

IN THE DISTRICT COURT OF NATRONA COUNTY, WYOMING  
SEVENTH JUDICIAL DISTRICT  
CRIMINAL ACTION NO. 19548-B

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THE STATE OF WYOMING,

Plaintiff,

vs.

JOHN HENRY KNOSPLER, JR.,

Defendant.

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TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
VOLUME V of VII

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9:33 a.m., Friday  
December 19, 2014

Proceedings before the **Honorable W. Thomas Sullins**, a Judge of the Seventh Judicial District of Wyoming, and a Jury of Twelve at the Natrona County Townsend Justice Center, Casper, Wyoming.

A P P E A R A N C E S

FOR THE STATE:           MR. MICHAEL A. BLONIGEN  
                              District Attorney  
  and  
                              MR. DANIEL J. ITZEN  
                              Assistant District Attorney  
                              201 North David, Suite 400  
                              Casper, Wyoming 82601

FOR THE DEFENDANT:       MR. JOSEPH H. LOW, IV  
                              Attorney at Law  
                              1 World Trade Center  
                              Suite 2320  
                              Long Beach, California 90831  
  and  
                              MR. TIMOTHY K. NEWCOMB  
                              Attorney at Law  
                              170 North 5th Street  
                              Laramie, Wyoming 82072

ALSO PRESENT:            The Defendant

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1 P R O C E E D I N G S

2 THE COURT: Let the record reflect  
3 that we convene for day five in the trial  
4 proceedings in the State of Wyoming versus John  
5 Henry Knospler, Jr., Criminal Action 19548-B.

6 The Court notes the appearance of Mr.  
7 Knospler; defense counsel, Mr. Newcomb and  
8 Mr. Low; counsel for the State, Mr. Blonigen and  
9 Mr. Itzen; and the entire jury panel, 13 members  
10 of the jury.

11 The parties ready to proceed here today,  
12 the State?

13 MR. BLONIGEN: We are, Your Honor.

14 THE COURT: And the Defense?

15 MR. LOW: Yes, sir. Thank you.

16 THE COURT: Okay. Thank you very  
17 much.

18 Court will go forward with additional  
19 evidence here this morning. Mr. Blonigen.

20 MR. BLONIGEN: State would call  
21 David Hulshizer.

22 THE COURT: Please come forward if  
23 you would, Officer, and be sworn by the Clerk of  
24 Court to my left, and then sit to the other side  
25 once sworn.

1                   THE CLERK: You do solemnly swear  
2 that the testimony you will give in the case  
3 before the Court will be the truth, the whole  
4 truth, and nothing but the truth, so help you God?

5                   THE WITNESS: I do.

6                   THE CLERK: Please be seated.

7                   THE COURT: And, Officer, I would  
8 ask you to speak into the microphone. And as you  
9 noted, it is adjustable.

10                   I did get feedback from the jury that  
11 they're having difficulty hearing counsel at  
12 times, especially Mr. Itzen. So if counsel will  
13 speak up, I'd appreciate it.

14                   MR. BLONIGEN: Yes, sir.

15                   DAVID HULSHIZER,  
16 called for examination by the State, being first  
17 duly sworn, on his oath testified as follows:

18                   DIRECT EXAMINATION

19 BY MR. BLONIGEN:

20                   Q. Would you state your full name, please.

21                   A. David Hulshizer.

22                   Q. Where are you employed, sir?

23                   A. The Natrona County Sheriff's Office.

24                   Q. What is your position with that  
25 department?

1 A. I'm an investigator with that department.

2 Q. How long have you a been a police  
3 officer?

4 A. Going over 14 years now.

5 Q. Were you on duty on the morning of  
6 October the 4th?

7 A. I was.

8 Q. And did you have a role in the  
9 investigation of this particular case?

10 A. I did.

11 Q. And what was that?

12 A. I was actually called in to assist the  
13 investigation in an investigator capacity. I  
14 worked on search warrants, collection of evidence,  
15 and stuff of that nature.

16 Q. And as part of that, did you have contact  
17 with the defendant, Mr. Knospler?

18 A. I did.

19 Q. Is that the same gentleman that's here  
20 today?

21 A. It is. He is minus the beard, though;  
22 but he is the gentleman in the white shirt, brown  
23 tie, and the black suit coat.

24 Q. And where is he sitting at the table?

25 A. He's seated a the defense table in



1 between his two counsel.

2 MR. BLONIGEN: May the record  
3 reflect he's identified the defendant, Your Honor?

4 THE COURT: It shall so reflect.  
5 Thank you.

6 Q. (BY MR. BLONIGEN) Did you have the  
7 assistance of any other police officer in the  
8 collection of evidence from the defendant that  
9 morning?

10 A. Yeah, actually I did. It was Casper  
11 Police Department's Mitch Baker was the one that  
12 assisted me with that.

13 Q. And who was the photographer on this  
14 instance?

15 A. Mr. Baker.

16 Q. And during the course of that contact,  
17 did you recover a number of items of physical  
18 evidence for later analysis?

19 A. We did.

20 Q. Particularly, did you recover the  
21 clothing of the defendant?

22 A. We did.

23 Q. How was each piece of clothing handled?

24 A. It was handled individually in individual  
25 packages and sealed.

1           Q.     I'm going to hand you an item that's  
2 marked for identification purposes as State's  
3 Exhibit 201, ask you if you can identify this  
4 matter for the record, please.

5           A.     This is a gray jacket that we took off of  
6 Mr. Knospler. This is my handwriting. This is  
7 the package that I included October 4, 2013, the  
8 gray jacket, and what evidence item that we logged  
9 that in as. This was the jacket that he was  
10 wearing on the outer portion of him.

11          Q.     Okay. Now, obviously, it's been subject  
12 to laboratory marking and testing?

13          A.     It appears that way. I have not seen  
14 this since it was submitted to the lab.

15          Q.     Okay. Other than that, does it appear to  
16 be in substantially the same condition as when you  
17 took it from the defendant?

18          A.     It does.

19                   MR. BLONIGEN: And move for the  
20 introduction of 201, Your Honor.

21                   THE COURT: Any objection?

22                   MR. LOW: No, sir.

23                   THE COURT: Exhibit 201 is received.

24          Q.     (BY MR. BLONIGEN) Upon handling the item  
25 that day, did you observe whether there's any

1 damage to the coat such as tearing or stretching  
2 or anything like that?

3 A. Didn't appear to be.

4 Q. You also collected the other items of  
5 clothing from him?

6 A. Yeah. There were several items that we  
7 collected as we went through the process of  
8 executing the search warrant.

9 Q. And, in fact, do you have a list of those  
10 items with you?

11 A. Not with me.

12 Q. Okay. I'd like to go through a few of  
13 those things if I can. Obviously, you collected  
14 all of his clothing?

15 A. Yes.

16 Q. Did that include the pants that he was  
17 wearing?

18 A. Yes.

19 Q. Were there glass fragments on the pants?

20 A. We noted glass fragments on portions of  
21 his clothing items. It should be noted within my  
22 report.

23 Q. In addition, did you take an amount of  
24 cash and other contents of the wallet at that  
25 time?

1           A.     Yes.  I believe these were items that we  
2 all did take, yes.

3           Q.     Do you recall how much cash you recovered  
4 from the defendant?

5           A.     I think it was roughly \$280, something  
6 like that.

7           Q.     And was there also \$17 in the pants  
8 pocket?

9           A.     I believe so.

10          Q.     There appears also to be credit cards?

11          A.     Yes.

12          Q.     Now, did you note or where is Mr.  
13 Knospler during this whole time?

14          A.     He's in -- he's at the Natrona County  
15 Sheriff's Office inside our actual office in one  
16 of our interview rooms at 201 North David Street.

17          Q.     And while he was in there, was he in  
18 there for quite a while?

19          A.     He was.

20          Q.     While you were collecting these items,  
21 did you notice fragments of glass on occasion?

22          A.     Uh-huh.

23          Q.     Now, did you ever collect that?

24          A.     At the end of the interview, yes.

25          Q.     So did you collect it while he was in the

1 interview room?

2 A. No.

3 Q. Why is that?

4 A. Safety reasons and for the sake of, you  
5 know, not doing it right in -- at that point in  
6 time, basically for safety reasons.

7 Q. Okay. And so did you notice the glass?

8 A. Yeah. I noticed it continually through  
9 that.

10 Q. In fact, had the defendant made a little  
11 pile of the glass?

12 A. Yes. On the actual -- you see this  
13 chair, you can see the chair off to the right of  
14 the photo.

15 Q. Uh-huh.

16 A. The back of the table is right where the  
17 top of that chair -- the photo is flipped over.  
18 This is the front of the table.

19 Q. So the photo should be like this?

20 A. He would have been sitting here. So he  
21 was placing this on the front of the table  
22 where -- next to where he was sitting towards the  
23 front edge.

24 Q. Okay. And you did collect that?

25 A. Yes.

1                   THE COURT: Counsel, could I ask you  
2 to identify the exhibit so we have that.

3                   MR. BLONIGEN: This is Defense  
4 Exhibit PP.

5                   THE COURT: Thank you.

6           Q.       (BY MR. BLONIGEN) So that was the little  
7 collection of glass that was found on him?

8           A.       Yes.

9           Q.       Was there other glass found on him?

10          A.       It was noted that on his clothing there  
11 was fragments and particles and stuff that you  
12 could not -- like, microscopic particles, but you  
13 could see the shards I guess.

14          Q.       And as an investigator, if you're going  
15 to collect that clothing for later testing, do you  
16 remove that, those items, or do you leave it on  
17 the clothing?

18          A.       We leave all that together.

19          Q.       Who is going to process that?

20          A.       The lab, Wyoming State Crime Lab.

21          Q.       In addition, were various collections  
22 made at that time from the defendant's person,  
23 biological and other materials?

24          A.       I believe there was. We --

25          Q.       Now, was there a blood kit for blood

1 alcohol content taken?

2 A. Yes.

3 Q. And after that was taken, was it properly  
4 sealed?

5 A. Yes.

6 Q. What did you do with it?

7 A. That was submitted down to the Wyoming  
8 State Chemical Testing Program with the Wyoming  
9 State Lab, Crime Lab.

10 Q. Were you ever able to get a urine sample  
11 from the defendant?

12 A. We were.

13 Q. And how and where did that take place?

14 A. We actually escorted Mr. Knospler back to  
15 the locker room/bathroom of the Natrona County  
16 Sheriff's Office.

17 Q. Okay. Was he reluctant to provide at  
18 first?

19 A. At first, yes.

20 Q. Okay. Did that change?

21 A. Over a period of time, yes.

22 Q. Okay. Did you say anything in particular  
23 about providing that sample when you obtained it?

24 A. We talked about obtaining it, that we --  
25 that it was part of the search warrant. And we --

1 I encouraged him to do the urine sample because if  
2 not, we'd have to take him to the hospital and  
3 have it actually drawn by medical personnel.

4 Q. By what means?

5 A. By medical means. Maybe a catheter,  
6 maybe a needle. I'm not -- not a medical expert.

7 Q. Okay. But you told him that?

8 A. Yeah. We told him that, that we had the  
9 search warrant for it, and we needed to get it.

10 Q. And then he did eventually provide it,  
11 though?

12 A. Eventually he did, yes.

13 Q. What did you do with that urine kit?

14 A. That urine kit was submitted to the  
15 Wyoming State Crime Lab and the Chemical Testing  
16 Program.

17 Q. In the meantime, did you take custody of  
18 it and seal it properly, keep it in a secure  
19 evidence facility?

20 A. Yes.

21 Q. Would there be any way to access either  
22 the blood kit or the urine kit without obvious  
23 tampering to the seals?

24 A. After I sealed it?

25 Q. Yes.



1           A.     The only people that do that is Wyoming  
2 State Crime Lab. The integrity seals stay  
3 maintained on those items until it reaches the  
4 crime lab.

5           Q.     And they'll be able to tell if somebody  
6 has tampered with those?

7           A.     Yes, they will.

8           Q.     And did you also or did Mr. Baker collect  
9 a known DNA sample from the defendant?

10          A.     Yes. We took swabs of his inner portions  
11 of his mouth.

12          Q.     I'm going to show you a matter, your Item  
13 1017, Exhibit 200. Are those the known sample of  
14 the DNA swabs taken from the defendant?

15          A.     They are. This is the packaging that I  
16 packaged them in, yes.

17          Q.     Again, were those kept in a secure and  
18 sealed condition until delivered to the Wyoming  
19 State Crime Laboratory?

20          A.     Yes, they are.

21          Q.     Going to hand you two items to identify  
22 for us, please. Did you take swabs from the  
23 defendant's hands?

24          A.     We did.

25          Q.     Hand you an item, your Item Number 5,

1 Exhibit 202, that says right hand swab. Is that  
2 one of those items collected by yourself?

3 A. This was collected -- these items were  
4 collected -- Mitch Baker -- Officer Mitch Baker  
5 and I worked together on these.

6 Q. Okay.

7 A. He's the one that I believe took these  
8 swabs.

9 Q. And --

10 A. But these are the ones that I packaged,  
11 yes.

12 Q. You packaged them?

13 A. Uh-huh. Packaged them and sealed them so  
14 that they could be transported down to the State  
15 Crime Lab.

16 Q. And all the clothing, too, was it also  
17 kept in a sealed and secure condition until  
18 transported to the state laboratory?

19 A. Yes.

20 Q. Okay. Going to hand you one other item,  
21 Item 203, swab of the left hand. Is that the swab  
22 you collected and indicated in your testimony?

23 A. Yes. This is Evidence Number 1015,  
24 packaged and sealed by me.

25 Q. Again, was it kept in a secure facility

1 and maintained at all times until transported to  
2 the crime laboratory?

3 A. It was. All these items were collected  
4 at the -- and kept within the Natrona County  
5 Sheriff's evidence vault, a sealed location that  
6 we have at our office.

7 Q. Did you also collect a gunshot residue  
8 kit from the defendant?

9 A. I actually collected two.

10 Q. Okay. And, in fact, the swabs were part  
11 of that; isn't that right?

12 A. From the evidence collection kit?

13 Q. Yeah.

14 A. The swabs were prior to that.

15 Q. Okay.

16 A. The -- the two gunshot residue kits were  
17 following that, and they were packaged  
18 individually as well.

19 Q. Okay. So you're trying to preserve both  
20 any biological evidence that may be present as  
21 well as any gunshot residue; is that correct?

22 A. Yes.

23 Q. In addition to that, were you provided or  
24 did you collect from Deputy Johnny Taylor his  
25 uniform shirt?

1           A.     I did.

2           Q.     And was that your Item 1101?

3           A.     It should be noted within my report if  
4 that is the number, yes.

5           Q.     Okay. Was that also kept separately  
6 packaged and in a secure condition until  
7 transported to the laboratory?

8           A.     Yes, it was.

9           Q.     And particularly, why did you collect  
10 Deputy Taylor's shirt?

11          A.     There was a notice of -- it appeared to  
12 be blood on the shirt. It was noted by Deputy  
13 Taylor, at which point I told him that we needed  
14 to collect his shirt, and we did.

15          Q.     So there was a stain, and you want to  
16 preserve that and collect it?

17          A.     A stain.

18                   MR. BLONIGEN: One moment, Your  
19 Honor.

20                   Thank you, Officer. That's all the  
21 questions I have.

22                   THE WITNESS: Thank you.

23                   THE COURT: Thank you, Counsel.

24                   Cross-examination, Mr. Low.

25                   MR. LOW: Yes, thank you. One

1 second please, Your Honor.

2 THE COURT: Sure.

3 MR. LOW: No questions. Thank you.

4 THE COURT: Thank you, Officer  
5 Hulshizer. You may step down. You're excused  
6 from any subpoena in the case.

7 THE WITNESS: Your Honor, does that  
8 include their subpoena as well?

9 THE COURT: No. If there's a --  
10 thank you for asking me to clarify. If there's a  
11 Defense subpoena, you still need to honor that  
12 also. Thank you.

13 MR. BLONIGEN: Your Honor, the State  
14 would next call Jennifer Malone. I might state  
15 for the Court that I spoke to counsel about this.  
16 Ms. Malone will be just about one witness out of  
17 order because she has other obligations. She's  
18 from the State Crime Laboratory. And we would  
19 like to admit her testimony subject to foundation  
20 from Mr. Norcross, chain of custody.

21 THE COURT: So noted. Thank you.  
22 I'll try to accommodate if we can.

23 Ms. Malone, please come up to the Clerk  
24 of Court here to my left and be sworn. And after  
25 you're sworn, you'll sit to the other side.

1 THE CLERK: Please raise your right  
2 hand. You do solemnly swear that the testimony  
3 you will give in the case before the Court will be  
4 the truth, the whole truth, and nothing but the  
5 truth, so help you God?

6 THE WITNESS: Yes, ma'am.

7 THE CLERK: Please be seated.

8 THE COURT: Ms. Malone, we would ask  
9 you to speak directly into the microphone. It is  
10 adjustable, so you can adjust it if you need to.

11 JENNIFER MALONE,  
12 called for examination by the State, being first  
13 duly sworn, on her oath testified as follows:

14 DIRECT EXAMINATION

15 BY MR. BLONIGEN:

16 Q. Would you state your name for the record,  
17 please.

18 A. Jennifer Malone.

19 Q. Where are you employed, ma'am?

20 A. At the State of Wyoming Crime Laboratory.

21 Q. What is your position with what  
22 laboratory?

23 A. I'm a senior forensic scientist with the  
24 trace unit.

25 Q. Okay. And what's a -- what goes on in

1 the trace unit?

2 A. The trace unit analyzes evidence which is  
3 small in quantity and size. Some examples would  
4 be gunshot residue analysis, glass, hairs, fibers,  
5 paint, physical match, just processing and  
6 collection of trace evidence.

7 Q. Now, what is your educational background?

8 A. I have my bachelor's of science in  
9 genetic and cell biology from Washington State  
10 University and my doctorate in cell and molecular  
11 biology from Colorado State University.

12 Q. How long have you worked for the State  
13 Crime Laboratory?

14 A. Approximately six years.

15 Q. And is the State Laboratory nationally  
16 certified?

17 A. Yes. It is accredited through ISO.

18 Q. And what's that? What's ISO?

19 A. It is a regulating body that  
20 laboratories -- they uphold the standards that  
21 they put into place. And we are accredited  
22 through ASCLD lab, which is just an overseeing  
23 government body of laboratory directors. And it's  
24 just a way to uphold ourselves to their standards.

25 Q. And, in fact, is the analysis you do and

1 all the lab members do subject to periodic review?

2 A. To peer review?

3 Q. To peer review, yes.

4 A. Yes. Every -- any type of analysis that  
5 the laboratory performs undergoes a peer review  
6 before it is released to the agency that requested  
7 the analysis.

8 Q. Okay. So in each instance, it's subject  
9 to peer review, the testing is?

10 A. Yes.

11 Q. And that would be true in this case as  
12 well?

13 A. Yes, that's correct.

14 Q. Now, did you receive a number of items in  
15 the trace unit in this case to be analyzed by  
16 various members of the crime lab? I asked two  
17 questions there. Let me back up.

18 A. Okay.

19 Q. Did you receive some items to analyze in  
20 this case?

21 A. Yes, I had an assignment in this case.

22 Q. And in this -- in this -- these  
23 instances, do multiple people look at some of  
24 these samples in the lab?

25 A. The items I received, I do not believe



1 any other analysis was performed --

2 Q. Okay. So they came --

3 A. -- by another unit.

4 Q. So they came to you directly; is that  
5 correct?

6 A. They would have been submitted into our  
7 laboratory. We have a laboratory evidence room.  
8 They receive the evidence, create a case number,  
9 create assignments based upon the submission  
10 information. And so I would have received the  
11 evidence from our evidence technicians.

12 Q. I see. When you receive these items, was  
13 the packaging still secure in all respects?

14 A. That I can recall, yes. I would have  
15 documented it in my case notes.

16 Q. Okay. In fact, we have those case notes.  
17 So what were you asked to do in this particular  
18 case?

19 A. So what I was asked to do is I had two  
20 cotton swabs that were collected from the suspect  
21 that they wanted any possible GSR, which is  
22 gunshot residue, analyzed from those cotton swabs.  
23 And then there was a gunshot residue kit that was  
24 collected from the suspect's vehicle that they  
25 also wanted analyzed.

1 Q. Okay. And did you analyze any of the  
2 swabs?

3 A. Yes, I did.

4 Q. Do you have a laboratory number or item  
5 number on those swabs?

6 A. Yes.

7 Q. Okay. And I'm going to hand you a  
8 package that says Sheriff's Item Number 16,  
9 Laboratory Item Number 5. And this particular  
10 swab you tested is 5.1; is that correct?

11 A. It was Item 5.

12 Q. Uh-huh.

13 A. The Item 5.1 was the GSR kit that I then  
14 made from those swabs.

15 Q. I understand. I'm going to hand you 202  
16 that Mr. Hulshizer just identified. Is 202 your  
17 Item 5, his Item 1016?

18 A. Can I look at?

19 Q. Yes, if you would, please.

20 A. Yes. I recognize my initials and date on  
21 the packaging.

22 Q. Now, this is not -- the -- you said you  
23 did something to make 5.1. Tell us a little bit  
24 about what you did for your testing on Item 5.

25 A. So there were two cotton swabs. And what

1 I did was I just kind of divided it in half. And  
2 what we do at -- a GSR kit, they're little --  
3 they're very small stubs, maybe about this size,  
4 little metal stubs, and they have sticky black  
5 carbon tape on it. So what I'm going to do is I  
6 will roll one side of the swab on one of these  
7 stubs, and then I do that on another stub. So I  
8 collected a total of four swabs -- or excuse me,  
9 four stubs from two swabs.

10 Q. Okay. And after you collect the sample  
11 from the swabs, what do you do with it?

12 A. I then put it into our scanning electron  
13 microscope to run an automated analysis, computer  
14 automated analysis, which will specifically look  
15 for particles that are known to be found in  
16 gunshot residue, GSR, which are lead, antimony,  
17 and barium.

18 Q. The techniques you use, are they the same  
19 techniques used across the industry for testing?

20 A. In the forensic science community, the  
21 main method for analyzing gunshot residue, the  
22 primer residue, is with a scanning electron  
23 microscope because it is a nondestructive method,  
24 so it's not going to destroy the particles; and  
25 you can see both the shape of the particles and

1 determine their elemental composition. So you can  
2 determine if it has those elements, lead,  
3 antimony, and barium, that are known to be found  
4 in GSR within those particles.

5 Q. And, again, this swab you tested is from  
6 which hand according to the packaging?

7 A. May I look at it?

8 Q. Please.

9 A. It says the right hand.

10 Q. Now, when you subjected the swab to  
11 analysis, then, you said you're looking for these  
12 components. What are the specific components of  
13 gunshot residue you're looking for in this  
14 testing?

15 A. So we're specifically looking for lead,  
16 antimony, and barium, the three known components  
17 of gunshot residue.

18 Q. And how unique is a combination of those  
19 three elements?

20 A. For all three to be contained in one  
21 particle, what we report on is that it very likely  
22 originated from the discharge of a firearm. If  
23 it's a lower combination, like, if there's two of  
24 those elements in a particle, then we say it's --  
25 it is likely to have originated from the discharge

1 of a firearm. And if it's just one of those  
2 elements in a particle, we say it could have  
3 possibly originated from the discharge of a  
4 firearm.

5 Q. So the highest level is when we find  
6 these three elements in combination?

7 A. Correct.

8 Q. How many other places do we know of that  
9 those three elements occur in combination?

10 A. I'm not aware of any other known sources.  
11 Specifically, you don't just look at just  
12 elemental. You also need to be really looking at  
13 the shape because these particles, when a gun is  
14 fired, it is occurring at very high temperatures.  
15 You see that big plume come up when a firearm is  
16 going off. Those particles are going up into the  
17 air as vapor. They're going to cool and condense  
18 into these particles. And it gets a very -- it  
19 will have that condensate like shape. They're  
20 going to be spiroidal, like circular or little  
21 irregular shapes; but you're not going to see,  
22 like, crystal like salt or anything like that.

23 Q. So we want to look at both the shape and  
24 the elemental composition of the particle?

25 A. Correct.

1 Q. Now, did you do this testing with the  
2 item you've just identified, the swab from the  
3 right hand?

4 A. Yes.

5 Q. What were your results?

6 A. Do you happen to have my report with you?

7 Q. I'm going to hand you your report. Now,  
8 let's just back up a little bit and lay some  
9 foundation for this report. In each instance, you  
10 then write a report of what your findings are,  
11 whether positive or negative; is that correct?

12 A. That is correct.

13 Q. And you did so in this case?

14 A. Yes.

15 Q. Is that the report in front of you?

16 A. Yes, it is.

17 Q. And would it be helpful in providing  
18 specific results to the jury in this instance?

19 A. Yes, it would.

20 Q. You haven't memorized every of the  
21 hundreds of cases you have?

22 A. No.

23 Q. Okay. And in this particular case, then,  
24 can you tell us precisely what you found in the  
25 testing of Item 5.1, the swab from the right hand?

1           A.     Okay.  And as I described earlier, there  
2     were two swabs, and I divided them each in half.  
3     So on swab one, the first area, I found one  
4     condensate type particle that was characteristic  
5     of gunshot primer residue which contained lead,  
6     antimony, and barium, so it had all three.  In  
7     area two of that same swab, I found three  
8     condensate type particles which were  
9     characteristic of gunshot primer residue, which  
10    also contained the three elements, lead, antimony,  
11    and barium.

12                For swab two, I didn't find any particles  
13    that were either consistent or characteristic with  
14    gunshot primer residue.  And same with the area  
15    two, there was no particles that were either  
16    consistent or characteristic of gunshot primer  
17    residue.

18           Q.     I'm going to hand you some items I've  
19    marked 401, 402, and 403, your Laboratory Item 5.1  
20    or 18 and -- your Item 18.  Let me back up a  
21    little bit because I forgot to do something here.  
22    Showing you 400, you indicated you basically  
23    produced this kit from the swab; is that correct?

24           A.     Yes, that's correct.

25           Q.     And is this Item 5.1, in fact, that kit

1       you produced? I believe the --

2           A.     Yes. I recognize my initials and date on  
3       there as well.

4           Q.     Okay. Let's go, then, to 401 and 402.  
5       Could you look at that packaging for court and  
6       tell me what item your Item 18.1, Sheriff's Item  
7       317 is.

8           A.     This is Item 18.

9           Q.     Uh-huh.

10          A.     So not 18.1, just Item 18.

11          Q.     Okay. Excuse me. Item 18. What was  
12       Item 18?

13          A.     It was a GSR kit collected from the  
14       vehicle.

15          Q.     Okay. And did it indicate that the  
16       vehicle had been swabbed in several areas where  
17       there's different areas indicated on the vials and  
18       in your testing?

19          A.     Yes.

20          Q.     Okay. And could you tell us what the  
21       titles that were placed on those were.

22          A.     Oh, gosh.

23          Q.     Would that -- would that be window frame,  
24       headliner, and --

25          A.     Yeah, I --



1 Q. -- Weather strip?

2 A. -- abbreviated it from what was on here.

3 Q. I understand.

4 A. So driver's side headliner, door weather  
5 strip.

6 Q. Okay. So we had three different areas?

7 A. And then driver's door window frame.

8 Q. Now, when you received this kit, what did  
9 you do with these items?

10 A. I did the same thing. I placed the stubs  
11 into our scanning electron microscope, ran a  
12 computer automated analysis, which is specifically  
13 set up to look for those three particles known to  
14 be found in gunshot residue analysis. Once the  
15 run is done, it presumptively identifies these  
16 particles. I go back and verify those to look at  
17 both the shape of the particles and the elemental  
18 composition to then determine if they are, in  
19 fact, gunshot residue.

20 Q. Okay. Now, in this particular instance,  
21 did you have findings?

22 A. Yes.

23 Q. And did you place those in your report?

24 A. Yes, I did.

25 Q. And specifically, as to that kit marked

1 window frame, what did you find?

2 A. On the window frame, I found seven  
3 condensate type particles that were characteristic  
4 of gunshot primer residue, so they contained the  
5 lead, antimony, and barium, all three, in those  
6 particles.

7 Q. And in addition to that, you said you  
8 look at the shape of these particles; is that  
9 correct?

10 A. Yes. And that's where I'm classifying it  
11 as condensate like, so it has that appearance that  
12 they were formed at a high temperature.

13 Q. Okay. So they have not only the  
14 characteristic of the particles but all the three  
15 elements you're looking for?

16 A. Correct.

17 Q. What about the kit labeled headliner?

18 A. I found three condensate type particles  
19 that were consistent with gunshot primer residue.  
20 So those contained lead, antimony, and barium; and  
21 they contain all three. But what we have to do,  
22 per our standard operating procedures, is if  
23 there's different trace elements present, we have  
24 to downgrade them from the "very likely  
25 originated" to "likely originated."

1 Q. Okay. And in this case, how does that  
2 come into play with the headliner kit?

3 A. So that first sentence, I'm classifying  
4 them as consistent as opposed to characteristic.

5 Q. But you found all three elements?

6 A. Yes.

7 Q. Did you also find two additional  
8 particles on that -- or excuse me, on the  
9 headliner kit?

10 A. Yes. There were two condensate type  
11 particles that were consistent with gunshot primer  
12 residue that contained lead only.

13 Q. Okay. Then on the kit titled weather  
14 strip, what did you find?

15 A. On the weather strip, I found two  
16 condensate type particles that were consistent  
17 with gunshot primer residue; and they once again  
18 contained all three elements, lead, antimony, and  
19 barium.

20 MR. BLONIGEN: Thank you, Ms.  
21 Malone. That's all the questions I have, Your  
22 Honor.

23 We'd move for the introduction of 400 and  
24 202 as well as 401 and 402.

25 THE COURT: Any objection to those

1 four exhibits?

2 MR. LOW: No, Your Honor.

3 THE COURT: Okay. Exhibits 202,  
4 400, 401, and 402 are received.

5 Anything else, Mr. Blonigen?

6 MR. BLONIGEN: No, Your Honor. We  
7 have no further questions. I'm sorry.

8 THE COURT: Thank you.

9 Cross-examination, Mr. Low.

10 MR. LOW: Thank you.

11 CROSS-EXAMINATION

12 BY MR. LOW:

13 Q. Morning, ma'am.

14 A. Good morning.

15 Q. How are you?

16 A. Good.

17 Q. Gunshot residue. Like to show you this  
18 demonstrative aid.

19 MR. LOW: Is the Elmo on, sir?

20 THE COURT: I believe it is.

21 MR. BLONIGEN: It is on, yes. No  
22 objection.

23 MR. LOW: Thank you, sir.

24 Q. (BY MR. LOW) Now, you got that on your  
25 monitor, ma'am?

1 A. Yes.

2 Q. All right. So it's true that if you have  
3 a gun and you fire it, first thing that comes out,  
4 or close to it, is a bullet; is that fair?

5 A. I'm not a firearms examiner. I really  
6 don't have a lot of experience with --

7 Q. Okay.

8 A. -- with the firing of weapons.

9 Q. Sure. Thank you. But generally  
10 speaking, from your personal experience, you  
11 believe a bullet comes out of a gun?

12 A. I seriously have never fired a gun.

13 Q. Okay. Fair enough. Let's see if -- I  
14 want to be fair to you. Is it your understanding  
15 that gunshot residue is something you test for;  
16 correct?

17 A. Yes. I'm specifically testing the -- for  
18 the gunshot residue, the primer, the particles  
19 that originate from the primer as opposed to the  
20 entire gunshot residue plume.

21 Q. That's what I was going to get to.

22 A. Yeah.

23 Q. Thank you. You just sped it up for us.  
24 Okay. Let me just draw a little bit so everyone  
25 understands what we're talking about. It's fair

1 to say that over the years, say, the last 30 to 40  
2 years, the type of testing we do for gunshot  
3 residue has changed, it's advanced, it's gotten  
4 more sophisticated; is that fair?

5 A. The testing that we do now is not  
6 destructive. Earlier testing was a destructive  
7 type testing, so I've -- yes, I believe it has  
8 gotten more advanced.

9 Q. Okay. And when you talk about primer,  
10 bear with me for a second. Have you ever seen a  
11 bullet before it's fired? It's okay.

12 A. I've seen a cartridge.

13 Q. Okay. And describe what the cartridge  
14 looked like so we make sure we got the same thing,  
15 the one you saw. It's okay. All right. Tell me  
16 what you believe the primer is.

17 A. The primer is located at the base.

18 Q. Okay. We'll do that. And --

19 A. It's like a paste.

20 Q. Okay. If I'm looking at the base of a  
21 cartridge or a bullet, does it have a circle in  
22 there that's metal, and inside there, that's the  
23 primer? Do you know?

24 A. Your drawing above, from what I've seen  
25 in the literature, those small little ridges is

1 where a primer usually is.

2 Q. Okay. Have you ever heard of a rim fire  
3 bullet, ma'am?

4 A. No, I have not. I'm not a firearms  
5 examiner.

6 Q. All right. I'm trying to get to the  
7 chemicals so there's no need to go through the  
8 where it's located in a bullet. I was laying  
9 foundation. So let's just get to it. We know  
10 that the primer makes the bullet explode; right?  
11 It detonates the gunpowder?

12 A. The primer has the ignit -- it has the  
13 three main components, the lead, the barium, and  
14 the antimony typically. What I'm aware of is that  
15 primer composition, that's proprietary  
16 information, and it's usually not released by  
17 manufacturers.

18 Q. All right. So your focus and today in  
19 science, folks like yourself are very specialized,  
20 they really focus on a certain area; is that fair?

21 A. In regards to, to what?

22 Q. You personally focus on a very  
23 specialized area, and that's the testing of  
24 primers and the components, the chemical  
25 components of a primer; is that right?

1 A. In regards to gunshot residue analysis?

2 Q. Yes.

3 A. Yes. I'm specifically analyzing  
4 particles that originate from the primer.

5 Q. Great. Okay. So I'll just write that up  
6 here, particles from the primer. And the reason  
7 why they have you do this, as far as you  
8 understand, is because it allows you to see if  
9 those particles are present somewhere; correct?  
10 And you're looking to see if particles are found  
11 in a certain location; correct?

12 A. In regards to -- what do you mean by  
13 location?

14 Q. All right. Let me try it this way.  
15 Before you get the swabs you've testified to,  
16 somebody has to take the swabs and rub them on  
17 something; correct?

18 A. It depends. We get kits, swabs, items of  
19 clothing. I can't testify as to how those items  
20 were collected before they were in my possession.

21 Q. Okay. So then you get something in, you  
22 can't tell us how it got there, you just know that  
23 someone sent you something and say, Doc -- because  
24 you are a doctor; correct?

25 A. Correct.



1 Q. Ph.D. is a pretty big deal; right?

2 A. It's a lot of work, yeah.

3 Q. It is. It's a lot of work, what,  
4 probably at least seven years of hard math and  
5 science?

6 A. A little more.

7 Q. Little more? Ten years? Did you do  
8 postdoc work?

9 A. Yes. Yes, I did. I did a postdoc.

10 Q. You spent a lot of time studying where  
11 maybe people getting other degrees didn't maybe  
12 spend as much as time you, you spent a lot of  
13 time; right?

14 A. Yes.

15 Q. Okay. So they send you these chemicals  
16 or these things, and you looked to see if you  
17 could find microscopic particles; right?

18 A. Correct.

19 Q. Okay. Great. And if you find those  
20 particles, that could indicate that a -- there's  
21 some gunshot residue?

22 A. What we report on is just the elemental  
23 composition of the particles and the shape of  
24 them; and if they are very likely, likely, or  
25 possibly likely to be originated from the

1 discharge of a firearm.

2 Q. Okay. Thank you. So what you can  
3 definitely tell this jury is that based on the  
4 stuff that you said, you found particles that were  
5 consistent with gunshot residue?

6 A. How we reported it, yes, there are --  
7 there was characteristic and consistent particles  
8 with gunshot primer residue.

9 Q. Okay. Thank you.

10 MR. LOW: Your Honor, that's all I  
11 have. Appreciate it.

12 THE COURT: Okay. Thank you very  
13 much. Redirect, Mr. Blonigen.

14 REDIRECT EXAMINATION

15 BY MR. BLONIGEN:

16 Q. Looking up at the photograph Mr. Low put  
17 up, so if the stuff is coming out of a gun and  
18 there's something in between the gun and what it's  
19 gonna hit, it can adhere to that surface?

20 A. Yes, it can.

21 Q. Now, so when we test for primer residue,  
22 we're really doing a chemical test, aren't we?  
23 Let me rephrase that. We're testing for the  
24 presence of certain elements; is that correct?

25 A. Yes, that's correct.

1 Q. And particularly, why -- why is this --  
2 why do these three elements indicate primer  
3 residue rather than just gunshot residue? What's  
4 the difference?

5 A. Those three elements are known to be  
6 components of gunshot primer residue.

7 Q. So that's why finding the three of them  
8 together is significant?

9 A. Correct.

10 MR. BLONIGEN: Thank you. That's  
11 all the questions.

12 THE COURT: Any request for any  
13 anything on recross?

14 MR. LOW: No, sir. Thank you.

15 THE COURT: Thank you very much, Ms.  
16 Malone.

17 MR. BLONIGEN: May she be excused,  
18 Your Honor?

19 THE COURT: She may be excused.  
20 Glad you could be accommodated to get your  
21 testimony done this morning, so you're free to go.  
22 Thank you.

23 MR. BLONIGEN: Your Honor, the State  
24 next calls Kevin Norcross.

25 THE COURT: Please come forward if

1       you would, Officer. The clerk to my left here  
2       will give you the oath, and then you'll sit to the  
3       other side.

4                   THE CLERK: You do solemnly swear  
5       that the testimony you will give in the case  
6       before the Court will be the truth, the whole  
7       truth, and nothing but the truth, so help you God?

8                   THE WITNESS: I do.

9                   THE CLERK: Please be seated.

10                   KEVIN NORCROSS,  
11       called for examination by the State, being first  
12       duly sworn, on his oath testified as follows:

13                   DIRECT EXAMINATION

14       BY MR. BLONIGEN:

15           Q.     Would you please state your name for the  
16       record.

17           A.     Kevin Norcross.

18           Q.     Where are you employed, Mr. Norcross?

19           A.     Natrona County Sheriff's Office.

20           Q.     How long have you been a police officer?

21           A.     20 years.

22           Q.     Do you have any special training in  
23       relation to being an evidence technician?

24           A.     Yes, sir.

25           Q.     Can you explain that for us.

1           A.     Done several classes through the State of  
2 Wyoming, through Rocky Mountain HIDTA, and just a  
3 lot of training classes.

4           Q.     And how long have you been an evidence  
5 technician?

6           A.     Probably ten years.

7           Q.     Were you called to Racks Gentlemen's Club  
8 on the morning of October 4th, 2013?

9           A.     Yes, I was.

10          Q.     What was the general nature of the call  
11 that took you there?

12          A.     Homicide.

13          Q.     And approximately what time did you  
14 arrive at the scene?

15          A.     Approximately 5:46 a.m.

16          Q.     At the time you arrived at the scene,  
17 were there other law enforcement officers present?

18          A.     Yes, there were.

19          Q.     Had the scene been secured?

20          A.     Yes.

21          Q.     Had any attempts been made to protect Mr.  
22 Baldwin's body at that time?

23          A.     Yes. It was covered with black plastic.

24          Q.     Okay. I want to show you a photograph,  
25 313. Showing you 313, does that show fairly how

1 the scene was being guarded and secured at the  
2 time you arrived?

3 A. Yes, sir.

4 MR. BLONIGEN: Move for the  
5 introduction of 313, Your Honor.

6 THE COURT: Any objection to this  
7 exhibit?

8 MR. LOW: No, sir.

9 THE COURT: Exhibit 313 is received.

10 Q. (BY MR. BLONIGEN) Would it be fair to  
11 say, Mr. Norcross, that the scene was a very small  
12 one?

13 A. Yes.

14 Q. Okay. Where is the basic crime scene at?

15 A. The south side of the parking lot.

16 Q. Okay. And you stated that Mr. Baldwin's  
17 body had been covered; is that correct?

18 A. Yes.

19 Q. Now, there obviously is snow?

20 A. Yes.

21 Q. Had it continued to snow after the  
22 original event occurred?

23 A. Yes.

24 Q. And, in fact, what we see here, what are  
25 all these boxes here?

1 A. Those are actually cases of beer.

2 Q. Okay. Why are they there?

3 A. To hold down the plastic. They were  
4 brought out by the bar employees.

5 Q. Okay. And the boxes were brought out,  
6 not the plastic; is that correct?

7 A. Correct, the boxes.

8 Q. The plastic was clean plastic?

9 A. Yes.

10 Q. Okay. So it's just set on the corners  
11 and the side?

12 A. Yes.

13 Q. The boxes are. Now, as we go out to that  
14 location, then, were you aware of some photographs  
15 taken by Deputy Preciado?

16 A. Yes.

17 Q. And do those reflect the same area, just  
18 a slightly earlier time?

19 A. Yes.

20 Q. Hand you photograph 309. We'll talk to  
21 her a little bit later. But does 309 show the  
22 area as Deputy Preciado photographed it?

23 A. Yes, sir.

24 Q. And this is going to be the same area  
25 you're looking for evidence in; is that correct?

1           A.     Yes.

2                     MR. BLONIGEN:   Move for the  
3 introduction of 309, Your Honor.

4                     THE COURT:   Any objection?

5                     MR. LOW:    No, sir, thank you.

6                     THE COURT:   Exhibit 309 is received.

7           Q.     (BY MR. BLONIGEN)   Now, do you know how  
8 much earlier she was at the scene than you?

9           A.     I believe the initial call came in around  
10 one o'clock, so four hours.

11           Q.     Okay.  It was your understanding she  
12 tried to take these photographs as soon as  
13 possible?

14           A.     Yes.

15           Q.     Now, while you're out there, then, what  
16 are we seeing, then, in photograph 309, can you  
17 tell us?

18           A.     I see medical supplies.  Looks like where  
19 a vehicle was parked in a parking spot, several  
20 footprints, and another vehicle.

21           Q.     And can you point to us where  
22 approximately the body of Mr. Baldwin is going to  
23 be at this time.

24           A.     If you -- if you look in the very corner  
25 in the center of the screen, you can see his



1 tennis shoe.

2 Q. Okay. Why don't you circle that for us,  
3 if you could just do that.

4 A. (Indicated.)

5 Q. Okay. And that's -- so that's his tennis  
6 shoe?

7 A. Yes, sir.

8 Q. Okay. Emergency personnel are still  
9 there, obviously?

10 A. Yes.

11 Q. The vehicle that belongs to that parking  
12 spot, were you ever able to determine how it was  
13 positioned in the parking spot at that time?

14 A. I personally was not.

15 Q. Did it appear to have been backed in?

16 A. I --

17 Q. Well, let me ask a better question. Was  
18 there a clear area where it was apparent a vehicle  
19 had been parked?

20 A. Yes.

21 Q. Okay. Did you ever take a measurement of  
22 how far it was from the front of Racks to the  
23 body?

24 A. Originally, no. I used the GPS to mark  
25 locations.

1 Q. Okay.

2 A. And then with those GPS points, we were  
3 able to determine -- because I did measure the  
4 front of the building and the victim, we were able  
5 to determine that it was 102.9 feet from the front  
6 to center mass of the victim.

7 Q. Okay. So from the front of the doors of  
8 the building to the center mass is, what did you  
9 say, 102.9?

10 A. Yes.

11 Q. Did you begin looking at the scene and  
12 observing the scene?

13 A. Yes.

14 Q. Now, what is this area? Describe it a  
15 little bit for the record, please.

16 A. It's an asphalt parking lot. To the  
17 south of the building, it's a Gentlemen's Club.

18 Q. Okay. Now, I'm going to hand you some  
19 photographs so we can kind of set the scene here,  
20 304 and 305. Are these photographs of the front  
21 of the club?

22 A. Yes, they are.

23 Q. And do they show the front doors and the  
24 west end of the club?

25 A. Yes, they do.

1 Q. I'm also going to show you 303, 306, and  
2 311.

3 MR. LOW: No objection.

4 Q. (BY MR. BLONIGEN) Now, these are also  
5 Ms. Preciado's photos for clarification, are they  
6 not?

7 A. Correct.

8 Q. Now, does 303 show the front of the club?

9 A. Yes. That looks like that would be the  
10 east corner.

11 Q. 306, so the front doors of the club?

12 A. Yes.

13 Q. And 311, again, we had a red pickup in  
14 the western view. Does that show how that related  
15 to the crime scene itself?

16 A. Yes.

17 Q. In fact, can we see Mr. Miller's Mills  
18 Police Department vehicle parked in that picture?

19 A. Yes.

20 MR. BLONIGEN: Move for the  
21 introduction, Your Honor, of the identified  
22 exhibits: 303, 304, 305, 306, and 311.

23 THE COURT: Any objection?

24 MR. LOW: No, Your Honor.

25 THE COURT: Exhibits 303, 304, 305,

1 306, and 311 are received.

2 Q. (BY MR. BLONIGEN) Let's look at first at  
3 305. Again, these photographs were taken by Ms.  
4 Preciado. Can you point out for us the front  
5 doors, the two front doors of the club.

6 A. Yes. They're right here.

7 Q. And then, again, if we look at the front  
8 of the club, is this a similar sort of view?

9 A. Yes.

10 THE COURT: Officer, if you'd tap  
11 the lower left screen, it will take off the --  
12 there you go. Thank you.

13 THE WITNESS: Yes, sir.

14 Q. (BY MR. BLONIGEN) You indicated this is,  
15 then, the east end of the club?

16 A. Yes, sir.

17 Q. And finally, our red truck here, this is  
18 the west end of the club?

19 A. Yes.

20 Q. Now, again, we can see that the Mills  
21 vehicle is still there, so this is pretty early  
22 on, isn't it?

23 A. Yes.

24 Q. And then does 304 show the same red truck  
25 and where it would have been parked along the

1 front of the club?

2 A. Yes.

3 Q. So this is the area we're looking at; is  
4 that correct? How would you describe the weather?

5 A. Poor. It was blizzard conditions.

6 Q. And did it continue to snow throughout  
7 this time?

8 A. Yes.

9 Q. Now, did you look at the area both around  
10 the parking spot where the vehicle had been as  
11 well as the entire area for items of evidence?

12 A. Yes.

13 Q. Specifically, you found where the vehicle  
14 was parked; is that correct?

15 A. Yes.

16 Q. Now, where Mr. Baldwin's body was found,  
17 how would you describe the condition of any  
18 footprints or anything in that area?

19 A. By the time I arrived, they were pretty  
20 eradicated both by emergency personnel and snow.

21 Q. Okay. How about on the passenger side or  
22 what we believe is the passenger side? Were there  
23 some footprints on that side?

24 A. There were.

25 Q. Did they appear to go around the front of

1 the vehicle?

2 A. As near as I could tell.

3 Q. And 439, I'm going to show you. 439,  
4 does that show what you found as to that area?

5 A. I believe this was taken pretty early,  
6 but it was still visible when I got there.

7 Q. But on the driver's side, you can't tell  
8 what's going on?

9 A. No.

10 Q. Okay.

11 MR. BLONIGEN: Move for the  
12 introduction of 439, Your Honor.

13 THE COURT: Any objection to this  
14 exhibit?

15 MR. LOW: No, sir.

16 THE COURT: Exhibit 439 is received.

17 Q. (BY MR. BLONIGEN) And, again, this  
18 particular set of footprints seems to -- there's  
19 several footprints, and then they seem to go away  
20 towards what would be the front of the vehicle?

21 MR. LOW: Objection. That's  
22 leading, speculation, lacks foundation.

23 THE COURT: Would be leading. I'll  
24 sustain.

25 Q. (BY MR. BLONIGEN) There are multiple

1       footprints?

2           A.     Correct.

3           Q.     And the footprints, there are several  
4       located in this area here?

5           A.     Yes.

6           Q.     And then they go this direction; is that  
7       true?

8           A.     Yes.

9           Q.     Okay. Now, if the vehicle is backed in,  
10       what we believe is the driver's side, did you ever  
11       see any indication that the driver of that vehicle  
12       had left the vehicle and gone to the rear of the  
13       vehicle?

14          A.     The driver of the vehicle?

15          Q.     Yes.

16          A.     I did not see any indication of that.

17          Q.     Okay. Do you see any evidence that  
18       anybody had urinated near the scene?

19          A.     There was a spot near the parking block.

20          Q.     Okay. Where would the parking block be  
21       from the front of that parking space?

22          A.     To the south or rear.

23          Q.     Now, what's the initial call come in as,  
24       what kind of situation is this?

25          A.     Initially came in as a stabbing.

1 Q. Okay.

2 A. Homicide.

3 Q. Okay. And for -- how long was it before  
4 you learned it wasn't a stabbing?

5 A. After we uncovered the victim's body and  
6 started photographing the injuries.

7 Q. Okay. And at that time, had there been  
8 any search for a possible weapon at the scene?

9 A. Yes.

10 Q. What kind of searching was done?

11 A. We used a metal detector to look for  
12 possibly a knife originally. Then after that, we  
13 used a metal detector to look for fragments of a  
14 bullet that may be remaining.

15 Q. Well, can you describe how wide your  
16 search area was.

17 A. It was mainly around the victim itself.

18 Q. Okay. All right. And also at that time,  
19 there was a pickup truck in the next parking spot,  
20 wasn't there?

21 A. Yes.

22 Q. Was any damage to that vehicle observed  
23 while it was at Racks?

24 A. No.

25 Q. Okay. At some point in time, what



1       happened in that vehicle?

2           A.     It left, and we actually called the owner  
3     of it back after we learned that it was a gunshot.

4           Q.     At any time, did you locate any broken --  
5     what appeared to be broken tempered glass at the  
6     area?

7           A.     Yes.

8           Q.     And where was this located?

9           A.     Near the victim's foot. I would say just  
10    not a very far distance from his foot. I guess if  
11    you're looking at it, it would be to the east of  
12    the victim's foot.

13          Q.     Now, do you know and did you see  
14    indications that the victim had been moved while  
15    receiving medical attention?

16          A.     Yes.

17          Q.     Okay.

18          A.     I mean --

19          Q.     So -- well, you've been on many of these  
20    calls. People aren't left facedown or on their  
21    shoulders, are they, when you administer to them?

22          A.     No.

23          Q.     What happens?

24          A.     They usually try to resuscitate them by  
25    CPR, any other means.

1 Q. Okay.

2 A. So they have to be on their back  
3 typically.

4 Q. So the body is always -- almost always  
5 moved; isn't that true?

6 A. Yes.

7 Q. How much -- can you give us an  
8 approximation of how much broken glass you found  
9 at the scene?

10 A. I used a square point shovel to try to  
11 collect as much of it as I could. If I would have  
12 to use my hands, I would say approximately a spot  
13 like this.

14 Q. Two shovel fulls?

15 A. Yes.

16 Q. And do you know that you got every last  
17 scrap of it out of that snow?

18 A. No.

19 Q. That was photographed as well, wasn't it,  
20 the position and collection of that?

21 A. Yes.

22 Q. I'm going to show you four photographs.  
23 These are labeled 320, 321, 322, and 323. Would  
24 you look at those four photographs and tell me  
25 whether they're photographs of your identification

1 and collection of the glass at that area?

2 A. Yes. 321 is actually the glass as it is  
3 in place. 320, if you look, you can see where  
4 some of the snow, we tried to scrape some of the  
5 snow off so that we could see it and collect it.

6 323 is the collection. And 322 also is  
7 the collection, a picture of it in the shovel  
8 itself.

9 Q. As you collected that glass that day, was  
10 it in small individual cubes or did it tend to be  
11 in the larger pieces kind of still stuck together?

12 A. It was still stuck together. 323 shows  
13 that pretty well.

14 MR. BLONIGEN: Move for the  
15 introduction, Your Honor, of 320 through 323.

16 THE COURT: Any objection?

17 MR. LOW: No, no objection.

18 THE COURT: Okay. Exhibits 320  
19 through 323 inclusive are received.

20 Q. (BY MR. BLONIGEN) Let's go through these  
21 a little bit and show them. Can you circle for  
22 the ladies and gentlemen of the jury the areas or  
23 indicate some of the glass you're looking at in  
24 that photograph?

25 A. It's kind of hard to see in this picture,

1 but right here. And then as I said, this shows  
2 where we scraped the snow off, so there's a little  
3 bit right here as well.

4 Q. And were these fragments also scattered  
5 throughout this general area?

6 A. Yes.

7 Q. Showing you another photograph of just a  
8 slightly removed area. Again, do we see a pile of  
9 glass there?

10 A. Yes. Can you move that down just a  
11 little bit?

12 Q. Yes.

13 A. Right in here.

14 Q. Okay. Thank you, Mr. Norcross.

15 You indicated you used a square-edged  
16 shovel. What did you do with the glass once you  
17 collected it?

18 A. We put it in paper bags so that we could  
19 try to get the snow off of it, and then it was  
20 placed on flat paper to dry.

21 Q. And, again, is this as it appeared when  
22 you started collecting it?

23 A. Yes.

24 Q. And again with 322?

25 A. Yes.

1 Q. Do you find any weapon at the scene?

2 A. No, sir.

3 Q. Did you find any object, heavy object,  
4 metal rocks, anything like that in the area of Mr.  
5 Baldwin's body or the area of the parking spot?

6 A. No.

7 Q. See anything that you would have mistaken  
8 for an object like that?

9 A. Not that I recall, no.

10 Q. How is Mr. Baldwin dressed?

11 A. T-shirt and jeans.

12 Q. Now, at some point in time while you were  
13 present at the location, is Mr. Baldwin's body  
14 removed from the scene?

15 A. Yes.

16 Q. And during that process, I take it he's  
17 uncovered?

18 A. Yes.

19 Q. Who takes custody of the body?

20 A. Natrona County coroner.

21 Q. And at that time, did you have occasion  
22 to take some photographs -- or excuse me -- did  
23 you have a -- did you happen to observe the  
24 photography of the victim's condition at that  
25 time?

1           A.     Yes.   Prior to the coroner taking him at  
2 the scene, yes.

3           Q.     And did you view the body at that time?

4           A.     Yes.

5           Q.     I'm going to hand you three photographs,  
6 314, 316, and 317.   Hand you first 314.   Does this  
7 accurately show the victim's body as it was  
8 uncovered?

9           A.     Yes.

10          Q.     And do 316 and 317 show injuries that  
11 were noted to the arm?

12          A.     Yes.

13                   MR. BLONIGEN:   Move for the  
14 introduction, Your Honor, of 316, 317, and 314.

15                   THE COURT:   Any objection to these  
16 three exhibits?

17                   MR. LOW:   No, sir.

18                   THE COURT:   Okay.   Exhibits 314,  
19 316, and 317 are received.

20          Q.     (BY MR. BLONIGEN)   Now, obviously, it's  
21 getting daylight here, so this must be a little  
22 later in the morning?

23          A.     Yes.

24          Q.     Now, as we observe Mr. Baldwin and he is  
25 uncovered, substantial parts of that area were not

1 covered by snow, that is, looks like it had  
2 melted?

3 A. Correct.

4 Q. And in addition to that, he was still on  
5 his back, as you indicated?

6 A. Yes.

7 Q. Can we see in the picture some  
8 indications of medical intervention?

9 A. Yes. There's a -- this item right here  
10 is an artificial defibrillator, and there's an  
11 Ambu bag up near his mouth.

12 Q. Now, is it, then, as you process the  
13 crime scene, you leave those medical devices in  
14 place until a later time?

15 A. Yes.

16 Q. Now, 316 shows his right arm; is that  
17 correct? Right arm and hand?

18 A. I had to kind of turn -- yes.

19 Q. And there appeared to be blood on the  
20 surface of his skin?

21 A. Yes.

22 Q. Appeared to be of recent origin?

23 A. I'm sorry?

24 Q. Did it appear to have been of recent  
25 origin, the injury?

1 A. Yes.

2 Q. Also, on his right arm, if we look at  
3 317, there were places where there was blood?

4 A. Yes.

5 Q. Did Detective Hermosillo assist at all in  
6 attempting to locate the bullet further after the  
7 body had been removed?

8 A. Yes.

9 Q. What did he do?

10 A. He's the one that actually called the  
11 owner of the vehicle back. He looked at the  
12 vehicle and saw a dimple which would reflect  
13 probably where a bullet hit, and he also searched  
14 the area again some more with a metal detector.

15 Q. Any luck finding that bullet?

16 A. No.

17 Q. Now, at that point in time, did you  
18 become aware of a suspect vehicle that had been  
19 taken into the possession of the police  
20 department?

21 A. Yes.

22 Q. Excuse me. Before I go there, just one  
23 more item. I'm going to hand you another  
24 photograph, 312. This is another photograph, I  
25 believe, of Ms. Preciado's, is it not?



1           A.     Yes.    Medical personnel and Officer  
2 Miller's vehicle were still there.

3           Q.     Okay.   And is this the same parking spot  
4 we've been talking about the whole time?

5           A.     Yes.

6           Q.     And would it show the condition, then,  
7 when he -- medical personnel are still there?

8           A.     Yes.

9                         MR. BLONIGEN:   Move for the  
10 introduction of 312, Your Honor.

11                        THE COURT:   Any objection?

12                        MR. LOW:    No, sir.

13                        THE COURT:   Exhibit 312 is received.

14           Q.     (BY MR. BLONIGEN)   And just briefly  
15 looking at this, then, at the time, then, that  
16 this is occurring, the parking spot we're talking  
17 about so much is essentially clear of snow?

18           A.     Yes.

19           Q.     Snow is beginning to stick to the street?

20           A.     Yes.

21           Q.     Much depth of snow from what you can see,  
22 snow or slush in that area?

23           A.     It's an inch, half inch.

24           Q.     Okay.   And when we talk about this  
25 vehicle -- and we'll ask Mr. Hermosillo about

1 it -- to be clear, this is the pickup truck we see  
2 in this photograph?

3 A. Yes. It's up in the left-hand corner.

4 Q. But this was actually removed from the  
5 scene before that dimple was ever uncovered; is  
6 that correct?

7 A. Yes.

8 Q. And by removed from the scene, the police  
9 didn't remove it from the scene, did they?

10 A. No. The owner was allowed to take it  
11 originally.

12 Q. And, in fact, in this photograph, can we  
13 see at least just the -- a little bit of the Racks  
14 Club in the background, in the very deep  
15 background?

16 A. Can you pull it down just a little bit?

17 Q. Oh, excuse me.

18 A. Yes. You can see some of the vehicles I  
19 believe.

20 Q. Then at some point, did you become aware  
21 that there had been a suspect vehicle identified?

22 A. Yes.

23 Q. And what did you do at that point in  
24 time?

25 A. Deputy Hulshizer had written a search

1 warrant for that vehicle, and myself and Deputy  
2 Legler and another officer from the Casper Police  
3 Department Police Department, Joe Nickerson,  
4 executed the search warrant on that vehicle.

5 Q. Now, where was the vehicle located at?

6 A. The Marathon Building, which is on Market  
7 Street. It's a secure storage.

8 Q. Okay. Approximately when did the  
9 search take -- or the search begin?

10 A. Ten o'clock. 10:03 is the time that I  
11 had in my report.

12 Q. On the morning of the 4th?

13 A. Yes.

14 Q. I'm going to hand you a couple of  
15 photographs, 406 and 407. Do 406 and 407 show the  
16 condition of the vehicle at the time you first saw  
17 it in the Marathon Building?

18 A. Yes.

19 Q. In fact, are you in one of those  
20 pictures?

21 A. Yes, I am.

22 MR. BLONIGEN: Move for the  
23 introduction of 406 and 407, Your Honor.

24 THE COURT: Any objection?

25 MR. LOW: No, sir.

1                   THE COURT: Exhibits 406 and 407 are  
2 received.

3           Q.     (BY MR. BLONIGEN) Now, this is the  
4 passenger view of that vehicle?

5           A.     Yes.

6           Q.     Evidence seals remained intact when you  
7 begin processing the scene?

8           A.     Yes.

9           Q.     Then 407, is this the driver's side and  
10 front side of the same vehicle?

11          A.     Yes.

12          Q.     Again, were all the seals intact when --  
13 all these seals intact when you began your  
14 processing of the scene?

15          A.     Yes.

16          Q.     Did you first take pictures of the  
17 overall condition of the car?

18          A.     Yes. Deputy Legler did.

19          Q.     Generally how would you describe the  
20 appearance of the interior of the car as you first  
21 saw it that day?

22          A.     Messy. There was glass throughout, cell  
23 phone.

24          Q.     Including glass on the dash?

25          A.     Yes.

1 Q. Glass in the front passenger area?

2 A. Yes.

3 Q. Quite a bit of glass on the driver's  
4 side?

5 A. Yes.

6 Q. Going to hand you first --

7 MR. BLONIGEN: Your Honor, by the  
8 way, this is going to be a rather long and tedious  
9 proceeding, so any time you want to take a break,  
10 just tell me and we'll do that, but.

11 THE COURT: We're pretty close to  
12 when I was going to interrupt you, so let's go  
13 ahead and break now, if that's okay.

14 MR. BLONIGEN: Sure.

15 THE COURT: We'll go ahead and take  
16 a 15-minute break, reconvene a little before  
17 11:00.

18 And ladies and gentlemen of the jury, as  
19 we go, keep in mind the rules and admonitions.

20 Court will stand in recess for the  
21 morning break.

22 (At 10:41 a.m., a recess was taken  
23 until 11:01 a.m.)

24 THE COURT: Thank you. Court will  
25 come back to order. Everyone may be seated.

1           Mr. Norcross may retake the witness  
2 chair, with the Court noting the presence of the  
3 full jury panel and attorneys, parties, and party  
4 representatives.

5           So Mr. Blonigen.

6           MR. BLONIGEN: Yes, thank you, Your  
7 Honor.

8           Q.     (BY MR. BLONIGEN) Mr. Norcross, before  
9 break, we were talking about the 2008 blue Chevy  
10 Cobalt that you searched on the morning of the  
11 4th; is that correct?

12          A.     Yes.

13          Q.     Now, let's talk a little bit about that  
14 vehicle. Does it have manual or electric locks?

15          A.     Manual.

16          Q.     Manual or electric windows?

17          A.     Manual.

18          Q.     And in checking the locks, other than the  
19 driver's door, did you find any of them to be  
20 unlocked?

21          A.     None of the other doors were unlocked.

22          Q.     Let's start going through the general  
23 appearance of the car on the inside. Hand you a  
24 number of photographs numbered 408 through 412.  
25 Would you look through these briefly, please, and

1 determine whether these are accurate  
2 representations of the way you first observed the  
3 inside of the 2008 Cobalt that day.

4 A. Yes.

5 MR. BLONIGEN: Move for the  
6 introduction, Your Honor, of 408 through 412.

7 THE COURT: Any objection to those  
8 exhibits?

9 MR. LOW: No, Your Honor.

10 THE COURT: Okay. Thank you.  
11 Exhibits 408 through 412 inclusive are received.

12 Q. (BY MR. BLONIGEN) Starting first with  
13 408, what area of the car are we looking at at  
14 this time?

15 A. The passenger rear.

16 Q. Okay. And what do we see in the  
17 photograph?

18 A. There's a case of water. See some change  
19 and something else in the center console. There's  
20 a jug of what I believe to be urine behind the  
21 seat there.

22 Q. Now, were there also some fragments of  
23 glass over even on this side of the vehicle?

24 A. I believe so. I can't see any in that  
25 photo, but I believe so.

1 Q. Now, going to 409, does this show the  
2 driver's side rear passenger floor?

3 A. Yes.

4 Q. Where are those coins you talked about  
5 earlier for some reference?

6 A. Right -- right there.

7 Q. So that's what's right there is those  
8 coins?

9 A. Yes.

10 Q. Okay. What did you see in this  
11 photograph when you observed the area?

12 A. There's glass, some kind of a stain,  
13 probably I would assume a beverage, some coins.

14 Q. Okay.

15 A. Couple empty water bottles.

16 Q. Again, in this area, is the glass in  
17 small fragments or are there still some rather  
18 large pieces of the glass?

19 A. There's some rather large pieces.

20 Q. Now, this is the driver's side; is that  
21 correct?

22 A. Yes.

23 Q. And which seat?

24 A. The driver's seat.

25 Q. Now, in this specific area, did you have



1 glass?

2 A. Yes.

3 Q. Quite a lot of glass?

4 A. Yes.

5 Q. Going back to that photograph, we see an  
6 item just in the opposing seat, the passenger  
7 front seat. We'll get to that in a minute, but  
8 what is that?

9 A. I can't see it from this view.

10 Q. Okay. Oh, excuse me.

11 A. It's a black backpack.

12 Q. Okay. We'll get to that in a moment.

13 Near the passenger door -- or excuse me.  
14 Did you, in fact, did you photograph the locks as  
15 you observed them?

16 A. Yes. Deputy Legler photographed all the  
17 locks.

18 Q. Now, moving on to 412, then, this is  
19 looking where?

20 A. This is looking from the front passenger  
21 side through the vehicle to the front driver's  
22 side.

23 Q. And did you observe glass in the console?

24 A. Yes.

25 Q. Did you observe glass on the floor of the

1 passenger side?

2 A. Yes.

3 Q. And do we see that in that photograph?

4 A. Yes.

5 Q. Did you also observe quite a lot of glass  
6 on the dash?

7 A. Yes.

8 Q. Now, we see an item in the black  
9 backpack. Can you see that item? I know there  
10 might be glare on the screen.

11 A. I can't make it out for sure, if  
12 you're -- right there possibly.

13 Q. Okay. What is that?

14 A. That's the firearm.

15 Q. Okay. When you found the backpack, was  
16 the backpack open or -- like it is or was it  
17 closed?

18 A. That's the condition the backpack was in.

19 Q. Going further into that backpack,  
20 obviously, you recognized that as an item of some  
21 significance in this investigation?

22 A. Yes.

23 Q. I'll hand you several photographs: 413,  
24 414, and 415. Are these additional photographs of  
25 the firearm as you saw it that day?

1 A. Yes, they are.

2 Q. Do they accurately show the firearm you  
3 recovered on that day?

4 A. Yes.

5 MR. BLONIGEN: Move for the  
6 introduction of 413 through 415, Your Honor.

7 THE COURT: Any objection?

8 MR. LOW: No, sir. Thank you.

9 THE COURT: Exhibits 413, 414, and  
10 415 are received.

11 Q. (BY MR. BLONIGEN) Okay. Again, looking  
12 at this picture more closely, can we clearly  
13 identify the butt of the firearm that you were  
14 talking about in the previous photograph?

15 A. Yes.

16 Q. And does this show the pocket that it was  
17 in?

18 A. Yes.

19 Q. Was the clip that we see there, was there  
20 a clip in the weapon at that time?

21 A. Yes.

22 Q. Was the clip fully seated?

23 A. I'd have to look at the picture, but I  
24 believe it was not fully seated.

25 Q. I'll hand you 414, which has been

1 admitted.

2 A. No, it was not fully seated.

3 Q. Looking, then, at 414, has the pistol  
4 been exposed to more view?

5 A. Yes.

6 Q. What did you notice about the action of  
7 this pistol?

8 A. It's open, and there's what -- the term  
9 that everybody uses the terminology of a stovepipe  
10 round in there.

11 Q. What's a stovepipe?

12 A. It's where the round is not -- the spent  
13 casing is not fully ejected out of the firearm.

14 Q. Okay. In fact, did you collect that in  
15 that condition?

16 A. Yes.

17 Q. Okay. When you collect something and put  
18 it into evidence, is the magazine removed?

19 A. Yes.

20 Q. Why is that?

21 A. For safety of anybody else that might  
22 handle that firearm.

23 Q. As you looked further into the backpack,  
24 did you find anything else related to firearms in  
25 the backpack?

1 A. Yes. There were two more magazines.

2 Q. Were the magazines loaded?

3 A. Yes.

4 Q. As far as the magazine in the gun you  
5 recovered, were there any further cartridges in  
6 that when you recovered it?

7 A. Yes. There was six.

8 Q. I'm going to hand you an item marked 204.  
9 And can you tell us what this is.

10 A. This is a Nighthawk .45-caliber pistol  
11 that was recovered from the car that day.

12 Q. And does it appear to be in substantially  
13 the same condition as when you recovered it?

14 A. Yes.

15 Q. Who put it in that box and mounted it as  
16 such?

17 A. I did.

18 Q. Why did you put it in like that?

19 A. One, to secure it from moving; and, two,  
20 to keep the action open for the safety of anybody  
21 that might be examining it.

22 MR. BLONIGEN: Move for the  
23 introduction of 204, Your Honor.

24 THE COURT: Any objection?

25 MR. LOW: No, sir.

1 THE COURT: Exhibit 204 is received.

2 MR. BLONIGEN: May I publish to the  
3 jury? And I would state for the record it has  
4 been made secure. There are zip ties through the  
5 action, and there is no ammunition present, so.

6 THE COURT: There's a general rule  
7 you may look at the firearm now and during further  
8 deliberations, but there should be no manipulation  
9 without approval of the Court.

10 Q. (BY MR. BLONIGEN) I'll hand you an  
11 additional item, 205, ask you if you recognize  
12 205.

13 A. Yes. It's the magazine that was in the  
14 pistol.

15 Q. Now, some of these cartridges were used  
16 for testing by the lab?

17 A. Yes.

18 Q. In other words, when you recovered them,  
19 they were still live cartridges?

20 A. Yes.

21 Q. Okay. And so there was the stovepiped  
22 round, and then how many rounds left in that  
23 particular clip?

24 A. Six.

25 Q. Now, are they -- other than obviously the

1 ones that have been used in testing, is that in  
2 substantially the same condition as when you  
3 collected it?

4 A. Yes.

5 MR. BLONIGEN: Move for the  
6 introduction of 205, Your Honor.

7 THE COURT: Any objection to Exhibit  
8 205?

9 MR. LOW: No, sir.

10 THE COURT: Exhibit 205 is received.

11 MR. BLONIGEN: May I publish that as  
12 well, Your Honor?

13 THE COURT: You may.

14 Q. (BY MR. BLONIGEN) Now, after you  
15 collected these items, where did they go?

16 A. To Natrona County Sheriff's Office.

17 Q. And where were they placed at the  
18 Sheriff's Office?

19 A. After they were packaged, they were  
20 placed in secure storage, and then removed to the  
21 evidence vault.

22 Q. Were they packaged in a way and sealed  
23 that if there was any tampering, it would be  
24 evident from the seals?

25 A. Yes.

1 Q. Now, obviously, in the first exhibit, we  
2 did see that stovepiped round you talked about; is  
3 that right?

4 A. Right.

5 Q. Your understanding is that was removed at  
6 the laboratory?

7 A. Yes.

8 Q. Going to hand you an item I've marked  
9 233, ask if you can identify this.

10 A. This is the -- the stovepipe round that  
11 was in the firearm when we collected it.

12 Q. Okay. And does it appear to be in the  
13 same condition as when you observed it?

14 A. Yes.

15 Q. I think you stated this previously, but  
16 when that was transported to the crime lab, was  
17 the stovepipe round in place?

18 A. Yes.

19 MR. BLONIGEN: Move for the  
20 introduction of 233, Your Honor.

21 THE COURT: Any objection?

22 MR. LOW: No objection, Your Honor.

23 THE COURT: Exhibit 233 is received.

24 MR. BLONIGEN: May I publish this as  
25 well, Your Honor?



1 THE COURT: You may.

2 Q. (BY MR. BLONIGEN) After securing the  
3 firearm, did you also photograph it out of the  
4 backpack to preserve evidence of its condition?

5 A. Yes. And the serial number was also  
6 photographed.

7 Q. Okay. I'm going to hand you three  
8 photographs, 416, 417, and 418, and ask you if  
9 these show the condition of the pistol when seized  
10 as well as the serial number.

11 A. Yes, they do.

12 MR. BLONIGEN: Move for the  
13 introduction, Your Honor, of 416, 17, and 18.

14 THE COURT: Any objection to these  
15 exhibits?

16 MR. LOW: No, Your Honor.

17 THE COURT: Exhibits 416, 417, and  
18 418 are received.

19 Q. (BY MR. BLONIGEN) Moving first to 417,  
20 does 417 show the stovepipe cartridge as you first  
21 found it?

22 A. Yes.

23 Q. Does it also show the serial number of  
24 the firearm?

25 A. Yes.

1 Q. On 416, does this show the condition --  
2 overall condition of the pistol at the time as  
3 removed from the backpack?

4 A. Yes.

5 Q. Again, from this picture, can we more  
6 clearly see the condition of the magazine and  
7 whether it's seated?

8 A. Yes.

9 Q. And what can you see there?

10 A. It's not fully seated.

11 Q. Now, you've been a peace officer 20  
12 years?

13 A. Yes.

14 Q. If you stove -- if you get a jam like  
15 this, how do you try to clear it?

16 A. Remove the magazine and work the slide.

17 Q. In addition, did you notice whether there  
18 was moisture on the end of the firearm you found  
19 in the backpack?

20 A. Yes.

21 Q. And does 418 show that?

22 A. Yes.

23 Q. Now, was this, from your observations, a  
24 well maintained firearm, from at least what you  
25 could observe?

1 A. Yes.

2 Q. High quality firearm?

3 A. Yes.

4 Q. After removing the pistol, did you find  
5 other items associated with firearms in the  
6 backpack?

7 A. Yes.

8 Q. I'll show you two photographs, 419 and  
9 420, and ask you if these are pictures of  
10 additional items removed from the same pocket of  
11 the backpack.

12 A. Yes, they are.

13 Q. Does that accurately show what you found  
14 that day?

15 A. Yes.

16 MR. BLONIGEN: Move for the  
17 introduction of 419 and 420, Your Honor.

18 THE COURT: Any objection?

19 MR. LOW: No, Your Honor.

20 THE COURT: Exhibits 419 and 420 are  
21 received.

22 Q. (BY MR. BLONIGEN) What does 419 show?

23 A. It shows, excuse me, two magazines, one  
24 right here, and the other one is under this little  
25 flap.

1 Q. Okay. Were they in -- both in the same  
2 pocket of the open backpack as the firearm?

3 A. Yes, they were.

4 Q. And does 420 show those two magazines?

5 A. Yes.

6 Q. Both magazines were loaded?

7 A. Yes.

8 Q. Going to hand you an exhibit --

9 MR. BLONIGEN: I lost an exhibit  
10 sticker, Your Honor.

11 Q. (BY MR. BLONIGEN) -- I would mark 206.  
12 Can you identify these items?

13 A. These are the two Wilson combat magazines  
14 that were in the backpack.

15 Q. Do they appear to be in the same  
16 conditions as when you collected them?

17 A. Yes.

18 MR. BLONIGEN: Move for the  
19 introduction of Exhibit 206.

20 THE COURT: Any objection?

21 MR. LOW: No, Your Honor.

22 THE COURT: Exhibit 206 is received.

23 MR. BLONIGEN: May I publish those  
24 to the jury, Your Honor?

25 THE COURT: Yes, you may.

1           Q.     (BY MR. BLONIGEN) After identifying and  
2 photographing the items, you stated you packaged  
3 all these and removed them from the vehicle; is  
4 that correct?

5           A.     Yes.

6           Q.     In fact, when you do a search warrant, is  
7 that generally how it's done? You photograph the  
8 item in place and then photograph the item seized  
9 and then collect it?

10          A.     Yes.

11          Q.     So throughout the search warrant  
12 proceeding, things are moved and things like that?

13          A.     Yes.

14          Q.     Let me show you a few more -- two more  
15 pictures of the interior of the car, 421 and 422.  
16 Does 421 show the front passenger seat after the  
17 glass was removed?

18          A.     It shows it after the backpack was  
19 removed.

20          Q.     Excuse me, the backpack was removed, yes.

21          A.     Yes.

22          Q.     And what does -- and the next photograph  
23 as well, are these both photographs taken that  
24 day?

25          A.     Yes.

1 Q. And they accurately reflect the  
2 appearance of the vehicle that day?

3 A. Yes, they do.

4 MR. BLONIGEN: Move for the  
5 introduction of 421 and 422, Your Honor.

6 THE COURT: Any objection to these  
7 two exhibits?

8 MR. LOW: No objection.

9 THE COURT: Okay. Exhibits 421 and  
10 422 are received.

11 Q. (BY MR. BLONIGEN) Now, you stated the  
12 backpack had been removed; is that correct?

13 A. Yes.

14 Q. After the backpack had been removed, was  
15 there any glass with the backpack?

16 A. Yes.

17 Q. Where was it at?

18 A. In -- there was some in that open  
19 container or -- excuse me -- open compartment and  
20 up on top.

21 Q. And did it appear here that that backpack  
22 kept any other glass from depositing in that area?

23 A. Yes.

24 Q. There is still glass in the front area,  
25 isn't there?

1 A. Yes.

2 Q. In addition to that, in the background of  
3 this photograph, we see what appears to be a  
4 prescription pill bottle in the console of the  
5 vehicle; is that correct?

6 A. Yes.

7 Q. Now, when you first enter that vehicle  
8 and as you're doing the search warrant, did you  
9 note any unusual odors within the vehicle itself?

10 A. Yes. When we -- the integrity seal was  
11 broken on the driver's side door, I could smell  
12 the odor of marijuana.

13 Q. Quite apparent to you?

14 A. Yes.

15 Q. And by marijuana, you mean burned or  
16 unburned marijuana?

17 A. Unburned.

18 Q. And then if we go to 422, did you, in  
19 fact, find a cell phone, a working cell phone that  
20 was in the vehicle?

21 A. Yes.

22 Q. And is that particular item seen in  
23 photograph 422?

24 A. Yes.

25 Q. And could you point it out for us,

1 please.

2 A. Right there.

3 Q. Thank you. When we move around to the  
4 passenger side, did there come a point in time  
5 where you removed the evidence seal that had been  
6 placed around the broken window?

7 A. On the driver's side, yes.

8 Q. Yes. I'll show you a couple of  
9 photographs, 423, 424, and 425. Do 423, 424, and  
10 425 reflect the condition of the window as you  
11 found it that day upon opening the evidence seal?

12 A. Yes, they do.

13 MR. BLONIGEN: Move for the  
14 introduction of 423 through 425, Your Honor.

15 THE COURT: Any objection?

16 MR. LOW: No, Your Honor. Thank  
17 you.

18 THE COURT: Okay. Exhibits 423,  
19 424, and 425 are received.

20 Q. (BY MR. BLONIGEN) Now, you ran into  
21 quite a bit of glass that day?

22 A. Yes.

23 Q. Was it sharp?

24 A. Yes.

25 Q. In fact, what happened when you were



1 processing the scene?

2 A. I got cut.

3 Q. Okay. How did that happen?

4 A. I don't know --

5 Q. Okay.

6 A. -- to be honest.

7 Q. Did it bleed?

8 A. Yes.

9 Q. Cut fairly easy?

10 A. Yes.

11 Q. Now, you've been an officer 20 years.

12 Ever have to break out a window?

13 A. Yeah.

14 Q. Okay. How did you do it?

15 A. With my asp baton, expandable baton.

16 Q. How much force did you have to use?

17 A. It was two or three good hits --

18 Q. Okay.

19 A. -- with full swing.

20 Q. Okay. Now, when we look at 423, does

21 this show the -- you've opened the seal on the

22 driver's side door?

23 A. Yes.

24 Q. And there was glass present on the frame

25 of the window?

1 A. Yes.

2 Q. Was there glass still remaining in the  
3 frame of the window in various places around the  
4 whole perimeter of the window?

5 A. Yes, there was.

6 Q. And, in fact, can we also see glass on  
7 the dashboard area -- or excuse me -- on the front  
8 seat area, I guess that is?

9 A. Yes.

10 Q. Particularly at the upper left corner,  
11 was there still some rather large sharp pieces of  
12 glass in the frame, on the top part of the frame?

13 A. Yes.

14 Q. Does this show that?

15 A. Yes.

16 Q. Right where the window and the door come  
17 together, was there still glass in the -- in the  
18 frame at the bottom?

19 A. Yes, there was.

20 Q. There's a tag that says 316 here. Do you  
21 recall what 3 -- that was?

22 A. Yes. I used a piece of trace tape to  
23 remove a short hair that was stuck in that area.

24 Q. Okay. I mean, how short? What are we  
25 talking about?

1 A. Less than an inch.

2 Q. Okay. And it was on the outside edge of  
3 the glass pane?

4 A. Yes.

5 Q. Now, after observing that area, did you  
6 take any -- make any attempt to recover gunshot  
7 residue from the perimeter of the window?

8 A. Yes.

9 Q. And did you photograph the process of  
10 collecting that?

11 A. Yes. Deputy Legler photographed me  
12 collecting that, yes.

13 Q. I'm going to hand you a number of  
14 photographs, 426 through 430, showing that. Do  
15 you recognize what 426 through 430 show?

16 A. Yes. They show me using the gunshot  
17 residue kit to try to collect the gunshot residue.

18 Q. Okay. After you completed the testing,  
19 was this secured and then sent to the Wyoming  
20 State Crime Lab?

21 A. Yes, it was.

22 Q. Was it kept in a secure manner until it  
23 was so received by the Crime Lab?

24 A. Yes.

25 MR. BLONIGEN: Move for the

1 introduction of 426 through 430, Your Honor.

2 THE COURT: Any objection?

3 MR. LOW: No, Your Honor.

4 THE COURT: Okay. Exhibits 426  
5 through 430 inclusive are received.

6 Q. (BY MR. BLONIGEN) We heard Ms. Malone  
7 testify a little bit out of order that you had  
8 labeled those kits certain areas; is that right?

9 A. Yes.

10 Q. And what were those areas?

11 A. There was a driver's headrest and a  
12 driver's door weather stripping.

13 Q. Headrest or headliner?

14 A. Headliner. Excuse me.

15 Q. And you said you photographed that; is  
16 that correct?

17 A. Yes.

18 Q. Then on 426, which -- which of those  
19 areas would this be?

20 A. That we labeled the driver's side weather  
21 stripping door above the armrest.

22 Q. Okay. So this is the kit labeled weather  
23 strip?

24 A. I believe that's the one that says door  
25 above the armrest.

1 Q. Okay. Or driver's door?

2 A. Yes.

3 Q. Okay. And what do you do here?

4 A. It's got a sticky pad on it, and you just  
5 dab it, I guess is the right term, onto the  
6 surface.

7 Q. As you dab it across the surface, how  
8 much of that surface down on the bottom of the  
9 window did you dab?

10 A. Maybe one inch by one inch area. It  
11 wasn't real big.

12 Q. Okay. 427 shows this also, driver's door  
13 window?

14 A. Yes.

15 Q. And this shows collection from the  
16 headliner?

17 A. Yes.

18 Q. Showing you, then, 429. Does this give  
19 us a little better idea of where the -- where on  
20 the headliner you were collecting the residue?

21 A. Yes.

22 Q. And then on 430, door weather strip, what  
23 part of the door is this taken from?

24 A. It's the weather strip that would hold  
25 the glass. And -- and it's the -- like, the

1 outside portion.

2 Q. Okay. And what part of the door, though?

3 A. The driver's door up above where the  
4 driver would be sitting, I guess.

5 Q. Is it where the window begins to angle  
6 down on the driver's side?

7 A. Yes, that's good.

8 Q. When you were processing this whole  
9 thing, you actually found a spent bullet, didn't  
10 you?

11 A. Yes.

12 Q. Did that turn out to have anything to do  
13 with this case?

14 A. No.

15 Q. It was excluded by the laboratory?

16 A. Yes.

17 Q. Was a -- were you ever able to recover  
18 the round that was involved in this case?

19 A. No.

20 Q. You indicated there was a strong odor of  
21 marijuana in the car; is that correct?

22 A. Yes.

23 Q. You previously identified a pill bottle  
24 that was in the console; is that correct?

25 A. Yes.

1 Q. Did you open that pill bottle?

2 A. Yes.

3 Q. What did you find?

4 A. It smelled like marijuana.

5 Q. Okay. Did you see anything in it?

6 A. There was what's considered residue, a  
7 green residue in it.

8 Q. Going to hand you an exhibit, 403, ask  
9 you if you can identify what this is.

10 A. This is the pill bottle that was found in  
11 the center console.

12 Q. Okay. And what did you do with that  
13 item?

14 A. Packaged it for testing at the Wyoming  
15 State Crime Lab.

16 Q. And did you place it in packaging so that  
17 the seals would indicate any tampering?

18 A. Yes, I did.

19 Q. Was it then placed in a secure facility  
20 until transport to the Wyoming State Crime  
21 Laboratory?

22 A. Yes.

23 MR. BLONIGEN: Move for introduction  
24 of 403, Your Honor.

25 THE COURT: Any objection?

1 MR. LOW: No, Your Honor.

2 THE COURT: Exhibit 403 is received.

3 Q. (BY MR. BLONIGEN) In addition to that,  
4 did you find any other items generally connected  
5 to the consumption of marijuana?

6 A. There was some cigarette rolling papers.

7 Q. Going to hand you an item, 404. Is this  
8 the item that you found?

9 A. Yes.

10 Q. Where was it found?

11 A. In the glove box.

12 Q. And does it appear to be the same  
13 condition as when you seized it?

14 A. Yes.

15 MR. BLONIGEN: Move for the  
16 introduction of 404, Your Honor.

17 THE COURT: Any objection?

18 MR. LOW: No, Your Honor.

19 THE COURT: Exhibit 404 is received.

20 MR. BLONIGEN: If I could have just  
21 a moment, Your Honor.

22 THE COURT: Yes.

23 Q. (BY MR. BLONIGEN) Yes, did you also  
24 photograph, then, where you found the previous two  
25 items in place?



1 A. Yes.

2 Q. Do pictures 431 and 438 show the items as  
3 seized that day?

4 A. Yes.

5 MR. BLONIGEN: Move for the  
6 introduction of 431 and 438, Your Honor.

7 THE COURT: Any objection?

8 MR. LOW: No, Your Honor.

9 THE COURT: Exhibits 431, 438, both  
10 exhibits are received.

11 Q. (BY MR. BLONIGEN) And 431 is simply  
12 showing the rolling papers as you found them?

13 A. Yes.

14 Q. Does 438 show the location of the  
15 prescription bottle?

16 A. Yes.

17 Q. It also shows some glass in there?

18 A. Yes.

19 Q. Did you go any further in determining  
20 whether those -- that window was up or down when  
21 you went -- when it was broken?

22 A. Yes. The door cranks were photographed,  
23 and then we took the door panel off as well.

24 Q. I'm going to hand you 432 and 433. Do  
25 432 and 433 show that process by which you took

1 the door panel apart to check this?

2 A. Yes.

3 MR. BLONIGEN: Move for the  
4 introduction of 432 and 433, Your Honor.

5 THE COURT: Any objection to those  
6 exhibits?

7 MR. LOW: No, Your Honor.

8 THE COURT: Exhibits 432 and 433 are  
9 also received.

10 Q. (BY MR. BLONIGEN) This is you, in fact,  
11 removing the door panel?

12 A. Yes.

13 Q. And 433, does it show the condition of  
14 the driver's side front door when you removed that  
15 panel?

16 A. Yes.

17 Q. Now, the window cranks themselves, what  
18 position were they found in?

19 A. The up position.

20 Q. Okay. And when you took the door apart,  
21 were there any further indicators that the window  
22 was rolled up at the time this window was broken?

23 A. The arms that actuate the window were in  
24 the position that would show the window was up.  
25 If the window were cranked down, the arms would

1 have been together more at a "V."

2 Q. And so in addition to that, what other  
3 indicators were there that the window was fully  
4 rolled up at the time it was broken?

5 A. There's no glass inside the door panel at  
6 all.

7 Q. Did you find some glass remaining in the  
8 door window frame, pretty much the whole  
9 circumference of the window?

10 A. Yes. It was throughout the whole window  
11 frame.

12 MR. BLONIGEN: I believe that's all  
13 I have, Your Honor. Thank you.

14 THE COURT: Thank you, Counsel.

15 Cross-examination, Mr. Low?

16 MR. LOW: Thank you.

17 CROSS-EXAMINATION

18 BY MR. LOW:

19 Q. And so is it officer or detective or  
20 investigator?

21 A. Deputy is fine.

22 Q. Deputy. Deputy, if the arm inside the  
23 door indicated it was rolled all the way up, does  
24 that mean that the glass at the time it was broken  
25 was all the way up as well?

1 A. Yes.

2 Q. Okay. And so if the glass was all the  
3 way up at the time it was broken, if -- if there  
4 was evidence that someone claimed that the window  
5 was rolled down and there was a conversation going  
6 on with the window rolled down, is this physical  
7 evidence about the door window inconsistent with  
8 any testimony that the window was rolled down and  
9 there was a conversation going on?

10 A. I haven't heard that testimony.

11 Q. I know you haven't. But I'm asking you  
12 if that was said, is this physical evidence  
13 inconsistent with that testimony?

14 A. Yes. I testified there was glass  
15 throughout that window --

16 Q. Yes.

17 A. -- frame.

18 Q. And that the window rolling mechanism  
19 indicated that the window glass was all the way up  
20 at the time it was broken; correct?

21 A. Yes, sir.

22 Q. Okay.

23 MR. LOW: I'd like to propose the  
24 following stipulation, and that is I have a good  
25 number of pictures all taken during this

1 gentleman's picture-taking session. Instead of  
2 going one by one, can I clearly label them like  
3 the exhibits those are, and just stipulate that  
4 they're all admissible? Otherwise, I gotta go  
5 through one by one.

6 MR. BLONIGEN: If he can show them  
7 to me, if they're photos --

8 THE COURT: Sure.

9 MR. BLONIGEN: Your Honor, a number  
10 of these are Ms. Preciado's photos. I would have  
11 no objection to them offering it through this  
12 officer, if I might also in redirect offer a  
13 couple of her photos as well.

14 MR. LOW: I have no objection to  
15 all -- in fact, I have no objection to all the  
16 photos coming in, so whatever you want to do.

17 MR. BLONIGEN: But I would  
18 stipulate, Your Honor, those are authentic photos.

19 THE COURT: Okay.

20 MR. LOW: I'd like to, then, mark  
21 them this way, Your Honor. And I know I want to  
22 go slow to make sure I do this right, so let me  
23 start with this. I have, first of all, some  
24 pictures from yesterday, and they were marked  
25 yesterday as DD, as in Delta, through EE, as in

1 Edward -- oh I'm sorry. Let me change that. EE  
2 through GG as in Golf. I also have AA, BB, CC,  
3 DD, EE, FF, and GG. I'd like to have those  
4 received into evidence, please.

5 THE COURT: Okay. Any objection?

6 MR. BLONIGEN: No, Your Honor.

7 THE COURT: I do note those were  
8 previously marked during Officer Baker's  
9 testimony. Exhibits AA through GG, inclusive, are  
10 received.

11 MR. LOW: Then, Your Honor, I seek  
12 to admit RR through ZZ.

13 THE COURT: Any objection to those  
14 additional exhibits?

15 MR. BLONIGEN: No, Your Honor.

16 THE COURT: Okay. Exhibits RR  
17 through ZZ, inclusive, are received.

18 MR. LOW: And, Your Honor, it dawned  
19 on me if I change my labeling a little bit, it  
20 might make it easier on everybody, so I started  
21 marking the next ones A1 through A24. I seek to  
22 admit those into evidence.

23 THE COURT: Any objection to those  
24 24 exhibits?

25 MR. BLONIGEN: No, sir.

1 THE COURT: Exhibits A1 through A24  
2 inclusive are received.

3 MR. LOW: Then I have A25 through  
4 A45. I would seek to admit those into evidence.

5 THE COURT: Any objection to those  
6 additional 21?

7 MR. BLONIGEN: No, sir.

8 THE COURT: Exhibits A25 through A45  
9 inclusive are received.

10 MR. LOW: Then I have three more,  
11 A46 through A48. I seek to have those identified  
12 as such and moved into evidence.

13 MR. BLONIGEN: No objection.

14 THE COURT: Exhibits A46 through A48  
15 are received.

16 MR. LOW: And, Your Honor, I have --  
17 these are special ones, and so I'd like to have  
18 these marked as LB, for long black, 2 through 6.

19 THE COURT: Any objection to those  
20 additional exhibits?

21 MR. BLONIGEN: No, Your Honor.

22 THE COURT: LB2 through LB6  
23 inclusive are received.

24 Q. (BY MR. LOW) Now, you talked about some  
25 of the samples that you took for preservation for

1 GSR; is that right, sir?

2 A. Yes.

3 Q. And I believe you also took some samples  
4 of some hairs that you found on the windowsill; is  
5 that right?

6 A. Yes.

7 Q. And make sure I'm clear about that.  
8 General area that you found the -- the hairs on  
9 the windowsill was kind of the left side of the  
10 driver's door, is that correct, as you're standing  
11 from the outside looking at it?

12 A. I believe it was more centered.

13 Q. Okay. More centered. And did they  
14 appear to be human hairs to you?

15 A. Yes.

16 Q. Okay. As far as you could tell; right?

17 A. Yes.

18 Q. But you -- you also found some other  
19 hairs in the car, didn't you?

20 A. Yes.

21 Q. But more specifically, these -- these  
22 hairs were found just between the driver's door  
23 and the driver's seat; right?

24 A. Yes.

25 Q. Do you remember how many?



1 A. I do not.

2 Q. Okay. And even more importantly about  
3 these hairs is that they were trapped inside a  
4 crack of one of the broken shards of glass; isn't  
5 that true?

6 A. I don't know, to be honest.

7 Q. You took pictures of it; right?

8 A. Yeah. There was a lot of photos, yes.  
9 If you could show me one to refresh me.

10 Q. Yes, sir. I'm showing you what's been  
11 marked as Exhibit LB5. Is that one of the ones  
12 you took a picture of?

13 A. Yes.

14 Q. It's stuck to a glass shard?

15 A. I believe the glass is sitting on top of  
16 it.

17 Q. Oh, okay.

18 A. That's what it appears like to me.

19 Q. Sure. LB4.

20 A. Yes, appears the glass is sitting on top  
21 of it.

22 Q. LB6.

23 A. Yes. Glass is sitting on top.

24 Q. LB2?

25 A. Yep. Just a different angle. Yes.

1 Q. And you marked that with an evidence tag,  
2 302?

3 A. Yes.

4 Q. Make sure I put those up. That's all  
5 it'll go. Is that the LB5, sir? Well, you don't  
6 know, you didn't put it on there, did you?

7 I'm putting LB2 on the -- on the Elmo to  
8 be fair.

9 A. Yes.

10 Q. Okay. And I'll put LB5 on there now.  
11 And I'm going to give these to the jurors to look  
12 for themselves. They might not be so easy on the  
13 monitor. See that there? Is that LB5, sir?  
14 Well, I'm putting LB5 on there. You seen this  
15 before?

16 A. Yes.

17 Q. Okay. I have these other ones as well  
18 that we'll give to the jury. Those are found --  
19 here's LB6. Those appear to be long black hairs,  
20 sir?

21 A. Yes.

22 Q. Here's another one on the side of the  
23 car; is that right?

24 A. Yes.

25 Q. Sir, have you done evidence collection

1 before?

2 A. Yes.

3 Q. A lot of experience doing it?

4 A. Yes.

5 Q. Has it been your experience that if  
6 somebody wearing a T-shirt goes through a car  
7 window and there's hairs on his T-shirt, and can  
8 the glass snag those hairs on the T-shirt, crumble  
9 from the window, and fall inside the car?

10 A. I don't know. I think you're trying to  
11 get me to speculate to something that I --

12 Q. Is that too hard to figure out?

13 MR. BLONIGEN: Well, Your Honor, I  
14 don't believe that's what the witness said. He  
15 said he'd just be speculating.

16 THE COURT: I'll sustain as to  
17 the --

18 Q. (BY MR. LOW) Let's see if I can ask it  
19 this way. If the glass is broken, is it jagged?

20 A. Yes.

21 Q. And it can cut and scratch you?

22 A. Yes.

23 Q. Like we've seen on Mr. Baldwin's right  
24 hand, he had scratch marks on it, and it peeled  
25 the skin; right?

1 A. Yes.

2 Q. So could an article of clothing go  
3 through a broken window and could it scratch the  
4 article of clothing?

5 A. Yes.

6 Q. Hold onto things that are stuck to the  
7 article of clothing?

8 A. Yes.

9 Q. Even cut the article of clothing?

10 A. Yes.

11 Q. Just like Mr. Baldwin's T-shirt got cut  
12 on the right-hand side; right?

13 A. His T-shirt was cut in a lot of places,  
14 yes.

15 Q. In a lot of places, yeah. So if someone  
16 is going through the window and they have long  
17 black hairs on their T-shirt, can those broken  
18 fragments of glass grab one of those black hairs?

19 A. It could be possible, yeah.

20 Q. And then if you kept going through the  
21 window, they could crumble and fall inside the  
22 car?

23 A. Yes.

24 Q. I mean, if he's coming out of the window  
25 and they grab them and he keeps coming, they could

1 get pulled out and drop on the outside of the car;  
2 is that right?

3 MR. BLONIGEN: Well, Your Honor,  
4 I've heard no foundation to all these questions  
5 for why he could even begin to reach a conclusion  
6 like that.

7 THE COURT: I'll agree, at least as  
8 to the question that's pending. No foundation, so  
9 I'll sustain.

10 Q. (BY MR. LOW) If they were dropped on the  
11 inside of the car, though, that means he's going  
12 through the glass. Doesn't that indicate, isn't  
13 that consistent with that?

14 A. It's not consistent.

15 Q. Oh, it's inconsistent?

16 A. I can't testify that it's consistent.  
17 There was black hairs in the car, and they were --  
18 there was glass on top of the hairs.

19 Q. Did you pick them up and look at them?

20 A. I used trace tape to pick them up.

21 Q. Yes. The hairs?

22 A. Yes.

23 Q. Was there any glass next to them or close  
24 to them?

25 A. Yes.

1 Q. Quite a bit; right?

2 A. Yes.

3 Q. I guess that's just a coincidence; right?

4 MR. BLONIGEN: Your Honor, that's  
5 argumentative.

6 THE COURT: I'll sustain.

7 Q. (BY MR. LOW) All right. You're aware  
8 that a long black hair was found on the T-shirt of  
9 Mr. Baldwin?

10 A. I am not.

11 Q. Would it surprise you to know that right  
12 here --

13 MR. LOW: What exhibit number is  
14 that? I can't see.

15 MR. BLONIGEN: Well, Your Honor,  
16 he's just testified he's not familiar with it.

17 MR. LOW: I didn't ask the question  
18 yet. He can't object. You gotta wait until the  
19 question comes.

20 THE COURT: Go ahead and ask the  
21 question.

22 MR. LOW: What exhibit number is  
23 this?

24 MR. BLONIGEN: I believe it's 101.

25 MR. LOW: Thank you.

1 Q. (BY MR. LOW) Showing you Exhibit 101,  
2 and contained inside is an item that says 24.1,  
3 long black hairs collected from Item 24, T-shirt.

4 Would it surprise you to know that the  
5 crime lab found a long black hair on Mr. Baldwin's  
6 T-shirt?

7 A. Wouldn't surprise me, no.

8 Q. No. Did you meet a gal by the name of  
9 Kara Sterner?

10 A. No.

11 Q. You don't know if she's got long black  
12 hair or not?

13 A. Don't know Kara Sterner at all.

14 Q. She was the friend who went with Mr.  
15 Baldwin to the bar that night.

16 MR. BLONIGEN: Your Honor, I'm going  
17 to object to this. This is the problem, if he  
18 answered no that he doesn't even know who the  
19 woman is, then we have three more questions. I'm  
20 going to object.

21 MR. LOW: I'm going to try and  
22 refresh his memory, Your Honor. That seems to  
23 work sometimes.

24 THE COURT: Well, he said he didn't  
25 know her, and you were referring to her as someone

1       that he met in the bar that night, so he would  
2       have no knowledge of that. So I'll sustain.

3           Q.     (BY MR. LOW) Let me try it a different  
4       way. Are you aware of who Mr. Baldwin went to the  
5       bar with that evening?

6           A.     I am not.

7           Q.     All right. I won't ask you any more  
8       questions about that.

9                   Showing you what's been received into  
10      evidence as A25. Do you recognize that?

11          A.     Yes.

12          Q.     What's in -- what's in that lower  
13      right-hand side of that door pocket there?

14          A.     A key and some glass.

15          Q.     Right. That's the passenger door; right?

16          A.     Yes.

17          Q.     So you found broken glass from the  
18      driver's door -- hold on a second. Let me get it  
19      focused for everybody. That's the best it's going  
20      to do. We'll pass it out. You found broken glass  
21      from the driver's door all the way over into the  
22      passenger door side pocket; right?

23          A.     Yes.

24          Q.     And you know, since you took the  
25      pictures, that that pocket is actually low, lower



1 than the seat? The seat sits about here, and the  
2 pocket is down below that; right?

3 A. I don't know for sure. I can't testify  
4 for sure that it is, but on most vehicles.

5 Q. You took the pictures of the passenger  
6 side door; right?

7 A. Yes.

8 Q. Does it refresh your memory to look at  
9 it?

10 A. There's glass there, yes, but I can't  
11 testify as to where it is in relation to the seat  
12 without looking at a picture.

13 Q. I see. And yesterday, well, if someone  
14 suggested that -- that the glass on the dash could  
15 slide across due to driving maneuvers, can you  
16 think of a driving maneuver where someone is  
17 driving along and they do something that causes  
18 glass to lift from the driver's side lap or floor  
19 area and fly up in the air and then all of a  
20 sudden land over in the driver -- I mean, in the  
21 passenger door?

22 MR. BLONIGEN: Well, Your Honor,  
23 that's a misrepresentation of what was said  
24 yesterday. It was whether the glass on the  
25 dashboard slid across.

1 MR. LOW: This is a hypothetical.

2 A. You just said --

3 THE COURT: Right. Hold up if you  
4 would. It's an improper hypothetical and without  
5 proper foundation, so I'll sustain.

6 Q. (BY MR. LOW) Let me ask it this way.  
7 Sir, you've been driving a police car for 20  
8 years; correct?

9 A. Yes.

10 Q. Chasing down criminals; right?

11 A. Yes.

12 Q. Trying to evade you and get away; right?

13 A. I'm sorry?

14 Q. Trying to evade you and get away?

15 A. On occasion.

16 Q. Yeah. Desperate criminals who don't want  
17 to get caught; right?

18 A. It's -- it's pretty rare.

19 Q. Sometimes they turn their headlights off  
20 at night; right?

21 A. Yes.

22 Q. Sometimes they make such radical  
23 maneuvers that their back end slides out; right?

24 A. Yes.

25 Q. Sometimes they lose control and they run

1 into things; right?

2 A. Yes.

3 Q. And sometimes if they're doing it and  
4 there's a lot of snow on the road, they'll lose  
5 control of their car and hit something; right?

6 A. Yes.

7 Q. Have you ever had the experience, though,  
8 of someone driving a car so erratically that a  
9 glass fragment flies up in the air and lands over  
10 in the passenger side door pocket? You ever seen  
11 that?

12 A. I've never -- no.

13 Q. In fact, that's so rare, that's like one  
14 person said, it's not even possible, that's just  
15 absurd; right? That's absurd?

16 MR. BLONIGEN: Well, Your Honor,  
17 it's based on a hypothetical, not based on facts  
18 in evidence.

19 THE COURT: And I'll sustain as to  
20 the form.

21 Q. (BY MR. LOW) Now, I'm going to show you  
22 what's been marked as A38. Is that a picture of  
23 the driver's seat where the driver sits?

24 A. I believe so, yes.

25 Q. And what is in the jamb between the

1 bottom seat and the upper seat?

2 A. A coin and glass.

3 Q. Looks like a quarter; right?

4 A. It's definitely a ridge on it like a dime  
5 or a quarter would, the ridged edge.

6 Q. And I'm also showing you A39 for  
7 identification -- I'm sorry that's been received  
8 into evidence. What is that?

9 A. Coins.

10 Q. They're in the center tray between the  
11 driver's seat and the passenger's seat; right?

12 A. Yes.

13 Q. All right. Let's take a look at those  
14 real quick. This is A39. Zoom out a little bit.  
15 That's the center console between the driver's  
16 seat and the passenger's seat; right?

17 A. Yes.

18 Q. And you notice how it's about the same  
19 level as the driver's seat and the passenger's  
20 seat?

21 A. Yes.

22 Q. So since you were in the car and you have  
23 experience with it, you can tell by the design of  
24 that seat that if I'm sitting in the driver's seat  
25 and I need to slide over to the passenger's seat,

1 I'm going to be able to do that pretty easy,  
2 aren't I?

3 A. You have the brake handle in the way,  
4 but.

5 Q. Well, that thing is not very high,  
6 though, is it?

7 A. No.

8 Q. Now, if I slide back over into the  
9 driver's seat, would I be coming across that coin  
10 tray right there?

11 A. I don't believe so because you have your  
12 curves of your seats here --

13 Q. Uh-huh.

14 A. -- that --

15 Q. Sure.

16 A. I mean, unless you --

17 Q. If I had baggy pants on, might I grab one  
18 of those coins and drag it with me into the  
19 driver's seat?

20 A. It's possible.

21 Q. Did you test it to rule it out?

22 A. No.

23 Q. Why not?

24 A. I didn't think it was relevant.

25 Q. You didn't think it was relevant, and you

1 didn't think of it at the time, did you?

2 A. No.

3 Q. That's fair. Okay. Here's A38. Let me  
4 orient it. Sorry. This is looking straight down;  
5 is that correct, sir?

6 A. Yes. This was -- we actually reclined  
7 the back of the seat back for this photo, as you  
8 can see, because there was not that black gap in  
9 the other photos.

10 Q. Do you have a picture of you reclining  
11 the seat all the way back?

12 A. Probably not.

13 Q. Hmm. Okay. Would it be fair to say that  
14 I looked and I couldn't find any picture of  
15 reclining the seat all the way back? Does that  
16 fit your experience and knowledge since you're the  
17 one that took all the pictures?

18 A. I didn't actually take the pictures, but  
19 I was present.

20 Q. Okay. Thank you.

21 A. If it's not in evidence, it's probably  
22 not there.

23 Q. Thank you, sir. I appreciate you. All  
24 right. It's true you found glass in the backseat  
25 area; correct?

1 A. Yes.

2 Q. I want to be fair to you. I found a  
3 picture that might actually help you. I just  
4 found it. It's marked A44. This might be what  
5 you're talking about. All right. Is that along  
6 the line of what you were saying?

7 A. Yes. And the other picture was taken at  
8 a different angle.

9 Q. How far back is that reclined?

10 A. I don't know if it's all the way back or.

11 Q. Is -- I'm pointing down here to the lower  
12 right-hand corner. Do you see that right there?

13 A. Yes.

14 Q. Is that the doorjamb?

15 A. Doorjamb or seat belt.

16 Q. Can you tell?

17 A. Yeah, looks like the doorjamb.

18 Q. So if you can see the doorjamb and it's  
19 going straight up, so if we orient it, if that's  
20 straight up right here, does it look like the seat  
21 is reclined all the way back or just partially?

22 A. It's pretty far back.

23 Q. You think it's all the way back or  
24 partially?

25 A. I -- I don't know to be honest.

1           Q.     You don't know.   Okay.   I want to make  
2     sure I give you everything here.   It's all in the  
3     evidence, though.   Everybody will get this.

4                     Now, besides the large amount of glass  
5     we've already seen, showing you A45, we'll do our  
6     best on this.   This is a picture of the driver's  
7     side door armrest, the armrest that's on the door;  
8     right?   I can go back out if you need me to.

9           A.     Yeah.

10          Q.     Does that look like that?

11          A.     Yeah.   I just see an armrest.   I don't  
12     know if it's the driver's side or not.   I --

13          Q.     Could be the passenger side?

14          A.     If you say it's the driver's side, I --  
15     I --

16          Q.     You were there; I wasn't.   So either way,  
17     it's an armrest in one of the two doors; correct?

18          A.     Yes.

19          Q.     You see the glass shards?   Give it a  
20     second.   We'll catch up.   Thanks.   I went too far.  
21     There we go.   Do you see the glass shards in  
22     there, sir?

23          A.     Yes.

24          Q.     And there's a variety of them.   You got a  
25     larger one like this one here; right?



1 A. Yes.

2 Q. Then you have a bunch of small ones in  
3 here; right?

4 A. Yes.

5 Q. And then they get even smaller. Can you  
6 see that over here? Let me move it over a little  
7 bit more. Look at these here. See these small  
8 ones over here?

9 A. Yes.

10 Q. They're all over the fabric of the car  
11 door; right?

12 A. Yes.

13 Q. Just kind of clinging to them; right?

14 A. Yes.

15 Q. Is this the liner or the padding on the  
16 door back towards where the door meets the door  
17 lock of the car itself? Let me zoom out for you.  
18 See that there?

19 A. Yes.

20 Q. And if we zoom in on it --

21 MR. LOW: And, Judge, I'll get the  
22 exhibit in just a second.

23 Q. (BY MR. LOW) You see these very fine  
24 small particles of glass in there?

25 A. Yes.

1 Q. Like little splinters, little teeny  
2 splinters; right?

3 A. Yes.

4 MR. LOW: That, Your Honor, was A48  
5 I was referring to.

6 Q. (BY MR. LOW) All right. I'm showing you  
7 A33. Sorry. And that was a backpack -- I'm  
8 sorry. That was a computer, Apple computer in a  
9 backpack?

10 A. Yes.

11 Q. Thief might consider that a high-dollar  
12 item?

13 A. Yes.

14 Q. Yeah. You've probably taken reports  
15 before about someone claiming that they had their  
16 laptop stolen from their car?

17 A. Yes.

18 Q. So this is something that people like to  
19 steal?

20 A. Yes.

21 Q. Okay. And that was located in the  
22 backpack on the passenger seat; correct?

23 A. Yes.

24 Q. Okay.

25 MR. LOW: That was, again, A33, Your

1 Honor. I'm mindful of the time for lunch. I can  
2 probably get this done fairly quickly.

3 Q. (BY MR. LOW) Here's what I wanted to  
4 talk about. You took -- well, you were out at the  
5 scene where the shooting happened; correct?

6 A. Yes.

7 Q. And you talked about some footprints in  
8 the snow there and so forth?

9 A. Yes.

10 Q. Did you do any analysis on the footprints  
11 to figure out what was heel and what was toe?

12 A. No.

13 Q. So they're just shapes in the snow as far  
14 as you know?

15 A. Yes.

16 Q. Did you match them up to anybody's shoe?

17 A. No.

18 Q. So you have no idea who left them?

19 A. No.

20 Q. Did you also observe some tire marks, if  
21 you will, that were left in the snow?

22 A. There were some, but by the time I got  
23 there, there had been a lot more snow.

24 Q. I understand. But could you still see  
25 some tire marks left in the snow?

1           A.     Yes.

2                         MR. LOW:   And, Your Honor, I'm  
3     showing him A24.

4           Q.     (BY MR. LOW)   That's not going to do us  
5     justice, is it?  Are these some of the tire marks  
6     that you took from the area that supposedly the  
7     car involved in the shooting came from?

8           A.     That was a couple hours prior to my  
9     arrival.

10          Q.     All right.  Then were they -- were they  
11     still visible when you got out there?

12          A.     Not in that condition.

13          Q.     All right.  Are you able to tell whether  
14     these pictures accurately reflect the way they  
15     looked at the time you got out there?

16          A.     Not at the time I got out there.

17          Q.     Fair enough.  I won't go through them  
18     with you, then, if you can't.

19                         MR. LOW:   And Your Honor, I have a  
20     bit more, and it's the noon hour.  Can I finish up  
21     after the lunch break?

22                         THE COURT:   Okay.  Thank you very  
23     much.  Appreciate you interjecting that we needed  
24     a break at this time.

25                         Officer, I'm going to ask that you be

1 back at 1:30.

2 THE WITNESS: Yes, sir.

3 THE COURT: And we will recess until  
4 1:30 p.m. As we break, ladies and gentlemen of  
5 the jury, keep in mind the rules, including not to  
6 discuss the case with anyone and not to permit  
7 anyone to discuss it with you, to not form or  
8 express any opinion on the case, to not attempt to  
9 learn anything about the case from outside the  
10 courtroom, to avoid all publicity and accounts  
11 there may be in the news media, and to keep your  
12 minds open until the case is finally submitted to  
13 you. As indicated, we'll take an hour and a half  
14 for lunch and reconvene at 1:30 p.m.

15 Court is in recess.

16 (At 12:01 p.m., a recess was  
17 taken until 1:33 p.m.)

18 THE COURT: Thank you. Please be  
19 seated. Court will reconvene after the luncheon  
20 break.

21 Mr. Norcross has retaken the stand, and  
22 the Court notes the presence of the jury panel,  
23 defendant, Defense counsel, counsel for the State.

24 We're still in the cross-examination of  
25 the witness, so Mr. Low.

1 MR. LOW: Thank you, Your Honor.

2 Q. (BY MR. LOW) Sir, you stated earlier  
3 that when you were out there looking for evidence  
4 and looking at the scene around where the shooting  
5 happened, that it was dark out at the time; is  
6 that right?

7 A. Not when I arrived.

8 Q. What time did you get there?

9 A. 5:46.

10 Q. Okay.

11 A. It was dawn.

12 Q. I see. Well, I'm going to show you  
13 pictures received into evidence, RR through ZZ.  
14 And are these some of the pictures that were taken  
15 out there while it was still dark?

16 A. I believe so.

17 Q. This one here I'm showing you is ZZ.

18 A. Yes.

19 Q. YY. And I'll just spread them out here.  
20 Just take a gander at them, and then we'll see if  
21 we can put them up there. Was it still snowing  
22 pretty hard when you got there, sir?

23 A. Yes.

24 Q. In fact, you said on direct it was  
25 blizzard conditions?

1 A. Yes.

2 Q. You ever been in a blizzard before living  
3 in Wyoming?

4 A. Yes.

5 Q. How is the visibility for you when it's  
6 blizzard conditions? How well do you see?

7 A. Depends on the wind.

8 Q. Does your visibility increase over a  
9 distance with blizzards or does it decrease?

10 A. It decreases.

11 Q. Why is that?

12 A. Because there's blowing snow.

13 Q. Obstructs your vision?

14 A. Yes.

15 Q. Okay. And the darkness, does that also  
16 interfere with your vision if you're trying to  
17 look at something through all that snow?

18 A. It can.

19 Q. So these are some of the -- I mean, it  
20 was just hard even taking a picture, wasn't it? I  
21 mean, you got a camera out there, you're trying to  
22 look at something, and it was snowing so hard,  
23 that's what a lot of the pictures look like;  
24 correct?

25 A. Yes.

1 Q. That was ZZ. There's one looking across  
2 the parking lot. Is that accurate?

3 A. Yes.

4 Q. That was YY. XX. Fair enough?

5 A. Yes.

6 Q. Two Ws. Sorry. I'll move it up a little  
7 bit. Accurate?

8 A. For the time the picture was taken, yes.

9 Q. This one is VV, as in Victor. Still  
10 accurate?

11 A. Yes.

12 Q. Must have been a tough job that day being  
13 a photographer, huh?

14 A. Yes.

15 Q. Give it a chance to focus in. Again,  
16 pretty dark, lots of snow, hard to see the detail.  
17 You'll get these. It'll be better for you to look  
18 at when you get them. That's the best I can do  
19 with them. Sorry.

20 SS. I'm sorry. It's having a little  
21 trouble. There we go.

22 See these lights back here?

23 A. Yes.

24 Q. Those are reflectors, aren't they, on a  
25 fence post?



1 A. They're reflectors. I --

2 Q. Hard to see? This one, I'm sorry, is TT,  
3 as in Tango. And lastly, RR. And sir, if someone  
4 said it was very difficult to see that night  
5 because it was so dark and so much snow, that was  
6 something they could experience, would you agree  
7 with that?

8 A. Looking at those pictures.

9 Q. Thank you.

10 MR. BLONIGEN: Excuse me, Counsel.  
11 Could I have that particular stack of pictures  
12 kind of set to one side?

13 MR. LOW: You may, sir.

14 Q. (BY MR. LOW) So showing you GG, as in  
15 Gulf. Let me move this up, if I can, a little  
16 bit. This is the backseat; correct?

17 A. Yes.

18 Q. Behind the driver's seat?

19 A. Yes.

20 Q. See all that glass down there on the  
21 floor? Is that what you were looking at when you  
22 guys did the photographing?

23 A. Yes.

24 Q. This is the -- sorry. This is number BB,  
25 as in Bravo. That's the backseat floor behind the

1 passenger seat; right?

2 A. I believe so, yeah.

3 Q. Do you know what that is right there?

4 A. That's a piece of glass.

5 Q. Okay. Sir, you were commenting on trying  
6 to break a window. Do you remember that?

7 A. Yes.

8 Q. And you said, boy, it was -- you had to  
9 take three good, three good whacks at it with your  
10 baton to get it done?

11 A. Yeah.

12 Q. Do you -- well, you must have a pretty  
13 good idea of what maybe the current world record  
14 is for the most bricks broken with a person's  
15 hand?

16 A. Not at all.

17 Q. Do you realize it's 40?

18 MR. BLONIGEN: Your Honor, this,  
19 again, is one of the problems. The witness said  
20 he didn't know, and then he asked another  
21 question.

22 THE COURT: Right. He did not know,  
23 so I'll sustain as to the follow-up question.

24 Q. (BY MR. LOW) All right. Let me change  
25 the question a bit. Would it surprise you to know

1       that the current world record for breaking bricks  
2       is 40?

3           A.     It's an interesting fact.

4           Q.     It is a fact, though, isn't it?

5           A.     I guess.  I --

6           Q.     You know what the -- well, would it  
7       surprise you to know that the current world record  
8       for breaking the most boards with a human hand is  
9       70, seven zero?  Would that surprise you to know  
10      that?

11                   MR. BLONIGEN:  Your Honor, there's  
12      been absolutely no foundation this witness would  
13      have any knowledge of these subjects.

14                   THE COURT:  I'd agree.  I'll sustain  
15      without more foundation.

16           Q.     (BY MR. LOW)  Well, have you ever punched  
17      a board with your hand, sir?

18           A.     Yes.

19           Q.     Did you break it?

20           A.     No.

21           Q.     You ever punched a car window with your  
22      hand?

23           A.     I don't believe so.

24           Q.     So you don't have any experience with  
25      whether or not you can bust a car window with your

1 hand, do you?

2 A. I do not.

3 Q. Would you like to try?

4 A. No.

5 Q. Why not?

6 A. I don't want to hurt my hand.

7 Q. You don't want to get a blunt force  
8 trauma on your hand?

9 A. That's what I said. I don't want to hurt  
10 my hand.

11 Q. You think you might be more apt to do  
12 that if you're good and liquored up?

13 MR. BLONIGEN: Your Honor, he's --  
14 this is sheer speculation. Again, there's no  
15 foundation for these type of questions.

16 THE COURT: And I'll agree. I'll  
17 sustain. I don't think this opinion evidence is  
18 appropriate unless we do have some foundation in  
19 that regard.

20 MR. LOW: Your Honor, I have a lot  
21 more pictures; but in the interest of time, I'm  
22 just going to -- they're all in evidence for  
23 everybody to see, so they're here. And that way,  
24 I can give the witness back to Mr. Blonigen. Just  
25 want to double-check and make sure I got

1 everything.

2 THE COURT: That'll be fine.

3 MR. LOW: Thank you, Your Honor.

4 Thank you, Mr. Blonigen.

5 THE COURT: Thank you, Counsel.

6 Redirect examination, Mr. Blonigen.

7 REDIRECT EXAMINATION

8 BY MR. BLONIGEN:

9 Q. You don't want to hurt your hand?

10 A. Correct.

11 Q. You don't want to break your hand; is  
12 that more accurate?

13 A. Yes.

14 Q. We talked about the hairs in the vehicle.  
15 Do you remember talking to counsel about that?

16 A. Yes.

17 Q. There were a couple hairs in that  
18 vehicle --

19 A. Yes.

20 Q. -- correct? Color and length, describe  
21 them generally for us.

22 A. They were dark colored hairs and three to  
23 four inches.

24 Q. And when you have individual hairs,  
25 differentiating between brown and black, is that

1 easy?

2 A. No.

3 Q. They're very similar?

4 A. Yes.

5 Q. Of course, it's the defendant's car,  
6 wasn't it?

7 A. Yes.

8 Q. And in each one of those pieces of hair  
9 he told you about, you each time stated there's  
10 glass sitting on top of it?

11 A. Yes.

12 Q. As a person who is collecting evidence,  
13 does that matter to you?

14 A. Yes. To me, it would indicate the hair  
15 was there prior to the glass.

16 Q. Okay. Why is that?

17 A. Because the glass was on top.

18 Q. You were asked some questions about the  
19 T-shirt. And, of course, you didn't collect the  
20 T-shirt, did you?

21 A. No.

22 Q. But you have had an opportunity to view  
23 it?

24 A. Yes.

25 Q. And it is true on the right shoulder,

1       there are some small holes in it? Is that true?

2           A.     Yes.

3           Q.     On the backside of it, just to your right  
4       of where we identify the entry hole, are there  
5       similar types of holes in the back?

6           A.     Yes.

7           Q.     No blood around them?

8           A.     No.

9           Q.     As far as you know, no injury around  
10      them?

11          A.     As far as I know.

12          Q.     Now, we've gone ahead and admitted some  
13      of Ms. Preciado's photos and that saved us some  
14      time, but conditions, you say, were quite  
15      different?

16          A.     Yes.

17          Q.     I'm going to hand you three photographs,  
18      302, 345, and 318. Are these each photos of the  
19      Racks parking lot at different times of day? And  
20      we'll have Ms. Preciado establish that time.

21          A.     Yes.

22          Q.     And do they show the different conditions  
23      at the different times of day as the photograph  
24      was taken on that morning?

25          A.     Yes.

1 MR. BLONIGEN: Move for the  
2 introduction of the three exhibits, Your Honor.

3 THE COURT: Any objection?

4 MR. LOW: No objection.

5 MR. BLONIGEN: Those are 302, 345,  
6 and 318.

7 THE COURT: The three exhibits are  
8 received. Thank you.

9 Q. (BY MR. BLONIGEN) So the first one is  
10 one of Ms. Preciado's photographs; is that  
11 correct?

12 A. Yes.

13 Q. And in that, although it's snowing, do  
14 you have any difficulty seeing things?

15 A. No.

16 Q. And then, again, I think you've  
17 identified a similar picture. Is Mr. Baldwin's  
18 body still in place?

19 A. Yes.

20 Q. This is closer to the time you first  
21 arrived?

22 A. Yes.

23 Q. Do you see a significant difference  
24 between that photograph and the photograph we just  
25 saw?



1 A. Yes.

2 Q. And how so?

3 A. One, the lights conditions and the lack  
4 of snow or blowing snow.

5 Q. So when you're looking at shoe prints or  
6 tire tracks out there, which photo is closer, the  
7 first one or the second one, to what you  
8 encountered when you made your observations?

9 A. The second one. The one that's up right  
10 here.

11 Q. And then finally, is 318 about when you  
12 folks are finishing up out there?

13 A. Yes.

14 Q. What area is this?

15 A. This area here is where the victim was.

16 Q. Okay. In fact, we can still see that red  
17 truck back there, can't we, that we've used for a  
18 marker a couple times by the corner of the  
19 building?

20 A. Yeah. I believe that's the same one.

21 Q. So conditions changed throughout the  
22 morning?

23 A. Yes.

24 Q. Did you ever find a marijuana cigarette  
25 or joint in the car at all?

1           A.     No.

2           Q.     Now, we talked a little bit earlier about  
3 dashboards also. Is this -- when you get this  
4 car, is it essentially a changed scene from where  
5 the shooting took place?

6           A.     Yes.

7           Q.     How so?

8           A.     It was moved.

9           Q.     Okay.

10          A.     Driven to a different location.

11          Q.     And again, if a person moves within the  
12 confines of that vehicle, can things move with  
13 them?

14          A.     Yes.

15          Q.     Someone had a good deal of glass on their  
16 lap and things, if they move, it can move as well?

17          A.     Yes.

18                   MR. LOW:  Objection, lacks  
19 foundation, speculation.

20                   MR. BLONIGEN:  That's just  
21 commonsense, Judge.

22                   MR. LOW:  Well, how come I don't get  
23 my questions answered, then, when I'm asking  
24 commonsense questions?

25                   THE COURT:  Hold up if you would.

1 I'd sustain the objection to the last question and  
2 strike.

3 Q. (BY MR. BLONIGEN) Let me rephrase that.  
4 Do you know if the defendant moved his body  
5 between the time the shooting occurred and the  
6 time he was taken into custody?

7 A. Yes.

8 Q. You were asked about certain things  
9 perhaps attracting burglars. I don't know if you  
10 were asked about the firearms, but firearms,  
11 computers are things that get stolen, aren't they?

12 A. Yes.

13 Q. This thing have a trunk on it?

14 A. Yes.

15 MR. BLONIGEN: Can I have just a  
16 moment, Your Honor?

17 THE COURT: Yes.

18 MR. BLONIGEN: I believe that's all  
19 the questions I have, Your Honor.

20 THE COURT: Thank you very much.

21 Anything on recross?

22 MR. LOW: Briefly.

23 RE-CROSS-EXAMINATION

24 BY MR. LOW:

25 Q. Those hair samples that you collected in

1 Mr. Knospler's car, the ones that Mr. Blonigen  
2 just asked you about?

3 A. Yes.

4 Q. You're aware that they never got tested;  
5 right?

6 A. I believe I knew that they didn't get  
7 tested.

8 Q. In fact, not only did they not test the  
9 hairs that you collected, they never tested the  
10 one that they admitted into evidence either, did  
11 they?

12 A. I don't know. I haven't seen the lab  
13 reports, so.

14 Q. Do you have any idea why they wouldn't  
15 test evidence that you collected?

16 A. No.

17 Q. I mean, you collected it because you  
18 thought it was relevant evidence; right?

19 A. Yes.

20 Q. And you would agree that if the hair  
21 found on the shirt, which is 101, matched the  
22 hairs inside the car you labeled as 302, man,  
23 wouldn't that be relevant?

24 MR. BLONIGEN: Well, Your Honor, now  
25 he's asking the witness to comment on what the

1 jury's job is, which is what's relevant.

2 THE COURT: I'll sustain as to the  
3 form.

4 Q. (BY MR. LOW) Well, let's just go from a  
5 detective. Being a detective, you're trying to  
6 find the truth; right?

7 A. My job is to collect the evidence. I'm  
8 an evidence technician. But I don't want to leave  
9 any stone unturned.

10 Q. Because it might result in finding and  
11 discovering the truth; correct?

12 A. I don't know what the truth is. I mean,  
13 I collect everything that I believe is relevant.

14 Q. But if you find the relevant truth or the  
15 relevant evidence, then we have a better chance of  
16 finding the truth. You'd agree with that; right?

17 MR. BLONIGEN: Your Honor, he's  
18 asked and answered that question.

19 THE COURT: I'll overrule. You may  
20 answer.

21 A. Yes.

22 Q. (BY MR. LOW) How does it make you feel  
23 that you went to all that trouble to collect that  
24 relevant evidence that you marked, photographed,  
25 packaged, and handed over, and no one wanted to

1 test it? How does that make you feel?

2 MR. BLONIGEN: Your Honor, his  
3 feelings are irrelevant.

4 THE COURT: I would agree.

5 MR. LOW: All right.

6 THE COURT: I'll sustain.

7 Q. (BY MR. LOW) What does that make you  
8 think?

9 A. I did my job that day.

10 Q. You did your job; right?

11 A. Yes, sir.

12 Q. Don't you wish someone else had done  
13 their job?

14 MR. BLONIGEN: Your Honor, these  
15 comments --

16 THE COURT: Once again --

17 MR. BLONIGEN: -- are inappropriate.

18 THE COURT: -- I'll sustain, and I'd  
19 ask counsel to stay away from those type of  
20 argumentative questions.

21 MR. LOW: Yes, Your Honor.

22 Q. (BY MR. LOW) Well, sir --

23 MR. LOW: No, you're right. I think  
24 we got the point. That's it, Your Honor. Thank  
25 you.

1 THE COURT: Thank you, Counsel.  
2 Thank you, Officer Norcross. You're excused, and  
3 you can step down from the witness chair.

4 State of Wyoming may call its next  
5 witness.

6 MR. BLONIGEN: State would call  
7 Officer Preciado.

8 THE COURT: Please come forward,  
9 Officer, if you would. The Clerk of Court will  
10 give you the oath, and then you'll sit to the  
11 other side in this courtroom.

12 THE CLERK: Please raise your right  
13 hand. You do solemnly swear that the testimony  
14 you will give in the case before the Court will be  
15 the truth, the whole truth, and nothing but the  
16 truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Please be seated.

19 KATIE PRECIADO,  
20 called for examination by the State, being first  
21 duly sworn, on her oath testified as follows:

22 DIRECT EXAMINATION

23 BY MR. BLONIGEN:

24 Q. Would you state your name for the record,  
25 please.

1 A. Katie Preciado.

2 Q. Where are you employed?

3 A. Natrona County Sheriff's Office.

4 Q. What is your position with that  
5 department?

6 A. I'm a deputy.

7 Q. Did you have occasion to respond to Racks  
8 Gentlemen's Club on the morning of October 4th,  
9 2013?

10 A. Yes.

11 Q. Approximately what time?

12 A. It was right about midnight.

13 Q. And if your report said 00:19, would that  
14 be the call time?

15 A. Yes.

16 Q. Okay. Did you go promptly there?

17 A. Yes.

18 Q. How long did it take you to get there?

19 A. Less than five minutes.

20 Q. Was Officer Miller already on the scene  
21 by the time you got there?

22 A. Yes.

23 Q. How would you describe the weather that  
24 night?

25 A. Extreme. Very cold. Very windy. Heavy



1 snow. Difficult to see.

2 Q. Why -- when you arrived, was Mr. Baldwin  
3 still at the scene?

4 A. Yes.

5 Q. What was happening with him?

6 A. I saw him laying on his back. Officer  
7 Miller was performing chest compressions, and I  
8 rushed to help Officer Miller.

9 Q. Okay. Did EMS arrive?

10 A. Yes.

11 Q. How much later after you?

12 A. I actually passed them on my way, but we  
13 had them staged to make sure that it was safe for  
14 them to proceed.

15 Q. Okay. And so once EMS arrives, what do  
16 you do?

17 A. I immediately -- once EMS began assisting  
18 the victim, I immediately began taking pictures of  
19 the scene.

20 Q. Why did you move to taking pictures so  
21 quickly?

22 A. Because of the extreme weather  
23 conditions.

24 Q. Okay. And we've seen many of your  
25 photographs and they've been admitted, but I'd

1       like to talk about a few more. Did you take some  
2       point of view photographs from the front of Racks  
3       looking out towards where Mr. Baldwin was laying?

4           A.     Yes.

5           Q.     I'd like to hand you 307, 308, and 310.  
6       Are these three of those photographs?

7           A.     Yes.

8           Q.     Do they accurately reflect the pictures  
9       you took that night and the conditions as you  
10      found them just minutes after the shooting?

11          A.     Yes.

12                   MR. BLONIGEN: Move for the  
13      admission of 307, 308, and 310.

14                   THE COURT: Any objection?

15                   MR. LOW: No, Your Honor.

16                   THE COURT: Exhibits 308 -- excuse  
17      me, 307, 308, and 310 are received.

18           Q.     (BY MR. BLONIGEN) Okay. First starting  
19      with 308, can you see that photograph on your  
20      monitor?

21          A.     Yes.

22           Q.     Can you tell us what your point of view  
23      was, where were you standing when you're taking  
24      these photographs?

25          A.     This -- I'm standing pretty much right in

1 front of the doors, the main entrance doors to the  
2 bar.

3 Q. Okay. And you know about 307?

4 A. This is the same point of view, same  
5 position that I'm standing in except I'm -- I've  
6 just moved the camera over.

7 Q. Okay. So you're standing right in front  
8 of the bar doors?

9 A. Uh-huh.

10 Q. Okay. How about 310? Do you know where  
11 you were when you took this picture?

12 A. Same position. This is -- this is I was  
13 right up against the building, probably centered  
14 on where the main scene was.

15 Q. And do you know how close you were to the  
16 doors, if you recall?

17 A. I was behind the barrier, so less than  
18 three feet from the doors. There's a barrier in  
19 front of the doors.

20 Q. Right, that metal railing?

21 A. Uh-huh, yeah.

22 Q. So at the doors behind the metal railing?

23 A. Yes.

24 Q. And we see Officer Miller's car in the  
25 picture?

1 A. Yes.

2 Q. Would you -- you can draw a circle around  
3 that. Can you do that for the ladies and  
4 gentlemen? Just touch the screen.

5 A. Right here.

6 Q. Okay. Thank you. Now if you'd tap on  
7 the lower left-hand corner, it'll take that mark  
8 away. There we go. Thank you.

9 Now, obviously you don't know much about  
10 this case right then, do you?

11 A. No.

12 Q. So what are you doing? What are you  
13 taking pictures of?

14 A. Anything and everything. I just wanted  
15 to get as much as I could before it was  
16 obliterated.

17 Q. Now, counsel has admitted as Exhibits RR  
18 through ZZ a series of photographs. Would you  
19 look at those real quick? Did you have any  
20 problems with your camera that night when those  
21 photographs were taken?

22 A. Yes, I did.

23 Q. What was going on right then when you  
24 were getting all these pictures where all you can  
25 see is snow?

1           A.     Basically, after being out in the wet  
2 snow for so long, condensation had started to form  
3 on the camera lens and inside the lens itself, and  
4 so it was basically pretty hard to focus.

5           Q.     Okay. So this wouldn't represent what  
6 you would see with your bare eye anymore?

7           A.     No.

8           Q.     It's much worse?

9           A.     Yeah.

10          Q.     Okay. If you could put those back  
11 together. We saw some pictures earlier where you  
12 took the point-of-view pictures. Was that before  
13 your camera iced over and all that?

14          A.     That was.

15                   MR. LOW: Objection. I'm pretty  
16 sure she didn't say it was iced over.  
17 Condensation is a pretty big difference, don't you  
18 think?

19                   THE COURT: I'd sustain as to form.

20          Q.     (BY MR. BLONIGEN) Were you having the  
21 problems with visibility as you were in the  
22 pictures I just showed you as you were at the time  
23 you took those photographs?

24          A.     No.

25          Q.     I'm going to show you another picture,

1 309. It's already been admitted. And do you  
2 recognize this as the parking spot that was the  
3 bare parking spot where Mr. Baldwin was laying?

4 A. Yes.

5 Q. And referring to that, do you see what  
6 looks like two tire tracks that kind of form a "Y"  
7 there?

8 A. Yes.

9 Q. Okay. Did you take a more close-up  
10 photograph of those marks?

11 A. Yes.

12 Q. With a scale?

13 A. I believe -- yes.

14 Q. Let me show you 319. Is 319 the  
15 photograph of those tire marks close up with the  
16 scale?

17 A. Yes.

18 MR. BLONIGEN: Move for the  
19 introduction of 319, Your Honor.

20 THE COURT: Any objection to this  
21 exhibit?

22 MR. LOW: No, Your Honor.

23 Q. (BY MR. BLONIGEN) If you could take that  
24 photograph --

25 THE COURT: Hold up if you would.

1 Exhibit 319 is received. Go ahead.

2 MR. BLONIGEN: Excuse me, Your  
3 Honor. I'm sorry.

4 Q. (BY MR. BLONIGEN) Does it appear that  
5 it's a slushy surface?

6 A. Yes.

7 Q. And, in fact, do the tire marks go down  
8 to the pavement?

9 A. Yes.

10 MR. BLONIGEN: If I could publish  
11 that for the jury, please.

12 Q. (BY MR. BLONIGEN) Do you have any idea  
13 of what you're taking a picture of at this time or  
14 why it might be important?

15 A. No.

16 Q. So this is the condition of those tire  
17 marks just shortly after you arrive?

18 A. Yes.

19 MR. BLONIGEN: Thank you, Officer.  
20 That's all the questions I have.

21 THE COURT: Thank you, Counsel.

22 Cross-examination, Mr. Low.

23 MR. LOW: Yes, sir. Thank you.

24

25

## CROSS-EXAMINATION

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BY MR. LOW:

Q. Ma'am, is your husband a police officer also?

A. He's the chief of police for Mills PD.

Q. I'll mark --

MR. LOW: Sorry. Give me a second. I'm sorry, Your Honor, one second. I think I got them all in there. All right. Got them. We're safe. All right, then.

May I approach, Your Honor?

THE COURT: Yes you may.

MR. LOW: Thank you.

Q. (BY MR. LOW) You know what, I'm going to put them on the overhead so we can all see them. That would be better I think. So here's 309. Can you see that on your monitor well enough, ma'am?

A. Yes.

Q. What's the distance you're standing from there to the fence post back there, do you know?

A. I --

Q. If you have to guess from the picture, let us know. And you might not know. I'm just wondering if you do know.

A. I would estimate 15 feet.



1 Q. 15, one five?

2 A. Yes.

3 Q. Okay. That's an estimate. Thank you.

4 Now, you see this color and detail over here on  
5 the truck?

6 A. Yes.

7 Q. Why is it we're able to see that so well?

8 A. The -- you mean in the photograph?

9 Q. Yes, ma'am.

10 A. Just the quality of the photograph.

11 Q. Well, you take good pictures, that's  
12 true; but is it fair to say there's a nice set of  
13 headlights shining right on the truck and the snow  
14 lighting that whole area up?

15 A. Yes.

16 Q. And then behind you and maybe to the left  
17 or the right, it's hard to tell from the picture;  
18 but you can see you got light over here right  
19 alongside the dark spot?

20 A. Uh-huh.

21 Q. Another set of headlights?

22 A. Possibly.

23 Q. How many cars were facing that direction  
24 providing light to this entire area?

25 A. At least -- at least two.

1 Q. Pretty good memory. Look at that. How  
2 many do you see there?

3 A. There's three vehicles.

4 Q. And they're all shining their lights  
5 right in on that spot; correct?

6 A. Yes.

7 Q. You got anything else helping you add  
8 more light than naturally is there?

9 A. No. Just our headlights.

10 Q. You didn't have a flash on your camera?

11 A. Yes.

12 Q. That adds a lot of extra light, doesn't  
13 it?

14 A. Yes.

15 Q. That's -- that's not natural to the  
16 scene, is it?

17 A. No.

18 Q. Now, let's be honest, which you have  
19 been, if you walked out there with a camera that  
20 had no flash on it at this time of day or night  
21 when you're taking these pictures, what are you  
22 going to come back with on the film?

23 A. Not much.

24 Q. It's going to be what, all black, isn't  
25 it?

1 A. Yes.

2 Q. Probably lose your job if you were that  
3 type of photographer, wouldn't you?

4 A. Possibly.

5 Q. At least your camera job. They're not  
6 going to send you out there again, are they?

7 A. Well --

8 Q. Does that flash help you provide a lot of  
9 extra light that doesn't naturally exist like in  
10 this photo we're looking at, 307?

11 A. Yes.

12 Q. In fact, proof of that is all the little  
13 white spots or a good number of them are  
14 reflecting back; correct?

15 A. Yes.

16 Q. And that proves that you had the flash on  
17 there, as you should; correct?

18 A. Yes.

19 Q. Now, here let's look at one more, just  
20 make sure we're being fair. There's another one,  
21 308; correct?

22 A. Yes.

23 Q. Do you see any condensation on your lens  
24 on 308?

25 A. Well --

1 Q. Sorry --

2 A. Yeah, there's possibly --

3 Q. You got one right there?

4 A. That's condensation or snow. I couldn't  
5 say what those spots are, but.

6 Q. The light ones that are a little bit  
7 distorted are the ones that are actually on your  
8 lens; correct? And they're the biggest ones also.  
9 A, they're closer; B, they're see-through; and, C,  
10 they're a little distorted. That's condensation  
11 on your lens; right?

12 A. Yes.

13 Q. Okay. Now, let's look at those pictures  
14 that Mr. Blonigen showed you again, and let's  
15 first of all see if we can find any frozen-over  
16 lenses on these. Now, you see the car lights in  
17 the back?

18 A. Yes.

19 Q. And you can see the condensation also on  
20 the lens?

21 A. Yes.

22 Q. I can get a little closer if that's  
23 helpful. You can see some detail in the fence  
24 back there; right?

25 A. Somewhat.

1 Q. Sure. I mean, you may have some  
2 condensation on the lens, but this isn't blocking  
3 your view, is it?

4 A. Not my visual view, no. The camera view  
5 is not what I would have seen on -- with my eyes.

6 Q. Let's go with two Ws, the other one that  
7 Mr. Blonigen said that it was condensed over.  
8 You're able to see the tire tracks there, aren't  
9 you?

10 A. Part of them.

11 Q. And the lights here?

12 A. Yes.

13 Q. Clearly it does have some condensation on  
14 it; right?

15 A. Uh-huh.

16 Q. Let's see another one. Here's SS that  
17 was in the same packet. Can you see the  
18 reflectors?

19 A. Yes.

20 Q. And the building's in the back?

21 A. Uh-huh.

22 Q. And the fence along or the concrete  
23 barriers right here?

24 A. Yes.

25 Q. There's a little condensation, but notice

1       how there's no big white spots on the camera, just  
2       these few fuzzy ones here? Still working, isn't  
3       it? Yes?

4           A.     Yeah.

5           Q.     All right. We won't go through all of  
6       them, but they'll be available for the jury to  
7       find the facts here. But out of fairness to you,  
8       it was extreme weather, like you said, out there;  
9       right?

10          A.     Yes.

11          Q.     It was cold?

12          A.     Very cold.

13          Q.     And it was snowing really hard?

14          A.     Yes.

15          Q.     And it wasn't just snow, it was a kind of  
16       a wet sticky snow, wasn't it?

17          A.     Yes.

18          Q.     The kind that doesn't -- you know the  
19       colder snow is, the smaller it is; right?

20          A.     Yeah.

21          Q.     And the warmer it is, the bigger the  
22       flakes are; right?

23          A.     Generally.

24          Q.     And these were the big ones; right?

25          A.     Uh-huh.

1 Q. Sorry?

2 A. Yes.

3 Q. And after, what, maybe an -- how long do  
4 you think you were taking pictures out there?

5 A. Several hours. Throughout the duration  
6 of the time that I was there.

7 Q. You were about ready to go in after seven  
8 hours, weren't you?

9 A. I said several hours.

10 Q. Right. I mean, I know you did your job  
11 and you stayed out there as long as you were told;  
12 but when they let you go back in, you were  
13 thankful. Is that fair?

14 A. That's fair.

15 Q. Okay. But you're aware that Mr. Baldwin  
16 laid out there in that wet snow from sometime  
17 between 12:00 or 12:30 until long after, what,  
18 5:00, 6:00 a.m.?

19 A. Yes.

20 Q. He was out there a lot of hours; huh?

21 A. Yes.

22 Q. Getting snowed on?

23 A. We actually covered him with a tarp to  
24 preserve any evidence, but yes.

25 Q. That was after 4:30, though, wasn't it?

1 A. Yes.

2 Q. In fact, that was after 4:40?

3 A. I don't remember the exact time.

4 Q. Okay. Give or take, as best you can  
5 recall, that sounds about right, though?

6 A. Yes.

7 Q. I can get it off a report, but --

8 A. No, that's okay.

9 Q. But if it said 4:40, does that comport  
10 with your memory?

11 A. Yes.

12 Q. So from the time, 12:15, 12:30 to 4:40,  
13 that's at least four hours sitting out in the  
14 snow?

15 A. Yes.

16 Q. Getting wet?

17 A. Yes.

18 Q. And you had an opportunity to see Mr.  
19 Baldwin laying there; right?

20 A. Yes.

21 Q. And you saw his T-shirt; right?

22 A. Yes.

23 Q. And that T-shirt was absolutely soaking  
24 wet, wasn't it?

25 A. Yes.



1 Q. Soaked all the way through, wasn't it?

2 A. Yes.

3 Q. Both sides of it?

4 A. Uh-huh, yes.

5 Q. Every part of it?

6 A. Yes.

7 Q. But you also saw that there were bar  
8 towels out there as well; right?

9 A. Yes.

10 Q. And those things were soaking wet?

11 A. Yes.

12 Q. And the bar towel, what was it, two,  
13 three of them? Do you recall?

14 A. I don't recall. At least three.

15 Q. We've got pictures of them; but I think  
16 your memory, again, is pretty good. The picture  
17 shows three, but everyone else will decide.

18 Did you see Officer Miller using those  
19 bar towels? Or let me be specific. The bar  
20 towels being on top of Mr. Baldwin's body when you  
21 first got there and Officer Miller pressing on top  
22 of Mr. Baldwin's body?

23 A. Yes. I don't think Officer Miller was  
24 using them, but they were there when he was doing  
25 chest compressions.

1 Q. Did you get there when a person by the  
2 name of Mr. Ragsdale, can we call him a civilian,  
3 a non police officer, were you -- did you get  
4 there when he was putting compressions on the  
5 body?

6 A. No.

7 Q. Okay. I won't ask you a lot of questions  
8 about that. Were you there when the medical  
9 personnel showed up?

10 A. Yes.

11 Q. And were you there when the medical  
12 personnel were putting their hands on Mr.  
13 Baldwin's chest area?

14 A. Yes.

15 Q. About how many of them did that?

16 A. I wasn't watching them. I was taking  
17 pictures.

18 Q. All right. Did you see anybody else  
19 putting their hands anywhere around Mr. Baldwin's  
20 body in that T-shirt?

21 A. No.

22 Q. Okay. All right. Were you there when  
23 some people came to get the body and put it in the  
24 bag? Sorry. I don't mean to be insensitive, just  
25 trying to ask a question.

1 A. Yes.

2 Q. How many people were trying to do that,  
3 to get Mr. Baldwin into the bag?

4 A. Five, I think. Four or five.

5 Q. Okay. All right. And did you have  
6 occasion to take any other pictures in this case  
7 besides down there at Racks in the parking lot?

8 A. No.

9 Q. Okay.

10 MR. LOW: Appreciate it. That's all  
11 we have.

12 MR. BLONIGEN: Just a couple  
13 follow-ups.

14 REDIRECT EXAMINATION

15 BY MR. BLONIGEN:

16 Q. I'm going to show you your report for  
17 some more specific times. Now, before the tarp  
18 was placed on Mr. Baldwin, was a different sort of  
19 tent made to protect the body?

20 A. Yes.

21 Q. Would you describe that for us?

22 A. We had a sort of a pop-up tent that we  
23 attempted to put over the entire scene; but due to  
24 the wind and the blowing snow, there was no way to  
25 secure that. So we had to wait for someone to

1 bring us a different sort of tarp that we could  
2 cover the body.

3 Q. And were you actually the individual that  
4 retrieved the wallet of Mr. Baldwin so you could  
5 effect an identification of the victim?

6 A. Yes.

7 Q. Was that before or after the body was  
8 covered?

9 A. After.

10 Q. Handing you your report, then, you write  
11 some specific times in the report. And referring  
12 you first to the third paragraph, do you indicate  
13 the time that Mr. Baldwin was declared deceased?

14 A. 0035 hours, which is 12:35 a.m.

15 Q. And what time did you retrieve the wallet  
16 according to near the bottom of the page?

17 A. 0300 hours.

18 Q. And at 0300 hours, when you recovered the  
19 wallet, do you have any estimate of how long  
20 Mr. Baldwin's body had been covered for at that  
21 time?

22 A. I couldn't say. Maybe an hour or so.

23 Q. Okay. You didn't cover it right when he  
24 was pronounced, did you?

25 A. No. We -- no.

1                   MR. BLONIGEN: Thank you. That's  
2 all the questions I have, Judge. I just wanted  
3 those times.

4                   THE COURT: Any request for recross?

5                   MR. LOW: Quickly.

6                   RE CROSS EXAMINATION

7 BY MR. LOW:

8           Q.     Later some guy -- some officer showed up  
9 with a black tarp?

10          A.     Yes.

11          Q.     That they covered body with?

12          A.     Yes.

13          Q.     Then put beer cases on the corners to  
14 keep it down?

15          A.     Yes.

16          Q.     And that was after 4:40?

17          A.     It's possible, yes. I --

18          Q.     The makeshift tent that counsel is  
19 alluding to, that one didn't work, so you did the  
20 best with what you had because the wind was just  
21 too brisk or blowing too hard to keep it going;  
22 right?

23          A.     Correct.

24          Q.     Do you have any idea how long Mr. Baldwin  
25 had been laying there before he got pronounced

1 dead?

2 A. 30 to 40 minutes.

3 Q. I'm sorry?

4 A. About 40 minutes maybe.

5 Q. About 40 minutes, give or take. Clearly,  
6 you weren't there when the shooting first took  
7 place; right?

8 A. Right.

9 Q. So it would be difficult for you to say  
10 for sure?

11 A. Uh-huh.

12 MR. LOW: Thank you. That's all I  
13 have.

14 MR. BLONIGEN: Your Honor, may I  
15 have just one follow-up question I forgot to ask?

16 MR. LOW: No objection.

17 THE COURT: I'll grant leave. Go  
18 ahead.

19 RE-REDIRECT EXAMINATION

20 BY MR. BLONIGEN:

21 Q. When the officers first arrived and they  
22 attended to Mr. Baldwin, did officers keep patrons  
23 from the bar from leaving or moving their vehicles  
24 from the parking lot?

25 A. Yes.

1 MR. BLONIGEN: That's all I had.  
2 I'm sorry, Your Honor. Thank you.

3 THE COURT: Thank you very much.

4 Thank you, Officer. You may step down,  
5 and you're excused from the case and any subpoena.

6 MR. BLONIGEN: The State would call  
7 Deputy Herмосillo.

8 THE COURT: Officer, please come  
9 forward. The Clerk of District Court to my left  
10 will give you the oath; and then after you're  
11 sworn, you'll sit to the other side. Thank you.

12 THE CLERK: Thank you. You do  
13 solemnly swear that the testimony you will give in  
14 the case before the Court will be the truth, the  
15 whole truth, and nothing but the truth, so help  
16 you God?

17 THE WITNESS: I do.

18 THE CLERK: Please be seated. Right  
19 there through to the witness chair.

20 JESUS HERMOSILLO,  
21 called for examination by the State, being first  
22 duly sworn, on his oath testified as follows:

23 DIRECT EXAMINATION

24 BY MR. BLONIGEN:

25 Q. Would you state your name for the record,

1 please.

2 A. Jesus Hermosillo.

3 Q. Where are you employed, sir?

4 A. The Natrona County Sheriff's Office.

5 Q. How long have you been a peace officer?

6 A. It'll be ten years on March 21st.

7 Q. Were you on duty on October 4th of 2013?

8 A. I was not.

9 Q. Did you have occasion to go to Racks  
10 Gentlemen's Club?

11 A. I did. I got called out.

12 Q. At approximately what time?

13 A. I got called at about 4:00 in the  
14 morning. I arrived at Racks at approximately 5:46  
15 a.m.

16 Q. Okay. What was your role at that scene?

17 A. I was assisting Deputy Katie Preciado in  
18 basically whatever she needed me to do.

19 Q. Now, did you also have occasion to assist  
20 Mr. Norcross?

21 A. I believe both of them were on scene at  
22 the time, so I assisted with loading the victim's  
23 body.

24 Q. Okay. Now, was next to the area where  
25 the victim's body was located, was there a pickup



1 truck?

2 A. There was.

3 Q. At some point in the morning, did the  
4 owner of that vehicle retrieve it and drive it  
5 away?

6 A. He did.

7 Q. After he retrieved it and drove it away,  
8 did new information develop in the case?

9 A. That's correct.

10 Q. What was that information?

11 A. The new information was that a victim had  
12 been shot.

13 Q. Okay. You did not know that beforehand?

14 A. I did not.

15 Q. And so that vehicle is now gone?

16 A. Correct.

17 Q. Were you able to identify the owner of  
18 that vehicle?

19 A. I was.

20 Q. And based upon that, were you able to  
21 locate it?

22 A. I was.

23 Q. And who was that, for the record?

24 A. The owner of the truck?

25 Q. Yes.

1           A.     I don't have my report, but I believe it  
2 was a Shannon Brewer.

3           Q.     Well, let me hand you a copy of your  
4 report. I'll have a couple questions for you. Is  
5 that a copy of your report in this case, sir?

6           A.     Yes, it is.

7           Q.     Okay. And referring you to the last  
8 paragraph of page 1, does it indicate the owner of  
9 the truck?

10          A.     That's correct.

11          Q.     Okay. And did you contact him?

12          A.     I did.

13          Q.     How did you contact him?

14          A.     Actually, got his information, he -- he  
15 arrived on scene to pick up his truck, so I talked  
16 to him in person.

17          Q.     Did you know about the change in the  
18 facts at this time?

19          A.     No.

20          Q.     So he takes his truck and he leaves?

21          A.     Correct.

22          Q.     You develop this new idea?

23          A.     Correct.

24          Q.     Or these new facts?

25          A.     Correct.

1 Q. So what do you do?

2 A. I called him back.

3 Q. Okay. And what did you ask him?

4 A. I asked him to drive back to Racks so I  
5 could search his truck for a shell casing.

6 Q. Okay. Did he do so?

7 A. He did.

8 Q. And did you notice any damage to the  
9 truck at that time?

10 A. I did not.

11 Q. Okay. At a later time, did you obtain  
12 some measurements from his truck?

13 A. That's correct.

14 Q. When and where did that take place?

15 A. That was at the Port of Entry off of Salt  
16 Creek Highway.

17 Q. So it wasn't at Racks?

18 A. No, it was not.

19 Q. When was it?

20 A. I believe I have it. It was --

21 Q. Referring you to the -- is it 2230 hours?

22 A. Sorry. I'm looking. I'm sorry. Yes, it  
23 was.

24 Q. Okay. 2230 for us civilian folks, what  
25 time is that?

1 A. That's 10:30.

2 Q. Okay. 10:30 at night?

3 A. Yes.

4 Q. Okay. Not quite 24 hours after the  
5 shooting?

6 A. No.

7 Q. And had it continued to snow throughout  
8 the day?

9 A. I'm sorry. Can I go back?

10 Q. Yes, please, if you have something to  
11 correct.

12 A. I do. This report, at 22:30, that's the  
13 time that Mr. Brewer was at the Racks Gentlemen's  
14 Club; correct.

15 Q. Okay.

16 A. The time that I photographed the truck is  
17 a totally different time.

18 Q. Okay. What is that time? When did you  
19 photograph the truck?

20 A. When I photographed it, that was  
21 approximately nine o'clock in the morning.

22 Q. Okay. Of which morning?

23 A. Of October 4th.

24 Q. Okay. So you go find the truck on  
25 October 4th; right?

1 A. Correct.

2 Q. Nine o'clock in the morning, not 20 --

3 A. Correct.

4 Q. Okay. That makes more sense. And where  
5 did you go to photograph the truck?

6 A. At the Port of Entry.

7 Q. Okay. Now, do you know if there was any  
8 more snow in there, in Mr. -- the bed of Mr.  
9 Brewer's truck than there was at midnight?

10 A. I don't know.

11 Q. Okay. Had it snowed pretty much all day?

12 A. It had.

13 Q. Okay. Now, on the Port of Entry parking  
14 lot, do you have any idea of whether it's the same  
15 surface and condition as the Racks parking lot?

16 A. It's asphalt just like Racks parking lot  
17 is.

18 Q. Other than that?

19 A. Other than that, I -- I'm not sure.

20 Q. But you did take measurements?

21 A. I did.

22 Q. I'm going to hand you some photographs  
23 here, 324 through 328, ask you to briefly look  
24 through these and ask if these are the photographs  
25 you took at the Port of Entry that morning

1 detailing that damage to that Ford truck.

2 A. That is correct.

3 Q. And do they accurately show what you saw  
4 that morning?

5 A. That's correct.

6 MR. BLONIGEN: Move for the  
7 introduction, Your Honor, of 324 through 328.

8 THE COURT: Any objection?

9 MR. LOW: No, sir.

10 THE COURT: Exhibits 324 through 328  
11 inclusive are received.

12 Q. (BY MR. BLONIGEN) So this is the front  
13 end of the pickup truck we're talking about; is  
14 that correct?

15 A. That is correct.

16 Q. And did you find a -- you indicated you  
17 found a defect or damage to the rear of the  
18 vehicle?

19 A. The owner actually located it.

20 Q. Okay. Had -- according to him, was that  
21 damage there before?

22 A. It was not.

23 Q. Now, did you look at it?

24 A. I did.

25 Q. What did it look like?

1           A.     It looked like some kind of projectile  
2 had struck the side of that truck.

3           Q.     Did it penetrate the truck?

4           A.     No, it did not.

5           Q.     So this would be a spent projectile,  
6 obviously?

7           A.     Correct.

8           Q.     Did you take photographs of that?

9           A.     I did.

10          Q.     So going to 325 first, does that show the  
11 defect you observed in the truck?

12          A.     Yes, it does.

13          Q.     Could you point it out for the ladies and  
14 gentlemen of the jury.

15          A.     (Indicated.)

16          Q.     Okay. And then if you can touch the  
17 bottom left-hand corner, I believe it'll erase  
18 other markings. Thank you. Let's look further.  
19 You took measurements, didn't you?

20          A.     I did.

21          Q.     And so here we have the measurement; is  
22 that correct?

23          A.     Correct.

24          Q.     And I notice your tape looks like it's  
25 sitting on pavement?

1 A. Correct.

2 Q. The tire is sitting on snow?

3 A. Correct.

4 Q. Then so if we can get a little closer  
5 picture, does this tell us the distance, then?  
6 Can you see that fairly well on your monitor,  
7 Deputy?

8 A. I can.

9 Q. And so what -- how far off the ground did  
10 you measure the defect as being?

11 A. I measured the center of it to be about  
12 48 and seven-eighths of an inch.

13 Q. From the ground?

14 A. From the ground.

15 Q. And how far from the top?

16 A. Five and a half.

17 Q. Okay. Did you also take a picture or  
18 some measurements, in all fairness, from the back  
19 of the bed to where the -- or in the front of the  
20 truck to where the divot was?

21 A. It was from the front of the bed to where  
22 the impact was, and it was 46 and a half inches.

23 Q. Okay. Did you have occasion to continue  
24 to have some assistance in this case on other  
25 matters?



1 A. I did.

2 Q. And specifically, on I believe it was  
3 October 7th, did you accompany Detective Ellis to  
4 the Marathon Building?

5 A. I did.

6 Q. And is that a secure location where the  
7 car was kept?

8 A. That's correct.

9 Q. Had some possible stains been viewed on  
10 the "A" post of the vehicle at that time?

11 A. That's correct.

12 Q. How would you describe what you observed  
13 on the "A" post?

14 A. It appeared to be some kind of body  
15 fluid.

16 Q. Okay. Or at least suspect?

17 A. Suspect, yes, some kind of -- that's  
18 correct.

19 Q. When we are screening and doing evidence  
20 collection for body fluids, do you ever use a  
21 device called a Lumalight?

22 A. We do.

23 Q. Why do you use that?

24 A. It basically makes such things as body  
25 fluids just stand out that much more. Body fluid,

1 blood.

2 Q. They fluoresce, right, they glow?

3 A. Correct. Correct.

4 Q. So I'm going to hand you some photographs  
5 I've marked 434 through 437 -- or excuse me,  
6 double-check that. 434 through 437. And you can  
7 look through those briefly and tell me if those  
8 photographs capture you and Mr. Ellis collecting  
9 those stains in question.

10 A. That's correct.

11 MR. BLONIGEN: Move for the  
12 introduction, Your Honor, of 434 through 437.

13 MR. LOW: No objection, Your Honor.

14 THE COURT: Exhibits 434 through 437  
15 inclusive are received.

16 Q. (BY MR. BLONIGEN) Now, let's get an idea  
17 of where we're talking about in the car. Do you  
18 recognize that as a picture of the steering wheel  
19 with the "A" pillar?

20 A. That's correct.

21 Q. Would you point out for the jury or mark  
22 it on the screen perhaps what area we're talking  
23 about looking for these stains in?

24 A. (Indicated.)

25 Q. Okay. And is it just in that little spot

1       there or is it several?

2           A.     No.   That's the pillar where they were.

3           Q.     And this is a reddish stain of some sort?

4           A.     Correct.

5           Q.     So having found those -- and they're  
6 multiple little spots?

7           A.     That's correct.

8           Q.     Now, what's the purpose of our little  
9 green arrows here?

10          A.     That's marking for each one of the spots.

11          Q.     Okay.   So each one of those ends of those  
12 arrows is pointing to a small spot where you saw  
13 this reddish stuff?

14          A.     That's correct.

15          Q.     Okay.   And those are fluorescent as well?

16          A.     The stickies?

17          Q.     Well, yeah, when you put the Lumalight on  
18 them, they'll glow, too?

19          A.     Sorry.   Yes, that's correct.

20          Q.     And then you used the Lumalight, didn't  
21 you?

22          A.     We did.

23          Q.     And you photographed that, didn't you?

24          A.     We did.

25          Q.     Referring you to 436, now isn't it true

1 or basically -- let me rephrase that. We see  
2 these stickers, don't we, glowing there?

3 A. That's correct.

4 Q. Do the stains glow?

5 A. No.

6 Q. So when you used the Lumalight on these  
7 stains like you do for biologicals, they didn't  
8 glow?

9 A. They did to the human eye but not the  
10 camera itself.

11 Q. So you're going to collect these just in  
12 case; right?

13 A. Correct.

14 Q. So what was done to collect them?

15 A. I used a swab, which I swabbed multiple  
16 spots, the ones we marked off right there.

17 Q. Okay.

18 A. And that's what we collected as evidence.

19 Q. What did you do with them once you  
20 collected them?

21 A. We stuck them in the little box container  
22 which they're supposed to go in and stuck them  
23 inside of an envelope.

24 Q. And who took custody of them then?

25 A. Investigator Sean Ellis.

1 Q. Okay. And so does 437 show the  
2 collection of those samples?

3 A. That's correct.

4 Q. Now, you numbered these as well, didn't  
5 you?

6 A. I did.

7 Q. I'm going to show you something just for  
8 identification purposes. Are these the six swabs  
9 you collected from those six different areas? You  
10 can look at them if you'd like to, Deputy.

11 A. Yes.

12 Q. So these were properly collected and then  
13 secured and turned over to Mr. Ellis?

14 A. That's correct.

15 MR. BLONIGEN: Thank you, Deputy.  
16 That's all the questions I have.

17 THE COURT: Thank you, Counsel.

18 Cross-examination, Mr. Low.

19 MR. LOW: Yes, thank you, Your  
20 Honor.

21 CROSS-EXAMINATION

22 BY MR. LOW:

23 Q. The luminesce -- say the light again,  
24 what's it called? The light that you use. What  
25 do you call it?

1 A. It's a luminescent.

2 Q. I'll go with that. The light that makes  
3 the -- the fluids reflect?

4 A. Body fluids?

5 Q. Yes, sir. You said that they didn't  
6 reflect for the camera; correct?

7 A. Correct.

8 Q. But they did reflect for your eye?

9 A. Correct.

10 Q. And that's why you decided to take  
11 samples to see if you could figure out what it  
12 was?

13 A. Correct.

14 Q. Did you personally take the samples or  
15 did somebody else?

16 A. That's me in the picture collecting it.  
17 It was me.

18 Q. Now, the way they taught you to do it, do  
19 you put any liquid or anything on those Q-Tips  
20 you're using?

21 A. Correct. We put sterile water on them.

22 Q. All right. And the idea is that  
23 hopefully as the water soaked cotton Q-Tips rub up  
24 against what's on the material, there'll be a  
25 transfer from the material onto the cotton swab;

1 right?

2 A. Correct. Especially when you have a dry  
3 material.

4 Q. Yes. And it looked as though it was dry  
5 at the time you were doing it?

6 A. Correct.

7 Q. How many days was it after the car was  
8 seized?

9 A. I don't recall.

10 Q. Okay. And then if there is some transfer  
11 from the material onto the Q-Tip, the Q-Tip is put  
12 into a -- into a what?

13 A. Into a small box container.

14 Q. To protect the Q-Tip?

15 A. Correct.

16 Q. The end that's got the material on it?

17 A. Correct.

18 Q. That's put in a bag?

19 A. It's placed inside of another con --  
20 another envelope, which is properly closed.

21 Q. And then send it to somebody, and they do  
22 what they gotta do; right?

23 A. Correct.

24 Q. But you don't have any control over what  
25 they do or how they do it?

1           A.     No, I don't.

2           Q.     Okay.  And when you're doing your best to  
3 collect some -- some material off the spots, you  
4 can't figure out whether or not -- whether it gets  
5 transferred or what gets transferred, how much,  
6 you just rub it in the area, do your best, put it  
7 in a bag, and you send it off; is that fair?

8           A.     Fair.

9           Q.     Okay.  Let me ask you this, if I may.  
10 The truck, where's all the -- here.  Sorry.  One  
11 second, please.  This truck here that's that --  
12 what is that, a Chevy or a Ford, do you know?

13          A.     It's a -- it's a maroon 2004 Ford F-250,  
14 so it's a three-quarter ton.

15          Q.     There we go, we got the Ford symbol in  
16 front.  Three-quarter ton.  What does that mean,  
17 do you know?

18          A.     I don't know.

19          Q.     Well, some people believe what it means  
20 is that that truck can put three-quarters of a ton  
21 of weight in the back of it.  Does that sound  
22 about right to you?

23                   MR. BLONIGEN:  Judge, he just said  
24 he didn't know.

25          Q.     (BY MR. LOW)  It might refresh your



1 memory now. Does it refresh your memory?

2 MR. BLONIGEN: That's not what he  
3 was asked.

4 Q. (BY MR. LOW) Well, I'll try it again.

5 THE COURT: Go ahead and reask.  
6 Thank you.

7 Q. (BY MR. LOW) If I told you that  
8 three-quarter ton referred to truck payload, does  
9 that refresh your memory as to what that refers to  
10 on a truck model?

11 A. That's negative. I'm not a mechanic. I  
12 don't know that much about trucks.

13 Q. You ever bought a truck before?

14 A. I have.

15 Q. Own one now?

16 A. What's that?

17 Q. You own one now?

18 A. I do.

19 Q. Which model did you get? Never mind. I  
20 don't want to do that to you. How about I just do  
21 this. And you put some stuff in the back of your  
22 truck?

23 A. That's correct.

24 Q. How much -- I mean, do you have any idea  
25 how much weight you can put back there?

1           A.     I don't.

2           Q.     Okay.  Are you aware that trucks are  
3           rated based on how much you can put back there?

4           A.     Yes.

5           Q.     Quarter ton, half ton, three-quarter ton,  
6           one ton, two ton, dually.  You ever hear of all  
7           that stuff when you were shopping for your truck?

8           A.     I did.

9           Q.     Okay.  And let me ask you, do you have  
10          any reason to believe that the distance from the  
11          ground in the parking lot at Racks to that bullet  
12          dent would be any different than the distance from  
13          the ground where you measured it to that bullet  
14          dent?  Any reason to believe those two distances  
15          would be different?

16          A.     No.

17          Q.     So if somebody tried to say that because  
18          there was some snow in the back of the bed of the  
19          truck, somehow now those two distances have  
20          changed over night, do you have any reason to  
21          believe that?

22          A.     I don't know.

23          Q.     I mean, you looked at the snow in the  
24          back of the truck.  Did it look like someone had  
25          put a bunch of stuff in the back of the truck over

1 night?

2 A. No.

3 Q. It looked undisturbed; right?

4 A. Correct.

5 Q. So we know no one put some significantly  
6 heavy items in the back of the truck overnight  
7 which may make the bed go down and may make the  
8 bullet dent go down. You didn't see any evidence  
9 of that, did you?

10 A. No.

11 Q. And you didn't -- weren't asked by Mr.  
12 Blonigen or anybody else to shovel all the snow  
13 out of the back of the truck and weigh it, were  
14 you?

15 A. No.

16 Q. So you don't have any evidence at all as  
17 to how much weight was back there from the time  
18 the truck was there at Racks until the time you  
19 measured it; right?

20 A. I don't.

21 Q. And because you're not a mechanic, you  
22 probably aren't going to know as to the amount of  
23 snow, how that would affect a three-quarter ton  
24 truck's big metal springs, whether it would  
25 compress them in any way; right?

1 A. That's correct.

2 Q. So we have zero evidence of that; right?

3 A. Correct.

4 MR. LOW: Okay. That's all I have.

5 THE COURT: Thank you, Counsel.

6 Anything on redirect?

7 MR. BLONIGEN: Just very brief.

8 REDIRECT EXAMINATION

9 BY MR. BLONIGEN:

10 Q. So we simply don't know if those things  
11 happened?

12 A. That's correct.

13 Q. We do know that it was measured in a  
14 place and a time different than, what, midnight  
15 that morning, don't we?

16 A. That's correct.

17 Q. Now, collection of the swabs, I take it  
18 you did a thorough -- you put as much of the  
19 material on the swabs as you could get?

20 A. That's correct.

21 Q. Had the car been in secure storage the  
22 entire time?

23 A. That's correct.

24 Q. That's inside storage; right?

25 A. That is inside storage.

1                   MR. BLONIGEN: That's all the  
2 questions I have, Your Honor.

3                   THE COURT: Thank you.  
4                   Anything on recross?

5                   MR. LOW: Briefly.

6                   REXCROSS-EXAMINATION

7 BY MR. LOW:

8           Q.     So if I asked you to tell me if the  
9 height of the truck changed overnight, you'd have  
10 to guess; right?

11          A.     If I had to answer it?

12          Q.     Yes. You'd have to guess?

13          A.     Yeah.

14          Q.     And you don't want to guess in police  
15 work, do you?

16          A.     No.

17          Q.     Because that might lend itself to some  
18 innocent person getting convicted; isn't that  
19 right?

20                   MR. BLONIGEN: Well, Your Honor,  
21 these are improper questions.

22                   THE COURT: The last question was.  
23 I'll sustain.

24                   MR. LOW: Thank you, Your Honor.

25                   THE COURT: Thank you, Officer. You

1 may step down, and you're excused from the case  
2 and any subpoena.

3 MR. BLONIGEN: State would next call  
4 Amanda Herron.

5 THE COURT: Ms. Herron, please come  
6 up to the Clerk of District Court to my left here;  
7 and then after you're sworn, please sit to the  
8 other side.

9 THE CLERK: Please raise your right  
10 hand. You do solemnly swear that the testimony  
11 you will give in the case before the Court will be  
12 the truth, the whole truth, and nothing but the  
13 truth, so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Please be seated.

16 THE COURT: Could I ask Mr. Low if  
17 you'd move the display board.

18 MR. LOW: Yes.

19 THE COURT: We do ask you to speak  
20 directly into the microphone. It is adjustable,  
21 so you can move it and adjust if you need to.

22 AMANDA HERRON,  
23 called for examination by the State, being first  
24 duly sworn, on her oath testified as follows:

25

## DIRECT EXAMINATION

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BY MR. BLONIGEN:

Q. Would you would state your name for the record, please.

A. Amanda Herron.

Q. Where are you employed, Ms. Herron?

A. I'm employed by the Wyoming State Crime Lab.

Q. What is your educational background?

A. I have a bachelor's degree in chemistry from South Dakota State University and a master's of science in forensic science from Marshall University.

Q. What are your present duties at the crime lab?

A. My job at the crime lab is to test items of evidence for the presence of controlled substances, generate a report with my conclusions, and then testify.

MR. LOW: Mr. Blonigen, may I -- I apologize for the interruption. Your Honor, we, as a defense, we're willing to stipulate to this person's testimony and what she's going to testify, which I believe is the presence of marijuana residue. We agree. And we'll submit,

1 and it would speed up time. But whatever you'd  
2 like to do.

3 MR. BLONIGEN: Well, Your Honor, it  
4 might have been nice to know that before she came  
5 from Cheyenne.

6 MR. LOW: I'm sorry. I didn't know.  
7 I apologize.

8 THE COURT: Well, the stipulation  
9 could be accepted, but I think --

10 MR. BLONIGEN: I will accept it.  
11 I'll just add a few more facts. That will  
12 certainly shortcut it quite a lot.

13 THE COURT: Okay. The stipulation  
14 is accepted. And for the jury, that means it's  
15 conclusively established per the agreement of the  
16 parties.

17 So go ahead, Counsel.

18 MR. BLONIGEN: Yes, Your Honor.  
19 That should shortcut it quite a bit.

20 Q. (BY MR. BLONIGEN) I'll show you what's  
21 been admitted as Exhibit 403, your Laboratory Item  
22 Number 15. Is this the item you tested?

23 A. It is.

24 Q. And upon testing that item, did you find  
25 evidence of any controlled substance?



1           A.     I did.  I identified the presence of  
2 tetrahydrocannabinol, THC.

3           Q.     And why is that significant,  
4 tetrahydrocannabinol significant?

5           A.     That's the main component of marijuana.

6           Q.     Okay.  How much was in there?

7           A.     This -- in this particular case, it was a  
8 residue amount, so it was below the detection of  
9 my balance.

10          Q.     Okay.

11                   MR. BLONIGEN:  That's all the  
12 questions I have.  Thank you.

13                   THE COURT:  Cross-examination,  
14 Mr. Low?

15                               CROSS-EXAMINATION

16          BY MR. LOW:

17           Q.     It was so small, the amount was so small  
18 you couldn't even weigh it?

19           A.     Correct.

20                   MR. LOW:  Nothing further.  Thank  
21 you, ma'am.

22                   THE COURT:  Anything on redirect,  
23 Mr. Blonigen?

24                   MR. BLONIGEN:  No, sir.  We'll ask  
25 that she be released from her subpoena.

1 THE COURT: You're free to go. You  
2 may be released from your subpoena. You might  
3 hand that back to Mr. Blonigen if you would.

4 MR. BLONIGEN: I'll take it from  
5 her. Thank you.

6 MR. ITZEN: Your Honor, State would  
7 call Mike Moore.

8 THE COURT: Please come forward,  
9 Mr. Moore, if you would.

10 THE CLERK: Please raise your right  
11 hand. You do solemnly swear that the testimony  
12 you will give in the case before the Court will be  
13 the truth, the whole truth, and nothing but the  
14 truth, so help you God?

15 THE WITNESS: I do.

16 THE CLERK: Please be seated.

17 THE COURT: And, Mr. Moore, we do  
18 ask you to speak into the microphone. It is  
19 adjustable, so you can move it if you need to.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Go ahead.

22 JAMES MICHAEL MOORE,  
23 called for examination by the State, being first  
24 duly sworn, on his oath testified as follows:  
25

## 1 DIRECT EXAMINATION

2 BY MR. ITZEN:

3 Q. Good afternoon.

4 A. Afternoon.

5 Q. Could you please state your name.

6 A. My name is James Michael Moore.

7 Q. And where do you work, sir?

8 A. I work for the Chemical Testing Program,  
9 Department of Health, State of Wyoming.

10 Q. And what do you do there?

11 A. I'm the laboratory supervisor and senior  
12 forensic toxicologist.13 Q. And how long have you been at the  
14 Department of Health and Chemical Testing?15 A. I've been with the department 13 years  
16 now.

17 Q. And what is your formal education, sir?

18 A. I've got an associate in science and  
19 medical technology, a bachelor of science in  
20 biological sciences, and numerous postgraduate  
21 short courses in the area of forensic toxicology.22 Q. Do you have any specialized training in  
23 your field?

24 A. Yes, I do.

25 Q. And what do you do to continue your

1 education?

2 A. I do online research --

3 MR. LOW: Your Honor, I'm offering  
4 to stipulate to this gentleman's credentials.  
5 He's well qualified. And I'll even stipulate to  
6 what I believe is going to be the blood and urine  
7 results, if that helps.

8 THE COURT: Okay. Mr. Itzen?

9 MR. ITZEN: Judge, we can move  
10 along.

11 THE COURT: Okay. I don't know what  
12 the results are, so maybe we don't have a precise  
13 stipulation; but the proposal, at least as to the  
14 qualifications, will be noted. Thank you.

15 Q. (BY MR. ITZEN) In this case, Mr. Moore,  
16 did you receive a sample from the Natrona County  
17 Sheriff's Office to test?

18 A. Yes, I did.

19 Q. And when it -- when it was received in  
20 your laboratory, were all the seals intact?

21 A. Yes, they were.

22 Q. Were there any signs of tampering with  
23 it?

24 A. None that was noted either by the  
25 receiving technician or myself.

1                   MR. LOW: I'll also stipulate to the  
2 chain of custody. There's no issues there either.  
3 But I'm not trying to hurry anybody, I'm just  
4 saying we agree with all this evidence. That's  
5 all.

6                   MR. ITZEN: Thank you.

7                   THE COURT: That stipulation can be  
8 accepted by the Court. Thank you.

9                   Q.     (BY MR. ITZEN) And did you test that  
10 substance in accordance with certain procedures?

11                  A.     Yes, I did.

12                  Q.     Whose procedures do you follow, sir?

13                  A.     We follow the Department of Health  
14 procedures. It's actually procedures that are  
15 approved for analyzing blood samples within the  
16 state.

17                  Q.     All right. And do you possess a valid  
18 permit to conduct such tests?

19                  A.     Yes, I do.

20                  MR. LOW: Lastly, I'll stipulate to  
21 all the credentials of the lab, I'll stipulate to  
22 all the procedures to test the material, and I'll  
23 stipulate to what I believe are the results, that  
24 I agree with them.

25                  THE COURT: Okay. I think, once

1       again, as to those foundational matters, I can  
2       accept those and the jury can accept the  
3       foundational stipulation. Maybe we can go  
4       directly to the results. But I would grant leave,  
5       if you want to develop more, you have a right to  
6       do that.

7           Q.     (BY MR. ITZEN) And in this case, did you  
8       perform those tests?

9           A.     Yes, I did.

10          Q.     And did you get a blood alcohol  
11       concentration in this case?

12          A.     Yes, I did.

13          Q.     And what was the blood alcohol  
14       concentration in this case?

15          A.     The reported result was .13.

16          Q.     And what time was the sample collected?

17          A.     I would have to refer to the submittal  
18       form to give you a precise time.

19          Q.     Would that also be on your report?

20          A.     Yes, it will.

21          Q.     Allow me to show you that.

22                   MR. ITZEN: If I may approach,  
23       Judge. Sorry.

24                   THE COURT: Yes.

25          A.     The collection time for the sample was

1 4:45 a.m. on October 4, 2013.

2 Q. (BY MR. ITZEN) All right. And,  
3 Mr. Moore, we know in this case that the defendant  
4 quit drinking around 10:30 and the homicide was  
5 around 12:15. Is there any way to determine what  
6 his blood alcohol would have been at about 12:15  
7 or 12:30 in the morning?

8 A. Yes. With that information, we can do a  
9 process, what we call retrograde extrapolation, to  
10 calculate a range of alcohol concentrations at a  
11 point in the past.

12 Q. And were you asked to do that here?

13 A. I was.

14 Q. And what is that range, sir?

15 A. If I could refer to my notes.

16 Q. Yes, sir.

17 A. The calculations I was asked to perform  
18 were based on two time frames, one time frame of  
19 being 4.25 hours from the time of collection of  
20 the sample; and the other one, a distance of 6.25  
21 hours from the time of the collection of the  
22 sample, reflecting the incident time as noted on  
23 the report. The -- and do you want the ranges?  
24 Is that what the question was?

25 Q. Yes, sir.

1           A.     Okay.  The range for the 4.25 hour time  
2 frame was .172 to .249, and the range for the 6.25  
3 hour time frame was 1.92 to .305.

4           Q.     At those levels of impairment, how does  
5 that affect a human body?

6           A.     At those levels of impairment, the  
7 thought processes are going to be impacted.  Their  
8 ability to perform divided-attention tasks or, you  
9 know, normal driving skills would be impacted  
10 also.

11          Q.     What about their critical thought or  
12 ability there?

13          A.     It would also impact their critical  
14 judgment as far as decision-making processes.

15          Q.     Did you also test the substance or the  
16 substances for controlled substances?  That's a  
17 poor question.

18          A.     Yes.  The samples that were submitted to  
19 the lab, a blood sample and urine sample were both  
20 tested for alcohol and controlled substances.

21          Q.     Was there anything found in the blood?

22          A.     The blood drug screen was negative.  
23 There was nothing in it.  None of the drugs that  
24 we actually test for showed up above the cutoff  
25 level.



1           Q.     All right.  How long does marijuana stay  
2     in the blood system before then it starts passing  
3     to the urine?

4           A.     The time frame from the blood to the  
5     urine is actually not that long.  It's a matter of  
6     hours.  If you -- you know, I guess an easy way to  
7     explain it is if you take someone who's actually  
8     in the act of smoking, collect a urine sample at  
9     that precise point in time, there's a high  
10    probability that the urine test will be negative  
11    for that drug.  It takes a little while for it --  
12    for the body to metabolize it or break it down and  
13    then to show up in the urine, so you're talking a  
14    matter of hours, and typically single digit hours.

15           Q.     And in this case, was the defendant's  
16    urine positive for anything?

17           A.     The urine sample was positive for the  
18    metabolite of marijuana, the carboxy -- delta-9  
19    carboxy THC.

20                   MR. ITZEN:  Your Honor, if I may  
21    have a moment.

22                   THE COURT:  Yes, sir.

23                   MR. ITZEN:  Mr. Moore, thank you for  
24    your time.  I don't know if Mr. Low will have some  
25    questions.

1 Thank you for the stipulation.

2 MR. LOW: You're welcome, sir.

3 THE COURT: Cross-examination, you  
4 may proceed.

5 MR. LOW: Thank you.

6 CROSS-EXAMINATION

7 BY MR. LOW:

8 Q. Sir, can I ask you about that alcohol.  
9 Can we visit on that a little bit? What time  
10 precisely was the last time that alcohol crossed  
11 the lips of Mr. John Knospler?

12 A. I don't have firsthand knowledge of that  
13 precise time.

14 Q. So you'd have to guess?

15 A. I'd either have to guess or, if the  
16 information is provided to me, I could make a  
17 calculation based on that.

18 Q. And is it true, sir, that when you first  
19 drink alcohol, it goes in your mouth and down your  
20 esophagus and into your stomach?

21 A. That's true, yes.

22 Q. Okay. Now, the minute it goes into our  
23 stomach, I'll just draw -- that's a stomach right  
24 there, and there's our mouth. I know I'm bad, but  
25 anyway, we just drank it. Pretend this is some

1 beer. It's in our stomach. And if we took a  
2 blood sample, we'll call that blood alcohol  
3 content sample, one minute later, assuming he's  
4 had no other alcohol, this is some person on the  
5 street, this is the very first drink, blood  
6 alcohol sample one minute later, it's going to  
7 come up zero if it's a blood sample; correct?

8 A. It'll come up zero or a very minimal  
9 amount, if at all.

10 Q. All right. Now, is it true that as time  
11 goes by, this alcohol will start to be absorbed  
12 through some of the stomach lining, and, if you  
13 will, go into the bloodstream; is that fair?

14 A. Some of the alcohol will be absorbed  
15 through the stomach, yes. The majority is  
16 absorbed through the small intestine.

17 Q. All right. And that's called the  
18 duodenum; right?

19 A. You can call it, you know, the duodenum  
20 is part of the small intestine, yes.

21 Q. All right, then. So even more starts  
22 getting absorbed through there and going into the  
23 bloodstream; correct?

24 A. That's correct.

25 Q. And then some of it will go into the --

1 I'm sorry, forgive me -- the small intestine; is  
2 that okay? Is that true?

3 A. The duodenum and small intestine are sort  
4 of co-located, so it goes at a much more rapid  
5 pace. And so it's going to be absorbed -- the  
6 majority of the alcohol is absorbed in the small  
7 intestine.

8 Q. All right. We'll put a couple arrows  
9 there for majority. And is it your understanding,  
10 sir, that it takes about roughly 40 minutes for  
11 the digestive system to fully absorb the alcohol  
12 in place and put it available to the bloodstream?

13 A. It depends on the fed or unfed state of  
14 the subject.

15 Q. And does that mean that if you had a meal  
16 or some food in there and the food now mixes with  
17 the alcohol -- I'll draw some cheeseburger in  
18 here, something like that -- that it mixes with  
19 the alcohol and it absorbs, and so then since it  
20 takes longer to breakdown that cheeseburger and  
21 break it down to be digested, that'll extend the  
22 time that the alcohol gets absorbed?

23 A. Basically, the way it works, instead of  
24 being absorbed into the food, the stomach will  
25 slow the emptying of the stomach into the small

1 intestine and give the stomach more time to break  
2 the food down so that it will actually be able to  
3 be absorbed by the body. So it stays in the  
4 stomach longer, and then it dumps into the small  
5 intestine. And at that point, then it's -- it's  
6 absorbed. And by having a fed state, what you  
7 actually end up with is a slower absorption rate  
8 of the alcohol and also a lower peak alcohol level  
9 because it is taking such a longer time to be  
10 fully absorbed into the body.

11 Q. Okay. Now, I may have misheard you and I  
12 probably did, but if I can just follow up because  
13 I want to be exact. Did you say that one of the  
14 parameters -- and probably correct me -- of the  
15 last drink under the 6.25 hour mark was 1.92?

16 A. The six point -- yes, the -- the  
17 retrograde calculation for the 6.25 hours, one of  
18 the parameters is .192.

19 Q. Okay. That's what I wanted to ask you  
20 because there's a big difference between 1.92 and  
21 .192; right?

22 A. Yes.

23 Q. At this number, which I thought I heard  
24 you say, you're dead; right?

25 A. Typically you are, yes.

1 Q. And, in fact, most of the time you find  
2 that, if you're above a .33, unless you've got a  
3 high tolerance, you're out cold?

4 A. For a novice drinker, a .33 would have  
5 serious consequences, yes.

6 Q. So at that 6.25 time level -- and that  
7 refers to six hours and a quarter of an hour,  
8 which would be 15 minutes -- you have a parameter  
9 of .305?

10 A. That's correct.

11 Q. Is that the kind of numbers we see when  
12 we hear about them young kids at the fraternity  
13 parties, them boys getting liquored up to the  
14 point where they go to the hospital and sometimes  
15 they die? Are we looking at those kind of  
16 numbers?

17 A. It could be, yeah, depending on the  
18 individual's alcohol tolerance.

19 Q. And so if we got that kind of number and  
20 that person is so intoxicated, they're probably  
21 out cold, they can't move, they're passed out on  
22 the floor; correct?

23 A. Again, depends on the alcohol tolerance  
24 of the individual. You know, for a novice  
25 drinker, someone who's never been exposed to

1 alcohol, it could very well be that.

2 Q. And were you shown any videotape footage  
3 of the person who produced the .13 blood result  
4 that you considered?

5 A. No, I was not.

6 Q. And if you are able to see how someone  
7 moves and how someone acts and how someone  
8 controls their body, does that give you some input  
9 as to also trying to figure out what their alcohol  
10 content may be?

11 A. You can use outward appearance to a  
12 certain degree. Again, the outward appearance of  
13 an individual is going to be -- is going to be  
14 based on their experience with alcohol. So  
15 someone who is very experienced with alcohol, to a  
16 layperson, at a .15, you would consider them  
17 sober, whereas they are definitely intoxicated.  
18 You know, for a novice at that same level, you  
19 would have no problem determining yes, that person  
20 is intoxicated.

21 Q. So as a scientist, you ever heard the --  
22 well, let me ask it -- let me be fair. As a  
23 scientist, sometimes considering more data may  
24 allow you to make a better conclusion; is that  
25 fair?

1           A.     The more data you have, the more  
2           substantial your conclusion can be as far as  
3           validity, yes.

4           Q.     Now, out of fairness to you, if they give  
5           you bad data or garbage data, that may not help;  
6           is that fair?

7           A.     Basically, what I do is I will take the  
8           information that's provided to me, crunch the  
9           numbers, do the calculations, and then provide an  
10          opinion based on that, you know. And any -- any  
11          opinion that I provide is with the caveat based on  
12          that data being reliable.

13          Q.     So the data that you received, the entire  
14          amount of data that you received when being asked  
15          to figure out these blood levels was nothing more  
16          than a small vial of blood when it comes to  
17          alcohol content; is that true?

18          A.     The tube of blood was used to determine  
19          the alcohol concentration, yes.

20          Q.     Did they tell you that they had a  
21          videotape that was taken of Mr. Knospler walking  
22          at the same time they believe he had his last  
23          drink? Did they tell you they had that?

24          A.     I don't recall being informed of any  
25          video to the best of my recollection.



1 Q. And had you got to watch that video to  
2 see how Mr. Knospler was walking and negotiating  
3 and controlling himself, would that have been some  
4 information that you may have found useful in  
5 making your determination as to how the alcohol  
6 could have affected him?

7 A. As far as the effect, yes. As far as the  
8 numbers, the physical condition of the individual  
9 really does not have any impact on the  
10 calculations. It's more of taking a known value  
11 and a known point in time.

12 Q. Well, at the 6 hours and 15-minute mark,  
13 you have a range of calculations that go between a  
14 .192 and a .305?

15 A. Correct.

16 Q. And is this the time that you assume had  
17 been when Mr. Knospler left the bar to the time  
18 the sample was drawn?

19 A. That was the time frame that I was asked  
20 to do the calculation on. As far as what actually  
21 took place at that time, you know, I'm not, you  
22 know, totally informed of. I was -- it was based  
23 on a request, you know. This is the time of the  
24 incident, so basing it on, you know, a time of the  
25 incident to the time of the test, I did that

1 calculation.

2 Q. Yes, sir. So because -- you have this  
3 range because you can't figure out exactly what  
4 his level of intoxication was when he left the  
5 bar; correct?

6 A. The reason for the range is based on  
7 three different elimination rates. And we use,  
8 you know, an elimination rate for a novice  
9 drinker, an average drinker, and an experienced  
10 drinker. So that way, not knowing where the  
11 individual fits into the categories, you can't  
12 narrow it down to a single point or a single  
13 calculatable number. So what we do is, to be a  
14 little more on the conservative side, we'll use  
15 the range and say that, you know, it would  
16 typically fit between the low point and the high  
17 point. The determination of exactly where the  
18 individual fits would be up to either the judge,  
19 jury, or whoever is making that determination.

20 Q. You're just doing the best you can with  
21 what you got; is that fair?

22 A. Exactly.

23 Q. Okay. And now, again, in order for you  
24 to have this job, you had to take a lot of school  
25 work?

1 A. Right, yes.

2 Q. Lot of science classes?

3 A. Yes sir.

4 Q. Lot of chemistry courses?

5 A. Yes.

6 Q. And do you remember when you're taking  
7 those chemistry courses or science courses, you  
8 had to take the corresponding lab class?

9 A. Yes. I've done a lot of lab classes,  
10 yes.

11 Q. And in those lab classes, you conduct  
12 experiments; right?

13 A. Yes, we do.

14 Q. And when you're conducting experiments,  
15 you do a calculation to figure out what percent of  
16 the chemical reaction went to completion; right?

17 A. It's part of some of the calculations  
18 that we do, and it's based on the end result of  
19 what you get and the anticipated result.

20 Q. Because the experiments you perform, they  
21 never go -- never go to a hundred percent  
22 completion. It's always something less; correct?

23 A. Typically, you don't have a hundred  
24 percent completion on lab experiments because  
25 you're dealing with unknowns and unknown

1 parameters.

2 Q. And one of the things that they make you  
3 do or a good scientist would do is that they also  
4 have to always do what's called an error analysis  
5 of their experiment, which means to think  
6 critically and figure out how much error was built  
7 into my experiment. They make you do that, don't  
8 they?

9 A. Depends on the experiment. Most of the  
10 work that I did was, you know, related to clinical  
11 and forensic laboratory work; and it wasn't doing,  
12 you know, taking something that you had no clue  
13 what it was. You knew what you were looking for,  
14 so you had more information in the beginning. So  
15 the -- the error rate or the measurement, you  
16 know, of uncertainty was minimized for that fact.

17 Q. Sir, exactly what was the percent error  
18 in your conclusions that you figured out?

19 A. I didn't calculate a percentage because  
20 it's -- the numbers are based on three different  
21 categories of individuals. And by using the three  
22 categories, you take into consideration any, you  
23 know, uncertainty, you know, of the measurements  
24 in itself.

25 Q. And, sir, is it true that the more

1 precise your experiment is, the easier it is to  
2 figure out the percent error; isn't that true?

3 A. If I had the information on the  
4 individual, I knew what the subject's precise  
5 elimination rate was at that given point in time,  
6 then I could give you a more precise number or  
7 give you a single number; and it would be a --  
8 with a higher degree of scientific certainty.

9 Q. But the less precise your experiment is,  
10 the harder it is to figure out the percent error  
11 of your experiment; isn't that also true, sir?

12 A. The less information you have, the less  
13 reliable the calculations are.

14 Q. And so if you can't have a precise  
15 experiment, you cannot come up with an accurate or  
16 even remotely close percent error of your  
17 experiment; correct?

18 A. If you're talking about experiments,  
19 yeah, the more you have, the better you -- the  
20 better your result is going to be.

21 Q. And in this particular case with your  
22 findings, you were not able to come up with a  
23 percent error like other scientists do; isn't that  
24 true?

25 A. I did not perform an error calculation

1 because with retrograde, the range itself  
2 encompasses any errors that could be in the  
3 formula.

4 Q. Now, with regards to the urine, if I may,  
5 sir. Now, just to make sure I got this clear.  
6 What the urine is evidence of is that your body is  
7 removing toxins from the bloodstream and the  
8 tissues; correct?

9 A. That's correct.

10 Q. And they take those toxins, lot of it's  
11 got nitrogen in there; right?

12 A. You have -- depends on what chemical  
13 you're looking at as to what the actual chemical  
14 structure is.

15 Q. But it takes the waste products from your  
16 body, and it puts them in the bladder; right?

17 A. Right. Yeah, that's, you know, a fairly  
18 simplified version, yes.

19 Q. And that's an ongoing process for healthy  
20 people all the time; right?

21 A. That's correct.

22 Q. So hours, like you said, after someone  
23 ingests marijuana, it moves through the system,  
24 the marijuana does; correct?

25 A. That's correct.

1 Q. Moves through the bloodstream; correct?

2 A. Yes, it does.

3 Q. And then your kidneys are the ones that  
4 start pulling that -- that material and discarding  
5 it into the bladder; correct?

6 A. Yes.

7 Q. The kidney's a filter; correct?

8 A. Basically, yes.

9 Q. So the marijuana goes up to some cells,  
10 the cells take it and they eat it or ingest it or  
11 use it; correct?

12 A. I guess you could put it that way.  
13 It's -- I've never put it quite that way, but  
14 yeah. It's an oversimplification; but yes, you  
15 could probably consider that.

16 Q. And then when it's done with the food, it  
17 excretes it and puts it in the bloodstream, and  
18 the kidneys remove the excrement; correct?

19 A. Yes.

20 Q. Now, just because we have it in the  
21 urine, does that mean it's completely gone from  
22 the system?

23 A. No.

24 Q. It could still be in the blood for a  
25 while; right?

1           A.     Yeah.  It's not a total go in the body,  
2     grab all of one compound, put it in the bladder  
3     all at one time, go in grab another compound.  
4     It's a gradual process.

5           Q.     However, you said that you can start  
6     detecting marijuana in the urine hours, and you  
7     said single digit hours, so that's somewhere  
8     between one and nine after someone's ingested it;  
9     correct?

10          A.     Correct.  The body starts breaking it  
11     down and getting rid of it, so it'll start showing  
12     up in the urine sample.

13          Q.     All right.  So tell us, sir, the exact  
14     time that the THC that you found in Mr. Knospler's  
15     urine was taken into his body.

16          A.     I cannot do that.

17          Q.     You what?

18          A.     No.  There's no way of determining the  
19     precise point in time that someone ingested  
20     marijuana based on a urine sample result.

21          Q.     Well, can you then tell us -- if you  
22     can't tell us the exact time, can you tell us how  
23     long it had been there?

24          A.     Not with a specific time frame.  
25     Basically, I can tell you that the individual



1 ingested marijuana for the metabolite to show up  
2 in his urine. The precise time, you know, I can't  
3 give you a -- even a good, reliable guess.

4 Q. All right. If you can't tell us when it  
5 went in and you can't tell us how long it had been  
6 in the urine, well, can you tell us how long it  
7 can stay in the urine?

8 A. For a casual user, typically you can  
9 detect marijuana in the urine for up to 72 hours,  
10 up to three days.

11 Q. Three days?

12 A. Correct.

13 Q. Here's my question. You got a blood  
14 sample that's taken approximately at 4:45 in the  
15 morning; right?

16 A. Yes.

17 Q. And we know for a fact that at 4:45 in  
18 the morning, John Knospler had zero THC in his  
19 bloodstream; correct?

20 A. Not necessarily. You know, as I stated  
21 in the previous answer, it was either zero or  
22 below our limit of detection. So, you know, if  
23 it's below our limit of detection, then we  
24 naturally report it as a negative sample.

25 Q. Well, let's be fair. So it's either

1 zero, correct, or a low amount?

2 A. That's correct.

3 Q. Which one of the two was it in Mr.  
4 Knospler's case?

5 A. It could have been either.

6 Q. You'd have to guess, wouldn't you?

7 A. I would not even guess.

8 Q. Why not?

9 A. Because with a guess, you have a 50  
10 percent probability of being right. And in my  
11 field, I don't like 50 percent probabilities.

12 Q. Good scientist like yourself and a good  
13 person, they wouldn't guess, would they?

14 A. No.

15 Q. Wouldn't be fair, would it?

16 A. No, it would not.

17 Q. All right. So here's another question I  
18 have. If we know that at 4:45 in the morning, Mr.  
19 Knospler has zero or an undetectable amount of THC  
20 in his system, does that mean that he was not  
21 under the influence of THC?

22 A. If there was nothing in his blood at that  
23 point in time, it would be highly probable that he  
24 was not under the influence of THC at the time the  
25 sample was collected.

1 Q. So since the urine cannot tell you when  
2 the THC got in there, cannot tell you how long it  
3 had been in there, and could have been in there up  
4 to 72 hours earlier, the truth is you have zero  
5 evidence that says Mr. Knospler was under the  
6 influence of THC at 12:30 a.m. on October the 4th,  
7 2013; isn't that correct?

8 A. No. We have zero evidence that -- that  
9 he was under the influence at 4:45 a.m. That was  
10 the time the sample was collected.

11 Q. All right.

12 A. I can't, you know, with that, you know, I  
13 can't go backwards in time and do a retrograde on  
14 that because if you have zero, you can't  
15 retrograde a zero number back to a point in the  
16 past, so.

17 Q. Well, if you can't go backwards from  
18 4:45, then that means you have no evidence to  
19 prove that Mr. Knospler was under the influence of  
20 THC at 12:30; isn't that true?

21 A. I have no evidence to go either way.

22 MR. LOW: Thank you. I appreciate  
23 you, sir.

24 THE WITNESS: No problem.

25 THE COURT: Thank you, Counsel.

1                   Anything on redirect?

2                   MR. ITZEN:    Yes, sir.

3                   THE COURT:    Mr. Itzen.

4                                 REDIRECT EXAMINATION

5         BY MR. ITZEN:

6                 Q.     Mr. Moore, when we're talking about blood  
7         alcohol, why do you give those ranges?

8                 A.     The primary reason we give the ranges of  
9         elimination is because we do not know the category  
10        that the individual fits into as far as, you know,  
11        whether they're a novice drinker, an average  
12        drinker, or an experienced drinker.  So by using  
13        the range or including all three categories, then  
14        it's, you know, we're not trying to determine, you  
15        know, looking at an individual and say, Well, you  
16        know, they're -- they fit in this category or they  
17        fit in that category.  We give the individual the  
18        benefit of the range so that we can give you a  
19        number that you can work with and say it's from  
20        .192 to .305.  And, you know, the individual could  
21        have been anywhere, you know, at the bottom, the  
22        top, or anywhere in between based on their  
23        particular elimination rate.

24                Q.     All right.  So that bottom number, like a  
25        .19 or a .17, that's the dead minimum; correct?

1           A.     That is the range for a novice drinker.  
2     That's an individual, who, you know, has almost  
3     minimal experience with alcohol.  And basically  
4     what we do with that is the individual, their body  
5     is not accustomed to dealing with alcohol, so it  
6     takes a lot longer to get rid of it and, you know,  
7     metabolize it and eliminate it.

8           Q.     All right.  Do the use of videos or that  
9     type thing help you in an achieving the number  
10    that you've told the jury?

11          A.     The -- you know, like I stated earlier,  
12    the video has no impact on my calculations.  My  
13    calculations are based on the values that are  
14    determined, not on an individual's actions or lack  
15    of actions.

16          Q.     Are these levels significant in  
17    impairment?

18          A.     Yes, they are.

19          Q.     What's the legal limit in the State of  
20    Wyoming for driving?

21          A.     Legal limit in Wyoming is .08.

22          Q.     So we're talking more than two times  
23    that?

24          A.     Yes, sir.

25          Q.     Is it possible for the marijuana to move

1 from blood to urine in a four-hour time span?

2 A. Yes, it is.

3 MR. ITZEN: Thank you for your time,  
4 Mr. Moore.

5 THE COURT: Thank you, Counsel.

6 Anything on recross?

7 MR. LOW: I do have one question.

8 THE COURT: Go ahead.

9 RECCROSS-EXAMINATION

10 BY MR. LOW:

11 Q. Did you test Mr. Baldwin's sample, sir?

12 A. No, sir, I did not.

13 MR. LOW: Thank you. Submit, Your  
14 Honor. Thank you.

15 THE COURT: Thank you very much,  
16 Mr. Moore. You're excused and excused from the  
17 case and any subpoena.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: We're right about  
20 midafternoon, so let's go ahead and take our  
21 afternoon break. We'll break until 3:30. And the  
22 jury is admonished to keep in mind the rules.

23 Court will stand in recess for our  
24 afternoon break.

25 (At 3:12 p.m., a recess was

1 taken until 3:31 p.m.)

2 THE COURT: Thank you. Court will  
3 come to order. And after the midafternoon break,  
4 we do reconvene with the Court noting the presence  
5 of parties, party representatives, counsel, and  
6 the jury panel.

7 Mr. Blonigen.

8 MR. BLONIGEN: The State would next  
9 call Leah Innocci.

10 THE COURT: Please come forward if  
11 you would and be sworn by the Clerk of Court here  
12 to my left. And then after you're sworn, you'll  
13 sit to the other side. Thank you.

14 THE WITNESS: Thank you.

15 THE CLERK: You do solemnly swear  
16 that the testimony you will give in the case  
17 before the Court will be the truth, the whole  
18 truth, and nothing but the truth, so help you God?

19 THE WITNESS: I do.

20 THE COURT: Please be seated.  
21 Either way, yeah. Thank you. And Ms. Innocci,  
22 we'd ask you to speak into the microphone. It is  
23 adjustable, so you can move it if you need to.

24 THE WITNESS: Thank you.

25

1 LEAH INNOCCI,  
2 called for examination by the State, being first  
3 duly sworn, on her oath testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BLONIGEN:

6 Q. Would you state your name, please.

7 A. Leah Innocci. It's spelled  
8 I-N-N-O-C-C-I.

9 Q. And I did mispronounce it. I'm sorry. I  
10 apologize. Where are you employed?

11 A. I'm employed at the Wyoming State Crime  
12 Laboratory.

13 Q. What is your position with the  
14 laboratory?

15 A. I'm a senior forensic analyst.

16 Q. What do you do for the laboratory as a  
17 senior forensic analyst?

18 A. Some of my duties include latent print  
19 processing and comparison, crime scene  
20 investigation and analysis, and blood stain  
21 pattern collection and analysis.

22 Q. Okay. Now, what's your educational  
23 background, could you tell us that?

24 A. I have an associate's degree in general  
25 studies in science from Laramie County Community



1 College, and I'm currently working toward my  
2 bachelor's degree through University of Wyoming.

3 Q. What was your -- and you work for the  
4 Wyoming State Crime Lab you said?

5 A. That's correct.

6 Q. Is that a certified laboratory?

7 A. Yes, it is.

8 Q. And the work you do for the laboratory,  
9 is it reviewed by others as well?

10 A. Yes.

11 Q. What was your main role in this case?

12 A. In this case, I was asked to do a blood  
13 stain pattern analysis on three items of clothing.

14 Q. Okay. And so does that include analyzing  
15 the stains present on the clothing?

16 A. Yes, that's correct.

17 Q. And you identify stains?

18 A. I document stains, yes.

19 Q. Document stains. And once documenting  
20 them, are you looking for all potential blood  
21 stains you may have?

22 A. Yes, that's correct.

23 Q. Now, you were looking at clothing in this  
24 case?

25 A. Yes, that's correct.

1 Q. And with particular focus on blood?

2 A. Yes.

3 Q. What items did you review?

4 A. I reviewed a jacket collected from the  
5 suspect, a pair of pants collected from the  
6 suspect, and a uniform shirt collected from a  
7 deputy.

8 Q. Okay. Now, if you identified a suspect  
9 stain on one of these items, would you identify it  
10 and circle it, mark it on the garment?

11 A. Yes, I would.

12 Q. After you've done your analysis, did it  
13 go to another scientist?

14 A. Yes, it did.

15 Q. Who would it go to after that?

16 A. In this particular case, it went to  
17 Jennifer Brammeier.

18 Q. And specifically, what's her role in the  
19 laboratory?

20 A. She's a forensic biologist.

21 Q. First, referring to your Laboratory Item  
22 Number 3, Agency Number 1005, the suspect's pants,  
23 did you have occasion to review this item?

24 A. Yes I did.

25 Q. And upon -- when you review these

1 clothing items, do you use any sort of devices to  
2 help see better?

3 A. Yes, I do. I use magnifying goggles,  
4 microscopes, and sometimes chemical searching to  
5 look for blood stains.

6 Q. And when you viewed the suspect pants,  
7 did you find anything that appeared potentially to  
8 be blood?

9 A. No.

10 Q. Did you find any stains of significance  
11 at all on the pants?

12 A. No.

13 Q. Were there glass fragments on the pants  
14 if you recall?

15 A. If I remember correctly, I found one  
16 small piece that could have been glass in one of  
17 the pockets. I pulled it out and consulted with  
18 the trace evidence unit.

19 Q. Okay. I'm going to hand you another item  
20 we've identified and admitted as 201, a gray  
21 jacket, and ask you if you recognize this item.  
22 I'll refer specifically to the packaging if you  
23 need that particular item.

24 A. Thank you. Yes, I do recognize this  
25 item.

1 Q. What is this item?

2 A. This item is the suspect -- the jacket  
3 collected from the suspect.

4 Q. Okay. You can see the jacket's packaged  
5 in a manner to put forth the left side of the  
6 jacket?

7 A. Yes.

8 Q. And we see a bunch of markings on there,  
9 small circles, cutouts, what are those?

10 A. Those are the circles that I made while I  
11 was searching with a microscope and with the  
12 magnifying goggles. I searched -- or excuse me --  
13 I circled areas of potential interest.

14 Q. So you're looking over this whole thing  
15 with -- down to the microscopic level?

16 A. Yes, that's correct.

17 Q. Did you photograph the coat as it was  
18 received by you and before analysis was started?

19 A. Yes, I did.

20 Q. And just to confirm, this is the coat you  
21 analyzed?

22 A. Yes, that's the coat I analyzed.

23 Q. And that accurately shows the coat in the  
24 condition you received it in?

25 A. Yes.

1 MR. BLONIGEN: Move for the  
2 introduction of 517.

3 MR. LOW: No objection, Your Honor.

4 THE COURT: Exhibit 517 is received.

5 Q. (BY MR. BLONIGEN) So you get the jacket,  
6 what do you do?

7 A. Well, first I photograph it, and then I  
8 look for blood stains first with my unaided eye,  
9 and then I start working down to a more  
10 microscopic level using magnifying goggles and  
11 then microscopes to look for different blood  
12 stains or possible blood stains.

13 Q. On this coat, did you identify any areas  
14 of interest on the coat, that is, having stains of  
15 some sort?

16 A. I identified more than three or four  
17 stains or areas of interest, excuse me.

18 Q. I'm going to hand you a couple of  
19 photographs here, and we'll go through this a  
20 little bit more, showing you what I've marked 518  
21 and 519.

22 MR. LOW: Thank you, sir. No  
23 objection.

24 Q. (BY MR. BLONIGEN) Do 518 and 519 show  
25 areas you marked on the coat for further interest?

1           A.     Yes, they both do.

2           Q.     Do they accurately show the areas you  
3 marked at the lab that day?

4           A.     Yes.

5           Q.     And what do we see on those two pictures  
6 that will tell us what you have marked there?

7           A.     On this picture, we see numbered scales.  
8 And the numbers correspond to my notes, the areas  
9 of interest that I examined. And then on this  
10 picture here, we have small white circles. When I  
11 went through the jacket with a microscope, I  
12 circled areas of interest and then looked at it  
13 closer with a microscope. So there were some  
14 areas that I circled that didn't look right when I  
15 magnified them further; but if they did look  
16 similar to blood, I used a white binder circle and  
17 circled that area and numbered it.

18          Q.     So if there's any chance it could be  
19 blood, you want to circle that and take a closer  
20 look at it?

21          A.     Right, exactly.

22                   MR. BLONIGEN: Move for the  
23 introduction of 518 and 519, Your Honor.

24                   THE COURT: Any objection?

25                   MR. LOW: No, Your Honor.

1 THE COURT: Exhibits 518 and 519 are  
2 received.

3 Q. (BY MR. BLONIGEN) Like to refer -- can  
4 you see the photograph on your screen?

5 A. Yes, sir.

6 Q. We see some numbers here from 1 through  
7 8, large numbered tags. What do these numbers  
8 represent?

9 A. These represent areas of interest that I  
10 saw with the naked eye and my magnifying goggles.

11 Q. And then 519, when we look at the left  
12 side of the jacket, we see a number of -- you've  
13 talked about the smaller circles, then we have the  
14 white circles?

15 A. Yes.

16 Q. And these are the areas you said that  
17 bore further scrutiny?

18 A. Yes.

19 Q. And when you say, This is an area I need  
20 to look at closer, if there's any doubt at all, do  
21 you include it in your further examination?

22 A. Yes.

23 Q. Okay. That was -- I think our question  
24 and answer don't quite make sense together. The  
25 white circles, then, you're going to be

1 conservative and put them on anything that might  
2 possibly be something that needs further  
3 examination?

4 A. Oh, no, no. I'm sorry. They were the  
5 ones that -- they're the ones that when I looked a  
6 little bit closer looked more like blood. The  
7 ones that were circled with Sharpie but not with  
8 the white circles, when on further examination  
9 didn't look anything at all like blood.

10 Q. So we have a number of those on the front  
11 of the shirt. And so did you -- now we have these  
12 white circles in our various areas, and in  
13 addition to those specific areas, we had 1 through  
14 8. Do you also have in that photograph an area 9?

15 A. Yes, that's correct.

16 Q. I'm going to hand you Exhibit 522. Is  
17 522 a closer view of where area 9 is located?

18 A. May I pick it up so I can see it a little  
19 bit better?

20 Q. Of course. Please.

21 A. Okay. Thank you. Yes.

22 MR. BLONIGEN: Move for the  
23 introduction of 522, Your Honor.

24 THE COURT: Any objection?

25 MR. LOW: No, Your Honor.



1 THE COURT: Exhibit 522 is also  
2 received.

3 Q. (BY MR. BLONIGEN) And you particularly  
4 seem to be focused on the stains you found on the  
5 left side of the coat?

6 A. Yes.

7 Q. Okay. So we have all these white circles  
8 here. I identify those as needing further  
9 examination or you do?

10 A. That's correct.

11 Q. What do you do then?

12 A. Are we speaking of just the white  
13 circles?

14 Q. Yes.

15 A. Okay. As small as these stains are, I  
16 didn't want to do any further testing and perhaps  
17 jeopardize testing down the line, so I passed  
18 these on to the biologist, Jennifer Brammeier.

19 Q. Did you find any blood tests that you  
20 felt were large enough that you could do screening  
21 on?

22 A. Yes. The ones that I labeled with the  
23 large numbers.

24 Q. Okay. And the ones with the large  
25 numbers, then, are the ones that you felt there

1 was enough material there, you wouldn't destroy  
2 the material screening it?

3 A. That's correct.

4 Q. What kind of test do you use to screen?

5 A. I use phenolphthalein.

6 Q. What is phenolphthalein?

7 A. It's a chemical test that reacts with the  
8 hemoglobin in blood. It's a presumptive screen  
9 only. But if it comes up negative, then I can be  
10 pretty confident it's not blood. If it comes up  
11 positive, I send it on to the biologist for  
12 further testing.

13 Q. Now, in particular, let's go through a  
14 little bit of the ones you could -- felt you could  
15 do some more with as far as phenolphthalein. Now,  
16 phenolphthalein, does it react just with human  
17 blood or other things as well?

18 A. There are other things it can react with,  
19 that's why it's just a presumptive test. Certain  
20 fruits and vegetables can cause positive  
21 reactions. And phenolphthalein isn't specific  
22 just to human blood. It can come up positive with  
23 animal blood as well.

24 Q. Is it a fairly sensitive test, though?

25 A. Yes.

1 Q. Now, when we go through, then, this area,  
2 going first -- and I take it you would need to  
3 consult your lab notes to go through each of these  
4 areas you test?

5 A. If I may.

6 Q. Yeah. Let's go first right down the  
7 list. Area one. What is area one, again, that is  
8 the area up on the right shoulder; is that  
9 correct?

10 A. Yes, that's correct.

11 Q. What did you find in area one?

12 A. In area one, I found a stain that was  
13 approximately four millimeters by five millimeters  
14 and was presumptive or phenolphthalein positive.

15 Q. So you're going to pass that one on to  
16 Ms. Brammeier; is that correct?

17 A. I passed all of them on to Ms. Brammeier,  
18 and she's the one that chooses.

19 Q. Okay. Did you do any further testing on  
20 that area?

21 A. No, sir.

22 Q. Now, we then go to area number two,  
23 referring to the right elbow area?

24 A. Yes.

25 Q. And what did you find there?

1           A.     I found a stain approximately ten  
2 millimeters by four millimeters, and the  
3 phenolphthalein test in that area was positive.

4           Q.     So, again, that's going to go on for  
5 further analysis?

6           A.     Yes.

7           Q.     How about area number three on the elbow  
8 as well?

9           A.     That was another stain. It was  
10 approximately four millimeters by one millimeter,  
11 and it was phenolphthalein positive.

12          Q.     Okay. Again, it goes on for further  
13 analysis?

14          A.     Yes, goes on for further analysis.

15          Q.     Number four.

16          A.     That was a stain approximately two  
17 millimeters. It was phenolphthalein positive as  
18 well.

19          Q.     How about number five and six up on the  
20 left shoulder on the Velcro patch?

21          A.     Five, I found to be too small. And I  
22 apologize. It was too small for presumptive  
23 testing, but its microscopic appearance was not  
24 consistent with blood.

25          Q.     Okay. Why do you say -- what does that

1 mean?

2 A. It's -- when you look at blood underneath  
3 a microscope, it has a very characteristic glazed  
4 like appearance, almost like if you looked at  
5 dried barbecue sauce. This particular stain, if I  
6 remember correctly, had a more granular appearance  
7 almost like a sandy appearance, so this wasn't  
8 blood.

9 Q. Okay. So what about number six?

10 A. Number six was also too small to do  
11 presumptive testing, but it had the brownish red  
12 substance.

13 Q. Now, you also take close-up photographs  
14 of these various areas, don't you?

15 A. Yes, that's correct.

16 Q. Handing you 520 and 521. Do 520 and 521  
17 show a more close-up view and magnification of 4,  
18 5, and 6?

19 A. They show a closer view.

20 Q. Closer view?

21 A. Yes.

22 MR. BLONIGEN: Move for the  
23 introduction of 520 and 521, Your Honor.

24 MR. LOW: No objection, Your Honor.

25 THE COURT: State's Exhibits 520 and

1 521 are received.

2 Q. (BY MR. BLONIGEN) Okay. We also had  
3 Items 7, 8, and 9, then; correct?

4 A. Yes, that's correct.

5 Q. Now, on 519, then, we get a little  
6 closer, okay. When we start trying to screen  
7 these things, Lab Item Number 7, what were the  
8 results?

9 A. That was tested with phenolphthalein and  
10 it came out phenolphthalein negative.

11 Q. Okay. And negative for the presence of  
12 blood?

13 A. Negative for the presence of blood.

14 Q. What about Item Number 8?

15 A. Item Number 8 was a stain approximately  
16 one millimeter. And the phenolphthalein, excuse  
17 me, phenolphthalein result was positive.

18 Q. So that's going to go on for further  
19 testing?

20 A. Yes, that's correct.

21 Q. And finally, Number 9, what did you find  
22 in Number 9?

23 A. Number 9 was a stain that was  
24 approximately 18 millimeters by 5 millimeters.  
25 And its presumptive test results were positive as

1 well.

2 Q. Okay. So we're talking a very small  
3 stain on the left hand of the coat; is that right?  
4 Or excuse me, the left-hand side of the coat. The  
5 stain number 9 is located where?

6 A. It's down at the bottom of the left side  
7 of the coat.

8 Q. Okay.

9 A. Yes.

10 Q. And I'm going to hand you a photograph,  
11 523. Is 523 a greater magnification of the stain  
12 at that location?

13 A. Yes, it is.

14 Q. And we're talking about very, very small  
15 stains?

16 A. Very small stains. A millimeter is about  
17 the size of an edge of a dime.

18 Q. You mean on its edge, the thin part?

19 A. On its edge, yes.

20 Q. Of course, did you also assess the back  
21 of the garment?

22 A. Yes, I did.

23 Q. Hand you what I've marked as 524. Do you  
24 recognize that as a photograph of the back of the  
25 garment?

1 A. Yes, I do.

2 Q. And does it indicate the items tested?

3 A. Yes, it does.

4 MR. BLONIGEN: Move for the  
5 introduction of 524, Your Honor.

6 THE COURT: Any objection?

7 MR. LOW: No objection, Your Honor.

8 THE COURT: Exhibit 524 is received.

9 Q. (BY MR. BLONIGEN) Now, looking at that  
10 particular photograph, these are the same one,  
11 two, three, and four we've already discussed;  
12 correct?

13 A. Yes, that's correct.

14 Q. So this is just kind of the sleeve, flip  
15 side of that?

16 A. That's correct.

17 Q. So those are -- one, two, three, and four  
18 are areas you already told us about in your  
19 testimony?

20 A. Yes, that's correct.

21 Q. What about that one right in the middle  
22 of the back? Which one is that?

23 A. That's area number 34.

24 Q. What did you find at area number 34?

25 A. Area number 34 had two linear lines



1 approximately 15 millimeters by 7 millimeters.

2 They were phenolphthalein negative.

3 Q. So no indication of blood there either?

4 A. That's correct.

5 Q. You stated earlier that you do blood  
6 spatter analysis as well. Given your evaluation  
7 of the clothing, was there any analysis to do at  
8 that particular point in time?

9 A. No, not really.

10 Q. Okay. You also had occasion to look at  
11 one other item. What was that again? One other  
12 clothing item, excuse me.

13 A. Oh, okay. Actually, I looked at two  
14 others.

15 Q. Okay.

16 A. The suspect's pants and the -- the  
17 uniform shirt collected.

18 Q. And you've already told us on review of  
19 the pants you didn't find anything?

20 A. That's correct.

21 Q. Let me show you four photographs marked  
22 525 through 528. Do these four photographs show  
23 the uniform shirt and areas you analyzed on this  
24 particular garment?

25 A. Yes. Yes, they do.

1 MR. BLONIGEN: Move for the  
2 introduction of 525 through 528, Your Honor.

3 THE COURT: Any objection to these  
4 additional exhibits?

5 MR. LOW: No, sir. Thank you.

6 THE COURT: Exhibits 525 through 528  
7 inclusive are received.

8 Q. (BY MR. BLONIGEN) Show you the picture  
9 of Deputy Taylor's shirt, the uniform shirt from  
10 the Natrona County Sheriff's Office. And what do  
11 we see on this one? We see three different tagged  
12 areas, is that correct, one, two, and three?

13 A. Yes, that's correct.

14 Q. And in each one of those larger areas,  
15 did you find any materials meriting further  
16 scrutiny?

17 A. Yes, I did.

18 Q. First, let's go to area number one. What  
19 did you find?

20 A. On area number one, I found several  
21 stains that were brownish black in color. I  
22 tested them with phenolphthalein, and the result  
23 was negative.

24 Q. Okay. Number two on the breast pocket,  
25 right breast pocket?

1           A.     In that area, I found several stains that  
2     you see marked with the -- excuse me -- with the  
3     blue arrows. I was only able to test one -- two  
4     of those very small stains, and they were both  
5     weakly positive.

6           Q.     And they were?

7           A.     Very weakly positive.

8           Q.     Weakly positive, okay. So they're going  
9     to get further analysis?

10          A.     Yes.

11          Q.     Now, this is a little bit closer view of  
12     that search. We see number 2 has -- I guess  
13     there's about five blue arrows there; is that  
14     correct? Five different places you looked at?

15          A.     Yes, that's correct.

16          Q.     So if we go clockwise, where are the two  
17     stains that you believe were -- were weakly  
18     positive as you stated?

19          A.     Okay. Down there on the bottom right,  
20     the bottom most arrow, I tested the smaller of  
21     those two stains, and that was one was weakly  
22     positive. And then the third one -- excuse me --  
23     as you look in the upper left-hand corner, there  
24     are three arrows. The one in the middle, I tested  
25     a stain there that was also very weakly positive.

1 Q. And finally area 1 on that shirt, which  
2 is near the American flag emblem on the uniform.  
3 This was tested as well?

4 A. Yes. As I said before, that one was  
5 phenolphthalein negative.

6 Q. Okay. What about area 3 near the --  
7 the -- the Sheriff's Office badge on the other  
8 side?

9 A. That area was also tested. It was also  
10 phenolphthalein negative.

11 MR. BLONIGEN: I believe that's all  
12 the questions I have. Thank you, Your Honor.

13 THE COURT: Thank you very much,  
14 Counsel.

15 Cross-examination, Mr. Low.

16 CROSS-EXAMINATION

17 BY MR. LOW:

18 Q. Ma'am, are there any -- anything you're  
19 aware of that would cause a false negative for  
20 your phenolphthalein test of the presence of  
21 blood?

22 A. According to my literature search, the  
23 only thing that I can remember off the top of my  
24 head is a very strong bleach, such as the peroxide  
25 one uses to bleach your hair, that can cause a

1 false negative.

2 Q. What about the copper salts?

3 A. I don't remember that in my research.

4 It's possible.

5 Q. And what about the -- sorry. One second,

6 ma'am. Forgive me. Let me make sure I get it

7 right.

8 MR. LOW: Yes, thank you.

9 Appreciate it.

10 THE COURT: Anything on redirect,

11 Mr. Blonigen?

12 REDIRECT EXAMINATION

13 BY MR. BLONIGEN:

14 Q. Do you have any indications that either

15 of those two substances were present in this

16 instance?

17 A. I couldn't tell you. I don't know.

18 MR. BLONIGEN: Okay. Thank you.

19 That's all I have, Your Honor.

20 THE COURT: Okay. Anything on

21 recross?

22 MR. LOW: No thank you, Your Honor.

23 THE COURT: Okay. Thank you. Your

24 last name again?

25 THE WITNESS: Innocci.

1 THE COURT: Innocci. Thank you for  
2 correcting us.

3 You are excused, and you're free to go  
4 and released from any subpoena.

5 THE WITNESS: Thank you.

6 MR. BLONIGEN: Your Honor, counsel  
7 informs me I failed to move 523. I would move  
8 523.

9 THE COURT: Any objection?

10 MR. LOW: No, sir.

11 THE COURT: Exhibit 523 is also  
12 received.

13 MR. BLONIGEN: State would next call  
14 Jennifer Brammeier.

15 THE COURT: Please come forward if  
16 you would. The Clerk of Court here to my left  
17 will give you the oath, and then you'll sit to the  
18 other side.

19 THE CLERK: You do solemnly swear  
20 that the testimony you will give in the case  
21 before the Court will be the truth, the whole  
22 truth, and nothing but the truth, so help you God?

23 THE WITNESS: Yes, I do.

24 THE CLERK: Please be seated.

25

1 JENNIFER BRAMMEIER,  
2 called for examination by the State, being first  
3 duly sworn, on her oath testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BLONIGEN:

6 Q. Would you state your name for the record,  
7 please.

8 A. Jennifer Brammeier.

9 Q. Where are you employed?

10 A. The Wyoming State Crime Laboratory.

11 Q. What are your duties with that facility?

12 A. I examine biological evidence.

13 Q. And what is your educational background?

14 A. I have a bachelor's in chemistry from  
15 West Virginia University. I've also had course  
16 work in biochemistry, genetics, and statistics at  
17 a community college in Northern Virginia and  
18 graduate level molecular biology at George  
19 Washington University in Washington, D.C.

20 Q. And how long have you been at the crime  
21 lab?

22 A. I've been at the Wyoming State Crime Lab  
23 for ten years.

24 Q. Do you have any specific training in DNA  
25 testing?

1 A. Yes, I do.

2 Q. Could you explain that for us, please.

3 A. Yes. In addition to the college course  
4 work, we have an extensive training program at the  
5 crime laboratory that we go through prior to  
6 working on evidence samples.

7 Q. Okay. How long have you been testing for  
8 DNA at the crime lab?

9 A. Training was approximately eight months,  
10 so, you know, approximately nine years of DNA  
11 testing outside of the training program.

12 Q. And have you testified as an expert  
13 witness in the courts on DNA?

14 A. Yes, I have.

15 Q. Now, in this particular case -- well, let  
16 me back up a little bit more. Is your lab  
17 certified to conduct DNA testing?

18 A. Yes.

19 Q. Is all the testing you do in accordance  
20 with the standards in the industry?

21 A. Yes, it is.

22 Q. Are all those methods well accepted  
23 within the scientific community for producing  
24 accurate results?

25 A. Yes, they are.



1 Q. In addition, is your work subject to peer  
2 review?

3 A. Yes.

4 Q. Could you explain that for us.

5 A. Yes. Every case that we process has to  
6 go through a review process. At least one  
7 qualified DNA analyst reviews our case. It's  
8 called technical review. And then it goes on  
9 further to an administrative review.

10 Q. Okay. In fact, from the other witnesses,  
11 every position at the lab is -- their results are  
12 reviewed in this manner; isn't that true?

13 A. That's correct.

14 Q. Now, in this particular case, were you  
15 asked to look at a number of items?

16 A. I was, yes.

17 Q. First, were those items screened by any  
18 other member of the laboratory staff?

19 A. Yes.

20 Q. And can you explain that for us, please.

21 A. Yes. In this case, two of the items that  
22 I examined were previously screened by Leah  
23 Innocci for blood spatter, and then they were  
24 forwarded to DNA for testing -- for further  
25 testing.

1 Q. And did you review other items as well?

2 A. Yes, I did.

3 Q. Okay. Do you rely solely on the first  
4 review conducted by Ms. Innocci?

5 A. I'm not sure I understand your question  
6 there.

7 Q. Okay. That's a bad question. Could you  
8 rely on -- her work you found to be very good?

9 A. Yes, oh yes, yes.

10 Q. Do you conduct further review yourself?

11 A. Yes.

12 Q. Now, let's talk a little bit about DNA.  
13 I think people know a little bit more about it now  
14 than they used to, but what are you testing for  
15 when you do DNA testing?

16 A. Well, DNA is our genetic blueprint. It  
17 makes up who we are. It's unique to each  
18 individual with the exception of identical twins.  
19 They would be expected to have the same DNA  
20 profile. Are you wanting to know about maybe a --

21 Q. Where does our DNA come from?

22 A. It comes from the cells in our body, for  
23 example, our blood, blood, skin, saliva.

24 Q. When you do your standard DNA testing  
25 that's done around the country, what are we

1 looking for as far as DNA, where does it come from  
2 on the body?

3 A. It's in the cells of our body.

4 Q. Is it in all of our cells?

5 A. Yes, with the exception of red blood  
6 cells, but yes.

7 Q. Okay. But blood cells themselves have  
8 DNA in them?

9 A. Yes.

10 Q. And what are you look -- what is -- what  
11 are we looking for on the gene, what are we  
12 looking for? Markers?

13 A. Yes. There's a set of locations.

14 Q. Okay. How many different locations do  
15 you test in standard DNA testing?

16 A. Well, it's different. We test about 16,  
17 but you can test -- depending on the DNA kit, it  
18 can be a different number.

19 Q. Okay. Now, you have 16 locations. Do  
20 you have markers at that location?

21 A. Well, the location has a name identifier.

22 Q. Correct. And so you're testing the same  
23 locations on every individual?

24 A. Yes. There are a core set of locations.

25 Q. And this core set of locations, do they

1 have markers at those locations that you use?

2 A. Yes.

3 Q. Okay. Where do those markers come from?

4 A. Well, basically, a DNA profile is a set  
5 of numbers. And we look at certain locations on  
6 different chromosomes to make up a DNA profile,  
7 and basically it is a set of numbers at different  
8 locations.

9 Q. Okay. Now, those numbers, are they  
10 determined by our parents at all?

11 A. Yes. We inherit half from our mother and  
12 half from our father.

13 Q. So usually one number from mom and one  
14 number from dad?

15 A. Yes.

16 Q. Now, do we all -- we have these -- so we  
17 have these 16 locations, we got two markers at  
18 each. Are they unique -- does every human being  
19 have different markers at each one of those  
20 locations?

21 A. Every -- you would -- the only two people  
22 that would be expected to have the same DNA would  
23 be identical twins. And you can have one number  
24 at a location, but that would be because you  
25 received the same number from your father -- your

1 mother and your father.

2 Q. Right. So if I'm a, say, a 14 at a  
3 certain location, lots of people in the world are  
4 a 14 at that location; isn't that fair?

5 A. If you're just talking about one location  
6 and one number at one location, it's probably  
7 fairly common. But I would have to look at that  
8 specific number for that specific location to tell  
9 you exactly.

10 Q. And that's my next question. How do we  
11 get these fantastic numbers we hear about on TV or  
12 that are in your report? Are they a product of  
13 how many locations? I mean, we see one in 16  
14 quintillion or whatever we see.

15 A. Well, you're talking about the statistic,  
16 the end result?

17 Q. Yes.

18 A. Like, how do you get to that statistic?

19 Q. Yes.

20 A. So there is a database that will tell you  
21 how rare or common a profile is in the population,  
22 and that's how we get to that end statistic.

23 Q. Okay. So in this case, then, you have a  
24 suspect material, and you subject it to testing;  
25 is that right?

1           A.     Yes.  That would be a known reference  
2 sample.  Or are you talking about the --

3           Q.     Let's back up.  What's a known sample?

4           A.     So typically, when we examine evidence,  
5 you'll have a -- what's called a questioned item  
6 or, you know, the item of evidence.  And then we  
7 are also submitted a known reference sample, known  
8 to have come from a specific person.  So you  
9 perform DNA analysis on the questioned item and  
10 also DNA analysis on the known -- known item from  
11 the individual, and then you compare those two  
12 results together.

13          Q.     And in this case, did you have known  
14 samples from a James Kade Baldwin?

15          A.     Yes, sir.

16          Q.     And did you have a known sample from a  
17 John Knospler?

18          A.     Yes, sir.

19          Q.     And I'm going to hand you 100 and 200 and  
20 ask you if these are the known samples you were  
21 provided in this case for these two individuals.

22          A.     Yes.  I'm just looking for my initials on  
23 the evidence.  Yes, I do recognize these.

24          Q.     Okay.  So these are the two known  
25 reference samples you used in this case?

1           A.     Yes.

2                     MR. BLONIGEN:   Move for the  
3 admission of 100 and 200, Your Honor.

4                     THE COURT:   Any objection?

5                     MR. LOW:   No, Your Honor.

6                     THE COURT:   Exhibit 100 and Exhibit  
7 200 are received.

8           Q.     (BY MR. BLONIGEN)   So can you generally  
9 describe for us what you do to test these items.

10           A.     There are a few basic steps that we take  
11 every -- every time.   So first, you need to  
12 identify what stain it is that you're going to  
13 test.   The next step would be extraction,  
14 extracting the DNA from the cell; quantitation,  
15 which just tells us how much DNA there is present,  
16 if any; amplification; and then the analysis and  
17 the interpretation and report writing.

18           Q.     Okay.   Now, in this case, you were given  
19 a number of items to review; is that correct?

20           A.     Yes.

21           Q.     Let's start with Laboratory Item Number 1  
22 identified earlier in the testimony as a gray  
23 jacket; is that correct?

24           A.     Yes.

25           Q.     Did you have an opportunity to review

1 this item?

2 A. I did.

3 Q. And after reviewing that item, did you  
4 select any samples for further examination?

5 A. I did. It was previously reviewed by  
6 Leah Innocci, and then it was forwarded to myself.  
7 And I took a few samples -- three samples from  
8 that jacket.

9 Q. Okay. You were aware that there were  
10 certain samples that had been identified by -- as  
11 potential samples by phenolphthalein testing?

12 A. Yes.

13 Q. Did you review each of those samples?

14 A. I did see that they were phenolphthalein  
15 positive when I got or when I received the jacket  
16 and then decided to take samples for -- to DNA,  
17 yes.

18 Q. Okay. How do you decide which samples to  
19 take to do DNA?

20 A. Well, those items were chosen  
21 specifically because they were phenolphthalein  
22 positive and were possibly blood. So that's why  
23 those were chosen.

24 Q. How many did you eventually test?

25 A. On the jacket specifically?



1 Q. Yes.

2 A. Three.

3 Q. Why did you not test the other ones?

4 A. The -- the material on the jacket was  
5 very small and would have had to have been  
6 consumed in testing. And actually, I did consume  
7 two in testing. So to save sample for possible  
8 retesting, only those three were selected to  
9 preserve sample.

10 Q. Okay. So which three did you  
11 specifically test?

12 A. Would you like me to use the laboratory  
13 item number or Leah's? There was a couple.

14 Q. If you could use Leah's subitem number,  
15 1.7, 1.8.

16 A. I examined 1.5, 1.7, and 1.10.

17 Q. Okay. Now, you also identified some  
18 cutouts from the jacket?

19 A. 1.5 and 1.7 were cutouts, and 1.10 were  
20 swabs.

21 Q. Okay. You also later would look at Lab  
22 Item Number 4, Lab Item Number 6, and Item Number  
23 9?

24 A. Lab Item Number 4 -- 6 was a known  
25 reference. 4 was swabs from -- I believe 4 was

1 swabs from the left hand of Mr. Knospler. And  
2 then I also looked at 22.1 and 22.2, I believe.

3 Q. Okay.

4 A. And then some location 601 swabs.

5 Q. I think we're having a communication  
6 difficulty, so let me show you your report.

7 A. Okay.

8 Q. This is your report?

9 A. Yes, it is. I also -- yes, this is my  
10 report.

11 Q. Okay. Now, first in reference to --  
12 there's two reports actually?

13 A. There's two reports, yes.

14 Q. Now, first, as far as if we look at Ms.  
15 Innocci's photographs, the first three items on  
16 this report, which items are these?

17 A. 1.5, 1.7, and 1.10.

18 Q. And then her lab item number she assigned  
19 to each one of those samples?

20 A. 1.5 was Leah's LI4.

21 Q. Okay.

22 A. 1.7 was LI6 and 1.10 was LI9.

23 Q. Now, do you recall any of the items -- or  
24 let me backtrack a little bit.

25 So first, let's go to LI9, which is also

1 Item 1.10, your Laboratory Item 1.10, which she  
2 marked LI9. Are we on the same page now?

3 A. Yes.

4 Q. That is this item at the bottom of the  
5 jacket?

6 A. Yes, that's correct.

7 Q. And this is an area that tested positive  
8 for phenolphthalein?

9 A. Correct.

10 Q. And looking at your monitor, this a more  
11 close-up view of that area?

12 A. Yes.

13 Q. So this is a large enough stain to  
14 subject to DNA testing?

15 A. Yes.

16 Q. Extremely small?

17 A. It's very small, yes.

18 Q. What did you find when comparing -- what  
19 were the results you got on this particular  
20 sample?

21 A. The DNA results on this sample were  
22 consistent with Mr. Knospler.

23 Q. And what do we mean when we say  
24 "consistent with"?

25 A. The numbers generated on the DNA profile

1 from this item did not differ from the numbers  
2 generated in the known reference sample.

3 Q. Okay. Was the item consistent at all  
4 with being Mr. Baldwin's?

5 A. No, sir.

6 Q. Now, Laboratory 1.5, Ms. Innocci's  
7 items -- Laboratory Item 4, or area 4 as she  
8 indicated, and this is on the right side of the  
9 jacket; is that correct?

10 A. Leah's Item -- Leah Innocci's Item Number  
11 4, yes.

12 Q. Okay. Down near the cuff of the right  
13 side?

14 A. Correct.

15 Q. Now, after reviewing that item, did you  
16 have any results on the stain at location 4?

17 A. Yes.

18 THE WITNESS: And, Your Honor, may I  
19 refer to my -- would it be okay to refer to my  
20 report?

21 Q. (BY MR. BLONIGEN) Would you please, if  
22 you could.

23 A. Yeah.

24 Q. Do you have it with you?

25 A. I do not.

1 Q. Okay.

2 A. It's probably somewhere in here.

3 Q. Let's start with this -- start with  
4 report number 1 first.

5 A. There were a couple, yeah.

6 Q. Okay. It's the end of Friday afternoon,  
7 and I think we're all getting a little tired.

8 A. I just didn't want to misspeak a result.

9 Q. Okay. Now, we were talking about before  
10 Lab Item 9 or your Item 1.10. Let's talk about  
11 1.5, area LI4. And we just referred to the  
12 photograph, and we can see that area is down on  
13 the right cuff of the jacket; correct?

14 A. Correct.

15 Q. What did you find at that location?

16 A. It was a partial DNA profile, and it was  
17 consistent with John Knospler.

18 Q. Okay. Could James Kade Baldwin be  
19 excluded from that sample?

20 A. Yes.

21 Q. When we look at DNA, do we have any idea  
22 how long it's been there or how it got there?

23 A. I do not, no.

24 Q. Now, the next item, Item 1.10, we talked  
25 about that -- or excuse me, Item 1.7, her area

1 number 6. And this is going to be up near that  
2 Velcro patch on the left shoulder. Did you do a  
3 testing on that as well?

4 A. Yes.

5 Q. What did you find on that?

6 A. That also was a partial DNA profile. And  
7 it was not consistent with James Baldwin, and John  
8 Knospler was no conclusion.

9 Q. Okay. So Mr. Baldwin's DNA isn't on that  
10 left shoulder either, is it?

11 A. He was excluded.

12 Q. Excluded in that sample. Now, we still  
13 have some, you know, areas 7 and 8. Did you leave  
14 those for further testing?

15 A. I -- yes.

16 Q. Did they appear to be blood stains?

17 A. I did not look at Items 7 and 8. I  
18 believe they were microscopic, so Leah would have.  
19 Leah Innocci would have examined those.

20 Q. So these are stains so small, we can see  
21 them under the microscope, many of them?

22 A. Yes. Would not have been visible to me.

23 Q. Also as a laboratory person, you have a  
24 duty to preserve sample for further testing if  
25 necessary; don't you?

1 A. That's correct.

2 Q. And did you do so in this case?

3 A. Yes.

4 Q. Now, we also have an item, Laboratory  
5 Item Number 4, Item 1015, indicated as a swab from  
6 left hand, our Exhibit Number 203. Did you have  
7 occasion to test this item as well?

8 A. Yes.

9 MR. BLONIGEN: Move for the  
10 introduction of 203, Your Honor.

11 THE COURT: Any objection?

12 MR. LOW: No, Your Honor.

13 THE COURT: Exhibit 203 is received.  
14 Counsel, I think we should identify whose left  
15 hand, though, just since I had a question.

16 MR. BLONIGEN: Oh, okay.

17 Q. (BY MR. BLONIGEN) This purports to be  
18 from Mr. Knospler's left hand; is that correct?

19 A. That's correct.

20 THE COURT: Thank you very much.

21 Q. (BY MR. BLONIGEN) By the way, you showed  
22 us one of these tiny little stains you got a  
23 sample from. If there's enough blood there, can  
24 you test that sample and then leave plenty for  
25 testing by somebody else also?

1 A. In most cases, yes.

2 Q. Okay. So when you -- they're so little  
3 you can't even take part of it and test it, that's  
4 what we're talking about, those microscopic  
5 stains?

6 A. Yes. Two of these stains were so small  
7 that I had to deplete that sample. They're very,  
8 very, very small.

9 Q. These are tiny spots, then?

10 A. Yes. I could not even see them with the  
11 naked eye, yeah.

12 Q. Okay. Now, we were talking about two  
13 swabs from Mr. Knospler, Item Number 4; is that  
14 correct?

15 A. That's correct.

16 Q. Did you obtain a result on that?

17 A. I did. The DNA profile obtained from  
18 that item was consistent with John Knospler.

19 Q. Was any other individual's DNA present  
20 within the sample?

21 A. No.

22 Q. We also tested a uniform shirt; is that  
23 correct?

24 A. That's correct.

25 Q. And what particular area in the uniform



1 shirt was indicated here?

2 A. It was around the pocket.

3 Q. Okay. And when we look at the  
4 photograph, can you direct us a little more  
5 generally to what stains you tested?

6 A. Yes. May I touch this screen? Is  
7 that -- I've never used this.

8 Q. Yes.

9 A. Oh, it's -- it is right around this  
10 pocket, right around the number two, and just  
11 right in that area where the number two is.

12 Q. Okay. So if we look at a photograph  
13 that's a -- you can erase that by touching the  
14 left hand, left bottom corner.

15 Does this show a little bit better the  
16 stains we're talking about?

17 A. Yes.

18 Q. Okay. What was your result from this?

19 A. That was a mixture of DNA, likely two  
20 individuals, and both James Baldwin and John  
21 Knospler were excluded.

22 Q. So this doesn't belong to either Mr.  
23 Knospler or Mr. Baldwin?

24 A. It does not. They were excluded.

25 Q. We also next had fingernail scrapings

1 from both the left and right hand of Mr. Baldwin;  
2 is that correct?

3 A. Correct.

4 Q. Now, the fingernail scrapings, what was  
5 the results of those testings on your Items 22.1  
6 and 22.2?

7 A. 22.1 -- 22.1 was a mixture of DNA. A  
8 major contributor was obtained, and that just  
9 means one -- more of one person's DNA was  
10 detected. So the major contributor was James  
11 Baldwin, and no conclusions could be made  
12 regarding John Knospler due to the single number  
13 identified. It was a very -- it was just one  
14 extra piece of information. So he was no  
15 conclusions for that sample.

16 And Item 22.2, which was the left hand,  
17 was also a mixture. The major contributor was  
18 James Baldwin, meaning he -- more of his DNA was  
19 detected, and Mr. Knospler was excluded as the  
20 additional contributor.

21 Q. Okay. So one hand, he's completely  
22 excluded. The other hand, though, you said there  
23 was one marker --

24 A. Yes.

25 Q. -- at that particular location, 9.3; is

1 that correct?

2 A. That's correct.

3 Q. How common is the 9.3 marker?

4 A. The 9.3 marker is approximately 30  
5 percent of the Caucasian population have that  
6 marker.

7 Q. In fact, you have it yourself?

8 A. I do.

9 Q. You also have long dark hair?

10 A. I do.

11 Q. Can you base any sort of opinion off just  
12 one marker like that that's so common to so many  
13 people?

14 A. No. You could exclude but not include.

15 Q. Okay. So we can't include Mr. Knospler  
16 in that at all?

17 A. No.

18 Q. Now, finally, I'm going to hand you an  
19 item referred to in your report and across the two  
20 reports. Do you have the second report as well or  
21 do you need a copy of that?

22 A. I do have the -- well, I don't. I have  
23 one report.

24 Q. Okay. Let me hand you this. Is this  
25 your second report?

1           A.     Actually, this was the first report and  
2 this was the second; but yes, these are both my  
3 reports.

4           Q.     Okay. By the way, when did you -- what  
5 is the report date?

6           A.     The first report is dated November 7th,  
7 2013; and the second report is May 7th, 2014.

8           Q.     Now, did you test six different swabs  
9 identified as Number 601 and then with a letter A,  
10 B, C, D, E, or F?

11          A.     Yes.

12          Q.     Okay. What was the result of the testing  
13 on those swabs?

14          A.     All six of those swabs were negative for  
15 human blood, and no DNA profile was obtained.

16          Q.     Okay. So there was no DNA material at  
17 all?

18          A.     No DNA profile was obtained --

19          Q.     Okay.

20          A.     -- from that sample.

21                   MR. BLONIGEN: Okay. Thank you,  
22 ma'am. That's all the questions I have.

23                   THE COURT: Thank you, Counsel.

24                   Cross-examination on behalf of the  
25 Defense.

1 MR. LOW: Quickly.

2 CROSS-EXAMINATION

3 BY MR. LOW:

4 Q. Ma'am, do you have any idea how Item  
5 Number 601 A through F, as in Foxtrot, do you have  
6 any idea how that stuff is collected?

7 A. I do not.

8 MR. LOW: Thank you. Nothing  
9 further.

10 THE COURT: Anything on redirect?

11 MR. BLONIGEN: Just a follow-up on  
12 that question just a little bit.

13 REDIRECT EXAMINATION

14 BY MR. BLONIGEN:

15 Q. When these items are collected, they're  
16 generally collected with a swab with distilled  
17 water?

18 A. At the laboratory, yes.

19 Q. Okay. And that would be the appropriate  
20 way to do it in the field as well?

21 A. Yes.

22 MR. BLONIGEN: Thank you. That's  
23 all the questions I have.

24 THE COURT: Anything on recross?

25 MR. LOW: No thank you.

1 THE COURT: Thank you very much, Ms.  
2 Brammeier.

3 THE WITNESS: Thank you.

4 THE COURT: You're excused and free  
5 to go, and you're also released from any subpoena.

6 THE WITNESS: Thank you, Your Honor.

7 MR. BLONIGEN: I would tell you,  
8 Your Honor, I'll make you aware, if we could start  
9 Mr. Norris, I can pretty well guarantee we're not  
10 going to finish him by 5:00. It's up you, do you  
11 want me to start?

12 THE COURT: Yes, I think so, since  
13 we're going to be going over into the next day or  
14 two, I think we ought to make every effort to use  
15 all our time, so.

16 MR. BLONIGEN: Yes, Your Honor.  
17 State would next call Steve Norris.

18 THE COURT: Before he's called, does  
19 counsel wish to be heard on the motion that I  
20 think just caught up with me at the lunch hour?

21 MR. NEWCOMB: Yes, Your Honor.

22 THE COURT: Okay. I'm going to  
23 excuse the jury just for hopefully not more than  
24 five minutes, and I'm going to ask if you wouldn't  
25 mind to go back, and we'll recall you here in just

1 a little bit.

2 Ladies and gentlemen of the jury, you're  
3 excused for just a few minutes.

4 (The following proceedings were  
5 held in open court, out of the presence of the  
6 jury:)

7 THE COURT: Thank you very much.  
8 Please be seated. Court will reconvene without  
9 the jury. And I hate to delay things, but I  
10 remember seeing there was a motion that was filed  
11 concerning Steven Norris, so I presume that's this  
12 witness.

13 MR. LOW: May be able to do this  
14 quickly.

15 THE COURT: Okay.

16 MR. LOW: And this might help. If  
17 Mr. Blonigen can assure the Court that we are not  
18 going to hear any -- any opinions that were not  
19 contained in this gentleman's report, then I think  
20 we're good. I filed that motion in an abundance  
21 of caution in the event that suddenly we're going  
22 to hear some new opinions that we had no  
23 disclosure over. And if that's the case, I want  
24 the ability to have an evidentiary hearing on that  
25 before or out of the presence of the jury.

1                   MR. BLONIGEN: Well, Judge, I've  
2 never seen an expert that didn't give opinions  
3 that weren't quite in the report. I mean, if they  
4 opine about, you know, anything. The thrust of  
5 the motion -- and it's strange to get at this  
6 point because these reports were furnished almost  
7 a year ago. If they -- we are going to ask the --  
8 first, the conclusions, and he states in his  
9 report intervening and indeterminate range; and  
10 he's going to explain the two different things.

11                   We will ask him whether he saw evidence  
12 in the materials he reviewed of an intervening  
13 target. We certainly are not going to ask him if  
14 it could only get there by firing a bullet through  
15 glass, but he did have Dr. Carver's report and all  
16 his testing as well. So I'm not -- I read the  
17 motion as not wanting an opinion that the only way  
18 the glass could have got there was to be fired  
19 through the window at Mr. Baldwin. That's how I  
20 read this motion. And we certainly aren't going  
21 to ask him to form a conclusion that that's the  
22 only way the window could be there. We're going  
23 to present the factors he has, but we're not going  
24 to ask him to draw that ultimate conclusion. And  
25 I just got it at noon, too, so but that's the way



1 I interpreted the motion.

2 And, Judge, I'd like to say something for  
3 the record about, first, Rule 26.2. We've given  
4 them all the written materials including all the  
5 backup lab materials, all the case notes, the  
6 reports, the CV. And again, they have had that  
7 for almost a year. So to the idea that if he says  
8 anything different than his report, it somehow  
9 violates 26.2, that doesn't meet the definition of  
10 a statement in Rule 26.2. We gave them all the  
11 materials that can be considered written or  
12 contemporaneous statements.

13 As to 16, what 16 does not require is the  
14 disclosure of all reports. It requires -- or  
15 excuse me, all opinions. It requires the  
16 disclosure of the results of reports, tests, or  
17 examinations. A rather ironic claim for the  
18 Defense to make since they have insisted to us  
19 that Rule 16 has nothing to do with this case  
20 since the day we started. Now, they have made no  
21 demand under 16, and therefore, we're not going to  
22 provide reciprocal discovery.

23 But in any event, when you talk about the  
24 nuances of opinions and things, they have been  
25 given all the Rule 16 materials, all the reports

1 and examinations and things like that. So I'm  
2 still not quite sure why a *Daubert* hearing should  
3 be held. He's not doing anything novel that I can  
4 see. In fact, he's doing his very typical stuff  
5 he's done for forever and as all firearms guys do.  
6 I mean, there's nothing unusual here.

7 So I guess I'm not aware of what the  
8 *Daubert* hearing would be for. I assumed because  
9 he didn't want him rendering an opinion the only  
10 way for glass to get on the bullet was to be fired  
11 through the window, and we don't intend to elicit  
12 such an opinion. We do intend to elicit an  
13 opinion per his review of what materials he had,  
14 presented a possible intervening target, but not  
15 that it absolutely went through the window. So  
16 I'm not sure what this motion is aimed at.

17 MR. LOW: Well, Your Honor --

18 THE COURT: Thank you. Go ahead,  
19 Counsel.

20 MR. LOW: Thank you, Your Honor.

21 I can finish by saying that if he sticks  
22 to the conclusions that are in his report, I'll  
23 have no objection. That's all I wanted to say.  
24 Maybe that motion is more of a product of my  
25 experience of trying cases in a number of places;

1 and a lot of times, at the end of the case, here  
2 it comes, and you get the surprise. And so I've  
3 learned to just put that beforehand. But I'll  
4 take Mr. Blonigen at his word, I have no reason  
5 not to, and we can move on. That's why I said we  
6 can get through this quite quickly. Thank you.

7 THE COURT: Thank you very much,  
8 Counsel.

9 I appreciate where we're at. And, of  
10 course, I'll make no ruling given the positions  
11 stated, but surely objections can be made at the  
12 time we really get into the opinions, which I'm  
13 not aware of. So we'll go from there.

14 MR. BLONIGEN: I think we -- well,  
15 we might get a lot of the direct examination done,  
16 but around 5:00, do you want me to look for a  
17 breaking point, Judge?

18 THE COURT: Sure. That'll be fine.

19 MR. BLONIGEN: Because we have a  
20 couple different areas we are going to cover, so.  
21 All right. We will do that.

22 THE COURT: Mrs. Tuma, if you would  
23 have the jury brought back in.

24 THE CLERK: Yes, sir.

25 (The following proceedings were

1 held in open court, in the presence of the jury:)

2 THE COURT: Thank you. Please be  
3 seated. Court will come back to order with the  
4 ladies and gentlemen of the jury joining us.  
5 Thank you for your patience. In just about every  
6 trial that we do, we have a need to exclude the  
7 jury at times, so your understanding is  
8 appreciated.

9 Mr. Blonigen.

10 MR. BLONIGEN: Call Steve Norris.

11 THE COURT: Okay.

12 THE CLERK: Please raise your right  
13 hand. You do solemnly swear that the testimony  
14 you will give in the case before the Court will be  
15 the truth, the whole truth, and nothing but the  
16 truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Please be seated.

19 THE COURT: Mr. Norris, we do ask  
20 you to speak into the microphone. And yeah, as  
21 you have discerned, it is adjustable, so you can  
22 move it. Thank you.

23 STEVEN NORRIS,  
24 called for examination by the State, being first  
25 duly sworn, on his oath testified as follows:

## 1 DIRECT EXAMINATION

2 BY MR. BLONIGEN:

3 Q. Mr. Norris, for the record, would you  
4 tell us what you have in front of you as you sit  
5 there?6 A. This is just a packet, my examination  
7 record case notes.

8 Q. In case you need to make reference to it?

9 A. Yes.

10 Q. Okay. Would you state your name, please.

11 A. My name is Steven Norris, spelled with a  
12 V, N-O-R-R-I-S.

13 Q. Where are you employed?

14 A. Employed for the Wyoming Division of  
15 Criminal Investigation as a member of the crime  
16 laboratory.17 Q. And at the crime laboratory, do you have  
18 any particular area of specialty?19 A. I'm the supervisor for the firearm and  
20 tool mark section.21 Q. And what are your primary duties in that  
22 section?23 A. My primary duties involve examining  
24 firearms for functioning, and I also look at fired  
25 bullets and cartridge cases from crime scenes and

1 attempt to identify or match those to the firearms  
2 that fire them. I also perform gunshot residue  
3 examinations where I look at the distance between  
4 the barrel of a gun and the target. I perform  
5 serial number restorations. I am the technical  
6 leader, which means that I am responsible for  
7 maintaining and developing the standard operating  
8 procedures and training manuals that we use. I  
9 also technically review cases for other examiners  
10 and am involved in the training of new examiners.

11 Q. Do you also do crime scene processing  
12 with the laboratory on occasion?

13 A. I am a member of the crime scene team, so  
14 that means that we travel anywhere in the State of  
15 Wyoming if we're called to process crime scenes,  
16 which includes photography, documenting, and  
17 certain reconstruction.

18 Q. When we talk about a distance of an item  
19 from the muzzle of a gun, is that called range of  
20 fire?

21 A. Yes, it is.

22 Q. How long have you been doing this?

23 A. I've been doing this since 2002.

24 Q. Have you received any special training?

25 A. Yes, I have. I was honorably discharged

1 from the Marine Corps as a sergeant, E-5, during  
2 which time I was a primary marksmanship  
3 instructor, small arms range coach. I -- when I  
4 became employed at the crime laboratory, I went  
5 through a two year on-the-job training program,  
6 which is typical for someone in my profession.  
7 Generally, the training takes about two years from  
8 the time you begin in the laboratory until the  
9 time when you work your first case. I've also  
10 attended a host of workshops and training seminars  
11 put on by the FBI, the ATF, and other agencies.

12 Q. Have you had occasion to testify as an  
13 expert witness in these areas you've described for  
14 us?

15 A. Yes, I have.

16 Q. On how many occasions?

17 A. More than 20.

18 Q. In what states?

19 A. In the states of Wyoming and Utah.

20 Q. Have you also testified in federal court?

21 A. Yes, I have.

22 Q. Now, in this particular case, what was  
23 your role in the case?

24 A. I was asked to examine a firearm and some  
25 fire components, bullets, cartridge cases. I was

1 also asked to examine a garment which had a  
2 purported bullet hole in it.

3 Q. Okay. Can you describe that garment  
4 further for us?

5 A. The garment was a white cotton T-shirt.

6 Q. Okay. And you observed both the firearm  
7 and the white cotton T-shirt; is that correct?

8 A. Yes, I did.

9 Q. Like to turn first to the firearm and  
10 hand you two exhibits. This is 204 and 205.  
11 Starting first with 204. Let's start with 204.  
12 Can you identify this as the firearm you had  
13 occasion to review and test?

14 A. Yes, I can.

15 Q. How do you identify the firearm?

16 A. I recognize the serial number, and it  
17 also has the case number, item number, date, and  
18 my initials which I placed there.

19 Q. Okay. Now, in addition to that, the  
20 firearm, was there anything in the firearm when  
21 you first received it?

22 A. Yes, there was.

23 Q. What was that?

24 A. There was a fired cartridge case  
25 stovepiped, which means that it was trapped in



1 between the slide and the barrel of the firearm.

2 Q. Okay. And are you familiar with model  
3 1911 semi-automatic pistols?

4 A. Yes, I am.

5 Q. Are these weapons prone to jam in any  
6 particular situations?

7 A. Any weapon can jam. These weapons are  
8 generally considered to be a fairly good quality  
9 firearm, and so commonly they are not prone to jam  
10 unless there's something -- some kind of issue  
11 with the firearm or if there was some kind of  
12 outside reason which could have caused it to jam.

13 Q. Is the manner in which the weapon is  
14 held, can that cause it to misfeed?

15 A. Absolutely.

16 Q. What's that called?

17 A. Commonly referred to as limp wristing.  
18 And so this would be where the shooter is not  
19 holding or supporting the firearm firmly, and so  
20 when the firearm recoils, they allow their wrist  
21 to go like this. On a semi-automatic weapon like  
22 this, meaning that once the -- once it's fired, it  
23 will strip the fire cartridge case from the  
24 chamber, eject that fire cartridge case, and then  
25 it will load a new unfired cartridge from the

1 magazine, and it will do all of that without any  
2 action or outside action from the shooter. That's  
3 why it's called automatic or semi-automatic.

4 So in the case of limp wristing, if -- if  
5 I'm holding the firearm but I don't provide that  
6 firm support for the slide to recoil against, then  
7 the slide might not -- might not move all the way  
8 to the rear, which could cause the fire cartridge  
9 case to not fully eject and instead get trapped in  
10 this case in the ejection port.

11 Q. What if the mechanism on the gun makes  
12 contact with another item while it's being fired,  
13 the body, parts of the body, clothing, steering  
14 wheel, will it also be caused by that?

15 A. That can be another reason for a  
16 stovepiped round. If the slide, the slide has to  
17 move to the rear, and that's how it pulls the  
18 fired cartridge case out of the chamber. If  
19 there's some sort of interference with the slide's  
20 rearward motion, then that could cause it to not  
21 be able to move fully to the rear, which also  
22 could lead to a fired cartridge being stovepiped.

23 Q. And we'll talk a little bit about the  
24 operability of the gun in a moment, but I'm going  
25 to hand you two photographs first, ask you if

1 these are pictures of the pistol as you received  
2 it at the Wyoming State Crime Laboratory for  
3 review and testing?

4 A. Yes, they are.

5 MR. BLONIGEN: Move for the  
6 introduction of 502 and 503, Your Honor.

7 THE COURT: Any objection?

8 MR. LOW: No, Your Honor.

9 THE COURT: Exhibit 502 and 503 are  
10 received.

11 Q. (BY MR. BLONIGEN) Now, first to 502,  
12 what is of note in 502? And you also should have  
13 a monitor at your side there.

14 A. I do. What you see in this photograph,  
15 the firearm as it was received by me, up in the  
16 top is the fired cartridge case, okay. So a --  
17 there are multiple components that make up an  
18 unfired cartridge. And so inside the cartridge is  
19 the gunpowder, and on the end of the cartridge not  
20 visible in this picture is what's called the  
21 primer. And then there's the actual projectile of  
22 the bullet, and that's what flies through the air.  
23 The things that holds all of these together is the  
24 cartridge case. And in this instance, it's made  
25 of brass, and so what you see is the brass

1 cartridge case. It's been fired, and it is stuck  
2 right there at the top in between the, like I  
3 said, the slide and the barrel, the rear portion  
4 of the barrel.

5 And -- and right in that little hole at  
6 the top is called the ejection port. And so  
7 that's where -- that's where it was stuck when the  
8 firearm was received by me.

9 Q. Okay. And does 502 show the top view of  
10 the same?

11 A. This is the top view of the same, yes.

12 Q. And is there any indication in that  
13 photograph of -- do you believe that it shows that  
14 there was an attempt to clear the jam?

15 A. Possibly.

16 Q. Okay. Can you explain that for us.

17 A. Yes. The dents that you see, if you see  
18 the two dents, typically at the end of the  
19 cartridge case would be round. There you see the  
20 two dents. I believe that those dents were caused  
21 by the -- the slide moving forward and crushing  
22 that portion up against the end of the barrel. So  
23 this position here probably would not have been  
24 the final position. It could have been adjusted  
25 if someone had been trying to work the slide or

1 clear the slide, which would have then caused it  
2 to sit all the way up whereas it had been  
3 partially down before.

4 Q. In your training and experience both in  
5 the military and what you do now, what do you do  
6 when you have a jam like this? What can be done  
7 to attempt to clear the jam?

8 A. There's several things that we are --  
9 that a shooter is instructed to do when a firearm  
10 jams or, in this case, stovepipes. And the first  
11 thing would be simply to work the action, to move  
12 the slide to the rear, and to attempt to clear it  
13 that way. If that doesn't work, then typically  
14 dropping the magazine out of the firearm and  
15 trying to remove the slide, lock the slide in the  
16 rearward position to further examine whatever the  
17 cause of the malfunction is would be your second  
18 step. But the first step would probably be to  
19 work the slide and try to clear the jam that way.

20 Q. First thing, did you check the  
21 operability of this weapon?

22 A. Yes, I did.

23 Q. How did you find, generally, the  
24 maintained condition of the weapon?

25 A. Firearm was in mechanical operating

1 condition, the safety features were functioning  
2 properly.

3 Q. And where is the safety feature on this  
4 firearm?

5 A. The safety feature on this firearm has a  
6 manual safety. And so that's -- it's a small  
7 switch that you flip, and it would be on the back  
8 on the top left side.

9 Q. Okay. Did you test for trigger pull?

10 A. Yes, I did.

11 Q. What's trigger pull?

12 A. The trigger pull would be the amount of  
13 weight that it takes to cause the trigger to  
14 discharge the firearm. And so you could even just  
15 imagine if you had the firearm holding in the air  
16 and you were to just hang weights, how many  
17 weights would you have to hang there before  
18 finally there was enough weight to cause the  
19 trigger to be pulled all the way to the rear.

20 Q. And in this particular weapon, what was  
21 the result of that?

22 A. It was approximately three pounds.

23 Q. Okay. Anything unusual about that for  
24 this model of pistol?

25 A. No.

1 Q. And any functioning problems at all with  
2 the pistol?

3 A. There were no functioning problems with  
4 the pistol at all when I test fired it.

5 Q. Now, when you test fire this weapon, what  
6 ammunition are you going to use?

7 A. When I test fired this weapon, I -- I  
8 used a couple types of ammunition. I used some of  
9 the ammunition that was submitted to me with the  
10 firearm, so this would be ammunition that  
11 purportedly was the ammunition used in the  
12 original incident. I also test fired some from  
13 the laboratory supply that I maintain.

14 Q. Okay. And in your occupation, is that  
15 the standard, to try to use the same weapon and  
16 the same ammunition used in the questioned  
17 circumstances?

18 A. We generally try to match the ammunition  
19 type as closely as possible. It's not always  
20 available. Sometimes a firearm is submitted  
21 without any ammunition included, in which case  
22 then I will try to look at the fired components  
23 and then try to use as similar as I can. And if  
24 there is ammunition submitted with the firearm, I  
25 then generally will take a sample of those to test

1 fire.

2 Q. Can you briefly describe how this firearm  
3 operates, then.

4 A. Okay. It's a semi-automatic firearm,  
5 like I said. So to insert a live round into the  
6 chamber, what's known as a magazine is used, and  
7 sometimes you hear these called clips. This is  
8 where you -- and generally it goes right inside  
9 the pistol grip. And so you load unfired, fresh,  
10 new cartridges into the magazine. And when you're  
11 done with that, then you'll insert the magazine  
12 into the firearm. The firearm is then made ready  
13 or put to a condition to where it is ready to fire  
14 with a live round in the chamber by racking the  
15 slide. And so this is where you just pull the  
16 slide to the rear and allow it to go forward under  
17 spring tension. The safety needs to be off.

18 And I forgot to mention on this particular  
19 model, there is a second safety feature, which is  
20 a grip safety. And so in order for the gun to go  
21 off, then there's a small button along the back of  
22 the hand grip that needs to be depressed, so it  
23 needs to be held in the shooting position.

24 And so when the gun is fired, then the  
25 gases from the -- from the burning gunpowder will



1 expel the bullet, but they will also push back on  
2 the slide, which will then move the slide to the  
3 rear, ejecting the fired cartridge case. And then  
4 as the slide goes forward again under spring  
5 tension, it will strip a live round from the  
6 magazine and insert it in the chamber, and so it's  
7 ready to fire again. So all that needs to be done  
8 is just the trigger needs to be pulled as long as  
9 the safety is off.

10 Q. Okay. And the safety is off and the  
11 second safety is also properly handled; is that  
12 true?

13 A. The grip safety is depressed, yes.

14 Q. So when we observe our stovepiped  
15 cartridge, where in the process is this not  
16 completed? Is this on the way back? Is it on the  
17 way forward? What can you tell us about that?

18 A. This would be after the firearm is fired,  
19 so the bullet has already left the barrel, it's  
20 headed downrange. The slide begins to move  
21 rearward from pressures, from the gas pressure.  
22 And then at some point, for whatever reason,  
23 whether it be limp wristing or interference with  
24 the slide's rearward motion, then something  
25 impeded it from being able to fully eject that

1 cartridge, and that's why the cartridge case is  
2 stuck in there.

3 Q. Okay. So this happens after the shot is  
4 fired?

5 A. Yes.

6 Q. How many rounds did you find in the clip?  
7 We have the one casing in there, and then how many  
8 live rounds did we have in the clip? Did you note  
9 that?

10 A. There were six unfired cartridges in the  
11 magazine.

12 Q. Okay. When we determine, then, range of  
13 fire, do you examine both the or did you examine  
14 both the pistol and the white T-shirt you've  
15 discussed previously?

16 A. Yes, I did.

17 Q. Okay. Hand you an item labeled as 101.  
18 And you are the only scientist at the laboratory  
19 that handled this item, is that correct, if you  
20 know?

21 A. I believe so.

22 Q. Would you take a look at that, please,  
23 and see if you can identify it as the T-shirt you  
24 reviewed for your testing?

25 A. This is the same T-shirt I examined.

1 Q. Prior to doing any range of fire testing,  
2 did you examine the T-shirt?

3 A. Yes, I did.

4 Q. What did you do to examine the T-shirt?

5 A. With any evidence that I receive, I will  
6 do preliminary -- what's called a trace evidence  
7 examination. And so this would be where I just  
8 look the item over to see if there are any kind of  
9 hairs or fibers present. And so this is just kind  
10 of a -- a safety net that's in place. So if there  
11 are evidence -- potential evidentiary items  
12 present that may have been missed during packaging  
13 or by the crime scene responders, this would be  
14 something that I would look for. And so in this  
15 instance, I did just a preliminary trace evidence  
16 examination just to see if there were any kind of  
17 hairs, fiber, paint chips, you name it, present.

18 Q. And did you find some hair?

19 A. In this case, I did find some hair  
20 present.

21 Q. Are you the one that marked and took off  
22 that hair and put it in this little white bindle  
23 here?

24 A. Yes, I am.

25 Q. Okay. Describe what you found.

1           A.     Looking at the T-shirt, I found some  
2 long, dark colored, nearly black hairs present on  
3 the inside of the T-shirt.

4           Q.     So it wasn't on the outside of the  
5 T-shirt, it was on the inside of the T-shirt?

6           A.     They were on the inside, yes.

7           Q.     Okay. Between the skin and the T-shirt?

8           A.     Yes.

9           Q.     Now, you've done some crime scene  
10 investigation stuff. How common is it to have  
11 people have different people's hair on their body,  
12 their clothing, things like that?

13          A.     From a practical standpoint, I would say  
14 it's very common.

15          Q.     For instance, you were sitting in that  
16 chair and other people sat there before you. Are  
17 you likely to pick up a stray hair or two?

18          A.     It could be very possible, yes.

19          Q.     So you found this on the inside of the  
20 T-shirt?

21          A.     Yes.

22          Q.     Did you also find a defect associated  
23 with a bullet hole in the T-shirt?

24          A.     Yes, I did.

25          Q.     And prior to beginning any work on that,

1 did you have occasion to photograph the item as  
2 well?

3 A. Yes.

4 Q. I'm going to hand you 504 through 507.  
5 Could you take a look at those please, Mr. Norris.

6 A. These appear to be copies of the  
7 photographs that I made.

8 Q. In addition --

9 MR. BLONIGEN: Move for the  
10 introduction of 504, excuse me, Your Honor,  
11 through 507.

12 THE COURT: Any objection to these  
13 exhibits?

14 MR. LOW: No, sir.

15 THE COURT: Exhibits 504 through 507  
16 inclusive are received.

17 Q. (BY MR. BLONIGEN) Now, we see the  
18 T-shirt. Is this the view as you first saw it?

19 A. Yes, it is.

20 Q. Just by way of explanation, if we have  
21 blood and stuff on an item, is it unusual to be  
22 this color when you receive it later for testing?

23 A. No, this is --

24 Q. Pretty common?

25 A. -- very typical for what dried blood will

1 look like.

2 Q. This is the front of the shirt?

3 A. Yes, it is.

4 Q. And did you also give us photographs,  
5 then, of a defect near the neckline?

6 A. Yes, I did.

7 Q. And what is this?

8 A. This would be the bullet entry hole.

9 Q. Okay. And from inspection of the bullet  
10 entry hole, does it appear that the fibers are  
11 going inward?

12 A. It does not necessarily appear -- it's  
13 hard to say from looking at the photo.

14 Q. From this particular photograph?

15 A. Yeah.

16 Q. Would it be better to look at the  
17 photographs closer in time to when the item was  
18 collected off the body?

19 A. As received, I mean, this has been  
20 packaged and folded and put into a bag, so it  
21 would be difficult to know.

22 Q. I see. You said you did a physical  
23 examination of the shirt. What else did you do to  
24 assess the clothing?

25 A. Looking at the item in general, looking

1 for any kinds of defects associated with the  
2 passage of the bullet, also making note of any  
3 other abnormalities, defects, whether or not  
4 any -- there's any residues that are visible,  
5 fired gun -- or partially burned and unburned  
6 gunpowder, particulate lead, soot, vapor.

7 Q. Do you do that just with the naked eye or  
8 do you do anything to enhance your ability to see  
9 that?

10 A. Initially, I just examine it with the  
11 naked eye, and then I will move to a microscopic  
12 examination and look at it under a stereo  
13 microscope.

14 Q. And is this going to be an important part  
15 later of your range of fire calculation?

16 A. Yes, it is.

17 Q. And you said you looked for all those  
18 things. Did you find any indication of items  
19 commonly associated with gunshot residue?

20 A. Just looking at the defect itself, there  
21 appears to be a faint discoloration just directly  
22 around the periphery of the hole. And so this  
23 would be consistent with what I call bullet wipe.  
24 And so bullet wipe would be when, just like it  
25 sounds, you know, as the bullet is perforating the

1 material, the -- the fabric directly in contact  
2 with the edges of the bullet are being wiped as  
3 it's actually punching a hole through. And so you  
4 can have residues that are wiped from the surface  
5 of the bullet onto the target. And this is a  
6 fairly common phenomenon that you will see with  
7 bullet holes is what's called bullet wipe.

8 Q. And you saw that in this instance?

9 A. Yes. It is visible. It's not -- it  
10 doesn't stand out very well in this photo simply  
11 because the blood is kind of the same darkened  
12 color. But it is -- I can see a discolored area  
13 directly around the periphery of the hole, and  
14 that would be what I would -- that would be  
15 consistent with what I've seen as far as bullet  
16 wipe.

17 Q. This is simply a second photograph of the  
18 same area or closer photograph, I should say?

19 A. This is a photograph post chemical  
20 processing.

21 Q. Okay. What's the red stuff?

22 A. Okay. For a little background just to  
23 help you understand, the testing that's involved  
24 here, if you were to -- let's just imagine that  
25 you were at the beach and you have a handful of



1 sand, okay, and you are just going to take that  
2 sand and just throw that handful just like a  
3 baseball. Now, imagine what the sand is going to  
4 do. Is it going to continue to travel in just a  
5 really tight clump like it was in your fist or is  
6 the sand just going to spread out like that? And,  
7 you know, probably most of you can imagine what  
8 would happen, the sand is going to just spread  
9 out.

10 When a bullet is fired, the bullet is not  
11 the only thing to come out of the end of the  
12 barrel. So what you have coming out with the  
13 bullet are gases, okay. There's going to be gas  
14 that's escaping out the end of the barrel. The  
15 gunpowder itself is not always fully consumed. In  
16 fact, it's generally not always fully consumed.  
17 And so you're going to have little small particles  
18 of burned and partially burned gunpowder that are  
19 also coming out of the barrel.

20 You're also going to have soot. You're  
21 going to have lead from the primer compound as  
22 well as from the bullet itself, vaporized lead.  
23 And all of this is going to come out of the end of  
24 the gun. It is not going to come out in a  
25 perfectly straight line. As soon as it comes out,

1       it's going to start to do the same thing as like  
2       what that sand did, and it's going to start to  
3       open up or expand.

4               And so the -- the general theory behind a  
5       gunshot distance determination or range of fire  
6       estimation is to look at that pattern that's left  
7       behind by these partially burned and unburned  
8       gunpowder particles. And so if you look at a  
9       particular garment and you see a very clean, neat  
10      pattern of gunpowder particles directly  
11      surrounding the bullet hole, then what I'll do is  
12      I'll make tests at known distances. And I'll fire  
13      one at contact and maybe one at six inches and  
14      maybe one and move out. And as I do, I'm looking  
15      at that pattern of these gunpowder particles. And  
16      it'll start off very small as it comes directly  
17      out of the barrel, but then as the barrel moves  
18      further and further away from the target, you see  
19      that pattern expanding.

20             And so in order to estimate range of fire,  
21      I'll look at a pattern on a garment, the victim's  
22      shirt, and then I will compare that pattern to  
23      patterns that I've created using the same type of  
24      ammunition and the same firearm at known distances  
25      and compare to see which pattern of my known

1 distances most closely approximates the pattern  
2 that I'm seeing on the evidence.

3           It's not always very easy to see these  
4 things. Gunpowder particles can be obscured  
5 possibly by the color of the fabric or by if  
6 there's blood or something present that could  
7 possibly obscure it. So there's chemical tests  
8 that I do to visualize. And there's two tests  
9 primarily. And one tests for burned and unburned  
10 gunpowder, and the second tests for lead. And so  
11 what you're seeing here is the second of those two  
12 tests called the sodium rhodizonate test for lead.  
13 And by spraying chemicals onto the surface of the  
14 shirt, I'm able to cause a color change in those  
15 areas that are positive for the presence of lead.

16           And so what you see here is that ring  
17 around the hole, what I referred to earlier as  
18 bullet wipe, has turned this violet, purplish  
19 color. And so it's a colorimetric test for the  
20 presence of lead. And in this case, it turned the  
21 violet purple color which indicates positive. So  
22 what we're seeing here is indeed lead wipe coming  
23 from the edges of the bullet as it perforated the  
24 fabric, and it's turned purple which indicates a  
25 positive reaction for the presence of lead.

1           Q.     So that confirms your bullet wipe  
2 statement earlier?

3           A.     Yes, it does.

4           Q.     And can bullet wipe occur from any  
5 distance?

6           A.     You're going to see bullet wipe occurring  
7 at any distance because the bullet is going to, no  
8 matter how far it travels through the air, those  
9 lead particles are still going to be on the  
10 outside of the bullet. And as soon as it contacts  
11 some sort of target, those particles are then  
12 going to be transferred. And so regardless of  
13 distance of firing, lead wipe is always going to  
14 be present.

15          Q.     Now, you referred earlier that you use a  
16 visual test and then you use a chemical test. You  
17 also look at it with a microscope; is that  
18 correct?

19          A.     Yes, it is.

20          Q.     And upon looking at that with a  
21 microscope in that area around there, I take it  
22 that's where you spent most of your attention on  
23 the T-shirt is with the entry hole?

24          A.     Yes, it is.

25          Q.     But you viewed the whole shirt, didn't

1       you?

2           A.     I did view the whole shirt; however, the  
3       entry hole is what's of particular interest  
4       because if there was going to be gunshot residues,  
5       it would be directly in the area immediately  
6       surrounding the entry hole.

7           Q.     Okay.

8                   MR. BLONIGEN:   Your Honor, we're  
9       going to move on to a whole 'nother area at this  
10      time.   This might be a good break time.   It's five  
11      after 5:00.

12                   THE COURT:   Okay.   Thank you very  
13      much.   I received a note that I believe Defense  
14      counsel would like to take up a matter, so we'll  
15      let the ladies and gentlemen of the jury go, also  
16      let Mr. Norris go subject to being back at nine  
17      o'clock Monday.   I note that's when we started  
18      Monday of this week, and that's the one day that I  
19      can usually start at nine o'clock.   So we'll  
20      change it from 9:30 to 9 o'clock starting Monday  
21      morning.

22                   Thank you so much for a long week of jury  
23      service, and we'll excuse the jury at this time.

24      Thank you so much.

25                   And Mr. Norris, you are free to go.

1 THE WITNESS: Thank you, Your  
2 Honor.

3 (The following proceedings were  
4 held in open court, out of the presence of the  
5 jury:)

6 THE COURT: It's been a long week,  
7 but I presume there's a matter we need to take up  
8 now, Mr. Low?

9 MR. LOW: Yes, your. Thank you.  
10 Briefly, Mr. Blonigen informed me that he would  
11 like to call -- recall Dr. Carver Monday morning.  
12 And I'm going to object as that is more proper for  
13 rebuttal. And so that's it. Thank you.

14 MR. BLONIGEN: Your Honor, that's  
15 when Dr. Carver is available. And although he  
16 might say it's more proper for rebuttal, we put  
17 his expert on in my case; and I should be entitled  
18 to call that person. It's going to be very brief,  
19 just two or three discrete points, Your Honor, to  
20 answer some of the things said by the other  
21 pathologist. But that's when he's available,  
22 number one. Number two, her evidence was already  
23 presented out of order in my case, so it's  
24 rebutting evidence that's already been presented.

25 MR. LOW: And unlike my expert, Your

1 Honor, we've heard no offer of proof whatsoever  
2 that that expert is not available Monday  
3 afternoon, Tuesday morning, Tuesday afternoon,  
4 Wednesday morning, Wednesday afternoon. So  
5 without that information, I'm going to object.  
6 That was why we -- I got an exception because I  
7 could represent it, and I could prove it with my  
8 expert. We have not heard that in this case. So  
9 I object.

10 MR. BLONIGEN: I can't make that  
11 absolute representation because I haven't asked  
12 Dr. Carver this question.

13 MR. LOW: Right.

14 MR. BLONIGEN: But, Judge, come on.  
15 This evidence was already presented out of order.  
16 We'll present it in a nice complete manner with  
17 the other witnesses, and we'll rest.

18 Dr. Carver is coming off a couple of 12  
19 midnight shifts. We gave him that specific time  
20 so we can get him on the stand and get him out of  
21 here. And given the nature of what's occurred  
22 beforehand here, it's not like we're going to  
23 rebut their expert before their expert testifies.  
24 She's testified.

25 THE COURT: I think I understand the

1 situation. And I think, first of all, the State  
2 may have been able to recall Dr. Carver even  
3 though it may be evidence that's in the nature of  
4 rebuttal. Second, I would not preclude his being  
5 called again, with my general philosophy of  
6 accommodating expert witnesses, especially  
7 professionals. So any objection to his being  
8 recalled and any objection to his presenting  
9 proper rebuttal evidence, I'd overrule.

10 Thank you very much. We'll stand  
11 adjourned. As I mentioned, we can start at nine  
12 o'clock on Monday, so we'll start up then.

13 MR. LOW: Yes, sir.

14 THE COURT: Court will stand  
15 adjourned.

16 (The trial proceedings  
17 recessed at 5:07 p.m., December 19, 2014.)  
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C E R T I F I C A T E

I, JONI L. CHANEY, Official Court Reporter within and for the Seventh Judicial District Court of Wyoming, do hereby certify that I reported by machine shorthand the proceedings contained herein and that the foregoing 1511 pages constitute a full, true, and correct transcript.

Dated this 8th day of June, 2015, at Casper, Wyoming.

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JONI L. CHANEY, RPR  
Official Court Reporter