

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,

Appellant,

vs.

TATIANA LEIBEL,

Respondent,

Electronically Filed
Aug 30 2022 04:03 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

RECORD ON APPEAL

VOLUME 15

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PAGES 2076-2210

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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The second shot that struck Harry Leibel was the "four stacked 000 pellets in a plastic wad" shotgun shot. This shot consisted of a linear stack of four pellets surrounded by a white plastic wad. After perforating the back of Harry Leibel's left hand (a portion of the plastic wad was retained in his left hand) the stack of pellets eclipsed the top of his left shoulder, continued into and through the back of the couch, exited and re-entered into the wall (see figure 9).

- By connecting the hole through the couch with the fixed perforation in the wall behind the couch, the path of this shot can be measured. The measured path reveals that the horizontal aspect of this shot (that is the left/right angle) was approximately 55 degrees (out from the left as one faces the couch). The vertical aspect (that is the up/down angle) was approximately 25 degrees downward.
- Because the seat occupied by Harry Leibel was a recliner (the seat back moved up and down to sit up or recline), the straight line path of this shot could only be connected when the seat was reclined approximately half way back. Therefore, at the time of the second shot, the recliner was neither sitting up-right nor lying flat; it was approximately in the middle position of the reclining range (see figures 10, 11 and 12).

Reconstruction Elements

The report prepared by Douglas County Sheriff's Office Officer B. Williamson included a summary of the information provided by Tatiana Leibel in response to what had happened at the residence as follows:

"While she was in the kitchen, Tatiana said she heard a loud "boom" which she described as a gunshot. Tatiana returned to the living room and saw Harry holding the rifle while he was seated on the couch. She said Harry was holding the stock and trigger of the rifle with his right hand. With his left hand, Harry was directing the barrel of the gun toward his torso. Tatiana said she could not remember exactly where he was aiming it. Harry then looked at Tatiana, Tatiana said she covered her eyes with her hands. While her hands were over her eyes, she heard another "boom". Tatiana said when she opened her eyes, the gun had fallen across Harry's lap and it was evident he had shot himself."

This description of events indicates that Harry Leibel shot himself two times--first into his right side and a second time through his left hand, shoulder and couch. For this to be true the following considerations must be evaluated:

The first shot entered Harry Leibel's right side through his robe when the end of the rifle was a distance of approximately 2 to 6 inches away from the robe. To achieve this stature, Harry Leibel would have had to extend his right arm to its approximate maximum extension while accessing the trigger with his right thumb. While extended, his left arm would have to be elevated along the path of the angle (see figure 13). In this orientation, his left hand cannot be used to stabilize or support the firearm. In addition, because the shot into his side maintains an upward path, Harry would have to be leaning toward his left so as to NOT be obstructed by objects on the side table or the arm of the chair.

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- The distance from Harry Leibel's right armpit to his right thumb was measured at autopsy to be approximately 22 inches. Measuring the actual rifle reveals that the distance between the end of the gun and the trigger is approximately 22 inches (see figure 14). However, adding approximately 3 inches (for the distance between the robe and the end of the gun) would require Harry to reach approximately 25 inches away to discharge the rifle. This distance, while not anatomically impossible, is just beyond the normal reach for Harry Leibel to have delivered this shot into himself (see figure 15).

The second shot entered Harry Leibel's left hand when the end of the rifle was approximately 3 inches away from the back of his hand. The same reach considerations of Harry Leibel's right arm must still be maintained (that is the shot must occur at or just beyond Harry Leibel's maximum reach). In addition, this shot must be delivered along the path known to be associated with the shotgun round (approximately 55 degree horizontal and 25 degree downward). Therefore, the top of Harry Leibel's left shoulder must be just at the entry point into the back of the couch identifying that he cannot be sitting "upright" rather he must be slouched down to keep his shoulder low enough for the shot to eclipse his shoulder and continue downward (see figure 16).

- It is important to note that for this shot (as with the first shot) the left hand cannot be used to support or stabilize the end of the firearm. For the two shots to be self-inflicted, Harry Leibel would have to extend his right arm to its maximum, hold and operate the shotgun, change position between the two shots and manually re-cock the firearm after the second shot.
- In addition, the distance between Harry Leibel's left hand and shoulder remains unknown for the second shot. The farther away the left hand is from the shoulder, the more unreasonable the shot becomes as the left hand can remain "in-line" and be far enough away from the shoulder to make the trigger unreachable by his right hand.
- This design of firearm (the Rossi/Taurus Circuit Judge) has a revolving cylinder that can be a source of gunshot residue that ejects sideways out of the gun. If the gun were parallel to Harry Leibel's right arm at the time of either discharge, these cylinder gap residues could be deposited onto his forearm approximately 4 to 5 inches up from his wrist. No such residues were apparent on Harry Leibel's arm.
- When the firearm was recovered, it was identified that the gun had been manually cocked to single action after the second shot. If the first two shots were self-inflicted then Harry Leibel would have to have cocked the gun after already receiving the fatal first shot, and after the second shot.

Alternative Consideration

Provided that *only* Harry and Tatiana Leibel were present in the residence at the time of the two shots, the only alternative to Harry Leibel having shot himself was for him to have been shot by Tatiana Leibel. Considering that Harry Leibel was located in the left recliner chair during the entire event

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requires the shooter to have been positioned with the end of the gun approximately 2 to 6 inches from Harry's side for the first shot (while his left arm was elevated) and approximately 3 inches away from his left hand, pointing downward and from left to right for the second shot. Figures 17, 18 and 19 show the orientation that fits with these descriptions.

- For both shots to be delivered from a person forward of Harry requires that either the person must move, Harry must move or a combination of both moving at the same time had occurred.
- The downward angle documented for the second shot can be easily achieved by an individual holding the gun from a standing (or generally upright) position.
- The distances required for both shots can easily be achieved by an individual holding the gun from a standing (or generally upright) position in front of Harry Leibel.

Conclusions

Harry Leibel was shot twice from close range while he was seated on the left recliner of the upstairs couch.

After the second shot, the rifle was manually cocked which would have allowed a third shot to be delivered in single action (but no third shot was delivered).

The sequence of the two shots can be identified as follows:

- the first shot traveled right to left originating at the right belt loop of his robe when the end of the rifle was approximately 2-6 inches away
- the second shot traveled generally front to back and downward originating when the end of the gun was approximately 3 inches from the back of his left hand

Harry Leibel's left arm must be elevated and in-line with path of the projectile for the first shot and elevated between his left shoulder and the end of the rifle for the second shot.

Harry Leibel's left hand was not used to support or control the end of the rifle for either shot.

Given the length of the rifle and the documented length of his right arm and hand, the trigger would be located just beyond the maximum extension of Harry Leibel's reach for each shot.

For a shooter other than Harry Leibel to deliver the two shots they can achieve the required distances and angles by shooting first when Harry Leibel was positioned reclined and with his left hand supporting his head and then having Harry Leibel rotate to his left while bringing his left hand forward during the second shot.



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The physical evidence (including the length of the rifle, the length of Harry Leibel's right arm, the distance of each shot, the angle of each shot, the orientation required for each shot and the re-cocking of the hammer after the second shot) best supports that Harry Leibel did not shoot himself during this event.

Matthew Noedel, Forensic Scientist

January 15, 2015

Date

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452 Kent Way: Upstairs Living Area

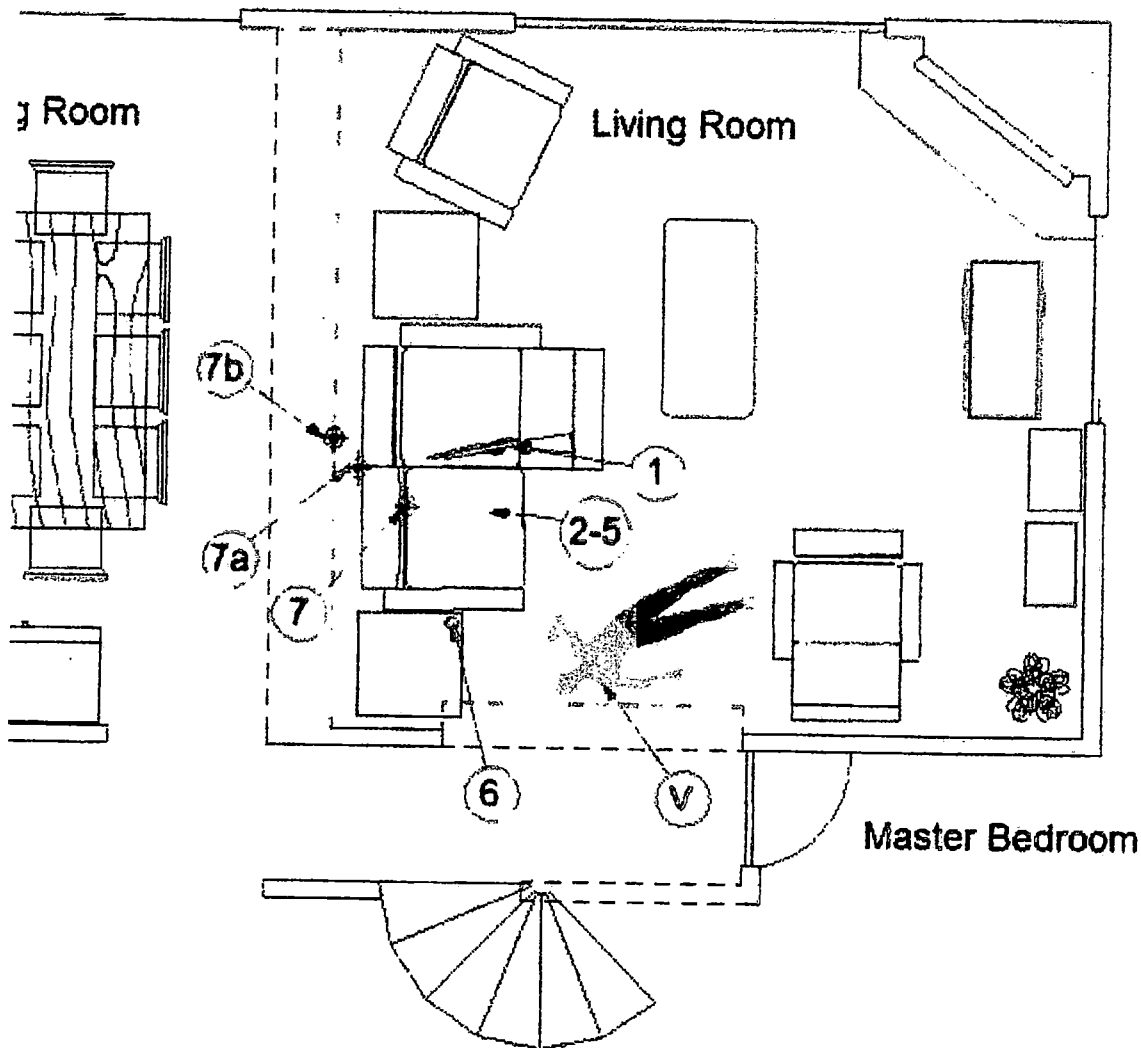


Figure 1: Sketch of the living room area as documented by initial scene responders.

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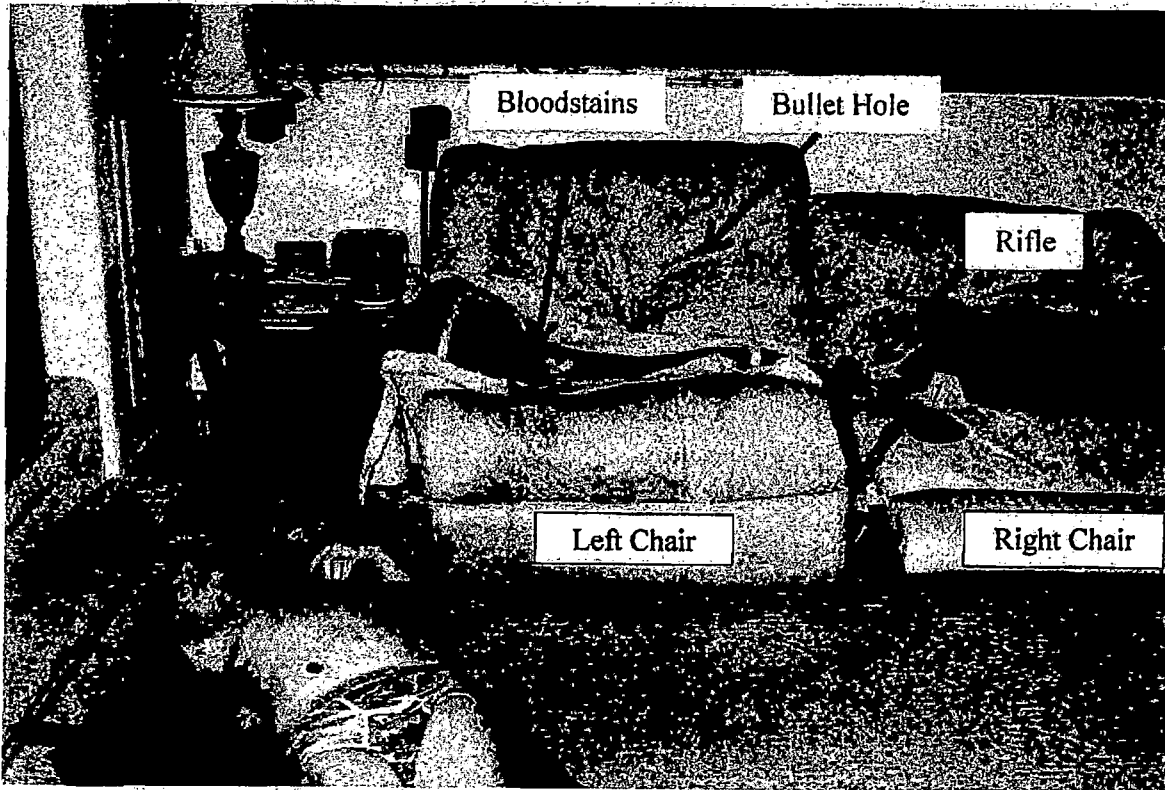


Figure 2: Scene photograph depicting the appearance of the scene upon initial investigation. Note the location of the rifle, blood on the blanket, a hole through the seat back and objects on the side table.

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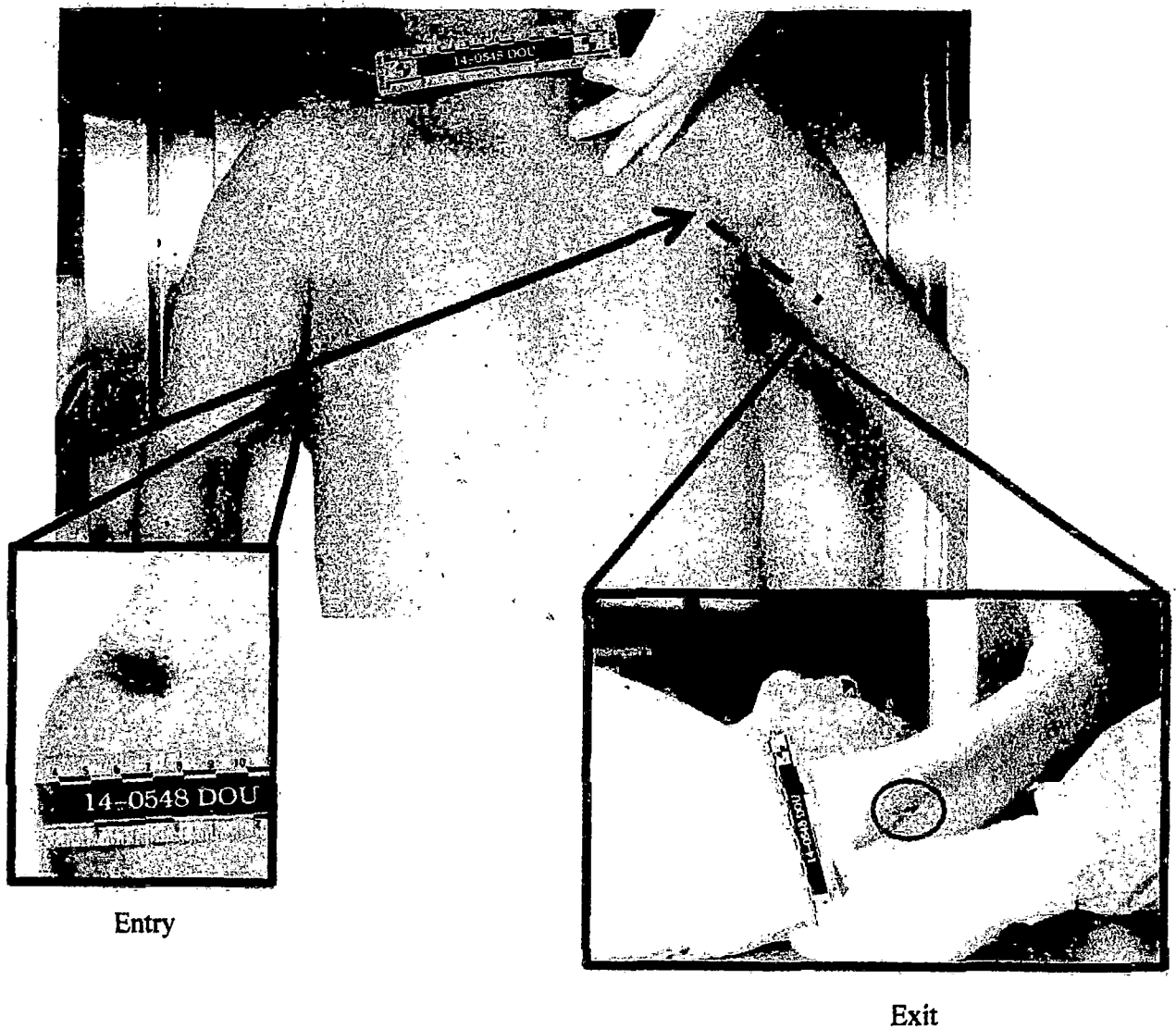


Figure 3: First gunshot wound path entered at the right side (right arm was not struck) and traversed upward through the body and into the left arm. A small exit of a fragment occurred out the upper left arm.

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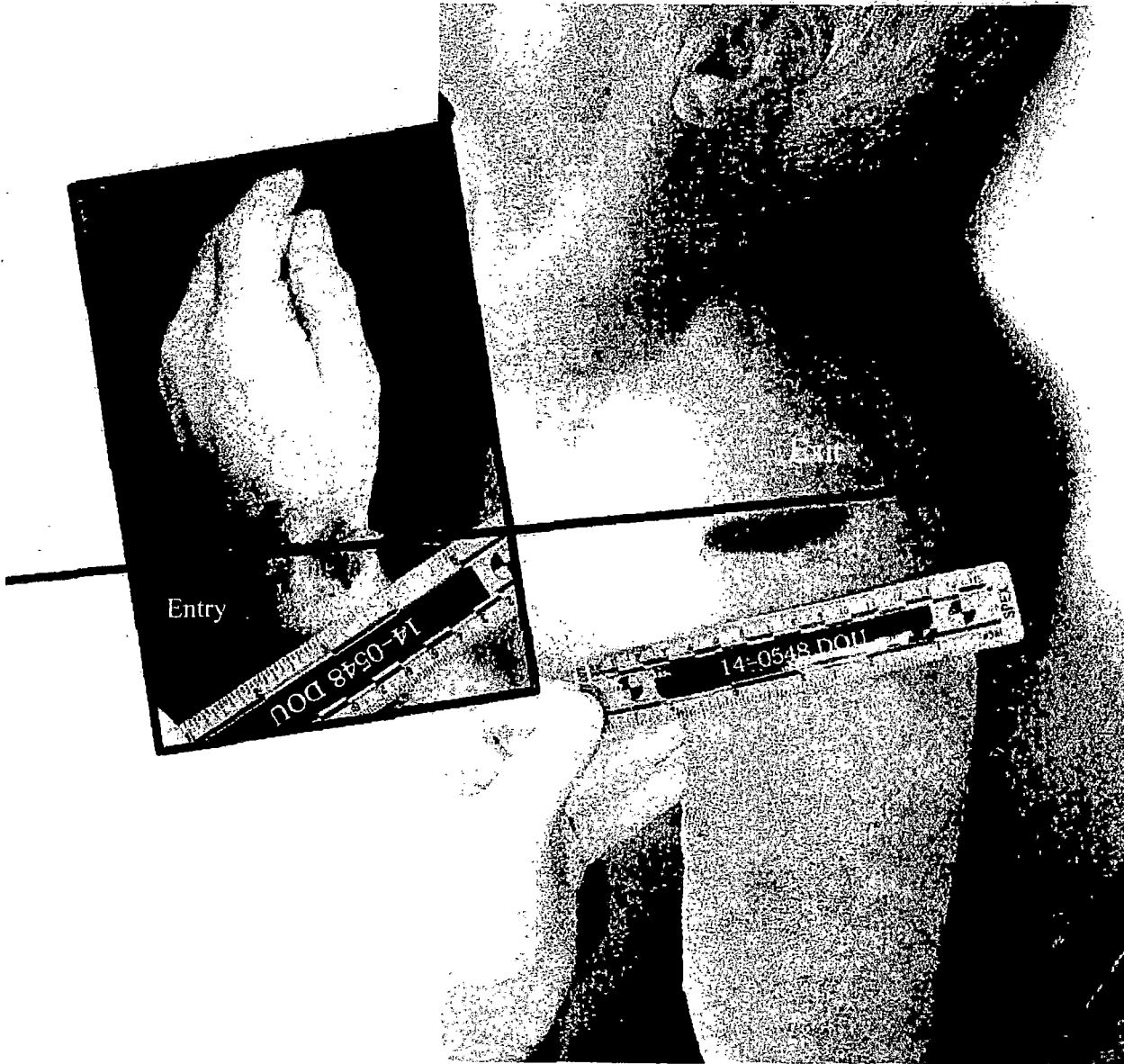


Figure 4: Second gunshot wound from a 4 pellet shotgun load—through the left hand, eclipsing the left shoulder and continuing into the couch behind Harry Leibel.

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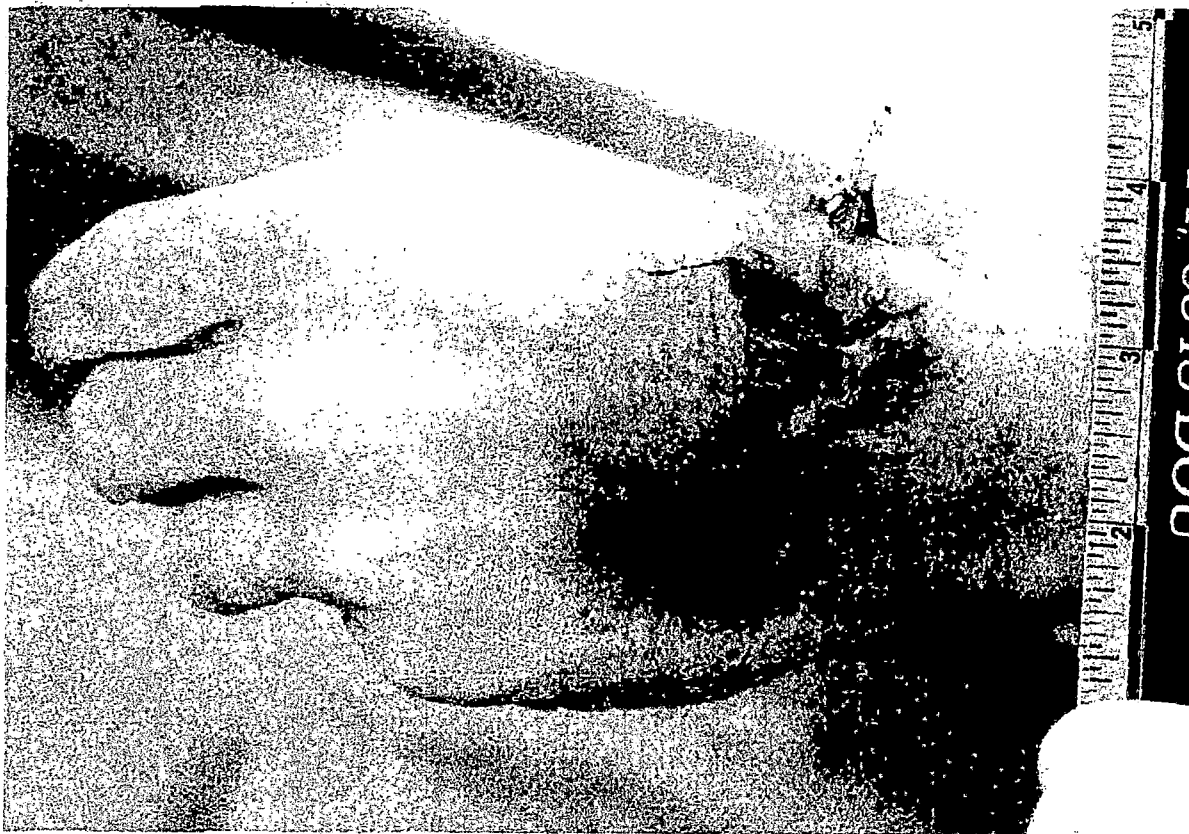


Figure 5: Close up image of the left hand showing the heavy soot and portion of plastic wad. The plastic wad identifies this shot as having been from the shotgun load.

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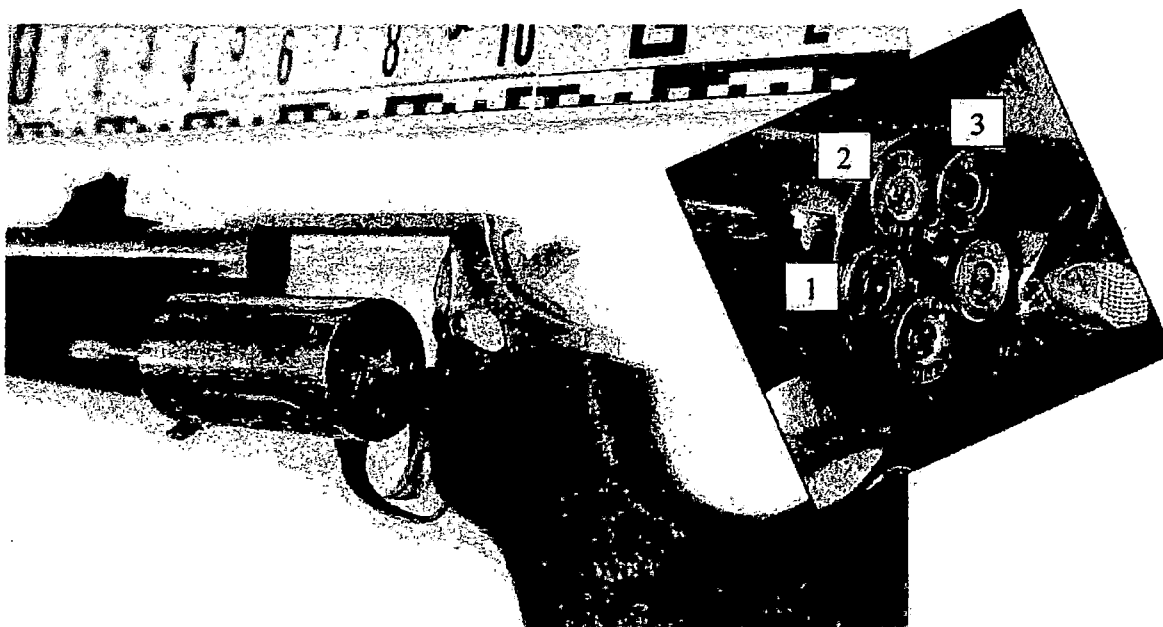


Figure 6: Image of revolving Rossi/Taurus rifle with the inset demonstrating the appearance of the cylinder while unloading at the scene. This firearm cylinder revolves counterclockwise which identified the sequence of the shots:

1. First shot—"Extreme Shock" 45 Colt
2. Second shot—"410 shotshell; 4 pellet of 000 Buck
3. Next round (not fired)—"Extreme Shock" 45 Colt

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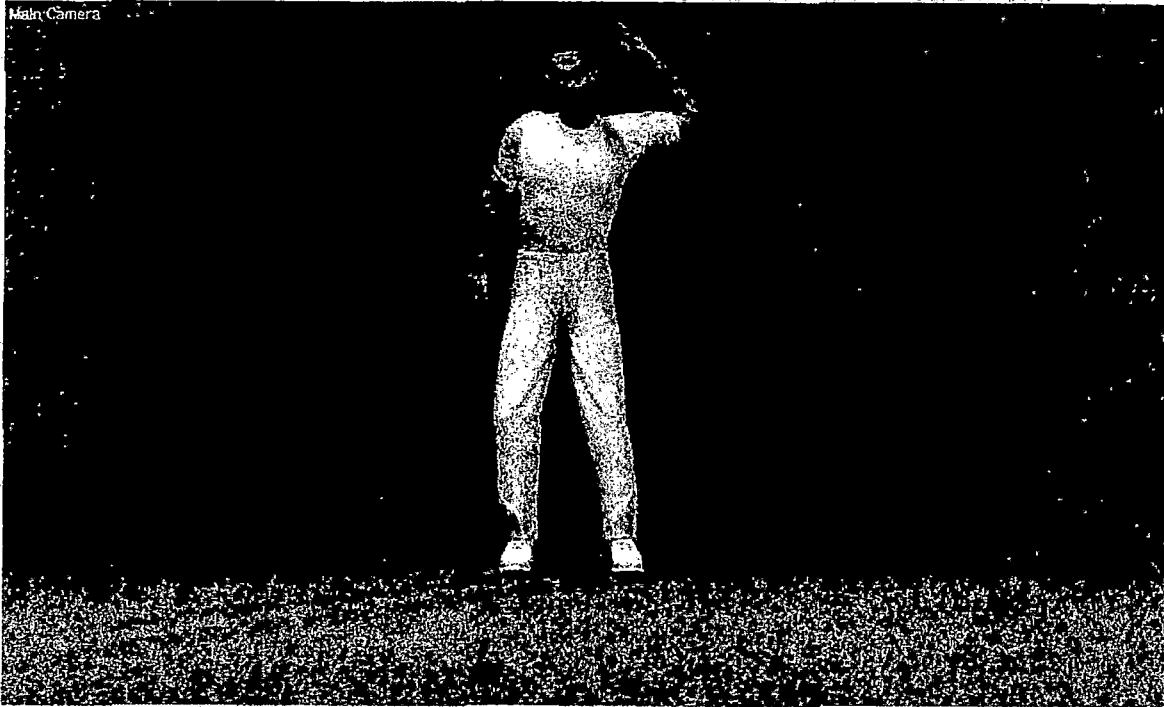


Figure 7: Diagram depicting the approximate path of the first shot into Harry Leibel. This shot entered his right side and travelled upward through his body into his left arm.

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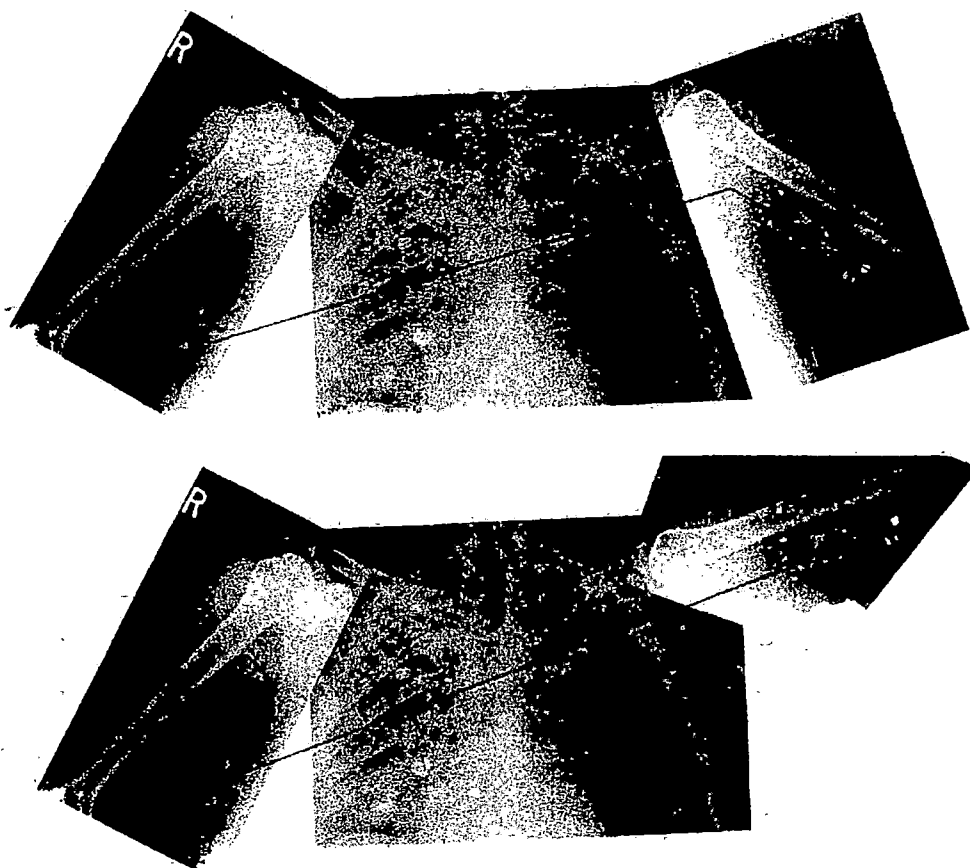


Figure 8: Three x-rays aligned in approximate anatomical positions. The upper series shows the left arm down; the lower series shows the left arm up. Because the projectile fragments are not expected to make a 90 degree turn while in the body, the lower image (arm up) best fits with the position of Harry Leibel's arm at the time of the first shot.

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Figure 9: Diagram depicting the approximate path of the second shot into Harry Leibel. This shot entered the back of his left hand, exited and continued to eclipse the top of his left shoulder. The pellets continued through the couch and into the wall behind the couch.

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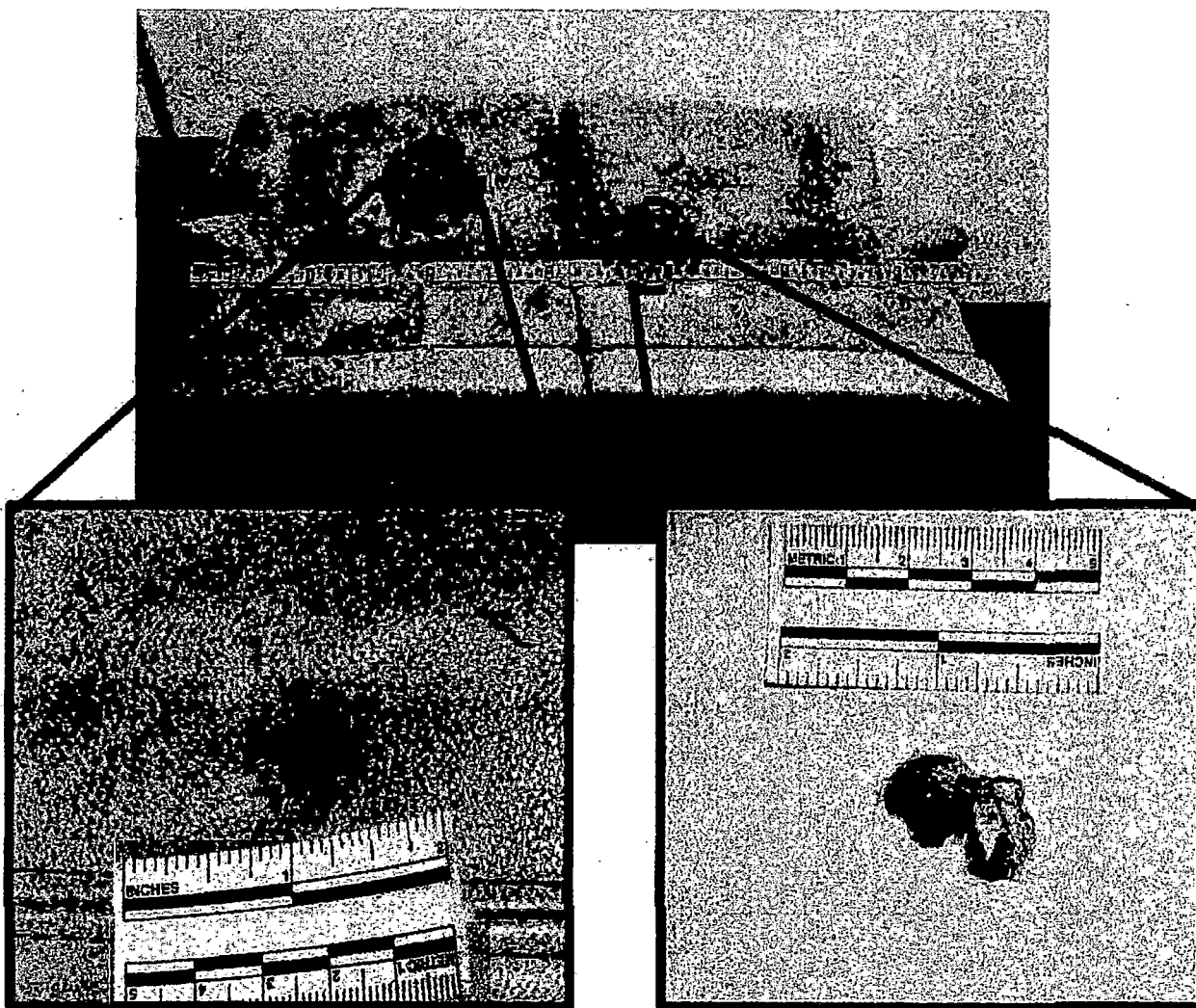


Figure 10: The couch and associated defects. Note the fibers from the robe and shirt displaced around the entry hole in the seat back of the couch. The image on the right shows the entry into the wall behind the couch by the four pellets from this shot.

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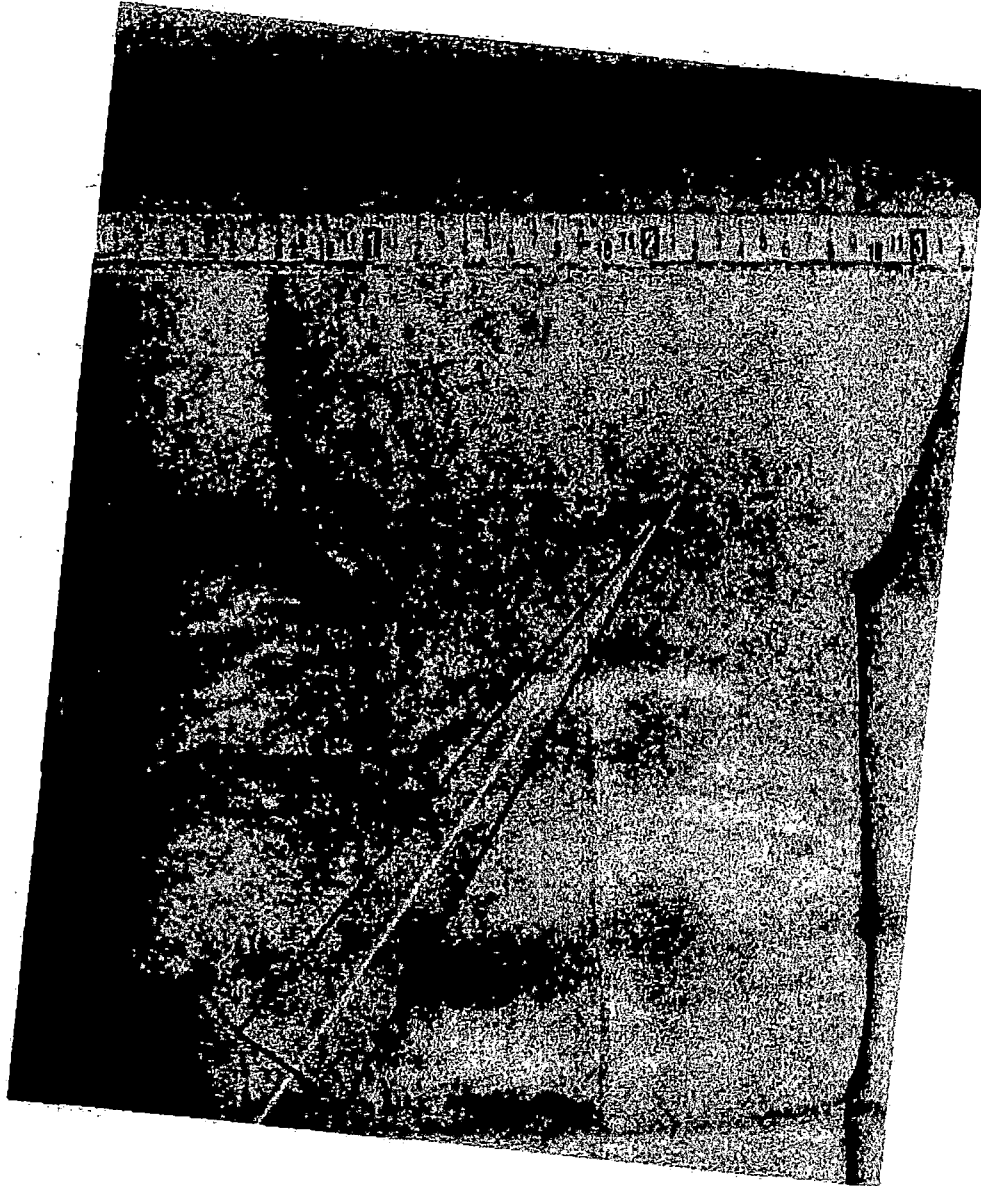


Figure 11: Top down view of the left recliner with a yellow rod inserted depicting the horizontal (left/right) path the shotgun pellets achieved during the second shot. Harry Leibel must have his left hand and shoulder along this line at the time of the second shot. (Note the blue overlay depicts a ± 5 degree range to incorporate measurement error).

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Figure 12: Side view of the exit from the left recliner continuing into the wall. The yellow rod demonstrates the vertical angle (up/down) that the shotgun pellets achieved during the second shot. (Note the blue overlay depicts a +/- 5 degree range to incorporate measurement error).

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Figure 13: Diagram representing the approximate orientation Harry Leibel would have to achieve to self-inflict the first shot (not to scale) assuming he can reach the trigger.

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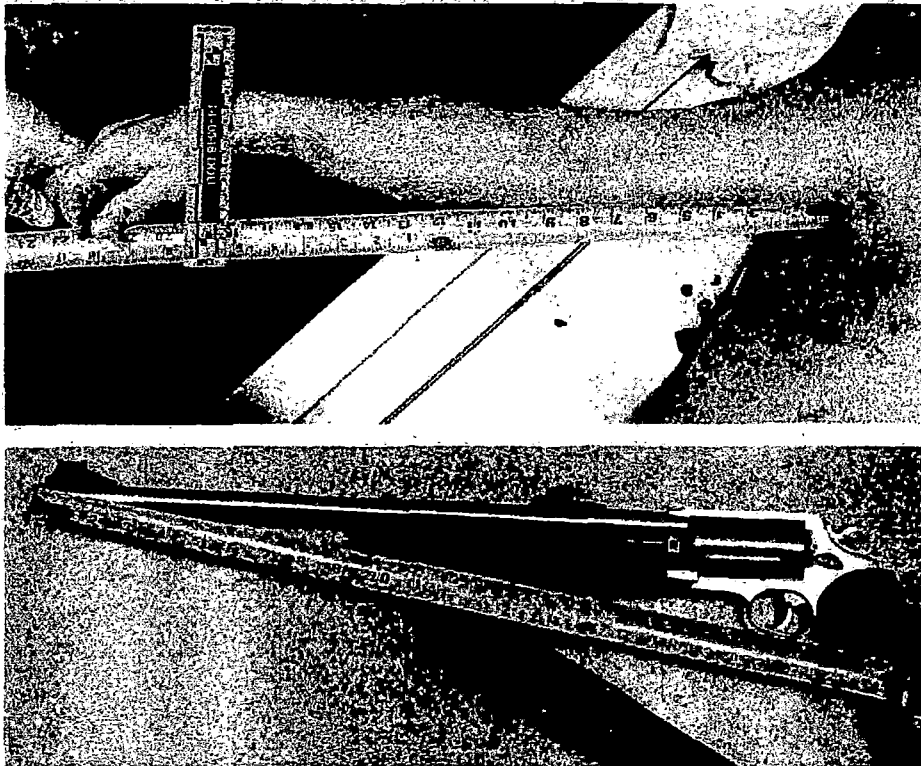


Figure 14: The upper two images were taken at two different times. First, the length of Harry Leibel's arm was measured during his autopsy and photographed. Later, the image of the Rossi/Taurus rifle was taken at the forensic laboratory and photographed with a scale.

These two images were scaled together (so the tape measure distance match each other) and the rifle was positioned with a 3 inch offset (as determined by the laboratory distance testing) to the entry wound to create Figure 15.

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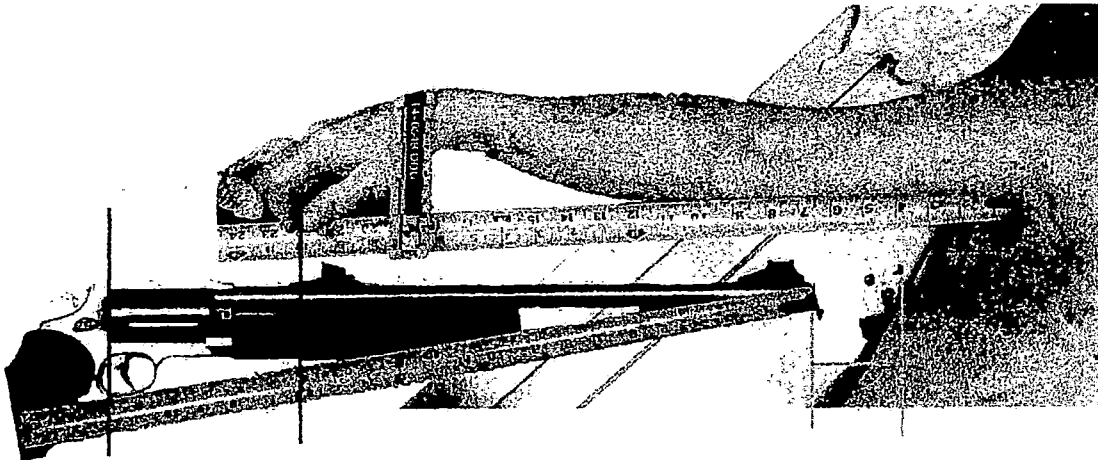


Figure 15: The scaled and repositioned images of the rifle and arm length of Harry Leibel. The green zone represents approximately 3 inch of off-set and the red zone represents the approximate distance beyond the reach of Harry Leibel to self-inflict the gunshot wound to his side.

Because these are "static" images it cannot be conclusively eliminated that Harry Leibel could not stretch, twist or contort his body to reach the trigger of the rifle; however, such contortions would be difficult to obtain while keeping the gun muzzle 3 inches away from the entry side of the robe and his left arm elevated.

(Note: The left arm must be elevated at the time this shot was delivered so the left hand cannot be used to support the firearm during this shot).

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State of NV v Tatiana Leibel

January 15, 2015

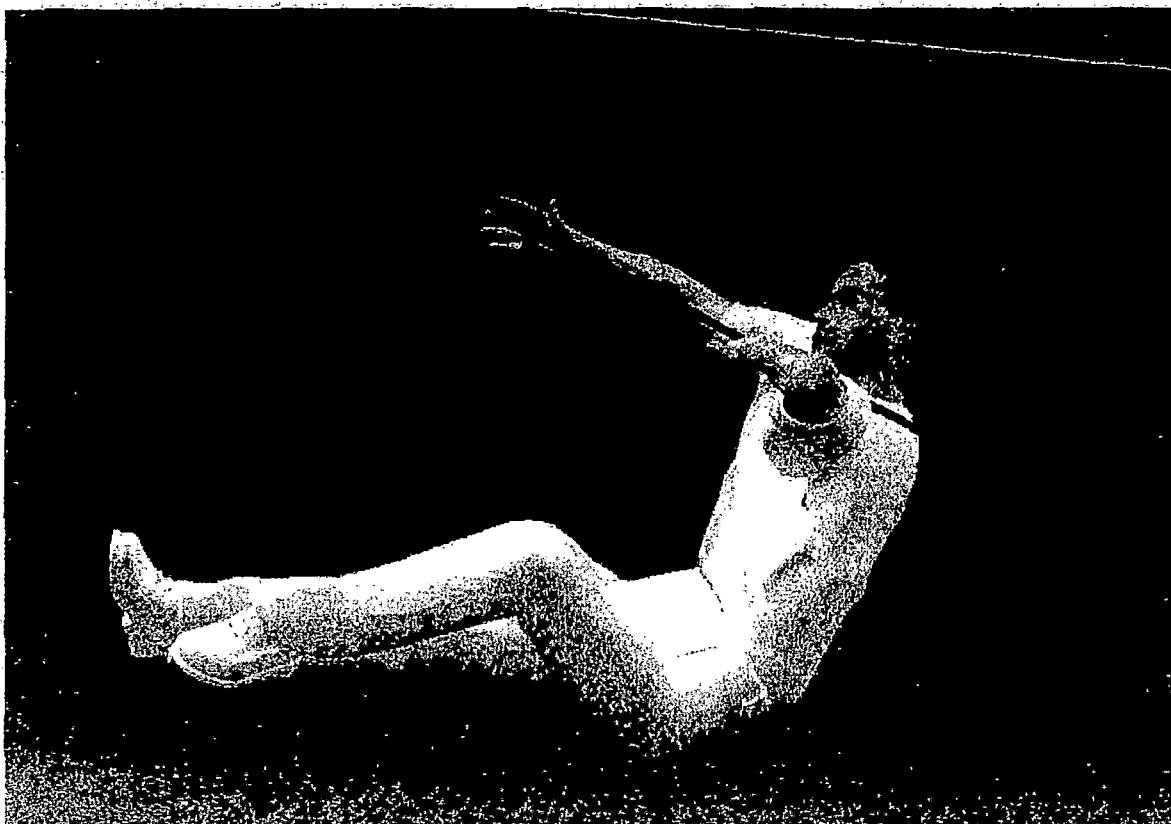


Figure 16: Diagram representing the approximate orientation Harry Leibel would have to achieve to self-inflict the second shot (not to scale) assuming he can reach the trigger. (Note- the farther his left hand is moved away from his body, the more unlikely a self-inflicted shot becomes because of the limits of his reach with his right arm).

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Figure 17: Diagram representing the approximate orientation of a shooter delivering the first shot to Harry Leibel (not to scale). Note-The triangular region represents the areas the rifle can be held and still maintain the appropriate angles.

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Figure 18: Diagram representing the approximate orientation of a shooter delivering the second shot to Harry Leibel (not to scale). Note-The triangular region represents the areas the rifle can be held and still maintain the appropriate angles.

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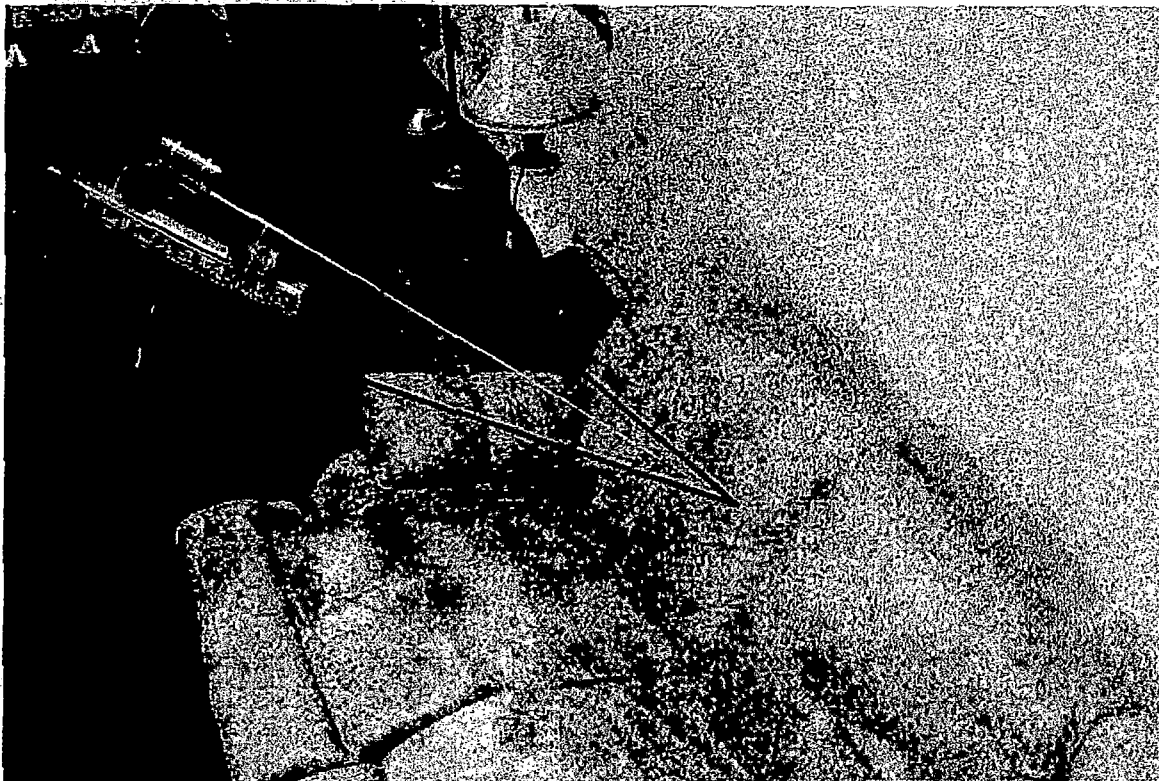


Figure 19: A replica rifle was positioned along the required angle to deliver the second shot. Harry Leibel would have to be between the rifle and the hole in the couch back with the back of his left hand elevated between the rifle and his left shoulder. Note-The triangular region represents the areas the rifle can be held and still maintain the appropriate angles.

EXHIBIT 4

L0644-14-1

WASHOE COUNTY SHERIFF'S OFFICE
MICHAEL HALEY, SHERIFF
FORENSIC SCIENCE DIVISION
911 PARR BLVD.
RENO, NV 89512
PHONE (775) 328-2800
FAX (775) 328-2831



FORENSIC REPORT

LABORATORY NUMBER: L0644-14-1
AGENCY: DOUGLAS CO. S.O.
AGENCY CASE #: 14SO05132
SUSPECT: LEIBEL, TATIANA
VICTIM: LEIBEL, HARRY
PERSON REQUESTING: INV. ED GARREN
DATE OF SUBMISSION: 3/13/2014
OFFENSE: HOMICIDE

SCENE:
LOCATION OF SCENE: 452 Kent Way
DATE: 02/23/14
TIME NOTIFIED: 14:45 HOURS
TIME BEGAN: 17:03 HOURS
TIME COMPLETED: 20:32 HOURS

CASE SUMMARY:

On February 23, 2014, at approximately 1703 hours, Investigator M. Margritier and I arrived at the above location, where we met with Douglas County Captain Milby in relation to a Death Investigation. Captain Milby requested assistance with a crime scene diagram and photographic documentation for trajectory analysis.

Measurements were obtained and the corresponding two (2) page computer aided diagram is attached to this report. Photographs and measurements were obtained for future trajectory analysis.

Joey Lear 3319
JOEY LEAR
FORENSIC INVESTIGATOR
FORENSIC INVESTIGATION SECTION

3-28-14
Date

Marci Margritier #0043
MARCI MARGRITIER
FORENSIC INVESTIGATOR
FORENSIC INVESTIGATION SECTION

03-28-14
Date

210074

February 23, 2014
Douglas County 14SO05132
By J. Lear #3319
Approximate North



Not to Scale



452 Kent Way: Upstairs Living Area

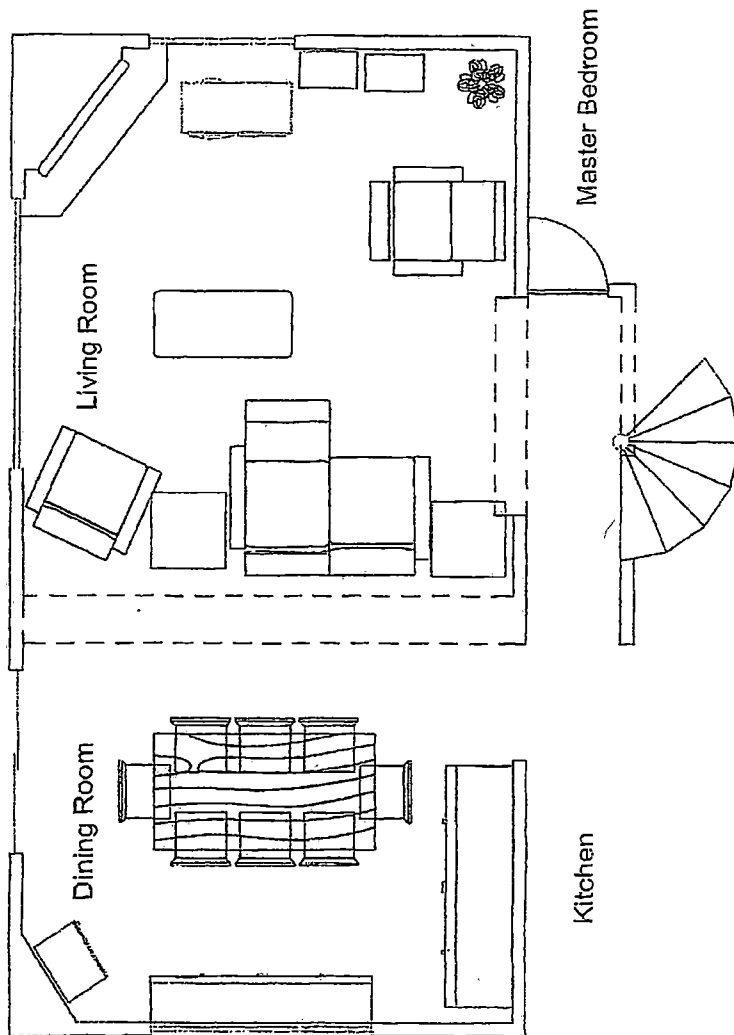
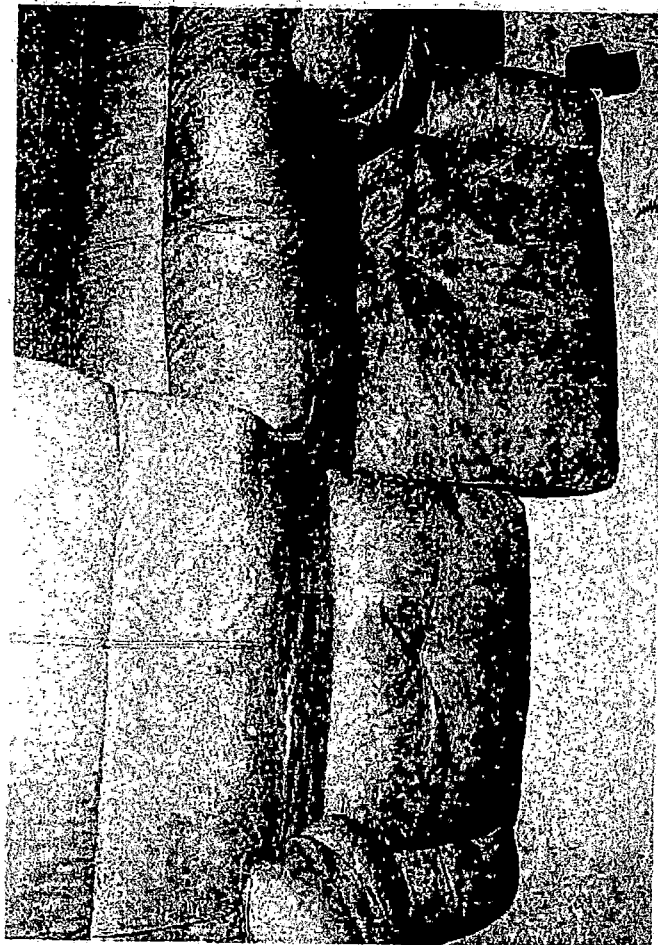
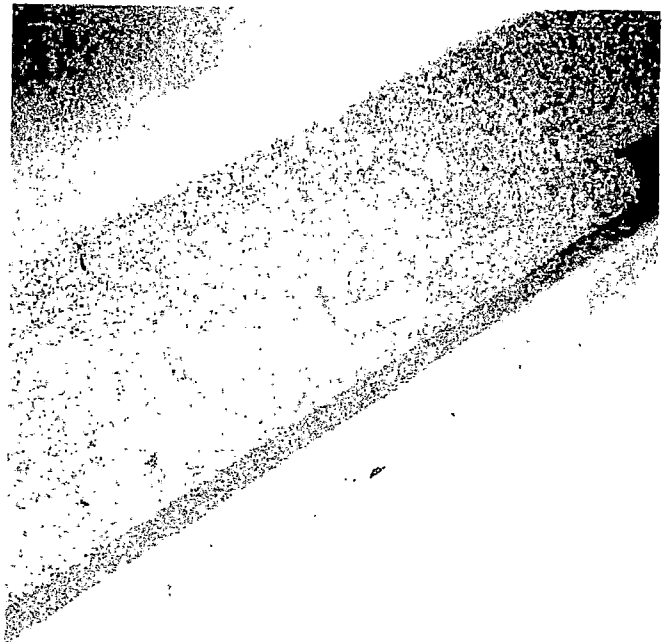
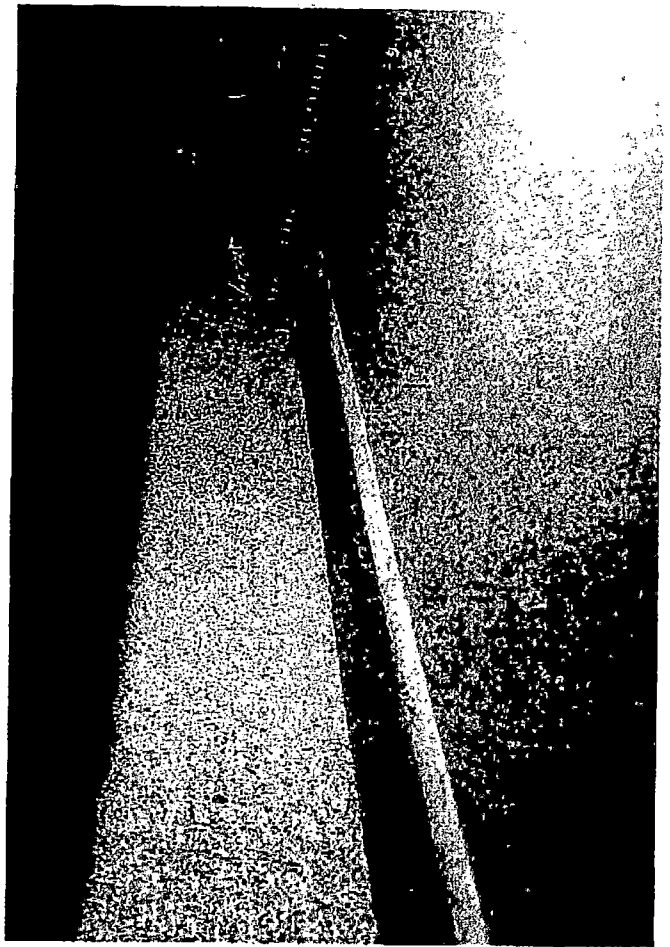
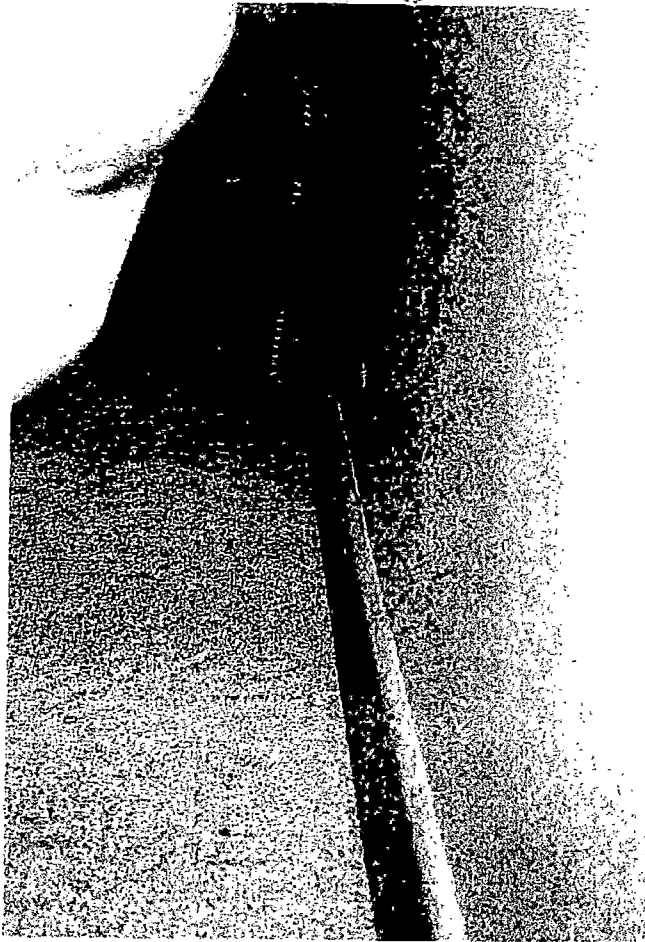
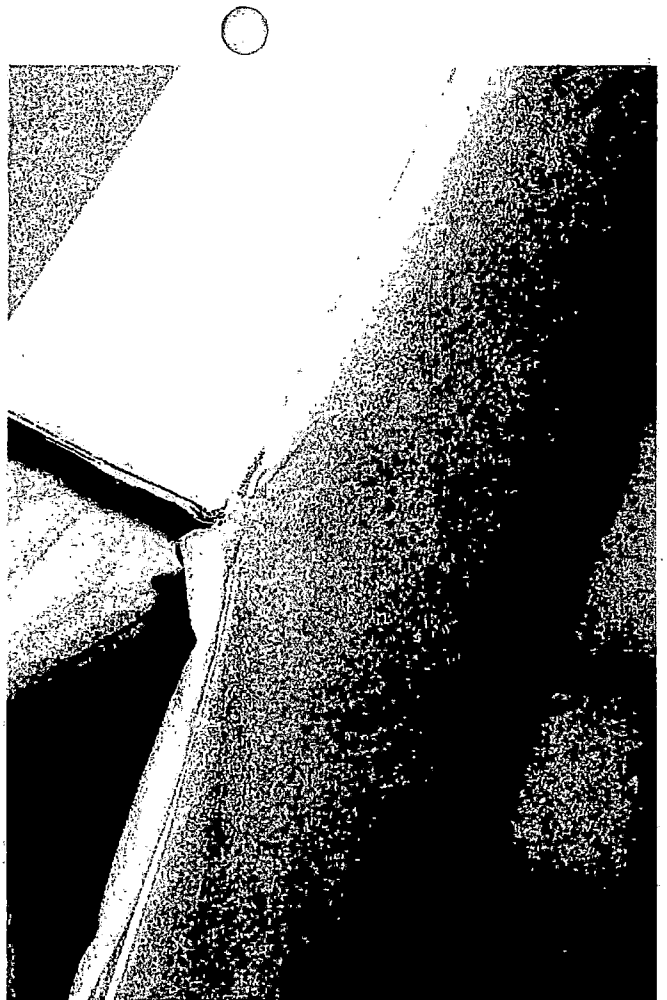


EXHIBIT 5

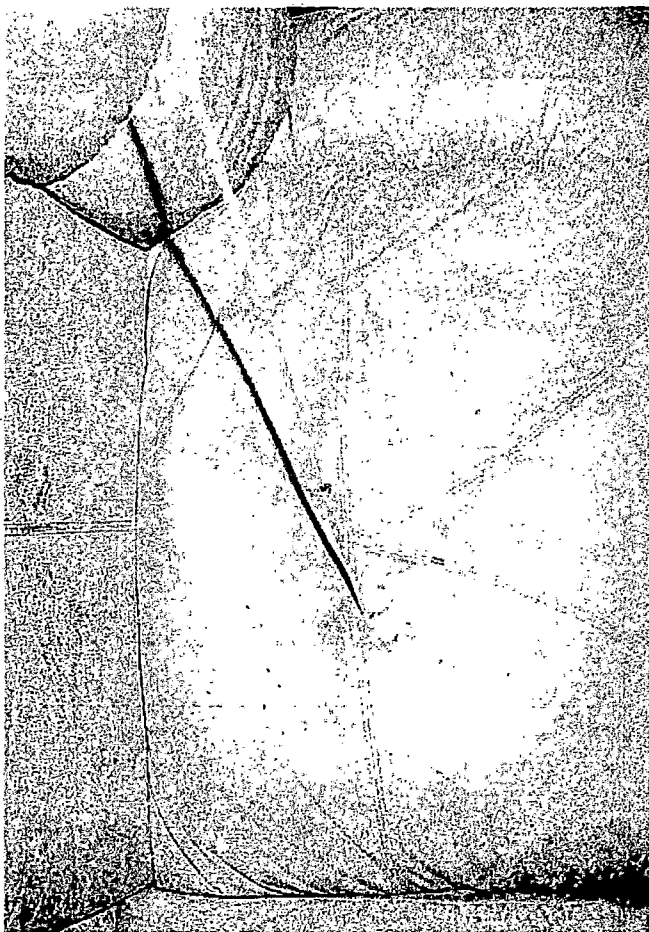
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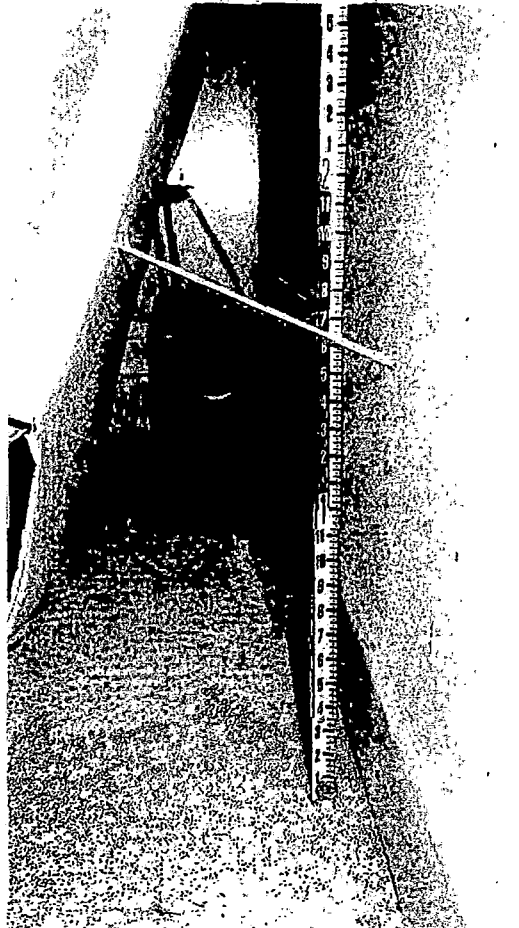
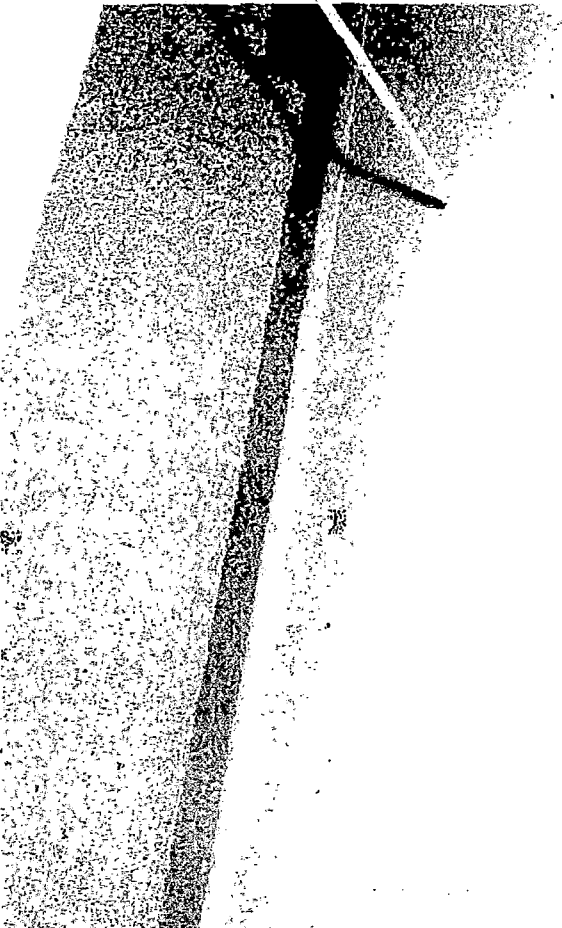
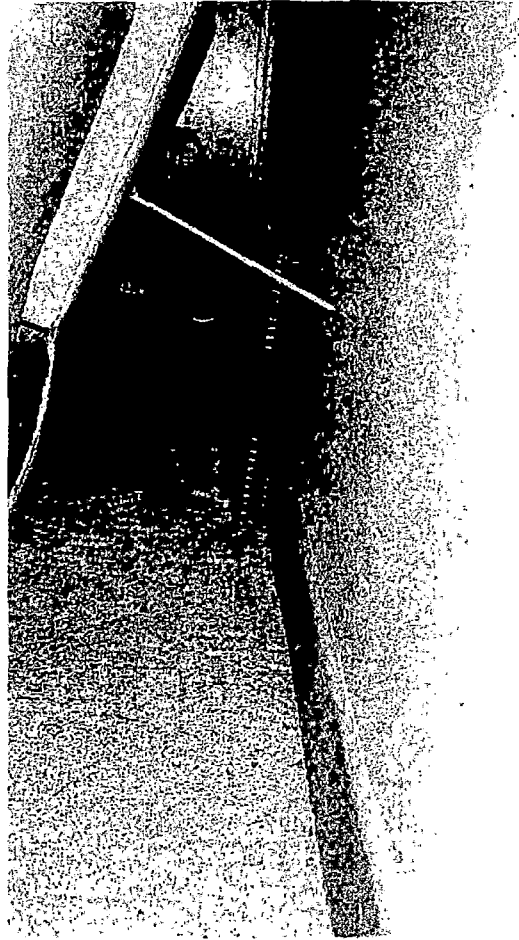


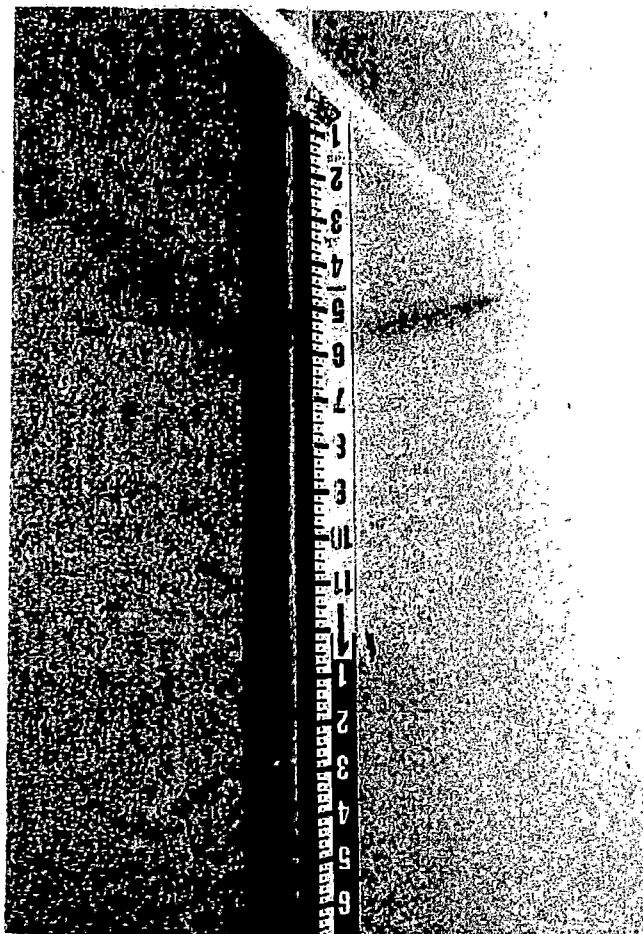
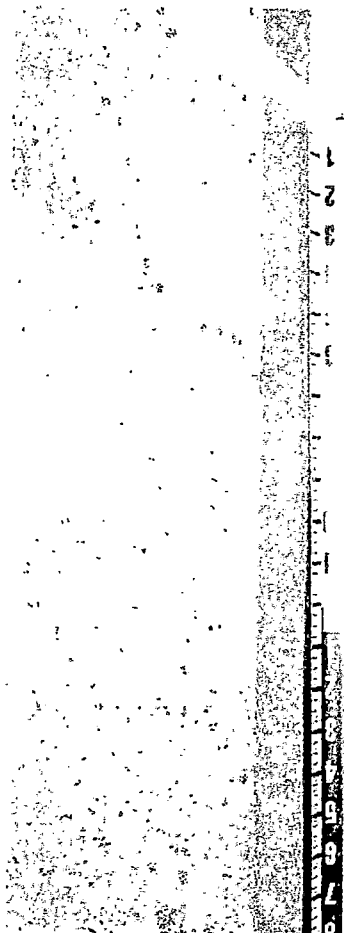
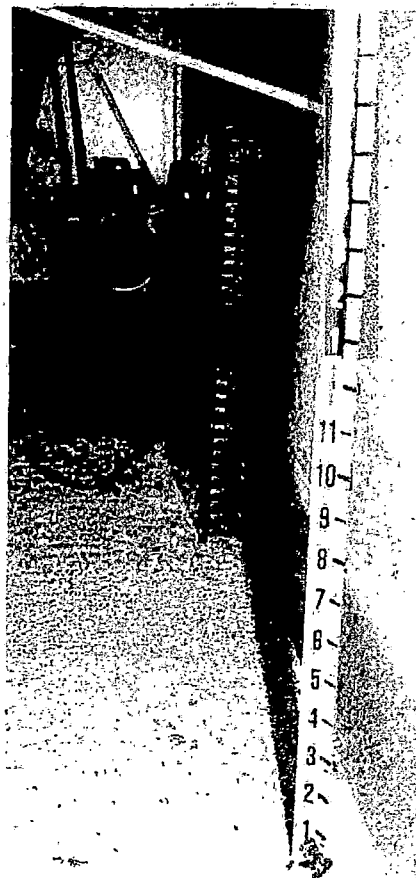
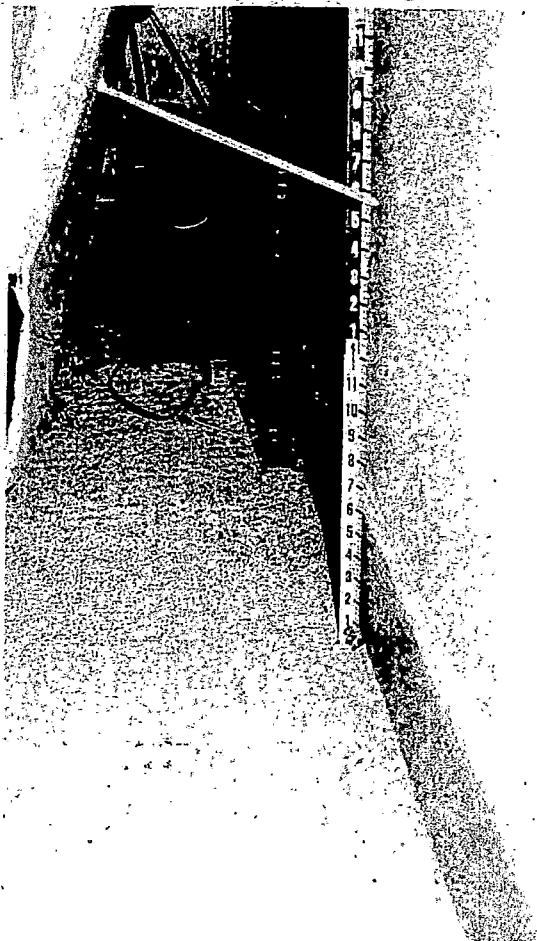


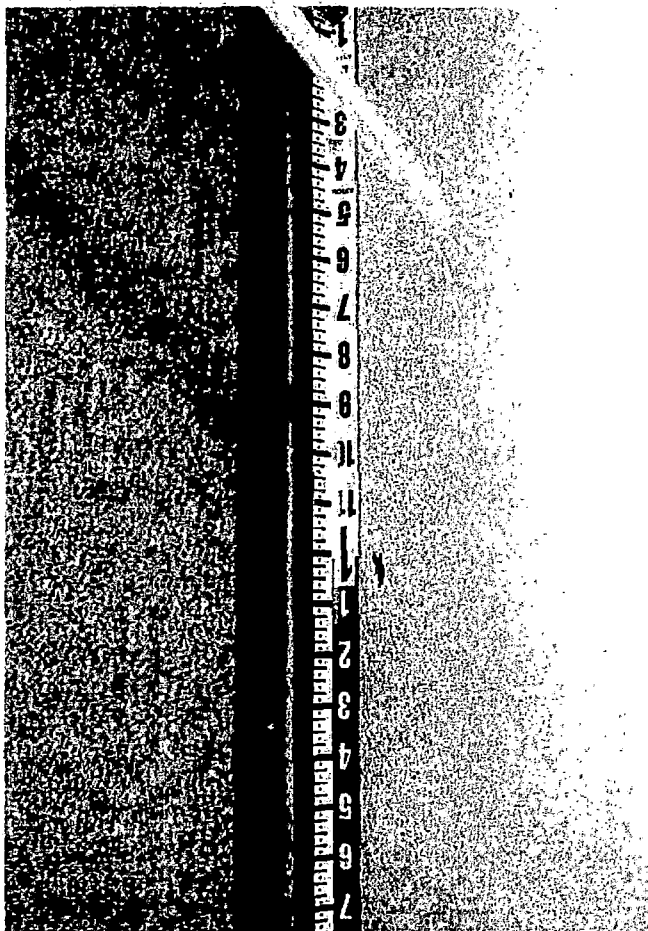
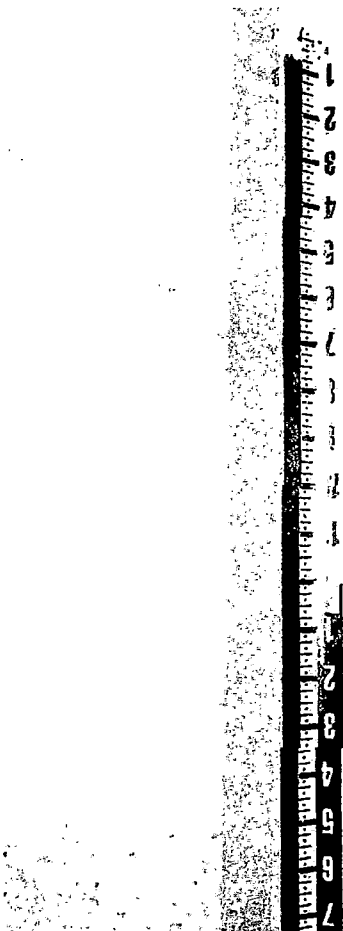


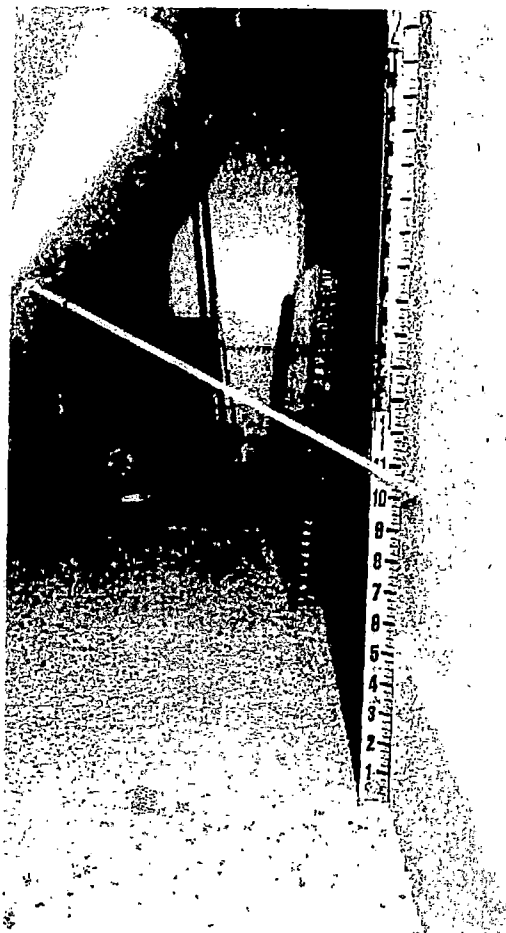
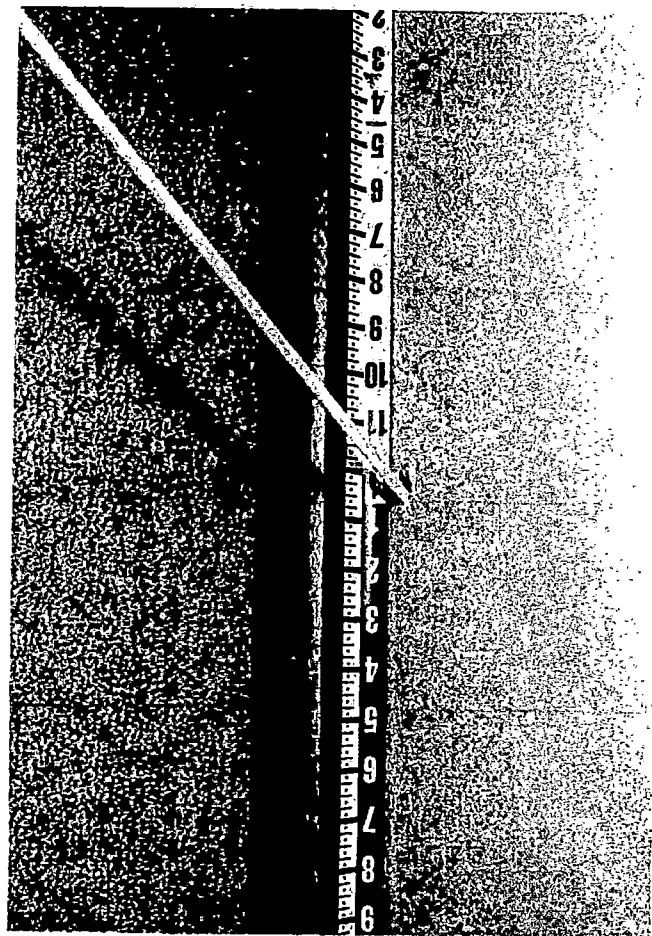
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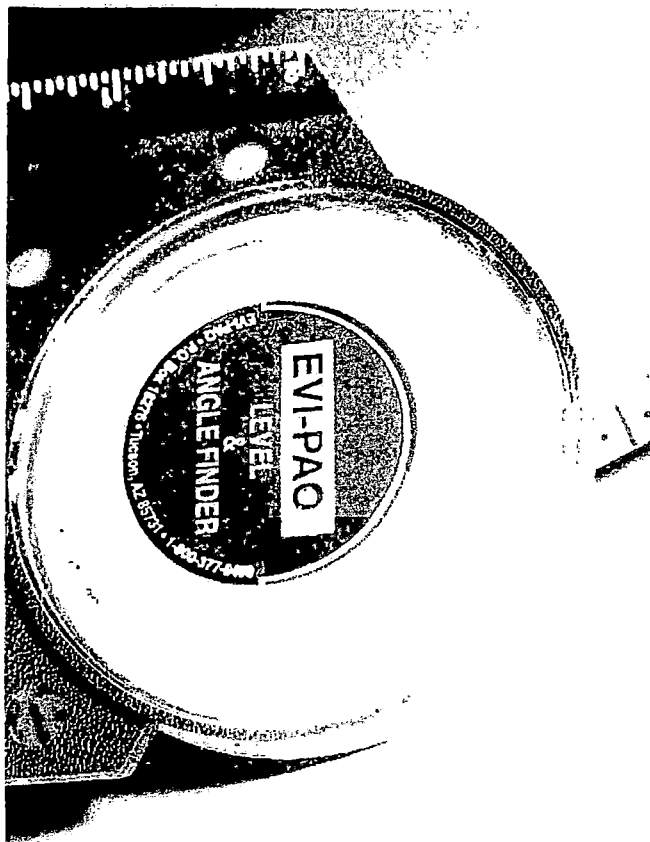
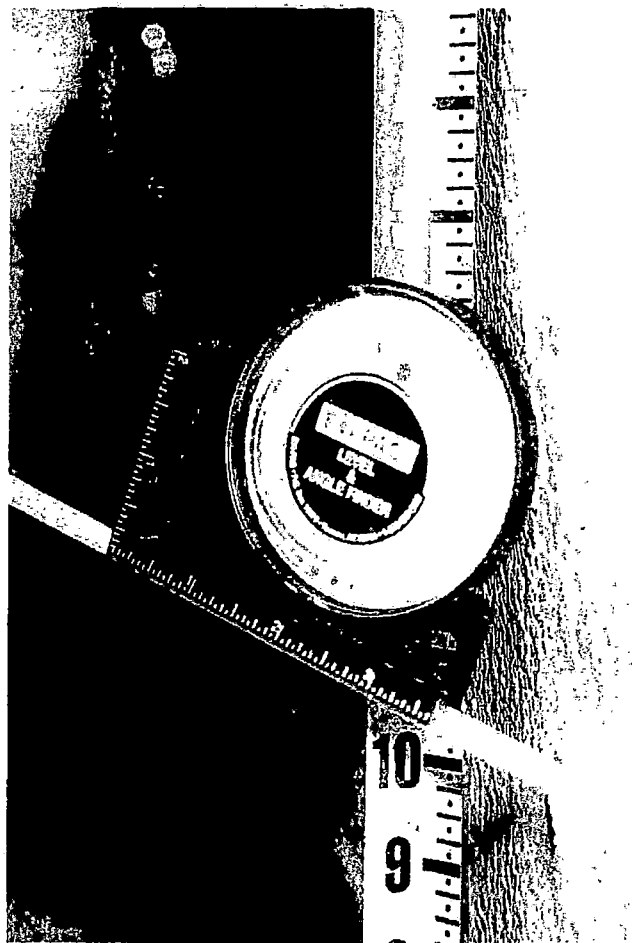
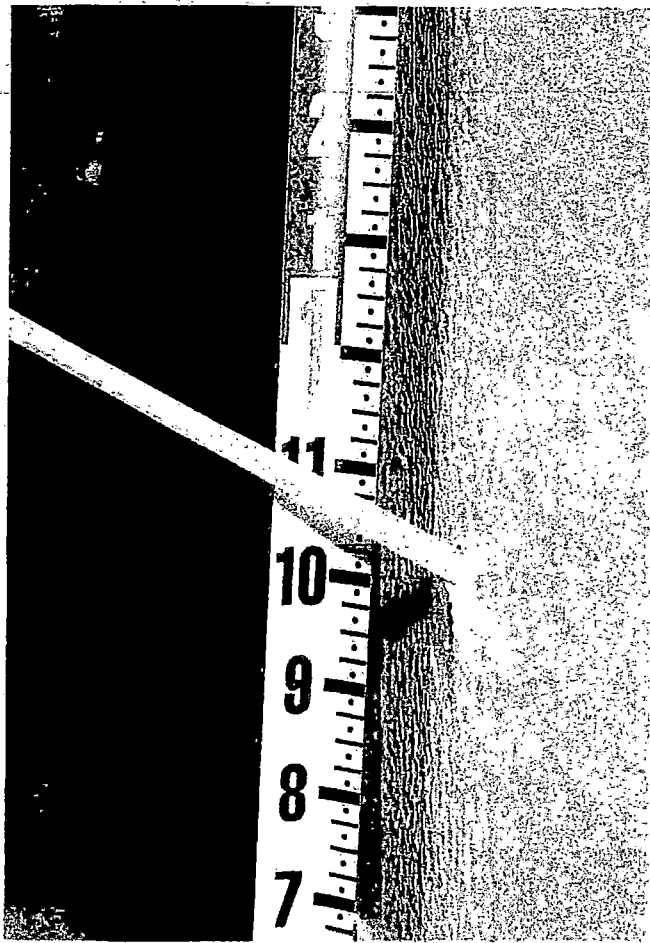


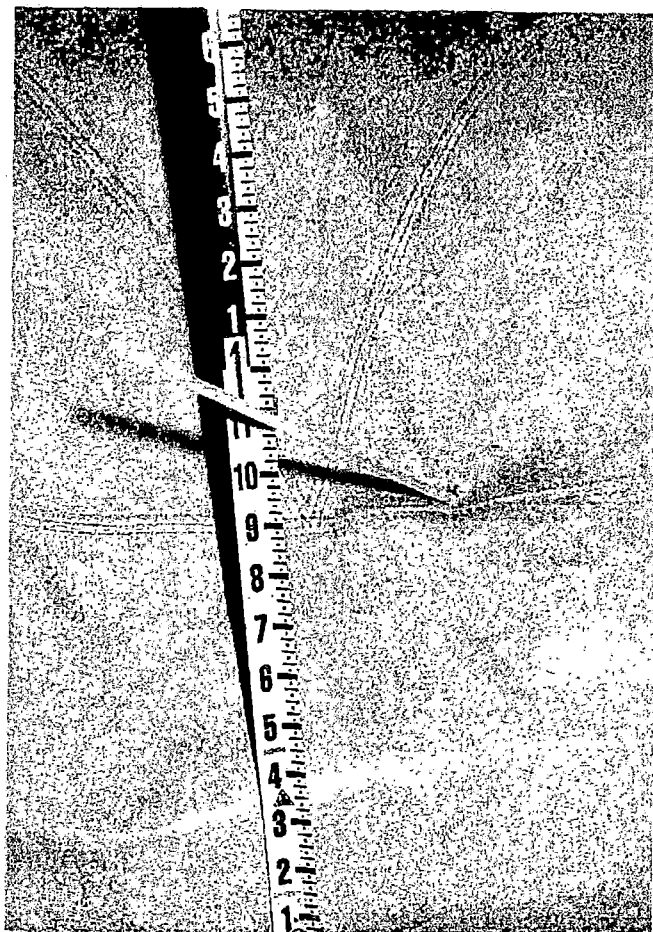
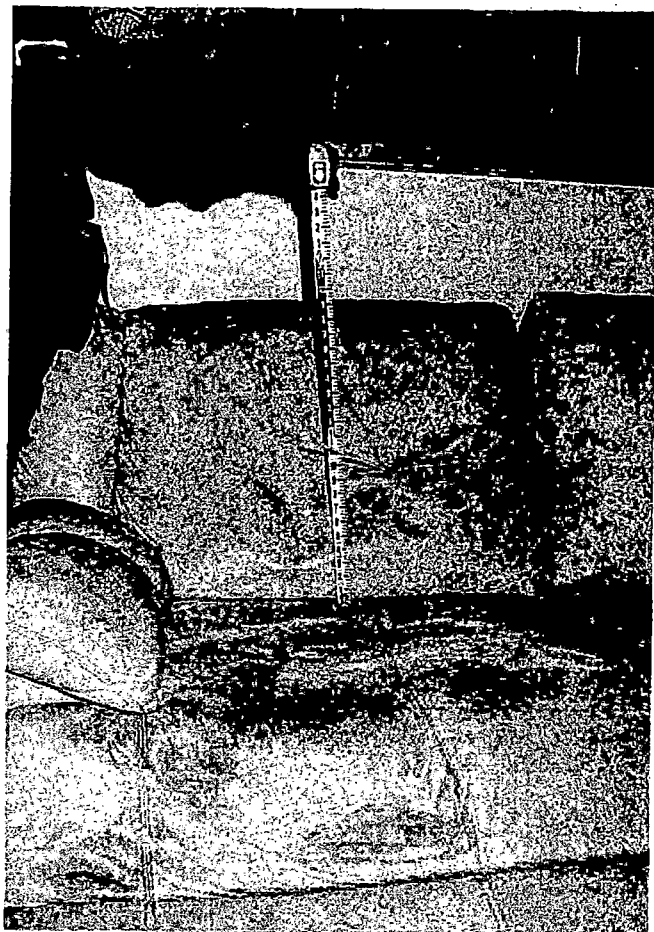
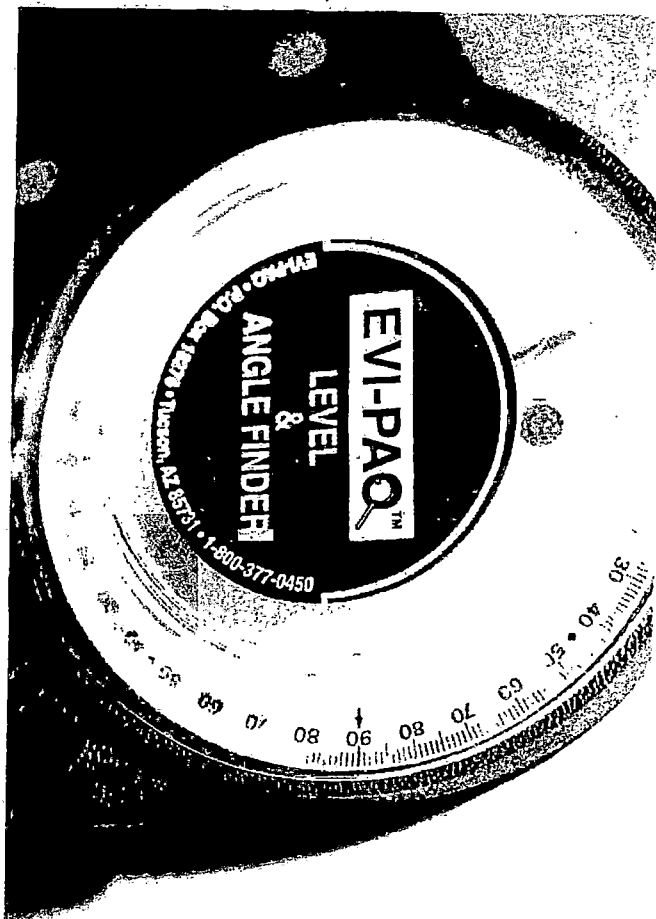




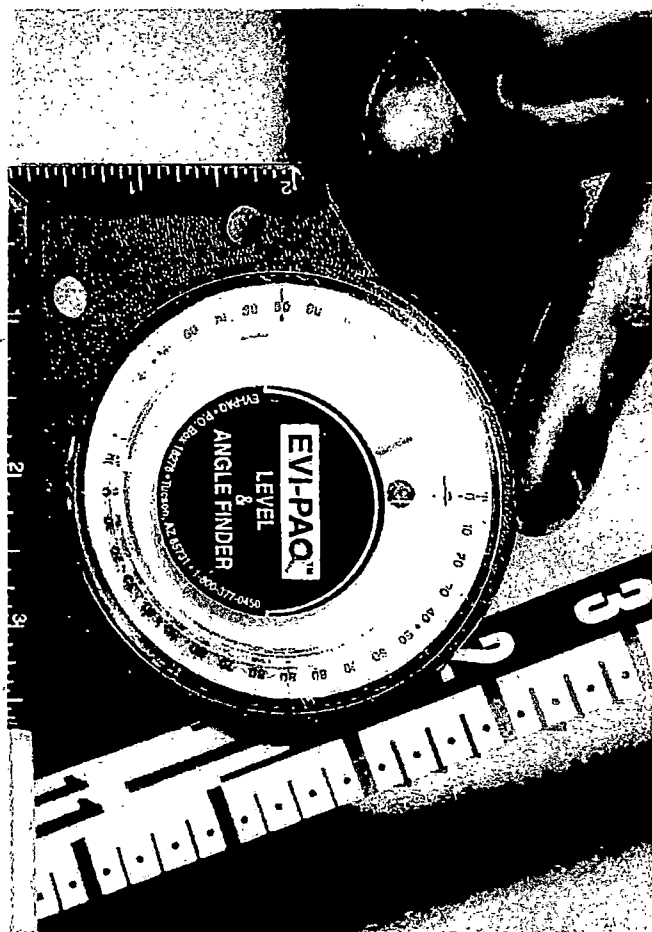
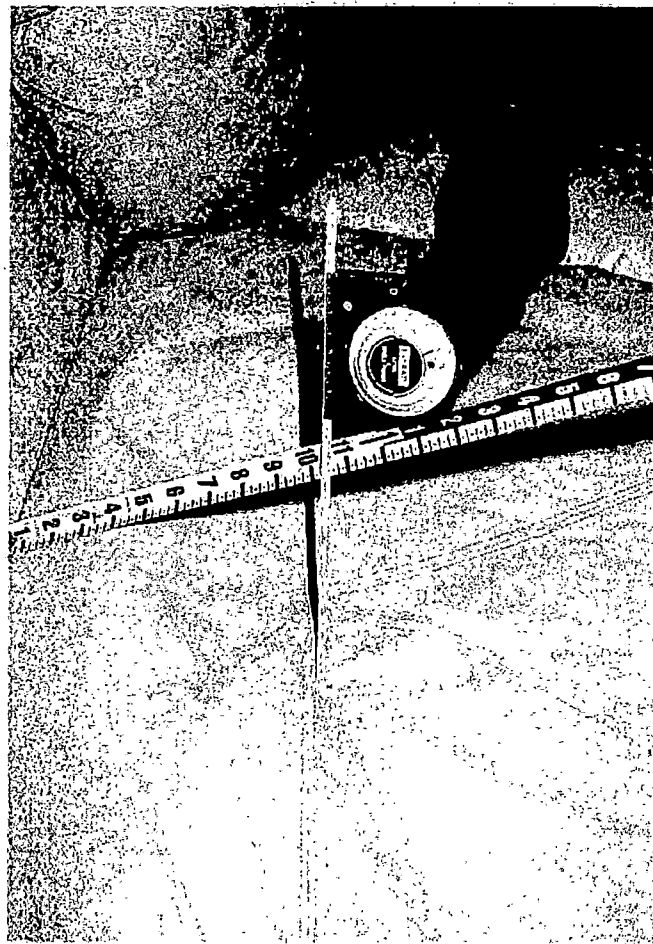
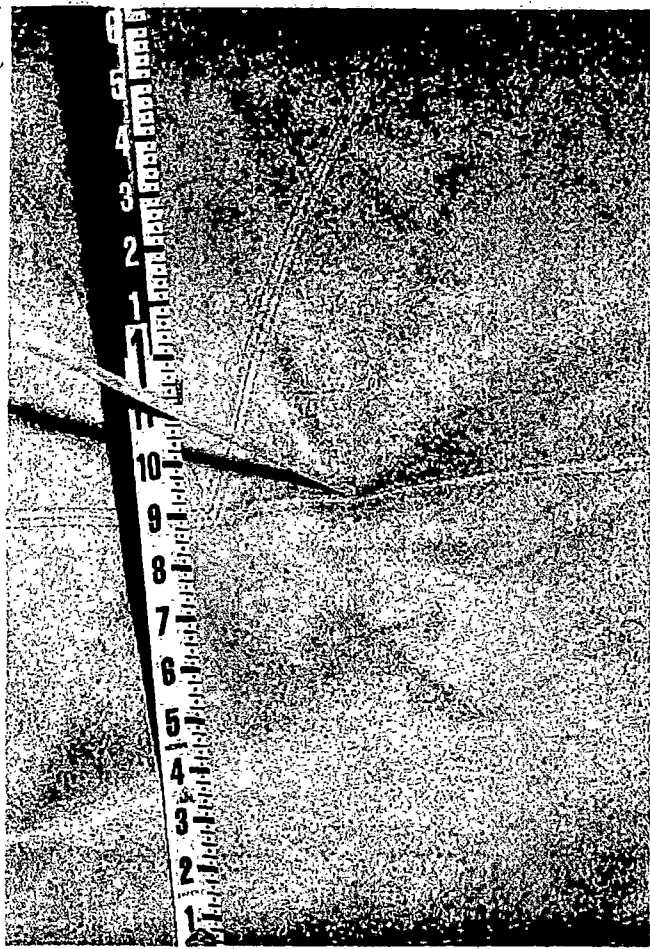


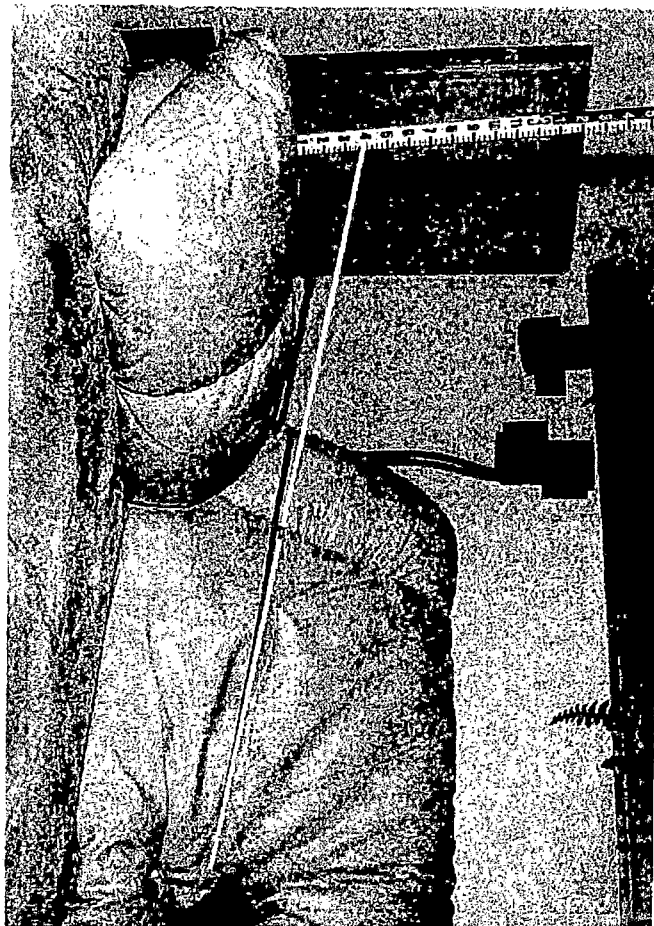
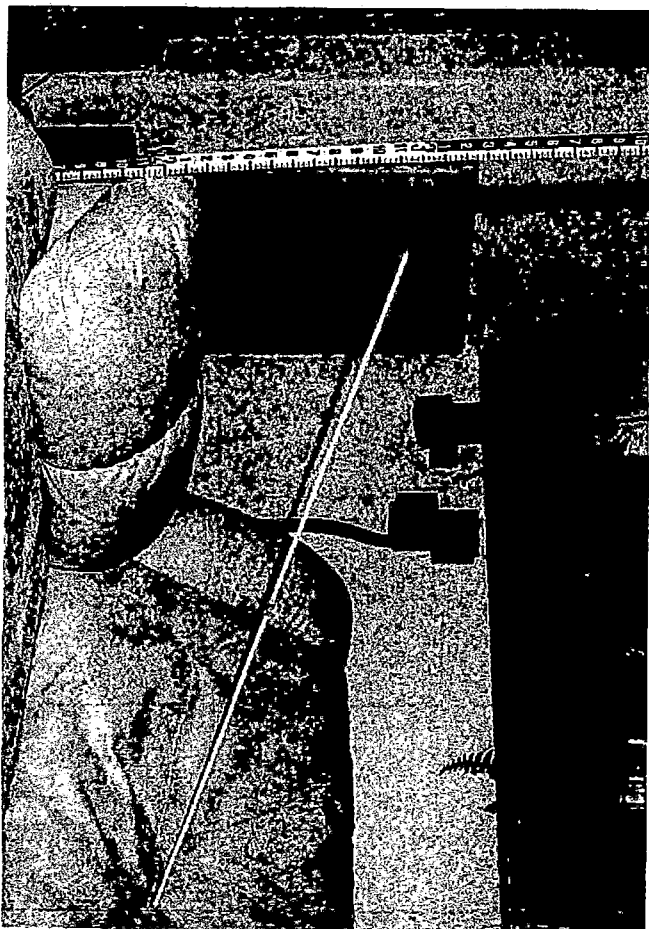
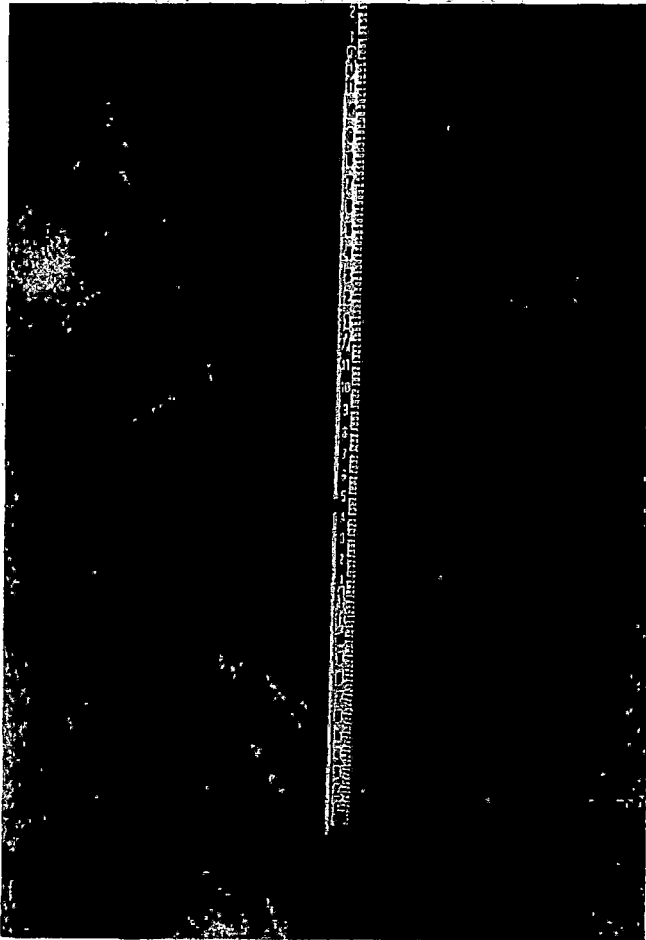






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EXHIBIT 6



Kristine Brown <klbesquire@gmail.com>

**State v. Tatiana Leibel , Douglas County Sheriff's Office
case number 14SO05132**

1 message

Kristine Brown <klbesquire@gmail.com>

Thu, Jan 15, 2015 at 4:12
PM

To: mlyford@washoecounty.us, mmargritier@washoecounty.us,
jlear@washoecounty.us

Hi,

This is Kris Brown. I represent Tatiana Leibel, the defendant in the above case. Harry Leibel is the deceased. We received the attached scene diagram as part of discovery and the report mentions the measurements that were obtained. Was there a report prepared concerning the measurements that were taken?

I believe we have all the photographs.

Thanks,
Kristine L. Brown

 Scene Diagram.pdf
690K

2/1/15

90



Kristine Brown <klbesquire@gmail.com>

**RE: State v. Tatiana Leibel , Douglas County Sheriff's
Office case number 14SO05132**

1 message

Lyford, Mike <MLyford@washoecounty.us>

Thu, Jan 15, 2015 at
8:37 PM

To: Kristine Brown <klbesquire@gmail.com>, "Margritier, Marci"
<MMargritier@washoecounty.us>, "Lear, Joey" <JLear@washoecounty.us>

The diagram is based on the measurements that were taken. There is no separate report for measurements.

Sgt. Lyford

From: Kristine Brown [mailto:klbesquire@gmail.com]

Sent: Thursday, January 15, 2015 4:13 PM

To: Lyford, Mike; Margritier, Marci; Lear, Joey

Subject: State v. Tatiana Leibel , Douglas County Sheriff's Office case number 14SO05132

Hi,

This is Kris Brown. I represent Tatiana Leibel, the defendant in the above case. Harry Leibel is the deceased. We received the attached scene diagram as part of discovery and the report mentions the measurements that were obtained. Was there a report prepared concerning the measurements that were taken?

I believe we have all the photographs.

Thanks,

2117 91



EXHIBIT 7



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IAI Merchandise
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Requirements for the Certification of Crime Scene Reconstruction

Crime Scene Certification home page

I. REQUIREMENTS FOR IAI CRIME SCENE RECONSTRUCTION CERTIFICATION

A. General Qualifications

1. An applicant for certification must be of good moral character, high integrity, and good repute and must possess high ethical professional standing.
2. An applicant must be employed full time in an occupation that includes crime scene related activities.
 - a. "Crime scene related activities" is understood to mean responding to crime scenes, and having a significant role in locating, documenting, recovering and analyzing physical evidence.
 - b. Processing or enhancing physical evidence solely in a laboratory or evidence warehouse environment does not meet this description.
 - c. "Crime scene related activities" will normally be conducted by personnel employed by law enforcement agencies, but may occasionally be performed by non-government personnel acting in an adjunct or advisory role.

B. Certified Crime Scene Reconstructionist (CCSR)

Applicant must:

1. Have a minimum of five (5) years experience as a crime scene investigator involved in crime scene reconstruction.
2. Have completed a minimum of 120 hours of Crime Scene Certification Board approved instruction in crime scene and crime scene reconstruction related courses within the last five (5) years. NOTE:

This training **MUST** include the following courses:

- a. The time frame on the acceptance of bloodstain analysis courses and shooting reconstruction courses for the CCSR has been changed from 5 years to 10 years. Training in these two courses can take place up to 10 years prior to application for

certification. This only applies to the CCSR certification and it only applies to those specific courses of instruction.

- b. A Bloodstain Pattern Interpretation course that is a minimum of 40 hours in length.
- c. Shooting Incident Reconstruction courses that total 40 hours

Additional elective courses must total a minimum of 40 hours. The topics that qualify in the area of crime scene approved training are:

Alternate Light Source Training
Arson Investigations*
Blood Pattern Analysis*
Clandestine Lab Training
Collection & Preservation of Evidence*
Courtroom Testimony*
Crime Scene Documentation*
Crime Scene Investigations*
Crime Scene Photography and Evidence Photography*
Crime Scene Reconstruction*
Death Investigations*
Footwear and Tire Tread
Forensic Anthropology
Forensic Archeology
Forensic Odontology
Latent Print Detection
Post Blast Investigations
Report Writing
Rules of Evidence
Sex Crime Investigations*
Traffic Accident Investigations*
Underwater/Subsurface search and recovery
Wound Dynamics*

*Recommended for reconstruction training

The Crime Scene Certification Board, on request, will consider other topics.

- 3. AND one of the following;
 - a. Must have authored or coauthored an article on some phase of crime scene reconstruction published in a professional journal OR;
 - b. Made a presentation on some phase of crime scene reconstruction to a professional organization, OR;
 - c. Be an active instructor in some phase of crime scene reconstruction who is currently teaching at least once a year, OR;
 - d. Submit a court transcript from an actual crime scene reconstruction case in which the applicant gave

testimony on the reconstruction.

C. Initial In-house Training:

Upon approval by the Crime Scene Certification Board, an agency's structured and specialized training program hours may be reciprocated for portions of the amount of required hours of instruction for the certification.

D. Testing:

In addition to the listed requirements the applicant must successfully pass a written test with a minimum score of 75%. All written tests are graded and recorded on a pass/fail basis only. (Numerical scores will not be provided)

The tests will be created from the following publications and may not be changed for a period of three years. The tests may be updated to reflect newer technology that may be addressed in newer editions of the same text.

The applicant is responsible for the entire text.

These texts supersede any practice or agency directives for certification testing purposes.

II. TEST MATERIAL PUBLICATIONS

Bloodstain Pattern Analysis: With an Introduction to Crime Scene Reconstruction, 3rd Edition by Tom Bevel, Ross M. Gardner, CRC Press 2008

Cold Case Homicides: Practical Investigative Techniques, Richard H. Walton, CRC Press, 2006

Shooting Incident Reconstruction, By Lucien C. Haag - Elsevier Academic Press (2006)

III. CRIME SCENE RECONSTRUCTION TESTING METHODOLOGIES

1. Comprehensive test

- a. Comprised of multiple choice questions
- b. The questions may contain scenarios based on the text books
- c. 300 questions with a time limit of 4½ hours
- d. All crime scene certification tests are proctored.
- e. Throughout the comprehensive written testing process you may not have/use any supporting/reference material/textbooks or have internet access.

2. Practical Questions

- a. Practical questions will now be sent with the written portion of the test and will be taken at the same time
- b. 3 additional hours are now added for the completion of the practical questions

3. Failures

- a. If the applicant fails the comprehensive portion of the test the applicant may reapply after 60 days by submitting a new application and the appropriate fees.
- b. If the applicant passes the comprehensive test and fails the practical test the applicant may request to take the practical portion again by submitting a letter to the Secretary of the CSCB within 30 days after notification of the failure without incurring additional fees.
- c. If the applicant fails either portion of the certification test for a second time, the applicant must wait 12 months from the date of the failure to reapply.

4. Crime Scene Certification shall be issued for a period of five (5) years.

5. Applicant procedures for certification are subject to revision by the Crime Scene Certification Board (CSCB). The latest official version is always available from the CSCB Secretary.

IV. RECERTIFICATION TESTING METHODOLOGIES

1. Applicants must meet the recertification requirements as of the date of the recertification application.
2. Reconstruction recertification testing will be a "Complete Case Analysis" with a reconstruction opinion report submitted.

V. APPLICATION PROCEDURES

Application procedures for certification are subject to revision by the Crime Scene Certification Board (CSCB). The latest official version is always available from the CSCB Secretary.

For additional information contact the Crime Scene Certification Board

Send e-mail to Crime Scene Certification Board

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EXHIBIT 8

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07/21/14
15:49

Douglas County

District Attorney
Law Supplemental Narrative:

Page: 399
1

Details

Incident Number: 14SO05132
Sequence Number: 17

Name: Halsey J
Date: 14:06:06 04/03/14

Narrative
(See below)

=====

Narrative:

Douglas County Sheriff's Department
Supplemental Narrative
Case# 14-SO-05132

PURPOSE

The purpose of this supplemental report is to provide details regarding my involvement in searching for and recovering evidence in this case, as well as to document those items I took into custody for safekeeping.

DETAILS:

SUNDAY (02/23/14):

On Sunday, 02/23/14, DCSO Investigators responded to investigate a suspicious death/possible homicide incident believed to have occurred at 452 Kent Wy, Zephyr Cove, NV.

During the course of that investigation, a search and seizure warrant was applied for and granted. The warrant authorized law enforcement officers to search the location, and seize the following items of evidence: any human remains; firearms and ammunition, bullets, projectiles, casings, and gunshot residue; clothing; computers, towers, hard drives, external drives, and any electronic items which could contain, save or store information and the data therein; cell phones; hair, blood, and trace evidence to include DNA; fingerprints; prescription medications, controlled substances and/or dangerous drugs; any and all evidence related to a possible crime of violence, and indicia of ownership or occupancy of the residence.

DCSO Investigators began service of the warrant that evening.

MONDAY (02/24/14):

On Monday, February 24th, 2014, I assisted in continuing service of the above referenced search and seizure warrant at the location. I was also tasked with collecting for safekeeping any firearms located at the residence,

I began by locating six firearms displayed openly on a rifle rack mounted on the wall in the living room. I collected the firearms for safekeeping. The firearms

2124 98

consisted of the following:

- Rifle, bolt-action, Ruger, model:M77 Hawkeye, .308 caliber, ser#711-20746
- Rifle, lever-action, Taurus/Rossi, model:unk, .38-.357 cal, ser#5GM000182
- Rifle, semi-auto, Magnum Research, model:MLR1722M, .22 cal, ser#074122
- Rifle, semi-auto, Marlin, model: 60SS, .22 cal, ser#91442285
- Rifle, semi-auto, Bushmaster, model: XM15-E2S, .223 cal, ser#ARB28609
- Shotgun, dbl barrel side x side, Stoeger, model:Coachgun, 20 ga, ser#604151-08

I was advised by assisting personnel that there was what appeared to be a gun safe located in a loft in the garage. I located the gun safe, and tried to open it, but discovered that it was locked with a padlock. I searched for a key to unlock the padlock, but found none. I then used a pair of bolt cutters to cut the lock from the safe. I opened the safe, and found that it contained several firearms and some loose jewelry and coins. I collected the firearms for safekeeping, but left the jewelry and coins inside the safe. I then re-secured the safe with a separate padlock found at the residence. The firearms I located and secured from the safekeeping consisted of the following:

- Handgun, revolver, Colt, model: Frontier Scout, .22 cal, ser#7G90GS
- Handgun, revolver, Ruger, model: GP100, .357 cal, ser#170-34163
- Handgun, revolver, Ruger, model: Vaquero, .45 cal, ser#56-87960
- Handgun, revolver, Beretta, model: unk, .45 cal, ser#B01733
- Handgun, revolver, Smith & Wesson, model: 686-6, .357 cal, ser#DAT5714
- Handgun, revolver, Smith & Wesson, model: 10, .38 cal, ser#12303
- Handgun, semi-auto, Smith & Wesson, model: MMP, 9mm, ser#unk
- Handgun, semi-auto, Taurus, model PT-22, .22 cal, ser#Y112314
- Handgun, semi-auto, Jennings, model: Bryco 38, .380 cal, ser#424433
- Handgun, derringer-style, Cobra Intl, model: CB38, .38 cal, ser#CT042131
- Handgun, derringer-style, Masterpiece Arms, model: Legend, .45 cal, ser#D0518
- Rifle (disassembled), Henry, model: US Survival, .22 cal, ser#U572900

I then assisted DCSO Evidence Tech J. Barden by examining a short wall (pony wall) separating the living room from the dining room of the residence. In the particular area of the wall that we examined there was a defect hole in the sheetrock that we believed was possibly caused by a projectile/s being fired from the suspect weapon. It was believed a projectile/s had struck the victim while he was seated on the couch, then passed through the couch, exiting out the back of the couch, and ultimately entering the sheetrock on the pony wall directly behind the couch. We believed a projectile/s was possibly still inside the wall as evidenced by the fact that there was no hole on the opposite side of the wall to indicate an object had exited.

I assisted Tech Barden by cutting out an approximately 5" x 6" section of the drywall around the defect hole, in order to examine the interior of the wall. Inside the wall, lying on the wooden sill plate at the base of the wall, I found two spherical-shaped metal projectiles believed to be .000 buckshot pellets.

I also noted behind the area in the where the projectiles had entered the sheetrock was an end of one of the wooden floor joists that support the raised formal dining room floor in the adjacent room. I saw a defect in the wooden end of the joist which led me to believe the two metal pellets I had located inside the wall had first struck the end of the joist, then fallen down into the hollow space of the wall.

I examined the defect in the end of the joist further, and saw a third

2125 99

spherical-shaped metal projectile embedded in it. I dug the projectile out with a knife, and found it to be similar in composition, size and shape to the two previously recovered projectiles (believed to be .000 buckshot pellets).

I then examined the defect further, and found a fourth similar projectile buried even further into the wood. I also dug this pellet out and recovered it. I found no additional pellets or projectiles within the wall.

DCSO Evidence Tech Barden subsequently took custody of the recovered pellets and the piece of sheetrock (complete with defect hole) that was cut from the wall. He later booked these items into evidence.

After assisting Tech Barden, I noticed a camera bag lying on the living room floor, adjacent to a recliner chair near the west wall. I opened the bag and saw that it contained a digital camera. I collected the memory card from the camera, and later booked it as evidence for further examination.

TUESDAY (02/25/14):

On Tuesday, February 25th, 2014, I returned to the residence to continue execution of the search warrant. On this day, a second search and seizure warrant had been applied for and granted in this case. The second warrant authorized the search and seizure of financial records, banking records, credit/debit card documents, loan receipts, insurance policy information, estate planning documents, and writings/journals/letters belonging to Tatiana Leibel or Harry Leibel.

I first searched the master bathroom of the residence for a hairbrush and/or toothbrush belonging to Tatiana Leibel as these could possibly be needed for DNA comparison (collection of DNA evidence authorized in first warrant). In the bathroom I located and collected a hairbrush and toothbrush from the bathroom sink counter located along the east wall. I also located and collected a separate toothbrush from the bathroom sink counter located along the north wall. I collected the hairbrush and toothbrushes separately, and packaged them separately, to avoid possible cross-contamination of DNA.

I then assisted DCSO Captain J. Milby with searching a room that appeared to be the home office of the Leibel's. This room was located adjacent to the informal kitchen dining room. This office had two desks, two chairs, and several file drawers and cabinets. The office appeared to be divided in half, with the left side of the office appearing to be primarily used by Harry Leibel, and the right side of the office appearing to be primarily used by Tatiana Leibel, as evidenced by pictures and documents present at each desk.

During my search of this office, I located and collected pawn slips, Western Union money transfer receipts, vehicle title loan documents and notices of collection issued to Tatiana Leibel. I found these items in the file drawers of what appeared to be Tatiana's desk.

I then collected a brown paper bag from a workbench in a tool room located in the back of the garage. The bag was filled with numerous Western Union money transfer receipts, most of which appeared to be transfers of money from Harry Leibel to Tatiana Leibel, consisting of various amounts. I had been notified by Capt Milby of the presence of this bag and its contents the previous day, however because that type of property had not been listed in the original search warrant, it was not collected at the time. Because this type of property was

2126 100

listed in the second search warrant, I collected it.

I then searched the formal dining room of the residence. On the dining room table I located a black-colored 'Logitech' brand portable device driver. Based on appearance, I believed this to be a flash drive (aka: "digital data memory stick") so I collected it. It was later found that this device was merely a portable device driver to operate a remote keyboard or computer mouse, and therefore has no evidentiary value.

Also in the formal dining room, in a corner curio cabinet, I located and collected a green plastic can containing a clear plastic baggie containing a green vegetable substance resembling marijuana.

Additionally in the formal dining room, on top of the pony wall separating the dining room from the living room, I located and collected a beige-colored glass smoking pipe containing residue of burned marijuana.

I then assisted with searching the kitchen of the residence. On the center island counter I located three pages of medical paperwork pertaining to Tatiana Leibel. I later learned that DCSO Deputy J. Fricke had located this paperwork in the house the previous day, but because it was not listed on the original warrant, he did not seize it. As this type of documentation was granted in the second warrant, I collected it.

Also in the kitchen I located and collected the home telephone answering machine, which was sitting on the northeast kitchen counter.

- Because the second warrant also granted permission to search the Leibel's vehicles for evidence, I then searched their green Jaguar sedan (parked in the driveway) and gold Hummer H3 SUV (parked in the garage).

Inside the Jaguar sedan, on the front passenger-side floorboard and under the front passenger seat, I located and collected vehicle title loan paperwork and overdue billing notices issued to Tatiana Leibel.

Inside the Hummer SUV, in the driver-side door panel pocket I located a red metal cardholder/wallet containing: 1 US Bank ATM Card, 2 Wells Fargo Debit/Charge Cards, 1 Discover Card, 1 AAA Membership Card, 1 Douglas County CCW Card and 4 Insurance ID Cards. All cards and identification were issued to Harry Leibel. I collected this wallet and contents for safekeeping.

I also collected the below items of evidence from a purse sitting on an entry table in the foyer of the residence:

- Gaming/Players Card from El Dorado Casino in Reno, card# 1793922 issued to Tatiana Leibel
- Gaming/Players Card from Silver Legacy Casino in Reno, card# 1848375 issued to Tatiana Leibel
- Debit/Charge Card from Bank of America, acct# 4744-8900-1759-7789, issued to Tatiana Leibel
- Debit/Charge Card from Wells Fargo Bank, acct#4342-5740-0835-4915, issued to Chaya-Anna Leibel
- Receipt from Reno Metropawn, issued 05/31/14 to Tatiana Leibel for pawning a Taurus .22 cal revolver
- 4 Western Union money transfer receipts, recording money wired from Harry Leibel to Tatiana Leibel
- 3 Wells Fargo Bank transaction (withdrawal) receipts

2127 101

THURSDAY (02/27/14):

During his interview with Tatiana Leibel on Sunday, 02/23/14, Investigator Garren received information from Tatiana in which she described Harry Leibel as controlling and opposed to ever letting her travel to Southern California to see her daughters. I remembered that on 02/25/14, during my search of the Leibel's Jaguar sedan, I saw a traffic citation issued to Tatiana Leibel. I remembered reading on the citation that it had been issued by a California Highway Patrol Trooper to Tatiana Leibel near the city of Shafter, Ca, sometime in October 2013.

Because I believed this citation proved that as recently as October 2013 Tatiana had driven at least once from her home in Zephyr Cove, Nevada to a location at least as far Shafter, California (just outside of Bakersfield, Ca.) I decided to return and collect the citation.

On Thursday, 02/27/14, I returned to the Leibel's residence with Investigator Garren. I recovered the citation from the center console of the Jaguar, and examined it. I saw the citation was California Highway Patrol citation (#97840) issued on 10/13/13 to Tatiana Leibel. The location where Tatiana was cited was listed as Interstate 5, although I could not discern the cross street or mile marker. I confirmed that the jurisdictional courthouse listed on the citation was listed with an address in Shafter, Ca.

I later booked this citation as evidence.

DISPOSITION:

Attach to case file

Date, Reporting Officer:

04/02/14, Sgt J. Halsey #326

2128 102

09/16/14
07:04

Douglas County Sheriff Minden, Nevada
Law Supplemental Narrative:

232
Page: 1

Details

Incident Number: 14SO05132
Sequence Number: 35

Name: Barden J
Date: 10:53:31 08/11/14

Narrative
(See below)

= = = = =

Narrative:

Douglas County Sheriff's Department
Supplemental Narrative
DCSO Case# 14SO05132

EVIDENCE:

- #1. 14EV00858; .45LC/410 gauge rifle.
- #1a. 14SO00866; Ammunition removed from above rifle.
- #2. 14EV00868; Couch Blanket.
- #3. 14EV00869; Couch Pillow.
- #4. 14EV00870; Couch Pillow.
- #5. 14EV00872; Motorola Cell phone.
- #6. 14EV00873; Plastic cup.
- #7. 14EV00874; Foreign material collected from defect in couch.
- #8. 14EV01010; Double recliner couch.
- #9. 14EV01011; Five inch by 6 inch cut out piece of sheetrock with hole in it.
- #10. 14EV01012; Four shotgun pellets.
- #11. 14EV01013; Red stain swab taken from couch.
- #12. 14EV01015; Nortriptyline medication for Tatiana Leibel.
- #13. 14EV01104; Concealed Weapon Card for Tatiana Leibel.
- #14. 14EV01106; Lexar Camera Card.
- #15. 14EV00971; Day 1 Crime Scene Photos.
- #16. 14EV01108; Day 2 Crime Scene Photos.
- #17. 14EV03250; Photos of suspect's clothing.
- #18. 14EV03249; Crime Scene photos and Autopsy photos from WCCL.
- #19. 14EV03251; Photos of ammunition removed from above rifle.
- #20. 14EV03252; Photos of Suspect taken at time clothing was collected.
- #21. 14EV00972; Suspect's slippers.
- #22. 14EV00973; Suspect shirt.
- #23. 14EV00974; Suspect pants.
- #24. 14EV00975; Suspect jacket.

PERSONNEL INVOLVED:

Deputy Williamson
Investigator Ed Garren

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Captain John Milby
Sergeant James Halsey
Investigator Ted Jaspersen
Deputy Justine Fricke
Deputy Geoff Marshall

Carson Valley Movers;
3039 Research Way #102. Carson City, Nevada, PH: 775 883-3322
Perry Jones
Steve Shipworth
Clifford Gazarek

NARRATIVE:

On 02/23/14 DCSO Sheriff's Evidence Volunteer Debra Schambra and I were requested to respond to a Death Investigation at 452 Kent Way, Zephyr Cove, Nv. We responded and arrived at 1540 hours.

Investigator Garren was on the scene when we arrived. Deputy Williamson was standing guard at the crime scene tape in front of the driveway. I was informed that a male subject was inside the residence, deceased from a gunshot wound. I was also informed that the call came into the Douglas County Dispatch Center at approximately 1100 hours.

I was then tasked with photographing the scene and collecting evidence at the request of DCSO Investigators. I first photographed the outside of the residence and then entered. This residence is wood framed family dwelling located in a residential neighborhood. It is a two story residence with a garage and three rooms downstairs. Upstairs contains the master bedroom, living room, kitchen, 2 dining rooms, and an office.

The decedent was laying in a supine position on the living room floor, near the couch. The decedent had a defect on the back of his left hand and had what appeared to be a large amount of gunshot residue around the defect. The decedent also had what appeared to be a defect into his right side of his chest area. There was red stain believed to be blood around the defect and onto his clothing around this area.

There was a rifle on the couch. This rifle appeared to be a revolver as it had a hammer as well as a five round cylinder for bullets. The rifle had the end of the barrel pointing toward the back of the couch. The hammer to this rifle was in the cocked position. This rifle had a shoulder strap on it.

At this time, Investigator Garren opened the cylinder of the rifle while I photographed it. I noted at this time that there were two rounds that appeared to have been discharged (evidenced by the primers having been struck) and three rounds appeared unfired. The cylinder was then closed with the same configuration as before it was opened, with an unfired round under the hammer.

Investigator Garren requested that I take overall photos of the inside of the residence. The first room photographed was the living room where the decedent was located.

The two seat recliner couch was covered with a blanket over the seat cushions.

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There were two small pillows on the couch as well as one cell phone. The red stain, believed to be blood spatter was on the couch side closest to the end table. On this side of the couch, the back rest had a defect in it. The defect hole was approximately one-quarter inch in diameter. It appeared to have a blackened substance around the hole, as well as some cloth fiber. The defect was approximately 10 inches above the top of the seat cushion.

The end table contained a plastic glass which bore a dried orange substance on the bottom. The mechanism used for reclining the couch on the side next to the end table was broken, while the mechanism on the other side was intact.

I then completed taking overall photographs of the interior of the residence, both upstairs and downstairs.

At 1820 hours, I assisted DCSO Deputy Coroner Geoff Marshall with the overall examination and photographs of the decedent's body. I documented the condition of the body through photos at this time before it was removed to the Coroner's Office.

During this time the Washoe County Crime Lab arrived to assist with the bullet trajectory and diagramming the scene. Refer to their report and photos.

At 1840 hours I marked the items I was directed to collect with placards and then photographed them again. I then collected the following items of evidence:

- (#1) Rifle
- (#2) blanket from the couch
- (#3-4) two pillows from the couch
- (#5) cell phone
- (#6) cup from the end table
- (#7) foreign material from around the defect in the couch

After securing this evidence we then left for the evening at about 2030 hours. We then drove to the DCSO Stateline Sheriff's sub-station and contacted DCSO Investigations Division Commander, Captain Milby, and Investigator Garren. Sheriff's Evidence Volunteer Schambra was requested to collect the clothing which Tatianna Leibel was wearing.

Volunteer Schambra collected the clothing at about 2100 hours after a change of clothes was provided to Tatianna Leibel. Schambra also took overall photos of Tatiana Leibel.

ADDITIONAL INFORMATION:

On 02/24/14 at about 0852 hours I took the rifle to the DCSO Investigations Division Lab for photographs. I noted that the cylinder in the rifle rotated in a counter clockwise direction. I then removed the rounds from the cylinder and noted them by numbers 1 through 5.

The #1 round was identified as the unfired round which was under the hammer. This was a .45 caliber round.

The #2 round was identified as a discharged .410 gauge shotgun shell.

The #3 round was identified as a discharged .45 caliber round.

211315 105

The #4 round was identified as an unfired .410 gauge shotgun shell.

The #5 round was identified as an unfired .45 caliber round.

The ammunition was first photographed inside the cylinder and then on the counter with the corresponding numbers. A Cartridge Placement Guide was completed and is attached to this report in Spillman files.

The rifle and ammunition were then booked into the DCSO evidence system. Each round was booked into a small envelope with the corresponding number on it, then all five rounds were placed into one evidence envelope.

At approximately 1100 hours I returned to the Kent Way residence during an additional search for evidence. I arrived at the scene and contacted Captain Milby, Sergeant Halsey, Investigator Jasperson and Deputy Fricke.

Sergeant Halsey and I retrieved the fired bullet which was embedded in the wall behind the couch. After photographing the hole in the wall behind the couch, Sergeant Halsey cut a five inch by six inch square around the hole in the sheetrock.

From this opening we were able to locate four shotgun round pellets inside the wall. Two of the pellets were embedded into a wooden brace inside the wall. Two other pellets were located on the open space within the wall. All rounds were collected after photos were taken.

I was requested to take additional photographs of the garage, and also a workshop that was behind a closed door in the back of the garage. I was also requested to take photographs of the contents of a purse which was sitting on an entryway table, inside the residence, adjacent to the front door. At the request of Captain Milby, I collected a bottle of Nortriptyline medication and a Concealed Weapons Permit belonging to Tatiana Leibel. These were located on the entryway table adjacent to the front door.

I also took photographs of the interior of the washing machine and dryer at the residence.

I also collected a Lexar brand memory card which was given to me by Sergeant Halsey. This card had been located by Sergeant Halsey inside a camera located in a camera bag in the living room.

At 1255 hours, Carson Valley Movers arrived to move the couch to evidence storage. Perry Jones, Steve Shipworth and Clifford Gazarek packaged the couch and moved it from the residence. Prior to packaging the couch I took a swab of the red stain on the seat of the couch. They placed the couch into a moving van and I followed them to the evidence storage facility where it was unloaded and secured at 1415 hours.

On 03/01/14 at 1500 hours I took the clothes that had been worn by and collected from Tatiana Leibel to the DCSO Investigations Lab for photographs and examination. Each piece of clothing had been collected and stored separately. The clothing items consisted of: one pair of cloth shoes, one woman's top, one pair of pants, and one jacket. All items were examined and photographed, both front and back.

2132 1066

Inside the jacket pocket I found two (2) name address cards from Bruce and Barbara Steger. I also found four (4) receipts.

One was a purchase receipt from Carson City Raley's dated 01/24/13 at 0939 hours for \$29.52.

One was a purchase receipt from Carson City Raley's dated 01/24/13 at 0944 hours for \$14.97.

One was a Bank of America ATM Credit Card advance dated 01/23/13 at 0947 hours for \$462.00 from Carson City Raley's.

One was a Bank of America ATM deposit receipt dated 01/24/14 at 1423 hours. The deposit was for \$200.00.

All of the receipts and the address cards were photographed. They were then returned to the jacket pocket. The clothes were then packaged separately, sealed and booked into evidence.

No further action at this time.

DISPOSITION:

Attach to case file.

Copy to District Attorney's Office.

Reporting Officer:
J. Barden ID#458

2133107

EXHIBIT 9

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1
2 Exhibit 6 are true and accurate copies of that email exchange.

3 Dated this 19th day of January, 2015.

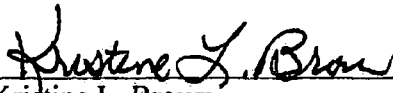
4 
5 Kristine L. Brown
6 State Bar No. 3026
7 1190 High School Street
8 Suite A
9 Gardnerville, Nv. 89410
775-783-8642
Attorney for Defendant

EXHIBIT 3

RECEIVED FILED

JAN 22 2015 NO

Douglas County
District Court Clerk

2015 JAN 22 PM 1:15

BOBBIE R. WILLIAMS
CLERK

BY M. BIAGGINI DEPUTY

Case No. 14-CR-0062

Dept. No. I

DA 13-343G

This document does not contain personal information of any person

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

THE STATE OF NEVADA,

Plaintiff,

vs.

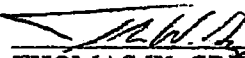
TATIANA LEIBEL,

Defendant.

**OPPOSITION TO DEFENDANT'S
MOTION IN LIMINE RE: CRIME
SCENE RECONSTRUCTION**

The State of Nevada, by and through Thomas W. Gregory, Chief Deputy District Attorney, hereby opposes the Defendant's Motion in Limine Regarding Testimony Concerning Crime Scene Reconstruction by Matthew Noedel. The State's opposition is based upon the attached point and authorities.

DATED this 22 day of January, 2015.


THOMAS W. GREGORY
Chief Deputy District Attorney
Post Office Box 218
Minden, Nevada 89423
(775) 782-9800
Nevada Bar No. 5338

Points and Authorities

I. Nevada law does not require, as a standard for admissibility, that scientific and non-scientific expert testimony be couched in terms of a reasonable degree of probability or certainty.

The defendant cites *Morsicato v. Sav-On Drug Stores, Inc.*, 121 Nev. 153 (2005), for the proposition that pursuant to Nevada law no expert testimony is admissible unless the expert opinion is couched in terms of a reasonable degree of probability or certainty. *Morsicato* and its predecessors, *Brown v. Capanna*, 105 Nev. 665 (1989), *Banks v. Sunrise Hosp.*, 120 Nev. 822, at 834 (2004) and *Fernandez v. Admirand*, 108 Nev. 963, at 972-73 (1992), are all medical malpractice cases brought pursuant to NRS 41A. Importantly, each case deals with expert medical testimony. Just as important, there can be no liability under NRS 41A in the absence of expert medical testimony. NRS 41A.100.

Obviously, this is not a medical malpractice case and Matthew Noedel is not offering medical testimony. The State will be offering expert medical testimony through the medical examiner, Piotr Kubiczek, M.D. The defendant claims that *Las Vegas Metro v. Yeghiazarian*, 129 Adv.Op. 81, 312 P.3d 503 (2013, corrected 2014), extended *Morsicato* and now "requires testimony concerning causation be stated to a reasonable degree of medical or scientific probability or certainty." Defendant's Motion, page 13, lines 11-13. If that were true, *Yeghiazarian* would be a landmark case overturning *Hallmark* and *Higgs*, the sentinel cases for the admissibility of expert witness testimony in Nevada. *Yeghiazarian* cannot plausibly be read in such a manner. *Hallmark* and *Higgs* are discussed below.

///

///

1 **II. NRS 50.275 governs the admissibility of expert testimony in Nevada.**

2 "We give Nevada trial judges wide discretion, within the parameters of NRS 50.275, to
3 fulfill their gatekeeping duties. We determine that the framework provided by NRS 50.275 sets
4 a degree of regulation upon admitting expert witness testimony, without usurping the trial
5 judge's gatekeeping function." *Higgs v. State*, 126 Nev.Adv.Op. 1, 222 P.3d 648, 658-59
6 (2010). "We hold that NRS 50.275 provides the standard for admissibility of expert witness
7 testimony in Nevada." *Id.* at 659. "If scientific, technical or other specialized knowledge will
8 assist the trier of fact to understand the evidence or to determine a fact in issue, a witness
9 qualified as an expert by special knowledge, skill, experience, training or education may testify
10 to matters within the scope of such knowledge." NRS 50.275.
11

12 Interpreting NRS 50.275, the Nevada Supreme Court has identified three
13 requirements for the admissibility of expert witness testimony. They are, (1) qualification; (2)
14 assistance; and (3) limited scope." *Higgs*, 222 P.3d at 658, citing *Hallmark v. Eldridge*, 124
15 Nev. ----, 189 P.3d 646, at 650 (2008). The Court listed non-exhaustive factors for each
16 requirement, *Hallmark*, 189 P.3d at 650-52, but has emphasized a flexible approach, indicating,
17 "We see no reason to limit the factors that trial judges in Nevada may consider when
18 determining expert witness testimony admissibility. *Higgs* at 658. Further, the requirements
19 are based on "legal, rather than scientific principles," and are meant to "ensure reliability and
20 relevance, while not imposing upon a judge a mandate to determine scientific falsifiability and
21 error rate for each case." *Higgs* at 659.
22

23 ///

24 ///

25 ///

1 **III. Mr. Noedel's testimony is admissible pursuant to NRS 50.275 as interpreted in**
2 ***Hallmark and Higgs.***

3 The defendant does not contest Mr. Noedel's qualifications or the scope of his
4 testimony. Rather, the defendant contests only the second of the three prongs, assistance to the
5 jury. Expert testimony assists the trier of fact "when it is relevant and the product of reliable
6 methodology." *Higgs* at 660.
7

8 In this case, the victim was shot with a gun two times in his residence at a time when
9 the victim and the defendant were the only ones present. Mr. Noedel's proposed testimony is
10 relevant in that it will assist the jury in making use of the measurements and photographs taken
11 by FIS at the crime scene and applying the same to the injuries sustained by the victim as
12 attested by the medical examiner. The measurements relied upon by Mr. Noedel were
13 obtained by forensic investigators with the likes of tape measures, rulers and an instrument that
14 determines angles; hardly unaccepted methodology. As indicated by the defendant, "the
15 science of trajectory is based in math, measurements and angles, and is generally accepted."
16 Defendant's Motion, p. 7, lines 20-21.
17
18

19 The measurements have been provided to the defense along with photographs of the
20 measurements. The defense posits that the measurements are unreliable. For instance, the
21 defendant points out that the victim's arm is slightly bent in the photograph depicting the
22 measurement of his arm. While the defense is certainly welcome to cross-examine Mr. Noedel
23 on that point, the observation does not impact the admissibility of Mr. Noedel's testimony. The
24 same goes for the Defendant's contention the Mr. Noedel is wrong in his conclusion that the
25 victim's left arm was up at the time of the first shot. Recall, NRS 50.275 allows for expert
26
27
28

1 testimony to assist the trier of fact "to determine a fact in issue..." NRS 50.275. The
2 defendant will have an opportunity to offer a different point of view at trial.

3 The defendant also claims that the scene is not "reconstrucable" and takes issue with the
4 fact that Mr. Noedel was not present on scene on the date of the shooting. Mr. Noedel did visit
5 the home prior to rendering his opinions. The defense was also given an opportunity to view
6 the home. The couch, the gun, and the end table were preserved in evidence following the
7 shooting. Mr. Noedel worked with the gun and the couch in applying the measurements
8 obtained by FIS which ultimately led to his conclusions. With all of this information, the scene
9 is absolutely "reconstructable," perhaps more so than in more complex scenes such as vehicle
10 accidents.
11

12 The defendant also takes issues with Mr. Noedel's usage of Photoshop or other
13 computer programs to generate images for demonstrative purposes. In *Rudin v. State*, 120 Nev.
14 121, 86 P.3d 572 (2004), expert testimony regarding the trajectory of a bullet based upon blood
15 spatter analysis was upheld as was the use of a software program by the expert. *Id.* at 135-136.
16 The Court was satisfied that through cross-examination, the jury was "presented with reasons to
17 either accept or reject" the expert's opinions. *Id.* at 136.
18

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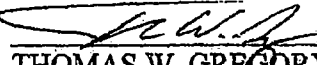
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Conclusion

The Defendant is wrong regarding the applicability of *Morsicato* and *Yeghiazarian* to Mr. Noedel's testimony. NRS 50.245 and the Nevada Supreme Court cases of *Hallmark* and *Higgs* provide the standard to be applied. Mr. Noedel's testimony is both relevant and the product of reliable methodology. That the defendant does not care for Mr. Noedel's opinions can be addressed in cross-examination. The State respectfully requests denial of the defendant's motion.

DATED this 22 day of January, 2015.


THOMAS W. GREGORY
Chief Deputy District Attorney
Post Office Box 218
Minden, Nevada 89423
(775) 782-9800
Nevada Bar No. 5338

1
2 **CERTIFICATE OF SERVICE**

3 Pursuant to NRCP 5(b), I certify that I am an employee of the Douglas County District
4 Attorney's Office, and that on this day I deposited for mailing in Minden a copy of the
5 foregoing Opposition to the Defendant's Motion in Limine re: Crime Scene Reconstruction
6 addressed to:
7

8 Kristine L. Brown, Esq.
9 Attorney at Law
10 1190 High School, Suite A
11 Gardnerville, NV 89410

12 DATED this 22nd day of January, 2015.
13

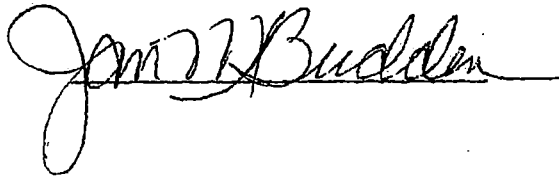
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EXHIBIT 4

In The Matter Of:
State of Nevada vs
Tatiana Leibel, aka Tatiana Kosyrkina - 14-CR-0062

Motions Hearing - Friday
January 23, 2015
(Final Transcript) - Not Rough Draft

Capitol Reporters
208 N. Curry Street

Carson City, Nevada 89703

Original File 012315.txt
Min-U-Script® with Word Index

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Page 1

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 TOP YOUNG
6
7 THE STATE OF NEVADA,
8 Plaintiff,
9 vs.
10 TATIANA LEIBEL,
11 Defendant.
12
13 TRANSCRIPT OF PROCEEDINGS
14 MOTIONS HEARING
15 FRIDAY, JANUARY 23, 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

Page 3

1 please advise me of that.
2 THE INTERPRETER: Okay.
3 THE COURT: And the last time that I had to be on
4 the phone in your position and speak to people in this
5 courtroom, I got an echo of my voice. Are you receiving that
6 or do you hear clearly?
7 THE INTERPRETER: Yes, I am hearing clear.
8 THE COURT: Okay. All right. Thank you, ma'am.
9 A number of things that we need to discuss today.
10 The first issue that I want to take up has to do with
11 something that neither of these parties raise but that the
12 Record Courier raised for us, and so I have been advised by
13 Mr. Hildebrand, who sits in the courtroom this morning, that
14 the Record Courier would like permission to have a pool
15 photographer in the courtroom during the course of the trial.
16 I don't know if they intend to be here through the entire
17 trial or through part of it. It's not a video recording. It
18 seems to be still photography, and so I want to hear first
19 from the State.
20 Do you have any objection to that?
21 MR. GREGORY: No objection, Your Honor.
22 THE COURT: Thank you.
23 Ms. Brown?
24 MS. BROWN: Your Honor, I have no objection if it

Page 2

1 FRIDAY, JANUARY 23, 2015, MINDEN, NEVADA
2 -oOo-
3 THE COURT: Good morning, everyone. This is case
4 14CR62, State of Nevada versus Tatiana Leibel. Ms. Leibel is
5 present, together with her attorneys, Ms. Henry and
6 Ms. Brown. The State is represented this morning by
7 Mr. Gregory of the District Attorney's office.
8 We're here on a pretrial. This matter is
9 scheduled to go to trial next week, beginning Tuesday and
10 before I proceed any further, I'm going to put an interpreter
11 on the line.
12 THE INTERPRETER: Hello.
13 THE COURT: Hello, is this Ms. Sosnovskoya?
14 THE INTERPRETER: Yes.
15 THE COURT: Good morning. This is Judge Young.
16 THE INTERPRETER: Good morning, Your Honor.
17 THE COURT: How are you, ma'am?
18 THE INTERPRETER: I'm fine. How are you?
19 THE COURT: I'm well. Thank you. We appreciate
20 your participation this morning, and we will all try to
21 remember to speak in very short sentences or short verse so
22 that you may translate.
23 THE INTERPRETER: I appreciate it. Thank you.
24 THE COURT: At any time that you cannot hear us,

Page 4

1 could possibly begin after the jury selection. I think it
2 might make jurors uncomfortable if there were a photographer
3 in the courtroom.
4 THE COURT: Okay. Mr. Hildebrand, did you have
5 opportunity to hear that?
6 MR. HILDEBRAND: I did, Your Honor.
7 THE COURT: Do you feel it's necessary for the
8 Record Courier to be able to photograph the jury selection?
9 MR. HILDEBRAND: I don't think we have any
10 interest in the jury selection.
11 THE COURT: Okay. Then it will be the order of
12 the Court that the Record Courier will have permission to
13 have a photographer in the courtroom. Now --
14 MS. BROWN: Where is our interpreter?
15 THE COURT: Oh, I'm sorry. I'm talking way too
16 much for the interpreter.
17 THE INTERPRETER: That was quite a big --
18 THE COURT: That was way too much. How about if
19 I start over.
20 THE INTERPRETER: I got some.
21 THE COURT: Okay. I'll be quiet and see what you
22 can do.
23 Mr. Hildebrand, it's the order of the Court that
24 the Record Courier will be allowed to have a photographer

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Page 9

1 and voluntarily?
2 THE DEFENDANT: Yes, Your Honor.
3 THE COURT: Okay. Thank you, ma'am.
4 THE DEFENDANT: Thank you.
5 THE COURT: That having been concluded, it seems
6 to me that the next and probably one of the biggest issues
7 for today is the motion in limine.
8 THE INTERPRETER: I'm sorry, there's a motion?
9 THE COURT: There's a motion in limine,
10 l-i-m-i-n-e, so it's a motion in limitation. I have read the
11 motion and the opposition thereto, and I understand that the
12 audio, visual system is set up in case the parties wanted to
13 display something to me, and I'm certainly prepared to hear
14 argument on this issue today.
15 However, as I read through this, it occurred to
16 me that it may benefit the Court to hear the testimony of the
17 witness outside of the presence of the jury because a
18 substantial part of this argument has to do with methodology.
19 And if we were to do that, I would schedule a hearing outside
20 the presence of the jury at some point during the course of
21 the trial, whether we did it in the morning before the jury
22 showed up or took an extended lunch hour and did it during
23 then or even on a Saturday. Now, I'm not sure whether the
24 attorneys believe that I need to do that in order to resolve

Page 10

1 this issue, and I'm certainly willing to hear your arguments
2 this morning.
3 Ms. Brown?
4 MS. BROWN: Your Honor, I would have no problem
5 with hearing -- scheduling a hearing where the witness could
6 actually testify. It might be helpful. As to the actual
7 trajectory itself, we since the motion was filed have
8 received some actual numbers for measurements that had not
9 been given to us yet.
10 THE INTERPRETER: I could not understand that.
11 THE COURT: Okay. Would you repeat that, please,
12 ma'am.
13 MS. BROWN: Is it okay if I sit down, Your Honor?
14 THE COURT: Through the course of trial, I -- let
15 me make this clear, I have two very skilled -- three very
16 skilled and professional attorneys here, and I appreciate
17 that you stand when you speak to the Court. Go ahead
18 interpreter. And generally the Court requires that but while
19 we're using someone on the telephone, they can't hear you and
20 just keep your seats and relax. Unless you're ready to wear
21 one of these devices and then you can be heard throughout the
22 room.
23 MS. BROWN: Do those devices have clip-on
24 devices?

Page 11

1 THE COURT: Yes, ma'am. This clips onto a belt
2 or whatever you would like. It clips onto your lapel, and
3 you can wear it inside your coat or if you don't have a coat,
4 we'll put it somewhere behind you or something like that so
5 it doesn't get in your way. We'll help you figure that out.
6 MS. BROWN: Thank you.
7 THE COURT: So, Ms. Brown, go ahead.
8 MS. BROWN: Your Honor, as I was saying, I don't
9 have any objection to scheduling a hearing where the witness
10 could testify outside the presence of the jury.
11 THE COURT: Mr. Gregory, what do you think of
12 that idea?
13 MR. GREGORY: It's fine, Your Honor. I would
14 just let Your Honor know that the witness is from out of
15 state and so that would have to be during the course of trial
16 rather than before trial or --
17 THE COURT: And I anticipated that and we can
18 schedule. Can you tell me when your witness is scheduled to
19 be here?
20 MR. GREGORY: I have him coming in I believe on
21 the 28th. I would hope to have him on the stand between the
22 28th and the 30th. I'm doubtful he will be on the stand the
23 28th, more likely the 29th, 30th.
24 THE COURT: We can hear him the very first thing

Page 12

1 on the 29th, allow the jury to come in a little bit later
2 that day.
3 What do you think of that, Mr. Gregory?
4 MR. GREGORY: That should be fine. I would like
5 to check with the witness just to make sure that is
6 consistent with his travel plans, but I think that should be
7 fine.
8 THE COURT: Ms. Brown?
9 MS. BROWN: That would be fine, Your Honor.
10 THE COURT: One of the things that we'll also
11 afford you the opportunity to do, Ms. Brown, is since you
12 have some numbers now, you might want to refine your motion.
13 You can do that orally.
14 MS. BROWN: Okay. And, Your Honor, I'm having
15 Mr. Billau to review those numbers to see if it's a question
16 of reliability or just arguing about what they mean.
17 THE COURT: Mr. Gregory, there is at least one
18 depiction in something that was attached to Ms. Brown's
19 pleading that I have great concern about. Could I ask you to
20 turn to page 12 of that pleading, sir.
21 MR. GREGORY: Yes, Your Honor.
22 THE COURT: Do you have that, sir?
23 MR. GREGORY: I do.
24 THE COURT: There are two photographs that depict

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1 THE COURT: Does he intend to stay throughout the
2 trial?
3 MS. BROWN: No, he would be here on the 27th and
4 then he anticipates coming back another day in early
5 February.
6 THE COURT: The Court will ensure that there is a
7 seat available for that representative in the audience, but
8 he will be subject to the same security measures as anyone
9 else.
10 MS. BROWN: And, Your Honor, he has -- he also
11 requested to be able to have a visit with Ms. Leibel on
12 Monday, and the jail is totally willing to accommodate that,
13 so that has been arranged.
14 THE COURT: Thank you, ma'am.
15 Are there other issues you want to raise today,
16 ma'am?
17 MS. BROWN: Your Honor, one thing that's
18 concerning the trial scheduling, when I last talked to
19 Mr. Gregory, he anticipated their case going through the end
20 of the 4th, Wednesday. Dr. Omalu is available on Wednesday
21 but not on the 5th and 6th, Thursday and Friday so that
22 creates an issue.
23 THE COURT: Of course, if we take a morning out
24 to take evidence on your expert, that could move it a little

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1 further.
2 MR. GREGORY: I really feel like that Wednesday
3 should be fine that we would be done with the State's case by
4 then.
5 THE COURT: In time for the defense witness to
6 testify?
7 MR. GREGORY: To testify on Wednesday, yes.
8 THE COURT: Okay. All right. We'll try to move
9 it along to make sure that happens.
10 One moment. Ms. Brown and Ms. Henry are
11 conferring. I want to let them get that done.
12 THE INTERPRETER: I'm sorry, Your Honor?
13 THE COURT: The attorneys were talking to each
14 other. I want to give them a moment to finish their
15 conversation.
16 THE INTERPRETER: Thank you very much.
17 MS. BROWN: The other thing, Your Honor, is maybe
18 have a book shelf or table back here because the binders are
19 growing in numbers and it would be convenient to have them
20 off counsel table.
21 THE COURT: John? Well, if we move you back and
22 then we put a book shelf behind you, you won't have a lot of
23 room, but I will see what I can do about accommodating that
24 request.

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1 MS. BROWN: Thank you.
2 MR. GREGORY: Your Honor, I would offer that
3 carts are pretty helpful for that. I believe the D.A.'s
4 office has one that I could have. There might be another one
5 around the courthouse.
6 THE COURT: We'll look around.
7 Ms. Brown, Ms. Henry, anything else?
8 MS. BROWN: We want a printer under our desk.
9 THE COURT: No.
10 MS. BROWN: Close by?
11 THE COURT: A printer?
12 MS. BROWN: A printer.
13 THE COURT: What would you want to print?
14 MS. BROWN: Snips.
15 THE COURT: Huh?
16 MS. BROWN: When you snip things off your
17 computer.
18 THE INTERPRETER: I couldn't hear that.
19 THE COURT: Well, I heard it, and I didn't
20 understand it. She said when you snip something off your
21 computer. I'm not sure what that means.
22 MS. BROWN: That little scissor icon where you
23 can outline something and it will make a photograph of
24 whatever is on -- it's like a screen shot.

Page 20

1 THE COURT: Okay. So if you have a necessity to
2 snip something, I assume it will be from a laptop in front of
3 you.
4 MS. BROWN: Yes.
5 THE COURT: Which you are providing yourself.
6 MS. BROWN: Yes.
7 THE COURT: You may e-mail that to my judicial
8 assistant with a request that she print it and she will do
9 so.
10 MS. BROWN: Thank you.
11 THE COURT: You're welcome.
12 MS. BROWN: Do you have a color printer?
13 THE COURT: No. What else do you need?
14 MS. BROWN: I think that's it, Your Honor.
15 THE COURT: Do you have other issues for today?
16 MS. BROWN: No, Your Honor.
17 THE COURT: Let's turn to Mr. Gregory. What kind
18 of equipment do you require here, sir?
19 MR. GREGORY: No equipment, Your Honor. We did
20 have the issue of the State's motion in limine regarding
21 photographs.
22 MS. BROWN: The reason we're here.
23 THE INTERPRETER: I'm sorry. The interpreter
24 could not hear.

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1 Any other questions, ma'am?
2 MS. BROWN: No, Your Honor.
3 THE COURT: Mr. Gregory?
4 MR. GREGORY: No, Your Honor.
5 THE COURT: Go ahead. Ms. Sosnovskoya, thank you
6 so much for your assistance today. The Court genuinely does
7 appreciate your help.
8 THE INTERPRETER: You're very welcome. My
9 pleasure.
10 THE COURT: We are in recess.
11
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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 January 23, 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 28, is a full, true and correct transcription of said
12 Hearing.
13
14 Dated at Carson City, Nevada, this 29th day
15 of January, 2015.

Kathy Jackson

KATHY JACKSON, CCR
Nevada CCR #402

Page 27

1 CAPITOL REPORTERS
2 515 W. Fourth Street, Suite B
3 Carson City, Nevada 89703
4 775-882-5322
5
6 THE NINTH JUDICIAL DISTRICT COURT
7 IN AND FOR THE COUNTY OF DOUGLAS
8
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24

STATE OF NEVADA, Case No. 14-CR-0062
Plaintiff, Dept. No. 1
Vs.
TATIANA LEIBEL, Defendant.

AFFIRMATION
Pursuant to NRS 239B.030

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

1) Hearing -- 1/23/15

-or-

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

1) _____
2) _____

(Your signature) _____ (Date) 1/29/15

EXHIBIT 5

In The Matter Of:
State of Nevada vs
Tatiana Leibel, aka Tatiana Kosyrkina - 14-CR-0062

Trial - Tuesday
January 27, 2015
Rough Draft

Capitol Reporters
208 N. Curry Street

Carson City, Nevada 89703

Page 1

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 PARTIAL TRANSCRIPT OF PROCEEDINGS
14 TRIAL
15 TUESDAY, JANUARY 27, 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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Page 3

1 TUESDAY, JANUARY 27, 2015, MINDEN, NEVADA
2 -oOo-
3 THE COURT: Mr. Gregory, first witness, please.
4 MR. GREGORY: The State calls Devin Moffat.
5 Your Honor, we'll be playing the 911 call, if I
6 could take a moment to turn that on.
7 THE COURT: Go ahead and set it however you would
8 like.
9 Ms. Brown, I believe your cup of water is still
10 up there.
11 Mr. Moffat, come up; please.
12
13 DEVIN MOFFAT,
14 called as a witness on behalf of the
15 State having been first duly sworn,
16 was examined and testified as follows:
17
18 THE COURT: Would you come on up and have a seat
19 up here. I'm going to ask you to speak in a loud clear voice
20 so that your voice is picked up on the microphone and so that
21 the reporter and the jury can hear you.
22 MS. BROWN: Your Honor, we would like to invoke
23 the rule of exclusion, but I think we have an agreement
24 concerning family members, once Mr. Gregory gets finished

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1 there.
2 THE COURT: Why don't we let him do what he's
3 doing and I'll hear what your agreement is.
4 Mr. Gregory, talk to me about the rule of
5 exclusion.
6 MR. GREGORY: Your Honor, the State also invokes
7 the rule of exclusion. However, by agreement, there are some
8 family members that both sides agreed could remain in the
9 courtroom during the course of the trial. However, I would
10 ask you to admonish those people because they are potential
11 witnesses, and they still should not be talking amongst
12 themselves or communicating, you know, with the parties, but
13 those are Hyanna Leibel.
14 THE COURT: Yes.
15 MR. GREGORY: Sheron Bardte, B-a-r-d-t-e and
16 Justin Leibel.
17 THE COURT: Are those people here?
18 Who are you?
19 MS. HYANNA LEIBEL: My name is Hyanna Leibel.
20 THE COURT: You're Hyanna. You're Sheron, and
21 Justin here?
22 MR. GREGORY: I do not believe they are here yet,
23 Your Honor. They are traveling.
24 MS. BROWN: And there's no objection to Mr. Great

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1 also remaining in the courtroom. Although, he could be a
2 potential --
3 THE COURT: Your investigator?
4 MS. BROWN: Yes.
5 THE COURT: I believe that Mr. Gregory's
6 investigator is still in the courtroom. I don't know if
7 he'll be a witness or not.
8 MR. GREGORY: I don't anticipate him testifying,
9 Your Honor, but I would ask and I'm okay with both
10 investigators remaining in the courtroom.
11 THE COURT: Okay. The rule of exclusion is
12 invoked. What that means is witnesses may not stay in the
13 courtroom and hear another witness' testimony. The exclusion
14 that the parties have told me is that Hyanna may stay in
15 here, together with the two investigators.
16 Hyanna, you are specifically told that you're not
17 to discuss this case with any other witnesses, do you
18 understand that?
19 MS. HYANNA LEIBEL: Yes.
20 THE COURT: Can you say something out loud.
21 MS. HYANNA LEIBEL: Yes, yes.
22 THE COURT: Now, that means that you don't get to
23 go out and tell them what anyone else has said. You don't
24 get to talk about this case with them. You don't get to

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1 discuss the case whatsoever, do you understand that?
2 MS. HYANNA LEIBEL: Yes, I understand.
3 THE COURT: You may talk with the attorneys on
4 either side, but you may not discuss it with anyone else,
5 understood?
6 MS. HYANNA LEIBEL: I understand.
7 THE COURT: Will you obey that rule?
8 MS. HYANNA LEIBEL: Yes.
9 THE COURT: Okay. Ms. Brown, when Justin and
10 Sheron get here, you'll have to let me know.
11 MS. BROWN: They would be.
12 THE COURT: Mr. Gregory?
13 MR. GREGORY: I will discuss that with them, Your
14 Honor, and give you an opportunity to admonish them as well.
15 THE COURT: Thank you very much. The
16 investigators are not to -- not to discuss the testimony that
17 they hear in this room with any other witness.
18 Go ahead.
19 MR. GREGORY: Thank you, Your Honor.
20 THE COURT: If there are any other witnesses
21 here, they must leave.
22
23
24

Page 7

1 DEVIN MOFFAT,
2 called as a witness on behalf of the
3 State having been first duly sworn,
4 was examined and testified as follows:
5
6 DIRECT EXAMINATION,
7 BY MR. GREGORY:
8 Q. Sir, please state your name, and spell your last
9 name.
10 A. Devin North Moffat, M-o-f-f-a-t.
11 Q. Okay. Spell your first name, if you would.
12 A. Devin, D-e-v-i-n.
13 Q. Thank you. What do you do for a living, sir?
14 A. I'm the public safety dispatcher.
15 Q. And what do you do?
16 A. I receive 911 calls with a peace app for Douglas
17 County. Where we receive 911 calls and dispatch the
18 property.
19 Q. So would a common term be you're a dispatcher?
20 A. Yes.
21 Q. Okay. How long have you been a dispatcher?
22 A. Five and a half years.
23 Q. And those 911 calls, those are on a recorded
24 line, correct?

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1 A. Yes.
2 Q. Were you the 911 operator in this particular
3 case?
4 A. Yes.
5 Q. You took the 911 call that came in on
6 February 23rd, 2014?
7 A. Yes.
8 MR. GREGORY: All right. May I approach the
9 witness, Your Honor?
10 THE COURT: You may.
11 Q. (BY MR. GREGORY:) Sir, I'm going to hand you
12 what's been marked as Exhibit 56. Can you please take a look
13 at that and tell me what it is.
14 A. It's a certified recording of the 911 call placed
15 on that day in question.
16 Q. Okay. And did you actually assist in making that
17 particular recording?
18 A. I did.
19 Q. All right. And is that recording true and
20 accurate as far as that 911 call that evening?
21 A. Yes.
22 Q. That morning?
23 A. Yes.
24 Q. Sorry.

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1 Your Honor, I move for admission of State's or of
2 Exhibit 56.
3 THE COURT: Any objection?
4 MS. HENRY: No, Your Honor.
5 THE COURT: 56 is admitted.
6 MR. GREGORY: And, Your Honor, I would like to
7 publish it at the time to the jury.
8 THE COURT: Go ahead, sir.
9 I'm not going to require that the recording be
10 reported unless you're requesting me specifically to do so.
11 MR. GREGORY: No, Your Honor. I do have a
12 transcript of the recording, if that is of assistance, that's
13 been marked as an exhibit.
14 THE COURT: Okay. Ms. Brown, before this gets
15 played, or, Ms. Henry, are you asking the interpreter to
16 interpret this call, this recording as it goes along?
17 MS. BROWN: No, Your Honor.
18 MS. HENRY: No, Your Honor.
19 THE COURT: Okay. Thank you.
20 (Whereupon, a CD 911 recording was played.)
21 MR. GREGORY: Your Honor, I'm going to return
22 Exhibit 56 to the clerk.
23 THE COURT: Thank you, sir.
24 Q. (BY MR. GREGORY:) Mr. Moffat, are you familiar

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1 with the term call for services?
2 A. Yes.
3 Q. What exactly is that?
4 A. It's the call that we create when a 911 call is
5 received so it can be processed by the dispatchers in
6 dispatch.
7 Q. Is it a written transmission?
8 A. It is, it's in our computer in dispatch.
9 Q. And would it accurately track when a call came in
10 and when officers arrived on scene?
11 A. Yes.
12 Q. I'm handing you Exhibit Number 57. Can you
13 please take a look at that. What does that appear to be?
14 A. It's a call for service for that call.
15 Q. Does it appear to be an accurate record of that
16 call for services log?
17 A. Yes.
18 Q. Thank you.
19 Your Honor, I move for admission of Exhibit
20 Number 57.
21 MS. HENRY: No objection.
22 THE COURT: 57 is admitted.
23 MR. GREGORY: Return that to the clerk, and I
24 have no further questions.

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1 THE COURT: Questions, Ms. Henry?
2 MS. HENRY: Yes, thank you, Your Honor.
3 CROSS-EXAMINATION
4 BY MS. HENRY:
5 Q. Mr. Moffat, did you -- did you say that you did
6 record -- that you recorded this call?
7 A. Yes, I assisted in making the recording of the
8 call, yes.
9 Q. And did you listen to the call before you gave it
10 to the District Attorney's office?
11 A. Yes.
12 Q. Okay. And did you hear the gaps in the recording
13 of this call?
14 A. Yes.
15 Q. There were approximately four of them; is that
16 correct?
17 A. I wasn't counting but.
18 Q. Okay. Were those gaps part of the actual 911
19 call?
20 A. No.
21 Q. Okay. And why were those gaps in that recording?
22 A. On the recording process, if there is nothing
23 said between the two people on the phone, the recorder
24 actually stops and then as soon as another noise is made,

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1 somebody starts talking, it starts recording again. So there
2 were probably a couple of different recordings on there but
3 all of the same call in the same order.
4 Q. Okay. And would the time sequence change when it
5 stops recording?
6 A. No.
7 MS. HENRY: Okay. No further questions, Your
8 Honor.
9 THE COURT: Any redirect?
10 REDIRECT EXAMINATION
11 BY MR. GREGORY:
12 Q. Well, so those gaps, as I understand it, if both
13 parties quit talking, then the recording stops?
14 A. Correct.
15 Q. And then it reinitiates when somebody makes a
16 sound, correct?
17 A. Correct.
18 Q. So when we heard those gaps in the 911 call,
19 there should not be any missing dialogue, correct?
20 A. Correct.
21 Q. All right. Thank you.
22 THE COURT: Anything else?
23 MS. HENRY: No, Your Honor.
24 THE COURT: Is this witness excused?

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1 MR. GREGORY: For the State, yes, Your Honor.
2 THE COURT: Permanently excused?
3 MR. GREGORY: Yes.
4 THE COURT: Sir, thank you for your appearance
5 today. You may leave.
6 THE WITNESS: Thank you.
7 (Witness excused.)
8 THE COURT: Your next witness?
9 MR. GREGORY: The State calls Deputy Haley.
10 THE COURT: Deputy Haley, come on in, please,
11 sir. Sir, if you would pause right in front of the clerk
12 raise your right hand.
13
14 DEPUTY STEVEN HALEY,
15 called as a witness on behalf of the
16 State having been first duly sworn,
17 was examined and testified as follows:
18
19 THE COURT: Deputy Haley, come on up and have a
20 seat, please. There's water if you would like. I'm going to
21 ask you to speak in a loud, clear voice so that the jury,
22 everyone in the courtroom and the court reporter can hear
23 you. Thank you.
24

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1 DIRECT EXAMINATION
2 BY MR. GREGORY:
3 Q. Sir, please state your name, and spell your last
4 name.
5 A. Steven Haley, H-a-l-e-y.
6 Q. What do you do for a living?
7 A. I'm a deputy with Douglas County Sheriff's
8 Office.
9 Q. And how long have you been so employed?
10 A. About six and a half years.
11 Q. All right. All with the Douglas County Sheriff's
12 Office?
13 A. Yes.
14 Q. Okay. And you're currently assigned to the
15 patrol division?
16 A. I am.
17 Q. Were you so employed on February 23rd of 2014?
18 A. I was.
19 Q. What shift were you working?
20 A. I believe I was on day shift.
21 Q. Which would mean what hours?
22 A. 6:00 a.m. to 4:00 p.m.
23 Q. And so you were on -- on duty at approximately
24 11:00 o'clock that morning?

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1 A. Yes, I was.
2 Q. On that date and approximately time, did you have
3 occasion to respond to 452 Kent Way in Zephyr Cove?
4 A. I did.
5 Q. What was your purpose in responding to that
6 location?
7 A. Responded to what I saw on my mobile computer
8 that was a self-inflicted gunshot.
9 Q. When you say you saw it on your computer, tell us
10 a little bit about what does your computer communicate to
11 you, what types of things?
12 A. It's tied in to the dispatch center that can
13 enter calls and as they are taking the calls, they can add
14 them to their computer which shows up on our mobile terminals
15 in our car.
16 Q. Okay. So the 911 call comes in and the
17 dispatcher can dispatch units to that location, correct?
18 A. Yes.
19 Q. And so you got something transcribed to you on
20 the your computer consul?
21 A. That showed up --
22 Q. Some information?
23 A. It showed up as an entry for a stab or a gunshot,
24 and then there were no call notes initially because the

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1 dispatchers were particular taking the 911 call.
2 Q. So at that point in time, you know very little,
3 correct?
4 A. Yes.
5 Q. And it's not like you sat and listened to the 911
6 call. So you were given information that there was a gunshot
7 or a stab?
8 A. The classification that came up on the computer,
9 they only have certain amount to choose from and it came out
10 as a stab or a gunshot.
11 Q. Okay. And do you recall about what time you got
12 or received that information?
13 A. Around 11:03.
14 Q. Okay. A.m or p.m.?
15 A. In the morning a.m.
16 Q. Where were when you received that information?
17 A. Around -- it's on Highway 50 around what we call
18 Sewer Plant Road, which is west of Elks Point Road.
19 Q. And approximately how long in traveling distance
20 would it take you to get from there to the residence at 452
21 Kent?
22 A. Approximately two minutes.
23 Q. Did you, in fact, respond as soon as you received
24 that information?

1 A. As soon as I saw the call come up on my mobile
2 computer.
3 Q. When you arrived at that location, you said it
4 took about two minutes. Does that normally take about two
5 minutes. Did it take about two minutes in this case?
6 A. Between a minute and a half to two minutes, I
7 would say approximately. I knew roughly where the address
8 area was but while driving in the car, I pulled up a map
9 feature on the mobile computer to make sure I knew exactly
10 where I was going.
11 Q. When you arrived at that location, were there
12 other -- any other units already there?
13 A. No.
14 Q. You were the first one to arrive?
15 A. Yes.
16 Q. Can you describe what is at that location
17 generally?
18 A. Two story residence that's on an incline
19 driveway.
20 Q. Okay. And when you got to that location, did you
21 drive up the driveway or where did you park?
22 A. I parked at that street just past the driveway to
23 the residence.
24 Q. And what did you do next?

1 A. I got out of my car, and I began going up the
2 driveway to about halfway up the driveway.
3 Q. So you were on foot at that point in time?
4 A. Yes.
5 Q. Had you received anymore information regarding
6 the call?
7 A. Not that I recall.
8 Q. Okay. What happened at that point?
9 A. I waited about half way up the driveway for an
10 additional unit based on there being a dispatch call where
11 there were weapons involved.
12 Q. What would be the purpose in waiting for the
13 arrival of another unit?
14 A. Just for more -- for backup, for someone else to
15 look for a possible threat.
16 Q. Safety reasons?
17 A. Yes.
18 Q. Okay. How long did it take for another unit to
19 arrive?
20 A. Anywhere from a minute and to two minutes before
21 I remember seeing Deputy Williamson arrive.
22 Q. And when Deputy Williamson arrived, what did he
23 do?
24 A. I saw him exit the car. At that point, I went

1 towards the front door of the house. I don't recall anything
2 else what he did.
3 Q. Was he on foot as well?
4 A. Yes.
5 Q. So it was just the two of you that approached the
6 house together?
7 A. Yes.
8 Q. And as you approached the house, did you see any
9 other people?
10 A. I did not.
11 Q. Did you notice whether the front door was opened
12 or closed?
13 A. It was closed.
14 Q. Did you hear anything as you approached the
15 residence?
16 A. I did not.
17 Q. And I think you indicated you went to the front
18 door?
19 A. Yes, I did.
20 Q. Is that accurate? Are you aware of what Deputy
21 Williamson was doing at that time, personal knowledge that
22 you observed?
23 A. Not at the immediate time, I don't know. I had a
24 general idea that he was off to my right.

1 Q. And can you describe -- so you walked up the
2 driveway and you're approaching the door. Describe the
3 entryway to the door.
4 A. There are stairs with the railing that lead up to
5 the front door. There's a single front door. I don't recall
6 if there was any glass or if the door was solid to the front
7 door.
8 Q. What did you do when you got to the door?
9 A. Started trying to get someone to come to the door
10 by knocking or ringing the doorbell, as I tried to see the
11 status of the door, was it locked, unlocked.
12 Q. Was the door -- did you check the door?
13 A. I did.
14 Q. And was it locked or unlocked?
15 A. It was locked.
16 Q. And you indicated that you tried to announce your
17 presence by knocking on the door?
18 A. I believe I rang the doorbell.
19 Q. Okay. Did you also make any kind of verbal
20 notification that you were there?
21 A. Not at that time.
22 Q. Okay. And what happened after you rang the
23 doorbell?
24 A. I rang the doorbell multiple times and I

Page 21

1 didn't -- no one came to the door.
2 Q. No one ever came to the door?
3 A. For the initial time before I asked dispatch to
4 let the fire department know, we hadn't gotten into the house
5 yet. No one had come to the door.
6 Q. And you just mentioned calling the fire
7 department. What was the thought process at that point?
8 A. We hadn't found a way inside the house yet. I
9 believe there was an emergency inside, and I had to call
10 dispatch to let them know I needed the fire department to
11 bring up some sort of tool to get into the house.
12 Q. And did that, in fact, need to occur?
13 A. No.
14 Q. Why not?
15 A. After I called dispatch about the request for
16 equipment to get into the house, I looked for -- I talked to
17 Deputy Williamson about finding an entry into the house.
18 Dispatch came back on the radio and said someone is --
19 someone is coming to the door.
20 Q. Did someone, in fact, come to the door?
21 A. Yes.
22 Q. And let you in or open the door for you?
23 A. Open the door.
24 Q. And who was that person?

Page 22

1 A. It was Tatiana, the defendant.
2 Q. Do you see her in the courtroom here today?
3 A. I do.
4 Q. Can you tell the jury where she's seated and what
5 she's wearing?
6 A. She's seated to my right, wearing a gray blazer.
7 THE COURT: The record will reflect that he has
8 identified the defendant.
9 MR. GREGORY: Thank you.
10 Q. At that point in time, did Ms. Leibel state
11 anything to you?
12 A. Not anything I remember. When she opened the
13 door, I started asking about who needed help, where they are
14 located.
15 Q. And did she give you a response?
16 A. She said upstairs.
17 Q. What did you do after receiving that information?
18 A. I told her that the fire department was on the
19 way, that if she could wait outside and help direct them
20 inside to where they needed to go to render aid.
21 Q. Now, if you can walk us through when you entered,
22 where did you go?
23 A. There was a staircase that I went up the. At top
24 of the stairs, I noticed a male laying on the floor.

Page 23

1 Q. Was that staircase near the vicinity of the front
2 door?
3 A. Several feet straight back.
4 Q. Did you go straight to the steps and up?
5 A. I had stopped to get information about where I
6 was going.
7 Q. Where was Deputy Williamson at that point?
8 A. He -- I don't know.
9 Q. So you proceeded up the stairs?
10 A. Yes.
11 Q. And what did you see when getting to the top of
12 the stairs?
13 A. Immediately in front of me, there was a male on
14 the floor lying there.
15 Q. Can you describe the room that you saw him in?
16 A. At the top of the staircase, it's elevated above
17 the floor that was in front of me. There was a step down to
18 that room.
19 Q. Okay. And where -- so a sunken room, so to
20 speak?
21 A. Yes.
22 Q. There are steps down into the room?
23 A. There's one step.
24 Q. And the room where the person was lying was down

Page 24

1 the steps in that room?
2 A. Yes.
3 Q. Okay. What type of room was that? Just
4 generally what did it look like it was used for?
5 A. Family room, entertainment room. There was a TV
6 in there, sofa and a coffee table.
7 Q. Did you see anybody else in the residence at that
8 point?
9 A. No, I did not.
10 Q. Did you see any signs that there had been a
11 struggle?
12 A. No.
13 Q. Did you see any signs that there had been any
14 kind of forced entry into the home?
15 A. No.
16 Q. What did you do after seeing the male on the
17 floor?
18 A. I noticed his condition, limited my response as
19 far as I wasn't able to do anything medically based on what I
20 was observing.
21 Q. When you say you noted his condition, what was
22 his condition?
23 A. Oh, I observed pale skin. He didn't have a
24 reaction where of someone that was just shot. He was lying

Page 25

1 there motionless.
2 Q. Okay. Any signs of life?
3 A. No.
4 Q. Did you see any breathing?
5 A. I did not see breathing.
6 Q. Did you hear anything coming out of him?
7 A. I did not hear any breathing.
8 Q. Did you have an opportunity to touch him at all?
9 A. I checked the left side of his neck area to see
10 if I could feel a pulse.
11 Q. Did you feel anything?
12 A. I did not.
13 Q. Other than his neck area, did you touch him any
14 place else?
15 A. No.
16 Q. What did you do at that point?
17 A. At that point, I believe Deputy Williamson had
18 come up and soon after the fire department came upstairs, I
19 mentioned to Deputy Williamson if he had a camera, if he did,
20 take some pictures real fast.
21 Q. To your knowledge did Deputy Williamson take some
22 pictures?
23 A. He did.
24 Q. Did you personally move or otherwise manipulate

Page 26

1 the body other than touching the neck?
2 A. No.
3 Q. Did you observe Deputy Williamson at any time
4 manipulate the body in any kind of way?
5 A. I did not see that.
6 Q. How long did it take for the paramedics to
7 arrive?
8 A. I don't have any estimation how long it took.
9 Everything was occurring quickly.
10 Q. Well, after you noted his condition, as you've
11 stated, can you approximate how much time between then and
12 when the paramedics arrived?
13 A. Maybe two minutes. I don't have an
14 approximation.
15 Q. Okay. Do you recall what you did during the
16 time? Was there a wait for the paramedics?
17 A. Not an extended wait. I had talked to Deputy
18 Williamson about the photos, and it seemed like they were
19 coming on scene at that time.
20 Q. Did you notice any weapons in the near vicinity
21 of the body?
22 A. There was a rifle type weapon sitting on the
23 sofa.
24 Q. Did you touch or otherwise manipulate the

Page 27

1 firearm?
2 A. No, I did not.
3 Q. Did you observe anybody while you were there
4 touch or manipulate the firearm?
5 A. No.
6 Q. Did you personally take a close look at the
7 rifle?
8 A. I did not look close to the rifle beyond being in
9 the area and seeing that it was there.
10 Q. Are you familiar with the smell of gunpowder?
11 A. Yes.
12 Q. Did you smell any gunpowder when you entered the
13 residence?
14 A. I did not.
15 Q. Would you expect to have smelled gunpowder if the
16 shooting had happened five minutes prior to your arrival?
17 A. I would have expected the smell of gunpowder if a
18 gun was recently fired.
19 Q. When the paramedics arrived, what did you do?
20 A. Let them engage in their event lifesaving
21 measures. I just stood in the area, seeing where I would be
22 needed, if at all, by the fire department.
23 Q. Okay. What did you observe the paramedics to do?
24 A. Based on how much room they had to work, what it

Page 28

1 appeared like they needed to move the glass table that was
2 sitting in the living room.
3 Q. The glass table, where was that?
4 A. Near the sofa.
5 Q. Okay. And so they moved that?
6 A. Yes.
7 Q. But you observed them do that?
8 A. Yes.
9 Q. And what was the -- was there a need to move it?
10 A. That would be something for the fire department.
11 They indicated it was in their way. They were going to move
12 it.
13 Q. Okay. And so then you watched as they worked on
14 Mr. Leibel?
15 A. Yes.
16 Q. Did you make any other observations while you
17 were inside that room that were of significance to you as a
18 sheriff's deputy?
19 A. The blood that was on the sofa and then
20 inconsistently -- inconsistently seeing the sofa that didn't
21 appear to belong there.
22 Q. Did you yourself move the couch?
23 A. No.
24 Q. Did you see anybody else move the couch while you

Page 29

1 were there?
2 A. I did not see anybody that moved the couch.
3 Q. Did you note the presence of any pets in the
4 residence while you were there?
5 A. At some point I remember hearing a dog barking
6 and then was told or figured out that it was in a -- locked
7 away in a room downstairs.
8 Q. You never saw the dog?
9 A. No.
10 Q. And when you were ringing the doorbell, did you
11 hear the dog?
12 A. I don't recall hearing a dog.
13 Q. Okay. How long did you remain on scene?
14 A. Until an investigator got on scene, that's when I
15 walked outside. I was still on scene and was later asked to
16 transport the defendant, Tatiana, to the Stateline Jail.
17 Q. Okay. So after the paramedics finished doing
18 their thing, what did you do?
19 A. I remained at the top of the stairs, the landing,
20 for everyone to arrive.
21 Q. Okay. You said earlier that you waited for an
22 investigator to arrive. Did you call for an investigator?
23 A. I did not. I spoke to Deputy Williamson about
24 what I believed should happen. I was to notify an

Page 30

1 administrator and have an investigator get the approval for
2 an investigator to come up.
3 Q. And why would you call for an investigator in
4 this case?
5 A. The circumstances surrounding the death, it being
6 either self-inflicted gunshot or something else that would
7 warrant the investigator coming out. It was beyond the scope
8 of what I would do as a regular deputy.
9 Q. Okay. And so as I understand it, you did wait on
10 scene until an investigator arrived?
11 A. Yes.
12 Q. Who was that?
13 A. Investigator Garren.
14 Q. Between the time that the paramedics finished
15 what they were doing and Investigator Garren's arrival, what
16 did you do?
17 A. I remained at the landing, just waiting.
18 Q. Did you or anybody else manipulate the body in
19 any way?
20 A. No.
21 Q. Did you see anybody else or you move the couch
22 during the time frame?
23 A. No.
24 Q. How about the gun?

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1 A. No.
2 Q. Okay. Once Investigator Garren arrived, what did
3 you do?
4 A. He indicated that the house was going to be
5 sealed and that he wanted everybody out of the house.
6 Q. Did you get out of the house?
7 A. Yes.
8 Q. Other than your contact with Ms. Leibel when she
9 answered the door, did you have any other occasion to speak
10 with Ms. Leibel personally?
11 A. No.
12 MR. GREGORY: I have nothing further.
13 THE COURT: Thank you. Ladies and gentlemen,
14 it's 5:00 o'clock. You have had a long day already. We're
15 going to recess for the day. When you return, if the defense
16 chooses to do so, this witness will be on stand subject to
17 cross-examination but for today, we will recess.
18 Deputy, you can step down. Thank you. You are
19 required to be here at 9:00 o'clock in the morning.
20 THE WITNESS: Yes, sir.
21 THE COURT: Thank you.
22 MR. GREGORY: And, Your Honor, if you could also
23 admonish him not to talk to any witnesses, I would appreciate
24 that.

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1 THE COURT: I will do so.
2 Deputy, you can talk to the attorneys. Do not
3 talk to any witnesses.
4 THE WITNESS: Yes, Your Honor.
5 THE COURT: Okay. Don't speak about your
6 testimony to anyone other than the attorneys.
7 THE WITNESS: Yes, Your Honor.
8 THE COURT: Including supervisors or anyone else
9 with the sheriff's office.
10 THE WITNESS: Okay.
11 THE COURT: Thank you. Ladies and gentlemen,
12 we'll recess until 9:00 o'clock in the morning. Now, I'm
13 asking that you not plan on arriving at the courthouse at
14 9:00. Please be in the jury room so that at 9:00 o'clock we
15 can start. Thank you.
16 (Whereupon, the admonishment was given to the
17 jury by the Court not to talk about the case with anyone
18 until the case is submitted to the jury for deliberation.)
19
20
21
22
23
24

Page 33

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 January 27, 2015, for the
8 purpose of reporting in verbatim stenotype notes the
9 within-entitled Trial;

10 That the foregoing transcript, consisting of pages 1
11 through 33, is a full, true and correct transcription of said
12 Trial.

13

14 Dated at Carson City, Nevada, this 1st day
15 of June, 2015.

16

17

18

19

20

21

22

23

24

Kathy Jackson
KATHY JACKSON, CCR
Nevada CCR #402

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

5

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

8

9 STATE OF NEVADA, Case No. 14-CR-0062
10 Plaintiff,
11 Vs. Dept. No. 1

12 TATIANA LEIBEL,
13 Defendant.

14

15 AFFIRMATION
16 Pursuant to NRS 239B.030

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

20 1) Trial -- 1/27/15

21

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

1) _____

2) _____

(Your signature) _____ (Date) 6/1/15

21

22

23

24

EXHIBIT 6

In The Matter Of:
State of Nevada vs
Tatiana Leibel, aka Tatiana Kosyrkina - 14-CR-0062

Jury Trial - Wednesday
January 28, 2015
Rough Draft

Capitol Reporters
208 N. Curry Street

Carson City, Nevada 89703

Original File 012815.txt
Min-U-Script® with Word Index

Page 1

1 Case No. 14-CR-0062
2 Dept. No. 1
3
4 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
5 IN AND FOR THE COUNTY OF DOUGLAS
6 BEFORE THE HONORABLE DISTRICT COURT JUDGE NATHAN TOD YOUNG
7
8 THE STATE OF NEVADA,
9 Plaintiff,
10 vs.
11 TATIANA LEIBEL, a.k.a.,
12 TATIANA KOSYRKINA,
13 Defendant.
14
15 TRANSCRIPT OF PROCEEDINGS
16 JURY TRIAL
17 WEDNESDAY, JANUARY 28, 2015
18 MINDEN, NEVADA
19 APPEARANCES:
20 For the Plaintiff: THOMAS GREGORY, ESQ.
21 Deputy District Attorney
22 For the Defendant: KRISTINE BROWN, ESQ.
23 Attorney at Law
24 JAMIE HENRY, ESQ.
25 Attorney at Law
26
27 REPORTED BY: CHRISTY Y. JOYCE, CCR #625
28 Capitol Reporters
29 (775) 882-5322

Page 2

1 WEDNESDAY, JANUARY 28, 2015, 9:00 A.M.
2 ---oOo---
3 THE COURT: Good morning, Ladies and Gentlemen.
4 Have a seat, please, and relax. Thank you. There were some
5 doughnuts back there for you this morning. I don't know that
6 you'll have that every morning, but some mornings you'll have
7 a treat back there.
8 We are back in session in Case 14-DI-62(sic),
9 State of Nevada vs. Tatiana Leibel. Mr. Gregory is here for
10 the State. Ms. Brown and Ms. Henry are here with their
11 client. Ms. Leibel is also here. The interpreters are here.
12 And the attorneys stipulate to the presence of the jury?
13 MR. GREGORY: Good morning, your Honor. Yes, the
14 State will.
15 MS. BROWN: Yes, your Honor.
16 THE COURT: Thank you.
17 Mr. Gregory, you have a witness on the stand.
18 Could we recall that witness, please.
19 MR. GREGORY: Yes. That was Deputy Haley and the
20 State had finished its direct examination.
21 MS. BROWN: And your Honor, as to the rule of
22 exclusion, I know in the courthouse there's availability of
23 watching the proceedings on television or on the computers.
24 Could the witnesses also be instructed not to avail
25 themselves to that?

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1 THE COURT: I don't know who has access to those
2 computers. It's closed within the courthouse, I believe, or
3 on the courthouse line. But if there are any witnesses in
4 the room who are going to testify, you are prohibited from
5 watching this on the television or on the computer, except
6 for those people that are allowed to be in the courtroom.
7 You're still prohibited from discussing it.
8 Mr. Gregory.
9 MR. GREGORY: Which reminds me, your Honor, there
10 were two witnesses yesterday we told you would be coming
11 today who the parties have allowed to remain in the courtroom
12 who weren't admonished yesterday. They are here today, so
13 I'd ask that you go ahead and admonish them.
14 THE COURT: Who are they?
15 MR. GREGORY: They are Shirone Bartine and Justin
16 Leibel. They are Mr. Leibel's children.
17 THE COURT: And they're on this side over here?
18 MR. GREGORY: If you could stand up, please.
19 THE COURT: Good morning. You are permitted to
20 remain in the courtroom, although the parties have invoked
21 the rule called the rule of exclusion, which typically would
22 require potential witnesses to remain outside of the
23 courtroom. You may remain in the courtroom with this caveat,
24 with this limitation. That is that you are expressly
25 prohibited from discussing the testimony of any witness or

Page 4

1 your testimony with anyone other than the three attorneys who
2 sit here. You may not discuss it with each other. You may
3 not discuss it with anyone else. And if you do so, then you
4 will not be allowed to testify. Do you understand that, both
5 of you?
6 UNIDENTIFIED SPEAKER: Yes.
7 UNIDENTIFIED SPEAKER: Yes.
8 THE COURT: Okay. Thank you. And you are
9 permitted to be in here. Have a seat, relax. Thank you for
10 being here.
11 Mr. Gregory.
12 MR. GREGORY: Your Honor, there are other folks
13 in the courtroom who I do not know. Of course they're
14 welcome if they're not witnesses. But I want to make sure
15 that they're not witnesses.
16 THE COURT: If there are any other witnesses
17 other than I think Iana who is here and the investigators,
18 witnesses must leave. And of course this trial is open to
19 the public. Any member of the public can come in and watch.
20 And so witnesses must leave. Members of the public are
21 allowed.
22 Deputy, would you please take the stand. Good
23 morning, sir. Sir, I will remind you that you are still
24 under oath.
25 Ms. Brown or Ms. Henry.

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1 MS. HENRY: Thank you, your Honor.
2
3 CROSS-EXAMINATION
4 By Ms. Henry:
5 Q. Hi, Deputy Haley?
6 A. How are you?
7 Q. Good. How are you? Thank you. To pick up where
8 we were yesterday, you said that you responded to 452 Kent
9 Way at about 11:03 a.m.; correct?
10 A. That's when the call came up. I started driving
11 there, yes.
12 Q. Okay. And then Deputy Williamson arrived to
13 assist you about two minutes after you arrived; is that
14 right?
15 A. That sounds about approximately right, yeah.
16 Q. And do you recall what time you were both there
17 together and walked up to the door?
18 A. I don't have any definite time. Just a
19 perception of how long the event took.
20 Q. Okay. And how long did it take you to get en
21 route to the scene? How long did it take you to get to the
22 scene? If you were called at 11:03, what time did you
23 arrive?
24 A. For me to drive to the house?
25 Q. Yes.

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1 A. Approximately two minutes, so 11:05.
2 Q. 11:05. And it's your belief that Deputy
3 Williamson arrived about two minutes later so you were both
4 there about 11:07?
5 A. That sounds about right.
6 Q. And you testified that when you originally went
7 to the door nobody answered; is that correct?
8 A. Yes.
9 Q. And specifically you reported that you repeatedly
10 rang the doorbell and nobody came to the door; correct?
11 A. Yes.
12 Q. And you also stated yesterday when you testified
13 that you did not make any type of verbal declaration that you
14 were there; correct?
15 A. I did not, no.
16 Q. Okay. And because nobody was answering the door
17 with what you say were repeated requests or repeated -- the
18 repeated ringing of the door bell, you requested that
19 dispatch contact Ms. Leibel; correct?
20 A. I asked for the dispatchers to contact the fire
21 department to bring tools with them to cut down time if
22 that's in fact what we needed to do.
23 Q. Okay. But then that wasn't necessary because she
24 came to the door; correct?
25 A. Yes.

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1 Q. And when she came to the door she was holding a
2 phone in her hand; isn't that right?
3 A. Yes.
4 Q. And at that point you asked her where Mr. Leibel
5 was; correct?
6 A. Yes.
7 Q. And she directed you upstairs?
8 A. She said upstairs.
9 Q. Okay. And then you told her to stay outside and
10 wait for the paramedics; is that correct?
11 A. Yes. To help direct them to where they needed to
12 go.
13 Q. Okay. And at that point she was cooperative with
14 you; correct?
15 A. Yes.
16 Q. Yesterday the 911 call for service was admitted
17 as Exhibit 56. I'm going to play that for you and I'd like
18 for you to really listen to it. It can be a little bit hard
19 to hear. So really listen to it to because I'm going to ask
20 you some questions about it, okay.
21 A. Okay.
22 MR. GREGORY: Your Honor, this witness testified
23 yesterday that he did not hear the 911 call. So I object to
24 the relevance of playing the 911 call again with this witness
25 asking him questions about it.

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1 THE COURT: The objection is overruled. We'll
2 see what the questions are.
3 (Recording played in open court but not reported)
4 Q. (By Ms. Henry) Okay. So now you've just
5 listened to that 911 tape. During that call with dispatch
6 she's given instructions on life-saving measures, assuming
7 that Mr. Leibel can be saved. That's what you heard;
8 correct?
9 A. Yes.
10 Q. And she said that she didn't believe that he was
11 breathing; correct?
12 A. It was hard to distinguish from where I'm sitting
13 what she was saying, so I'm not sure.
14 Q. Okay. Did you hear that she was instructed to
15 pull him off of the couch?
16 A. Yes.
17 MR. GREGORY: Your Honor, I object to the
18 relevance of asking him what he's heard in reference to the
19 911 call.
20 THE COURT: I don't know where he's going with
21 it, so you're overruled.
22 Q. (By Ms. Henry) And in the 911 call you can
23 actually hear her making attempts to listen to the
24 dispatcher; correct?
25 A. Yes.

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1 Q. And so she's complying with the dispatcher and
2 she's doing what they're asking her to do; correct?
3 MR. GREGORY: Objection. Calls for speculation.
4 THE COURT: He doesn't know what she's doing.
5 And so, Counsel, what is the relevance?
6 MS. HENRY: It appears that she's in compliance.
7 THE COURT: Counsel, what is the relevance of
8 what he believes?
9 MS. HENRY: Well, I'll just move on, your Honor.
10 Q. (By Ms. Henry) During the time that she was
11 doing CPR did you hear the doorbell ring?
12 A. I heard a cycle that the doorbell rang.
13 Q. And you didn't hear the doorbell ring more than
14 one time; correct?
15 A. I don't -- No.
16 Q. Well, we just listened to the entire tape. How
17 many times did you hear the doorbell ring?
18 A. I heard a cycle of a chime that the doorbell was
19 ringing.
20 Q. On one occasion in that tape; correct?
21 A. Yes.
22 Q. And in one occasion in that tape prior to the
23 doorbell ringing you heard the dog bark; correct?
24 A. Yes.
25 Q. And you could hear her say to dispatch after the

Page 10

1 doorbell rang that somebody was there; correct?
2 A. Yes.
3 Q. And she did not say that at any time prior to the
4 doorbell ringing; correct?
5 A. Correct.
6 Q. And so she was hearing the doorbell ring and she
7 was responding to dispatch while you were presumably outside;
8 correct?
9 A. Yes.
10 Q. And she mentioned in there that she had to put
11 the dog in the bedroom; correct?
12 A. Yes.
13 Q. You heard that?
14 A. Yes.
15 Q. And immediately after that she greeted you at the
16 door; correct?
17 A. Yes.
18 Q. And so there really wasn't a delay in her
19 responding to the door from what you heard there?
20 A. From what I heard, no.
21 Q. I have one more question regarding that call.
22 When you -- Was that you on the tape? Was that your voice?
23 A. That was my voice, yes.
24 Q. That was your voice, okay. And when she answered
25 the door, it sounded like you said you were from the fire

Page 11

1 department. Did you say that?
2 A. No. I -- My statement was that the fire
3 department is on their way, that she needed to help them find
4 us wherever the person that was hurt was.
5 Q. Now, after Ms. Leibel answered the door you
6 entered the house; correct?
7 A. Yes.
8 Q. And you went up the stairs where Ms. Leibel
9 directed you to go?
10 A. Yes.
11 Q. And when you went up the stairs you saw
12 Mr. Leibel laying on the living room floor?
13 A. Yes.
14 Q. And he was in front of the couch, his head was --
15 his head was in front of the couch? Do you recall how he was
16 positioned?
17 A. His position was his head was by the step as you
18 step down. He was several feet from the couch.
19 Q. And yesterday you testified that you noticed that
20 his condition appeared to be that he had pale skin; correct?
21 A. Yes.
22 Q. No motion in his body?
23 A. Correct, yes.
24 Q. And you didn't hear any breathing?
25 A. Yes.

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1 Q. And when you arrived, you checked him for signs
2 of life; correct?
3 A. I did.
4 Q. And didn't you also state in your report that he
5 was warm to the touch?
6 A. I did.
7 Q. And then you also testified that around that time
8 you saw the rifle on the sofa; is that correct? You
9 testified yesterday that you saw the rifle on the sofa?
10 A. Yes.
11 Q. Okay. And you also testified in your report that
12 you noticed that the rifle was secure; correct?
13 A. In the sense that there wasn't someone else that
14 could access the weapon and use it.
15 Q. Okay. And did you recognize what type of firearm
16 it was when you first looked at it?
17 A. Just that it was a rifle-type weapon. That's the
18 best I could identify it as.
19 Q. And then right around that same time the
20 paramedics arrived; correct?
21 A. Yes.
22 Q. And do you recall which paramedics arrived, who
23 they were?
24 A. They're from the station at Elk's Point. I don't
25 know them all by name.

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1 Q. Do you know any of them by name?
2 A. No.
3 Q. When you were there you saw the paramedics move
4 the coffee table?
5 A. Yes.
6 Q. And that was to help perform life-saving measures
7 on Mr. Leibel?
8 A. It appeared they needed more room to work. They
9 moved it.
10 Q. And is it while they were doing that you noticed
11 a bullet hole in front of the couch on the front side of the
12 couch?
13 A. At a later point trying to figure out, piece
14 together what may have happened is when I saw that.
15 Q. And when you say a later point, is that when the
16 paramedics were still there?
17 A. Yes.
18 Q. And do you recall where the approximate location
19 of the bullet hole was on the couch? Was it more in the
20 middle of the couch? Was it to one side of the couch? Do
21 you recall?
22 A. I just recall that it was, there was a left
23 sectional and it was in the back part, the part that you rest
24 your back against. The reference point, up, down, left or
25 right, I don't recall.

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1 Q. And then you stated yesterday in your testimony
2 that you looked behind the couch; is that correct?
3 A. Yes.
4 Q. And if you're looking, if you're looking at the
5 couch, what side did you go to to look behind the couch, if
6 you're looking at the couch? Did you go to the right side or
7 did you go to the left side?
8 A. To the right side.
9 Q. And did you move anything at all to look behind
10 the couch?
11 A. No.
12 Q. You didn't move a table to look behind the couch?
13 A. No, I didn't.
14 Q. And you didn't move the couch?
15 A. I didn't move the couch, no.
16 Q. But you did -- But you did testify that you saw
17 the bullet hole on the back side of the couch where you
18 believed the bullet hole exited from?
19 A. Yes.
20 Q. And you were able to see that without moving the
21 couch?
22 A. Yes.
23 Q. And you were doing all of this while the
24 paramedics were with Mr. Leibel?
25 A. At the same period of time.

Page 15

1 Q. So they were working on Mr. Leibel and you were
2 looking at the couch?
3 A. They had finished and death was pronounced. And
4 at that point is when I was looking.
5 Q. So after was death was pronounced, after 11:15
6 is when you started looking at the couch?
7 A. Yes.
8 Q. Do you recall how long you were inside the house
9 with the paramedics?
10 A. I was inside the house with the paramedics and
11 then the paramedics were released and I was still inside the
12 house.
13 Q. Do you recall how many minutes you guys were
14 together approximately?
15 A. Five to eight minutes.
16 Q. And was Deputy Williamson inside the house while
17 you were observing the couch?
18 A. I don't recall.
19 Q. Were you looking at the couch by yourself?
20 A. There were other people in the room.
21 Q. Who?
22 A. The fire department and I believe -- I don't
23 recall if Deputy Williamson was in there or not, but I
24 believe he was.
25 Q. And so you arrived at the residence at about

Page 16

1 11:05 you said, something along those lines?
2 A. Yes.
3 Q. And then the time of death that was pronounced
4 was 11:15; correct?
5 A. Yes.
6 Q. How long do you recall the paramedics staying on
7 the scene after death was pronounced at 11:15?
8 A. I have no idea. I don't know.
9 Q. Did they pack up and leave right after that or
10 did they stay -- Were they -- You said that you started
11 looking at the couch after death was pronounced. Were they
12 still in the room while you were looking at the couch?
13 A. They were packing up their gear that they had
14 used.
15 Q. And by the time you were finished looking at the
16 couch were the paramedics gone?
17 A. They were still there.
18 Q. They were still there. And approximately how
19 long you think it took you to look at the couch?
20 A. A minute, two minutes.
21 Q. When the paramedics were -- When the paramedics
22 left, do you recall Deputy Williamson being outside speaking
23 with Ms. Leibel?
24 A. He did go outside. I believe he spoke with her.
25 Q. Was that when the paramedics were still in the

Page 17

1 room with you or after?
2 A. I don't recall.
3 Q. And after death was pronounced, I believe
4 yesterday you stated that you waited there for an
5 investigator to arrive; correct?
6 A. Yes.
7 Q. And you waited at the top of the stairs?
8 A. Yes.
9 Q. And that's where Mr. Leibel's body was; correct?
10 A. Correct.
11 Q. And approximately how long did you wait for
12 Investigator Garren to arrive?
13 A. 25 minutes to half an hour.
14 Q. And what did you do for that 25 minutes to half
15 an hour at the top of the stairs?
16 A. Just stood at the top of the stairs.
17 Q. You just stood at the top of the stairs and
18 didn't do anything at all?
19 A. No.
20 Q. And when Investigator Garren finally arrived, I
21 believe you testified yesterday that he said that the house
22 was going to be sealed?
23 A. Yes.
24 Q. And he told everybody to leave?
25 A. Yes.

Page 18

1 Q. And then I was a little bit questionable on this,
2 but you were then asked to transport Ms. Leibel to the
3 station; is that correct?
4 A. By an investigator, yes.
5 Q. I'm sorry.
6 A. By an investigator that was asked to transport.
7 Q. Which investigator?
8 A. I don't recall. It didn't come directly from an
9 investigator. It came down from the sergeant that the
10 investigator asked for her to be transported.
11 Q. Okay. And she complied with you, didn't she?
12 A. Yes.
13 Q. When you took her to the police station, you --
14 during the transport you didn't bag her hands; correct?
15 A. No.
16 Q. And you only wrote one report in this case;
17 correct?
18 A. Yes.
19 Q. And is there a reason that you didn't mention
20 transporting Ms. Leibel to the station in your report?
21 A. There's no reason.
22 Q. You just neglected to do that?
23 A. Yes.
24 Q. And when you transported Ms. Leibel, was she,
25 that was of her own free will?

Page 19

1 A. That was my understanding.
2 Q. Well, was she in custody?
3 A. I'm not sure.
4 Q. Did she have handcuffs on?
5 A. No.
6 MS. HENRY: I have no further questions, your
7 Honor.
8 THE COURT: Mr. Gregory.
9 MR. GREGORY: Your Honor, if I could just have a
10 moment, I'm going to turn on the camera here.
11 THE COURT: That's fine. As you do that, I want
12 to explain to the jury that I have the capacity on the
13 monitor that I have to see exactly what you're seeing up
14 there. So if you happen to see that I'm not turning and
15 looking at that evidence, it's because I can see it right
16 here.
17 MR. GREGORY: And your Honor, the 911 call was
18 still in the disc. I'm going to return that to the clerk.
19 It's Exhibit 56.
20 THE COURT: I would ask that you do so.
21 MR. GREGORY: May I approach the witness, your
22 Honor?
23 THE COURT: Why don't you tell counsel what
24 you've got there.
25 REDIRECT EXAMINATION

Page 20

1 By Mr. Gregory:
2 Q. Deputy, I'm handing you what's been marked as
3 State's Exhibits Number 1 and 2. If you could please keep
4 those down and review those for a moment. Have you had a
5 chance to look at those?
6 A. Yes.
7 Q. Looking at Exhibit Number 1, what is that?
8 A. It's the decedent.
9 Q. Yesterday you mentioned that Deputy Williamson
10 took a couple photographs in your presence at the scene
11 there?
12 A. Yes.
13 Q. Does photograph number one accurately depict the
14 way that Mr. Leibel looked upon your entry?
15 A. His -- Yes, it does.
16 MR. GREGORY: Your Honor, I'd move for admission
17 of Exhibit Number 1.
18 THE COURT: Any objection?
19 MS. HENRY: No objection.
20 THE COURT: 1 is admitted.
21 Q. (By Mr. Gregory) I'm publishing Exhibit Number 1
22 on the overhead projector. Do you see Mr. Leibel there on
23 the ground?
24 A. Yes, I do.
25 Q. And is that the position he was in when you first

Page 21

1 entered?
2 A. Yes.
3 Q. And you can see in the photograph some feet and a
4 hand with a blue glove on it. Do you know who those folks
5 were?
6 A. I do not know.
7 Q. Do you know if they were the paramedics that were
8 on scene?
9 A. It's possible it's the paramedics and possibly
10 Deputy Williamson when he took the picture.
11 Q. Okay. Thank you. The position of Mr. Leibel's
12 left hand, was that position the hand was in when you first
13 entered?
14 A. I don't recall exactly.
15 Q. Does this photograph that you've testified it
16 looks like -- I think your testimony was that he's in the
17 same position that he was when you entered?
18 A. Yes.
19 Q. Had you touched his hand or anything?
20 A. No, I had not.
21 Q. Had you noticed the injury to the hand?
22 A. Yes.
23 Q. And Exhibit Number 2, what is that?
24 A. It's of the rifle.
25 Q. Okay. And is that photograph, does it accurately

Page 22

1 depict the way that the rifle was when you entered the room?
2 A. Yes.
3 Q. And is the rifle on the couch?
4 A. It's on the couch, yes.
5 THE COURT: Before you ask him to describe the
6 photograph that's not in evidence, why don't we get it in to
7 evidence.
8 MR. GREGORY: Thank you. Does that photograph
9 accurately depict the way that the couch and the gun looked
10 when you entered the room?
11 THE WITNESS: Yes.
12 MR. GREGORY: Your Honor, I'd move for admission
13 of Exhibit 2.
14 MS. HENRY: No objection.
15 THE COURT: 2 is admitted. Thank you.
16 Mr. Gregory, I'll let you know. You see the
17 little red dot that you have on the screen now.
18 MR. GREGORY: Yes.
19 THE COURT: That's within your control to remove.
20 Do that. That might help for the future.
21 MR. GREGORY: Could I ask that the lights be
22 dimmed?
23 THE COURT: Certainly. Is that satisfactory,
24 sir?
25 Q. (By Mr. Gregory) Yes. So the gun there, that's

Page 23

1 in the position it was in when you guys made entry?
2 A. Yes, it was.
3 Q. And the couch is in the same spot?
4 A. Yes.
5 Q. And as I understand your testimony, you did not
6 move the gun or the couch?
7 A. Correct.
8 Q. Deputy Haley, did you have an opportunity to
9 provide a set of exclusionary fingerprints of your own?
10 A. I did.
11 Q. And yesterday I forgot to ask you -- I asked you
12 the address but I forgot to ask you whether this occurred in
13 Douglas County, Nevada. Was this in Douglas County, Nevada?
14 A. Yes, it was.
15 Q. Yesterday you mentioned that a table had been
16 moved by the paramedics in order to work on Mr. Leibel. And
17 in cross-examine today you mentioned that it was a coffee
18 table. Where was the coffee table in reference to that couch
19 that we just saw?
20 A. It is to the right of the picture and then set
21 back away from the couch.
22 Q. Okay. After they moved it?
23 A. The direction they moved, from what I recall, is
24 they moved it straight back in reference getting to the top
25 of the stairs and looking straight in to the room.

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1 MR. GREGORY: Nothing further.
2 THE COURT: Recross.
3 RECROSS-EXAMINATION
4 By Ms. Henry:
5 Q. Thank you, your Honor. I just wanted to clarify
6 a couple of things. Those photographs that we just saw,
7 Exhibit 1 and Exhibits 2, you didn't take those photos, did
8 you?
9 A. No, I didn't.
10 Q. And just to clarify, when you say the paramedics
11 moved the couch straight back, I want to make sure we're --
12 or the table, I'm sorry. The table straight back, I wanted
13 to make sure that we all understand the direction. Are you
14 saying they moved it away from the couch, straight back away
15 from the couch?
16 A. They moved it parallel with the couch, so
17 straight back towards the outside wall, parallel to the
18 couch.
19 MS. HENRY: No further questions.
20 THE COURT: Deputy Haley, thank you for being
21 here. You are excused, sir. Are you going to recall this
22 witness?
23 MR. GREGORY: No, your Honor.
24 THE COURT: Okay. You're permanently excused.
25 MR. GREGORY: The State calls Deputy Williamson.

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1 THE COURT: Face the clerk, please.
2 (The witness was sworn in)
3 THE COURT: Deputy, there's some water there if
4 you'd like.
5
6 BRANDON WILLIAMSON
7 Called as a witness on behalf of the
8 State, having been first duly sworn,
9 Was examined and testified as follows:
10
11 DIRECT EXAMINATION
12 By Mr. Gregory:
13 Q. Good morning.
14 A. Good morning.
15 Q. Please state your name and spell your last name.
16 A. My name is Brandon Williamson,
17 W-i-l-l-i-a-m-s-o-n.
18 Q. And what do you do for a living, sir?
19 A. I'm a deputy sheriff for the Douglas County
20 Sheriff's Office.
21 Q. How long have you been so employed?
22 A. A little over four years.
23 Q. Are you a patrol deputy?
24 A. I am.
25 Q. And were you in that capacity on February 23rd

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1 2014?
2 A. I was.
3 Q. Do you recall what hours you worked that day?
4 A. I worked from six in the morning until about nine
5 that night.
6 Q. Did you have occasion on that day to go to the
7 address 452 Kent Way in Zephyr Cove?
8 A. I did.
9 Q. About what time did you respond to that location?
10 A. I arrived at 452 Kent at about 1109 hours
11 approximately.
12 Q. Do you -- Tell us why you went to that location.
13 A. At approximately 11:03 our dispatch received a
14 call of a reported self-inflicted gunshot wound and I
15 responded from where I was at that time.
16 Q. Do you recall about where you were when you
17 received the call?
18 A. I was sitting on Kingsbury Grade kind of near
19 Granite Springs Road conducting traffic enforcement.
20 Q. When you arrived were there other units on scene?
21 A. Deputy Haley arrived just prior to my arrival.
22 Q. Upon your arrival what did you do?
23 A. We went up the driveway after parking on the road
24 and approached the front door of the residence.
25 Q. You said we, so did you and --

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1 A. It was Deputy Haley and I, yes.
2 Q. What did you guys do once you got to the front
3 door?
4 A. Deputy Haley, there's kind of a staircase up to
5 the front door. He went up the stairs and began attempting
6 to make contact ringing the doorbell and knocking on the door
7 and I stood at the bottom of the stairs kind of watching his
8 back.
9 Q. What happened?
10 A. We didn't receive a response for several seconds.
11 I went around the side of the house to see if there was a
12 back entry and I couldn't find anything to get in to and
13 returned back to Deputy Haley a few moments later.
14 Q. All right. And then how did you proceed?
15 A. I got on the radio, asked if dispatch could
16 recontact the person who had called who ended up later being
17 identified as Ms. Leibel. It turns out dispatch had been in
18 contact with her the whole time and she came and opened the
19 door shortly thereafter.
20 Q. Were you there when she opened the door?
21 A. I was.
22 Q. Do you see her in the courtroom today?
23 A. I do.
24 Q. Could you tell the Court where she is seated and
25 what she's wearing?

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1 A. Seated at the defense table, wearing a black suit
2 and a white shirt.
3 MR. GREGORY: May the record reflect the witness
4 has identified the defendant?
5 THE COURT: It will.
6 Q. What happened after Ms. Leibel answered the door?
7 A. She was told by Deputy Haley to step outside. We
8 asked, you know, Deputy Haley asked her where we were going.
9 She told us he was upstairs. We instructed her to stay
10 outside while we went inside the residence.
11 Q. Did you and Deputy Haley go inside at that time?
12 A. We did.
13 Q. Where did you proceed once you entered the house?
14 A. The first room in the house is a foyer. And at
15 the end of the foyer is a spiral staircase up to the second
16 floor. We went up the spiral staircase and came to a small
17 hallway. And directly across from that hallway is a sunken
18 living room, where is where we found the deceased.
19 Q. When you guys entered did you go straight up the
20 staircase?
21 A. Immediately, yes.
22 Q. And then straight down the hallway and to the
23 sunken living room?
24 A. Yes.
25 Q. What did you observe?

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1 A. Just down the step in to the sunken living room
2 was the man later identified as Harry Leibel. And he was
3 lying supine on his back with his head toward the hallway and
4 his feet facing in to the living room away from the hallway.
5 Q. Did you end up taking some photographs while you
6 were there?
7 A. I did. I took a couple photographs.
8 THE COURT: I've got that suppressed. Do you
9 want to name what exhibit that is?
10 MR. GREGORY: It would be Exhibit 1 that's been
11 admitted.
12 THE COURT: It should come on for you now. We
13 might need to turn the lights down a little bit again. Do
14 you want the lights down, Mr. Gregory?
15 MR. GREGORY: Yes, please. Yes, please.
16 Q. (By Mr. Gregory) Deputy Williamson, is this one
17 of the photographs that you took?
18 A. It is.
19 Q. And does this photograph accurately show where
20 Harry Leibel was positioned when you first entered?
21 A. It does.
22 Q. Now, there's some other feet there in the
23 photograph. Do you by any chance know who that was?
24 A. I took this photograph just as paramedics were
25 arriving a few minutes after our arrival.

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1 Q. Prior to their arrival had you or Deputy Haley
2 moved the body in any kind of way?
3 A. No.
4 Q. And was his left hand positioned in that manner
5 when you first made entry?
6 A. Yes, it was.
7 Q. Did you touch his body at all?
8 A. I did not touch his body at all. The only
9 physical touch that either of us had was Deputy Haley checked
10 for a pulse in his carotid artery but we did not move the
11 body.
12 Q. Did you observe any signs of life?
13 A. I did not. I checked for chest rise and fall to
14 see if he was breathing. I placed my hand above his mouth to
15 see if there was any air pressure exiting. There was none.
16 His eyes were affixed and slightly open staring at the
17 ceiling. I did not believe that he was alive at that point.
18 Q. What can you tell me about his skin?
19 A. His skin was very pale. That was about all I
20 really noticed initially.
21 Q. And as you entered did you notice any signs of
22 struggle in the living room?
23 A. There was nothing upended or upturned. The scene
24 looked fairly normal with the exception of the decedent.
25 Q. Other than Ms. Leibel Deputy Haley was there

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1 anybody else on scene?
2 A. There was no one else in the house when we
3 arrived.
4 Q. Do you recall any particular smells when you
5 entered?
6 A. I do not.
7 Q. Are you familiar with the smell of gun powder?
8 A. I certainly am.
9 Q. Did you smell any gun powder?
10 A. I did not.
11 Q. Did you make any observations regarding a
12 firearm?
13 A. Yes. There was a long rifle on the couch, which
14 from this picture would be kind of off to the right. You can
15 kind of see the corner of it in the lower right-hand portion.
16 And on the center of the couch with the muzzle pointed in
17 towards the cushions was a long rifle.
18 Q. Did you take a photograph of the couch also?
19 A. I did.
20 Q. I'm now displaying Exhibit Number 2 on the
21 overhead projector. Is that a photograph that you took?
22 A. It is.
23 Q. Does that photograph accurately depict the way
24 that the couch and the gun looked when you entered?
25 A. It does.

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1 Q. While you were on scene did you touch the gun?
2 A. I did not.
3 Q. Did you touch the couch?
4 A. At one point Deputy Haley and I went around the
5 far right side of the couch to look behind it for bullet exit
6 wound. We may have touched that corner, but I don't believe
7 that we did.
8 Q. Did you move the couch?
9 A. No.
10 Q. How long until the paramedics arrived?
11 A. It was a short period of time after we were
12 inside, a couple minutes.
13 Q. Were you present when they worked on Mr. Leibel?
14 A. I was present as they began their observation,
15 yes.
16 Q. Were you there when they tore his shirt open?
17 A. Yes.
18 Q. Did you make any observation of his body?
19 A. I did. When we arrived, his black robe was kind
20 of pulled up around his sides. They removed the robe from
21 around him and I was able to see that there was a large
22 amount of blood along the right side of his body kind of at
23 the bottom of the shirt. As they cut open the shirt, they
24 pulled it open, I saw a large amount of coagulated blood or
25 partially coagulated blood at the bottom of his shirt. And

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1 on his right lower torso kind of below the armpit was an open
2 circular wound.
3 Q. Was there any blood flowing from the wound?
4 A. Not at that time, no.
5 Q. And you say coagulated blood. What do you mean
6 by that?
7 A. As blood is exposed to the air, it becomes kind
8 of chunky and starts to try to form a scab to hold blood in.
9 It was kind of in that gelatinous, semi-solid state.
10 Q. What was done -- Were you present when the
11 paramedics pronounced death?
12 A. I was not.
13 Q. Where were you at that time?
14 A. I had gone downstairs to begin interviewing
15 Ms. Leibel.
16 Q. Was that while the paramedics were still there
17 then you went downstairs?
18 A. Yes. After they cut open his shirt and I
19 observed the wound, I left Deputy Haley with the paramedics
20 and went downstairs.
21 Q. And contacted Ms. Leibel?
22 A. Correct.
23 Q. Did you have a conversation with her?
24 A. I did.
25 Q. What did she tell you about the circumstances?

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1 A. She described to me that she was planning on
2 taking a trip to Los Angeles that day to see her daughter and
3 Harry and her were arguing over the issue. He didn't want
4 her to go. She said that that morning she had planned on
5 leaving. They both had gotten out of bed. He had come out
6 to the living room with the firearm. She offered to make him
7 breakfast and did so. After he was done eating, she tried to
8 speak to him about her wanting to go to Los Angeles today.
9 He became very upset and they began arguing. She said that
10 she went back in to the kitchen and she heard a gunshot. She
11 then returned to the living room and saw Harry holding the
12 firearm towards torso and that she covered her eyes and then
13 he fired again.
14 Q. And when she said she returned to the living room
15 and saw him with the firearm, where was he in the room?
16 A. She said he was sitting on the couch.
17 Q. Did she indicate how he was holding the rifle?
18 A. She did. She kind of described it but she also
19 motioned with her body that he was holding the butt of the
20 rifle and the trigger with his right hand and thumb and was
21 directing the barrel of the rifle toward his torso with his
22 left hand.
23 Q. So for the record, your Honor, the witness was
24 holding his left hand over towards his right side?
25 A. Correct.

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1 Q. Correct. And did she actually demonstrate that
2 he was holding the barrel of the gun with that left hand?
3 A. I don't remember how she had her left hand
4 positioned, but it was just over to the side.
5 Q. Okay. But your testimony was she was using -- he
6 was using the left hand to direct the muzzle of the gun?
7 A. To direct, yes.
8 Q. And then what? Did she tell you anything more
9 after that shot?
10 A. She said that when she uncovered her eyes that it
11 was evident Harry had shot himself. She then proceeded to
12 call 911. I asked her how much time she thought had passed
13 between her seeing Harry shoot himself and calling 911 and
14 she said approximately five minutes.
15 Q. Did you offer any assistance to Ms. Leibel
16 regarding making phone calls?
17 A. After Harry was declared dead, she was obviously
18 upset. I called for a chaplain to respond. I retrieved her
19 cell phone so that she could try to call a friend. We
20 eventually had a Jewish rabbi come out and speak with her.
21 Q. You personally retrieved the phone for her?
22 A. I did.
23 Q. Do you recall where it was located?
24 A. It was in the living room on the opposite side of
25 the room from the couch away from the deceased.

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1 Q. Did you have any further communications with
2 Ms. Leibel?
3 A. A short time later, I don't remember exactly how
4 much time had passed, but probably a half hour or so, I asked
5 Ms. Leibel if she would be willing to fill out a statement
6 for me regarding the incident. She told me that she didn't
7 write very well in English. So I again went through the
8 scenario with her and transcribed a statement form in summary
9 of what she had said.
10 Q. So to clarify, you wrote what she was telling
11 you?
12 A. More or less in summary, yeah.
13 MR. GREGORY: May I have Exhibit 59?
14 Q. (By Mr. Gregory) Deputy, I'm handing you Exhibit
15 59. What is that?
16 A. This is the statement form that I transcribed for
17 Ms. Leibel.
18 Q. Is it in substantially the same condition as when
19 you wrote it?
20 A. It is.
21 Q. It hasn't been altered?
22 A. Not that I can see, no.
23 MR. GREGORY: Your Honor, I'd move for admission
24 of State's -- Exhibit 59.
25 MS. BROWN: No objection.

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1 THE COURT: 59 is admitted.
2 Q. (By Mr. Gregory) Would you go ahead and read
3 that for the jury, please.
4 A. Sure. So she described the incident again as
5 arguing about going to Los Angeles to visit Lana, her
6 daughter, by driving. Both very upset. Harry got up and
7 shaved this morning. I offered to make Harry breakfast. He
8 accepted. Harry sat on the couch, brought rifle with him. I
9 made breakfast, gave it to him. He ate it and drank juice.
10 Harry started watching pool on television. I tried to talk
11 to him about going to visit my daughter. He became very
12 upset and said I'll be alone, nobody will take care of me. I
13 went back in to kitchen and then heard a loud noise. Went to
14 living room. Saw Harry holding the rifle. Harry looked at
15 me. I covered my eyes. Second loud noise. Gun had fallen
16 across Harry's lap. Ran in to kitchen, got house phone,
17 called 911. Was told to move Harry to the floor. I moved
18 the gun on to the floor and then pulled Harry on to the
19 floor. Harry's head fell across gun barrel. I moved the gun
20 from floor to the couch. Yesterday he said I'll kill myself
21 if you go.
22 MR. GREGORY: Return Exhibit 59 to the clerk.
23 Q. (By Mr. Gregory) Deputy Williamson, did you have
24 an opportunity to provide exclusionary fingerprints in this
25 case?

1 A. True.
2 Q. We listened to the 911 call previously in another
3 hearing?
4 A. I did.
5 Q. In that 911 county jail did you hear more than
6 one time the doorbell rang?
7 A. I don't recall but I believe so.
8 Q. Did you hear a dog bark in the 911 call?
9 A. Yes.
10 Q. Were you able to hear the dog barking outside the
11 house?
12 A. I don't recall, to be honest.
13 Q. When you entered the house were you aware of the
14 presence of a dog?
15 A. I remember there was a sound of a dog off to --
16 on the first story off to the left in a closed room. I never
17 saw the dog or interacted with the dog.
18 Q. When Mrs. Leibel answered the door, Deputy Haley
19 had to tell her to step outside several times; is that
20 correct?
21 A. Yes.
22 Q. And she was carrying the cordless phone, the
23 house phone, with her at the time?
24 A. Yes, she was.
25 Q. What was her demeanor like at that time?

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1 A. I did.
2 MR. GREGORY: Thank you. Nothing further.
3 CROSS-EXAMINATION
4 By Ms. Brown:
5 Q. So you arrived at the Kent Street house just a
6 few minutes after Deputy Haley?
7 A. I'm not sure exactly what time he arrived. He
8 was still standing at the bottom of the driveway and I took
9 it as we had arrived approximately at the same time. It was
10 shortly thereafter.
11 Q. And then you walked up to the house together?
12 A. Correct.
13 Q. And you described a delay in answering the door
14 by Ms. Leibel?
15 A. Approximately 30 to 45 seconds after our arrival,
16 yes.
17 Q. And you reported that Deputy Haley began ringing
18 the doorbell at the front door but received no response?
19 A. Yes.
20 Q. And that you then walked around to the side of
21 the residence looking for an alternative entry?
22 A. I did.
23 Q. And that Deputy Haley continue ringing the
24 doorbell for approximately 30 more seconds without any
25 response?

1 A. She appeared to be somewhat panicked and possibly
2 hyperventilating.
3 Q. Was her voice shaky?
4 A. Yes.
5 Q. Was there any blood or signs of injuries on
6 Ms. Leibel?
7 A. None that I saw.
8 Q. When you say she appeared to be panicked, what
9 led you to form that conclusion?
10 A. Just kind of demeanor with her shaky voice, she
11 seemed unsettled. Just kind of her overall appearance just
12 looked nervous and upset.
13 Q. Did you -- Deputy Haley told her to remain
14 outside when you entered the residence?
15 A. We did.
16 Q. And she complied with that?
17 A. She did.
18 MS. BROWN: Number 67.
19 Q. (By Ms. Brown) I'm showing you what's been
20 marked Exhibit 67. Do you recognize what's shown in the
21 diagram?
22 A. I do.
23 Q. And what is that?
24 A. This is a diagram of the upstairs living room
25 hallway and dining room of 452 Kent Way.

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1 Q. And does that accurately depict the location of
2 items when you entered the room?
3 A. From my memory it does, yes.
4 MS. BROWN: Your Honor, I'd offer Exhibit 67.
5 MR. GREGORY: No objection.
6 THE COURT: 67 is admitted. Are you going to
7 display that?
8 MS. BROWN: Yes.
9 THE COURT: Can I get those other two exhibits
10 returned to the clerk unless you're going to use them?
11 There's two photographs that Mr. Gregory was using. Do you
12 have them?
13 Q. (By Ms. Brown) And this diagram then shows the
14 living room at the top -- that's a spiral staircase coming
15 up?
16 A. Yes.
17 Q. And then off to the left-hand side is the dining
18 room?
19 A. Yes.
20 Q. And then the kitchen is towards the bottom of the
21 diagram; is that correct?
22 A. Yeah. It would be off in the back bottom left.
23 MS. BROWN: Exhibit 2.
24 Q. (By Ms. Brown) I'm showing you again Exhibit 2.
25 This was a photograph you took of the rifle when you entered

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1 the residence?
2 A. Yes, ma'am.
3 Q. And was the couch in this position with the
4 right-hand seat reclined and the left-hand seat left up?
5 A. Yes.
6 Q. And the strap of the rifle was across, across the
7 gun; is that correct?
8 A. Yes.
9 Q. Could you tell at that time the brand, what kind
10 of weapon it was?
11 A. I had very little dealings with the gun. It
12 wasn't presenting as a threat so I just left it as it was and
13 didn't inspect it in any meaningful way.
14 Q. So you didn't recognize it as any specific type
15 of weapon; is that correct?
16 A. No, I didn't.
17 Q. And you noticed nothing else about it except it
18 was a rifle on the couch?
19 A. Just where it was lying, yeah.
20 Q. When you first entered the room, what was the
21 injury you could see to Mr. Leibel?
22 A. The only injury I could see at the time was a
23 powder burn and flesh wound on the back of his left hand.
24 Q. And it wasn't until the paramedics came in and
25 opened his shirt that you were able to see another wound on

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1 the right-hand side of the body?
2 A. That's correct.
3 Q. Do you know who the paramedics were that came in?
4 A. I wrote their names in my report but I don't
5 remember them.
6 Q. And at that point when the paramedics first
7 entered, Mr. Leibel's robe was tied at the waist?
8 A. I believe so, yes.
9 Q. Was it the same as depicted?
10 A. The same as the picture, yeah.
11 Q. Do you recall inside the residence what the
12 temperature was?
13 A. I remember it feeling hot but I don't recall an
14 exact temperature.
15 Q. And the layout of that residence, would you
16 describe it as an open floor plan?
17 A. Somewhat. There aren't walls separating the
18 rooms, but it's sort of interesting. The dining room is
19 raised up a couple steps. The living room is recessed down a
20 couple steps so it's got multiple levels but there aren't
21 really any walls separating anything. There's a half wall
22 between the living room and the dining room.
23 Q. Okay. So this area where there's like a 7B on
24 it, that would be a half wall?
25 A. Yes.

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1 Q. So the living room and dining room essentially
2 are open to each other?
3 A. Share the same air space, yeah.
4 THE COURT: The record should reflect that you
5 are exhibiting Exhibit 67 to the witness.
6 MS. BROWN: Thank you, your Honor.
7 Q. (By Ms. Brown) And then the kitchen is off the
8 dining room. And again that's rather, it's not going through
9 a door. That's just an open --
10 A. I believe so.
11 Q. -- hallway that you walk in to the kitchen? Did
12 you have any conversation with Ms. Leibel when you first
13 entered, first came up to the house other than stay outside?
14 A. I did not.
15 Q. And you eventually went outside to talk to her?
16 A. I did.
17 Q. Where did -- was Deputy Haley at this time?
18 A. Deputy Haley remained upstairs with the
19 paramedics.
20 Q. When you initially went out to interview
21 Ms. Leibel, where was she at?
22 A. She was still standing just outside the door near
23 the top of the staircase of the driveway and there was a
24 paramedic with her.
25 Q. When you began speaking with her did you notice

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1 anything about her ability to speak English?
2 A. She speaks with a heavy Russian accent and it was
3 sometimes difficult to understand her words. But we
4 communicated fairly well.
5 Q. And at this point you said she had somewhat
6 calmed down so you were able to talk to her more in depth?
7 A. Yes.
8 Q. And she gave you the account of what happened
9 that you had just told us about; is that correct?
10 A. Yes, ma'am.
11 Q. While you were talking to Ms. Leibel, did the
12 paramedics come out of the residence?
13 A. They did.
14 Q. How many paramedics? Do you recall how many
15 there were?
16 A. I think there were four inside, but it's not an
17 exact memory.
18 Q. Did they all come out at once?
19 A. Yes.
20 Q. And at that time was Mrs. Leibel advised that
21 Mr. Leibel was dead?
22 A. I asked the paramedics what had happened. They
23 told me that their on-call doctor declared him dead. I
24 believe it was at 1115 hours and I informed Ms. Leibel.
25 Q. What was her reaction to this?

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1 A. She covered her hand -- covered her face with her
2 hand and began hyperventilating.
3 Q. And did you remain with her then?
4 A. I did.
5 Q. Did you talk to her about contacting friends or
6 somebody to come over to the house?
7 A. I did.
8 Q. And what was -- She had the house phone with her;
9 correct?
10 A. She did have the house phone with her but didn't
11 know their phone numbers for the people she wanted to call,
12 which is why I retrieved her cell phone.
13 Q. And you said her cell phone was located in the
14 living room?
15 A. Yes. On the diagram it would be on the opposite
16 side of the room from the couch. I think it was on one of
17 those two little tables near the corner.
18 Q. Are you saying on one of those two tables?
19 A. I believe so.
20 Q. Was there a little table beside this chair?
21 A. I don't remember exactly. It was somewhere over
22 there in that general area.
23 Q. But you don't remember exactly?
24 A. No.
25 Q. And you also requested a chaplain respond to the

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1 scene; is that correct?
2 A. It is.
3 Q. And did a chaplain in fact arrive?
4 A. Sometime later, yes.
5 Q. And you requested a level three coroner?
6 A. I did.
7 Q. Were any other officers other than yourself and
8 Deputy Haley at the scene?
9 A. Not initially, no.
10 Q. Did other deputies arrive?
11 A. Deputy Marshall was the level three coroner that
12 came. I don't think any other deputies came.
13 Q. Prior to the arrival of Investigator Garren were
14 there any other officers?
15 A. Sergeant Smith arrived, my supervisor. She took
16 control of the scene after she arrived.
17 Q. And do you know what time she arrived?
18 A. It's in my report but I don't recall the time
19 offhand.
20 Q. I'm showing you a four-page document. Do you
21 recognize that?
22 A. That appears to be my police report for this
23 incident.
24 Q. And directing your attention to page seven, would
25 looking at that page refresh your memory about when Sergeant

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1 Smith arrived?
2 A. At approximately 1142 hours.
3 Q. Do you recall how long the paramedics were there?
4 A. They left shortly after the death notification
5 was made. I don't believe it was a period of time longer
6 than 15 minutes.
7 Q. And did you -- were you the one that contacted
8 Investigator Garren?
9 A. I was not. I believe the sergeant requested
10 investigations respond.
11 Q. Excuse me.
12 A. I believe that Sergeant Smith requested that the
13 investigators respond as she was on her way to the scene.
14 Q. Do you recall what time Deputy Garren arrived?
15 A. I don't recall exactly. Again, it's in my report
16 but I don't remember the exact time.
17 Q. Did you meet with him once he had arrived?
18 A. I did.
19 Q. And did you tell him about what had happened,
20 brief him on what had gone on previously?
21 A. I did.
22 Q. Did you give him the information concerning your
23 discussions with Mrs. Leibel?
24 A. I did.
25 Q. Did you show him a copy of your written

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1 statement?
2 A. I did.
3 Q. And Mrs. Leibel was still present when
4 Investigator Garren arrived; is that correct?
5 A. Yes, she was.
6 Q. And up to that point she had just been outside
7 the residence?
8 A. She didn't reenter the home until -- or she
9 didn't reenter the home after we asked her to step out at any
10 point.
11 Q. But she was free to roam around outside?
12 A. She was out on the driveway, I believe, speaking
13 with a friend or with the chaplain.
14 Q. And other than the chaplain, did she request
15 somebody else?
16 A. She requested a Jewish rabbi.
17 Q. And did that rabbi actually come to the scene?
18 A. Dispatch did contact one and he did come.
19 Q. Do you know did Investigator Garren speak to
20 Mrs. Leibel?
21 A. I don't recall if he did or not. I don't believe
22 so.
23 Q. During the time she was outside -- Let me back
24 up. When she was first removed from the residence, she
25 didn't have a coat on her, she didn't have shoes on; is that

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1 correct?
2 A. I don't recall if she had shoes. I don't believe
3 she had a coat.
4 Q. And do you know if anybody ever brought her a
5 coat?
6 A. I don't.
7 Q. And during the time she was outside the residence
8 there was no measures taken to protect her hands; is that
9 correct?
10 A. In what fashion?
11 Q. She didn't have her -- bags over her hand?
12 A. We did not place bags on her hands, no.
13 Q. And once Investigator Garren arrived and the
14 scene was cordoned off?
15 A. Yes.
16 Q. And what does that mean?
17 A. Crime scene tape was placed around the perimeter
18 of her residence and access was denied to all.
19 Q. Now, when you say the crime scene tape was placed
20 around the perimeter of the residence, was it at the doorway
21 or some place else?
22 A. I don't -- I believe it was out, from what I
23 remember, like in the middle of the driveway and around the
24 perimeter of the property, not right at the door.
25 Q. Was -- Were any measures initiated to keep track

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1 of people entering or leaving that area?
2 A. Yes. Deputy Haley started a crime scene log.
3 Q. And that crime scene log, was it kept at the
4 residence or was it kept at the entrance to the cordoned-off
5 area?
6 A. At the entrance to the cordoned-off area.
7 Q. So with that crime scene log it would report
8 people who entered both the perimeter as well as people who
9 probably entered the house?
10 A. Yes.
11 Q. And there would be no way on that to distinguish
12 between the two of them?
13 A. I don't believe so.
14 Q. The statement you wrote for Mrs. Leibel, was that
15 verbatim that you were writing down as it was dictated?
16 A. No. It was in summary in some points with -- it
17 wasn't a terribly scientific document. I was asking her
18 questions and clarifying some points. But I tried to use as
19 much of her wording as possible. But it is not verbatim.
20 Q. Okay. And in talking to Ms. Leibel, there were
21 times that she would transpose words; is that correct?
22 A. I believe so, yes.
23 Q. And I don't know -- When you were looking through
24 the crime scene you said, you said there was a hole in the
25 back of the couch and a hole in the wall?

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1 A. Yes. You can see in the photograph there's a
2 circular black mark in the middle of the middle cushion. And
3 that's what appeared to be a bullet entry mark. And then in
4 the drywall kind of near the base of the couch was a small
5 hole in the wall.
6 Q. And you were able to see this by looking
7 around --
8 A. The back of the couch, yeah.
9 Q. Do you recall if any of the paramedics ever asked
10 the caliber of the rifle?
11 A. Not while I was present.
12 MS. BROWN: Thank you. I have nothing further.
13 THE COURT: Mr. Gregory.
14 MR. GREGORY: Nothing further.
15 THE COURT: Deputy, thank you for your
16 appearance. You may step down.
17 Is he permanently released?
18 MR. GREGORY: Yes. I would ask that he be held
19 subject to recall.
20 THE COURT: Deputy, you may be recalled, so
21 therefore you need to make yourself available to the court.
22 We need to know where you'll be and you need to be within
23 call.
24 THE WITNESS: Yes, sir.
25 THE COURT: Thank you.

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1 Mr. Gregory.
2 MR. GREGORY: The State calls Chris Lucas.
3 THE COURT: Mr. Gregory, how long is this
4 witness?
5 MR. GREGORY: I imagine I'll be going about a
6 half hour with him.
7 THE COURT: It seems to me that rather than start
8 and go for five minutes and then stop we'll take the morning
9 break now and we'll take 15 minutes. Give the reporter a
10 chance. I don't want to interrupt you in the middle of your
11 examination.
12 MR. GREGORY: Thank you.
13 THE COURT: So Ladies and Gentlemen, we're going
14 to take a 15-minute break. During this recess you are
15 admonished not to talk or converse among yourselves or with
16 anyone else on any subject connected with this trial. You're
17 not to read, watch, or listen to any report of or commentary
18 on the trial or any person connected with this trial by any
19 medium of information including without limitation,
20 newspapers, television, radio or internet. You're not to
21 form or express any opinion on any subject connected with the
22 trial until the case is finally submitted to you. We'll be
23 back at 20 minutes until the hour. I'd like to start then if
24 we could. So let's take a break and then be prepared to get
25 started right then.

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1 In the meantime, I'm going to again admonish the
2 witnesses who were here that you're not to discuss any
3 testimony you've heard, you're not to discuss the case with
4 anyone other than the attorneys.
5 We're in recess until 20 till.
6 (Recess was taken)
7 THE COURT: Did the interpreters have an
8 opportunity to speak to the defense counsel?
9 MS. BROWN: Yes, your Honor.
10 THE COURT: I want to make clear this entire
11 trial is going to be -- We are on the record. This entire
12 trial is going to be translated unless you specifically
13 request of me that it not be and I will rule on that request.
14 Otherwise the interpretation will go on.
15 MS. BROWN: Yes, your Honor.
16 THE COURT: Thank you. Let's bring in the jury.
17 Parties stipulate to the presence of the jury?
18 MR. GREGORY: Yes, your Honor.
19 MS. BROWN: Yes, your Honor.
20 THE COURT: Thank you. Please be seated,
21 everyone.
22 Mr. Gregory, your next witness.
23 MR. GREGORY: Chris Lucas.
24 THE COURT: Mr. Lucas.
25 (The witness was sworn in)

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1 THE COURT: Would you come up and have a seat up
2 here. There's some water if you would like.
3 THE WITNESS: Thank you.
4
5 CHRIS LUCAS
6 Called as a witness on behalf of the
7 State, having been first duly sworn,
8 Was examined and testified as follows:
9
10 DIRECT EXAMINATION
11 By Mr. Gregory:
12 Q. Good morning.
13 A. Good morning.
14 Q. Please state your name.
15 A. Chris Lucas.
16 Q. Spell your last name.
17 A. L-u-c-a-s.
18 Q. What do you do for a living?
19 A. I'm an acting captain with the fire department.
20 Q. Which fire department?
21 A. For Tahoe Douglas.
22 Q. How long have you worked for Tahoe Douglas?
23 A. I've worked for Tahoe Douglas it will be 11 years
24 in March.
25 Q. And did you have experience as a paramedic prior

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1 to that?
2 A. Yes, sir.
3 Q. Tell us a little bit about that.
4 A. I became a volunteer in 1997. My dad was a fire
5 captain and so I had kind of grown up with it. And in '97 I
6 started volunteering with Lake Valley Fire where I was ski
7 patrol. And then I went to paramedic school. During that
8 time I was affiliated with most departments in this area, the
9 City of South Lake Tahoe, Fallen Leaf Fire. I did an
10 internship with Carson City. In 2000 I was hired with East
11 Fork Fire as a paramedic firefighter and I worked there for
12 three and a half years before being fired with Tahoe Douglas.
13 Q. And in your capacity as captain what does that
14 involve?
15 A. Captain is in charge of any given, any given
16 scene. They're in charge of their crew. They're in charge
17 of safety, in charge of the dynamics of the scene. You're
18 basically the bottom line. It's kind of where the buck
19 stops, I guess.
20 Q. On February 23rd 2014 were you working that day?
21 A. Yes. Yes, I was.
22 Q. And did you have an opportunity to respond to 452
23 Kent Way?
24 A. Yes. Yes, I did.
25 Q. And who -- Did you go with a crew?

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1 A. Yes. Yes. I had -- I was working an extra shift
2 that day. It was not my regular duty shift. But it was
3 acting and I was working in the captain's capacity and I
4 responded with my crew, two person ambulance and an engine,
5 two person engine, so four of us.

6 Q. Describe what you will what the role of each
7 person was in that crew on that day.

8 A. Well, the ambulance has two paramedics on it.
9 And at that time we had Nick Robadart and Justin Ready. Nick
10 was relatively new with us and he was going through his
11 paramedic probation. It's a time the first several months
12 where they learn our way of doing things, so to speak.

13 Then there was Justin and Justin was in charge
14 of, you know, watching Nick, basically his paramedic
15 preceptor. And so Nick would be, you know, in charge of
16 documenting the call and running the call and Justin is in
17 charge of making sure, watching over his shoulder making sure
18 he does it right.

19 And then we had Fred Parsons who was my engineer
20 that day. His responsibility is to drive the engine. And on
21 a medical call his responsibility is to help out in any way
22 he can. You know, it's kind of a fluid system. But he
23 basically will take direction from the medic who will, the
24 lead medic will tell him where he needs help.

25 Q. Okay.

1 involved in a call, we will hold up, we'll wait a little bit
2 until we can confirm that the sheriff's office is there to
3 make sure it's safe for the crew. So we did that. We held
4 up a little bit on the paper to make sure that they were on
5 their way there. And once we got confirmation that they were
6 on their way there, we started that direction.

7 Our plan was to stage just down the street until
8 such time as it was, you know, declared safe.

9 As it turned out, once we confirmed they were
10 going, we went en route. We arrived just down the street to
11 where we were going to stage and as we got there the scene
12 was declared safe so we were able to just go straight in and
13 that process took about five minutes. I believe we were
14 there about 11 after.

15 Q. So you didn't stay for very long?

16 A. We really didn't stage at all because by the time
17 we got there it had been cleared. So our staging really was
18 on the -- was before we left just to confirm that the sheriff
19 was on their way.

20 Q. Upon arrival what did you and your crew do?

21 A. When we arrived, we, you know, we park our
22 apparatus in such a way that we can get to it. We brought
23 our equipment in. We have a gurney and we've got, you know,
24 several bags and a heart monitor that we bring in with us.
25 So we wheeled that to the front door and we left that by the

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1 A. And then it's my position which was to oversee
2 the whole thing and just, you know, if I see something that's
3 not right or I see something that stands out to me I have the
4 ultimate responsibility to stop or make changes.

5 Q. And it's my understanding that battalion chief,
6 Jim Ante, also responded on that day?

7 A. Yes. Yes, he did.

8 Q. Did he go with you as a crew or did he go
9 separately?

10 A. No. He comes from a different station so he
11 didn't, didn't respond with us. So he arrived after we had
12 already been on scene. And at that point he basically left
13 me in command. Usually when the battalion chief gets there
14 they are the highest ranking officer but they have an option
15 if they feel the captain has everything well in hand.

16 Q. What time did the call come in that day?

17 A. I believe it was 11:06 if my memory serves me
18 correct.

19 Q. All right. And is that -- It was 11:06 when you
20 first received the call?

21 A. Yes.

22 Q. How long did it take your crew to respond?

23 A. It was less than five minutes. Now, we -- when
24 we hear the dispatch, we get some information to what we're
25 going to. And anytime we hear that a firearm has been

1 front door. And then we went inside with our equipment.

2 Q. And that would be the four of you at that point?

3 A. Yes, that would be the four of us.

4 Q. And what kind of goes without saying, but what
5 was your purpose in making entry?

6 A. Well, our purpose was to provide medical
7 attention. The information we had received it was there had
8 been a gunshot victim. And we were there to provide medical
9 care.

10 Q. Okay. Walk me through what happened as you guys
11 entered the house.

12 A. So we entered the house. And as we entered the
13 house, I saw Ms. Leibel by the front door and she was visibly
14 upset. And we stepped in to the house. And you know, I
15 called to the deputy who was already in there and I said
16 hello. And, you know, he said, hey, we're up here. So we
17 went up the stairs and there was a spiral staircase. When we
18 got up the stairs -- And I can't remember the order we were
19 when we went up the stairs. But when we got in to the room
20 there -- And I'm not sure if you're familiar with the --
21 Well, I'm sure you are familiar with the room. But, you
22 know, the stairs come up and there's a dining area to the
23 left and then there's like a dropped floor, a couple stairs
24 down to the living area with a couch and a TV.

25 When we arrived, Mr. Leibel was lying on his back

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1 on the floor. He was, you know, there was a significant
2 amount of blood on the floor. And the deputy was in the room
3 taking some pictures.
4 Q. Do you recall which deputy that was?
5 A. I don't.
6 Q. All right. So ultimately was Harry Leibel
7 pronounced dead?
8 A. Ultimately he was, yes.
9 Q. About what time was that?
10 A. You know, I don't recall the exact time.
11 Q. About how long after you made entry?
12 A. Well, there was a bit of a process there. When
13 we walked up the stairs and saw him on the floor, we have to
14 make a decision when we see that, when we're in that type of
15 scenario. And the decision is are we going to provide
16 medical care, are we going to make life-saving efforts or,
17 you know, is there compelling enough evidence or injuries
18 that are obvious enough that it's not going to be a
19 successful resuscitation. So basically it's a risk benefit
20 thing we're deciding if we have a viable patient.
21 So first thing we did was make sure we, you know,
22 we checked for a pulse. Obviously we could see she wasn't
23 breathing. And we opened up his shirt. I believe it was --
24 one of the crew went and opened up his shirt and visualized
25 the wound. You know, at the time there was no pulse, there's

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1 no breathing. Once we got his shirt undone, we could see the
2 wound, which was significant enough that it was not
3 compatible with life.
4 Q. Where was the wound?
5 A. The wound was on his right side just under his
6 armpit. And there was, you know, a significant amount of
7 blood. There was no longer bleeding. And there was some
8 lung tissue coming out of his hole.
9 Q. What's the significance of that?
10 A. Well, typically when we see that, it tells us
11 that there's been significant damage to some very critical
12 structures. Anytime the lung is involved, the chances of
13 resuscitation are pretty much non-existent. Any traumatic
14 flow rest we call it that we -- the odds of recovery or odds
15 of resuscitation are so low that, you know, if there's other
16 signs that go with that that, you know, speak to the length
17 of time or how long someone has been down and we will
18 typically not start resuscitating.
19 Q. So based upon what you observed with the wound
20 how did you proceed?
21 A. Well, so in conjunction with the wound and the
22 lack of a pulse and then we could see a little bit of
23 pooling, you know, and some modeled skin around his abdomen,
24 we determined that, you know, he had been -- he had been dead
25 for a little while.

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1 Q. What does pooling mean?
2 A. Pooling is where the body -- when the body dies,
3 everything in the body kind of loses its tone. It's almost
4 like a melting, if you will. The tissues just sort of
5 succumb to gravity and almost kind of melt to the ground a
6 little bit. So we could see that that had started. And the
7 fact that the blood that was around him had congealed and was
8 not actively bleeding, it looked like he hadn't bled for a
9 while.
10 Q. What does it mean that it had congealed?
11 A. It started to clot. The blood has got -- When
12 there's an injury, the blood has a mechanism in it that
13 triggers these clotting factors which basically make the
14 blood turn in to Jello. We've all experienced when you get a
15 scraped knee and it eventually forms a scab. When there's a
16 large pool on the floor or when blood is exposed to air for a
17 while, these clotting factors start to take effect and the
18 blood kind of turns in to a Jello.
19 Q. After making those initial observations of the
20 wound, the lack of breathing and the pulse, what did your
21 crew do?
22 A. So at that point, Nick, I stopped him before we
23 started resuscitate efforts. I've been involved with a
24 number of shootings and, you know, suicide attempts and
25 things of that nature so where I knew that, you know, our

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1 odds of resuscitation were pretty much nothing. And at this
2 point it was important to preserve, you know, what -- in any
3 shooting case is a crime scene. So we, you know, we decided
4 to -- we got our strip. When I say strip, we put a heart
5 rate monitor on him or a heart monitor on him and look for
6 electrical activity in the heart.
7 Q. What's the purpose of that?
8 A. Well, when the heart -- when the heart stops,
9 whether it's after a traumatic injury or a heart attack, some
10 electrical activity continues. And it can last for -- it can
11 last for an hour or so. What happens is the heart has a
12 pacemaker.
13 MS. BROWN: Your Honor, I would object to lack of
14 qualifications as an expert.
15 THE COURT: Response.
16 MR. GREGORY: Your Honor, he's not giving expert
17 testimony. It's based upon his training and experience as a
18 paramedic. We went through his training and experience in
19 that regard and he certainly is qualified and capable of
20 talking about what electrical activities are in the heart.
21 THE COURT: Overruled. Go ahead and answer the
22 question.
23 THE WITNESS: Thank you. So there's a main
24 pacemaker in the heart and it kind of takes charge. It tells
25 the rest of the heart when to beat. Well, in a -- when the

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1 heart stops, that pacemaker stops sending out its signal.
2 The rest of the heart still has energy in it. It still wants
3 to beat, but it doesn't know what to do. So there is a
4 number of different rhythms that we look for on a heart
5 monitor that tell us what stage the heart is in. And it will
6 go from, you know, it will look like it has electrical
7 complex just like it were beating when it doesn't, all of
8 that pulse is electrical activity when the heart, you know,
9 is stopped but it has organized electrical activity. Then it
10 will break down in to various different rhythms. And one of
11 the rhythms that we look for is ventricular fibrillation.
12 And if you're looking at ventricular fibrillation on a
13 monitor, it looks like a squiggly line. And we look at the
14 amplitude of that squiggly line to tell us, you know, what
15 state they're in or what our chances of being able to
16 resuscitate are. If that squiggly line is very course or if
17 that amplitude changes a lot, then, you know, that's usually
18 our best chance to shock, you know, to shock somebody back in
19 to an organized rhythm. The flatter that line gets, the less
20 likely those chances are. And eventually that line becomes
21 very flat.

22 And in my experience, you know, it takes a while
23 for it to be perfectly flat.
24 Q. (By Mr. Gregory) And so did you -- your crew did
25 put the heart rate monitors on Mr. Leibel?

1 flat line reading?

2 A. Well, once we got the flat line reading, then
3 that's when we, you know, we decided to call the physician at
4 the base hospital. And the reason we do that is ultimately
5 we work for them. We work under their license. And you
6 know, they provide -- in certain circumstances we're required
7 to call them and request orders. Anytime we are going to
8 terminate efforts or we're going to not, you know, choose to
9 resuscitate somebody, we have to call them, explain our
10 findings and basically justify our actions, justify why we're
11 not going to do that.

12 So I had Nick call the base hospital and get
13 orders to not, you know, start resuscitating efforts.

14 Q. And was that, in this case is that what happened?

15 A. Yes. So he called and it took a little while.

16 It took, I can't remember exactly how long, but probably ten
17 minutes or so with him on the phone talking to the doctor and
18 explaining what we had.

19 Q. And then ultimately Mr. Leibel was pronounced
20 dead?

21 A. Yes.

22 Q. Did you observe any other wounds on Mr. Leibel?

23 A. Yes. Yes, I did.

24 Q. Where was that?

25 A. So when my -- Fred, when my engineer went to

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1 A. Yes.

2 Q. What was the result?

3 A. The line, it was asystole and it was very, a very
4 flat asystole.

5 Q. What is asystole?

6 A. Basically means there's no electrical -- or
7 there's no -- Systole is when the heart contracts, the
8 muscles contract. Asystole is, you know, the absence of any
9 contraction, any electrical activity. So that tells us that
10 there was no electrical activity in the heart, that it had
11 been stopped for long enough for all the cells to discharge
12 all of their electrical activity.

13 Q. Would you expect to see a flat line within 15
14 minutes of somebody's death?

15 A. I can answer from just from what I've experienced
16 in the past. I've seen people with electrical activity for,
17 you know, 45 minutes to an hour after death or after, you
18 know, the heart stops completely. So 15 minutes, I would say
19 is -- I would expect to see some electrical activity in 15
20 minutes.

21 Q. You would expect to see some, is that what you
22 said, I would expect to see some electrical activity?

23 A. Yeah. Ten to 15 minutes I would still expect to
24 see.

25 Q. All right. What did you do after getting that

1 check a pulse, he checked at his left wrist. Fred walked
2 down the steps on to the dropped floor and he went to check
3 his wrist. And he was lying on the floor and his left hand
4 was up like this. And so he checked his wrist and he saw,
5 you know, that there was no pulse. And then when he let go,
6 you know, Mr. Leibel's hand returned to its original
7 position. That's actually -- That was another thing that I
8 saw that kind of prompted me to not start efforts.

9 Q. What was the significance of that to you?

10 A. Typically that's a rigor mortis, a sign of rigor
11 mortis, which sets in after a certain amount of time. It's
12 usually, you know -- I can't tell you exactly how long it
13 takes for rigor to set in, but it takes a while. And when I
14 saw that, if rigor mortis is setting in, then, you know,
15 there is no chance of resuscitation. Like I said, we looked
16 for the pooling, we looked for something else that's called
17 lividity, which you'll see lines start to show up in that
18 pooling, little red lines and that's just the blood pooling
19 in those low spots. And while we didn't see the lines of
20 lividity, I saw the pooling and the rigor.

21 Q. When you first made entrance, did you -- were
22 there any smells that stuck out in your mind?

23 A. Yeah. When I walked -- I remember smelling
24 gunpowder. I remember smelling that, the presence of gun
25 powder. It was not super strong but I recognized it right

1 away.
2 Q. I think you told one of the deputies that the
3 smell was slight. Is that accurate?
4 A. Yeah. Yes.
5 Q. All right. And did you observe, make any
6 observation of a firearm while you were on scene?
7 A. Yes. There was a -- We saw the rifle on the
8 couch. Anytime we go in to a gunshot victim, I always look
9 for the gun. I always look for the gun because I want to
10 know where it is so I don't accidentally move it or touch it
11 or make sure that it's in a safe spot where it's not going to
12 hurt anybody. In this case the gun was on the couch and, you
13 know, the rest of my crew is pretty good too about looking
14 for the gun. And however, my engineer noticed that the
15 hammer was back, sure enough that it was cocked. And you
16 know, so from a safety standpoint that crossed my mind. But
17 it was across the room and it was pointed a different
18 direction. You know, I didn't think anything of it. But it
19 was a, you know, it was definitely back, it was definitely
20 cocked and it was on the couch.
21 Q. You said the hammer, you're talking about the
22 what?
23 A. Yeah. It's an interesting weapon actually. It's
24 one I had really only seen in the movies. It's a -- It looks
25 like a 45 revolver but as a rifle. And so it has a hammer

1 that when it's back it's pretty obvious that it's open, it's
2 cocked.
3 Q. So the hammer is back ready to be fired?
4 A. Ready to be discharged, yeah.
5 Q. Did you observe any blood on the couch?
6 A. Yes. There was -- Because he was sitting on the
7 couch and then he had been moved. And I talked to Ms. Leibel
8 afterwards and she told me how after she called 911 they
9 wanted her to move him on the floor and start CPR and so she
10 said, you know, she moved him on to the floor and got him
11 there but she couldn't bring herself to start CPR. And, you
12 know, it was pretty, pretty graphic scene and there was a lot
13 of blood. And if she had started CPR, she would have been
14 kneeling in a pool of blood that was coming from his side.
15 So he had, you know, there was definitely blood on the couch
16 and you could see a hole in one of the cushions.
17 Q. Cushions? During your time inside the residence
18 there did you yourself move the couch?
19 A. No, no, I didn't.
20 Q. Did you move the gun?
21 A. No, sir. I didn't -- I stayed up on that top
22 step where I could see everything go on. I didn't really
23 touch anything. It's kind of my job as a captain to stand
24 back and observe and give direction and so I didn't venture
25 down on to the carpet.

1 Q. Did you observe anything else move the firearm?
2 A. No.
3 Q. Did you observe anybody else move the couch?
4 A. No.
5 Q. Did you provide elimination fingerprints in this
6 case?
7 A. Yes, I did.
8 Q. You indicated that you had a conversation with
9 Ms. Leibel?
10 A. Yes.
11 Q. Do you see her in the courtroom today?
12 A. Yes.
13 Q. Can you tell the Court where she's seated and
14 what she's wearing?
15 A. She's sitting to the right of the table, from my
16 right of the table to the extreme left.
17 Q. What is she wearing?
18 A. A white shirt, a black coat and glasses.
19 THE COURT: The record will reflect her
20 identification.
21 MR. GREGORY: Thank you.
22 Q. Tell us about your conversation with Ms. Leibel.
23 What did she tell you about the circumstances?
24 A. Well, she was -- she was very upset. And
25 Ms. Leibel speaks with a very thick accent. So a lot of

1 which was difficult to understand. But she had talked about
2 how he had been sick for quite a while and, you know, she
3 couldn't believe this was happening. She's, you know, very
4 upset. And she said, one of the things that stuck out to me
5 is she said, "I'm alone. I can't shovel the driveway. What
6 am I going to do? I'm so alone."
7 And I immediately, you know, felt compassionate
8 for her. I have a neighbor who recently lost her husband and
9 you know the things that she was saying were very much what I
10 would expect someone who just lost their husband to say.
11 So we tried to get -- tried to get her phone --
12 we got her phone and we were going to try and call somebody
13 for her. And there was her daughter. She didn't -- At the
14 time she didn't feel comfortable calling her daughter just
15 yet. She had a couple friends in town that we tried to get a
16 hold of. And then there was her neighbor who lived down the
17 street who I saw actually. And I actually knew her. She's
18 actually friends of mine, her and her husband are friends of
19 mine. And you know, she eventually came over. But that was
20 probably, you know, 45 minutes to an hour later. We
21 attempted to get the chaplain to come up. And he had
22 probably a 45 minute ETA so he was going to be a while.
23 Q. What did she tell you about the incident itself?
24 A. She said that she was outside and she heard
25 the -- she heard the gun go off. She heard two gunshots.

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1 And she ran upstairs and she found, you know, Mr. Leibel on
2 the couch. So she said she called 911, so she immediately
3 called 911 and that's where she received the orders to move
4 him on to the floor and start CPR.
5 MR. GREGORY: Nothing further.
6 MS. BROWN: Can I have the Court's indulgence a
7 second?
8 THE COURT: Take your time, ma'am.
9 MS. BROWN: Thank you.
10 CROSS-EXAMINATION
11 By Ms. Brown:
12 Q. Mr. Lucas, there were two different crews that
13 responded to this incident?
14 A. Two different crews?
15 Q. Two.
16 A. No. There was one crew.
17 Q. One crew divided in to two vehicles?
18 A. Yes, ma'am.
19 Q. Okay. And one group is called the engineer?
20 A. So there's an engine company and then there's the
21 ambulance. So it's a fire engine and an ambulance and we go
22 together.
23 Q. And so one's called the engine and one is called
24 the rescue?
25 A. Correct.

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1 Q. Did you -- You were interviewed by an
2 investigator concerning this incident about two weeks after
3 it happened; is that correct?
4 A. Yeah. I can't remember the time frame after it
5 happened, but yeah, I was interviewed by an investigator.
6 Q. It was March 6th. Do you recall that?
7 A. Yes.
8 Q. Now, you stated when you entered the residence
9 you saw Harry lying in a pool of blood?
10 A. Yes, ma'am.
11 Q. I'm showing you what's been marked or admitted as
12 Exhibit 1. Do you recognize that?
13 A. Yes.
14 Q. What's that?
15 A. That is Mr. Leibel.
16 Q. And is that how he appeared when you first
17 entered the residence?
18 A. Yes. You can't see the blood here because he's
19 wearing that shirt.
20 Q. So at the time you walked in to the residence he
21 was not laying in a pool of blood?
22 A. He was. This picture doesn't show it. You can't
23 see it in the picture because of the black shirt. But you
24 could see the blood. You could see how wet it was underneath
25 him around his wound.

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1 Q. On black material?
2 A. It glistens when it's wet.
3 Q. But this is what he appeared like when you first
4 arrived at the residence; is that correct?
5 A. Yes.
6 Q. And then you said once you entered you stayed
7 at -- stayed at the top of the stairway?
8 A. Yes. And that last picture would have been to
9 his right.
10 Q. So you're where there's feet of individuals, that
11 would be the general location of where you remained?
12 A. Yes. You see there's one more step right above
13 that step. And that's -- You would not have been able to see
14 my feet in that picture.
15 Q. So showing you what's been admitted as Exhibit
16 67, do you recognize what's shown in that diagram?
17 A. Yes, ma'am.
18 Q. And what is that?
19 A. That's a diagram of the living room, dining room
20 and the top of the stairs.
21 Q. Okay. And would the approximate location be
22 where you are standing be --
23 A. Right where that "V" is.
24 Q. Right where that "V" is. And you did not enter
25 the room after that?

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1 A. No. The only place I went after that was around
2 through the kitchen. There's a pony wall behind the couch.
3 And where the couch is is all lower. And I looked behind the
4 couch at one point.
5 Q. There's a fish tank on top of that pony wall; is
6 that correct?
7 A. Correct.
8 Q. An aquarium?
9 A. Yes.
10 Q. And why were you in the dining room area?
11 A. We were waiting for the call. We were waiting
12 for Nick to get back with the word from the doctor and the
13 orders. And we were looking about, you know, seeing if we
14 could piece together what had happened. At the time we were
15 called for a suicide attempt and we were trying to put
16 together how it happened.
17 Q. As a paramedic?
18 A. As a paramedic. Not an investigator. I
19 recognize that.
20 Q. But so your statement that you remained at the
21 top of that stairway and didn't enter the room, you entered
22 other rooms?
23 A. Yeah. I didn't enter the lower area.
24 Q. And showing you Exhibit 2, do you recognize
25 what's shown in that?

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1 A. Yes.
2 Q. And what is that?
3 A. That is the rifle and his cell phone on the couch
4 there.
5 Q. And this is a view of the rifle you had had from
6 the top of the stairway in the hallway; correct?
7 A. It was slightly different. Where I was standing
8 I could clearly see the, you know, the hammer of the weapon.
9 In this picture there's a strap, a shoulder strap, that's
10 kind of covering that part of the weapon.
11 Q. Could you recognize what kind of rifle it was?
12 A. No, ma'am. I'm not a weapons expert or anything.
13 Q. And you aren't familiar with firearms?
14 A. I know where the bullets come out.
15 Q. And you said there was a hole behind the couch?
16 A. Yes.
17 Q. And you saw that from the dining room?
18 A. From the dining room.
19 Q. Looking over the pony wall, the short wall, there
20 was a huge --
21 A. There was a huge fish tank there, yeah. And you
22 had to look kind of around the tank if I remember correct.
23 Q. Now, your training as a paramedic is geared
24 towards life-saving measures; is that correct?
25 A. That's correct.

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1 Q. And you have no formal training in pathology?
2 A. We are trained to look for signs of death. We
3 are trained to know what death looks like and we're trained
4 to know at what point our measures will be successful or not
5 successful.
6 Q. And you wrote a report for your station; is that
7 correct?
8 A. Yes.
9 Q. And in that report you noted that you did not
10 move the victim in any way or that of the suspected weapon
11 which was still on the couch?
12 A. That's right.
13 Q. And you didn't mention anything in that report
14 concerning the weapon being cocked; is that correct?
15 A. I don't recall. I would have to see the report.
16 Q. Would looking at the report refresh your memory?
17 A. Sure.
18 Q. And showing you what's been marked identification
19 Exhibit 82 for identification, do you recognize that?
20 A. Yes, ma'am.
21 Q. And what is that?
22 A. That is my report.
23 Q. And when was that prepared?
24 A. That was prepared shortly after we got back.
25 Q. So the same date as the incident?

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1 A. Yes.
2 Q. And could you review that report and see if you
3 made any mention in your narrative of the weapon being
4 cocked?
5 A. I did not.
6 Q. And showing you what's been marked as Exhibit 83
7 for identification and ask you to look at the top section.
8 Is that the same as this information at the top of Exhibit
9 82?
10 A. Yes, it appears to be the same.
11 Q. And this shows the apparatus that responded; is
12 that correct?
13 A. Yes.
14 Q. Excuse me. On Exhibit 83 the middle section
15 shows the apparatus and that's the same as on Exhibit 83?
16 A. Yes.
17 THE COURT: What two exhibits do you have? Those
18 are not in evidence; correct?
19 MS. BROWN: Correct.
20 THE COURT: So let's not have him testify from
21 it. You were using it to refresh his recollection. But if
22 you're a going to compare exhibits they need to be in
23 evidence.
24 MS. BROWN: What I would like to do is introduce
25 Exhibit 83 as a comparison of the apparatus and personnel

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1 that respond to the incident.
2 THE COURT: Is there any objection to 83?
3 MR. GREGORY: No, your Honor.
4 THE COURT: 83 is admitted. What's the other one
5 you have?
6 MS. BROWN: That's the complete report.
7 THE COURT: And is it admitted?
8 MS. BROWN: I haven't offered it. But I will. I
9 would offer Exhibit 82.
10 MR. GREGORY: No objection.
11 THE COURT: Then 82 is admitted. Now you can do
12 that.
13 Q. (By Ms. Brown) Now, you stated that one of the
14 things that you noted about Mr. Leibel was that his left arm
15 was cocked at an odd angle and seemed to stay in place?
16 A. Yes.
17 Q. And you referred to that as rigor mortis?
18 A. I said there were signs of rigor mortis, was
19 consistent with rigor mortis.
20 Q. And the time frame when actual rigor mortis can
21 begin is very flexible; is that correct?
22 A. I suppose so, yes. In my experience I've seen it
23 set in, you know, within an hour.
24 Q. But the time is flexible. You don't know the
25 exact time range?

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1 A. That is correct, I don't know the exact time
2 range.
3 Q. And there's a number of different factors that
4 can affect that; is that correct?
5 A. Yes, there are. I believe there are some
6 different factors.
7 Q. Such as temperature?
8 A. Such as temperature, yes.
9 Q. Are you familiar with any other conditions that
10 mimic rigor mortis?
11 A. No, I'm not.
12 Q. Have you ever heard of cadaveric spasms?
13 A. No, ma'am.
14 Q. And you also testified that it appeared to you
15 the blood was starting to coagulate?
16 A. Yes, ma'am.
17 Q. And coagulation does begin immediately once the
18 blood reaches air; is that correct?
19 A. Yes.
20 Q. And again, that can be affected by several
21 different factors, the time which it takes for blood to
22 coagulate?
23 A. Yeah.
24 Q. And that could be the heat of the room?
25 A. I suppose so. I'm not an expert on that so I

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1 can't say for sure. I honestly don't know all the factors
2 that contribute to that.
3 Q. Okay. Thank you. So you aren't aware whether
4 there's certain medical conditions that could contribute to
5 that?
6 A. None that I'm aware of. Again, I looked for
7 signs that are consistent with rigor mortis.
8 Q. But you couldn't say specifically this was rigor
9 mortis setting in? You can say it appeared that that was
10 stiff?
11 A. No. I can just tell you that it was stiff. It
12 was stiff enough to return to its original position. That
13 picture was taken after we --
14 THE COURT: There's no question pending, sir.
15 Q. (By Ms. Brown) And you said electrical activity
16 in the heart can last for a while after death?
17 A. Yes.
18 Q. And you've seen it in your experience up to 45
19 minutes?
20 A. 45 minutes to an hour, yeah.
21 Q. But that's based on your experience, you can't
22 exclude it being gone immediately?
23 A. That's correct.
24 Q. And at this point looking at Mr. Leibel, you can
25 see that there was an injury to underneath his armpit on his

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1 right-hand side?
2 A. Yes.
3 Q. And there was lung tissue, what appeared to you
4 to be lung tissue coming out of that?
5 A. Yes.
6 Q. And you couldn't see what internal injuries he
7 had; is that correct?
8 A. I couldn't see what internal injuries he had, but
9 based on, you know, the lung tissue.
10 Q. You couldn't see what internal injuries he had
11 from your visual observation of him; is that correct?
12 A. No, not without an x-ray, I suppose.
13 Q. And you did smell a faint odor of gun powder when
14 you entered the room?
15 A. Yes, I did.
16 Q. And again, we were talking about the fish
17 aquarium being over that pony wall. A pony wall is a half
18 wall; is that correct?
19 A. That's correct.
20 Q. And so the living room area and the dining room
21 area are open to each other?
22 A. Yes.
23 Q. And they have a large cathedral ceiling in that
24 location also?
25 A. Uh-huh.

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1 THE COURT: Wait a minute. I don't think you got
2 an answer.
3 MS. BROWN: I didn't.
4 THE WITNESS: You're asking about the cathedral
5 ceiling?
6 MS. BROWN: In the living room/dining room area.
7 THE WITNESS: Yes. I believe it was a vaulted
8 ceiling if I remember right.
9 Q. (By Ms. Brown) And do you know if there's any --
10 you stood in that entry way a long time; is that correct?
11 A. Correct.
12 Q. Did you notice any sky lights above you?
13 A. Yes.
14 Q. Did you see whether they were open or closed?
15 A. I did not.
16 Q. Then you contacted Mrs. Leibel when you went
17 outside; is that correct?
18 A. Yes.
19 Q. And she was at that point upset and crying?
20 A. Yes.
21 Q. And you made some attempts to help her contact
22 family members, friends?
23 A. Yes. I tried to console her and help her get in
24 touch with family members or anyone who she felt comfortable
25 talking to at that time.

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1 Q. And you felt her emotional state was consistent
2 with somebody who just witnessed their spouse commit suicide;
3 is that correct?
4 A. Yes.
5 Q. And in talking to her, you noticed she had a very
6 thick Russian accent?
7 A. Yes.
8 Q. And she was upset at the time?
9 A. Yes.
10 Q. And at the time she was very hard to understand;
11 is that correct?
12 A. Yes.
13 Q. You said she told you that she was outside and
14 heard two gunshots?
15 A. Yes.
16 Q. Did she say outside specifically or could she
17 have been referring to outside the living room?
18 A. I got the impression that she meant
19 outside-outside, but I could be mistaken. Like I said, her
20 accent was pretty thick, so that's possible.
21 Q. And so she could have -- her outside could have
22 been I was outside the living room and then I went inside the
23 living room and found Mr. Leibel?
24 MR. GREGORY: Objection, your Honor.
25 Mischaracterizes his testimony.

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1 THE COURT: Overruled. Answer the question.
2 THE WITNESS: I suppose it's possible that she
3 was outside, you know -- I got the impression after talking
4 to her that she was outside-outside.
5 Q. (By Ms. Brown) But you would agree that when she
6 talks --
7 A. When she talks, she talks with a very thick
8 accent, and yeah, I had to have her repeat things several
9 times while I was talking to her.
10 Q. So your belief outside means outside the house
11 was your interpretation of what she said?
12 A. Yes.
13 Q. Did you and the other paramedics after this
14 occurred talk among yourselves about the incident?
15 A. Yes.
16 Q. And in the interview where you gave the facts of
17 what you had observed was about two weeks later from -- two
18 weeks after this incident; is that correct?
19 A. Yes.
20 Q. So you all had had a chance to talk to each other
21 prior to that?
22 A. Yeah. After a situation like this we talk.
23 It's --
24 Q. So you guys did converse after the incident?
25 A. Yes.

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1 Q. And prior to the interview?
2 A. Yes. Not knowing that the interview was --
3 Q. There's no question now.
4 A. Okay.
5 Q. And again, you were previously shown Exhibit
6 Number 2, the photograph of the rifle in this case?
7 A. Yes.
8 Q. And you said that it appeared to you that it
9 was -- the photograph is different from what you observed?
10 A. Yeah. Yes. I remember being able to clearly see
11 the hammer back or that area of the weapon.
12 Q. But in this photograph that area is concealed; is
13 that correct?
14 A. In that photograph. That photograph appears to
15 be taken from, you know, a different perspective from where I
16 was standing.
17 Q. The question is in this photograph --
18 THE COURT: Do you want to show him the
19 photograph?
20 THE WITNESS: That photograph is taken from
21 directly in front of the couch. I would have been looking
22 from 90 degrees, just to the left, straight to the left from
23 where that was.
24 MS. BROWN: I'm showing you Exhibit 67. You were
25 standing here?

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1 THE COURT: The record should reflect you're
2 pointing where the "V" is in Exhibit 67.
3 Q. (By Ms. Brown) You stated that's where you were
4 standing?
5 A. That's roughly where I was standing. But, you
6 know, I didn't just stand in one spot. I did move a little
7 bit at the top of the stairs.
8 Q. And number one would be the location of the
9 rifle?
10 A. Yes.
11 Q. Were you concerned with moving about the
12 residence with the possibility of contaminating any evidence?
13 A. I was. That's why we didn't go -- That's why I
14 didn't venture down in to the living room.
15 Q. But you knew -- didn't know whether something had
16 occurred in the dining room, kitchen, any other area of the
17 house?
18 A. No.
19 MS. BROWN: Thank you. I have nothing further.
20 THE COURT: Mr. Gregory.
21 REDIRECT EXAMINATION
22 By Mr. Gregory:
23 Q. Do you recall whether the TV was on?
24 A. I believe it was.
25 Q. And you indicated that you walked behind the pony

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1 wall to look over at the couch and that's --
2 A. Yes.
3 Q. -- when you saw the defect behind the couch; is
4 that correct?
5 A. Yes. There was a fish tank there.
6 Q. Would you observe the firearm at that time also
7 looking down?
8 MS. BROWN: Objection. Leading.
9 THE WITNESS: Yes.
10 THE COURT: Wait a minute. Wait a minute. The
11 objection is overruled. Go ahead and answer.
12 THE WITNESS: Yes. Yes, I would have had a clear
13 view.
14 MR. GREGORY: Thank you. I have nothing further.
15 THE COURT: Anything else?
16 MS. BROWN: No, your Honor.
17 THE COURT: Sir, you may step down. Thank you,
18 Captain.
19 Do you want him available for recall?
20 MS. BROWN: Yes, your Honor.
21 THE COURT: Captain, you have to be available to
22 us to return to testify again.
23 THE WITNESS: So --
24 THE COURT: So if you leave the court house, I
25 want you to let someone know where you can be reached and you

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1 need to be available to us within a very short period of
2 time, okay.
3 THE WITNESS: Okay. So I will stay.
4 THE COURT: Probably a wise idea, sir. Thank you
5 very much. You're excused.
6 MR. GREGORY: The State calls Justin Reddig.
7 THE COURT: Come on in, sir. Pause right in
8 front of the clerk, raise your right hand and face her,
9 please.
10 (The witness was sworn in)
11 THE COURT: Sir, come around and have a seat up
12 here. There's some water if you'd like.
13 Mr. Gregory.
14
15 JUSTIN REDDIG
16 Called as a witness on behalf of the
17 State, having been first duly sworn,
18 Was examined and testified as follows:
19
20 DIRECT EXAMINATION
21 By Mr. Gregory:
22 Q. Sir, please state your name and spell your last
23 name.
24 A. My name is Justin Reddig, R-e-d-d-i-g.
25 Q. What do you do for a living, Mr. Reddig?

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1 A. I am a firefighter/paramedic for the Tahoe
2 Douglas Fire District.
3 Q. How long have you worked for that department?
4 A. Since November of 2012.
5 Q. Okay. And any other experience being a paramedic
6 prior to that?
7 A. Yes. I worked for four and a half years with the
8 Storey County Fire District.
9 Q. Were you working in your capacity with Tahoe
10 Douglas on February 23rd 2014?
11 A. Yes, sir.
12 Q. And did you work that day?
13 A. I believe so. I would have to check my schedule,
14 but yes, I believe so.
15 Q. Do you recall responding to 452 Kent Way on that
16 day?
17 A. I do.
18 Q. You were part of the crew that did that?
19 A. Yes, sir.
20 Q. What was your role as part of that crew?
21 A. I was the firefighter/paramedic on Rescue 23. I
22 was precepting my fellow partner. He was newly hired. And I
23 was just there to make sure that he followed protocol. He
24 was actually taking all the calls that we ran. And I just
25 ensured that he followed protocol while the calls that we

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1 ran, he didn't deviate or make any mistakes there.
2 Q. What is his name?
3 A. His name is Nicholas Robadart.
4 Q. Okay. And in this particular case did he follow
5 protocol?
6 A. He did.
7 Q. Did you -- When you got to the scene did you
8 actually make entry in to the residence?
9 A. I did, sir, yes, sir.
10 Q. Along with the four other members of the crew?
11 A. Yes, sir.
12 Q. What did you do upon entry?
13 A. We walked in to the house, walked up the spiral
14 staircase and found the patient laying supine on the floor.
15 Q. Prior to making entry did you make any
16 observations of Ms. Leibel?
17 A. Yeah. Mrs. Leibel was seated on the front steps
18 outside the front door and was hysterical and upset and
19 crying and trying to call family to inform them of what had
20 happened.
21 Q. So you went upstairs and you found Mr. Leibel?
22 A. Yes.
23 Q. You said supine. What does that mean?
24 A. He was lying on his back, face up.
25 Q. Do you recall about how long it took you guys to

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1 respond to the call?
2 A. From the time of call until arriving on scene was
3 about four and a half minutes. And then it took us about two
4 minutes before we made patient contact to gather our
5 equipment and walk upstairs.
6 Q. Tell me what observation you made of Mr. Leibel.
7 A. Upon walking in to the residence coming up to the
8 top of the stairs there was a deputy standing in the living
9 room there. The patient was laying on the floor supine, like
10 I said, and he appeared deceased. He was real gray and
11 ashy-colored. His left hand was, while he was laying on his
12 back, was kind of up in a manner where it was bent at the
13 elbow and wrist at 90 degree. And he had a
14 through-and-through GSW to the left hand with some black
15 powder around the outside of it.
16 Q. GSW, what do you mean by that?
17 A. Gunshot wound. And then the patient was apneic
18 and pulseless. We checked for any signs of life like
19 breathing or pulse reading or anything like that. We could
20 not find any. We removed his shirt and then found a large
21 what we assume was the exit wound under his right armpit. It
22 appeared to have some lung tissue and stuff like that hanging
23 out of it.
24 THE COURT: Sir, I apologize for interrupting
25 you, but I'm going to ask you to slow down a little bit.

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1 THE WITNESS: Okay. I apologize.
2 THE COURT: No, that's okay. I know that you
3 have information that you want to convey. I'm just going to
4 ask you to slow your pace.
5 THE WITNESS: Okay. Yes, sir.
6 THE COURT: Thank you.
7 Q. (By Mr. Gregory) Did the crew check for any
8 electrical activity?
9 A. We did. Per protocol we have to place him on the
10 monitor. We placed him on our cardiac monitor. And
11 initially was in what we call lead two, which takes a small
12 picture of the heart and the electrical activity that it had
13 and it was asystole, meaning that it was a flat line on the
14 monitor. Per protocol, we have to confirm that in two
15 additional leads. So we checked in lead three and again in
16 AVL, which is another similar lead to two and three.
17 Q. So four different leads on it?
18 A. So, yeah. There were leads on the right upper
19 chest, left upper chest, right lower abdomen, and left lower
20 abdomen. And lead two checks from right top to left bottom.
21 Lead three is right top to right bottom. And AVL is left
22 bottom to right bottom.
23 Q. What was the reading on each of those?
24 THE INTERPRETER: Your Honor, may the witness be
25 reminded to slow down about 50 percent again? Thank you.

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1 THE COURT: It's still a little too fast.
2 THE WITNESS: Okay. I apologize.
3 THE COURT: This is being translated and so you
4 need to pace your language a little bit more, please.
5 THE WITNESS: Okay.
6 Q. (By Mr. Gregory) Please continue.
7 A. Okay. So again, lead two, lead three and lead
8 AVL, so the top right to left bottom and then top right to
9 right bottom, and then top left to right bottom.
10 Q. You previously indicated the reading was a flat
11 line. Was that for all four leads?
12 A. That's correct.
13 Q. Are you familiar with the smell of gun powder?
14 A. Yes, sir.
15 Q. When you entered the residence did you smell
16 anything?
17 A. No, sir, I did not.
18 Q. Did you smell gunpowder?
19 A. I did not.
20 Q. While you were on scene did you see anybody --
21 Well, let me ask -- I forgot to ask you. Did you see the
22 firearm?
23 A. I did notice the firearm. And the firearm was
24 laying on the couch where it appeared that he may have been
25 sitting prior to being moved to the floor.

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1 Q. Okay. Did you -- How closely did you look at the
2 firearm?
3 A. I just noticed or looked to see what type of
4 firearm it was. And I wasn't a gun aficionado so I didn't
5 know what type of gun it was. I just know it was a big
6 caliber weapon. And so that way it would give me clinical
7 indication of potential injury on the internal structure of
8 the body, you know, kind of get an idea of what may have --
9 what kind of damage the bullet can cause while entering the
10 body. And I didn't recognize the gun or know what type it
11 was. I just knew it was a large caliber weapon.
12 Q. Did you move the gun at all?
13 A. No, sir, I did not.
14 Q. Did you see anybody else move the gun?
15 A. No, sir, I did not.
16 Q. Did you move the couch?
17 A. No, sir, I did not.
18 Q. Did you see anybody else move the couch?
19 A. No, sir, I did not.
20 Q. Did you provide exclusionary fingerprints?
21 A. I did, sir.
22 MR. GREGORY: Thank you. Nothing further.
23 CROSS-EXAMINATION
24 By Ms. Brown:
25 Q. At the time of the incident you had been with

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1 Tahoe Douglas 16 months?
2 A. That's correct, ma'am.
3 Q. As a paramedic?
4 A. Yes, ma'am.
5 Q. And what did you do before that?
6 A. I was a firefighter/paramedic for the Storey
7 County District.
8 Q. And how long there?
9 A. Four and a half years.
10 Q. When you, the four of you paramedics responded in
11 two separate vehicles, the engine and the rescue?
12 A. Yes, ma'am.
13 Q. And you were part of R 23, the rescue?
14 A. Yes, ma'am.
15 Q. You didn't write in your report concerning this
16 incident immediately after it happened, did you?
17 A. No, ma'am.
18 THE INTERPRETER: I'm sorry, your Honor. The
19 interpreter didn't hear the question.
20 THE COURT: Would you repeat your question,
21 please.
22 Q. (By Ms. Brown) You didn't write a report
23 immediately after this happened; is that correct?
24 A. No, ma'am.
25 Q. The information you provided came from an

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1 interview with Investigator Chrzanowski a couple of weeks
2 later?
3 A. Yes, ma'am.
4 Q. You stated when you arrived Mrs. Leibel was
5 outside the residence?
6 A. Yes, ma'am.
7 Q. And she was very hysterical crying?
8 A. Yes, ma'am.
9 Q. You didn't have any conversation with her at that
10 time?
11 A. No, ma'am.
12 Q. The first thing you noticed on Mr. Leibel when
13 you entered the room I believe you said was the injury to the
14 back of his hand?
15 A. That's correct.
16 Q. And that was a very obvious injury; is that
17 correct?
18 A. Yes, ma'am.
19 Q. At the time you first entered, Mr. Leibel had a
20 robe over his, a shirt on and a robe over that; is that
21 correct?
22 A. Just the shirt. He was wearing a shirt and his
23 underwear.
24 Q. Showing you what's been marked as Exhibit 1,
25 admitted as Exhibit 1, do you recognize what's shown in that

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1 photograph?
2 A. Yes, ma'am.
3 Q. And what is that?
4 A. I'm sorry. I don't understand what you're asking
5 me.
6 Q. Do you recognize what that is a photograph of?
7 A. Yes. Yes, ma'am, I do.
8 Q. And what is it a photograph of?
9 A. Mr. Leibel laying on the floor.
10 Q. And in this photograph you can obviously see an
11 injury on his left hand?
12 A. That's correct.
13 Q. Or wrist?
14 A. Yes, ma'am.
15 Q. And his clothing he has a grayish-colored shirt
16 on?
17 A. Correct.
18 Q. And then there's a black robe over that?
19 A. Yeah. I just didn't remember the robe.
20 Q. So when -- Prior to any of his clothing being cut
21 away to try to do emergency care, the only visible injury was
22 on his wrist?
23 A. On his left hand, yes.
24 Q. You said his skin was gray and ashen?
25 A. Yes, ma'am.

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1 Q. Did you also report that it was yellow and
2 jaundice as well?
3 A. Yes, it appeared yellow.
4 Q. How old is Mr. Leibel, do you know?
5 A. 65.
6 Q. Do you know if he had any existing medical
7 conditions?
8 A. Not to my knowledge, no.
9 Q. Did you -- Do you know of any recent illnesses he
10 had?
11 A. No, ma'am, I do not.
12 Q. And this wasn't information you needed to treat
13 this emergency situation?
14 A. No, ma'am.
15 Q. He was warm to the touch when you began your
16 assessment?
17 A. Yes.
18 Q. You noticed the stiffness in his left arm?
19 A. That's correct.
20 Q. Do you know of conditions that can cause this
21 other than rigor mortis?
22 A. I do not.
23 Q. You have not heard of cadaveric spasms?
24 A. No, ma'am.
25 Q. And you stated you didn't smell an odor of gun

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1 powder?
2 A. No, ma'am, I did not.
3 Q. Okay. And these rooms, the living room is
4 adjacent to the dining room?
5 A. That's correct.
6 Q. And these rooms are open to each other through a
7 pony wall?
8 A. Yes, ma'am.
9 Q. And you testified you saw a hole in the couch
10 that appeared to go through to the wall?
11 A. Yes, ma'am.
12 Q. How did you see that hole in the wall?
13 A. Upon awaiting for the doctor to give Nick
14 termination orders via cell phone, I stood there and just
15 happened to notice the hole in the couch. And that's when I
16 noticed it.
17 Q. And how did you see it?
18 A. It was just honestly a random hole in a couch
19 that didn't look like it should have a hole in it.
20 Q. I mean, you said you -- you said you saw a hole
21 in the wall?
22 A. That's correct, ma'am. After I saw the hole in
23 the couch, I walked around the edge of the couch and I
24 noticed the hole in the wall behind the couch.
25 Q. Was that on the right -- If you're facing the

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1 couch was it on the right side or the left side of the couch?
2 A. I would say it was more right side. Like center
3 of the couch I guess but kind of where potentially the
4 patient could have been sitting. It was in his general area.
5 In the general area of where that person may have been
6 sitting I guess you could say.
7 Q. Of the?
8 A. To be honest, I don't remember exactly the
9 location of the hole in the couch. I just remember the hole
10 and that it was in the wall.
11 Q. And -- Okay. And so you either walked around to
12 the left-hand side of the couch or the right-hand?
13 A. I'm sorry. Yes. I walked to the right-hand side
14 of the couch.
15 Q. Right-hand side of the couch to look at it. And
16 at the time you walked over to the right-hand side of the
17 couch, you could see there was a rifle laying on the couch?
18 A. I noticed the rifle when we first walked in.
19 Q. And you didn't recognize what make, brand, type?
20 A. No, ma'am.
21 Q. Do you remember how long you were at the scene?
22 A. About 20 to 30 minutes probably. I'm not a
23 hundred percent sure.
24 Q. So leaving about 11:44?
25 A. That's probably accurate.

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1 Q. Okay. And Mr. Leibel was declared dead about
2 11:15?
3 A. That's correct, ma'am.
4 Q. And what did do you for the remaining 15 or half
5 hour after that?
6 A. Nick needed to talk to Mrs. Leibel about getting
7 information for his charting purposes. For our protocol, we
8 have to have name, birth date and social security number if
9 applicable. And I grabbed our bags. So, like, we have an
10 airway bag, a first out bag, and then the monitor. And
11 myself and Engineer Parson grabbed those bags and walked back
12 down the stairs and outside. I secured the ambulance with
13 the bags inside the ambulance and made it ready for us to
14 take another call should that happen while we were still on
15 scene. And I waited in the driveway away from Ms. Leibel to
16 let her grieve and do her thing until we were cleared by our
17 captain to leave.
18 Q. Okay. So after, soon after Mr. Leibel was
19 declared dead?
20 A. Yes, ma'am.
21 Q. Then you left the residence and you didn't go
22 back in?
23 A. That's correct.
24 MS. BROWN: Thank you. I have nothing further.
25 THE COURT: Mr. Gregory?

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1 MR. GREGORY: Thank you.
2 REDIRECT EXAMINATION
3 By Mr. Gregory:
4 Q. Do you recall if the TV was on?
5 A. Yes, sir.
6 Q. Do you remember what was playing?
7 A. A basketball game.
8 Q. At any point in time while were you in the
9 residence did you develop concerns for your safety?
10 A. Once we removed the patient's shirt and realized
11 what we thought was the exit wound on the patient and Captain
12 Lucas was standing on the landing and he just made the
13 comment that if --
14 MS. BROWN: Objection. Hearsay.
15 THE COURT: Sustained.
16 MR. GREGORY: Keep it to what I asked you. I
17 asked you what you felt. Don't tell what somebody else said.
18 MS. BROWN: The objection is to relevance of his
19 concern for safety.
20 THE COURT: What is the relevance of that?
21 MR. GREGORY: Well, your Honor, he was on scene
22 and he has testified about conditions that would be
23 inconsistent with what was reported. And I think it's
24 important that his feelings at that time and beliefs are
25 brought before the jury.

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1 THE COURT: Objection sustained. It's not
2 relevant.
3 Q. (By Mr. Gregory) You saw and heard Mrs. Leibel
4 as you entered the residence?
5 A. Yes, sir.
6 Q. And you indicated she was hysterical?
7 A. Yeah. She was crying and very upset, appeared
8 very upset and for lack of a better term hysterical, yes.
9 Q. The demeanor that you observed in her, was it
10 consistent with somebody who just saw their husband commit
11 suicide?
12 A. In my previous experience, no.
13 Q. Why do you say that?
14 A. In my previous experiences with people that have
15 committed suicide, the family members had been very somber
16 and taken aback and kind of closed off to the responders and
17 especially if they were by themselves. They didn't really
18 talk. They weren't overly crying or anything. They were
19 just witness a very traumatic and event and you know,
20 everything, their world just came crashing down. And you
21 know, it just seemed odd to me. I never experienced that
22 before.
23 MR. GREGORY: Thank you. Nothing further.
24 RECROSS-EXAMINATION
25 By Ms. Brown:

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1 Q. And how many suicides have you been involved
2 with?
3 A. Two prior, ma'am.
4 Q. Two prior. And different cultures deal -- people
5 from different cultures deal with emotions differently; is
6 that correct?
7 A. I agree.
8 Q. And so one culture may be very expressive with
9 emotion?
10 A. Yes, ma'am.
11 Q. And another culture may be --
12 A. Yes, ma'am.
13 Q. -- very withdrawn?
14 MS. BROWN: Thank you.
15 THE COURT: All right. Sir, you may step down.
16 Thank you for your appearance today.
17 Do you wish to have him remain under subpoena?
18 MR. GREGORY: No, your Honor.
19 MS. BROWN: Yes, your Honor.
20 THE COURT: Sir, you're going to have to remain
21 available to the court. I don't know if you'll be recalled.
22 But you may. And because of that, I realize that you may
23 have to be on duty. But you need to be available to us with
24 fairly short notice. Do you understand?
25 THE WITNESS: Yes, sir.

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1 THE COURT: Thank you. You are admonished not to
2 discuss your testimony with any other witness.
3 THE WITNESS: Yes, sir.
4 THE COURT: Thank you.
5 Well, it's noon and it seems to me to be an
6 appropriate time to break for lunch. I'll give you an hour
7 and a half for lunch if you think that you need that. I see
8 Ms. Brown's eyes. So we will return and we will begin at
9 1:30. So let's be prepared to go then until 1:30.
10 Ladies and Gentlemen, we're going to take an hour
11 and 30 minute lunch. So during this recess you are
12 admonished not to talk or converse among yourselves or with
13 anyone else on any subject connected with this trial. You're
14 not to read, watch or listen to any report of or commentary
15 on the trial or any person connected with this trial by any
16 medium of information, including without limitation
17 newspapers, television, radio or internet. You're not to
18 form or express any opinion on any subject connected with the
19 trial until the case is finally submitted to you. You have
20 an hour and a half for lunch. Thank you. We're in recess.
21 (Lunch recess was taken)
22
23
24
25

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1 WEDNESDAY, JANUARY 28, 2015, 1:30 P.M.
2 ---oOo---
3 THE COURT: Okay. We are in session. The jury
4 is not present. Mr. Gregory is here. Defense counsel is
5 here and the defendant is here. And the interpreters are
6 here.
7 So since we took the break for lunch some
8 furniture has been moved in to the courtroom. And I assume
9 you intend to offer this as exhibits?
10 MR. GREGORY: I do, your Honor.
11 THE COURT: The Court has made arrangements for
12 care taking of these exhibits should they be admitted. Do
13 Ms. Brown or Ms. Henry intend to object to the admission of
14 the table and the couch?
15 MS. BROWN: No, your Honor.
16 THE COURT: Okay. Mr. Gregory, how long do you
17 intend to have it in the middle of the courtroom?
18 MR. GREGORY: Well, I'm glad you brought that up
19 now because it's a good opportunity to discuss that. I think
20 the couch will be of use throughout the remainder of the
21 trial. I can't talk for the defense. So I had a couple
22 thoughts or things to raise with you in terms of what do we
23 do with the couch during the course of the trial. And one
24 thought being that if I mark it but not actually move it in
25 to evidence then the evidence custodian from the sheriff's

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1 office could deal with it during the course of the trial. Or
2 if you prefer to have the Court take custody of it, that
3 would be the other option. Obviously we can't hide it
4 anywhere.

5 THE COURT: No. The Court will take custody of
6 it. And as a matter of fact, the Court has made arrangements
7 to -- Quite frankly, I'll tell both of you what we have done.
8 We have rented a U-Haul that the court clerk will be able to
9 lock. It will be secured within the U-Haul. Only the court
10 clerk will have access to the U-Haul. It will stay in there
11 when we're not in session. So it will move up and down or be
12 in possession of the clerks. So you believe that you may
13 need this where it is for at least your next few witnesses?

14 MR. GREGORY: Yes. And I can tell you with our
15 expert witness for certain, Matt Nodel, we would want it back
16 in the courtroom for that.

17 THE COURT: It's my intention that when we're not
18 using this exhibit, just as with any other exhibit, I don't
19 keep the pictures up on the screen, we're going to move it.
20 I cleared that wall off, and I'm pointing to one wall of the
21 courtroom that is, it's the wall that the jurors sit on. So
22 I would put it off to the side where it would not be in their
23 view. And when you need it back up here, we'll move it back
24 up here. But I don't want to leave it in the middle of the
25 courtroom and bring additional attention to a particular

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1 exhibit more than any other exhibit when it's not being used.
2 And of course, anytime that you need it or you need it,
3 either the prosecution or the defense, we'll put it wherever
4 it is most useful to you. But when it is not being used,
5 we'll move it to the side of the courtroom so that it won't
6 be the focus of everyone's attention when we're trying to
7 talk about some other issue. Is that acceptable to you?

8 MR. GREGORY: Very much so.

9 THE COURT: And to you, ma'am?

10 MS. BROWN: Yes, your Honor.

11 THE COURT: Okay. Let's bring the jury in and
12 I've got something else to say.

13 THE COURT: Good afternoon, Ladies and Gentlemen.
14 You may have a seat, please.

15 Counsel stipulate to the presence of the jury?

16 MR. GREGORY: Yes, your Honor.

17 MS. BROWN: Yes, your Honor.

18 THE COURT: Ladies and Gentlemen, one of the
19 things that I think that you experience at work sometimes is
20 after you go to lunch you have a big full lunch you get a
21 little bit tired and the afternoon tends to drag on. I see
22 almost all of you have some water or something like that. I
23 remind you that there is coffee back in the jury room. But
24 there's also water. And just maybe keeping a drink in front
25 of you helps you to stay alert and pay attention, helps keep

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1 you hydrated. My doctor tells me I'm supposed to drink a lot
2 of water. So I encourage you to do that.

3 Another preliminary comment to make before we get
4 back to the trial. I have been advised that there have been
5 some observers of the trial who maybe have engaged in some
6 facial expressions or eye rolling or whatever. If I see it,
7 you'll be ejected from the courtroom, if I see it once.
8 Whether you are a witness who has been allowed to stay in the
9 room or you're simply a citizen who's come to observe. It
10 will not be tolerated and it will be treated as contempt of
11 this Court and it will be dealt with accordingly.

12 In addition to that, Ladies and Gentlemen, you
13 are specifically instructed by me to pay no attention to any
14 members of the audience, whatever they're here for. This
15 courtroom is open to the public pursuant to the Constitution
16 of the United States of America and the Constitution of the
17 State of Nevada. And it will remain so, absent any bad
18 behavior. But any behavior by anyone in the audience is not
19 to influence you and is not to impact your deliberations and
20 your duty to be the fact finders in this case. I'm certain
21 that that's understood. It may not be anything that you've
22 noticed, and that's okay. But if you happen to see something
23 like that, do not let it impact your decision making or
24 influence you in any way. Thank you.

25 Mr. Gregory.

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1 MR. GREGORY: The State calls John Milby.

2 THE COURT: Sir, if you would pause right there
3 and face the clerk and raise your right hand.
4 (The witness was sworn in)

5 THE COURT: Come on up here, have a seat, relax.
6 Have some water if you'd like.

7
8 JOHN MILBY

9 Called as a witness on behalf of the
10 State, having been first duly sworn,
11 Was examined and testified as follows:

12
13 DIRECT EXAMINATION

14 By Mr. Gregory:

15 Q. Good afternoon. Can you state your name and
16 spell your last name.

17 A. John Milby, M-i-l-b-y.

18 Q. I saw you reaching for the water. Go ahead.

19 A. Yeah. I apologize. I'm on the tail end of a
20 cold and probably will need it.

21 Q. Did you spell your last name?

22 A. I think I did.

23 THE COURT: He did. It's M-i-l-b-y.

24 MR. GREGORY: Thank you, sir.

25 Q. (By Mr. Gregory) What do you do?

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1 A. I'm employed by the Douglas County Sheriff's
2 Office. I'm a captain.
3 Q. How long have you been with the Douglas County
4 Sheriff's Office?
5 A. For 24 years now.
6 Q. And you're currently in the capacity of captain?
7 A. Yes, sir.
8 Q. How long have you been a captain?
9 A. For approximately eight years.
10 Q. And is there a particular division that you are
11 captain over?
12 A. Yes. I'm assigned to the investigation division.
13 Q. How long have you been assigned to that division?
14 A. A little over four years.
15 Q. Have you had another assignment as captain in the
16 sheriff's office?
17 A. Yes. I was also assigned as the jail commander
18 for about four years.
19 Q. Okay. And were you captain of the investigations
20 division on February 23rd 2014?
21 A. Yes, I was.
22 Q. What -- Tell me a little bit just generally, what
23 is the role of the captain of the investigations division?
24 A. As the investigation division commander I oversee
25 investigations, oversee personnel, you know, set policies for

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1 the division, ensure that they have the resources they need
2 to conduct investigations and things like that.
3 Q. And so you supervise the investigators?
4 A. Yes, sir.
5 Q. And is Ed Garren one of the people you supervise?
6 A. Yes.
7 Q. He's one of the investigators?
8 A. Yes, he is.
9 Q. And is he not the lead investigator on this case?
10 A. Yes, he is.
11 Q. On February 23rd, 2014, did you get a call to
12 respond to 452 Kent Way up at Zephyr Cove?
13 A. Yes, I did.
14 Q. Do you recall where you were when you got that
15 call?
16 A. Yes. I was at lunch, just got out of church and
17 we were at lunch as a family.
18 Q. Do you recall about what time it was?
19 A. It was probably around 12:30 or maybe 12:45.
20 Q. Okay. And again, generally speaking, when your
21 division gets a call regarding a gunshot-style death, what
22 would your division's involvement be typically?
23 A. You know, death investigations are the most
24 important investigations we conduct. And so our role, we
25 respond to most unexpected deaths or deaths where there's

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1 suspicious circumstances or some form of violence. Our job
2 as investigators is to determine the mode of death, whether
3 it's natural, accidental, suicide or homicide. And so the
4 investigators are instructed to keep an open mind and let the
5 evidence direct the investigation. I'm not sure if I
6 addressed your question.
7 Q. You did. Thank you. Do you typically get called
8 on death cases?
9 A. Yes, I do.
10 Q. And do you often actually personally go to the
11 scene?
12 A. I do.
13 Q. And did you do that in this case?
14 A. Yes, I did.
15 Q. Do you recall about what time you arrived on
16 scene?
17 A. I believe it was around two or 2:30 in the
18 afternoon.
19 Q. So you had to get up to the lake there?
20 A. Correct. I had to go home and change and get my
21 work vehicle and head up to the lake, yes.
22 Q. When you got up there were you briefed by
23 Investigator Garren?
24 A. I was.
25 Q. And were any decisions made regarding how to

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1 proceed?
2 A. Yes, there were decisions made on how to proceed.
3 And, for instance, the determination was made to call out our
4 evidence technician, John Barden, at the time. We also made
5 the decision, I made the decision to call out the Washoe
6 County Crime Lab. And those --
7 THE INTERPRETER: Your Honor, may the interpreter
8 ask the witness to speak up a little bit and to slow down.
9 THE COURT: Sir, I need you to slow down.
10 THE WITNESS: Okay.
11 THE COURT: And speak a little bit louder. This
12 is being interpreted. I also need you to listen to the
13 question and just answer the question without making a
14 speech.
15 THE WITNESS: Okay. Very good. Can you repeat
16 the question?
17 Q. (By Mr. Gregory) Yes. I had asked if you made
18 some decisions after you were briefed on the case and you
19 were just starting to tell us about a decision to call out
20 the FIS.
21 A. Correct. So I made the decision to call out the
22 Washoe County Crime Lab for assistance.
23 Q. What was that decision based on?
24 A. That decision was based on the need for the
25 resource. Basically we wanted to conduct a diagram of the

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1 scene and also examine the bullet path trajectory and we rely
2 on them typically to do that.
3 Q. And prior to your arrival up there had a decision
4 already been reached to seal off the crime scene?
5 A. Yes, it had.
6 Q. And to your knowledge was that made by
7 Investigator Garren?
8 A. Yes, it was. Actually I take that back. I think
9 that decision had been made by patrol personnel prior to
10 Investigator Garren arriving on the scene.
11 Q. In what kind of circumstances would that decision
12 be made to seal a scene?
13 A. That's a standard procedure during any death
14 investigation.
15 Q. Okay. And so what's the role then at that stage?
16 You've made these decisions to investigate. What's the role
17 of your division?
18 A. The role of the division is, as I was mentioned
19 earlier to determine the mode of death, whether it's natural,
20 accidental, suicide or homicide, and really just to keep an
21 open mind, conduct a thorough, comprehensive investigation
22 and let the evidence direct the investigation.
23 Q. Have you been involved in those types of
24 investigations in the past in your capacity as captain?
25 A. Yes, I have.

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1 Q. And are there circumstances where you've been
2 called out to a reported suicide?
3 A. Yes.
4 Q. And would the same type of protocol -- was the
5 same kind of protocol used in those cases?
6 A. Yes, in several cases, yes.
7 Q. And so you conduct the investigation and make
8 decisions from that?
9 A. Yes.
10 Q. Have you ever been involved in a case where there
11 was a reported suicide but it was a highly suspicious
12 circumstance?
13 A. Yes, I have.
14 Q. And what did your -- what did you command to do
15 in those situations?
16 A. Again, we conducted thorough investigations and
17 examined the evidence and made a determination based on the
18 evidence.
19 Q. And have you ever had a situation where after
20 doing that investigation you decided not to pursue a criminal
21 case?
22 A. Yes. There have been several cases.
23 Q. And in this case the opposite happened; correct?
24 A. Yes.
25 MR. GREGORY: Thank you, I have nothing further.

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1 THE COURT: Questions?
2 CROSS-EXAMINATION
3 By Ms. Henry:
4 Q. Captain Milby, you stated that when you arrived
5 there had already been a decision made to seal the crime
6 scene; is that correct?
7 A. Yes.
8 Q. And you believed that that decision was not made
9 by Detective Garren?
10 A. It may have. Often times it's the patrol folks
11 that first set up some kind of perimeter and seal the scene.
12 I wasn't there at that time.
13 Q. And as captain is that something that you usually
14 try and know who decided to seal off the crime scene?
15 A. What I would typically do is just ensure that it
16 occurred, not necessarily by whom.
17 Q. And you were present during the search of the
18 scene. Were you present during any portion of the search of
19 the scene?
20 A. Yes, I was.
21 Q. And for how long were you there?
22 A. I was there for approximately six hours on
23 Sunday. I believe that was the 23rd. I was there for
24 probably another six to eight hours on Monday, the 24th. Are
25 my dates correct? I'm not sure if those are the right dates.

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1 And then on Tuesday, I believe that's February 25th, I was
2 there for approximately another six to eight hours.
3 Q. The Court's indulgence for a moment.
4 And when you first got there you entered, did you
5 actually -- you entered the scene?
6 A. On Sunday, yeah, when I first arrived I met with
7 Investigator Garren and he walked me through the scene.
8 Q. Did you -- When Ms. Leibel was interviewed you
9 watched portions of that; correct?
10 A. I did see part of that, correct.
11 Q. And was that -- Were you in and out during that
12 interview?
13 A. In and out?
14 Q. Of the -- You watched portions of it.
15 A. I wasn't actually in the interview but we do have
16 the ability to watch it remotely.
17 Q. And you did not watch the entire interview?
18 A. I did not.
19 Q. And at some point were you informed that
20 Ms. Leibel had signed a consent to search the residence?
21 A. I believe I was, yes.
22 Q. And was that by -- And was that given to
23 Detective Garren?
24 A. Yes.
25 MS. HENRY: No further questions.

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1 THE COURT: Mr. Gregory?
2 MR. GREGORY: Nothing further.
3 THE COURT: Thank you. You may step down. Thank
4 you for being here.
5 Ladies and Gentlemen, you might note that
6 Ms. Henry doesn't stand up as she speaks as the other
7 attorneys do. I'll just point out for you we have two lapel
8 microphones. Mr. Gregory and Ms. Brown has one. We don't
9 have three. And so Ms. Henry remains seated simply so that
10 her voice can get to the microphone in front of her and we
11 can pick it up. It's not out of any disrespect or lack of
12 knowledge. It's simply that we have two more microphones in
13 the other courtroom, two other lapel microphones. They're
14 tuned to another frequency. We tried to bring them down.
15 They don't work at all. That's why that happens.
16 MR. GREGORY: The State calls Ed Garren.
17 THE COURT: Stop right there, raise your right
18 hand and face the clerk.
19 (The witness was sworn in)
20 THE COURT: Come on up and have a seat right
21 here, please. You're welcome to have some water if you'd
22 like.
23 THE WITNESS: Thank you, sir.
24
25 EDWARD GARREN

1 A. Yes, I did.
2 Q. Do you recall about when you got that call?
3 A. I believe it was around 11:15 in the morning.
4 Q. Were you down here in the valley at that time?
5 A. Yes, I was.
6 Q. What were you told about the call at that point,
7 just generally?
8 A. I was apprised of a gunshot victim that
9 apparently had two gunshot wounds.
10 Q. What did you do after getting that information?
11 A. I got dressed and responded up to the scene.
12 Q. Were you the on-call investigator at the time?
13 A. Yes, I was.
14 Q. And what exactly does that mean?
15 A. We're on call for a week at a time and we cover
16 any calls that we get notified of that they need us to
17 investigate at the scene. Typically death investigations or
18 sexual assaults, things of that nature that's beyond what a
19 patrolman does.
20 Q. When you got to the scene what took place?
21 A. I got to the scene. I met with Deputy
22 Williamson. He gave me a briefing on what he had learned up
23 to that point. I walked up. He escorted me to the house and
24 we went upstairs where we found Mr. Leibel on the floor.
25 Q. After you made that initial walk-through of the

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1 Called as a witness on behalf of the
2 State, having been first duly sworn,
3 Was examined and testified as follows:
4
5 DIRECT EXAMINATION
6 By Mr. Gregory:
7 Q. Good afternoon.
8 A. Good afternoon.
9 Q. Please state your name and spell your last name.
10 A. Edward Garren, G-a-r-r-e-n.
11 Q. What do you do for a living?
12 A. I'm currently assigned as an investigator in the
13 Douglas County Sheriff's Office.
14 Q. How long have you worked for the Douglas County
15 Sheriff's Office?
16 A. A little over 16 years.
17 Q. And your current capacity is investigator?
18 A. Yes, sir.
19 Q. And you work under Captain Milby?
20 A. Yes, I do.
21 Q. Were you employed as an investigator for the
22 Douglas County Sheriff's Office on February 23rd 2014?
23 A. Yes.
24 Q. And on that date did you receive a call to a
25 shooting incident that occurred up in Lake Tahoe?

1 scene what did you do?
2 A. Tried to make an assessment based on what he
3 briefed me on, the information that he had received, and
4 compared it to the scene that was in front of me and make a
5 determination on what I needed to do from that point forward.
6 Q. And what was your determination?
7 A. Based on what he told me and that it was a
8 reported suicide with the two injuries to Mr. Leibel as well
9 as the injury to the couch and the injury to the wall behind
10 the couch, I attempted to try to make sense of how the
11 injuries lined up and didn't make much sense of that. It
12 appeared to me to be something suspicious about the injuries.
13 I wasn't comfortable saying this is a suicide. I didn't know
14 what had happened at that point, so we backed everybody out,
15 secured the scene and called for assistance, like I have done
16 previously in other investigations.
17 Q. What type of assistance did you call for?
18 A. Other investigators on the scene to help write
19 search warrants, to help process the scene as needed.
20 MR. GREGORY: May I approach the witness, your
21 Honor?
22 THE COURT: Sure. Would you show the defense
23 just what you're going to show him?
24 Q. (By Mr. Gregory) Investigator Garren, I'm
25 handing you Exhibits 3 through 20. Could you please take a

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1 moment to look at those. Have you reviewed those items?
2 A. Yes, I have.
3 Q. Looking at items 3 through 14, were those
4 photographs of the crime scene?
5 A. Yes. One is the outside of the residence.
6 Q. Don't tell me what they are right now. I'm just
7 asking if those are photographs of the crime scene.
8 A. Yes, they are.
9 Q. Okay. And do those photographs accurately depict
10 what you observed at the crime scene on February 23rd?
11 A. Yes.
12 MS. BROWN: I'd object, your Honor, as to a time
13 frame on those.
14 THE COURT: When -- You indicate that they
15 accurately depict what you observed. Give us a time frame.
16 THE WITNESS: Around 4:00 o'clock in the
17 afternoon.
18 THE COURT: On the first day of your visit to the
19 scene?
20 THE WITNESS: Yes. On February 23rd 2014.
21 THE COURT: And are all of them within that time
22 frame?
23 THE WITNESS: Give or take several minutes on
24 either side, but roughly 4:00 o'clock, sir.
25 THE COURT: Okay. Objection is overruled.

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1 Q. (By Mr. Gregory) So first, Investigator Garren,
2 can you describe the outside of the home?
3 A. It's a two story single family residence, a brown
4 wood covering on the house.
5 Q. And looking at Exhibit Number 3, does that
6 photograph accurately depict the way that the residence
7 looked that day from the outside?
8 A. Yes, it does.
9 MR. GREGORY: I'd move for admission of Exhibit
10 3.
11 THE COURT: Any objection?
12 MS. BROWN: No, your Honor.
13 THE COURT: 3 is admitted.
14 Q. (By Mr. Gregory) While that's coming up,
15 Investigator Garren, if you can look at Exhibit Number 4.
16 A. Yes, sir.
17 Q. What does Exhibit 4 depict?
18 A. The second floor or the top of the stairway, the
19 wall to the left is a wall between the living room and the
20 dining room area of the house. And the living room was off
21 to the right. There's a small hallway and a master bedroom
22 off to the right as well.
23 Q. Does that photograph accurately depict the way
24 that the living room and that hallway looked that day?
25 A. Yes, it does.

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1 MR. GREGORY: Move for admission of Exhibit 4.
2 MS. BROWN: Your Honor, if all of these
3 photographs are referred to 4:00 o'clock in the afternoon, I
4 have no objection.
5 THE COURT: So any of them through 20? He's
6 going to go -- He gave him 3 through 20, I believe. So do
7 you stipulate to the admission of 3 through 20?
8 MS. BROWN: Well, some of them aren't of the
9 scene.
10 MR. GREGORY: To clarify, your Honor, 3 through
11 14 he's testified are at the scene.
12 THE COURT: Okay. So 3 through 14?
13 MS. BROWN: With the caveat that they were taken
14 at 4:00 o'clock in the afternoon, I have no objection.
15 THE COURT: Within that time frame. It's not
16 exactly at four.
17 MS. BROWN: Correct.
18 THE COURT: Okay. Then 3 through 14 -- 3 has
19 already been admitted. But 4 through 14 are admitted if you
20 intend to offer them, sir.
21 MR. GREGORY: I do, your Honor.
22 THE COURT: Then they're admitted.
23 Q. (By Mr. Gregory) Investigator Garren, you didn't
24 take the photos; correct?
25 A. No, I did not.

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1 Q. And what I'm asking if those photos accurately
2 show what you observed when you were on scene?
3 A. Yes.
4 Q. Okay. Thank you. Let's look at Exhibit Number
5 4. That's the hallway that you just described?
6 A. Correct.
7 Q. So what is the vantage point of this photograph?
8 A. At the top of the stairway to the second floor
9 landing the kitchen is immediately to your left. On the
10 other side of that wall you have the living room to your
11 right and the dining room to your left and then the small
12 hallway and master bedroom to the right there through that
13 door.
14 Q. And so the room that we're looking in to with the
15 guns is the living room?
16 A. That's correct.
17 Q. Looking at Exhibit Number 5, what does that
18 photograph depict?
19 A. Looking in to the living room just a little bit
20 further down to the right.
21 Q. The photograph is a little bit dark. Can you
22 indicate where the television set is in the room?
23 A. The television is directly straight across the
24 room above the fireplace. There's a reclining chair to the
25 right.

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1 MR. GREGORY: Thank you. Your Honor, can we get
2 the lights dimmed, please?
3 THE COURT: Absolutely.
4 Q. (By Mr. Gregory) Exhibit Number 6?
5 A. Again, it's another angle of the living room.
6 And again, if you would step more to your right from the
7 previous picture, the television is on the right above the
8 fireplace. There's a large picture window and chair and a
9 reclining chair also to the left.
10 Q. While you were inside the residence did anything
11 strike you regarding the temperature?
12 A. When I first arrived, it was hot at that point at
13 about four in the afternoon inside the house.
14 Q. And did you have the -- did you have an
15 opportunity to look at the thermostat?
16 A. Yes, we did.
17 Q. Looking at Number 7, what is that a photograph
18 of?
19 A. The two thermostats that were on the wall in the
20 living room and that was the condition that we found them in.
21 Q. Photograph Number 8, what does that photograph
22 depict?
23 A. Mr. Leibel on the floor of the living room.
24 Q. And the vantage point for that photo?
25 A. Is that little wooden hallway right next to that

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1 A. Yeah. And the issuance of the search warrant.
2 Q. Okay. And so you went back in at about 4:00
3 o'clock?
4 A. Correct.
5 Q. And when you made entry again at that time, was
6 John Barden with you?
7 A. Yes, he was. The evidence technician was with
8 me.
9 Q. And what was his role?
10 A. He was going to process the scene. And at that
11 point he was taking photographs.
12 Q. And what is photo number 9?
13 A. Stepping down in to the living room it's another
14 angle of Mr. Leibel.
15 Q. When you were on scene did you observe the wound
16 to his right side?
17 A. Yes, I did.
18 Q. And initially when you got there the first time
19 around two-ish, what wounds did you observe at that point in
20 time?
21 A. I saw the black mark and the injury to his left
22 wrist as well as the blood in the wound to his right side.
23 Q. You just talked about the wound to his left hand.
24 Does that photograph depict the wound to his left hand?
25 A. Yes, it does.

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1 wall looking down in to the living room.
2 Q. I should ask you, you indicated you arrived on
3 scene about 2:30; is that correct?
4 A. I arrived on scene about 12:15.
5 Q. But you indicated these photographs are about
6 four in the afternoon?
7 A. That's correct.
8 Q. What happened after you made the decision to back
9 off and seal the scene?
10 THE INTERPRETER: I'm sorry, your Honor. After
11 you backed off and?
12 MR. GREGORY: Made the decision to seal the
13 scene.
14 THE WITNESS: Contacted other investigators in my
15 office to see if they were available to respond, contacted my
16 captain. One of my partners when they arrived gave them a
17 brief walk through the scene. He then went to write the
18 original search warrant to go in to the house since we had
19 established that that's potentially a crime scene. And then
20 the evidence technician arrived. And then when I discussed
21 it with Captain Milby we decided we should call Washoe County
22 Crime Lab in to use some of their services that are available
23 to us.
24 Q. (By Mr. Gregory) Okay. And so you waited for
25 the arrival of other folks to assist before you went back in?

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1 THE COURT: When you say that photograph, you
2 haven't identified the exhibit number.
3 MR. GREGORY: Thank you, your Honor. It's
4 Exhibit Number 10.
5 THE COURT: Thank you.
6 Q. (By Mr. Gregory) What does Exhibit Number 11
7 show?
8 A. It's looking in towards the dining room from the
9 living room. There's a little pony wall there with an
10 aquarium on top and it shows Mr. Leibel on the floor and a
11 two-seated recliner couch.
12 Q. And did you observe the firearm there that was on
13 the couch?
14 A. Yes, I did.
15 Q. Did you make that observation during your first
16 walk-through?
17 THE INTERPRETER: I'm sorry, your Honor. The
18 interpreter did not hear the question.
19 THE COURT: Did you make that observation --
20 THE INTERPRETER: The previous question.
21 THE COURT: The previous question.
22 (The question was read back)
23 THE COURT: Pick up wherever you're comfortable,
24 Mr. Gregory.
25 MR. GREGORY: Thank you, your Honor.

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1 Q. (By Mr. Gregory) This photograph depicts a
2 firearm on the couch. Did you observe the firearm when you
3 first entered the residence?
4 A. Yes, I did.
5 Q. Did you move or otherwise alter the firearm the
6 first time you entered the residence?
7 A. No, I did not.
8 Q. When you went back in at approximately 4:00
9 o'clock did you make a closer observation of the firearm?
10 A. Yes, I did.
11 Q. Go to Number 13. What does Exhibit Number 13
12 depict?
13 A. Number 13 is a close-up of the cylinder and the
14 hammer and trigger of the firearm.
15 Q. And is that as the firearm lay when you entered
16 at approximately 4:00 o'clock?
17 A. Yes, it is.
18 Q. And is that in the same position it was when you
19 entered earlier in the day?
20 A. I believe so, since nobody had touched it or
21 moved it upon my arrival.
22 MS. BROWN: Objection. Speculation.
23 THE COURT: Sustained. That answer will be
24 stricken. The jury is instructed to disregard it.
25 Q. (By Mr. Gregory) So you made an observation of

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1 the gun when you first walked in; correct?
2 A. Correct.
3 Q. And then this photograph was taken when you
4 entered the -- reentered the home at 4:00 o'clock?
5 A. Correct.
6 Q. Does the weapon appear to be in the same position
7 it was as when you made entry the first time?
8 A. I don't really -- I didn't spend a lot of time
9 looking at the weapon when I was first in the house. I was
10 focused on the victim, the marks on the couch and the wall.
11 And then when I made the determination that it seemed
12 suspicious to me, I stepped out and, like I said, we sealed
13 the scene and secured the residence pending the search
14 warrant.
15 Q. When you went back in at 4:00 o'clock you
16 indicated you made a closer examination of the gun?
17 A. Yes.
18 Q. What does photograph number 14 depict? Excuse
19 me. It might be 13. It's number 13.
20 THE COURT: Is it 13 that you have up displayed
21 now?
22 MR. GREGORY: Yes.
23 THE COURT: Thank you.
24 THE WITNESS: It's just a close-up of the
25 cylinder, the trigger, and the hammer of the weapon.

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1 Q. (By Mr. Gregory) Anything of significance to you
2 when you observed the weapon in that stage?
3 A. That the hammer was cocked.
4 Q. What do you mean by that?
5 A. It's drawn back in a single action position for a
6 revolver, meaning there's the cylinder is turned in to a
7 position that if there was a live round in that chamber of
8 the cylinder it would be fired when the hammer goes forward.
9 Q. What did you do next after making that
10 observation?
11 A. We opened up the cylinder and opened it to see
12 what the condition of the cylinder was.
13 Q. What was your purpose in doing that at that time?
14 A. To determine how many shots were fired in that
15 weapon.
16 Q. And did you also -- did you do anything with the
17 hammer at that point?
18 A. Before doing that, you walk the hammer forward so
19 it does not strike the primer and fire the round to render it
20 safe that the hammer will fall forward and fire the bullet
21 and then you can open the cylinder in a safe manner.
22 Q. So you uncocked the gun, so to speak?
23 A. Yeah, so to speak.
24 Q. Okay. When you uncocked the gun, did it cause
25 the cylinder to rotate at all?

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1 A. No, it did not.
2 Q. Looking at Exhibit Number 14, what does that
3 photograph depict?
4 A. That's me holding the gun and opening the
5 cylinder in the condition that it was found in.
6 Q. As you opened the cylinder did you rotate the
7 cylinder at all?
8 A. I did not.
9 Q. What did you learn upon opening the cylinder?
10 A. There were two fired rounds indicating by the
11 dimples in the primers. And there was a live round in the
12 cylinder lined up with the chamber of the gun to be fired.
13 Q. What did you do at that point in time?
14 A. I closed the cylinder back in the same position
15 making sure it did not rotate or move and set the gun back on
16 the couch.
17 Q. And then was the gun ultimately booked in to
18 evidence?
19 A. Yes, it was.
20 MR. GREGORY: Madam Clerk, was the gun brought
21 up?
22 Your Honor, if I could consult with my
23 investigator to ask him to bring some evidence?
24 THE COURT: You may. Mr. Gregory, when that
25 weapon is brought in to the courtroom, the only person who

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1 will handle it in the courtroom until it's given to the
2 witness with my permission will be one of the bailiffs.
3 MR. GREGORY: Thank you.
4 Q. (By Mr. Gregory) Investigator Garren, did there
5 come a time when you inspected that cylinder again?
6 A. Yes. The following morning I was present when
7 the evidence tech removed the rounds and placed them in the
8 order that they were in the cylinder.
9 Q. Where did that take place at?
10 A. In the evidence lab downstairs.
11 Q. If you could look at Exhibit 15 through 18,
12 please.
13 A. Okay.
14 Q. Were those photographs taken when you conducted
15 the further inspection of the gun the next day?
16 A. Yes, they were.
17 Q. And do those photographs accurately depict the
18 way that the gun looked that day?
19 A. Yes, it does.
20 MR. GREGORY: Move for admission of Exhibits 15,
21 16, 17 and 18.
22 MS. BROWN: No objection.
23 THE COURT: 15 through 18 are admitted.
24 Q. (By Mr. Gregory) Looking at 15, what does that
25 photograph depict?

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1 A. The weapon with a scale next to it and on a piece
2 of cardboard.
3 Q. And the next photograph, which is number 16, what
4 does that show?
5 A. The cylinder being opened.
6 Q. And when you looked at the cylinder on that date
7 did it appear to you that it was in the same position that it
8 had been on scene?
9 A. Yes.
10 Q. What was then done once that cylinder was opened
11 up in the lab?
12 A. The rounds were removed and placed on some paper
13 next to some numbers to reference where they were in the
14 cylinder.
15 Q. Was it ascertained what direction that cylinder
16 moves in when it's fired?
17 A. Yes. It is a counter-clockwise rotation.
18 Q. And that is cut off. If I could look at your
19 actual exhibit there. Actually, give me the one prior also.
20 THE COURT: Mr. Gregory, have you been displaying
21 copies of the exhibits?
22 MR. GREGORY: Yes, your Honor. The exhibits are
23 loaded on a power point presentation to facilitate the
24 viewing.
25 THE COURT: Is there any objection to that?

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1 MS. BROWN: Yes, your Honor.
2 THE COURT: What's your objection?
3 MS. BROWN: We aren't seeing accurate
4 representations of the evidence the witness is looking at.
5 THE COURT: That's sustained. You're going to
6 have to show the actual exhibit and not something that's not
7 the exhibit.
8 MR. GREGORY: Okay. Exhibit Number 17.
9 THE COURT: It may take you a little longer but
10 I'm sure you can do it.
11 MR. GREGORY: That's fine.
12 Q. (By Mr. Gregory) What does Exhibit Number 17
13 depict?
14 A. The rounds out of the gun, so some paper with
15 numbers in front of each round.
16 Q. Okay. And how was that -- Describe the process.
17 THE COURT: Mr. Gregory, since I just told you
18 that you can't display this, I'll take it off.
19 MR. GREGORY: Your Honor, can you do that from up
20 there, please. Thank you.
21 THE COURT: Thank you.
22 THE WITNESS: I'm sorry.
23 Q. (By Mr. Gregory) Tell me about the process of
24 how that was done.
25 A. They removed one at a time and placed in the

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1 order as the evidence tech did, one, two, three, four and
2 five.
3 Q. So what does number one depict?
4 A. It depicts the round that was under, the live
5 round that was under the hammer in line with the chamber.
6 Q. By live you mean an unfired round?
7 A. Unfired round.
8 Q. And what type of ammunition is that?
9 A. It's a 45 long colt.
10 Q. And under number two which round was that?
11 A. It's a fired 410 shotgun shell.
12 Q. And where would that be in relationship -- So if
13 round one was underneath the hammer, where was round number
14 two?
15 A. Immediately to the left.
16 Q. And then round number three?
17 A. Was a fired, it's a 45 long hold cartridge which
18 would have been immediately to the left of the previous
19 round.
20 Q. Okay. And then number four?
21 A. Is an unfired 410 shotgun shell which would have
22 been immediately to the left of the previous round.
23 MR. GREGORY: Your Honor, I'd ask to publish that
24 exhibit to the jury.
25 THE COURT: Yes, you may. You can display it

1 over here, can you not?
2 MR. GREGORY: The reason I use the power point is
3 the quality of the overhead does not seem to be as good as
4 the actual exhibits, so I prefer to show it to the jury.
5 THE COURT: You can show it to them.
6 MR. GREGORY: And while I'm at it, your Honor,
7 Exhibit Number 17, Exhibit Number 15 was also cut off up on
8 the projector, your Honor, so I would ask to publish it as
9 well to the jurors.
10 THE COURT: Okay.
11 Q. (By Mr. Gregory) And Investigator Garren, if you
12 can look at photograph number 18.
13 A. Yes, sir.
14 Q. What is that?
15 A. It's a diagram of a cylinder drawn on a piece of
16 paper to indicate the condition of the cylinder, identifying
17 the rounds, one, two, three, four and five and where they
18 were located when we opened the rifle.
19 Q. And does that diagram accurately depict where the
20 rounds were in the cylinder?
21 A. Yes, they do.
22 MR. GREGORY: Your Honor, I'd ask to publish that
23 to the jury.
24 THE COURT: Okay.
25 Q. (By Mr. Gregory) I saw some designations of U

1 and F in those cylinder holes.
2 A. That would indicate an unfired round and F would
3 indicate a fired round.
4 MR. GREGORY: And your Honor, it's my
5 understanding the firearm has been brought up.
6 THE COURT: Okay. Where is it? Do you want it
7 brought in?
8 MR. GREGORY: Yes, please.
9 And your Honor, there's two weapons. The one is
10 the actual weapon in the case that was used. The second is a
11 firearm, a like firearm, that was purchased by the sheriff's
12 office for use in the investigation in this case. The firing
13 pin has been removed from that gun so that it can be used for
14 demonstrative purposes in the courtroom.
15 THE COURT: Well, I'm going to ask the bailiffs
16 to confirm that and then we'll proceed, okay.
17 MR. GREGORY: Yes. Thank you.
18 THE COURT: Not that I don't trust you,
19 Mr. Gregory.
20 MR. GREGORY: Better to be safe than sorry.
21 THE COURT: And I assume your witness can
22 identify which is which?
23 MR. GREGORY: Yes. If I can have those both
24 marked.
25 THE COURT: She'll need to mark the actual

1 exhibit and not just the box.
2 The record will reflect that the box is sealed
3 with evidence tape and that it's the court bailiffs that are
4 unsealing it.
5 MR. GREGORY: Thank you.
6 THE COURT: Prior to coming in the courtroom the
7 box was sealed. What is it?
8 THE CLERK: 118.
9 MR. GREGORY: Your Honor, that's Exhibit 118 and
10 I would ask that the bailiff bring it over to Investigator
11 Garren so that he can identify which weapon it is.
12 THE COURT: Yes, sir, you may do that.
13 Bailiff, are you confident that that gun is
14 unloaded?
15 THE BAILIFF: Yes, your Honor.
16 THE COURT: Then you may hand it to the witness
17 and he's fully capable of handling that weapon.
18 THE WITNESS: Do we have gloves?
19 THE BAILIFF: I have a pair.
20 Q. (By Mr. Gregory) Investigator, looking at
21 Exhibit 118, what is that?
22 A. It's a Taurus circuit judge rifle.
23 Q. Is that the gun that was confiscated from the
24 crime scene?
25 A. I would have to review the evidence log to verify

1 the serial number. But since it came in the sealed evidence
2 box I would say yes.
3 Q. Does it look like the weapon that you confiscated
4 from the crime scene?
5 A. Yes, it does.
6 MR. GREGORY: Your Honor, may I ask that it be
7 returned. That's Number 118. And I'm assuming the next one
8 is 119.
9 THE COURT: Yes. If you don't need him to handle
10 it anymore, it will go back in the box.
11 What's the number of this?
12 THE CLERK: 119.
13 THE COURT: Did you offer 118? Are you intending
14 to?
15 MR. GREGORY: Not yet, your Honor.
16 THE COURT: Okay.
17 Deputy Lindsay, are you satisfied that that gun
18 is unloaded?
19 THE BAILIFF: Yes, your Honor, I checked the
20 chambers.
21 Q. (By Mr. Gregory) Investigator Garren, if you can
22 look at 119 and indicate what that firearm is.
23 A. That's a Taurus circuit judge.
24 Q. And is that the weapon that was purchased for use
25 in the investigation in this case?

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1 A. Yes.
2 Q. And to your knowledge has that weapon been
3 rendered inoperable by removing the fire pin?
4 A. Yes, we took it to a local dealer who removed the
5 firing pin, which is located right here.
6 THE COURT: And the deputy -- Investigator Garren
7 is referring to a plastic bag, a Ziploc plastic bag, small
8 one, that is attached to Exhibit 119.
9 Q. (By Mr. Gregory) Other than that modification of
10 removing that firing pin, does the weapon look substantially
11 in the same condition as Exhibit Number 118?
12 A. Yes.
13 Q. And if you could take a moment to open and close
14 the cylinder and let me know if it works in the same manner
15 as the Exhibit 118?
16 A. Yes.
17 MR. GREGORY: Your Honor, I'm going to ask
18 investigator, he can stand right there, but I would like him
19 to demonstrate for the jury how he opened and closed the
20 cylinder.
21 THE COURT: Stand up and demonstrate.
22 THE WITNESS: There's a release lever underneath
23 the hammer which when depressed you can roll the cylinder out
24 and you can push it back in the same position that it was in
25 without it moving.

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1 Q. (By Mr. Gregory) Okay. And would you show the
2 jurors how you -- you indicated that Exhibit 118 on scene you
3 disarmed it by moving the hammer forward. Can you
4 demonstrate for the jurors how you did that?
5 A. Yes. When you cock it, it's going to rotate the
6 cylinder. You keep your thumb on it. You press the trigger
7 and you slowly move it forward and let the trigger go
8 forward. And as you can see, the cylinder does not turn.
9 MR. GREGORY: Thank you. That exhibit can be
10 returned, your Honor. Can I walk it over there?
11 THE COURT: You may, sir.
12 MR. GREGORY: Madam Clerk, could I have the couch
13 marked as next in order and the end table, please.
14 THE COURT: The couch will be 120. The end table
15 will be 121.
16 MR. GREGORY: Investigator Garren, looking at
17 what's going to be marked as Exhibit 120, what is it?
18 THE WITNESS: May I approach the exhibit, your
19 Honor?
20 THE COURT: You can't see it from where you are?
21 THE WITNESS: I guess I can slide out. It's a
22 two seat recliner, beige in color, that was inside the
23 residence.
24 MR. GREGORY: And is it in substantially the same
25 condition as it was inside the residence?

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1 THE WITNESS: Yes, it is.
2 MR. GREGORY: Move for admission of Exhibit 120.
3 THE COURT: Any objection? Any objection?
4 MS. BROWN: No, your Honor.
5 THE COURT: 120 is admitted. Now you might need
6 to get up to go over there to see if he asks you about 121.
7 THE WITNESS: Thank you, your Honor.
8 Q. (By Mr. Gregory) If you can take a look at
9 what's going to be marked as Exhibit 121. What is that?
10 A. It's a glass table and a stand.
11 Q. Was this table and stand on scene the day of the
12 shooting?
13 A. Yes.
14 Q. And was it positioned to the -- If you're looking
15 at the couch, was it positioned to the left of the house?
16 MS. BROWN: Objection. Leading.
17 THE COURT: That's sustained.
18 Q. (By Mr. Gregory) Where was this end table on
19 scene in relationship to the couch?
20 A. Facing the couch it would be on the left-hand
21 side.
22 Q. Much like it's placed right now?
23 A. Close to it, yes.
24 Q. And is this table in substantially the same
25 condition as it was when it was on scene?

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1 A. Yes.
2 MR. GREGORY: Move for admission of Exhibit 121.
3 THE COURT: Any objection?
4 MS. BROWN: No objection.
5 THE COURT: 121 is admitted.
6 MR. GREGORY: Your Honor, if I can ask if the
7 jurors have seen those exhibits, I'll return them to the
8 clerk.
9 THE COURT: Sure. The photographs you are
10 speaking of?
11 MR. GREGORY: Yes.
12 THE COURT: Right. If the photographs have made
13 their way around, would you give them to Mr. Gregory, please.
14 Thank you, sir.
15 MR. GREGORY: And your Honor, I'm going to return
16 those exhibits, which are 18, 15 and 17, to the clerk.
17 THE COURT: Thank you.
18 Q. (By Mr. Gregory) Investigator Garren, looking at
19 Exhibit 19, what is that?
20 A. That's a picture of the end table with the items
21 that were on it next to the couch, which is partially covered
22 with a blanket.
23 Q. And does that photograph accurately depict where
24 that end table was placed when you arrived on scene?
25 A. Yes, it does.

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1 MR. GREGORY: Your Honor, I'd move for admission
2 of Exhibit Number 19.
3 MS. BROWN: No objection.
4 THE COURT: 19 is admitted.
5 MR. GREGORY: And I'm going to return 19 as well
6 as 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 16.
7 And Investigator Garren -- Your Honor, may I
8 publish that photograph to the jurors, Exhibit Number --
9 Exhibit Number 20, please?
10 Q. (By Mr. Gregory) What does that photograph
11 depict?
12 A. Facing the couch, the left-hand side there's a
13 blanket with some staining on it as well as --
14 THE COURT: Wait a minute. Instead of having him
15 testify as to what it is, let's see if it comes in to
16 evidence first.
17 Q. (By Mr. Gregory) If you can just tell me
18 generally what does the photograph depict generally.
19 A. Facing the couch, it's a left-hand seat of the
20 couch.
21 Q. Does that photograph accurately depict the way it
22 looked that evening?
23 A. Yes.
24 Q. That day when you entered?
25 A. Yes, it does.

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1 MR. GREGORY: I would move for admission of
2 State's 20.
3 MS. BROWN: No objection.
4 THE COURT: 20 is admitted.
5 MR. GREGORY: May I publish it?
6 THE COURT: You may, sir.
7 Q. (By Mr. Gregory) Investigator Garren, we're
8 going to talk about cell phones a little bit. Did Ms. Leibel
9 give consent to have her cellular phone searched?
10 A. Yes, she did.
11 Q. And did you have an opportunity -- did the
12 sheriff's office have an opportunity to get her cell phone
13 from her?
14 A. Yes, we did.
15 Q. And did you have an opportunity to retrieve
16 information from that phone?
17 A. Yes, I did.
18 Q. How did you go about doing that?
19 A. We have extraction device for cell phones. It's
20 called a cell write. The name of the device is a UFED, which
21 is an acronym for universal forensic extraction device. You
22 hook the phone up, it extracts the data through the device to
23 the program on the computer and then it generates a report of
24 the data that it extracts.
25 Q. So basically you're making a duplicate of what's

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1 on the phone?
2 A. I guess you could say that, yes. I don't
3 understand the entire process of what it takes and doesn't
4 take. There's software involved and it extracts the data
5 that it's capable of extracting and then puts it in a report
6 form that we can go through and evaluate.
7 Q. And you've been trained in that process?
8 A. Yes, I have.
9 Q. Did you perform that process on Ms. Leibel's
10 phone?
11 A. Yes, I did.
12 Q. And in that did you obtain information from the
13 phone indicating what type of activity was going on with the
14 phone from February 21st 2014 through February -- Excuse me.
15 February 21st 2014 through February 24th?
16 A. Yes, I did.
17 Q. Thank you. What type of information were you
18 able to extract from the phone?
19 A. A series of multiple categories, call logs, text
20 messages, web history, things of that nature, things that
21 people typically do on their cell phones.
22 Q. Were you able to ascertain or compile a timeline
23 of activity on her phone?
24 A. Yes. One of the things that it does do is it
25 produces a timeline report that shows in chronological order

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1 the entire history of data that it extracts in a
2 chronological in one format. Instead of going to just call
3 logs and text messages, it puts it all in a timeline in
4 chronological order of what was done on that phone in a
5 certain time frame.
6 MR. GREGORY: May I have State's Exhibit 60 or
7 Exhibit 60.
8 THE COURT: While she's looking at that,
9 Mr. Gregory, would you like to retrieve your exhibit?
10 MR. GREGORY: Thank you, yes.
11 THE COURT: Thank you, sir. It's been returned
12 to the clerk.
13 Mr. Gregory.
14 Q. (By Mr. Gregory) Investigator Garren, I'm
15 handing you Exhibit Number 60. Can you please take a look at
16 that and tell us what it is.
17 A. It's one of the extraction reports that I was
18 able to print from the software.
19 Q. From Ms. Leibel's phone?
20 A. Yes.
21 Q. Did you prepare that report from the extraction?
22 A. Yes, I did.
23 Q. And what dates did you ask it to cover?
24 A. From February 21st through February 24th.
25 Q. And does that timeline accurately depict the

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1 information that you extracted from Ms. Leibel's phone?
2 A. Yes, it does.
3 MR. GREGORY: Your Honor, I'd move for admission
4 of Exhibit 60.
5 MS. BROWN: No objection.
6 THE COURT: 60 is admitted.
7 MR. GREGORY: Your Honor, I have a copy of
8 Exhibit 60 for the defense, for your Honor, and for the
9 jurors that I'd like to hand out at this time.
10 THE COURT: Well, first show your copies to the
11 defense and I'll ask if the defense agrees that those are
12 copies of the Exhibit.
13 MS. BROWN: It would be very hard to say without
14 a detailed examination, your Honor. It's 24 pages long.
15 THE COURT: Frankly, Mr. Gregory is an officer of
16 the court and I don't believe in any way that he would
17 perpetrate any kind of fraud. But it is incumbent on the
18 defense if you want to object to him using copies so that the
19 jury can follow along. So if you want time to compare them,
20 I'll grant you that time. If you decline to exercise that
21 time, I'll take that as a waiver of any objection.
22 MS. BROWN: Your Honor, I have no objection.
23 I'll make any corrections as I --
24 THE COURT: Yes, ma'am.
25 You may now for demonstrative purposes share that

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1 with the jury if you'd like. This is not the exhibit. This
2 is what has been represented by Mr. Gregory to be a copy of
3 the exhibit. You won't have this when you go back to
4 deliberate this case. However, you will have the original
5 exhibit.
6 Q. (By Mr. Gregory) Investigator Garren, in looking
7 at that exhibit and reviewing the extraction during the
8 course of your investigation, did you find any text messages
9 that were nearing time to the 911 call in this case?
10 A. There were some before and there were some
11 activity afterwards.
12 Q. Okay. Let's go before.
13 A. On the day of the 23rd?
14 Q. Yes. When you would get there if you would tell
15 us what page.
16 A. Page 21.
17 Q. Is there anything near in time to the time of the
18 911 call?
19 A. That would be on page 22. I was going to start
20 at the beginning of the 23rd, but on page 22 about halfway
21 down the page it's an incoming call.
22 Q. What entry are you looking at?
23 A. Entry -- It's signified by 46 and underneath it's
24 the number 5.
25 Q. And that's an incoming call?

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1 A. Yes.
2 Q. And about what time did that call take place?
3 A. 9:13 a.m.
4 Q. And does it indicate who that call was coming
5 from?
6 A. It was from Lana Ramo.
7 Q. Was that call answered?
8 A. It's not printed on here, but according to the
9 call log, it's listed as a missed call with the extraction of
10 the data.
11 Q. And then what is the very next entry?
12 A. The next entry is an incoming text message from
13 Lana Ramo.
14 Q. And what does it state?
15 A. It says, can you please tell me what's going on
16 because I'm packing all of my stuff to the car.
17 Q. And then what are the next one, two, three, four
18 entries?
19 A. They're four incoming calls from Lana, the same
20 individual.
21 Q. And were those calls answered?
22 A. According to the call log extraction, those were
23 four missed calls.
24 Q. And then entry number 47, what is that?
25 A. It's an outgoing text message to Lana.

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1 Q. What time?
2 THE COURT: That's 47-1.
3 THE WITNESS: Correct, 47-1.
4 THE COURT: Thank you.
5 Q. (By Mr. Gregory) 47-1 is what?
6 A. It's an incoming, or it's on outgoing text
7 message to Lana.
8 Q. So an outgoing message from Tatiana's phone to
9 Lana?
10 A. Correct.
11 Q. What time did that take place?
12 A. 9:56 a.m.
13 Q. Now, I see there next to the time it says UTC
14 minus eight. What does that mean?
15 A. UTC is coordinated universal time. It's
16 synonymous with Greenwich me time. And using world time
17 server dot com, I entered the date and time to reflect what
18 the time would be in our time zone, the Pacific time zone,
19 and it comes up during daylight savings time as minus eight
20 hours. So there's a feature on the device where you can set
21 all the reports to indicate UTC time minus eight hours, which
22 would give you the accurate time in our time zone.
23 Q. So that 9:56:27 a.m. would be our time?
24 A. Correct. Pacific standard time.
25 Q. And what was the content of that text message?

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1 A. It says, I'm still home. And it says I have on
2 comfortable(sic) situation. I explain little bit later, from
3 what I can -- how I can decipher the words.
4 Q. And then what's the very next entry, which would
5 be 47-2?
6 A. It's an incoming text message from Lana and
7 that's at 10:03 a.m.
8 Q. And what does it say?
9 A. It says, "I need to know what's going on. Are
10 you coming or not because I already told her my moving out.
11 I'm here. I'm here with here and I need to know."
12 Q. Now, going back in time a little bit was there
13 more text messaging between Tatiana and Lana regarding travel
14 plans?
15 A. Not on the 23rd, but on the 21st and 22nd there
16 were.
17 Q. Could you direct us starting with the 21st and
18 direct us to where you found that information?
19 A. On page seven it's listed as 14-1.
20 Q. And then it looks like the next several entries
21 were text messages back and forth between Lana and Tatiana?
22 A. That's correct.
23 Q. And I trust everybody can read that. How far
24 does that go on for, those texts?
25 A. You go to page nine at the very top. 17-2 is the

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1 third entry from the top. The last message is an outgoing
2 message at 8:56 p.m.
3 Q. And then moving to February 22nd there on that
4 same page, page number nine, is there further text
5 communication?
6 A. Yes. It starts about halfway down, 18-2 at 8:29
7 a.m. begins another texting conversation between Lana and
8 Ms. Leibel.
9 Q. And on the 22nd, when was the last text message
10 from Tatiana to Lana?
11 A. The top of page 21, the second entry it says 43-3
12 and that's at 11:16 p.m.
13 Q. And that was the last communication then on the
14 22nd?
15 A. Correct.
16 Q. Looking just prior to that on page 20, number
17 42-9, what is that?
18 A. It's an incoming message at 9:43 p.m. from Lana.
19 Q. What is the content of the message?
20 A. Are you still starting to drive, and the number
21 ten.
22 Q. And then what is 43-0?
23 A. It's an outgoing message from Ms. Leibel's phone
24 to Lana.
25 Q. And what does it say?

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1 A. It says, "Not at, Harry go crazy. I need him
2 come down. I contact to you little bit later. Kisses."
3 Q. And then the following entry, 43-1?
4 A. Incoming from Lana at 10:16. "Are you really
5 coming or you're doing this again to me and telling me
6 tomorrow."
7 Q. And then turning to page 21, the last text
8 message that evening, 43-3, what was that?
9 A. That was "I start little bit later. I send you
10 message."
11 Q. And who was sending that message?
12 A. That was outgoing from Ms. Leibel to Lana.
13 Q. And then there were no further outside going text
14 messages from Tatiana until 9:56 in the morning on the 23rd?
15 A. That's correct.
16 Q. The uncomfortable situation?
17 A. That's correct.
18 Q. Thank you. Did you also have an opportunity to
19 perform the same analysis of Harry's cellular phone?
20 A. Yes, I did.
21 Q. And specifically the one that was depicted in the
22 photograph, I believe it's photograph number 20, if I could
23 have Exhibit Number 20. Showing you again Exhibit Number 20,
24 did you have an opportunity to perform an extraction on that
25 phone?

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1 A. Yes, I did.
2 Q. Handing the exhibit back to the clerk. And did
3 you utilize the same process?
4 A. Yes, I did.
5 Q. And were you able to print out a report for that
6 phone?
7 A. Correct.
8 MR. GREGORY: And I would ask for Exhibit Number
9 61.
10 MS. BROWN: Your Honor, if I can clarify which
11 phone this is?
12 MR. GREGORY: This is Harry's Motorola cell phone
13 that's depicted in Exhibit Number 20.
14 MS. BROWN: Okay.
15 THE COURT: Ms. Brown, do you anticipate having
16 an objection to this?
17 MS. BROWN: No, your Honor.
18 THE COURT: Are you going to offer it?
19 MR. GREGORY: Yes, your Honor.
20 THE COURT: Why don't you just go ahead and offer
21 it. She's not going to object. We'll get it in and move
22 along.
23 MR. GREGORY: And Exhibit Number 61, what is
24 that?
25 THE WITNESS: It's an extraction report for

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1 Mr. Leibel's phone.
2 MR. GREGORY: Okay. I'm returning 60 to the
3 clerk.
4 THE COURT: 61 is admitted.
5 MR. GREGORY: Thank you, your Honor. May I give
6 copies to counsel and to your Honor --
7 THE COURT: It's the same process that we just
8 did with Exhibit 60?
9 MR. GREGORY: Yes.
10 THE COURT: Ms. Brown.
11 MS. BROWN: No objection.
12 THE COURT: Okay. Then you may do so. Thank
13 you, sir.
14 Q. (By Mr. Gregory) All right. So you did the same
15 process with Harry's phone. What dates did you cover here?
16 A. The 21st of February, 2014, through the 25th of
17 February, 2014.
18 Q. Can you ascertain or find the last text message
19 that was sent from Harry Leibel's phone prior to his death?
20 A. The last sent message is on page two.
21 Q. What entry number?
22 A. Number 17 from February 22nd at 5:27 p.m. It's
23 an extremely lengthy one.
24 Q. And that is a message from Harry's phone to whom?
25 A. Joe and Keri Rajacic.

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1 (The court reporter interrupts)
2 THE WITNESS: R-a-j-a-c-i-c.
3 Q. (By Mr. Gregory) Would you go ahead and read
4 that, please?
5 A. "Hi, pal. Hope you're both well. We're okay.
6 This thing had dragged on for way too long. That being said,
7 the slow moving powers that be should bring this process to a
8 conclusion in the near future(days) You'll hear a loud sigh
9 like distant thunder. That will be me. Now, you know there
10 have been political cartoons that poke fun at our leaders
11 since before we were born. Obama is merely the current clown
12 in office. If you look up Bush monkey on the net, you'll see
13 many facial gestures of the ex-prez and assorted eight photos
14 with like expression. Hillary had a photo of her looking
15 like a prehistoric dino. And the world laughed and has been
16 laughing for a century." Excuse me.
17 "So how are the current cartoons so different
18 from what's come before so many times? I'm convinced that
19 any politician is worthy to direct and orchestrate our
20 collective lives."
21 Q. Is that futures. Collective futures?
22 A. Collective futures. I apologize. "It's funny
23 that no president has ever been held accountable for the
24 lives lost by our young men and women ordered in to battle
25 but are instead lambasted and ridiculed for getting a

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1 little nookie on the side. Priorities has become so askew,
2 so askew that the only thing missing in politics is sanity.
3 And who exactly is laughing at us? Is it homophobic Vlad
4 Putin, the fresh prez that sexually accosted a hotel service
5 maid or Mrs. Marcos from the Philippines and her 5,000 pairs
6 of shoes? The Germans are laughing. With their track
7 record, laughing should be delayed until a century has gone
8 by after the horrors they committed against humanity. So who
9 is laughing? We are because we should have the capacity to
10 laugh at ourselves and our leaders. Anyway, shouldn't those
11 stones be thrown at Obama?"
12 THE COURT: Believe it's these, not those.
13 THE WITNESS: Correct. "These stones be thrown
14 at Obama, be thrown by only those who are without sin or do I
15 misunderstand that listen. Food for thought. The cartoons
16 were very funny."
17 Q. (By Mr. Gregory) And that's the last text
18 message sent from his phone?
19 A. That's the last sent message, yes.
20 Q. And at the beginning of that report did you also
21 print out calendar entries in Harry's cell phone?
22 A. Yes. There's a list of the calendar entries that
23 were in his phone.
24 Q. And were there any entries of things that Harry
25 had planned to do after the date of his death?

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1 A. Yes. There were several.
2 Q. Can you direct us to those?
3 A. From the beginning it's page four starting at the
4 bottom it goes up in time. The start date on it is the first
5 one. It's entry number 20. It's February 24th 2014 at 10:00
6 a.m. and the entry is DMV tags.
7 Q. And is there a -- what's the next entry?
8 THE COURT: Are you going to go through each
9 entry?
10 MR. GREGORY: No, your Honor. Just there was a
11 handful, if I could ask the investigator -- Were there
12 entries that were significant to you in your investigation.
13 THE WITNESS: Entry 15 and 14. Entry 15 dated
14 February 25th 2014, that's the start time at 1:00 p.m.
15 Q. (By Mr. Gregory) What page are you on?
16 A. It's number four.
17 Q. Okay.
18 A. And it says turn on house alarm. And then after
19 that, number 14, the next one up is a start time of February
20 25th 2014, 2:30 p.m., call locksmith.
21 Q. And based upon the text messages showing
22 Tatiana's travel plans, when was she expected to return from
23 Los Angeles?
24 A. She was checking out, I believe she said a
25 three-day trip from the 23rd to the 26th, so some time after

1 the 26th or on the 26th.

2 MR. GREGORY: Thank you.

3 THE COURT: Okay. Now, will be a good time to
4 take our afternoon break, Ladies and Gentlemen. So we're
5 going to take a 15-minute break. During this recess, you're
6 admonished not to talk or converse among yourselves or with
7 anyone else on any subject connected to this trial or to
8 read, watch, or listen to any report of or commentary on the
9 trial or any person connected with this trial by any medium
10 of information, including without limitation, newspapers,
11 television, radio or the internet. You may not form or
12 express any opinion on any subject connected with this trial
13 until the case is finally submitted to you.

14 We'll be in recess for 15 minutes. That puts us
15 at 20 minutes after the hour. We'll give you a moment to
16 leave and I want to talk to the attorneys for a second before
17 we get out of here.

18 MR. GREGORY: Your Honor, I'll return that
19 exhibit to the clerk.

20 THE COURT: Thank you. Investigator, you may
21 step down and leave the room.

22 THE WITNESS: Thank you.

23 THE COURT: Sir, don't discuss your testimony
24 with any other witnesses.

25 THE WITNESS: Yes, sir.

1 THE COURT: Or anyone other than the three
2 attorneys.

3 THE WITNESS: Yes, sir.

4 THE COURT: To begin with, I'm going to let you
5 know that tomorrow we're stopping at five and that's because
6 one of the interpreters has to catch a plane and the other
7 one is taking her to the airport and I think they've got
8 plenty of time but they're a little nervous about it and so I
9 want to make sure that we stop at five.

10 So the next issue is are you going to be ready to
11 go on this motion in limine tomorrow? What time do you want
12 to do it? How much time do you need? I want to be able to
13 tell the jury today that we're only going to go to a certain
14 time tomorrow so that they -- you know, to give them the
15 courtesy of letting them plan their day also.

16 Mr. Gregory, what do you think?

17 MR. GREGORY: Your Honor, may I reflect on that a
18 moment while we break and kind of see where we're at? Our
19 expert will be here tonight so his availability isn't an
20 issue. I'm just wondering when in the course of the trial
21 would it be most convenient to everybody to insert that.

22 THE COURT: Why don't we break and as you reflect
23 on it, the defense will reflect on it, and then perhaps
24 you'll take a few minutes and reflect together so that can
25 you give me an idea. I just want, if we're going to have a

1 period of time that the jury is not going to be here, I want
2 to do them the courtesy of letting them know in advance,
3 okay. So let's plan a time. Think about how long you need.

4 (Recess was taken)

5 THE COURT: The record will reflect we're back in
6 session. The attorneys are all here. The defendant is here.
7 And the interpreters are here. The jury is not in yet. Did
8 you have time to talk to each other?

9 MR. GREGORY: We did, your Honor. Thank you.
10 And I think we were both going to jointly propose that we
11 handle the issue with expert witness at 3:00 o'clock tomorrow
12 so between three and five.

13 THE COURT: Okay. All right. That will be just
14 fine. That's what we'll do. I'm going to advise the jury
15 when we let them out today that when we take the afternoon
16 break tomorrow at three they'll be released until the
17 following morning. Okay. Is that all right with you,
18 Ms. Henry?

19 MS. HENRY: Yes.

20 THE COURT: Thank you. Let's bring the jury in.
21 Investigator Garren, come on up. I'll remind you
22 you're still under oath, sir.

23 THE WITNESS: Yes, sir. Thank you.

24 THE COURT: Thank you, folks. Have a seat,
25 please. Will the parties stipulate to the presence of the

1 jury?

2 MR. GREGORY: Yes, your Honor.

3 MS. BROWN: Yes, your Honor.

4 THE COURT: Thank you.

5 Mr. Gregory, would you continue your examination.

6 MR. GREGORY: Yes. Thank you, your Honor. If
7 can have the bailiffs once again bring this exhibit. If they
8 can show Investigator Garren Exhibit 118.

9 THE COURT: 118, sir.

10 Q. (By Mr. Gregory) Investigator Garren, during the
11 course of the break did you have an opportunity to refresh
12 your recollection regarding the serial number of the gun that
13 was confiscated from the scene?

14 A. Yes, I did.

15 Q. Now, looking at Exhibit 118, does that serial
16 number that you're looking at on that gun compare to the gun
17 that was taken from the scene?

18 A. Yes, it does.

19 Q. And again, does that gun appear to be in
20 substantially the same condition as it was when it was
21 removed from the scene?

22 A. Yes, it does.

23 MR. GREGORY: Move for admission of Exhibit
24 Number 118.

25 THE COURT: Before you do that, things compare.

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1 But is it the same serial number?
2 THE WITNESS: Yes, it is, sir.
3 THE COURT: Any objection?
4 MS. BROWN: No, your Honor.
5 THE COURT: Then 118 is admitted.
6 MR. GREGORY: No further questions.
7 THE COURT: You have no further questions for the
8 investigator?
9 MR. GREGORY: Correct.
10 THE COURT: Thank you, sir.
11 MS. BROWN: Could we have him get both Exhibit
12 118 and 119 so we can make a comparison?
13 THE COURT: Sure. We'll get 119 for him. Folks,
14 if I seem persnickety about security on this issue, in a
15 former life I once represented someone in an allegation of a
16 murder case and the prosecutor stood in the middle of the
17 courtroom with the weapon, had it pointed at the judge and
18 pulled the trigger. It wasn't loaded. But she had no idea
19 what she had done. And so I tend to watch those things.
20 Investigator Garren, I'm sure there'll be a
21 question for you.
22 CROSS-EXAMINATION
23 By Ms. Brown:
24 Q. Yes. Investigator Garren, could we put both guns
25 here so can see them side by side?

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1 A. Where would you like them?
2 Q. Just up.
3 A. Against the wall.
4 Q. And they're the same length and the barrel is the
5 same length from the trigger? Has that been measured?
6 A. I do not know if the gun that we purchased has
7 been measured in relation to the one in evidence.
8 Q. Could we do that now? We have a yardstick marked
9 as exhibit something -- Exhibit 84?
10 THE COURT: Well, I don't know if 84 is in
11 evidence, but the Court has a ruler.
12 MS. BROWN: It's been marked as an exhibit. I
13 would ask that it be admitted under judicial notice of common
14 measure.
15 MR. GREGORY: No objection.
16 THE COURT: 84 is admitted.
17 MR. GREGORY: Thank you.
18 MS. BROWN: And could you just measure the barrel
19 of each gun from the tip down to the trigger? The barrel
20 length of this one, which would be 119, your Honor, is just
21 under 19 inches.
22 Q. (By Ms. Brown) Okay. Is that to the trigger?
23 A. You said the barrel.
24 Q. Oh, I said from the end of the barrel to the
25 trigger.

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1 A. Oh, I apologize.
2 Q. Sir, if you'd like to lay it up here.
3 A. Okay. I just don't want to point it at anybody.
4 THE COURT: It's okay. You can point it at that
5 desk. It's okay. I appreciate that. You can lay it up here
6 flat. There you go.
7 THE WITNESS: From the trigger in its current
8 position it measures 21 and a half inches.
9 MS. BROWN: Okay. And that's --
10 THE WITNESS: With the trigger forward. And
11 that's 119. Do you want me to do the other one?
12 MS. BROWN: Yes.
13 THE WITNESS: Okay.
14 THE COURT: If counsel wants to come up and see
15 how he's conducting his measurement, both counsel are welcome
16 to do so.
17 THE WITNESS: This one is 21 and a quarter
18 inches.
19 Q. (By Ms. Brown) And both of these are right at 36
20 inches totally?
21 A. This one is a little over 35 and a half.
22 Q. Okay.
23 A. And I will check this one. And this one is 36
24 inches, just a tad under.
25 Q. Okay. Thank you. And you were saying this one

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1 and that one. Were measurements made for each one, 118 and
2 119?
3 A. Yes. The one that was -- The overall lens was
4 just under 36 inches was 119. And the one that was 35 and a
5 half inches was 118.
6 Q. Thank you. And back on February 23rd, you
7 arrived at the residence at Kent Street at 12:14?
8 A. Yeah. Right around 12:14, 12:15.
9 Q. Who was present when you arrived?
10 A. Deputy Williamson, Deputy Haley, Sergeant Smith
11 and Ms. Leibel.
12 Q. And where was Ms. Leibel?
13 A. She was outside the house at the top of the
14 driveway still probably 20 yards from the door.
15 Q. Okay. And no one was watching over her? She was
16 free to leave?
17 A. I believe she was sitting with -- There might
18 have been a neighbor there. I didn't get her name. But she
19 was on the phone talking with people. And I went in to
20 assess the scene.
21 Q. Okay. She wasn't with a deputy that was keeping
22 track of her?
23 A. I don't recall. I don't believe so. I don't
24 remember anybody preventing her from leaving.
25 Q. And you said he was talking on the phone so there

1 was no protective coverings over her hands?
2 A. No, there was nothing on her hands.
3 Q. You said you were briefed by Deputy Williamson
4 concerning what had gone on prior to your arrival?
5 A. Correct.
6 Q. And had he described to you his attempts to get
7 in the house or to get somebody to respond to the door and a
8 reported delay in responding?
9 A. Yes.
10 Q. Did he give you any information concerning his
11 interview with Mrs. Leibel?
12 A. Briefly.
13 Q. Did he allow you a copy of the written statement?
14 A. Yes, he did.
15 Q. Then you walked inside with Deputy Williamson?
16 A. Yes.
17 Q. And the first thing you noticed with Mr. Leibel
18 was the injury on his left hand and wrist; is that correct?
19 A. Correct.
20 Q. And there was a dark grayish discoloration on the
21 back of it?
22 A. Yes, there was.
23 Q. You noted that was consistent with a powder burn?
24 A. Yes.
25 Q. You also -- And you noticed the position of his

1 arm that was basically kind of cocked back?
2 A. Yes.
3 Q. And then you noticed there was some apparent
4 defect to the back of the couch?
5 A. Yes.
6 Q. And then left near the arm rest of the couch?
7 A. Yes.
8 Q. Did you at that point look behind the couch to
9 see if there was any corresponding defect in the sheet rock?
10 A. Yes, I did.
11 Q. And how did you do that?
12 A. I walked around the couch and looked between
13 where the couch was reclined and the wall and I could see the
14 slight defect in the back of the couch as well as the defect
15 in to the sheet rock.
16 Q. You could see the back of the couch?
17 A. Yes.
18 Q. One seat was upright; is that correct?
19 A. Yes. Looking at the couch, the left seat was up
20 and the right seat was reclined back.
21 MS. BROWN: Did you turn that off of up there?
22 THE COURT: It's not suppressed. Hold on.
23 MS. HENRY: I was like I know it's on.
24 THE COURT: Sorry. That was my fault.
25 Q. (By Ms. Brown) Showing you what's been admitted

1 as Exhibit 2 for identification, do you recognize what's
2 shown in this photo?
3 A. The couch and the weapon and the cell phone.
4 Q. And is that the -- When you first entered at
5 around 12:14 on February 23rd, is this a fair and accurate
6 representation of how the couch was positioned, the rifle was
7 positioned?
8 A. Yes.
9 Q. And so the right couch was reclined, the left
10 couch was upright?
11 A. Correct.
12 Q. And you said you could see down between these
13 cushions to see the --
14 A. No. I walked to the side of the couch and could
15 see the -- between the -- from the right side of the couch I
16 could see -- lean over and see behind the wall, behind the
17 couch in to the wall.
18 Q. Okay. So from the right side, so over towards --
19 A. On the other side of the arm rest, yes.
20 Q. On the reclined side?
21 A. Yes.
22 Q. And so at that point you were in close proximity
23 to the gun laying on the couch?
24 THE INTERPRETER: I'm sorry. To the?
25 MS. BROWN: Gun laying on the couch.

1 THE WITNESS: Yes.
2 Q. (By Ms. Brown) You noted also that the
3 temperature in the house was extremely warm?
4 A. When I first arrived?
5 Q. Yes.
6 A. Yes, I noticed that it was warm in the house.
7 Q. And you subsequently checked the thermostat when
8 you went back in at 4:00 o'clock?
9 A. Yes.
10 Q. And at that time what did you discover concerning
11 the thermostats?
12 A. It was substantially warmer and then we looked at
13 the position of the thermostats and they were turned almost
14 all the way up.
15 Q. Do you recall what all the way up was?
16 A. I believe the one was almost set at 95 and the
17 other one was almost set to 80.
18 Q. And based on -- Now, you don't have any specific
19 training in ballistics, do you?
20 A. No, I don't.
21 Q. Or in pathology?
22 A. No, I don't.
23 Q. Based on these observations, the condition of
24 Mr. Leibel, his injuries and the defect in the couch and
25 wall, you noted in your report it did not appear to be a

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1 suicide?
2 A. Correct.
3 Q. And so it was at that time that you had everybody
4 exit the house and you sealed the house and set it up?
5 A. Correct.
6 Q. And subsequently you called Captain Milby,
7 Investigator Preston, Investigator Chrzanowski and other
8 investigators to come to the scene and assist?
9 A. Yes, I did.
10 Q. A perimeter was set up around the house also; is
11 that correct?
12 A. Yes.
13 Q. And what does that mean?
14 A. We put some crime scene tape around the front of
15 the residence about halfway down the driveway and that was
16 our outer perimeter of the house since we knew the house
17 itself was contained inside that perimeter and waited for the
18 search warrant to go in and process the house, the crime
19 scene.
20 Q. Could I have Number 72? And I've shown this
21 Exhibit 72 to Mr. Gregory. I'm showing it to you now. Do
22 you recognize what that is?
23 A. It's a Douglas County department crime scene
24 entry log or scene entry log.
25 Q. And was that prepared in conjunction with this

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1 incident?
2 A. Yes, it was.
3 Q. And who would be preparing this crime scene log?
4 A. One of the deputies at the scene.
5 Q. Okay. And it would be a running list that was
6 maintained by them?
7 A. Yes.
8 Q. And this would be kept in the usual course of an
9 investigation?
10 A. Yes.
11 Q. And then it would be maintained in the sheriff's
12 office records as a regular record of the investigation?
13 A. Yes.
14 MS. BROWN: Your Honor, I'd offer Exhibit 72.
15 MR. GREGORY: No objection.
16 THE COURT: 72 is admitted.
17 Q. (By Ms. Brown) And the first entry on this log
18 would be at 1315? Sorry.
19 A. Correct.
20 Q. And that was by Investigator Preston?
21 A. That's when he arrived on scene and we went
22 inside and conducted a brief walk-through so he was familiar
23 with the scene.
24 Q. Now, you said this log is kept at the perimeter
25 of the scene; is that correct?

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1 A. Yes.
2 Q. And so sometimes from this log you can't tell who
3 entered the perimeter and rather who entered the residence?
4 A. Correct.
5 Q. You said when you arrived Mrs. Leibel was there?
6 A. Yes, she was.
7 Q. Did you speak with her and ask her for consent to
8 search the residence?
9 A. I did not.
10 Q. Did you arrange with another officer to try to
11 obtain a search warrant for the residence?
12 A. Yes, I did.
13 Q. And that was Investigator Preston?
14 A. Yes, it was.
15 Q. And he was the one that entered the house at
16 3:15?
17 A. 1315.
18 Q. I'm sorry. 1315, so 1:15?
19 A. Yes, ma'am.
20 Q. And then you also contacted Investigator
21 Chrzanowski?
22 A. Yes, I did.
23 Q. And what was the task she was assigned?
24 A. To go to the lake station and meet with
25 Ms. Leibel.

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1 Q. Had Ms. Leibel volunteered to go to the lake
2 station to meet Ms. Chrzanowski?
3 A. Yes, she did.
4 Q. And do you recall how she got from the, her
5 residence to the station?
6 A. She was transported by Deputy Haley.
7 Q. And then Investigator Hubkey arrived at 1336, so
8 that would be 1:36?
9 A. Correct.
10 Q. And he also conducted a walk-through of the
11 scene?
12 A. Yes. I was with him.
13 Q. Captain Milby then arrived at 2:10. Did he go
14 inside the residence?
15 A. Yes.
16 Q. And it was at that point that it was determined
17 to call the crime lab?
18 A. After we came out, we discussed what our options
19 were and how we wanted to proceed. And he requested that
20 Washoe County Crime Lab come to diagram the scene and to do
21 some trajectory of the defect to the couch.
22 Q. And at some point after that you were contacted
23 by Captain Milby and told that Ms. Leibel had given consent
24 to search her residence?
25 A. Yes.

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1 Q. And she had done that during an interview with
2 Chrzanowski, Investigator Chrzanowski?
3 A. Yes.
4 Q. Do you recall what time this was?
5 A. That she gave the consent or I got the call from
6 Captain Milby?
7 Q. That you got the call from Captain Milby.
8 A. Probably around 3:45. It was right before we
9 went in and evidence -- Mr. Barden began taking photographs.
10 That's what prompted us to go in and take the photographs and
11 do that.
12 Q. So based on -- It was based on Ms. Leibel's
13 consent that you reentered the residence and there's you
14 entering at 1441, with Milby at 1450 and then Shambra, would
15 that be one of the evidence officers?
16 A. Yeah. She was one of his assistants at the time.
17 Q. And John Barden?
18 A. Yes.
19 Q. And then was Milby and Marshall, Chrzanowski and
20 Shemenauer all entered in that same time frame; is that
21 correct?
22 A. Correct.
23 Q. So that would -- 2:52, would that be close to the
24 time, 3:52?
25 A. Probably around the 3:52 time, yes.

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1 Q. Was when you received the consent to go in to the
2 residence?
3 A. Yes.
4 Q. And it was at that point then you -- So close to
5 4:00 o'clock, like you said, you went over and examined the
6 rifle that was laying on the couch and at that point you
7 noticed it was cocked?
8 A. Yes.
9 Q. And this was the first time this had been noticed
10 and documented?
11 A. By me, yes.
12 Q. Who else had documented it?
13 A. I don't know that anybody else had documented. I
14 wasn't there with them. I don't know what they saw. It was
15 never told to me. I didn't see it until around the 4:00
16 o'clock time when I went there.
17 Q. Okay. And then the crime lab arrived at 1705, so
18 that would be 5:05?
19 A. Yes.
20 Q. And who was with the crime lab when they arrived,
21 the crime lab people? Do you recall?
22 A. I believe -- The one I'm familiar with is I
23 believe it's Mike Liford was one. And there was a couple of
24 other individuals with him.
25 Q. Can I get Number 13 through 20. I need 11 and 12

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1 too.
2 And showing you what's been admitted as Exhibit
3 11, this would be a photograph of the rifle as it was when
4 you entered the house at 4:00 o'clock?
5 A. Yes.
6 Q. And the same with Exhibit Number 12?
7 A. That's correct.
8 Q. And showing you again what's been marked as
9 Exhibit Number 11, there's a -- this wall behind the couch is
10 a half wall called a pony wall?
11 A. Yes, ma'am.
12 Q. And that kind of looks in to the dining room?
13 A. That's correct.
14 Q. And there's a large aquarium on top of that; is
15 that correct?
16 A. That's correct.
17 Q. And it looks like, the aquarium looks like it
18 stretched from right above the lamp on the side to where the
19 greenery starts on the left?
20 A. Yeah. That's what it looks like it's accurate.
21 Q. And showing you what's been marked as Exhibits
22 122 and 123, do you recognize the scene shown in those
23 photographs?
24 A. Yes. It's of the Leibel residence, the living
25 room with the aquarium and partly the dining room.

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1 Q. And is this a fair and accurate representation
2 again of how it looked at around 4:00 o'clock when you went
3 in that afternoon?
4 A. Yes.
5 THE COURT: What are you displaying now?
6 MS. BROWN: Exhibit Number 122.
7 THE COURT: It's not in evidence. Don't display
8 it.
9 MS. BROWN: Your Honor, I would offer Exhibits
10 122 and 123.
11 THE COURT: Any objection, Mr. Gregory?
12 MR. GREGORY: I would like to see them first.
13 MS. BROWN: Showing them to Mr. Gregory now.
14 THE COURT: Mr. Gregory, any objections?
15 MR. GREGORY: No, your Honor.
16 THE COURT: 122 and 123 will be admitted. You
17 may display them now. Is this 122?
18 MS. BROWN: This is 122.
19 Q. (By Ms. Brown) And you had indicated this was an
20 accurate representation of the living room when you entered
21 at 4:00 o'clock on the 23rd; is that correct?
22 A. That's correct.
23 Q. And again, the large fish aquarium is in there
24 and it ends around where those tubes come down?
25 THE INTERPRETER: I'm sorry. Where those?

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1 MS. BROWN: Tubes.
2 THE COURT: Tubes?
3 MS. BROWN: The ventilator tube things.
4 THE WITNESS: From that angle, yeah, it appears
5 that's where the end of the aquarium is.
6 Q. (By Ms. Brown) And in that corner, well, next to
7 the couch on the right-hand side is also a coffee table; is
8 that correct?
9 A. That's correct.
10 Q. And it's a match for the one on the left-hand
11 side; is that correct?
12 A. I don't recall if it's a match or not. It
13 appears to be -- It's a glass top one similar to the one
14 that's on the left-hand side.
15 Q. So the one that we saw here was the one on the
16 left-hand side?
17 A. Facing the front of the couch, yes, that would be
18 the one on the left-hand side.
19 Q. And then showing you Exhibit 123, and again, this
20 is an accurate representation of the scene?
21 A. Yes.
22 Q. And this residence not only were these two rooms
23 open to each other but they had a very, a high cathedral like
24 ceiling; is that correct?
25 A. That's correct.

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1 Q. And then there was it looks like here venting
2 along the beam in the top?
3 A. Some type of ventilation.
4 Q. And then after you entered and saw these items,
5 you left the scene about 1710?
6 A. Correct.
7 Q. So that would be about 5:10?
8 A. Yes, 5:10 p.m.
9 Q. And you left there to go participate in the
10 interview of Mrs. Leibel?
11 A. That's correct.
12 Q. And you entered that interview about 5:35; is
13 that correct, 1735?
14 A. I would have to review the interview. If that's
15 the time, it's probably around that time. It was -- I drove
16 down to the station and got briefed and went in and joined in
17 the interview.
18 Q. And who was present? Was any other officer
19 present when you began -- when you joined in the interview?
20 A. Investigator Hubkey was.
21 Q. And from the time you began questioning
22 Ms. Leibel to the time it was completed was about four hours;
23 is that correct?
24 A. That sounds about right, yeah, that's correct.
25 Q. And there's -- this interview was all videotaped;

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1 is that correct?
2 A. Correct.
3 Q. And there's a time clock on the video -- There's
4 one that keeps track of just the length of time but there's
5 also a clock in the left-hand corner of the video?
6 A. The screen, I believe the time clock is on the
7 right-hand side and the length of the video is on the bottom.
8 The window -- When I watch it, the window is to the left and
9 all the information and time is on the right of the screen.
10 Q. It may be a computer?
11 A. Yeah.
12 Q. In any event, did you notice the time clock
13 starts over at 1900 a couple of times; is that correct?
14 A. I'm not aware of that.
15 Q. And it was Investigator Chrzanowski that first
16 started the interview with Ms. Leibel; is that correct?
17 A. That's correct.
18 Q. And that was about 1:35 in the afternoon?
19 A. Yes.
20 Q. And so this interview continued throughout the
21 day?
22 A. Correct.
23 Q. For about eight hours?
24 A. Correct.
25 Q. And Ms. Leibel throughout this interview

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1 maintained that Mr. Leibel had --
2 MR. GREGORY: Objection, your Honor. Hearsay.
3 THE COURT: I haven't even heard the question
4 yet. Let me hear the question.
5 MS. BROWN: Ms. Leibel maintained throughout this
6 interview that Mr. Leibel had killed himself?
7 MR. GREGORY: Objection. Hearsay. The statement
8 by the --
9 THE COURT: I understand what hearsay is. Thank
10 you.
11 Response.
12 MS. BROWN: Your Honor, I'm just offering it not
13 for the truth of the matter asserted but to show her story
14 remained consistent throughout the time frame.
15 THE COURT: It's admitted for that purpose.
16 THE WITNESS: Can you ask the question again,
17 please?
18 MS. BROWN: That throughout this eight-hour
19 period where she was questioned she maintained during that
20 whole eight hours that Mr. Leibel had committed suicide.
21 THE WITNESS: That's correct.
22 MR. GREGORY: Your Honor, I object if the
23 question is to consistency. That would be what she said she
24 was offering it for. The way she's phrasing the question it
25 goes to the truth of the matter. So I object. Hearsay.

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