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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Pages 1 to 250

Nicholas McLeland/James Luttrull/
Stacey Diener
Carroll County Prosecutor's Office
101 West Main Street, Suite 204
Delphi, Indiana 46923

Attorneys for Plaintiff

Bradley Rozzi
Hillis, Hillis, Rozzi and Dean
200 Fourth Street
Logansport, Indiana 46947

Andrew Baldwin
Baldwin, Perry and Wiley, PC
150 N. Main Street
Franklin, IN 46131

Jennifer Auger
42 East Jefferson Street
Franklin, IN 46131

Attorneys for Defendant

area.

Q And you had these clips in the magazine; right? Or not clips, these rounds in a magazine.

A Yes, I did.

Q Some people call these clips; right?

A Yes. They are not indeed clips, that would be a slang term. A clip is actually different. These are only magazines.

Q Did you compare any of these rounds in these magazines with either one of those two closet rounds?

A No, I did not.

Q And did you compare any of these rounds in the two magazines with item 16?

A No, I did not.

Q These rounds were connected – collected with this firearm?

A I don't know if they were collected together or how they were collected, I just know that I received them together.

Q So then you test fired four rounds; correct?

A That's correct.

Q And you examined those rounds under – is a stereoscope or a microscope? I hate to get too lax about that.

A I examined them both underneath a stereoscope and a comparison microscope.

Q You didn't document any of that examination in your report, did you?

A So –

Q The test-fired round.

A -- the examination part of the test fires are on page 7, and that would have been when I was examining them underneath the stereoscope, so the paragraph about cartridge cases and even the bullets below that, that is what the test fires look underneath a stereoscope, so that's the documentation there. I also further, on page 8 –

Q Hold on, there's no further question.

MR. LUTTRULL: Your Honor, he asked the question. She's still in the middle of answering it.

THE COURT: Let her answer it.

A Further, on page 8, there is also documentation where I talk about test to test. I say 314(T)(1) and 314(T)(2). This comes after the comparison microscope performance check, and I say where I evaluated the test fires to each other.

Q You told me back in March that you did not document in your report your viewing of those test fires, didn't you?

A Well, it depends if you're talking about the certificate of analysis or if you're talking about the actual notes themselves, so it could be misconstruing what's actually being talked about.

Q If I direct your attention to page 127, would that help refresh your recollection? Specifically lines 1 through 3 and then lines 14 through 16.

A Well, 1 through 3, that's – it looks or appears that we're talking about the cartridges that I would have fired in the firearm.

Q Well, on page 126 – I direct your attention to page 126, line 21, I'm not gonna try and read it. I'm referencing –

A Yeah.

Q -- one of your rounds that you pulled out of your collection; right?

A Yes, you are.
Q So I'm talking about your stock rounds.
A Yes.
Q And that's what we were just talking about a minute ago; right?
A You're talking about – so I can't understand you. You're flipping back –
Q I'm just trying to clarify.
A Okay, please.
Q I asked you if you look at any of your stock rounds under a microscope; right?
A Yes, you did.
Q And on page 127, lines 14 through 16, my question to you is, "Would you have documented that somewhere that, 'Hey, I examined those and they were clean'?" And your response was, "I did not"; correct?
MR. LUTTRULL: What page are you talking about, Mr. Rozzi?
MR. ROZZI: 127, lines 14 through 16.
A Yeah. What you're talking about right now is different than what you were talking about – or at least what I was interpreting earlier. I'm thinking test fires as in I test fired them, did I document anything about them; and you're talking about test fires before I even test fire them.
Q Yeah.
A Okay. So we were not on the same page. So no, I do not document that I took those out and I physically examined them in my notes, but yes, I do document when I test fire them, so the actual test fires.
Q Okay. But not before that?
A No.

Q All right. Now, there' s a reference to – we're talking about comparison of item 16 with your test fire 1; you understand that? That's the context in which we're talking.

A Okay.

Q You understand that?

A Yeah.

Q And there is a reference to chamber and lip marks on item 16; right?

A Where are you referencing this at?

Q Page 9 of 14 of your report.

A Okay.

Q So in other words, this round has chamber lip marks.

A It has –

Q You documented it.

A It has the marks on the side of – walls of it. They could be indicative of chamber lip marks.

Q But there's no significant agreement between those marks on that round and your test fires, is there?

MR. LUTTRULL: Objection. We don't know what "that round" is. It's –

MR. ROZZI: I'm pointing at 16.

MR. LUTTRULL: I can't tell and –

THE COURT: Nobody can tell what you're pointing at, sir. You have to –

MR. ROZZI: Well, we were just talking about it, it's sitting right here, it's kind of obvious.

THE COURT: Well, it's not obvious for the record, which is a written record, sir.

MR. ROZZI: I'm sorry about that. I'll try to be more (inaudible).

Q Number 16; right?

A Correct, yes, I was not able to.

Q So there was no agreement between the chamber and lip marks on your test fires with that round?

A That's correct.

Q So those marks on the test fire were not helpful in determining – making any determinations about item 16?

A That's correct.

Q And those would be an example of the kind of markings that could be possibly be made in the factory, subclass; right?

A The magazine lip marks?

Q Yeah.

A You can have subclass in them, yes.

Q Okay. You also didn't find any similar chamber marks on the test-fired rounds and item 16?

A That's correct.

Q One second, please. Is it possible that the differences that exist between the test-fired rounds and item 16 are the product of the test-fired rounds being fired and not just cycled?

A From what I saw when I observed the marks on the sidewalls of the cartridge case – and I had stated to this earlier – there is not a lot there to work off from the very beginning, so there isn't – there isn't – probably isn't enough

that it would ever be able to be identified or back in that area, but I didn't see any similarities as far as, like, a sufficient amount of agreement in that area. Now, as far as whether it being cycled or fired, I would expect there to be less to be able to be even compared with the cycled versus fired.

Q So there's a lot of words. My question is this: Is it possible that the difference between the test-fired rounds and item 16, the marks on item 16, are the product of one being cycled and the other one being fired?

A That could be possible, yes.

Q You told me yes, that is a potential is what you told me before; right?

A Yes.

Q Two different environments, two different results; right?

A The way it goes in is the same way, it's just whether the pressure is different between the two.

Q Two different environments, two different results.

A I will keep on repeating it that it's the same area, it's just whether the pressure is greater or not.

Q Two closet rounds and the test fires, you didn't really do any comparison between those two sets of items; right?

A No, I did not.

Q So this round, item 315, which is similar to item 16, you didn't compare this with any of your test fires?

A No, I did not.

Q And you can't tell the age of any of those rounds; right?

A No, I cannot.

MR. LUTTRULL: Objection. That's been asked and answered.

MR. ROZZI: I'm –

THE COURT: Sustained.

MR. ROZZI: May I rephrase the question?

THE COURT: Yeah, 'cause it's been asked and answered.

Q With regard to items 315 and 316, you don't know the age of the rounds?

A No, I do not.

Q You don't know when they were manufactured?

A No, I do not.

Q That's actually another aspect of the firearms identification business is trying to age rounds, isn't it?

A Not in my line of work it is not.

Q Well, there used to be a thing called comparative bullet lead analysis; right?

A There was, and that was conducted by the FBI.

Q All right. The FBI laboratory?

A Yes.

Q And they were taking the lead or the metal in those projectiles and making – trying to make determinations about when those were manufactured?

A They were trying to determine if they could figure out whether it was coming from a specific lot of ammunition.

Q All right. Let's talk about it. You mentioned lots earlier, didn't you?

A Yes, I did.

Q Lots being that, hey, when they make ammunition over in Springfield, Ohio, or Missouri, they might make a million rounds in 2017, that might be a lot if it comes off the same floor; right? The same assembly line?

A Well, typically, lots don't span for that long, but there are larger numbers in that area, could be around 20,000 or so forth. It just depends how long the machining lasts for that.

Q They have to change tools, because they get worse?

A Yes, they do.

Q And these are the tools that make those rounds that wear down?

A Yes, that is correct?

Q They change?

A They wear down.

Q Which is change; correct?

A Correct.

Q Okay. So that comparative bullet lead analysis was a discipline that people were using in courtrooms around this country, wasn't it?

A Yes, they were.

Q And, at some point not super long ago, that was kind of debunked, wasn't it?

A Well, it's been about 20 years.

Q Okay. Well, they're not doing it anymore, are they?

A Well, and it's not the science itself, that isn't debunked, it was the statistical analysis that they were using to give their conclusions.

Q People were walking into courtrooms and testifying about that stuff, weren't they?

A They were.

Q FBI agents and laboratory agents; right?

A Well, I don't know the status of them, but they were laboratory personnel.

Q And they found out, "Ooo, we shouldn't have been doing it"; right?
A They shouldn't have been assessing them with the statistical analysis that they were using, was not, per se, enough to limit it down to where it should be.
Q They're not doing it anymore?
A No, they are not.
MR. ROZZI: Judge, would you like to take a break?
THE COURT: No.
MR. ROZZI: Thank you.
Q So let's talk about the time period between 2017 to 2022 as it relates to item 314, which is the firearm; okay?
A Okay.
Q You agree that it could be true with any tool that it could create different kind of marks over different periods of time?
A I would say that it can occur, it could change based on the number of rounds that are fired through it. Typically, it's a sustained amount of time that it could happen, and so it typically takes a lot of rounds to start altering a firearm's ability to change like that. So I can't give you a specific number other than that we've studied some of that, we've looked at 10,000-round tests, and we've also studied that in black box studies.
Q You don't have any idea what happened to that gun, what environment it was exposed to, how much it was used between 2017 and now, do you?
A No, I do not.
Q And you agree that the tools in that firearm could have changed over time based on that use or exposure or the environments it was susceptible to?
A It's possible.

Q So the marks that that firearm's making now may not have been the same marks it was making in 2017?
A So if I'm able to identify it back to it, then it is still making marks that are representative of that. So if it was making different marks, I would not have been able to identify it back to it.
Q So it's different now than it was then; right?
A Different in what way?
Q It's been used. It's different.
A It's been used, but I can't tell you that the marks have changed.
Q There's another side to this argument and that is, is that those tools are quality tools; right?
A Which tools?
Q Well, the ones that Sig Sauer makes.
A Sig Sauer makes quality firearms.
Q They're a reputable firearm company; right?
A They are.
Q They've even got little videos, five-minute videos that hold themselves out as that; right?
A There's videos out there that you can watch.
Q So the idea, in that aspect, is, is that they create these really great tools and they don't change over time; right?
A Well, they are durable, basically.
Q So if that's the case, then you would expect item 314, with those high quality tools, to impress the exact same marks in 2022 as it did in 2017?
A I would expect some similarity to be there, yes.

Q And when you cycled rounds through that gun when you first got it, those rounds were not adequate to assist you in making a determination about that bullet and that gun, were they?

A No, I did not feel that they were.

Q You're not sure when that gun was manufactured either, are you?

A No, I do not know the exact date.

Q You don't know when the last time that firearm was cycled; right?

A No, I do not.

Q Now, let's talk about the subclass characteristics for a minute. One of the most important things that you do in the line of your work is to evaluate and understand subclass characteristics from individual characteristics; right?

A That's correct.

Q I'm getting casual, but I would say that's kind of where the rubber meets the road in your industry, isn't it?

A Yes.

Q It's pretty easy to identify a class characteristics; right?

A For the most part.

Q Is it a Ford? Is it a Chevy? Those kind of things?

A Yes.

Q But when it gets down to subclass and individual characteristics, that's really where you're spending the majority of your time?

A That is correct.

Q And in this case, there were really three tools in that firearm that were significant to your findings; right? Ejector, extractor, and the barrel hood?

A That's correct.

Q And you investigated or evaluated – trying to think of the right words – the ejector for subclass characteristics?

A That's correct.

Q And you were not able – well, let's put it the other way. At the conclusion of your investigation, there was still potential for subclass characteristics?

A Yes, there were definitely subclass characteristics present on the ejector itself.

Q And you kind of mentioned this earlier, but that particular tool itself just alone, stand-alone tool, the ejector, is not adequate enough to draw any conclusion?

A Some people will draw conclusions on it, but I did not feel comfortable, in this case, drawing only conclusions on the ejector mark alone.

Q The extractor, you also concluded that there could be a potential for subclass characteristics at least in part – on part of it; right?

A With the extractor, I wasn't able to observe the actual tool itself. Now, the impressed mark that was on the under side, impressed marks in general can lend themselves to subclass characteristics. I noticed a bumpy, wavy surface there with the ejector and so it did not appear to be subclass, but impressed marks in general can lend themselves to subclass.

Q So you could not exclude subclass characteristics with the extractors?

A I could not exclude them as far as it being an impressed mark; however, with the straited portion being there, I could rule that out from being subclass in nature.

Q But there were still subclass characteristics potentially; right?

A There's potential, yes.

Q Did you actually physically examine the extractor surfaces like you did the ejector?

A No.

Q You spent a lot of time on the ejector; right?

A Yes, I did.

Q And then, with that chamber face, there's really not – there's really no peer-reviewed research at all with regard to subclass characteristics with that third tool, is there?

A So the third tool I do know was manufactured with milling, that's been stated several times at this trial, so it's milling, in general, that you're looking at to see if it has a potential for subclass. In this case, that area comes to a corner, which I showed you guys earlier, so the marks that –

MR. ROZZI: Judge, I would ask the Court to instruct the witness to answer the question. She's just talking. I asked her about peer-reviewed articles.

MR. LUTTRULL: She is answering the question.

THE COURT: I think she's answering the question.

MR. ROZZI: She didn't say anything about peer-reviewed articles. She's talking about other things.

MR. LUTTRULL: No. She directly tied it to peer-reviewed articles on milling of the tools.

MR. ROZZI: May I ask the question again, Your Honor?

MR. LUTTRULL: She's still –

THE COURT: Let her finish her answer.

A So that area that I saw there is directly tied to milling. I presented several

articles about consecutively made milling items today and how examiners can tell the difference from them. That is an area that I knew how it was manufactured, I knew that it came to an area where it comes down to a V-area, and I'm actually looking at two surfaces that are coming together. In firearms identification, when that happens, those marks are typically individual in nature.

Q Okay. Are there any peer-reviewed studies for subclass characteristics for chamber faces? Peer reviewed?

A It's not the mark or the tool itself, it's the tool that made it; so it's the milling process, it's not the actual tool. They're two different things.

Q Are there any peer-reviewed studies –

A Yes, there are peer-reviewed studies.

Q -- that you're aware of?

A Peer-reviewed studies on what?

Q Chamber faces.

A Just mentioning directly chamber faces, no.

Q Thank you very much.

A You're welcome.

Q There's also a breech face in one of those – in that firearm; right?

A That's correct.

Q I think it was on maybe one of the slides you presented.

A That's correct.

Q That would be another area kind of – is that a tool technically?

A Yes, it is.

Q Okay. Thank you. (Inaudible). You were not able to use that tool to make

any – draw any conclusions in this case, were you?

A No, I was not.

Q There were not adequate marks made by that tool?

A Well, this is an unfired cartridge. So typically, breech face marks don't show up in cycled marks on a cycled cartridge. They can, but typically not.

Q But they can?

A They can, yes.

Q But we didn't have that here?

A No.

Q So you generated some – excuse me, I'm getting quite a bit far over here. You generated some microscopic images; right?

A Yes, I did.

Q And I'm showing the jury and trying to show you, ma'am, items K – Defendant's Exhibit KK; you see that?

A Yes.

Q I'm just gonna take – this would be your test fired round, 315(T) on this side, the left side, compared with item 16; right?

A That's correct.

Q Now, this is a microscopic image at 60 times; right?

A Yes.

Q Is that – how would you say that?

A Yes, 60 times magnification.

Q Thank you. And what you're looking at here, and I'm kind of pointing here to the top portion of the exhibit, you've got two images and the hairline in the middle, and one side is the test fire, the other side is item 16; right?

A That's correct.

Q And you made a determination that there is some sufficient agreement between both of these sides to draw your conclusion?

A I did, yes.

Q And so what you're saying is, is that there are similarities between the left side and the right side that you can rely on in this matter?

MR. LUTTRULL: Objection, Your Honor, and ask leave to ask a preliminary question.

THE COURT: You may.

MR. LUTTRULL: What Mr. Rozzi is showing you is a photograph of that portion of those – of that comparison process; is that correct?

A That is correct.

MR. LUTTRULL: But is that what you're looking at when you're looking through the comparison microscope, that image that he's showing you?

A It's the image that is taken at the time of the examination process, but it's not everything that can be seen.

MR. LUTTRULL: And so would it be misleading to offer an opinion based upon the photograph itself?

A Well, the photograph itself is not going to show you everything. It'll just show you what I could see during the picture time process.

MR. LUTTRULL: I would object to the question, Your Honor. I think it would be misleading for the jury.

MR. ROZZI: She didn't say it would be misleading, she just said she's seen more, so it goes to the weight.

THE COURT: I agree, it just goes to the weight, rather than – she

answered – she may answer.

Q Well, let's just talk about this photograph.

A Okay.

Q Well, actually, there's several photographs here, some of them similar in terms of they're microscopic images; right?

A Yes.

Q I mean, they're of different things, but they're similar in terms of what you're looking at at the lab; right?

A Yes.

Q Now, when you offer up a lab report to the Prosecutor's Office, they don't get these, do they?

A No, they do not.

Q And we've talked about this earlier, but they can be obtained, but we gotta ask for them; right?

A That's correct.

Q This is basically me saying, "Hey, show me your work"; right?

A That's correct.

Q I want to see what you've generated in terms of work product that you used to draw your conclusions; right?

A It's representative of the work product, yes.

Q And this is what you gave me?

A That's correct.

Q Do you have something else in your file in terms of images that you did not give me?

A No, I do not.

Q Okay. So it's fair for me to use these to make determinations about what you're seeing; right?

A Well, you can do that. I can't sit there and make determinations based off of a photograph.

Q Well, is it okay for the jury to use these to make their own determinations?

A It's okay for the jurors to observe them, but to make a determination as to specifically what I saw at the time and throughout the entire process, it would be unfair.

Q So we just need to believe everything you say because you're sitting here testifying; right?

MR. LUTTRULL: Objection to the question.

THE COURT: Sustained.

MR. LUTTRULL: It's improper.

Q Is it okay for these jurors to use your work product to draw their own opinions about your conclusions?

A It's fair for them to do whatever they need to do to make a decision.

Q And one of those things would be looking at these photos; right?

A They can look at those photos, yes.

Q So this first photo, items KK, again the top right corner here is where the hairline is; right?

A That's correct.

Q And your position is, is that there's some sufficient agreement between these two surfaces?

MR. LUTTRULL: To which I would object and ask leave to ask a preliminary question.

THE COURT: You may.

MR. LUTTRULL: Would a trained and experienced firearm/tool mark examiner use the photos to make a determination?

A No, they would not.

MR. LUTTRULL: Do you think it would be wise for the jury, if they are untrained and not experienced in tool mark examination, to draw conclusions from these photographs about your analysis?

A Well, they would not be able to draw the same conclusions as I would, because they are not trained as examiners, but they can observe them.

MR. ROZZI: May I continue?

MR. LUTTRULL: I – Your Honor, I would assert that this would be misleading to the jury and inappropriate cross examination.

THE COURT: Based on her answers, it would be misleading, so I'd sustain it.

MR. ROZZI: Using her own work product –

THE COURT: Based on her answer –

MR. ROZZI: -- would be misleading?

THE COURT: Based on her answer that she just gave that she would not just use those photographs.

Q These are part of what you used to make your determination; right?

A The photographs are not what I use to make a determination. The photographs are what I use to memorialize the process. So I don't use photos to make any determination. I try to do the best to capture an image of what I'm seeing, but I cannot give you all of it. It's the same thing I explained before, you don't get to see the movie, you're only getting to see what's memorialized at that

time, that area that I looked at.

Q So these are the things you memorialized?

A Yes.

Q Item KK; right?

A That's correct.

Q I'm assuming you go and take pictures of the areas that you think are significant; right?

A The areas that I take pictures of are the areas that I used in the process to coming to my determination.

Q Item LL is one of those; right?

A That is correct.

Q Item MM?

A That's correct.

Q Another photo you took because you thought it was significant in making those determinations?

A It's not that I make a determination off of them. I take the photo of it so you can see the area that I would make – use to make a determination.

Q Item MM, same ans – same question, same answer?

A That's correct.

Q Hairline's right here, the middle?

A That's correct.

Q One surface, the other surface?

A That's correct.

Q Item OO, same question, same answer?

A That's correct.

Q Let's talk about item OO for a minute. You had a chance to look at that?
A Yes.
Q This is a copy or this is an image, is it not of the ejector mark on item 16 on this side and test fire on that side; right?
A That's correct.
Q And would you acknowledge or do you acknowledge that there are some similarities between these diagonal lines on both sides of that hairline?
A There are some similarities, yes.
Q Those are subclass characteristics, aren't they?
A These do not appear to be subclass characteristics to me. They do not span the entire length of the surface area. The subclass characteristics actually go in the opposite direction. If you want me to show you in a picture, but again, that would be me doing a comparison here.
Q It wouldn't be helpful for you to use your own picture to show anybody, would it?

MR. LUTTRULL: Your Honor, I would object if the implication – she's made it clear why the photograph is not something she uses to do an examination and she's made that very clear.

MR. ROZZI: I'll move on.

THE COURT: Please move on.

Q You could not exclude subclass characteristics with the ejector mark in this case, could you?
A There were subclass characteristics present on both the ejector and in the area – not in that area, but adjacent to it.
Q You could not exclude the subclass characteristics, could you?

A There are subclass characteristics present.
Q The last photo, PP; right?
A Yes.
Q We talked about the verification process earlier?
A Yes.
Q You started your examination back on October 17th; right?
A That's correct.
Q And you finished this two days later, on the 19th?
A That's correct.
Q Actually, you worked on it – I think you told me at the depo it took over three days.
A Yes, that's correct.
Q And that was your primary focus during that three-day period?
A That's correct.
Q The verification process that you talked about with your boss occurs in your presence; right? You're there at the lab.
A I am there present, yes.
Q So it was the same day that you finished your three-day investigation?
A The verification process actually occurred the day before I wrote my report, so it occurred on the 18th. 19th, I finished up my notes and the report.
Q Okay. So after two days of working on it; right?
A That's correct.
Q And you basically just leave all your work in the same place and then, in this case, Mr. Keisler comes into your workspace and looks at the stuff; right?
A So an analyst has their own personal workspace, and comparison scopes

are shared amongst examiners, because there's not enough comparison scopes between all of us to have our own individual comparison scope, so I'll give the examiner the evidence and then they will use the comparison scope that I used.

Q So the answer is yes?

A Yes, it is.

Q Thanks for that clarification. His verification was complete on the 19th; right?

A He wrote his paperwork on the 19th, but he completed it on the 18th.

Q In less than a day?

A Yes.

Q What are we talking about? An hour?

A I don't know how long it took him to do it, but it wasn't longer than a couple hours that I'm aware of.

Q Happened pretty quickly; right?

A Depends what your definition of "pretty quickly" is.

Q It depends, huh? He didn't go through all the steps that you went through, did he?

A No. He does not do the formal, entire re-exam of the entire work product. He actually only does the comparative process.

Q And you told me that you've actually verified other technicians' examinations.

A I have verified other analysts' work, yes, I have.

Q And you've come – where there were times when you've come to different conclusions than they have; right?

A Yes, I have.

Q And you suggested that you would do more testing until you both agreed on something; right?

A Basically, usually where disagreements can occur is between like individual or identification. This doesn't occur every day, it can maybe occur maybe once in a year or something like that; but if I am looking at something and I think that an identification could be made, I may ask the analyst to go test fire more so I can come to a conclusion. And if my conclusion ends up being different than their conclusion, then we either need to decide what am I seeing, is it different than what they're seeing, or have they not done enough to be able to – like maybe they didn't alter the light enough, maybe they didn't test fire enough. So if they don't agree with me, at that point it can go to another review process, which would be the supervisor and quality assurance.

Q So there's no circumstance under which two human beings just agree to disagree; right? You can't just say, "We just have a disagreement"?

A You can have a disagreement. So if I disagree with them and they disagree with me, then that would go to the supervisor and the quality assurance process. At that time, a determination would be made by either the supervisor re-examining everything and coming to a determination, and then that would all be reported out.

Q At the end of the day, there is individual discretion involved in making these determinations about whether or not sufficient agreement is (inaudible)?

A Well, it is subjective, yes, in nature.

Q And that is the big word in your industry, "subjectivity", isn't it?

A Yes, it is.

Q And that's where the battle lines are drawn between the people who don't

believe in this discipline and the people that do; right?

A Yes. There are people that believe that because there's subjectivity, it can't be a science; however, anything that involves a human has subjectivity.

Q But that's where the dispute is?

A Some people want to weigh and measure what subjectivity is allowed. I don't know how you objectively measure subjectivity.

Q That's where there's a dispute?

A Yes.

Q What you see in any one of those photos could be different than what another lab examiner sees; right?

A There's a potential, yes.

Q Well, not just a potential, it could happen; right?

A Yes, it could happen.

Q And it does happen, doesn't it?

A It does happen.

Q One second, please. Okay. With regard to this verification process, you told me back in March you've never had anyone disagree with your findings, not one time; right?

A I have not had anybody make me go test fire more or say, "I do not come to the same finding as you do."

Q So you've never had anyone disagree with you?

A Well, people always disagree with me, just bring my husband –

Q But not with regard to your lab exams; right?

A Not the final product, no.

Q Okay. You had – earlier, Mr. Luttrull in his presentation –

MR. ROZZI: Judge, may I approach?

THE COURT: You may.

MR. ROZZI: Judge, I've got – I'm gonna put some – just put some exhibits in, if that's okay. I've got Defendant's Exhibit Q, R, S, T, U, and V. Can I ask a couple quick questions to lay a foundation?

THE COURT: Q, R, S, T, and what?

MR. ROZZI: U and V.

THE COURT: U and V. These are photos?

MR. ROZZI: Yes.

THE COURT: Okay.

Q Ma'am, just let me hand you, if I could – let me hand you what's been marked – and these are stacks of copies, Q, R, S, T, U, V, and just take a quick look at those, if you would, please. But those are all copies of the –

A Of the –

Q Like this is one set.

A Okay.

Q Yeah, see, it's Q.

A Oh, okay. Sorry.

Q I mean, you can look at them, if you wanted to, but I think you're gonna find that they're all copies.

A Yes.

Q Now, are those images microscopic images that you're familiar with?

A Yes, I am.

Q And at least in part, did you – do these images accurately reflect the conditions that existed at the time you took those images?

A Yes, they do.

Q And did you rely on these, at least in part, in coming to your conclusions in this case?

A I did not rely on the photos to come to a conclusion.

Q But the information that's depicted in those photos; right?

A I don't make –

Q Spaces, surfaces.

A I relied on the surface areas that I observed, yes.

MR. ROZZI: Move to admit Q through V and publish. Move to admit first.

DEFENDANT'S EXHIBITS Q THROUGH V OFFERED

MR. LUTTRULL: I do not object to them being used as what – for what purpose she has described them as, but there's no foundation that they can be used for analyzing her opinion or the results that she came to. She specifically did not lay a foundation for that if they're being used as representative of the areas in which she felt were relevant to her examination. But to be used to be analyzed and studied, it would be inappropriate. So that's my – the nature of my objection is the foundation that's been laid.

THE COURT: So it's a foundational objection?

MR. LUTTRULL: Yes, Your Honor.

THE COURT: Okay. What's your response?

MR. ROZZI: My response is she just said that she utilized the surfaces of these images to make conclusions.

THE COURT: Well, and as long as the jury understands that she clearly stated, "I did not rely on the photos to make a determination."

MR. ROZZI: That's fine. I think they can figure that out.

THE COURT: So it's conditionally admitted.

DEFENDANT'S EXHIBITS Q THROUGH V ADMITTED

MR. ROZZI: Thank you. May I publish these, Your Honor?

THE COURT: You may.

DEFENDANT'S EXHIBITS Q THROUGH V PUBLISHED

THE COURT: You may continue.

MR. ROZZI: There are extras there, I think two or three copies there.

THE COURT: I'll take them.

MR. ROZZI: May I continue?

THE COURT: Yes.

Q Ma'am, when you receive items at the laboratory to be examined, do you receive a request form from the Indiana State Police that comes with that?

A Yes, I do.

MR. ROZZI: May I approach, Judge?

THE COURT: You may.

Q I'm gonna hand you what's been marked as Defendant's Exhibit W, if you'd just take a look at that. Take a look at that, if you would, real quick and let me know what you're ready.

A Yes, I'm ready.

Q Is that a three-page request for lab exam report?

A Yes.

Q And without getting into all the technicalities, those numbers, that top right number, that 17K number, is that this case?

A Yes, it is.

Q And do you agree with me that you received this request for lab exam in conjunction with item 024, which is one of the firearms that you talked about earlier in your direct examination with Mr. Luttrull? Directing your attention specifically to page 3 where that firearm is listed.

A Yes.

Q Now, are these records that are generated in the normal course of business when you're examining – receiving items?

A This was not generated by me, but it's generated by the agency who submitted it.

Q So this would apply to the – your receipt of item 024, which was a firearm that was on the slideshow?

A Yes, it is.

Q Okay. And just to be clear, because we've got a lot of names going on today, that's the black Glock 22 handgun; right?

A That's correct.

Q And that was a handgun that you could not exclude?

A I did not exclude that handgun. I didn't find any individual similarities with it, nor did I see any class characteristics, either.

Q But you didn't exclude it has having possibly cycled that round; right?

A I did not exclude it from it.

Q Thank you.

MR. ROZZI: Judge, may I admit Defendant's W?

DEFENDANT'S EXHIBIT W OFFERED

THE COURT: Mr. Luttrull?

MR. LUTTRULL: No objection.

THE COURT: All right. Without objection, W's admitted.

DEFENDANT'S EXHIBIT W ADMITTED

MR. ROZZI: May I publish?

MR. LUTTRULL: This is W?

THE COURT: W.

MR. ROZZI: May I publish, Your Honor?

THE COURT: You may.

DEFENDANT'S EXHIBIT W PUBLISHED

Q Handing you what has been marked as Defendant's Exhibit X. Is this the corresponding firearms examination worksheet for that same firearm we just talked about?

A Yes, this appears to be a copy of the examination sheet that I created.

Q Same question, same answers about being conducted or prepared in the course of your line of work and presented to you?

A Yes.

MR. ROZZI: Move to admit X.

DEFENDANT'S EXHIBIT X OFFERED

MR. LUTTRULL: Just one moment, Your Honor. No objection.

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

DEFENDANT'S EXHIBIT X ADMITTED

MR. ROZZI: May I publish, Your Honor?

THE COURT: You may.

DEFENDANT'S EXHIBIT X PUBLISHED

THE COURT: Mr. Rozzi, we're gonna have to take a break.

MR. ROZZI: Thank you.

THE COURT: All right. Well, ladies and gentlemen, we're gonna go ahead and take a 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, please, don't deliberate. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 3:40 p.m.)

THE COURT: All right. Let's take 15 minutes.

(Off record at 3:41 p.m.)

(On record at 4:02 p.m.)

THE COURT: Okay. We're back on the record. Apparently, the issue with the jurors is these weren't marked, so they weren't aware that they had all – in fact, had all of the exhibits that were introduced by the Defendant, the Q through X. So they do have them, they just don't have them in any particular order. All right. Are we –

MR. ROZZI: Do you have a problem with me maybe just taking those exhibits and standing them, showing them, so they can mark them?

THE COURT: I don't care. Jodie's got the exhibits.

MR. ROZZI: Whatever would be easier on –

THE COURT: Yeah, Jodie's got them, they're over there. All right. Are we ready to bring them back in? And are we about done with cross?

MR. ROZZI: I'd say about 15 minutes maybe, 20 minutes.

THE COURT: Okay. And then the State will have re-direct?

MR. LUTTRULL: Briefly.

THE COURT: I mean, I don't think we're getting to your DNA person today at this point. At the rate we're going, I don't imagine that that's gonna happen.

MR. MCLELAND: Judge, as a point of clarification – we had planned on that tomorrow.

THE COURT: Okay.

MR. MCLELAND: But as a point of clarification: Is the Court thinking this is gonna be the last witness for today or is the Court expecting us to put on additional witnesses?

THE COURT: I – it – I had anticipated you putting on additional witnesses.

MR. MCLELAND: Me too, Judge.

THE COURT: But it's four o'clock now, so I'm not too sure – no offense, when lawyers tell me a time, I usually double it, and that –

MR. ROZZI: That's all?

MR. MCLELAND: Judge, I –

THE COURT: I at least double it in my mind.

MR. MCLELAND: I think we're all pretty exhausted, Judge, so either way the Court decides I think we'll be fine with, but –

THE COURT: With just finishing up with Ms. Oberg.

MR. MCLELAND: I think everybody's –

THE COURT: Am I saying that right? Oberg?

THE WITNESS: Yes.

MR. MCLELAND: -- sufficient with that Judge, but I defer to the

Court, so –

THE COURT: Okay. So we'll – all right. Well, let's bring them back in.

THE BAILIFF: All rise.

(Jury in at 4:08 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thanks, gentlemen. You may proceed.

MR. ROZZI: Judge, may I –

THE COURT: You may display them with the numbers, so they know which is which.

MR. ROZZI: Thank you. So I passed out these exhibits earlier, probably made a little bit of confusion about which one's which. I'm sorry for that. I'm gonna hold these up and just tell you what letters they are and if you want to mark yours, you can do this. This is Exhibit Q, and at the bottom right corner is 314(T), 016, 60. This is Q. R, at the bottom, 314(T), 016, 60 magnification. S, also 314(T), 16, and 60 magnification. T, 16, 316, 40 magnification at the bottom. U, 16, 314(T)(2), 60 magnification. V, 16, 314(T)(1), 60 magnification.

UNIDENTIFIED JUROR: (Inaudible)

THE COURT: Why don't we do this – ladies and gentlemen, why don't we do this, you've now – he's identified for you – we'll have the Defendant reproduce all of these exhibits for you with the correct designation on them and then we'll republish those to you tomorrow; okay? Why don't we do that.

MR. ROZZI: Thank you, Judge.

THE COURT: You may continue.

MR. ROZZI: May I approach?

THE COURT: Yes.

Q Ma'am let me hand you what's been marked as Defendant's Y, Defendant's Y, and take a look at that and let me know if you recognize that item.

A Yes, I do.

Q And is this basically your certificate of analysis with regard to firearm 024 that we have referenced earlier and unspent cycled cartridge 016 that we've been talking about today?

A Yes.

Q And then, this is kind of a summary of your work that's referenced on this certificate; right?

A Yes, it is.

MR. ROZZI: Move to admit Y, Your Honor.

DEFENDANT'S EXHIBIT Y OFFERED

MR. LUTTRULL: No objection.

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

DEFENDANT'S EXHIBIT Y ADMITTED

MR. ROZZI: May I publish?

THE COURT: You may.

DEFENDANT'S EXHIBIT Y PUBLISHED

MR. ROZZI: This is Y. You guys can mark this.

THE COURT: You don't have copies for the folks in the front?

MR. ROZZI: May I continue?

THE COURT: Do you want them to publish it – do you want them to read it?

MR. ROZZI: Yeah. I was looking over at them.

THE COURT: Okay. Well, they've been looking up when they're done, and I'm not seeing everybody looking up yet. You may proceed, Mr. Rozzi.

MR. ROZZI: Thank you, Judge. And may I approach the witness?

THE COURT: Yes, you may.

Q Let me hand you what's been marked as Defendant's 2, take a look at that Ms. Oberg, and just let me know when you're –

THE COURT: I'm sorry, 2?

Q -- ready.

MR. ROZZI: Z, Z.

THE COURT: Z.

MR. ROZZI: It looked like 2. I'm sorry.

Q You recognize that document?

A Yes.

Q Is that also an Indiana State Police request for laboratory exam document, similar to the one we talked about earlier?

A Yes.

Q And does this pertain to item 090, which was the .40-caliber Smith and Wesson that you referred to with Mr. Luttrull's direct examination?

A Yes, it is.

MR. ROZZI: I move to admit.

DEFENDANT'S EXHIBIT Z OFFERED

MR. LUTTRULL: No objection.

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

DEFENDANT'S EXHIBIT Z ADMITTED

MR. ROZZI: May I publish?

THE COURT: Yes.

DEFENDANT'S EXHIBIT Z PUBLISHED

THE COURT: You may proceed.

MR. ROZZI: May I approach?

THE COURT: Yes.

Q I'm gonna hand you what's been marked as Defendant's BB or double B; would you take a look at that, Ms. Oberg. Let me know when you've had a chance to look at it, please.

A Yes.

Q Is this a firearms examination worksheet that was prepared by you with regard to the firearm that we just talked about, 090?

A Yes, it is.

MR. ROZZI: Move to admit BB.

DEFENDANT'S EXHIBIT BB OFFERED

MR. LUTTRULL: No objection.

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

DEFENDANT'S EXHIBIT BB ADMITTED

MR. ROZZI: May I publish?

THE COURT: You may.

DEFENDANT'S EXHIBIT BB PUBLISHED

THE COURT: You may proceed.

MR. ROZZI: May I approach the witness?

THE COURT: You may.

Q I'm handing you what's been marked as Defendant's AA, take a look at

that document and let me know when you're done looking at that.

A Yes.

Q This is also a request for a laboratory examination?

A Yes, it is.

Q And does this pertain to firearm, the 101 that we referenced earlier in Mr. Luttrull's direct examination?

A Yes, it does.

MR. ROZZI: Move to admit, Your Honor.

DEFENDANT'S EXHIBIT AA OFFERED

MR. LUTTRULL: No objection.

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

DEFENDANT'S EXHIBIT AA ADMITTED

MR. ROZZI: May I publish?

THE COURT: You may.

DEFENDANT'S EXHIBIT AA PUBLISHED

THE COURT: You may proceed.

MR. ROZZI: May I approach?

THE COURT: Yes, you may.

Q Ma'am – Ms. Oberg, take a look at Defendant's CC, if you would, and let me know if you recognize that.

A Yes, I do.

Q And is that the firearms examination worksheet completed by you with regard to item 101, one of the other firearms we talked about earlier?

A Yes.

MR. ROZZI: Move to admit.

DEFENDANT'S EXHIBIT CC OFFERED

MR. LUTTRULL: No objection.

THE COURT: All right. Without objection, CC's admitted.

DEFENDANT'S EXHIBIT CC ADMITTED

MR. ROZZI: May I publish?

THE COURT: You may.

DEFENDANT'S EXHIBIT CC PUBLISHED

THE COURT: You may proceed.

MR. ROZZI: May I approach?

THE COURT: You may.

Q All right, Ms. Oberg, last one, Exhibit DD; do you recognize that?

A Yes, I do.

Q And is that your certificate of analysis with regard to the last two firearms that we just referenced, 090 and 101?

A Yes, it is.

MR. ROZZI: Move to admit, Your Honor.

DEFENDANT'S EXHIBIT DD OFFERED

MR. LUTTRULL: No objection.

THE COURT: All right. Without objection, DD's admitted.

DEFENDANT'S EXHIBIT DD ADMITTED

MR. ROZZI: Thank you. May I publish?

THE COURT: You may.

DEFENDANT'S EXHIBIT DD PUBLISHED

THE COURT: You may proceed.

MR. ROZZI: Thank you, Judge.

Q Ms. Oberg, have you – are you aware of the letters CMS?
A Yes, I am.
Q Does that stand for consecutive matching stria or striations?
A Yes, it does.
Q And is that a – I would say an evolving concept in the firearms identification discipline?
A It is a process that can be used to add to your documentation.
Q And that – is it accurate that that process is intended to provide a bit more of an objective way of scoring, if you will, these examinations?
A Essentially what CMS is, is that it's a counting-lines process. So objective is just that it would be giving a number to it, but what that number means we don't exactly know as a field.
Q So is my statement accurate? Is it an objective way of trying to provide a score basically for these findings?
A It's partially objective and subjective, because a person has to decide is the mark countable.
Q Does AFTE recognize CMS as a part of the discipline?
A It can be used, yes.
Q Are you trained in CMS?
A I am not.
Q There's two modules of training; right?
A There are different modules that you can train for, yes.
Q Have you heard that at least one of those modules involves examiners observing photographs and making CMS conclusions?
A I have not.

Q So you would defer to somebody that's more experienced in the CMS training –

A Yes, I would.

Q -- in regards to those questions?

A Yes.

Q Now, earlier, you provided – in your slideshow – Mr. Luttrull's – the State's slideshow, you referenced a few different articles with regard to some of your research in this case; right?

A Correct.

Q And without me getting into a lot of detail, at least two, maybe three in there; that fair to say?

A At least.

Q And when I asked for your file, a complete copy of your file, you didn't provide these articles to me, did you?

A No, I did not. They're based on my training and experience.

Q But you're saying you used these in this case to draw some of your conclusions; right?

A Well, I could use any AFTE article to draw a conclusion, because that's based on my training and experience.

Q Did you specifically consult these articles before you drew the conclusions that you drew with regard to item 314 and item 16?

A I had those articles from subclass training, so they're actually part of our training manual, so I have been exposed to them prior to this process.

Q My question was: Did you specifically consult these articles before you drew your conclusions in this case?

A Yes.
Q You looked at them before you drew your conclusion?
A Yes.
Q You know a man named Ron Nichols?
A Yes, I do.
Q You talked to Ron recently?
A No, I have not.
Q Is – have you – did you share any of these articles with the Prosecutor's Office after I took your deposition in March?
A Not until I made the presentation.
Q Before – to create the slideshow?
A Correct, yes.
Q But you didn't share them with me, did you?
A No, I did not.
Q You didn't issue any additional findings or anything like that; right?
A No, I did not.
Q So item 314, that firearm, when you received it and cycled it, the marks that it generated on those stock rounds were not sufficient to conduct your examination; right?
A The cycled ones, yes, I did not feel that way.
Q Okay. So you then fired rounds and compared those with the unfired item 16?
A I cycled and fired at the same time and I used the fired.
Q And you couldn't rule out subclass with those three tools; right?
A I assessed the areas of subclass, there were some areas of subclass

present, yes.

Q So you could not rule it out.

A I could not rule it out, but it doesn't mean that individual can't exist with subclass.

Q But you didn't rule it out?

A No, I did not.

Q And you didn't – and then, you exercised your own individual discretion, despite what those photos show, in making a determination in this case?

MR. LUTTRULL: Objection. That just underscores the point that he's misusing those photographs.

THE COURT: Sustained.

Q You talked about those black box studies; is that right?

A Yes.

Q And from what I understand of this is that when you complete an examination, you've really got three choices. One of those is exclusion; right?

A That's correct.

Q The second one is inconclusive.

A That's correct.

Q And the third one is?

A Identification.

Q Okay. Or sufficient agreement, basically; right?

A Yes.

Q Kind of the same thing?

A Yes.

Q In those black box studies, I think that you testified to – is it correct earlier

that you testified that those error rates were about 2 and a half percent on false positives or false negatives on –

A Just over 2 percent for false positive and just under 3 percent for false negative.

Q But from a statistical standpoint, those studies allowed the individual participating to opt out if they were inconclusive, didn't they?

A What do you mean by that? I don't – I'm not quite sure.

Q Well, there was in – there was an option for them to choose inconclusive –

A Correct.

Q -- the middle option?

A Yes.

Q And that was not counted as part of the statistical findings, was it?

A No, it was not.

Q And that's one of the critiques about that study, isn't it?

A Well, there's an on-going debate and no one has actually officially made a decision as to how they should be counted; but if we're going back to PCAST and if we're considering them an advisor, they said that they should not be counted as an error.

Q Okay, fair enough. But the point is, when it's a close call, there was an out in that study, which was inconclusive; right?

A It's –

MR. LUTTRULL: Objection to the word "out", that's not what inconclusive means.

THE COURT: Sustained.

MR. LUTTRULL: It's not an out, so I would object to that. It's

misleading.

MR. ROZZI: May I continue?

THE COURT: I've sustained the objection.

MR. ROZZI: Thank you.

Q When there's a close call, one of the options was for the examiner to choose inconclusive; right?

A Inconclusive is an option.

Q And they didn't take that into consideration in generating those error rates, did they?

A It is not advisable, according to PCAST, to use that in our error rate.

Q So now you're listening to PCAST; right?

A Well, if they can decide that.

Q Okay. Well, they're the ones that decided that this – the foundation for all this firearms stuff is unreliable; right?

MR. LUTTRULL: Objection. That was not the testimony and PCAST never determined it was unreliable.

THE COURT: Sustained.

Q They said it wasn't science, didn't they?

MR. LUTTRULL: Objection. They did not say it wasn't –

MR. ROZZI: I'll move on.

THE COURT: Would you stop misstating the evidence, sir.

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

THE COURT: Mr. Luttrull.

MR. LUTTRULL: Briefly, Your Honor.

QUESTIONS BY MR. LUTTRULL.

Q Your title, Mr. Rozzi used the term “technician”; your title at the Indiana State Police when you did this work from 2017 to 2022, and thereafter until you left, was what?

A Was a forensic scientist 1.

Q Mr. Rozzi asked you about proficiency exams and the fact that you had switched from one – your – the State – Indiana State Police had switched from one provider to another in order to administer those proficiency exams; is that right?

A That is correct.

Q And in fact, your leadership chose to have a more-stringent examination process in doing proficiency exams?

A That’s correct.

Q The fact that you had indicated that there were subclass or potential subclass characteristics on any of the tools that you examined did not mean that you did not find individual characteristics, as well; is that correct?

A That’s correct.

Q In fact, you found individual characteristics on which tool marks?

A I was able to find individual characteristics in all three places, so ejector, extractor, and on the head.

Q There’s been a chamber face and word – and hood used; is that, essentially, two descriptions of the same thing?

A Yes, it is.

Q That entry to the barrel that has an arch shape?

A Yes.

Q State's Exhibit 280, which has been referred to in your testimony as item 315, that's a Winchester .40 Smith and Wesson that was recovered from the Defendant's home. Do you recall examining this?

A Yes, I do.

Q And what's been referred to as 316, which is State's Exhibit 281, this is the Blazer .40 Smith and Wesson cartridge; is that correct?

A That's correct.

Q And then, the third here is the item denoted as cartridge near bodies, State's Exhibit 148 or your item 016.

A That's correct.

Q All three of these cartridges were cycled; right?

A They were all cycled cartridges.

Q They had all been cycled and they had evidence of that; correct?

A That's correct.

Q One of these three had more pronounced or detailed cycling marks; correct?

A That is correct.

Q And which one was that?

A That was item 16.

Q If you had received all four firearms that you've testified that you examined and tested, the Glock, the Smith and Wesson .40, the Sig Sauer P239 .40, and the Defendant's firearm, if you had received all of them at the same time, along with State's Exhibit 016 – or, I'm sorry, Exhibit 148, your item 16, would you have been able to articulate a different conclusion if you'd received them all at the same time?

A Yes. Because I was able to identify it as having been cycled in the other firearm, I would have been able to come to a more-definitive conclusion. At the time, I had limited evidence to work with, so having the additional items all together would have given me that ability.

Q And would you have been able to exclude any of those firearms from consideration as having cycled –

A Yes.

Q -- 016?

A Based on the marks that I was able to observe in detail, I would have been able to exclude the Glock and the Smith and Wesson.

MR. LUTTRULL: I have no further questions.

THE COURT: Mr. Rozzi.

RE-CROSS EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. ROZZI.

Q You have a computer in your office?

A At home or are you talking about at work?

Q At work.

A Yes.

Q You still have access to the State Police information as it relates to this case?

A I have the access that's been given to me as I've requested it, but no, I do not have the ability to go into their computer system. I have to actually request everything.

Q You could have reached out to them and generated some additional reports that excluded those other three firearms, couldn't you?

A If someone requested it and – that could have happened, yes.
Q Yeah. I requested information from you, along with them, didn't I?
A Yes, you did.
Q You knew I was interested in it.
A Yes.
Q But you didn't issue any supplemental report saying you excluded those other three or four guns that Mr. Luttrull was asking you about, did you?
A No, I did not.
Q You didn't say anything about any of that in the deposition either, did you?
A I was not asked about it.
Q Two hundred pages; right?
A Yes.
Q I asked you about almost everything, didn't I?
A A lot of stuff, yes.
Q Your designation as a forensic scientist 1, that's a State-created designation, isn't it?
A It is a State-created designation.
Q You can get on the Indiana State website and see designations for lots of different positions in your lab; right?
A Yes.
Q And they have the matrix, where there's some pay scales; right?
A Yes, there is.
Q That's not some designation you got from an accredited university or accredited – or come from AFTE, for example, is it?
A No, it's not.

Q And Mr. Luttrull asked you earlier about, well, you still saw some individual characteristics, you said, on those three tools; right?

A Yes, I did.

Q All three, which you could not exclude subclass; right?

A That's correct.

Q And some of those individual characteristics you saw, you did not get documented for us to see; right?

A I have taken pictures to memorialize the areas that I looked at, but I could not take pictures of every individual mark that I saw.

Q Those photos there, there's a whole lot that we're not seeing in those photos, isn't there?

A Well, yeah.

Q These are tiny, tiny, little areas on those – on that – those test rounds, aren't they?

A They are.

Q That, in some cases, may be five or ten percent of the totality of the surface?

A Of that section of that area, correct.

MR. ROZZI: I have nothing further.

THE COURT: Does anybody on the jury have any questions for Ms. Oberg? Would counsel approach, please.

(Sidebar conference conducted.)

THE COURT: "Would the force in which a person cycles a round change the depth and consistency of markings?"

MR. ROZZI: I'm okay with that.

MR. LUTTRULL: Yes.

THE COURT: "For item 16" – what is item 16?

MR. LUTTRULL: That's State's Exhibit 148, the cartridge that was found near the bodies.

THE COURT: Okay, so that's the ground zero, 'cause I noticed there's a "ground zero" and I don't know that she would know that terminology.

MR. LUTTRULL: Probably not.

THE COURT: Okay. So "For item 16, could the marks on the sidewalls be attributed to the chamber, the magazine wall, being loose in a pocket with keys, or other extraneous matters?"

MR. ROZZI: I'm okay with that.

THE COURT: "Is there a way to determine if item 16 and 315 are from the same lot?"

MR. ROZZI: I'm okay with that.

THE COURT: "You mentioned black box studies as a measurement of performance error. Were the numbers you shared for false positive versus false negatives statistically significant?"

MR. ROZZI: I think that's a subjective question. I mean, it calls for a subjective answer. I'd say no, 403.

MR. LUTTRULL: She's in the best position to make a decision.

THE COURT: I'll show it over objection, I'll ask it.

MR. ROZZI: Thank you.

THE COURT: "How do false positives and/or false negatives determine the proficiency of analysts and how does that translate into outcomes in the field?"

MR. ROZZI: Oh, my God. I don't even know what it means.

MR. LUTTRULL: We'd be a whole afternoon about that.

THE COURT: I'm sure.

MR. LUTTRULL: That's fine.

THE COURT: She'll know what I'm saying? 'Cause I sure as hell don't know what I'm saying. "At this time –

MR. ROZZI: Maybe they should see if she's a member of AFTE.

THE COURT: She said she was. "At this time, what is the industry standard in forensic analysis? Does the work you did align to that standard?" How significant is having individual characteristics being found in three tool mark areas?"

MR. ROZZI: Yeah, that's fine.

MR. LUTTRULL: Yeah.

THE COURT: "In your examinations, is there a rubric or the like that correlates the greater/lesser/sufficient agreement?"

MR. LUTTRULL: I don't understand the question.

THE COURT: I don't either.

MR. ROZZI: Yeah. I mean –

THE COURT: So no on that one? I don't even – again, I don't even know the words I'm saying.

MR. ROZZI: If we can not talk about rubrics, I'd appreciate it.

THE COURT: Okay. So no rubrics. Okay. We won't talk about those. Okay. "Could disassembling, cleaning, and reassembling a firearm change how a firearm makes tools marks on a cartridge?"

MR. ROZZI: No objection.

MR. LUTTRULL: Good question.

THE COURT: It's a very good question. "Over time, with tool marks changing due to firing, is the change a drastic one or more of a pressure change, just making it harder and more difficult to see?"

MR. LUTTRULL: That's fine.

THE COURT: Good Lord. "Was" – okay, this is – "Was a comparison made between the cartridge found at ground zero" – that's what – she's not gonna know what that is. So is that item 16?

MR. LUTTRULL: Yes.

THE COURT: Her item 16?

MR. LUTTRULL: Her item 16.

THE COURT: "Was a comparison made between the cartridge in item 16 and the cartridge found in the hope box at Mr. Allen's home? Was it made – was it from the same lot?"

MR. ROZZI: That's good.

MR. LUTTRULL: (Inaudible) there's no way of –

MR. ROZZI: Yeah. I (inaudible)

THE COURT: Okay. But she can answer?

MR. LUTTRULL: She can.

THE COURT: "Would the different types of metal cartridge make a difference in the quality of marks made from cycling in a gun?"

MR. LUTTRULL: Yeah.

MR. ROZZI: Yeah.

THE COURT: Who are these people?

MR. LUTTRULL: I think we could have had two days of this

testimony.

MR. ROZZI: You put this evidence in, not me. I'm not the one that – we can just pull the exhibits and not – you know, withdraw your evidence.

THE COURT: "Did you use the same metal types for testing as the Winchester Smith and Wesson .40-caliber?

MR. ROZZI: I don't even understand that. Use the same metal types?

MR. LUTTRULL: Were the test fires the same – the test cycles the same –

MR. ROZZI: Oh, the –

MR. LUTTRULL: Are they the same.

MR. ROZZI: -- metal on the –

THE COURT: That's kind of how I'm taking it.

MR. ROZZI: Yeah, yeah, yeah. Yeah, okay.

THE COURT: So if she says, "What do you mean," I would say test fires.

MR. ROZZI: All right. It's been a ride.

THE COURT: Okay.

MR. ROZZI: Well, you know, they're –

THE COURT: They're paying attention.

MR. ROZZI: They're paying attention.

THE COURT: And that's what we want is paying attention.

MR. ROZZI: Thank you.

(Sidebar conference concluded.)

JUROR QUESTIONS OF MELISSA OBERG

QUESTIONS OF THE JURY, READ BY THE COURT.

Q You got a lot of questions here.

A Okay.

Q Okay. Ms. Oberg, would the force in which a person cycles a round change the depth and consistency of markings?

A Yes, it would.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: No questions.

THE COURT: Mr. Rozzi?

MR. ROZZI: One second.

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. ROZZI.

Q Can you be sure that every time you cycle that firearm that you're using the same force, amount of force?

A No, I cannot be.

MR. ROZZI: I have nothing further.

JUROR QUESTIONS OF MELISSA OBERG

QUESTIONS OF THE JURY, READ BY THE COURT.

Q For item 16, could the marks on the sidewalls be attributed to any of the following: the chamber, the magazine wall, being loose in a pocket with keys, or other extraneous factors?

A So if we remember the grey arrow where I had shown on the PowerPoint, just that little line that I saw, I don't know what that's from. It didn't appear to be consistent with anything firearm-related, but I can't be for sure. So there are reasons that you can get marks there that may not be associated to firearms

initially, but I can't tell you definitively because I didn't ID it to anything.

THE COURT: Okay. Any follow-up, Mr. Luttrull?

MR. LUTTRULL: No.

THE COURT: Mr. Rozzi?

MR. ROZZI: No, ma'am.

Q Is there a way to determine if item 16 and item 315 are from the same lot?

A No.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: No.

THE COURT: Mr. Rozzi?

MR. ROZZI: No, ma'am.

Q Could disassembling, cleaning, and reassembling a firearm change how a firearm makes tool marks on a cartridge?

A There is the potential.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: No questions.

THE COURT: Mr. Rozzi?

MR. ROZZI: No questions.

Q Over time, with tool marks changing due to firing, is the change a drastic one or more of a pressure change, just making it harder or more difficult to see?

A It's not necessarily I would say a pressure change, it's just that there's a subtle wear that's going on. It's not dramatic. It could be that during the process it's just wearing away at those individual marks.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: Just one question, I think.

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. LUTTRULL.

Q Was the – the very studies on longevity, including the 10,000-round study, what do those studies indicate to you about the persistence or longevity of a firearm?

A They are persistent for I can't tell you how long. It's not typically a short amount of time. It really depends what the conditions have – the firearm has been exposed to throughout that longevity period. In our studies, they'll do very minimal cleaning, because – you have to eventually, because you'll get build-up of stuff in there and that's why it needs to be cleaned, but there's not – I can't tell you definitively how many rounds it's gonna take for all of that to go away. There's no, like, hey, it's 5,000 rounds and it just suddenly disappears or drops out, it's more of a subtle, gradual thing that occurs over time.

MR. LUTTRULL: No more questions.

THE COURT: Mr. Rozzi.

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. ROZZI.

Q So what I'm hearing is there's a lot of external factors that could impact that process?

A There's – yes.

Q Some of which naturally occur in the gun when it's fired and others which are just from outside influences?

A That's correct.

Q And they – is it accurate to say that they – for example, in the Sig Sauer, when they make these guns, they try to make them as identical as possible one

from the next?

A Which –

Q When they're trying to recreate the same exact thing over and over and over again; right?

A They're trying to make the product similar, yes. They're not producing everything though consecutively. So the extractors, ejectors can come from different areas or different places, but the outside appearance to the person who buys it, yes, it's going to look similar.

Q So because all those tools come from different places, they could make different marks?

A They could make different marks.

Q Some more impressionable than others?

A That's correct.

MR. ROZZI: Nothing further.

JUROR QUESTIONS OF MELISSA OBERG

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Was a comparison made between the cartridge in item 16 and the cartridge found in the hope box at Mr. Allen's home?

A Yes, I did observe those two together.

THE COURT: Mr. Luttrull?

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. LUTTRULL.

Q I believe you may have covered it, but with all those numbers, it may not have been clearly presented by me, but what was the result of your comparison?

A Just to double-check, 315 was the first cartridge, not 316; correct?

Q 315 is the Winchester from the Defendant's home, testimony's been it came from a memento box.

A Yes, there was a comparison done of that. The item 315 was missing an ejector mark, it did not have an ejector mark, and when I made my identification in the other areas, I needed all three areas, so it was missing an ejector mark.

MR. LUTTRULL: Nothing further.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. ROZZI.

Q And the ejector mark on item 16 was really the most prominent mark on there.

A Yes, it was.

MR. ROZZI: Nothing further.

JUROR QUESTIONS OF MELISSA OBERG

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Okay. Were those two from the same lot?

A I can't answer that.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: No.

THE COURT: Mr. Rozzi?

MR. ROZZI: That was 316; right? Or 3 – I'm sorry, were we talking about 315 and 16?

THE COURT: Correct.

MR. ROZZI: 315, okay. I have no questions.

Q Would the different types of metal cartridge make a difference in the

quality of marks made when cycling a gun?

A That can occur. There's ammunition like Wolf Ammunition that's steel, and it is – and most of the time, when you fire Wolf Ammunition or steel ammunition, your quality of marks are a lot less, so that can and will happen.

THE COURT: Mr. Luttrull?

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. LUTTRULL.

Q This may be an upcoming question, but did you – in light of that, did you make a selection on test fires in any way related to the knowns that – or the unknowns that you were examining?

A Yes. So I test fired similar ammunition to it, so I test fired Winchester, nickel cartridge case, brass primer.

MR. LUTTRULL: That's all I have.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. ROZZI.

Q But you don't know when the test fires were manufactured versus item 16?

A That's correct.

MR. ROZZI: I have nothing further.

JUROR QUESTIONS OF MELISSA OBERG

QUESTIONS OF THE JURY, READ BY THE COURT.

Q You mentioned the black box studies as a measurement of performance error. The numbers you shared for false positive versus false negative, how do these percentages affect outcomes and how important is it in providing accuracy

in your findings?

A Yes. So these black box studies are very important to us to study how examiners perform. So one of the thoughts behind them is, is how many different ways can we test an examiner and what is the best way to test an examiner. The hope is, is that someday that there'll be tests that can be submitted into a laboratory system where they don't know that they're actually being tested, because black box studies can only go so far, the examiner does know that they are being tested. So these tests are to look at examiner performance, and I do believe that, at some point, that it'll change the way that the field does things and the decisions that they make. One of the important things about the final black box study that was done is that some laboratories use a five-point scale and some laboratories use a three-point scale, and so the three-point scale is what our laboratory used. It seems to be that there's a bigger variation with the five-point scale, so I do see that that will be something that AFTE will latch on to and change that thought process, that that is probably the recommended process.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: Briefly, Your Honor.

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. LUTTRULL.

Q One thing about the black box studies, in fact, almost all of these studies, there is no firearm provided to the examiner, they are only comparing ammunition to ammunition?

A That's correct.

Q Also, there is no verification process where what they provide as an answer

on the study or on the test that the examiner's taking, they don't have a verifier looking at their work?

A No, they do not.

MR. LUTTRULL: That's all I have.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. ROZZI.

Q And the examiners know they're being examined; right?

A That's correct.

Q So they're not blind studies?

A They are – they're actually double-blind studies, but the participant knows that they are being tested, so they're double-blind as in the people administering the test don't know the answers, and then also we don't know the answers, but the analyst does know that they are being tested.

Q And that was one of the critiques of those; right?

A That is – well, they still want the black box studies, but they believe that there's further routes that we can go, which is substituting into normal casework and seeing how many errors could be produced that way with, quote/unquote, fake tests, where the examiner does not know that they're being tested.

Q And the three-point grading scale versus the five has an impact on those error rates and how those are all calculated?

A It does, yes.

Q That's one of the reasons why there's – people are being critical of that; right?

A Yes.

MR. ROZZI: I have nothing further.

JUROR QUESTIONS OF MELISSA OBERG

QUESTIONS OF THE JURY, READ BY THE COURT.

Q How do false positives and/or false negatives determine the proficiency of analysis?

A So false positives, essentially what they tell us as a field is how often – well, not how often, but basically, the examiner's taking those tests. It gives us the idea for actually jurors to weight how often examiners would make a mistake in the sense that around 2.2 percent would be a false positive identification and around 2.87 would be the false negative. So these rates are to be stated so that jurors can understand at what rate typically an examiner would make a mistake.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: No questions.

THE COURT: Mr. Rozzi?

MR. ROZZI: No questions.

Q How does that translate into outcomes in the field?

A Basically, these black box studies, one thing that I think they want to do further is why and who is actually making the mistakes, but it's pretty hard when you're doing human subject testing is, is that this has to be anonymous. What we noticed about these errors is that they're usually clustered to a group of people. These errors aren't like spread out. So if we could see if they were spread out, we would be able to identify the issues and correct them, but it seems to be a very small few people making a lot of errors, and each black box study has shown that. So it's not – the distribution is not normal, it's skewed to a group of people; however, we don't know what is causing it. Sometimes errors

can be just clerical. They could be that they put two knowns up, came to an identification, but they never put it up to an unknown, so that's always a potential that it could be just clarification and it could be corrected potentially just by an administrative process that could happen. So we don't know how the errors are created in these black box studies, we just know that the errors do occur and that we would like to know how we can correct those errors and improve upon them.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: I have no further questions.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. ROZZI.

Q And there were other studies that have been done that – where the error rates are much, much higher; right?

A Could you elaborate?

Q The Ames I think, Ames 1 and Ames 2, 30 percent or more?

A That is not – that would be with an inconclusive added into the error rate.

Q But those numbers are floating around out there in the industry, aren't they?

A They're floating out there with adding the inconclusives as errors. So some people feel that we should not be allowed to use inconclusive, that we should be forced into making a guess as yes or no, which would not be legitimate.

Q All right. So if you were willing to say inconclusive, you should just be willing to say it's excluded; right?

A No. The evidence has to –

Q Yes or no?

A No.

MR. ROZZI: Thank you.

JUROR QUESTIONS OF MELISSA OBERG

QUESTIONS BY THE JURY, READ BY THE COURT.

Q At this time, what is the industry standard in forensic analysis and did the work you do align to that standard?

A So the Indiana State Police is accredited, we follow the guidelines through accreditation and we follow those processes. Through accreditation, they come in ever so often and they make sure that we are adhering to those guidelines.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: Nope.

THE COURT: Mr. Rozzi?

FOLLOW-UP EXAMINATION OF MELISSA OBERG

QUESTIONS BY MR. ROZZI.

Q But you don't use the CMS method?

A No, we do not.

MR. ROZZI: Nothing further.

JUROR QUESTIONS OF MELISSA OBERG

QUESTIONS OF THE JURY, READ BY THE COURT.

Q How significant is having individual characteristics confirmed in three tooled areas?

A I can't give a weight, it'd be inappropriate for me to do so, but it – the more areas that you can find that may have different tooled areas that come into contact with it, for me, that's looking at different areas with different tools and it

helps to show different areas and the quantity and quality of areas that I can find.

THE COURT: Mr. Luttrull?

MR. LUTTRULL: No questions.

MR. ROZZI: No questions.

THE COURT: All right. Thank you, Ms. Oberg. You may step down.

THE WITNESS: Thank you.

THE COURT: All right. Well, ladies and gentlemen, you've put in a very long day and we're gonna call it a night. While you go on about your own business the rest of the afternoon and into the evening, please, remember not to discuss the case amongst yourself or with anyone else, as you will be in the company and supervision of the bailiffs. Please have a safe and a peaceful evening, and we'll see you all in the morning. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 5:04 p.m.)

THE COURT: You may be seated. And again, as before, if you'd all just kind of sit tight until the jury gets out to the vans. Is there anything we need to do on the record outside the presence of the jury, Mr. McLeland?

MR. MCLELAND: Judge, could we have a sidebar, please, with counsel?

THE COURT: Certainly.

(Sidebar conference conducted.)

MR. MCLELAND: We're planning – I don't know who's gonna end up questioning all the DOC people, but we're planning on getting to them Monday or Tuesday – I thought we'd get tomorrow – of all the correctional officers, the

warden, the DOC people. I'm trying to – there's a lot of moving parts here, 'cause I think we have 10 to 15 people from DOC coming, plus attorneys and other things. I guess my curiosity is, is the Court gonna allow the Defense to get into safekeeping, the conditions he was in, all those things, during the questioning of the DOC people about the confessions. That's gonna dramatically change the length, I guess, of cross examination of those people. Maybe an unfair question.

THE COURT: I guess it depends on what are these witnesses gonna testify to.

MR. MCLELAND: They'll testify to the confessions he made while they were – basically, they were on suicide watch.

THE COURT: Okay.

MR. MCLELAND: The confessions he made to the warden and all the correctional officers, the confessions he made to them while they were watching him.

THE COURT: Okay. So I think the issue then is that the inmate companions – I guess is that what they're called?

MR. MCLELAND: These are all correctional officers, I'm not calling any of the inmates.

THE COURT: Okay, so it's correctional officers?

MR. MCLELAND: Just the correctional officers.

THE COURT: Well, the correctional officers don't have anything to do with the safekeeping, that's for the warden. I mean, if they're gonna question the DOC people, then that's for the warden –

MR. ROZZI: Well, I think –

THE COURT: -- and the doctor, she testified about that, and you've

got doctors that are gonna testify about that.

MR. ROZZI: I think they have perceptions about the conditions that existed at the time he made the statements, what his environment was like and the circumstances that he was under, and they're actually in the best position to explain those things, because they are the ones that had the most contact with him.

THE COURT: He's talking about the safekeeping order.

MR. ROZZI: Well, are you –

MR. MCLELAND: Are you then –

MR. ROZZI: I think –

MR. MCLELAND: I think he's kind of – that's what I'm getting at here is, are you gonna allow him to question – the correctional officers are testifying about things that Richard Allen said to them. Are you gonna allow the Defense to go into, "Well, what condition was he in? Do you agree that condition was, you know, a prisoner of war?" I mean, all these different kind of –

THE COURT: Well, they can get their – they can testify about their observations of Mr. Allen and his demeanor.

MR. ROZZI: I mean, that's what you asked for two weeks ago.

MR. MCLELAND: No, I'm fine with that, it's just gonna be –

MR. ROZZI: The time, yeah.

MR. MCLELAND: -- the length of cross.

MR. ROZZI: I agree with that, yeah.

MR. MCLELAND: And so, you know, I've got 15 people coming –

MR. ROZZI: I agree with that.

MR. MCLELAND: -- which I have the –

THE COURT: Well, I mean, and at some point, we need to cut off the cumulative, cumulative, cumulative, cumulative, and that's kind of my thought is that, you know, pick the –

MR. ROZZI: So why don't we cut it down to one confession and we'll just –

THE COURT: Well, I mean, it's – they can present whatever they need to present, but if it's gonna be the same repetitive questioning –

MR. ROZZI: Yeah, yeah.

THE COURT: -- then yeah, then we're getting into – this jury's getting bored, all of the repetition. I've been watching them pretty closely and they're – I mean, they're kind of – they're paying attention, but they're getting frustrated with the repetition.

MR. ROZZI: And maybe we should shorten the – you know, try to do a little more strict of breaks and things, just to keep them fresh, 'cause it is a long haul.

MR. LUTTRULL: They did ask good questions.

MR. ROZZI: You know what I mean? A couple ten-minute breaks?

THE COURT: They're asking very good questions.

MR. ROZZI: Yeah, I mean, they're very attentive.

MR. BALDWIN: In that last round.

THE COURT: No, I'm just saying I think we need to –

MR. ROZZI: Yeah.

THE COURT: -- just be cognizant of asking the same question 15 times, hoping we're going to get a different answer isn't working. It hasn't been working. So I think we need to focus on the issues and not continue to ask the

same question, hoping that we're gonna get a different answer.

MR. MCLELAND: Thank you, Judge.

THE COURT: Okay.

MR. BALDWIN: Do you know who you're – are you rolling –

MR. MCLELAND: Well, let's talk –

MR. BALDWIN: Yeah.

MR. MCLELAND: -- off –

THE COURT: And what is your client drinking in that cup –

MR. BALDWIN: Coffee.

THE COURT: -- that we did not provide to him?

MR. BALDWIN: Coffee.

THE COURT: Where did that come from?

MR. BALDWIN: Across the street at the coffee shop.

THE COURT: Okay. Are the guards okay with that?

MR. BALDWIN: They're good with it.

THE COURT: Okay.

MR. BALDWIN: Yeah.

THE COURT: Okay.

MR. BALDWIN: I mean, they know what's going on. We go down to lunch, Judge, and we bring food from the same place and we all eat downstairs together and they're good with it.

THE COURT: As long as they're aware of it.

MR. ROZZI: Yeah. They asked us if we were gonna provide him food, so –

THE COURT: Oh.

MR. ROZZI: The first day we were here.

THE COURT: Oh, okay.

MR. ROZZI: Yeah.

THE COURT: 'Cause the jail provides his food.

MR. ROZZI: Yeah, I know. They said, "Well, if you're gonna supply something –

THE COURT: Oh.

MR. ROZZI: -- let us know and we'll mix and match."

THE COURT: Okay. As long as they're aware of it.

MR. ROZZI: Okay. Thank you.

(Sidebar conference concluded.)

THE COURT: All right. Anything else we need to discuss, ladies and gentlemen?

MR. ROZZI: No.

THE COURT: No? All right. So –

MR. LUTTRULL: I don't believe so, Your Honor.

THE COURT: All right. We'll reconvene tomorrow morning at nine o'clock. And yes, you may all leave now.

(Off record at 5:09 p.m.)

(On record October 26, 2024, at 9:03 a.m.)

THE COURT: All right. 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 the prosecutor and his deputies. All of the jurors have reassembled. Are we ready to bring them back into the

courtroom, Mr. McLeland?

MR. MCLELAND: Yes, Your Honor.

THE COURT: Mr. Rozzi, we ready?

MR. ROZZI: Yes.

THE COURT: Okay. And I believe we talked up here at the bench, we have one witness for the day.

MR. MCLELAND: Yes, Your Honor.

THE COURT: And the Defendant will be providing copies for the jury of the exhibits that we had yesterday, you'll get those copies on Monday, and I think that's fine, that's not a problem. So –

MR. MCLELAND: Judge, we do have one copy of the exhibit that we admitted yesterday, if we may publish to the jury before we call the witness –

THE COURT: Sure.

MR. MCLELAND: -- in conjunction with whatever the Defense needs to publish.

THE COURT: Okay, sure. No problem. All right, let's go.

THE BAILIFF: All rise.

(Jury in at 9:07 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Give you a minute to get settled in over there, ladies and gentlemen. All right. Well, good morning. It's good to see everybody this morning. I hope you had a pleasant evening. Again, as we have parted company and you've had access to your phones and electronics to contact family and check your work emails, always under the supervision of the bailiffs, I'll just continue to ask you the series of five questions that probably, in a couple of days,

you're gonna recite back to me, 'cause I keep saying them so much. So, ladies and gentlemen of the jury, 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 has anybody persisted in attempting to discuss this case with you?

A (All jurors respond in the negative.)

THE COURT: All right. Well again, thank you, ladies and gentlemen, for continuing to honor the Court's directions about making a decision on the evidence and not on any outside influences. So we are ready to proceed. Mr. McLeland – oh, Mr. Luttrull.

MR. LUTTRULL: Thank you. Good morning, Your Honor.

THE COURT: Good morning.

MR. LUTTRULL: We would ask to pass redacted copies of State's Exhibit 279.

THE COURT: You may.

STATE'S EXHIBIT 279 PUBLISHED

MR. LUTTRULL: Looks like I counted correct, Your Honor.

THE COURT: Okay.

MR. ROZZI: Judge, I – as I mentioned, we were having some issues with the copier here in the courthouse, so on Monday, we're gonna make copies of those microscopic photos.

THE COURT: Oh, okay. Thank you. Yes, so we'll have those available for you then on Monday morning, ladies and gentlemen. All right.

MR. ROZZI: Thank you.

THE COURT: You're welcome. All right. You may proceed, Mr. McLeland.

MR. MCLELAND: Judge, the State of Indiana would call Indiana State Police Lieutenant Jerry Holeman, please.

(Witness sworn.)

DIRECT EXAMINATION OF LIEUTENANT JERRY HOLEMAN

QUESTIONS BY MR. MCLELAND.

Q Lieutenant Holeman, you've testified here before. I just want to remind you that the microphone doesn't amplify for the people inside the well or in front of the court, so if you could just speak up and use your best outside voice. Fair enough?

A Yes.

Q Will you state your name, please.

A Jerry Holeman, H-O-L-E-M-A-N.

Q How are you employed?

A With the Indiana State Police.

Q And what is your rank with the Indiana State Police?

A I'm a lieutenant.

Q Lieutenant Holeman, you were in the courtroom yesterday during the testimony of Melissa Oberg; is that correct?

A Yes, I was.

Q And were you able to hear her testimony and see the evidence presented to her?

A Yes, I did.

Q I wanted to start off with a point of clarification. There was some information brought up about the results of her findings concerning matching a bullet to a gun, comparing that to a paternity test; do you remember that line of questioning?

A Yes, I do.

Q And is that something that you believed?

A Yes.

Q And is that something that you put out to other people?

A Yes.

Q And after her explanation yesterday, you have a better understanding that that may not be the case?

A I do.

Q She talked about an error rate.

A Yes.

Q You recall that?

A Yes, she did.

Q And what do you recall the error rate being?

A I recall her talking about error rates with different tests and I remember her saying the error rate in the paternity test was low, so I compared that to what

she was saying about the bullet and I didn't – at the time, I did not recall what she was saying the error rate was for the round, but I think it was 2 percent or .2 or something like that.

Q Do you understand after her testimony yesterday that's not what she was saying?

A Yes. I misinterpreted what she was saying.

Q Was that belief held by others in Unified Command?

A Yes.

Q And so there was a lot of people that believed that it was comparable to a paternity test?

A Yes, we did.

Q There was also statements brought up about Melissa Oberg stating that, after she examined the bullet, that it could be matched to a Smith and Wesson or a Sig Sauer; you recall that testimony?

A Yes, I do.

Q And is that something you believed, that after she examined the bullet, that the bullet was gonna be matched to either a Smith and Wesson or a Sig Sauer?

A That's what we believed.

Q Did you hear her testimony yesterday?

A Yes.

Q Okay. And so is that something you're conceding you misrepresented or misunderstood from her, as well?

A Yes.

Q However, you did examine Sig Sauers and Smith and Wesson; is that

correct?

A Yes, we did.

Q And the gun you found in Rich Allen's house is what brand?

A Sig.

Q Okay. I want to start off with – we went over some of your training and experience the last time you testified; do you recall that?

A Yes, I do.

Q I want to talk about some of your specific training on interviewing a suspect. Can you tell the jury some of the specific training that you've have in doing interviews of people.

A Sure. Basic training, obviously, in the police academy, just basic interviewing techniques, how to document. And then I've been to Reid Interrogation School and Advanced Reid, and that basically talks about how to interview suspects, witnesses, build rapport, what you can and what you can't do, I've been through that training. It's been a while since I've been to that training, I think it was 2006, maybe '7. And then, I've also been to Finding Words, that's how to interview sexually abused children, a different type of interviewing technique. And I've also been to CIT, which is – I forget the abbreviation, but, basically, it is how to detect someone with a mental illness and how to talk to them and interview them.

Q And those techniques that you learned through those different training seminars and classes, have you used those while you're interviewing people?

A Yes, I have.

Q And this is an unfair question, but how many people have you interviewed through your career?

A Hundreds. I – my best guess.

Q And you talked a little bit about some of the – you touched base on them a little bit, but what are some of the techniques that you've learned – through that training and experience, what are some of the techniques that you've learned that you use during the interview of someone?

A First, you want to try to build a little bit of rapport with them, if you can, talk to them. Other thing is you want to present evidence that you might have, show them pictures or something to that effect. You can even lie to them, lie to them about the amount of evidence that you have or overexaggerate the evidence. Those are some of the techniques that you can use. And then, reading their body language is something that I've been trained in a little bit.

Q And have you used those different techniques in interviews of people you suspect of crimes?

A Yes, I have.

Q And have you used those techniques often when interviewing people suspected of crimes?

A Yes.

Q I want to take you back to October 26th of 2022; do you recall that day?

A I do.

Q And is that the day that you interviewed Richard Allen?

A Yes, it was.

Q And that interview, in part, was recorded; is that correct?

A Yes.

Q And from that recording, there was a transcript created of that interview; is that right?

A Yes.
Q And would you agree with me – sorry, let me back up. Have you had an opportunity to review that transcript?
A I have.
Q And you may not know the length, but if I told you the transcript was 80 pages long, do you have any reason to disagree with that?
A No, I don't.
Q Have you memorized every word within that transcript?
A No.
Q And so when I ask you questions about the interview, are you gonna be able to recite back to me the specific question you asked?
A No.
Q Are you gonna be able to recite back to me the specific answer that Richard Allen gave?
A No.
Q But you have reviewed that transcript?
A I have.
Q And you're familiar with the interview?
A Yes, I am.
Q So I want to talk about that interview. Again, October 26th of 2022; is that the day you recall?
A It is.
Q And tell me where that interview took place.
A The interview took place at the Indiana State Police Post in Lafayette, Indiana, in one of our interview rooms.

Q And at the time of the interview, did you have the information about Melissa Oberg's findings?

A I did.

Q And so the information, as you understood it prior to calling Richard Allen in, the information pertaining to the gun found at Richard Allen's house and the bullet at the crime scene, what information did you have?

A I had the initial report that she made, the certificate of analysis, and it told us that the round found at the scene matched Richard Allen's gun that we found at his house.

Q Now, you're not using the same language as Ms. Oberg used.

A No.

Q You understand that?

A I am – yes, I am not.

Q But you had that information or you knew that information before you called Richard Allen?

A Yes.

Q And so the interview took place at the Indiana State Police Post. How did you get Mr. Allen to the post?

A I believe Steve Mullin communicated with him and arranged him to show up I believe a couple days before that, and then they had to reschedule, and then he and his wife came there. I don't know how they got there or who drove, but they drove there.

Q What was the reasoning for them coming to the post?

A We wanted to talk about the – giving back some items and also find out an explanation of why that round was at the scene of two murdered girls.

Q At that point, we had also confiscated his car as part of the search warrant of the house; is that right?

A Yes, and we planned on giving that car back.

Q And in fact, you told him that, "Come to the post. We're prepared to release the vehicle to you"?

A Yes.

Q When he got to the post, what happened?

A I escorted him back to the interview room and I started the interview.

Q At that point, when he went back to the interview room, was he under arrest?

A No.

Q At that point, was your plan to arrest him?

A No, it was not.

Q Did you read his *Miranda* rights?

A No, I did not.

Q Did you remind him of his *Miranda* rights?

A I did remind him of them.

Q Tell me about that.

A I knew that he'd been interviewed a few days before that by Steve Mullin and Tony Liggett. I asked him if he remembered being interviewed and read his rights, and he said he did.

Q When he got to the post, where did you take him?

A I took him to the interview room.

Q And was the door locked?

A No.

Q Was he free to leave?
A Yes.
Q How many people were in the room when you did the interview?
A Most of the time, just one. There was one point where Detective Vido came in there for a short time.
Q And did you then begin the interview with Richard Allen?
A I did.
Q Tell me how you began the interview.
A I believe I just talked to him about if something was damaged, like I did the other day when he was there, if he had anything damaged. I think I gave him a copy of a tort claim, that's the process if you have property damaged, you can fill that out. We talked about some of the articles, the lab wanted me to find out if anybody had ever borrowed any of that for a long period of time, so we talked about that initially.
Q Did you also talk about firearms?
A We did.
Q Did you talk about your time in the Marines?
A I did.
Q And why would you do that?
A Just building rapport. I knew he was in the Army, we were both in the military. We talked about types of guns that we had in the military, type of guns he had, type of guns I had.
Q Did you talk about firing those guns?
A Yes.
Q Did you talk about frequency of firing those guns?

A Yes.

Q Can you tell me about that.

A I think I made a comment about if I could build an indoor range, I would shoot my Sig every day, if I could afford the ammo. And I asked him if he shot his every day or how often, and he said he hadn't shot it very often, he didn't have that much experience, and it's been a while.

Q You then continued with the interview; is that correct?

A Yes.

Q What did you do next?

A At some point – I don't know the exact order, but at some point I showed him the results and confronted him about why his round was at the murder scene.

Q Before that, did you have any discussion with him about loaning out items that he owned?

A Yes.

Q Will you tell me about that, please.

A Yes. I asked if anybody ever borrowed his car for a long period of time. I gave him an example of a friend of mine had a fuel pump go out, I let him use my truck, he said it'd be a week or two, it ended up being four or five months. And he said no, nobody's ever borrowed his car. I asked him about clothing articles, I gave him an example that I wear my son's coat sometimes, I may keep it for a year and give it back. And he said no, no one's ever borrowed any of his clothes that he knew of. And I asked him if he'd ever lend his gun out. The example I gave him is my son-in-law collects guns; sometimes, he gets low on finances, so he'll give me one of his guns and I'll give him $500 and then, when

he pays me back, I give him his gun back. I asked him if he's ever done anything like that and he said no, he did not think he'd ever lent his gun out to anybody.

Q Why did you put those personal examples in there when you're asking him those questions?

A Just to make sure he understands exactly what I was asking.

Q Is it also part of the rapport building?

A It is.

Q You asked him about the firearm, if he'd ever loaned it out; correct?

A Correct.

Q And what was his response, do you recall?

A No.

Q Did you talk to him about his statement about where he was on February 13th of 2017?

A Briefly.

Q Did you ask him – did you talk to him about his firearm that he had and whether or not he had it on that date?

A I did.

Q Tell me about that, please.

A I asked him if he normally carried his firearm and he said no, he only carried it when he was fishing or mushroom hunting. I asked him if he had it that day and he said no.

Q So he told you no, he did not have his firearm that day?

A Correct.

Q What did you do next? After you talked about those issues or those topics, what did you move on to next?

A I think that's when I confronted him about the round being there.
Q Tell me how – tell me about that.
A I told him that we had a report from the lab, saying that the gun that we recovered from the search warrant matched a round that was found I think I may have said 6 inches from one of the girls' foot and in between the other girl.
Q When you told him that, what was his response?
A He denied it. He didn't know how – he couldn't explain how that round would have got there.
Q Let's talk about his demeanor at the beginning of the interview; what was his demeanor at the beginning of the interview?
A Calm, I'd say normal.
Q Did his demeanor change when you confronted him with that information?
A Yes. I confronted him multiple times about it and, each time, he became more agitated.
Q When you initially confronted him with it, he denied it; correct?
A Yes.
Q And you carried on with the interview; is that right?
A I did.
Q At this point, when you confronted him with that information, was he under arrest?
A No.
Q At that point, in your mind did you say, "I'm going to arrest him"?
A No.
Q You continued to talk about the findings; is that correct?
A I did.

Q And at one point, you asked him about a comment that he made to you during the search of his home; do you recall that?
A I do.
Q Tell me again the comment he made during the search of his home.
A I believe it was, "It doesn't matter. It's over."
Q And you confronted him about that comment during this October 26th, 2022, interview; is that correct?
A I did. I told him I was concerned about that comment and asked him what he meant by it.
Q And what was his response?
A He said the damage was done, I believe. He said that we'd interview – interviewed his neighbors, his co-workers, and everybody believed that he did it, and that we've already basically, in my words, ruined his life.
Q At that point, had we announced to the public or anybody that an arrest had been made?
A Not to my knowledge, no.
Q After you confront him with the information from Melissa Oberg, what do you do next?
A At some point – I don't know exactly the order. At some point – I think I gave him a water early and I asked him if he wanted to take a smoke break, I knew he smoked, and asked him if he needed to use the restroom, so I gave him a break.
Q Did you continue to confront him with evidence?
A Yes.
Q And at some point, did you talk to him about the video from L.G.'s phone?

A I did.
Q Did you talk to him about the voice on the video?
A Yes.
Q And what did you tell him?
A I told him that we had witnesses that saw him out there. I also told him we had experts that said that's him on the video and that's his voice.
Q At that point, did you have experts telling you that?
A No, we did not.
Q And so you lied to him?
A I did.
Q Had you done that in other interviews with suspects that are suspects in crimes?
A Yes, I have.
Q Is that a technique that you've learned from your training and experience?
A Yes. It's an approved technique that we use to elicit responses from the person that we're talking to.
Q You continued to discuss the findings; is that correct?
A Yes.
Q And throughout this investigation or throughout this interview or interrogation even, did Mr. Allen give you any explanation of how his bullet got to the crime scene?
A No.
Q What did he tell you?
A He just kept telling me there's no way that's his bullet, no way that that bullet came from his gun. He just continued to deny.

Q Did you ask him whether or not he committed these offenses?
A I did.
Q And what was his response?
A No.
Q And he continued that response throughout the interrogation; is that correct?
A Yes.
Q And you had an opportunity to review the transcript?
A I did.
Q How many times did he deny participating in the murder of A.W. and L.G.?
A I would say between 20, 25. That's a guess, I didn't count.
Q He also denied having his gun that day on the trail; is that correct?
A Yes.
Q Each time you confronted him with the information from the lab about his bullet being at the scene, did he have any explanation?
A Never, no.
Q Did you ask him if he'd ever been to that area where the bodies were?
A I did.
Q Did you ask him if he'd ever been mushroom hunting or hunting out there?
A Yes.
Q And what was his response?
A He said no.
Q At some point then during the interview, did he inform you that in his past he had had some mental health struggles?
A He did.

Q What did he say?
A I believe he said that he had been suffering from depression and maybe anxiety.
Q After he informed you of those things, did he continue to deny any involvement in this?
A He did.
Q Did he continue to deny the findings from the lab that his bullet was found at the crime scene?
A Yes.
Q You have training to pick up – you talked about some training that you have, I think the CIT training, that deals with people you're interviewing that may be suffering from mental health effects; is that correct?
A Yes.
Q From that training and experience, when Richard Allen informed you that he had depression, anxiety, and those kind of things, did you pick up on any of those things you'd learned from that training and experience?
A No. I just remembered it's Critical Incident Training, and no, I did not observe any obvious signs of mental health issues.
Q As the interview continued, did his demeanor change?
A Yes.
Q Tell me about that.
A After I asked him 20, 25 times about the crime, he became – he started becoming agitated with me.
Q Did you ask him if he ever had fired his .40-caliber weapon on the property around the bridge?

A I did.
Q Tell me about that.
A Just asked him if he ever had the gun out there, ever target shot the weapon out there in that area, and he said no.
Q After he told you about his mental health issues that he had, you continued on with the interview; is that correct?
A I did.
Q At some point – well, let me back up, let me rephrase the question. At some point, did he make a statement about him not confessing to something –

MR. BALDWIN: Objection: Leading.

MR. MCLELAND: I'll restate the question.

THE COURT: Sustained.

Q He continued to deny that he was involved in that; is that correct?
A Yes.
Q And what else did he say about denying being involved in the crime?
A He said multiple times, "I'm not gonna tell you something I didn't do." And he made the comment one time that, "I don't care what you do to me, I'm never going to tell you that I did something that I didn't do."
Q You continued to talk to him after that; is that correct?
A Yes.
Q Did he deny that he'd ever contacted A.W. and L.G.?
A He did.
Q Did he deny knowing the two girls?
A Yes.
Q As the interview goes on, did his demeanor continue to change?

A Yes. Like I said, he just became more agitated with me.
Q And at some point, did the conversation between the two of you get heated?
A Yes.
Q Can you tell me about that.
A I think he indicated that he was pissed off and said he didn't fucking do it, and then I believe I raised my voice and cursed back at him several times.
Q Why did you raise your voice and cuss back at him?
A Usually, I match their demeanor and try to speak their language, so the whole beginning of the interview, neither one of us were cursing at each other, but once he started cursing, I thought that's a way that you speak their language, you talk to them in their language to try to get them to understand that you're being serious, as well.
Q Did you then go back to talk with him about if his gun had ever been loaned out to anyone?
A I did. I think I revisited that a couple of times.
Q And did he give you a different answer when you asked those questions?
A No, he did not.
Q Did he ever give you a different answer or a different explanation of how his bullet got to the crime scene?
A Can you rephrase that? I'm sorry.
Q Did he ever give you any explanation during the interview of how a bullet that was cycled through his gun got to the crime scene?
A No.
MR. BALDWIN: Objection to the bullet's cycling through his gun and move to strike on that. That's an opinion for the jury.

MR. MCLELAND: That was the opinion of the expert, Judge, that we heard yesterday. Those were the words that she used –

THE COURT: Overruled.

MR. MCLELAND: -- how she was able – sorry.

THE COURT: Overruled.

MR. BALDWIN: Judge, may I approach?

THE COURT: Sure.

THE WITNESS: Judge, may I get my water?

THE COURT: Yes.

(Sidebar conference conducted.)

MR. BALDWIN: So basically, what you've just done is said to the jury, in my opinion, respectfully, that that round cycled through Rick's gun, that that bullet cycled through Rick's gun. That's just what happened. I'm just being straight with you, Judge.

THE COURT: I'm sorry, I'm not understanding –

MR. BALDWIN: It's an opinion to say –

THE COURT: That was his question. You objected.

MR. BALDWIN: Yeah. And then you said – and then his response was, "That's what the expert said." And then you said, "Overruled."

THE COURT: Overruled.

MR. BALDWIN: Which now tells the jury – and it's telling the jury that that gun – that bullet was cycled through the gun, as the Judge has accepted that.

THE COURT: No. I overruled his object – your – sorry, I overruled your objection, and that is what the expert said. That's for the jury to determine

whether they believe that.

MR. BALDWIN: Well, he didn't couch in terms of the expert, he couched it in terms of that bullet was cycled through the gun.

THE COURT: That is correct. And then, when you objected, I asked for his explanation and his explanation was recounting the witness's testimony. And it's up to the jurors as to the weight that they give that.

MR. BALDWIN: Well, that's what I said and then you overruled it, making it sound like what I said was not, you know – that he was correct and I was not correct. I mean, I think it's solved by saying to the jury, you know, "You are the trier of fact if you believe the expert or not." Just to – I'm sorry, I don't know that I'm explaining it very well, but it – I think it just came off as – when I objected to that, he should have rephrased and said that's, "Yes, and I'm saying it as the expert said."

THE COURT: Then, perhaps you should rephrase that question.

MR. MCLELAND: That's fine, Judge. I can do that.

MR. BALDWIN: Thank you. I appreciate it.

(Sidebar conference concluded.)

Q Lieutenant Holeman, I'm gonna rephrase the question. Again, you were here yesterday during the testimony of Melissa Oberg.

A Yes.

Q And you heard her testimony that her belief was the round found at the scene was cycled through the firearm found at Richard Allen's house?

A Yes.

Q And that's what you believed during the interview of Richard Allen; is that correct?

A Yes, I did.
Q And you confronted him with that information that was transmitted to you from the expert; is that correct?
A Yes. I had the certificate of analysis with me.
Q And so during the interview of Richard Allen, were you of the same belief as the expert?
A Yes.
Q That the – your belief was that the bullet found at the crime scene had cycled through Richard Allen's gun?
A Without a doubt, that's what I believe.
Q That was your belief?
A That was my belief.
Q You used that belief to confront Richard Allen with those findings during his interview; is that correct?
A I did.
Q And so as you're interviewing Richard Allen, you're telling him your belief; correct?
A Yes. Yes.
Q That the – sorry – that the cartridge was cycled through his firearm?
A Yes.
Q And you confronted him with that several times throughout the interview?
A I did.
Q And did he ever give you an explanation for that?
A No.
Q Well, he did give you an answer for it though; right? What was his answer

when you confronted him with that information?

A I don't remember exact words, but something to the effect, "There's no way that round cycled through my gun or was in my gun, and I don't know how that round got there," something like that.

Q You followed that up with a question though; is that correct?

A I don't remember, but I'd have to –

Q Did you ask him how his firearm – or how his bullet got to the crime scene?

A Yes.

Q And what was his explanation?

A He didn't have one. He didn't know.

Q Did you ask him if he was on that – on the trail on February 13th of 2017?

A I did.

Q And what was his response?

A He was. He said he already told me or told us that he was out there.

Q Did you ask him if he was on the Monon High Bridge on February 13th of 2017?

A I believe I did.

Q And what was his response?

A I think it was similar to the same one, "I already told you I was out there."

Q What about what he was wearing on February 13th, 2017?

A Same response, he said, "I've already told you what I was wearing out – when I was out there."

Q At some point in the interview, you said you allowed him to take a break; is that correct?

A I did.

Q And after the break, did you continue the interview?
A Yes.
Q And was there anything else during the part of the interview when he came back from the break that stuck out to you?
A A few things.
Q Tell me about those.
A At one point, he told Kathy that, "All you have to do is ask for a lawyer and they have to let you go. Don't worry about me."
Q Well, let's back up a little bit. At some point in the interview – who's – let me ask you this: Who's Kathy?
A Kathy is Mrs. Allen, Richard's wife.
Q And you said in the beginning that in the interview is just you and Richard Allen.
A Yes.
Q Okay. Tell me how Kathy comes into play.
A I can't remember exactly when, but we allowed her to come in and talk to Richard.
Q And were you in the room during the two of them talking?
A No. I was observing.
Q And did Richard Allen have a conversation with Kathy?
A Yes. I should rephrase that, I was observing most of it. I came back in at some point and we were all three in there.
Q And during the time that all three of you were in there, did you observe the conversation between Kathy and Richard Allen?
A I did.

Q When you were out of the room, did you observe the conversation between Kathy and Richard Allen?

A Yes.

Q And you stated that one thing that he said was interesting, you were starting down that road, and what was the comment?

A I can't remember exactly how he made it, but he told Kathy that, ask for a lawyer, we'd have to let her go, "Don't worry about me," or something to that effect.

Q Did you then continue to question Richard Allen?

A I did.

Q Did you continue to talk to him about his firearm?

A I did.

Q Did you ever ask him questions concerning how he carries his firearm?

A Yes. I asked him how he – if he carried it, how he would carry it, and he said he had a side holster that went on his belt.

Q What about ammunition when he carried his firearm, did he talk about that at all?

A Yes. I asked if him if, when he carried it, did he carry one in the chamber or just the magazine in there, and he told me that he thought he normally would carry the gun with one in the chamber.

Q At this point in the interview, was Richard Allen under arrest?

A No.

Q At this point in the interview, had you decided that you were going to arrest him?

A No.

Q At any point during the interview, did he give you any indication that he knew A.W. and L.G.?

A No.

Q Did he give you any indication that he had murdered the two of them?

A No, he did not.

Q Did he give you any indication that he carried his firearm when he was on the trail on February 13th of 2022?

A No.

Q Did he give you any indication of how his round or a round was found between the bodies of the two girls?

A No.

Q During the conversation you had with him, you were able to – you testified you were able to observe his demeanor.

A I did.

Q And through your training and experience, are you able to identify when a suspect is being deceptive with you?

A Sometimes.

Q What kind of things do you look for?

A There's many, and I'm no expert at it, but touching their face –

MR. BALDWIN: I'll object to the rest of his answer.

MR. MCLELAND: I can build a foundation, Judge.

THE COURT: Sustained.

Q You have training and experience with interviewing people who have been suspected of crimes; is that correct?

A Yes, I have.

Q And then, in some of those instances, those suspects have lied to you; is that correct?

A Yes, they have.

Q Now, you testified to your training. Which part of this training has taught you to pick up on cues from a suspect to show when they're showing deceit?

A I believe it was the Reid and Reid Interrogation, but I'm not a hundred percent sure.

Q And how do you use the techniques in the Reid training that have helped you – or do you use techniques from that training that help you pick up on cues of when someone is being untruthful?

A Yes, I have.

Q And have you done that in the past?

A Yes, I have.

Q And did you do that in this interview?

A I did.

Q Did you pick up on any cues that Richard Allen was being untruthful?

MR. BALDWIN: Preliminary question.

THE COURT: Yes.

MR. BALDWIN: Please tell us these pieces of information you learned at your Reid Technique seminars or training that allow you to testify as you're about to testify.

A I'm not sure if it was the Reid, but at some point I've had training in watching body language, touching of the face, looking away, looking down, things like that. I don't know all of them, but those are some cues.

MR. BALDWIN: Okay. So the touching of the face, who as it that

told you – which trainer told you about this touching of the face business and what is it that they said that the touching of the face – how and why it indicates that somebody might be deceptive?

A I don't recall who told me, but I just know that if somebody continues to rub their face or make any hand movements, that's a sign of deception.

MR. BALDWIN: So this is a sign of deception is what you've been trained? (Demonstrates)

A It could be.

MR. BALDWIN: Okay. What was one of the other ones?

A Looking away, not making eye contact.

MR. BALDWIN: No eye contact. And who was the instructor that talked about and what were their credentials to come up with that?

A I don't recall, sir.

MR. BALDWIN: What was another one?

A Looking down. I guess that would be –

MR. BALDWIN: Looking down. Who was the instructor on that and what was their credentials to know that?

A I don't know.

MR. BALDWIN: I'll object to this question – line of questioning.

MR. MCLELAND: Judge, I think he's laid a foundation from his training and experience. He can at least testify to his observations during the interview that he's made. I think it goes more to weight. Defense can argue that it shouldn't be given any weight, but I think he can at least testify to his observations during the interview.

THE COURT: Overruled.

Q Lieutenant Holeman, were there signs that you saw during the interview of deception by Richard Allen?

A A few. Nothing obvious, no.

Q What were those?

A Just very minor, being very – denial and touching his face, looking down, not making eye contact at some times.

Q Now –

A Very subtle.

Q Very subtle. Now, you're not suggesting on the stand today that everybody that denies is being deceptive, are you?

A No.

Q You're not suggesting that everybody that touches their face is being deceptive, are you?

A No.

Q But these things stuck out to you during this interview specifically with Richard Allen?

A Those and some of the comments he made.

Q Okay. Do you remember any of his comments specifically?

A I remember one comment where I told him that I didn't think that his wife and I thought he was a bad person, and he looked at me and said, "What kind of good person would kill two girls?"

Q And so that comment gave you some concern?

A A little bit.

Q At some point during the interview, do you escort his wife, Kathy Allen, back out of the interview?

A I do.
Q Do you go back in and talk to Richard Allen some more?
A Briefly.
Q At that point, was Mr. Allen under arrest?
A No.
Q At that point, was he still free to leave?
A Yes.
Q Throughout this entire interview up until now, is he free to leave?
A Yes, he is.
Q Did he ever leave?
A Only when we went out to a smoke break and he came back.
Q Did he ever end the interview?
A He never ended the interview. He did say, "I'm done," a couple times, but continued to talk.
Q And you advised him of his – or you asked him if he knew his *Miranda* rights?
A I did.
Q And what was his response?
A He said he understood.
Q So we come to the end of the interview, where it's him and you in the room; correct? And what happens next?
A Well, I believe that's where it got a little more heated and I told him that I thought he did it and, at some point, he said, "Take all your evidence and just arrest me."
Q And at that point, did you leave the room?

A I did.
Q And did you meet with other investigators?
A Yes.
Q And what was the decision made at that point?
A Our decision was to detain him for the murder of A.W. and L.G.
Q And why did you do that? Why – let me back up – yeah, why did you do that?
A We felt that we had enough evidence to establish probable cause to make an arrest.

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

THE COURT: Mr. Baldwin.

MR. BALDWIN: Thank you.

CROSS EXAMINATION OF LIEUTENANT JERRY HOLEMAN

QUESTIONS BY MR. BALDWIN.

Q I saw you looking down quite a bit during your testimony, looking down like that. (Demonstrates) Is that one of those signs of deception you were talking about earlier?
A That could be a sign of deception, yes.
Q The nice, calm guy on the stand right here is not the same guy Richard Allen experienced, is it?
A Yes.
Q Now, you testified that you reminded Richard of his *Miranda* rights.
A I did.
Q And that you also told him he was free to leave.

A I did.

Q And that's important, because if you didn't do those things, somebody might scrutinize the constitutionality of that interrogation; would you agree?

A I would, I would agree with that.

Q But surprisingly, you telling Richard Allen that he was free to leave and you reminding him of his *Miranda* rights is missing on the video, isn't it?

A At the beginning, we had technical difficulty with the audio/video recording equipment.

Q And so what happened was – this is what you say, there was technical difficulty, that's what you claim.

A That's what happened.

Q And then, when you learned that, then you came outside – this is what you say, you went outside. Dave Vido came in and said, "Hey, it's not working" or something; correct?

A Right.

Q And then you went outside; correct?

A Yes.

Q And then you got it working?

A Somebody got it working.

Q And then you sort of – when you were outside, it started working and it was recording; correct?

A It appeared to be, but I'm not sure if it was yet or not.

Q Well, that's not what you told me.

A To me, it looked like it was, yes.

Q Well, you said to me in a deposition that there were – that you saw with

you own eyes the three dots –

MR. MCLELAND: Judge, may we approach, please?

THE COURT: Yeah.

(Sidebar conference conducted.)

MR. MCLELAND: I don't (inaudible) but we all see what he did last time. He wants to read the transcript into the record. That's not how you impeach a witness with a transcript. That violates the Rules of Procedure. Ask him a question. If he doesn't remember, you can show him his transcript to refresh his recollection.

MR. BALDWIN: That's fair.

THE COURT: Okay.

MR. BALDWIN: Apologize. I'll do that.

THE COURT: Okay.

(Sidebar conference concluded.)

Q Do you remember taking a deposition back in May of this year with me?

A I took – I think I did three altogether, I can't remember.

Q I think you did two, but one was August 10th of 2023; right?

A Yes.

Q And the other was May the 3rd of 2024?

A I'll take your word for it.

Q Okay. And would it help refresh your memory as to whether or not you knew that that was recording when you walked into – back into the interrogation?

A No. I told you, I thought it was recording, yes.

Q Yeah. You saw it recording with your own eyes, you saw the three dots

that shows it's recording; correct?

A Yes.

Q And the problem with your story – and so, therefore, we should see you walking into the interview, because it's already recording, and sitting down with Richard Allen; correct?

A There's a delay in the recording.

Q Oh, there's a delay in the recording?

A Yes.

Q So we don't get to see you walking in. Even though it is recording, we don't get to see you walking in and sitting down, do we?

A It starts after, the delay makes it start after I get in there.

Q So it's recording, but then there's a delay somehow as you walk in – as you see it recording, then there's a delay; that's your explanation?

A That's what I believe, yes.

Q Okay. So we don't see you – strike that. The recording does not show, therefore, you telling him about his *Miranda* rights, reminding him of those; correct?

A That is correct.

Q And that he was free to leave?

A That is correct.

Q This is one of many missing videos in this case; would you agree?

A I don't know.

Q You don't know about –

A There's some missing videos, yes.

Q And some missing videos from February of 2017?

A We had a lot of technical difficulty with audio and video.

Q From March – or April the 28th to June the 2nd, a bunch of videos gone?

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

THE COURT: Sustained.

Q So we just have to take your word for it then that you read him – that you told him about his *Miranda* rights and told him he was free to leave?

A My word and the witnesses that were observing that day.

Q And you were here I think it was two days ago when Steve Mullin testified, were you not?

A I was.

Q And he talked about the first interview of October the 13th.

A He did.

Q And then your interview was October the 26th; right?

A Yes.

Q Okay. And you heard him also say that there was a similar demeanor change in Richard Allen in his – at the end of his interrogation?

A Yes. I observed that interrogation, as well, but I don't recall it.

MR. BALDWIN: Judge, at this time, I would move to admit both the October 13th and the October 26th interrogations and ask them to be played for the jury. The State has put into play Mr. Allen's demeanor and I think that that is only – can only be seen and understood and interpreted by the viewer of the video.

THE COURT: Perhaps you should mark those, then.

MR. MCLELAND: Judge, do you want to have a sidebar before he

does that?

THE COURT: Sure.

MR. MCLELAND: There may be some issues we need to speak about, Judge.

THE COURT: Oh.

(Sidebar conference conducted.)

MR. MCLELAND: Do you want to put those in?

MR. BALDWIN: Yeah. Well, I –

MR. MCLELAND: Do you want to put the whole interviews in?

MR. BALDWIN: Yeah, outside of the – there was just one thing on the second one about the polygraph that I don't think –

MR. MCLELAND: No, there's several spots.

MR. BALDWIN: Okay. Well, play the first one and then we will edit out –

MR. MCLELAND: Scrub that, as well?

MR. ROZZI: That'd be a while.

MR. MCLELAND: Scrubbed it for mention of polygraphs – I mean, I don't care if you want to put them in there, we do not (inaudible), but I think it's bad for your client.

THE COURT: He was offered a polygraph?

MR. ROZZI: Well, I – yeah, when we talked about this and that's the – I emailed you about this the other day, I was like, you know, I don't think that they should hear that.

MR. MCLELAND: Well, I wasn't gonna put them in for that reason

MR. BALDWIN: Well, it can be redacted.

MR. ROZZI: Yeah, it can.

MR. BALDWIN: Yeah.

MR. MCLELAND: Okay.

MR. BALDWIN: It's easy to do when –

MR. MCLELAND: Okay. Well, I think –

THE COURT: You can't do it on the fly.

MS. DIENER: Judge, I think we should also review it for a reference to a third-party (inaudible) –

MR. MCLELAND: That's true. There may be other –

MS. DIENER: -- and we've been successful in keeping that out –

MR. MCLELAND: -- issues in there.

MS. DIENER: -- and there might be a reference to that.

MR. BALDWIN: No, there is a Kegan –

MR. MCLELAND: Yeah, there's a Kegan Kline reference.

THE COURT: Okay.

MR. MCLELAND: So there's other references in there, so I don't know that I'm – I don't necessarily have an objection, but I'm not comfortable putting it in unedited.

THE COURT: Okay.

MR. ROZZI: Well, we've got time on our case in chief, too.

MR. BALDWIN: Okay.

MR. ROZZI: I think this is more of a legal argument right now.

THE COURT: Right.

MR. ROZZI: And I understand he asked to admit it.

THE COURT: Yeah.

MR. ROZZI: But, I mean, I think it's more of a legal argument that would be on the table that we can clean up.

MR. MCLELAND: Why don't I offer – why don't I edit them –

MR. BALDWIN: Okay.

MR. MCLELAND: -- and give them to you guys –

MR. BALDWIN: All right.

MR. MCLELAND: -- and we'll play them next week?

MR. BALDWIN: All right. And I think, to be fair to you, I will – I don't want the Judge to – the jury to have the impression that you are objecting right now, I don't think that would be right, so –

MR. MCLELAND: So I think you should withdraw your motion to admit them at this point, 'cause you're not moving to admit those. You're gonna move to admit a redacted version.

MR. BALDWIN: Yeah.

MR. ROZZI: Why don't we just tell the jury we're gonna play them for them later, there's a stipulation, and we'll redact them. That way, they won't have any impression –

MR. MCLELAND: That's –

THE COURT: That's even better.

MR. ROZZI: Yeah, about who's denying it, who's not.

THE COURT: I'll show that you're (inaudible) and we'll play them at a later time.

MR. BALDWIN: Okay.

MR. MCLELAND: Well, what – can you make clear to the jury, and should we I guess is the question, that they're redacted?

THE COURT: Well, I think at some point, there's gonna have to be some explanation, because it's gonna show some jumps on the screen in times and stuff.

MR. MCLELAND: What we're gonna do – we had talked about this this morning, which is why I didn't move to admit, it's not ready, but we're gonna avoid the jump with a black spot, so it's gonna jump, but it's not gonna cut right to the – it's gonna be butted up, there's gonna be like a three or four-second black spot and then cut to the next part.

THE COURT: Oh, okay. I'll just tell them that the parties have agreed that there are some materials that aren't necessarily –

MR. ROZZI: Pertinent to the –

THE COURT: -- pertinent, that talk about something else, I can say that.

MR. ROZZI: Yeah, I'm comfortable with all that.

MS. DIENER: And I think if they know that we're taking our time to review it and you say that we all agree to that and we're all good with that –

MR. BALDWIN: So you want me to say that – you would say the stipulation; right?

THE COURT: Well, that you've all agreed that we're gonna produce it today – that the parties have agreed that the videos will be played sometime next week, after removing the – well, I won't say that, just they're gonna be seeing them sometime.

MR. BALDWIN: Okay.

MR. ROZZI: Yeah, I think that's fine.

MR. MCLELAND: We're working on –

MR. BALDWIN: You will say that or you want me to say it?

THE COURT: I will say it.

MR. MCLELAND: Okay.

THE COURT: I will say it.

MR. MCLELAND: My plan is to get them done, give them to you to review, and then we'll play them.

MR. ROZZI: Okay. Very good.

MS. DIENER: Fair.

(Sidebar conference concluded.)

THE COURT: So, ladies and gentlemen, we're going to show the videos to you sometime next week, at an appropriate time.

MR. BALDWIN: And because of that, Judge, I am going to – it's gonna take me a second, I apologize, 'cause I can run through a lot of these questions.

THE COURT: Sure. That's fine.

MR. BALDWIN: And I apologize for that.

THE COURT: I don't want to rush you. Do you want to take a break to be able to get to the place that you would like to get to?

MR. MCLELAND: Judge, that would be fine with the State. I'm gonna have some additional conversation, some other concerns came up that I think we need to talk about before we get too far into the –

THE COURT: Okay. Well, then why don't we do that? That way, you're not pushed to shuffle through something that you're kind of under pressure. So we're gonna take a quick break, ladies and gentlemen. While you're outside of the courtroom, please, keep your minds open. Please don't form any

opinions or conclusions about anything. You may discuss the evidence, 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 10:02 a.m.)

THE COURT: You may be seated. Okay. Can Lieutenant Holeman step down from the stand?

MR. MCLELAND: Yes, Your Honor.

THE COURT: So why don't you go ahead and step down. I'll give you like 15 – I know I keep saying 15 minutes, and it always becomes 20 because 16 – 15 people, yeah. So why don't we take 15 minutes and that'll give you, Mr. Baldwin, a better opportunity to sort through your notes, then.

MR. MCLELAND: Thank you, Judge.

THE COURT: All right. Jodie, you can go off the record.

(Off record at 10:03 a.m.)

(On record at 10:21 a.m.)

MR. BALDWIN: Judge, I did weed out a lot questions, but there are some questions that I think they're appropriate, but I do not want to run afoul of the Court, so I would like – I can kind of say what they are very quickly and want to see if the State would have issues with them –

THE COURT: Oh, okay.

MR. BALDWIN: -- based upon the motion in limine.

THE COURT: Okay.

MR. BALDWIN: Would that be okay?

THE COURT: Sure.

MR. BALDWIN: Okay.

MR. MCLELAND: Do we do it in here, Judge? Do we want to do a sidebar? I don't care, Judge.

MR. BALDWIN: Doesn't matter to me.

THE COURT: Well, we could do sidebar.

MR. BALDWIN: Okay.

THE COURT: Okay. Just bring all your stuff.

(Sidebar conference conducted.)

MR. BALDWIN: They're primarily about – see, I put "Warning."

THE COURT: Warning.

MR. BALDWIN: So – oh, there's no data on Rick's phones at the time of the cults or the occult.

MR. MCLELAND: Do what? Say it again.

MR. BALDWIN: There's no data on Rick phone or it could be his computers or anything that tied him to cults or the occult.

MR. MCLELAND: I would object to that.

THE COURT: Yeah, that doesn't – he's not accused of that.

MR. BALDWIN: Okay. And then, this might be short. Oh, Holeman – Lieutenant Holeman had said that he believed that somebody was assisting Richard by setting up the meeting?

MR. MCLELAND: I don't honestly have a problem with it.

MR. BALDWIN: Oh, okay.

MR. MCLELAND: As long as it's outside – as long as I can clean it up –

THE COURT: Sure.

MR. MCLELAND: -- on re-direct.

THE COURT: On re-direct, that's fine.

MR. MCLELAND: Yeah.

MR. BALDWIN: Okay. So that came in. I'll have to do this at an offer of proof later.

THE COURT: That's fine.

MR. BALDWIN: No connection of Rick Allen to any other person of interest. You're worried about Kegan Kline? You're worried –

MR. MCLELAND: I think that it's getting dangerously close to –

MR. BALDWIN: Okay. This one, trying to be – lawyering here a little bit. Any social media on his electronics that connected him to tree branch, sticks arranged in specific configurations?

THE COURT: That's fine. I mean, that came up in somebody's direct. Was it crime scene probably? Yeah, I think – I don't know, 'cause you were trying to ask questions about the sticks (inaudible) .

MR. MCLELAND: So your question is: Anything on social media dealing with –

MR. BALDWIN: That connected to –

MR. MCLELAND: Say it again, I'm sorry.

MR. BALDWIN: Any social media on Richard's electronics that connected him to tree branches or sticks arranged in specific configurations?

MR. MCLELAND: My issue is that – my issue with that is that it's kind of implying that the arrangements has to indicate something. That runs afoul of the motion in limine. That's my thoughts.

THE BAILIFF: Folks in the gallery, please, keep it down. They're

trying to have a sidebar over there and they're picking up your conversation.

MR. MCLELAND: It doesn't give me a chance to clean it up unless I get into –

MR. BALDWIN: Yeah.

MR. MCLELAND: -- you know, the cults and stuff.

MR. BALDWIN: If it's – that's fine. You know what? I don't want to – this is –

THE COURT: We can – because, I mean, we have a – we'll have to revisit some of the issues, based on the motion that you filed.

MR. MCLELAND: Correct.

MR. BALDWIN: Okay. And –

MR. MCLELAND: And so I think, based on whatever she rules, if you call – you're gonna call him again on your case in chief; right?

MR. BALDWIN: Probably, yeah.

MR. MCLELAND: Then you can ask him those questions.

MR. BALDWIN: Okay.

MR. MCLELAND: But I'd like to say – I'm not the ruler here, but I'd like to focus on his interview with Richard Allen.

MR. BALDWIN: Okay. You know, the only thing that he did say at the end that, "I arrested him because I had – I felt there were facts that had established probable cause." That's why I'm going through this stuff. And I do talk about, at the top of it, a little bit more about his interview here, but if you don't think that that – at the end of that, when he said that – when Lieutenant Holeman said that, that doesn't allow me to get into other aspects of the investigation, up to – only to his arrest, then I won't get into those, but I felt like

it did, 'cause he said, "I had probable cause based upon the facts."

THE COURT: And I don't have a problem with that.

MR. BALDWIN: Okay.

THE COURT: Other than the things we've already discussed –

MR. BALDWIN: Yeah.

THE COURT: -- that we don't need to discuss again.

MR. BALDWIN: I mean, I'm sure there's other things in here, but I will preview them. Obviously, I'm nervous. I don't want to get – run afoul of you at all, so if there's anything that I think is even close, then I won't do it.

THE COURT: Like just kind of set it to the side –

MR. BALDWIN: Okay.

THE COURT: -- 'cause you're gonna have an opportunity at some point to either make an offer of proof or ask those questions.

MR. BALDWIN: Okay.

THE COURT: Okay?

MR. BALDWIN: Okay. Thank you, Judge. Appreciate it.

MR. MCLELAND: Thank you, Judge.

(Sidebar conference concluded.)

THE COURT: Okay. With that conversation then, are ready to bring the jury back in and continue with your cross?

MR. BALDWIN: I am, Judge.

THE COURT: Okay. Gentlemen.

MR. MCLELAND: Judge, may we approach while we're waiting for the jury?

THE COURT: Yeah.

(Sidebar conference conducted.)

MR. MCLELAND: Judge, with the question about – that he's gonna ask him about other people involved or something, that question, can I, at least, warn the witness not to talk about the stuff –

THE COURT: Yes.

MR. MCLELAND: -- in the motion in limine?

THE COURT: Yes.

MR. MCLELAND: It's not stuff that I did on direct.

MR. BALDWIN: I might just avoid it. I just won't ask that question; how's that?

THE COURT: Okay.

MR. MCLELAND: I just don't want him to blurt out something that –

THE COURT: Okay.

MR. MCLELAND: -- opens a door.

MR. BALDWIN: We can figure it out later.

THE COURT: Okay.

MR. BALDWIN: I won't ask question.

MR. MCLELAND: I appreciate that, I –

MR. BALDWIN: Why risk it is what I say.

THE COURT: Okay. Yeah, that's fine.

MR. BALDWIN: Okay. Thank you.

(Sidebar conference concluded.)

THE BAILIFF: All rise.

(Jury in at 10:28 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. You may continue, Mr. Baldwin.

MR. BALDWIN: Thank you.

Q On direct examination, you had talked about one lie that you had told Richard Allen during the course of your interrogation; is that right?

A Yes.

Q And that lie was – what was that lie?

A I think there was two lies. I think I told him that there was witnesses that saw him on the trail and that experts saw him – or said that that was him and his voice. There was multiple others.

Q Okay. So – and whenever you said – told him those lies, he said, "I didn't" – he still said, "I didn't do this"?

A That is correct.

Q Let me see if there was other – you even told him, "I'm not lying to you about anything," didn't you?

A I did.

Q But you were lying to him?

A I was.

Q And you even said, "It would be unethical for me to lie to you."

A No, I don't think I said unethical.

Q If I had a transcript of that interrogation and I handed that to you, would that refresh your recollection?

A No, if you said I said "unethical", I'll agree to it. I just –

Q "I'm not lying to you, Rick. That's unethical. It would be unethical for me

to lie to you."

A Doesn't sound like something I would normally say, but yeah.

Q So you trust that –

A I trust that.

Q Okay. You told him that the prosecutor and the other investigators want to, "Lock you up and throw away the key", you told him that?

A I did.

Q And he still said, "I didn't do this"?

A Correct.

Q "You realize the death penalty is on the table?" You told him that?

A I did.

Q And he still said, "I didn't do this"?

A He actually said, "I don't care, kill me. I want to die anyway," something to that effect.

Q I guess we'll see it next week.

A Okay. Yeah, it's on the video.

Q And then, at one point in time when – you said you talked about a moment in – when it got ratcheted up and there was cussing between one another.

A Yes.

Q And one of those was, "You're going to drag your effing wife" – but you didn't say "effing", did you?

A No.

Q Okay. "You're going to drag your effing wife and your daughter through this because you're too effing bullheaded to get out in front of this and admit you made a mistake." You said that to him?

A I did.

Q So at that point in time, you put into Richard Allen's head the notion that his wife and daughter were going to suffer because he was accused of this crime?

A I don't know what he thought.

MR. MCLELAND: Object to speculation, Judge. I don't know that he can testify as to what was in Richard Allen's head at that point.

THE COURT: Sustained.

Q It was im – was it – it must have been important for you then to let – to – in order to get a confession out of Richard Allen, to put his wife and daughter into play, "Hey, they're going to suffer unless you confess."

MR. MCLELAND: Judge, may I ask a few foundational questions?

THE COURT: Yes.

MR. MCLELAND: Were – I think the question was phrased, "Then it must be" – "it was important to you to get a confession out of Richard Allen." Is the tactic you used something you learned through your training and experience?

A Yes.

MR. MCLELAND: And why were you using those tactics with Richard Allen?

A To elicit responses and get a confession.

MR. MCLELAND: Okay. I don't have any other questions, Judge. I withdraw my objection.

Q So part of the way that you were trying to elicit a confession, as you just said, was to leverage his wife and daughter and say, "They're going to suffer unless you confess," that's basically what you were saying.

A No, that was not my intention.

Q "You're going to drag your effing wife and your daughter through this because you're too effing bullheaded to get out in front of it and admit you made a mistake." That's what you said.

A That's what I said.

Q Okay.

MR. BALDWIN: And the rest of the jury – I won't go through it, the jury can see that next week.

THE COURT: Okay.

Q You were here a couple days ago when there was a jury question that asked Mr. Mullin, "Were you in an interview in which Richard Allen said he did not know which day [sic] he drove that day?" Were you here when that question was asked?

A Yes.

Q And Mullin's question was yes – or answer was yes?

A I don't remember.

Q Okay. That is not true though, is it? You've watched that interview, Richard Allen never said he didn't know which way he drove. He said he drove from town.

A I think he said there was multiple ways he could have went, but I don't know if it he –

Q We'll just let the jury watch that.

A Yeah.

Q Before you conducted Rich – Rick's second interview, on October 26th – remember, the first one's October 13th, and by the 26th, you had learned from

Melissa Oberg certain information that – between those two dates; is that correct?

A At some point I did, yes.

Q Had you learned between October 13th and the 26th that Ms. Oberg had compared the unspent shell found on the ground to a fired shell out of Rick's gun?

A No, I did not.

Q Okay. Were you aware of whether Ms. Oberg had utilized the consecutive matching striation objective tool to determine if Oberg was even correct?

A No. I just went off the certificate of analysis. I don't know how they test it.

Q And in those two weeks, from the 13th till the 26th, you did not send that unspent casing to an independent examiner not affiliated with the State Police or the State of Indiana to determine whether Melissa Oberg was correct or possibly wrong in her analysis?

A No, we did not.

Q You test – was it you or Mullins [sic] that – and I don't know why, I always say Mullins, I don't mean to be disrespectful. Is he a detective? Do you know what he's – Steve Mullins.

A Investigator for the prosecutor.

Q Investigator Mullins?

A Yeah.

Q Investigator Mullins. Who was it that said yesterday that Rick said, "It's over"?

A I did.

Q You were the – did you testify?
A I did.
Q I don't remember.
A Yeah.
Q And you said that you did not tape record it.
A I did not.
Q And – but he was in your squad car?
A Yes.
Q Now, the funny thing is though, on October 13th, after Richard Allen left the interview room, somebody from law enforcement drove him back to his house; do you remember that?
A I believe so, yes.
Q And that was tape recorded, the in-car drive from the station to his house, that was tape recorded, wasn't it?
A It was.
Q But you didn't tape record this statement that you claim that he made?
A He says he made it in the interview.
Q I guess we'll let the jury see.
A Okay.
Q And what he was basically saying to you, according to your direct examination, is, "Hey, it's over. Everybody believes that I did this. The neighbors see it," you know, that's what he was talking about.
A He said, "It doesn't matter. It's over." I don't know what he meant, but in his interview, he explains it.
Q And I understand what you said a second ago, that you claim – but the

video will speak for itself – that Richard Allen told you what you say, that it's over, but I want to focus on it wasn't recorded. You didn't record the one that – when his house was being searched and you claim that he said this; right?

A No, I did not.

Q And that was in your car, again; correct?

A Part of it.

Q Okay.

A Part of it was walking around.

Q Also, when Richard Allen left on October 26th, when he left in handcuffs, that was tape recorded in the vehicle, as well; right?

A I believe so. I believe they put a tape recorder in my pocket.

Q And you find Betsy Blair to be credible?

A I do.

Q And you were aware – at the time that you said on direct examination that there was probable cause to arrest Richard Allen, you were aware that Betsy Blair had described a vehicle that did not look like Richard Allen's car at the CPS lot, when it was supposed to be Richard's car; right?

MR. MCLELAND: Judge, a little bit of foundational questions here. Do you know whether or not Betsy Blair was describing Richard Allen's car?

A No.

MR. MCLELAND: So, Judge, I'm gonna object to speculation about him being able to testify as to whose car Betsy Blair was describing.

MR. BALDWIN: I can ask a different way –

THE COURT: Sustained.

MR. BALDWIN: -- to get there.

THE COURT: Okay.

Q So Richard Allen's car – for your theory to be correct, Richard Allen's car was at the CPS lot at 1:30?

A No, that's not correct. For my theory to be correct? I don't know what you mean.

Q Well – okay. Well, I'll rachet it back a step. Your theory is Richard Allen's vehicle was at the CPS lot at 1:30.

A That's not my theory, no. I don't know where he parked. I know he drove by the Hoosier Harvestore. Where he parked, I don't know.

Q You believe that he drove –

A We have witnesses –

Q That's your belief.

A We have witnesses saying they saw a vehicle matching the description, some of them.

Q You have witnesses – do you – who are these witnesses? Go ahead, tell me.

A I don't know them off the top of my head, but I know –

Q You were one of the lead investigators in this.

A I know there was some people that described vehicles in that area. Whether or not it was Richard Allen's car, I don't know, that's not my –

Q Go ahead and tell me who these people are.

A Betsy Blair described a vehicle.

Q Yeah, and a 1965 Mercury.

A I don't know. I don't know.

Q You don't know that that's what she described?

A I do. I don't know why –

MR. MCLELAND: Judge – Judge, we're getting kind of far afield here. Betsy Blair has not testified to that at this point and so I'm gonna object to this line of questioning at this point, Judge.

THE COURT: Okay. Sustained.

Q You found Sarah Carbaugh to be credible?

A I do.

Q Were you in the courtroom when she testified?

A Yes.

Q You thought she was credible?

A Yeah.

Q She is the only person, Betsy Blair is, the only one, that saw a guy purportedly muddy and bloody, muddy for the first two interviews, bloody on the third interview –

MR. MCLELAND: Judge, I'm gonna object. That's not what Betsy Blair testified to.

A Not Betsy Blair.

THE COURT: Sustained.

MR. BALDWIN: I'm sorry. I do that a lot where I screw up the names.

Q Sarah Carbaugh. Sarah Carbaugh is the only person that saw this guy walking, what she says, westbound on 300 North that, in two interviews, was muddy, and then, in the third interview, was bloody; is that correct?

A Yes.

Q So there was no other reports, "Hey, I saw" – and that's not an unbusy –

300 North is not unbusy. I mean, it's – there's traffic on that –

MR. MCLELAND: Judge, may I ask a few foundational questions?

THE COURT: You may.

MR. MCLELAND: Are you aware of the traffic patterns in Carroll County?

A I am not.

MR. MCLELAND: Are you aware of the traffic patterns on County Road 300 North in Carroll County?

A I do not.

MR. MCLELAND: Have you done any studies as to the traffic pattern on county roads within Carroll County?

A No.

MR. MCLELAND: Have you seen any reports or done any studies on the traffic patterns on County Road 300?

A No.

MR. MCLELAND: Judge, I'm gonna object to the form of the question, calls for speculation.

MR. BALDWIN: I'll withdraw.

THE COURT: Sustained.

MR. BALDWIN: Thank you.

Q The Hoosier Harvestore video, you did see the traffic patterns on that along 300 North, did you not?

A I did not watch the video.

Q You are the lead – one of the lead detectives on this; right?

A I assigned somebody else to watch the video and then they would show me

still photos.

Q How many vehicles were travelling along the path of 300 North between noon and four o'clock on the 13th of February, 2017?

A I don't know.

Q The bridge, how tall is that bridge?

A I don't know, tall.

Q Somebody should measure that bridge, because the claim is that these – would you agree with me, somebody should measure the height of that bridge?

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

THE COURT: Sustained.

MR. BALDWIN: Oh, because I said, "Would you agree" –

Q Would you agree that it would be prudent in an investigation like this, where the girls were on the bridge, to measure the height of the bridge from the top of the bridge down to the flood plain?

A I think we know. I just don't know.

Q You don't know? Okay.

A Yes.

Q Does –

A The investigative team knows.

Q Sure. So we're gonna hear from – do you think we'll hear from somebody later on?

A You might.

Q Okay. I mean, it's not 10 or 20 feet, it's –

A No, it tall. It's a hundred – probably a hundred feet, if I was guessing.

Q And when you go down – and have you been at that end of the bridge where the girls were abducted?

A Yes.

Q And so when you go down that hill, if that's what happened, then you go down to the access road; right?

A Yes.

Q And then that's not the end of it. If you want to get down to the creek, then you've got to go down even more –

MR. MCLELAND: Judge, I'm gonna object to this line of questioning. This is well outside the scope of direct.

THE COURT: Sustained.

Q Law enforcement believes that once Richard Allen left the scene around 3:30 or 4 p.m., he never returned to the scene?

A Yes.

Q If you would, just because I think "yes" could be misinterpreted later on in the record, is that correct? Law enforcement believes that Richard Allen left the scene and he never returned to the scene; is that correct?

A That is correct.

Q Law enforcement's belief is that Richard Allen's involvement in the murders was completed by 3:57 p.m.? That's when Sarah Carbaugh claims that she saw someone.

A Yes, correct.

Q And therefore, is law enforcement's theory also that Richard Allen did not take L.G.'s phone with him and then later bring it back?

A That is correct.

Q And L.G.'s phone helped establish the timeline that you used to find probable cause to arrest Richard Allen; correct?
A That is correct.
Q Richard Allen did not sell his Ford Focus, did he, between 2017 and 2022?
A Not to my knowledge, no.
Q He did not sell the gun that you say held the bullet?
A Nope.
Q He did not throw the gun away?
A Not to my – no.
Q He did not take clothing or hide clothing that you think he may have worn?
A I don't know.
Q Okay. That's fair. And L.G.'s phone would give a good timeline of the events from that day, on the 13th and the 14th, would that be accurate?
A Yes.
Q And you would – you used – you and other investigators used the info you collected from L.G.'s cell phone to establish a nice timeline that you think would implicate Richard Allen; is that correct?
A Approximate timeline.
Q And the phone data is accurate?
A I don't know. I believe so, yes.
Q And I just want to be clear on this: Anna Spath, Railly Voorhies, that was two of four people that were on the trails together at the same time?
A Yes.
Q And Richard Allen said that he saw three people on the trail when he was on the trail?

A Yes.

Q Your thought at one time was L.G.'s phone had shut down at some point on the 13th?

A That's what we were told.

Q But that ended up being inaccurate; correct?

A Yes.

Q And you believe that one person and one person only was involved in this murder?

A I believe that now, yes.

Q Okay. At some point in time, you thought it was multiple people?

A No. At some point, I thought maybe there might be more than one, but the longer it went on, because of my training and experience, usually when one person commits a crime, they don't tell anybody, and usually if there's multiple people, one will get in trouble and tell on the others; so if there was multiple people, I think those people probably would have got in trouble. And that's coming from my drug his – when I was in DES, Drug Investigative – Enforcement – Drug Enforcement Section, that would happen commonly. So that's one of the reasons that I thought it was just one person.

Q So you're equating the dealing of drugs or selling of drugs and how people might talk about that to the brutal murder of two girls, that you think that they would still talk about that?

A Absolutely, if there was more than one.

Q Have you seen the – I'm sorry to interrupt.

A If there was more than one, yes, someone would get in trouble and –

Q There was more than one?

A If there was.

Q Oh, okay. That's your way – well, you've been – you've seen the crime scene, I mean, you were there, seen photographs; right?

A I have, yes.

Q And you believe that one person, in an hour or so, abducted those girls, brought them across the river, somehow clothes are changed on one body and the other's clothes in the creek, put sticks in an arrangement on those girls –

MR. MCLELAND: Judge, I'm gonna object to the question at this point. It's beyond the scope of direct.

THE COURT: Overruled.

Q One person did all?

A Without a doubt, I believe that.

Q It would be – would you agree with me that it would be easier for two people to do that?

A I don't think I would agree with you, no.

Q Oh, okay. Now, L.G. you believe, based upon the evidence that you knew back then, was killed at a tree some distance – not a crazy amount of distance, but some distance from where her body, ultimately, was found; correct?

A That's what the evidence supports, yes.

Q And there's no drag marks from that tree to where the body was ultimately found?

A There are some drag marks, but not – I don't think you're describing the – correctly, but yes, there are some drag marks, but not from the tree to where the body was found.

Q And just – the theory is that she was – a knife was used on her at this tree,

some distance from where she was found – I don't think I made that clear – correct?

A Yes.

Q And then, later on, the body was found in a different location?

A Yes.

Q And you think that the photos will show drag marks?

A They're hard to see, but I think you can see that she was drug a little bit. Not far, just – I don't know, I don't want to say how many feet, but she was drug next to that tree.

Q Well, I mean, you should – we should be able to hear some people get up and testify about, "This is a drag mark, here's how long it is"; right? Do we have people like that that are gonna be testifying?

A I don't know.

Q Two people could lift a body though and take it somewhere and there wouldn't be any drag marks; would you agree?

MR. MCLELAND: Judge, it calls for speculation.

THE COURT: Sustained.

Q Tony Liggett believe multiple people involved at some point in time?

MR. MCLELAND: Judge, again, it calls for speculation. I'm gonna object.

THE COURT: Sustained.

Q You had the opportunity to analyze the height of the person that was on the bridge; correct?

A No. We tried.

Q The cost was $10,000 or so?

A I believe so.
Q You didn't want to spend the money?
A The money wasn't the issue, it was the accuracy that they said they would be able to provide that.
Q They said they could get it within plus or minus two inches; right?
A I think so. I don't recall exactly, but –
Q So if they said, "We do an analysis and the person is six-feet tall," and then it would be 5'10" to 6'2"; right?
A Your math sounds correct to me, yes.
Q So if it was a seven-foot person – strike that. If it's a tall person then – or a short person, outside of the range of normality, then that actually could work, even with a two-inch variance; would you agree?
A I don't know.
Q And Richard Allen's a short guy; right?
A I don't know how tall he is. Shorter than you and I.
Q There was – by the time you had talked to Richard Allen on October the 26th, you knew that there was a strand of hair found in A.W.'s hand, right hand; right?
A Yes.
Q And there was DNA that had come from the root of that hair?
A Some of the hairs, yes, that one.
Q From that one?
A Um-hmm. (Affirmative response)
Q And it probably was gonna be a family member, that's what you were told?
A We were told that it was female and familial, which to me means a family

member.

Q And all they needed was Kelsi German or Becky Patty's DNA swab as – to compare it to see if that was, in fact, a family member's.

A They had their DNA.

Q They had it?

A Um-hmm. (Affirmative response)

Q But you guys didn't ask for it to be tested until last week.

A Yeah. We chose not to because of the time and resources, we wanted it to be used in other areas. At that time, we had no family female suspects, so we chose not to test it at that time.

Q But you were also told that it may not be a family member, but they think it is, but it may not be.

A I don't know if they ever said that it may not be, I just think they told us that they believed it was.

Q Rick's DNA was not found at the crime scene?

A No, it was not.

Q None of – neither of the girls' DNA was found at Rick's home?

A No.

Q Or in his car?

A No.

Q Bloody sticks were left behind at the crime scene and collected a number of days later; you heard that testimony?

A I did.

Q That's a mistake?

A No, it's not a mistake. I don't think it's a mistake.

Q So it's acceptable to leave bloody sticks behind, rather than gather them as evidence?

A I think they tested them and observed them, as you've heard testimony, and then they decided to leave them there. And then, when DNR saw them, they thought, and then that's why we went and got them.

Q You were in this courtroom when Chris Cecil testified, weren't you?

A Yes.

Q And he had the – he made several mistakes that he noted, including transposing two digits on the screen; you remember that?

A He did make mistakes.

Q You know if Dan Dulin transposed any digits when he typed in from his notes and put it in the computer?

A I do not know that.

Q There's been mistakes made in this case, hasn't there?

A There's been mistakes made, yes.

MR. BALDWIN: May I approach briefly?

(Sidebar conference conducted.)

MR. BALDWIN: I didn't know if this – I didn't – I'm sorry to do this. I just didn't know if that was objectionable. You can read it. Or a violation of the –

MR. MCLELAND: I don't know how that – definitely not this one, 'cause you're opening the door. You can ask (inaudible), this is part of the motion in limine, your motion in limine.

MR. BALDWIN: Right.

MR. MCLELAND: That would be opening – I think you opened the

door with Olehy, but my objection to it is you can't open the door and then say, "Okay, well, all this stuff comes in." And I get it that you're trying to elicit through him. He's gonna say yes, he was trying to hide it, but my issues is that you're using it later to try to get this stuff in because you said the door was opened.

THE COURT: I mean, he's – is that his belief?

MR. MCLELAND: Are you –

MR. BALDWIN: Yes.

THE COURT: That there's no pattern?

MR. MCLELAND: Right.

THE COURT: On the evidence found there?

MR. MCLELAND: Right.

THE COURT: So these are fine. I would stay away from C, as this kind of implies –

MR. BALDWIN: I apologize for having to do that. I just wanted to clarify.

THE COURT: No, it's fine.

(Sidebar conference concluded.)

THE COURT: You may proceed.

MR. BALDWIN: Thank you, Judge.

Q I want to talk about the sticks on the girls.

A Okay.

Q You believe that the killer was just trying to cover the girls to conceal the bodies so nobody would see them?

A Camouflage, yes.

Q Camouflage. You don't believe there's a pattern on A.W. at all?

A No.
Q It's random?
A Yes.
Q And the killer, therefore, you must believe, took the time to lay one stick on A.W., another stick on A.W., and a third stick on A.W.?
A Correct.
Q And you don't believe that the bodies were posed or positioned?
A No, I don't.
Q There's no fingerprints at the scene of anybody?
A No.
Q L.G.'s hands had blood on them, but A.W.'s hands had no blood on them; is that correct?
A Correct.
Q We're not too far from being done here. You – from where the crime – and this has been testified to a number of times, you sat in the courtroom – but from where the crime scene is located, you can definitely hear people on the bridge.
A If you're –

MR. MCLELAND: I'm gonna object to that, Judge. It calls for speculation.

THE COURT: Sustained.

Q One of your theories is that Richard Allen heard people on the bridge in the search party and then killed the girls and then left.
A Could you repeat that?
Q Sure. Do you think – you – that Richard Allen – the killer, we'll call them – that whoever killed those girls heard people on the bridge from the search party,

killed the girls, and then left?

A I'm not sure about the order, but I believe that he, at some point, may have – could have heard somebody and left after. After he killed them, before he killed them, I don't know when he heard.

Q But you thought it was the search party before; right? You remember being –

A Family members or search party, yeah.

Q Oh.

A Yeah.

Q Okay. So you think that the killer was still in the process of doing whatever they were doing at the time that the search started?

A No, I don't think I'd actually recall – I don't know for sure. I don't know.

Q Your deposition help if I – to refresh –

A No, no. I just don't – sitting here today, I don't know if – that's just a theory. I don't know.

Q Okay. Because that search party didn't get there till 4:30 or so; right?

A It was family members got there earlier than that. That's what I was referring to as the search party, as well, 'cause they were part of the search.

Q Right. But even they didn't get there until 4:30.

A Some of them got there earlier than that.

Q Well, you're saying that the killer was gone by 3:57; right?

A Yes.

Q The search party had not started at that time.

A Family members were arriving pretty close to that.

Q You are the lead investigator on this; correct? That is not –

A Yes.
Q That's not an accurate statement.
A The father was yelling for them, and he got –
Q 3:57?
A Before that. Derrick German got there before that.
Q You had no concerns that Betsy Blair provided an inaccurate description of the person she observed from 50 feet away?
A No.
Q Nor Sarah Carbaugh?
A No.
Q The video, you don't see who says "Down the hill"?
A No.
Q Okay. And that – the view from L.G.'s camera on her phone doesn't show – as you're getting off the bridge and now you're gonna go down the hill, and there's this right side and there's this left side, and I think you think that they went down on this right side; correct?
A That was a lot of questions.
Q Yeah.
A Yes, I do think they went down to the right side.
Q The right side, yeah. You don't know if somebody was on that left side, saying, "Girls, down the hill", do you?
A I don't know if anybody was over there, no.
Q You don't know who said, "Down the hill"?
A I believe it was the person in the video, yes.
Q Was there ever any discussion in the law enforcement who were handling

this investigation that there could have been two people down at that end of the bridge?

A Yes.

Q You can't rule out that there weren't two people down at that –

A We didn't find anything indicating that there was more than one person down there.

Q Did you talk to Teresa Liebert?

A I didn't, but I know she was – her and her husband were spoken to.

Q Do you know whether they saw anybody that – there that day?

A I don't think where you're describing, but I may be wrong.

Q There was tension between the FBI and Unified Command; correct?

A No.

MR. MCLELAND: Judge, I'm gonna object to relevance.

THE COURT: Sustained.

Q Did you say no?

THE COURT: I've sustained the objection.

MR. BALDWIN: Okay.

Q As part of your investigation and how you came up with the probable cause, you were aware that the last time A.W.'s phone connected with the tower was 5:44 p.m. on February 13th?

A A.W. didn't have a phone.

Q I'm sorry, there I go again. I apologize. You were aware, as part of your investigation and before you made probable cause to arrest Richard Allen, that the last time that L.G.'s phone connected with the tower was 5:44 p.m. on February 13th?

MR. MCLELAND: Judge, perhaps a foundational question?

THE COURT: Yes.

MR. MCLELAND: Are you aware of the information from this day – are you aware of the information or do you have information on when her phone last connected to the tower?

A No.

MR. MCLELAND: Judge, I don't think – he's not in a position to answer that question. I'll object to the question.

MR. BALDWIN: But he testified under oath in a deposition that he did know the answer to that question.

THE COURT: Well, then you need to confront him with that deposition. Overruled.

Q Sir, do you remember taking a deposition with me August the 10th, 2023?

A Yes.

Q What's your recollection in answering that question?

A Yes.

Q There's a lot of stuff here. Page 24, do you –

MR. BALDWIN: Is it okay, Nick, if I just give him half of this? I'm not trying to hide anything, it's about his (inaudible)

MR. MCLELAND: Mr. Baldwin, I'm not the one that runs the courtroom, that's up to the Judge.

MR. BALDWIN: Oh.

MR. MCLELAND: So I appreciate you asking me, but I'm not the goalkeeper here – or the referee.

MR. BALDWIN: That is a fact. Judge, may I just give him half of

this?

THE COURT: That's fine.

MR. BALDWIN: I appreciate it. Thank you.

A What page?

MR. BALDWIN: I apologize for that, Judge.

Q Page 24, line 15 to 24.

MR. MCLELAND: Mr. Baldwin, can you say the lines again for me, please.

MR. BALDWIN: 15 – 24, 15 through 24.

MR. MCLELAND: Thank you. And what was the date of that?

MR. BALDWIN: I believe it was the August 10th, 'cause I just looked at that.

A Page 24, which lines, sir?

Q I'm sorry, I gave you the wrong one. So you remember taking a deposition May 3rd of this year?

A Oh. Not this one?

Q You remember that?

A I do.

Q You swore to tell the truth, the whole truth, and nothing but the truth?

A I did.

Q Thank you. It's page 24, line 15 through 24, on the May deposition. Tell me when you're done and let me know if that refreshes your recollection.

A Okay.

Q Does that refresh your recollection?

A It does.

Q And L.G.'s phone last connected to the tower on the 13th at 5:44 p.m.; correct?

A Looks like you asked about a ping or can you – I guess that's what you mean by connecting.

Q Yes.

A Okay. Yes.

Q You can't rule out, from the evidence that you have, that the girls long – the girls and L.G.'s phone left the area on the 13th and then returned early morning hours on the 14th?

A I think we can rule that out.

Q Okay. I mean, you have talked to Detective Chris Cecil, you testified about the points of data on that phone?

A Yes.

Q All right. These are questions that I think have been answered, so I apologize. Kelsi German's phone was never analyzed to determine if it could be of some assistance in the timeline; is that accurate?

A I don't recall it ever being downloaded, but I believe we've looked at it.

Q Okay. But it was never extracted, like 101 other phones did?

A I believe that is correct.

Q Okay. You should have extracted Kelsi German's phone, just to see if it could have been some – of some assistance before you found probable cause for Richard Allen.

A Are you telling me that or are you asking?

Q I'm asking you.

A No.

Q Okay. So you don't think it was an error not to dump that phone?
A I don't think that was an error, no.
Q Okay. Nothing to your – strike that. Your conversations with Chris Cecil about the forensic data on that phone, nothing contradicts your theory, that you know of, that L.G.'s phone was under A.W.'s body from around 3:30 p.m. on the 13th until the bodies were found at noon or so on the 14th? There's nothing that contradicts that, that you know of? That phone stayed there that entire time?
A That's what I believe the information says, yes.
Q These are bad questions, I'll just weed these out and be done. You didn't learn that the – that – until very recently, in the last few months, that the phone reconnected to the tower at 4:33 a.m. on the 14th, did you? That was new information to you?
A I think I knew, I just forgot about it, yeah.
Q Okay.
A I think you refreshed my memory.

MR. BALDWIN: Okay. That's all. No other questions. Thank you. Appreciate it.

THE COURT: Mr. McLeland.

MR. MCLELAND: Judge, yes, please. Thank you. I'll try to make it brief.

THE COURT: Take your time.

RE-DIRECT EXAMINATION OF LIEUTENANT JERRY HOLEMAN

QUESTIONS BY MR. MCLELAND.

Q Lieutenant Holeman, I think Mr. Baldwin mischaracterized some of the evidence and I want to clear some of this up for the jury. Mr. Baldwin had said

that you believe all this happened within an hour. My understanding is the information you got from the phone was the video was taken – the phone – the video that L.G. took was taken at what time?

A The video was 2:13 I believe through the phone.

Q And Sarah Carbaugh's testimony was she saw someone on the road just before four o'clock?

A Yes.

Q So that's more like two hours, instead of one hour; correct?

A Yes.

Q Okay. And the phone on the video – or I've got that backwards – the video on the phone of L.G. shows the abduction of the girls; correct?

A Yes.

Q You also observed the video from L.G.'s phone; correct?

A I have.

Q And your belief is the voice on the video is the voice of Bridge Guy?

A I do.

Q And when I say Bridge Guy, do you know who I'm referring to?

A Yes.

Q And was there anything that you found within the investigation that indicated another male individual/individuals at the end of the bridge on that day?

A No.

Q You also talked about Betsy Blair and Sarah Carbaugh; correct?

A I did.

Q You understand they both identified a person they saw; right?

A Yes.

Q And do you know whether or not they identified the person they saw as Bridge Guy?

A Yes, they did.

Q And so in their testimony or in their description, do they confirm that who they saw was Bridge Guy?

A Yes.

Q Both of them?

A Yes.

Q Richard Allen – Mr. Baldwin characterized the people that Richard Allen saw on the trail as people. In fact, he didn't characterize them as that, did he?

A No.

Q He characterized them as girls –

A Yes, he did.

Q -- correct?

A Yes.

Q The sticks on the body, you believe they were there as camouflage or to hide the bodies; is that correct?

A That's my belief.

Q You also had information they may have been there for an undoing; is that correct?

A That is correct.

Q Mr. Baldwin asked you about connecting to the tower at 5:44 p.m. I don't know if the jury heard it, and I want to make sure I heard it correct. From your deposition, the 5:40 p.m. time, what does that indicate?

A At that time, we were told that was the last time that had any interaction, that maybe it was turned off or powered down at that time.

Q But you used the word – you used a different word in your deposition when you were questioned. Did you talk about pings?

A Pings.

Q Okay. Was there any indication from the investigation that after the video, the girls were put in a vehicle and taken to another location?

A Absolutely not.

Q Was there any indication that after the phone stopped moving at 2:32, that it moved again?

A Absolutely not.

Q Was there any indication in the phone data that it moved again?

A No.

Q One final question, Lieutenant Holeman. I think at the beginning of Mr. Baldwin's cross, you talked about some of the lies that you told Richard Allen during your interview with him; is that correct?

A It is correct.

Q And Mr. Baldwin grouped it there it was a lie that other people saw him on the trail. Was that, in fact, a lie?

A No, that was not a lie.

Q So that portion of it you were not lying about?

A Correct.

Q You had information when you interviewed that other people on the trail had seen him?

A I did.

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

THE COURT: Mr. Baldwin.

MR. BALDWIN: Thank you.

RE-CROSS EXAMINATION OF LIEUTENANT JERRY HOLEMAN

QUESTIONS BY MR. BALDWIN.

Q You're the one that told me that you lied about seeing people on the trail. I didn't ask you that question.

A I was confused. I was – what I said was that there were eyewitnesses that saw him and identified him, but there were – he said he saw three girls, and there was actually four, and they did all see him, as well.

Q It couldn't be that he was there an hour or two earlier and ran into three different girls, could it?

A I don't think so.

MR. BALDWIN: All right. No other questions.

THE COURT: All right. Does anybody on the jury have any questions for Lieutenant Holeman? Yes? Okay.

(Sidebar conference conducted.)

MR. BALDWIN: Sorry.

THE COURT: You're fine, you're fine. This way, they can't read our lips. "Is there a way to get to where the girls were when encountered by Bridge Guy without crossing the bridge?"

MR. MCLELAND: Okay.

MR. BALDWIN: Yeah.

THE COURT: "Do you know where Derrick German was when he was shouting for the girls?"

MR. MCLELAND: That's fine.

MR. BALDWIN: If he knows.

THE COURT: Do you want me to couch it "if you know"? Okay.

(Sidebar conference concluded.)

JUROR QUESTIONS OF LIEUTENANT JERRY HOLEMAN

QUESTIONS OF THE JURY, READ BY THE COURT.

Q Lieutenant, is there a way to get to where the girls were when encountered by Bridge Guy without crossing the bridge?

A Not an improved way. There's an unimproved way. They would have had to go through some fields and to come in the back way, but possibility.

THE COURT: Mr. McLeland?

FOLLOW-UP EXAMINATION OF LIEUTENANT JERRY HOLEMAN

QUESTIONS BY MR. MCLELAND.

Q You've been able to observe the video –

A Yes.

Q -- correct?

A Yes.

Q On the video, where is A.W.?

A On the bridge.

Q And where is Bridge Guy?

A Behind A.W. on the bridge.

Q Was there – and you saw where he's positioned on the bridge in the video?

A Yes.

Q To get in that spot, would he have had to have gone on the bridge from one of the ends?

A Yes.

Q There's no other way to get to the middle of bridge besides starting either at one end or the other.

A That is correct.

Q And in the beginning of the video, both A.W. and Bridge Guy are on the bridge?

A That is correct.

Q And where is – the perspective of the video, where is L.G.?

A At the end, one of the ends.

Q And you know she's at the end because – well, how do you know she's at the end?

A You can see gravel on the ground and not railroad ties.

Q And so for Bridge Guy to get where he was at on the video, common sense tells you that he had to have started where?

A Common sense would say he started at the beginning of where the trail ends, at the beginning of the railway.

Q Otherwise, he would have had to have walked past L.G., past A.W., turned around and come back, is that –

A That is correct.

MR. MCLELAND: Okay.

THE COURT: Mr. Baldwin?

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

FOLLOW-UP EXAMINATION OF LIEUTENANT JERRY HOLEMAN

QUESTIONS BY MR. BALDWIN.

Q We intend to put into evidence, and I think we've seen it here on other occasions, the photo at 2:07 of A.W. walking down the bridge; correct?

A I have.

Q And that's from – they were going that way; right? Down to the south end of the bridge where they were abducted?

A Yeah. Yes.

Q The photo was taken that way, as she's – as A.W.'s headed to the south end of the bridge; correct?

A If my directions are correct, yes, I believe so.

Q And I wish I had it with me, but when you look at that photograph taken at 2:07, there is nobody behind her, is there?

A No.

Q Okay. So why is it so preposterous – well, strike that. Do you find it to be preposterous that somebody did as Mr. McLeland said might have been the case, walked past those girls and then turned around?

A Possibility.

Q And the guy on the video, he's not huffing and puffing, is he?

A I can't tell.

MR. BALDWIN: Yeah. That's all. Thank you.

JUROR QUESTIONS OF LIEUTENANT JERRY HOLEMAN

QUESTIONS OF THE JURY, READ BY THE COURT.

Q If you know, do you know where Derrick German was when he was shouting for the girls?

A I don't know exactly where, but from where he described, he would have been down when you first come into the exit, down in that area toward – by the

river – or creek. At some point, I think he went towards the bridge and more people started yelling, but I don't know exactly where he was.

THE COURT: Mr. McLeland?

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

THE COURT: Mr. Baldwin?

MR. BALDWIN: No, Your Honor. Thank you.

THE COURT: All right. Thank you, Lieutenant. You may step down.

MR. MCLELAND: Yes, Judge.

THE COURT: All right. So, ladies and gentlemen, before you arrived, both parties had a discussion about the next witness, who's going to be very lengthy; and rather than keep you here until about two o'clock, we're gonna go ahead and break a little bit early. Again – (clears throat) – excuse me – while you're outside the courtroom, please, keep your minds open. Please don't form any opinions or conclusions about anything. As you will have access to your phones for purposes of contacting your family and your work emails, always under the supervision of the bailiffs, please, don't talk about the case. Please have a safe and peaceful weekend and we'll see you Monday morning. Gentlemen.

THE BAILIFF: All rise.

(Jury out at 11:19 a.m.)

THE COURT: You may be seated. Okay. Is there anything that – (clears throat) – excuse me – is there anything that we need to talk about before we call it a day ourselves? Mr. McLeland?

MR. MCLELAND: No, Your Honor. Thank you.

THE COURT: Mr. Rozzi?

MR. ROZZI: No, ma'am.

THE COURT: Okay. Thank you very much. And again, folks, if you'd just sit tight for a few minutes while we get the jury out, I would appreciate it. And yes, you can take Mr. Allen. Okay.

(Off record at 11:21 a.m.)

(On record October 28, 2024, at 9:01 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. The State's here by the prosecutor and his deputies. The jurors have reassembled and are ready to come into the courtroom. Is the State ready to proceed?

MR. MCLELAND: Yes, Your Honor.

THE COURT: Is the Defendant ready to proceed?

MR. ROZZI: Yes, ma'am.

THE COURT: Gentlemen.

THE BAILIFF: All rise.

(Jury in at 9:04 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: All right. Looks like everybody's getting all settled in over there again for the day's proceedings. So welcome back, ladies and gentlemen. It's nice to see you back this morning. I know over the weekend you had the opportunity to have an activity on Saturday and then you also had the opportunity to have some family time yesterday, I hope that was pleasant for you

to do that. And, in the course of the weekend, I know that you've also had the opportunity to have access to your electronic devices so that you can communicate with family and friends and also to check your work emails, and I know several of you have some things going on at work that you've been attending to. So in light of that, once again, 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. Well again, ladies and gentlemen, thank you for continuing to comply with the Court's directives. We are ready to continue. Mr. Luttrull, you may call your next witness.

MR. LUTTRULL: Yes, Your Honor. Thank you. The State would call Stacy Bozinovski.

(Witness sworn.)

DIRECT EXAMINATION OF STACY BOZINOVSKI

QUESTIONS BY MR. LUTTRULL.

Q Would you state your name, please, and spell your last name – or first and last name.

A My name is Stacy Bozinovski. My first name is spelled S-T-A-C-Y. My last name is spelled B-O-Z-I-N-O-V-S-K-I.

Q Where are you working?

A I am employed with the Indiana State Police Laboratory in Indianapolis.

Q What is your profession?

A I am a forensic scientist, or more specifically, a DNA analyst within the Biology Section at the laboratory.

Q Would you tell the jury the role of a forensic scientist.

A My role as a forensic scientist is to perform a serological examination of evidentiary items for the presence and identification of body fluid stains or other sources of biological material. I then attempt to develop a DNA profile from those sources through DNA analysis. I compare profiles from unknown evidentiary samples to profiles from known standards of individuals that may be involved in a case. The comparison will allow me to include or exclude individuals as possible contributors to a sample. Also, as part of my role with – as a forensic scientist, I primarily perform casework using STR, autosomal STR technologies; however, I perform case work using other technologies, including YSTR analysis and next-generation sequencing, which uses SNP analysis. I'm currently involved with an internal validation at our laboratory to bring on an additional technology that will bring forensic investigative genetic genealogy to the Indiana State Police Laboratory, and then that will allow us to use that technology on some of the most complex cases in our state. In addition, I am – I specialize in paternity analysis or kinship analysis, which is used in unidentified human

remains cases and missing person cases, as well as criminal paternity cases.

Q So you're in a field that is ever changing?

A That's correct. There's a continuous updates and technology in the DNA field.

Q And your career is an expression of that, of how you have added specialties your area of serology and DNA; is that correct?

A That would be correct.

Q What's your educational background?

A I have a bachelor of science degree in biology from Indiana University in Bloomington and I also have a master of science degree in forensic science from Marshall University.

Q And I think you've touched on some of this already, but have you obtained specialized training in the area of forensic biology and could you explain what that additional specialized training has been.

A Yes. As part of my training with the Indiana State Police Laboratory, I've completed training in both serological examinations and DNA analysis. This training included several sections about the identification of body fluid stains and also the theories and methods of the different stages of DNA analysis. Each training consists of various combinations of lectures, scientific readings, demonstrations, and training exercises, and I also have successfully completed examination of unknown samples, oral reviews, and written examinations as part of my training.

Q And do you belong to any professional organizations that you can draw upon and help you do your – this job?

A Yes, sir.

Q Would you tell the jury what that is – what those are.

A I'm a member of the Midwestern Association of Forensic Scientists, as well as a member of the American Academy of Forensic Sciences. I'm also – I've received certification in the field of molecular biology with the American Board of Criminalistics.

Q Why are those important?

A It's important to be members of scientific organizations in our field to expose us to new technologies, new information that's ever present in the field of DNA analysis. My certification in the field of molecular biology also is just a voluntary process that means I have been qualified by a group of my peers as competent and proficient in that field. It's completely voluntary, not mandated by any agency to perform the science, it's just an extra credential.

Q And is the Indiana State Police Laboratory accredited?

A Yes, sir.

Q And by whom?

A We are accredited by an organization called ANAB, which stands for ANSI National Accreditation Board. ANSI is an acronym that stands for American National Standards Institute.

Q And why is that important?

A The accreditation process ensures and shows the reliability and accuracy of our scientific work. So in order to complete accreditation, we have a team of qualified individuals come into our laboratory and monitor all aspects of the laboratory, including management, operations, procedures, equipment, and then they will assess all of our protocols, make sure that we're following the national standards in the forensic science community to receive accreditation.

Q I'm gonna hand you what's been marked as State's Exhibit 283; do you recognize that?

A Yes, sir.

Q And what is it?

A State's Exhibit 283 is a copy of my CV or resume that I've provided.

Q And what does it – what's important about the information on that document?

A Well, this document outlines my experience within my career. It also shows the information that we've just talked about as far as my education and professional organizations, but the majority of the outline of the document outlines the scientific training that I've undergone under the course of my 18-year career with the State Police Laboratory.

MR. LUTTRULL: I would move the admission, Your Honor, of this document, the CV of Ms. Bozinovski, State's Exhibit 283.

STATE'S EXHIBIT 283 OFFERED

MS. AUGER: No objection.

THE COURT: All right. Without objection, 283 is admitted.

STATE'S EXHIBIT 283 ADMITTED

MR. LUTTRULL: Thank you, Your Honor. May I publish to the jury?

THE COURT: You may.

STATE'S EXHIBIT 283 PUBLISHED

MR. LUTTRULL: May we approach, Your Honor?

THE COURT: Yes.

(Sidebar conference conducted.)

MR. LUTTRULL: We're gonna be talking about so many items –

THE COURT: Okay.

MR. LUTTRULL: -- but we've broken them down by report, just so you know.

THE COURT: Okay. That's good for you.

MR. LUTTRULL: I have the first report, which is what the staff is organizing, but I don't have all the second items ready –

THE COURT: Okay.

MR. LUTTRULL: -- on that table. Can we have the staff help –

THE COURT: Sure.

MR. LUTTRULL: -- get those while she's testifying?

THE COURT: Sure.

MR. LUTTRULL: Okay.

THE COURT: Of course.

MR. LUTTRULL: I just wanted to –

(Sidebar conference concluded.)

Q Does the Indiana State Police Laboratory have a quality assurance/quality control process or program in place?

A Yes, sir.

Q And why is that important?

A The quality assurance/quality control program at our laboratory again helps ensure the accuracy and reliability of our results. It is a process that is used to help monitor procedures, verify that we're following all of our protocols in place, and to identify any problems that might be, and to take any corrective actions if problems are identified.

Q And does the – is that all required by the accreditation? Is that one of the things that is demanded and expected of the agency?

A It is one of the standards as part of accreditation to have that kind of protocol in place in your laboratory.

Q Are there any elements in that program that you haven't covered so far that you'd like to share with the jury?

A Sure. I can give some examples of some components of the program to help put into perspective how that plays a role in our analysis. Examples of some quality control components would be the training of our analysts, the education that's required, as well; the internal and external audits that our laboratory undergoes; the validation of our analytical methods, so the procedures and the processes that we are using for analysis; then, the calibration of our equipment and reagents, those kind of things that happen in the laboratory. Some examples of quality control would be some internal actions or activities that we use every day as part of our analysis, so some examples of that would be the use of positive and negative controls to ensure that our reagents, our chemicals, are working appropriately, the wearing of proper personal protective equipment to protect ourselves and the evidence, the documentation that's required as part of our case analysis, the technical and administrative review process that each case undergoes, as well.

Q What's DNA and where do we find it?

A So DNA stands for deoxyribonucleic acid. It's a biological material that contains an information code, so it serves as a blueprint for how our body is built, how it functions. DNA is passed on from generation to generation, so it's inherited. You inherit half of your DNA from your mother and half from your

father. Important to say – it's important to note about DNA is that it's found in all cellular material with nuclei, so that would be all the cells within our body with the exception of red blood cells.

Q You mentioned your DNA work and you mentioned serology, would you tell us the difference.

A So as part of my role as a forensic scientist, I use both serological examinations and DNA analysis. So serological or I guess serology is defined as the study of body fluids, so a serological examination is a exam that I do to help detect/locate body fluid stains and then identify those body fluid stains, or I help look for other biological material. DNA analysis is a method that is used to help individualize those body fluid stains to help make conclusions on who may be consistent with that sample to help provide some meaning behind that body fluid sample.

Q What are examples of different sources of DNA?

A So most commonly in a serological examination, we will see body fluid stains such as blood, seminal material, and saliva, those are typically good sources of DNA. Other body fluids or materials like vomit, fecal material, and urine might be present on an item, but that is less common in the types of items that we examine, and those also are less optimal sources for DNA. In a serological examination, I may be looking for biological material like hair. Hair may be collected from an item to perform DNA analysis, as well, and this is also a less-ideal source of DNA. And then finally, it is possible to collect or attempt to collect skin cells from evidentiary items, and the success rate of skin cells is highly variable on evidence and it's often dependent on the quantity and the quality of that type of sample.

Q So at the top of the – if this is a good to bad flow chart of sources of DNA, at the very top, good or maybe okay to say rich source of DNA – would that be appropriate?

A Yeah, I would – I usually would say good, but a good source of DNA or rich in cellular material would be a blood type sample.

Q Blood. And by good, you're talking about the quantity of DNA that's available in even a small amount of blood?

A Yes, which kind of –

Q What do you mean by good?

A Yes, which correlates to, essentially, the number of cells that may be present in that type of body fluid.

Q And what else is up there besides blood at the top of this flow chart?

A I would assign seminal material and saliva and blood as all good sources of DNA.

Q At the bottom of that chart is skin cells?

A Again, it's just highly variable. It all goes back to quantity and quality. So skin cells, the type of examinations that we do, there could be items that yield an abundance of skin cells and there may be items that is hard to detect, you know, anything – any DNA. And then, if I may elaborate, I don't actually have a test for detecting skin cells, it's just I attempt to collect skin cells of off items and my tests to see if that was successful or not is based off the quantity of DNA present.

Q So when you are searching for and analyzing and finding DNA, in that process you're not identifying it as one of these types of DNA on the flow chart, it's just DNA; is that correct?

A The serological examination will help with yielding an identification on whether there's a body fluid or not. The DNA analysis results will just indicate what the DNA profile is. It doesn't indicate that it is blood. If that helps make sense.

Q And can you tell in your testing when a DNA – when DNA was deposited on the item that you examined?

A No, there is not a test that I can perform that will, essentially, timestamp a DNA profile, that's not possible.

Q You used the word "profile", tell the jury what you mean by DNA profile.

A A DNA profile is a list of numbers that makes up the genes or the markers that I'm analyzing in my analysis.

Q And when you are looking for body fluids, how do you do that? What processes did you do to identify body fluids?

A So I will perform a serological examination in order to determine whether a body fluid is present. I first will do a presumptive test, which is a quick, simple, sensitive test that require – it's a chemical test, so it requires the addition of two chemical components and it may indicate that a body fluid is present. In order to confirm the presence of a body fluid, I will do a second test, called a confirmatory test, and that test is much more specific to the type of body fluid that I am analyzing and will confirm that a body fluid is present.

Q Is it too simplifying it to say the first stage of that test, you find out whether you might have a body fluid. The second stage is confirming whether you have a body fluid?

A Yes. I also like to put it at as the first test will screen out the samples that are not consistent with a body fluid.

Q Could you briefly describe the process that the laboratory goes through to get a DNA analysis.

A DNA analysis occurs in several stages. The first step is called extraction and that's where I add some chemicals, I take a cutting of a sample, add some chemicals to break open the cellular material and release the DNA. Then I will perform a step called quantification and in that step I'll be able to determine how much human DNA and how much male DNA, as well as if any inhibition or degradation is present in a sample. If there's enough DNA present in the sample from that step, I'll continue on to the third stage, which is called amplification, and in that step I perform what's called a PCR an – or a PCR, which is where I make millions of copies of specific markers or pieces of DNA that are of interest for our analysis. Those pieces of DNA are then separated by size using an electrical current and this is called capillary electrophoresis. That separation is what allows us to produce the DNA profile. It yields a pattern that, essentially, I translate into that list of numbers or DNA profile.

Q There are some terms that we're gonna come across occasionally that I may stop and ask you to define or explain to us. What is a gene?

A So a gene is a small, non-coding segment of DNA that we're interested in and in analyzing.

Q And what is an allele?

A An allele is a variant or one of many different forms that may be expressed at that gene.

Q And what is a locus?

A And a locus is the specific location of a gene on the DNA chromosome.

Q And why is DNA analysis performed?

A Again, DNA analysis is – well, DNA in general is highly variable among individuals. We all have unique DNA profiles, and DNA analysis will allow us to individualize a sample or a body fluid stain to help determine who it may be consistent with.

Q I believe we'll be talking about today single-source and mixture profiles; correct?

A Yes, sir.

Q And would you explain those to the jury, please.

A I will use probably throughout my testimony the term "single-source" and "mixtures". Single-source is terminology used to express that a DNA profile is consistent with a single individual, and so at each of those genes or markers, I am observing up to two alleles in the DNA profile, so that means I am able to confidently determine that it's coming from only one individual, it is single-source. A mixture is a DNA profile that is coming from two or more individuals, and those kinds of DNA profiles will – you will observe multiple alleles at each of the markers that we're analyzing.

Q Are there occasions where you cannot determine the number of contributors to a mixture?

A Yes, sir.

Q And what does that then pose to you as a DNA analyst?

A Well, I think first thing we need to step back and talk about just my – how I go about analyzing a DNA profile, and essentially the first step is to assess for any biological artifacts that may exist in that DNA profile, and then the following step is to determine how many contributors may be present in a DNA mixture. So those determinations are made, that interpretation of the DNA sample is made

prior to looking at any DNA standards associated with the case. Like I mentioned earlier, the quantity and quality of the DNA profile, as well as what type of sample the DNA profile is coming from all play a factor in whether I'm able to reasonably determine the number of contributors present in a mixture.

Q We covered some of this, but what type of results may a DNA analysis generate?

A So the – one of the stages that I mentioned earlier called quantification is a step where I can determine how much DNA, now much human DNA, how much male DNA is present, as well as other quality factors about the sample, like inhibition and degradation, that can all be assessed and determined during that stage. If there's not enough human DNA or even enough male DNA present in a sample, then that sample will not continue through the rest of the stages of DNA analysis, so that is a possible result that may be yielded from my analysis. Also, if there is enough DNA and it completes the DNA analysis process, then it may be suitable for interpretation, so it may – I may be able to make determinations on the number of contributors and be able to compare it back to known standards in the case. And in that case, I will yield results indicating whether a sample – or whether a person could be included or excluded from a sample. Sometimes DNA samples cannot yield conclusive results; again, based off of the quantity and quality, I may not be able to determine or make conclusions about a sample to make those comparisons back to known standards.

Q And were you asked, in this particular case, to conduct DNA analysis on a number of items that were presented to you, beginning in February of 2017?

A Yes, sir.

Q And under what case number?

A That case number would be laboratory case number 17K-00066.

Q You have that number memorized?

A I do.

Q Okay. And that resulted in you issuing a report on March the 7th of 2017; correct?

A That is correct.

Q So we're gonna group and just look at that report items, then we'll move on to another report – other reports. I'm gonna begin by handing to you State's Exhibit 174. I also have here 175. Are you familiar with both of these items?

A Yes, sir.

Q And how are you familiar with them?

A I recognize both of these items as items that I have examined in this case. I can recognize my markings for identification on the outside of the box, which includes my case number, my item number, my initials, and my personal employee number. Each item contains that information here, as well as my initials across the seal right here.

Q And you're familiar with the container and the type of items that are often included inside that – those boxes; is that correct?

A Yes, sir.

Q An Indiana sexual assault evidence collection kit is something you examined the contents of on May –

A That's correct.

Q These specifically, Exhibit 174 is for A.W. and – is from A.W. and 175 is from L.G. And did you, in your process, go through each subitem, in these boxes and make an examination on them?

A Yes, I did.

Q Would you tell the jury the results of your examination of those items.

A Yes, sir.

THE WITNESS: Your Honor, may I refer to my reports?

THE COURT: You may.

THE WITNESS: Thank you.

A So the contents of the evidence collection kits from – collected from L.G. and A.W. contained a series of items. Those items from each kit were vaginal wash samples; vaginal/cervical swabs; oral swabs; anal swabs; external genital swabs; internal genital swabs; fingernail scrapings; in addition, a head hair combing sample was collected from both L.G. and A.W., and a pubic hair combing was collected from L.G. As I mentioned earlier, my analysis begins with a serological examination, so those items were tested and screened for the presence of seminal material. No seminal material was detected on the contents of the kits that were tested with the exception of the vaginal/cervical swabs from each kit indicated the possible presence of seminal material, but there was no confirmatory testing performed. Moving on to my DNA analysis results, the contents of both of those evidence collection kits. In order – I did the extraction and the quantification and, as part of the quantification step, I analyzed the amount of male DNA present in the samples, and the contents of the kits mostly exhibited no male DNA, with the exception of one set of external genital swabs from A.W. and one set of external genital swabs from L.G., as well as one sample from the fingernail scrapings of each of the kits. Those samples indicated the presence of male DNA; however, there was an insufficient amount of male DNA for further analysis. So like I mentioned earlier, given that there was no male

DNA or insufficient amount of DNA on the contents of the kits, there was no additional DNA analysis, so no DNA profiles were developed from the contents of the kits.

Q So back to the presumptive or preliminary result on both victims' kits where you had a presumptive positive – did I hear that correctly? – for seminal material.

A Yes, sir.

Q You said you did not do a confirmatory test; and why is that?

A So at this – at the time, we were not performing confirmatory tests as part of our workflow for sexual assault kits. Instead, it was a choice to help conserve sample, to take that sample forward for DNA analysis to determine what profile was present on the sample regardless of whether there was a confirmation of seminal material or not.

Q That presumptive and then, if you had gone forward with confirmatory, that would have been a serological analysis; correct?

A That's correct.

Q You wanted to concentrate, save the material for DNA analysis?

A That's correct. So an additional serological test would have taken another cutting of that sample and, in order to make the most use of time and resources, it was better just to go forward and see what type of DNA profile was present on that sample.

Q Have you ever had the experience where, on the initial test for seminal material, is followed by a confirmatory test and it's negative? Has that ever happened?

A Are you asking if the initial test is positive and then the confirmatory test

is negative? Yes, that does happen.

Q In this case, what was the result of your DNA analysis on those – you said they were both the cervical – vaginal/cervical swabs on both victims?

A There was – yes, the vaginal/cervical swabs of both of the kits from both individuals.

Q And what was the result of your DNA analysis on those swabs?

A So the DNA result indicated that there was no male DNA present on both of those samples.

Q Now, the areas where you did get a quantity of male DNA, but not enough to develop a profile – did I say that correctly?

A Yes.

Q One was on a fingernail of – was it A.W. or L.G.?

A One set of fingernail scrapings from both individuals.

Q And the other was on a exterior – external swab, external genital swab?

A That's correct.

Q Have you – does the finding of some male DNA on those swabs indicate that that would have been from a perpetrator of a crime?

A No, it does not.

Q Would you explain that to the jury.

A Well, I can't make any conclusions about who that DNA is attributable to, first of all, because I don't have a DNA profile, but DNA on fingernail scrapings and even external genital swabs, male DNA of the amounts that I was detecting, which was very, very little, isn't necessarily an unusual result off of those types of samples. The hands and fingernails are every day in contact with items and people, that it's easy to pick up a small amount of male DNA or female DNA from

the items that we're handling and touching, as well as the external genital swabs are very much an externally collected sample from the body. That part of our body comes in contact with our clothing, and our clothing could also be carrying DNA just from everyday wear, laundry, household sharing of clothing, as well.

Q So it's – if a victim were living with – in the same household with males, would you be surprised to find some quantity – insufficient quantity, but some quantity of male DNA in these locations where it was found on these two sexual assault collection kits?

A I wouldn't be surprised. And when I'm speaking of male DNA, remind – I want to remind you it was below the amount of male DNA we need to amplify to develop a profile, so it was a very, very little amount of male DNA, so it wouldn't surprise me that it could be coming from the environment or clothing or, like I said before, previously contacting objections or persons.

Q I'm gonna hand to you items 170 to – State's Exhibits 170 to 173 and ask if those are familiar to you.

A Yes, I do recognize State's Exhibits 170 through 173.

Q And in addition to those, I'm going to hand you to examine 151, 152, Exhibits 153, 154, and 155. Take a look at those and tell us if you recognize those – that packaging.

A Yes, I do.

Q And how do you recognize them?

A I recognize the packages again from my markings, which are included in a boxed area on each of the packages, including the case number and item number, my initials, and personal employee number. It also – each package has several of my initials across the seals.

Q If I might hand you these items, as well, State's Exhibit 149, 150, and 156; do you recognize –

MS. AUGER: Mr. Luttrull, what numbers were those?

MR. LUTTRULL: State's Exhibits 149, 150, and 156.

MS. AUGER: Thank you. Sorry.

MR. LUTTRULL: No.

A Yes, I recognize these, as well.

Q All of the items submitted to you that you reported on in your May – or March 7th report, have you recorded who – from whom you received them?

A Yes, that is recorded in a chain of custody maintained in our laboratory.

Q And can you tell the jury from whom you received each of these items.

A Oh, thank you. So all of these items were submitted to the laboratory by Sergeant Brian Olehy, and I received the majority of them directly from Sergeant Olehy on February 17th, 2017, with the exception of laboratory items 17, 18, and 27, which went for a trace examination once they were submitted into the laboratory, so I received them directly from that trace examiner after their analysis.

Q One other thing I want to circle back to very quickly: On these evidence collection kits, State's Exhibit 174 and 175, in addition to doing a examination on unknowns, did you use any material in 174 and 175 to create a known standard?

A Yes, and I appreciate you bringing that up, because I did delay in – or I did hesitate in mentioning that I also did receive DNA blood standards from A.W. and L.G. as part of their evidence collection kit.

Q And how did you then use that – those blood collections that you received

in both those two collection kits, how did you use those throughout your examination?

A Yes. Those two blood samples were used as the DNA standard, so the known sample for L.G. and A.W., throughout my analysis in this case.

Q Okay. Now, I put you through a bundle of numbers and you have numbers, Sergeant Olehy had numbers, and now the Court has numbers. Can I ask you to describe the – your results from the items that I've handed you and you've identified? How can I help you do that?

A Yes, I would like to refer to those by laboratory item number, since that's how I have that documented throughout my case number, if that works.

Q Let's take these, if you're okay with this number at a time, and then tell us, if you can, what your results were.

A So first I would like to start with the laboratory items 1, 2, 8, and 9, which were State's Exhibits 170 through 173. These were swabs collected from the body of L.G. Each of these samples were examine – a serological exam was performed for the presence of blood, and blood was detected on laboratory items 1, 8, and 9. Item 2 indicated the possible presence of blood; however, I did not do the confirmatory testing due to the amount of stain that was available, I wanted to preserve that stain for DNA analysis. In my DNA analysis of each of these four samples, I was looking for the presence of male DNA, much like I did with the components of the evidence collection kit. So they were extracted and quantification was performed and in – it was analyzed for the presence of male DNA. There was no male DNA detected on item 2, which was the swab of the right upper thigh. Items 1, the swab of the left thigh; item 8, the swab of the right breast; and item 9, the swab of the left breast indicated an insufficient

amount of male DNA present on those samples. Moving on to the next set of samples, these samples, items 20, 21, 22, 26, and 27, were swabs collected from the body of L.G. or they were fibrous material that was collected and submitted to the laboratory from the body of L.G. So like the swabs I mentioned previously, they were analyzed for the presence of blood and that test is determined from my visual observations of what the swab looks like, which means it had staining that indicated a need for that type of test. So serological testing indicated the possible presence of blood on item 20, which was the swab of the left wrist of L.G.; 21, the swab of the inside right wrist of L.G.; item 26, which was the swab of the thigh from L.G.; and then, item 22, blood was confirmed as present. Item 27 was that fibrous material I mentioned. There was no serological testing performed on the fibrous material; instead, it was microscopically examined to determine whether it was a human hair. And the result from that did indicate that it was a human hair from the left pinky finger of L.G.; however, that human hair did not have a root present on the hair, which means that it is not able to be used for DNA analysis. Back to the remaining swabs, they were assessed again for the amount of male DNA and that is, given that they are body swabs from the individual, I was looking specifically to determine if there is a male foreign contributor. On item 20, item 21, and item 26, there was no male DNA detected. Item 27 – oh, sorry, excuse me, item 22 did indicate a slight amount of male DNA, but it was insufficient for further analysis. My last set of samples, two of these samples, laboratory item 17 and laboratory item 18, were submitted as fibrous material from the hand of A.W. and the left arm of A.W. And the final sample was a swab from a tree, laboratory item 28. The fibers were examined again microscopically to determine if it was indeed human hair. Item 17 had

two hair present inside of it. Both of those hairs were consistent with human hair and both had a root present on the hair, which means I could perform DNA analysis on the root portion of the hair. The root from the first hair within item 17 yielded a DNA profile which originally was found to be consistent with an unknown female, so that profile was compared back to the DNA profiles of A.W. and L.G. and found not to be consistent with them. The second hair within item 17 did not have enough DNA present for further analysis. The hair within item 18 also had a root present, was consistent with human hair, and that hair did not have enough DNA for further analysis. And then the final item here, the swab of the tree, which was laboratory item 28, was tested for the presence of blood and it indicated a possible presence of blood on that swab; and again, I did not perform confirmatory testing in order to preserve the sample for DNA analysis. A DNA profile was determined from laboratory item 28, the swab of the tree, and that profile was found to be consistent with the DNA profile of L.G.

Q The swab from the tree?

A Yes, sir.

Q Does that complete – did you go through each one of those?

A I believe I got them.

Q If the record showed that the first group of envelopes that you looked at, that followed your discussion of the collection kits, all came from the autopsy, that would be your item 100, 101, 107, and 108, is that consistent with your documentation?

A Those item numbers are referring to the agency item number, so that's the CSI's item number. My item numbers are items 1, 2, 8, and 9.

Q I'm sorry, yes.

A No problem.
Q I've now confused the numbering system. State's Exhibit 170, 171, 172, and 173 are what you had previously described. Did those all come – were they all collected at the autopsy?
A I believe that is the information that I have received about those swabs, yes.
Q The – did you do further examination of the hair found on A.W.'s finger that was identified as an unknown female?
A Yes. I – given that it was a known profile, would compare that or use it for comparison if needed, yes.
Q And in examining that DNA profile on the strand of material, the hair, on the right hand of A.W., State's Exhibit 149, did you – were you able to make any conclusions about that DNA profile on that hair?
A Well, right away, as I mentioned, I compared that DNA profile back to A.W. and L.G. as being the standards I had available for me at the time; and in doing that, I could tell you it was not consistent with either of their profile, but I did recognize that there was some similarities between that female profile and the profile of L.G., so that led me to believe that it could have been a biological relative of L.G. at that time.
Q Did you later – Ms. Bozinovski, did you later, in March of 2017, receive what I've marked as State's Exhibit 284, which is your lab number item 246; did you later receive this?
A I did receive this. I can't recall the exact date and I can refer to my chain of custody if you would like me to recall that, but I did receive this item, I have examined this item, and I recognize it again by my packaging – my markings on

the packaging.

Q And what is that item?

A This item is a DNA standard collected from Derrick German.

Q Identified to you as the father of L.G.?

A That was the information that was provided me at the time that it was submitted to the laboratory.

MR. LUTTRULL: I would move the admission of State's Exhibit 284.

STATE'S EXHIBIT 284 OFFERED

MS. AUGER: No objection.

THE COURT: All right. Without objection, 284's admitted.

STATE'S EXHIBIT 284 ADMITTED

Q And did your examination of Derrick German's – well, excuse me, let me back up. Were you able to develop a profile, a DNA profile, for Derrick German from that standard?

A Yes, sir.

Q And does that DNA profile give you any more information, in your opinion, on the hair identified as coming from an unknown female that came from the hand of A.W.?

A For the DNA profile, it was submitted for comparison to items that I had in this case, but given that I had already come to the determination that I believe that profile to be a relative of L.G., a comparison was completed with the profile of Derrick German and, again, it just further supported my belief that the profile of the female individual was a relative of L.G.

Q And by examining Derrick German's DNA profile, did it narrow the familial relationship that you believed was behind the identity of the unknown female?

A It – again, it just showed some consistencies that you would expect among biological relatives that showed that the profile from the unknown is – not only could it be a relative of L.G., but it also appeared that it could be a relative of Derrick German.

Q You also knew that A.W. was found wearing L.G.'s sweatshirt, that information was provided to you; correct?

A Yes, I was.

Q Did you share your conclusions that your examination of that unknown female profile and your examination of L.G.'s profile and her father Derrick German's profile led you to believe that not only was it a female, but it was a female relative; did you communicate that to investigators?

A That was communicated just through investigative meetings and discussions that I had with the investigators. It was never in a report of any sort, as we don't make those types of conclusions without DNA standards from an individual. We don't include, I should say, those types of conclusions in our report.

Q And then, early this month, October, 2024, I informed you that I was asking that you receive a standard of Kelsi German Siebert's DNA; is that correct?

A I think that you inquired about it even earlier than October. I believe we discussed it at the end of September, we talked about whether a DNA standard was submitted yet for the biological relatives.

Q Did you receive a standard from the sister of L.G., Kelsi German Siebert?

A Yes, I did.

Q And did you – were you able to develop a DNA profile?

A I was.

Q And what was your conclusion regarding the unknown female on the hair on the right hand of A.W.?

A So the unknown female profile that was from one of the hairs on laboratory item 17, the hair from the right hand, was found to be consistent with Kelsi German Siebert and is estimated to occur once in more than 8 trillion unrelated individuals.

Q I'm gonna hand to you what's been marked or admitted into evidence as 1 – State's Exhibit 148; for your records, it's item 016. Can you tell the jury if you recognize that packaging.

A Yes, I do recognize this packaging.

Q And did you receive that item at the same time that you received the items from the autopsy and from the swab of the tree and other swabs taken at the crime scene?

A Yes, sir.

Q And what is it?

A State's Exhibit 148, which is my laboratory item 16, is the cartridge that I've examined in this case.

Q That came to you with all the other crime scene packaging?

A Yes.

Q In this initial exam?

A Yes, it was included as part of the original submission for this case. I received it on February 17th, 2017, along with the other items I've examined and previously talked about.

Q And did you examine the contents of it?

A I examined the item which was in this packaging, yes.

Q And did you document and note the condition it was in when you received it?

A I did.

Q And what can you tell the jury about your documentation and what you know about the condition of that item?

THE WITNESS: Your Honor, I'd like to refer to my notes on my laptop, if that's possible.

THE COURT: You may.

THE WITNESS: Thank you.

Q So the – my notes indicate that I received the brown paper bag, which was sealed with clear packaging tape. Inside of that brown paper bag was a manila envelope, which was also signature sealed with clear packaging tape. In addition, there was loose debris present inside of the brown paper bag. Upon opening up the manila envelope, I observed one cartridge which had an imprint on it, Winchester .40 S&W, also contained loose debris, which appears to be plant material. I did not observe any visible ridge detail. The cartridge appeared slightly dirty. In my examination, I did not perform any serological analysis. I did take one swab of the entire surface of the cartridge. Upon taking that swab, I noted that the swab had a light brown, dirt-like staining present on it.

Q Why'd you swab it?

A So as part of my examination, I first did a visual exam to see if there's any kind of body fluid that warranted testing on that sample. There was nothing that warranted testing for a body fluid. So then I attempted to collect any potential skin cells that may have been on the surface of the cartridge. Swabbing

is the method in which I can collect anything that might exist on that surface area.

Q You received this item amongst the other items received by you on February 17th, directly from the hand of Sergeant Olehy?

A Yes, I did.

Q In swabbing it, would you have – in doing that process with a moist swab, would you have removed dirt that was on it?

A Yes. So part of the process is to wetten a swab with a drop of water, so in doing that, yes, the swabbing would have removed the dirt that was present on that sample.

Q And you had dirt on the swab or you had a substance that looked like dirt on the swab when you were finished?

A Right, and it warranted me documenting that in my case notes, because I felt like – we haven't yet discussed this yet, but I feel like dirt could be impacting my ability to get a profile off of that sample, and that's why I noted its presence on the item.

Q I'm gonna hand you a box of gloves and a scissors, ask that you open the outer packaging of State's Exhibit 148.

A Do you care where I open it at?

Q I do not.

A Okay.

Q You have a process you try to follow when you do this; is that right?

A I do.

Q And this item's been opened before?

A It has. So I am going to try to open it in a – on a different side than has

previously been opened.

Q For the record, would you describe it when you remove it from the bag.

A I have removed the contents of the bag, which include a manila envelope that was the original manila envelope included in this packaging. I recognize, again, this envelope by my markings right here, which are not in the box here, but they do include the case number, item number, my initials, and my employee number. In addition, there is a piece of white paper that has been sealed across all of the edge. This paper I recognize again by my markings on the outside, as well as my initials across the seals on both edges.

Q Did you create that item there, that – did you fold the paper?

A Yes, sir.

Q And what's inside that?

A The – this is what I referred to as exam paper. It is the paper that I performed my examination on. It is retained in items in which there might be loose trace evidence or debris that I want to preserve. So in – when I received this cartridge, there was loose debris, specifically appeared like plant material to me, and I wanted to retain that, so the paper is folded and sealed into a bindle and each of the sides of the bindle are then appropriately sealed so nothing can come out of it.

Q I'm gonna ask that you remove the content of the envelope that was inside, the bag in State's Exhibit 148, if you would, please. And what have you – what's the content of that envelope?

A Within the envelope is a cartridge.

Q And is there, at the back, the headstamp of that cartridge? Are you able to see the back?

A I can see the print on the end of the cartridge and I can confirm by looking at my notes that this is consistent with what I've written down as part of my examination.

Q A Winchester .40 Smith and Wesson round?

A I am no firearms examiner, but it does say a Winchester .40 S&W, which is exactly what I've written down in my notes.

Q And would you just hold that up for the jury, so they can see it.

STATE'S EXHIBIT 148 PUBLISHED

Q Did you mark it yourself?

A No, sir.

Q And why's that?

A At the time of my examination, there was still a pending examination, which means it needed to have additional analysis, so I did not place any markings on that item, as I didn't want to interfere with the additional analysis that needed performed.

Q But you were first in line to look at that in the laboratory?

A Yes.

Q And you also gave it a look-over for latent prints; why did you do that?

A Sergeant Olehy and I had discussed whether a latent print examination was necessary on this item. A lot of times with items such as these, we have our investigators make that consideration; and when we have something as small as this, it's nearly impossible to do both, a latent print exam and a DNA analysis exam, so we had that discussion and it was decided that DNA would be the preferred analysis for this item. I – sorry, I can't remember what I was gonna say.

Q That's all right. But you did not see any – could not see any latent prints visible; is that right?

A That's where I was going. So I did just kind of visually examine the item to see if there was any kind of visible prints. Now, we know latent prints are not typically visible to the eye, but I wanted to note whether there was any type of ridge detail that I could observe. Sometimes if you have prints in like blood or something with grime or debris on it, that you might be able to kind of see a ridge detail, so even though we weren't doing a latent print exam, I wanted to note whether there was a print visible. If there would have been something that was present in kind of like a body fluid or a grease-like stain, then I would have then had further discussion with the investigator to determine if maybe we should have done that latent print exam.

Q What has been your success rate and your DNA office's – unit's success rate with unspent cartridges and other ammunition?

A So unspent and even spent cartridges are very difficult to get DNA profiles on and it really just again depends on the quantity and quality of the sample, but you all saw how small that was when I held it up. My swabbing is designed to collect as many skin cells as possible, I need to have an abundance of skin cells present on your object to have enough DNA to develop a DNA profile, so we have found that – in our research in our laboratory, we have found that cartridges are not successful and, since 2017, we have removed them from analysis in our laboratory – excuse me, for DNA.

Q They go on to either latent print and especially firearms/tool marks?

A I believe that even latent print analysis has taken cartridges out of the scope of their examinations, as well, and again, it just goes back to the amount

of surface area and the success rates from these types of items.

Q What was the result of your examination of your item 16, State's Exhibit 148?

A So I took a swab of that cartridge, I used that swab entirely, which means I consumed the sample entirely to maximize my opportunity of getting a DNA profile. The DNA profile – sorry, the DNA result from that cartridge demonstrated an insufficient quantity of DNA for further analysis.

Q The jury has seen photographs of two Chuck Taylor Converse All-Star shoes, a right and left shoe. Did you examine two such items and are they here, State's Exhibit 146 and 147?

A Yes, sir, I've examined these items, State's Exhibits 146 and 147. They are laboratory items 14 and 15.

Q And items 177, identified as a sweatshirt with the word "German" printed on it, State's Exhibit 177; did you examine this?

A Yes, sir, I also examined this item. I recognize it again by my markings.

Q And I'm gonna show you State's Exhibit 178, identified as a shoe – no, I'm sorry, Maurice brand jeans.

A State's Exhibit 178 I also recognize as my laboratory item 30 and my markings, as well.

Q Would you tell the jury the results of your examination, beginning with the right and left Converse shoes and then the sweatshirt and the Maurice jeans.

A So beginning with the shoes, as with all of these items I mentioned so far, I performed a serological examination. So I start with a visual exam and write down or indicate on my notes what I'm observing, what I see from the item. There were – there was discoloration present on the tennis shoes that warranted me

testing it for the presence of blood and, on item 14, there was no blood detected on that shoe; however, I did take eight swabs of the shoe and, at that point, I was trying to collect any type of skin cells that may have been on the shoe to see who may have handled that item. Item 15, the serological examination did indicate the presence of blood, so blood was detected in one area on item 15. Now, that was an area on the outside tongue of the Converse shoe. I also took eight swabs from item 15 for collection of possible skin calls from that item, as well. The analysis of items 14 and 15, those swabs, one swab from item 14 and was – sorry, one swab from item 14 of the shoe was consistent with A.W. It was – it's also estimated to occur in once in more than 8 trillion individuals. One swab from item 15 was found to be a mixture of two individuals, and that mixture, A.W. and L.G. could not be excluded as possible contributors, and that is estimated in one in 14 unrelated individuals would contribute to that mixture. The remaining swabs of the shoes yielded a variety of results. Some were partial DNA profiles in which I could not determine the number of contributors, so I was not able to make any further conclusions. Others had no conclusions drawn because they had a failed quantification test control. That quantification test control is a check that is used to check for inhibition on a sample, so essentially, I was detecting inhibition on the swabs of the shoe and, therefore, I couldn't – I didn't have enough DNA detected to determine a profile, but I also couldn't be confident necessarily in my quantification of that amount of DNA because the positive control was failing and it was failing due to inhibition.

Q You've used the word "inhibition" and "degradation", would you describe those a little bit more for the jury and how they impact your ability as a DNA analyst?

A Well, like I mentioned earlier, we have a proc – a part of our process can detect inhibition and degradation, so that was detected, so this result that I'm giving you is the result of that detection method, so it indicates these swabs of the shoes were inhibited and could not go on for further analysis. Essentially, inhibition is affecting the quality of the DNA profile, and degradation, as well. So I might be able to detect DNA, but I'm not gonna be able to get a complete DNA result or even a suitable result that is suitable for interpretation because of the degradation and inhibition. I'm getting very, very limited information out of my DNA profile.

Q Do your notes reflect anything about the condition or what the source of the inhabitation may be on either shoe?

A Yes. If I may refer?

Q Sure.

A So item 14 and item 15, I have indicated that they're – the shoe is heavy with soil and dirt and plant material. Yes, sorry, I wanted to read it all. It indicates that I was observing very heavy soil, dirt, and plant material on that shoe. To be honest, the shoes are very dirty, as, you know, shoes can be, but these are an abundance. It wasn't just the sole or the bottom of the shoe, like the shoe, every part of the shoe. And given that they're Converse shoes, they were fabric, not leather, so that dirt was really embedded into that fabric material.

Q Would you describe – what were your findings in relation to the – your examination of the sweatshirt?

A I apologize, I haven't completed my results for item 15 yet.

Q The shoe?

A Yes.

Q Which shoe are we talking about? The left shoe?

A Item 15, which was the left shoe, yes.

Q Okay. Go ahead.

A So I did mention that I did detect blood on one cutting of or on one sample of that shoe, so blood was detected in the tongue area of the shoe. The blood that – excuse me, the cutting of that shoe yielded a profile that was a mixture of two individuals. The major profile of that mixture was found to be consistent with L.G. and estimated to occur in once in more than 8 trillion unrelated individuals. A minor profile was present and that minor profile was consistent with A.W. and estimated to occur once in 66 million unrelated individuals.

Q And that was on the tongue of the shoe?

A Yes, sir.

Q Were there any other findings in relation to your items 14 and 15, the Converse shoes, that you wanted to share?

A At this time, it's just worth mentioning that my visual exam included collecting hair, as well, and doing microscopic examination of hair. There was hair present, but it was found to be not consistent with human hair.

Q So your examination of the sweatshirt, that was an – that's an item that you looked at on multiple occasions; correct?

A Yes, sir.

Q And in your initial exam on the March 7th report, could you summarize your results on the sweatshirt.

A The – a visual examination was done of the sweatshirt, I will quickly note my visual appearances, but the black sweatshirt, I noted that there was heavy,

saturated red staining present in the back, the hoodie area, the upper shoulders, and the front neck of the black hoodie. There was heavy plant material present, areas – excuse me – it appears dirty with heavy soil, dirt, sand. All of that sand, soil, and dirt was also detected during my visual examination in which I was using an alternate light source. The alternate light source, UV and infrared light, kind of enhanced the dirt and sand that I was observing on the item, as well. The serological testing of the sweatshirt indicated that blood was detected. I examined the sweatshirt for seminal material. No seminal material was detected. I examined 11 cuttings from the sweatshirt and some of those cuttings were from blood areas, others were just areas that either fluoresced or it had like a small whitish stain that was of interest to me. I also took three swabs of the sweatshirt. Those swabs were from the outside cuff and sleeve areas of the sweatshirt, as well as the front pockets of the sweatshirt. And I did microscopic examinations of hair from the sweatshirt, as well, and there were several hairs that were consistent with human and had root material present, so they were available for DNA analysis. So of the 11 cuttings, eight of the cuttings were found to be consistent with A.W. and are estimated to occur once in more than 8 trillion unrelated individuals. The other three cuttings were found to be mixtures of two individuals, and L.G. and A.W. could not be excluded as contributors to that mixture. There is a variety of statistical calculations for those three results. The first cutting was estimated to occur once in more than 50 unrelated individuals. The second it is estimated that one in 230 billion individuals would contribute to the mixture. And for the third cutting, it is estimated that one in 290 million unrelated individuals would contribute to that mixture.

Q And those were mixtures in which you were able to include A.W. and L.G.

or you could not exclude them? How would you characterize and articulate that?

A It was a mixture of two individuals and both A.W. and L.G. were consistent with the DNA profile completely, so they appeared to be consistent with that mixture.

Q And was the hair found to be an insufficient quantity of DNA?

A Yes, it was. And I also have results for those three swabs that I took, so the two cuffed areas and the swab of the front pocket. So only one of those swabs yielded a interpretable result, that was the swab of a cuffed area and it was found to be consistent with A.W. and estimated to occur once in more than 8 trillion. The other two swabs from the pocket and the other sleeve demonstrated the presence of a mixture in which the number of contributors could not be reasonably assumed or determined.

Q Thank you. Is there anything else you wanted to note to the jury about the examination of the sweatshirt?

A Not at this time.

Q Did you examine these Maurice jeans that I believe were identified as coming from – taken from the body of A.W.? Is that correct?

A Yes, sir.

Q And would you summarize your findings for the jury of the jeans.

A Again, I examined the jeans for the presence of any type of body fluids. Noted in my visual examination that there was heavy dirt-like staining present throughout the jeans.

Q Were you able to characterize – when you say dirt, did it have any appearance to you that you were able to note in terms of clay or sand or just dirt, anything about that?

A I didn't really make any conclusions, I'm not qualified to make conclusions as to what kind of dirt, but I did occasionally note whether it was a sand-like substance or mud. That's kind of as far as I got with my description on how that dirt appeared.

Q Did you have both on that?

A Here I've indicated mud dirt areas were enhanced with my infrared light and my ultraviolet light, so that's what I was most likely observing. So in my serological examination, there was a lot of that dirt-like staining, and you can't really see underneath dirt to see what's there, so what I was doing was kind of testing for representative areas of the jean to see what might have been embedded under the dirt. So several areas were tested on the jean for the presence of blood and seminal material. There was no seminal material detected on the jeans. Several areas indicated the possible presence of blood on the jeans. The confirmatory testing was performed and it did not confirm the presence of blood. I ended up performing DNA analysis on ten cuttings from the jeans, in addition to two swabs. One swab was of the inside crotch area of the jeans and one swab was from the button or zipper area of the jeans. I also did a microscopic examination of the hair that was collected, and there was one hair collected from the jeans that had a root, so DNA analysis was performed on that. Starting with that result, the hair failed to demonstrate a sufficient quantity of DNA. The one cutting of the jeans yielded a profile that was consistent with A.W. A second cutting of the jeans yielded a profile that was a mixture of two individuals. L.G. and a laboratory individual could not be excluded as the possible contributors of that cutting and it was estimated that one in two unrelated individuals could contribute to that mixture. There – the remaining samples either failed to

demonstrate a sufficient amount of DNA or I was unable to determine the number of contributors, so I was not able to make conclusions. The swabs that I took from the jeans, the swab from the button and the zipper failed to demonstrate a sufficient amount of DNA, and the swab from the inside of the jeans yielded a mixture of two people. The major profile was consistent with L.G., estimated to occur once in more than 8 trillion, and the minor profile is consistent with A.W., and estimated to occur once in 100 unrelated individuals. That is all the results I have for item 30.

Q Thank you.

MR. LUTTRULL: May we approach, Your Honor?

THE COURT: You may.

(Sidebar conference conducted.)

MR. LUTTRULL: Just ready to move to the second and third –

THE COURT: Okay.

MR. LUTTRULL: -- exams.

THE COURT: Do we need to take a break?

MR. LUTTRULL: I'd like to go move this evidence, so we can get the other set.

THE COURT: Okay. So this'd be a good time to take a break, then. Turn your microphone back on. It's off. You turned it off.

MR. MCLELAND: Judge, I don't know if you've been (inaudible) and all points bulletin (inaudible) by the jury, her vehicle was found in the area. It's unoccupied and we believe she's in the court in the audience. I just thought I'd give you (inaudible) we do believe she's the one that (inaudible) the jury and was attempting to photograph the jury –

MS. AUGER: Who is this?

MR. MCLELAND: Her name's Lana Oriani, O-R-I-A-N-I.

THE COURT: This is the –

MR. MCLELAND: She was the one in Fort Wayne and she was in – so I just wanted to keep you in the loop.

THE COURT: Okay.

MR. MCLELAND: (Inaudible), but I didn't want something to happen and me not tell you.

MS. AUGER: Is she a (inaudible), this woman? Or is she –

MR. MCLELAND: She's a YouTuber.

MS. AUGER: Oh, my God.

MR. MCLELAND: (Inaudible) back in Fort Wayne, Fort Wayne Police addressed it with her, and we put out her vehicle description.

THE COURT: Um-hmm. (Affirmative response)

MR. MCLELAND: We found her vehicle about two blocks from the courthouse, it was unoccupied. We think she's in the audience, but we're not 100 percent sure, so –

THE COURT: Do your people know what she looks like?

MR. MCLELAND: They do.

THE COURT: Okay.

MR. MCLELAND: They saw her walking (inaudible) and so I don't know if Jason and Jeremy know (inaudible).

THE COURT: So we can take a break and we'll discuss that.

(Sidebar conference concluded.)

THE COURT: All right. This is a good time for us to take a break.

The State needs to move this evidence and bring over some more evidence, and we'll give you a break while that's happening. 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 10:47 a.m.)

THE COURT: You may be seated. So, Ms. Bozinovski, you can go ahead and step down from the stand while we take our break. You may need to also take a break. And those of you in the audience, if you'd just sit tight for a minute. Gentlemen, you may take Mr. Allen.

MR. ROZZI: I didn't hear what you said?

THE COURT: I said, "Gentlemen, you may take Mr. Allen."

MR. ROZZI: Oh. Thank you.

MS. AUGER: Thank you.

THE COURT: And let's take about 15 minutes. Jodie, you can go off the record.

(Off record at 10:49 a.m.)

(On record at 11:09 a.m.)

THE COURT: Okay. We are back on the record. I know we're waiting for Mr. McLeland and Mr. Luttrull. All right, Mr. Luttrull, have you switched out all of your evidence?

MR. LUTTRULL: I have, Your Honor.

THE COURT: Okay. Are you ready to proceed?

MR. LUTTRULL: As expeditiously as I can.

THE COURT: Okay. Let's bring them in.

THE BAILIFF: All rise.

(Jury in at 11:13 a.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. All right. You may proceed, Mr. Luttrull.

MR. LUTTRULL: Thank you, Your Honor.

Q And now to transition, ma'am, to your March 24th, 2017, report, and in that matter, you looked at items removed from the body of A.W. at the autopsy, three garments; is that correct?

A Yes, that included three garments.

Q And also items obtained at the crime scene and then a number of items removed from the creek, that's how they were described to you; is that correct?

A Yes, that is the description I received.

Q Let's look first at – taken in those groups – I have, for the record, State's Exhibits 179, 180, and 181. These are identified as your lab numbers 31, 32, and 33. Is it okay if I give – little bulky – you want to handle those three?

A Yes, sir.

Q The first item, your lab item 31, was a pink top, a sleeveless pink top from the body of A.W.; and the second item is the gray cotton bra, your item 32; and the black bra is item 33. Would you explain to the jury, item by item, what your results were of your examination.

A Yes, sir. These clothing items were examined for the presence of body fluids. Blood was detected on the pink sleeveless shirt from A.W. and the grey

bra from A.W. The – there was no seminal material detected on either of those two items or on the other bra, which was the black bra, no seminal material was detected. The black bra did indicate the possible presence of blood, but there was no confirmatory testing done on item 33, whereas blood was confirmed on items 31 and 32. In addition, I collected hair from those items for DNA analysis, as well. When – the DNA results for all 14 cuttings that I took from the pink sleeveless shirt, all of them were consistent with A.W. and estimated to occur once in more than 8 trillion unrelated individuals. Three of the 14 cuttings indicated the presence of an additional allele, so just one allele, but there was no conclusion drawn from that information. The hair from the pink sleeveless shirt, there were two hairs, human, with root. One of them did not have enough DNA for analysis, the other hair was found to be consistent with A.W. and also estimated to occur once in more than 8 trillion individuals. Moving to the gray bra, there were two cuttings of blood taken from the bra, both of those cuttings were found to be consistent with A.W. and occur once in more than 8 trillion unrelated individuals. There were three swabs of the bra, these swabs were taken from the breast area of the bra, inside and outside, for the collection of possible skin cells. Two of the three swabs were found to be consistent with A.W. and estimated to occur once in more than 8 trillion unrelated individuals. The third swab from the bra was found to be a mixture of at least two individuals, a major profile was determined, which was consistent with A.W. and estimated to occur once in more than 8 trillion unrelated individuals. The minor profile, there was – I was not able to determine the number of contributors in that minor profile, so there were no conclusions drawn about it. The hair from the bra failed to demonstrate a sufficient amount of DNA. The black bra, there were four

cuttings taken of that bra and then there were two swabs taken of the bra. Two of the cuttings indicated a single-source profile consistent with A.W. and are estimated – it was estimated to occur once in more than 8 trillion unrelated individuals. The other two cuttings indicated the presence of a mixture of at least two individuals and the major profile in each of those cuttings was found to be consistent with A.W. and there was no conclusion drawn about the minor profile due to the uncertainty in the number of contributors. The swabs of the bra which, again, were from the inside breast area of the bra, were found to both be consistent with A.W. And then, finally, the hair collected from the bra, which there were four hairs consistent with human with root material, all four of them failed to demonstrate a sufficient amount of DNA for further analysis.

Q When you – particularly when you're talking about a single-source conclusion and you identify and express it that it's consistent with A.W., for example, then you add a number that says something like 8 trillion, would you give that phrase again and explain why you word it that way.

A So my report says the DNA profile obtained from the cuttings of the bra are consistent with A.W. and are estimated to occur once in more than 8 trillion unrelated individuals. So this is a statistical calculation provided to give some weight or meaning behind the profile that I have determined from the sample and it is, essentially, a stat that's showing the rarity of that profile. So it is my chance of selecting another unrelated person in the population that would be consistent or match that profile. So, essentially, I would not expect to find another person in the population to match that profile or my chance of doing so would be one in more than eight trillion unrelated individuals. So I often say if I had a room of 8 trillion individuals, there may be, may be, one other person

who would have a profile that matches or is consistent with that sample.

Q Thank you. I'm gonna hand you what's been marked as State's Exhibit 157, admitted into evidence as such, and it's identified as a black Nike tennis shoe. You've already testified about examining the Converse shoe from A.W. Is this identified as an item found underneath the body?

A Yes. This is a black Nike shoe, my laboratory item 39 that was identified to me as being recovered under the body of A.W.

Q And you examined it?

A Yes, sir.

Q By the way, for the record, did you receive that item – are you able to tell from your current documents you have open from whom you received it?

A Yes, sir.

Q And who is that?

A I have received this item and the other items I just mentioned from Sergeant Brian Olehy through a evidence transaction that was re – that included another officer in my building, Lieutenant Burkey, who facilitated that evidence transaction.

Q What were the results of your examination of the Nike tennis shoe found below A.W.'s body?

A This item, the same visual exam that I perform in all items to note the condition of the item, as well as to determine what type of testing needs to be performed. I determined that there was blood present on the shoe, so blood was detected. There were seven swabs of the shoe collected. In addition, I collected two other swabs of the shoe. I also observed hair and did a microscopic examination for hair, but the hair didn't – either did not have a root material

present or was consistent with animal hair. The swabs from the shoe, three of the seven were found to be consistent with A.W. and is estimated to occur once in more than 8 trillion unrelated individuals. Four of the seven swabs did not have enough DNA for further analysis. The two additional samples that I took were – one was consistent with A.W. and the other was a mixture in which I couldn't determine the number of contributors that were reasonably present in that sample, so I could not determine or make any conclusions.

Q Do shoes pose – in your experience, pose challenges or yield results that laypeople may not understand or anticipate?

A I mean, shoes have the same type of challenges that – and this shoe in particular – that all shoes have, they are covered in dirt. And dirt is – when you're swabbing it for potential skin cells, you're also collecting all that environment insults, as well. And then also, shoes are – we wear them every day, we wear them into public areas, we wear them, you know, in our homes, so we – they're a good item to collect a lot of DNA, as well.

Q Was this shoe, the Nike shoe, was it the same or different in terms of its – what you noted of the dirt or soil on it as it compared to the Converse shoes? Was it similar?

A I'm gonna refer to my notes just to recall. Yes, so this – the shoe was in the same condition. I've noted that it has heavy soil and plant material present throughout the shoe.

Q Thank you. I'm gonna hand you now envelopes that are admitted into evidence as State's Exhibit 158 through 167, noted as being various swabs from blood areas near and around the bodies of the victims. Would you – beginning with 158 or your item 40, would you mind telling us if you recognize those

envelopes, were they – did they contain evidence that you examined, and what your results were.

A So you have handed me State's Exhibits 158 through 167, my laboratory items 40 through 49. I have examined all of these items and do have results.

Q Beginning with State's Exhibit 158 and your item 40, would you tell us what those were.

A If I may, I will try grouping those items to the best of my ability. Beginning with a grouping of items 40 through items 43, items 46, and items 47, all of those are swabs from the ground or swabs from trees, and blood was detected on all of those items. All of the swabs were found to be consistent with the DNA profile of L.G. and is estimated to occur once in more than 8 trillion unrelated individuals. Swabs of the ground, item 44 and item 45, blood was also detected, and those profiles were found to be consistent with A.W. and is estimated to occur once in more than 8 trillion unrelated individuals. Items – and finally, items 48 and 49 were swabs from the left index finger and left pinky finger of L.G., and serological testing was performed on those swabs and it indicated the possible presence of blood. I did not perform confirmatory testing on either swab to preserve it for DNA analysis. These – the results from both the swab of the left pinky finger and left index finger both were found to be consistent with L.G. and occur more than – once in more than 8 trillion unrelated individuals.

Q Is it a fair summary, an accurate summary, that of these swabs taken from the ground or the tree, seven of them, the two you noted is from ground near – between tree and A.W. and the red stain below the head of A.W. were the only ones that – for – that had the DNA profile of A.W.; is that correct?

A Yes, only those two.

Q The items taken from the swabs of the finger of L.G. and the left pinky of L.G., as well as swab from ground area of – a blood area between marker 3 and 4, swab from ground at the feet of L.G., a swab from the ground below L.G.'s head, swabs of the ground near tree with blood on it, swab from tree with red stain, swab with red stain from tree below the previous item, those were all whose DNA?

A All of the swabs that you've just mentioned were consistent with the DNA profile of L.G.

Q You were handed – provided a number of items that were identified as collected by CSI Sergeant Jim Cody and designated as coming from the creek; is that correct?

A I don't recall who the items were collected by.

Q Okay. But they were identified as having come from the creek?

A Yes, sir.

Q And I'll try to group them as easily as possible, but I'm gonna show you first State's Exhibit 140, ask if you can identify that.

A State's Exhibit 140 is a package that contains a sweatshirt that was recovered from the creek, my item 68.

Q 141.

A State's Exhibit 141 is laboratory item 69, which is a pair of underwear recovered from the creek.

Q 142.

A 142 is laboratory item 70, which is a sock that was recovered from the creek.

Q 143.

A State's Exhibit 143 is laboratory item 71, which is also a sock.
Q 144?
A State's Exhibit 144 is laboratory item 72, which is a green scarf, head scarf, that was recovered from the creek.
Q 145.
A State's Exhibit 145 is laboratory item 78, which is a tank top shirt recovered from the creek.
Q Apologize for changing the sequencing here, but we're going to look at Exhibit 138 – or, excuse me, State's Exhibits 137, 138, and 139. I'll hand you first 137.
A State's Exhibit 137 is laboratory item 65, which is the other Nike shoe, which was recovered from the creek.
Q And Exhibit 138?
A State's Exhibit 138 is laboratory item 66, a pair of blue jeans, also indicated as recovered from the creek.
Q And Exhibit – State's Exhibit 139.
A And State's Exhibit 139 is laboratory item 67, which is a tie-dye shirt. Excuse me, also recovered from the creek.
Q Did the – being found in the creek, did that pose any challenges for you as a DNA analyst?
A I believe that it did. I believe that affected my overall results from the items that were recovered in that – from that area.
Q Why do you believe that?
A The creek – well, based off of my results, first of all. I – like I mentioned, I am able to detect inhibition and degradation in my results, and so I have metrics

that support that those factors were indeed present on the samples that I examined. But the creek in itself, a water source, is gonna have the potential to remove DNA or dilute DNA. It's also introducing a number of environmental impacts that are known to affect DNA analysis, such as dirt, bacteria, even factors like sunlight can affect the overall success of DNA.

Q Were you able to just go through your results, summarize it for the jury, and proceed in the order to identify the item that you're talking about, the order that's most convenient with you for your notes?

A So we'll start with the Nike shoe, laboratory item 65. I examined that shoe, again it was a heavily soiled item, but I did attempt to collect any type of skin cells that may be present on that shoe. There was no blood, there was no seminal material. That type of testing was performed on the staining that was visible. There were five swabs collected from the shoe. One of the swabs was found to be consistent with A.W. and estimated to occur once in more than 8 trillion unrelated individuals. Two of the swabs gave me a partial DNA profile in which I couldn't determine the number of contributors, so I could not make any conclusions. An additional sample failed to demonstrate enough DNA. So overall, I was only able to obtain a DNA profile from one swab of that shoe. Moving to the jeans –

Q If I could just stop you there. This was a shoe – unlike the shoes found on A.W., the Converses, this is a shoe that is the other half or matches, what you could tell, the shoe found beneath A.W.; is that correct?

A That's correct.

Q Would you be surprised, given your finding, that it was identified as L.G.'s shoe?

A Would I be surprised by the result?

Q Maybe that's a dumb question or a trick question, but can you answer it?

A Well, I would just say that I can't really tell you how someone's DNA profile gets onto an item. That particular swab that I identified the DNA profile of A.W. was from the sides of the shoe, so the rubber sole on the bottom, that portion was swabbed and there – it yielded a single-source profile consistent with A.W. So I can't make any conclusions on how she would have gotten there. It's – I wouldn't find it unreasonable of a result, but I can't say how it got there.

Q Fair enough. Next item you wanted to discuss, was that which one?

A Moving on to the jeans, the jeans again heavy dirt, mud staining present. Plant material was present. I attempted to swab some areas of the jeans, so there were two swabs of the jeans collected for possible skin cells. Those swabs were again from the button and the zipper of the jeans and from the inside crotch area of the jeans. That sample from the inside of the jeans did yield a mixture of two individuals. There was a major profile determined and that major profile was consistent with A.W., estimated to occur once in more than 8 trillion unrelated individuals. There was also a minor profile. The minor profile was found to be consistent with L.G. and estimated to occur once in 7.6 million unrelated individuals. And then the second swab from the zipper and the buttons showed me the presence of a mixture, but I could not determine number of contributors and, therefore, no further conclusions. And if I can elaborate on number of contributors, this is – these mixtures were very partial in nature because of the inhibition and degradation present, so I had enough DNA present to develop a profile. I had a profile, but the profile was very, very limited information and most of that information was falling below thresholds that we

have in the laboratory that allow me to make conclusions off of, so there – that that, essentially, means there's additional information below my thresholds that indicates that I have multiple contributors, so I cannot just be confident that there's only a third person present or that there's only a fourth person present, so I cannot determine how many and – but – and by interpreting those kinds of samples, that would pose a risk of making false inclusions and exclusions.

Q The next item?

A The next item is the tie-dye shirt. The tie-dye shirt was just very heavily stained with mud. It had possible plant material, as well. I did test several areas within this shirt. Again, it's covered in mud, so I – it's – I can't see – if there was a blood stain on it, I would not have been able to see it, so I was randomly testing and targeting areas within the mud; however, no blood was detected, no seminal material was detected. I did take one cutting of the sweatshirt – or excuse me, no blood was detected, no seminal material was detected. There was one hair with that shirt, but that hair failed to demonstrate a sufficient amount of DNA. The sweatshirt, which was a zip-up hooded sweatshirt –

Q What color? Did you note the color?

A Yes. I noted that it was grey, it was very light in color. I noted grey. It could have been grey from dirt, but it looked grey to me. It appeared slightly dirty with slight plant material. It was cleaner than some of the other items recovered from the creek. I detected several areas on that sweatshirt that were enhanced with fluorescent lighting so they fluoresced, but it didn't give the visual appearance of a – like a seminal material stain or a saliva stain. It was very streaky in nature, so it kind of appeared like maybe detergent or some kind of chemical stain, but it all tested negative for blood and seminal material, but I

did want to attempt DNA analysis on that fluorescing areas. So seven swabs were taken of that sweatshirt and one cutting was taken. And from all of those areas, most of them, all seven swabs, did not have enough DNA for further analysis. The cutting just gave me a partial DNA profile in which I couldn't determine number of contributors. Then, moving to the underwear, the underwear was examined for blood and seminal material and no blood or seminal material was detected. I took one cutting of the underwear and then two swabs of the underwear. The first swab was from the inside crotch area of the underwear and the second from – was from the waistband of the underwear and those samples – three of the samples – excuse me – from the cutting of the underwear, I did three additional target testings within that cutting and all of them are consistent with A.W., so that was – the underwear had staining inside of the inside of the underwear, as you might expect, and I tested that staining, and all of the staining was consistent with A.W. And then, from the swabs which were the waistband and the inside, that also was consistent with A.W. The sock – there was a black sock, item 70, I tested that for blood and seminal material. Nothing was detected, but I did take two swabs of kind of the opening of the sock, because I didn't really – I don't know if anyone really knew if it was directly connect – correlated with the – our victims or not, but I took two swabs to see who might have been wearing that sock. Both of those swabs failed to demonstrate enough DNA for further analysis. And I also collected three hair, human, with root, and all of those also failed to demonstrate enough DNA. The other sock was a pink sock. Again, no blood or seminal material was detected. There were swabs taken of the sock to determine whose sock it may have been or worn by, and then hair was also – three hairs were also retained from that

sock for DNA analysis. Those three hairs also failed to demonstrate enough DNA for further analysis. The sock swabs gave me a partial DNA profile which I couldn't determine number of contributors. There was a green scarf, laboratory item 72, submitted. The green scarf, from my visual examination, appeared very old. It was embedded with mud and, in my opinion, may not have been related to the timing of this crime, but I did examine that scarf and I completed examination for the presence of blood and seminal material and there was nothing detected and there was no other analysis performed. Item 78 was a tank top shirt and that shirt was very much in the same condition as other items, heavy dirt and mud present, plant material present. And I tested several areas on that shirt for the presence of blood and seminal material and again, nothing was detected; however, I did take swabs of the breast area of the inside of the shirt for possible skin cells and I did recover DNA with root from that hair for DNA analysis. All of the samples failed to demonstrate a sufficient quantity of DNA with the exception of one, which yielded a partial profile in which I could not make conclusions.

Q Did you cover your – I apologize – your item 67, the tie-dyed shirt?

A Yes, I did.

Q Was that – did that complete your examination of items from the creek?

A Of the items that –

Q That were submitted to you?

A Yes, sir.

Q And does that – did we go through your entire March 24th, report?

A I believe there's one additional sample, it's just a swab of a tree, item 86.

Q Okay. That was a tree that was identified as coming from where?

A It says a swab of a tree below rock trail on east side of High Bridge. I think it was just a swab in which they – I think it's a swab which was just collected to see if anyone may have touched or - touched that tree. Regardless, I did not perform any serological testing, so it didn't warrant testing for blood or anything, and there wasn't any DNA present on that swab.

Q Thank you. We have talked about your examination of numerous items on March 7th and March – that resulted in a report issued on March 7th and March 24th. In those, you did not find a profile of a male – you were not able to develop the DNA profile of any male; is that correct?

A From those two reports we talked about, I was not able to identify a male profile.

Q Your next report was April 11th; is that correct?

A Yes, sir.

Q And did that involve a reexamination by you of a black hooded sweatshirt recovered from the body of A.W.?

A Yes.

Q And did it also include an examination of your item 263, Indiana – or State's Exhibit 169, identified as a swab from the iPhone of L.G.?

A That report does contain my examination of item – laboratory item 263, which was identified to me as a swab of cell phone found under A.W.

Q I'm gonna hand do you – is this the envelope that you received that you examined the contents of?

A Yes, sir. I recognize this envelope, State's Exhibit 169, as my item 263.

Q Let's start with that one first and we'll come back to the sweatshirt. What was the result of your examination of the swab from the iPhone?

A There were two swabs present in item 263. I did not perform any serological testing, which means there wasn't any blood-like staining present on that sample. I took those swabs directly to DNA analysis and both of the swabs demonstrated the presence of a mixture in which the number of contributors could not reasonably be assumed, therefore, no conclusions were drawn.

Q On the black hoodie, what did you do on this second examination of this sweatshirt?

A In the second examination, I went back to the sweatshirt and decided to take some additional samples of that sweatshirt. So initially, I had done what serological testing on the sweatshirt for the presence of blood and seminal material and I had tested all those areas, and I had done two – excuse me, three swabs from the sweatshirt initially, from the cuffs and the pockets of the sweatshirt, and I had chose those areas originally because those are – in my opinion, those are areas that may have come in contact with a suspect, so I was interested in seeing if I could get skin cells from those areas. Given that the sweatshirt was of importance, in that it was in the middle of the crime scene and the front of the sweatshirt was not as exposed to some of the environmental insults that the creek items were exposed to, I wanted to go back and do some maybe untraditional swabbing of that sweatshirt. So I went back and I swabbed the majority of the front of the sweatshirt and the sleeves, both front and back, of the black hooded sweatshirt to potentially collect any type of skin cells that may have been deposited within those areas.

Q Would you tell the jury the results of your analysis of those items.

A I apologize in advance, I took 22 swabs from the sweatshirt. So in doing so, my attempt was to avoid the blood-like staining that I also knew to be present

on the front of the sweatshirt. I will try to group as best as I can. The – one swab of the sweatshirt yielded a mixture of three individuals. I was able to do some additional interpretation of this swab of the sweatshirt using the DNA standards of A.W. and L.G. I assumed them as contributors in that three-person mixture, and so I was able to essentially deduce out a profile, and that profile was found to be consistent with an unknown male.

Q Let's go ahead and – were you gonna go on to discuss other items?

A Yes, sir.

Q Let's go ahead and address that. You later did more analysis on that mixture, which you noted as 29A and B, black hoodie, your item 29(D)10. Did I have that designation and subitem correct?

A That's correct.

Q 29 is the – your number for the sweatshirt, (D)10 is the subitem you created, which was a swab and it had the mixture of three people. What were you able to determine about the – this third person, the unknown male?

A Well, I had an unknown male profile initially. Later on, we – I should say I entered the unknown profile into our CODIS database system to be searched against any potential offender samples. Later on, I wanted to enhance that profile as much as possible, so at a later date, a much later date, I was able to use new technologies – so as we talked about earlier, the forensic community is always changing, and so I used a newer technology to help with interpretation of that sample. In doing so, I ran my unknown profile through an employee database for a second time and was able to get a match to that unknown profile to an employee sample, so therefore it was removed from the CODIS database and no longer searched because of that identification.

Q And that was – that personnel, was that a lab employee?

A It was a laboratory personnel person.

Q And your protocol is that you – and this is part of your QA/QC program – correct? – that you do not identify that person.

A Yes, sir. And just to elaborate, running our unknown profiles through an employee database is also part of our QA/QC profile. That was done initially and it was done again a second time. It did not match to the employee database the first time because that employee was not in the database the first time, where they should have been, and it was not – so as part of our quality assurance/quality control program, a corrective action was placed.

Q Were there also changes made in terms of laboratory personnel and crime scene investigators sometime after 2017, in terms of their – a protocol to follow in terms of apparel to wear? Did that occur after – sometime after 2017?

A I can't say for certain, I'm not really involved in the training of our CSIs, but I do know that because of this particular instance, it was communicated as to what would be appropriate personal protective equipment to be used at a crime scene.

Q So encouraging the use of a mask in close proximity to this type of work, close proximity to certain items or for individuals (inaudible)?

A I can't – I cannot say what exactly was communicated, 'cause I really don't know, I was not privileged to that conversation. I just know that the conversation existed.

Q What – proceed with the rest of your examination. Were you able to group any of the items – subitems?

A I will speak in generalities, if that's permissible. The rest of the samples,

essentially, were mixtures of two individuals in which A.W. was the major DNA profile and the minor profile was found to be consistent with L.G. And I'm speaking in generalities, because the statistical support for each of those results does vary given the amount of genetic material that was used in that statistical calculation for each. But overall, any mixture with a two-person result was found to be consistent with A.W. as the major profile and L.G. as the minor profile to the swabs taken from the sweatshirt. That pertains to a handful of the samples. There were some of the samples in which I was able to make conclusions from the major profile and then no conclusion about the minor profile, and in each of those instances, the major profile was also consistent with A.W. and the minor profile was consisting of at least two individuals and I just couldn't draw a conclusion about that, as well. Then, from – nine of the samples demonstrated a mixture in which I couldn't make any conclusions about at all.

Q And other than the lab personnel, you found no male DNA on the sweatshirt?

A I found male DNA on the sweatshirt.

Q I'm sorry. You could not develop a profile of the male, male DNA?

A That's correct.

Q And in terms of the male DNA that you found on the sweatshirt, is there any more that you can say about that?

A No, just that in that quantitation method that I mentioned earlier, I am able to detect the presence of male DNA and most of those mixtures did, indeed, have the presence of male DNA present, I just did not determine an unknown male profile from any of those samples.

Q And again, we talked about clothing earlier and individuals living within a

home with other individuals. Is it unusual on clothing to have DNA or partial DNA on items of clothing that that person has never worn?

A So clothing is – given the substrate that – of clothing, it's able to hold on to DNA. And then, when you launder DNA, as well, DNA can be deposited. So a lot of times, we think that cleaning and washing our clothes will remove the DNA. In fact, it's not, it's probably mixing the DNA from past washes in the current wash. So yeah, I often say that clothing has background DNA. So this morning, my husband gave me a hug, I have DNA from him. I've talked to Jim, I've talked to several other people today. So clothing can actually kind of hold on to DNA from everyday interactions.

Q I'm gonna ask you about a report that you generated that was dated July 11th, 2017, and ask did that consist of examination by you and your results on looking at tree branches?

A Yes, sir.

Q And would you tell the jury where you went to examine and begin your collection and analysis of the tree branches?

A Yes. I examined a few items containing tree branches, and that examination was done at the Indiana State Police Lafayette post, where those items were being stored.

Q Were they in a secure location with other – in a building with other evidence items?

A Yes, they were.

Q But this was not a – this was an outbuilding of the post; is that correct?

A That's how it was explained to me, yes.

Q How did you – what did you do with these branches? Explain to the jury

what you did.

A Well, I essentially converted a conference room into an examination area, so I was able to provide for myself a clean examination surface with clean bench paper and I brought forth some of my laboratory supplies; but I examined the tree branches essentially for the presence of any blood that may have been there, but I was primarily interested in collecting skin cells – or swabs for possible skin cells from those tree branches. So in my examination, I took several swabs from each of the branch for maybe how that tree branch may have been handled, and then I also collected some swabs for possible blood. I did not perform any of my serological testing at the Lafayette post, I just took the swabs back to my laboratory and did my laboratory testing once I returned.

Q And the results of your examination?

A So for grouping purposes, I took several swabs from each of the branches. So imagine – a lot of the branches were upwards of 7 feet long, so I partitioned that into sections and then I also kept in mind, like, if you were to handle or move that branch, how would you have done so in my swabbing. And then – and all of those swabs essentially failed to demonstrate a sufficient quantity of DNA or they had that failed quantification test control; and that test control, again, is an indicator of inhibition, so I had several of the samples indicate that inhibition. There were two samples that I was able to get a DNA profile from the branches. One was from item – laboratory item 547, this is my – a swab of the branch which did test positive for blood. Excuse me – oh, there you go. I wanted to make sure, yes, it did test positive for blood and that profile was found to be consistent with the profile of L.G. Then, a second swab which also tested positive for blood, which was my item 548 – 547 and 548, both of those items had a

sample that tested positive for blood, both were consistent with L.G.

Q Did those branches pose unique problems for you with trying to swab and collect and then to be able to examine?

A I mean, I can only imagine that those branches, being what they were as far as an evidentiary item, impacted my ability to get a profile. So the branches are covered in dirt. As I'm swabbing it, I'm picking up the plant material, the particulates from the dirt, and dirt is a known inhibitor – the humic acid within dirt is a known inhibitor to our process, so I do believe it played a role.

Q Ma'am, I'd like to conclude by going over some topics that relate overall to the work that you did and you might draw our attention to some specific items in this examination that you've covered already. But you've talked about the inhibitors an degradation; besides the branches, what other items come to mind that posed difficulty in you dealing with the inhibitors that were on – and the degradation?

A It's difficult to name items. I would say –

Q Let me ask you specifically and then you can comment. What about the jeans found on the body of A.W.?

A Do I think that I was dealing with inhibitors?

Q Yes.

A Yes.

Q What about the clothes from the creek?

A Yes. Like we mentioned – I mentioned earlier, these items were covered in dirt and mud and plant material. They were exposed to water and sunlight, and even though that may not have been over a long course of time, all of that plays a factor in my ability to recover DNA from these types of items.

Q What about the nature of – given your experience, the nature of your item 16, State's Exhibit 148, Winchester Smith and Wesson .40 cartridge, how would you characterize that difficulty? Do you know why the laboratory no longer accepts those to examine?

A Yes. The item 16, the cartridge, again is a very small surface area. It's unusually minimally handled in general, so it's kind of like a one-time contact, it's not something that is frequently handled over and over and over. So I really haven't expressed I guess that the success of skin cells, again, based on – quantity and quality is based on frequency of use, how much something is handled, how much skin cells can be deposited. And for DNA to be successful, I need to minimally be able to detect, you know, between 25 and 50 cells; and a surface area like a cartridge, being so small, that type of DNA – that level of DNA isn't typically deposited on such a small surface area.

Q Another topic I wanted to ask you about that we include is hair. What – I think you've indicated that hair is transient; explain what you mean by that and what challenges would hair impose to you as a DNA analyst.

A First, just the challenges of hair. Hair is typically, naturally shed from our body, so in doing – in that naturally shedding process, the follicles and the skin cells kind of shrink. And when shrinking happens – and that's, you know, what helps shed that hair. But when the shrinking happens, then the cell can kind of burst, the nuclei burst, which means the DNA starts degrading, and it happens quickly. So for hair to be successful, it has to kind of have like a skin tag present, and the best way to get skin present on a hair is through forcibly removing hair, and naturally shed hair isn't typically very successful. Overall, I can give you – just from that first report that I looked at, I examined like 80 hairs

and got one DNA profile out of the 80 hairs, so it's just not a very good source of DNA. But as far as hair being transient, there's also the question of, since hair can easily move from a person, place, thing, an object, then it's also a question of how meaningful is hair in a forensic examination when it can easily be transferred, you know, between locations.

Q I don't want to get into the details, but just to quickly touch the surface of rootless – DNA rootless-hair technology, there are explorations underway to how to deal with hair that has no root or has no skin attached; and did you send – in light of that, did you send hair – hairs to the FBI?

A I did send a set of hairs to the FBI. It wasn't necessarily because of the rootless-hair technology at the time, but the rootless-hair technology has come to the forefront as a newer technology that's available for hairs in which there is no longer a root.

Q And did you ask or did the FBI provide you a screening service to help you focus on hairs that might be of some value?

A They did provide a screening source to help identify hairs and it's for a testing that wouldn't have been for me or my laboratory, as we had done everything that we could with the hairs. The only thing that hair can be – and the only thing that our laboratory can do with hair is hair that has a root, and we would perform an autosomal STR technology, so we did send a set of hairs to the FBI to identify though their laboratory to identify what hairs may have been not consistent with the victims, so that we could consider any type of future testing. And at the time, that testing was mitochondrial analysis, which again, is not performed in my laboratory. Since that time in 2018, when I sent the hair to the FBI, the rootless-hair technology has kind of come into discussion.

Q And were these generally short hairs that you sent?

A There actually was a variety of hairs sent. So anything that I had identified as a human hair, long or short, and even if I'd already identified a profile, except for the ones I already knew to be consistent with A.W., I went ahead and sent that to the FBI.

Q And what did – what returned to you as identified as unlike the victims' hairs? How many?

A The FBI issued a report and that report indicated to me that they found three hair –

MS. AUGER: Objection: Hearsay.

THE COURT: Any response?

MR. LUTTRULL: I think as a DNA analyst and expert in this area, she's able to report what she learned from colleagues and consultants that she deals with, and I think this would be in that vein that she could go ahead and communicate the answer to the question I posed, which was how many hairs did they identify as unlike the victims'. I think I wouldn't go any further, but that's – I think that's appropriate for her, since she was relying up on that; but as an expert herself, Your Honor, I believe she would be able to do that. And the objection goes to the weight of the evidence and not the admissibility.

THE COURT: Overruled.

Q How many hairs did they submit to you with that designation? Did you tell us already?

A I did start to answer. Their laboratory report, which was addressed to me, did identify three hair that they found to be not consistent, just from a microscopic examination, to either A.W. or L.G.

Q How many'd you send them?
A I sent them 72 hairs.
Q And what was the next step then, if you have those three hairs? Did you explore the possibility of rootless-hair examination of those three hairs?
A Yes. Our investigators inquired about what more could be done with those hairs and that was explored as an option.
Q And what did you conclude after determining the options and what the limitations and characteristics of that examination would be?
A Well, I didn't really make any conclusions. So –
Q I guess what did you learn?
A Yes. My role and the role of my supervisor, who's also the case manager of our laboratory at the time, was just to kind of research what technologies that were present in the forensic community and present that to our investigators so that they could make conclusions and choices on what type of testing may need to be performed, if any, on that hair.
Q What did you learn about the success rate of that technology?
A So our research, and with consulting with several – actually not several, a few private companies that do that type of testing, showed that their success rate for rootless-hair testing was very low and, overall, it might be better to not perform that testing at this time and wait for technologies to improve.
Q And what – if testing it, what would happen to the sample – what happens to that if you test it?
A Given the amount of hair that is needed for rootless-hair testing and even mitochondrial analysis, it would most likely consume that hair in its entirety. There needs to be at least five centimeters of hair for that type of testing.

Q And given the low success rate, the consumption of the hair, and the hopes that technology would improve someday, what – did you make a recommendation, not a conclusion?

A I hate to say recommendation. We presented all of those findings from the just consultation with the private companies, 'cause this is a testing that's not performed in our laboratory, and we presented that to our contributing agency and investigators to let them make that decision, and a decision was made and I understood that decision and was in agreement with their decision.

Q You didn't make the decision, but you thought it was a reasonable one?

A I think, given the low success rates and it was a one-time opportunity, it was a reasonable decision.

Q Also, the transient nature of hair?

A There was a concern over what the three hairs that were identified and from what items they were identified on, if we were going to do newer technology and testing, it was a concern of maybe – I mean, I submitted 72 hairs, so maybe identifying which hairs were the best use of our resources, of the contributing agency's resources to do that testing, it just was – it's a very delicate balance at that point on were these three the most informative and meaningful hairs or were there others that would provide more meaning.

Q Last topic, touch DNA. You've done studies and read studies on that and have a practical experience in the laboratory in dealing with looking for skin cells on items; is that correct?

A Yes.

Q Has anyone ever come up to you and said, "Is my DNA there?"

A Yes.

Q Does that ever happen?
A All the time.
Q In court?
A In court.
Q Okay. And what's the answer?
A So first, I'd like to define a little bit of what touch DNA is, because a momentary contact, a physical touch, is different than examining for, you know, skin cells from an item that is known to be handled and worn by someone. So touch DNA, yes, there may be DNA there, but it's quite possible there's not DNA there. It's dependent, again, on quantity and quality, how much DNA is in my hands, what the substrate is, the friction and the force that is applied to that single touch, the substrate, if there's any body fluids on my hands when I touch something. It's – it all plays a factor, so I can't say for certain that, yes, I will get a profile.
Q Really, you're harkening back to one of our earlier topics, which was good and bad sources of DNA; is that correct?
A Yes.
Q Does the quantity of skin covered by clothing affect the number of skin cells that would be left behind, in your opinion?
A So for skin cells to be deposited on something, that skin would need to be exposed. So if the skin was not exposed by being covered by clothing, then it could affect it, but it also, again, depends on what type of DNA is present on the clothing item itself, as well.
Q If gloves are worn, obviously, that would affect touch DNA involving the fingers and hands.

A It would prevent the transfer of the DNA from the fingers and hands, but mind you, there could also be DNA on the outside of the gloves, but yes, it would prevent maybe the shedding from that direct contact.

Q Do you often have scenarios in your work, your laboratory, of examining clothing items left behind by a perpetrator, a ball cap, a shirt, or something that might be left behind, and so is that something that you've done in the past?

A Yes. So clothing items that are left behind are kind of typical, routine evidence for our laboratory.

Q Weapons left behind, do you examine those for touch DNA or skin cells?

A Yeah, that's something that – if it's something is left at a scene or dropped, that is a normal type of item that we may examine.

Q Would you tell the jury the difference, in your – after your research and your training, the difference between handling an item and touching an item.

A It really just goes back to the amount of DNA that's being deposited, so an item that is being worn or handled has – you know, is greater frequency of contact between the skin and that handling and wearing of an item, so a greater chance of skin cells being deposited. So we don't necessarily consider clothing that we're examining for potential wear as a touch DNA sample, like we don't define those as one in the same. So touch is more of like just a, you know, very limited contact with an item, not something that we persistently had contact with through use or wearing.

Q And if – it sounds then like you're saying the frequency of use is an important factor in whether or not you can find touch DNA?

A Yes. There are a variety of factors that play a role in how much DNA I can recover from an item.

Q Is it understood in your discipline the notion of shedder versus non-shedder when it comes to skin cells?

A That's a terminology that's commonly used in studies in our discipline. We don't typically use that in our analysis, but yes, I am familiar with that terminology.

Q And what does it mean?

A It, basically, just means that studies have shown that some people can naturally shed more DNA than others and that might not be like all the time, it might just be specific to a day or a time or even season, but some people have the capability of shedding more DNA than others. We do all shed DNA, it's just who's the good shedder and a poor shedder, low shedder/high shedder.

Q As a general rule, can touch DNA – can the skin cells on the skin that are subject to coming off, can they diminish with frequency of touch over a short period of time? Is that something that's been documented? Do you understand my question?

A There have been studies – I do understand, thank you. There have been studies to show, like, if I touch something five times in a row, am I gonna get more DNA the first time? The last time? There are studies of that, so I am familiar with that type of study. Again, it's just dependent on a lot of factors: force, friction, what's on your hands to begin with.

Q Competitive – the competitive nature of good and poor DNA sources, would you explain what that means.

A I use that terminology a lot when I'm trying to describe my results in this case. Blood is a good source of DNA. I have a lot of blood off of the clothing items, detected a lot of blood off of the clothing items, item 29, item 30. And if

I'm trying to swab something for potential skin cells in a sample that has a lot of blood, the competitive nature that I've referenced is that blood is always going to be the predominant like better source of DNA than, you know, maybe a handful of skin cells would be. So if blood, like we men – I mentioned earlier, is a good source and there's millions of cells within a drop of blood, versus just a – you know, touching something, just depositing a handful of cells.

Q So if the killer were to touch the shoulders or the neck of either A.W. or L.G. in the process of this crime, how would the competitive nature of DNA, good and bad DNA, affect your ability to see if that touching ever occurred?

A I'm just gonna say that trying to detect a touch sample in an overwhelming amount of blood is nearly impossible. There's just not gonna be enough deposit from a single touch unless that touch also has body fluids on it for me to be able to pull out just the DNA profile of just that skin cell component. The blood component is typically going to be –

MS. AUGER: Your Honor, I'm going to object. She's testifying on facts not in the record as to where someone may or may not have touched one of the victims or when they may or may not have touched one of the victims.

MR. LUTTRULL: I guess it could be seen in the form of a hypothetical question, but I said if, I did not suggest that the record shows that at all.

THE COURT: Sustained.

Q Did you find the DNA of Richard Allen on any of the items that were submitted to you and described by you today that you examined?

A No, I did not.

Q Were you able to develop a DNA profile of any male on any of these items

that you examined that you've described here today?

A I did not develop a male profile that was suitable for comparison purposes from any of the items that I've examined and mentioned today, excuse me.

MR. LUTTRULL: Thank you. Your Honor, I have no further questions.

THE COURT: As we discussed, we're gonna go ahead and break for lunch. So, ladies and gentlemen, 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 12:34 p.m.)

THE COURT: You may be seated. And again, if you'll just kind of wait a little bit until the jury gets to the jury room. And I know it's getting warm in here and it's been a long morning, but I've noticed an awful lot – well, several members of our audience sleeping. I don't conduct court in your bedrooms and I would appreciate you not sleeping in my courtroom.

MR. ROZZI: Judge, may we approach?

THE COURT: Yes.

(Sidebar conference conducted.)

MR. ROZZI: The exhibit, I'll bring a copy of it.

THE COURT: Oh, okay.

MR. ROZZI: Yeah.

THE COURT: Okay. Nick –

MR. ROZZI: I talked with the clerk over here and she was fine with me making copies.

THE COURT: I don't think I'm seeing her in here.

MR. MCLELAND: I've got a picture of her –

THE COURT: Okay.

MR. MCLELAND: I got a picture of her and I'll give it to you so your staff will know.

THE COURT: Okay.

MR. MCLELAND: I didn't have their cell phones to be able to do it in morning court, I was trying to pay attention, so I just thought when we had our stopper here.

THE COURT: I shared all of that information from you with my staff. I'm not really keen on it and I don't know if you guys are, but I don't particularly relish the idea of them getting photographs or following you guys, so I don't know what this woman is about –

MR. MCLELAND: They already have mine all over, but –

MR. ROZZI: Yeah. That's okay.

THE COURT: Well, I get it, but you know, you're a public official –

MR. MCLELAND: Yeah.

THE COURT: -- (inaudible)

(Sidebar conference concluded.)

THE COURT: All right. Let's resume court at 1:30, then. And, folks, you can go ahead and leave.

(Off record at 12:37 p.m.)

(On record at 1:37 p.m.)

THE COURT: All right. We are back on the record. Ms. Auger, are you ready to proceed on cross?

MS. AUGER: I am, Your Honor.

THE COURT: Let's bring the jury in.

THE BAILIFF: All rise.

(Jury in at 1:41 p.m.)

THE BAILIFF: Thank you. You may be seated.

THE COURT: Thank you, gentlemen. Ms. Auger, you may proceed.

MS. AUGER: Thank you, Your Honor.

CROSS EXAMINATION OF STACY BOZINOVSKI

QUESTIONS BY MR. AUGER.

Q Ms. Bozinovski, you referenced, at the end of your examination by Mr. Luttrull, that there's some new emerging technologies and advancements in DNA.

A Yes. DNA field is ever-advancing, so there's always something new on the horizon.

Q What are those?

A The new technologies that I was referencing with Mr. Luttrull was the rootless-hair technologies that are becoming more – we're becoming more aware of in the forensic community.

Q And what are those new technologies as it relates to hair?

A It's just a new extraction method that's I guess essentially been shown to be able to get autosomal STR DNA from the shaft of the hair.

Q What is that extraction method?

A It's, as far as I know, a proprietary method, it's being used by private

companies only, it's not something that I have the direct knowledge of exactly what the extraction method is.

Q And there have been criminal cases that have been resolved by the use of SNP DNA; right?

A Are criminal cases being solved by SNPs? Well, SNP or snip analysis is typically used in sequence – the sequencing analysis. It's typically used in forensic investigative genetic genealogy. It can also be used on low and degraded samples, as well.

Q And people have used – and I said SNP, but you refer to it as snip; right?

A Yes, that's how I call it.

Q Okay. And you can obtain SNP DNA from hair shafts; right?

A If you have an appropriate extraction method, then it's possible.

Q And that's happened in the past in other criminal cases; right?

A I'm – I can't – I don't know of a case that's been specifically used on hair for SNP analysis.

Q Okay. And there are – you are currently in the process of validating a lab at the Indiana State Police to improve your ability to conduct SNP analysis; right? And extraction?

A Not validating a lab. We're validating an analytical procedure using SNP analysis.

Q So that you can increase your use of that.

A It is –

Q Right?

A It's a new tool that we can add to our technologies to potentially use on cases, yes.

Q Okay. Because SNP DNA provides accurate and reliable DNA extractions that can be used to solve crimes?

A It's possible. Again, there's – it depends what we're talking about, but we do currently perform SNP analysis in our laboratory with next-generation sequencing and we do that right now only on unidentified and human remains cases, so it's not necessarily a suitable technology to be used on hair or mixture-type samples, that's not – it's not within the scope of how we use that analysis.

Q How you use it at the Indiana State Police Lab?

A That's correct.

Q All right. And is that part of the reason why you're seeking to expand your ability?

A The expansion of that new tool, which is to be used for forensic investigative genetic genealogy is SNP analysis to be used for genealogy, again it's only applicable to single-source type samples that we can try to enhance those samples. So SNP analysis can't be used on a number of samples, but we –

Q But it can be used on hair.

A If that sample is single-source –

Q Yes or no, can it be used on hair?

MR. LUTTRULL: Your Honor, she's answering the question and –

THE COURT: Sustained. Let her answer the question.

A If that sample is single-source and it meets whatever quantification threshold that we determine with our validation, then it's potentially – it potentially could be used. But, like I mentioned, we're still validating that analytical method at this time.

Q There are other labs that do that; right?
A That use SNP analysis for hair?
Q Yes.
A Like I said, I don't know of what other laboratories are using that right now. They're private companies that can do that, but I can't speak of a specific case that's been used.
Q Do you recall Mr. Baldwin and I coming to your lab this summer and speaking with you?
A Yes.
Q And do you recall us discussing the use of forensic genealogy?
A We did discuss the use of that.
Q And, in fact, you have cases resolved through forensic genealogy; correct?
A Yes, we have.
Q All right. And you're in the process of bringing that technology in-house to your lab; correct?
A We are validating it, and if it is a successful validation, then that is a platform that could be brought into our laboratory.
Q So that your equipment right now only looks at 200 SNP loci; right?
A Our sequencing analysis that we do now for SNPs, yes, looks at approximately 200 loci for our unidentified and missing-persons cases.
Q But in order to properly use it or to expand your lab, people generally look at 10,000 plus loci; right?
A The new chemistry that we are evaluating is looking at more than 10,000 SNP loci.
Q All right. And by combining techniques originally developed for ancient

DNA, people have been able to generate DNA profiles of SNP that have high levels of discrimination between individuals; correct?

A Can you repeat that?

Q Sure. By combining techniques that were originally developed for ancient DNA, people have been able to generate DNA profiles from SNPs that have high level of discrimination between individuals?

A That sounds like you're referring to the type of extraction protocol that I'm mentioning that was specifically designed for ancient DNA, and it's a proprietary extraction method. I don't have knowledge of that method.

Q Okay. Now, you kept hairs that you were not able to develop enough DNA to test; correct?

A If the hair was not consumed in its entirety, then yes, there is hair shaft remaining from those hairs.

Q True or false, you kept hairs that do not have enough DNA for comparison currently? Is that true or false?

A It's a difficult question to answer, ma'am. If I consumed that hair because it was already so small, then I do not have that hair any longer.

Q Do you still have any?

A I do.

Q Okay. How many?

A I know that I sent 72 hair to the FBI, so I imagine somewhere in that ballpark.

Q And you said you were holding on to those because there are advancements in DNA and you didn't want to risk consuming those by utilizing technologies that may or may not reveal results; is that right?

A No.
Q No? Okay.
A Because I didn't make that decision. It's not what I necessarily wanted to do. Again, I consulted with some companies on what options they had for testing and provided that information to my investigators. That decision was made by the investigators and it is being retained in our laboratory at this time, any hair shafts, for potential any future testing.
Q What companies did you consult?
A I personally didn't do the consolation, my supervisor did, and she was the case manager at the time, but we consulted with I believe Bode Technology and DNA Labs International.
Q For what purpose?
A Those two companies were known to have a extraction process for rootless-hair testing.
Q And were they able to test any of the hairs that were collected from the scene?
A Like I mentioned, that decision was made by the investigator to not pursue that testing right now.
Q That wasn't my question. Are they able to test the hairs that you had – that were collected from the crime scene?
A I apologize, I thought you said did they test the hairs. The – are they able? Yes, they could test those hairs if that was the decision made.
Q And the decision was made not to – correct? – by law enforcement.
A I believe the decision was made not to at this time.
Q At this time. But this is the time that Richard Allen's on trial; right?

A Is Richard Allen on trial? Yes.
Q And so that's evidence that is available potentially to the State by outside labs that we don't have available, the jury doesn't have available today to use in their determination; is that correct?
A Again, I can't speak to what information would have been yielded, if any, from that testing.
Q Because it wasn't done; right?
A That testing has not been completed.
Q Has it been started?
A I think I've already answered that question. It's not been completed or started.
Q Okay. All right. Now, you said you sent 72 hairs to the FBI lab; correct?
A Yes, ma'am.
Q All right. And they sent you one report back dated May 20th, 2020; is that correct?
A That's correct.
Q And they identified 36 items; correct?
A It looks like there's 36 items on their list.
Q Thank you. And they also told you that mi – if microscopic hair comparisons are requested, please submit known head samples from any subjects. Recall that? Top of page 3.
A I do recall that.
Q Okay. And have any samples from Richard Allen been submitted to the FBI?
A No.

Q Have any samples from anyone been submitted to the FBI?

A No, they have not.

Q And those are microscopic examinations; correct?

MR. LUTTRULL: Objection to what those are. I don't know if she's referring back to the hair examinations by the private companies or if she's referring to some other –

THE COURT: Clarify your question.

MS. AUGER: Oh, sure. Yeah.

Q The FBI examinations, those are microscopic examinations; right?

A In their report, they've said if microscopic hair comparisons are requested to these hairs, please submit head hair samples.

Q So is that yes?

A Yes.

Q All right. And microscopically examining hair doesn't use up the hair; right? You can examine it over and over and over again; correct?

A I do not perform this analysis, but I believe that you are correct, that they would just do a comparison of the hairs.

Q So you could submit any number of hairs and still have the original hairs that you're comparing it to for analysis for later dates; right?

A Yes, it sounds like it.

Q And at the State Police Lab, you only conduct the tests that law enforcement requests; is that correct?

A The law enforcement agency is our customer, so yes, we perform tests on their behalf.

Q Well, do you perform tests that they do not request?

A If the evidence warrants it. I guess, I would need a more-specific example.

Q Well, would – if you become aware of a test that could be conducted, do you go ahead and do it or do you call law enforcement and say, "Hey, this is available. What would you like me to do?"

A Again, it really just depends on what type of testing we're talking about, but if it's something that's like as simple as they asked me to look for blood, but I see something that may be consistent with seminal material, then I don't go and seek consultation with the investigator to test it for seminal material.

Q What about DNA comparisons?

A What about?

Q Do you ask to compare your – the items that you have to known samples or do you go ahead and compare them to the known samples that you have?

A Well, typically, known samples are submitted for that comparison purpose.

Q Okay. Well, let's talk about item 17; all right? That is a hair recovered from A.W.'s right hand; correct?

A I just want to clarify. Yes, from the right hand.

Q And you knew pretty quickly that it was a female hair; correct?

A It was a profile consistent with a female individual.

Q And that it might be a female related to L.G., you also knew that right away; right?

A There – yes, there were genetic consistencies that made me think that it could be a female related to L.G.

Q And you had DNA samples from Becky Patty, her grandmother; correct?

A At that time, I did not.

Q When did you get it?
A I received the DNA standard from Becky Patty at the same time I received the standard from Kelsi German Siebert.
Q When was that?
A That as recently. I'd have to refer to my chain of custody. I believe it was – I would hate to misspeak, but it was recently.
Q About two weeks ago?
A Yes, somewhere around there.
Q All right. So as of March 7, you had a hair from – March 7. 2017, you had a hair that you identified as unknown female 1 that might be a female relative of L.G.'s and no one asked you to compare it to Becky Patty or Kelsi German until seven and a half years later, after the trial started; is that right?
A Essentially, yes. My examination was mostly focused, like I've explained, on looking for male DNA.
Q Why?
A There was indication that our perpetrator was a male individual and that's what I was focused on, finding samples in which a male profile could be determined.
Q You had unknown female 1, which might be related. You also had unknown female 3; right?
A There was another unknown female number 3 on a different item.
Q Right. And you had the hair from the sheet of the body bag in which L.G.'s body was sent to the – for autopsy; is that right? Item 35(C).
A I do believe that's where the unknown female number 3 profile was coming from was a sheet from the body.

Q Thank you.
A If I could refer to my notes though to confirm. Yes, ma'am.
Q Okay. So 35(C) was hair from the sheet in L.G.'s body bag; correct?
A That's correct.
Q And that was a female hair?
A It was consistent with a female profile.
Q Thank you. I always like to make that next leap. Consistent with a female profile. And so we have unknown female 1 and unknown female 3, which is item 35(C); right?
A It was 35(B)(3) I believe. Unknown female number 3 was from item 35(B)(3).
Q Thank you. So the only DNA profiles you have from – from items that came from the crime scene were unknown female 1, unknown female 3, and male DNA that you believe is from one of your lab personnel; is that right?
A I think that summarizes the unknowns that I developed, yes.
Q And yet, you were only looking for males; is that right?
A I can't speak on behalf of the investigators, what they were looking for, but I – like I've mentioned, I screened several of the intimate samples for the presence of male DNA, and I'm at the discretion of whatever the investigators submit for comparisons to the unknown profiles that I've developed. I don't tell them how to do their jobs.
Q Okay. So they were telling you, "Hey, we're looking for male DNA"? Were they telling you they were looking for male DNA?
A That was just case information that I was looking – that we had a male perpetrator.

Q So that was what you decided or law enforcement?
A I followed the procedures that we have in the laboratory for a screening of sexual assault kits and intimate samples when there is a male perpetrator.
Q Well, ma'am, you don't know whether the perpetrator is male or female; right?
A I had reason to believe, from the case information that I was provided, that it was a male perpetrator, so I screened the evidence collection kits looking for male DNA. And then, the other remaining samples from clothing and swabs, that type of screening mechanism was not used, those samples were amplified and profiles were determined if there was enough DNA present, regardless if it was male or not. Just the intimate samples is where I was looking for male DNA.
Q Well, and you also said you were looking for male DNA on the black sweatshirt; right?
A Yeah, I think that's what I just mentioned, regardless if it was –
Q Well, I thought –
A -- human or male, I was trying to find enough amplifiable DNA off of all of the evidentiary items with the exception of the intimate samples, which included the sexual assault kits and the body swabs, those are the only ones that I had stopping-point decisions made on whether there was male DNA or not.
Q Okay. Well, the sexual assault kits that you examined, those had nothing relating to Richard Allen; correct?
A I did not develop a DNA profile from an unknown individual from any of the sexual assault kit items.
Q And so that could lead us to believe that neither A.W. or L.G. was sexually assaulted; correct?

A I can't make those kinds of conclusions from my results.
Q But you have no evidence that they were; right?
A I only can talk to the results that I have, which indicate that there was no male DNA present on the majority of the samples within that kit, minus the external genital swabs and fingernail scrapings, which just had an insufficient amount of DNA.
Q Now, how many – how do you obtain DNA for comparison purposes?
A The contributing agency submits standards for me to use for comparison purposes, so whatever they submit then I would compare to the unknown profiles in the case.
Q And how many standards do you think you received in this case? DNA samples?
A I received hundreds of DNA standards.
Q And other than L.G. and A.W., their female family members, and female law enforcement, how many DNA standards did you receive for females?
A I believe one.
Q Out of hundreds? Out of hundreds?
A Oh, sorry. Yes, one – I believe one individual was a female individual and – maybe two, but one.
Q And multiple people could have been involved in the murders; correct?
A I cannot make any conclusions about what happened, that's not in the scope of my analysis.
Q Okay. Well, it would – you looked through and you had some case information available to you; right?
A I only had the information provided by the investigator at the time of

submission.
Q And that is some information about the case; right? Do you think it's information about the case?
A Right.
Q All right. And you yourself testified earlier that there were many items, many swabs, that contained mixtures of individuals; correct?
A Many of my results were mixtures.
Q Okay. And some of those you can't limit to two people; correct?
A The – there were a few mixtures where I was able to say at least two or at least three people, but I did not draw any conclusions from those samples.
Q I understand, but, in fact, I believe with the sweatshirt you said three, maybe four or more; right?
A I made that reference in my determination of number of contributors, that sometimes the information of such limited quantity that it's difficult to determine whether it's three or four individuals to give an exact number to a mixture.
Q Which means you can't limit it to three; right?
MR. LUTTRULL: Excuse me. Limit what? I don't understand the question.
THE COURT: Sustained.
Q Which means you can't limit your analysis to three people, L.G. and A.W. and only one perpetrator; correct?
A In the majority of my samples, I've – have results that say I cannot determine the number of contributors, so it's not even that it's three, I could not determine the number of contributors.
Q Sure. It could be three, four, five, six.

A I guess I would need a specific example of what you're referring to, because, like I said, the majority of my results say I cannot determine the number of contributors.

Q Meaning it can be more than three; right?

A It could be one. It could be two. But there was not enough information for me to determine the number of contributors.

Q I understand. Could it be more than three?

MR. LUTTRULL: Objection: That's been asked and answered twice I think.

THE COURT: Sustained.

MS. AUGER: I asked her if it could be more than three and she said it could be one and it could be two, but she did not say whether it could be more than three.

THE COURT: You've made your point. Sustained. Move on.

MS. AUGER: Thank you.

Q Your lab takes extra precautions to avoid contamination?

A We do have procedures in place as part of our quality assurance/quality control program that help limit contamination on evidentiary items.

Q And yet you believe that, despite those precautions, that the male DNA profile you developed was from one of your unnamed employees; is that correct?

A Yes, there was consistencies in the male profiles that I developed between them and laboratory personnel member.

Q How many laboratory personnel have access to the sweatshirt?

A That's – I was the only laboratory personnel that was examining the sweatshirt, if that's your question, but that sweatshirt passes through the hands

of several officers, investigators, and evidence clerks as it's coming in and out of the laboratory.

Q So can you answer the question? How many people in the lab have access to the sweatshirt?

A I guess I don't understand the question. The packaging of the sweatshirt or the actual sweatshirt?

Q The actual sweatshirt, where you found the male DNA.

A I can't put a number to it. I was the only person to actually examine that sweatshirt, if that's the question. It was, obviously, collected by somebody, I believe it was transported between posts and districts into the laboratory, but I don't have an exact number. I may be able to determine that from the chain of custody, but I don't know what happens to that item outside of the laboratory and outside of my chain of custody, either.

Q Sure. And I'm not asking you about outside the lab, because it wasn't someone from State Police whose DNA showed up on the sweatshirt; right? It was someone from your lab?

A Well, I am with the State Police.

Q Okay.

A And –

Q Well, not someone from the post; correct?

A The State Police officers are considered part of our laboratory personnel employee database, as well.

Q So the male DNA you found on the sweatshirt could have been from a state trooper?

A Could it have been?

Q Yes.

A If they were in our employee database, then they would be considered, yes, as a – as part of our employee database, a laboratory personnel member if they are involved in the handling and collection of that item.

Q Now, it's not – so despite your precaution, someone from the lab, their male DNA was on the sweatshirt, so it's not unexpected that DNA can be transferred from one person to a sweatshirt; correct?

A It's not unexpected for DNA to be transferred between, obviously, people and the item.

Q Okay. And especially if you're handling a sweatshirt to the point that you're dressing a body with it; right? That's a lot of interaction from someone in that sweatshirt; would you agree?

A Are you asking me a hypothetical situation of if it's possible –

MR. LUTTRULL: There's no evidence of anyone dressing a body, Your Honor. I would object to the question. Facts not in evidence.

THE COURT: Sustained.

Q If someone were dressing a body with the sweatshirt, would that be a lot of interaction that they had with the sweatshirt?

A It would be maybe more than just a temporary contact DNA like we were speaking of earlier, but I hesitate to say whether it'd be enough to put DNA on an item, because there's a lot of factors in place, like what kind of personal protective equipment were they wearing and what was happening during a dressing event.

Q Well, did anyone at your lab actually touch the sweatshirt outside the packaging other than you?

A I can only speak to what happened to that sweatshirt while it was in my custody, and no one other than myself touched it while it was in my custody.
Q Did you take the cuttings from the sweatshirt or did you have someone else?
A I did that.
Q And was there any other testing conducted on the sweatshirt other than what you did?
A I am not aware of any. If there was other testing done, I'm not aware of it.
Q Do you have any male assistants assisting you?
A During my examination, no.
Q Now, you've also reviewed and examined items that were collected from Richard Allen's home; is that correct?
A Yes, there were items submitted that were indicated to me as being collected from Richard Allen's home.
Q And you examined a number of items that came from his home?
A Yes, ma'am.
Q And on any of those items that you examined, did you find any connection to A.W. or L.G.?
A No, I did not find any DNA profiles from any of those items that were consistent with A.W. or L.G.
Q And you examined a coat, a blue Carhartt coat?
A Do you have a date on that report?
Q I believe it's November, 2022.
A Yes, I did examine a blue Carhartt coat.
Q And you examined a cutting from a carpeted area of Richard Allen's Ford

Focus?

A Yes, ma'am.

Q You examined some dirty black boots?

A That's correct.

Q Some knives?

A Yes, ma'am.

Q And no evidence anywhere of DNA of L.G. or A.W.?

A That's correct.

Q Now, you – earlier, you testified it could be difficult to get DNA from unspent cartridges; recall that?

A Yes, ma'am.

Q And you said that was because you need an abundance of skin cells?

A Well, I didn't say that was because of that. There could be a number of factors, but it could include the amount of DNA that would have been left behind on an item like that.

Q But you don't know how many times someone touched or interacted with that unspent shell; correct?

A Right, which is why it's necessary to take that swabbing to attempt the DNA analysis on the sample.

Q And you can get DNA from metal surfaces; correct?

A You can.

Q When you examined the cartridge, did it appear to have been impacted in dirt at any point?

A I would not be able to draw that kind of conclusion from my examination of the cartridge. Like I mentioned, it just – it had a slight dirt-like staining

present on it, so there was slight dirt present, but I wouldn't know whether it was embedded or how it got there.

Q Okay. Slight dirt; is that right?

A I – yes, I believe that's –

Q And despite an abundance of blood at the crime scene, there was no DNA on that casing, that cartridge, from A.W. or L.G.; correct?

A There was not enough DNA on the cartridge for me to develop a DNA profile from anybody, to be compared to anybody.

Q How many hours did you spend on this case?

A I don't know. I can't put a number to that. As you can see, I've issued a lot of reports, I've done a lot of items.

Q How many items do you think you examined?

A Hundreds of evidentiary items, along with the hundreds of standards that I've looked at.

Q Is it fair to say you put a lot of time and work and energy in this case?

A Yeah, I would say so.

Q And nothing can be connected – nothing biologically or – I'm not gonna be able to pronounce this – from a serological standpoint connects Richard Allen to L.G. or A.W. – correct? – despite all those hours and time and energy.

A There were no DNA results where I have an unknown male profile or a profile that's consistent with Richard Allen from all of the examinations that I've done.

Q Can you obtain DNA from spit?

A Spit is, essentially, saliva, so yes, it's possible that would be a source of DNA.

MS. AUGER: Thank you.

THE COURT: Mr. Luttrull.

MR. LUTTRULL: Yes.

RE-DIRECT EXAMINATION OF STACY BOZINOVSKI

QUESTIONS BY MR. LUTTRULL.

Q Yes. So no DNA of – profile consistent with Richard Allen or with any unknown male; is that correct in your analysis here?

A That's correct, I did not develop a DNA profile of any unknown male individuals from the items that I've examined and talked about here today.

Q These new ventures of DNA that Indiana State Police is entering and attempting to validate, you're a part of at least two of those initiatives; correct?

A That is correct.

Q And would either one be of assistance to the jury in this case, in your view?

A Like I mentioned, the SNP analysis that we're currently using in our laboratory that I am an analyst using for casework is only being used on unidentified human remains and missing persons casework and only for samples that are reasonable to be single-source profiles, so not mixture samples. It's not a suitable technology at this time for mixtures. The other method, which we're currently still validating, is something that may be used on forensic samples like hair, but that validation is still undergoing and would still warrant us having an appropriate extraction method to obtain DNA from the shaft of a hair.

Q Speaking of hair, the FBI indicated they could do – they did microscopic examination of hair and they could do more they said, and if you do, they had some instructions on how to submit it; is that correct?

A There was just a reference of additional like microscopic hair examinations or comparisons could be performed upon submission of additional known head-hair samples.

Q And microscopic hair examination is no longer a legitimate form of identification –

MS. AUGER: Objection: Leading.

THE COURT: Sustained.

MR. LUTTRULL: I'll rephrase it.

Q Is it a legitimate form of identification in comparison, in identifying an individual?

A It's not my specialty, and this is not a type of analysis that we perform in our laboratory, so we do not do hair comparisons in our laboratory to show whether hairs are consistent with specific individuals. That is something that the FBI is comfortable doing, and I believe that they acknowledge that as just a kind of an investigative tool, not an identification method.

Q It's a screening device?

A Yes.

Q And the Indiana State Police used to have a hair-comparison team or unit in the laboratory, didn't they?

MS. AUGER: Objection: Leading.

THE COURT: Overruled.

A They – our laboratory did used to do those types of comparisons way before my time. I'm not familiar with that and it's nothing that's been in place in the 18 years that I've been with the laboratory.

Q Are you aware of whether or not microscopic hair comparison for