

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Honorable Daniel McLeod Coble, Circuit Court Judge

LORENZO BERNARD YOUNG,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001948

APPENDIX

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1 maybe five, six black gloves, one more if you can show
2 it, just show it to the jury and based on their
3 packaging it looks as though those items went to SLED
4 for testing.

5 A Correct.

6 Q And the others located in this bag are similar in
7 nature?

8 A Yes, ma'am.

9 Q Okay. I'm going to show you State's 401 and ---
10 371. Do you recognize these items?

11 A Yes, ma'am, I do.

12 Q And what are those?

13 A Unfired cartridges.

14 Q And are these the unfired cartridges that you
15 collected, I believe, from the dresser area?

16 A Yes, ma'am, they are.

17 MS. SIMPSON: Your Honor, at this time I would
18 offer State's 401, as well as 371.

19 MS. BAMBACH: We renew our previous objection.

20 MR. SCHNEE: No objection.

21 THE COURT: 401 and 371.

22 (WHEREUPON, State's Exhibit Numbers 401 and 371
23 were admitted into evidence.)

24 BY MS. SIMPSON:

25 Q And in State's 401, which live round is this?

1 A That is a Smith and Wesson 40 caliber headstamped
2 ELO.

3 Q Okay. So this is the actual round that you
4 found?

5 A Yes, ma'am.

6 Q For a 40 caliber?

7 A Yes, ma'am.

8 Q And then in State's 371, what is that?

9 A This is a 40 caliber Smith and Wesson headstamped
10 ELO.

11 Q So this is also for a 40 caliber, so similar?

12 A Yes, ma'am.

13 Q Same headstamp and that was located in the
14 dresser area, as well?

15 A Yes, ma'am.

16 Q And then I'm going to show you State's 372. Do
17 you recognize that item?

18 A Yes, ma'am.

19 Q What is that?

20 A That is the actual box, the unfired cartridge
21 container that was under the bed. It's for a 45 GAP,
22 165 grain bullets.

23 Q Okay. So this is the actual box for a 45 GAP,
24 165, what did you say?

25 A 165 grain bullet.

1 Q Grain bullet, and was this box empty when you
2 located it?

3 A Yes, ma'am.

4 Q Let me show you State's 370. Do you recognize
5 that item?

6 A Yes, ma'am.

7 Q And what is that?

8 A That's a 45 GAP live round.

9 Q 45 GAP live round?

10 A Yeah.

11 Q Okay. And that was located, I believe, in the
12 cup maybe in the bedroom?

13 A Yes, ma'am, in the cup.

14 Q And the headstamp on that reads?

15 A It reads a 45 GAP C.B.C.

16 Q Okay. And so that is also what was located in
17 Lorenzo Young and Rolanda Coleman's room?

18 A Correct.

19 Q Or Ms. Coleman's room.

20 A Correct.

21 Q Finally, I'm going to show you State's 376. Do
22 you recognize that?

23 A Yes, I do.

24 Q And what is State's 376?

25 A That is a block magazine for a 40 caliber.

1 MS. SIMPSON: Your Honor, at this time I would
2 offer State's 376 into evidence.

3 MS. BAMBACH: We renew our previous objection.

4 MR. SCHNEE: No objection.

5 THE COURT: All right. That's admitted.

6 (WHEREUPON, State's Exhibit Number 376 was
7 admitted into evidence.)

8 BY MS. SIMPSON:

9 Q And with respect to the item I just showed you, I
10 believe the --- we'll come back to that in just a
11 moment. State's 376, this is the Glock magazine that
12 you located in the purse?

13 A Correct.

14 Q And this actually contains or people put the
15 cartridges or live rounds, bullets essentially, as a
16 lay person ---

17 A Correct.

18 Q --- in this magazine?

19 A Yes, ma'am.

20 Q And that magazine then goes into a Glock weapon?

21 A Yes, ma'am.

22 MS. SIMPSON: And, Your Honor, at this time, I
23 would move State's 375 into evidence, which would be
24 the 45 GAP live round that he just testified to.

25 MS. BAMBACH: We renew our previous objection.

1 MR. SCHNEE: No objection.

2 THE COURT: All right. Admitted.

3 (WHEREUPON, State's Exhibit Number 370 and 375
4 were admitted into evidence.)

5 MS. SIMPSON: Your Honor, at this time I'd move
6 the cell phones located in 377 into evidence, as well
7 as 370.

8 THE COURT: 370?

9 Your Honor, I'd offer 370 into evidence as well.

10 MS. BAMBACH: Renew our previous objection.

11 MR. SCHNEE: No objection.

12 THE COURT: All right. 370 and 377 are in over
13 objection.

14 BY MS. SIMPSON:

15 Q Now, once you finished, I guess, processing this
16 scene and collecting these items, I'm again --- were
17 they properly sealed and packaged?

18 A Yes, ma'am, they were.

19 Q And what did you do with those items?

20 A Once I and package those items, I actually turn
21 them into our evidence locker. If it's after hours, I
22 drop them in a locker and put a lock on the locker and
23 they come in the next morning.

24 Q And with respect to the investigation, was that
25 the extent of your involvement in this case?

1 A Yes, ma'am.

2 Q You didn't process any other scenes ---

3 A No, ma'am.

4 Q --- with respect to this case. And the
5 investigators decide what ultimately to test?

6 A Correct.

7 Q You don't actually do any of the testing or
8 analysis yourself?

9 A No, ma'am, I sure don't.

10 MS. SIMPSON: Beg the Court's indulgence. Thank
11 you, investigator.

12 THE COURT: Approach real quick.

13 (WHEREUPON, a bench conference was held in the
14 presence, but not within the hearing of the
15 jury.)

16 THE COURT: All right. We'll finish up this
17 witness and take a break. Bear were us a few minutes.
18 Cross-examination?

19 MS. BAMBACH: Thank you, Your Honor. May it
20 please the Court.

21 CROSS-EXAMINATION:

22 BY MS. BAMBACH:

23 Q Investigator Gaston, you found two pairs of shoes
24 at Bronx Road, right?

25 A Right.

1 Q And you said one was in Lorenzo's room and one
2 pair was in the parent's bedroom?

3 A Correct.

4 Q And did you know what size the shoes were on your
5 report?

6 A I did not notate them on my report. I did not.

7 Q Do you have a copy of your report with you?

8 A Yes, ma'am, I sure do.

9 Q Numbers, well, eight and nine, the pair of Puma
10 shoes and Nike shoes?

11 A Yes, I'm sorry.

12 Q Size 12?

13 A Yes, they both say size 12.

14 Q Okay.

15 A Correct, I apologize.

16 Q Would it surprise you to know that one of
17 Lorenzo's parents wears a size 12?

18 A Ma'am, I'm sorry, I didn't hear you.

19 Q Would it surprise you to hear that one of
20 Lorenzo's parents, his stepfather, wears a size 12?

21 A I had no clue.

22 Q Would it surprise you to know that Lorenzo wears
23 a size ten?

24 A I was unaware of what size he wore.

25 MS. BAMBACH: Thank you.

1 THE COURT: Mr. Schnee?

2 MR. SCHNEE: Very briefly.

3 THE COURT: Sure.

4 CROSS-EXAMINATION:

5 BY MR. SCHNEE:

6 Q Now, if I'm understanding your testimony
7 correctly, you were the one that physically collected
8 all this evidence?

9 A Right.

10 Q You didn't actually perform the search of the
11 house, did you?

12 A No, sir, I didn't.

13 Q So you didn't actually take out these items?

14 A No, sir, I didn't.

15 Q Who did that?

16 A The investigators.

17 Q Do you know which investigators?

18 A No, sir, there was a numerous amount of
19 investigators out there.

20 Q So you don't know who actually located these
21 items or where they were located before you got there?

22 A No, sir.

23 MR. SCHNEE: All right. No further questions.

24 MS. SIMPSON: Just briefly.

25 REDIRECT EXAMINATION:

1 BY MS. SIMPSON:

2 Q Investigator Gaston, you were actually there not
3 as an initial crime scene responder, but at the
4 execution of a search warrant, correct?

5 A I arrived after the execution of the search
6 warrant.

7 Q So you assisted in documenting things that were
8 located during the execution of a search warrant?

9 A Correct.

10 MS. SIMPSON: Nothing further, Your Honor.

11 MS. BAMBACH: I have no questions.

12 MR. SCHNEE: No, Your Honor.

13 THE COURT: Okay. Thank you very much, sir.
14 Have a nice day.

15 THE WITNESS: Thank you.

16 THE COURT: Okay. Ladies and gentlemen. It's a
17 good time to take our morning break. We've been going
18 for about an hour-and-a-half. I appreciate your
19 patience with finishing that witness up. You can go
20 ahead. Thank you. I appreciate it.

21 All right. I'm going to order you lunch today.
22 Okay. Now, we are very limited in our choices, but
23 the clerk's office is going to give you a menu that
24 you can order lunch from the restaurant. We do that
25 for a couple of reasons. Number one, I can take a

1 shorter lunch break if everybody doesn't have to go
2 out and come back in. Number two, I can't do much
3 more you other than help you by buying your lunch
4 sometimes, so you'll get a menu. If you'll go ahead
5 order. We'll work up until lunch gets here, and then
6 we'll probably take about 45 minutes for lunch.
7 During that time if anybody needs to go outside,
8 stretch their legs, smoke or anything like that,
9 you'll be allowed to do that. We'll keep a shorter
10 lunch break today so we can get as much done as
11 possible.

12 All right. Do not discuss the case. Keep an
13 open mind. We'll see you back in about ten minutes or
14 so. Thank you very much.

15 (WHEREUPON, the jury left the courtroom at 10:51
16 A.M.)

17 THE COURT: All right. Let's take about a ten
18 minute break or so.

19 (WHEREUPON, a short break was taken.)

20 THE COURT: All right. Everybody ready?

21 MS. SIMPSON: State's ready.

22 MS. CAMPBELL: One housekeeping matter.

23 Apparently in the last witness there were references
24 to items 362 and 368. Those were not moved in. I
25 would move them in at this point. They have the same

1 objection.

2 MR. KRZYSTON: Yes, Your Honor. We would be
3 maintaining our other objections.

4 MR. SCHNEE: I have no objection.

5 THE COURT: 362 and 368 are in.

6 (WHEREUPON, State's Exhibit Numbers 362 and 368
7 were admitted into evidence.)

8 (WHEREUPON, the jury entered the courtroom at
9 11:12 A.M.)

10 THE BAILIFF: The jury panel is present, Judge.

11 THE COURT: All right. Thank you. Welcome back.
12 Call your next witness.

13 MS. CAMPBELL: May it please the Court. The
14 State calls Ila Simmons.

15 THE COURT: Simmons?

16 MS. CAMPBELL: Yes, sir, from SLED.

17 ILA SIMMONS,
18 after being duly sworn, testified as follows:

19 THE CLERK: Thank you very much. Take a seat in
20 the witness stand. State your full name for the
21 record and spell your last name, please.

22 THE WITNESS: My name is Ila Simmons. My last
23 name is spelled S-I-M-M-O-N-S.

24 DIRECT EXAMINATION:

25 BY MS. CAMPBELL:

1 Q Ma'am, where are you're currently employed?

2 A I am retired from the South Carolina Law
3 Enforcement Division also known as SLED's forensic
4 services laboratory trace evidence department.

5 Q And as a former member of the trace evidence
6 department, what did your duties include?

7 A We analyzed gun shot residues, gun powder
8 residues, we performed comparisons of glass,
9 automotive paints, as well as fibers and we also
10 analyzed explosives and arson debris.

11 Q Can you tell this jury a little bit about your
12 education and training in your field of trace
13 evidence?

14 A I received a bachelor of science degree in
15 chemistry. After completing that I went to work at
16 SLED and for the first three years that I was employed
17 there I worked with a court qualified SLED certified
18 trace evidence examiner. During that time I had to
19 take written and practical examinations and complete
20 them all with 100 efficiency. After completing those,
21 I was then being qualified by SLED to analyze trace
22 evidence. I am a member of the Southern Association
23 of Forensic Science. I am also a member of the FBI
24 symposium where the FBI has invited GSR analysts from
25 around the world to go and set up the standards and

1 practices that would be used by everyone in analysis
2 of gunshot residue.

3 Q Is SLED's lab accredited in any way?

4 A Yes, ma'am, it is.

5 Q And what agency actually accredits that
6 laboratory?

7 A At the time that this analysis was performed it
8 was A.S.C.L.D., the American Society of Crime Lab
9 Directors. We are now also accredited by ISO, which
10 is the International Standard Organization.

11 Q Have you been qualified before as an expert in
12 the field of trace evidence?

13 A Yes, ma'am, I have.

14 Q And specifically for this case as to gun shot
15 residue?

16 A Yes, ma'am, over 250 times in Federal, General
17 Sessions and civil courts in South Carolina.

18 MS. CAMPBELL: Your Honor, at this time we would
19 offer her as an expert.

20 THE COURT: In the area of trace evidence and
21 gunshot residue?

22 MS. CAMPBELL: Yes, sir.

23 THE COURT: Voir dire?

24 MS. BAMBACH: No questions.

25 THE COURT: Voir dire?

1 MR. SCHNEE: No questions, no objections.

2 THE COURT: All right. Thank you very much.

3 Ladies and gentlemen, this witness will be qualified
4 as an expert in the area of trace evidence and gunshot
5 residue. As I told you before, normally a person
6 cannot give opinion testimony. They're required to
7 talk about what they heard, smelled, did, said, saw,
8 things of that nature. However, this witness because
9 of education and experience will be allowed to give
10 opinion in the area of trace evidence and gunshot
11 residue. Now, just because she is allowed to give
12 opinion testimony in that area does not mean you have
13 to accept her opinion. It is evidence for you to use
14 in any way you see fit and to give it the weight and
15 credibility you see appropriate as you are required to
16 do with each and every witness that testifies before
17 you.

18 MS. CAMPBELL: Thank you.

19 THE COURT: Ms. Campbell.

20 BY MS. CAMPBELL:

21 Q Ms. Simmons, typically when you're doing gunshot
22 residue testing, what type of evidence do you
23 typically get in a case?

24 A We get a standardized gunshot residue kit and we
25 also sometimes receive clothing.

1 Q In this case when you're talking about a standard
2 gunshot residue kit, what does that mean?

3 A That is taken from the hands, the skin of
4 someone.

5 Q Okay. How that typically collected from a
6 person?

7 A It is collected with a small amount of nitric
8 acid on cotton swabs, as well as a piece of double
9 sided sticky that is dabbed over the hands of the
10 person from whom it's being collected.

11 Q Is there a time period within which a person that
12 shoots a gun --- in which that test is no longer
13 valid?

14 A Yes, ma'am.

15 Q In what time period does that test need to be
16 collected in order for it to have any probative value
17 as to whether or not a person has handled or fired a
18 gun?

19 A It has to be within six hours of the shooting
20 incident.

21 Q So if a person gets away from a crime scene and
22 is gone in excess of six hours, say five days later
23 they're arrested, would it be probative of anything to
24 do a gunshot residue kit at that point?

25 A No, ma'am, according to the studies that we've

1 conducted and studies that have published throughout
2 the world, gunshot residue does not remain on
3 somebody's hands for more than six hours after a
4 shooting incident.

5 Q How would you characterize gunshot residue
6 especially on a living person?

7 A It has the consistency of flour. It's very
8 light, very easily removed. If someone were to wash
9 their hands or shower, even sweat profusely, or use
10 hand sanitizer, that can all remove the gunshot
11 residue easily.

12 Q In fact, even if someone had collected gunshot
13 residue from a subject or a defendant in a case some
14 four or five days later, would you even agree to test
15 in your lab?

16 A No, ma'am.

17 Q That would be against the policy?

18 A Yes, ma'am.

19 Q For the reasons you just stated?

20 A Yes, ma'am.

21 Q But with clothing, can gunshot residue stay for a
22 longer period of time?

23 A Yes, ma'am, indefinitely.

24 Q Indefinitely?

25 A Yes, ma'am.

1 Q And what types of --- if clothing is subjected
2 though to being washed or something of the nature, can
3 that affect your ability to get gunshot residue?

4 A Yes, ma'am, if the clothing is washed, generally
5 the gunshot residue will be washed away.

6 Q When you're looking for gunshot residue and this
7 in this case, we're going to talk about some gloves
8 that were submitted to you, how do you do your testing
9 and what are you looking for?

10 A We are looking --- gunshot residue is a mixture
11 of microscopic chemicals that come out of a gun when
12 it discharges. It can get on anything within about
13 three feet of the gun including the hands of the
14 person shooting the gun. In this particular case, I
15 received some gloves to analyze. I took piece of
16 double sided sticky tape. I attached it to an
17 aluminum handle so that my hands were never touching
18 the gloves, only the double sided sticky tape. Once
19 the sticky tape was collected, I then analyzed it
20 using a scanning electron microscope, which can see
21 down a 100,000 times greater than the human eye can
22 see because the gunshot residue particles you're
23 looking for, you can fit about 100 across a hand.
24 This instrument, this scanning electron microscope can
25 see these particles, tell us what shape, what size and

1 elements are present. When you find a particle that
2 is round and contains lead, barium and antimony, it is
3 specific to a discharge of a firearm and only
4 discharging a firearm. It's never been found in
5 nature or manmade anywhere else other than from the
6 discharge of a firearm.

7 Q I want to talk about what was submitted in this
8 case. You mentioned a minute ago that basically how
9 the gunshot residue gets on a person or on their hands
10 or their clothing, is there is a cloud that comes out
11 when a gunshot is fired?

12 A Yes, ma'am.

13 Q Typically you said that's within about three
14 feet?

15 A Yes, ma'am.

16 Q Would it have been probative for you to do any
17 testing on the victim's clothing if she had been in
18 close proximity when shot?

19 A No, ma'am. You would expect that about 85
20 percent of persons sustaining a gunshot would have
21 gunshot residue on their clothing or their hands
22 simply because they're in close proximity to the gun
23 when it discharges.

24 Q In this case, however, if the person is wearing a
25 glove at the time that the gun is fired, could that be

1 probative?

2 A Yes, ma'am.

3 Q The cloud that you mentioned comes out of the gun
4 firing and if a gun is fired multiple times would you
5 expect to find gunshot residue because it would
6 basically compound itself somewhat?

7 A Yes.

8 Q I want to turn your attention to State's Exhibit
9 Number 368, and first if you recognize this?

10 A Yes, ma'am, I do. It is marked with our unique
11 identification number that is given to each case that
12 comes into our laboratory, as well as a container
13 number and item number. It is marked with my initials
14 and the date that I completed my processing of this
15 item.

16 Q And when that item was submitted to you, were all
17 of those gloves that were in there packed together?

18 A Yes, ma'am.

19 Q If it had been found in a manner such as that at
20 a crime scene, would it have been appropriate to have
21 been submitted to you in the way it was found?

22 A Yes, ma'am.

23 Q And that was done in this case?

24 A Yes, ma'am, it was.

25 Q Once you got the item, did you then separate out

1 the gloves?

2 A Yes, ma'am.

3 Q And specifically how many gloves did you actually
4 do testing on in this case?

5 A I received five gloves.

6 Q Are those gloves in there?

7 A Yes, ma'am.

8 Q Can we pull them out and show them to the jury?

9 A Certainly.

10 Q This is one of the gloves that was submitted?

11 A Yes, ma'am.

12 This is a match to the glove that was submitted.

13 THE COURT: Are all these part of the same
14 exhibit number, Ms. Campbell?

15 MS. CAMPBELL: Yes, sir, I'll put them back
16 together. I promise.

17 THE COURT: Okay. I just wanted to make sure I
18 understood that.

19 THE WITNESS: And this is another of the gloves
20 that analyzed. That's a match to that glove.

21 BY MS. CAMPBELL:

22 Q That's the last glove?

23 A Yes, ma'am, I believe that's all.

24 Q When you tested these gloves, ma'am, did you
25 separate them out to test them separately?

1 A Yes, ma'am, I did.

2 Q And I believe you mentioned a minute ago how you
3 actually did testing in this case. Can you tell the
4 jury about that one more time?

5 A Uh-huh. I took a double sided piece of sticky
6 tape, placed it on a handle and dabbed it over the
7 different areas of the gloves. I would have taken a
8 sample from the palm and back of the glove and they
9 would have been two separate samples.

10 Q I want to show you what's being marked as
11 State's Exhibit 389. To you recognize that?

12 A Yes, ma'am, I do. These are the particle lifts
13 or the double sided sticky tape that I took from each
14 of the gloves.

15 MS. CAMPBELL: Your Honor, at this time we would
16 offer State's Exhibit 389 into evidence.

17 THE COURT: What number?

18 MS. CAMPBELL: 389.

19 MS. BAMBACH: We would renew our previous
20 objection.

21 THE COURT: Is that what she tested?

22 MS. CAMPBELL: This is the actual particle that
23 she took from each glove.

24 MR. SCHNEE: No objection.

25 THE COURT: All right. Over defense objection.

1 (WHEREUPON, State's Exhibit Number 389 was
2 admitted into evidence.)

3 BY MS. CAMPBELL:

4 Q You mentioned you would take a lift, one from the
5 front and one from the back?

6 A Yes, ma'am.

7 Q Taking the gloves in whatever order you think is
8 appropriate what were your findings when you did the
9 testing as far as gunshot residue?

10 A I found that gunshot residue was found on the
11 gloves.

12 Q On each and every glove?

13 A Yes, ma'am, particles of gunshot residue was
14 found.

15 Q And in your experience, what does that indicate
16 to you as far as where these gloves were in proximity
17 when a gun was perhaps fired?

18 A They were within three feet of the gun when it
19 was discharged.

20 Q And you can't tell the jury how long it had been
21 since they had been within three feet of when a gun
22 was discharged?

23 A No, ma'am.

24 Q Because it can, as you mentioned, stay on there
25 for a long time?

1 A Yes, ma'am.

2 Q But each of these gloves had gunshot residue on
3 them?

4 A Yes, ma'am.

5 Q And being packaged together, you could not
6 eliminate the fact that gunshot residue may have been
7 on one and then transferred to another?

8 A That is a possibility.

9 Q Or each of them may have been in proximity within
10 three feet of when a gun was fired?

11 A That's correct.

12 Q Or one or more?

13 A Yes, ma'am.

14 Q But there's no question that each of them tested
15 positive for gunshot residue?

16 A Yes, ma'am, that's correct.

17 MS. CAMPBELL: Thank you, ma'am. I don't have
18 anything further.

19 THE COURT: Cross?

20 MS. BAMBACH: Thank you, Your Honor.

21 CROSS EXAMINATION:

22 BY MS. BAMBACH:

23 Q Ms. Simmons, your involvement with this case
24 began when you received the gloves to test, right?

25 A Yes, ma'am.

1 Q So you haven't seen the surveillance video of the
2 shooting?

3 A No, ma'am.

4 Q Do you have your report with you?

5 A I do.

6 Q So there were five gloves in the report, right?

7 A Yes, ma'am.

8 Q And that's 40, 41, 42, 43, 44, correct?

9 A (There was no response.)

10 Q I'm on page two of your report.

11 A Yes, ma'am.

12 Q So that's two black leather gloves, two gray and
13 black cloth gloves and one neon yellow and black cloth
14 glove?

15 A That's correct.

16 THE COURT: Those numbers that you just read out,
17 Ms. Bambach, those are numbers given to it by SLED in
18 your SLED report?

19 THE WITNESS: That's correct.

20 THE COURT: Those are not evidence numbers.
21 Those are just numbers that SLED assigns when it comes
22 in to keep track of what's what.

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay.

25 BY MS. BAMBACH:

1 Q I just have a few general questions about gunshot
2 residue. So you said it has a flour-like consistency,
3 right?

4 A Yes, ma'am.

5 Q Something kind of like powder?

6 A Yes, ma'am.

7 Q Because of that, you said it is easily
8 transferable, right?

9 A Yes.

10 Q And when you got all the gloves, they were
11 packaged together, right?

12 A That's correct.

13 Q So they were all touching each other when you got
14 them?

15 A Yes, they could have all touched each other.

16 Q And gunshot residue can come from firing a
17 weapon, right?

18 A Yes, ma'am.

19 Q It can also come from being in the vicinity of
20 the discharge of a firearm, correct?

21 A That's correct.

22 Q It can also come from being in contact with a
23 surface that has gunshot residue on it?

24 A Yes, ma'am.

25 Q Gunshot residue can't tell you what gun produced

1 the residue, right?

2 A No, ma'am, it cannot.

3 Q It can't tell you where the gun was fired?

4 A Just within a three feet proximity, yes.

5 Q But it could also come from coming in contact
6 with something that has discharged a firearm?

7 A That is possibility, yes.

8 Q It can't tell you when a gun was fired, right?

9 A No.

10 Q If you found gunshot residue on one of the
11 gloves, it could have been from a shooting one day
12 before, right?

13 A Yes, ma'am.

14 Q It could have been from a year ago?

15 A That is a possibility.

16 Q It could have even been from 100 years ago?

17 A It's a possibility if it hadn't been washed or
18 laundered.

19 MS. BAMBACH: I have nothing further.

20 MR. SCHNEE: May it please the Court.

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION:

23 BY MR. SCHNEE:

24 Q You tested all five gloves?

25 A Yes, sir.

1 Q Okay. So your tests --- your tests are only on
2 the outside of the gloves, right?

3 A Yes, sir.

4 Q You don't do anything with the insides?

5 A No, sir.

6 Q Would your test prevent the DNA lab from
7 analyzing the inside of the gloves?

8 A No, sir.

9 Q Do you know if these have ever been sent to the
10 DNA lab?

11 A I'm not certain, sir.

12 Q Okay.

13 A I believe they were processed by the DNA
14 laboratory because I saw the DNA analyst's initials
15 on the outside of the bag.

16 Q Okay, so before you got them.

17 A No, after, after. I would have processed them
18 first and they would have gone to DNA because DNA can
19 disturb the gunshot residue. However, my gunshot
20 residue would not interfere with the DNA at all.

21 Q After you did your test, based on what you see on
22 those records, they were sent to DNA?

23 A Possibly, yes, sir.

24 MR. SCHNEE: Okay. Thank you.

25 THE COURT: Ms. Campbell?

1 MS. CAMPBELL: Nothing.

2 THE COURT: Have a nice day, ma'am.

3 THE WITNESS: Yes, sir.

4 Does the next witness deal with the gloves?

5 MS. SIMPSON: No, Your Honor.

6 THE COURT: Can we get those gloves back in that
7 box so we can keep track of what's what.

8 MS. CAMPBELL: I apologize, Your Honor.

9 THE COURT: That's okay. You can call your next
10 witness.

11 MS. SIMPSON: Your Honor, may we approach briefly
12 with regard to the next witness?

13 THE COURT: Yes, ma'am.

14 (WHEREUPON, a bench conference was held in the
15 presence, but not within the hearing of the
16 jury.)

17 THE COURT: All right. Ladies and gentlemen,
18 we're going to take a quick break. It won't be too
19 long. Just return to your jury room. Don't discuss
20 the case. Keep an open mind. It shouldn't be too
21 long at all. Thank you very much.

22 (WHEREUPON, the jury left the courtroom at 11:32
23 A.M.)

24 THE COURT: Okay. What's the record?

25 MS. SIMPSON: Yes, Your Honor. From 2007 he

1 has --- and this is what I believe would be
2 impeachable, assault and battery of a high and
3 aggravated nature and then with respect to 2000, he
4 did receive seven years. Looks like that may fall
5 within the timeframe or a percentage for burglary non
6 violent second degree and commonlaw strong armed
7 robbery.

8 THE COURT: Okay. Anything else, Ms. Pinnock?
9 Does he have any pending charges?

10 MS. SIMPSON: He does, Your Honor. He is
11 currently charge with murder, 30 to life, as well as -
12 -- I believe, it's just murder.

13 MS. PINNOCK: He's got murder and kidnapping,
14 Your Honor.

15 MS. SIMPSON: Kidnapping.

16 Anything else, Ms. Pinnock?

17 MS. PINNOCK: Yeah, the way I see it, he has a
18 few burglary convictions or a few different
19 convictions for strong armed robbery that were all
20 from the same sentence and then he also has a criminal
21 domestic violence, high and aggravated.

22 THE COURT: When was that?

23 MS. PINNOCK: That was a conviction in 2002 and
24 he served --- he got a three year sentence.

25 MS. SIMPSON: I believe that falls outside of the

1 timeframe.

2 THE COURT: I mean, you have to know when he was
3 released to make that decision.

4 MS. PINNOCK: I'm not aware of his release date,
5 but it was --- a CDV/HAN, the first year is day for
6 day and is not ---

7 MS. CAMPBELL: Even if he maxed out that
8 sentence, it would be less than 18 months.

9 THE COURT: Sixty-six.

10 MS. CAMPBELL: Sixty-five or 66 percent would be
11 18 to 20 months.

12 MR. SCHNEE: Well, the first year of CDV/HAN is
13 day for day.

14 MS. CAMPBELL: Day for day.

15 MR. SCHNEE: And then the next year would be 65
16 percent.

17 MS. CAMPBELL: I'll go check his release date.

18 THE COURT: I don't think that was law in 2002.

19 MR. SCHNEE: I'm not positive.

20 THE COURT: I'm thinking the law changed later,
21 but that's me thinking. I'm not ---

22 MS. CAMPBELL: Do you want me to go check real
23 quick?

24 THE COURT: --- I'm not real positive,

25 MR. SCHNEE: Judge, I think I can solve this.

1 I'm looking at the record. It seems he was arrested
2 for kidnapping and a few other things, and for CSC
3 first. That was in 2005, so obviously he would have
4 been out by 2005, so I think that kind of should
5 settle that closely.

6 THE COURT: That settles it for me. It's up to
7 you if you want to settle it for you.

8 MR. SCHNEE: From the release date, I would
9 anticipate that it would not be within the ten years.

10 THE COURT: Okay. So the 2007 AB/HAN and
11 the 2002 burglary and strong armed robbery and the
12 pending charge are in. The only issue is the CDV/HAN.

13 THE COURT: Do you agree that, Ms. Pinnock?

14 MS. PINNOCK: Yes, Your Honor.

15 THE COURT: Mr. Schnee?

16 MR. SCHNEE: Yes, sir, and pending charges.

17 THE COURT: Oh, and I said pending.

18 MR. SCHNEE: I'm sorry.

19 MS. SIMPSON: So we agree the 87 assault and
20 battery of a high and aggravated nature, one burglary
21 second non-violent, and strong armed robbery.

22 THE COURT: Right.

23 MS. SIMPSON: And the pending charges.

24 THE COURT: And the pending charges.

25 MS. SIMPSON: And, Your Honor, this is the

1 witness to the --- and we probably want to go ahead
2 and bring him in. I spoke with Mr. Li, his attorney
3 who is present here. He has advised him regarding the
4 defense counsel's issue with the representation,
5 however, he needs to be advised again I think by Your
6 Honor.

7 THE COURT: Okay. Go ahead and bring him in.
8 Remind me of the issue. You represented him for just
9 like ---

10 MR. KRZYSTON: A very brief time. A number of
11 hours, I think.

12 MR. LI: I'll advise him one more time.

13 THE COURT: Thank you, Mr. Li.

14 MS. SIMPSON: And also, Your Honor, he doesn't
15 really reference gang activity within his letter.
16 However, I have not spoken with him directly, so you
17 may want to advise him ---

18 THE COURT: Okay.

19 MS. SIMPSON: --- about no gang stuff or mention
20 that Mr. Young was actually out on bond as a
21 precautionary measure.

22 THE COURT: All right. Mr. Peterson.

23 THE WITNESS: Yes, sir.

24 THE COURT: How are you doing?

25 THE WITNESS: I'm doing all right, sir.

1 THE COURT: Where are you coming in from?

2 THE WITNESS: The jail, Alvin S. Glenn Center.

3 THE COURT: All right. Is Mr. Li your attorney?

4 THE WITNESS: Yes, sir.

5 THE COURT: And you have some pending charges; is
6 that right?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay. Now, first thing and I'm just
9 telling you out of an abundance of caution, I don't
10 even know what you're supposed to testify to, okay.

11 THE WITNESS: Yes, sir.

12 THE COURT: So this is just me warning you out of
13 an abundance of caution. I don't want any information
14 out in front of this jury about any kind of gang
15 activity. Do you understand that?

16 THE WITNESS: Yes, sir.

17 THE COURT: I don't even know that you possess
18 that information. That's just me being overly
19 cautious. I don't want you saying anybody is in a
20 gang or this case has anything to do with a gang or
21 anything like that.

22 THE WITNESS: Yes, sir.

23 THE COURT: Can you follow that instruction?

24 THE WITNESS: Yes, sir.

25 THE COURT: Now, apparently there was some point

1 in time where Mr. Krzyston may have represented you
2 for a very brief moment. You informed them that you
3 were a witness in this case and he removed himself
4 from your case; is that correct?

5 THE WITNESS: Correct.

6 THE COURT: And none of that needs to be brought
7 up in front of the jury either. That doesn't have
8 anything to do with anything. He should have relieved
9 himself when made aware of that information. That's
10 appropriate.

11 THE WITNESS: Yes, sir.

12 THE COURT: Do you have any questions about that?

13 THE WITNESS: No, sir.

14 THE COURT: Do you believe you're able to follow
15 those instructions?

16 THE WITNESS: Yes, sir.

17 THE COURT: Mr. Li, do you have any doubt in his
18 ability to understand?

19 MR. LI: No, sir.

20 THE COURT: Just grab seat, Mr. Peterson. We're
21 checking on one thing and we'll be right with you.

22 (Pause.)

23 MS. SIMPSON: Beg the Court's indulgence one
24 moment.

25 MS. GARFIELD: Judge, just one more thing to make

1 sure the record is clean. I don't know what the
2 answer to this is, but I don't know if the defendant
3 spoke to Mr. Peterson about his other pending charges.
4 I want to make sure that's not brought up in front of
5 the jury, as well.

6 THE COURT: Okay.

7 MS. GARFIELD: He has other pending charges other
8 than these. I just didn't want ---

9 THE COURT: Don't --- I don't want you to say
10 anything that Mr. Young may have some other pending
11 charges or he was out on bond or anything like that.

12 THE WITNESS: Yes, sir.

13 THE COURT: Does that make sense?

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay. What did your find out,
16 Ms. Campbell?

17 MS. CAMPBELL: It looks like it was combined with
18 maybe a probation violation, but no matter what, he
19 got out by April of 04.

20 THE COURT: All right. So the CDV/HAN is out.
21 Okay. Go ahead and bring them in.

22 (WHEREUPON, the jury entered the courtroom at
23 11:40 A.M.)

24 THE BAILIFF: The jury panel is present.

25 THE COURT: Thank you, Ms. Simpson, call your

1 next witness.

2 MS. SIMPSON: The State calls Michael Peterson.

3 THE COURT: All right. Mr. Peterson, come
4 forward and be sworn.

5 MICHAEL PETERSON,
6 after being duly sworn, testified as follows:

7 THE CLERK: Please have a seat, state your full
8 name for the record.

9 THE WITNESS: Have a seat?

10 THE BAILIFF: Right here. Watch your step.

11 DIRECT EXAMINATION:

12 BY MS. SIMPSON:

13 Q Mr. Peterson, can you state your full name for
14 the record so the court reporter can take it down?

15 A Michael Peterson.

16 Q How old are you, Mr. Peterson?

17 A Forty-seven.

18 Q Are you from Columbia?

19 A Yes, ma'am.

20 Q Born and raised?

21 A Yes, ma'am.

22 Q Did you go to school here?

23 A Yes, ma'am.

24 Q Where did you go to school?

25 A C.A. Johnson High School.

1 Q Did you actually finish school?

2 A Yes, I graduated.

3 Q I want to talk to you about how you know some of
4 the people involved in this case. Do you know the
5 defendant Lorenzo Young?

6 A Yes, ma'am.

7 Q Do you also know the codefendant Trenton Barnes?

8 A Yes, ma'am.

9 Q And do you know Troy Stevenson?

10 A I met him, yes.

11 Q And how do you know --- we'll start first with
12 Mr. Young?

13 A We was in the same unit and I drew a portrait of
14 his daughter for him.

15 Q So you actually do artwork and things of that
16 nature?

17 A Yes.

18 Q And you say you were in the same unit. What do
19 you mean by that?

20 A We was in the Juliette unit.

21 Q So you were incarcerated together?

22 A Yes, we was incarcerated together at Alvin S.
23 Glenn.

24 Q And at some point during your time with
25 Mr. Young, did you all have a conversation about the

1 murder case?

2 A Yes, ma'am.

3 Q Can you tell the jury how that was initiated and
4 how that occurred?

5 A Mr. Young --- somebody must have told him I do a
6 little law work because I go to the law library all
7 the time. He asked me, he said that he heard I knew a
8 lot about the law. I said, "Not really," so I said,
9 "What you need to know?" He said, "Well, we went on
10 this lick." I said that, yeah ---

11 MR. SCHNEE: Objection, Your Honor, as to the
12 same hearsay.

13 THE COURT: Overruled.

14 MR. SCHNEE: Thank you.

15 THE COURT: You may continue, Mr. Peterson.

16 BY MS. SIMPSON:

17 Q And so ---

18 A He said, "We went on this lick." I said, "Oh,
19 the bakery job on Beltline?" He says --- he
20 hesitated. I said, "Yeah, it was all over the news."
21 He said, "Yeah." He said, "We went up in the bakery.
22 It was an in and out job. They --- uh--- we --- I
23 asked the lady to give me the money, and she said the
24 money was in the back. So I said --- I said, "In the
25 back?" He said, "Yeah, in the back." He said, "We

1 went back in the back and she acted like she was using
2 her cell phone. She acted like she was using her cell
3 phone, so I thought she was trying to call the police,
4 so I started shooting." I said, "You started
5 shooting?" He said, "Yeah, I started shooting." He
6 said, "I must have got scared. I got a little scared,
7 so I started shooting," so I said --- I just shook my
8 head. He said, "Yeah, my homies must have seen the
9 blood and started running, so I turned around and
10 started running, too." I said, "Man, you didn't have
11 to kill the lady." He said, "I panicked." He said,
12 "The police don't have nothing. We had on mask and
13 gloves."

14 I said, "Man, I that's kind of bad, man. That's
15 kind of bad." He said, "Well, they don't have
16 nothing. I said, "Well, they must have had something
17 because they came and got y'all." He said, "I think
18 some people in the neighborhood told them what we had
19 on. I just kept shaking my head. I said, "Well,
20 that's pretty bad." I said, "That's kind of messed up
21 because she had small kids." I said, "With a case
22 like this here you're going to get somebody like Luck
23 Campbell. That's not good at all."

24 Q Let me back you up just a minute. He indicated
25 "we" set up this lick. At that point did he say who

1 was with him or did he just indicate "we"?

2 A Actually, he said his little homey.

3 Q His little homey?

4 A Yeah, his little homey.

5 Q One of the things he said is that the police
6 don't have anything?

7 A He said, "The police don't have anything because
8 we had on masks and gloves."

9 Q And that all they found were shell casings?

10 A Shell casings.

11 Q And so they couldn't prove anything?

12 A He said, "They can't prove nothing."

13 Q And what --- I apologize. What was his demeanor
14 like when he was telling you what was happening or
15 about this case?

16 A I mean, he was just --- acted like he was ---
17 like nothing happened really.

18 Q So he was just kind of matter of fact and
19 indifferent?

20 A Yeah, I just did that, you know. Didn't really
21 mean too much to him I don't think at the time.

22 Q And he also indicated to you that some of the
23 people in the hood or on the streets must have told
24 them about the clothes?

25 A Yes, just told him about the clothes he had on

1 that day.

2 Q Did he seem too concerned to you about what
3 evidence the police had on him?

4 A He just made it seem like they didn't really have
5 nothing but by saying they didn't have nothing but
6 shell casings.

7 Q And was that the extent of your conversation with
8 Mr. Young at that point about his case?

9 A No.

10 Q Okay. You talked further about it?

11 A Yeah, we are talked a little bit further.

12 Q Was that on the same day or a different day?

13 A Same day.

14 Q What else did he tell you?

15 A He said --- no, I had told him. I said, "Yeah,
16 you're going to get Luck Campbell." I said, "If you
17 get Luck Campbell, that's going to be real bad." I
18 said, "You're going to have to wait to see what they
19 really got because you said they didn't have nothing.
20 You're going to have to wait and see what they got.
21 He said, "Okay, thanks, Big Unc."

22 Q And you said Big Unc; is that a nickname?

23 A Yeah, that's what they call me, Big Unc or Big
24 Mike or something like that.

25 Q So you've being around there for a little while,

1 right?

2 A Yes.

3 Q And continue, what was your response or his
4 response?

5 A Went, his --- he said, "Thanks, Big Unc." I
6 said, "Yeah, man, that was messed up. The lady had
7 small kids." I said, "That was just messed up."

8 Q A few days later, did you actually go to lock up?

9 A Yes.

10 Q And how is lock up different from being, I guess,
11 in the ---

12 A The unit?

13 Q The regular units or the general population?

14 A Well, I was in the SHU, in lock up. The SHU has
15 got like bars at the door. They brought Lorenzo down
16 there for --- they call it cool down period when you
17 start trouble in the dorm.

18 MS. PINNOCK: Objection, Your Honor. Can we ---

19 THE COURT: Yes, stop talking. Approach. Talk
20 amongst yourselves. Stand up.

21 (WHEREUPON, a bench conference was held in the
22 presence, but not within the hearing of the
23 jury.)

24 THE COURT: All right. Ladies and gentlemen, we
25 are back on the record. You will disregard

1 Mr. Peterson's last statement and go ahead, Ms.
2 Simpson.

3 BY MS. SIMPSON:

4 Q Okay. Without telling me why, were y'all
5 together, I guess, in lock-up for a period? Was
6 someone else involved in this case there, as well?

7 A Yes. Troy.

8 Q Troy?

9 A That's the name I knew at the time, Troy.

10 Q Troy, and you later learned his last name?

11 A Yes.

12 Q And tell us what occurred down there?

13 A We.

14 MS. PINNOCK: Your Honor, at this time, I would
15 object to hearsay.

16 MR. SCHNEE: I would also object to hearsay from
17 Troy, as well.

18 THE COURT: Well, he can't say what Troy said.

19 MS. SIMPSON: Your Honor, with respect to that,
20 we would argue that ---

21 MS. PINNOCK: We could object.

22 MS. SIMPSON: It's a matter of law.

23 THE COURT: All right. Step back to your jury
24 room. Do not discuss the case. Keep an open mind.

25 (WHEREUPON, the jury left the courtroom at 11:50

1 A.M.)

2 THE COURT: All right. Tell me what you
3 overheard.

4 THE WITNESS: Well, Troy --- he hollered out. He
5 said, "Lorenzo," you know, he was like in a room. He
6 was about 70 feet away from us. He said, "Lorenzo,
7 why did you and my brother go down to that bakery and
8 did that?" He said, "Man, they don't have nothing but
9 shell casings." Troy said, "Man, my mama got messed
10 up with that, too. My little brother told everything
11 and my mother got messed up, too. The only way my
12 mother got out of it is when she said that --- she
13 sent me down there to get y'all."

14 THE COURT: All right. Did you hear anything
15 else?

16 THE WITNESS: That was it.

17 THE COURT: Okay.

18 THE WITNESS: Lorenzo said, "Man, they don't have
19 nothing." Troy later stated that --- he later stated
20 that when he got to the bakery that they was running
21 out. His brother was running out first and Lorenzo
22 was coming out behind him with a gun.

23 THE COURT: Who said that?

24 THE WITNESS: Troy.

25 THE COURT: When did he say that to you?

1 THE WITNESS: He said that to me right --- while
2 Lorenzo was still in the cell and we was at the
3 shower.

4 THE COURT: Okay.

5 MS. SIMPSON: And, Your Honor, there is
6 additional testimony with respect to Mr. Peterson that
7 he has acknowledged --- how in going to certain
8 notations that you made about this, when Troy made
9 those statements, what was Lorenzo's response and
10 reaction?

11 THE WITNESS: Well, Lorenzo's reaction was that
12 they don't have nothing but shell casings. I looked
13 over there where he was. He was over there at the
14 door biting his fingernails.

15 MS. SIMPSON: Okay. He also --- did he indicate
16 Mr. Young further to you why he shot or anything about
17 a knife?

18 THE WITNESS: No, he didn't say nothing about why
19 he shot and all.

20 MS. SIMPSON: Your Honor, we would --- if you're
21 ready for our argument.

22 THE COURT: I am.

23 MS. SIMPSON: Essentially, we're offering this as
24 an admission by a party opponent under 801(d)(2) with
25 respect to Troy's statements. Your Honor, these were

1 not hearsay. We would be offering it for purposes to
2 show Lorenzo's response to those, and he essentially
3 manifested a belief in those statements based on the
4 testimony of Mr. Peterson.

5 THE COURT: All right. Anything that Troy said
6 is out.

7 MS. SIMPSON: But he can say what Lorenzo said,
8 correct?

9 THE COURT: Yes. All right. Bring in the jury.
10 You can't say what Troy said, do you understand
11 that?

12 THE WITNESS: Yes, sir.

13 (WHEREUPON, the jury entered the courtroom at
14 11:53 A.M.)

15 THE COURT: All right. Welcome back. You may
16 continue.

17 MS. SIMPSON: Thank you, Your Honor.

18 BY MS. SIMPSON:

19 Q Mr. Peterson, backing up, this second
20 conversation that you overheard between Troy and
21 Lorenzo, were y'all separated by bars so that you kind
22 of had to holler if you wanted to communicate with one
23 another?

24 A Yes, we was in the shower and Lorenzo was in the
25 room.

1 Q And without telling me what Troy said, did they
2 begin hollering back and forth at one another?

3 A Yes, ma'am.

4 Q And what was Lorenzo's response to what Troy
5 initiated as far as what Lorenzo said?

6 A Like he got real nervous and started biting his
7 fingernails.

8 Q Okay. And did he also indicate something about
9 the evidence that police had to Troy?

10 A Yeah, he said they don't have nothing but --- the
11 police ain't found nothing but shell casings.

12 Q Again, without telling me what else Troy said,
13 did he continue to talk to Lorenzo? I guess, holler
14 at Lorenzo about the case?

15 A Yeah, he kept hollering.

16 Q And what was Lorenzo's kind of continued reaction
17 during this conversation?

18 A Just like he was nervous.

19 Q Just nervous?

20 A Yeah.

21 Q And again he talked about what evidence the
22 police had?

23 A Yeah.

24 Q Or didn't have?

25 A Just shell casings.

1 Q Did he mention, Lorenzo mention, anything else at
2 time about the case?

3 A Not at that time.

4 Q Okay. And did Troy ever talk to you about the
5 case other than just ---

6 MS. PINNOCK: Objection, Your Honor.

7 MS. SIMPSON: I apologize, Your Honor.

8 BY MS. SIMPSON:

9 Q I apologize, did Trenton Barnes ever talk to you
10 about the case?

11 A No Trenton Barnes never did.

12 Q So the only person you ever really had contact
13 with directly was Mr. Young?

14 A Mr. Young.

15 Q And overhearing ---

16 A Right.

17 Q --- Young and Troy. The person who spoke to you
18 and indicated he shot the lady at the bakery and that
19 the police essentially had nothing but shell casings
20 because they had masks and gloves on, do you see him
21 here in the courtroom today?

22 A Lorenzo Young, yes, ma'am.

23 Q Where is he seated?

24 A Right there with the blue shirt on.

25 MS. SIMPSON: Your Honor, let the record reflect

1 he has identified the defendant.

2 THE COURT: So reflected.

3 BY MS. SIMPSON:

4 Q Now, you've been in the Alvin S. Glenn Detention
5 Center or incarcerated before, right?

6 A Yes, ma'am.

7 Q You've actually had a prior conviction from 2007
8 for assault and battery of a high and aggravated
9 nature?

10 A Yes, ma'am.

11 Q And you also had, I believe from 2000, a burglary
12 second degree nonviolent, as well as strong armed
13 robbery?

14 A Yes, ma'am.

15 Q And you currently have pending charges in our
16 office, as well?

17 A Yes, ma'am.

18 Q And that would be for murder, correct?

19 A Yes, ma'am.

20 Q And do you know the penalty you're facing for
21 murder?

22 A Yes, ma'am.

23 Q What is that?

24 A Life in prison.

25 Q Life. And you're facing a minimum of 30 years,

1 correct?

2 A Thirty years.

3 Q So 30 years up life?

4 A To life.

5 Q And you also have a kidnapping?

6 A Yes, ma'am.

7 Q And what are you facing on that?

8 A 30 years.

9 Q Thirty years. Is it zero to 30 years for those
10 charges?

11 A Kidnapping, I think it's just 30.

12 Q You know the maximum is 30?

13 A Yeah, I know the max is 30.

14 Q And with respect to this case, did you meet
15 with --- you are actually represented by an attorney
16 for your charges, correct?

17 A Yes.

18 Q Is that Mr. Victor Li?

19 A Yes, ma'am.

20 Q Is he present here in the courtroom today?

21 A Yes, ma'am.

22 Q Did you have a conversation along with Mr. Li and
23 one of our investigators about this case?

24 A Yes, ma'am.

25 Q Was I present for that conversation?

1 A No.

2 Q Or Ms. Campbell or Ms. Garfield?

3 A No, ma'am.

4 Q Were you threatened or coerced in any way to give
5 a statement?

6 A No, ma'am.

7 Q Did you actually write this information down and
8 provide it to someone?

9 A The information that I'm speaking on?

10 Q Yes.

11 A Yes, ma'am.

12 Q And you did that voluntarily?

13 A Yes, ma'am.

14 Q And you haven't been made any promises or offers
15 with ---

16 A No, ma'am.

17 Q --- respect to your testimony here today?

18 A No, ma'am.

19 Q But you are hoping for some benefit or
20 consideration by either my office or a judge down the
21 road?

22 A Not necessarily.

23 Q Not necessarily?

24 A Yes.

25 MS. SIMPSON: Thank you, Mr. Peterson.

1 MS. PINNOCK: May it please the court.

2 CROSS-EXAMINATION:

3 BY MS. PINNOCK:

4 Q All right. Mr. Peterson, this case was on the
5 news, right?

6 A Ma'am.

7 Q You knew this case was on the news?

8 A Yes, ma'am.

9 Q Right, it was on the news starting July 1st,
10 2013?

11 A Yes.

12 Q And it's been on the news pretty much continually
13 over the past year?

14 A Yes, ma'am.

15 Q And you watched TV at the jail?

16 A Not too much.

17 Q Are there TVs in the jail?

18 A Yeah, there's TV in the jail.

19 Q You told Lorenzo, according to you, when you
20 spoke to him, that it was on the news?

21 A I knew it was on the news before he came in the
22 unit, yeah.

23 Q So you knew?

24 A Yeah.

25 Q You were watching TV on that day?

1 A Yeah.

2 Q And you said --- one of the times you said you
3 heard a conversation, you were in SHU, S-H-U, right?

4 A Yes.

5 Q You said Lorenzo was there?

6 A Yes.

7 Q You said Troy was there?

8 A Yes.

9 Q And that's how you overheard this conversation?

10 A Right.

11 Q And you were in the shower?

12 A Yes.

13 Q Okay. Now I want to talk about the layout of
14 this dorm, okay.

15 A Okay.

16 Q Let's assume this is the door, the sally port
17 door?

18 A Right.

19 Q Where is the guard shack, where the CO sits?

20 A The CO --- that's the sally port door?

21 Q Uh-huh. This is how you come in.

22 A Go to your --- go to your left, over there.

23 Q They're right here or are they a little farther
24 up?

25 A It would be further up probably about 30,

1 40 feet.

2 Q Would you say about right there?

3 A Yeah.

4 Q And where are the showers?

5 A The showers would be before you get there, before
6 your get to that CO post right there.

7 Q In this area?

8 A Right there.

9 Q But isn't there a closet, sort of storage area
10 right there?

11 A Yeah, there's a smaller storage area there.

12 Q And that's right beside ---

13 A The offices, right.

14 Q So this is a closet and the showers you said are
15 right there?

16 A Yeah.

17 Q How many showers are there, one or two on the
18 first floor?

19 A Three at the bottom.

20 Q Three at the bottom?

21 A There's three.

22 Q And there's also showers upstairs, right?

23 A Yes.

24 Q How many upstairs?

25 A One, two, three.

1 Q Three upstairs?

2 A Yes.

3 Q So when your overheard this conversation, which
4 shower were you in? We'll call this one, two and
5 three.

6 A I was in the middle.

7 Q In the middle. Where are the cells?

8 A Okay. From the office ---

9 Q Uh-huh.

10 A --- over to your middle right here, yeah, it
11 would be right here.

12 Q The cells are about here?

13 A He was in cell about five or six, right up in
14 there, yeah.

15 Q Aren't the cells in SHU along the wall?

16 A That's coming to you right from the office.

17 Q Okay. Is there a stairwell between the office
18 and the ---

19 A The stairwell.

20 Q And the ---

21 A There's a stairwell there, and then along the
22 wall there in front of the stairwell would be the
23 rooms.

24 Q Isn't it true there are cells on this side, kind
25 of underneath the stairwell?

1 A Well, it's one, two, yeah.

2 Q Okay. So the cells start over here, right?

3 A Yeah, but that's kind of too far away from the
4 steps.

5 Q Okay.

6 A Because the steps --- it would be approximately
7 3 feet to the first door --- I mean, you know, if
8 you're going straight from the steps to the door, it's
9 about three feet.

10 Q Tell me where is a good place to start the cells.

11 A Right there.

12 Q Okay.

13 A Coming from my left to right.

14 Q And they go all the way down the dorm, right?

15 A Right.

16 Q And then there are cells on the back wall?

17 A Yeah, I think it's 18.

18 Q Okay.

19 A It's 18 cells going straight in that straight
20 line.

21 Q On this side?

22 A Yeah, it's 18.

23 Q And on this hall, this hall right here, how many
24 cells are there?

25 A First you get --- or there's not anything but

1 like two right there in the middle.

2 Q Okay.

3 A And they turn.

4 Q They turn and come back this way?

5 A Yeah, right.

6 Q Isn't it true that there is a an exercise yard
7 right about here?

8 A Yes.

9 Q Okay. So these cells don't continue all the way
10 down?

11 A Okay.

12 Q Right.

13 A They start up about this direction.

14 Q Okay, so we'll say this is outside, right.
15 That's a stairwell coming right here?

16 A Yeah.

17 Q Okay.

18 A Actually, it would be down here by the sally
19 port. The stairs --- I mean, the rec center is to the
20 right of the sally port.

21 Q Right. Underneath those stairs?

22 A Right.

23 Q When you walk in, this is the --- we'll just make
24 this longer. Is that fair enough?

25 A That's still just open, it's open.

1 Q Okay. So where was Troy?

2 A Troy was.

3 Q In the 18 cells --- you said 18, right?

4 A Troy was not in a cell. Troy was in a shower
5 next to me.

6 Q Which one was he in?

7 A That first shower.

8 Q This one?

9 A Yeah.

10 Q Okay. And you're here?

11 A Yeah.

12 Q And you said that they were hollering back and
13 forth?

14 A Right.

15 Q Okay. We'll come back to that. Now, some of the
16 things you said you spoke to Lorenzo about were that
17 he pretty much came to you for legal advice?

18 A Right.

19 Q You said that he came to you for legal advice and
20 the first thing he asked you was, "I heard you're good
21 with the law." Right?

22 A I know a lot about the law, right.

23 Q And your told him, "No, not really?"

24 A Yeah.

25 Q But then he still proceeded to ask you legal

1 questions?

2 A Right.

3 Q All right. You said that he went --- he had an
4 in and out job, right?

5 A That's what he said, he had an in and out job.

6 Q You said he told you he went up into the bakery
7 and I told the lady to give me the money, right?

8 A Right.

9 Q You said that she said the money was in the back?

10 A Right.

11 Q You said, "So we go in the back," right?

12 A Right.

13 Q "We go in the back."

14 A Right.

15 Q "And it looks like she's trying to use the
16 phone."

17 A Right, a phone.

18 Q Trying to use a phone?

19 A Right.

20 Q That's what you said Lorenzo told you?

21 A That's what I said he told me.

22 Q All right. Now, the only information that you
23 have is from what was put on the news; is that right?

24 A Excuse me?

25 Q And the only information that you had about this

1 case prior to this conversation that you had with
2 Lorenzo ---

3 A Uh-huh.

4 Q --- was what was on the news?

5 A No.

6 Q You didn't have any information from the news?

7 A No.

8 Q So now you don't know it was on the news?

9 A No, I seen the news, but that information wasn't
10 on the news.

11 Q You're right. It wasn't on the news. Would you
12 be surprised to know that it's not in the video they
13 took out of this incident location either?

14 A I haven't heard this information from no one but
15 him.

16 Q Did you know there was a video?

17 A Yeah, I seen the video.

18 Q Okay. The whole video?

19 A No.

20 Q Now, you said that you had a pending charge for
21 murder?

22 A Correct.

23 Q You've been sitting in the Alvin S. Glenn
24 Detention Center since 2011, right?

25 A That's true.

1 Q That's --- December it's going to be three years
2 for you?

3 A Right.

4 Q It's a long time.

5 A Right.

6 Q Waiting to go to court?

7 A I don't know what ---

8 Q You're not trying go to court?

9 A You're asking me ---

10 Q No, I said are you waiting to go to court?

11 A Yes, waiting to go to court.

12 Q And this is not the first time you've written a
13 letter to the solicitor's office, is it?

14 A No.

15 Q No. You tried to testify against somebody else
16 before?

17 A Yeah, back in --- years ago.

18 Q Okay. And you want us to believe that you don't
19 want anything out of this?

20 A Correct.

21 Q Okay.

22 MS. PINNOCK: Beg the Court's indulgence.

23 (Pause.)

24 BY MS. PINNOCK:

25 Q Now, explain to me --- I'm going to go back to

1 this dorm that you were in when you say you overheard
2 this hollering back and forth. This dorm doesn't
3 actually have bars, does it?

4 A Yes. Well, not at the cells but at the showers.

5 Q Right. The doors to the cells are closed?

6 A Correct.

7 Q There is no speaking gate. The only sliding
8 opening on this door is for when somebody comes to
9 bring you food or something like that, right?

10 A There is not a sliding open --- yeah, it has an
11 open flap.

12 Q Right. But the CO has to open that?

13 A Right.

14 Q That's not sitting open?

15 A Right.

16 Q The only window on these doors is a Plexiglas?

17 A Right.

18 Q So you're not in an open cell if you're in your
19 room?

20 A No, but you can holler through the door and
21 somebody hear your though.

22 Q I'm sorry?

23 A You can holler through the door, the crack of the
24 door, the side of the door and somebody can hear you.

25 Q Right. I've been in there. I know.

1 A Okay.

2 Q But Lorenzo wasn't in the shower?

3 A No, he wasn't in the shower.

4 Q Okay. But you're saying Troy was?

5 A Yes, he was next to me because it was our shower
6 day.

7 Q Got you. And again the doors are shut?

8 A Yeah, the door are shut.

9 Q And you want us to believe you don't want
10 anything out of this?

11 A No, not really.

12 Q Have you been to prison before?

13 A Yes.

14 Q It's not all that great, right?

15 A Huh.

16 Q It's not that great?

17 A No.

18 Q You're in a tiny cell?

19 A I'm in who?

20 Q A tiny cell?

21 A Yeah, it's about the same as the county jail.

22 Q You have at least one roommate?

23 A Yes.

24 Q Sometimes more?

25 A No, just one.

1 Q Is it bunk bed or single beds?

2 A Bunk beds, so if you're not lucky enough to get
3 on the top, you're going to be on the bottom?

4 A Correct.

5 Q There is one sink?

6 A One sink.

7 Q There is one toilet?

8 A One toilet.

9 Q And that toilet is right beside your pillow,
10 isn't it?

11 A No.

12 Q Depending on what side of the room you sleep on,
13 right?

14 A No.

15 Q No, it's not?

16 A No. The toilet is on the opposite side of the
17 room.

18 Q And somebody tells you when you can eat?

19 A Yeah.

20 Q They tell you when you have to sleep?

21 A Yeah.

22 Q Your can't walk around freely?

23 A No, in the dorm you can, but you know, they lock
24 you down just like in a prison.

25 Q And you're looking at a minimum of 30 years day

1 for day, right?

2 A No, I'm looking at a minimum of life plus 30.

3 Q Minimum. Minimum.

4 A Oh, okay.

5 Q Thirty years day for day?

6 A Yeah.

7 Q You don't get good time?

8 A That's right.

9 Q You don't get parole?

10 A No, not on a life sentence.

11 Q When you serve ---

12 A Yeah, when you get you get a regular life
13 sentence you get parole in like 20 years, I'm sure.

14 Thirty --- they got 20 year lives and 30 lives.

15 Q Would you be surprised in South Carolina life is
16 life.

17 A Well, yeah, that's natural life. They have that
18 sentence, too.

19 MS. PINNOCK: Begging the Court's indulgence.

20 (Pause.)

21 I have nothing further, Judge. Thank you.

22 MR. SCHNEE: May it please the Court.

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION:

25 BY MR. SCHNEE:

1 Q You never talked to Trenton Barnes?

2 A Yes, I talked to him, yeah. We're in the same
3 unit together.

4 Q I thought you testified a few minutes ago you
5 haven't talked to him about this case.

6 A No, not about the case.

7 Q Okay.

8 A I talked to him, but not about the case.

9 Q So you know him, but you never talked about the
10 case?

11 A Yeah, we ain't never talked about the case.

12 Q And you said you were 47 years old?

13 A Yes, sir.

14 Q You've been to prison before, a couple of times,
15 right?

16 A Yes, sir.

17 Q How long did you serve when you were there
18 before?

19 A The last time I served five years and three
20 months.

21 Q That's how long you were physically in prison?

22 A Yes.

23 Q You're 47 now?

24 A Yes, sir.

25 Q And if you get convicted of murder ---

1 A Right.

2 Q --- the absolute minimum you could get no matter
3 what any judge wanted to do, is 30 years?

4 A Correct.

5 Q Absolute minimum?

6 A Correct.

7 Q So the earliest you would get out --- and you
8 have been there for there three years now?

9 A Yes, I been in county for three years now, yeah.

10 Q And you get credit for those three years, right?

11 A Yes, sir.

12 Q You're looking at a minimum of 27 more?

13 A That's right.

14 Q That puts you out at 74 years old at the absolute
15 earliest?

16 A Yes, sir.

17 Q Would you be surprised to hear what the life
18 expectancy for South Carolina is?

19 MS. SIMPSON: Objection, Your Honor.

20 THE COURT: Sustained. Move on.

21 THE WITNESS: Sixty-three years, isn't it?

22 BY MR. SCHNEE:

23 Q Okay. Seventy-four is past that?

24 MS. SIMPSON: Objection, Your Honor.

25 THE COURT: Sustained. Move on.

1 BY MR. SCHNEE:

2 Q Now, you are also subject to life without parole?

3 A Yes, sir.

4 Q You're subject to life without parole for your
5 burglary charge, as well?

6 A That's correct --- wait, who?

7 Q Oh, wait, I'm sorry. You have a kidnapping
8 charge.

9 A That's correct.

10 Q You served for a burglary before, right?

11 A Yes, sir.

12 Q You have a kidnapping charge you're facing 30 for
13 that also?

14 A Correct.

15 Q Those can be served consecutively, right?

16 A Of course, they can.

17 Q Which means you have to serving everything for
18 the murder and whatever it is for the kidnapping?

19 A Correct.

20 Q It could be technically life, as you said, plus
21 30?

22 A Yeah, plus 30.

23 Q And you understand that South Carolina law it is
24 life is life and you get out in a box?

25 A Correct.

1 Q And you have no desire for assistance from the
2 solicitor's office because of your testimony?

3 A No, sir, not for my testimony. I face my own
4 charges.

5 Q Okay. So you're just doing this out of the
6 goodness of your heart?

7 A Actually, my mother died when I was 13 years old,
8 too, and I know how it feels to miss your mother.

9 Q Okay. So you're doing this for the victim's
10 family?

11 A Yes.

12 Q Okay. And your testimony is that Lorenzo Young
13 said that he went into the bakery, right?

14 A Yes, sir.

15 Q Went up to Ms. Hunnewell ---

16 A Right.

17 Q --- and demanded money?

18 A Yes, sir.

19 Q She said the money is in the back?

20 A Right.

21 Q Are you aware there's actually no back room in
22 that bakery?

23 A I don't know how the bakery looks on the inside,
24 sir.

25 Q Okay. And then they're went to the back room?

1 A That's what he said.

2 Q Okay. And he said that she pulled out the phone?

3 A Yeah.

4 Q Okay.

5 A He thought she was trying to use a phone.

6 Q Trying to use a phone?

7 A Right. He didn't say she pulled out a phone.

8 Q Right. And he saw, as they were walking to the
9 back that she was trying to use the phone?

10 A Right.

11 Q That's when he got scared and shot?

12 A Right because he thought she was trying to tell
13 the police.

14 Q That's your understanding of what he said?

15 A That's exactly what he said.

16 Q All right. I've got nothing else.

17 THE COURT: Redirect?

18 MS. SIMPSON: Nothing further, Your Honor.

19 THE COURT: Have a nice day, Mr. Peterson. Thank
20 you very much.

21 THE WITNESS: Thank you.

22 THE COURT: All right, ladies and gentlemen, your
23 lunch is here, so we're going to go ahead and take a
24 break so that you can eat lunch.

25 Thank you, Mr. Peterson.

1 THE WITNESS: You're welcome, sir.

2 THE COURT: All right. The jury is going to
3 disregard any testimony that was just given concerning
4 life expectancy in the South Carolina Department of
5 Corrections.

6 It's 12:15. We're going to start back at
7 one o'clock so you can have 45 minutes for lunch.
8 Your lunch is already here. Do not discuss the case.
9 Keep an open mind. We'll see you back in 45 minutes.

10 (WHEREUPON, the jury left the courtroom at 12:15
11 P.M.)

12 THE COURT: Everyone remain seated.

13 Now, listen, you incorrectly stated the
14 punishment for murder and kidnapping: it's not life
15 plus 30 years.

16 MR. SCHNEE: But ---

17 THE COURT: That's incorrect under 16-3-910, if
18 you're convicted of murder and you are convicted of
19 kidnapping, the kidnapping goes into the murder and
20 you cannot be considered --- sentenced consecutively
21 on the murder or pursuant to the kidnapping statute,
22 so that's actually an incorrect statement of the law.

23 MR. SCHNEE: That was his understanding, Judge.

24 THE COURT: But you asked the question.

25 MR. SCHNEE: He had said that on direct, I

1 believe, also.

2 THE COURT: He did not say that. He said he was
3 facing life on the murder charge, which is true, but
4 you brought up the word consecutive, which was an
5 inaccurate statement of the law. No one objected so
6 I'm not doing anything with it. But with future
7 witnesses, if you're convicted of murder, anyone is
8 convicted of murder and kidnapping, you cannot be
9 sentenced to consecutive time on the kidnapping. The
10 law is very clear according to the kidnapping statute
11 that the kidnapping conviction is, I think the word
12 they used is, succumbed, into the murder sentence and
13 the kidnapping sentence is essentially automatically
14 vacated. So all right. One o'clock.

15 MS. SIMPSON: Thank you, Your Honor.

16 (WHEREUPON, a lunch break was taken.)

17 (WHEREUPON, State's Exhibit Number 421 was marked
18 for identification only.)

19 (WHEREUPON, Court was called to order.)

20 THE COURT: Okay.

21 MS. SIMPSON: Thank you, Your Honor. May it
22 please the Court. One of our next witnesses is going
23 to be Mary Brown. She initially came forward, I
24 believe, the day after, the next day, to police with
25 some information. Subsequent to that, she has a phone

1 conversation, which is recorded, with Investigator
2 McCoy. Her testimony --- we're seeking to amend and
3 exclude any reference to statements made by
4 Investigator McCoy to her as inadmissible hearsay and,
5 of course, we'll also be seeking to exclude any
6 testimony which would affect, I guess, Troy but
7 regarding knowing Troy via a DJJ incident involving
8 her daughter, and that's how they met, so any
9 reference to DJJ or truancy and that's how she knew of
10 any of the individuals prior to the crime, we would be
11 asking that that be excluded, as well.

12 MR. KRZYSTON: Thank you, Your Honor. May it
13 please the Court. With regards to the first issue,
14 the State, as I understand it, is moving to exclude
15 any reference to statements made by Investigator
16 McCoy?

17 MS. SIMPSON: Yes, Your Honor.

18 MR. KRZYSTON: Your Honor, I would contend that
19 is a statement of a party opponent. In addition to
20 that, if Your Honor was to bar us from going into the
21 actual statements that were made by Investigator
22 McCoy, you would deny us a full and fair opportunity
23 to cross Ms. Brown. Specifically with regard to
24 Ms. Brown's call with Investigator McCoy, she says a
25 number of things. One of those things, which was

1 elicited, and McCoy kind of went into it was whether
2 or not Ms. Brown actually knew Lorenzo Young prior to
3 the night where she allegedly identifies him. I think
4 his statements are relevant to the issues at hand, and
5 again, I would fall back on the notion or contention
6 that limiting what we would be able to cross McCoy on
7 with regard to his statements would be improper
8 because, again, they are the statements of a party
9 opponent.

10 THE COURT: I'm not sure I understand what you're
11 asking me.

12 MS. SIMPSON: Your Honor, there is a recorded
13 phone conversation which Ms. Brown has with
14 Investigator McCoy, and I can hand up a copy, as well.

15 What we're actually ---

16 MR. KRZYSTON: Where is that?

17 MS. SIMPSON: She initially gives a tip to law
18 enforcement.

19 THE COURT: It's in their notes.

20 MS. SIMPSON: She follows up with that in August
21 in regards to getting a tip number. Investigator
22 McCoy makes a number of statements, essentially that
23 would not be relevant, but they are inadmissible
24 hearsay. I don't think she can testify to what
25 Investigator McCoy told her or said to her and we just

1 feel that questions regarding what she saw and what
2 she observed --- and did she give police that
3 information.

4 MR. KRZYSTON: Judge, Your Honor, specifically of
5 interest in this, particular statement are
6 Investigator McCoy's statements and Mary Brown's
7 responses to --- Mary Brown is asking about getting
8 paid basically based on the information that she
9 provided to CPD.

10 THE COURT: Okay.

11 MR. KRZYSTON: In addition to that, Investigator
12 McCoy is asking her questions and she is responding on
13 the issue of whether or not she actually knew Lorenzo
14 Young when she identified him.

15 I think there are a number of things that he
16 says, and if Your Honor would like, we can provide a
17 copy --- our office did a transcript. It is an
18 unofficial transcript, but I would be willing to pass
19 a clean copy of the transcript up to Your Honor. It's
20 a relatively short call, 13 minutes in duration
21 approximately. Again, Investigator McCoy is an agent
22 of the state. He is a party opponent to this matter.
23 His statements are not only admissible, relevant, but
24 completely necessary for the opportunity of Mr. Young
25 to cross-examine him. It's basic confrontation.

1 MS. SIMPSON: Your Honor, it's the State's
2 position that these absolutely are not admissions by a
3 party opponent. Statements by law enforcement would
4 not fall under that or qualify. Especially with
5 respect to this witness and this conversation. As I
6 stated, it is inadmissible hearsay. Investigator
7 McCoy will take the stand and, of course, they can
8 address their issue with him in his investigation at
9 that time, but trying to back door in information
10 through Ms. Brown is completely inadmissible, just as
11 earlier we couldn't go into what Troy had stated, I
12 don't think they should be able to into what
13 Investigator McCoy said to her and her responses.

14 MR. KRZYSTON: Your Honor, I agree there's back
15 dooring going on, but it's certainly not by the
16 defense. I think in this circumstance and in this
17 instance, everything that Mr. McCoy said to Ms. Brown
18 and in everything that Ms. Brown said in response, is
19 fair game.

20 MS. SIMPSON: And, Your Honor, this is not the
21 first conversation. This is the second conversation
22 she has with law enforcement.

23 THE COURT: Is that different than what I'm
24 looking at?

25 MS. SIMPSON: No, the first one is not recorded.

1 At that time, she only gives her last name. She
2 doesn't want to be involved. She did want to come
3 forward with information and she does at that time on
4 July 3rd. This call was actually made on the 21st.
5 Counsel can certainly ask her did she call in a tip or
6 did she want to be paid and make a subsequent call to
7 law enforcement, that's fair game for cross. However,
8 what Investigator McCoy said to her, I know of no
9 hearsay exception.

10 THE COURT: How is that offered for the truth of
11 the matter asserted?

12 MR. KRZYSTON: Your Honor, it goes directly to
13 the integrity of the investigation.

14 THE COURT: How it offered for the truth of the
15 matter asserted?

16 MR. KRZYSTON: It's not. That's why I'm saying
17 it's not hearsay.

18 THE COURT: I understand that. How is that not
19 offered for the truth of the matter asserted?

20 MS. CAMPBELL: We might be able to resolve this
21 if he tells me what he wants to get into.

22 THE COURT: What is it you want to get into that
23 McDonald's said?

24 MS. CAMPBELL: What do you want to get into,
25 everything he said?

1 MR. KRZYSTON: Yes, everything he said.

2 THE COURT: Everything he said?

3 MR. KRZYSTON: I mean, I don't want to be
4 constrained. Specifically, the information about her
5 being paid. Specifically about her basis of knowledge
6 for identifying Mr. Young. She identifies Mr. Young
7 in this call. She says, "I saw Lorenzo Young out
8 there on that night."

9 THE COURT: Okay.

10 MR. KRZYSTON: McCoy then follows up and asks
11 relevant questions, which would tend to indicate that
12 Ms. Brown may not actually have the knowledge for
13 identifying Mr. Young. For that reason, I think it's
14 extremely relevant and appropriate for us to go into
15 that on cross.

16 MS. SIMPSON: Your Honor, what ---

17 THE COURT: Can somebody point me to where these
18 questions are so I can actually read it?

19 MR. KRZYSTON: The first part of relevant
20 information, I have times from the tape, which would
21 be 2:45 so it's going to be relatively soon in. Let
22 me take a minute to page --- let me pass up my
23 transcript for you, if you don't mind.

24 THE COURT: Go ahead.

25 MS. SIMPSON: Your Honor, with respect to what

1 counsel has just represented that he would be going
2 into, we don't really have an issue with those
3 statements from Investigator McCoy. It would be later
4 in the conversation where he talks about the
5 willingness of individuals in the community to come
6 forward, you know, the potential life sentences that
7 they --- the gentleman, the defendants would be
8 facing. Also, I think at one point she is aware that
9 they have committed or states that she might have
10 knowledge of other burglaries and things of that
11 nature and that they are just generally bad kids in
12 the neighborhood, as well. So Investigator McCoy's
13 statements and even Ms. Brown's statements on that
14 issue are not really relevant or proper and admissible
15 in this case.

16 MR. KRZYSTON: Well, Your Honor ---

17 THE COURT: Let's start with one thing at a time
18 because you all are confusing. What is the first
19 thing you want to get to on this transcript?

20 MR. KRZYSTON: The first thing would be page two
21 about two thirds of the way down well, and the ---
22 "Well, I knew the one named Troy, the first name."

23 THE COURT: Hold on. Hold on.

24 Well, I see --- "I knew the one named Troy,"
25 okay, "because my daughter had gotten into a little

1 situation."

2 MR. KRZYSTON: I'm sorry. It's actually right
3 above that where Investigator McCoy says, "So let me
4 ask you this question. Let me ask you this question.
5 So you knew their first names before this incident or
6 your kids told you what their first names were."

7 THE COURT: Okay.

8 MR. KRZYSTON: "Well, I knew the one named Troy
9 first before this incident because my daughter had
10 gotten into a little situation where she was up for
11 truancy so we had to go through some classes at DJJ.
12 So him and his mom were there, so I knew his first
13 name from going to classes and seeing him before.

14 THE COURT: Okay.

15 MR. KRZYSTON: Now, instead of following up with
16 regard to Mr. Young, the investigator changes topic
17 and says, "What was he wearing; what was he wearing?"

18 THE COURT: I don't understand why you need to
19 ask her a question about what he said on that.

20 MR. KRZYSTON: My question wouldn't be directed
21 to what he said. It would be if he inquired further
22 upon the issue of whether or not she had firsthand
23 knowledge of who Mr. Young was.

24 THE COURT: Okay. That's a fair question.

25 MR. KRZYSTON: And just to rebut the State's

1 contention, it seems like they're trying to pick and
2 choose. Some things are okay for us to go into. Some
3 are not. I mean, it's kind of an all or nothing
4 situation.

5 THE COURT: No, it's not. What else do you want
6 to go into? I think you can say, did he ask you
7 anything else about how you knew him and you're stuck
8 with her answer, but I mean...

9 To make this easy, the problem with your thought
10 process, Mr. Krzyston, is that the witness is going to
11 be available, that witness being Mr. McCoy, for you to
12 cross-examine about he said to Mary Brown or what he
13 didn't say to Mary Brown as you want to, so your
14 clients rights aren't being violated. I thin you can
15 say, did McCoy ask you anything about that further and
16 she can answer yes or no, but into this attack on
17 McCoy, as to what --- I mean, the State's already said
18 they're going to call him and he is going to be
19 available for cross-examination, so you'll be able to
20 cross-examine him on what he did or did not say to
21 Mary Brown.

22 MR. KRZYSTON: So that I understand Your Honor's
23 ruling, it's that we are permitted to go into things
24 McCoy has said to other witnesses in this case?

25 THE COURT: No. We're dealing with Mary Brown

1 right now.

2 MR. KRZYSTON: Okay.

3 THE COURT: What I told you is that the State had
4 said Investigator McCoy is going to be called as a
5 witness. So when ---

6 MR. KRZYSTON: I'm sorry. So that's when McCoy
7 takes the stand, I'm sorry.

8 THE COURT: Yeah, when he takes the stand.

9 MR. KRZYSTON: Okay.

10 THE COURT: You can cross-examine McCoy at that
11 point on what he said to Ms. Brown.

12 MR. KRZYSTON: Or any other witness for that
13 matter.

14 THE COURT: Assuming there is some kind of proper
15 foundation.

16 MR. KRZYSTON: Okay.

17 THE COURT: But, I mean, I just don't know
18 where --- what else is it you specifically want to get
19 into with her?

20 MR. KRZYSTON: I think after talking about it, I
21 think I can go into what I need to go into without
22 dealing directly with what McCoy said.

23 THE COURT: I mean, your issue is your ability to
24 confront the witness. If McCoy is going to testify,
25 you're going to have the ability to confront him as to

1 what he did or didn't do with Mary Brown. I mean,
2 assuming that it's relevant, that it falls under 403,
3 I mean, all the other different analyses that ---
4 that's not a blanket that you're going to be able to
5 ask him anything that was said. Frankly, I haven't
6 had an opportunity to read all of this. But assuming
7 the other Rules of Evidence are in play, McCoy is
8 going to be available for cross-examination about what
9 he did or didn't do in the case.

10 MR. KRZYSTON: Okay.

11 THE COURT: As cops always are, in these types of
12 situations, I mean, I just don't know that number one
13 expecting Ms. Brown to remember that or not remember
14 that, I just don't know whether that moves the ball
15 for you.

16 MR. KRZYSTON: Okay.

17 THE COURT: I'm not trying to tell you what to
18 do, but I think you may be better suited to trying to
19 get that out of Investigator McCoy. I don't even know
20 when the last time Mary Brown listened to the
21 transcript to even remember. I'm not trying to
22 prevent your cross-examining him, I just want you to
23 be cross-examining the right person.

24 MS. SIMPSON: And, Your Honor, I guess our cause
25 for concern on the transcript that I handed up to you

1 would be the last two pages with respect to relevance.
2 I want to make sure that both defense counsel for
3 Mr. Barnes --- because especially based on his opening
4 statement and where he seems to be attempting to go,
5 eliciting the information stated by McCoy regarding
6 sentencing and the case and the investigation.

7 MR. SCHNEE: Judge, could I ask her for a copy of
8 the transcript that they're ---

9 THE COURT: Yes.

10 MR. SCHNEE: I'm not sure exactly what they're
11 referring to.

12 MS. SIMPSON: And this is not an official
13 transcript either

14 MR. KRZYSTON: Your Honor, with regard to the
15 last two pages ---

16 THE COURT: Hold on, let me read it.

17 MR. KRZYSTON: Sorry.

18 (Pause.)

19 THE COURT: You're talking the paragraph where it
20 says, "That's why we want to put them away."

21 MS. SIMPSON: Actually, it would be this whole
22 line of questioning about people not being willing to
23 come forward when stuff like this happens and the
24 point where Your Honor is being able to put them away,
25 but also where he references, this isn't a gang

1 shooting. This isn't about a drug deal gone bad.
2 Anything of that nature, I don't know how it's
3 relevant or probative of anything at least through
4 this witness.

5 THE COURT: Yeah, I don't know that Ms. Brown can
6 answer the questions as to what was going on in
7 McCoy's mind at that time. We'll deal with McCoy's
8 cross when we get to it.

9 MR. KRZYSTON: And, Your Honor, just one
10 potential issue that I see and not with the last two
11 pages, because I think we will pretty much steer clear
12 of that, but with regard to the truancy and DJJ issue.

13 THE COURT: Yeah.

14 MR. KRZYSTON: Ms. Brown indicates that her
15 daughter was in a DJJ class for truancy with Troy
16 Stevenson. We believe that particular issue goes
17 directly to the basis of knowledge that she may or may
18 not have for identifying Mr. Young.

19 THE COURT: I think that's it. I mean, Troy is
20 not on trial.

21 MR. SCHNEE: I join in with that.

22 THE COURT: Her daughter is not on trial. If
23 that's how she knows somebody, I don't know how
24 anybody is negatively affected.

25 MS. SIMPSON: And just also so we have an answer

1 from Mr. Young's counsel, but Mr. Barnes with respect
2 to the last two pages and the line of questioning. I
3 don't know if he'll be attempting to go into any of
4 that, but just as a cautionary measure prior to
5 Ms. Brown taking the stand because we do need to
6 advise her when she comes in that she cannot reference
7 the prior burglaries or them being involved in
8 anything else. She has been told ---

9 THE COURT: Okay.

10 MS. SIMPSON: --- but I'd like to do it once she
11 gets in here.

12 MR. KRZYSTON: Judge, we're fine with that.

13 MR. SCHNEE: I have no intention of asking
14 Ms. Brown about Troy's statements about gangs or all
15 sorts of other things that she is talking about. I
16 would never want to go into that.

17 THE COURT: What she is talking is Mr. McCoy's
18 statement at the end of the call about we're going to
19 get these people. I'm not even reading it. I'm just
20 paraphrasing it, I'm sorry. That's why we want to put
21 them away. They can't hurt anybody anymore. Their
22 friends are talking about it. That kind of stuff.

23 MR. SCHNEE: I couldn't imagine ever asking
24 Ms. Brown about that.

25 THE COURT: Okay.

1 MR. SCHNEE: In fact, if she testifies as I
2 anticipate, I don't know that I'll have a single
3 question for her.

4 THE COURT: Okay. Even better.

5 MS. CAMPBELL: They have now retracted us --- we
6 told the witness not to talk about Troy being in DJJ
7 or anything about a bad influence.

8 THE COURT: Okay.

9 MS. CAMPBELL: They're now saying they both want
10 it now. We've instructed the witness not to talk
11 about that now. Now, they reversed. I don't know ---

12 MR. KRZYSTON: I'll remind you about this, but I
13 didn't know it was coming up, so I think we're
14 prepared to avoid coming into the DJJ lineup.

15 THE COURT: Where are you on DJJ?

16 MR. SCHNEE: Frankly, Judge, as far as it's
17 concerned to me, I don't think it matters either way.
18 She is using that as the basis of knowledge of why she
19 knows Troy Stevenson.

20 THE COURT: Right, not Mr. Barnes.

21 MR. SCHNEE: I mean, I've been through this.
22 I've been through the report. I don't think she
23 mentioned my client's name even once, so I ---

24 MS. CAMPBELL: So now we're instructing her not
25 to go into that.

1 THE COURT: Right. I'll tell her.

2 MS. CAMPBELL: Okay, thank you.

3 THE COURT: I just don't want that to be ---

4 MS. CAMPBELL: We had instructed her earlier that
5 the topic would be prejudicial, but ---

6 MS. SIMPSON: Do you want to bring her in? She
7 is outside. She is actually our first witness.

8 THE COURT: Yes. Bring her in. So we're not
9 talking about DJJ, gangs, prior burglaries, anything
10 else she said.

11 THE COURT: Where is Ms. Brown? Come on down.
12 Okay. Stay right there. How are you doing
13 today, ma'am?

14 THE WITNESS: Good.

15 THE COURT: How old are you?

16 THE WITNESS: Forty-six.

17 THE COURT: How far did you go in school?

18 THE WITNESS: Twelve.

19 THE COURT: Are you under the influence of any
20 drugs or alcohol right now?

21 THE WITNESS: No.

22 THE COURT: Okay. All right. You've apparently
23 given some information to the police. I know about
24 that much about what you said, okay. Do you
25 understand me?

1 THE WITNESS: Uh-huh.

2 THE COURT: And some of it may involve gangs or
3 people with prior burglary charges or people being at
4 DJJ or being on truancy or anything like that. I
5 don't want anything like that said in front of the
6 jury. Do you understand?

7 THE WITNESS: Yes.

8 THE COURT: Okay. Do you have an issue with
9 doing that? Do you think you can follow that
10 instruction?

11 THE WITNESS: Oh yes, sir.

12 THE COURT: Okay. So I don't want anything that
13 somebody has some burglary charges or they have been
14 in burglaries before or they are bad kids in the
15 neighborhood or any kind of things like that. You can
16 testify to what you saw, heard, did, said, something
17 like that, but nothing --- none of this extraneous
18 kind of information, DJJ, truancy, gangs, burglaries.
19 You know, they're a menace in the neighborhood. I'm
20 making stuff up, but none of that kind of stuff. Do
21 you understand?

22 THE WITNESS: Yes, sir.

23 THE COURT: All right. Very good. Bring them
24 in.

25 (WHEREUPON, the jury entered the courtroom at

1 1:27 P.M.)

2 THE BAILIFF: The jury panel is present.

3 THE COURT: Thank you very much. I hope you
4 enjoyed your lunch.

5 THE JURORS: Yes.

6 THE COURT: All right. Good. I like smiles.
7 All right. Now, we only have so many restaurant
8 locations. Don't blame any of those on me. I don't
9 pick them, but we do our best. You may call your
10 witness.

11 MS. SIMPSON: The State calls Mary Brown.

12 THE COURT: All right. Come on up, Ms. Brown.

13 MARY BROWN,
14 after being duly sworn, testified as follows:

15 THE CLERK: Please have a seat. State your full
16 name.

17 THE WITNESS: It's Mary Brown.

18 THE COURT: Thank you.

19 THE WITNESS: Thank you.

20 DIRECT EXAMINATION:

21 BY MS. SIMPSON:

22 Q Ms. Brown, how old are you?

23 A Forty-six.

24 Q And do you have any children?

25 A Yes.

1 Q How many children do you have?

2 A Six.

3 Q Six?

4 A Uh-huh.

5 Q All girls, boys?

6 A Five girls and one boy.

7 Q Five girls and one boy?

8 A Uh-huh.

9 Q Are you currently working or employed?

10 A Yes.

11 Q Tell the jury about what you do.

12 A I do in-home care. I help elderly people.

13 Q So you go to their homes and assist them?

14 A Uh-huh.

15 Q And where do you currently live? Is it here?

16 A Richland County.

17 Q Here in Columbia. Let's be clear. Are you a
18 little nervous today?

19 A Yes.

20 Q And you don't want to be here?

21 A No, I don't.

22 Q But you're under subpoena?

23 A Yes.

24 Q And you're required to be here?

25 A Uh-huh.

1 Q I want to turn your attention to June 30th and
2 July 1st that time period of 2013. Do you recall
3 something that happened the night before this
4 incident? Do you recall that night?

5 A Yeah, that day, yeah.

6 Q Can you tell the jury about what you saw that day
7 and where you were?

8 A I think I saw --- I was at a --- you said what?
9 What?

10 Q I'm sorry. June 30th.

11 A Okay.

12 Q Of 2013?

13 A I was just visiting family, my family's home. I
14 just saw --- I just saw the boys there. They was at a
15 little gathering my sister had, too.

16 Q Okay. What area of town is or where she was
17 living at the time?

18 A It's off Beltline.

19 Q Off Beltline, near Bonner, Lucille, in that area?
20 MR. KRZYSTON: Objection, leading.

21 THE COURT: Sustained.

22 BY MS. SIMPSON:

23 Q And you indicated you were there for what
24 purpose?

25 A Like a little family gathering. I think they was

1 having a cookout.

2 Q About what time were you over there? Do you
3 remember? I know it's been awhile.

4 A Yeah, I got there earlier, but I stayed until
5 like one o'clock, somewhere between twelve and one
6 o'clock because my daughter's baby was sick and she
7 was in the hospital. I was planning on leaving my
8 sister's house and going to the hospital.

9 Q Did you, in fact, then leave your sister's house
10 and go to the hospital?

11 A Uh-huh.

12 Q The next day, did you see something on the news?

13 A Uh-huh.

14 THE COURT: I need you to say.

15 THE WITNESS: Oh.

16 THE COURT: You have to say, yes or no.

17 THE WITNESS: I'm sorry.

18 THE COURT: I can't take down the uh-huh.

19 THE WITNESS: I'm sorry.

20 THE COURT: I want to make sure we have your
21 correct answer, okay.

22 BY MS. SIMPSON:

23 Q Did you see something on the news?

24 A Yes.

25 Q What did you hear about on the news?

1 A I saw where there had been a shooting.

2 Q Okay. Did you actually see a clip from that?

3 A Yes.

4 Q And after you observed that, what happened? What
5 did you do?

6 A I didn't do anything. I just like laid on one of
7 my family members called me and told me, you know,
8 something had happened.

9 MR. SCHNEE: Objection, hearsay.

10 THE COURT: Sustained.

11 BY MS. SIMPSON:

12 Q Upon learning that something had happened, what
13 did you do?

14 A Well ---

15 Q Or what did you realize?

16 A That that lady had been killed. I didn't really
17 understand. I don't know. It was just like a bunch
18 of talk started.

19 Q All right. And without saying exactly what was
20 said ---

21 A Uh-huh.

22 Q There was a bunch of talking about the incident?

23 MR. KRZYSTON: Objection.

24 MR. SCHNEE: Objection. Hearsay.

25 THE COURT: Don't talk. She hasn't ask a

1 question yet.

2 MR. KRZYSTON: The basis of knowledge is hearsay
3 as the witness has indicated.

4 THE COURT: You can't say what you heard. Do you
5 understand that? Yes or no.

6 THE WITNESS: Yes, I understand.

7 THE COURT: Okay. Good.

8 THE WITNESS: I don't know how to answer that
9 question because I heard ---

10 BY MS. SIMPSON:

11 Q We'll move on from that point. On July 3rd do
12 you remember speaking to with an investigator involved
13 in this case?

14 MR. KRZYSTON: Objection, leading.

15 THE COURT: Overruled.

16 THE WITNESS: Yes, uh-huh. I'm sorry. Yes,
17 ma'am.

18 BY MS. SIMPSON:

19 Q And did you actually call police?

20 A Yes, ma'am.

21 Q And when you spoke with them what did you tell
22 them?

23 A I pretty much told them that from what I had
24 heard --- what I heard from some family members or
25 whatever, I heard a story about an incident that had

1 happened.

2 MR. KRZYSTON: Objection.

3 MR. SCHNEE: I'm going to object again based on
4 hearsay.

5 THE COURT: Sustained.

6 BY MS. SIMPSON:

7 Q Let's tell them about --- I want you to tell them
8 about what you saw that night at your sister's?

9 A Okay.

10 Q Not what people were telling you, but what you
11 actually saw.

12 A What I saw that night at the cookout, the boys
13 was just over there and I saw them that day they was
14 talking about jiving around and whatnot and stuff like
15 that. A little later on I saw them and they had
16 dressed in some jackets later on that day when they
17 was leaving, when I was getting ready to leave my
18 sister's house and go to the hospital.

19 Q And did you in particular --- you said they were
20 wearing jackets, and this was like July, June in
21 evening hours?

22 A Uh-huh.

23 Q What did you note about one of the individuals?
24 What was he wearing?

25 A I just know the colors of the jacket I saw. One

1 was gray and one was red.

2 Q One was gray and one was red?

3 A Uh-huh.

4 Q The one in the red hoodie, or red jacket, however
5 you want to describe it, what was he doing? What made
6 you remember him?

7 A I just remember them because it was warm that
8 day.

9 Q So it was kind of odd that they had on a hoodie?

10 A Uh-huh.

11 Q Did he actually try to talk to your daughter, as
12 well?

13 A One of them did, yeah.

14 Q And it's been awhile so you would be more
15 familiar with this at the time you made the call?

16 A Right.

17 Q What about the individual you said was in the
18 gray jacket, what do you remember him doing?

19 A I don't remember. They all was getting ready to
20 go because I was getting ready to go and they was
21 getting ready to leave, too.

22 Q You just remember seeing them.

23 A Uh-huh.

24 Q And did they eventually --- were they in a
25 vehicle? Were they at your sister's? Where were

1 they?

2 A They was standing around this building, but I
3 left.

4 Q And when you made this call to police, you didn't
5 initially give your first name, right?

6 A No.

7 Q But you had some information that you wanted to
8 tell them?

9 A Yes.

10 Q What made you call and give them that information
11 about the clothing?

12 MR. SCHNEE: Objection, relevance.

13 THE COURT: Overruled.

14 BY MS. SIMPSON:

15 Q What made you call and give them the information
16 about the clothing?

17 A After hearing what I heard from the --- I feel
18 like they had something ---

19 MR. SCHNEE: Objection, hearsay.

20 THE COURT: Sustained.

21 MR. SCHNEE: Move to strike.

22 THE COURT: Stricken. Disregard that statement.

23 BY MS. SIMPSON:

24 Q Did you actually observe the video clip on the
25 news?

1 A Yes, I saw it.

2 Q Did you tell the police you had seen it?

3 MR. KRZYSTON: Objection, leading.

4 THE COURT: Overruled.

5 THE WITNESS: Yeah, I think I did.

6 BY MS. SIMPSON:

7 Q And in that video, the two individuals in the
8 video, what were they wearing?

9 MR. KRZYSTON: Objection, leading.

10 THE COURT: She hadn't asked the question yet.
11 Ask the question.

12 MS. SIMPSON: In the video, what were they
13 wearing that you saw on the news?

14 A Well, the red jacket stood out to me on the
15 video.

16 Q And because --- why did it stand out to you?

17 A It was just for hearing the next day from the
18 phone call.

19 Q You can't talk about what you heard.

20 THE COURT: I don't want to hear anything else
21 about what anybody said to you. Do you understand
22 that, ma'am?

23 THE WITNESS: Uh-huh.

24 BY MS. SIMPSON:

25 Q You can't talk about ---

1 A Okay. It's just looked like one of the jackets I
2 saw that night when I was at my sister's house.

3 Q So it looked like the same jacket you saw at your
4 sister's?

5 A Uh-huh.

6 Q Moving on, like I said, you didn't give police
7 your identifying information that night?

8 A No, I didn't.

9 Q Did you make another call or have another
10 conversation with investigators in this case some time
11 in August?

12 A I don't remember. Somebody probably came out and
13 talked to me. I don't remember. I don't recall.

14 Q You don't remember a phone call?

15 A I don't remember, no.

16 Q Do you remember speaking with them about the
17 Crimestoppers tip that you called in?

18 A Yeah.

19 Q Were you actually following up with law
20 enforcement about that?

21 A I don't remember how it came about exactly.

22 Q But you've had a chance to review the information
23 that you told police just before ---

24 A Yes, ma'am.

25 Q --- you came into the courtroom, right?

1 A Uh-huh, uh-huh.

2 Q And so you remember that call being recorded?

3 MR. KRZYSTON: Objection leading.

4 THE COURT: Overruled.

5 BY MS. SIMPSON:

6 Q And at that time, what did you tell police about
7 the individuals and why you wanted to remain
8 anonymous?

9 MR. KRZYSTON: Objection, Your Honor. Approach?

10 THE COURT: Sure.

11 Stand up and stretch your legs.

12 (WHEREUPON, a bench conference was held in the
13 presence, but not within the hearing of the
14 jury.)

15 MR. KRZYSTON: Thank you, Your Honor. Your
16 Honor.

17 THE COURT: All right.

18 BY MS. SIMPSON:

19 Q Did you tell police that night or on that phone
20 call the same information that you had told them?

21 MR. KRZYSTON: Objection, leading.

22 THE COURT: Did you tell is not a leading
23 question, overruled.

24 BY MS. SIMPSON:

25 Q Did you tell police the same information that you

1 told them when you called?

2 A Yes, I believe so.

3 Q Was it a little more detailed?

4 A I don't recall.

5 Q And if I showed you a copy of a transcript of
6 that call that you just reviewed, would that help
7 refresh your memory?

8 (Pause.)

9 In that conversation with Investigator McCoy, you
10 were able to identify the individuals, correct?

11 MR. KRZYSTON: Objection leading.

12 THE COURT: Sustained.

13 BY MS. SIMPSON:

14 Q Were you able to identify the individuals?

15 A What was the question?

16 Q Were you able to identify the individuals in that
17 conversation?

18 A Yeah.

19 Q Did you tell police who was wearing the red
20 hoodie?

21 A Yes.

22 Q Who did you tell police was wearing the red
23 hoodie?

24 A Well, I think by hearing.

25 Q Not what you heard.

1 MR. SCHNEE: Objection.

2 MS. SIMPSON: You can't go into any of that.

3 THE WITNESS: Because I don't know them.

4 BY MS. SIMPSON:

5 Q You didn't know their names?

6 A No.

7 Q So subsequent to that you learned their names and
8 that was part of your conversation?

9 A Yes.

10 Q But basically what you told the police is that
11 you observed an individual in a red hoodie?

12 MR. SCHNEE: Objection leading.

13 THE COURT: Sustained.

14 MR. KRZYSTON: Move to strike, Your Honor.

15 THE COURT: Stricken. Disregard that statement.

16 MS. SIMPSON: I'll move on from that.

17 MR. KRZYSTON: Your Honor, could we approach?

18 THE COURT: Yes.

19 (WHEREUPON, a bench conference was held in the
20 presence, but not within the hearing of the
21 jury.)

22 MS. SIMPSON: Thank you, Judge.

23 MR. KRZYSTON: Thank you, Judge.

24 BY MS. SIMPSON:

25 Q And Ms. Brown, you weren't actually there when

1 the incident occurred, correct?

2 A No, no.

3 MR. KRZYSTON: Objection leading, move to strike.

4 THE COURT: Overruled.

5 THE WITNESS: No, ma'am, I wasn't.

6 BY MS. SIMPSON:

7 Q You just gave police some information about what
8 you thought you knew?

9 A Yes.

10 Q And you said you didn't recognize any of the
11 individuals by their name?

12 MR. KRZYSTON: Objection leading.

13 THE COURT: Sustained.

14 BY MS. SIMPSON:

15 Q Did you recognize anyone or know their name?

16 A No. I didn't know their names.

17 Q Did you later learn their names?

18 A Uh-huh.

19 MR. KRZYSTON: Objection.

20 THE COURT: Overruled.

21 THE WITNESS: Yes.

22 BY MS. SIMPSON:

23 Q Approximately what time in the evening, going
24 back to June 30th, the night of the cookout, did you
25 actually see the individuals wearing the clothing you

1 described?

2 A It was late. I'd say about one, about
3 one o'clock.

4 Q About one?

5 A Between 12 and one.

6 Q Into the next day?

7 A Uh-huh.

8 Q Early hours?

9 A Yeah.

10 Q All right. Thank you, Ms. Brown.

11 THE COURT: Cross?

12 MR. KRZYSTON: I have no questions for the
13 witness, Your Honor.

14 MR. SCHNEE: No questions, Judge.

15 THE COURT: Have a great day.

16 Call your next witness.

17 MS. CAMPBELL: May it please the Court.

18 THE COURT: Yes, ma'am.

19 MS. CAMPBELL: The State calls Paul Nelson.

20 PAUL NELSON,

21 after being duly sworn, testified as follows:

22 THE CLERK: Please have a seat. State your full
23 name for the record.

24 THE WITNESS: Officer Paul Nelson. N-E-L-S-O-N.

25 DIRECT EXAMINATION:

1 BY MS. CAMPBELL:

2 Q Officer Nelson, where are you employed?

3 A City of Columbia Police Department.

4 Q What do you do there, sir?

5 A I work for the telephone response unit.

6 Q Back in July of last year, June and July of last
7 year, what were you doing at the Columbia Police
8 Department?

9 A I worked for the City of Columbia CSI
10 investigation unit.

11 Q And as part of the CSI investigative unit, what
12 did your duties include?

13 A Evidence collection, physical evidence
14 collection, photography, fingerprints, DNA collection.

15 Q And just for the record, did you actually respond
16 to the actual crime scene where this murder took
17 place?

18 A No, I did not.

19 Q Several days later, did you --- were you asked to
20 respond to a residence here in Richland County?

21 A I was.

22 Q And what residence were you asked to go to?

23 A On a search warrant at [REDACTED] Lucille Drive.

24 Q Where is that located here in Columbia?

25 A In the city limits of Columbia off of --- near

1 and close to Beltline Boulevard.

2 Q That is near Covenant and Two Notch?

3 A What did you say?

4 Q It's between Covenant and Two Notch, in that
5 area?

6 A Oh, yes, yes.

7 Q When you got there, were there other officers
8 already there?

9 A Officers were there and present upon my arrival.

10 Q Once you got there, what if anything did you do?

11 A They needed me to come inside to photograph some
12 evidence they had wanted to collect, as well.

13 Q Okay. Did you do that?

14 A Yes, I did.

15 Q And I want to show you what's been marked as
16 State's Exhibits 222, 261 and 264 through 322 and
17 first just ask if you recognize these?

18 MS. CAMPBELL: Your Honor, 222, 261, 264 through
19 322.

20 THE COURT: 264 through 322.

21 MS. CAMPBELL: Yes, sir, just to expedite.

22 MR. SCHNEE: And Judge, while he is looking
23 through those I'll stipulate to the admissibility of
24 those along he says their the ones he took.

25 THE COURT: Okay. Great.

1 MS. BAMBACH: No objection.

2 THE COURT: Okay. Great.

3 (WHEREUPON, State's Exhibit Numbers 222, 261 and
4 264 through 322 were admitted into evidence.)

5 THE COURT: Are you still going through photos?
6 Okay. Keep going. That's fine.

7 THE WITNESS: That's correct. These are photos
8 that I took.

9 BY MS. CAMPBELL:

10 Q And those are photographs you took at the scene
11 that day when you responded to the search warrant?

12 A That's correct.

13 MS. CAMPBELL: Your Honor, I believe I'll go over
14 the numbers again 222, 261 and 264 through 322.

15 BY MS. CAMPBELL:

16 Q And without going through some of the --- let me
17 show you 261 and State's Exhibit 222, excuse me. Do
18 you recognize that?

19 A I do. That's the front exterior of the house.

20 Q That's the exterior of the house there on Lucille
21 Street?

22 A Yes.

23 Q And that's how it appeared when you got there
24 that day?

25 A Yes.

1 Q Once you got there, you pretty much photographed
2 the entire house, did you not?

3 A That's correct.

4 Q Again, when you're there, do you know what's
5 going to be relevant or may not be relevant until a
6 later time?

7 A I do not.

8 Q I want to show you're specifically a number of
9 certain items. Were there a number of phones
10 collected and documented there?

11 A Several, yes.

12 Q Without getting into those, were there also some
13 pieces of clothing that were photographed and
14 documented?

15 A Correct.

16 Q And what was the piece of clothing at your Marker
17 number 17?

18 A A hoodie, black in color from a chair.

19 Q And what was the condition of that hoodie when
20 you collected it that day?

21 A It was wet.

22 Q Were there other hoodies that were collected by
23 you that day?

24 A There were.

25 Q And what areas were they in?

1 A In the area we marked as the addition.

2 Q Which was what number on your ---

3 A Just a second.

4 Q Sure.

5 A From bedroom number two floor, there was also a
6 blue in color hoodie.

7 Q Uh-huh, which was Marker number what?

8 A Marker number 8.

9 Q And I show you State's Exhibit Number 301 and
10 302. Do you recognize that?

11 A I do.

12 Q And is that the second hoodie you collected that
13 day?

14 A Bedroom number two, that's correct.

15 Q And finally was there a third one that you
16 actually collected?

17 A There was, a gray one in addition.

18 Q Is it number 15?

19 A That's correct.

20 Q And, in fact, I believe ---

21 A That's dark in color.

22 Q Multicolored actually.

23 Q And State's Exhibit Numbers 317 and 318, were
24 those the three hoodies that were actually collected
25 at that house?

1 A That's correct.

2 Q At any time did you collect a red hoodie in the
3 house.

4 A No.

5 Q At any time did you collect a dark gray hoodie at
6 the house?

7 A No.

8 Q Did you also collect some shoes, as well as the
9 phones?

10 A I did. Black and while the Nike tennis shoes
11 from the floor of bedroom number 1, I believe. Just a
12 second. That's correct.

13 Q State's Exhibit Number 311, I believe?

14 And a second pair of choose, I believe; is that
15 correct? You tell me.

16 A It's from the addition.

17 Q From the addition?

18 A Yes.

19 Q And that's in here, too. Finally, did you note
20 some paperwork that you collected and photographed?

21 A I did from bedroom number 3.

22 Q From bedroom number 3?

23 A Uh-huh.

24 Q I show you State's Exhibits 307 and 308 do you
25 recognize those?

1 A I do.

2 Q Is that paperwork that you found in that third
3 bedroom?

4 A Yes.

5 Q And specifically can you tell what name is on the
6 paperwork?

7 A Troy Stevenson is on an ID card and Troy
8 Stevenson is on a letter.

9 Q Okay. I'm going to show you what's been marked
10 as State's Exhibit Numbers 366, 360 and 367. First
11 let me ask you if you recognize these?

12 A I do. These are the letters that I --- my notes.

13 Q That's your notes?

14 A Yeah, I completed those.

15 Q And that was one of the hoodies you collected and
16 was this an additional one?

17 A That's correct, another hoodie.

18 Q And then finally 367?

19 A That's correct.

20 MS. CAMPBELL: And, Your Honor, at this time we
21 would offer 365, 367 and 366.

22 THE COURT: 365, 366 and 367. Did you say 360
23 earlier?

24 MS. CAMPBELL: The five looks like a zero, and I
25 can't see very well, but I corrected myself now, Your

1 Honor.

2 THE COURT: Okay. So 365 through 367.

3 MS. CAMPBELL: Thank you.

4 MS. BAMBACH: If they all came from the Lucille
5 Drive search warrant, we have no objection.

6 MR. SCHNEE: No objection.

7 (WHEREUPON, State's Exhibit Numbers 365, 366 and
8 367 were admitted into evidence.)

9 MS. CAMPBELL: Everything he has testified to is
10 from Lucille Drive.

11 THE COURT: Without objection.

12 BY MS. CAMPBELL:

13 Q And I note on 365 that you indicated what about
14 that hoodie, that's written here?

15 A Was wet.

16 Q And did you take any measures to dry it before
17 packaging it?

18 A I do. We have drying cabinets in the office.

19 Q In addition to that, you also collected, I
20 believe, some shoes. I show you State's Exhibit 364
21 and 363?

22 A That's correct. I collected these.

23 Q You collected those, as well?

24 A Yes.

25 MS. CAMPBELL: Your Honor, at this time we'd

1 offer into evidence 363 and 364.

2 MS. BAMBACH: No objection.

3 MR. SCHNEE: No objection.

4 THE COURT: Admitted without objection.

5 (WHEREUPON, State's Exhibit Numbers 363 and 364
6 were admitted into evidence.)

7 BY MS. CAMPBELL:

8 Q And I believe you also testified you also
9 collected the paperwork?

10 A That's correct.

11 Q As well as a number of cell phones?

12 A Yes, several.

13 Q Once you had collected those items, did you
14 package them and submit them into evidence?

15 A I did.

16 Q And if they were to become relevant at any point
17 in the case they could be tested or whatever needed to
18 be done later?

19 A That's correct.

20 Q Finally, the next day I believe you made contact
21 with Investigator McCoy and the defendant named
22 Trenton Barnes?

23 A The next day or that day.

24 Q Excuse me. On July 12th.

25 A I did on July 12th. I collected a buccal swab,

1 which is an oral swab for DNA purposes.

2 Q How did you go about collecting that swab from
3 Mr. Barnes?

4 A It's medically sealed Q-Tip. We open it. Of
5 course, we're wearing gloves and then collect their
6 DNA, saliva and we package it in a box, seal that box
7 and then seal the envelope that it comes in.

8 Q I show you what's been marked as State's
9 Exhibit --- it doesn't have a number so it would be
10 hard for me to do it.

11 (WHEREUPON, State's Exhibit Numbers 422 and 423
12 were marked for identification only.)

13 BY MS. CAMPBELL:

14 Q 423, is that the buccal swab you actually
15 collected that day?

16 A That's correct, Trenton Barnes.

17 Q You collected it from him that day?

18 A Yes.

19 Q Once you collected it, what if anything did you
20 do with the swab?

21 A After properly sealing it, I placed it in the
22 evidence room.

23 MS. CAMPBELL: Your Honor, at this time we offer
24 State's Exhibit 423 into evidence.

25 MS. BAMBACH: No objection.

1 MR. SCHNEE: No objection.

2 THE COURT: Without objection.

3 (WHEREUPON, State's Exhibit Number 423 was
4 admitted into evidence.)

5 BY MS. CAMPBELL:

6 Q During the time period that 423 or any evidence
7 in this case was in your possession, did anyone alter
8 it or tamper with it in any way?

9 A I don't see anything except for that SLED put it
10 in that bag.

11 Q During the time it's in your possession, did
12 anyone alter it or tamper with it in any way?

13 A No, no.

14 MS. CAMPBELL: Thank you, sir. I don't have
15 anything further, Your Honor.

16 MS. BAMBACH: I have no questions.

17 MR. SCHNEE: Just very briefly.

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION:

20 BY MR. SCHNEE:

21 Q Sir, on your report you list an incident date for
22 the basis of why you're there; is that right?

23 A Yes, that's correct.

24 Q That's July 1st, 2013?

25 A For the search warrant?

1 Q Yes. When you were collecting all these pieces
2 of clothing, the wet sweatshirts, whatever?

3 A Repeat that to me.

4 Q You --- what day was it when you did the search?

5 A The search was conducted on July 5th.

6 Q July 5th, so four or five days later.

7 A I don't know the date of it.

8 Q The incident being the 30th to July 1st.

9 A That's correct.

10 Q So about five days later?

11 A About five, approximately.

12 Q And when you took that DNA swab, I was there,
13 too, right?

14 A The swab?

15 Q Yes?

16 A Yes, you were present during the time of the
17 swab.

18 Q No further questions.

19 THE COURT: Redirect?

20 MS. CAMPBELL: No, sir.

21 THE COURT: Have a nice day.

22 THE WITNESS: Sure.

23 THE COURT: You can stay if you want to.

24 THE WITNESS: No.

25 THE COURT: Call your next witness.

1 MS. GARFIELD: May we approach, Judge?

2 THE COURT: Yes, ma'am.

3 (WHEREUPON, a bench conference was held in the
4 presence, but not within the hearing of the
5 jury.)

6 THE COURT: All right. Ladies and gentlemen, if
7 you'll go back to your jury room. Do not discuss the
8 case. Keep an open mind. We'll be back with you just
9 momentarily. Not too long of a break.

10 (WHEREUPON, the jury left the courtroom at 2:01
11 P.M.)

12 THE COURT: Okay. Who is the next witness?

13 MS. GARFIELD: Michael Schaefer.

14 THE COURT: Okay. Can you bring him in?

15 Whose phone just went off? I'm going to start
16 searching people. If I hear it again, it's \$250.

17 What's your name, sir?

18 THE WITNESS: Michael Schaefer.

19 THE COURT: Okay.

20 MS. GARFIELD: Okay.

21 THE COURT: Have we already been through his
22 record?

23 MS. GARFIELD: We have. I've never met
24 Mr. Schaefer. I just wanted you to advise him. He
25 has information of Mr. Young having involvement with

1 gang activity, as well as he has knowledge of the
2 other charges that are pending in our office against
3 Mr. Young. I just wanted you to advise Mr. Schaefer
4 that he is not permitted to express any of that
5 information to the jury.

6 THE COURT: All right. Stand up, Mr. Schaefer.
7 How are you?

8 THE WITNESS: Good.

9 THE COURT: Good. Okay. I don't know anything
10 about you. I've never seen you before in my life.

11 THE WITNESS: You actually sentenced me.

12 THE COURT: Oh, I sentenced you? I'm sorry.

13 When I do pleas, I can do about 150 a week. So
14 you will have to forgive me. I really do apologize
15 for that, for not remembering.

16 Okay. Now, listen. In this case I don't know
17 what you know or what you don't know about this case,
18 okay, but what I'm telling you is I don't want any
19 information out there about anybody being involved in
20 any gang. Do you understand that?

21 THE WITNESS: Yes.

22 THE COURT: And you believe you can comply with
23 that?

24 THE WITNESS: Yes.

25 THE COURT: Now, if you know anything about

1 anybody being out on bond or having other pending
2 charges unrelated to this case, you're not allowed to
3 say anything about that either. Do you understand
4 that?

5 THE WITNESS: Yes, sir.

6 THE COURT: Do you have any questions about that?

7 THE WITNESS: No, sir.

8 THE COURT: Do you believe you can comply with
9 that?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. Is there anything else you
12 want me to advise him of, Mr. Krzyston?

13 MS. BAMBACH: No.

14 THE COURT: I'm sorry, Ms. Bambach.
15 Mr. Schnee?

16 MR. SCHNEE: No, sir.

17 THE COURT: Okay. I believe that covers it, Ms.
18 Garfield.

19 MS. GARFIELD: Yes, sir.

20 THE COURT: Can you bring them back in?

21 (WHEREUPON, the jury entered the courtroom at
22 2:04 P.M.)

23 THE BAILIFF: The jury panel is present, Judge.

24 THE COURT: Thank you, Ms. Sutton.

25 You may call your next witness.

1 MS. GARFIELD: Thank you, Your Honor. The State
2 calls Michael Schaefer.

3 THE COURT: All right. Come on up, Mr. Schaefer.

4 THE BAILIFF: Raise your right hand. Place your
5 left hand on the Bible.

6 MICHAEL SCHAEFER,
7 after being duly sworn, testified as follows:

8 THE CLERK: Thank you. Have a seat in the
9 witness stand, please.

10 State your full name for the record.

11 THE WITNESS: Michael Schaefer.

12 DIRECT EXAMINATION:

13 BY MS. GARFIELD:

14 Q Mr. Schaefer, where are you from?

15 A Sumter, ma'am.

16 Q South Carolina?

17 A Yes, ma'am.

18 Q And what kind of education do you have?

19 A I have some college.

20 Q Some college?

21 A Yeah, I was active duty in the military so I
22 didn't complete it.

23 Q How long were you in the military?

24 A Almost nine years.

25 Q When you got out of the military, what did you

1 do?

2 A I was manager at a restaurant.

3 Q Mr. Schaefer, I'm going to direct your attention
4 back to last year, 2013. Now, currently you are in
5 the Department of Corrections; is that right?

6 A Yes, ma'am.

7 Q Now, back in 2013, were you at the Alvin S. Glenn
8 Detention Center?

9 A Yes.

10 Q And there were you awaiting court on pending
11 charges?

12 A Yes, ma'am.

13 Q We'll get into that in just a little bit.
14 Specifically in 2013 towards the end of the year as in
15 November, December, where were you housed in Alvin S.
16 Glenn?

17 A J dorm, Juliette dorm.

18 Q Juliette dorm?

19 A Yes, ma'am.

20 Q And was Lorenzo Young also housed there?

21 A Yes.

22 Q And did you have an occasion at any time while
23 you were both housed at the Juliette dorm to come into
24 contact with Mr. Young?

25 A Several times a day.

1 Q And explain to the jury what kind of contact you
2 had with him?

3 A I was playing cards, watching TV, just having a
4 conversation outside in the rec yard.

5 Q Would this be in the common areas of your dorm?

6 A Yes.

7 Q And would you have considered you and Mr. Young
8 to have necessarily been friends?

9 A No.

10 Q Why is that?

11 A Just different people. We just knew each other
12 in the dorm together. We just got along. We got
13 along.

14 Q Madam bailiff, if you can pull the mic up just a
15 bit. Maybe it's me.

16 Thank you.

17 Q So Mr. Schaefer, you said you had a conversation
18 with Mr. Young on several occasions?

19 A Yes.

20 Q And specifically did he ever talk to you about
21 why he was in jail?

22 A Yes.

23 Q And specifically did he give you any details
24 concerning a murder that occurred at a particular
25 bakery?

1 A Yes.

2 Q Can you share with the jury what he told you?

3 A He told me that ---

4 MR. SCHNEE: Judge, I'm going to object based on
5 the prior hearsay objections.

6 THE COURT: All right. Overruled. Go ahead.

7 BY MS. GARFIELD:

8 Q Just go ahead and tell the jury what Mr. Young
9 told you.

10 A Okay, he said him and two other people by the
11 name of Trap and Trigg went out to rob a nightclub in
12 the area, but it was closed. They saw the bakery was
13 opened. They took that as an opportunity to go in.

14 The woman was in there. He said she went for a
15 knife and she was struggling so she shot her twice.
16 He fled the scene. He said he was wearing a red
17 hoodie and jeans.

18 Q Why was he telling you about this?

19 A Because we were talking about our different
20 cases.

21 Q About your case?

22 A Yes. About mine, too.

23 Q And did you confide in him about your case, as
24 well?

25 A Yeah, I told him that I had robbed a bank.

1 Q That you had robbed a bank?

2 A Uh-huh.

3 Q And you just mentioned Trap and Trigg. Did you
4 know who those individuals were?

5 A No, it wasn't until later on. I just knew them
6 by their nicknames.

7 Q And did you determine later who Trap and Trigg
8 were?

9 A Yeah.

10 Q Who was Trap?

11 A A 16-year-old kid named Troy. Yeah, Troy.

12 Q A 16-year-old?

13 A Yes.

14 Q Did you understand who Trigg was?

15 A That's Trenton, Trenton Stevens (sic).

16 Q And do you recall ever giving a statement about
17 this case?

18 A Yes, it was in April.

19 Q And that was to Investigator McCoy?

20 A Correct. I turned in myself, came up and did
21 that.

22 Q Would it help you to have a copy of your
23 statement to refresh your memory today?

24 A I know what was said.

25 Q Do you mind if I approach and show you?

1 MR. KRZYSTON: Objection, Your Honor. There is
2 no foundation for that.

3 THE COURT: There is no foundation for that.

4 BY MS. GARFIELD:

5 Q Did you give a statement to Investigator McCoy?

6 A Yes.

7 Q Have you ever reviewed that statement?

8 A I read it one time about three weeks ago.

9 Q That was when you were preparing for court?

10 A Yes.

11 Q And that was with investigators in my office?

12 A Yes.

13 Q And you've seen a copy of that statement?

14 A Say it again.

15 Q You've seen a copy of that statement?

16 A Yes.

17 Q Initially when your gave a statement, were you
18 given an opportunity to review it?

19 A Yes.

20 Q And make any changes you wanted to make?

21 A Correct.

22 Q In fact, there were some changes, I believe you
23 made. Did you write the statement yourself?

24 A Yeah.

25 Q If there were any changes to be made, you would

1 have made them, correct?

2 MS. GARFIELD: Your Honor, at this time may I
3 approach the witness with his statement?

4 THE COURT: No, ma'am. He hasn't stated that he
5 needs to review the statement.

6 BY MS. GARFIELD:

7 Q Okay. I understand. Moving on, I believe you
8 said you had conversations with Mr. Young several
9 times? Did you ever have any other conversations with
10 him?

11 A No, it was just after that that I kind of sat on
12 that information for a little bit. I struggled with
13 what to do with it. I contacted my lawyer and he
14 advised me that we should probably go ahead and talk
15 to your office.

16 Q And your lawyer --- do you remember your lawyer's
17 name?

18 A It was Joanna Delany at the time, but then I got
19 referred out to William Hodge.

20 Q And you gave that information to Mr. Hodge?

21 A Yes.

22 Q And what was your understanding that Mr. Hodge
23 did?

24 A He contacted your office and set up a meeting.

25 Q Okay. Now, I want to direct your attention

1 towards New Years Eve or around New Years Eve. Are
2 you familiar with any conversation you had with
3 Mr. Young at that time?

4 A Yeah, it was after the holidays. I was kind of
5 being regretful, remorseful for what I did. I made a
6 statement saying I shouldn't have robbed the bank and
7 he said, "Well, I shouldn't have shot that bitch."

8 Q And that was Mr. Young that said that?

9 A Correct.

10 Q What was his demeanor like when he made that
11 statement to you?

12 A He was like don't bother me. It was his whole
13 demeanor was like you couldn't even tell he was in
14 jail.

15 Q I couldn't understand you first. I'm sorry?

16 A His whole demeanor was like he was real cool and
17 calm.

18 Q Cool and calm. Now, I just asked you, you met
19 with investigators in our office, correct?

20 A Correct.

21 Q And that was in preparation for your testimony?

22 A Yes.

23 Q Have you ever met with me before?

24 A No, sir.

25 Q Ever met with any attorney in my office ---

1 A No, ma'am.

2 Q --- seated at the counsel table? Did you know
3 the victim in this case?

4 A No.

5 Q And Mr. Schaefer, let's talk about why you're in
6 the Department of Corrections. What were your charges
7 back when these statements were being made between you
8 and Lorenzo Young?

9 A Three counts of armed robbery.

10 Q Are those charges still pending?

11 A No.

12 Q Did you plead guilty to them?

13 A Yes.

14 Q When did you plead guilty?

15 A It was July, I think July 17th.

16 Q And what sentence did you receive?

17 A I received a 12 year sentence. Three sentences
18 running concurrent.

19 Q Concurrent means no additional time?

20 A No, they're all run together.

21 Q And you are now at the Department of Corrections?

22 A Correct.

23 Q Where are you housed?

24 A Kershaw.

25 Q Now, you gave this information to Investigator

1 McCoy. Do you recall when?

2 A It was in April.

3 Q Of last year?

4 A Yes.

5 Q Were you given any promise or anything of the
6 nature in exchange for your statement?

7 A No.

8 Q Have you been offered any kind of deal or
9 anything of the nature?

10 A No.

11 Q Has anyone approached you about receiving a
12 downward departure in your sentence if you testify
13 today?

14 A No.

15 Q Now, the person that told you that around New
16 Years that he wished he hadn't shot that bitch, do you
17 see him in the courtroom today?

18 A Yeah, he is wearing blue.

19 Q Does he have a tie on?

20 A Yes.

21 MS. GARFIELD: Your Honor, may the record reflect
22 Mr. Schaefer has identified the defendant?

23 THE COURT: So reflected.

24 MS. GARFIELD: Thank you, Mr. Schaefer. Please
25 answer any questions defense counsel may have.

1 THE WITNESS: Thank you.

2 THE COURT: Ms. Bambach.

3 MS. BAMBACH: Thank you, Your Honor. May it
4 please the Court.

5 THE COURT: Yes, ma'am.

6 CROSS-EXAMINATION:

7 BY MS. BAMBACH:

8 Q Mr. Schaefer, you were in Alvin S. Glenn since
9 April 2013, right?

10 A Correct.

11 Q And you met Lorenzo in November 2013?

12 A Correct.

13 Q And a month later he wanted your advice on the
14 case?

15 A Yes.

16 Q So you guys knew each other for about a month and
17 then he talked to you about his case?

18 A That happens quite a bit actually.

19 Q And you said before that he told you that ---
20 well, you came to learn that Trap was Troy?

21 A Yes, the juvenile.

22 Q And Trigg was Trent?

23 A Correct.

24 Q While you were at Alvin S. Glenn, you were in
25 Mike dorm for several months, right, back and forth?

1 A Back and forth, yeah. I broke my elbow.

2 Q Okay.

3 A Fractured my foot.

4 Q That was about probably 11 --- about 11 months of
5 your time there back and forth?

6 A About nine or ten, nine.

7 Q And then you were in Juliette dorm with Lorenzo,
8 correct?

9 A When --- yes.

10 Q And then you were back in Mike in February, from
11 February to April 2014?

12 A Uh-huh.

13 Q And you were in the same dorm as Alfred Wright
14 during the time?

15 A Yes.

16 Q Do you know Alfred Wright?

17 A Yeah, but he was in a different pod.

18 Q But in Mike even if your in different pods you
19 still go out, in and out, to go to recreation?

20 A Occasionally. They keep them in the pods. A lot
21 of officers do that, yes.

22 Q And you were in jail in July of 2013, right?

23 A Yes. And during this time you were in the dorm,
24 you had access to television when you were in Mike,
25 right.

1 A In July, yes.

2 Q And each pod had its own television, right?

3 A Uh-huh.

4 Q You wrote this statement on April 22, 2014?

5 A Yes.

6 Q And at that time you were also in Mike, right?

7 A I think so, yes. I don't know if it was Mike
8 but...

9 Q When you wrote this statement, your attorney
10 Mr. Hodge and Investigator McCoy were present, right?

11 A Yes.

12 Q And at that time, your armed robbery charges were
13 still pending?

14 A Correct.

15 Q You had three counts of armed robbery and armed
16 robbery carries ten to 30 years?

17 A Correct.

18 Q So you're facing 90 years in prison?

19 A Yes, ma'am.

20 Q And you wrote this statement on April 22, 2014?

21 A Yes.

22 Q And you plead guilty July 14, 2014?

23 A July 18th, I believe, but close enough.

24 Q And you got 12 years?

25 A Right, yes.

1 Q Well that's pretty good. Twelve is a lot better
2 than 90?

3 A I think my clean background has something to do
4 with that.

5 MS. BAMBACH: Thank you.

6 MR. SCHNEE: May it please the Court.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION:

9 BY MR. SCHNEE:

10 Q Mr. Schaefer, did Lorenzo tell you who went into
11 the bakery with him?

12 A Trigg.

13 Q Okay. Reading your statement, I just want to
14 make sure I understand this correctly. There seems to
15 be some sort of confusion. Did he tell you that Troy
16 went in with him?

17 A No, Troy was ---

18 Q Troy was outside. Do you remember giving a
19 statement?

20 MR. SCHNEE: May I approach the witness, Your
21 Honor, to impeach him?

22 THE COURT: You have to establish his knowledge.

23 BY MR. SCHNEE:

24 Q In the statement that you gave to Investigator
25 McCoy on March 30th --- I'm sorry, on April 22nd, did

1 you say quote, "While," he said --- meaning Lorenzo,
2 "while him and Troy went in, Trap stayed by the door?"

3 A I know the juvenile stayed by the door.

4 Q The juvenile stayed by the door?

5 A Yeah.

6 Q So whatever ---

7 A The nicknames.

8 Q Whatever the nicknames, you know Trigg and Trap,
9 Troy and Trenton, they're brothers, right?

10 A I didn't find that out until I got prepped for
11 court actually.

12 Q Okay.

13 A Three weeks ago.

14 Q Okay.

15 A My memory is Troy Stevens not Trent Stevens.

16 Trent is the juvenile and Troy is Troy Stevens.

17 Q Whatever the nicknames are?

18 A Yes, sir.

19 Q Whatever the nicknames are, your understanding is
20 that the juvenile never came inside?

21 A Right.

22 MR. SCHNEE: That's what I want to ask.

23 THE COURT: Redirect?

24 MS. GARFIELD: Yes, sir.

25 REDIRECT EXAMINATION:

1 BY MS. GARFIELD:

2 Q How many people did Lorenzo Young tell you went
3 to the bakery?

4 A Three.

5 Q And you said you were in court just this past
6 July, correct?

7 A Correct.

8 Q Do you recall what the State recommended for your
9 sentence?

10 A Twenty years.

11 MS. GARFIELD: Thank you.

12 THE COURT: Ms. Bambach.

13 MS. BAMBACH: Nothing further.

14 THE COURT: Mr. Schnee.

15 MR. SCHNEE: Very briefly, actually.

16 RECROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q A few minutes ago, Ms. Garfield asked you about a
19 downward departure. Do you know what that is for
20 sentencing?

21 A No.

22 Q Your attorney hasn't told you the State could
23 request that your sentence be reduced?

24 A Well, he brought something up, but after she
25 recommended 20, he said it was very unlikely, so we

1 weren't even going to choose that avenue. I don't
2 even know what it is to be honest with you.

3 Q So you haven't had discussions about that with
4 your attorney?

5 A I mean, I'm no longer represented by Mr. Hodge
6 so...

7 Q So at the time of sentencing?

8 A Yes.

9 Q So no one has talked to you about that since
10 then?

11 A No.

12 MR. SCHNEE: All right. Thank you.

13 THE COURT: Thank you very much, sir. Have a
14 nice day.

15 Call your next witness.

16 MS. CAMPBELL: The State would call Betty Butler.

17 BETTY BUTLER,

18 after being duly sworn, testified as follows:

19 THE CLERK: Have a seat in the witness stand,
20 please. State your full name.

21 THE WITNESS: Betty Walker Butler.

22 DIRECT EXAMINATION:

23 BY MS. CAMPBELL:

24 Q Agent Butler, where are you employed?

25 A I'm employed with the South Carolina Law

1 Enforcement Division, also known as SLED.

2 Q And how long have you worked at SLED, ma'am?

3 A Over 18 years.

4 Q What is your duty or your job at SLED?

5 A I'm a forensic technician in the DNA case work
6 evidence processing unit.

7 Q As a forensic technician in the DNA department,
8 what do you do?

9 A I examine evidence for presumptive tests for
10 blood, semen, biological fluid. I look for hairs,
11 skin cells, or anything that could be of value to a
12 particular case.

13 Q Can you tell this jury a little bit about your
14 education and your training to become a forensic
15 technician?

16 A As a forensic technician, I was trained under two
17 court qualified forensic technicians. I was trained
18 on hundreds of items and also our DNA analyst that was
19 a lieutenant at the time.

20 We have to --- we go through a lot of evidence.
21 Before we was able to be go on, we do a comprehensive
22 test. We have to score 100 percent and every year
23 after that we do a proficiency test to make sure we
24 still know what we're doing.

25 Q Have you testified before as a forensic

1 technician?

2 A Yes, I have.

3 Q Do you know how many times you've been qualified
4 in that area or testified in that area?

5 A Over 40 times.

6 MS. CAMPBELL: Your Honor, at this time we'd
7 offer her as an expert forensic technician for
8 processing evidence.

9 THE COURT: For processing evidence?

10 MS. CAMPBELL: Yes, sir.

11 THE COURT: Voir dire?

12 MS. PINNOCK: No, I have no voir dire at this
13 point.

14 MR. SCHNEE: May it please the Court.

15 THE COURT: Sure.

16 MR. SCHNEE: Do you perform any analysis on the
17 items that you're doing this processing on?

18 THE WITNESS: I do a presumptive test for blood
19 and semen.

20 MR. SCHNEE: Okay, but you're not trying to
21 develop DNA profiles themselves?

22 THE WITNESS: No, I transfer it for further
23 testing to the forensic scientist.

24 MR. SCHNEE: Okay. That's all I have. I have no
25 objection.

1 THE COURT: Okay. Ladies and gentlemen, this
2 witness will be qualified as an expert in the area of
3 a forensic technician for processing evidence.
4 Normally a person is not allowed to give opinion
5 testimony. Normally when a person testifies, they
6 have to testify to what they saw heard or sensed by
7 smell or something of that nature. However, there is
8 an exception under our rules when someone is qualified
9 because of education or experience. They are
10 permitted to give their opinion in certain areas if I
11 qualify them in that way. This witness will be
12 qualified in the area as a forensic technician for
13 processing evidence.

14 She will be allowed to give opinion testimony in
15 that area. That does not mean that you have to accept
16 her opinion, but it is evidence for you no use in any
17 way that you see fit and give it the weight and the
18 credibility that you believe is appropriate which you
19 are required to do with each and every witness that
20 appears before you.

21 Ms. Campbell.

22 MS. CAMPBELL: May it please the Court.

23 THE COURT: Yes, ma'am.

24 BY MS. CAMPBELL:

25 Q Agent Butler, I want to turn your attention to

1 this specific case and the evidence that you received
2 in it. Initially did you receive a number of items
3 including some shell casings, clothing and other items
4 for you to process?

5 A Yes, I did.

6 Q And typically you've already testified just a
7 little bit, but what kind of evidence do you collect
8 and/or test for?

9 A When I receive evidence, I look for --- it
10 depends on the request. Sometimes I do a presumptive
11 test for blood, for semen because if it was for blood,
12 the chemical test would turn pink. If it's possibly
13 semen, it would turn purple, and also I do biological
14 fluids. We put things underneath the light, and we
15 can --- certain areas glow underneath the light, and
16 we circle it and test those areas or swab those areas.
17 We look for hair. We look for fibers or anything that
18 could be of value to our case that we're looking for.

19 Q In this case, I'm just taking it in the way that
20 you --- you actually wrote a report in this case?

21 A That's correct.

22 Q In this case, were there a number of shell
23 casings, spent shell casings, that he was submitted
24 for you to collect DNA swabs from?

25 A Yes.

1 Q How many actual --- can you go through the actual
2 shell casings that you actually swabbed to try to
3 collect any DNA, if there was any there, to forward to
4 the DNA department?

5 A SLED item number 6 --- item 6, shell casing; SLED
6 item number 8, shell casing; SLED item number 9, shell
7 casing; SLED item number 10, shell casing; SLED item
8 number 11, shell casing; SLED item number 40, shell
9 casing.

10 Q And when you were talking about the item numbers,
11 the 40 and the 6, the 8, those numbers are that are
12 randomly assigned by SLED when those comes into your
13 possession?

14 A No, every --- it's not random. Every number,
15 every piece of evidence that comes in, they have to
16 have an item number for tracking purposes.

17 Q For tracking purposes? Say the first piece of
18 evidence submitted gets the number 1 and it then
19 proceeds?

20 A Yes. That's correct.

21 Q I shouldn't have used the word random. I'm
22 sorry. In this case, I believe you received you
23 received a total of six shell casings. Of those, how
24 many were 45 caliber GAP?

25 A Four.

1 Q And of the remaining two, what caliber were
2 those?

3 A 40.

4 Q Forty. In addition to that, did you also receive
5 a spoon that was submitted to SLED?

6 A Yes, I did.

7 Q And did you take any swabs from that spoon?

8 A Yes, I did.

9 Q And what areas of the spoon did you actually
10 swab?

11 A I swabbed the --- on the particular spoon, I
12 swabbed the back of the spoon. I swabbed the front of
13 the spoon, and I swabbed the handle of the spoon.

14 Q Once you had collected those swabs, even if
15 they're from the same item, are they all packaged
16 separately as you did with the swabs from the
17 ammunition that was forwarded to you?

18 A Everything is packaged separately into a gold
19 colored envelope.

20 Q When a number of swabs come from the same item,
21 in this case the spoon which was given the item number
22 21, does it then get a sub number to designate that
23 it's from the same item?

24 A That's correct.

25 Q And how is that done? Say if this is number 21,

1 what would those three swabs then be numbered in this
2 case?

3 A The spoon would be 21. The first swab would be
4 21.1 because it came from that particular item. The
5 next swab would be 21.3 --- .2 --- and the next one
6 would be 21.3.

7 Q And then finally did you also get a couple of ---
8 some unfired cartridges or bullets as I call them?

9 A Yes, I did.

10 Q And how many of those?

11 MS. PINNOCK: We'll renew our previous objection
12 to the search.

13 THE COURT: Overruled.

14 BY MS. CAMPBELL:

15 Q I'm sorry, ma'am. How many of those did you
16 receive?

17 A Two.

18 Q And what were the caliber of those bullets?

19 A A .40.

20 Q And again with those, what if anything did you do
21 with them to collect possible evidence on those?

22 A I swabbed the entire item on both unfired
23 cartridge.

24 Q And you collected those, again, did you package
25 them separately and package them properly?

1 A I would package them separately --- let it dry,
2 package separately, initial, date, and forward it.

3 Q Finally, I want to talk about item number 39,
4 which is a piece of clothing that was submitted for
5 testing. Thirty-nine?

6 A SLED item number 39 was a black jacket.

7 Q A black jacket?

8 A Yes.

9 Q Was there an area of that you swabbed for
10 possible DNA?

11 A Yes.

12 Q And what area was that?

13 A I swabbed --- this particular item I had to put
14 it underneath the light because I was looking for
15 possible body fluids. A lot of times if you put it
16 underneath a light and you make the room dark and you
17 put glasses on, you can see body fluids. Once you
18 turn the room out, you see an area that glows, you do
19 a circle on it. I swabbed the fluorescent area that
20 glowed, and I also swabbed a square area that
21 supposedly someone touched the back.

22 Q And you mention that you used a light and it's
23 fluorescent, that may indicate a body fluid is there.
24 Even if it shows fluorescent, that doesn't mean a body
25 fluid is there?

1 A It doesn't necessarily mean that, no.

2 Q But you always err on the side of caution and
3 collect it just in case?

4 A Yes.

5 Q And the final area you swabbed on that piece was
6 in the back area; is that correct?

7 A That's correct.

8 Q And as far as the swabs were involved those were
9 the items that you actually swabbed in an attempt to
10 collect possible DNA from those items; is that
11 correct?

12 A That's correct.

13 Q Were there also the additional items that were
14 submitted to you to test for the presence of possible
15 blood?

16 A That's correct.

17 Q And what items were those, ma'am?

18 A SLED item number 40.

19 MS. PINNOCK: Your Honor, we would renew our
20 previous objection.

21 THE COURT: Overruled. Go ahead, ma'am.

22 THE WITNESS: SLED item number 40 was black
23 gloves. SLED item number 41 was also black gloves.
24 SLED item number 42 was black and gray rubber gloves.
25 SLED item number 43 was black and gray rubber gloves.

1 SLED item number 44 was a black in lime color rubber
2 gloves.

3 Q Let me stop you there. I'm going to show you
4 what's been marked as State's Exhibit Number 368. Do
5 those indicate the item numbers you're talking about
6 40 through 44. Sorry. It's kind of a mess.

7 A Yes, it is.

8 Q And did you test each of those gloves separately
9 for the presence of blood?

10 A Yes, I did.

11 Q Tell the jury how you do that testing on an item
12 such as a glove?

13 A When I first receive evidence, I do a visual
14 test. I look on the outside and inside to see if I
15 see any visual stains. If I don't see any visual
16 stains what I do on the outside and in this particular
17 case, the outside of the glove, I swab the entire
18 outside to see if it comes up as a possible blood. I
19 put a chemical test on. If it turns pink, then I know
20 it's a possible --- that there's blood there, but if
21 it doesn't react and nothing changes, that means there
22 is no blood present.

23 Q When you did your visual inspection of these
24 gloves, did you see any evidence that was visible to
25 you or the eye for the presence of blood?

1 A No, I did not.

2 Q Did you then further go with each of these gloves
3 and do a presumptive test to see if any blood was
4 there?

5 A Yes, I did.

6 Q What were the results?

7 A Negative. It didn't show any color change.

8 Q On each of the separate gloves?

9 A On all --- on 43 or 44.

10 Q And I want to turn your attention to some final
11 items that you did some testing on, I believe, item 45
12 and 46. What were those?

13 A SLED item number 45 was a pair of shoes and 46
14 was a pair of shoes.

15 Q And what if any testing did you do on item 45,
16 which was a pair of I think black and white shoes or
17 sneakers?

18 A Yes, I ---

19 MS. PINNOCK: Your Honor, for the record, we have
20 to renew our objection.

21 THE COURT: Overruled.

22 BY MS. CAMPBELL:

23 Q I'm sorry, go ahead.

24 A Item number 45, I did a presumptive test for
25 blood and there was no chemical reaction. SLED number

1 46, I did a presumptive test and it showed pink, so
2 there was a possibility there was blood there.

3 Q So the presumptive test was positive on item
4 number 46 and what was the description you had for
5 item number 46?

6 A Pair of Nike shoes size 12 black in color.

7 Q Once you got the presumptive test positive for
8 that item, did you then make any attempt to collect
9 swabs to then be forwarded for DNA?

10 A Yes, I did.

11 Q Did you, in fact, swab separate areas of that
12 shoe?

13 A Yes, I did.

14 Q Were those swabs forwarded to DNA?

15 A Yes, I did.

16 Q On the items that tested negative for blood, did
17 you do any further testing for DNA?

18 A No, I did not.

19 Q Is that per protocol you wouldn't collect
20 anything if the presence of blood wasn't there?

21 A It was --- it was in the notes where they were
22 looking. There was a possibility there was blood. If
23 there was no blood there, then I didn't have to do
24 ownership on the items.

25 Q Okay. And I want to show you some swabs that I

1 believe you collected, State's Exhibits 385, 386, 387
2 and 388 and first ask if you recognize those. I'll
3 move this out of your way. Thank you, ma'am. I
4 appreciate it.

5 A Yes, I do.

6 Q Once you had collected those swabs, while they
7 were in your possession, did you alter them or tamper
8 with them in anyway?

9 A No, I did not.

10 Q Were they packaged properly and then forwarded to
11 the DNA department for further testing?

12 A Yes. They were.

13 MS. CAMPBELL: Your Honor, we offer these items
14 into evidence.

15 MS. PINNOCK: Subject to our previous objection.

16 MR. SCHNEE: No objection.

17 THE COURT: Admitted over the objection.

18 (WHEREUPON, State's Exhibit Numbers 385 through
19 388 were admitted into evidence.)

20 BY MS. CAMPBELL:

21 Q Agent Butler, once you had done your testing in
22 this case and collecting the swabs that you were asked
23 to collect, did you have any further involvement?

24 A No, I did not.

25 Q And just for the record, prior to you getting

1 those gloves, had they already gone to the trace
2 didn't to be tested, do you know?

3 A Yes, they were.

4 Q And is that proper protocol to go to trace first
5 and then come to you?

6 A Yes, it is.

7 Q Thank you, ma'am.

8 MS. PINNOCK: Your Honor, I don't have anything
9 further of this witness.

10 MS. PINNOCK: May it please the Court.

11 THE COURT: Yes, ma'am.

12 CROSS-EXAMINATION:

13 BY MS. PINNOCK:

14 Q Ms. Butler, I just have a couple of questions for
15 you. Just for clarification's sake for me, the shell
16 casings that you got, I thought I heard two number
17 item 40's. Can you go back through the numbers for
18 your shell casings that you received?

19 A SLED item number 6.

20 Q Uh-huh.

21 A SLED item number 8, SLED item number 9, SLED item
22 number 10, SLED item number 11, SLED item number 12
23 was a shell casing.

24 Q Okay. Thank you, ma'am. And all the items you
25 have listed in your report, that's all you received

1 for your testing, right?

2 A That's correct.

3 Q So you only received one pair of shoes?

4 A No, I received two pairs of shoes.

5 Q Two pairs of shoes. One was a pair of Nikes.

6 What was the other one?

7 A It was a pair of Puma size 12 black and white in
8 color.

9 Q When you received these items, did you have any
10 idea where they came from originally?

11 A No, no, I did not.

12 Q And then once your finished your testing, you
13 forwarded it on for analysis, correct?

14 A That's correct.

15 MS PINNOCK: Thank you, ma'am.

16 MR. SCHNEE: May it please the Court.

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION:

19 BY MR. SCHNEE:

20 Q A couple of brief questions for your. The shell
21 casings, were you testing those for blood or were you
22 just testing them for anything in general?

23 A I was testing these for possible touch.

24 Q For touch DNA?

25 A That's correct.

1 Q Now, you also, I believe, said you tested a
2 spoon?

3 A Yes, I did.

4 Q Is that for touch DNA, as well, that you swabbed
5 it for?

6 A Yes, it was.

7 Q Okay. Now, all of the gloves that you tested,
8 you said you did a presumptive test on the outside for
9 blood?

10 A That's correct.

11 Q Okay. And you didn't find any?

12 A That's correct.

13 Q Okay. Did you do any tests on the inside for
14 touch DNA?

15 A No, I did not.

16 Q Were you asked to?

17 A No. I was asked to if there was a presumptive
18 test that was positive, I would then go and do further
19 testing for ownership, but since it was negative, I
20 stopped right there.

21 Q Okay. So to your knowledge, has anyone done a
22 touch DNA test on the inside of the gloves?

23 A Not to my knowledge.

24 MR. SCHNEE: Thank you. That's all I have,
25 Judge.

1 THE COURT: Ms. Campbell?

2 MS. CAMPBELL: Nothing further, Your Honor.

3 THE COURT: Have a nice day, Ms. Butler.

4 You all approach real quick.

5 THE COURT: You all go ahead and stand up and
6 stretch your legs.

7 (WHEREUPON, a bench conference was held in the
8 presence, but not within the hearing of the
9 jury.)

10 THE COURT: All right. Ladies and gentlemen,
11 let's go ahead and take our afternoon break at this
12 time. Do not discuss the case. Keep an open mind.
13 We'll see you back in about ten or 15 minutes. Thank
14 you very much.

15 (WHEREUPON, the jury left the courtroom at 2:43
16 P.M.)

17 THE COURT: Everyone stay seated. All right.
18 What's this with the chart?

19 MS. CAMPBELL: Your Honor, as I do in every case,
20 I summarize the DNA findings. I had a DNA analyst
21 review it. She has actually participated in the
22 making of this chart. It just basically summarizes
23 the findings and under Rule 1006, we feel like it
24 would be helpful for the jury and if she would testify
25 to explain it to the jury.

1 THE COURT: Who is your DNA analyst?

2 MS. CAMPBELL: Agent Clayton.

3 THE COURT: Are you here?

4 THE WITNESS: Yes, sir.

5 THE COURT: Okay. Tell me your name.

6 THE WITNESS: Jennifer Clayton.

7 THE COURT: Have you seen these charts?

8 THE WITNESS: Yes, sir.

9 THE COURT: Do they aid and assist you in your
10 preparation for this case?

11 THE WITNESS: Yes, sir. They summarize the
12 results in a succinct form.

13 THE COURT: Have you looked at them?

14 THE WITNESS: Yes, sir.

15 THE COURT: Are they part of your tests and
16 results ?

17 THE WITNESS: They summarize the results that are
18 in my report, Judge.

19 THE COURT: Okay.

20 MR. SCHNEE: Judge, my objection is not to a
21 summary or a chart at all. My objection is to the
22 form of that summary. It is missing substantial
23 amounts of information. The charts indicate a number
24 of items, specifically the ones in contention would be
25 for example, spoon, a few other things where it says,

1 for example, that **tread marks** cannot be excluded and
2 it just leaves it at that. In the actual report, what
3 it says on those items is a whole bunch of people
4 can't be excluded and the probability of a random
5 person is one in three.

6 THE COURT: Okay.

7 MR. SCHNEE: That's not on the chart and it's
8 misleading to the jury if that is going to be admitted
9 into evidence and go back to the jury room because
10 they're not going to have a --- any end time
11 cross-examination if they have to look at that chart
12 again.

13 THE COURT: Okay.

14 MR. SCHNEE: It presents a problem for me
15 presenting it full evidence to the jury.

16 MS. CAMPBELL: The people that are excluded is
17 accurate on here. I haven't done any probabilities on
18 anything because --- it's something I never do on my
19 charts typically because it gets too voluminous. Of
20 course, he could cross him and what he said is
21 incorrect. If he could cross her on that, the
22 testimony can come out. If he wants to present his
23 own chart, and she says it's accurate. You know, we
24 have no problem with that, Your Honor.

25 THE COURT: What's your objection?

1 MS. PINNOCK: Your Honor, my objection would be
2 the same thing. It's misleading how its summarized.
3 It does leave out the probabilities of inclusion and
4 exclusion. The ratios that we're dealing with to say
5 somebody is excluded or somebody cannot be excluded, I
6 think it is misleading. My objection would be under
7 403 because the charts themselves are misleading.

8 THE COURT: Okay.

9 MS. PINNOCK: I would not object to it being used
10 as demonstrative but I would object to it being
11 admitted into evidence.

12 THE COURT: All right. The chart is in assuming
13 proper foundation.

14 MS. CAMPBELL: All right. Yes, sir.

15 THE COURT: Ten minutes.

16 (WHEREUPON, a short break was taken.)

17 MR. KRZYSTON: Your Honor, I'm moving for a
18 mistrial, as Ms. Brown never identified Mr. Young as
19 being the one in the neighborhood with a red hoodie.
20 On opening, Ms. Garfield specifically mentioned that
21 Ms. Brown knew Mr. Young, and that he was wearing a
22 red hoodie the night before the allegations in
23 question. Based on the fact that the State is at this
24 point unable to prove that piece of Ms. Garfield's
25 opening, we would move for a mistrial based on what

1 appears to be manifest necessity.

2 THE COURT: Your motion for a mistrial is denied.
3 What's said in opening statements is not evidence and
4 Ms. Brown did nothing to hurt your client in any way
5 during her testimony since she couldn't even identify
6 either one of them.

7 MR. SCHNEE: Just for the record and out of an
8 abundance of caution, I would also join in that
9 motion, as well.

10 THE COURT: Very well.

11 MR. SCHNEE: Thank you.

12 THE COURT: Bring them back.

13 (WHEREUPON, the jury entered the courtroom at
14 2:59 P.M.)

15 THE BAILIFF: The jury panel interpret judge.

16 THE COURT: All right. Call your next witness.

17 MS. CAMPBELL: May it please the Court. The
18 State calls agent Clayton.

19 THE COURT: All right. Ms. Clayton, come
20 forward.

21 JENNIFER CLAYTON,
22 after being duly sworn, testified as follows:

23 THE CLERK: Please have a seat. State your full
24 name for the record.

25 THE WITNESS: Jennifer Clayton. C-L-A-Y-T-O-N.

DIRECT EXAMINATION:

BY MS. CAMPBELL:

Q Agent Clayton, where are you employed?

A I'm currently employed by the South Carolina Law Enforcement, also known as SLED.

Q What do you do there, ma'am?

A I'm currently a forensic DNA analyst.

Q As a forensic DNA analyst, what do your duties include?

A When evidence is submitted that may contain DNA evidence, I attempt to extract DNA from the item which means separate the DNA from whatever it might be on whether it's swab or piece of fabric and then develop a DNA profile from that item. I also sometimes do testing for body fluids, such as blood, semen, or saliva.

Q Can you tell the jury a little bit about your education and training in the field of DNA?

A I earned a bachelors of science in biology and from the University of North Carolina at Chapel Hill.

I've also taken classes at NC State and USC. My coursework included microbiology, biochemistry, genetics, and statistics. I completed an internship with the North Carolina State Bureau of Investigations molecular genetics department, which is the equivalent

1 of SLED's DNA department. When I originally hired on
2 with SLED, I hired on as a forensic technician in the
3 DNA department and I worked as a technician for two
4 years before I was hired as a DNA analyst. Once I was
5 hired as a DNA analyst, I completely a one year
6 training program and did casework under the
7 supervision of another qualified analyst before I was
8 able to do casework on my own.

9 Q And have you testified before as an expert in the
10 field of DNA analysis?

11 A Yes, I have.

12 Q Including the statistical probabilities as well
13 as the actual examination of DNA itself?

14 A Yes, I have.

15 MS. CAMPBELL: Your Honor, at this time, I would
16 offer her as an expert in forensic DNA analysis.

17 THE COURT: Voir dire?

18 MS. PINNOCK: No, Your Honor, no objection.

19 MR. SCHNEE: No, Judge, no objection.

20 THE COURT: All right. Ladies and gentlemen,
21 normally a person is not allowed to give opinion
22 testimony. Normally when a person testifies, they
23 have to testify to what they either saw heard or
24 sensed by smell or something of that nature. However
25 when there is an exception when someone is qualified

1 by education or experience. They are permitted to
2 give their opinion in certain areas if the court
3 qualifies them in that way. This witness will be
4 qualified in the area of forensic DNA analysis. She
5 will be allowed to give opinion testimony in that
6 area. That does not mean that you have to accept her
7 opinion, but it is evidence for you to use in any way
8 that you see fit and give it the weight and
9 credibility that you believe is appropriate, as you
10 are required to do with each and every witness.

11 Ms. Campbell.

12 MS. CAMPBELL: May it please the Court.

13 BY MS. CAMPBELL:

14 Q Agent Clayton, I want to turn your attention to
15 the specifics of this case. Before I do that, let me
16 talk a little bit about --- when doing your testing
17 basically, how do you go about getting DNA typically
18 from an item say that may be collected at the scene or
19 evidence that is submitted to you?

20 A The evidence --- the first step I have to do is
21 look at it and determine if, based on the paperwork,
22 it needs to be tested for body fluids. If it does,
23 I'll test it for body fluids. If not I'll take it
24 straight to DNA analysis. As I said before, that
25 means that I want to separate the DNA out from

1 anything that it's on, such as a piece of cotton swab
2 or a piece of fabric and isolate just the DNA for
3 purposes of testing. I then take it through the
4 different steps of testing and develop a DNA profile
5 from the item.

6 Q And typically in getting DNA, is it typical to
7 get DNA say from body fluids, such cause, blood,
8 saliva, or semen?

9 A Yes. Typically bodily fluid as such blood,
10 semen, or saliva are very good sourced of DNA.

11 Q We've also heard reference to the term, touch
12 DNA. What does that mean to you as a forensic
13 analyst?

14 A Touch DNA, that's typically a term we use to
15 refer to DNA that's left behind when someone touches
16 or handles an item. For instance, if I were to put my
17 hand on the counter here and then take it off again
18 and someone were to swab it to see if I touched it,
19 that would be testing for touch DNA.

20 Q And if you did --- you did just what I was going
21 to show, if I put my hand up here and touched an item
22 am I going to necessarily leave my DNA there?

23 A Not necessarily. Sometimes enough DNA is left
24 behind by touching an item to develop a profile and
25 sometimes it is not.

1 Q In addition to that if someone else had touched
2 this before I touched it, could that DNA actually be
3 transferred to my hand, as well?

4 A Yes, that is possible.

5 Q And in testing for DNA, you're looking at what in
6 a cell? What are you actually looking at and making a
7 determination whether there is a match or not?

8 A The first step is to develop DNA profiles from
9 evidence, and sometimes the DNA profile is a single
10 source profile. What that means is that based on the
11 results it's determined that the DNA came from one
12 individual. Sometimes a mixture is developed. What
13 that means is that more than one individual donated
14 DNA to the item and therefore the results include
15 information from more than one individual.

16 Q And if you're actually able to get DNA. DNA was
17 left on an item of evidence in a case, can you with
18 your testing tell how long it's been there or date
19 when it actually got on that item?

20 A No, currently there is no way to determine when
21 DNA was deposited on an item.

22 Q And DNA analysis, it can be --- it can exclude
23 people from being a contributor as well as including
24 them as being a possible contributor, correct?

25 A Depending only the quality of the profile,

1 correct.

2 Q You also mentioned something a little bit, but
3 it's not unusual to get more than one person's DNA
4 from an item of evidence at a crime scene?

5 A Depending on the type of evidence it's very
6 common to get mixtures on things that somebody wore or
7 that multiple people might have handled.

8 Q You mentioned earlier that sometimes you actually
9 do some testing for the presence of blood or other
10 body fluids, as well as the DNA analysis itself?

11 A Sometimes, that's correct.

12 Q In this case, you saw where Agent Butler just
13 testified. Is it unusual for a forensic technician
14 to collect some evidence and forward it to you?

15 A No, it's very common. Our evidence processing
16 technicians typically process larger items and if
17 there's something of possible value, they will collect
18 those items, typically it's a swab or small cutting,
19 and send those items on for DNA testing rather than
20 the DNA analyst receiving large items.

21 Q And did you receive some evidence from Agent
22 Butler, as well as some directly from the agents
23 themselves?

24 A Yes.

25 Q And specifically in this case, did you do any

1 testing for the presence of any body fluids on any of
2 the items that had been directly forwarded to your
3 department?

4 A There were two items that I tested for possible
5 body fluids.

6 Q And what were those items you tested?

7 A I tested item SLED item number 18, which were
8 swabs from the left arm of Kelly Hunnewell, as well as
9 SLED item 19, which were swabs from the right arm of
10 Kelly Hunnewell.

11 Q Did you prepare a report in this case as to your
12 findings and all your testing?

13 A Yes, I did.

14 Q And I want to show you what's been marked as
15 State's Exhibit Numbers 422 and 424.

16 A Yes.

17 Q Is this a summary of your findings in this case
18 that you reviewed before coming in here?

19 A Yes, it is.

20 Q It's actually two pages, is it not, because
21 there's too much to put on one page?

22 A That's correct.

23 Q And would it aid you in presenting your testimony
24 in a concise way to the jury as far as what was
25 submitted, what testing was done, and what the results

1 were?

2 A Yes, it's a summary of the results.

3 MS. CAMPBELL: Your Honor, at this time we'd offer
4 422 and 424 into evidence.

5 THE COURT: Admitted over both defendant's
6 objections.

7 (WHEREUPON, State's Exhibit Number 422 and 424
8 were admitted into evidence.)

9 MS. CAMPBELL: Thank you, Your Honor. Your
10 Honor, may the witness step down?

11 THE WITNESS: May I bring up a copy of my report?

12 MS. CAMPBELL: Bring anything you need.

13 BY MS. CAMPBELL:

14 Q If you'll come over on this side and if you'll
15 talk a little louder. For some reason it's really
16 hard to hear.

17 Can everybody see? If you want to take this,
18 basically this first column is labeled "Items
19 submitted". Is that the actual evidence that was
20 submitted to you either through evidence processing or
21 directly to you once it was put in your evidence room?

22 A That's correct.

23 Q And then the second column we have here, what is
24 that labeled?

25 A Blood indication.

1 Q And what does that mean?

2 A That refers to the testing for possible body
3 fluids and in this particular case, blood.

4 Q Was every single item requested, did you test for
5 blood?

6 A No, I tested the items where the testing for
7 blood was requested and had not already been performed
8 by evidence processing.

9 Q Those were the two and in addition to that Agent
10 Butler did some?

11 A That's correct.

12 Q And in this column --- that's labeled what?

13 A DNA extracted.

14 Q And down here it's either --- it's yes on all of
15 these. What does that mean?

16 A That means that I attempted to develop a DNA
17 profile from those items.

18 Q And whether or not you were able to get a DNA
19 profile?

20 A That is listed under the results.

21 Q And then this final column is the result?

22 A The summary of the results.

23 Q Okay. Whenever doing DNA testing, before you
24 actually do the testing or at the same time you are
25 doing the testing on the actual evidence from the

1 scene, you also request that certain standards be
2 submitted?

3 A That's correct. Whatever a case is submitted and
4 there is evidence that they are trying to determine if
5 it matches an individual or not, we request that they
6 submit standards from those individuals and we request
7 standards from victims, as well as suspects that might
8 have left DNA evidence, and in some cases we request
9 additional standards, which are called elimination
10 standards. These are commonly requested in cases
11 where touch DNA testing is requested because
12 individuals that are commonly around an area could
13 have commonly handled an item, could have left their
14 DNA behind, so if an individual works at the same
15 location, it's possible that they would leave their
16 DNA behind on the same items that are handled by the
17 employee, other employees of the location.

18 Q And in this case, I believe Items 5, 31, 32, 33,
19 34, 37, 48 and 49 are all known standards either by
20 way of, I believe, it was dry blood from the victim
21 herself and the rest of them are what's called buccal
22 swabs?

23 A That's correct, a buccal is just a sterile cotton
24 swab that's taken and rubbed on the inside of the
25 cheek. The reason that we collect buccal swabs or a

1 dry blood standard is so we have what's known as a
2 known standard. We know that the item was taken
3 directly from that individual and therefore we know if
4 we develop a DNA profile from that item, that DNA
5 profile is attributed to that particular individual.
6 We can then compare that DNA profile to profiles from
7 evidence,

8 Q In this case, what were the initial known
9 standards that you got --- who were those gotten from?

10 A I received the dry blood standard from Kelly
11 Hunnewell. Well, originally it was a liquid blood
12 standard and then someone dried it down and I used the
13 dried blood standard for my analysis. I received
14 buccal swabs from Edwin Schleuter, as well as Lauren
15 Schleuter, Julian Lanier, Adam Siler ---

16 Q Again, you said if people worked in that area,
17 you might get samples from them?

18 A That's correct.

19 Q And in addition to those people?

20 A Lorenzo Bernard Young, Troy Stevenson and Trenton
21 Barnes.

22 Q And when those known standards on all those
23 people were submitted to you, were they properly
24 packaged and appeared not to have been tampered with
25 in any way?

1 A That's correct.

2 Q Once you got those standards, at a later time did
3 you request that additional standards be submitted?

4 A I did. If we have a DNA profile that we develop
5 that we don't match to a standard, and it's untouched
6 DNA, sometimes as an extra safeguard we will request
7 profiles from individuals that may have gone to the
8 scene to work the scene, just to eliminate them as a
9 possible source of an unidentified profile.

10 Q Did you also receive profiles, known standards,
11 from some Columbia police officers in this case?

12 A Yes, I did.

13 Q And that's what we've just been talking about?

14 A Correct.

15 Q What officers did you actually receive known
16 standards from?

17 A That information would be over there. I
18 apologize.

19 Q I'm sorry.

20 A I received swabs from a Matthew McCoy, a Tory
21 Smalls, a Johnny Gaston and a George Wise, as well as
22 a Christopher Bollings.

23 Q And you also did analysis on those even though
24 they aren't included on this chart, as far as
25 including them or eliminating them as possible donors?

1 A That's correct. We have a database or a
2 spreadsheet that we keep in our department and when we
3 collect standards from officers from different
4 agencies, as well as people within SLED, we develop
5 their profiles and we put it into this database or
6 spreadsheet so that rather than just checking it
7 against one case, we now have that information
8 available to check against multiple cases. So those
9 profiles are not reported in reports, but they can be
10 used to look for matches if it's suspected that's an
11 unidentified profile that may have come from an
12 officer.

13 Q Now, I'm going to talk about the actual evidence
14 that's submitted for do you do analysis on. The first
15 item is labeled 6.1 and what was that item?

16 A Item 6.1 was swabs from a 45 GAP shell casing.

17 Q A shell casing? And that would be a spent shell
18 casing or the hollow one.

19 A That's correct.

20 Q Okay. Sorry?

21 A Yes, that's one where the bullet has already been
22 ejected and there's no longer powder in it.

23 Q Did you do the actual swabbing in that case?

24 A No, I did not.

25 Q And that would have been Agent Butler that did

1 that?

2 A Forensic technician Butler, correct.

3 Q And, in fact, did you --- did anyone test for the
4 presence of blood?

5 A No, there was no request for testing for blood on
6 that item.

7 Q Finally, were you able to extract any DNA?

8 A DNA extraction was attempted. I did take it
9 through the entire process. However, no DNA profile
10 was developed from that item.

11 Q Is that unusual?

12 A No. Actually, it's because there is so little
13 surface area on a shell casing and typically they're
14 not handled --- bullets aren't handled for very long
15 and they're exposed to a large amount of heat when
16 they're fired, so it's actually very uncommon to
17 develop a DNA profile from a shell casing. It does a
18 happen occasionally, but the more expected result is
19 no DNA profile.

20 Q Even in different kinds of evidence such as even
21 when blood is indicated, sometimes you just simply
22 don't get a DNA profile?

23 A That's correct.

24 Q What are the reasons for that?

25 A There are a number of reasons. It could be that

1 our instrument has a low level of detection. If the
2 amount of DNA present falls below that level of
3 detection, the instrument won't detect it even though
4 it's there. Sometimes DNA will become degraded and
5 that means it's damaged and if DNA is damaged to a
6 certain extent, the DNA test doesn't work, so it won't
7 detect the DNA on the item either. Those are the two
8 most common reasons. Degradation happens sometimes
9 just because the sample is old and starts to break
10 down, it can be exposed to ultraviolet light or
11 exposed to chemicals or extreme heat and those are
12 some of the things that can cause it to degrade and
13 therefore not be detected.

14 Q I want to turn to Item 8.1, which is a swab from
15 a 45 caliber GAP shell casing. What were your results
16 there?

17 A No DNA profile was developed from that item
18 either.

19 Q Moving on to Item 9.1, which is a swab from a 45
20 GAP shell casing?

21 A No DNA profile was developed.

22 Q And Item 10.1, another 45 GAP shell casing?

23 A No DNA profile was developed.

24 Q Item number 11.1, which was the swab from the 40
25 Smith & Wesson shell casing, what was the result

1 there?

2 A 11.1?

3 Q Uh-huh.

4 A No DNA profile was developed from that item.

5 Q Did I skip one?

6 A I don't think so.

7 Q Okay. What he was the next item?

8 A Item 12.1, SLED Item 12.1 was swabs from a 40
9 caliber Smith & Wesson shell casing, and on that item
10 a partial DNA profile was developed from that item.
11 It was from an unidentified male individual. Kelly
12 Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian
13 Lanier, Adam Siler, Lorenzo Young, Troy Stevenson and
14 Trenton Barnes are excluded as possible contributors
15 to that profile.

16 Q Can you tell how long that DNA profile may have
17 been there?

18 A No, I cannot.

19 Q Can you tell how it got there?

20 A No, I cannot.

21 Q If a piece evidence, such as a shell casing falls
22 onto a floor, can DNA actually be transferred on to it
23 after it's expelled from a gun?

24 A It's possible. If there is DNA from an
25 individual on the floor it's what's called secondary

1 transfer. If somebody touches an item like this
2 counter, for instance, and then someone else goes and
3 sits an item on that counter, it's possible DNA could
4 transfer from my hand to the counter and then from the
5 counter to that item.

6 Q In addition to that, did you also in all these
7 cases when you're talking about these people being
8 excluded, did you also run it against the Columbia
9 police officers known standards, as well?

10 A Yes, I compared it to known Columbia police
11 officer standards as well and it did not match the 85
12 officers that I tested.

13 Q Again, you can't say whether that DNA got there
14 before after it was fired, after it was fired or who
15 even handled it?

16 A No, I cannot. Based on the data that I had,
17 there was way for me to determine whether it was
18 before or after it was fired.

19 Q Moving on to Item number 18, which was the swab
20 from Kelly Hunnewell, you tested that yourself for
21 blood, I believe?

22 A Yes, I did.

23 Q Did it come back positive for blood?

24 A Blood was indicated on that item, correct.

25 Q What was the result when you ran the DNA?

1 A The DNA profile developed from that item is
2 attributable to Kelly Hunnewell.

3 Q Moving on to the next item, which is Item number
4 19, which is the swabs from the right arm of Kelly
5 Hunnewell, again, did you do the testing for blood?

6 A Again, I performed presumptive testing and blood
7 was indicated on that item.

8 Q And what was the result when you ran the DNA?

9 A That DNA profile was also attributable to Kelly
10 Hunnewell.

11 Q Moving on to Item number 21.1, 21.2 and 21.3,
12 where were those three swabs collected from?

13 A They were given to me as being collected from a
14 large metal spoon.

15 Q And was any testing for blood done on those
16 items?

17 A I did not perform any testing for blood on those
18 items.

19 Q And once the swabs were collected and forwarded
20 to you, 21.1, which was a swab from what area of the
21 spoon?

22 A 21.1 was a --- the swab was from the back of a
23 large metal spoon.

24 Q And when you ran your DNA testing, what were the
25 results from 21.1?

1 A The DNA profile developed from Item 21.1 is a
2 mixture of at least three individuals and is not
3 suitable for comparison.

4 Q What does that mean?

5 A When we look at a profile, there's a number of
6 things that I have to determine when I'm looking at a
7 profile. The first is it a single source profile. If
8 it is a complete profile and if it's not single
9 source, then it's a mixture profile. Once I determine
10 that it's a mixture profile, then I determine the
11 minimum of people that have to be present in that
12 profile. In this particular case, it was determined
13 that at least three individuals contributed to this
14 DNA profile. I then have to determine are there any
15 locations where I'm confident that all information
16 from all contributors is present. In this particular
17 case, it was a low several sample, which means it was
18 down at the limits of detection of my instrument and
19 because of that, at all the locations, there were
20 indications that I could be missing information and
21 once that happens, it becomes impossible to
22 definitively say that yes someone did contribute to
23 the mixture or someone did not contribute to the
24 mixture. At that point, the profile was declared not
25 suitable for comparison because I would not be able to

1 make a determination one way or the other when I
2 compared it to a known standard.

3 Q Is that unusual for that to happen?

4 A No, that's actually very common with touch DNA
5 samples because they often have mixtures on them.
6 There is such a limited amount of DNA there that it's
7 limited for detection by our instrument.

8 Q Item 21.2, which is a swab, I believe, from the
9 front of a large metal spoon; is that correct?

10 A That's correct.

11 Q What was the result of DNA testing there?

12 A The DNA profile developed from Item 21.2 is a
13 mixture of at least three individuals. Kelly
14 Hunnewell, Lorenzo Young and Trenton Barnes cannot be
15 excluded as contributors to this mixture. The
16 probability of randomly selecting an unrelated
17 individual that could have contributed to this mixture
18 is approximately one in three. Edwin Schleuter,
19 Lauren Schleuter, Julian Lanier, Adam Siler and Troy
20 Stevenson are excluded as possible contributors to
21 this mixture, so as I said before once it's determined
22 that a mixture is present and that there's at least
23 three individuals present, I then have to determine
24 are there any locations that I can use to determine if
25 someone could have possibly contributed to this

1 mixture or if I can definitively exclude someone at
2 these locations. There were three locations that I
3 thought I had enough information to do this. What
4 that means is at those three locations, given the
5 evidence that I had, it appears that all information
6 from all three contributors or possibly four
7 contributors are present at those locations.

8 Because of that information, I can say for
9 instance at a location B-8, if the information that's
10 reported on that profile is a 10, 12, 13, and 14,
11 which profiles are recorded as a set of numbers, then
12 anybody that contributed to that profile, that mixture
13 profile, would have to have those numbers in their
14 profile to be a possible contributor. If they ever
15 other numbers in the profile at that location, they
16 would have to be excluded as a contributor, so I was
17 able to exclude a number of the contributors, but
18 there were three contributors that I was not able to
19 exclude.

20 Now, the stat says we have to give weight to
21 including someone or excluding someone. The
22 probability of randomly selecting an unrelated
23 individual that could have contributed to this mixture
24 is approximately one in three. That means if I were
25 to go out into the population and choose one

1 individual at random, the probability that that
2 individual would, just by chance, be included as a
3 possible contributor to that mixture is approximately
4 one in three.

5 Q And in addition to doing numbers of inclusion,
6 which is one in three, it's 33 percent chance --- did
7 you also run numbers as far as probability of
8 exclusion by certain databases?

9 A Yes, we don't typically put probability of
10 exclusion in our reports. We typically just to do the
11 probability of inclusion, but upon request I did
12 calculate it and I had reviewed it by another DNA
13 analyst, and the probability of exclusion is
14 calculated for four different groups: the Caucasian
15 population, the Black population, the Southwestern
16 Hispanic population and the Southeastern Hispanic
17 population are the names of the four groups that are
18 reported.

19 Q Slow down a minute?

20 A Okay.

21 Q Caucasian, Black, South --- what?

22 A Southwestern Hispanic.

23 Q And then Southeastern?

24 A Southeastern Hispanic, yes. So the --- their ---
25 the probabilities are calculated for four different

1 groups because the results can vary slightly. To be
2 conservative, we typically report the most
3 conservative statistic for that, although all four of
4 these statistics are always calculated.

5 Q What were the calculations in this as far as
6 excluding what percent of the population when you did
7 it by the different --- why is it in different
8 databases?

9 A Well, it's all one database, but it's separated
10 by groups. The database is maintained by the FBI and
11 in population genetics it's determined that you can
12 take a sampling of the population and test them and
13 from that you can estimate what is expected in the
14 population overall. So for these four groups, it's
15 been found that the different groups --- there's a
16 slightly different variation between the different
17 groups, so they tested a set of individuals from each
18 of those groups. The statistics are calculated for
19 each of those groups.

20 Q Starting with the Southeastern Hispanic, what
21 percentage of the population could be excluded as
22 possibly contributing to this?

23 A On the Southwestern --- Southeastern Hispanic
24 approximately 73 percent of the population would be
25 excluded as a possible contributor to this.

1 Q And the Southwestern Hispanic?

2 A Approximately 71 percent of the population.

3 Q Would be excluded?

4 A Correct.

5 Q And the Black?

6 A Approximately 87 percent of the population would
7 be excluded.

8 Q And Caucasian?

9 A Approximately 76 percent of the population would
10 be excluded.

11 Q And that was on Item 26.2, which is the silver
12 spoon?

13 A I believe it was SLED Item 21.2.

14 Q I keep calling it 26; I'm sorry.

15 21.3, which was the swab from the handle of the
16 spoon. What were the results of your testing?

17 A A partial DNA profile was developed from item
18 21.3. Edwin Schleuter, Lauren Schleuter, Julian
19 Lanier, Adam Siler, Lorenzo Young, Troy Stevenson and
20 Trenton Barnes are excluded as possible contributors
21 to this profile. No conclusive statement can be made
22 regarding the inclusion or exclusion of Kelly
23 Hunnewell as a possible contributor to this profile.
24 What that means, no conclusive statement, is that in
25 some profiles when there is a partial profile, there's

1 enough information to say this person is excluded, but
2 in some cases it's not enough information for them to
3 say they are excluded or they are not excluded, just
4 based on the limited amount of information. With this
5 particular profile, there was enough information to
6 exclude most of the individuals, but on Kelly
7 Hunnewell's profile because there are shared
8 similarities but there wasn't enough to say she was
9 definitively in there or she was definitively
10 excluded, no conclusive result was reported.

11 Q Okay. In each of these as we're going through
12 including and excluding people, you're also running
13 against the known standards from the Columbia Police
14 Department, as well?

15 A Correct.

16 Q If it would have been included, you would have
17 been --- it would have been on this chart?

18 A Correct.

19 Q Okay. So they are automatically excluded, as
20 well?

21 A Correct.

22 Q On each one of these.

23 Moving on to Item number 22, which was the swab
24 from the handle of the gray push cart, were you able
25 to do DNA testing on the that?

1 A Yes, I was.

2 Q And what was the result there?

3 A The DNA profile developed from 22 is a mixture of
4 at least three individuals and it is not suitable for
5 comparison.

6 Q And again, what does that mean?

7 A It just means that because of the amount of
8 information that was present, because it was down on
9 the limits of protection and I couldn't be confident
10 the information was present in all of the locations,
11 it was deemed not suitable for comparison.

12 Q Item number 23, swabs from the left side of the
13 gray push cart, again what if any testing did you do?

14 A I attempted to develop a DNA profile from that
15 item, but no DNA profile was involved.

16 Q Is that unusual?

17 A No, not with touch DNA.

18 Q Item number 24?

19 A Yes.

20 Q On the front site side of the gray push cart?

21 A A partial DNA profile was developed from Item 24.
22 Kelly Hunnewell, Edwin Schleuter, Lauren Schleuter,
23 Julian Lanier, Lorenzo Young, Troy Stevenson, and
24 Trenton Barnes are excluded as possible contributors
25 to this item. No conclusive statement can be made

1 regarding the inclusion or exclusion of Adam Siler as
2 a possible contributor to this profile.

3 Q And again for the same reasons that you said
4 earlier about Ms. Hunnewell, it's just not enough
5 information?

6 A It's just not enough information to state a
7 definitive result.

8 Q Again, in each of these you're also comparing it
9 to the Columbia Police Department people and
10 eliminating them, as well?

11 A Correct.

12 Q Item number 25, believe is the final swab from
13 the right side of the gray push cart.

14 A A partial DNA profile was developed from Item 25
15 is a possible mixture and is not suitable for
16 comparison.

17 So basically the information --- again it was a
18 very limited amount of information that was developed.
19 There were indications that there might be more than
20 one person present there. As a result, there was
21 obviously no way to determine that everyone was
22 present or all contributors were present at any one of
23 the locations, which made the profile not suitable for
24 comparison.

25 Q Again, there were also swabs from the scene from

1 a black leather chair and I believe also a strainer
2 pan?

3 A Item 26 and 27, yes. The partial DNA profile
4 from Item 26 is a possible mixture. That was the swab
5 from the backrest of the black leather chair. It's a
6 possible mixture and is not suitable for comparison.

7 Q And again, these --- when you're talking about a
8 partial DNA profile verses a full DNA profile, what's
9 the difference there?

10 A When we test, we don't test the entire strand of
11 DNA or all of the DNA. We test 15 locations plus
12 another one that determines sex. In order to be
13 referred to as a full profile, I have to have a
14 completely result at all of those locations. If I
15 don't have complete results at all of those locations,
16 it's considered to be a partial profile.

17 Q In fact, with this there was a number of partial
18 profiles. Is that unusual?

19 A No. It's very common to develop partial profiles
20 with touch DNA standards.

21 Q And also item number 28 again is this the result?

22 A 28 the partial DNA profile developed from Item is
23 not suitable for comparison.

24 Q Item 29, which were the swabs from a large silver
25 cooker?

1 A No DNA profile was developed from Item 29.

2 Q So there's no DNA at all that could be detected?

3 A It was not at a level of detection for our
4 instruments.

5 Q Sorry. Moving on to Item 30, which is a plastic
6 purple cap from the scene?

7 A Item 30.

8 Q Uh-huh. The partial DNA profile developed from
9 Item 30 is a mixture of at least two individuals,
10 Edwin Schleuter, Lauren Schleuter, Julian Lanier, and
11 Lorenzo Young are excluded as possible contributors to
12 this item. No conclusive statement can be made regard
13 ring the inclusion or exclusion of Kelly Hunnewell,
14 Adam Siler, Troy Stevenson and Trenton Barnes as
15 possible contributors to this mixture.

16 Q And again just because of the limited amount you
17 had?

18 A Right. There was very limited information
19 present and there just wasn't enough to make a
20 definitive determination as far as the DNA.

21 Q I want to move to Item 35.1, which is a swab, I
22 believe, of a 40 Smith and Wesson cartridge. It's
23 unfired?

24 A No DNA profile was developed from Item 35.1.

25 Q And Item 37.1?

1 A No DNA profile was developed from Item 37.1.

2 Q Moving on to Item 39.1, which was a swab from the
3 black fleece jacket?

4 A The DNA profile developed from item 39.1 is a
5 mixture of at least two individuals. The DNA profile
6 of the major contributor is attributable to Kelly
7 Hunnewell. The partial DNA profile of the minor
8 contributor is not suitable for comparison.

9 Q When you talk about major versus minor
10 contributor, what are you saying there?

11 A Sometimes in a mixture, one individual will
12 contribute more DNA than another individual in the
13 mixture. Based on the data we're able to determine
14 what numbers in that mixture profile belong to the
15 major contributor. That was the case in this mixture
16 profile and the major contributor was determined and
17 the DNA profile from that major contributor is
18 attributable to Kelly Hunnewell.

19 Q Moving on to the second swab from the back of the
20 fleece jacket, I believe? Item 39.2.

21 A The partial DNA profile developed from Item 39.2
22 is not suitable for comparison.

23 Q Items 40 through 44, I believe, were items that
24 the testing was done by Ms. Butler; is that correct?

25 A Right, that testing came from --- and Item 45, as

1 well, I believe. She did the testing but I did not
2 receive anything.

3 Q And 45, yes. And moving on to the final items
4 she tested, which is Item 46.1, 46.2, 46.3, 46.4 those
5 are swabs taken from a Nike shoe?

6 A That's correct.

7 Q Taking them in order, what were your conclusions
8 on those?

9 A The DNA profile developed from item 46.1 is a
10 mixture of at least three individuals, Kelly
11 Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian
12 Lanier, Adam Siler, Lorenzo Young, Troy Stevenson and
13 Trenton Barnes are excluded as possible contributors
14 to this item.

15 Q And you also excluded the police officers?

16 A Correct.

17 Q The next one?

18 A The DNA profile developed from Item 46.2 is a
19 mixture of at least two individuals. Trenton Barnes
20 cannot be excluded as a possible contributor to this
21 mixture. The probability of randomly selecting an
22 unrelated individual that could have contributed to
23 this mixture is approximately one in 12. Kelly
24 Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian
25 Lanier, Adam Siler, Lorenzo Young and Troy Stevenson

1 are excluded as possible contributors to this item.

2 Q Did you also do the calculations as to the
3 probability of exclusion on that?

4 A I did upon request, yes.

5 Q And what were those results?

6 A Item 46.2?

7 Q Yes.

8 A Approximately 91 percent of the population would
9 be excluded as a contributor to this item.

10 Q And there are other numbers, but that's the most
11 conservative?

12 A That's the most conservative.

13 Q 46.3 is also a swab from the Nike shoe?

14 A The DNA profile developed from Item 46.3 is a
15 mixture of at least three individuals. Lorenzo Young
16 cannot be excluded as a possible contributor. Trenton
17 Barnes cannot be excluded as a possible contributor to
18 this mixture. The probability of randomly selecting
19 an unrelated individual that could have contributed to
20 this mixture is approximately one in five. Kelly
21 Hunnewell, Edwin Schleuter, Lauren Schleuter, Julian
22 Lanier, Adam Siler, Troy Stevenson and Trenton Barnes
23 are excluded as contributors to this item.

24 Q So the one before this, Trenton Barnes was the
25 only one not excluded in this one, correct?

1 A Correct, I was not able to exclude Lorenzo Young
2 on this, just to make sure.

3 Q And then finally did you also, I believe, do the
4 documentation to the exclusionary on that one?

5 A Yes, the probability of randomly selecting ---
6 oh, the probability of exclusion?

7 Q Yes, ma'am.

8 A For Item 46.3, approximately 79 percent of the
9 population was excluded as contributors.

10 Q In different databases it would be higher.
11 That's the most conservative?

12 A That's the most conservative, yes.

13 Q Finally, 46.4, the swab?

14 A The DNA profile developed from Item 46.4 is a
15 mixture of at least two individuals. The DNA profile
16 developed from the major contributor is from an
17 unidentified individual. The partial DNA profile
18 developed from the minor contributor is not suitable
19 for comparison.

20 Q Again, the testing for blood had been done before
21 you got these items?

22 A That's correct.

23 Q The testing on these items, was it all done at
24 once or was it done over time?

25 A It was done over time.

1 Q As long as an item is collected and properly
2 submitted as stored, does that affect your ability to
3 test for DNA?

4 A Yes, as long as an item is stored in a cool dry
5 environment, protected from chemicals and ultraviolet
6 light, it should last almost indefinitely. However,
7 if it's exposed to moisture or ultraviolet light or
8 chemicals, that can damage the DNA.

9 A And if certain items are recovered but they have
10 been washed or something like that, is your ability to
11 get DNA hampered by that process?

12 A Certainly if someone washed an item, that would
13 inhibit the ability to develop a DNA profile.

14 Q Specifically clothing?

15 A Yes, it could, yes.

16 Q And touch DNA, while we're talking about it, how
17 does touch DNA --- does it come through the sweat or
18 how is it distributed typically?

19 A We slough off skin cells everyday throughout the
20 day. So touch DNA when you touch an item, you
21 typically leave behind some of those cells and they
22 contain --- different individuals leave behind
23 different amounts of DNA when they handle an item and
24 in fact, with testing, they found that the same
25 individual can leave different amounts of DNA behind

1 at different times of the day just depending if it's
2 hot and their hands are sweaty, if they have washed
3 their hands or whatever. There are various factors
4 that can affect it.

5 Q That's where I was going to go with this. It's
6 been found that some people don't even typically leave
7 touch DNA; is that correct?

8 A Some people leave very little, that's correct.

9 Q Just because I touch something, again, am I
10 necessarily going to leave anything that can be
11 recovered?

12 A No, it's very common for an individual to touch
13 an item and not leave enough DNA behind to develop a
14 profile. We have items that we know had to have been
15 handled by someone and yet no DNA profile is
16 developed.

17 MS. CAMPBELL: Thank you, ma'am. I don't have
18 anything further.

19 MS. PINNOCK: May it please the Court.

20 CROSS-EXAMINATION:

21 BY MS. PINNOCK:

22 Q How are you?

23 A I'm doing well. How are you going.

24 Q I'm doing all right. Do you have your report
25 with you?

1 A I do, yes.

2 Q The testing you did, that was the forensics
3 testing where you only test fifteen different
4 locations?

5 A Fifteen different locations, yes.

6 Q And then you test the one location for the sex of
7 the person?

8 A Correct.

9 Q And you were talking about it earlier --- forgive
10 me if you did mention this, but when you do your
11 testing, you are testing two different things, you
12 have the population genetics and the molecular
13 genetics; is that right?

14 A I'm not sure I understand the question. The
15 population genetics is what's used to determine a
16 statistic.

17 Q Right.

18 A Okay.

19 Q And the other test is called what?

20 A DNA. It's just called a polymerase chain
21 reaction, testing ---

22 Q PCR testing?

23 A Yes, even in population genetics it uses the
24 results from genetic testing to determine the
25 statistics.

1 Q Okay. And the PCR testing, that's really really
2 sensitive testing, right?

3 A It is very sensitive testing, correct.

4 Q That's why when you're testing it, you put gloves
5 on to make sure you don't contaminate anything?

6 A Correct.

7 Q You constantly sanitize and clean and make sure
8 your workstation is not dirty, so that you don't
9 accidentally contaminate anything?

10 A That's correct.

11 Q Right, because the slightest little touch can
12 affect your results?

13 A It can. It's possible, yes.

14 Q Now, you mentioned a mixed sample and a partial
15 profile. The mixed sample you said is a situation
16 where up multiple people showing up in a profile?

17 A Correct, a mixture sample can be complete or it
18 can be partial.

19 Q Okay. But the partial --- a complete sample
20 would be if you had a match of 15 out of 15 locations,
21 right?

22 A Right. That would mean that all of the
23 information was present at all 15 locations, correct.

24 Q So partial is anything less than 15. It could be
25 two out of the 15, two out of 15, five out of 15, ten

1 out of 15, just anything less than 15?

2 A Right, or results at all 15 locations would not
3 complete results at all 15 locations.

4 Q And your DNA testing, that doesn't indicate the
5 race of the donor?

6 A No, it does not.

7 Q It doesn't indicate the age of the donor?

8 A No, it does not.

9 Q You testified that it doesn't tell you when it
10 got there?

11 A No, it does not.

12 Q And it doesn't tell you how long it's been there?

13 A No, it does not.

14 Q So if something has been sitting in a building
15 for years and years and years and it goes undisturbed,
16 the DNA could sit there for that many years, correct?

17 A If it's good conditions. If it's a cool dry
18 environment, it could sit there for years and still
19 have a DNA profile, correct.

20 Q Now some of the things you tested, I know you
21 just went through them. I'm going to go through them
22 fairly quickly.

23 Q Okay. You said you tested several shell casings
24 and cartridges for DNA?

25 A That's correct.

1 Q And you weren't able to lift anything?

2 A A partial DNA profile ---

3 Q I'm sorry.

4 A --- was developed from one of the items.

5 Q You're right. I do apologize. That was an
6 unidentified male?

7 A That's correct.

8 Q You tested Items 18 and 19. That was, which
9 ones?

10 A Those were the swabs from the arm of Kelly
11 Hunnewell.

12 Q And the profile was that of Ms. Kelly Hunnewell?

13 A That's correct. It was attributable to Kelly
14 Hunnewell.

15 Q Now Item 21.1. That was the swab from the back
16 of a metal spoon?

17 A That's correct.

18 Q That profile was not suitable for comparison?

19 A Correct.

20 Q And 21.2, that was the front of the spoon,
21 correct?

22 A Correct.

23 Q On that one you said that Ms. Hunnewell,
24 Mr. Young and Mr. Barnes could not be excluded?

25 A That's correct.

1 Q Okay. And after developing those profiles, you
2 went and did the population genetics to get those
3 statistics?

4 A Yes, the population genetics was already done and
5 I utilized the results of the population genetics to
6 get the statistic.

7 Q Okay. And your results of that were you found
8 one in three people could also be included?

9 A If you chose an individual at random, there is a
10 one in three probability that that individual would
11 also be included as a possible contributor, correct.

12 Q So for example, if there's 3 million people
13 standing in a circle, 1 million of those people would
14 be included in that sample?

15 A Statistically that's a possibility, correct.

16 Q So if 12 people are sitting around a table, four
17 out of the 12 people could possibly contribute to that
18 sample?

19 A Statistically that's a possibility.

20 Q Item 21.3 is another swab from the metal spoon?

21 A That's correct.

22 Q And Lorenzo Young was excluded from that sample,
23 correct?

24 A That's correct.

25 Q Item 22 and 25 you had different swabs from the

1 push cart?

2 A That's correct.

3 Q No profiles were listed?

4 A That's correct. I was unable to develop a
5 profile.

6 Q Item 24 is another swab?

7 A Oh no, I'm sorry. Correction. Item 22 was a
8 mixture, but it was not suitable for comparison.

9 Q Okay.

10 A And number 25 was also a mixture and is not
11 suitable for comparison.

12 Q Okay. Item 24 Lorenzo Young is excluded?

13 A That's correct.

14 Q Item 30, the purple cap?

15 A Lorenzo Young is excluded as a possible
16 contributor to that item.

17 Q Okay. Item 46, you did a number of swabs off of
18 46, correct?

19 A Yes, I tested four different sets of swabs.

20 Q Okay. And 46.1 Lorenzo Young is excluded?

21 A That's correct.

22 Q And that was from the right Nike shoe?

23 A That's correct.

24 Q Do you recall --- did you have any idea where
25 this shoe came from when it came to you for testing?

1 A I don't believe so. I think something told me
2 later that it was collected from a closet or
3 something, but I don't know.

4 Q So the investigators never told you before you
5 did the testing where that item came from?

6 A No.

7 Q But on the swab 46.1 on the right shoe, Lorenzo
8 is excluded?

9 A That's correct.

10 Q 46.2 that's a swab from the right Nike shoe?

11 A That's correct.

12 Q Lorenzo Young is also excluded from that one?

13 A That's correct.

14 Q 46.3 a third swab from the right shoe?

15 A Correct.

16 Q You said that your results say that Lorenzo Young
17 could not be excluded from that sample?

18 A That's correct.

19 Q But the probability of it being anybody else is
20 one in five?

21 A Well, the probability of selecting an individual
22 at random that would be included as a possible
23 contributor is approximately one in five.

24 Q So for example if there are 3 million people in a
25 room, approximately 600,000 people could have been

1 contributed to that sample?

2 A Statistically speaking that's possible.

3 Q Item 46.4 is a swab from the left Nike shoe?

4 A That's correct.

5 Q And your reports say there is a mixture from an
6 unidentified individual not eligible for comparison.

7 A Well, the DNA profile was a mixture. The DNA
8 profile from the major contributor is an unidentified
9 individual and the DNA profile from the minor
10 contributor is not suitable for comparison.

11 Q Okay.

12 MS. PINNOCK: Beg the Court's indulgence.

13 (Pause.)

14 MS. PINNOCK: Thank you. I have nothing further.

15 MR. SCHNEE: May it please the Court.

16 CROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q Good afternoon.

19 A Good afternoon.

20 Q Do you have enough water or do you need some
21 more?

22 A I think I'm good for the moment. Thank you.

23 Q I want to talk to you a little bit first about
24 DNA in general and your job testing it. Now, when
25 you're doing these, what's call a PCR test, you're

1 essentially taking cells, blood, whatever mixture of
2 fluid it is and at that point you're breaking that all
3 down into group sections of DNA; is that correct,
4 before you ultimately get your conclusions, that is
5 essentially what happens chemically. You're looking
6 at certain sections of DNA?

7 A Well, we aren't looking at certain sections. We
8 don't break the DNA down into those fragments. What
9 we do is make copies of particular sections of the
10 DNA.

11 Q Okay. And these are --- out of entire DNA strand
12 you're looking at 15 different sections?

13 A That's correct.

14 Q And your chemicals are predetermined to copy just
15 those sections?

16 A That's correct.

17 Q And after you take those sections, all of them
18 are analyzed and that's how you get those numbers
19 which are called alleles.

20 A Correct. We have kits that we use from a
21 distributor that tests 15 locations and those results
22 are analyzed and used to report our results.

23 Q Okay. And these locations are specifically
24 chosen because they only apply to humans, right?

25 A Right. They are human specific.

1 Q And they are also specific that different people
2 have different profiles there?

3 A Correct.

4 Q So for example, as maybe you're aware, maybe you
5 are not, a lot of these things come from a kitchen so
6 if a person was say cutting into beef of any kind,
7 blood from that if it got on an item, you would not be
8 finding any DNA on that?

9 A Correct because the kit that we use would not
10 develop a DNA profile from animal blood such as a cow
11 or a chicken.

12 Q So the odds of any items within a kitchen cross
13 contaminating absent something like bleach or a
14 cleaner destroying evidence, you would expect any DNA
15 left somewhere to actually be there and be intact,
16 right?

17 A If it's left in a cool dry environment, then it
18 could last indefinitely.

19 Q But you wouldn't expect ordinary food items being
20 in the vicinity to cause any problems for your
21 testing?

22 A Not necessarily. Obviously if it's causing mold
23 growth or something on the item, then that could
24 affect the results, but if the item is in one
25 location, the meat is in another, then no, that would

1 not affect my results.

2 Q Now you were provided a lot of these things, I
3 have to ask you, did you do any of these swabs
4 yourself?

5 A I did swab the plastic cap, the purple plastic
6 cap.

7 Q Okay.

8 A Which would be SLED Item 30, but the other items
9 were already processed when I will received the swabs.

10 Q Okay. Now, the gloves that you tested, Items 40
11 through 44?

12 A I did not test Items 40 through 44.

13 Q Okay. The items that were submitted in general
14 for testing?

15 A Oh, they were submitted, that's correct, but I
16 did not receive them.

17 Q You never actually touched them?

18 A No, I did not.

19 Q Okay.

20 Q Did anyone ever ask you to test the inside of the
21 gloves for DNA?

22 A No, they did not.

23 Q Who tells you what to test on a particular item?

24 A Typically that request is made by the submitting
25 agency. Sometimes the solicitor's office can make a

1 request. I'm not sure who filled out the request for
2 the gloves.

3 Q Okay. So as a normal part of your job, you
4 either get, as in this case it would be the Columbia
5 Police Department, their major crimes investigators or
6 the solicitors sitting over there would have made
7 request of what to test?

8 A That would typically be the way that happen.

9 Q Do you ever decide to test things on your own?

10 A There are very rare occasions where I find
11 something that I think might be relevant and I'll call
12 and ask, but typically I don't just decide to test
13 things on my own.

14 Q In this case you didn't test anything on your
15 own?

16 A No, I did not.

17 Q Okay. Now, a lot of talk has been had about some
18 of these probabilities of inclusion or exclusion. If
19 you were to have a DNA swab from my mouth, a buccal
20 swab, and you did your serology testing and you're
21 your processing and you said it belongs to me, if you
22 did your normal probability statistics, what is a
23 typical number that you would expect to say this
24 percent is excluded or you know, one in three, one in
25 --- what's the number?

1 A Typically, as I said before, we typically report
2 probabilities of randomly selecting an individual that
3 could have contributed to that profile. If a DNA
4 profile, a single source DNA profile is developed from
5 an item, the results that we get statistically on a
6 full match to an individual is typically somewhere in
7 the one in maybe 100 billion up to as much as one in
8 the quintillion.

9 Q Okay. How many zeros are in a quintillion?

10 A It would be one with 18 zeros behind it.

11 Q Okay. That number?

12 A That's correct.

13 Q So a full normal DNA profile is a one followed by
14 18 zeros?

15 A In that range or one in six hundred billion,
16 somewhere in that range.

17 Q Okay.

18 A If it's complete profile.

19 Q Okay. The population of the United States is
20 approximately 300 something million?

21 A Correct.

22 Q So if you're saying the standard that you would
23 expect for a full profile is one in 600 billion, that
24 would be 200,000 times --- I'm sorry, 2,000 times
25 larger than the American population?

1 A No.

2 Q 300 million ---

3 A There's 300 million ---

4 Q To 600 billion.

5 A Times two, I think it would be 2,000. I think it
6 would be 2,000.

7 Q Okay. So 2,000 times the population of the
8 United States is what you would expect to randomly
9 select to have another person with that profile?

10 A The statistic would typically be in that range
11 for a single source complete profile.

12 Q Were you ever given or asked to test a sample for
13 an individual called Donald Moore?

14 A No, I was not.

15 Q Were you ever asked to test a sample for someone
16 called Marcus Johnson?

17 A No, I was not.

18 Q Were you ever given a sample to test for someone
19 called Azo?

20 A Azo, no, I was not.

21 Q Okay. I want to talk about just a couple of
22 these items.

23 Now, when you're doing your analysis or at any
24 point, do you know where any of these items actually
25 come from?

1 A Sometimes I do, sometimes I don't.

2 Q Okay.

3 A It depends on the item and, you know, sometimes
4 the description tells you where they're from.

5 Sometimes they will submit an incident report and it
6 will mention where it's collected from and sometimes I
7 don't know where they were collected from.

8 Q In this case, do you know where any of them came
9 from?

10 A Some of them are collected from a bakery.

11 Q Okay. But you're not sure which ones, or do you
12 have all that?

13 A I don't know. I believe --- the only ones I know
14 for certain are from the bakery is from the kitchen
15 items like the strainer, the fan, the silver cooker,
16 the push cart. I believe the purple cap was from the
17 bakery, and --- I'm not sure, I believe the shell
18 casings were from the bakery, but I'm not positive.

19 Q Okay. The item that you said 12.1, that is a
20 shell casing?

21 A That's correct.

22 Q Okay. You said it is --- the profile developed
23 it as an unidentified man?

24 A That's correct.

25 Q Okay. You also said it's not suitable for

1 entering into CODIS?

2 A That's correct.

3 Q Is it a partial profile or a full profile?

4 A It's a partial profile.

5 Q And you stated that Trenton Barnes is excluded
6 from that?

7 A That's correct.

8 Q Along with pretty much everyone else you tested
9 for?

10 A That's correct.

11 Q And there's no minor contributor on that?

12 A No, that was a single source profile.

13 Q You have no DNA from any of the other shell
14 casings?

15 A That's correct. I have no DNA profile was
16 developed. Some of them DNA was detected on the
17 items, but it was below the detection limits of our
18 instrument.

19 Q At that point you stopped the testing?

20 A That's the last step, to develop the DNA profile
21 and once no DNA profile is developed, there is no
22 further testing to do.

23 Q On the spoon, 21.2, you said that Kelly
24 Hunnewell, Lorenzo Young and Trenton Barnes cannot be
25 excluded?

1 A That's correct.

2 Q Because it's a --- is it a full profile or a
3 partial profile?

4 A It's actually both a mixture and there are
5 indications it's a partial profile. Again, it was low
6 level sample. It's at the limits of the instrument's
7 detection. At most of the locations there were
8 indications that there was information missing from
9 the from the profile so only three locations could
10 definitively be used to exclude people.

11 Q Is that why your statistic of randomly selecting
12 an individual is so low?

13 A That's correct.

14 Q Right. Now you're not in anyway saying that
15 Trenton Barnes contributed DNA to that, are you?

16 A What that means is, when --- I want to make sure
17 is, when profiles are developed from individuals and
18 then, based solely on the genetics or the DNA profile
19 is developed, I make a determination based on their
20 profile. Could their profile have been a contributor
21 to this mixture. It's not saying that they
22 definitively are because it is a mixture --- you can't
23 definitively say these three individuals made up a
24 mixture, you can just say this person could have
25 possibly contributed to the mixture or this person did

1 not contribute to the mixture.

2 Q Okay. Now, because there is Kelly Hunnewell and
3 Trenton Barnes and Lorenzo Young, the three of them,
4 obviously this isn't involving the Z Y chromosome or
5 gender?

6 A No, that didn't take in the X Y chromosome.

7 Q So you can't determine if the mixture is two
8 males, one female or one male and one female of
9 anything like that? You do probability exclusion
10 based on gender?

11 A I did not do it based on gender, no.

12 Q So if I were to just go around the room and
13 randomly select a third person out of say, one, two,
14 three, Ms. Campbell if you tested her, there is a,
15 according to you, out of those three one of them is
16 just as likely to contribute that DNA, statically, as
17 Trenton Barnes?

18 A Based solely on the statistics that's a
19 possibility, yes.

20 Q Do you have anything that your specific science
21 does that would say statistics, you should just should
22 throw them out, ignore them, clearly Ms. Campbell
23 can't be the contributor and Trenton Barnes has to be?

24 A Based solely on the genetics and the DNA testing,
25 I would not be able to include or exclude Luck

1 Campbell without testing her.

2 MR. SCHNEE: Okay. That's all I have.

3 MS. CAMPBELL: Just a few questions to follow up.
4 I'll be brief.

5 REDIRECT EXAMINATION:

6 BY MS. CAMPBELL:

7 Q Touch DNA we talked about. I keep using my hand,
8 but can touch DNA --- it doesn't have to be just my
9 hand that touches something, but can it come from any
10 part of your body or skin cells from anywhere?

11 A Correct, it can. It's basically any low level
12 amount of DNA so it could come from any part of your
13 skin that came in contact. In fact, if someone is
14 talking and they release a little bit of spittle and
15 it lands and you swab it, without knowing it's saliva
16 or that there meet be saliva present, it would be
17 tested as touch DNA.

18 Q And Item 21.2, the results. It's a partial
19 profile, but there were results at multiple locations
20 but there were only complete results at three
21 locations, right?

22 A That's correct.

23 Q And when you say you excluded everyone else, all
24 the known samples you had, basically that still left
25 you Kelly Hunnewell, Lorenzo Young and Trenton Barnes.

1 A Of the people that I tested, that's correct.

2 Q And in this case no projectiles were submitted to
3 you. Why do you not usually test projectiles as far
4 as for DNA?

5 A Why do I not typically test it? In most cases I
6 wouldn't expect to get a DNA result from it unless it
7 had, you know, passed through an individual.

8 Q Okay. And he asked you about these numbers with
9 single source numbers. With mixtures however, your
10 information is different, is it not?

11 A That's correct. The statistic for a mixture will
12 never be as high as the statistic for a single source
13 profile.

14 Q And he also asked you about items that were from
15 the bakery itself, and this was a bakery, not a meat
16 cutting plant; is that correct, as far as you know?

17 A This was a bakery, correct.

18 Q Was the spoon found at the bakery?

19 A To the best of my knowledge, yes.

20 Q Just to be clear, on Item 26.2 on the spoon ---

21 A 21.2?

22 Q 21.2. I don't know what's --- I'm sorry. At
23 21.2 the information you were able to rely on at those
24 three locations, the DNA profile would match Kelly
25 Hunnewell at those three locations?

1 A You can't determine a match at a mixture.

2 Q Okay.

3 A You could only determine could have contributed
4 or could not have contributed or not.

5 Q The information there could have been contributed
6 by Kelly Hunnewell.

7 A Kelly Hunnewell could have contributed to that
8 mixture.

9 Q And in examining that information it could have
10 also been contributed by Lorenzo Young?

11 A Lorenzo Young could have also contributed to the
12 mixture, correct.

13 Q And then finally Trenton Barnes?

14 A Trenton Barnes could have also contributed to
15 that mixture; that is correct.

16 Q You also mentioned that high heat and dampness or
17 wetness may determine how long DNA may stay on an
18 item?

19 A That's correct.

20 Q Stirring a pot with a spoon, with steam, could
21 that affect old DNA from being there?

22 A It could, certainly when you expose something to
23 a hot liquid it could cause the DNA to be rinsed off
24 of the item and if the heat is high enough, it can
25 damage the DNA.

1 MS. CAMPBELL: Thank you, ma'am. I don't have
2 anything further.

3 MS. PINNOCK: Very briefly, Judge.

4 RECROSS-EXAMINATION:

5 BY MS. PINNOCK:

6 Q You just --- Ms. Campbell just asked you again
7 about the points on item 21.2 that were similar.
8 That's the spoon that had the mixture of at least
9 three people?

10 A Correct.

11 Q You said that you couldn't make any determination
12 because not all the information was there, but three
13 points were very similar or were similar enough for
14 you to say that Ms. Hunnewell, Lorenzo and Mr. Barnes
15 were all included --- could not be excluded from that,
16 right?

17 A I'm not sure I understand the question. As we
18 said earlier --- as I said earlier, we test 15
19 locations and of those 15 locations three of those
20 locations I determined that all of the information
21 from all contributors was present, so if an individual
22 take for instance on item 21.2 D-8, the results are a
23 10, 12, 13 and a 14, so anybody whose profile contains
24 those numbers at D-8, would be included as a possible
25 contributor at that location, so for instance anybody

1 who has a 10-13 or a 10-14 in their DNA profile would
2 be included as a possible contributor at that
3 location. However, if they were for instance a 10-17,
4 they would be excluded as a contributor because their
5 17 is not present in that mixture. So I did that
6 comparison at those three locations that I determined
7 everyone was present in the mixture and based on that,
8 I was not able to exclude those three individuals,
9 Kelly Hunnewell, Lorenzo Young and Trenton Barnes as
10 possible contributors to the mixture.

11 Q Okay. That answered my question.

12 A Okay.

13 Q And those results are only based on the samples
14 that you were provided with to test, right?

15 A I ---

16 Q All the swabs that you were given, all the items
17 collected, those are the only items. You did not step
18 out and start doing your own analysis?

19 A Correct, I did not do collect additional samples
20 for comparison.

21 Q And you said the D-8. That's one of the sections
22 that you tested that all three of those individuals
23 had --- were present at that section?

24 A They were included as possible contributors.

25 Q Isn't it true that 99 --- pretty much 99 percent

1 of human DNA is identical, right?

2 A Correct.

3 Q So it's a very --- even the one percent that's
4 different per person still includes millions of DNA of
5 --- items, you know, you're the expert. In that
6 1 percent when you test it, there's still a lot of DNA
7 strands in that very tiny percentage, that one
8 percent?

9 A Yes, there's still a lot of variation and that's
10 why we're able to develop a DNA profile and do
11 comparisons because there is variation. When I say D-
12 8, that's basically just a location on the DNA. You
13 can kind of think of it like an address where your
14 house can be found. D-8 is kind of where this piece
15 of DNA that we tested can be found. There are
16 variations in that. That's why we are able to develop
17 unique DNA profiles. When we test an individual at
18 that location, one individual may be a 1012 at that
19 location. Another individual may be a 1014 at that
20 location. There is a limit to the variations, though.

21 For instance, it may not be possible to be a
22 1027. That may just be a variation that's not found
23 in the population.

24 Q But multiple people can have say a 1013?

25 A Correct.

1 Q And multiple ---

2 A And based on one location, multiple people can
3 and likely do have a 1013 in their DNA profile at D-8.

4 Q And multiple people can have the 1213?

5 A That's correct.

6 Q And we're talking millions of people?

7 A I would have to do the statistics on that. I
8 don't know what the calculation is, but that would
9 probably be a good guess.

10 Q So again with item 26.2, is that what we're
11 talking about, 26.1?

12 THE COURT: 21.2.

13 BY MS. PINNOCK:

14 Q Thank you. 21.2, 3 million people standing in a
15 circle. One in three chance that somebody else
16 contributed to that, so 1 million people statically
17 that could have contributed to that sample?

18 A Statistically, based solely on the DNA results,
19 that's correct.

20 MS. PINNOCK: Thank you.

21 MR. SCHNEE: May it please the Court.

22 RE CROSS-EXAMINATION:

23 BY MR. SCHNEE:

24 Q We're going to quit talking soon.

25 A Okay.

1 Q Very very briefly. You said Kelly Hunnewell
2 cannot be excluded as a contributor?

3 A That's correct.

4 Q Okay. But scientifically you can't say she is
5 absolutely included as a contributor?

6 A That's correct.

7 Q You can't say that Trenton Barnes is definitely
8 included as a contributor either?

9 A No. There are possible contributors, but I
10 cannot say definitively that this mixture is made up
11 of Kelly Hunnewell, Lorenzo Young, and Trenton Barnes.

12 Q Okay. And scientifically, you as an expert can't
13 say that any of them actually contributed DNA to that
14 spoon, correct?

15 A I can't definitively say that they contributed
16 DNA. I can say that they are included as possible
17 contributors, but I can't definitively say that are
18 contributors.

19 MR. SCHNEE: Okay. Thank you.

20 THE COURT: All right. Have a good day, ma'am.
21 Thank you.

22 (WHEREUPON, a bench conference was held in the
23 presence, but not within the hearing of the
24 jury.)

25 THE COURT: All right. Thank you very much. All

1 right. Ladies and gentlemen, we're going to go ahead
2 and stop for the week. You all have been here every
3 day, but one for multiple hours and long hours, so
4 we're going to start at --- we may could get the next
5 witness in, but I don't want to push it, especially
6 since everybody has been doing such a good job of
7 paying attention, staying with us.

8 Let's see. We made it up to 29. We got through
9 about --- I don't know. I can't --- my mind can't
10 even figure it out right now, but we've done a lot of
11 work today. I'm going to go ahead and let you go home
12 for the weekend. Now, do not discuss the case with
13 anybody in any way, shape, or form. Keep an open mind
14 about the case. Even though you've heard 29
15 witnesses, you still have not heard all the witnesses.
16 The lawyers haven't had an opportunity to give their
17 closing arguments and I haven't told you what the law
18 is as it applies to this case. So in no way shape or
19 form should you have made any type of decision in your
20 mind. You're supposed to consider yourself like an
21 open book ready to receive any information that is
22 presented next week if any at all.

23 Now, I have previously instructed you in great
24 detail that you must decide this case solely on the
25 evidence that is presented in this courtroom. Because

1 we're about to the take a break for the weekend, I'm
2 now reminding you of this warning. I want you to once
3 again fully commit to each other, to the parties and
4 to the court that you're not going to use any kind of
5 cell phone, smart phone, Blackberry, tablet, Facebook,
6 text message, Twitter, Google or anything else, radio,
7 television, print newspaper or anything like that to
8 get or receive any information about the case, to get
9 or to send or post any information about the case or
10 any type of messages to friends, family members,
11 coworkers, anybody. It doesn't matter. It's
12 completely off limits. If people ask, you can tell
13 them you're on a jury and I can't talk about the case
14 and judge told me that I wasn't allowed to do that.
15 You're allowed to enjoy your weekend and to enjoy your
16 time. It's going to be rather chilly this weekend I
17 think. At least it is tonight and tomorrow night, but
18 I want you to enjoy your weekend, come back Monday
19 morning refreshed and ready to go. We have will start
20 with the jury at 9:15 on Monday morning.

21 I got a question from you, I don't know when,
22 about timing, okay. Now, and I told you this before
23 and I mean this. I don't hold these lawyers to
24 things, okay because you never know what's going to
25 develop in a case and you never now how things are

1 going to proceed, but my best guess right now and
2 don't say the judge told me this was definitely going
3 to happen, okay. My best guess, and this is a guess,
4 okay, is we're looking at Tuesday of being done so
5 kind of for your planning for the week of the week, I
6 think Tuesday is probably best case scenario and
7 probably Wednesday is worst case scenario. Now, I
8 don't know that. That's not definitive. I don't have
9 a map. Nobody has timed anything out because things
10 change and things come up and strategies change and
11 everything else, so all that is perfectly normal.

12 I won't look at the lawyers and say you will be
13 done by this time, because I want everybody regardless
14 of what side they are on to have their full ability to
15 present their case and to present whatever, if
16 anything, that they want to in this matter.

17 So, of course, neither defendant has to put on
18 any evidence, doesn't have to present anything.
19 Doesn't have to say anything. Doesn't have to call
20 any witnesses because the burden of proof is on the
21 State, but I don't want anybody to be hampered in
22 feeling like I'm giving them some kind of time
23 constraint.

24 Saying that, I want you to have a good weekend, I
25 want you to enjoy your weekend. Come back Monday

1 morning refreshed and ready to go. We'll see you at
2 9:15 Monday morning. Do not discuss the case and keep
3 an open mind. Thank you. Everyone remain seated
4 while the jury is dismissed.

5 (WHEREUPON, the jury left the courtroom at 4:19
6 P.M.)

7 THE COURT: Okay. Anything from the State before
8 we break for the weekend?

9 MS. GARFIELD: No, sir.

10 THE COURT: Anything?

11 MR. KRZYSTON: Judge, we would just renew
12 objection to motions.

13 THE COURT: Okay.

14 MR. SCHNEE: Nothing from Mr. Barnes, Your Honor.

15 THE COURT: Okay. Are there any other major
16 issues that we all know we need to deal with outside
17 the presence --- I'm not talking about stuff that
18 comes up during the --- any other extended period of
19 time that you think we could handle something outside
20 the presence of the jury?

21 MS. SIMPSON: Your Honor, the only thing that's
22 still really outstanding would be the clips from the
23 video ---

24 THE COURT: Right.

25 MS. SIMPSON: --- that we intend to show and

1 Investigator VanHouten should go up on Monday, as well
2 as the witnesses who would be testifying with respect
3 to the firearms and identifying them in the video as
4 well.

5 THE COURT: And you're talking about those videos
6 that I viewed the other morning?

7 MS. SIMPSON: Correct, Your Honor.

8 THE COURT: Okay.

9 MR. KRZYSTON: Judge, I don't know what the State
10 intends to introduce through Mr. VanHouten, but there
11 are potentially some relatively major issues and
12 arguments to be stated succinctly, but it does involve
13 a potential vast amount of evidence.

14 THE COURT: Say that again.

15 MR. KRZYSTON: Depending on what they plan to
16 introduce from the phone dumps through Investigator
17 VanHouten, we do have some arguments that involve a
18 large amount of stuff, but could be stated succinctly.

19 THE COURT: Okay.

20 MS. SIMPSON: I think we essentially told the
21 defense at the very beginning what we intended to
22 introduce through Investigator VanHouten. The photos
23 you have ruled on with the red hoodie. We still have
24 the still shots from the videos that need to be ruled
25 on and the video clips with the audio portions about

1 firearms, and the search history specifically up to
2 the day of Mr. Young's --- everyone's arrest on
3 July 5th. That would be the extent of what we would
4 be offering.

5 THE COURT: Okay.

6 MR. KRZYSTON: Judge, I'm not sure that --- some
7 of that can be dealt with --- well, obviously it all
8 has to be dealt with out of the presence of the jury,
9 but some of that I think I'm going to need to object
10 to in the course of trial.

11 THE COURT: I'm not preventing you from doing
12 that. I'm just talking about the major legal stuff
13 that ---

14 MR. KRZYSTON: I think I can get the bulk of my
15 argument ---

16 THE COURT: I'm sorry.

17 MR. KRZYSTON: I think I can get bulk of my
18 argument out pretrial, but there will be some issues
19 upon his testimony.

20 THE COURT: Okay.

21 MR. SCHNEE: Judge, just along that same vein,
22 the one thing that we have never been --- that I never
23 received from the State, they say that either their
24 investigators or someone has watched these videos and
25 they are identifying either people by faces or voices.

1 I have absolutely no idea who they're claiming are on
2 any of these videos. I'd certainly ask that get
3 turned over before Monday.

4 MS. SIMPSON: Your Honor, we have turned over ---
5 I'm not sure what you're referencing, but all the
6 information with respect to Investigator VanHouten as
7 well as Suzann Cromer has been turned over and there
8 is no enhancement or changes as to the video or things
9 of that nature.

10 THE COURT: What he is saying is, who are you
11 attempting to identify on the videos.

12 MR. SCHNEE: Yeah, the actual people on the
13 videos.

14 THE COURT: Go ahead.

15 MS. SIMPSON: That Mr. Young would be identified
16 specifically by Investigator Eunice as well as
17 Investigator McCoy.

18 MR. SCHNEE: Is anyone else being identified,
19 because there are multiple other people and voices
20 that are clearly not Lorenzo Young's on those
21 recordings?

22 MS. SIMPSON: Well, we initially anticipated Troy
23 Stevenson had information so at this point, we don't
24 know. At this point, I'm going to say no.

25 THE COURT: Do you plan on saying that anybody on

1 those videos is Mr. Barnes?

2 MS. SIMPSON: Not at this moment.

3 THE COURT: Okay.

4 MR. SCHNEE: That's at least useful information.
5 The only other issue coming up is dealing with Carlos
6 Smith.

7 THE COURT: Is that one of the informants that
8 you just got the information on?

9 MR. SCHNEE: Yes, sir. That's exactly right.

10 THE COURT: About the jail and you wanted to be
11 able to look at the jail and see who was where when?

12 MR. SCHNEE: Right. I got that in terms of how
13 to deal with that in front of the jury, but we can
14 deal with that on Monday.

15 THE COURT: Okay.

16 MR. KRZYSTON: And actually, Judge, that just
17 piqued my mind. With respect to, I believe
18 Investigator Eunice is one of the individuals who you
19 told us would identify Mr. Young?

20 MS. SIMPSON: Correct.

21 MR. KRZYSTON: We would have an issue with
22 Investigator Eunice and his testimony. I believe we
23 are going to have to ask Your Honor for some type of
24 limiting instruction with regard to --- not to the
25 jury but specifically with regard to Investigator

1 Eunice and that he is specifically a gang
2 investigator.

3 THE COURT: Well, that ---

4 MR. KRZYSTON: The basis and all that.

5 THE COURT: We can deal with all of that.

6 MR. KRZYSTON: Certainly.

7 THE COURT: I mean just like major stuff without
8 having to sit there and read two hours worth of cases.

9 MR. KRZYSTON: I promise not to do that.

10 THE COURT: Okay. Anything else?

11 MS. SIMPSON: Nothing from the State.

12 THE COURT: Do I have the still shots or have I
13 seen the still shots besides the red hoodie ones?

14 MS. SIMPSON: You have them on a disc; we're
15 still working on enhancing those provided at the
16 beginning. I can always get another one. Those have
17 been provided to the defense, as well.

18 THE COURT: Yeah, yeah, I've seen that. That's
19 the one that's got like all the pictures in a row on
20 it.

21 MS. SIMPSON: Yes.

22 THE COURT: Okay.

23 MS. SIMPSON: The number of them.

24 THE COURT: And are you all attempting to
25 introduce all of those?

1 MS. SIMPSON: No, Your Honor.

2 THE COURT: Somebody just ---

3 MS. SIMPSON: Narrow them down.

4 THE COURT: Write down the ones you want me to
5 look at and tell them.

6 MS. SIMPSON: Yes.

7 THE COURT: The defense counsel. I'm sorry.

8 All right. So we had another note from a juror,
9 are we allowed to travel outside the State. I
10 responded yes. We'll mark that as a Court's Exhibit
11 and anything else?

12 MR. SCHNEE: No, Your Honor.

13 MR. KRZYSTON: Nothing, Your Honor.

14 MS. SIMPSON: No, Your Honor.

15 THE COURT: All right. 9:00 A.M. Monday.

16 MR. KRZYSTON: Thank you, Judge.

17 THE COURT: Thank you for your hard work this
18 week.

19 (WHEREUPON, Court's Exhibit Number 14 was marked
20 for identification only.

21 (WHEREUPON, Court was adjourned for the weekend.)

22 NOVEMBER 17, 2014

23 (WHEREUPON, State's Exhibit Numbers 262, 263,
24 266, 282, 223 through 260 were withdrawn.

25 THE COURT: Okay. We're back on the record. Is

1 there anything we need take up before we bring in the
2 jury? Ms. Garfield?

3 MS. GARFIELD: The only thing I can think of,
4 Judge, is we'll need ruling from you as far as the
5 videos are concerned at some point this morning.

6 THE COURT: Did you get the still photos?
7 (WHEREUPON, State's Exhibit Numbers 425 through
8 434 were marked for identification only.)

9 MS. SIMPSON: I did, Your Honor, I've just marked
10 them 425 through 434

11 MS. BAMBACH: Your Honor, we're going to have
12 several objections regarding the ID and the videos and
13 stills so I know it's going to be kind of a ---

14 THE COURT: Well, go ahead and start.

15 MS. BAMBACH: First, I would start with the
16 pictures in the red hooded sweatshirt.

17 THE COURT: The one that I have already ruled on?

18 MS. BAMBACH: Oh. That's been already ruled on?

19 THE COURT: Yes.

20 MS. BAMBACH: So there's no --- I ordered the
21 hand sign be cut out because otherwise --- as long as
22 somebody can identify him.

23 MS. SIMPSON: And Your Honor, we actually had one
24 additional where there are no hand signs, but I
25 believe it shows the cap better.

1 MS. BAMBACH: I would argue cumulative on those.
2 It's pictures with a red hooded sweatshirt on.

3 Also, along with that, I would just again argue
4 the relevance of the photograph taken three days
5 before. Second, it's extremely prejudicial. You can
6 only see the top part of his sweatshirt. You don't
7 know if there's a logo or different color, anything on
8 the bottom part. I think the prejudice outweighs the
9 probative value of that photograph. I also don't know
10 how to --- how they're going to ID this.

11 THE COURT: Well, they'll have to have the
12 witness do it.

13 MS. BAMBACH: If that's going to be Investigator
14 Eunice, that's whole different argument.

15 THE COURT: I don't know who it is.

16 MS. SIMPSON: We have two primarily for the
17 photos and McCoy, as well.

18 MS. BAMBACH: Investigator Eunice is on the gang
19 task force. Obviously that wouldn't have to be
20 mentioned, but first of all Rule 602 states that a
21 witness must have personal knowledge of the matter. I
22 don't believe Investigator Eunice would have any
23 personal knowledge of any of these acts that would be
24 on the videos or on the photos. Also, that would ---
25 having an investigator up there saying I know this to

1 be Lorenzo Young obviously infers that Lorenzo Young
2 has had prior dealings with investigators and law
3 enforcement, I think that would go with 404(b) and
4 beyond that I don't believe that it's relevant, and I
5 do believe that it's highly prejudicial to have a law
6 enforcement officer point out a picture of Mr. Young
7 saying that's Lorenzo Young.

8 And again, he doesn't have personal knowledge of
9 anything that's going on in all these videos.

10 THE COURT: All right. Where are the still
11 shots?

12 MS. SIMPSON: I know there were numerous ones.
13 When I spoke with Ms. Cromer, which I indicated, I
14 believe during the prior hearing, these were the best
15 we could do with regard to the still shots but the
16 videos are much clearer for the purposes of
17 identifying the firearm. Specifically the video in
18 its entirety, which she did review, essentially with
19 respect to getting a still shot, that proved to be
20 difficult. I know Joe West from SLED made attempts,
21 as well as our office, to gain better clearer
22 pictures. However, due to the speed on the videos, in
23 which they're moving the guns and the firearms, these
24 photographs were the best that we could pull, the only
25 ones which Ms. Cromer can actually testify to where it

1 was clear regarding the nature of what the weapon is.

2 MS. BAMBACH: And I haven't seen the stills, but
3 regarding the video, the one video in general, you
4 don't even see Mr. Young in this video. There's at
5 least six people in the video, all holding guns.

6 Lorenzo cannot be identified in that video. It's
7 completely irrelevant. He is not seen. We do not see
8 his face at all. There is nothing identifying Lorenzo
9 Young in that video. I can tell you from those stills
10 which are from that video, but either way if you found
11 it was relevant, I would say again on that the
12 probative value would substantially outweigh --- would
13 not substantially outweigh, the prejudice here.
14 Again, it would be a confusion of the issues for the
15 jury to mislead them and inflame them when he's not
16 even in that video.

17 THE COURT: Okay. State's Exhibit 435 is in
18 pursuant to the proper foundation being laid. It is
19 directly relevant and probative. There's no gang
20 signs in it or anything of that nature, but I mean,
21 somebody it going to have to identify him, but it's
22 clearly probative to the case and there's very little
23 to no prejudicial effect.

24 THE COURT: Number 425, how do I know who is
25 holding that gun?

1 MS. SIMPSON: Your Honor, with respect to that,
2 as I stated, the videos are the best evidence with
3 respect to that specific photograph. Lorenzo Young is
4 identified and will be identified through one of our
5 witnesses as being the person who actually pulls this
6 gun out of his pocket. That's when they're discussing
7 hold the Glock, the 45, hold that up to the camera, et
8 cetera, and he --- his face, you can see a clearer
9 shot through the video. That's just up close of the
10 firearm itself for purposes of Ms. Cromer testifying.

11 THE COURT: All right. What about this?

12 MS. SIMPSON: That's State's ---

13 THE COURT: 426.

14 MS. SIMPSON: That is also ---

15 THE COURT: From the same video?

16 MS. SIMPSON: From the same video, yes, Your
17 Honor.

18 THE COURT: What about 427?

19 MS. SIMPSON: That would be from the video when
20 she is referring --- Ms. Bambach was referring to the
21 number of people in the room. I would note for the
22 record that all of these videos were obtained from the
23 phone that was ---

24 THE COURT: How do you know that Mr. Young is in
25 that video? That's my question.

1 MS. SIMPSON: We don't ever see Mr. Young in that
2 video. The only video ---

3 THE COURT: What about 428?

4 MS. SIMPSON: 428, that's the same.

5 THE COURT: What about 429?

6 MS. SIMPSON: That is the same video, as well.

7 THE COURT: What about 430?

8 MS. SIMPSON: The same video.

9 THE COURT: What about 431?

10 MS. SIMPSON: Also, the same.

11 THE COURT: 432?

12 MS. SIMPSON: That would be the video that
13 Mr. Lorenzo Young is identified holding the weapon.

14 THE COURT: Okay. 433?

15 MS. SIMPSON: That is from the video where he is
16 not identified.

17 THE COURT: Okay. 434?

18 MS. SIMPSON: The same, not identified in that
19 video.

20 THE COURT: All right. Play this video for me.

21 MS. BAMBACH: After that video is played, I'll be
22 able to make my argument.

23 THE COURT: Play the video for me.

24 MS. SIMPSON: We're pulling that out, Your Honor.

25 (WHEREUPON, the video was played for the judge.)

1 THE COURT: Okay. So who is going to be able to
2 identify what in that video?

3 MS. SIMPSON: Well, it's twofold. As far as
4 identifying Mr. Young himself, that would be
5 Investigator Eunice as well as Investigator McCoy.
6 With respect to the firearm, that would be the
7 testimony that we proffered through Ms. Cromer, our
8 firearms and tool marks expert in this case. The
9 weapon, of course, one of the weapons used, was
10 identified at the scene as being a Glock.

11 That the 45 GAP caliber ammunition was used. She
12 is going to be able to testify that is consistent with
13 what is seen in the video, of course, you can't say
14 that is the firearm itself without having it before
15 her. However, this video was played several days
16 prior. I believe on June 25th, with respect to that
17 second video, it's that same day, just an hour later.
18 This incident of course, occurred the early morning
19 hours of July 1st, so it puts the firearm in his hands
20 --- or a firearm consistent with?

21 THE COURT: You're confusing issues.

22 MS. SIMPSON: I'm sorry.

23 THE COURT: I'm talking about this video.

24 MS. SIMPSON: Yes.

25 THE COURT: Don't talk about the other video.

1 MS. SIMPSON: My apologies.

2 THE COURT: When was this video created?

3 MS. SIMPSON: On June 25th, 2013.

4 THE COURT: So six, five --- how many days are in
5 June, 30 days? So five days before the incident.

6 MS. SIMPSON: Correct, Your Honor.

7 THE COURT: Whose phone did this video come off
8 of?

9 MS. SIMPSON: This would be the phone that
10 Lorenzo ---

11 THE COURT: It's in the grandmother's name, but
12 it ---

13 MS. SIMPSON: Yes, in the grandmother's name.

14 THE COURT: --- was in Lorenzo's possession when
15 he was arrested.

16 MS. SIMPSON: Correct.

17 THE COURT: And play it for me again.

18 (WHEREUPON, the video was played for the judge.)

19 THE COURT: So who is going to testify that
20 that's Mr. Young?

21 MS. SIMPSON: That would be Investigators Eunice
22 and McCoy. There's actually more of the video, but we
23 narrowed it down due to our view that the entire video
24 would be prejudicial. They have reviewed that in its
25 entirety and it's clear that Mr. Lorenzo Young is the

1 one pulling the weapon out of his pocket and placing
2 it to the camera.

3 THE COURT: Okay. So what's your argument on
4 this video?

5 MS. BAMBACH: My argument on this video is first
6 this is outside. This is --- he's in possession of a
7 weapon or is alleged to be in possession of a weapon,
8 and I would first argue that this would be improper
9 character evidence that could be considered unlawful
10 carrying of a pistol. Secondly, this is June 25th,
11 All that is said is 45 Glock. There are actually 14
12 models of 45 Glocks that have almost identical
13 external dimensions that fire 45 caliber. He is not
14 saying GAP. He's not saying 45 anything. He's saying
15 45 Glock and there are 14 models of 45 Glocks, so I
16 don't think --- we don't have a weapon in this case.
17 There's 45 GAP bullets at the house. There's 45 GAP
18 bullets at the scene. However, again, there are no
19 identifying factors that this is a 45 GAP. It's just
20 45 Glock, and again I would say beyond that, the ---
21 it's extremely prejudicial. Again, just the Glock 45,
22 I don't think there is anything else that's ID'ing
23 that gun and again they don't have a weapon. I also
24 believe that Ms. Cromer testified she didn't see the
25 video surveillance from the bakery incident, and it's

1 not stated that --- other than that it's a Glock, I
2 don't see how it's relevant either.

3 THE COURT: And why are you standing up?

4 MR. SCHNEE: Well, Judge, I have a few problems
5 with this video. First of all, as we discussed the
6 title of the video shows up because of the viewing
7 they're using. They're not using Windows Media
8 Player. So first of all I would ask that the name be
9 changed if it's going to be played at all.

10 The problem I have with this video for Trenton
11 Barnes is I don't know how this is in any way relevant
12 against my client or even remotely admissible. It
13 would be unbelievably prejudicial, particularly since
14 there is apparently a second completely unidentified
15 person carrying other guns and other people talking,
16 all which is obviously hearsay testimony or
17 statements. If you look at the broader clip there are
18 a lot of other people involved, not my client. All
19 this is going to do is prejudice the jury, potentially
20 against my client when my client has no involvement.
21 It's five or six days before. They can't match any
22 weapons to ones actually being used.

23 The best they can say is that, yes, that's a
24 Glock and it's approximately the same size as a full
25 size Glock. I don't see how that gets to the point of

1 what point they're trying to do. I don't understand
2 what they're trying to make with that that they may or
3 may not have had gun the before the day of this
4 incident. All that is all does is impugn credibility
5 and character without actually proving facts. If they
6 had proved that Lorenzo Young was inside that bakery,
7 clearly he had a gun with him because two people went
8 in and there are two guns. I don't see how this aids
9 them in anyway, but it incredibly prejudices my client
10 and probably Lorenzo Young.

11 THE COURT: All right. Go ahead.

12 MS. SIMPSON: Your Honor, I believe Ms. Cromer's
13 testimony has been a little bit mischaracterized as to
14 what her would testify to. We did proffer that last
15 time. As far as the probative value, everything that
16 both defense counsel has said goes in furtherance of
17 the State's arguments of why this evidence is
18 probative. There is no firearm that was actually
19 recovered. However, the firearm is unique in nature
20 with respect to the shell casings and the bullets that
21 were found. The shell casings at the scene and the
22 bullets at Mr. Young's home are consistent with the
23 use of this firearm. Specifically he refers to it as
24 a Glock 4-5. Maybe he is referring to caliber. I
25 believe Ms. Cromer can testify better and add

1 additional testimony, as I am no expert on this.

2 Additionally, Your Honor, with respect to the
3 Lorenzo Young. That's exactly what we have to prove.
4 He was in the bakery. He did commit this crime. He
5 did have a firearm. In this case so far we have
6 testimony of ammunition that was found and testimony
7 by Rolanda Coleman that he came home that morning
8 after being with Troy and Trenton or at least at their
9 home. His mother picked him up.

10 At that time, he had firearm that was wrapped in
11 a shirt and placed in a crib. They subsequently go to
12 work and when they come home this gun is mysteriously
13 missing. There is an argument which she refers to
14 between Mr. Young and his mother regarding the gun.
15 Also. when this comes on the news, I believe she
16 testified that she overheard the mother say something
17 to the effect of you need to find that gun immediately
18 and dispose of it. The fact we don't have a firearm
19 is exactly why this is highly probative.

20 I believe Rule 403 states that the probative
21 value must be substantially outweighed by any unfair
22 prejudice. This is not substantially outweighed by
23 any unfair prejudice or confusion of the issues. This
24 is exactly the issue at hand. It's very close in time
25 in proximity to the crime, the murder in this case,

1 and it would be probative. As I said, if Your Honor
2 would like to view the entire video, I believe there
3 was an issue with viewing that on what we provided
4 you. We can give you the entire video to show you
5 what we narrowed down.

6 Based on what Mr. Schnee has said, it is almost
7 as if he would have preferred that we put the entire
8 video because there are a number of individuals on it
9 and his client will not be identified, to my
10 knowledge, by any of our witnesses, so this does goes
11 to Mr. Young who is identified and that identity is
12 the essence of their case. They are saying he was not
13 there. He did not do it, so I believe that goes to
14 the probative value.

15 THE COURT: All right. Play it one more time.

16 (WHEREUPON, the video was played for the judge.)

17 MS. SIMPSON: And the video in its entirety, Your
18 Honor, as I said you actually you see Mr. Lorenzo
19 Young pull out the gun that will be identified or at
20 least testified to, if you allow it, by Ms. Cromer.

21 THE COURT: One more time. Can you stop it when
22 I yell stop?

23 INVESTIGATOR: Yes, sir. Don't scare me.

24 THE COURT: When I yell stop.

25 (WHEREUPON, the video was played again for the

1 judge until told to stop.)

2 THE COURT: Okay. If I stop it there,
3 Mr. Schnee, your argument is gone, right?

4 MR. SCHNEE: In terms of other people
5 participating, yes. As to the rest of it, I would
6 still argue that --- I don't see how this is in any
7 way relevant, but yes, as to other people involved, if
8 you stop it there, that argument is gone.

9 THE COURT: Right because the other people with
10 the other gun coming in and talking going.

11 MR. SCHNEE: Can't hear him, can't see him. I
12 agree with that.

13 THE COURT: All right. Anything else you want to
14 say?

15 MS. BAMBACH: Just that I don't believe that a
16 lack of evidence is sufficient basis to bring in an
17 unreliable picture. Again, it's saying a 45 Glock.
18 They're not saying a 45 GAP. We don't have a weapon
19 in this case and again like I said, I found them all,
20 all the specs for a Glock. There are 14 different
21 model 45 Glocks.

22 THE COURT: Yeah, but this is clearly at least
23 not multiples of them. I'm probably more familiar
24 with these firearms than anybody in the room. I mean,
25 there's a whole setting of these firearms that are

1 essentially miniature in size. They're called compact
2 and sub compact. This is clearly not any of those. I
3 mean, is there going to be a firearms expert that says
4 that the bullets were fired from a Glock gun?

5 MS. SIMPSON: Yes, Your Honor.

6 THE COURT: So the firearms --- who is that?

7 MS. SIMPSON: That would be Ms. Cromer, who you
8 are referring to, from pretrial.

9 THE COURT: In addition to her testimony that she
10 gave, she is going to be able to say that she examined
11 what to determine it was fired from a Glock firearm?
12 My mind is blank right in our. What's it called?

13 MS. SIMPSON: She examined shell casings, as well
14 as projectiles, as well as the ---

15 THE COURT: Right.

16 MS. SIMPSON: As well as the unfired bullets
17 found at the defendant's home.

18 THE COURT: So she is going to be able to say
19 from the shell casings and from the projectiles that
20 those were fired from a Glock firearm?

21 MS. SIMPSON: Correct, Your Honor.

22 THE COURT: Okay.

23 MR. SCHNEE: Judge, what she is saying is the
24 rifling characteristics in a 45 GAP, it can only be a
25 Glock manufacturer.

1 THE COURT: Right. I understand that. All
2 right. This video is in. I find it goes directly to
3 probative issues in the case, that it's not unfairly
4 prejudicial, that it's not outweighed by the unfair
5 prejudice to it. It is going to stop right here
6 though.

7 MS. SIMPSON: Yes, sir.

8 THE COURT: I don't want to see the second person
9 or the second gun or anything. Can you figure out
10 where you are, investigator?

11 THE INVESTIGATOR: Nine seconds, yes, sir.

12 THE COURT: Then is there a --- the front says
13 "45 Glock A.V.I." Is there a way you can cut that
14 off?

15 THE INVESTIGATOR: No, sir.

16 THE COURT: Can you change that?

17 THE INVESTIGATOR: It's embedded in there.

18 MS. SIMPSON: What we have to do, I think, is ---
19 we have downloaded each of the individual files on a
20 separate disk. We can redact it to nine seconds.

21 THE COURT: Just rename it "video" on the ---

22 MS. SIMPSON: We can attempt to rename it ---

23 THE COURT: Do you have any objection to it being
24 named "video" or "one" or something?

25 MR. SCHNEE: Yes, that would absolutely be fine.

1 THE COURT: Just some kind of nondescript name.

2 MS. SIMPSON: Yes, sir.

3 THE COURT: Do you think you can do that,
4 Investigator Brian.

5 MS. GARFIELD: We think so, Judge.

6 THE COURT: As to the 404(b) argument, I'm not
7 sure this is 404(b), his possession of a firearm is
8 not necessarily a crime because of his age, so having
9 a firearm multiple days before, I don't know that it
10 is 404(b). I'm going to find that it's not 404(b) and
11 that it is directly relevant and its probative value
12 outweighs its prejudicial effect. It puts a brand or
13 type of firearm, that is, one of the firearms used in
14 the incident in one of the defendant's hands prior to
15 the incident so I'm going to --- it's got to stop
16 right here. I don't want to see the second person. I
17 don't want to see the second gun. I don't want to see
18 the long magazine, any of that other kind of stuff and
19 I don't want to hear anything past that point.

20 MS. SIMPSON: Yes, sir.

21 THE COURT: Of course, somebody would have to lay
22 the foundation that you know --- what they can say is
23 based upon their review of the video without going
24 into there's all the rest of this video that I have
25 watched and that's how I have been able to determine

1 who it is, based on any review of the video, I have
2 determined that person, if they can this, is Lorenzo
3 Young. Now, that being said, you get up there and say
4 you can't really tell it's him, then the rest of the
5 video may come in so be careful.

6 MS. SIMPSON: Thank you, Your Honor.

7 MS. BAMBACH: Just a question with the audio on
8 that, are you just planning to play the audio that
9 says Glock 45 on it, because there is N word and
10 expletives all over it, as well?

11 THE COURT: Can't help that.

12 MS. BAMBACH: Okay. And the identification issue
13 is going to come later?

14 THE COURT: Somebody is going to have to be able
15 to identify him, yes.

16 MS. BAMBACH: Is that Eunice?

17 THE COURT: I don't know what if Eunice can do or
18 not, but Eunice or --- somebody is going to have to be
19 able to get up on stand say based on my review of the
20 video and my personal knowledge, I believe that to be
21 Mr. Young.

22 MS. SIMPSON: Investigator Eunice, as well as
23 Investigator McCoy can testify to that. We know what
24 we would be limited to, I guess with respect to how
25 they know him. Again, if they were to open the door

1 on cross on that issue, we are --- like I said, that
2 would potentially open the door to a number of other
3 things.

4 THE COURT: All right. Now as to 432, 426 and
5 425, I deem that these three are admissible. They
6 would only be admissible through the firearms expert
7 to be able to show why she is basing her decision that
8 that firearm in the pictures is consistent with the
9 type of firearm used in the case, and I mean --- they
10 go directly to --- I mean, it's definitely a Glock
11 firearm in the case. I've seen enough of them to
12 know, but she will be able to use those for the
13 purposes of saying this is what I'm basing my decision
14 off of that that firearm is consistent to one that
15 could have been used. Whatever she testified the
16 other day.

17 Now, this other video where nobody is
18 identifiable and you can't determine anything, we're
19 not playing that video at all. That video is out and
20 the pictures from it are out. I find even though it
21 was taken only the night of the incident and the
22 pictures do match up with what could be a Glock 45, n
23 my issue with the video is there that is no way other
24 than the fact that Mr. Young possessed this phone
25 multiple days later, there is no way to determine or

1 there's nobody that can determine that Mr. Young is
2 actually in this video, so that would be --- I'm
3 calling that the second video for lack of a better
4 term. That's the one --- State's 434, 433, 431, 430,
5 429, 428, 427 are not going to be admissible because
6 there is no way to identify --- for me to know that
7 that's Mr. Young on that video or in possession of
8 that firearm. I think that would be causing the jury
9 to speculate and, you know the idea of multiple people
10 sitting around in a circle flashing firearms with
11 extremely long magazines in them and everything else
12 is too prejudicial because there is no way to connect
13 that definitively to Mr. Young. Okay.

14 What else?

15 (WHEREUPON, State's Exhibit Numbers 427 through
16 431 and Exhibits 433 and 434 were withdrawn.)

17 MS. CAMPBELL: Just one housekeeping matter, we
18 were asked to redact the lineup showing Donald Moore.
19 The only problem that I can show Your Honor, with the
20 Court's permission, if I could actually white-out on
21 the original and just make one copy and lighten the
22 copy, but every time we do a color copy the resolution
23 is worse. That would just --- I don't think the
24 defense has a problem that. I just didn't want to
25 mark on the original until I had your permission.

1 THE COURT: That's fine.

2 MR. KRZYSTON: Judge, I don't know when the --- I
3 think Pegram ---

4 MS. GARFIELD: Pegram.

5 MR. KRZYSTON: I don't know when Investigator
6 Pegram is set to testify, but I do have an objection
7 to the chart that Ms. Garfield created in connection
8 with cell phone records. It's a chart where --- here
9 it is. It's a chart right here. Under project
10 number, the State has listed Lorenzo Young's name. I
11 think that misrepresents the evidence insofar as
12 Ms. Aretha Coleman was the subscriber connected to
13 this phone. I would ask that instead of Mr. Young's
14 name there, just the actual number for the cellular
15 phone.

16 THE COURT: I can't see it that far away.
17 Somebody bring it up here so I can see it.

18 MR. KRZYSTON: Just for the record, we're
19 discussing, I think, State's 398. I think it's been
20 marked as ID. Again, I would just be asking this
21 phone number right here instead of saying project
22 number, instead of saying Lorenzo Young, would bear
23 the phone number from which the call originated and
24 other than that ---

25 THE COURT: Is that the target number on there?

1 MS. GARFIELD: That's the target number, the
2 number that is associated with the phone that was
3 found in Mr. Young's possession.

4 THE COURT: All right. You need to cut off case
5 number or project number. Just cut it off completely.
6 Leave it as target number.

7 MR. KRZYSTON: Thank you, Judge.

8 THE COURT: I mean, the testimony from
9 Ms. Coleman, that was the phone that --- somebody
10 else's name?

11 MR. KRZYSTON: Occasionally.

12 THE COURT: In her mother, grandmother ---
13 somebody else's name and that Mr. Young used it. I
14 find it is admissible, but I don't --- the way that's
15 set up, it makes it look like the phone was subscribed
16 in his name, which it was not.

17 MR. KRZYSTON: Thank you, Judge.

18 MR. SCHNEE: Judge, I would also add the same
19 thing. My client's name was listed, but there's no
20 testimony that my client actually had a phone listed
21 for him. I believe it was his mother's cell phone.

22 THE COURT: I don't know what you're talking
23 about now.

24 MR. SCHNEE: On the exact opposite side of that,
25 the number that was called, my client's name is listed

1 as one of the directed calls to ---

2 THE COURT: Okay.

3 MR. SCHNEE: They have phone records that they
4 associate with my client, but it's not actually my
5 client's phone. I would make a similar argument that
6 --- I would ask that just a target number be listed.

7 MS. GARFIELD: That's fine. Just give me a
8 moment to let them know.

9 MR. SCHNEE: Thank you, Your Honor.

10 MS. CAMPBELL: Your Honor, finally on the
11 redacted 392, we actually cut out the thing they
12 claimed was a gang sign. So they asked us to copy it
13 over so it doesn't make it so apparent, so we have
14 dope that.

15 THE COURT: Let me see it. You can hold it up.
16 I can see it from there.

17 MS. CAMPBELL: The quality is not as good.

18 THE COURT: That's fine.

19 MS. CAMPBELL: Is that okay?

20 MS. BAMBACH: Your Honor, I just wanted to --- I
21 wasn't sure if I voiced my objection about
22 Investigator Eunice with the ID being extremely
23 prejudicial having an investigator try to identify
24 Lorenzo Young.

25 THE COURT: How is that prejudicial?

1 MS. BAMBACH: Because why else would an
2 investigator know who he was?

3 THE COURT: Half the investigators in town know
4 who I am.

5 MS. BAMBACH: But you're a judge.

6 THE COURT: They knew who I was before I became a
7 judge.

8 MS. BAMBACH: You're not on trial for murder.

9 THE COURT: It's just not prejudicial. I mean,
10 the fact that police officers are supposed to be in
11 the community and they're supposed know people. I
12 mean, that doesn't mean he's had prior interactions.
13 That's multiple speculation down the road. That means
14 the jury would have to say, well based upon that, then
15 he must have had same incident. For all we know, he
16 has been a victim of a crime before. It's just
17 speculation, so your objection is overruled.

18 MS. BAMBACH: How would they lay the foundation
19 for him knowing Lorenzo Young?

20 THE COURT: Well, they're going to have to lay it
21 outside of saying because I've arrested him before.

22 MS. GARFIELD: Do you have personal knowledge?

23 MS. BAMBACH: I just wanted to ---

24 MS. CAMPBELL: And I have marked the redacted one
25 392-A. We can just mark it as a Court's Exhibit.

1 That might be easier.

2 (WHEREUPON, Court's Exhibit Number 15 was marked
3 for identification only.)

4 THE COURT: All right. Ready?

5 MS. SIMPSON: The State is ready, Your Honor.

6 MR. KRZYSTON: Nothing further from Mr. Young,
7 Your Honor.

8 MR. SCHNEE: Nothing from Trenton Barnes.

9 THE COURT: Bring in the jury.

10 (WHEREUPON, the jury entered the courtroom at
11 9:47 A.M.)

12 THE BAILIFF: The jury is seated.

13 THE COURT: Welcome back. I hope you had a nice
14 weekend and stayed warm but for the cold weekend.
15 Just be thankful we didn't have a polar vortex. I
16 actually had that happen last year and it was a little
17 bit of a mess. Thank you for coming back and being
18 ready to go and being on time. We will now continue.

19 The State may call their next witness.

20 MS. SIMPSON: The State calls Dr. Amy Durso.

21 DR. AMY DURSO,
22 after being duly sworn, testified as follows:

23 THE CLERK: Please have a seat. State your full
24 name for the record.

25 THE WITNESS: Amy Durso, D-U-R-S-O.

DIRECT EXAMINATION:

BY MS. SIMPSON:

Q Dr. Durso, where are you employed?

A I'm employed at Professional Pathologies Services as a forensic pathologist.

Q Okay. What exactly is a forensic pathologist?

A So a forensics pathologist is a medical doctor that specializes in looking at bodies and examining bodies after death, so we do what's called an autopsy which is a thorough examination of the body after someone has died.

Q Can you tell the jury about your training and educational background?

A Sure. So I received a bachelors degree in psychology at Emery University. After that I got my four year medical degree at the University of North Carolina in Chapel Hill, and after that I went to Wake Forest University, where I spent four years of doing general training in anatomic and clinical pathology and then I stayed there for an additional year to do a fellowship specifically in the field of forensic pathology.

Q How long have you been at --- I'm sorry, where do you work?

A Professional Pathology Services.

1 Q How long have you been there?

2 A I've been there for a little over four years now.

3 Q In your practice, how many autopsies would you
4 say you have performed?

5 A I've performed over 1400 autopsies.

6 Q And in your practice, do you also participate in
7 any kind of continuing educational requirements or
8 training?

9 A Right. It's required, so I'm board certified by
10 the American Board of Pathology in anatomical
11 pathology, clinical pathology, and forensic pathology
12 and to maintain any certification, I have to meet a
13 certain number of education credits every year.

14 Q And have you ever testified as an expert before?

15 A I have.

16 MS. SIMPSON: Your Honor, at this time, I would
17 like to offer Dr. Amy Durso as an expert in the field
18 of forensic pathology, specifically forensic
19 pathology.

20 MR. KRZYSTON: No objection.

21 MR. SCHNEE: No objection.

22 THE COURT: All right. Ladies and gentlemen,
23 normally a person is not allowed to give opinion
24 testimony. However, because when a person testifies,
25 they have to testify as to what they either saw,

1 heard, sensed by smell or something of the nature.
2 However, there is an exception when someone is
3 qualified because of education or experience. That
4 person will be permitted to give opinion in certain
5 areas if I qualify them in that way.

6 Dr. Durso will be qualified as an expert in the
7 area of forensic pathology. She will be allowed to
8 give opinion testimony in that area. That does not
9 mean that you must accept her opinion, but it is
10 evidence for you to use in any way that you see fit
11 and give it the weight and the credibility that you
12 believe is appropriate as you are required to do with
13 each and every witness that appears in front of you.

14 Ms. Simpson, continue.

15 MS. SIMPSON: Thank you, Your Honor.

16 BY MS. SIMPSON:

17 Q Dr. Durso, how exactly do you become involved in
18 a case? Are there various types of ways?

19 A There are. The main way I become involved in a
20 case is to be contacted by the Richland County
21 coroner's office, so when they have a death that's
22 suspicion in any way or unexpected, if they're
23 involved in an accident, homicide, suicide, usually
24 they would refer it to us to do an autopsy, and so in
25 this case, in particular it was a Richland County

1 coroner's case, and they asked me to do an autopsy on
2 Ms. Hunnewell.

3 Q Okay. So you work very closely with the
4 coroner's office?

5 A I do, yes.

6 Q And in performing an autopsy, what are you trying
7 to do?

8 A So it's just a way of documenting all of the
9 findings on the body. We start out just looking at
10 the outside of the body. We do a full external
11 examination, and we're not just looking for injuries,
12 we're also looking for identifying marks, tattoos, we
13 document hair color, eye color, post mortem changes,
14 such as rigor where you become stiff after death.
15 Also the length of the body, the weight, and
16 afterwards we do an internal examination, which
17 involves making some large incisions. We make an
18 incision that comes from the shoulders down to the
19 sternum here and it comes down. We're actually able
20 to reflect all of that skin and tissue back. We move
21 the front of the rib cage and we're then able to see
22 all of the internal organs, and then after we look at
23 the organs, any questions of fluid, blood, we then
24 remove them one by one. We weigh them and examine
25 them. The purpose is to document any abnormal

1 findings, and in the end to come up with a cause of
2 death.

3 Q Okay. And you stated that you actually performed
4 an autopsy in this case?

5 A I did.

6 Q And who was that on?

7 A Kelly Hunnewell.

8 Q What was the date and time of the autopsy?

9 A I did this autopsy on July 1st, 2013, at
10 nine o'clock in the morning.

11 Q Were you able to determine a cause of death
12 after performing your autopsy?

13 A I was.

14 Q And what was that cause of death?

15 A Her cause of death was a gunshot wound to the
16 upper chest and neck.

17 Q Now, you state that you document your findings
18 through, I guess, a report?

19 A Yes.

20 Q Do you also document the external injuries in
21 some way?

22 A Yeah, I usually have a blank diagram for a male
23 or female where I document all of my external
24 findings.

25 Q Okay. And in addition to that, while you are

1 performing an autopsy, is someone from law enforcement
2 or the coroner's office also present?

3 A Yes. In these kinds of cases usually a law
4 enforcement officer, as well as a member, a deputy
5 from the Richland County coroner's office is usually
6 present and they are taking pictures throughout the
7 autopsy.

8 Q I'm going to show you ---

9 MR. KRZYSTON: Objection, Judge. Approach?

10 THE COURT: What?

11 MR. KRZYSTON: Approach?

12 THE COURT: All right.

13 (WHEREUPON, a bench conference was held in the
14 presence, but not within the hearing of the
15 jury.)

16 BY MS. SIMPSON:

17 Q I'm going to show you what's been marked as
18 State's 421. Do you recognize this?

19 A I do.

20 Q And what is this?

21 A That is blown up version of the diagram that I
22 made at autopsy.

23 Q Okay. Would it assist you in explaining your
24 findings if you could demonstrate this diagram?

25 A Yes.

1 Q And show the jury?

2 A Yes, it would.

3 MS. SIMPSON: Your Honor, at this time, I would
4 offer State's 421 into evidence.

5 MR. KRZYSTON: Based on our previous objections.

6 THE COURT: All right.

7 MR. SCHNEE: One second, Your Honor.

8 (Pause.)

9 MR. SCHNEE: I have no objection to that.

10 (WHEREUPON, State's Exhibit Number 421 was
11 admitted into evidence.)

12 THE COURT: All right. Admitted over defense
13 objections.

14 BY MS. SIMPSON:

15 Q Additionally, I'm going to show you what's been
16 marked as State's 3, 4, 6, and 7.

17 THE COURT: 346 and 347?

18 MS. SIMPSON: No, State's 3, 4, 6, and 7.

19 MR. KRZYSTON: And we would just renew our
20 previous objection, Judge.

21 MR. SCHNEE: I also renew my previous objections,
22 Judge.

23 THE COURT: All right. Admitted over defense
24 objections.

25 (WHEREUPON, State's Exhibit Numbers 3 through 7

1 were admitted into evidence.)

2 BY MS. SIMPSON:

3 Q Are these some of the photographs of the injuries
4 that you documented, as well?

5 A Yes.

6 Q Okay. Tell the jury about your first step with
7 the autopsy with Ms. Hunnewell, what you did?

8 A So again, we identified the body, the coroner's
9 office, you know, make sure we have the right body
10 out, and afterwards we start with the external
11 examination, so I documented her body length, her body
12 weight and began to look for any external marks on
13 her. She did have a gunshot wound that I identified.

14 MS. SIMPSON: Permission for the witness to step
15 down for me, Your Honor?

16 THE COURT: You have to keep your voice up for
17 me, Doctor.

18 THE WITNESS: Yes.

19 THE COURT: Okay.

20 BY MS. SIMPSON:

21 Q If you'll stand on that side so the court
22 reporter can hear you.

23 Explain for the jury, I guess, with respect to
24 Ms. Hunnewell, her weight and weight, your external
25 findings?

1 A Sure. So her weight was 231 pounds. Her body
2 length was 63 inches, so that's 5 foot three. That's
3 a little bit taller than I am. You know, scalp, hair,
4 the color of her hair, all these basic findings, but
5 the major finding that I had on her was this gunshot
6 wound up here on her right upper chest.

7 Q And what did you note, or did you note, any
8 additionally abrasions or lacerations or anything of
9 that nature?

10 A Yes, on her right neck there was kind of a
11 patterned bruise there, a contusion or abrasion, and
12 it matched up with the zipper. She had a sweatshirt
13 on at the time of autopsy, and we were able to match
14 that up, so okay. She had an imprinted kind of a
15 pattern injury from the zipper going on her right neck
16 and also right here kind of where her clavicle is.

17 Q I'm going to show you State's 3. The injury that
18 you're referring to, is it documented in this photo?

19 A Yes.

20 Q Okay, and where in the photograph are you
21 referring to?

22 A So here is the actual gunshot wound entrance here
23 on her right upper chest, so she is laying down here.
24 This is the entrance wound where the projectile goes
25 in and this is the patterned bruise and you can

1 actually see the pattern here that looks like a zipper
2 imprint.

3 Q And then in State's 6, I believe, you said is the
4 entrance wound?

5 A Yes, that is closer up version of the entrance
6 wound, again on her right upper chest. This is her
7 breast down here. Her neck is up here. This is her
8 right arm and again this is the entrance wound where
9 it goes in and this is the bottom part of imprint of
10 the zipper.

11 Q And you noted the entrance wound. Did you see
12 any exit wounds?

13 A There was no exit wound, but we were able to
14 actually feel the bullet back underneath her skin on
15 her left upper back, so I was able to measure where
16 that was located. I just kind of stopped and
17 indicated on my diagram where I was able to feel the
18 bullet sitting right underneath her skin.

19 Q So other than, I guess, the zipper-type abrasion,
20 did you see any more cuts or marks that would indicate
21 possibly defensive wounds or anything?

22 A No, there were no marks.

23 Q And after doing your external examination, what
24 was your second step?

25 A To open the body to make our incisions open up

1 and remove the rib cage and again just see where the
2 projectile actually went through.

3 Q I want to talk about your internal findings with
4 respect to Ms. Hunnewell's examination. Explain to
5 the jury what those findings were?

6 A Sure. So after entering the skin up there on the
7 right part of her chest, it goes kind of through the
8 soft tissue. This is the clavicle here, this bone
9 that kind of sticks out here. It actually went just
10 above that. She had a little more tissue up here than
11 I do, but it went just above the clavicle and then it
12 went through the right side of the thyroid lobes. The
13 thyroid is a gland that sits right here on the top of
14 the air way. And it went through that and it actually
15 went through her airway. So this is what we call the
16 trachea, and it went almost --- it almost completely
17 transected her trachea. He was barely held together
18 just by the flap of tissue in the back. Then it went
19 through the esophagus which is right behind the
20 trachea, so the trachea is your airway, and behind
21 that is your esophagus that carries food from your
22 mouth down to your stomach, so it also went through
23 that and than again, it just went through soft tissue
24 and then it didn't quite --- didn't have enough energy
25 to exit through the back, so it was just underneath

1 the skin on her left back.

2 Q And with respect to the airway, the esophagus and
3 trachea, with that type of injury, would she have
4 suffered a significant amount of blood loss fairly
5 quickly?

6 A The main complication of that injury would be
7 immediate distress because of your airway being
8 severed, so every breath she tried to take to get more
9 air, she would have instead inhaled blood and possibly
10 also things from any food or any fluid that was in her
11 esophagus, so every time she would take a breath in,
12 it was basically like she was drowning in her own
13 blood. She would take a breath in and it would have
14 filled he lungs with more blood. She would have been
15 in extreme distress and collapsed and lost
16 consciousness within say a minute or two and then died
17 very quickly after that, and she did have, when we
18 looked at her lungs, there is always a very distinct
19 pattern when people inhale blood at the end of life.
20 She had that pattern it looked like the lung spaces
21 were filling up with blood.

22 Q So even if, I guess, lifesaving support or EMS
23 had arrived very quickly, would they ---

24 A There was very little they could have done
25 because the blood --- like I said within a minute or

1 so she has already inhaled quite a bit of blood into
2 her airways and it's really hard to undo that.

3 Q I want to note, I want to show you this first.
4 You mentioned the projectile and the pathway. Again,
5 what was this trajectory of that bullet?

6 A The trajectory, it was going from right to left
7 and front to back and it was also going slightly
8 upwards.

9 Q So kind of an angle through here and then you
10 felt it in her back?

11 A Only from right --- going up that way.

12 Q Sorry. Did you actually remove that projectile?

13 A I did. At the time of autopsy I removed the
14 projectile.

15 Q Is that what we're seeing in State's exhibit 7?

16 A Yes.

17 Q When items such as projectiles and things of that
18 nature are removed from a body, what is done with
19 them?

20 A It's put into a chain of custody and usually it's
21 handed over to law enforcement.

22 Q I want to note one more thing regarding your
23 findings. You stated that it was an intermediate
24 range non-existing (sic) gunshot wound to the chest?

25 A Non exiting, yes.

1 Q Explain what that means exactly to the jury?

2 A So when we look at the entrance wounds, we are
3 looking for things to tell us how far away the gun
4 was. So some of those things we look for are soot,
5 which a gun has to be pretty close for soot to imprint
6 the skin, usually within around six inches. After
7 that, up to around two feet or, so you can get what's
8 called stippling. Stippling is actually from the gun
9 powder that comes from the gun and actually abrades
10 the skin, so it actually scratches the skin. So
11 between --- if I don't see soot but I see stippling, I
12 know it's roughly between six and 24 inches. The
13 further you get away, the more the stippling, those
14 little tiny abrasions are going to be spread out. I
15 was able to find stippling on her face which tells me
16 the gun was within around roughly 24 inches from her
17 when the bullet was fired.

18 MS. SIMPSON: Your Honor, permission for the
19 witness to step down one more time?

20 THE COURT: Okay.

21 BY MS. SIMPSON:

22 Q I'm going to show you State's Exhibit 4. Is the
23 stippling what your documenting in this photograph?

24 A Yes. If you can --- can I ---

25 Q Yes.

1 A You can see the imprint. See all these little
2 tiny red marks on her face. They're kind of
3 scattered. So that's stippling. That's when the gun
4 powder is actually scratching her face. And you can
5 see if it's closer, it's very concentrated around the
6 wound, but you can see how spread out this is, so that
7 tells me it was probably closer to around the 18 to 24
8 inch distance, but I can't tell for sure because of
9 the different kind of gun or different kind of gun
10 powder that is used. It can vary a little bit, so I
11 can't say exactly, but I can say, you know, an
12 estimate of around, you know, closer to 18 to 24
13 inches with that stippling pattern.

14 Q But within two feet essentially?

15 A Yes.

16 Q Thank you. Did you also perform some additional
17 things with respect to taking any type of blood?

18 A Right. So all of our autopsies it's our protocol
19 for forensic cases that we always take samples for
20 toxicology testing, and we did in this case. We took
21 blood and urine from her and sent it to SLED for
22 testing. It came back negative for alcohol or any
23 other substances. She had nothing in her system as
24 far as the drugs and alcohol that they test for.

25 Q Subsequent --- is that the extent of your

1 findings and cause of death?

2 A Yes.

3 Q Subsequent to this and after the autopsy, did you
4 actually have the opportunity to review the crime
5 scene video in this case?

6 A Yes.

7 Q And in that video, was it consistent --- was what
8 you saw consistent with what you documented in your
9 findings in your autopsy?

10 A Yes, it was, very much.

11 MS. SIMPSON: Beg the Court's indulgence.

12 BY MS. SIMPSON:

13 Q Again, could she have survived this wound and
14 this injury?

15 A No.

16 Q And I believe you stated earlier terminal
17 aspiration of blood, I guess that's ---

18 A Right. It's like you're drowning in your own
19 blood.

20 MS. SIMPSON: All right. Thank you, Dr. Durso.

21 THE COURT: Mr. Krzyston.

22 MR. KRZYSTON: No questions for this witness,
23 Judge.

24 THE COURT: Mr. Schnee.

25 MR. SCHNEE: May it please the Court.

CROSS-EXAMINATION:

BY MR. SCHNEE:

Q Doctor, if I'm understanding correctly, your job is to review the body and look for scientific evidence?

A Yes.

Q Is there any scientific evidence that would tell you as a doctor performing the autopsy who shot her in any way?

A No.

MR. SCHNEE: All right. No further questions.

THE COURT: All right. Have a good day.

Thank you. All right.

Call your next witness.

MS. GARFIELD: Thank you, Your Honor. The State calls Deputy Chief Melron Kelly.

MS. PINNOCK: Your Honor, may we approach?

THE COURT: Yes, ma'am.

(WHEREUPON, a bench conference was held in the presence, but not within the hearing of the jury.)

THE COURT: All right. Ladies and gentlemen, step back to your jury room. Do not discuss the case. Keep an open mind. We'll be right back with you.

(WHEREUPON, the jury left the courtroom at 10:10

1 A.M.)

2 THE COURT: All right. What do you expect him to
3 testify to?

4 MS. GARFIELD: Your Honor, at the time Chief
5 Kelly gets involved in this case, Mr. Young is wanted
6 for an unrelated arrest.

7 THE COURT: Right.

8 MS. GARFIELD: He hears it over the radio. He
9 goes to assist. After apprehending Mr. Young, he can
10 testify to the circumstances surrounding the actual
11 apprehension. He's not going to go into why he was
12 wanted or anything of that nature, just the fact that
13 he was apprehended, where he was apprehended and
14 beside him was found his cell phone.

15 THE COURT: All right.

16 MS. PINNOCK: And, Judge, the concern I have with
17 that is he was being sought for an unrelated burglary
18 warrant. That's the only pending arrest warrant he
19 had at that point. There was use of a K-9 and, you
20 know, they searched an apartment. He was arrested in
21 the apartment, but the only reason they were there
22 executing --- to do anything was to execute this
23 arrest warrant. I think it's an improper inference
24 that will be provided to the jury saying that he was
25 trying to evade arrest for this charge when he was not

1 charged with this. That is our concern with
2 testimony. Everybody acknowledged that he was
3 incarcerated. I don't think the fact that he was
4 arrested is at issue.

5 THE COURT: Right.

6 MS. PINNOCK: It doesn't go to prove anything.
7 Yes, he was charged, he was arrested later on for
8 murder, but at this point when Chief Kelly and a
9 number of other officers get involved in this case,
10 but he is not being arrested for the murder. He is
11 not being arrested on this case for an outstanding
12 warrant on something that's unrelated. It would be an
13 improper inference to suggest that he was trying to
14 evade being arrested for this when he was not charged
15 with it at that point.

16 THE COURT: What is ---

17 MS. GARFIELD: We're not going into any anything
18 any evidence of evasion, just the fact that he was
19 wanted and Chief Kelly had information he was in a
20 particular apartment. They made entry. He was hiding
21 in a closet. They did send a K-9 in, basically for
22 officer safety. They could hear someone upstairs.
23 They asked him to come out. He wouldn't. They go in,
24 they find him in the closet. He is taken into custody
25 and the cell phone is found on the floor.

1 THE COURT: How are you going to get around this
2 idea that he was wanted?

3 MS. GARFIELD: I was going to say that --- I was
4 going to stay away from any mention of burglary or any
5 other charge. At this point in time in the
6 investigation, the search warrant at his home had
7 already been conducted. My understanding he had made
8 numerous phone calls to the home. They asked him to
9 come talk to him, turn himself in. He refused to do
10 so and Donald Moore had already been interviewed, as
11 well up to this point.

12 MS. PINNOCK: And, Judge, if I may, the phone
13 calls about Mr. Young turning himself in were on the
14 burglary. There was conversation about them being at
15 the house executing a search warrant. There were
16 actually two search warrants being executed at the
17 same time, one for the burglary and then one for the
18 active investigation, but the ---

19 THE COURT: So what's the point of his testimony?
20 That's what I don't understand.

21 MS. GARFIELD: To get it in the cell phone.

22 THE COURT: Why can't you stipulate that they
23 found the cell phone that day and took it off his
24 person?

25 MS. PINNOCK: Yes, sir, on the day of his arrest,

1 we will stipulate that the cell phone was in his
2 possession.

3 THE COURT: Yes.

4 MS. GARFIELD: Judge, we know from previous
5 pretrial that they're going to attack the phone
6 records. I think we have the duty to establish this
7 that this phone was found in his position. It's
8 already established that the phone is not registered
9 to Mr. Young; it's registered to his girlfriend, his
10 grandmother.

11 THE COURT: Right.

12 MS. GARFIELD: So we need to show it's in his
13 possession.

14 THE COURT: All right.

15 MS. PINNOCK: Again, Judge, we're willing to
16 stipulate on July 5th, 2013, he was in possession of
17 that phone. If that's their concern, that's the date
18 they took it into custody at Columbia headquarters, we
19 will stipulate that on July 5th, 2013, he was in
20 possession of that phone. If that's the only reason
21 they're calling this witness to testify, I don't think
22 it's worth putting a possible issue coming up with the
23 testimony about an unrelated charge. We're willing
24 to --- we will do that. He was in possession of the
25 cell phone on his day.

1 MS. CAMPBELL: Judge, my only concern at this
2 point --- I was thinking about this last night and I
3 don't know how to address it. Basically they do take
4 him into custody because they have a legal right to at
5 that point.

6 THE COURT: Right.

7 MS. CAMPBELL: But he is not under arrest for
8 this murder at this point, unlike what they said in
9 their opening argument, which I'll get to in a minute
10 on another witness. At that point they haven't done
11 this rush to judgment, which is their whole opening
12 statement on both of them, that we rushed to judgment
13 and we quote-unquote arrested Lorenzo Young based on
14 one witness's testimony. That is untrue, inaccurate
15 and obviously misleading to the jury. So at this
16 point we do have the burden because they put us there.
17 I've seen in State vs. Dunlap they opened the door to
18 some of this, which I was somewhat surprised about and
19 I'm going into what we need do before I put the
20 investigating officer up. They have opened the door
21 that are we didn't rush to judgment. Basically they
22 kept collecting evidence before they placed him under
23 arrest for this charge. The only way I know to do
24 that because then the inference is going to be we just
25 willy nilly, we're taking him into custody because we

1 thought they might have done it. In fact, they don't
2 arrest any of those young men until all three are in
3 custody and talked to and other evidence has been
4 collected, which I can enumerate if you would like me
5 to. I don't know how we get around the thing because
6 the timing of this, when he is taken into custody, is
7 that afternoon, but he is not under arrest for this.
8 Otherwise to stipulate that we just took him into
9 custody for no apparent reason, means it looks like
10 we're doing unlawful acts, where in fact they have
11 done the exact opposite of what they argued in their
12 opening. They waited to make sure they had all the
13 evidence they need or they can before they arrested
14 him. I don't know to get around it. I thought about
15 it last night and I even looked at the timing to see
16 if perhaps they had already interviewed the other two
17 and it was prior to him being taken into custody, but
18 that's not the truth. So to say that he was lawfully
19 taken into custody on an unrelated matter, is the only
20 way I know to address that. I don't know how to get
21 out of --- based on primarily because this is their
22 defense. The Columbia Police Department was acting,
23 you know just willie nilly going out arresting anybody
24 they heard the name of. That's both of their entire
25 opening statements. I requested --- and I got a copy

1 where Ms. --- the defense attorney for Lorenzo Young
2 in opening statements says specifically they just
3 arrested him based on what Donald Moore said. That
4 was from their opening statements. I don't know how
5 to unring that bell. We've got a lot of bells to
6 unring in this case, based on their opening statement,
7 but they're the ones that put it out there. Both of
8 them. So it's not like prejudice to one or the other.
9 I think it's important for this jury to know that they
10 had --- that he was wanted on an unrelated matter. It
11 have doesn't need to say that it was a burglary first
12 or another violent offense or any of the home
13 invasions, but just stick to the fact that he was
14 legally taken into custody in an unrelated matter
15 would cure that somewhat for the state. I just don't
16 know how we can get around that based on what they're
17 arguing.

18 Now, if they hadn't gone there, that might be
19 another thing, Judge, but under the State versus
20 Dunlap, you know, opening arguments can open the door
21 to what may be otherwise inadmissible evidence, and I
22 do have --- I and opening arguments can open the door
23 to what may be otherwise inadmissible. I did ask Ms.
24 Tracy to email the paragraph that refers specifically
25 to Mr. Young and then you recall Mr. Schnee's opening.

1 There was a lot of pressure from the press, pressure
2 from the community and they just scooped up the first
3 three names they come upon, which is untrue and I can
4 get you that case, Judge.

5 MS. PINNOCK: And, Judge, just for the record,
6 nothing --- it's our opinion that nothing Ms. Bambach
7 said during opening opens the door to his prior --- or
8 his other pending charges.

9 MS. CAMPBELL: We aren't trying to get into any
10 other pending charges --- just trying to say that he
11 was lawfully taken into custody in an unrelated
12 matter.

13 MS. PINNOCK: If I may, Judge, talking about an
14 unrelated matter, infers that he has other pending
15 charges. Him being charged with the murder and
16 attempted armed robbery have nothing to do with him
17 being arrested on the other warrant. That is two
18 separate cases. They're not intertwined. Nothing
19 that was said in opening --- you said it yourself
20 during this trial, but openings are not evidence.
21 When it was mentioned that there was a rush to make an
22 arrest or pressure to make arrest, that has nothing do
23 you with him being arrested for a burglary. They
24 elected to charge him while he was at headquarters
25 after being questioned about the charge he was ---

1 that he actually had a pending arrest warrant for, but
2 they had talked to everybody involved in this case.
3 Mr. Barnes, Stevenson and Mr. Young at that point, and
4 then they still made the choice to arrest him. That
5 in no way opens the door to him talking about him
6 having other pending warrants or having --- being
7 arrested on an unrelated matter. That's the State
8 attempting to back door his character in. We have not
9 opened the door to that. Nothing that we have said to
10 this point points to anything that Mr. Young has
11 pending.

12 THE COURT: I've also said in this trial that
13 defense attorneys need to stop talking about the facts
14 in opening statements.

15 All right. So. Here is what he is going to be
16 able --- your in here deputy chief Kelly. You hear
17 her.

18 THE WITNESS: Yes, sir.

19 THE COURT: Here is what you're going to be
20 allowed to say. You're in here, Deputy Chief, so you
21 can hear me, okay. Here's what you're going to be
22 allowed to say. You're going to be allowed to say
23 this, that you were --- you were in the process of
24 taking Mr. Young into custody. Hold on. I'm working
25 through it in my mind.

1 (Pause.)

2 Say again what you said, Ms. Campbell.

3 MS. CAMPBELL: Your Honor, I think what we have
4 to prove --- and it's not going be in dispute. They
5 don't get arrested until the next day on these
6 charges.

7 THE COURT: Right.

8 MS. CAMBELL: So on this evening, he was taken
9 into lawful custody --- would be the language that ---
10 on an unrelated matter.

11 THE COURT: Okay. You could say you were taking
12 him into lawful custody. You can't say unrelated
13 matter. I don't want this idea that there is some
14 other matter out there and ---

15 MS. CAMPBELL: I understand.

16 THE COURT: They were there for the purposes of
17 effectuating lawful custody. Whatever happened
18 happened. That's a different part. I don't want you
19 saying you were there to arrest him on something else
20 or some other matter or anything else. You were there
21 to effectuate lawful custody because you were and
22 that's the facts. Part of what we can't do is, you
23 know, create this untrue atmosphere to the jury of
24 something that just has no factual basis at all, so
25 you were there for the purposes of taking him into

1 lawful custody, or at that time you had a warrant for
2 burglary; is that correct?

3 THE WITNESS: Yes, sir.

4 THE COURT: That had been signed by a judge and
5 you had permission to effectuate, right?

6 THE WITNESS: Yes, sir.

7 THE COURT: So you'll be allowed --- don't say on
8 an unrelated matter or on a burglary or anything else
9 about anything else. The defense --- I mean, the
10 defense is still arguing that's not even his phone. I
11 mean y'all argued that to me this morning. All that
12 is coming in. Don't say anything about any unrelated
13 matter or it was for a burglary or he had other
14 pending charges or anything like that. Do you
15 understand?

16 THE WITNESS: Yes, sir.

17 THE COURT: All right. Bring them in.

18 MS. PINNOCK: Your Honor, regarding the K-9 use,
19 because that was an attempt to arrest him on the
20 burglary. They deployed K-9.

21 THE COURT: The only thing he can't say is that
22 it had anything to do with any other charge. He was
23 there for the purpose of taking him into lawful
24 custody. How they decided to do that is admissible.
25 All right. Bring them back in.

1 THE BAILIFF: The jury is seated, Your Honor.

2 THE COURT: Thank you very much. Call your next
3 witness.

4 MS. GARFIELD: Thank you very much, Your Honor.
5 The State calls Deputy Chief Melron Kelly.

6 MELRON KELLY,
7 after being duly sworn, testified as follows:

8 THE CLERK: Please have a seat. State your full
9 name for the record.

10 THE WITNESS: My name is Melron Kelly.

11 DIRECT EXAMINATION:

12 BY MS. GARFIELD:

13 Q Chief Kelly, where are you employed?

14 A Columbia Police Department.

15 Q Where are you from?

16 A Columbia, South Carolina.

17 Q And you've lived here all your life?

18 A I have lived here all my life.

19 Q Where did you graduate high school?

20 A I graduated high school at Columbia High School
21 in 1995. I went to South Carolina State University
22 and the University of Louisville, the masters program.

23 Q What area of study did you pursue?

24 A Criminal justice, political science.

25 Q Can you share with the jury your law enforcement

1 background?

2 A I started as a Police Explorer at the age of 13
3 at the Columbia Police Department. I spent my teenage
4 years pretty much in and around the police department.
5 I got hired as a desk clerk while in college. Upon
6 graduating from college, I was hired as a police
7 officer in 1999.

8 Q And are you still a police officer?

9 A I am still a police officer.

10 Q And what is your current rank?

11 A I'm the Deputy Chief of police.

12 Q Is that essentially saying you're number two in
13 the department?

14 A I am the number two person, yes, ma'am.

15 Q Is it safe to you worked your way up?

16 A I worked my way through the patrol division,
17 criminal investigations and I was a regional commander
18 in the Eau Claire area in North Columbia and now I'm
19 Deputy Chief of Police.

20 Q Chief Kelly, I want to direct your attention back
21 to around July of last year, 2013. Was your rank the
22 same at that time?

23 A No, ma'am, at that time I was the regional
24 commander of North Columbia, what we refer to as Eau
25 Claire.

1 Q Will your explain to the jury what being a
2 regional commander entails?

3 A Yes, ma'am, as regional commander of a division,
4 I direct all police services for the north end of
5 Columbia. That includes patrol services, manpower
6 allocation and a lot of administrative duties,
7 particular to that side of town.

8 Q Chief Kelly, is there a housing area known as
9 Lattimore Manor in the north region?

10 A Yes, there is.

11 Q That would have been under you patrol back in
12 July 2013?

13 A Yes.

14 Q And specifically related to Lattimore Manor, did
15 you get any sort of occasion to assist in the case
16 that we're here in court today?

17 A Yes, I did.

18 Q And just explain to the jury how that came about?

19 MS. PINNOCK: Your Honor, we would at this time
20 renew our objection.

21 THE COURT: Yes, ma'am. Overruled.

22 BY MS. GARFIELD:

23 Q Please continue.

24 A I received a radio call to respond to 100 Lorick
25 Circle to take someone into custody and I will

1 responded to assist the officers.

2 Q At that time did you know who you were responding
3 to?

4 A I did not.

5 Q Did you choose, since it was in your region ---

6 A I did.

7 Q Is that law enforcement agency also the City of
8 Columbia?

9 A Yes, it was.

10 Q When you got there, who did you tell them you
11 were in the process of taking into custody for a
12 lawful arrest?

13 A At that time, I learned from one of the
14 investigators on the scene that they were attempting
15 to locate a Mr. Lorenzo Tucker.

16 Q You have your notes before you, Chief?

17 A Yes.

18 (Pause.)

19 Lorenzo Young, I'm sorry.

20 Q That's okay. What did you do at that time,
21 Chief?

22 A At that time, again I feel spoke with the
23 investigators on the scene. They said they could not
24 make a location determination at that point. I then
25 turned to walk back to my vehicle and a young lady

1 approached me and kind of subtly pointed towards an
2 apartment in the 24 building.

3 Q Were you familiar with who this woman was?

4 A I was not.

5 Q And can you just demonstrate to the jury what you
6 observed her doing?

7 A Yes, as I turned to walk back to my vehicle, she
8 pointed. like this, to a door that I was walking past.
9 I continued to walk. I did not make contact with her
10 at all and I got back inside my vehicle and got on the
11 radio and advised the officers to develop a perimeter
12 around that apartment.

13 Q When you say develop a perimeter, explain to the
14 jury what you mean by that.

15 A In developing a perimeter, I stationed officers
16 around the front door, around the back door of the
17 apartment. I stationed officers across from the
18 apartment to get a good eye level on the upstairs of
19 the apartment.

20 Q Right at that time did you attempt make contact
21 with the resident of that apartment?

22 A I did. Myself and Sergeant Calby knocked on the
23 front door of the apartment. It was 24-5 Lattimore
24 Manor. After some knocking on the door, a young lady
25 came to the door. She was somewhat hesitant and I

1 asked was she in the apartment alone. At first she
2 said she was ---

3 MS. PINNOCK: Objection, Your Honor. Hearsay.

4 THE COURT: It's not offered for the truth of the
5 matter asserted.

6 BY MS. GARFIELD:

7 Q Please continue?

8 A At first she was she was and then she said she
9 wasn't. She looked real nervous, so we asked her to
10 step from the apartment. I continued to engage her in
11 conversation and asked we could search her apartment
12 to see if anyone was hiding inside, and for which she
13 gave verbal consent to so.

14 Q At that time, did you enter the apartment?

15 A I did.

16 Q Were other law enforcement assisting you?

17 A Yes, ma'am, myself and approximately four to five
18 other officers entered the front door of the
19 apartment. We radioed around to the other officers in
20 the back to let them know that we were in the process
21 of searching the apartment.

22 At that time, we heard some moving around, some
23 movement upstairs. For officers' safety reasons, I
24 radioed to any available K-9 unit that was working to
25 make an apprehension if need be.

1 Q Why did you do that?

2 A For officer safety purposes. We didn't know what
3 we had. Just for an abundance of caution, being the
4 commanding officer on the scene, I wanted to make sure
5 our officers were safe, so we called for a K-9 unit
6 that may be working in the city.

7 Q Did a K-9 unit in fact arrive at this location?

8 A Yes, ma'am, approximately three minutes later K-9
9 Officer Newman arrived at the scene.

10 Q Then what happened?

11 A Well, challenged to anyone that may be upstairs.
12 We did hear noise, but didn't see anyone. We made
13 several challenges to anyone that may be upstairs.
14 That was loud repetitive commands: police K-9, come
15 out with your hands up. We got no response, so at
16 that time Agent Keith Thrower, Officer Lance Reeves,
17 and K-9 Officer Newman went upstairs.

18 Q And was anyone found in the upstairs area?

19 A They did find Mr. Young upstairs in a bedroom
20 closet after a K-9 search. The K-9 locate him.

21 Q And was Mr. Young taken into custody at that
22 time?

23 A Yes, ma'am, he was taken into custody and brought
24 down the stairs and placed into the police vehicle,
25 Officer Jordan's police vehicle.

1 Q Chief Kelly, was there anything found near
2 Mr. Young when he was taken into custody?

3 A Underneath Mr. Young was a cell phone that was
4 located.

5 Q I'm going to hand you what has been marked as
6 State's Exhibit Number 380. Do you recognize what's
7 in that envelope?

8 A This is same phone call that we found on that
9 day.

10 MS. GARFIELD: Your Honor, at this time we'd like
11 to introduce State's Exhibit Number 380 into evidence.

12 MS. PINNOCK: No objection, Your Honor.

13 MR. SCHNEE: No objection.

14 THE COURT: All right.

15 (WHEREUPON, State's Exhibit Number 380 was
16 admitted into evidence.)

17 THE COURT: Admitted without objection.

18 BY MS. GARFIELD:

19 Q Chief Kelly, is that the extent of your
20 involvement in this investigation?

21 A It was. I did take down the name of the young
22 lady whose apartment it belonged to and I gave it to
23 one of the investigators on the scene.

24 Q Were you able to determine any relationship
25 between that young lady and the defendant, Lorenzo

1 Young?

2 A At that time she told us she was Mr. Young's
3 cousin. We were able to substantiate that.

4 MS. GARFIELD: Beg the Court's indulgence.

5 (Pause.)

6 BY MS. GARFIELD:

7 Q Chief Kelly, can you please share with the jury
8 date that Mr. Young was taken into lawful custody?

9 A Yes, this was July 5th at approximately 18:24,
10 that's 6:24.

11 Q Of 2013?

12 A Of 2013.

13 MS. GARFIELD: Thank you, Chief. Please answer
14 any questions defense counsel may have.

15 THE WITNESS: Thank you.

16 THE COURT: Ms. Pinnock.

17 MS. PINNOCK: May it please the Court, Your
18 Honor.

19 CROSS-EXAMINATION:

20 BY MS. PINNOCK:

21 Q Chief Kelly, if I could, could I make take a look
22 at the notes you referred to?

23 A Yes, ma'am.

24 MS. PINNOCK: Your Honor, may I approach?

25 BY MS. PINNOCK:

1 Q This is what you referred to during your
2 testimony?

3 A Yes, ma'am.

4 MS. PINNOCK: One second, Your Honor.

5 (Pause.)

6 Thank you, Judge.

7 BY MS. PINNOCK:

8 Q Just very briefly, you said after July 5th you
9 were not involved in this case whatsoever.

10 A I was not.

11 Q Okay. Thank you.

12 THE WITNESS: Thank you.

13 MR. SCHNEE: No questions.

14 THE COURT: Have a good day.

15 THE WITNESS: Thank you.

16 THE COURT: Call your next witness.

17 MS. GARFIELD: The State calls Sergeant William
18 Pegram.

19 MR. SCHNEE: Judge, may we approach briefly?

20 THE COURT: Yes, sir.

21 SERGEANT WILLIAM PEGRAM,

22 after being duly sworn, testified as follows:

23 THE CLERK: Please have a seat. State your full
24 name for the record.

25 THE WITNESS: William Pegram.

1 THE COURT: All right, ladies and gentlemen,
2 apparently Investigator Pegram was left off the
3 witness list inadvertently. Does anybody know him or
4 have any relationship with him in any way, shape, or
5 form? If so, please raise your hand. (There was no
6 response.)

7 DIRECT EXAMINATION:

8 THE COURT: Okay. Thank you. Go ahead.

9 BY MS. GARFIELD:

10 Q Thank you, Your Honor. Sergeant Pegram, where
11 are you employed?

12 A The Columbia Police Department.

13 Q Are you working today?

14 A I'm not.

15 Q Are you on vacation?

16 A I am.

17 Q Sergeant Pegram, thank you for being here. What
18 are your duties with the Columbia Police Department?

19 A I supervise the violent crimes unit.

20 Q And the violent crimes unit investigates what
21 kind of types of crimes?

22 A Aggravated assaults and homicides.

23 Q Was this your duties also back in July of 2013?

24 A Yes, it was.

25 Q Were you the --- were you managing this

1 particular homicide on July 1st, 2013?

2 A No, I was not.

3 Q Explain to the jury why not.

4 A I was on vacation.

5 Q And did you eventually come back from vacation
6 and assist minimally with this investigation?

7 A I did.

8 Q And Sergeant Pegram, you have a prior background
9 in looking at and analyzing phone records?

10 A I do.

11 Q Particularly I want to show you what's been
12 marked as State's Exhibit 395. Explain to the jury
13 what these records are?

14 A This is data that was returned from a search
15 warrant from AT&T. It's cell phone records. Actually
16 it's land line records for a house phone.

17 Q And do you know what land line address they're
18 associated with?

19 A It's on Lucille Drive.

20 Q Do you know who resides in the home that land
21 line number corresponds to?

22 A I believe it's the Barnes family.

23 Q And that would be including Trenton Barnes that's
24 in the courtroom today?

25 A Yes, ma'am.

1 Q Okay. I'm going to also show you State's Exhibit
2 Number 402 and ask if you are familiar with what these
3 records contain?

4 A The same thing. This is a data return from
5 T-Mobile on a cell phone belonging to Lorenzo Young.

6 Q If you'll just share with the jury what the phone
7 number corresponds with?

8 A It's area code [REDACTED]-0890.

9 Q In the course of investigation of this case,
10 whose --- that phone number correlated --- had an
11 association with who involved?

12 A Lorenzo Young.

13 Q Okay. Thank you. Using those phone records,
14 Sergeant Pegram, were you able to analyze phone calls
15 being made to certain people?

16 A Yes.

17 Q I'm going to show you what's been marked as
18 State's 378 and --- are you familiar with this blow
19 up?

20 A I am.

21 Q If you'll just explain what this is?

22 A This is a return from a cell phone company. It
23 shows data associated with a particular phone call.

24 Q Will this help you illustrate to the jury what
25 you are able to examine?

1 A It would.

2 MS. GARFIELD: Your Honor, at this time I would
3 like to introduce State's 378 --- it might be 398.

4 THE COURT REPORTER: 378 is a map and it's
5 already in.

6 MS. GARFIELD: All right, Judge. This is 398.
7 My apologies.

8 MR. KRZYSTON: I believe my prior objections were
9 addressed.

10 THE COURT: Is that an objection or no objection?

11 MR. KRZYSTON: No objection.

12 THE COURT: All right. 398 without objection.

13 (WHEREUPON, State's Exhibit Number 398 was
14 admitted into evidence.)

15 MS. GARFIELD: Sergeant Pegram, if you will
16 please step down.

17 THE COURT: Come over to the other side and keep
18 your voice up so the court reporter can hear your.

19 A Thank you, sir.

20 BY MS. GARFIELD:

21 Q Sergeant Pegram, do you see a target number on
22 this exhibit?

23 A I do.

24 Q Can you explain to the jury what a target number
25 is?

1 A A target number is the number associated to the
2 target. Basically if we have a cell phone that we
3 want to subpoena records for, we look at the number
4 associated with that cell phone and that's our target
5 number. And what is the target number on this
6 exhibit?

7 A The target number is [REDACTED]-0890.

8 Q In the course of this investigation, who was ---
9 who was found to be associated with this?

10 A Lorenzo Young.

11 Q Did you also see him --- phone calls being made
12 from that target number on the early morning hours of
13 July 1st, 2013?

14 A I did.

15 Q Is that what this exhibit represents?

16 A It does.

17 Q Can you explain to the jury what any calls made
18 to a number associated with Lucille Drive?

19 A The first call was on 7/1/2013 at 3:05 in the
20 morning. It was call, the duration of the call was
21 one minute and 40 seconds. Testifies from Lorenzo
22 Young's cell phone number to Lucille Drive.

23 Q And were there any other calls made to Lucille
24 Drive?

25 A There was one other and that was --- that

1 occurred on 7/1/2013 at 03:14 in the morning and the
2 duration of that call was two minutes and four
3 seconds.

4 Q Does this document --- it indicates Lucille
5 Drive. Are you familiar with the particular area or
6 particular home that was made to?

7 A I'm familiar with the home on Lucille Drive.
8 It's the Barnes residence.

9 Q The Barnes residence?

10 A Yes.

11 Q Thank you, Sergeant Pegram. Please answer any
12 questions defense counsel has.

13 THE WITNESS: You're welcome.

14 THE COURT: Cross?

15 MR. KRZYSTON: Thank you, Your Honor. May it
16 please the Court.

17 THE COURT: Yes, sir.

18 MR. KRZYSTON: Court's indulgence.

19 (Pause.)

20 CROSS-EXAMINATION:

21 BY MR. KRZYSTON:

22 Q Investigator or sergeant?

23 A Sergeant.

24 Q Sergeant. I'm sorry. In looking at the phone
25 records that the State just gave you, you can't say

1 for sure that Mr. Young was the one using that phone
2 can you?

3 A No, I cannot.

4 Q And you just pointed out two calls from the
5 number that we --- the 463 number that we were talking
6 about and those were around the time of these
7 allegations, correct?

8 A Yes, sir.

9 Q So you would find it relevant if somebody had
10 called either Mr. Young or Mr. Barnes approximately 38
11 times in the hours after these allegations?

12 A Right.

13 Q No further questions.

14 MR. SCHNEE: No questions.

15 THE COURT: Redirect.

16 MS. GARFIELD: No, sir.

17 THE COURT: Have a good day.

18 THE WITNESS: Thank you, sir.

19 THE COURT: Next witness.

20 MS. CAMPBELL: Your Honor, the State would call
21 Investigator McCoy, but we do have a matter. It might
22 be a good time for a break.

23 THE COURT: Okay. Let's take a morning break.
24 If you'll return to your jury room. Do not discuss
25 the case. Keep an open mind. We'll see you back in

1 about ten or 15 minutes.

2 DEPUTY: Remain seated while the jury leaves,
3 please.

4 (WHEREUPON, the jury left the courtroom at 10:43
5 A.M.)

6 THE COURT: Yes, ma'am.

7 MS. CAMPBELL: Thank you, Your Honor. I just
8 wanted some guidance from the court. With this
9 witness, this is going to be one of the lead
10 investigators in the case. Basically, he is actually
11 the conducted the interviews on the date they were
12 arrested or taken into custody on the 5th. He
13 interviews both Mr. Troy Stevenson, I believe he
14 participates in that. And that's also the day that
15 Trenton Barnes is interviewed, as well as the
16 defendant. We are not offering anything from Lorenzo
17 Young as far as those interviews. We are not offering
18 anything from Trenton Barnes from those interviews.
19 However, based on the opening statement, I what I just
20 want to clarify and get a ruling from Your Honor, is
21 he said this witness threatened to kill witnesses.
22 That would be involving him having to go into a line
23 where I basically think he talks to the defendant
24 Lorenzo Young and mentions something about, "You need
25 tell the truth in order so that you won't get a

1 needle" or something to that effect. He also
2 mentioned in his opening that this witness hides
3 witnesses. I don't know what he plans on getting into
4 as far as the basis of that, and that he also, I
5 believe, mentions that he either lost evidence or hid
6 evidence for witnesses as well.

7 I just wanted to get something from the court,
8 some guidance on how to do that. It's my
9 understanding that he may try to get into the
10 substance of Troy Stevenson's statement as far as him
11 getting statements and names at a later time. We don't
12 have a copy of that, Your Honor. However, I would
13 advise the court that under a completeness doctrine, I
14 believe under Rule 106, we would then be attempting to
15 introduce Mr. Stevenson's entire testimony if he
16 intends on going into part of it. I don't know how he
17 thinks he can get into that, but I just wanted to
18 bring these matters up to the court so we don't get
19 into a big back and forth in front of the jury or
20 again put forth inadmissible evidence before them.

21 THE COURT: All right.

22 MR. SCHNEE: Well, I can speak to that, Judge.

23 THE COURT: Good.

24 MR. SCHNEE: It's probably directed towards me.
25 Judge, I have no intention of playing recordings of

1 other people's voices. My only intention is to
2 question McCoy about what he did and what he said. If
3 he denies it, I would be playing his voice only on a
4 recording, which is in a prior statement, and it's an
5 admission by party opponent. I'm not asking him about
6 what any responses were, I'm not asking him about
7 anything else, but I certainly get to cross-examine
8 him about what he did in his investigation and what he
9 said to other people.

10 So I don't see how that would ever open the door
11 to allow Troy Stevenson's statement from coming in. I
12 don't know how that would happen when I'm only going
13 to be dealing what McCoy has said to other people and
14 there wouldn't be any audio played at all if McCoy
15 actually answers the questions truthfully so I don't
16 even see a problem there.

17 THE COURT: Mr. Krzyston.

18 MR. KRZYSTON: And I just would say I think I
19 agree with Mr. Barnes' lawyer insofar as I don't
20 believe 106 would even be triggered unless some type
21 of audio recording or investigation statement was
22 used. I know here, our side of it is, we're not
23 playing any recording. You know, we're simply asking
24 questions which will go into the integrity of the
25 investigation. We do not intend to use any type of

1 recording to trigger 106. So to the extent that she
2 wants to admit recordings or statements from McCoy, I
3 would object to that.

4 MR. SCHNEE: And just very briefly, introducing a
5 part of a recording or even a part of a statement and
6 publishing it to the jury in the form of impeachment,
7 is not introducing evidence. We have been doing that
8 throughout this entire trial. The State has been
9 doing it through their own witnesses. You know, just
10 because they call one of their witnesses and try to
11 impeach that witness doesn't mean we can automatically
12 say that now the jury has to read the entire
13 statement. No one has made that argument before
14 because it's not right. Impeachment is just that,
15 impeaching the witness with their own prior statement.
16 That doesn't open it up to everything else that was
17 contained within the totality of it.

18 MR. KRZYSTON: Judge, just again from our
19 perspective. If we question McCoy about what he said
20 to Mr. Stevenson, we would not be saying --- we would
21 just basically question him on the substance of the
22 information. We wouldn't say, you know, that you
23 learned this when talking to Mr. Stevenson or identify
24 to the jury in any fashion to whom McCoy said these
25 things and kind of where they came from if it makes

1 any sense.

2 THE COURT: Well, the problem is it doesn't make
3 any sense in regards to the Rules of Evidence.

4 MS. CAMPBELL: Right.

5 THE COURT: Because if you're going to cross
6 somebody on a prior statement of a witness, then you
7 have to tell them when it was made, who it was made
8 to, and where it was made to be able to cross them on
9 it.

10 MR. KRZYSTON: And, Judge, we're not crossing him
11 on a statement a witness made. We're just simply
12 crossing him on the information that he learned during
13 the investigation.

14 THE COURT: What?

15 MR. KRZYSTON: We will not be asking McCoy
16 anything directly related or coming from the mouth of
17 Troy Stevenson. Troy Stevenson --- we will not ask
18 anything about what Troy Stevenson said.

19 THE COURT: But you're going to ask McCoy what he
20 said to Troy Stevenson.

21 MR. KRZYSTON: No, we are simply asking McCoy and
22 crossing McCoy on the information that he learned from
23 Troy Stevenson, but we will not go into the source of
24 that information or where he learned it. I believe in
25 our cross we talked in terms of days, not what witness

1 he learned this from. So it sounds like on --- what's
2 today, 17th. So on November 17th, 2014, you learned
3 such and such and such. There would be no mention of
4 Troy. There would be, I don't believe, any mention of
5 any paraphrasing of his comments. Again, this is only
6 from our perspective.

7 THE COURT: I don't understand how you think the
8 Rule 106 doesn't apply? If you're going to talk about
9 a statement he made to a witness, how does the rest of
10 the statement not come in?

11 MR. SCHNEE: Judge, the specific questions I'll
12 be asking about in terms what statements McCoy has
13 made to witnesses throughout this investigation only
14 go to the integrity of him as an officer and the
15 integrity of his investigation. It's not for the
16 truth of the matter asserted. It's not dealing with
17 actually obtaining content and information from
18 witnesses.

19 None of that is relevant. I'm not going to be
20 playing audio unless he denies making those
21 statements, for example, the death threat to Lorenzo
22 Young. I have no intention of playing McCoy's voice
23 during Lorenzo's interview to have Lorenzo say on
24 audio that he denied it. I have no intention of doing
25 that. If I asked McCoy if he threatened Lorenzo

1 Young's life and he says yes, that's the entirety of
2 the question. That goes to him as an investigator and
3 how he conducted his investigation. It goes to his
4 bias, his motive and his credibility. It has nothing
5 do with the fact that he did or did not threaten
6 Lorenzo Young's life. I don't any of believe that
7 McCoy would have pulled out a needle and threatened
8 Young at that interview, that's not the point. I'm
9 going for what Investigator McCoy did. I don't
10 understand how that would implicate an entire
11 statement under Rule 106 when the statement is not
12 being introduced or offered in any way into evidence.
13 The only basis of the statement of itself being
14 discussed here because it's an audio recording for
15 potential impeachment.

16 THE COURT: Rule 106 doesn't say it has to be for
17 impeachment or not for impeachment. It just says when
18 a writing or recorded statement is introduced by a
19 party then you would be the one playing it. Then the
20 adverse party can require the introduction at that
21 time or with any part of at any other time of the
22 writing or recorded statement.

23 MR. SCHNEE: Yes, Your Honor. For impeachment
24 it's not being offered into evidence.

25 THE COURT: It doesn't say it has to be offered

1 into evidence. Read Rule 106. It says introduced by
2 a party.

3 MR. SCHNEE: Right. That would be introduced
4 into evidence.

5 THE COURT: It doesn't say that.

6 MS. CAMPBELL: Testimony is evidence. If you're
7 introducing it, that's evidence.

8 MR. SCHNEE: Of course, but impeaching a witness
9 with one part of anything doesn't automatically allow
10 the entirety of that document to come into evidence.
11 That's never been the rule.

12 THE COURT: Are you reading Rule 106?

13 MR. SCHNEE: I've read it, Your Honor, yeah. I'm
14 familiar with it.

15 THE COURT: Do you have your rule book with you?

16 It says, "... which in fairness to be considered
17 contemporaneously with it."

18 MR. SCHNEE: Yes, Your Honor, I see that.

19 THE COURT: It doesn't say this doesn't apply in
20 impeachment scenarios.

21 MR. SCHNEE: Well, Judge, the very first sentence
22 says, "The law in this state has been that when a part
23 of a document or writing has been introduced into
24 evidence, the remainder may be introduced by the other
25 party."

1 THE COURT: What are you reading?

2 MR. SCHNEE: That's in the --- it's the annotated
3 notes and that comes from Dukes v. Smokes 1936. All
4 the annotations continue in the same vein.

5 THE COURT: I guess we'll have to take it up one
6 at a time. I don't know anything else to do.

7 MS. CAMPBELL: My other concern, Judge, is
8 clearly anything Lorenzo Young said was self-serving
9 so it's --- they're going to back door the fact he is
10 denying anything. The gist is it then that it comes
11 in the context of they're telling him to tell the
12 truth, which he doesn't do, so therefore they get to
13 back door in the self-serving statement?

14 MR. SCHNEE: Judge, I'm not trying to introduce
15 Lorenzo Young's statement, not in any way. There is
16 no Lorenzo Young voice.

17 THE COURT: So are you going to say did you
18 threaten to kill Lorenzo Young?

19 MR. SCHNEE: That would be my question to McCoy.
20 If he denies it, I would, if necessary, play just the
21 portion, the entire three-and-a-half second phrase
22 that McCoy has and just that.

23 THE COURT: What is that three-and-a-half second
24 phrase?

25 MR. SCHNEE: The exact phrase, "The only thing

1 that's going to keep a needle from going into your arm
2 is if you're fucking honest with me." That's the
3 entirety of the phrase. There was one point in the
4 middle where Lorenzo Young said "uh-huh". That has
5 been taken out. That has just been eliminated and the
6 rest of it is straight from his mouth.

7 MS. CAMPBELL: So at that point the jury is going
8 to have the before then the fact that he was
9 interviewed he was told that. Therefore, I'm forced
10 to put in his self-serving statement to show he wasn't
11 telling the truth. Isn't this just back dooring in
12 the self-serving statement?

13 MR. KRZYSTON: Judge, just for the record, we're
14 not attempting to introduce anything, so we're not
15 attempting to back door anything.

16 THE COURT: I don't think was implying that you
17 were.

18 MR. KRZYSTON: I'm just making sure.

19 MR. SCHNEE: I wish we could put him up and ask
20 what the response was. I'm not asking anything about
21 Lorenzo Young and his version of events. It doesn't
22 matter to me who was sitting in that room at all. It
23 could have been someone in an entirely unrelated case
24 and I think the impeachment value is exactly the same.
25 It goes to his credibility as a police officer.

1 THE COURT: So if you say, "Did you threaten to
2 kill Lorenzo Young --- I don't even know if that's an
3 accurate statement.

4 MS. CAMPBELL: That's --- I mean, that in and of
5 itself, he can't say yes to it because he didn't.

6 THE COURT: Right, and if he says, "Yes," you're
7 going to move on?

8 MR. SCHNEE: Yes.

9 MS, CAMPBELL: Yes, but he didn't ---

10 THE COURT: You can't say "Did you threaten to
11 kill." Threat to kill is to kill you.

12 Tell me what the quote is again.

13 MR. SCHNEE: The only thing that is going to keep
14 a needle from going is if you're fucking honest with
15 me.

16 THE COURT: I don't think that's a threat to
17 kill.

18 MR. SCHNEE: I think that's up to the jury, but I
19 can certainly ask Investigator McCoy, " Did you
20 threaten Lorenzo Young with the death penalty?"
21 because that's exactly what that's referring to.

22 MS. CAMPBELL: I think basically he is telling
23 him, Your Honor, if you take the phrase --- and I can
24 hand it up to Your Honor --- you're saying you need to
25 be honest so that --- this is a death penalty --- then

1 we get to go in front of the jury that this is a death
2 penalty eligible case and that we aren't seeking the
3 death penalty, because that's where we're going to be
4 at that point.

5 THE COURT: I mean, Lorenzo Young's statement to
6 the police isn't even admissible.

7 MS. CAMPBELL: No.

8 MR. SCHNEE: I'm not arguing that Lorenzo Young's
9 statement to police is admissible. I'm arguing that
10 the conduct of McCoy during the investigation is
11 admissible and to impeach him as a police officer
12 pursuant to Kyle v. Whitley and every other basic
13 concept of cross-examining a police officer. That's
14 the only purpose of having any of this, and yes, it
15 goes directly to his credibility in front of the
16 witness and what the jury --- if the jury believes
17 him.

18 MS. CAMPBELL: Why --- how ---

19 MR. SCHNEE: The fact that he is threatening to
20 have a suspect receive the death penalty, which would,
21 by the way, be a felony threat from a police officer,
22 I think is very relevant. It doesn't matter what the
23 context of anything else is. That goes to his conduct
24 as a police officer. It's not for the truth of the
25 matter asserted. It's not going doing into what

1 Lorenzo Young said or did or his response or anything
2 else. It's purely to go into what type of police
3 officer and investigator he is.

4 MS. CAMPBELL: I mean, if he phrases it in such a
5 way as, you know, did you inform the witness that this
6 was a potential death penalty case by saying that he
7 could get a needle in his arm, that's one thing, but I
8 don't think he can be specific as to that being
9 Lorenzo Young, because at that point we're in the
10 position of having to --- for him to characterize it
11 as he threatened to kill him is ridiculous, and then
12 further he has got to use the language that he used.
13 Basically, did you inform or tell one of the witnesses
14 that this was a potential death penalty case and he
15 could get a needle in his arm, and than we're still
16 stuck with what he was trying to do is say tell the
17 truth, because that's purpose of the whole statement
18 and that's in the statement. Because he says, "If you
19 aren't honest with me ..."

20 THE COURT: What else do you plan on asking
21 that's of that same vein?

22 MR. SCHNEE: I'm absolutely going to ask him
23 regarding his willingness to conceal the identity of a
24 witness and claim it be a fake informant. I'm going
25 to ask him about that, because that's what he tells

1 Donald Moore about a completely unrelated rape case.

2 THE COURT: All right.

3 MR. SCHNEE: I'm certainly going to be going into
4 information that he received as just a general concept
5 in his investigation. I'm going to ask him if he has
6 ever received certain names that may or may nit have
7 information Marquis Johnson. Sequan Williams, Darryl
8 Samuels, Anthony Nelson, Joshua Green and then I'm
9 going to ask if he ever bothered to interview those
10 people. If he says no, that's it. That's all I'm
11 going for.

12 MS. CAMPBELL: And then we have an opportunity,
13 Your Honor, to explain part of that and we tried keep
14 out of this trial, and we have tried hard, is the
15 whole gang involvement. One of the reasons --- and, I
16 mean, I'm just telling you as an officer of the court.
17 I don't want to mislead you, but one of the reasons
18 that doesn't contact them is because, in his
19 experience, because these are all gang members and
20 these are all their friends, they're staying there
21 that night asleep that in his experience they aren't
22 forthcoming to police and when police approach them,
23 they aren't. In addition to that, during this
24 interview when these names came up at least most of
25 them with Amy Zmroczek she indicated that she would

1 get back to some of them about that. I can give you a
2 transcript about what that went. He waited to hear
3 from her and she never got back and that since then,
4 he's learned they didn't want to talk to police.

5 MR. SCHNEE: Judge, the fact that an investigator
6 is given the names of seven or eight or so witnesses,
7 potential alibi witnesses, eyewitnesses to Troy
8 Stevenson, the fact that he never even bothered to try
9 to call a single one of them, I think that goes to how
10 he conducts his investigations.

11 THE COURT: I think he is also allowed to explain
12 why he didn't do it.

13 MS. CAMPBELL: Which is fine with ---

14 MR. SCHNEE: These people aren't being ignored
15 because they are alleged gang members. They are
16 people that are standing outside his house --- and if
17 he wants to say he didn't believe they would be
18 honest, then that's up to him to say, but they were at
19 his house. That doesn't open the door to say, oh
20 well, they're gang members so I can't talk to them.
21 That's ridiculous.

22 THE COURT: Well, that's not --- now, see you
23 just mischaracterized what was said. That's a
24 mischaracterization. What was said is he doesn't ---
25 his testimony allegedly would be that he doesn't want

1 to interview them because they're not forthcoming in
2 his experience because they're gang members.

3 MR. SCHNEE: Well, if that's what he wants to
4 testify, that's what he can testify to.

5 MS. CAMPBELL: Okay.

6 MR. SCHNEE: But I don't understand why we're
7 having an entire debate about what I get to cross-
8 examine a witness on before I even ask him a single
9 question.

10 THE COURT: We're having this because of your
11 opening statement. That's why we're having this
12 conversation right now.

13 MR. SCHNEE: Okay. My plan on cross-examining
14 Investigator McCoy is dealing with what he has said
15 and what he has done and that's it.

16 THE COURT: What are you standing up for?

17 MS. PINNOCK: Your Honor, I just want to put on
18 the record a concern that we have and are now having
19 regarding introducing gang testimony for an
20 explanation as to why somebody did or didn't do ---

21 THE COURT: He is not going to be allowed to say
22 your client is in a gang.

23 MS. PINNOCK: Right, Your Honor, but there have
24 been efforts made to keep out reference of any sort of
25 gang involvement or anything associated with gangs

1 throughout this trial.

2 THE COURT: In regards to your client, yes.

3 MS. PINNOCK: Yes, sir. Allowing testimony now
4 to justify why something was or was not done, we have
5 no indication of that, I think, is going to introduce
6 evidence in this trial that's going to prejudice Mr.
7 Young.

8 THE COURT: He's not going to say --- I'm not
9 going to let him say your client is in a gang or that
10 this was a gang involved shooting or that somebody
11 ordered some kind of a hit or something. If he wants
12 to get up and say --- I'm making up a name because I
13 don't really remember all the names he just said, but
14 were you told about Marquis Johnson, yes, I was. Why
15 didn't you go interview him? I think that's a fair
16 question. You were given information about a
17 potential witness in the case and you could have gone
18 to interview him. That's a fair question.

19 MS. PINNOCK: Yes, sir.

20 THE COURT: Something that was done or not done
21 in the investigation --- why didn't you go interview
22 him because of my information is that that person is
23 in a gang and people in gangs usually don't talk ---
24 whatever you're --- I'm making this up, but, I mean,
25 as long as he doesn't say your clients are in a gang

1 or this was some type of gang related shooting or this
2 was some kind of ordered hit or some kind of
3 initiation or something like that, talking about
4 extraneous witnesses that were or were not interviewed
5 being involved in gangs, I don't know how anybody is
6 prejudiced by that.

7 MS. PINNOCK: Your Honor, but then we have
8 another issue also. We have no information provided
9 to us saying that anybody whose names have been
10 provided to law enforcement are involved in gangs.
11 That's just ---

12 THE COURT: How is that exculpatory to your
13 client?

14 MS. PINNOCK: Well, Your Honor, it's --- I mean,
15 if it's going to be part of the testimony of one of
16 the lead investigators --- this material information
17 ---. If they're saying they have it, they should have
18 turned it over. Your Honor, that's just under Brady,
19 the material ---

20 THE COURT: That's not the rule. How is it ---
21 the answer to how is it exculpatory to your client.
22 The answer is, it's not, right.

23 MS. PINNOCK: Well, Judge, I don't know because I
24 don't know what that information would be.

25 THE COURT: Okay. So. Okay. Now, so the real

1 issue is this threaten to kill issue.

2 MR. SCHNEE: Would Your Honor like to hear the
3 exact quote I would play in front of the jury if
4 necessary?

5 THE COURT: I'd rather hear the question.

6 MR. SCHNEE: The question is going to be "Did you
7 threaten Lorenzo Young with the death penalty?"
8 That's going to be my question. I might follow it up
9 with, "Did you say quote..." and then read the exact
10 quote that he said.

11 MS. CAMPBELL: Why can't he ask that question?
12 Why can't that be the question, did you say this, what
13 he said?

14 THE COURT: Yeah.

15 MR. SCHNEE: Well, I ---

16 MS. CAMPBELL: Why do we have to bring the death
17 penalty into it, Your Honor. At this point I think
18 there is going to have to be an instruction of some
19 sort because this is not a death penalty case.

20 THE COURT: We're already going to have a
21 sentencing instruction.

22 MR. SCHNEE: Except the threat that he made was
23 for the death penalty so that's why I'm asking him
24 about---

25 THE COURT: Why can't you ask him the direct

1 quote?

2 MS. CAMPBELL: The quote.

3 THE COURT: That's the same thing.

4 MS. CAMPBELL: It's the truth.

5 THE COURT: It's actually accurate.

6 MR. SCHNEE: I believe I should be able to ask it
7 both ways. I mean, if I ask that question, I can
8 certainly --- am I prohibited from following up with
9 "You're referring to the death penalty, aren't you?"

10 THE COURT: Yes, but ---

11 MR. SCHNEE: That seems like a logical point.

12 THE COURT: Well, everybody in the room, all the
13 lawyers in the room know that Investigator McCoy
14 doesn't make that decision. Number one, he doesn't
15 have the ability to make the decision. Number two, he
16 doesn't have the power to do it. Even if he wanted to
17 make it a death penalty case, he couldn't make it a
18 death penalty case. Even if did have the power to
19 make it a death penalty case, which he doesn't have
20 the power to give someone the death penalty case or
21 anything else. so it's just not accurate.

22 Now, the quote is accurate and the jury can infer
23 what the jury infers from that based upon that for the
24 purposes of Investigator McCoy's impeachment or
25 credibility or motive or bias or anything else, but I

1 mean, this idea --- I mean, that, you know, he
2 threatened to kill him, no. I mean, it's just not
3 accurate --- so, the question is --- I will allow you
4 to go into the quote that he made to Mr. Young.

5 MR. SCHNEE: Am I allowed to follow up and say
6 when you refer to a needle on the arm, you're
7 referring to the death penalty? I know everyone in
8 this room certainly understands that.

9 THE COURT: Right.

10 MR. SCHNEE: But I think it's important for the
11 jury to understand what the needle in the arm
12 references.

13 THE COURT: No. You're not going into that.
14 That's too much of a stretch.

15 MR. SCHNEE: A needle in the arm to --- to ask
16 him is your referring to a needle in the arm to the
17 death penalty; that's too much of a stretch?

18 THE COURT: Unless you want him to ask it. I'm
19 inclined to keep that part of it out.

20 MS. CAMPBELL: My concern is at that point then,
21 regardless of which way he does it ---

22 THE COURT: We create all kinds of issues.

23 MS. CAMPBELL: --- it creates issues as far as
24 the death penalty. I think we would have to have a
25 specific instruction to tell this jury this is not a

1 death penalty case, because, you know, I mean that can
2 affect how a jury views things. I mean, legally, we
3 can't even seek the death penalty because of their
4 ages.

5 THE COURT: Right.

6 MS. CAMPBELL: I mean, just if you take out all
7 the other factors.

8 THE COURT: I'll allow you to go into the direct
9 quote, but any kind of question beyond that I'm going
10 to deem as inappropriate based on what I know at this
11 point. I think the direct quote goes directly to the
12 credibility of the officer and the motive and the bias
13 and any potential prejudice that he may have. So I'm
14 going to allow you to do that, but that's it. All
15 right. Let's take about a ten minute break.

16 MS. CAMPBELL: Your Honor, can we address the
17 final issue, the hiding of evidence?

18 THE COURT: Yes, there was something about --- he
19 said something to somebody about hiding evidence?

20 MR. SCHNEE: Yes, Your Honor.

21 THE COURT: Yes, let's look at that one.

22 MR. SCHNEE: Essentially, Your Honor, there's a
23 conversation ---

24 THE COURT: It's somebody's interview.

25 MR. SCHNEE: Right. It's Donald Moore that's

1 being interviewed. It's a telephone conversation, and
2 they're talking about this particular case.

3 THE COURT: Right.

4 MR. SCHNEE: Donald Moore brings up the fact that
5 he may be able to find out the name or something about
6 a completely unrelated rape case.

7 THE COURT: Right. I remember that.

8 MR. SCHNEE: McCoy tells him that if a Donald
9 Moore get him the name or, I think, if you get it
10 meaning the name, I'll simply list it as an anonymous
11 informant and further describes, I'll never have to
12 put your name. It doesn't matter as long as the
13 victim picks the guy out of the line up. That's
14 essentially what McCoy says.

15 THE COURT: Okay.

16 MR. SCHNEE: I'll pretend that you're an
17 informant so I don't have to tell anyone to conceal
18 your identity.

19 THE COURT: All right. And what's your take on
20 that?

21 MS. CAMPBELL: Your Honor, I don't know how it's
22 related to this matter. It's commonly done. It was
23 actually done in this case because he doesn't list him
24 as an informant on the search warrant to try to
25 protect him. If he wants to go there, great, but I

1 don't think he's going to like the answer.

2 THE COURT: Okay. You heard her.

3 MS. CAMPBELL: He's on notice.

4 THE COURT: All right. Ten minutes.

5 (WHEREUPON, a short break was taken.)

6 (WHEREUPON, State's 266 and 282 were withdrawn.)

7 MS. CAMPBELL: Just for clarification, when he
8 asks that question, is he going to be allowed to say
9 that that was in reference to Lorenzo Young being
10 questioned. I just need to know whether I need to go
11 into the fact that --- you know, did you all interview
12 Lorenzo Young and then just move on, because ---

13 THE COURT: What's your position on that?

14 MR. KRZYSTON: I'm sorry, I didn't hear what the
15 question to the Court was.

16 THE COURT: The question is, am I going to allow
17 Mr. Schnee to say did you make this statement to Mr.
18 Young.

19 MS. CAMPBELL: Or maybe said it to a witness.

20 Because then you're getting into the fact that he
21 is threatening --- it's just not admissible.

22 MR. SCHNEE: Well, I think the fact that he is
23 threatening a suspect in particular is highly
24 probative of what is necessary for impeachment value.
25 I'm fine with just saying suspect.

1 THE COURT: Yeah, suspect is fine.

2 MR. KRZYSON: I don't know that we have any
3 objection.

4 THE COURT: Okay. Suspect is fine. We'll stay
5 with suspect. Okay. Let's bring in the jury.

6 (WHEREUPON, the jury entered the courtroom at
7 11:30 A.M.)

8 THE BAILIFF: The jury is seated, Your Honor.

9 THE COURT: You may call your next witness.

10 MS. CAMPBELL: May it please the Court, Your
11 Honor. The State calls Investigator McCoy.

12 INVESTIGATOR MATTHEW MCCOY,
13 being duly sworn, testified as follows:

14 DIRECT EXAMINATION:

15 THE COURT: State your full name and spell your last
16 name, please.

17 THE WITNESS: Matthew D. McCoy, M-C-C-O-Y.

18 THE COURT: Thank you. Ms. Campbell.

19 MS. CAMPBELL: May it please the Court.

20 BY MS. CAMPBELL:

21 Q Investigator McCoy, where are you employed?

22 A I'm employed with the Columbia Police Department.

23 Q How long have you been with the police
24 department?

25 A I was hired in 2008, so I'm going on seven years.

1 Q What do your duties include at the Columbia
2 Police Department?

3 A Well, currently I'm employed in the criminal
4 investigations division under the VCAP unit, the
5 Violent Crimes Against Persons.

6 Q As part of the VCAP unit, what type of
7 investigations do you conduct?

8 A Primarily I conduct homicides, suicides,
9 kidnappings, aggravated assaults, anything along those
10 lines, any violent crime against a person.

11 Q I'm going to turn your attention back to the end
12 of June, first of July last year. Did you get called
13 in on this case involving Ms. Hunnewell?

14 A Yes, I did.

15 Q How did you become involved, sir?

16 A On the early morning hours of July 1st, I was
17 called out, which is pretty typical. I was called out
18 by sergeant. This was case of Sergeant Reese. He was
19 filling in for my normal sergeant, Sergeant Pegram.
20 He called me on the telephone and said they had a
21 possible homicide at 93 Tommy Circle and requested
22 that I respond and take over the investigation.

23 Q When you refer to Sergeant Reese is that Sergeant
24 Reese right there?

25 A Yes, that's him right there.

1 Q And he was the actual supervisor of the case?

2 A Yes, he was.

3 Q Approximately what time was it when you received
4 a call to respond to Tommy Circle?

5 A If you'll let me look at my notes, if you don't
6 mind.

7 (Pause.)

8 I received a call at 5:11 A.M. on the 1st.

9 Q What time did you actually respond at the scene
10 on Tommy Circle?

11 A I got there at 6:17 A.M.

12 Q When you got there, what did you find?

13 A Well, when I arrived at the location, crime scene
14 was already on the scene as well as the coroner's
15 office. EMS had been there, but they had left. The
16 front door was standing open. Crime scene tape was
17 around the location and I went in. Crime scene was in
18 the process of collecting shell casings and other
19 items. I believe Sergeant Reese and a few others had
20 been there for a little longer than I had and observed
21 some other items of interest.

22 While I was in the location, I observed the
23 victim who was later identified as Kelly Hunnewell at
24 the autopsy at the coroner's office's office. She was
25 wearing a blue zip up jacket and gray sweat pants,

1 black and green shoes.

2 She was lying on her side underneath a metal
3 sink. It appeared she had a single gunshot wound and
4 she was deceased.

5 Q Let me back up for a second. What was the
6 weather like when you got there that morning?

7 A It had been raining all night. It was still
8 sprinkling, and the rain was off and on, from heavy to
9 light throughout the early morning HOURS while I was
10 there. It had been raining the majority of the
11 morning.

12 Q In the area --- the victim was still there on the
13 scene when you got there?

14 A That's correct.

15 Q In the area around her, did you make any
16 observations that might have been pertinent to this
17 case as far as where the shooting actually occurred?

18 A Sure. Obviously when we go to a scene and we
19 don't know what happened, or even if a video exists at
20 this point. You're trying to figure out what's going
21 on. We got there. There were items strewn about the
22 location. It looked like a struggle had ensued or
23 some type of --- I guess a struggle is the best way to
24 describe what had occurred. Also, there were many
25 shell casings laying on the floor and by the

1 positioning of the shell casings, you were able to
2 determine where the shooters might have been standing.
3 We were able to determine there were at least two
4 firearms used. There were two different calibers of
5 ammunition that we found at the scene so we know at
6 least two firearms were used.

7 Q When you say there were two calibers of
8 ammunition at the scene, so at least two firearms were
9 used, what type of caliber ammunition did you find at
10 the scene and how were you able to determine that?

11 A Okay, well, the shell casings are headstamped.
12 They will have the manufacturer, as well as the
13 caliber on the rear of the ejected shell casing, the
14 bullet actually, resided before it was fired and was
15 ejected out of the weapon. I found a 40 caliber Smith
16 and Wesson shell casing and also 45 caliber GAP.

17 Q Once you assessed the area where Ms. Hunnewell
18 was found, did you go back into the break area?

19 A We did.

20 Q Were you able to determine anything from a time
21 card you found at the scene belonging to Ms. Hunnewell
22 when you got there that day?

23 A Yes, of course, we will look at the whole scene
24 to see if we can find to determine what led up to the
25 incident. When I walked in, I saw a time card. It

1 had Kelly Hunnewell's name on it. I believe it was
2 3:00 A.M. was the time she punched in. 0300 hours,
3 3:00 A.M. was the time punched in on the card. We
4 knew is we around that time she had arrived or at
5 least punched in for work.

6 Q Were your able to determine whether anyone else
7 was present that morning based on the time cards?

8 A We didn't see any other time cards where anyone
9 else had punched in or been there.

10 Q There at the scene, did you see any personal
11 items belonging to Ms. Hunnewell?

12 A We found a phone that we believed to be
13 Ms. Hunnewell's, as well as keys to the van that was
14 parked outside by door, which we assumed --- actually
15 through records, DMV records,

16 Q And how many vans were actually parked outside
17 the store?

18 A There were two. One belonged to the catering
19 company; it had the markings for the catering company
20 and the bakery so they could transport the items back
21 and forth from the bakery to their store and also the
22 van that belonged to Kelly Hunnewell.

23 Q And what, if anything, did you do with the van
24 that morning?

25 A With Ms. Hunnewell's van, we had it towed to

1 headquarters. The investigator, Investigator Moorer,
2 followed the vehicle, just for the whole chain of
3 custody, and followed the tow truck. That's pretty
4 standard with any investigation. If there's a vehicle
5 we think might be involved or belonged to the victim,
6 we that we can't account for or rule out, we tow it to
7 headquarters. We don't know we have at that point.

8 Q At that point, you had not seen any videos?

9 A That's correct, yes, ma'am.

10 Q While you were there in the bakery, did you
11 notice any type of cameras there in the bakery?

12 A I did. As I was surveilling the location, I
13 looked up and I saw several cameras. I think there
14 were at least four inside of the bakery.

15 So I began to look around for a camera system,
16 and we found a DVR. It wasn't hooked up to a monitor,
17 but the lights were on, so you could tell that
18 hopefully something had been recorded on this DVR.

19 Q At that point did you take any steps to have the
20 DVR collected and attempt to download the images?

21 A Yes, crime scene took it. They were going to
22 take it up to our headquarters in order to hook it up
23 to a monitor. We can't interact with the software on
24 the DVR without having a monitor to look at what
25 you're doing.

1 Q While you're still there at the scene, did you
2 also become aware of who had actually called in this
3 9-1-1 call?

4 A Yes, yes.

5 Q Who was that?

6 A It's --- I have a name here. I know that ---
7 it's Theresa Baskin.

8 Q Okay. Was anyone sent to interview her that
9 morning?

10 A Yes, I believe Investigator Hilton went over
11 there and spoke with her and put it in his notes that
12 he interviewed her.

13 Q While you were there at the bakery, did you make
14 any attempts to contact anyone associated with the
15 café and the catering service?

16 A I did. I actually located a magnetic sign that
17 was on the refrigerator in the break room. It was the
18 main number for the Carolina Cafe. I called that
19 number and I got an answer from an individual whose
20 last name was Andrew Park-Floyd. That's a hyphenated
21 last name. He identified himself as the manager. I
22 advised him that I was looking for the owner or
23 someone I could speak with about who owned the bakery
24 or who ran the bakery. He directed me to Max
25 Schleuter. And I was provided a telephone number for

1 him. I didn't make contact with that individual, and
2 left a voice mail. He called me back and I advised
3 him what was going on at his bakery.

4 Q Once you made contact with Mr. Schleuter, was he
5 able to give you any pertinent information about
6 Ms. Hunnewell?

7 A He was.

8 Q And what information was he able to give you?

9 A He basically was able to advise me of where she
10 lived currently, that she had been an employee of his
11 and that she was supposed to be at the bakery. That
12 was her normal hours where she would come in and bake
13 bagels and cook other items on the stove there.

14 Q Did he tell you any information about her family
15 situation that you followed up on?

16 A Yes, he said ---

17 MR. KRZYSTON: Objection.

18 THE COURT: Stop.

19 THE COURT: What's your objection?

20 MR. KRZYSTON: Hearsay.

21 THE COURT: Overruled.

22 BY MS. CAMPBELL:

23 Q Go on.

24 A From his information, we were able to determine
25 that she had several small children who may be home

1 alone with no one to care for them, so we are sent
2 Investigator Dowell over to that house to make contact
3 with the children and to make sure they were all
4 right.

5 Q And then other investigators, I believe, ended up
6 making the contact with family members, as well?

7 A That's correct.

8 Q Did Mr. Schleuter end up coming to the scene that
9 morning?

10 A Yes. He did. He actually provided us with a key
11 to the door. We wanted to secure the location by
12 locking it after we left. He was able to give us a
13 key. He also gave us the code for the DVR. It was
14 password protected, so we were able to get into it.

15 Q Who was actually able to obtain the video from
16 the DVR?

17 A That was Sergeant Rose.

18 Q Where did that take place?

19 A It took place at Columbia police department
20 headquarters.

21 Q At that point, the DVR had been transported
22 there?

23 A That's correct.

24 Q Were you able to review the video of what was
25 shown from the interior of the bakery at that point?

1 A Yes, when Sergeant Rose hooked up video to a
2 monitor, we were able to play the raw footage. He
3 pulled the footage first in it's raw format. It was
4 four files from the four camera angles. We also
5 observed the footage from the DVR.

6 Q Based on that, were you able to get a
7 description? Were you able to actually see shooting
8 itself on the video?

9 A Yes, we were.

10 Q Were you able to get a description of the people
11 that had come inside the bakery?

12 A Yes, when we observed the video as you saw
13 earlier, we identified three people who we believe
14 were involved. Now, obviously two of the ones that
15 entered the bakery, one had a gray sweatshirt on and
16 one had a red hooded sweatshirt, both had hooded
17 sweatshirts on. Both were carrying semiautomatic
18 handguns, from the video. We also were able to
19 determine that were black males from their hands.

20 Q Were you able to get a look at their faces from
21 the video?

22 A No.

23 Q Why not?

24 A It looked like the faces were covered. The one
25 looked like he had a mask on, with the red hoodie, he

1 looked like he had a mask on. The one with the gray
2 hoodie, he just looked like he had his hand holding
3 the hood real tight over his face to keep himself
4 concealed.

5 Q Were you able to tell from the video whether one
6 or both men actually fired their weapons?

7 A Both individuals fired their weapons. I could
8 tell the one with the gray appeared to fire twice. The
9 other one, the red hoodie, I believe it was five
10 times. It happened in rapid succession. That's what
11 I got from it.

12 Q And the shooting itself, what time did it
13 actually happen on the video as it was date stamped?

14 A I have it --- as it was date stamped on the
15 video?

16 Q Yes.

17 A It was timestamped at 2:42 A.M. However, we
18 determined later that the time was about an hour off,
19 so actually it would have been 3:42 A.M. That was
20 based upon the 911 call and the time the officers
21 actually arrived. We were able to determine it was
22 about an hour.

23 Q And once you got the video, did you --- were you
24 able to retrieve an actual copy of the video and take
25 it somewhere?

1 A Yes, I was able to take the copy of the video to
2 Lexington County Sheriff's Department to see if they
3 could aid us in either cleaning it up or getting
4 stills from the video, high quality stills, that we
5 could use to release to the media or use in our
6 investigation to see if could determine maybe a brand
7 or something like that of the clothing.

8 Q And, in fact, were you able to get a number of
9 stills that aided in your investigation?

10 A Yes, I believe there were several hundred that we
11 were able to get.

12 Q Once you were able to review the stills, were you
13 able to notice anything additional things about the
14 clothing that the men wore or anything like that?

15 A Yes, let's see here. In looking at the stills, I
16 believe when I looked at the stills, I determined that
17 possibly the shooters were wearing gloves on their
18 hands that they were holding the firearms in. You
19 could tell they were --- it was a normal hand on the
20 hand that didn't have the firearm. Also, one of our
21 investigators, Investigator Moorner, she wears the
22 Hollister brand clothing. In looking at the stills,
23 she was --- in looking at photographs of that
24 particular sweatshirt, a Hollister brand sweatshirt
25 zip up hoodie, we were able to determine that was more

1 than likely the hoodie, being Hollister brand hoodie,
2 just from the still photo and the branding on the
3 front.

4 Q That afternoon, did you all get a search warrant
5 and return back to the bakery?

6 A Yes. We did.

7 Q Why did you go back to the bakery that afternoon?

8 A Well, when you're there initial, you're not
9 100 percent sure what was touched or what had
10 happened. We hadn't observed the video. We made
11 decision to secure the location and return once we
12 watched any footage that existed to see what might
13 have been touched or brushed against and see what
14 might have occurred. That just prudent to do that.

15 Q Okay,

16 A It also would aid crime scene investigators in
17 determining what things to swab and so forth.

18 Q Were fingerprints actually dusted there at the
19 scene?

20 A No, they were not.

21 Q Why not?

22 A Well, in looking at the video, as you saw, it was
23 such a quick incident. It doesn't appear they
24 actually touch anything to the point where you would
25 get fingerprints. Also, in speaking with our crime

1 scene investigators, as is the case, you usually have
2 to pick one or the other as far as fingerprints or
3 touch DNA. If you're going to use dust to dust for
4 prints, it can affect the DNA and vice versa.

5 Q Specifically when you went back that afternoon,
6 was there a spoon that was recovered?

7 A Yes. There was. I believe it was on the ground,
8 I believe, from the photographs.

9 Q And that's when it was taken into evidence?

10 A That's correct. Yes.

11 Q And in addition they took swabs from areas they
12 thought they might have touched?

13 A That's correct. From various things, when we
14 watched the video, we saw places they might have
15 brushed against or slapped with their hands as they
16 were fleeing the location. Those were all the areas
17 we swabbed in hopes we would get some kind of touch
18 DNA.

19 Q After the crime scene, y'all went back and ---
20 during the time period when you've been there in the
21 morning to when you went back that afternoon, was the
22 crime scene still kept secure?

23 A It was, yes, ma'am.

24 Q That evening, early evening, did you and Sergeant
25 Reese and other investigators canvas certain areas

1 near there?

2 A We did. Let's see. After that, we had a brief
3 meeting at the police department, which was typical.
4 We kind of brief about what's going on. What do we
5 know so far, what evidence do we have so far, what
6 needs to be done to continue and try to develop a
7 lead. At this point we had no leads besides the
8 video. So Sergeant Reese suggested that we go to the
9 neighborhood, go to Tommy Circle, as well as some
10 other neighborhoods that surround it and canvas. It's
11 just basically walk around and knock on doors, did you
12 hear anything or see anything that looked a little
13 suspicious.

14 Q During that canvass, what areas, what streets did
15 you actually go door to door and try to develop
16 information?

17 A The areas included Bonner Avenue, Lucille Drive,
18 Dubard Street, Beach Haven Road, North Beltline
19 Boulevard, Tommy Circle, and those areas in those
20 neighborhoods specifically.

21 Q Were you able to develop any information from
22 that canvass?

23 A We did --- now, I went to 12 Tommy Circle and was
24 able to obtain additional surveillance footage.

25 Q That's what I was going to ask. What is 12 Tommy

1 Circle?

2 A That's the Original Ale House, I believe it's
3 called.

4 Q And where is that located in relation to the
5 bakery?

6 A It's directly next door.

7 Q Were you able to get video from them?

8 A Yes, I was.

9 Q And did you have an opportunity to review that
10 video?

11 A I did. Once we received it on several DVDs, it
12 was large files, we were able to come back to
13 headquarters and review it after we finished the
14 canvass.

15 Q And did they have multiple cameras in the Ale
16 House video?

17 A They did, multiple inside and outside.

18 Q But, of the ones of use, how many were actually
19 useful for you in this investigation?

20 A I believe it was just one angle that faced toward
21 the bakery. The rest were mainly interior.

22 Q Let me ask your this. The video that you got
23 from the interior of the bakery, does it have any
24 audio on it, can you hear anything?

25 A It does.

1 Q From the bakery?

2 A I'm sorry, from the bakery, no the bakery has no
3 audio. Twelve Tommy Circle has the audio.

4 Q And that would be the Ale House video?

5 A That's correct.

6 Q In the Ale House video, what are you able to
7 actually hear through the audio on that?

8 A Rain and buzzing.

9 MS. CAMPBELL: Your Honor, permission to publish
10 the videos with him at this point?

11 THE COURT: Yes, ma'am.

12 MS. CAMPBELL: You may step down.

13 THE COURT: Can you see? Front corner, can you
14 see?

15 BY MS. CAMPBELL:

16 Q First, pulling up the bakery video, if we could
17 first?

18 THE COURT: Does that help or hurt?

19 THE JUROR: Help.

20 THE COURT: Okay.

21 BY MS. CAMPBELL:

22 Q Pull up --- tell me, how do --- inside the
23 bakery, how do the cameras work? Do they run
24 continuously?

25 A Yes.

1 Q Is that different from how the Ale House one
2 works?

3 A Very different.

4 Q We'll get back to that. What area does this
5 show, sir?

6 A Well, the front door would be over here. This is
7 just entry way. That's bathroom, that's the kitchen
8 area at the top.

9 Q Can you see back there? Okay.

10 A The main entrance would have been right here.

11 Q Can you fast forward to right before the
12 entrance. Thank you. That's good. And who is that
13 that you see in the video at this point?

14 A We determined that's Kelly Hunnewell.

15 Q What was in her hand at that point?

16 A That is a large metal spoon or ladle, if you
17 will. You can see several shots that go off. The
18 individual in the red hoodie, if you watch it where
19 their hands move up.

20 Q Moving on to where they enter. Is that the
21 extent of the time they're in the actual bakery?.

22 A Yes. This will be the front door. I believe
23 that's Ms. Hunnewell's van you actually see right
24 there in the video.

25 Q Who is that in the doorway? Can you back that

1 up?

2 A That would be the individual who we would call
3 the lookout. We believe, based upon the way he is
4 dressed ---

5 MR. SCHNEE: Objection.

6 THE COURT: What is it?

7 MR. SCHNEE: Drawing a conclusion.

8 THE COURT: Overruled.

9 THE WITNESS: Based upon the way he is dressed,
10 the fact that he is covering up his face, based on my
11 experience ---

12 BY MS. CAMPBELL:

13 Q Right there?

14 A Based on my experience with these kinds of
15 crimes, a ---

16 MR. KRZYSTON: Objection.

17 THE COURT: Overruled.

18 THE WITNESS: A lookout is very common.

19 BY MS. CAMPBELL:

20 Q And specifically, what is that around his face
21 that he has drawn around his face?

22 A I know that is hoodie. Just like the other two
23 are dressed.

24 Q Is this different in color from what you can tell?

25 A It is. It's either black or dark blue, it's

1 hard because the color on the camera is not great.

2 The camera is not a high quality.

3 Q And he's holding it up covering what part of his
4 face?

5 A His mouth and his nose.

6 Q Is that the only time you actually see him on
7 camera, as far as ---

8 A That's correct, as far as this video.

9 Q Okay. Go to the angle that shows right on to the
10 stove and the sink. What area is this?

11 A This would be the kitchen. The front door is
12 over here. That's just an extended portion. There's
13 another camera on that side. That's going to be a
14 straight on shot of the kitchen, as well as the actual
15 murder itself.

16 Q And I see steam coming out of a pot on the stove.
17 Do you know what's in there?

18 A I think it was boiling potatoes, I saw it was
19 boiling potatoes, peeled potatoes, when I got there.

20 Q Who is that?

21 A That's Kelly Hunnewell. And there is the spoon
22 that she had.

23 Q Finally, can you pull up from inside bakery, the
24 four side by side, and inside, and again what is this?

25 A This is same footage you just watched. However,

1 it's being correctly timestamped and the footage or
2 the angles have been put together so it's easier to
3 see a chronological order of what actually occurred
4 from start to finish. This is when you first see them
5 entering, the incident, and then back out. It's very
6 quick seeing them.

7 Q And that's of the interior?

8 A Yes, ma'am.

9 Q Can you pull up the Ale House, please. Again,
10 there is no audio on those cameras?

11 A No, there's no audio. We tried to turn the
12 speakers up on our monitor, nothing. I don't believe
13 they were equipped with microphones.

14 Q Is that the only one that provided assistant in
15 this case, from the Ale House, that you know of that
16 showed anything?

17 A That's correct. This is only angle that showed
18 anything relevant.

19 Q From your view of this, approximately what time
20 is it that the people from the Ale House actually
21 leave?

22 A Let's see. Employees begin to leave about 3:09.
23 The final vehicle that we determined was an employee
24 vehicle leaves about 3:12.

25 Q 3:12?

1 A They come out here. They speak and they talk.

2 Q And that's all on this video?

3 A You'll hear them talking. You'll hear the
4 buzzing, and that's about all you hear. You do hear
5 them talking about the night or something.

6 Q On this video, how is it activated?

7 A Well, from my understanding, when we received the
8 video, we were advised that it was motion activated.
9 There was some motion detector on the camera at least
10 for this angle.

11 Q This angle?

12 A They're able to vary it depending on where the
13 camera is located, whether continuously or...

14 Q Can you fast forward to about 3:12 when they
15 leave?

16 A That would be the final ---

17 Q Can you see anything after everyone actually
18 leaves from the Ale House?

19 A See anything after they leave?

20 Q No, before that, as far as anything involving the
21 bakery?

22 A No, I didn't observe anything involving the
23 bakery until after they were all gone.

24 Q And what time do you actually observe information
25 from the bakery?

1 A According to the time stamp, it would be
2 3:14 A.M. is the time I initially saw --- he will come
3 from here, the individual in the hooded sweatshirt.

4 Q And again this distance is much further away and
5 outside and in the rain?

6 A Yes, you can see the light. You can see the
7 catering van and the light from the open door, so it's
8 a good distance away --- the front door is over here.

9 Q And the bar that's running up at the top, what is
10 this?

11 A This was an awning. The awning wasn't attached
12 to it, but it's similar. The awning sits here. That
13 would be the support bar.

14 Q What do you see there?

15 A That's a --- the first individual in a hooded
16 sweatshirt and then second individual comes into view.

17 Q And then ---

18 A It's motion activated so it's going to skip
19 every few seconds once motion ceases. There is ---

20 Q At this point, can you see the second individual?

21 A Yes --- the second individual was seen, I believe
22 you saw an individual walking --- you may have to
23 rewind it. There is another individual that walks up
24 through there ---

25 Q From the left side?

1 A Correct, that would be the third individual who
2 walks up. And it looks like they're having a
3 conversation. You obviously can't hear what's being
4 said, but it appears there's some back and forth.
5 That window there, that's a bathroom window. This
6 individual stays pretty much where he is looking
7 towards the door. You can also get behind the
8 building. There is a little walkway, called an alley
9 way.

10 Q That's end of the clip on this?

11 A Yes, ma'am.

12 Q Is there a second clip that picks up where that
13 one left off?

14 A Yes, the files were so large, they had to be
15 broken to you know separate clips, four in total.
16 That's where we picked up. The guy is walking --- the
17 hooded sweatshirt individual is walking to the back.
18 That individual remained there. I don't know if there
19 were any effects of the motion sensor at all. That
20 may be why it keeps picking up motion. You can see
21 the rain falling as well as their motion.

22 Q And how many individuals do you see at this point
23 at the corner?

24 A I only see two individuals at the corner at this
25 point. Earlier you saw an individual walk around the

1 front of the vans and go around to the other side. I
2 don't know if he's going to come back in the frame.

3 Q Okay.

4 A At this point there's one here and one closer to
5 that side of the wall. You can see his shadow outline
6 there where he is.

7 Q And, again, as far as what's on the other side of
8 the vans or the front side, far side of the baker, can
9 you see can you see any of that in this video?

10 A No, you can't. There's no camera directed there.

11 Q Okay.

12 A You see those two individuals here, they would be
13 in the walk towards the front here, circling the van
14 there, that's at 3:21, 3:22, correct.

15 Q And at this point can you see anyone from this
16 angle?

17 A No, you won't see anything until 3:36.

18 Q This one is timestamped separately from what's
19 inside?

20 A That's correct. Whatever they set their DVR
21 timestamped to is what you see. I'm just referring
22 the notes with the timestamps.

23 Q Good. Fast forward. Do you see anything between
24 in now and 3:36?

25 A No, I didn't observe anything when I watched it

1 several times. Nothing happens between 3:31 and
2 3:36 except somebody walking.

3 Q You can fast forward to 3:36.

4 A You have to watch carefully, keep your eye on
5 this area right here because it will happen quick.
6 The motion, it's not a continuous stream.

7 Q So it's kind of a hesitation between actual
8 motion and ---

9 A Yes, you will miss a few seconds at a time
10 sometimes. It varies depending on what motion it picks
11 up. You see these two individuals running. You catch
12 the tail end of the one guy and the other guy you
13 catch them right there. It's so quick.

14 Q Okay. Is that the extent of what you observed?

15 A Yes, it is on this video.

16 Q You can go back to the stand.

17 MS. CAMPBELL: If I could have a brief minute,
18 Your Honor, I have one more while she has it up, just
19 because it's cumbersome.

20 BY MS. CAMPBELL:

21 Q Once you got the video, did you release certain
22 things to the media?

23 A We did. As part of an investigation, obviously
24 when we have unknown individuals and are trying to
25 develop a lead, the media is a great tool. It helps

1 them. They get information about the incident and it
2 helps us because a lot of people will see it and give
3 us information, and hopefully, call in. However, we
4 try not to release all the information. That wouldn't
5 be good for the investigation. You want to be able to
6 see if future witnesses (A) know what they're talking
7 and (B) can they be credible. We did release a copy
8 of the video to the media, but it was not in it's
9 entirety.

10 Q I'm showing you what's been marked as State's
11 Exhibit Number 439. At my request, did you review
12 this?

13 A Yes.

14 MS. CAMPBELL: Your Honor, at this time we offer
15 State's Exhibit 439 into evidence.

16 (WHEREUPON, State's Exhibit Number 439 was
17 admitted into evidence.)

18 MR. KRZYSTON: No objection.

19 MR. SCHNEE: No objection.

20 THE COURT: State's 439 without objection.

21 BY MS. CAMPBELL:

22 Q Permission to publish it?

23 THE COURT: Yes.

24 Q And that's extent of the footage that was
25 released?

1 A That's correct.

2 Q Okay.

3 A We left out the part where she struggles and uses
4 the spoon to strike the individual, and the actual
5 shooting, for obvious reasons.

6 Q Okay. Thank you. That day when you were in the
7 video (sic) and you got there that morning, what was
8 the temperature like inside video (sic)?

9 A Inside the bakery, it was quite warm inside the
10 bakery. Now, I --- my understanding that the fire
11 department had come to shut off the gas, because of
12 the heat and the fact that the burners were on with
13 boiling potatoes, but when I got there several hours
14 after the discovery, you know, it was about 6:17, but
15 it was still very hot, and I was advised it's so hot
16 take off your jacket. You're going to start sweating.

17 Q That same day did you contact a man named Cary
18 Shealey?

19 A I did. Cary Shealey, he runs Statewide Security
20 Services. The city has a contract for video cameras
21 around the city.

22 Q Was he able to give you any information as far as
23 any cameras in the area?

24 A No, I requested any cameras he had in the area
25 and any footage he had from them, but he later contact

1 me by telephone. We have a pretty good working
2 relationship. He said he had nothing, no footage in
3 that area whatsoever at the time this occurred.

4 Q That evening did you also go back and canvass
5 another area?

6 A We did. Toronto Street, which is near that
7 location, I did that Sergeant Reese and Investigator
8 Hilton. We didn't look at anyone that had any
9 information. Really, they didn't want us --- didn't
10 want to be involved. They didn't want to give their
11 names or anything.

12 Q And everything you testified to before so far is
13 what you all did on July 1st?

14 A That's correct. All that was on July 1st.

15 Q On July 1st, did you have any suspects with names
16 involved?

17 A Not at that time, no.

18 Q I want to turn your attention to the next morning
19 July 2nd. Did your investigation continue?

20 A It did.

21 Q Specifically, did you receive certain --- you
22 can't say what it is in that, but did you receive
23 certain information?

24 A I did. I received tips, which again is not under
25 common when you release footage to the media or you

1 have a story like that and you get tips.

2 Q And those are what was called Crimestoppers tips?

3 A That's correct. It's done through Crimestoppers
4 of the Midlands. We don't have access to names or
5 phone numbers. That's all kept confidential. We get
6 the substance of what they advised.

7 Q At that point --- you can't say what was in the
8 tips, but did you start trying to follow up on leads
9 that may have been in those tips?

10 A Yes, I did.

11 Q And during the course of the day, is that what
12 you did?

13 A That's what we did almost the entire day. We had
14 several meetings during the day, but we followed up on
15 those leads.

16 Q That evening did you get some information from
17 one of your regions?

18 A I did, about 5:30 in the P.M. Sergeant Shuler, he
19 was the Metro Region supervision for the street units
20 at that time, he called and said there was an
21 individual who had information for us.

22 Q And at that point did your send somebody to go
23 and get the witness --- the possible witness and bring
24 him in?

25 A Yes. We did.

1 Q And who actually went and picked them up that
2 day?

3 A I believe it was Investigator Moorer who went and
4 picked him up. Yes, Investigator Moorer.

5 Q And once the witness got to headquarters, who was
6 that witness?

7 A He was identified as Donald Moore.

8 Q And at that point was Donald Moore cooperative?

9 A He was very cooperative.

10 Q And was he able to give you information?

11 A Yes, he gave me information regarding the case.
12 It was audio recorded.

13 Q And specifically was he able to give you
14 information that had never been released to the media?

15 A Yeah. That's what gave him so much credibility
16 to us. I can't say what the information was ---

17 MR. KRZYSTON: Objection, vouching.

18 THE COURT: What?

19 MR. KRZYSTON: Bolstering.

20 THE COURT: He is not allowed to vouch for the
21 witness, but he can explain.

22 BY MS. CAMPBELL:

23 Q You can explain without --- just explain why he
24 was --- did he know information that hadn't been
25 released?

1 A He did; Moore knew information that had not been
2 released to the media.

3 Q That same evening, did you get a call from
4 Sergeant Branham?

5 A Yeah, Sergeant Amanda Branham, there's two of
6 them we have, Sergeant Amanda Branham is one who
7 called.

8 Q Based on her information, did you make contact or
9 attempt to make contact with another witness in this
10 case?

11 A Yes, I did.

12 Q And who was that witness?

13 A At the time she was just identified as Ms. Brown.
14 She wouldn't give her first name.

15 Q She wouldn't give you her first name?

16 A Not at that particular time, the first time I
17 talked to her.

18 Q That evening did you attempt to make contact with
19 her?

20 A I did and left a voice mail.

21 Q Did you have her phone call?

22 A I did. Amanda Branham, Sergeant Branham, had the
23 phone number from her and was able to provide it to
24 me.

25 Q Were you able to get in touch with her that

1 evening?

2 A I did not get touch with her that evening.

3 Q The next day did you make contact with her?

4 A About 9:00 A.M. I made contact with Ms. Brown.

5 Q And you can't say what Ms. Brown told you, but
6 was she able to give you information that was very
7 useful in this case?

8 A Yes, she did.

9 Q And the information that she gave you, did it
10 corroborate the information you had already gotten
11 from ---

12 MR. KRZYSTON: Objection, bolstering.

13 THE COURT: Sustained.

14 BY MS. CAMPBELL:

15 Q Was the information she gave you consistent or
16 inconsistent ---

17 MR. KRZYSTON: Objection, bolstering.

18 THE COURT: Let her finish the question, Mr.
19 Krzyston.

20 MR. KRZYSTON: Certainly.

21 THE COURT: Ask the question, Ms. Campbell.

22 BY MS. CAMPBELL:

23 Q Was her information consistent with information
24 you had already gotten?

25 THE COURT: Do you have any objection?

1 MR. KRZYSTON: Bolstering.

2 MR. SCHNEE: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: Yes, it was consistent.

5 BY MS. CAMPBELL:

6 Q That same morning, you can't say what you ---
7 you can't say what was said to you, but did you also
8 receive additional information from another informant?

9 A I did. This was a criminal informant who worked
10 with the Richland County Sheriff's Department.

11 Q Once you had received the information from Mr.
12 Moore and Ms. Brown and the other person, what did you
13 do?

14 A Well, I began obviously working on what to do
15 with all this information. We were able to determine
16 that we could obtain search warrants for the two
17 homes, for the two individuals that had been
18 identified.

19 Q And prior to you getting the search warrants, did
20 you get a photo lineup in this case?

21 A I did.

22 Q And who was the photo lineup on?

23 A The photo lineup was for Lorenzo Young.

24 Q And why were you getting a photo lineup for
25 Lorenzo Young?

1 A It was based upon information received during the
2 investigation whose name came up.

3 Q Once you got the photo lineup of Lorenzo Young,
4 who if anyone did you show it to?

5 A I showed it to Donald Moore.

6 Q I want to show you what's been marked as State's
7 Exhibit Number 420. Do you recognize that?

8 A Yes, this is the original photo lineup I showed
9 to Donald Moore.

10 Q Again, at this point was Mr. Moore cooperative?

11 A Very cooperative.

12 Q And taking these out, I notice that there are six
13 different photographs with six different numbers; is
14 that correct?

15 A That's correct.

16 Q And when you showed him those photographs, did
17 they have any writing on any of them?

18 A No, they did not.

19 Q When you showed the photographs to Mr. Moore, how
20 did you present them?

21 A I had photographs that were numbered one through
22 six. We showed him --- it's actually an array, not a
23 lineup. We call it a photo array. The photos are on
24 a different sheet of paper. I just put them down
25 one-by-one like this until I got to number four, at

1 which point he identified Lorenzo in that lineup.

2 Q Did he hesitate?

3 A Not at all. He said, that's Lorenzo; I'm
4 paraphrasing. I don't know the exact ...

5 Q At any point did you tell him who to pick?

6 A No, I did not.

7 Q Did you tell him which number was the person you
8 wanted him to pick?

9 A No, I did not.

10 Q And when he actually picked this as State's
11 Exhibit 437, who did he indicate it was?

12 A Lorenzo.

13 Q And did he have a nickname?

14 A Shyne.

15 Q And whose writing was this on this?

16 A That's Donald Moore's.

17 Q And that's his actual handwriting?

18 A That's correct.

19 Q And who actually circled that photograph?

20 A Donald Moore.

21 Q Once he indicated to you that he recognized this
22 person, did you memorialize that in any way?

23 A Yes, I did. We have a cover sheet called a this-
24 is-what-you-handed-me. Basically, you then sign and
25 date --- sign and give his address and phone number

1 and then I'll notarize it ---I'm a notary --- that out
2 of the six photos that we showed him, he picked photo
3 number four as the individual.

4 Q That he had given you information on?

5 A That's correct.

6 Q Did you feel the need to show him the photo
7 lineups of any of the other individuals?

8 A No.

9 Q Why not?

10 A He knew them by name and sight. He called them
11 his home boys.

12 Q And at that point did you prepare search
13 warrants?

14 A Yes. At that point, I prepared the search
15 warrants.

16 Q And where did you prepare search warrants for?

17 A I prepared two search warrants. The first was
18 [REDACTED] Bronx Road. That's where we determined Lorenzo
19 Young resided.

20 MR. KRZYSTON: Objection, Judge. Prior to
21 argument.

22 THE COURT: All right. Overruled.

23 THE WITNESS: The second search warrant we
24 obtained was [REDACTED] Lucille Drive. We determined that
25 was Troy Stevenson resided and also Trenton Barnes.

1 Q What day was this that it you were getting these
2 search warrants?

3 A This was on the 3rd at 10:00 P.M.

4 Q 10:00 P.M.?

5 A That I went and saw the judge.

6 Q And when you get a search warrant, what do you
7 have to do to get a search warrant?

8 A Well, you have to establish probable cause. We
9 have an affidavit form. We actually make up the
10 search warrant in it's entirety and take it down to a
11 ministerial recorder. She is just like a magistrate
12 judge, but for the City of Columbia. We take the
13 information down there. We establish probable cause
14 in the affidavit portion of the warrant, as well as
15 particularly describe what we're looking for and what
16 exactly we are searching. At this point it was a
17 residence we were searching.

18 Q In addition to what's on the actual search
19 warrant itself, can you also give them additional
20 information orally?

21 A Yes, we also orally supplanted portions of the
22 affidavit, in particular that Donald Moore had given
23 us information.

24 Q And in the search warrant you didn't list his
25 name?

1 A No, we did not.

2 Q Why not?

3 A We feared retaliation, as did he.

4 MR. KRZYSTON: Objection, Judge.

5 MS. CAMPBELL: This is what we ---

6 MR. KRZYSTON: Can we approach?

7 THE COURT: Go ahead. All right. Ladies and
8 gentlemen, just step out to your jury room. We'll
9 check on lunch and be back with you in just a few
10 minutes.

11 (WHEREUPON, the jury left the courtroom at 12:20
12 P.M.)

13 THE COURT: All right, Ms. Campbell.

14 MS. CAMPBELL: May it please the Court, Your
15 Honor. This is --- we talked about basically going
16 into the extent of this. I mean, this is just to
17 explain why he did this. Defense counsel brought it
18 up in his opening argument that he hid information.
19 We're explaining why he hid it, and I told him, you
20 know, the answer is because there's gang involvement.
21 I told --- we're staying away from the gang stuff, but
22 the fear of retaliation, I think, to protect a witness
23 is common practice.

24 MR. KRZYSTON: And, Judge ---

25 MS. CAMPBELL: It's not that he is hiding

1 evidence or witnesses as been inferred.

2 MR. KRZYSTON: Judge, we are made no such
3 assumption in our opening statement. Furthermore,
4 that statement is directly aimed at inflaming the
5 prejudice of the jury. We have bent over backwards in
6 this trial to avoid statements specifically like that
7 and specifically with regard to testimony that was
8 solicited by Ms. Simpson. Based on the fact that the
9 jury just heard that, I'm going to move for a
10 mistrial. I think manifest necessity dictates it. I
11 don't think that was proper material for the jury to
12 hear. We never opened the door to his character.
13 That goes directly to ---

14 THE COURT: He didn't say retaliation from who.

15 MS. CAMPBELL: No, he didn't.

16 THE COURT: He didn't say fear of retaliation
17 from Mr. Young or Mr. Barnes.

18 MR. KRZYSTON: Well, certainly --- there are two
19 people on trial here.

20 THE COURT: Neither of which names are mentioned,
21 so I ---

22 MR. KRZYSTON: Implicitly there would be an
23 inference there.

24 MR. SCHNEE: Judge, I would join in Mr.
25 Krzyston's motion.

1 THE COURT: Your motions for a mistrial are
2 denied. I'm going to order the jury to disregard the
3 statements about retaliation. Don't say anything else
4 about retaliation.

5 MS. CAMPBELL: Judge, how can he phrase it,
6 because he was protecting him is essentially what I
7 thought he was going to say.

8 THE COURT: You thought he was going to say he
9 was protecting him?

10 MS. CAMPBELL: Protecting his identity. I mean,
11 we just argued about this for 20 minutes with
12 Mr. Schnee.

13 THE COURT: Don't use the word retaliation.

14 MS. CAMPBELL: Yes, Your Honor.

15 MR. KRZYSTON: Your Honor, I think it leads to an
16 inference to say I wanted to protect him. The sheer
17 basis of that assertion is in itself inflammatory.

18 MR. KRZYSTON: There is no other person in this
19 room besides Trenton Barnes upon whose home a search
20 warrant is executed. The jury will necessarily ---

21 THE COURT: Do you know what Rule 43 is,
22 Mr. Krzyston?

23 MR. KRZYSTON: No, Your Honor.

24 THE COURT: It says you don't argue after I have
25 made my ruling.

1 MR. KRZYSTON: I'm sorry, Judge. I didn't ---

2 THE COURT: All right. Do not say anything about
3 retaliation. Do you understand that?

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: Do you have any questions about that?

6 THE WITNESS: No, Your Honor.

7 THE COURT: You can say I was --- I'm not trying
8 to put words in your mouth, but I mean my belief,
9 based on what I know, is that you were trying to keep
10 his identity unknown for the time being.

11 THE WITNESS: That's correct.

12 THE COURT: Something along those lines would be
13 appropriate.

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: All right. Bring the jury back in.

16 (WHEREUPON, State's Exhibit Numbers 436 through
17 438 were marked for identification only.)

18 (WHEREUPON, the jury entered the courtroom at
19 12:25 P.M.)

20 THE BAILIFF: The jury is seated, Your Honor.

21 THE COURT: Thank you very much. Ladies and
22 gentlemen, you will disregard any testimony from this
23 witness concerning the use of the word retaliation.
24 You may continue, Ms. Campbell.

25 BY MS. CAMPBELL:

1 Q Why did you keep his identity out of the search
2 warrant at that point?

3 A We were going to keep his identity unknown at the
4 time.

5 Q At that time?

6 A At that time, that's correct.

7 Q The two search warrants, one is at [REDACTED] Bronx
8 Road?

9 A [REDACTED] Bronx, yes, ma'am.

10 Q What neighborhood is that in?

11 A That's in the Bellvedere community.

12 Q And who was residing at that address?

13 A Lorenzo Young and his family, including Rolanda
14 Coleman.

15 Q And the other is [REDACTED] Lucille Drive?

16 A That's correct [REDACTED] Lucille Drive.

17 Q And who was residing at that address?

18 A Troy Stevenson, Trenton Barnes and his family.

19 Q The next day on July 4th, did you continue to
20 work on the case?

21 A Yes, I did.

22 Q Did y'all make a determination as to when you
23 wanted to execute the search warrants?

24 A We did. Basically it was a holiday. A lot of
25 people were off, and we decided we would do it the

1 following day to make sure we had (A) enough units and
2 (B) the safety of the Officers and everybody that was
3 going to be involved, was protected.

4 Q I want to turn your attention to the morning of
5 July 5th. Which search warrant did y'all serve first?

6 A That was S13-0293. That was [REDACTED] Bronx Road,
7 Lorenzo Young's residence.

8 Q And by the way, just for the record, you did get
9 the judge to sign off on these?

10 A That's correct. The judge signed both search
11 warrants.

12 Q Tell the jury what you found when you got to
13 Bronx Road?

14 A Well, the --- utilized the SWAT team in this
15 search warrant. They actually made entry just for
16 safety concerns. They made entry, cleared the home,
17 got everyone that was in the home detained, which is
18 per protocol. That's pretty standard. At that point
19 we went in, crime scene arrived and went in with us.

20 Q Okay. Was Lorenzo Young there at the home when
21 y'all made entry that day?

22 A No, he was not.

23 Q Was Rolanda Coleman there?

24 A Yes, she was.

25 Q Were there other people there also in the

1 residence, as well?

2 A There were. I believe his mother was there.
3 Marcus Brown, which was his mother's boyfriend at the
4 time, I believe, and some other individuals. I can't
5 recall the names.

6 Q Once you got into the house, was a search done?

7 A It was.

8 Q And specifically were you able to determine
9 which bedroom was Lorenzo and Rolanda's?

10 A We were able to determine that, yes.

11 Q And were certain items of evidence recovered
12 there?

13 A Yes, they were.

14 Q And were you present when those items were found?

15 A I was. I was in the room when they were found.

16 Q And what evidence are we talking about?

17 A The first were the gloves. I actually found
18 those in Lorenzo's bedroom closet. It was in a Sirroc
19 box along with some other items, cords and whatnot,
20 miscellaneous items up in the box on the top shelf of
21 the closet.

22 Q Why was that significant in your investigation?

23 A Well, like I said before, I believe that in the
24 video you can see the individuals, at least one of
25 them wearing a glove on his hand that he is holding

1 the firearm in and I wanted to see if (A) we could put
2 those clothing items at the scene and (2) would there
3 be any gunshot wound residue along those lines.

4 Q Was there other evidence found in that bedroom of
5 significance?

6 A Yes, while we were searching through the room, we
7 located a plastic cup. It had two unfired 45 GAP
8 rounds of ammunition. Also, an empty box of Magtech
9 45 GAP ammunition that was in the cup with it, which I
10 believe is the same manufacturer as the shell casings
11 found at the --- oh, I'm sorry, at the incident scene
12 where the murder occurred.

13 Q Was there also a clip or --- I don't know what
14 you call this?

15 A It's a magazine, a Glock magazine which holds
16 ammunition. It was found inside a purse under the bed.
17 It was near the ammunition that was found. The
18 magazine was inside the purse.

19 Q Was there also some ammunition found in the
20 dresser or chest?

21 A There was. I believe it was nine ---

22 MR. KRZYSTON: Objection, leading.

23 THE COURT: Overruled.

24 THE WITNESS: I believe there was a nine
25 millimeter shell casing, I'm sorry, a live round and a

1 40 caliber Smith and Wesson live round located.

2 Q During the search of that room at the time ---
3 was there a basinet in that room?

4 A There was. There was a basinet, a baby's crib.

5 Q At the time, did you understand any significance
6 that it might have had?

7 A Not at all.

8 Q I'm going to show you State's Exhibit Number 438,
9 and ask if you recognize that.

10 A That would be the basinet. That would be the
11 room identified as Lorenzo's room and Rolanda Coleman,
12 I think.

13 Q And this is basinet that's been overturned in
14 this picture?

15 A Yes.

16 Q And do you know who actually did that?

17 A I don't. I know when a SWAT team makes entry
18 into a home, they knock things over, open doors, turn
19 over mattresses, looking for people. They're more
20 concerned about safety. It's possible that happened.
21 I don't know who turned it over.

22 Q But this basinet later became significant in the
23 investigation?

24 A That's correct.

25 MS. CAMPBELL: I would offer this into evidence,

1 Your Honor. Thank you.

2 MR. SCHNEE: I'd like to look at it first.

3 No objection, Your Honor.

4 MR. KRZYSTON: None here.

5 THE COURT: All right. State's 438 without
6 objection.

7 (WHEREUPON, State's Exhibit Number 438 was
8 admitted into evidence.)

9 BY MS. CAMPBELL:

10 Q If I point right here on that, does that show the
11 basinet turned over?

12 A That's correct.

13 Q And again at that point did you know its
14 significance?

15 A No, I did not.

16 Q You mentioned that crime scene was brought in to
17 actually document what was found there?

18 A That's correct. I believe it was Gaston that was
19 the officer.

20 Q And he would have actually collected the evidence
21 itself?

22 A Yes, he is the one who would have collected it,
23 submitted to the evidence room and maintained chain of
24 custody.

25 Q While you were there and while the search warrant

1 was being executed, did you have any contact with
2 Lorenzo Young?

3 A No, I did not. Well, I take that back.
4 Physically, no.

5 Q Okay.

6 A An individual called the house several times and
7 identified himself as Lorenzo Young on the phone.

8 MR. KRZYSTON: Objection. Speculation, Judge.
9 No way of knowing that.

10 THE COURT: Overruled.

11 MS. CAMPBELL: Thank you.

12 BY MS. CAMPBELL:

13 Q At some point did Rolanda Coleman hand you the
14 phone saying Lorenzo was on it?

15 A I don't believe Rolanda Coleman did. I'll take a
16 look at my notes. I can tell you. I believe he was
17 just calling. The phone was ringing, ringing,
18 ringing, and he just answered it. He answered the
19 phone.

20 Q Was Ms. Coleman taken down to headquarters to be
21 interviewed?

22 A She was taken to headquarters to be interviewed,
23 yes.

24 Q You can't say why, but did that interview take
25 place that day or did it take place later?

1 A It did not take place that day. We actually
2 interviewed her later on, several days later.

3 Q Back at headquarters then, did you interview
4 Marcus Brown?

5 A We did.

6 Q You can't say what he --- well, what was his
7 relationship to Lorenzo Young?

8 A It would be his mother's boyfriend. I don't know
9 if it was a stepfather kind of relationship. I never
10 got that far, but he was dating the mom.

11 Q And you can't say what he said, but did you show
12 him certain evidence in the case --- and don't say
13 what he said.

14 A Yes, I did.

15 Q That afternoon, was there a second search warrant
16 served?

17 A Yes, around 4:15 P.M., we served the second
18 search warrant S13-029 at [REDACTED] Lucille Drive, which is
19 Troy Stevenson and Trenton Barnes' residence.

20 Q And once you made entry there, who all was at the
21 house? Do you remember?

22 A Ms. Barnes was there. There were several other
23 individuals there. Trenton Barnes was there. Troy
24 Stevenson was not present.

25 Q And where did you come upon Trenton Barnes in the

1 residence that day?

2 A He was in a --- it was back bedroom. If you came
3 in through the garage area, which they converted to a
4 little walk-in laundry room area, if you walked all
5 the way in the back, he was in the back front bedroom
6 with a few other individuals.

7 Q And what was his demeanor like when you made
8 entry?

9 A Well, his demeanor --- he seemed nervous, scared.
10 I believe he had some tears coming down his face.

11 Q Did he agree to go to headquarters with you?

12 A He did. I asked him if he would come and talk to
13 us and he agreed to come.

14 Q Did anybody end up coming with him or meet him
15 there?

16 A He requested his mother be present, and we
17 obliged him, absolutely, and had her --- we actually
18 had a police officer in a marked car, and they
19 transported her, and him at his request, down to
20 headquarters to be present during the interview.

21 Q During the search of that home, did you find
22 any --- well, let me back up, too, at Bronx Street did
23 you ever find a gun, any guns?

24 A No.

25 Q Did your find a red hoodie?

1 A No.

2 Q Or the dark gray hoodie?

3 A No.

4 Q At the second search warrant, did you ever find
5 the handguns?

6 A No, we did not.

7 Q Either of the hoodies that are seen in the video?

8 A No, not the gray or red hoodie, no.

9 Q Were there a couple of hoodies that, I believe,
10 were taken into evidence?

11 A There were. There were several dark hoodies that
12 were taken into evidence. One of them was soaking
13 wet, still wet, was wet that was obtained.

14 Q Later that evening after talking --- and you
15 can't say what was said --- but, after talking with
16 Trenton Barnes, was he placed under arrest that
17 evening?

18 A Yes, he was arrested for ---

19 Q How old was Trenton Barnes at the time?

20 A He was 16 years old.

21 Q Was he charged as an adult?

22 A Yes, he was.

23 Q Why was that?

24 A When you are charged with a violent crime in this
25 state and you are 16, that's 16-1-60, I believe, it's

1 enumerated in the statute for a violent crime. At
2 sixteen you're automatically charged as an adult. You
3 will be housed in a juvenile facility until your 17th
4 birthday, but you'll be charged to stand trial as an
5 adult. That's by law.

6 Q Did you become aware during that evening that
7 Lorenzo Young had been found?

8 A Yes, during the interview, I believe, it became
9 apparent that he was located.

10 Q And specifically was an item of evidence found
11 with him that was significant?

12 A Yes. Once he was located, I was advised by one
13 of the investigators that a phone had been located.
14 It was a Galaxy S-3 or 4, I think it was a three a
15 2013 smart phone, and I remember seeing a box for a
16 Galaxy S-3 smart phone at the home there at Bronx that
17 was empty.

18 Q Who did you later determine who the phone
19 belonged to?

20 A It belonged to Rolanda Coleman. Actually I think
21 it was Rolanda Coleman's grandmother's or mother's.
22 She had the account, Rolanda Coleman, it's her phone
23 and she had allowed Lorenzo Young to possess it.

24 Q And was Lorenzo Young actually brought down to
25 headquarters that night?

1 A He was transported down there.

2 Q Did you also make contact with Troy Stevenson
3 that evening?

4 A Yes. Troy Stevenson voluntarily came in on his
5 own volition.

6 Q After gathering all that information, were there
7 three people charged in relation to this crime?

8 A Yes.

9 Q And two of them are here today?

10 A That's correct.

11 Q Was Troy Stevenson also charged?

12 A Yes, he was.

13 Q And are his charges still pending?

14 A Yes, they are.

15 Q Turning your attention to July 9th, 2013, did you
16 then have an opportunity to interview Ms. Rolanda
17 Coleman?

18 A Yes. About 10:12 in the A.M. on the 9th of
19 July 2013, we interviewed Rolanda Coleman.

20 Q Was she alone when you interviewed her?

21 A No, she was with her attorney, Drelton D.J.
22 Carson.

23 Q At that point was she more cooperative than she
24 was here in court?

25 A Yes.

1 MR. SCHNEE: Objection, Your Honor.

2 THE COURT: Objection?

3 MR. SCHNEE: First of all as to relevance and the
4 term cooperative.

5 THE COURT: Overruled.

6 THE WITNESS: She seemed cooperative. She
7 answered our questions.

8 BY MS. CAMPBELL:

9 Q And was there an interview that was recorded from
10 her?

11 A Yes, it was audio recorded.

12 Q Moving onto July 11th, 2013, did you get another
13 search warrant to get certain evidence from Lorenzo
14 Young?

15 A I did. It was S13-0302.

16 Q What were you seeking to get from Mr. Young at
17 that point?

18 A A DNA standard from Lorenzo Young.

19 Q The next day, did you also have search warrants
20 done and signed off to get the same evidence from Troy
21 Stevenson and Trenton Barnes?

22 A Yes, on the 12th we obtained DNA standards from
23 both individuals.

24 Q Did you have, I believe, Investigators Wise and
25 Nelson collect those for you?

1 A Yes, crime scene Wise collected Lorenzo Young and
2 Nelson collected Trenton Barnes then Wise again
3 collected Troy Stevenson which was just based on the
4 time and the day of who was working at that particular
5 time.

6 Q And during this time period, were you also
7 getting various lab reports and things back from SLED?

8 A Yes, we sent off numerous amounts of evidence to
9 SLED and we were getting reports back and that type of
10 thing.

11 Q I want to turn your attention to August 9th, 2013.

12 A Okay.

13 Q Are you familiar with Latoya Barnes?

14 A I am. She is Trenton and Troy's mother.

15 Q Was she the one that was actually with Trenton
16 when he was at headquarters that first day?

17 A That's correct.

18 Q Had she tried to make contact with you?

19 A Yes, I believe she was calling me and I returned
20 her phone call. She left a voice mail on my office
21 phone.

22 Q And did you actually record that conversation?

23 A I did. I recorded that telephone conversation,
24 yes.

25 Q And she testified in this case?

1 A She did, earlier.

2 Q Specifically, I want to limit it to ---

3 MR. SCHNEE: Objection. There's a matter of law
4 we need take up.

5 THE COURT: All right. Let's step back to your
6 jury room. We'll see if lunch is here. We'll be back
7 with you in a few minutes. Do not discuss the case.
8 Keep an open mind.

9 (WHEREUPON, the jury left the courtroom at 12:41
10 P.M.)

11 THE COURT: What is the issue?

12 MR. SCHNEE: May it please the Court, Your Honor.
13 I was informed during the last break that the
14 solicitors intend to introduce a portion of Latoya's
15 Barnes' recorded interview with McCoy specifically
16 dealing with a question of an identification of who
17 was wearing a gray hooded sweatshirt. When she
18 testified last week, she said that she knew her
19 children and said that she did not identify who was in
20 the gray hooded sweatshirt specifically. It's the
21 State's contention that she does say that during the
22 audio recordings.

23 Judge, my objection is twofold. First of all,
24 this would be an improper impeachment under Rule 613.
25 The fact is they want to impeach Ms. Barnes with what

1 was on that audio recording, they should have
2 questioned her about it and played it for her. Under
3 the rules, she is required to have an opportunity to
4 either explain it or later agree that it was hers or
5 go through the time and place and circumstances.

6 They simply said, did you say it. She said no,
7 that's not what I said. They never played it for her
8 or gave her an opportunity to explain it or discuss it
9 or even find out what the context was. Now, the State
10 is intending on going through this investigator to
11 play a portion of her prior recorded statement. I
12 don't believe that's proper. Additionally, I
13 certainly in the very least, if Your Honor is going to
14 do that, I need hear the portion they plan on playing.
15 I believe that audio recording is inadmissible hearsay
16 and this is not a proper impeachment. They had an
17 opportunity to use any kind of audio as a prior
18 inconsistent statement with Ms. Barnes and they never
19 did.

20 MR. KRZYSTON: Your Honor, we would be joining in
21 Mr. Schnee's objection.

22 MS. CAMPBELL: It doesn't concern your client.

23 THE COURT: What?

24 MS. CAMPBELL: It doesn't concern his client.

25 THE COURT: It doesn't concern your client.

1 MR. KRZYSTON: I'd join in any way, Your Honor.

2 THE COURT: Based on what? What's your legal
3 reasoning for joining in that?

4 MR. KRZYSTON: Rule 613.

5 THE COURT: How does it affect your client in any
6 way, shape, or form?

7 MR. KRZYSTON: I mean, I believe it would be
8 improperly admitted against Mr. Young.

9 THE COURT: It doesn't have anything to do with
10 Mr. Young.

11 MR. KRZYSTON: I understand that, but he still
12 stands to be prejudiced by the introduction of that
13 evidence.

14 THE COURT: How?

15 MR. KRZYSTON: He was at her house that night. I
16 mean, negative inferences could flow from that
17 evidence.

18 THE COURT: What?

19 MR. KRZYSTON: I mean, I can't sit here and
20 speculate as to what negative inferences might flow,
21 but I think one can see where it may.

22 THE COURT: Actually, I don't.

23 MR. KRZYSTON: Okay. Your Honor. I just wanted
24 to get it on the record.

25 THE COURT: Your objection is overruled.

1 MR. KRZYSTON: Thank you, Judge.

2 THE COURT: My memory of what she said is, "I
3 never told them that Trenton was wearing a gray
4 sweatshirt. I didn't say Trenton was wearing the gray
5 sweatshirt. I didn't tell the cops that."

6 MS. CAMPBELL: The extent, Your Honor, was limited
7 to one question and one answer. Here is the
8 transcript. I've shown it to Mr., Schnee before.

9 MR. SCHNEE: No, I've not seen a transcript of
10 that. I want to hear the recorded clip.

11 MS. CAMPBELL: We have no problem with you
12 hearing it.

13 MR. SCHNEE: I object to it anyway.

14 MS. CAMPBELL: This is the extent what we would
15 be playing anyway, is my understanding.

16 THE COURT: Yeah.

17 MS. CAMPBELL: We'll limit it --- that is the
18 only thing that she denied, that I recall, and
19 pursuant to Rule 613, Your Honor, we did inform her of
20 what he said was given and what she told them and that
21 would be one portion that she denied.

22 MR. SCHNEE: And, Judge, I think the heart of
23 Rule 613 is the use of extrinsic evidence means you
24 use the extrinsic evidence, and using the extrinsic
25 with the witness that's making the denial, not days

1 later with someone who is not even on the stand so it
2 can't be even questioned. I had no opportunity to be
3 questioning Ms. Barnes at this point if I even wanted
4 to requestion her about it based on what the actual
5 audio says.

6 MS. CAMPBELL: That's not what the rule says.

7 MR. SCHNEE: That's a confrontation issue at that
8 point.

9 THE COURT: A witness that you've already had the
10 opportunity to cross examine?

11 MR. SCHNEE: This would be the admission of
12 different testimony and new information that I clearly
13 did not have any intention on crossing her on or need
14 to because they didn't play the audio. She just said
15 she didn't make the statement. They never even gave
16 her the opportunity to confirm or deny that's what she
17 said or anything else.

18 THE COURT: She would have multiple notice about
19 this and she continued to deny it saying that she said
20 that she said that Trenton was the one wearing the
21 gray sweatshirt and she was informed multiple times
22 about the substance of the statement, the time and
23 place it was made, and the person to whom it was made
24 and she was given an opportunity to explain or deny
25 the statement and she denied the statement and it says

1 if a witness does not admit that he has made a prior
2 consistent statement, extrinsic evidence is
3 admissible.

4 All right. You need to play the portion for him
5 that you want to play, but at this point it's
6 admissible.

7 MS. CAMPBELL: Play it.

8 (Pause.)

9 Your Honor, I don't believe it was cut properly.

10 THE COURT: Okay.

11 MS. CAMPBELL: Can we come back and do lunch and
12 then ---

13 THE COURT: Yes, unless lunch is here. Can you
14 check, Jackie? Is Jackie here?

15 THE BAILIFF: It's not here yet, Your Honor.

16 THE COURT: You can deal with that, fix it.

17 MS. CAMPBELL: I'll deal with it at the end.

18 THE COURT: All right. Bring them back in.

19 THE BAILIFF: Your Honor, it just arrived.

20 THE COURT: Okay. Perfect. Let's go ahead and
21 feed them lunch, and we'll go ahead and break for
22 lunch. Tell them they're going to have 45 minutes for
23 lunch, Mr. Dye. Tell them they're going to have 45
24 minutes for lunch, and we'll start back up at that
25 point.

1 THE BAILIFF: All right.

2 THE COURT: All right. Now, Investigator McCoy,
3 you are allowed to step down, use the facilities,
4 whatever you need to. You are not allowed to discuss
5 your testimony with anyone in any way, shape, or form.
6 Do you understand that?

7 THE WITNESS: Yes, Your Honor.

8 THE COURT: Do you have any questions about that?

9 THE WITNESS: None whatsoever.

10 THE COURT: Okay. Thank you very much.
11 Forty-five minutes for lunch.

12 (WHEREUPON, a lunch break was taken.)

13 (WHEREUPON, Court's Exhibit Number 16 was
14 marked for identification only.)

15 MS. CAMPBELL: Your Honor, they did redid it over
16 the lunch period. For some reason, the person who
17 needs to play it isn't here.

18 THE COURT: Okay.

19 MS. CAMPBELL: I apologize.

20 (Pause.)

21 MS. CAMPBELL: Your Honor, I don't know that this
22 is going to be probative, but I want to hand up State
23 vs. Dunlap.

24 MR. SCHNEE: That's on the new CD?

25 MS. CAMPBELL: That's what's reflected in the

1 transcript on the new CD. That's all hopeful.

2 MR. SCHNEE: All right. Let's just confirm those
3 hopes before we find them.

4 THE COURT: Is your client okay?

5 MR. KRZYSTON: I haven't heard anything to the
6 contrary.

7 THE COURT: Okay.

8 (Pause.)

9 Is Mr. Young on his way up here?

10 THE DEPUTY: Yes.

11 THE COURT: Thank you.

12 Did you get the audio?

13 MS. CAMPBELL: I don't know where the person who
14 plays it is, but I can just play it on the computer
15 since they aren't showing up for court.

16 THE COURT: Have you heard the portions you need
17 to hear?

18 MR. SCHNEE: I have, Your Honor.

19 THE COURT: Anything else before we bring in the
20 jury?

21 MR. SCHNEE: Not in that regard other than to
22 renew my objection about improper impeachment.

23 THE COURT: Okay.

24 MR. SCHNEE: That would cover it for that audio.
25 I don't know if they plan on using Investigator McCoy

1 or the phone video they talked about from Lorenzo. If
2 so, we still need to ---

3 MS. CAMPBELL: Investigator Reese saw that, too.
4 Since it's not in yet, I'll get him to identify it
5 rather than McCoy.

6 THE COURT: Okay.

7 MS. CAMPBELL: Because I didn't think about that
8 until he got on the stand, but it's not introduced
9 yet, so I'll do that when Reese is up there.

10 MS. SIMPSON: Judge, let's just play it on the
11 big TV to make sure it is the right audio before
12 coming up.

13 THE COURT: Make sure you get where you can hear
14 it.

15 MR. SCHNEE: Absolutely.

16 (WHEREUPON, the audio was played.)

17 MS. CAMPBELL: Apparently, Your Honor, we have it
18 fixed.

19 THE COURT: Okay. Great, let's bring them back
20 in.

21 MR. KRZYSTON: Judge, we are going to have an
22 issue with him when they call him.

23 THE COURT: That's not McCoy, is it?

24 MR. KRZYSTON: No, VanHouten.

25 THE COURT: Okay.

1 (WHEREUPON, the jury entered the courtroom at
2 1:50 P.M.)

3 THE BAILIFF: Jury is seated, Your Honor.

4 THE COURT: Okay. Thank you. Welcome back,
5 ladies and gentlemen.

6 Ms. Campbell, you may continue.

7 MS. CAMPBELL: Your Honor, at this time we'd ask
8 permission to publish State's Exhibit 440.

9 THE COURT: All right.

10 MS. CAMPBELL: You can play it from over there.

11 THE COURT: Okay.

12 BY MS.CAMPBELL:

13 Q And, again, for the record, this is part of your
14 recorded conversation with Latoya Barnes?

15 A That's correct. It occurred on August 9th, 2013.

16 (WHEREUPON, the audio was played for the jury.)

17 MS. CAMPBELL: Your Honor, permission to repeat
18 that because there was some commotion.

19 THE COURT: Yes, there was talking over anything.
20 Ask whatever question you want to ask first.

21 MS. CAMPBELL: I apologize.

22 THE COURT: Okay.

23 BY MS. CAMPBELL:

24 Q And this is from which conversation?

25 A This is a recorded phone conversation that I

1 recorded on the 9th of August 2013, around 3:21 the
2 P.M. This is a return phone call to Ms. Barnes.

3 Q This is just a little bit of that conversation
4 where you're talking about the video?

5 A Correct.

6 (WHEREUPON, the audio was played for the jury.)

7 MS. CAMPBELL: Thank you, Your Honor.

8 BY MS. CAMPBELL:

9 Q At some point, did you also request some
10 telephone records in this case?

11 A Yes, I did.

12 Q Specifically, I want to show you what's already
13 in evidence as State's Exhibit 402. Do you recognize
14 those?

15 A Yes, I do.

16 Q And are those some of the phone records you
17 requested via a search warrant?

18 A Yes, they are.

19 Q And when were these requested, do you recall?

20 A It was later on in the investigation. I believe
21 it was the beginning of 2014 or the end of 2013.

22 Q And what number is this that you requested?

23 A [REDACTED]-0890.

24 Q Whose that number associated with?

25 A That was Rolanda Coleman and associated with

1 Lorenzo Young.

2 Q I want to show you State's Exhibit Number 395.

3 Is that a cell phone or a landline?

4 A That would be a landline.

5 Q The one we just did, the 402 was that a cell
6 phone?

7 A That was the mobile phone, cellular phone.

8 Q This is a landline?

9 A Yes, that's a land service line.

10 Q What address is this associated with?

11 A [REDACTED] Lucille Drive.

12 Q And what that number? Did I already ask you the
13 number?

14 A You didn't, it's [REDACTED]-0352.

15 Q And finally, for purposes here, State's
16 Exhibit 399. Again, is that a cell phone or a
17 landline?

18 A That would be a mobile cellular telephone.

19 Q You do a search warrant for these records, as
20 well? A That's correct, through Verizon
21 Wireless.

22 Q What number is that?

23 A [REDACTED]-1430.

24 Q What number is that associated with? Who is
25 that?

1 A That's the number for Trenton Barnes.

2 Q I want to turn your attention to August 21st, did
3 you have another conversation with Ms. Brown?

4 A I did.

5 Q At this point was she able to give you her full
6 name?

7 A She did. Mary Brown.

8 Q You can't say what she said to you, but was she
9 able to give you additional information that was
10 useful to you in your investigation?

11 A Yes, she did.

12 Q On August 22nd who did you make contact with?

13 A Angela Moore, that's Donald Moore's mother.

14 Q Why were you calling her?

15 A To corroborate information.

16 MR. KRZYSTON: Objection.

17 THE COURT: What's the objection?

18 MR. KRZYSTON: Bolstering, Your Honor.

19 THE COURT: Overruled.

20 THE WITNESS: Just to corroborate some
21 information Donald had given me.

22 BY MS. CAMPBELL:

23 Q Did you talk to her?

24 A I did. That was recorded.

25 Q You can't say what she said, but she gave you

1 information?

2 A She did give me information, yes, that's correct.

3 Q I also --- that month did you try to contact
4 people at the Taste of Jamaica on Beltline Boulevard?

5 A I did, it was the 29th of August 2013, around
6 2:18 P.M.

7 Q Were they cooperative with you?

8 A No. I did speak with someone, but they weren't
9 very forthcoming with any information.

10 Q There were a number of shoes that were collected
11 in this case?

12 A Yes.

13 Q Were you able to determine from the quality of
14 the video of this incident, which shoes were worn?

15 A No, not exactly which shoes, a general outline or
16 style, but not what actual shoes they wore.

17 Q The black gloves in this case that were tested
18 for the presence of blood and gunshot residue?

19 A That's correct.

20 Q Where were those found?

21 A The bedroom closet of Lorenzo Young.

22 Q In this case, were you ever able from the time
23 this happened up until today to recover the guns that
24 were used in this case?

25 A No, we were never able to recover any of the

1 firearms used.

2 Q Were you able to recover the clothing, the red
3 hoodie or the dark gray hoodie?

4 A No, it was not recovered.

5 Q Is that unusual?

6 A That's not unusual in this type of investigation,
7 no.

8 Q You mentioned Troy Stevenson having pending
9 charges. Was he also charged with the murder?

10 A He was.

11 Q As well as attempted armed robbery, kidnapping
12 and burglary?

13 A That's correct, he was.

14 Q Finally, I want to show you what's been marked as
15 State's Exhibits 382 and 383, do you recognize those?

16 A I do. 382 is a cellular telephone. It's a
17 Verizon, a Motorola Droid cellular phone through
18 Verizon Wireless. It was identified by Trenton
19 Barnes. He identified it as his phone.

20 Q Where was that recovered?

21 A That was recovered at Mr. Barnes' residence at
22 [REDACTED] Lucille Drive.

23 Q And then 383?

24 A This was a cell phone, Boomerang LG cell phone.
25 I believe this was Troy's.

1 MS. CAMPBELL: Okay. Your Honor, at this time,
2 we'd offer these into evidence.

3 MR. KRZYSTON: Judge, we would object based on
4 relevance for 383 and have no objection to 382. I
5 would note for the record that we haven't been given
6 any information. Oh, I'm sorry.

7 THE COURT: Mr. Schnee, any objection?

8 MS. CAMPBELL: Do you want to see them?

9 MR. SCHNEE: Yes.

10 MS. CAMPBELL: Sure.

11 (Pause.)

12 MR. SCHNEE: I have no objection either.

13 THE COURT: All right. Admitted over Defendant
14 Young's objection.

15 (WHEREUPON, State's Exhibit Numbers 382 and 383
16 were admitted into evidence.)

17 (WHEREUPON, State's Exhibit Numbers 443 and 436
18 were marked for identification only.)

19 BY MS. CAMPBELL:

20 Q Finally, I want to show you 443, 436.

21 A Right.

22 Q I want to show you these photos and ask if you
23 recognize these areas?

24 A I do recognize these, at least this area. Yes, I
25 recognize that, as well.

1 Q And do these show different areas depicting the
2 Lucille Drive, Bronx Avenue, Lorick Circle. Do you
3 recognize these different areas in town?

4 A That's correct, City of Columbia, yes.

5 MS. CAMPBELL: Your Honor, at this time I'd offer
6 these into evidence.

7 MR. KRZYSTON: No objection, Your Honor.

8 MR. SCHNEE: No objection.

9 (WHEREUPON, State's Exhibit Numbers 443, 436 were
10 admitted into evidence.)

11 MS. CAMPBELL: Your Honor, may the witness step
12 down?

13 THE COURT: Yes, ma'am.

14 BY MS. CAMPBELL:

15 Q Let me ask you this, Lucille Drive to the bakery
16 on Tommy Circle, is that walkable?

17 A Very, yes.

18 Q And you're on this side and so I'm over here.
19 What's shown on State's Exhibit --- what's the exhibit
20 number there?

21 A This is 436, exhibit number 436. Here you have
22 the addresses. Of course, 93 Tommy Circle is the
23 Carolina Café Catering & Bakery. That's the incident
24 location for the murder.

25 Q Okay. Where is Tommy Circle on here? Can you

1 actually see it?

2 A You can, it's right here. The bakery building
3 and the Ale House right here. Bakery is right here
4 and they call it Tommy Circle is the Road.

5 Q Let me get you a pointer.

6 A Okay. Great.

7 Q I apologize.

8 A That's all right.

9 Q You can't get in front of them.

10 A Thanks so much.

11 Where the pinpoint is the actual building of the
12 93 Tommy Circle address. Of course, next door would
13 be the Ale House. Then the little road here that
14 looks like a half moon, if you will, is Tommy Circle.
15 That's the actual road.

16 Q And the big road that runs through the middle
17 there, what is that road?

18 A This is north to Beltline Boulevard. Two Notch
19 is here.

20 Q And then if you cross over coming from Tommy
21 Circle and cross over, where is Lucille Drive
22 approximately?

23 A Well, when you come across ---

24 Q It's covered up here.

25 A It is. When you come across the road it's almost

1 like a diagonal, I would say. From the incident
2 location, you would run into Bonner Avenue. There's
3 several roads that offshoot off Bonner. One of them
4 is Lucille Drive. [REDACTED] is about midway down on the
5 left side.

6 Q Okay. Can you say --- as far as how many blocks
7 away it is --- well, it's on this map, correct?

8 A Yes. I'm approximating, but I would say it's
9 probably five to six city blocks maybe, just
10 approximating.

11 Q There's also been a reference to Bronx Road where
12 Lorenzo Young lived?

13 A Yes.

14 Q Is that shown here in the Belvedere community?

15 A It is. The Belvedere community is up in this
16 general area, off of Two Notch Road here and [REDACTED]
17 Bronx would be about where the pointer is at. It's a
18 little down Bronx Road on the right hand side coming
19 from Two Notch.

20 Q And then I want to show you what's been marked as
21 State's Exhibit 443 and does this show a broader
22 overview of the Columbia area?

23 A It does. It does. This is, of course, you have
24 277 here, which runs down Farrow Road, just to give
25 you some idea where we're talking about, Beltline. Of

1 course, you have the Bronx Road address here, [REDACTED]
2 would be here and then over here, which runs off of
3 North Main Street and Lorick Avenue, North Main would
4 be up in this area where you see all the lines here.
5 You have this Lorick Circle and that's an apartment
6 complex.

7 Q And who was actually found in the apartment at
8 Lorick Circle?

9 THE WITNESS: Lorenzo Young was ---

10 MR. KRZYSTON: Objection, Your Honor, prior
11 objection.

12 THE COURT: Overruled.

13 THE WITNESS: Lorenzo Young was located inside
14 the apartment on Lorick Circle.

15 BY MS. CAMPBELL:

16 Q Okay. Thank you very much.

17 As far as the people that you testified to living
18 in the Bronx Avenue home, Lorenzo Young, do you see
19 him in the courtroom?

20 A I do see him in the courtroom today.

21 Q Can you point him out for the jury?

22 A He has the blue shirt on with a --- I'm having a
23 hard time telling the tie. He is the black male
24 sitting between his defense counsel there at the
25 center table.

1 Q And Trenton Barnes?

2 A Trenton Barnes is there with the black shirt on
3 seated at the end table with his attorney, Mr. Schnee.

4 MS. CAMPBELL: Your Honor, may the record reflect
5 he has identified both defendants.

6 THE COURT: So reflected.

7 MS. CAMPBELL: Thank you, sir. I don't have
8 anything further.

9 THE COURT: Cross?

10 MR. KRZYSTON: Thank you, Your Honor. May it
11 please the Court.

12 THE COURT: Yes, sir.

13 MR. KRZYSTON: Thank you, sir.

14 CROSS-EXAMINATION:

15 BY MR. KRZYSTON:

16 Q How are you doing today, McCoy?

17 A Doing well. How are you, sir?

18 Q Pretty good. Okay. Now, you became an
19 investigator when?

20 A I was promoted in December of 2012. I was
21 assigned to investigations, I believe, it was April or
22 May of 2012, as a patrolman, but as a patrolman
23 investigator.

24 Q And before that you were on --- you were employed
25 by CPD and you were doing what? You were a beat

1 officer?

2 A I was a patrol officer. Yes, in 2008, I was
3 hired. Of course, I went through the training that's
4 required by the department and the state and then I
5 was a patrolman, basically answering calls for
6 service.

7 Q And part of the reason you start off on beat, if
8 you will, is to kind of get the lay of the land, see
9 who all is in the neighborhood, kind of start to
10 establish a connection, if you will?

11 A Well, part of it. A lot of it is (A) you have to
12 learn the laws and you have to learn how to do
13 paperwork and how that goes together and then, of
14 course, get an idea of area that your patrolling. We
15 don't know every area. We don't patrol every area. I
16 was assigned to the North Region, which would have
17 been North Main, Farrow Road, Monticello Road --- not
18 this particular --- this was the Metro Region that
19 this occurred in.

20 Q Okay. And part of that experience that you're
21 getting is talking people, writing reports, writing
22 notes, all the kind of basic stuff that you need to
23 kind of be to build a good investigator?

24 A That's correct.

25 Q And, in fact, as an investigator one of the most

1 important things that you can do is pretty much pay
2 attention to detail, correct?

3 A That's correct.

4 Q Part of that reason is because even if your made
5 even a small mistake early on, later on down the road
6 that can create a big problem, right?

7 A Well, it can be resolved if there is a mistake
8 that's found.

9 Q Okay.

10 A That's correct.

11 Q And in making sure that you don't make a mistake
12 it's very important to pay attention to detail and
13 it's very important and becomes very important,
14 especially later on, to be able to recall the details
15 of the investigation you did?

16 A That's correct, as best you can, sure.

17 Q Because somebody's freedom is at stake here
18 ultimately?

19 A You're, right.

20 Q And when you became a police officer, you took an
21 oath, and I don't know word for word what you took?

22 A Uh-huh.

23 Q Or what you swore, but the general essence or the
24 general nature of that oath is that you're going to be
25 fair?

1 A Uh-huh.

2 Q Correct?

3 A Well, the oath yeah is to uphold the constitution
4 of the United States and of the State and to protect
5 the rights of those people that you protect and that
6 you serve.

7 Q Right. And obviously, I mean, you serve
8 everybody in Columbia. I mean, your job is to
9 investigate when things go wrong?

10 A You're correct, yes, sir.

11 Q It's very important to be fair to all the parties
12 whether they're accused or not?

13 A Yes.

14 Q And it's very important to get all the
15 information?

16 A Correct.

17 Q In fact, you could say it's four things, if you
18 were to narrow it down to four things, it would be
19 that you're fair, accurate, complete and true in
20 writing your reports and doing your investigation,
21 correct?

22 A Yes, those would be some of the good aspects,
23 yes.

24 Q That's your goal, in general, whenever you do an
25 investigation is to be fair, accurate, complete, and

1 true.

2 A Correct. I want to be fair, I want to be
3 accurate and I want the truth to come out.

4 Q Because you want to put away the right person,
5 correct?

6 A Well, I want to make sure that the proper person
7 who committed the crime is brought in before the court
8 of law and allow the jury to hear the testimony and
9 the evidence to make a decision.

10 Q Basically you want to do what justice requires?

11 A I want to do what my job and my oath requires,
12 yes, sir.

13 Q Now, when you get a big case, a case that piques
14 the interest of the media, piques the interest of the
15 public, you know in advance that there's going to be a
16 lot of information on that case, right?

17 A Well, not necessarily. I mean, as far as
18 witnesses coming forward or ...

19 Q Well, just, you know, it's going to be important
20 and there's going to be a lot of stuff to gather?

21 A Well, every case I work, especially homicides, is
22 important, especially for the victim's family. So I
23 would say every case I have is important.

24 Q Okay. And when you're doing --- I mean, you're
25 in the violent crimes against person's unit, is that

1 correct?

2 A Yes, sir.

3 Q And anytime there's a case that involves that,
4 it's going to be important?

5 A That's correct.

6 Q And anytime there's a case involving a violent
7 crime, there's going to be a lot of information?

8 A It just depends on the case really. It depends
9 on who comes forward as far as the case is concerned
10 and who is involved in the case.

11 Q Right. But generally there's going to be more
12 information than say a routine trespassing or
13 something like that?

14 A You'll have more --- sure you'll talk to more
15 people and there's more people involved than just a
16 routine trespass.

17 Q Part of being fair, accurate, complete, and true
18 in these types of cases is taking good notes.

19 A Correct.

20 Q And following up on your investigation?

21 A Yes.

22 Q And you keep --- I'm sorry to cut back and forth,
23 but whenever you start a case, you start taking notes,
24 correct?

25 A Yes, typically so we can refer back to them in

1 the meetings and whatnot, yes.

2 Q And like I said it's extremely important to get
3 your notes correct because we could have a trial like
4 in this case like 18 months down the road or it could
5 be 36 months down the road. You never know, right,
6 but it could be awhile.

7 A Correct. It's good to have notes to refer back
8 to in trial.

9 Q And it's also good that, if during the life of
10 the investigation, you have to update those notes,
11 correct?

12 A Correct.

13 Q Because again, there could be a delay in between
14 your investigation, when your investigation takes
15 place and when the matter actually comes to trial,
16 like today?

17 A Sure.

18 Q Now, let's talk a little bit about this
19 particular incident, okay. You started investigating
20 this homicide pretty much as soon as it happened?

21 A It was certainly within several hours, yes,
22 you're correct.

23 Q And a uniformed officer was on the scene probably
24 would you say half an hour, 45 minutes?

25 A I would say it was less than that. It was

1 several minutes he was on the scene.

2 Q And then by noon on the day of July 1st, which
3 was the date that these allegations occurred?

4 A Uh-huh.

5 Q By noon or one o'clock that day, you had a
6 briefing down at Columbia Police Department, correct?

7 A It was around that time. Let's see.

8 Q Maybe 1:30?

9 A I would go with probably closer to two. I was at
10 Lexington County by noon, between noon and one
11 o'clock. So it would have been about 2:30.

12 Q Okay.

13 A I'm estimating. I don't know.

14 Q While we're on Lexington County, you got some
15 stills from, is it Mike Phelps over at Lexington
16 County?

17 A I believe it was. He is a crime scene analyst
18 there. So I believe it was. Yes, Investigator Phelps
19 over at Lexington County sheriff's office.

20 Q You testified earlier that you had obtained some
21 stills from him, correct?

22 A Correct.

23 Q And I believe you had originally discussed with
24 him clarifying or enhancing the video that the jury
25 has seen a couple times of the actual incident at 93

1 Tommy Circle.

2 A Trying to clear it up, correct.

3 Q And what he told you at that point was that his
4 enhancement software or whatever stuff he used to
5 enhance that video was broken down, correct?

6 A That's correct. It was inoperable at that point
7 in time, yes.

8 Q And he told you that if you wanted the video, you
9 needed to call back and check back with him later on?

10 A Right. If it was needed later on, that we would
11 get back with them.

12 Q Okay. But getting back to the actual incident
13 that we're talking about, you started investigating
14 right away?

15 A Sure.

16 Q And then you had the briefing?

17 A Yes, sir.

18 Q And at that briefing, every investigator that was
19 present and also under the VCAP unit, the violent
20 crimes unit, was tasked or assigned to help you out
21 during the initial phases of this investigation?

22 A Right. Every one that was there. I would say
23 the entire VCAP unit was there, but there might have
24 been one or two that was on vacation. I don't recall.
25 I know some specific investigators that were involved

1 and were tasked to do things. Sometimes investigators
2 will come in and out to help us with investigations,
3 but I don't know if they were there that day or not,
4 but yes, they were tasked with certain tasks to carry
5 out.

6 Q And we won't say every single investigator, but
7 in general --- I'd say the vast majority of
8 investigators were from that unit were in that
9 briefing, correct?

10 A We had quite a few VCAP, as well as other
11 Officers that were aiding us. Yeah, it was a roomful.

12 Q So it would be fair to say that you had a pretty
13 decent amount of manpower there initially?

14 A Sure.

15 Q Okay. And in fact, it probably doesn't surprise
16 you that there are 42 police witnesses in this case,
17 42?

18 A I'd have to take your word on it. I'd have to
19 count them.

20 Q That wouldn't be ---

21 A It wouldn't surprise me, no.

22 Q Okay. Now I want to talk a little bit about what
23 you learned ---

24 A Okay.

25 Q --- when you were talking some of these people?

1 A Okay.

2 Q Now, on July 3rd, you learned the names Deandre
3 Olds and Dontrell Weathers, correct?

4 A July 3rd?

5 Q Yes.

6 A I don't recall those names.

7 Q They were in the Crimestoppers tips. Do your
8 need to take a look at them or something?

9 A Oh, do you have a the Crimestoppers tips?

10 MS. CAMPBELL: We may.

11 MS. CAMPBELL: Objection, Your Honor. This is my
12 fault. We didn't --- may I approach?

13 THE COURT: Yes.

14 (WHEREUPON, a bench conference was held in the
15 presence, but not within the hearing of the
16 jury.)

17 MR. KRZYSTON: All right. We'll move on. On
18 July 5th you learned that Marquis Johnson and Sequan
19 Williams may have information regarding this crime.

20 A July 5th --- I recall the names. I don't recall
21 the interview we were doing at the time.

22 Q Right. But you recall the fact that Marquis ---
23 excuse me, Marcus Johnson and Marquis Johnson possibly
24 had information in regards to this?

25 A The names came up during a phone conversation

1 with someone, yes.

2 Q Okay. And during that conversation you were told
3 that the person you really needed to be speaking to
4 was Marcus Haley Johnson, Shorty.

5 A I was told that there was word on the street, if
6 you will, or maybe there is some type of connection,
7 but no definitive.

8 Q Actual information?

9 A That he was involved or that he knew anything
10 more than was already advised in the previous
11 interviews I had done.

12 Q And you actually had a phone conversation on
13 August 9th where you also heard the names Marquis
14 Johnson and Sequan Williams?

15 A That's the phone call I'm referring to.

16 Q Uh-huh.

17 A What I was just referring to was the names. I'm
18 not sure on the 5th --- I can't recall that unless you
19 can advise me of the ---

20 Q Also, in that phone conversation you received the
21 name Azo?

22 A The nickname, Azo came out. Not in the phone
23 call conversation I don't believe. As involved in
24 this case?

25 Q No, just has having possible involvement?

1 A Not possible information, but the name came out
2 as a place where some individuals may have been prior
3 to any involvement in the incident.

4 Q Right, so I mean, the individuals may have been
5 at this Azo's house.

6 A Sure. That would be a good way to describe it,
7 yes.

8 Q And you also learned again that Marquis Johnson,
9 Sequan Williams and Marcus Haley Johnson also had the
10 same type and nature of information that may have been
11 around these individuals?

12 A Correct. They may have been hanging around with
13 them.

14 Q Okay. Where are your notes from talking to
15 Marcus Haley Johnson?

16 A I never interviewed Marcus Haley Johnson.

17 Q Where are your notes from talking to Marquis
18 Johnson?

19 A I never interviewed Marquis Johnson.

20 Q And how about your notes for Sequan Williams?

21 A I never interviewed Sequan Williams.

22 Q Now lastly, in March of 2014, you talked to
23 somebody and you got kind of a large list of names
24 because you learned a bunch of information at that
25 time?

1 A That's correct. I had an interview with an
2 individual and some names came up, as well.

3 Q Okay. And one of those names was Azo, right?

4 A Azo was one of the names mentioned, yes.

5 Q You already said no notes, didn't end up talking
6 to him?

7 A I never identified Azo.

8 Q And you already said --- Marcus Haley Johnson was
9 one of those, but you don't have any notes from that,
10 right?

11 A As far as talking to Marcus Haley Johnson, no, I
12 don't. I never talked to him.

13 Q You never talked to him?

14 A No.

15 Q Okay. During that conversation you also learned
16 that Ashley Carter, also known as Piggy may have
17 information?

18 A Well, not information on the case. I had
19 information that Ashley Carter was Troy Stevenson's
20 girlfriend.

21 Q But she may know something ---

22 A It's hard because getting into the --- I can't get
23 into the interview of what was actually advised of me,
24 but during this interview the individual advised me of
25 information that each person may have had or any

1 involvement or knowledge that they may have what. For
2 most of these names there was no definitive --- they
3 had no information knowledge about what had taken
4 place.

5 Q Do you have your notes from Ms. Carter's
6 interview there?

7 A I did not speak to Ms. Carter.

8 Q No notes from Sequan?

9 A Correct.

10 Q Now, Darryl Samuels, you were told about his
11 name, correct?

12 A His name came up, as well, yes.

13 Q Can you turn to your notes about that?

14 A No, I didn't talk to Darryl Samuels.

15 Q Anthony Nelson, his name was dropped in that
16 interview, too?

17 A Yes, and Anthony Nelson came up as well.

18 Q How about any notes from speaking to Mr. Nelson?

19 A Didn't speak to Mr. Nelson.

20 Q Didn't speak to Mr. Nelson. All right.

21 Joshua Green and Tyreek Taylor they both came up in
22 that interview, too, didn't they?

23 A Yes, all those names came up during the same
24 interview that they were at the home after the
25 incident occurred, but not that they had any knowledge

1 or direct involvement at all in this case.

2 Q Okay. Do you have the notes from that interview?

3 A No, I never spoke to them.

4 Q Never spoke to either of them, Tyreek or Anthony?

5 A You're correct.

6 Q Joshua, I'm sorry?

7 A Joshua green, that's right.

8 Q Okay. Now some other names, Donovan and Smiley
9 and we never got a last name for them, did we?

10 A No, I never was able to identify them based on
11 the information given.

12 Q Do you have any notes for that interview?

13 A No, I couldn't identify them so I ---

14 Q Okay. Now, we've got Cornelius Williams?

15 A I believe that was Sequan Williams. I don't
16 recall a Cornelius Williams.

17 Q Okay, so no notes from him either?

18 A I don't recall his name coming up.

19 Q And lastly, Donald Moore who we heard testify
20 earlier?

21 A Yes, that was one of the final names that came up
22 was Donald Moore.

23 Q Donald, you did take some notes on that, right?

24 A As far as when I interviewed him, yes.

25 Q So of those 12 or 13 people, we got notes from

1 Donald Moore and that was it?

2 A Correct, Donald Moore was the one that was
3 interviewed, yes, prior to these names.

4 Q And it was your testimony today that you don't
5 have any knowledge as to what those other 12 people
6 know?

7 A Well, I have knowledge what those 12 people know,
8 yes, from the information that I got and how I got
9 their names.

10 Q But no notes or interviews from them?

11 A You are correct, that's right.

12 MR. KRZYSTON: No further questions, Judge.

13 THE COURT: Cross?

14 MR. SCHNEE: May it please the Court.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q Mr. McCoy, let's just start off right where
19 defense counsel left off. You had an interview in
20 March of 2014, with a potential witness, right?

21 A With an individual. He wasn't a witness.

22 Q Okay. You had an interview?

23 A That's correct.

24 Q With an individual?

25 A That's correct.

1 Q March 24, 2014?

2 A Yes, around that time, yes.

3 Q Okay. Lasted about two hours?

4 A It was an hour and 40 some minutes.

5 Q Okay. Can I see your hand written notes for
6 that?

7 A I didn't take any handwritten notes during that
8 time.

9 Q You didn't take any notes during that interview?

10 A No, I don't recall taking any notes during that
11 interview.

12 Q Did you say during that interview that you were
13 going to be taking notes?

14 A Yes, I did make a comment that I was writing
15 something down, is what I stated.

16 Q Did you say, "Hold on, I have to write this
17 down"?

18 A That's correct.

19 Q Did you write anything down at that point?

20 A Not that I recall, no.

21 Q So you said, "Hold on let me write this down."

22 A There are times we don't write notes down when
23 we're interviewing individuals, especially if they're
24 going quickly and we're obtaining information from
25 them. A lot of times, I'll use as kind of a stop gap

1 where I can think about other questions to come up
2 with.

3 Q Okay.

4 A I don't recall taking anyone notes during the
5 interview.

6 Q You don't recall taking any notes even though you
7 said, "Stop, I have to write this down. It's really
8 important"?

9 A Correct. There's no notes in the file and I
10 don't recall taking them.

11 Q Okay. Well, you have your typed out case notes,
12 right?

13 A That's correct. I have them here. I have a copy
14 here.

15 Q I have just want to make sure?

16 A Sure.

17 Q This is the copy I received. Does that end the
18 same place that yours end?

19 A I'll take a look.

20 (Pause.)

21 No, yours ends --- unless you have them out of
22 order, a few months prior to mine.

23 Q May I take a look at yours?

24 A Sure. You sure can. That's my last page there.
25 Yours are out of order. That's your last page.

1 MR. SCHNEE: Judge, just a brief matter of law
2 we'll need to take up.

3 THE COURT: All right. Ladies and gentlemen, if
4 you'll step to your jury room. Do not discuss the
5 case. Keep an open mind.

6 (WHEREUPON, the jury left the courtroom at 2:24
7 P.M.)

8 THE COURT: Okay.

9 MR. SCHNEE: Judge, there are two entries in his
10 typed up case notes that we have never seen. This is
11 a violation of Brady, Rule 5, Riddle along with every
12 other discovery issue we've had.

13 MR. KRZYSTON: We'd join in Mr. Schnee's motion.

14 MS. CAMPBELL: May I see what you're referring to
15 that you don't have?

16 MR. SCHNEE: It is --- I will admit it's nothing
17 earth shattering. It's the last two entries. The one
18 that starts on 1126.

19 MS. CAMPBELL: Your Honor, I can get the
20 discovery sheet where this was turned over. I know
21 that first, the original one, didn't have those
22 additional two entries. In addition to that, we
23 begged Mr. Schnee to come and meet with us and go over
24 discovery, and he didn't see fit.

25 THE COURT: Can I see it?

1 MS. CAMPBELL: Yes, sir. It starts --- I believe
2 the entries are "... we prepared search warrants, the
3 search warrants were provided ..." and then the last
4 statement on the last page.

5 MR. SCHNEE: This is the copy that we were
6 provided, Judge.

7 MR. KRZYSTON: And, Judge, just for the record,
8 we actually did meet with Ms. Simpson, I believe on
9 two occasions, and at that time all of our case --- I
10 believe these are case notes? Our case notes and
11 Ms. Simpson's case notes ended on August 29th.

12 THE COURT: Do you want to see what this says
13 before you have an objection about it?

14 MR. KRZYSTON: I'm certainly happy to read it,
15 Your Honor. May I approach?

16 THE COURT: Yes.

17 MR. KRZYSTON: Thank you.

18 (WHEREUPON, there was a bench conference.)

19 MR. KRZYSTON: Thank you, Judge.

20 MS. GARFIELD: I'm sorry, Judge. What are they
21 saying they never got?

22 THE COURT: They're saying in McCoy's case notes,
23 the entries that are dated November 26th, 2013, and
24 December 4th, 2013 were never turned over.

25 MS. GARFIELD: Judge, I met with McCoy. I made

1 copy of everything I turned over and gave him an
2 opportunity to come look at my notebook and meet with
3 McCoy himself.

4 THE COURT: What is in your notebook?

5 MS. GARFIELD: I'm getting it.

6 (Pause.)

7 MR. KRZYSTON: Judge, I would maintain my
8 objection.

9 MS. GARFIELD: The last entry in my notes on my
10 notebook is --- I'm sorry. The last entry of notes in
11 my notebook are entitled August 29th, 2013.

12 Investigator McCoy then gave me a CD of everything in
13 his file and we made duplicates of that and turned it
14 over.

15 MS. CAMPBELL: We'll go get that.

16 THE COURT: How is this exculpatory or mitigating
17 something.

18 MR. SCHNEE: Judge, my issue not the content of
19 the information.

20 THE COURT: Well, your issue has to be the
21 content of that information.

22 MR. SCHNEE: No.

23 THE COURT: Because otherwise you're not entitled
24 to it.

25 MR. SCHNEE: Judge, my issue is yet again there

1 is a delayed disclosure and I have serious concerns
2 that I actually have everything at this point.

3 THE COURT: Well, you can have serious concerns
4 all you want to, but you have to show that the
5 information that was contained that was not turned
6 over is exculpatory or mitigating toward your client.
7 This information is --- he says that he prepared in
8 four search warrants, which everybody has been on
9 notice of and we discussed the majority of the trial
10 and that on one day Mr. Young was interviewed and says
11 your client is the shooter, so I don't know how that
12 is exculpatory or mitigating toward your client.

13 MR. SCHNEE: Well, Judge, it certainly is
14 material to innocence and/or guilt which is the
15 definition of Brady. My problem ---

16 THE COURT: How is it --- I mean, that statement
17 makes no sense. It's got to be exculpatory, which
18 would mean your client didn't do it.

19 MR. SCHNEE: Judge, my ---

20 THE COURT: How is it exculpatory or mitigating
21 toward Mr. Barnes?

22 MR. SCHNEE: Judge, I'm not saying it is. My
23 issue is this delayed disclosure of this
24 investigator's actual report that we were told
25 multiple times we have absolutely everything the

1 investigators do. We've gone through this multiple
2 times and now in the middle of cross-examination he
3 has a copy of a report that I don't have. That's a
4 problem.

5 MS. CAMPBELL: I'm sorry.

6 MR. SCHNEE: Go ahead.

7 MS. CAMPBELL: I apologize. Your Honor, In
8 addition to that, the entries, one refers to the
9 search warrants which were provided. The other entry
10 refers to an interview which was provided, but it's
11 not new or different information. And I'm getting the
12 CD, as well, Your Honor, where it was turned over
13 again in August or September?

14 MS. GARFIELD: This was after.

15 MS. CAMPBELL: This has been in the last two
16 weeks. But we'll get that to you and make it a part
17 of the record.

18 THE COURT: Okay. All right. Any notion regards
19 to this anyone's side is denied.

20 MR. SCHNEE: Yes, Your Honor. I would renew my
21 Brady and Rule 5 motions to ensure that I actually
22 have everything that I am supposed to have, every
23 scrap of paper from law enforcement which clearly I
24 don't or at least still not yet despite the fact that
25 we are probably in the very last day of testimony if

1 not close to it, so I would renew that motions and
2 request a mistrial based on yet another delayed
3 disclosure.

4 THE COURT: Every scrap of paper is not the
5 standard.

6 MR. SCHNEE: It's everything that goes to ---
7 that's material for impeachment, inculpatory,
8 exculpatory.

9 THE COURT: That's actually not correct.

10 MR. SCHNEE: For Brady it's anything material to
11 guilt and/or punishment.

12 THE COURT: Mr. Schnee, you have an interesting
13 view of the discovery rules, however, this material,
14 number one, you've already been provided all of it.
15 Number two, it's not exculpatory or mitigating toward
16 your client. As to Mr. Young, they already knew about
17 it from the interview and from the search warrant, so
18 it should have been in the entire time. All right.
19 We're moving on. Bring the jury back.

20 MS. GARFIELD: Judge, since there's been prior
21 allegations brought up on Mr. Schnee's part ---

22 THE COURT: That's the cops.

23 MS. GARFIELD: --- my concern is --- I just want
24 the record to reflect that there was opportunity for
25 Mr. Schnee to come over anytime. I welcome that. I

1 prefer that. It never happened.

2 MR. SCHNEE: Before the jury comes in, could I
3 least get a copy of that final report?

4 THE COURT: Sure, I don't have a law clerk.
5 Jackie, can you make a copy of it?

6 THE BAILIFF: The jury is seated.

7 THE COURT: All right. Mr. Schnee.

8 (WHEREUPON, the jury entered the courtroom at
9 2:33 P.M.)

10 BY MR. SCHNEE:

11 Q Mr. McCoy, would you agree or disagree that
12 taking careful notes is an important part of your job?

13 A Yes, I would agree.

14 Q Would you agree or disagree that interviewing
15 witnesses that have potential information are an
16 important part of your job?

17 A Yes, I would agree.

18 Q Would you agree that when you are given the name
19 of a person who has potential information that it is
20 incumbent on you, as the investigator, to at least
21 attempt talk to them?

22 A It depends on the information given, where the
23 information is coming from, and what information they
24 would have had or might have had.

25 Q Okay. Well, for example if someone had said

1 Mr. X may have been one to dispose of the guns, just
2 as an example, would you feel it's important to
3 interview Mr. X about that issue?

4 A If we hadn't already interviewed or interviewed
5 about that topic, yes.

6 Q Okay. Now, I want to go back to a few things
7 that you said during your direct exam. You said you
8 did not try to collect fingerprints at all at the
9 bakery?

10 A Right. The crime scene investigator did not try
11 to collect fingerprints. The testimony was we did
12 not. I don't collect fingerprints.

13 Q Right, as a unit of law enforcement, you made no
14 attempt to collect fingerprints?

15 A You're correct, yes.

16 Q And do you remember testifying in this case back
17 on --- what date was this? Looks like Monday,
18 November 23rd at the preliminary hearing. Do you
19 remember that?

20 A It was a preliminary hearing for this case?

21 Q Yes.

22 A I recall testifying, yes.

23 Q Okay. Do you know what that document is?

24 A It looks like --- is it a transcript?

25 Q Yes.

1 A Okay.

2 Q And on there does it say what the case name and
3 caption is?

4 A Yes, it is the State of South Carolina v. Lorenzo
5 Young.

6 Q Okay. And this would be the date?

7 A Monday the 25th of November, 2013, approximately
8 2:22 P.M.

9 Q Okay. Turn to page nine.

10 A Nine?

11 Q Oh, I'm sorry

12 A Seven.

13 Q I'm sorry, line nine. It says, and you correct
14 me if I'm wrong, this is --- you're testifying, right?

15 A Uh-huh.

16 Q He said we went back, did DNA swabs and tried to
17 take any kind of fingerprints that we could. Right?

18 A Correct.

19 Q And then you even clarified and said dust for
20 fingerprints?

21 A Right, I did.

22 Q And that's what you said in November of 2013 that
23 you tried to go and get fingerprints?

24 A Right. I misspoke.

25 Q You misspoke?

1 A That's correct.

2 Q So you said try to get fingerprints and then
3 corrected yourself and said I'm sorry, dust for
4 fingerprints. That's what you said in here?

5 A That's what I said in here, yes, that's correct.

6 Q All right.

7 Q I've just been handed the last page of your typed
8 notes. That entry ends on December 4, 2013?

9 A You're correct.

10 Q You interviewed a witness on March 24th, 2013?

11 A 2014.

12 Q 2014.

13 A That's correct.

14 Q Can you show me where you wrote down anywhere
15 that you even interviewed that person?

16 A I did not put it in my notes. It was
17 memorialized via audio recording into the case file.

18 Q And that wasn't turned over until, I believe,
19 October of this year?

20 A Which, the case file or the audio recording?

21 Q The audio recording.

22 A I don't recall exactly when it was turned over.
23 It was turned over to the solicitor's office. I don't
24 have a date for you.

25 Q It was October 26th; isn't that right?

1 A I don't recall the date, again, but it was turned
2 over prior to trial.

3 Q Prior to trial, but you didn't put anything in
4 your written notes at all or your typed up report that
5 you even had that interview?

6 A That's correct. As I said, it was audio recorded
7 and stored in the case file.

8 Q Okay. Now, as part of your training, I believe
9 you said you're taught about the law?

10 A Correct.

11 Q Okay.

12 A Criminal aspect of society.

13 Q Okay, you're taught certain things about the law?

14 A Yes.

15 Q Okay. You're taught about what crimes are?

16 A Yes.

17 Q You're taught the elements of crimes?

18 A Yes.

19 Q Okay. You're also taught what you as an officer
20 are allowed to do, right?

21 A Correct, within the constitution, yes.

22 Q And as a police officer, you're taught what
23 you're not allowed to do?

24 A Correct.

25 Q And you even said that your oath is to protect

1 constitutional rights of the community?

2 A That's correct. I said that, yes.

3 Q And every case is important to you, right?

4 A It is.

5 Q And in order to protect the constitutional rights
6 of the community, you would agree with me that you
7 can't go out and commit crimes as part of your job?

8 A As part of my --- commit crimes as part of my
9 duties?

10 Q Right, on your job?

11 A Right. I'm not supposed commit crimes, yes,
12 you're correct.

13 Q Okay. Now when you question individuals that you
14 think may be suspected of a crime, you're required to
15 read them what's called Miranda rights?

16 A Correct.

17 Q Okay.

18 A Well, it depends.

19 Q If your questioning them?

20 A It depends.

21 Q Custody?

22 A If they're in custody, they're under arrest or in
23 the custody of the police department and we are going
24 question them regarding the circumstances of that
25 custody or what they're being charged with.

1 Q Uh-huh.

2 A Then yes, you're correct.

3 Q You tell them that they don't have to talk to
4 you. They have the right to remain silent?

5 A Yes.

6 Q They have a right to an attorney?

7 A Correct.

8 Q If they can't afford one, one will be provided?

9 A That's correct.

10 Q You also tell them they don't have to answer any
11 questions at all if they don't want to?

12 A That's correct and they can stop at any time.

13 Q Now, after that you normally go through if they
14 agree with that and want to talk to you, and you ask
15 them if they want to talk to you, correct?

16 A Correct.

17 Q You ask if they have been threatened, right?

18 Q Right.

19 A Threatened or coerced to talk to us, right.

20 Q Threatened or coerced, right, you ask then that.

21 A Right, I do.

22 Q Okay. Because if someone has been threatened or
23 coerced you can't actually take a statement from them,
24 can you?

25 A If we have threatened or coerced them for them to

1 make a statement, for them to waive their rights,
2 that's correct.

3 Q Okay. You would agree with me that you can't
4 threaten suspects. You, as a police officer in an
5 interrogation, cannot threaten suspects, yes or no?

6 A Threaten suspects with?

7 Q With anything. You can't threaten them, can you?

8 A No, you can't threaten a suspect.

9 Q Okay.

10 Q In the interviews in this case, did you threaten
11 a suspect by sticking a needle --- with the threat of
12 sticking a needle in their arm?

13 A I did not threaten a suspect that I would stick a
14 needle in someone's arm, no.

15 Q Did you say, yes or no, "the only thing that's
16 going to keep a needle from going in your arm is if
17 you're fucking honest with me?"

18 A I did say that.

19 Q To a suspect?

20 A I did.

21 Q You know that's illegal, don't you?

22 A Excuse me?

23 Q That's against the law, isn't it?

24 A No, I was not aware that it was against law.

25 Q You're unaware in all your training ---

1 MS. CAMPBELL: Objection, Your Honor.

2 THE COURT: What's the objection?

3 MS. CAMPBELL: I believe it's gone beyond the
4 scope of what we discussed.

5 THE COURT: Sustained.

6 MR. SCHNEE: I hadn't finished my question.

7 BY MR. SCHNEE:

8 Q It's part of your training to --- let me get this
9 straight. You are unaware that threatening to have a
10 needle going into someone's arm, you're unaware that
11 that's against the law?

12 A Again, with this incident, I didn't threaten to
13 put a needle in someone's arm. I was attempting to
14 get this individual to understand the circumstances
15 that he was in.

16 Q And then exactly what are you ---

17 A It's ---

18 MS. CAMPBELL: Objection, Your Honor. He needs
19 to wait ---

20 THE WITNESS: Can I please finish my ---

21 BY MR. SCHNEE:

22 Q I thought you were finished.

23 A That's all right. I was attempting to get him to
24 realize the predicament he was in and the gravity of
25 the certain situation that he was looking at and by

1 being honest, which was trying to get the truth out of
2 this individual, by being honest, that would be a
3 better option than lying.

4 Q The gravity of the situation is what you're
5 trying to instill in this individual?

6 A That's correct. I was trying to let him see the
7 situation he had put himself in, that is correct.

8 Q The gravity of the situation that you're
9 referring to by a needle in the arm is the death
10 penalty, yes?

11 MS. CAMPBELL: Objection, Your Honor. This was a
12 pretrial ruling.

13 THE COURT: Sustained. Disregard that statement.
14 BY MR. SCHNEE:

15 Q Now, you said that you --- let's see. We'll get
16 back to that one.

17 On July 3rd, 2013, you indicated in your report
18 you made contact with who you listed as a quote
19 criminal informant?

20 A July 3rd, you're talking about my notes?

21 Q Yes, 9:40 A.M.

22 A Oh, let's see.

23 A July 3rd 9:40 A.M. Yes, I received information
24 from an informant, a criminal informant --- a
25 confidential informant, if you will.

1 Q Now, this isn't Donald Moore because you have
2 already talked about him and put his name in there,
3 right, Investigator McCoy?

4 A Correct, it's not Donald Moore.

5 Q And it's not Mary Brown who called Crimestoppers?

6 A That's correct.

7 Q So this is someone else.

8 A That's correct.

9 Q That you received information from about this
10 case?

11 A Correct.

12 Q Who is it?

13 A He was a confidential informant with the Richland
14 County Sheriff's Department.

15 Q What's his name or her name?

16 A I never see the name through the tips. It's not
17 uncommon. We get anonymous tips all the time. I
18 never received his name, nor did I ask for it.

19 Q You didn't even bother to ask for a name?

20 A He was a confidential informant, which is a
21 common practice with the police department or for the
22 Richland County Sheriff's Department.

23 Q Well, did he call you or did the sheriff's
24 department call you?

25 A The sheriff's department called me.

1 Q You didn't even ask to talk to this person?

2 A The sheriff's department contacted me. They had
3 information.

4 Q You didn't ask to talk to the person that gave
5 you that information?

6 A I did. I did speak with him. That's why I said
7 I received information from the informant.

8 Q Right. Well, who is it?

9 A Again, he is a confidential informant and I don't
10 have his name. It's not an uncommon practice for them
11 not to want to give names. It's very common that they
12 don't want to identify themselves.

13 Q Yes. If it was back ---

14 A They don't ---

15 Q --- well over a year ago, I can understand
16 someone not wanting to give their name, but we're in
17 the middle a trial and you're not telling me who this
18 witness is that you talked to?

19 MS. CAMPBELL: Objection, Your Honor, asked and
20 answered.

21 THE COURT: Sustained.

22 BY MR. SCHNEE:

23 Q I'll move on. You say it's a common practice to
24 hide the names of people that you call informants?

25 A Not to hide the names. You are misinterpreting

1 what I'm saying.

2 Q To conceal names.

3 MS. CAMPBELL: Objection, Your Honor. He has a
4 right to answer.

5 THE COURT: Sustained.

6 THE WITNESS: The practice is --- of a
7 confidential informant is to protect this person's
8 identity, from any safety concerns that may arise from
9 the information they give us. It's a common law
10 enforcement practice that's been used for years and
11 that's a common thing. I documented the fact that I
12 spoke with someone and was given information, whether
13 that hurt or helped your client or the other client.
14 I documented that information in the notes because
15 there was no recorded interview because he was
16 confidential informant.

17 BY MR. SCHNEE:

18 Q I see.

19 A I gave you all the information that I had.

20 Q Except you talked to him. You talked to this
21 informant?

22 A According to my notes, I received this
23 information from this informant, yes.

24 Q Directly from the informant?

25 A That's what it appears in my notes, yes.

1 Q An informant that I don't know who it is, right?

2 A I would assume you wouldn't, yes, that's correct,
3 sir.

4 Q Okay. Now, during the course of your
5 investigations overall, have you ever gotten
6 information or wanted to get information from someone
7 and told them that you would conceal their identity
8 and just call them an informant, even though you
9 already knew who they were?

10 A I don't recall a specific interview or
11 conversation. Is there one you can talk about that
12 you can remind me of?

13 Q Sure, August 21, 2013, you had a phone
14 conversation with Donald Moore, did you not?

15 A You said August 21st, 2013?

16 Q Yes, sir.

17 A Let's see. I had one with Mary Brown. Yes,
18 that's correct.

19 Q Okay. Now during that interview, you're talking
20 partly about this case, but Donald Moore brings up the
21 fact he might have information about a completely
22 unrelated case. Do you remember that?

23 A Vaguely, yes.

24 Q Okay. He was trying to --- thinks he can find
25 out the name in a suspect something completely

1 unrelated to any of this?

2 A Do you have a transcript of any of this just so I
3 can look at this it?

4 Q I do not. I have an audio recording I'd be happy
5 to show you?

6 A I recall having a conversation with him. I
7 believe it was about some other case I wasn't involved
8 in.

9 Q Correct. It was some random rape case. Do you
10 remember that?

11 A Sure, sure, that's correct.

12 Q Did you or did you not tell him that if he could
13 find out the name of this alleged suspect, that you
14 would list Mr. Moore as a confidential informant
15 because as long as the victim could identify the
16 suspect, you would never have to release his name as
17 being Donald Moore?

18 A From my understanding and from the way the
19 conversation went, as far as I can remember, Mr. Moore
20 was a confidential informant at that point with the
21 Columbia Police Department even signed up, certified
22 with our organized crime and our narcotics division,
23 so he was acting as confidential informant as we do
24 with many confidential informants and he was basically
25 relaying information --- we were talking about this

1 case where he was named in, because he wasn't at the
2 time this case began. However, at this point in time
3 he was a confidential informant with the Columbia
4 Police Department and he was basically relaying, hey
5 listen, I might have a name or may have information.
6 I'm paraphrasing here, I don't remember the exact
7 words that were said. Stop me if I'm wrong. He was
8 basically trying to give us the name, or if he could
9 find it out and, of course, his concern always with
10 giving information was am I going to be harmed or is
11 this going to come out or something along those lines.
12 I was basically relaying to him, since he was already
13 a confidential informant, that would be kept
14 confidential, which is the whole point of being a
15 confidential informant.

16 Q Did you tell him that it doesn't matter how he
17 gets the name, that as long as the victim identifies
18 the guy it doesn't matter?

19 A There's a good possibility that I said those
20 words, yes.

21 Q All right. I want to talk to you a little bit
22 about some of the information you have been given.
23 Some of this I know it's been gone over a little bit.

24 A All right.

25 Q Now, Marcus Haley Johnson, you were given that

1 name by a number of individuals in this case, haven't
2 you?

3 A Yeah, the first Latoya Barnes was the first time
4 that name ever came up.

5 Q That was back in July or August?

6 A No, that he was back in August 2013, during the
7 same phone conversation that we heard the snippet
8 from.

9 Q And she told you'll that Marcus Haley Johnson
10 happened to be in jail for something at the time,
11 right?

12 A I believe it was a narcotics violation, yes.

13 Q Okay. She suggested you go down there and talk
14 to him because he had information that you wanted,
15 right?

16 A She said he was spreading information inside the
17 jail, possibly, yes.

18 Q Okay.

19 A That he might have known or be able to be confirm
20 what we had already established through other
21 witnesses.

22 Q Okay. You told her absolutely, that's what you
23 could do. That's one of the next things on my list?

24 A I believe so, yes.

25 Q You never talked him, did you?

1 A I never talked to him, no.

2 Q You were also given the name of a number of other
3 people that may or may not establish alibis or have
4 information of anything else of various people
5 involved or not involved. For example, Darryl
6 Samuels.

7 A Correct.

8 Q Never interviewed him?

9 A I did not.

10 Q Anthony Nelson?

11 A He was not interviewed.

12 Q Joshua Green was not interviewed.

13 A Joshua Green was never interviewed.

14 Q Marquis Johnson?

15 A Marquis.

16 Q Yes.

17 A No, he is not interviewed.

18 Q Which is different than Marcus Haley Johnson?

19 A That's correct, different person.

20 Q You interviewed neither of those?

21 A You're, correct.

22 Q Sequan Williams, you never interviewed him.

23 A No, I did not.

24 Q Ashley Carter, you never interviewed her?

25 A No, I did not.

1 Q Did you even try to look any of these people up
2 to see if you could find them?

3 A Well, when we were given the names, you
4 understand, they were cooperating where defense
5 counsel. Typically Troy Stevenson's defense counsel.
6 At that point in time when it was during an interview
7 that I was obtaining this information. Most of the
8 information was information already obtained or
9 corroborated by other sources, that we had already
10 found. The majority of those names you named Marquis
11 Johnson, Sequan Williams, Anthony Nelson and Ashley
12 Carter, there was no information relaying they were
13 directly involved or maybe even knew about this
14 particular incident. Ashley Carter, the only
15 information was that she happened to be there that
16 night and was hanging out with Troy prior to what
17 happened. That's the information we got.

18 Q That's all the information you've got about
19 Ashley?

20 A Ashley Carter, I got a phone number from Ashley
21 Carter I believe at some point.

22 Q You got a phone number, did that you even try
23 call it?

24 A That was Troy's girlfriend.

25 Q Did you even try to call it?

1 A No, I didn't try to call it. The information was
2 she had no information whatsoever.

3 Q She gave you that information?

4 A No, Troy Stevenson gave me that information.

5 Q Troy Stevenson was actually trying to use her as
6 an alibi saying that he had no involvement, right?

7 A The reason these names were given was, you're,
8 correct, they were witnesses who were going to, not
9 alibi Troy during the incident, but to confirm some
10 information that he had given --- a lot of information
11 we had already confirmed.

12 Q Okay. So you have witnesses who are at Troy
13 Stevenson's house?

14 A Correct.

15 Q Shortly before this incident?

16 A Correct.

17 Q And some of them there all the way through the
18 next morning?

19 A There were a few, yes.

20 Q And you've interviewed zero of them, right?

21 A Let me look. Yes, you're correct.

22 Q Okay. Now, you said that there were some dark
23 hoodies taken from Trenton's house?

24 A Trenton Barnes' yeah, [REDACTED] Lucille Drive, that's
25 correct.

1 Q One of them was a wet hoodie, dark blue?

2 A That's the investigator, Investigator Moorner, she
3 was actually running the search. I went to another
4 location. Yes, she stated that it was wet when it was
5 collected.

6 Q Okay. It was a dark colored hoodie?

7 A I believe it was a dark blue or black. I can't
8 remember, I would have to look at the search warrant.

9 Q Ever have that tested or submitted for DNA
10 testing?

11 A The hoodie?

12 Q Yeah?

13 A I believe the hoodie was submitted for testing to
14 see if I could be linked to it scene via blood spatter
15 or DNA.

16 Q Would it surprise do you learn the only hoodie
17 that was tested for DNA was the one that Ms. Hunnewell
18 wore?

19 A Yes, it would.

20 Q Can you show me in your notes where you had that
21 hoodie tested for DNA?

22 A No.

23 Q From Trenton's house?

24 A When items are submitted for analysis, they're
25 done on a submission form through SLED and the results

1 are of course, printed out through SLED and they're
2 stored in the case file.

3 Q Who submits those requests?

4 A Crime scene investigation units.

5 Q Okay, would it surprise you to know that none of
6 those requests have ever been submitted?

7 A I don't know if they were or not. I would have
8 to look at the logs. Do you have a log in front you?

9 Q No, you're the lead investigator, aren't you?

10 A That's correct.

11 Q You're supposed know what's going on in your
12 case?

13 A Sure, absolutely.

14 Q To be the one to follow up and figure out what
15 other people are doing on your case?

16 A That's correct as long as I'm advised of it, yes.

17 Q So you wait for people to tell you what's going
18 on? You don't find out what your own fellow
19 colleagues are doing on your case?

20 A On a case this large or this much stuff involved
21 in it when items of evidence or other witnesses are
22 tasked or pieced out to do, those officers will put
23 notes together and submit them to me on what was done
24 and what was handled. That's something for me to
25 review for court or for them to testify off of when

1 they're called.

2 Q Okay. The house, the Trenton Barnes' house
3 search warrant, that was July 5th of 2013?

4 A Yeah, late afternoon hours. That's correct.

5 Q So between then and yesterday, you had no
6 opportunity to figure out if that hoodie has even been
7 tested for DNA?

8 A Have I had the opportunity or have I checked, do
9 you mean?

10 Q Either one?

11 A I have not looked see if that hoodie was tested,
12 no.

13 Q And you talked a little bit about the video you
14 released to the media?

15 A Correct.

16 Q You didn't want to release the full video because
17 your wanted to figure out if future witnesses were
18 being honest and had actual knowledge of events,
19 right?

20 A Yes, that's a pretty standard investigative
21 practice, yeah.

22 Q And you do that because when you talk people, you
23 want to parlay what they say or what they don't say,
24 right?

25 A Sure.

1 Q Okay. Now, you interviewed --- you interviewed a
2 number of people in the jailhouse at some point, is
3 that right, that have come forward?

4 A I believe it was it was two total.

5 Q One from Michael Schaefer?

6 A That's correct.

7 Q And then there was Michael Peterson?

8 A I did not directly interview Michael Peterson.

9 Q You did not interview Michael Peterson?

10 A I did not interview Michael Peterson.

11 Q Do you know who did interview Michael Peterson?

12 A I'm not aware. The first time I saw Michael
13 Peterson was here when he testified. I was aware that
14 he had given to statement. The solicitor's office
15 told me that, but I don't know who actually
16 interviewed him.

17 Q Okay. You're aware in his version of events that
18 are quite interesting, he claims that Lorenzo told him
19 that at some point Ms. Hunnewell walked into a back
20 room and picked up a cell phone. Were you here for
21 that testimony?

22 A I was. I was sitting over there when he
23 testified to that, yes.

24 Q Now, would that one of those types of times when
25 you want to check to confirm of, you know, if someone

1 is telling the truth or not based on what information
2 they have compared to the video?

3 A Well, I had nothing do with Mr. Peterson's
4 testimony or statements or anything of that nature.
5 That didn't come through the police department.

6 Q Okay.

7 A I didn't have any involvement with it.

8 Q So even as a lead investigator, when you receive
9 that information even when you obtain it, you don't
10 feel it's necessary to follow up or do anything with
11 it afterwards?

12 A I never received his statement or information for
13 my case file because it never generated from the
14 police department. That's not --- that was done
15 through another party, I assume from the solicitor's
16 office, but that information was not delivered to me.
17 The first time I ever heard any statement from
18 Mr. Peterson or even knew he existed was when he
19 testified except that I had gone over the list of
20 witnesses with the solicitor's office, the names of
21 just who was going to testify.

22 Q Okay.

23 A I heard the name, but that was the extent of it.

24 Q So in preparation for trial, you didn't even
25 inquire as to what this witness would say even though

1 you're the lead investigator sitting in here the whole
2 time?

3 MS. CAMPBELL: Objection, Your Honor. The whole
4 line of questioning is --- I think he's ---

5 THE COURT: Overruled.

6 THE WITNESS: With something like that, if I
7 don't initiate it or it doesn't come through our
8 office, I don't get involved in that particular part
9 of it. We have several law enforcement agencies
10 assist in certain things. The solicitor's office have
11 their own investigators where they obtain statements,
12 so that's information that I was not privy to or not
13 given prior to the trial, so I have no way of
14 following up on it if I'm not given that information.

15 Q You're the lead investigator on this case, right?

16 A For the Columbia Police Department, yes.

17 Q You're the lead investigator on this case,
18 correct?

19 A For the Columbia Police Department, yes, you're
20 correct.

21 Q I'm asking you, did you or did you not inquire as
22 to the content of any of the witnesses that you did
23 not personally interview or have notes on already?

24 A I did not inquire as to what the information was,
25 no.

1 MR. SCHNEE: All right. I've got nothing else,
2 Judge.

3 THE COURT: Redirect?

4 MS. CAMPBELL: Yes, sir.

5 REDIRECT EXAMINATION:

6 BY MS. CAMPBELL:

7 Q Is it unusual at all after a case is --- people
8 have been arrested and it comes to our office and the
9 indictments have come down for additional information
10 to come forward?

11 A No, it's not uncommon at all.

12 Q Is it unusual for our office to handle that,
13 investigators from our office, versus putting it back
14 on you?

15 A That's not at all unusual. That's a pretty
16 common practice.

17 Q And he asked you about an interview in March and
18 some names that came up?

19 A That's correct.

20 MS. CAMPBELL: Your Honor, at the time we would
21 introduce that interview of Troy Stevenson.

22 MR. SCHNEE: Judge, I would object. That's
23 clearly hearsay.

24 THE COURT: All right. Step back to your jury
25 room. We'll be back in a few minutes. Do not discuss

1 the case. Keep an open mind.

2 (WHEREUPON, the jury left the courtroom at 3:00
3 P.M.)

4 THE COURT: All right. What's your theory,
5 Ms. Campbell?

6 MS. CAMPBELL: Your Honor, both of the defense
7 counsels went into an interview that took place. I
8 don't think it came out until Mr. Schnee got up. It
9 was with Troy Stevenson. They went into details about
10 what was said in that, names that came up, information
11 that came from Mr. Stevenson. Your Honor, under a
12 completeness doctrine, at this point we think it opens
13 the door to the fact that in order for this
14 investigator to be able to fully explain everything he
15 did in this case, and in addition to that, they should
16 understand the context under which this information
17 came forward that we think right now we have the right
18 to then introduce the entire statement.

19 MR. KRZYSTON: Thank you, Your Honor, may it
20 please the Court. I would note that during our
21 cross-examination we went into no detail specifically
22 with Investigator McCoy. We asked simply did he learn
23 these names and if he had notes regarding those names.
24 There was no information substantively gone into on
25 cross by Mr. Young. Because of that and because we

1 haven't introduced a recording, we would argue that
2 any admission of a recording by Troy Stevenson in
3 between Troy and Mr. McCoy is hearsay as it applies to
4 Mr. Young.

5 Judge, I would again draw the court's attention
6 to the fact that no statements --- I did not go into
7 specifically any words that Mr. McCoy spoke. I did
8 not go or play any recording containing McCoy's voice
9 and I don't think that 106 is triggered until some
10 recording or recitation of his direct statements are
11 utilized by the defense. I would also again assert
12 that this is hearsay. It involves not only the
13 hearsay rules and evidence rules, but it also invokes
14 U.S v. Williamson and potentially Bruton depending
15 upon whether or not the particular statement in
16 question was given to police or was given to a lay
17 declarant. This involves almost every single issue
18 that we have raised prior to trial in arguing
19 severance, as well as during the life of the trial in
20 arguing to exclude hearsay testimony based on
21 Williamson. So I think this is the kit and caboodle.
22 This is everything that we have argued all in one and
23 I do not believe it is admissible.

24 MR. SCHNEE: Judge, I asked this witness multiple
25 questions about names he was given as part of his

1 investigation.

2 Investigatory hearsay is a very limited
3 exception. The fact is ---

4 THE COURT: What is investigator hearsay?

5 MS. CAMPBELL: What?

6 MR. SCHNEE: Investigatory hearsay? It's the
7 investigator is on the stand and they can talk about
8 their investigation in very limited circumstances.
9 That is exactly what Ms. Campbell does on a very
10 regular basis with lead investigators getting into the
11 conversations he had with other witnesses, with other
12 police officers, the course of his investigation. My
13 cross-examination ---

14 THE COURT: For the record, investigatory hearsay
15 doesn't exist, and if Ms. Campbell was going into
16 something inappropriate on direct with a witness it
17 should have been objected to and I would have dealt
18 with it.

19 MR. SCHNEE: Well ---

20 THE COURT: What she does in other cases at this
21 point doesn't matter to me, but investigatory hearsay
22 is something that you just created. Let's deal with
23 the issue.

24 MR. SCHNEE: Judge, the issue is if Ms. Campbell
25 is trying to say that this recording somehow explains

1 what was being questioned by Investigator McCoy as to
2 why he wasn't going to interview any of these
3 witnesses, that's simple preposterous. There is
4 nothing in that recording that would indicate as why
5 he didn't interview any of these witnesses, which was
6 the only thing that came out of the Troy Stevenson
7 interview that he was questioned about are the names
8 of those witnesses.

9 THE COURT: Ms. Campbell.

10 MS. CAMPBELL: That's my point. That is the only
11 thing that came was what he chose to bring out on
12 cross-examination. In order for the jury to be able
13 to understand whether or not they should have followed
14 up with all these other witnesses, they should be able
15 to hear exactly what information was provided, what
16 information he had at the time and the context in
17 which it was being given as far as their relevance as
18 to what they did. Right now the only thing the jury
19 knows is that there are eight names out there that
20 they didn't ---

21 THE COURT: No, we're at 12.

22 MS. CAMPBELL: Twelve now? There's two of them
23 I've never heard of.

24 THE COURT: According to Mr. Krzyston.

25 MR. SCHNEE: Well, actually, Judge, there were

1 quite a few given by other people, and even
2 Investigator McCoy said that, yes, Marcus Haley
3 Johnson, Marquis Johnson, some of the others were
4 given by Latoya Barnes, which had been testified to
5 multiple times even by Ms. Barnes when she was on the
6 stand.

7 MS. CAMPBELL: I'm not talking about Ms. Barnes.

8 MR. KRZYSTON: Judge, might I inquire as to what
9 exactly in Mr. Stevenson's statement would go to
10 establish whether or not his failure to investigate
11 these people was reasonable. I don't believe there is
12 anything in the statements themselves that actually
13 explain why he will failed to talk to these people. I
14 mean, there's no reference to gangs, to these people
15 being in gangs. This is simply information conveyed
16 to Mr. Stevenson --- rather from Mr. Stevenson to
17 Investigator McCoy, that indicates these people were
18 around. I don't know that there's anything in the
19 actual substantive statement that addresses why he
20 filed do that. If that's the reason the State is
21 offering that evidence, I don't know that we actually
22 have any of that evidence.

23 MR. SCHNEE: And we obviously have a huge Bruton
24 issue because this is Troy Stevenson in a custodial
25 interrogation.

1 THE COURT: Why didn't you go interview these
2 people?

3 THE WITNESS: Why did I not interview these
4 people?

5 THE COURT: Yes.

6 THE WITNESS: In speaking with Troy, it was a ---
7 it was defense counsel --- Amy Zmroczek was
8 cooperating and Troy was cooperating with the
9 investigation.

10 THE COURT: Right.

11 THE WITNESS: They came forward. It was
12 indicated during the interview that there were some
13 statements that she had already spoken to all these
14 individuals and some statements involved as well as
15 identification had been made on some of them ---

16 THE COURT: Okay.

17 THE WITNESS: --- or most of them. She also
18 indicated that that would be provided to me or to us
19 so I could do a follow up. I wanted to look what the
20 had been provided already to determine when I talked
21 to them what was true or what wasn't true, what was
22 going on, also Troy himself during the interview, like
23 Ashley Carter said that she didn't know anything. She
24 wasn't involved. She didn't have any idea. She was
25 just there hanging out at the house prior to it. He

1 even made statements saying they never discussed the
2 crime itself the night before it happened.

3 There was even information in there about none of
4 those people were involved in the planning, the
5 operation or even there at the scene. The only people
6 he identifies at the scene that did the shooting are
7 those two men right there and he is adamant about
8 that. That the only people down there were Trenton,
9 Lorenzo and himself which is the same information I
10 got from him the other two times I interviewed him.
11 This is the third time. This stuff came out in March
12 of this year after defense counsel supposedly spoke
13 with these individuals and there were statements that
14 existed.

15 Now, I reviewed the information that was given to
16 the --- well, I've seen some information regarding
17 what she had. There were no statements. There was
18 nothing to that effect at all. My understanding is
19 they didn't even cooperate. Troy also states that a
20 lot of these people don't want to cooperate with the
21 police. They have no desire to come talk to me
22 because of (A) their gang involvement. He didn't say
23 gang involvement, but that's the gist of it as well as
24 (B) they're afraid of arrest because they know about
25 --- they possibly know about it but don't --- weren't

1 involved in it, so they were afraid of some misprison
2 charge or something, I'm assuming. I wanted to get the
3 information from Ms. Zmroczek before I went and
4 tracked it down. Of course, that wasn't provided
5 until November of this year.

6 MS. CAMPBELL: And just for the record,
7 Reciprocal Rule 5 didn't include any of that
8 information.

9 THE WITNESS: Yeah, so I don't know what's...

10 THE COURT: I mean, what you're really worried
11 about is him saying or them playing an audio where
12 Troy says your client did it, right?

13 MR. KRZYSTON: Correct, Your Honor.

14 THE COURT: Same thing for you, right?

15 MR. SCHNEE: That's the entirety of his
16 recording.

17 THE COURT: That's not the entirety of it. Don't
18 use words like entirety.

19 MR. SCHNEE: The vast majority.

20 THE COURT: Here is what I'm going to allow. I'm
21 going to allow Investigator McCoy to explain not via
22 the audio recording, but explain via his own testimony
23 why he made the decision to not go interview these
24 people. That explanation is not going to involve
25 anything because anybody is in a gang.

1 THE WITNESS: Got you.

2 THE COURT: Or anybody is scared of any
3 retaliation or somebody is going to come get me and
4 it's not going to have anything do with Troy told me
5 that these two people did it.

6 THE WITNESS: Got you.

7 THE COURT: I think he should be allowed --- I
8 mean, this was at least ten minutes of everybody's
9 cross-examination. You had all these witness names
10 and you didn't do anything with it. I don't think
11 it's fair to leave that out there. I also don't think
12 Troy saying that Mr. Barnes and Mr. Young did it is
13 admissible under Bruton, and the confrontation clause
14 and every other violation that I can imagine, but I
15 will allow Investigator McCoy to explain why he didn't
16 go interview these people, but without saying
17 retaliation, gangs or ---

18 MS. CAMPBELL: As to them?

19 THE COURT: As to, Mr. Stevenson had already told
20 me that Mr. Barnes and Mr. Young did it. I mean,
21 that's not something that's admissible. He can go on,
22 you know, I made the decision to not go interview
23 these people because of this, without saying the gist
24 of Troy says Lorenzo and Trenton did it with me.

25 MR. KRZYSTON: Your Honor, and then my concern

1 becomes --- I guess, I've got an issue with the fact
2 of how he knows these people weren't willing to
3 cooperate with law enforcement. I mean, he has
4 learned the fact these people are quote unquote
5 unwilling to cooperate with law enforcement directly
6 from the mouth of Troy Stevenson. I believe that's
7 hearsay.

8 THE COURT: Well, I mean, you opened this door,
9 Mr. Krzyston. I mean, this door was opened by the
10 defense and the cross examination of the lead
11 investigator as to what he did or what he didn't do,
12 so I am going to give him a little bit of leeway. I'm
13 going to allow Ms. Campbell to lead through this a
14 little bit so that we don't end up in a situation
15 Investigator McCoy feels like he has to say something
16 just to explain himself.

17 MS. CAMPBELL: But, Your Honor, in addition to
18 that as your ruled prior to us getting into this part
19 with this witness, he is not going to say anything
20 about them being in a gang.

21 THE COURT: Right.

22 MS. CAMPBELL: But an additional reason he didn't
23 go interview a couple of these people is that they are
24 in gangs and in his experience, they aren't
25 forthcoming.

1 THE COURT: Well, we don't need get into that.
2 He didn't learn that from Troy is what he just told
3 me. What he just told me was he didn't --- he was
4 essentially speculating that these people were in
5 gangs and they weren't going to talk to him. That's
6 what he just said.

7 MS. CAMPBELL: Except the exception to that is
8 Latoya Barnes when she brings up the names of Marquis
9 and Marcus, he does know that are gang affiliated and
10 that he is not going to talk to them. And they
11 brought that out, too. I mean, I just feel like we're
12 hamstrung because we can't address this misinformation
13 their purporting without going into Troy Stevenson.

14 THE COURT: He has --- I mean, do you have any
15 personal knowledge if any of that these people are in
16 gangs?

17 THE WITNESS: Some not all of them.

18 THE COURT: That you knew when you were
19 interviewing Troy Stevenson?

20 THE WITNESS: At that particular time?

21 THE COURT: Right.

22 THE WITNESS: No, at the particular time I was
23 interviewing him, I wasn't familiar with any of the
24 individuals that he was ---

25 THE COURT: Okay. Nothing about any of those

1 being gang members. That's not the reason he didn't
2 go interview them. He didn't go interview them for
3 whatever reason that he didn't go interview him, but
4 it wasn't because he thought they were gang members
5 that he didn't go talk to them.

6 MS. CAMPBELL: But when he got the information
7 from Latoya Barnes about just Marquis and Marcus
8 Johnson ---

9 THE COURT: Right.

10 MS. CAMPBELL: --- he did know that information
11 about those two individuals, not the rest of them.

12 MR. KRZYSTON: Judge, we've been given nothing on
13 gangs. I don't know that, I mean, they're saying they
14 know that Marquis and Marcus Johnson are in a gang.

15 MS. CAMPBELL: It doesn't matter if he knows it,
16 if that's what he thought.

17 MR. KRZYSTON: To substantiate that or base that
18 opinion on.

19 THE COURT: We're not saying anything about
20 gangs. That's not why he didn't go interview him. He
21 didn't interview him because of the reasons he already
22 stated. All right. Bring them back in.

23 MS. CAMPBELL: And, Your Honor if they go back
24 into it again after ---

25 THE COURT: I tell you what, the next person that

1 intentionally violates an order of this court is going
2 to be dealing with me in a contempt hearing. Does
3 everybody understand that, Ms. Campbell?

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: Ms. Garfield?

6 MS. GARFIELD: Yes, sir.

7 THE COURT: Ms. Simpson?

8 Ms. GARFIELD: Stepped out.

9 THE COURT: Ms. Pinnock?

10 MS. PINNOCK: Yes, sir.

11 THE COURT: Mr. Krzyston?

12 MR. KRZYSTON: Yes, sir.

13 THE COURT: Ms. Bambach?

14 MS. BAMBACH: Yes, Your Honor.

15 THE COURT: Mr. Schnee?

16 MR. SCHNEE: Yes, sir.

17 THE COURT: You can't just ask questions and
18 don't expect repercussions from asking inappropriate
19 questions or questions that you know are out there and
20 the information is out there and expect that it's not
21 going to come out later. That's not the way it works.
22 I'm going to allow him to explain it. I want you to
23 lead him through it, Ms. Campbell, as much as you need
24 to.

25 MS. CAMPBELL: Do you know where we can go?

1 THE WITNESS: Uh-huh.

2 THE COURT: Do you understand what I'm allowing
3 or not allowing, Investigator McCoy?

4 THE WITNESS: No gangs and no references to
5 retaliation.

6 THE COURT: Retaliation or Mr. Stevenson saying
7 Mr. Barnes or Mr. Young did it.

8 THE WITNESS: Got you. Won't happen.

9 MR. KRZYSTON: Your Honor, we would just ask to
10 proffer. Give him a dry run before we get in front of
11 the jury.

12 THE COURT: That's fine. Do it.

13 REDIRECT EXAMINATION:

14 (Denno)

15 BY MS. CAMPBELL:

16 Q He has asked you about a number of people in a
17 March 2014 interview with Troy Stevenson.

18 A That's correct it was with Troy Stevenson's
19 defense counsel, Aimee Zmroczek. In fact, I think she
20 is the one that set it up. She came forward to Dolly
21 Garfield saying that her client wanted to speak with
22 police, so I contacted Ms. Zmroczek to set up a time
23 to meet at Columbia police headquarters and that's
24 where I interviewed Troy and Aimee was there. It was
25 audio recorded.

1 Q And during that time there were a number of names
2 that came up?

3 A That's correct.

4 Q Including some of the names we heard, Darryl
5 Samuels?

6 A Correct.

7 Q Ashley Carter?

8 A Yes.

9 Q Somebody named Green?

10 A Yes.

11 Q Some other people, as well?

12 A That's correct, Joshua Green, Anthony Nelson,
13 Sequan Williams, Marquis Johnson, yes.

14 Q And what, if any, information were you made aware
15 that they might or might not have?

16 A Well, the information from Troy was that
17 regarding these individuals, Ashley Carter was Troy's
18 girlfriend, and she was at the home that evening prior
19 to the murder. She was there, they were just hanging
20 out. According to him, his statement, she was not
21 involved and wasn't a witness to anything. In fact,
22 her and Troy were in a separate bedroom just sleeping,
23 hanging out.

24 As far as Marquis Johnson, Ms. Barnes had given
25 me that name early earlier because Lorenzo had been

1 calling the house quite frequently. Troy was able to
2 give a reason for that. He stated that Lorenzo was
3 calling Marquis to inquire about Rolanda Coleman who
4 had called the house a few times. He wanted to know
5 if Rolanda was still calling. According to Troy, he
6 never mentioned anything about them talking about the
7 crime that was to occur.

8 The other individuals, Sequan Williams, Darryl
9 Samuels, Anthony Nelson, Joshua Green, they were at
10 the home, and according to Troy, the incident never
11 came up that was going to happen. He stated that it
12 wasn't --- it never became a topic of conversation
13 between them. Troy was aware. I shouldn't go into
14 that, but that topic never came up as far as that ---
15 what was going to happen or what might happen. The
16 Azo name, Azo came up that they were at a recording
17 studio earlier.

18 Q And when you say earlier, do you mean earlier in
19 the evening or the earlier in the week or what?

20 A Earlier in the day.

21 Q Earlier in the day?

22 A Earlier in the day. They were at a recording
23 studio or at a home that belonged to this individual
24 named Azo, which I was never provided any particulars
25 on who Azo was. Just --- they gave me a street and a

1 possible house on the street. He wasn't able to give
2 me anything beyond that. They were at a recording
3 studio and that is where this incident was not
4 planned, but it was talked about.

5 Q By whom.

6 A By Lorenzo Young and Trenton Barnes. They talked
7 about the incident.

8 Q Okay.

9 A I didn't...

10 MR. KRZYSTON: Judge, just for the record, we
11 would object to that last comment if that's going to
12 be introduced.

13 THE COURT: Why?

14 MR. SCHNEE: Troy --- that would be a statement
15 from Troy that Trenton and Lorenzo were planning a
16 robbery at the studio. That would be the definition
17 of a Bruton problem inculcating my client.

18 THE COURT: Don't say anything about them talking
19 about something at Azo's house or wherever.

20 BY MS. CAMPBELL:

21 Q As far as they had been at the house earlier that
22 day and that's all the information he had?

23 A Yes, so they were there earlier that day.

24 Q And finally were any of the names given to you or
25 provided to you, was there any information that was

1 provided to you by Troy Stevenson or anyone else that
2 they knew anything about what had happened that night?

3 A No, not that night.

4 Q About the actual robbery itself?

5 A No.

6 Q Okay.

7 MR. KRZYSTON: Judge, are you finished?

8 THE COURT: She is finished.

9 MR. KRZYSTON: Again, I would object to the
10 testimony in its whole.

11 THE COURT: I've already ruled on that.

12 MR. KRZYSTON: Okay. I think they can get out.
13 I don't mean to transgress here, but I think they can
14 get out what they're trying to say without saying Troy
15 said. The basis of my problem is the part about Troy
16 said.

17 THE COURT: The basis of the problem is the line
18 of questioning by the defense attorneys and the
19 cross-examination of the lead investigator, so your
20 motion is overruled.

21 Bring them in. Do you understand what you're
22 doing and not doing?

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: Very good.

25 MR. KRZYSTON: Thank you, Judge.

Redirect of McCoy by Campbell
(continued)

1 (WHEREUPON, the jury entered the courtroom at
2 3:18 P.M.)

3 THE BAILIFF: The jury is seated, Your Honor.

4 THE COURT: All right. Go ahead, Ms. Campbell.

5 MS. CAMPBELL: Thank you, Your Honor.

6 REDIRECT EXAMINATION:

7 (continued)

8 BY MS. CAMPBELL:

9 Q Investigator McCoy, they asked you many questions
10 about the information you received from that March,
11 2014 conversation you had with Troy ---

12 A Yes, ma'am, Troy and Amy Zmroczek

13 Q --- Stevenson?

14 MR. KRZYSTON: Objection, Your Honor. Prior
15 objection.

16 THE COURT: Overruled.

17 BY MS. CAMPBELL:

18 Q I'm sorry. You said somebody else was present?

19 A Aimee Zmroczek, his defense counsel.

20 Q And, in fact, who initiated that interview?

21 A From my understanding, I received a call from
22 Dolly Garfield, sometime in late February, beginning
23 of March. I don't remember to exact time, in
24 reference to Troy wanting to come forward and talk
25 some more about some information.

1 Q You aren't going to be able to say that part,
2 okay?

3 A Right.

4 Q But during the course of that conversation did
5 some other names come up?

6 A Yes, during that interview some other names did
7 come up.

8 Q Specifically, they asked you about several of
9 those names, including Ashley Carter. What, if any,
10 information did Troy Stevenson tell you she had, if
11 anything?

12 A According to the interview, Ashley Carter is his
13 girlfriend, 19 years old, I was given a phone number.
14 Again, she was his girlfriend, she was not involved,
15 did not witness anything, was just at the home on
16 Lucille Drive hanging out with him sleeping with him
17 at the home.

18 Q And as far as some of the other names like Darryl
19 Samuels, Sequan Williams, people of that sort, what if
20 any, information did Troy Stevenson tell you they had
21 about anything?

22 A They were just basically at the home, that they
23 had no direct knowledge and that the --- no direct
24 knowledge of anything. They were just at the home.

25 Q In fact, during the time period when all these

1 phones were going back and forth, who were the only
2 two people to your knowledge who were awake other than
3 Troy Stevenson?

4 A To my knowledge, the only people awake?

5 Q In the early morning hours ---

6 A Ms. Barnes, she testified to, I believe, Marquis
7 Johnson.

8 Q As far as Marquis' involvement or knowledge, if
9 anything, in this case, what was that?

10 A Well, Ms. Barnes had given me information about
11 Marquis prior that someone was calling the house for
12 him repeatedly. Troy was able to tell me what that
13 was. It was basically Lorenzo was calling the house
14 asking about Rolanda Coleman. Rolanda Coleman had
15 called the house several times and Lorenzo was calling
16 Marquis about Rolanda, that's what Troy said.

17 Q Was there any indication from Troy Stevenson or
18 anyone else that Marquis had anymore involvement than
19 that in this case?

20 A Not at that time, no.

21 Q Did he have any knowledge of what happened at the
22 bakery?

23 A Not at that particular time, no.

24 Q And you did interview Latoya Barnes?

25 A That's correct, I confirmed that information. Of

1 course, that was prior to this interview, yes. I
2 already had that information.

3 Q There was also some information about other
4 people's names that came up?

5 A Sequan Williams, Darryl Samuels, Anthony Nelson,
6 Joshua Green, the same information that they were at
7 the house hanging out that night. That was the
8 extent. They were mainly to corroborate a previous
9 statement that Troy had given me involving where he
10 was just prior to anything.

11 Q And had Ms. Barnes, his mother, already given you
12 that information?

13 A Yes, she had. She already told me --- it
14 confirmed what Ms. Barnes had said.

15 Q And at any point did any of these people come to
16 you and say they have information about this bakery
17 case?

18 A No, they did not.

19 Q Would you have been willing to take their
20 statement if they had been willing to come to you?

21 A Absolutely.

22 Q They also asked you about Azo?

23 A That's correct.

24 Q Were you ever able to get a real name to go with
25 Azo?

1 A I never got an actual real name or any
2 identifying information about Azo. The only
3 information was that they were at Azo's house at some
4 kind of recording studio earlier in the day on the
5 30th.

6 Q That was the extent of that information?

7 A Yes, that was the extent of that information
8 there at the house.

9 Q Any information that Azo was anywhere around the
10 bakery that night?

11 A No, no information at all that he was involved in
12 the crime.

13 Q Defense counsel also asked you about an
14 additional name that Latoya Barnes gave you, which
15 would be Marcus Johnson?

16 A Yes, Marcus Johnson.

17 Q He was in the jail at the time?

18 A Yes.

19 Q Was the information --- as far as Ms. Barnes
20 relating to you, what was --- why was she relating
21 that information to you?

22 A Why was she relating it to me?

23 Q As far as why she thought ---

24 MR. KRZYSTON: Objection speculation.

25 THE COURT: Sustained. Rephrase your question.

1 BY MS. CAMPBELL:

2 Q Why did Ms. Barnes tell you she was giving you
3 that information?

4 MR. KRZYSTON: Objection, speculation.

5 THE COURT: Sustained.

6 Why did she tell him?

7 MS. CAMPBELL: She told him why.

8 THE COURT: Okay. If she explained why.

9 MS. CAMPBELL: She explained.

10 THE WITNESS: He said that ---

11 MR. KRZYSTON: Objection, hearsay.

12 THE COURT: Overruled.

13 THE WITNESS: She said Marquis Johnson was in the
14 jail telling everyone who had done it. He was the
15 boyfriend of Latoya Barnes or former boyfriend, I
16 should say.

17 BY MS. CAMPBELL:

18 Q And why did she tell you that had meant anything?

19 A Well, he had been talking about it and he was
20 familiar with the individuals involved with the case
21 and familiar with it.

22 Q And the information that she gave you that Marcus
23 Johnson had, did that corroborate or contradict the
24 information you already had?

25 A It corroborated the information we had already

1 obtained through the investigation; that's correct.

2 Q And as far as the note taking and everything, as
3 far as documenting things, it may not have a note that
4 says you audio recorded it, but it would be audio
5 recorded?

6 A It would be audio recorded --- I usually --- I
7 worry about discovery later on. If there are too many
8 notes and or it takes up too many notes, if something
9 doesn't get put in the file and causes a problem or
10 something gets lost --- typically if it's later on in
11 the investigation, especially after a case has been
12 filed, closed and put away into our filing system,
13 I'll just record it, at least document it and then it
14 will be placed in the file and under over at the
15 appropriate time.

16 MS. CAMPBELL: Thank you, Your Honor, I have
17 nothing further.

18 THE COURT: Recross?

19 MR. KRZYSTON: Thank you, Your Honor, may it
20 please the Court?

21 RECROSS-EXAMINATION:

22 BY MR. KRZYSTON:

23 Q Mr. McCoy, you're an investigator, right?

24 A Yes.

25 Q The term itself indicates that you go actually go

1 out and investigate crimes?

2 A I do, yes, sir.

3 Q You would agree with me if you just sat back in
4 your office waiting for people to come talk about
5 crimes, you probably wouldn't get much done, would
6 you?

7 A It would depend on the situation and the kind of
8 information they had. We have actually had quite a
9 few people come forward since Donald Moore came
10 forward.

11 Q But in general if you didn't go out, leave your
12 office to talk to anybody, you wouldn't? find out
13 anything, right?

14 A That's why we went and canvassed the area after
15 this incident happened, yes.

16 Q I'm sorry. Are you done?

17 A I'm sorry, I'm done.

18 Q No worries. Now, you just testified that you had
19 no knowledge that Azo was at Lucille Drive when you
20 were doing your investigation on the night in
21 question?

22 A That's correct. From the interview that I was
23 conducting with Troy, I don't believe Azo was ever
24 mentioned.

25 Q And that was on?

1 A Not prior to the incident.

2 Q And that was on March 24th, 2014.

3 A That's correct.

4 Q Do you have a copy of your handwritten notes in
5 front of you?

6 A From the interview?

7 Q Yes --- from all your --- just the life of your
8 case?

9 A I didn't take handwritten notes. I don't recall
10 taking handwritten notes from that interview.

11 Q You took handwritten notes on August 9th, 2013,
12 didn't you?

13 A August 9th, 2013, who are you talking about?

14 Q Latoya Barnes?

15 A Yes, I think I notated in there that I talked to
16 her and put some information down, yes.

17 Q Ms. Barnes told you that Azo was there that
18 night, didn't she?

19 A I don't recall if is he did or not.

20 Q Do you have a copy of you notes or would a copy
21 of that page help you?

22 A I've got it. August 9th.

23 Q Yes, sir.

24 A This would have been at 3:21, correct.

25 Q Correct 15:21 as it's notated on your notes.

1 A Do you have a particular bullet point? What
2 number of bullet point down?

3 Q It's actually the last word before the next entry
4 on August 20th, 2013?

5 A I still don't see anything about Azo in my notes
6 unless I'm looking at a different ---

7 MR. KRZYSTON: May we approach, Your Honor?

8 THE COURT: Yes.

9 THE WITNESS: I'm sorry. I'm looking at my typed
10 notes. Do you mind if I look at this?

11 BY MR. KRZYSTON:

12 Q That's fine. Do you recognize these notes?

13 A I do. These are my handwritten notes during the
14 investigation, yes.

15 Q On the last line, the line right above
16 August 20th, 2013, it states Azo as being somebody
17 that Ms. Barnes told you was in the house on Lucille
18 Drive before the alleged robbery took place?

19 A It doesn't say in the house. I just says Azo
20 with quotations as a nickname was somebody I might
21 possibly ---

22 Q Somebody who possibly was there?

23 A I don't believe he was there at the house.
24 That's not what Troy said in his interview.

25 Q Now, as the lead investigator you actually get to

1 choose and pick what gets submitted to SLED and what
2 doesn't, right? We were talking about that a little
3 bit earlier.

4 A Normally, you know, when we ---

5 MS. CAMPBELL: Objection, Your Honor, outside the
6 scope.

7 THE COURT: Sustained.

8 MS. CAMPBELL: Thank you.

9 MR. KRZYSTON: The Court's indulgence, Your
10 Honor.

11 (Pause.)

12 No further questions, Your Honor.

13 THE COURT: Mr. Schnee?

14 MR. SCHNEE: Very briefly.

15 THE COURT: Yes, sir.

16 RECROSS-EXAMINATION:

17 BY MR. SCHNEE:

18 Q If I'm understanding you correctly, you chose not
19 to interview any of these people because you did not
20 feel at the time that they had relevant information
21 that would assist you?

22 A Well, at the time it was indicated that the
23 majority of them were cooperating with defense counsel
24 and that they had been interviewed. I wanted to
25 obtain those interviews and any relevant information,

1 identifying information prior to me going out and
2 conducting any interview with anyone else just to
3 confirm what they had been saying.

4 Q Okay. Well, Marcus Haley Johnson you knew about
5 in August of 2013, which is not from the March
6 interview. You chose not to interview him, right?

7 A The name came up of Marcus Haley Johnson, not
8 that he was involved or had direct knowledge, but that
9 he was talking about it down at the jail, about who
10 had done it.

11 Q Okay. Well, you talked to a lot of other people
12 who had just been talking in general about the crime,
13 right?

14 A I believe the majority of the people I talked to
15 had either direct knowledge or were able to
16 corroborate pretty quickly the information that we
17 based our investigation on.

18 Q But you at least talked to those people, right?

19 A Right.

20 Q You took the time to talk to them?

21 A Right, and most of them came forward, or we went
22 out when we were conducting other investigative events
23 and we were able to identify them and speak with them.

24 Q Okay. Well, in August of 2013, you knew exactly
25 where Marcus Haley Johnson was, right?

1 A He was in the Alvin S. Glenn Detention Center.

2 Q Did you even go down to talk to him, yes or no?

3 A No, I did not.

4 MR. SCHNEE: All right.

5 THE COURT: All right. Call your next --- do
6 your need a break? Go back to your jury room. Do not
7 discuss the case. Keep an open mind. Do not discuss
8 the case. Everyone remain seated while the jury is
9 dismissed.

10 (WHEREUPON, the jury left the courtroom at 3:31
11 P.M.)

12 (WHEREUPON, a short break was taken.)

13 (WHEREUPON, State's Exhibits 356, 357, 358, 359,
14 360, 361, 362 were withdrawn.)

15 (WHEREUPON, State's Exhibit Numbers 441, 444
16 through 450 were marked for identification only.)

17 THE COURT: Ready?

18 MS. GARFIELD: Yes, sir.

19 THE COURT: Ready?

20 MR. KRZYSTON: Sorry, yes, sir, Your Honor.

21 MR. SCHNEE: Yes, sir.

22 THE COURT: Okay.

23 (WHEREUPON, the jury entered the courtroom at
24 3:52 P.M.)

25 THE BAILIFF: The jury is seated, Your Honor.

1 THE COURT: Welcome back. Call your next
2 witness, please.

3 MS. CAMPBELL: Thank you, Your Honor. The State
4 calls investigator Jon VanHouten.

5 JON VANHOUTEN,
6 after being duly sworn, testified as follows:

7 THE CLERK: Please have a seat. State your full
8 name.

9 MS. GARFIELD: May it please the Court?

10 THE COURT: Yes, ma'am.

11 DIRECT EXAMINATION:

12 BY MS. GARFIELD:

13 Q Investigator VanHouten, please share with the
14 jury where you're employed.

15 A Columbia Police Department.

16 Q Please explain what your duties are at the
17 Columbia Police Department.

18 A I am assigned to the US Secret Service. I work
19 in the computer forensic laboratory of the Columbia
20 field office.

21 Q What are your duties in that capacity?

22 A I analyze digital media from computers, cell
23 phones, cameras, anything that stores digital
24 electronic media.

25 Q Is that done on just a state level?

1 A No, I work any agency that requests assistance
2 for computer forensics examination, whether it be the
3 military, any other agencies and any agency that
4 requests a service across the United States.

5 Q What kind of training --- let me back up.
6 Specifically, are you ever asked to examine physical
7 phones?

8 A Yes.

9 Q And when I say phones, I am referring
10 specifically to cell phones.

11 A Yes.

12 Q And when you are asked to examine a cell phone,
13 can you explain to the jury what you do in going about
14 that examination?

15 A Generally when we analyze a cell phone, depending
16 on what type of information the agency or the agent or
17 officers requesting we conduct what's either called a
18 physical examination or a logical examination, we use
19 equipment. In this particular assistance, we used a
20 system called Cellebrite to analyze the phones. We
21 can generally pull logical data. Logical data is data
22 that you see on your device when you click through it.
23 Physical data includes unallocated space, which is
24 data that you can't see, deleted stuff, so we're able
25 to pull deleted stuff and stuff you can't see.

1 Q Are you do that from examining the physical
2 phone?

3 A Yes.

4 Q Does this involve reviewing phone records?

5 A Sometimes.

6 Q Now, were you asked to review and do such
7 examination in this case?

8 A Yes.

9 Q In fact, were you asked to review several phones?

10 A Two phones, yes.

11 Q Specifically, I want to show you what's been
12 marked as State's Exhibit Number 380. Do you recall
13 this exhibit?

14 A Yes, this appears to be the phone that I
15 examined. I have the photographs that I took of the
16 phone.

17 Q Were you able --- were you given a target number
18 related to that phone?

19 A At the time of the examination, yes.

20 Q And do you have that number before you
21 Investigator VanHouten?

22 A I do.

23 Q What is that number?

24 A Bear with me just a second. The number I have
25 for this Samsung phone is [REDACTED]-0890.

1 Q Investigator VanHouten, in the course of this
2 investigation involving the case in court today, what
3 number was that associated with?

4 A I believe the defendant, Lorenzo Young.

5 Q And did you conduct such examination on the
6 phone?

7 A I did.

8 Q And particularly did you find any relevant
9 information on that phone?

10 A I found numerous artifacts of relevance on the
11 phone.

12 Q Did you find any photographs or pictures?

13 A I did.

14 MR. KRZYSTON: Objection, Your Honor. Prior
15 stated objection and foundational objection, as well.

16 THE COURT: Overruled.

17 BY MS. GARFIELD:

18 Q I want to show you 392 and 435. Without showing
19 these to the jury, do you recognize these photographs?

20 A Yes.

21 Q Do you recognize both of them?

22 A I do, yes.

23 Q Investigator VanHouten, those photographs were
24 taken from the cell phone that you just alluded to?

25 A Yes, they were.

1 Q That would be the phone associated with Lorenzo
2 Young?

3 A Yes.

4 MS. GARFIELD: Your Honor, at this time I'd like
5 to introduce 392 and 435 boo evidence?

6 MR. KRZYSTON: I would maintain my prior
7 objection.

8 THE COURT: Approach.

9 (WHEREUPON, a bench conference was held in the
10 presence, but not within the hearing of the
11 jury.)

12 THE COURT: All right. Do you have an objection?

13 MR. SCHNEE: No.

14 THE COURT: State's 392 and 435 admitted over
15 Defendant Young's objection.

16 (WHEREUPON, State's Exhibit Numbers 392 and 435
17 were admitted into evidence.)

18 BY MS. GARFIELD:

19 Q Did you also obtain a particular video from this
20 target telephone?

21 A Yes.

22 Q I'm going to show you what's been marked as
23 State's Exhibit 441. Do you recognize this video or
24 do you recognize the CD?

25 A Yes.

1 Q Is that contained --- and you've had an
2 opportunity to review that video?

3 A Yes.

4 Q Is that video you obtained from the target's
5 phone?

6 A That's correct.

7 Q Again, that would be the phone that's associated
8 with Lorenzo Young?

9 A Yes.

10 MS. GARFIELD: Your Honor, at this time I'd like
11 to enter 441 into evidence.

12 MR. KRZYSTON: Your Honor, we renew our prior
13 objections.

14 MR. SCHNEE: Judge, I'd like to renew as it
15 relates to Trenton Barnes.

16 THE COURT: Overruled.

17 (WHEREUPON, State's Exhibit Number 441 was
18 admitted into evidence.)

19 BY MS. GARFIELD:

20 Q Upon reviewing that video, Mr. VanHouten, did you
21 also have an opportunity to review some still shots
22 that were taken from that video?

23 A Yes.

24 Q I'm showing you what's been marked as State's
25 Exhibits 425, 428 and 432. Without showing those to

1 the jury, do you recognize those photos?

2 A Yes.

3 Q And are those the still shots from the video that
4 you obtained from the target phone?

5 A Yes.

6 Q The phone that's in relation to Lorenzo Young?

7 A Yes.

8 THE COURT: Your Honor, I'd like to introduce
9 State's Exhibit 425, 428 and 432 into evidence.

10 MR. KRZYSTON: Renew prior objection.

11 MR. SCHNEE: Same objection.

12 THE COURT: State's 425, 428 and 432 admitted over
13 defense objection.

14 BY MS. GARFIELD:

15 Q Investigator VanHouten, I'd like you to share
16 with the jury in you area, what is a web search?

17 A Well, a web search uses a service provider such
18 as Internet Explorer, Fire Fox, Safari Opera, to
19 search for content on the internet.

20 Q Were you able to ascertain any information in
21 that area on this particular cell phone?

22 A Yes.

23 Q Please explain to the jury what you found.

24 MR. KRZYSTON: Objection, foundation.

25 THE COURT: Overruled.

1 BY MS. GARFIELD:

2 Q Go ahead, sir.

3 A On this device, I conducted a timeline of
4 chronological events in order and every time the
5 device was used, and I found a series of internet
6 history and the Chrome cache. Chrome is an internet
7 search engine used to search the internet. Cache is a
8 temporary folder that most all of your search engines
9 use to store video. When you look at a website and it
10 has a video or a photo, when you click on the photo to
11 enlarge it or get a better idea of it, the internet
12 search automatically stores it as a temporary file in
13 the temporary folder, which is called cache and we can
14 look, you know, when you search --- when you click on
15 a photo and you search for it or you see something and
16 you click on it, it stores it in the phone or device
17 and basically any search provider or search engine,
18 it's in the cache folder, which you don't see, but it
19 is a hidden file we can bring back.

20 Q That's some of the hidden data that you referred
21 to initially?

22 A Right.

23 Q Did you find any particular pictures in this web
24 search related to the case at hand?

25 A Yes, I did.

1 Q Explain to the jury what kind of pictures those
2 were?

3 A Well, the pictures that I felt were relevant
4 artifacts to this case were actual --- were photos
5 that I found in the cache for a web search for the
6 photos that were released to the media. This was ---
7 these --- the cache logged in these photos on
8 July 5th, 2013, at 6:09 P.M. and they are the still
9 shots of the photos --- still shots of video that were
10 released to the media, which the media released to the
11 public.

12 Q To whoever is using this phone is making this
13 type of search?

14 A Yes.

15 Q And again this is taken off the target phone
16 [REDACTED]-0890?

17 A Yes.

18 Q And that would be the phone associated with
19 Lorenzo Young in this case?

20 A Yes.

21 Q I'm going hand you what's been marked as State's
22 Exhibit 442, and ask if have you seen this CD before?

23 A Yes.

24 Q Are you familiar with that's on this CD?

25 A Yes.

1 Q Would that contain those web search photos that
2 you just testified to?

3 A Yes.

4 MS. GARFIELD: Your Honor, I'd like to introduce
5 State's 442 into evidence and publish for the jury?

6 MR. KRZYSTON: Can we approach, Your Honor?

7 THE COURT: Yes.

8 MR. KRZYSTON: Thank you.

9 (WHEREUPON, a bench conference was held in the
10 presence, but not within the hearing of the
11 jury.)

12 THE COURT: Yes, ma'am.

13 (WHEREUPON, State's Exhibit Number 442 was
14 admitted into evidence.)

15 MS. GARFIELD: I'm sorry. Was it introduced?

16 THE COURT: Yes.

17 MR. SCHNEE: Same objection.

18 MR. KRZYSTON: Here, as well, Judge.

19 THE COURT: What was the objection?

20 MR. SCHNEE: Prior objections that we made. This
21 is the video that was taken.

22 THE COURT: From the phone?

23 MR. SCHNEE: Yes.

24 MR. KRZYSTON: I'm sorry. May we approach one
25 more time?

1 THE COURT: What's the objection?

2 (WHEREUPON, a bench conference was held in the
3 presence, but not within the hearing of the
4 jury.)

5 THE COURT: State's 442 admitted over objection.

6 BY MS. GARFIELD:

7 Q Investigator VanHouten, can you please step down?

8 (The witness complies.)

9 Thank you. Is this what's on that CD that was
10 just introduced into evidence?

11 A Yes, this was --- this was found in the internet
12 Chrome cache for the search history.

13 Q Go back to the --- and, Investigation VanHouten,
14 how many pictures related to that media search were
15 found on this phone?

16 A About nine.

17 Q And this time I would ask the assistance of
18 Ms. Brian to publish those to the jury. That's
19 picture number one and that would be a picture that
20 was released to the media?

21 A Right.

22 Q In this case?

23 A Right.

24 Q That's another picture?

25 A Right. That's another picture found in the

1 Chrome cache.

2 Q And again another picture released to the media?

3 A Yes.

4 Q Picture number three, is that another picture?

5 A Yes.

6 Q And that would be a picture --- can you describe
7 what's in the picture?

8 A It appears to be an open door with a subject
9 wearing a red hoodie and glue jeans.

10 Q And again --- I'm sorry. Please continue.

11 A Entering the business.

12 Q And again this is a photograph released to the
13 media?

14 A Yes.

15 Q Please explain what picture number four shows?

16 A It appears to be the same subject, red hoodie,
17 blue jeans and you can see the outline of a pistol.

18 Q Or a firearm?

19 A A firearm.

20 Q And again, this would be a picture that was
21 released to the media?

22 A That's correct.

23 Q What does this picture represent?

24 A This is a picture in a kitchen and there is
25 another subject wearing a --- this appears to be a

1 black shirt and black pants.

2 Q And again this would be a picture that was
3 released to the media.

4 A Yes.

5 Q And these were released to the media after this
6 incident occurred?

7 A Yes. A photo of a subject wearing a red hoodie
8 and wearing blue jeans and entering the business.

9 Q And again that picture was also released to the
10 media?.

11 A Yes, also released to the media. This is a white
12 van with crime scene tape outside the business. This
13 was also found in the cache and the picture was also
14 released to the media.

15 Q I believe that's all and I believe this is the
16 last picture?

17 A I think so. This is one of the pictures that was
18 released to the media of the kitchen. No subjects
19 were visible, no visible subjects in it.

20 Q And, Investigator VanHouten, all these pictures
21 would have been found in Mr. Young's phone or the
22 number associated with Mr. Young through internet
23 search history?

24 A Yes.

25 Q So a person would have to be searching on the

1 internet for those pictures or viewing the pictures on
2 the internet?

3 A Yes, they would have to be viewing the pictures.

4 Q I want to go back to the photographs that you've
5 identified. Do you have a date of when those
6 photographs were taken on the phone?

7 A I do. The phone, again these were not taken by
8 the phone. These were not in the media folder of the
9 phone, so they weren't actual photographs taken by the
10 phone itself. It's a temporary cache that is stored
11 automatically by the internet search engine and there
12 is a date in the metadata is associated when the
13 photos were clicked on and expanded to view. The
14 dates I have range from July 5th, 2013, at 6:09 P.M.
15 all the way to --- I'm sorry, the first set --- the
16 first set was taken July 1st, 2013, at 7:24 P.M.

17 The site was apparently revisited on the 5th, four
18 days later, so the first set of photos recovered by
19 the --- or that were logged in by the Chrome cache was
20 July 1st, 2013, at 7:24 P.M.

21 Q And those would be the times associated with the
22 photographs we just viewed?

23 A Right.

24 Q Okay, and those would be the photographs that
25 were released to the media?

1 A That is correct.

2 Q That someone would have searched for?

3 A Yes.

4 Q Now, particularly, I want to take you back to the
5 other two, the other two photographs. Do you have
6 them?

7 A I just have mine.

8 Q The two photographs, State's Exhibit 392 and 435,
9 do you have any notations or can you tell when those
10 pictures were taken on this target phone?

11 A Yes.

12 Q And what date would that be?

13 A Bear with me just a second.

14 (A cell phone rang.)

15 (Pause.)

16 THE BAILIFF: Give me the phone.

17 (There was no response.)

18 THE COURT: Ladies and gentlemen, if you'll step
19 back to your jury room. Do not discuss the case.
20 Keep an open mind.

21 (WHEREUPON, the jury left the courtroom at 4:11
22 P.M.)

23 THE BAILIFF: Give me the phone.

24 UNIDENTIFIED MAN: No.

25 THE COURT: All right. He is not allowed to stay

1 in here. Take him out.

2 (Pause.)

3 Okay. I think it's off. Bring them back in.

4 (WHEREUPON, the jury entered the courtroom at
5 4:13 P.M.)

6 THE BAILIFF: The jury is seated, Your Honor.

7 THE COURT: You may ask your last question again.

8 MS. GARFIELD: Thank you.

9 BY MS. GARFIELD:

10 Q Particular to the pictures you retrieved from the
11 phone, is there a date on the cell phone ---

12 A Yes.

13 Q --- as to when those pictures were taken?

14 A Yes, the metadata stored within the photo itself
15 shows it was taken with this phone on June 28th, 2013,
16 at 8:54 A.M.

17 Q And can that time or day be changed in any way?

18 A Not in the metadata.

19 Q And, in particular, the video that you retrieved
20 from the phone?

21 A Uh-huh.

22 Q Is there also a corresponding day and time of
23 when it was made?

24 A There would be, and I would need a minute to
25 search.

1 Q Okay.

2 A Okay. Take your time. You're referring to your
3 notes to refresh your memory?

4 A Yes.

5 Q Okay.

6 (Pause.)

7 A The video would have been taken June 25th, 2013,
8 at 11:34 P.M.

9 Q And, again, could that be changed or altered?

10 A In the metadata, no, no.

11 MS. GARFIELD: Thank you, Investigator VanHouten.
12 Please answer any questions defense counsel may have.

13 MR. KRZYSTON: Thank you, Your Honor. May it
14 please the Court.

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION:

17 BY MR. KRZYSTON:

18 Q Agent VanHouten, right? Or is it ---

19 A Either way.

20 Q I just have a few questions for you.

21 A Okay.

22 Q Now, you testified that you pulled all this
23 information off the cell phone, correct?

24 A The Samsung, yes.

25 Q Okay, and when you pull that information, you've