SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA
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1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

2 IN AND FOR THE COUNTY OF YAVAPAI

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STATE OF ARIZONA,	Yavapai Superior Court No. P1300CR20081339
Plaintiff,	JURY TRIAL
vs.	
STEVEN CARROLL DEMOCKER,	
Defendant.	

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Proceedings held before the Honorable Warren Darrow

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Prescott, Arizona September 1, 2010

Sandra K Markham, CR, RPR, CSR
Certified Reporter
Arizona License No. 50001

Original

1 **APPEARANCE OF COUNSEL:**

2 For Plaintiff:
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3 JEFFREY PAUPORE,
Deputy County Attorneys,
4 Yavapai County Attorney's Office.

5 For Defendant:
JOHN M. SEARS,
6 Attorney at Law.

7 LARRY HAMMOND,
Attorney at Law.
8
ANNE CHAPMAN,
9 Attorney at Law.

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09:16:02 1 THE COURT: We are on the record in State versus
09:16:06 2 Steven Carroll Democker with Mr. Democker and all of the
09:16:12 3 attorneys are present.
09:16:14 4 I just wanted to make a brief record on
09:16:17 5 this. The jury is not present. I think you both have
09:16:20 6 received copies of the jury question and the attachment.
09:16:24 7 I also attached a question that was asked during the
09:16:28 8 testimony of the witness that I think relates to this
09:16:33 9 question. You should have copies of that as well.
09:16:36 10 My intention this morning is I want to start
09:16:40 11 the trial. Prior to the first recess, as I did on a prior
09:16:46 12 occasion, I am going to make a very clear instruction
09:16:48 13 about limiting what can be consulted. What the admonition
09:16:53 14 means. That's what I am going to do and then we will take
09:16:56 15 this up in the proper setting before the close of the day
09:16:59 16 this afternoon.
09:17:00 17 That's my intention. If anybody wants to be
09:17:03 18 heard on that, we can at this point.
09:17:06 19 Mr. Butner.
09:17:06 20 MR. BUTNER: Judge, this is very serious and
09:17:11 21 indicates that this juror is doing research and, in fact,
09:17:16 22 I mean I don't know how you can find something like this
09:17:19 23 and copy it and bring it to the Court's attention as
09:17:22 24 something that maybe should be passed out to the other
09:17:25 25 jurors without knowing what is in it and having read it,

09:17:27 1 and it indicates this particular juror, whoever they are,
09:17:32 2 are doing research and it seems to me that it appears this
09:17:37 3 juror should be disqualified at this point.
09:17:39 4 THE COURT: I don't intend to make the full
09:17:42 5 record on this at this point.
09:17:43 6 MR. BUTNER: I understand.
09:17:44 7 THE COURT: I understand how -- what I want to do
09:17:47 8 for now to make sure that there is not any further issues.
09:17:50 9 Mr. Hammond.
09:17:51 10 MR. HAMMOND: Judge, it's fine with us if you
09:17:54 11 postpone this until we get to a break, but we do think
09:17:58 12 it's a serious issue as well. Whether we would recommend
09:18:02 13 ultimately the disqualification, I think would require a
09:18:06 14 little more information than we now have, but it obviously
09:18:09 15 is something that needs to be addressed.
09:18:11 16 THE COURT: I concur it's a serious issue. I do
09:18:14 17 want to get the trial started and I think what I am going
09:18:17 18 to do is to handle it through the day until we can get and
09:18:20 19 have a proper setting for a full record.
09:18:22 20 Anything else on this, Mr. Butner?
09:18:24 21 MR. BUTNER: No. Nothing at this time, Judge.
09:18:26 22 Thank you.
09:18:26 23 THE COURT: Mr. Hammond?
09:18:27 24 MR. HAMMOND: No, your Honor.
09:18:28 25 THE COURT: Then get the jury in and we'll start

09:18:30 1 in a few minutes. Thank you.

09:18:33 2 (Recess.)

09:20:16 3 THE COURT: We are on the record in State of

09:20:20 4 Arizona versus Steven Carroll Democker. Mr. Democker is

09:20:23 5 present represented by Mr. Sears and Ms. Chapman. The

09:20:30 6 State is represented by Mr. Butner, Mr. Paupore. The

09:20:33 7 witness Ms. Daniel has returned to the witness stand and,

09:20:37 8 of course, remains under oath and Mr. Sears had just

09:20:42 9 started cross-examination. You may proceed.

09:20:44 10 ERIN DANIEL

09:20:45 11 previously sworn in, resumed the stand:

09:20:45 12 MR. SEARS: Thank you, your Honor.

09:20:49 13 THE COURT: Also I count all 16 jurors present

09:20:52 14 and Mr. Hammond has entered the courtroom as well.

09:20:56 15 MR. SEARS: Thank you, your Honor.

09:21:01 16 THE COURT: You may proceed.

09:21:02 17 CROSS-EXAMINATION (Resumed)

09:21:02 18 MR. SEARS:

09:21:02 19 **Q** Good morning, Ms. Daniel.

09:21:03 20 **A** Good morning.

09:21:04 21 **Q** Good to see you again.

09:21:05 22 When we left off yesterday afternoon, after

09:21:07 23 we had just gotten started -- we were talking about your

09:21:10 24 fingerprint work and I wanted to take up that topic again

09:21:14 25 today.

09:21:15 1 This is my impression. Tell me if I'm wrong
09:21:19 2 about this. That you and Kortney Snider from the DPS
09:21:23 3 Northern Regional Crime Lab were called in to assist in
09:21:27 4 this case by the Yavapai County Sheriff's office; is that
09:21:29 5 right.
09:21:29 6 **A** Yes, it is.
09:21:30 7 **Q** And that is something you do from time to time;
09:21:33 8 is that right?
09:21:33 9 **A** Yes.
09:21:33 10 **Q** And in addition to that, you perform what looks
09:21:38 11 like very demanding laboratory work when you're doing your
09:21:41 12 fingerprint comparison, correct?
09:21:43 13 **A** Correct. Most of my time is spent in the lab.
09:21:45 14 **Q** But every now and again you will get called out
09:21:47 15 to a scene to assist local law enforcement some place?
09:21:50 16 **A** Yes. That's correct.
09:21:51 17 **Q** You work for the Department of Public Safety?
09:21:53 18 **A** Yes, I do.
09:21:54 19 **Q** So you are a state employee, correct?
09:21:55 20 **A** Yes.
09:21:55 21 **Q** And have you worked with the Yavapai County
09:21:57 22 Sheriff's office before this case?
09:21:59 23 **A** I have done many cases for the Yavapai County
09:22:03 24 Sheriff's office. That was my first big scene that I have
09:22:07 25 been to with them.

09:22:08 1 **Q** Being called out like that; is that right?
09:22:10 2 **A** Yes. I think I have done a stolen car, abandoned
09:22:14 3 vehicle for them.
09:22:15 4 **Q** Before this case?
09:22:16 5 **A** I think so, yes.
09:22:18 6 **Q** But this case clearly was remarkable for you
09:22:21 7 because it was the first big murder case in Yavapai County
09:22:25 8 that you had been called to assist in, correct?
09:22:26 9 **A** Yes. That's correct.
09:22:27 10 **Q** And you knew after your briefing -- do you
09:22:30 11 remember who conducted the briefing for you and Kortney
09:22:32 12 Snider when you got to the scene?
09:22:33 13 **A** I don't remember exactly. I know we talked to,
09:22:36 14 earlier in that day, we talked to Lieutenant Rhodes and I
09:22:40 15 know he's the one that gave us directions.
09:22:41 16 **Q** This man here? Do you recognize him?
09:22:44 17 **A** I don't.
09:22:45 18 **Q** Okay. I will tell you that that's him.
09:22:48 19 And so you got information. What did they
09:22:54 20 tell you?
09:22:55 21 **A** I don't remember the exact wording of what they
09:22:58 22 told -- or what he told us. Just what they thought had
09:23:02 23 happened. What they found. How she was found and where
09:23:06 24 the scene was and then he kind of walked us through.
09:23:09 25 Showed us what they had seen in the house.

09:23:11 1 **Q** Did they say anything about Steve Democker, my
09:23:14 2 client at that point?
09:23:15 3 **A** I did have him listed as a suspect on my note
09:23:20 4 sheet that I take while I am at that crime scene.
09:23:22 5 **Q** So somebody from the Sheriff's office would have
09:23:24 6 had to give you that information, Democker was a suspect,
09:23:27 7 correct?
09:23:28 8 **A** Yes. That's right.
09:23:29 9 **Q** Did you have anybody else in your notes listed as
09:23:32 10 a suspect?
09:23:32 11 **A** No, I didn't.
09:23:34 12 **Q** Did they tell you at that time who Knapp was and
09:23:37 13 how he might fit in?
09:23:38 14 **A** I believe I was told there was a tenant in the
09:23:43 15 small house next door, but I think that was all I knew at
09:23:46 16 the time.
09:23:47 17 **Q** Okay. Now, this is my further impression and
09:23:50 18 again if I'm wrong, please tell us right now.
09:23:52 19 That you were there to do two things
09:23:56 20 principally. One was to assist in doing forensic or law
09:24:03 21 enforcement photography of a number of things at the scene
09:24:07 22 including a lot of blood spatter evidence, correct?
09:24:09 23 **A** Yes.
09:24:09 24 **Q** And that's something you have been trained to do,
09:24:11 25 correct?

09:24:12 1 **A** I have, yes.

09:24:12 2 **Q** And Kortney Snider, by contrast, does something

09:24:16 3 called serology; is that right?

09:24:18 4 **A** Yes.

09:24:18 5 **Q** What's that?

09:24:19 6 **A** That's -- in the laboratory, serology is when we

09:24:23 7 test items to do DNA on. We look for blood, semen, cell

09:24:30 8 material and then we collect those items for further

09:24:32 9 analysis by DNA at a later time.

09:24:35 10 **Q** Kortney Snider actually does DNA analysis

09:24:38 11 herself, correct?

09:24:38 12 **A** Yes, she does.

09:24:39 13 **Q** Like you are responsible for doing fingerprint

09:24:41 14 analysis in fingerprint cases, correct?

09:24:43 15 **A** Yes.

09:24:44 16 **Q** That's your principle responsibility at the crime

09:24:47 17 lab is to analyze fingerprints, correct?

09:24:49 18 **A** It was at that time.

09:24:51 19 **Q** Has it changed now?

09:24:52 20 **A** I also do DNA and serology work now.

09:24:55 21 **Q** Because there's a huge demand for that work?

09:24:58 22 **A** Yes. We have a greater backlog in DNA now.

09:25:01 23 **Q** And so let's talk about the sort of the

09:25:07 24 organization of this. As between you and Kortney Snider,

09:25:10 25 was one of you in charge of the other or did the two of

09:25:15 1 you come down to do different things?

09:25:16 2 **A** We are not in charge of each other. We're equals

09:25:20 3 in the lab. Once we get a scene, once we kind of look

09:25:23 4 around and determine what needs to be done, we confer with

09:25:27 5 each other to make sure that we cover all our bases and

09:25:30 6 that we're not getting in each other's way.

09:25:32 7 **Q** So when you do all these photographs and we are

09:25:35 8 going to look at some more photographs that you took today

09:25:37 9 that we didn't see yesterday, would it be fair to say that

09:25:42 10 each of you picked out things of interest to be

09:25:46 11 photographed?

09:25:47 12 **A** I attempted to photograph the entire scene,

09:25:51 13 especially in that office, and for her purposes, the

09:25:55 14 photograph she needed would be more of items that she

09:25:58 15 collected, stains she collected, things like that.

09:26:01 16 **Q** So you're working and she sees blood, she says

09:26:04 17 let's take a picture of this. She gets the L shaped scale

09:26:08 18 out and you take the pictures, correct?

09:26:10 19 **A** Usually we try and take all the pictures

09:26:13 20 beforehand of the over-alls and then once she goes back

09:26:16 21 and wants to collect things, then she could take that

09:26:19 22 picture or I could.

09:26:20 23 **Q** Yesterday we were just beginning to get into the

09:26:24 24 idea of the limited fingerprint work you did at the scene

09:26:29 25 on July 3, 2008. You told us yesterday that you were

09:26:34 1 looking for usable latent prints primarily in the room
09:26:39 2 where the body was found, correct?
09:26:40 3 **A** Yes.
09:26:41 4 **Q** And you were looking primarily at objects that
09:26:43 5 you knew were too large or too bulky to be taken with you
09:26:48 6 back to the crime lab, correct?
09:26:49 7 **A** That and also items that potentially had been
09:26:52 8 handled by someone.
09:26:54 9 **Q** And the objects that you looked at that you told
09:26:57 10 us about yesterday were the ladder that was in that room,
09:27:01 11 correct?
09:27:01 12 **A** Yes.
09:27:02 13 **Q** And you didn't take that ladder back to the crime
09:27:04 14 lab, correct?
09:27:04 15 **A** No, I didn't.
09:27:05 16 **Q** And one of the two bookshelves, correct?
09:27:09 17 **A** Yes.
09:27:09 18 **Q** And then the door handle, correct?
09:27:12 19 **A** Yes.
09:27:12 20 **Q** Okay. And I promised you yesterday we'd look at
09:27:14 21 the door handle and I have those pictures here and we will
09:27:17 22 get to them shortly.
09:27:18 23 And then you said you were asked to take a
09:27:20 24 look at a dead bolt assembly in another part of the house;
09:27:25 25 is that right?

09:27:25 1 **A** I received a dead bolt assembly in the lab at a
09:27:30 2 later time.
09:27:30 3 **Q** You didn't look at it at the scene; is that
09:27:32 4 right?
09:27:32 5 **A** I don't remember.
09:27:34 6 **Q** Did you attempt to lift any latent prints or
09:27:39 7 locate any latent prints any place else at the scene on
09:27:42 8 July 3, other than in the room where the body was found
09:27:44 9 then?
09:27:45 10 **A** No, I didn't.
09:27:46 11 **Q** Now, in terms of whose scene this was, there was
09:27:50 12 no question in your mind, this was a Yavapai County
09:27:52 13 Sheriff's office case, correct?
09:27:53 14 **A** Yes.
09:27:54 15 **Q** You were briefed by detectives. There were
09:27:56 16 detectives there all over the house and all over the
09:27:59 17 property, correct?
09:28:00 18 **A** Yes, there was.
09:28:01 19 **Q** A lot was going on, on this morning of July 3,
09:28:03 20 correct?
09:28:04 21 **A** Yes.
09:28:04 22 **Q** Now, you said that early on in your testimony
09:28:09 23 yesterday, that in addition to this examination you did of
09:28:13 24 these locations in the room where the body was, over the
09:28:16 25 last several years, from time to time you have been sent

09:28:19 1 things by the Yavapai County Sheriff's office, correct?
09:28:21 2 **A** Yes. That's correct.
09:28:22 3 **Q** Do you have a master list of everything you have
09:28:25 4 been sent?
09:28:25 5 **A** I don't have a list. Everything I have received
09:28:29 6 is listed on my reports.
09:28:30 7 **Q** Do you have your reports with you again this
09:28:32 8 morning?
09:28:32 9 **A** I do.
09:28:33 10 **Q** Okay. Why don't you pull those out in case you
09:28:37 11 need to refer to them, unless you can tell me you have
09:28:39 12 memorized every item you analyzed?
09:28:43 13 **A** No, I haven't.
09:28:44 14 **Q** You're shaking your head no. Okay.
09:29:58 15 **A** Okay.
09:29:59 16 **Q** So you've made a pile of all of the reports that
09:30:01 17 you did in this case, right?
09:30:04 18 **A** Yes.
09:30:04 19 **Q** What is the most recent one?
09:30:06 20 **A** If I could refer to the date?
09:30:08 21 **Q** Please.
09:30:09 22 **A** I have one from April 22nd, 2010.
09:30:24 23 **Q** Just a few months ago?
09:30:26 24 **A** Yes.
09:30:26 25 **Q** So to understand what happens then is you and

09:30:30 1 Kortney Snider finish your work, you leave about 5:30 in
09:30:34 2 the afternoon on July 3, 2008. Does that sound right?
09:30:37 3 **A** Yes or six p.m.
09:30:38 4 **Q** And you never go back to the scene again,
09:30:40 5 correct?
09:30:40 6 **A** That's right.
09:30:41 7 **Q** Okay. So with respect to your fingerprint work,
09:30:45 8 other than the objects that you told us that you located
09:30:52 9 in this room here, this is Exhibit 631, this is the
09:30:59 10 diagram you and Mr. Paupore were looking at yesterday.
09:31:03 11 You recognize this room in the corner of the house. Can
09:31:06 12 you see the stick figure of the body in there?
09:31:08 13 **A** I recognize the room, but I can't see the stick
09:31:11 14 figure.
09:31:12 15 **Q** A couple little -- let me take our friend the
09:31:16 16 laser pointer here -- I know it's hard from where you are,
09:31:22 17 but I don't think it's necessary for you to hop up and
09:31:24 18 down here.
09:31:25 19 If you would look right here, Ms. Daniel.
09:31:26 20 Do you see some lines on the drawing there?
09:31:30 21 **A** Yes, I do.
09:31:31 22 **Q** That is somebody's representation of Carol
09:31:35 23 Kennedy?
09:31:35 24 **A** Okay.
09:31:35 25 **Q** That's about where it was located. Here is the

09:31:37 1 doorway. Here is the ladder over the doorway, and the
09:31:40 2 body here is the desk. Do you recognize that?
09:31:42 3 **A** Yes, I do.
09:31:43 4 **Q** Okay. Now, here are the bookshelves we were
09:31:45 5 talking about yesterday and you see how they are drawn on
09:31:47 6 this one. Pushed into another and the farthest one is
09:31:51 7 touching the wall on this area; is that right?
09:31:53 8 **A** It appears that way, yes.
09:31:55 9 **Q** But when you got there, this bookshelf here, the
09:31:58 10 one nearest the body, was standing upright, correct?
09:32:01 11 **A** I don't remember.
09:32:02 12 **Q** And here's a doorway we're going to talk about
09:32:04 13 here in just a minute and here is, obviously not to scale,
09:32:08 14 that white leather appearing chair that we talked about
09:32:12 15 yesterday, correct?
09:32:13 16 **A** Yes.
09:32:13 17 **Q** And then this round thing is a desk chair here,
09:32:16 18 correct?
09:32:16 19 **A** Okay.
09:32:17 20 **Q** Okay and then here are the plastic tubs that you
09:32:20 21 photographed out in the hallway, correct?
09:32:21 22 **A** Yes.
09:32:22 23 **Q** Okay. Now -- you can shut this down, Richard.
09:32:28 24 Did you have any discussions with the
09:32:31 25 Sheriff's office from July 3, 2008 until April of this

09:32:35 1 year about objects that you thought might be appropriate
09:32:40 2 to be sent to you for fingerprint analysis?
09:32:42 3 **A** No, I didn't.
09:32:44 4 **Q** Did you say why don't you send me the desk
09:32:47 5 calendar that was on the desk next to the body? Did you
09:32:50 6 ask them to do that?
09:32:51 7 **A** No, I didn't.
09:32:52 8 **Q** So would it be fair to say everything that was
09:32:55 9 sent to you over that nearly two -- two year period from
09:32:58 10 July 2008 until the spring of this year, everything that
09:33:02 11 was sent were items that some law enforcement person or
09:33:06 12 persons thought might be appropriate for fingerprint
09:33:09 13 analysis, correct?
09:33:10 14 **A** All those items were sent to me by the YCSO.
09:33:15 15 **Q** Or were any of them sent to you be the County
09:33:17 16 Attorney's investigators?
09:33:19 17 **A** I don't remember.
09:33:20 18 **Q** Did you even know the County Attorney's office
09:33:22 19 here has its own investigators?
09:33:23 20 **A** Yes. I have spoken to him.
09:33:25 21 **Q** Okay. More than one?
09:33:27 22 **A** I spoke to Mr. Sechez.
09:33:30 23 **Q** Sechez. S-E-C-H-E-Z. Is that the one?
09:33:34 24 **A** I don't know how to spell it.
09:33:35 25 **Q** Okay. Mike?

09:33:36 1 **A** Yes.

09:33:37 2 **Q** And he's a County Attorney investigator, right?

09:33:40 3 **A** Yes.

09:33:40 4 **Q** Okay. And that's why I said law enforcement.

09:33:43 5 Some law enforcement officer, either these investigators

09:33:46 6 from the County Attorney or people in the Sheriff's

09:33:48 7 office, apparently on their own decided over time to send

09:33:53 8 you various objects to be analyzed, right?

09:33:55 9 **A** Yes.

09:33:55 10 **Q** Let's be clear here about your findings.

09:33:58 11 Beginning with the work that you did on the

09:34:01 12 scene on July 3, and all the way through the work you did

09:34:04 13 in April of this year, you never located a latent

09:34:09 14 fingerprint that you identified as having been made by

09:34:11 15 Steve Democker; isn't that true?

09:34:13 16 **A** That's correct.

09:34:14 17 **Q** Okay. You did find some fingerprints, some

09:34:17 18 latent fingerprints that you could identify as being Carol

09:34:21 19 Kennedy's; is that right?

09:34:22 20 **A** I don't think I ever identified any to her. I

09:34:27 21 had many latent prints that appeared to be hers, but I had

09:34:30 22 to go with inconclusive results, because I couldn't make

09:34:33 23 that positive identification.

09:34:35 24 **Q** The biggest part of that problem then would have

09:34:38 25 been the surprisingly poor quality of the fingerprints on

09:34:46 1 the ten print card that came from the Medical Examiner,
09:34:48 2 correct?
09:34:49 3 **A** That was a big part and why I couldn't make very
09:34:52 4 many positive identifications.
09:34:53 5 **Q** I have been thinking about that. That
09:34:55 6 circumstance overnight.
09:34:56 7 Have you, in your experience from time to
09:35:01 8 time, had occasion to use as your known, fingerprints
09:35:07 9 taken at autopsy by some Medical Examiner some place?
09:35:10 10 **A** Yes, I have.
09:35:11 11 **Q** Have you ever seen fingerprints taken from a
09:35:15 12 deceased person by a Medical Examiner of such poor quality
09:35:19 13 as the ones in this case?
09:35:20 14 **A** Actually be surprised. Many of the prints I
09:35:23 15 receive from a Medical Examiner's office, different
09:35:25 16 offices are of poor quality.
09:35:27 17 **Q** Wouldn't you think that the Medical Examiner
09:35:31 18 being a trained forensic scientist, would understand --
09:35:34 19 MR. PAPORE: I am going to object to this line of
09:35:36 20 questioning. Ms. Daniel testified yesterday she did not
09:35:40 21 know who or where the fingerprints came from.
09:35:42 22 THE COURT: Sustained.
09:35:43 23 MR. SEARS: I believe she said they came from the
09:35:44 24 Medical Examiner, your Honor. That is the evidence that
09:35:46 25 is there. That's the stamp on the -- on the card that

09:35:50 1 wasn't admitted, but says Yavapai County Medical Examiner.
09:35:52 2 I think that is her testimony.
09:35:53 3 THE COURT: I sustained the objection to the
09:35:55 4 admission of that exhibit, so the objection is sustained.
09:35:58 5 MR. SEARS: Okay.
09:35:59 6 MR. PAUPORE: The State would re-offer that
09:36:01 7 fingerprint card.
09:36:03 8 MR. SEARS: You know, I've thought about that
09:36:05 9 overnight, and I have that here and my objection was this
09:36:13 10 witness didn't seem to have the foundation, but you know I
09:36:17 11 think it's important for the jury to see this, so I would
09:36:19 12 stipulate to the admission of 3216, which is the
09:36:22 13 fingerprint card, your Honor.
09:36:24 14 THE COURT: I am just confirming that,
09:36:25 15 Mr. Paupore?
09:36:27 16 MR. PAUPORE: Yes. No objection.
09:36:29 17 THE COURT: The number again, Mr. Sears?
09:36:30 18 MR. SEARS: 3216.
09:36:32 19 THE COURT: 3216 is admitted by stipulation.
09:36:35 20 MR. SEARS: Thank you.
09:36:37 21 Q So here it is, Ms. Daniel.
09:36:39 22 That's the fingerprint card. Do you have
09:36:41 23 any reason to think that it was -- those fingerprints were
09:36:44 24 obtained by anybody other than the Medical Examiner or
09:36:47 25 anybody else present at the autopsy of Carol Kennedy?

09:36:50 1 **A** No, I don't.

09:36:51 2 **Q** That would be your expectation?

09:36:53 3 **A** Yes.

09:36:54 4 **Q** Okay. These are the fingerprints that you said

09:36:57 5 they were plained. Is that P-L-A-N-E?

09:37:01 6 **A** P-L-A-I-N.

09:37:03 7 **Q** P-L-A-I-N. Okay.

09:37:05 8 And tell me the difference between a plain

09:37:07 9 fingerprint and a rolled fingerprint.

09:37:09 10 **A** A plain is -- what we call a plain impression, is

09:37:12 11 when, like in an inked case, the hand is touched flat and

09:37:19 12 that's what we call a plain impression or slap impression,

09:37:22 13 which should go on a fingerprint card in the lower part.

09:37:25 14 A rolled impression is when the person's

09:37:28 15 finger is rolled from nail to nail on the ink and also on

09:37:33 16 the card. So I have a full almost square shaped inked

09:37:37 17 print on my ten print card.

09:37:39 18 **Q** But the advantage as you said yesterday of a

09:37:42 19 rolled fingerprint is that it's nail to nail and you get

09:37:46 20 all of the ridge detail from each finger tip, correct?

09:37:49 21 **A** Yes. That's the point of doing the rolled

09:37:52 22 impression.

09:37:52 23 **Q** I have been in this courtroom many times. This

09:37:54 24 is Mr. King's fingerprint inking device. Have you ever

09:37:58 25 seen anything like this?

09:37:59 1 **A** I haven't.

09:38:00 2 **Q** Okay. And I will tell that you under Arizona law

09:38:02 3 every person that is sentenced in a criminal case has to

09:38:05 4 put an impression of their right index finger on the

09:38:07 5 sentence document. Did you know that?

09:38:09 6 **A** I have received many sentencing documents.

09:38:11 7 **Q** And you see fingerprints on them?

09:38:13 8 **A** Yes.

09:38:13 9 **Q** And typically it's the right index finger, a

09:38:16 10 little oval that's actually affixed to the document

09:38:19 11 itself, right?

09:38:19 12 **A** Correct. I have also seen right thumb prints.

09:38:21 13 **Q** I have watched Mr. King for years take the right

09:38:24 14 index finger of people, putting my clients from time to

09:38:27 15 time, and roll it across this pad. That would be the way

09:38:31 16 you would roll a print, right?

09:38:32 17 **A** Yes, it would.

09:38:33 18 **Q** And presumably there's no reason in this case

09:38:38 19 given the condition of Carol Kennedy's body that rolled

09:38:42 20 impressions could not have been obtained for her, correct?

09:38:45 21 **A** It would be my assumption that rolled impressions

09:38:48 22 could have been obtained.

09:38:49 23 **Q** I mean, we could all imagine horrible cases where

09:38:52 24 the body has been burned or the hands or finger mutilated

09:38:56 25 where that might not be possible, correct?

09:38:58 1 **A** Yes.

09:38:58 2 **Q** But you saw the body and you didn't see any

09:39:00 3 damage to -- any apparent damage to either hand, did you?

09:39:03 4 **A** Nothing apparent.

09:39:04 5 **Q** So would it have been your expectation, had they

09:39:06 6 taken the time, they could have rolled each of the ten

09:39:10 7 fingers on this card, right?

09:39:11 8 **A** I would assume so.

09:39:12 9 **Q** And your work would become appreciably more

09:39:16 10 professional if you had those knowns, correct?

09:39:18 11 **A** I would have liked to have a better set of

09:39:20 12 knowns, yes.

09:39:21 13 **Q** Now, you told us yesterday that you did find an

09:39:26 14 impression of one of Mr. Knapp's fingers on an item,

09:39:32 15 correct?

09:39:32 16 **A** Yes. That's correct.

09:39:33 17 **Q** And you were able to make an identification,

09:39:35 18 correct?

09:39:35 19 **A** Yes, I did.

09:39:36 20 **Q** So, Rich, if you could Show Exhibit 302, please.

09:39:49 21 Now, if you could zoom in on this magazine

09:39:52 22 on the counter please. And any time you feel more

09:39:55 23 comfortable getting down and taking a look straight on,

09:39:58 24 please feel free to do that. We have been doing that a

09:40:01 25 lot here.

09:40:02 1 Okay. We can see here this is this Body and
09:40:05 2 Soul magazine and we actually had that magazine here in
09:40:07 3 court yesterday, didn't we?
09:40:08 4 **A** Yes, we did.
09:40:09 5 **Q** And it has a subscription sticker on here,
09:40:12 6 correct?
09:40:12 7 **A** Yes, it does.
09:40:13 8 **Q** Do you know who the magazine was mailed to?
09:40:15 9 **A** I do not.
09:40:17 10 **Q** Okay. Maybe we can look at it here.
09:40:18 11 And there appears to be some papers that are
09:40:21 12 not associated with the magazine. You can see them
09:40:23 13 sticking out along the edge here; is that right?
09:40:24 14 **A** Yes.
09:40:25 15 **Q** And we were looking at papers yesterday that
09:40:30 16 appeared to be both copies and eventually the originals of
09:40:35 17 these papers, right?
09:40:36 18 **A** If they, in fact, are the same papers. I can't
09:40:39 19 see.
09:40:39 20 **Q** Yavapai County Sheriff's office Evidence Number
09:40:42 21 902. This had all the papers in it, and it was on one of
09:40:46 22 these pages inside this magazine that you found Knapp's
09:40:49 23 print, correct?
09:40:50 24 **A** Yes. That's correct. That's true.
09:40:52 25 **Q** Which digit was it from?

09:40:53 1 **A** I would have to check my notes.
09:40:55 2 **Q** Would you, please.
09:40:57 3 **A** It was the right thumb print.
09:41:10 4 **Q** Is Knapp's front print and it was on one of these
09:41:13 5 pages inside this magazine; is that right?
09:41:16 6 **A** Yes. That's true.
09:41:18 7 **Q** Not a magazine page, but some piece of paper and
09:41:21 8 I think you said there were some pages that were inside
09:41:24 9 the magazine and some that were underneath it; is that
09:41:26 10 right?
09:41:26 11 **A** I had some kind of inserts on it from a magazine
09:41:29 12 like those little ad cards. I had two of those in there
09:41:32 13 and I also had kind of a post card glossy sheet along with
09:41:36 14 the papers.
09:41:37 15 **Q** That's what we came to call the Buckaroo Potty
09:41:40 16 card?
09:41:41 17 **A** Yes.
09:41:41 18 **Q** What is Buckaroo Potty?
09:41:42 19 **A** I don't know.
09:41:43 20 **Q** Okay. Could it have been some sort of an ad for
09:41:46 21 a portable toilet?
09:41:48 22 **A** I think that is what it was for.
09:41:49 23 **Q** If it's a cowboy name, it's a very bad cowboy
09:41:52 24 name, right. Nobody would want to go through life as
09:41:54 25 Buckaroo Potty?

09:41:55 1 **A** I wouldn't think so.

09:41:56 2 **Q** Okay. Now, did you look at any of these

09:42:00 3 documents that were inside here to get some sense of what

09:42:04 4 they were?

09:42:04 5 **A** I didn't look at them, because I made copies of

09:42:08 6 them and flipped through them and I didn't look at the

09:42:10 7 content.

09:42:10 8 **Q** And they appeared in general terms to be

09:42:13 9 communications between people about money, right?

09:42:16 10 **A** Yes. Most of the documents seemed to be related

09:42:19 11 to financial issues.

09:42:20 12 **Q** And the name Carol Kennedy was on some of the

09:42:23 13 documents, right?

09:42:23 14 **A** Yes.

09:42:24 15 **Q** And the name Steve Democker was on some of the

09:42:26 16 documents?

09:42:26 17 **A** Yes.

09:42:27 18 **Q** Okay. Knapp's name wasn't on any of those

09:42:29 19 documents that you saw?

09:42:30 20 **A** Not that I saw.

09:42:31 21 **Q** Okay. So these seemed to be communications

09:42:34 22 between Ms. Kennedy and Mr. Democker; is that right?

09:42:38 23 **A** I think so, yes.

09:42:40 24 **Q** Did you have some sense on July 3, 2008 that

09:42:43 25 Mr. Democker and Ms. Kennedy had once been married?

09:42:45 1 **A** Yes. I did know that.

09:42:46 2 **Q** And Mr. Democker had once lived in this house

09:42:48 3 with Ms. Kennedy?

09:42:49 4 **A** Yes.

09:42:50 5 **Q** But now they were divorced?

09:42:52 6 **A** Yes.

09:42:52 7 **Q** And he lived some place else?

09:42:54 8 **A** Yes.

09:42:54 9 **Q** These were all things that were told to you

09:42:56 10 perhaps by Rhodes or one of the other detectives?

09:42:59 11 **A** Yes.

09:42:59 12 **Q** Okay. Now, you took this photograph here. Was

09:43:06 13 this -- were these papers in this magazine something that

09:43:09 14 you could have taken back to the crime lab with you to

09:43:13 15 process for fingerprints?

09:43:14 16 **A** We don't ever take evidence back with us to the

09:43:18 17 lab. We point out things that maybe law enforcement could

09:43:22 18 collect, so that we can maintain our chain of custody. So

09:43:26 19 any items that the Sheriff's office wants to send to the

09:43:29 20 lab, they would have to collect it themselves and then

09:43:33 21 send it to our property and evidence where then I could

09:43:36 22 check it out.

09:43:37 23 **Q** And that's for a number of reasons one of which

09:43:39 24 is establishing that chain of custody, right?

09:43:41 25 **A** Correct.

09:43:42 1 **Q** All of a sudden, if you take something, now you
09:43:46 2 are involved in the collection of evidence from a crime
09:43:48 3 scene, right?
09:43:49 4 **A** Correct and that is not part of my job.
09:43:51 5 **Q** You're an analyst?
09:43:52 6 **A** Correct.
09:43:53 7 **Q** But you assist in analyzing cases for other
09:43:57 8 agencies, right?
09:43:58 9 **A** Yes. That's true.
09:43:59 10 **Q** To your knowledge did Yavapai County have a
09:44:02 11 fingerprint person that worked for them on July 3, 2008?
09:44:07 12 **A** I don't know.
09:44:08 13 **Q** Do you know why you were called in?
09:44:10 14 **A** I don't know specifically.
09:44:13 15 **Q** Do you know that they had anybody that was
09:44:15 16 capable of taking serological samples?
09:44:20 17 **A** I don't know.
09:44:20 18 **Q** Did you see any evidence techs from the Yavapai
09:44:24 19 County Sheriff's office on July 3, 2008?
09:44:26 20 **A** Yes, I did.
09:44:26 21 **Q** What were they doing?
09:44:28 22 **A** I don't remember exactly. I know they did
09:44:31 23 collect some evidence, but that is all I remember.
09:44:35 24 **Q** Did you suggest -- I mean you took a picture of
09:44:38 25 this, right? Was taking a picture of this your idea or

09:44:40 1 Kortney's?

09:44:41 2 **A** I was just attempting to photograph the entire

09:44:44 3 house.

09:44:45 4 **Q** So you picked this object as something that you

09:44:47 5 thought needed to be photographed, right?

09:44:49 6 **A** No, I didn't. I was just taking pictures of the

09:44:51 7 whole house and that was what was on the counter.

09:44:54 8 **Q** Okay. Okay. And did you open it up and look at

09:44:59 9 it to see what these papers were on July 3, 2008?

09:45:02 10 **A** No. I don't touch evidence at the scene unless I

09:45:05 11 am collecting something.

09:45:06 12 **Q** Okay. So it just happened that this was sent to

09:45:09 13 you. Can you tell from your records when you received

09:45:11 14 this magazine and the papers associated with it for

09:45:15 15 analysis?

09:45:15 16 **A** Yes, I can. I received it from our property and

09:45:27 17 evidence on September 19, 2008.

09:45:30 18 **Q** So about three-and-a-half -- two-and-a-half

09:45:33 19 months after you were there, this magazine and the papers

09:45:38 20 wind up at the Northern Regional Crime Lab in Flag for you

09:45:42 21 to analyze for fingerprints; is that right?

09:45:44 22 **A** Yes. That's correct.

09:45:45 23 **Q** Okay. So where it was and what happened to it

09:45:49 24 between July 3, 2008 when they photographed it and

09:45:52 25 September 19 when you got it, you can't say?

09:45:54 1 **A** That's correct.

09:45:55 2 **Q** You don't have their chain of custody, right?

09:45:57 3 **A** Correct.

09:45:58 4 **Q** Okay. Now, let's take a look -- and here it

09:46:02 5 comes. I promised we would look at this. Let's look at

09:46:05 6 3215, Rich.

09:46:08 7 Okay. And if you could zoom in on the door

09:46:21 8 handle. There. There we go. Okay. Would you agree with

09:46:30 9 me that this is a picture, this is 3215 in evidence, taken

09:46:35 10 from inside of the room where the body was, looking

09:46:37 11 outdoors? This is outdoors, correct?

09:46:40 12 **A** Yes, it is.

09:46:41 13 **Q** And this is the door handle assembly on the

09:46:44 14 inside of the door, correct?

09:46:45 15 **A** Yes.

09:46:46 16 **Q** And this is the lever that you and I were talking

09:46:48 17 about yesterday on the inside, correct?

09:46:51 18 **A** Yes, it is.

09:46:52 19 **Q** And this is one of the areas inside that room

09:46:55 20 that you inspected to see if there were latent

09:46:58 21 fingerprints; is that right?

09:46:59 22 **A** Yes. That's correct.

09:47:00 23 **Q** Where did you look on -- on that object?

09:47:04 24 **A** The whole -- the entire thing. Anything that is

09:47:06 25 shiny and smooth there would be potentially a good surface

09:47:10 1 for fingerprints.
09:47:10 2 **Q** And were you just doing that with your
09:47:12 3 flashlight?
09:47:12 4 **A** I probably started with the flashlight and I did
09:47:15 5 use powder on that door handle.
09:47:17 6 **Q** What about the wood surfaces around the door
09:47:22 7 handle? Did you process them for possible latents?
09:47:25 8 **A** No, I didn't.
09:47:27 9 **Q** Is that because of the texture of the wood?
09:47:31 10 **A** That's one factor. It is a textured kind of a
09:47:36 11 rough surface which isn't the best surface for
09:47:38 12 fingerprints.
09:47:39 13 **Q** Was there other factors that caused you not to
09:47:41 14 process the area right around this door handle?
09:47:44 15 **A** I was just looking at the doorknob because
09:47:46 16 generally that's where people grab to open the door. So I
09:47:51 17 wouldn't guess that someone would grab the door handle --
09:47:54 18 the door itself.
09:47:55 19 **Q** But they might touch it with part of their hand
09:47:58 20 or fingers, right?
09:47:59 21 **A** Potentially.
09:48:00 22 **Q** But we don't know because you didn't process it,
09:48:02 23 correct?
09:48:02 24 **A** But if they touched it with parts of their
09:48:04 25 fingers, it would probably be a tip or a side and I

09:48:06 1 wouldn't guess to find fingerprints.
09:48:08 2 **Q** Unless it wasn't -- unless it was a usable
09:48:11 3 latent, correct?
09:48:11 4 **A** It is possible.
09:48:12 5 **Q** Now, what about glass. This is a glass panel.
09:48:15 6 This door is mostly glass, isn't it?
09:48:17 7 **A** Yes, it is.
09:48:18 8 **Q** Okay. You told us I think several times
09:48:20 9 yesterday that glass by way of contrast to wood, glass can
09:48:25 10 often be a good surface for retrieving latent
09:48:31 11 fingerprints, correct?
09:48:31 12 **A** Yes. That is true.
09:48:32 13 **Q** Did you process the glass around this door
09:48:35 14 handle?
09:48:37 15 **A** No, I did not.
09:48:38 16 **Q** You were there during the daylight hours; is that
09:48:42 17 right?
09:48:42 18 **A** Yes. I was there most of the day.
09:48:44 19 **Q** Was there anything -- were you pressed for time
09:48:46 20 this day?
09:48:46 21 **A** It was a long day and we were busy the whole day.
09:48:50 22 **Q** Would it have taken you very long time to dusk
09:48:53 23 some of this glass in the area of the door handle?
09:48:57 24 **A** Just in the area of the door handle wouldn't take
09:49:01 25 me very long.

09:49:01 1 Q But you didn't do it?
09:49:02 2 A That's correct.
09:49:03 3 Q Now, let me show you 3214, please, Rich.
09:49:07 4 While we're getting that, did Kortney Snider
09:49:26 5 take any photos that day?
09:49:27 6 A I believe that she did.
09:49:29 7 Q Do you know where she was taking photos?
09:49:32 8 A I do not.
09:49:33 9 Q You took nearly 300. Do you have any sense how
09:49:36 10 many she took?
09:49:36 11 A I would guess it would be less than that.
09:49:38 12 Q What was she taking pictures of? Do you
09:49:40 13 remember?
09:49:40 14 A I don't remember. She could have taken, like me,
09:49:43 15 parts of the whole scene, but more specifically anything
09:49:46 16 that she collected I would guess that she would take a
09:49:49 17 photograph of.
09:49:50 18 Q Did she have her own camera?
09:49:52 19 A Yes, she did.
09:49:53 20 Q Are they the same cameras? Your camera and her
09:49:56 21 camera?
09:49:56 22 A No. I get a fancier camera.
09:50:00 23 Q You have a Nikon 100?
09:50:00 24 A I think we had that at that time, yes.
09:50:03 25 Q That was nicer than whatever camera she had?

09:50:06 1 **A** Yes, it was.

09:50:07 2 **Q** Ready?

09:50:09 3 A VOICE: We don't --

09:50:10 4 MR. SEARS: We don't have that photo. Okay. Do

09:50:12 5 we have any doorknob photos? Can you look quickly at the

09:50:17 6 thumb nails.

09:50:25 7 A VOICE: Exterior?

09:50:30 8 MR. SEARS: That's fine. 3219. Is that in the

09:50:42 9 drawer?

09:50:44 10 **Q** Let me show you what has been marked for

09:51:00 11 identification as Exhibit 3219 and I will ask you if you

09:51:03 12 have ever been to that location?

09:51:11 13 **A** Yes, I have.

09:51:12 14 **Q** And you saw on July 3, 2008 what's in that

09:51:16 15 photograph, right?

09:51:16 16 **A** If --

09:51:23 17 **Q** You are trying to figure out which side is up?

09:51:25 18 **A** Yes.

09:51:25 19 **Q** Okay. I think it's one of the two.

09:51:28 20 **A** I hope so.

09:51:29 21 **Q** Because I think you took that picture, didn't

09:51:31 22 you?

09:51:32 23 **A** The picture we looked at yesterday, that was a

09:51:33 24 different photograph that I took, but I could have taken

09:51:36 25 this one as well.

09:51:36 1 Q And you know what that object is in that picture?
09:51:39 2 A Yes, I do.
09:51:39 3 Q Okay. I would move 3219.
09:51:54 4 MR. PAUPORE: No objection.
09:51:56 5 THE COURT: 3219 is admitted.
09:52:00 6 MR. SEARS:
09:52:00 7 Q Here's 3219 and now we are on the other side of
09:52:03 8 that door looking into the room. Here are the papers on
09:52:07 9 the floor. We can see unfortunately the reflection here,
09:52:09 10 but this is the lever here that we were just talking
09:52:13 11 about, right, that is on the inside of the door,
09:52:15 12 correct --
09:52:15 13 A Yes.
09:52:15 14 Q -- and then here is the doorknob. Again this is
09:52:18 15 the one that had something on it that you and Kortney
09:52:21 16 Snider thought might be blood, right?
09:52:23 17 A Yes. That's correct.
09:52:23 18 Q Okay. Now, you didn't process, if I understand
09:52:27 19 what you said yesterday, you didn't process anything
09:52:30 20 around this doorknob on the outside for fingerprints on
09:52:33 21 the July 3, 2008; is that right?
09:52:35 22 A I looked at it, but I didn't use any powder on it
09:52:39 23 because I wanted to preserve it so she could test for
09:52:42 24 blood of that substance.
09:52:43 25 Q So your fingerprint powder might have interfered

09:52:46 1 with her ability to swab and test this little spot up here
09:52:50 2 that might be blood, right?
09:52:51 3 **A** It's a potential, but I would have looked -- I
09:52:55 4 did look at the doorknob and didn't see anything usable,
09:52:59 5 just with my visual exam. So I didn't need to go any
09:53:04 6 further.
09:53:04 7 **Q** Let's stop and think about this for a moment.
09:53:07 8 This is the door from the outside into the room where this
09:53:12 9 poor woman's body was found, right?
09:53:14 10 **A** Yes. That is correct.
09:53:15 11 **Q** Okay. So there is a possibility, would you
09:53:19 12 agree, that whoever did this to Carol Kennedy either came
09:53:24 13 in or went out of this door or both?
09:53:27 14 **A** Yes. That's correct.
09:53:28 15 **Q** Okay. So the blood evidence is real important,
09:53:30 16 right? Knowing whose blood that is, if that's blood,
09:53:33 17 right?
09:53:33 18 **A** Yes. That's true.
09:53:34 19 **Q** And apparently there was some drops of blood
09:53:36 20 right about where you were standing when you took this
09:53:39 21 picture right on the concrete?
09:53:40 22 **A** Yes. There were spots outside on the concrete.
09:53:43 23 **Q** Okay. And spots inside on the carpet, right?
09:53:46 24 **A** Yes.
09:53:46 25 **Q** So that made, I would assume, made you think that

09:53:50 1 this door may have something to do with how the killer or
09:53:53 2 killers got into the house, right?
09:53:55 3 **A** Yes.
09:53:56 4 **Q** Okay. So wouldn't it have been terribly
09:53:58 5 important if you did nothing else that day, on July 3, to
09:54:02 6 really carefully examine that door, both sides of that
09:54:05 7 door for possible fingerprints, right?
09:54:07 8 **A** And I did look at both sides of the door on the
09:54:10 9 door handle where a person potentially would have handled
09:54:13 10 it.
09:54:13 11 **Q** Not the wood and not the glass on either side
09:54:16 12 though?
09:54:16 13 **A** Yes. That is correct.
09:54:17 14 **Q** Okay. And not all latent fingerprints are
09:54:22 15 visible to the naked eye, are they?
09:54:24 16 **A** No, they're not. The idea being a latent print
09:54:27 17 is that it is hidden or invisible.
09:54:29 18 **Q** What is the opposite of latent?
09:54:31 19 **A** Patent.
09:54:32 20 **Q** What does patent mean?
09:54:33 21 **A** Patent means visible. It would be like a
09:54:35 22 fingerprint in blood or paint or something that you could
09:54:39 23 actually see without doing anything to it.
09:54:42 24 **Q** The inked fingerprints on that exhibit right in
09:54:45 25 front you are patent, correct?

09:54:46 1 **A** Yes. That's true.
09:54:47 2 **Q** You can pull them up and look at them?
09:54:49 3 **A** Yes.
09:54:49 4 **Q** Okay. And so you're looking for patent
09:54:53 5 fingerprints apparently or visible latents. Is there such
09:54:57 6 a thing as a visible latent?
09:54:58 7 **A** There is. Oftentimes that's where I start.
09:55:02 8 Well, every time in an exam, that is where I start is with
09:55:04 9 a visual exam, and oftentimes with the flashlight, I can
09:55:08 10 usually see something there which would make me want to go
09:55:11 11 on and do further development.
09:55:14 12 **Q** Okay. One of the substances that -- and you may
09:55:18 13 have just mentioned it -- that in which fingerprints
09:55:22 14 sometimes are left is human blood, right?
09:55:23 15 **A** Yes. It can happen.
09:55:25 16 **Q** Okay. And it happens in two ways. Sometimes
09:55:28 17 there can be a pool of existing blood and somebody can
09:55:30 18 touch it and leave their fingerprint inside that pool of
09:55:33 19 blood, right?
09:55:33 20 **A** Yes.
09:55:33 21 **Q** Have you ever seen that?
09:55:34 22 **A** I haven't.
09:55:36 23 **Q** Okay. And then sometimes somebody can touch
09:55:38 24 blood and then go and touch something else and leave
09:55:41 25 bloody fingerprints or a bloody handprint, correct?

09:55:44 1 **A** Yes. That's true.
09:55:45 2 **Q** Have you seen that?
09:55:46 3 **A** I have.
09:55:46 4 **Q** Okay. There is blood all over the inside of this
09:55:51 5 room, right?
09:55:52 6 **A** Yes. There was.
09:55:53 7 **Q** And it ranged from tiny little droplets on the
09:55:56 8 far walls to pools of blood on top of that table, right?
09:56:00 9 **A** Yes. That is true.
09:56:01 10 **Q** I'm sorry I have to talk about these things, but
09:56:03 11 that is what you saw, right?
09:56:04 12 **A** Yes. That is what I saw.
09:56:05 13 **Q** And there was blood on the carpet. Soaked into
09:56:07 14 the carpet, correct?
09:56:09 15 **A** Yes, there was.
09:56:10 16 **Q** And there was blood on this woman's body?
09:56:12 17 **A** Yes, there was.
09:56:13 18 **Q** Okay. Tell me where you looked in the blood in
09:56:16 19 that room for either latents or patent fingerprints on
09:56:19 20 July 3, 2008?
09:56:21 21 **A** I looked all over in that room and as you saw
09:56:24 22 from the many pictures yesterday, I attempted to take a
09:56:27 23 picture of every piece of blood that we saw.
09:56:30 24 **Q** And you didn't see any fingerprints in the blood.
09:56:34 25 Is that what you are saying?

09:56:35 1 **A** Yes. That is correct.

09:56:36 2 **Q** You can't see bloody fingerprints anyplace else.

09:56:38 3 Is that what you're saying?

09:56:39 4 **A** I did not see any.

09:56:40 5 **Q** Rich, could you show 3040, please.

09:56:48 6 If I could get you, Rich, to lighten this up

09:57:10 7 a little bit and I would like to look at this area up here

09:57:14 8 to the left now on the edge of the screen here to the left

09:57:17 9 of the phone. Make it a little darker. A little darker.

09:57:22 10 A little bit darker. A little right if that will work to

09:57:26 11 start this. If you could move that to the right then.

09:57:28 12 Okay. This is a photograph we looked at

09:57:30 13 yesterday because there is a cordless phone in the center

09:57:34 14 of it, right?

09:57:35 15 **A** Yes. That is correct.

09:57:36 16 **Q** And here is this white chair here, right?

09:57:38 17 **A** Yes.

09:57:39 18 **Q** And here, these are -- this is parts of two of

09:57:43 19 the legs of the desk chair that was associated with the

09:57:45 20 desk next to the body, right?

09:57:46 21 **A** Yes.

09:57:47 22 **Q** And the body would be up here off the top of this

09:57:49 23 photograph, correct?

09:57:50 24 **A** Yes. That's true.

09:57:51 25 **Q** Okay. Do you see a discoloration in the area

09:57:55 1 that I am circling with the laser pointer here very near
09:57:58 2 the white chair?
09:57:59 3 **A** Yes, I do.
09:58:00 4 **Q** Did you see that on July 3, 2008?
09:58:03 5 **A** I'm sure I did.
09:58:04 6 **Q** Okay. And did you see another discoloration
09:58:07 7 nearer to the phone here in the carpet that appears in
09:58:11 8 this photo?
09:58:11 9 **A** Yes, I do.
09:58:12 10 **Q** Now, did you see that discoloration on July 3?
09:58:14 11 **A** Yes, I did.
09:58:16 12 **Q** Okay. And I see some other areas that are a
09:58:18 13 little more difficult to take. One right near the leg of
09:58:22 14 the desk chair. Do you see what is a possible
09:58:24 15 discoloration there?
09:58:25 16 **A** I can't really see it at this angle.
09:58:28 17 **Q** Why don't you step down if you could.
09:58:30 18 Please don't fall off our step here. Thank
09:58:37 19 you.
09:58:37 20 I am looking up here.
09:58:38 21 **A** Okay.
09:58:39 22 **Q** Do you see a discoloration?
09:58:40 23 **A** Yes, I do.
09:58:41 24 **Q** Thank you.
09:58:42 25 Okay. Did you inspect those?

09:58:49 1 **A** What was that?

09:58:51 2 **Q** Did you inspect those? Those being these three

09:58:55 3 areas of discoloration we just pointed out?

09:58:57 4 **A** No, I did not.

09:58:58 5 **Q** Okay. Does this particular discoloration nearest

09:59:02 6 the white chair appear to be a possible handprint in

09:59:06 7 blood?

09:59:07 8 **A** It doesn't look like that to me.

09:59:10 9 **Q** Can we zoom a little bit closer, Rich?

09:59:17 10 **A** Do you have the photograph I could see in front

09:59:19 11 of me?

09:59:26 12 **Q** I can get it. Here is 3040. Why don't you pull

09:59:35 13 back a little, Rich.

09:59:36 14 Either looking at the projection here or the

09:59:43 15 photograph, do you see any discernable shapes in this

09:59:45 16 discoloration that look familiar to you?

09:59:48 17 **A** I see kind of three circular areas together.

09:59:52 18 **Q** Okay. Did you or Kortney Snider photograph this

09:59:57 19 discoloration or any of the other discolorations that we

10:00:00 20 have just looked at, for any purpose on July 3?

10:00:02 21 **A** Well, they're in this photograph that I took.

10:00:04 22 **Q** The photograph that you took though was a

10:00:06 23 photograph to locate the cordless phone, right?

10:00:10 24 **A** I attempted to take the whole room, so that is

10:00:13 25 included together.

10:00:14 1 **Q** What is this?

10:00:16 2 **A** I do not know.

10:00:17 3 **Q** Thank you.

10:00:18 4 Rich, if you could show 3220, please. I'm

10:00:33 5 sorry. Let me show you first -- 3220 is not admitted.

10:00:38 6 Let me show you 3220 for identification. Have you been to

10:00:41 7 that place before?

10:00:42 8 **A** Yes, I have.

10:00:44 9 **Q** And is that a place that you saw and photographed

10:00:47 10 on July 3, 2008 at this Bridle Path scene?

10:00:51 11 **A** Yes, it is.

10:00:52 12 **Q** The way it looked to you that day?

10:00:53 13 **A** Yes, it does.

10:00:54 14 MR. SEARS: I move 3220.

10:01:06 15 MR. PAUPORE: No objection.

10:01:08 16 THE COURT: 3220 is admitted.

10:01:10 17 MR. SEARS: If we could project that.

10:01:12 18 **Q** So here we are in the room looking at in the

10:01:18 19 foreground the bookshelf that appears to be knocked over,

10:01:21 20 correct?

10:01:21 21 **A** Yes.

10:01:22 22 **Q** Okay. And is this -- you can see it looks like

10:01:25 23 the back is pulled off on this one. That would be the

10:01:28 24 back, right?

10:01:29 25 **A** Yes.

10:01:29 1 **Q** So this is the bookshelf that ultimately was
10:01:32 2 stood up for additional photographs, isn't it?
10:01:34 3 **A** Yes, it is.
10:01:35 4 **Q** It's the broken bookshelf. So we see it here on
10:01:38 5 July 3, 2008, in the position apparently it was in when
10:01:42 6 the police first got there, knocked over, correct?
10:01:44 7 **A** Yes. That is correct.
10:01:46 8 **Q** And you see over here, I think yesterday you
10:01:50 9 thought this was a charger of some kind, right?
10:01:53 10 **A** Yes.
10:01:53 11 **Q** When you were there, did anybody -- anybody being
10:01:56 12 law enforcement or you or Kortney Snider -- attempt to
10:01:59 13 associate this charger with the cordless phone that was in
10:02:03 14 the previous picture that was on the floor near the body?
10:02:06 15 **A** Not that I was aware of.
10:02:07 16 **Q** Okay. Did you find any other unholstered phones
10:02:14 17 in the house that would have fit into this charger? Any
10:02:17 18 other kinds of cordless phones or any other kind of phones
10:02:18 19 that would have fit into this charger?
10:02:20 20 **A** I didn't look for it.
10:02:21 21 **Q** Did you even look to see if this was a phone
10:02:23 22 charger?
10:02:23 23 **A** I did not.
10:02:24 24 **Q** Now, there was another cordless phone,
10:02:26 25 essentially identical, another V-Tech silver cordless

10:02:29 1 phone and it's charger on the kitchen counter. Did you go
10:02:32 2 into the kitchen?
10:02:33 3 **A** I did.
10:02:33 4 **Q** Did you see that phone?
10:02:34 5 **A** It sounds familiar.
10:02:35 6 **Q** Did you see a cell phone also sitting on the
10:02:37 7 kitchen counter?
10:02:38 8 **A** I do remember seeing a cell phone.
10:02:39 9 **Q** But you weren't in the -- in the process of
10:02:43 10 looking for fingerprints on either of those phones?
10:02:45 11 **A** No. Any of those items would have had to have
10:02:48 12 been sent to the lab at a later time.
10:02:49 13 **Q** So you have to trust that the Sheriff's
10:02:52 14 Department is going to be thinking like you and is going
10:02:55 15 to be thinking that's something I would want to look at.
10:02:57 16 Phones would be important, right?
10:02:59 17 **A** Right. It's still the YCSO's case and we are
10:03:02 18 just assisting on that case and processing any evidence
10:03:05 19 they ask us to process.
10:03:07 20 **Q** So if things that might have had potential
10:03:09 21 fingerprint value, like phones or mirrors were never sent
10:03:15 22 to you, it's because the Sheriff's Department and the
10:03:18 23 County Attorney's investigators decided they were not
10:03:21 24 important?
10:03:21 25 **A** I was not involved in their thought process as to

10:03:24 1 what they send to the lab.
10:03:26 2 **Q** A hundred percent their call?
10:03:28 3 **A** Yes.
10:03:28 4 **Q** Okay. Now, there's one picture I am going to
10:03:37 5 show you in a bit, but we are going to have to set up that
10:03:40 6 scene, so I am not going to do that right now.
10:03:42 7 So let's go back to others. I'm sorry.
10:03:45 8 There is one more photograph I want to show you inside the
10:03:47 9 house. Let's look at 3218, please, Rich, and then we will
10:03:59 10 go out of course.
10:04:00 11 I'm sorry. Before you project that, Rich,
10:04:07 12 yet another -- let me show you 3218. Have you been there?
10:04:12 13 **A** Yes, I have.
10:04:15 14 **Q** That's an area inside the Bridle Path scene as it
10:04:17 15 appeared on July 3, 2008?
10:04:19 16 **A** Yes. That's correct.
10:04:20 17 **Q** And a picture that you most likely took?
10:04:22 18 **A** Yes, it is.
10:04:23 19 **Q** You can see the flash there at the end?
10:04:25 20 **A** Yes.
10:04:26 21 **Q** Flash off your camera?
10:04:27 22 **A** If I was taking that picture, yes.
10:04:30 23 MR. SEARS: I would move 3218, your Honor.
10:04:34 24 MR. PAUPORE: No objection.
10:04:39 25 THE COURT: 3218 is admitted.

10:04:41 1 MR. SEARS: Now, go ahead and show 3218, please,
10:04:44 2 Rich.
10:04:46 3 **Q** Okay. The jury has been down this hall before.
10:04:50 4 This is the hallway leading down to a door on the
10:04:53 5 left-hand side into the room where Carol Kennedy was
10:04:55 6 discovered, correct?
10:04:56 7 **A** Yes. That is correct.
10:04:57 8 **Q** And when I say flash, there is a white dot here
10:05:00 9 and that appears to be a flash from a camera; is that
10:05:03 10 right?
10:05:03 11 **A** Yes. That's the reflection on my flash.
10:05:05 12 **Q** Okay. Do you see these sconce lights on the
10:05:08 13 wall? There is one here and there is one at the end of
10:05:11 14 the hall?
10:05:11 15 **A** Yes, I do.
10:05:12 16 **Q** And this one appears to be on, doesn't it?
10:05:14 17 **A** Yes, it does.
10:05:15 18 **Q** So you see the light bulb and you can see the
10:05:16 19 light reflect up on the wall, right?
10:05:18 20 **A** Yes.
10:05:19 21 **Q** Did you turn that light on?
10:05:20 22 **A** No, I didn't.
10:05:21 23 **Q** Was it on when you got there?
10:05:22 24 **A** I don't know.
10:05:24 25 **Q** Do you remember asking anybody to turn on lights

10:05:27 1 for purposes of your photography in this hallway?
10:05:30 2 **A** No. We don't ask anyone to alter the scene.
10:05:32 3 **Q** And do you see the sconce at the end? It appears
10:05:35 4 not be on, doesn't it?
10:05:36 5 **A** Yes. That's correct.
10:05:37 6 **Q** Okay. You don't see any light bulb or any light
10:05:41 7 reflected above it; is that right?
10:05:42 8 **A** Right. I don't see any.
10:05:44 9 **Q** Did you see the suitcase in the hallway when you
10:05:46 10 were there?
10:05:46 11 **A** Yes, I did.
10:05:47 12 **Q** Did you see any police officers looking at it?
10:05:49 13 **A** I don't remember.
10:05:50 14 **Q** Was that ever sent to you for examination?
10:05:52 15 **A** No, it wasn't.
10:05:54 16 **Q** And the light switch here -- Rich, could you zoom
10:05:57 17 in down in this area down here.
10:05:59 18 And there's a light switch by -- that's
10:06:07 19 good. We're down here at the end of the hall. Now here
10:06:09 20 are the plastic tubs. There is a doorway here into
10:06:12 21 another bedroom, correct?
10:06:13 22 **A** Yes.
10:06:14 23 **Q** Okay. And the light switch on the wall there,
10:06:17 24 correct?
10:06:17 25 **A** Yes.

10:06:17 1 **Q** Can you go down a little bit, Rich.
10:06:20 2 Okay. Do you know what this object is?
10:06:25 3 **A** I can't tell.
10:06:27 4 **Q** It's a little -- we're looking at the edge.
10:06:29 5 Would it make sense that's an electrical outlet?
10:06:31 6 **A** Yes, it would.
10:06:32 7 **Q** Okay. Did you inspect this outlet or that light
10:06:37 8 switch or any of the other light switches in the house for
10:06:40 9 possible fingerprints?
10:06:41 10 **A** No, I did not.
10:06:42 11 **Q** Now, assuming these are the typical light plastic
10:06:45 12 outlets that we see in many houses, that would be a good
10:06:50 13 surface potentially for fingerprints, right?
10:06:52 14 **A** Potentially, yes.
10:06:53 15 **Q** Okay. And -- and there were any number of light
10:06:56 16 switches and outlets throughout this house, right?
10:06:59 17 **A** Yes, there was.
10:07:00 18 **Q** But if you go back up, Rich.
10:07:03 19 Do you remember photographing this
10:07:07 20 particular light switch because it might have had a spot
10:07:11 21 of possible blood on it?
10:07:13 22 **A** No. I don't remember.
10:07:14 23 **Q** Okay. If I told you among your photographs and
10:07:17 24 among Kortney Snyder's photographs there is no photograph
10:07:20 25 of this light switch, would that surprise you?

10:07:22 1 **A** No, it wouldn't.

10:07:23 2 **Q** Okay. Do you remember whether there was anything

10:07:25 3 that looked like possible blood on this light switch?

10:07:28 4 **A** I don't remember.

10:07:30 5 **Q** If there had been, would you have photographed

10:07:31 6 it?

10:07:32 7 **A** I would hope so.

10:07:33 8 **Q** If somebody pointed it out to you or you had seen

10:07:37 9 it?

10:07:37 10 **A** Yes.

10:07:38 11 **Q** Okay. Thank you.

10:07:39 12 Okay. Now, let's move outside. I have a

10:07:43 13 series of photographs I am going to show you here that

10:07:47 14 have all been marked. None of these have been admitted.

10:07:53 15 Okay. Let me show you 3217, 3213, 3212, 3211, 3210, 3209,

10:08:10 16 3208, 3207, 06, 3205, 3204, 3203, and last one is 3202.

10:08:24 17 And if you would take a minute and tell me if you have

10:08:27 18 been to all the places in those particular photographs?

10:08:31 19 **A** Yes, I have.

10:09:26 20 **Q** Okay. These are all places outside of the Bridle

10:09:31 21 Path scene where you took exterior photographs, including

10:09:36 22 some taken at a scene some distance away, correct?

10:09:39 23 **A** At a location away from the house, yes.

10:09:42 24 **Q** These are all photographs that you took on July

10:09:45 25 3, 2008 in connection with this investigation; is that

10:09:48 1 right?

10:09:48 2 **A** Yes. That's correct.

10:09:49 3 **Q** And each one of them accurately depicts the way

10:09:53 4 that particular photograph looked to you on July 3, 2008,

10:09:57 5 right?

10:09:57 6 **A** Yes. That's correct.

10:09:59 7 MR. SEARS: Okay. Rather than repeat the

10:10:01 8 numbers, your Honor, I am going to show these to counsel

10:10:04 9 and I am going to move the admission of all these

10:10:06 10 photographs and I will depending on the State's response,

10:10:10 11 put the numbers back into the record for your Honor.

10:12:08 12 MR. PAUPORE: No objection, your Honor, to all

10:12:10 13 the numbers.

10:12:10 14 THE COURT: Mr. Sears.

10:12:12 15 MR. SEARS: I believe either I can give them to

10:12:13 16 your Honor or I can call them out here.

10:12:15 17 THE COURT: I think this is the correct

10:12:20 18 numbering. 3202 through 3213 inclusive and then 3217.

10:12:26 19 MR. SEARS: That's it. Thank you.

10:12:27 20 THE COURT: Those are admitted.

10:12:28 21 MR. SEARS: Okay.

10:12:29 22 **Q** So let's start, if we could, Rich, with 3202,

10:12:42 23 please. On the scene we have Exhibit 3202 in evidence.

10:12:51 24 This is a picture that you took sometime on July 3, 2008;

10:12:54 25 is that right?

10:12:54 1 **A** Yes, it is.

10:12:55 2 **Q** And you have been to this place. Tell us what

10:12:57 3 this is.

10:12:58 4 **A** I don't know what that is.

10:12:59 5 **Q** Okay. It has been described to me as a

10:13:04 6 labyrinth. Can you see there are stones in the ground

10:13:08 7 that appear if you look carefully, to be some kind of a

10:13:11 8 maze or some sort of a pattern of concentric circles. Is

10:13:17 9 that what you see?

10:13:18 10 **A** Yes. Some sort of design.

10:13:19 11 **Q** You don't know what it is, but that is one way to

10:13:22 12 describe it, right?

10:13:23 13 **A** Yes.

10:13:23 14 **Q** And you see a lot of these rocks are what some

10:13:27 15 people might call river rocks. Is that a term you are

10:13:30 16 familiar with?

10:13:30 17 **A** Yes, it is.

10:13:31 18 **Q** In your mind this is river rock?

10:13:33 19 **A** A rock from a river.

10:13:35 20 **Q** There you go. And as distinguished from other

10:13:38 21 kind of rocks because it is smooth and water worn?

10:13:43 22 **A** Sure.

10:13:44 23 **Q** Okay. Would you agree there are possibly

10:13:46 24 hundreds of river rocks depicted in this photograph?

10:13:49 25 **A** Yes.

10:13:50 1 Q Okay. And this is where on the property?
10:13:53 2 A You can see the driveway to the side, so right
10:13:58 3 when you drive up, it would be to the right kind of on the
10:14:01 4 front of the property.
10:14:02 5 Q Okay. We have seen many times now, on other
10:14:06 6 days, this wall here along the front and on the other side
10:14:09 7 of that wall is Bridle Path Drive, correct? Paved road
10:14:15 8 here. You can see a car parked there, right?
10:14:17 9 A Yes. Yes.
10:14:17 10 Q And you can see this dirt path here. So when you
10:14:20 11 come through the driveway, if you turn immediately to your
10:14:23 12 right, you see this, correct?
10:14:25 13 A Yes.
10:14:26 14 Q Okay. And other than taking a picture of it, did
10:14:31 15 you do anything to investigate it?
10:14:32 16 A No, I didn't.
10:14:33 17 Q Did you see any police officers or detectives or
10:14:36 18 anybody who were looking at this area while you were
10:14:40 19 there?
10:14:40 20 A I didn't see anyone.
10:14:42 21 Q Okay. Now, they're all kind of different rocks.
10:14:46 22 For example, a rock that has a flat sharper edge.
10:14:50 23 Can you zoom in on that, Rich?
10:14:52 24 Okay. You can see this rock here that I am
10:15:01 25 circling. That looks very different than these sort of

10:15:04 1 egg shaped river rocks next to it, right? This rock seems
10:15:09 2 different, right?
10:15:11 3 **A** Yes.
10:15:11 4 **Q** Okay. Did you take geology in --
10:15:14 5 **A** No.
10:15:15 6 **Q** Okay. I won't ask you any kind of a questions
10:15:17 7 about what kind of rock that is.
10:15:19 8 All right. Let's look at 3203, please.
10:15:24 9 Okay. Now to orient us, here is this same
10:15:35 10 opening in the driveway. Here is that white car with
10:15:39 11 somebody standing by it and this area up in the upper
10:15:41 12 left-hand corner would be in general terms where that
10:15:45 13 patterned stone deal is on the ground, correct?
10:15:49 14 **A** Yes.
10:15:50 15 **Q** Okay. And here is a -- here is the driveway
10:15:53 16 coming into the house, right?
10:15:54 17 **A** Yes.
10:15:54 18 **Q** Okay. Rich, if you could zoom in on this edge
10:15:57 19 right up in here. Okay. Go down just a little bit.
10:16:07 20 There you go.
10:16:07 21 Okay. I see some impressions in the dirt
10:16:11 22 hire. Do you see what I am pointing to?
10:16:13 23 **A** Yes, I do.
10:16:14 24 **Q** Did you make those?
10:16:15 25 **A** I probably did.

10:16:16 1 **Q** With what?

10:16:17 2 **A** My crime scene case has wheels that I can pull it

10:16:20 3 on.

10:16:21 4 **Q** Okay. Are you sure?

10:16:22 5 **A** I'm not sure.

10:16:23 6 **Q** Okay. If you didn't make them, do you know who

10:16:26 7 did?

10:16:27 8 **A** No.

10:16:28 9 **Q** Do you know what kind of impressions they are

10:16:29 10 from this picture?

10:16:30 11 **A** No, I don't.

10:16:31 12 **Q** Can you zoom in this area a little bit.

10:16:34 13 Does this appear to be a shoe print

10:16:42 14 impression?

10:16:43 15 MR. PAUPORE: Objection. This witness is not

10:16:44 16 qualified to make that kind of determination.

10:16:47 17 MR. SEARS: I can lay a little more foundation.

10:16:49 18 THE COURT: All right.

10:16:50 19 MR. SEARS: Thank you.

10:16:51 20 **Q** Ms. Daniel, you have had some general crime scene

10:16:54 21 training and experience, haven't you?

10:16:56 22 **A** Yes, I have.

10:16:58 23 **Q** And have you had any training at all in

10:17:04 24 impression evidence? Tire impressions, shoe print

10:17:07 25 impression, anything of the sort?

10:17:08 1 **A** No.

10:17:09 2 **Q** Okay. So if I asked you about shoe print

10:17:12 3 impressions, your answer would not be based on your

10:17:13 4 training, it would be just based on having lived in the

10:17:16 5 world and seeing shoe prints, right?

10:17:18 6 **A** Yes. That's true.

10:17:19 7 **Q** Then I won't ask you. Thanks.

10:17:23 8 Let's look at 3204, please.

10:17:26 9 Okay. This is a picture of the side of the

10:17:36 10 house that you took; is that right?

10:17:40 11 **A** The side or the back, kind of.

10:17:42 12 **Q** Okay. The back of the house actually would be

10:17:45 13 over here. It faced open land; is that right? And this

10:17:49 14 would be what we call the north side. Does that sound

10:17:53 15 right?

10:17:53 16 **A** Which is the door to the office? Is that on

10:17:56 17 there?

10:17:56 18 **Q** Be right there.

10:17:57 19 **A** Okay.

10:17:58 20 **Q** Okay. Are you with me now?

10:17:59 21 **A** Yes.

10:17:59 22 **Q** Okay. And this is a door into another bedroom,

10:18:02 23 correct?

10:18:03 24 **A** I think so, yes.

10:18:04 25 **Q** Okay. And windows here?

10:18:05 1 By the way, did you process any of these
10:18:07 2 windows? There are windows all the way around the house.
10:18:10 3 Did you process any of the windows --
10:18:12 4 **A** No, I didn't.
10:18:12 5 **Q** -- for fingerprints?
10:18:13 6 The assumption that somebody may have come
10:18:18 7 in or out of this door is just an assumption, right?
10:18:20 8 **A** Yes, it is.
10:18:21 9 **Q** They may have come in and out of a window,
10:18:23 10 correct?
10:18:23 11 **A** It's possible, yes.
10:18:24 12 **Q** In fact, in crime scenes, would it make sense if
10:18:27 13 you don't know how a perpetrator got into a house, to look
10:18:31 14 at every possible place that a person could have gotten
10:18:34 15 into the house for fingerprints?
10:18:36 16 **A** That makes sense.
10:18:37 17 **Q** Yeah. And I understand it wasn't your job. You
10:18:40 18 weren't there to do that. You were trusting these
10:18:42 19 detectives to do that.
10:18:44 20 Were you ever sent anything about a latent
10:18:48 21 lift from any window on the exterior of this entire house?
10:18:52 22 **A** No, I wasn't.
10:18:53 23 **Q** In your experience though, even as relatively
10:18:58 24 inexperienced as you were in 2008, looking at windows for
10:19:02 25 possible fingerprints for a lot of reasons would have made

10:19:05 1 sense, right?
10:19:05 2 **A** There could have been latents on the windows.
10:19:09 3 **Q** There could have been entire hand prints on a
10:19:11 4 window, correct?
10:19:12 5 **A** Yes.
10:19:12 6 **Q** But if you don't look, we will never know, right?
10:19:15 7 **A** That's correct.
10:19:15 8 **Q** Unless the police found them?
10:19:18 9 **A** Yes.
10:19:18 10 **Q** And you never got any latent that was identified
10:19:22 11 to you as being taken off a window, right?
10:19:25 12 **A** Not from the residence.
10:19:27 13 **Q** Okay. And that would include the windows in the
10:19:30 14 very room where Carol Kennedy's body was found, correct?
10:19:34 15 **A** Yes. Correct.
10:19:35 16 **Q** There were windows on this back end. There is a
10:19:37 17 window there, right? We saw the phone charger on the
10:19:41 18 window sill?
10:19:42 19 **A** There was at least one window in that room.
10:19:45 20 **Q** A possible point of entry, correct?
10:19:47 21 **A** Yes.
10:19:47 22 **Q** Okay. Did you, in your inspection of that room
10:19:50 23 where the body was found, did you look at this window?
10:19:52 24 **A** No, I didn't.
10:19:54 25 **Q** And do you even remember how it opened?

10:19:56 1 **A** Just from the picture it looked like it was a
10:19:58 2 slide-up.
10:19:59 3 **Q** Okay. And did you look at the lock assembly?
10:20:02 4 **A** No, I didn't.
10:20:03 5 **Q** Did you even determine whether it was locked or
10:20:05 6 not?
10:20:05 7 **A** No, I didn't.
10:20:06 8 **Q** Now, in this area, Rich, if you'd zoom in on this
10:20:10 9 dirt area. Back up to the dirt if you could, please.
10:20:19 10 Okay. Do you see any shoe print impressions
10:20:25 11 here?
10:20:26 12 **A** I wouldn't be able to see.
10:20:28 13 **Q** Did you make any effort, you and Kortney Snider,
10:20:31 14 make any effort to either document or minimize your shoe
10:20:38 15 print evidence on this scene that day? For example, did
10:20:41 16 you wear booties?
10:20:42 17 **A** I don't remember.
10:20:43 18 **Q** Did you see detectives or deputies out looking
10:20:49 19 for shoe print evidence in this area?
10:20:51 20 **A** I don't remember.
10:20:52 21 **Q** Okay. Let's look at 3205, please.
10:20:58 22 Okay. Brighten this up a tad if you could,
10:21:13 23 Rich. Great.
10:21:18 24 Now, this a picture taken from the open land
10:21:21 25 to the east of this residence looking back at the

10:21:24 1 property; is that right?
10:21:24 2 **A** I -- I can't tell where it was from the
10:21:28 3 orientation.
10:21:29 4 **Q** Okay. Did you come to understand that the
10:21:33 5 property, the scene bordered on a very large expanse of
10:21:36 6 open land?
10:21:37 7 **A** Yes.
10:21:37 8 **Q** Okay. Could you see that just by being where you
10:21:40 9 were when you took this picture, right?
10:21:41 10 **A** Yes.
10:21:42 11 **Q** There are no houses anywhere on this side of this
10:21:44 12 fence line, are there?
10:21:45 13 **A** Not that I saw.
10:21:46 14 **Q** Okay. You don't know how big that open land is,
10:21:48 15 do you?
10:21:49 16 **A** No, I don't.
10:21:50 17 **Q** Okay. And this is taken apparently up a little
10:21:54 18 path here.
10:21:54 19 Can you zoom in on this path, Rich. This
10:22:02 20 area down here.
10:22:03 21 Okay. You see pretty defined a little path
10:22:08 22 that heads off on the bottom of Exhibit 3205 heading back
10:22:13 23 towards this scene, right?
10:22:14 24 **A** Yes. There's a path there.
10:22:16 25 **Q** Okay. Are these your shoe prints?

10:22:18 1 **A** I wouldn't know.

10:22:19 2 **Q** Do you know what time of the day you took this

10:22:21 3 picture?

10:22:21 4 **A** It was one of the last set of pictures I took, so

10:22:24 5 it was probably after four.

10:22:25 6 **Q** Had you seen police officers out working in this

10:22:30 7 area at any point during the time you were there that day?

10:22:32 8 **A** I did see officers out in that open area.

10:22:37 9 **Q** Did anybody tell you to stay off this area?

10:22:39 10 **A** No.

10:22:41 11 **Q** Okay. Did you have any understanding by the time

10:22:45 12 you left at 5:30 or 6:00 in the afternoon that the police

10:22:47 13 had been looking for shoe print and bicycle tire

10:22:50 14 impressions on this open land?

10:22:52 15 **A** Yes, I did know that.

10:22:53 16 **Q** Okay. Is this one of the areas depicted in 3205

10:22:56 17 that you think they were looking at?

10:22:57 18 **A** I don't know.

10:22:58 19 **Q** Okay. If you could pull back out, Rich, so we

10:23:02 20 see the shoot.

10:23:03 21 Okay. And you recognize this fence line and

10:23:07 22 this walled off area as being part of the scene, right?

10:23:14 23 Do you see this?

10:23:14 24 **A** Yeah. I don't remember exactly.

10:23:16 25 **Q** Well, do you have any idea why you took this

10:23:18 1 picture?

10:23:19 2 **A** It was to take one from the path back to the

10:23:22 3 house area.

10:23:23 4 **Q** So somewhere back here is the house?

10:23:26 5 **A** Yes. I don't know.

10:23:27 6 **Q** But you don't remember what this area is here?

10:23:29 7 **A** I don't. Some sort of garden maybe.

10:23:32 8 **Q** How did you get out of the property onto this

10:23:34 9 back? Do you remember?

10:23:35 10 **A** I think we climbed a fence.

10:23:37 11 **Q** Okay. Do you remember down here there was a

10:23:41 12 wooden area that had horizontal wooden slats. Is that

10:23:45 13 what you went over?

10:23:46 14 **A** I don't remember.

10:23:47 15 **Q** You wouldn't have gone over a four foot high barb

10:23:51 16 wire fence if you didn't have to, would you?

10:23:54 17 **A** I might have gone over a barb wire fence. I

10:23:56 18 don't remember.

10:23:56 19 **Q** Okay. And if there -- I told you there was a

10:24:00 20 gate in here, would you remember going through a gate

10:24:04 21 right in here?

10:24:06 22 **A** I don't remember.

10:24:06 23 **Q** Okay. If we could see 3206, please.

10:24:13 24 Now we're going to look at a different part

10:24:16 25 of this property. Okay. Where is this?

10:24:24 1 **A** I -- I can't tell.
10:24:29 2 **Q** If I told you this was the back door to the
10:24:33 3 detached guest house on the property, does that ring a
10:24:36 4 bell?
10:24:37 5 **A** Yes, it does.
10:24:38 6 **Q** Okay. And so we see a skate board here, right?
10:24:42 7 **A** It appears that way.
10:24:43 8 **Q** Okay. Looks like another river rock down here,
10:24:46 9 right?
10:24:46 10 **A** Yes.
10:24:47 11 **Q** Basket of little stones, right?
10:24:49 12 **A** I can't tell what's in the basket.
10:24:51 13 **Q** Is this where Knapp lived?
10:24:52 14 **A** As far as I understood, yes.
10:24:54 15 **Q** Do you know what is under this pile of stuff
10:24:57 16 here?
10:24:57 17 **A** No, I don't.
10:24:58 18 **Q** Okay. This appears to be the neighbor's house,
10:25:01 19 right?
10:25:01 20 **A** I think so.
10:25:02 21 **Q** I understand this is a shortened photograph, but
10:25:07 22 that house looks relatively close to this guest house,
10:25:10 23 right?
10:25:10 24 **A** I can't tell.
10:25:11 25 **Q** You can see a yellow pickup truck between the

10:25:15 1 adjoining house and garage and the guest house, right?
10:25:18 2 **A** Yes.
10:25:18 3 **Q** Okay. And this pickup truck was there obviously
10:25:21 4 when you took the picture, right?
10:25:22 5 **A** Yes.
10:25:22 6 **Q** You don't know whose truck it is?
10:25:23 7 **A** Correct.
10:25:24 8 **Q** Did you see any people over on this plot, this
10:25:26 9 adjoining property that day?
10:25:27 10 **A** I don't remember.
10:25:28 11 **Q** Did you go inside this guest house?
10:25:30 12 **A** No, I didn't.
10:25:31 13 **Q** Okay. Now, did you see police inside this guest
10:25:35 14 house?
10:25:35 15 **A** I don't remember.
10:25:37 16 **Q** Okay. Were you there on July 3, 2008, pursuant
10:25:43 17 to a search warrant? Did you know that?
10:25:45 18 **A** I assumed so.
10:25:46 19 **Q** Okay. They weren't just poking around, right?
10:25:49 20 **A** Right.
10:25:49 21 **Q** And apparently the occupant of the house,
10:25:52 22 Ms. Kennedy, was deceased and not able to give consent,
10:25:55 23 right? And Mr. Knapp who may have lived in the house
10:25:58 24 wasn't there, right?
10:25:59 25 **A** I didn't see him.

10:26:01 1 **Q** Okay. So nobody -- nobody directed you to do any
10:26:05 2 inspection of any part of this guest house. Is that what
10:26:08 3 you're saying?
10:26:09 4 **A** Yes. That's correct.
10:26:09 5 **Q** Okay. Let's look at 3207.
10:26:32 6 Okay. This is another path, right?
10:26:35 7 **A** Or the same path. Can't tell.
10:26:37 8 **Q** You can't see that -- that walled structure or
10:26:41 9 anything that looks familiar at the scene in this
10:26:43 10 photograph, can you?
10:26:44 11 **A** Correct.
10:26:45 12 **Q** Is it possible you're further north and this
10:26:48 13 fence here is part of the adjoining property to the north?
10:26:53 14 **A** That would make sense, yes.
10:26:54 15 **Q** Can you zoom in a little bit here.
10:26:56 16 You can see what somebody might have called
10:27:04 17 some biological evidence here on the trail. Was that
10:27:07 18 there that day?
10:27:07 19 **A** Yes, it was.
10:27:08 20 **Q** That was -- that wasn't a good fingerprint
10:27:11 21 surface, would it be?
10:27:12 22 **A** No.
10:27:12 23 **Q** And even if it was, they don't pay you enough to
10:27:14 24 do that, right?
10:27:15 25 **A** Exactly.

10:27:16 1 **Q** Okay. Did you see shoe prints on the ground?
10:27:18 2 Are those yours?
10:27:19 3 **A** I wouldn't know.
10:27:20 4 **Q** What were you wearing that day? Do you remember
10:27:22 5 what you were wearing on your feet?
10:27:23 6 **A** I have some boots that I wear to crime scenes.
10:27:25 7 **Q** What kind of boots?
10:27:26 8 **A** I don't know the brand.
10:27:27 9 **Q** Are they military style boots?
10:27:31 10 **A** I don't know what the military wears.
10:27:33 11 **Q** Okay. Are they lace up?
10:27:36 12 **A** Lace up black.
10:27:37 13 **Q** Is that what they are?
10:27:39 14 **A** Color.
10:27:40 15 **Q** Is that what you wear?
10:27:41 16 **A** Yes.
10:27:41 17 **Q** Are they Doc Martins? Is that the kind?
10:27:43 18 **A** I don't think so.
10:27:43 19 **Q** You really don't know what Kortney was wearing on
10:27:46 20 her feet?
10:27:47 21 **A** She had something similar.
10:27:50 22 **Q** Okay. That is what you wear to a scene. Do you
10:27:52 23 know what the tread looks like on those?
10:27:53 24 **A** I don't.
10:27:54 25 **Q** Okay. Can you pull back out, Rich. So -- a

10:28:05 1 little bit further. A little bit more. Okay. Right
10:28:10 2 there.
10:28:10 3 Why did you take this picture?
10:28:13 4 **A** We walked from the residence out to this other
10:28:18 5 location and I took pictures along the way.
10:28:20 6 **Q** Let me show you one more photo with the Court's
10:28:23 7 permission. Then maybe take a break here.
10:28:25 8 Show you 3208. Okay. Now, you took this
10:28:38 9 picture. This is on your walk?
10:28:42 10 **A** Yes, it is.
10:28:43 11 **Q** This is not a barn on the property that
10:28:47 12 constituted the scene, is it?
10:28:49 13 **A** No. No. I believe this is a neighbor's.
10:28:53 14 **Q** There is a gate there and sometimes called a
10:28:55 15 porta-stall horse barn. Is that what you see in this
10:28:58 16 picture?
10:28:59 17 **A** I see a structure.
10:29:00 18 **Q** You see lots and lots of shoe prints in the
10:29:02 19 foreground here, right?
10:29:03 20 **A** Yes, I do.
10:29:03 21 **Q** Were any of those yours or Kortney -- was Kortney
10:29:06 22 with you by the way?
10:29:06 23 **A** Yes, she was.
10:29:07 24 **Q** Are any of those yours or Kortney's?
10:29:09 25 **A** I wouldn't know.

10:29:10 1 **Q** Nobody kept you off of this area?

10:29:12 2 **A** Correct. We wouldn't have been walking on it

10:29:15 3 if -- if we didn't have permission to.

10:29:17 4 MR. SEARS: Your Honor, this would a good time

10:29:18 5 for me to take a break.

10:29:20 6 THE COURT: Thank you, Mr. Sears.

10:29:22 7 Ladies and Gentlemen, we will take the

10:29:24 8 morning recess. Please remember the admonition. I want

10:29:27 9 to say a word about that. The admonition includes many

10:29:31 10 things, as you know. We have discussed that a number of

10:29:35 11 times.

10:29:36 12 A person on a jury cannot attempt to do any

10:29:40 13 type of research whatsoever that relates to anything that

10:29:44 14 occurs in a case, and that includes specifics with regards

10:29:47 15 to the case. That includes legal matters. That includes

10:29:51 16 what juries -- jurors may or may not do. There can be no

10:29:56 17 type of research either in actual physical books of any

10:29:59 18 kind or on the computer.

10:30:01 19 I just want to make sure everybody

10:30:03 20 understands that at this time.

10:30:04 21 We will take the recess. Please be ready to

10:30:08 22 go back into court at ten till, and you are excused at

10:30:17 23 this time. Thank you.

10:30:19 24 (Recess.)

10:54:58 25 THE COURT: The record will show the presence of

10:55:03 1 the defendant, Mr. Sears, Mr. Hammond, Mr. Butner, and
10:55:09 2 Mr. Paupore and the jury. The witness is on the witness
10:55:13 3 stand.
10:55:13 4 Mr. Sears.
10:55:14 5 MR. SEARS: Thank you.
10:55:14 6 **Q** Ms. Daniel, let me show you 3209 in evidence,
10:55:19 7 please. This is another trail photo, is it not?
10:55:26 8 **A** Yes, it is.
10:55:26 9 **Q** And we have down here in the foreground what
10:55:30 10 appears to be impressions in the sand and in the dirt
10:55:33 11 there. Are any of those yours?
10:55:34 12 **A** I wouldn't know.
10:55:36 13 **Q** Where are those or what were you trying to show?
10:55:38 14 **A** Once again this is on that back kind of area
10:55:41 15 where I took pictures where we walked to the location.
10:55:46 16 **Q** Okay. And were you walking with any police
10:55:48 17 officers or detectives?
10:55:50 18 **A** Yes, I was.
10:55:51 19 **Q** You were being taken to this lower location?
10:55:54 20 **A** We walked along this path location, yes.
10:55:56 21 **Q** You walked to the guest house out there. The
10:55:58 22 other location you walked to and you walked on this path
10:56:00 23 among other places?
10:56:01 24 **A** Yes, we did.
10:56:01 25 **Q** Okay. And nobody was telling you to stay off

10:56:04 1 these trails, right?
10:56:05 2 **A** No. We went out there because they were done
10:56:08 3 processing what they needed to process.
10:56:10 4 **Q** Let me show you 3211, please.
10:56:12 5 Okay. This is on the trail looking back.
10:56:23 6 Do you know whose truck that is?
10:56:24 7 **A** I do not.
10:56:25 8 **Q** And there's a structure there. That's not -- is
10:56:28 9 that related to the Bridle Path crime scene?
10:56:32 10 **A** I don't think so.
10:56:33 11 **Q** Just another sort of a tourist picture of where
10:56:38 12 you were?
10:56:39 13 **A** If you want to call it that.
10:56:41 14 **Q** Okay. You're not showing anything that's related
10:56:44 15 to the crime scene, are you?
10:56:44 16 **A** Just walking along the path.
10:56:46 17 **Q** And we see impressions here in the dirt and again
10:56:49 18 you can't tell me, for example, this one down here in the
10:56:52 19 lower left-hand corner is your boot or Kortney's boot?
10:56:55 20 **A** I can't tell.
10:56:56 21 **Q** Let me show you 3213. Okay. Can you brighten
10:57:09 22 that up just a tad, Rich.
10:57:12 23 Okay. Do you recognize this area in 3213?
10:57:18 24 **A** Yes, I do.
10:57:19 25 **Q** Where is that?

10:57:20 1 **A** That's the front of the residence.
10:57:22 2 **Q** Okay. And this structure to the right is --
10:57:27 3 **A** That's where Mr. Knapp lived.
10:57:29 4 **Q** That's the detached guest house?
10:57:31 5 **A** Yes.
10:57:32 6 **Q** And you can see there a garage -- looks like two
10:57:34 7 garage doors here, right?
10:57:36 8 **A** Yes.
10:57:36 9 **Q** On this side.
10:57:37 10 And is this your hand truck?
10:57:40 11 **A** No, it's not.
10:57:41 12 **Q** Do you know whose it is?
10:57:42 13 **A** I do not know.
10:57:43 14 **Q** Okay. And if you could zoom in a little bit on
10:57:46 15 the dirt area here.
10:57:47 16 Go a little bit left.
10:57:56 17 Okay. Again, we can see what may be the
10:58:00 18 shoe print impressions. Are any of those yours?
10:58:03 19 **A** I wouldn't know.
10:58:05 20 **Q** Did you walk up this way?
10:58:06 21 **A** I walked somewhere to get from where we parked to
10:58:09 22 the house.
10:58:09 23 **Q** But you can't tell me if it was in the area
10:58:11 24 depicted in 3213?
10:58:12 25 **A** I can't tell.

10:58:13 1 **Q** Thank you.

10:58:14 2 Let me show you 3217. Okay. 3217 is taken

10:58:39 3 from the house looking out -- oh, well. Good point.

10:58:48 4 As you were. Let me -- actually I think --

10:58:56 5 I think it is one of the ones -- 3217. It was. All of

10:59:00 6 these were admitted in fact. But thank you for thinking.

10:59:02 7 THE COURT: Yes. 3217 is admitted.

10:59:09 8 MR. SEARS: Okay.

10:59:13 9 **Q** Now, back to 3217. This out building, did you

10:59:17 10 ever go down and look at this area?

10:59:19 11 **A** I did walk down there.

10:59:21 12 **Q** It's a horse barn and a little carport area?

10:59:24 13 **A** Yes.

10:59:24 14 **Q** Okay. And you see these appear to be rocks,

10:59:28 15 smaller rocks here and larger rocks. Maybe kind of a

10:59:31 16 retaining wall here. Do you see those?

10:59:32 17 **A** Yes.

10:59:33 18 **Q** Okay. That's the way it looked on July 3, 2008.

10:59:37 19 Is that what you told us?

10:59:38 20 **A** Yes.

10:59:38 21 **Q** Now, let me show you 3210, please. Okay. Is

11:00:04 22 this where you were taken by the detective?

11:00:07 23 **A** Yes. I think I was on the other side of a fence.

11:00:10 24 **Q** Okay. And so we see a paved road here and then

11:00:14 25 some signs and why were you taken out there?

11:00:18 1 **A** I was documenting where I was at that location.
11:00:22 2 **Q** Were you ever in the presence of a bicycle in
11:00:25 3 this area?
11:00:26 4 **A** I never saw a bicycle.
11:00:28 5 **Q** Okay. Do you remember Kortney swabbing a bicycle
11:00:32 6 in this general area?
11:00:33 7 **A** Not in that area, no.
11:00:35 8 **Q** Where was the bicycle when it was swabbed then?
11:00:37 9 **A** I -- you would have to ask her.
11:00:39 10 **Q** You don't remember taking pictures of it?
11:00:41 11 **A** I don't.
11:00:42 12 **Q** Okay. Do you know why you were taken to this
11:00:45 13 area?
11:00:45 14 **A** There was -- I -- yes.
11:00:49 15 **Q** What do you remember?
11:00:50 16 **A** I was told that potentially someone parked in
11:00:54 17 that location and then got on a bike and walked to the
11:00:57 18 residence.
11:00:57 19 **Q** Ah, okay. So if I told you that this street here
11:01:00 20 that we can see in 3210 is called Glenshandra Drive, is
11:01:05 21 that a name that means anything to you?
11:01:06 22 **A** No, it doesn't.
11:01:08 23 **Q** Can you zoom in this area right here on the
11:01:10 24 corner of the pavement, Rich. Over to the right a little
11:01:14 25 bit.

11:01:15 1 Okay. Do you see what appears to be
11:01:19 2 automobile tire impressions here?
11:01:20 3 **A** I can see discoloration but I -- I don't know
11:01:26 4 anything about tire impressions.
11:01:27 5 **Q** You weren't asked to photograph these?
11:01:29 6 **A** No.
11:01:29 7 **Q** Can we go over to this other side of this
11:01:32 8 photograph. Left and maybe pull out now. A little bit.
11:01:40 9 Okay. So if these are automobile tire
11:01:42 10 impressions, that's not what you were trying to
11:01:44 11 photograph, right?
11:01:45 12 **A** That's correct.
11:01:45 13 **Q** Okay. This looks like river rock, right? More
11:01:52 14 river rock, right?
11:01:53 15 **A** It appears that way.
11:01:55 16 **Q** Lots and lots of river rock, right?
11:01:58 17 **A** Yes.
11:01:58 18 **Q** That retaining wall. Can you pull all the way
11:02:02 19 out, Rich.
11:02:03 20 Some kind of a retaining wall through this
11:02:06 21 property here with a white fence.
11:02:07 22 **A** It appears this way.
11:02:09 23 **Q** Okay. And then we are looking -- is this Granite
11:02:11 24 Mountain in the background? Do you know?
11:02:13 25 **A** That I don't.

11:02:13 1 **Q** You don't know Prescott that well?
11:02:15 2 **A** I don't.
11:02:15 3 **Q** Okay. And if I told you this is looking more or
11:02:19 4 less west back out towards Granite Mountain, you wouldn't
11:02:22 5 be sure of that?
11:02:22 6 **A** I wouldn't.
11:02:23 7 **Q** So you walked to this location; isn't that right?
11:02:25 8 **A** Yes.
11:02:25 9 **Q** Let me show you 3212. Okay. Can you brighten
11:02:42 10 that up just a little bit.
11:02:45 11 Okay. Now, do you recognize this area?
11:02:50 12 **A** Yes, I do.
11:02:51 13 **Q** Okay. This is that same corner of the paved road
11:02:55 14 we were just looking at a moment ago; is that right?
11:02:58 15 **A** Yes, it is.
11:02:58 16 **Q** And see a boot tee down here. Whose bootie is
11:03:01 17 that? Do you know?
11:03:02 18 **A** I don't know.
11:03:02 19 **Q** Somebody is wearing a bootie there, correct?
11:03:05 20 **A** Yes.
11:03:05 21 **Q** All right. Now, you do remember being at this
11:03:07 22 gate, right?
11:03:08 23 **A** I do remember.
11:03:09 24 **Q** Okay. And so on the far side of the gate is that
11:03:12 25 scene we looked at. The river rock retaining wall would

11:03:16 1 be off here to the left, and here's the end of the
11:03:18 2 pavement, right?
11:03:19 3 **A** Yes.
11:03:19 4 **Q** Okay. And I see what appears to be a number of
11:03:24 5 impressions in the dirt on both sides of this gate. Do
11:03:27 6 you see that?
11:03:27 7 **A** Yes, I do.
11:03:28 8 **Q** Do you know whose those are?
11:03:30 9 **A** No, I don't.
11:03:30 10 **Q** Is that the way it looked to you on June 3?
11:03:33 11 **A** July.
11:03:34 12 **Q** I'm sorry. July 3, 2008?
11:03:36 13 **A** Yes.
11:03:36 14 **Q** Okay. Do you have any idea what this is?
11:03:38 15 **A** It appears to be a toilet.
11:03:41 16 **Q** Have you ever seen a toilet used as part of
11:03:45 17 somebody's landscaping before?
11:03:46 18 **A** Not that I remember.
11:03:50 19 **Q** Okay. Do you see anybody looking in that toilet?
11:03:53 20 **A** No.
11:03:53 21 **Q** Did you meet a Detective Huante?
11:03:57 22 **A** I have met him.
11:03:59 23 **Q** Is he one of the detectives you met?
11:04:01 24 **A** Yes.
11:04:01 25 **Q** Okay. And you didn't see him in this area?

11:04:04 1 **A** No.

11:04:04 2 **Q** Okay. Let me show you one more picture. Let's

11:04:07 3 go back inside the Bridle Path, please, scene.

11:04:10 4 Rich, if we could look at 2248, please.

11:04:17 5 Okay. I know we are going to need a little

11:04:22 6 brightness on this one.

11:04:23 7 Okay. Now we've really changed gears here.

11:04:27 8 We are back inside Bridle Path, aren't we?

11:04:29 9 **A** Yes, we are.

11:04:30 10 **Q** And you took this picture inside this laundry

11:04:32 11 room, correct?

11:04:32 12 **A** Yes, I did.

11:04:32 13 **Q** Okay. And you can see all kinds of objects and

11:04:35 14 surfaces in this laundry room; is that right?

11:04:38 15 **A** Yes.

11:04:39 16 **Q** For example, what appears to be cans of dog or

11:04:42 17 cat food down here on the floor, right?

11:04:44 18 **A** Some kind of cans.

11:04:45 19 **Q** Okay. And none of those were processed for

11:04:47 20 latents, right? Nothing in this room, right?

11:04:49 21 **A** I did not process anything in that room.

11:04:51 22 **Q** Okay. And we see a white plastic bottle here.

11:04:54 23 Did you see another similar white plastic bottle anywhere

11:04:57 24 else in the house?

11:04:58 25 **A** I don't remember.

11:04:59 1 **Q** Okay. We will look at a picture here in just a
11:05:02 2 minute. Maybe.
11:05:03 3 No processing for any latents was done
11:05:06 4 anywhere inside this room; is that right?
11:05:07 5 **A** Yes. Correct.
11:05:08 6 **Q** Even though there are countertops and a washer-
11:05:11 7 dryer combination, all places where fingerprints might be
11:05:15 8 obtained, right?
11:05:16 9 **A** What was the first part of the question?
11:05:19 10 **Q** Counter. We have a countertop here on the left
11:05:21 11 and a washer-dryer, you know, right? Those surfaces are
11:05:25 12 surfaces that in your opinion would be conducive to the
11:05:31 13 presence of latent fingerprints if someone had touched
11:05:34 14 this?
11:05:34 15 **A** Potentially the washer and dryer. Counters can
11:05:36 16 be kind of textured.
11:05:38 17 **Q** Depends on the kind of surface?
11:05:40 18 **A** Yes, it does.
11:05:41 19 **Q** This appears to be a laminate countertop. Is
11:05:43 20 that your recollection?
11:05:44 21 **A** I don't remember.
11:05:45 22 **Q** Okay. So you have no opinion today looking at
11:05:48 23 this photograph about the surface of this countertop and
11:05:52 24 whether it would be a place where you would expect to find
11:05:54 25 latent prints?

11:05:55 1 **A** Correct.

11:05:55 2 **Q** Now, can you talk about -- is it possible to age

11:05:59 3 fingerprints?

11:06:00 4 **A** It's not.

11:06:01 5 **Q** So, for example, Knapp's thumbprint on those

11:06:05 6 pages, is there anyway to determine from the print itself

11:06:11 7 when that print was put there?

11:06:12 8 **A** There's no way to tell.

11:06:14 9 **Q** So you have to have some kind of either hard

11:06:17 10 evidence or circumstantial evidence other than the

11:06:20 11 fingerprint itself to be able to determine when that thumb

11:06:23 12 came into contact with that page; is that right?

11:06:25 13 **A** I can't tell from fingerprints.

11:06:27 14 **Q** And no fingerprint examiner can; isn't that true?

11:06:32 15 **A** That's correct.

11:06:32 16 **Q** Now, fingerprints, the idea of fingerprints I

11:06:36 17 have heard it sometimes described as friction ridge

11:06:41 18 detail. Have you ever heard that description?

11:06:43 19 **A** Right. The whole -- whole surface of our hands

11:06:45 20 and the bottoms of our feet is what we call friction ridge

11:06:48 21 skin and primates have it and we have it and it's for

11:06:52 22 gripping items. Evolutionary, that's how we got it was

11:06:56 23 for grabbing things. Even monkeys that swing on their

11:06:59 24 tail, they actually have friction ridge skin on their

11:07:02 25 tail.

11:07:02 1 **Q** And that's the feature of our skin that is
11:07:07 2 responsible for leaving identifiable fingerprints with a
11:07:11 3 pattern on them, right?
11:07:12 4 **A** Yes. That's true.
11:07:13 5 **Q** It's true though, isn't it, that the science of
11:07:19 6 fingerprint analysis is in many ways subjective?
11:07:23 7 **A** Parts of it, yes.
11:07:25 8 **Q** Okay. And that you told us yesterday that
11:07:27 9 there's no standard that you or the Department of Public
11:07:31 10 Safety apply to how many points of reference that you need
11:07:35 11 to see for an identification between a known print and a
11:07:39 12 latent print, correct?
11:07:40 13 **A** That's correct. The whole United States does not
11:07:42 14 have a point standard. I think they still have a point
11:07:44 15 standard maybe in England or somewhere in Europe.
11:07:49 16 **Q** Okay. So to begin with, in terms of how many
11:07:54 17 points you need to see, you and Erin Daniel need to see,
11:07:58 18 it could be different than a fingerprint analyst in some
11:08:01 19 other agency in the State of Arizona, right?
11:08:03 20 **A** Potentially, yes.
11:08:04 21 **Q** But there is a certain aspect to it that you have
11:08:08 22 been trained to look at these things and you can see
11:08:10 23 things that would exclude somebody, correct?
11:08:12 24 **A** Yes.
11:08:13 25 **Q** You would see a feature in either the known print

11:08:16 1 or latent print that didn't match up, some distinguishing
11:08:19 2 characteristics that was present in one and not present in
11:08:22 3 the other, right?
11:08:23 4 **A** Yes.
11:08:23 5 **Q** But you would have to be able to see that same
11:08:25 6 area of the print in both the known and the latent to be
11:08:29 7 able to make that exclusion, right?
11:08:31 8 **A** Right. I would have to see both locations and
11:08:33 9 have to know where my latent was from.
11:08:36 10 **Q** So it sometimes becomes difficult to make
11:08:40 11 identifications or exclusions from prints other than
11:08:44 12 rolled prints on a ten print card, right?
11:08:46 13 **A** Potentially. It just depends on the quality of
11:08:49 14 the ten print card.
11:08:50 15 **Q** And we see all kinds of things that account for
11:08:53 16 that. For example, the factors you said yesterday that
11:08:56 17 people are sometimes moving their fingers across a surface
11:08:58 18 when they leave a latent, right?
11:09:00 19 **A** Yes.
11:09:01 20 **Q** And sometimes you said you get a side of the
11:09:03 21 finger and not the pad of the finger, right?
11:09:05 22 **A** Yes. That's true.
11:09:06 23 **Q** But at least with respect to Knapp's thumb print,
11:09:09 24 you saw enough of the latent on that piece of paper, from
11:09:14 25 evidence item 902, to be able to identify that as his

11:09:19 1 right thumb using his case prints that were obtained by
11:09:22 2 the police, right?
11:09:23 3 **A** Yes. That's correct.
11:09:24 4 **Q** You never got there with any of the latents with
11:09:28 5 respect to identifying Mr. Democker; is that right?
11:09:30 6 **A** Yes. That's correct.
11:09:31 7 **Q** Now, you talked about running at least one of the
11:09:35 8 latents through a database; is that right?
11:09:38 9 **A** Yes. Actually ran two latents through the state
11:09:42 10 database.
11:09:42 11 **Q** Which ones?
11:09:43 12 **A** The one from the light bulb and the one from the
11:09:46 13 papers.
11:09:47 14 **Q** And the one from the paper that you ran is the
11:09:50 15 one that was -- that excluded all three of the subject
11:09:56 16 prints that you had, right?
11:09:57 17 **A** Yes. That's true.
11:09:58 18 **Q** So you had at least one latent print on the
11:10:01 19 papers that you found that were found at the scene by law
11:10:04 20 enforcement, that was neither Steve Democker, Carol
11:10:08 21 Kennedy or Jim Knapp, right?
11:10:09 22 **A** Yes. That's true.
11:10:10 23 **Q** And obviously you can't tell male versus
11:10:12 24 fingernail -- I'm sorry -- male versus a female
11:10:16 25 fingerprint?

11:10:16 1 **A** I can't tell.

11:10:17 2 **Q** And no one could? No -- no fingerprint analysis

11:10:20 3 could do that, right?

11:10:21 4 **A** That's correct.

11:10:22 5 **Q** So there is an unidentified fingerprint that you

11:10:26 6 found that was of sufficient value that if you had a known

11:10:32 7 print for somebody, you could match them up? You had

11:10:34 8 enough detail on that latent to make a comparison, right?

11:10:37 9 **A** I had enough to make a comparison and if I had

11:10:39 10 the person that made the print, I think I could make an

11:10:42 11 identification.

11:10:42 12 **Q** Okay. Now, let's talk about this database. It's

11:10:46 13 called A-Z-A-F-I-S. Is that the one you ran it through?

11:10:49 14 **A** Yes. That's true.

11:10:50 15 **Q** And that's the Arizona Automated Fingerprint

11:10:53 16 Identification System, right?

11:10:54 17 **A** Yes.

11:10:54 18 **Q** And that's just an Arizona database, correct?

11:10:57 19 **A** That's correct.

11:10:57 20 **Q** And tell us generally who is in that database?

11:10:59 21 **A** Anyone that has been arrested in the state along

11:11:03 22 with some civilians, people that have been fingerprinted

11:11:07 23 for working with children, teachers, and law enforcement.

11:11:11 24 **Q** How about passport people? How about everybody

11:11:14 25 that gets fingerprinted for a passport, are they in AZ

11:11:17 1 AFIS?

11:11:17 2 **A** No. Those belong to the federal government.

11:11:19 3 **Q** How about people that get fingerprinted for the

11:11:22 4 military, are they in AZ AFIS?

11:11:24 5 **A** No.

11:11:24 6 **Q** Do you have any idea how many fingerprints are in

11:11:27 7 AZ AFIS on any given day?

11:11:29 8 **A** I don't know.

11:11:30 9 **Q** Okay. And it's people who have been arrested in

11:11:34 10 Arizona; is that right?

11:11:35 11 **A** That's included in the database, yes.

11:11:38 12 **Q** It's not Arizona people that are arrested in

11:11:40 13 Utah?

11:11:40 14 **A** Correct.

11:11:41 15 **Q** Okay. Just Arizona law enforcement fingerprints,

11:11:45 16 right?

11:11:46 17 **A** People that have been arrested in Arizona.

11:11:48 18 **Q** And booked and fingerprinted, correct?

11:11:50 19 **A** Yes.

11:11:51 20 **Q** Okay. And how far back does it go?

11:11:53 21 **A** I don't know the answer to that.

11:11:55 22 **Q** Further than your tour with DPS, right?

11:12:00 23 **A** Before I was born, yes.

11:12:01 24 **Q** Before you were born. Okay. I just meant before

11:12:04 25 you started to work for DPS.

11:12:06 1 Okay. And so when you run this through,
11:12:12 2 tell us again what you -- how do you get that latent into
11:12:16 3 a format so that it can be run through this database?
11:12:20 4 What do you do?
11:12:20 5 **A** The photograph or the latent was on a piece of
11:12:24 6 paper and it was developed with an enzyme. I took a
11:12:26 7 picture of that latent at a one-to-one scale, and then I
11:12:31 8 use a scanner to scan it into the computer we use for
11:12:34 9 searching in the database. I then mark the pattern type
11:12:38 10 that I want it to search and I also mark any points that I
11:12:43 11 want the computer to look for. And then I tell the system
11:12:47 12 how many candidates I want and then I send it off.
11:12:50 13 **Q** Did you retain a copy of what you submitted to AZ
11:12:55 14 AFIS in this case?
11:12:55 15 **A** Yes, I did.
11:12:56 16 **Q** Do you have it with you?
11:12:57 17 **A** I do.
11:12:58 18 **Q** Could you pull it out for us, please.
11:13:41 19 **A** (Witness complies.)
11:13:43 20 **Q** Can you tell either from your own memory or by
11:13:45 21 looking at the documents that you have just located, what
11:13:49 22 pattern or patterns you wanted inputted into AZ AFIS?
11:13:54 23 **A** For the latent that was on the papers, it was the
11:13:58 24 right slope loop and that was my first choice. I also put
11:14:02 25 an arch to search for.

11:14:03 1 **Q** Okay. And those are descriptive terms for
11:14:07 2 features that you see on fingerprints, right?
11:14:08 3 **A** Right. There's three main pattern types. Loops,
11:14:12 4 whirls and arches and then for the loops, they can go
11:14:15 5 either direction. A left slope or a right slope.
11:14:18 6 **Q** Okay. And how about for the latent from the
11:14:21 7 light bulb?
11:14:21 8 **A** The latent from the light bulb, I could not find
11:14:23 9 a pattern type, so I left that blank.
11:14:25 10 **Q** Okay. And what points did you ask AZ AFIS to
11:14:30 11 look for you in your database on the latent from the
11:14:33 12 papers? Is there a number of points?
11:14:39 13 **A** I have 12 points that I marked.
11:14:41 14 **Q** Okay. And how about on the light bulb, did you
11:14:43 15 mark any points?
11:14:44 16 **A** I have eight points.
11:14:46 17 **Q** And so these are particular features in the
11:14:50 18 latent that you wanted the database to be search for to
11:14:54 19 see if you could find other fingerprints on file that had
11:14:57 20 that point in that location, right?
11:14:59 21 **A** That point in that location and also relative to
11:15:01 22 the other points in the latent.
11:15:03 23 **Q** And on the particular finger?
11:15:05 24 **A** Correct.
11:15:06 25 **Q** Now, so you ran it through. When did you run

11:15:13 1 these latents through AZ AFIS?

11:15:15 2 **A** I ran the one from the papers on August 20th,

11:15:18 3 2008. And the light bulb on August 25th, 2008.

11:15:24 4 **Q** Now, how does AZ AFIS work in terms of being

11:15:28 5 updated? I assume people get arrested and fingerprinted

11:15:31 6 every day, correct?

11:15:32 7 **A** Yes.

11:15:33 8 **Q** And information gets sent to AZ AFIS every day to

11:15:36 9 update the database, right?

11:15:37 10 **A** I would assume so, yes.

11:15:39 11 **Q** Does AZ AFIS automatically continue to run these

11:15:43 12 unknown latents against the database every day?

11:15:47 13 **A** If I search or if I save the latent in what is

11:15:50 14 called the unsolved latent file, it is continuously

11:15:54 15 searched.

11:15:54 16 **Q** And did you do that?

11:15:56 17 **A** Yes, I did.

11:15:56 18 **Q** For both of these latents?

11:15:58 19 **A** Yes, I did.

11:16:00 20 **Q** Okay. So they have been in there now for more

11:16:03 21 than two years, right?

11:16:04 22 **A** Yes.

11:16:04 23 **Q** Okay. And do you get reports from AZ AFIS on

11:16:08 24 some sort of periodic basis?

11:16:10 25 **A** Only if that latent comes up with something that

11:16:15 1 could potentially be a match.

11:16:17 2 **Q** Okay. And you asked I think you told us for 15

11:16:21 3 possibles for each one of these latents back in August of

11:16:24 4 2008, right?

11:16:25 5 **A** Yes. Correct.

11:16:26 6 **Q** So they gave you 15 close but no cigar

11:16:30 7 fingerprints, right, for each one?

11:16:31 8 **A** Some of them weren't very close, but I got 15 and

11:16:34 9 none of them matched.

11:16:35 10 **Q** Okay. And can you ask for more?

11:16:37 11 **A** I can.

11:16:38 12 **Q** Okay. But if the 15 best weren't close, then

11:16:44 13 asking for a hundred would be a waste of time, right?

11:16:46 14 **A** It would. When I have gotten hits in AFIS, it's

11:16:49 15 mostly been the first or second candidate. The lowest one

11:16:53 16 I got was on a palm print and that was the 10th candidate.

11:16:55 17 **Q** They come random?

11:16:57 18 **A** Yes, they do.

11:16:58 19 **Q** Okay. This is the best one. Sort of like a

11:17:00 20 Google search. This is the most closely associated and

11:17:05 21 then on down the line?

11:17:06 22 **A** Yes. That's correct.

11:17:07 23 **Q** And you haven't gotten any information from AZ

11:17:13 24 AFIS since August of 2008 about any -- is it called a cold

11:17:17 25 hit, is that the description?

11:17:18 1 **A** Um, they're called reverse searches because the
11:17:22 2 latent or the known is being searched against the latent,
11:17:24 3 and I have gotten latents back a few times.
11:17:28 4 **Q** Okay. But no match?
11:17:29 5 **A** Correct.
11:17:30 6 **Q** Anything that you could even consider as useful?
11:17:34 7 **A** No.
11:17:34 8 **Q** Okay. How many times, do you think? Can you
11:17:36 9 tell?
11:17:37 10 **A** I can't tell. I would say at least three.
11:17:39 11 **Q** So what this means is that when you ran it the
11:17:44 12 first time, there was nobody in this AZ AFIS database who
11:17:47 13 had fingerprints that matched either of these latents,
11:17:49 14 right?
11:17:49 15 **A** I can't say that. The database isn't a hundred
11:17:52 16 percent correct. So just because it didn't hit on
11:17:55 17 somebody doesn't mean that person is not in the database.
11:17:58 18 **Q** Well, so it's only as good as what? What
11:18:04 19 controls the value of this database?
11:18:07 20 **A** Part of what goes into it is the quality of the
11:18:11 21 known prints that are entered in, which I have no control
11:18:13 22 over. Those are done at live scans. Live scan stations
11:18:17 23 at individual jails. That's the electronic version of
11:18:20 24 getting the inked prints. It also depends on how good my
11:18:23 25 latent is and how good I mark the points, and then however

11:18:28 1 the algorithm works.

11:18:31 2 **Q** So what you're saying is that there is some

11:18:33 3 possibility that the person who made those fingerprints on

11:18:37 4 those papers and on this light bulb could be sitting in

11:18:41 5 the Arizona state prison and in the AFIS system, but not

11:18:44 6 showing up as a computerized match, right?

11:18:46 7 **A** It's possible. I would say it's not probable.

11:18:48 8 **Q** Okay. And it's not probable because ultimately

11:18:51 9 if they go to prison, they are going to have another set

11:18:55 10 of fingerprints taken, right?

11:18:55 11 **A** Yes.

11:18:56 12 **Q** But what if they were just arrested and printed

11:18:58 13 in some county jail, poor quality fingerprints, that

11:19:05 14 person might somehow escape detection through the system,

11:19:08 15 right?

11:19:08 16 **A** It's possible depending on the quality of all the

11:19:11 17 issues that I talked about.

11:19:12 18 **Q** To your knowledge is there a backlog of

11:19:15 19 unprocessed prints in the AZ AFIS system?

11:19:19 20 **A** I don't know.

11:19:20 21 **Q** Would it surprise you if there was?

11:19:22 22 **A** I would think since these are all electronic,

11:19:25 23 that it can be entered pretty fast. I would guess they

11:19:27 24 get them in every day.

11:19:29 25 **Q** Millions of years ago, way before you were born,

11:19:31 1 fingerprints were maintained, for example, at the FBI and
11:19:34 2 they had people whose job it was to go through hundreds of
11:19:37 3 thousands of fingerprint cards like the one we have here,
11:19:41 4 looking to see what they might be?
11:19:43 5 **A** Right. Then they had to classify each card
11:19:47 6 according to the pattern types and there's something then
11:19:50 7 called classifications and that is how the fingerprint
11:19:53 8 cards were saved and then searched before we had
11:19:55 9 computers.
11:19:56 10 **Q** I remember going on a school tour. I grew up in
11:19:59 11 Washington DC and all the kids looking through a glass
11:20:02 12 window at people, they were all wearing very thick
11:20:05 13 glasses, I think had something to do with the job and they
11:20:07 14 were all going through the fingerprint cards and it must
11:20:09 15 have been what they were doing.
11:20:11 16 Have you ever been to the FBI fingerprint
11:20:14 17 lab?
11:20:15 18 **A** I haven't.
11:20:15 19 **Q** I don't think they do that anymore.
11:20:17 20 **A** I don't think so.
11:20:18 21 **Q** Okay. Now, there are other databases besides AZ
11:20:23 22 AFIS, right?
11:20:24 23 **A** Yes, there are.
11:20:26 24 **Q** There's one called WIM, W-I-M. Do you know that?
11:20:28 25 **A** I don't.

11:20:29 1 **Q** If I told you that's a database for fingerprints
11:20:33 2 obtained in most of the rocky mountain and western states
11:20:36 3 except for Arizona, that's not a database with which you
11:20:39 4 are familiar?
11:20:39 5 **A** It's not.
11:20:40 6 **Q** The FBI maintains a fingerprint database, right?
11:20:42 7 **A** Yes, they do.
11:20:43 8 **Q** Other states have their own AFIS databases,
11:20:46 9 right?
11:20:46 10 **A** Yes. That's correct.
11:20:47 11 **Q** So how would you request that these latents be
11:20:52 12 run through other databases?
11:20:54 13 **A** I can search myself through the FBI's database
11:20:57 14 called IAFIS.
11:20:58 15 **Q** Did you do that?
11:20:59 16 **A** I did not.
11:21:01 17 **Q** Did anybody tell you not to do that?
11:21:04 18 **A** No. I needed to request other known standards
11:21:09 19 for the print from the paper because I only had those
11:21:12 20 three standards. I would have liked to rule out other
11:21:14 21 people that were known to handle that document. Also the
11:21:18 22 print from the light bulb wasn't good enough to search in
11:21:22 23 IAFIS.
11:21:23 24 **Q** There are standards that it didn't meet?
11:21:25 25 **A** Yes. It's a poor quality latent and I could

11:21:27 1 barely search it in AFIS.
11:21:29 2 **Q** So you made the decision not to look at IAFIS; is
11:21:33 3 that right?
11:21:33 4 **A** For -- yes. For both of them.
11:21:36 5 **Q** Okay. Or for any other latent connected to this
11:21:39 6 case, right?
11:21:40 7 **A** That's correct.
11:21:40 8 **Q** So you have no idea whether or not the person
11:21:44 9 whose fingerprints -- fingerprint appeared on those papers
11:21:49 10 or the light bulb may be in some other database you didn't
11:21:52 11 search?
11:21:53 12 **A** It's possible.
11:21:53 13 **Q** Phil, this might be a time to put the screen up
11:21:59 14 here.
11:22:00 15 And while we are doing that, Ms. Daniel, let
11:22:07 16 me show you 3221 for identification. I would ask you if
11:22:16 17 you have ever been there?
11:22:17 18 **A** Yes, I have.
11:22:18 19 **Q** This is a picture you took inside the room with
11:22:21 20 Carol Kennedy's body was found, right?
11:22:23 21 **A** Yes, it is.
11:22:23 22 **Q** A picture taken on July 3 and you can see Carol
11:22:26 23 Kennedy there, right?
11:22:27 24 **A** Yes.
11:22:28 25 **Q** That's the way it look to you on July 3; is that

11:22:30 1 right?

11:22:30 2 **A** Yes.

11:22:41 3 MR. BUTNER: Phil.

11:22:45 4 THE BAILIFF: More.

11:22:46 5 MR. BUTNER: This way. Watch out for the

11:22:52 6 picture.

11:22:53 7 MR. SEARS: Your Honor, I would move 3221.

11:23:01 8 THE BAILIFF: Stand here and hold this.

11:23:03 9 MR. PAUPORE: No objection.

11:23:04 10 THE COURT: 3221 is admitted.

11:23:11 11 MR. SEARS:

11:23:11 12 **Q** Ms. Daniel, let me show you 3221 and we are going

11:23:14 13 to project this up here on the screen in just a minute.

11:23:18 14 Your Honor, if anyone on the jury needs to

11:23:56 15 move to see what we're doing, this might be a good time to

11:24:01 16 do that.

11:24:01 17 THE COURT: All right.

11:24:09 18 MR. SEARS: That works.

11:24:48 19 A VOICE: Such as it is.

11:24:49 20 MR. SEARS: That works.

11:24:50 21 **Q** Okay. Let me show you 3221 now up on the screen.

11:25:00 22 You see poor Carol Kennedy here. This is the way she was

11:25:03 23 when you were there on July 3, 2008; is that right?

11:25:07 24 **A** Yes.

11:25:07 25 **Q** Okay. And I want to call your attention

11:25:10 1 particularly -- we have looked at this, but there are two
11:25:12 2 objects that are visible in this photograph very near the
11:25:14 3 body. The first one is what appears to be a white plastic
11:25:17 4 bottle. Do you see that in this picture?
11:25:18 5 **A** Yes, I do.
11:25:19 6 **Q** Okay. And do you remember when I asked you about
11:25:21 7 a white plastic bottle with a red cap on it in the laundry
11:25:24 8 room. This was the other bottle I was talking about. Did
11:25:27 9 you ever examine this bottle?
11:25:28 10 **A** Not closely.
11:25:30 11 **Q** Okay. It appears to be very near or perhaps even
11:25:33 12 touching Carol's head. Is that the way it was when you
11:25:37 13 were there?
11:25:37 14 **A** Yes.
11:25:37 15 **Q** Okay. And it appears to be covered in blood?
11:25:39 16 **A** Yes.
11:25:40 17 **Q** Or what is likely blood.
11:25:41 18 Now, that plastic bottle would be a kind of
11:25:47 19 surface that might be profitable in looking for latent
11:25:51 20 fingerprints just generally speaking, right?
11:25:53 21 **A** Yes. I could potentially find fingerprints.
11:25:55 22 **Q** And if it had human blood on it, then the
11:25:58 23 possibility of usable latent fingerprints might increase,
11:26:04 24 correct?
11:26:04 25 **A** I wouldn't say that. It would be a different

11:26:08 1 kind of fingerprint that I would -- could develop on this.
11:26:10 2 **Q** It might have a patent fingerprint that you could
11:26:12 3 actually see in the blood itself, correct?
11:26:14 4 **A** Correct.
11:26:14 5 **Q** If I told you that this object, this white
11:26:17 6 plastic bottle, was never taken by the police, would that
11:26:20 7 be surprising to you?
11:26:21 8 **A** I am not involved in that kind of police work.
11:26:24 9 **Q** But for your purposes, if you were deciding which
11:26:28 10 objects to take from this area near Carol, that white
11:26:33 11 plastic bottle would have been among them, correct?
11:26:35 12 **A** I don't know.
11:26:36 13 **Q** It's a source of potential fingerprints, isn't
11:26:40 14 it?
11:26:40 15 **A** Everything -- almost everything in that room is a
11:26:43 16 potential source of fingerprints.
11:26:44 17 **Q** Well, let's move to one other object and then we
11:26:46 18 will be done with this.
11:26:47 19 Do you see this rod like object here which
11:26:50 20 is under her head? You can see that?
11:26:51 21 **A** Yes.
11:26:52 22 **Q** If I told you that was the corner molding off
11:26:55 23 this desk, is that what you saw that day?
11:26:57 24 **A** Yes.
11:26:58 25 **Q** Okay. And it is covered with blood, isn't it?

11:27:01 1 **A** Yes, it is.

11:27:02 2 **Q** And it is even closer to and perhaps even under a

11:27:07 3 part of Carol Kennedy's head; is that right?

11:27:09 4 **A** Yes.

11:27:10 5 **Q** Okay. Was that ever sent to you for processing

11:27:13 6 for fingerprints?

11:27:14 7 **A** No, it wasn't.

11:27:16 8 **Q** Okay. I think we are done with this, Rich.

11:27:19 9 Thank you.

11:27:43 10 We are done altogether -- Rich. ,

11:28:20 11 Ms. Daniel, you have your reports there.

11:28:23 12 Can you go through in chronological order and tell the

11:28:27 13 jury every item that was sent to you for analysis? You

11:28:33 14 don't have to tell us the day. Just in chronological

11:28:36 15 order so you can wind up telling us everything that was

11:28:38 16 sent to you for fingerprint analysis.

11:28:40 17 **A** Okay. I analyzed a cardboard box of Natural

11:29:22 18 Value Ecosafe tall kitchen bags.

11:29:23 19 I received major case prints bearing the

11:29:27 20 name Steven Carroll Democker, two GE 15 watt light bulbs,

11:29:33 21 Light of America 14 watt light bulb, and a dead bolt lock

11:29:37 22 assembly.

11:29:38 23 A V-Tech cordless phone handset. Six pages

11:29:45 24 with handwritten notes with two smaller pages all stapled

11:29:49 25 together.

11:29:49 1 I received major case prints bearing the
11:29:58 2 name James Knapp.
11:30:00 3 I analyzed the Body Plus Soul magazine
11:30:04 4 containing pages of printed and handwritten notes.
11:30:09 5 I received a purple tank top, a handwritten
11:30:16 6 note, and eight latent lift cards.
11:30:21 7 **Q** Okay. The purple tank top we haven't talked
11:30:24 8 about. That was represented to have been the top that
11:30:27 9 Carol was wearing in the picture we just looked at,
11:30:30 10 correct?
11:30:30 11 **A** Yes. That's true.
11:30:31 12 **Q** And the last batch, the latent lifts, can you
11:30:34 13 tell from your report where they came from?
11:30:36 14 **A** Those were the lifts that were done not by me and
11:30:40 15 sent in. I believe they were from a vehicle.
11:30:46 16 **Q** Okay. And just to understand, you looked at
11:30:49 17 every one of those objects. With the exception of the
11:30:53 18 major case prints for my client, which would be his
11:30:55 19 fingerprints, with respect to everything else, you found
11:30:57 20 not a single identifiable fingerprint that linked those
11:31:01 21 latents to Steve Democker; is that true?
11:31:03 22 **A** Yes. That's correct.
11:31:04 23 MR. SEARS: No further questions.
11:31:05 24 THE COURT: Thank you, Mr. Sears.
11:31:07 25 Mr. Paupore, redirect.

11:31:09 1 REDIRECT EXAMINATION

11:31:10 2 MR. PAUPORE: Thank you, your Honor.

11:31:11 3 **Q** Following up with that last question of

11:31:18 4 Mr. Sears, how many fingerprints of value or prints of

11:31:31 5 value did you find?

11:31:33 6 **A** If I could refer to my notes and count?

11:31:35 7 **Q** Please. If that will help to refresh your

11:31:39 8 recollection.

11:31:46 9 **A** I have 21 latent prints of value.

11:32:07 10 **Q** And what conclusions did you reach of the 21?

11:32:15 11 Were you able to identify them?

11:32:16 12 Bad question. Were you able to identify or

11:32:19 13 compare the 21 latents with the three knowns Carol

11:32:24 14 Kennedy, James Knapp or Steve Democker?

11:32:27 15 **A** I was able to compare all 21 of my latents to all

11:32:30 16 three known standards and made one identification to James

11:32:34 17 Knapp.

11:32:34 18 **Q** We talked about that yesterday. That was his

11:32:36 19 right thumb print?

11:32:37 20 **A** Yes.

11:32:38 21 **Q** So you were able to identify him?

11:32:42 22 **A** That one print, yes.

11:32:44 23 **Q** What about the other 20?

11:32:45 24 **A** Most of the results of the other ones were

11:32:48 25 inconclusive and there were also some exclusions.

11:32:51 1 **Q** So of no evidentiary value?
11:32:54 2 **A** An exclusion could be of value.
11:32:58 3 **Q** It can be of value. We went over that list
11:33:02 4 yesterday, did we not?
11:33:03 5 **A** Yes, we did.
11:33:04 6 **Q** You were asked about and shown photographs of
11:33:09 7 going to the pathways and trails outside of the home at
11:33:18 8 Bridle Path by Mr. Sears and you took photographs of those
11:33:22 9 paths, correct?
11:33:22 10 **A** Yes, I did.
11:33:23 11 **Q** And you were out there with Kortney Snider?
11:33:28 12 **A** Yes, I was.
11:33:29 13 **Q** And you indicated law enforcement personnel was
11:33:32 14 with you?
11:33:32 15 **A** Yes.
11:33:32 16 **Q** Were you -- were they done processing the foot
11:33:41 17 and/or bike impressions at the time that you were out
11:33:45 18 there with Kortney?
11:33:46 19 **A** Yes. That's what I was told.
11:33:48 20 **Q** And so you and Kortney walking around there did
11:33:53 21 not disturb any evidence?
11:33:55 22 MR. SEARS: Leading. Foundation.
11:33:57 23 THE COURT: Sustained.
11:33:58 24 MR. PAUPORE:
11:33:58 25 **Q** Why were you out there besides taking

11:34:03 1 photographs?

11:34:03 2 **A** We also looked at the barb wire fence and also

11:34:07 3 the gate that was looked -- showed a picture of, to see if

11:34:10 4 there was any evidence of someone climbing over the fence

11:34:13 5 or the gate and also to see if there was any blood on

11:34:17 6 those items.

11:34:17 7 **Q** And did you find any evidence of blood on, say,

11:34:21 8 the barb wire?

11:34:22 9 **A** No, we didn't.

11:34:23 10 **Q** What about the gate we're talking about? That's

11:34:26 11 the gate at the end of the road easily described by the

11:34:32 12 house with the toilet sitting out in the yard.

11:34:37 13 **A** Yes. That gate.

11:34:38 14 **Q** Did you find any latent prints on that gate?

11:34:41 15 **A** No, I didn't.

11:34:42 16 **Q** And Kortney was there to look for the blood?

11:34:45 17 **A** Yes, she was.

11:34:46 18 **Q** Did she find any blood?

11:34:48 19 **A** No, she didn't.

11:34:49 20 **Q** Mr. Sears asked you on a number of occasions if

11:35:02 21 you had seen at any particular location law enforcement,

11:35:05 22 what they were doing, whether they were looking at rocks

11:35:10 23 or looking for evidence and you weren't really sure what

11:35:15 24 they were doing?

11:35:16 25 **A** Right.

11:35:16 1 Q And is there a reason why you did not know what
11:35:20 2 law enforcement was doing?
11:35:20 3 A Yes. I was paying attention to what I was doing
11:35:24 4 and what my job was at this scene and I don't know what
11:35:28 5 officers and law enforcement were doing around me. Doing
11:35:31 6 their own jobs.
11:35:32 7 Q Were you paying any attention to what they were
11:35:34 8 doing at all?
11:35:35 9 A Not really, no.
11:35:36 10 Q So I mean just because you didn't see them does
11:35:40 11 not mean they were not -- had not already been to that
11:35:43 12 location or were going to go to that location?
11:35:45 13 A Right. I have no knowledge of that.
11:35:48 14 Q I would direct your attention back to the
11:36:03 15 doorknob in the office and I believe 3215. Do you have
11:36:15 16 3215? Phil. Thank you.
11:36:47 17 And really I want to direct your attention
11:36:56 18 to the door handle in that location. I am going to ask
11:37:06 19 you to look at what's been marked for exhibit -- as Number
11:37:09 20 3227 and I am going to ask you if you can identify this
11:37:14 21 document without telling us what is on it.
11:37:16 22 A Yes, I can. It's a copy of my notes from the
11:37:19 23 crime scene.
11:37:20 24 Q Those are your handwritten notes?
11:37:22 25 A Yes.

11:37:23 1 Q And when did you make those notes?
11:37:25 2 A On July 3rd, 2008.
11:37:27 3 Q So you were making them at -- either when you
11:37:31 4 were at the scene or shortly after?
11:37:32 5 A Yes.
11:37:38 6 MR. PAUPORE: State offers Exhibit 3227.
11:37:59 7 MR. SEARS: Your Honor, if we can just take a
11:38:00 8 minute. We were just handed copies.
11:38:05 9 THE COURT: Okay.
11:38:57 10 MR. SEARS: Is the State moving 3227, your Honor?
11:39:01 11 MR. PAUPORE: Yes.
11:39:01 12 MR. SEARS: No objection.
11:39:02 13 THE COURT: 3227 is admitted.
11:39:06 14 MR. PAUPORE:
11:39:07 15 Q Now, did you find any evidentiary value
11:39:17 16 latent-print-wise on that door handle when you were out
11:39:19 17 there on July 3rd, 2008?
11:39:21 18 A I took two latent lifts from that door handle.
11:39:25 19 Q And 3227, I will put up on the screen, are your
11:39:39 20 note -- would be called raw -- well, it says crime scene
11:39:44 21 investigation worksheet; is that correct?
11:39:46 22 A Yes.
11:39:47 23 Q And on the very bottom line of your worksheet,
11:39:56 24 does that refer to two lifts that you took from the door
11:40:00 25 handle shown in photographic Exhibit 3215?

11:40:05 1 **A** Yes.

11:40:06 2 **Q** So did you find some -- what appears to be a

11:40:14 3 latent on this door handle?

11:40:16 4 **A** I would have seen something on the door handle

11:40:19 5 when I looked at it to make me put powder on it and

11:40:23 6 attempt to lift it. Once I --

11:40:25 7 **Q** I'm sorry.

11:40:26 8 **A** Once I made the lift, I determined that the lift

11:40:28 9 itself had no value.

11:40:30 10 **Q** So you did make a lift and did you examine this

11:40:33 11 back at the lab or where did you make the examination?

11:40:36 12 **A** Yes. Back at the lab.

11:40:37 13 **Q** And when you examined it, you found -- could not

11:40:44 14 have enough detail for any use?

11:40:48 15 **A** Right. I call it no value for identification.

11:40:51 16 **Q** Have you been at crime scenes where you have been

11:40:59 17 able to determine that an individual had -- was wearing

11:41:06 18 gloves from a latent print examination standpoint?

11:41:09 19 MR. SEARS: Leading. Relevance. Foundation.

11:41:11 20 THE COURT: Overruled.

11:41:16 21 THE WITNESS: Could you ask again?

11:41:18 22 MR. PAUPORE:

11:41:18 23 **Q** Had you ever been at a crime scene where you were

11:41:21 24 looking for latent prints and gloves were used?

11:41:29 25 **A** I have not been able to detect that.

11:41:32 1 **Q** Detect what?

11:41:33 2 **A** Detect or know that someone was wearing gloves at

11:41:38 3 a crime scene.

11:41:38 4 **Q** And why is that?

11:41:39 5 **A** Obviously a person wearing gloves is not going to

11:41:43 6 leave any fingerprints. In the lab when I process items,

11:41:47 7 I have seen glove marks on items in the lab, but I have

11:41:51 8 not seen that at a scene before.

11:41:53 9 **Q** When you were out taking photographs with Kortney

11:42:11 10 Snider on the trails that the photographs were shown by

11:42:13 11 Mr. Sears, you indicated you looked at the barb wire fence

11:42:19 12 and you looked at the gate at the end of Glenshandra for

11:42:24 13 blood, right?

11:42:24 14 **A** Yes.

11:42:24 15 **Q** Did you look in the areas of the trail out in the

11:42:30 16 open area for any presence of blood?

11:42:35 17 **A** When we were walking along the trail, we did look

11:42:38 18 around us and see if we noticed anything out of the

11:42:40 19 ordinary.

11:42:41 20 **Q** And what did you notice?

11:42:43 21 **A** We -- there wasn't anything.

11:42:45 22 **Q** Mr. Sears was asking you about Exhibit 902,

11:42:59 23 that's the pages that were contained in that Body and Soul

11:43:06 24 magazine?

11:43:06 25 **A** Yes.

11:43:06 1 **Q** Now, we had a bit of confusion yesterday when we
11:43:11 2 went through that. I am sure you remember that?
11:43:13 3 **A** Yes, I do.
11:43:15 4 **Q** And at one point in your testimony you thought a
11:43:18 5 couple of pages were missing?
11:43:20 6 **A** I did.
11:43:21 7 **Q** Did you -- were you able to look back at the
11:43:25 8 pages that you examined and find the two original pages
11:43:31 9 you thought were missing?
11:43:32 10 **A** Yes. Those two pages were still stuck in the
11:43:35 11 magazine. They -- just the staple had come apart.
11:43:37 12 **Q** So they weren't really missing. They were still
11:43:39 13 in the book?
11:43:40 14 **A** Yes. That's correct.
11:43:41 15 **Q** We won't make you go through that exercise again,
11:43:46 16 about what you found or did not find.
11:43:48 17 I thought I heard you in an answer to
11:43:58 18 Mr. Sears say that you had received fingerprint cards, ten
11:44:02 19 print cards from other Medical Examiner's offices.
11:44:07 20 **A** Yes, I have.
11:44:08 21 **Q** And can you tell us the quality of those prints?
11:44:15 22 Were they all very good?
11:44:17 23 **A** Most of them are of poor quality.
11:44:20 24 **Q** So in this case Carol Kennedy's fingerprint card
11:44:26 25 compared to the rest of the ones you have examined from

11:44:28 1 other Medical Examiners' offices compared how?
11:44:32 2 **A** It was -- it was along the same lines of quality.
11:44:36 3 **Q** Just not -- not very good fingerprints --
11:44:41 4 **A** Right.
11:44:42 5 **Q** -- for analysis purposes?
11:44:44 6 **A** Exactly.
11:44:45 7 **Q** Are they good enough for identification purposes
11:44:47 8 of whose prints they are?
11:44:50 9 **A** Yes, they are.
11:44:51 10 **Q** So you could identify the person with the ME's
11:44:58 11 ten print card?
11:45:00 12 **A** If I had something to compare it to. Of those
11:45:03 13 ten fingers, there were a few that were decent and if I
11:45:08 14 needed to compare those to a different age print, that
11:45:11 15 would be possible.
11:45:12 16 **Q** So with the right kind of sample or right kind of
11:45:16 17 print you could identify Carol Kennedy's fingerprints from
11:45:19 18 those cards, at least some of them?
11:45:21 19 **A** Yes, I could.
11:45:30 20 **Q** Mr. Sears showed you a photograph. It was Number
11:45:46 21 304 and it was the photograph of that hand, that cordless
11:45:52 22 phone that was laying on the floor just to the right of
11:45:55 23 that white chair. Do you remember that photograph?
11:45:57 24 **A** Yes, I do.
11:45:58 25 **Q** And you were asked, yes, if you thought you can

11:46:02 1 see something in the stains on the floor?
11:46:04 2 **A** Yes, we did.
11:46:06 3 **Q** You could not tell what they were?
11:46:08 4 **A** I couldn't tell.
11:46:10 5 **Q** Are those -- those the only stains that you saw
11:46:13 6 on the rug in that room?
11:46:14 7 **A** No.
11:46:15 8 **Q** Were they similar to the ones you saw in the
11:46:19 9 photograph? The stains?
11:46:21 10 **A** There were many stains throughout the whole room.
11:46:25 11 **Q** Carpet was -- had a lot of stains on it?
11:46:29 12 **A** There was blood all over.
11:46:31 13 **Q** But you can't tell -- well, I am not going to ask
11:46:35 14 you about the stains, because you are not sure what they
11:46:37 15 were.
11:46:37 16 **A** Yes.
11:46:38 17 **Q** Accurate?
11:46:39 18 **A** Yes.
11:46:39 19 **Q** You were in that office looking for, after you
11:47:03 20 took the photographs, looking for any -- any
11:47:08 21 fingerprint -- excuse me -- fingerprints of value?
11:47:10 22 **A** Yes, I was.
11:47:11 23 **Q** And do you recall finding any fingerprints on
11:47:23 24 this picture that's up on the Elmo besides the ones -- we
11:47:28 25 talked about the handle. Did you -- did you notice any --

11:47:32 1 any prints at all on that glass?
11:47:33 2 **A** I didn't.
11:47:35 3 **Q** Would that be something that you would have been
11:47:38 4 looking for?
11:47:40 5 **A** I would have at least seen the area around the
11:47:43 6 door handle because I know I looked at that. But I -- I
11:47:47 7 don't remember specifically looking at the whole piece of
11:47:50 8 glass inside and out.
11:47:51 9 **Q** Well, had you looked at the whole piece of glass
11:47:55 10 and you saw a print, would you have made a note of it?
11:47:58 11 **A** Yes. I would have attempted to lift any ridge
11:48:01 12 detail that I noticed.
11:48:02 13 **Q** Now, directing your attention to at least the one
11:48:07 14 window we saw by that what looked like to be a charger for
11:48:11 15 a hand set phone, do you remember looking at that window?
11:48:15 16 **A** I don't remember.
11:48:16 17 **Q** In your ordinary course of doing your work, is
11:48:20 18 that something you would normally do?
11:48:21 19 **A** I would hope that I would have looked at the
11:48:23 20 window, yes.
11:48:24 21 **Q** That's why you were there, right?
11:48:26 22 **A** Yes.
11:48:27 23 **Q** So you can't say for sure one way or the other, I
11:48:34 24 take it today, that you did not look at this window for
11:48:38 25 prints?

11:48:39 1 **A** That's correct.

11:48:39 2 MR. SEARS: Leading question. Double negative,

11:48:42 3 your Honor. Can't say you didn't do something.

11:48:47 4 THE COURT: Overruled. You may answer it if you

11:48:49 5 can.

11:48:51 6 MR. PAUPORE:

11:48:51 7 **Q** If you understood it?

11:48:52 8 **A** I can't say that I definitely did not look at the

11:48:56 9 window.

11:48:58 10 **Q** Okay.

11:49:01 11 **A** I think that was a triple negative.

11:49:04 12 MR. SEARS: Was that a yes, your Honor?

11:49:06 13 MR. PAUPORE:

11:49:07 14 **Q** Touche.

11:49:10 15 Now, I have got an exhibit that I want to

11:49:28 16 have you look at for identification purposes. Something

11:49:36 17 that Mr. Sears was talking to you.

11:49:37 18 May I approach, your Honor?

11:49:39 19 THE COURT: Yes.

11:49:39 20 MR. PAUPORE:

11:49:39 21 **Q** I am going to show you what has been previously

11:49:42 22 marked as Exhibit 3229, 230, 231 and ask you to look at

11:49:53 23 the three exhibits and see if you recognize them?

11:49:55 24 **A** Yes, I can.

11:50:27 25 **Q** What are they? What are those documents?

11:50:32 1 **A** Those are copies of pages that are contained in
11:50:36 2 my notes.
11:50:37 3 **Q** Is that part of your -- are those copies of part
11:50:41 4 of your file?
11:50:42 5 **A** Yes.
11:50:43 6 **Q** And did you author those documents?
11:50:47 7 **A** Yes, I did.
11:50:48 8 **Q** And what -- so that's your handy work?
11:50:56 9 **A** Yes.
11:50:56 10 **Q** All three documents?
11:50:57 11 **A** Yes.
11:51:00 12 MR. PAUPORE: State would offer Exhibits 329 --
11:51:11 13 3229, 230, and 32 -- 231 into evidence.
11:51:37 14 MR. SEARS: Could we have those numbers again?
11:51:39 15 THE COURT: 3229, 30 and 31.
11:51:46 16 MR. SEARS: Could I see what counsel has marked?
11:51:50 17 THE COURT: Yes.
11:51:51 18 MR. SEARS: Again we were just handed these.
11:51:56 19 Thank you. No objection.
11:52:09 20 THE COURT: 3229, 30 and 31 are admitted.
11:52:18 21 MR. PAUPORE:
11:52:19 22 **Q** I am going to show you 3229 first and ask you if
11:52:24 23 you can tell us what this is?
11:52:26 24 **A** It's a copy of my scientific examination report
11:52:32 25 dated July 25th, 2008, that was contained with a report

11:52:39 1 dated August 21st, 2008.

11:52:43 2 **Q** Okay. Next I am going to show you 3231 -- excuse

11:52:51 3 me -- 3230. What is 3230?

11:52:57 4 **A** That is a bad copy of the latent print that I

11:53:01 5 searched in AZ AFIS from 902.

11:53:05 6 **Q** We agree that is a bad copy. You happen to have

11:53:08 7 the original of this with you, correct?

11:53:13 8 **A** Yes, I do.

11:53:14 9 **Q** But you cannot give it up, can you?

11:53:18 10 **A** Correct. It's part of my report.

11:53:21 11 **Q** And so can I see that photograph? This is an

11:53:32 12 exact photograph of the one -- of the copy I have on the

11:53:39 13 screen?

11:53:40 14 **A** That's the original.

11:53:54 15 MR. SEARS: Could I have a question on voir dire,

11:53:55 16 your Honor.

11:53:56 17 THE COURT: Yes, you may.

11:54:10 18 MR. SEARS: Show her 3230 for identification.

11:54:17 19 MR. PAUPORE: Mr. Sears has a question on this

11:54:19 20 document.

11:54:23 21 VOIR DIRE EXAMINATION

11:54:23 22 MR. SEARS:

11:54:23 23 **Q** Ms. Daniel, in 3230 for identification, there is

11:54:28 24 a large print and a smaller print in the writings. Are

11:54:34 25 those the same latent?

11:54:35 1 **A** Is this 3230?

11:54:37 2 **Q** Yes.

11:54:38 3 **A** Yes, they are.

11:54:39 4 MR. SEARS: No objection.

11:54:42 5 THE COURT: Then what number are you asking to be

11:54:44 6 admitted at this time?

11:54:45 7 MR. PAUPORE: Your Honor, I am not marking this

11:54:46 8 as an exhibit. It's for demonstrative purposes only,

11:54:50 9 because -- so the witness can explain what she submitted

11:54:54 10 into the AFIS system.

11:54:57 11 THE COURT: Okay.

11:54:59 12 REDIRECT EXAMINATION (Resumed)

11:54:59 13 MR. PAUPORE:

11:54:59 14 **Q** This is a bad photo that is in evidence. This is

11:55:03 15 the one that is in your file?

11:55:05 16 MR. SEARS: That is not in evidence, your Honor.

11:55:06 17 THE COURT: Oh, I thought you were not objecting

11:55:09 18 to it.

11:55:10 19 Mr. Paupore, go ahead and take it off the

11:55:13 20 screen.

11:55:13 21 MR. PAUPORE: 3230 is in evidence.

11:55:16 22 MR. SEARS: Is that 3230?

11:55:25 23 MR. PAUPORE: This is in evidence.

11:55:26 24 MR. SEARS: What you are trying to display is the

11:55:28 25 original.

11:55:31 1 What the State is trying to display is a
11:55:34 2 document not in evidence for which I have no foundation.
11:55:37 3 3230 is a photocopy of that. That is in evidence.
11:55:41 4 THE COURT: Okay. Is the original going to be
11:55:44 5 offered?
11:55:46 6 MR. SEARS: They said DPS won't give it up.
11:55:51 7 MR. PAUPORE: I cannot -- I think the witness has
11:55:55 8 no authority to -- tell us, Erin.
11:56:00 9 **A** That's part of my official record. You can make
11:56:03 10 another copy of it.
11:56:05 11 **Q** The problem with copying it is that it doesn't
11:56:08 12 show the detail on your -- I was using it for
11:56:12 13 demonstrative purposes only to discuss the points and
11:56:16 14 references that Mr. Sears had asked her about on cross.
11:56:20 15 MR. SEARS: There is nothing demonstrative about
11:56:22 16 it, your Honor. It's not in evidence.
11:56:24 17 THE COURT: I can see from where -- appears to be
11:56:28 18 of different quality.
11:56:33 19 MR. SEARS: It can be part of the record.
11:56:35 20 THE COURT: It would not be part of the record,
11:56:37 21 Mr. Paupore. If the witness wishes to look at this and
11:56:40 22 then illustrate on the actual exhibit, Mr. Sears, would
11:56:44 23 you object to that?
11:56:47 24 MR. SEARS: I -- I am not sure why she would need
11:56:50 25 to do that, your Honor, but if that's the Court's ruling,

11:56:52 1 that's fine.

11:56:53 2 THE COURT: It seems to me this is the original

11:56:57 3 and what would be ideal is to get as close to an accurate

11:57:01 4 copy of this as possible, and I would suggest perhaps that

11:57:04 5 be attempted at some point if the parties want to look at

11:57:08 6 that, but at this time I am going to sustain the objection

11:57:10 7 because it could not be made part of the record and it

11:57:13 8 would be testified from if it's a -- something that could

11:57:18 9 assist without being demonstrated to the jury as I

11:57:22 10 understand it, Mr. Sears, you are not objecting to that;

11:57:24 11 is that correct?

11:57:25 12 MR. SEARS: Yes, your Honor.

11:57:26 13 THE COURT: Okay.

11:57:28 14 MR. PAUPORE: I will move on to the next exhibit.

11:57:30 15 3231.

11:57:36 16 **Q** I think this is just -- can you tell us what 3231

11:57:44 17 is?

11:57:45 18 **A** This shows the results that I get back after I do

11:57:48 19 a search. It shows the fingers that I searched. The

11:57:52 20 pattern type. And then the 15 candidate fingers that I

11:57:58 21 received.

11:57:59 22 **Q** That is the results that you received after you

11:58:03 23 submitted that -- the photograph or the photograph of the

11:58:10 24 print that is contained in 3230?

11:58:18 25 **A** Yes. That same latent.

11:58:20 1 **Q** And this is the results?

11:58:22 2 **A** Yes.

11:58:23 3 **Q** We talked about 15 replies and none of them come

11:58:28 4 back to your print?

11:58:29 5 **A** Right.

11:58:54 6 THE COURT: Is that going to be used anymore?

11:58:56 7 MR. PAUPORE: Just two.

11:58:58 8 THE COURT: For the rest of the -- I was just

11:59:00 9 going to have it moved out of the way. Okay. Go ahead.

11:59:04 10 MR. PAUPORE: One more time I might just make it

11:59:06 11 to the floor, your Honor.

11:59:08 12 **Q** I am going to ask you to go back, getting very

11:59:11 13 close to the end, 3230. Do you remember this photograph,

11:59:19 14 Erin?

11:59:19 15 **A** Yes, I do.

11:59:20 16 **Q** And --

11:59:22 17 MR. SEARS: Could we have the number, your Honor?

11:59:24 18 THE COURT: 3230.

11:59:25 19 MR. SEARS: No.

11:59:26 20 THE COURT: What was the number, Mr. Paupore?

11:59:29 21 MR. PAUPORE: 3203, your Honor.

11:59:32 22 MR. SEARS: Thank you, your Honor.

11:59:34 23 MR. PAUPORE:

11:59:34 24 **Q** And you were asked if you knew what those tracks

11:59:45 25 were and you weren't really sure?

11:59:47 1 **A** That's correct.

11:59:48 2 **Q** I think it's more visible towards the top of this

11:59:52 3 exhibit. Can you see that at all?

11:59:58 4 **A** Kind of, yes.

11:59:59 5 **Q** You mentioned a wheel device that you had?

12:00:02 6 **A** Yes. My crime scene kit is on wheels.

12:00:05 7 **Q** Your crime scene kit is on wheels?

12:00:08 8 **A** Yes.

12:00:08 9 **Q** How many wheels?

12:00:09 10 **A** Two.

12:00:11 11 **Q** And where did you walk into the crime scene?

12:00:15 12 MR. SEARS: Asked and answered. She said she

12:00:17 13 didn't know.

12:00:18 14 THE COURT: Overruled. You may answer that if

12:00:20 15 you can.

12:00:21 16 MR. PAUPORE:

12:00:21 17 **Q** With your crime scene kit?

12:00:23 18 **A** Yes. I walked from where we parked the car to

12:00:25 19 the front door.

12:00:28 20 **Q** Those tracks possibly could have come from your

12:00:32 21 crime scene kit?

12:00:34 22 **A** Yes.

12:00:34 23 **Q** Did you walk along this edge right there?

12:00:36 24 **A** I don't remember exactly.

12:00:37 25 **Q** You don't remember.

12:00:48 1 This photograph, that is the gate that you
12:00:51 2 and Kortney Snider were at. What was your understanding
12:01:01 3 of why you were out there?
12:01:04 4 **A** We were told that potentially someone had parked
12:01:06 5 in that area, gotten through the fence somehow, walked
12:01:11 6 through that open area with a bicycle and then walked to
12:01:16 7 the residence.
12:01:17 8 **Q** And again your purpose for going there, someone
12:01:21 9 from law enforcement took you out to this location, you
12:01:24 10 and Kortney?
12:01:24 11 **A** Yes.
12:01:25 12 **Q** And what were your -- what was your function out
12:01:30 13 there?
12:01:31 14 **A** We went to look at the gate. Look at the fence.
12:01:34 15 See if we can see anything stuck in that barb wire part to
12:01:39 16 see if there was any blood or tissue or fibers or anything
12:01:44 17 and then I also looked at the gate to see if there was any
12:01:47 18 obvious blood or if it was a surface I could find
12:01:50 19 fingerprints on.
12:01:51 20 **Q** And again your results were?
12:01:53 21 **A** All our results were negative.
12:01:58 22 MR. PAUPORE: Your Honor, that concludes my
12:02:00 23 examination.
12:02:01 24 THE COURT: Okay. Mr. Paupore, what was the
12:02:03 25 number of the exhibit you have on the screen up there?

12:02:07 1 MR. PAUPORE: Both of them? The one that is on
12:02:09 2 the screen.
12:02:09 3 THE COURT: The one that was just up right there.
12:02:12 4 MR. PAUPORE: 3212.
12:02:16 5 THE COURT: Okay. Thank you.
12:02:17 6 Are there questions from the jury? If I can
12:02:23 7 see the questions first before we recess.
12:03:42 8 There are quite a few questions, so we will
12:03:44 9 go ahead and take the noon recess at this time, Ladies and
12:03:49 10 Gentlemen. Please remember the admonition. I will need
12:03:52 11 time to review these with the attorneys. I am going to
12:03:57 12 ask that you be ready to come back in at 1:35, because as
12:04:05 13 I indicated we will need some time to go over the
12:04:08 14 questions as well and remember the admonition and,
12:04:11 15 Ms. Daniel, you will be excused for the lunch recess as
12:04:14 16 well, and recall the rule of the exclusion of witnesses
12:04:18 17 has been invoked.
12:04:19 18 Phil, I will need you to return so we can
12:04:21 19 get copies and then I will ask the parties to remain a
12:04:24 20 minute. Thank you.
12:04:25 21 We will be in recess.
12:05:11 22 (Witness and jury left courtroom.)
12:05:38 23 THE COURT: Phil will copy the questions for both
12:05:40 24 sides.
12:05:41 25 MR. PAUPORE: Judge, can Mr. Hammond and I

12:05:44 1 approach for a minute?
12:05:46 2 THE COURT: Okay.
12:05:47 3 (Discussion held off the record.)
12:07:55 4 THE COURT: We have a reporter here. Go on the
12:08:00 5 record. Just with regard to those exhibits, I think the
12:08:05 6 parties agree either I can comment on redaction or they
12:08:09 7 will be introduced noting that.
12:08:12 8 Counsel, is that correct?
12:08:14 9 MR. PAUPORE: Yes, your Honor.
12:08:15 10 For the record, we are talking about
12:08:17 11 Exhibits 3225, 3226, and because of prior earlier court
12:08:26 12 rulings, certain items on both of those exhibits have been
12:08:31 13 removed from the copied report. I would not be submitting
12:08:38 14 the originals in with the author of the documents, which
12:08:43 15 is Alexis Brown. We just would be submitting these
12:08:47 16 exhibits with the information that is -- has been
12:08:53 17 precluded and specifically it's about the Gary Fisher
12:08:59 18 bike.
12:09:01 19 THE COURT: Mr. Hammond?
12:09:02 20 MR. HAMMOND: As I said at the side bar, we have
12:09:06 21 no objection to that. Either Mr. Paupore can say that
12:09:11 22 portions have been deleted or the Court can.
12:09:16 23 Your Honor, while we're also on the next
12:09:20 24 witness, just to advise the Court, our DNA expert Norah
12:09:27 25 Rudin, as the Court may remember, was allowed to be here

12:09:30 1 during the testimony of the DNA experts. Was the only
12:09:35 2 exception to the rule of exclusion, Judge, and she is here
12:09:38 3 and will be here this afternoon.
12:09:39 4 THE COURT: Mr. Paupore.
12:09:40 5 MR. PAUPORE: Yes, your Honor. That's been
12:09:43 6 decided earlier and the State's aware Ms. Rudin will be
12:09:47 7 present.
12:09:47 8 THE COURT: Thank you. Do you want to look at
12:09:49 9 the questions now and have that covered before we break or
12:09:52 10 did you want a break.
12:09:53 11 MR. SEARS: I think if we could have a little
12:09:54 12 time over lunch to look at them.
12:09:56 13 Number five. Were those in pencil? They
12:10:00 14 didn't copy very well.
12:10:02 15 THE COURT: They look to be in black ink.
12:10:06 16 BAILIFF: I can darken it up.
12:10:07 17 MR. SEARS: Just didn't copy very well.
12:10:10 18 THE COURT: Mr. Sears and Mr. Butner, maybe, you
12:10:14 19 had a chance to look them and see how much time you might
12:10:17 20 estimate is necessary?
12:10:18 21 MR. SEARS: Just a few minutes, your Honor, when
12:10:21 22 we come back.
12:10:25 23 THE COURT: Then get the copy from Phil and I
12:10:32 24 would ask that you be back at 20 after.
12:10:36 25 MR. SEARS: That would be fine, your Honor.

12:10:38 1 Thank you.

12:10:38 2 THE COURT: 20 after 1:00. That should give us

12:10:41 3 time to go over them.

12:10:42 4 MR. SEARS: Thank you.

12:10:42 5 THE COURT: Thank you, and we will be in recess.

13:25:56 6 (Recess.)

13:25:56 7 THE COURT: The record will show the presence of

13:26:03 8 the defendant, Mr. Sears, and Mr. Hammond, Mr. Paupore,

13:26:07 9 Mr. Butner present for the State, and the jury is not

13:26:12 10 present.

13:26:13 11 This is the time to discuss the jury

13:26:15 12 questions. If you have your copies, first question is:

13:26:21 13 How do we ask for what an exhibit number is when it's put

13:26:25 14 on the Elmo but the prosecution doesn't say when it's put

13:26:29 15 up?

13:26:29 16 And all I can say about that, I think

13:26:31 17 everyone is trying to watch that and ask for numbers. I

13:26:36 18 don't think that's happened very often. I really don't.

13:26:40 19 Usually if one is asking by the time it -- the exhibit is

13:26:45 20 taken up or the state or the defense for that matter says

13:26:49 21 this is the number. I think I'll just answer that and

13:26:55 22 tell the jurors we are conscious of that and we are going

13:26:58 23 to try very hard to do that.

13:27:00 24 Mr. Paupore.

13:27:01 25 MR. PAUPORE: It maybe -- might be if we have got

13:27:03 1 a lot of exhibits to go through, if a juror has a question
13:27:07 2 about it, an exhibit that we are talking about, somehow
13:27:11 3 hasn't come up, be nice to let us know so we -- because we
13:27:15 4 can't go back and figure out what exhibit they are talking
13:27:18 5 about at this point. I'm just thinking might be a way
13:27:20 6 that if it's omitted, because it could happen again. Not
13:27:26 7 by me.
13:27:30 8 THE COURT: Mr. Sears.
13:27:31 9 MR. SEARS: I think the problem I can remember is
13:27:32 10 the jurors asking out loud what exhibit number they were
13:27:37 11 looking at. Surprised they would be hesitant to ask. Say
13:27:43 12 if you have a question, they can raise their hand.
13:27:48 13 THE COURT: That's something I could do.
13:27:51 14 Mr. Paupore, I think you have got a good point. I can
13:27:55 15 also say if there's -- if it's after the fact and there is
13:27:58 16 not a question, there could be some description of the
13:28:00 17 exhibit and we can attempt to answer what the question was
13:28:05 18 without just the number.
13:28:06 19 So anyway I will address that.
13:28:09 20 Page two -- part one. Can you get DNA from
13:28:31 21 fingerprint oil? Any objection?
13:28:35 22 Mr. Paupore?
13:28:36 23 MR. PAUPORE: Can you get DNA.
13:28:40 24 THE COURT: I think the hand secretions, skin
13:28:44 25 secretions is the reference.

13:28:48 1 MR. PAUPORE: I think this witness can answer
13:28:50 2 that because she says she is knowledgeable in serology and
13:28:52 3 DNA, so I would have no objection.
13:28:57 4 MR. SEARS: I think that would be if you know.
13:29:00 5 THE COURT: Okay. I will preface it,
13:29:02 6 Mr. Paupore, with that. If she can answer.
13:29:10 7 Part two. Can you spell ninhydrin? Can
13:29:17 8 anybody spell that?
13:29:20 9 MR. SEARS: I cannot spell it, your Honor.
13:29:22 10 THE COURT: Okay. I have a spelling here.
13:29:29 11 N-I-N-H-Y-D-R-I-N, but I am going to ask that, but I am
13:29:36 12 sure that's right.
13:29:39 13 Part three. Then there's just a follow-up.
13:29:43 14 Chemical that turns fingerprints purple.
13:29:46 15 Part three. Why didn't you exclude the two
13:29:48 16 Democker children in any of these since they had lived
13:29:51 17 there, too, at some point?
13:29:52 18 Any objection, Mr. Paupore?
13:29:54 19 MR. PAUPORE: No.
13:29:55 20 THE COURT: Mr. Sears?
13:29:55 21 MR. SEARS: No, your Honor.
13:29:56 22 THE COURT: Part four. There we go. There's a
13:30:04 23 crossed out question but an answer that's not crossed out.
13:30:07 24 We had that come up once before and I am going to skip to
13:30:11 25 five.

13:30:11 1 What page was the second print found on
13:30:16 2 Exhibit 3222? Any objection?
13:30:19 3 Mr. Paupore?
13:30:20 4 MR. PAUPORE: None, your Honor. But I think the
13:30:21 5 witness will probably have to have that exhibit to answer
13:30:24 6 it.
13:30:25 7 THE COURT: I would request that the attorneys
13:30:27 8 have exhibits, whoever happened to present the exhibit
13:30:30 9 probably makes most sense to have that attorney present
13:30:36 10 it.
13:30:36 11 MR. SEARS: 3222 is not admitted, your Honor.
13:30:40 12 MR. PAUPORE: That's true.
13:30:40 13 THE COURT: It was not. That was the series of
13:30:42 14 papers.
13:30:45 15 So I can just say where was the second print
13:30:52 16 found? Mr. Paupore, any suggestions?
13:30:56 17 MR. PAUPORE: I think just ask it and let her see
13:30:58 18 what she does with it. I will not get the exhibit out
13:31:04 19 because it has not been admitted.
13:31:07 20 MR. SEARS: Here it is if the State wants to show
13:31:09 21 the unadmitted exhibit to her.
13:31:12 22 MR. PAUPORE: I will show it.
13:31:13 23 THE COURT: I will ask them that. Mr. Paupore
13:31:16 24 will present the document.
13:31:21 25 Part six. Did you submit any of these

13:31:29 1 prints to NCIC?

13:31:31 2 Objection, Mr. Paupore?

13:31:32 3 MR. PAUPORE: None.

13:31:33 4 THE COURT: Mr. Sears?

13:31:33 5 MR. SEARS: I think I know what NCIC is, but

13:31:42 6 hasn't been any testimony that I can remember in this case

13:31:44 7 about it.

13:31:48 8 THE COURT: The reason is common experience and

13:31:50 9 experience doesn't fall within that.

13:31:53 10 MR. SEARS: Begs for follow up or some

13:31:55 11 explanation because two jurors or the same juror asking

13:31:59 12 two questions might be the same.

13:32:02 13 THE COURT: Next page.

13:32:03 14 MR. SEARS: Two different jurors want to know

13:32:05 15 about NCIC.

13:32:07 16 THE COURT: Should I just follow up and ask if

13:32:09 17 she knows what that stands for?

13:32:11 18 MR. SEARS: I would recommend that.

13:32:12 19 THE COURT: Mr. Paupore?

13:32:13 20 MR. PAUPORE: I agree.

13:32:22 21 MR. SEARS: What I am thinking of is the North

13:32:23 22 Carolina Institute of Cosmetology, but there might be

13:32:26 23 another one.

13:32:29 24 THE COURT: Did you look for prints on glass door

13:32:31 25 in Number 3215, which I'm pretty sure is admitted.

13:32:35 1 MR. PAUPORE: I think it has been asked a couple.
13:32:37 2 MR. SEARS: That you have. That is the
13:32:39 3 photograph of the white chair and the glass door and I
13:32:42 4 think -- I know I asked her about that.
13:32:44 5 MR. PAUPORE: And I know I asked her on redirect
13:32:46 6 about that.
13:32:47 7 THE COURT: Are both parties saying not to ask
13:32:49 8 that?
13:32:49 9 MR. PAUPORE: I think it has asked and answered.
13:32:52 10 THE COURT: Mr. Sears?
13:32:53 11 You know, my position is that I'd rather
13:32:55 12 clarify. I think that's one of the reasons to have jury
13:32:58 13 questions, but if the parties don't think it should be
13:33:01 14 asked --
13:33:01 15 MR. SEARS: I believe on redirect examination,
13:33:03 16 she talked a bit more about looking at the glass in
13:33:09 17 response to questions she was asked on cross about did she
13:33:12 18 look there, so I think that's a fair question with
13:33:15 19 appropriate follow up depending on her answer.
13:33:17 20 THE COURT: Yes. Both sides get follow up, of
13:33:20 21 course.
13:33:20 22 I am going to ask that then.
13:33:22 23 Part three. Do you know if the State of
13:33:25 24 Arizona puts their fingerprint data into NCIC's
13:33:29 25 fingerprint database?

13:33:32 1 MR. SEARS: What are the odds, your Honor, of two
13:33:34 2 jurors asking that question when there has not been a word
13:33:38 3 in this trial about NCIC. Just a passing thought, your
13:33:43 4 Honor, about jurors communicating with each other.
13:33:47 5 THE COURT: We are going to get into that. I
13:33:49 6 think Mr. King informed both of you of some additional
13:33:52 7 information that he told me about over the lunch hour.
13:33:56 8 MR. SEARS: My colleagues say that's often on
13:34:00 9 television. Probably on shows I don't watch, but that may
13:34:05 10 be the case. I just thought it was curious.
13:34:08 11 THE COURT: Any objection?
13:34:09 12 MR. SEARS: No, your Honor.
13:34:10 13 MR. PAUPORE: No, your Honor.
13:34:11 14 MR. SEARS: Isn't it really the same question
13:34:13 15 as --
13:34:15 16 MS. CHAPMAN: No, it's not.
13:34:16 17 MR. SEARS: -- number six on question number two?
13:34:20 18 THE COURT: One was did you submit any of these.
13:34:22 19 The other is a larger question of do you know if the State
13:34:25 20 of Arizona puts their fingerprint data --
13:34:28 21 MR. SEARS: I see. It is a different question.
13:34:29 22 Yes. No objection, your Honor.
13:34:30 23 THE COURT: Part four. Sorry. Page four, part
13:34:38 24 one. If photos number 3035 and 3214 show the same
13:34:46 25 doorknob, how come the blood spot and lighter colored area

13:34:51 1 is of different sizes and in pic 3215 shows same door,
13:34:58 2 different knob.
13:35:01 3 Mr. Paupore?
13:35:03 4 MR. PAUPORE: That has about three questions in
13:35:08 5 it. As far as the first part, Exhibit 3035 and 3214, I
13:35:23 6 think that's just a question for the jury to determine.
13:35:26 7 The photographs are in. It could be -- maybe the witness
13:35:31 8 can explain they were taken from different distances to
13:35:35 9 show different sizes, but I don't really know that for
13:35:38 10 sure.
13:35:42 11 THE COURT: Mr. Sears?
13:35:42 12 MR. SEARS: Your Honor, I think that's a fair
13:35:55 13 question. Should be asked, although the question about
13:35:58 14 the -- whether the knob in 3215 is the same is a little
13:36:03 15 troubling if they can't see the difference between the
13:36:05 16 knob on the inside and outside particularly after
13:36:07 17 examination. I'm sorry to hear that.
13:36:14 18 Same door. Different knob. People are
13:36:15 19 helping me understand these questions, your Honor. I have
13:36:17 20 no objection to all those.
13:36:19 21 Thank you.
13:36:20 22 THE COURT: So Mr. Paupore, I think it would be
13:36:23 23 asked if you don't object to this.
13:36:24 24 MR. PAUPORE: I don't object to it being asked.
13:36:26 25 Do we show the exhibit again?

13:36:28 1 THE COURT: I think that's a good idea to have
13:36:29 2 that ready.
13:36:35 3 3035 -- 3214, 3215.
13:36:40 4 MR. PAUPORE: Yes, sir.
13:36:42 5 THE COURT: Part two. When you do either of the
13:36:46 6 superglue or the ninhydrin -- ninhydrin -- ninhydrin, do
13:36:58 7 these prints remain or do they fade any?
13:37:02 8 MR. PAUPORE: No objection.
13:37:05 9 THE COURT: Mr. Sears?
13:37:06 10 MR. SEARS: I don't have an objection, your
13:37:08 11 Honor.
13:37:08 12 THE COURT: That will be asked.
13:37:10 13 When you ask for 15 matches, what happens if
13:37:15 14 there are more than that? Do you get multiple responses?
13:37:19 15 This is AZ AFIS.
13:37:23 16 MR. PAUPORE: No objection.
13:37:26 17 THE COURT: Mr. Sears?
13:37:27 18 MR. SEARS: No objection.
13:37:29 19 THE COURT: Part three will be asked.
13:37:31 20 And part four. You stated you received the
13:37:38 21 magazine and papers in September of '08. How could you
13:37:41 22 run the print in August?
13:37:44 23 MR. PAUPORE: No objection.
13:37:46 24 MR. SEARS: No objection.
13:37:47 25 THE COURT: Part four will be asked.

13:37:49 1 Page five. Part one. Did the fingerprint
13:37:58 2 that excluded Steve Democker, James Knapp and Carol
13:38:02 3 Kennedy match any other prints that you collected from
13:38:04 4 evidence items 852?
13:38:08 5 MR. PAUPORE: I think she answered that, but no
13:38:11 6 objection.
13:38:12 7 MR. SEARS: No objection.
13:38:13 8 THE COURT: That will be asked.
13:38:15 9 Part two. How long can a latent fingerprint
13:38:20 10 last on a surface? Any objection?
13:38:21 11 MR. PAUPORE: None.
13:38:22 12 MR. SEARS: No, your Honor.
13:38:23 13 THE COURT: That will be asked.
13:38:24 14 Part three. Did the latent on light bulb
13:38:30 15 match the latent on the paper that you have run through
13:38:34 16 AFIS?
13:38:34 17 MR. PAUPORE: No objection.
13:38:37 18 MR. SEARS: No objection.
13:38:37 19 THE COURT: Three will be asked.
13:38:40 20 And four. You may or may not have looked at
13:38:46 21 the window, but you're just not sure, correct?
13:38:52 22 MR. PAUPORE: I think that was asked about three
13:38:53 23 times, but I don't have any objection if you want to ask
13:38:56 24 it again.
13:38:57 25 THE COURT: Mr. Paupore asked it in some fashion

13:38:59 1 something like can you definitely say that you did
13:39:04 2 not check the window. I think that fits within clarifying
13:39:08 3 if a juror wants to hear it.
13:39:10 4 Any objection there, Mr. Paupore?
13:39:11 5 MR. PAUPORE: No, your Honor.
13:39:12 6 THE COURT: Mr. Sears?
13:39:13 7 MR. SEARS: I am just trying to mentally diagram
13:39:15 8 this sentence, your Honor, and I'm having trouble with the
13:39:18 9 dependent clauses. You may or may not have looked at the
13:39:22 10 window but you're just not sure, correct? So there's
13:39:26 11 three dependent clauses in there. I don't know how that
13:39:30 12 question could be answered by the witness.
13:39:34 13 THE COURT: I understand the question. If you
13:39:37 14 don't understand the question --
13:39:38 15 MR. SEARS: Oh, I think I understand what the
13:39:40 16 juror is getting at, but I don't think literally
13:39:43 17 grammatically she can answer this question.
13:39:46 18 THE COURT: Well, if you are not satisfied with
13:39:50 19 the question, Mr. Paupore, you don't object though,
13:39:55 20 correct? Or do you?
13:39:58 21 MR. PAUPORE: No, I don't object and, you know, I
13:40:02 22 think we are all assuming that it's the window in the room
13:40:06 23 that we have been calling the office and that's not
13:40:09 24 specific here, but I'm assuming that's the window they are
13:40:12 25 talking about, not the glass door. Because -- so that is

13:40:18 1 one assumption we have to make with this question.
13:40:22 2 But I don't have any objection and she
13:40:26 3 answered my convoluted backward question pretty good.
13:40:32 4 THE COURT: I think this is --
13:40:33 5 MR. PAUPORE: She can answer this one.
13:40:34 6 THE COURT: By follow up is how it can be
13:40:36 7 clarified.
13:40:39 8 MR. SEARS: Wouldn't a better question simply be
13:40:41 9 rephrased by the Court, did you look at the window in the
13:40:46 10 office or not? And then follow up or is your memory
13:40:51 11 unclear? That's what the juror is asking. That's two
13:40:55 12 questions and I think that can be answered. This is a lot
13:40:58 13 of dependent clauses and if she answers yes, we will never
13:41:03 14 know what she really meant.
13:41:05 15 MR. PAUPORE: That's fine, your Honor.
13:41:06 16 THE COURT: Is it your testimony that you're not
13:41:15 17 sure whether or not you looked at the window.
13:41:17 18 MR. SEARS: Or not.
13:41:19 19 THE COURT: No.
13:41:21 20 MR. SEARS: What?
13:41:22 21 MR. PAUPORE: I think to clarify --
13:41:23 22 MR. SEARS: That's the problem with this
13:41:24 23 question, your Honor.
13:41:26 24 MR. PAUPORE: Window in the office. That's the
13:41:29 25 only window I can think of that this question goes to.

13:41:35 1 THE COURT: Well --

13:41:38 2 MR. SEARS: I think if I understand the question,
13:41:40 3 I think it has been asked and answered a number of times.
13:41:42 4 I think on redirect she very clearly said I just don't
13:41:46 5 remember whether I looked at this window or not. I think
13:41:48 6 I did but I can't be sure. I think that is what she said.
13:41:51 7 I think that's the record.

13:41:54 8 THE COURT: This question is asked in the form of
13:41:58 9 a leading question. We haven't really gotten into form of
13:42:02 10 questions from jurors and whether they can be leading or
13:42:04 11 not.

13:42:04 12 MR. SEARS: Here is a direct question: Is it
13:42:06 13 your testimony that you are not sure if you looked at the
13:42:10 14 window in the office?

13:42:12 15 THE COURT: Any problem with that?

13:42:14 16 MR. PAUPORE: None.

13:42:15 17 THE COURT: Asked as modified.

13:43:00 18 With regard to the other matter we have been
13:43:03 19 talking about, I was going to ask Phil to request that
13:43:09 20 juror to wait at the end of the day and then I want to
13:43:13 21 talk to the parties first and then we will discuss where
13:43:16 22 to go from there.

13:43:17 23 Anything else on that or any other matter
13:43:19 24 you want to bring up before we bring the jury back in?
13:43:23 25 Mr. Paupore or Butner?

13:43:25 1 MR. PAUPORE: No, your Honor.
13:43:26 2 MR. BUTNER: No.
13:43:28 3 MR. SEARS: No.
13:43:28 4 THE COURT: Then we will start up as soon as we
13:43:30 5 can.
13:43:34 6 (Recess.)
13:45:51 7 THE COURT: Record will show the presence of the
13:45:56 8 defendant, all of the attorneys and the jury. The
13:45:59 9 witness, Ms. Daniel, is on the witness stand.
13:46:01 10 And, Ms. Daniel, I have the jury questions.
13:46:04 11 I will ask all of the questions and then the attorneys may
13:46:07 12 choose to follow up. Okay?
13:46:08 13 THE WITNESS: Okay.
13:46:09 14 QUESTIONS BY JURY
13:46:09 15 THE COURT: The first question actually I will
13:46:13 16 address myself. It has to do just generally making sure
13:46:17 17 when an exhibit is placed on the Elmo to be shown, that
13:46:24 18 the number is stated so everyone knows the number of that
13:46:30 19 exhibit and I am just going to say, Ladies and Gentlemen,
13:46:34 20 I am trying to be conscious of that. Apparently that has
13:46:37 21 been missed some times. I will continue to watch. The
13:46:40 22 attorneys will watch.
13:46:42 23 But if that happens, that's the kind of
13:46:47 24 thing if you put your hand up and remind us, I am not
13:46:52 25 going to be bothered by that. Of course we know we don't

13:46:55 1 want the jurors just stating questions out loud in court.
13:46:58 2 We can't do that, but something like that, a reminder if
13:47:02 3 that comes up if you choose to do that, that's fine.
13:47:05 4 Another thing I want to mention is this: If
13:47:09 5 you have a question though about an exhibit and for some
13:47:11 6 reason you didn't get the number down, you may still ask
13:47:16 7 the question. Refer to the exhibit, what it might be
13:47:18 8 showing and ask the question and then we can consider it
13:47:21 9 and present it to the witness even if we don't have the
13:47:25 10 number. Perhaps we could still get the substantive
13:47:28 11 question asked.
13:47:29 12 Okay. Now questions for Ms. Daniel.
13:47:34 13 If you know, can you get DNA from
13:47:37 14 fingerprint oil?
13:47:38 15 THE WITNESS: It is possible, but I don't think
13:47:43 16 it's very probable. There is not a lot of DNA in the
13:47:46 17 fingerprint residue. A lot of it is oils and sweat,
13:47:50 18 water. There's not DNA in those items.
13:47:53 19 THE COURT: And could you spell ninhydrin, the
13:47:56 20 chemical the turns fingerprints purple.
13:47:59 21 THE WITNESS: It's N-I-N-H-Y-D-R-I-N.
13:48:04 22 THE COURT: N-I-N-H-Y-D-R-I-N?
13:48:10 23 THE WITNESS: Yes.
13:48:10 24 THE COURT: Okay. Why didn't you exclude the two
13:48:16 25 Democker children in any of these since they had lived

13:48:19 1 there, too, at some point?

13:48:21 2 THE WITNESS: I did not receive any known

13:48:24 3 standards besides the three that we talked about over the

13:48:27 4 past two days of Kennedy, Democker and Knapp; otherwise, I

13:48:32 5 would have made that comparison.

13:48:35 6 THE COURT: Thank you.

13:48:36 7 Mr. Paupore, this next question relates to a

13:48:40 8 document that was not admitted into evidence, but it was

13:48:43 9 referred to by Ms. Daniel during testimony, and it has a

13:48:47 10 number 3222, if you have that.

13:48:50 11 MR. PAUPORE: I do, your Honor.

13:48:51 12 THE COURT: Because the next question Ms. Daniel

13:48:53 13 is: What page was the second print found on?

13:48:56 14 MR. PAUPORE: May I approach?

13:48:58 15 THE COURT: Yes.

13:48:58 16 MR. PAUPORE: Handing the witness Exhibit 3222.

13:49:02 17 THE WITNESS: And I am going to refer to my notes

13:49:05 18 as well. As the packet stands now, there are two prints

13:49:38 19 on page three, one on page six. And the last one is on

13:49:57 20 the back of page three in the stapled area.

13:50:02 21 THE COURT: Ready.

13:50:13 22 THE WITNESS: Yes.

13:50:14 23 THE COURT: Excuse me. I am going to read the

13:50:16 24 question and then I am going to ask for a bit of

13:50:19 25 explanation before we proceed with your response.

13:50:22 1 Did you submit any of these prints to NCIC?
13:50:26 2 First of all, do you know what NCIC refers
13:50:29 3 to?
13:50:29 4 THE WITNESS: I do. I don't know what it stands
13:50:32 5 for, but I know in general.
13:50:37 6 THE COURT: Did you submit any of these prints to
13:50:39 7 NCIC?
13:50:40 8 THE WITNESS: We don't have that ability. I
13:50:42 9 don't know if -- if they have a database that is
13:50:45 10 searchable. I can search in AZ AFIS and I also submit
13:50:48 11 prints to IAFIS which I would guess would contain all the
13:50:54 12 prints from throughout the country, that would also be in
13:50:56 13 NCIC.
13:51:00 14 THE COURT: And if one of the attorneys has 3215
13:51:06 15 available, because the next question is: Did you look for
13:51:09 16 prints on the glass door in Number 3215?
13:51:15 17 MR. PAUPORE: Your Honor, I have that exhibit.
13:51:17 18 THE COURT: Okay.
13:51:19 19 MR. PAUPORE: Erin, I am handing you Exhibit
13:51:28 20 3215.
13:51:29 21 THE WITNESS: I don't remember specifically
13:51:31 22 looking at the whole glass for fingerprints on this door.
13:51:38 23 MR. PAUPORE: Your Honor, should I put that up on
13:51:39 24 the Elmo so everybody knows what we're talking about?
13:51:42 25 THE COURT: Why don't you do that. Thank you.

13:51:57 1 MR. PAUPORE: Exhibit 3215 is on the overhead.
13:52:03 2 THE COURT: So that's the door you were referring
13:52:06 3 to in your answer?
13:52:07 4 THE WITNESS: Yes, it was.
13:52:11 5 THE COURT: Thank you, Mr. Paupore.
13:52:13 6 The next question is, and this is similar to
13:52:18 7 the question that asked if you submitted any of these
13:52:20 8 prints to NCIC. This question is: Do you know if the
13:52:24 9 State of Arizona puts their fingerprint data into NCIC's
13:52:28 10 fingerprint database?
13:52:30 11 THE WITNESS: Again I don't know much about NCIC
13:52:33 12 or how that works. All of the arrested people in Arizona
13:52:37 13 should be uploaded into the FBI's main criminal
13:52:41 14 fingerprint database.
13:52:44 15 THE COURT: And then this question refers to
13:52:48 16 three different exhibits, and I am just going to read
13:52:51 17 through the whole question.
13:52:53 18 If photos number 3035 and 3214 show the same
13:53:01 19 doorknob, how come the blood spot and lighter colored area
13:53:08 20 is a different size and in picture 3215, show same door,
13:53:14 21 different knob?
13:53:15 22 So start from the start, Mr. Paupore, if you
13:53:19 23 have 3035 and 3214.
13:53:23 24 MR. PAUPORE: I have that, your Honor and I will
13:53:25 25 hand them to the witness and 3215 is already up on the

13:53:29 1 display.

13:53:30 2 THE COURT: Thank you.

13:53:31 3 So the first part, Ms. Daniel. If those

13:53:33 4 Numbers 3035 and 3214 show the same doorknob, how come the

13:53:38 5 blood spot and lighter colored area is of different sizes?

13:53:44 6 THE WITNESS: I believe they are the same

13:53:45 7 doorknob. The pictures were taken at a different -- one

13:53:51 8 was taken further away from the other. So the scale is

13:53:54 9 different in the two photographs and the lighting is also

13:53:59 10 different.

13:54:01 11 THE COURT: And in picture 3215, show same door,

13:54:05 12 different knob?

13:54:07 13 THE WITNESS: That's 3215?

13:54:09 14 MR. PAUPORE: 3215 is on the screen.

13:54:11 15 THE WITNESS: So the doorknob in these pictures

13:54:13 16 would be the exterior part of that door.

13:54:18 17 THE COURT: Thank you.

13:54:18 18 MR. PAUPORE: And I will put --

13:54:20 19 THE COURT: Yes. Mr. Paupore, would you put up

13:54:23 20 3035, first.

13:54:32 21 MR. PAUPORE: 3035 --

13:54:34 22 THE COURT: Yes.

13:54:35 23 MR. PAUPORE: -- is going on the display.

13:54:42 24 THE COURT: And then 3214.

13:54:44 25 MR. PAUPORE: 3214.

13:54:53 1 THE COURT: Thank you.

13:54:59 2 When you do either the superglue or the

13:55:03 3 ninhydrin test, do these prints remain or do they fade

13:55:08 4 away? Fade away. I think it's fade away.

13:55:14 5 THE WITNESS: With ninhydrin, I can still see

13:55:17 6 most of the fingerprints on the documents as I was looking

13:55:20 7 at them today and yesterday. They will fade a little bit

13:55:23 8 so it won't be exactly the same as when I photographed it,

13:55:26 9 but those fingerprints are still visible.

13:55:29 10 Superglue prints can also stay visible.

13:55:33 11 It's different because when Superglue is on an item, it is

13:55:36 12 colorless, so the only time you could see it is if there's

13:55:39 13 contrast on the item that the superglue is on, but they

13:55:43 14 will stay.

13:55:46 15 THE COURT: When you ask for 15 matches, what

13:55:51 16 happens if there are more than that? Do you get multiple

13:55:55 17 responses? This is on AFIS.

13:56:00 18 THE WITNESS: Could you read it one more time?

13:56:02 19 THE COURT: It had two questions in there.

13:56:04 20 When you ask for 15 matches, what happens if

13:56:08 21 there are more than that? Do you get multiple responses?

13:56:12 22 This is Arizona AFIS, I think, or AZ AFIS.

13:56:21 23 THE WITNESS: When I'm searching in AFIS, I tell

13:56:23 24 it how many responses I want it to give me. If I say a

13:56:27 25 150, it will give me 150. If I say four, it gives me

13:56:31 1 four. So I choose 15 and so I always get 15 responses
13:56:36 2 back, no matter what.
13:56:39 3 The ones that come back later, those reverse
13:56:42 4 searches I was talking about from the latent stain in the
13:56:45 5 AFIS database, that comes back with just one candidate.
13:56:56 6 THE COURT: You stated you received the magazine
13:56:59 7 and papers in September of '08. How could you run the
13:57:03 8 print in August?
13:57:08 9 THE WITNESS: I can run the print at any time I
13:57:11 10 wanted to. I believe I spoke to someone at the Yavapai
13:57:14 11 County Sheriff's office who requested me to search it in
13:57:16 12 that database and at the beginning when I had the
13:57:20 13 magazine, I don't think I had every one's known prints to
13:57:23 14 compare to at that time.
13:57:42 15 THE COURT: Did the fingerprint that excluded
13:57:44 16 Steve Democker, James Knapp and Carol Kennedy match any
13:57:48 17 other prints that you collected from evidence item number
13:57:52 18 852?
13:57:54 19 THE WITNESS: I usually don't make comparisons
13:57:56 20 latent to latent, but it didn't match to any other print
13:58:01 21 that I had.
13:58:04 22 THE COURT: How long can a latent fingerprint
13:58:07 23 last on a surface?
13:58:08 24 THE WITNESS: It depends greatly on the surface
13:58:11 25 and the circumstances of the print when they are left

13:58:13 1 behind.

13:58:14 2 A print can stay for a really long time if

13:58:18 3 the surface is protected. Things like paper, people have

13:58:24 4 gotten fingerprints off of historical documents that have

13:58:26 5 been there for hundreds of years.

13:58:28 6 So it depends on what kind of fingerprint

13:58:30 7 residue makes that fingerprint and then what the surface

13:58:34 8 is and what happens to that item after the fingerprint is

13:58:37 9 deposited. If it's protected, it can stay for a long

13:58:40 10 time.

13:58:42 11 THE COURT: Did the latent on the light bulb

13:58:45 12 match the latent on the paper that you have run through

13:58:48 13 AFIS?

13:58:49 14 THE WITNESS: I couldn't compare those. They're

13:58:50 15 from different areas of the finger, so there's no way to

13:58:53 16 tell.

13:58:57 17 THE COURT: Is it your testimony that you are not

13:59:04 18 sure whether you looked at the window in the office?

13:59:07 19 THE WITNESS: Yes, it is.

13:59:10 20 THE COURT: Follow-up questions, Mr. Paupore?

13:59:12 21 MR. PAUPORE: Yes, your Honor. Thank you.

13:59:15 22 REDIRECT EXAMINATION

13:59:16 23 MR. PAUPORE:

13:59:16 24 Q Erin, on the area of the 15, you submit the

13:59:20 25 print, you ask for 15 responses. Is there a reason you

13:59:25 1 pick 15?

13:59:26 2 **A** I pick 15 because I did have a match at ten one

13:59:30 3 time on so I wanted to make sure I get more than that.

13:59:33 4 And also I can -- I can tell the last five

13:59:37 5 or so candidates when I do 15 are not even close matches,

13:59:41 6 so I feel comfortable that 15 is a good enough number that

13:59:45 7 I am not going to miss anything.

13:59:49 8 **Q** This is back on the question regarding the

13:59:56 9 magazine, the Body and Soul magazine that you received in

14:00:00 10 September, according to your chain of custody. Is that

14:00:05 11 what your testimony was?

14:00:07 12 **A** I don't remember. I would have to look to make

14:00:08 13 sure.

14:00:09 14 **Q** Would you take a look as those documents because

14:00:13 15 I am still a little confused in this area.

14:01:01 16 **A** Sorry. So item 852 was the pages that I received

14:01:24 17 in July.

14:01:26 18 Item 902 was pages with the magazine.

14:01:36 19 **Q** What item was that? Nine zero --

14:01:38 20 **A** 902. I received that in October.

14:01:40 21 The print that I searched in AFIS was from

14:01:43 22 item 852.

14:01:46 23 **Q** Okay. So what -- did you run any prints in

14:01:52 24 August of 2008?

14:01:55 25 **A** Yes.

14:01:56 1 **Q** What prints did you run in August of 2008?
14:01:59 2 **A** The print from item 852.
14:02:02 3 **Q** Okay. But you received 852 in July of 2008?
14:02:08 4 **A** Correct.
14:02:08 5 **Q** Then you ran the print in August on this same
14:02:14 6 item, August of 2008?
14:02:16 7 **A** Correct. That was after I was able to compare it
14:02:19 8 to Carol Kennedy's prints which I did not have in July.
14:02:23 9 **Q** You waited until you got Carol Kennedy's prints
14:02:26 10 that we talked about earlier to make an analysis?
14:02:30 11 **A** Right. I wanted to make sure that print wasn't
14:02:33 12 hers before I searched in AFIS.
14:02:36 13 MR. PAUPORE: Thank you. That is all the
14:02:38 14 questions I have.
14:02:38 15 THE COURT: Thank you, Mr. Paupore.
14:02:41 16 Mr. Sears.
14:02:41 17 RECROSS-EXAMINATION
14:02:41 18 MR. SEARS: Very briefly.
14:02:43 19 **Q** So there were two unidentified latents, one from
14:02:48 20 852 and the other from where?
14:02:51 21 **A** I have one print from 852 that I excluded all
14:02:54 22 three people. That's the only print I have that I was
14:02:57 23 able to exclude everyone.
14:02:58 24 **Q** What is the other print you ran through AFIS?
14:03:00 25 **A** That was from the light bulb and it was

14:03:03 1 inconclusive to all three people.

14:03:05 2 **Q** And that one was of poor ridge detail quality for

14:03:11 3 comparison than the latent from 852, correct?

14:03:15 4 **A** Yes. And it was also from the side of a finger

14:03:18 5 which doesn't show pattern area, so it's harder to search.

14:03:22 6 **Q** And that turned out to be correct because you had

14:03:25 7 nothing of any use out of AFIS when you ran the light bulb

14:03:29 8 latent through that system, correct?

14:03:32 9 **A** Yes. That's correct.

14:03:33 10 **Q** People were talking about matches. What you're

14:03:39 11 asking AFIS to do is to find the, from their database, the

14:03:45 12 prints in the database that most closely resemble the

14:03:50 13 questioned latent that you're submitting, correct?

14:03:53 14 **A** Correct. It's based on algorithms and I think it

14:03:56 15 ends up with a score and it will give me the top 15 scores

14:04:01 16 of that search.

14:04:04 17 **Q** And so as you said if you get down past ten in

14:04:07 18 your experience, if you're not seeing anything even close,

14:04:10 19 the likelihood of any further requests producing anything

14:04:16 20 of value is almost nonexistent, right?

14:04:18 21 **A** If I had chosen something over 15, I don't think

14:04:22 22 that would have helped my search. It doesn't change what

14:04:26 23 could happen in the future when new people are entered

14:04:29 24 into the system.

14:04:31 25 MR. SEARS: No other questions, your Honor.

14:04:33 1 THE COURT: I will needs to conduct a side bar
14:04:55 2 with the two final jury questions that I have just been
14:04:58 3 handed.
14:05:58 4 (Discussion held off the record.)
14:06:02 5 QUESTIONS BY JURY
14:06:02 6 THE COURT: Ms. Daniel, it looks like I have two
14:06:18 7 more jury questions. I have two more jury questions.
14:06:31 8 Can you explain again how a reverse search
14:06:35 9 works because I still don't understand why you only get
14:06:40 10 one each time instead of multiple?
14:06:43 11 THE WITNESS: Okay. So an original search that I
14:06:46 12 do, the latent is searched against however many knowns are
14:06:52 13 in the system. I choose how many candidates I want.
14:06:57 14 Later if I don't make an identification,
14:07:00 15 that latent is solved (sic) in a different category called
14:07:03 16 the unsolved latent database. So then it sits in there
14:07:07 17 and then when a new person is arrested and there is no
14:07:10 18 fingerprints to be searched, it searches the known against
14:07:16 19 the latents that are in that file. So that is why it is
14:07:19 20 reverse.
14:07:19 21 First it was one latent to many knowns.
14:07:24 22 Then I have one known set, which is searched against many
14:07:28 23 latents in that unsolved latent file. So there is only
14:07:32 24 one known that could come up every time.
14:07:40 25 THE COURT: Why didn't you ask for better prints

14:07:44 1 to be made of Carol Kennedy so you could better rule out
14:07:48 2 her prints?
14:07:49 3 THE WITNESS: I would have loved to have better
14:07:51 4 prints of Carol Kennedy. By the time we actually found
14:07:54 5 the one set of prints that did exist, I think it was too
14:07:57 6 late to get another set.
14:08:01 7 THE COURT: Follow up on those questions?
14:08:02 8 Mr. Paupore?
14:08:03 9 MR. PAUPORE: None, your Honor.
14:08:04 10 THE COURT: Mr. Sears?
14:08:04 11 MR. SEARS: No, your Honor.
14:08:05 12 THE COURT: Okay. Thank you.
14:08:07 13 May Ms. Daniel be excused as a witness,
14:08:08 14 Counsel?
14:08:09 15 MR. PAUPORE: She's excused.
14:08:12 16 MR. SEARS: Yes, your Honor.
14:08:13 17 THE COURT: Ms. Daniel, you are excused as a
14:08:15 18 witness. Please watch your step there. Remember that the
14:08:17 19 rule of exclusion of witnesses has been invoked. Thank
14:08:20 20 you.
14:08:20 21 THE WITNESS: Thank you.
14:08:23 22 THE COURT: Mr. Paupore or Mr. Butner, you may
14:08:35 23 call your next witness.
14:08:36 24 MR. PAUPORE: Your Honor, State would call Alexis
14:08:39 25 Brown.

14:08:40 1 THE COURT: Alexis Brown.

14:09:10 2 If you would please stand where the bailiff

14:09:12 3 is directing you, raise your right hand, and be sworn by

14:09:14 4 the clerk.

14:09:17 5 ALEXIS BROWN

14:09:24 6 called, sworn, and testified as follows:

14:09:24 7 THE COURT: Please be seated there at the witness

14:09:26 8 stand.

14:09:32 9 And would you please begin by stating and

14:09:40 10 spelling your full name.

14:09:41 11 THE WITNESS: Is Alexis Brown. That's spelled

14:09:45 12 A-L-E-X-I-S B-R-O-W-N.

14:09:49 13 THE COURT: Thank you. Mr. Paupore.

14:09:52 14 DIRECT EXAMINATION

14:09:52 15 MR. PAUPORE: Thank you, your Honor.

14:09:52 16 **Q** Thank you for waiting, Alexis. I know you have

14:09:57 17 been patiently waiting to come on to the stand.

14:10:00 18 Where are you employed?

14:10:01 19 **A** I work at a company called Sorenson Forensics.

14:10:04 20 We're a privately owned DNA testing laboratory.

14:10:08 21 MR. SEARS: Your Honor, perhaps the witness could

14:10:09 22 have the microphone a little bit closer to her.

14:10:13 23 THE COURT: Ms. Brown, if you could adjust --

14:10:15 24 THE WITNESS: Is that better?

14:10:17 25 MR. PAUPORE:

14:10:17 1 Q That will work.

14:10:18 2 What is your occupation?

14:10:19 3 A I'm a forensic DNA analyst supervisor.

14:10:22 4 Q Can you describe your duties?

14:10:24 5 A Sure. I work in the capacity of a forensic DNA

14:10:29 6 analyst. That involves performing some of the DNA

14:10:32 7 testing, but more often it's doing analysis of the data

14:10:35 8 from the DNA tests themselves.

14:10:37 9 I also supervise five staff members. Some

14:10:40 10 are DNA analysts; some are serologists. And I am also the

14:10:44 11 quality manager and the training coordinator at Sorenson.

14:10:48 12 Q How long have you worked for Sorenson Forensics?

14:10:53 13 A I have worked there for approximately two years.

14:10:56 14 Q Please give us your educational background.

14:10:58 15 A I have a bachelor of science degree in cell and

14:11:03 16 molecular biology from Tulane University in New Orleans.

14:11:08 17 I'm sorry. Did you ask for my training background?

14:11:09 18 Q No. That is coming next.

14:11:11 19 So you've got a bachelor of microbiology?

14:11:15 20 A Cell and molecular biology.

14:11:18 21 Q From Tulane University?

14:11:20 22 A Yes.

14:11:20 23 Q And prior to your current employer, where else

14:11:29 24 have you worked?

14:11:30 25 A Before I was employed by Sorenson, I worked at a

14:11:33 1 company called ReliaGene Technologies that was located in
14:11:36 2 New Orleans. They're also a private DNA testing company
14:11:39 3 and then I worked there for about three years and prior to
14:11:43 4 that, I worked at the New Orleans Police Department DNA
14:11:46 5 laboratory for about a year.
14:11:47 6 **Q** Is that following your undergrad?
14:11:51 7 **A** Yes.
14:11:51 8 **Q** Tell us, have you participated or do you
14:11:58 9 participate in continuing education and training in your
14:12:01 10 field?
14:12:01 11 **A** I do.
14:12:02 12 The FBI actually has a set list of rules and
14:12:05 13 standards that we have to follow in the DNA testing
14:12:10 14 community and one of those rules is that we have to
14:12:12 15 participate in eight hours of continuing education every
14:12:15 16 year and that can be in the form of attending a seminar,
14:12:18 17 receiving additional training, those kinds of things.
14:12:21 18 Attending professional meetings and I have satisfied that
14:12:24 19 every year since I have become a DNA analyst.
14:12:27 20 **Q** Who was the last part? I missed --
14:12:28 21 **A** I have satisfied that every year since becoming a
14:12:30 22 DNA analyst.
14:12:31 23 **Q** Okay. And have you had any -- any other
14:12:39 24 training -- have you had any training in serology?
14:12:42 25 **A** Yes. I received my serology training, the

14:12:46 1 majority from ReliaGene Technologies. I have received
14:12:50 2 testing -- training in the testing of semen and blood and
14:12:55 3 then I received testing training and testing in saliva at
14:12:59 4 Sorenson.
14:13:00 5 **Q** What is serology? What is serology in general?
14:13:06 6 **A** When we refer to serology, we are talking about
14:13:08 7 forensics. We are basically meaning it's a step before
14:13:11 8 DNA testing. Could be anything from just cutting a swab
14:13:15 9 and sticking it in a tube to prepare it for DNA testing or
14:13:18 10 it could be more of a lengthy examination of the evidence
14:13:21 11 to identify blood or semen or other body fluids or to
14:13:25 12 simply just swab the item for areas that may contain
14:13:28 13 cells.
14:13:29 14 **Q** What training have you had in DNA testing?
14:13:36 15 **A** My DNA testing training was performed at the New
14:13:40 16 Orleans police department crime laboratory.
14:13:42 17 They hired a consultant trainer from New
14:13:46 18 Jefferson Parish DNA lab, which is also located in New
14:13:50 19 Orleans and she came out and trained us. The requirement
14:13:53 20 is for six months of DNA training and I received
14:13:56 21 approximately seven months of training. That involves
14:14:00 22 practice sets where you get all different types of
14:14:03 23 practice samples. You know, you get all kind of things
14:14:06 24 cigarette butts, swabs from door handles, as well as the
14:14:11 25 more typical DNA test items like blood and semen.

14:14:15 1 We did those in sets and we also get mock
14:14:19 2 cases for our training. They set them up, you know, as if
14:14:22 3 it's a real case and we test those as part of the
14:14:25 4 practice.
14:14:26 5 And then at the end at the conclusion of the
14:14:29 6 training, we did what is called a competency test, and in
14:14:33 7 that, it's essentially like a mock test case where we have
14:14:35 8 to go from the beginning to the end of the process and
14:14:38 9 obtain the correct results. We -- obviously we don't know
14:14:41 10 what samples we have in our hands when we start off, and
14:14:43 11 so we have to obtain correct results and we also have to
14:14:46 12 take a test to ensure that we understand the science
14:14:50 13 behind what we're doing.
14:14:51 14 **Q** At Sorenson, are there further competency tests
14:14:58 15 that you have to take?
14:14:59 16 **A** Any time you transfer to a new laboratory, you
14:15:02 17 have to do a competency test. The reason being the
14:15:04 18 protocols can differ slightly from laboratory to
14:15:06 19 laboratory, so, yes, at every time I moved to a new
14:15:09 20 laboratory, I had to take a competency test.
14:15:11 21 **Q** Is there something in the FBI standards that you
14:15:14 22 have to perform yearly besides the eight hours of
14:15:20 23 continuing education? Is there any other requirements
14:15:24 24 that you must meet for FBI standards?
14:15:26 25 **A** To review current scientific literature. They

14:15:29 1 don't specify how much or how often, but traditionally if
14:15:33 2 you have read at least one article a year, that is
14:15:35 3 considered to be sufficient.
14:15:36 4 Our laboratory will pass out articles
14:15:39 5 periodically and have us read them and we get together as
14:15:41 6 a group and discuss them.
14:15:43 7 We also have to participate in proficiency
14:15:45 8 testing and that's again like a mock case, but we get it
14:15:49 9 from an outside agency, and we don't know what the answers
14:15:51 10 are. We have to perform the tests, come to the
14:15:54 11 conclusions and provide that company with the results.
14:15:58 12 They grade it and send it back to us.
14:16:00 13 **Q** Do you do the proficiency testing at Sorenson?
14:16:03 14 **A** Yes.
14:16:04 15 **Q** And how often is that?
14:16:06 16 **A** We have to do that twice a year for every
14:16:09 17 analyst.
14:16:09 18 **Q** Every analyst twice a year?
14:16:11 19 **A** Yes.
14:16:11 20 **Q** And I think you already answered, do you keep
14:16:14 21 current in the literature in your particular field?
14:16:18 22 **A** Yes, I do.
14:16:19 23 **Q** What is accreditation?
14:16:22 24 **A** Accreditation is the process of proving to --
14:16:29 25 that you are satisfying the rules and requirements of a

14:16:31 1 DNA laboratory in our field.

14:16:34 2 So there are different organizations out

14:16:36 3 there that come in and perform an audit of your laboratory

14:16:38 4 to make sure you're following the correct standards and

14:16:41 5 the correct rules.

14:16:42 6 **Q** As to Sorenson Forensics, is that lab accredited?

14:16:47 7 **A** Yes.

14:16:47 8 **Q** What does accreditation actually mean?

14:16:54 9 **A** Well, there are rules for our industry. There's

14:16:57 10 several different sets of rules. The FBI sets down what

14:17:00 11 is called the quality assurance standard. That's the bare

14:17:02 12 minimum that any forensic DNA laboratory in the United

14:17:05 13 States has to meet.

14:17:07 14 There's an organization called ASCLD lab,

14:17:10 15 which is well known. It's the American Society of Crime

14:17:13 16 Laboratory Directors Laboratory Accreditation Board. They

14:17:16 17 have additional standards that they want DNA laboratories

14:17:19 18 to meet that go above and beyond FBI standards, and then

14:17:23 19 the international standards from ISOS, the International

14:17:26 20 Organization For Standardization, and they have yet

14:17:28 21 another set of rules, and so a laboratory will, in order

14:17:32 22 to produce DNA testing results to be entered into courts

14:17:36 23 of law, they have to show that at the bare minimum they

14:17:38 24 are meeting those FBI standards and they have the option

14:17:41 25 of meeting ASCLD lab standards as well as ISOS standards.

14:17:45 1 **Q** Is Sorenson ASCLD certified?
14:17:48 2 **A** Yes. We actually have the ASCLD lab
14:17:51 3 international certification, which encompasses the FBI
14:17:54 4 standards, the ASCLD lab standards and ISOS standards.
14:17:57 5 **Q** Does Sorenson Forensics train other DNA analysts?
14:18:08 6 **A** Actually yes. That is something that we can do
14:18:11 7 on a contractual basis. We have done that and
14:18:13 8 individuals, specifically most recently from Nigeria, have
14:18:16 9 come in and we have trained them on how to become DNA
14:18:20 10 analysts. They have qualified under the standards.
14:18:23 11 **Q** Does your company help set up DNA laboratories
14:18:26 12 for, say, a company in Nigeria?
14:18:29 13 **A** We have done it abroad and we have also done it
14:18:31 14 within the United States, yes.
14:18:33 15 **Q** What is the American Society of Crime Laboratory
14:18:39 16 Directors?
14:18:39 17 **A** That's a group of, as you can tell by the name,
14:18:43 18 crime laboratory directors. It's also some other
14:18:46 19 positions in the field as well and they get together and
14:18:49 20 talk about what they think is appropriate for our field.
14:18:52 21 What they are going to do next. What is a good idea and
14:18:54 22 that's when they came up with the laboratory accreditation
14:18:57 23 board. Let's have a nice accredited body that can go out
14:19:00 24 there and audit these labs and make sure they're doing
14:19:02 25 what they are supposed to be doing. And they do other

14:19:05 1 things other than just that, but that is one of their
14:19:07 2 primary functions.
14:19:08 3 **Q** Is that the ASCLD acronym?
14:19:11 4 **A** ASCLD lab? Yes.
14:19:13 5 **Q** When was your laboratory accredited?
14:19:19 6 **A** We received our accreditation initially in
14:19:22 7 December of 2007.
14:19:24 8 **Q** Does for -- Sorenson Forensics follow the
14:19:31 9 standards and guidelines of any organization?
14:19:34 10 **A** As I stated before, we follow the FBI's quality
14:19:39 11 assurance standards. We follow the ISOS standards and we
14:19:42 12 also follow the ASCLD lab standards.
14:19:44 13 **Q** The organizations that we were talking to?
14:19:47 14 **A** Uh-huh. Yes.
14:19:48 15 **Q** Okay. Does Sorenson laboratories make any
14:19:54 16 protocols for testing?
14:19:55 17 **A** Yes. We do maintain written protocols.
14:19:58 18 **Q** Here we are talking about DNA testing?
14:20:00 19 **A** Absolutely.
14:20:01 20 **Q** And what is the purpose of having protocols?
14:20:03 21 **A** The purpose of a written protocol -- first of
14:20:05 22 all, a protocol is basically a set of work instructions,
14:20:08 23 step by step exactly what you do in a DNA test, and the
14:20:11 24 reason we have them written down and we have the written
14:20:13 25 protocols is so that if you have different individuals

14:20:16 1 performing the same tests, they perform the test the same
14:20:20 2 way because they have to follow that written list of
14:20:23 3 instructions.
14:20:23 4 The other reason that we have them written
14:20:26 5 down is if we come in and get audited, the auditor has --
14:20:29 6 can see exactly step by step what we're doing in the
14:20:32 7 laboratory and they can make sure that it's, you know,
14:20:34 8 correct and accurate for what we're doing and our
14:20:38 9 validation is supported.
14:20:39 10 **Q** Are the protocols intended to cover every step of
14:20:44 11 the process from receipt of the evidence to the writing of
14:20:50 12 the final report?
14:20:50 13 **A** Yes. Every single step of protocol is covered.
14:20:53 14 **Q** And did you follow these protocols while testing
14:20:59 15 the items that we are going to be talking about later on
14:21:01 16 in this case?
14:21:02 17 **A** Yes, we did.
14:21:03 18 **Q** Do the written protocols for DNA testing follow
14:21:09 19 scientific methods that are generally accepted by the
14:21:12 20 scientific community in the United States for forensic DNA
14:21:16 21 testing?
14:21:17 22 **A** Yes. The protocols that are used from lab to lab
14:21:21 23 can vary slightly, but generally speaking the techniques
14:21:23 24 that we use are utilized in laboratories all over the
14:21:26 25 country.

14:21:27 1 Q Does your company have a quality assurance
14:21:29 2 program?
14:21:29 3 A Yes, we do have a quality assurance program.
14:21:32 4 Q And who is person in charge of that?
14:21:38 5 A That would be me. I'm actually technically --
14:21:40 6 our technical leader is the person who has ultimate
14:21:43 7 responsibility for it, but I do most of the legwork on it
14:21:46 8 and he just sort of signs the statement.
14:21:49 9 Q So you're the QA person?
14:21:50 10 A Yes.
14:21:51 11 Q Nice to meet you.
14:21:53 12 I don't know if I asked this question or
14:21:59 13 not, but did you -- does your company participate -- does
14:22:02 14 it participate in proficiency testing as you described?
14:22:04 15 A Yes.
14:22:05 16 Q Are all the employees, either serologists or DNA
14:22:09 17 analysts required to do the proficiency testing?
14:22:13 18 A The serologists, the DNA analysts and DNA
14:22:15 19 technicians are required to undergo proficiency testing.
14:22:18 20 Obviously some of the more administrative positions, there
14:22:22 21 is no such proficiency test for them.
14:22:24 22 Q Earlier you indicated you supervise five
14:22:27 23 employees?
14:22:28 24 A Yes. That's currently. Yes.
14:22:30 25 Q What -- what fields or what studies, area of

14:22:38 1 occupation of the five people that you study -- that you
14:22:40 2 supervise?
14:22:40 3 **A** I supervise three serologists and two forensic
14:22:43 4 DNA analysts.
14:22:45 5 **Q** Have you ever testified in court before?
14:22:50 6 **A** I have.
14:22:51 7 **Q** And have you ever testified as an expert witness?
14:22:54 8 **A** Yes.
14:22:55 9 **Q** Can you tell us the names of the courts of law
14:22:59 10 that you have testified in?
14:22:59 11 **A** I have to refer to my CV. Is that all right if I
14:23:03 12 do that?
14:23:04 13 **Q** If it helps you refresh your recollection, take a
14:23:07 14 look?
14:23:07 15 **A** I can recall the state, but not the exact court.
14:23:10 16 **Q** The state would be okay.
14:23:11 17 **A** Once was in Mississippi. Once was in Florida.
14:23:14 18 **Q** Is that where you were employed by the Louisiana
14:23:17 19 (sic) police department?
14:23:18 20 **A** I believe those were ReliaGene cases.
14:23:22 21 **Q** For ReliaGene? How do you spell that?
14:23:24 22 **A** R-E-L-I-A-G-E-N-E.
14:23:28 23 **Q** Is that a private company?
14:23:31 24 **A** They were. They have been purchased by a larger
14:23:34 25 company and since closed, but, yes, they were.

14:23:37 1 **Q** When your laboratory receives evidence, what
14:23:43 2 steps are taken to ensure the integrity of that evidence?
14:23:49 3 **A** From the time the evidence comes in the door, we
14:23:52 4 maintain a documentation on who has it, where it is, so
14:23:57 5 that we know on any given time or date, we know exactly
14:24:00 6 where that evidence was.
14:24:01 7 Our building is very secure. The forensic
14:24:04 8 laboratory is even further secured, limiting access to who
14:24:07 9 can come in. And then our evidence storage room is the
14:24:10 10 most secure of all of the rooms in our laboratory. Only
14:24:13 11 specific people are allowed access to that room.
14:24:15 12 **Q** Where is Sorenson Forensics located?
14:24:19 13 **A** We are in Salt Lake City, Utah.
14:24:22 14 **Q** Down here in Arizona visiting us?
14:24:25 15 **A** Right. I love this town. It's very nice. I
14:24:27 16 have been walking around. Very nice.
14:24:29 17 **Q** First time here?
14:24:31 18 **A** Yes. It was my first time in Prescott.
14:24:33 19 **Q** So you have a system for chain of custody of the
14:24:41 20 evidence that's received?
14:24:43 21 **A** Yes. That document that I was referring to
14:24:45 22 earlier is the chain of custody. That just shows who has
14:24:48 23 it, when they had it, and it's like a complete document
14:24:51 24 from the time the evidence comes in the door to the time
14:24:53 25 it goes out the door.

14:24:54 1 **Q** And your system is such that any analyst can take
14:24:58 2 a look into the data for that particular file and locate
14:25:02 3 any particular piece of evidence?
14:25:04 4 **A** Well, the chain of custody is restricted to the
14:25:07 5 evidence packaging. You know, the evidence itself. Not
14:25:09 6 to the data, but, yes, at any time they can look up in
14:25:14 7 our -- we actually have an electronic system and they can
14:25:16 8 look up and see exactly where it is and go to the exact
14:25:20 9 location and find it.
14:25:21 10 **Q** As the quality assurance manager or supervisor --
14:25:31 11 I am not sure.
14:25:32 12 **A** Quality assurance manager.
14:25:33 13 **Q** How do you ensure that a proper chain of custody
14:25:37 14 is maintained?
14:25:38 15 **A** Well, we have got protocols in place for the
14:25:42 16 receipt of the evidence and for what is called logging it
14:25:45 17 in. That's where it actually gets all the bar coding and
14:25:50 18 where the tracking begins and it's continued and we have
14:25:53 19 got a protocol for when somebody checks it out, how you
14:25:55 20 check it out, how you check it back in. And then when the
14:25:58 21 case paperwork is being reviewed at the very end, we
14:26:01 22 review chain of custody to ensure it's been maintained
14:26:04 23 correctly and that it is complete.
14:26:06 24 **Q** Can you tell us in layman's terms, if there is
14:26:15 25 such a way of doing it, what exactly is DNA?

14:26:18 1 **A** I won't tell you what it stands for then.

14:26:20 2 But DNA is a molecule that's in just about

14:26:26 3 every cell of our body and its purpose is a blueprint for

14:26:30 4 our bodies. The code that's on your DNA strand tells your

14:26:35 5 body to have two arms and two legs. It tells you to have

14:26:39 6 two eyes, a nose and a mouth and it also can vary from

14:26:43 7 person to person in, you know, you're going to have brown

14:26:46 8 eyes. I am going to have blue eyes. Hair color. Even

14:26:49 9 predisposition to diseases and some people theorize

14:26:52 10 personalities. So it's our genetic blueprint.

14:26:56 11 **Q** And where is it found? Where is DNA found in the

14:27:01 12 body?

14:27:01 13 **A** Like I said, it's in just about every cell.

14:27:04 14 There are some cells like red blood cells that don't have

14:27:07 15 DNA in them.

14:27:08 16 When people think of things like blood and

14:27:11 17 saliva containing DNA, it's not really the body fluid

14:27:13 18 itself that contains the DNA. It's the cells inside the

14:27:17 19 fluid that contains the DNA. So, for example, blood, it's

14:27:20 20 your white blood cells. And saliva, it's the cells from

14:27:23 21 the lining of the inside of your mouth. Our skin cells do

14:27:26 22 contain DNA.

14:27:28 23 **Q** So a buccal swab, for example, that's taken with

14:27:32 24 a sterilized Qtip?

14:27:37 25 **A** Yeah. They actually make sterile cotton swabs

14:27:40 1 specifically for our field.

14:27:42 2 **Q** And say -- describe how you can take a buccal

14:27:45 3 swab from somebody? What's the easiest and least

14:27:50 4 intrusive way to get a DNA sample from somebody?

14:27:52 5 **A** Well, the inside lining of your cheek sloughs off

14:27:56 6 cells more rapidly than just about any -- well, I don't

14:27:59 7 want to say than any surface of your body, but the less

14:28:03 8 intrusive surfaces of your body, let's say.

14:28:06 9 So if you take a sterile cotton swab and you

14:28:08 10 roll it on the inside of your cheek, you are going to

14:28:11 11 collect a fairly good bit of cells through that action and

14:28:15 12 then that can become what is called a reference sample for

14:28:18 13 you as a person. We can say this -- these cells on this

14:28:21 14 swab, they came from you. So any DNA that we get from

14:28:23 15 these cells, that's your DNA.

14:28:25 16 **Q** And after that -- after you -- a buccal swab is

14:28:30 17 taken from somebody, what actually happens to that swab to

14:28:34 18 preserve the DNA cells that are contained on that?

14:28:38 19 **A** Well, what -- it depends on the protocols of the

14:28:42 20 agency that is collecting it, but when we tell people how

14:28:45 21 to collect a buccal swab, we tell them to air dry it.

14:28:48 22 When you dry things, they tend to last a good bit longer.

14:28:52 23 If you store them wet, they can get mold on them which

14:28:54 24 affects the DNA test.

14:28:55 25 But you air dry them and then you want to

14:28:57 1 put it into some type of paper container. Usually it's
14:29:01 2 put into some kind of envelope and then sealed with
14:29:03 3 evidence tape, and that will preserve the integrity of it
14:29:07 4 as evidence as well as preserve it for the DNA test later
14:29:11 5 on.
14:29:11 6 **Q** So would it be a bad idea to take a buccal swab
14:29:15 7 and stick it into a plastic Ziploc bag?
14:29:16 8 **A** That would be a very bad idea.
14:29:18 9 **Q** So the idea is to get that sample dry?
14:29:22 10 **A** Correct. And we are talking long-term storage
14:29:25 11 here. If somebody took a buccal swab and put it into a
14:29:27 12 plastic bag for a day, it's not going to do anything to
14:29:30 13 it, but if, you know, long-term storage in a plastic bag,
14:29:33 14 that is not a good idea.
14:29:35 15 **Q** If you have a sample of DNA, how is DNA extracted
14:29:41 16 from it? You have a sample of cells, I think, would be
14:29:44 17 more appropriate -- going back to our buccal swab. You
14:29:48 18 have a sample of dried cells. How do you get -- how do
14:29:53 19 you get the DNA out of the cells?
14:29:54 20 **A** We take the swab. It usually is a swab that we
14:29:58 21 obtain, but it could be, you know, anything that's got the
14:30:01 22 cells in it any type of substance and we put it into a
14:30:03 23 test tube, and then we put sort of a cocktail of chemicals
14:30:07 24 into that test tube as well and the purpose of those
14:30:09 25 chemicals is to break open the cell and to release DNA

14:30:13 1 into the solution.

14:30:14 2 And then we purify that to get rid of all

14:30:17 3 the cellular components and any of the debris, any dyes,

14:30:20 4 anything from the environment that we don't want.

14:30:22 5 We purify, just to get the DNA just by

14:30:26 6 itself, so that way we purify the sample. You end up with

14:30:28 7 DNA in a solution floating in a test tube.

14:30:31 8 **Q** Now, you can collect DNA and other -- with buccal

14:30:38 9 swabs, some -- many different kinds of surfaces?

14:30:41 10 **A** Well, technically a buccal swab refers -- buccal

14:30:44 11 is a kind of cell from the inside of your mouth, so

14:30:46 12 technically a buccal swab is just a swab from the inside

14:30:48 13 of your mouth. But we can collect swabs from -- we can

14:30:51 14 take a swab and select -- try and collect -- try to

14:30:54 15 attempt to collect cells from any kind of surface.

14:30:56 16 **Q** Many people have been sitting in that chair where

14:30:58 17 you have been sitting and put their hands on that desk.

14:31:00 18 What would you do if I asked you to take a

14:31:04 19 DNA sample of that wooden surface in front of you?

14:31:07 20 **A** Well, in our laboratory we use a wet and dry

14:31:10 21 swabbing method so I would take a sterile cotton swab,

14:31:14 22 moisten it with a neutral buffer. In our laboratory we

14:31:16 23 use a protein buffer, but any kind of neutral saline or I

14:31:21 24 want to say neutral. I mean that it is not acidic, it is

14:31:23 25 not basic. The Ph doesn't sway either way. It's a

14:31:26 1 neutral buffer.

14:31:27 2 And I would roll to collect the sample.

14:31:30 3 Using the swab to try to get the cells equally dispersed

14:31:33 4 across the swab and then I would follow that using a dry

14:31:36 5 swab to collect any liquid that may have been laid down

14:31:39 6 through the swabbing and therefore trying to collect any

14:31:43 7 cells that I can get.

14:31:44 8 **Q** So that -- of that surface on that witness desk

14:31:49 9 or surface in front of you, you actually do two -- two

14:31:53 10 swabs, one wet with a nonacidic type solution and then you

14:31:58 11 would follow it, the same area that you did it with the

14:32:01 12 wet swab, you follow it with a dry swab?

14:32:04 13 **A** Yes.

14:32:04 14 **Q** And then what would you do next?

14:32:07 15 **A** Again make sure that the wet swab is air dried

14:32:11 16 and I would put it into an envelope and put evidence tape

14:32:14 17 on it and label it.

14:32:15 18 **Q** What if you were going to gather DNA -- I clipped

14:32:21 19 my fingernails. Kind of long but -- clip the fingernails

14:32:28 20 and you've got a pile of fingernails. Ten of them in

14:32:30 21 front of you. How would you get -- how would you swab the

14:32:33 22 fingernails?

14:32:34 23 **A** With fingernails we usually use a sterile pair of

14:32:39 24 tweezers to hold them down on one of the corners, and then

14:32:43 25 we will take -- again we attempt the wet and dry swabbing

14:32:46 1 methods, you know, whenever possible.

14:32:48 2 So I would again take a moistened swab, a

14:32:53 3 sterile swab and I would swab the concave side or the

14:32:55 4 underneath area of the fingernails, again with that

14:32:58 5 rolling motion and then follow that with a dry swab as

14:33:01 6 well and do that to all fingernails with the same set of

14:33:04 7 swabs.

14:33:05 8 **Q** Do you do one set of swabs for all of the

14:33:07 9 fingernails?

14:33:08 10 **A** Yes.

14:33:08 11 **Q** Would it make any -- is there a reason for that?

14:33:13 12 **A** I think it's just because there's -- can be a

14:33:17 13 limited number of cells underneath your fingernails as far

14:33:20 14 as I should say limited number of cells foreign to you on

14:33:23 15 your fingernails and so the hope is that by doing all the

14:33:28 16 fingernails together, you will increase the amount of the

14:33:31 17 foreign cells and try to increase the probability of

14:33:34 18 getting a foreign DNA profile.

14:33:36 19 **Q** So it's one set, wet and dry. All ten nails in

14:33:44 20 the swabs are then dried?

14:33:45 21 **A** I'm sorry. We do the hands separately. Just

14:33:48 22 because you can have different interaction with your right

14:33:52 23 hand than your left hand. We do try to do the hands

14:33:54 24 separately unless we are instructed otherwise.

14:33:56 25 **Q** So you have got one set of swabs for the right

14:33:58 1 hand and one different set of swabs for the left hand?
14:34:02 2 **A** Correct.
14:34:03 3 **Q** Is that pretty much the -- is there a standard in
14:34:08 4 the industry as to protocols to collect DNA from
14:34:14 5 underneath the finger nails or --
14:34:15 6 **A** No. There --
14:34:16 7 MR. HAMMOND: Objection, your Honor. Foundation.
14:34:18 8 Might I ask a question or two on voir dire?
14:34:22 9 THE COURT: Okay.
14:34:24 10 VOIR DIRE EXAMINATION
14:34:24 11 MR. HAMMOND:
14:34:24 12 **Q** Ms. Brown, are you familiar with national
14:34:30 13 standard -- existence of national standards for the
14:34:35 14 collection of DNA from fingernails?
14:34:39 15 **A** There is no such standard that I am aware of.
14:34:42 16 **Q** What is then your basis for offering testimony
14:34:47 17 about the standards used in extracting DNA from
14:34:52 18 fingernails?
14:34:52 19 **A** Well, we have got standards for extraction and
14:34:55 20 for DNA testing, but there is no standard for collection
14:34:58 21 of samples or serology of samples.
14:35:01 22 **Q** I think I mis-asked the question. What I meant
14:35:03 23 to ask is standards for the collection and you have said
14:35:06 24 there are no standards for the collection?
14:35:08 25 **A** There is no industry standard that I am aware of,

14:35:10 1 no.

14:35:12 2 MR. HAMMOND: Objection, your Honor. Lack of

14:35:13 3 foundation.

14:35:14 4 THE COURT: Overruled.

14:35:15 5 REDIRECT EXAMINATION (Resumed)

14:35:15 6 MR. PAUPORE:

14:35:15 7 **Q** I think that was my question, if there were

14:35:17 8 standards?

14:35:19 9 **A** I was going to answer no, there are no standards.

14:35:22 10 **Q** Now, once -- well how is -- I mean you said the

14:35:34 11 DNA -- how DNA is extracted. Can you be a little bit more

14:35:40 12 specific on how you go about extracting, isolating DNA

14:35:47 13 from a sample that you are going -- that you're testing?

14:35:50 14 **A** Sure. There's lots of different extraction

14:35:53 15 procedures out there. For our laboratory, we utilize

14:35:55 16 something called the organic extraction. It's referred to

14:35:58 17 as the gold standard in our industry. It is known to

14:36:02 18 recover the maximum amount of DNA and highest quality and

14:36:06 19 the purest of quality.

14:36:07 20 And what we will do is we will take a sample

14:36:10 21 and put it in a test tube like I said. Then we will add

14:36:14 22 digestion chemicals that are designed to breakdown

14:36:18 23 proteins of the cell wall. That will release DNA into the

14:36:22 24 solution. It also will aid us in the washing steps that

14:36:27 25 occur later on. That's allowed to incubate in an oven

14:36:31 1 from two hours to overnight, and additional heat helps
14:36:35 2 with the process.
14:36:36 3 Then we will wash the DNA using some
14:36:40 4 chemicals called phenol-chloroform and then we will purify
14:36:45 5 that DNA through a filtration step that works similar to
14:36:50 6 dialysis whereby we're maintaining DNA in the solution and
14:36:53 7 sort of washing through a membrane anything else that
14:36:56 8 doesn't belong.
14:36:58 9 **Q** Is that the purification process?
14:37:00 10 **A** Yes.
14:37:01 11 **Q** What happens after that to that DNA?
14:37:04 12 **A** Oh, continuing past extraction?
14:37:07 13 **Q** Past extraction.
14:37:09 14 **A** After extraction, we take a very small portion of
14:37:12 15 the DNA extract and we quantitate it and the purpose of
14:37:15 16 that is to get an idea of how much DNA is present in the
14:37:18 17 sample. We get a total amount of human DNA and this then
14:37:21 18 we total the amount of male DNA and then we can use that
14:37:24 19 information to determine how much of the DNA extract to
14:37:28 20 add at the next step in the process.
14:37:30 21 **Q** So after the extraction and quantification
14:37:35 22 process, do you separate male DNA from female DNA?
14:37:41 23 **A** We can't physically separate it. All we can do
14:37:44 24 is determine how much we have of each, but it's all
14:37:47 25 commingled together in the DNA extract.

14:37:50 1 **Q** But you can determine the quantity of female and
14:37:55 2 male DNA in that same sample?
14:37:57 3 **A** Yes.
14:37:57 4 **Q** Is there a name for that?
14:37:59 5 **A** A name for?
14:38:01 6 **Q** Is it quantification?
14:38:02 7 **A** Well, some people call it quantification; some
14:38:05 8 people call it quantitation.
14:38:07 9 **Q** Okay.
14:38:08 10 **A** Yes.
14:38:08 11 **Q** But still all -- it's still all in one --
14:38:13 12 together in one piece?
14:38:14 13 **A** Yes.
14:38:15 14 **Q** What happens after the -- after this stage of
14:38:20 15 quantification?
14:38:21 16 **A** After we determine how much DNA we have, then we
14:38:25 17 know what to do for our next step which is amplification.
14:38:28 18 That step requires a range of DNA to be added to it.
14:38:33 19 Essentially what we will do is take a portion of the DNA
14:38:36 20 extract, put that into a brand new test tube and add some
14:38:39 21 more chemicals.
14:38:40 22 Now, these chemicals at this stage are
14:38:42 23 prepared by a commercial vendor and there are only a
14:38:48 24 couple of vendors out there in the industry who prepare
14:38:50 25 these chemicals for us and they are very well studied and

14:38:52 1 very widely used throughout the forensic DNA testing
14:38:56 2 community.
14:38:56 3 Add those chemicals to the tube. Put it on
14:38:59 4 the machine called a thermocycler which basically is just
14:39:01 5 based on -- you program the temperature. The temperature
14:39:03 6 goes up and down for a number of hours.
14:39:05 7 And through the amplification process we're
14:39:08 8 able to focus just on about 13 to 16 specific pieces of
14:39:12 9 DNA that we're interested to form our DNA profile.
14:39:16 10 **Q** Is there some magic in the number of 13 to 16?
14:39:19 11 **A** The FBI has come out with 13 specific locations
14:39:23 12 on your DNA that are called the core CODIS loci that are
14:39:28 13 sort of industry standards. These commercial vendors that
14:39:31 14 prepare these chemicals for us have added in a couple of
14:39:35 15 extra locations just for -- added in for good measure that
14:39:38 16 we can use as well.
14:39:40 17 **Q** These locations, these 13 to 16, are they
14:39:44 18 different? Are they all the same in the human body of one
14:39:47 19 person?
14:39:47 20 **A** It's the same location on the DNA. We are all
14:39:51 21 going to have that same -- what we call locus. It's going
14:39:54 22 to be the same for person to person.
14:39:57 23 **Q** The same person to person?
14:39:59 24 **A** As far as this location.
14:40:00 25 **Q** So if you took a buccal swab from me, isolate

14:40:04 1 some DNA and then took a skin cell from my skin, it would
14:40:11 2 have the same 13 to 16 loci in my DNA?
14:40:18 3 **A** Right. You are going to have those -- you are
14:40:20 4 going to have those pieces of DNA in your -- in your body.
14:40:23 5 **Q** All the same for that person?
14:40:26 6 **A** Right.
14:40:26 7 **Q** Is it all the same for everybody else?
14:40:29 8 **A** I -- I am not quite sure what you are asking. Do
14:40:34 9 you mean is it identical person to person is what you are
14:40:36 10 asking?
14:40:36 11 **Q** Can it be identical from person to person?
14:40:39 12 **A** As far as it's the same in its location, but it
14:40:43 13 does differ from person to person and that's why we pick
14:40:45 14 those specific places.
14:40:47 15 It -- you know, you may have version A. I
14:40:50 16 may version B. But it's in the same place on our DNA. If
14:40:54 17 that clears things up a little bit.
14:40:56 18 **Q** What does STR stand for and what is it?
14:41:03 19 **A** STR stands for short tandem repeat. Those are
14:41:08 20 the pieces of DNA that we're actually looking at. They
14:41:11 21 are the same sequence of DNA repeated over and over again.
14:41:15 22 It's the number of times that it is repeated that will
14:41:18 23 differ between people.
14:41:19 24 So you may have it repeated 12 times. I
14:41:21 25 have it repeated 13 times. Maybe you have it repeated 14

14:41:24 1 times. And that's where the difference comes in.
14:41:26 2 **Q** Difference comes in where?
14:41:29 3 **A** Ah...
14:41:30 4 **Q** What do you mean by that?
14:41:31 5 **A** When we're -- so 99 percent of our DNA is
14:41:35 6 identical, right? We all pretty much look the same. I
14:41:37 7 mean, to our eyes we look a little different, but think if
14:41:40 8 a Martian was to come down and say we all look the same
14:41:42 9 and -- but that one percent can be different from person
14:41:47 10 to person, and again these are the areas that we're
14:41:50 11 looking at are these differences that exist between
14:41:53 12 humans.
14:41:53 13 **Q** Is that part of what you analyze is the
14:41:58 14 differences?
14:41:58 15 **A** Yes.
14:41:58 16 **Q** So STR, short tandem repeats, how do you tell
14:42:07 17 male DNA from a female DNA?
14:42:09 18 **A** So you have chromosomes in your body that are sex
14:42:14 19 chromosomes that determine if you are going to be male or
14:42:16 20 female. Women have two X's. Men have an X and a Y, and
14:42:20 21 we do have a sex determining indicator in our STR testing
14:42:26 22 chemistry kits that are out there. They will give us the
14:42:29 23 result. If it's female, we'll just get an X. If it's a
14:42:32 24 male, we will get an X and a Y.
14:42:34 25 **Q** So when you are running your analyzing DNA sample

14:42:38 1 that you have, it's an STR test, but it has another
14:42:44 2 location for the Y's, so it separates males from the
14:42:48 3 females?
14:42:49 4 **A** Well, when we're referring to STRs, there is one
14:42:52 5 specific marker or one specific location that we test for
14:42:56 6 to determine if we are dealing with a male or a female.
14:42:58 7 We will get either just an X or get an X and a Y.
14:43:01 8 **Q** So you look at that one specific spot on the DNA
14:43:06 9 chain?
14:43:06 10 **A** Yes. Without that one specific spot, we wouldn't
14:43:09 11 be able to tell if the sample was male or female.
14:43:12 12 **Q** So if you're a female, you have got X's at that
14:43:15 13 specific location and is that called a loci?
14:43:19 14 **A** Yes.
14:43:20 15 **Q** And if you're a male, you've got an X and a Y?
14:43:24 16 **A** That's correct.
14:43:25 17 **Q** Is that -- how -- how do you come up with a DNA
14:43:40 18 profile then?
14:43:42 19 **A** Well, like I said, we examine between 13 and 16
14:43:47 20 different locations on the DNA, and we will combine the
14:43:53 21 results from those into a DNA profile.
14:43:57 22 **Q** I mean I take this is all done with pretty
14:44:01 23 sophisticated machine --
14:44:02 24 **A** Absolutely.
14:44:03 25 **Q** -- equipment, computers?

14:44:06 1 **A** Yes. We run the, after the sample is amplified,
14:44:09 2 we run it. We then run the results from that onto a
14:44:13 3 machine called a genetic analyzer, a very large very
14:44:16 4 expensive machine and the purpose of that machine is to
14:44:19 5 separate out the DNA fragments and detect them, and then
14:44:23 6 we will take the data generated from that and plug that
14:44:26 7 into a software we have especially designed to help us
14:44:29 8 develop a DNA profile.
14:44:31 9 **Q** Does that give you some kind of a graph or a
14:44:33 10 printout?
14:44:34 11 **A** It does. A graph, yes.
14:44:36 12 **Q** And what do you do with that, that information?
14:44:38 13 **A** We display it in a tabular form. We will take --
14:44:42 14 we actually have a program that is in Excel and we will
14:44:46 15 take the information we got from the graph and plug it
14:44:49 16 into our table to have a nice representation of the DNA
14:44:54 17 profile in very simplified terms.
14:44:57 18 **Q** What is the job of the analyst, the DNA analyst
14:45:01 19 at this stage?
14:45:02 20 **A** Our job is to -- is to ensure that the DNA that
14:45:10 21 was detected or I should say the information that was
14:45:13 22 detected on the graph really is truly DNA. There are
14:45:17 23 artifacts and things like that, that can't be -- are not
14:45:20 24 true DNA and we have been trained in how to detect those.
14:45:23 25 We also can look for indications that

14:45:27 1 additional DNA might be present, but isn't detected and we
14:45:30 2 have been trained on how to find that as well and we make
14:45:32 3 all those notations and those corrections before we
14:45:35 4 formulate the DNA profile.
14:45:36 5 **Q** Can you give us an example of an artifact that
14:45:40 6 would not be DNA?
14:45:41 7 **A** Sure. There's a natural phenomenon that happens
14:45:45 8 during the amplification step called stutter, where
14:45:48 9 essentially we get a very -- it appears to be a small
14:45:52 10 piece of DNA, appearing before a true piece of DNA on the
14:45:55 11 graph, and we know to expect these and the software
14:45:59 12 actually helps assists us in infiltrating those out
14:46:03 13 because like I said, it is expected that is going to
14:46:04 14 occur.
14:46:07 15 **Q** And so -- are there different kinds of stutters?
14:46:09 16 **A** There is a phenomenon called a forward -- forward
14:46:15 17 stutter. S-T-U-T-T-E-R.
14:46:18 18 It exists in the environment to say that --
14:46:27 19 it exists -- occurs less frequently than the traditional
14:46:30 20 stutter, but we know how to detect that and to -- and to
14:46:35 21 disregard it or include it as appropriate.
14:46:37 22 **Q** Does your computer software alert you to what
14:46:40 23 might be this artifact or stutter as you called it that
14:46:45 24 occurs?
14:46:46 25 **A** It is alerted to the additional stutter, but the

14:46:48 1 forward stutter we analysts have to detect ourselves.
14:46:51 2 **Q** That's an eyeball to graph kind of thing?
14:46:54 3 **A** Well, I mean, it will label it for us and detect
14:46:57 4 it for us, but we have to determine if it's truly DNA or
14:47:00 5 not. If it's not true DNA, then we need to either delete
14:47:03 6 it from the graph or call it inconclusive. Something like
14:47:06 7 that so it doesn't show up on our DNA profile.
14:47:11 8 **Q** If -- could you draw on an easel what this graph
14:47:16 9 might look like --
14:47:18 10 **A** Sure.
14:47:20 11 **Q** -- for the jury.
14:47:21 12 **A** I could do that.
14:47:30 13 THE COURT: Please watch your step there.
14:47:43 14 THE WITNESS: Sure. All right. It looks not too
14:47:54 15 dissimilar to what I imagine a lie detector test would
14:47:57 16 look like.
14:47:58 17 MR. BUTNER:
14:47:58 18 **Q** Alexis, please if you could talk as loud as you
14:48:02 19 can. Your voice is kind of away from our Court Reporter.
14:48:06 20 **A** Oh.
14:48:07 21 **Q** If she can't hear you, I am going to get a look.
14:48:14 22 Just trying to avoid those looks.
14:48:15 23 **A** Sure. So the graph looks similar to what I
14:48:18 24 imagine a lie detector test would look like where you have
14:48:21 25 a baseline and there is not any DNA and when DNA is there,

14:48:25 there is a peak that will arise like this.

14:48:27 And then your baseline will continue and

14:48:32 perhaps you have a peak here and you have a peak here like

14:48:34 this. And then your baseline can continue and that is an

14:48:38 example of the stutter that I was talking about before.

14:48:41 We know to go, okay, that is not really DNA, but this,

14:48:44 that's really DNA.

14:48:46 **Q** Are those peaks, are they -- that you have on

14:48:50 your graph, are they measured in some fashion?

14:48:52 **A** Absolutely, yes.

14:48:54 **Q** And tell us a little bit about that.

14:48:56 **A** Well, we run -- with every run we have, I like to

14:49:00 think of it as a biological ruler. It's basically known

14:49:06 pieces of DNA that are of known length, so they will look

14:49:10 very similar to this to a regular DNA profile, but we know

14:49:14 exactly the lengths of the fragments and so then they can

14:49:17 use that as -- the software can use this as a ruler to

14:49:20 compare to the samples that come out and can know how long

14:49:25 these pieces of DNA are and that helps the software to

14:49:29 identify them.

14:49:30 **Q** Okay. You can have a seat.

14:49:32 I want to ask you a question about your

14:49:36 first graph. How many peaks on a graph of a -- when you

14:49:44 are testing DNA would be the ideal number of peaks that

14:49:48 you can -- that you can identify?

14:49:51 1 **A** There's no ideal. You want to have a result at
14:49:55 2 every locus or every piece of DNA that we are testing, you
14:49:59 3 want to have a result at each and every one if you can to
14:50:00 4 obtain a full DNA profile.
14:50:02 5 But if you have got -- if you've got just
14:50:04 6 one person, you can have one peak or two peaks
14:50:08 7 traditionally speaking. The reason being we get a copy of
14:50:10 8 DNA from our mothers and a copy from our fathers, so those
14:50:13 9 can be different depending on what your parents gave you,
14:50:16 10 or they could be identical which that is a coincidence and
14:50:19 11 so you end up with just one peak.
14:50:21 12 If there's multiple people contributing to
14:50:24 13 the DNA profile, you could have multiple peaks. Two for
14:50:29 14 every person.
14:50:30 15 **Q** Going back to that 13 to 16 answer you gave me
14:50:38 16 about what the FBI is looking for, for -- are there words
14:50:43 17 they call that?
14:50:44 18 **A** They call it core CODIS loci.
14:50:47 19 **Q** Core CODIS loci?
14:50:50 20 **A** Yes.
14:50:50 21 **Q** What does that mean?
14:50:51 22 **A** CODIS is the name of our DNA database in the
14:50:54 23 United States.
14:50:55 24 And so when a person is entering the DNA
14:50:58 25 profile into the database, there are 13 loci or pieces of

14:51:05 1 DNA that they can enter into a profile for.

14:51:08 2 Since the inception of the database, I

14:51:11 3 believe they have included additional locations as well,

14:51:15 4 not just the 13, but think sort of got their name because

14:51:18 5 Orme think were just the 13 of the database.

14:51:21 6 **Q** In order -- does Sorenson Forensics Laboratories

14:51:27 7 have access to the FBI CODIS DNA databank?

14:51:35 8 **A** No, we don't. Currently private DNA laboratories

14:51:37 9 are not allowed access to the CODIS database.

14:51:40 10 **Q** And who has access to the CODIS DNA?

14:51:44 11 **A** Public laboratories, so State laboratories. Some

14:51:48 12 local laboratories that have been granted access.

14:51:51 13 **Q** And when you say 13 loci, that's -- what is that

14:51:59 14 again for the FBI core CODIS loci?

14:52:04 15 **A** Those are the 13 STR loci that are standard for

14:52:08 16 our industry to form a DNA profile.

14:52:11 17 **Q** Is that what you are looking at when you are

14:52:13 18 analyzing DNA?

14:52:14 19 **A** Most of the time if we perform an STR test, and

14:52:17 20 there are other kind of tests that are out other than the

14:52:20 21 STR test.

14:52:20 22 **Q** Let's just stick with STR.

14:52:22 23 **A** Sure.

14:52:22 24 **Q** You're looking for 13 locations basically?

14:52:26 25 **A** It depends on -- again it depends on what

14:52:28 1 chemistry that we are using. It can be anywhere from 13
14:52:32 2 to 16 depending. It's going to be at least those 13.
14:52:35 3 There may be a couple extra.
14:52:37 4 **Q** Is there a difference when you are testing for Y
14:52:40 5 STRs?
14:52:40 6 **A** Yes.
14:52:41 7 **Q** What is the difference?
14:52:42 8 **A** The Y -- the YSTRs are similar to STRs but
14:52:46 9 they're just from the DNA on the Y chromosome and since
14:52:49 10 only men have Y chromosomes, you can only get a YSTR DNA
14:52:53 11 profile from a man, and again because you can only inherit
14:52:58 12 that from your father, you can't inherent that from your
14:53:00 13 mother, a single person is only going to show one peak per
14:53:03 14 locus on the graph.
14:53:07 15 **Q** And that Y chromosome is only on the male -- only
14:53:13 16 on males?
14:53:14 17 **A** Yes. Only found in men.
14:53:15 18 **Q** If, using me as an example, I would inherent a Y
14:53:22 19 chromosome from, say, my great grandfather?
14:53:25 20 **A** Yes. On your father's side, yes.
14:53:27 21 **Q** Could I have a cousin from that same grandfather
14:53:36 22 have a Y chromosome from my great grandfather?
14:53:40 23 **A** Yes. The theory is that every man within the
14:53:44 24 paternal line will have identical YSTR DNA profile
14:53:47 25 providing that mutations haven't occurred.

14:53:50 1 Q Okay. Providing mutations haven't occurred. So
14:53:54 2 in any given family, the males will all have the same Y
14:53:59 3 chromosome --
14:54:00 4 A YSTR profile, yes.
14:54:02 5 Q -- in their profile?
14:54:03 6 Is there like a CODIS databank for YSTRs
14:54:12 7 just for males?
14:54:13 8 A They don't currently search YSTR DNA profiles
14:54:16 9 because there can be the -- there could be several males
14:54:20 10 with the same exact profile and since it's not unique,
14:54:23 11 there's not a searchable database as far as a national
14:54:27 12 database to search to see, you know, who this mystery man
14:54:31 13 is from a piece of evidence. They can't do that.
14:54:33 14 Q That YSTR profile could come from or this Y could
14:54:38 15 come from anybody in my family, any male in my family?
14:54:41 16 A Right. If they were to have such a database and
14:54:43 17 it were to hit on you, you know, if you're entered into
14:54:47 18 the database and for whatever reason is to hit on you,
14:54:49 19 then that may not mean that's your DNA. It might be your
14:54:52 20 father's DNA or brother's DNA or exactly -- some other
14:54:55 21 paternal relative.
14:54:57 22 Q No way to be specific as to which male in that
14:55:01 23 genetic line it came from?
14:55:03 24 A That's correct.
14:55:04 25 Q Now, is there -- is there an amount -- let's go

14:55:25 1 to what you did in this case. Then I can maybe ask you
14:55:29 2 some follow-up questions.
14:55:30 3 Tell us what items that you -- what was your
14:55:38 4 work -- what was your work assignment in the State versus
14:55:42 5 Steven Democker case?
14:55:43 6 **A** My assignment was to perform the DNA analysis
14:55:47 7 meaning interpreting data that came off the genetic
14:55:50 8 analyzer and to prepare the report from the -- from that
14:55:55 9 information.
14:55:55 10 **Q** So that somebody else does part of the work?
14:55:59 11 **A** Yes. The actual laboratory work adding chemicals
14:56:02 12 to the test tube was done by somebody else.
14:56:05 13 **Q** And what -- at what point in this analysis did
14:56:13 14 you pick up?
14:56:13 15 **A** After the data came up off the genetic analyzer,
14:56:16 16 I picked up the data, imported it into the software and
14:56:20 17 took it from then forward.
14:56:21 18 **Q** So that would then be called the amplification
14:56:23 19 stage?
14:56:24 20 **A** No. That's actually our detection stage. I'm
14:56:26 21 sorry I didn't name it when I was referring to it earlier.
14:56:29 22 **Q** So the detection stage is after the
14:56:31 23 amplification?
14:56:31 24 **A** Yes.
14:56:32 25 **Q** So it's a detection stage. Does that take --

14:56:36 1 does that go through some -- some equipment?
14:56:40 2 **A** That's the genetic analyzer I referred to.
14:56:43 3 **Q** That's the expensive machine you talked about?
14:56:44 4 **A** Yes.
14:56:45 5 **Q** What is that called again?
14:56:45 6 **A** Genetic analyzer.
14:56:47 7 **Q** Genetic analyzer.
14:56:49 8 And so you get the data from the genetic
14:56:53 9 analyzer and then you make your analysis?
14:56:58 10 **A** Yes.
14:56:58 11 **Q** Okay. Now, you had a number of items submitted
14:57:05 12 to your laboratory for testing for DNA?
14:57:08 13 **A** Yes.
14:57:08 14 **Q** And was it for STR only DNA or was it also the
14:57:17 15 YSTR?
14:57:18 16 **A** We performed both STR and YSTR testing in this
14:57:22 17 case.
14:57:22 18 **Q** And did you have some known samples of DNA from
14:57:28 19 some subjects?
14:57:29 20 **A** We received one reference sample to test for
14:57:34 21 YSTRs and then we received some profiles that had been
14:57:37 22 generated by the Arizona Department of Public Safety to
14:57:41 23 compare to the evidence samples that we -- that we did
14:57:45 24 perform DNA tests on.
14:57:46 25 **Q** Okay. What YSTR sample did you receive?

14:57:50 1 **A** I believe it was from James Knapp.
14:57:53 2 **Q** Did you receive a YSTR from Steven Democker?
14:58:01 3 **A** We received the profile that had already been
14:58:03 4 generated by the Arizona Department of Public Safety.
14:58:06 5 **Q** Oh. Explain what you mean by profile.
14:58:09 6 **A** Again it's the result of the DNA tests. We take
14:58:14 7 the result from those 13 to 16 locations and we put them
14:58:18 8 together on a graph. I mean -- sorry -- on a table.
14:58:21 9 **Q** And the profile tells you what?
14:58:25 10 **A** The profile tells us what the -- what DNA would
14:58:32 11 be expected from that particular individual at those
14:58:35 12 particular locations on their DNA.
14:58:38 13 **Q** Did that have something to do with peaks on that
14:58:40 14 graph that you drew?
14:58:42 15 **A** We take that information and put it together into
14:58:44 16 a DNA profile and in a table. The result -- the
14:58:48 17 information we got from the Arizona Department of Public
14:58:50 18 Safety was a table. We didn't actually get the graphs
14:58:54 19 from them.
14:58:54 20 **Q** Okay. And from that table, did you run your own
14:58:58 21 profile?
14:58:58 22 **A** I'm sorry. What do you mean run our own profile?
14:59:02 23 **Q** What did you do with the data you received from
14:59:05 24 DPS laboratory?
14:59:06 25 **A** We compared it to the DNA results we got from our

14:59:09 1 own testing of the evidence.

14:59:12 2 MR. PAUPORE: Your Honor, I think this might be a

14:59:13 3 good time for our afternoon break.

14:59:15 4 THE COURT: We can do that.

14:59:17 5 Ladies and Gentlemen, we will take the

14:59:21 6 afternoon recess at this time. Please remember the

14:59:23 7 admonition not to discuss the case or anything associated

14:59:26 8 with the case in any way among yourselves.

14:59:30 9 Please be back in the jury room by 3:20 and

14:59:34 10 we will start as soon as we can after that.

14:59:36 11 And Ms. Brown, the rule of exclusion of

14:59:38 12 witnesses has been invoked in this case and do you

14:59:40 13 understand what that requires?

14:59:41 14 THE WITNESS: No, I don't.

14:59:42 15 THE COURT: Okay. It means you cannot discuss or

14:59:45 16 communicate about this case, you cannot discuss the case

14:59:49 17 with any other witness. You cannot communicate with any

14:59:51 18 other witness about the case or your testimony until the

14:59:54 19 trial is completely over.

14:59:56 20 THE WITNESS: Okay.

14:59:56 21 THE COURT: You can't talk to the witnesses.

14:59:57 22 It's a good idea not to talk to anyone else about the case

15:00:00 23 in anyway; however, you can talk to the attorneys as long

15:00:03 24 as other witnesses aren't present.

15:00:05 25 THE WITNESS: Okay.

15:00:06 1 THE COURT: Is that clear?
15:00:06 2 THE WITNESS: Yes. Thank you.
15:00:07 3 THE COURT: We will be in recess.
15:00:09 4 (Recess.)
15:25:30 5 THE COURT: The record will show the presence of
15:25:36 6 the defendant, all of the attorneys, the jury, the witness
15:25:40 7 Ms. Brown is on the witness stand and has been sworn
15:25:43 8 previously.
15:25:43 9 Mr. Paupore, you may continue.
15:25:46 10 MR. PAUPORE: Thank you, your Honor.
15:25:47 11 **Q** Just before the break we were talking about the
15:26:01 12 testing that you did in the State versus Steven Democker
15:26:05 13 case?
15:26:07 14 **A** Yes.
15:26:07 15 **Q** Okay. Did -- after you did the testings, did you
15:26:14 16 render your opinions and conclusions in a written report?
15:26:20 17 **A** Yes, I did.
15:26:24 18 MR. PAUPORE: Your Honor, may I approach?
15:26:26 19 THE COURT: Yes, you may.
15:26:33 20 MR. PAUPORE:
15:26:37 21 **Q** This will be exhibit -- proposed exhibit number
15:26:43 22 3225. I am going to ask you, Alexis, to take a look at
15:26:48 23 this document and ask you if you can identify it?
15:26:53 24 **A** Yes. This was the report that I originally
15:26:57 25 prepared after performing the DNA analysis.

15:27:01 1 Q What date is that report?
15:27:02 2 A April 14, 2010.
15:27:06 3 Q And that is your signature at the end of the
15:27:16 4 report?
15:27:16 5 A Yes, it is.
15:27:20 6 MR. PAUPORE: The State would offer Exhibit 3225.
15:27:32 7 MR. HAMMOND: No objection.
15:27:38 8 THE COURT: 3225 is admitted.
15:27:41 9 MR. PAUPORE:
15:27:41 10 Q On this report, there are a couple of blanks and
15:27:49 11 that is from further earlier court proceedings, so this
15:27:53 12 is, with the exception of a couple blanks that are in your
15:27:56 13 report, this is your complete report, right?
15:27:58 14 A Yes. It does appear to be.
15:28:05 15 Q Exhibit 3225 shows that you did a number of --
15:28:21 16 you tested a number of items. Do you need this report in
15:28:24 17 front of you to help you testify?
15:28:27 18 A Yes.
15:28:29 19 Q Okay.
15:28:34 20 A Thank you.
15:28:35 21 Q Let me just get my copy here so I can go along
15:28:45 22 with you. Take a second.
15:28:47 23 Okay. On Exhibit 3225, what items did you
15:28:57 24 test for DNA and I am going to ask you is this a Y DNA
15:29:03 25 (sic) test in your report?

15:29:06 1 **A** It contained -- let me double check, but I
15:29:09 2 believe it contains information from both. Yes. This has
15:29:11 3 YSTR information as well as STR information.
15:29:14 4 **Q** Okay. So it has both?
15:29:17 5 **A** Yes.
15:29:17 6 **Q** Tell us the first item that you tested on the
15:29:24 7 April 14th, 2010, report?
15:29:27 8 MR. HAMMOND: Your Honor, I object to the form of
15:29:29 9 the question. Single question --
15:29:31 10 MR. PAUPORE: Number seven.
15:29:33 11 MR. HAMMOND: I need a single question on voir
15:29:35 12 dire.
15:29:35 13 THE COURT: Okay.
15:29:37 14 VOIR DIRE EXAMINATION
15:29:37 15 MR. HAMMOND:
15:29:37 16 **Q** Ms. Brown, you were -- you were involved in what
15:29:42 17 you describe as the analytical phase of the work described
15:29:48 18 in this document; is that correct?
15:29:50 19 **A** Yes.
15:29:50 20 **Q** And you were not involved personally in the work
15:29:55 21 that preceded the analytical phase. The phases that you
15:30:00 22 describe generally as serology, extraction, qualification?
15:30:06 23 **A** That's correct.
15:30:07 24 **Q** So your role in this work product was strictly
15:30:13 25 on -- on analysis?

15:30:15 1 **A** That's correct.

15:30:15 2 **Q** And reporting?

15:30:16 3 **A** Yes.

15:30:17 4 MR. HAMMOND: Okay. Your Honor, with that

15:30:20 5 clarification, I have no objection.

15:30:21 6 THE COURT: Thank you. Mr. Paupore, please

15:30:23 7 continue.

15:30:24 8 DIRECT EXAMINATION (Resumed)

15:30:24 9 MR. PAUPORE: Thank you.

15:30:25 10 **Q** And on Exhibit 3225, very first page is three

15:30:31 11 columns?

15:30:33 12 **A** Yes.

15:30:33 13 **Q** And on the left hand column it's got the Sorenson

15:30:38 14 number?

15:30:38 15 **A** Yes.

15:30:39 16 **Q** Middle column it has an agency ID?

15:30:43 17 **A** That's correct.

15:30:43 18 **Q** What agency ID is that from?

15:30:46 19 **A** I have no idea. When we record the agency ID

15:30:50 20 number, it is the ID number that's present on the exterior

15:30:53 21 of the evidence package.

15:30:55 22 **Q** Might it be the Yavapai County Sheriff's office

15:30:58 23 in this case?

15:30:58 24 **A** It might be the Yavapai County Sheriff's office.

15:31:00 25 It might be Arizona Department of Public Safety. I can't

15:31:02 1 say for sure.

15:31:03 2 **Q** The third column is a description of the item?

15:31:06 3 **A** Correct.

15:31:06 4 **Q** Okay. The first item on that page, number seven,

15:31:13 5 is what?

15:31:14 6 **A** We have that identified as extract from 507-A

15:31:21 7 which refers to another item.

15:31:23 8 **Q** And the extract, do you know what the extract

15:31:26 9 came from?

15:31:26 10 **A** It came from the Arizona Department of Public

15:31:29 11 Safety.

15:31:29 12 **Q** And there's a number on this extract number --

15:31:35 13 what is that number of the extract from DPS?

15:31:38 14 **A** 507-A.

15:31:49 15 **Q** Did you come up with a DNA result on item seven?

15:31:54 16 **A** We did an earlier report. Not on this report.

15:31:58 17 **Q** What report did you come up with the result?

15:32:00 18 **A** I am not sure if it was the part one or the part

15:32:03 19 two report. I would have to see them. I believe it was

15:32:06 20 the part two report.

15:32:07 21 **Q** And that was done by whom?

15:32:09 22 **A** That was analyzed by Todd Wrigley.

15:32:14 23 **Q** Okay. On your -- on this report, the Exhibit

15:32:19 24 3225, did you come up with any result on item seven?

15:32:22 25 **A** Before reading conclusions, there is an amendment

15:32:27 1 to this report I would prefer to read conclusions from
15:32:29 2 because that would be the complete correct report.
15:32:33 3 **Q** And I am going to show you what has been marked
15:32:43 4 as 3226. I want to show you what has been marked as
15:33:29 5 Exhibit 3226 and ask if you can identify this document?
15:33:34 6 **A** This would be the amended report.
15:33:39 7 **Q** The one you were referring to?
15:33:41 8 **A** Yes.
15:33:41 9 **Q** Did you author that report?
15:33:43 10 **A** Yes, I did.
15:33:45 11 MR. PAUPORE: And I would offer Exhibit 3224 into
15:33:52 12 evidence.
15:33:55 13 THE COURT: 26 I believe.
15:33:56 14 MR. PAUPORE: I'm sorry. 26.
15:33:58 15 MR. HAMMOND: No objection.
15:33:59 16 THE COURT: 3226 is admitted.
15:34:01 17 MR. PAUPORE:
15:34:02 18 **Q** Okay. Thank you.
15:34:03 19 Now, now you have a report that is dated
15:34:09 20 what date?
15:34:10 21 **A** The date is April 27, 2010.
15:34:14 22 **Q** And why is this report more preferable to you,
15:34:23 23 the April 27th document than the April 14th that we just
15:34:27 24 had talked about moments ago?
15:34:28 25 **A** There was a correction that needed to be made to

15:34:32 1 the original report and we made that correction and
15:34:34 2 submitted this amended report so it contains the correct
15:34:38 3 information.
15:34:39 4 **Q** So the difference between the April 27th report
15:34:44 5 and the April 14th report is a correction that you made?
15:34:48 6 **A** Yes.
15:34:49 7 **Q** And the April 27th report is the most complete
15:34:53 8 report?
15:34:53 9 **A** Yes.
15:34:54 10 **Q** Most accurate?
15:34:55 11 **A** Yes.
15:34:56 12 **Q** And that's why you prefer to use it?
15:34:59 13 **A** Absolutely.
15:35:00 14 **Q** Okay. Tell me what you -- your findings are in
15:35:10 15 the April 27th, 2010 report for item -- for item number
15:35:19 16 seven and we'll go down the list.
15:35:20 17 **A** That was, as I said earlier, that was an extract
15:35:23 18 from the Arizona Department of Public Safety. There was
15:35:27 19 no liquid remaining in the extract and so we weren't able
15:35:30 20 to perform any testing.
15:35:32 21 **Q** So nothing -- nothing to test, nothing to report?
15:35:38 22 **A** Correct.
15:35:38 23 **Q** Item number eight, which is the next number down
15:35:46 24 in chronological sequence to your report?
15:35:49 25 **A** Yes.

15:35:49 1 Q And tell us what that item number eight is?
15:35:53 2 A That was identified as extract from 805.
15:35:57 3 Q What was your results on the testing of that
15:36:01 4 extract?
15:36:02 5 A It was the same situation. There was no liquids
15:36:04 6 remaining in the extract tube, so we weren't able to
15:36:07 7 perform any testing.
15:36:08 8 Q Next item on the list was Sorenson Item Number 9?
15:36:13 9 A Yeah. Yes.
15:36:15 10 Q And that's agency ID Number 605?
15:36:18 11 A Yes.
15:36:19 12 Q And that's what -- what is that item?
15:36:23 13 A It was identified to us as supposed to be a hair,
15:36:29 14 but when we opened the package, all we found was apparent
15:36:32 15 fiber and so we identified it as an apparent fiber.
15:36:37 16 Q So what you had thought was in item 605,
15:36:45 17 Sorenson's Item 9, you thought was a hair, turned out to
15:36:49 18 be just a fiber?
15:36:51 19 A It had been identified to us as it was supposed
15:36:54 20 to be a hair, but when we opened it up, we found no hair.
15:36:57 21 All we found was the fiber.
15:36:58 22 Q Where was it identified as a hair?
15:37:00 23 A We received some paperwork with the submission.
15:37:05 24 I believe it came from the Arizona Department of Public
15:37:07 25 Safety and they had listed this as a hair.

15:37:11 1 Q Would that be listed in your chain of custody
15:37:13 2 that we were talking about earlier?
15:37:15 3 A The item -- the item we received would be, yes.
15:37:18 4 Q Is that -- but it turned out not to be a hair?
15:37:22 5 A Correct.
15:37:22 6 Q And the results? What could you do with that
15:37:29 7 fiber?
15:37:29 8 A Once we realized that it was not a hair, we
15:37:33 9 weren't able -- we didn't perform any additional testing.
15:37:36 10 Q Next item on the list, it's Sorenson's Item
15:37:40 11 Number 10-A?
15:37:41 12 A Yes.
15:37:42 13 Q Agency Number 600?
15:37:44 14 A Yes.
15:37:45 15 Q And what is that item?
15:37:46 16 A These were the right fingernail clippings.
15:37:49 17 Q Do you know who the right fingernail clippings
15:37:52 18 were from?
15:37:52 19 A I believe they were from the victim, but it
15:37:54 20 doesn't say on this report.
15:37:56 21 Q Was it your understanding it was Carol Kennedy's
15:37:59 22 right-hand fingernail clippings?
15:38:02 23 A They did list the victim's last name as Kennedy.
15:38:04 24 I don't recall what her first name is.
15:38:06 25 Q So these are the right fingernail clippings?

15:38:10 1 **A** Yes.

15:38:11 2 **Q** Item Number 600 from the agency. 10-A for

15:38:16 3 Sorenson.

15:38:17 4 What was your -- did you run a test on

15:38:20 5 that -- DNA test on 600, the fingernail clippings?

15:38:24 6 **A** Yes, we did.

15:38:25 7 **Q** And tell us what happened. What were your

15:38:29 8 results?

15:38:29 9 **A** We took the test through the quantitation stage

15:38:31 10 and remember before I said we can tell the total amount of

15:38:35 11 human DNA and the total amount of male DNA. We did not

15:38:38 12 detect any male DNA on the right fingernail clippings, so

15:38:41 13 we stopped the testing at that point.

15:38:43 14 **Q** So your -- were you looking for just male DNA?

15:38:49 15 **A** Yes. At this point on the fingernail clippings,

15:38:53 16 yes.

15:38:53 17 **Q** How were you told to do that? What was that --

15:38:56 18 where did you --

15:38:58 19 **A** I would have to refer to the notes in the case

15:39:01 20 file.

15:39:01 21 **Q** Do you have the case file with you?

15:39:02 22 **A** I do have my copy of it, yes.

15:39:04 23 **Q** Could you look at your notes and refresh your

15:39:07 24 recollection?

15:39:07 25 **A** Would that be all right, your Honor?

15:39:09 1 THE COURT: Yes.

15:39:12 2 MR. PAUPORE:

15:39:12 3 **Q** After you read them, Alexis, don't read from

15:39:16 4 them, just take a look at them and then maybe you can

15:39:18 5 answer my question without looking at your case notes.

15:39:23 6 MR. HAMMOND: Your Honor, for the record, may we

15:39:24 7 have her identify the document she looks at when she gets

15:39:28 8 to it?

15:39:29 9 THE COURT: Yes. Ms. Brown, if you do, when you

15:39:31 10 locate the documents you're referring to, please state

15:39:35 11 what that is.

15:39:36 12 THE WITNESS: Absolutely.

15:40:02 13 Um, in refreshing my memory, I'm referring

15:40:31 14 to our internal case note. That is from case file T151298

15:40:38 15 part three dated February 18, 2010.

15:40:42 16 MR. PAUPORE:

15:40:42 17 **Q** May I see that document for a moment?

15:40:46 18 This February 18, 2010 case note tells

15:41:11 19 you -- gave you direction as to what you were supposed to

15:41:16 20 test for?

15:41:16 21 **A** Yes.

15:41:17 22 **Q** And is that -- and so backing up now, after

15:41:21 23 looking at this case note, going back to item Sorenson

15:41:26 24 Item Number 10-A being the right fingernail clippings of

15:41:30 25 Ms. Kennedy, what was -- what were you supposed to do with

15:41:34 1 that item?

15:41:35 2 **A** According to the case notes, which were a record

15:41:40 3 of the meeting, initial meeting of our DNA technical

15:41:44 4 leader and the contact in the case who had delivered the

15:41:49 5 evidence to us, they wanted the fingernails tested and it

15:41:53 6 was our technical leader Dan Hellwig who decided to do the

15:41:56 7 YSTR testing. He felt that would be most appropriate.

15:41:59 8 **Q** Might that contact from the YCSO agency be in the

15:42:05 9 room?

15:42:05 10 **A** I believe he is.

15:42:07 11 **Q** Do you see him in the room?

15:42:09 12 **A** I do.

15:42:10 13 **Q** Might it be Captain Rhodes?

15:42:12 14 **A** Yes.

15:42:13 15 **Q** So there was DNA under -- found on item --

15:42:22 16 Sorenson Item 10-A, the right fingernail clippings of

15:42:26 17 Virginia Kennedy?

15:42:28 18 **A** I know there was, according to the report, there

15:42:30 19 was no male DNA detected. As far as if we detected any

15:42:33 20 DNA, That again I would have to refer back to my notes.

15:42:36 21 **Q** But because there was no male DNA, that you

15:42:38 22 stopped right at that point?

15:42:40 23 **A** That's correct. Generally speaking when we test

15:42:42 24 fingernails, if it's a female victim, a great deal of the

15:42:46 25 percentage of the time, the perpetrator is male and so we

15:42:50 1 presume that the DNA of interest would be male.
15:42:54 2 **Q** And might you also presume that the female DNA
15:42:58 3 might be the person who had the fingernails?
15:43:01 4 **A** Correct. When you are testing fingernails, there
15:43:05 5 is a quite a bit of the fingernail owner's DNA on the
15:43:10 6 fingernails.
15:43:11 7 **Q** Next in line would be Sorenson Item Number 10-B
15:43:20 8 and that is agency item 603 and what item -- what is the
15:43:28 9 description of that item?
15:43:29 10 **A** Those are the left fingernail clippings.
15:43:31 11 **Q** Again of Mrs. Kennedy?
15:43:33 12 **A** To my understanding, yes.
15:43:35 13 **Q** And did you perform -- well, you analyzed DNA on
15:43:45 14 603?
15:43:46 15 **A** Yes.
15:43:47 16 **Q** Now, tell us exactly what you did when you
15:43:52 17 analyzed item 603?
15:43:56 18 **A** I created a DNA profile based on the information
15:44:02 19 that I obtained from our genetic analyzer, and I compared
15:44:08 20 that to the DNA. The YSTR DNA of Steven Democker as
15:44:17 21 provided to us by the Arizona Department of Public Safety
15:44:20 22 and I also compared it to the profile of James Knapp which
15:44:25 23 we developed in-house.
15:44:26 24 **Q** So you were provided a profile from Mr. Democker
15:44:30 25 from Arizona DPS?

15:44:31 1 **A** Yes.

15:44:32 2 **Q** A Y DNA profile?

15:44:34 3 **A** Correct.

15:44:34 4 **Q** And then you had developed your own profile from

15:44:42 5 Mr. James Knapp?

15:44:43 6 **A** Correct.

15:44:43 7 **Q** Again this would be his YSTR DNA?

15:44:46 8 **A** Yes.

15:44:46 9 **Q** On Item 603, was there female DNA -- did you

15:45:02 10 find, when you analyzed the DNA, was female DNA on Item

15:45:08 11 603, the left fingernails?

15:45:11 12 **A** When we quantitated the DNA, we did find quite a

15:45:15 13 bit of female DNA, but since we performed the YSTR test,

15:45:20 14 we only obtained the male DNA for the actual DNA profile.

15:45:24 15 **Q** So the quantification -- quantifies the DNA of

15:45:31 16 the male and the female present?

15:45:33 17 **A** Correct.

15:45:34 18 **Q** Can you tell -- and is this given a weight?

15:45:40 19 **A** What do you mean by a weight?

15:45:42 20 **Q** An amount? How do you define --

15:45:44 21 **A** Yes. There is an amount that is indicated on the

15:45:46 22 test results.

15:45:47 23 **Q** An amount.

15:45:48 24 Okay. And how are your amounts categorized?

15:45:52 25 **A** In nanograms per microliter.

15:45:55 1 **Q** Nanograms per microliter?
15:45:57 2 **A** Uh-huh.
15:45:58 3 **Q** I think you are going to have to explain what a
15:46:00 4 nanogram is.
15:46:01 5 **A** If you remember, if you ever took high school
15:46:04 6 chemistry, if you had to weigh things on a scale, you had
15:46:07 7 to measure it in grams usually. A nanogram is, I believe,
15:46:12 8 it's one one-thousandth of a gram. I believe that's
15:46:18 9 correct.
15:46:18 10 **Q** One one-thousandths of one gram. Did you know if
15:46:24 11 you ever looked at a Sweet and Low that you go in a
15:46:27 12 restaurant or packet of sugar, do you know what I am
15:46:32 13 talking about?
15:46:33 14 **A** I know what you're talking about, yes.
15:46:34 15 **Q** That's one gram. It says it right on the
15:46:37 16 package. Did you know that?
15:46:37 17 **A** No, I didn't know that.
15:46:39 18 **Q** I have known you for a while, Alexis. This is
15:46:48 19 the first thing I knew something that you did not know.
15:46:50 20 I just couldn't resist.
15:46:53 21 So a nanogram is one one-thousandth of a
15:46:57 22 gram and do you know -- can you tell from your record how
15:47:12 23 many nanograms of female DNA was quantified under Item
15:47:19 24 603?
15:47:20 25 **A** Yes, I can.

15:47:23 1 Q Do you need your record to help you refresh
15:47:25 2 that --
15:47:26 3 A Yes.
15:47:26 4 Q -- recollection?
15:47:28 5 MR. HAMMOND: Again, your Honor, if we could
15:47:30 6 have the witness identify which page of her notes she is
15:47:33 7 referring to.
15:47:35 8 THE COURT: She will do that.
15:47:49 9 THE WITNESS: Can I make a correction to
15:47:50 10 something I said earlier?
15:47:52 11 MR. PAUPORE:
15:47:52 12 Q Please do.
15:47:53 13 A I think -- I'm thinking a milligram might be one
15:47:55 14 one-thousandths of a gram. I believe a nanogram is even
15:47:58 15 smaller than that. I apologize. It's been a very very
15:48:01 16 long time.
15:48:02 17 Q So now I want to make sure I understand.
15:48:04 18 A milligram is --
15:48:08 19 A To be honest, I'd probably have to look it up to
15:48:09 20 be sure exactly what percentage of a gram a nanogram is.
15:48:13 21 I have dealt with nanograms for six years. I don't
15:48:18 22 remember exactly what portion of a gram it is any longer.
15:48:20 23 Q A gram weighs more than a milligram?
15:48:24 24 A Uh-huh.
15:48:25 25 Q A milligram is larger than a nanogram?

15:48:28 1 **A** As far as my recollection is, yes.
15:48:30 2 **Q** Okay. Is there something below a nanogram?
15:48:34 3 **A** A picogram.
15:48:35 4 **Q** Do we have to go there for any reason?
15:48:37 5 **A** If we use decimals, we don't have to go there,
15:48:40 6 but otherwise we will.
15:48:42 7 **Q** We will stay away from that.
15:48:43 8 So were you able -- I'm sorry.
15:48:50 9 **A** Okay. Sorry. Back to your other question.
15:48:53 10 This was for Item 10-A?
15:48:56 11 **Q** Item 603, 10-A.
15:48:58 12 **A** 10-B. I'm sorry. 10-B.
15:49:01 13 I am referring to our quantitation results.
15:49:06 14 This is a document that's titled QPCR100401AAD1.
15:49:14 15 **Q** Can I see that for a moment? On this piece of
15:49:36 16 paper you can tell us the quantity of female DNA found
15:49:45 17 on -- that you found -- Sorenson found under the left
15:49:50 18 fingernails, Item 603 of Virginia Carol Kennedy?
15:49:53 19 **A** Yes. A rough estimate, but it will give you an
15:49:56 20 idea.
15:49:56 21 **Q** What is the estimate of the weight or the
15:50:00 22 quantity?
15:50:00 23 **A** It would be approximately .287 nanograms per
15:50:08 24 microliter.
15:50:08 25 **Q** .287 nanograms.

15:50:13 1 **A** Now, that's per microliter. There are multiple
15:50:17 2 microliters in the extract, but I could do the math for
15:50:20 3 you and give you a total.
15:50:22 4 **Q** But that total quantity, that's what I am looking
15:50:26 5 for.
15:50:26 6 **A** If you want the quantity in the entire sample, I
15:50:30 7 would have to multiply the number I just gave you by the
15:50:32 8 volume of the extract to give you total nanograms.
15:50:36 9 **Q** What would it give us if you did all that math?
15:50:39 10 **A** It would give you how much DNA was available for
15:50:42 11 our test.
15:50:43 12 **Q** Okay.
15:50:45 13 **A** If we were to perform a test on the female DNA.
15:50:48 14 **Q** But you did not perform a test on the female DNA?
15:50:52 15 **A** That's correct.
15:50:52 16 **Q** Did you have -- was there a large quantity of
15:50:58 17 female DNA?
15:50:59 18 **A** Yes. This is a very significant quantity.
15:51:02 19 **Q** Very significant?
15:51:03 20 **A** Yes.
15:51:03 21 **Q** But that was not tested?
15:51:11 22 **A** Correct.
15:51:12 23 **Q** And the amount that was actually used to test was
15:51:18 24 .287 nanograms per microliter?
15:51:21 25 **A** That's the quantitation result that we obtained

15:51:24 1 for the female DNA.

15:51:25 2 **Q** Quantitation result.

15:51:27 3 But I want to get to the Y.

15:51:30 4 **A** Oh.

15:51:30 5 **Q** The male. Did you find YSTR or male DNA as a

15:51:39 6 result of your analyzing the DNA under Item 10-B Sorenson,

15:51:47 7 Item 603 from YCSO.

15:51:49 8 **A** Yes. We did find a quantitation of male DNA.

15:51:52 9 **Q** What was the quantitation of DNA male?

15:51:58 10 **A** That was .0013 nanograms per microliter.

15:52:03 11 **Q** .0013?

15:52:08 12 **A** And again if you want the total amount available,

15:52:11 13 I believe that would be approximately .2 nanograms that

15:52:16 14 would be in the entire extract. Again we only consume one

15:52:20 15 microliter of the extract for this particular part of the

15:52:22 16 test, so we have to multiply that by how many microliters

15:52:26 17 there are.

15:52:29 18 **Q** Total DNA, male DNA under item 603, Virginia

15:52:38 19 Carol Kennedy's left fingernail for males was .2

15:52:43 20 nanograms?

15:52:43 21 **A** Approximately.

15:52:45 22 **Q** Can you -- if you put two nanograms -- point two

15:52:50 23 nanograms, if you put it on a piece of white paper, could

15:52:53 24 I see it? Well, not me, but somebody with good eyes,

15:52:56 25 could they see it?

15:52:57 1 A Do they have a microscope?
15:52:59 2 Q You have to use a microscope?
15:53:00 3 A Yes.
15:53:01 4 Q So it's not visible to the -- to the human eye?
15:53:06 5 A Correct. A lot of times it just appears to be a
15:53:10 6 clear fluid in a tube and we can't -- can't see what's in
15:53:14 7 it.
15:53:14 8 Q You can't see it?
15:53:15 9 A Right.
15:53:15 10 Q Point two nanograms. How many nanograms or what
15:53:21 11 amount of DNA do you need to run a successful test? Is
15:53:26 12 there a minimum that you -- that you have to have?
15:53:30 13 A Sure. We actually, when we perform validation
15:53:33 14 studies on using the chemicals that we do, we use for our
15:53:39 15 tests, we do what is called a sensitivity study and that
15:53:42 16 is to determine the range of how much DNA would be
15:53:46 17 appropriate for obtaining a full DNA profile.
15:53:50 18 And we found that with roughly .15 nanograms
15:53:55 19 from a single person, you can expect to obtain a full DNA
15:54:00 20 profile. You can get a partial DNA profile with less than
15:54:03 21 that, but to get the full profile, we would want to have
15:54:07 22 at least .15 nanograms.
15:54:09 23 Q And you're at .2, so you're just -- you're above
15:54:15 24 that level, but not by very much?
15:54:17 25 A Correct.

15:54:18 1 Q Can you see that?
15:54:35 2 A No.
15:54:36 3 Q Let me back it a little bit.
15:54:40 4 So we are talking about male DNA, and the
15:54:54 5 quantity again was?
15:54:56 6 A 0.2 nanograms.
15:55:00 7 Q 0.2 nanograms.
15:55:12 8 And that was the entire amount of male DNA
15:55:17 9 that you were able to quantify?
15:55:20 10 A Correct.
15:55:21 11 Q And the minimum to run a full profile was?
15:55:25 12 A .15.
15:55:27 13 Q Okay. Now what did you do with that .2
15:55:34 14 nanograms? Did you -- was that analyzed?
15:55:36 15 A Yes. We amplified it using the technique I
15:55:39 16 described earlier.
15:55:40 17 Q Okay. And after you amplified it, what did you
15:55:43 18 do next?
15:55:43 19 A We ran it through our genetic analyzer and
15:55:45 20 obtained data and then I took that data and created a YSTR
15:55:50 21 DNA profile.
15:55:51 22 Q You got a YSTR profile after you ran it through
15:55:58 23 the genetic analyzer?
15:56:00 24 A Yes.
15:56:01 25 Q Okay. So we have got -- was there more than

15:56:07 1 one -- was this -- was there a mixture in this DNA?
15:56:14 2 **A** Yes. We obtained a mixture.
15:56:16 3 **Q** What does that mean?
15:56:17 4 **A** It means there's more than one person present.
15:56:21 5 In this case, specifically our sample, specifically we
15:56:23 6 found DNA from at least three different males.
15:56:26 7 **Q** You found DNA from three males in .2 nanograms?
15:56:32 8 **A** Yes.
15:56:33 9 **Q** One of them was a full profile?
15:56:35 10 **A** Yes.
15:56:35 11 **Q** So if I put under here -- you say at least three
15:56:43 12 males?
15:56:43 13 **A** At least three, yes.
15:56:45 14 **Q** One was a full profile?
15:56:55 15 **A** Yes.
15:56:55 16 **Q** And again remind us what a full profile is?
15:56:58 17 **A** That would mean we obtained a result at every
15:57:01 18 single place that we tested.
15:57:02 19 **Q** And how many places did you test?
15:57:04 20 **A** I believe it was 16.
15:57:06 21 **Q** So that was a -- you have a full profile, is
15:57:16 22 that -- can that be used to -- in some databank like
15:57:24 23 CODIS?
15:57:25 24 **A** We can't put it into CODIS, no.
15:57:27 25 **Q** You can't?

15:57:27 1 **A** Well, no one can -- CODIS -- you can input a YSTR
15:57:34 2 DNA profile into CODIS, but nothing is going to happen to
15:57:37 3 it. It will never get searched. It will never be
15:57:39 4 searched against anything.
15:57:40 5 **Q** We talked about that.
15:57:42 6 **A** Right.
15:57:42 7 **Q** That's the male because it's so common?
15:57:45 8 **A** Right.
15:57:45 9 **Q** So this full profile is a Y profile?
15:57:50 10 **A** Correct.
15:57:50 11 **Q** Meaning male?
15:57:53 12 **A** Correct.
15:57:53 13 **Q** And there is no place to search the Y profile
15:58:00 14 today?
15:58:00 15 **A** Right. The only thing that we could do would be
15:58:02 16 to compare it to profiles of known individuals.
15:58:05 17 **Q** I think we are going to get there.
15:58:07 18 **A** Okay.
15:58:07 19 **Q** You said there was at least three males?
15:58:09 20 **A** Right.
15:58:10 21 **Q** What about the other two, where are they at?
15:58:11 22 **A** Well, the full profile that you are referring to
15:58:13 23 we call a major profile. It means that it's present in
15:58:17 24 sufficient quantity and in our data for us to be able to
15:58:21 25 pull it out and separate it out and say all of these

15:58:24 1 pieces of DNA belong to the same person.

15:58:26 2 The rest of the DNA that we got from the

15:58:29 3 other two individuals is what's called a minor component.

15:58:32 4 It's just very low level DNA, and because it's so low

15:58:35 5 level, we are not able to pull anything apart and what

15:58:38 6 goes with what. We are not able to split those two or

15:58:43 7 more individuals apart to obtain a profile that we could

15:58:48 8 then compare to anybody.

15:58:51 9 **Q** That was quite a bit.

15:58:54 10 But I want to go under the .2 nanograms, the

15:58:58 11 threshold, the very minimum being able to get a profile,

15:59:02 12 you said was .15?

15:59:04 13 **A** Well, that's to expect to get a full DNA profile.

15:59:08 14 You can get a partial DNA profile with very little DNA.

15:59:11 15 **Q** .15 is the minimum to get a full profile?

15:59:14 16 **A** Based on our validation study, yes.

15:59:18 17 **Q** And then we talked about the mixture.

15:59:26 18 So how many males were in the mixture?

15:59:33 19 **A** At least three. We can't say for sure exactly

15:59:36 20 how many.

15:59:37 21 **Q** Okay. One was a full profile?

15:59:39 22 **A** Correct.

15:59:39 23 **Q** And then there was two more with very little

15:59:44 24 information?

15:59:44 25 **A** At least two, yes.

15:59:46 1 Q And when you say at least two?
15:59:48 2 A Well, we don't have the full picture. When there
15:59:51 3 is not enough DNA to give you a full picture of all the
15:59:55 4 contributors, we can't say for sure how many -- how many
15:59:58 5 people are contributing to those -- to those additional
16:00:02 6 pieces of DNA that we are seeing on the graph. And also
16:00:06 7 with YSTR specifically, there's a lot of overlap from man
16:00:09 8 to man again because of so much similarity just in the
16:00:13 9 population in general because of the paternal inheritance
16:00:16 10 method of YSTRs, so there can be a lot of overlap.
16:00:21 11 Q And the mixtures as you called them, I think you
16:00:24 12 called it two minor -- two minor DNA mixtures. How do you
16:00:27 13 refer to them?
16:00:28 14 A I believe in the report we called it the minor
16:00:36 15 YSTR DNA component was what we called it.
16:00:40 16 Q Okay. Can you see that?
16:00:49 17 A Yes.
16:00:50 18 Q Did I write it down accurately?
16:00:54 19 A Yes.
16:00:54 20 Q So under 603, the left fingernail of Virginia
16:01:00 21 Carol Kennedy, your report says you have located DNA from
16:01:08 22 at least three male donors; is that accurate?
16:01:13 23 A Yes. That's accurate.
16:01:15 24 Q One was a full profile and that was again a male
16:01:19 25 profile and two males were from a minor YSTR component?

16:01:24 1 **A** Two or more, yes.
16:01:25 2 **Q** Two or more.
16:01:27 3 **A** Uh-huh.
16:01:27 4 **Q** Why do you say two or more?
16:01:29 5 **A** Well, as I said before, when we don't have a full
16:01:32 6 picture, we don't have all the DNA, we can't be sure how
16:01:35 7 many individuals are contributing that DNA.
16:01:38 8 **Q** Okay. Would it be accurate to put plus two on
16:01:43 9 that chart that I put there?
16:01:45 10 **A** You could put two plus.
16:01:47 11 **Q** Two plus. I'll do that.
16:01:55 12 Now, you've got a full profile under 603 of
16:02:00 13 a male DNA, and you have got some knowns to compare it
16:02:03 14 with?
16:02:04 15 **A** Yes.
16:02:04 16 **Q** What did you do as to the comparison?
16:02:09 17 **A** I took a look at the profile of Steven Democker
16:02:12 18 that we obtained from the Arizona lab and I took a look at
16:02:15 19 the profile that we obtained in-house for James Knapp and
16:02:18 20 I compared it to the mixture that we got from the
16:02:21 21 fingernails, and made my determination on whether they
16:02:24 22 could have contributed to the mixture or not.
16:02:28 23 **Q** And what was your conclusion?
16:02:29 24 **A** Well, first I compared them to the major YSTR DNA
16:02:33 25 profile.

16:02:33 1 Q Excuse me. I wanted to ask you about the -- one
16:02:36 2 at a time. We will go to the major and then drop down to
16:02:40 3 the minor.
16:02:40 4 A Certainly. And that's how we separated it on the
16:02:43 5 report as well.
16:02:43 6 We found that both Steven Democker and James
16:02:47 7 Knapp and their paternal relatives by default, were both
16:02:51 8 excluded as being the potential source of the full major
16:02:56 9 YSTR DNA profile that we obtained from the fingernails.
16:03:01 10 Q Okay. And, now, did you have enough DNA
16:03:08 11 information to make a comparison on the two plus minor
16:03:14 12 YSTR component of DNA?
16:03:16 13 A That minor component is what we call suitable for
16:03:19 14 exclusionary purposes, meaning we could tell if someone
16:03:23 15 isn't there, but if it appeared that somebody was there,
16:03:26 16 we wouldn't be able to state that on a report, because we
16:03:30 17 wouldn't be able to back that up with any kind of a
16:03:33 18 significants to this inclusion. We have to do statistics
16:03:37 19 in our field to back up any kind of a match or inclusion
16:03:40 20 and we wouldn't be able to do that with that kind of data.
16:03:43 21 Q Bottom line is you didn't have enough
16:03:46 22 information?
16:03:46 23 A Not to make a match, no.
16:03:47 24 Q Not to make a match. And not to make an
16:03:51 25 inclusion?

16:03:51 1 **A** Inclusion. That's correct.

16:03:53 2 **Q** And you compared the information on the minor

16:04:02 3 YSTR components with Mr. Democker?

16:04:05 4 **A** Yes.

16:04:06 5 **Q** And how did -- what was your conclusion as to

16:04:09 6 Mr. Democker on the minor YSTR component?

16:04:11 7 **A** I was able to exclude him as being a donor to the

16:04:14 8 minor component.

16:04:16 9 **Q** And you looked at his profile and you looked at

16:04:18 10 the information you had under the test that you did for

16:04:21 11 the minor YSTR and that is how you came to that

16:04:25 12 conclusion?

16:04:25 13 **A** Correct.

16:04:26 14 **Q** What about Mr. Knapp?

16:04:27 15 **A** With him, we were not able to make any meaningful

16:04:30 16 comparisons, which is basically a kind of inconclusive

16:04:33 17 result. We can't include him; we couldn't exclude him.

16:04:36 18 **Q** So are you saying that there wasn't enough

16:04:40 19 information to make a determination?

16:04:42 20 **A** The situation with Mr. Knapp is that his DNA,

16:04:50 21 there are DNA peaks present in the evidence profile that

16:04:53 22 would correspond to his peaks, but again we can't make an

16:04:57 23 assessment to any kind of conclusion because we can't back

16:05:01 24 that match-up with a statistic. I wouldn't want to say to

16:05:03 25 he is included without having some kind of a weight to

16:05:06 1 include him.

16:05:07 2 You know, the weight could be, if I were

16:05:09 3 able to run statistics, might be that every third male on

16:05:12 4 the planet is able to be a donor to this minor DNA

16:05:16 5 component, which would not be very relevant information.

16:05:19 6 And so without that statistic to back it up,

16:05:22 7 we can't state the conclusion. So we have to say

16:05:25 8 inconclusive.

16:05:26 9 **Q** Okay. And those peaks you had that -- when I had

16:05:30 10 you draw that graph, are those the peaks you are talking

16:05:33 11 about?

16:05:33 12 **A** Yes.

16:05:34 13 **Q** Okay. Did you do -- now, we are talking now from

16:05:44 14 your April 27th, 2010 report and I believe the exhibit

16:05:50 15 number -- do you have it in front of you? Look on the

16:05:53 16 back of that, Alexis. The last page. There is a sticker

16:05:59 17 way on the last page on the back, right?

16:06:00 18 **A** Yes. Uh-huh.

16:06:02 19 **Q** Do you see a number there 3226?

16:06:05 20 **A** Yes.

16:06:06 21 **Q** Okay. Now, you wanted to use your April 27th,

16:06:12 22 2010, report, because that was your full and final report?

16:06:16 23 **A** Correct.

16:06:16 24 **Q** It differs in some -- difference -- it

16:06:20 25 differences -- it's different than the April 14th report?

16:06:25 1 **A** Yes, it is.

16:06:26 2 **Q** And that is exhibit number -- I don't think you

16:06:34 3 have that. Is that Exhibit 3225?

16:06:37 4 **A** Yes.

16:06:38 5 **Q** Do you have that one also?

16:06:39 6 **A** Yes.

16:06:40 7 **Q** You have got them both?

16:06:41 8 **A** Yes.

16:06:41 9 **Q** Okay. Tell us where the -- your report on April

16:06:50 10 27, 2010 is different than your report dated April 14th,

16:06:56 11 2010?

16:06:57 12 **A** For the left hand fingernail clippings, the item

16:07:00 13 we were just talking about with this mixture, when I

16:07:04 14 originally wrote the report, I transposed the names of the

16:07:07 15 two gentlemen that I was doing the comparison for. So the

16:07:12 16 report originally stated that Steven Democker, no

16:07:15 17 meaningful comparisons could be made and then for James

16:07:18 18 Knapp that he was excluded, and it should have been

16:07:21 19 reversed. And so they have the amended report has that

16:07:25 20 correction on it.

16:07:26 21 **Q** So we're talking again about the minor YSTR

16:07:30 22 component?

16:07:31 23 **A** Right. Correct.

16:07:32 24 **Q** And that's the very very -- do you have a

16:07:36 25 quantification for the amount of DNA? I don't think I

16:07:39 1 asked you that question for that minor mixture. Do you
16:07:41 2 have a quantification?
16:07:42 3 **A** The only way to really assess that and again it's
16:07:44 4 a very rough estimate, would be to get the ratio of the
16:07:47 5 minor component to the major component and then you apply
16:07:51 6 the ratio to the quantity of male DNA that we obtained and
16:07:55 7 I have done that. But again it's a very rough estimate,
16:07:58 8 but I could give you those numbers if you're interested.
16:08:01 9 **Q** It wouldn't change your conclusions?
16:08:04 10 **A** No.
16:08:05 11 **Q** The testing that you did, the -- for the DNA, did
16:08:15 12 you change your conclusions at all in that respect with
16:08:18 13 regard to your Item 10-B, left fingernail clippings?
16:08:24 14 **A** The result of the amendment did result in the
16:08:27 15 conclusions changing, but when I did my analysis
16:08:31 16 initially, the result that I intended to type on the
16:08:33 17 report were not transcribed correctly. So my analysis
16:08:38 18 itself did not change. My analysis was correct from the
16:08:42 19 beginning. But when I was typing the report, I just mixed
16:08:45 20 up the names when I was typing it out.
16:08:46 21 **Q** So all the data that you used and gathered did
16:08:51 22 not change at all?
16:08:52 23 **A** That's correct. There was no changes to the
16:08:54 24 data.
16:08:55 25 **Q** The change is then to the written conclusion that

16:08:58 1 we just talked about and the reversal of names basically
16:09:04 2 on the April 14th report is Mr. Knapp was excluded?
16:09:07 3 **A** That's correct.
16:09:09 4 **Q** And Mr. Democker was you couldn't say one way or
16:09:13 5 the other?
16:09:13 6 **A** Correct.
16:09:13 7 **Q** The change then came on your April 27th report
16:09:18 8 when you looked at the same data that you looked at for
16:09:20 9 your April 14th report?
16:09:22 10 **A** Correct. Same data.
16:09:23 11 **Q** Same data. You realized that you switched the
16:09:27 12 names?
16:09:28 13 **A** Right.
16:09:28 14 **Q** Do you have an explanation of how that could have
16:09:34 15 happened?
16:09:34 16 **A** Um, we were -- the due date for this case was
16:09:39 17 changed on us sort of at the last minute. We were told
16:09:42 18 that all DNA evidence was already done as far as the DNA
16:09:47 19 testing process went. The report just needed to be
16:09:50 20 written and reviewed. And then we received a phone call
16:09:53 21 basically telling us that we need the -- we need the
16:09:58 22 information in the report sooner than what we originally
16:10:00 23 told you. And so we only had three days to generate the
16:10:03 24 report. To do the review on it took over a day-and-a-half
16:10:07 25 just to prepare the report and so I admit I was rushing

16:10:10 1 and the review was rushed and so we had that mistake on
16:10:14 2 the report.
16:10:14 3 **Q** Who caught the mistake?
16:10:17 4 **A** Um, I caught it during the pretrial interview.
16:10:21 5 **Q** You caught it yourself?
16:10:22 6 **A** I did.
16:10:23 7 **Q** And then you made this corrected April 27th
16:10:26 8 report?
16:10:26 9 **A** Yes.
16:10:27 10 **Q** Going down to the next item, which is 10-C. We
16:10:38 11 just were on 10-B. That's 603.
16:10:42 12 10-C is Agency Item Number 611, and what is
16:10:46 13 the description of that?
16:10:47 14 **A** That is the swab from left hand.
16:10:49 15 **Q** And again that's Virginia Kennedy's left hand?
16:10:53 16 **A** That's my understanding.
16:10:54 17 **Q** And what did you do with that swab?
16:10:58 18 **A** For this item, we also did YSTR testing.
16:11:01 19 **Q** And what was your -- were you able to draw any --
16:11:07 20 any conclusions?
16:11:08 21 **A** We got a mixture again this time from at least
16:11:12 22 three males, but we weren't able to make any further
16:11:15 23 conclusions because the mixture was very complex and there
16:11:20 24 wasn't a whole lot of information due to it being so low
16:11:24 25 level.

16:11:25 1 Q Okay. That's sort of like in the same category
16:11:31 2 of this minor YSTR component?
16:11:35 3 A That's correct.
16:11:36 4 Q So that was Number 611? Is that -- do I have
16:11:50 5 that right?
16:11:50 6 A Yes. 611.
16:12:01 7 Q And that's a swab. Left hand, right?
16:12:09 8 A Yes.
16:12:10 9 Q And you said it was a mixture?
16:12:14 10 A Mixture of at least three males, so that would be
16:12:19 11 three plus.
16:12:22 12 Q Three plus male DNA; is that accurate?
16:12:39 13 A Yes.
16:12:40 14 Q And that kind of goes back to what we were
16:12:46 15 talking about, the amount or the quantity of DNA?
16:12:55 16 How do you know for sure it was three
16:12:59 17 male -- three plus male DNAs in that mixture?
16:13:04 18 A Well, with YSTRs with one person, we will see one
16:13:08 19 DNA peak at each given locus or location of DNA, and here
16:13:14 20 we saw at a few different locations three peaks, so that
16:13:19 21 would indicate there is at least three males.
16:13:22 22 Q So without a doubt can you look at that data and
16:13:25 23 say there's three males' DNA showing up?
16:13:29 24 A Correct.
16:13:30 25 Q Now, the amount of the DNA is very very tiny?

16:13:39 1 **A** I would have look at my notes to be sure, but
16:13:41 2 based on the results, I would state it must have been very
16:13:44 3 small.
16:13:45 4 **Q** Were you able to draw any -- make any comparisons
16:13:49 5 with the three YSTR male components under item Number 611
16:13:58 6 swab for Virginia Carol Kennedy's left hand?
16:14:02 7 **A** I'm sorry. What comparison?
16:14:04 8 **Q** Were you able to compare this with your knowns?
16:14:06 9 **A** Oh, no. I was not able to make any comparisons
16:14:08 10 from this particular piece of evidence.
16:14:10 11 **Q** So you can't -- what can you tell us
16:14:17 12 scientifically of what you found on your analysis?
16:14:21 13 **A** A very minimal amount of male DNA from -- at
16:14:24 14 least the DNA appears to be at least from three males.
16:14:28 15 Other than that, I can't give you any more information.
16:14:30 16 **Q** You can't say that the males -- males on the swab
16:14:36 17 from the left hand relate to the male -- the minor males
16:14:42 18 on the left fingernails?
16:14:44 19 **A** No. I can't tell you that information.
16:14:46 20 **Q** Can you make any comparison as to the major
16:14:48 21 profile that you found under the left fingernails?
16:14:53 22 **A** No. I can't make any comparisons.
16:14:55 23 **Q** You just found three males?
16:14:57 24 **A** Right. There was very little data we got from
16:15:00 25 this. We were able to tell like I said, just from a

16:15:02 1 couple of locations that we did get DNA that there's at
16:15:07 2 least three males, but there is not sufficient enough at
16:15:09 3 the rest of the locations to do any kind of comparison.
16:15:12 4 **Q** Okay. Next in line is Number 11 for Sorenson
16:15:15 5 agency number 408 and what is the description of that?
16:15:19 6 **A** This is a lithium battery.
16:15:21 7 **Q** A lithium battery and did you run a Y DNA test on
16:15:26 8 this lithium battery?
16:15:27 9 **A** I believe this was an STR test.
16:15:29 10 **Q** It was a STR test. Okay.
16:15:32 11 **A** Yes.
16:15:32 12 **Q** And what was the result?
16:15:33 13 **A** From this one, we got a mixture of DNA from at
16:15:37 14 least two people, at least one of which was a male.
16:15:42 15 And we did get a major DNA profile that was
16:15:46 16 male, and it did match the profile we were given for
16:15:50 17 Steven Democker.
16:15:51 18 **Q** And do you have any idea what this lithium
16:15:55 19 battery is or where it came from?
16:15:56 20 **A** No. I have no knowledge of that.
16:15:59 21 **Q** You were just running an analysis?
16:16:01 22 **A** That's correct.
16:16:01 23 **Q** And the results of that analysis, you got two
16:16:06 24 contributors?
16:16:07 25 **A** At least two.

16:16:08 1 Q So we have another mixture?
16:16:09 2 A Yes.
16:16:10 3 Q How common are mixtures?
16:16:13 4 A They're becoming more and more common in our
16:16:16 5 field. When you get body fluids such as blood or semen,
16:16:20 6 there a little less common because the DNA in those body
16:16:23 7 fluids is really concentrated, but when you're talking
16:16:26 8 about swabbing for what we call touch DNA, mixtures are
16:16:30 9 extremely common just because of how sensitive our tests
16:16:33 10 are, and because of environment the DNA that can be
16:16:37 11 deposited on any given surface.
16:16:38 12 Q So technology as it's advancing is getting better
16:16:43 13 at recognizing smaller amounts of DNA? Is that accurate?
16:16:48 14 A Yes. That's accurate. In the past you just
16:16:50 15 wouldn't get a DNA profile.
16:16:52 16 Q Okay. And so on the lithium battery you were
16:16:59 17 able to make a match on the major DNA profile as coming
16:17:06 18 from Mr. Democker?
16:17:07 19 A Well, we couldn't state -- we didn't state
16:17:11 20 specifically it came from him. Just that it matches his
16:17:13 21 profile and that I do have statistics to give you an idea
16:17:17 22 of the quality of that match.
16:17:19 23 Q That's in your report?
16:17:21 24 A Yes.
16:17:23 25 Q What is the statistical comparison for

16:17:29 1 Caucasians?

16:17:30 2 **A** Um --

16:17:31 3 **Q** That would have the same profile?

16:17:33 4 **A** Well, that's it's not quite that they would have

16:17:35 5 the same profile. What we do is when you have a match,

16:17:38 6 one of two things has happened. Either the DNA that you

16:17:42 7 obtained on your evidence item came from that person or

16:17:46 8 that person just so happens to have the exact same DNA

16:17:49 9 profile as somebody else.

16:17:51 10 And so what we're doing is trying to

16:17:55 11 determine how rare or how common the DNA profile is in the

16:17:59 12 general population and so for the United States, we run

16:18:03 13 three different populations. Caucasian, African American,

16:18:07 14 Hispanic, because those are the three most prevalent

16:18:11 15 populations in the United States.

16:18:13 16 And so the value we got for the Caucasian

16:18:18 17 population was one in 15.8 million meaning that the

16:18:24 18 frequency of this profile in the general population would

16:18:28 19 be one out of every 15.8 million people.

16:18:33 20 **Q** Now, you said there was at least two contributors

16:18:37 21 and we just talked about Mr. Democker's.

16:18:41 22 What about the other mix -- what about the

16:18:44 23 other mixture under Item 11, the lithium battery?

16:18:47 24 **A** The minor component, we -- I determined was

16:18:52 25 suitable just for exclusionary purposes. Again that means

16:18:55 1 if you gave me a profile I could see if they're excluded,
16:18:58 2 but if they were not excluded, I couldn't say they were
16:19:02 3 included. I could just say no meaningful comparison.
16:19:05 4 **Q** And were you able to exclude anybody?
16:19:06 5 **A** No.
16:19:11 6 **Q** And who did you compare the minor DNA component
16:19:16 7 with the known DNA samples that you had?
16:19:18 8 **A** I compared it to Virginia Kennedy's profile.
16:19:22 9 **Q** Would you say this is the STR DNA test?
16:19:25 10 **A** That's correct.
16:19:26 11 **Q** Did you compare it to James Knapp?
16:19:29 12 **A** No, I did not.
16:19:30 13 **Q** Next in line was item 12, hand set telephone.
16:19:37 14 That was the description. Item number -- Agency Item 507?
16:19:43 15 **A** Yes.
16:19:44 16 **Q** That's a hand set telephone?
16:19:47 17 **A** Yes.
16:19:47 18 **Q** Did you run a -- and what was your -- you ran a
16:19:52 19 YSTR DNA analysis on the DNA that came from that hand set
16:19:57 20 telephone?
16:19:57 21 **A** Yes, we did.
16:19:58 22 **Q** And what can you tell us about what you found?
16:20:02 23 **A** We got a mixture again. This was from at least
16:20:06 24 two males. We did get a major YSTR DNA profile that we
16:20:15 25 attributed to an unknown male, and Steven Democker and

16:20:21 1 James Knapp were both excluded as being that major donor.
16:20:26 2 **Q** Hang on right there.
16:20:27 3 This is Number 507 as the agency number?
16:20:44 4 **A** Yes.
16:20:44 5 **Q** That's the hand set phone. A mixture of DNA?
16:20:58 6 **A** A mixture, yes. At least two males or two plus
16:21:09 7 males.
16:21:10 8 **Q** Okay. And you had a major?
16:21:13 9 **A** A major.
16:21:14 10 **Q** That means you were able to get a profile?
16:21:16 11 **A** Yes.
16:21:16 12 **Q** Okay. And you got --
16:21:25 13 **A** A minor component.
16:21:27 14 **Q** -- a minor component. That's the YSTR component?
16:21:34 15 **A** Yes.
16:21:34 16 **Q** The unknown. I want to talk about the major --
16:21:49 17 the major profile. Do we know who that is from?
16:21:53 18 **A** No.
16:21:53 19 **Q** Do we know if the major profile on the hand set
16:21:58 20 telephone -- did you compare the major on the hand set
16:22:03 21 telephone 507 with the major under -- that you found on
16:22:07 22 item 10-B of the left fingernails?
16:22:10 23 **A** Yes, we did compare those.
16:22:12 24 **Q** What did you find out?
16:22:13 25 **A** They were two different males.

16:22:14 1 Q Two different males?
16:22:15 2 A Yes.
16:22:15 3 Q But two major profiles?
16:22:18 4 A Correct.
16:22:18 5 Q Both unknown?
16:22:20 6 A Right.
16:22:20 7 Q As you sit here today?
16:22:22 8 A Yes.
16:22:23 9 Q Now, you had a minor component. What happened --
16:22:30 10 what did you do with the minor component?
16:22:32 11 A We compared the minor component to James Knapp
16:22:35 12 and to Steven Democker, and we were able to exclude James
16:22:40 13 Knapp and we could not make any -- I'm sorry -- I could
16:22:43 14 not make any meaningful comparison to Steven Democker.
16:22:47 15 Q So the minors don't help you at all?
16:22:53 16 A Not in this case.
16:22:54 17 Q You mean the minors -- this is the third -- this
16:22:58 18 is the third item that you analyzed for DNA YSTRs, all of
16:23:04 19 them had mixtures; is that correct?
16:23:05 20 A Yes.
16:23:05 21 Q And you compared all three with each other?
16:23:10 22 A Yes.
16:23:11 23 Q And you were able to make some conclusions, but
16:23:17 24 very little as to the minor components?
16:23:19 25 A That's correct.

16:23:19 1 **Q** Going now on your next item on your list, there
16:23:38 2 is a Sorenson Item Number 13, agency ID Number 426. What
16:23:44 3 is that?
16:23:44 4 **A** We have it identified as a washer hose.
16:23:47 5 **Q** A washer hose. What did you do with that item?
16:23:49 6 **A** We didn't test it.
16:23:51 7 **Q** Was that at the request of somebody?
16:23:54 8 **A** We have on the report it's per client request.
16:23:57 9 They originally had requested that we test it, and then we
16:24:00 10 opened it up and saw how many washer hose -- basically
16:24:03 11 from what I understand, it's the drainage hose from a
16:24:07 12 washing machine, that very long piece, and they had taken
16:24:10 13 it and cut it up into several pieces and it was just going
16:24:14 14 to take a great deal of swabbing to swab that whole item
16:24:17 15 and we had actually tested it, Arizona's extract from this
16:24:20 16 item previously and hadn't obtained any DNA from it, so we
16:24:24 17 contacted the client and spoke with them and they
16:24:27 18 concurred that they weren't interested in testing it at
16:24:30 19 this time.
16:24:30 20 **Q** So this previous test of that washer was part of
16:24:33 21 your case notes?
16:24:35 22 **A** It wasn't recorded in this case. It was in a
16:24:38 23 previous case.
16:24:38 24 **Q** Not the pipe, but in the entire case?
16:24:40 25 **A** Right. Kind of confusing. What we do is we test

16:24:44 1 the DNA evidence in pieces, so if they submit, say, five
16:24:47 2 pieces to us, we will test that and call it a part one.
16:24:49 3 Then they get the results and maybe send in five more
16:24:52 4 pieces. We test that and call it a part two.
16:24:54 5 So what we have been talking about today is
16:24:56 6 our part three and we did two previous parts before.
16:24:59 7 **Q** So it wasn't tested because basically the first
16:25:01 8 time you tested it, there was no results?
16:25:03 9 **A** Right. And if we don't think we are going to --
16:25:05 10 if we have reason to believe we are not going to obtain
16:25:07 11 DNA results, we try to contact our client, who in this
16:25:10 12 case was the Yavapai County Sheriff's office, and say
16:25:13 13 don't waste your time and money testing this.
16:25:16 14 **Q** Next on your list, I am going to jump to 15 and
16:25:20 15 that's Agency Number 1419 and what is that?
16:25:25 16 **A** That's our Item 15. We have it labeled extract
16:25:30 17 from 600.
16:25:31 18 **Q** Extract came from?
16:25:33 19 **A** Arizona DPS.
16:25:34 20 **Q** What was your -- did you do -- run YSTR DNA
16:25:39 21 analysis on that item?
16:25:40 22 **A** Yes.
16:25:40 23 **Q** And what was your -- were you able to draw any
16:25:44 24 conclusions?
16:25:44 25 **A** No. The DNA testing results themselves were

16:25:47 1 inconclusive.

16:25:48 2 **Q** Is there a reason for that?

16:25:49 3 **A** It just means there was so little DNA we didn't

16:25:52 4 get any kind interpretable profile.

16:25:54 5 **Q** Not enough?

16:25:55 6 **A** Not enough.

16:25:56 7 **Q** To get any -- reach any conclusions?

16:25:59 8 **A** That's right. We couldn't even tell you how many

16:26:01 9 donors there are.

16:26:02 10 **Q** Or if there were any?

16:26:03 11 **A** That's correct.

16:26:04 12 **Q** We can't really tell anything from that?

16:26:07 13 **A** Right.

16:26:08 14 **Q** Number 16, agency number is Number 1424, and that

16:26:15 15 is what?

16:26:16 16 **A** We have that labeled as extracted from 603.

16:26:19 17 **Q** 603. We know what this is because that's the

16:26:22 18 left hand -- that's the left fingernail clippings from

16:26:25 19 Virginia Carol Kennedy that you tested?

16:26:27 20 **A** Right. This is going to be the extract from what

16:26:31 21 Arizona did. So this will be from their testing

16:26:34 22 procedure. They sent us their extract for us to amplify

16:26:37 23 and take through and develop a YSTR profile from their

16:26:40 24 extract.

16:26:40 25 **Q** So they apparently had run some DNA tests on

16:26:43 1 these same fingernails?

16:26:44 2 **A** Yes, according to the notes in our case file,

16:26:46 3 they had run the tests already.

16:26:48 4 **Q** And after they ran their tests, they still had

16:26:51 5 some sample left?

16:26:52 6 **A** Yes.

16:26:53 7 **Q** Is that what is called or what an extract is?

16:26:54 8 **A** Correct.

16:26:55 9 **Q** So you took the extract and you went and put it

16:26:59 10 through your process that we described earlier?

16:27:01 11 **A** Right.

16:27:02 12 **Q** And were you able to analyze the results on the

16:27:06 13 extract from Item 603?

16:27:08 14 **A** Yes. We did YSTR DNA testing on it and we got a

16:27:15 15 mixture of YSTR DNA profiles from at least two males and

16:27:21 16 we got a major profile that was identical to the major

16:27:25 17 profile we got from our testing of the same item.

16:27:29 18 And we weren't -- let's see -- we were able

16:27:36 19 to exclude Steven Democker as being the source of that

16:27:41 20 major profile.

16:27:44 21 There was a minor component present, but it

16:27:47 22 was so low that we were not able to make any comparisons.

16:27:51 23 **Q** While on that Item 603, you had -- you developed

16:27:55 24 a mixture of DNA, yes?

16:27:58 25 **A** Yes.

16:27:59 1 Q YSTR DNA to be specific?
16:28:01 2 A Yes. Uh-huh.
16:28:02 3 Q And one of that -- in that mixture was the major
16:28:06 4 profile?
16:28:07 5 A Yes.
16:28:07 6 Q That matched the major profile of your actual
16:28:13 7 swabbing and testing of fingernails of Virginia Carol
16:28:19 8 Kennedy's left hands?
16:28:19 9 A Yes.
16:28:20 10 Q That's a match, but we don't know who that is
16:28:23 11 yet?
16:28:23 12 A Right.
16:28:24 13 Q And then the minor mixture, you compared it to
16:28:30 14 Mr. Democker and Mr. Knapp to their knowns?
16:28:34 15 A We were not able to make any comparisons.
16:28:37 16 Q You weren't able to make any comparisons.
16:28:39 17 So were they excluded?
16:28:46 18 A We were not able to make that -- that conclusion.
16:28:50 19 Q I am going to draw your attention to page three,
16:28:54 20 item 16.
16:28:55 21 A Oh, I'm sorry. They were -- they were excluded
16:28:58 22 as the major DNA donor.
16:29:00 23 Q Okay.
16:29:01 24 A We were not able to exclude them from the minor.
16:29:03 25 Q That's right. Thank you for correcting me. I

16:29:05 1 was thinking I am reading something different here.
16:29:07 2 But then you conclude that there is no --
16:29:12 3 well, what do you say about the minor DNA mixture?
16:29:15 4 **A** No meaningful comparisons can be made.
16:29:19 5 **Q** And you were referring to both Mr. Democker and
16:29:22 6 Mr. Knapp?
16:29:23 7 **A** To any male.
16:29:24 8 **Q** To any male?
16:29:25 9 **A** Right.
16:29:25 10 **Q** We are almost through with this list. Two
16:29:30 11 more items.
16:29:30 12 Number 17 is Sorenson's number, agency
16:29:33 13 Number 1423, and what is that item?
16:29:38 14 **A** This was the reagent blend from the Arizona
16:29:42 15 laboratory. When we extract DNA, we run what is called a
16:29:46 16 blank and that's to ensure none of the chemicals are
16:29:49 17 contaminated with DNA from the environment or from the
16:29:53 18 laboratory and we don't want to get a DNA profile in our
16:29:56 19 blend. We want it to be completely blank.
16:29:59 20 **Q** And so no news is good news?
16:30:01 21 **A** Exactly.
16:30:02 22 **Q** And what was -- what did you result in when you
16:30:05 23 analyzed the OPE reagent blank?
16:30:09 24 **A** No DNA profile was obtained.
16:30:11 25 **Q** So that was -- that was it -- the desired result

16:30:15 1 from your end?

16:30:16 2 **A** Yes.

16:30:17 3 **Q** Last item.

16:30:20 4 Sorenson Item Number 18, agency ID Number

16:30:25 5 1003, and what is that?

16:30:28 6 **A** Reference sample from James Knapp.

16:30:30 7 **Q** So you got Mr. Knapp's DNA?

16:30:33 8 **A** We got -- I'm not sure if it was a buccal swab or

16:30:37 9 a bloodstain. I'd have to check, but we got a sample that

16:30:39 10 was from him.

16:30:40 11 **Q** Okay. And then you ran it?

16:30:42 12 **A** Yes. We did YSTR DNA testing on it.

16:30:46 13 **Q** And is that Item 18, Sorenson, is that the item

16:30:49 14 that you used for comparisons to the other -- the other

16:30:54 15 DNA that we have been talking about?

16:30:55 16 **A** Yes.

16:30:55 17 **Q** This afternoon?

16:30:56 18 **A** To my knowledge, a YSTR DNA profile had not been

16:31:00 19 developed for James Knapp at the time that we were doing

16:31:03 20 the testing, so we had to develop a profile.

16:31:05 21 **Q** So you created a profile?

16:31:08 22 **A** Yes.

16:31:08 23 **Q** From that you made your comparisons?

16:31:10 24 **A** Yes.

16:31:11 25 **Q** And those are all the items now that we went

16:31:13 1 through that you analyzed on April 27, 2010?

16:31:18 2 **A** Right.

16:31:20 3 MR. PAUPORE: Your Honor, this would be I think a

16:31:21 4 pretty good time to break.

16:31:22 5 THE COURT: We do need to recess a bit early this

16:31:25 6 afternoon, so Ladies and Gentlemen we will take the

16:31:27 7 evening recess.

16:31:27 8 Please remember the admonition, all aspects

16:31:30 9 of that and please be back in the jury room by 9:15

16:31:34 10 tomorrow morning.

16:31:35 11 And, Ms. Brown, you are excused for the

16:31:40 12 evening as well. I did explain the rule of exclusion of

16:31:43 13 witnesses to you and you do understand that obligation?

16:31:45 14 THE WITNESS: Yes.

16:31:46 15 THE COURT: Okay. Thank you.

16:31:47 16 We will be in recess. I am going to ask the

16:31:50 17 parties to remain and we will return in a brief minute.

16:31:55 18 Thank you.

16:32:48 19 (Whereupon, the jurors left the courtroom,

20 after which time there were proceedings regarding Juror

21 Number 15 and discussion of juror matters, after which

16:32:55 22 time the Court recessed the proceedings for the evening.)

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C E R T I F I C A T E

I, SANDRA K MARKHAM, Certified Reporter, do hereby certify that the foregoing pages constitute a true and accurate transcript of the proceedings had and testimony given in the hearing of the matter entitled as upon the first page hereof.

Dated: February 16, 2011.

Sandra K Markham, CR, RPR, CSR
Certified Reporter
Arizona License No. 50001