Appellate Case No. 25A-CR-00591

STATE OF INDIANA	)	IN THE ALLEN SUPERIOR COURT
	)SS:	
COUNTY OF ALLEN	)	CAUSE NO.: 08C01-2210-MR-1

STATE OF INDIANA,
Plaintiff,

VS.

RICHARD M. ALLEN,
Defendant.

THE HONORABLE FRANCES C. GULL, PRESIDING

The Transcript

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Q You took some training as a DOC employee?

A Yes.

Q And a component of that was a mental health – there was a little mental health component to that; right?

A Yes.

Q They train you – they teach you and kind of train you on how to recognize signs of mental health issues?

A Yes.

Q And so would you agree that if somebody has a serious mental illness or a mental health problem, that locking them in one of those cells for long periods of time would not be – would – could be detrimental to their mental health?

A Yes.

Q In other words, it could make it worse?

A It could.

MR. ROZZI: I don't have anything further.

THE COURT: Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

RE-DIRECT EXAMINATION OF JOHN MILLER

QUESTIONS BY MR. MCLELAND.

Q Mr. Rozzi asked you about killing his family. I want to draw your attention to the exhibit, on April 9th at 7:46; what did Mr. Allen say then?

A "I only killed them to give my family more time to live, and I don't want to be free. Can't stop the bomb put in me."

Q And then, if you slide on down to 7:52 a.m., what did he say?

A "You can't tell me if my wife is dead and it's because I had – what I did and

took their virgin years away."

Q Then finally, at 7:58 on that same page.

A "I'm sorry I killed those kids. I was afraid that they would say my wife told me to do it, and I may have touched my daughter, but I don't know, I can't remember."

Q Mr. Rozzi asked you about your mental health training. You were able to observe Mr. Allen and saw his behavior; is that correct?

A Yes.

Q And do you think his behavior – at some point, his behavior changed when he – you were observing him; is that correct?

A Yes.

Q And you talked about his behavior becoming odd or strange; is that right?

A Yes.

Q Do you think when he was acting that way that his behavior was genuine?

A No.

Q Why not?

A You don't go with – from a 12-hour period of being respectful, kind, and cordial in your speech to changing completely in 12 hours.

Q And I believe you testified, at least in a statement to police officers, that you believed it was orchestrated and planned; is that correct?

A Yes.

Q Why do you think he was doing that?

A I'm unsure.

Q Is Richard Allen here in the courtroom today?

A Yes.

Q And can you describe what he's wearing.

A A paisley shirt, brown pants, brown shoes, and his glasses on his head.

MR. MCLELAND: Let the record reflect, Judge, please.

THE COURT: The record will so reflect.

MR. MCLELAND: No other questions. Thank you, Judge.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF JOHN MILLER

QUESTIONS BY MR. ROZZI.

Q So one of the themes I'm seeing in this – in these log sheets is that he's concerned about his wife, isn't he?

A Yes.

Q Time and time again, he said he hopes to basically spare her; right?

A Yes.

Q He never said anything to you in any detail about how he killed those girls, did he?

A No.

Q They're all generic confessions, aren't they?

A Yes.

Q He was being treated by a psychologist?

A Yes.

Q Dr. Wala?

A Yes.

Q And you agree with me that she would be in the best position to render an opinion about his state of mental health when he was there?

A Yes.

Q Do you believe that he was experiencing a state of psychosis there at the prison during the months of April and May and even June?

A I can't speculate on that. I'm not a mental professional.

Q You'd leave it to them; right?

A Yeah.

Q And you said earlier you can't explain why he would be acting that way; right?

A No.

Q You don't know why somebody would stick a spork up their – in their genitals –

MR. MCLELAND: Judge, objection: Asked and answered. He just testified he can't explain it.

THE COURT: Sustained.

Q Can you explain why somebody would smear feces all over themself?

A No, I cannot.

Q Is one explanation maybe because the brain's not working right?

A I can't speculate on that. I wouldn't know.

Q Is it unreasonable for somebody to believe that?

A No.

MR. ROZZI: I don't have anything further.

THE COURT: All right. Does anybody on the jury have any questions for Mr. Miller? Would counsel approach.

(Sidebar conference conducted.)

THE COURT: "Do you think it would be normal for someone to act like Mr. Allen while refusing to take their medications for a period of time?"

MR. MCLELAND: I'm okay with it.

MR. ROZZI: Okay. Oh, that's it?

THE COURT: Yeah, that's it.

(Sidebar conference concluded.)

JUROR QUESTIONS OF JOHN MILLER

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Mr. Miller, do you think it would be normal for someone to act like Mr. Allen while refusing to take their medications for a period of time?

A It is possible.

THE COURT: Mr. McLeland, any follow-up?

MR. MCLELAND: No, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: No.

THE COURT: Thank you, Mr. Miller. You may step down. You may call your next witness.

MR. MCLELAND: Your Honor, the State of Indiana would call Brandon Fisher, please.

(Witness sworn.)

DIRECT EXAMINATION OF BRANDON FISHER

QUESTIONS BY MR. MCLELAND.

Q Sir, would you state your name, please.

A Brandon Fisher.

Q Mr. Fisher, how are you employed?

A Oh, currently?

Q Yes.

A I'm employed.

Q Okay.

MR. ROZZI: I'm sorry –

Q And at one –

MR. ROZZI: I'm sorry, I didn't hear what he said.

THE COURT: Could you repeat your answer, sir.

A I am employed, yes.

MR. ROZZI: Oh, okay. Thanks.

Q Let me back up. Mr. Fisher, I'm just gonna have you – you don't need to lean into the microphone. It amplifies for the audience, but not for us. But just use your best outside voice, so we can hear you; fair enough?

A Fair.

Q I'm really struggling with hearing people today, so I may ask you to speak up at times, just so I can understand what you're saying.

A Okay.

Q Okay? So again, will you state your name, please.

A Brandon Fisher.

Q And will you spell your last name for me.

A F-I-S-H-E-R.

Q And at one point, were you employed with the Indiana Department of Corrections?

A November 7th, 2022, to June 1st, 2023.

Q And which facility were you employed at?

A Westville Correctional Facility.

Q And before becoming a correctional officer at Westville, did you go through

specialized training or education?

A High school, a little bit of college, but no expertise.

Q Okay. Did you go through special training with the Indiana Department of Corrections –

A Yes.

Q -- before you became a correctional officer?

A Yes. I did a two-month training from June 7th to January 7th of 2023.

Q And what shift did you work while you worked with the Indiana Department of Corrections?

A I was on J Group, that's a 6 p.m. to 6 a.m. shift.

Q And what unit within Westville did you work?

A WCU.

Q And are you familiar with Richard Allen?

A Yes, I am.

Q How do you know Richard Allen?

A I know Richard from watching over him.

Q While you were employed with the Westville Correctional Facility?

A Correct.

Q And at some point during your career there, were you assigned as a suicide companion for Richard Allen?

A Absolutely.

Q And did you do that on a regular basis during your shifts?

A Yes.

Q And what time period were you assigned as a suicide companion for Richard Allen, meaning what – was it for the full year? Was it a period of months?

How long were you assigned as a suicide companion for Richard Allen?

A Oh, it was a period of months.

Q And did you watch him each time you came on duty for your shift?

A Yes. That varied; sometimes it could be 12 hours, it could be 4 hours, it just depends on the staff.

Q And while you're watching him as a suicide companion, did you fill out logs coinciding with that duty?

A Yes, I did.

Q Can you tell me about those; what are they called?

A I mean, it's suicide companion – I can't think of the name exactly.

Q If I told you it was suicide companion watch reports, would that be accurate?

A Accurate.

Q I'm gonna show you what's been marked as State's Exhibit 301; are you familiar with the documents within that packet?

A Yes.

Q And what would you describe those as? What are they?

A Pretty much they're logs, you know.

Q The suicide companion watch reports?

A Yes. They –

Q And who is the author of these logs that you're looking at?

A That would be me.

Q And how do you know that?

A Well, it's in my handwriting, my initials with the name.

Q Your – the initials down the right-hand side, those are yours?

A Yes.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 301 into evidence, please.

STATE'S EXHIBIT 301 OFFERED

MR. ROZZI: One second, please. No objection.

THE COURT: All right. Without objection, 301 is admitted.

STATE'S EXHIBIT 301 ADMITTED

MR. MCLELAND: And, Judge, I know this is getting repetitive, but if I could follow the same process with the jury, I'd publish that so they can follow along.

THE COURT: You may.

MR. MCLELAND: Thank you.

STATE'S EXHIBIT 301 PUBLISHED

THE COURT: Go ahead.

MR. MCLELAND: Thank you.

Q Mr. Fisher, I want to go through this State's Exhibit with you. First, I want to draw your attention to the first page, April 20th of 2023, I want to direct your attention to 6:25 p.m. on that sheet; what did Mr. Allen say during that date and time?

A 6:25, Richard claims he wants to talk to the warden and confess he is guilty. He said it two times, but I believe I was trying to say that – it says, "Per management." He always says that.

Q Okay. And so at this point in time, he said it to you twice?

A Yes.

Q Okay. And are you making these notes and these logs in real time?

A Yes.

Q Meaning as he's saying these things, you're writing it down?

A Yes. Well, not exactly as he's saying it, but, you know, you have to make a log, I believe it was like every 15 minutes, of what he's doing, so if you – if you remember it within that time period, then that's what you would go on, you know, what he said, what his interactions were, what he was doing.

Q Gonna draw your attention to the next page, on April 29th, draw your attention first to 6 p.m.; what did Richard Allen say during that time?

A Richard claimed he killed two girls in Delphi with a box cutter. He stole it and left it in the CVS trash. He said he is tired and he keeps asking for a doctor from Delphi and he keeps asking for my bottle of water and he claims he wants to write a confession.

Q Gonna draw your attention to 7:45 on that same day; what did he say?

A He is now lying down on his mattress and he got up and took meds at 7:57.

Q And so he took his meds on that day and time?

A Yes.

Q I'm gonna draw your attention to the next page, on May 18th, draw your attention to the time of 8:15 p.m.; what did Mr. Allen say then?

A He killed A.W. and L.G. Had a small gash over his head from banging, which I'm gonna say banging from – on his little wall.

MR. ROZZI: I'm sorry, I didn't hear what the – Judge, could you ask him to repeat that, please.

THE COURT: Could you repeat that, sir.

A Oh, when I meant banging, when I wrote this, like he would do something

like on his little window, like bang his head, not hard, but, you know, just – that's just one of the things he did.

Q And then, Mr. Fisher, I want to go back to – sorry – the second page, on April 29th at 6:30 p.m.; what did Richard Allen say then?

A Richard continues to talk about A.W. and L.G., says he was going to rape them, but not scare them, and then he panicked and killed them instead.

MR. MCLELAND: I don't have any other questions, Judge. Thank you.

THE COURT: Mr. Rozzi.

CROSS EXAMINATION OF BRANDON FISHER

QUESTIONS BY MR. ROZZI.

Q So you also provided a statement to the police on October 30th, 2023?

A Okay.

Q Do you recall the police come up there, talking to you?

A October 3rd? Yes, Mr. Harshman.

Q Did you review that before you came in here to prepare for today?

A Yes.

Q And there was some problems with the recorder when they came to speak with you?

A At the very back end.

Q So then they had to go back through it all again?

A No. We continued.

Q Okay. So you worked at the DOC for about a year?

A Not a year, seven months – no, eight months I believe.

Q You got fired for providing false information on your application?

MR. MCLELAND: Judge, I'm gonna object. It's outside the scope of direct.

THE COURT: Sustained.

MR. ROZZI: But he asked him where he worked.

THE COURT: Sustained.

A Wasn't false –

THE COURT: No, no, no, sir. I've sustained the objection.

A Okay.

Q You're not working there anymore.

A No.

Q You never saw Rick do anything suicidal when he was there?

A From Richard?

Q Yeah.

A To most people it would look like it's suicidal, but if you knew him, then it was just a act.

Q Okay. Did you tell me that you never saw him do anything suicidal when I took your deposition on April 18th, 2024, up in LaPorte?

A I'd probably say yes.

Q Okay. And you were never told anything about his mental health issues before you went on the unit, were you?

A No.

Q You never talked to Dr. Wala about him?

A No.

Q You didn't even know who she was when I talked to you up in LaPorte, did you?

A No.
Q You said there times when he was on his meds and times when he wasn't taking his meds?
A Correct.
Q And you worked 6 p.m. to 6 a.m.?
A Correct.
Q So you weren't seeing anyone else on the unit other really than the nurse – right? – occasionally.
A Nurse gives out meds at about – in between 7 to – in between 7 and 8, so –
Q And you told me you weren't seeing any mental health staff between 6 and – 6 p.m. and 6 a.m., were you?
A Okay. Nurse, mental health staff.
Q No?
A I seen the nurse, yeah.
Q Well, but not mental health staff; right?
A No.
Q Medical staff?
A No.
Q You saw Richard with feces all over his face?
A Yes.
Q And you would agree that that's strange behavior; right?
A Working in a prison, that's something you would see.
Q Okay. Yeah, we've had this conversation. It's normal behavior in a prison, isn't it?

A I'd say on the outside, no, it's not normal; on the inside, yeah, you could see something like that.

Q Yeah. The stuff that goes on inside that prison, entirely different than the things that go on out in normal society, isn't it?

A Yeah, that's correct.

Q You said many times that Rick was precious cargo is what you said; right?

A Yeah, and –

Q Kind of upset you, didn't it?

A No.

Q So precious they locked him up in an 8 by 12 cell; right?

MR. MCLELAND: I'm gonna object to that, Judge, and the form of the question.

THE COURT: Sustained.

THE WITNESS: Can I say something about that?

THE COURT: No, sir.

THE WITNESS: Okay.

THE COURT: You have to wait for the questions.

THE WITNESS: All right.

Q You ever watched anybody, in the time that you were there, the seven months you were there on that unit, that hadn't been in any trouble before?

A Repeat that.

Q Have you ever been assigned to supervise anybody on that unit, in the time that you were there, that was not – had not been in trouble before in their life?

A No, not one-on-one, no.

Q He told you he killed the girls; right?

A Yes.
Q And he told you with a boxcutter; right?
A Yes.
Q And he said he stole the boxcutter; right?
A Yes.
Q He tell you who he stole it from?
A It says CVS.
Q Okay. He stole it from the place where he worked?
A Okay.
Q And he told you on, April 29th of 2023, that he wanted to write up a confession; right?
A Yeah.
Q And do you know he had already written a confession before that?
A No.
Q Directing your attention to the entry on May 18th, 2023, you see that at 8:15 p.m.? Strike that, eight o'clock. That would be the third page of your report, sir. May 18th at 8 p.m.
A Okay.
Q You see that?
A Um-hmm. (Affirmative response)
Q Yes or no?
A Yes, I see it.
Q Was Richard Allen banging his head on the door?
A Yes.
Q And asking for somebody to read the Bible to him?

A Yes.
Q And he said he killed A.W. and L.G. at 8:15; right?
A Yes.
Q You noted that he had a small gash over his head?
A Yes.
Q But he wasn't banging it very hard; right?
A No.
Q But he still banged it enough that there was a gash?
A Okay.
Q Yes or no?
A Yes, yes, yes.
Q Now, you said that some people didn't like monitoring him because they knew what he did; right?
A Yes.
Q I mean, there were actually guards in there that didn't want to sit in front of him because of the things he had been accused of.

MR. MCLELAND: Judge, again, asked and answered, objection.

MR. ROZZI: Well, I'm asking him to clarify that.

THE COURT: Overruled.

MR. ROZZI: I'm sorry, Your Honor, I couldn't –

THE COURT: I said overruled.

Q Right?
A Correct.
Q So people were already treating him as if he had been convicted?
A That's false.

Q He told you he lost his virginity to his babysitter next door? He told you that one night, didn't he?

A Yeah, he did.

Q Crazy stuff, wasn't it? Right? He was 11 he said.

A That's correct.

Q Told you he was raped at age 11; right?

A That's correct.

Q He also told you that they, the girls, were screaming when he did this, didn't he?

A That's correct.

Q Those are the words he used, "screaming"?

A That's correct.

Q You remember other inmates yelling at him, telling him to kill himself?

A Yes.

Q Calling him a baby killer?

A Yes.

Q You made some comments that he was acting like he was living in the 1300 or 1400s; do you remember that?

A Yeah, I remember what I said, yes.

Q Like he was living in medieval times or something; right?

A Yes.

Q And you knew that he was telling the truth because of the look in his eye is what you said; right?

A That's correct.

Q You have some special skills to look in people's eyes and determine

whether or not they're telling the truth?

A No, I do not.

MR. ROZZI: I don't have anything further.

THE COURT: Mr. McLeland.

RE-DIRECT EXAMINATION OF BRANDON FISHER

QUESTIONS BY MR. MCLELAND.

Q Mr. Rozzi was asking you questions and you testified that you believe the actions that Mr. Allen was displaying was an act; do you recall that?

A Yes.

Q Why do you believe it was an act?

A I believe it because when you're sitting there anywhere from four hours a night to eight hours a night to 12 hours a night, what are you gonna do? It's one-on-one, it's you and him. We spoke a lot, we had conversations. I never had any issue, like big problem, with Allen, never, to the point where, you know, we would talk, we would talk about his upbringing, his childhood, like, you know, things that he liked to do. He would – I remember he would always say, "Can you just read like Psalms 25 for me?"

MR. ROZZI: What'd you say? I'm sorry, I'm just having a hard time hearing.

A He would always want me to read like a Bible verse for him, 'cause my thing was, I would sit there and watch him and I would like read.

Q At one point, you had a conversation with him about – or you heard him say something about when he put the feces on his face; is that correct?

A That's correct.

Q And he made a statement that stuck out to you; is that right?

A Yeah.

Q What was the statement?

A "I won't be doing that again."

Q So he rubs feces on his face and then he makes that statement to you?

A Correct.

MR. MCLELAND: I don't have any other questions, Judge.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF BRANDON FISHER

QUESTIONS BY MR. ROZZI.

Q And then he did it again, didn't he?

A If he did, that had to be like on another shift that I didn't know about. I knew about that one specific time.

Q Do you think that you can tell whether or not somebody has mental health issues by looking them in the eyes? You said it earlier.

A Well –

Q Think you can?

A Let's put it like this: I'm 38 years old, never been in any trouble, knowing right from wrong, somebody is mentally ill, I think there are various ways to point out if they are or not, I think that.

Q But do you think you can tell if somebody's mentally ill by looking into their eyes?

A Not in their eyes, no.

Q Yeah. Rick Allen had a mental illness because he was in that facility. Would you agree with me that being locked up in that 8 by 12 cell was not helping?

MR. MCLELAND: Judge, I need to – can you restate the question? I couldn't hear the beginning. Did you say Richard Allen had a mental health illness?

Q If Rick Allen had a mental illness when he was locked up in Westville, would you agree with me that being locked in that 8 by 12 cell for days and weeks and months on end would be detrimental to his mental health?

A I'd agree.

Q Right.

A I'd agree.

Q You said that you knew right from wrong and you'd never been in trouble; right?

A Correct.

Q But you lied on the application, didn't you?

A That's false.

Q It got you fired, didn't it?

MR. MCLELAND: Judge, I'm gonna object. It's outside the scope again. This is the second time Mr. Rozzi's tried to do this. He's blatantly violating the Court's orders.

MR. ROZZI: He opened the door. He says he knew right from wrong.

THE COURT: Sustained. That's beyond the scope.

MR. ROZZI: I don't have anything further.

THE COURT: Does anybody on the jury have any questions for Mr. Fisher?

(Sidebar conference conducted.)

THE COURT: "Who is Jerome Roby that's listed on the first page of Exhibit 301?"

MR. ROZZI: I'm okay with it.

THE COURT: "Companions were allowed to talk with/interact with offenders. Did you training tell you or is it protocol to try to de-escalate or merely observe and report?"

MR. ROZZI: Okay with that.

MR. MCLELAND: I'm okay with that.

THE COURT: "Why is Brandon testifying for Jerome Roby, which is the name of the companion (inaudible)"? We already –

MR. MCLELAND: Yeah.

MR. ROZZI: Already dealt with that.

(Sidebar conference concluded.)

JUROR QUESTIONS OF BRANDON FISHER

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Mr. Fisher, on the first page of the exhibit that you have in front of you, could you tell us who is Jerome Roby?

A Jerome Roby was another guard.

Q Another guard?

A Yeah.

THE COURT: Any follow-up, Mr. McLeland?

FOLLOW-UP EXAMINATION OF BRANDON FISHER

QUESTIONS BY MR. MCLELAND.

Q Mr. Fisher, his name is at the top of this sheet on page 1 of State's Exhibit. He was another guard at the – correctional officer at the facility; is that correct?

A Correct.

Q But even though his name's at the top of the sheet, are you still the one that made the entries on that sheet?

A Yeah, these are – except for one.

Q Except for the last one?

A Except for the last one.

Q But you know you made the other three entries how?

A I mean, I just wrote them in.

Q Well, I mean, are those your initials on the right-hand side?

A Yes.

Q Okay.

A Right, those are my initials.

Q And so you made those three entries, the first three entries on the first page of that State's Exhibit?

A Yes.

MR. MCLELAND: Okay. No other questions, Judge.

THE COURT: Mr. Rozzi?

MR. ROZZI: No other questions.

JUROR QUESTIONS OF BRANDON FISHER

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Companions were allowed to talk with and interact with offenders; is that correct?

A Yeah. It wasn't any – they didn't tell you, say, "Hey, don't talk to this guy" or this, that, and the third. It never happened.

THE COURT: Mr. McLeland?

MR. MCLELAND: No questions, Judge.

THE COURT: Mr. Rozzi?

MR. ROZZI: One second.

FOLLOW-UP EXAMINATION OF BRANDON FISHER

QUESTIONS BY MR. ROZZI.

Q If the warden testified earlier and said it's observation only, would he be wrong?

A No, he wouldn't.

Q But you say it's okay if they talk to offenders.

A Observation if you're noticing or if you're writing down stuff that they say. I don't think that's the issue.

Q Companions allowed to go out and tell everybody else on the cell block what's going on in there?

MR. MCLELAND: Judge, that's outside the scope of the jury question.

MR. ROZZI: We're asking about companions, I think it's within the scope.

A No.

THE COURT: Okay.

MR. ROZZI: Nothing further.

JUROR QUESTIONS OF BRANDON FISHER

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Did your training tell you or is it protocol to try to de-escalate or to merely observe and report?

A Observe and report.

THE COURT: Any follow-up, Mr. –

MR. MCLELAND: No, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: No.

THE COURT: All right. Thank you, sir. You step down. And may I have the exhibit back. Thank you. You may call your next witness.

MR. MCLELAND: Thank you, Your Honor. State of Indiana would call Officer Raymond Smith, please.

(Witness sworn.)

DIRECT EXAMINATION OF RAYMOND SMITH

QUESTIONS BY MR. MCLELAND.

Q Officer, before we get started, I'm gonna ask you to use your best outside voice when you're testifying. I've really struggled today with – to hear the witnesses. Unfortunately, that microphone does not amplify for us inside the well or in front of the bar, it only amplifies for the audience. I have to be able to hear you, the Defense has to be able to hear you, the Judge has to be able to hear you and, most importantly, the jury; so, if you could, just speak up and use your best outside voice. I promise you won't be yelling, but we just all need to be able to hear you clearly. Fair enough?

A Yes, sir.

Q Yeah, you don't need to lean into the microphone, she's recording, so just sit back and we'll ask you some questions; okay?

A Okay.

Q All right. Will you state your name, please.

A My name is Raymond Smith.

Q And will you spell your last name for me, please.
A S-M-I-T-H.
Q And how are you employed?
A I'm employed as a corrections officer at Westville Correctional Facility.
Q And how long you been employed there?
A Over six years.
Q And before you became a correctional officer, you go through any kind of special training or schooling to become a correctional officer?
A I went through eight weeks of training at the facility.
Q And what shift do you work at Westville?
A I work the night shift, it's called K Group. It's one of two night shifts.
Q Can you tell me the hours of work for that.
A 6 p.m. to 6 a.m.
Q And do you work in a specific unit within the facility at Westville?
A Yes, it's referred to as segregation.
Q Is it also referred to as WCU?
A It is.
Q Okay. And are you familiar with an individual by the name of Richard Allen?
A Yes, I am.
Q And how are you familiar with him?
A He was a inmate in that WCU where I work at.
Q And at some point during his stay at that facility, were you asked to be a suicide companion for him?
A Yes, I was.

Q And did that entail you sitting by his cell and recording his statements and his actions?

A Yes, it did.

Q And did you do that on a consistent basis?

A Yes.

Q And did you do that consistently each shift you worked?

A Yes.

Q I'm gonna show you what's been marked as State's Exhibit 299; does this document look familiar to you?

A Yes.

Q And what is it?

A It is a suicide companion watch report.

Q And are you familiar with these reports?

A Yes.

Q And are these reports that you would take as part of your duties as a suicide companion?

A Yes.

Q And who is the author of these reports?

A Myself.

Q How do you know that?

A It is in my handwriting, it has my initials and name.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 299, please.

STATE'S EXHIBIT 299 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. I'll show 299 admitted without objection.

STATE'S EXHIBIT 299 ADMITTED

MR. MCLELAND: Judge, may I follow the same procedure by publishing it to the jury so they can follow along?

THE COURT: You may.

MR. MCLELAND: Thank you.

STATE'S EXHIBIT 299 PUBLISHED

THE COURT: You may proceed.

MR. MCLELAND: Thank you, Judge.

Q Officer Smith, I want to draw your attention to the first page of that document, which is April 10th of 2023, and I want to draw your attention to 3:24 a.m.; on that date and time, what did Mr. Allen say?

A Mr. Allen, at 3:24 a.m., licked the window of his door and stated, "Kathy, I did it. I'm guilty. Run, Kathy, run. I did it."

Q Then I want to move on to the next sheet, on April 22nd, want to draw your attention to 7:55; what did he say during that time?

A Let's see, at 7:55 p.m., he stated, "I killed those two girls, so I have to kill myself."

MR. MCLELAND: I don't have any other questions, Judge.

THE COURT: Mr. Rozzi.

MR. ROZZI: Thank you, Judge.

CROSS EXAMINATION OF RAYMOND SMITH

QUESTIONS BY MR. ROZZI.

Q So, I'm sorry, do you still work at the DOC?

A Yes.

Q Okay. And you've been there for five years you said?
A Over six years.
Q And you were interviewed by law enforcement officials back on August 8th of 2023, at the prison?
A That's correct, yes.
Q You read your statement before you came in here today?
A I did.
Q And Rick told you that if he fucked those girls, he fucked them is what he said to you, didn't he?
A If that's what's on my statement, yes, I believe he said that. I would have to refer to my statement.
Q Would it help you to refresh you – look at your statement and refresh your recollection?
A Yes, it would.

MR. ROZZI: Okay. Let me – may I approach, Your Honor?

THE COURT: You may.

Q Direct your attention to page 13, lines 9 through 11. Let me know when you've read those. Did you look at that?
A Yes. I do remember him saying this.
Q Did he say to you, "If I fucked those girls, I fucked them. If I killed them, I killed them"?
A He did.
Q He repeat that a couple of times to you?
A Yes.

MR. MCLELAND: Judge, I'd ask the witness be allowed to read the

entire statement to put it in context. Mr. Rozzi paraphrased it incorrectly, that's not what his statement says, and so I'd ask the witness be allowed to read that entire answer into the record.

MR. ROZZI: That's fine with me. Well, what lines do you want him to read I guess, just so there's – the whole page –

MR. MCLELAND: Lines 15 through 21.

MR. ROZZI: Well, he said it in lines 9 through 11, for starters.

MR. MCLELAND: Okay. Okay, he says it in two places, so I'm okay with him – I guess I could follow-up with some questions, Judge, but he says it in two places and I'd just like to put it in context, but I can follow it up with questions on re-direct, Judge.

THE COURT: You may continue, Mr. Rozzi.

Q Did you report that you thought he was having some trouble remembering maybe?

A I just wrote down what I heard him say. I don't know what his mental state was. I don't know if he was having trouble with memory or not.

Q Or maybe if he was saying it, he was just saying it like it didn't matter; right?

A That's possible.

Q You weren't really sure of the context?

A No.

Q Now, going back to your log sheet, Exhibit 299, which you've got there on the desk next to you, directing your attention to the April 10th entry at 2:50, you see that, the very first entry?

A Yes.

Q So this is at 2:50 in the morning; right?
A Correct.
Q When most people would be sleeping; right?
A Right.
Q And he's awake and he's singing "God Bless America"; correct?
A That is correct.
Q And at 3:12, he starts masturbating in front of his door; right?
A That's correct.
Q Singing "Mamas, Don't Let Your Babies Grow Up to be Cowboys"?
A Yes, sir.
Q This is going on at 3 in the morning?
A Yes.
Q And then you said earlier he started licking the door – the window of his door; right?
A That's correct.
Q Then, at 3:35, want to direct your attention to that entry, back to "God bless America. I'm guilty"?
A Yes.
Q Directing your attention to the April 10th, 2023, entry at 4:05 to 4:11; do you see that?
A Yes, I see it.
Q So is he now running in place and singing "God Bless America"?
A Yes.
Q I mean, I'm just trying to envision, it's like you would do like if you were at football practice or something?

A Yes, sir.

Q Does anybody report any of these kind of – did anybody report this on this night to somebody, like a mental health provider or –

A I recorded it in my log. There's no mental health provider until early in the a.m., a few hours after this was reported.

Q April 10th at 4:50 a.m., do you see that entry, third one from the bottom?

A Yes.

Q Did he tell you, "I want to go camping, you, me, Roger, and Mervin. Chris is my best friend"?

A Yes, that's correct.

Q Did any of this make any sense to you?

A No.

Q And then, at 5:17, he starts talking about his wife; right? Mentioning his wife, Kathy?

A Yes.

Q There wasn't any time when you were watching Richard Allen that he mentioned any details about killing those girls, is there?

A Not any details that aren't recorded in my report.

Q Fair enough. Basically, just the references to the sex acts; right?

A The references that are on my report.

Q Okay. And you said that as of August – when you were interviewed on August 8th, that you described him as being polite at that point; right?

A I – that's correct, yes.

Q You noted that he slept a lot, far more than other offenders.

A Yes.

Q You also noted there wasn't much in his cell; it was pretty bare?
A That's correct.
Q Wasn't a real stimulating environment; right?
A No.
Q And the last time you ever heard him say anything about his case was back in April of 2023 – maybe early June, I think you actually said.
A Yeah, in that timeframe, yes.
Q But definitely not in July?
A No.
Q That's what you said?
A Yes.
Q And you said that the other offenders would go at him; right?
A Other offenders would attempt to agitate him.
Q And they would say to him, "There's no insanity defense"?
A That's correct, they would say – some would say that.

MR. ROZZI: I don't have anything further.

THE COURT: Mr. McLeland.

MR. MCLELAND: Thank you, Judge.

RE-DIRECT EXAMINATION OF RAYMOND SMITH

QUESTIONS BY MR. MCLELAND.

Q During the interview that Mr. Rozzi asked you about where he made those statements, you gave the officers some additional information, as well; is that correct? The officers that were interviewing you.
A I would have to refer to it. I believe that –
Q Do you still have the document?

A This document?
Q Yep, that's it.
A Yes.
Q I'd refer you to page 13, and I would draw your attention to lines 11 through 13. Let me know when you've had a chance to review those.
A Yes, I remember this.
Q So you talked about what you'd heard Mr. Allen say about having sex with the girls. He also talked about if he killed them, I killed them; is that correct?
A That's correct.
Q And then, what other explanation do you give the officers that day for those statements?
A I stated he seemed like he was having trouble remembering, like either he was having trouble remembering or he was almost saying it doesn't matter.
Q What kind of behavior from an inmate in a cell would require you to notify a mental health professional immediately?
A Any type of behavior that would indicate the inmate is about to attempt suicide.
Q Any behavior that Mr. Rozzi went over with you that Richard Allen was displaying in his cell, did any of that behavior cause you to notify Mental Health immediately?
A Not immediately, no. I – he did state that he – I'm paraphrasing, 'cause I don't have it in front of me – he killed those girls, so he needs to kill himself. I had him under close observation at that point, and if he had done anything, I would have – it would have immediately been acted upon to stop it.
Q But even that statement, you didn't notify Mental Health immediately,

because you were there to watch him?

A Right. We don't really have the capability to notify Mental Health immediately. We have a nurse on the night shift, an R – usually an RN, and we have supervisors in the Custody staff. I could have notified them. I don't remember if I did or not.

Q Okay.

A The nurse was not notified.

MR. MCLELAND: Okay. I don't have any other questions, Judge. Thank you.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF RAYMOND SMITH

QUESTIONS BY MR. ROZZI.

Q On April 10th, were these – the first page of the entries were made on April 10th; right?

A Correct.

Q And this conversation that Mr. McLeland just had with you was during this time – general timeframe; right?

A Yes.

Q At that point, he was on suicide watch, wasn't he?

A Correct.

Q His cell was stripped down to almost nothing, wasn't it?

A Yes.

Q I mean, really we're talking about a concrete cell with a little mattress in the corner pretty much, aren't we?

A Yes.

Q Not even any sheets in there, are there?
A No.
Q Steel toilet?
A Yes.
Q Bolted into the wall?
A Correct.
Q With a sink sitting right on top of it?
A Yes.
Q Basically brush your teeth right over your commode, don't you?
A That's correct, yes.

MR. ROZZI: I don't have anything further.

THE COURT: Does anybody on the jury have any questions for Mr. Smith?

(No response or indication from any juror.)

THE COURT: All right. Thank you, sir. You may step down. And I can take that. Oh, wait, I'm sorry, there is a question. Thank you.

(Sidebar conference conducted.)

THE COURT: "What are suicidal actions that require calling the doctor?"

MR. ROZZI: Okay, good.

THE COURT: "Who is M.M.?"

MR. ROZZI: M.M.?

THE COURT: "Is that the Officer Moneypenny listed at 7:55?" I don't know what that means.

MR. ROZZI: He's probably on one of the logs.

MR. MCLELAND: He's on one of the logs.

MR. ROZZI: His entries are on here.

THE COURT: Oh, okay.

MR. MCLELAND: I'm okay with the question.

THE COURT: So who is M.M.?

MR. MCLELAND: It's Mike Moneypenny.

THE COURT: Oh, the Officer Moneypenny –

MR. MCLELAND: Yes.

THE COURT: -- that's listed is him?

MR. MCLELAND: Yes, that's him.

THE COURT: So I can just keep it as M.M. and he'll know what I'm talking about?

MR. ROZZI: Yeah, that's fine.

THE COURT: Okay. And then you have one more witness. Can I tell them that there's one more witness?

MR. ROZZI: Yeah, yeah.

MR. MCLELAND: And I don't think it'll be a long one, so –

THE COURT: Okay. Just so that they know that we're not gonna go on indefinitely.

MR. ROZZI: Yeah, (inaudible) till midnight.

THE COURT: Okay.

(Sidebar conference concluded.)

JUROR QUESTIONS OF RAYMOND SMITH

QUESTIONS BY THE JURY, READ BY THE COURT.

Q Officer Smith, what are suicidal actions that require calling the doctor?

A The physical act of attempting suicide will be acted upon. Any actions such as him saying that he would kill himself is reported in my log and can be seen by mental health professionals the next morning.

THE COURT: Any follow-up, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: No, ma'am.

Q And on the log – if you could just look at that again, sir – who is M.M., the officer that's listed as 7:55 p.m.?

A M.M. is – I believe his first name is Mark, and that would be Moneypenny, his last name is Moneypenny.

THE COURT: Any follow-up?

MR. MCLELAND: No, Your Honor.

THE COURT: Mr. –

MR. ROZZI: No, ma'am.

THE COURT: All right. Thank you, Officer. You may step down and I'll take that. And, ladies and gentlemen, we have one witness left for the day. I just want you to know we're not gonna go on forever. We have one witness left and then we're gonna recess. You may call the next witness of the day.

MR. MCLELAND: Thank you, Your Honor. The State of Indiana would call Officer Jason Bedwell, please.

(Witness sworn.)

DIRECT EXAMINATION OF JASON BEDWELL

QUESTIONS BY MR. MCLELAND.

Q Mr. Bedwell, I'm sure the jury and the Court's tired of hearing me say this,

but I'm gonna say it again: I want you to speak up as best you can, use your best outside voice. I'm really struggling to hear people this afternoon. That microphone doesn't amplify for us, so if you could just use your best outside voice so everybody could hear you, we'd appreciate it. Fair enough?

A Yes, sir.

Q Perfect. Will you state your name, please.

A Jason Bedwell.

Q And will you spell your last name for me.

A B-E-D-W-E-L-L.

Q And how are you employed?

A I am a custody officer at Wabash Valley Correctional.

Q And how long you been employed in that position?

A Nine years.

Q And before you became a correctional officer at Wabash Valley Correctional Facility, did you go through any kind of training to become a correctional officer?

A Yes, sir.

Q Can you tell me about that.

A I went through training for facility security, inmate security, inmate transportation, and CTS training, which is what's called certified treatment specialist to work with the mentally ill inmates.

Q And what shift do you work at that facility?

A Day shift, H Bracket.

Q Could you tell me the time periods of that shift?

A Time period is from 6 a.m. to 6 p.m.

Q And you may have already stated this, but do you work in a specific unit

within that facility?

A I have worked many different units while I've been there, but at the time, I was working in the secured unit, secured correctional unit on the confinement unit, which is also known as the (inaudible).

Q And are you familiar with an individual by the name of Richard Allen?

A I do.

Q And how are you familiar with him?

A I was doing a watch sheet and a – basically, I was watching over him throughout the day to make sure his mental health, his physical health, and wellbeing was – were doing okay.

Q And when you watch over him, this may be a silly question, but are you at his cell watching him?

A At his – at that time, I was doing a 15 – every 15 minute walk, 15 minute round, so no, I wasn't there all day. I'd walk out, I'd observe, see – observe what he's doing. I would walk back to where I was at and I would log it down on the flow sheet.

Q How much time did you spend at his cell when you were observing him?

A Enough time to see what he was doing, enough time to understand what was going on. Now, if there was something else that was going through that would be more concerning to me, you know, on there to where I needed to look, I'd be there a little bit longer.

Q And so every 15 minutes, you'd go down to his cell and look into the cell to observe him?

A That is correct.

Q And you observed for a few minutes and then returned to your duty

station?

A That is correct.

Q Unless something was going on, and then you observed – you would observe longer?

A That is correct.

Q Is that a fair summary of how you watched –

A Yes, sir.

Q -- Richard Allen?

A Yes, sir.

Q I want to show you what's been marked as State's Exhibit 300; can you tell me – well, first of all, are you familiar with this document?

A I am, sir.

Q And what is this document?

A That is the offender flow sheet, watch sheet, for watching as what we would call suicide watch.

Q And is this the sheet that you log any activity on when you observe Mr. Allen?

A It is, sir.

Q And is that a sheet that's necessary to coincide with you watching him?

A It is, sir.

Q And who's the author of this sheet, meaning who filled this sheet out?

A I did, sir.

Q How do you know that?

A Because my initials are on the left-hand side.

Q Also, if you take a look at the bottom, is there some identifying information

that let you know who filled this sheet out?

A There is, sir. My initials are at the bottom, along with my name and title duty.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 300 into evidence.

STATE'S EXHIBIT 300 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 300 is admitted.

STATE'S EXHIBIT 300 ADMITTED

MR. MCLELAND: For the last time today, if I could follow the same procedure of publishing it to the jury.

THE COURT: You may.

STATE'S EXHIBIT 300 PUBLISHED

THE COURT: You may proceed.

MR. MCLELAND: Thank you, Your Honor.

Q Officer Bedwell, what date was this sheet drafted?

A Drafted on February 4th, 2024.

Q And I want to draw your attention to 10 a.m. on that day; you see that entry?

A Yes, sir, I do.

Q Is that entry, is that marked with your initials?

A It is, sir.

Q And at that time and date, what did you hear Mr. Allen say?

A At that time and date, I went there and walked down at around 1000 hours, noticed that Mr. Allen was in his cell and I overheard him say that, "I am

sorry for what I did. I am sorry for killing those girls."

Q And you have the designation under "offender behavior" as 2, 6; can you tell the jury what that means.

A 2 over there in the offender behavior, number 2 is where he was lying down and he was crying, he was awake at the time; and number 6 is that he was talking to himself.

MR. MCLELAND: I have no other questions, Your Honor.

THE COURT: Mr. Rozzi.

MR. ROZZI: Thank you, Judge.

CROSS EXAMINATION OF JASON BEDWELL

QUESTIONS BY MR. ROZZI.

Q How long you been at Wabash Valley?

A Nine years, sir.

Q And you were assigned to monitor Rick Allen's words and actions down there?

A That is correct, sir.

Q Maximum security, solitary confinement unit?

A That is correct, sir.

Q It's kind of a unit within a unit down there; right?

A It is, sir.

Q 8 by 12 cell roughly?

A Roughly, sir.

Q Concrete walls, steel door, steel toilet?

A Yes, sir.

Q Isolated from all others?

A Isolated from all others?
Q Yeah.
A No, sir.
Q He doesn't get to have any contact with other inmates, does he?
A No. There is no other contact between others except if he does speak through the wall to the – with some of the others.
Q They can yell at each other through the doors and the wall?
A They can.
Q You watched him from late January to early February of this year?
A From – I'm sorry, sir?
Q You watched him from late January to early February of this year?
A I watched him from – approximately from February to said date.
Q And this log, number 300, Exhibit Number 300, reflects that he pretty much was lying down the entire time between 6 a.m. and noon; right? For the most part?
A For the most part, sir.
Q That's what number 2 is; right?
A That is correct, sir.
Q And you make these codes on these door sheets kind of in real time; is that fair?
A That is correct, sir.
Q And would you agree that he did a lot of laying down and sleeping when you were there?
A He did a lot of lying down, sleeping. He was up during chow movement. He'd go back, he'd sit down by the bunk. Other than that, yeah, there was

nothing much else.

Q But you did make a note, for example, at 900 hours, 9 a.m., that he was taking his medication?

A That is correct.

Q And you made a note specifically that, at 6:30 in the morning, he was eating and drinking?

A That is correct.

Q One second, I'm looking at the sheet here. So on February 4th, you noted at 10 a.m. that you overheard him say he was sorry for killing the girls; right?

A That is correct.

Q And you made a note that he was lying down awake; right?

A That is correct.

Q And number 6, that he was talking to himself?

A That is correct.

Q And this whole log sheet over here on the right has kind of the key here where you can, you know, determine what the behavior is and then, essentially, code it over here on the left.

A That is correct.

Q Supposed to be real easy for you, because it's all here on one page; right?

A That is correct.

Q And the idea behind that is, is so that you're as accurate as possible when you report this stuff; right?

A That is correct.

Q And there's as much detail as possible?

A That is correct.

Q And you were interviewed by the police about a month and couple weeks later, March 15th, 2024, weren't you?

A That is correct.

Q And at that interview, you provided them with a little different version of what you have here on this log sheet, didn't you?

A I gave them exac – what I told them on there, sir.

Q Okay. Well, you told the police that Rick Allen was actually curled up in a fetal position –

MR. MCLELAND: I object. Is he trying to impeach the witness at this point?

THE COURT: I'm not sure. Are you trying to impeach?

MR. ROZZI: Yeah.

MR. MCLELAND: That's not the proper way to do it, then. You need to give him the document, refresh his recollection, then you can ask him question. He's just reading from the document.

MR. ROZZI: I'm asking him right now what he told the police. If he denies it, then I can –

THE COURT: That is improper, that is an improper way to impeach. Do it the appropriate way and you can absolutely impeach him.

MR. ROZZI: Thank you, Judge.

Q Did you tell the police that he was curled up in a fetal position?

A I did.

Q Okay. You didn't note that on this watch sheet, did you?

A There's no specific way of putting it on the watch sheet that he was curled up. I put what was on there, what he said, and what he was doing at the time.

Q Okay. You see item 27 there on the right side?
A Item 27?
Q Yeah.
A Yes, I do.
Q What's that say?
A It says, "Other, specify".
Q So that might be one code that you could use to identify that he was curled up in a fetal position; right?
A At the time, it could be.
Q Okay. Did you tell the police that he was facing the wall on his bunk?
A I did.
Q You didn't note that on the sheet, did you?
A No, I did not.
Q Did you tell the police that his demeanor would change from calm to almost hysterical?
A I did.
Q You didn't note that on the sheet, did you?
A No, I did not.
Q In fact, the log sheet shows that at 9:45, he was laying down; right?
A It does.
Q And actually, you – when you testified earlier, you said he was laying down crying were your words; right? That's what you said a few minutes ago when Mr. McLeland was –
A He was laying down crying.
Q Okay. Well, crying is over here – let me direct your attention to the key on

the right, crying is number 8; right?

A It is.

Q Code 8?

A It is.

Q Where is code 8 referenced on the left side here?

A On the left side, it is not. I always put down what I observed at the time.

Q Well, you said he was crying, but you didn't note it; right?

A I did.

Q So at 9:45, he's laying down, there's no other behavior to note; right?

A No, there's not.

Q And at 10:15, he's laying down and he's talking to himself; right?

A That is correct.

Q Not much activity before this ten o'clock entry and not much after, is there?

A There is not.

Q And in fact, you told the police that he said, "I'm sorry for the things I've done. I'm sorry for killing those girls." That's what you told the police.

A That is correct.

Q That's not what you documented here, is it?

A This is what I corrected on – on what I said on here, he said he was sorry for the things he'd done and for – sorry for killing those girls.

Q All right. It says, "Overheard Inmate Allen say he was sorry for killing the girls"; right?

A It says that, sir.

Q Doesn't say anything about the things he's done; right?

A No, it does not.

Q Okay. So when the police got there a month and a half later, you – your – you added some facts to all this; right?

MR. MCLELAND: Objection, Judge: Asked and answered.

THE COURT: Overruled.

Q You added some facts?

A Yes.

Q That room is a rectangle, basically, isn't it?

A Pretty much, sir, yes.

Q And the bunk in that room is on the back wall, isn't it?

A It is, correct.

Q And Mr. Allen was facing away from you when this occurred?

A That is correct.

Q You couldn't see his face; right?

A No, I could not.

Q There's a metal door on the front of that cell?

A There is, but there is also a window off to the side.

Q Okay. Yeah, actually there is a window off the side, it's a strip window, isn't it?

A That is correct.

Q It's actually got a sticker on it – doesn't it? – so you can't see into most of the bottom part of it.

A No, it does not. The only time that it has anything that is up on that wall, up on there, is when the inmates put that up there if they were using the restroom.

Q Okay. You don't know in what context he spoke those words, do you?
A I'm sorry?
Q You don't know in what context he spoke those words, do you?
A I'm not understanding your question.
Q Well, you didn't hear him say anything before this; right? Before what you reported on the log sheet; right?
A That is pretty much what he – that's what all he said at the time that I was standing there.
Q Which was just a really short period of time.
A Was approximately – at approximate, probably about ten minutes –
Q Okay.
A -- that I stood at the door.
Q So the only words that he uttered in ten minutes were the words that you note on the sheet; right?
A Between – yes, between him crying and that's what he said at that time.
Q Plus the additional words you told the police that he uttered when you talked to them six weeks later?
A Beside – yeah, beside what I told the officer there, yes.
Q So your log entry's not really that accurate, is it?
A The log sheet, at the time, is just a quick reference of what was going down at that time.
Q A quick reference?
A Is what you call for from the side, from the guidelines off to the side, and what you put down from – to log it in and you go back to sit.
Q And then, you're just sitting there watching a cell for 15 minutes; right?

A You walk in, you look at the cell, you observe what he's doing, you go back and you sit down and you log it back in.

Q You had plenty of time to make a full, detailed entry, didn't you?

A Between that and also helping out my other fellow officers doing the – doing insulin checks with the nurse, also doing – coming around and helping out with either chow movements at the time, there isn't time between in there where I could do that, yes.

Q You said earlier you spent 15 minutes looking at him; right?

A I said ten.

Q Ten minutes, I'm sorry. Could have made a full-blown, detailed entry in ten minutes; right?

A I observed what I seen and I observed on there.

Q Could you have made a full-blown, detailed entry in ten minutes?

A I observed what I seen and at the time.

MR. ROZZI: I don't have anything further.

THE COURT: Mr. McLeland.

MR. MCLELAND: No questions, Judge.

THE COURT: Does anybody on the jury have any questions for Mr. Bedwell? Would counsel approach.

(Sidebar conference conducted.)

THE COURT: "Was the information on the offender watch flow sheet entered and documented in an electronic record?"

MR. MCLELAND: Yeah.

MR. ROZZI: Sure.

THE COURT: "And if so, is there a space for you to elaborate on

your observations?"

MR. MCLELAND: No objection.

MR. ROZZI: No objection.

THE COURT: "And did you elaborate?" That was the last one.

MR. ROZZI: Yeah, yeah, building on each other.

THE COURT: "Was Richard Allen under video/audio monitoring during this time?"

MR. ROZZI: I don't have any objection.

THE COURT: Okay. And don't forget, too, that we're gonna hold everybody for a little bit after –

MR. ROZZI: Oh, okay.

THE COURT: Okay. So you maybe come over here and we have a conversation, so –

MR. ROZZI: Okay.

(Sidebar conference concluded.)

JUROR QUESTIONS OF JASON BEDWELL

QUESTIONS BY THE JURY, READ BY THE COURT.

Q Sir, is the information on the offender watch flow sheet entered or documented in an electronic record?

A In an elec – I – that I do not know if it is or it is not. I log it, I turn it in at the end of the day.

THE COURT: Any follow-up, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: No.

Q Was Richard Allen under video or audio monitoring during this time?

A No, he was not.

THE COURT: Any follow-up, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

THE COURT: Mr. Rozzi?

MR. ROZZI: No.

THE COURT: All right. Thank you, sir. You may step down and –

MR. MCLELAND: Mr. Bedwell, I'll take that.

THE COURT: Oh, thank you.

THE WITNESS: Thank you.

THE COURT: All right. Well, ladies and gentlemen, as I told you, that's the last witness for the day, so again, while you go on about your own business, I know that you'll have access to your phones and electronics so that you can communicate with family and check your work emails under the supervision of the bailiffs, but please, don't talk about the case amongst yourselves or with anyone else. Again, just leave all your materials there and we'll have those available for you tomorrow morning. Please have a safe and a peaceful evening, enjoy your dinner, and we'll see you tomorrow. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 6:28 p.m.)

THE COURT: You may be seated. And, counsel, if we could have a sidebar, please.

(Sidebar conference conducted.)

MR. MCLELAND: So close, but yet so far.

THE COURT: Okay. So we're just gonna chat, because that lady's

still in the courtroom, so I told Jeremy that he knows – he needs to let us know when the jury's out. They're taking them outside through the entrance on back. Jeremy, when they get downstairs, will let us know when he's on the way and driving, so – so I'm not sure if (inaudible). So what's the State's perspective as far as tomorrow is concerned?

MR. MCLELAND: We're gonna – plan on calling Dr. Wala.

THE COURT: Okay.

MR. MCLELAND: I'm hopeful that we can get it done in the morning, but I'm not sure.

MR. ROZZI: It's your witness.

MS. DIENER: And it's your cross.

MR. MCLELAND: It's your cross.

MS. DIENER: Let's not pretend –

MR. ROZZI: I'm doing my job.

MR. MCLELAND: And then –

MR. ROZZI: She gave us a lot to harp on.

MR. MCLELAND: I think we'll have Officer Harshman at some point, and then we've got to talk about – there was a jury question and I'd like to call him as a witness about that; however, it wasn't part of discovery, it wasn't 'cause we just did it. We did a digital search to see if there were any 2016 Ford Focuses –

THE COURT: Oh, okay.

MR. MCLELAND: -- and we followed up on that.

THE COURT: Okay.

MR. MCLELAND: So I would call a witness, Steve Mullin, just for

documentation, just that certification from the BMV standpoint (inaudible) we'd like to call him (inaudible), so we may have that witness, as well.

MR. ROZZI: Well, we've kind of talked about that.

THE COURT: Okay.

MR. ROZZI: We'll talk.

THE COURT: Yeah.

MR. ROZZI: I don't think it's a huge deal either way.

THE COURT: Okay. It's not a game-changer?

MR. BALDWIN: No.

MR. ROZZI: No. Well (inaudible)

THE COURT: You don't know?

MR. ROZZI: (Inaudible)

MR. MCLELAND: But I think we're near the ending point, and I think tomorrow I believe we'll call Dr. Wala.

THE COURT: Okay. (Inaudible)

MR. MCLELAND: We will have phone calls to play through Harshman, we have two hours of phone calls, so that'll take some time.

MR. ROZZI: I have a thought, if they finish up on Thursday, would it be –

THE BAILIFF: Hey, guys, they're still on the record.

MR. ROZZI: -- possible to just go ahead and recess and then let us start on Friday? 'Cause we are trying to coordinate witnesses, because Nick's been kind enough to give us a date of (inaudible) and so we're starting to (inaudible). I think it would be helpful if we just had –

THE COURT: Well, I guess it kind of –

MR. ROZZI: -- if we know that it's probably a – the safest bet is Friday. That's what I'm hearing, that they'll definitely be done at the end of Thursday.

MR. MCLELAND: Unless something crazy comes.

THE COURT: Well, I mean, in all fairness, if they rest at 10, no, I'm not gonna to until Friday, you're gonna be after lunch, so –

MR. ROZZI: Oh, okay. That's what I'm kind of asking here. Okay.

THE COURT: I mean, you may have some people that you may have to call out of order, I get that –

MR. ROZZI: Yeah.

THE COURT: -- but we're not gonna –

MR. ROZZI: We just –

MR. BALDWIN: Well, what about in the afternoon?

THE COURT: Oh, 3 or 4 in the afternoon, unless you've got a quick witness that you can put up or a couple of quick witnesses. I'm concerned about their time. They're anxious to get through and get home, so –

MS. AUGER: Sure.

THE COURT: -- that would be my concern.

MR. BALDWIN: We're working on it. We'll get you that list by the end of the day.

MR. MCLELAND: Yeah, if you could get me that.

MR. ROZZI: Well, it may –

MS. AUGER: It may change.

MR. BALDWIN: We may narrow it.

MR. MCLELAND: (Inaudible)

MR. ROZZI: (Inaudible)

THE COURT: I mean, I don't know if you have a witness that –

MR. ROZZI: Yeah. We –

THE COURT: -- may be a shorter witness. I don't know what Kathy Allen's gonna testify to, if there's something shorter –

MR. ROZZI: Just fill in the gaps.

THE COURT: Yeah, just somebody to fill in the gaps so that we're at least utilizing the jurors' time.

MR. BALDWIN: We should know better tomorrow I think.

THE COURT: Okay. Well, then you guys sit down and try and figure it out. And –

MR. ROZZI: We were thinking about calling Westcott, but she might take a lot of time, so I didn't want to (inaudible). I mean, I don't know until we found out who they are what time (inaudible). So I think that we would try to get her in here. We're dealing with, you know, schedules too.

MR. BALDWIN: Yeah. We had a lady that's gonna be induced labor wise maybe on Friday. Yeah –

MR. LUTTRULL: (Inaudible)

MR. BALDWIN: Yeah, we'll have to think about it. Well, I'm sorry –

THE COURT: Well, you guys – I just – so that you kind of know where my head is at as far as moving –

MR. ROZZI: Yeah, yeah.

THE COURT: Okay. And I think we – all right, we can go back on the record and –

(Sidebar conference concluded.)

THE COURT: All right. Well, thank you for the sidebar, so that we can kind of get an idea. I've been trying to let the bailiffs know, when we start in the morning, what our estimated timeframe is, so I appreciate having that information. And I think, at this point, the jury is probably out of the building. So is there anything else that we need to do on the record as far as the State is concerned, Ms. Diener?

MS. DIENER: No.

THE COURT: Mr. Rozzi?

MR. ROZZI: No, ma'am.

THE COURT: Thank you very much. Jodie, you can go off the record.

(Off record at 6:34 p.m.)

(On record October 30, 2024, at 9:08 a.m.)

THE COURT: All right. Well, good morning, ladies and gentlemen, we are back on the record in *State of Indiana versus Richard Allen*, 08C01-2210-MR-1. I'll show the Defendant's here in person with counsel. State's here by their prosecutor and deputies. The jury has reassembled. I apologize for the little bit of a late start we're getting. I had a couple of logistical issues I needed to address with the security staff. So is the State ready to proceed with its next witness?

MS. DIENER: Judge, we actually were wanting to request a sidebar for a few issues regarding our first witness.

THE COURT: Okay.

(Sidebar conference conducted.)

THE COURT: No face-plants, please. No face-plants.

MS. DIENER: Judge, if we could – we would like an admonishment or basically we're asking the Court to order an oral motion in limine about impeachment of Dr. Wala. In the three-day hearings, there was testimony about an Incite search of Kegan Kline. That would violate the motion in limine on both parties. In addition, I anticipate the Defense is gonna ask her about that, just as they did with Brandon Fisher about him getting fired from DOC. Dr. Wala was not fired, but she had a gate closure, and then she went and found a job somewhere else and just left, so she was not terminated. We had a deposition with an employee from the investigative office of DOC and they said that they could not do an audit, they had no proof that she had done any sort of Incite search on DOC property, so it went nowhere except a closure. I think it's unfair to bring that up. It's not proper impeachment. Doing – did some research on that case with regard to that issue. The other one was, he was safekeeping status, I anticipate they will be asking her about how he became a safekeeper, why he remained a safekeeper. That's not something she, as an employee of Centurion and service provider to DOC, can answer for. It was on a legal determination by this Court that he was ordered to be a safekeeper, and it was a DOC determination as to where he went and what his restrictions were, so she is not in a position to answer that, and I don't think it should be asked. In conjunction with that, during deposition and the three-day hearings, there was discussion of DOC policy and the 30-day SMI confinement. That particular policy has been addressed by Defense in multiple settings, deposition and at that hearing. It does not apply to Mr. Allen. It's a legal determination by DOC and,

as a safekeeper, that policy does not apply to him, so she's not the appropriate witness to answer for DOC legal determinations. We do have Elise Gallagher here, who's the (inaudible) for DOC, if additional insight on that particular issue is helpful for the Court, but we're asking for a motion in limine – order in limine on those related topics.

THE COURT: Okay.

MR. ROZZI: What was the first one? I'm trying to recall.

MS. DIENER: Impeachment by making reference to the fact that she had a gate closure.

MR. ROZZI: That was the second issue.

MS. DIENER: That was my first. Safekeeping –

MS. AUGER: Kegan Kline's Incite.

MR. ROZZI: Oh, okay.

MS. DIENER: Impeachment. It's also the – it was also the Kegan reference, 'cause that's what she looked at, and she told you, she's not gonna lie about it.

MR. ROZZI: About what?

MS. DIENER: She didn't lie about using it. She volunteered that information in response to a question.

MR. ROZZI: Okay. Safekeeping – so the Incite search, there was an admission by her that she didn't read it, she didn't copy it outside of the scope of an employee, for personal reasons that involved this case. Facts and circumstances (inaudible), it doesn't necessarily – bringing it up doesn't mean we use it for impeachment purposes. I think it's good for the jury, the story behind, really the backstory, which she later reported it in court, so I think it's

relevant and it doesn't necessarily need to be in a formal impeachment, it's just what she did and what she knew, what she learned through Incite, all of which she eventually reported. And remember, this is a case, too, where she destroyed her session notes after she prepared them, despite the fact that their policy suggested and tells us she keep them. I think it's relevant. I'm not sure that it's an impeachment issue in the first place, and that's my response to that.

MS. DIENER: I would respond that in no – none of her records does she make reference to checking Incite for Kegan Kline, that appears nowhere, I've been through every page of her reports. It doesn't exist. If it does, I'd like to know where that is. And with regard to – I'm sorry, I just lost my train of thought. We – I'm so sorry.

THE COURT: So she accessed information –

MS. DIENER: And it wasn't about this case, it was about Kegan Kline's –

THE COURT: -- extraneous information?

MS. DIENER: -- case. He was separately charged. He was discovered, through this investigation, for possession of child porn and child solicitation.

THE COURT: Okay.

MS. DIENER: So connected to the investigation, but not to Richard Allen.

MR. ROZZI: I have no intentions of – I'm sorry.

MR. LUTTRULL: The point is, Your Honor, it's improper impeachment. You cannot try to impeach a witness on a specific act or misconduct unless it's a criminal conviction, which this certainly is not. This

Truesdale case, Your Honor, is instructive, the Indiana Supreme Court, about a psychologist who – or a medical doctor that had their license actually put on probation, the status of his license was relevant, but the reason behind it is irrelevant because it became a violation of (inaudible) (B) and this is specific and it lays out specifically a specific act of misconduct.

THE BAILIFF: Can you guys quiet down. We're on the record. Thank you.

MR. LUTTRULL: To go with character or truthfulness are not permissible. If there's any other reason then, Judge, it's irrelevant. So I think they should fail on the issue of why is she no longer working in Westville. It is irrelevant or it's improper impeachment.

MS. DIENER: I just remembered my thought, Judge. He makes reference to the APA best practices, but those are not DOC policy and they are not Centurion policy, so I don't have a problem with asking her that, but that is not the policy of her employer or of DOC.

MR. ROZZI: You can't sit here and say the policy doesn't apply to one case and then it does in the other.

THE COURT: I think the policies of the American Psychological Association –

MR. ROZZI: Yeah.

THE COURT: -- I think those are fair game. She is a psychologist. I don't think we need to get into the meanings like we did during that hearing.

MR. ROZZI: Yeah, I have no intention of that.

THE COURT: But I think that is fair game, that she should be allowed to acknowledge or disavow knowledge of those particular practices, but

I don't think the search that she did – I believe the fact that she did a search, if you get her to it, but not who or –

MR. ROZZI: I wasn't –

THE COURT: -- anything else.

MR. ROZZI: I wasn't gonna –

THE COURT: I mean, that she accessed a DOC website to obtain information about this case, that is not professional, yeah, I don't have a problem with that –

MR. ROZZI: That's my intention.

THE COURT: -- but that's as far as it goes.

MR. ROZZI: I can (inaudible).

MS. DIENER: Okay.

THE COURT: Okay. That's as far as it goes.

MR. ROZZI: The safekeeper status, so the relevance of her talking about him being a safekeeper as it relates back to the policies on how they treat people in solitary confinement. Safekeeper is a designation, it's a term of art in those policies. If you're designated a safekeeper, there are certain ways that you're handled down in DOC. I am fully prepared that they're gonna make the argument that this guy was different from everybody else and that they had the right to keep him in solitary confinement forever, if they wanted to, but she has testified that the purpose behind the 30-day rule, the solitary confinement rule, in the policy is to protect somebody from a mental health standpoint, and I think that's –

THE COURT: And does that apply to safekeeper status?

MR. ROZZI: Yes.

MS. DIENER: It does not. And Elise Gallagher is here to tell the Court, if need be, that the DOC 30-day SMI policy for confinement does not apply to safekeepers. Safekeeping status trumps.

MR. ROZZI: Both Dr. Wala and Dr. Dwenger, who is – was the head of behavioral health at DOC until I guess – I just learned this morning she (inaudible) – both of them testified in depositions that the purpose of the 30-day rule is to protect somebody's brain, it's to ensure that –

THE COURT: Well, and I don't have a problem with you getting into that to that extent, but we're not getting into safe – I mean, safekeeper, that policy doesn't apply to a safekeeper. I'll give you a little bit of leeway to inquire as to the 30-day policy, but we're not going into it in its entirety because it doesn't apply –

MR. ROZZI: Well –

THE COURT: -- in this particular situation. I realize you disagree –

MR. ROZZI: Yeah.

THE COURT: -- with that, and you're entitled to ask her that very narrow, specific question, but DOC policy does not apply in that regard to him and I don't have a problem with that coming out.

MR. ROZZI: Well, but the DOC policy – just to make sure we're on the same page – does apply to all of them as it relates to why they shouldn't be in solitary confinement for 30 days. It applies to all of them. There is –

MS. DIENER: Judge, the question of how this is related to, it's for the jury to decide how much weight they give this. The question isn't whether they were voluntarily. They can argue all sorts of things about the

voluntariness –

THE COURT: Absolutely.

MS. DIENER: -- or not – involuntariness of his confessions, but what the DOC policy is about who's an SMI and how long they can stay in confinement doesn't really equate to that. He's in solitary –

MR. ROZZI: If you're gonna be maintaining an environment that's not consistent with your policy, then it's relevant.

MR. MCLELAND: But the policy is trumped by a court order.

THE COURT: Right. And that's the issue, he's a safekeeper, so he's not a – the policy doesn't apply to him. I don't have a problem with – and I assume you have witnesses that are gonna talk about the effect of solitary confinement on humans and –

MR. ROZZI: Yeah.

THE COURT: -- and how long, and that is fair game, but the policy itself that doesn't apply to him is not. I think we're getting into the weeds with that.

MR. ROZZI: That's their words. You're just – just because they put something – that doesn't mean it doesn't apply. They have admitted that it applies to humans who are locked up for more than 30 days. They have admitted that across the board.

THE COURT: Okay.

MR. ROZZI: So I think that that's permissible. I mean, I'm not in here arguing an administrative law case that they're – they should be held responsible, the DOC, because they violated some policy. The question is, is: What's the impact on our guy? The impact.

MS. DIENER: You can talk about the impact without even talking about the policy.

THE COURT: Exactly.

MS. DIENER: That's your whole point.

MR. ROZZI: Well, no, 'cause that –

MS. DIENER: Your whole point is –

MR. ROZZI: -- sets the foundation for –

MS. DIENER: -- is that – the whole point is that his circumstances are these circumstances, and they have caused him to make a confession that's not reliable. It doesn't –

MR. ROZZI: Based on (inaudible)

MS. DIENER: -- what the policy is.

THE COURT: Well, whether there's a policy or not is not the point. The point is you have witnesses that are going to testify about the effects, and that is important for this jury to know. Whether there's a policy or not is not important for the jury to know.

MR. ROZZI: Well, it does set the foundation as to what they're gonna testify about.

THE COURT: Well, I understand that, but I'm gonna give you some leeway when getting into that with your other witnesses.

MS. AUGER: Can I ask a clarifying question? So is he allowed to ask if – is there a policy, but it doesn't apply?

THE COURT: There is a policy that applies to the Department of Correction, that policy does not apply to Mr. Allen, yes.

MS. AUGER: Oh, okay. I just wanted to –

THE COURT: And that's as far as it goes.

MS. AUGER: Okay.

THE COURT: Okay?

MS. AUGER: Thank you.

THE COURT: What's the next one?

MS. DIENER: That's fine. That's it for me.

THE COURT: Okay.

MR. MCLELAND: Judge, I have a totally out-of-scope question. Is there gonna be a time limit on closing? I'm just trying to look ahead.

THE COURT: Two hours.

MR. MCLELAND: Mr. Baldwin mentioned that there – okay.

THE COURT: Two hours.

MR. MCLELAND: Perfect. Okay. Thank you, Judge.

MR. ROZZI: I'm also – I'll use this sidebar just to renew all of my objections with regard to the admissibility of Dr. Wala's statements in terms of what Rick said, the statements that she's gonna testify to based on everything that I argued before in the July and August hearings, July 30, 31, and August 1.

MS. DIENER: Thirty-one, I think.

MR. ROZZI: -- so something in that area.

THE COURT: Okay.

MR. ROZZI: (Inaudible)

THE COURT: 'Cause like I said in my ruling, all of her extraneous – you know, the Internet search, the walking on the trail, all of that that came in during that hearing, that's – that impacts her credibility and you are entitled to

go there.

MR. ROZZI: Yeah.

THE COURT: I mean, we don't have to beat a dead horse.

MR. ROZZI: No, I know.

THE COURT: You've been beating a lot of dead horses.

MR. ROZZI: I think the jury's gonna expect it. That's my opinion, so – it's an exhaustive amount of information.

THE COURT: Okay. What else?

MR. MCLELAND: Give you a preview for the day, while we're here –

THE COURT: Okay.

MR. MCLELAND: -- 'cause I know you – well, you've asked for that during the process. Dr. Wala, we may have a short witness after Dr. Wala, and then we'll have Brian Harshman in, and then rest.

THE COURT: Okay.

MR. MCLELAND: The problem with Harshman is he's gonna be introducing the phone calls, and we've got at least two hours of phone calls.

THE COURT: Okay.

MR. MCLELAND: And so if we get to two or three o'clock, I really don't want to split him up, but again, that – if we get to two or three o'clock, we may be in a position to say, "Okay, Judge –

THE COURT: And a lot of that's gonna depend on cross –

MR. ROZZI: Yeah.

MR. MCLELAND: Absolutely.

THE COURT: -- and the breaks that we'll be taking, so –

MR. MCLELAND: And so I'm just giving you a heads-up that if we get late in the day, I may be in a position to say, "Hey, Judge, can we recess till tomorrow –

THE COURT: Yeah.

MR. MCLELAND: -- tell me what you want to me to do and I'll have Harshman here."

THE COURT: Well, and it might be – I mean, I think the jury, we kept them late yesterday.

MR. MCLELAND: Right.

THE COURT: They probably would appreciate –

MR. MCLELAND: Yeah.

THE COURT: -- a little bit more –

MR. MCLELAND: I just – it's gonna be two hours of phone calls, at least –

THE COURT: Okay.

MR. MCLELAND: -- and then my direct, his cross. And Harshman's, obviously, an important witness –

THE COURT: Yeah.

MR. MCLELAND: -- 'cause of the confessions, so I think it's gonna take a morning or an afternoon –

THE COURT: Okay.

MR. MCLELAND: -- to get it done. So just as a heads-up, Judge.

THE COURT: All right.

MR. ROZZI: Just for clarification on her employment situation, I'm not sure we covered that entirely. She – there was a gate closure, we've seen

that that's not something – that it was clearly related to her use of – her personal activities while at work. Whether or not she conducted an Incite search or – I don't know that I remember exactly what they said she did, but she admitted in court she stepped outside of those boundaries.

THE COURT: Um-hmm. (Affirmative response)

MR. ROZZI: And so am I permitted to just point out to her that that's why she was terminated?

MS. DIENER: She was not terminated.

THE COURT: She's not terminated.

MS. DIENER: And the gate closure did not say why.

MR. ROZZI: There's been no evidence of that.

MS. DIENER: The gate closure did not show why. And you subpoenaed the employment record and there's nothing in there about the reason for the gate closure and it does not –

MR. ROZZI: Well, Deanna Dwenger said that's why. She can –

MS. DIENER: Well, then call her as a witness.

MR. ROZZI: I'm going to.

THE COURT: That's just character assassination. I mean, she was – she worked for Centurion at DOC, she is no longer working for Centurion at DOC.

MR. LUTTRULL: It's improper impeachment of the witness. I'm sorry.

THE COURT: No. It's just – it's not – no.

MR. ROZZI: Doesn't that go to her work product, like the quality of her work product, which is credibility?

THE COURT: It goes to –

MS. DIENER: She told you she did the search.

THE COURT: Yeah.

MS. DIENER: Sorry.

MR. ROZZI: What's that?

THE COURT: No. I mean, she told you she did the search. I don't know the reason and it – and honestly, I don't even know what a gate closure is, but the fact that she wasn't fired, no, we're not getting into that. She's not working there anymore, yeah, that's fair game. "You're not working there anymore." And the jury can draw their own inferences as to why she's not working there anymore. Okay. We ready now?

MR. MCLELAND: Yes, Judge.

MR. ROZZI: Yes, ma'am.

THE COURT: Okay. Perfect.

(Sidebar conference concluded.)

THE COURT: All right. Are we ready now to bring our jury in, Ms. Diener?

MS. DIENER: Yes.

THE COURT: Mr. Rozzi?

MR. ROZZI: Yes.

THE COURT: All right. Gentlemen.

THE BAILIFF: All rise.

(Jury in at 9:26 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. Well, good morning, ladies

and gentlemen. It's nice to see you back this morning. I hope you had a pleasant evening. I know you didn't have much of an afternoon yesterday, you had an evening. Again, as we parted company and you've had access to your electronic devices for purposes of work and contacting your family, I'll just again ask you the following series of questions. Ladies and gentlemen, have you read, seen or heard any media accounts concerning this case?

A (All jurors answer in the negative.)

THE COURT: Have you discussed this case with anyone?

A (All jurors response in the negative.)

THE COURT: Have you permitted anyone to discuss this case with you?

A (All jurors respond in the negative.)

THE COURT: Have you conducted any research into this case?

A (All jurors respond in the negative.)

THE COURT: And finally, has anybody persisted in attempting to discuss this case with you?

A (All jurors respond in the negative.)

THE COURT: All right. Ladies and gentlemen of the jury, I appreciate your continued compliance with the Court's orders. I apologize for the little, brief delay that we had getting started not quite at nine o'clock, I had a matter I needed to attend to; but we are ready to proceed. Ms. Diener, you may call your next witness.

MS. DIENER: The State would call Monica Wala.

(Witness sworn.)

THE COURT: Are your microphones on on the tables? Thank you.

MS. AUGER: Sorry.

THE COURT: You may proceed, Ms. Diener.

DIRECT EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MS. DIENER.

Q Ms. Wala, could you, please, state your full name and spell your first and last name.

A Um-hmm, Monica Wala, M-O-N-I-C-A W-A-L-A.

Q And I'm gonna let you know that that microphone does not help us in this area, so the jury and the attorneys will not be assisted by that microphone –

THE COURT: You don't need to pull that forward. Yeah, there you go.

Q -- so I'll just ask you to speak a little more loudly than you're used to. Could you tell us what your profession is.

A I'm a clinical psychologist.

Q And what is your level of education?

A Doctorate in clinical psychology.

Q Is there – could you just briefly describe the education that got you to that point.

A Um-hmm. (Affirmative response) I went through college, received my associates, bachelors, master's degree in counseling, and then pursued a doctorate in clinical psychology, so –

Q And then, is there an examination that you take after that –

A There is.

Q -- to complete the process?

A There's a licensure examination; once you've completed all your

coursework and clinical work, you take a licensure exam.

Q And you did all of those things; is that correct?

A I did.

Q And does that earn you the title of Dr. Monica Wala –

A Yes.

Q -- in your profession? And are you licensed as a clinical psychologist in Indiana?

A I am.

Q And did you prepare or provide to us a curriculum vitae that outlines your education, your experience, and your work history?

A I think you have it.

Q I do.

MS. DIENER: May I approach the witness, Judge?

THE COURT: You may.

Q Dr. Wala, I'll show you what's marked as State's Exhibit 302, it has several pages; please take a look at those. Do you recognize the document?

A I do.

Q And is that your curriculum vitae?

A Yes.

Q Does it also have your Indiana license attached?

A Yes.

MS. DIENER: State would move to admit Exhibit 302 and publish to the jury.

STATE'S EXHIBIT 302 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 302's admitted and you may publish.

STATE'S EXHIBIT 302 ADMITTED

STATE'S EXHIBIT 302 PUBLISHED

Q Dr. Wala, during the years of 2022 and 2023, were you employed at the Indiana Department of Corrections?

A I was.

Q And what was your position there?

A Lead psychologist.

Q And could you explain for the jury whether – who your employer was and how you provided services at DOC.

A We were employed by Centurion at that time, so we're a contractor, we don't work for the DOC, for the State, and –

Q Your position was lead psychologist at DOC though; is that correct?

A Correct.

Q And so in that position, did you serve at one facility or multiple facilities?

A Primarily at one facility. I mean, there are times where we go and help other facilities, but primarily at Westville.

Q Okay. And was that all at the Westville facility?

A Yes.

Q And so would that include what's referred to as WCU?

A Yes.

Q And is WCU only a small part of that facility?

A It is.

Q Okay. When you would provide services there, did you have a caseload of

a number of clients or –

A Not necessarily. It would just be if there were any more-serious cases that needed more attention, I would take them on.

Q And so, in that capacity, did you take on a – I'm not sure how you refer to them. You refer to them as patients or clients or – I see a designation of II.

A Incarcerated individual at the time.

Q Okay. And so that's how you would refer to a person you were providing services to?

A Yes.

Q So during your time at WCU during 2022 and 2023, did you have occasion to provide services to Richard Allen?

A I did.

Q Were your services in conjunction with other mental health professionals?

A Yes.

Q And so who would those other mental health professionals be?

A So initially, it was just me, as well as Psychiatry.

Q Okay.

A And later on, we did have masters-level and bachelors-level mental health professionals also see him.

Q Okay. So initially, it was just you?

A Yes.

Q And how did that happen that you became his provider when he came into DOC?

A It was just assumed, given the high-profile nature of the case, that I would just take it on.

Q Okay. Did it require more time or more intensive services because of the nature of his situation?

A Yes.

Q And so how was that different from your other duties with other inmates?

A I guess there's – there was no one else that I would be seeing every day for an extended period of time like that.

Q Okay. But you did that with Mr. Allen?

A Yes.

Q Now, when you would see him, did you prepare documents regarding your sessions with him?

A Yes.

Q And how would you record that information?

A Into the electronic medical record system.

Q For those who don't know what that is or how that might work, could you give us a little bit of an explanation.

A So it's not paper records, where we write notes by hand and file them into a paper chart. It's getting into a system on the computer and typing your notes in the program.

Q And did you use that program for all of the inmates that you counseled with?

A Yes.

Q When you would meet with someone, did you have a computer with you –

A No.

Q -- in order to take down those notes right in the system?

A No, not in that situation.

Q Okay. So tell us how that would work with Mr. Allen.
A I would just take notes on a notepad and then put my notes into the system when I got to my desk.
Q Okay. Were there other people you could see where you would have the computer there at your session?
A Yes.
Q Where would you meet with Mr. Allen for your sessions?
A We called it the A Pod cubical. So it's on A Pod, where he lived. It's a room that has a partition and Mr. Allen would sit on one side and I'd sit on the other side.
Q Could you and he see one another?
A Yes.
Q And was it a secure cubicle?
A Yes.
Q Was Mr. Allen shackled in the cubicle?
A Not in the cubicle. Well, he would get unshackled as – after he was in the cubicle.
Q Okay. And so you would take handwritten notes during the session?
A Yes.
Q And then, how much time would pass before you would then create the electronic document?
A I mean, ideally, the same day.
Q And so would you say that happened in almost every situation?
A Most of the time.
Q Now, there are some situations where you would do an addendum report?

A Um-hmm. (Affirmative response)

Q Would that be an exception?

A It would depend on the reason for the addendum. So maybe if I saw him again the same day, I could add an addendum or, for example, with the diagnostic criteria, I put that in a separate file, just so it's separate from the note, just more clear. But yeah, I mean, most of it would still be in the main note.

MS. DIENER: Okay. Judge, may I approach the witness?

THE COURT: You may.

Q Dr. Wala, I'm gonna show you what's been put in a binder, just so that it's not falling all over the place while you're up here looking through it. So this is State's Exhibit 303 and State's Exhibit 304; if you would just take a quick look at those and tell me if you recognize those. Are those the documents you would prepare with regard to your sessions with Mr. Allen?

A Yes, um-hmm.

MS. DIENER: Judge, I've already provided copies to defense counsel in these two groupings.

Q And would these assist you in testifying, since it would be difficult to remember –

A I think so, yeah.

Q -- so much information?

A Yes.

MS. DIENER: State would move to admit Exhibit 303 and 304, but only publish 303 to the jury. so that they can follow along with those.

STATE'S EXHIBITS 303 AND 304 OFFERED

MR. ROZZI: No objection.

THE COURT: All right. Without objection, 303 and 304 are admitted, and you may publish 303.

STATE'S EXHIBITS 303 AND 304 ADMITTED

STATE'S EXHIBIT 303 PUBLISHED

THE COURT: So just so I'm clear, Ms. Diener, you want them to – you want the jury to follow along as you publish 303?

MS. DIENER: Yes.

THE COURT: Okay. All right. You may proceed.

Q Dr. Wala, I'm gonna start with the select group that you find in the first tab that is Exhibit 303, and we'll go through those, and then we'll go to the general tab in the back, just for your understanding.

A Okay.

Q So when you started seeing Mr. Allen, when did that begin?

A November, 2022.

Q Okay. And as you notice, this particular exhibit starts well after that; is that correct?

A Yes.

Q Okay. And so the first document is from April 5 of 2023; are you familiar with that document?

A Yes.

Q Okay. And we'll talk about this one in a little more length, just to give the jury some familiarity with the categories within the report and then, later, we'll be able to make reference to those categories more quickly, just to provide some understanding; okay? So with regard to the report from April 5, what is it about the document that identifies who you are meeting with and documenting

information regarding?

A Are you just referring to the name?

Q Yes.

A Okay. Well, on the front page, you'll see the patient name, date of birth, DOC number, date of visit, the visit type.

Q And the visit type, when it indicates daily, does that mean that he is at a watch level where you're seeing him every workday?

A So the visit type is showing suicide monitoring, but that does indicate it would be a daily visit.

Q Down below, after the date and the time and we get to suicide –

A Oh.

Q -- observation and it says daily –

A Yeah.

Q -- okay, does that indicate that you're seeing him daily, as opposed to something that would be a longer timeframe?

A Yes. Anyone on suicide watch gets seen daily.

Q Okay. Then we have a subjective portion that says "reason for placement"; is that correct?

A Yes.

Q And could you briefly describe what the purpose of that particular section is.

A It outlines the reason why the individual's placed on suicide watch, so anything that occurred around the time of the placement, as well as the level of suicide watch. So in this first one, at the very end, it says, "He will be placed on suicide watch, close observation."

Q Okay. And what does "close observation" mean in your business?

A Close observation means that the individual does not necessarily have to have a companion at the door at all times, the – they just have to be watched every 15 – staggered intervals of 15 minutes.

Q Okay. And we've heard some testimony about companions. So are you referring to suicide companions?

A Can you repeat?

Q Are you referring to suicide companions?

A Correct.

Q And you refer to the 15-minute intervals; are you talking about officers that would check on an inmate on suicide watch and make a log?

A Yes.

Q And did you refer to those logs for information to provide yourself necessary information you couldn't gather during the time you were with Mr. Allen?

A Yes. That's why, in the reason for placement, I use a lot of their quotes.

Q Okay. And those appear in the subjective reason for placement; is that correct?

A Yes.

Q In that area, are you referencing entries on the suicide log?

A Yes.

Q And do any of those indicate your observations, as well?

A Not in that area of the notes.

Q Okay. Now, on the 4th, his status was changed; is that correct? I say status, but I'm saying the level of his watch.

A Yes. He was not on suicide watch and he was placed on suicide watch.
Q So prior to April 4, were you seeing him daily?
A No.
Q What would have been the frequency of your visits?
A So when he came to us, he – from RDC, he was on suicide watch from there and remained on suicide watch at Westville for a month. So in December of '22, he was released from suicide watch, and he was off suicide watch up until April 4th. So between just end of December to April, he was being seen maybe once a week.
Q Okay. Now, there's already been testimony that he's in a solitary confinement cell; is that correct?
A Yes.
Q And that cell has a camera?
A Yes.
Q And he is videotaped when he's moved to and from his cell; is that correct?
A Yes.
Q And you were aware of all that?
A Um-hmm, yes.
Q And so, when you change supervision or observation from close to constant, what impact does that really have on the circumstances?
A Sometimes very little. My orders don't cover being recorded when he leaves the cell, that's – that wasn't my decision. The only difference, if we go from constant to close or vice versa, it's having either somebody sit at the door the entire time looking or somebody who can kind of come and go, but as long as they're seeing them at staggered intervals of 15 minutes, that's close observation.

Q Okay. And so if you're comparing close to constant, what would be the reason for someone to be on constant versus close?

A Constant is reserved for more severe instances of imminent harm. In this situation, I placed him on close. He was not exhibiting anything in regards to suicidality, but things have, obviously, taken a turn in terms of the things that he's talking about, which was significant –

Q Okay.

A -- but not to the point where we felt he was in imminent danger of harming himself.

Q And so are you referencing the statements in the first paragraph that you took from suicide note – companion notes that he was confessing to his charges?

A Yes.

Q And so that was your consideration in putting him on a closer watch?

A Yes.

Q Does the watch level status also impact what kind of personal property he's allowed to have and is that related to his safety?

A Yes.

Q Can you, please, explain?

A Sure. So in a situation – let's see here, we just started him off with the standard, so he would have monitored showering and toileting, he would have a mattress and a safety blanket, he would have that kimono, the safety kimono. I allowed the regular meal and books, documents, tablet, commissary. Usually, those aren't provided, but I – we were just kind of – I wanted him to have his stuff, so at that point in time, I allowed those items as – this was just the first day, so –

Q Okay. So you indicated that you didn't have any control about the nature of his cell or how he was moved –

A No.

Q -- with regard to security, but you did have the ability to make decisions about how much personal property he'd be able to have if it was safe?

A Yes.

Q And when you say regular meals, what could you do about a meal that would make it more safe?

A They don't give them utensils, so I forget what they would call it now, they don't get the Styrofoam – I don't – Styrofoam tray maybe.

Q So there was something different –

A Yeah. They making the packaging more safe.

Q Okay. And is that, again, a precaution for self-harm?

A Yes.

Q Okay. So in this particular document, then, there's a section called "patient complaint"; is that correct?

A Yes.

Q And does every report contain a reason for placement and a patient complaint section?

A Yes.

Q In the patient complaint area, would you be making notes and then entering them into the electronic system based on details from your conversation with Mr. Allen?

A Yes.

Q How would you begin a session with Mr. Allen?

A I would typically ask how he was doing.
Q And you were aware that he was being housed as a pre-trial detainee; is that right?
A Yes.
Q And did that give him a particular status?
A Safekeeper.
Q Okay. And at some point, had you talked with him about not discussing his case?
A Yes.
Q And do you recall when you did that?
A I don't recall the date.
Q Was it early on?
A I think it was early on.
Q Okay. Like back in November of '22?
A Sounds right.
Q Okay. We'll get to that, it's in here; but I just wanted to make reference to it, in case you knew. And so, other than asking him how he was doing, did you ever ask him questions about his pending case?
A No.
Q Did you discourage him from discussing it with others?
A Yes.
Q Did you believe that Mr. Allen understood the dangers of talking about his case? Did he know it was a bad idea?
A I mean, that answer may be different depending on at what point in time.
Q Okay. Did you find Mr. Allen to be an intelligent person?

A Yes.
Q He had some college education, you were aware of that; correct?
A I think so.
Q You did assessments to learn about his background; is that right?
A Yes.
Q He had a job that involved management skills; is that correct?
A Yes.
Q And over the course of time that you met with him, was he, at times, a good communicator?
A Yeah, yes.
Q And so on this particular date, did Mr. Allen decide to talk to you about his case?
A Yeah.
Q And was that prompted by you?
A No.
Q Could you, please, read the first paragraph that you entered in patient complaint on 4/5 of '23.
A Okay.

MR. ROZZI: Judge, I'm gonna object to form of the question. She's just asking her to read a narrative form of a paragraph. I think she can question her about it, but –

MS. DIENER: It's her entry, Judge. We had companions reading their entries yesterday all afternoon. It didn't seem to be an issue.

THE COURT: So you want her to ask her questions about the entries, is that what you're saying?

MR. ROZZI: Well, if they're gonna – if we're gonna introduce the evidence by way of her just reading the entries, then I guess, when it gets to me, I am asking the Court to give me the same, you know, deference –

THE COURT: Of course.

MR. ROZZI: -- and we could be here for weeks.

THE COURT: Okay.

MR. ROZZI: I don't think it's a proper form of the question. I think she should ask her, "What did he say on April 5th?"

THE COURT: Sustained.

MS. DIENER: You said sustained, Judge?

THE COURT: Yes.

Q Ms. Wala, did he make a statement to you with regard to – actually, I'll just ask you, did you include in your report a quote that he stated, "I killed A.W. and L.G. I'm sorry"?

A Yes.

Q And that appears in quotation marks; is that correct?

A Yes.

Q And so how is that particular statement documented when you're in your session with him so that you know that you're being accurate?

A I just write it down –

Q And does Mr. Allen –

A -- verbatim, yeah.

Q I'm sorry.

A Verbatim I'd write it down on my sheet.

Q And does Mr. Allen see that you have paper and a pen in your session?

A Yeah.
Q And so he should be aware, just from a visual perspective, that you're writing things down?
A Yes.
Q Now, you indicate that he became tearful; is that right?
A Yes.
Q And he continues to give you more information, such as he committed the murders on his own?
A Yes.
Q Did he give you that information?
A Yes, he did.
Q He made sure they were dead, because he didn't want them to suffer?

MR. ROZZI: Objection: Leading.

THE COURT: Sustained.

Q In the first paragraph of your report, does he talk about whether he committed the offense?
A Yes.
Q Does he indicate whether anyone helped him?
A He did not indicate anyone helping him.
Q Does he say that he did it alone?
A Yes. Yes, it does say that.
Q Okay. Does he talk about whether he knows whether the victims were deceased before he left the scene?
A Yes.
Q What did he say about his intentions?

A He said he knew his intentions were sexual in nature.

Q Does he speak about the age of the victims?

A He reported thinking that they were at least 18 or 19, but could have been as young as 11.

Q Does he give any other indication as to why he may have killed them?

A He talked about being selfish all his life, also being a coward, so when he got scared, he took their lives in order to preserve his own.

Q And does he say anything about how he feels in it – about it in retrospect?

A He was talking about hoping he could apologize to the families of the victims and wished he could go back and change his actions.

Q Okay. Does he expand at all about the sexual intent of the murders?

A He alluded to having a sex addiction.

Q And did he give some background on that, as well?

A A little bit. He said he didn't think he was molested as a child, but admitted to molesting his sister as a child. He reported viewing *Playboy* magazines and other sexually explicit materials, as well as experimenting with both male and female children his age, and he said he felt that's where the problem began.

Q Okay. Does he also talk to you in this session about his drinking history?

A Yes.

Q I'd direct you to the fourth paragraph under "patient complaint".

A So he admitted being an alcoholic, that was his word, twice since 2011, and he talked about how, when he's in that state, he was cared for by his wife.

Q Okay. Now, does he also make reference to religion? And I'd direct you to paragraph 6.

A He reported taking God into his heart on March 21st, 2023. He asked if I believed in God. He said he hoped everyone would find God before they died. He had recently received a Bible and reported wanting to read it before he died. He reported Psalms 23 gave him a sense of peace.

Q And do you talk about what he would like to do with his Bible?

A He stated that he hoped he would be able to give it away, possibly even to the families of A.W. or L.G. who could give – so they could give it to someone they think might need help.

Q And –

A He –

Q Oh, I'm so sorry. Go ahead.

A No, that's it.

Q And did he express any remorse for his actions?

A I believe he did, I just –

Q Directing you to paragraph 1.

A I don't know where to look for it though.

Q Paragraph 1.

A Paragraph 1? Yeah. So where he says he wished he could go back and change his actions and apologize to the families.

Q Okay. Did he also talk about how he was doing at this point in DOC and – with regard to his mental health? And I would direct you to paragraph 7.

A Yes. So he said he was glad he had not killed himself. He stated he hoped to be able to see his family and hopes they will forgive him. He expressed appreciation for being fed, clothed, and having a small view of the outside from the top of his window. He reported being happier than he's ever been in such a

terrible place.

Q Okay. So prior to this particular time and maybe at the assessment stage very early on, is religion a question that is asked in order to determine whether a person finds that to be a comfort?

A Yes.

Q And so in your initial contact with Mr. Allen, was that something that was important to him?

A Not at that time.

Q Okay. So was this information new to you at this point?

A It was new.

Q And did you observe it in ways that were not just Mr. Allen telling you?

A Yes. He would ask to speak to the chaplain, he would ask for Bibles. He slept with his Bible, too.

Q Did he offer you his Bible?

A It's possible. I don't recall.

Q Did he express concern over your own faith?

A He did.

Q Okay.

A He did.

Q So it appeared to be very important to him; is that correct?

A Yes.

Q Now, in this particular report, since we're using it as an example, after the patient complaint, there's a section that's underlined that says "objective"; what is the purpose of that section?

A So this is where – well, under "objective", we would be marking various

risk factors. So at this point, we just had the legal status changes and that it's his initial incarceration. And then, under that, is the clinical observations.

Q Okay. And what kinds of things do you put in your clinical observation section in general?

A Basically, my impressions from that encounter.

Q And so in this particular report, did you make a statement about or document a reflection about how Mr. Allen was behaving when he made this confession to you?

A So here he kind of went between crying and being solemn and even having a bright affect. At times, he was calm and, at times, he exhibited a bizarre smile. When confessing, he did it in an almost matter-of-fact manner. He claimed memory lapses and said he may not remember what tomorrow's date will be. He was tangential throughout. He was sharing information with very little prompting. And then, he demonstrated the abrupt religiosity, which wasn't present before.

Q And that's how you refer to the fact that he's indicated to you that he had found God on March 21st?

A Yes.

Q Okay. You indicate, in the last line of additional clinical observation, "His sudden shift in presentation is purposeful and instrumental." What does that mean to the layperson?

A So there may be secondary gain associated with it; in other words, potentially feigning.

Q What kind of behaviors, in this particular instance, are you referring to as potential feigning?

A It looks like you're – he reported that he may have drank water out of the toilet when he – but it's 'cause he didn't have running water. When asked if he had running water, he said it didn't matter. He said he may have been delirious at times from not eating. And I just mentioned that, "It's unclear whether his claims are genuine, as he is monitored via camera and in person at all times and odd behavior was not reported until Monday – after – the Monday after his attorney visit."

Q So when you use the phrase "purposeful and instrumental", is that in any way also described as being manipulative?

A It can be.

Q Then your report goes on to comment and it looks like, in that particular area, you just reiterate what his level of supervision or observation is; is that correct?

A Yes.

Q And then, there's "current mental health status"; what is the purpose of that section?

A To document any deviations from a normal mental status.

Q Okay. So are those actually in the categories underneath that of general observation and mental status?

A Yes.

Q Okay. When he was communicating this confession to you, was this the first time he had made this kind of statement to you?

A I don't remember.

Q Okay. And if you did, you would have documented it; correct?

A I would have, yes.

Q And when you met with him this particular day, were you already aware that he was making confession statements to door companions?

A Yes.

Q Were you already aware that he had written a statement to the warden, Galipeau?

A I believe so.

Q When you talk about appearance within normal limits, would that indicate that you didn't see anything alarming or concerning about his appearance?

A Correct.

Q Build and stature is more of a physical description; is that correct?

A Yes.

Q Posture, again physical?

A Yes.

Q Eye contact, it says, "Intense intermittent." What was normal for Mr. Allen with regard to eye contact or gaze?

A Sometimes intense was normal, but it – I feel like across time there were various presentations.

Q Okay.

A So yeah, I mean, I would see intense staring or gazing, but it was intermittent, so then he'd kind of stop doing that and maybe look away.

Q Okay. What is the purpose of activity and then indicated "within normal limits"; what's that referencing?

A Just general – I believe that's just general – let's see – being able to walk around and take care of himself in that way.

Q So physical ability?

A Um-hmm. (Affirmative response)
Q And then, attitude toward examiner, you document here cooperative. So if you was uncooperative, you would also document that?
A Yes.
Q And then, in mental status, there are particular – there are categories, as well. Are any of these of particular concern with regard to the subject matter he discussed with you that day?
A I mean, what I had mentioned was that he was labile, so his emotions were kind up and down. His thought process was both circumstantial and tangential, so he would go off on a tangent and sometimes never return or he would go off on a tangent and sometimes come back around.
Q So with regard to the paragraph that you documented about the particulars of him committing the murders. Did he relate that information in a chronological manner?
A Yes.
Q And was that portion tangential or was it concise?
A No, it was concise.
Q That area of mental status continues on to the next page and it has a place for you to indicate whether he was having any hallucinations or delusions; is that correct?
A Correct.
Q And there are none reported here?
A That's correct.
Q And then, there's interventions; what does that tell us?
A Just the fact that I was there, I was actively listening to him, and we

processed the events that he brought to the session.

Q Okay. And then, under "assessment", what are you including in that section?

A It appeared at that time his anxiety and depression had improved. He was not suicidal. I did have some questions about some of the things he – you know, some of the stuff appeared questionable.

Q Like drinking from the toilet?

A Yeah, that could be it. But otherwise, he was cooperative and communicative.

Q Okay. What are your expectations for Mr. Allen in this setting with regard to his status as a safekeeper; you know, what is it that you expect him to engage in and how do you help him?

A Well, I mean, ideally, to work on – meaningfully work on any mental health concerns.

Q Okay.

A And remain safe. I mean, safety was a big one that we focused on.

Q And you say mental health concerns, are you referring to his depression and anxiety?

A Yeah.

Q And are those concerns that he came to DOC with, to your knowledge?

A Yes.

Q What are you documenting under the section of "plan"?

A Plan just kind of repeats the items that he can have –

Q Okay.

A -- while he's on suicide watch.

Q Okay. And the lower section under the gray bar that may or may not be able to be read?

A I think that just generates simply based on what I just put up above, so it's kind of repetitive.

Q Okay. Thank you. So the next document in the exhibit would be a report for May 2; is that correct?

A Yes, um-hmm.

Q Okay. I just want to make sure we're on the same page. So the report starts the same, does it not?

A Yes.

Q Okay. And this, again, is a daily visit for Mr. Allen?

A Yes.

Q And again, that reason for placement carries forward; is that right?

A Yes.

Q Under "patient complaint", where did you see, if you documented, Mr. Allen on that date?

A Can you repeat the question?

Q Yes. Where did you meet with him?

A In the same place, in the A Pod counselor's cubicle.

Q And how was Mr. Allen's ability to communicate that day?

A He was very tangential and focused on a lot of the same stuff, a lot of – there were a few concepts he kept repeating throughout the session.

Q Okay. On that particular day, did he make statements about the death of A.W. and L.G., and could you describe what you documented?

A Okay. He did make statements.

Q I see that there are categories in this particular report; is that correct? Topic areas?

A Yes.

Q Okay. If I could direct you to the topic – the category of "death, suicidality, and murder."

A I know, I'm looking at it.

Q Okay.

A Specifically as it pertains to A.W. and L.G., he said, "I killed A.W. and L.G. I will kill everyone. I will wipe out the whole world after I die." He mentions starting World War III.

Q Did he make any statements about wanting to die?

A Just before that, he said, "Is it okay to kill myself?" He said that the other incarcerated individuals tell him to kill himself, so he's asking if it's okay to kill himself. He stated he did not want to die. I did ask if he had any kind of thoughts or methods that he may use if he were to consider it. He said he could climb up onto the sink. And he said, "I killed myself by killing my entire family and best friends. I'm not going to kill myself, I'm too much of a coward."

Q Now, at this point, he's making reference to killing other people besides A.W. and L.G.; is that correct?

A Yes.

Q Did you perceive those other statements to be confessions, as well?

A I kind of took that as more of a metaphor for the situation.

Q And you actually included that in your report?

A Yes.

Q Okay. And I would direct your attention to the "mental illness" section;

there was some testimony through the companion sheets about whether he was doing certain things with his own feces, were you familiar with that?

A Yes.

Q And so in that particular section, did you document information with regard to discussion about why he might do that?

A I did.

Q Please share that.

A When asked why he consumed feces, he stated, "Because I'm insane." When pressed for a logical explanation, he stated, "Because I was afraid I wouldn't have water." He was told this didn't make sense. He said, "I know."

Q Based on your review of this report thus far, was Mr. Allen engaging in conversation with you?

A He was.

Q And was he able to answer questions?

A Yes.

Q Was he able to initiate topics of his own?

A Yes.

Q And the very last paragraph, I believe you document your observations of his state at that particular time. Do you see that in the last paragraph?

A The additional clinical observation?

Q Above that.

A Oh. Okay. So he had difficulty staying on topic or clarifying information. His behavior improved. He did not present as psychotic. He stated he isn't clear on what the expectations are for his behavior aside from taking his medication. We talked about taking care of himself by showering and eating. He should not

be covering his window with his mattress and engaging in any other defiant behaviors. In terms of self-harm, he has both said he will and won't kill himself and stated he did and didn't want to die. At this time, no changes were – will be made due to his inconsistent presentation and unpredictable nature. I allowed more property, so I included books, puzzles, documents, and any other property, except sheets and clothing, to see if he uses it properly, as he used to. Obtaining a tablet for regular communication with his wife or a phone call with her ASAP will try to be coordinated. The warden mentioned providing a TV. The HSA will be informed about his possible request for a drug test. He randomly asked about drug tests.

Q Okay. So there's several topics there I'd like to ask you about, so we'll just start with the beginning of the paragraph. So his behavior had improved or what it might have been prior to May – April – I'm sorry, May 2nd of 2023?

A Yes.

Q And you indicate he does not present as psychotic. What's the significance of that?

A That our diagnosis that we assigned, it seems to have been – he's in remission, basically.

Q Okay. Describe for the jury what would be – what diagnosis you're referring to and what the psychotic reference means.

A Um-hmm, grave psychotic disorder or situational psychosis is another term, it lasts for about a month and then remits, and the person can usually return back to normal functioning.

Q Okay. And so you're indicating that, on this particular day, he does not present as psychotic?

A Correct.

Q You indicate he talked about expectations and not understanding what they were and you clarified.

A Um-hmm. (Affirmative response)

Q Those expectations you discussed with him, is that pretty much all you expect of him? Eat –

A At that time, yeah.

Q Eat your meals –

A Yeah.

Q -- take care of yourself; right?

A Yeah.

Q Accept showers, go to rec –

A Right.

Q -- those are all things available to him; correct?

A Stay active, don't just lay in bed.

Q Okay. You would provide him with reading materials and, it sounds like, puzzles and things to do?

A Yes.

Q And were there ever periods of time where he was receptive to those things and used them?

A I think in the very beginning, and then it kind of slowly dwindled.

Q Did those things appear to assist him?

A In the beginning –

Q Okay.

A -- I thought.

Q Okay. Participating in conversation with you, would that be something that would improve his circumstances?
A I don't know.
Q And with other mental health professional or medical professionals?
A I'd like to think so.
Q It was an opportunity for him to leave his cell, wasn't it?
A Yes.
Q Okay. When he makes – you said he both said he will and won't kill himself. What kind of situation does that present for you when you're assessing his level of observation with regard to suicide concerns?
A Well, at this point, he's already on constant, so we just kept him on constant.
Q Okay. You make a reference to obtaining a tablet for regular communication. Did Mr. Allen have a tablet when he came to DOC?
A He was provided a tablet, yes.
Q Was he provided a tablet in a faster fashion than might be normal?
A My understanding is that that was the case.
Q Okay.
A I am not the provider of the tablets –
Q Okay.
A -- though this is what I – that's my understanding.
Q But you know about this through your – the course of your interaction with inmates?
A Yes.
Q And so do you know why, on this particular occasion, he did not have a

tablet?

A I think, by this time, the tablet was broken.

Q And did Mr. Allen break it?

A It appears that was the case.

Q And then it says the warden mentioned providing a TV. What does a – what's the process for a inmate to obtain a TV, if you know?

A I mean, honestly, with the TV, we probably could have gotten him a TV, but he didn't want one.

Q Okay. So that's another amenity, so to speak, that was available to him that he declined?

A Yes.

Q On this particular date, was he cooperative in the sense that he participated in the session?

A Yeah, for the most part.

Q Let's move on to the next document, which would be a addendum to that same date, but prepared on May 3rd.

A Yes.

Q Okay. You made reference to a diagnosis; is that correct?

A That's correct.

Q Does this document reflect what you were referring to?

A Yes.

Q And so could you, please, explain to us the diagnostic criteria area and what it is that applied to Mr. Allen.

A Okay. So this is for brief psychotic disorder with marked stressors. You have to – criterion A is the presence of one or more of the following symptoms,

and the options are delusions, hallucinations, disorganized speech, or grossly disorganized or catatonic behavior. So we were seeing the disorganized speech and the disorganized behavior.

Q And so it appears those are in bold print because those are the ones –

A Those are the ones –

Q -- that apply?

A Um-hmm. (Affirmative response)

Q And it was no indication that he had delusions or hallucinations?

A No.

Q And only one of those would have been sufficient to at least get through the first step of the diagnostic criteria?

A Right.

Q Okay.

A So he had the third one, disorganized speech.

Q I see that there's a number four, but – up at the end of line A, it says, "At least one of these must be present," 1, 2, or 3. So what is the purpose of number 4?

A So if that one – whether or not that one's there, it kind of doesn't make or break the – him meeting the criteria, it just doesn't matter, but it –

Q Okay. Number 4 doesn't matter?

A Yeah.

Q Okay. And so the disturbance is at least one day, but less than one month, with an eventual full return to premorbid level of functioning, and it cannot be better explained by major depressive or bipolar disorder with psychotic features or another psychotic disorder such as schizophrenia, for example, a drug of

abuse, a medication, or any other medical condition.

Q Okay. And what does "with marked stressor" indicate?

A So another way of saying brief reactive psychosis. If symptoms occur in response to events that singly or together would be markedly stressful to almost anyone in similar circumstances in the individual's culture.

Q Okay. So this particular diagnosis, it indicates, "Added today to account for his presentation" – correct? – in the last month.

A Yes.

Q So in part B, it says at least one day, but less than one month. At any point, do you actually put a beginning and an end on this particular reference?

A In terms of dates?

Q Or just amount of days.

A I kind of took it from beginning of April to beginning of May.

Q Okay. And is this a diagnosis that takes time to arrive at by observing him over a period of time?

A I think so. And then seeing if it's going to persist, which would then turn into a different diagnosis –

Q Okay.

A -- if it's beyond the month mark.

Q Okay. Thank you. So then let's turn to May 3rd of 2023. Could you, please, indicate what you learned in your meeting with Mr. Allen and was this also in the A Pod counselor cubicle?

A Yes. Yeah, it was in the A Pod counselor's cubicle. It started with him wanting to call his wife, and we attempted to assist him with those phone calls, but it didn't work, she didn't answer. So then he went on to provide a narrative

of what took place in regards to the crime.

Q What did he tell you?

A So he said he wanted to confess to his crimes and went on to tell his story. He reported seeing his parents the morning of the crime. He stated he was supposed to go eat with them, but opted to get himself a six-pack. He reported drinking three beers and then finishing the rest later. He stated, "I bundled up." Once on the trail, he stated, "I laid in wait." He reported seeing the girls and following them to the bridge. He mentioned doing something with his gun and stated, "I think that's where the bullet fell out." And then he said, "I ordered them down the hill." He stated his intention was to rape the girls and mentioned he thought they were older than their biological ages. He said he saw a van, which scared him and caused him not to follow through on raping the girls. He said they crossed a creek and then he cut their necks. He indicated wanting to make sure they were dead. He reported covering their bodies with tree branches. He said he exited the area by keeping off the trail as to not be seen. He said he returned to his vehicle, which he parked by a nearby building. He stated he managed to continue living his life after time passed by and he hadn't been caught.

Q Now, did you ask him about the crime that he had been charged with?

A I did not.

Q Did you make reference to his prior confession in order to elicit this statement?

A No, I did not.

Q Was there any indication, prior to him making this statement, that he was going to tell you about his crime?

A No.

Q Did you prompt him at any point during his relaying this information to you?

A No.

Q How did Mr. Allen appear to you with regard to his demeanor or emotionally after he told you this story?

A He, I want to say, almost appeared relieved. He did have some concerns about his property and fearing he would not have food and water. I assured him that they could not withhold things from him. He mentioned he couldn't sleep due to safety concerns. He discussed a transfer to another facility. He reported previously consuming feces because he feared telling the truth. He reported not knowing why he blocked the camera or window with his mattress yesterday. He stated he would not kill himself because he was too much of a coward. At the same time, he stated that if he died, he wanted his wife to know he loved her.

Q Now, during this conversation with him, did you have any concerns about his safety?

A During this conversation?

Q Well, I guess I should be specific. He said he was afraid to sleep –

A No.

Q -- was there any reason you could see that he should not feel safe to sleep?

A No.

Q Okay. And he talks about asking for property back. What was it, at this point, that he didn't have, if you know?

A I don't know in this. I'd have to really dig it up. I – this was a month after, so he would be having –

Q And so what did you note under "additional clinical observations" with regard to his ability to communicate?

A For the most part, it was adequate. There were some odd things here and there. He kept repeating that he didn't want to miss Easter. The paranoia that he mentioned about, you know, not feeling safe, that's relatively normal in his situation.

Q Was the information he provided regarding the crime that he said he committed, was that organized?

A It was.

Q Did he have any psychotic symptoms?

A No.

Q One of the assessment categories that you refer to is impulse control; does that have any impact negatively on the statement that he gave you?

A No.

Q And do you indicate whether he was being – whether he was responding to his treatment plan or being cooperative with the treatment plan in order to keep him stable?

A Whether he was cooperating with it?

Q Yes.

A At this point in time, he – I think he was.

Q And does that – is that indicated in your assessment section?

A Yeah, I mentioned he was more organized than he'd been since his placement on suicide watch.

Q Okay. Was he compliant with medication?

A That I don't know.

Q If I direct you to your assessment paragraph at the bottom of the third page of that report, would that assist?

A Yes. Changes. So he probably had a medication change, but not necc – I'm not necessarily noting non-compliance, just a medication change.

Q Okay. And then, in the section where you talk about the plan about what things you'll allow him to have –

A Yeah.

Q -- or not have –

A So it looks like he had a lot of the regular stuff. So again, when we were doing this, my intention wasn't to keep him in like a suicide situation. He had to live in that cell, that's what Central Office wanted; right? So he could be on suicide watch, but we could still allow him property. So mattress, blanket, clothing items, regular meal, regular property except sheets and clothing.

Q So were there clothing items you were keeping away from him because they related to a risk of self-harm?

A Yeah.

Q Okay. Does that include sheets, like traditional sheets?

A Traditional sheets, so he would have, like, the special blanket.

Q Okay. I believe the next document would be something from May 5; is that correct?

A The evaluation of suicide risk?

Q Yes. So can you explain the May 5 document entitled "Evaluation of suicide risk"?

A Okay. I'm trying to see – we do these periodically while they're on suicide watch, usually when we change them from close to constant or vice versa or

releasing them from suicide watch. And this just kind of goes over his risk factors, they include categories of historical risk factors, those are the ones that don't change; clinical risk factors; and situational risk factors; as well as protective factors.

Q And as a result of this particular assessment, was there an adjustment made?

A I'm not sure there was an adjustment.

Q Okay. And then, the next document is an individualized action plan; can you describe what that is.

A That's essentially his treatment plan.

Q Is that also done periodically?

A Every six months, we need to review it, so this would have been the review period and the things included there, you know, targeting the fact that he's high risk for suicide, working on the depression and anxiety, gaining insight into symptoms, and implementing healthy coping strategies.

Q And so what was the number one goal?

A Safety, ensuring safety.

Q Okay. And then, his mental health was the next goal?

A Yeah, targeting the depression and anxiety, so they don't interfere with his daily functioning.

Q At the end of that report, do you indicate whether there are any changes in his level of watch?

A Changed from constant to close –

Q So that would ind –

A -- and that was back to the 15-minute checks.

Q Okay. So would that indicate improvement?
A Yes.
Q And that actually – that particular section actually provides a little historical data about his levels of watch; does it not?
A Yes.
Q And so it dates back all the way to November 4 of 2022?
A Yes.
Q Okay. What is the next document in your exhibit?
A Looks like 5/9.
Q Okay. And let's turn to the "patient complaint" section. Does Mr. Allen speak to you about his case again?
A Yes.
Q And what does he say to you?
A He said, "I just want to sign my confession."
Q And what did you indicate to him?
A That he had to discuss that with his attorneys.
Q Okay. During that session, does he also talk about other things that would indicate that the state of his mental health is improving with regard to what he might be looking to do with his time in order to keep himself occupied?
A He mentions some thoughts of self-harm, with the plan of diving off his sink and snapping his neck. He talked about wanting to plan his last meal, but he did say he wanted to help others and get a job.
Q Was he asking for a job, like within the DOC?
A I believe so, but then he went back to saying he'd be better off dead.
Q Okay. If you would go to the assessment section on the next page, was

there any indication that he was exhibiting psychotic symptoms?

A No.

Q And how were his – how was he doing cognitively?

A Mild impaired judgement and some preoccupations.

Q Okay.

A So maybe, in this situation, it would have pertained to the talking about killing himself over and over.

Q And in the assessment conclusion, do you have any indication as to whether he's compliant with medication and responding to treatment?

A I never tracked medication –

Q Oh, okay.

A -- 'cause sometimes it's hard to know.

Q Do you sometimes ask him?

A Yeah.

Q Okay.

A Yeah, but ultimately, like, it's a different record that I don't normally access, so –

Q So in your assessment section, if it says, "Patient is compliant with medication," is that him self-reporting?

A It probably would be, and I may have checked in this situation.

Q Okay. The next report is from May 10 – do you see that one? – of 2023.

A Yes.

Q And let's go to the "patient complaint" section. Are you meeting with Mr. Allen out of his cell on this day?

A Yes.

Q And how did this visit begin?

A Okay. So there were issues with Mr. Allen being unable to use the phone because his tablet was broken and I guess the phone just wasn't available to him on the range, so I was able to get the phone approved by the warden so that we could try to make the phone call in there with him.

Q Is this the first time you had ever gotten the phone for him to use it during a session in order to call?

A I think there was another time we tried and it didn't work.

Q Okay.

A So here we are, trying again, and he was able to connect with his wife.

Q And so, at that point, do you leave the room?

A Let's see, so I did leave the room, but then when I came back when he was done with the phone call, he wanted to call her back again to tell her he did it and then he said he – he said, "I want you to hear this so you can understand."

Q And so did he make another call?

A Yes, he did make another call and I believe she answered. I was able to hear them speaking. He asked whether his wife and family loved him and would continue to love him. He said he may have to spend the rest of his life in prison, thought he may only get a chance to see her one more time, and mentioned the electric chair. He asked if she understood. He stated, "I killed A.W. and L.G." And it appears his wife told him to stop saying that and, soon after, the phone shut off. And then he told me, "She doesn't believe me." He said, "I didn't do everything I said I did, but I did kill A.W. and L.G."

Q And so were you having a conversation with him to which he responded, "I didn't do everything I said, but I did kill A.W. and L.G."?

A No. He just said that.
Q Okay. So we don't know what he's referring to –
A Right.
Q -- when he said, "I didn't do everything I said"?
A Yeah, I don't –
Q Okay. What did you observe about his demeanor during this conversation with his wife or immediately following?
A Yeah. I mean, in terms of, like, his interactions with his wife, where he sounded really pleasant and affectionate, it was – it sounded like a pleasant first phone call. And, for the most part, even after that he seemed okay.
Q Okay.
A He remained calm, again very affectionate towards his wife. He didn't cry. He was organized, clear, coherent, no evidence of psychosis.
Q Now, the next report in the exhibit would be May 11 – if you could turn to that – of 2023, and go to the "patient complaint" section, and I would direct you to the second paragraph. Did he make any statements about how he was feeling about the crimes he indicated to you previously that he had committed?
A He mentioned wanting closure by apologizing to the victims' families. He then went on to say he just wanted to see his wife. He also said he still needs to forgive himself. He said he didn't know what closure would look like for him.
Q Now, on this particular day, do you make reference to his orientation to person, place, and situation?
A Oh, yes.
Q Is that –
A He was talk –

Q Go ahead.

A He was talking about the days running together and not knowing the date, despite being provided with a calendar. He was oriented to person, place, and situation, but claimed not to know the date.

Q Is that one of the tools that you use in your profession –

A Yeah.

Q -- to determine whether someone is able to communicate clearly and be –

A Right.

Q -- grounded in time and place?

A Yes.

Q Okay.

A Oriented to person, place, time, and situation.

Q Okay. Now, let me direct your attention to your report from August 3rd of 2023. In the "patient complaint" area, what is the conversation about on this particular day?

A So when I asked how he was doing, he said, "I want to go to Heaven." Asked that –

Q Did he expand?

A No.

Q But did he expand on why that was important to him?

A Oh, no, he – so he didn't say anything further. Wait – no, that's pretty much where it ended, "I want to go to Heaven." And then I asked whether he had contacted his wife. He said, "I can't," but said he wanted to talk to her and see the family.

Q Okay. Did he – maybe if you read that whole paragraph and we'll come

back to that –

A Okay.

Q -- with reference to contacting his family and his Heaven reference.

A Okay. Okay, so he talked about being afraid of dying. He said he felt like he was dying. "I don't feel well," he said. "It feels my heart is going to quit. I had a heart attack before." He indicated fearing something would happen to him before he got a chance to say goodbye to his family. When asked about wanting to die, he said, "Part of me thinks I do." He denied any plan or intent to harm or kill himself. He indicated being confused and not knowing what was rational anymore. When asked what he was confused about, he stated, "Because I don't know if I'm going to go to Heaven."

Q Did he indicate why he couldn't contact his family?

A I don't know if this one was where he was choosing not to or whether he still just didn't have a tablet.

Q At any time, did he indicate to you that he felt that his family didn't want him to contact them?

A Yes.

Q Was that after he was confessing?

A I – from the beginning, he would say things like, "I just need to, like, let my wife go," you know, basically that he's a burden and stuff like that.

Q Okay. So that continued throughout?

A Um-hmm. (Affirmative response) In different ways.

MS. DIENER: Judge, I believe that's the conclusion of the exhibit published to the jury.

THE COURT: Okay.

Q Ms. Wala, then in looking at Exhibit – let me get my number here – 304 –

A Okay.

Q -- I'll just make reference to dates and give you a chance to look at that particular report –

THE COURT: Would counsel –

Q -- and we may not touch on all of them.

THE COURT: Before you go on, would counsel approach.

MS. DIENER: Yes.

(Sidebar conference conducted.)

MR. ROZZI: Could we take a restroom break, please? It's 11.

THE COURT: Oh. Are you okay stopping?

MR. ROZZI: I'm getting the sense that our table could use a break.

THE COURT: Okay.

MS. DIENER: That's okay.

THE COURT: Okay.

MR. ROZZI: Can we?

THE COURT: Yeah.

MS. DIENER: Yeah, that's fine.

(Sidebar conference concluded.)

THE COURT: All right. Well, ladies and gentlemen, we're gonna take a quick break, give you an opportunity to get up and move around a little. While you're outside the courtroom, please, keep your minds open. Please don't form any opinions or conclusions about anything. You may discuss the evidence that you've heard so far, but please, only do that if all 15 of you are present in the jury room at the same time and, please, don't deliberate. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 10:50 a.m.)

THE COURT: All right. Let's take 15 minutes.

(Off record at 10:50 a.m.)

(On record at 11:10 a.m.)

THE COURT: All right. We're back on the record. Ms. Diener, are you ready to continue?

MS. DIENER: Yes.

THE COURT: Gentlemen. Do you need a water or anything?

MR. LUTTRULL: Ms. Wala, we have more water over here. Do you want one?

THE WITNESS: I'm okay. Thank you.

THE BAILIFF: All rise.

(Jury in at 11:12 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. All right, Ms. Diener, you may proceed.

MS. DIENER: Thank you, Judge.

Q Dr. Wala, do you recall Mr. Allen's physical appearance when you first met with him back in November of 2022?

A I do.

Q And would you be able to provide say maybe a physical description with regard to his weight by comparison to today?

A Right. He – I think when he got to us he was maybe 180 pounds.

Q Okay. And did weight kind of become a topic of conversation with regard

to meals and refusing meals?

A Yeah, it did, and the exercising.

Q Okay.

A It seemed like it was all a positive at first.

Q And refusing meals is a concern for DOC with regard to inmates; is that correct?

A Hunger strikes.

Q Okay. And so as a mental health provider for him, would you check in with him about things like that, if he was refusing meals?

A Yeah, I would.

Q And you indicated at the beginning it seemed positive; can you expand on that?

A Just that he was taking care of himself by exercising and trying to lose weight. And sometimes, he would refuse meals, but he only did it enough to the point where – he wouldn't reach that fourth meal that they have to report it. So if you miss three, it's fine; but if you miss four, they have to report it downstate, so he was very careful about not getting to that fourth meal.

Q And was there a time where he actually expressed some satisfaction with weight loss?

A I think so.

Q And you indicate a knowledge that he was exercising in his cell; did he share that with you?

A Yes.

Q Now, I'd like to direct you to the Exhibit 304 that's in the back of the binder, behind the first – or second tab. Okay. Those are in chronological order.

I'm not gonna touch on all of them, I just wanted them available to you for questions on direct or re-direct. So I would like for you to flip to the report for November 10 of 2022, and take a look at the "patient complaint" area, the first four or five sentences.

A Um-hmm. (Affirmative response)

Q Let me look and make sure that I'm talking about the right spot.

MR. ROZZI: I'm sorry, where are we at?

MS. DIENER: The date of November 10, 2022.

MR. ROZZI: Oh, 2022, I'm sorry.

MS. DIENER: Yeah. It'd be at the very beginning.

MR. ROZZI: Thank you.

Q Okay. And actually, it'd be the middle of that paragraph with regard to reference about what your purpose was with regard to mental health visits.

A In the middle of the first paragraph?

Q Of the patient complaint paragraph, yes.

A So it talks about he – there were times where he would refuse to come out to see me and said he felt he was a burden and that he was told by other staff he had the option to refuse, and so I encouraged him to continue to come out for his visits. He mentioned being confused about who he should be communicating with, as he still has not been assigned a public defender. I told him not to speak about his case with anyone except his attorney. I made it clear it was appropriate to accept help coping with mental health symptoms he is experiencing as a result of his circumstances.

Q Okay. So does that, basically, encapsulate how you were intending to assist him without interfering with his case?

A Right.
Q And this is very early on; correct?
A Yes.
Q Within –
A A week.
Q Within a week of you starting services with him?
A Yes.
Q Okay. Thank you. So now, I'd like you to turn to April 7 of '23. Did you find that one?
A Yes.
Q Okay. And go to the "patient complaint" area. Now, this would be after the first confession statement that you provided in your notes previously today; correct?
A Correct.
Q Did Mr. Allen – did you have a chance to read that paragraph?
A I skimmed it.
Q Okay. Sorry, I'll let you go ahead and look at that.
A Okay.
Q In that particular session, did he make reference to the fact that he was aware he had confessed?
A I told him he had confessed.
Q Okay. Did you also talk with him about why that might not be a good idea?
A Yes. I said it was not in his best interest and likely against the advice of his attorneys to continue to verbalize his claims of guilt, as this information could

be passed on by other incarcerated individuals to their families and the media.

Q Okay. So you're, it appears, advising him, for his own safety, he should not be talking about that.

A Right.

Q In your clinical observations for that particular day, what do you note?

A It felt like he was being more blatant with feigning symptoms of confusion and memory loss and purposely behaving in a bizarre manner.

Q For people who might not be familiar with the term "feigning", would that be similar to saying that he's faking symptoms?

A Yeah, maybe a nicer way of putting it.

Q Okay.

A Yeah.

Q And what particular symptoms were you referencing in this observation?

A So he said, "But I didn't sign anything; right?" I told him he didn't plead guilty in any formal manner. He was oriented times four, person, place, time, and situation. He asked why he was still on suicide watch. I let him know his ongoing behaviors suggest he is not being safe. But it seems to kind of be the memory – claims of memory loss.

Q Okay. Could you turn to April 10, again the patient complaint paragraph. On that particular date, did you meet with him outside of his cell?

A I did.

Q And did you make any observations with regard to him feigning symptoms?

A Some odd behaviors. So he was sitting with back against the wall, raising and lowering his arms. He didn't respond when his name was called, just stared

forward. He was naked. The condition of his cell was concerning, as he had papers strewn about the floor. Officer logs indicated he may have been urinated outside of the toilet, talking to himself, and doing unknown things to his penis. He has been refusing meals and showers, admitting to various acts, talking about his wife, exhibiting religious preoccupation. And I believe then they took him out to clean the cell.

Q What papers would be strewn all over his cell?

A I'm assuming the ones that he got, the discovery.

Q And so what do you know about him receiving discovery, and are we talking about discovery in this case, is that what you mean?

A All I know is that they had discovery at the facility and they were concerned about other incarcerated individuals learning what was in the discovery, so when they did give it to him, they removed those from being companions, so they can't see the papers. That's the extent of it. I personally never saw them.

Q Okay. Do you know approximately when he received those discovery papers?

A I want to say it was right before all this stuff went down.

Q And when you say this stuff went down, let's be more specific.

A Yeah.

Q So we started with a report on April 5 of him confessing, which made reference to a previous day of confessions to others; correct?

A Right.

Q Does that have any relationship to what you're referring to?

A Yes.

Q Okay. Could you explain for the jury, please.

A So it appeared that he received the discovery around the time he started confessing, so early April.

Q Okay. And why was that significant you said with regard to companions?

A That the warden didn't want the companions to be able to view the documents in his cell, so he changed them out to be officers.

Q Because previously, they would have been what?

A The other incarcerated individuals.

Q Okay. So was that a step being taken to provide added protection for Mr. Allen?

A And for the discovery.

Q And for the discovery?

A Yes.

Q Okay. Did you observe Mr. Allen to have a shift in his behavior, his presentation, after he got the discovery?

A Yes.

Q Let's go to April 12th and review the patient complaint paragraph. Were you able to see Mr. Allen outside of his cell that day?

A Yes.

Q And what did you observe about his behaviors on that particular day?

A He was clapping, banging on something, kicking the door, masturbating. He continued to do so, even after he saw I was at the door. When I checked the camera, he was observed constantly being naked and moving around, touching his genitals, rolling around, making other purposeless movements. At that time, due to his refusal to wear a safety kimono, he will not be allowed recreation time outside of his cell, as he cannot engage in rec in view of others without clothes

on. And additionally, during a previous instance, he refused to leave the rec enclosure, resulting in custody staff spending an hour coaxing him to comply and return to his cell.

Q So what did you note in the additional clinical observations for that particular day?

A That it – at that time, I believed the behavior was instrumental.

Q And what does that mean for a layperson?

A For a secondary gain, so doing it in order to get something.

Q Do you have any idea what it is he was trying to get?

A Not necessarily.

Q And let's move on to April 13 of 2023. The patient complaint is more lengthy on this particular day. Is there a particular notation that would explain what was going on that day? So what's going on on that particular day?

A So I was informed that his behavior was escalating. He was laying in and consuming his own feces. We held a meeting with the warden, deputy warden, major, health services administrator, Centurion director of behavioral health, IDOC executive director of behavioral health, and a Centurion psychiatrist. So we were looking into the involuntary medication, so we had our psychiatrist go and try to talk to him to offer him the medication, but his efforts were unsuccessful; however, the psychiatrist determined that he did not qualify for an emergent involuntary injection.

Q Did you make a change to his watch level?

A That day changed from close to constant, yes.

Q And under "additional clinical observations", what did you note?

A I said, "It is possible he is experiencing an emotional breakdown, possibly

due to being faced with the discovery materials and experiencing feelings of guilt and loss. He may be exaggerating or feigning for secondary gain. He may consciously or unconsciously allow himself to deteriorate to this state. It appears he has little to no – he has had little to no sleep since his placement on suicide watch on 4/4/23. Initially, he'd get a few hours of sporadic sleep per day. In the last few weeks – few days to one week, there were a couple days when no sleep was noted by the companion. This can definitely be a factor in his presentation. Whatever the etiology, his current presentation is not indicative of stability."

Q So you – at this point, you still had a concern that he was faking or exaggerating – is that correct? – based on your observations of him since November of –

A Possible –

Q -- 2022.

A -- but it's getting to the point where it almost doesn't matter whether it's faking or not faking, because he's deteriorating, so something has to be done about it.

Q Okay. So there is a process then almost immediately following this where you participate, along with other mental health professionals, and there's a decision for involuntary injection; correct?

A Correct.

Q Okay. I'd like to direct your attention to April 17 of 2023, if you would – we'll go through this paragraph by paragraph –

A Okay.

Q -- because it's a lengthy one, but in the first paragraph, if you could read

the first paragraph of the complaint section and then I'll ask you a question.

A So I saw him at his cell front for his daily visit.

Q Okay.

A "He had a greasy, dirty window. He was standing in the middle of his cell with his eyes closed and one palm raised, as if holding something. He was clothed in his safety kimono, as opposed to being naked, suggesting improvement. He appeared to be speaking or mouthing words, as though praying. This writer called his name a couple times with no response and this writer stepped away to review the officer companion logs. Shortly after, Mr. Allen was at the cell front, coherently calling this writer's name and asking to talk. He agreed to come out of cell."

Q So was there something about your observations of his behavior and then his subsequent request to come out and talk to you by name that you found to be notable?

A I mean, that he's – you know, you look in there and he's acting bizarrely, and then he just kind of stops when I walk away and was calling me; and so was it because I was watching him, you know? That might be a thought in my mind.

Q Are you familiar with persons in an inmate situation that you've interacted with that suffer from psychosis?

A Yes.

Q And is it within your professional capacity to make that kind of diagnosis or is that for a psychiatrist?

A No, I can make that diagnosis.

Q Okay. And so would a person suffering from psychosis go from the kind of behavior you first observed at the window to then calling you by name and

asking to come out for a visit?

A It's not completely impossible, you know.

Q Is it typical?

A Maybe not typical.

Q Would it cause you to –

A Could happen.

Q -- conclude that the person is psychotic or would you need more information?

A More information.

Q Okay. In the second paragraph, what does Mr. Allen share with you?

A So when he comes out to the cubicle to talk, he kept his eyes closed for the majority of the session. He appeared open and willing to engage with me and made an earnest effort to convey his thoughts. He reported experiencing what he described as repeated nightmares or dreams, possibly describing his experience for the past two weeks is my hypothesis. He stated that in them he – more people died due to his selfishness and that he had just wanted to tell the truth. He said, "I'm afraid I lied so much. I'm afraid the longer I make this go on" – he didn't complete the thought. He indicated becoming separated from reality at some point and has a desire to go back and make things right.

Q Does that exchange seem to indicate that he's sharing coherent thoughts about his fears and concerns?

A I'd say yes.

Q And the third paragraph.

A Okay. So he said, "I wish I had a medical –

MR. ROZZI: Objection: Form of the question.

THE COURT: I'm sorry?

MR. ROZZI: I'm sorry. Objection: Form of the question.

Q Would you review the third paragraph, please.

A Sure. He said, "I wish I had a medical –

Q I mean review it to yourself and then I'll ask you a question.

A Oh, then you're gonna ask me, okay.

Q And so what are you documenting that Mr. Allen shared with you in that particular area of the report?

A That he wished he had a medical illness that would explain – he said he did some vulgar and disgusting things, "That's not who I am." He went on to say, "If I fake my own death and the entire world has ended" – some of these things he's saying are kind of disjointed, so there's nothing more after that. "The last thing I remember is I fell asleep and kept activating nuclear war after my death and destroyed earth."

Q So it's sharing with you a dream?

A I suppose.

Q Okay.

A Throughout his encounter, he exhibited disjointed thoughts, started – starting statements that appeared rational, but either trailing off without completing them or providing irrational conclusions. When asked if he remembered what he had been doing in the past week, he stated, "Singing, marching, crying, blaming everyone else."

Q Okay. So he's sharing some unconnected ideas; correct?

A Um-hmm, yes.

Q But then, in response to your question about what he'd been doing for the

past few weeks and he provides a list of behaviors, were those, in some part, correct?

A Yeah, I think so.

Q And then, could you share with us your additional clinical observations from that day.

A It looks like after he received his involuntary medication on 4/14/23, there was some improvement noted. He appeared to be significantly deprived of sleep prior to this. He does not appear to exhibit auditory or visual hallucinations, but had exhibited grossly disorganized speech, paranoia, and delusional thinking. And then I just mentioned diagnosis.

Q So with regard to the diagnosis, before the actual language of brief psychotic disorder with marked stressors, you have "RO"; what does that mean?

A Rule out? Rule out.

Q And what does that mean with regard to the process that you referred to when you were actually testifying about the diagnosis that didn't get documented until May 3rd?

A So we're still watching to see if, you know, it'll – if it'll take a month; right? So – for – to have this diagnosis, it's a month-long process.

Q Okay.

A And we're kind of in the middle of that right now.

Q And then I would direct your attention to April 21st, the third paragraph.

A Okay.

Q In that particular area, are you documenting bizarre behavior by Mr. Allen?

A Yes.

Q Did you find that particular behavior to be genuine, as in beyond his control?

A I didn't.

Q And then, on April 25 of 2023, the "patient complaint" section, if I could direct you to the fourth paragraph through the – just the fourth paragraph; what did you document in that area of your report?

A I was trying to elicit information on his insight into his condition, as well as the etiology of his decline. He reported struggling longer than he acknowledged, but denied experiencing anything like this in the past. He reported feeling it could be due to not taking his medication, referring to Prozac, although mentioning Seroquel a number of times, as well. He stated he thought he was taking his medication. He said, "I think I wanted to have an in-person visitation and I think I wanted a transfer."

Q So in your prior references where you indicated that you thought that he was potentially feigning for secondary gain, is this at least a potential explanation for his behavior that he's providing to you himself?

A It could be.

Q Well, what other secondary gain could he accomplish that –

A Those are definitely the big –

Q -- you could think of?

A Those are definitely the big ones, visiting – having the visits with his wife and the transfer out.

Q Okay. And you actually advocated for him to have in-person visits, did you not?

A I did.

Q And those visits were with whom?
A With his wife.
Q And were you successful in doing so?
A I was.
Q Is that something that happens typically for people in WCU?
A No.
Q So were special accommodations made in order to allow Mr. Allen to see his wife?
A Yes, they were.
Q And did you do it on multiple occasions?
A I don't recall how it all went. I know I had to keep talking to the warden about it and, eventually, I think one visit happened, and then I don't know, they figured out the second one later on their own.
Q Okay. Do you believe those would have happened without your intervention?
A Probably not.
Q Okay. And finally, April 28 of 2022, the "patient complaint" section is one large paragraph, if you could read that and we can discuss it. Okay. So what did you observe about Mr. Allen that particular day?
A I went to his cell front, he was lying on his bed naked. He looked up at me and, when I asked whether he wanted to come out for a session, he said he had to shower first. I told him we did not have time for him to shower first, and I guess it wasn't shower day on the pod. There was a smell coming from the cell, but I took that as a positive, like that he's aware that he's probably not in the right condition to come out for a session, so –

Q What does that indicate about his mental state, that he's concerned about the fact that he may not be clean –

A Right.

Q -- and it would be inappropriate to come out?

A Just improved insight.

Q Did you talk with him about your advocating for him to get a visit with his wife?

A I don't see that.

Q Okay. Did you ask him why he wasn't taking care of his daily living, like showering?

A Yeah. He said, "Because I'm selfish." Oh – so we talked about the visit and I told him how he identified it being important to him. In a sense, I wanted it to be motivating for him to take care of himself. But he kind of just went on about flushing the Bible down the toilet, not having food or water.

Q Let's talk about that. He makes a complaint that he doesn't have food or water; is that something that could be true?

A No. He could be refusing the food.

Q Okay.

A Water, it could be shut off if he's flooding the cell.

Q How does that work? If he's flooding the cell, what happens with the water source?

A They'll shut it off. I mean, not for a very long period of time, but that – first few – I don't know the time – the timing or anything.

Q It's a consequence?

A Yeah.

Q Okay. And – but he would not be deprived of food and water as a punishment?

A No.

Q And what were your clinical observations?

A I didn't see him as psychotic. He kind of – it felt – this is not, like, a very good word, but gamey. It is possible that he was severely depressed due to – resulting in the lack of motivation for self-care, but much of what is being observed and documented in logs appear to be behavioral, defiant behaviors with no clear motive.

MS. DIENER: Thank you. I'd pass the witness, Judge.

THE COURT: Mr. Rozzi.

MR. ROZZI: You want to – may we approach?

THE COURT: Sure.

(Sidebar conference conducted.)

MR. ROZZI: I'm okay doing this. I don't know if you want to start. I think it's gonna take a while. I just know it's the lunch hour and I didn't know –

THE COURT: Yeah.

MR. ROZZI: -- if you wanted to do it after –

THE COURT: We'll go about a half hour.

MR. ROZZI: I'm sorry?

THE COURT: We'll go about a half hour, break at 12:15.

MR. ROZZI: Okay.

(Sidebar conference concluded.)

MR. ROZZI: One second here, Your Honor.

CROSS EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MR. ROZZI.

Q Nice to see you again, Dr. Wala. How are you?

A I'm good.

Q All right. So one of the first things you talked about with the prosecutor was your education; is that right?

A Yes.

Q And the fact that you are a psychologist?

A Yes.

Q You received a degree, I believe, from a professional psychology school in Illinois; is that right?

A Yes.

Q And you worked as a psychologist in the DOC since back in 2018; is that right?

A Um-hmm, yeah, I did work as a mental health professional prior to that, but as a psychologist in 2018.

Q You worked at a community counseling center, you told me, and then at a state hospital; correct?

A Yes.

Q But mostly, you've pretty much worked in the prison system?

A Yes.

Q And you don't specialize in any areas of psychology; right?

A Right.

Q You basically just worked in the mental health department there at the prison; right?

A Yes.

Q Now, the prosecutor didn't ask you where you were working, did she?

A She didn't.

Q She didn't ask you that, did she? And in fact, you're not working with the DOC anymore, are you?

A I'm not.

Q You testified up in Allen County in July of this year?

A Yeah, July 31st.

Q And after that testimony in court, you didn't go back to work, did you?

A I went back for the next day.

Q And then you were not allowed in the prison?

A That is right.

Q But on your resume here, you've reported that you're employed with Wexford Centurion from October of '17 up to the present time; right? On your CV?

A I didn't update it.

Q You're not employed with Wexford anymore, are you?

A Actually, I am employed with Wexford.

Q You getting a paycheck from them?

A Yes.

Q Okay. Where are you working?

A Does that need to be disclosed for everyone?

Q Well, are you working at another facility?

A Yeah.

Q Okay. So they won't let you go back to DOC, but they put you to work

somewhere else?

MS. DIENER: Objection, Judge: Asked and answered.

THE COURT: Sustained.

Q So Wexford put you to work somewhere else?

A I was working for Centurion when I left DOC.

Q Wexford, Centurion the same – it's the successor; right? Centurion's the successor of Wexford?

A Yes.

Q But you're not employed at the DOC anymore at Westville Correctional Facility –

A That is correct.

MS. DIENER: Objection: Asked and answered.

THE COURT: Sustained.

Q Now, you are familiar, on a personal level, with the circumstances in this case, aren't you?

A In regards to?

Q Well, aside from your treatment of Mr. Allen at Westville, you had other familiarities with the circumstances surrounding this case, don't you?

A Sure.

Q You were following this Delphi murder case well before you started treating Mr. Allen; right?

A Yes.

Q And you were following it on podcasts, Facebook, other social media outlets?

A Yes.

Q It's something you were doing fairly routinely, wasn't it?
A Yes.
Q And you were specifically going out and seeking out information, because you had an interest in this crime stuff; right?
A Right.
Q And that interest continued to grow as the case moved forward, the investigation; right?
A Right.
Q So you got more and more involved; right?
A Yes.
Q And at some point, there was some significant activities in this case that didn't involve Mr. Allen; right?
A Right.
Q That caught your interest?
A Yes.
Q And at that time, you decided that you were going to access –

MS. DIENER: Objection, Judge. May we approach?

THE COURT: Yeah.

(Sidebar conference conducted.)

MS. DIENER: I'm objecting to Mr. Rozzi putting it in a particular timeframe that would lead to a conclusion (inaudible). I don't know when she did the Incite search, nor do you, and so I think she should provide that information, rather than Mr. Rozzi providing it in the context of his question.

MR. ROZZI: So what's the objection?

MS. DIENER: Well, I think that you're putting her particular search

in a timeframe in relation to this case and we don't know if it's pre-Richard Allen or post.

MR. ROZZI: I can ask her that.

MS. DIENER: I just think she should be the one to (inaudible) that.

THE COURT: (Inaudible)

MR. ROZZI: What's that?

THE COURT: (Inaudible)

MR. ROZZI: Yeah. Yeah, I was trying –

MS. DIENER: Yeah.

MR. ROZZI: -- to be delicate about giving the name –

MS. DIENER: Because I haven't talked to her about this.

THE COURT: Okay.

MS. DIENER: Like you had said you've talked about it.

MR. ROZZI: Well, we deposed her. I haven't had a chance to talk to her.

MS. DIENER: No, I mean, I didn't say those topics –

THE COURT: We're not talking about that.

MS. DIENER: Yeah.

MR. ROZZI: I can do that.

MS. DIENER: I just don't know what –

(Sidebar conference concluded.)

THE COURT: All right. Your objection is overruled. You may proceed. Narrow it.

MR. ROZZI: Thank you, Judge.

Q So there was a significant development in this case that occurred before

Mr. Allen's arrest; right?

A Yes.

Q And that development got you more interested?

A Yes.

Q And so you went back to work at the DOC and you used the DOC's database to start accessing information for your own personal reasons, didn't you?

A I did that.

Q And that's in violation of the DOC's policy, is it not?

A Probably.

Q Is that why you're not employed with them?

A They had to do an investigation.

Q And the information you were accessing is information that the public doesn't have access to; right?

A Correct.

Q Now, you told me that you had followed several different podcasts, specific podcasts; right?

A Yes.

Q I think you mentioned True Crime; right?

A Yeah.

Q Mentioned a guy named Gray Hughes, follow his podcast?

A I did.

Q Richard Snay?

A I did.

Q Defense Diaries?

A I did.
Q CriminaliTy Channel?
A Yes.
Q And other YouTube channels; correct?
A Yes.
Q You followed the Prosecutors?
A Yes.
Q Online chat rooms?
A I mean, I'd just read stuff.
Q And Facebook?
A Um-hmm. (Affirmative response)
Q And you're shaking your head yes?
A Yes, yes.
Q And, at one point, you actually were contributing out there. There were questions online on social media about where to get information on this and you were making recommendations, weren't you?
A I did give recommendations.
Q And this happened just earlier this year, didn't it?
A I think so.
Q And you had admitted to me earlier that just that act alone was a violation of your APA guidelines, didn't you?
A I said it's a gray area.
Q Gray area. APA guidelines being the American Psychological Association guidelines; right?
A Yes.

Q Shaking your head yes.
A Yes.
Q And then, after Mr. Allen's arrest, your interest in the case piqued even more, didn't it?
A Sure.
Q And, in fact, you were commuting every day to Westville from the north side of Chicago, or at least several days a week.
A Well, it was my job.
Q Okay. But you have to commute?
A Yes.
Q What is it? An hour and a half, two-hour drive?
A Yes.
Q And you were using that time to follow the social media activity and other content regarding this case, weren't you?
A Yes.
Q And at some point, there was information on the Internet that you were doing this; right? Somebody pointed out that you were following all this stuff?
A Right.
Q And you shut all your accounts down, didn't you?
A I did.
Q And you would agree with me that there was a lot of information that you consumed out there regarding this case on both sides?
A Yeah.
Q Some of those things – or that content comes from all over the world, doesn't it?

A It does.

Q And you never disclosed to your employer, up until the point at least when you started treating Mr. Allen, that you had this personal interest in the case, did you?

A From what I remember, we discussed it when he was coming to our facility.

Q Okay. Well, do you remember me taking your statement in this case?

A Yes.

Q On a couple of different occasions; right?

A Yes.

Q Two separate days; is that right?

A Um-hmm, yes.

Q One time down in Logansport and the other one here?

A Yes.

Q Give me one second, make sure I've got the right statement. Would it help to refresh your recollection by looking at the statement –

A Sure.

Q -- that I took?

MR. ROZZI: May I approach, Judge?

THE COURT: You may.

MR. ROZZI: Thank you.

Q Doctor, this is the statement taken of you June 6th, 2024; do you generally recall being here on that – back – actually, we took the statement right back there at that table, didn't we? Is that right? Yes or no?

A Yes.

Q And let me show you this front page of this. Directing your attention to

page 33 and 34, did I ask you about whether or not you ever reported about following this case, reported to your employer about following the case?

A Right.

Q And your answer was no?

A Right, it was a no. Conversations had – were had.

Q You told me no, didn't you?

A I didn't do anything formal, so –

Q But then I asked you especially after you were assigned to Rick Allen did you report anything, and your answer was no; right?

A Okay, yeah.

Q Would it help to refresh your memory?

A My memory was recently refreshed where I was told that, when he was coming to us, I had conversations with both of my superiors –

Q Okay.

A -- so –

Q Did I ask you this under oath?

A You did.

Q And what'd you tell me?

A I said no, 'cause I never – I took it as more of like a formal report.

Q Those were fair questions, weren't they?

A They were.

Q And they were pretty clear and clean, weren't they?

A Sure.

Q And that's what you told me, no. And you were under oath at the time.

A Um-hmm. (Affirmative response)

Q Yes or no?
A Yes.
Q Okay. And now you're saying you were wrong; right?
A Wrong just because I'm looking at it in a different way.
Q Okay. If you had a chance to go back and do this over again, would you have stopped following this stuff while you were treating Mr. Allen?
A Probably.
Q And you were actually sharing some of your thoughts with Mr. Allen about the stuff that you were – the information that you were getting online, weren't you?
A Sometimes.
Q And you were sharing some thoughts with him about some of the pre-trial hearings; right?
A I don't remember.
Q Would it help to refresh – review your statement and refresh your recollection?

MR. ROZZI: May I approach, Judge?

THE COURT: You may.

Q Same statement from June 6th, page 40, lines 8 through 13 – lines 5 through 13, I'm sorry.
A Yeah. I mean, it would be any –
Q Hold on. The question is: Were you communicating to Mr. Allen about things that you were following regarding this case while you were treating him?
A Yes.
Q Now, let's talk about Rick's mental health history; okay? You said your

first contact with him was back in November of 2022?

A Yes.

Q And I think you described him in one of your notes as being depressed and anxious; does that sound accurate?

A Yes.

Q And you told me you peeked at one of his intake documents from the RDC; right?

A Yes.

Q RDC, to educate the jury, means Reception and Diagnostic Center; right?

A Yes.

Q And again, to be – just to kind of give them some context, basically when someone is assigned to the Indiana Department of Corrections, the first place they typically go would be – they would go would be the RDC down in Indianapolis; right?

A Right.

Q It's kind of like an intake facility; right?

A It is.

Q Typically, most people stay down there for two to four weeks or so before they're assigned to a –

MS. DIENER: Objection, Judge. He's testifying in the question, rather than asking the witness.

THE COURT: Sustained.

MR. ROZZI: I'm trying to educate the jury, so we don't have to –

MS. DIENER: The witness can educate the jury.

MR. ROZZI: Let me do a better job of that.

THE COURT: It's not your job to educate the jury, so just ask questions.

MR. ROZZI: Well, through the witness.

THE COURT: Then ask her questions, instead –

MR. ROZZI: I will.

THE COURT: -- of testifying.

MR. ROZZI: I will.

Q Ma'am, do you agree that typically, when inmates are assigned to the DOC, that they're sent to RDC?

A Yes.

Q Is it accurate that, when they're sent to RDC, they're assessed there and then shipped out to the various facilities?

A Yes.

Q Is it accurate to say that that typically lasts about two to four weeks?

A Yes.

Q And is it accurate to say, in this case, that Richard Allen's assessment and transportation to Westville was just a day or two?

A Yes.

Q So he was on an expedited basis?

A Yes.

Q And when you – you did review the RDC assessment; right?

A I did.

Q And just to clarify here: Do you agree that basically, from the minute you start reviewing records, that you are conducting your own assessment of Mr. Allen or whoever the inmate situation is? That's kind of a process that goes on

as a psychologist?

A I mean, it's just information and I'm gonna take it with me and see if I see the same things.

Q Okay. You told me during one of these depositions that I took that you're always assessing when you are in the presence –

A Yeah.

Q -- of the offender; right?

A Yeah.

Q Okay. And so your – the assessment process as a psychologist in the DOC is that I'm basically doing that as I'm talking to my client or patient; right?

A Yes.

Q Okay. But in this case, in terms of Richard Allen's assessment, there was no testing that was part of that process, was there?

A No.

Q No clinical testing?

A No.

Q Which is the way that you would typically assess someone in a normal therapeutic setting, that would be a part of it; right?

A In certain settings.

Q You could have done a mini mental status exam you told me; right?

A Could have.

Q But that was not done; right?

A Right.

Q And in fact, you acknowledged that it's really difficult for the DOC to do any kind of objective testing and clinical testing, because you don't have the

resources.

A Correct.

Q It's accurate to say that you actually have interns occasionally that will bring sample tests up and things like that that you use?

A Yes.

Q And you would agree that, when he hit the doorstep of the DOC, that he was diagnosed with a major depressive disorder?

MS. DIENER: Judge, I object to the form of the question.

THE COURT: Sustained.

Q Is it accurate that Mr. Allen was diagnosed with major depressive disorder when he hit the doorstep of the DOC?

A I don't know if that was in the system.

Q Okay. It was related in –

A I believe that's generally what we had from his history.

Q Okay. I understand the distinction I think. You acknowledge that it was part of his psychiatric history?

A Yes.

Q Without a doubt?

A Yes.

Q Okay. But it may have not been noted in your system, is that what you're saying?

A Correct.

Q You don't recall?

A I recall personally adding anxiety and depression. Again, he was taking medication, so we didn't see, you know, a major depressive episode, could have

been much more stable at that time, you know.

Q And he had anxiety disorder?

A Yes.

Q And you knew that he had routinely visited an outpatient clinic before he made it to the DOC?

A I had minimal information about it, but yes.

Q And you also mentioned that you thought that he may have suffered from dependent personality syndrome.

A Um-hmm, yes.

Q Something you noticed right away; right?

A Yes.

Q And people who suffer from those kind of syndromes have a really hard time being separated –

MS. DIENER: Judge, objection to the form of the question. He's testifying.

THE COURT: Sustained.

Q Do you agree that people who suffer from –

MS. DIENER: Judge, I object. He is giving the information to the witness and just asking her to provide a yes or no answer. He's not a psychologist.

MR. ROZZI: She – this is –

MS. DIENER: Improper form.

MR. ROZZI: -- cross examination. She said –

THE COURT: Cross examination still has to be proper. You testifying to it is not proper. Ask her the question.

Q Did you believe he suffered from dependent personality syndrome?
A It was possible.
Q And did he later demonstrate some of the characteristics consistent with that?
A Yes.
Q And that is, basically, being separated from people that are important?
A Yes.
Q Specifically his wife; is that accurate?
A Yes.
Q And so he was, from a mental health standpoint, a pretty fragile man when he showed up at Westville –

MS. DIENER: Objection to his characterization of Mr. Allen as fragile. That's something for the witness to determine.

MR. ROZZI: It's a leading question. It's cross exam –

THE COURT: It's a leading question, yeah.

MR. ROZZI: It's cross examination.

THE COURT: I understand, but you still can't continue to ask those types of improper questions.

Q Did – was Mr. Allen a fragile man when he landed at the DOC?
A He was.
Q From a mental health standpoint?
A Yes.
Q And on top of that, he was accused of killing two girls; right?
A Yes.
Q So that is another circumstance that you've got to take into consideration

above and beyond his existing mental health?

A Agreed.

Q Now, we're not gonna beat a dead horse here, but you've been to his cell; right?

A Yes.

Q You've seen those circumstances?

A Yes.

Q And you would agree with me that the circumstances that he was enduring in that cell in November of 2022 really remained generally unchanged for about 13 months?

A Generally.

Q I mean, he never got out of that cell other than for his rec time and visits with medical staff; right? And showers?

A Right.

Q Is that accurate?

A Accurate.

Q I mean, he didn't end up somewhere else in the prison; right?

A No.

Q And there was some discussion about the lights in those cells being on all the time; do you recall that?

A I do.

Q That can be a little bit of a burden on somebody if they don't have any –

MS. DIENER: Objection, Judge. Is that a question?

Q Do you agree –

THE COURT: Sustained.

Q -- that that can be a burden on somebody from a mental health standpoint?
A The lights being on all the time?
Q All the time.
A Yes, but I think they were able to dim them a bit.
Q Well, you told me previously that he didn't have the ability to control them; right?
A I don't know. I think he didn't want to try to do it.
Q But you told me in the deposition that he didn't –

MS. DIENER: Objection, Judge: Asked and answered.

MR. ROZZI: She didn't answer.

THE COURT: Overruled.

MR. ROZZI: Thank you.

Q You're shaking your head yes?
A Sure.
Q And he had a camera pointed on him 24 hours a day?
A Yes.
Q And all the inmates in that unit, the other 55 or so in his pod, did not have cameras pointed on them; right?
A Right.
Q There's no privacy in that cell.
A Right.
Q And there's actually somebody in a control room that's watching him all the time, isn't there?
A Yes.

Q You never specifically requested to watch any of the video in his cell.
A If I was in the control room and I needed to take a look, I'd look at the screen.
Q But you don't hang out in the control room.
A No. That's not, I mean, not like a regular thing I do.
Q All right. I mean, you gotta be doing rounds when you're there; right?
A There's other things to do, yes.
Q For 13 months, you never took the time to go look at the video to just see what he had been up to maybe the day before?
A I did. I did.
Q Well, you told me when I took your deposition that you'd never done that. Do you agree that you told me that at the deposition?
A May have.
Q Do you want me to refresh your recollection or do you want me to move on?
A Move on.
Q Thank you. And is it true that there's no cell in that facility more secure than the one Rick Allen was in, the whole facility?
A Correct.
Q And is it true that there's no place more restrictive at that facility than the place where Rick Allen was held?
A Correct.
Q There are other housing options in that prison, are there not?
A Yes.
Q And one of those would be in the infirmary; right?

A That would be a Central Office decision.
Q But that would be an option in terms of housing, wouldn't it?
A I don't know.
Q Well, you told me that there are larger rooms in there, didn't you?
A There are.
Q And you thought – we even talked about distance, you thought maybe 15 by 20 feet is what we discussed.
A Yeah.
Q And there's a bathroom in there that was down the hall?
A Yes.
Q And open –
A And again –
Q I'm sorry?
A The issue with that was his level and for him being a Level 2, so they wouldn't mingle him with the others.
Q Other people with mental health problems?
A The infirmary is generally not mental health, it's more medical, but –
Q Okay.
A -- they wouldn't let him out.
Q They wouldn't let him out of that cell, would they? No matter what you did for him, they wouldn't let him out of that cell, would they?
A I'm just saying they wouldn't let him out to mingle with others.
Q Now, when inmates are classified, they're given a mental health code; isn't that accurate?
A Yes.

Q And in this case, Rick Allen received the mental health code of a D; is that right?

A That's right.

Q Is it accurate that there's five mental health codes? I'm trying to remember.

A There are five.

Q There's A, B, C, D, E? Or A, B, C, D, and F?

A Yeah.

Q A, B, C, D, E, and F.

A Um-hmm. (Affirmative response)

Q So there's six?

A Six.

Q Okay. And in terms of a continuum, is it fair to say that kind of the least severe are the As and the most severe are the Es or the Fs; right?

A Yes.

Q It's actually the Es, I think – isn't it? – that are most severe.

A Es – the Es are the most severe, and then they just made a substance abuse designation, so that's the F.

Q Yeah, the F's kind of out on its own.

A It's – yeah.

Q So Rick was a 4 out of 5, basically?

A He had D, so yeah.

Q So you think he had a pretty serious history of mental health – mental illness when he got there and the code reflected that?

A Yes.

Q And because he was a D code, the policy said that you're supposed to meet him one time a week at the cell door; is that right? That sound about right?
A So it depends on – yeah, one time a week at the cell front –
Q And one time a month out of cell.
A -- and one time a month out of cell.
Q Okay. That reminds me, earlier, you talked – or Ms. Diener had asked you about these suicide monitoring sheets, and she specifically mentioned the designation here, suicide observation as being a daily visit.
A It is.
Q Do you remember that? That's a clunky question. Do you remember that?
A Yeah. Yeah, all suicide watches are daily – you don't go a day without seeing them.
Q Right. But the daily visit means that there's somebody from the mental health team that has contact on a daily basis.
A Um-hmm. (Affirmative response)
Q Yes or no?
A Yes.
Q Not that you have contact on a daily basis?
A It was me for a very long time.
Q Yeah, for a few weeks there, it was you; right?
A Yes.
Q Okay. But not to be misled by that, it's not always you?
A We did open it up to others, yeah.
Q And that would often mean, and most of the times mean, that somebody would come by his cell and talk to him through a door.

A Yes.

Q It's kind of a casual encounter, you walk up to the cell, talk through the crack in the door; right?

A Yes.

Q "How you doing today, Mr. Allen?"

A Yes.

Q That's what a daily visit really is.

A Cell front, yeah.

Q Okay.

THE COURT: Would counsel approach.

(Sidebar conference conducted.)

THE COURT: I just wanted to kind of see, are we at a natural stopping point?

MR. ROZZI: Sure.

THE COURT: Is this okay? I didn't want to interrupt the chain of thought.

MR. ROZZI: I appreciate that. I'm fine.

THE COURT: We'll break, then.

MR. ROZZI: No problem.

THE COURT: Okay. All right.

(Sidebar conference concluded.)

THE COURT: Ladies and gentlemen, we're gonna go ahead and take our lunch break. While you're outside the courtroom, please, keep your minds open. Please don't form any opinions or conclusions about anything. You may discuss the evidence that you've heard so far, but please, only do that if all 15 of

you are present in the jury room at the same time and then, please, don't deliberate. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 12:20 p.m.)

THE COURT: Doctor, you may step down from the stand. All right. Anything we need to talk about off – out of the presence of the jury?

MR. ROZZI: No.

THE COURT: We're good? All right. Be back at 1:30.

(Off record at 12:21 p.m.)

(On record at 1:32 p.m.)

THE COURT: All right. Ms. Diener, are you ready to continue?

MS. DIENER: Yes.

THE COURT: And, Mr. Rozzi, are you ready to continue your cross?

MR. ROZZI: Yes, Your Honor.

THE BAILIFF: All rise.

(Jury in at 1:34 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. Give you a minute to get all settled in, get your notebooks out, and everything ready to go. All right. Mr. Rozzi, you may proceed.

MR. ROZZI: Thank you, Judge.

Q Dr. Wala, I just want to revisit one of the reference that was – references that was made earlier that may not have been clear. The word "discovery" came up; do you remember that –

A Yes.

Q -- discussion earlier today?
A Yes.
Q Is it accurate that Richard Allen received his discovery while he was at Westville?
A I think so.
Q Okay. You were kind of alluding to a bunch of documents he had on the floor, things of that nature, I think in early April, maybe last March, is that generally the timeframe?
A Yes.
Q And there were some references in some of the log sheets and in some of your reports about him maybe having seen his discovery.
A Yes.
Q That is the culmination of all of the information that is generated in a criminal case; right?
A Yes.
Q Police reports, it could be videos theoretically, not in in this case, but all of that information about, "Hey, this is what you're charged with and this is the fact – these are the facts to support it", is that what discovery is?
A Yes.
Q Okay. So we're talking about the same thing; right?
A I think so.
Q Do you agree that Richard Allen received a large portion of his discovery at one point in late March/early April?
A That was my understanding.
Q Okay. Earlier, we talked about Richard Allen's diagnosis when he arrived

at Westville in November of 2022. Do you recall that conversation that we had earlier?

A I don't recall the conversation.

Q Okay. Fair enough.

A Are you talking about major depression?

Q Yeah. Do you recall me asking you whether or not he's – whether or not you, the DOC representatives, had knowledge of his major depressive disorder when he got to prison?

A I believe so.

Q Okay. And you were a little unsure earlier; do you recall that?

A Yes.

Q I have an intake document in front of me from November 18th, 2022, that appears to be prepared by you. Would that be helpful for you in refreshing your recollection?

A Sure.

MR. ROZZI: May I approach, Judge?

THE COURT: You may.

MR. ROZZI: Judge, I'm gonna approach with my computer, if that's okay. I had spoken with Ms. Wala yesterday, I communicated with both she and the prosecutor about leaving the materials on the computer for her to help refresh, rather than making copies of large masses of information.

THE COURT: Okay.

MS. DIENER: I'm familiar with what he's referring to, I have no objection.

THE COURT: No objection?

MS. DIENER: Right.

MR. ROZZI: Thank you.

Q And, Ms. Wala –

A Okay.

Q -- is this an intake document titled, "Intake no medical services," November 18th, 2022?

A Yes.

Q And is that a document that you completed?

A Yes.

Q And if I could just direct your attention to page – it might be page 3 of that document, I believe. On page 3, is there a reference to current psychiatric diagnosis?

A Yes.

Q And does it reference on there a diagnosis of major depressive disorder and generalized anxiety disorder?

A Yes. That's what Mr. Allen reported.

Q And in fact, it says here, does it not, that he has described symptoms consistent with these disorders?

A Yes.

Q Okay. Thank you.

A Now, Richard Allen's detention circumstances at the DOC, at Westville specifically, were somewhat unusual, weren't they?

A Perhaps.

Q Okay. He was very different from the other offenders that you have typically treated while you were working there?

A I agree.
Q Okay. We talked about him being a safekeeper; right?
A Yes.
Q And you know that he didn't have any criminal history when he got there.
A Right.
Q And you know that he had not been convicted of a crime.
A Right.
Q That is highly unusual in the Westville Correctional Facility, is it not?

MS. DIENER: Objection, Judge. He can ask this witness if it's highly unusual to her, but she can't speak for all of DOC.

THE COURT: Sustained.

Q That's my question: Is it highly unusual for you?
A We've had safekeepers, but it's not a common thing.
Q You mentioned that to me when I took your deposition; right?
A Yes.
Q You thought maybe you had a couple safekeepers that you might – that you remember from the past?
A Yes.
Q And I think one of them – a couple of those you said were in general population.
A We did have them at WCU, but they didn't stand out very much unless they went on suicide watch.
Q There was one safekeeper you mentioned to me in particular that was at WCU; right?
A Um-hmm, yes.

Q And you remember he committed some very heinous crimes?

A Yes.

MS. DIENER: Objection, Judge: Irrelevant.

MR. ROZZI: Well, we're distinguishing Richard Allen's circumstances from this other safekeeper, so I think it has a tendency to prove that Richard Allen's circumstances were unique and the environment that he was dealing with would have been more damaging to him than this other gentleman.

THE COURT: Sustained.

Q One other time; right?

A Yes.

Q So when Richard Allen showed up at Westville – well, strike that. There's an orientation process that occurs for offenders; right?

A Yes.

Q And basically, is it accurate that that process teaches offenders about the politics of prison?

A I don't know if –

MS. DIENER: Objection, Judge. May I ask a preliminary question?

THE COURT: You may.

MS. DIENER: Dr. Wala, have you ever attended the education that a person gets at RDC?

A No.

MS. DIENER: Then, can you speak to the particulars of what's provided?

A No.

MS. DIENER: I would object to the question.

THE COURT: Sustained.

Q You're aware that there is a program though; right?

A Yes.

Q And tell the jury what your belief is about what that program is for –

MS. DIENER: Judge, again I would object.

Q -- the purpose of it.

MS. DIENER: Her belief is not relevant.

MR. ROZZI: Well, she's entitled to opinion testimony. She's a psychologist at –

THE COURT: She'd have to have knowledge and she's testified that she doesn't, so sustained.

Q Did Rick Allen get orientation training?

A No.

Q There are a lot of rules in prison, aren't there?

A Yes.

Q Rules about showers?

A Yes.

Q Rules about tablets?

A Yes.

Q Rules about rec? Rules about food?

A Yes.

Q Rules about commissary?

A Um-hmm, yes.

Q And those are things that you deal with as a psychologist with offenders

often complaining about those rules; right?

A Right.

Q It's a tough place to navigate – isn't it? – for people.

A Yes.

Q And there's even a monetary system that's different there, isn't there?

A Yes.

Q Phone calls are different, aren't they?

A They are.

Q And that even changes from facility to facility sometimes, doesn't it?

A Um-hmm, yeah.

Q The rules at Westville might be different than the rules at Wabash Valley?

A Right.

Q And those are all points of stressors for people like Richard Allen who are incarcerated in those places; right?

A Could be.

Q It was in this case, wasn't it?

A Yes.

Q You talked about getting him a TV?

A Yes.

Q When someone is on suicide watch, their cell is generally stripped of all of the basic necessities; right? Other than the mattress and the kimono?

A Initially.

Q So that makes it difficult to have any kind of amenities, doesn't it?

A Initially.

Q And it can even limit the rec opportunities that you have; right?

A If they're a danger to themselves.

Q Right. Because now you're forced to go to rec with one of those kimonos on; right?

A Right.

Q Somebody referred to it as a Flintstone gown earlier today.

MS. DIENER: Objection, Judge. He's characterizing evidence. We know it's a suicide kimono.

MR. ROZZI: That was the testimony of the officer.

THE COURT: Overruled.

Q That's what it looks like; right?

A Yes.

Q And you would acknowledge that that can be a stressful transition for an offender, going from regular clothes to putting one of those on?

A Yes.

Q It takes time to even learn how to wear one of those so that you're not exposing yourself.

A Right.

Q He dealt with all those things, didn't he?

A He did.

Q Now, let's talk about your out-of-cell visits with Mr. Allen. You mentioned earlier that you would have some sessions with him. Frankly, those would be the sessions that would generate some of these notes that Ms. Diener went through with you; right?

A Yes.

Q Now, those visits take place still in the A Pod unit; right?

A Um-hmm, yes.
Q And is it accurate to say that, essentially, he's pulled out of his cell and walked down to another area where you would meet with him?
A Yes.
Q Is it accurate that that particular cell or that particular location is also a confined location?
A In the sense that it has the grate between us?
Q Yes.
A Yeah.
Q So they walk him down the hall and there's a gate, basically; right?
A Yes.
Q They open the gate; right?
A Yes.
Q They put him inside the gate, close the gate; is that accurate?
A Accurate.
Q And you are sitting on the other side of the gate; right? On the other side of the room?
A Correct.
Q And you talk to him through the gate?
A Yes.
Q I call it a cage and you agreed with me.
A It's a cage.
Q About a 3 by 3 space; right?
A Maybe.
Q Maybe not even that big; correct?

A Correct.

Q Okay. And as a psychologist, would you agree that that is not a therapeutic setting?

A It's not. It's all we have.

Q It's all you have. But in the course of your practice, a normal therapeutic session would involve a much more comfortable setting, wouldn't it?

A Yes.

Q And that didn't exist here, did it?

A No.

Q It's actually a pretty harsh environment, isn't it?

A It can be.

Q And there are times when he is shackled during those sessions with you.

A I think they do unshackle him.

Q Do you recall me asking you about that in your deposition?

A Vaguely.

Q Did you tell me that they may take shackles off him when you meet with him?

A During transport, he'll have them on, but once he's – once he's in the cage, they would take them off.

Q Did you tell me that at all times when you're having these meetings with him, he's shackled? Is that what you told me?

A I don't think I said that.

Q Would it help to look at your statement to refresh your memory?

A Sure.

MR. ROZZI: Judge, may I approach?

THE COURT: You may.

Q Direct your attention to page 83, lines 12 through 14.

A Oh.

Q That's what it says; right?

A It does say that.

Q Waist shackles; correct?

A I just don't remember it that way. I don't know why I would say yes.

Q Box cuffs?

A Those things are all true when they're – he's transported, but once he's – he enters the cage, then a little hole opens and he can put his hands out and they can take it all off.

Q Okay. You remember seeing some video of Rick being transported to some of his court hearings?

A No.

Q Did you tell me he did that in a full jumpsuit with shackles?

A I mean, I'm assuming that's how he was transported, but I've never witnessed it.

Q Have you ever seen them transport anyone out of that facility?

A No.

Q You were aware that he's coming to court; right?

A Yes.

Q And you've seen – you've seen on TV the number of people that are transporting him from the DOC?

A Yes.

Q Big team of officers; right?

A Yes.

Q Several officers?

A Yes.

Q Fully clothed and –

MS. DIENER: Objection, Judge. This is outside of direct and not relevant.

MR. ROZZI: I think it's relevant for the environment that he's –

THE COURT: The transport's outside of direct.

MR. ROZZI: -- his detention circumstances. I'm sorry?

THE COURT: Sustained. The transport is outside of the direct. Sustained.

MR. ROZZI: Oh.

Q Does – do Richard Allen's experiences while at the DOC have an impact on your assessment of his overall mental health, the things that are going on around him and with him?

A Sure.

Q And one of those would be his transports in and out of the prison to various places around the state, like the courtroom; right?

A Yes.

Q You're aware that he was placed in a van and transported down here?

A He told me about a van.

Q He actually told you that he didn't want to –

MS. DIENER: Objection, Judge. He's testifying in the question about what Mr. Allen told her.

THE COURT: Sustained.

Q You reported in one of your suicide monitoring sheets that he was worried about having to get in a dog cage, didn't you?

A Yes.

Q And that that was not a pleasant experience?

A Right.

Q Now, Ms. Diener went through a number of these suicide monitoring sheets with you earlier; do you recall that?

A Yes.

Q And we – you've seen these sheets before, haven't you?

A Of course.

Q And it – would it be fair to say, if I'm gonna ask you some questions about those, that it would be helpful for you to see those sheets to help refresh your recollection as we went through them?

A Sure.

Q Could I bring my computer up and offer those up to you?

A Yes, please.

MR. ROZZI: May I, Judge?

THE COURT: You may.

Q Dr. Wala, let me direct your attention to suicide monitoring sheet dated November 4th of 2022, it should be the first one, and let me know when you're there.

A Okay, I see it.

Q So is this kind of the – your communication or your documentation regarding what Rick's circumstances were basically when he got to the prison in November of 2022?

A Yes.

Q And under the section called "patient complaint", about four lines down, there's a reference there that says, "He reported doing okay, but expressed frustration with the companion, another incarcerated individual, asking him questions." You see that?

A Yes.

Q So these are the inmate companions that were kind of standing guard with him; right?

A At that time, yes.

Q And he was concerned about those from the beginning?

A Yes.

Q Second paragraph there at the bottom starts with, "Allen reported being on suicide"; do you see that paragraph?

A Yes.

Q And did you report that he denied having any suicidal ideations?

MS. DIENER: Judge, before she answers, could we come to the bench for a moment?

(Sidebar conference conducted.)

MS. DIENER: It took me a minute to get to that report. Are you talking about November 4?

MR. ROZZI: I don't remember what the date on it is.

THE COURT: That's what he said.

MS. DIENER: Okay.

THE COURT: That's what you said.

MS. DIENER: I just want to draw attention to the fact that

November 4 is not her report, it's Dr. Primeau, she didn't prepare –

MR. ROZZI: But she'd have access to all records.

MS. DIENER: We had an agreement that you would not have a record admitted unless the person was here to testify.

MR. ROZZI: I'm not admitting it. I'm using it to refresh –

MS. DIENER: She's testifying from it.

THE COURT: She's testifying.

MR. ROZZI: I'm not gonna admit it.

THE COURT: But it's not her report.

MR. ROZZI: It's part of the medical file.

THE COURT: It was not her report.

MS. DIENER: Right. And you asked her as if she prepared it, "Did he tell you."

MR. ROZZI: I don't think I asked her if she –

THE COURT: Oh, no, you did.

MS. DIENER: You said, "Did you –

THE COURT: You said, "Did he tell you" –

MR. ROZZI: Oh, I'm sorry.

MS. DIENER: Yeah.

THE COURT: -- like it was her report.

MR. ROZZI: Yeah, I did mix up –

MS. DIENER: (Inaudible)

MR. ROZZI: I know.

MS. DIENER: If you're saying did she have access to Dr. Primeau's report and did she review it –

THE COURT: That's different.

MS. DIENER: -- then that's different.

MR. ROZZI: Okay. I appreciate that.

(Sidebar conference concluded.)

MR. ROZZI: May I continue?

THE COURT: Clean it up.

MR. ROZZI: Thank you.

Q Did – is this report – actually, this report says, "Completed by Monica H. Wala, Ph.D." on the top, does it not? November 4th, 2022, 6:28 p.m.?

A Yes.

MS. DIENER: Just making sure, 'cause there's one –

MR. ROZZI: Sure. You want to go look at it?

MS. DIENER: There's one by the other doctor, as well.

MR. ROZZI: Want to make sure we got the right doctor?

MS. DIENER: Yeah. My apologies.

MR. ROZZI: May I continue, Your Honor?

THE COURT: You may.

Q Did he report to you that he was not having suicidal ideations?

A He did.

Q And turning the page, top of page 2, did he report to you that he was struggling with worries about what others thought of him?

A Yes.

Q Kind of gets back to the dependent personality syndrome; is that accurate?

A Sure, yeah.

Q And under "additional clinical observations" – do you see that section?

A Yes.

Q About three lines down on the right, did you report that he complained about having to spend time adjusting to his safety kimono?

A He did.

Q Directing your attention to the report dated November 7th, 2022; do you see that report titled "suicide monitor and evaluation of suicide risk"? Should be the next report in your packet. November 7th, 2022.

A Okay.

Q Do you see that?

A Yes.

Q I don't see an author on here.

A It is –

Q Oh, yeah, I do, actually generated by you on the bottom of page 2; correct?

A Yes.

Q Let me direct your attention to page 1, down under "historical risk factors", do you see that history of physical or sexual abuse?

A I see it.

Q It says he has none; right?

A That's what he reported.

Q But that's what the document says; right? Well, did he report that to you?

MS. DIENER: Asked and answered, Judge.

A No, he didn't report that.

THE COURT: Overruled.

MR. ROZZI: I'm sorry, Judge, I couldn't hear you.

THE COURT: Overruled.

Q He did not report, that's what you said?
A Right.
Q There were other times though when he talked about him being sexually abused that you reported in some of your suicide monitor reports?
A I don't think so.
Q Okay. And then, just below that, there's a list of his history of mental illness; is that right?
A Yes.
Q And it references not only did he suffer from major depressive disorder, but he also was hospitalized, institutionalized in 2019.
A Yes.
Q Directing your attention to November 7th, 2022, suicide monitoring report; is that your report?
A Yes.
Q Okay. And specifically under "patient complaint", November 7th, 2022, do you see that section?
A I do.
Q Two lines down, did he report to you that he was hearing things that he was not used to hearing?
A Yes.
Q Was he referring to the noises and the things that the other inmates are saying to him at the facility?
A That's how I understood it.
Q Okay. Second page, directing your attention to the first – second paragraph there, first full paragraph; you see that?

A Yes.

Q About halfway down, is it accurate to say that he was already stressed about what would happen to him when he got out of prison and how he would live the rest of his life?

A Yes.

Q Because of these allegations?

A Yes.

Q Directing your attention to November 9th, 2022, suicide monitor report. Let me know when you're there, please.

A I'm there.

Q Under "patient complaint", the bottom paragraph on that first page; do you see that? It says, "The writer corrected."

A Are you talking about 11/8 or 11/9?

Q 11/9, ma'am.

A So we're skipping. I see it.

Q The bottom of that page, was Mr. Allen – did Mr. Allen complain to you again about the things that people were saying to him at the prison?

A Yes.

Q Tell the jury what kind of things he was complaining about.

A So custody staff confirmed other incarcerated individuals taunting him, shouting, "Baby killer, we're going to kill you."

Q And was that a consistent theme throughout his stay at Westville Correctional Facility?

A I think so.

Q Okay. Directing your attention to November 10th, 2022, suicide

monitoring sheet; do you see that?

A Yes.

Q Is that your document, did you generate that?

A Yes.

Q Under "patient complaint", about halfway down, did Mr. Allen communicate to you that he thought that this was a psychological game meant to tear him down?

A Yes.

Q Directing your attention to November 21st, 2022, suicide monitoring sheet. November 21st, 2022.

A Twenty-first?

Q Yes.

A Okay.

Q 4:12 p.m., is that the document you're looking at?

A Yes.

Q Directing your attention to patient complaint, the section on patient complaint.

A Yes.

Q The bottom of that last three or four lines there, did Mr. Allen communicate to you that he felt as if he was being treated as if he were already guilty?

A Yes.

Q Did Mr. Allen communicate to you that he didn't do this and that he told the investigators that?

A Yes.

Q Did Mr. Allen communicate to you that he would never be okay with being

in prison for something he didn't do?

A Yes.

Q Directing your attention to November 22nd, 2022, at 4:10 p.m., suicide monitoring sheet.

A Okay.

Q Under "patient complaint", third line down, did he describe to you that his trip back to Delphi was strange and scary?

A Yes.

Q And that he was sitting in a box?

A Yes.

Q Is that what we were talking about earlier with regard to the cage that he was transported in?

A Yes.

Q Did Mr. Allen communicate to you that it was good to know that the evidence essentially didn't point to him?

A Yes.

Q Directing your attention to November 25th, 2022; is that your suicide monitoring sheet?

A Okay.

Q Is that yours?

A Yes.

Q The very bottom of that sheet, the very last line that says, "He consistently presents as extremely selfless when it comes to his wife and doing his best to ensure all of her needs are met." Is that a theme that you experienced with Mr. Allen throughout his stay?

A Yes.

Q Directing your attention to December 6th, 2022, suicide monitoring sheet. Are you there?

A Yes.

Q 3:57 p.m.?

A Yes.

Q Directing your attention to "patient compliant", about halfway down that paragraph, did he report to you that he was an innocent man, but he felt like he had already been convicted?

A Yes.

MS. DIENER: Judge, may I object? A sidebar –

THE COURT: Yes.

MS. DIENER: -- for a moment?

(Sidebar conference conducted.)

MS. DIENER: Judge, we can present the Defendant's statement, because he's a party opponent, but the Defense cannot do that because it would be hearsay, and he is not a party opponent to their position, and so we wanted to check – a sidebar about that if you want to do that in front of the jury and bring that issue in. I don't know why –

MR. ROZZI: Well, statements against interest are –

THE COURT: But the statement you're talking about suggests –

MS. DIENER: He's not a party opponent.

MR. ROZZI: Well, if it's a statement against interest, it's not hearsay.

THE COURT: It is when you present it, it is not when the State

presents it.

MS. DIENER: It's a statement against interest by a party opponent, not just a statement against interest.

MR. ROZZI: Right, but it's the exception to the hearsay rule. It doesn't matter who's presenting it. It's not hearsay because of that reason.

THE COURT: It's hearsay when it comes from the Defense. It's not hearsay when it's presented by the State.

MR. ROZZI: All right. So –

MS. DIENER: So –

THE COURT: So the objection is hearsay.

MS. DIENER: Yes. So I would request to have her response stricken from the record if she did answer. Or shall we just go forward from here and not draw attention –

MR. ROZZI: Well, she can still testify about what she reported.

MS. DIENER: She can't report what he told her if it is a statement from him declaring innocence because you're putting it on for the truth of the matter asserted; it is, therefore, hearsay and he is not –

MR. ROZZI: No –

MS. DIENER: -- your party opponent.

MR. ROZZI: Well, in this particular case, I'm putting this in to prove that he's proclaiming his innocence.

MS. DIENER: Which is his –

THE COURT: That's his statement.

MR. ROZZI: -- which is an issue in dispute.

THE COURT: I understand that, but it's still hearsay.

MR. ROZZI: I think it's the exception. I understand we're having a fundamental argument about hearsay rule; but I think if it's an exception, we can still put it in because it doesn't fall under the rule.

THE COURT: How is it an exception?

MR. ROZZI: That it is a statement against interest.

THE COURT: But again you're conflating it to you – a statement against interest can be presented by the party opponent, which is the State of Indiana, not you.

MR. ROZZI: Okay.

THE COURT: So however you want to do it. Now, if you want to just move on to the next –

MR. ROZZI: Yeah.

THE COURT: -- thing, so that we're not drawing attention –

MR. ROZZI: Move on.

THE COURT: -- to it. So I'll sustain your objection to hearsay.

MR. ROZZI: I'll stick with the stuff she's reporting, understanding that she can't report direct quotes from him.

MS. DIENER: If it's his statement that he's innocent, you're asserting it for the –

MR. ROZZI: No.

MS. DIENER: -- truth of the matter asserted, and it would be hearsay, because he is not –

MR. ROZZI: I'm saying that I'm gonna move on –

MS. DIENER: Okay, great.

MR. ROZZI: -- and I'm gonna talk to her about the things that she

reported, her observations.

MS. DIENER: Her objections are fine.

MR. ROZZI: Yeah, that's all I'm saying.

THE COURT: Nothing he says.

(Sidebar conference concluded.)

THE COURT: I'll sustain your objection.

MS. DIENER: Thank you.

MR. ROZZI: May I continue, Your Honor?

THE COURT: You may.

Q Directing your attention to restricted housing documentation report December 29th, 2022.

A Okay.

Q Was Mr. Allen reporting to you other frustrations that were ongoing in his cell at that time?

A Yes.

Q Tell the jury what those were.

A He was unable to get a regular toothbrush on commissary. He was told he could not have his in-person visits with his wife. He was sleeping on the floor, not having a TV or desk, being unable to charge his tablet in his cell, feeling he is being treated worse than those who have been convicted of their crimes.

Q Directing your attention to restricted housing documentation, January 17th, 2023. It's the next document.

A January 17th?

Q Yes, ma'am.

A Okay.

Q You with me?
A Yes.
Q All right. Is this another document that was prepared by you?
A Yes.
Q And was Mr. Allen complaining about the conditions in his cell to you? Yes or no?
A Yes.
Q Please tell the jury what his complaint was.

MS. DIENER: Judge, again, the objection was that the Defendant's statements cannot be introduced by the Defense for the truth of the matter asserted. I would ask that he rephrase the questions.

THE COURT: This is hearsay. Sustained.

Q What complaints did you receive?
A He had not received a letter from his wife, he was missing clothing, he was experiencing severe heartburn, and –

THE COURT: I'm sorry, could we have a sidebar, please.

(Sidebar conference conducted.)

THE COURT: This is hearsay. I mean, that was the objection and I have sustained it.

MR. ROZZI: I'm not asking him what he specifically told her, I'm asking her what the complaints are.

MS. DIENER: Which she's quoting him.

THE COURT: She's saying what he said.

MR. ROZZI: I can lead her if –

THE COURT: Well, you've already been leading her. What he said

is hearsay, period. Her observations of his behavior is not hearsay.

MR. ROZZI: Okay.

THE COURT: His comments to her, hearsay.

MR. ROZZI: Okay. All right.

(Sidebar conference concluded.)

MR. ROZZI: May I continue?

THE COURT: Yes.

Q Were there concerns about ant, rodents, things like that –

A Yes.

Q -- in his cell? Yes or no?

A Yes.

Q Are those concerns that you get at the prison from other offenders as a psychologist who treats offenders there?

A Yes.

Q They're tearing this prison down, are they not?

MS. DIENER: Objection, Judge. This is outside the knowledge of this witness.

THE COURT: Overruled.

MR. ROZZI: May I ask –

THE COURT: Overruled, if she knows.

MR. ROZZI: Thank you.

Q Have you looked next door to Westville to see what's going on? They build a new prison next door?

A There is.

Q One second, I'm gonna try to look through these. Directing your attention

to the suicide monitoring sheet dated April 4th, 2023, please. Again, those are in chronological order. You with me?

A April 4th?

Q 2023, 11:15 a.m.?

A Yes.

Q Page 2, please, at the top.

A Okay.

Q Did you observe clinical risk factors associated with Mr. Allen on April 4th, 2023? Top paragraph.

A Page 2?

Q Yes.

A Under 4/5?

Q April 4th –

A Fourth.

Q -- 2023, at 11:15.

A I don't think I have it.

MR. ROZZI: May I approach?

A Yes.

THE COURT: You may.

Q Showing you what's – the suicide monitoring sheet dated April 4th, 2023, at 11:15. Yeah, right here.

A This one? Okay.

Q Second page, at the top.

A Okay.

Q Did you observe some clinical risk factors with regard to Mr. Allen at that

time?

A Yes.

Q Tell the jury what those were.

A Recent suicidal or self-injurious ideation, fatalistic delusions or fantasies, belief that death with bring relief, treatment noncompliance, suicide notes or giving away – giving belongings away, hopelessness and/or helplessness, feelings of worthlessness, current insomnia with poor appetite, shame or threat to self-esteem or guilt, intense turmoil, agitation, anxiety, anguish or despair, and elevated anger or hostility or alienation.

Q Anything else that you might have missed that you observed that day?

A I don't think so.

Q Directing your attention to April 13th, 2023, suicide monitoring report. This is about three reports ahead now.

A What was the date?

Q April 13th, 2023, 3:50 p.m.

A Okay.

Q Are you there?

A Yes.

Q Second page, please, under "patient complaint".

A Yes.

Q The last three sentences there. Did you draw some conclusions about the nature of Mr. Allen's disability at that time on that day? I withdraw that question. Let me make this a little easier. Did you discover that he had a grave disability on that day?

A Yes.

Q And did that prompt a discussion about the administration of some psychotropic medications?
A Right, involuntary medications.
Q Basically giving somebody a shot; right?
A Yes.
Q That they didn't want?
A Yes.
Q Directing your attention to April 20th of 2023, 12:31 p.m., suicide monitoring report, about two reports ahead. Are you there?
A Not yet.
MS. DIENER: Which one are you on, Mr. Rozzi?
MR. ROZZI: April 20th, 2023, at 12:31 p.m.
A April 20th?
Q 2023.
A Yes.
Q Are you there?
A Um-hmm. (Affirmative response)
Q Yes or no?
A Yes.
Q Page 2 – actually, page 3, at the top under "assessment"; do you see that section?
A On the second page?
Q Page 3.
A Oh, 3. Yes, I see assessment.
Q Did you report that his cognitive issues had worsened?

A Yes.

Q Directing your attention to – give me a second here – May 11th, 2023, at 5:27 p.m. There?

A It's possibly in another file.

Q I'm sorry?

A It might be in another file.

Q It might be in another – I couldn't understand what you said.

MR. ROZZI: May I approach, Judge?

THE COURT: Yes.

A This one ends.

Q May 11th, 2023.

A Nope.

Q That's April 28th.

A And that's the end of this one.

Q Oh, yeah, so there's a part 2. Okay.

A Okay, 5/11.

Q All right. Third page, please, under "mental status"; do you see that section?

A Yes.

Q Did you report that he was preoccupied or he had preoccupations, ruminations, and he was depressed and paranoid?

A Yes.

Q Directing your attention to May 18th, 2023, at 5:48 p.m., a couple of reports ahead. Are you there?

A I am.

Q And under – on the second page – can I direct your attention to the second page. Under "patient complaint", the second line, did you report that he received his first – or his second injection?

A Second, yes.

Q All right. Let's talk about that. So what is an injection? What are we talking about here?

A Involuntary medication.

Q Okay. So like I said earlier, it's like when you're giving an inmate a shot essentially they don't want; correct?

A Yes.

Q And this is the second time that Mr. Allen has been involuntarily medicated on or about May 18th, 2023; right?

A Yes.

Q Is it accurate that those – that's a Haldol shot, is it?

A It's – probably, yes.

Q Okay. Or something similar to that?

A Yes.

Q And is it accurate to say that those Haldol shots essentially are supposed to last for about 30 days, the effects of them?

A Yes.

Q So this one in May, on May 18th, theoretically would have extended in – sometime into June; right?

A Yeah.

Q Do you recall giving him a Haldol shot in June, as well, extending into July?

MS. DIENER: Judge, I would object. He indicated that she's giving him the shot. I don't think that's accurate.

THE COURT: Sustained.

MR. ROZZI: The answer could be no.

Q Do you recall him receiving a Haldol injection into June?

A I don't know.

Q Do you recall there being a series of them associated with him?

A Yes, but I don't think they were very long.

Q Okay. Directing your attention to May 26th, 2023, at 1:38 – 1:28 p.m., suicide monitoring sheet.

A Okay, May 26th.

Q Yeah. Second page, under "patient complaint", did you observe Mr. Allen with two black eyes on this occasion?

A Yes.

Q Was it – did it appear to you that he was self-harming?

A Yes.

Q So the Haldol shots were not working at that point; is that an accurate conclusion?

A I don't know.

Q Could be?

A I don't know.

Q Okay. By the way, you testified earlier that you don't have anything to do with his medication regiment.

A I don't.

Q You don't know anything about when he was taking meds and not taking

meds.

A Unless he –

Q That's what you said.

A Unless he told me or unless someone reported to me that he was refusing.

Q So as a treating psychologist, it's not important for you to have a background in terms of – or to have knowledge about the medication regiment of your patient?

A I do know what the regiment is.

Q I thought you just said that you didn't know.

A Well, in terms of – so what did you just ask me?

Q So my questions is: As a treating psychologist, is it important to have knowledge of your patient's medication regiment?

A I do think so, yes.

Q Okay. Directing your attention to June 5th, 2023, suicide monitoring report.

MS. DIENER: Which date, Mr. Rozzi? Which day?

MR. ROZZI: June 5th, 2023, at 2:39 p.m.

A Okay.

Q Second page, please. You see the section titled "patient complaint"?

A I do.

Q Second to the last line. Did you report that Mr. Allen received another involuntary injection –

A Yes.

Q -- on June 5th, 2023, due to self-harming?

A Yes.

Q Head banging; right?

A Yes.

Q Thirty-day shot like you talked about before?

A This is different.

Q Okay. Well, what's different about it?

A This is an emergent involuntary injection, it doesn't fall under the other shot, so this is an additional shot to stop him from head banging.

Q Okay. Directing your attention to July 26th, 2023, suicide monitoring sheet. This is about five or six reports ahead, ma'am. Just trying to help you out there navigating the computer. July 26th, 2023, 1:01 p.m.

A Okay.

Q Would you, please, turn to page 2.

A Okay.

Q Under "patient complaint", about five lines down, did you observe some physical characteristics that Mr. Allen was exhibiting that caught your attention?

A The bulging eyes?

Q Yeah. Did you observe those?

A Yes.

Q And did you believe that it was noteworthy that his eyes were bulging out of his head?

A I reported it.

Q Okay. A physical condition that you reported?

A Yes.

Q Did you consider that it might have been a product of his depression?

A Not necessarily.
Q Do you have an explanation, medical explanation, for that?
A I don't.
Q But you thought it was noteworthy?
A Yes.
Q Directing your attention to August 16th, 2023, at 5:17 p.m., suicide monitoring report. Actually, this looks like a behavioral health suicide observation sheet, to be technical.
A What's the date?
Q August 16th, 2023.
A Okay.
Q You with me?
A Yes.
Q Page 2 of 5 – actually, page 3 of 5 at the bottom. You see the numbered pages there?
A Yes.
Q Directing your attention to the section titled "Additional clinical observation"; do you see that?
A I do.
Q Third line down, did you make another note that there was a change in his physical characteristics with regard to his eyes?
A Yeah, that they were no longer protruding out of his head.
Q As they had been for –
A For weeks or months now.
Q Okay. Bear with me for a second. Directing your attention – let me –

MR. ROZZI: May I approach the witness, Your Honor? I'd like to show her the suicide monitoring sheet for November 8th. It might take her a while to find it on there, so I'm just trying to move it along.

THE COURT: All right, you may.

Q Just referencing the suicide monitoring report from November 8th, 2022.

A Okay.

Q This is an old report, obviously, from back. Would this have been in the medical file that you would have had access to?

A Yeah, it would be in the medical records that we can all access.

Q Kind of an intake document, basically?

A By nursing though.

Q What's that?

A Nursing.

Q Okay. What's it show Mr. Allen's height to be?

A Five feet –

Q Five feet, five inches?

A Oh, yes, 5 feet, 5 inches.

Q And how much did he weigh at entry in November of –

A 173.8.

Q All right. You can sit the computer down. All right, Ms. Wala, there's been a few references earlier about how Mr. Allen met with his attorneys and then his behavior changed; do you recall those references?

A I do.

Q And those references were also tied in with this – his receipt of the discovery we talked about earlier?

A Yes.
Q You never saw that discovery material, did you?
A No.
Q And you don't have any idea what was in there, do you?
A No.
Q You don't have any idea what this man, Mr. Allen, knew about any of that.
A No.
Q You don't have any idea what we were telling him during those meetings.
A I don't.
Q Did you know they were videotaped?
A Yeah.
Q Did you ever watch any of those?
A No.
Q So any conclusions you're drawing about the impact that his receipt of the discovery may have had on him is just speculation, isn't it?
A Yes.
Q Any conclusions you're drawing about the impact of his meetings with his attorneys on him, speculation?
A Yeah.
Q Now, when you would meet with Mr. Allen, you would meet with him in two different locations; right? One at the doors – at the cell door?
A Yes.
Q And then your second meeting location would be in the cages that we talked about earlier?
A Yes.

Q When you met with him at the cell door, did you take notes as you were standing there or did you go back?
A Yeah, I still would take notes.
Q Okay. You would do rounds on a daily basis at the prison; right?
A Not on everyone.
Q Okay. Well, on other offenders?
A If I were doing rounds, yes, I'm taking notes.
Q I actually recall, at one point, there was a huge backlog at Westville with regard to offenders who were waiting on mental health treatments. Yes or no?
A I'm sure at various points in time that's accurate.
Q While Mr. Allen was there incarcerated? And, in fact, Dr. Martin assisted you in treating Mr. Allen, didn't he?
A He did.
Q Dr. Martin was a psychiatrist?
A That's right.
Q They will often administer medication?
A Yes.
Q Dr. Martin actually came from ISP, the prison up in Michigan City.
A He did.
Q Those facilities are fairly close to each other geographically.
A They are.
Q One of the reasons why he was there was to try and reduce the backlog of offenders that were waiting on treatment?
A Yes.
Q So when you're doing rounds, you don't have a lot of time to sit around

with any inmate, including Mr. Allen, and have long conversations, do you?

A No, not the rounds.

Q Are there days when you would see maybe 40 or 50 offenders in a day?

A If you're doing rounds, that's possible, but not individuals.

Q But if you're doing the rounds, which is when you would be meeting with him at his door cell.

A Yeah.

Q So you would have been taking notes, whether you were at the door cell or at the –

A Cage.

Q -- in the cage, and at some point, you would have reduced those to writing.

A Yes.

Q I'm sorry, they're –

A To typing.

Q Typing. Sometimes that would happen shortly after you took the notes, sometimes the next day or two?

A Yes.

Q And then, you destroyed those notes, didn't you?

A Yes.

Q And, in fact – we talked about this before, but that also was in violation of one of the APA guidelines, wasn't it?

A I'm really not sure.

Q Okay. Well, do you – we talked about this at a prior hearing, didn't we?

A Crickets when I asked about it. No one had an answer for me.

Q Okay. But I showed you the guideline, didn't I?

A You did.

Q And there was a suggestion that if you're involved in circumstances where litigation might be appropriate, that you should retain those kind of records; right?

A If you say so.

MS. DIENER: Judge, may I ask a preliminary question before we go down this road?

THE COURT: You may.

MS. DIENER: Dr. Wala, do you recall the hearing that Mr. Rozzi is referencing?

A Yes.

MS. DIENER: And he showed you a document that had been marked as APA –

A Yes.

MS. DIENER: -- Best Practices; is that correct?

A Yes.

MS. DIENER: And when he asked you questions about that document, were you permitted to read the entire document?

A I don't think I read the whole thing.

MS. DIENER: It was a lot of pages, was it not?

A Right.

MS. DIENER: And when Mr. Rozzi asked you those questions, did he come up and show you a highlighted portion and then ask you about that highlighted portion?

MR. ROZZI: Judge, this sounds to me like a cross examination or

re-direct, not foundational.

MS. DIENER: I'm trying to show that she didn't have sufficient knowledge of the document when she was answering the questions.

THE COURT: Okay. So what is the objection?

MS. DIENER: That Mr. Rozzi is asking her to make a – to provide a response based on the complete import of the document, rather than just the potions he showed her to read.

THE COURT: Sustained.

MR. ROZZI: May I approach? Or let me ask – I'm sorry. May I ask another question?

THE COURT: Yes.

Q Did you tell me that there – did you acknowledge that the best practices were to keep those notes?

A If that's what your documentation said, then yes.

Q Do you want me to come up there and refresh your recollection?

A You can.

MR. ROZZI: May I approach?

THE COURT: You may.

Q This is a – your testimony at a court hearing on July 31st, 2024; is that right?

A Yes.

Q And you've had the chance to look at all this – well, maybe not this, 'cause, in fairness, you might not have had this; right? But you had a chance to look at the policy when you left; right?

A I inquired about it.

Q Okay. Volume 1, page 96, directing your attention to lines 18 through 25, and then, on the next page, through line 5. Just take a look at that, if you would, please, and let me know when you've read it.

A Okay.

Q So just cut to the chase: Best practice is to keep those notes?

A Okay.

Q So?

A I said okay.

Q That's the best evidence of what, in this case, Richard Allen actually said to you. We don't have that; right?

A No.

Q Now, someone who suffers from major depressive disorder – is it accurate to say that someone who suffers from major depressive disorder can kind of move in and out of those stages of depression?

A Yes.

Q I think when I talked to you before, I used the phrase waxing and waning; right?

A That works.

Q It's one of those things where you can kind of keep a baseline and then, all of a sudden, you can hit a trough quickly; right?

A Yes.

Q These things can happen when external factors are experienced by the patient?

A Yes.

Q Could be a phone call – right? – to a loved one.

A Could be any kind of triggers.
Q Something an inmate says to you next door. Yes or no?
A Yes.
Q Fighting with ants over your foods?
A Sure.
Q Now, we've talked about the phrase "serious mental illness" in the past, haven't we?
A We did.
Q Do you agree that there is a formal definition for serious mental illness within the DOC policies?
A Yes.
Q And do you agree that Mr. Allen fit that definition?
A Yes.
Q And that's because of his major depressive disorder?
A Not necessarily because of the MDD, we don't classify that one as an automatic-inclusion criteria, but because he has that, in conjunction with the functional impairment, I would have said SMI.
Q Okay. So we agree that he fits the definition; right?
A Yes.
Q There is also an understanding within the DOC, it's this part of your policy, that you're not supposed to detain somebody with SMI for longer than 30 days in solitary confinement; is that an accurate statement?
A That is accurate.
Q And is it accurate to say that that policy exists because there is a recognition in your industry that long-term solitary confinement can be

detrimental to the mental health of the confinee?

A Correct.

Q And it's actually pretty rare to keep people in solitary confinement –

MS. DIENER: Objection, Judge. That's not relevant to Mr. Allen.

THE COURT: Sustained.

Q Rick Allen was confined in Westville Correctional Facility in solitary confinement for 13 months, wasn't he?

A Yes.

Q It's reasonable to believe that that could have impacted his mental health, isn't it?

A Sure.

Q Negatively?

A Yes.

Q You would never use solitary confinement as a treating psychologist to treat somebody's mental health issues, would you?

A No.

Q But that's the way Rick Allen got treated, isn't it?

MS. DIENER: Objection, Judge. That's not part of his treatment plan.

THE COURT: Overruled.

Q It's the way Rick Allen got treated, didn't he?

A Yes.

Q He had a diagnosis when he was at the DOC of psychotic processes during the months of March, April, May, and June, didn't he?

A April, May, June. I believe it started in April.

Q Did you tell me that he had an abrupt onset of psychosis and abnormal behavior, a process – psychotic process occurring during the months of March, April, May, June? Tell me that at the hearing on July 31st, 2024?

A If it happened in March, it would have been late, late March.

Q Would it help me to refresh your recollection?

A No.

Q You believe what I'm saying?

A I believe you.

Q Okay. Now, one second, please. You testified earlier, Ms. Diener asked you several questions about Mr. Allen's feigning or faking behaviors; do you recall that line of questioning?

A I do.

Q And did you – is it accurate that in some of your suicide monitoring reports, you were questioning the genuineness or authenticity of those behaviors back at the time you made the reports?

A Yes.

Q Did you tell me in your statement on May 8th, 2024, right back there at that table, that you were now questioning whether or not that was true?

A The feigning?

Q Yes.

A Yeah.

Q You told me you were unsure now – right? – when I met – when I talked to you on May 8th.

A Yeah.

Q So the beauty of hindsight that caused you to think differently about that;

right?

A Yes.

MR. ROZZI: I have nothing further.

THE COURT: Ms. Diener.

RE-DIRECT EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MS. DIENER.

Q Dr. Wala, there was some discussion with Mr. Rozzi about your services versus those of Dr. Martin's. Are you two separate kinds of providers?

A Yes.

Q And so could you explain for the jury the difference.

A Dr. Martin prescribes the psychotropic medications and I provide therapeutic services.

Q So to further explain that, you cannot prescribe medication; is that correct?

A That is correct.

Q And Dr. Martin is an M.D. and psychiatrist; is that correct?

A Correct.

Q So when there was a reference to Dr. Martin coming into WCU to address a backlog for mental health services, is that relevant to or related to the services you were providing?

A No.

Q Let's talk about the best practices for APA and your practices at DOC. What procedure did you follow with regard to using handwritten notes to prepare your records on Mr. Allen?

A I'd take a sheet of paper when I went to go meet with him, take my notes,

go back to my office, open up the electronic medical records, and put the information in.

Q And then, what would you do with your handwritten document?

A Shred it.

Q Now, there was discussion about rounds and you distinguished it from sessions. So when you were meeting with Mr. Allen, was this rounds?

A No. I mean, if I do cell front, I suppose it can count as a round, but I was genuinely going to see him, and if he didn't want to come out, I'd still kind of talk to him at the cell front for a little bit.

Q Now, on average, when you had him come to the cubicle for a confidential conversation; correct, those are confidential?

A Yes.

Q How long would you spend with him on average?

A Could be 15, 30, even an hour.

Q There was not a limit, was there?

A I didn't give him a limit.

Q And so those were not rounds?

A No.

Q Do you have any reason to believe that your information in your notes was incorrectly entered into the electronic record for Mr. Allen?

A No.

Q Was it always your practice to shred your paper notes after entering them into the medical record?

A Yes.

Q Is the medical electronic record secure?

A Yes.
Q Would your paper notes be secure?
A No.
Q And so with regard to Mr. Allen, was there a increased concern that your paper notes be properly disposed of?
A Yes.
Q And so would that be the reason that your procedure deviated from what might be quoted from the APA?
A Yes.
Q Did you take your responsibility to accurately document your conversations with Mr. Allen in your electronic record?
A I did.
Q And there was discussion about your conversation with I don't know if you said colleagues or supervisors before you took on Mr. Allen as a responsibility; is that correct?
A That's correct.
Q And so we're talking back in November of 2022?
A The day he was due to arrive, I spoke with my supervisors about his arrival and what the plan would be.
Q And can you tell us who those were.
A Dr. Keris and Dr. Verdon.
Q Can you spell the last names for those doctors.
A Verdon, V-E-R-D-O-N. Keris, K-E-R-I-S.
Q And so for what facility or company did Dr. Keris and Dr. Verdon work?
A Centurion.

Q And could you summarize the nature of that conversation with regard to you taking on Mr. Allen.

A I don't remember the details, I just know that he was coming and I believe they may have known he was arriving on suicide watch, so we may have talked about that a little bit, but I don't remember anything extensive.

Q Did you disclose that you were interested in true crime or even that you had followed –

A They were aware.

Q Okay. And when you say you followed true crime, was it only the Delphi case?

A No.

Q Being this case here.

A Right.

Q So you were a fan of true crime?

A Yes.

Q Was that topic covered with your supervisors?

A Yes.

Q And so you would have had a conversation about whether that particular interest of yours or hobby would have an impact on taking Mr. Allen as a client?

MR. ROZZI: Objection: Leading.

THE COURT: Sustained.

MS. DIENER: I'll rephrase, Judge.

THE COURT: Okay.

Q Did your supervisors have concern about your true crime interest with regard to Mr. Allen?

A They did not express any concerns.

Q Did you make them aware that you followed the case?

A Yes.

Q Were you able to separate your interest in true crime podcasts from your treatment in a professional capacity –

A Yes.

Q -- for Mr. Allen?

A Yes; and I think that's hard for a lot of people to understand, but we deal with individuals who have already committed these crimes and have been convicted of these crimes, and it doesn't dictate our treatment of them.

Q And did you handle that any differently with the situation of Mr. Allen being a pre-trial detainee?

A I treated him as best as I could.

Q But, I mean, with regard to confidentiality –

A Oh, of course.

Q -- and – okay. You were asked if you shared information from online with Mr. Allen from podcasts. Why would you do that?

A I believe I told him that he had supporters out there to kind of, you know, have him maintain hope.

Q Okay. You were asked about certain stressors that could be impacting Mr. Allen's behavior, like ants in his cell or yelling from other inmates; are those the kinds of things that were going on during the entire time Mr. Allen was housed at WCU?

A It seemed to be more prominent in – when he first got there and was adjusting.

Q And so are we talking December? November?
A November, December, January.
Q Okay. And so after that initial period, had things calmed down in the time period of January, February, March?
A I mean, I'm sure there were things he still wanted, but maybe he was more focused on getting the visits and stuff.
Q So when you related his significant change in the beginning of April to attorney visits and discovery, were there any other changes it could be attributed to?
A Not that I know of.
Q Now, in reviewing the information that came as historical data about Mr. Allen's prior mental health history, there were certain things that were provided, like no indication of sexual abuse; is that correct?
A So when we would ask him those questions, he would say no.
Q Okay. And asking questions about history of alcohol use; is that correct?
A Right.
Q So then later, when Mr. Allen shares with you that he had been an alcoholic twice since 2011, that would be different; correct?
A Yes.
Q And when he confessed – made the confession about his crime to you and he made reference to being a sex addict, that would be different; correct?
A Yes.
Q Have you experienced, in your profession, where people underreport things that are considered unfavorable, such as this?
MR. ROZZI: I'd object to relevance to what she's experienced with

other people. Again, just it's not relevant.

THE COURT: Overruled.

MR. ROZZI: Thank you.

Q You're allowed to answer. To people underreport in areas where it's unfavorable?

A They do.

MS. DIENER: No other questions.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MR. ROZZI.

Q Do you know if Rick Allen was underreporting his sexual history?

A I don't know.

Q Do you know if he was underreporting his history of alcohol use?

A I don't know.

Q Did you see anything in that intake sheet I showed you earlier that had any reference to either one of those things?

A No.

Q It might have been that he was telling you things that were not true; right?

A Possibly.

Q So you testified a minute ago that you were able to separate your personal – I lost the word – your personal interests from your professional interests; correct?

A Yes.

Q But you went to work one day and started searching information in the database that had something to do with this case, didn't you?

MS. DIENER: Objection, Judge. It was not about this case.

Q Well, it was related to this –

THE COURT: Overruled.

Q -- wasn't it?

THE COURT: You can answer.

Q It was directly related to this case, wasn't it?

A Somewhat, yes.

Q And you were doing that for personal reasons. Yes or no?

A I mean, we had discussions amongst ourselves about that case, because he was coming into our system, so –

Q But for personal reasons?

A Someone was gonna get him, so we were talking about him.

Q Okay. Were you doing it for personal reasons?

A I mean, there's always that interest.

Q Ms. Diener asked you about these sessions at the door or these sessions with Mr. Allen and how long they lasted; do you recall that just a few minutes ago?

A Yeah.

Q You said sometimes 15 minutes, 30 minutes, maybe even an hour.

A That – so at cell front – I thought she meant just in general sessions in the cage.

Q Right, in the cage.

A Yes. They can last 15 to an hour.

Q So your observations of him during those times would be the best evidence – strike that. So your observations of him would be indicative of what

information you had to evaluate his mental state when you were watching him; right?

A Yes.

Q It's kind of a clunky question, but you're watching and you're making an assessment?

A Yes.

Q And as to whether or not he was feigning or faking behaviors, we've already established that you now have second thoughts about that; right?

A I mean, I'm on the fence with it.

Q Okay. There is a way to objectively test people to help assist in making those determinations, isn't there?

A We don't have those materials.

Q There is a way to do that; right?

A There is a way.

Q All right. At the DOC, you don't have the materials to do it, you just said that; right?

A Right.

Q So logically, you didn't do it.

A Correct.

Q Correct?

A Correct.

Q So you might defer to somebody who had the opportunity to do that? Yes? No?

A I don't know.

Q Okay. Now, you said that one of the reasons why you destroyed your work

notes is for – to maintain privacy; right?

A Yes.

Q Rick Allen had a video of his cell the whole time he was there, didn't he? A camera?

A Yes.

Q He didn't have any privacy in that regard, did he?

A No.

Q And when they moved him out of the cell, they put a camcorder on him; right?

A Yes.

Q He didn't have any privacy in that regard; right?

A Right.

Q They posted inmates at his door when he was there; right?

A Yes.

Q So he didn't have any privacy in that regard.

A Right.

Q And they posted guards at his door when he was there. No privacy in that regard; right?

A Right.

Q You talked to your staff members about your interest in this case at one point, you've testified about that a minute ago, didn't you?

A So when we get certain cases that come into our system and they need to – they come to RDC, we have a call to determine where these people are gonna be going.

Q Did you talk to staff members about your personal interest in the case?

A This case was not brought up on that call.

Q Okay. Did you ever tell anybody that you worked for, Centurion or the DOC administration, that you went to the crime scene in this case?

MS. DIENER: Objection, Judge. I'd ask him to clarify what he means by crime scene, because there are multiple interpretations.

Q Did you go visit the Monon High Bridge?

A I went to the bridge.

Q You went out of your way on a trip to Indianapolis, didn't you?

A It was on the way.

Q You turned off 65 and you drove over here to check it out?

A I did.

MR. ROZZI: I don't have anything further.

THE COURT: Does anybody on the jury have any questions for Dr. Wala? All right. If counsel would approach, please.

(Sidebar conference conducted.)

THE COURT: Okay. "Could the diagnosis of brief psychotic disorder reappear after returning to normal?"

MS. DIENER: I'm good with that.

MR. ROZZI: I'm sorry.

THE COURT: No, that's okay. "Is it expected or normal for brief psychotic disorder to occur repetitively?"

MS. DIENER: It's okay.

MR. ROZZI: Same thing.

MS. DIENER: Yeah. Did it reoccur and is it normal, yeah.

THE COURT: Okay. "When a patient is in a psychotic episode that

doesn't include delusions or hallucinations, does the disorganized speech ever present information that would be more truthful in nature? For example, could Richard Allen's confessions be considered information that was more truthful due to the status of his mental condition?"

MS. DIENER: Ooo. I'd object to that one, 'cause I don't know that this is the witness to ask.

MR. ROZZI: Can you read the last part of it again for me?

THE COURT: "Would his confessions be considered information that was more truthful due to the status of his mental health condition?"

MS. DIENER: That's (inaudible)

MR. ROZZI: I'm okay not asking it.

THE COURT: Okay, so no?

MR. ROZZI: Not asking it.

MS DIENER: Yeah.

THE COURT: "Did Richard Allen know the processes around the three versus four meals and the consequences if he refused more than three meals?"

MR. ROZZI: I'm okay with it.

MS. DIENER: Did he understand –

MR. ROZZI: Well, it's kind of speculation –

MS. DIENER: Yeah.

MR. ROZZI: I guess.

THE COURT: Would he know?

MS. DIENER: Would he know, yeah. I think they might have discussed it.

MR. ROZZI: She already said did it go –

MS. DIENER: They might have talked about it.

THE COURT: They may have talked about it, I don't know that they did, but I guess do you want me to ask "if you know, would she know?"

MR. ROZZI: I don't care.

MS. DIENER: I'm okay with it.

THE COURT: Okay. But not that part. Okay. "What is the relevance to the grave disability that indicates the use of the involuntary injection?"

MR. ROZZI: Yeah, I'm okay with that.

THE COURT: "If you know, did Mr. Allen come to Westville on medications or were any started while at Westville?"

MS. DIENER: It's a good question if she knows the answer to that.

THE COURT: And then "Were medications changed?"

MR. ROZZI: Yeah, that's fine.

THE COURT: "Do you screen for delirium as part of your medical status exam? And if noted, how would it be treated?"

MS. DIENER: He was not noted for delirium, so I don't think that's a relevant question. His diagnosis didn't show delirium, it's just a category.

MR. ROZZI: I mean, it's just a medical question to a psychologist, Your Honor.

MS. DIENER: But she's a psychologist, not a medical doctor, so I don't know.

THE COURT: The question is "Do you screen for delirium as part of your mental status exam?"

MS. DIENER: She can answer that, yeah.

MR. ROZZI: The answer's gonna be no.

THE COURT: But not the last part.

MS. DIENER: Not the part – other part, 'cause I don't think she's –

THE COURT: "When diagnosing brief psychotic behavior disorders, what brings a natural progression in an incarcerated individual continue to the next diagnosis?"

MS. DIENER: I don't know what that means.

MR. ROZZI: I don't know what that means.

THE COURT: So no?

MS. DIENER: So no. Well, and it kind of –

THE COURT: Maybe it's (inaudible)

MR. ROZZI: I think it's kind of the pretrial stuff.

MS. DIENER: Yeah.

THE COURT: "When Mr. – when was Mr. Allen diagnosed with anxiety and depression?"

MR. ROZZI: Yeah, that's fine.

MS. DIENER: If you know; right?

MR. ROZZI: Well, she can just ask that question. If she knows, she knows.

THE COURT: Okay.

MR. ROZZI: I think she's already kind of testified about it.

MS. DIENER: (Inaudible)

THE COURT: Well, I think they're wanting the (inaudible) now.

MR. ROZZI: Well, they did call the doctor, 'cause I can tell you it's

in those documents.

THE COURT: Okay.

MR. ROZZI: But, I mean, I think just ask it.

THE COURT: "Would he have been diagnosed with those in 2019, per the evaluation of suicide risk in Exhibit 303?" So that – so just ask that one?

MS. DIENER: That first part.

THE COURT: "Does the DOC require the complete medical records for the inmates or are records through self-reporting?"

MR. ROZZI: That's okay.

MS. DIENER: He signed the release, so –

THE COURT: So okay?

MS. DIENER: Yeah.

MR. ROZZI: I mean, I know the answer to this, but I think the question's relevant.

THE COURT: Okay.

MS. DIENER: Okay.

THE COURT: "Discussing with Mr. Allen, what have you read on social media about it?"

MS. DIENER: Ooo, I don't think we can go there.

MR. ROZZI: Oh, Jesus.

THE COURT: No.

MR. ROZZI: She might start talking about Kegan Kline.

THE COURT: Oh.

MS. DIENER: She wouldn't know –

MR. ROZZI: Well, she'd know, because that's what she –

MS. DIENER: But she doesn't know what the –

THE COURT: Well, and that's just – I mean, who cares about social media?

MR. ROZZI: All those people over there on the other side.

THE COURT: Exactly.

MR. ROZZI: Those are the people that care.

MS. DIENER: Yeah.

THE COURT: "Did you not think that his behavior would change in hearing what people were saying?"

MS. DIENER: I don't know what –

THE COURT: (Inaudible)

MS. DIENER: Yeah.

THE COURT: "What would you consider – would you consider that professional?"

MS. DIENER: Well, if we're not asking those, it doesn't make sense to ask that.

THE COURT: Yeah.

MR. ROZZI: Yeah.

THE COURT: Okay.

MR. ROZZI: Just tell them the State didn't want to ask that question.

THE COURT: Okay. And then, are we taking a break after this? Where are we at?

MS. DIENER: Yeah. Then –

MR. ROZZI: Yeah. I think we should.

MS. DIENER: -- we're switching witnesses to –

MR. ROZZI: Two hours of video or audio.

MS. DIENER: Well, I didn't know if he was gonna do a short witness or a long witness.

MR. ROZZI: I think he was kind of talking about maybe squeezing a short witness in and doing Harshman tomorrow.

THE COURT: Okay. All right. So we –

MR. ROZZI: And I think we kind of acknowledged that that'd be okay.

THE COURT: Yeah. So do you –

MS. DIENER: Yeah.

THE COURT: -- want to just press through and do the short witness?

MS. DIENER: Should we do a bathroom break? Well, let me ask –

MR. ROZZI: We could take a quick break, maybe do a ten-minute break or so.

THE COURT: Okay.

(Sidebar conference concluded.)

JUROR QUESTIONS OF DR. MONICA WALA

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Okay. Dr. Wala, would the diagnosis of brief psychotic disorder reappear after returning to normal?

A I suppose it can.

THE COURT: Okay. Any follow-up, Ms. Diener?

MS. DIENER: No.

THE COURT: Mr. Rozzi?

MR. ROZZI: No.

Q It is expected or normal for brief psychotic disorder to occur repetitively?

A I'd say no.

THE COURT: Ms. Diener?

MS. DIENER: No questions.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MR. ROZZI.

Q If somebody has major depressive disorder, can they be one of those scenarios or circumstances where that can kind of – where brief psychotic disorder can –

A So for major depressive disorder –

Q -- happen again and again?

A Yeah. For major depressive disorder with psychotic features, those psychotic features can –

Q Can happen again?

A Yeah.

MR. ROZZI: Okay. Nothing further.

JUROR QUESTIONS OF DR. MONICA WALA

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Would Richard Allen – if you know, would Richard Allen know the processes around the three versus four meal refusal and the consequences if he refused more than three meals?

A I think we talked about it. I remember talking to him about it, trying to

explain it to him.

THE COURT: Ms. Diener?

MS. DIENER: No questions.

THE COURT: Mr. Rozzi.

FOLLOW-UP EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MR. ROZZI.

Q Is it accurate that one of the reasons why offenders like Mr. Allen go on hunger strikes is because it's one of the only things that they can control?

A Yes, but at – I mean, it's not just – I wouldn't say just for simple control, but usually there's, "Well, I'm not gonna eat until you give me a TV" or –

Q Which is control; right? They want leverage.

A Right.

Q But that's one of the aspects of being in solitary confinement is that you don't have control over anything and so tiny, little things like that matter; right?

A Yeah.

Q And regardless, if somebody goes on a hunger strike and they're not eating, it's not good for their health; right?

A Right.

Q Regardless of if it's their choice or not?

A Yes.

MR. ROZZI: I have nothing further.

JUROR QUESTIONS OF DR. MONICA WALA

QUESTIONS OF THE JURY, READ BY THE COURT.

Q What is the relevance to a grave disability that indicates the use of involuntary injection?

A Do we have that form? It's one of the prongs for getting prescribed the involuntary medications.

Q Okay.

A Um –

Q Oh, I'm sorry.

A No. I think Ms. Diener may have it.

THE COURT: Ms. Diener, any follow-up?

FOLLOW-UP EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MS. DIENER.

Q Are you indicating that grave disability could be one of many factors that would result in an involuntary medication injection?

A Yes.

Q Are there others?

A Yes.

Q And did Richard Allen receive an involuntary medication injection for one of those other reasons?

A For the other reasons.

Q Okay. Do you remember what it is?

A Harm to self – there are three things – I believe harm to property, and being unable to take care of himself and his ADLs, activities of daily living.

MS. DIENER: Thank you.

THE COURT: Mr. Rozzi.

FOLLOW-UP EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MR. ROZZI.

Q And that happened more than once?

A Once you do the hearing the first time and he gets his first shot, then he's on a regiment, so it'd be now, a month later, he's getting a shot until the psychiatrist decides to discontinue it.

Q And in this case, it happened multiple times?

A Yeah, maybe two to three times, and then he had those emergent ones in between –

MR. ROZZI: Nothing –

A -- for like –

MR. ROZZI: I have nothing further.

THE COURT: Okay.

JUROR QUESTIONS OF DR. MONICA WALA

QUESTIONS OF THE JURY, READ BY THE COURT.

Q If you know, did Mr. Allen come to Westville on medications or were any started while at Westville?

A He came to Westville on medication. and I believe they were tweaked while he was with us.

THE COURT: Ms. Diener?

FOLLOW-UP EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MS. DIENER.

Q Do you recall specifically what medication for mental health he arrived prescribed?

A I believe it was Prozac.

Q And when you say "tweaked", was it changed from Prozac or what does "tweaked" mean?"

A I want to say –

MR. ROZZI: Ask a preliminary question? May I?

THE COURT: Well, to what?

MR. ROZZI: Well, my objection is, is she doesn't have any firsthand knowledge. She's already testified that she doesn't know, she wasn't keeping track of his medication.

THE COURT: Well, and I – that was the "if you know". I asked her, "If you know –

MR. ROZZI: Okay.

THE COURT: -- did he come to Westville on medications?"

MS. DIENER: And so if she doesn't know, I would hope that she would tell me she doesn't know.

MR. ROZZI: Well, she testified to that earlier.

A I said I don't necessarily know if someone's noncompliant with medication, because I don't – they can tell me one thing, but I would have to go to their chart and actually see if they – the nurse signed out that they actually took the medication, but –

THE COURT: Anything further?

MS. DIENER: I just want to know what she meant by "tweaked".

A Yeah. So I think the dosage was changed.

Q For Prozac?

A Yes.

MS. DIENER: Okay. No other questions.

THE COURT: Okay. Mr. Rozzi?

FOLLOW-UP EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MR. ROZZI.

Q Did they offer Prozac in prison or is it some other generic form?
A They call it Prozac, so –
Q But do you know what it is?
A I don't know if that is the generic form for the –
Q 'Cause that's a generic term for that drug; right?
A Prozac and – now I can't think of it. There's – yeah.
Q Thank you, Doctor.
A There's the generic and the name brand, they use them interchangeably.

THE COURT: Anything else, Mr. Rozzi?

MR. ROZZI: No, ma'am.

JUROR QUESTIONS OF DR. MONICA WALA

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Do you screen for delirium as part of your mental status exam?
A No, not until something comes up where it would be needed.

THE COURT: Ms. Diener?

FOLLOW-UP EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MS. DIENER.

Q Was there any reason to think Mr. Allen needed to be evaluated or assessed for delirium?
A I don't think so.

MS. DIENER: No other questions.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MR. ROZZI.

Q Objective testing would be helpful to determine that; right?

A Objective testing?

Q Like we talked –

A Testing would always be helpful, yes.

MR. ROZZI: Okay. Thank you.

JUROR QUESTIONS OF DR. MONICA WALA

QUESTIONS OF THE JURY, READ BY THE COURT.

Q When was Mr. Allen diagnosed with anxiety and depression?

A My understanding is from the community.

THE COURT: Ms. Diener?

MS. DIENER: No other questions.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MR. ROZZI.

Q Do you recall seeing references in the intake forms that he'd been dealing with it most of his life?

A Yes.

MR. ROZZI: Nothing further.

JUROR QUESTIONS OF DR. MONICA WALA

QUESTIONS BY THE JURY, READ BY THE COURT.

Q Okay. And does the DOC require complete medical records for inmates or are records from self-reporting?

A So records from the outside community?

Q Yes.

A We often don't have them. A lot of it is based on self-report.

THE COURT: Ms. Diener?

MS. DIENER: No question.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF DR. MONICA WALA

QUESTIONS BY MR. ROZZI.

Q Rick Allen sign a release, allowing you to get all of his medical records in this case?

A I believe he did sign that with me.

Q His psychiatric records, I'm sorry, I didn't want to be throwing those –

A For psych?

Q Yeah.

A No. He signed for medical records, so I did notice that there was some – there were some medical records from the community in his chart.

MR. ROZZI: Nothing further.

THE COURT: All right. Thank you, Dr. Wala. You may step down. All right, ladies and gentlemen, we're gonna take a quick afternoon break. Again, while you're outside the courtroom, please, keep your minds open. Please don't form any opinions or conclusions about anything. You may discuss the evidence that you've heard so far, but please, only do that if all 15 of you are present in the jury room at the same time and, please, don't deliberate. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 3:10 p.m.)

THE COURT: All right. Let's take 15 minutes.

(Off record at 3:12 p.m.)

(On record at 3:29 p.m.)

THE COURT: All right. We are back on the record. Are we ready

to bring – I understand we have a couple of short witnesses, and then the following witness is gonna be lengthy, and we'll take that one up tomorrow.

MR. MCLELAND: Yes, Your Honor.

MS. AUGER: Your Honor, can we approach before the jury returns?

THE COURT: Sure.

(Sidebar conference conducted.)

MS. AUGER: Your Honor, the State is producing photographs that came from Mr. Allen's family and Mr. Allen.

THE COURT: Um-hmm. (Affirmative response)

MS. AUGER: I think that without a date relating to these photographs, that there is a relevance objection. If there is a photograph they're trying to put in, I really think that it's relevant, and so we think there should be a date associated with these.

MR. MCLELAND: Judge, this witness will be able to testify to the date that Mr. Cecil (inaudible).

THE COURT: Okay.

MR. MCLELAND: I doubt this witness will be able to testify to the dates.

THE COURT: Doesn't know the dates or they're not on the photographs?

MR. MCLELAND: Both.

THE COURT: Okay. Okay. So –

MS. AUGER: I think they could be misleading if they're not all from the February, 2017, timeframe.

THE COURT: Cecil has that information?

MR. MCLELAND: Well, it's in the photograph's metadata, the metadata from those –

THE COURT: Okay.

THE BAILIFF: Okay, folks, we're on the record.

MR. MCLELAND: My hope is to avoid re-calling him again just to get that information in.

MS. AUGER: If you – I mean, what if we do this: What if you give it – have (inaudible) which ones are from that timeframe, then I think we can deal with it that way.

MR. MCLELAND: I honestly don't know that the (inaudible)

THE COURT: Okay.

MR. MCLELAND: (Inaudible)

THE COURT: Okay. So are we good with dates, then?

MS. AUGER: Before they're admitted?

MR. MCLELAND: Well, if I get the dates, I guess she would still have her objection to relevance, but we'd have to call the witness to admit them as an exhibit with the phone extraction.

THE COURT: Okay. Is that fair?

MS. AUGER: Yeah.

MR. MCLELAND: So we might get around that. The State (inaudible) the dates.

MS. AUGER: Yeah.

THE COURT: So are you gonna –

MR. MCLELAND: I won't move to admit them today.

THE COURT: Okay.

MS. AUGER: Okay.

THE COURT: You'll get the dates and then move to admit them later.

MR. MCLELAND: I'll get the dates and –

THE COURT: Okay.

MR. MCLELAND: -- then tomorrow, what I may do is, first thing in the morning, get those and admit those.

THE COURT: Okay.

MS. AUGER: Yeah. You know, it's not –

MR. MCLELAND: I will – I'll re-recall Christopher Cecil.

THE COURT: Okay.

MS. AUGER: All right.

(Sidebar conference concluded.)

THE COURT: Okay. All right. Are we ready now then to bring in the jury?

MR. MCLELAND: Yes, Your Honor.

THE COURT: Ms. Auger? Mr. Rozzi?

MR. ROZZI: Yes.

THE BAILIFF: All rise.

(Jury in at 3:33 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. Mr. McLeland, you may call your next witness.

MR. MCLELAND: Thank you, Judge. The State of Indiana would call Steve Mullin, please.

(Witness sworn.)

DIRECT EXAMINATION OF STEPHEN MULLIN

QUESTIONS BY MR. MCLELAND.

Q Would you state your name, please.

A Stephen L. Mullin.

Q And how are you employed?

A Prosecutors' investigator, Carroll County Prosecutor's Office.

Q And I want to draw your attention to your testimony maybe last week at this point about the Hoosier Harvestore video; do you recall that testimony?

A Yes, I do.

Q And I'm gonna show you what's been admitted as State's Exhibits 233 through 243; do you recall those exhibits?

A Yes, I do.

Q And do you recall your testimony about observing a vehicle on Hoosier Harvestore video?

A Yes, I do.

Q And these exhibits, State's Exhibits 233 through 243, are the screen shots of that vehicle on the Hoosier Harvestore video.

A Yes, they are.

Q And if I recall your testimony correctly, you believe that vehicle matched the description of Richard Allen's vehicle?

A I do.

Q And what is Richard Allen's vehicle?

A It is a 2016 black Ford Focus SE.

Q And do you recall a question from the jury members about searching BMV

records for that vehicle?

A Yes, I do.

Q And after your testimony on that day, did you do any follow-up on that question?

A Yes, I did.

Q Tell me what you did.

A In response to the question, I directed a search to the Indiana Bureau of Motor Vehicles for a black 2016 Ford Focus SE registered in Carroll County as of February 13th, 2017.

Q You not only did Carroll County, you did other counties; is that correct?

A Yes.

Q And what other counties? Or let me ask you this: Did you do the surrounding counties?

A Yes, we did.

Q I'm gonna show you what's been marked as State's Exhibit 305.

MR. ROZZI: 305, Nick?

MR. MCLELAND: Yes.

Q I'm gonna show you what's been marked as State's Exhibit 305; can you tell the jury what that is.

A This is a certification of BMV records from Joseph – or Joe Pogue, I believe I'm pronouncing the name correctly, commissioner of the Indiana Bureau of Motor Vehicles.

Q Does that document display the results from the search of the Bureau of Motor Vehicles that you conducted on 2016 Ford – black Ford Focuses?

A Yes. The vehicle search indicates a 2016 Ford Focus in Carroll and

surrounding counties with pages attached.

Q And again, those are the results you got from the inquiry to the BMV; is that correct?

A Yes, that's correct.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 305.

STATE'S EXHIBIT 305 OFFERED

MS. AUGER: No objection.

THE COURT: All right. Without objection, 305 is admitted.

STATE'S EXHIBIT 305 ADMITTED

Q Investigator Mullin, you had an opportunity to review that document; is that correct?

A Yes, I did.

Q And it looks like there's about 31 entries on the spreadsheet attached to that document; would you agree?

A Yes, there are.

Q Now, this document, it contains registration years of 2017 and 2018.

A Yes.

Q And so are there duplicates on this document?

A There are duplicates on the document.

MS. AUGER: Your Honor, may we approach?

THE COURT: Yeah.

(Sidebar conference conducted.)

MS. AUGER: I'm sorry, I don't know if he misspoke, but mine have 2016 and 2017, you said 2017 and 2018.

MR. MCLELAND: Oh, I did misspeak. Okay.

MS. AUGER: Okay.

THE COURT: So you'll have to correct that.

MR. MCLELAND: So they're all –

MS. AUGER: Is that right? I don't see any 2018s.

MR. MCLELAND: Yeah, that's right. I was looking at the registration –

THE COURT: Oh, okay.

MS. AUGER: Thanks.

MR. MCLELAND: Thank you.

(Sidebar conference concluded.)

Q Investigator Mullin, I misspoke and I want to clarify something. This document actually displays the registration dates of 2016 and 2017. If you'd take a look at column 2, is that accurate information?

A '16 and '17, that's correct, yes.

Q Okay. And so this shows the vehicles registered in 2016 and 2017?

A That's right.

Q Okay. And specifically you requested for a 2016 black Ford Focus; is that right?

A Yes, that's correct.

Q And so it gave you the registration for both of those years for that vehicle year, make, and model; correct?

A Yes.

Q So there are some duplicates on this; is that accurate?

A Yes, that's right.

Q And I believe there's 31 entries on that document; is that accurate?
A I counted them, 31.
Q Okay. And if you take out the duplicates, does that reduce the number of entries to 18?
A Yes, there are 18.
Q And then, we focus on a 2016 black Ford Focus SE. Why did you focus on that particular model year and model?
A Mr. Allen had a black 2016 Ford Focus SE.
Q And this list has in it – I guess has within the list different models in the sense of SE, Titanium, and SS; is that correct?
A Right.
Q And so after you take out all the 2016 black Ford Focus SE, how many of those are on the list?
A There are eight.
Q And out of those eight, how many are registered in Carroll County?
A Only one.
Q And who does that belong to?
A Richard Allen.

MR. MCLELAND: I don't have any other questions, Judge.

THE COURT: Ms. Auger.

CROSS EXAMINATION OF STEPHEN MULLIN

QUESTIONS BY MS. AUGER.

Q People from other counties often visit the trail; correct?
A Yes.
Q Okay. And there's no gate that says you can only come here if you're in

Carroll County; right?

A There's not.

Q You keep track of vehicles from other counties?

A I do not.

Q Okay. And you cannot tell from the Hoosier Harvestore video what model of vehicle is in that video; right?

A I cannot see the words "SE" on the back of the vehicle from the Hoosier Harvestore video.

Q And you can't tell whether it says "Titanium"?

A I cannot.

Q And there are at least five other years of Ford Focuses with similar body types?

A 2011 to 2018.

Q And you got that list, didn't you?

A We checked that information, yes.

Q Okay. You have that list on a spreadsheet; right?

A This list is only dealing with the 2016 Ford Focus.

Q Right. But you have a list from 2011 to 2017 that looks just like that, only it has additional years with similar body types.

A It does, but it pertains only to the SEs.

Q Okay. Which – but you can't tell from the video what model is on the video; right?

A I cannot see the words "SE" on the back of the vehicle.

Q And on that other spreadsheet that you have, there's another 65 Ford Focuses; correct?

A I'm not certain how many there are, but that wouldn't be – wouldn't surprise me.
Q All right. I mean, I counted them. You could have counted them; right?
A I could have.
Q You could have admitted that list.
A It's up to the prosecutor.
Q It is, yeah. Thank you.

MS. AUGER: Nothing further.

THE COURT: Mr. McLeland.

MR. MCLELAND: Judge, I'd ask permission to go outside the scope of direct. Since Ms. Auger asked about the list, I'd like to inquire about it at this point.

THE COURT: All right.

RE-DIRECT EXAMINATION OF STEPHEN MULLIN

QUESTIONS BY MR. MCLELAND.

Q Mr. Mullin, you had an opportunity to review that list, as well; is that correct?
A To a limited agree, yes.
Q And within that list, if you recall, how many Ford Focuses are registered in Carroll County?
A I'm sorry, I do not recall. I'd have to look at the list to be able to refresh my memory for that question.
Q Did you – do you believe that the vehicle on the Hoosier Harvestore video that is in State's exhibits, do you believe that matches Richard Allen's vehicle?
A I do.

MR. MCLELAND: I don't have any other questions, Judge.

THE COURT: Ms. Auger.

RE-CROSS EXAMINATION OF STEPHEN MULLIN

QUESTIONS BY MS. AUGER.

Q But you can't see the license plate?

A Correct.

Q You can't see the model?

A Correct.

Q You can't see whether it's Titanium?

A Correct.

Q There are at least 76 other black Ford Focuses with that body type registered in Carroll and surrounding areas?

MR. MCLELAND: I object, Judge. That's not what the document says. If we want to take a break, I can admit the document, so the jury can have an accurate representation, but that is not what the document shows.

THE COURT: Sustained.

MS. AUGER: Nothing further.

THE COURT: Does anybody on the jury have any questions for Mr. Mullin? Would counsel approach.

(Sidebar conference conducted.)

THE COURT: "Are the rims or wheels on Richard Allen's Ford Focus specific to his make, model, and year of vehicle?"

MR. MCLELAND: I don't have any objection.

THE COURT: All right.

MS. AUGER: It's probably one of those "if you know" questions.

THE COURT: Thank you.

(Sidebar conference concluded.)

JUROR QUESTIONS OF STEPHEN MULLIN

QUESTIONS BY THE JURY, READ BY THE COURT.

Q Mr. Mullin, if you know, are the rims or wheels on Richard Allen's Ford Focus specific to his make, model, and year of vehicle?

A I can answer – excuse me. I can answer that question. The SE model of the Ford Focus, especially this 2016 I'm familiar with, does specify within their choice of rims the rim selection which was on Richard Allen's vehicle.

THE COURT: Any follow-up, Mr. McLeland?

MR. MCLELAND: No, Your Honor.

THE COURT: Ms. Auger?

FOLLOW-UP EXAMINATION OF STEPHEN MULLIN

QUESTIONS BY MS. AUGER.

Q Is that choice available in that make/model in other years?

A I am not familiar with that.

MS. AUGER: Thank you.

THE COURT: All right. Thank you, Mr. Mullin. You may step down.

THE WITNESS: Thank you.

THE COURT: You may call your next witness.

MR. MCLELAND: Judge, the State of Indiana would call Brad Weber, please.

(Witness sworn.)

DIRECT EXAMINATION OF BRAD WEBER

QUESTIONS BY MR. MCLELAND.

Q Will you state your name, please.

A Brad Weber.

Q Mr. Weber, you don't have to lean into the microphone, it doesn't amplify for us; so if you'd just sit back and speak up, we'll be able to hear you just fine.

A Okay.

Q Fair enough?

A Yep.

Q All right. Will you spell your last name for me, please.

A W-E-B-E-R.

Q And, Mr. Weber, are you a resident of Carroll County?

A Yes.

Q And, Mr. Weber, I want to draw your attention to State's Exhibit 5. Can you see your residence on this map?

A Yes.

Q And is this your residence here? (Indicates)

A Yes.

Q And is your residence at the end of a private drive?

A Yes.

Q And the private drive is off of 625 West; is that correct?

A Yes.

Q I want to take you back to February of 2017; where were you employed?

A Subaru.

Q And what shift at Subaru did you work?

A First.

Q Can you tell me the hours of operation for first shift for Subaru?
A Normally, it's 6 to 2:30.
Q And Subaru is located where?
A 5500 State Road 38 East.
Q I'm gonna show you what's been marked as State's Exhibit 310, and will you take a look at this document.
A Yes.
Q And is that you on the front page of that document?
A Yes.
Q And is that your ID work number on the front page of that document?
A Yes.
Q What does the second page of the document display, what does it show?
A Clock-in and clock-out times.
Q And does it include February 13th of 2017?
A Yes.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 310.

STATE'S EXHIBIT 310 OFFERED

MR. BALDWIN: No objection.

THE COURT: All right. Without objection, 310 is admitted.

STATE'S EXHIBIT 310 ADMITTED

MR. MCLELAND: I would ask permission to publish that to the jury, Judge.

THE COURT: You may.

STATE'S EXHIBIT 310 PUBLISHED

Q Mr. Weber, did you, in fact, go to work at SIA that day?
A Yes.
Q And what time did you clock in?
A 5:41.
Q A.M.?
A Yes.
Q And what time did you clock out that day?
A 2:02 p.m.
Q And after work that day, did you go home?
A Yes.
Q And how long does it take you to get from work to your home?
A Twenty to twenty-five minutes.
Q Mr. Allen [sic], I'm gonna show you what's been marked as State's Exhibit 311. Can you tell me what that is?
A That's a Ford Econovan.
Q Do you recognize that van?
A Yeah. I think it's mine.
Q Okay. Did you have that van in 2017?
A Yes.
Q Did you have that van on February 13th of 2017?
A Yes.

MR. MCLELAND: Judge, the State would move to admit what's been marked as State's Exhibit 311.

STATE'S EXHIBIT 311 OFFERED

MR. BALDWIN: No objection.

THE COURT: All right. Without objection, 311 is admitted.

STATE'S EXHIBIT 311 ADMITTED

MR. MCLELAND: And would ask to publish that to the jury, as well, please.

THE COURT: You may.

MR. MCLELAND: Thank you, Judge.

STATE'S EXHIBIT 311 PUBLISHED

THE COURT: You may proceed.

MR. MCLELAND: Thank you, Judge.

Q Mr. Weber, did you drive this van to work on February 13th of 2017?

A Yes.

Q And did you drive it home from work that day?

A Yes.

MR. MCLELAND: I don't have any other questions, Judge.

THE COURT: Mr. Baldwin.

CROSS EXAMINATION OF BRAD WEBER

QUESTIONS BY MR. BALDWIN.

Q You were out of town, Mr. Weber, the week before the 13th; is that correct?

MR. MCLELAND: Judge, it's outside the scope of direct.

MR. BALDWIN: It is – well, it's related to that, Judge.

THE COURT: How's it related?

MR. BALDWIN: My question will reveal that, but – sidebar, I guess.

(Sidebar conference conducted.)

MR. BALDWIN: I didn't want to say it if it was not –

THE COURT: Oh, okay.

MR. BALDWIN: So I think the statement was "I drove straight home from work." He gave another statement –

THE COURT: No, he didn't say "straight home". He said it "I drove it to" and "from work", "to work", "from work".

MR. MCLELAND: And I asked him how long it usually takes him to get home.

THE COURT: So what was the relevance of the week before?

MR. BALDWIN: Well, will this be – if I ask, "Did you drive straight home from work?" The implication here is that – what they're trying to do is say that he drove a van and that's the van that Richard Allen saw, and that's what they're trying to do. And so, in order for that to happen, he'd have to drive straight from work home, and so I – this should be an appropriate question to ask –

THE COURT: But that's not what you were asking.

MR. BALDWIN: I know.

MR. MCLELAND: I'm okay with that question –

MR. BALDWIN: Okay.

MR. MCLELAND: -- "Did you drive straight home?" I'm okay with that question.

MR. BALDWIN: Okay. Then, I believe – and then, the other question will be that he was – the week before, he was out of town.

THE COURT: Okay.

MR. BALDWIN: He works ATM – he has an ATM side business, and so when he got back – the question is going to be: "Your ATM side business, you had to fill cash, the machines, and so forth. You left – you did not go straight

home, you went and worked on your ATM machines in and around Lafayette."

THE COURT: So if he says, "I went straight home" –

MR. BALDWIN: Yeah.

THE COURT: -- you want to get into this?

MR. BALDWIN: That he didn't –

THE COURT: He lied?

MR. BALDWIN: Yes.

THE COURT: Okay. How can you can prove this? With a witness?

MR. BALDWIN: I will have a witness that says that, yes.

MR. MCLELAND: They'll have to re-call him if they have a witness that's gonna say – that can testify that he didn't come straight home. I'm not aware of any witness that's gonna say that. Which witness is gonna say that?

MR. BALDWIN: Robert Pohl, FBI agent. Christopher Gootee, police officer.

MR. MCLELAND: That's not my recollection. I don't know (inaudible)

THE COURT: And so you have to (inaudible)

MR. BALDWIN: "Did you drive straight home?" He's gonna say yes. And then I can say, "Did you tell law enforcement you didn't drive straight home?" Okay.

MR. MCLELAND: Do you have his report to show that?

MR. BALDWIN: I mean –

MR. MCLELAND: What did the report say?

MR. BALDWIN: It 100 percent said it, but I don't have them with me 'cause I – you didn't tell me he was going today, so –

MR. MCLELAND: So that's my problem, that I don't remember those reports, so –

THE COURT: So do you want to call him back?

MR. MCLELAND: I don't know how else to do it, 'cause it all depends on that report.

MR. BALDWIN: He'll either say yes or no.

MR. MCLELAND: I think he's gonna say he drove straight home.

MR. BALDWIN: And then I'll ask him, "Did you tell law enforcement that you went and worked on your ATM machines?" And he'll say yes or no. I don't know what he's gonna say.

MR. MCLELAND: I'm okay with that question.

MR. BALDWIN: I don't know what your protocol is, but we did not subpoena him. We're having him subpoenaed. He should be subpoenaed here shortly, but I would presume it's in your province to require him to come back, if ordered to do so, and I would ask for that.

THE COURT: In order to do what?

MR. BALDWIN: To testify if we need him to come back and testify.

THE COURT: You've got him under a subpoena, I assume.

MR. BALDWIN: We don't, but we should have him here in a second. We'll just see how it goes. All right. Thank you.

(Sidebar conference concluded.)

Q Okay. You did not drive straight home from work on February 13th, did you?

A One more time.

Q On February 13th, you left work about 2:02?