen pounds, in reference to most  
17 resolving revolvers, this is essentially a revolver, 13  
18 pounds is a fairly typical, just slightly to the high end  
19 of the anticipated pressure that we would require. The  
20 way we measure that is we simply hang weights on there.  
21 So it's different than, say, hanging 13 pounds on the end  
22 of your finger and trying to lift it. It's a little  
23 easier than that because if the ergonomics of the grip  
24 and the gun and the squeezing mechanism allows us to do

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1 that. So 13 pounds double action is about a normal  
2 double action pressure for all revolvers.  
3 Q. Could you go ahead and demonstrate single  
4 action.  
5 A. Single action requires me to do this  
6 activity. I have to caulk this hammer in some mechanism.  
7 So you'll see the cylinder is already rotated when I  
8 apply that pressure, so in single action, you'll see I'm  
9 manually caulking the hammer and manually rotating the  
10 cylinder, so I've now done at least half of the work  
11 required to organize for the shot.  
12 The other thing that you'll notice is in  
13 single action, the trigger is set way to the rear. It  
14 doesn't have to travel nearly as far, so it has to do  
15 much less work. Now that it's caulked in single action,  
16 I simply pull the trigger, and it will fire.  
17 Q. What is the trigger pull in single action?  
18 Is it easier to pull it?  
19 A. Much easier because you see in double action,  
20 it sits towards the middle. In single action, that  
21 trigger actually recesses almost an inch, about  
22 three-quarters of an inch, and so it's much easier that  
23 I'm doing much less work. I don't have to rotate the  
24 cylinder, and I don't have to caulk the hammer. I've

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1 already done that manually, so it's much easier. On the  
2 gun that was recovered from the scene, that measurement  
3 was around three or four pounds, so it's five times  
4 easier, lighter, to pull it in single action to cause it  
5 to discharge.  
6 Q. You can go ahead and retake the stand,  
7 please. I'd like to talk to you a little bit about gases  
8 that are released upon a rifle being fired. Could you  
9 talk to us a little bit about that?  
10 A. Yes. What happens when a round of ammunition  
11 is discharged, whether it's a shotgun shell or a single  
12 projectile, the hammer falls and it hits the firing pin,  
13 and the firing pin strikes that cartridge on a little  
14 metallic piece called the primer. The primer is the  
15 small dab of explosive that when it's impacted by this  
16 metallic hammer and the firing pin strikes it, creates a  
17 little spark. That spark ignites the gunpowder. The  
18 gunpowder burns, and the pressure goes up. It's all  
19 contained inside this metallic chamber.  
20 The pressure has nowhere to go but out. So  
21 the pressure build, and this is all happening in an  
22 instant in a milliseconds. The pressure builds. The  
23 energy has to go somewhere, so what happens is the bullet  
24 jumps out of the cartridge case and into the barrel. The

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1 bullet is --  
2 THE COURT: One minute. One minute.  
3 THE INTERPRETER: This is the interpreter  
4 speaking. Your Honor, could the witness be instructed to  
5 slow down just a little bit. Thank you.  
6 THE WITNESS: Yes.  
7 THE COURT: Did you hear that, sir?  
8 THE WITNESS: Yes, sir.  
9 THE COURT: Thank you.  
10 THE WITNESS: So once the cartridge is  
11 detonated, the pressure has gone up, and the projectile  
12 has jumped out of the cartridge case and into the barrel.  
13 It's directed down the barrel. Those gases are right  
14 behind it pushing this bullet at a very high velocity  
15 with high energy down the barrel on its way.  
16 What happens is the bullet then leaves the  
17 barrel, and it goes on the whatever it's going to hit.  
18 But following the bullet are all of those expanding gases  
19 and residues, and it's comprised of particles of gun  
20 powder. There are combustion products like nitrates.  
21 There are clouds of vaporous lead. We see it as smoke or  
22 soot. If you've seen a gun that has smoke coming out of  
23 the end, it's from those combustion products.  
24 Well, right at the muzzle, those combustion

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1 products are moving as fast as the projectile. They're  
2 all moving the same rate together. What happens is  
3 because the projectile has all of the mass, it keeps  
4 going, but these gases and residues can only go a short  
5 distance.

6 So the principle behind the gases on the  
7 barrel, if an object is in close range to the end of the  
8 barrel, the bullet can go right into that object, and we  
9 can characterize the distribution of these residues that  
10 follow the bullet. If we're very close to the muzzle,  
11 the residue pattern is very small. The farther we get,  
12 the more that residue pattern dissipates and gets bigger  
13 and bigger until it just doesn't reach any further.

14 So we can do distance determination based on  
15 the distribution of gases that follow the bullet if a  
16 target intercepts those gases that follow the bullet.  
17 Because this is a revolver, there's another source of  
18 residues. All of that pressure that builds inside the  
19 chamber that's pushing the bullet down the barrel,  
20 because this revolver opens, there's a gap between the  
21 back of the barrel and the front of the chamber. It's  
22 called the cylinder gap. It's this little line that is  
23 right here.

24 So in fact, the bullet or the shotgun

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1 pellets, whichever is being fired, have to jump out of  
2 the cylinder, that little short gap across, to get into  
3 the barrel. These gases, remember, are very high  
4 pressure. They're going as fast as the bullet. They  
5 escape out the sides. So not only do we have gases  
6 following the bullet out the barrel, we have gases that  
7 are blasted out of the side called cylinder gap gases.

8 Again, if an object is in close proximity to  
9 the side of this gun, those gases can be detected because  
10 they will actually impact and leave images of smoke or  
11 soot or residues, and they could even leave a product  
12 called stippling, which is actual punctate gunpowder  
13 particles that can hit your skin and leave a little mark.  
14 Stippling can occur on a barrel as well.

15 Q. Can this particular gun cause stippling to  
16 somebody who is firing the gun?

17 A. Yes. Yes, it can. If you -- When you're  
18 firing this gun, if you put a part of your body in close  
19 proximity to the cylinder gap, those gases will come out,  
20 and they can impact your wrist. While I was test firing  
21 the gun recovered from the scene, I actually had my hand  
22 out of position and stippled my own wrist and created  
23 these little punctate marks because my wrist got too  
24 close to the cylinder gap.

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1 This gun actually had designed these little  
2 metallic wings to try to help reduce that, and it  
3 actually pushes the gases forward. So if your hand is in  
4 proximity to that cylinder gap, you can get those gases,  
5 and I in fact had that firsthand experience by holding my  
6 hand out of position at during my test firing.

7 Q. Let me ask you at this stage, because we're  
8 talking about the gases, did you also have an opportunity  
9 to look at the robe that was being worn by Mr. Leibel?

10 A. I did.

11 Q. An did you have an opportunity to --

12 THE COURT: One minute.

13 MS. BROWN: Objection. Testifying to items  
14 not in evidence.

15 THE COURT: Overruled. He just asked if he  
16 looked at it.

17 Q. (BY MR. GREGORY:) You had an opportunity  
18 look at the robe?

19 A. I did.

20 Q. Did you have an opportunity to look at the  
21 right sleeve of the robe?

22 A. Yes, I did.

23 Q. Did you conduct any examinations of that for  
24 these gases that you've been talking about?

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1 A. I did.

2 THE COURT: Just a minute.

3 MS. BROWN: I'd still object. He's  
4 testifying concerning items not in evidence.

5 THE COURT: He can testify as to what he did.  
6 Yes, he can. You're overruled.

7 THE WITNESS: Yes, I tested the entire length  
8 of the right sleeve of the robe for the presence of  
9 gunshot residue, whether it be following out of the  
10 barrel or cylinder gap residues from being in close  
11 proximity to the side of the gun.

12 Q. (BY MR. GREGORY:) Okay. If the gun had been  
13 fired by Mr. Leibel himself, would you expect to have  
14 seen anything, any gas particles on the robe sleeve?

15 A. I don't think we would see them on the robe  
16 sleeve because the sleeves are of his robe are kind of  
17 the half to three-quarter. In other words, it's not like  
18 a dress shirt that goes all the way to his wrist. It's a  
19 shortened one. So if the robe was adjacent to it, it  
20 could receive those gases. But I'm not sure the sleeves  
21 were long enough, given that the characteristics that I  
22 believe would have to be met for him to handle the  
23 firearm and shoot. I don't think -- I think the sleeve  
24 would be too short, and it would put his skin in

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1 proximity.  
2 Q. If his arm was uncovered then, would  
3 stippling be a possibility on his arm if he had shot  
4 himself?  
5 A. Yes. If his bare skin is adjacent to that  
6 cylinder gap, those gases are going to come out. It's  
7 not a maybe proposition. They will come out, and if his  
8 arm is close enough to the side of the firearm at the  
9 cylinder gap, he will get marked as I did.  
10 Q. And Dr. Kubiczek testified he did not see any  
11 stippling on Harry's right arm. Are you familiar with  
12 that?  
13 A. I understand that to be true.  
14 Q. Did you have an opportunity to measure the  
15 gun that was taken from the crime scene?  
16 A. Yes, I did.  
17 MR. GREGORY: May I approach, Your Honor?  
18 THE COURT: What do you have there?  
19 MR. GREGORY: Exhibit 141.  
20 THE COURT: Thank you, sir.  
21 MR. GREGORY: Would you like to see it, Your  
22 Honor?  
23 THE COURT: Thank you, sir.  
24 Q. (BY MR. GREGORY:) Showing you what's been

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1 marked as 141. What is that?  
2 A. This is -- These are two images that I took  
3 at the forensic laboratory while I was analyzing the  
4 recovered firearm. And specifically, it's a --  
5 THE COURT: Don't say what it shows.  
6 THE WITNESS: Sorry.  
7 Q. (BY MR. GREGORY:) Does that photograph  
8 accurately depict your measurements of the gun?  
9 A. Yes.  
10 MR. GREGORY: I'd move for admission of  
11 Exhibit 141.  
12 MS. BROWN: No objection, Your Honor.  
13 THE COURT: It's admitted. Go ahead.  
14 Q. (BY MR. GREGORY:) Can you -- I'm going to  
15 get the projector going, but can you tell us -- there's  
16 two photographs there; correct?  
17 A. Yes.  
18 Q. What do they -- What's the top photograph  
19 show?  
20 A. The top photograph is depicting the recovered  
21 firearm from the scene as it's at rest in double action,  
22 and it has a ruler to show the distance from the end of  
23 the gun to the trigger.  
24 The lower image shows the same firearm, but

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1 cocked into single action, and it shows the same ruler,  
2 and it's meant to show the distance of the trigger travel  
3 and the distance of the end of the gun to the position of  
4 the trigger in either condition that the firearm can  
5 maintain.  
6 Q. What was the distance -- So you're measuring  
7 the end of the -- the very end of the barrel?  
8 A. Correct. I'm going right from the exact end  
9 or the muzzle of the barrel to the start of the trigger.  
10 MR. GREGORY: Your Honor, may I just hold  
11 this up for the jury?  
12 THE COURT: Sure. Does that not work for  
13 you?  
14 MR. GREGORY: It's not going. I need to get  
15 it --  
16 THE COURT: It's warming up.  
17 Q. (BY MR. GREGORY:) It's warming up, or I  
18 don't know how to turn it on. One or the other.  
19 So the top photo again is -- just before I  
20 show it to them -- the top photo?  
21 A. The top is double action. The hammer is at  
22 rest. The bottom is single action. The hammer has been  
23 caulked.  
24 Q. Thank you. And in the above photo when the

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1 hammer is uncocked, what did you determine the distance  
2 to be?  
3 A. The straight line distance from the muzzle to  
4 the trigger is approximately 21 inches.  
5 Q. And then in the bottom photo, how did the  
6 distance change when you go into the cocking the gun?  
7 A. The single action image, the distance from  
8 the muzzle to the trigger, is 22 inches.  
9 Q. I'll return that exhibit. What direction  
10 does that cylinder travel?  
11 A. The cylinder is designed and rotates  
12 counterclockwise, or from the shooter's perspective to  
13 the left.  
14 Q. Did you have an opportunity to actually  
15 inspect the ammunition that was taken out gun?  
16 A. Yes, I did.  
17 Q. And what did you -- Tell us a little bit  
18 about that ammunition.  
19 MS. BROWN: Your Honor --  
20 THE COURT: Wait a minute.  
21 MS. BROWN: -- I'm going to object again.  
22 He's testifying concerning items that are not in  
23 evidence. There's been no chain of custody established  
24 for them. He refers to them as, for example, Mr. Leibel

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1 robe. We have no testimony concerning that.  
2 THE COURT: Well, actually, there have been  
3 photographs introduced depicting Mr. Leibel in a robe.  
4 MS. BROWN: And how do we know -- There's no  
5 authentication to these objects, Your Honor.  
6 THE COURT: Mr. Gregory, do you have a  
7 response?  
8 MR. GREGORY: Your Honor, there's no  
9 requirement to actually move in an object that he's  
10 observed and can testify that he observed. There's no  
11 requirement that the actual object be moved into  
12 evidence.  
13 MS. BROWN: But we need some --  
14 THE COURT: Well, just a minute. I don't  
15 need it argued. The argument essentially has to do with  
16 how do we know that the robe that he observed was the one  
17 that was in the photograph. You can clear that up, and  
18 you can have him testify as to what robe he observed or  
19 you get to cross examine him on that. I'm going to allow  
20 him to testify.  
21 MS. BROWN: Your Honor, I'm going to then  
22 lodge a standing objection to all of this testimony.  
23 THE COURT: There are no standing objections.  
24 You can object to any questions you want.

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1 MS. BROWN: I'm going to object again to any  
2 reference to a robe that's not been identified as being  
3 taken into evidence.  
4 THE COURT: I understand your objection.  
5 Thank you.  
6 Q. (BY MR. GREGORY:) Your report refers to a  
7 robe that you received up at the crime lab?  
8 A. Yes.  
9 Q. And it came to you along with the firearm;  
10 correct?  
11 A. Correct.  
12 Q. Under the same case number?  
13 A. Yes.  
14 Q. And what about the ammunition that we were  
15 just about ready to discuss?  
16 A. In the same submission, I received a number  
17 of different pieces of ammunition and ammunition  
18 components.  
19 Q. And you had an opportunity to observe that  
20 ammunition?  
21 A. I did examine the ammunition, yes.  
22 Q. Describe what you observed.  
23 A. One of the submissions was the actual  
24 components that were loaded in the firearm and had been

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1 removed and packaged, and they came with a photograph  
2 showing how they were positioned in the firearm.  
3 Those components that were from the firearm,  
4 the recovered firearm itself, were a fired 45 Colt  
5 cartridge case, a fired 410 shot shell, and then two  
6 unfired rounds of 45 Colt, and one more unfired round of  
7 410 shot shells. There was a total of five components.  
8 It was one represented in each chamber of the firearm.  
9 Q. The fired 45 round, did you have an  
10 opportunity to examine it?  
11 A. Yes.  
12 Q. And do you have an opinion whether it was  
13 fired out of the gun that was taken from the crime scene?  
14 A. Yes. I test fired the firearm recovered and  
15 did a microscopic comparison of the firing pin marks and  
16 the tool marks are left behind by the gun recovered from  
17 the scene, and that cartridge case recovered from the  
18 firearm was fired in the gun.  
19 Q. And how about the 410, the fired 410  
20 ammunition? Did you have an opportunity to evaluate it?  
21 A. I did.  
22 Q. And do you have an opinion regarding whether  
23 it was fired from the gun and removed from the crime  
24 scene?

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1 A. Yes. It also matches the test fires, the  
2 known samples test fired in the gun, so it was also  
3 identified as having been fired in the submitted rifle.  
4 Q. The 410 ammunition that was unfired, can you  
5 tell us anything about the characteristics of that in  
6 terms of how many projectiles were inside?  
7 A. Yes. It's a brand made by Federal Cartridge  
8 Company, and it's specifically called triple ought buck,  
9 and that's a 000-buck shot, and it's a type of large  
10 projectile. There are four pellets in that load that  
11 encompasses the entire shot shell. Those four pellets  
12 are contained inside of a plastic sleeve, or we call it a  
13 wad, and that's the payload or the projectiles that the  
14 rounds are able to deliver, so it's four stacked one on  
15 top of another, copper-coated pellets. Each one is about  
16 .36 inches in diameter, so about a third of an inch in  
17 diameter; four of them stacked in a linear fashion.  
18 Q. Now, compare that to the 45 round. Can you  
19 tell us about it?  
20 A. The 45 long Colt round is a specialty type of  
21 a round. It is a single projectile as expected, but the  
22 type of projectile is unique. It's different than what  
23 we typically see as a single projectile, which might just  
24 be a led round-nosed bullet or maybe a copper jacket

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1 bullet. This is a bullet that is designed to fragment  
2 upon impact with soft tissue, so it has a very unique  
3 characteristics. And as a matter of fact, it's not in  
4 production in that caliber anymore, so it's kind of hard  
5 to find. It's a very unique round comprised of a copper  
6 jacket that has softer tungsten and lead fragments on the  
7 inside with a cap on the top; the idea being that when  
8 that projectile impacts something like soft tissue, it  
9 can break apart and create multiple wound channels  
10 instead of like a single projectile that doesn't break  
11 apart creates one wound path. So it's a fragmenting  
12 round, a fairly unique design of cartridge.

13 Q. During the course of your experience, have  
14 you had an opportunity to shoot that type of round?

15 A. Yes.

16 Q. And based on your training and experience,  
17 can you tell us how that type of round would be expected  
18 to function if shot into a body?

19 A. The round is very effective. In testing that  
20 I've done by shooting into ballistics gelatin that I've  
21 done before the experimenting with this particular case,  
22 but what the round can do is when it hits something with  
23 a lot of liquid content, high hydraulic something like a  
24 body or an animal, it breaks apart very effectively, and

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1 all of the payload flies through the air as one single  
2 projectile, but when it impacts soft tissue, it begins to  
3 break apart, and you get multiple fragments.

4 Now, they still continue along that path of  
5 momentum they have, but now they're fragmenting, and each  
6 one of those little fragments is carrying some of the  
7 energy of that original shot. So it flies through the  
8 air as a single projectile, gets to the target, and then  
9 breaks apart. If it doesn't hit something like soft  
10 tissue, like let's say it hits drywall or wood, it stays  
11 together. So the idea being you can shoot this round  
12 through a significant object and still keep it together  
13 with all of its energy together, but when it hits  
14 something soft, that's when it fragments and breaks  
15 apart. And that's how this projectile is designed to  
16 perform.

17 Q. What happens to the speed and energy of the  
18 projectiles as they travel through a body?

19 A. The projectile is at its maximum velocity and  
20 energy right as it leaves the barrel. It can never get  
21 more energy and velocity than what it has at that point.  
22 So when this projectile travels through the air, it's  
23 beginning to slow down, but not a lot. When it hits  
24 something significant like soft tissue and begins to

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1 fragment, each of those fragments carries some of that  
2 velocity and energy, and so what arrives to a target with  
3 a lot of energy is quickly dissipated as each fragment  
4 carries some of the energy away from the main mass.

5 So you wind up with multiple smaller  
6 lower-velocity, lower-energy projectiles inside the wound  
7 as opposed to a single massive projectile that stays all  
8 as one. So the energy dissipates through the wound track  
9 that it creates.

10 Q. Did you have an opportunity to weigh the gun  
11 from the crime scene?

12 A. I did not weigh it specifically. I have a  
13 catalog entry that references what the gun weight is.

14 Q. Do you know what that is? And that's from  
15 the manufacturer, are you talking about?

16 A. Correct. The manufacturer's catalog has  
17 that, and I believe it's around five and a quarter  
18 pounds. I would have to refer to the catalog to refresh.

19 Q. And if you could lift the gun up, where is  
20 the weight of that gun centered?

21 A. It's designed -- Most of the weight is here  
22 on what we call the receiver that holds the frame and the  
23 cylinder. These are all metallic parts because they have  
24 to contain the pressure of a gunshot, so they're very

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1 heavy, very sturdy, very thick metal. So the bulk of the  
2 mass is toward the center of this gun, and this is a  
3 wooden sock, so it's a little bit lighter, and of course  
4 the barrel is metal, but not as much metal as is in the  
5 center of this gun.

6 Q. Now, going back to the gases that escape from  
7 the muzzle upon firing, in an enclosed room, what would  
8 happen to those gases?

9 A. Well, the gases typically, by way of example,  
10 where the bullet might have the ability to go a mile or  
11 farther, the gases can only go a matter of feet. Maybe  
12 the lighter components of the products that follow the  
13 bullet can just travel inches.

14 The heavier particles like the actual pieces  
15 of gunpowder can travel maybe four or five feet before  
16 they begin to fall off. And ultimately, as they mix with  
17 the air, they just fall off and are laying on the ground  
18 or laying in the environment in which the shot occurred  
19 unless, of course, something is close to the muzzle that  
20 intercepts those gases.

21 Q. Can particles that are left be transferred at  
22 all?

23 A. Yes, they can. Those particles that are just  
24 dissipated in a shooting environment are free to be

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1 transferred. They can be tracked on shoes or clothing.  
2 You can transfer those particles. They will exist --  
3 Imagine it as if we had some pepper; we threw some pepper  
4 on the floor. We could step in it, and we could move  
5 pepper around, and maybe if we sat down on the floor, we  
6 might transfer pepper that way. Well, the gunpowder  
7 particles are similar. They're present, and they can be  
8 transferred and moved around.  
9 Q. What happens -- You talked about energy going  
10 away from the muzzle. Is there any resultant energy  
11 going backwards?  
12 A. Yes.  
13 Q. Tell us about that.  
14 A. You may be familiar with the statement for  
15 every action, there's an equal and opposite reaction.  
16 It's a law of physics. As we apply that to discharge of  
17 a firearm, the action would be the bullet going down the  
18 barrel. So that action has to have an equal and opposite  
19 reaction. So for all of the energy that's pushing the  
20 bullet down the barrel toward its target, there's an  
21 equal amount of energy pushing the gun back away, and so  
22 that's what we call recoil energy. That's the felt gun  
23 moving away as these equal and opposite energies come  
24 back for balance and equilibrium.

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1 Q. You talked earlier about having the ability  
2 to determine distances between the muzzle and an object  
3 that's been struck with the projectile. Did you have an  
4 opportunity to do that type of analysis with the gun that  
5 was taken from the crime scene?  
6 A. Yes, I did.  
7 Q. How did you go about doing that?  
8 A. The process to conduct that test involves  
9 getting similar type of ammunition. The burn rate and  
10 the performance of the ammunition is very important, so  
11 it's important that we have the same kind of ammunition  
12 and the actual firearm from the scene. And then what we  
13 do is begin to take test fires at known distances, so we  
14 put a panel. We call it a witness panel. It's just a  
15 fabric panel, and we put it at distances starting with,  
16 say, contact, and then we back the panel up three or six  
17 inches at various increments, and we take a test shot at  
18 each of those various distances.  
19 Then we have -- so from those panels, we can  
20 lay out a range. When we're very close to the muzzle,  
21 the soot and the residue is very small. It's the same  
22 diameter as the barrel. The farther we get away, the  
23 more those residues dissipate and the bigger the pattern  
24 gets until we get no pattern at all where the gases have

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1 just fallen off. I can then compare the series of  
2 distance tests from small close-range to big distant  
3 range, and compare that to the article of clothing or the  
4 article that I'm comparing it to. In this case, it was a  
5 robe.  
6 We process the robe and look at what size of  
7 the pattern is on the robe, and then we simply compare it  
8 and go along this range of known distances and see what  
9 distance does the robe match the known test fires, and  
10 that's the result that we then report.  
11 Q. Okay. Did you have an opportunity to  
12 determine which round was fired first, either the 45  
13 round or the 410?  
14 A. Yes.  
15 Q. And which? What was your opinion in that  
16 regard?  
17 A. The documentation from when they unloaded the  
18 gun identifies that the first round was the 45 Colt.  
19 This gun rotates counterclockwise, and so they documented  
20 how they found the gun. And so if we just simply work  
21 backward, two positions over is where the 45 Colt was,  
22 two positions to the left. One position over was the  
23 410. So as that cylinder rotates, that means the 45 Colt  
24 was fired. The gun was fired again. That second shot

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1 was the 410. The cylinder rotated, and then in this  
2 case, the gun was cocked a third time, introducing but  
3 not discharging a next round in line.  
4 Q. Dr. Kubiczek had testified that Harry Leibel  
5 had one gunshot under his right armpit, and then there  
6 was another series of injuries that went through his hand  
7 and through the shoulder. Did you have an opportunity  
8 look at the x-rays involved in this case?  
9 A. Yes, I did.  
10 Q. And did those -- do you have an opinion  
11 regarding -- Did you see any projectiles in the x-rays?  
12 A. Yes, I did.  
13 Q. And do you have an opinion regarding which  
14 ammunition those would be most consistent with?  
15 A. The x-ray is consistent with the performance  
16 of a 45 Colt, which was the first shot fired. The x-ray  
17 demonstrated small fragments. And in fact, what the  
18 doctor recovered and submitted to the lab were these  
19 actual small fragments that I examined in the laboratory,  
20 so those little fragments of copper and lead and tungsten  
21 that he removed from the body that are imaged in the  
22 x-rays are from the 45 Colt that was associated with this  
23 gun.  
24 Q. So talking about that shot, the 45 Colt round



1 in the torso, did you have an opportunity to determine  
2 the distance?  
3 A. Yes.  
4 Q. How did you go about doing that?  
5 A. Start with a visual inspection. Well, first  
6 I needed to know what was the layers of clothing, what  
7 was Harry wearing, Harry Leibel wearing. The  
8 documentation clearly shows that he had this robe was on  
9 the exterior, so that's where we start.

10 THE COURT: Okay. I'm going to stop you now.  
11 We're going to take the morning break, and we'll come  
12 back. We'll pick that up. We're going to be in recess  
13 for 15 minutes. And during this recess, you are  
14 admonished -- sit down, please, sir -- not to talk or  
15 converse among yourselves or with anyone else on any  
16 subject connected with this trial.

17 You're not to read, watch, or listen to any  
18 report of or commentary on the trial or any person  
19 connected with this trial by any medium of information  
20 including, without limitation, newspapers, television,  
21 radio, or Internet. You're not to form or express any  
22 opinion on any subject connected with the trial until the  
23 case is finally submitted to you. We'll be back in  
24 session at a quarter till. Thank you.

1 MR. GREGORY: Your Honor, on that, the next  
2 phase of his testimony is going to involve a  
3 demonstration with the couch. If we could take a longer  
4 recess, we could get that established during the recess.

5 THE COURT: You mean move the couch?

6 MR. GREGORY: Move the couch and set up a  
7 demonstration.

8 THE COURT: We'll give you a 20-minute minute  
9 recess. Thank you.

10 (Recess was taken.)

11 -o0o-

12 THE COURT: Okay. We're back in session in  
13 14-CR-62. Mr. Gregory is here for the State. Ms. Brown  
14 and Ms. Henry are here for the defense. Ms. Leibel is  
15 here together with her interpreter, and we are prepared  
16 to go forward. Mr. Noedel is on the stand, and let's  
17 bring in the jury.

18 As we are waiting for them to come in, I'm  
19 going to remind the audience that there is no recording  
20 allowed in here, either audio or audio and visual. So if  
21 someone has an iPad or something like that, you're  
22 welcome to take notes on it and use your phone to take  
23 notes on, but you are not welcome to engage in any  
24 recording, and I'll just make that point. Any recording

1 that is done in violation of that rule will result in me  
2 confiscating your equipment, and you will lose it  
3 permanently.

4 Thank you, Ladies and Gentlemen. Have a  
5 seat, please and relax. Counsel stipulate to the  
6 presence of the jury?

7 MR. GREGORY: Yes, Your Honor.

8 MS. BROWN: Yes, Your Honor.

9 THE COURT: Ladies and Gentlemen, it took a  
10 little bit longer than I said, but as you can see, we did  
11 some furniture moving during that period of time.  
12 Actually, I didn't. I didn't lift anything.

13 Mr. Gregory? I'll speak up. I said I didn't  
14 lift anything.

15 A JUROR: Okay. Good.

16 THE COURT: Sir?

17  
18 CONTINUED DIRECT EXAMINATION  
19 BY MR. GREGORY:

20 Q. Thank you, Your Honor. Mr. Noedel, when we  
21 broke, we were talking about your opinions regarding  
22 distance, and you were talking about the shot to Harry's  
23 right side first shot. Did you have an opinion regarding  
24 the distance as it relates to that shot?

1 A. Yes, I did.

2 Q. What was your opinion?

3 A. The absolute range is farther -- the gun was  
4 farther away than contact with the side of the road, but  
5 closer than 18 inches. And to narrow that down on my  
6 range, it's most like the test targets that I generated  
7 in the two to six-inch range. So the distance that the  
8 end of the gun was from the side of the road is best  
9 characterized to be the range of about two to six inches.

10 Q. So two to six inches is the best, but out to  
11 18?

12 A. Yes, because when we're doing that type of  
13 test, I have to be certain that I encompass any  
14 conceivable range that could be represented on the test  
15 fires, and the range sometimes has some overlapping  
16 distances. For example, my nine-inch target overlaps a  
17 little with my 12-inch. They're hard to differentiate.  
18 So I go to a rate, a distance that I'm absolutely sure is  
19 -- can't be the same as the robe. That's my 18. And I  
20 go to my closest distance that I'm absolutely sure it can  
21 be, can't be contact. But to focus that, because that is  
22 a wide range, I look at the pattern that was processed on  
23 the clothing to my test targets, and that's where get the  
24 two to six-inch range for the distance of the gun, best

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1 fitting with the tests that I generate.  
2 Q. So when you say the distance of the gun, can  
3 you show the muzzle of the gun?  
4 A. Yes. The muzzle is the exit end of the gun  
5 here. And so when distance testing, I'm trying to  
6 determine this range here, forward of the muzzle to how  
7 far away the object was when the gases arrived to them.  
8 Of course there's a hole in the object that let the  
9 bullet go through, and I'm looking at the interception of  
10 gases around the hole, and that's what I'm going to  
11 evaluate. So I'm looking, in this case, we're somewhere  
12 farther than approximately two inches out from the muzzle  
13 but closer than about six inches.  
14 Q. And did you also have an opportunity to do  
15 distance analysis on the shot to his hand and shoulder?  
16 A. Yes.  
17 Q. Tell us about how you went about that  
18 analysis.  
19 A. It's a similar process. The pattern that was  
20 present on the left hand of Mr. Leibel can be compared to  
21 known patterns. I needed to know that that was in fact a  
22 shot from the shotgun because different ammo will have  
23 different ranges associated with it. So there was a  
24 component, that plastic sleeve called the wad, was still

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1 present in his wound. So I knew that that hand and the  
2 deposits on the hand were associated with the shotgun.  
3 So then I take the evidence gun and the shot shells of  
4 the appropriate size and do another series of patterns of  
5 known distances from contact out to maybe as far as two  
6 feet and compare the size and density and distribution of  
7 the residues on his hand to the size and density of the  
8 patterns that I test fired in the laboratory.  
9 Q. And what was your opinion regarding the  
10 distance of that shot?  
11 A. It's again greater than contact. Farther  
12 away than contact, but closer than -- I think closer than  
13 six inches; most like my three-inch test targets. So the  
14 best distance that matched my test fires, my known  
15 distances, was the three inch. So the hand is  
16 essentially in that range, about approximately three  
17 inches away from the end of the gun when the shotgun shot  
18 was delivered.  
19 Q. So the muzzle would be -- if you could  
20 demonstrate approximately the muzzle to the back of the  
21 hand.  
22 A. So the muzzle to the back of the hand would  
23 be somewhere in this range. That's approximately two  
24 inches and maybe as far as six inches, so somewhere in

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1 here.  
2 Q. Thank you. And previously, I indicated we  
3 were going to get into a separate area altogether, and  
4 that is reconstruction. What is accident or what is  
5 reconstruction, scene reconstruction?  
6 A. Scene reconstruction is a branch of forensic  
7 science that involves assembling and testing elements of  
8 the whole of an event where laboratory analysis basically  
9 looks at the specific components. That provides the  
10 basis on which we can attempt a scene reconstruction.  
11 So scene reconstruction is a process whereby  
12 using the evidence, you set out to try to answer  
13 questions about the whole of the event. And so  
14 reconstruction is a process and a method that uses a  
15 scientific method. We pose a hypothesis, we look for  
16 what data we have, distance data, whatever physical  
17 evidence is, dimensions of the room, and we test how  
18 these elements can come together and try to reconstruct  
19 things that are of question in a given case.  
20 Q. How long has reconstruction been around?  
21 A. Reconstruction is as old as forensics itself.  
22 It's always been the ultimate goal of any forensic  
23 analysis to have a reconstruction. So formal forensic  
24 science has, particularly with shooting reconstruction,

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1 has gone on for the last 125 years. Reconstruction as a  
2 formal branch of forensic science has really come into  
3 its own in the last about 25 years, but virtually every  
4 scene that someone is assembling and telling -- trying to  
5 figure out a sequence is actually doing a reconstruction.  
6 Q. Is it accepted as a formal branch of forensic  
7 science?  
8 A. Yes, it is.  
9 Q. How long -- Well, tell me about your training  
10 and experience regarding reconstruction.  
11 A. My first introduction to shooting scene  
12 reconstruction started when I was working with the state  
13 patrol crime laboratory. I was a firearm examiner inside  
14 the lab, but I also had a responsibility to go tend to  
15 crime scenes. So I used to have a dual responsibility,  
16 and in attending crime scenes, not only did I process and  
17 collect objects, but began to get involved with the  
18 reconstruction aspects.  
19 Of course there's training, a lot of training  
20 and mentorship from senior investigators and detectives  
21 and other people doing reconstruction, but there are  
22 certainly formal courses that I've taken in the processes  
23 and what you look for in reconstruction, how you sequence  
24 events, what do you look for. So there's training there.

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1 There are textbooks on the subject, and those are all  
2 avenues that I'm involved with.  
3 There's also an association, a professional  
4 organization called the Association For Crime Scene  
5 Reconstruction. Next week is our 25th anniversary in  
6 that organization. I'm the past president of that  
7 organization. That's a group of practitioners, I'll say,  
8 not only forensic scientists, but they're also detectives  
9 in that group, private consultants, public officials, and  
10 we meet annually and have training conferences, and we  
11 publish a journal where we release how people are  
12 approaching crime scenes. So it's a legitimate as any  
13 branch of science of forensic sciences where you might  
14 have a DNA analysis, a firearms analysis. Reconstruction  
15 is one of those branches that I maintain expertise in.  
16 Q. What is your certification in reconstruction?  
17 A. The International Association for  
18 Identification. The IAI has a certification in crime  
19 scene reconstruction. It's a written test followed by a  
20 practical test, and I'm certified by that organization in  
21 reconstruction.  
22 Q. How many others are certified?  
23 A. They are only about 17 people that have  
24 passed that certification to date, so I'm one of 17.

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1 Q. You were asked to perform a reconstruction in  
2 this case?  
3 A. Yes.  
4 Q. How did you go about obtaining data?  
5 A. The first thing to start with a  
6 reconstruction is to gather information about the case,  
7 so I requested things like the police reports, the  
8 autopsy reports, the original scene photographs and the  
9 scene documentation, notes and maps and things were made  
10 at the house. Of course I was not at the house the dare  
11 the scene was processed. I'm relying on that information  
12 that was recorded, so statements offered by individuals  
13 what's being said, what's being alleged about this case.  
14 And in that data, then we can begin to look  
15 for where are there issues that physical evidence can  
16 help answer and thereby reconstruct. So that's the  
17 process, and that's the information for any types of  
18 information that document or talk about the scene. And  
19 then we can test it using reconstruction processes.  
20 Q. So you said obviously you weren't out at the  
21 crime scene; correct?  
22 A. Correct.  
23 Q. So you rely on what others report; correct?  
24 A. Correct. That's the function of the crime

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1 scene respondents is to document that scene, and of  
2 course the reconstruction is only as good as the scene  
3 documentation.  
4 Q. And were you provided with measurements that  
5 were taken by Joey Lear?  
6 A. Yes, I was.  
7 Q. And you used those and incorporate those into  
8 your reconstruction?  
9 A. I did.  
10 Q. Ultimately, were you able to do a  
11 reconstruction in this case?  
12 A. Yes. One thing that needs to be understood  
13 about reconstruction is not necessarily and typically not  
14 going to play out like a movie where I can account for  
15 everything that happens from start to finish of an event,  
16 but we can test specific elements. So there was  
17 sufficient data and documentation to test various  
18 elements, so that aspect of a reconstruction could be  
19 done. It won't tell you how the entire event played out  
20 from start to finish.  
21 Q. Were you able to do a reconstruction --  
22 A. Yes.  
23 Q. -- in this case? Did you feel like you had  
24 ample information to be able to do that?

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1 A. Yes, for the specific questions that were  
2 being considered in this case, there's plenty of data to  
3 consider and evaluate.  
4 Q. What were the considerations that you were --  
5 questions that you were going to answer?  
6 A. The big question of this event was was this  
7 shooting a suicide or was it a homicide. In other words,  
8 somebody shoot -- did Harry Leibel shoot himself or did  
9 somebody else shoot him. And so that's a huge question,  
10 so we have to break that down for reconstruction and make  
11 it into more smaller manageable questions like  
12 sequencing: Which shot was first. How did that bullet  
13 perform. What does the performance of that bullet tell  
14 us about positions, locations of people, where are the  
15 bloodstains. We can begin to -- where are the  
16 bloodstains. We can begin to piece these pieces of  
17 documentation together and draw a picture about these  
18 elements.  
19 THE COURT: Sir. Again, I'm going to ask you  
20 just to slow down a little bit.  
21 THE WITNESS: Yes, sir.  
22 THE COURT: I know that you have a lot of  
23 information you want to get out, but it has to be  
24 conveyed also.

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1 THE WITNESS: Yes, sir.  
2 THE COURT: And so slow down a little bit.  
3 Thank you very much, sir.  
4 THE WITNESS: Okay. So that's the process.  
5 That was the big question that we were set out to answer.  
6 And so using the data like the distance that was measured  
7 from the robe and the hand, the path of the bullet that  
8 went through the couch, all of those pieces are elements  
9 that we are going to use to try to reconstruct the actual  
10 delivery of the two gunshots.  
11 Q. (BY MR. GREGORY:) Now, in addition to the  
12 data that you reviewed, you also, as we already know, you  
13 actually handled the weapon that was used; correct?  
14 A. Yes. That was a big advantage to be able to  
15 actually work with the actual recovered firearm and test  
16 fire it and examine how it performs.  
17 Q. Did you also have an opportunity examine the  
18 couch?  
19 A. I did.  
20 Q. And the end table that's here?  
21 A. Yes.  
22 Q. And did you have an opportunity to visit the  
23 residence?  
24 A. I did. The residence was vacant by time I

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1 was able to go, but I wanted to just see the spatial  
2 relationships and verify some of the measurements that  
3 were recorded from the original scene and just as a way  
4 to check the arrangement and validity of the issues that  
5 we were testing.  
6 Q. And did you ultimately arrive at an opinion  
7 in this case?  
8 A. Yes.  
9 Q. Are your opinions that you're going to offer  
10 today within a reasonable degree of scientific certainty?  
11 A. Yes, they are.  
12 Q. Thank you. And those opinions were in a  
13 report that was generated?  
14 A. That is correct.  
15 Q. I wanted to ask you, was part of the  
16 information you obtained, we know you measured the gun.  
17 Did you also have any kind of data referencing the length  
18 of Mr. Leibel's arm?  
19 A. Yes, I did.  
20 Q. And was that through photography that you'd  
21 received?  
22 A. Yes. Autopsy photographs recorded the length  
23 of his arm.  
24 THE COURT: Are these new?

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1 MR GREGORY: Just one.  
2 MR. GREGORY: Would you like that see that  
3 one first, Your Honor?  
4 THE COURT: I would. Thank you. Thank you,  
5 sir.  
6 Q. (BY MR. GREGORY:) I'm going to show you  
7 what's been marked as Exhibit Number 142. What does  
8 photograph depict?  
9 A. This is a composite of two different images:  
10 One of Harry Leibel's right arm, and the other one is the  
11 photograph that I took of the length from muzzle to  
12 trigger.  
13 Q. Are those photographs accurate  
14 representations of who you observed in doing your  
15 reconstruction?  
16 A. Yes.  
17 MR. GREGORY: Your Honor, I'd move for  
18 admission.  
19 THE COURT: Any objection?  
20 MS. BROWN: No objection, Your Honor.  
21 THE COURT: 142 is admitted.  
22 Q. (BY MR. GREGORY:) Publishing 142. Dim the  
23 light, please. All right. Let's go through the couch  
24 has been set up. Did you set this up during the break?

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1 A. Yes.  
2 Q. Can you tell us what you were trying to  
3 achieve with this setup.  
4 A. Part of the reconstruction involved this  
5 bullet path analysis. And in this event, we have the  
6 shotgun pellet, the shot that was responsible from the  
7 shotgun shot, which was the second shot, after leaving  
8 the gun, perforating the hand, and eclipsing the left  
9 shoulder, those pellets continued into and through the  
10 couch, out the back of the couch and into the wall.  
11 When we have these multiple points along the  
12 path of a bullet, we can connect those, follow the line  
13 back, and it gives up an idea of where the firearm would  
14 be located at the beginning of that path. So that's the  
15 trajectory analysis. That's the value of recording this  
16 path that went through the couch and into the wall behind  
17 the couch.  
18 Q. And the jury can't see it. You have a box  
19 set up behind the couch where the rod goes into. What's  
20 that represent?  
21 A. The scene documentation shows how far up the  
22 wall the pellets entered. And so what we've done rather  
23 than build a wall here, we're just using a small box, the  
24 box is into the wall approximately ten inches up from the

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1 ground, and so we've put a hole in the box ten inches up  
2 and given a place for the rod to connect to, so the rod  
3 is connecting a box that represents where the wall would  
4 be.

5 THE COURT: Mr. Gregory, since there hasn't  
6 been an objection to that testimony, I'm going to allow  
7 the jurors to step down from the jury box, walk around,  
8 come around the couch, see the box that's being  
9 demonstrated to them, and walk back up. I'd ask you be  
10 careful not to kick the box, but you can walk around see  
11 what the box is talking about.

12 Mr. Gregory, you may proceed.

13 MR. GREGORY: Thank you, Your Honor.

14 THE COURT: There's a number of red lines and  
15 dots, and those come from touching your screen up there.  
16 Thank you, sir.

17 Q. (BY MR. GREGORY:) Sir, looking at your  
18 report, there's a section called bullet path analysis.  
19 And I'd like to talk about the first shot first, which  
20 would be the one to the torso. Who can you tell us about  
21 the bullet path analysis that you performed?

22 A. In examining the first shot, prior to that,  
23 the first thing we know is that the first shot, because  
24 of the sequence of the load that was in the chamber, we

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1 know it was the one that had gone two positions to the  
2 left was the 45 Colt. It's that unique type of  
3 ammunition that fragments upon impact with soft issues.  
4 So in examining that bullet path, we know where the  
5 bullet entered as a single projectile. It travels  
6 through the air as a single projectile and that began to  
7 break apart when it hit the soft tissue of Harry Leibel's  
8 side.

9 What we can see from the description by the  
10 doctor and the fragments that he recovered along the  
11 wound track and from the x-rays that he took of the body,  
12 we can see a trail of all of those fragments. And when  
13 you look at the trail of fragments that connect from the  
14 entry wound to his side, they eclipse upward and across  
15 inside of his body across his chest striking whatever  
16 organs they come across. The bullet is breaking apart  
17 into smaller fragments. Each little fragment is carrying  
18 a portion of the energy, and so they're slowing down.  
19 They're running out of energy as they break apart and get  
20 smaller, and they continue to eclipse upward and across  
21 the inside of his body.

22 If you put a protractor and measure that  
23 angle, it's about 15 degrees relative to straight across  
24 his body, about 15 degrees to 20 degrees upward. The

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1 pellets continue upward toward his left shoulder, and  
2 near the end of that pellet path and the fragments' path,  
3 if his arm is down, the pellets make a right turn and go  
4 down his arm, but the pellets end at his -- at the inside  
5 of his left arm.

6 And so in evaluating that and knowing how  
7 this ammunition performs, I expect these pellets to  
8 continue trying to go on a straight line. So how do I  
9 resolve a pellet that's -- the pellets or fragments that  
10 seem to have turned 100 degrees downward? Well, by  
11 raising the arm, I can create a continuous 15 to  
12 20-degree upward path and resolve how I think the bullets  
13 should be performing.

14 I could see no reason for the bullets to take  
15 a right turn if the arm was down. So for the bullets to  
16 end up here and maintain their energy path as they're  
17 fragmenting for the fragments to maintain their path, I  
18 think the arm has to be raised to give you a linear  
19 straight line path to where fragments were located and  
20 one fragment actually exited inside of the arm.

21 Q. If his left arm was raised in such a manner,  
22 would you agree with me that there would be no way for  
23 his left hand to be in contact with the weapon?

24 A. Correct. In my opinion, his left hand cannot

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1 be handling the firearm.

2 Q. And tell us about, a little bit about the  
3 bullet path travel for second shot.

4 A. The second shot we know is the shotgun shot,  
5 and the projectiles start in the gun as a stack of four  
6 triple ought buck pellets. They travel down the barrel  
7 in their plastic sleeve, and about three or approximately  
8 three inches out of the barrel, they encounter Harry's  
9 left -- the back of Harry's left hand. That column of  
10 pellets perforates through his hand, and in doing so,  
11 that plastic sleeve called the wad, part of that breaks  
12 off and actually sticks in his wound.

13 The pellets, which are the most massive part  
14 of that projectile set, continue on, exit toward the base  
15 of his thumb, and continue in essentially a straight line  
16 and eclipse the top of his left shoulder. That's  
17 photographed and described in the postmortem autopsy  
18 report. After eclipsing the top of his shoulder, they  
19 continued into the hole, creating the front hole in the  
20 surface of the couch, tunneled through the structures  
21 inside the couch, came out the backside of the couch,  
22 finally ran into the wall where they ran out of energy  
23 and were trapped in the wall.

24 There's a stud actually in the construction

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1 of the wall, and that helped stop the projectiles so they  
2 -- so that's the path that we know the second set of  
3 projectiles. There's actually four pellets in that  
4 shotgun load.  
5 Q. Now, you've already testified this was not a  
6 contact wound. Could you demonstrate what contact would  
7 be there with the muzzle.  
8 A. Contact is literally the gun touching the  
9 structure that is involved. And when you have a contact  
10 type of a gunshot wound, there's no time for the residues  
11 to expand. So with a contact gunshot wound, you can get  
12 a lot of tearing and a lot of damage, but from the  
13 residue perspective, the residues would all be blown  
14 right into the wound. He doesn't have that on his left  
15 hand, there's an actual -- there's a big pattern of what  
16 we call soot, basically vaporised lead and products that  
17 followed those pellets out.  
18 For that to have enough time for that soot to  
19 spread out and distribute on his hand, he can't be  
20 touching the gun. He has to be moved back. But he can't  
21 be so far away that the residues don't reach him. So  
22 he's right there in that approximately three-inch  
23 distance is where we see heavy soot residues with some  
24 gunpowder particles in a distribution about the size that

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1 was represented on his left hand.  
2 Q. So given that opinion, could his left hand  
3 have been in contact with the barrel of the gun at the  
4 moment the gun was shot?  
5 A. No.  
6 MR. GREGORY: Your Honor, may he step down to  
7 the couch?  
8 THE COURT: He may.  
9 MR. GREGORY: And we will need, if you could  
10 bring the demonstration gun with you, please.  
11 THE COURT: But the record should reflect  
12 exactly what exhibits that you have down there.  
13 MR. GREGORY: Thank you. He has Exhibit 118,  
14 I believe. The end table is Exhibit 121.  
15 THE COURT: It's right back here, sir.  
16 MR. GREGORY: Thank you. And Exhibit  
17 Number 120. 119 is the demonstration gun. Thank you.  
18 THE COURT: So he has Exhibits 119 --  
19 MR. GREGORY: Correct.  
20 THE COURT: -- 118 and 120; is that correct?  
21 MR. GREGORY: Yes.  
22 THE COURT: Proceed, sir.  
23 Q. (BY MR. GREGORY:) Talking about what would  
24 have been the second shot, and you just talked about the

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1 path of the bullet. Could you demonstrate where the gun  
2 would have been, in your opinion?  
3 A. Yes. Because we have this trajectory, we  
4 know the bullets will travel in a straight line as they  
5 are traveling through this arrangement, so we have to  
6 position the firearm. You can imagine we can extend this  
7 line. We have to position this firearm somewhere along  
8 this yellow line. In between the firearm and the back of  
9 the couch, we have to put Harry Leibel, and we have to  
10 arrange that in a circumstance that the left hand, the  
11 back of the left hand, is approximately three inches away  
12 from the gun.  
13 So when we put all of that together, assuming  
14 that Harry Leibel is in fact on the couch where his blood  
15 was where the shot is, the gun has to be somewhere in  
16 this general vicinity, somewhere right in here, by the  
17 time we put his body there. His shoulder has to be right  
18 on -- right beneath the yellow rod because he has that  
19 eclipsing wound here. So when he was on this couch, he's  
20 positioned in a manner such that his left shoulder is  
21 here just under this line here, and his left hand is  
22 forward of his shoulder in some capacity; the back of his  
23 hand presented to the gun. So it's this kind of an  
24 arrangement, and there is -- there's also a range with

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1 trajectory rods. We account for plus or minus five  
2 degrees or so because there is some error. Of course we  
3 can move this. So we come up with a zone for that shot.  
4 The rifle was positioned somewhere in this zone, and at a  
5 time when the left hand was forward the barrel and the  
6 left shoulder was just on the bottom of that yellow path.  
7 Q. Thank you. You can retake the stand.  
8 Mr. Noedel, what was your ultimate opinion in this case?  
9 A. Well, ultimately, piecing together all of the  
10 different components that I've examined for the  
11 reconstruction, in my opinion, because of the reach and  
12 the elements that have to be met, the distance  
13 determinations and all of those elements, I think that  
14 the best explanation is that Harry did not shoot himself.  
15 Harry Leibel did not shoot himself. It creates much  
16 easier logistics if someone else delivered the shots,  
17 both shots to Harry Leibel.  
18 Q. What do you mean by that, what you just  
19 stated about the movements? In your scenario, your  
20 opinion is that it was most likely he didn't shoot  
21 himself. Describe for me what his movements would be  
22 during the course of the two shots.  
23 A. So knowing the sequence, we have to arrange a  
24 situation where the firearm is close to the side of his

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1 body, so let's estimate two to six inches from the side  
2 of his body, and left arm has to be up.  
3 So when the first shot eclipses his body,  
4 pellets go in, and then he moves to this position to  
5 present his left hand, eclipse his left shoulder, and  
6 continues into the couch. So he has to present the left,  
7 or I'm sorry, present his right side, and then present  
8 his shoulder. So that's, as I'm demonstrating, that  
9 twist is the kind of movement that Harry would have to  
10 achieve, assuming that the shooter is not moving  
11 dramatically through the scene. And we know that the  
12 shooter had to be close to Harry.  
13 Q. And were you provided with information  
14 regarding the position of the hammer when the gun was  
15 found?  
16 A. Yes, I was.  
17 Q. And what was the position of the hammer?  
18 A. After the second shot and the way the gun was  
19 found, the hammer was in the cocked position. So the  
20 caulking of the gun takes that specific movement.  
21 Somebody had to physically caulk the hammer back and  
22 prepare it for a third shot, which was not delivered.  
23 Q. And your opinion regarding this case, again,  
24 is to a reasonable degree of scientific certainty?

1 laboratory. So that's a contract that whereby I come  
2 down from my home near Seattle, Washington, I come down  
3 one week a month and have been doing so for about the  
4 last four years.  
5 Q. And when you work the Washoe County Crime  
6 Lab, then you're basically you're compensated out of  
7 county funding?  
8 A. Correct. Grant money that the laboratory has  
9 secured.  
10 Q. And within your own company, then you are  
11 basically a vendor?  
12 A. Yes, in a sense. I consult for attorneys all  
13 over the country on primarily shooting scene incidents.  
14 Q. And in this instance, you were contacted by  
15 Mr. Gregory at the DA's office concerning doing the  
16 reconstruction in this case?  
17 A. That is correct.  
18 Q. And when did that occur?  
19 A. My recollection was it was concurrent with  
20 the laboratory examination as the case was developing and  
21 these objects were in the lab.  
22 Q. Which laboratory?  
23 A. The Washoe County Forensic Laboratory.  
24 Q. Which laboratory report?

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1 A. Yes, it is.  
2 MR. GREGORY: Thank you. Nothing further.  
3 THE COURT: Ms. Brown?  
4  
5 CROSS-EXAMINATION  
6 BY MS. BROWN:  
7 Q. So it's to a reasonable degree of scientific  
8 certainty that Mr. Leibel being killed by another person  
9 is the best explanation?  
10 A. Yes.  
11 Q. When you prepared or when you did the  
12 ballistics testing, you where were you working at?  
13 A. Physically, I was located in the Washoe  
14 County Forensic Laboratory in Reno.  
15 Q. And can you describe -- you've testified you  
16 have your own company, Noedel Scientific, and then you  
17 also work at Washoe County?  
18 A. Correct.  
19 Q. Could you explain that relationship?  
20 A. Yes. Part of my forensic consulting is I  
21 provide a lot of training, I teach a lot of courses, and  
22 I had an opportunity to be invited to, on a contract  
23 basis, to work at Washoe County to help reduce their  
24 backlog and to help train new firearm examiners at their

1 A. The ballistic report that talks about the  
2 bullets, the cartridge cases, the firearm, and the  
3 distance testing. While that testing was going on, I was  
4 contacted, and we discussed can a reconstruction be done,  
5 and if so, how do we get that done, but the laboratory  
6 specifically does not offer reconstruction as one of  
7 their forensic services. So I do reconstruction as part  
8 of my business, so I said since I'm working on the case  
9 in the lab, perhaps I can just do a reconstruction  
10 outside of the lab as Noedel Scientific.  
11 Q. And you ultimately prepared a report in this  
12 case on January 15th of this year?  
13 A. Yes.  
14 Q. And how much were you paid for doing the  
15 reconstruction in this matter?  
16 A. My hourly rate for consulting with Washoe is  
17 \$150 an hour, and so the reconstruction aspect, probably  
18 somewhere on the order of 20 or 30 hours that so far,  
19 I've been covered have been covered in the grant money  
20 with Washoe, Washoe contract money.  
21 Q. So Washoe County doesn't do crime scene  
22 reconstruction, but you received compensation through  
23 Washoe County for doing the reconstruction?  
24 A. Well, for my time in the laboratory. When

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1 I'm here in Reno and checking in or going into the  
2 laboratory, which is where I did a lot of this  
3 reconstruction, that was billed to the county. A lot of  
4 the reconstruction work was done on my computer and at  
5 home for which there is no bill. There is no invoice.  
6 Q. So other than what you were paid through  
7 Washoe County, you receive nothing else for this?  
8 A. That's correct. I do intend to try to get  
9 reimbursement for my travel for this testimony.  
10 Q. Now, going back first to the ballistics  
11 report, you were talking about the cylinder gases that  
12 escape from the gap around the cylinder?  
13 A. Yes.  
14 Q. And you said you tested the robe that you  
15 viewed and weren't able to find any indication of  
16 stippling of gases?  
17 A. Correct. I didn't find any cylinder gap-type  
18 deposits on the robe.  
19 Q. On the robe sleeves?  
20 A. On the sleeves. Yes.  
21 Q. But you said that was because these are  
22 three-quarter type sleeves, and so they wouldn't be down  
23 near that area?  
24 A. That would be one good explanation as to why

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1 they're not there.  
2 Q. And you said there could be a possibility  
3 that you would find something similar on arms that were  
4 close to a firearm that had been fired?  
5 A. Yes. If your arm or wrist is close enough t  
6 the cylinder gap when the gun is discharged, you will get  
7 residues at that location.  
8 Q. You said it was a possibility?  
9 A. Correct. If your arm is close enough, you  
10 will get the residues.  
11 Q. Okay. And stippling is different from  
12 residue; correct?  
13 A. Yes.  
14 Q. Okay. So you can get stippling?  
15 A. You can.  
16 Q. But not in all cases?  
17 A. Not necessarily in all cases. No.  
18 Q. And with the residue, would that always be  
19 visually? Would you be able to see that visually, or  
20 would that require other testing?  
21 A. When it was visual, when I was stippled by  
22 the cylinder gap --  
23 Q. I'm not talking about the residue. I'm  
24 talking about just the residue itself. If you don't get

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1 stippling, if there's some other indication, what --  
2 A. Yes, a black soot appearance.  
3 Q. And you talked about the manner in which this  
4 exhibit, is it 119?  
5 THE COURT: I don't know. Which one do you  
6 want?  
7 MS. BROWN: The gun, the demo gun.  
8 THE CLERK: Yes. It's 119.  
9 Q. (BY MS. BROWN:) When you were talking about  
10 the way the gun, the actual evidentiary gun, 118 was  
11 loaded, and you said there was alternating rounds with a  
12 shot and the 45 shot, 45?  
13 A. Yes.  
14 Q. Is that any type of typical loading?  
15 A. Yes. You're free to put any sequence or any  
16 order. Some people load guns with for a purpose.  
17 Sometimes they're just random sequencing of like a  
18 revolver. Sometimes you'll see where you have the highly  
19 fragmented bullet followed by the shot shells, so the  
20 idea being if the fragmenting bullet doesn't work  
21 properly, then you have a different design shot next, and  
22 another fragmenting bullet, and another shot. So some  
23 people believe that loading in that manner gives them  
24 more versatility in the order in the way that the firearm

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1 can perform.  
2 Q. And is it -- Is that type of pattern typical  
3 for loading for home protection with that type of gun?  
4 A. Sure. You can load a revolver in a sequence  
5 like that for any purpose.  
6 Q. But is it typical for home protection?  
7 A. No. I don't think there is a typical  
8 revolver load. I would say the most typical revolver  
9 load would be the same ammunition all the way through all  
10 five cylinders. So this is -- This appears to be because  
11 of a specific sequence.  
12 Q. And you don't know if Mr. Leibel does that  
13 specific sequence or if anybody else does that specific  
14 sequence?  
15 A. I do not know that.  
16 Q. So there's no implication from that sequence?  
17 A. Correct. The sequence is --  
18 Q. And both -- All guns have some degree of  
19 recoil; is that correct?  
20 A. Yes.  
21 Q. And that would include long guns, handguns?  
22 A. Yes.  
23 Q. When you were doing the test firing for the  
24 robe itself, you said you used fabric panels at different



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1 distances. What type of fabric were you using?  
2 A. For the comparison to the robe, I was using  
3 terry cloth panels, and for the comparison to the hand, I  
4 was shooting into a type of filter paper called bench  
5 coat, and it's coated on one side and a dense paper on  
6 the other side.  
7 Q. And so the paper itself is not the same as  
8 flesh; is that correct?  
9 A. That's correct.  
10 Q. And when you do -- You said you do these test  
11 patterns at as a series of inches --  
12 A. Yes.  
13 Q. -- so that you can make comparisons. And  
14 when you're to the point of doing comparisons between  
15 using a photograph or actual -- a photograph of the  
16 object that was actually hit?  
17 A. With the robe, I had the actual exhibit, the  
18 actual robe. I don't have access to his hand, so I used  
19 the photograph of his hand, and I used the actual robe  
20 for each respective analysis.  
21 Q. And then based on either the actual robe --  
22 (Brief interruption.)  
23 THE COURT: One moment. Ma'am, can we turn  
24 that off, please.

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1 A JUROR: Sorry.  
2 THE COURT: It's okay. I'm going to ask you  
3 to leave that in the jury room.  
4 A JUROR: I will after this, sir.  
5 THE COURT: Thank you.  
6 Q. (BY MS. BROWN:) And then you're comparing  
7 photographs in a sequence at the actual item itself to  
8 try to determine which pattern best fits what you see on  
9 either on the object or in the photograph of the hand; is  
10 that correct?  
11 A. The only photograph that I used was the  
12 photograph of Harry Leibel's hand. The other targets I  
13 have right in front of me, so I don't -- I do take a  
14 photo at the end of the analysis, but I'm directly  
15 comparing the photograph of his hand to the targets that  
16 I just shot and then seeing where the densities are.  
17 Q. Okay. So you're visually comparing your test  
18 pattern with your actual observations of the robe or a  
19 photograph of that?  
20 A. That's correct.  
21 Q. And based on those visual observations, then  
22 you're making your best determination of the distance; is  
23 that correct?  
24 A. That's correct.

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1 Q. So there is some degree of subjectivity in  
2 this because you're using a visual site. It's not like  
3 you feed information into a computer and it pops out.  
4 A. That's correct. That's why distances are  
5 always reported as a range.  
6 Q. And you noticed in your report on the robe  
7 there were two, I believe it was, two separate defects in  
8 your --  
9 A. There were multiple defects through the robe;  
10 two -- essentially two positions that were consistent  
11 with the passage of a projectile.  
12 Q. I'm sorry. Two through the mid right side  
13 and the right belt loop?  
14 A. Yes.  
15 Q. Where were two holes? Was it through the  
16 belt loop? Through the belt? What was the position?  
17 A. On his robe, it was a very heavy terry cloth  
18 type of robe, and it has a sewn belt loop. The shot that  
19 -- the first shot, the one that entered his right side,  
20 entered, eclipsed right at where that belt loop is sewn  
21 to the main fabric. So it's right at the intersection --  
22 the hole was right at the intersection of those two  
23 pieces, the belt loop being sewn to the fabric.  
24 Q. So it was a single entry shot that hit two

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1 different pieces of fabric?  
2 A. There is -- yes, it eclipsed the belt loop  
3 and continued in, but I think there was also a partial  
4 fold because there was a secondary hole near it. But we  
5 know there was only one projectile. So the way we get  
6 two holes from one projectile is if there's a fold at the  
7 time that that bullet goes through when we flatten it  
8 out, as we do in the laboratory, there were once folded  
9 together, and now we flatten them out and we see it as  
10 two holes.  
11 Q. And do you recall how far apart those holes  
12 were?  
13 A. I would have to refer to my notes. Maybe a  
14 quarter of an inch apart.  
15 Q. And then the distance estimates you came up  
16 with for the pattern on the robe was two to six inches  
17 away from the barrel of the gun?  
18 A. Correct. I think that's the best distance  
19 based on my test fires.  
20 Q. And on the robe side, there was some kind of  
21 fold in the material that caused two distinct holes?  
22 A. I believe that to be true.  
23 Q. And then on the injury that was to the hand,  
24 it was your opinion that it was most likely three inches

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1 away from the hand?  
2 A. Correct.  
3 Q. When you were doing the -- got to the point  
4 of doing the crime scene reconstruction, you relied on  
5 information from several different sources; is that  
6 correct?  
7 A. That's correct.  
8 Q. And you had the autopsy photos?  
9 A. I did.  
10 Q. And some police reports?  
11 A. Yes.  
12 Q. And you also had measurements that were taken  
13 by Joey Lear?  
14 A. I did.  
15 Q. And Joey Lear was one of the forensic  
16 investigators with the Washoe County Crime Lab?  
17 A. Yes, he is.  
18 Q. And he was the one that responded, to your  
19 knowledge, to the scene the night of February 23rd to  
20 perform measurements and to initially put the trajectory  
21 rods in place?  
22 A. Yes.  
23 Q. And do you have contact with Joey Lear  
24 through your dealings with Washoe County Crime Lab?

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1 A. Yes, I did.  
2 Q. And what type of contact do you have?  
3 A. I met Joey while I was working in the  
4 laboratory. He worked in the crime scene response  
5 section. And so initially, I met him just in passing  
6 because we're working across the hall from each other  
7 when I'm in Reno. And that's the extent of how much I  
8 knew about Joey.  
9 Q. But he's in the forensic division of the  
10 Washoe County Crime Lab?  
11 A. He was. I believe he's moved on to other  
12 responsibilities.  
13 THE COURT: There was an exhibit up there.  
14 MS. BROWN: I lifted it off.  
15 THE COURT: Where did we put it?  
16 MS. BROWN: Just right to the right.  
17 THE COURT: Could we return it to the clerk,  
18 please, unless you intend to use it, ma'am.  
19 MS. BROWN: I may intend to use it, Your  
20 Honor.  
21 THE COURT: Then go ahead and do that.  
22 Q. (BY MS. BROWN:) And from the reporting you  
23 received, Mr. Lear was on the scene of the day that this  
24 happened?

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1 A. Yes.  
2 Q. And at that point, the sofa was in place in  
3 the actual location where this incident happened; is that  
4 correct?  
5 A. Yes.  
6 Q. And the wall, we've heard testimony that a  
7 portion was taken out of the wall to preserve the defect  
8 in it?  
9 A. Yes, I understand that to be true.  
10 Q. And so when he was there, this wall was still  
11 intact; is that correct?  
12 A. Other than the bullet hole in the wall, I  
13 don't believe it had been cut as yet.  
14 Q. As yet? And at that point, he did  
15 measurements of the room that you eventually relied on;  
16 is that correct?  
17 A. Yes.  
18 Q. And showing you Exhibit 100, is this one of  
19 the documents you relied on to get measurements?  
20 A. Yes.  
21 Q. And in Exhibit 101, was this the other  
22 document sent to you by Mr. Lear to rely on to get  
23 measurements?  
24 A. Yes, these are his raw notes.

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1 Q. And there's no indication, as to the couch  
2 that's shown reclined in this document, they're showing  
3 it was actually the right-hand side of the couch where  
4 they documented this?  
5 A. Yes, that's correct.  
6 Q. And there's no indication when they were  
7 doing the actual measurements of if they had at one point  
8 leaned the couch back what degree of angle they would  
9 have created?  
10 A. Correct. If they were leaning the couch  
11 back, I don't know what the process is.  
12 THE COURT: Can we just make the record clear  
13 that when you say right-hand side, that's means if you're  
14 standing in front of it and viewing it as opposed to if  
15 you're sitting on it.  
16 MS. BROWN: Thank you, Your Honor.  
17 THE COURT: Do you agree with that, ma'am?  
18 MS. BROWN: Yes.  
19 THE COURT: Okay. Thank you.  
20 Q. (BY MS. BROWN:) And you were provided the  
21 photographs that they used in conducting the measurements  
22 in their trajectory measurements; is that correct?  
23 A. Yes.  
24 Q. I'm showing you what's Exhibit Number 27.

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1 Are you familiar with that photograph?  
2 A. Yes, I am.  
3 Q. And this was one of the photographs that  
4 Mr. Lear introduced yesterday that he used to testify  
5 from?  
6 A. I understand that to be a photograph taken  
7 when they were processing the crime scene.  
8 Q. And at this point in this photograph, the  
9 trajectory rod was not lining up against where the defect  
10 is down towards floorboard; is that correct?  
11 A. That's correct.  
12 Q. And Exhibit Number 28, there's a different  
13 view, and in Exhibit 28, the trajectory rod is coming out  
14 of the back of the couch and actually fitting in that  
15 hole in the defect in the wallboard; is that correct?  
16 A. That's correct. That's the proper  
17 trajectory.  
18 Q. And when Mr. Lear testified yesterday, he  
19 explained that the difference between Exhibit Number 27  
20 and Exhibit Number -- Exhibit Number 27 and Exhibit  
21 Number 28 where there's no patch? The wall between --  
22 THE COURT: I think both of you have muted  
23 your microphones, I'm advised.  
24 MS. BROWN: Mine is on.

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1 THE COURT: There you go. The ones on the  
2 table, you mean?  
3 THE CLERK: She got it.  
4 THE COURT: The ones on the table. Oh, Jamie  
5 take care of it. Do you have yours, Mr. Gregory? Got  
6 it? Thank you both.  
7 Q. (BY MS. BROWN:) And Mr. Lear explained the  
8 difference between Exhibit Number 27 where there's no  
9 match between the trajectory rod and the wall and Exhibit  
10 Number 28 where there is -- the trajectory rod can be  
11 inserted in the hole in the wall was that they put weight  
12 of a body on the couch in order to get their trajectory.  
13 A. He may have said that. I don't think -- I  
14 don't think that that's completely accurate based on what  
15 I understand about this bullet path.  
16 Q. Okay. And showing you what's been marked as  
17 Exhibit Number 130. Mr. Lear identified this photograph  
18 as the way they weighted the couch in order to get that  
19 trajectory rod to go through both holes in the couch and  
20 to line up with the hole in the wall. He said it was the  
21 body weight that pushed the couch back so they can get  
22 that position measuring the trajectory.  
23 A. Okay.  
24 Q. Okay. So they were able to reproduce the

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1 angles of the trajectory in a way that's different from  
2 what you've testified to. It was different; correct?  
3 A. Yes, I did not -- Obviously, I'm not  
4 weighting the couch, pushing back on the couch.  
5 Q. And as you've testified before, there's two  
6 distinct injuries in this case; correct?  
7 A. Yes.  
8 Q. And one of them is through the chest wall  
9 into the chest?  
10 A. Correct.  
11 Q. And then the other one is to the wrist and  
12 shoulder?  
13 A. Yes.  
14 THE COURT: Ms. Brown, I hate to interrupt  
15 you, ma'am, and I apologize for that, but it appears to  
16 be noon. Would this be a good time for you to --  
17 MS. BROWN: That would be fine, Your Honor.  
18 THE COURT: -- take a break? Okay. And  
19 we're going to take our noon recess right now. Because  
20 of a couple other issues that the attorneys have told me  
21 about, we're going to recess for an hour and a half, and  
22 that will be until 1:30.  
23 So during this 90-minute recess, you are  
24 admonished not to talk or converse among yourselves or

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1 with anyone else on any subject connected with this  
2 trial. You're not to read, watch, or listen to any  
3 report of or commentary on the trial or any person  
4 connected with this trial by any medium of information,  
5 including, without limitation, newspapers, television,  
6 radio, or Internet. You're not to form or express any  
7 opinion on any subject connected with the trial until the  
8 case is finally submitted to you.  
9 Mr. Noedel, you are going to remain under  
10 oath. You're not to discuss your testimony with anyone  
11 except the three attorneys.  
12 THE WITNESS: Yes, sir.  
13 THE COURT: Ladies and Gentlemen, have a good  
14 lunch. I'll see you at 1:30. Thank you very much.  
15 (Recess was taken.)  
16 THE COURT: We're back in session in  
17 14-DI-62. Mr. Gregory is here for the State. Ms. Brown  
18 and Ms. Henry are here for the defense. Ms. Leibel is  
19 here together with her interpreters, and I guess we're  
20 ready to bring in the jury. Are you ready, Mr. Gregory?  
21 MR. GREGORY: Yes, Your Honor.  
22 THE COURT: Bring them in. Good afternoon,  
23 Ladies and Gentlemen of the Jury. I trust you had time  
24 for a nice lunch. You may have a nice seat. Thank you.

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1 Parties stipulate to the presence of the  
2 jury?  
3 MR. GREGORY: Yes, Your Honor.  
4 MS. BROWN: Yes, Your Honor.  
5 THE COURT: Very well. Ms. Brown, would you  
6 like to pick up?  
7  
8 CONTINUED CROSS-EXAMINATION  
9 BY MS. BROWN:  
10 Q. Before we took a break, we were talking about  
11 Mr. Lear when he was doing his trajectory, doing the  
12 photographs for the trajectory. He was able to get that  
13 couch with the trajectory rod to line up with it into the  
14 hole in the wall by putting weight on the couch, but that  
15 was in the middle of a location; is that correct?  
16 A. They did position a person in the middle of  
17 the couch and take pictures of that.  
18 Q. Okay. Did you align that in another -- the  
19 couch the trajectory rod and the wall in a different way  
20 by reclining the couch to a certain degree?  
21 A. Yes.  
22 Q. And so that couch is able to be manipulated  
23 just by its very movement of being a recliner; is that  
24 correct?

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1 A. That's correct.  
2 Q. And Mr. Lear manipulated it one way. You  
3 manipulated it another?  
4 A. I don't know how Mr. Lear maneuvered the  
5 couch when he was there.  
6 Q. Okay. We'll stick with you. In order to get  
7 that trajectory, you had to position the couch in a  
8 somewhat reclined position?  
9 A. That's correct.  
10 Q. When was it you first viewed the couch?  
11 A. I don't recall the exact date, but it was  
12 about six weeks ago.  
13 Q. And where was it at when you saw it?  
14 A. It was here in this building in a meeting  
15 room, a vacant meeting room downstairs.  
16 Q. And prior to it being placed in that vacant  
17 meeting room, you don't know where it had been?  
18 A. That's correct.  
19 Q. And you don't know if it was -- there was any  
20 differences from the time it was at the scene to the time  
21 you viewed it?  
22 A. Correct. I don't know the history of the  
23 couch from the time it left the house to the time I  
24 viewed it here in the building.

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1 Q. Did you view the section of wall that they  
2 had or Deputy Halsey had taken out of the wall up at the  
3 Lake house?  
4 A. No, just the photographs of that of that  
5 piece.  
6 Q. And in order to view the scene, you had to go  
7 to 452 Kent Way up at Lake Tahoe and look at what at that  
8 the point in time was an empty house?  
9 A. That's correct.  
10 Q. And that was the same timeframe, four to six  
11 weeks ago?  
12 A. That's correct.  
13 Q. And then using these various elements, try to  
14 put them back together in sequence to arrange what you  
15 believe to be an accurate representation of the scene?  
16 A. That's correct.  
17 Q. So it's possible for two different people  
18 looking at the same circumstance to come up with  
19 different ways to align that trajectory rod into the wall  
20 through the couch. Mr. Lear had one way, you have  
21 another?  
22 A. I don't think so. To establish the bullet  
23 path through the couch, you have to connect the entry  
24 hole and the exit hole, which is what Mr. Lear did.

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1 Seeing somebody on the couch for me, in my assessment, I  
2 don't see the need to seat someone on the couch, so I  
3 don't know why Mr. Lear went through that process. The  
4 entry and the exit hole are the same as they appeared in  
5 photographs of the scene, so that's how a trajectory is  
6 documented and measured, is by connecting the multiple  
7 points along the line.  
8 Q. And you testified in the first shot that went  
9 through the trunk and out had an exit wound in the arm,  
10 that it was your opinion that that arm had to be extended  
11 at the time of the shot?  
12 A. Yes, raised. Not necessarily extended. I  
13 don't know what from the elbow to the wrist, but where  
14 the projectile fragments ended, I believe the arm has to  
15 be raised in order to complete the path, the straight  
16 line path of fragments through his body.  
17 Q. And Dr. Kubiczek testified it was possible  
18 that the arm was bent and there was some deflection off  
19 the wall.  
20 MR. GREGORY: Your Honor, that misstates his  
21 testimony. The last part of what she said misstates his  
22 testimony.  
23 THE COURT: Well, first of all, that's a  
24 statement, not a question, so it's simply not a question,

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1 and Counsel isn't testifying. The jury will have their  
2 own recollection as to the doctor's testimony. This  
3 witness was not present, so unless there's a question  
4 associated, we'll move on.  
5 Q. (BY MS. BROWN:) Thank you, Your Honor.  
6 Showing you Exhibit 14. Sorry. 54. Do you  
7 recognize that photo?  
8 A. Yes, I do.  
9 Q. And what is that?  
10 A. This is the photo that was taken by someone  
11 at the medical examination and autopsy of Harry Leibel.  
12 Q. And that was an attempt to show the length of  
13 his arm?  
14 A. Correct. My understanding is that the  
15 purpose of the photo was to have scale of the length of  
16 his arm.  
17 Q. And showing you Exhibit Number 55. This  
18 shows an extension out to his middle finger to try to get  
19 the full range of his hand?  
20 A. Correct.  
21 Q. And so with the middle finger, that would be  
22 a 24-inch range?  
23 A. Yes, from the start of the tape measure  
24 tucked in his armpit to the extension of the middle

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1 finger was documented to be 24 inches.  
2 Q. And you know that you can gain more in your  
3 reach just by the flexibility of your body; correct?  
4 A. That's true.  
5 Q. And so if I drop this shoulder, I've  
6 lengthened my arm?  
7 A. Yes.  
8 Q. And if I bend in a certain way, I can reach  
9 something out here that I couldn't have reached with just  
10 the length of my arm; is that correct?  
11 A. That's correct.  
12 Q. And you said during reconstruction, you can't  
13 always account for every little detail; is that correct?  
14 A. That's correct.  
15 Q. You have to go with the best you can do with  
16 the solid evidence you have?  
17 A. Correct. If you don't have enough  
18 information about the particular question, you may not be  
19 able to address it.  
20 MS. BROWN: Thank you. I have nothing  
21 further.  
22 THE COURT: Mr. Gregory?

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1 REDIRECT EXAMINATION  
2 BY MR. GREGORY:  
3 Q. The robe that was discussed, you received  
4 that up at the crime lab?  
5 A. Yes, I did.  
6 Q. And do you recall the number that the crime  
7 lab attributed to that article?  
8 A. I would need to refer to my notes. I don't  
9 recall the number.  
10 Q. May I show you your notes?  
11 A. Please.  
12 Q. Showing you Exhibit 144. Can you just --  
13 Well, just see if that refreshes your recollection.  
14 A. Yes, it does.  
15 Q. And what was the number?  
16 A. The control number is W283405, black  
17 bathrobe.  
18 Q. Handing you what's been marked as Exhibit  
19 number 143. Can you indicate what that is, please? Go  
20 ahead and take a look.  
21 A. This is the package that contains if black  
22 bathrobe.  
23 Q. And does it have the control number on there  
24 that you just recited?

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1 A. Yes, it does.  
2 Q. On cross-examination, you were asked some  
3 questions about the photographs with Sergeant Lyford  
4 sitting in the chair. Do you recall that?  
5 A. Yes, I do.  
6 Q. Did you have an opportunity when you  
7 conducted your analysis of the couch to weight the couch  
8 at all and see how that impacted angles and whatnot?  
9 A. Yes, I did.  
10 Q. Did you take a photograph of that?  
11 A. I did.  
12 MR. GREGORY: I'm showing you 145. Would you  
13 like to see it, Your Honor? It's a copy.  
14 THE COURT: Thank you, sir.  
15 Q. (BY MR. GREGORY:) Does that photograph  
16 accurately depict what we were just discussing?  
17 A. Yes, it does.  
18 MR. GREGORY: Move for admission.  
19 MS. BROWN: No objection, Your Honor.  
20 THE COURT: Then it will be admitted.  
21 Q. (BY MR. GREGORY:) What does that photograph  
22 show?  
23 A. While I was examining the couch, this idea of  
24 what does weighting the couch and how do these -- the

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1 seat portion and the back portion, how do they work  
2 together, and does weighting the couch change any  
3 directions significantly that might lead to a different  
4 position of the couch at the scene.  
5 So we reconstructed the bullet path, and then  
6 with the rod in place, we used a laser to point to the  
7 site where the bullet path goes. Then we had a person  
8 who happen to weigh approximately 185 pounds sit on the  
9 couch in a similar position that would have been required  
10 for Harry Leibel to be positioned when the shot eclipsed  
11 his shoulder, and then we looked to see how far the  
12 yellow rod moved based on our stationary laser pointer.  
13 So it was a way to measure how much influence there is by  
14 weighting and seating and leaning back on the couch.  
15 Q. Dr. Kubiczek testified that Harry's weight  
16 was 170 pounds. Do you recall the weight of the subject  
17 that you used?  
18 A. Yes. The person that was with weighs 185  
19 pounds.  
20 Q. A little bit heavier?  
21 A. Fifteen pounds heavier than the documented  
22 weight.  
23 Q. So with a heavier subject on it, if you could  
24 look at this photograph and explain what you were just

1 THE COURT: Thank you.  
2 MR. GREGORY: You're welcome. Your Honor, I  
3 don't have further questions. However, I will need to  
4 recall this witness to talk about one other item of  
5 evidence that's being brought up.  
6 THE COURT: I understand. First of all, do  
7 you have any recross?  
8 MS. BROWN: No, Your Honor.  
9 THE COURT: Sir, you may step down. But,  
10 Mr. Noedel, I don't want you to leave the premises. I  
11 also admonish you I don't want you to talk about your  
12 testimony to anyone other than the three attorneys here  
13 in this room. Do you understand that, sir?  
14 THE WITNESS: Yes, sir.  
15 THE COURT: Thank you very much. I'm sure  
16 that there's probably someplace that you were waiting or  
17 staging before you came here. You can return to that  
18 area and make sure that you're available for us. Thank  
19 you, sir.  
20 MR. GREGORY: Now, Your Honor, I'll like to  
21 recall Mr. Noedel.  
22 THE COURT: Okay. Sir, I would remind you  
23 that you're still under oath.  
24 THE WITNESS: Yes, sir.

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1 telling us about.  
2 A. Yes. So as we view that photograph, the  
3 model that we had that weighs 185 pounds, we put him in a  
4 tie-back suit to protect his clothing from the blood  
5 that's present on there, so you see -- that's present on  
6 the couch. So if you look at the left edge of the  
7 picture, you're actually looking at his left arm and left  
8 side. That's just captured to the left. That's the  
9 white-looking material. That's the model's left side.  
10 The yellow trajectory rod that's sticking out  
11 toward the left is this trajectory rod placed back when  
12 this analysis was going on. And the green dot that's  
13 above and to the right of the trajectory rod is where the  
14 trajectory rod was before he sat down on it. So the  
15 trajectory rod was originally approximately one inch up  
16 and one inch over. When he weights and sits on it, it  
17 lowered it and moved it to the left by about one inch.  
18 When he gets up off the of the couch, that  
19 couch cushion actually relaxes back to where the yellow  
20 probe will go right back to where that green dot is. So  
21 we get about an inch or so of movement in two directions  
22 when we have 185-pound person load the seat.  
23 MR. GREGORY: Your Honor, I'm going to return  
24 Exhibit 145. There were also Exhibits 141, 54 and 55.

1 THE COURT: Thank you.  
2  
3 FURTHER EXAMINATION  
4 BY MR. GREGORY:  
5 Q. Mr. Noedel, if that particular gun, you  
6 talked about how gases escape out of that cylinder to the  
7 extent that it stippled you when you shot the gun. If  
8 that cylinder were laying on a couch like that, would you  
9 expect to be able to find any kind of those gases on the  
10 couch?  
11 A. Yes. The cylinder gap gases that blast out  
12 the sides could be a useful piece of reconstruction if we  
13 can find them because it would help us position the  
14 firearm, knowing that it would have to be adjacent to or  
15 laying on the couch or the surfaces.  
16 Q. Did you have an opportunity to examine the  
17 blanket that was laying on this couch?  
18 A. Yes, I did.  
19 Q. Showing you Exhibit Number 146. First, if  
20 you could describe where did that examination take place?  
21 A. That also took place here in this building in  
22 the utility room or examination room that they have  
23 available downstairs.  
24 Q. Okay. And if you could look at this exhibit

1 and let me know if that's the -- what it is.  
2 A. Yes. This is the exhibit that I examined  
3 that day here in the building, and this is a blanket that  
4 had been draped over the arm of the couch at the time of  
5 the initial scene processing. It's captured in  
6 photographs of the original scene, and it was tucked in  
7 and over the arm and involved with the seat that was  
8 adjacent to the bullet path.  
9 MR. GREGORY: Move for the admission of 146.  
10 MS. BROWN: No objection.  
11 THE COURT: 146 is admitted.  
12 Q. (BY MR. GREGORY:) What were your  
13 observations regarding that blanket?  
14 A. It was kind of a two-step process. First  
15 using the photographs of the scene documentation to show  
16 exactly how that blanket was organized on the arm of the  
17 chair at the time of the event, we found those locations  
18 based on landmarks and the shapes of the bloodstains. So  
19 we knew exactly which part was over the arm as opposed to  
20 which part was tucked in.  
21 Then I used a process where of looking for  
22 the cylinder gap gases, the evidence of a deposit of soot  
23 from the cylinder gap which can look like a stripe of  
24 black or dark-colored soot material. Doing that

1 finally released?  
2 MR. GREGORY: Yes, Your Honor.  
3 THE COURT: Do you intend to call him?  
4 MS. BROWN: No, Your Honor.  
5 THE COURT: Sir, you are released. Thank you  
6 for your appearance.  
7 THE WITNESS: Thank you.  
8 MR. GREGORY: The State would call  
9 Investigator Schemenauer.  
10 THE COURT: Sir, if you would come forward  
11 before the clerk.  
12  
13 JEFF SCHEMENAUER,  
14 having been first duly sworn, was  
15 examined and testified as follows:  
16  
17 THE COURT: Come on up and have a seat up on  
18 the witness stand. There's some water there if you like.  
19 THE WITNESS: Thank you, Your Honor.  
20 THE COURT: You're welcome, sir.  
21  
22  
23  
24

1 visually, I didn't see anything, but there were some  
2 stains here and there, so it went one step further, and  
3 there's a chemical color test that you can perform that  
4 will reveal the vaporous lead and the types of materials  
5 that blast out of the side of the cylinder car gap if  
6 there is there, so if it wasn't adjacent; processed using  
7 those chemical, and then didn't find any deposits that  
8 are consistent with cylinder gap or that would indicate  
9 that a firearm was adjacent or laying on the blanket that  
10 was over the arm of the couch.  
11 MR. GREGORY: Thank you. Nothing further.  
12  
13 RECROSS EXAMINATION  
14 BY MS. BROWN:  
15 Q. Are you referring to laying on the couch or  
16 blanket of the couch when it was fired?  
17 A. Correct. Yes. At the time it was fired,  
18 there were no cylinder gap gases on the blanket while it  
19 was on the couch.  
20 MS. BROWN: Okay. Thank you. I have nothing  
21 further.  
22 THE COURT: Redirect?  
23 MR. GREGORY: No, Your Honor. Thank you.  
24 THE COURT: Mr. Noedel, thank you. Is he

1 DIRECT EXAMINATION  
2 BY MR. GREGORY:  
3 Q. Please state your full name and spell your  
4 last name.  
5 A. Jeff Schemenauer: S-c-h-e-m-e-n-a-u-e-r.  
6 Q. What do you do for a living sir?  
7 A. I'm an investigator with the sheriff's  
8 office.  
9 Q. In this particular case, were you in  
10 attendance at the autopsy of Harry Leibel?  
11 A. Yes, I was.  
12 Q. And at the end of that autopsy, did you  
13 collect any evidence?  
14 A. Yes, I collected the clothing that the  
15 decedent dependent was wearing.  
16 Q. Did that include a black robe?  
17 A. Yes.  
18 Q. And what did you do with that?  
19 A. It was packaged. When I collected it, I  
20 brought it back to our department and booked it into our  
21 evidence.  
22 Q. Showing you Exhibit Number 143. Can you  
23 please identify that.  
24 A. This is the item that I booked, as evidenced

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1 by my name on the chain of custody.  
2 Q. And does it indicate on the chain of custody  
3 that that item ultimately went up to the Washoe County  
4 Crime Lab?  
5 A. It does.  
6 MR. GREGORY: Thank you. I'd move for  
7 admission, Your Honor.  
8 MS. BROWN: No objection, Your Honor.  
9 THE COURT: It's admitted. What was the  
10 number again? Please tell me.  
11 THE CLERK: 142.  
12 MR. GREGORY: 28 --  
13 THE COURT: 143.  
14 MR. GREGORY: Oh, not the lab number.  
15 THE COURT: No.  
16 MR. GREGORY: Yes. It's 143.  
17 THE COURT: Thank you, sir. 143 is admitted.  
18 (Exhibit No. 143 was admitted into evidence.)  
19 MR. GREGORY: No further questions.  
20 THE COURT: Cross?  
21 MS. HENRY: No questions.  
22 THE COURT: Investigator, you may step down.  
23 Thank you for being here.  
24 MR. GREGORY: May I have one moment, Your

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1 Honor, to check on my witnesses?  
2 THE COURT: You may.  
3 MR. GREGORY: John Barden is the next  
4 witness, Your Honor.  
5 THE COURT: Mr. Barden, you can just wait  
6 right there and she'll swear you in. Would you face the  
7 clerk.  
8 JOHN BARDEN,  
9 having been first duly sworn, was  
10 examined and testified as follows:  
11  
12 THE COURT: Would you come up and have a seat  
13 up here please, sir. Help yourself to some water.  
14  
15 DIRECT EXAMINATION  
16 BY MR. GREGORY:  
17 Q. Sir, please state your full name and spell  
18 your last name.  
19 A. John Barden: B-a-r-d-e-n.  
20 Q. And back in February of 2014, what were you  
21 doing?  
22 A. I was an evidence technician. I was employed  
23 by the Douglas County Sheriff's Office.  
24 Q. Since retired; correct?

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1 A. Since retired.  
2 Q. All right. What was your role up at the  
3 crime scene on February 23rd, 2014 up at 452 Kent Way?  
4 A. My role at that time was to process the crime  
5 scene, which in this case was photographing and  
6 collecting evidence.  
7 Q. Do you recall collecting a blanket -- Well,  
8 first of all, do you recognize in couch right here,  
9 Exhibit Number 120?  
10 A. Yes, I do.  
11 Q. And what do you recognize it from?  
12 A. The living room at the Kent address.  
13 Q. Did you help seize the couch and collect it  
14 for evidence?  
15 A. Yes, I did.  
16 Q. What did you do with the couch?  
17 A. It was taken to a storage lot and put in a  
18 sealed locker.  
19 Q. Do you recall how you packaged it?  
20 A. A moving company assisted with that, and it  
21 was covered with -- It was sealed with Saran wrap and  
22 taped.  
23 Q. And stored in a secure location?  
24 A. Yes.

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1 Q. Do you recall or did you collect any items  
2 from the couch?  
3 A. Yes, I did.  
4 Q. What did you collect from the couch?  
5 A. I collected two pillows and one blanket and  
6 also a rifle.  
7 Q. Do you recall what you did with the blankets  
8 or the blanket?  
9 A. Yes. I transported it back to the sheriff's  
10 office where I put it in a paper bag and booked it.  
11 Q. Showing you what's been marked as 146. Just  
12 bring it over to the side here. Can you take a look at  
13 that --  
14 A. Yes.  
15 Q. -- and tell me what it is?  
16 A. It's the blanket from the couch.  
17 Q. Okay. And how do you know that?  
18 A. Because it's marked on the front of it,  
19 "Couch Blanket."  
20 Q. And did you put an evidence number on that?  
21 A. Yes, I did.  
22 Q. What's the number?  
23 A. The number is 868. The entire number is 14 E  
24 as in Edward, V as in Victor 00868.



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1 Q. Okay. Thank you. Can you just take a look  
2 at the chain of custody on that.  
3 A. Yes.  
4 Q. And does it indicate that Ed Garren checked  
5 that out at some point, if you can decipher it.  
6 A. Well, I can read the last line where he  
7 returned it to me on January the 30th.  
8 Q. If you can't tell, don't guess.  
9 A. Yeah.  
10 Q. Okay.  
11 A. That's not correct. It looks like my name,  
12 but apparently it's not.  
13 MR. GREGORY: Okay. Thank you. I have  
14 nothing further.  
15 MS. BROWN: No questions, Your Honor.  
16 THE COURT: Mr. Barden, thank you for being  
17 here. Enjoy your retirement.  
18 THE WITNESS: Thank you.  
19 MR. GREGORY: Now, Your Honor, I'll like to  
20 recall Mr. Noedel.  
21 THE COURT: Okay. Sir, I would remind you  
22 that you're still under oath.  
23 THE WITNESS: Yes, sir.  
24 THE COURT: Thank you.

1 that day here in the building, and this is a blanket that  
2 had been draped over the arm of the couch at the time of  
3 the initial scene processing. It's captured in  
4 photographs of the original scene, and it was tucked in  
5 and over the arm and involved with the seat that was  
6 adjacent to the bullet path.  
7 MR. GREGORY: Move for the admission of 146.  
8 MS. BROWN: No objection.  
9 THE COURT: 146 is admitted.  
10 Q. (BY MR. GREGORY:) What were your  
11 observations regarding that blanket?  
12 A. It was kind of a two-step process. First  
13 using the photographs of the scene documentation to show  
14 exactly how that blanket was organized on the arm of the  
15 chair at the time of the event, we found those locations  
16 based on landmarks and the shapes of the bloodstains. So  
17 we knew exactly which part was over the arm as opposed to  
18 which part was tucked in.  
19 Then I used a process where of looking for  
20 the cylinder gap gases, the evidence of a deposit of soot  
21 from the cylinder gap which can look like a stripe of  
22 black or dark-colored soot material. Doing that  
23 visually, I didn't see anything, but there were some  
24 stains here and there, so it went one step further, and

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1 FURTHER EXAMINATION  
2 BY MR. GREGORY:  
3 Q. Mr. Noedel, if that particular gun, you  
4 talked about how gases escape out of that cylinder to the  
5 extent that it stippled you when you shot the gun. If  
6 that cylinder were laying on a couch like that, would you  
7 expect to be able to find any kind of those gases on the  
8 couch?  
9 A. Yes. The cylinder gap gases that blast out  
10 the sides could be a useful piece of reconstruction if we  
11 can find them because it would help us position the  
12 firearm, knowing that it would have to be adjacent to or  
13 laying on the couch or the surfaces.  
14 Q. Did you have an opportunity to examine the  
15 blanket that was laying on this couch?  
16 A. Yes, I did.  
17 Q. Showing you Exhibit Number 146. First, if  
18 you could describe where did that examination take place?  
19 A. That also took place here in this building in  
20 the utility room or examination room that they have  
21 available downstairs.  
22 Q. Okay. And if you could look at this exhibit  
23 and let me know if that's the -- what it is.  
24 A. Yes. This is the exhibit that I examined

1 there's a chemical color test that you can perform that  
2 will reveal the vaporous lead and the types of materials  
3 that blast out of the side of the cylinder car gap if  
4 there is there, so if it wasn't adjacent; processed using  
5 those chemical, and then didn't find any deposits that  
6 are consistent with cylinder gap or that would indicate  
7 that a firearm was adjacent or laying on the blanket that  
8 was over the arm of the couch.  
9 MR. GREGORY: Thank you. Nothing further.  
10  
11 RECROSS EXAMINATION  
12 BY MS. BROWN:  
13 Q. Are you referring to laying on the couch or  
14 blanket of the couch when it was fired?  
15 A. Correct. Yes. At the time it was fired,  
16 there were no cylinder gap gases on the blanket while it  
17 was on the couch.  
18 MS. BROWN: Okay. Thank you. I have nothing  
19 further.  
20 THE COURT: Redirect?  
21 MR. GREGORY: No, Your Honor. Thank you.  
22 THE COURT: Mr. Noedel, thank you. Is he  
23 finally released?  
24 MR. GREGORY: Yes, Your Honor.

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1 THE COURT: Do you intend to call him?  
2 MS. BROWN: No, Your Honor.  
3 THE COURT: Sir, you are released. Thank you  
4 for your appearance.  
5 THE WITNESS: Thank you.  
6 MR. GREGORY: The State calls Joe Rajacic.  
7 THE COURT: Come on in, sir. If you would  
8 stand right about where you are and raise your right  
9 hand, please.  
10  
11 JOSEPH RAJACIC,  
12 having been first duly sworn, was  
13 examined and testified as follows:  
14  
15 THE COURT: Come on up and have a seat,  
16 please. Help yourself to some water there.  
17  
18 DIRECT EXAMINATION  
19 BY MR. GREGORY:  
20 Q. Sir, please state and spell your last name.  
21 A. Joe Rajacic: R-a-k-a-c-i-c.  
22 Q. Is Mr. Rajacic, with were you familiar with  
23 Harry Leibel?  
24 A. Yes.

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1 Q. How did you know Harry?  
2 A. I happened to meet him on an airplane one  
3 day.  
4 Q. About how long ago?  
5 A. Approximately six years.  
6 Q. All right. And after you met him, did you  
7 have subsequent contact with him?  
8 A. Yes.  
9 Q. To what extent?  
10 A. I guess you would say we were friends. We  
11 did some activities together, went out to dinners, to  
12 events.  
13 Q. Are you also familiar with his wife, Tatiana  
14 Leibel?  
15 A. Yes.  
16 Q. Do you see her in the courtroom here today?  
17 A. She looks different. Yes.  
18 Q. Can you tell the Court where she's seated and  
19 what she's wearing?  
20 A. She has the gray suit on.  
21 MR. GREGORY: Thank you, Your Honor. I'd ask  
22 the record reflect the witness's identified the  
23 defendant.  
24 THE COURT: It will.

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1 MR. GREGORY: Yes. The witness has  
2 identified the defendant.  
3 THE COURT: It does. It will.  
4 Q. (BY MR. GREGORY:) Thank you. Did you and  
5 Harry and Tatiana ever go shooting together?  
6 A. Yes.  
7 Q. And would Tatiana shoot as well?  
8 A. Yes.  
9 Q. How often did you guys go shooting with the  
10 Leibels?  
11 A. I would say on average, maybe three, four  
12 times a summer.  
13 Q. Did you guys ever take a class together?  
14 A. Yes.  
15 Q. What was that class?  
16 A. Concealed weapon permit.  
17 Q. And did Tatiana participate in that as well?  
18 A. Yes.  
19 Q. When was the last time you saw Harry prior to  
20 his death?  
21 A. It would have been about around November or  
22 December the year before.  
23 Q. How did he seem at that time?  
24 A. Just like I remembered him all the time.

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1 Q. I didn't hear that last part.  
2 A. Just like I've always known him.  
3 Q. Okay. Thank you. When was the last -- What  
4 was the last communication you had with Harry?  
5 A. It was either e-mail or text. Harry had been  
6 asking me for advice. He wanted to go on a honeymoon,  
7 take Tatiana on a honeymoon and I travel a lot, so he  
8 asked me help to find me a good place to go.  
9 Q. Okay. If I could have Exhibit Number 61.  
10 Sir, I'm going to hand you Exhibit Number 61, which is an  
11 extraction report that was done on Mr. Leibel's cell  
12 phone, and it's been introduced into evidence. Could you  
13 look at page 2, entry number 17, please. Do you  
14 recognize that text message?  
15 A. Yes.  
16 Q. Did you receive that from Mr. Leibel?  
17 A. Yes.  
18 Q. And does it indicate the date there?  
19 A. 2-22-14.  
20 Q. And does it indicate the time?  
21 A. 5:27 p.m.  
22 Q. The jury has already heard that e-mail. Can  
23 you give context to it? What were the two of you  
24 discussing there?

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1 A. As far as I would say, what Harry was saying  
2 was --  
3 MS. BROWN: Objection. Speculation. He's  
4 testifying to what Harry said.  
5 THE COURT: Sustained.  
6 Q. (BY MR. GREGORY:) Well, there's a part about  
7 Harry was expecting something to happen.  
8 A. Yes.  
9 Q. Did you have knowledge of what that was  
10 through?  
11 MS. BROWN: Objection whether it's his  
12 interpretation or whether it's Harry's thought.  
13 THE COURT: Well, the question was did you  
14 have knowledge, not do you believe you know.  
15 So, sir, when you answer this question, the  
16 answer is going to be either yes or no. Did you have  
17 knowledge of? Finish your sentence.  
18 Q. (BY MR. GREGORY:) Did you have knowledge of  
19 what Harry was talking about in that text message?  
20 A. Yes.  
21 Q. And what was that?  
22 A. The business that Tatiana was trying to get  
23 off the ground had been taking much longer than anyone  
24 expected, and from these words, it says this has dragged

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1 on way too long. I thought he meant --  
2 MS. BROWN: Objection. Speculation.  
3 THE WITNESS: -- this was the business.  
4 THE COURT: I'm going to sustain it.  
5 Q. (BY MR. GREGORY:) You had been  
6 communicating --  
7 THE COURT: The jury is instructed to  
8 disregard that last answer.  
9 Q. (BY MR. GREGORY:) You'd been communicating,  
10 though, with Harry about that business that you  
11 discussed?  
12 A. Yes.  
13 MR. GREGORY: Okay. Thank you. Returning  
14 Exhibit 61, and I have no further questions.  
15 THE COURT: Ms. Brown, Ms. Henry?  
16  
17 CROSS-EXAMINATION  
18 BY MS. BROWN:  
19 Q. And you're married; is that correct?  
20 A. Yes, it is.  
21 Q. Were your wife and Tatiana friends?  
22 A. Yes.  
23 Q. So as couples, you all socialized together;  
24 is that right?

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1 A. I missed what you said.  
2 Q. As couples, you socialized together?  
3 A. Socialized. Yes.  
4 Q. But the last time you saw Mr. Leibel in  
5 person was like November-December of 2013?  
6 A. Yes.  
7 Q. How often had you communicated with him by  
8 phone, text, otherwise between the last time you  
9 physically saw him and his death?  
10 A. I can't recall the exact number.  
11 Q. You said you sometimes went shooting with  
12 Mrs. Leibel and Mr. Leibel?  
13 A. Yes.  
14 Q. Did Harry appear to be a gun enthusiast?  
15 A. Yes.  
16 Q. Had you been in their home?  
17 A. Yes.  
18 Q. There were numerous firearms in the home; is  
19 that correct?  
20 A. Yes.  
21 Q. Whenever you would go shooting, would  
22 Mrs. Leibel go along?  
23 A. I'm sorry. I missed the second part of that.  
24 Q. When you went shooting, would Mrs. Leibel go

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1 along?  
2 A. Go along. Yes.  
3 Q. Did she seem to prefer any type of weapon?  
4 A. No.  
5 Q. And what about Mr. Leibel? Do you recall if  
6 he had any type of weapon he preferred?  
7 A. No.  
8 Q. How would you characterize the relationship  
9 between Mr. and Mrs. Leibel?  
10 A. Loving.  
11 Q. And what led you to believe that?  
12 A. How long do I have to answer?  
13 THE COURT: You have until 5:00 o'clock, and  
14 we'll start again on Monday morning at 9:00.  
15 THE WITNESS: Just about everything we did  
16 with them, Tatiana was the loving, perfect wife going out  
17 of her way to make Harry happy, making dinners that would  
18 be so amazing that we would just want to go there, and  
19 then I could go on from there. Those kind of things.  
20 Q. (BY MS. BROWN:) How about did you know if  
21 Harry had any health problems?  
22 A. He did.  
23 Q. And what do you know those to be?  
24 A. When I met Harry, he told me he had some type

1 of a colon operation before I met him. And then we  
2 together went on a business trip, and he got sick on the  
3 way back, and then he was in the hospital for, I think,  
4 about ten days.  
5 Q. Do you recall when that was?  
6 A. I'd say it's about three years ago.  
7 Q. And once he was out of the hospital, did he  
8 appear to get better? Worse? Stay the same?  
9 A. He seemed much better.  
10 Q. Did Tatiana seem concerned about his health?  
11 A. Very concerned.  
12 Q. Did you ever see the two of them in any type  
13 of argument?  
14 A. I didn't see them, no.  
15 Q. And from everything you saw, they appeared to  
16 be a loving couple together?  
17 A. Yes.  
18 MS. BROWN: Thank you.  
19 THE COURT: Mr. Gregory?  
20 MR. GREGORY: Nothing further, Your Honor.  
21 THE COURT: Sir, thank you for your  
22 appearance today. You are excused.  
23 THE WITNESS: Thank you. Is that from the  
24 total case, or would I be called back?

1 THE COURT: Yes, sir. No, I don't believe  
2 you're going to be called back. You're releasing him?  
3 MR. GREGORY: Yes, Your Honor.  
4 MS. BROWN: Yes.  
5 THE COURT: You're free to go about your day,  
6 sir. Thank you for appearing.  
7 MR. GREGORY: Court's indulgence.  
8 THE COURT: Yes. Take your time, please.  
9 MR. GREGORY: May I have a moment, Your  
10 Honor?  
11 THE COURT: Certainly, you may.  
12 MR. GREGORY: The State calls Lee Ann Brooks.  
13 THE COURT: Ms. Brooks, if you would pause  
14 right there, raise your right hand, please.  
15  
16 LEE ANN BROOKS,  
17 having been first duly sworn, was  
18 examined and testified as follows:  
19  
20 THE COURT: Ma'am, if you would come up and  
21 have a seat up here, please. Have some water, if you  
22 would like.  
23 THE WITNESS: Thank you.  
24 THE COURT: You're welcome. Mr. Gregory?

1  
2  
3 DIRECT EXAMINATION  
4 BY MR. GREGORY:  
5 Q. Please state your name and spell your last  
6 name.  
7 A. Leann Brooks. Lee Ann: L-e-e space capital  
8 A-n-n. Brooks: B-r-o-o-k-s.  
9 Q. Ms. Brooks, were you familiar with Harry  
10 Leibel?  
11 A. Yes.  
12 Q. How did you know Mr. Leibel?  
13 A. Through our children. They moved to our  
14 school district, and his stepdaughter and my daughter  
15 were friends, and also associated with them at the  
16 temple.  
17 Q. And did you also know Tatiana Leibel?  
18 A. Yes, I did.  
19 Q. Do you see her here in the courtroom today?  
20 A. Yes, I do.  
21 Q. Can you tell the Court where she's seated and  
22 what she's wearing.  
23 A. She's in the light gray suit with the  
24 glasses.

1 THE COURT: The record will reflect that the  
2 defendant was identified.  
3 Q. (BY MR. GREGORY:) Thank you. During the  
4 course of the evening of February 23rd, 2014, did you  
5 have contact with Ms. Leibel?  
6 A. Yes.  
7 Q. And what did you do with her at that point?  
8 A. Well, I gave her a ride from the  
9 interrogation station in Douglas on the Lake side. I  
10 picked her up and brought her to my house so she could  
11 get some rest and try to give her some food.  
12 Q. So in essence, that was the night of the  
13 night following the shooting; correct?  
14 A. Correct.  
15 Q. The shooting happened that morning?  
16 A. Correct.  
17 Q. Okay. And did Ms. Leibel and you discuss  
18 what had taken place?  
19 A. Yes. I asked her what had happened.  
20 Q. What did she tell you had happened?  
21 A. That her and Harry were arguing over her  
22 going to on a trip to L. A. To see her daughter, and that  
23 he had a gun he'd been carrying around for the weekend.  
24 And when she did not take her flight that I guess she

1 supposedly had booked on Saturday, and on Sunday morning,  
2 she told him that she was going to go anyway. And she  
3 left the room, went into the kitchen and she heard a gun  
4 go off.  
5 Q. And did she tell you what she did after that?  
6 A. She ran to Harry and I guess called 911 and  
7 tried to resuscitate him.  
8 Q. So she just heard the one shot?  
9 A. Correct.  
10 Q. And did she describe for you at all where he  
11 was shot?  
12 A. Yes. She said somewhere in here with this  
13 motion.  
14 Q. You're making a motion with your right hand  
15 kind of across?  
16 A. Somewhere like in the stomach, chest area.  
17 Q. Okay. And did she tell you when it had  
18 occurred?  
19 A. Well, I'd asked her, "What time did this  
20 happen?" She said, "In the morning around 9:30 or 10:00."  
21 MR. GREGORY: Okay. Thank you. Nothing  
22 further.  
23 THE COURT: Cross?  
24

1 UNR; correct?  
2 A. Yes, that is correct.  
3 Q. And she was now getting her master's degree  
4 after that?  
5 A. Yes.  
6 Q. Didn't you say that you believe that the  
7 Leibels were a great couple?  
8 A. Yes.  
9 Q. And you never saw them fight?  
10 A. No.  
11 Q. And that Ms. Leibel was very in love with  
12 Mr. Leibel?  
13 A. Yes.  
14 Q. And didn't you say that Ms. Leibel  
15 continuously maintained that Harry had shot himself,  
16 Mr. Leibel had shot himself?  
17 A. That is correct.  
18 Q. Do you recall what time you picked up  
19 Ms. Leibel from the Douglas County Sheriff's Office?  
20 A. Approximately 8:30, 8:45 in the evening.  
21 Q. Do you remember what time she called you or  
22 was that what time she called you, or is that what time  
23 you picked her up?  
24 A. The detectives called me. That's when I

1  
2  
3 CROSS-EXAMINATION  
4 BY MS. HENRY:  
5 Q. Ms. Brooks, you and Ms. Leibel shared each  
6 other's company frequently; correct?  
7 A. Yes.  
8 Q. And you invited her to your home on occasion?  
9 A. Correct.  
10 Q. You guys were friends?  
11 A. Yes.  
12 Q. And you had indicated that in your interview  
13 with the police officers who interviewed you that she was  
14 also really close with her daughters; correct?  
15 A. Correct.  
16 Q. And she tried to visit them?  
17 A. Yes.  
18 Q. As often, as much as she could?  
19 A. That is correct.  
20 Q. And also that she was going to school at UNR?  
21 A. Yes.  
22 Q. Do you know what she was studying?  
23 A. Political science.  
24 Q. And she actually graduated with a degree from

1 picked her up.  
2 Q. Okay. And so you picked her up from the  
3 station at 8:30 or 8:45?  
4 A. Approximately.  
5 MS. HENRY: Okay. Nothing further.  
6 THE COURT: Mr. Gregory?  
7 MR. GREGORY: No, thank you.  
8 THE COURT: Ma'am, thank you for being here  
9 today. You're excused.  
10 THE WITNESS: Okay. Thank you.  
11 MR. GREGORY: Your Honor, may I have a recess  
12 to review what evidence has been marked?  
13 THE COURT: Want to come here for a minute?  
14 Want a cough drop?  
15 MR. GREGORY: Thank you.  
16 THE COURT: Now you can have a recess. How  
17 long do you need?  
18 MR. GREGORY: Fifteen minutes should be  
19 sufficient.  
20 THE COURT: Okay. I'll advise you as I'm  
21 sure that you know, the clerk is keeping an ongoing  
22 exhibit list, has been, but if you want to check to see  
23 what's admitted and what's not admitted, she will share  
24 that with you. We're going to give the State about a

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1 15-minute recess a little earlier than we would normally  
2 take, but we will put this time good use. So why don't  
3 we meet back at a quarter till.

4 During this recess, Ladies and Gentlemen, you  
5 are admonished not to talk or converse among yourselves  
6 or with anyone else on any subject connected with this  
7 trial or to read, watch, or listen to any report of or  
8 commentary on the trial or any person connected with this  
9 trial by any medium of information, including, without  
10 limitation newspaper, television, radio, or Internet.

11 You're not the form or express any opinion on any subject  
12 connected with the trial until the case is finally  
13 submitted to you. Thank you. We'll start again in about  
14 15 minutes. Thank you.

15 Would you give that to the bailiff. Thank  
16 you. Mr. Gregory, could I get you and defense counsel to  
17 come up, please.

18 As this recess began, one of the jurors had  
19 handed me a note indicating that he had had -- he had  
20 made an offhanded comment about the weapon being a nice  
21 weapon during the lunch hour as they came back. They had  
22 no further conversation. I've revealed that note to  
23 counsel for the State and the defense, and none of them  
24 have any desire to make any comment or motion based on

1 MR. GREGORY: Yes.

2 MS. BROWN: Yes, Your Honor.

3 THE COURT: And can you tell me what those  
4 numbers were.

5 MS. BROWN: 100 and 101.

6 THE CLERK: Yes.

7 THE COURT: So the parties stipulate to the  
8 admission of 100 and 101; is that correct?

9 MS. BROWN: Yes.

10 MR. GREGORY: Yes.

11 THE COURT: Thank you. Then they're  
12 admitted. Anything else that we need to establish before  
13 we bring in the jury?

14 MR. GREGORY: No, Your Honor.

15 MS. BROWN: No, Your Honor.

16 THE COURT: Are you going to have any  
17 witnesses this afternoon?

18 MS. BROWN: No.

19 THE COURT: I don't know if you're going to  
20 have any witnesses at all. You don't have to.

21 MS. BROWN: No, but we are aren't going to  
22 have any this afternoon. We may have some on Monday. We  
23 are a still working on that. We will have some on  
24 Monday.

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1 that note; is that correct?

2 MR. GREGORY: That is correct.

3 MS. BROWN: Yes, Your Honor.

4 THE COURT: I'm going to go ahead and place  
5 the note file, and go ahead and take your recess. Thank  
6 you very much.

7 (Recess was taken.)

8 THE COURT: We're back in session 14DI62,  
9 State of Nevada versus Tatiana Leibel. Mr. Gregory is  
10 here for the State. Ms. Brown and Ms. Henry are here for  
11 Ms. Leibel, who is also here, and the interpreters are  
12 here. Mr. Gregory?

13 MR. GREGORY: Your Honor, the State is going  
14 to be resting. I don't know if you need me to do that in  
15 the front of the jury or not.

16 THE COURT: You will. However, I understand  
17 that there were some duplicates of exhibits and --

18 MR. GREGORY: Yes.

19 THE COURT: -- apparently, one set of them  
20 was introduced, but the other set was referenced during  
21 the trial. So can I have a stipulation of the parties  
22 that the other, that the part -- the set that was  
23 referenced that wasn't admitted can be admitted so that  
24 the record is complete?

1 THE COURT: All right. Let's bring them in.  
2 To the extent we can, I want a full day on Monday.

3 MS. BROWN: Okay.

4 THE COURT: Thank you, folks. Have a seat  
5 and relax for a moment, if you would, please. Sometimes  
6 these breaks are a little longer than we anticipate, and  
7 I want to assure you that when those things happen, it's  
8 not that we've got out for milkshakes. Actually, there's  
9 been some work being done, and that's what takes a little  
10 bit longer.

11 So, the parties, will you stipulate the  
12 presence of the jury? Yes, Your Honor.

13 MS. BROWN: Yes, Your Honor.

14 THE COURT: Okay. Mr. Gregory?

15 MR. GREGORY: Your Honor, the State rests.

16 THE COURT: Now, I want to explain to the  
17 jurors that this case may have moved along a little  
18 faster than the parties anticipated. As a result of  
19 that, Mr. Gregory has rested now, but the defense intends  
20 to present some evidence to you, although those witnesses  
21 are not available until Monday, and so we're going to  
22 recess until then.

23 Now, this is the difficult part. You've  
24 heard me give you an admonition every time you take a

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1 recess, every time we take a break, and I read the same  
2 thing to you, and you can tell that I'm reading it  
3 because I look down, but there's specific law that says  
4 exactly what I have to say to you at every break, and the  
5 law tells me that I have to recite that to you. I'm sure  
6 that you figured that out by now.  
7 That admonition is critically important for  
8 you to bear in mind over this long recess, over this  
9 period of time that we're taking a break over the  
10 weekend. You'll get out early today in just a few  
11 minutes, but the admonition that I'm going to give you  
12 again in just a minute is something that I want you to  
13 bear in your minds and bear in your hearts because it's  
14 critically important that you not discuss this and that  
15 you not make up your mind until you've heard all of the  
16 evidence. So don't form an opinion. Don't talk to  
17 anybody.  
18 And over the course of a weekend, it's not  
19 unusual for us to have family members or friends who will  
20 ask, you know, "How is it going? What it's like? What  
21 do you think?" And it's simply not appropriate for you  
22 to engage in that discussion or to engage or form any  
23 opinion until this trial is over. That's part of your  
24 oath. And I spoke to you in those terms, not to sound

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1 like I'm a school teacher or that I'm scolding anyone  
2 because I'm certainly not doing that. I anticipate and I  
3 have full faith that you will honor your oaths, but it is  
4 incumbent upon me in my role as the judge the remind you  
5 of the importance of that part of this process.  
6 So with that having been said, we're going to  
7 recess until 9:00 o'clock on Monday. If there is  
8 something that you have experienced back in the jury room  
9 that we can do to make your experience more comfortable,  
10 I encourage you to tell Mr. Seddon, and we'll work on it  
11 in the interim.  
12 During this recess, you are not to talk or  
13 converse among yourselves or with anyone else on any  
14 subject connected with this trial. You're not to read,  
15 watch, or listen to any report of or commentary on the  
16 trial or any person connected with this trial by any  
17 medium of information including, without limitation,  
18 newspapers, television, radio, or Internet. You're not  
19 to form or express any opinion on any subject connected  
20 with the trial until the case is finally submitted to  
21 you. I thank you for your attention. I wish you a good  
22 weekend. I won't ask who you're rooting for in the  
23 Superbowl, but everybody enjoy the weekend and the game.  
24 See you Monday at 9:00 o'clock. Thank you very much.

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1 Now, over the weekend, I promise if you leave any water  
2 bottles there, we will get rid of them.  
3 Counsel, just for a moment, the exhibits that  
4 are here in the middle of the courtroom, including the  
5 couch and the end table, the box that's behind the couch  
6 appears to be for demonstrative purposes but was never  
7 introduced as an exhibit. So it is my intention to  
8 return that box to Mr. Gregory, absent any objection.  
9 Also, the rod is not an exhibit. It was never  
10 introduced, and therefore, it will be removed and  
11 returned, and is not part of the exhibit. So we never  
12 made part of the exhibits.  
13 MR. GREGORY: Thank you.  
14 THE COURT: So unless there's some objection,  
15 the rod and the box will go to Mr. Gregory. The couch  
16 and the table, which are exhibits, are in the custody of  
17 the clerk. Do counsel need anything before the weekend  
18 recess?  
19 MR. GREGORY: No, Your Honor.  
20 MS. BROWN: No, Your Honor.  
21 THE COURT: Okay I thank you all. I wish all  
22 of you a nice weekend too. Thank you for your  
23 presentations this week.  
24 -o0o-

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1 STATE OF NEVADA )  
2 )  
3 COUNTY OF DOUGLAS )  
4  
5 I, Nicole Alexander, Certified Shorthand  
6 Reporter of the Ninth Judicial District Court of the  
7 State of Nevada, in and for the County of Douglas, do  
8 hereby certify:  
9 That I was present in Department No. I of the  
10 above-entitled Court and took stenotype notes of the  
11 proceedings entitled herein, and thereafter transcribed  
12 the same into typewriting as herein appears;  
13 That the foregoing \*\*\*ROUGH DRAFT\*\*\*  
14 transcript is a full, true and correct transcription of  
15 my stenotype notes of said proceedings.  
16 DATED: At Carson City, Nevada, this 5th day  
17 of June, 2015. *Nicole J. Alexander*  
18 Nicole Alexander, CCR No. 446  
19  
20  
21  
22  
23  
24

Carson City, NV.

Page 24167

1 Nicole Alexander  
2 Capitol Reporters  
3 208 N. Curry Street  
4 (775) 882-5322

5 IN THE NINTH JUDICIAL DISTRICT COURT  
6 IN AND FOR THE COUNTY OF DOUGLAS, STATE OF NEVADA

7 THE STATE OF NEVADA,  
8 Plaintiff,

9 v. Case No. 14-CR-0062  
10 DA 14-343G  
11 Dept. No. I

12 TATIANA LEIBEL, a.k.a.,  
13 TATIANA KOSYRKINA,

14 Defendant.

15 /  
16 AFFIRMATION

17 Pursuant to NRS 239B.030

18 The undersigned does hereby affirm that the  
19 following document DOES NOT contain the social security  
20 number of any person:

21  
22  
23  
24

NICOLE ALEXANDER

June 5, 2015



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In The Matter Of:

State of Nevada vs

Tatiana Leibel, aka Tatiana Kosyrkina - 14-CR-0062

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1 CASE NO. 14-CR-0062  
2 DEPT. NO. 1  
3 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
4 IN AND FOR THE COUNTY OF DOUGLAS  
5 BEFORE THE HONORABLE DISTRICT COURT JUDGE, NATHAN TOD YOUNG  
6  
7 THE STATE OF NEVADA,  
8 Plaintiff,  
9 vs.  
10 TATIANA LEIBEL,  
11 Defendant.  
12  
13 TRANSCRIPT OF PROCEEDINGS  
14 TRIAL  
15 MONDAY, FEBRUARY 2, 2015  
16  
17 APPEARANCES:  
18 For the State: TOM GREGORY  
19 Chief Deputy District Attorney  
Minden, Nevada  
20 For the Defendant: KRIS BROWN  
21 Attorney at Law  
Minden, Nevada  
22 JAMIE HENRY  
23 Attorney at Law  
24 Reported By: Kathy Jackson CSR  
Nevada CCR #402

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1 MONDAY, FEBRUARY 2, 2015, MINDEN, NEVADA  
2 -oOo-  
3 THE COURT: We are in session in 14CR62, State of  
4 Nevada versus Tatiana Leibel. Mr. Gregory is here for the  
5 State. Ms. Brown, Ms. Henry are here for the defense, and  
6 Ms. Leibel is here and our interpreters are here.  
7 We have one issue with the -- with the juror  
8 which appears to be a minor issue. I met with counsel in  
9 chambers before we started this morning. I was advised that  
10 one of the jurors may work at a school -- indicated to the  
11 bailiff that she works at a school where one of the  
12 witnesses' children go, so she mentioned that to the bailiff.  
13 It doesn't seem like a big deal, but I'm going to bring her  
14 in. It's Donna Unsinn, is that correct, and she sits up in  
15 this corner over here. If we can just maybe ask Ms. Unsinn  
16 come in, only her. Thank you.  
17 Good morning, Ms. Unsinn. How are you, ma'am?  
18 JUROR UNSINN: Good, thank you.  
19 THE COURT: Did you have a good weekend?  
20 JUROR UNSINN: I did.  
21 THE COURT: I'm glad. I don't mean to single you  
22 out or anything but it was brought to my attention that maybe  
23 you spoke with Mr. Seddon as we came in and just as I asked  
24 you to do, and that's what exactly what I asked you to do, so

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1 I appreciate it.  
2 And I understand you may work at a school where  
3 one of the witnesses children goes or something like that.  
4 What is it?  
5 JUROR UNSINN: I recognized Mr. Antii, who I  
6 thought was standing out there. Maybe it wasn't even him. I  
7 just recognized the height and if it is him, his daughter  
8 graduated from my school last year.  
9 THE COURT: Okay.  
10 JUROR UNSINN: I only met him once. He probably  
11 wouldn't even recognize me.  
12 THE COURT: And what do you do at the school?  
13 JUROR UNSINN: I'm a school secretary.  
14 THE COURT: And did you have any extensive  
15 contact with him at the school or anything like that?  
16 JUROR UNSINN: No.  
17 THE COURT: Did you have conversations with him  
18 about yourself or himself or anything like that?  
19 JUROR UNSINN: No.  
20 THE COURT: It doesn't seem to me any concern.  
21 Mr. Gregory, do you need any further questions by  
22 the State?  
23 MR. GREGORY: No, Your Honor. Thank you.  
24 THE COURT: Ms. Brown?

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1 MS. BROWN: No, Your Honor.  
2 THE COURT: Are both of you satisfied that she  
3 still is qualified to be a witness in this case or a juror?  
4 MS. BROWN: Juror.  
5 MR. GREGORY: Yes, Your Honor.  
6 MS. BROWN: Yes, Your Honor.  
7 THE COURT: You don't get to be a witness.  
8 JUROR UNSINN: Thank you.  
9 THE COURT: Ms. Unsinn, you did exactly the right  
10 thing and I appreciate you telling me, and we're just going  
11 to bring everybody else in. I was going to say would you  
12 like to go back and come in with all of them?  
13 JUROR UNSINN: Yes.  
14 THE COURT: Thank you, ma'am.  
15 Good morning. Have a seat, please. Happy  
16 Monday. For those of you that are Seahawks fans, I offer my  
17 deepest condolences.  
18 We will -- first of all, will counsel stipulate  
19 the presence the jury?  
20 MR. GREGORY: Yes, Your Honor.  
21 MS. BROWN: Yes, Your Honor.  
22 THE COURT: We're going to proceed this morning  
23 and probably we'll conclude this morning and then as I told  
24 you, there's no court tomorrow. Actually, I have a very full

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1 calendar, some other issues, it's called a law and motion  
2 calendar, and so I probably have 16 or 17 different cases  
3 that I have to hear tomorrow, and they are regularly  
4 scheduled on Tuesday's, so I had vacated that calendar last  
5 week so we could get the trial started, but I can't do that  
6 two weeks in a row because it sets too many people behind so  
7 tomorrow I have to hear that calendar, and we won't meet  
8 tomorrow.  
9 There has been a travel difficulty for one of our  
10 witnesses and so what we're going to do is go this morning  
11 and then recess, and we won't be in session this afternoon,  
12 and we won't meet again until Wednesday, and we won't start  
13 until 1:00 o'clock on Wednesday, but I expect that the case  
14 will be concluded on Wednesday, just so that you can make  
15 plans which is as you can tell, we're going a little faster  
16 than I had told you originally and because I think I  
17 originally told you that it would probably be Friday of this  
18 week, so you can expect to have the case submitted to you on  
19 Wednesday.  
20 Now, as I tell you that and as I have repeatedly  
21 cautioned you, don't form or express any opinions yet. The  
22 fact that I tell you that we may be getting close to an end  
23 and having it submitted to you doesn't mean that it's time  
24 for you to start drawing any of those conclusions. You'll do

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1 that once it's finally submitted to you, but I did want to  
2 let you know that so that you could make your plans also.  
3 Maybe you have employers you want to talk to or family  
4 members or things like that or maybe you have some plans, so  
5 that's kind of where we are right now.  
6 We're going to go this morning and go however  
7 long we go this morning, and we will recess and we will meet  
8 again, Wednesday, at 1:00 o'clock, okay.  
9 THE COURT: Ms. Brown, do you have a witness.  
10 MS. BROWN: Thank you. The defense would call  
11 Kerry Rajacic.  
12 THE COURT: Come on in, ma'am. If you would  
13 pause right in front of the clerk and raise your right hand,  
14 please.  
15  
16 KERRY RAJACIC  
17 called as a witness on behalf of the  
18 Defendant having been first duly sworn,  
19 was examined and testified as follows:  
20  
21 THE COURT: Come on up here, please, ma'am. You  
22 can have a seat up here, and there's some water, if you would  
23 like.  
24 Ms. Brown?

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1 DIRECT EXAMINATION  
2 BY MS. BROWN:  
3 Q. Could you state your name, and spell your last  
4 name, please.  
5 A. Kerry Lou Rajacic. My last name is spelled  
6 R-a-j-a-c-i-c.  
7 Q. What is your occupation?  
8 A. I'm a housewife.  
9 Q. Where do you live?  
10 A. I live -- do you want the address?  
11 Q. Just the town.  
12 A. Just the area, I live in Reno.  
13 Q. Do you know Tatiana Leibel?  
14 A. Yes, I do.  
15 Q. Do you see her in the courtroom today?  
16 A. Yes, I do.  
17 Q. Could you describe where she's setting and what  
18 she's wearing?  
19 A. She's wearing a pinstripe jacket, and she's  
20 sitting between the two ladies right there.  
21 THE COURT: The record will reflect the  
22 identification of Ms. Leibel.  
23 Q. (BY MS. BROWN:) And did you know Harry Leibel?  
24 A. Yes, I did.



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1 Q. Was it your husband, Joe, that was here last  
2 Friday testifying?  
3 A. Yes.  
4 Q. How long have you known or how did you meet the  
5 Leibels?  
6 A. Well, I met them through my husband.  
7 Q. How?  
8 A. He met Harry on a plane.  
9 Q. Okay. Do you recall when that was?  
10 A. About five or six years ago, right before Harry's  
11 60th birthday.  
12 Q. And how did you and the Leibels become friends?  
13 A. I'm sorry. I wasn't going to cry.  
14 Q. Take your time. It's okay.  
15 A. Thank you.  
16 Q. Do you have some Kleenex up there?  
17 THE COURT: There are.  
18 THE WITNESS: Darn it. Joe -- Joe met Harry on a  
19 plane, and he was very excited to meet someone that he liked.  
20 We -- we then met up with Harry and Tatiana at their home and  
21 went on their boat for a picnic. It's very lovely.  
22 Q. And after that, did you continue to socialize  
23 with the Leibels?  
24 A. Yes.

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1 Q. How often would you say you would see them?  
2 A. Well, it's difficult to say because -- you know,  
3 some years we would see them more than others, so it's very  
4 hard to round that out. We lived almost an hour away so it  
5 wasn't all of the time but -- but several, you know, several  
6 times, more than several times, more than three or four times  
7 a year, like, maybe five times a year, four or five times a  
8 year.  
9 Q. And that continued over the five or six years you  
10 knew them?  
11 A. It slowed down the last couple of years because,  
12 you know, our lives were all very busy.  
13 Q. And when you would see them, what kind of  
14 activities would you participate in?  
15 A. Mostly eating. Our lives kind of revolved mostly  
16 around dinners, and we went to a concert one time, and we  
17 went to Harry and Tatiana's quite a bit. Tatiana is a  
18 fantastic cook.  
19 Q. At their home in Tahoe?  
20 A. Yes.  
21 Q. And that was the home on Kent Way?  
22 A. Yes.  
23 Q. Would you characterize Harry Leibel as a talker?  
24 A. Yes.

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1 Q. And what do you mean by that?  
2 A. He could talk pretty much without breathing. He  
3 really talked a lot. He loved to talk, and he loved to  
4 philosophize. He was just charming.  
5 Q. You said he liked to philosophize. He was raised  
6 in the Jewish religion; is that correct?  
7 A. Yes.  
8 Q. Was -- do you know if he was a study of the  
9 Kabbalah?  
10 A. I don't remember him saying that per se.  
11 Q. And when you said he loved to philosophize, are  
12 we talking philosophy subjects?  
13 A. Yes, anything, even like fortune cookie type of  
14 philosophy, just anything.  
15 Q. Okay. What do you mean like fortune cookie type  
16 things?  
17 A. Just every -- you know, any kind of philosophy,  
18 everything that you would formally hear, he would -- he would  
19 reiterate. It was -- he was just charming.  
20 Q. Did it include zodiac?  
21 A. Yes, he was very much into the horoscopes.  
22 Q. And did this strike you as unusual from somebody  
23 raised in the Jewish -- traditional Jewish family?  
24 MR. GREGORY: Objection, relevance.

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1 THE COURT: Sustained.  
2 Q. (BY MS. BROWN:) You said you had been to their  
3 house on a number of occasions?  
4 A. Yes.  
5 Q. Do you recall if they had a dog?  
6 A. Yes.  
7 Q. Do you know his name?  
8 A. Bo.  
9 Q. And what type of dog was he?  
10 A. He was a cinnamon Doberman.  
11 Q. Big dog, little dog?  
12 A. Big dog.  
13 Q. How was Bo treated?  
14 A. Wonderfully.  
15 Q. Was he an indoor dog?  
16 A. Yes.  
17 Q. When you were at the residence, would he be  
18 inside when there was company?  
19 A. Yes.  
20 Q. How would you describe Bo's personality?  
21 A. He was a sweet dog, very good.  
22 Q. Would you describe him as active or a laid back  
23 dog? How would you describe him?  
24 A. He would sort of surf his way through the room,

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1 kind of like a shark, trying to get past from everybody and  
2 get his little love in from everyone. He was -- he wanted to  
3 be around everybody. He was very sweet.  
4 Q. Do you recall seeing him on the furniture?  
5 A. I'm not picturing it, but -- I'm not picturing  
6 it.  
7 Q. Was he -- was he usually in movement or was there  
8 a place where he would go relax and lay down when he sees  
9 people around?  
10 A. When I think of him, I think of him moving and  
11 eating.  
12 Q. And looking for attention?  
13 A. Yes.  
14 Q. And were both Harry and Tatiana Leibel  
15 affectionate with the dog?  
16 A. Very.  
17 Q. Was he affectionate with them?  
18 A. Very.  
19 Q. And you're aware Tatiana comes from a Russian  
20 background; is that correct?  
21 A. Yes.  
22 Q. Could you describe Ms. Leibel's use of the  
23 English language?  
24 A. Charming, very charming. She disposes words

Page 14

1 sometimes.  
2 Q. I'm sorry?  
3 A. She missuses the English language sometimes.  
4 Q. Uh-huh.  
5 A. But she has a pretty good grasp of the language,  
6 but once in a while the words get mixed up. Every once in a  
7 while, I would say something and she would say what mean  
8 that.  
9 Q. She would say what mean that, what did you have  
10 to do?  
11 A. Explain what that meant.  
12 Q. Are there times she uses the incorrect word?  
13 A. Sure, yeah, it's her second language, English.  
14 Q. Are there times she puts Russian words in with  
15 the English?  
16 A. Yes.  
17 Q. And being familiar with her ability to speak and  
18 understand English, are you surprised to see interpreters  
19 here?  
20 A. No, I'm happy to see an interpreter here.  
21 Q. Was one of the activities you participated in  
22 with the Leibels going to the shooting range?  
23 A. Yes.  
24 Q. Were you all interested in shooting?

Page 15

1 A. Yes.  
2 Q. Where would you go?  
3 A. We went to the -- there's a place in Carson  
4 that's an open range outdoors. It's -- unfortunately, it's  
5 across from like a dump but that's where it is so yeah.  
6 Q. How would you describe Mr. Leibel's attitude  
7 towards guns?  
8 A. They liked them.  
9 Q. Okay. Would Mr. Leibel, was -- how would you  
10 describe his attitude?  
11 A. Enthusiastic.  
12 Q. Did he appear to have more interest than Tatiana?  
13 A. Yes.  
14 Q. When you and the Leibels and your husband would  
15 go to the range, how many guns would Mr. Leibel bring with  
16 him?  
17 A. I don't know, a lot.  
18 Q. Were they both rifles and handguns?  
19 A. Yes.  
20 Q. Did you see Tatiana practice with both rifles and  
21 handguns?  
22 A. Yes.  
23 Q. Was there -- between the rifles and handguns, was  
24 there a type of gun she preferred to shoot?

Page 16

1 A. Not that I could tell.  
2 Q. Which type would you say she used more often?  
3 A. I wasn't really paying that much attention to. I  
4 was shooting also, so I wasn't --  
5 Q. You said you've been to the Leibel residence.  
6 Were there guns in the house?  
7 A. Yes.  
8 Q. Did Mr. Leibel have any particular favorite gun?  
9 A. Whatever he just bought.  
10 Q. Gun of the week club?  
11 A. It looked like it.  
12 Q. In the last few times you saw Mr. Leibel, did you  
13 notice any change in his health or appearance?  
14 A. The last time -- the last couple of times that I  
15 saw him, the last time we went to his home, especially, I  
16 noticed that he was thinner and drawn looking. It worried  
17 me.  
18 Q. Do you recall when this was?  
19 A. I think it was either in October or November.  
20 Q. Of 2013?  
21 A. Yes.  
22 Q. And the last time you saw Mr. and Mrs. Leibel, do  
23 you recall when that was?  
24 A. That would have been early December of '13.

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1 Q. And was Mr. Leibel acting different than usual?  
2 A. Not that -- not that day, but they were only  
3 there for a moment. They came to our house to drop off a  
4 present. They were there for ten minutes.  
5 Q. Was there a time you noticed his attitude didn't  
6 seem to be as upbeat as usual?  
7 A. When we went to their house in October or  
8 November, he seemed a little grouchy, like he didn't feel  
9 well. He's not usually grouchy. He's usually, you know,  
10 fairly good mood.  
11 Q. And you said one of the things you would do when  
12 you were socializing is go to each others house for dinners?  
13 A. Mostly to Tatiana's. She's a better cook.  
14 Q. Do you recall seeing Mr. Leibel drink alcohol?  
15 A. I have seen him drink wine. I don't remember  
16 seeing him or didn't notice him drinking anything else. I  
17 don't look for that.  
18 Q. Did he appear to consume any large amounts of  
19 alcohol?  
20 A. No.  
21 Q. What type of beverage would you keep at your  
22 house for him?  
23 MR. GREGORY: Object, Your Honor, to the  
24 relevance.

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1 THE COURT: What's the relevance of that?  
2 MS. BROWN: It would be tied in with Dr. Omalu's  
3 testimony.  
4 THE COURT: Sustained. Don't answer.  
5 THE WITNESS: Oh, I see.  
6 MS. BROWN: Thank you. I have nothing further.  
7 CROSS-EXAMINATION  
8 BY MR. GREGORY:  
9 Q. Good morning, ma'am.  
10 A. Hi.  
11 Q. How did you learn of Harry's death?  
12 A. We -- I learned of his death from Hyanna.  
13 Q. Do you recall when you learned of his death?  
14 A. I don't remember the date but it was probably  
15 March or early April.  
16 Q. And you say that you last saw Harry either  
17 October or November of 2013, correct?  
18 A. No, sir, I said it was early December.  
19 Q. Early December, I misunderstood. That was at  
20 your house or their house?  
21 A. That was at our house. They stopped to drop off  
22 a present.  
23 Q. Oh, okay. So October, November was the last time  
24 you had been to their house?

Page 19

1 A. Correct.  
2 Q. Okay. And when was the last time you spoke to  
3 Harry?  
4 A. That would be the last time I spoke to Harry was  
5 when they came to our home.  
6 Q. The December date?  
7 A. Yes.  
8 MR. GREGORY: Nothing further.  
9 REDIRECT EXAMINATION  
10 BY MS. BROWN:  
11 Q. And you said you learned from Hyanna about  
12 Mr. Leibel's death?  
13 A. Yes.  
14 Q. And who is Hyanna?  
15 A. Hyanna is their daughter, well, Tatiana's  
16 daughter, but Harry had adopted her.  
17 Q. And through what means did you learn of his  
18 death?  
19 A. We were -- we had been away for about a month and  
20 a half and when we were coming back, we were supposed to get  
21 together with them, and Joe had tried to reach Harry by phone  
22 and e-mail and had not heard back from him, which was very  
23 unusual. And at first we thought maybe they had gone on  
24 vacation or something, but then time kept going on and it

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1 wasn't like Harry not to return a call.  
2 So Joe said, you know, try to get a hold of  
3 Tatiana. I think something is wrong with Harry. So I left  
4 some messages on Tatiana's phone which was still hooked up  
5 and I -- nothing back from Tatiana, and I said this is --  
6 this is -- something is going on.  
7 We don't watch the local news. We just get our  
8 news from AOL because I don't know why but, and we had not  
9 heard of this. And so I -- I'm Facebook friends with Hyanna,  
10 and I private messaged her, and she messaged me back, and she  
11 said I'm so sorry. I thought you knew.  
12 MR. GREGORY: Your Honor, I object to the  
13 hearsay.  
14 THE COURT: That's sustained. She's answered the  
15 question.  
16 Q. (BY MS. BROWN:) It was through Facebook  
17 messaging that you were able to get a hold of Hyanna?  
18 A. Yes.  
19 Q. Have you continued to stay in contact with  
20 Ms. Leibel since this occurred?  
21 A. Yes, I have.  
22 Q. Thank you. I have nothing further.  
23 THE COURT: Mr. Gregory?  
24

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1 RE CROSS-EXAMINATION  
2 BY MR. GREGORY:  
3 Q. You just indicated that you had some plans -- you  
4 and your husband had plans to get together with Harry and  
5 Tatiana; is that correct?  
6 A. Yes, we did.  
7 Q. Thank you. Nothing further.  
8 THE COURT: Ma'am, thank you for being here  
9 today.  
10 THE WITNESS: Thank you.  
11 THE COURT: You're excused.  
12 THE WITNESS: Thank you so much.  
13 (Witness excused.)  
14 THE COURT: Ms. Brown? You can just -- you're  
15 welcome to remain in the courtroom. I don't think you're  
16 going to call her back, are you?  
17 MS. BROWN: No, Your Honor.  
18 THE COURT: You can stay and observe, if you  
19 want.  
20 MS. BROWN: The defense would call Nick Robidart.  
21 THE COURT: Come on in, sir.  
22  
23  
24

Page 22

1 NICK ROBIDART,  
2 called as a witness on behalf of the  
3 Defendant having been first duly sworn,  
4 was examined and testified as follows:  
5  
6 THE COURT: Come on up, sir. If you want some  
7 water, are there cups?  
8 THE WITNESS: Yes, there are.  
9 THE COURT: Okay.  
10 DIRECT EXAMINATION  
11 BY MS. BROWN:  
12 Q. Good morning.  
13 A. Good morning.  
14 Q. Could you state your name, and spell your last  
15 name, please.  
16 A. Nick Robidart, R-o-b-i-d-a-r-t.  
17 Q. What is your occupation?  
18 A. I'm a firefighter paramedic with Tahoe Douglas.  
19 Q. And are you stationed up at Tahoe, is that where  
20 that is?  
21 A. Yes, ma'am.  
22 Q. Were you so employed on February 23rd of last  
23 year?  
24 A. Yes.

Page 23

1 Q. At the time on February 23rd, about how long had  
2 you been with Tahoe Douglas?  
3 A. Since March 2013.  
4 Q. And that day, at around 11:06, were you  
5 dispatched to 452 Kent Way?  
6 A. Yes, ma'am.  
7 Q. What was the nature of the call?  
8 A. A gunshot wound.  
9 Q. How many folks from your station went to the  
10 scene?  
11 A. I believe it was five..  
12 Q. What did you see when you first arrived at the  
13 residence?  
14 A. I saw a lady standing out front.  
15 Q. Do you see that lady in the courtroom today?  
16 A. I believe so, yes, ma'am.  
17 Q. Excuse me?  
18 A. Yes, ma'am.  
19 Q. And can you describe where she's sitting and what  
20 she's wearing?  
21 A. She's wearing a suit, white shirt.  
22 THE COURT: There's one of those in the courtroom  
23 so the record will reflect that he has identified Ms. Leibel.  
24 Q. (BY MS. BROWN:) What was Ms. Leibel doing when

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1 you arrived?  
2 A. She was standing out front crying.  
3 Q. And how would you describe -- when you say she  
4 was crying, how would you describe her total demeanor?  
5 A. She was distraught.  
6 THE COURT: Sir, I'm going to ask you to speak up  
7 a little bit, okay?  
8 THE WITNESS: Yes, sir.  
9 THE COURT: There is an interpreter who has to  
10 hear you. There's a court reporter who has to hear you, and  
11 there's a jury that has to hear you also.  
12 THE WITNESS: You got it.  
13 THE COURT: Thank you, sir.  
14 MS. BROWN: Thank you.  
15 Q. Did -- when you first arrived at the residence,  
16 did you have a chance to speak with Ms. Leibel?  
17 A. I don't recall speaking with her when we first  
18 arrived.  
19 Q. Did you speak with her later?  
20 A. Yes.  
21 Q. And when was that?  
22 A. That was after when we were leaving the scene.  
23 Q. What type of conversation did you have with her?  
24 A. My captain was talking to her, asking if she had

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1 anybody to call, any friends to call. She kept asking me if  
2 I could feed the fish, go back in the house and feed her fish  
3 for her.  
4 Q. How would you describe her at this time?  
5 A. She was very distraught.  
6 Q. Did you at one point use the term completely  
7 hysterical?  
8 A. Yes, hysterical as well.  
9 Q. In a panicked state of mind?  
10 MR. GREGORY: Objection.  
11 THE COURT: Sustained.  
12 MR. GREGORY: Leading.  
13 Q. (BY MS. BROWN:) When -- when you were in the  
14 residence, did you see anything other than Mr. Leibel that  
15 seemed significant to the nature of the call?  
16 A. I saw a firearm on the couch. I saw a bullet  
17 hole in a wall.  
18 Q. How did you come about seeing the bullet hole in  
19 the wall?  
20 A. I just saw it underneath the fish tank.  
21 Q. How did you see it underneath the fish tank?  
22 A. With my eyes.  
23 Q. Did you listen to a recording -- you did a taped  
24 interview with Investigator Chrzanowski --

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1 A. Yes.  
2 Q. -- concerning the incident, and that was about  
3 two weeks after this had occurred?  
4 A. I believe so, yes.  
5 Q. Was that when the incident was fresh in your  
6 mind?  
7 A. Yes.  
8 Q. And that interview was recorded?  
9 A. Yes, it was.  
10 Q. Okay. Did you have a chance to listen to a  
11 portion of that interview this morning?  
12 A. Yes, I did.  
13 Q. Did that refresh your recollection on how you saw  
14 that bullet hole behind that couch?  
15 A. No, I stated in the statement that I thought a  
16 saw Douglas County move it but today I can't recall movement  
17 of the couch.  
18 Q. At the time you told Investigator Chrzanowski  
19 what?  
20 A. I thought I saw Douglas County Police Department  
21 move the couch.  
22 Q. And that was how you saw the bullet hole?  
23 A. Today I can't recall.  
24 Q. But your recollection at the time, two weeks

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1 after the incident, was that you saw Douglas County Sheriff's  
2 Deputies move the couch and that's how you saw the bullet  
3 hole?  
4 MR. GREGORY: Your Honor, I object. That  
5 mischaracterizes what he stated.  
6 THE COURT: Overruled. Restate the question so  
7 that it's clear for the jury.  
8 Q. (BY MS. BROWN:) At the time you gave your  
9 interview to Investigator Chrzanowski a couple of weeks after  
10 this incident occurred, did you state to her at the time I  
11 think the police moved the couch and I saw the bullet hole  
12 going through the wall underneath the fish tank?  
13 A. That is what I stated in the recording, yes.  
14 Q. During the time of this call, were you still on  
15 probation with the fire district?  
16 A. Yes, I was.  
17 Q. And you're still employed with them?  
18 A. Yes.  
19 Q. Okay. So obviously you made it through that?  
20 A. Yes, I did.  
21 Q. Were you instructed at that -- thank you. I have  
22 nothing further.  
23 THE COURT: Mr. Gregory?  
24 MR. GREGORY: Thank you, Your Honor.

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1 CROSS-EXAMINATION  
2 BY MR. GREGORY:  
3 Q. Mr. Robidart, you didn't smell anything abnormal  
4 when you entered the house, correct?  
5 A. No, I did not.  
6 Q. And Mr. Leibel was cool to the touch, correct?  
7 A. That's correct.  
8 Q. And his skin was cyanotic; is that correct?  
9 A. Yes.  
10 Q. What does that mean?  
11 A. Blue, blue in color.  
12 Q. What did that indicate to you that?  
13 A. It seemed like he had been -- well, he was  
14 obviously dead. He might have been there a little bit long.  
15 MS. BROWN: Objection, speculation.  
16 THE COURT: Sustained.  
17 Q. (BY MR. GREGORY:) You were there to evaluate  
18 Mr. Leibel's health?  
19 A. Yes.  
20 Q. So what was the purpose -- did the blue fingers  
21 and toes have any significance to your role there that day?  
22 A. When we arrive on scene of cardiac arrest, we try  
23 to decide whether we're going to work the code or not, and it  
24 seemed to me we weren't going to work on the, diagnosis cool

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1 to touch and on the cardiac monitor.  
2 Q. And his breathing was apneic?  
3 A. Yes.  
4 Q. What does that mean?  
5 A. He's not breathing.  
6 Q. His eyes were dilated?  
7 A. Yes.  
8 Q. What significance was that to you?  
9 A. Shows death, no brain activity.  
10 Q. And in your interview with Investigator  
11 Chrzanowski, you indicated you thought that somebody had  
12 moved the couch; is that correct?  
13 A. That's correct.  
14 Q. Did you see anybody move the couch?  
15 A. I can't recall seeing anybody move the couch, no.  
16 Q. And you never told Investigator Chrzanowski you  
17 saw somebody move the couch, did you?  
18 A. No.  
19 Q. Do you recall the position of Mr. Leibel's left  
20 hand upon making entry?  
21 A. Yes, I did.  
22 Q. How was it positioned?  
23 A. Out to the side.  
24 Q. Thank you.

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1 THE JUROR: I'm sorry, I didn't hear that.  
2 THE WITNESS: Out to the side.  
3 Q. (BY MR. GREGORY:) It was not laying flat on the  
4 ground?  
5 A. No.  
6 Q. Thank you. Nothing further.  
7 THE COURT: Ms. Brown?  
8 REDIRECT EXAMINATION  
9 BY MS. BROWN:  
10 Q. And when you gave your statement to Investigator  
11 Chrzanowski, were you trying to give an accurate account of  
12 the incident?  
13 A. Yes, ma'am.  
14 Q. Was your memory better of the incident that day  
15 than it is today?  
16 A. Yes.  
17 Q. Thank you. I have nothing further.  
18 THE COURT: Mr. Gregory, anything else?  
19 MR. GREGORY: No, Your Honor. Thank you.  
20 THE COURT: Sir, thank you for being here. You  
21 are excused.  
22 (Witness excused.)  
23 MS. BROWN: The defense would call Jim Antti.  
24 THE CLERK: Raise your right hand.

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1 JAMES ANTTI,  
2 called as a witness on behalf of the  
3 Defendant having been first duly sworn,  
4 was examined and testified as follows:  
5  
6 THE COURT: Come on up, sir. Have a seat. Have  
7 some water there if you would like.  
8 THE WITNESS: Okay. Thank you.  
9 THE COURT: Yes, sir.  
10 DIRECT EXAMINATION  
11 BY MS. BROWN:  
12 Q. Could you state your name?  
13 A. James A-n-t-t-i.  
14 Q. What is your occupation?  
15 A. I'm a battalion chief with the Tahoe Douglas Fire  
16 District.  
17 Q. How long have you been in that position?  
18 A. A year and a half.  
19 Q. So you were in that position on February 23rd of  
20 last year?  
21 A. Yes, ma'am.  
22 Q. At around 11:00 o'clock that morning, were you  
23 dispatched to 452 Kent Way?  
24 A. Well, actually, technically, I was not

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1 dispatched. I'm the battalion chief of the shift so I went  
2 to see if they needed any assistance.  
3 Q. And what was the nature of the call?  
4 A. It came in as a gunshot wound I believe.  
5 Q. Did you go in a separate vehicle from the  
6 emergency responders and rescuers?  
7 A. Yes, the shift battalion chief has their own  
8 response vehicle. I respond by myself.  
9 Q. When you arrived at the residence, what did you  
10 first see?  
11 A. The emergency vehicles were out front, police and  
12 fire, and I walked up to the house, and there was a lady  
13 sitting on the front porch.  
14 Q. How was she acting?  
15 A. She was upset.  
16 Q. Was she crying?  
17 A. I believe so.  
18 Q. And after that, you went inside the house?  
19 A. Yes, ma'am.  
20 Q. Was your crew already inside at that time?  
21 A. Yes.  
22 Q. When you entered the house, did you go down into  
23 the room where Mr. Leibel was?  
24 A. No, ma'am.

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1 Q. Did you participate in any direct examination of  
2 him?  
3 A. No, ma'am.  
4 Q. Did you see any weapon in the room that came to  
5 your attention?  
6 A. I did.  
7 Q. And what was that?  
8 A. There were weapons on the walls, and then there  
9 was a weapon laying on the couch, I believe.  
10 Q. Did you ever ask a deputy about the caliber of  
11 that gun?  
12 A. I asked them what type of gun it was, yes.  
13 Q. Did you ask about the caliber?  
14 A. I believe I did, yes.  
15 Q. What was the purpose of this?  
16 A. It was a weapon that was unfamiliar to me and so  
17 I -- just curiosity.  
18 Q. Do you recall who it was that you asked?  
19 A. It was one of the deputies, and I don't know his  
20 name.  
21 Q. What did that deputy tell you?  
22 MR. GREGORY: Objection, hearsay.  
23 THE COURT: Sustained.  
24 Q. (BY MS. BROWN:) Was the deputy able to give you

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1 the caliber of that weapon?  
2 A. I believe he told me the type of caliber, yes.  
3 MS. BROWN: Nothing further.  
4 THE COURT: Mr. Gregory?  
5 CROSS-EXAMINATION  
6 BY MR. GREGORY:  
7 Q. Sir, how long have you been with Tahoe Douglas?  
8 A. 22 years.  
9 Q. All right. And my understanding is you are a  
10 bomb tech?  
11 A. Yes, sir.  
12 Q. You're familiar with the smell of gunpowder?  
13 A. I am.  
14 Q. Did you smell any gunpowder when you entered the  
15 residence that day?  
16 A. I did not.  
17 Q. And you made an observation of the blood on the  
18 couch, correct?  
19 A. Yes, sir.  
20 Q. What was your observation?  
21 A. There was blood on the couch, and the victim was  
22 lying on the floor, and the blood, you know, looked dark to  
23 me, that was all.  
24 Q. What was the significance of that to you?

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1 A. It didn't look very fresh.  
2 Q. Thank you. Nothing further.  
3 THE COURT: Ms. Brown?  
4 MS. BROWN: Nothing further.  
5 THE COURT: Thank you for being here today. I  
6 appreciate it.  
7 (Witness excused.)  
8 MS. BROWN: The defense would call Dave Billau.  
9 THE CLERK: Raise your right hand and be sworn.  
10  
11 DAVID BILLAU,  
12 called as a witness on behalf of the  
13 Defendant having been first duly sworn,  
14 was examined and testified as follows:  
15  
16 THE COURT: Come on up, sir. If you would have a  
17 seat there. Get comfortable. Have some water if you would  
18 like.  
19 DIRECT EXAMINATION  
20 BY MS. BROWN:  
21 Q. Could you state your name, and spell your last  
22 name, please.  
23 A. David C. Billau, B as in boy i-l-l-a-u.  
24 Q. How are you currently employed?

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1 A. I have my own consulting business now.  
2 Previously I was employed with the Washoe County Sheriff's  
3 Office in the forensic science division as the supervisor.  
4 Q. Let me go back a minute. What -- you said you  
5 have your own company now. What type of company is that?  
6 A. I have a consulting business now. I consult with  
7 forensic sciences to various law enforcement agencies and of  
8 legal counsel.  
9 Q. And prior to that, where were you employed?  
10 A. I was employed with the Washoe County Sheriff's  
11 Office in the forensic science division, commonly referred to  
12 as the crime laboratory, and I was the supervisor with the  
13 forensic investigation section.  
14 Q. How long were you the supervisor of the forensic  
15 division?  
16 A. Oh, let's see, I was employed there for 23 years,  
17 a little over 23 years. The last five to six years, I was  
18 the supervisor.  
19 Q. And do you have any type of certification?  
20 A. I did when I was employed with them as a  
21 certified latent fingerprinting examiner and also a certified  
22 crime scene analyst. Those certifications would be  
23 International Association for Identification, and they are  
24 international certifications.

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1 Q. And are you currently a member with the  
2 International --  
3 A. Association for Identification.  
4 Q. Yes.  
5 A. Yes, I am. I'm a live active member.  
6 Q. Could you explain what that is?  
7 A. It's a member that was an outstanding participant  
8 with the -- with the organization. You're granted -- if you  
9 retired honorably and without any mistakes made, we are  
10 tested every year in our profession so within our disciplines  
11 so it means that I was honorably retired and didn't make any  
12 mistakes according to them, so you're granted the life active  
13 status.  
14 Q. And when you said you were certified, it was  
15 through them as a senior crime scene analyst and latent  
16 examiner?  
17 A. That is correct. I obtained my testing for the  
18 latent fingerprints examination, that certification was in  
19 1987. And then the -- in 1990 is when I tested and obtained  
20 the certification as a senior crime scene analyst.  
21 Q. Prior to being with the sheriff's department in  
22 Washoe County, did you have any previous law enforcement  
23 experience?  
24 A. Yes. In 1975, I began my career working with the

1 A. Yes, it did, and I do have college credits with  
2 California State University of Los Angeles and also through  
3 the University of Virginia through the department of justice.  
4 Q. And when you get certification as a senior crime  
5 scene analyst through the International Association for  
6 Identification, what process do you have to go through?  
7 A. At the time when I took the certification, this  
8 is in 1990, you were required to have a minimum of ten years  
9 experience in the field before you could even apply for it.  
10 With that, then you take a battery of written tests and also  
11 at that time we also took a practical examination in which we  
12 were proctored by actually performing crime scene  
13 investigation with any moot scene or mock crime scene and  
14 this was, again, under supervision, and you were graded so to  
15 see if you had, you know, enough of the experience and  
16 education to where you could obtain the certification.  
17 Q. And what about the certification as a latent  
18 print examiner?  
19 A. Again, that was I believe at the time I think you  
20 had to have a minimum of eight years. I had 12 years in  
21 before I was really confident enough to take that  
22 examination. It covered quite a bit of history. It was a  
23 written examination, plus a comparative examination of eight  
24 finger and palm prints to known individuals to latent prints

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1 city of Glendale Police Department in Southern California,  
2 and this was in 1975, and I was employed within the same  
3 manner. I've always been in the forensic sciences working  
4 within the crime laboratory.  
5 Q. And what is your educational background?  
6 A. Pertaining to the forensic sciences?  
7 Q. Yes.  
8 A. Okay. Well, it began in 1975. I attended the  
9 Department of Justice, United States Federal Bureau of  
10 Investigation. They are training seminars and training  
11 courses that they provided at the time which was quite  
12 numerous. It covered various disciplines, such as the  
13 sciences of fingerprints, crime scene investigation,  
14 photography, bloodstain pattern interpretation, and these  
15 were also through updated materials that were in the courses  
16 supplied, also were provided by the Department of Justice  
17 State of California in I believe it was Arizona Department of  
18 Justice Arizona had also provided some of the training, also  
19 taken courses on my own, California State University of Los  
20 Angeles in the criminal justice system.  
21 Q. Are you a college graduate?  
22 A. No, I'm not.  
23 Q. So your training came through your work in the  
24 field?

1 developed at a scene or often were given an item.  
2 We also had the classified fingerprints back in  
3 those days using the Henry System of classification. It is a  
4 form of classification in other words to search a fingerprint  
5 pattern that had been established back in the late 1800s in  
6 England the United States adopted in the early 1900s, but you  
7 had to classify five individuals and without making a mistake  
8 within 30 minutes and that was including the fingerprint  
9 patterns, of all ten fingers on each hand or an individual  
10 five fingers to each hand.  
11 Then you had to know the entire history of the  
12 science. That begins way back in the 1500s, so it was quite  
13 extensive. They give you eight hours to finish the exam. So  
14 within eight hours, you have to do everything that applied to  
15 the science and it was quite extensive.  
16 Q. And you said as part of your company now that you  
17 do provide training to law enforcement agencies?  
18 A. That is correct.  
19 Q. Have you previously taught courses in crime scene  
20 investigation before you left law enforcement?  
21 A. Oh, we did that every year, yes.  
22 Q. Okay. What do you mean you did that every year?  
23 Describe it.  
24 A. Excuse me, the crime laboratory, we provided



1 services to all of the agencies in northern Nevada. The only  
2 agency we excluded at the time was Las Vegas which was Clark  
3 County. They had their own crime laboratory. Up here in  
4 Reno, Nevada, Washoe County, has our own crime laboratory, so  
5 you have two regional laboratories, one in the south and one  
6 in the north within the State of Nevada.

7 We at Washoe County provided training every year  
8 for crime scene investigation. These were what we call the  
9 CSI units, crime scene investigation units. These are your  
10 patrol officers, your detectives and the outside agencies  
11 where we could not respond in time or didn't have the means  
12 to respond for a crime scene investigation, so we provided  
13 the training for them. This is something that we gave them  
14 an eight-hour course or I'm sorry, a 40-hour course. It was  
15 five days and that was the basic course that we gave them  
16 training for.

17 This course now is also approved through what  
18 they call the POST, POST standard or the acronym, P-O-S-T  
19 that's the police officer standard in training is what it  
20 stands for. This has -- we have to meet the requirements for  
21 peace officers for their training so it was under the  
22 guidelines of the Nevada State POST Academy that we supplied  
23 training for these people provided it.

24 So if fellow -- if we fell within the parameters

1 and the defense?

2 A. I have, yes.

3 Q. When you say in discussing fingerprints, you're  
4 talking about latent prints, what is that?

5 A. Latent fingerprints, latent, the term means  
6 hidden so you have to use various development means to  
7 present a visual aid to where you can see it. This is  
8 developmental stages of a latent print. Once it becomes  
9 visible, it now becomes a visible print, but latent print  
10 means hidden. We have an idea of where it might be so you  
11 apply certain development techniques to try to develop that.  
12 Sometimes you develop it and sometimes you don't.

13 Q. And what is meant -- what is the difference  
14 between a usable print and an unusable print?

15 MR. GREGORY: Your Honor, may I just voir dire  
16 him very briefly regarding his expertise on fingerprints?

17 THE COURT: You may, sir.

18 VOIR DIRE EXAMINATION

19 BY MR. GREGORY:

20 Q. I understand you retired about 11 years ago?

21 A. Ten years ago.

22 Q. Ten years ago, I'm sorry. And you were -- at the  
23 time you were a certified fingerprint analyst for the crime  
24 lab, correct?

1 of what they require and also what we require, this is what  
2 they have to know, basic crime scene investigation and every  
3 year after that, we also provided a refresher course and that  
4 was only an eight-hour course is all that was and that was  
5 just a refresher course to make sure they were still  
6 utilizing the same procedures they were taught and also if  
7 there was any update to those procedures, we provided it to  
8 them at that time.

9 Q. Have you previously testified as an expert  
10 witness in court?

11 A. Oh, yes, I have.

12 Q. Generally where would that be?

13 A. I'm sorry?

14 Q. Generally, where would that be?

15 A. Oh, well, gosh, the only court in the State of  
16 Nevada would be easier would be in Eureka County, I have not  
17 qualified as an expert in that county. All of the other  
18 counties, including this court I have as an expert in the  
19 crime scene investigation and latent fingerprints, also in  
20 ballistic pattern interpretation, also in the State of  
21 California within their court system, both municipal and  
22 superior court level and also with the federal government in  
23 the federal court system in Washoe County.

24 Q. And have you testified both for the prosecutor

1 A. That is correct.

2 Q. Are you still a certified fingerprint analyst?

3 A. No. Once I retired, they didn't have a program  
4 at the time for once we retire, we retire. There was no  
5 means to carry on the certification. And you have to  
6 understand most -- in most of the time, we put 30 plus years  
7 in, most of us did, and we didn't do anything after that. In  
8 other words, we just retired, you know. So like probably  
9 most people should, and so they didn't have a continuing  
10 program for that -- that certification.

11 In other words, every five years through the IAI,  
12 International Association of Identification were retested.  
13 They didn't have --

14 Q. So, sir, you have not retested since then?

15 A. No. They didn't have the -- for retired people,  
16 they didn't have the testing procedure to do that. It was  
17 always done through an agency you worked for.

18 Q. What education courses in regard to fingerprint  
19 analysis have you done since you retired ten years ago?

20 A. The courses?

21 Q. Yes.

22 A. I haven't attended any courses. However, I do --

23 Q. Just answer the question, please.

24 A. Oh.

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1 Q. Have you attended any courses in education?  
2 A. No.  
3 MR. GREGORY: Your Honor, I do not think he's  
4 qualified as an expert in latent fingerprint analysis, and I  
5 would ask that he not be asked questions about fingerprints.  
6 THE COURT: Your objection is overruled. You  
7 will have the opportunity to cross-examine him.  
8 MR. GREGORY: Thank you.  
9 CONTINUED DIRECT EXAMINATION  
10 BY MS. BROWN:  
11 Q. And what -- if a print is found, what is the  
12 difference between a usable print and an unusable print?  
13 A. I think -- I think what you're asking is a usable  
14 prints would be that print for identification purposes. In  
15 other words, it is usable for an identification. A non  
16 usable print which I'm gathering is a print of no value for  
17 identification.  
18 Q. And if it's of no value, what does that mean?  
19 A. It means that it can't be used for identification  
20 purposes.  
21 Q. And are you -- latent prints value the exception  
22 rather than the rule in look and locating fingerprints?  
23 A. They are, yes.  
24 Q. Is that true also on a firearm?

1 latent print to be deposited in the first place. Number one,  
2 you have to understand that we have to secrete certain body  
3 chemicals. On the hand, we -- we perspire.  
4 And what you have to understand on fingerprints,  
5 if we look at our palm or surfaces of our hand, you will  
6 notice that it's a very tight, very special type of skin,  
7 that's called friction skin, and it's made up of furrows and  
8 ridges. At the tops of the ridges are where the sweat bowls  
9 are. Now, there's certain glands biologically that are  
10 within the human anatomy that we secrete perspiration and for  
11 the hand, it's called an endocrine gland and it's underneath  
12 our armpits is where it is.  
13 And so when we perspire, we perspire fatty oils,  
14 amino acids, but it's mixed in with this perspiration and  
15 when we touch an object, we're depositing those items, and  
16 it's only at the tops of the ridges now. It's not in the  
17 furrows. It's only at the tops of the ridges. So what we  
18 get is almost like a mirror image when we touch something  
19 that those sebaceous materials are being deposited. Then  
20 they dry. Sometimes they remain wet for quite a while, it  
21 depends. There's a lot of variables. Humidity is one of  
22 them. Dryness is another one. And the surface that we touch  
23 is a variable. Is it smooth? Is it porous? You know, it  
24 all comes into play here.

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1 A. Are we still talking about the latent print on a  
2 firearm.  
3 Q. Yes.  
4 A. It would fall within the same parameters, yes.  
5 Q. And so is not finding a latent print a value  
6 unusual on a firearm that's being viewed to look for prints?  
7 A. It would -- I'm trying to understand. It would  
8 be --  
9 THE COURT: The question kind of had some double  
10 negatives in it. Why don't you rephrase that question.  
11 MS. BROWN: Thank you.  
12 Q. You said finding usable latent prints is  
13 basically the --  
14 A. Exception.  
15 Q. Yes, is that --  
16 A. That is correct.  
17 Q. And that's true -- is that true of firearms also?  
18 A. Latent prints on a firearm, yes.  
19 Q. And so would the lack of usable for latent prints  
20 of value on a firearm mean somebody had made an attempt to  
21 remove them?  
22 A. You know, could be. You know, that would  
23 certainly, you know, be one of the examples. The other being  
24 that the print just -- there's a lot of requirements for a

1 So -- and with firearms, the difficulty with  
2 firearms is that firearms, they utilize -- when I say they,  
3 people that own firearms normally keep them clean, so to keep  
4 them clean with solids, and that's one of the variables that  
5 we have difficulty with is that the solvents react with the  
6 chemicals that we're perspiring and when we touch that item.  
7 So it's a good surface because it's a nonporous  
8 surface but due to the fact that there's normally some  
9 solvent that are mixed in along with ours, we don't usually  
10 have that much success in developing latent prints on  
11 firearms.  
12 Q. Thank you. When you were teaching or when you do  
13 training classes in crime scene investigation preservation,  
14 what type of materials do you rely on?  
15 A. When you say materials?  
16 Q. Where do you get your information from that you  
17 teach the classes with?  
18 A. Oh, we actually developed a lot of the  
19 information. Some of it is historic as a matter of fact,  
20 that we employ and a number of, you know, texts have been  
21 written regarding crime scene investigation now. Some of  
22 them were back in -- the early ones were actually at the turn  
23 of the century in which we do use a principle. It's called  
24 Locard Principle and that's L-o-c-a-r-d. Dr. --

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1 Q. Let me back you up a second. When -- when you're  
2 teaching -- either back when you were teaching through the  
3 sheriff's department or in any training you do now, is there  
4 a specific kind of course material or outline you try to look  
5 at? What are you focusing on?

6 A. Oh, okay. I'm sorry, I misunderstood the  
7 question you gave me. We do have a plan outline that is  
8 through POST, and we submitted that outline back in the  
9 1980's to the Nevada State POST, and it is an outline that's  
10 I think still being employed today because I just checked on  
11 it not too long ago, and they still use it as their teaching  
12 method for the state academy police officers academy.

13 So we actually wrote that program through the  
14 crime lab, and it was actually it was with the assistance of  
15 the district attorney at the time was Mills Lane for Washoe  
16 County, and it went through his approval also that this is  
17 what needs to be taught and utilized, and so subsequently the  
18 department of justice has written their own version of the  
19 crime scene investigation, and it's almost carbon copied  
20 ours. So and they -- you know, everyone is starting to use  
21 it.

22 THE COURT: Sir, would you be careful just to  
23 listen to the question and answer that question only.

24 THE WITNESS: Okay.

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1 THE COURT: If there's another question, then you  
2 can follow-up.

3 THE WITNESS: Thank you.

4 THE COURT: But let's limit your answers to  
5 questions that are asked.

6 Q. (BY MS. BROWN:) And so the information or kind  
7 of course outline you rely on is developed by you but it's  
8 also similar to department of justice and other agencies  
9 throughout the country; is that correct?

10 A. Yes.

11 Q. And when you're teaching concerning crime scene  
12 investigation, would this include or focus on death  
13 investigations?

14 A. Yes.

15 Q. And in addition to training others in this  
16 background or in this field, have you yourself participated  
17 in the investigation of death investigations?

18 A. Yes.

19 Q. Can you describe that background, just through  
20 the different law enforcement agencies you've worked for?

21 A. With the State of Nevada and California yes.

22 Again, provided the services to various law enforcement  
23 agencies throughout the State of Nevada and when they call  
24 for assistance, then the crime lab responded and supplied or

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1 provided the scene investigation.

2 Also, we had those agencies work along with us  
3 hand in hand. You know, that was part of their -- got good  
4 training portion for them and a refresher if they were  
5 working side by side with.

6 Q. And so in addition to the teaching, you've had  
7 hands-on experience in the field of death investigations?

8 A. Oh, yes.

9 Q. And how long has your active participation been  
10 in that field?

11 A. It's 30 plus years.

12 Q. In being called to the scene of a death  
13 investigation, what is the broad goal of investigators?

14 A. It would be to document, collect and preserve  
15 evidence and analyze the evidence.

16 Q. With what purpose in mind?

17 A. To gain an end result and a determination of how  
18 an individual expired.

19 Q. And in approaching an investigation like this, is  
20 there dangers in reaching conclusions too quickly?

21 A. Oh, of course.

22 Q. Why is that?

23 A. Give a wrong answer.

24 Q. What would be one of the main reasons?

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1 A. Main reason would be, you know, if you didn't  
2 have enough information, then you couldn't provide a proper  
3 answer. I'm trying to grasp the question. You know, the end  
4 result would be if you had an individual that was accused of  
5 a crime and you don't have enough evidence and you give the  
6 wrong conclusion, that individual could, you know, lose their  
7 freedom.

8 Q. And when you're doing -- in working with a death  
9 investigation, what are you trying to determine?

10 A. Well, again, you're trying to determine the cause  
11 and then if there is -- if there is a sequence of events, you  
12 try to prove that through your evidence, and then you try to  
13 provide an answer as to, you know, how this person, you know,  
14 again, expired.

15 Q. Have you seen in your background and experience  
16 suicide cases where there's been multiple gunshot wounds?

17 A. Yes.

18 Q. How many times?

19 A. Just a handful.

20 Q. So it's an unusual circumstance; is that correct?

21 A. It is.

22 Q. Now, going back to the training you provide  
23 concerning crime scene response, what would be the duties of  
24 the initial responder in that case?

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1 A. The first responders have one of the most  
2 critical jobs. In law enforcement, naturally, what's  
3 paramount is officer safety. You have to remember that.  
4 Officer number one has to get there. Same thing with  
5 paramedic units and fire departments, they have to get their  
6 first, and there have been incidents where they get into  
7 traffic accidents and they don't get their first, so you  
8 still have a victim that's at a scene. So the first thing is  
9 officer safety, and you have got to get there.

10 The second thing is upon arrival, you still have  
11 to be extremely aware of your surroundings and how are you  
12 going to approach this? What we teach is that if you can  
13 limit the entry and exit to a crime scene, you have one way  
14 in, one way out. So if an officer gets to the scene first,  
15 naturally, he's concerned about his safety, but he also has  
16 to think about the safety if there's a victim inside. So he  
17 needs to get to the victim. Now, how does he do that?  
18 How does he or she do that? It's difficult because now they  
19 are responsible for crime scene security, plus on top of  
20 their own security and the security of an individual inside  
21 that scene. A lot of responsibility right now, especially if  
22 they are working by themselves.

23 MR. GREGORY: Your Honor, I would object. This  
24 is unresponsive to the question.

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1 THE COURT: Sustained. It's kind of a narrative,  
2 so why don't you ask another question.

3 Q. (BY MS. BROWN:) Who is in charge of the scene of  
4 a death scene initially?

5 A. The first responder.

6 Q. And you're talking within the law enforcement  
7 agency?

8 A. Yes.

9 Q. And what should their focus be with that initial  
10 response?

11 A. Their own safety first and then the safety of the  
12 victim.

13 Q. And if -- what should they do to try to basically  
14 preserve that scene?

15 A. Again, it would be --

16 Q. Initially?

17 A. Initially would be to secure the scene make sure  
18 there aren't any perpetrators around at the scene. That also  
19 falls within the parameters of officer safety and then the  
20 wellbeing of the victim.

21 Q. If trying to guarantee the wellbeing of the  
22 victim, they are obviously going to have to let paramedic  
23 personnel into the house?

24 A. Yes. If you have an injured victim, it would be

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1 the medical response now so that officer needs to, once he's  
2 secured the scene needs to guide those individuals into the  
3 scene.

4 Q. And what is the purpose of guiding them into the  
5 scene?

6 A. You're limiting the distinction of evidence.

7 Q. And other than letting -- I mean, paramedics,  
8 obviously, have to get in. Other than that, what should be  
9 done concerning the number of people entering that scene at  
10 that point?

11 A. You try and keep the number of individuals out of  
12 the scene. You know, people that belong there need to be in  
13 there, your lifesavers, your first responders. Any other  
14 personnel, we suggest that you keep them outside.

15 Q. And what if the paramedics, for example, have  
16 either finished their call or determined they are no longer  
17 needed, what should happen with them?

18 A. The officer in charge should lead them back out.  
19 He needs to get their names and, of course, he can get that  
20 through the dispatch but who responded to the scene, who was  
21 there. He needs to start what we call a crime scene sign-in  
22 log.

23 Q. Okay. And when emergency responders, I'm talking  
24 more the paramedics, are still in a residence or in a scene,

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1 what would be the duty of the first responding officer in  
2 relation to them moving about the scene?

3 A. Well, he needs to be confined -- keep them confined,  
4 you know, as to their job, and their job primary job is to  
5 save a life, to treat an individual so that's what they are  
6 there for. You don't want them unnecessarily walking about a  
7 scene, so he has to make sure that they are doing their jobs  
8 also.

9 Q. And you mentioned previously the Locard  
10 Principle, what is that?

11 A. Dr. Edmond Locard, he was back in the 1870s, I  
12 believe, 1880, at the turn of the Twentieth Century, he was  
13 Frances Sherlock Holmes, and he had written several articles  
14 regarding crime scene investigation. One of them that he  
15 came up with was a theory that evidence is transferrable. So  
16 and that became -- becomes a principle.

17 He proved the fact that when we enter a crime  
18 scene we're actually taking trace evidence, hairs, fibers,  
19 body fluids, whatever into the scene. We actually carry  
20 those into the scene. We transport them there. Any evidence  
21 inside that scene is also transported back out, and he's  
22 right, we do that. Anything we touch, we're transferring our  
23 bodily fluids onto a given item, so that's trace evidence  
24 that's being transferred.

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1 So the Locard Principle is one of the key issues  
2 that we're dealing with is that, yeah, we're transferring  
3 evidence everywhere. So by -- as I said before, limiting  
4 excess into the crime scene, one way in, one way out, we're  
5 limiting that transfer of evidence.  
6 Q. What are the duties of an investigator once the  
7 they assume control over that crime scene?  
8 A. When you say investigator, are you talking about  
9 law enforcement investigators?  
10 Q. Yes.  
11 A. Okay. Their primary duty is to gain, you know,  
12 information that's within the scene that they can start their  
13 investigation with. Contact the officer that's in charge and  
14 that's the first responder. He's still in charge of that  
15 scene until relieved of that duty. So, and that could be a  
16 detective or an investigator can relieve him of that duty.  
17 However, you still need to have control of who is in there.  
18 So you have your crime scene sign-in for. It's still -- it's  
19 present during the entire time at the crime scene, who came  
20 into that scene, what was their purpose, and who left.  
21 Q. And once -- once the paramedics have left, if  
22 it's determined that the person is deceased, what -- what  
23 should be done with the residence or the location of the  
24 crime or the death scene?

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1 A. What should be done at that time, after the  
2 paramedics --  
3 Q. If they are still, yes, anticipating  
4 investigators coming to begin processing evidence?  
5 A. Yes, you should have individuals that are going  
6 to process the crime scene, and they usually work -- I'm  
7 talking about crime scene investigators now. Is that the  
8 question you are asking?  
9 Q. Yes.  
10 A. Crime scene investigators are normally called to  
11 the scene of the crime to collect and observe, document for  
12 evidence. They do their own investigation. This is  
13 primarily their duties. As, again, you might have a  
14 detective that works alongside them or in parallel with them  
15 to see what evidence is being discovered and being collected.  
16 This will aid in their investigation also so the primary  
17 duties of crime scene personnel is to document.  
18 Documentation can be through photography, be through  
19 videotaping. It could be through crime scene drawings with  
20 measurements, that's all documentation of the scene.  
21 Q. And let me interrupt you a minute. Before in  
22 anticipating there's going to be evidence gathered and  
23 collected, who should have access to that residence or crime  
24 scene?

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1 A. The crime scene investigators, the detective in  
2 charge and, of course, you still have, you know, an officer  
3 securing that scene.  
4 Q. Should anybody be in that crime scene that  
5 doesn't have a specific purpose?  
6 A. No.  
7 THE COURT: Ms. Brown, I know you have more  
8 questions of this witness, but it's 10:30, and I think it's  
9 an appropriate time to take our morning break. So we're  
10 going to take a 15-minute break. We'll be back at a quarter  
11 to the hour.  
12 MS. BROWN: Thank you.  
13 THE COURT: Ladies and gentlemen, during this  
14 15-minute recess, you are admonished not to talk or converse  
15 among yourselves or with anyone else on any subject connected  
16 with this trial. You're not to read, watch or listen to any  
17 report of or commentary on the trial or any person connected  
18 with this trial by any medium of information, including  
19 without limitation newspapers, television, radio or internet.  
20 You're not to form or express any opinion on any  
21 subject connected with the trial until the case has finally  
22 been submitted to you. Thank you.  
23 Mr. Billau, you are going to remain under oath.  
24 You are instructed not to discuss your testimony with anyone

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1 other than the three attorneys who are presently in this  
2 room.  
3 THE WITNESS: I understand.  
4 THE COURT: Please be on the stand at a quarter  
5 'til, and we will resume.  
6 Ladies and gentlemen, you need to take the  
7 morning break. Thank you. We're in recess until a quarter  
8 'til.  
9 (Whereupon, a brief recess was taken.)  
10 THE COURT: We're back in session on 14CR0062,  
11 State of Nevada versus Tatiana Leibel. Mr. Gregory is  
12 present. Ms. Brown and Ms. Henry is present. Ms. Leibel is  
13 present, and Mr. Billau is still on the stand. We're going  
14 to bring the jury in.  
15 Thank you, ladies and gentlemen. Have a seat,  
16 please.  
17 Counsel stipulate the presence the jury?  
18 MR. GREGORY: Yes, Your Honor.  
19 MS. HENRY: Yes, Your Honor.  
20 MS. BROWN: Yes, Your Honor.  
21 THE COURT: Thank you.  
22 Ms. Brown, would you proceed, please.  
23 Q. (BY MS. BROWN:) And generally when there's going  
24 to be investigators for example somebody like the Washoe

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1 County Crime Lab would respond to collect evidence at the  
2 scene, what are considerations you need to keep in mind in  
3 the documentation of collection of evidence?  
4 A. Number one, you have to locate the evidence.  
5 Then in consideration with collecting the evidence is the  
6 size of the evidence. You know, how are you going to package  
7 it. How are you going to collect this particular piece of  
8 evidence? And, of course, it's preservation, and that would  
9 be in the packaging and then in the transportation and then  
10 the analysis, the future analysis of that evidence.  
11 Q. What about documentation?  
12 A. Documentation, again, would include photography,  
13 videotaping, measurements, drawings.  
14 Q. And included in documentation, what about keeping  
15 track of the location of the evidence and who handled it from  
16 there on out, how was that done?  
17 A. It's what we call a chain of evidence. In other  
18 words, if you collect the evidence, you generated that  
19 evidence. After that, if anyone handles it, they must sign  
20 onto a document that tells when they received it, the time  
21 they received it, the date they received it and then where is  
22 this evidence going, if it's going to an evidence locker.  
23 You have to have a destination so you know exactly where that  
24 evidence has been at all times.

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1 If someone checks it out and needs to sign onto  
2 that chain again as to when they sign for it, the date and  
3 time and what it's destination was, the person receiving it  
4 on the other end such as the crime lab personnel needs to  
5 sign onto that, stating they received that particular item of  
6 evidence on it particular date and what is the destination  
7 lab exam of some sort.  
8 They have to return that evidence, again, back to  
9 the evidence section and, again, the whole process just keeps  
10 repeating itself until it find either winds up in court or  
11 winds up staying in the evidence section. You know where  
12 that evidence has been at all times.  
13 Q. And what is -- what is the importance of -- you  
14 were talking about documentation. What is the importance of  
15 documentation and everything from the first responder up to  
16 evidence collection?  
17 A. We know exactly what is happened all of time,  
18 from the initial response or even the dispatch order and then  
19 all the way through the end until it either goes to court or  
20 it doesn't. You have to have that documentation.  
21 Q. And what do you mean by documentation?  
22 A. Well, you need to have proof. You need to have  
23 proof of the case.  
24 Q. But what -- what responsibility is there in

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1 documenting everything from the first responder up to?  
2 A. What is the purpose for it, is that what you're  
3 asking?  
4 Q. What are we talking about with documentation  
5 other than you mentioned photographs?  
6 A. So we have a visual record, the documentation,  
7 you have a visual record of what has taken place.  
8 Q. And as to officers, what is -- what would their  
9 need -- how would they document what happened at a scene?  
10 A. Well, they could use it any number of means.  
11 They're naturally with dispatch when they arrive on scene.  
12 They have to tell dispatch that they have gotten there so  
13 that's the documentation, dispatch records.  
14 Q. Sorry, as to reporting so other people can look  
15 back and know what happened?  
16 A. Oh, okay, you have notes. You keep notes, and  
17 then you have to write a report. You have to write a report  
18 on what you did, what you saw, basically, that's --  
19 Q. And basically based on your training and  
20 experience and the protocols you teach in teaching crime  
21 scene investigation, what should be the responsibility of  
22 anyone that enters the scene of a death investigation?  
23 A. They have to sign-in first, and then they also  
24 have to write a report of what their function was, why were

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1 they there. They need to write that report.  
2 Q. Were you asked to review reports and photographs  
3 from this investigation?  
4 A. Yes.  
5 Q. What reports were you asked to review?  
6 A. I reviewed the reports from the crime laboratory,  
7 also some of their notes, some photographs that they had  
8 taken, and I believe that was about it. Also, there was the  
9 crime scene sign-in log. I had reviewed that also.  
10 Q. Did you review reports of officers' activities at  
11 the scene?  
12 A. At the scene I did, yes.  
13 Q. Now, you had previously talked about a principle  
14 called Locard?  
15 A. Yes.  
16 Q. And it has to do with trace evidence either being  
17 carried in or carried out of a scene?  
18 A. That is correct.  
19 Q. If there is an animal, such as a dog present at a  
20 scene, should there be some documentation concerning that  
21 animal's presence?  
22 A. There should be, yes.  
23 Q. And why is that?  
24 A. Well, again, evidence. There's a possibility of

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1 evidence being moved by an animal that's within the scene,  
2 that's fairly great in nature. So you would like to know if  
3 there is an animal in there, if they did serve any evidence  
4 and, again if, the animal is in the crime scene, they are  
5 transferring evidence.  
6 Q. Did you receive any information that there was a  
7 dog present at this scene?  
8 A. Not until later. It wasn't until later.  
9 Initially, I didn't have any information concerning the  
10 animal.  
11 Q. And where did the information concerning the  
12 animal come from?  
13 A. From you.  
14 Q. And that was concerning a 911 call?  
15 A. Yes.  
16 Q. And was there any entry in it -- in the entry  
17 logs?  
18 A. I didn't hear your question.  
19 Q. Was there any information concerning the animal  
20 in the crime scene log-in?  
21 A. No.  
22 Q. I'll show you Exhibit 72. Do you recognize what  
23 this is?  
24 THE COURT: Did you see that, Mr. Gregory?

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1 MR. GREGORY: I did not, Your Honor.  
2 MS. BROWN: I'm sorry, Your Honor.  
3 MR. GREGORY: Thank you.  
4 Q. (BY MS. BROWN:) Do you recognize what this is?  
5 A. Yes, this is a crime scene sign-in log.  
6 Q. Connected with 452 Kent Way?  
7 A. That is correct.  
8 Q. And looking through that, do you see any  
9 information concerning an animal at the scene?  
10 A. There is a mention here. It was approximately at  
11 1844 hours, a person with the last name of Munn, M-u-n-n had  
12 entered the scene to retrieve the dog.  
13 Q. And other than those documentations, was there  
14 any documentation in officers' report or any evidence that  
15 you saw concerning that dog?  
16 A. Not with the reports that I had received.  
17 Q. And showing you what's been marked as Exhibit 73  
18 for identification, do you recognize what is shown in that  
19 photograph?  
20 A. Yes, I do.  
21 THE COURT: Did you show that to Mr. Gregory?  
22 MS. BROWN: I'm sorry, Your Honor.  
23 THE COURT: Thank you, ma'am.  
24 MS. BROWN: Thank you.

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1 Q. And, again, back to Exhibit 73, do you recognize  
2 what is shown in this photograph?  
3 A. Yes, I do.  
4 Q. What is it?  
5 MS. BROWN: Your Honor, I object. This  
6 photograph is not in evidence to my knowledge.  
7 THE COURT: That's correct, it's not in evidence,  
8 so we'll see if she can get it in.  
9 Go ahead and ask your question again.  
10 Q. (BY MS. BROWN:) And can you describe generally  
11 what's in this photograph?  
12 MR. GREGORY: Your Honor, I object. The  
13 photograph is not in evidence.  
14 THE COURT: Sustained.  
15 Q. (BY MS. BROWN:) Is this representative of  
16 photographs of the death scene that you reviewed concerning  
17 this matter?  
18 A. It is.  
19 MS. BROWN: Your Honor, I would offer Exhibit 73.  
20 MR. GREGORY: I object, Your Honor. To my  
21 knowledge, this witness was not on the crime scene, so he  
22 cannot authenticate this particular photograph, so I continue  
23 to object.  
24 THE COURT: He can testify that this is a

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1 photograph that he reviewed to reach some conclusion. Now,  
2 you'll get -- you know, it's limited there in its value  
3 perhaps. We'll see what the defense does with it, but he's  
4 already identified it as something he did review to reach a  
5 conclusion. Therefore, I'm going to admit it, and we'll see  
6 what argument is made about it.  
7 Q. (BY MS. BROWN:) Again, showing you what's been  
8 marked as or admitted as Exhibit 73, is this representative  
9 of the photographs of the crime scene that you reviewed?  
10 A. It is one photograph, yes.  
11 Q. And is it a representative of that same scene  
12 that you viewed in other photographs?  
13 A. I'm sorry, I missed your question.  
14 Q. Is it representative of the main focus of other  
15 photographs you reviewed of this scene?  
16 A. It is, yes.  
17 Q. And in this photograph, obviously, there's what  
18 appears to be blood present at the scene?  
19 A. It appears to be, yes.  
20 Q. And in your review of the photographs concerning  
21 this scene, did you see any paw prints or anything that would  
22 suggest that an animal was present in this room?  
23 THE COURT: Any what or anything? I'm sorry, I  
24 didn't understand the question.

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1 Q. (BY MS. BROWN:) Any paw prints or indications --  
2 THE COURT: Paw prints, thank you. I  
3 misunderstood.  
4 Q. (BY MS. BROWN:) Paw prints or indication that a  
5 dog was present in this scene?  
6 A. I did not notice, no.  
7 Q. And in your review of the laboratory report, did  
8 you see any documentation that any trace evidence was looked  
9 at for this dog?  
10 A. No.  
11 Q. And, again, what -- what type of trace evidence  
12 would you -- if a dog was present when there was a  
13 bloodletting, what type of evidence would you be looking for?  
14 A. To see if the animal was in the blood. Again, it  
15 would be paw print, footprint. Dog hair would be another one  
16 that would be trace evidence, even saliva in the animal.  
17 Q. What type of evidence might be viewed on the dog?  
18 A. Viewed on the dog?  
19 Q. Yes.  
20 A. Again, that would be red staining, most likely  
21 blood. You would look at the paws, even look at the mouth.  
22 Q. In your training and experience, when dogs or  
23 even possibly cats are present in a room where there's  
24 bloodletting, are they attracted to it?

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1 A. Oh, absolutely.  
2 Q. And in your past training and experience, have  
3 you become familiar with process of figuring trajectory?  
4 A. Yes.  
5 Q. And what is trajectory?  
6 A. Well, it's an angle basically is what it is. It  
7 gives us certain degrees of angles, that's a trajectory.  
8 It's a path of an object will give you a trajectory.  
9 Q. What training have you had in this -- in the  
10 field of trajectory?  
11 A. The first time I encountered it was in the mid  
12 1980s when bloodstain pattern analysis became important at a  
13 crime scene. There was a 40-hour course that was provided by  
14 a Dr. Herbert McDonald, who was a physicist with Corning  
15 University.  
16 We've always had this type of pattern at crime  
17 scenes, but we really didn't know what we were looking at  
18 until Dr. McDonald actually presented it to us, and it's just  
19 a basic form of trajectory is what it is. Given the size of  
20 the blood stain, we can actually perform a trigonometry  
21 calculation and obtain an angle, in other words, a degree.  
22 Q. Sorry, backing up from going into bloodstains,  
23 what is -- is there other uses of trajectory at a scene?  
24 A. Oh, absolutely, yeah.

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1 Q. What would that be?  
2 A. One of them would be a projectile analysis within  
3 a crime scene or even outdoors of a crime scene.  
4 Q. And what is the correlation between, okay, you're  
5 looking at the, possibly the angle of the trajectory and the  
6 angle of for example blood spatter?  
7 A. They are both the same.  
8 Q. And what do you mean by that?  
9 A. Well, I mean, the trajectory, it's a path. It's  
10 a path that was taken by an object, whether it be a  
11 projectile, whether it be liquid blood. We're looking at it  
12 as a trajectory, in other words, at a travel area.  
13 Q. You talk about the initial course you had. Have  
14 you received other training in the area of trajectory?  
15 A. That was the basic training and then the other is  
16 just applying that training over a course of time at a number  
17 of crime scenes where we did have bloodletting.  
18 Q. Do you use -- and do you keep familiar with  
19 current changes or trends in that?  
20 A. Oh, yes, yes.  
21 Q. How is that done?  
22 A. That's done through being a life active member of  
23 the IAI. I do receive a scientific periodicals every month  
24 and actually review those all of the time.

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1 Q. What basic principles is the science of  
2 trajectory based on?  
3 A. Mathematics.  
4 Q. And what is it looking at?  
5 A. Trigonometry.  
6 Q. Which would include -- which would include lines  
7 and angles?  
8 A. Oh, yes, absolutely.  
9 Q. Is there another part of trajectory that is --  
10 moves away from the true sciences? Is there a point when it  
11 becomes a subjective interpretation?  
12 A. You can, yes.  
13 Q. Were you asked to review the trajectory of a  
14 projectile in this case?  
15 A. Yes.  
16 MR. GREGORY: Your Honor, I'm going to ask for a  
17 hearing outside the presence of the jury, please.  
18 THE COURT: Okay. All right. I'm going to  
19 excuse the jury for a few minutes. I'm not sure how long  
20 we'll be.  
21 (Whereupon, the admonishment was given to the  
22 jury by the Court not to talk about the case with anyone  
23 until the case is submitted to the jury for deliberation.)  
24 THE COURT: Ladies and gentlemen, I'm going to



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1 ask you to recess to the jury room until the call of the  
2 Court.  
3 Mr. Gregory?  
4 MR. GREGORY: Thank you, Your Honor I appreciate  
5 the opportunity. My concern is this, in the defendant's  
6 notice of expert witnesses, here's what they told us about  
7 the testimony of Mr. Billau, David Billau will testify  
8 concerning crime scene investigation and his review of the  
9 lab photographs and reports prepared in this matter.  
10 Mr. Billau did not provide a report in this case  
11 so that's the extent of the information that was given to the  
12 State regarding his testimony. I'm now hearing things about  
13 trajectory and blood spatter and things like that that, A, I  
14 questioned his expertise in his areas but, B, we were not  
15 provided with information. If he did any kind of experiment  
16 or figuring, it sounds like he did some math perhaps, the  
17 State would ask to be able to see that, but my initial  
18 question is that's not the purpose for which he was offered  
19 as an expert.  
20 THE COURT: Do you have anything like that that  
21 you intend to offer, Ms. Brown, and do you have anything like  
22 that, period?  
23 MS. BROWN: No, Your Honor. No, Your Honor. I'm  
24 not attempting to offer his conclusion. I'm attempting to

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1 offer his review of the information provided from the crime  
2 lab and the photographs concerning trajectory to review if  
3 there was information, sufficient information to prepare a  
4 report.  
5 THE COURT: They didn't offer a report from the  
6 crime lab, so are you telling me that you're going to  
7 question him regarding the methodology that you were provided  
8 and whether that is sufficient to come to a conclusion?  
9 MS. BROWN: Correct.  
10 THE COURT: And I don't think you get to argue  
11 about their report because they didn't offer the report.  
12 MS. BROWN: Not the report.  
13 THE COURT: And I would be careful about saying  
14 that. Tell me again what the notice was.  
15 MR. GREGORY: David Billau will testify --  
16 THE COURT: Sir, would you slow down for me a  
17 little bit, please.  
18 MR. GREGORY: Yes. David Billau will testify  
19 concerning crime scene investigation and his review of the  
20 lab photographs and reports prepared in this matter.  
21 THE COURT: And so if he's not going to offer his  
22 own trajectory, his own calculations, simply he's reviewing  
23 what you provided the defense, your objection is overruled.  
24 MR. GREGORY: I'm good with that. The way he was

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1 going to, he was going to be asked opinions about trajectory  
2 and blood spatter and things like this.  
3 THE COURT: It sounds like he's not but if he has  
4 that stuff and you're going to -- you're not going to ask?  
5 MS. BROWN: No, Your Honor.  
6 THE COURT: All right. Let's bring the jury back  
7 in. My 1:00 o'clock statement to the jury may not be  
8 accurate to the jury, noon. Do you think that's still  
9 accurate?  
10 MS. BROWN: I'm going to wrap up here quickly.  
11 THE COURT: You don't have to. Maybe we'll just  
12 keep going until we get done for the day.  
13 (Whereupon, the jury was brought back in open  
14 court.)  
15 THE COURT: Ms. Brown, your next question,  
16 please.  
17 Q. (BY MS. BROWN:) You were asked to review --  
18 THE COURT: Wait a minute. Will counsel  
19 stipulate the presence of the jury?  
20 MR. GREGORY: Yes, Your Honor.  
21 MS. BROWN: Yes, Your Honor.  
22 THE COURT: Now go ahead.  
23 Q. (BY MS. BROWN:) You were asked to review  
24 documentation provided by the Washoe County Crime Lab

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1 concerning their measurements and documentation of the scene;  
2 is that correct?  
3 A. That is correct.  
4 Q. Were you also provided information concerning the  
5 ballistics that was done at the scene or done later by  
6 investigator or, yeah, Investigator Noedel?  
7 A. Yes.  
8 Q. And as part of your review, did you also have an  
9 opportunity to visit or look at other pieces of evidence in  
10 this case?  
11 A. Yes, I did.  
12 Q. Did you go to the house at 452 Kent Way?  
13 A. I did.  
14 Q. Do you recall when that was?  
15 A. Several weeks ago.  
16 Q. Was there -- was the couch we've been talking  
17 about still present at the scene?  
18 A. No.  
19 Q. Were you able to at one point view the couch?  
20 A. I was, yes.  
21 Q. And where did that occur?  
22 A. That occurred here at the Douglas County  
23 Sheriff's Office in their evidence section.  
24 Q. Do you recall when that was?

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1 A. Last Friday, I believe.  
2 Q. What was -- did you view anything that was  
3 defective with the couch at that time?  
4 A. Yes, I did.  
5 Q. What was that?  
6 A. That was the seat back on the couch. As you're  
7 facing the couch, it would be the left seat back was -- had  
8 either broken or fallen apart. And as a matter of fact, we  
9 actually got it back into place.  
10 Q. Were you also able to observe a piece of drywall  
11 that had been with an apparent hole in it?  
12 A. That is correct.  
13 Q. Showing you Exhibit 107, was that one of the  
14 documents you were provided by the Washoe County Crime Lab  
15 information?  
16 A. It is, yes.  
17 Q. What does that represent?  
18 A. It's a crime scene drawing from the living room  
19 area showing the decedent.  
20 Q. And does this diagram in Exhibit 67 indicate  
21 whether or not it's to scale?  
22 A. I don't believe so.  
23 Q. So it's not to scale?  
24 A. That is correct.

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1 Q. And when you went to view the residence at 452  
2 Kent Way, was this only the information that had been  
3 provided concerning the crime scene at that time?  
4 A. That is correct.  
5 Q. And showing you Exhibit 100, do you recognize  
6 that?  
7 A. I do.  
8 Q. And what's that?  
9 A. This is a detailed sketch, including measurements  
10 of the same area of the living room and dining area of the  
11 residence.  
12 THE COURT: What number is that, please?  
13 MS. BROWN: 100.  
14 THE COURT: Thank you.  
15 Q. (BY MS. BROWN:) And showing you Exhibit 101, do  
16 you recognize that?  
17 A. Yes, I do.  
18 Q. What is that?  
19 A. This is, again, another crime scene drawing with  
20 measurements showing the view of the sofa, couch area,  
21 looking at it, in other words, a direct view. Instead of an  
22 overhead view, you're looking directly at the couch and the  
23 table next to it.  
24 Court's indulgence.

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1 THE COURT: Take your time, ma'am.  
2 Q. (BY MS. BROWN:) Showing you Exhibit 27, is that  
3 one of the photographs you examined in connection with the  
4 trajectory?  
5 A. It is.  
6 Q. And Exhibit 28, is that also one of the  
7 photographs you reviewed?  
8 A. It is, yes.  
9 Q. And Exhibit 29 --  
10 THE JUROR: Can I get you to speak up just a  
11 little bit.  
12 Q. (BY MS. BROWN:) Exhibit 29?  
13 THE COURT: She's given him 27, 28 and 29.  
14 THE WITNESS: I have viewed this one, yes.  
15 Q. (BY MS. BROWN:) Again, showing you Exhibit 67,  
16 you indicated this was one -- this was the initial diagram  
17 that you viewed at -- from the crime lab that you reviewed in  
18 connection with your review in this case?  
19 A. It is, yes.  
20 Q. And at the time you went to view the residence at  
21 452 Kent Way, was this the only information you had  
22 concerning other than the photographs concerning the location  
23 of items at this residence?  
24 A. It is, yes.

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1 Q. And this diagram had represented it was not to  
2 scale; is that correct?  
3 A. That is correct.  
4 Q. And we consistently received -- showing you  
5 Exhibit Number 100, again, what is this?  
6 A. This is a drawing, an overhead view of the living  
7 room, dining room area showing items within there and also  
8 measurements thereof.  
9 Q. And at the time you went to visit the residence,  
10 had we been provided with this document?  
11 A. No.  
12 Q. And with Exhibit 101, what's that?  
13 A. This is, again, a diagram of the sofa, showing  
14 the sofa and the end table next to it, also with  
15 measurements, and this is looking from the ground floor  
16 directly at the items.  
17 Q. And, again, have we received Exhibit 101 by the  
18 time you went to view the residence?  
19 A. No.  
20 Q. And when did you go to the residence?  
21 A. It was approximately three weeks ago.  
22 Q. And at that time, in addition -- excluding the  
23 ballistics reports from Officer Noedel or Mr. Noedel from the  
24 Washoe County Crime Lab, had you received any information

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1 concerning his conclusions in this case?  
2 A. No.  
3 Q. And showing you Exhibit Number 27, do you  
4 recognize that?  
5 A. I do.  
6 Q. And what is that?  
7 A. This is a view of the back of the sofa area and  
8 the wall directly behind that sofa. You also see what is a  
9 probe that's been placed through the sofa cushion back and  
10 entering -- touching the wall behind it, and it shows  
11 approximately, let's see -- approximately 18 inches up from  
12 the floor is where this probe showing the trajectory of this  
13 probe is 18 inches above the floor.  
14 Q. And at this point in the photograph, is that  
15 trajectory rod lining up with the hole in the wall?  
16 A. No.  
17 Q. Showing you Exhibit 28.  
18 A. This, again, is a view of the sofa back with the  
19 probe, and now it's approximately ten and a half inches to 11  
20 inches up from the flooring, and it shows the probe in line  
21 with the hole in the wall.  
22 Q. And concerning Exhibit Number 100 or Exhibit  
23 Number 101, just reminding you, I'm showing you Exhibit  
24 Number 100 and Exhibit Number 101, was there any reporting

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1 that you were aware of provided by the crime lab that had  
2 information concerning how the sofa was manipulated in order  
3 to get the difference between Exhibit Number 27 and Number  
4 28?  
5 A. No, there wasn't.  
6 Q. And why would that information be important?  
7 A. Well, if you manipulate evidence, then obviously  
8 you're going to come up with various answers.  
9 Q. Were you later provided information concerning  
10 trial testimony that was in reference to how that -- those  
11 two -- that trajectory line was made to line up with that  
12 hole in the wall?  
13 A. I was.  
14 Q. And what was that?  
15 A. That --  
16 MR. GREGORY: Objection, hearsay.  
17 THE COURT: Response?  
18 MS. BROWN: It's the information that he was  
19 provided in an attempt to make conclusions.  
20 MR. GREGORY: The only information that should be  
21 relevant is information that came from this witness stand  
22 that these jurors were able to hear.  
23 THE COURT: Are you asking him if he has reviewed  
24 certain trial testimony?

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1 MS. BROWN: That he -- that he received some  
2 trial testimony concerning how the couch was manipulated in  
3 order to make that trajectory line up with that hole.  
4 THE COURT: I'm going to allow it.  
5 Q. (BY MS. BROWN:) And what was that?  
6 MR. GREGORY: I would just ask in what manner he  
7 received testimony.  
8 THE COURT: You'll get to cross-examine him.  
9 Q. (BY MS. BROWN:) Was that information provided by  
10 me?  
11 A. It was.  
12 Q. And what was it?  
13 A. It was that an individual had sat in the couch.  
14 MR. GREGORY: Your Honor, I object to Ms. Brown's  
15 testimony.  
16 THE COURT: You'll get to cross-examine him.  
17 Q. (BY MS. BROWN:) Go ahead.  
18 A. Again, it was information I received from you  
19 that an individual had sat in the couch and able for the  
20 probe to line up to the hole.  
21 Q. And, again, was there any documentation you  
22 received from those crime lab notes indicating that is how  
23 that result was achieved?  
24 A. No.

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1 Q. Based on your review of the reports and evidence  
2 available in this case, were you able to reach any  
3 conclusions concerning trajectory?  
4 MR. GREGORY: Objection, Your Honor, as we  
5 discussed.  
6 THE COURT: Ms. Brown, I think that's outside the  
7 scope of the notice.  
8 MS. BROWN: I don't think so, Your Honor. If  
9 there's --  
10 THE COURT: It's not allowed.  
11 MS. BROWN: Excuse me?  
12 THE COURT: It's not allowed. You may be able to  
13 rephrase that question but that question is not allowed.  
14 Q. (BY MS. BROWN:) In your view of the  
15 documentation and photographs that had been provided  
16 concerning study or this trying to document trajectory, was  
17 there enough information that was provided from the Washoe  
18 County Crime Lab that enabled you to do anything in regard to  
19 that? Could you make a conclusion based on the information  
20 that you were provided concerning trajectory?  
21 A. I cannot.  
22 Q. And what was the deficiency in receiving this  
23 information? What did you need?  
24 A. I needed more information.

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1 Q. And that would be the information from initial  
2 investigators on the scene; is that correct?  
3 A. That is correct.  
4 Q. Was that information documentation concerning  
5 this investigation lacking in that case?  
6 A. I feel it was, yes.  
7 Q. And concerning your other investigation at the  
8 crime or reviewing the reports and documentation concerning  
9 the crime scene, did you see other deficiencies in  
10 documentation or in handling of the evidence?  
11 A. There were several points, yes.  
12 Q. Such as?  
13 A. Well, one, the number of individuals in the  
14 scene.  
15 Q. And, again, why is that important?  
16 A. Again, we go back to Locard's Principles. All of  
17 the cross contamination that's taken place with evidence  
18 entering and on the crime scene. Also, the documentation of  
19 the description of the photographs being taken, there was a  
20 lack thereof, what were these photographs, and it appeared in  
21 the photographs that I -- that I looked at that items had  
22 been moved and it's based on their photographs and  
23 measurements that they provided at the scene.  
24 Q. And at a crime scene, in the course of necessity,

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1 sometimes things need to be moved, for example, to offer  
2 first responders access to the victim?  
3 A. That is correct, that happens.  
4 Q. And what should be done if an item of evidence is  
5 moved?  
6 A. It needs to be documented that it had been moved.  
7 Q. And other than a reference to the coffee table,  
8 was there any documentation concerned in this case concerning  
9 movement of the items?  
10 A. I'm sorry, can you repeat the question again.  
11 Q. There was a documentation in one officer's report  
12 of a coffee table being moved so paramedics had access to  
13 Mr. Leibel; is that correct?  
14 A. I recall that, yes.  
15 Q. You testified that some items of evidence in  
16 photographs seem to have been moved. Was there any  
17 documentation concerning that?  
18 A. No.  
19 Q. Thank you. I have nothing further.  
20 THE COURT: Mr. Gregory?  
21 MR. GREGORY: Thank you, Your Honor.  
22 CROSS-EXAMINATION  
23 BY MR. GREGORY:  
24 Q. Sir, you just got done talking a lot about

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1 importance of documenting?  
2 A. Correct.  
3 Q. Officers are supposed to do reports, correct?  
4 A. Yes.  
5 Q. Investigators do reports, correct?  
6 A. Yes.  
7 Q. And the expert personnel should do reports?  
8 A. Yes.  
9 Q. Did you do a report in this case?  
10 A. No, I did not.  
11 Q. Thank you. In any of the photographs that you  
12 reviewed, did you see bloody dog prints all over the place?  
13 A. Not in the photos I reviewed.  
14 Q. And you're not going to tell me today the dog did  
15 it, are you?  
16 A. No, I don't think so.  
17 Q. Nothing further.  
18 REDIRECT EXAMINATION  
19 BY MS. BROWN:  
20 Q. And the reason you didn't do a report in this  
21 case?  
22 A. Well, you didn't request one.  
23 Q. Was there anything to report concerning  
24 trajectory in your review of it?

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1 A. No.  
2 Q. Could you reach any conclusions?  
3 A. No.  
4 Q. Thank you. I have nothing further.  
5 MR. GREGORY: Nothing further, Your Honor.  
6 THE COURT: Sir, thank you for being here. You  
7 may step down.  
8 (Witness excused.)  
9 THE COURT: Do you need him to remain subject to  
10 call of the Court?  
11 MS. BROWN: No, Your Honor.  
12 MR. GREGORY: No, Your Honor.  
13 THE COURT: Sir, you are finally released. Thank  
14 you.  
15 THE WITNESS: Thank you.  
16 (Witness excused.)  
17 THE COURT: Ms. Brown?  
18 MS. BROWN: Those are the witnesses I have to  
19 present today, Your Honor.  
20 THE COURT: So now we run up against that travel  
21 issue and --  
22 MS. BROWN: Yes.  
23 THE COURT: -- so we're going to recess the  
24 balance of today until Wednesday at 1:00 o'clock. So much to

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1 your delight, you'll be able to go to work, ladies and  
2 gentlemen, until Wednesday at 1:00 o'clock.  
3 (Whereupon, the admonishment was given to the  
4 jury by the Court not to talk about the case with anyone  
5 until the case is submitted to the jury for deliberation.)  
6 THE COURT: You are excused until Wednesday at  
7 1:00 o'clock. Thank you. We'll be in recess.

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1 CAPITOL REPORTERS  
2 515 W. Fourth Street, Suite B  
3 Carson City, Nevada 89703  
4 775-882-5322

5 THE NINTH JUDICIAL DISTRICT COURT  
6 IN AND FOR THE COUNTY OF DOUGLAS

7 STATE OF NEVADA, Case No. 14-CR-0062  
8 Plaintiff,  
9 Vs. Dept. No. 1  
10 TATIANA LEIBEL,  
11 Defendant.

12 AFFIRMATION  
13 Pursuant to NRS 239B.030

14 The Undersigned does hereby affirm that the following  
15 document DOES NOT contain the social security number of any  
16 person: (List of document(s) attached below)

17 1) Trial -- 2/2/15

18 -or-

19 The undersigned does hereby affirm that the document  
20 named below DOES contain the social security number of a  
21 person as required by state or federal law or for the  
22 administration of a public program or for an application for  
23 a federal or state grant: (List of document(s) attached  
24 containing social security number information below)

1) \_\_\_\_\_  
2) \_\_\_\_\_

(Your signature) \_\_\_\_\_ (Date) 6/8/15

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1 STATE OF NEVADA, )  
2 CARSON CITY. ) ss.

3  
4 I, KATHY JACKSON, Nevada Certified Court Reporter  
5 Number 402, do hereby certify:

6 That I was present in the District Court in Minden, in  
7 and for the State of Nevada, on February 2, 2015, for the  
8 purpose of reporting in verbatim stenotype notes the  
9 within-entitled Hearing;

10 That the foregoing transcript, consisting of pages 1  
11 through 90, is a full, true and correct transcription of said  
12 Hearing.

13  
14 Dated at Carson City, Nevada, this 8th day  
15 of June, 2015.

16 *Kathy Jackson*

17 KATHY JACKSON, CCR  
18 Nevada CCR #402  
19  
20  
21  
22  
23  
24

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