

IN THE SUPREME COURT OF THE STATE OF NEVADA

CALVIN ELAM,

Appellant,

v.

STATE OF NEVADA,

Respondent.

Docket No. 85421

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**APPELLANT'S APPENDIX
Volume IV**

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Calvin Elam

By: /S/ Monique McNeill
MONIQUE MCNEILL
State Bar # 9862

1 A No. He left, too. He didn't leave with them, but he
2 left.
3 Q He left separately?
4 A Yes.
5 Q Did you see what he left in? Did he walk? Did he
6 drive?
7 A He -- he left in a vehicle, but I'm not sure which
8 one.
9 Q Okay. Had you previously seen him in a vehicle?
10 A Yes.
11 Q Can you describe the vehicle that you had previously
12 seen.
13 A It was a small white car, four-door.
14 Q And was that small white four-door car associated
15 with another person as well?
16 A Yes.
17 Q Do you know who that was?
18 A I don't know who she was, but it was -- they was
19 actually sharing it.
20 Q They were sharing it, him and the -- is it a woman
21 that we're talking about?
22 A Yes.
23 Q And do you know does she have kids as well?
24 A Yes.
25 Q And you had seen her around there before --

1 A Yes.

2 Q -- previously?

3 A Yes.

4 Q So the man and the three women leave. The defendant
5 leaves, and then Arrie comes out?

6 A Yes.

7 Q After this happens, did you later see the defendant
8 again that day?

9 A Yes.

10 Q And where did you later see him that day?

11 A He actually came back that night in the car I was
12 just talking about.

13 Q The one that he left in --

14 A Yes.

15 Q -- or the white one?

16 A Yes.

17 Q The one he left in?

18 A The white car.

19 Q Oh, the white one?

20 A Uh-huh.

21 Q Okay. Is that yes?

22 A Yes.

23 Q So when he came back, what did you see?

24 A He just -- he just came back, and he was actually
25 cleaning up the stuff that we had actually cut off of Arrie's.

1 Q What do you mean? What did he do?

2 A He was cleaning up the wire, and he threw it in the
3 trash, in the dumpster.

4 Q What dumpster did you see him throw it in?

5 A The one near his apartment.

6 Q Did you see anything else that day?

7 A No.

8 MS. LUZAICH: Thank you very much, Carl.

9 I would pass the witness.

10 THE COURT: All right. Cross.

11 MR. ERICSSON: Thank you, Your Honor. Your Honor, if
12 I may have your indulgence. I just need to ask a question of
13 Ms. Luzaich.

14 CROSS-EXAMINATION

15 BY MR. ERICSSON:

16 Q Good afternoon, sir. What time of the day was it
17 that you saw Arrie when you said that she was hopping and --

18 A It was during the day. I don't know what time it
19 was, but it was -- the sun was still out.

20 Q So it's your testimony that you had been at your
21 friend Annie's apartment --

22 A Yes.

23 Q -- prior to this?

24 A Yes.

25 Q How long had you been at Annie's apartment before you

1 saw Arrie?

2 A I would say I was there for at least an hour.

3 Q Okay. And were you inside --

4 A No, we was outside.

5 Q -- Annie's apartment?

6 A We was outside.

7 Q Outside. Describe where you were at.

8 A We was outside, downstairs, like, where her stairs
9 was, we was down at the bottom near a alley.

10 Q Okay. And it's your testimony that at some point you
11 become aware of Arrie hopping and rolling; is that correct?

12 A Yes.

13 Q And where was Arrie when you first saw her?

14 A She was -- when I first saw her, she was actually
15 coming out the apartment.

16 Q So is it your testimony that you were looking at a
17 door, and you see her come out of a door?

18 A We was -- I was, like, standing, like, right here,
19 like the stairs. It was like from where he live, Annie
20 building is -- like, the back of her building is facing his
21 building, and I was standing at the staircase, and then I can
22 see Arrie is just coming from right there from by his
23 apartment.

24 Q Well, and I want to focus on it. When you say you
25 can see, did you hear Arrie open a door or --

1 A No.

2 Q -- or see her open a door?

3 A No. We don't -- I don't hear no door open. No, sir.

4 Q Okay. Okay. So and I want to focus on where is she
5 when you first see her?

6 A She was actually, like, in his walkway, but in the
7 alley. Like, she was coming from his walkway into the alley.

8 Q Okay. So you don't see her come out of a door,
9 correct? You see her in a walkway?

10 A No, I actually see her come out the door.

11 Q Okay. Well, I want to focus it. So you say you see
12 her open the door or --

13 A I didn't see her open the door, but I can see her
14 coming from the doorway.

15 Q Well, is the door open or closed when you see her?

16 A It was closed when I seen her.

17 Q Okay. It's your testimony you were there at Annie's
18 approximately for an hour; is that right?

19 A Yes.

20 Q You say that you saw another black man and three
21 black women at some point go into Calvin's apartment?

22 A Yes.

23 Q When was that in relationship to you arriving at
24 Annie's house?

25 A Well, actually I didn't see the women go in, but I

1 seen the man go in.

2 Q Okay. So you didn't see -- you didn't see three
3 women go into his apartment?

4 A I didn't see them go in, but I seen the man go in.

5 Q Okay. And when -- how long before you see Arrie had
6 you seen this shorter, darker-skinned black man you're talking
7 about?

8 A I seen "Arries" after they had left, all of them.

9 Q Okay. Let me -- did you -- before you see Arrie in
10 the alleyway, had you seen the shorter black man --

11 A Yes.

12 Q -- that you're describing --

13 A Yes.

14 Q -- go into Calvin's apartment?

15 A Yes.

16 Q What I want to know is when was that? How much
17 before you saw Arrie in the alleyway?

18 A When he go in, and he come out.

19 Q Approximately how long was this individual in
20 Calvin's apartment according to your testimony?

21 A I don't know. I have no idea.

22 Q Well, you've testified that you were at Annie's for
23 approximately an hour?

24 A Yes.

25 Q Was that individual in Calvin's apartment

1 approximately five minutes, two minutes, some other time? If
2 you know.

3 A I don't know.

4 Q Were you downstairs the entire -- downstairs from
5 Annie's apartment during the entire hour --

6 A Yes.

7 Q -- approximately that you were with her?

8 A Yes.

9 Q And were you standing that time?

10 A Yes.

11 Q And was -- was Annie standing that hour that you were
12 out there with her?

13 A I'm not sure.

14 Q Okay. Are there chairs out there?

15 A No. We was actually -- I was in front of the
16 staircase, and she was up on it. She was up on her staircase.

17 Q It's your testimony that the two of you were there
18 for approximately an hour?

19 A Yes.

20 MR. ERICSSON: Thank you. I have no further
21 questions.

22 THE COURT: Ms. Luzaich.

23 MS. LUZAICH: No, I have nothing further.

24 THE COURT: Any juror questions for this witness?

25 All right. I'll see counsel up at the bench.

1 (Conference at the bench not recorded.)

2 THE COURT: We have some juror questions here. A
3 juror asks, Was the pillowcase on Arrie's head when she came
4 out of the apartment?

5 THE WITNESS: Yes.

6 THE COURT: All right. If so, how did you know it
7 was her before Annie started helping her?

8 THE WITNESS: I know her from, you know, I know her.
9 I know her from her body and stuff. I knew it was her.

10 THE COURT: Okay. So you were able to recognize
11 her --

12 THE WITNESS: Yes. Uh-huh.

13 THE COURT: -- even though she had the pillowcase.
14 Do you recall if anyone else was at Annie's house
15 before you saw Arrie leaving the defendant's apartment?

16 THE WITNESS: Yes.

17 THE COURT: Yes, somebody was there?

18 THE WITNESS: Yes. There was a lot of us standing
19 out there.

20 THE COURT: Okay. And how were Arrie's hands bound
21 when you first saw her? Were they tied in front of her or
22 behind her, or tied to her feet? Can you describe for us how
23 her hands were tied.

24 THE WITNESS: They were tied in front of her, and her
25 feet was tied, but they was connected.

1 THE COURT: Okay. So her hands and feet were --

2 THE WITNESS: Uh-huh.

3 THE COURT: -- like, connected?

4 THE WITNESS: Yes.

5 THE COURT: Okay.

6 Ms. Luzaich, follow-up?

7 MS. LUZAICH: Nothing.

8 THE COURT: Mr. Ericsson, follow-up?

9 FOLLOW-UP EXAMINATION

10 BY MR. ERICSSON:

11 Q And, Mr. Taylor, how was it that you know that her
12 hands were tied in front of her?

13 A Because I seen it.

14 Q And did you see any yellow or white cords that she
15 was tied with?

16 A No. They was black to me. They looked black.

17 MR. ERICSSON: Thank you. I have no further
18 questions.

19 THE COURT: Anything else, Ms. Luzaich?

20 MS. LUZAICH: No.

21 THE COURT: Any additional juror questions for this
22 witness?

23 All right. Sir, I see no other questions. Thank you
24 for your testimony. Please don't discuss your testimony with
25 anyone else who may be a witness, and you are excused.

1 THE WITNESS: Thank you.

2 THE COURT: Thank you. And just follow the bailiff
3 from the courtroom.

4 And the State can call its next witness.

5 MS. LUZAICH: The State calls Heather Gouldthorpe. I
6 hope she's here.

7 **HEATHER GOULDTHORPE**

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

10 THE CLERK: Thank you. Please have a seat and state
11 and spell your first and last names for the record.

12 THE WITNESS: My name is Heather Gouldthorpe.
13 Heather, H-e-a-t-h-e-r. Gouldthorpe, G-o-u-l-d-t-h-o-r-p-e.

14 MS. LUZAICH: May I? Thank you.

15 THE COURT: You may.

16 MS. LUZAICH: Thank you.

17 DIRECT EXAMINATION

18 BY MS. LUZAICH:

19 Q Good afternoon, ma'am. Can you tell us what do you
20 do for a living?

21 A I'm a forensic scientist in the latent print unit at
22 the Las Vegas Metropolitan Police Department's forensic
23 laboratory.

24 Q How long have you been a latent print examiner with
25 Metro?

1 A I've worked in the latent print unit for the past 10
2 years.

3 Q And can you describe for the members of the jury what
4 training, education you have that qualifies you to do that.

5 A Yes. I have my bachelor's degree in sociology and my
6 master's degree in forensic science. I started at the
7 laboratory, like I said, 10 years ago. I started as a forensic
8 laboratory technologist where I learned how to do basic
9 comparisons, how to search and enter prints into our AFIS
10 system, which is our Automated Fingerprint Identification
11 System and also how to process items of evidence to recover
12 latent prints from.

13 From there -- I did that for about three and a half
14 years -- I then promoted to forensic scientist trainee where I
15 underwent one year of extensive training on how to compare more
16 complex latent prints, and then from there I progressed to
17 forensic scientist, which is a position I've held since then.

18 With that, I have also been certified by the IAI,
19 which is our International Association for Identification, as a
20 latent print examiner.

21 Q Do you also have to do continuing education to keep
22 up your certification?

23 A We do, yes.

24 Q Can you tell us just briefly what does a latent print
25 examiner do on a daily basis?

1 A It depends on what the request is. Oftentimes we'll
2 get a request to compare somebody, so which means we have
3 latent prints that come into the laboratory that are submitted
4 on lift cards, and we compare those to known individuals that
5 we are asked to compare. Other times we process evidence to
6 try to recover latent prints to complete that comparison
7 process, and then other times we have to search a database,
8 that AFIS database that I was talking about because we don't
9 have anybody to compare at that time. We're searching this
10 database to see whether or not we can get -- have somebody to
11 compare in that case.

12 Q So sometimes prints are processed or latent prints
13 are processed in the field, and sometimes they're processed in
14 the laboratory; is that correct?

15 A That is correct.

16 Q What might the difference be? Why?

17 A It depends on how the evidence is presented to us.
18 Sometimes the evidence is collected at scene by police officers
19 who directly book it into the evidence vault. Other times our
20 crime scene analysts will respond to the scene, and oftentimes,
21 when they -- when they do respond, they will process the
22 evidence for us, and then they will submit any latent prints
23 that they recover.

24 Q If evidence can be transported, is it more often than
25 not transported to the lab so that it can be processed in a

1 controlled environment instead of in the field?

2 A That's correct. Even our crime scene analysts also
3 undergo -- they'll transport it to their laboratory where they
4 will process it in their lab as well.

5 Q But, for example, I mean, a table or something you
6 can't transport necessarily. So that would have to be
7 processed --

8 A At the scene. Correct.

9 Q Can you describe for the ladies and gentlemen of the
10 jury what is a latent print?

11 A Sure. If you look at the palms of your hands and the
12 soles of your feet, your skin is different on that surface.
13 It's more textured. There's ridges and grooves, and this skin,
14 when you come in contact with oil, sweat, any kind of residue,
15 that coats these ridges, and if you touch a surface, you have
16 the potential to leave behind a replication of those ridges,
17 and that's what is a latent print.

18 Oftentimes those have to be developed, either powder
19 processed or chemically processed to be seen.

20 Q So there are lots of different ways that you can kind
21 of lift prints or develop prints; is that correct?

22 A Correct. Yes.

23 Q Is it also true that just because you touch something
24 doesn't mean you leave a fingerprint behind?

25 A That is correct, yes.

1 Q Why might that be?

2 A There are several factors for this. First is the
3 condition of your skin. Are you dry? Are you excessively
4 sweaty, or are you -- you know, what is the condition of your
5 skin. That's a big factor. What's the residue that's adhering
6 to that skin? Is it something like -- like, tar where it would
7 be very sticky and hard to replicate and see through that
8 replication, or is it, like, sweat where we just naturally
9 sweat, and you touch something.

10 Also the item of evidence itself, what is the surface
11 area? Is it smooth and like glass, or is it textured? If it's
12 more textured, it's going to be more difficult to recover
13 latent prints from that item.

14 Also the environment plays a factor. If the item is
15 left out in the desert for over the summer, your residue,
16 especially your sweat, that's made primarily of water. So that
17 will dry up over the course of the time in the desert if you
18 leave it out. So those are some of the factors that can
19 inhibit recovering latent prints.

20 Q Does it also depend on the item if it's, like, newer
21 or older? You know, my brand-new shoe could be easier to
22 recover a print than my shoe that I've worn every day for three
23 months?

24 A Not that I'm aware of. I don't think there's ever
25 been any studies to state --

1 Q Nothing like that?

2 A Yeah.

3 Q Okay.

4 A It's just more like the surface area itself, textured
5 or not textured.

6 Q So once you have a surface or an item that you want
7 to recover a latent print from, then what?

8 A We visually look at the item itself. We determine
9 whether or not it is conducive to latent print processing.
10 There are items that we just cannot do anything with in our
11 laboratory. And once we do determine that, we will look at the
12 item itself visually, and we'll see if we can see with using
13 oblique lighting, which is like a flashlight, and just taking
14 different angles, we can see if we can see any latent print
15 detail at that point in time.

16 If we cannot, we will go to one of our methods that
17 we have that's detailed in our technical manual, and depending
18 on what the item of evidence is depends on which method that we
19 will choose. Oftentimes we will go into, like, superglue
20 fuming, which is like you put it in a chamber, and it heats up
21 the superglue, and that superglue adheres to the latent print
22 residue, and then after that, we will apply some kind of
23 fluorescent dye-staining method to it.

24 Q Okay. So when you do what it is that you do, is it
25 always at the request of a police officer or someone like that,

1 a detective, a patrol officer, or somebody along those lines?

2 A Yes. Anything that we do we have to have a request
3 to do.

4 Q So you don't just choose to do something. You have
5 to be asked to do it?

6 A Correct. And the way our laboratory is set up, not
7 only do we have to be requested, it has to be requested to
8 certain -- certain items of evidence.

9 Q Okay. I'm going to direct your attention if I could
10 to -- well, and do you do everything based on event number?

11 A Yes. In our laboratory we have the event number,
12 which is our Las Vegas Metropolitan Police department generated
13 number, and at the laboratory we additionally have a laboratory
14 number assigned to each case.

15 Q So back in 2015, were you working as a forensic
16 scientist in the latent print area of the lab?

17 A Yes, I was.

18 Q And were you asked by Detective Nelson to look for
19 prints on some items?

20 A Yes, I was.

21 Q And would that be under event number 1503103372?

22 A May I refer to the report to --

23 Q Absolutely.

24 A And what was the --

25 Q 1503103372.

1 A Yes, that was correct.

2 Q As you indicated, you only do it by request. So what
3 did Detective Nelson request for you to do?

4 A He requested that I process the wooden handle of a
5 push broom, and during the course of that process, I had to
6 contact him regarding the evidence, and he additionally stated
7 that he wanted the buckle of the leather belt processed as
8 well. So we additionally processed that.

9 Q Okay. So you're sitting in the lab, and you get
10 assigned this to do. How do you go about starting?

11 A We -- we look at the item of evidence. We request it
12 through our evidence vault using a secure evidence transaction.
13 Then we get the item of evidence, and at that point we look at
14 the item of evidence, and then we generate our notes. That's
15 when our note-taking process starts at that point in time.

16 So we note the condition of the item. We also take
17 photographs of the item, and then from there I do the visual
18 analysis on it, and then follow the procedures of processing
19 that I choose to do on that item.

20 Q So, for example, you get the -- and is it a written
21 request that you get from the detective?

22 A It is electronic.

23 Q So you see a request. Please look at this broom.
24 You said you call it up from the evidence vault?

25 A Correct.

1 Q And evidence is always in some sort of packaging with
2 a piece of paper that's got, for example, the event number, the
3 crime, the date, the detective or the police officer's name on
4 it, all that information?

5 A That's correct, yes.

6 Q And are they sealed? Evidence is sealed?

7 A Correct. Yes, it is.

8 Q And when it comes to you, you then unseal it?

9 A Yes, I do.

10 Q And if an item comes to you and it's not properly
11 sealed, would you then not work on it?

12 A Yes, I will. If it's not properly packaged, that
13 would mean it's not conducive for latent print processing
14 because at the evidence vault, if it's not properly packaged in
15 that package, it will be handed to one person to another. So a
16 lot of people have touched it since the evidence was collected
17 at that point in time.

18 Q And that's something that you're concerned about,
19 contamination, correct?

20 A Yes.

21 Q Okay. Showing you State's Exhibit 37, does this look
22 like the item that we're discussing? The wooden broom handle
23 or push broom.

24 A This item right here?

25 Q Yeah. The long, long one.

1 A Yeah. Yes.

2 Q Sorry.

3 A That would be it.

4 Q Okay. When it came to you from the evidence vault,
5 how was it packaged?

6 A This item was particularly long. So when it was
7 delivered from the evidence vault, the broom portion was in --
8 contained within a box, and then they had cut a hole to stick
9 the bottom portion that contained the brush, that was
10 protruding out of the box.

11 Q So what did you do when you got it?

12 A When I received the item of evidence, I photographed
13 it. I then looked at the item itself and determined that it
14 would be too long to fit in our CA chamber, our superglue
15 chamber. So I contacted the detective and told him if you
16 would like it processed that I would have to cut the bottom
17 portion off. The portion that was sticking out of the box that
18 had potentially been handled by many people, I had cut that --
19 I would have to cut that portion off, and that way I can
20 process the handle portion that he's requesting.

21 Q And he agreed?

22 A He did, yes.

23 Q So then what did you do? Describe for us how you
24 went about processing it.

25 A So I looked at the item of evidence itself, that

1 broom handle. It had -- it was a wooden broom handle. So it
2 did have some cracks. It was wooden textured. So it wasn't
3 that great for latent print processing for recovery. However,
4 I went about -- I did my visual inspection on it. I then put
5 in the superglue chamber. I did the superglue fuming process
6 to it, and then I did not see any ridge detail develop at that
7 point in time.

8 So then I used a fluorescent dye stain to determine
9 whether or not I can -- sometimes we can -- the fluorescent dye
10 stain will cause friction ridge skin that we didn't --
11 impressions that we didn't see during the superglue fuming to
12 be visualized. I used that process. I still did not locate
13 any latent prints that I could recover.

14 And then I used a process called silver nitrate that
15 we use specifically on wood items, and again, I did not recover
16 any latent prints from that process.

17 Q Now, when you say that you don't -- you haven't
18 recovered latent prints that you could process, does that mean
19 there was nothing on there at all?

20 A On the wooden broom handle I did find nothing at all.

21 Q Okay. Now, were you surprised by that?

22 A Given the condition of the wooden broom handle, I was
23 not. Like I said, it was like a rougher type of wood. It had
24 many abrasions and cuts, well-worn. So I wasn't too surprised
25 by the fact that I did not recover latent prints on that.

1 Q And it doesn't mean nobody touched it. It just meant
2 that you didn't recover anything that you could examine?

3 A That is correct.

4 Q Is that correct?

5 A Yes.

6 Q Okay. So you did all you could and couldn't find
7 anything?

8 A Right.

9 Q Would you think that that is a surface that otherwise
10 is conducive to the recovery of latent prints?

11 A Like I said, the wood itself was grainy. It was not
12 very conducive to recovering latent prints from it.

13 Q No matter what the weather condition is like, it's
14 just the surface?

15 A Correct.

16 Q Okay. So you indicated that when you were talking to
17 the detective about the broom that he said that he also wanted
18 a leather belt tested?

19 A Correct. His term was the belt buckle --

20 Q Belt buckle.

21 A -- that he wanted specifically tested.

22 Q Showing you State's Exhibit 42, would you agree that
23 that's a belt?

24 A Yes.

25 Q Did you call the belt up that was attached to the

1 buckle?

2 A I did. I didn't find a belt buckle per se. I found
3 a metal piece on the end of the belt that perhaps was what the
4 detective was referring to. I didn't find, like, what you
5 would typically think of as a belt buckle itself.

6 Q Is this item the item that we're talking about?

7 A It appears to be, yes.

8 Q Okay. And when you say that you didn't find a belt
9 buckle, I mean, it's a metal piece that is like a buckle?

10 A Correct.

11 Q Would you agree with that?

12 A Yeah.

13 Q So what did you do when you got the belt?

14 A I again visually examined it. It was worn leather,
15 textured on one side, and at that point in time I determined
16 that the belt itself would not be conducive for latent print
17 processing, but the metal piece on the end, it was smooth. It
18 was metal, and that would be a good surface to attempt to
19 recover latent prints from.

20 So then I did a visual examination on that portion.
21 I saw some -- some ridge detail, but not enough to recover. I
22 then put it in the superglue chamber that we talked about
23 earlier, again saw some ridge detail, but not enough to
24 recover, and then I did another fluorescent dye stain on that
25 item -- on that belt buckle, and I did see some ridge details,

1 but not enough to recover.

2 Q What does that mean? You saw "some ridge details,
3 but not enough to recover"?

4 A So as opposed to the wooden broom where I just saw
5 absolutely nothing, on the belt buckle itself, I saw a few
6 ridges, and smudges and smears where -- but there was not
7 enough data in that -- in that information that I could do any
8 comparison on -- to further the course of the investigation.

9 Q Is there a certain amount of detail that you have to
10 have in order to be able to recover a latent print and compare
11 it to something?

12 A Yes, there is.

13 Q Can you describe for us like what the standard is.

14 A So suitability for recover, it just means that there
15 were -- it has the potential to maybe be taken on to a
16 comparison process. That kind of determination is made by
17 anyone. It can be made by crime scene analysts, by officers,
18 by cadets or PSRs or whoever's processing that item of
19 evidence.

20 Suitability for comparison is only made by a forensic
21 scientist, such as myself, and that is detailed out in our
22 technical manual, and it depends on what surface area you're
23 looking at, but generally we're looking at -- if it's the
24 distal portion of the fingers, which normally would be
25 considered your fingertips, we're looking for about eight

1 minutia, whether or not it has a pattern type associated with
2 it, if it has a focal point or a target group of area which
3 means there's a certain amount of minutia like in a certain
4 region that I can take that area and go try to search another
5 exemplar prints with, and then so features such as that to be
6 able to take to the comparison process. So we need data in the
7 latent print detail to compare.

8 Q And the fact that you were not able to find
9 sufficient detail to lift and compare doesn't mean nobody
10 touched it. It just means that they didn't leave prints
11 behind?

12 A That's correct, yes.

13 Q Even if you had found -- oh, and I'm sorry. You said
14 that the belt, the leather part of the belt was not conducive
15 to recover prints. Why is that?

16 A That's correct. Leather itself isn't a very good
17 surface to recover latent prints from. This leather was also
18 textured, which textured items are even more not conducive for
19 latent print processing. So the combination of those two, also
20 the fact that the request was specifically for the belt buckle
21 itself led me to not process that item of evidence.

22 Q Okay. Now, even if you had found latent prints and
23 you were able to recover them on either the buckle or the belt
24 or the broom, is there anyway that you could tell when those
25 prints were placed there?

1 A No. There's no way to determine the age of a print.

2 Q And how long can prints remain on an item?

3 A It just depends. A lot of times the only way to
4 determine the age of a print is if it's, say, like a pane of
5 glass, and you constantly are cleaning that glass, where you
6 can say the last time you cleaned the glass was this date. So
7 by the fact that you cleaned it, it could have -- that means
8 that that finger or the impression was left after that
9 cleaning; however, lots of times we don't have cleaning or a
10 record of when we cleaned or any of that. So there is really
11 no way of determining the age of a latent print.

12 Q Can prints remain on an item for days, even weeks or
13 months?

14 A Yes.

15 Q Even years?

16 A Even years, yes.

17 MS. LUZAICH: Okay. Thank you.

18 I would pass the witness.

19 THE COURT: All right. Cross.

20 MR. ERICSSON: Just briefly.

21 CROSS-EXAMINATION

22 BY MR. ERICSSON:

23 Q So in your investigation in this case or your
24 testing, you did not recover any latent fingerprints that could
25 be compared with any known samples?

1 A I did not, no.

2 MR. ERICSSON: Thank you. I have no -- no further
3 questions.

4 THE COURT: Anything else, Ms. Luzaich.

5 MS. LUZAICH: No.

6 THE COURT: Any juror questions for the witness?
7 All right. I see no juror questions.

8 Thank you for your testimony. You are excused at
9 this time.

10 THE WITNESS: Thank you.

11 THE COURT: Thank you.

12 And the State may call its next witness.

13 MS. LUZAICH: The State will call Cassandra
14 Robertson, although I told her 3:00 o'clock. I don't know if
15 she'll be early. I hope.

16 THE COURT: We'll take a break if she's not.

17 **CASSANDRA ROBERTSON**

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

20 THE CLERK: Thank you. Please have a seat. State
21 and spell both your first and last names for us.

22 THE WITNESS: Cassandra, C-a-s-s-a-n-d-r-a.
23 Robertson, R-o-b-e-r-t-s-o-n.

24 THE COURT: All right. Thank you.

25 Ms. Luzaich.

1 MS. LUZAICH: Thank you.

2 DIRECT EXAMINATION

3 BY MS. LUZAICH:

4 Q Good afternoon, ma'am. How are you employed?

5 A I am a forensic scientist in the DNA biology section
6 at the Las Vegas Metropolitan Police Department.

7 Q How long have you been a forensic scientist with
8 Metro?

9 A I've been there since October 2012.

10 Q Can you describe for the jury what training and
11 education you have that qualifies you to do what you do.

12 A Previous employment was at Florida Department of Law
13 Enforcement in the same capacity. I underwent a intensive
14 training program about a year, year and a half long, and it
15 encompassed a lot of reading, practical examination, a written
16 examination, oral examination as well as supervised casework.
17 I underwent the same -- similar training program except
18 abbreviated due to my previous experience, and I have a
19 bachelor's of science degree from University of Central Florida
20 in microbiology and molecular biology.

21 Q So for how long have you been working on DNA?

22 A I've been in the field for about 11, 12 years now.

23 Q Okay. Can you describe for us what is DNA.

24 A DNA stands for deoxyribonucleic acid, and it's just a
25 blueprint. It pretty much determines, you know, what we look

1 like and so forth. We inherit half of our DNA from our mom and
2 half from our dad, and it starts at conception and pretty much
3 stays the same throughout your entire life, and it's the same
4 in every cell in our body. Everybody has their unique DNA
5 profile with the exception of identical siblings.

6 Q So everybody has -- everybody's DNA is different
7 unless they have an identical twin?

8 A Or, yeah. Triplets, quadruplets, yeah.

9 Q Okay.

10 A Yeah.

11 Q And how does one determine a DNA profile?

12 A As a DNA analyst, I examine items of evidence for
13 possible body fluids, such as blood, semen, saliva, as well as
14 skin cells, hair, and if I identify any of those sort of
15 things, then I want to try to put it through our process and
16 try to obtain a DNA profile.

17 And a DNA profile is a graph pretty much of peaks,
18 and we're interested in 21 locations -- previously it used to
19 be 15 -- on the DNA molecule. That is unique from one
20 individual to another, as well as a gender marker which lets me
21 know if it's a female or a male.

22 Q So you can obtain DNA from you said hair. What else?
23 Hair, blood --

24 A Hair, any -- certain body fluids such as blood,
25 semen, saliva, skin cells. So if I were to touch an item, I

1 could potentially be leaving behind my skin cells, and we can
2 swab that area and possibly obtain a DNA profile from the
3 individual that came in contact with that item.

4 Q And how does DNA analysis help us in the criminal
5 field?

6 A I'm sorry?

7 Q Okay. Let me go somewhere else with that. What do
8 you do on a daily basis at the DNA lab? You.

9 A I, as I mentioned before, I am assigned randomly
10 cases from my supervisor, and I will look at items of evidence
11 for these possible body -- body fluids or swab items for
12 possible skin cells. If there's hair, possible hair is
13 present, I can look, see if there's any root material which is
14 usually where nuclear DNA is. So once I possibly obtain any
15 sort of cells that could potentially have DNA, then I will put
16 it through a four-step process.

17 Pretty much the first step is extraction, breaking
18 open the cells using chemicals and heat to get the DNA out of
19 the cell. Then I need to quantify it to determine how much DNA
20 is there to maximize the process, and then the most important
21 step is making millions and millions of copies of those 15 or
22 21 areas, depending on which kit we're using, to get that DNA
23 profile from that sample, and then I need to see that profile
24 visually. So to do that we run it through an instrument which
25 will separate the DNA in those 15, 21 areas into graphs and

1 peaks so I can see with the profile looks like.

2 Q And is this something that you can do in like 20 or
3 30 minutes?

4 A No. It's actually quite a lengthy process. Due
5 to -- I don't work one case at a time. I work a batch of
6 cases. So it can take on a -- in an ideal world, it can take
7 two, three, four days, but because I'm working batches of
8 cases, it can take me about a week to go through that whole
9 process and about a week to look at the evidence of those body
10 fluids or skin cells or any type of biological material.

11 Q And once you do that and you formulate a DNA profile,
12 then what you do?

13 A Once I've obtained possible profiles, I'm also
14 putting through the same -- the same process reference
15 standards or samples that were taken from known individuals
16 related to the case. So I have those profiles that I will now
17 compare to any possible DNA profiles that I have in the case,
18 and I will write up a report with my findings.

19 Q So you take a piece of evidence, and you take -- you
20 form a DNA profile if there is one on a piece of evidence, and
21 you compare it to, for example, a swab from a victim, a
22 suspect, a witness, something like that?

23 A Yes.

24 Q Were you asked specifically to do some compare --
25 well, to form profiles and then do some comparison under Event

1 No. 1503103372?

2 A Yes.

3 Q And was that in 2015?

4 A Yes.

5 Q What items were you asked to test?

6 A May I refer to my report?

7 Q At the time that you do all of your DNA analysis, do
8 you then generate a report of your findings?

9 A Yes.

10 Q And would it refresh your recollection to refer to
11 that report?

12 A Yes.

13 Q Go right ahead.

14 THE COURT: Go ahead.

15 THE WITNESS: The items that were asked to be
16 examined for DNA was a swab from the end of a barrel of an H&R
17 1871 shotgun. I was also asked to examine a dark gray hose,
18 brown -- a black or brown leather belt, a partial roll of clear
19 plastic packaging tape, black mesh basketball shorts, a red
20 T-shirt, clear plastic packaging tape, and a H&R 1871 Pardner
21 Pump action shotgun, along with three reference standards.

22 Q When you say three reference standards, that's when
23 the DNA sample is obtained from a known individual. So you
24 know who that is?

25 A Yes.

1 Q Who are the three reference standards that you were
2 asked to compare to?

3 A I was asked to run a reference standard from Arrie
4 Webster, from Elizabeth Gentile and Calvin Elam.

5 Q Okay. And did you go about testing those three
6 reference standards and formulating a DNA profile from each of
7 them?

8 A Yeah.

9 Q And then did you get a DNA profile or attempt to get
10 a DNA profile from the evidence that you just described?

11 A I took sampling from these different evidence and
12 tried to obtain a DNA profile.

13 Q And sometimes is it not possible to obtain a DNA
14 profile?

15 A Sometimes there -- I will not get a DNA profile
16 because there may not have been DNA left behind on an item,
17 whether it be from skin cells or body fluid. Sometimes there
18 is DNA left behind, but there is not enough DNA left behind
19 that I can make any comparison to it, and then sometimes
20 there's plenty there that I will generate a profile.

21 Q Okay. So sometimes if there is not enough DNA there
22 for you to make a comparison, why might that be?

23 A It could be various reasons. It could be that
24 there's not enough of those particular cells that have the DNA.
25 Typically we see that with touch samples, meaning samples that

1 have been handled. There's not necessarily body fluids because
2 body fluids are usually rich in DNA. So touch samples are
3 dependent upon how much skin cells we leave behind.

4 Some people shed more skin cells than others, and it
5 also depends on the type of surface or how long somebody may
6 have handled the item or the environment can play a role by
7 breaking down the DNA. So in those situations I can swab the
8 item, but -- and there will be some DNA but just not enough for
9 me to say who that DNA belongs to.

10 Q Okay. So let's go through one by one if you don't
11 mind. The first thing you mentioned was the swab from the end
12 of a barrel of an H&R 1871 shotgun. So because -- now, did you
13 call up the evidence, and all of the things that you were going
14 to test was brought to you from the crime lab?

15 A Yes. I called up the evidence --

16 Q I mean from the evidence vault.

17 A -- and it came from the evidence vault.

18 Q Okay.

19 A So I can proceed with the examination.

20 Q And when evidence comes to you, does it come to you
21 in a sealed condition?

22 A Yes.

23 Q With actual sealed taped on it?

24 A Yes. It'll be sealed by the individual that had
25 packaged the item.

1 Q And if something comes to you and it's not properly
2 sealed, will you then not perform a comparison?

3 A Yes, I will not even open the evidence until that is
4 resolved.

5 Q Okay. And the evidence that we're about to talk
6 about, as it came to you, it was all properly sealed, correct?

7 A Yes.

8 Q Okay. So first, the swab from the end of the shotgun
9 barrel, is that a swab that somebody else had done the swab and
10 all you got was the swab?

11 A Yes.

12 Q So you did not swab the end of the shotgun barrel?

13 A No, I did not.

14 Q So what did you do? You got the swab and then what?

15 A I got the swab. So I will document what the swab
16 looks like, and then proceed to take a sampling from that swab
17 to take on for DNA analysis -- which was the four steps I
18 mentioned earlier -- to try to paint a DNA profile from that --
19 from that swab.

20 Q And were you able to obtain a profile from the swab?

21 A Yes. I obtained a full DNA profile from that swab,
22 and it is consistent with Arrie Webster.

23 Q When you say consistent with, what do you mean by
24 that?

25 A When I obtain a profile from an evidence, I will then

1 make comparison to any reference standards that were submitted
2 in that case, and what I'm doing is I'm checking to see if the
3 profiles, those peaks that I mentioned of the 15, 21 different
4 areas are consistent with each other, and if they're
5 consistent, then I will state that. If there is no consistent,
6 then I will exclude that individual from that profile.

7 Q So when you say that it's consistent with Arrie
8 Webster, how sure are you?

9 A Well --

10 Q Is there a statistical analysis?

11 A Yes.

12 Q What is the statistical analysis?

13 A It's the probability of randomly selecting an
14 unrelated individual from the general population having a DNA
15 profile that is consistent with the full DNA profile from the
16 evidence sample is approximately 1 in 16.9 quintillion.

17 Q What does that mean in layman's terms?

18 A It is a -- it's a large number. It's a number
19 followed by 18 zeros, but it's a very small probability.

20 Q Does that mean essentially that she's the only person
21 on the planet who could have put that DNA in the shotgun
22 barrel?

23 A It is -- it would say that it's relatively rare;
24 however, the sample is consistent with her.

25 Q Okay. One in 16.9 quintillion people could have put

1 that DNA there?

2 A Well, it has -- the statistics has no bearings on the
3 individual. What it is is what's the probability of seeing
4 this particular profile. So for instance, for an example, if
5 you're playing the lottery, the chances of winning the lottery
6 is 1 in 300 million or whatever they say. It's not how many
7 people playing the lottery. It's not how many people bought
8 the ticket or how many tickets were bought. It's what are the
9 probability or the chance of getting the particular numbers and
10 winning that one game.

11 So this is what is the probability of seeing this
12 specific 15 or 21 locations in the general population. So it
13 really doesn't have any bearings on how many people, but it's
14 just the profile itself.

15 Q Okay. Did the lab used to say something like
16 identity assumed?

17 A Yes, we did, but in our field, we are changing as our
18 criterias are getting more and more stringent. So we now just
19 state the statistics as it is and let the jury determine the
20 value of that.

21 Q Okay. Just out of curiosity, when they used to say
22 identity assumed, what was the statistical probability that
23 they would assume identity at?

24 MR. ERICSSON: Objection, Your Honor. I'd -- I don't
25 believe that this is relevant at this point. I'm not sure -- I

1 think we're getting --

2 THE COURT: Well, overruled.

3 You can answer.

4 THE WITNESS: In the past, it used to be we would
5 make identity assumed if the statistic was greater than
6 700 billion, which is a hundred times the world population.

7 BY MS. LUZAICH:

8 Q Okay. And 16.9 quintillion is way more than that,
9 right?

10 A Yes. Billion is a number followed by nine zeros.
11 This is a number followed by 18.

12 Q Okay. Showing you what's been marked -- oh, and I'm
13 sorry. Did you say that you compared the swab from the barrel
14 of the shotgun to Arrie only or Arrie and anybody else?

15 A I compared it to all the reference standards, to the
16 three reference standards in the case. So it's consistent with
17 Arrie Webster; and Elizabeth Gentile and Calvin Elam are
18 excluded.

19 Q Excluded means that it absolutely was not either one
20 of them?

21 A The profiles were not the same.

22 Q Okay. Showing you what's been marked as State's
23 Proposed Exhibit 72, is that a chart that you created for
24 purposes of your testimony to explain your testimony pertaining
25 to the swab that we just discussed?

1 A Yes.

2 Q And --

3 MS. LUZAICH: We'll move it into evidence.

4 THE COURT: Any objection?

5 MR. ERICSSON: No, Your Honor.

6 THE COURT: All right. That'll be admitted.

7 (State's Exhibit No. 72 admitted.)

8 MS. LUZAICH: May I publish?

9 THE COURT: You may.

10 BY MS. LUZAICH:

11 Q I'm going to have you describe or explain it to us
12 because I could never. Okay. I'm going to make it bigger.
13 Okay. Now, can you explain what we are looking at.

14 A This is an allele table or a summary of what the
15 profile looked like. I mentioned that I see it in peaks and
16 graphs. So we put it in a summary form so we can see what the
17 profile looks like, and as I mentioned earlier, we inherit one
18 from -- half our DNA from our mom and half from our dad. So if
19 you notice, there are two numbers pretty much all the way down,
20 and that means half of that came from -- one of those numbers
21 came from mom, and one of those numbers came from dad.

22 So the first column is the actual profile from the
23 evidence, and it has information at all locations. So it is a
24 full DNA profile, and the X at the third, the X means that it's
25 a female. If it was a male, it would be an X and Y. So that's

1 what I get from the evidence. So I make my conclusions that
2 the evidence says it's a full DNA profile obtained from that
3 swab.

4 The second step is I'm going to look at all the
5 references in the case to compare and see if there's any
6 similarities or if they're different, and so I go down through
7 each of these steps, and for instance, the first one at
8 D8S1179, it's a 12-16. So I look over at Arrie Webster. She
9 has a 12-16. Calvin Elam does not. So I do that process all
10 the way down, and as you can see, the evidence match is similar
11 or the same as Arrie Webster, but it's not the same as Calvin
12 Elam. So Calvin is excluded, and Arrie Webster is consistent
13 with that profile.

14 Q So as we look at that first column, the swab from the
15 barrel of the shotgun, to the left of that, there's the blue
16 and then the green and then the yellow and the red. Can you
17 just describe for us what is that.

18 A Oh. Those are the -- I mentioned that we look at 15
19 or 21, depending on which kit -- we have switched to a new kit.
20 So we see more locations. Those are just specific locations
21 that I'm interested on the DNA molecule, and that is unique --
22 those are all unique at those specific locations with the
23 exception of identical siblings.

24 So the blue section, it just -- the way the kit is
25 designed that I use in the lab is there are, like, fluorescent

1 ties that are attached during the process that so the
2 instrument and the computer can see the profile as if coming
3 off the instrument. So that's all the colors mean, but the
4 numbers or the letters on the side, those are the different
5 locations on the DNA profile that makes up that DNA profile.

6 Q And all of the locations on the swab match all of the
7 locations on Arrie?

8 A Yes.

9 Q Now, over to the right it says, red -- it says red
10 and then highlighted in red, alleles below. What does that
11 mean?

12 A This is just a summary of what the peak looked like
13 on the graph. So the red, if you look over at the -- the red
14 means any of those numbers are below the 200 RFU, meaning
15 they're below my interpretation threshold; however, because
16 it's a single source profile, meaning the profile came from one
17 individual, I can still make comparisons because we get two
18 numbers, one from mom, one from dad, and that's what a
19 single-source profile will be all the way down.

20 The bracket just lets me know that between the two
21 numbers, if there's any imbalance, meaning they're not the same
22 height in the graph. So if you look over at the evidence
23 sample, there's some red numbers in there, and that just means
24 that that number on the graph is below 200, and however due to
25 it being a single-source profile, it is suitable for me to make

1 any comparison.

2 Q Okay. So it doesn't challenge or jeopardize the
3 results?

4 A No.

5 Q In any way?

6 A No.

7 Q Okay. So you said that that was a single-source
8 profile. Does that mean you can sometimes obtain multiple
9 profiles off a piece of evidence?

10 A Yes. We can sometimes obtain a mixture, which is
11 just a profile with more than one individual's DNA mixed in it.

12 Q And if there is a mixture profile, how does that
13 affect your ability to report?

14 A With mixture interpretation, it's a little bit not as
15 straightforward as a single-source profile. So I have to
16 examine the profile a little closely, and sometimes the mixture
17 will be where everybody in the mixture -- one, two, three, four
18 people -- they contributed the same amount of DNA. So I can't
19 tell you if there's any differences between the individual
20 profile.

21 Sometimes one individual might contribute more DNA
22 than the other individuals. So I can clearly see their profile
23 over everybody else. Their peaks will be really high, whereas
24 everybody else is really low. So in that case, I'm able to
25 pull out a major, the person that contributed more -- the most

1 DNA compared to the minor, which is the individual that didn't,
2 and sometimes the mixture will be really low. I can see that
3 there's more than one individual, but it's so low that I can't
4 make any comparison.

5 Q Why might somebody leave more DNA than somebody else?
6 Is there a reason for that?

7 A There's different reasons. As I mentioned before,
8 you could have body fluids mixed in with skin cells, and body
9 fluids are a lot more richer in DNA than skin cells, or you
10 might have an item where maybe, for instance, I have my
11 favorite hat, and I wear my hat all the time, but then my
12 sister decides or my best friend decides to borrow it one time.
13 If we were to swab that hat, more than likely if I see me --
14 (unintelligible) contribute more DNA because that's my favorite
15 hat and I wear it all the time versus her wearing it one time.
16 So there's different reasons why somebody may leave something
17 behind, may leave more DNA behind than others.

18 Q Lots of reasons?

19 A Yes.

20 Q Okay. So let's talk about the next piece of
21 evidence. You mentioned a dark gray hose. And you're only
22 examining what you're asked to examine, correct?

23 A Yes.

24 Q So the dark gray hose, tell us about that. What did
25 you do and what did you find?

1 A The dark gray hose, I went through the process of
2 documenting what I see, what it looks like, any stains that
3 stand out, and the first thing I did is I took swabbing of the
4 two ends of the hose with one swab to try to gather as much DNA
5 if any is left behind on the end.

6 And I also noticed some red -- what I saw was a red
7 scuff mark. I wasn't a hundred percent sure if it was blood or
8 not. So I went and took a sampling of each of those and ran a
9 presumptive test, meaning a preliminary test for blood, and
10 they all came back negative. So I didn't take any of those red
11 scuff marks on for DNA. I just took the swabbing.

12 Q And when you took the swabbing from the two ends of
13 the hose, why that location as opposed to somewhere else on the
14 hose?

15 A I don't know how the hose was used, but typically we
16 will swab the end to figure out who handled it and try to
17 minimize -- I don't know where the hose was found, how it
18 relates to the case. So I'm trying to minimize any DNA being
19 from individuals that had nothing to do with the case. So I
20 just stuck with the end, and I collected it on one swab because
21 I'm looking for skin cells, which are typically left behind by
22 who touched it, and I know that not everybody leaves behind
23 enough. So I want to try to get as much of any potential DNA,
24 any potential cells on the one swab.

25 Q So once you swabbed it, did you then test it?

1 A Yes. I put it through the DNA process I mentioned
2 before, and I reported out what I saw for that.

3 Q And what did you see?

4 A I obtained a DNA profile from the swab, and it's
5 consistent with an indistinguishable mixture of at least three
6 individuals with at least one being male. Due to the limited
7 data available, no additional conclusions can be made regarding
8 that mixture DNA profile.

9 Q So when you say that it's consistent with an
10 indistinguishable mixture, what does that mean, an
11 indistinguishable mixture?

12 A Indistinguishable means that I cannot tell you if
13 someone contributed more DNA than another. If I say that I've
14 obtained a distinguishable mixture, that means I've been able
15 to pull out a major versus a minor. Indistinguishable, I was
16 not. And it's at least three individuals.

17 So based on what the data showed me, I can say that
18 there's at least three, could be more individuals with at least
19 one of those individuals being male because there was an XY at
20 the gender marker, and I was not able to make any further
21 conclusions because the data was limited, meaning there was not
22 enough data there for me to make any conclusions to any
23 reference standards in the case.

24 Q Okay. After the hose, you mentioned the brown black
25 leather belt.

1 A Yes.

2 Q What did you do with that?

3 A What that item I took two swabbings, one from the --
4 after I examined it, take my notes and stuff, what it looks
5 like, I noticed one -- the buckle, what should've been the
6 buckle end was missing the buckle but there was a small metal
7 piece, and then you had the other end, which is where you loop
8 through. So I took a swabbing of each of them, one swabbing
9 here and one swabbing there and took it on for DNA separately
10 and reported out what I obtained from the swabbings.

11 Q And what did you find?

12 A From -- I obtained a partial DNA profile from the
13 swabbing from the partial buckle end of the belt, and it's
14 consistent with an indistinguishable mixture of at least two
15 individuals, with at least one being male, and due to the
16 limited data available, no further conclusions could be made.

17 Q And when you say no further conclusions can be made,
18 you can't include or exclude either Calvin Elam, Arrie Webster
19 or Elizabeth Gentile, right?

20 A Well, I didn't make any comparisons. So, yeah, I
21 didn't even take their reference standards and did the
22 comparison like I showed you that I did for the single-source
23 profile. So I wouldn't be able to tell you anything about
24 that.

25 Q Is that because there wasn't enough information there

1 to do that?

2 A Yes.

3 Q And when you say at least two individuals, so at
4 least two people have touched that belt in some way, correct?

5 A At least two individuals left some type of DNA
6 behind, yes.

7 Q On the belt?

8 A Yeah.

9 Q And at least one was male. So it could be two males.
10 It could be one male, one female but at least one of them was
11 male?

12 A Yes.

13 Q And that's the best that you could --

14 A Yes.

15 Q -- determine?

16 A Yes.

17 Q Then the -- oh, I'm sorry. And that was on the
18 partial buckle part?

19 A Yes.

20 Q You also looked at the leather part?

21 A Yes.

22 Q What did you learn from that?

23 A The other end. I obtained a partial DNA profile from
24 the nonbuckle end, which is consistent with originating from at
25 least one unknown contributor, and due to the limited data

1 available, no additional conclusions could be made.

2 Q So you couldn't even say it was a mixture. You
3 couldn't say whether one was male, one was female, nothing?

4 A Correct.

5 Q You also looked at some basketball shorts. Wait.
6 No. Sorry. I missed the partial roll of clear plastic
7 packaging tape.

8 A Yes.

9 Q What did you do with that?

10 A The partial roll is pretty much a roll of clear
11 packaging tape that was -- appears to be used, and so what I
12 did was I, after I took my notes, I proceeded to take a
13 swabbing from the end. Packing tape is usually really hard to
14 rip it by your hand. A lot of people will either use scissors
15 or use their mouth. So I'm trying to swab the end about an
16 inch down from the cut end or from the actual end of it down to
17 try to obtain any possible DNA left behind, whether it be from
18 touching it or possibly using their mouth to rip it and take it
19 on for DNA. So I took one swabbing of both sides of that end,
20 and I was not able to obtain a DNA profile from that.

21 Q Nothing at all?

22 A No.

23 Q Is that surprising?

24 A I'm sorry?

25 Q Is that surprising on that kind of surface, or does

1 that not enter into it?

2 A It's a -- it's a form of touch because I'm -- I don't
3 know how someone cut that, you know, toward the other end or
4 cut it. So any time I'm dealing with touched types of samples,
5 it's not surprising to get no DNA or limited DNA.

6 Q Okay. And just State's Exhibit -- oops -- Exhibit --
7 I didn't mean to do that. Is that what we're talking about
8 when you say partial roll of clear packaging tape?

9 A Yeah.

10 Q So when you say partial roll, it's not like it's cut
11 in half or anything. It's just it's not full. It's been used?

12 A Yes.

13 Q And then just while I'm here, State's Exhibit 42, is
14 that the belt and the buckle that you looked at?

15 A Yes, I believe so.

16 Q Or does it -- did it look like that?

17 A Yeah.

18 Q And then you looked at basketball shorts and a shirt?

19 A Yes.

20 Q What were you looking for?

21 A On those items I was asked to look for possible
22 semen. So on items of clothing, unless a stain is visible to
23 the naked eye, meaning for semen I'm looking for something
24 white, crusty, cream color, but some materials, even if it's
25 there, I cannot visually see it. So I used a process called

1 the alternate light source, which is just like a flashlight,
2 like a UV light that when you shine it on certain things,
3 things kind of glow. So semen and there's other body fluids as
4 well as chemicals that can fluoresce under of this alternate
5 light source, and it will kind of narrow me down on the item of
6 evidence to test it for possible semen.

7 And on the shorts I found three stains and proceeded
8 to use a chemical test, a very quick chemical test to look for
9 possible semen, and they all came back negative; therefore, I
10 did not take anything on for DNA. And I did the same thing
11 with the red T-shirt, and I observed one or two stains under
12 the alternate light source, and I did the same chemical tests.
13 They came back negative. So I did not take anything on for
14 DNA.

15 Q The shorts, where did you see the fluoresce?

16 A They were in three different areas of the shorts;
17 however, I have to refer to my notes to give you the specific
18 area.

19 Q Do you have your notes with you?

20 A Yes.

21 Q Go right ahead.

22 A So on the shorts, there were three areas, as I
23 mentioned. One was a small stain on the front exterior on the
24 right leg towards the bottom. Another stain was on the
25 exterior back. It's a small stain in the rear area. And then

1 there was another stain, a large stain that was observed on the
2 back right leg near the bottom.

3 Q And when you say those areas fluoresced, would urine
4 fluoresce?

5 A Urine can fluoresce as well as possibly saliva. You
6 also have certain detergent can fluoresce as well as bleach and
7 other chemicals.

8 Q Okay. Do you have the ability to test to see if it's
9 urine?

10 A I do not have the ability to test for urine, and at
11 the time when I examined this case, we did not have the ability
12 to test for saliva.

13 Q Okay. So after that you mentioned clear plastic
14 packaging tape. Now, that's separate from the roll that you
15 managed -- you mentioned, right?

16 A Yes. It was actually packaged separately from the
17 roll.

18 Q What did it look like?

19 A It looked like it was kind of twisted on itself.
20 There were some -- what it looked like dirt appeared to be
21 stuck to it, and it had multiple ends. So like it had been
22 used.

23 Q And when you say twisted on itself, showing you
24 State's Exhibit 21, I recognize that it's not by itself, but
25 kind of like that?

1 A Yes.

2 Q What did -- and did you test that, or did you try to
3 obtain the profile from that?

4 A Yes. So what I did was there were multiple ends. So
5 I just took swabbing, one swabbing of all those ends, and then
6 took the swabbing on for DNA to try to obtain a DNA profile.

7 Q And were you able to obtain a profile?

8 A I obtained a partial DNA profile, which is consistent
9 with originating from at least one unknown individual; however,
10 it was limited in DNA information. So no additional
11 conclusions could be made.

12 Q So when you say at least one unknown contributor, one
13 person's DNA is there, but you couldn't make any conclusions
14 regarding it, correct?

15 A Yes. There's at least one individual there, and I
16 couldn't tell you if it's male or female. That's why it's an
17 unknown contributor.

18 Q And that's what I meant. One person's was there,
19 possibly more than one, but there was one person's there?

20 A Yes. Yes.

21 Q You just couldn't make any conclusions about it?

22 A Yes.

23 Q And then you looked at the actual shotgun, correct?

24 A Yes.

25 Q So in addition to examining the swab that was taken

1 by somebody else, you also looked at the shotgun?

2 A Yes, I did.

3 Q Showing you State's Exhibit 44, did it look like
4 this?

5 A I believe so, yes.

6 Q Similar to it at least?

7 A Yes.

8 Q Okay. And what did you do with the shotgun?

9 A With the shotgun I am swabbing areas because I'm
10 looking to see who may have handled the shotgun. So I swabbed
11 areas that are where you would normally hold a shotgun. So I
12 swabbed the grip area, and then on the slides of the --

13 Q Can you show us where you would have --

14 A Sure. Yeah. So I swabbed like this. I'm trying to
15 (inaudible).

16 Q If you touch the screen, you can drag and circle.

17 A Yeah.

18 THE COURT: Yeah. If you just drag your finger,
19 it'll make a --

20 THE WITNESS: There we go. I swabbed that area,
21 which I call this a grip. Then I also swabbed on a -- it's a
22 pump action shotgun. So right there, this area here where the
23 pump part is, I swabbed that because there's usually some
24 ridges which kind of help when somebody's holding it. They can
25 slough off some skin cells a lot more because of all the

1 ridges, and then I also swabbed the trigger. So those are
2 known areas that when you're holding a shotgun where you might
3 handle, and I took it -- I did one swabbing on all of those
4 areas.

5 BY MS. LUZAICH:

6 Q And what, if anything, did you learn?

7 A I obtained a DNA profile from that swabbing, which is
8 consistent with a distinguishable mixture of two individuals
9 with at least one being a male, so distinguishable meaning I
10 was able to determine the person that contributed more DNA than
11 the other individual, and there's two individuals on the
12 swabbing profile, and at least one of those individuals is a
13 male.

14 Q Okay. So was one a major and one not?

15 A Yes.

16 Q And did you actually -- oh, showing you what's been
17 marked as State's Proposed Exhibit 73, did you compare a
18 diagram that would help illustrate your testimony?

19 A Yes, I did.

20 Q And is that the diagram that you prepared for me for
21 court?

22 A Yes, I did.

23 MS. LUZAICH: Move it into evidence.

24 THE COURT: Any objection?

25 MR. ERICSSON: No, Your Honor.

1 THE COURT: All right. That'll be admitted.

2 (State's Exhibit No. 73 admitted.)

3 BY MS. LUZAICH:

4 Q Okay. So tell me what are we looking at?

5 A It's the same. It's a summary of -- the first two
6 columns is a summary of what the profile looked like. Well,
7 the first column is what the profile looked like, and as you
8 can see, predominantly you see numbers all the way down. That
9 typically comes from the individual that contributed more DNA.

10 And then there's a few areas where there's a star or
11 an asterisk. That means that there were numbers that were
12 below my interpretation threshold, and that gave me an
13 indication of a second person being in that sample, and I
14 cannot make any comparison to that part of the profile.

15 So after examining, looking at the mixture, I see
16 that I have a major, meaning I have a profile that I can see
17 clearly. So then I pulled out or lifted what that major
18 profile is, and I went all the way down. The only location
19 that I could not do with these 7S820. I put down that it's
20 inconclusive. It just means that I could not conclusively say
21 that 10 belongs to the major contributor.

22 So and once I did the major, I will compare it to
23 Calvin Elam and Arrie Webster, and I also compared it to
24 Elizabeth, and I checked to see if there is any consistency in
25 the major profile with their samples, and all three individuals

1 were excluded from the major profile.

2 Q Okay. They were all excluded. So none of those
3 three individuals were in the major profile?

4 A Correct.

5 Q What about in the minor profile?

6 A And the minor profile was limited. So I could not
7 make any comparison to any reference standard.

8 Q Okay. So you couldn't say anything about the minor?

9 A Correct.

10 Q Were you asked to do something afterwards?

11 A Yes. I was asked to examine a swab that was taken
12 from a broom handle.

13 Q And was that shortly thereafter?

14 A Yes.

15 Q Was it your understanding that there was also
16 fingerprinting done of the broom handle?

17 A No. I just got the swab. So I didn't see the broom.
18 So I didn't know if there was any additional testing done.

19 Q So they -- one would intentionally swab first and
20 then send it for fingerprinting, correct?

21 A That is correct.

22 Q Okay. So did you -- were you able to obtain a DNA
23 profile from the broom handle?

24 A I was not able to obtain a DNA profile from the broom
25 handle swab.

1 Q Why is that?

2 A It is possible --

3 Q I'm sorry. Did you actually get the broom handle?

4 A I did not get the broom handle --

5 Q You just got the swab.

6 A -- I just got the swabbed.

7 Q Okay. I just asked you that. Do you know why you
8 were unable to obtain a broom handle, a DNA profile from the
9 broom handle swab?

10 A There are many reasons why. I cannot conclusively
11 say why, but it could be that the broom handle doesn't have DNA
12 on it. It could be that it was wiped clean. It could be that
13 the surface just was not a good surface that when we swabbed it
14 that DNA would adhere to -- or cells would adhere to. It could
15 be that that broom handle was never used. There are many
16 reasons why DNA will not be left behind.

17 Q Can you wipe DNA off an item?

18 A Yeah. I could touch this table and come back with a
19 wet towel and wipe it and swab it afterwards, and more than
20 likely you will not get my DNA on that.

21 MS. LUZAICH: Okay. Thank you.

22 I would pass the witness.

23 THE COURT: All right. Cross.

24 Is everybody okay without a break? Does anybody need
25 a break?

1 All right. Cross.

2 CROSS-EXAMINATION

3 BY MR. ERICSSON:

4 Q Good afternoon.

5 A Good afternoon.

6 Q First question, these two documents that have been
7 introduced as exhibits, when did you prepare these?

8 A I'm sorry?

9 Q When did you prepare these nice colored charts?

10 A Oh, I prepared those yesterday.

11 Q Yesterday. Okay. So you prepared these to help with
12 this trial; is that right?

13 A Yes.

14 Q Okay. Now, and do you still have those in front of
15 you there?

16 A Those, no, I don't.

17 THE CLERK: They're right here.

18 MR. ERICSSON: Okay. Over here. Okay.

19 BY MR. ERICSSON:

20 Q All right. Is that showing up on your screen there?

21 A Yes.

22 Q Now, I'm showing you the one that's indicating Lab
23 Item 8, the swab from the end of the barrel of the H&R 1871
24 shotgun, and over on the right-hand side there --

25 A Yes.

1 Q -- you have alleles below 200 RFU suitable for
2 comparison. What does RFU stand for?

3 A It's relative fluorescent unit.

4 Q And who is it in your analysis that determines to
5 which RFU level you are using?

6 A We -- before we can use any of the kits, any of the
7 interpretation guidelines that we use in the lab, we undergo
8 internal validation, meaning we will put through the process of
9 multiple samples, and our technical leader in the laboratory
10 is, after looking through all the data that's generated in the
11 internal validation, looking at all these profiles, both single
12 source as well as mixtures, will find a conservative
13 interpretation threshold, meaning we are confident that
14 anything above that is truly part of the DNA profile.

15 Anything below can still be part of that profile, but
16 you also run into some situations during the DNA process that
17 causes some variability. So for single source, we're allowed
18 to go below that threshold because as I mentioned, we get half
19 from mom, half from dad. So you typically get two numbers at
20 each location, and there's no indication of a mixture, meaning
21 no indication of a second individual. So we know that both
22 those numbers come from the same individual.

23 With mixtures, that interpretation threshold comes
24 into play a lot more strictly, but anything about that I can
25 say that that profile belongs to an individual, or it belongs

1 to multiple individuals. Anything below that I cannot make any
2 comparison because I'm not a hundred percent sure how many
3 individuals are in that or if those areas or those peaks are
4 reproducible.

5 Q Okay. That was a pretty long explanation for the
6 question of who decides what the RFU level is. So in your lab
7 you've got a supervisor or somebody above you who decides that?

8 A Yes. It's our technical leader.

9 Q Okay. So you're told what levels you can use for
10 various items of evidence that you're evaluating?

11 A Yes, based on our internal validation.

12 Q Okay. Okay. So and you gave the description RFU
13 stands for relative fluorescence unit. Can you describe for
14 the jury what that means.

15 A That just means that -- I mentioned earlier that our
16 kit that we use during the application for making millions of
17 copies has tags, fluorescent tags attached to the different DNA
18 molecule that I'm looking for, and as they're coming off the
19 instrument, there's a camera, and what it does is it pretty
20 much excites that tag. So it can see that this is coming off
21 the instrument, and this is where it goes on the graph, and the
22 relative fluorescent unit is that fluorescent tag. It tells
23 you how high or how much of it.

24 So 200, that's giving me the peak heights, how -- as
25 I mentioned, that there's peaks on a graph. It's how high

1 that -- how much of that fluorescence is seen when it goes past
2 that camera. So that 200, that means there's that much unit
3 coming off at that -- for that one particular number at that
4 location.

5 Q And what is the scale that the RFU encompasses? From
6 zero to what high number?

7 A We have what's called the analytical threshold which
8 is different. It's lower. That starts at 35 RFUs. We can get
9 zero, but we don't go below that because our instruments
10 sometimes have background noise.

11 Q Okay.

12 A Which can get into that zero to 35. So from 35 to
13 200, we know that those could be real peaks, meaning part of
14 the profile, or they could be product, byproduct from the
15 process. So that's why we don't make any interpretations if
16 it's below that 200 in a mixture. Anything above 200, we know
17 that it's not the noise and that we're confident that it's not
18 part of the byproduct or potential byproduct from the process.
19 So we know that it truly is part of that DNA profile or
20 mixture.

21 Q What is the top level of the scale?

22 A That varies depending on the instrument we use. The
23 current instrument we use, it can -- I've seen a peak go as
24 high as 8,000, but that's pretty saturated, but we typically
25 like to see it around 3,000, 4,000 before it starts to get

1 really saturated, and the data is very difficult to look at.

2 Q So the instruments that you're using right now,
3 you've seen it go as high as 8,000 on the top of the scale; is
4 that correct?

5 A Yes, where it starts to not get very reliable like
6 because it's so saturated. So we tend to go back and run it to
7 see if it will put it in a normal range. Sometimes we can't
8 get that because there's just too much DNA there.

9 Q And if I understand what you're saying, normal range
10 would be 3- to 4,000?

11 A Ish, yes.

12 Q Okay. So on this particular testing, all of the
13 numbers over in the left-hand column that are in the red, those
14 are below the 200 RFU, correct?

15 A Yes.

16 Q Showing you the exhibit that is marked as 70 -- that
17 is Exhibit 73. So is it accurate to say that somebody other
18 than Calvin Elam is the major contributor to the sample that
19 you took --

20 A Yes.

21 Q -- from the shotgun?

22 A Calvin is excluded. So that is not his profile.

23 Q And what was the time period that you obtained the
24 samples from the shotgun that you personally took?

25 A Time period is?

1 Q Do you know the date when you obtained those samples?

2 A I can look at my notes.

3 Q Sure. Yeah, you can look at your report.

4 A From the -- the shotgun itself that I swabbed?

5 Q Yes.

6 A I swabbed the item on May 12th, 2015. That's the
7 day that I opened the shotgun and swabbed those areas on the
8 shotgun.

9 Q And do you know who it was that took the swab sample
10 from the end of the barrel of the shotgun?

11 A The end of the barrel, it was booked by -- it was
12 booked by Mr. Grover, B. Grover.

13 Q Okay. And do you know the date that the sample from
14 the end of the shotgun was obtained?

15 A That it was actually swabbed?

16 Q Correct.

17 A I don't know when the swabbing was taken, but I know
18 that I obtained that swab on the May 11th, 2015. That's when
19 I examined it.

20 MR. ERICSSON: Okay. Thank you very much.

21 I have no further questions.

22 THE COURT: All right. Redirect?

23 MS. LUZAICH: Nothing further.

24 THE COURT: Do we have any juror questions for the
25 witness?

1 All right. I see no additional questions. Thank you
2 for your testimony. You are excused at this time.

3 THE WITNESS: Thanks.

4 THE COURT: No other witnesses for today?

5 MS. LUZAICH: Well, the officer is not my fault.
6 He's sick.

7 THE COURT: All right. Counsel, approach.

8 (Conference at the bench not recorded.)

9 THE COURT: All right. Ladies and gentlemen, we're
10 going to go ahead and take our evening recess. We will
11 reconvene tomorrow at 10:30.

12 During the evening recess you're reminded that you're
13 not to discuss the case or anything relating to the case with
14 each other or with anyone else. You're not to read, watch or
15 listen to any reports of or commentaries on the case, person or
16 subject matter relating to the case. Don't do any independent
17 research by way of the Internet or any other medium. Do not
18 visit the location at issue, and please don't form or express
19 an opinion on the trial.

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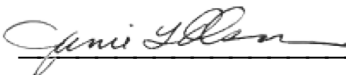
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THE COURT: Please place your notepads in your chairs and follow the bailiff through the double doors. We'll see you back at 10:45 tomorrow -- I'm sorry, 10:30. 10:30. I was looking at the clock, and I saw 45, and I got confused. 10:30 tomorrow.

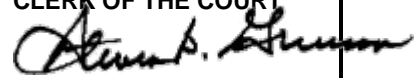
(Proceedings recessed for the evening 3:45 p.m.)

-oOo-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case.



Janie L. Olsen
Transcriber



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,
Plaintiff,

vs.

CALVIN THOMAS ELAM,
Defendant.

CASE NO. C305949-1
DEPT NO. XXI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

FRIDAY, JUNE 23, 2017

JURY TRIAL - DAY 5

APPEARANCES:

FOR THE STATE: ELISSA LUZAICH, ESQ.
Chief Deputy District Attorney

FOR THE DEFENSE: THOMAS A. ERICSSON, ESQ.

RECORDED BY: SANDRA PRUCHNIC, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

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1 **LAS VEGAS, CLARK COUNTY, NEVADA, JUNE 23, 2017, 10:40 A.M.**

2 *** * * * ***

3 (In the presence of the jury.)

4 THE COURT: All right. Court is now back in session.
5 The record should reflect the presence of the State through the
6 deputy district attorney, the presence of the defendant and his
7 counsel, the officers of the court, and the ladies and
8 gentlemen of the jury.

9 And is the State ready to call its next witness?

10 MS. LUZAICH: Yes. The State would call Jeri
11 Dermanelian.

12 **JERI DERMANELIAN**

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

15 THE CLERK: Thank you. Please have a seat. State
16 and spell your first and last name for the record.

17 THE WITNESS: My name is Jeri Dermanelian. J-e-r-i,
18 D-e-r-m-a-n-e-l-i-a-n.

19 THE COURT: Thank you.

20 Ms. Luzaich.

21 MS. LUZAICH: Thank you.

22 DIRECT EXAMINATION

23 BY MS. LUZAICH:

24 Q Good morning, ma'am. Can you describe for the
25 members of the jury what do you do for a living?

1 A I'm a Sexual Assault Nurse Examiner.

2 Q What is a Sexual Assault Nurse Examiner?

3 A A registered nurse that does sexual assault exams on
4 adolescents, pediatrics and adults.

5 Q For how long have you been a sexual assault nurse
6 examiner?

7 A Coming up to 10 years.

8 Q And you said that in order to be a sexual assault
9 nurse examiner you're also an RN. Is that a registered nurse?

10 A Yes.

11 Q Can you describe for the members of the jury what
12 training and education you have first that qualifies you to be
13 a registered nurse.

14 A I went to school at Lake Superior State University.
15 It was Lake Superior State at the time I went. Now, it's a
16 university in Sault Sainte Marie Michigan -- and received my
17 associate's degree in nursing, and I finished that in 1980, and
18 then I went to work in a rural hospital called William Bee
19 Ririe hospital in Ely, Nevada. And then back in 1991, I went
20 to UNLV and finished my bachelor's in nursing. And in order to
21 keep your registered nursing license, every two years you have
22 to do 30 years of continuing education units among that.

23 Q Do you mean 30 hours?

24 A I'm sorry. 30 hours. Thank you.

25 Q So in those years, have you worked as a registered

1 nurse?

2 A Yes.

3 Q Where have you worked as a registered nurse?

4 A I worked 30 years at the County hospital at
5 University Medical Center. I worked almost five years in Ely
6 at the William Bee Ririe Hospital. I worked in addition to at
7 University Medical Center as an emergency department nurse. I
8 started out as a staff nurse, then went to charge nurse and
9 became the educator, worked in management, managed, like, the
10 peds ER, the adult ER, did trauma resuscitation. Ultimately I
11 became a house supervisor at University Medical Center, and
12 then just before I retired, I had been the on-duty
13 administrator for several years for the hospital.

14 In addition to that, I've always worked multiple
15 jobs, more than 40 hours a week. So while I would work 40
16 hours at UMC, for five years I would work, like, 32 hours at
17 St. Rose Dominican Hospital in their ICU and in their ER, and
18 then in addition to that, for the last 20 years, I've owned a
19 small company called Academy for Career Enhancement where I do
20 training and teaching, and I've actually taught advanced
21 cardiac life support, pediatric life support, trauma nurse core
22 courses, how to be an ER nurse -- it's a 16-week course on
23 that -- and then I've done the 40-hour course on how to be a
24 sexual assault nurse examiner, and then I've had other jobs.
25 I've always worked a lot.

1 Q What does a sexual assault nurse examiner do?

2 A We offer patient sexual assault examinations. They
3 have choices as to which type of exam they want. There are
4 four choices that they have.

5 Q What are the four choices?

6 A The first option they need to know is that they don't
7 have to do anything if they choose not to. There's never any
8 force used in a sexual assault exam, and they have the power to
9 say when their body is being touched. So we let them know at
10 the end of our conversation if they don't want an exam they
11 don't have to have an exam, and no force will ever be used.

12 The second choice that they have is they can do the
13 medical portion of a sexual assault exam, which means that
14 there's no strings attached to this exam. It just concentrates
15 on the medical portion of the head-to-toe assessments,
16 sexually-transmitted infection. Blood testing would be done,
17 pregnancy prevention would be offered. Antibiotics to prevent
18 gonorrhea and chlamydia would be offered. There's medical
19 conditions that are identified during the head-to-toe
20 assessment. They will be addressed.

21 For a female, generally a pelvic exam would be
22 initiated, and if there's anal trauma, we will try and do an
23 anal assessment with an anal scope, but there's no generally
24 law enforcement, or if law enforcement has been involved, then
25 there's no further law enforcement for the medical only exam.

1 The third option that the patient has is they can
2 take an anonymous. I call it sometimes Jane Doe or John Doe
3 for patients who aren't sure if they want to go through the
4 legal process or not, but they may want to have all of the DNA
5 evidence, the sexual assault kit collected, and so generally
6 it's the medical exam, so everything that was in option two
7 moves over into option three for them.

8 At this time they have 30 days to make a decision
9 after they have their exam if they want to go forward with law
10 enforcement or not. So the DNA kit is secured. There's
11 photographs of their body taken, including their vagina for a
12 female, their cervical OS of their uterus, their rectum, and
13 the DNA evidence is held for 30 days while they decide if they
14 want to go forward with the, you know, with the criminal
15 investigation piece.

16 The fourth option is the full sexual assault kit. So
17 everything in option two and three moves over into option four,
18 and the full kit would include the DNA samples. Generally we
19 take them from the back of the throat, the cheeks, the hands,
20 the vagina for a female, the cervical OS of her uterus and her
21 rectum, and anywhere else that we may find injuries that are
22 present during the exam.

23 We use a lot of specific tools. We use a crime light
24 or a forensic light. We use a light staining microscope
25 looking for sperm. We use a dye called toluidine blue dye to

1 try and find injuries. We use a secure digital forensics
2 imaging photograph technology that allows us to filter certain
3 pictures to show injury patterns that may be real subtle for
4 especially laypeople to see, and we use an anal scope when the
5 patient allows us to, speculum for the females that goes into
6 the vagina, and there are other tools that we use.

7 Q You talked about the female exam. Do you also do
8 sexual assault exams on men?

9 A Yes.

10 Q You had mentioned that you took a 40 hour Sexual
11 Assault Nurse Examiner course. What else -- well, when was
12 that?

13 A That was back in -- I'm estimating June of 2008 or
14 just prior to that. It's a 40-hour course that Rose Heart put
15 on. The previous owners of Rose Heart put that course on, and
16 so I took their course and passed their tests. In addition to
17 that, I did the national -- International Association of
18 Forensic Nursing exams.

19 Q What other training have you had pursuant to being a
20 sexual assault nurse examiner?

21 A In addition to taking the 40 hour course, then I did
22 approximately 40 to 100 hours with the doctors and the nurses
23 that are sexual assault nurse examiners to clinically do the
24 hands-on portion of a sexual assault exam, and they had to
25 evaluate whether I had the skills and the training to go

1 forward with the International Association of Forensic Nursing
2 test certification that they have. So my certifications
3 include Sexual Assault Nurse Examiner for adolescents and
4 adults, and it also includes the training for and passing of
5 the national test for pediatrics. In addition to that, I'm a
6 lifetime member of the International Association of Forensic
7 Nursing. I'm also a lifetime member of the Emergency Nurses
8 Association.

9 Q And do you also train future sexual assault nurse
10 examiners? Do you teach that 40-hour course now?

11 A Yes, a 40-hour course, and then I actually do the
12 hands-on clinical, just like I was trained, too. So we offer
13 that. In addition to that, to keep your certifications the
14 national requirements are that you have to take so many
15 continuing education classes every three years to -- or retake
16 the written exam in order to keep your certifications up.

17 Q So have you been working as a sexual assault nurse
18 examiner since 2008?

19 A Yes.

20 Q Approximately how many examinations have you
21 conducted or participated in?

22 A My estimate is approximately 6,000, 6,500 exams.

23 Q And you mentioned the four options. In the 6,000 to
24 6,500 exams that you've participated in, has somebody done,
25 like, at least one of each of the four?

1 A Absolutely, yes.

2 Q So not everybody wants to go to the police with it
3 though they have exams?

4 A That's correct.

5 Q And does that actually happen often?

6 A It actually does.

7 Q And then there are some that just can't decide, and
8 you talked about the Jane Doe exams. Does that also happen
9 often?

10 A Yes.

11 Q And then finally there are people who want the exam,
12 and they want to go through the court process, et cetera,
13 correct?

14 A Yes. The smallest number out of all of those would
15 be the decline. Out of all of the exams, there's -- if you
16 were to add up in totality all the numbers, the option number
17 one is picked the least.

18 Q Now, when you talk about sexual assault exams, how do
19 people come to you for a sexual assault exam?

20 A It can come in several different formats or present
21 in several different manners. They can walk into the adult
22 emergency department at the county hospital. They can be
23 transported by ambulance. They can actually enter in through
24 trauma resuscitation. They can enter through the pediatric
25 emergency department. They can enter in through the emergency

1 department. They can actually be brought in by law
2 enforcement, any of the agencies. They can be brought in by
3 private vehicle or family members. There's a lot of different
4 avenues for them to present. They can be transferred from
5 another hospital for the exam. There's a lot of different
6 ways, mechanisms that the patients come into the ER.

7 Q Do most of the individuals come to you through law
8 enforcement?

9 A I would say yes, they may present or request law
10 enforcement. So I would say the majority want to talk to law
11 enforcement. Yes.

12 Q No. But do -- does law enforcement request most of
13 the exams that you do?

14 A Oh. I would say yes.

15 Q Okay. Where do you conduct these examinations?

16 A In the adult emergency department, there are two
17 rooms. One's called the quiet room. So the patients, when
18 they present, they're placed into the quiet room. So they're
19 not out in the general waiting area, and then we have a sexual
20 assault exam room that we call the SANE room.

21 Q Do you and your company do all of the sexual assault
22 exams on adults in Las Vegas?

23 A Yes.

24 Q When you have somebody come see you, what is the
25 purpose behind your interacting with them?

1 A The purpose is to offer them a sexual assault exam,
2 and we do a medical component, which is important for the exam
3 process to occur, and we take medical history, which is very
4 important for the exam process to take place.

5 Q And sometimes to collect evidence as well?

6 A And then when they choose that third or the fourth
7 option, we will do the sexual assault kit and collect the
8 forensic evidence for them.

9 Q Now, most people think of a sexual assault mostly
10 because of what you either see on TV or in the movies or
11 something as a man forcing a penis into a woman's vagina. Of
12 all of the interactions that you have, is it a whole lot more
13 than that?

14 A Yes.

15 Q Have you seen many other situations where different
16 objects have been used?

17 A Yes.

18 Q Is that fairly common?

19 A To the vagina, yes.

20 Q And sometimes to other parts of the body as well?

21 A To the rectum, to the mouth, to any orifice, any hole
22 that you have in your body.

23 Q So there's kind of no limit to what you've seen over
24 the years?

25 A That's correct.

1 Q I'm going to direct your attention, if I could,
2 specifically to March 12th of 2015. Were you asked to
3 perform a sexual assault evaluation on a lady named Arrie
4 Webster?

5 A Yes.

6 Q And did Ms. Webster come to UMC to get that done?

7 A Yes. She came in on her own.

8 Q So there was no police involvement with her at the
9 time?

10 A That she presented, there was no police with her,
11 correct.

12 Q What time of day was it that she came to UMC?

13 A Approximately 6:30 p.m.

14 Q And what time was it that you actually saw her?

15 A 7:00 p.m.

16 Q When somebody comes to UMC for a sexual assault
17 evaluation, how does that transpire? They arrive and then
18 what?

19 A When they -- this patient would've walked up to the
20 triage nurse. There's an area in the waiting area that has a
21 nurse, and behind the nurse it's a security officer. So
22 there's a big sign that says, you know, if you need to be seen,
23 please come up and let the nurse know. So as soon as the
24 patient's identified as a sexual assault victim, then the nurse
25 will place the patient in the quiet room so they get out of the

1 general mill of the waiting room.

2 And then admitting clerks are notified to make a
3 chart, and then the triage nurses, they now call them RMA
4 staff, where they will go and gather the patient, or sometimes
5 they'll go to the quiet room and gather their allergies, their
6 medications that they currently take and a set of vital signs
7 and general medical history will be obtained, and then the
8 triage nurse will contact the on-duty sexual assault nurse
9 examiner, and then we will go in if we're not already there.

10 Q So when Arrie came to UMC, she would've seen a triage
11 nurse first, correct?

12 A Correct. Correct.

13 Q And whatever information that that triage nurse
14 obtained, she would then share it with you; is that correct?

15 A Yes.

16 Q Where did you meet with Arrie?

17 A I met Arrie in the quiet room, introduced myself and
18 then took her to the sexual assault exam room.

19 Q And can you describe for me her demeanor at the time.

20 A She was quiet with her history taking. When I would
21 ask her information about the history of the sexual assault,
22 she did not talk a lot.

23 Q Are some patients that you deal with -- well, I mean,
24 are all the patients you deal with different?

25 A Every case is different.

1 Q Are some, you know, just chatter, chatter, chatter,
2 and some you basically have to pull teeth to get even their
3 name and date of birth out of them?

4 A That is true.

5 Q And then all the spectrum in between?

6 A Yes, ma'am.

7 Q Where was Arrie on that spectrum?

8 A She was on the quiet end of that spectrum.

9 Q Did you have a difficult time getting information
10 from her?

11 A Yes. I ended up going to a lot of questions yes, no,
12 yes, no, yes, no.

13 Q What is your goal when you're first sitting down with
14 a patient?

15 A We try and let the patient present whatever
16 information they're comfortable presenting with, and if they're
17 not wanting to talk about the event, then generally I will go
18 in to asking questions about general history, medical history,
19 and then generally I will go through options with them so that
20 I can try and establish a level of trust with them, and then
21 we'll start going into the questions regarding specifics on the
22 sexual assault.

23 Q So is the beginning of your interaction with a
24 patient more you're just trying to get them to give you a
25 narrative?

1 A Generally I will ask them what are they comfortable
2 with. Just I will ask them go ahead and tell me what you're
3 comfortable telling me. You are here today for a sexual
4 assault exam. Tell me what you want to tell me.

5 Q And how did Arrie do with that?

6 A She was pretty quiet, and I know that because I had
7 to go to the yes-no-yes-no questions with her.

8 Q So does that mean that she just wasn't giving you a
9 narrative?

10 A She did not give me much of a narrative.

11 Q And are there a lot of people that are like that when
12 you interact with them?

13 A There is. It's a surprisingly larger number than
14 what you think when a patient first comes in. They're trying
15 to establish whether I'm trustworthy, to be trusted with the
16 information that they're going to give.

17 Q And do you find that a lot of people find it
18 embarrassing to talk about?

19 A It can be extremely embarrassing and stressful for
20 them to have to talk about a sexual assault.

21 Q I'm sorry. I lost my train of thought. You said
22 that Arrie was not giving you any kind of narrative. So you
23 had to go to the yes or no questions. Is there in the course
24 of your standard evaluation of a patient a series of questions
25 that you ask every single patient?

1 A Yes.

2 Q And where in the beginning to middle to end of your
3 entire evaluation do those questions generally come? The yes
4 or no questions.

5 A That would be before I start the head-to-toe
6 assessment, and the reason that I would do that is so that I
7 know where to focus based off of the patient's information
8 because they generally come in as a blank slate, and I have to
9 fill that in with the information that they give me.

10 Q So even when police are involved in or at the
11 hospital, you don't know a whole lot. You're getting what you
12 get from the patient?

13 A Sometimes if law enforcement is present, they'll give
14 me a briefing, and then sometimes they don't give me a briefing
15 because I will start the exam without getting a briefing. So
16 sometimes I'm just starting with just the patient, which again
17 is a blank slate. So I try and let them drive the exam and let
18 them know that they're in charge, what happens to their body,
19 and I try and explain why I'm asking the questions that I'm
20 asking, why it's important or relevant for them.

21 Q Do you find that sometimes the patients don't always
22 understand what you're saying?

23 MR. ERICSSON: Objection. Calls for speculation.

24 THE COURT: Overruled.

25 THE WITNESS: Many times the patients will give me a

1 verbal cue that they're not quite understanding what I'm
2 saying, or they'll tell me that they don't understand what I'm
3 saying, and that's one of the things that we do let the
4 patients know. If you don't understand what I'm saying, just
5 tell me that you don't understand, and I'll say it in another
6 manner until you're comfortable with understanding what I'm
7 asking you.

8 BY MS. LUZAICH:

9 Q Do sometimes people just not want to let on that they
10 don't understand?

11 A Yes.

12 Q Did you offer Arrie all four options for the exam?

13 A I did.

14 Q Which one did she select?

15 A She took the fourth option.

16 Q Which is?

17 A The full forensic sexual assault exam, including
18 requests for the criminal investigation of a sexual assault and
19 the medical component.

20 Q Due to the fact that you weren't able to get any kind
21 of narrative out of her, did you at least try to get a little
22 bit of information as to what had occurred?

23 A Yes.

24 Q And what did she tell you?

25 A That she had been blindfolded, and the term she used

1 was hogtied, and that she had penetration to her vagina and
2 her -- she possibly to her rectum with a broomstick.

3 Q Okay. Now, was that in the narrative, or was that in
4 the yes or no questions?

5 A That came out in the yes or no questions.

6 Q Okay. First I want to know, in the -- in any kind of
7 narrative, what did she tell you?

8 A That she was a victim of a sexual assault, that she
9 had been blindfolded and hogtied.

10 Q And was that pretty much all you got in narrative
11 form?

12 A Pretty much.

13 Q And that's why you went to the yes or no questions?

14 A Yeah. And in addition to that, I ended up calling
15 3-1-1 to try and find out what was going on because I could not
16 really follow her format of what she was telling me initially.

17 Q Was she a little bit difficult to understand -- let
18 me rephrase that. You know, some people can speak linear
19 about, you know, an event -- the beginning, the middle, the
20 end. Was she not quite linear?

21 A She would answer yes or no questions, and that was
22 about it. She didn't give a whole lot of detail on anything
23 that I asked her.

24 Q And is that uncommon?

25 A Not necessarily, no.

1 Q So when you couldn't get anywhere with the narrative
2 and you went to the yes or no questions, what are the first
3 questions that you asked?

4 A What -- can she give me the date and the time of the
5 sexual assault?

6 Q Was she able to do that?

7 A She gave me the date, and then we had to discuss the
8 time, and so the best that she could give me was that it was
9 sometime after 1:00 in the afternoon. So on my doc, you know,
10 it says greater than 1:00 p.m.

11 Q Okay. So that's how you would've documented just
12 greater than 1:00 p.m.?

13 A Yes.

14 Q Okay. So after that, what questions would you ask?

15 A Was it a male or a female that sexually assaulted
16 her, the number of offenders, and she gave me it was a male,
17 one offender, and did she know this person, and then she
18 described this person is someone that she called, in quotes,
19 cousin.

20 Q Okay. And then what did you ask?

21 A If since the sexual assault had occurred had she had
22 any further sexual intercourse with any type of kissing,
23 licking, biting, intercourse with oral, vaginal or rectal with
24 any -- anyone else.

25 Q What do you ask that?

1 A Because the DNA may be present from a consensual
2 partner, and it's not totally uncommon for somebody to go
3 necessarily to seek comfort and have intercourse after a sexual
4 assault occurs. They will go to a person that they trust and
5 try and gain comfort from them, and sometimes that may lead to
6 intercourse.

7 Q In your years of dealing with sexual assault, have
8 you learned that sexual assault is not necessarily about sex,
9 but about power and control?

10 A That's exactly what it's about is power and control.

11 Q So when you asked her about any subsequent sexual
12 contact, what did she tell you?

13 A No, none.

14 Q Then what did you -- than what did you ask her?

15 A I went through the list of since the sexual assault,
16 have you changed your clothes?

17 Q And what did she tell you?

18 A Yes.

19 Q And would it help if you reviewed your report, or do
20 you know everything in it?

21 A I -- I always look at my report.

22 Q Okay. Just so that everybody's clear, at the time
23 that you're doing this, you generate a document; is that
24 correct?

25 A Yes.

1 Q And there's actual boxes that you check?

2 A Yes.

3 Q And is that what you're talking about?

4 A Yes.

5 Q Okay. So you asked if she changed her clothes, and
6 she told you, yes. Then what did you ask?

7 A If she had taken a bath or a shower.

8 Q And?

9 A She had washed and indicated she had taken a shower.

10 Q Okay. And what else?

11 A Had she peed, and had she pooped? Yes, to both of
12 those answers.

13 Q Okay.

14 A Had she vomited, no. Had she ate and drank, yes, to
15 both of those. Had she brushed her teeth and had she used any
16 mouthwash? Had she douched, inserted anything into her vagina?

17 Q And I'm sorry. Back to when you asked her if she
18 brushed her teeth or used mouthwash, what was her response?

19 A No, I believe.

20 Q Would you -- would it refresh your recollection to
21 refer to your report?

22 A Yeah. Oh, yeah, she had brushed her teeth and used
23 mouthwash.

24 Q And drank fluids?

25 A And drank fluids and ate.

1 Q Okay.

2 A She had not douched. She had not put anything into
3 her vagina. She had not used any peri pads or collection
4 device outside of the vagina to collect fluids or blood or any
5 types of debris.

6 Q How do you phrase those type questions?

7 A I just ask do you know what the term douche means,
8 and they'll give me their answer, and then I'll say have you
9 douched, and if they don't understand, then I explain what
10 douche is, where you wash your vagina out with any kind of a
11 fluid. It can be like a product called Summers Eve, and I will
12 describe the bottle and the little insertion nozzle that's
13 used, inserted into the vagina, and then you squeeze the bottle
14 and wash the vagina out.

15 Q Do you remember whether or not she knew, understood
16 or --

17 A I marked no after I was sure she understood what
18 douche was.

19 Q Okay. What else?

20 A Then I asked her about the penetration.

21 Q Now, how did -- when you switch from what have you
22 done since to the penetration-type questions, how do you phrase
23 the transition?

24 A I let them know I'm going to ask you questions now
25 about what part of your body was penetrated, and I'll say did

1 you have a penis put into your mouth. This is a yes-or-no
2 answer, and her answer was no. Did you have any other objects
3 placed into your mouth? Yes or no, and the answer was no. Did
4 you have a penis inserted into your vagina? Yes or no. She
5 indicated, yes. Did you have a finger inserted into the
6 vagina, yes or no? She indicated, yes. And did you have a
7 tongue inserted into the vagina? Yes or no? She indicated,
8 yes. And then she indicated there may have been a broomstick
9 as a object because I will ask were there any other objects
10 inserted into your vagina.

11 Q And then what?

12 A The same -- and then the same questions asked on the
13 rectum. Was your rectum penetrated by a penis? And she
14 answered unsure, that she was unsure if there was a penis,
15 finger or a tongue inserted into her rectum. She indicated
16 that there was possible broomstick inserted into her rectum.

17 Q And you wrote, I was blindfolded. Is that how she
18 explained it?

19 A Correct. So that's why she was not sure of exactly
20 what the object was, but she thought something had penetrated
21 her rectum on her --

22 MR. ERICSSON: Objection. That calls for
23 speculation. This witness isn't sure what the --

24 THE COURT: State the question again. The, you know,
25 I am -- it's the --

1 MS. LUZAICH: What her response -- I mean, she's just
2 repeating what --

3 THE COURT: Yeah. It's overruled.

4 MS. LUZAICH: -- the response was.

5 BY MS. LUZAICH:

6 Q And this is not your opinion, right?

7 A No.

8 Q It's Arrie's response?

9 A Correct.

10 Q That we're discussing?

11 A Yes.

12 Q Did you ask her more -- did you ask her more
13 questions?

14 A Yes.

15 Q What more questions?

16 A I would have asked her if there was ejaculation into
17 the vagina. First you have to make sure that the person
18 understands what the term ejaculation means, and so we'll
19 ascertain what their answer is, and as long as I'm confident
20 that the patient understands what the word ejaculate means --
21 which many times they'll use street acronyms, nutting or semen
22 or sperm or fluid, or white milky material. They use all types
23 of different terms -- as long as I'm clear that they understand
24 what the word ejaculation means, then I ask was there
25 ejaculation into your vagina. That's a yes or no or unsure

1 answer, and she indicated that she was not sure. And then I
2 asked her if there was ejaculation anywhere outside of her
3 body, and she was unsure, and then I go down and ask the
4 questions --

5 Q And I'm sorry. When you say she was unsure, does
6 that mean her answer was I don't know?

7 A She wasn't sure because she was blindfolded. That's
8 the answer that she gave me.

9 Q So did she say I don't know, or did she say something
10 else?

11 A Specifically I can't answer that. She was unsure if
12 there was ejaculation that took place on her body anywhere.

13 Q So you don't know what her words were?

14 A No, I didn't document that in quotes.

15 Q Okay. What else did you ask?

16 A I would've asked during the assault was there a
17 condom used, and she was unsure, and I asked if there was any
18 type of birth control used, and she stated no. I asked her if
19 there was any type of contraceptive foam used, and she was
20 unsure. I asked her if there was any type of lubrication used.
21 She was unsure, and I asked her if there was any other type of
22 spermicide product used, and she was unsure.

23 Q And again when you say she was unsure, is it possible
24 that her words are just I don't know?

25 A Yes. That's a common response.

1 Q Did you -- well, is it at that point that you do an
2 exam, or is it after?

3 A No, I would continue on with asking the questions on
4 the second page of that.

5 Q Okay. So what other questions did you ask?

6 A You know, are you currently on your menstrual cycle?
7 Are you -- is it possible you could be pregnant, or are you
8 pregnant right now, and her answer was no, and then I asked
9 when was your last menstrual cycle, and she gave a date of
10 February 2nd, 2000 -- I'm sorry, February 20th of 2015. I
11 asked her when was your last consensual intercourse, and she
12 stated one year ago; approximately August of 2014 was her last
13 consensual intercourse.

14 And then I would ask during the sexual assault, were
15 you licked with a tongue anywhere on your body, and generally
16 I'll say your face, your breast, your boobs, your abdomen, your
17 back, your butt. I just go down the whole body, and she stated
18 no. I asked if she was kissed again anywhere on your body, and
19 she stated no. I asked if she was bitten with teeth anywhere
20 on her body, and she stated no. I asked her if she had bitten
21 the suspect anywhere on his body, and she stated no.

22 I asked her if she scratched, and usually when I say
23 scratch, my hands come up, and I show them like my nails doing
24 this. Did you scratch the suspect at all, and she stated no.
25 And then I asked her did you pass out or lose consciousness

1 during the sexual assault, and she answered yes, and that is
2 when I would stop and think about the answers that this patient
3 has given me and then generally I will start with the
4 head-to-toe assessment, move the patient from the chair that
5 they're sitting on and then go over to the bed and start the
6 head-to-toe assessment with photographs generally being taken
7 first.

8 Q Okay. I'm going to show you what's been marked as
9 State's Proposed Exhibits 74, 75 and 76. Are these photographs
10 that you took of Arrie the day that you evaluated her?

11 A Yes.

12 Q Do they fairly and accurately depict how she looked
13 that day?

14 A Yes.

15 MS. LUZAICH: Move them into evidence.

16 MR. ERICSSON: No objection.

17 THE COURT: All right. Those will be admitted.

18 (State's Exhibit No. 74-76 admitted.)

19 MS. LUZAICH: May I publish?

20 THE COURT: Yes.

21 BY MS. LUZAICH:

22 Q Oops. Sorry. State's Exhibit 74 -- oops. Sorry --
23 is that Arrie?

24 A Yes.

25 Q And is she sitting on your exam table?

1 A Yes.

2 Q And then that's her face; is that correct?

3 A Yes.

4 Q 75, you also take a photograph of her lower portion;
5 is that correct?

6 A Yes.

7 Q And then 76, all the way down to her feet, correct?

8 A Yep.

9 Q Correct? So you do a head-to-toe assessment. What,
10 if anything, did you observe when you did the head-to-toe
11 assessment?

12 A That she had -- I start at the head and look, listen
13 and feel. She had no signs of trauma to the frontal lobe, the
14 parietal lobe, the occipital lobe, the temporal lobe, no
15 depressions palpable; that she had no signs of blunt force
16 trauma to the maxillofacial region, which would include an
17 assessment of the pupils. I make sure that the pupils are
18 responsive with constriction when I apply the light to the
19 pupils.

20 Also we do what's called an extraocular eye
21 assessment, a EOM on the eyes to assess whether the patient is
22 tracking and following and whether they have something called a
23 nystagmus of their eye to see if there's any kind of neurologic
24 potential present, and she had none of that. She had no
25 injuries to the white part of her eye.

1 Then we go down and look into the nostrils and hers
2 were clear. Ears were clear. We go look at the maxillofacial
3 region here and palpate. There's no signs of trauma or pain to
4 palpation of the upper or lower orbits of the eye and then the
5 bridge of the nose and the zygomatic arch area, have them open
6 their mouth and have them stick their tongue out and lift their
7 tongue up.

8 And then we look in the back of the throat for any
9 kinds of injuries to the back of the throat, to the sides of
10 the cheek. Normally I will pull up the upper lip, the lower
11 lip and have them stick their tongue out to look for a piece of
12 tissue on the upper lip and the lower lip called the frenulum.
13 In trauma we learn to look for that piece to see if there's any
14 kind of injuries. Because if that's torn, it tells us there's
15 a huge amount of energy force applied to an injury that you
16 could find there, and the same with the tongue. It holds down
17 the tongue in the mouth. We look for that little tissue that
18 you have that holds your tongue down.

19 Then we'll go to the neck.

20 Q Wait. Wait. Wait. Before you get to neck --

21 A I'm sorry.

22 Q So when you looked at the inside of her mouth, did
23 you see any bruising?

24 A No.

25 Q Now, I'm going to show you State's Exhibit 4. This

1 photograph was taken immediately after the assault on March
2 10th of 2015. Sorry. Would you agree that there is a bruise
3 to the inside of her lower lip?

4 A Yes.

5 Q That was not present there?

6 A No.

7 Q When you saw her?

8 A No, I would've photographed that.

9 Q Right. Why? Why might that not be present?

10 A It went -- the patient came in, it had been over 50
11 hours since I -- since the evaluation of the sexual assault
12 occurred at greater than 1:00 o'clock. She was over a 48-hour
13 period of time. She has normal healing properties apparent
14 with her medical history that she gave me. She didn't have any
15 signs of dehydration. She didn't have any signs that there was
16 skin-related issues or any type of immune-related issues in her
17 history, and she heals her body very quickly. She had normal
18 nutritional factors going on. She had food. She had water.
19 She has a normal healing process.

20 Q So is it -- I mean, you are not surprised that the
21 body -- her body healed that quickly and that you were not able
22 to see a bruise more than 48, 50 hours later?

23 A Particularly in the lip. You have a very vascular
24 area of the lip. Just as you have an increased blood flow to
25 that area allows that area to heal faster.

1 Q And this bruise that we see in State's Exhibit 4, is
2 that something that is consistent to the barrel of a shotgun
3 being forced into her mouth or up to her mouth?

4 MR. ERICSSON: Objection. Calls for speculation,
5 lack of foundation, personal knowledge.

6 THE COURT: If you can answer it without speculating
7 based on your experience and training --

8 BY MS. LUZAICH:

9 Q Numerous years of training in the trauma center, in
10 the ER and --

11 A I can tell you that being an emergency department
12 nurse I've seen several injuries similar to that when other
13 types of guns have been put into people's mouths. So that
14 would be consistent with what I've seen in my clinical practice
15 when people are telling me that the barrel of a gun or the end
16 of -- butt of a gun is put into their mouth also.

17 Q Okay. So sorry. I didn't mean to interrupt you.
18 You were getting to the neck.

19 A So with the neck you, you know, look, listen, feel,
20 and you're palpating the cervical spine for what we call step
21 off deformity or pain, and she had none. We assessed the
22 trachea to make sure it's midline, and we assess for any kinds
23 of -- the terms we use are hematomas, lacerations, contusions,
24 abrasions, ecchymosis and something called a divot. She had
25 none of those signs there, and she had no numbness, tingling

1 when we did the neurologic assessment on her spine, cervical
2 spine. She had no pain to palpation.

3 Then we moved down to the chest, and on her clavicle,
4 she had one brown contusion noted that was 3 centimeters by
5 2 centimeters on the front part of her thorax, the chest. Her
6 sternum was intact.

7 Q And I'm sorry. Can I go back to that bruise for one
8 second. In your years of experience, I mean, can you tell how
9 old a bruise is or not?

10 A No. In essence the research is not there with the
11 coloring of a bruise or how fast a bruise can present or
12 decrease with the exact time. It's a generalized science.

13 Q Okay. Just thought I'd ask. Thank you. So you were
14 moving towards --

15 A So you listen to the lungs. The lungs were clear.
16 We listen to heart tones. Heart tones are normal. Then
17 normally I will palpate the thoracic spine. That's the
18 mid-spine here, the midback and then the lower back. You end
19 up tapping on both flank areas, kidney areas and ask if that
20 elicits any pain.

21 And then you move down to the extremities and the
22 abdomen, palpate on the abdomen, find out if the patient has
23 any history of bowel-related issues. That's usually when we
24 ask questions about urinary tract infections, yeast infections.
25 Do they have any history of sexually transmitted infections.

1 Do they poop frequently. Do they have any problems with
2 pooping. You know, you ask them the nutritional questions, if
3 we're seeing signs that the skin is not able to heal itself,
4 like diabetes signs or anything like that.

5 Q But none of that was present?

6 A None of that was present, and then we go on to the
7 extremities. We check the pulses. We look at the fingernails.
8 We look at the hands, check the pulses in both hands. We look
9 at the legs. We look at the -- check at the feet for pulses,
10 swelling, edema, and she did not have that.

11 Q I'm going to go back to the arms, and specifically
12 the wrists if you would. Arrie had told you that she had been
13 hogtied. Did you see anything on March 12th that night that
14 was consistent with that? Any kind of bruising or redness or
15 anything like that?

16 A No.

17 Q Would that be surprising 50 or so hours later?

18 A No. And I will tell you that the crime light that we
19 use is called an alternating light source, and that helps us
20 see injury patterns that may be very faint by that period of
21 time that's passed. So what we do with a alternating light
22 source of the crime light is shut the lights off. We put on a
23 pair of specific goggles, and we shine this light head to toe
24 on the patient, and there was no signs of any type of -- what
25 I would expect if somebody's hogtied is to find some kind of

1 linear markings, and they can be very faint, but the
2 alternating light source can help us, and she didn't have any
3 on her wrists at that time or on her ankles.

4 Q But that was 50 hours later. Would you be -- were
5 you surprised that there was nothing 50 hours later?

6 A No. But I did check for it.

7 Q Right. Now, showing you State's Exhibit 10, Arrie's
8 wrists, did you notice anything in the photo that was taken
9 right after the incident?

10 A On the -- right above that white wristband, to me
11 there appears to be a linear mark that I would be very
12 interested in evaluating right above that.

13 Q Had you been there on the 10th instead of the 12th?

14 A Oh, yeah.

15 Q And then on State's Exhibit 11, the other side of her
16 wrists, do you see anything?

17 A Above that tattoo on the hand, at the linear or on
18 the medial side, which is towards her -- the string on her
19 shorts, there's a red linear marking there that I would've been
20 interested in looking at.

21 Q Okay. Had you seen her two days earlier?

22 A Yes, ma'am.

23 Q Then as far as -- now, when you looked at her legs,
24 did you see any injury at all?

25 A I did not document any injury there on her leg.

1 Q Okay. So showing you State's Exhibit 5 that was
2 taken two days earlier, do you see some injury?

3 A Yes. Both patellas or kneecaps look like they have
4 abrasions noted on both of them. There may be contusions
5 present there, and again the alternating light would be very
6 interesting to see what that shows.

7 Q State's Exhibit 7, a little closer.

8 A Yeah. She has the abrasions noted on the left
9 patella with scabbing noted, and the same appearance on the
10 lower tib-fib area on her right leg, and she has the white
11 scuff marks. That could be an abrasion on the lower legs.
12 That could be a scuff mark that occurred from falling or being
13 scraped against something.

14 Q And then State's Exhibit 8, which is an even closer
15 of her lower legs.

16 A Well, on the shoe that has the gray ties to it, right
17 above that ankle area there's a white linear mark that I would
18 be most interested in looking at, and then on the yellow
19 sneaker, towards the back on the inner aspect there's a mark
20 that I would be -- a white mark that I would be most interested
21 in looking at.

22 Q Showing you State's Exhibit 9, the back of her --
23 oops, sorry about that -- the back of her legs. Why am I
24 having such a hard time with this? There. On the back of her
25 legs.

1 A She has the again the white markings noted on the
2 blue tennis shoe just above that area I'd be most interested in
3 looking at, and then she has on the yellow tennis shoe on the
4 lateral side, and then above that she has that white skin,
5 dried skin area that could be a scraping. That's possible, and
6 then on her left lower leg, she has a linear white area that I
7 would be interested in looking at.

8 Q Okay. And you took, we looked at a few moments
9 earlier, photographs of her legs on that day. Showing you
10 State's Exhibit 76, and we don't see any of those injuries 50
11 hours later. Is that surprising?

12 A No. These were -- most people would call what I was
13 looking at with the white, it would be called superficial. So
14 they would not last very long.

15 Q But the scrapes, all of it, there's none of it there
16 anymore. I guess I'm -- does that show that her body really
17 does heal quite quickly?

18 A She has good nutrition. She had good healing
19 processes and no medical history that tells me to look to her
20 immune system.

21 Q Okay. So do you also in addition to the head-to-toe
22 examination do a vaginal -- rectal examination?

23 A I did.

24 Q Can you describe for us how that is done.

25 A Okay. So the speculum exam would be done first, and

1 that's where you ask the patient to put their heels of their
2 feet on the end of the bed. There are stirrups that you pull
3 out from the end of the bed, and then they actually move out to
4 the side, and then you bring the stirrup part up, and the
5 patient's heels are asked to be put in both of the stirrups.

6 So in general, if this -- if my fingers are your feet
7 and my palms are the bottom part of your foot, that piece your
8 feet go into the stirrups, and then where my elbows are would
9 be where your butt would be on the table, and your vagina would
10 be above that area. And so the patient is lying flat, and we
11 ask them to scoot their butt off the edge of the table by
12 generally about 2 inches is what I ask them to do. So part of
13 their butt is actually, you know, comes off the edge of the bed
14 so that the butt assumes the natural position, and then I look
15 at the external genitalia, and determine, take photographs if
16 there's any injuries.

17 Q Okay. Did you see any injuries?

18 A I did not.

19 Q Did you then do an internal examination?

20 A I did. I placed a speculum with the patient's
21 permission, placed a speculum into the vagina. We look at the
22 top wall, the bottom wall and both side walls, and there was no
23 signs of the blunt force trauma or contusions, abrasions,
24 swelling or edema. Cervical OS of the uterus was identified,
25 and there was no signs of blunt force trauma.

1 Now, mind you, I'm taking swabs for the DNA kit from
2 the vaginal walls, and then we take them from the cervical OS
3 or the uterus, and then I will take the gonorrhea and the
4 chlamydia culture after the DNA swabs are taken. And then I
5 take another swab and put it on a light stain -- a microscopic
6 slide so that later I can look to see if there's any sperm on
7 the -- under the microscope.

8 Q And when you say the signs of blunt force trauma,
9 what do you mean by that?

10 A She had no bruises, no cuts, no swelling, no edema,
11 no things called divots. She had no signs of bleeding. There
12 was no signs of blunt force trauma.

13 Q Now, if there -- if there had been two days earlier,
14 so when she gets out of her situation at approximately
15 2:00 p.m., so actually it was more, like, 53 or -4 hours
16 earlier -- had there been something then, would it be possible
17 that it would be gone by the time you saw it?

18 A Yes. The vagina is very vascular, just like the lips
19 and your tongue are very vascular. So you get more blood flow
20 to those areas. You're designed like that. So when you get
21 more blood flow to those areas, just like your rectum, it's
22 very vascular, you can heal very, very quickly, and that's why
23 we try and get patients to come in immediately after a sexual
24 assault so that we can actually document injuries. Because --

25 Q So is -- oh, sorry.

1 A That's all right.

2 Q In addition to the vaginal exam, did you do a rectal
3 exam?

4 A I did.

5 Q And how is that accomplished?

6 A With the rectal exam, you ask the patient to go into
7 what's called a knee chest position, whether you're a man or
8 woman, and what you do is you ask them to stand up, take their
9 time, let us know when they're ready, and you ask them to turn
10 around, put both knees up on the exam table, and you ask them
11 to spread their knees as far apart on the exam table as they
12 can, edge to edge.

13 And then you ask them to bend over, and you ask them
14 to arch their back. So their breasts or their chest, their
15 face and their arms are flat on the table but their butt is up
16 in the air, and then the more you can get them to arch the
17 back, the more it spreads the butt cheeks so that you can
18 actually see the anus and the beginning of the outside of the
19 end of the -- or the beginning of where the stool would come
20 out or a bowel movement would occur.

21 Q Okay. And then what do you do?

22 A Then you spread with separation and traction
23 techniques. Separation means that you put your hands on the
24 butt cheeks, and then you start separating out the butt cheeks
25 so that you can get a clearer identification of the perianal

1 area, and the anus, and then you will -- I use my thumbs to
2 pull up on the skin of the anus folds. So the anal folds are
3 like an accordion. You have to spread them out so you can
4 actually see if there's any injuries inside the pieces of the
5 accordion.

6 Q And were you able to see whether or not there were
7 any injuries?

8 A There were no injuries, no signs of blunt force
9 trauma.

10 Q Okay. Do you do anything else for the rectal exam?

11 A I try and do an anal scope if the patients will allow
12 me, and an anal scope is a 3-inch -- 3 and a half inch plastic
13 clear tube that you place sterile water on, and you place into
14 the anus. That allows you to visualize the rectum, and then
15 you would take your DNA swabs. This patient would not allow me
16 to do an anal scope.

17 Q Is that quite painful?

18 A It can be.

19 Q And do you have to tell her that?

20 A Yes.

21 Q Okay. Now, you said that you did not see any blunt
22 force trauma or any injury to the rectum either. Like, I asked
23 earlier, if there had been to, you know, 50, 53 hours earlier,
24 is it possible that it just wasn't there any longer?

25 A That is possible. Again the rectum, the anus, very

1 vascular. You're going to have increased blood flow to that
2 area, and that brings all of the I call it the gang in to help
3 heal things.

4 Q So you have no idea whether or not there was any
5 injury on March 10th, but what you can say is that on March
6 12th at 7:00 p.m. there was no injury?

7 A That's correct.

8 Q If a broomstick were placed between the butt cheeks
9 while an individual were hogtied, would you expect -- and I'm
10 not saying inserted all the way in, just to -- just between the
11 butt cheeks, would you expect to see any injury or any damage?

12 A Not necessarily. It's possible, but not necessarily.
13 Think about what the buttocks is made out of, a lot of fat
14 tissue with skin over the butt -- over the fat tissue. When
15 you press against two buttocks, you're going to move the fat in
16 the buttocks. Some people have more fat than others.

17 Q And you've used a lot of terminology, rectum, anus,
18 buttocks, these all referred to actually different parts of the
19 behind area; is that correct?

20 A Yes.

21 Q And is it your experience that people really
22 understand or are familiar with the actual terminologies for
23 different body parts in the genital-rectal-type area?

24 A No.

25 Q It's hard to ask that question. Sorry.

1 A I would not expect a layperson to understand. For
2 example, when I go to tell them I'm going to give them a shot
3 of ceftriaxone in their butt, they will literally think I'm
4 giving them an injection in their rectum. They think it's
5 going in the hole. I'm going, no, I'm giving it to you in your
6 butt. This is your gluteus muscle here, and then they usually
7 get relieved and allow me to do it, but the terminology for
8 laypeople versus a professional like myself, it's very
9 different.

10 Q And do you find that people -- just tons and tons of
11 people use different words to describe the same area?

12 A There's a lot of acronyms that people use.

13 Q And sometimes a word that I might use might not be
14 what you think I'm talking about?

15 A Correct.

16 Q That's not unusual in your experience?

17 A No. Even talking from one professional to another
18 professional, you have to be very careful with the terms that
19 you use.

20 Q Did you -- is that the end of the exam?

21 A That's the end of the head-to-toe portion of the
22 exam, and then there would be a request to take antibiotics and
23 to receive the antibiotic shot, and this patient declined the
24 shot. She allowed me to attempt drawing blood once for the
25 sexually transmitted infection blood testing. I was not

1 successful at drawing that blood, and then she declined even
2 though I offered to have her go with me to the lab to have the
3 lab person try and attempt to draw her blood. She declined. I
4 asked the patient if she would give me a urine sample for a
5 urine pregnancy and a random drug screen to be run, and she
6 declined.

7 Q Do people often decline the blood and urine?

8 A I would say the majority will have a long discussion
9 with me about why it's -- why I need that for their exam. The
10 majority will ultimately let me at least attempt, and this
11 patient allowed me to try once to draw her blood, and I was not
12 successful.

13 Q Do you know why you were not successful?

14 A I don't. I don't recall why I wasn't able to get
15 into her vein. I just know that I documented that I attempted
16 once and was unsuccessful.

17 Q But it's not because she wouldn't let you. I mean,
18 she let you try once?

19 A Yes.

20 Q Some people are difficult to draw blood from; is that
21 correct?

22 A Oh, yes.

23 Q And do you recall her having an issue that it was
24 just difficult to draw blood, or did she indicate that --

25 A Knowing the patient would not allow me to give her

1 the injection tells me that a lot of people have a fear of
2 needles, and they just don't want a needle into their body, and
3 she let me try once with the IV to draw the blood, IV draw, and
4 after that I was -- it was no go for her.

5 Q Okay. During the course of the exam you talked about
6 the swabs and DNA collection. Did she allow you to do that?

7 A Yes.

8 MS. LUZAICH: Okay. Thank you.

9 I would pass the witness.

10 THE COURT: All right. Let's take a quick break.

11 Ladies and gentlemen, we're just going to take about
12 10 minutes. That'll put us at 11:50.

13 During the brief recess you're reminded that you're
14 not to discuss the case or anything relating to the case with
15 each other or with anyone else. You're not to read, watch or
16 listen to any reports of or commentaries on the case, person or
17 subject matter relating to the case. Don't do any independent
18 research by way of the Internet or any other medium, and please
19 don't form or express an opinion on the trial.

20 Please place your notepads in your chairs and follow
21 the bailiff through the double doors.

22 (Jury recessed 11:39 a.m.)

23 MS. LUZAICH: Are we -- are we off?

24 THE COURT: Oh. We can go on the record.

25 MS. LUZAICH: Just yesterday, while I was with the

1 crime scene analyst, I forgot to move in somehow Exhibit --
2 Proposed Exhibit 32, which is just the 1108. I would move it
3 into evidence.

4 THE COURT: Any objection?

5 MR. ERICSSON: No, Your Honor.

6 THE COURT: All right. We can admit that now.

7 (State's Exhibit No. 32 admitted.)

8 (Proceedings recessed 11:40 a.m. to 11:55 a.m.)

9 (In the presence of the jury.)

10 THE COURT: All right. Court is now back in session.

11 And, Mr. Ericsson, are you ready to proceed with your
12 cross-examination?

13 MR. ERICSSON: Yes, Your Honor. Thank you.

14 CROSS-EXAMINATION

15 BY MR. ERICSSON:

16 Q Good morning.

17 A Good morning.

18 Q The very end of the morning. Do you have a copy of
19 your report from the -- the interview and the examination you
20 did on Ms. Webster?

21 A I do, sir.

22 Q Okay. And I want to ask you a question from that.

23 A Sure.

24 Q When you did this interview with her, was it just you
25 and Ms. Webster together?

1 A Yes, sir.

2 Q Okay. And do you record in an audio format the
3 interviews?

4 A No.

5 Q The report that you prepared that I have a copy of is
6 like a total of about eight or nine pages. Is that --

7 A That sounds approximately right.

8 Q Does that correspond with what you have?

9 A Yeah.

10 Q Okay. I just want to make sure that I've got
11 everything. So on the very first page of what's -- at least
12 the order that it was given to me in, you have a section titled
13 history of event; is that correct?

14 A Yes, that's the dictation. Uh-huh.

15 Q And after you do your interview, do you then take a
16 Dictaphone and talk into it and someone else types up what
17 you've prepared?

18 A Yeah. It's done after the patient leaves, that part
19 of the report that you're referring to, the dictation would be
20 done. Yeah.

21 Q Okay.

22 A Yeah.

23 Q And if I'm correct, from what I see here, in your
24 history of the event, you don't indicate in there any concerns
25 that you're having that the patient is having a hard time

1 recalling information, do you?

2 A Not in that dictation, no, sir.

3 Q Okay. And is it accurate to say that in the history
4 of the event you indicate, quote, She states that this male
5 forced penis, finger, and tongue to her vagina?

6 A That's correct.

7 Q And then you specifically asked her if there was any
8 object placed in her mouth, correct?

9 A Yes. I asked her, Was there oral penetration with a
10 penis or any other object?

11 Q And her answer to you was no?

12 A Correct.

13 Q And in addition to the typed-up narrative on that
14 first page I was just quoting from, you also fill out as you're
15 doing the interview a checklist; is that correct?

16 A Yes. That's the history and the assault information.
17 Yes, sir.

18 Q Okay. And in that checklist, under the section
19 titled penetration, you also physically check the boxes under
20 vaginal penetration. You have the box checked, yes; is that
21 right?

22 A Yes.

23 Q And then you checked penis?

24 A Yes.

25 Q Finger?

1 A Yes.

2 Q Tongue?

3 A Yes.

4 Q And you've also checked object?

5 A Yes.

6 Q And then under that you've handwritten possible

7 broomstick?

8 A Yes.

9 Q And that's in reference to the vagina?

10 A Yes.

11 Q When you describe the examination when you had the

12 patient in -- on the table in the stirrups, at that time the

13 patient would be completely unclothed on the lower half of her

14 body, correct?

15 A She would have a paper gown on or a gown on, a

16 hospital gown on.

17 Q Okay. But it's accurate to say that at some point

18 you are observing her naked body and buttocks, correct?

19 A Yes.

20 Q Did you observe any marks on her rear end that would

21 indicate to you possible beating with a belt?

22 A No. She had no bruises or contusions or lacerations.

23 Q Okay.

24 A On her buttocks.

25 Q And did you -- you described that you had used some

1 type of a special light that helps you identify injuries,
2 correct?

3 A Yes.

4 Q Did you use that light on her rear end?

5 A Yes.

6 Q Under the description of what you observed on her
7 extremities, you indicated that, The patient has very, very
8 hard calluses noted on all of her fingers, fingertips and the
9 palms of her hands.

10 A Yes.

11 Q Did you ask her what that calluses were from?

12 A I may have asked her, but I didn't dictate any answer
13 to that.

14 Q Okay. And as you sit here today, do you know what
15 the calluses on her hands and fingertips were from?

16 A I -- I've seen many times calluses on people's hands,
17 and generally I attribute that to a working-class person that
18 works with their hands.

19 Q Okay. So it's accurate to say in your examination of
20 her vaginal and rectal and buttocks area you did not observe
21 any evidence of injury the day you examined her?

22 A That's correct.

23 Q I want to show you the picture you've been shown
24 before. It's State's Exhibit No. 4. You were earlier asked
25 about this photograph, correct?

1 A Yes, sir.

2 Q Are you familiar in your work as a nurse examiner of
3 injuries related to crack pipe burning to the mouths?

4 A I have seen through my emergency department history
5 and as a SANE nurse burns that occur from many different
6 sources, but -- including crack pipes or items that are used to
7 smoke crack.

8 MR. ERICSSON: Okay. And, Your Honor, if I may
9 approach, I'm going to show this to her directly, and then I'll
10 show it to the jury.

11 BY MR. ERICSSON:

12 Q So you can see this more closely.

13 A Uh-huh.

14 Q In your experience do you see any potential evidence
15 of burning that you think could be from a crack pipe in that
16 picture of the lip?

17 A The white tissue area here closest to the gum line,
18 there's a linear white line that possibly could be from a
19 burning material. The bottom portion is very consistent with a
20 contusion that I would see. Generally a burn is a burn, and a
21 contusion is a contusion. So this bottom part looks very
22 contusion, a bruise.

23 Q Okay.

24 A This white linear line possibly could have been
25 caused from a burning process.

1 Q Thank you. And in your examinations of -- I think
2 you indicated you've done somewhere 6,000 to 6,500 examinations
3 over the years?

4 A Yes.

5 Q Have you seen a number of mouth injuries related to
6 crack pipe smoking?

7 A Not just as a sexual assault nurse examiner, but
8 working in the emergency department for 30 years, I've seen
9 many burns because UMC is the burn center. So one of the
10 trainings that we had is advanced burn life support. So we
11 learned to treat burns of all various natures, which included
12 people that would burn themselves with pipes or other objects
13 on many areas of their body, including lips, nostrils, faces,
14 hands, the entire body.

15 Q I believe you testified that you had requested urine
16 testing of Ms. Webster, but that was not done; is that right?

17 A She declined to give me a urine sample.

18 Q Did she indicate to you why she was declining to give
19 you a urine sample?

20 A I did not note that in my notes, and I don't have any
21 specific memory of that.

22 Q Did you talk to any law enforcement officers or
23 personnel related to this particular event?

24 A I did.

25 Q Who did you speak with?

1 A Well, I ended up calling 3-1-1.

2 Q Okay.

3 A And tried to ascertain whether a sexual assault
4 detective was involved in this case because the patient had
5 picked the fourth option for a full forensic sexual assault
6 exam. So I needed to try and find out what was the history.
7 Was there already somebody assigned to this case? Because she
8 gave me the name of a detective that she had talked to, and so
9 I was trying to backtrack with the 3-1-1 operator to try and
10 find out information about was the sexual assault detectives
11 involved or not.

12 Q Okay. Did you ultimately ever talk to any detectives
13 related to this investigation?

14 A I would've talked to Detective Ryland who was
15 assigned to the case at some point. I don't have specific
16 memory of talking to her that night. I didn't make a note of
17 one I talked to, but in general I talk to the detectives when I
18 see them about the cases that come in that they're assigned.

19 Q Okay. At any point prior to you doing the
20 examination, have you received information that Ms. Webster was
21 alleging she had been beaten with a belt at least 25 times?

22 A I was not given that information.

23 Q Okay. Were you given any information either from her
24 or any of the investigators that she claimed that she had been
25 tased with a stun gun approximately six to seven times?

1 A No, sir.

2 Q Did you note any injuries that you thought were
3 consistent with possible injuries from a stun gun when you did
4 an examination of her?

5 A I would've observed for those with my head-to-toe
6 assessment, and I did not see any signs of injuries that would
7 have been caused by a Taser.

8 MR. ERICSSON: Thank you. I have no further
9 questions.

10 THE COURT: All right. Any redirect?

11 MS. LUZAICH: Just briefly.

12 REDIRECT EXAMINATION

13 BY MS. LUZAICH:

14 Q Ma'am, this photograph -- this photograph that
15 Mr. Ericsson showed you --

16 A Uh-huh.

17 Q I don't know if your screen looks the same as that
18 one. Yeah, would you agree that the photograph when you look
19 at it you can see much better any of the injury that we're
20 discussing? That on the screen you can't see most of what you
21 can see in the photograph?

22 A That's correct. Distortion is present with the
23 system that you have.

24 Q Okay. So you mentioned that on this --

25 MS. LUZAICH: Can I just show this to the jury?

1 THE COURT: Sure.

2 And ladies and gentlemen of the jury, you'll have all
3 of these exhibits, all these photos back in the jury
4 deliberation room with you. So you can study them and look at
5 them and view them when you go back --

6 BY MS. LUZAICH:

7 Q So when you're talking about --

8 THE COURT: -- for your deliberation.

9 MS. LUZAICH: Oh, sorry, Judge.

10 THE COURT: That's okay.

11 BY MS. LUZAICH:

12 Q When you're talking about the contusion here, are you
13 saying anything that's dark red is definitely contusion and
14 nothing to do with potentially a crack pipe?

15 A Correct. This contusion area here that's red and
16 purple in this area is consistent with contusion, and then the
17 linear white area I'm talking about is right here.

18 Q Okay. So there's a tiny little white spot?

19 A Yes, ma'am.

20 Q And you're not saying that that is a crack pipe, just
21 in theory it's possible that it could have been?

22 A Yes, ma'am.

23 Q But it could have also been from a shotgun?

24 A That's correct.

25 Q You said that you called 3-1-1. Was that in part

1 because Arrie was kind of unable to explain to you the course
2 of what had happened with the police the couple days before?

3 A Correct. The 3-1-1 operator ended up trying to help
4 me find out if there was an event number, meaning the police
5 had been active in her case. That's what I was trying to get
6 to to try and ascertain more information since the patient was
7 giving me limited information.

8 Ultimately the patient was able to give me the
9 address, and that helped the 3-1-1 operator locate on the 10th
10 the event number. The 3-1-1 operator contacted a law
11 enforcement officer who was on duty that was involved in the
12 case, and then the 3-1-1 operator contacted me and told me that
13 they were aware of the allegations and that there would be no
14 police response occurring at that time coming out to the
15 hospital. That's what I found out from the 3-1-1.

16 Q Well, and that's because if there is a sexual assault
17 that's reported for the first time with you, you need to get
18 police involved. Police are already involved in that case,
19 correct?

20 A Yes. I'm trying to ascertain that.

21 Q Now, Mr. Ericsson asked you when he was talking about
22 your dictation about whether or not Arrie -- well, the question
23 he asked you was that Arrie had a hard time recalling
24 information. That's not what you said, correct? You said
25 nothing about Arrie having a hard time recalling information.

1 You said she had a hard time recounting it to you?

2 A That's correct. She was awake, alert and oriented to
3 time, person, place. She was -- she was able to sign a
4 consent, and one of the things that my job is to make sure that
5 I just don't have a patient sign a piece of paper that they
6 don't understand and cognitively cannot process the information
7 that I'm giving them. She was able to process the information
8 I was giving her.

9 Q You've dealt with people who are under the influence
10 of a controlled substance I expect many times in your career?

11 A Oh, yes.

12 Q Okay. Did appear to you based on what you have
13 experienced in the past the Arrie was under the influence of a
14 controlled substance when she was talking to you?

15 A No. She did not have a lateral nystagmus of her eye.
16 Her gait was steady. When she spoke, her voice was steady. I
17 had no smell of alcohol documented. She was able to
18 cognitively understand and participate as much as she chose to
19 with me.

20 Q When Mr. Ericsson asked you about the oral
21 penetration -- now, when you talk with patients about oral
22 penetration, that's more like oral sex, fellatio. So when she
23 said nothing penetrate -- there was no penetration of her
24 mouth, I mean, that's the direction you're going in, correct?

25 A Correct. And I think when I say is there a penis

1 been placed in your mouth, that goes to the sexual side of
2 people's line of thinking.

3 Q And when he asked you about during the course of your
4 examination you had the ability to observe her buttocks,
5 behind, whatever word you want to use, that was unclothed, and
6 you saw no marks, given that we've seen how quickly Arrie
7 heals, does that mean that there were no marks on her that same
8 butt, behind, whatever area 50 hours earlier?

9 A No. She could've had an injury there for three hours
10 earlier, and I would not have seen it at the time that I did
11 her evaluation.

12 Q And when he asked you about your dictation where you
13 say she described -- or she -- what was the word -- patient
14 states that there was force, penetration of her penis -- by a
15 penis or whatever, that was not her narrative, correct? That
16 was her yes or no responses?

17 A That was her yes or no responses.

18 Q The only narrative you got was that she was
19 blindfolded and hogtied, and the words sexually assaulted?

20 A Yes.

21 MS. LUZAICH: Thank you. Nothing further.

22 THE COURT: Any recross?

23 MR. ERICSSON: No, Your Honor. Thank you.

24 THE COURT: Any juror questions for the witness?

25 All right. Ma'am, I see no further questions.

1 THE WITNESS: Thank you.

2 THE COURT: Thank you for your testimony. You are
3 excused at this time.

4 And the State may call its next witness.

5 MS. LUZAICH: Thank you. The State calls Sergeant
6 Collins.

7 THE COURT: All right.

8 **MAURICE COLLINS**

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

11 THE CLERK: Thank you. Please have a seat. State
12 and spell your first and last name for the record.

13 THE WITNESS: My name is first name Maurice,
14 M-a-u-r-i-c-e. Last name Collins, C-o-l-l-i-n-s.

15 THE COURT: Ms. Luzaich.

16 MS. LUZAICH: Thank you.

17 DIRECT EXAMINATION

18 BY MS. LUZAICH:

19 Q Good afternoon, sir. How are you employed?

20 A I'm currently employed with the Las Vegas
21 Metropolitan Police Department.

22 Q In what capacity?

23 A Right now as a sergeant, police sergeant.

24 Q For how long have you been with Metro?

25 A Approximately 23 years.

1 Q And for how long have you been a sergeant?

2 A For the last two months.

3 Q Congratulations on your promotion.

4 A Thank you.

5 Q For your 23 years with Metro, were you primarily a
6 patrol officer?

7 A Yes, ma'am.

8 Q And as such would you respond to calls for service
9 and things of that nature?

10 A Yes.

11 Q I'm going to direct your attention if I could back to
12 March 10th of 2015. Were you working as a patrol officer at
13 that time?

14 A Yes, I was.

15 Q What part of town were you assigned to?

16 A The Bolden Area Command.

17 Q Generally where is Bolden Area Command?

18 A Primarily everywhere from, well, the border's kind of
19 changed, but from I-15 up at the east end to North Jones or
20 Jones Boulevard to the west, and then from Charleston. I
21 believe at that time it was Charleston -- I'm sorry, Desert Inn
22 to the south, and then Cheyenne to the north.

23 Q Okay. And if that is your area, you'll patrol that
24 whole area?

25 A Yes.

1 Q For how long was Bolden your area?

2 A Approximately since 2001.

3 Q So a long time?

4 A Yes.

5 Q You're familiar with the area?

6 A Yes.

7 Q Were you -- did you respond to a call at or in the
8 vicinity at least of 1108 North Jones later in the day on
9 March 10 of 2015?

10 A Yes.

11 Q Now, when you responded there, was it your
12 understanding that it was a kidnap call?

13 A That's correct.

14 Q And that the victim of the kidnap was by the time you
15 got involved, okay, and with detectives or at least with
16 police?

17 A That's correct.

18 Q So is it your job to go to the area and just kind of
19 see who if anyone saw or heard anything?

20 A That's correct.

21 Q And did you talk to people in the area?

22 A I did.

23 Q In that area are some people more cooperative and
24 some less cooperative?

25 A That's correct.

1 Q And specifically on that date were some people more
2 cooperative and some people less cooperative?

3 A Yes.

4 Q Were there actually some people that just didn't want
5 to get involved?

6 A Yes. Yes.

7 Q And were there some people that were trying to help?

8 A Yes.

9 Q And did during the course of your talking to some of
10 the individuals, was your attention called or drawn by them to
11 certain items?

12 A Yes, it was.

13 Q Were there two different locations that your
14 attention was directed to items?

15 A Yes.

16 Q I'm sorry. I talk with my hands. Was one of them
17 near a dumpster?

18 A Yes.

19 Q What was your -- like, tell me what happened.

20 A Well, basically I can't remember the exact persons
21 per se, but I was directed to the area behind -- I believe it
22 was behind 1108 North Jones and the alleyway. There was a
23 dumpster, and I was basically given the information that items
24 related to this crime that we were investigating were left in
25 the dumpster, and so I proceeded to go and look inside the

1 dumpster and saw which appeared to be, like, electrical wire,
2 thick -- a thick electrical wire, cable or whatever it was, and
3 then a smaller thinner piece of it.

4 Q Showing you what's State's Exhibit 26, does it look
5 like that is -- well, obviously there's two dumpsters there,
6 but is one of those the dumpster we're talking about?

7 A Yes.

8 Q And State's Exhibit 29, when you looked inside the
9 dumpster, was that what you saw?

10 A Yes. That's correct.

11 Q Was it just fortuitous that the dumpster was
12 otherwise empty?

13 A That would be correct.

14 Q State's Exhibit 31, is that an up close of one of the
15 items?

16 A Yes.

17 Q And State's Exhibit 30, is that the up close of the
18 other item?

19 A Yes.

20 Q Now, your job was just kind of to find them. Was it
21 somebody else who collected and impounded these items?

22 A Yes. I located them, and then as we have the crime
23 scene analysts that come out and collect items for us.

24 Q And then down closer to at an apartment in 900, were
25 you directed to something else?

1 A Yes, I was.

2 Q And what were you directed to there?

3 A Next to the front of the apartment was a barbecue
4 pit, and then there were items located underneath the barbecue
5 pit.

6 Q Do you remember what the item was that was underneath
7 the barbecue?

8 A I believe it was like a sheet or a cover or something
9 to that effect.

10 Q Showing you State's Exhibit 15, is that the apartment
11 that we're talking about?

12 A Yes.

13 Q State's Exhibit 17, is that the barbecue and the kind
14 of stuff underneath that's under the stairs?

15 A Yes.

16 Q Exhibit 18, a little bit up close?

17 A Yes.

18 Q Correct? And then finally 21, is that the item that
19 you were directed to and ultimately found?

20 A Yes.

21 Q And again you did not collect that, correct? The
22 crime scene analyst, would that have been Brad Grover?

23 A That would be correct.

24 Q He collected it, correct?

25 A Yes.

1 Q Thank you. I would pass the witness.
2 THE COURT: Anything else, Mr.--
3 Oh, I'm sorry. Cross.
4 MR. ERICSSON: Your Honor, I have no questions of the
5 sergeant. Thank you.
6 THE COURT: All right. Do we have any juror
7 questions for the witness?
8 All right. Sir, I see no further questions. Thank
9 you for your testimony. Please don't discuss your testimony
10 with other witnesses.
11 THE WITNESS: All right. Thank you.
12 THE COURT: And you are excused.
13 And is the State ready to call its next witness?
14 MS. LUZAICH: Yes. Detective Ryland.
15 **JESSE RYLAND**
16 [having been called as a witness and being first duly sworn,
17 testified as follows:]
18 THE CLERK: Thank you. Please have a seat. State
19 and spell your first and last names for the record.
20 THE WITNESS: Jesse, J-e-s-s-e. Last name is Ryland,
21 R-y-l-a-n-d.
22 THE COURT: All right. Thank you.
23 Ms. Luzaich.
24 MS. LUZAICH: Thank you.
25 / / /

1 DIRECT EXAMINATION

2 BY MS. LUZAICH:

3 Q Ma'am, how are you employed?

4 A I'm a detective with the sexual assault section with
5 Las Vegas Metropolitan Police Department.

6 Q How long have you been with Metro?

7 A I've been employed by Metro for 12 years, and I've
8 been a detective for three.

9 Q And for those three years have they all been with the
10 sexual assault detail?

11 A Yes.

12 Q Can you describe for us what is the sexual assault
13 detail? What do you do?

14 A We investigate any allegations of sexual assault,
15 sexual abuse, inappropriate touching, stuff like that.

16 Q How do cases come to you detectives in the sexual
17 assault bureau?

18 A They're either assigned when a report is filed, or if
19 there's a same day response call, we'll respond. We're
20 contracted by patrol.

21 Q Sometimes can you get involved in a case that's
22 already ongoing?

23 A Yes.

24 Q Is that a little more or a little less common, more
25 unusual?

1 A Yes.

2 Q And at Metro are there certain areas where detectives
3 are specialized in what they do?

4 A Yes.

5 Q For example, homicide, only homicide detectives
6 investigate homicides?

7 A Yes.

8 Q Sexual assault, sexual assault detail -- detectives
9 investigate sexual assaults?

10 A Yes.

11 Q And then there's general detectives that do just a
12 whole bunch of other stuff?

13 A Yes.

14 Q Do you have special training to be a sexual assault
15 detective?

16 A Yes.

17 Q What kind of training do you have?

18 A We take training as far as sexual assault
19 investigations, interview and interrogation, search warrant
20 preparation. Those are the main ones.

21 Q Okay. Is it -- do you interview a victim of a sexual
22 assault differently than you would interview a victim of
23 something else?

24 A No, not necessarily.

25 Q Well, when you're interviewing a victim of sexual

1 assault, one, you want -- I expect you would want to be a
2 little more sensitive than interviewing somebody whose house
3 was broken into when they were not home?

4 A Yes, that would be correct.

5 Q And do you also try to not ask leading questions?

6 A Yes.

7 Q Why is that?

8 A We -- we try to get them to disclose whatever they're
9 going to disclose on their own unprompted.

10 Q Okay. Why?

11 A Because that way we're not providing them any details
12 that they don't remember.

13 Q You don't want to put words in their mouth?

14 A Yes.

15 Q And is that a little more important in sexual
16 assaults than it is in, for example, a burglary that occurs
17 when you're not home?

18 A Yes.

19 Q So do you have training in interviewing that many of
20 the other detectives do not -- people who work narcotics and
21 stuff like that?

22 A Yes.

23 Q So if there is a case where there is an alleged
24 sexual assault, and somebody that's not a sexual assault
25 detective is investigating it, is it uncommon for you to be

1 requested to do an interview for another detective?

2 A Yes.

3 Q It's uncommon?

4 A Oh, I'm sorry. Can you repeat that.

5 Q Would it be normal for you to be requested to do an
6 interview if somebody that's not a sexual assault detective --

7 A Yes.

8 Q -- is investigating the case, and there is a
9 potential sexual assault --

10 A Yes.

11 Q -- allegation?

12 A Yes.

13 Q Okay. Were you asked to do an interview by Detective
14 Nelson in March of 2015?

15 A Yes.

16 Q And what do you know Detective Nelson to do?

17 A He is a robbery detective.

18 Q Okay. And so how did that come about?

19 A We were contacted actually by Detective Nelson's
20 lieutenant, Lieutenant Flynn because he said that some new
21 allegations had come up on an investigation that they were
22 working.

23 Q Okay. So what did you do?

24 A We responded out to the address. We met with
25 Detective Nelson and Lieutenant Flynn.

1 Q When was this?

2 A That was on March 13th, 2015.

3 Q Okay. And what was the name of the individual that

4 you were there to see?

5 A Arrie Webster.

6 Q Okay. And where did you go? You said we responded

7 to the location.

8 A It was 1104 South Jones.

9 Q North Jones maybe?

10 A North Jones. I'm sorry.

11 Q Was it her house or her home maybe as opposed to

12 someone else's?

13 A Yeah, we were in the parking lot, but, yes, it was in

14 the parking lot of her home.

15 Q And do you know how it is -- well, did you see her?

16 A Initially, no. We met with the detectives, but then

17 they brought her out to us.

18 Q That was my next question. They brought her to you?

19 A Yes.

20 Q Okay. And were you by yourself or with somebody?

21 A I had a partner?

22 Q Who was that?

23 A Detective Cho.

24 Q Male or female?

25 A Female.

1 Q And you said that they brought her out to us. So was
2 that Detective Nelson brought --

3 A Yes.

4 Q -- Arrie to you?

5 A Yes.

6 Q And did you and Detective Cho talk to Arrie?

7 A Yes.

8 Q Where did you guys talk to her?

9 A Inside our unmarked vehicle.

10 Q And just so that we're sure we're talking about the
11 same person, showing you State's Exhibit 2, is this Arrie?

12 A Yes.

13 Q Okay. When you were talking to Arrie in your
14 vehicle, were you trying to find out information just kind of
15 from scratch without giving her any information that you knew?

16 A Yes.

17 Q Did you have somewhat of a difficult time?

18 A Yes. In that she was a little hesitant at first to
19 discuss some of the stuff.

20 Q Okay. Is that uncommon?

21 A No.

22 Q Are sexual assault victims often hesitant to want to
23 discuss what happened?

24 A Yes.

25 Q Do you find that it -- you said that you've been

1 doing this for three years?

2 A Yes.

3 Q Approximately how many sexual assault investigations
4 have you participated in?

5 A Over -- over a hundred.

6 Q Okay. And in your experience do you find that very
7 often victims of sexual assault don't report right away?

8 A Yes.

9 Q Do sometimes they wait years to report?

10 A Yes. Delayed reporting is very common.

11 Q Do you find that when you speak with individuals who
12 have been through something like that that they don't just
13 blurt out everything that occurred?

14 A Yes.

15 Q Sometimes is it, like, pulling teeth to get
16 information?

17 A Yes.

18 Q So none of that's uncommon?

19 A No.

20 Q Have you found that sexual assault victims often
21 minimize the conduct that occurred?

22 A Yes.

23 Q Sometimes do they just not want to talk about it at
24 all?

25 A Yes.

1 Q As you spoke with Arrie, did you find her to be
2 somebody that was, like, very articulate, very inarticulate or
3 somewhere in between?

4 A Somewhere between.

5 Q Were there times that you had a hard time kind of
6 communicating with her?

7 A Yes.

8 Q Did it get better at times and not better at times?

9 A Yes.

10 Q Did you talk to her about the fact that -- well, was
11 it your understanding that she did not tell Detective Nelson
12 that there had been penetration?

13 A Yes.

14 Q Now, you know Detective Nelson, correct?

15 A Yeah.

16 Q Is Detective Nelson a man or a woman?

17 A A man.

18 Q Have you seen in your experience have some victims of
19 sexual assault not wanted to talk to male detectives?

20 A Yes.

21 Q Did it take a while before Arrie described anything
22 to you about the incident?

23 A Yes.

24 Q Did she ultimately describe to you that she wasn't
25 sure whether there had been penetration, but she described it

1 in a different way?

2 A Yes.

3 Q And, in fact, did she tell you that she felt a
4 broomstick on her butt in between her buttocks?

5 A Yes.

6 Q Did she say that she, quote, Was touched anally,
7 that's why she scooted repeatedly over and over again?

8 A Yes.

9 Q And did she tell you that she was too embarrassed to
10 tell the detectives, that she couldn't believe it happened to
11 her?

12 A Yes.

13 Q Did you spend a long time trying to determine whether
14 or not there was penetration?

15 A Yes.

16 Q And is there a difference as far as you're aware
17 between legal penetration and what general people perceive to
18 be penetration?

19 A Yes.

20 Q Is that something that you're cognizant of when
21 you're interviewing people?

22 A Yes.

23 Q So after you spent quite some time trying to talk to
24 her about penetration, did she finally say, Did he shove it in
25 me; no, he did not, but he had my pants down to my ankles, and

1 I felt the broomstick in between my buttocks; Like, that's what
2 happened?

3 A Yes.

4 Q Did she also describe for you that she had urinated
5 on herself during the beating?

6 A Yes.

7 Q And that she did that because she was scared to
8 death?

9 A Yes.

10 MS. LUZAICH: Thank you. I pass the witness.

11 THE COURT: All right. Cross.

12 CROSS-EXAMINATION

13 BY MR. ERICSSON:

14 Q Good afternoon, Detective.

15 A Good afternoon.

16 Q I want to make sure I understand. You were called
17 out to do another interview three days after the allegations of
18 the event, correct?

19 A Yes. Yes.

20 Q And I think you used the phrase that there were new
21 allegations --

22 A Yes.

23 Q -- and that's why you were asked to go do another
24 interview, correct?

25 A Yes.

1 Q And isn't it true that the new allegations were that
2 you had been told by someone in the investigation that she was
3 reporting that she had been penetrated vaginally by a penis, a
4 tongue and a finger?

5 A No. We were solely told that she had gone to UMC for
6 a SANE examination regarding a broomstick.

7 Q Okay. Did you prepare handwritten notes from a form,
8 from your -- your interrogation or just your interview of --

9 A Yes.

10 Q -- of Arrie?

11 A Uh-huh.

12 Q And have you looked at your notes lately?

13 A No.

14 MR. ERICSSON: Your Honor, may I approach?

15 THE COURT: Sure. You may move freely.

16 BY MR. ERICSSON:

17 Q I've got colored markings on there. So disregard
18 those.

19 A Okay.

20 Q But you recognize that that is your handwriting?

21 A This is not. This is my partner Detective Cho's.
22 This is mine.

23 Q Okay. All right. So the top two pages are Detective
24 Cho's?

25 A Yes.

1 Q Yours are the bottom two pages?
2 A Yes. Uh-huh.
3 Q Okay. Okay. Have you in preparing for your
4 testimony today have you reviewed the notes from this
5 investigation?
6 A No.
7 Q No. Do you recognize this handwriting to be
8 Detective Cho's?
9 A Yes.
10 Q And do you recall in his or on his notes that he had
11 indicated --
12 MS. LUZAICH: Her.
13 MR. ERICSSON: What's that?
14 MS. LUZAICH: Sorry. Go ahead.
15 BY MR. ERICSSON:
16 Q Oh, and I'm sorry. Detective Cho is also a female?
17 A Detective Cho is a female. Uh-huh.
18 Q I apologize.
19 -- that she had also or that she had indicated on her
20 notes that, quote, penetration specific memory of, and she has
21 P, dash, V?
22 A Okay.
23 MR. ERICSSON: And may I approach, Your Honor?
24 THE COURT: You can move freely.
25 / / /

1 BY MR. ERICSSON:

2 Q Do you recall that? If not, I'll show it to you.

3 A No. No.

4 Q It's on the -- written on the side of the page; is
5 that correct?

6 A Okay. This is my handwriting on her notes. So I'm
7 assuming that that was after we spoke with Nurse Dermanelian.

8 Q Okay. So this handwriting here, it is your
9 handwriting?

10 A Yes. Uh-huh.

11 Q Okay. And what did you write from these notes here?

12 A Refused the gonorrhea injection. Penetration
13 specific memory of P to V, T to V, F to V, unsure on
14 broomstick.

15 Q So from your specific memory of -- and what is P to
16 V?

17 A Penis to vagina.

18 Q What is T to V?

19 A Tongue to vagina.

20 Q And what is F to V?

21 A Finger to vagina.

22 Q And then unsure on broomstick?

23 A Yes.

24 Q So when did you become aware of that information?

25 A That would've been after the interview.

1 Q Okay.

2 A With Arrie.

3 Q So did you ever ask Ms. Webster about the allegations
4 of the specific memory of --

5 A No.

6 Q -- those -- okay. Your interview of her lasted a
7 little over an hour, at least the recorded portion; is that
8 right?

9 A Yes.

10 Q And before you turned on the recording, did you talk
11 with her?

12 A Yes. I usually go over general instructions, that
13 we're going to get personal information, and then we'll turn on
14 the recording and ask about the incident.

15 Q Okay. And did you ask her to describe in her own
16 words what had happened?

17 A Yes.

18 Q And how did she -- what did she describe --

19 A Her --

20 Q I'm sorry.

21 A Before turning on the recording or after?

22 Q That's a very good question from you. Did you ask
23 her what had happened before you turned on the recording?

24 A No.

25 Q Okay. So the first time she described to you what

1 had happened was when you were recording, correct?

2 A Yes.

3 Q And do you recall how she described what happened
4 when she went into the alleged -- the suspect's house?

5 A Yes.

6 Q What did she tell you happened?

7 A First she said that the defendant had asked her
8 about -- asked her to come inside and initially he was asking
9 her about the dogs that were missing.

10 Q Okay. And then did she say that his voice got
11 louder?

12 A Yes.

13 Q And he told her to get down on her knees -- or to
14 turn around and get down on her knees?

15 A Yes.

16 Q And then he hogtied her?

17 A Yes.

18 Q Stuffed her mouth?

19 A Yes.

20 Q With something?

21 A Yes.

22 Q Blindfolded her --

23 A Yes.

24 Q -- with a pillow case?

25 A Uh-huh.

1 Q When she described that to you, she did not indicate
2 to you that before her mouth was stuffed with whatever object
3 was put in her mouth that a shotgun had been put in her mouth,
4 did she?

5 A No.

6 Q And she had told you that she believed that she had
7 been beaten with a belt for approximately 30 to 40 minutes?

8 A I can't remember the time frame, but, yes.

9 Q And would it help to see the recording of -- the
10 transcript of the interview if you're not sure of the time
11 frame?

12 A Sure.

13 MS. LUZAICH: Page?

14 MR. ERICSSON: It should be page 14.

15 BY MR. ERICSSON:

16 Q So, Detective, I'm showing you page 1 to begin with.

17 A Yes.

18 Q Does this appear to be the transcript of the
19 interview you conducted with Arrie Webster?

20 A Yes.

21 Q And the date on it is March 13th, 2015?

22 A Yes.

23 Q It indicates time of 1257 hours?

24 A Yes.

25 Q So that's 12:57 p.m., correct?

1 A Yes.

2 Q Okay. Turning to page 14, did you ask her how long
3 it went on for that she was hit with a belt?

4 A Yes.

5 Q And what did she say?

6 A Her response was 30 to 40 minutes.

7 Q And did she indicate to you that someone took
8 photographs of the whacks on her buttocks?

9 MR. ERICSSON: And that's at the bottom of page 14,
10 Counsel.

11 MS. LUZAICH: Well, objection. That's not at all
12 what it says.

13 THE WITNESS: (Inaudible.)

14 MR. ERICSSON: Okay. If I'm -- I'm not trying to
15 misstate. I'm reading right here.

16 THE COURT: Just read exactly what it says.

17 MR. ERICSSON: Okay.

18 BY MR. ERICSSON:

19 Q So you asked her were there any injuries, correct?

20 A Uh-huh. Yes.

21 Q And was her response to, I mean, of the what
22 happened, the paramedics, they came, and they -- they seen.
23 They seen the whacks on my buttocks, and then someone came and
24 took photos, and, okay, of my mouth and my knees --

25 A Yes.

1 Q -- correct. Okay. So the paramedics supposedly had
2 seen the injuries to her buttocks? At least a --
3 A The paramedics saw them, yes.
4 Q Okay.
5 A That's what she's saying, yes.
6 Q Okay. Did you speak to the paramedics in this case?
7 A I did not.
8 Q Do you remember that she had told you that -- she
9 used the phrase, They all tased me; it was like a gang beating?
10 A Yes.
11 Q And she told you that -- that she smoked spice and
12 methamphetamine, correct?
13 A Yes.
14 Q She had told you when you interviewed her on March
15 13th that she had used meth she estimated four to five days
16 earlier; is that correct?
17 A Yes.
18 Q And did she tell you that someone had placed a Taser
19 to her eye before they put the pillowcase on her head?
20 A She had discussed the Taser to the eye, but I don't
21 recall if it was before or after the pillowcase --
22 Q Okay.
23 A -- being put on her head.
24 MR. ERICSSON: Counsel, I'm showing her page 44.
25 / / /

1 BY MR. ERICSSON:

2 Q Detective, if you'd read the section that's
3 highlighted there.

4 A Okay.

5 Q So is that --

6 A So I guess it says, That's -- that it happened before
7 the pillowcase was over my eyes because I saw it.

8 Q And that being she alleged --

9 A The Taser.

10 Q -- the Taser had been placed to her eyes --

11 A Yes.

12 Q -- before the pillowcase was placed on her head?

13 A Uh-huh.

14 Q And, Detective, do you remember that she had told you
15 that she had pretended to pass out?

16 A Yes.

17 Q And -- and that she when you asked her if she was
18 unconscious she indicated that she thought so, correct?

19 A Yes.

20 Q Was it your understanding that she was unsure whether
21 she had passed out?

22 A Yes.

23 Q And she indicated to you that she had refused any
24 medical treatment on the day of the alleged event?

25 A Yes.

1 MR. ERICSSON: Thank you very much. I have no
2 further questions.

3 THE COURT: All right. Redirect.

4 REDIRECT EXAMINATION

5 BY MS. LUZAICH:

6 Q She also told you that she was trying to block it
7 out, correct?

8 A Yes.

9 Q She also told you that specifically, I felt the
10 broomstick touch my anal. I scooted from it, and then I felt
11 the broomstick touch my anal again, and I scooted from it?

12 A Yes.

13 Q Now, when she said that, I felt the broomstick touch
14 my anal, did you do anything to talk about body parts, like
15 confirm what specifically she meant by touch my anal?

16 A No.

17 Q I mean, would you agree that there's different
18 type -- different areas in your behind? You know, there's the
19 butt cheeks. There's the area between the butt cheeks.
20 There's the hole that whatever. Did you try to confirm what
21 she was talking about?

22 A Yes.

23 Q So when she said I felt it touch my anal, what was
24 she talking about?

25 A Her rectum. I referred to it as her rectum.

1 Q So would that be the hole?

2 A The hole, the butt hole.

3 Q Okay. And then -- did you ask her how it felt, and
4 did she tell you that her rectum felt sore?

5 A Yes.

6 MS. LUZAICH: Nothing further.

7 THE COURT: Mr. Ericsson, any recross?

8 MR. ERICSSON: Yes. Just to --

9 CROSS-EXAMINATION

10 BY MR. ERICSSON:

11 Q She did not use the word rectum with you, correct?

12 A No. No.

13 Q So you are speculating as to what she was referring
14 to, correct? When she referred to anal, you're not sure what
15 she was referring to because you didn't have her specify that,
16 correct?

17 A She called it her anal, and several times she said
18 between my buttocks.

19 MR. ERICSSON: Okay. Thank you. No further
20 questions.

21 THE COURT: Ms. Luzaich.

22 MS. LUZAICH: No.

23 THE COURT: Do we have any juror questions for this
24 witness?

25 All right. I see no additional questions. Thank you

1 for your testimony. Do not discuss your testimony with any
2 other witnesses, and you are excused at this time.

3 State, nothing else for today?

4 MS. LUZAICH: No.

5 THE COURT: All right. Ladies and gentlemen, that's
6 all the witnesses for today. So we're going to go ahead and
7 take our weekend recess. We will reconvene Monday morning at
8 9:00 a.m. We are expecting to finish on Monday.

9 So before I release you for the weekend recess, I
10 must remind you that you're not to discuss the case or anything
11 relating to the case with each other or with anyone else.
12 You're not to read, watch or listen to any reports of or
13 commentaries on the case, person or subject matter relating to
14 the case. Don't do any independent research by way of the
15 Internet or any other medium, and do not visit the location at
16 issue. Do not do any kinds of experiments or research on any
17 subject connected with the trial, and please don't form or
18 express an opinion on the case.

19 Please place your notepads in your chairs, and we'll
20 see everyone back at 9:00 a.m. Monday morning.

21 (Jury recessed for the evening 12:50 p.m.)

22 THE COURT: Jury instructions.

23 MS. LUZAICH: You have them.

24 THE COURT: Okay. I mean, do you have objections or?

25 MR. ERICSSON: Your Honor, I have gone through

1 everything. There was just a couple of minor things that were
2 already addressed.

3 THE COURT: Okay.

4 MR. ERICSSON: So as far as I know right now --

5 THE COURT: You're fine?

6 MR. ERICSSON: -- everything looks good. I'm going
7 to spend some more time this weekend --

8 THE COURT: Okay.

9 MR. ERICSSON: -- and see if there's anything else
10 that I need to add, but I don't -- I'm not aware of any right
11 now.

12 THE COURT: Okay. So right now they're probably
13 fine?

14 MR. ERICSSON: Yeah.

15 THE COURT: And we can just number them on Monday.

16 MS. LUZAICH: Okay.

17 THE COURT: Okay. Sounds --

18 MS. LUZAICH: Just so you know, the order in which
19 they're provided is not the order in which I would propose
20 them.

21 THE COURT: Okay.

22 MS. LUZAICH: I just don't know how to move them
23 around in the computer.

24 THE COURT: Okay. So we can just do that when we --

25 MS. LUZAICH: Yeah.

1 THE COURT: -- when we number them.

2 MS. LUZAICH: Okay. I did include a defendant not
3 testify instruction.

4 THE COURT: Right.

5 MS. LUZAICH: Obviously if he testifies then, it
6 doesn't need to be in there even though you didn't take it out
7 last time.

8 THE COURT: I didn't?

9 MS. LUZAICH: No. In Johnson.

10 THE COURT: Really?

11 MS. LUZAICH: Yeah.

12 THE COURT: We numbered them together.

13 MS. LUZAICH: Yeah, but we numbered them before we
14 knew -- or was it not Johnson? Yeah, the last trial.

15 THE COURT: It wasn't me.

16 MS. LUZAICH: Are you sure?

17 THE COURT: Yeah.

18 MS. LUZAICH: That's the only other trial I did this
19 year.

20 THE COURT: Are you sure there was one in there? I
21 would've caught it. I don't think there was.

22 MS. LUZAICH: Okay. Nevermind. But if he doesn't
23 testify --

24 THE COURT: Because the trial after that --

25 MS. LUZAICH: -- obviously we'll take it out.

1 THE COURT: -- the defendant didn't testify.

2 MS. LUZAICH: No. I did one -- I thought it was
3 Johnson -- where we included a defendant not testifying, and
4 the defendant testified, and while the Judge was reading it we
5 realized -- it wasn't you?

6 THE COURT: It wasn't me.

7 MS. LUZAICH: Oh.

8 THE COURT: It was definitely not me.

9 MS. LUZAICH: Okay. Nevermind. Sorry.

10 THE COURT: I would never make a mistake like that.

11 MS. LUZAICH: Of course not.

12 THE COURT: Because I always ask them as I'm doing
13 the jury instructions. Yeah, no, it definitely wasn't me. I
14 mean, okay, like maybe it was, but I'm pretty sure it wasn't.

15 MS. LUZAICH: Maybe I did do another trial this year.

16 THE COURT: All right. In any event, we'll see you
17 back Monday. Is there anything else we need to put on the
18 record or do today?

19 MS. LUZAICH: Oh, yes. Yesterday I moved the
20 defendant's statement into evidence. I didn't have the
21 physical discs. So I have since provided the disc to your
22 clerk. It is marked. I will bring -- and Mark just forgot to
23 give it to me -- a copy of the transcript where it's
24 highlighted what was redacted that I would ask ultimately be
25 marked as a Court's Exhibit for appellate purposes in case that

1 becomes an issue later.

2 THE COURT: Right.

3 MR. ERICSSON: So that I'm clear, the disc that was
4 given is the one that has the redaction?

5 MS. LUZAICH: Yeah, that is redacted.

6 MR. ERICSSON: Okay.

7 MS. LUZAICH: Yes, it is.

8 MR. ERICSSON: And if you can also make a copy of
9 that for me for Monday is fine. Just so I've got it for my
10 file.

11 MS. LUZAICH: Sure.

12 MR. ERICSSON: Because I don't have the redacted
13 version of it.

14 MS. LUZAICH: And then I think that's it.

15 THE COURT: Okay. Nothing else?

16 MR. ERICSSON: And, your Honor, I apologize. I
17 didn't pay close attention. When did you tell the jury to be
18 back?

19 MS. LUZAICH: 9:00 o'clock.

20 THE COURT: 9:00 o'clock.

21 MS. LUZAICH: I'm still trying to figure out Annie.

22 THE COURT: Oh, right.

23 MS. LUZAICH: We're hoping that, I mean, there's a
24 chance she'll be released from the hospital on Saturday or
25 Sunday, and then my investigator was talking to Sunrise

1 Hospital, and somebody mentioned they may be able to transport
2 her here, like, just to testify. I mean, that would be ideal.
3 I don't want to do it by video --

4 THE COURT: Right.

5 MS. LUZAICH: -- but if I have to, my IT person, the
6 one that was sitting here helping me, she is going to contact
7 IT here.

8 THE COURT: Okay.

9 MS. LUZAICH: And Sunrise.

10 THE COURT: As long as she is not infectious that's
11 fine.

12 MS. LUZAICH: No, she's not infectious. She's the
13 one who like when you go in to see her you have to gown up so
14 that she doesn't get anything.

15 THE COURT: That usually means they're infectious.

16 MR. ERICSSON: Yeah.

17 THE COURT: Usually --

18 MS. LUZAICH: No, her -- like her immunities are
19 down.

20 THE COURT: Oh.

21 MS. LUZAICH: She won't give it.

22 THE COURT: Then why would they -- but usually when
23 you have to gown up it's for your own protection and for the --
24 you know, when they have the yellow gowns outside the door and
25 all that.

1 MS. LUZAICH: Yeah. Well, no, like when my dad went
2 through his --

3 THE COURT: Really.

4 (Colloquy off the record.)

5 THE COURT: Okay. I mean, so if her immunity is so
6 low, if they want -- medically --

7 MS. LUZAICH: Well, just thus far that's been the
8 issue.

9 THE COURT: Okay.

10 MS. LUZAICH: I don't know, but that's what somebody
11 said to him this morning.

12 THE COURT: Okay. Well, we'll leave that up to her
13 doctors I guess.

14 MS. LUZAICH: Yes, obviously.

15 THE COURT: If they feel like that's appropriate.

16 MR. ERICSSON: And, Your Honor, I have two of the
17 attorneys at our office are out next week. I've got an 8:30 in
18 lower, and it's just an arraignment. I will get there early
19 and try to get it called right away.

20 MS. LUZAICH: I hope not because lower level is at
21 10:00.

22 MR. ERICSSON: No, not lower level. It's just at --

23 THE COURT: You mean justice court?

24 MR. ERICSSON: -- justice court.

25 MS. LUZAICH: Oh. Oh. Oh.

1 THE COURT: Do you want us to call and tell them to
2 call your case, or can you just check in with them?

3 MR. ERICSSON: I think if I check in --

4 THE COURT: Who is it?

5 MR. ERICSSON: I can tell you right now.

6 THE COURT: I meant who's, yeah, who's your Judge?

7 MR. ERICSSON: Yeah. I just need to look at the
8 calendar.

9 (Colloquy off the record.)

10 MR. ERICSSON: It's Justice Court 14.

11 MS. LUZAICH: Yeah. She doesn't get on the bench at
12 8:30. She gets on the bench at a quarter till sometimes, and
13 that's because mostly the other defense attorneys -- the
14 contract is talking to the clients.

15 MR. ERICSSON: So --

16 MS. LUZAICH: She'll call you first off though.

17 THE COURT: Which one is it? Chelini?

18 MS. LUZAICH: Chelini, yeah.

19 MR. ERICSSON: And we do have a first-year attorney
20 who's going to -- I'm going to be working with her this
21 weekend. She might be able to get all of those covered.
22 There's like four things on there. There is one I was going to
23 try to cover.

24 THE COURT: Okay.

25 MR. ERICSSON: But I'll do my best to be here by

1 9:00.

2 THE COURT: All right. Thanks.

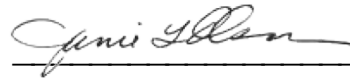
3 (Proceedings recessed for the evening 12:56 p.m.)

4 -oOo-

5 ATTEST: I do hereby certify that I have truly and correctly
6 transcribed the audio/video proceedings in the above-entitled
7 case.

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Janie L. Olsen
Transcriber

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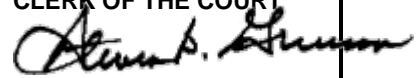
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,
Plaintiff,

vs.

CALVIN THOMAS ELAM,
Defendant.

CASE NO. C305949-1
DEPT NO. XXI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

MONDAY, JUNE 26, 2017

JURY TRIAL - DAY 6

APPEARANCES:

FOR THE STATE: ELISSA LUZAICH, ESQ.
Chief Deputy District Attorney

FOR THE DEFENSE: THOMAS A. ERICSSON, ESQ.

RECORDED BY: SUSIE SCHOFIELD, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

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1 **LAS VEGAS, CLARK COUNTY, NEVADA, JUNE 26, 2017, 9:30 A.M.**

2 *** * * * ***

3 (Outside the presence of the jury.)

4 THE COURT: Are we ready?

5 THE MARSHAL: I believe so, Judge.

6 THE COURT: All right. Bring them in.

7 So do we want to keep the monitor there or --
8 anybody? If they don't care. I don't care.

9 MS. LUZAICH: Whatever you want, Judge.

10 (Colloquy off the record.)

11 (Jury entering 9:32 a.m.)

12 THE COURT: All right. Court is now back in session.
13 The record should reflect the presence of the State through the
14 deputy district attorney Ms. Luzaich, the presence of the
15 defendant and his counsel, Mr. Ericsson, the officers of the
16 court, and the ladies and gentlemen of the jury.

17 And good morning, ladies and gentlemen. I'm sorry
18 for our tardy delay. We had to set up some -- we had some
19 technical issues.

20 The next witness that the State is going to call is
21 currently in the hospital. So you will be hearing from this
22 witness, and she will be testifying via videoconferencing, and
23 you will be able to observe her on that monitor there, and so
24 that you can see better, as soon as we get started, Kenny will
25 move the monitor into the center of the courtroom. So I think

1 you can all see, those of you particularly on that end of the
2 courtroom.

3 So, Ms. Luzaich.

4 MS. LUZAICH: The State would call Elizabeth Gentile.

5 THE COURT: All right.

6 THE WITNESS: (Unintelligible.)

7 THE COURT: Ms. Gentile, can you hear us?

8 THE WITNESS: Yes, I can.

9 THE COURT: All right. And can you see us?

10 THE WITNESS: Yes, I can see pretty much the
11 courtroom, and I see Lissa on the left-hand side.

12 THE COURT: All right. We're going to go ahead and
13 administer the oath to you now, and you can remain seated or
14 lying down, but I need you to raise your right hand, and the
15 court clerk will administer the oath to you.

16 **ELIZABETH GENTILE**

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

19 THE CLERK: Thank you. Please state and spell your
20 first and last name for the record.

21 THE WITNESS: Yes. It's Elizabeth,
22 E-l-i-z-a-b-e-t-h. Last name is Gentile, G-e-n-t-i-l-e.

23 MS. LUZAICH: You can put your hand down.

24 May I, Judge?

25 THE COURT: Yes, you may proceed.

1 DIRECT EXAMINATION

2 BY MS. LUZAICH:

3 Q Good morning, ma'am. You said that your name is
4 Elizabeth. Do you also go by something else?

5 A Yes, I go by Annie. Everybody knows me by Annie.

6 Q May I call you Annie as well?

7 A Yes, you can.

8 Q Thank you. Good morning, Annie. I see that you're
9 in the hospital. Can you tell us for how long have you been in
10 the hospital?

11 A Today I'll be in the hospital 60 days.

12 Q So two months.

13 A Yes, ma'am.

14 Q Do you believe that you're going to be getting out in
15 the near future?

16 A Yeah, we're hoping another two more weeks about.

17 Q Okay. At the risk of being insensitive, can you tell
18 us what your diagnosis is.

19 A Yes, I'm dealing with a disease called gastroparesis.
20 It's the paralyzation of the stomach. It -- pretty much they
21 have a tube in my stomach right now, and I'm dealing with a
22 major infection in the J-Tube. It's due to diabetes, and I've
23 been dealing with the disease for the last three years. It's
24 just gotten worse.

25 Q Okay. And I'm so sorry to hear that. The issue that

1 you're having, does it affect your ability to understand
2 anything that I'm saying?

3 A No, not at all. I'm pretty clear with everything.

4 Q Okay. Thank you. Annie, I'm going to direct your
5 attention right back to March 10th of 2015. Can you tell us
6 where were you living on March 10th of 2015?

7 A At the time I was at 116 North Jones, Apartment D,
8 Las Vegas, Nevada, 89108.

9 Q And you said 116. Was it 1116?

10 A Yes, 1116 North Jones.

11 Q Okay. And when you were living in that apartment,
12 were you living alone or with anybody?

13 A I was living with my best friend Pamela and her son.

14 Q Did you have any pets at the time?

15 A Yes, I had a little dog, a little terrier.

16 Q Did you know a lady named Arrie Webster?

17 A Yes, I do.

18 Q You do and you did back then as well?

19 A Yes, I do.

20 Q Okay.

21 A And back then.

22 Q Did Arrie live in that general area as well?

23 A Yes, she did, ma'am.

24 Q And were you and Arrie friends?

25 A Yes, we were.

1 Q And would she come visit you quite often at your
2 home?

3 A Yeah. We pretty much -- I would be on my patio
4 drinking coffee, and I'd have my little dog out, and she'd come
5 up and hang out with her little dog, and the two dogs would
6 play, and we'd have some coffee, and we'd just chitchat, you
7 know, on some mornings, but, yeah, that would happen once in a
8 while.

9 Q Okay. And specifically on March 10th of 2015, did
10 Arrie come over to your home with her dog?

11 A Yes, she did.

12 Q And did you guys visit, have coffee and let the dogs
13 play?

14 A Yes, we did.

15 Q And at the time, were you visiting and sitting
16 outside on your patio?

17 A Yes, we were, ma'am.

18 Q Or your balcony. What does your balcony or patio
19 overlook?

20 A It overlooks the -- pretty much the whole alley, and
21 it overlooks the trash cans, the green trash cans along the
22 alley. So if you stand on my patio, you can see through the
23 whole alley from left to right all the way. I mean, as far as
24 you can look down you can see the alley and all the green trash
25 cans lined up.

1 Q Okay. So if you look one way, can you see pretty
2 much almost all the way to Washington?

3 A Yes, you can.

4 Q Okay. And did Arrie leave your balcony at some point
5 during your visit that day?

6 A Well, yes, because she was standing up on the patio,
7 and she got a call from somebody downstairs from the apartment
8 saying, Hey, Cuz, come downstairs, I need to talk to you, and I
9 told Arrie at the time that I didn't think it was a good idea
10 that she go, but she said, No, he's my cousin. I know him
11 well. His name is Calvin. It's all good. So she then at that
12 point she asked me if I would watch her dog, and I said I would
13 watch her dog for the moment, and she proceeded down my stairs
14 and proceeded to Calvin.

15 Q Okay. Now, you said she got a call. Was that a
16 phone call or a verbal call?

17 A Oh, it was a -- I'm sorry. It was a verbal. He was
18 outside. It was a verbal call. He was, like, Hey, Cuz, come
19 down here, and she -- but it wasn't a phone call. It was him
20 actually telling her to come downstairs.

21 Q Okay. And did you see him?

22 A Yes.

23 Q Is that a yes? I'm sorry, Annie.

24 A Yes.

25 Q Was that a yes you did see him?

1 A It was a yes. I did see him.

2 Q Okay. And at the time that you saw him, were you
3 familiar with him? Did you know who he was as well?

4 A Okay. I had one encounter with him. We were all at
5 the school park down the street. His kids were playing, my
6 nephew were playing. I met him. He explained to him he -- to
7 me he --

8 MR. ERICSSON: Objection. Calls for hearsay at this
9 point.

10 MS. LUZAICH: Well, actually it's not hearsay. It's
11 the defendant's --

12 THE COURT: Oh, okay. Well, whatever the defendant
13 said is fine. If it's something that somebody else told you
14 that the defendant said, then that would be hearsay. So
15 anything the witness heard the defendant saying is fine.

16 BY MS. LUZAICH:

17 Q So one day prior to this you met him at a park with
18 his kids; is that it?

19 A Yes. And he said he was a tattoo artist if I ever
20 needed any ink.

21 Q Okay. And so you knew him by face. You knew that he
22 had kids, and did you know which apartment he lived in?

23 A Yeah, he lived in the apartment downstairs from where
24 I lived, probably right -- like, I had my patio, and there was
25 one apartment over to the left downstairs.

1 Q Okay. So he was in the -- he was nearby, correct?
2 A Yes, he was. Yes.
3 Q So Annie -- or Arrie left, and left her dog with you.
4 A Yes.
5 Q Was she gone for a while?
6 A -- she would never leave her dog -- she would never
7 leave her dog for long period of time. That was just one --
8 Q Annie, you broke up for a second.
9 A Okay.
10 Q Let me go back. Was she gone for a while?
11 A Yes, she was.
12 Q Were you surprised by that?
13 A Yes, because she never left her dog alone that long.
14 Q Okay. Now, at the time that this occurred, were you
15 and/or your friend Pam babysitting somebody, like, during this
16 time frame?
17 A What happened is is we had a friend that was dropping
18 off a little girl named Payten. We used to -- me and Pam used
19 to babysit her on a general basis for a girl named Debra, and
20 she -- she was pulling up to drop the baby off.
21 Q Okay. So Debra dropped the baby off that day?
22 A Yep.
23 Q And it --
24 A And what happened was -- go ahead. I'm sorry.
25 Q Were you at some point getting concerned that Arrie

1 was not back?

2 A Yes, I was very concerned that she wasn't back, and
3 as Debra was bringing Payten over to the house by my apartment,
4 I noticed -- I looked over to my left, and I noticed that Arrie
5 was rolling down the alley at that point.

6 Q When you say she was rolling down the alley, can you
7 describe for us how did she look?

8 A When I tell you I get very emotional about it. It
9 was -- it was like it was something that you would see on TV.
10 She was literally rolling head to feet, head to feet, and I ran
11 up to her, and she was gasping for air. She was -- she was
12 tied up with wire. She was tied up with ropes. She had a
13 pillow case on her head that was taped with -- that was totally
14 taped all the way around her neck. Her pants and boxers were
15 to her ankles. I tried to untie some wire. I got some wire
16 untied.

17 At that point my friend Main [phonetic], but you guys
18 know him as Carl, he ran to -- he ran to my attention to
19 because I couldn't -- I didn't have the strength to rip a lot
20 off. I ran upstairs to get a scissor. I came back downstairs
21 so I could start to untie and, I mean, do the scissor and get
22 the tape and the wire untied, and we finally got the pillowcase
23 off of Arrie's face. She was barely gasping for air. She had
24 I would say about two things of paper towel rolls stuffed in
25 her mouth, and we got them out of her mouth, and she took a

1 gasp of air, and started freaking out.

2 I told her that everything would be okay, that I
3 would make sure she was going to be okay and at that point I
4 grabbed her, pretty much picked her up and brought her over by
5 my stairs by my home.

6 Q Okay. Did she end up staying with you at that point?

7 A She stayed with me --

8 Q Or did she go someplace else?

9 A -- stayed with me for a little while, and she says to
10 me, she was, like, thank you so much, and she was in -- she was
11 so scared, in so much tears, and at that point I was scared and
12 in tears, and she says, I got to go, and she had took off at
13 that point.

14 Q Okay. Now, the person that had motioned her to come
15 over, did you see him again?

16 A Yes.

17 Q When did you see him again?

18 A I seen him again after Arrie left, and they were
19 standing by the apartment, and they were laughing about it like
20 it was a joke.

21 Q When you say they, who is they? Was he with
22 somebody?

23 A Yeah, he was with, I think, I'm sorry because I'm not
24 too too sure, but I think it was two males and a girl I think
25 if I remember correctly. I'm not too sure.

1 Q Were the individuals that he was with, were they
2 people that you knew, or were they people that you did not
3 know?

4 A No, I didn't know them.

5 Q Okay. You said he was laughing?

6 A And they were just laughing, like, it was a joke.

7 Q Okay. Did you see him do anything?

8 A Yes. Because as I mentioned earlier in my statement,
9 Lissa, I had untied her, and I cut stuff off of her. Well, as
10 I watched them start picking up the stuff that was on the
11 ground, and he was throwing it into the dumpsters by the house.
12 The only thing he didn't grab was her shoe was still sitting
13 there by the dumpster, and I let the detective know that, that
14 the shoe was still sitting there.

15 Q Okay. So later you talked to -- you were aware that
16 the police were called?

17 A Well, no. I went up to Smith's, and I -- Arrie had
18 ran up to me. I walked up for Smith's for a moment, and Arrie
19 had run up to me and told the officer, This is the girl that
20 saved my life. This is the girl that saved my life, and so at
21 that point the detective was, like, thank you so much or
22 whatever, and so at that point I was speaking to him about the
23 situation.

24 Q Okay. And then you said something about her shoe.
25 Did you show the detective or one of the police officers where

1 her shoe was?

2 A Yes. Because everybody had went back to -- drove
3 back into the alley -- the detectives had drove into the alley,
4 and they asked me where her shoe was, and I pointed to her
5 shoe, and they were able then to see that Arrie's one shoe was
6 sitting there.

7 MS. LUZAICH: Okay. Thank you very much, Annie.

8 I would pass the witness.

9 THE COURT: All right. Thank you.

10 CROSS-EXAMINATION

11 BY MR. ERICSSON:

12 Q Good morning, Annie. My name is Tom Ericsson. Are
13 you able to see me?

14 A Yes, I can see you, sir.

15 Q Okay. I just have a few questions for you. So it's
16 your testimony that at some point Arrie was contacted by my
17 client Mr. Elam and asked to go down to his apartment; is that
18 right?

19 A Yes. Well, he called her down. You know, he said,
20 Hey, Cuz, come down.

21 Q Okay. And were you out on your balcony at this
22 point?

23 A Yes. I was -- we were standing on the balcony. Yes.

24 Q Okay. And is it your testimony today that you told
25 her that you were worried or something to that nature and that

1 you were concerned about her going to see Mr. Elam?

2 A Yeah. I told her that I didn't have a really good
3 feeling about it, and she said, no, you have nothing to worry
4 about. It's my cousin. It's like -- he's like a cousin to me.
5 I said, Oh, okay, and she then proceeded to go downstairs.

6 Q Okay. And I believe you testified that at some point
7 you -- you were worried. You thought that she had been gone
8 for an extended period of time; is that right?

9 A Yes, sir.

10 Q Okay. During that time did you contact or attempt to
11 contact the police?

12 A No, I did not, sir.

13 Q Okay. And then you testified that at some point you
14 see her rolling down the alleyway; is that correct?

15 A That is correct, sir.

16 Q Okay. And it's your testimony that you and others
17 helped take off material that was on her -- when you first saw
18 her, was she making any noise at that point?

19 A Sir, she sounded like she was gasping for the last of
20 her air. She could not breathe. I thought she was going to
21 die right there if I didn't untie her at that moment because
22 you could -- you could hear her, her mouth "foaming" for the
23 last of her breath.

24 Q Okay. Do you remember previously testifying in a
25 court regarding this event?

1 A Yes, I do, sir. I -- yes, a couple years ago.

2 Q Okay. Yes, it's been some time.

3 A Yes. It actually was 3/10 -- well, I'm not sure, but
4 I was back in 2015 if I remember correctly.

5 Q Okay. Now, do you recall at a previous time, either
6 at the prior hearing or when you were talking with the
7 detective that you had indicated that before you got to her you
8 heard her screaming?

9 A You could hear it like a scream, but it was more of,
10 like, a yell. You could barely hear it. It was more like a
11 gasp, like I can't explain it. Like, I said, you would
12 never -- I never thought I would experience anything like that
13 in my life.

14 Q Okay.

15 A And you can see that she was suffering, and you could
16 hear her "foaming" and trying to pretty much scream through --
17 she's got tissue in her mouth and her mouth tied up with the
18 pillowcase around there. I mean, how do you think it would
19 sound through a pillowcase and stuff stuffed in your mouth. I
20 mean, you can barely hear anything coming out of her mouth, but
21 I knew she was suffering.

22 Q Okay. Is it your -- your recollection that the
23 pillowcase that was on her head, that it was taped around her
24 neck?

25 A Where it was, it was taped all the way around her

1 neck because it took me a while to get the tape off to get the
2 pillowcase off of her head. I mean, these -- this is something
3 you don't normally see on a daily basis. This is something you
4 see -- something like that, I've never seen anything like this
5 in my life.

6 Q Okay. So you -- the only time that you had had any
7 interaction with Mr. Elam, if I understand right, was the day
8 before you had met him down at a park area or in the
9 neighborhood when he was with his children, correct?

10 A Yeah. Because the kids were playing basketball by
11 the school, and we had sat there and talked, and he had let me
12 know that he was a tattoo artist, and he did ink, and I was
13 like that's really cool because I like ink. I like tattoos.
14 So we kind of got along in that aspect, but that was the first
15 time I met (audio interference).

16 Q Okay. Annie, what is your best estimate of how long
17 it was from the time that you say that Arrie went to
18 Mr. Calvin's place until you saw her in the alleyway?

19 A I would approximately give it about it was probably
20 about 45 minutes to an hour because I -- I noticed -- I kept
21 looking and looking because she would never just leave her dog
22 that long. So I would say -- I would say about 45 minutes to
23 an hour.

24 Q Okay. Do you have young children?

25 A I have a nephew that lives with me.

1 Q Okay. And I'm -- this -- this event took place on a
2 school day, correct?

3 A I'm sorry, what?

4 Q Do you recall if this event took place on a school
5 day?

6 A I think it was on a school day, sir.

7 Q Okay.

8 A If I remember.

9 Q And I want to focus on do you know what time the
10 children in the elementary school there in that neighborhood
11 would typically be released from school?

12 A I'm not -- like 2:00, 2:15, 2:10.

13 Q Okay.

14 A I'm approximately thinking. I mean, around that
15 time.

16 Q Okay. And is it your recollection that children had
17 already come back from school that afternoon before you saw
18 Annie in the alleyway -- I mean excuse me, before you saw Arrie
19 in the alleyway?

20 A (Audio interference.)

21 Q Pardon me?

22 A There was, you know, kids questioning what was, I
23 mean, of course what was going on, but we pretty much kept all
24 the kids, especially Carl, who's another witness in this case,
25 he has five kids. So he told his kids to go in the house, that

1 it wasn't a safe place for them to be.

2 Q Okay.

3 A So I would think that, yeah.

4 Q So from what you recall, the children had come back
5 from elementary school prior to the time that you saw Arrie in
6 the alleyway, correct?

7 A Correct, sir.

8 Q Is it your testimony that after you took material off
9 of Arrie that -- did you take her up to your apartment at that
10 point?

11 A I took her by my apartment. There's stairs because
12 you've got to walk upstairs to the patio, and she was sitting
13 on the stairs, and I ran up, and I got her a bottle of water, a
14 cold bottle of water, and I brought it down to her.

15 Q Okay. And did you attempt to contact the police at
16 that time?

17 A No, I didn't, sir.

18 Q Okay.

19 A Like I said, she -- she said to me she had to go away
20 for a little bit, and she'd be right back, for me not to leave
21 because I'm pretty much the one that saved her life, and she
22 didn't want me to leave, that she was going to contact an
23 officer or contact 9-1-1 and she'd be back, but I didn't -- I
24 didn't see her back.

25 Q Okay.

1 A I walked up to Smith's, and at the point that I
2 walked up to Smith's, she was in the detective's vehicle, and
3 she started to scream and say to the detective, That's the girl
4 that saved my life. That's the girl that took everything off
5 of me.

6 Q Earlier you described that she was tied up with wire
7 and tied up with rope. Can you describe the rope that you say
8 that you observed on her.

9 A Well, I mean, pretty much it was like -- I can't
10 explain. It was, like, not like a big thick rope. It was a
11 thinner type of rope, and the wire was -- it looked like a TV
12 wire, like if you were to plug in the TV and you cut the wire,
13 that's the type of wire it looked like, and she was tied with
14 that type of wire, and she was taped up with I thought was with
15 Gorilla tape. Her legs were tied -- or her ankles were tied
16 up. Her hands were tied up, and the pillowcase was tied around
17 her neck with the tape.

18 Q Okay. I want to focus on the rope that you believe
19 that you saw. What color was the rope?

20 A It was like a light gray color I'm thinking.

21 Q Okay.

22 A She had so much stuff tied on her. She was so
23 mangled. For me to sit here, sir, not, you know, not to be
24 disrespectful and tell you exactly what color the rope is, at
25 that point, sir, that wasn't my concern. My concern was this

1 girl was in trouble, and she needed help.

2 Q Okay. And --

3 A I wasn't --

4 Q And --

5 A -- more concerned (audio interference) rope was.

6 Q And, ma'am, at this point, if you would just answer
7 the questions, Ms. Luzaich has follow-up questions, she'll be
8 able to answer those.

9 A (Audio interference) tell you it was almost like a
10 gray colored rope, but for you to sit here and tell me to give
11 you exactly --

12 Q Ma'am --

13 A -- (audio interference) detail --

14 Q Ma'am, I -- I can ask you questions. If you would
15 just respond to the questions, that would be --

16 A Yes, sir.

17 Q Thank you.

18 A That's fine.

19 Q Ma'am, is it your testimony that her hands and her
20 feet were connected in some way when she was tied up?

21 A Yes, they were.

22 Q Okay. And were her hands tied in front of her or
23 behind her?

24 A In front of her.

25 MR. ERICSSON: Thank you.

1 I have no further questions at this time.

2 THE COURT: Ms. Luzaich.

3 MS. LUZAICH: Just one.

4 REDIRECT EXAMINATION

5 BY MS. LUZAICH:

6 Q Annie, do you remember when you testified that time
7 back in 2015 telling the Grand Jury that your feeling was it
8 was an hour and a half that Annie was gone from you -- Arrie
9 was gone from you?

10 A I would say -- I would say about that, like I said,
11 I -- I'm a little nervous right now about the whole situation
12 being brought back up, but, yeah, I would say that about that,
13 Lissa, about that time.

14 Q Okay. And you weren't looking at a clock, were you?

15 A No, I didn't have no clock in front of me.

16 Q Okay. It just felt like a long time, right?

17 A Yeah. But the biggest thing that I would say is
18 that, like, when Arrie had the chance to get back to me, and
19 went in to detail on what exactly that they did to her when
20 they had her captured.

21 MS. LUZAICH: Okay. Thank you, Annie.

22 THE WITNESS: Thank you.

23 THE COURT: Nothing else?

24 MS. LUZAICH: No.

25 THE COURT: Mr. Ericsson, any other questions?

1 MR. ERICSSON: No. Thank you, Your Honor.
2 THE COURT: Did we have any juror questions?
3 All right. I don't believe there are any more
4 questions. Thank you for your testimony.
5 THE WITNESS: Thank you very much.
6 THE COURT: Thank you. And we'll go ahead and
7 disconnect the equipment.
8 Do we need a break to do that a or -- Susie --
9 THE MARSHAL: No, Susie has to do it.
10 THE COURT RECORDER: And it should be off.
11 THE COURT: Okay. All right. I guess you can call
12 your next witness then.
13 MS. LUZAICH: Thank you. The State calls Officer
14 Kroening.
15 THE COURT: Face that lady right there.
16 **BRIAN KROENING**
17 [having been called as a witness and being first duly sworn,
18 testified as follows:]
19 THE CLERK: Thank you. Please be seated. Please
20 state and spell your first and last name.
21 THE WITNESS: It's Brian, B-r-i-a-n. Kroening,
22 K-r-o-e-n-i-n-g.
23 THE COURT: All right. Thank you. Ms. Luzaich.
24 MS. LUZAICH: Thank you.
25 / / /

1 DIRECT EXAMINATION

2 BY MS. LUZAICH:

3 Q Good morning, sir. How are you employed?

4 A With LVMPD.

5 Q Is that the Las Vegas Metropolitan Police Department?

6 A Yeah. Sorry. Las Vegas Metropolitan Police
7 Department. I have been for --

8 Q In what capacity?

9 A -- right now I'm a police officer, but I work for the
10 Office of Internal Oversight.

11 Q For how long have you been with Metro?

12 A Eleven years now.

13 Q And you say now you're with the Office of Internal
14 Oversight. Prior were you a patrol officer?

15 A Yeah, I was a patrol officer for about 10 and a half
16 years.

17 Q Okay. Are you sick?

18 A I am. I have pneumonia.

19 Q Have you been sick for the last week?

20 A Yes, ma'am.

21 Q Thank you very much for coming in today. Don't
22 breathe on anybody.

23 A Yeah.

24 THE COURT: You're not contagious, right?

25 THE WITNESS: No. I'm off my antibiotics now.

1 THE COURT: Thank you.

2 BY MS. LUZAICH:

3 Q I'm going to direct your attention, if I could, back
4 to March 10th of 2015. Were you working as a patrol officer
5 for Metro at that time?

6 A Yes, ma'am.

7 Q What area did you work at that time?

8 A William area, which is Jones, east of, all the way to
9 the 95 or to The Boulevard, sorry, and then from Cheyenne south
10 all the way down to the 95.

11 Q And as a patrol officer would you respond to calls
12 for service?

13 A Yes, ma'am.

14 Q Were you dispatched on March 10th of 2015, to the
15 Smith's parking lot in the area of, like, Jones and Washington?

16 A Yes, ma'am.

17 Q What was the nature of the call that sent you there?

18 A It was a kidnapping call.

19 Q Did you meet with a lady that described a kidnapping
20 for you?

21 A Yes, ma'am.

22 Q What was her name?

23 A Her last name was Webster.

24 Q Was it Arrie?

25 A Yeah.

1 Q Showing you State's Exhibit 2, is this Arrie?

2 A Yes, ma'am.

3 Q And when you first came into contact with Arrie, is
4 that how she looked? Is that what she was wearing, or was
5 there something else?

6 A She was wearing a gray sweatshirt. I believe that's
7 it on the bottom right-hand corner of that picture there.

8 Q You can see something gray on the ground in the
9 picture; is that right?

10 A Yes, ma'am.

11 Q Okay. When you contacted Arrie, what was her
12 demeanor like?

13 A She was frightened and scared, crying.

14 Q Did she describe the incident for you?

15 A Yes.

16 Q How did she describe what occurred?

17 A It took a while for her to describe everything that
18 happened. She said that she was -- basically she was over at
19 her friend's house over on --

20 Q There's water in front of you.

21 A Yeah. Thank you. She was over at her friend's house
22 over on Jones around 1100 something North Jones, and her and
23 her friend were on the balcony of her apartment. They had
24 their dogs there. Sorry. And then while she was talking with
25 her neighbor up on the balcony, a light-skinned black male

1 approached her. Like they're upstairs, and he's walking
2 downstairs, like in the alleyway, and he had waved at her to
3 come down. She said she went down and met with him. She
4 did -- she knows him. He lives in the area. I believe that
5 she referred to him as cousin, but she doesn't know what his
6 name was.

7 He took her over to his apartment. They walked
8 inside. She went inside voluntarily by herself with herself or
9 into his apartment. Once inside, Cousin had her -- escorted
10 her over to the kitchen, told her to get on her knees and put
11 her hands behind her back. She got down on her knees, and she
12 didn't know what was going on. Cousin came out with a couple
13 chords, ended up tying her hands behind her back with an
14 extension cord or some kind of computer cord, and then a
15 plastic cord around her feet.

16 He started interrogating her about some lost puppies
17 that had happened. She didn't know what he was talking about.

18 MR. ERICSSON: Your Honor, I would object at this
19 point as to -- actually I'll withdraw that.

20 THE COURT: Okay. All right. You may continue. The
21 objection's withdrawn.

22 THE WITNESS: So as he was interrogating her, she
23 didn't know what was going on. He ended up grabbing a shotgun
24 from some other room inside the apartment, took the shotgun,
25 stuck it in her mouth. He kept on interrogating her, and she

1 didn't know what was going on. He removed the shotgun from her
2 mouth, ended up taking some kind of a material and putting it
3 down her mouth and then duct taping that around her face, and
4 then he took a -- she described it as a child's pillowcase. It
5 wasn't a thick pillowcase. It was something that she could
6 still see through. So she was able to partially see what was
7 going on.

8 She was now at this point laying on the kitchen
9 floor. She notices that a heavysset black male comes into the
10 apartment and starts asking her some questions. She still
11 doesn't know what's going on. The black male -- the heavysset
12 black male ends up going into a closet and gets a broom handle
13 and it -- and he comes out into the kitchen and says, I'll give
14 this lady what she wants. He ends up pulling down her pants
15 down to her ankles exposing her buttocks. He takes the broom
16 handle and taps her buttocks with it and then doesn't penetrate
17 her, but takes a broom handle and puts it in between her butt
18 cheeks.

19 A couple moments later, three -- she describes it as
20 three females come into the apartment, and they started
21 talking. She says that one of them pulls out a cell phone and
22 starts recording what's going on. No one's -- no one's trying
23 to help her. She hears something about a kid for school, and
24 then all of a sudden she just decides to play dead because they
25 come over, and the heavysset black male and the light-skinned

1 black male known as Cousin come over to her and start kicking
2 her, beating her with a belt, and then there was -- she got
3 Tased with some kind of electrical probe.

4 She thought she was going to die. So she just
5 decided to just play dead. So she was limp on the floor just
6 laying there. The females come in. Something about a kid
7 coming home from school, and all of a sudden it's like it's
8 just totally quiet in the apartment. She doesn't hear anybody,
9 doesn't see anybody. So she was laying on the floor, and she
10 looks around through the -- through the pillowcase, says she
11 doesn't see anybody. She's able to get to her feet, go up to
12 the apartment door, open up the door and then get out to the
13 alleyway.

14 And then she ends up falling and rolling in the
15 alleyway, and she's screaming for help, and then the neighbor
16 that she was at, Elizabeth, she comes down, and she sees her
17 rolling in the alleyway. She grabs a pair of scissors and cuts
18 the cord from her hands, and they throw it in a dumpster.
19 Sorry.

20 THE COURT: It's all right.

21 THE WITNESS: They believe that they see cousin
22 coming in a white vehicle with no -- no plates. So they take
23 off running. They go into another apartment over on the 900
24 block of North Jones, and they -- once inside the apartment
25 there, that's where they believe that they took off the -- or

1 they left the -- whatever was in her mouth with the duct tape
2 and the sheet, and they left it in that apartment there.

3 Arrie, she went to her own apartment at that time,
4 and she was there with her friend, and her friend convinced her
5 to call the police, and basically neither of them had a phone.
6 So they went over to -- she went over to her friend's lawyer
7 place which is in the Smith's parking lot, and she contacted
8 the police, and that's how they got a hold of me, and that's
9 why I responded over there.

10 BY MS. LUZAICH:

11 Q And so were you the first responding officer, the
12 first person to contact her after this had occurred?

13 A Yes, ma'am.

14 Q Now, as you're having this conversation with Arrie,
15 where are you physically located?

16 A We're just standing in the parking lot of the
17 Smith's.

18 Q Okay.

19 A Which is on the West side of Jones.

20 Q Now, you've been working at that time at Metro for,
21 like, 10ish years or so. Had you experienced people that were
22 under the influence of a controlled substance before?

23 A Yes, ma'am.

24 Q Did it appear to you that Arrie was under the
25 influence of a controlled substance?

1 A No, ma'am.

2 Q Was it kind of difficult getting narrative-type
3 information from her?

4 A Absolutely.

5 Q Did you have to ask a lot of questions?

6 A Yes, ma'am.

7 Q Did crime scene respond to the Smith's?

8 A Yes, ma'am.

9 Q Did they take pictures of her?

10 A They took photos of her.

11 Q Were you there when that happened?

12 A I would -- I don't recall, but I would --

13 Q Okay. That's fine.

14 A I would assume, yes, because I've never left a victim
15 until it's -- the scene is totally done with.

16 Q Okay. So were you at the Smith's until everything
17 was done that day?

18 A Yes, ma'am.

19 Q Did other officers also respond to the call?

20 A Yes, ma'am.

21 Q But were you the only one that actually sat and
22 talked to -- I mean, patrol officers --

23 A Right.

24 Q -- were you the only patrol officer that talked to
25 her?

1 A Yes.

2 Q What did the other patrol officers do?

3 A I guided them over to the scene because she had
4 described 1100 North Jones. When I asked her about the
5 suspect's apartment, if there was anything in particular that
6 would stand out to that apartment, she said the door faced the
7 alleyway, and on the door it said -- there was like a piece of
8 paper on there that said, Hi, haters, on it.

9 Q Okay. Was one of the officers that responded up
10 there Officer Collins?

11 A Yes, ma'am.

12 Q And did he indicate to you that he had found
13 something relating to what Arrie had described?

14 A Yes, ma'am. He found -- he sent me a picture on my
15 phone of some computer cords or some kind of plastic cords.

16 Q Showing you State's Exhibit -- and did he indicate
17 where he found them?

18 A It was in a dumpster.

19 Q Okay. Showing you State's Exhibit 29, does that look
20 like what he showed -- or sent to you on your phone?

21 A Yes, ma'am.

22 Q Did there come a time also that detectives were
23 called out?

24 A Yes, ma'am.

25 Q Was Detective Nelson from robbery one of the

1 detectives that came out?

2 A Yes, ma'am.

3 Q And did you have contact with him?

4 A Yes.

5 Q Did you explain to him what Arrie had told you?

6 A Correct.

7 Q And did he interview Arrie?

8 A Yes, ma'am.

9 Q Do you know where that occurred?

10 A In the Smith's parking lot in his robbery patrol
11 vehicle.

12 Q Like an unmarked vehicle?

13 A Yes, ma'am.

14 Q Okay. At the time that he interviewed her, could you
15 hear what was being said?

16 A No, ma'am.

17 Q So what you know is based on what she told you?

18 A Correct.

19 Q Were you still there at the conclusion of that
20 interview?

21 A Yes, ma'am.

22 Q And after that, did detectives go and do their thing?

23 A Once they were done, I asked Detective Nelson if
24 there was anything else I could do for him. He said no, and
25 that's when they took -- that's when the robbery detectives

1 took over the scene.

2 Q Okay. And do you know around when it was that you
3 were able to leave the scene of the Smith's?

4 A A couple hours.

5 Q I mean, by then was it dark?

6 A Yes, ma'am.

7 Q Okay. Thank you. I pass the witness.

8 THE COURT: All right. Cross.

9 CROSS-EXAMINATION

10 BY MR. ERICSSON:

11 Q Good morning, Officer.

12 A How are you doing, sir.

13 Q So when you were called to the scene, did you go
14 there with another officer?

15 A Two officers were. It was myself and Maurice Collins
16 I believe.

17 Q Okay.

18 A Were dispatched.

19 Q And were you involved in obtaining a written
20 voluntary statement from the alleged victim Ms. Webster?

21 A Yes, ma'am -- or I'm sorry, yes, sir.

22 Q After -- and do you know if you were the one who
23 witnessed the voluntary statement at the bottom of the page?

24 A I should've been.

25 Q If --

1 A But I don't recall.

2 MR. ERICSSON: If I may approach, Your Honor?

3 THE WITNESS: Absolutely.

4 THE COURT: You may.

5 BY MR. ERICSSON:

6 Q Officer, if you could look at that --

7 A Yes, sir.

8 Q -- and --

9 A That's my signature.

10 Q Okay. And in looking at the top, can you determine
11 is this from the event that you're here testifying on today?

12 A Yes, sir.

13 Q And does this appear to be the voluntary statement of
14 Arrie Webster?

15 A Yes, sir.

16 Q Now, what time did this event allegedly take place?

17 MS. LUZAICH: Well, objection. Speculation.

18 MR. ERICSSON: Well --

19 THE COURT: Well, he's already testified as to what
20 he was told. So he can tell us what his understanding was
21 based on what was reported to him.

22 BY MR. ERICSSON:

23 Q Officer, based on what was reported to you, when is
24 your understanding of when this alleged assault took place?

25 A Probably within the last 40 to 60 minutes from when I

1 was dispatched to the call.

2 Q Okay. And if at any time you need to refer to notes
3 or reports, let me know, but do you know what time you were
4 dispatched to the call?

5 A I don't. It was really early in the shift though.

6 MR. ERICSSON: If I may approach, I'll approach with
7 the arrest report as well as the voluntary statement again.

8 BY MR. ERICSSON:

9 Q From either looking at the arrest report or that
10 voluntary statement I showed you previously, can you tell when
11 it was your understanding that this alleged assault took place.

12 A I would say at about somewhere between -- so
13 probably, like, between 2:00 and 3:00 in the afternoon.

14 Q So let me ask you this. At the top of the voluntary
15 statement, there's a section that says date occurred and time
16 occurred. What time --

17 A That was 1600 right there, sir, which is 4:00,
18 4:00 p.m.

19 Q 4:00 p.m., and is that -- that box, is that normally
20 when an event takes place?

21 A Yes, sir.

22 Q Okay. So there you -- is that your handwriting?

23 A Yes, sir.

24 Q And there you've indicated 4:00 p.m.; is that
25 correct?

1 A Yes, sir.

2 Q Now, after Ms. Webster prepared this voluntary
3 statement, did you read through it?

4 A Yes, sir.

5 Q And if you need to look at it, you can, but isn't it
6 true that in her voluntary statement she doesn't mention
7 anything about a shotgun having been put in her mouth, does
8 she?

9 A No, sir.

10 Q She does mention that she was whipped with a belt,
11 correct?

12 A Yes, sir.

13 Q And that she -- she alleged that she was stunned with
14 a stun gun, correct?

15 A Yes, sir.

16 Q But there's no mention whatsoever of a shotgun in her
17 statement that she prepared that afternoon, correct?

18 A No, sir.

19 Q Did you observe any physical injuries on Ms. Webster
20 that afternoon?

21 A I honestly can't recall. Nothing stands out to me,
22 but she did have that sweater on, when I was dealing with her
23 mostly.

24 Q Okay. Do you recall that at some point there when
25 you're at the Smith's parking lot that ambulance personnel are

1 called to the scene?

2 A Yes, sir.

3 Q Do you recall that the AMR ambulance service had
4 personnel there on the location?

5 A Yes, sir.

6 Q Did you interact with those personnel at all?

7 A No, sir.

8 Q How long after you had your interview with
9 Ms. Webster was it before Detective Nelson interacted with
10 Ms. Webster that evening?

11 A Are you asking me, like, once I was done interviewing
12 her when did Nelson show up? Detective Nelson?

13 Q Correct.

14 A Probably within 45 minutes of once I was finished
15 interviewing her.

16 Q Okay. And then did you observe Detective Nelson
17 speaking with Ms. Webster?

18 A Yeah. He put her in his car, and they had I'm
19 assuming a conversation then.

20 Q Okay. And did you stay on the scene while he was
21 having this conversation with her --

22 A Yes, sir.

23 Q -- in his car?

24 A Yes, sir.

25 Q Did you observe Ms. Webster interact with the AMR

1 paramedic personnel?

2 A I believe so, but I can't honestly recall. I never
3 left the Smith's parking lot. So if AMR was in the Smith's
4 parking lot then, yes.

5 MR. ERICSSON: Thank you, Officer. I have no further
6 questions.

7 THE COURT: Any redirect?

8 MS. LUZAICH: Just briefly.

9 REDIRECT EXAMINATION

10 BY MS. LUZAICH:

11 Q Officer, the -- Mr. Ericsson showed you on here where
12 you had written time occurred. You wrote 14 -- or 1600, which
13 is 4:00 o'clock, correct?

14 A Yes.

15 Q Now, just because you wrote that there doesn't mean
16 that's the time that the incident actually occurred, does it?

17 A Correct.

18 Q Was it your understanding that quite a bit of time
19 passed from the time Arrie was found by her friends until the
20 police were called?

21 A Yes, ma'am.

22 Q And was it your understanding that quite a bit of
23 time passed while Arrie was actually inside the apartment?

24 A Yes, ma'am.

25 Q And, in fact, from the time the -- whatever happened

1 to her finished happening, time passed before she was able to
2 actually get out the door?

3 A Yes, ma'am.

4 Q So basically do you have any idea what time the
5 incident actually occurred?

6 A It would just be a couple hours prior to me
7 originally talking with her.

8 Q Okay. And any time that you might guess would be
9 just that, a guess?

10 A Yes, ma'am.

11 Q Now, when you saw Arrie, you weren't looking for
12 injuries, were you?

13 A No, ma'am.

14 Q So it's possible that she had them and you didn't see
15 them?

16 A She might have, yes.

17 Q Okay. And in fact did you sit in my office this
18 morning and look at some photos of her legs, and you had not
19 noticed that earlier?

20 A Yes, ma'am.

21 Q While you were talking to Arrie, you said that she
22 was upset and scared. Was she kind of all over the place
23 while --

24 A Yes, ma'am.

25 Q -- she was describing things.

1 MS. LUZAICH: Thank you. I have nothing further.

2 THE COURT: Anything else, Mr. Ericsson?

3 MR. ERICSSON: No. Thank you.

4 THE COURT: Any juror questions for the witness?

5 All right. Officer, I see no additional questions.

6 Thank you for your testimony.

7 THE WITNESS: Thank you so much.

8 THE COURT: Please don't discuss your testimony with
9 any other witnesses, and you are excused.

10 THE WITNESS: Thank you.

11 THE COURT: Ms. Luzaich, are you ready to call your
12 next witness?

13 MS. LUZAICH: Yes. The State will call Detective
14 Nelson.

15 **JASON NELSON**

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

18 THE CLERK: Thank you. Please state and spell your
19 first and last name.

20 THE WITNESS: Jason Nelson. J-a-s-o-n, N-e-l-s-o-n.

21 THE COURT: All right. Ms. Luzaich.

22 MS. LUZAICH: Thank you.

23 DIRECT EXAMINATION

24 BY MS. LUZAICH:

25 Q Good morning, sir.

1 A Good morning, ma'am.

2 Q How are you -- how are you employed?

3 A I'm a detective with the Las Vegas Metropolitan

4 Police Department.

5 Q How long have you been with Metro?

6 A Approximately 17 years.

7 Q And how long have you been a detective?

8 A Approximately 12 years.

9 Q Are you a detective in a particular bureau or area at

10 Metro?

11 A I am.

12 Q What is that?

13 A I'm assigned to the commercial robbery section.

14 Q When you say commercial robbery, what does that mean?

15 A We handle all the business robberies throughout Las

16 Vegas, whether it's a bank or a casino or 7-Eleven, and

17 additionally we handle all of the kidnap, extortions throughout

18 the valley.

19 Q Okay. For how long have you been working in that

20 area?

21 A Approximately eight years.

22 Q I'm going to direct your attention, if I could,

23 specifically to March 5th -- 10th of 2015. Were you working

24 as a detective in robbery at that time?

25 A I was.

1 Q And in March of 2015, while you were working in that
2 area, did you have a particular squad or group of detectives
3 that you worked with?

4 A I did.

5 Q How many detectives were in that squad?

6 A I believe we had -- at the time we had seven.

7 Q And how would it work that, for example, you would
8 get assigned to a particular call as opposed to somebody else?

9 A The way that it works is that we are -- we're each
10 assigned an area command throughout the Las Vegas Valley. At
11 the time we had eight different area commands. So my
12 particular area command was the Bolden Area Command. The
13 geographical limits of that area command run from Cheyenne all
14 the way to the north down to Desert Inn and from I-15 over to
15 Jones, and I'm responsible for anything that comes out in that
16 area pertaining to our mission during the hours of our shift.

17 THE COURT: Okay. And you were assigned a kidnapping
18 case where a lady named Arrie Webster described a kidnapping;
19 is that correct?

20 A That's correct.

21 Q Now, you said that there were a bunch of other
22 detectives on your squad. Would you then utilize their
23 services as well to help you during the course of your
24 investigation?

25 A I would.

1 Q And how does that work?

2 A Basically I'm the case agent. It's ultimately my
3 responsibility to make sure that things are done, and I give
4 direction to my fellow detectives and more or less task them
5 out with other assignments.

6 Q Okay. And do you also have patrol officers do
7 certain things at times?

8 A I do.

9 Q So specifically when you get a call or when you got
10 this call, what was the information that you had as you
11 responded to the call?

12 A The information that I had was that a kidnapping with
13 a deadly weapon occurred. I was -- in the details of the call
14 from our dispatch center, it stated that a woman was in an
15 apartment over on I believe it was 1108 Jones, and she had been
16 kidnapped. She had escaped, and now she was currently over at
17 the Smith's grocery store in the 1400 north block of Jones
18 waiting for the police.

19 Q Now, anytime police are called, is there some sort of
20 record of the call that comes in?

21 A There is.

22 Q How does that come about or how is that accomplished?

23 A When a person calls the police, whether they call
24 3-1-1 or 9-1-1 or just a regular number, there's a call
25 generated through our dispatch center. The dispatcher or the

1 call taker will generate an event number associated with that
2 call and document all the details that the officers are doing
3 throughout the -- throughout the call.

4 Q And is it something that is computer-generated so
5 when the call comes in there is an actual printout of the time
6 of the call?

7 A Yes, ma'am.

8 Q And is it -- does it then translate to a piece of
9 paper that you can hold in your hand?

10 A It does.

11 Q What is that called?

12 A It's called the CAD report, Computer Aided Dispatch.

13 Q And what does CAD stand for?

14 A Computer Aided Dispatch.

15 Q And if you looked at a CAD, would you be able to tell
16 exactly what time the call came in?

17 A I would.

18 Q Is this a CAD of this particular call?

19 A Yes, ma'am, it is.

20 Q How can you tell?

21 A I can tell because the date and time is on here as
22 well as the time that it was dispatched, and it has the -- we
23 use 400 codes that designate what type of call it is, and this
24 has a 427 code on it which means that it's a kidnap. It also
25 has the location that it occurred and the location where the

1 person reporting, the victim, was entering during the call.

2 Q And what time does the CAD indicate that the original
3 call came in?

4 A It indicates that it occurred at 1655 hours, which
5 would be almost 5:00 p.m.

6 Q Okay. When you say it occurred, not the incident
7 occurred, the call occurred?

8 A The call itself occurred.

9 Q Okay. So 4:55ish?

10 A That's correct.

11 Q Okay. And when a call is generated like this, is it
12 patrol that originally gets sent? I mean, you don't call 9-1-1
13 and automatically get a detective, do you?

14 A That's correct. Patrol is called to the scene, and
15 they conduct preliminary investigation and gather all the basic
16 facts and circumstances of what occurred.

17 Q Did you then get sent out there as well?

18 A I did.

19 Q And when was it that you got sent out there?

20 A Approximately an hour and a half later, hour and 45
21 minutes later.

22 Q Okay. So where did you go in response to your call?

23 A I ended up going to the Smith's. That's where the
24 victim was located, and that's where Officer Kroening had been
25 speaking with her at.

1 Q So when you went to Smith's, who did you see when you
2 arrived?

3 A Officer Kroening.

4 Q Anybody else?

5 A You know, there was another officer there. I don't
6 recall who it was.

7 Q Did you see the victim?

8 A Oh, I saw, yeah, I saw the victim.

9 Q Okay. And was it Arrie Webster?

10 A Yes, ma'am.

11 Q And describe for me how did Arrie appear when you
12 arrived?

13 A She had a T-shirt and shorts on. She appeared to be
14 upset. She appeared to be scared and a little -- to me
15 initially a little bit hesitant to speak with me.

16 Q Did you kind of approach her -- well, you said she
17 was at Smith's?

18 A Uh-huh.

19 Q Is that a yes?

20 A Yes, ma'am.

21 Q And the patrol officer was with her?

22 A Yes.

23 Q Did you have some conversation with her when you
24 arrived?

25 A When I "arrove", I initially spoke with Officer

1 Kroening, and he briefed me to what his preliminary
2 investigation revealed, and then I spoke with Arrie Webster
3 after that.

4 Q When you spoke with the officer, was it kind of away
5 from Arrie so she's not just standing there listening to your
6 conversation?

7 A It was.

8 Q And after you spoke with the officer, you said you
9 spoke with Arrie?

10 A Yes, ma'am.

11 Q Did you have a little bit of conversation with her as
12 you stood there?

13 A I did.

14 Q And what did that entail?

15 A I just reaffirmed some of the facts that Officer
16 Kroening had told me about what had happened. She indicated
17 that she would be able to identify where this occurred, and
18 from there I ended up -- do you want me to get into that?

19 Q Yeah.

20 A From there I ended up -- asked her to come in my
21 vehicle. It was an unmarked vehicle. At the time I had a -- I
22 think it was a 2007 Nissan Maxima, and, you know, I told her
23 nobody is going to see you in the car. I have dark tinted
24 windows and stuff to reassure safety, and I had her show me
25 where the incident had occurred at. That way I'd be able to

1 deploy my other detectives to do surveillance on that residence
2 knowing that it would be a crime scene.

3 Q And when you say you had her show you, did you
4 physically drive somewhere?

5 A We did.

6 Q Where did you drive to?

7 A We drove to the east alley in the 1100 north block of
8 Jones, and more specifically we drove by 1108 North Jones.

9 Q And did she point out one particular apartment to
10 you?

11 A She did.

12 Q Which apartment was that?

13 A It was Apartment No. A.

14 Q And physically where is it located?

15 A It was located on the alley side. So it would be the
16 east side on the north side of the structure, and then they had
17 a sign on the door, and the sign on the door said, Hi, haters,
18 and that indicated the apartment that she had been kidnapped
19 in.

20 Q Okay. But was it upstairs or downstairs?

21 A Downstairs.

22 Q Okay. At this point could you see that there were
23 other patrol officers kind of in the area?

24 A There was.

25 Q Were there also some people, neighbor-type people,

1 people that lived there in the area as well?

2 A There were.

3 Q After she pointed that out to you, what did you do?

4 A I directed my fellow detectives to speak and
5 interview the witnesses, and the officers that were in the
6 marked patrol cars in the -- in the alley were sitting on the
7 evidence that was going to be collected at a later time.

8 Q Okay. Had crime scene been called out?

9 A They had not.

10 Q And did they photograph first Arrie at the Smith's?

11 A Yes, ma'am.

12 Q And you said that you had detectives sitting on
13 evidence. What is the purpose of that?

14 A So the -- it would be -- a couple things. It would
15 be chain of custody. It would show that the evidence hadn't
16 been disturbed after the police officers arrival, and then
17 ultimately so that the crime scene analysts can collect it and
18 preserve that for us.

19 Q Was it your understanding that one of the patrol
20 officers had located something in a dumpster?

21 A Yes, ma'am.

22 Q And did you have one of the detectives sit there so
23 that it didn't get disturbed?

24 A I did.

25 Q Did you also learn that there was something else

1 found at a different location further -- closer to
2 Washington -- I don't do direction well.

3 A Yes, ma'am.

4 Q -- under a barbecue?

5 A Yes.

6 Q And did you have someone sit on that as well?

7 A Yes, ma'am.

8 Q And did you bring Arrie somewhere specifically so
9 that you and she could talk in private?

10 A We did. We went back to the Smith's, which is
11 approximately three blocks away.

12 Q And then what did you do?

13 A At that point I conducted a recorded interview with
14 Arrie Webster and had her explain to me a little bit more in
15 detail what had happened.

16 Q Okay. By now what time is it?

17 A It's approximately about a little after 7:00 o'clock.
18 I believe I did the interview at about 7:25.

19 Q Okay. And by 7:25, in March of 2015, was it getting
20 dark at that point?

21 A It was.

22 Q Is it you and Arrie alone in your vehicle?

23 A It was.

24 Q And did you ask her what occurred?

25 A I did.

1 Q And did she describe for you what occurred?

2 A She did.

3 Q Now, was it easy to interview her? Was it difficult?
4 Was it somewhere in between? How did that go?

5 A I'd say it was difficult. She wasn't very --
6 typically when I interview somebody, they're able to tell me a
7 story, and they say that story chronologically step by step
8 what happened from beginning to end. And the way that I try to
9 describe it to them is I say, hey, let's start at the beginning
10 when you first realized something was wrong, and then all the
11 way up to the point that the police were there, and typically
12 people for the most part are able to give me a series of events
13 chronologically what occurred.

14 With Arrie, she was kind of all over the place, and
15 she would be jumping back and forth chronologically with what
16 happened, and things that I would be -- that I would view as
17 very important, she would forget to -- to say, and it would
18 be -- it was a series of me asking her questions, her
19 explaining it, and then me going back and asking more questions
20 about the same thing and then finding out a lot of things that
21 were important.

22 Q Now, Arrie is not the only person that you've ever
23 interviewed that it was kind of difficult to interview; is that
24 right?

25 A Correct.

1 Q Would you agree that pretty much everybody is
2 different?

3 A Yes, ma'am.

4 Q Some people don't mind talking to the police. Some
5 people don't like talking to the police at all, and then
6 anywhere in between on the spectrum?

7 A That's correct.

8 Q Were you doing the best you could to at least try to
9 determine what had occurred?

10 A Yes, ma'am. You know, I was trying to also determine
11 what crimes we had by what she was telling me had happened and,
12 you know, what would apply to different statutes of the law.

13 Q Okay. When you say you're trying to determine what
14 crime occurred, you went there with the understanding that
15 kidnapping, but it -- involved in an incident, there can be
16 numerous different crimes that occurred, like not just a
17 kidnapping; is that correct?

18 A That is correct.

19 Q And were you also concerned about potentially weapons
20 being involved?

21 A Yes, ma'am.

22 Q While you're having this conversation with Arrie, are
23 your detectives doing other things?

24 A They are.

25 Q Specifically did you cause anybody to knock on the

1 door to the apartment that Arrie pointed out to see if anybody
2 was at home?

3 A Yes, ma'am.

4 Q And was anybody at home?

5 A Nobody answered the door.

6 Q So what did you do when nobody answered the door?

7 A We set up a perimeter on the apartment. We were
8 going to apply for a search warrant at a later time to go
9 inside the apartment and recover evidence. Some of my fellow
10 detectives also spoke with people that witnessed Arrie coming
11 out of the apartment after the kidnap. Additionally there was
12 people in the neighborhood that just had information about who
13 had stayed there and other people that will let them know about
14 kind of what occurs on a day-to-day basis in the neighborhood.

15 Q So basically what did Arrie tell you happened inside
16 the -- well, did she describe to you how she got to the
17 apartment?

18 A She did.

19 Q And was it an individual that she knew?

20 A She did.

21 Q When she talked to you about it, did she know his
22 actual name?

23 A She did not.

24 Q How did she refer to him?

25 A She referred to him as Cuz or cousin.

1 Q And because you didn't know his name, was it
2 important to get a description of him and anything associated
3 with him?

4 A It was.

5 Q So did she describe anything associated with him?

6 A She did. She stated that he was a light-skinned
7 black male, approximately 6-4 to 6-5, medium build. She stated
8 that he had a goatee. He had -- I forget how she described the
9 hair, but it was like a regular set of hair. It wasn't like
10 anything like in either cornrows or shaved. She stated that he
11 was wearing a light blue shirt, and -- and that he lived at the
12 apartment.

13 Q Did she say anything about a hat?

14 A Yeah. She stated that he had a blue Dodgers hat on.

15 Q Okay. And did she describe a vehicle?

16 A She did. She stated that he drove his girlfriend's
17 white Toyota Sentra.

18 Q Toyota Sentra?

19 A I'm sorry. Was it a Nissan Sentra?

20 Q Okay.

21 A I'd have to refer to my report to be absolutely sure.

22 Q A white Sentra?

23 A Yes, ma'am.

24 Q Did she also describe for you what occurred in the
25 apartment?

1 A She did.

2 Q And what did she tell you?

3 A She stated that she went over to the -- she was at
4 her friend Annie's house. She went over to the apartment to
5 talk to cousin, and he asked her to come inside. She stated
6 that she had been aware that he had been missing a couple of
7 dogs, and she was showing her condolences with his loss of the
8 dogs, and he brought her into the kitchen. He asked her to
9 stay in the kitchen.

10 A short while later he came back. He ended up at
11 that point telling her to get down on her knees, and he bound
12 her behind her back. She complied. She said that once she was
13 bound with her hands behind her back he put her on the floor.
14 He bound her feet, and then he more or less hogtied her, her
15 hands to her feet behind her back.

16 Q Was that her word, "hogtied"?

17 A Yes, ma'am.

18 Q Okay. And then what?

19 A And then she stated that -- and again when I was
20 talking to her, she was kind of going back and forth. So the
21 series of events that I'm going to give you is the series of
22 events that I deducted after talking to her back and forth
23 several times.

24 MR. ERICSSON: And, Your Honor, at this stage I would
25 object to this being hearsay, this coming from the alleged

1 victim.

2 MS. LUZAICH: Well, prior inconsistent statement.
3 She didn't remember telling --

4 THE COURT: Counsel, approach.

5 (Conference at the bench not recorded.)

6 THE COURT: Ms. Luzaich, rephrase.

7 MS. LUZAICH: Thank you.

8 BY MS. LUZAICH:

9 Q All right. So you described that when she was
10 describing the events for you it wasn't a linear, you know,
11 this, then this, then this, then this, then this happened?

12 A That's correct.

13 Q And you had to go back and kind of pick out and ask
14 her questions. Now, let me ask you this. In your years as a
15 police officer, have you had experience with individuals that
16 were under the influence of a controlled substance?

17 A I did.

18 Q Did it appear to you that Arrie was under the
19 influence of a controlled substance?

20 A I think she had been drinking. I don't know if she
21 was under the influence of a controlled substance, but, yeah,
22 she was indifferent and based on her emotional state, you know,
23 I think it was more of her emotional state that she was scared
24 and terrified that it's, like, she couldn't just get everything
25 out at once.

1 And then I don't know how I should put this, but
2 Arrie is kind of like a street person, and she's very simple
3 with her thoughts and to get her to really tell a story that
4 most of us would have where there's a lot of detail and you're
5 trying to paint a picture, she had a hard time doing that.

6 Q But in your opinion, it wasn't because she was under
7 the influence of something?

8 A No. No.

9 Q It was a different reason?

10 A Yes, ma'am.

11 Q Did you learn that it had something to do -- or that
12 the suspect had done this over something to do with dogs?

13 A Yes, ma'am.

14 Q And you learned there was a weapon involved?

15 A I did.

16 Q Or multiple weapons?

17 A Yes, ma'am.

18 Q What weapons did you learn?

19 A I learned that there was a shotgun, and I learned
20 that there was a pink stun gun.

21 Q Did she describe for you a stun gun?

22 A She did.

23 Q Did she tell you how the stun gun was used?

24 A She did.

25 Q How did she tell you the stun gun was used?

1 A She stated the stun gun was initially used to create
2 an arc near her eye, and words were said to her when that
3 happened.

4 Q Now, when you say an arc, is that your word?

5 A That's -- that's my word.

6 Q Okay. Do you remember how she described it?

7 A I don't.

8 Q But she said that it was put near her eye?

9 A Yes, ma'am.

10 Q Were you -- when she's describing the device, were
11 you trying to figure out specifically what kind of device it
12 was?

13 A It was, and I was trying to have her describe it
14 because I would be trying to look for that at a later date, you
15 know, to corroborate her story.

16 Q And was she able to describe the device for you?

17 A She was.

18 Q How did she describe the device?

19 A She described as a pink box that was about the size
20 of a cigarette box. It had an arc that would go across it or
21 electricity that would go across it, and I asked her, I said,
22 Is it like our Tasers, like the police Tasers that would shoot
23 out the prongs, and she's, like, No, no, it's like the one that
24 you just touch somebody with.

25 Q Okay. And when you say the electric current, that's

1 what she was trying to describe for you, the current that goes
2 between the two prongs. Is that the right word?

3 A Yes, ma'am, prongs.

4 Q Okay. And you said she described for you a shotgun.
5 What did she say happened with the shotgun?

6 A She stated that the shotgun, she saw two barrels on
7 the shotgun itself, and she said the shotgun was placed in her
8 mouth during the -- during the incident.

9 Q Okay. Did she also describe for you something about
10 a belt?

11 A She did.

12 Q What did she describe about the belt?

13 A She stated that it was a leather belt, and it was
14 used to hit her on the backside.

15 Q Did she describe -- and I'm sorry. You said that she
16 described the individual called cousin. Did she describe that
17 he was the only individual that was involved?

18 A No. He was -- he was the initial individual
19 involved, and then some other people showed up.

20 Q Did she describe for you that there was a phone call
21 that caused other people to show up?

22 A There was.

23 Q And when the other individuals showed up, did she
24 describe them for you as well?

25 A She did.

1 Q And how did she describe that?

2 A She described the first person as a black male and
3 that he was shorter than the first suspect, and that was
4 another thing. She would end up bringing up the person did
5 this. The person did that, and I'd have to really articulate
6 with her well, was this Suspect 1, the guy that was 6-4, or was
7 this the second guy that was, like, 6-foot? So she described
8 him as a heavysset black male about 6-foot, dark complected and
9 in his 30s.

10 Q Okay. And did she describe any other individuals?

11 A She stated that as well three females showed up. She
12 described the females all basically the same height and weight.
13 I believe it was like 5 foot 3 and that they were dressed --
14 dressed like in male clothing.

15 Q Did she describe whether or not they -- the females
16 were doing anything?

17 A She stated that during this whole ordeal at one point
18 one of the female suspects took out a white cell phone and
19 recorded the incident, her being battered and tortured.

20 Q Did she describe another object that was used?

21 A She did. She stated that the second male, the dark
22 skinned black male, I referred to him as Suspect No. 2, took a
23 broom handle and tapped her on the backside with the broom
24 handle and she thought she would -- was going to be penetrated
25 with that broom handle.

1 Q Did she describe anything about her clothing, that
2 had occurred with her clothing?

3 A Yes. She stated that after the second suspect
4 arrived they told her to take off her -- her shorts and her
5 underwear and pulled those down to her ankles.

6 Q And that's when you said that the broomstick was
7 tapped on her bare butt or whatever?

8 A Yes, ma'am.

9 Q Now, did she tell you whether or not there was
10 penetration?

11 A At that point she did not.

12 Q I mean specifically did she say that there was no
13 penetration?

14 A She stated that she couldn't remember. She said that
15 she either passed out or blacked out during the event, and she
16 could not be sure.

17 Q Did that seem to upset her while she was talking to
18 you, the fact that she wasn't sure?

19 A Yes.

20 Q Now, as you're talking to Arrie, the other detectives
21 and officers are doing things in the alley; is that correct?

22 A Yes, ma'am.

23 Q Based on your conversation with Arrie, did you
24 attempt to get a search warrant for that apartment?

25 A I did. I obtained a search -- I did obtain a search

1 warrant for that apartment.

2 Q At that point did you know the name of the
3 individual?

4 A I did.

5 Q You did or did not?

6 A I did.

7 Q How did you determine the name of the individual?

8 A We conducted a records check through Department of
9 Motor Vehicles for the 1108 North Jones, Apartment No. A and
10 learned that Calvin Elam was the person through DMV that was
11 registered there.

12 Q Okay. And you were pointing over there. Ultimately
13 did you see or meet Calvin Elam?

14 A I did.

15 Q Do you see them here in court today?

16 A I do.

17 Q Can you describe where he's sitting and what he's
18 wearing.

19 A He's the man sitting at the table here wearing the
20 blue shirt with the black hair to my left of the gentleman in
21 the suit.

22 MS. LUZAICH: Record reflect the identification of
23 the defendant?

24 THE COURT: It will.

25 MS. LUZAICH: Thank you.

1 BY MS. LUZAICH:

2 Q So at the conclusion of your interview with Arrie,
3 what did you do?

4 A At the conclusion of my interview with Arrie, I took
5 her back to -- she wanted to go and visit with her friend
6 Annie, who lives next door to the target apartment, 1108 North
7 Jones.

8 Q And does Annie have another name?

9 A She does. I believe it's Elizabeth.

10 Q Okay. So you brought her to Elizabeth --

11 A Yes, ma'am.

12 Q -- to Annie. You said that you had obtained a search
13 warrant for the apartment. Had you learned that the items --
14 that items were found in the dumpster?

15 A Yes, ma'am.

16 Q What items did you learn were found in the dumpster?

17 A There was some wires, some, like, Saran wrap, tape
18 and I believe it was a -- a cloth garment that was put over her
19 head.

20 Q Okay. Now, is it possible the tape and the cloth
21 were found somewhere other than the dumpster?

22 A Yes.

23 Q And in the dumpster was there the wire and the gray
24 hose?

25 A There was.

1 Q Did you also learn something about her shoe?

2 A Yes.

3 Q What did you learn about Arrie's shoe?

4 A I learned that they were missing, and I believe one
5 was outside the apartment, and then at a later date I found
6 another -- the other matching shoe.

7 Q Where did you find the other shoe?

8 A Next to the apartment alongside the wall of 1108
9 North Jones, No. A.

10 Q Did somebody direct you to that later?

11 A Yeah. Approximately a week later Arrie directed me
12 to it.

13 Q Okay. So you actually continued investigating for a
14 while after this?

15 A Yes, ma'am.

16 Q So you obtained a search warrant for Apartment 1108A.
17 What were you looking for in 1108A?

18 A I was looking for the items that Arrie had described
19 were used to batter her, the shotgun, the tape -- I'm sorry,
20 the shotgun, the belt, the broom, also items that were used to
21 bind her, like the tape and the -- she mentioned that there had
22 been some toilet paper during the ordeal that was put in her
23 mouth. And during my interview I also had her describe what
24 the kitchen looked like. So the search warrant was to
25 corroborate those facts and circumstances as well as to really

1 shore up who was staying at that apartment.

2 Q Okay. Showing you -- so with search warrant in hand,
3 did you go to 1108A?

4 A Yes, ma'am.

5 Q Showing you State's Exhibit 33, is that the front
6 door?

7 A It is.

8 Q Where it says, Hi, haters, like you described?

9 A Yes, ma'am.

10 Q Exhibit 35, is that the kitchen?

11 A It is.

12 Q And in the kitchen did you find items that Arrie
13 described?

14 A I did. Or I observed them. I did not personally
15 collect those and --

16 Q Okay. Let me rephrase that. In the kitchen did you
17 see items that Arrie described?

18 A Yes.

19 Q Showing you Exhibit 37, what are we looking at there?

20 A You're looking at two broom handles.

21 Q And does one of them fit the description that Arrie
22 described for you?

23 A It does, the larger of the two on the right.

24 Q What was specific about it?

25 A It had a light-colored yellow handle that was wood.

1 Q Okay. So she described a wood broom for you?

2 A I believe so.

3 Q Showing you State's Exhibit 39, what are we looking
4 at?

5 A You're looking at the roll of tape along with some
6 toilet paper that's to the left of it.

7 Q Also in the kitchen, correct?

8 A That is correct, ma'am.

9 Q State's Exhibit 40, is that the close-up of the tape
10 and the paper?

11 A It is.

12 Q Showing you State's Exhibit 42, what are we looking
13 at?

14 A That's the belt that's on top of the drawer, the,
15 like, silverware drawer in the kitchen.

16 Q And just for the record, State's Exhibit 41, does
17 that show the belt, like, further away on the counter in the
18 kitchen?

19 A It does. I misspoke. It was on a tray on top of the
20 counter, not the drawer itself.

21 Q Thank you. State's Exhibit 44.

22 A That was located in the hallway between the kitchen
23 and the bedroom, and it's a Fiocchi pump action shotgun.

24 Q Did Arrie mention something about while she was on
25 the floor a phone call and something -- or sorry, conversation,

1 something to do with children?

2 A She did.

3 Q And did you find evidence in the apartment of
4 children living there?

5 A That I don't recall.

6 Q Specifically State's Exhibit 49.

7 A The photograph refreshes my memory, and I noticed
8 that there was boxes of diapers.

9 Q Lots of boxes of diapers?

10 A Yes, ma'am.

11 Q Would you agree? Okay. While you guys are serving
12 the search warrant, are other detectives doing other things?

13 A Yes.

14 Q What were they doing?

15 A So just to clarify, when I was at the search warrant,
16 I more or less just took a walk through. I wasn't there
17 actually searching. Detective Cardenas and I believe it was
18 Detective Weirauch were searching the residence at the time. I
19 was taking care of more of an administrative role with the
20 search warrant, paperwork itself, and then through the
21 investigation we learned that Calvin Elam, the suspect, was at
22 an apartment on West Lake Mead.

23 Q And did you know the apartment, like, what specific
24 apartment on West Lake Mead?

25 A We did. I believe it was 6300 West Lake Mead, and I

1 want to say it was Apartment No. 1011.

2 Q Whose apartment was that was it your understanding?

3 A I believe it was the mother of one of his children.
4 Her name was Joanique Mack.

5 Q And did one of your detectives actually interview
6 Joanique Mack at the 1108 area?

7 A Yes. Through the course of the investigation she
8 arrived at the 1108 North Jones location, and she was
9 interviewed by one of my fellow detectives.

10 Q Was that Detective Cardenas?

11 A It was.

12 Q And when you say during the course of the
13 investigation, were you, the collective you, police, be it
14 detectives or patrol officers, out at the 1108 location for
15 hours?

16 A Yes, we were there for probably four hours.

17 Q And when you say during the course of the
18 investigation, was it during those four hours that detectives
19 or patrol officers were out there that Joanique Mack arrived at
20 that location?

21 A It was.

22 Q Was she with another female individual?

23 A She was.

24 Q And what was that individual's name?

25 A Jessica Williams.

1 Q Was it -- were you aware of where Jessica Williams
2 was living at the time?

3 A Yes.

4 Q Where was that?

5 A She was staying at 1108 North Jones, Apartment No. A.

6 Q And does she also have a child?

7 A She does.

8 Q And who's the father of that child?

9 A Calvin Elam.

10 Q How old is that child?

11 A Infant. At the time infant.

12 Q Yes. Sorry. Back in March of 2015. So whose
13 apartment is 6300 Lake Mead No. 1101?

14 A Joanique Mack.

15 Q 1011. Sorry.

16 A No problem.

17 Q And did you say that you obtained a search warrant
18 for that apartment?

19 A I did.

20 Q Why did you obtain a search warrant for that
21 apartment?

22 A I was looking for additional evidence that could be
23 related to the crime.

24 Q Because not everything that you were looking for was
25 found at the 1108 apartment, correct?

1 A That's correct.

2 Q And just, for example, you didn't find a stun gun,
3 correct?

4 A Correct.

5 Q So did you go to 6300 West Lake Mead, Joanique Mack's
6 apartment to serve that search warrant?

7 A I did.

8 Q Before you got there were other detectives there?

9 A There were.

10 Q And had you sent them there to kind of set up on that
11 apartment like you had other detectives set up on 1108?

12 A Yes, ma'am. I had detectives Matlock and Spiotto put
13 it under surveillance.

14 Q Put the apartment under surveillance?

15 A Put the apartment under surveillance.

16 Q Sorry. It sounded like you said you had them under
17 surveillance.

18 A I'm sorry.

19 Q And when they had the apartment under surveillance,
20 what or who were they looking for?

21 A They were looking for the suspect, Calvin Elam.

22 Q And by then had you had a photograph so that people
23 would know what he looked like?

24 A We did.

25 Q Now, everybody who has DMV, you know, driver's

1 license or ID card --

2 A Yes, ma'am.

3 Q -- has a photograph with DMV, right?

4 A That's correct.

5 Q Okay. Was it your understanding -- well, did either
6 Detective Matlock or Spiotto contact the defendant?

7 A They did.

8 Q Where did they contact him?

9 A At that apartment.

10 Q And did one or both of them place him under arrest at
11 that apartment?

12 A They did.

13 Q Was it your understanding that whether or not the
14 defendant ever went back after police arrived at 1108 to 1108?

15 A I don't believe he did.

16 Q So they arrested him at 6300 Lake Mead?

17 A Yes, ma'am.

18 Q And where -- did you cause them to bring him
19 somewhere?

20 A Yes. He was brought to the Las Vegas Metropolitan
21 Police Department Headquarters to be interviewed.

22 Q And did you cause one of the detectives to interview
23 him there?

24 A Detective Weirauch did.

25 Q And did that take place at 11:00 o'clock p.m.?

1 A Approximately, yes, ma'am.

2 Q So while you were at 6300 Lake Mead, were any items
3 that you were looking for located in Joanique Mack's apartment,
4 the one that the defendant was at when he was arrested?

5 A There was.

6 Q What was located there?

7 A I located a blue Dodgers hat in one of the bedrooms
8 and also several cell phones.

9 Q And what was the purpose behind the cell phones or
10 the significance of I should say?

11 A It's been my experience and training that when
12 somebody's involved with a crime like this or there's a
13 conspiracy it's typically going to take place with cell phones,
14 via either text messaging or voice mail -- or I'm sorry voice
15 calls, and I thought that the phones at the apartment would
16 yield that evidence at a later date.

17 Q Okay. Additionally, because of what Arrie said the
18 females were doing, were you looking for cell phones for that
19 purpose as well?

20 A I was.

21 Q Showing you what's been marked as State's Proposed
22 Exhibits 69 and 70, are these cell phones that were taken from
23 the 6300 apartment?

24 A Yes, ma'am.

25 Q Were they marked, tagged and placed into evidence?

1 A They were.

2 MS. LUZAICH: Move these photos into evidence.

3 THE COURT: Any objection?

4 MR. ERICSSON: No, Your Honor.

5 (State's Exhibit No. 69-70 admitted.)

6 BY MS. LUZAICH:

7 Q Did you ultimately cause these photos -- these cell
8 phones to be examined by somebody who does that?

9 A Yes, ma'am.

10 Q There are individuals at Metro that do that?

11 A There are.

12 Q And were you able to locate any pertinent
13 information?

14 A I was not.

15 Q So you said you found the Dodger hat -- or a, sorry,
16 a blue Dodger hat at the location 6300 Lake Mead?

17 A Yes, ma'am. It was consistent with what Arrie
18 Webster had described.

19 Q Did you also find a vehicle at 6300 Lake Mead?

20 A I did.

21 Q What vehicle did you find?

22 A It was the white Sentra.

23 Q Just showing you State's Exhibit 65, is that the
24 Sentra?

25 A It is.

1 Q And is it photographed right there at 6300 Lake Mead?

2 A It is.

3 Q I'm sorry. Showing you State's Exhibit 68, is that
4 the blue Dodger hat that you found at the location?

5 A It is.

6 Q And showing you State's Exhibit 66, is this how the
7 defendant looked on March 10th of 2015?

8 A It is.

9 Q Now, we talked a minute ago, well, a while ago about
10 Arrie had said that the defendant was talking to her repeatedly
11 about the dogs, dogs being missing. Did she indicate to you
12 that the defendant was accusing her of having taken the dogs?

13 A Yeah. She stated that the defendant had accused her
14 of taking the dogs or knowing who did.

15 Q Did you learn where the dogs actually were?

16 A We did.

17 Q Where?

18 A They were taken by animal control two days prior on
19 May 8th -- or March 8th. I'm sorry. March 8th, 2015.

20 Q Okay. Now, once you served the search warrant at
21 6300 Lake Mead on the 10th and caused the defendant to be
22 interviewed, was that pretty much the end of what occurred on
23 the 10th?

24 A Yes, ma'am.

25 Q Did you go back to 1108 over the course of the next

1 few days to conduct any kind of follow-up investigation?

2 A I did.

3 Q What did you do?

4 A I ended up developing a person that might have been
5 the second suspect through my investigation, and I conducted a
6 photo lineup with one of the witnesses by the name of Carl.

7 Q Okay. So let's go back for one second. As Arrie is
8 describing this for you, that night you were easily able to
9 identify Calvin Elam?

10 A Yes, ma'am.

11 Q The defendant. She had described a second male
12 suspect. Were you trying to figure out who that was?

13 A Correct. I was.

14 Q That night did Arrie have any idea who that was?

15 A She did not.

16 Q And did anybody else that you spoke to that night
17 have any idea who that person might be?

18 A Yes.

19 Q Who else did you -- who else was spoken to that night
20 who may have an idea who that other individual was?

21 A A gentleman by the name of Carl.

22 Q And did you talk to Carl that night?

23 A I did. No, I'm sorry. I did not that night.

24 Q Okay. Somebody else did?

25 A Yes, ma'am.

1 Q And you tried to kind of figure out who that other
2 individual was. Did you have an idea of who you thought it
3 might be?

4 A Yes.

5 Q And you said you conducted a photo lineup with Carl?

6 A I did.

7 Q Was Carl able to identify anybody in that photo
8 lineup?

9 A He was not.

10 Q As of today, have you ever been able to actually
11 identify that second suspect?

12 A I have not.

13 Q Did you also learn that Arrie had gone to UMC on
14 March 12th of 2015?

15 A Yes, ma'am.

16 Q What was your understanding of the reason that Arrie
17 went to UMC?

18 A She stated that she had been sexually assaulted.

19 Q Did she go for a sexual assault evaluation?

20 A She did.

21 Q And did you learn that the nurse had actually called
22 to report the sexual assault?

23 A Yes, ma'am.

24 Q Now, did you ever have contact with the nurse?

25 A I did not.

1 Q Did your lieutenant have contact with anybody
2 pertaining to the sexual assault aspect of it?

3 A Just Arrie, Arrie Webster.

4 Q And how did that occur?

5 A My lieutenant went over to check on her a couple days
6 later to see if she was doing okay, and she stated to him that
7 she thought she had been sexually assaulted.

8 Q Okay. Had he already learned that there was a sexual
9 assault examination done?

10 A I'm sorry. What was the question?

11 Q Had your lieutenant learned already that there was a
12 sexual assault examination done?

13 A I think that he learned -- he directed that to occur.

14 Q Okay.

15 A So I think that he was over there checking on her to
16 see what happened, learned about the sexual assault. He
17 notified Detective Ryland from our sexual assault detail and
18 summonsed Detective Ryland to -- Arrie's location where
19 subsequently the sexual assault exam occurred.

20 Q Okay. And then did your lieutenant ask Detective
21 Ryland from the sexual assault detail to do an interview
22 pertaining specifically to the sexual assault aspect of it?

23 A He did.

24 Q Now, additionally, did you request analysis to be
25 done of certain items?

1 A I did.

2 Q What kind of analysis did you request to be done?

3 A It was latent analysis and a DNA analysis of items
4 used in the kidnapping.

5 Q And --

6 THE COURT: And, Ms. Luzaich, I think I'm going to
7 interrupt your direct examination. We're going to take a quick
8 break.

9 Can I see counsel at the bench before we take our
10 break.

11 (Conference at the bench not recorded.)

12 THE COURT: Ladies and gentlemen, we're just going to
13 take a quick break until about 11:15.

14 During the brief recess you are reminded that you're
15 not to discuss the case or anything relating to the case with
16 each other or with anyone else. You're not to read, watch or
17 listen to any reports of or commentaries on the case, person or
18 subject matter relating to the case. Do not do any independent
19 research by way of the Internet or any other medium, and please
20 don't form or express an opinion on the case.

21 Please place your notepads in your chairs and follow
22 the bailiff through the double doors. We'll see you back at
23 11:15.

24 (Jury recessed 11:04 a.m.)

25 THE COURT: And, Detective, please don't discuss your

1 testimony with anybody.

2 THE WITNESS: Yes, ma'am. May I step down?

3 THE COURT: Yes.

4 THE WITNESS: Thank you, ma'am.

5 (Proceedings recessed 11:04 a.m. to 11:16 a.m.)

6 (Outside the presence of the jury.)

7 THE COURT: -- I'm thinking that should put us at
8 lunchtime, right?

9 MS. LUZAICH: Oh, yeah.

10 THE COURT: Then we'll take our lunch break. We'll
11 do the jury instructions, I mean, over the lunch break.

12 MS. LUZAICH: I need time. My PowerPoint is not
13 done. I had technical difficulties. It didn't all save. So
14 this morning I got here early trying to put it back together.
15 I just need some time to finish it. Sorry.

16 THE COURT: An hour and a half for lunch, that should
17 give you enough time. Can you do it in an hour and 15 minutes
18 do you think?

19 MS. LUZAICH: Well, not if we still have to settle
20 jury instructions.

21 THE COURT: Right. Oh. I thought Mr. Ericsson
22 didn't have any objections?

23 MR. ERICSSON: Your Honor, I had gone through all the
24 instructions. I do believe there are a couple more --

25 MS. LUZAICH: I printed out a new set.

1 THE COURT: Right.

2 MS. LUZAICH: -- or I asked Krystal to print out -- I
3 forgot the transition in a lesser second.

4 THE COURT: Okay.

5 MS. LUZAICH: So there's also a verdict form in there
6 that's got the second, you know -- first, second, not guilty.

7 THE COURT: Right. So we need to redo the verdict
8 form.

9 MS. LUZAICH: It's in there.

10 THE COURT: Is that what you're saying?

11 MS. LUZAICH: I did it.

12 THE COURT: Oh, okay.

13 MS. LUZAICH: I mean, so I sent it to her, but --

14 THE COURT: Okay.

15 MS. LUZAICH: -- we need copies because I didn't send
16 it to him.

17 THE COURT: Okay. So, Kenny, go tell Krystal to
18 print out --

19 Do you need a copy for yourself or you already have
20 it?

21 MS. LUZAICH: I --

22 THE COURT: Okay. Tell Krystal to print out two more
23 copies of the jury instructions. You don't have to do it right
24 this second.

25 All right. So I'm going to give Mr. Elam his

1 admonishment.

2 Are we on the record?

3 THE COURT RECORDER: Yes.

4 THE COURT: Okay. Mr. Elam, you have the right to
5 take the stand and testify on your own behalf. Do you
6 understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: If you choose to take the stand and
9 testify, the deputy district attorney will have the opportunity
10 to cross-examine you, and anything you say, whether it's in
11 response to a question from your lawyer, the deputy district
12 attorney or the Court or one of the jurors will be the subject
13 of fair comment by the deputy district attorney in her closing
14 arguments. Do understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Also, if you choose to take the stand and
17 testify, the deputy district attorney can ask you about prior
18 convictions if you've been convicted of a felony within the
19 past 10 years or you have discharged your sentence of parole,
20 probation or imprisonment within the past 10 years.

21 Does he have any such priors?

22 MS. LUZAICH: He has a felony, but I don't think it's
23 in time.

24 THE COURT: All right. So you don't have an
25 impeachable offense then.

1 Conversely, you have the right not to take the stand
2 and testify. If you -- if you choose to avail yourself of your
3 right not to testify, the deputy district attorney is
4 precluded, meaning forbidden, to comment upon that in her
5 closing arguments. Do you understand?

6 THE DEFENDANT: Yes.

7 THE COURT: Also if you choose to avail yourself of
8 your right not to testify, the Court will give an instruction
9 to the jury if asked to do so by your lawyer. The instruction
10 essentially says, That an accused in a criminal case cannot be
11 compelled to testify. Thus the decision as to whether or not
12 he should testify is left to the defendant on the advice and
13 counsel of his attorney, and it tells the jury that they are
14 not to draw any inference of guilt from the fact that he does
15 not testify, nor should that be discussed or enter into their
16 deliberations in any way. And the Court would give the
17 instruction if requested. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Have you had an opportunity to discuss
20 your right to testify as well as your right not to testify with
21 your lawyer Mr. Ericsson?

22 THE DEFENDANT: Yes.

23 THE COURT: All right. Do you have any questions for
24 the Court about either of these rights?

25 THE DEFENDANT: No.

1 THE COURT: And have you made a decision yet as to
2 whether or not you will be testifying?

3 THE DEFENDANT: Yes.

4 THE COURT: And the decision is?

5 THE DEFENDANT: No.

6 THE COURT: All right. Did I cover those right to
7 your satisfaction, Mr. Ericsson?

8 MR. ERICSSON: Yes, Your Honor.

9 THE COURT: Did I cover those to your satisfaction,
10 Ms. Luzaich?

11 MS. LUZAICH: Yes.

12 THE COURT: All right. I think that's all we have to
13 do before we resume. So, Kenny, you can bring them in.

14 Detective, come on back up here to the witness stand,
15 please, and just --

16 THE WITNESS: Hang out.

17 THE COURT: -- stand or sit or whatever you want to
18 do.

19 (Jury entering 11:21 a.m.)

20 THE COURT: All right. Court is now back in session.

21 And, Ms. Luzaich, you may resume your direct
22 examination of the witness.

23 MS. LUZAICH: Thank you.

24 BY MS. LUZAICH:

25 Q I think when I stopped we were talking about analysis

1 that you had requested. One we talked about you had asked that
2 the cell phones that you located be examined, right?

3 A Yes, ma'am.

4 Q And that didn't turn up anything. You mentioned
5 fingerprint analysis. Did you request that the broom handle be
6 analyzed for prints?

7 A I did.

8 Q And the leather belt, did you ask for that as well?

9 A Yes, ma'am.

10 Q And did you learn that there was nothing found?

11 A Correct.

12 Q And then as far as DNA analysis, you mentioned that
13 you asked for things to be analyzed there as well, correct?

14 A That's correct.

15 Q Do you remember what you requested?

16 A I know I requested they have the shotgun processed
17 for DNA.

18 Q Okay. And the shotgun itself?

19 A Yes, ma'am.

20 Q As well as were you -- I don't know if you were
21 present, you were aware that crime scene analyst Brad Grover
22 took swabs from the end of the shotgun?

23 A Yes. Those were the exhibits that I had compared,
24 was the swabs themselves.

25 Q Okay. Additionally, the items that were found in the

1 dumpster, the hose, did you ask that that be analyzed?

2 A I believe so.

3 Q And the clear packaging tape, did you ask that that
4 be analyzed for DNA as well?

5 A Yes, ma'am.

6 Q Now, what were you looking for?

7 A I was looking to see if the defendant Mr. Elam's DNA
8 was on these items because it would be indicative that he's the
9 one that bound her on the ligatures, and with the shotgun
10 itself, the victim Arrie Webster stated that that was in her
11 mouth. So I figured that if it was in her mouth spit from her
12 mouth would be on the barrel of that shotgun that Crime Scene
13 Analyst Grover had swabbed, and then, you know, I think that it
14 would again corroborate her story that this actually did
15 happen.

16 Q And did you also, sorry, ask that the end of the
17 broom handle be swabbed for DNA as well?

18 A I did.

19 Q Or examined. Now, you mentioned whether the tape
20 were -- if the defendant's DNA were on the tape. Now, these
21 items were all found in his house, correct?

22 A They were.

23 Q Did that thought enter your mind?

24 A It did because if something's not -- you know, in
25 your house, you know, really your DNA should be on it, you

1 know. It's assumed that your DNA will be on it, you know, if
2 it's located in your residence just because it's your
3 possessions.

4 Q So if his was on it, would that be kind of a no harm,
5 no foul?

6 A In retrospect, correct.

7 Q And then did you learn that DNA was found in the swab
8 from the barrel of the shotgun?

9 A I did.

10 Q And who's was that?

11 A That was Arrie Webster's DNA on the barrel of the
12 shotgun.

13 MS. LUZAICH: Thank you. I have no further
14 questions.

15 THE COURT: All right. Cross.

16 MR. ERICSSON: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. ERICSSON:

19 Q Good morning, Detective.

20 A Good morning, sir.

21 Q There was a lot of work that went into this
22 investigation, correct?

23 A Yes, sir.

24 Q And so you were the lead detective. So you directed
25 most of it?

1 A Yes, sir.

2 Q I want to begin by going through the interview that
3 you had with Ms. Webster, and that was on the night of the
4 alleged incident?

5 A It was.

6 Q And you held that in your unmarked car; is that
7 right?

8 A That is correct.

9 Q And prior to coming here today, did you have the
10 opportunity to go back and read your reports from this
11 investigation?

12 A I did.

13 Q And what about did you go back and read the interview
14 transcript from your interview with Ms. Webster?

15 A Yes, sir I did.

16 Q Okay. Good. That will hopefully speed up these
17 questions. Now, you testified she indicated that she was asked
18 to go into Mr. Elam's apartment, and she did so, correct?

19 A Yes, sir.

20 Q And that at some point she told you that Mr. Elam may
21 have placed a phone call, and she thought it was to have other
22 people come over to the apartment; is that correct?

23 A Yes, sir.

24 Q Now, she had told you that prior to the other people
25 supposedly coming to the apartment that she had been hogtied,

1 was the word she had used, by Mr. Elam, correct?

2 A Yes, sir.

3 Q And that she had -- her face had been blindfolded
4 with some type of a cloth, correct?

5 A That is correct.

6 Q And that he had put tape around her face, correct?

7 A Yes, sir, more specifically her mouth.

8 Q Okay. They placed tape around her mouth, but he had
9 also covered her face with some type of a cloth device?

10 A Yes, sir.

11 Q And the way she reported this to you, this was before
12 other people supposedly came over to the apartment, correct?

13 A Yes. If I recall correctly, she had been hogtied,
14 the tape put over her mouth, the cloth, and then that's when
15 people arrived at the apartment after that.

16 Q Okay. Now, she did describe to you that she thought
17 that people were videotaping this incident; is that right?

18 A That's correct.

19 Q And part of your investigation was obtaining cell
20 phones that you had investigative analysis done on; is that
21 right?

22 A Yes, sir.

23 Q And from your analysis, you did not obtain any
24 evidence related to this event that you were aware of, correct?

25 A Correct.

1 Q And I want to go into some detail about that. In
2 your work as a detective, you often do investigative analysis
3 of phone devices; is that right?

4 A We do.

5 Q And one of the central things that you can do if it's
6 alleged that phone calls have been made from a particular
7 location is to try to obtain phone records and then the cell
8 tower information to try to determine if a phone call was made
9 from a particular device at a certain location; is that right?

10 A Yes, sir.

11 Q And it would be fair to say that her telling you that
12 Mr. Elam had made a phone call while this was going on from
13 that apartment would've been a very important piece of
14 information, correct?

15 A And I think it was documented in the cell phone, the
16 evidence out of the cell phone a search warrant was done that
17 calls were made and with the call number itself, but as far as
18 getting call detail records to show where the call was made, I
19 did not obtain those.

20 Q So there are no records indicating from any devices
21 that you have related to Mr. Elam a location of where phone
22 calls were made, correct?

23 A No, just the call log itself, sir.

24 Q And you did not obtain any information related to
25 alleged video recordings on cell phones; is that right?

1 A No, we did not have any video recordings.

2 Q How many cell phones did you take into custody in
3 this investigation?

4 A We took three.

5 Q Now, according to Ms. Webster, she told you that it
6 was the second male suspect who introduced a stun gun to this
7 event; is that right?

8 A Yes, sir.

9 Q And again, just sequencing, she had indicated that
10 that individual came over to the apartment after she had been
11 blindfolded, correct?

12 A It wasn't necessarily a blindfold because I did ask
13 her about that, and she said the garment was placed over her
14 head, and it obscured her vision, I would say mostly, but she
15 could still see through it. I'd equate to if I was to take,
16 you know, a T-shirt and put it over my head. You can still see
17 some stuff outside of it, but you're not going to see clear as
18 day unobstructed view, like, we have right here in the
19 courtroom.

20 Q Okay. Well, isn't it true that at some point she
21 tells you that the second suspect allegedly placed the stun gun
22 up to her eye, correct?

23 A Yes, sir.

24 Q And this was after she was blindfolded, correct?

25 A Yes, sir.